

AGENDA

Meeting of the

CITY COUNCIL OF THE CITY OF TROY

OCTOBER 16, 2006

CONVENING AT 7:30 P.M.

Submitted By
The City Manager

NOTICE: *Persons 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: Phillip L. Nelson, 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.

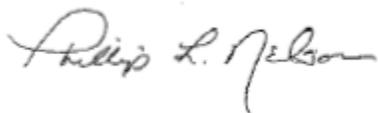
Identified below are goals for the City, which have been advanced by the governing body; and Agenda items submitted for your consideration are on course with these goals.

Goals

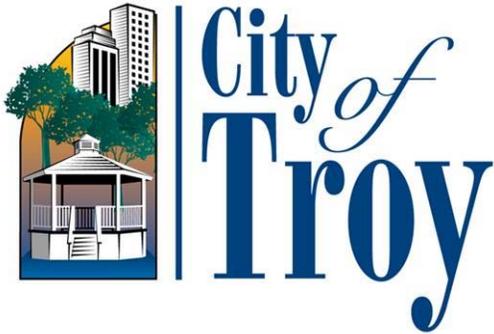
1. Minimize cost and increase efficiency of City government.
2. Retain and attract investment while encouraging redevelopment.
3. Effectively and professionally communicate internally and externally.
4. Creatively maintain and improve public infrastructure.
5. Protect life and property.

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

Respectfully submitted,



Phillip L. Nelson, City Manager



CITY COUNCIL

AGENDA

October 16, 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 A.C. Phipps – Evanswood Church of God 1

ROLL CALL: 1

CERTIFICATES OF RECOGNITION: 1

A-1 Presentations: 1
a) Proclamation – Friends of the Troy Public Library Recognition Week, October 22-28, 2006 1

CARRYOVER ITEMS: 1

B-1 No Carryover Items 1

PUBLIC HEARINGS: 1

C-1 Zoning Ordinance Text Amendment (File Number: ZOTA 226) – Articles IV and XXIV – Medical Equipment Sales and Service in the O-1 (Low Rise Office) District 1

POSTPONED ITEMS: 2

D-1 Rezoning Application (File No. Z 180-B) – Proposed Binson’s Home Health Care Center, Northwest Corner of Rochester and Marengo, Section 3 – R-1B to B-1 2

NOTICE: Persons 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.

CONSENT AGENDA:**3**

E-1a	Approval of "E" Items NOT Removed for Discussion	3
E-1b	Address of "E" Items Removed for Discussion by City Council and/or the Public	3
E-2	Approval of City Council Minutes	4
E-3	Proposed City of Troy Proclamation(s):	4
	a) Friends of the Troy Public Library Recognition Week – October 22-28, 2006	4
E-4	Standard Purchasing Resolutions: None Submitted	4
E-5	Request for Recognition as a Nonprofit Organization Status from Richard K. Gauthier, President – Christmas in Action of Oakland County, Inc.	4
E-6	Announcement of Public Hearing – Community Development Block Grant (CDBG) 2007 Application	4
E-7	2006 Request for Waive Recapture Form for Community Development Block Grant (CDBG) Funds	5
E-8	Proposed Co-location on Lowery Street Communications Tower	5
E-9	Request for Acceptance of a Warranty Deed for Edenberry Sub No. 2 Detention Basin Parcel - Sidwell #88-20-22-228-004 and -005	5
E-10	Request for Acceptance of an Agreement to Purchase Realty for Public Purposes with Gus and Maria Stavropoulos – Industrial Row Parcel No. 34A – Sidwell No. 88-20-32-152-020, Project No. 06.504.5 and 06.505.5	6
E-11	Request for Acceptance of a Permanent Easement for Sanitary Sewer, Krispy Kreme Doughnut Shop – Sidwell #88-20-35-400-021, Project No. 03.933.3	6

PUBLIC COMMENT: Limited to Items Not on the Agenda **6**

REGULAR BUSINESS: **7**

- F-1 Appointments to Boards and Committees: a) Mayoral Appointments: Local Development Finance Authority (LDFA) b) City Council Appointments: Advisory Committee for Persons with Disabilities; Ethnic Issues Advisory Board; Historic District Commission; Municipal Building Authority; Parks & Recreation Board; and Troy Daze Committee 7

- F-2 Bid Waiver – Purchase of In-Car Video System 9

- F-3 Papadelis v. City of Troy 10

- F-4 Second Amendment to Chapter 42 – Flood Plain Management as Required by FEMA for Participation in National Flood Insurance Program 11

- F-5 Preliminary Site Plan Review and Amended Consent Order and Judgment (SP 883-C) – Heartland Health Care, Southwest Corner of South Boulevard and Livernois, Section 3 – O-1 and R-1B 11

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS: **12**

- G-1 Announcement of Public Hearings: 12
 - a) Zoning Ordinance Text Amendment (File Number: Z 714) – Proposed The Enclave Senior Housing, North of Long Lake between Livernois and Crooks, Section 9 – R-1B to R-EC – October 23, 2006 12

- G-2 Green Memorandums: None Submitted 12

COUNCIL REFERRALS: Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda **12**

- H-1 Proposed Cancellation of November 27, 2006 Regular City Council Meeting and Reconsideration of the 2007 City Council Meeting Schedule as Requested by Mayor Schilling 12

COUNCIL COMMENTS: **15**

- I-1 No Council Comments Advanced 15
-

REPORTS:**15**

J-1	Minutes – Boards and Committees:	15
	a) Troy Youth Council/Final – May 24, 2006.....	15
	b) Historic Commission/Final – June 28, 2006.....	15
	c) Election Commission/Final – July 7, 2006	15
	d) Traffic Committee/Final – July 19, 2006	15
	e) Historic District Commission/Final – August 15, 2006	15
	f) Troy Youth Council/Draft – August 23, 2006	15
	g) Advisory Committee for Persons with Disabilities/Draft – September 6, 2006....	15
	h) Advisory Committee for Persons with Disabilities/Final – September 6, 2006....	15
	i) Building Code Board of Appeals/Final – September 6, 2006.....	15
	j) Advisory Committee for Senior Citizens/Final – September 7, 2006	15
	k) Planning Commission/Final – September 12, 2006.....	15
	l) Planning Commission Special/Study/Draft – September 26, 2006	15
	m) Election Commission/Draft – October 2, 2006.....	15
	n) Advisory Committee for Senior Citizens/Draft – October 5, 2006.....	15
J-2	Department Reports:	15
	a) Building Department – Permits Issued During the Month of September, 2006... 15	
	b) Finance Department – City Council Expense Report for September, 2006..... 15	
	c) City Attorney’s Office – 2006 Third Quarter Litigation Report..... 15	
	d) Council Member Beltramini’s Travel Expense Report – MML Convention..... 15	
J-3	Letters of Appreciation:	15
	a) Letter of Appreciation to Lt. Rossman from Jim Buell of Alliance Mobile Health, Recognizing the Life-Saving Actions and Assistance of Officer Denny.. 15	
J-4	Proposed Proclamations/Resolutions from Other Organizations: None Submitted	15
J-5	Calendar	15
J-6	Communication from City Attorney’s Office Regarding D & K Hannawa v. City of Troy	15
J-7	Communication from Michigan Liquor Control Commission Licensing Division	16

STUDY ITEMS:**16**

K-1	No Study Items Submitted	16
-----	--------------------------	----

PUBLIC COMMENT: Address of “K” Items **16**

CLOSED SESSION: **16**

L-1 Closed Session: No Closed Session Requested 16

ADJOURNMENT **16**

SCHEDULED CITY COUNCIL MEETINGS: **16**

Monday, October 23, 2006	Regular City Council	16
Monday, November 13, 2006	Regular City Council	16
Monday, November 20, 2006	Regular City Council	16
Monday, November 27, 2006	Regular City Council	16
Monday, December 4, 2006	Regular City Council	16
Monday, December 18, 2006	Regular City Council	16

CALL TO ORDER:**INVOCATION & PLEDGE OF ALLEGIANCE: Pastor A.C. Phipps –
Evanswood Church of God****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 – Friends of the Troy Public Library Recognition Week, October 22-28, 2006

CARRYOVER ITEMS:

- B-1** No Carryover Items

PUBLIC HEARINGS:

- C-1** Zoning Ordinance Text Amendment (File Number: ZOTA 226) – Articles IV and XXIV – Medical Equipment Sales and Service in the O-1 (Low Rise Office) District

Suggested Resolution

Resolution #2006-10-

Moved by

Seconded by

RESOLVED, That the Troy City Council hereby **APPROVES** to amend Articles IV (Definitions) and XXIV (O-1 Office Building District) of the City of Troy Zoning Ordinance to read as written in the proposed Zoning Ordinance Text Amendment (ZOTA 226), City Council Public Hearing Draft, as recommended by the Planning Commission and City Management.

Yes:

No:

POSTPONED ITEMS:**D-1 Rezoning Application (File No. Z 180-B) – Proposed Binson’s Home Health Care Center, Northwest Corner of Rochester and Marengo, Section 3 – R-1B to B-1**Pending Resolution

Moved by Stine

Seconded by Beltramini

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

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

BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** the Planning Commission to consider amending the Future Land Use Plan in the Rochester Road corridor between Square Lake and South Boulevard before the first City Council meeting scheduled for March 2006.

Suggested Amendment

Resolution #2006-10-

Moved by

Seconded by

RESOLVED, That the motion be amended by **STRIKING** “R-C to O-1” and **INSERTING** the “R-1B to B-1” in its place.

Yes:

No:

Proposed Resolution as AmendedPending Resolution

Resolution #2006-10-

Moved by Stine

Seconded by Beltramini

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

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

BE IT FURTHER RESOLVED, That Troy City Council hereby **DIRECTS** the Planning Commission to consider amending the Future Land Use Plan in the Rochester Road corridor between Square Lake and South Boulevard before the first City Council meeting scheduled for March 2006.

Yes:

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 #2006-10-

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 MinutesSuggested Resolution

Resolution #2006-10-

RESOLVED, That the Minutes of the 7:30 PM Regular City Council Meeting of October 2, 2006 be **APPROVED** as submitted.

E-3 Proposed City of Troy Proclamation(s):Suggested Resolution

Resolution #2006-10-

RESOLVED, That the following City of Troy Proclamation(s) be **APPROVED**:

- a) Friends of the Troy Public Library Recognition Week – October 22-28, 2006
-

E-4 Standard Purchasing Resolutions: None Submitted**E-5 Request for Recognition as a Nonprofit Organization Status from Richard K. Gauthier, President – Christmas in Action of Oakland County, Inc.**Suggested Resolution

Resolution #2006-10-

RESOLVED, That Troy City Council hereby **APPROVES** the request from Christmas in Action of Oakland County, Inc., asking that they be recognized as a nonprofit organization operating in the community for the purpose of obtaining a charitable gaming license.

E-6 Announcement of Public Hearing – Community Development Block Grant (CDBG) 2007 ApplicationSuggested Resolution

Resolution #2006-10-

RESOLVED, That a Public Hearing be **SCHEDULED** before the Troy City Council on November 13, 2006 at 7:30 PM or as soon thereafter as the agenda will permit for the purpose of hearing public comments on the adoption of the Community Development Block Grant 2007 application.

E-7 2006 Request for Waive Recapture Form for Community Development Block Grant (CDBG) Funds

Suggested Resolution
Resolution #2006-10-

WHEREAS, The U.S. Department of Housing and Urban Development (HUD) mandates that Community Development Block Grant (CDBG) balances not exceed 1.5 times the current program year allocation sixty (60) days prior to the end of the program year (February 28th);

WHEREAS, The Oakland County Board of Commissioners adopted a policy allowing communities to protect funds from their two most recent program years to help comply with this regulation;

WHEREAS, All unobligated 2004 and older funds are at risk of recapture December 31, 2006;

WHEREAS, Troy may protect unobligated 2004 funds from recapture for one additional year by requesting a waiver; and

WHEREAS, A separate Waiver request form must be submitted for each 2004 line item to the Manager of the Oakland County Community & Home Improvement Division no later than Friday, November 24, 2006;

THEREFORE, BE IT RESOLVED, That Troy hereby requests to **WAIVE** recapture of 2004 CDBG funds as follows:

Account Number	Project Name	Amount
731815	Public Facilities and Improvements; Special Assessment	\$120,344.00

E-8 Proposed Co-location on Lowery Street Communications Tower

Suggested Resolution
Resolution #2006-10-

BE IT RESOLVED, That the Troy City Council hereby **APPROVES** the Acknowledgment and Lease for the proposed co-location on the Lowery Street communication tower, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the document, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-9 Request for Acceptance of a Warranty Deed for Edenberry Sub No. 2 Detention Basin Parcel - Sidwell #88-20-22-228-004 and -005

Suggested Resolution
Resolution #2006-10-

RESOLVED, That the Warranty Deed for the Edenderry Sub. No. 2 Detention Basin parcel from Biltmore Properties Corporation, owner of property having Sidwell #88-20-22-228-004 and -005, is hereby **ACCEPTED**; and

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

E-10 Request for Acceptance of an Agreement to Purchase Realty for Public Purposes with Gus and Maria Stavropoulos – Industrial Row Parcel No. 34A – Sidwell No. 88-20-32-152-020, Project No. 06.504.5 and 06.505.5

Suggested Resolution
Resolution #2006-10-

RESOLVED, That the Agreement to Purchase Realty for Public Purposes between Gus and Maria Stavropoulos, owners of property having Sidwell #88-20-32-152-020 (Sellers), and the City of Troy (Purchaser) at the agreed price of \$20,660.00 is hereby **ACCEPTED**; and

BE IT FURTHER RESOLVED, That the Real Estate and Development Department is hereby **AUTHORIZED** to expend the necessary closing costs to complete this purchase according to the agreement; and

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

E-11 Request for Acceptance of a Permanent Easement for Sanitary Sewer, Krispy Kreme Doughnut Shop – Sidwell #88-20-35-400-021, Project No. 03.933.3

Suggested Resolution
Resolution #2006-10-

RESOLVED, That the Permanent Easement for Sanitary Sewer from Sears, Roebuck and Co, owner of property having Sidwell #88-20-35-400-021, is hereby **ACCEPTED**, and

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

PUBLIC COMMENT: Limited to Items Not on the Agenda

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

REGULAR BUSINESS:

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

NOTE: Any item selected by the public for comment from the Regular Business Agenda shall be moved forward before other items on the regular business portion of the agenda have been heard. Public comment on Regular Agenda Items will be permitted under Agenda Item 11 “F”.

F-1 Appointments to Boards and Committees: a) Mayoral Appointments: Local Development Finance Authority (LDFA) b) City Council Appointments: Advisory Committee for Persons with Disabilities; Ethnic Issues Advisory Board; Historic District Commission; Municipal Building Authority; Parks & Recreation Board; and Troy Daze Committee

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

Suggested Resolution

Resolution #2006-10-

Moved by

Seconded by

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

Local Development Finance Authority (LDFA)

Appointed by Mayor (5) – 4 Year Terms

Unexpired Term 06/30/07

Unexpired Term 06/30/08

Yes:

No:

(b) City Council Appointments

Suggested Resolution

Resolution #2006-10-

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; 3-Alternate) – 3 Year Terms

Term Expires 11/01/09

Term Expires 11/01/09

Term Expires 11/01/09

(Alternate) Term Expires 11/01/09

(Alternate) Term Expires 11/01/09

(Alternate) Term Expires 11/01/09

Ethnic Issues Advisory Board

Appointed by Council (9) – 3 &/or 2 Year Terms

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

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 07/01/07 **(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

Parks & Recreation Board

Appointed by Council (10) – 3 Year Terms

NOTE: Troy Daze Committee to forward recommendation

Term Expires 11/30/06

Troy Daze Committee

Appointed by Council (9) – 3 Year Terms

Term Expires 11/30/09

Term Expires 11/30/09

Term Expires 11/30/09

Yes:

No:

F-2 Bid Waiver – Purchase of In-Car Video System

Suggested Resolution

Resolution #2006-10-

Moved by

Seconded by

WHEREAS, Digital in-car video systems are a proven method of evidence gathering and liability protection;

WHEREAS, Digital in-car video systems will reduce the amount of time needed to manage, review and duplicate recordings; and

WHEREAS, International Police Technologies has offered GSA contract pricing contained in GSA-FSS Contract GS-07F-9906H for the equipment;

THEREFORE, BE IT RESOLVED, That formal bidding procedures are hereby **WAIVED** and a contract to purchase digital in-car video systems including hardware, software, installation and training from International Police Technologies is hereby **APPROVED** for an estimated total cost of \$291,000.00.

Yes:

No:

F-3 Papadelis v. City of Troy**(a) Authorization to File an Application for Leave to Appeal to Michigan Supreme Court**Suggested Resolution

Resolution #2006-10-

Moved by

Seconded by

RESOLVED, That the City Attorney is hereby **AUTHORIZED AND DIRECTED** to file an application for leave to appeal the decision of the Michigan Court of Appeals In *Papadelis, et al. v Troy, et al.*, Court of Appeals docket number 268920, to the Michigan Supreme Court.

Yes:

No:

and**(b) Authorization to Request Assistance from the Michigan Municipal League Legal Defense Fund**Suggested Resolution

Resolution #2006-10-

Moved by

Seconded by

WHEREAS, The City of Troy was involved in litigation with Gust Papadelis, Niki Papadelis, Telly's Greenhouse and Garden Center, Inc., and Telly's Nursery (plaintiffs) involving the use of their residentially zoned property in connection with a nursery and greenhouse business; and

WHEREAS, The Oakland County Circuit Court granted a declaratory judgment in the case, holding that the aforesaid use of the residential property was protected under the Michigan Right to Farm Act and precluding the City of Troy from enforcement of its zoning ordinance provisions against plaintiffs, which include the provisions prohibiting expansion of a nonconforming use, and the provisions establishing a minimum size requirement for residential parcels to be used for agricultural purposes;

WHEREAS, The Oakland County Circuit Court also ruled plaintiffs were exempt from the requirement to obtain a building permit to construct greenhouses and other structures upon their residential property under the Agricultural Building Exemption of the State Construction Code;

WHEREAS, The Michigan Court of Appeals has recently affirmed the foregoing decisions of the Oakland County Circuit Court in *Papadelis v Troy*, unpublished opinion per curiam of the Court of Appeals, issued September 19, 2006 (Docket No. 268920), and further ruled the provisions of Troy's zoning ordinance regulating the size, location, lot coverage and minimum setbacks with respect to the buildings and structures on plaintiffs property were unenforceable;

WHEREAS, The Troy City Council has authorized the Troy City Attorney to file an application for leave to appeal the Court of Appeals decision to the Michigan Supreme Court; and

WHEREAS, The City of Troy believes that the issues involved in the aforesaid case will have statewide impact, and are such that the Michigan Municipal League Defense Fund may wish to provide supportive aid by filing an amicus curiae brief with the Michigan Supreme Court;

WHEREAS, The City of Troy desires to receive the assistance of the Michigan Municipal League Defense Fund;

THEREFORE, BE IT RESOLVED, That the City Attorney is **AUTHORIZED TO REQUEST** assistance from the Michigan Municipal League Legal Defense Fund in the *Papadelis v. Troy* case, as described above and it is agreed that acceptance of such support shall constitute an agreement by the City of Troy to abide by any conditions placed upon the aid offered by the Fund.

Yes:

No:

F-4 Second Amendment to Chapter 42 – Flood Plain Management as Required by FEMA for Participation in National Flood Insurance Program

Suggested Resolution

Resolution #2006-10-

Moved by

Seconded by

RESOLVED, That City Council **APPROVES** the attached ordinance amendments to Chapter 42, Flood Plain Management, for the purpose of identifying flood map panel numbers 26125C0527F, 0529F, 0531F, 0532F, 0533F, 0534F, 0537F, 0541F, 0542F, 0551F, 0552F, 0553F, 0554F, 0561F, and 0562F in Section 12 of the ordinance; and

BE IT FURTHER RESOLVED, That City Council **APPROVES** the attached resolution to Manage Floodplain Development for the National Flood Insurance Program.

Yes:

No:

F-5 Preliminary Site Plan Review and Amended Consent Order and Judgment (SP 883-C) – Heartland Health Care, Southwest Corner of South Boulevard and Livernois, Section 3 – O-1 and R-1B

Suggested Resolution

Resolution #2006-10-

Moved by

Seconded by

RESOLVED, That the revised Preliminary Site Plan for Heartland Health Care 120 Bed Nursing Home, including 16 additional off-street parking spaces, located on the southwest corner of

South Boulevard and Livernois, Section 3, as indicated on Preliminary Site Plan Sheet SP1, prepared by Nowak & Fraus, is hereby **APPROVED**; and

BE IT FURTHER RESOLVED, That the Stipulated Second Amendment to the Consent Order and Judgment in the matter of Rodney D. Hyduk, DDS, MSD, Trustee of the Rodney D. Hyduk Trust Agreement, dated 2/19/82 as amended and successors in trust, successor to Rodney D. Hyduk v. City of Troy, a Michigan Municipal corporation and Healthcare and Retirement Corporation of America an Ohio Corporation, as Intervening Plaintiff (Oakland County Circuit Court Case No. 83-265736-CZ) is hereby **APPROVED**, and the Mayor and Clerk are **AUTHORIZED TO EXECUTE** the document on behalf of the City of Troy, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

BE IT FINALLY RESOLVED, That the Assistant City Attorney is **AUTHORIZED TO SIGN** the Stipulated Second Amendment of Consent Order and Judgment for entry with the court.

Yes:

No:

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

G-1 Announcement of Public Hearings:

- a) Zoning Ordinance Text Amendment (File Number: Z 714) – Proposed The Enclave Senior Housing, North of Long Lake between Livernois and Crooks, Section 9 – R-1B to R-EC – October 23, 2006

G-2 Green Memorandums: None Submitted

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

- H-1 Proposed Cancellation of November 27, 2006 Regular City Council Meeting and Reconsideration of the 2007 City Council Meeting Schedule as Requested by Mayor Schilling

- (a) Cancellation of November 27, 2006 City Council Meeting

Suggested Resolution

Resolution #2006-10-

Moved by

Seconded by

RESOLVED, That the Regular City Council Meeting scheduled for Monday, November 27, 2006 be **CANCELLED**.

Yes:

No:

- (b) Reconsideration of Resolution #2006-07-316 – 2007 City Council Meetings

Suggested Resolution

Resolution #2006-10-
Moved by
Seconded by

RESOLVED, That Resolution #2006-09-316, Moved by Broomfield and Seconded by Fleming, as it appears below be **RECONSIDERED** by City Council:

*RESOLVED, That the City Council **SHALL HOLD** Regular meetings according to the following schedule at 7:30 pm:*

- Monday, January 8 & 22*
- Monday, February 5, 19 & 26*
- Monday, March 5, 19 & 26*
- Monday, April 2, 16 & 23*
- Monday, May 14 & 21*
- Monday, June 4 & 18*
- Monday, July 9 & 23*
- Monday, August 6 & 20*
- Monday, September 10, 17 & 24*
- Monday, October 1, 15 & 22*
- Monday, November 12, 19 & 26*
- Monday, December 3, 17 (two meetings due to end of month holidays)*

Liquor Violation Hearing Dates:

- Wednesday, February 7 7:30 pm*
- Wednesday, February 28 7:30 pm*

*BE IT FURTHER RESOLVED, That Special meetings **MAY BE SCHEDULED** as needed.*

Yes: All-7

Yes:

No:

Recommended Substitute Amendment to Resolution #2006-09-316:

Suggested Resolution

Resolution #2006-10-
Moved by
Seconded by

RESOLVED, That Troy City Council hereby **AMENDS** Resolution #2006-09-316 by **SUBSTITUTING** the following motion:

RESOLVED, That the City Council **SHALL HOLD** Regular meetings according to the following schedule at 7:30 pm:

- Monday, January 8 & 22
- Monday, February 5 & 19
- Monday, March 5 & 19
- Monday, April 2 & 16
- Monday, May 14 & 21
- Monday, June 4 & 18
- Monday, July 9 & 23
- Monday, August 6 & 20
- Monday, September 10 & 17
- Monday, October 1 & 15
- Monday, November 12 & 19
- Monday, December 3 & 17

Liquor Violation Hearing Dates:

- Wednesday, February 7 7:30 pm
- Wednesday, February 28 7:30 pm

BE IT FURTHER RESOLVED, That Special meetings **MAY BE SCHEDULED** as needed.

Yes:

No:

Proposed Reconsidered Resolution as Amended

Resolution #2006-10-
Moved by
Seconded by

RESOLVED, That the City Council **SHALL HOLD** Regular meetings according to the following schedule at 7:30 pm:

- Monday, January 8 & 22
- Monday, February 5 & 19
- Monday, March 5 & 19
- Monday, April 2 & 16
- Monday, May 14 & 21
- Monday, June 4 & 18
- Monday, July 9 & 23
- Monday, August 6 & 20
- Monday, September 10 & 17
- Monday, October 1 & 15
- Monday, November 12 & 19
- Monday, December 3 & 17

Liquor Violation Hearing Dates:

Wednesday, February 7 7:30 pm

Wednesday, February 28 7:30 pm

BE IT FURTHER RESOLVED, That Special meetings **MAY BE SCHEDULED** as needed.

Yes:

No:

COUNCIL COMMENTS:

I-1 No Council Comments Advanced

REPORTS:

J-1 Minutes – Boards and Committees:

- a) Troy Youth Council/Final – May 24, 2006
- b) Historic Commission/Final – June 28, 2006
- c) Election Commission/Final – July 7, 2006
- d) Traffic Committee/Final – July 19, 2006
- e) Historic District Commission/Final – August 15, 2006
- f) Troy Youth Council/Draft – August 23, 2006
- g) Advisory Committee for Persons with Disabilities/Draft – September 6, 2006
- h) Advisory Committee for Persons with Disabilities/Final – September 6, 2006
- i) Building Code Board of Appeals/Final – September 6, 2006
- j) Advisory Committee for Senior Citizens/Final – September 7, 2006
- k) Planning Commission/Final – September 12, 2006
- l) Planning Commission Special/Study/Draft – September 26, 2006
- m) Election Commission/Draft – October 2, 2006
- n) Advisory Committee for Senior Citizens/Draft – October 5, 2006

J-2 Department Reports:

- a) Building Department – Permits Issued During the Month of September, 2006
- b) Finance Department – City Council Expense Report for September, 2006
- c) City Attorney's Office – 2006 Third Quarter Litigation Report
- d) Council Member Beltramini's Travel Expense Report – MML Convention

J-3 Letters of Appreciation:

- a) Letter of Appreciation to Lt. Rossman from Jim Buell of Alliance Mobile Health, Recognizing the Life-Saving Actions and Assistance of Officer Denny

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

J-5 Calendar

J-6 Communication from City Attorney's Office Regarding D & K Hannawa v. City of Troy

J-7 Communication from Michigan Liquor Control Commission Licensing Division

STUDY ITEMS:

K-1 No Study Items Submitted

PUBLIC COMMENT: Address of “K” Items

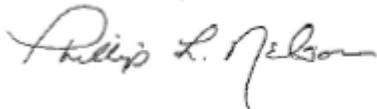
Persons interested in addressing the City Council on items, which appear on the printed Agenda, will be allowed to do so at the time the item is discussed upon recognition by the Chair in accordance with the Rules of Procedure of the City Council, Article 16, during the Public Comment section under item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

CLOSED SESSION:

L-1 Closed Session: No Closed Session Requested

ADJOURNMENT

Respectfully submitted,



Phillip L. Nelson, City Manager

SCHEDULED CITY COUNCIL MEETINGS:

- Monday, October 23, 2006 Regular City Council
- Monday, November 13, 2006 Regular City Council
- Monday, November 20, 2006 Regular City Council
- Monday, November 27, 2006 Regular City Council
- Monday, December 4, 2006 Regular City Council
- Monday, December 18, 2006 Regular City Council

**FRIENDS OF THE TROY PUBLIC LIBRARY
RECOGNITION WEEK
OCTOBER 22 – 28, 2006**

WHEREAS, The work of the **Friends of the Troy Public Library** generates the resources for four hundred programs, much needed equipment, support for children's summer reading, and many special events throughout the year; and

WHEREAS, The work of the **Friends of the Troy Public Library** highlights the fact that our library is the cornerstone of the community, providing opportunities for all to engage in the joy of life-long learning and connect with the thoughts and ideas of others from ages past and present; and

WHEREAS, The **Friends** understand the critical importance of well-funded libraries and advocate to ensure that our library has the resources it needs to provide a wide variety of services to all ages including access to print and electronic materials, along with expert assistance in research, readers' advisory, and children's and senior services; and

WHEREAS, The **Friends'** gift of time and commitment to the library sets an example for all that volunteerism leads to positive, civic engagement and the betterment of our community.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Troy hereby proclaims the **week of October 22-28, 2006 as Friends of the Troy Public Library Week** in the City of Troy;

BE IT FURTHER RESOLVED, That the City Council of the City of Troy urges everyone to join the **Friends of the Troy Public Library**, and thank our volunteers for all they do to make our library and community a great place to live and learn.

Signed this 16th day of October 2006.



CITY COUNCIL ACTION REPORT

October 9, 2006

TO: Phillip L. Nelson, City Manager

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

SUBJECT: Public Hearing - Zoning Ordinance Text Amendment (File Number: ZOTA 226) – Articles IV and XXIV – Medical Equipment Sales and Service in the O-1 (Low Rise Office) District

Background:

- A public hearing is scheduled for the October 16, 2006 City Council meeting.
- The draft zoning ordinance text amendment would permit the retail sales of medical equipment by right in the O-1 Office district. It also defines the term retail sale of medical equipment.
- The Planning Commission held a public hearing on this item on September 12, 2006, and recommended approval of the proposed text amendment. This is a City Management initiated zoning ordinance text amendment.

Financial Considerations:

- The proposed text amendment would expand the range of uses permitted within the O-1 Low Rise Office District.

Legal Considerations:

- City Council has the authority to amend the Zoning Ordinance.

Policy Considerations:

- A text amendment to the O-1 Office Building provisions would apply to all O-1 property in the City. City Council should determine whether this is an appropriate use in the O-1 Office Building zoning district.
- The item is consistent with City Council Goal II (Retain and attract investment while encouraging redevelopment) and Goal VI (Protect life and property).

Options:

- City Management recommends approval of the proposed text, as recommended by Planning Commission.

Approved as to form and legality:

Lori Grigg Bluhm, City Attorney

Attachments:

1. Draft ZOTA 226

Prepared by RBS/MFM

G:\ZOTAs\ZOTA 226 Medical Goods in O-1\CC Public Hearing 10 16 06.doc

PROPOSED ZONING ORDINANCE TEXT AMENDMENT (ZOTA 226)
City Council Public Hearing Draft
Text Amendment for Retail Sale of Medical Equipment
in the O-1 Zoning District

CITY OF TROY
AN ORDINANCE TO AMEND CHAPTER 39
OF THE CODE OF THE CITY OF TROY

The City of Troy ordains:

Section 1. Amendment to Chapter 39

Chapter 39 of the City of Troy Code is amended by adding sections 04.20.108 and 24.20.05, to read as follows:

04.20.108 MEDICAL EQUIPMENT SALES AND SERVICE: A facility engaged in the retail sale and / or rental of medical equipment for home use, including the provision of related professional assistance.

24.00.00 ARTICLE XXIV O-1 OFFICE BUILDING DISTRICT

24.20.05 Medical equipment sales and service.

Section 2. 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 Schilling, Mayor

Tonni Bartholomew, City Clerk



CITY COUNCIL ACTION REPORT

October 10, 2006

TO: Phillip L. Nelson, City Manager

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

SUBJECT: Postponed Item – Rezoning Application – Proposed Binson’s Home Health Care Center, Northwest corner of Rochester and Marengo, Section 3 – R-1B to B-1 (Z 180-B)

Background:

- The Planning Commission recommended denial of the rezoning request at the June 14, 2005 Regular meeting. On August 1, 2005, City Council postponed the item to the first Regular City Council meeting in March 2006. On March 6, 2006, City Council postponed the item to the first Regular City Council meeting in August 2006. On August 14, 2006, City Council postponed the item to the first Regular City Council meeting in October 2006.
- The Future Land Use Plan classifies the Rochester Road frontage in this area as Medium Density Residential. The Medium Density Residential classification correlates with the R-1T Zoning District in the Plan.

Financial Considerations:

- There are no financial considerations for this item.

Legal Considerations:

- The application is not consistent with the Future Land Use Plan.

Policy Considerations:

- Denial of the rezoning request would be consistent with City Council Goal VI, Protect Life and Property.

Options:

- City Council can adopt the rezoning request, deny the rezoning request or postpone the item to a future meeting.
- City Management recommends denial of the rezoning application.

Approved as to Form and Legality:

Lori Grigg Bluhm, City Attorney

Attachments:

1. Maps.

cc: Applicant
File / Z 180-B

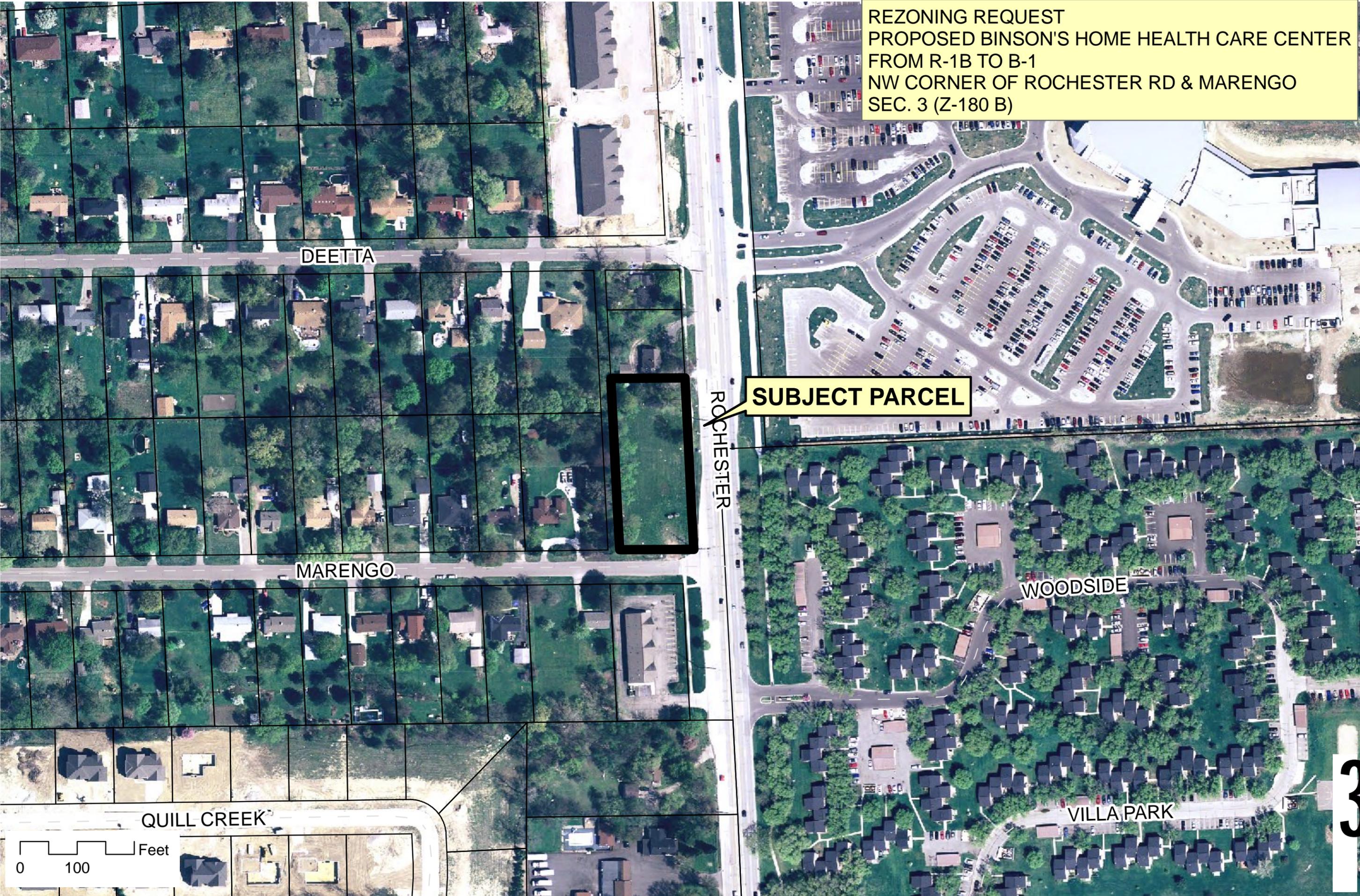
Prepared by RBS/MFM

G:\REZONING REQUESTS\Z-180 B BINSONS\CC Postponed Item Z-180 B 10 16 06.doc

CITY OF TROY



REZONING REQUEST
PROPOSED BINSON'S HOME HEALTH CARE CENTER
FROM R-1B TO B-1
NW CORNER OF ROCHESTER RD & MARENGO
SEC. 3 (Z-180 B)



SUBJECT PARCEL

REZONING REQUEST
PROPOSED BINSON'S HOME HEALTH CARE CENTER
FROM R-1B TO B-1
NW CORNER OF ROCHESTER RD & MARENGO
SEC. 3 (Z-180 B)

CJ-32

(PUD)

DEETTA

SUBJECT PARCEL

ROCHESTER

MARENGO

(B-1)

WOODSIDE

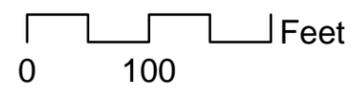
(CR-1)

(R-1B)

QUILL CREEK

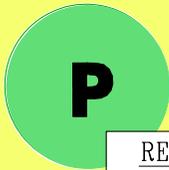
VILLA PARK

(E-1)

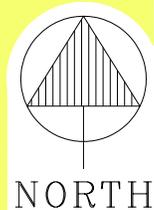


3

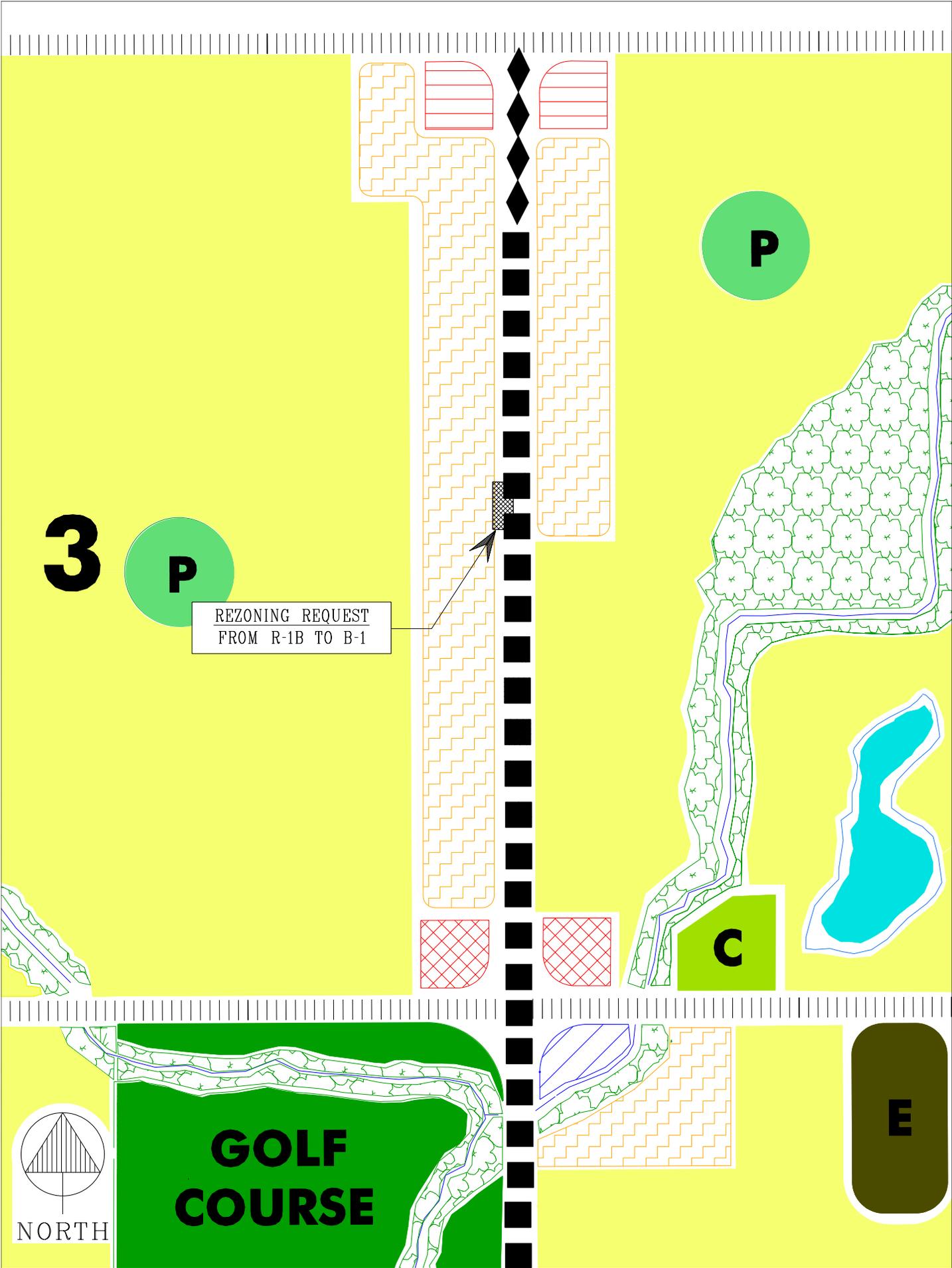
3



REZONING REQUEST
FROM R-1B TO B-1



GOLF COURSE



A Regular Meeting of the Troy City Council was held Monday, October 2, 2006, at City Hall, 500 W. Big Beaver Road. Mayor Schilling called the Meeting to order at 7:33 P.M.

Brother Ben Jackson – The Church of Jesus Christ of Latter-Day Saints -Troy Ward gave the Invocation and the Pledge of Allegiance to the Flag was given.

ROLL CALL:

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

CERTIFICATES OF RECOGNITION:

A-1 No Presentations

CARRYOVER ITEMS:

B-1 No Carryover Items

PUBLIC HEARINGS:

C-1 No Public Hearings

POSTPONED ITEMS:

D-1 No Postponed Items

CONSENT AGENDA:

E-1a Approval of “E” Items NOT Removed for Discussion

Resolution #2006-10-381
Moved by Stine
Seconded by Broomfield

RESOLVED, That all items on the Consent Agenda are hereby **APPROVED** as presented.

Yes: All-6
No: None
Absent: Fleming

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

E-2 Approval of City Council Minutes

Resolution #2006-10-381-E-2

RESOLVED, That the Minutes of the 7:30 PM Regular City Council Meeting of September 25, 2006 be **APPROVED** as submitted.

E-3 Proposed City of Troy Proclamation(s): None Submitted

E-4 Standard Purchasing Resolutions**a) Standard Purchasing Resolution 3: Exercise Renewal Option – Snow Removal Rental Equipment Including Operators**

Resolution #2006-10-381-E-4a

WHEREAS, On September 19, 2005, a contract to provide seasonal requirements of snow removal rental equipment including operators with an option to renew for one (1) additional season was awarded to the sole bidder, Sterling Topsoil & Grading, Inc. of Sterling Heights, MI, at hourly rates contained in the bid tabulation opened July 25, 2005, a copy of which shall be **ATTACHED** to the original Minutes of this meeting (Resolution #2005-09-447-E4); and

WHEREAS, Sterling Topsoil & Grading, Inc. has agreed to exercise the one-year option to renew under the same prices, terms, and conditions as the 2005 season;

THEREFORE, BE IT RESOLVED, That the option to renew the contract is hereby **EXERCISED** with Sterling Topsoil & Grading, Inc. to provide snow removal rental equipment including operators; and Florence Cement Company of Shelby Township and DiPonio Contracting LLC of Utica are hereby **AWARDED** contracts at prices established as a result of an informal quote process dated August 8, 2005, and detailed on Appendix A, a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

THEREFORE, BE IT FINALLY RESOLVED, That City staff is **AUTHORIZED TO EXTEND** the hourly contract prices to other contractors, after the successful vendors have been employed, to speed the snow removal process during times of snow emergencies with contracts expiring April 14, 2007, and are **CONTINGENT** upon contractor's submission of properly executed contract documents, including insurance certificates and all other specified requirements.

b) Standard Purchasing Resolution 1: Award to Low Bidder – Street Light Installation/Replacement

Resolution #2006-10-381-E-4b

RESOLVED, That a contract to furnish all labor, tools, equipment, transportation services, and traffic controls to provide two-year requirements of street, parking lot, and athletic field light installation and replacement with an option to renew for one (1) additional year is hereby

AWARDED to the sole bidder, Harlan Electric Company of Rochester Hills, MI, at unit prices and discounts contained in the bid tabulation opened September 13, 2006, a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

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

E-5 Acceptance of a Permanent Easement for Watermain and Abandonment of Part of Original Watermain Easement, Woodland Elementary School – Sidwell #88-20-04-276-046, Project No. 04.905.3

Resolution #2006-10-381-E-5

RESOLVED, That the Permanent Easement for Watermain from Avondale School District, owner of property having Sidwell #88-20-04-276-046, is hereby **ACCEPTED**; and

BE IT FURTHER RESOLVED, That the Mayor and City Clerk are **AUTHORIZED TO SIGN** a Quit Claim Deed to complete the abandonment of that part of the original watermain easement that is no longer needed; and

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

E-6 Subcontract No. 06-5417/S1 with Greenstar & Associates, LLC for Right-of-Way Services for the Reconstruction and Widening of Wattles Road, 1,000 Feet East and West of Rochester Road – Project No. 01.106.5

Resolution #2006-10-381-E-6

RESOLVED, That Subcontract No. 06-5417/S1, between the City of Troy and Greenstar & Associates, LLC for right-of-way services for the reconstruction of Wattles Road, east and west of Rochester Road, is hereby **APPROVED** at an estimated cost to the City of Troy not to exceed \$50,000.00, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the subcontract, a copy of which shall be **ATTACHED** to the original Minutes of the meeting.

E-7 Subcontract No. 06-5418/S1 with Greenstar & Associates, LLC for Right-of-Way Services for the Reconstruction and Widening of Rochester Road, Torpey to Barclay – Project No. 99.203.5

Resolution #2006-10-381-E-7

RESOLVED, That Subcontract No. 06-5418/S1, between the City of Troy and Greenstar & Associates, LLC for right-of-way services for the reconstruction of Rochester Road, between Torpey and Barclay is hereby **APPROVED** at an estimated cost to the City of Troy not to exceed \$75,000.00, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the subcontract, a copy of which shall be **ATTACHED** to the original Minutes of the meeting.

E-8 Private Agreement for 5660 New King Street Project No. 06.911.3 – The Learning Experience

Resolution #2006-10-381-E-8

RESOLVED, That the Contract for the Installation of Municipal Improvements (Private Agreement) between the City of Troy and Talon TLE-Troy LLC, is hereby **APPROVED** for the installation of a public water main, 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-9 Approval of Co-location on Sylvan Glen Communications Tower

Resolution #2006-10-381-E-9

RESOLVED, That the Restated and Amended Acknowledgement and Lease between MetroPCS Michigan, Inc. and the City of Troy for co-location on the Sylvan Glen Golf Course tower is hereby **APPROVED**, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the documents on behalf of the City, 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-1 Appointments to Boards and Committees: a) Mayoral Appointments: No Appointments (LDFA) b) City Council Appointments: Parks & Recreation Board; and Troy Daze Committee

(a) Mayoral Appointments - No Appointments

(b) City Council Appointments

Resolution #2006-10-382

Moved by Broomfield

Seconded by Beltramini

RESOLVED, That the following persons are hereby **NOMINATED** to serve on the Troy Daze Committee for the vacancy with the term expiring on November 30, 2007:

ROLL CALL VOTE

Nominated by: Broomfield
Jeffrey Stewart

Beltramini
Broomfield
Stine
Schilling

Nominated by: Schilling
Jeffrey Super

Howrylak
Lambert

Yes: All-6
No: None
Absent: Fleming

Vote on Resolution to Appoint Members to the Parks & Recreation Board

Resolution #2006-10-383
Moved by Lambert
Seconded by Beltramini

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

Parks & Recreation Board

Appointed by Council (10) – 3 Year Terms

Orestes (Rusty) Kaltsounis Term Expires 09/30/09

Stuart Redpath Term Expires 09/30/09

Yes: All-6
No: None
Absent: Fleming

Vote on Resolution to Appoint Members to the Troy Daze Committee

Resolution #2006-10-384
Moved by Broomfield
Seconded by Beltramini

RESOLVED, That the appointment of the following person is hereby **CONFIRMED BY THE CITY COUNCIL** to serve on the Boards and Committees as indicated:

Troy Daze Committee

Appointed by Council (9) – 3 Year Terms

Jeffrey Stewart Unexpired Term 11/30/07

Yes: All-6
No: None
Absent: Fleming

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

G-1 Announcement of Public Hearings:

- a) Zoning Ordinance Text Amendment (File Number: ZOTA 226) – Articles IV and XXIV – Medical Equipment Sales and Service in the O-1 (Low Rise Office) District – October 16, 2006
- b) Proposed Establishment of an Industrial Development District (IDD) and Industrial Facilities Exemption Certificate (IFEC) for Grid4 Communications – 2107 Crooks Road – October 23, 2006

Noted and Filed

G-2 Green Memorandums: None Submitted

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

H-1 No Council Referrals

COUNCIL COMMENTS:

I-1 No Council Comments

REPORTS:

J-1 Minutes – Boards and Committees:

- a) Parks and Recreation Advisory Board/Final – May 18, 2006
- b) Building Code Board of Appeals/Draft – September 6, 2006
- c) Planning Commission/Draft – September 12, 2006
- d) Board of Zoning Appeals/Draft – September 19, 2006

Noted and Filed

J-2 Department Reports: None Submitted

J-3 Letters of Appreciation:

- a) Letter of Thanks to City Manager from Peter Clarkson of Ice Cream Express in Appreciation of the Assistance and Efforts of the Troy Daze Staff
- b) Letter of Thanks to Chief Craft from Robert Lemman Shelby Township Chief of Police Regarding the Cooperation and Efforts Received from Officer Bednard and K9 Ronnie
- c) Letter of Appreciation to City Manager and City Council from Sandy Jegersky Macknis, Chairperson of Student Volunteers for Troy Daze Festival, Regarding Troy Daze and the Outstanding Efforts of the Volunteer Students, Cindy Stewart, Jeff Biegler, Lt. Scherlinck and the Troy Daze Committee

Noted and Filed

J-4 Proposed Proclamations/Resolutions from Other Organizations:

- a) Resolution from the City of Orchard Lake Village Opposing the K-12 Initiative on the November 7, 2006 Ballot

Noted and Filed

J-5 Calendar

Noted and Filed

J-6 Communication from Purchasing Director Jeanette Bennett Regarding Local Preference Issues

Noted and Filed

J-7 Communication from the City Attorney's Office Regarding Papadelis v Troy

Noted and Filed

STUDY ITEMS:

K-1 No Study Items Submitted

PUBLIC COMMENT: Address of "K" Items

CLOSED SESSION:

L-1 Closed Session

Resolution #2006-10-385

Moved by Beltramini

Seconded by Howrylak

BE IT RESOLVED, That the City of Troy City Council **SHALL MEET** in Closed Session, as permitted by MCL 15.268 (e) – Troy v Premium Construction, and also MCL 15.268 (h) – MCL 15.243 (g).

Yes: All-6

No: None

Absent: Fleming

The meeting **RECESSED** at 7:55 P.M.

The meeting **RECONVENED** at 8:04 P.M.

The meeting **ADJOURNED** at 9:03 P.M.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, MMC
City Clerk

**FRIENDS OF THE TROY PUBLIC LIBRARY
RECOGNITION WEEK
OCTOBER 22 – 28, 2006**

WHEREAS, The work of the **Friends of the Troy Public Library** generates the resources for four hundred programs, much needed equipment, support for children's summer reading, and many special events throughout the year; and

WHEREAS, The work of the **Friends of the Troy Public Library** highlights the fact that our library is the cornerstone of the community, providing opportunities for all to engage in the joy of life-long learning and connect with the thoughts and ideas of others from ages past and present; and

WHEREAS, The **Friends** understand the critical importance of well-funded libraries and advocate to ensure that our library has the resources it needs to provide a wide variety of services to all ages including access to print and electronic materials, along with expert assistance in research, readers' advisory, and children's and senior services; and

WHEREAS, The **Friends'** gift of time and commitment to the library sets an example for all that volunteerism leads to positive, civic engagement and the betterment of our community.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Troy hereby proclaims the **week of October 22-28, 2006 as Friends of the Troy Public Library Week** in the City of Troy;

BE IT FURTHER RESOLVED, That the City Council of the City of Troy urges everyone to join the **Friends of the Troy Public Library**, and thank our volunteers for all they do to make our library and community a great place to live and learn.

Signed this 16th day of October 2006.



CITY COUNCIL ACTION REPORT

Date October 9, 2006

TO: Phillip L. Nelson, City Manager

FROM: Tonni L. Bartholomew, City Clerk

SUBJECT: Request for Recognition as a Nonprofit Organization Status from Richard K. Gauthier, President – Christmas in Action of Oakland County, Inc.

Background:

- Attached is a request from Richard K. Gauthier, President of Troy's Christmas in Action of Oakland County, Inc., seeking recognition as a nonprofit organization status for the purpose of obtaining a charitable gaming license to conduct fundraising events and/or raffles every year to raise the funds necessary to fund their annual workday activities. It has been City Management's practice to support the approval of such requests.

Financial Considerations:

- There are no financial considerations associated with this item.

Legal Considerations:

- There are no legal considerations associated with this item.

Policy Considerations:

- There are no policy considerations associated with this item.

Options:

- It is recommended that Troy City Council approve the proposed resolution to approve the request from Richard K. Gauthier, President of Christmas in Action of Oakland County, Inc., asking that they be recognized as a nonprofit organization operating in the community for the purpose of obtaining a charitable gaming license.



Christmas in Action

Oakland County, MI

"Neighbors helping Neighbors"

P.O. Box 300324 • Waterford, MI • 48330-0324 • ph 248/618-7433 • fax 248/674-4097 • www.ciaoaklandcounty.org



Honorary Advisors
Norma Okonski
Oakland County President

Board of Directors

Judy Brueher
Troy People Concerned

Paula Fleming
ProForma

Wade Fleming
ProForma

Lenore Janman
Woodside Bible Church

Suzanne Latham
Baker Middle School

Vicki Richardson
City of Troy

Greg Wolf
Century 21

President
Richard K. Gauthier
Troy Postmaster

Secretary
Cindy Stewart
City of Troy

Treasurer
Kimberlee Pope
TCF Bank

October 2, 2006

Dear Mayor Schilling & the Troy City Council:

We would like to introduce you to Christmas in Action of Oakland County. Back In 1973 Bobby Trimble challenged his Sunday School class to go out and help their area's low-income and handicapped seniors with home repairs. Believing it was their way of completing mission-work at-home. From those early days Christmas in Action has spread across the country.

Launched in 1996, with determination and pride, Christmas in Action of Oakland County has been completing Free Home Repairs for low-income and handicapped seniors the last Saturday each April. Volunteers work side-by-side and install new roofs, furnaces, hot water heaters, paint, complete endless plumbing repairs, repair faulty electrical and install handicap ramps **all at no cost to the low-income, handicapped senior**. To accomplish this mission we rely on local businesses, community groups, churches and individuals to provide the financial, material and volunteer support each year to make Christmas in Action a reality.

As people live longer there is a tremendous number of low-income and handicapped seniors' eager to age in their own homes. One of four elderly Americans today are "shelter-poor" meaning they cannot afford the basic human necessities after paying housing costs. Every year Christmas in Action volunteers restore dignity and safety by allowing seniors to remain in their home. The impact of Christmas in Action is immeasurable, neighborhoods are improved and unnecessary and costly institutionalizations are avoided. Nellie, an 80-year-old widow and handicapped recipient, summed up Christmas in Action, "This is Love in Action."

Unfortunately, we all live in communities that have the same problem. Seniors in need is everyone's problem; but together as partners we can be part of the solution. Christmas in Action is a partnership with the municipality, churches, civic groups and schools. Not only are we improving the quality of life for seniors we are rebuilding and bringing hope to the entire community.

Sincerely,

Richard K. Gauthier, President - Troy
Christmas in Action of Oakland County, Inc.



Christmas in Action is 501© 3 Non-Profit Building Hope through Community Partnerships and Volunteerism

Our Mission
Volunteers provide the FREE home repairs that enable low-income and handicapped seniors to safely remain in their homes.

City of Troy
City Clerk's Office
500 West Big Beaver
Troy, Michigan 48084
(248) 524-3331
www.troymi.net/clerks



(Send Application & Remittance to Above Address)

APPLICATION FOR CHARITABLE SOLICITATION PERMIT – FUND RAISING

File the following information with the City Clerk's Office at least **21 days** prior to the time permit is desired.
TIME SPAN FOR PERMIT NOT TO EXCEED NINETY (90) DAYS.

Date Filed _____

Name of Organization Christmas in Action of Oakland Phone 248.618.7433

County, Inc.

Local Address P.O. Box 300324, Waterford, MI 48330-0324
City State Zip

Home Office, if Different _____
City State Zip

Name of Parent Organization Christmas in Action of Oakland County, Inc.

Address P.O. Box 300324, Waterford, MI 48330-0324
Street City State Zip

Local Representatives/Officers of Organization

Rick Gauthier, Troy President 1325 Scott Lk Rd, Waterford, MI 48329
Name Title Phone

Cindy Stewart, Troy Vice President
Name Title Phone

Paula Fleming
Name Title Phone

Person in Direct Charge of Solicitations:

Name Rick Gauthier Title President
Street Address 1325 Scott Lake Road, Waterford, MI Phone 248.431.0838
City/State/Zip _____

How are Funds Solicited? Donations from churches, letters and civic groups

Locations	Dates	Times

To what purpose will you put these funds? To purchase supplies for volunteers to complete FREE Home Repairs for low-income and handicapped senior homeowners in Troy.

What is the requested amount for contribution? \$1.00 to \$10,000.00

Type of Organization: Religious Health Social Educational
 Professional Fraternal Other Non-profit-volunteers

Are you incorporated by the State? Yes No
Have you registered with the Department of Commerce? Yes No
Have you registered with Assumed Names, County Division? Yes No
Have you registered with the Attorney General's Office, Charitable Trust Division? Yes No
Are you on file with the Internal Revenue Service as being Tax Exempt? Yes No

If any of the above questions are checked as yes, please provide us with copies of the forms and permits involved.

YOU MUST ATTACH COPIES OF THE FOLLOWING:

Financial statement of your organization for the past year. Include all fund raising events.

I hereby certify that the foregoing information is complete and true.

Applicant's Signature

DATE FORWARDED TO POLICE DEPARTMENT FOR INFORMATION _____

Department	
Police	

Date License Issued by City Clerk's Office _____

This is page 2 of a 2 page Application – Please make sure all three (3) pages are complete and returned to the Clerk's Office for processing.

MAR 26 2003

Date:

Employer Identification Number:

DLN: _____

Contact Person:

BRENDA WILKINS

ID# _____

Contact Telephone Number:

(877) 829-5500

Accounting Period Ending:

June 30

Foundation Status Classification:

509(a)(1)

Advance Ruling Period Begins:

December 12, 2002

Advance Ruling Period Ends:

June 30, 2006

Addendum Applies:

No

COPY

CHRISTMAS IN ACTION OF OAKLAND
COUNTY INC
C/O KARL HAISER
610 E GRAND BLANC RD
GRAND BLANC, MI 48439-0000

Dear Applicant:

Based on information you supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3).

Because you are a newly created organization, we are not now making a final determination of your foundation status under section 509(a) of the Code. However, we have determined that you can reasonably expect to be a publicly supported organization described in sections 509(a)(1) and 170(b)(1)(A)(vi).

Accordingly, during an advance ruling period you will be treated as a publicly supported organization, and not as a private foundation. This advance ruling period begins and ends on the dates shown above.

Within 90 days after the end of your advance ruling period, you must send us the information needed to determine whether you have met the requirements of the applicable support test during the advance ruling period. If you establish that you have been a publicly supported organization, we will classify you as a section 509(a)(1) or 509(a)(2) organization as long as you continue to meet the requirements of the applicable support test. If you do not meet the public support requirements during the advance ruling period, we will classify you as a private foundation for future periods. Also, if we classify you as a private foundation, we will treat you as a private foundation from your beginning date for purposes of section 507(d) and 4940.

Grantors and contributors may rely on our determination that you are not a private foundation until 90 days after the end of your advance ruling period. If you send us the required information within the 90 days, grantors and contributors may continue to rely on the advance determination until we make

Letter 1045 (DO/CG)

3/31/03



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
BUREAU OF STATE LOTTERY
LANSING



GARY C. PETERS
COMMISSIONER

LOCAL CIVIC ORGANIZATION QUALIFICATION INFORMATION

Please allow at least 4 weeks for the qualification process.

If the organization has never submitted qualifying information as a local civic organization, the following information shall be submitted prior to being approved to conduct a bingo, millionaire party, raffle, charity game, or numeral game.

1. A signed and dated copy of the organization's current bylaws or constitution.
2. A complete copy of the organization's Articles of Incorporation that have been filed with the Corporations and Securities Bureau, if the organization is incorporated.
3. A copy of the letter from the IRS stating the organization is exempt from federal tax under IRS code 501(c)3
OR
copies of one bank statement per year for the previous five years, excluding the current year.
4. A provision in the bylaws, constitution, or Articles of Incorporation that states should the organization dissolve, all assets, and real and personal property will revert:
 - A. If exempt under 501(c)3, to another 501(c)3 organization.
 - B. If not exempt under 501(c)3, to the local government.
5. A receipt and expenditure statement for the last two years. If expenditures were made to individuals, explain the nature of these expenditures.
6. A copy of a resolution passed by the local body of government stating the organization is a recognized nonprofit organization in the community (sample format attached).
7. A provision in the bylaws, constitution, or Articles of Incorporation indicating the organization will remain nonprofit forever.

Additional information may be requested after the initial documents submitted have been reviewed. If you have any questions or need further assistance, please call our office at (517) 335-5780.

Act 382 of the Public Acts of 1972, as amended, defines a local civic organization as an organization "not for pecuniary profit and not affiliated with a state or national organization, which is recognized by resolution adopted by the city in which the organization conducts its principal activities, whose constitution, charter, articles of incorporation, or bylaws contain a provision for the perpetuation of the organization as a nonprofit organization whose entire assets are pledged to charitable purposes, and whose constitution, charter, articles of incorporation, or bylaws contain a provision that all assets, real property, and personal property shall revert to the benefit of the city government upon dissolution of the organization."

BSL-CG-1453(R5/04)



Charitable Gaming Division
 Box 30023, Lansing, MI 48909
 OVERNIGHT DELIVERY:
 101 E. Hillsdale, Lansing MI 48933
 (517) 335-5780
 www.michigan.gov/cg

LOCAL GOVERNING BODY RESOLUTION FOR CHARITABLE GAMING LICENSES

(Required by MCL 432.103(9))

At a _____ meeting of the _____
REGULAR OR SPECIAL TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD

called to order by _____ on _____
DATE

at _____ a.m./p.m. the following resolution was offered:
TIME

Moved by _____ and supported by _____

that the request from _____ of _____,
NAME OF ORGANIZATION CITY

county of _____, asking that they be recognized as a
COUNTY NAME

nonprofit organization operating in the community for the purpose of obtaining a charitable

gaming license, be considered for _____.
APPROVAL/DISAPPROVAL

APPROVAL

DISAPPROVAL

Yeas: _____

Yeas: _____

Nays: _____

Nays: _____

Absent: _____

Absent: _____

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the _____ at a _____
TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD REGULAR OR SPECIAL

meeting held on _____
DATE

SIGNED: _____
TOWNSHIP, CITY, OR VILLAGE CLERK

PRINTED NAME AND TITLE

ADDRESS

COMPLETION: Required.
 PENALTY: Possible denial of application.

**Consent Fixing Period of Limitation Upon
 Assessment of Tax Under Section 4940 of the
 Internal Revenue Code**

OMB No. 1545-0056
 To be used with
 Form 1023. Submit
 in duplicate.

(See instructions on reverse side.)

Under section 6501(c)(4) of the Internal Revenue Code, and as part of a request filed with Form 1023 that the organization named below be treated as a publicly supported organization under section 170(b)(1)(A)(vi) or section 509(a)(2) during an advance ruling period,

.....
 CHRISTMAS IN ACTION OF OAKLAND COUNTY, INC.
 (Exact legal name of organization as shown in organizing document)

.....
 5200 CIVIC CENTER DRIVE, WATERFORD, MI 48329-3773
 (Number, street, city or town, state, and ZIP code)

and the
 District Director of
 Internal Revenue, or
 Assistant Commissioner
 (Employee Plans and
 Exempt Organizations).

consent and agree that the period for assessing tax (imposed under section 4940 of the Code) for any of the 5 tax years in the advance ruling period will extend 8 years, 4 months, and 15 days beyond the end of the first tax year.

However, if a notice of deficiency in tax for any of these years is sent to the organization before the period expires, the time for making an assessment will be further extended by the number of days the assessment is prohibited, plus 60 days.

Ending date of first tax year 6/30/2003
 (Month, day, and year)

Name of organization (as shown in organizing document)	Date
CHRISTMAS IN ACTION OF OAKLAND COUNTY, INC.	✓ 12/03/02
Officer or trustee having authority to sign/ Signature ✓ <i>Karl Hauser</i>	Type or print name and title ✓ KARL HAUSER JR CPA

For IRS use only

District Director or Assistant Commissioner (Employee Plans and Exempt Organizations)	Date
<i>Steven T. Miller</i>	3/25/2003

By *Lee D. Cogburn, EO Group Manager*

For Paperwork Reduction Act Notice, see page 7 of the Form 1023 Instructions. (HTA)

FITZPATRICK FINANCIAL SERVICES, INC.
4625 West Walton Boulevard
Waterford, MI 48329
248-673-3578

February 2, 2006

CONFIDENTIAL

Christmas in Action of Oakland
c/o Fitzpatrick Financial Services
4625 W. Walton
Waterford, MI 48329

Dear Norma J. Okonski:

We have prepared the enclosed returns from information provided by you without verification or audit. We suggest that you examine these returns carefully to fully acquaint yourself with all items contained therein to ensure that there are no omissions or misstatements. Attached to each return is an instruction sheet for signing and filing. Please follow those instructions carefully.

Also enclosed is any material you furnished for use in preparing the returns. If the returns are examined, requests may be made for supporting documentation. Therefore, we recommend that you retain all pertinent records for at least seven years.

In order that we may properly advise you of tax considerations, please keep us informed of any significant changes in your financial affairs or of any correspondence received from taxing authorities.

If you have any questions, or if we can be of assistance in any way, please call.

Sincerely,

Lori L. Miller, CPA
FITZPATRICK FINANCIAL SERVICES, INC.

Filing Instructions

**Christmas in Action of Oakland
c/o Fitzpatrick Financial Services**

Exempt Organization Tax Return

Taxable Year Ended June 30, 2005

Date Due: February 15, 2006

Remittance: None is required. Your Form 990 for the tax year ended 6/30/05 shows no balance due. The return should be signed and dated on Page 6 by an officer representing the organization.

Mail To: Internal Revenue Service Center
Ogden, UT 84201-0027

If a private delivery service is used, mail to:
OSPC
1973 N. Rulon White Blvd.
Ogden, UT 84404

Other: Initial and date the copy of the return, and retain it for your records.

Return of Organization Exempt From Income Tax

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

2004

Open to Public Inspection

Department of the Treasury
Internal Revenue Service

▶ The organization may have to use a copy of this return to satisfy state reporting requirements.

For the 2004 calendar year, or tax year beginning **7/01/04**, and ending **6/30/05**

Check if applicable: <input type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Final return <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	Please use IRS label or print or type. See Specific Instructions.	C Name of organization CHRISTMAS IN ACTION OF OAKLAND C/O FITZPATRICK FINANCIAL SERVICES Number and street (or P.O. box if mail is not delivered to street address) Room/suite 4625 W. WALTON City or town, state or country, and ZIP + 4 WATERFORD MI 48329	D Employer identification no. [REDACTED] E Telephone number [REDACTED] F Accounting method: <input type="checkbox"/> Cash <input checked="" type="checkbox"/> Accrual <input type="checkbox"/> Other (specify)
--	--	---	--

Section 501(c)(3) organizations and 4947(a)(1) nonexempt charitable trusts must attach a completed Schedule A (Form 990 or 990-EZ).

H and I are not applicable to section 527 organizations.

H(a) Is this a group return for affiliates? Yes No

H(b) If "Yes," enter number of affiliates ▶ Yes No

H(c) Are all affiliates included? Yes No

(If "No," att. a list. See instr.)

H(d) Is this a separate return filed by an organization covered by a group ruling? Yes No

I Group Exemption Number ▶

M Check if the organization is not required to attach Sch. B (Form 990, 990-EZ, or 990-PF).

G Website: ▶ N/A

J Organization type (check only one) 501(c) (3) (insert no.) 4947(a)(1) or 527

K Check here if the organization's gross receipts are normally not more than \$25,000. The organization need not file a return with the IRS; but if the organization received a Form 990 Package in the mail, it should file a return without financial data. Some states require a complete return.

L Gross receipts: Add lines 6b, 8b, 9b, and 10b to line 12 ▶ **114,272**

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (See page 18 of the instructions.)

	1 Contributions, gifts, grants, and similar amounts received:			
	a Direct public support	1a	55,958	
	b Indirect public support	1b		
	c Government contributions (grants)	1c		
	d Total (add lines 1a through 1c) (cash \$ 50,449 noncash \$ 5,509)	1d		55,958
	2 Program service revenue including government fees and contracts (from Part VII, line 93)	2		
	3 Membership dues and assessments	3		
	4 Interest on savings and temporary cash investments	4		
	5 Dividends and interest from securities	5		
	6a Gross rents	6a		
	b Less: rental expenses	6b		
	c Net rental income or (loss) (subtract line 6b from line 6a)	6c		
	7 Other investment income (describe)	7		
	8a Gross amount from sales of assets other than inventory	(A) Securities	(B) Other	
	b Less: cost or other basis and sales expenses	8a		
	c Gain or (loss) (attach schedule)	8b		
	d Net gain or (loss) (combine line 8c, columns (A) and (B))	8c		
	9 Special events and activities (attach schedule). If any amount is from gaming, check here <input type="checkbox"/>	9		
	a Gross revenue (not including \$ of contributions reported on line 1a)	9a	58,314	
	b Less: direct expenses other than fundraising expenses	9b	26,337	
	c Net income or (loss) from special events (subtract line 9b from line 9a)	9c		31,977
	10a Gross sales of inventory, less returns and allowances	10a		
	b Less: cost of goods sold	10b		
	c Gross profit or (loss) from sales of inventory (attach schedule) (subtract line 10b from line 10a)	10c		
	11 Other revenue (from Part VII, line 103)	11		
	12 Total revenue (add lines 1d, 2, 3, 4, 5, 6c, 7, 8d, 9c, 10c, and 11)	12		87,935
	13 Program services (from line 44, column (B))	13		50,897
	14 Management and general (from line 44, column (C))	14		18,772
	15 Fundraising (from line 44, column (D))	15		6,773
	16 Payments to affiliates (attach schedule)	16		
	17 Total expenses (add lines 16 and 44, column (A))	17		76,442
	18 Excess or (deficit) for the year (subtract line 17 from line 12)	18		11,493
	19 Net assets or fund balances at beginning of year (from line 73, column (A))	19		23,758
	20 Other changes in net assets or fund balances (attach explanation)	20		
	21 Net assets or fund balances at end of year (combine lines 18, 19, and 20)	21		35,251

Statement of

All organizations must complete column (A). Columns (B), (C), and (D) are required for section 501(c)(3) and (4) organizations

Functional Expenses

and section 4947(a)(1) nonexempt charitable trusts but optional for others. (See page 22 of the instructions.)

Do not include amounts reported on line 6b, 8b, 9b, 10b, or 16 of Part I.

Table with 5 columns: (A) Total, (B) Program services, (C) Management and general, (D) Fundraising. Rows include items like 'Grants and allocations', 'Specific assistance to individuals', 'Benefits paid to or for members', etc., with a total row at the bottom showing 76,442 for (A), 50,897 for (B), 18,772 for (C), and 6,773 for (D).

Joint Costs. Check [] if you are following SOP 98-2.

Are any joint costs from a combined educational campaign and fundraising solicitation reported in (B) Program services? [] Yes [X] No

If "Yes," enter (i) the aggregate amount of these joint costs \$; (ii) the amount allocated to Program services \$;

(iii) the amount allocated to Management and general \$; and (iv) the amount allocated to Fundraising \$

Part III Statement of Program Service Accomplishments (See page 25 of the instructions.)

What is the organization's primary exempt purpose?

SEE STATEMENT 2

All organizations must describe their exempt purpose achievements in a clear and concise manner. State the number of clients served, publications issued, etc. Discuss achievements that are not measurable. (Section 501(c)(3) and (4) organizations and 4947(a)(1) nonexempt charitable trusts must also enter the amount of grants and allocations to others.)

Program Service Expenses (Required for 501(c)(3) & (4) orgs., & 4947(a)(1) trusts; but optional for others.)

Table for Program Service Accomplishments with 2 columns: Description and Program Service Expenses. Row 'a' describes 'DURING THE FISCAL YEAR 7/1/04 THROUGH 6/30/05, APPROXIMATELY 37 NEEDY FAMILIES RECEIVED HOME REPAIRS AND MAINTENANCE.' with an expense of 50,897. Row 'f' shows the total of 50,897.

CHRISTMAS IN ACTION OF OAKLAND

Balance Sheets (See page 25 of the instructions.)

Where required, attached schedules and amounts within the description column should be for end-of-year amounts only.

		(A)		(B)
		Beginning of year		End of year
45	Cash-non-interest-bearing	23,758	45	35,251
46	Savings and temporary cash investments		46	
47a	Accounts receivable	47a		
b	Less: allowance for doubtful accounts	47b	47c	
48a	Pledges receivable	48a		
b	Less: allowance for doubtful accounts	48b	48c	
49	Grants receivable		49	
50	Receivables from officers, directors, trustees, and key employees (attach schedule)		50	
51a	Other notes and loans receivable (attach schedule)	51a		
b	Less: allowance for doubtful accounts	51b	51c	
52	Inventories for sale or use		52	
53	Prepaid expenses and deferred charges		53	
54	Investments-securities <input type="checkbox"/> Cost <input type="checkbox"/> FMV		54	
55a	Investments-land, buildings, and equipment: basis	55a		
b	Less: accumulated depreciation (attach schedule)	55b	55c	
56	Investments-other (attach schedule)		56	
57a	Land, buildings, and equipment: basis	57a		
b	Less: accumulated depreciation (attach schedule)	57b	57c	
58	Other assets (describe)		58	
59	Total assets (add lines 45 through 58) (must equal line 74)	23,758	59	35,251
60	Accounts payable and accrued expenses		60	
61	Grants payable		61	
62	Deferred revenue		62	
63	Loans from officers, directors, trustees, and key employees (attach schedule)		63	
64a	Tax-exempt bond liabilities (attach schedule)		64a	
b	Mortgages and other notes payable (attach schedule)		64b	
65	Other liabilities (describe)		65	
66	Total liabilities (add lines 60 through 65)	0	66	0
Organizations that follow SFAS 117, check here <input checked="" type="checkbox"/> and complete lines 67 through 69 and lines 73 and 74.				
67	Unrestricted	23,758	67	35,251
68	Temporarily restricted		68	
69	Permanently restricted		69	
Organizations that do not follow SFAS 117, check here <input type="checkbox"/> and complete lines 70 through 74.				
70	Capital stock, trust principal, or current funds		70	
71	Paid-in or capital surplus, or land, building, and equipment fund		71	
72	Retained earnings, endowment, accumulated income, or other funds		72	
73	Total net assets or fund balances (add lines 67 through 69 or lines 70 through 72; column (A) must equal line 19; column (B) must equal line 21)	23,758	73	35,251
74	Total liabilities and net assets / fund balances (add lines 66 and 73)	23,758	74	35,251

Form 990 is available for public inspection and, for some people, serves as the primary or sole source of information about a particular organization. How the public perceives an organization in such cases may be determined by the information presented on its return. Therefore, please make sure the return is complete and accurate and fully describes, in Part III, the organization's programs and accomplishments.

CHRISTMAS IN ACTION OF OAKLAND

Other Information (See page 28 of the instructions.)

organization engage in any activity not previously reported to the IRS? If "Yes," attach a detailed description of activity

Table with columns Yes, No and rows 76, 77

Were any changes made in the organizing or governing documents but not reported to the IRS? If "Yes," attach a conformed copy of the changes.

Table with columns Yes, No and rows 78a, 78b

Did the organization have unrelated business gross income of \$1,000 or more during the year covered by this return?

Table with columns Yes, No and rows 79

If "Yes," has it filed a tax return on Form 990-T for this year?

Was there a liquidation, dissolution, termination, or substantial contraction during the year? If "Yes," attach a statement

Table with columns Yes, No and rows 80a, 80b

Is the organization related (other than by association with a statewide or nationwide organization) through common membership, governing bodies, trustees, officers, etc., to any other exempt or nonexempt organization?

If "Yes," enter the name of the organization and check whether it is exempt or nonexempt.

Enter direct and indirect political expenditures. See line 81 instructions

Table with columns Yes, No and rows 81a, 81b

Did the organization file Form 1120-POL for this year?

Did the organization receive donated services or the use of materials, equipment, or facilities at no charge or at substantially less than fair rental value?

Table with columns Yes, No and rows 82a, 82b

If "Yes," you may indicate the value of these items here. Do not include this amount as revenue in Part I or as an expense in Part II. (See instructions in Part III.)

Table with columns Yes, No and rows 83a, 83b

Did the organization comply with the public inspection requirements for returns and exemption applications?

Table with columns Yes, No and rows 83b, 84a

Did the organization comply with the disclosure requirements relating to quid pro quo contributions?

Table with columns Yes, No and rows 84a, 84b

Did the organization solicit any contributions or gifts that were not tax deductible?

If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?

Table with columns Yes, No and rows 85a, 85b

501(c)(4), (5), or (6) organizations. Were substantially all dues nondeductible by members?

Table with columns Yes, No and rows 85b, 85c

Did the organization make only in-house lobbying expenditures of \$2,000 or less?

Table with columns Yes, No and rows 85c, 85d

If "Yes" was answered to either 85a or 85b, do not complete 85c through 85h below unless the organization received a waiver for proxy tax owed for the prior year.

Dues, assessments, and similar amounts from members

Table with columns Yes, No and rows 85d, 85e

Section 162(e) lobbying and political expenditures

Table with columns Yes, No and rows 85e, 85f

Aggregate nondeductible amount of section 6033(e)(1)(A) dues notices

Table with columns Yes, No and rows 85f, 85g

Taxable amount of lobbying and political expenditures (line 85d less 85e)

Table with columns Yes, No and rows 85g, 85h

Does the organization elect to pay the section 6033(e) tax on the amount on line 85f?

Table with columns Yes, No and rows 85h, 86a

If section 6033(e)(1)(A) dues notices were sent, does the organization agree to add the amount on line 85f to its reasonable estimate of dues allocable to nondeductible lobbying and political expenditures for the following tax year?

Table with columns Yes, No and rows 86a, 86b

501(c)(7) orgs. Enter: a Initiation fees and capital contributions included on line 12

Table with columns Yes, No and rows 86b, 87a

Gross receipts, included on line 12, for public use of club facilities

Table with columns Yes, No and rows 87a, 87b

501(c)(12) orgs. Enter: a Gross income from members or shareholders

Table with columns Yes, No and rows 87b, 88

Gross income from other sources. (Do not net amounts due or paid to other sources against amounts due or received from them.)

At any time during the year, did the organization own a 50% or greater interest in a taxable corporation or partnership, or an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? If "Yes," complete Part IX

Table with columns Yes, No and rows 89a, 89b

501(c)(3) organizations. Enter: Amount of tax imposed on the organization during the year under:

section 4911 0 ; section 4912 0 ; section 4955 0

501(c)(3) and 501(c)(4) orgs. Did the organization engage in any section 4958 excess benefit transaction during the year or did it become aware of an excess benefit transaction from a prior year? If "Yes," attach a statement explaining each transaction

Table with columns Yes, No and rows 89b, 89c

Enter: Amount of tax imposed on the organization managers or disqualified persons during the year under sections 4912, 4955, and 4958

Table with columns Yes, No and rows 89c, 89d

Enter: Amount of tax on line 89c, above, reimbursed by the organization

Table with columns Yes, No and rows 89d, 90a

List the states with which a copy of this return is filed NONE

Number of employees employed in the pay period that includes March 12, 2004 (See instructions.)

Table with columns Yes, No and rows 90a, 90b

The books are in care of FITPATRICK FINANCIAL SERV

Telephone no. 248-673-3578

Located at WATERFORD, MI

ZIP + 4 48329

Section 4947(a)(1) nonexempt charitable trusts filing Form 990 in lieu of Form 1041- Check here

and enter the amount of tax-exempt interest received or accrued during the tax year

Table with columns Yes, No and rows 92

Analysis of Income-Producing Activities (See page 33 of the instructions.)

of gross amounts unless otherwise

	Unrelated business income		Excluded by sec. 512, 513, or 514		(E) Related or exempt function income
	(A) Business code	(B) Amount	(C) Exclusion code	(D) Amount	
Program service revenue:					
b					
c					
d					
e					
f Medicare/Medicaid payments					
g Fees and contracts from government agencies					
94 Membership dues and assessments					
95 Interest on savings and temporary cash investments					
96 Dividends and interest from securities					
97 Net rental income or (loss) from real estate:					
a debt-financed property					
b not debt-financed property					
98 Net rental income or (loss) from personal property					
99 Other investment income					
100 Gain or (loss) from sales of assets other than inventory					
101 Net income or (loss) from special events					31,977
102 Gross profit or (loss) from sales of inventory					
103 Other revenue: a					
b					
c					
d					
e					
104 Subtotal (add columns (B), (D), and (E))		0		0	31,977
105 Total (add line 104, columns (B), (D), and (E))					31,977

Note: Line 105 plus line 1d, Part I, should equal the amount on line 12, Part I.

Part VIII Relationship of Activities to the Accomplishment of Exempt Purposes (See page 34 of the instructions.)

Line No.	Explain how each activity for which income is reported in column (E) of Part VII contributed importantly to the accomplishment of the organization's exempt purposes (other than by providing funds for such purposes).
N/A	

Part IX Information Regarding Taxable Subsidiaries and Disregarded Entities (See page 34 of the instructions.)

(A) Name, address, and EIN of corporation, partnership, or disregarded entity	(B) Percentage of ownership interest	(C) Nature of activities	(D) Total income	(E) End-of-year assets
N/A	%			
	%			
	%			
	%			

Part X Information Regarding Transfers Associated with Personal Benefit Contracts (See page 34 of the instructions.)

- (a) Did the organization, during the year, receive any funds, directly or indirectly, to pay premiums on a personal benefit contract? Yes No
- (b) Did the organization, during the year, pay premiums, directly or indirectly, on a personal benefit contract? Yes No

Note: If "Yes" to (b), file Form 8870 and Form 4720 (see instructions).

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Please Sign Here

Signature of officer: *Norma J. Okonski* Date: 2/7/06

Type or print name and title: **NORMA J. OKONSKI, PRESIDENT**

Paid Preparer's Use Only

Preparer's signature: *Joe J. Miller, CPA* Date: 2/02/06

Check if self-employed:

Preparer's SSN or PTIN: [REDACTED]

Firm's name (or yours if self-employed), address, and ZIP + 4: **FITZPATRICK FINANCIAL SERVICES, INC. 4625 WEST WALTON BOULEVARD WATERFORD, MI 48329**

EIN: [REDACTED]

Phone no.: **248-673-3578**

Organization Exempt Under Section 501(c)(3)

(Except Private Foundation) and Section 501(e), 501(f), 501(k), 501(n), or Section 4947(a)(1) Nonexempt Charitable Trust

OMB No. 1545-0047

2004

990-EZ

Supplementary Information-(See separate instructions.)

MUST be completed by the above organizations and attached to their Form 990 or 990-EZ

the Treasury Department and the Internal Revenue Service

Employer identification number

a organization

ISTMAS IN ACTION OF OAKLAND
O FITZPATRICK FINANCIAL SERVICES



Part I Compensation of the Five Highest Paid Employees Other Than Officers, Directors, and Trustees
(See page 1 of the instructions. List each one. If there are none, enter "None.")

Table with 5 columns: (a) Name and address of each employee paid more than \$50,000, (b) Title and average hours per week devoted to position, (c) Compensation, (d) Contributions to empl. ben. plans & deferred comp., (e) Expense account and other allowances. Row 1 contains 'NONE'.

Part II Compensation of the Five Highest Paid Independent Contractors for Professional Services
(See page 2 of the instructions. List each one (whether individuals or firms). If there are none, enter "None.")

Table with 3 columns: (a) Name and address of each independent contractor paid more than \$50,000, (b) Type of service, (c) Compensation. Row 1 contains 'NONE'.

Statements About Activities (See page 2 of the instructions.)

Yes No

During the year, has the organization attempted to influence national, state, or local legislation, including any attempt to influence public opinion on a legislative matter or referendum? If "Yes," enter the total expenses paid or incurred in connection with the lobbying activities \$ (Must equal amounts on line 38, Part VI-A, or line i of Part VI-B.)

1 X

Organizations that made an election under section 501(h) by filing Form 5768 must complete Part VI-A. Other organizations checking "Yes" must complete Part VI-B AND attach a statement giving a detailed description of the lobbying activities.

2 During the year, has the organization, either directly or indirectly, engaged in any of the following acts with any substantial contributors, trustees, directors, officers, creators, key employees, or members of their families, or with any taxable organization with which any such person is affiliated as an officer, director, trustee, majority owner, or principal beneficiary? (If the answer to any question is "Yes," attach a detailed statement explaining the transactions.)

a Sale, exchange, or leasing of property?

2a X

b Lending of money or other extension of credit?

2b X

c Furnishing of goods, services, or facilities?

2c X

d Payment of compensation (or payment or reimbursement of expenses if more than \$1,000)?

2d X

e Transfer of any part of its income or assets?

2e X

3a Do you make grants for scholarships, fellowships, student loans, etc.? (If "Yes," attach an explanation of how you determine that recipients qualify to receive payments.)

3a X

b Do you have a section 403(b) annuity plan for your employees?

3b X

4a Did you maintain any separate account for participating donors where donors have the right to provide advice on the use or distribution of funds?

4a X

b Do you provide credit counseling, debt management, credit repair, or debt negotiation services?

4b X

Part IV Reason for Non-Private Foundation Status (See pages 3 through 6 of the instructions.)

The organization is not a private foundation because it is: (Please check only ONE applicable box.)

5 A church, convention of churches, or association of churches. Section 170(b)(1)(A)(i).

6 A school. Section 170(b)(1)(A)(ii). (Also complete Part V.)

7 A hospital or a cooperative hospital service organization. Section 170(b)(1)(A)(iii).

8 A Federal, state, or local government or governmental unit. Section 170(b)(1)(A)(v).

9 A medical research organization operated in conjunction with a hospital. Section 170(b)(1)(A)(iii). Enter the hospital's name, city,

and state

10 An organization operated for the benefit of a college or university owned or operated by a governmental unit. Section 170(b)(1)(A)(iv). (Also complete the Support Schedule in Part IV-A.)

11a An organization that normally receives a substantial part of its support from a governmental unit or from the general public. Section 170(b)(1)(A)(vi). (Also complete the Support Schedule in Part IV-A.)

11b A community trust. Section 170(b)(1)(A)(vi). (Also complete the Support Schedule in Part IV-A.)

12 An organization that normally receives: (1) more than 33 1/3% of its support from contributions, membership fees, and gross receipts from activities related to its charitable, etc., functions-subject to certain exceptions, and (2) no more than 33 1/3% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975. See section 509(a)(2). (Also complete the Support Schedule in Part IV-A.)

13 An organization that is not controlled by any disqualified persons (other than foundation managers) and supports organizations described in: (1) lines 5 through 12 above; or (2) section 501(c)(4), (5), or (6), if they meet the test of section 509(a)(2). (See section 509(a)(3).)

Provide the following information about the supported organizations. (See page 5 of the instructions.)

Table with 2 columns: (a) Name(s) of supported organization(s), (b) Line number from above

14 An organization organized and operated to test for public safety. Section 509(a)(4). (See page 5 of the instructions.)

CHRISTMAS IN ACTION OF OAKLAND

Support Schedule (Complete only if you checked a box on line 10, 11, or 12.) Use cash method of accounting.

may use the worksheet in the instructions for converting from the accrual to the cash method of accounting.

Year (or fiscal year beginning in)	(a) 2003	(b) 2002	(c) 2001	(d) 2000	(e) Total
Gifts, grants, and contributions received. (Do not include unusual grants. See line 28.)	25,408	23,670	2,550		51,628
Membership fees received					0
Gross receipts from admissions, merchandise sold or services performed, or furnishing of facilities in any activity that is related to the organization's charitable, etc., purpose					0
18 Gross income from interest, dividends, amounts received from payments on securities loans (section 512(a)(5)), rents, royalties, and unrelated business taxable income (less section 511 taxes) from businesses acquired by the organization after June 30, 1975					0
19 Net income from unrelated business activities not included in line 18					0
20 Tax revenues levied for the organization's benefit and either paid to it or expended on its behalf					0
21 The value of services or facilities furnished to the organization by a governmental unit without charge. Do not include the value of services or facilities generally furnished to the public without charge					0
22 Other income. Attach a schedule. Do not include gain or (loss) from sale of capital assets STMT 4	13,274		20,275		33,549
23 Total of lines 15 through 22	38,682	23,670	22,825		85,177
24 Line 23 minus line 17	38,682	23,670	22,825		85,177
25 Enter 1% of line 23	387	237	228		

26 Organizations described on lines 10 or 11: a Enter 2% of amount in column (e), line 24	26a	1,704
b Prepare a list for your records to show the name of and amount contributed by each person (other than a governmental unit or publicly supported organization) whose total gifts for 2000 through 2003 exceeded the amount shown in line 26a. Do not file this list with your return. Enter the total of all these excess amounts	26b	
c Total support for section 509(a)(1) test: Enter line 24, column (e)	26c	85,177
d Add: Amounts from column (e) for lines: 18 _____ 19 _____ 22 <u>33,549</u> 26b _____	26d	33,549
e Public support (line 26c minus line 26d total)	26e	51,628
f Public support percentage (line 26e (numerator) divided by line 26c (denominator))	26f	60.6126%

27 Organizations described on line 12: a For amounts included in lines 15, 16, and 17 that were received from a "disqualified person," prepare a list for your records to show the name of, and total amounts received in each year from, each "disqualified person." Do not file this list with your return. Enter the sum of such amounts for each year: (2003) _____ (2002) _____ (2001) _____ (2000) _____ **N/A**

b For any amount included in line 17 that was received from each person (other than "disqualified persons"), prepare a list for your records to show the name of, and amount received for each year, that was more than the larger of (1) the amount on line 25 for the year or (2) \$5,000. (Include in the list organizations described in lines 5 through 11, as well as individuals.) Do not file this list with your return. After computing the difference between the amount received and the larger amount described in (1) or (2), enter the sum of these differences (the excess amounts) for each year: (2003) _____ (2002) _____ (2001) _____ (2000) _____ **N/A**

c Add: Amounts from column (e) for lines: 15 _____ 16 _____ 17 _____ 20 _____ 21 _____	27c	
d Add: Line 27a total _____ and line 27b total _____	27d	
e Public support (line 27c total minus line 27d total)	27e	
f Total support for section 509(a)(2) test: Enter amount from line 23, column (e)	27f	
g Public support percentage (line 27e (numerator) divided by line 27f (denominator))	27g	%
h Investment income percentage (line 18, column (e) (numerator) divided by line 27f (denominator))	27h	%

28 Unusual Grants: For an organization described in line 10, 11, or 12 that received any unusual grants during 2000 through 2003, prepare a list for your records to show, for each year, the name of the contributor, the date and amount of the grant, and a brief description of the nature of the grant. Do not file this list with your return. Do not include these grants in line 15.

Private School Questionnaire (See page 7 of the instructions.)

(To be completed ONLY by schools that checked the box on line 6 in Part IV)

Does the organization have a racially nondiscriminatory policy toward students by statement in its charter, bylaws, or governing instrument, or in a resolution of its governing body?

N/A Yes No

29

Does the organization include a statement of its racially nondiscriminatory policy toward students in all its brochures, catalogues, and other written communications with the public dealing with student admissions, programs, and scholarships?

30

Has the organization publicized its racially nondiscriminatory policy through newspaper or broadcast media during the period of solicitation for students, or during the registration period if it has no solicitation program, in a way that makes the policy known to all parts of the general community it serves?

31

If "Yes," please describe; if "No," please explain. (If you need more space, attach a separate statement.)

Does the organization maintain the following:

- a Records indicating the racial composition of the student body, faculty, and administrative staff?
b Records documenting that scholarships and other financial assistance are awarded on a racially nondiscriminatory basis?
c Copies of all catalogues, brochures, announcements, and other written communications to the public dealing with student admissions, programs, and scholarships?
d Copies of all material used by the organization or on its behalf to solicit contributions?

32a

32b

32c

32d

If you answered "No" to any of the above, please explain. (If you need more space, attach a separate statement.)

Does the organization discriminate by race in any way with respect to:

- a Students' rights or privileges?
b Admissions policies?
c Employment of faculty or administrative staff?
d Scholarships or other financial assistance?
e Educational policies?
f Use of facilities?
g Athletic programs?
h Other extracurricular activities?

33a

33b

33c

33d

33e

33f

33g

33h

If you answered "Yes" to any of the above, please explain. (If you need more space, attach a separate statement.)

Does the organization receive any financial aid or assistance from a governmental agency?

34a

Has the organization's right to such aid ever been revoked or suspended?

34b

If you answered "Yes" to either 34a or b, please explain using an attached statement.

Does the organization certify that it has complied with the applicable requirements of sections 4.01 through 4.05 of Rev. Proc. 75-50, 1975-2 C.B. 587, covering racial nondiscrimination? If "No," attach an explanation

35

Lobbying Expenditures by Electing Public Charities (See page 9 of the instructions.)

(To be completed ONLY by an eligible organization that filed Form 5768) N/A

a if the organization belongs to an affiliated group. Check b if you checked "a" and "limited control" provisions apply.

Limits on Lobbying Expenditures

(The term "expenditures" means amounts paid or incurred.)

Table with columns for line numbers (36-44) and descriptions of lobbying expenditures, including total lobbying, exempt purpose, and nontaxable amounts.

Caution: If there is an amount on either line 43 or line 44, you must file Form 4720.

4-Year Averaging Period Under Section 501(h)

(Some organizations that made a section 501(h) election do not have to complete all of the five columns below.)

See the instructions for lines 45 through 50 on page 11 of the instructions.)

Table for 4-Year Averaging Period with columns for years 2004, 2003, 2002, 2001, and Total, and rows for lobbying nontaxable amount, ceiling amount, total lobbying expenditures, and grassroots nontaxable amount/ceiling.

Part VI-B Lobbying Activity by Nonelecting Public Charities

(For reporting only by organizations that did not complete Part VI-A) (See page 11 of the instructions.) N/A

During the year, did the organization attempt to influence national, state or local legislation, including any attempt to influence public opinion on a legislative matter or referendum, through the use of:

Table with columns for Yes, No, and Amount, and rows for various lobbying activities: Volunteers, Paid staff, Media advertisements, Mailings, Publications, Grants, Direct contact, Rallies, and Total lobbying expenditures.

If "Yes" to any of the above, also attach a statement giving a detailed description of the lobbying activities.

Federal Statements

6/30/2005

Statement 1 - Form 990, Part II, Line 43 - Other Functional Expenses

Description	Total Expenses	Program Service	Mgt & General	Fund-Raising
	\$	\$	\$	\$
EXPENSES				
FUNDRAISING	6,773			6,773
ADMINISTRATIVE	4,693		4,693	
ADVERTISING	350		350	
BANK CHARGES	92		92	
LICENSES & FEES	70		70	
MEMBERSHIP FEES	460		460	
VOLUNTEER EXPENSES	5,245	4,819	426	
OFFICE SUPPLIES	2,260	1,205	1,055	
PROMOTIONAL EXPENSES	727		727	
TECHNICAL HOSTING	5,898		5,898	
MISCELLANEOUS	140		140	
INSURANCE	40	40		
TOTAL	\$ 26,748	\$ 6,064	\$ 13,911	\$ 6,773

Statement 2 - Form 990, Part III - Organization's Primary Exempt Purpose

TO RENOVATE SUB-STANDARD HOUSING OF LOW-INCOME ELDERLY
AND/OR DISABLED HOMEOWNERS WHO ARE PHYSICALLY AND
FINANCIALLY UNABLE TO PERFORM THE WORK THEMSELVES.

Federal Statements

2/12/20

Statement 3 - Form 990, Part V - List of Officers, Directors, Trustees, and Key Employees

Name	Address	City, State, Zip	Title	Average Hours	Compensation	Benefits	Expenses
NORMA J. OKONSKI	5200 CIVIC CENTER DR	WATERFORD MI 48329	PRESIDENT	0	0	0	0
SUE CAMILLERI	5200 CIVIC CENTER DR	WATERFORD MI 48329	VICE PRES	0	0	0	0
DEBBIE BERRY	5200 CIVIC CENTER DR	WATERFORD MI 48329	DIRECTOR	0	0	0	0
PASTOR TONY RANDALPH	5200 CIVIC CENTER DR	WATERFORD MI 48329	DIRECTOR	0	0	0	0
FRAN AMOS	5200 CIVIC CENTER DR	WATERFORD MI 48329	DIRECTOR	0	0	0	0
RICHARD CARTMILL	5200 CIVIC CENTER DR	WATERFORD MI 48329	DIRECTOR	0	0	0	0
LAURIE HARKINS	5200 CIVIC CENTER DR	WATERFORD MI 48329	DIRECTOR	0	0	0	0
SHARON HUNT	5200 CIVIC CENTER DR	WATERFORD MI 48329	DIRECTOR	0	0	0	0
TINA VANDERELZEN	5200 CIVIC CENTER DR	WATERFORD MI 48329	DIRECTOR	0	0	0	0
TONY VANDERMEER	5200 CIVIC CENTER DR	WATERFORD MI 48329	DIRECTOR	0	0	0	0
DARYL TRATE	5200 CIVIC CENTER D	WATERFORD MI 48329	DIRECTOR	0	0	0	0
BEVERLY COPPERSMITH	5200 CIVIC CENTER DRIVE	WATERFORD MI 48329	DIRECTOR	0	0	0	0
DENNIS PITTMAN	5200 CIVIC CENTER DRIVE	WATERFORD MI 48329	DIRECTOR	0	0	0	0
CONNIE MARS	5200 CIVIC CENTER DRIVE	WATERFORD MI 48329	DIRECTOR	0	0	0	0
JEFF DUPUIS	5200 CIVIC CENTER DRIVE	WATERFORD MI 48329	DIRECTOR	0	0	0	0
JOANNA LJOVSHIN	5200 CIVIC CENTER DRIVE	WATERFORD MI 48329	DIRECTOR	0	0	0	0
KENT BARNES	HOLLY MI 48442		DIRECTOR	0	0	0	0
PHIL LONG	HOLLY MI 48442		DIRECTOR	0	0	0	0

Federal Statements

2/2/2006

Statement 3 - Form 990, Part V - List of Officers, Directors, Trustees, and Key Employees (continued)

Name	Address	City, State, Zip	Title	Average Hours	Compensation	Benefits	Expenses
PASTOR ED PEDLEY	HOLLY MI 48442	HOLLY MI 48442	DIRECTOR		0	0	0
PAULINE KENNER	HOLLY MI 48442	HOLLY MI 48442	DIRECTOR		0	0	0
KEVIN TERSIGNI	HOLLY MI 48442	HOLLY MI 48442	DIRECTOR		0	0	0
JUDY BLAKEMORE	HOLLY MI 48442	HOLLY MI 48442	DIRECTOR		0	0	0
JOHN BRADLEY	HOLLY MI 48442	HOLLY MI 48442	DIRECTOR		0	0	0
DEBBIE MORSE	HOLLY MI 48442	HOLLY MI 48442	DIRECTOR		0	0	0
DENISE SMITH	HOLLY MI 48442	HOLLY MI 48442	DIRECTOR		0	0	0
MARK CARNEY	HOLLY MI 48442	HOLLY MI 48442	DIRECTOR		0	0	0
LAURA SERIGUCHI	ROCHESTER MI 48307	ROCHESTER MI 48307	PRESIDENT		0	0	0
LINDA DAVIS-KIRKSEY	ROCHESTER MI 48307	ROCHESTER MI 48307	VICE PRES		0	0	0
CHUCK	ROCHESTER MI 48307	ROCHESTER MI 48307	DIRECTOR		0	0	0
KATHRYN LEBLANC	ROCHESTER MI 48307	ROCHESTER MI 48307	DIRECTOR		0	0	0
CINDY LONG	ROCHESTER MI 48307	ROCHESTER MI 48307	DIRECTOR		0	0	0
BOB MACKSTALLER	ROCHESTER MI 48307	ROCHESTER MI 48307	DIRECTOR		0	0	0
DAN DELMASTRO	ROCHESTER MI 48307	ROCHESTER MI 48307	DIRECTOR		0	0	0
M. FLINT CLOUSE	ROCHESTER MI 48307	ROCHESTER MI 48307	DIRECTOR		0	0	0
CHERYL BIDA	ROCHESTER MI 48307	ROCHESTER MI 48307	TREASURER		0	0	0

Federal Statements

FYE: 6/30/2005

Statement 3 - Form 990, Part V - List of Officers, Directors, Trustees, and Key Employees
(continued)

Name	Address	City, State, Zip	Title	Average Hours	Compensation	Benefits	Expenses
ROB BONDY		CLARKSTON MI 48346	DIRECTOR		0	0	0
ROGER DIEDERICH		CLARKSTON MI 48346	DIRECTOR		0	0	0
STAN GARWOOD		CLARKSTON MI 48346	DIRECTOR		0	0	0
MONICA HEFTY		CLARKSTON MI 48346	DIRECTOR		0	0	0
BEN KRAMER		CLARKSTON MI 48346	DIRECTOR		0	0	0
CARL MATISSE		CLARKSTON MI 48346	DIRECTOR		0	0	0
REBECCA MCGOVERN		CLARKSTON MI 48346	DIRECTOR		0	0	0
DIANE MIDGLEY		CLARKSTON MI 48346	DIRECTOR		0	0	0
NORMA OKONSKI		CLARKSTON MI 48346	DIRECTOR		0	0	0
JOE BENSON		PONTIAC MI	DIRECTOR		0	0	0
DAVE BISKNER		PONTIAC MI	DIRECTOR		0	0	0
ROSE CULPEPPER-JOHNSON		PONTIAC MI	DIRECTOR		0	0	0
BOB DUSHINSKE		PONTIAC MI	DIRECTOR		0	0	0
PORTIA FIELDS-ANDERSON		PONTIAC MI	DIRECTOR		0	0	0
D'ARCY GONZALES		PONTIAC MI	DIRECTOR		0	0	0
TRISH LILE		PONTIAC MI	DIRECTOR		0	0	0
ROB LAVOIE		PONTIAC MI	DIRECTOR		0	0	0

Federal Statements

FYE: 6/30/2005

2/2/2005

Statement 3 - Form 990, Part V - List of Officers, Directors, Trustees, and Key Employees (continued)

Name	Address	City, State, Zip	Title	Average Hours	Compensation	Benefits	Expenses
TIM O'BRIEN		PONTIAC MI	DIRECTOR		0	0	0
RICHARD SEAY		PONTIAC MI	DIRECTOR		0	0	0
MIKE WILLIS		PONTIAC MI	DIRECTOR		0	0	0
JASON ABATE		PONTIAC MI	DIRECTOR		0	0	0
BOB PATTON		PONTIAC MI	DIRECTOR		0	0	0
BUTCH FINNEGAN		PONTIAC MI	DIRECTOR		0	0	0

Statement 4 - Schedule A, Part IV-A, Line 22 - Other Income

Description	2003	2002	2001	2000
GOLF-OUTING (SPECIAL EVENT)	\$	\$	\$ 20,275	\$
TOTAL	\$ 0	\$ 0	\$ 20,275	\$ 0

Federal Statements

6/30/2005

Form 990, Part I, Line 1a - Direct Public Support

<u>Description</u>	<u>Cash</u>	<u>Noncash</u>	<u>Total</u>
GENERAL DONATIONS	\$ 34,796	\$	\$ 34,796
WORKDAY CONTRIBUTIONS	15,653	5,509	21,162
TOTAL	<u>\$ 50,449</u>	<u>\$ 5,509</u>	<u>\$ 55,958</u>

Federal Statements

6/30/2005

Special Events Direct Expenses

Description	Amount
COLUMN A	\$
GOLF OUTING	
GOLF OUTING EXPENSES	16,551
SUBTOTAL	16,551
COLUMN B	
BLACK-TIE FUNDRAISER	
BLACK-TIE FUNDRAISER EXPENSES	6,470
SUBTOTAL	6,470
COLUMN C	
COMEDY FOR A CAUSE	
COMEDY FOR A CAUSE	790
SUBTOTAL	790
COLUMN OTHERS	
PANCAKE BREAKFAST	
PANCAKE BREAKFAST	333
SUBTOTAL	333
SPAGHETTI DINNER	
SPAGHETTI DINNER	557
SUBTOTAL	557
WINE-TASTING FUNDRAISER	
WINE-TASTING FUNDRAISER	1,636
SUBTOTAL	1,636
SUBTOTAL (OTHERS)	2,526
TOTAL	26,337

DIRECT EXPENSES OTHER THAN FUNDRAISING EXPENSES
 REPORTED ON FORM 990, PAGE 1, LINE 9B.

Internal Revenue Service

Date: September 29, 2006

CHRISTMAS IN ACTION OF OAKLAND COUNTY INC
% FITZPATRICK FINANCIAL SERVICES
4625 W WALTON BLVD
WATERFORD MI 48329-3536

Department of the Treasury
P. O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Mrs. E. Eckert ID 31-07436
Customer Service Specialist
Toll Free Telephone Number:
877-829-5500
Federal Identification Number:

Advance Ruling Period Ends:
December 31, 2006

Dear Sir or Madam:

This is in response to your request of September 29, 2006, regarding your organization's tax-exempt status.

In March 2003 we issued a determination letter that recognized your organization as exempt from federal income tax. Our records indicate that your organization is currently exempt under section 501(c)(3) of the Internal Revenue Code.

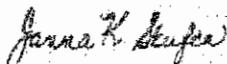
Our records indicate that your organization is also classified as a public charity under sections 509(a)(1) and 170(b)(1)(A)(vi) of the Internal Revenue Code until the Advance Ruling Period Ending date indicated in the header above.

Within 90 days from the end of the advance ruling period, your organization must submit to us information needed to determine whether it has met the requirements of the applicable support test during the advance ruling period. This information is currently supplied on the Form 8734, *Support Schedule for Advance Ruling Period*.

Contributions to your organization are deductible under section 170 of the Code. Grantors and contributors may rely on the determination that your organization is not a private foundation until 90 days after the end of its advance ruling period. If the organization submits the required information within 90 days, grantors and contributors may continue to rely on the advance determination until the Service makes a final determination of your organization's foundation status.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

Sincerely,



Jenna K. Skufca, Director, TE/GE
Customer Account Services

1708403400022

Form **1023**
Rev. September 2008
Department of the Treasury
Internal Revenue Service

Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code

OMB No. 1545-0048
If your state is approved,
this application will be open for
public inspection.

Read the instructions for each Part carefully.
A User Fee must be attached to this application.
If the required information and appropriate documents are not submitted along with Form 8718 (with payment of the appropriate user fee), the application may be returned to you.
Complete the Procedural Checklist on page 5 of the instructions.

Part I Identification of Applicant

1a Full name of organization (as shown in organizing document) CHRISTMAS IN ACTION OF OAKLAND COUNTY, INC		2 Employer identification number (EIN) (if none, see page 3 of the instructions) [REDACTED]	
1b c/o Name (if applicable) N/A		3 Name and telephone number of person to be contacted if additional information is needed (810) 695-0131 KARL HAISER, CPA	
1c Address (number and street) 5200 CIVIC CENTER DRIVE	Room/State	4 Month the annual accounting period ends JUNE	
1d City, town, or post office, state, and ZIP + 4. If you have a foreign address, see Specific Instructions for Part I, page 3. WATERFORD MI 48328-3773		5 Date incorporated or formed 12/01/2002	
1e Web site address www.twp.waterford.mi.us/cia	6 Check here if applying under section 501(e) <input type="checkbox"/> 501(f) <input type="checkbox"/> 501(k) <input type="checkbox"/> 501(n) <input type="checkbox"/>		
7 Did the organization previously apply for recognition of exemption under this Code section or under any other section of the Code? If "Yes," attach an explanation.		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
8 Is the organization required to file Form 990 (or Form 990-EZ)? If "No," attach an explanation (see instructions).		<input type="checkbox"/> N/A	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
9 Has the organization filed Federal income tax returns or exempt organization information returns? If "Yes," state the form numbers, years filed, and Internal Revenue office where filed.		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

DEC 24 '02 DEC 26 '02

CINCINNATI SERVICE CENTER

10 Check the box for the type of organization. ATTACH A CONFORMED COPY OF THE CORRESPONDING ORGANIZING DOCUMENTS TO THE APPLICATION BEFORE MAILING. (See Specific Instructions, Part I, Line 10, on page 3.) (See Pub. 557, Tax-Exempt Status for Your Organization, for examples of organizational documents.)

- a Corporation - Attach a copy of the Articles of Incorporation (including amendments and restatements) showing approval by the appropriate state official, also include a copy of the bylaws.
- b Trust - Attach a copy of the Trust indenture or Agreement, including all appropriate signatures and dates.
- c Association - Attach a copy of the Articles of Association, Constitution, or other creating document, with a declaration (see instructions) or other evidence the organization was formed by adoption of the document by more than one person, also include a copy of the bylaws.

If the organization is a corporation or an unincorporated association that has adopted bylaws, check here

I declare under the penalties of perjury that the information provided on this application is true and correct, and that the organization included the accompanying schedules and attachments as required by the instructions to this application.

Please Sign Here *L. Thelma [Signature]* *CM/ Don Attala 12/26/02*

Part II Activities and Operational Information

1. Provide a detailed narrative description of all the activities of the organization - past, present, and planned. DO NOT MERELY REFER TO OR REPEAT THE LANGUAGE IN THE ORGANIZATIONAL DOCUMENT. List each activity separately in the order of importance based on the relative time and other resources devoted to the activity. Indicate the percentage of time for each activity. Each description should include, as a minimum, the following: (a) a detailed description of the activity including its purpose and how each activity furthers your exempt purpose, (b) when the activity was or will be initiated, and (c) where and by whom the activity will be conducted.

THE ORGANIZATION IS FORMED IN ORDER TO SERVE THE CITIZENS OF OAKLAND COUNTY ON A COMMUNITY BASIS. THE ORGANIZATION IS DEDICATED TO PROVIDING FREE HOME REPAIRS FOR LOW-INCOME, HANDICAPPED AND ELDERLY HOMEOWNERS THROUGHOUT THE COUNTY. THE ORGANIZATION WILL ACCEPT DONATIONS FROM AREA BUSINESSES IN ORDER TO FUND THE ACTIVITIES. VOLUNTEERS EQUIPPED WITH THESE DONATIONS WILL SPEND ONE DAY EVERY YEAR (LAST SATURDAY IN APRIL) INSTALLING NEW ROOFS, FURNACES, HOT WATER HEATERS, BUILDING HANDICAPPED RAMPS, COMPLETING PLUMBING REPAIRS AND UPGRADING FAULTY ELECTRICAL SERVICE IN ORDER TO ALLOW THESE SENIORS TO LIVE IN THEIR HOMES SAFELY. THESE REPAIRS WILL BE COMPLETED ONLY ON THE LAST SATURDAY IN APRIL EACH YEAR (ONE DAY). THE PLANNING FOR THESE REPAIRS WILL BE CONDUCTED THE REST OF THE YEAR, BUT MAINLY THE THREE MONTHS PRIOR TO THE DAY OF REPAIRS.

APPLICATIONS ARE TAKEN BY PHONE. QUALIFICATIONS TO APPLY FOR REPAIRS ARE: ELDERLY (60 YEARS OR OLDER) OR DISABLED AND MUST BE LOW INCOME (FINANCIALLY UNABLE TO AFFORD REPAIRS). CHRISTMAS IN ACTION MAKE HOME VISITS IN ORDER TO VERIFY APPLICANT'S QUALIFICATIONS AND ASSESS REPAIRS THAT ARE NEEDED. PICTURES OF QUALIFYING HOMES ARE TAKEN AND PACKETS OF NEEDED INFORMATION ARE PUT TOGETHER FOR VOLUNTEERS. VOLUNTEERS ARE MATCHED TO REPAIRS BASED ON SPECIFIC ABILITIES.

CHRISTMAS IN ACTION OF OAKLAND COUNTY, INC. IS AN AFFILIATE OF THE LARGER NATIONAL NONPROFIT ORGANIZATION CHRISTMAS IN ACTION, INC. LOCATED IN MIDLAND, TEXAS AND SHARES IN THE COMMON PURPOSE TO RENOVATE SUB-STANDARD HOUSING OF LOW-INCOME ELDERLY AND/OR DISABLED HOMEOWNERS WHO ARE PHYSICALLY AND FINANCIALLY UNABLE TO PERFORM THE WORK THEMSELVES.

2. What are or will be the organization's sources of financial support? List in order of size: PUBLIC GENERAL AND AREA BUSINESS CONTRIBUTION - UNSPECIFIED NAMES - CASH UNIT OF GOVERNMENT - WATERFORD TOWNSHIP PROVIDES OFFICE SPACE, UTILITIES, PHONE AND CLERICAL STAFF VOLUNTEERS - CRAFTSMEN, FLUMBERS, PAINTERS, CARPENTERS, ELECTRICIANS RAW MATERIALS - ALL DONATED

3. Describe the organization's fundraising program, both actual and planned, and explain to what extent it has been put into effect. Include details of fundraising activities such as special fund-raising, formation of fundraising committees, use of volunteers or professional fundraisers, etc. Attach representative copies of solicitations for financial support.

FUNDRAISING ACTIVITIES INCLUDE CALLING THE MAIN LINE TELEPHONE CALLS TO AREA BUSINESSES. VOLUNTEERS ARE ALSO INVOLVED IN DIRECTLY CONTACTING AREA BUSINESSES AND THE GENERAL PUBLIC.

Part II Activities and Operational Information

(Continued)

4 Give the following information about the organization's governing body**a Names, addresses, and titles of officers, directors, trustees, etc.**

NORMA J. OKONSKI, PRESIDENT - 5200 CIVIC CENTER DRIVE, WATERFORD, MI 48329
 SUE CAMILLERI, VICE PRESIDENT - 5200 CIVIC CENTER DRIVE, WATERFORD, MI 48329
 DEBBIE BERRY, COUNCIL - 5200 CIVIC CENTER DRIVE, WATERFORD, MI 48329
 PASTOR TONY RANDALPH, COUNCIL - 5200 CIVIC CENTER DRIVE, WATERFORD, MI 48329

b Annual Compensation

NOT DETERMINE
 AT THIS TIME

c Do any of the above persons serve as members of the governing body by reason of being public officials or being appointed by public officials?Yes No

If "Yes," name those persons and explain the basis of their selection or appointment.

d Are any members of the organization's governing body "disqualified persons" with respect to the organization (other than by reason of being a member of the governing body) or do any of the members have either a business or family relationship with "disqualified persons"? (See Specific Instructions, Part II, Line 4d, on page 3.)Yes No

If "Yes," explain.

5 Does the organization control or is it controlled by any other organization?Yes No

Is the organization the outgrowth of (or successor to) another organization, or does it have a special relationship with another organization by reason of interlocking directorates or other factors?

Yes No

If either of these questions is answered "Yes," explain.

6 Does or will the organization directly or indirectly engage in any of the following transactions with any political organization or other exempt organization (other than 501(c)(3) organization): (a) grants, (b) purchases or sales of assets, (c) rental of facilities or equipment, (d) loans or loan guarantees, (e) reimbursement arrangements, (f) performance of services, membership, or fundraising solicitations, or (g) sharing of facilities, equipment, mailing lists or other assets, or paid employees?Yes No

If "Yes," explain fully and identify the other organizations involved.

7 Is the organization financially accountable to any other organization?Yes No

If "Yes," explain and identify the other organization. Include details concerning accountability or attach copies of reports if any have been submitted.

Part II Activities and Operational Information

(Continued)

- 8 What assets does the organization have that are used in the performance of its exempt function? (Do not include property producing investment income.) If any assets are not fully operational, explain their status, what additional steps remain to be completed, and when such final steps will be taken. If "None," indicate "N/A."
 "NONE" AT THIS TIME

- 9 Will the organization be the beneficiary of tax-exempt bond financing within the next 2 years? Yes No

- 10a Will any of the organization's facilities or operations be managed by another organization or individual under a contractual agreement? Yes No

- b Is the organization a party to any leases? Yes No

If either of these questions is answered "Yes," attach a copy of the contracts and explain the relationship between the applicant and the other parties.

- 11 Is the organization a membership organization? Yes No

If "Yes," complete the following:

- a Describe the organization's membership requirements, and attach a schedule of membership fees and dues.

N/A

- b Describe the organization's present and proposed efforts to attract members and attach a copy of any descriptive literature or promotional material used for this purpose.

N/A

- c What benefits do (or will) the members receive in exchange for their payment of dues?

N/A

- 12a If the organization provides benefits, services, or products, are the recipients required, or will they be required, to pay for them? N/A Yes No

If "Yes," explain how the charges are determined, and attach a copy of the current fee schedule.

- b Does or will the organization limit its benefits, services, or products to specific individuals or classes of individuals? N/A Yes No

If "Yes," explain how the recipients or beneficiaries are or will be selected.

ELDERLY OR HANDICAPPED

MUST BE LOW-INCOME (FINANCIALLY UNABLE TO AFFORD REPAIRS)

- 13 Does or will the organization attempt to influence legislation? Yes No

If "Yes," explain. Also, give an estimate of the percentage of the organization's time and funds that it devotes or plans to devote to this activity.

- 14 Does or will the organization intervene in any way in political campaigns, including the publication or distribution of statements? Yes No

If "Yes," explain fully.

Part III Technical Requirements

1. Are you filing Form 1023 within 15 months from the end of the month in which your organization was created or formed? Yes No

If you answer "Yes," do not answer questions on lines 2 through 7.

2. If one of the exceptions to the 15-month filing requirement shown below applies, check the appropriate box and proceed to question 7.

Exceptions - You are not required to file an exemption application within 15 months if the organization:

- a. is a church, interchurch organization of local units of a church, a convent, or association of churches, or an integrated auxiliary of a church. See Specific Instructions, Line 2a, on page 4.
- b. is not a private foundation and normally has gross receipts of not more than \$5,000 in each tax year; or
- c. is a subordinate organization covered by a group exemption letter, but only if the parent or supervisory organization timely submitted a notice covering the subordinate.

3. If the organization does not meet any of the exceptions on line 2 above, are you filing Form 1023 within 27 months from the end of the month in which the organization was created or formed? Yes No

If "Yes," your organization qualifies under Regulation section 301.9100-2, for an automatic 12-month extension of the 15-month filing requirement. Do not answer questions 4 through 6.

If "No," answer question 4.

4. If you answer "No" to question 3, does the organization wish to request an extension of time to apply under the "reasonable action and good faith" and the "no prejudice to the interest of the government" requirements of Regulations section 301.9100-3? Yes No

If "Yes," give the reasons for not filing this application within the 27-month period described in question 3. See Specific Instructions, Part III, Line 4, before completing this item. Do not answer questions 5 and 6.

If "No," answer questions 5 and 6.

5. If you answer "No" to question 4, your organization's qualification as a section 501(c)(3) organization can be recognized only from the date this application is filed with your key District Director. Therefore, do you want us to consider the application as a request for recognition of exemption as a section 501(c)(3) organization from the date the application is received and not retroactively to the date the organization was created or formed? Yes No

6. If you answer "Yes" to the question on line 5 above and wish to request recognition of section 501(c)(4) status for the period beginning with the date the organization was formed and ending with the date the Form 1023 application was received (the effective date of the organization's section 501(c)(3) status) check here and attach a completed page 1 of Form 1024 to this application.

Part III Technical Requirements

(Continued)

7 Is the organization a private foundation?

- Yes (Answer question 8.)
- No (Answer question 9 and proceed as instructed.)

8 If you answer "Yes" to the question on line 7, does the organization claim to be a private operating foundation?

- Yes (Complete Schedule E)
- No

After answering question 8 on this line, go to line 14 on page 7.

9 If you answer "No" to the question on line 7, indicate the public charity classification the organization is requesting by checking the box below that most appropriately applies.**THE ORGANIZATION IS NOT A PRIVATE FOUNDATION BECAUSE IT QUALIFIES:**

- | | | |
|---|--|--|
| a | <input type="checkbox"/> As a church or a convention or association of churches
(CHURCHES MUST COMPLETE SCHEDULE A.) | Sections 509(a)(1)
and 170(b)(1)(A)(i) |
| b | <input type="checkbox"/> As a school (MUST COMPLETE SCHEDULE B.) | Sections 509(a)(1)
and 170(b)(1)(A)(ii) |
| c | <input type="checkbox"/> As a hospital or a cooperative hospital service organization, or a medical research organization operated in conjunction with a hospital (These organizations, except for hospital service organizations, MUST COMPLETE SCHEDULE C.) | Sections 509(a)(1)
and 170(b)(1)(A)(iii) |
| d | <input type="checkbox"/> As a governmental unit described in section 170(c)(1). | Sections 509(a)(1)
and 170(b)(1)(A)(iv) |
| e | <input type="checkbox"/> As being operated solely for the benefit of, or in connection with, one or more of the organizations described in a through d, g, h, or i (MUST COMPLETE SCHEDULE D.) | Section 509(a)(3) |
| f | <input type="checkbox"/> As being organized and operated exclusively for testing for public safety. | Section 509(a)(4) |
| g | <input type="checkbox"/> As being operated for the benefit of a college or university that is owned or operated by a governmental unit. | Section 509(a)(1)
and 170(b)(1)(A)(iv) |
| h | <input checked="" type="checkbox"/> As receiving a substantial part of its support in the form of contributions from publicly supported organizations, from a governmental unit, or from the general public. | Sections 509(a)(1)
and 170(b)(1)(A)(vi) |
| i | <input type="checkbox"/> As normally receiving not more than one-third of its support from gross investment income and more than one-third of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions (subject to certain exceptions). | Section 509(a)(2) |
| j | <input type="checkbox"/> The organization is a publicly supported organization but is not sure whether it meets the public support test of block h or block i. The organization would like the IRS to decide the proper classification. | Sections 509(a)(1) and
170(b)(1)(A)(vi) or
Section 509(a)(2) |

If you checked one of the boxes a through f in question 9, go to question 14.

If you checked box g in question 9, go to questions 11 and 12.

If you checked box h, i, or j in question 9, go to question 10.

Part III Technical Requirements (Continued)

10 If you checked box h, i, or j on line 9, has the organization completed a tax year of at least 3 months?

Yes - Indicate whether you are requesting:

A definitive ruling (Answer questions on lines 11 through 14.)

An advance ruling (Answer questions on lines 11 and 14 and attach two Forms 872-C completed and signed.)

No - You must request an advance ruling by completing and signing two Forms 872-C and attaching them to the application.

11 If the organization received any unusual grants during any of the tax years shown in Part IV-A, Statement of Revenue and Expenses, attach a list for each year showing the name of the contributor, the date and the amount of the grant, and a brief description of the nature of the grant.
N/A

12 If you are requesting a definitive ruling under section 170(b)(1)(A)(iv) or (vi), check here and

a Enter 2% of line 8, col. (a), total, of Part IV-A 4,500

b Attach a list showing the name and amount contributed by each person (other than a governmental unit or "publicly supported" organization) whose total gifts, grants, contributions, etc., were more than the amount entered on line 12a.

13 If you are requesting a definitive ruling under section 509(a)(2), check here and

a For each of the years included on lines 1, 2, and 3 of Part IV-A, attach a list showing the name of and amount received from each "disqualified person." (For a definition of "disqualified person," see Specific Instructions, Part II, Line 4d, on pg 3.)

b For each of the years included on line 9 of Part IV-A, attach a list showing the name of and amount received from each payer (other than a "disqualified person") whose payments to the organization were more than \$5,000. For this purpose, "payer" includes, but is not limited to, any organization described in sections 170(b)(1)(A)(i) through (vi) and any governmental agency or bureau.

14 Indicate if your organization is one of the following. If so, complete the required schedule. (Submit only those schedules that apply to your organization. Do not submit blank schedules.)

	Yes	No	If "Yes," complete Schedule:
Is the organization a church?		X	A
Is the organization, or any part of it, a school?		X	B
Is the organization, or any part of it, a hospital or medical research organization?		X	C
Is the organization a section 509(a)(3) supporting organization?		X	D
Is the organization a private operating foundation?		X	E
Is the organization, or any part of it, a home for the aged or handicapped?		X	F
Is the organization, or any part of it, a child care organization?		X	G
Does the organization provide or administer any scholarship benefits, student aid, etc.?		X	H
Has the organization taken over, or will it take over, the facilities of a "for profit" institution?		X	I

Part IV Financial Data

Complete the financial statements for the current year and for each of the 3 years immediately before it. If in existence less than 4 years, complete the statements for each year in existence. If in existence less than 1 year, also provide proposed budgets for the 2 years following the current year.

A. Statement of Revenue and Expenses

Revenue	Current tax	3 prior tax years or proposed budget for 2 years			(*) TOTAL
	year	(a) From	(b)	(c)	
		to	6/30/2003	6/30/2004	
1 Gifts, grants, and contributions received (not including unusual grants)		N/A	60,000	135,000	195,000
2 Membership fees received					0
3 Gross investment income (see instructions)					0
4 Net income from organization's unrelated business activities not included on line 3					0
5 Tax revenues levied for and either paid to or spent on behalf of the organization					0
6 Value of services or facilities furnished by a governmental unit to the organization without charge (not including the value of services or facilities generally furnished the public without charge)			15,000	15,000	30,000
7 Other income (not including gain or loss from sale of capital assets) (attach schedule)					0
8 Total (add lines 1 through 7)	0		75,000	150,000	0
9 Gross receipts from admissions, sales of merchandise or services, or furnishing of facilities in any activity that is not an unrelated business within the meaning of section 513 (include related cost of sales on line 22)					225,000
10 Total (add lines 8 and 9)	0		75,000	150,000	0
11 Gain or loss from sale of capital assets (att. sch.)					225,000
12 Unusual grants					0
13 Total revenue (add lines 10 through 12)	0		75,000	150,000	0
Expenses					225,000
14 Fundraising expense			5,000	7,000	
15 Contributions, gifts, grants, and similar amounts paid (attach schedule)					
16 Disbursements to or for benefit of members (attach schedule)					
17 Compensation of officers, directors, and trustees (attach schedule)					
18 Other salaries and wages					
19 Interest					
20 Occupancy (rent, utilities, etc.)					
21 Depreciation and depletion					
22 Other (attach sch.)			67,500	142,500	
23 Total expenses (add lines 14 through 22)	0		72,500	149,500	0
24 Excess of revenue over expenses (line 13 minus line 23)	0		2,500	500	0

Part IV Financial Data (Continued)

B. Balance Sheet (at the end of the period shown)

Current tax year
ESTIMATED
6/30/2003

Assets		
1	Cash	2,500
2	Accounts receivable, net	
3	Inventories	
4	Bonds and notes receivable (attach schedule)	
5	Corporate stocks (attach schedule)	
6	Mortgage loans (attach schedule)	
7	Other investments (attach schedule)	
8	Depreciable and depletable assets (attach schedule)	
9	Land	
10	Other assets (attach schedule)	
11	Total assets (add lines 1 through 10)	2,500
Liabilities		
12	Accounts payable	
13	Contributions, gifts, grants, etc., payable	
14	Mortgages and notes payable (attach schedule)	
15	Other liabilities (attach schedule)	
16	Total liabilities (add lines 12 through 15)	0
Fund Balances or Net Assets		
17	Total fund balances or net assets	2,500
18	Total liabilities and fund balances or net assets (add line 16 and line 17)	2,500

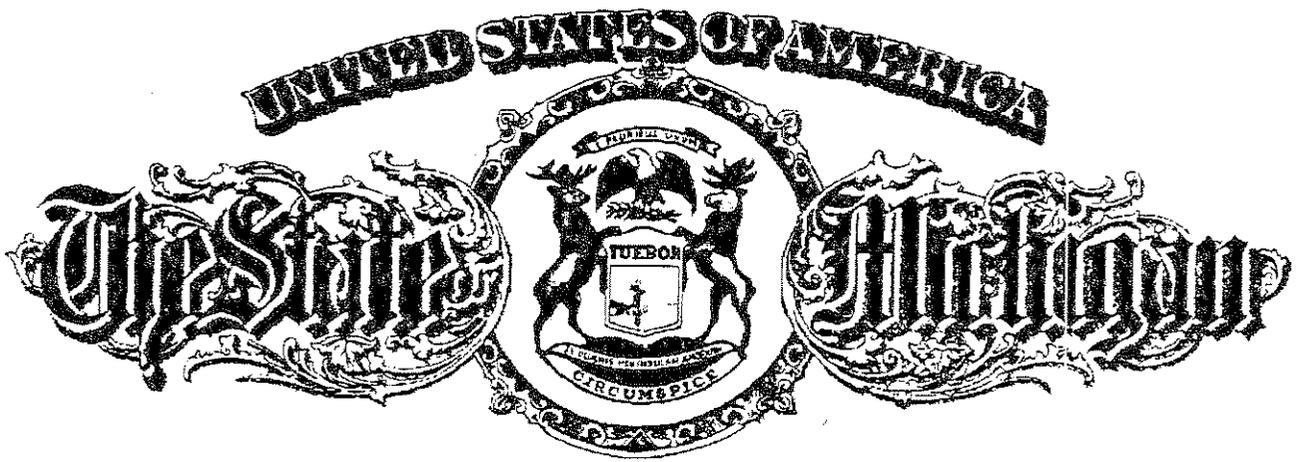
If there has been any substantial change in any aspect of the organization's financial activities since the end of the period shown above, check the box and attach a detailed explanation

1023, PAGE 8 - LINE 22(c) (OTHER EXPENSES)

	Total:	
1 OFFICE SUPPLIES	1	7,000
2 LEGAL AND ACCOUNTING	2	8,000
3 MATERIALS AND SUPPLIES FOR REPAIRS (NONPROFIT MISSION / PURPOSE)	3	125,000
4 FILING FEES AND MISC	4	500
5 BROCHURES AND ADVERTISING	5	3,000
6 POSTAGE	6	1,000
7	7	
8	8	

1023, PAGE 88 - LINE 22(b) (OTHER EXPENSES)

	Total:	
1 OFFICE SUPPLIES	1	7,000
2 LEGAL AND ACCOUNTING	2	8,000
3 MATERIALS AND SUPPLIES FOR REPAIRS (NONPROFIT MISSION / PURPOSE)	3	50,000
4 FILING FEES	4	500
5 BROCHURES AND ADVERTISEMENT	5	3,000
6 POSTAGE	6	1,000
7	7	
8	8	



Michigan Department of Consumer and Industry Services

Lansing, Michigan

This is to Certify that the annexed copy has been compared by me with the record on file in this Department and that the same is a true copy thereof.

This certificate is in due form, made by me as the proper officer, and is entitled to have full faith and credit given it in every court and office within the United States.



In testimony whereof, I have hereunto set my hand, in the City of Lansing, this 10th day of February, 2004

Andrew G. Smith Director

Bureau of Commercial Services

Sent by Facsimile Transmission
770289

Use space below for additional Articles or for continuation of previous Articles. Please identify any Article being continued or added. Attach additional pages if needed.

I, (We), the incorporator(s) sign my (our) name(s) this 11 day of November, 2002.

Norma Chenier

MICHIGAN DEPARTMENT OF CONSUMER & INDUSTRY SERVICES BUREAU OF COMMERCIAL SERVICES	
Date Received NOV 26 2002	(FOR BUREAU USE ONLY) Trans# 75-5372-1 11/21/02 Chk# 1121 Amt: \$20.00 TO: KARL HAISER CPA FILED DEC 12 2002 Michigan BUREAU OF COMMERCIAL SERVICES EFFECTIVE DATE:
This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.	
Name KARL HAISER, CPA, PC	City State Zip Code GRAND BLANC, MI 48439
Address 610 EAST GRAND BLANC RD	
City State Zip Code	

Document will be returned to the name and address you enter above. If left blank document will be mailed to the registered office.

780-593

ARTICLES OF INCORPORATION
For use by Domestic Nonprofit Corporations
 (Please read information and instructions on the last page)

Pursuant to the provisions of Act 162, Public Acts of 1982, the undersigned corporation executes the following Articles:

ARTICLE I

The name of the corporation is: CHRISTMAS IN ACTION OF OAKLAND COUNTY, INC.

ARTICLE II

The purpose or purposes for which the corporation is organized are:
 ORGANIZED EXCLUSIVELY FOR CHARITABLE PURPOSES WITHIN THE MEANING OF 501(c)(3) OF THE IRC. MORE SPECIFICALLY TO ORGANIZE, SPONSOR AND FUND HOME IMPROVEMENTS FOR LOW-INCOME SENIOR CITIZENS AND HANDICAPPED OWNERS WHO QUALIFY FOR SUCH ASSISTANCE BY THE STANDARDS AND QUALIFICATIONS SET BY THE BOARD OF DIRECTORS.

ARTICLE III

1. The corporation is organized upon a NONSTOCK basis.
 (Stock or Nonstock)

2. If organized on a stock basis, the total number of shares which the corporation has authority to issue is N/A. If the shares are, or are to be, divided into classes, the designation of each class, the number of shares in each class, and the relative rights, preferences and limitations of the shares of each class are as follows:
N/A

Handwritten initials/signature.

ATTN: CHRISTMAS IN ACTION OF OAKLAND

FROM: csdirfax

DATE: February 10, 2004

SUBJECT: Request for copies or certificates

JOB: 6412

ATTACH:

This Fax Originated From a Biscom 'Faxcom'.

MEMO:.....

Michigan Department of Consumer & Industry Services
Bureau of Commercial Services, Corporation Division
6546 Mercantile Way/P.O. Box 30054
Lansing, Michigan 48909

Telephone: (517) 241-6470

I N V O I C E

Invoice: 770289 Date: 02/10/2004 **** FAX ****

NORMA OKONSKI
CHRISTMAS IN ACTION OF OAKLAND
PO BOX 300324
WATERFORD MI 483300324

Phone: 248 674 6228

ID	DESCRIPTION	QTY	PG/CH
780593	CHRISTMAS IN ACTION OF OAKLAND COUNTY, INC.		
	Documents certified	1	10
	Original articles only	1	3
	Sub-Total:		\$16.00
	Order Total:		\$16.00
	Expedited Service Charge:		\$.00
	REMIT THIS AMOUNT:		\$16.00

RETURN YOUR PAYMENT, in U.S. dollars, payable to State of Michigan with a copy of this *
Statement and include invoice number on your check or money order. *
*
If your order is incorrect, contact this agency immediately at the above address, *
or call (517)241-6470 or fax your concerns to (517)241-0538. *
*
MCL 450.1131, MCL 450.4104(5), and MCL 449.48 provide: A photostatic, micrographic, *
photographic, optical disc media, or other reproduced copy certified by the administrator, *
which may be sent by facsimile transmission, shall be considered an original for all *
purposes and is admissible in evidence in like manner as an original. *

BYLAWS
OF
CHRISTMAS IN ACTION OF OAKLAND COUNTY, INC.
(a Michigan Non-Profit Corporation)

ARTICLE I
TYPE AND PURPOSE OF CORPORATION

Section 1 - Type of Corporation. The Corporation is a non-profit, non-stock Corporation organized and incorporated on a directorship basis under the laws of the State of Michigan.

Section 2 - Purpose. This Corporation is organized exclusively for charitable purposes within the meaning of §501(c)(3) of the Internal Revenue Code, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under § 501 (c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code. Within these limitations, the specific purposes of the Corporation are to organize, sponsor, and fund home improvements for low-income senior citizen and handicapped owners who qualify for such assistance by the standards and qualifications set by the Board of Directors, and other related nonprofit civic events, for participating municipalities in Oakland County, Michigan.

Section 3 Limitations on Activities. No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its directors, officers, or other private persons, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered, materials purchased, and payments and distributions made to further achieve the purposes set forth in Article I. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of these Articles, the Corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under section 501 (c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or (b) by a corporation, contributions to which are deductible under section 170(c)(2) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

Section 4 Distribution of Assets upon Dissolution. Upon the dissolution of the Corporation, after paying or providing for payment of all of the liabilities of the Corporation, the Corporation's assets shall be distributed for one or more exempt purposes within the meaning of § 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or the local government of participating member communities, for a public purpose related to the purposes set forth in Article I.

Any such assets not so disposed of shall be distributed by the circuit court of the county in which the principal office of the Corporation is then located exclusively for such purposes, or to such other organization or organizations as said court shall determine to be organized and operated exclusively for such purposes.

Section 5. Equal Rights. The Corporation shall conduct its business and affairs without discrimination on the basis of race, color, sex, religious affiliation, or national or ethnic origin.

ARTICLE II MEMBERS

Section 1. Members. The Corporation shall have no members.

ARTICLE III PARTICIPATING MUNICIPALITIES

Section 1. Composition of Corporation. The Corporation shall be composed of Oakland County municipalities that have expressed in writing a commitment to fully participate in achieving the purposes of the Corporation within their municipality, in accordance with the participation requirements and standards adopted by the Board of Directors.

Section 2. Role of Participating Municipalities. Each municipality that has committed to participating in the Corporation is expected to maintain an active role in conducting the affairs of the Corporation within its municipal boundaries, including promotion of the purposes, recruiting volunteers and sponsors, and raising funds.

Section 3. Fundraising. The Corporation shall establish within its bank account a separate sub-account for each participating municipality to deposit funds and donations raised to achieve the purposes of the Corporation within its municipal boundaries. Such funds raised by each participating municipality shall be for the exclusive use of achieving the purposes of the Corporation within its municipal boundaries, except for any percentage established by the Board of Directors to be used annually by the Corporation for the administration of the main organization.

Section 4. Probation and Removal. If at any time a municipality fails to consistently meet the standards of full participation as established in writing by the Board of Directors, the Board of Directors shall notify the municipality in writing of a probationary period not to exceed one calendar year in length. During such probationary period, the municipality may redeem its participating status by complying with the participation requirements and standards adopted by the Board of Directors. If a municipality does not successfully achieve the participation requirements during the probationary period, the Board of Directors shall notify the municipality of its removal as a participating municipality. All funds

remaining in the subaccount of the removed municipality shall be distributed equally among the remaining participating municipality subaccounts.

ARTICLE IV OFFICES

- Section 1 Principal Office.** The principal office of the Corporation shall be located at such place within Oakland County, Michigan as the Board of Directors may determine from time to time.
- Section 2 Registered Office.** The registered office of the corporation may be the same as the principal office of the corporation, but in any event must be located in Oakland County, Michigan and be the business office of the registered agent, as required by the Michigan Nonprofit Corporation Act.
- Section 3 Other Offices.** The Board of Directors may establish other business offices at such other places as may be required from time to time.

ARTICLE V BOARD OF DIRECTORS

- Section 1 General Powers.** The business, property and affairs of the Corporation shall be managed by a Board of Directors.
- Section 2 Number and Term of Office.** There shall be a minimum of seven (7) Directors on the Board of Directors. Additional Directors may be added to reflect the number of participating municipalities if such number of Oakland County municipalities participating in the Corporation exceeds seven.
- Section 3 Initial Appointment of Directors and Terms of Office.** The first Directors of the Corporation shall be appointed by the incorporator of the Corporation, and shall serve for a term of office which ends at the end of the day on December 31, 2003. The starting date of each of these terms of office shall be the date of incorporation of the Corporation. Each of these initial directors shall also serve until his/her successor has been duly elected and qualified, or until his/her death, resignation or removal.
- Section 4 Subsequent Elections of Directors and Terms of Office.** All subsequent Directors of the Corporation shall be elected by a majority vote of the other Directors then in office, and each of these subsequent Directors shall serve for a term of one (1) year, and until his/her successor has been duly elected and qualified, or until his/her death, resignation or removal.
- Section 5 No Limit on Number of Terms.** There is no limit on the number of terms of office that a Director may be elected or re-elected to serve as a Director of the Corporation.

Section 6 Removal. Any Director may be removed from office at any time, with or without cause, by a majority vote of the other Directors then in office.

Section 7 Resignation. Any director may resign at any time by providing written notice of such resignation to the Corporation. The resignation will be effective on receipt of the notice or at a later time designated in the notice.

Section 8 Vacancies. Any vacancy on the Board of Directors may be filled by appointment made by a majority of the remaining Directors then in office. If because of death, resignation, or other cause, the Corporation has no Directors in office, the circuit court of the county where the Corporation's principal place of business is located may appoint one (1) Director for the Corporation. This Director shall then fill the other vacancies on the Board of Directors as otherwise provided in these Bylaws.

Section 9 Annual Meeting. An annual meeting of the Board of Directors of the Corporation shall be held during the month of October of each year, at such date, time, and place, inside or outside the State of Michigan, as is determined by the Board of Directors, commencing with the year 2003. If the annual meeting is not held at that date and time, the Board shall cause the meeting to be held as soon thereafter as is convenient. If no specific time or place for the annual meeting of the Board of Directors has been determined by the Board, such time and place may be determined by the Chairman of the Corporation. At such meeting, the Directors shall present the annual report for the Corporation for the preceding fiscal year, elect the officers of the Corporation for the coming year, and shall transact such other business as has properly been brought before the meeting. The annual report of the Corporation shall include the Corporation's profit/loss income statement for the immediately preceding fiscal year, as well as a statement of assets and liabilities, and net worth of the Corporation as of the end of the immediately preceding fiscal year, and such other information as may be required by law.

Section 10 Special Meetings. Special meetings of the Board of Directors of the Corporation shall be held whenever called by the Chairman or any two (2) Directors, at such time and place as may be specified in the notice of meeting.

Section 11 Notice of Meetings. Notice of the time and place of each annual and special meeting of the Board of Directors shall be given in writing to each Director at least three (3) business days prior to the date of holding the meeting. Written notice shall be deemed duly given when the same has been deposited in the United States mail, with postage fully prepaid, and addressed to the recipient at the address designated by such person for the purpose of notice, or if none has been designated by such person, at that person's last known address. Written notice shall also be deemed given if given by email or fax at the most recent email address or fax number, respectively, of the Director which is known to the Corporation. Neither the business to be transacted at, nor the purpose of, any annual or special meeting of the Board of Directors need be specified in the notice of such meeting. Notice may be waived as provided in these Bylaws or by law.

Section 12 Waiver of Notice. Notice of the time, place and purposes of any meeting of the Board of Directors may be waived by telegram or other writing either before or after such meeting has been held. The presence of a Director at a meeting shall constitute waiver of notice, except where the Director attends the meeting for the express purposes of objecting at the beginning of the meeting to the transaction of any business because the meeting was not lawfully called or convened.

Section 13 Electronic Meetings of the Board. Directors may participate in a meeting of the Board of Directors through the use of a conference telephone call or similar communications equipment by which all persons participating in the meeting can hear each other, provided that all participants in the meeting are knowledgeable about, or are advised of, the use of such equipment and that the names of all participants in the conference are disclosed to all the participants. Participation in a meeting pursuant to this section shall constitute presence in person at such meeting of the Board.

Section 14 Quorum of Directors; Voting; Adjournment. A majority of the total number of Directors then in office, who are physically present or who have given their written proxy to a person who is physically present at the meeting, shall constitute a quorum for the transaction of business at any meeting of the Board of Directors. Whenever a Director shall vote by proxy, this proxy shall be in writing and signed by the Director, and shall be available for inspection by any Director at the meeting and filed with the Secretary of the Corporation. If a quorum shall not be present at any meeting of the Board of Directors, the Directors present may adjourn the meeting from time to time without notice other than announcement at the meeting, until a quorum shall be present. Except as otherwise provided in the Articles of Incorporation or these Bylaws, the vote of a majority of the Directors present at a meeting where a quorum is present shall be the act of the Board of Directors.

Section 15 Action by Unanimous Consent Without Meeting. Unless otherwise restricted by the Articles of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors, or committee thereof, may be taken without a meeting, if prior to such action being effective a written consent is signed by all Directors and such written consent is filed with the minutes of the meetings of the Board or committee, respectively. The consent shall have the same effect as a vote of the Board or committee for all purposes.

Section 16 Dissents. A Director who is present at a meeting of the Board of Directors at which action on a corporate matter is taken is presumed to have concurred in that action unless his or her dissent is entered in the minutes of the meeting or unless he or she files his or her written dissent to the action with the Secretary of the Corporation before or promptly after the adjournment of the meeting. The right to dissent does not apply to a Director who voted in favor of the action. A Director who is absent from a meeting of the Board at which any such action is taken is presumed to have concurred in the action unless he or she files his or her dissent with the Secretary of the Corporation within a reasonable time after he or she has knowledge of the action.

Section 17 Compensation of Directors. Each Director shall not be compensated for his/her service as a Director of the Corporation.

Section 18 Conduct of Meetings. The Board of Directors may make such rules and regulations governing the conduct of its meetings as it may, in its discretion, determine to be necessary

Section 19 Committees. The Board of Directors may designate one (1) or more committees, with each committee to consist of one (1) or more Directors of the Corporation. The Board of Directors may also designate one (1) or more Directors as alternative members of any committee who may replace an absent or disqualified committee member at any meeting of the committee. Any committee so designated, and any member or alternate member thereof, shall serve at the pleasure of the Board of Directors of the Corporation. Any committee so designated may exercise such powers and authority of the Board of Directors as has been delegated to that committee by the Board, provided, however, that no committee shall have the power or authority to:

- Amend the Articles of Incorporation;
- Adopt an agreement of merger or consolidation;
- Recommend to the Board of Directors a dissolution of the Corporation or a revocation of a dissolution;
- Amend the Bylaws of the Corporation;
- Create or fill vacancies in the Board of Directors; or
- Fix compensation of the Directors for serving on the Board or on a committee.

ARTICLE VI OFFICERS

Section 1 Offices and Term. The officers of the Corporation shall be a Chairman, a Vice-Chairman, a Secretary, a Treasurer, and such other officers as shall be elected by the Board of Directors. The term of all officers shall be one (1) year and until their successors have been duly elected and qualified, or until their death, resignation, or removal; provided, however, that the first officers of the Corporation shall be elected for the term determined by the Board of Directors.

Section 2 Resignation. An officer may resign at any time by providing written notice to the Corporation. Notice of resignation is effective on receipt at a later time designated in the notice

Section 3 Removal from Office. Any Director may be removed before the completion of his or her term, with or without cause, by a majority vote of the entire Board of Directors at any regular meeting or special meeting of the Board.

Section 4 Filling Vacancies. Any vacancy in the Board of Directors may be filled by appointment made by a majority vote of the entire Board of Directors at any regular or special meeting of the Board

Section 5 Chairman. The Chairman shall be responsible for overseeing the implementation of all orders and resolutions of the Board of Directors, the general control and management of the business and affairs of the Corporation, and the general powers of supervision and management usually vested in the chief executive officer of a Corporation, as well as any other power or authority granted to the Chairman by the Board of Directors. The Chairman shall preside at all meetings of the members and the Board of Directors at which he or she is present.

Section 6 Vice-Chairman. The Vice-Chairman shall have the power to perform all duties that may be assigned by the Chairman or the Board of Directors. If the Chairman is absent or unable to perform his or her duties, the Vice-Chairman shall perform the Chairman's duties until the Board of Directors directs otherwise.

Section 7 Secretary. The Secretary shall (a) keep a record of all meetings of the Board of Directors of the Corporation, (b) be responsible for giving all notices required to be given to Directors, (c) be responsible for the custody (but need not personally keep custody) of the Articles of Incorporation, these Bylaws, and all other corporate records, and (d) in general, shall perform all duties as may from time to time be assigned by the Chairman or the Board of Directors

Section 8 Treasurer. The Treasurer shall (a) have charge of the funds and other financial assets of the Corporation, (b) be responsible for seeing that accurate books and records of corporate receipts, disbursements, assets and liabilities are kept, (c) be responsible for all accounts of the Corporation at banks and other financial institutions, (d) be responsible for the preparation and filing of all financial information which is required by law or otherwise, (e) shall present such information to the officers and Board of Directors of the Corporation as is required by law or requested by the Board of Directors, and perform such other duties as may from time to time be assigned by the Chairman or the Board of Directors.

Section 9 Compensation. The compensation of the officers, if any, shall be as determined by the Board of Directors of the Corporation, but shall never exceed reasonable compensation for the services rendered.

ARTICLE VII MULTIPLE OFFICES

Section 1 Type of Offices. A person may serve simultaneously in any of the following capacities:

- Member of the Board of Directors;
- Officer of the Corporation;
- Member of any committee established by the Corporation or the Board of Directors;
- Officer of any committee established by the Corporation or the Board of Directors.

Section 2 Number of Offices. An officer may hold more than one (1) office simultaneously.

Section 3 Execution of Documents. An officer may execute, acknowledge, and/or verify any corporate document or instrument in more than one (1) capacity.

ARTICLE VIII EXECUTION OF INSTRUMENTS

Section 1 Execution of Checks and Drafts. All checks, drafts and orders for payment of money shall be signed in the name of the Corporation, by such officers or agents as the Board of Directors shall from time to time designate for that purpose.

Section 2 Execution of Contracts and Conveyances. The Board of Directors shall have power to designate the officers and agents who shall have authority to execute any instrument on behalf of the Corporation. When the execution of any contract, conveyance or other instrument has been authorized without specification of the execution officers, any one of the following: the Chairman, any Vice-Chairmans, the Secretary, or the Treasurer may execute the same on behalf of the Corporation.

ARTICLE IX FISCAL YEAR

Section 1 Fiscal Year. The fiscal year of the Corporation shall be determined by the Board of Directors.

ARTICLE X INDEMNIFICATION

Section 1 Indemnification: Third Party Actions. The Corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, and whether formal or informal, (other than an action by or in the right of the Corporation) by reason of the fact that he or she is or was a Director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a Director, officer, partner, trustee, employee or agent of another foreign or domestic corporation, business corporation, partnership, joint venture, trust or other enterprise, whether for profit or not for profit, against expenses (including attorneys' fees), judgments, penalties, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with the action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interest of the Corporation, (and with respect to any criminal action or proceeding if he or she did not have reasonable cause to believe his or her conduct was unlawful). The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, by itself, shall not create a presumption that the person did not act in good faith and in a manner which he or she

reasonably believed to be in or not opposed to the best interest of the Corporation, and, with respect to any criminal action or proceedings, had reasonable cause to believe that his or her conduct was unlawful.

Section 2 Indemnification: Actions in the Right of the Corporation. The Corporation shall indemnify any person who was or is a party, or is threatened to be made a party, to a threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, partner, trustee, employee or agent of another foreign or domestic corporation, business corporation, partnership, joint venture, trust or other enterprise, whether for profit or not, against expenses (including actual and reasonable attorneys' fees) and amounts paid in settlement incurred by him or her in connection with the action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation. However, indemnification shall not be made for a claim, issue or matter in which such person has been found liable to the Corporation unless and only to the extent that the court in which the action or suit was brought has determined upon application that, despite the adjudication of liability but in view of all circumstances of the case, the person is fairly and reasonably entitled to indemnification for expenses which the court considers proper.

Section 3 Indemnification: Successful Defense. To the extent that a Director, officer, employee or agent of a corporation has been successful on the merits or otherwise in defense of an action, suit or proceeding referred to in the above Article IX, Sections 9.01 or 9.02, or in defense of a claim, issue, or matter in the suit, action, or proceeding, he or she shall be indemnified against expenses (including actual and reasonable attorneys' fees) incurred by him or her in connection with said action, suit, or proceeding and in connection with any action, suit, or proceeding brought to enforce the indemnification required by this Section.

Section 4 Individual Determination. An indemnification under the above Article IX, Sections 9.01 or 9.02 (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the Director, officer, employee or agent is proper in the circumstances because he or she has met the applicable standard or conduct set forth in said Article IX, Sections 9.01 or 9.02. This determination shall be made in any of the following ways:

- By a majority vote of a quorum of the Board of Directors consisting of Directors who were not parties to the action, suit, or proceeding; or
- If such a quorum is not obtainable, then by a majority vote of committee of Directors who are not parties to the action, suit, or proceeding; or
- By independent legal counsel in a written opinion.

Section 5 Partial Indemnification. If a person is entitled to indemnification under the above Article IX, Sections 9.01 or 9.02 for a portion of expenses (including attorneys' fees, judgments, penalties, fines, and amounts paid in settlement), but

not for the total amount thereof, the Corporation shall indemnify the person for the portion of expenses, judgments, penalties, fines, or amounts paid in settlement for which the person is entitled to be indemnified

Section 6 Method of Payment. Expenses incurred in defending a civil or criminal action, suit or proceeding described in the above Article IX, Sections 9.01 or 9.02 may be paid by the Corporation in advance of the final disposition of the action, suit or proceeding upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay the expenses if it shall ultimately be determined that the person is not entitled to be indemnified by the Corporation. The undertaking shall be by unlimited general obligation of the person on whose behalf advances are made, but need not be secured

Section 7 Non-Exclusive. The indemnification and advancement of expenses provided by this Article is not exclusive of other rights to which a person seeking indemnification or advancement of expenses may be entitled under the Articles of Incorporation, these Bylaws, or a contractual agreement. However, the total amount of expenses advanced or indemnified from all sources combined shall not exceed the amount of actual expenses incurred by the person seeking indemnification or advancement of expenses.

The indemnification provided by this section shall continue as to a person who has ceased to be Director, officer, employee or agent, and shall inure to the benefit of the heirs, executors and administrators of such person.

Section 8 Insurance. The Corporation may purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of this Article.

Section 9 Definition of "Corporation". For the purposes of this Article, the word "Corporation" includes all constituent corporations absorbed in a consolidation or merger and the resulting surviving corporation or business corporation, so that a person who is or was a Director, officer, employee, or agent of the constituent corporation or is or was serving at the request of the constituent corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, business corporation, partnership, joint venture, trust, or other enterprise, whether for profit or not, shall stand in the same position under the provisions of this Article with respect to the resulting or surviving corporation or business corporation as the person would if the person had served the resulting or surviving corporation or business corporation in the same capacity.

ARTICLE XI SEVERABILITY

Section 1 Severability. Each of the provisions of these Bylaws shall be considered a separate and severable provision so that if any provision is deemed or declared to be invalid or unenforceable, such determination shall have no effect on the validity or enforceability of any of the other provisions.

Section 2 Preemption of Law. If a state or federal law makes invalid any of the provisions of these Bylaws, or requires more notice than provided, or creates rights or procedures not provided or inconsistent with these Bylaws, that law or laws shall be applied and shall preempt these Bylaws to that extent, but all other provisions of these Bylaws shall continue in full force and effect.

ARTICLE XII AMENDMENTS

Section 1 Voting. The Board of Directors may, at any meeting, amend, alter, or repeal any of these Bylaws by the affirmative vote of the majority of the number of Directors then constituting the whole Board, or by unanimous vote of all the Directors without such notice, or by a written consent signed by a majority of the number of Directors then constituting the entire Board.

ARTICLE XIII CORPORATE SEAL

Section 1 Establishment of Seal. The Board of Directors shall determine whether or not the Corporation shall have a Corporate Seal, and the form of any such seal.



CITY COUNCIL ACTION REPORT

October 4, 2006

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Timothy L. Richnak, Public Works Director

SUBJECT: Announcement of Public Hearing – Community Development Block Grant (CDBG) 2007 Application

Background:

- The City of Troy is required by Oakland County Division of Community & Home Improvement to advertise and conduct a Public Hearing on the Program Year 2007 CDBG application.

Financial Considerations:

- There are no financial considerations associated with this item.

Legal Considerations:

- There are no legal considerations associated with this item.

Policy Considerations:

- There are no policy considerations associated with this item.

Options:

- It is recommended that Council authorize a public hearing for November 13, 2006 at 7:30 PM for the adoption of the Community Development Block Grant (CDBG) 2007 application.



CITY COUNCIL ACTION REPORT

October 3, 2006

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Timothy L. Richnak, Public Works Director

SUBJECT: 2006 Request to Waive Recapture Form

Background:

- The Community and Home Improvement Division of Oakland County has advised us, as a standard practice, to submit a waiver request to protect year 2004 Community Development Block Grant (CDBG) funds from recapture for one additional year.

Financial Considerations:

- Absent a waiver all unobligated 2004 funds would be recaptured December 31, 2006.

Legal Considerations:

- There are no legal considerations associated with this item.

Policy Considerations:

- There are no policy considerations associated with this item.

Options:

- City management recommends submitting the 2006 request to waive recapture form

COMMUNITY DEVELOPMENT BLOCK GRANT 2006 REQUEST TO WAIVE RECAPTURE FORM

PLEASE DO NOT SUBMIT WAIVER REQUESTS WITH APPLICATION MATERIALS
WAIVER REQUESTS ARE DUE TO KARRY L. RIETH, DIVISION MANAGER
NO LATER THAN FRIDAY NOVEMBER 24, 2006

The U.S. Department of Housing and Urban Development (HUD) mandates that Community Development Block Grant (CDBG) balances not exceed 1.5 times the current program year allocation sixty (60) days prior to the end of the program year (February 28th). To help comply with the regulation, the Oakland County Board of Commissioners adopted a policy allowing communities to protect funds from their two most recent program years. Therefore, all unobligated 2004 and older funds are at risk of recapture December 31, 2006.

A community may protect unobligated 2004 funds from recapture for one additional year by requesting a waiver. **Submittal of the following information and a governing body resolution** from the community requesting a one year deferral of recapture constitutes the Request to Waive Recapture. **A separate form must be submitted for each 2004 line item.**

Community Name: City of Troy

Date request submitted: October 16, 2006

2004 CDBG Project Title: Public Facilities and Improvements – Special Assessments

Amount of funds to be retained: \$120,344.00

Description and Location of activity:

Fund sanitary sewer benefit use fee for approximately 8 low-moderate income households.
Charnwood Subdivision Area, Phase #1 Section 6

Reason for NOT completing project as specified on original 2004 application:
Less than anticipated number of residents qualified for funds.

Provide a corrective action plan and specific project implementation plans scheduled for the next calendar year. Projects must be completed by December 31, 2007

Date	Corrective Action
Funds will be reprogrammed early in 2007 to Charnwood Subdivision Area, Phase #2	
Anticipate funds will be obligated prior to December 2007 for project.	



TO: Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
DATE: October 11, 2006
SUBJECT: Proposed co-location on Lowery Street communications tower

MetroPCS has requested an opportunity to co-locate on the Lowery Street telecommunications tower. When the tower was initially constructed, it was designed to allow up to four such co-locations, and therefore this co-location would not require any modifications to the tower, other than the placement of the equipment and the equipment shelter. The tower is currently owned by A T & T, and therefore MetroPCS has reached a separate agreement with A T & T for this requested co-location. The tower will eventually be the property of the City of Troy, pursuant to the terms of the Lease Agreement.

Pursuant to the terms of the agreement, MetroPCS will pay the same amount of rent to the City that the other providers are currently paying. They have also agreed to be bound by the same terms and conditions as the other providers, with the exception of the slight modification of the insurance requirements. These terms are reflected in the Restated and Amended Acknowledgement and Lease and its attachments.

A proposed resolution approving this Acknowledgement and Lease between the City of Troy and MetroPCS Michigan, Inc. is provided for your consideration.

As always, if you have any questions, please let me know.

ACKNOWLEDGMENT AND LEASE

This Acknowledgment and Lease (the "Acknowledgment") is made this _____ day of _____, 2006, between MetroPCS Michigan, Inc. (hereinafter MetroPCS), a Delaware corporation, whose business address is 28505 Schoolcraft Rd., Building 6, Livonia, MI 48150 and the City of Troy (hereinafter "City"), a Michigan municipal corporation, whose address is 500 W. Big Beaver Road, Troy, MI 48084.

- A. The City and Wireless PCS, Inc., d/b/a AT & T Wireless Services (AT & T) entered into a Ground Lease dated October 6, 1998 (the "Lease") pertaining to the lease of a certain part of the City's property located at 205 Lowery Street, Troy, Michigan (the "Property"), to enable AT & T to construct a communication tower and equipment shelter (collectively referred to as the "Tower") for use by AT & T, the City, and by other telecommunications companies.
- B. Under the terms of the Lease, AT & T is required to allow other telecommunications companies to utilize the Tower constructed by AT & T, with the rental for such use of the Tower space and a part of the City's property payable to the City.
- C. MetroPCS is interested in leasing a part of the Tower and having equipment on the ground next to the Tower, as authorized by the Lease.
- D. The parties are desirous of setting forth their agreements with respect to the utilization of the Tower.

NOW THEREFORE, MetroPCS and the City agree as follows:

1. **Lease.** The City leases to MetroPCS and MetroPCS leases from the City a portion of the real estate adjacent to the Tower, not exceeding 15x 20', for placement of an outdoor cabinet for MetroPCS's equipment for the Tower, together with a non-exclusive easement for ingress and egress over the adjacent real property as legally described in the access easement and the utilities easement under the Lease. The location of the outdoor cabinet shall be in a mutually advantageous location, which shall be agreed to in advance of placement in writing by both the City of Troy as well as MetroPCS. MetroPCS's Facilities and easement are collectively referred to as "MetroPCS's Premises". This does not preclude a replacement or a repair of the City's antennae that currently exist on the tower.

2. **Consideration and Term.** MetroPCS shall complete its co-location on the Tower at the sole expense of MetroPCS, in accordance with the attached specifications completed by a registered structural engineer, which are incorporated by reference. These modifications are Tenant Improvements, and shall comply with the conditions and requirements of paragraph 6 of the lease between A T & T and the City of Troy (attached and incorporated by reference) concerning Tenant Improvements. In addition, MetroPCS shall pay the City as annual rent for the Premises each year during the term of this Lease the rent specified on the attached Exhibit A. The annual payments are non-refundable. The annual payments shall be made on or before July 1 of each year. However, the first payment (July 1, 2006-June 30, 2007) shall not be due until the commencement of construction, which shall be not later than December 1, 2006. The payment for the first year shall be pro-rated from July 1 to the date that construction commences. The term of this Acknowledgement shall be three (3) years with two (2) five year renewals and a third renewal term of three (3) years.
3. **Notification.** Any written communication between the parties shall be sent to the following:

 - (a) **City:** City Manager, **City of Troy**, 500 W. Big Beaver Rd., Troy, MI 48085, with a copy sent to City Attorney, **City of Troy**, 500 W. Big Beaver Rd., Troy, MI 48084
 - (b) **MetroPCS Michigan, Inc.**, 28505 Schoolcraft Road, Building 6, Livonia, MI 48150, with a copy to MetroPCS Michigan, 8144 Walnut Hill Lane, Suite 800, Dallas, TX 75231.
4. **Consent to be bound by Lease.** MetroPCS agrees and acknowledges that it has reviewed the terms of the Lease between the City of Troy and AT & T. Except as expressly set forth in this Acknowledgement and Lease, MetroPCS agrees to be bound by the terms of the Lease (paragraphs 1-36 of the Lease) as if it were a tenant under such Lease. Such terms are incorporated by reference into this Acknowledgement.
5. **Insurance and Indemnity.** Prior to the commencement of construction, MetroPCS shall provide the City with copies of insurance naming the City as an additional insured party, as required by paragraph 21 of the Lease. MetroPCS agrees to assume the risks of a tenant under such Lease and indemnify the City in accordance with the terms set forth in the Lease, including

but not limited to, the indemnification pertaining to hazardous substances.

6. **Named Insured.** All policies, except for business interruption and worker's compensation policies, shall name Landlord and its respective officers, boards, commissions, employees, agents, and contractors, as their respective interest may appear as additional insured (herein referred to as the "Additional Insured.") These *Named Insured* provisions replace the Named Insured provisions as set forth in Paragraph 21 (g) of the Lease.

7. **Cancellation of Policies of Insurance.** All insurance policies maintained pursuant to this Lease shall contain the following endorsement:

Should any of the insurance policies maintained pursuant to the Lease be cancelled before the expiration date thereof, the issuing insurer will mail 30 days written notice to the City.

This *Cancellation of Policies of Insurance* provision replaces and amends Section 21 (i), the *Cancellation of Policies of Insurance Provisions*, as set forth in the attached Lease.

8. **Insurance Deductibles.** All insurance policies may be written with deductibles not to exceed \$100,000, unless approved in advance by Landlord. This provision amends the first sentence of Section 21 (k) of the attached Lease.

9. **Waiver of City's Lien.** The City waives any lien rights it may have concerning MetroPCS's Facilities that are deemed MetroPCS's personal property and not fixtures, and MetroPCS has the right to remove the same at any time without the City's consent.

10. **Assignment.** MetroPCS may not assign, or otherwise transfer all or any part of its interest in this Acknowledgment or in MetroPCS's Premises without the prior written consent of the City; provided however that MetroPCS may assign or transfer this Acknowledgment without prior approval by the City to any of its partners, subsidiaries, affiliates, or to a person or entity acquiring by purchase, merger or operation of law a majority of the value of the assets of MetroPCS or to its lenders. The City may assign this Acknowledgment upon written notice to MetroPCS, subject to the assignee assuming all of the City's obligations herein, including but not limited to those set forth in Paragraph 5 above.

11. **Authority.** By execution of this Acknowledgement, each party acknowledges that it has the authority to execute this document on behalf of the party for whom it is signing this Agreement.
12. **Inconsistencies.** In the case of any inconsistencies between the terms and conditions contained in the Lease Agreement entered into October 6, 1998, between the City and AT & T, hereby acknowledged, the terms and conditions herein shall control.
13. **Termination.** This Acknowledgement may be terminated without further liability on thirty (30) days prior written notice as follows:
- (a) by either party upon a default of any covenant, condition or term hereof by the other party, which default is not cured within sixty (60) days of receipt of written notice of default;
 - (b) by MetroPCS if it does not obtain, after reasonable efforts, licenses, permits, or other approvals necessary to the construction or operation of MetroPCS' Facilities;
 - (c) by MetroPCS if MetroPCS is unable to occupy or utilize MetroPCS Premises, despite its reasonable efforts, due to ruling or directive of the FCC or other governmental or regulatory agency, including but not limited to a take back of frequencies; or
 - (d) by MetroPCS if MetroPCS determines that MetroPCS Premises are not appropriate for its operations for technological reasons, including without limitation signal strength or interference, due to interference from the City or from third parties, provided that MetroPCS must present City with documentation reasonably acceptable to City evidencing such technological problems.
14. **Interference.** City shall not permit any other tenant or occupant of any portion of the Property to engage in any activities or operations which interfere with the communications operations of MetroPCS. In the event such interference occurs and does not cease promptly, the parties acknowledge that continuing interference will cause irreparable injury to MetroPCS, and therefore MetroPCS shall have the right to bring a court action against the interfering third party to enjoin such interference or to terminate this Acknowledgement immediately upon notice to City. Under no circumstances shall City be liable for interference caused by third parties.

IN WITNESS HEREOF, the parties have executed this Acknowledgment on the date set forth below.

WITNESS:

MetroPCS Michigan, Inc.

By: Robert A. Young
Its: Executive Vice President of
Market Operations

The foregoing instrument was acknowledged before me on this _____ day of _____, 2006 by Robert A. Young, Executive Vice President of Market Operations, MetroPCS Michigan, Inc.

Notary Public
_____ County, _____
My Commission Expires _____

WITNESS:

CITY OF TROY

By: _____
Louise Schilling, Mayor

By: _____
Tonni L. Bartholomew
City Clerk

The foregoing instrument was acknowledged before me on this _____ day of _____, 2006 by the Mayor of the City of Troy, and Tonni L. Bartholomew, Troy City Clerk.

Notary Public
_____ County, Michigan
My Commission Expires _____

EXHIBIT A

RENT

Years 1-3

Annual Rent

1. July 1, 2006- June 30, 2007	\$16,800
2. July 1, 2007- June 30, 2008	\$16,800
3. July 1, 2008- June 30, 2009	\$16,800

Years 5-9

4. July 1, 2009- June 30, 2010	\$19,200
5. July 1, 2010- June 30, 2011	\$19,200
6. July 1, 2011- June 30, 2012	\$19,200
7. July 1, 2012- June 30, 2013	\$19,200
8. July 1, 2013- June 30, 2014	\$19,200

Years 9-13

9. July 1, 2014- June 30, 2015	\$21,600
10. July 1, 2015- June 30, 2016	\$21,600
11. July 1, 2016- June 30, 2017	\$21,600
12. July 1, 2017- June 30, 2018	\$21,600
13. July 1, 2018- June 30, 2019	\$21,600

Years 14-16

14. July 1, 2019- June 30, 2020	\$24,000
15. July 1, 2020- June 30, 2021	\$24,000
16. July 1, 2021- June 30, 2022	\$24,000

Reo# 97-550
6-16-97

LEASE AGREEMENT

This Lease ("Lease") is entered into this 6th day of October, 1998, between the CITY OF TROY , a Michigan municipal corporation, whose address is 500 West Big Beaver, Troy, Michigan 48084, ("Landlord") and AT&T WIRELESS SERVICES PCS, INC. , a Delaware corporation, acting by and through its Agent, WIRELESS PCS, INC., d/b/a AT&T WIRELESS SERVICES , whose address is 26877 Northwestern Highway, Suite 350, Southfield, MI 48034, ("Tenant").

RECITALS

- A. Landlord is the owner of a certain parcel of land located in the City of Troy, commonly known as the "Lowery Street Site", legally described on the attached **Exhibit A** (the "Property").
- B. Tenant is in the telecommunications business and desires to lease from Landlord a certain part of the Property, which part is legally described on Exhibit B (the "Premises") to install and operate on the Premises a one hundred seventy-five (176') foot high self-supporting lattice tower (the "Tower") furnished by the Michigan Department of Transportation ("MDOT") in accordance with the plans and specifications for the Premises, installed by Tenant for use by Tenant in connection with its telecommunications business, and for use by Landlord and others authorized by Landlord and Tenant for communication purposes and other non-interfering uses.
- C. Landlord is willing to lease to Tenant and Tenant is willing to lease from Landlord the Premises upon the terms and conditions set forth in this Lease Agreement (the "Lease").

THEREFORE, in consideration of the mutual covenants contained in this Lease, the Landlord and Tenant agree as follows:

1. **Leased Premises.** Landlord leases to Tenant and Tenant leases from Landlord the ground space described on **Exhibit A** to install the Tower and to construct one equipment shelter of 21' x 42-1/2' in accordance with the site plan attached as **Exhibit B** (the "Equipment Shelter") for use by Landlord, Tenant, MDOT and two (2) other users, together with a non-exclusive easement for ingress, egress and utilities over the adjacent real property as legally described on the attached **Exhibit B** under the caption "Access Easement" and "Utilities Easement". Landlord and Tenant acknowledge that Landlord may use the vertical space at _____ feet on the Tower unless modified by a written amendment executed by Landlord and Tenant and that Tenant may use the vertical space at 166 feet on the Tower. The Equipment Shelter shall be constructed with separate rooms for use by Tenant, MDOT, Landlord and two (2) other users, with separate entrances, electrical outlets and utility services for each occupant. All of the foregoing are collectively referred to as the "Premises". This Lease is not a franchise pursuant to Article 7, Section 29 of the Michigan Constitution, nor is it a permit to use the rights-of-way under Article 2A of the Michigan Telecommunications Act, Act No. 216 of the Public Acts of 1995. Any such franchise or Act 216 permit must be obtained separately from Landlord.

2. **Term and Renewals.** The initial term of this Lease shall commence on the date of issuance of a Certificate of Occupancy by the City (the "Commencement Date") and shall end on June 30, 2004. Provided Tenant is not then in default under this Lease, this Lease shall be automatically renewed for up to three (3) successive renewal terms of five (5) years each at the expiration of each preceding term and one (1) final renewal term of three (3) years, unless Tenant notifies Landlord in writing at least one hundred twenty (120) days prior to expiration of the then current term of the Lease. Each renewal shall be on the same terms and conditions as are contained in this Lease, except that the rental rate shall be adjusted as provided on **Exhibit C** of this Lease and there shall be no renewal after the final renewal term.

3. **Rent and Other Consideration.**

a. Tenant shall pay Landlord a lump sum, non-refundable initial payment of One Hundred Thousand (\$100,000.00) Dollars in lieu of annual rent for the initial seven (7) years, in addition, Forty Thousand (\$40,000.00) Dollars for the purchase of microwave communications equipment by the City. As additional consideration for the initial term of the Lease, Tenant shall install the Tower on the Premises and construct the Equipment Shelter as specified in paragraph 1 of this Lease, and as shown and described on **Exhibit B** and **Exhibit D**. In addition, Tenant shall pay Landlord as annual rent for the Premises each year during the term of this Lease the rental specified on **Exhibit C**. The annual rent payments shall commence without further notice on July 1, 2004. If the term of the Lease shall commence on a date other than July 1, the term of the initial term shall be adjusted by the number of days between the Commencement Date and July 1 so that all of Landlord's Tower and Antennae Leases shall be on July 1 anniversary dates. Tenant shall pay Landlord Rent annually in advance on July 1 of each year that the Lease is in effect. All Rent shall be paid without offset.

b. Tenant shall pay Landlord a late payment charge equal to five (5%) percent of the late payment for any payment not paid when due. Any amounts not paid when due shall also bear interest until paid at the lesser of the rate of two (2%) percent per month or the highest rate permitted by law.

c. To the extent that Landlord desires to purchase services from Tenant, Tenant shall offer services to Landlord at the most favorable rate and terms that Tenant offers to any other municipality.

d. In addition, upon execution of this Lease by Tenant, Tenant shall reimburse Landlord for its reasonable costs and expenses, including hardware, consultant and attorney fees, incurred by Landlord in connection with the negotiation and preparation of this Lease, Ten Thousand (\$10,000.00) Dollars for all of the leases negotiated concurrently at the time of this Lease.

e. Tenant agrees to use its best efforts to colocate future facilities and minimize the number of new Towers in the City.

4. **Use of Premises; Compliance with Laws.** Tenant shall use the Premises for the installation, construction, operation, maintenance and repair of a telecommunications tower, equipment shelter, related facilities, antennae or buildings and for no other purposes. Landlord and Tenant agree to restrict their use of the Tower to their designated spaces as set forth in Paragraph 1. Landlord reserves the right to require Tenant to move Tenant's antenna locations on the Tower to accommodate Landlord's own needs, provided, however, that Tenant shall in all cases be able to utilize the Tower at the new location for its intended purpose. Upon receipt of notice directing Tenant to move its antenna locations, Tenant shall move such antennae at Landlord's cost, subject to Landlord's supervision in accordance with the following provisions:

a. If Landlord desires that Tenant move its antenna locations, Landlord shall give Tenant sixty (60) days notice, which notice shall contain the location on the Tower required by Landlord to be occupied by Tenant in order to allow Tenant to comply with applicable rules and regulations of the Federal Communications Commission ("FCC") and to provide similar coverage.

b. Any movement of Tenant's antenna(e) shall not serve to increase or decrease the Rent to be paid by Tenant.

c. At the request of Landlord, Tenant shall at Landlord's reasonable cost and only with Landlord's prior approval, obtain the written opinion of a licensed structural engineer and/or electronics engineer in good standing with the State of Michigan which determines that the new location of the antenna(e) is structurally appropriate and will not interfere with the communication requirements of other Tower users, including Landlord.

Tenant shall, at its expense, comply with all present and future federal, state, and local laws, ordinances, rules and regulations (including but not limited to laws and ordinances relating to health, safety, radio frequency emissions, and radiation) in connection with the use, operation, maintenance, construction and/or installation of the Premises. In connection with any required approvals or extensions, Landlord agrees to cooperate with Tenant in obtaining, at Tenant's expense, all licenses, permits and authorizations required for Tenant's use of the Premises from all applicable governmental and regulatory entities (the "Governmental Approvals"). Landlord agrees to allow Tenant to perform surveys, soils testing, and other engineering procedures and environmental investigations on, under and over the Premises to determine that the Premises are suitable for Tenant's intended use, provided Tenant restores any property or soil disturbed by such activities. Tenant expressly agrees to indemnify and hold the Landlord, its employees, appointed and elected officials, and volunteers and other individuals working on behalf of the Landlord, harmless against any losses, costs, expenses, damages, liabilities, or claims whether groundless or not, arising out of bodily injury, sickness or disease, including death resulting at any time therefrom, which may be sustained or claimed by any person or persons, or destruction of any property, (including the loss of use thereof) based on any act or omission, negligent or otherwise, of the Tenant or anyone acting on behalf of the Tenant incident to the entry, investigation or testing of the Premises, except that Tenant shall not be responsible for indemnification to the Landlord for damages caused by or resulting from the Landlord's sole negligence; and Tenant shall at its own cost and expense, defend any such claim and any suit,

action or proceeding which may be commenced thereunder and Tenant shall pay any and all judgments which may be recovered in any such suit, action or proceeding and any and all expenses, including but not limited to costs, attorney fees and settlement expenses which may be incurred therein as they relate in any way to such investigation.

5. **Landlord's Use of Premises.** Until such time as the Tower is conveyed to Landlord by MDOT, the Tower, installed by Tenant, shall be owned by MDOT. Landlord shall have the right to use the Premises and the portion of the Tower allocated to Landlord in Paragraph 1 for any lawful purpose. In addition, Landlord shall have the right to lease the Tower to other users for commercial purposes (except for that part occupied or served by Tenant, MDOT and Landlord), subject to review by Landlord, MDOT and Tenant to determine that the proposed use will not unreasonably interfere with either's operation. The person seeking to install the additional antennae upon the Tower shall provide at its expense sufficient information as may be required by Landlord, Tenant and the MDOT to determine that the new proposed use will not interfere with use of the Tower by MDOT, Tenant or Landlord or cause any adverse effect on the structural integrity of the Tower. All rental income derived from the Tower and Premises shall be payable to Landlord, and the terms and conditions of any such agreement must be approved by Landlord and Tenant shall not unreasonably withhold its approval of any such use.

6. **Tenant Improvements; Tenant's Use of Landlord's Tower.** After the Commencement Date, and after obtaining site plan approval for the Tower and having it delivered to the Premises, Tenant shall construct the Tower and the Equipment Shelter as shown on the attached Exhibits within ninety (90) days thereafter. The Tower and related facilities shall be so constructed to be able to accommodate the antennae of Tenant, Landlord, MDOT and two (2) other wireless communication providers. The Equipment Shelter shall be for use by the Tenant, MDOT, Landlord and two (2) other users. The Equipment Shelter shall be constructed of brick materials to match the existing building on the Property or of other suitable materials approved by the Landlord's City Manager. Tenant shall also construct all ancillary support facilities as set forth in the Specifications set forth in **Exhibit E**, within the time period specified above. Prior to commencing construction, Tenant shall submit plans and specifications for all improvements to Landlord for Landlord's written approval, such approval not to be unreasonably withheld. Prior to commencing construction, Tenant shall also provide Landlord with the name of the contractor that will be constructing the improvements. Tenant shall also install antennae for the Landlord and MDOT if engineering, design and other specifications are timely made available to Tenant by Landlord and MDOT. The contractor is subject to the prior written approval of Landlord, which approval shall not be unreasonably withheld. All improvements shall be constructed in a workmanlike manner without the attachment of any liens to the Premises and shall be completed in compliance with all applicable laws, rules, ordinances and regulations. The Tower shall remain the property of the MDOT until conveyed by the MDOT to the Landlord pursuant to its Lease terms.

7. **Net Lease.** Landlord and MDOT shall not be required to make any expenditures of any kind in connection with this Lease or to make any maintenance, repairs or improvements to the Premises. In addition to the Rent reserved above, Tenant shall pay to the party entitled thereto its prorated share of all taxes, assessments, insurance premiums, maintenance charges, and

any other charges, costs and expenses against the Premises which may be contemplated under any provisions of this Lease, provided however, that the taxes, maintenance and insurance charges for the Tower shall be prorated among the users, other than Landlord, based upon the number of such users. In addition, Tenant shall be responsible for its prorata share of the taxes, maintenance and insurance charges relating to the Tower that would otherwise be chargeable to the MDOT or Landlord. If the number of commercial users shall change during the term of this Lease, the proportionate share of the expenses shall be adjusted accordingly between any commercial users (except MDOT and Landlord).

8. **Signs.** Tenant shall not place any signs on the Premises without Landlord's written approval. Landlord shall have the right to withhold approval of any sign which in Landlord's sole discretion is not compatible with Landlord's use and development of the Property.

9. **Taxes.** Tenant shall pay all real property taxes and assessments for the Premises, if any, which become due and payable during the term of this Lease which are associated with its use. All such payments shall be made, and evidence of all such payments shall be provided to Landlord, at least ten (10) days prior to the delinquency date of the payment. Tenant shall pay all taxes on its personal property on the Premises. If the methods of taxation in effect at the Commencement Date of the Lease are altered so that in lieu of or as a substitute for any portion of the real property taxes and special assessments now imposed on real property there is imposed any tax Tenant shall pay those amounts in the same manner as provided for the payment of real property taxes.

10. **Maintenance.** Tenant shall, at its own expense, maintain the Premises and all improvements, equipment and other personal property installed upon the Premises by Tenant in good working order, condition and repair. As additional consideration for this Lease, Tenant agrees to pay its equal prorata share of MDOT and Landlord's share of the maintenance and insurance costs of the Tower. Landlord and Tenant shall require all other users of the Tower to pay for their respective share of the maintenance and insurance costs of the Tower and related facilities. Such users shall be equally responsible for maintenance and insurance (including if Tenant terminates this Lease). Tenant shall provide itemized statements for the maintenance work if requested by Landlord or any user of the Tower. Tenant shall also keep the Premises free of debris and anything of a dangerous, noxious or offensive nature or which would create a hazard or undue vibration, heat, noise or interference. Tenant shall submit to Landlord and other users of the Tower an annual inspection report prepared by a competent tower inspection company regarding the integrity and maintenance of the Tower. Costs of the annual inspection report shall be prorated among the commercial users of the Tower.

11. **Quiet Enjoyment.** Landlord covenants and agrees that upon payment by the Tenant of the Rent under this Lease and upon the observance and performance of all the covenants, terms and conditions on Tenant's part to be observed and performed, Tenant shall peaceably and quietly hold and enjoy the property, the rights, and privileges granted for the term demised without hindrance or interference by Landlord or any other person, and Landlord shall

perform all of its obligations under this Lease. Tenant agrees that it will not at any time interfere with the use of the Premises by Landlord or its invitees except in the case of an emergency. Landlord and its invitees shall have the right to conduct activities in the area of the Tower without constituting a breach of Tenant's right of quiet enjoyment of the Property.

12. **Access.** Subject to the limitation set forth in Paragraph 11, Landlord and its agents shall have the right to enter the Premises at reasonable times to examine and inspect the Premises. Tenant shall have access to the Premises 24 hours a day 7 days per week, provided it does not interfere with Landlord's operations on the Premises.

13. **Utilities.** Tenant shall at its sole expense provide any utility service to the Premises that it desires. If there are additional users of the Tower, each user's utility usage shall be separately metered. Tenant shall pay when due all charges for its usage of utilities to the Premises during the term of the Lease.

14. **License Fees.** Tenant shall pay, as they become due and payable, all fees, charges, taxes and expenses required for licenses and/or permits required for or occasioned by Tenant's use of the Premises.

15. **Broadcast Interference.**

a. **Definition.** As used in this Lease, "interference" with a broadcasting activity means:

- (i) Interference within the meaning of the provisions of recommended practices of the Electronics Industries Associations (EIA) and the rules and regulations of the Federal Communications Commission (FCC) then in effect, or
- (ii) A material impairment of the quality of either sound or picture signals on a broadcasting activity as may be defined by the FCC at any hour during the period of operation of activity, as compared with that which would be obtained if no other broadcaster were broadcasting from the Property or had any equipment on the Property.

b. Tenant shall take reasonable actions to prevent and properly remove any interference with broadcast activities of Landlord or other tenants of Landlord caused by Tenant's use of the Premises. Landlord shall take reasonable actions to prevent and promptly remove or cause to be removed any interference with Tenant's broadcast activities caused by Landlord or Landlord's lessees, licensees, invitees, or agents.

16. **Governmental Approvals.** This Lease is contingent upon Tenant's obtaining all necessary governmental approvals, permits or licenses that Tenant may deem necessary. This

contingency shall be deemed waived sixty (60) days after date of this Lease unless Tenant provides Landlord written notice within the sixty (60) day period that it is terminating the Lease due to its inability to obtain necessary approvals.

17. Default and Landlord's Remedies.

a. It shall be a default if:

- (i) Tenant defaults in the payment of any sums to Landlord when due, and does not cure such default within ten (10) days.
- (ii) Tenant defaults in the performance of any other covenant or condition of this Lease and does not cure such other default within thirty (30) days after written notice from Landlord specifying the default complained of.
- (iii) Tenant abandons or vacates the Premises.
- (iv) Tenant is adjudicated a bankrupt or makes any assignment for the benefit of creditors.
- (v) Tenant becomes insolvent or Landlord reasonably believes itself to be insecure.

b. In the event of a default under this Lease by Tenant, Landlord shall be entitled to any remedies provided under this Lease and as shall then be provided by law; except that Landlord shall not be entitled to distrain any personal property (including fixtures) on the property except those to which Landlord is entitled at the end of the term of the Lease; provided that prior to and as a condition precedent to the exercise of any remedy, Landlord shall give to Tenant written notice of default and the nature of the default and Tenant shall have thirty (30) days (or if the default cannot be cured within thirty (30) days a longer period as shall be necessary to cure the default acting with due diligence) after receipt of the notice within which to cure the default during which period no remedy shall be pursued.

c. For a breach of any provision of this Lease requiring that the use be in compliance with all applicable laws, rules, regulations, or standards, including but not limited to FCC rules and regulations, interference standards, environmental laws, or health protection laws, rules or regulations, Landlord may, in addition to any other remedy it may have under this Lease or at law, obtain a temporary restraining order and preliminary injunction compelling it to cease and desist all operations on the Leased Premises until further order of the Court, since Landlord does not have an adequate remedy at law. Prior to invoking such remedy, Tenant shall be given a thirty (30) day notice of the alleged default so that it may cure such default.

d. No re-entry and taking of possession of the Premises by Landlord shall be construed as an election on Landlord's part to terminate this Lease, regardless of the extent of

renovations and alterations by Landlord, unless a written notice of such intention is given to Tenant by Landlord. Notwithstanding any reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach.

e. If suit shall be brought by Landlord for recovery of possession of the Premises, for the recovery of any rent or any other amount due under the provisions of this Lease, or because of the breach of any other covenant, the Tenant shall pay to the Landlord all expenses incurred therefor, including reasonable attorney fees.

18. **Cure by Landlord.** In the event of any default of this Lease by Tenant, the Landlord may at any time, after notice, cure the default for the account of and at the expense of the Tenant. If Landlord is compelled to pay or elects to pay any sum of money or to do any act which will require the payment of any sum of money or is compelled to incur any expense, including reasonable attorney fee in instituting, prosecuting or defending any action to enforce the Landlord's rights under this Lease, the sums so paid by Landlord, with all interest, costs and damages shall be deemed to be Additional Rental and shall be due from the Tenant to Landlord on the first day of the month following the incurring of the respective expenses.

19. **Damage or Destruction.** If the Tower or any portion of the Tower is destroyed or damaged so as to materially hinder effective use of the Tower due to an "act of God" or other cause which is not the fault of the Landlord, Landlord may elect to terminate this Lease if Tenant does not repair or restore the Premises within one hundred twenty (120) days of written notice to Tenant of the damage or destruction which period Landlord agrees to reasonably extend if Tenant has diligently pursued such repair or restoration, but has been unable to complete such work for reasons beyond its control. In such event, all rights and obligations of the parties shall cease as of the date of the damage or destruction. Landlord shall be entitled to retain any consideration paid it by MDOT. Landlord requires Tenant to repair or restore the Premises for use by MDOT.

20. **Condemnation.** In the event the Premises are taken by eminent domain, this Lease shall terminate as of the date title to the Premises vests in the condemning authority. In the event a portion of the Premises is taken by eminent domain so as to materially hinder effective use of the Premises by Tenant, either party shall have the right to terminate this Lease as of said date of title transfer, by giving thirty (30) days written notice to the other party. In the event of any taking under the power of eminent domain, Tenant shall not be entitled to any portion of the award paid for the taking and the Landlord shall receive full amount of such award. Tenant shall hereby expressly waive any right or claim to any portion thereof although all damages, whether awarded as compensation for diminution in value of the leasehold or to the fee of the Premises, shall belong to Landlord. Tenant shall have the right to claim and recover from the condemning authority, but not from Landlord, such compensation as may be separately awarded or recoverable by Tenant on account of any and all damage to Tenant's business and any costs or expenses incurred by Tenant in moving/removing its equipment, personal property, and leasehold improvements.

21. **Indemnity and Insurance.**

a. **Disclaimer of Liability.** Landlord shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of Tenant's construction, maintenance, repair, use, operation, condition or dismantling of the Premises.

b. **Indemnification.** Tenant shall, at its sole cost and expense, indemnify and hold harmless Landlord and all associated, affiliated, allied and subsidiary entities of Landlord, now existing or hereinafter created, and their respective officers, boards, commissions, employees, agents, attorneys, and contractors (hereinafter referred to as "Indemnitees"), from and against:

(i) Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Indemnitees by reason of any act or omission of Tenant, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name, copyright, patent, service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance, use or condition of the Premises or the Tenant's failure to comply with any federal, state or local statute, ordinance or regulation.

(ii) Any and all liabilities, obligations, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and other consultants), which are imposed upon, incurred by or asserted against the Indemnitees by reason of any claim or lien arising out of work, labor, materials or supplies provided or supplied to Tenant, its contractors or sub-contractors, for the installation, construction, operation, maintenance or use of the Premises and, upon the written request of Landlord, Tenant shall cause such claim or lien covering Landlord's property to be discharged or bonded within thirty (30) days following such request.

c. **Assumption.** Tenant undertakes and assumes for its officers, agents, contractors and subcontractors and employees (collectively "Tenant" for the purpose of this section), all risk of dangerous conditions, if any, on or about the Premises, and Tenant hereby agrees to indemnify and hold harmless the Indemnitees against and from any claim asserted or

liability imposed upon the Indemnitees for personal injury or property damage to any person (other than from Indemnitee's gross negligence) arising out of the Tenant's installation, operation, maintenance, condition or use of the Premises or Tenant's failure to comply with any federal, state or local statute, ordinance or regulation.

d. **Defense of Indemnitees.** In the event any action or proceeding shall be brought against the Indemnitees by reason of any matter for which the Indemnitees are indemnified hereunder, Tenant shall, upon notice from any of the Indemnitees, at Tenant's sole cost and expense, resist and defend the same with legal counsel mutually selected by Tenant and Landlord; provided however, that Tenant shall not admit liability in any such matter on behalf of the Indemnitees without the written consent of Landlord and provided further that Indemnitees shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified hereunder, without the prior written consent of Tenant.

e. **Notice, Cooperation and Expenses.** Landlord shall give Tenant prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this paragraph. Nothing shall be deemed to prevent Landlord from cooperating with Tenant and participating in the defense of any litigation by Landlord's own counsel. Tenant shall pay all expenses incurred by Landlord in response to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the reasonable value of any services rendered by the Landlord's attorney, and the actual expenses of Landlord's agents, employees or expert witnesses, and disbursements and liabilities assumed by Landlord in connection with such suits, actions or proceedings but shall not include attorneys fees for services that are unnecessarily duplicative of services provided Landlord by Tenant. If Tenant requests Landlord to assist it in such defense then Tenant shall pay all expenses incurred by Landlord, including defending itself with regard to any such actions, suits or proceedings. These expenses shall include all out-of-pocket expenses such as attorney fees and shall also include the costs of any services rendered by the Landlord's attorney, and the actual expenses of Landlord's agents, employees or expert witnesses, and disbursements and liabilities assumed by Landlord in connection with such suits, actions or proceedings.

f. **Insurance.** During the term of the Lease, Tenant shall maintain, or cause to be maintained, in full force and effect and at its sole cost and expense, the following types and limits of insurance:

- (i) Worker's compensation insurance meeting Michigan statutory requirements.
- (ii) Comprehensive commercial general liability insurance with minimum limits of Three Million (\$3,000,000) Dollars as the combined single limit for each occurrence of bodily injury, personal injury and property damage. The policy shall provide blanket contractual liability insurance for all written contracts, and shall include coverage for completed operations liability, independent contractor's liability; coverage for property damage from perils of

explosion, collapse or damage to underground utilities, commonly known as XCU coverage.

- (iii) Automobile liability insurance covering all owned, hired, and non-owned vehicles in use by Tenant, its employees and agents, with personal protection insurance and property protection insurance to comply with the provisions of the Michigan No-Fault Insurance Law including residual liability, insurance with minimum limits of One Million (\$1,000,000) Dollars as the combined single limit for each occurrence for bodily injury and property damage.
- (iv) Property insurance in the full insurable replacement value of the Tower, Equipment Shelter and related facilities on a prorata basis with other commercial users.
- (v) At the start of and during the period of any construction, builders all-risk insurance, together with an installation floater or equivalent property coverage covering cables, materials, machinery and supplies of any nature whatsoever which are to be used in or incidental to the installation of the Tower. Upon completion of the installation of the Tower, Tenant shall substitute for the foregoing insurance policies of fire, extended coverage and vandalism and malicious mischief insurance on the Premises. The amount of insurance at all times shall be representative of the insurable values installed or constructed.
- (vi) Business interruption insurance coverage in an amount sufficient to cover such loss of revenues, for the period of time which it would take, under normal circumstances, to repair or replace that part(s) of the Premises which is damaged and caused the loss of revenue.
- (vii) All policies other than those for Worker's Compensation shall be written on an occurrence and not on a claims made basis.
- (viii) The coverage amounts set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.

g. **Named Insured.** All policies, except for business interruption and worker's compensation policies, shall name Landlord and all associated, affiliated, allied and subsidiary entities of Landlord, now existing or hereafter created, and their respective officers, boards, commissions, employees, agents and contractors, as their respective interests may appear as additional insured (herein referred to as the "Additional Insured"). Each policy which is to be endorsed to add Additional Insured hereunder, shall contain cross-liability wording, as follows:

In the event of a claim being made hereunder by one insured for which another insured is or may be liable, then this policy shall cover such insured against whom a claim is or may be made in the same manner as if separate policies had been issued to each insured hereunder.

h. **Evidence of Insurance.** Certificates of insurance for each insurance policy required to be obtained by Tenant in compliance with this paragraph, along with written evidence of payment of required premiums shall be filed and maintained with Landlord annually during the term of the Lease. Alternatively, Tenant shall provide Landlord with evidence of participation in a satisfactory self-insurance program. Tenant shall immediately advise Landlord of any claim or litigation that may result in liability to Landlord.

i. **Cancellation of Policies of Insurance.** All insurance policies maintained pursuant to this Lease shall contain the following endorsement:

At least thirty (30) days prior written notice shall be given to Landlord by the insurer of any intention not to renew such policy or to cancel, replace or materially alter same, such notice to be given by registered mail to the parties named in this paragraph of the Lease.

j. **Insurance Companies.** All insurance shall be effected under valid and enforceable policies, insured by insurers licensed to do business by the State of Michigan which are satisfactory to Landlord.

k. **Deductibles.** All insurance policies may be written with deductibles, not to exceed \$50,000 unless approved in advance by Landlord. Tenant agrees to indemnify and save harmless Landlord, the Indemnitees and Additional Insured from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished by this Lease.

l. **Contractors.** Tenant shall require that each and every one of its contractors and their subcontractors carry, in full force and effect, workers' compensation, comprehensive public liability and automobile liability insurance coverage of the type which Tenant is required to obtain under the terms of this paragraph with appropriate limits of insurance.

m. **Review of Limits.** Once during each calendar year during the term of this Lease, Landlord may review the insurance coverage to be carried by Tenant. If Landlord determines that higher limits of coverage are necessary to protect the interests of Landlord or the Additional insured, Tenant shall be so notified and shall obtain the additional limits of insurance, at its sole cost and expense.

22. **Hazardous Substance Indemnification.** Landlord and Tenant represent and warrant that their respective use of the Premises will not generate any hazardous substance, and

they will not store or dispose on the Premises nor transport to or over the Premises any hazardous substance. Each party further agrees to hold the other harmless from and indemnify such party against any release of any such hazardous substance and any damage, loss, or expense or liability resulting from such release, including all attorney fees, costs and penalties incurred as a result thereof except any release caused by the negligence of the releasing party, its employees or agents. "Hazardous substance" shall be interpreted broadly to mean any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any federal, state or local environmental law, regulation or rule presently in effect or promulgated in the future, as such laws, regulations or rules may be amended from time to time; and it shall be interpreted to include, but not be limited to, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death or disease.

23. **Holding Over.** Any holding over after the expiration of the term hereof, with the consent of the Landlord, shall be construed to be a tenancy from month to month at two times the rents specified in this Lease prorated on a monthly basis) and shall otherwise be for the term and on the conditions specified in this Lease, so far as applicable.

24. **Subordination to Mortgage.** Any mortgage now or subsequently placed upon any property of which the Premises are a part shall be deemed to be prior in time and senior to the rights of the Tenant under this Lease. Tenant subordinates all of its interest in the leasehold estate created by this Lease to the lien of any such mortgage. Tenant shall, at Landlord's request, execute any additional documents necessary to indicate this subordination.

25. **Removal of Equipment; Restoration;** Except as otherwise provided herein, upon the expiration of this Lease, or the earlier termination and cancellation of this Lease by Tenant for any reason, Tenant may remove all of its antennae, equipment and other personal property located within the Equipment Shelter, and fixtures, including but not limited to its transmitting and receiving equipment, transmitting and receiving antennae and transmission lines. The Tower installed by Tenant and the Equipment Shelter will remain at the Leased Premises and, if requested by Landlord, Tenant shall convey the Equipment Shelter to the Landlord for One (\$1.00) Dollar at Landlord's option upon the termination of the Agreement. If requested by Landlord, Tenant shall remove the Equipment Shelter and Tower within ninety (90) days of the termination of this Lease. Conveyance of the Equipment Shelter shall be by an instrument approved by Landlord's counsel. Tenant shall not remove any improvements which are required to be or which have been conveyed to Landlord pursuant to this Lease. All removals required to be made by Tenant shall be completed with ninety (90) days after the effective date of expiration or other termination. Tenant shall restore the Property to substantially the same condition as existed as of the commencement of the term of this Lease, reasonable wear and tear excepted, provided, however, that Tenant will remove any driveways, sidewalks and foundation if requested by Landlord in accordance with Landlord's codes, ordinances or regulations. Underground piping or wiring or any other fixtures or improvements shall be reduced to a depth of not less than one foot below ground level, unless other requirements are imposed by Landlord under its applicable codes. Tenant shall not remove any security fence built by Tenant (unless otherwise requested by Landlord) and same shall become the property of the Landlord. In the event that the Tenant

fails to remove any improvements it installed on the Property which it is required or entitled to remove within ninety (90) days of the termination of the Lease, Landlord may do so with the reasonable costs of same to be charged to the Tenant.

26. **Removal Bond.** Upon termination, Tenant shall provide a letter of credit, cash deposit or other security satisfactory to Landlord's counsel in an amount determined by a licensed structural engineer for Tenant's one-third of the cost of removing the Tower, Equipment Shelter and related facility as required under Section 25.

27. **Acceptance of Premises.** By taking possession of the Premises, Tenant accepts the Premises in the condition existing as of the Commencement Date. Landlord makes no representation or warranty with respect to the condition of the Premises and Landlord shall not be liable for any latent or patent defect in the Premises.

28. **Estoppel Certificate.** Tenant shall, at any time and from time to time upon not less than ten (10) days prior request by Landlord, deliver to Landlord a statement in writing certifying that

- a. the Lease is unmodified and in full force (or if there have been modifications, that the Lease is in full force as modified and identifying the modification);
- b. the dates to which rent and other charges have been paid;
- c. so far as the person making the certificate knows, Landlord is not in default under any provisions of the Lease; and
- d. such other matters as Landlord may reasonably request.

29. **Notices.** All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested; to the following addresses:

If to Landlord, to:

City Manager
City of Troy
500 West Big Beaver Road
Troy, MI 48084

With a copy to:

City Attorney
City of Troy
500 West Big Beaver Road
Troy, MI 48084

If to Tenant, to:

AT&T Wireless Services, PCS, Inc.
Attn: General Counsel
26877 Northwestern Highway, Suite 350
Southfield, MI 48034

30. **Assignment and Subletting.** Tenant shall not assign this Lease in whole or in part, or sublet all or any part of the Premises without the Landlord's prior written consent, except that it is permissible to assign such Lease to a parent or subsidiary of the Tenant or to any entity which purchases substantially all of the assets of the Tenant. Consent by Landlord to any assignment or subletting shall not constitute a waiver of the necessity of such consent to any subsequent assignment or subletting. This prohibition against any assignment or subletting shall not be construed to include a prohibition against any subletting or assignment by operation of law. If this Lease is assigned, or if the Premises or any part thereof is sublet or occupied by anyone other than Tenant, Landlord may collect rent from the assignee, subtenant or occupant and apply the net amount collected to the rent and other obligations of Tenant, but no assignment, subletting, occupancy or collection shall be deemed a waiver or release of Tenant from the further performance by Tenant of the covenants on the part of Tenant. Notwithstanding any assignment or sublease, Tenant shall remain fully liable on this Lease and shall not be released from performing any of the terms, covenants and conditions of this Lease. Any person or entity to which this Lease is assigned pursuant to the Bankruptcy Code, 11 USC §101, et seq., shall be deemed without further act to have assumed all of the obligations of Tenant arising under this Lease on and after the date of such assignment. Any such assignee shall upon demand execute and deliver to Landlord an instrument confirming such assumption. Any monies or other considerations payable or otherwise to be delivered in connection with such assignment shall be paid to Landlord, shall be the exclusive property of Landlord, and shall not constitute property of the Tenant or of the estate of Tenant within the meaning of the Bankruptcy Code. Any monies or other considerations constituting Landlord's property under the preceding sentence not paid or delivered to Landlord shall be held in trust for the benefit of Landlord and be promptly paid to Landlord.

31. **Successors and Assigns.** This Lease shall be binding upon and inure to the benefit of the parties, their respective heirs, personal representatives, successors and assigns.

32. **Co-Location.** Tenant agrees to allow the Landlord, MDOT and two (2) other telecommunications providers to lease space upon the Tower upon reasonable request of such users, provided the use does not unreasonably interfere with Tenant's use, with rent received from the Tower payable to Landlord. Such colocation and lease terms, by additional users, shall be subject to review and approval by Landlord as required by this Lease.

33. **Contact Person; Notice of Change.** In order to have Landlord be able to contact the Tenant at any time with respect to the construction or operation of the Tower or its ancillary facilities, it is imperative that the Landlord have a current contact person and current phone

number of such contact person at all times. Tenant has designated the following person with the following phone number as the contact person in charge of the oversight of construction and operation of the Tower:

Anthony Amine
Office - (248) _____
Pager - (248) _____

Tenant shall advise Landlord with 24 hours of any change in either the contact person or the phone number of the contact person.

34. **Lease Memorandum.** Simultaneous with the execution of this Lease, the parties have executed a Memorandum of Lease. Tenant or Landlord may record the Memorandum of Lease. If Tenant's survey of the Premises requires a correction to the legal description rider attached to the Memorandum of Lease, the parties will execute in recordable form a modified Memorandum of Lease or a supplement to the Memorandum of Lease.

35. **Termination.**

a. By Tenant, Tenant may terminate this Lease by notice to Landlord, without further liability, if Tenant does not obtain within sixty (60) days all permit or other approvals (collectively, "approved") required from any governmental authority or any easements required from any third party to operate the PCS system (provided Tenant has diligently pursued obtaining such approval or easements in good faith, or if Landlord does not have proper ownership of the Premises, or authority to enter into this Lease).

b. By Landlord, Landlord may terminate this Lease for any default by Tenant in its obligations under this Lease as provided in Paragraph 17.

36. **Miscellaneous.**

a. Landlord and Tenant represent that each, respectively has full right, power, and authority to execute this Lease.

b. This Lease constitutes the entire agreement and understanding of the parties and supersedes all offers, negotiations, and other agreements of any kind. There are no representations or understandings of any kind not set forth. Any modification of or amendment to this Lease must be in writing and executed by both parties.

c. This Lease shall be construed in accordance with the laws of the State of Michigan.

d. If any term of this Lease is found to be void or invalid, such invalidity shall not effect the remaining terms of this Lease, which shall continue in full force and effect.

e. Tenant agrees to look solely to the interest of Landlord in the Premises for the satisfaction of any judgment against Landlord as a result of any breach by Landlord of its obligations under this Lease. No other property of Landlord shall be subject to levy or execution as a result of any claim by Tenant against Landlord arising out of the relationship created by this Lease.

This Lease was executed as of the date first set above.

WITNESSED:

LANDLORD:

**CITY OF TROY, a Michigan
municipal corporation**



CECILIA A. BRUKWINSKI

By: 

JEANNE M. STINE
Its: Mayor



MARYANN HAYS

By: 

TAMARA A. RENSHAW
Its: Clerk

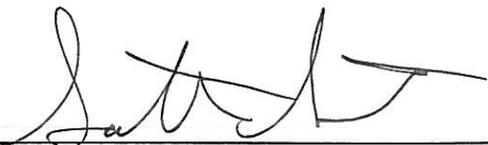
WITNESSES:

TENANT:

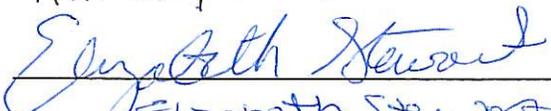
**AT&T Wireless PCS, Inc., a
Delaware corporation, acting
by and through its Agent,
Wireless PCS Inc., d/b/a
AT&T Wireless Services**



Anthony M. Amhe

By: 

SCOTT SANTI



Elizabeth Stewart

Title: Director of System Development

STATE OF MICHIGAN)

)ss.

COUNTY OF _____)

The foregoing Lease Agreement was acknowledged before me this 6th day of October, 1998, by ^{JEANNE}M. STINE and ^{TAMARA}A. RENSCH Mayor and City Clerk, respectively, of the CITY OF TROY, a Michigan municipal corporation, on behalf of the Corporation.

Cecilia A. Brukwinski

, Notary Public

OAKLAND County, Michigan

My Commission Expires:

CECILIA A. BRUKWINSKI
Notary Public, Oakland County, MI
My Commission Expires June 18, 2002

STATE OF MICHIGAN)

)ss.

COUNTY OF Oakland)

The foregoing Lease Agreement was acknowledged before me this 2nd day of October, 1998, by SCOTT SANTI, Director of System Development of AT&T Wireless PCS, Inc., a Delaware corporation, acting by and through its Agent, Wireless PCS Inc., d/b/a AT&T Wireless Services, on behalf of the corporation.

Elizabeth Howard
, Notary Public

_____ County, Michigan

My Commission Expires: 9/22/99

DRAFTED BY:

Neil J. Lehto
O'Reilly, Rancilio, Nitz,
Andrews & Turnbull, P.C.
12900 Hall Road, Suite 350
Sterling Heights, MI 48313-1151

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

To the Agreement dated _____, 1998 by and between the City of Troy, a Michigan municipal corporation ("Landlord") and AT&T Wireless Services, PCS, Inc., a Delaware corporation, acting by and through its Agent, Wireless PCS, Inc.

Lot 37, 38, 39 and 40 inclusive of "Beaver Park Subdivision" of West part of Northeast $\frac{1}{4}$ section 28, T.2N., R.11E., City of Troy, Oakland County, Michigan (L. 28, P. 29, O.C.R.), containing 1.00 acre and subject to easements and restrictions of record.

EXHIBIT B-1

**SITE PLAN OF THE PREMISES, WITH
LEGAL DESCRIPTION OF THE PREMISES TO BE LEASED
AND ACCESS AND UTILITY EASEMENTS**

To the Agreement dated _____, 1998 by and between the City of Troy, a Michigan municipal corporation ("Landlord") and AT&T Wireless Services, PCS, Inc., a Delaware corporation, acting by and through its Agent, Wireless PCS, Inc.

I-75 EXPRESSWAY

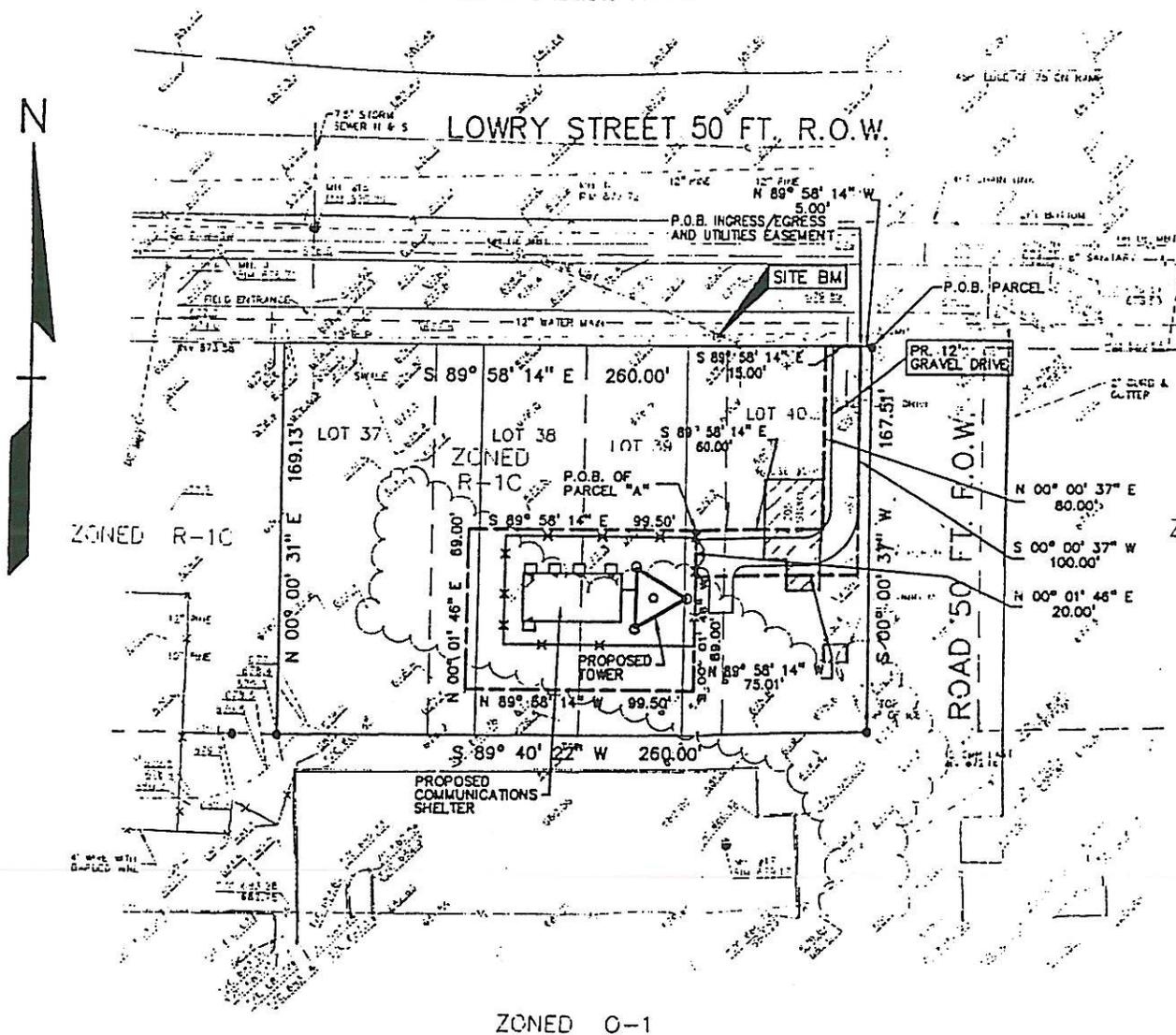


EXHIBIT B-2

**SITE PLAN OF THE PREMISES, WITH
LEGAL DESCRIPTION OF THE PREMISES TO BE LEASED
AND ACCESS AND UTILITY EASEMENTS**

To the Agreement dated _____, 1998 by and between the City of Troy, a Michigan municipal corporation ("Landlord") and AT&T Wireless Services, PCS, Inc., a Delaware corporation, acting by and through its Agent, Wireless PCS, Inc.

**LEGAL DESCRIPTION
PARCEL "A"**

Part of the Lot 38 and Lot 39 of "Beaver Park Subdivision" of the West part of the Northeast of Section 28, T.2 N., R.11E., Cit of Troy, Oakland County, Michigan (Liber 28, Page 29 Oakland County Records), commencing at the Northeast corner of Lot 40; thence along the North lot line N 89°58'14" W, 5.00 feet; thence S 00°00'37" W, 100.00 feet; thence N 89°58'14" W, 75.01 feet; thence N 00°01'46" E, 20.00 feet to the Point of Beginning: Thence S 00°01'46" W, 69.00 feet; thence N 89°58'4" W, 99.50 feet; thence N 00°01'46" E. 69.00 feet; thence S 89°58'14" E, 99.50 feet to the Point of Beginning, containing 6,865.5 square feet or 0.157 acres and subject to easements and restrictions of record.

Dated: 6-06-97 NM LP TC

**LEGAL DESCRIPTION
INGRESS/EGRESS AND PUBLIC UTILITIES EASEMENT**

An Ingress/Egress and Public Utilities Easement over part of Lot 39 and Lot 40 of "Beaver Subdivision" of the West part of the Northeast ¼ of Section 28, T.2 N., R.11 E., City of Troy, Oakland County, Michigan (Liber 28, Page 29 Oakland County Records), commencing at the Northeast corner of Lot 40; thence along the North lot line N 89°58'14" W, 5.00 feet to the Point of Beginning: Thence S 00°00'37" W, 100.00 feet; thence N 89°58'14" W, 75.01 feet; thence N 00°01'46" E, 20.00 feet; thence S 89°58'14" E, 60.00 feet; thence N 00°00'37" E, 80.00 feet to a point on the North lot line; thence along said line S 89°58'14" E, 15.00 feet to the Point of Beginning.

Dated: 6-06-97 NM LP TC

EXHIBIT C

RENT SCHEDULE

<u>Years 1 through 7</u>		<u>Annual Rent</u>
1.	July 1, 1997 - June 30, 1998	\$ -0-
2.	July 1, 1998 - June 30, 1999	-0-
3.	July 1, 1999 - June 30, 2000	-0-
4.	July 1, 2000 - June 30, 2001	-0-
5.	July 1, 2001 - June 30, 2002	-0-
6.	July 1, 2002 - June 30, 2003	-0-
7.	July 1, 2003 - June 30, 2004	-0-
<u>Years 8 through 12</u>		<u>Annual Rent</u>
8.	July 1, 2004 - June 30, 2005	\$16,800.00
9.	July 1, 2005 - June 30, 2006	16,800.00
10.	July 1, 2006 - June 30, 2007	16,800.00
11.	July 1, 2007 - June 30, 2008	16,800.00
12.	July 1, 2008 - June 30, 2009	16,800.00
<u>Years 13 through 17</u>		<u>Annual Rent</u>
13.	July 1, 2009 - June 30, 2010	\$19,200.00
14.	July 1, 2010 - June 30, 2011	19,200.00
15.	July 1, 2011 - June 30, 2012	19,200.00
16.	July 1, 2012 - June 30, 2013	19,200.00
17.	July 1, 2013 - June 30, 2014	19,200.00
<u>Years 18 through 22</u>		<u>Annual Rent</u>
18.	July 1, 2014 - June 30, 2015	\$21,600.00
19.	July 1, 2015 - June 30, 2016	21,600.00
20.	July 1, 2016 - June 30, 2017	21,600.00
21.	July 1, 2017 - June 30, 2018	21,600.00
22.	July 1, 2018 - June 30, 2019	21,600.00
<u>Years 23 through 25</u>		<u>Annual Rent</u>
23.	July 1, 2019 - June 30, 2020	\$24,000.00
24.	July 1, 2020 - June 30, 2021	24,000.00
25.	July 1, 2021 - June 30, 2022	24,000.00

EXHIBIT D

DESCRIPTION AND ADDITIONAL EQUIPMENT AND SERVICES

To the Agreement dated _____, 1998 by and between the City of Troy, a Michigan municipal corporation ("Landlord") and AT&T Wireless Services, PCS, Inc., a Delaware corporation, acting by and through its Agent, Wireless PCS, Inc.

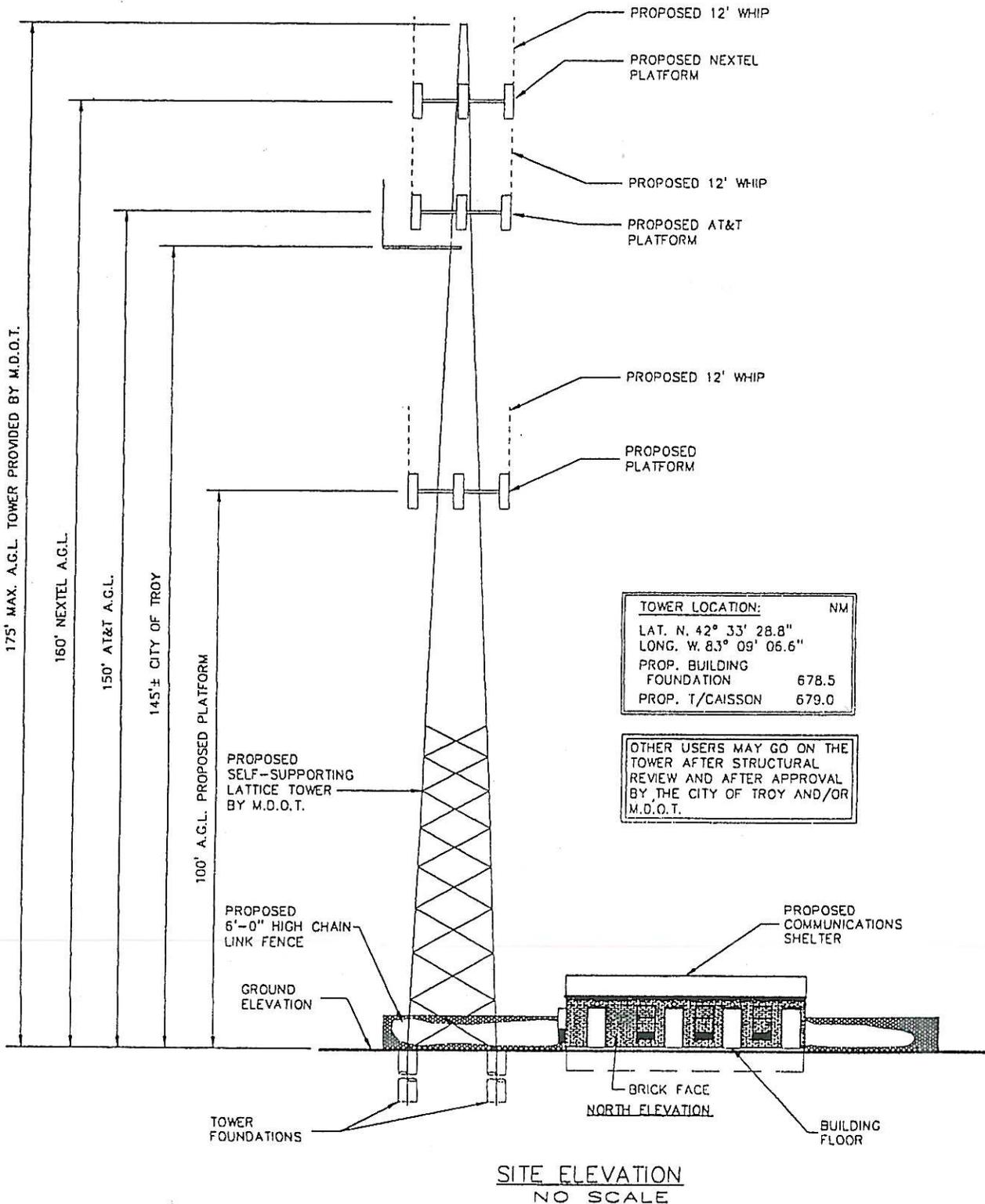
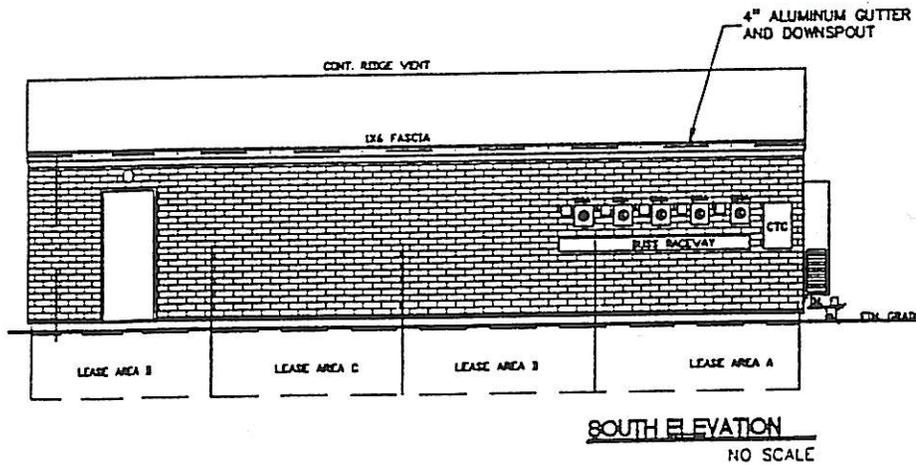
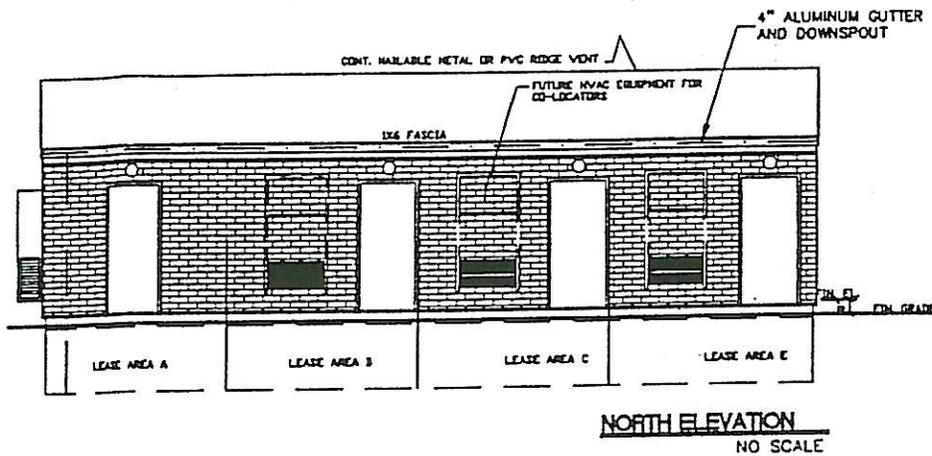
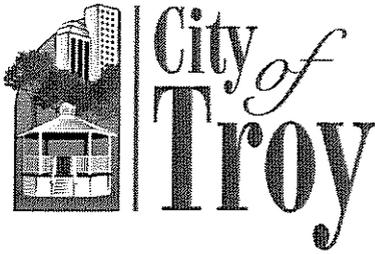


EXHIBIT E

ANCILLARY AND SUPPORT FACILITIES

To the Agreement dated _____, 1998 by and between the City of Troy, a Michigan municipal corporation ("Landlord") and AT&T Wireless Services, PCS, Inc., a Delaware corporation, acting by and through its Agent, Wireless PCS, Inc.





CITY COUNCIL ACTION REPORT

October 9, 2006

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Patricia A. Petitto, Greenstar & Associates, LLC

SUBJECT: Request for Acceptance of a Warranty Deed for Edenderry Sub. No. 2
Detention Basin Parcel - Sidwell #88-20-22-228-004 & -005

Background:

- In connection with the development of Edenderry Sub. No. 2, the Real Estate & Development Department received a Warranty Deed for the detention basin from Biltmore Properties Corporation. This subdivision is located south of Wattles Road and west of Rochester Road in the northeast ¼ of Section 22.

Financial Considerations:

- The consideration amount on the document is \$1.00.

Legal Considerations:

- The format and content of the deed is consistent with deeds previously accepted by City Council.

Policy Considerations:

- The City Engineering Department has reviewed and approved the design and construction of the detention basin. (Goal IV)
- It has been the City's policy to accept Warranty Deeds for dedication of detention basin parcels. (Goal IV)

Options:

- City Management recommends that City Council accept the attached Warranty Deed from Biltmore Properties Corporation so that the City can maintain the detention basin.

WARRANTY DEED

STATUTORY FORM FOR CORPORATION

KNOW ALL MEN BY THESE PRESENTS: That BILTMORE PROPERTIES CORPORATION a Michigan corporation whose address is 2025 West Long Lake Road, Suite 104, Troy, MI 48098 Conveys and Warrants to CITY OF TROY, a Michigan municipal corporation whose street number and postoffice address is 500 W. Big Beaver Road, Troy, MI 48084

the following described premises situated in the City of Troy County of Oakland and State of Michigan, to-wit:

See Legal Description on Exhibit "A", attached hereto and incorporated herein by reference.

together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, for the sum of One (\$1.00) Dollar

subject to applicable easements and restrictions.

Dated this 31st day of October 19 96

Signed in the presence of:

Signed by:

Theresa D. Pate Theresa D. Pate Carol E. Misner Carol E. Misner

BILTMORE PROPERTIES CORPORATION a Michigan corporation By Andrew M. Coden Its Vice-President

and Its

STATE OF MICHIGAN } COUNTY OF Oakland } ss.

The foregoing instrument was acknowledged before me this 31st day of October 19 96 by Andrew M. Coden

(Individual Name(s) and Office(s) Held) Vice-President of Biltmore Properties Corporation (Corporate Name) a Michigan corporation, on behalf of the corporation. (State of Incorporation)

My Commission expires June 9, 19 98 Theresa D. Pate Oakland Notary Public, County, Michigan

County Treasurer's Certificate City Treasurer's Certificate

When Recorded Return To: GRANTEE Send Subsequent Tax Bills To: GRANTEE Drafted by: Andrew M. Coden Business Address: 2025 W. Long Lake, Suite 104 Troy, MI 48098

Tax Parcel # 88-20-22-228-004 Recording Fee & -005 Revenue Stamps

BURTON ABSTRACT AND TITLE COMPANY HAS OPERATED CONTINUOUSLY SINCE 1866

MAKE YOUR REAL ESTATE TRANSFERS SAFE BY USING BURTON TITLE INSURANCE

"EDENDERRY SUB. NO. 2"
SECTION 22, CITY OF TROY
OAKLAND COUNTY, MICHIGAN

LEGAL DESCRIPTION: PART OF PROPOSED LOT 36

Part of the Northeast 1/4 of Section 22, T.2N.,R.11E., City of Troy, Oakland County, Michigan being more particularly described as follows: Beginning at a point which is N89°37'00"W 1517.42 ft. along the North line of Section 22 and S00°02'11"E 633.14 ft. from the Northeast corner of Section 22, T.2N., R.11E.; thence S54°32'21"E 184.60 ft.; thence S32°16'52"W 103.38 ft.; thence, along the boundary of "Lansdowne Sub" (Liber 125, Pages 34 and 35), N89°37'00"W 95.03 ft. and N00°02'11"W 193.86 ft. to the point of beginning.

Containing 18,739 Square Feet --- 0.430 Acres

LEGAL DESCRIPTION: PART OF PROPOSED LOT 35

Part of the Northeast 1/4 of Section 22, T.2N.,R.11E., City of Troy, Oakland County, Michigan being more particularly described as follows: Beginning at a point which is N89°37'00"W 1517.42 ft. along the North line of Section 22 and S00°02'11"E 633.14 ft. and S54°32'21"E 184.60 ft. from the Northeast corner of Section 22, T.2N., R.11E.; thence S54°32'21"E 89.06 ft.; thence, along the boundary of "Edenderry Sub. No. 1" (Liber 238, Pages 1 thru 4), S25°16'28"W 40.33 ft.; thence, along the boundary of "Lansdowne Sub" (Liber 125, Pages 34 and 35), N89°37'00"W 110.53 ft.; thence N32°16'52"E 103.38 ft. to the point of beginning.

Containing 6,618 Square Feet --- 0.152 Acres

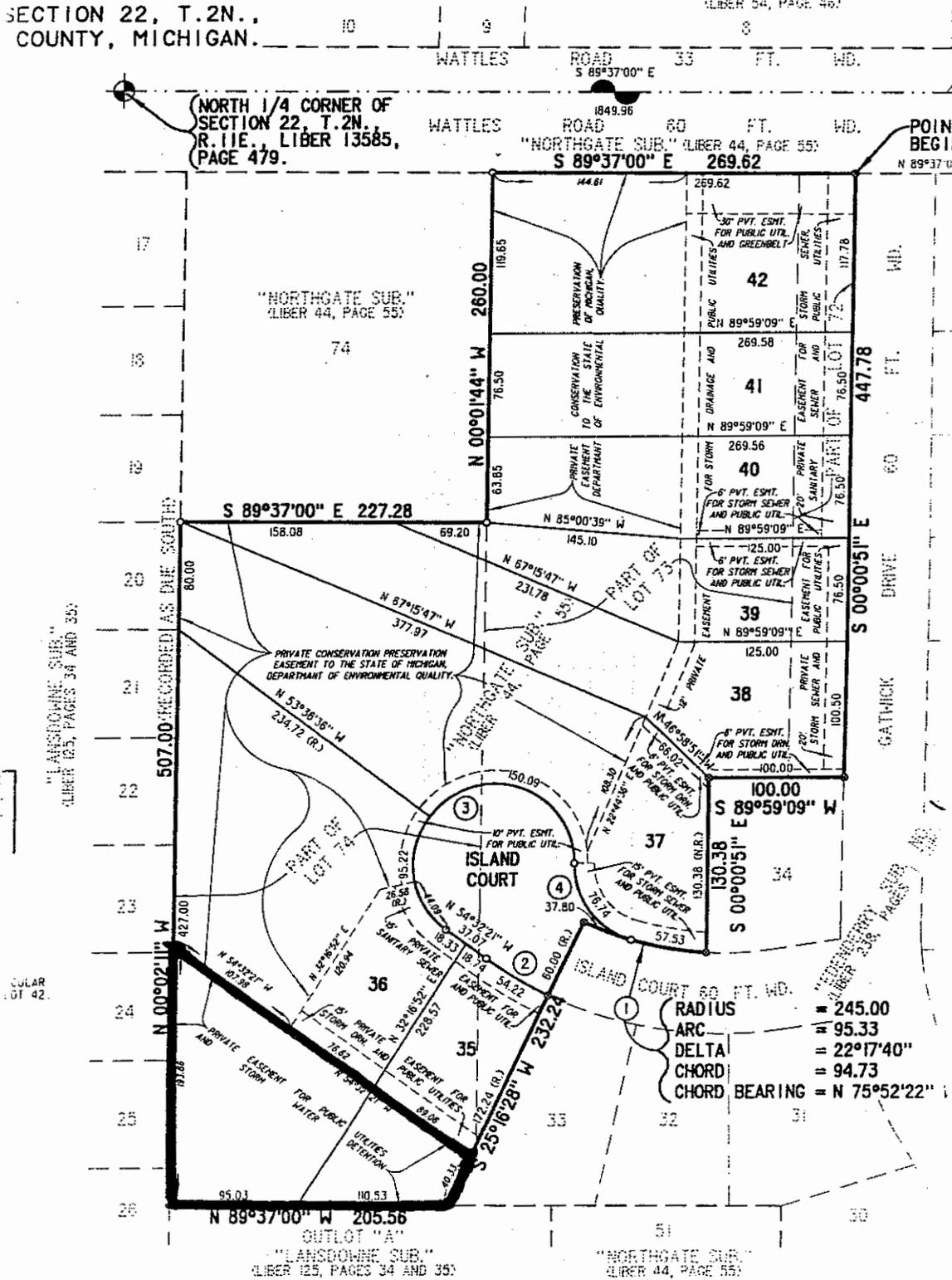
September 9, 1996

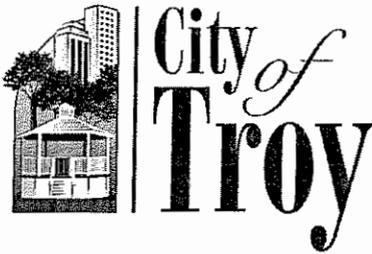
MCS Associates, Inc.
41150 Technology Park Drive
Suite 102
Sterling Heights, MI 48314
(810) 726-6310

SUB. NO. 2"

SECTION 22, T.2N.,
COUNTY, MICHIGAN.

"SUPERVISOR'S PLAT NO. 14"
CLIBER 54, PAGE 46)





CITY COUNCIL ACTION REPORT

October 9, 2006

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Dennis C. Stephens, Right of Way Representative

SUBJECT: Request for Acceptance of an Agreement to Purchase Realty for Public Purposes with Gus and Maria Stavropoulos – Industrial Row Parcel No. 34A
Sidwell No. 88-20-32-152-020 - Project No. 06.504.5 and 06.505.5

Background:

- In connection with replacement of a 12 inch water-main with a 18 inch water-main for the purpose of supplying and maintaining a safe water pressure and the subsequent rebuilding of Industrial Row road way, it has been determined that in order to build a turn-around at the street end it would be necessary to acquire a privately owned 60 foot by 150 foot vacant parcel to enable the construction of that turn-around.

Financial Considerations:

- Gus and Maria Stavropoulos have agreed to sell this parcel to the City for the City of Troy Assessor's appraised value of \$20,660.00.

Legal Considerations:

- The format and content of the Agreement to Purchase Realty for Public Purposes is consistent with Agreements to Purchase previously accepted by City Council.

Policy Considerations:

- This project requires the building of a temporary road on each side of the existing road in order to maintain traffic to all properties during the water-main replacement and road reconstruction. (Goal IV)
- The increase in size of the water-main from 12 inch to 18 inch will increase water pressure to a desired level for fire protection. (Goal VI)

Options:

- Staff recommends the approval of the attached Agreement to Purchase Realty for Public Purposes, so that the reconstruction of Industrial Row can be built as planned, with a safe and useable road ending.

Sidwell #88-20-32-152-020

CITY OF TROY
AGREEMENT TO PURCHASE REALTY
FOR PUBLIC PURPOSES

The CITY OF TROY (the "Buyer"), agrees to purchase from Gus Stavropoulos and Maria Stavropoulos, as tenants by the Entireties, the following described premises (the "Property"):

SEE ATTACHED EXHIBIT "A"

for a public project within the City of Troy and to pay the sum of Twenty Thousand Six Hundred Sixty and no cents (\$20,660.00) under the following terms and conditions:

1. Seller shall assist Buyer in obtaining all releases necessary to remove all encumbrances from the property so as to vest a marketable title in Buyer.
2. Seller shall pay all taxes, prorated to the date of closing, including all special assessments, now due or which may become a lien on the property prior to the conveyance.
3. Seller shall deliver the Warranty Deed upon payment of the purchase money by check drawn upon the account of the City of Troy.
4. Buyer shall, at its own expense, provide title insurance information, and the Seller shall disclose any encumbrances against the property.
5. This Agreement is binding upon the parties and closing shall occur within ninety (90) days of the date ~~*that all liens have been released and encumbrances have been extinguished to the satisfaction of the Buyer,~~ unless extended by agreement of the parties in writing. It is further understood and agreed that this period of time is for the preparation and authorization of purchase money. ** OF THIS CONTRACT*
6. Buyer shall notify the Seller immediately of any deficiencies encumbering marketable title, and Seller shall then proceed to remove the deficiencies. If the Seller fails to remove the deficiencies in marketable title to Buyer's approval, the Buyer shall have the option of proceeding under the terms of this Agreement to take title in a deficient condition or to render the Agreement null and void, and any deposit tendered to the Seller shall be returned immediately to the Buyer upon demand.
7. The City of Troy's sum paid for the property being acquired represents the property being free of all environmental contamination. Although the City of Troy will not withhold or place in escrow any portion of this sum, the City reserves its rights to bring Federal and/or State and/or local cost recovery actions against the present owners and any other potentially responsible parties, arising out of a release of hazardous substances at the property.
8. Seller acknowledges that this offer to purchase is subject to final approval by Troy City Council.
9. Seller grants to Buyer temporary possession and use of the property commencing on this date and continuing to the date of closing in order that the Buyer may proceed with the public project.

10. Additional conditions, if any:
THE BUYER IS PURCHASING THE PROPERTY
IN ITS AS-IS CONDITION.

SELLER HEREBY ACKNOWLEDGES THAT NO PROMISES WERE MADE EXCEPT AS CONTAINED IN THIS AGREEMENT.

IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this 22ND day of SEPT., A.D. 2006 .

In presence of:

Nicole Dougherty
Nicole Dougherty

CITY OF TROY (BUYER)

Donna C. Stephens
Donna C. Stephens

SELLER:

[Signature]
[Signature]

DESCRIPTION OF PROPERTY (20-32-152-020 TAKEN FROM RECORD)

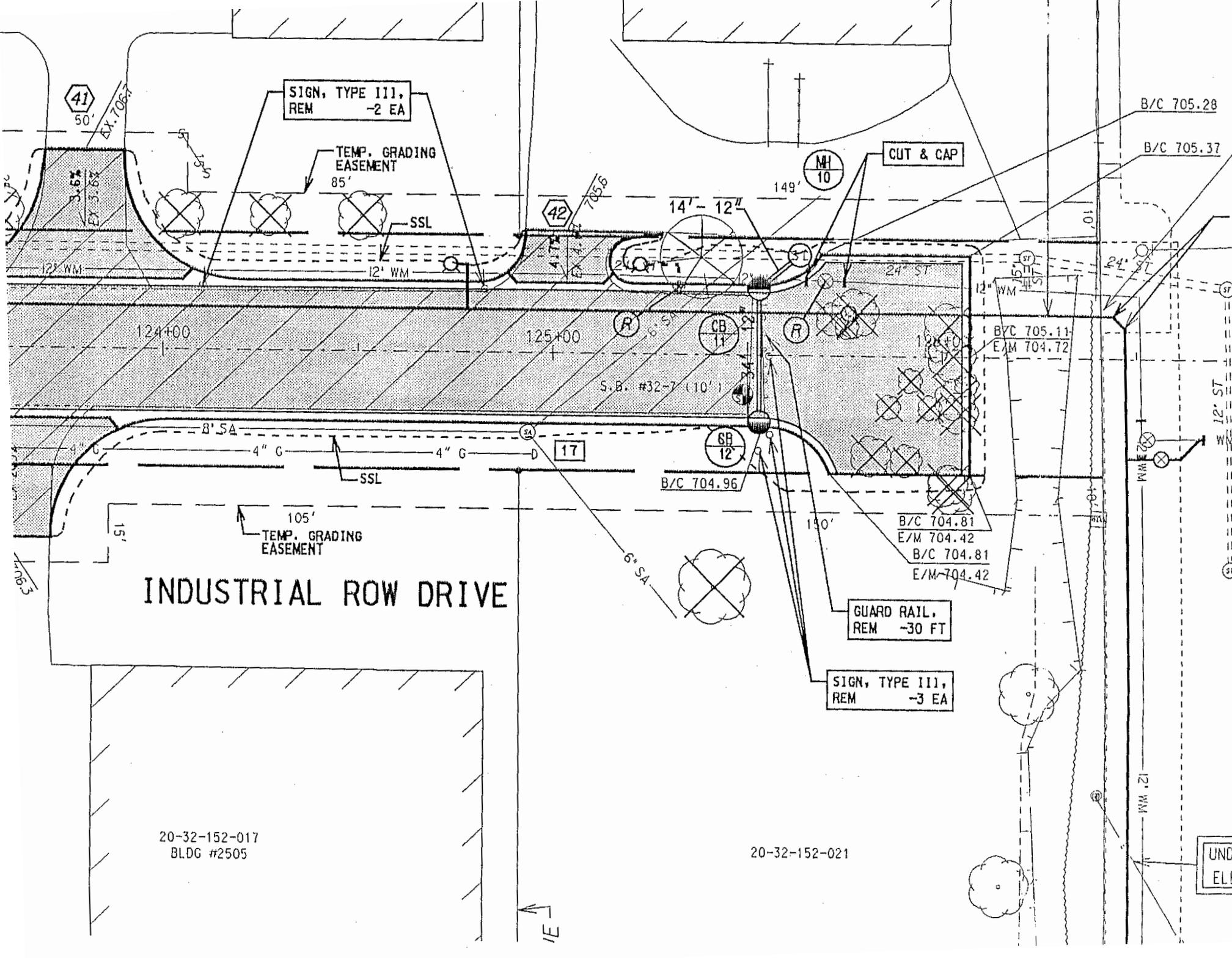
Part of the Southeast ¼ of the Northwest ¼ of Section 32, T2N, R11E, City of Troy, Oakland County, Michigan, described as: Beginning at a point distant N00°31'10"E 294.43 feet from the Center of said Section 32; thence N88°37'30"W 150.13 feet; thence N01°22'30"E 60.00 feet; thence S88°37'30"E 149.24 feet; thence S00°31'10"W 60.00 feet to the Point Of Beginning.

Subject to reservations, restrictions, and easements of record, if any.

Also known as Sidwell No. 20-32-152-020.

DESCRIPTION OF RIGHT OF WAY ACQUISITION

A Right of Way Acquisition being a part of the Southeast ¼ of the Northwest ¼ of Section 32, T2N, R11E, City of Troy, Oakland County, Michigan, described as: Beginning at a point distant N00°31'10"E 294.43 feet from the Center of said Section 32; thence N88°37'30"W 150.13 feet; thence N01°22'30"E 60.00 feet; thence S88°37'30"E 149.24 feet; thence S00°31'10"W 60.00 feet to the Point Of Beginning. Said acquisition contains 8,981 square feet or 0.206 acres, more or less.



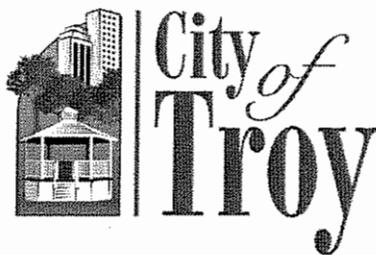
20-32-152-017
BLDG #2505

20-32-152-021

UND
EL

STAVROPOULOS - INDUSTRIAL ROW PARCEL - 34A





CITY COUNCIL ACTION REPORT

October 3, 2006

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Patricia A. Petitto, Greenstar & Associates, LLC

SUBJECT: Request for Acceptance of a Permanent Easement for Sanitary Sewer
Krispy Kreme Doughnut Shop
Sidwell #88-20-35-400-021 - Project No. 03.933.3

Background:

- In connection with the opening of the Krispy Kreme Doughnut Shop, the Real Estate & Development Department received a permanent easement for sanitary sewer from Sears, Roebuck and Co. This parcel is located on the north side of Fourteen Mile Road, between I-75 and John R.

Financial Considerations:

- The consideration amount on the document is \$1.00.

Legal Considerations:

- The format and content of the easement is consistent with easements previously accepted by City Council.

Policy Considerations:

- The City Engineering Department has reviewed and approved the location of the sanitary sewer easement. (Goal IV)
- It has been the City's policy to accept easement dedications for new development. (Goals II & IV)

Options:

- City Management recommends that City Council accept the attached Permanent Easement for Sanitary Sewer from Sears, Roebuck and Co. consistent with our policy of accepting easements to serve new development.

PERMANENT EASEMENT

Sidwell # 88-20-35-400-021
Project # 03.933.3
Resolution #

Sears, Roebuck and Company, a New York Corporation, Grantor, whose address is 3333 Beverly Road, Hoffman Estates, IL 60192 for and in consideration of the sum of: One Dollar (\$1.00) paid by the CITY OF TROY, a Michigan Municipal Corporation, Grantee, whose address is 500 West Big Beaver Road, Troy, Michigan, grants to the Grantee the right to construct, operate, maintain, repair and/or replace sanitary sewer, said easement for land situated in the City of Troy, Oakland County, Michigan, described as:

SEE ATTACHED EXHIBIT "A"

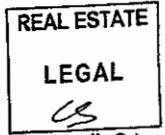
and to enter upon sufficient land adjacent to said improvement(s) for the purpose of the construction, operation, maintenance, repair and/or replacement thereof.

The premises so disturbed by the exercise of any of the foregoing powers shall be reasonably restored to its original condition by the Grantee.

This instrument shall be binding upon and inure to the benefit of the parties hereto, their heirs, representatives, successors and assigns and the covenants contained herein shall run with the land.

IN WITNESS WHEREOF, the undersigned hereunto affixed his signature(s) this 20th day of September A.D. 20 06.

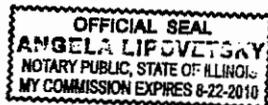
SEARS, ROEBUCK AND COMPANY,
a New York Corporation



By [Signature]
James B. Terrell
Vice President Real Estate

STATE OF ILLINOIS)
COUNTY OF COOK)

The foregoing instrument as acknowledged before me this 28th day of September, 20 06, by JAMES B. TERRELL, VICE PRESIDENT REAL ESTATE, a New York Corporation, on behalf of the corporation.



[Signature]
Notary Public, LAKE County,
Acting in Cook County, Illinois
My Commission Expires 8/22/10

(Corporations)

Prepared by:

Patricia A. Petitto
500 West Big Beaver
Troy, Michigan 48084

Return to:

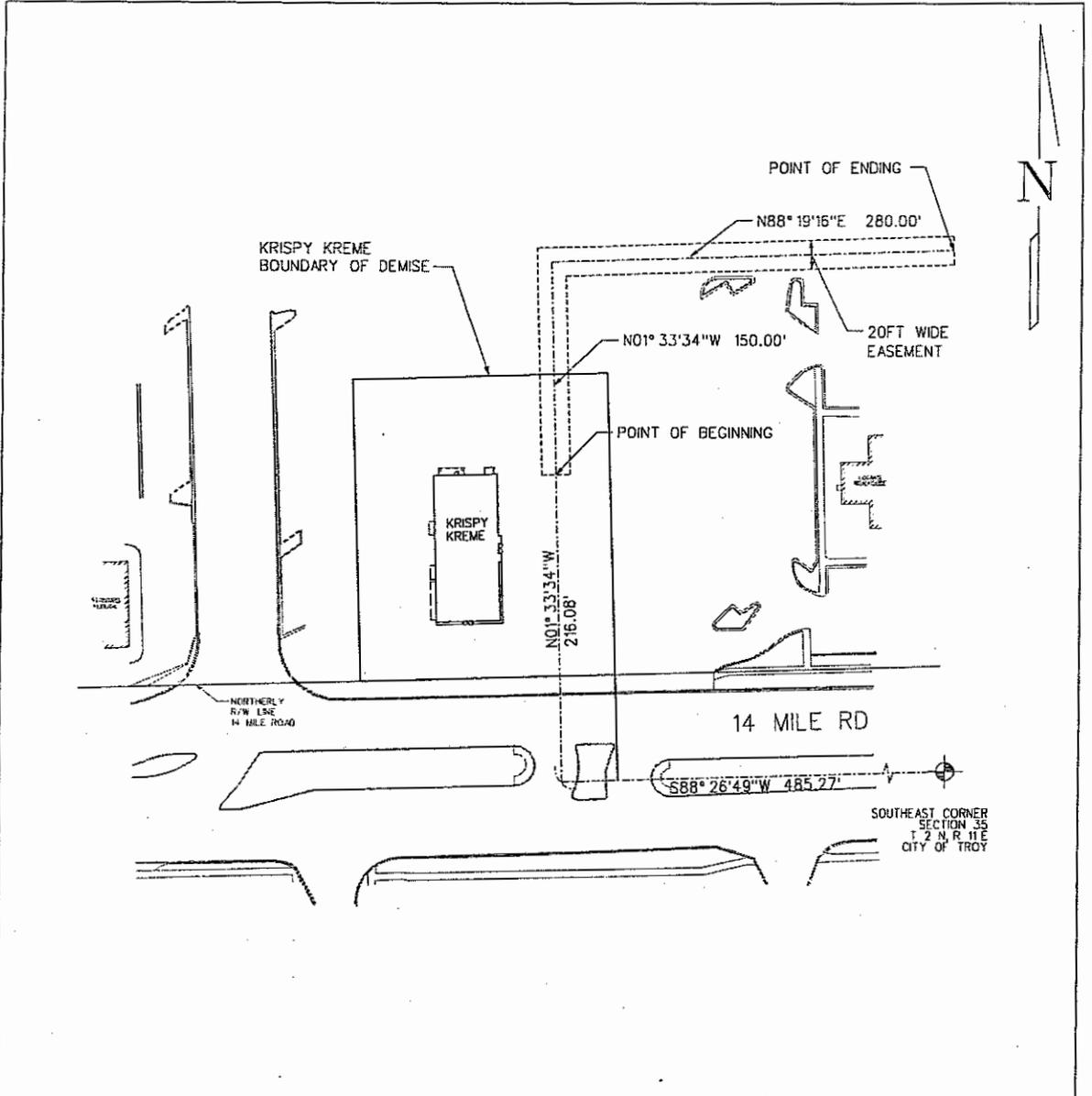
City Clerk, City of Troy
500 West Big Beaver Road
Troy, Michigan 48084

EXHIBIT "A"

PARENT PARCEL DESCRIPTION: T2N, R11E, SEC 35 PART OF SE ¼ BEG AT PT DIST N 02-09-04 W 1804.36 FT & S 88-13-06 W 60.00 FT FROM SE SEC COR, TH S 88-13-06 W 188.00 FT, TH N 02-09-04 W 282.00 FT, TH S 88-13-06 W 487.00 FT, TH S 02-09-40 E 2011.36 FT, TH S 88-13-06 E 675.00 FT, TH N 02-09-04 W 1729.36 FT TO BEG 29.95 A

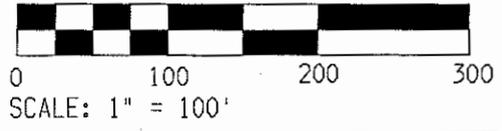
SANITARY SEWER EASEMENT DESCRIPTION: A 20.00 FT WIDE EASEMENT FOR THE INSTALLATION AND MAINTENANCE OF A SANITARY SEWER IN THE SE ¼ OF SECTION 35, T2N, R11E, CITY OF TROY, OAKLAND COUNTY, MICHIGAN, WHOSE CENTERLINE IS DESCRIBED AS: COMMENCING AT THE SE CORNER OF SAID SECTION 35; THENCE S 88-26-49 W 485.27 FT ALONG THE S LINE OF SAID SECTION 35 AND THE CENTERLINE OF 14 MILE RD; THENCE N 01-33-34 W 216.08 FT TO THE PT OF BEG; THENCE N 01-33-34 W 150.00 FT; THENCE N 88-19-16 E 280.00 FT TO THE POINT OF ENDING.

P:\PROJECTS\2003\200-2003-235\CADD\sanitary easement.dgn 10/03/2003 10:36:36 AM



LEGAL DESCRIPTION - SANITARY SEWER EASEMENT

A 20 foot wide easement for the installation and maintenance of a sanitary sewer in the southeast 1/4 of Section 35, T2N, R11E, City of Troy, Oakland County, Michigan, whose centerline is described as: Commencing at the southeast corner of said Section 35; thence S88° 26' 49" W 485.27 feet along the south line of said Section 35 and the centerline of 14 Mile Road; thence N01° 33' 34" W 216.08 feet to the point of beginning; thence N01° 33' 34" W 150.00 feet; thence N88° 19' 16" E 280.00 feet to the point of ending.



SANITARY SEWER EASEMENT KRISPY KREME DOUGHNUTS SE 1/4, SECTION 35, T2N, R11E CITY OF TROY, OAKLAND COUNTY, MICHIGAN	DATE 10/02/03			
	DRN ZHI CHD FDP			
CLIENT: DOUGH RE MI COMPANY, LTD	SCALE 1" = 100'	F.B. PG.	SHEET 1 OF 1	JOB NO. 2003-235



CITY COUNCIL ACTION REPORT

October 9, 2006

TO: Phillip L. Nelson, City Manager

FROM: Jeanette Bennett, Purchasing Director
Gert Paraskevin, Information Technology Director
Charles T. Craft, Chief of Police

SUBJECT: Bid Waiver – Purchase of In-Car Video System

Background:

- Approximately seven years ago the police department purchased an analog, 8mm format, in-car audio-video system. All patrol, animal control, and road patrol Police Service Aide units are equipped with recording units. The system has proven effective. It provides excellent evidence on a variety of criminal cases (most notably, drunk driving cases) and enables the department to reduce civil liability.
- The MML, MMRMA, International Association of Chiefs of Police (IACP), Police Executive Research Forum (PERF) all highly recommend the use of in-car recording systems.
- Due to age and constant use, the current system is failing. Recording units work sporadically and audio quality is poor. Cars are often out of service due to camera failure and we have lost valuable evidence due to camera/recorder malfunctions. A considerable amount of staff time is spent repairing the system as well as processing and copying tapes.
- Department research determined that the system should be replaced with a digital system. The upgrade to digital technology allows for easier and quicker access to recordings, recording review via the City network, and wireless transfer of the recorded data to a server. The digital system not only provides a much higher quality recording, but also reduces the staff time required to process and copy tapes.
- Over 10 different digital in-car systems were reviewed. It was determined that the VisionHawk system, manufactured by International Police Technologies, best fits the department's needs and had the highest quality and reliability. Research included demonstrations by the various manufacturers of both the in-car equipment and the management software, interview of users of the various systems, and site visits. The VisionHawk system was found to be more user friendly, easier to learn and manage, and had the highest level of customer satisfaction. VisionHawk offers technology and features not available on other systems: such as, the capability to simultaneously record audio transmissions from multiple transmitters, and the ability for officers to monitor the audio transmissions of other officers.

October 9, 2006

To: Phillip Nelson, City Manager
Re: Bid Waiver – Purchase of In-Car Video System

Financial Considerations:

- Funding for this project will be available from Police Communications A/C#401325.7980.050, Uniform Patrol #401315.7978.010, and Police Administration Drug Enforcement #401305.7978.065. Upon purchase of the system, the MMRMA will reimburse the City of Troy \$25,000.00.
- International Police Technologies (IPT) holds a Federal GSA contract (GS-07F-9906H) for the equipment.
- Approval to utilize the GSA Schedule for this purchase authorized by the State of Michigan Department of Management and Budget through the 1122 Counterdrug Program.

Legal Considerations:

- Since Federal bidding regulations are different than the City's, each time GSA pricing is offered, City management requests a bid waiver if federal pricing is being extended by the contract holder. In this case, IPT is the GSA contract holder.

Policy Considerations:

- The purchase of the VisionHawk in-car recording system will increase the Police Department's efficiency through digital technology (Goals #1 – "Minimize cost and increase efficiency of City government and #3 – Effectively and professionally communicate internally and externally"), and provides excellent evidence on a variety of criminal cases (most notably, drunk driving cases) and enables the department to reduce civil liability (Goal #6 - "Protect life and property").

Options:

- City management recommends that a formal bid procedure is waived, and that the City Council authorize the purchase of a digital in-car video system from International Police Technologies (IPT) at an estimated total cost of approximately \$291,000.00 using GSA-FSS Contract GS-07F-9906H pricing. This cost includes the in-car units, server, associated software, wireless transfer equipment, installation, and training.



1122 PROGRAM



PROCUREMENT REQUEST FORM

*Please type information

LOCAL LAW ENFORCEMENT AGENCY

Date October 3, 2006

LISA City of Troy Police Department	Purchasing Contact Jeanette Bennett
Address 500 W Big Beaver Rd	City/State/Zip Code Troy MI 48084
Phone Number (248) 524-3454	Fax Number (248) 524-9023
E-Mail Address craftc@ci.troy.mi.us	

CRAFTC@CI.TROY.MI.US

VENDOR NAME: International Police Technologies	VENDOR ADDRESS 4150 S 87th East Ave Tulsa OK 74145
---	--

Item Description	Quantity	Unit	Unit Price	Dollar Amount	Comparable retail price	Savings
Visionhawk digital camera	40	1	\$5,549.00	\$221,960	229,960	\$8,000.00
Visionhawk management system	1	1	\$39,400.	\$39,400.	\$45,000	\$5,600.00
Total Dollar Amount of Purchases				\$261,380.	\$274,960	\$13,600.00

Purchase Authorized by: Title Signature <i>Perry Saites</i>	Date
SPOC Approval DODAAC # ALEABT 0973	Date

for Claudia Allen
Fax back to (517) 335-0096

1122 Program Attachment

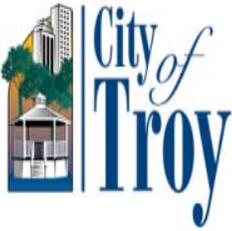
- Do you participate/contribute to a drug task force? What is your participation/contribution? Describe your drug problem and your strategy in attacking the problem.

The Troy Police Department has adopted a multi-level strategy to address our drug problem, which primarily consists of local users, trafficking through the city via motor vehicle, drug transactions conducted in large commercial parking areas, and upper level drug traffickers who reside in Troy. The strategy consists of task force participation, department based investigations, information sharing, and enforcement at the patrol officer level.

The department has assigned one full-time police officer to the Drug Enforcement Administration (DEA), and one full-time sergeant to the Oakland County Narcotics Enforcement Team (NET). In addition, through a Memorandum of Understanding with the DEA, the department has agreed to provide surveillance assistance, through its Special Investigations Unit, and warrant execution assistance, through the Tactical Support Team, upon request. When applicable, narcotics related intelligence and tips are forwarded to either NET of the DEA.

Internally, the department's Criminal Intelligence Unit, Special Investigations Unit and Directed Patrol Unit, develop information and take enforcement action related to narcotics trafficking based in or conducting business in the City of Troy. Patrol and Traffic Safety Unit officers are directed, through department general order, to utilize traffic enforcement as a tool to reduce narcotics trafficking.

The in-car video system will be utilized by patrol personnel to document searches and record conversations with as well as the questioning of narcotics users and traffickers.



TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Allan T. Motzny, Assistant City Attorney
DATE: October 4, 2006
SUBJECT: Papadelis v. City of Troy

The City has the option to pursue an appeal of the recent *Papadelis v. Troy* decision to the Michigan Supreme Court. Such a pursuit necessarily requires an application for leave to appeal the decision of the Michigan Court of Appeals.

According to Court of Appeals decision, the Right To Farm Act (RTFA) allows the Papadelis family to use all of their residentially zoned property for the nursery and greenhouse operation, even though such use is an expansion of a nonconforming use. In addition, the Court also excused the Papadelis family from obtaining building permits from the City for any structures on their property. The Court of Appeals based this exemption on the State Construction Code Act, which states that permits are not required for a building or structure that is "incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business of retail trade." The Court of Appeals determined that since no transfer of cash occurred within the greenhouses or the other structures on the subject property, there was no requirement to comply with the permitting process for the Papadelis property. The Court also preempted the provisions of Troy's zoning ordinance that regulate building size, lot coverage, and setbacks for these residential parcels.

The initial lawsuit between the City of Troy and the Papadelis family was filed in May 1991, in an effort to stop the continuing expansion of Telly's Nursery in a residentially zoned district. The litigation between the parties has continued, as the expansion has continued. If left unchallenged, the Court of Appeals decision could conceivably lead to additional expansion onto other residential properties owned by the Papadelis family. However, Council should be aware that if an appeal to the Michigan Supreme Court is filed, then the Papadelis family will probably seek to reinstate their claims against the City employees, who they argue have allegedly violated their civil rights.

On a broader note, the Court of Appeals decision is one of many recent decisions construing RTFA in such a fashion as to eliminate any local control over residentially zoned property. Such decisions, as the Court noted, allows businesses to move into established residential neighborhoods and start a farm or farm operation in contravention of local zoning ordinances. Because this decision may have state wide impact, the Michigan Municipal League Legal Defense Fund may be interested in filing an amicus brief if the City chooses to pursue an application for leave to appeal to the Michigan Supreme Court.

We have attached two separate resolutions for your consideration. The first resolution authorizes our office to file an application for leave to appeal to the Michigan Supreme Court in the *Papadelis v. City of Troy* lawsuit. The second resolution requests Amicus Brief participation from the Legal Defense Fund of the Michigan Municipal League.

If you have any questions concerning the above, please let us know.



CITY COUNCIL ACTION REPORT

October 9, 2006

TO: Phillip L. Nelson, City Manager

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

SUBJECT: Second Amendment to Chapter 42 – Flood Plain Management
As Required by FEMA for Participation in National Flood Insurance Program

Background:

- On September 18, 2006 City Council approved Resolution #2006-09-372 that amended Chapter 42, Flood Plain Management, for the purpose of adopting the new Digital Flood Insurance Rate Maps (DFIRMS).
- Although Chapter 42 refers to the 100-year flood boundaries as those in “the most current report” the Michigan Department of Environmental Quality (MDEQ) has advised us that they would prefer that the specific map panel numbers be identified in the ordinance. A revision to Section 12 of Chapter 42, adding map panel numbers 26125C0527F, 0529F, 0531F, 0532F, 0533F, 0534F, 0537F, 0541F, 0542F, 0551F, 0552F, 0553F, 0554F, 0561F, and 0562F will satisfy this requirement.
- In addition, MDEQ has requested a resolution be adopted to affirm the city’s responsibility to Manage Floodplain Development for the National Flood Insurance Program under various state laws and City Ordinance Chapter 42, as amended.

Financial Considerations:

- There are no financial considerations associated with this item.

Legal Considerations:

- Adoption of amendments to Chapter 42 and the resolution to Manage Floodplain Development for the National Flood Insurance Program are required for participation in the program.
- Maintain property owner eligibility for new and renewal of flood insurance policies.

Policy Considerations:

- Maintain the city’s participation in the program, which began in 1983 (Goal VI).

- Reduce flood hazards to persons and property, reduce public expenditures precipitated by flood damage and provide for the availability of flood insurance and federal funds or loans within the community (Goal VI).

Options:

- It is recommended that Council approve the proposed resolution and amendments to Chapter 42 of the City Ordinance Code.

Approved for Submittal:

Phillip L. Nelson, City Manager

Approved as to Form and Legality:

Lori Grigg Bluhm, City Attorney

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 42 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 a second amendment to Chapter 42 of the Code of the City of Troy.

Section 12. Amendment

Chapter 42, Floodplain Management Ordinance designating flood prone hazard areas, is hereby amended to read as follows: (Underlining denotes additions)

12. Designation of Regulated Flood Prone Hazard Areas

The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled Oakland County Michigan and Incorporated Areas and dated September 29 2006. and the Flood Insurance Rate Maps(s) (FIRMS) panel numbers of 26125C0527F, 0529F, 0531F, 0532F, 0533F, 0534F, 0537F, 0541F, 0542F, 0551F, 0552F, 0553F, 0554F, 0561F, 0562F, dated September 29 2006 are adopted by reference and declared to be a part of Section 1612.3 of the Michigan Building Code.

Section 3. Repeals.

All ordinances inconsistent with the provisions of this ordinance are hereby repealed.

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

FLOOD PLAIN MANAGEMENT

1. Purpose

- (1) It is the purpose of this Ordinance to protect human life, health, and property from flood conditions, to preserve the ability of floodplains to carry and discharge a base flood, and to significantly reduce potential hazards as a result of flood conditions within the City of Troy. Further, it is the purpose of this Ordinance to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accord with the National Flood Insurance Act, and subsequent enactments and rules and regulations.
 - (2) Additional objectives of this Article include:
 - (a) Reducing public/private economic loss and social disruption as a result of flood conditions.
 - (b) Minimizing public expenditures for:
 - (i) flood control projects,
 - (ii) rescue and relief efforts in the aftermath of flooding,
 - (iii) repair of flood damaged public facilities and utilities, and
 - (iv) the redevelopment of flood damaged homes, neighborhoods, commercial and industrial areas;
- and
- (a) providing the Public with the most current floodplain information;
 - (b) promote development patterns not subject to flood damage.

2. Definitions

- (1) Area of Special Flood Hazard is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. This area is designated as Zone A or Zones A1-A30 on the Flood Insurance Rate Map.
- (2) Base Flood means the flood having a one percent chance of being equaled or exceeded in any given year; also known as the 100-year flood.
- (3) Development means any man-made modification to unimproved or improved real estate, including but not limited to: buildings, pools, decks or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.
- (4) Encroachment means development or a structure which is located within the area of special flood hazard.

(2-1-99)

Chapter 42- Flood Plain Management

- (5) Flood or Flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) the overflow of inland or tidal waters,
 - (b) the unusual and rapid accumulation or runoff of surface waters from any source.
- (6) Flood Damage means any damage to persons, materials, supplies, property or real estate caused by and as a direct result of flooding and /or the influence of flood conditions.
- (7) Boundary and Floodway Map means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazards have been designated as Zone A.
- (8) Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- (9) Flood Insurance Study (Flood Elevation Study) is an examination, evaluation and determination of flood hazards and corresponding water surface elevations.
- (10) Floodplain means that land area possessing the potential to be inundated by water from a flood or flooding.
- (11) Floodway or Regulatory Floodway means the designated area of a river or other watercourse and the adjacent land areas that must be reserved from development or construction activity in order to discharge the base flood without cumulatively increasing the water surface elevation beyond these areas.
- (12) New Construction means structures and/or development for which the "start of construction" commenced on or after the effective date of this ordinance, and includes any subsequent improvements to structures.
- (13) Structure means a walled and roofed building that is principally above ground.
- (14) Substantial Improvement means any repair, reconstruction, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either,
 - (a) before the improvement or repair is started; or
 - (b) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

(2-1-99)

Chapter 42- Flood Plain Management

- (a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are the minimum necessary to assure safe living conditions, or
 - (b) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
- (15) Watercourse means any natural or artificial drainage way wherein waters flow either continuously or intermittently, including any adjacent areas subject to flooding. Watercourses include both natural and man-made open ditches, streams, enclosed storm drains, lakes, and ponds.

3. Delineation of the Area of Special Flood Hazard

The area of special flood hazard shall overlay existing zoning districts delineated on the official City of Troy Zoning Map. The boundaries of the area of special flood hazard shall coincide with the boundaries of the areas indicated as within the limits of the 100-year flood in the most current report entitled "The Flood Insurance Study, City of Troy", as specified by the City Engineer, with accompanying Flood Insurance Rate Maps and Flood Hazard Boundary Maps and Floodway Maps. Within the area of special flood hazard a floodway may be designated. The boundaries of the floodway shall coincide with the floodway boundaries indicated on the Flood Hazard Boundary Maps and Floodway Maps. The Flood Insurance Study and accompanying maps are adopted by reference, appended, and declared to be a part of this ordinance.

4. Development Requirements

- (1) The owner shall not perform any development nor shall the owner allow others to perform any development of any property within an area of special flood hazard without first having secured a development permit(s). Necessary development permits shall have been issued by appropriate local, state and federal authorities, including but not limited to: a floodplain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality.
- (2) Approval of any development is also subject to the provisions of this ordinance and all other requirements of the Troy City Code.

5. General Standards for Flood Hazard Reduction

- (1) All new construction and substantial improvements within an area of special flood hazard, shall be constructed by methods and practices that minimize flood damage including, but not limited to:
 - (a) be designed and anchored to prevent flotation, collapse, or lateral movement of the structure;
 - (b) be constructed with materials and utility equipment resistant to flood damage;
 - (c) all new and replacement water supply systems shall not allow infiltration of flood waters into the systems;

(2-1-99)

Chapter 42- Flood Plain Management

- (d) all public utilities and facilities shall be designed, constructed and located to minimize or eliminate flood damage.
 - (e) drainage shall be provided to reduce damage to structures created by flood hazards.
- (2) The City Engineer or his/her representative shall review development proposals to determine compliance with the standards in this section.

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.

- (2) The most recent base flood elevation data received from the Federal Emergency Management Agency shall take precedence over data from other sources.

(2-1-99)

Chapter 42- Flood Plain Management

7. Flood Zone Development Standards

- (1) New construction, substantial improvements and all other development, shall be prohibited within areas of special flood hazard except where the owner demonstrates that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation and/or decrease the flood carrying capacity of a base flood. In addition, the provisions of subsection 2) shall be applied to land situated within the floodway.
- (2) Encroachments, new construction, substantial improvements and development shall be prohibited within the floodway. Exception to this prohibition shall only be made upon certification by a registered professional engineer or the Michigan Department of Environmental Quality that the proposed development will not result in any increases in base flood elevation during a base flood discharge.

8. Disputes and Conflict

- (1) Where there are disputes as to the location of an area of special flood hazard boundary, the property owner or permit applicant shall provide field measurements, topographic data, and any other specified data to assist the designated state and/or federal agencies in the resolution of the dispute. The property owner or permit applicant shall be responsible for the application fees, engineering, surveying, or other costs associated with the preparation of materials required to assist with the area of special flood hazard boundary dispute.
- (2) The requirements of the Floodplain Management ordinance apply to all development within the area of special flood hazard. If there is a conflict between the Flood Plain Management ordinances and other provisions of the City of Troy Ordinances, the most stringent requirements shall be applied, to accomplish the intent of this ordinance.

9. Disclaimer of Liability

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based upon National and State regulations and standards. Larger floods and increased flood elevations may occur on occasions. Approval of the use of land, construction and/or development under this Ordinance shall not be considered a guarantee or warranty of safety or damage from flood events. This Ordinance does not imply that areas outside the area of special flood hazard will be free from flood damage, nor does this Ordinance create liability on the part of the City of Troy or any officer or employees thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

(2-1-99)

10. Agency Designated

Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the Building Department of the City of Troy is hereby designated as the enforcing agency to discharge the responsibility of the City of Troy under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The City of Troy assumes responsibility for the administration and enforcement of said Act through out its corporate limits.

Chapter 42- Flood Plain Management

11. Code Appendix Enforced

Pursuant to the provisions of the state construction code, in accordance with Section 8(b) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the City of Troy.

12. Designation of Regulated Flood Prone Hazard Areas

The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) entitled Oakland County Michigan and Incorporated Areas and dated September 29 2006. and the Flood Insurance Rate Maps(s) (FIRMS) panel numbers of 26125C0527F, 0529F, 0531F, 0532F, 0533F, 0534F, 0537F, 0541F, 0542F, 0551F, 0552F, 0553F, 0554F, 0561F, 0562F, dated September 29 2006 are adopted by reference and declared to be a part of Section 1612.3 of the Michigan Building Code.

COMMUNITY RESOLUTION TO
MANAGE FLOODPLAIN DEVELOPMENT
FOR THE NATIONAL FLOOD INSURANCE PROGRAM

WHEREAS, the Community of the City of Troy currently participates in the Federal Emergency Management Agency's (FEMAs) National Flood Insurance Program (NFIP) by complying with the program's applicable statutory and regulatory requirements for the purposes of significantly reducing flood hazards to persons, reducing property damage, and reducing public expenditures, and providing for the availability of flood insurance and federal funds or loans within its community, and

WHEREAS, the NFIP requires that floodplain management regulations must be present and enforced in participating communities, and utilize the following definitions which also apply for the purposes of this resolution:

1. Flood or Flooding means:
 - a. A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland or tidal waters, 2) the unusual and rapid accumulation or runoff of surface waters from any source, 3) mudflows, and
 - b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding, as defined in paragraph (a)(1) of this definition.
2. Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by the FEMA, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zone A, M, and/or E. (This is to be included only if the FEMA has issued a FHBM for the community).
3. Floodplain means any land area susceptible to being inundated by water from any source (see definition of flooding).
4. Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.
5. Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance), and other applications of police power that provide standards for the purpose of flood damage prevention and reduction.
6. Structure means a walled and roofed building that is principally above ground, gas or liquid storage facility, as well as a mobile home or manufactured unit.

WHEREAS, the Stille-Derossett-Hale Single State Construction Code Act”, Act No. 230 of the Public Acts of 1972, as amended (construction code act), along with its authorization of the state construction code composed of the Michigan Residential Code and the Michigan Building Code [and its Appendices (specifically Appendix G if adopted by the community)] contains floodplain development and management regulations that comply with the FEMA NFIP minimum floodplain management criteria for flood prone areas, as detailed in Title 44 of the Code of Federal Regulations (44 CFR), Section 60.3, and

WHEREAS, by an ordinance adoption action dated Sept. 18 2006, the community accepted the responsibility to administer, apply, and enforce the provisions of the construction code act and the state construction code, specifically the Michigan Residential Code and the Michigan Building Code, to all construction within its community boundaries, and [Community B has agreed to enforce those codes on behalf of Community A (if appropriate)]

NOW THEREFORE, to maintain eligibility and continued participation in the NFIP,

1. The community directs its designated enforcing agent for the construction code act, the Building Department, to administer, apply, and enforce the floodplain management regulations as contained in the state construction code (including Appendix G, if adopted) and to be consistent with those regulations by:
 - a. Obtaining, reviewing, and reasonably utilizing flood elevation data available from federal, state, or other sources pending receipt of data from the FEMA to identify the flood hazard area and areas with potential flooding.
 - b. Ensuring that all permits necessary for development in floodplain areas have been issued, including a floodplain permit, approval, or letter of no authority from the Michigan Department of Environmental Quality under the floodplain regulatory provisions of Part 31, "Water Resources Protection," of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.
 - c. Reviewing all permit applications to determine whether the proposed building sites will be reasonably safe from flooding. Where it is determined that a proposed building will be located in a flood hazard area or special flood hazard area, the construction code act enforcing agent shall implement the following applicable codes according to their terms:
 1. Floodplain management regulation portions and referenced codes and standards of the current Michigan Residential Code.
 2. Floodplain management regulation portions and referenced codes and standards of the current Michigan Building Code.
 3. Appendix G of the current Michigan Building Code, if adopted.
 - d. Reviewing all proposed subdivisions to determine whether such proposals are reasonably safe from flooding and to ensure compliance with all applicable floodplain management regulations.

- e. Assisting in the delineation of flood hazard areas; providing information concerning uses and occupancy of the floodplain or flood-related erosion areas, maintaining floodproofing and lowest floor construction records, cooperating with other officials, agencies, and persons for floodplain management.
 - f. Advising FEMA of any changes in community boundaries, including appropriate maps.
 - g. Maintaining records of new structures and substantially improved structures concerning any certificates of floodproofing, lowest floor elevation, basements, floodproofing, and elevations to which structures have been floodproofed.
2. The community assures the Federal Insurance Administrator (Administrator) that it intends to review, on an ongoing basis, all amended and revised FHBMs and Flood Insurance Rate Maps (FIRMs) and related supporting data and revisions thereof and revisions of 44 CFR, Part 60, Criteria for Land Management and Use, and to make such revisions in its floodplain management regulations as may be necessary to continue to participate in the program.
 3. The community further assures the Administrator that it will adopt the current effective FEMA Flood Insurance Study (FIS), FHBMs, and/or the FIRMs by reference within its Floodplain Management Map Adoption Ordinance or similarly binding ordinance documentation.

Community: _____ Date Passed: _____

Officer Name: _____ Title: _____

Signature: _____ Date: _____

Witness Name: _____ Title: _____

Signature: _____ Date: _____



CITY COUNCIL ACTION REPORT

October 10, 2006

TO: Phillip L. Nelson, City Manager

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

SUBJECT: PRELIMINARY SITE PLAN REVIEW AND AMENDED CONSENT ORDER AND JUDGMENT (SP 883-C) – Heartland Health Care, Southwest corner of South Boulevard and Livernois, Section 3 – O-1 and R-1B

Background:

- The applicant received Final Site Plan Approval for a 120-bed nursing home on November 30, 2005. After being granted Final Site Plan Approval, the applicant determined that there was a need for 16 additional parking spaces. These have been incorporated in the proposed parking area on the southwest side of the building. The additional parking area will not affect compliance with any Zoning Ordinance provisions, including required landscaping.
- The Planning Commission recommended approval of the revised site plan on September 12, 2006.
- The applicant worked closely with the Meadowland Estates Homeowners Association throughout the design of the project. The Homeowners Association provided a letter endorsing the revised site plan.

Financial Considerations:

- There are no financial considerations for this item.

Legal Considerations:

- The use of the parcel is controlled by a consent judgment that will need to be amended to accommodate the revision to the site plan. City Council is responsible for approving the amended consent judgment, which includes Preliminary Site Plan Approval authority.

Policy Considerations:

- The item is consistent with City Council Goal II (Retain and attract investment while encouraging redevelopment) and Goal VI (Protect life and property).

Options:

- City Management recommends approval of the revised site plan and Consent Order and Judgment.

Approved as to Form and Legality:

Lori Grigg Bluhm, City Attorney

Attachments:

1. Maps.
2. Preliminary Site Plan Sheet SP1, prepared by Nowak & Fraus, date stamped October 3, 2006 by Planning Department.
3. Amended Consent Order and Judgment.
4. Letter from Meadowland Estates Homeowners Association dated July 12, 2006.

cc: Applicant
File/ SP 883-C

Prepared by RBS/MFM

G:\SITE PLANS\SP 883-C Heartland Health CJ Sec 3\SP 883-C CC Memo 10 16 06.doc

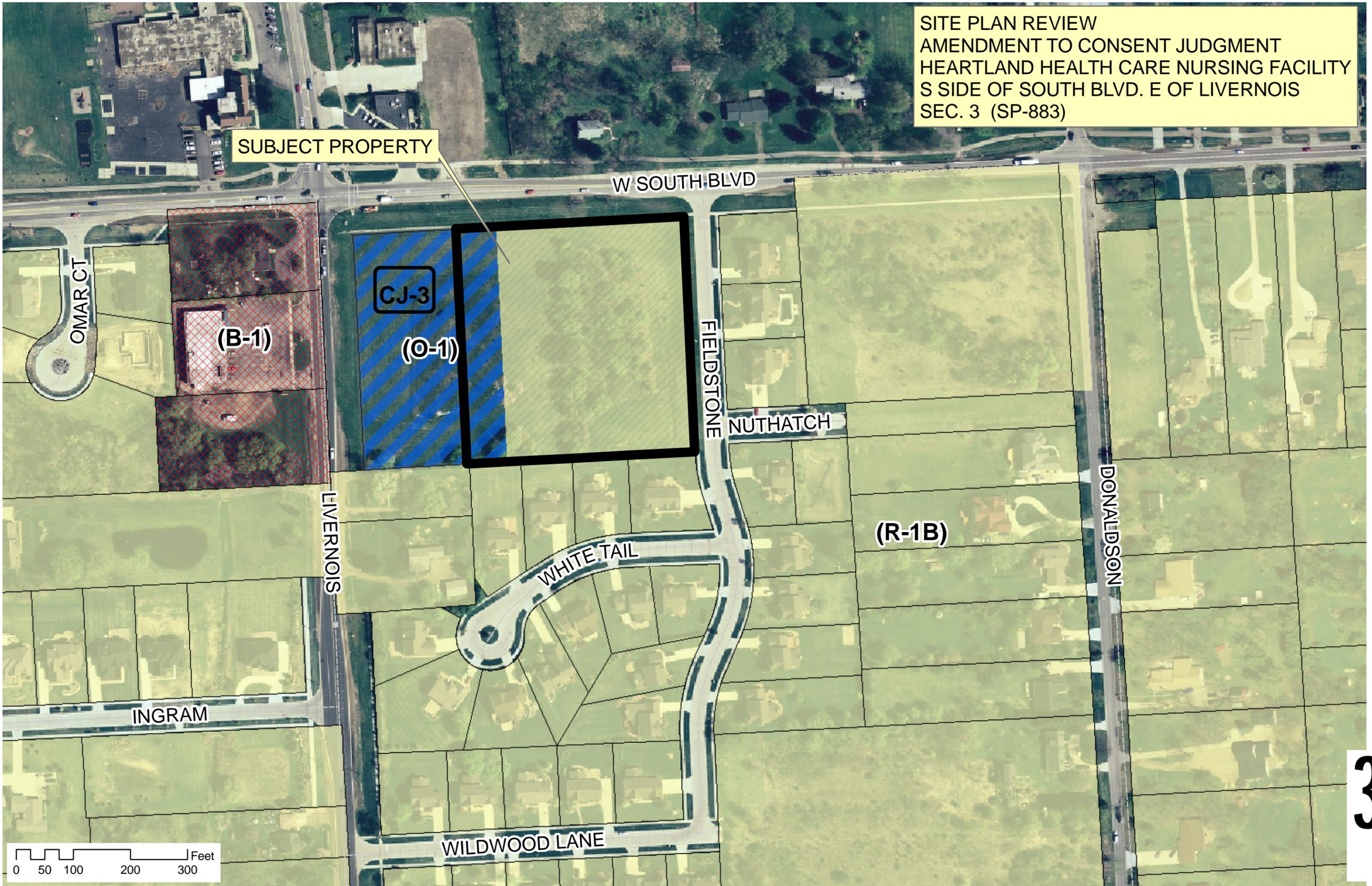
SITE PLAN REVIEW
AMENDMENT TO CONSENT JUDGMENT
HEARTLAND HEALTH CARE NURSING FACILITY
S SIDE OF SOUTH BLVD. E OF LIVERNOIS
SEC. 3 (SP-883)

SUBJECT PROPERTY



SITE PLAN REVIEW
AMENDMENT TO CONSENT JUDGMENT
HEARTLAND HEALTH CARE NURSING FACILITY
S SIDE OF SOUTH BLVD. E OF LIVERNOIS
SEC. 3 (SP-883)

SUBJECT PROPERTY



STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

RODNEY D. HYDUK, DDS MSD,
Trustee of the Rodney D. Hyduk
Trust Agreement, dated 2/19/82,
as amended and successors in trust
successor to Rodney D. Hyduk,

Case No. 83-265736-CZ

Hon. John J. MacDonald

Plaintiff,

-vs-

CITY OF TROY, a Michigan
Municipal corporation,
Defendant.

SECOND AMENDMENT TO THE
CONSENT ORDER AND JUDGMENT

And

HEALTHCARE AND RETIREMENT
CORPORATION OF AMERICA,
an Ohio corporation,

Intervening Plaintiff

KALAS KADIAN, P.L.C.,
By: THOMAS KALAS (P41805)
Attorney for Plaintiff
40900 Woodward Ave., Ste. 315
Bloomfield Hills, MI 48304
(248) 203-7174

LORI GRIGG BLUHM (P46908)
SUSAN M. LANCASTER (P31688)
Attorneys for Defendant
500 W. Big Beaver Road
Troy, Michigan 48084
(248) 524-3320

SEELIGSON, DeLOOF, HOPPER & DEVER, PLLC
By: PETER H. DeLOOF (P12654)
Attorney for Intervening Plaintiff
401 E. Liberty, Suite 250
Ann Arbor, MI 48104
(734) 994-1295

SECOND AMENDMENT TO THE CONSENT ORDER AND JUDGMENT

At a session of said Court held
in the City of Pontiac,
County of Oakland, state of Michigan

on _____, 2006

Present: Hon. _____

Whereas, Plaintiff RODNEY D. HYDUK, DDS, MSD, Trustee of the Rodney D. Hyduk Trust Agreement, dated 2/19/82, as amended and successors in trust, successor to Rodney D. Hyduk (hereinafter referred to as HYDUK) was the previous owner of 5.48 acres of real property, which is legally described in the attached Exhibit "A", Parcel I.D. No. 20-03-102-001 (hereinafter referred to as the Parcel), located in Troy, Oakland County, Michigan which was the subject of the December 26, 1983 Consent Order and Judgment; and,

Whereas, Intervening Plaintiff, HEALTHCARE AND RETIREMENT CORPORATION OF AMERICA, an Ohio corporation (hereinafter referred to as HRCA) purchased the east 3.78 acres of the Parcel previously owned by HYDUK which is legally described in the attached Exhibit "B" (hereafter referred to as the Property; and,

Whereas, Plaintiff HYDUK retained the westernmost 1.70 acres of the Parcel (hereinafter referred to as the Remainder Property), which 1.70 acres are legally described in the attached Exhibit "C"; and

Whereas, the First Amendment to the Consent Order and Judgment was entered by this Court on September 27, 2006, which allowed the Intervening Plaintiff HRCA to develop the Property in accordance with a proposed site plan submitted to the Defendant City of Troy which was attached to the First Amendment to the Consent Order and Judgment for the construction of a 120 bed nursing home. Development of that proposed site plan required amendments to the Consent Order and Judgment of December 26, 1986, which is controlling for the Property.

Whereas, the parties have agreed to amend certain provisions of the First Amendment to the Consent Order and Judgment to allow for the revision of the previous site plan to modify the parking on the southwest side of the building for 16 parking spaces; and,

Now Therefore, pursuant to stipulation of the parties, by and through their respective Counsel, and this Court being otherwise duly advised in the premises,

IT IS HEREBY ORDERED that all terms and conditions set out in the December 26, 1986 Consent Order and Judgment and the September 27, 2005 First Amendment to the Consent Order and Judgment between the parties, which are incorporated herein by reference, shall remain in effect, unless expressly modified by this Second Amendment to the Consent Order and Judgment, and

IT IS FURTHER ORDERED that the Intervening Plaintiff HRCA be allowed to revise the previous site plan to modify the parking on the southwest side of the building for 16 parking spaces, for a total of 96 parking spaces. The parking spaces shall be developed on the Property so as to comply with the provisions of the revised final site plan which is attached as Exhibit "D" and incorporated herein by reference, and which site plan is approved by the Troy City Council at its City Council meeting of October 16, 2006.

IT IS FURTHER ORDERED that a certified copy of this Second Amendment to the Consent Order and Judgment, including Exhibits, shall be recorded in the Oakland County Register of Deeds against the Parcel, which includes the Property and Remainder Property.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction over this action.

Circuit Court Judge

Approved as to form, substance and entry:

Rodney D. Hyduk Trust u/a/d 2-19-82

THOMAS KALAS (P41805)
Attorney for Plaintiff
RODNEY D. HYDUK Trust
u/a/d 2/19/82

By: Rodney D. Hyduk, Trustee

PETER H. DeLOOF (P12654)
Attorney for HEALTHCARE AND
RETIREMENT CORPORATION
OF AMERICA, an Ohio corporation,
Intervening Plaintiff

CITY OF TROY,
Defendant

By: _____
Susan M. Lancaster (P33168)

Its: Attorney

By: _____
Louise Schilling

Its: Mayor

By: _____
Tonni L. Bartholomew

Its: Clerk

After recording return to:

Peter H. DeLoof (P12654)
Seeligson, DeLoof, Hooper & Dever, PLLC
401 E. Liberty, Suite 250
Ann Arbor, Michigan 48104
(734) 747-9900

LETO & ASSOCIATES, P.C.

Attorneys & Counselors

2833 Crooks Rd.

Suite # 104

Troy, MI 48084

e-mail – p.letto@lettoassociates.com

Website: lettoassociates.com

TELEPHONE

248-614-9600

FACSIMILE

866-791-5087

July 12, 2006

REC'D

JUL 13 2006

PLANNING DEPT.

City of Troy Planning Commission
500 W. Big Beaver Rd.
Troy, MI 48084-5285

In Reference to: **Heartland Health Project; Owner HCR Manor Care**
Proposed project: near the SE Corner of Livernois & South Blvd.
Our File # 75-02-0011

To the Commission:

Please be advised that the undersigned is retained legal counsel for the **Meadowland Estates Homeowners Association** (the "Association").

Previously, with the Association's Board's authorization, on or about **December 14, 2004**, I forwarded an endorsement letter to the Troy Planning Commission the Association's endorsement of original HCR Site Plan.

Subsequent to that endorsement, on or about **April 20, 2006** it had come to the Association's attention, through HCR's attorney, Peter Deloof, Esq., that certain modifications are now required on the originally endorsed Site Plan due to the need of additional parking for the site.

Please be further advised the Association's Board has met with the above-mentioned Owner's representatives on the evening of **Thursday, April 27, 2006** to review the proposed updated, amended site plan for the proposed project and to offer their requested changes..

On or about **June 28, 2006**, Mr. Deloof has forwarded to this office a copy of the final, proposed revised site plan, prepared by Novak & Fraus, Consulting Engineers, which is a five (5) page blueprint depicting the proposed changes. The five pages are each identified as, "06/22/06 Issued for Site Plan Amendment." Those pages incorporate the Association's requested changes from that **April 27, 2006** meeting.

City of Troy Planning Commission
July 12, 2006
Pg. 2

Please be further advised the Association's Board has met on the evening of **Thursday, July 6, 2006** to review the proposed updated site plan for the proposed project.

Subsequent to that Board meeting, the Association Board has authorized me to convey to the Commission that the Association has endorsed the **June 22, 2006 Site Plan Amendment** as presented to the Association's Board for its review at the meeting of **July 6, 2006**.

Please be advised the Association gives its unqualified endorsement to **June 22, 2006 Site Plan Amendment** for the project. Should any additional information be required from the Association, please do not hesitate to contact me.

Sincerely,



Peter Leto, Attorney for the
Meadowland Estates Homeowners Association

cc. Michael Toger
Peter H. DeLoof, Esq.



CITY COUNCIL REPORT

October 9, 2006

TO: Phillip L. Nelson, City Manager

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

SUBJECT: Announcement of Public Hearing - Zoning Ordinance Text Amendment (File Number: Z 714) – Proposed The Enclave Senior Housing, North of Long Lake between Livernois and Crooks, Section 9 – R-1B to R-EC

Background:

- The applicant proposes rezoning an 8.61-acre parcel from R-1B One Family Residential to R-EC Residential Elder Care. There are also 1.67 acres of rights-of-way that the applicant intends to incorporate into the future development. The applicant submitted an application to vacate these rights-of-way.
- The applicant provided a concept plan proposing a senior housing development with 22 homes for seniors, 48 senior apartments, 48 assisted living units and 48 nursing care units.
- Access to the parcel is provided by Houghten Street from the north and Stalwart Street from the east. The parcel does not have frontage on a major thoroughfare. Development on this parcel would generate not only vehicular traffic from residents, staff and visitors, but also truck traffic to serve the facility. Without a direct connection to Long Lake Road, development on the property would be a significant negative impact on the existing single-family neighborhood.
- The Planning Commission held a public hearing on this item on September 12, 2006, and recommended denial of the proposed rezoning.
- A public hearing is scheduled for the October 23, 2006 City Council meeting.

Financial Considerations:

- There are no financial considerations associated with this application.

Legal Considerations:

- The parcel is classified on the Future Land Use Plan as Low Density Residential and Open Space. The parcel has been planned for Low Density Residential since 1965. The Low Density Residential classification correlates with the R-1A through R-1E and CR-1 zoning districts. The application therefore does not comply with the Future Land Use Plan.
- The application does not meet the Location Standards of Section 19.40.00.
- City Council has the authority to amend the Zoning District Map.
- A valid protest petition has been submitted which will require five (5) City Council votes to adopt the rezoning request.

Policy Considerations:

- Denial of the rezoning application would be consistent with City Council Goal VI, Protect life and property.

Options:

- City Council may approve the rezoning, deny the rezoning or postpone the rezoning.
- City Management recommends denial of the proposed rezoning, as recommended by Planning Commission.
- No action until public hearing on October 23, 2006.

Approved as to form and legality:

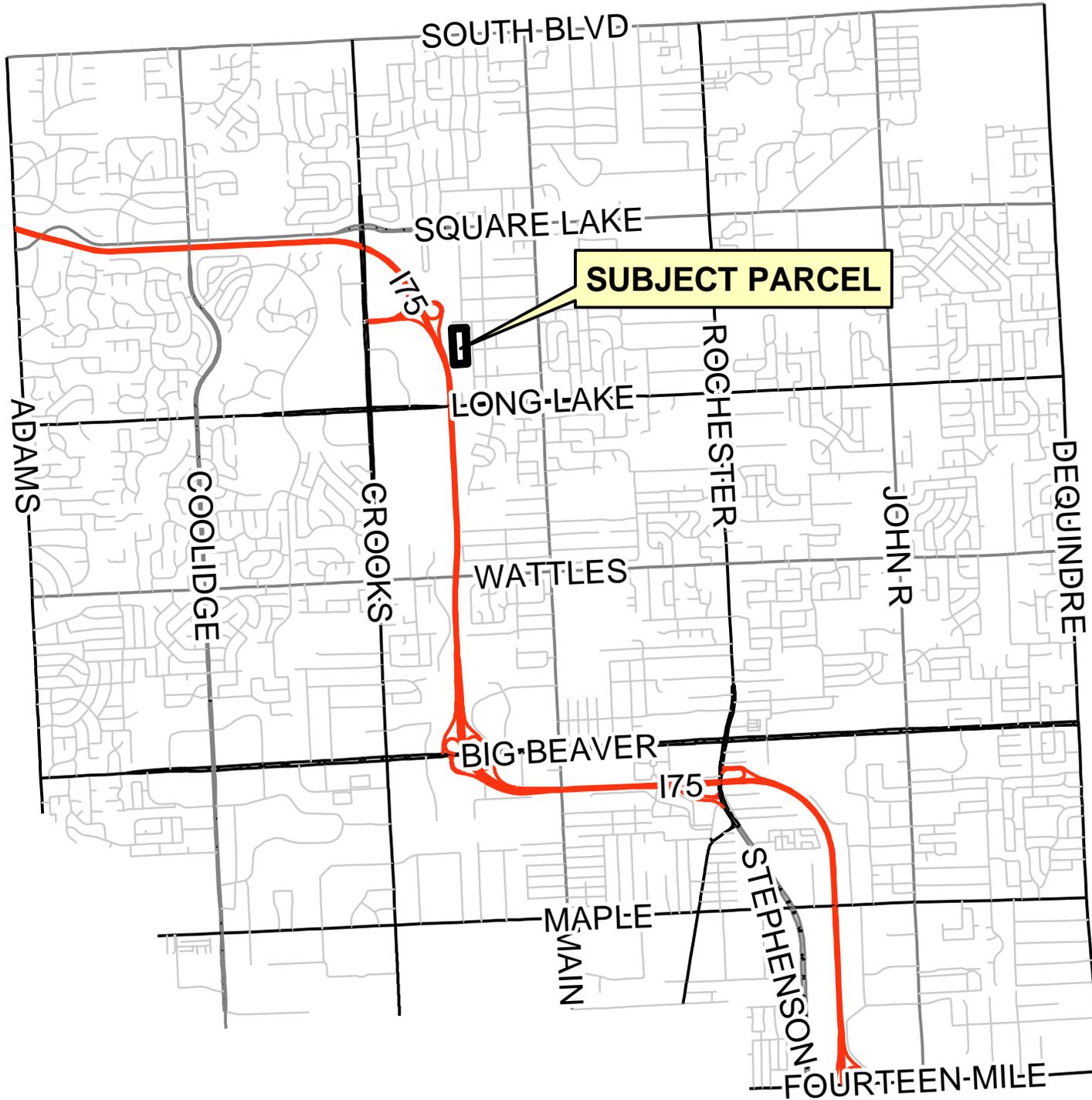
Lori Grigg Bluhm, City Attorney

Attachments:

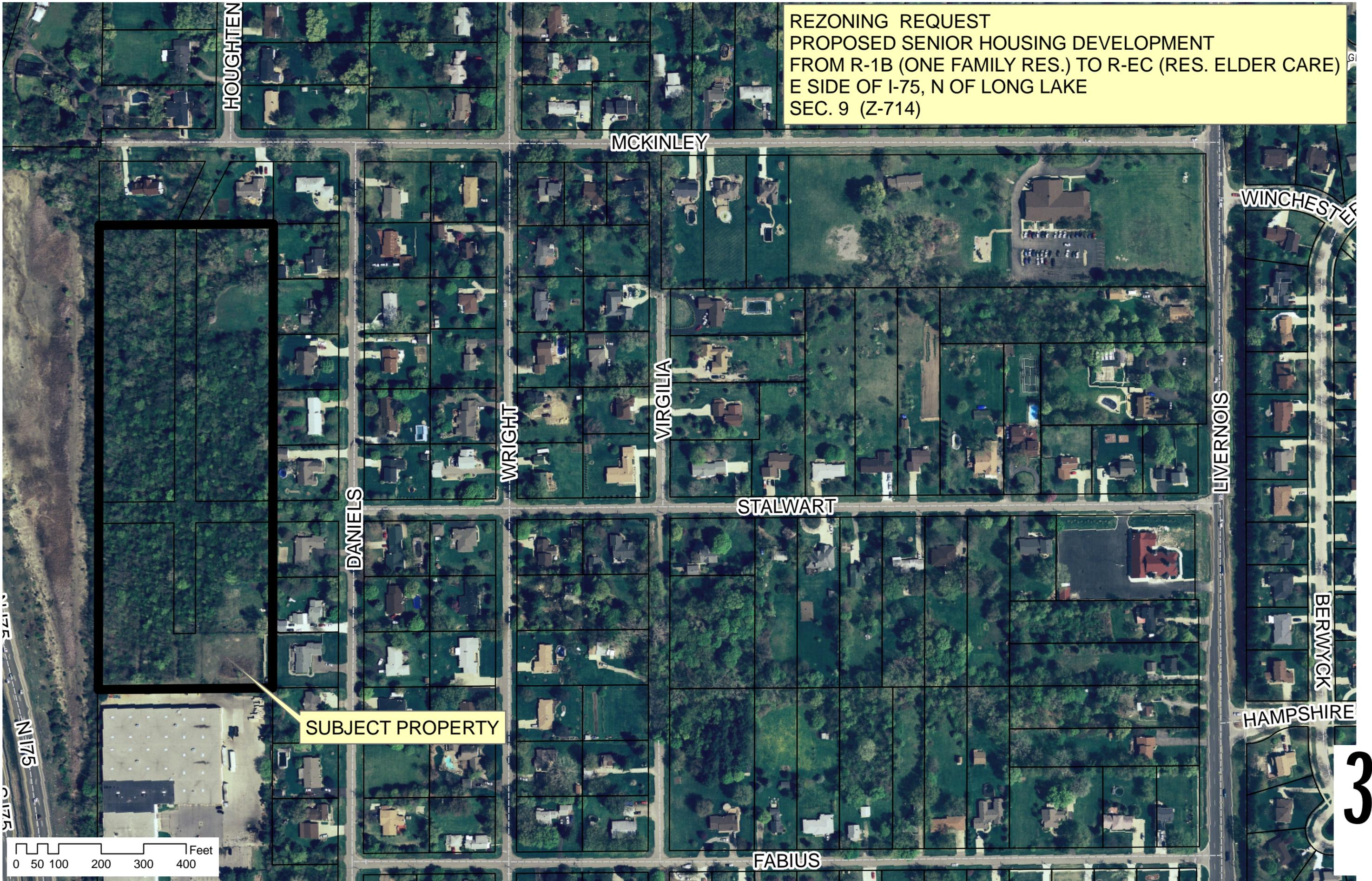
1. Maps.
2. Letter from applicant.
3. Letters of opposition.

Prepared by RBS/MFM

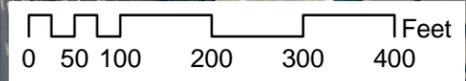
CITY OF TROY



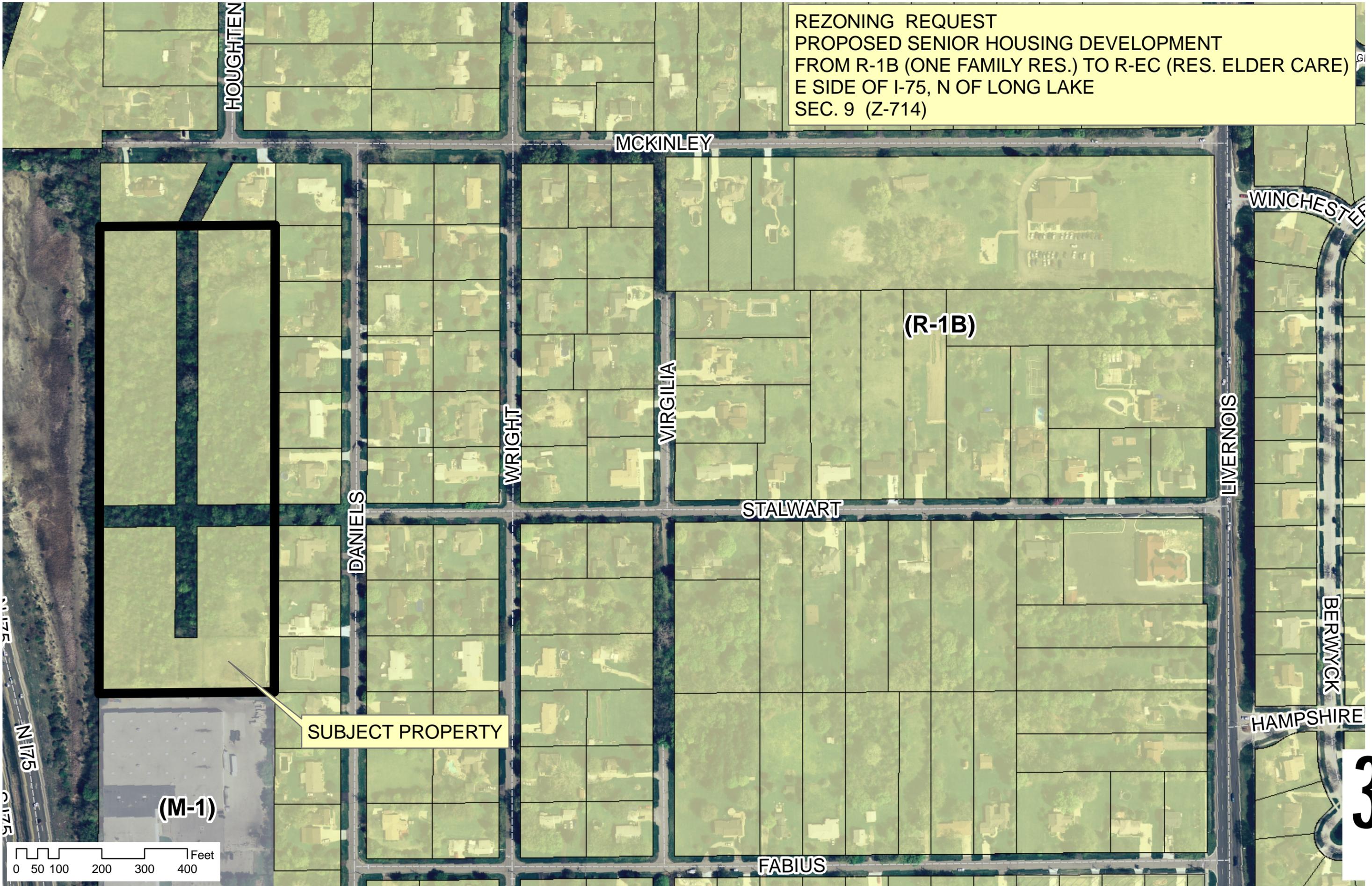
REZONING REQUEST
PROPOSED SENIOR HOUSING DEVELOPMENT
FROM R-1B (ONE FAMILY RES.) TO R-EC (RES. ELDER CARE)
E SIDE OF I-75, N OF LONG LAKE
SEC. 9 (Z-714)



SUBJECT PROPERTY



REZONING REQUEST
PROPOSED SENIOR HOUSING DEVELOPMENT
FROM R-1B (ONE FAMILY RES.) TO R-EC (RES. ELDER CARE)
E SIDE OF I-75, N OF LONG LAKE
SEC. 9 (Z-714)



SUBJECT PROPERTY

(R-1B)

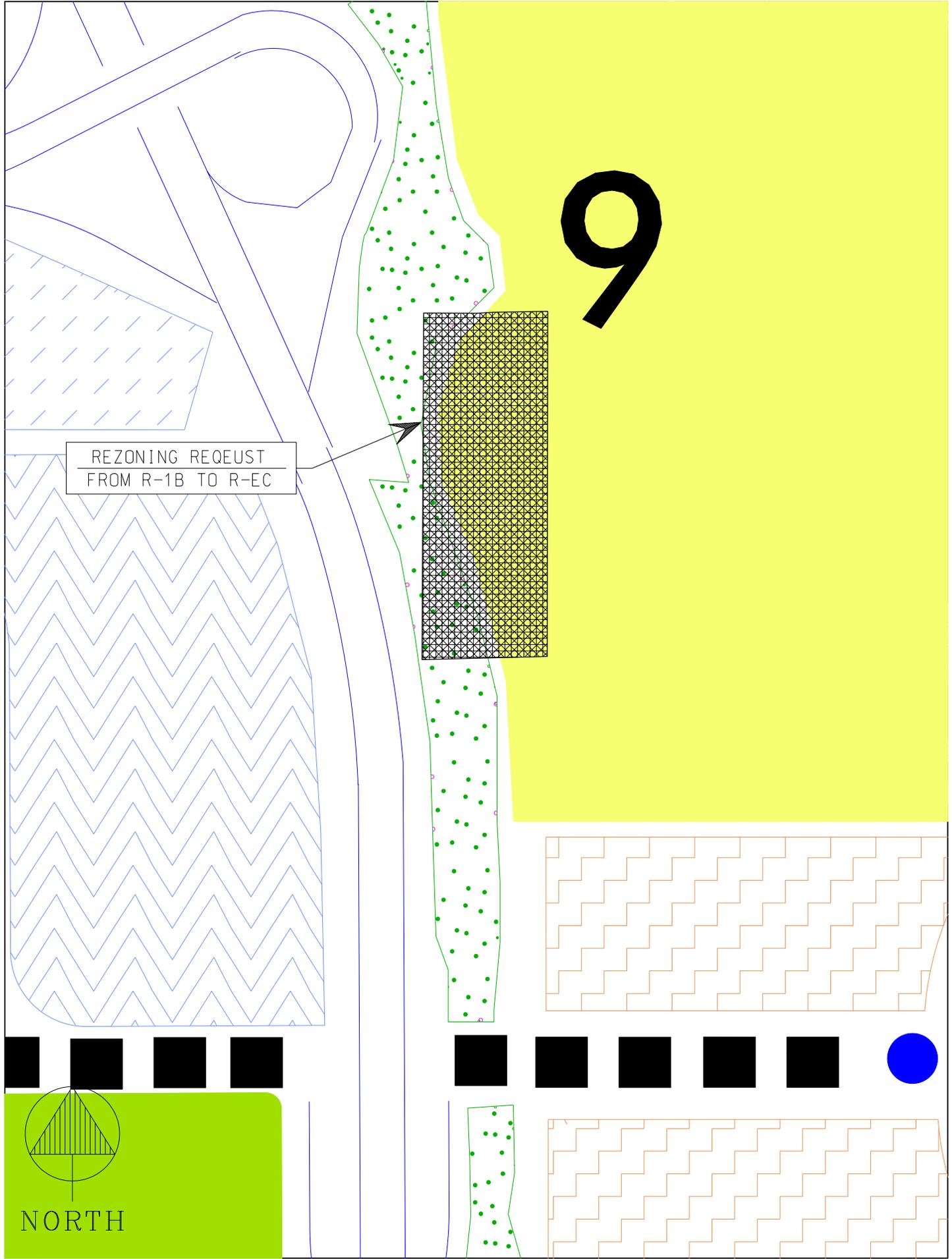
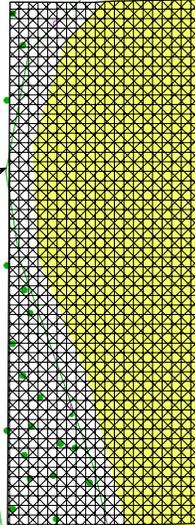
(M-1)

0 50 100 200 300 400 Feet

3

9

REZONING REQEUST
FROM R-1B TO R-EC



PROPOSED SENIOR HOUSING
FROM R-1B TO R-EC
N OF LONG LAKE, E OF I-75
SEC. 9 (Z-714)

DELPHI

6726

N 175 ONRP

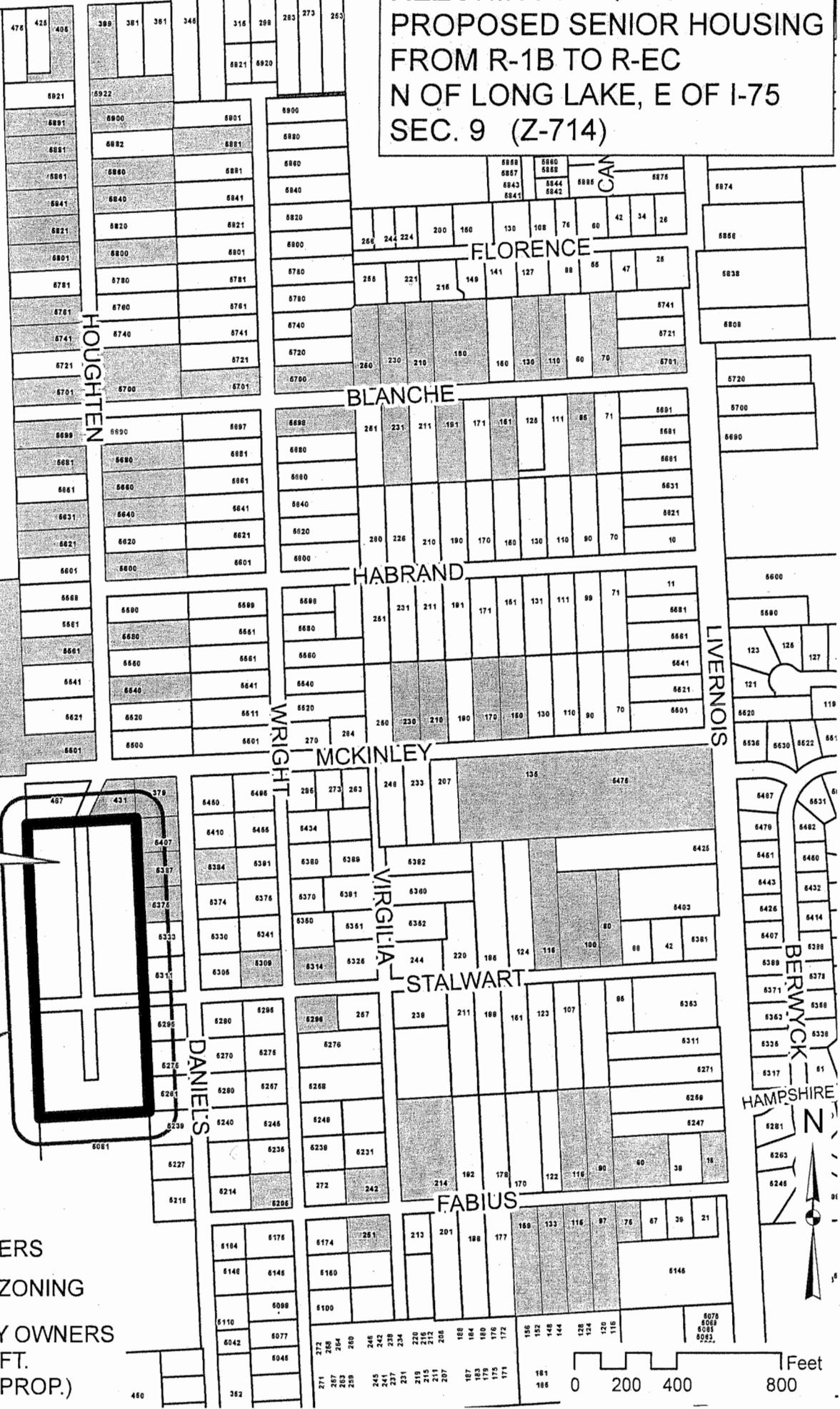
SUBJECT PARCEL

100 FT. BUFFER

N 175

- Legend**
-  100 FT BUFFER
 -  PETITION SIGNERS
 -  PROPOSED REZONING

31.61% OF PROPERTY OWNERS
OF LAND WITHIN 100 FT.
BUFFER (EX. PUBLIC PROP.)



0 200 400 800 Feet

**PRESERVATION OF PROPERTY RIGHTS WHILE BEING
AN ASSET TO THE COMMUNITY**

Care of our senior citizens is a noble and righteous endeavor that should be deeply engrained in the human spirit. Personal and loving care should be close to home and evidence every aspect of residential living that is given to all citizens of The City of Troy. It is anticipated that the proposed community will be an excellent opportunity for Troy residents to stay in the community they have lived in for as many as thirty or forty years. The proposed community is also a welcome opportunity for residents of Troy to have their parents close to them in the twilight of their life. In affect, the residential character of the neighborhood, the residential nature of the property and the anticipated evaluation of the industrial character of the property to the south makes the use of the proposed site a logical transitional use and a reasonable alternative at this time in the development of the City of Troy.

The proposed development will be designed to serve the vicinity, minimize what little impact there is so that a majority of the residents will experience no significant change in their surroundings in the short term and even less when the industrial activity moves and affords the opportunity for access directly to Long Lake.

As a result of this rezoning, the applicant has been able to preserve the property rights of an owner who wishes to curtail its expansion on this property in a way that is beneficial to the community and do it in such a manner that the proposed use will create a quiet and peaceful environment for the surrounding neighbors.

REC'D

JAN 13 2006

PLANNING DEPT.

Applicant Letter



Rezoning Protest Petition

REC'D

SEP - 8 2006

PLANNING DEPT.

11:44 AM

Submit this form to: City Clerk's Office
City of Troy
500 W. Big Beaver
Troy, MI 48084

Date: 9-8-06

Contact Person: CHARLES JACKSON
Address: 405 W SQUARE LAKE RD
City: TROY State: MI Zip: 48098
Telephone: 248 879-0205

Rezoning case being protested:

Case #: Z-714 Applicant Name: CHOICE DEVELOPMENT CORPORATION

What is a valid rezoning protest petition?

valid $\geq 20\% = 39,306,8020$ S.F.
Signers = $31.6125\% = 62,129,4335$ S.F.

If a valid rezoning protest petition is filed in opposition to a rezoning request, the City Council cannot approve the request unless it does so by a vote of two-thirds of all Council members. A simple majority can approve all other rezoning requests. To be considered valid, the protest petition must:

- (1) Be signed by the owner(s) of twenty percent (20%) or more of the area of land included in the proposed change **or** be signed by the owner(s) of twenty percent (20%) or more of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change. **Publicly owned land shall be excluded in the calculating the twenty percent (20%) land area requirement.**
- (2) Be signed by all persons having an ownership interest in the property as represented on the property deed - i.e., both spouses, the managing partner of a partnership, etc.
- (3) Include a statement of opposition on each page of signatures at the top of the petition. The statement should be simply and clearly worded.
- (4) Be submitted to the office of the City Clerk, 500 W. Big Beaver, at or before 12:00 p.m. on the date the Rezoning is scheduled for action by the City Council.

Attach signatures to this sheet on the form provided. The signature form may be duplicated if necessary.

PETITION

of 100' Buffer
(exclusive of public prop.)

We, the undersigned property owners of the City of Troy, County of Oakland, and State of Michigan, request the following:

A denial of the proposed rezoning of the 10 acre parcel north of K-Max Corporation from R-1B (Single family residential) to R-EC (High density, elderly care).

Signature	Printed Name	Property Address	Date of Signature
<i>Jeff Miller</i>	JEFF MILLER	5621 HOUGHTEN	8-26-06
<i>Julma Gee</i>	THELMA GEE	5561 HOUGHTEN	8-26-06
<i>Ray E Brown</i>	RAY E BROWN	5501 HOUGHTEN	8-26-06
<i>James Neumann</i>	JAMES NEUMANN	431 MCKINLEY	8-26-06
<i>Gerry Bray</i>	GERRY BRAY	5580 HOUGHTEN	8-26-06
<i>Roy Bray</i>	ROY BRAY	5580 Houghten	26 Aug 06
<i>Ron Marsden</i>		5600 Houghten	8/26/06
<i>Evelyn L. Brown</i>	EVELYN L. BROWN	5660 HOUGHTEN	8-26-06
[REDACTED]			
<i>Glenn Loisel</i>	GLENN LOISEL	5640 HOUGHTEN	8-26-06
<i>Irvin Moore</i>	IRVIN MOORE	5680 HOUGHTEN	8-26-06
<i>Olive Moore</i>	OLIVE MOORE	5680 HOUGHTEN	8-26-06
[REDACTED]			
<i>Wate Krupa</i>	WATE KRUPA	5700 HOUGHTEN	8-26-06
CHRIS STEIGERWARD	Chris Steigerward	5800 HOUGHTEN	8-26-06
<i>Diane McHannon</i>	Diane McHannon	5800 Houghten	8-26-06

CIRCULATOR - DO NOT SIGN OR DATE CERTIFICATE UNTIL AFTER CIRCULATING PETITION.

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that each signature on the petition was signed in his or her presence; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition.

Charles R Jackson
Signature of Circulator

8-26-06
DATE

Charles R. Jackson

Printed Name of Circulator

405 W. Square Lake Rd. Troy, MI 48098

Complete Address

PETITION

We, the undersigned property owners of the City of Troy, County of Oakland, and State of Michigan, request the following:

A denial of the proposed rezoning of the 10 acre parcel north of K-Max Corporation from R-1B (Single family residential) to R-EC (High density, elderly care).

Signature	Printed Name	Property Address	Date of Signature
<i>Florence Bock</i>	FLORENCE BOCK	70 BLANCHE	8/26/06
<i>Jim Wilk</i>	Jimmie WILKINS	5701 LIVERNOIS	8/26/06
<i>Lisa M Wright</i>	Lisa M Wright	130 Blanche	8/26/06
<i>Jim Boehl</i>	Jim Boehler	130 Blanche	8-26-06
<i>Colleen Allison</i>	Colleen Allison	85 Blanche	8-26-06
<i>Deborah Fournier</i>	Deborah Fournier	151 Blanche	8-26-06
<i>Stephen Miller</i>	STEPHEN MILLER	191 BLANCHE	8-26-06
<i>Allison E Miller</i>	Allison E. Miller	191 Blanche	8/26/06
<i>Joyce Bauman</i>	Joyce Bauman	231 Blanche	8/26/06
<i>Betty Springsstube</i>	BETTY SPRINGSTUBE	399 W. SQUARE LK	8/26/06
<i>Leonard E Springsstube</i>	LEONARD E. SPRINGSTUBE	399 W. SQUARE LK	8/26/06
<i>Rebecca Bullock</i>	Rebecca Bullock	5861 Houghten Dr.	9/2/06
<i>Clare Horig</i>	Clare Horig	5881 WRIGHT DR	9/2/06
<i>John Bullock</i>	JOHN BULLOCK	5861 HOUGHTEN DR.	9/2/06
<i>Gary Makin</i>	GARY MAKIN	5407 DANIELS	9/2/06
<i>Thomas C Teme</i>	THOMAS C TEME	5384 DANIELS	9/2/06

CIRCULATOR - DO NOT SIGN OR DATE CERTIFICATE UNTIL AFTER CIRCULATING PETITION.

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that each signature on the petition was signed in his or her presence; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition.

Charles R Jackson 9-2-06
 Signature of Circulator DATE
 Charles R. Jackson
 Printed Name of Circulator
 405 W. Square Lake Rd. Troy, MI 48098
 Complete Address

PETITION

We, the undersigned property owners of the City of Troy, County of Oakland, and State of Michigan, request the following:

A denial of the proposed rezoning of the 10 acre parcel north of K-Max Corporation from R-1B (Single family residential) to R-EC (High density, elderly care).

Signature	Printed Name	Property Address	Date of Signature
<i>John Northey Jr</i>	JOHN NORTHEY JR	133 FABIUS	9-2-06
<i>Sandra G Northey</i>	SANDRA G. NORTHEY	133 FABIUS	9-2-06
<i>James Rivas</i>	JAMES RIVAS	159 FABIUS	9-2-06
<i>Gerald E Mink</i>	GERALD E MINK	214 FABIUS	9-2-06
<i>Betty Dolezel</i>	BETTY DOLEZEL	242 FABUIS	9-2-06
<i>Barbara N Stone</i>	BARBARA N STONE	251 FABIUS DR	9-2-06
<i>Harold Swatzell</i>	HAROLD SWATZELL	5205 WRIGHT DR	9-2-06
<i>Pantelis Georgarakis</i>	PANTELIS GEORGARAKIS	379 MCKINLEY	9-2-06
<i>Jerome Kubiak</i>	JEROME KUBIAK	5540 HOUGHTEN	9-2-06
<i>Pearl Kubiak</i>	PEARL KUBIAK	5540 HOUGHTEN	9-2-06
<i>Keith Printy</i>	KEITH PRINTY	210 MCKINLEY	9-2-06
<i>Dolores Printy</i>	DOLORES PRINTY	210 MCKINLEY	9-2-06
<i>Dawn Hayes</i>	Dawn Hayes	230 MCKINLEY	9-2-06
<i>Joan Mordan</i>	Joan Mordan (Not owner)	135 MCKINLEY	9-2-06
<i>Joseph T Hoin</i>	Joseph T Hoin	170 MCKINLEY	9-2-6
<i>James R. Dlezniak</i>	JAMES R. DLEZNIAK	150 MCKINLEY	9-2-6

CIRCULATOR – DO NOT SIGN OR DATE CERTIFICATE UNTIL AFTER CIRCULATING PETITION.

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that each signature on the petition was signed in his or her presence; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition.

Charles R Jackson 9-2-06
 Signature of Circulator DATE

Charles R. Jackson
 Printed Name of Circulator

405 W. Square Lake Rd. Troy, MI 48098
 Complete Address

PETITION

We, the undersigned property owners of the City of Troy, County of Oakland, and State of Michigan, request the following:

A denial of the proposed rezoning of the 10 acre parcel north of K-Max Corporation from R-1B (Single family residential) to R-EC (High density, elderly care).

Signature	Printed Name	Property Address	Date of Signature	
Brian D. Gow	Brian D. Gow	5840 Houghten	08-26-06	✓
Pat Karbunjan	PETE VEREBRUCCAN	5860 HOUGHTEN	08-26-06	✓
Sylvia Powers	SYLVIA POWERS	5900 HOUGHTEN	8-26-06	✓
Huzair Lekovic	HUZAIR LEKOVIC	5922 HOUGHTEN	8-26-06	✓
Hanna Lekovic	HANNA LEKOVIC	5922 HOUGHTEN	8-26-06	R
Keith Allison	KEITH ALLISON	5841 HOUGHTEN	8-26-06	✓
Mindy Hart	Mindy Hart	5701 WRIGHT	8-26-06	✓
Eleonor Buchanan	ELEANOR BUCHANAN	5700 WRIGHT	8-26-06	✓
Donald Michers	DONALD MICHERS	5698 WRIGHT	8-26-06	✓
Mark Bindbeutel	MARK BINDBEUTEL	250 Blanche Dr	8-26-06	✓
Jane Bindbeutel	Jane Bindbeutel	250 Blanche Dr	8-26-06	R
Julie Schmidt	Julie Schmidt	230 Blanche Dr.	8-26-06	✓
Jeremy Schmidt	Jeremy Schmidt	230 Blanche Dr.	8-26-06	R
Paul Brill	PAUL BRILL	210 BLANCHE DR.	8-26-06	✓
Harold Hoke	HAROLD HOKE	180 Blanche	8/26/06.	✓
Diana Parrish	DIANA PARRISH	110 Blanche	8/26/06	✓

CIRCULATOR – DO NOT SIGN OR DATE CERTIFICATE UNTIL AFTER CIRCULATING PETITION.

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that each signature on the petition was signed in his or her presence; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition.

Charles R Jackson

8-26-07

Signature of Circulator

DATE

Charles R. Jackson

Printed Name of Circulator

405 W. Square Lake Rd. Troy, MI 48098

Complete Address

PETITION

We, the undersigned property owners of the City of Troy, County of Oakland, and State of Michigan, request the following:

A denial of the proposed rezoning of the 10 acre parcel north of K-Max Corporation from R-1B (Single family residential) to R-EC (High density, elderly care).

Signature	Printed Name	Property Address	Date of Signature	
<i>Charles Jackson</i>	CHARLES JACKSON	405 W SQUARE LAKE	8-26-06	✓
<i>Patricia Jackson</i>	PATRICIA JACKSON	405 W. SQUARE LAKE RD.	8-26-06	✓
<i>Michael Cianciolo</i>	MICHAEL CIANCIOLO	5891 HOUGHTEN	8-26-06	✓
<i>Katherine Wagner</i>	KATHERINE WAGNER	5881 HOUGHTEN	8-26-06	✓
<i>David Wilson</i>	DAVID WILSON	11	8-26-06	✓
<i>Sandra K. Allison</i>	SANDRA K. ALLISON	5841 HOUGHTEN ST.	8-26-06	✓
<i>Carol Rundquist</i>	CAROL RUNDQUIST	5821 HOUGHTEN	8-26-06	✓
<i>Lori Dutcher</i>	LORI DUTCHER	5801 HOUGHTEN	8-26-06	✓
<i>Mike Tillard</i>	MIKE TILLARD	5761 HOUGHTEN	8-26-06	✓
<i>Melinda L Hunsaker</i>	MELINDA L HUNSAKER	5741 HOUGHTEN	8-26-06	✓
<i>Gertrude Foerster</i>	GERTRUDE FOERSTER	5701 HOUGHTEN	8-26-06	✓
Tressa Ampselle				
<i>Tressa Ampselle</i>	TRESSA AMPSELL	5381 HOUGHTEN	8-26-06	✓
<i>Yvonne A. Waatti</i>	YVONNE A. WAATTI	5699 HOUGHTEN	8-26-06	✓
<i>Dorothy Colenso</i>	DOROTHY COLENSO	5631 HOUGHTEN	8-26-06	✓
<i>Vicki Miller</i>	VICKI MILLER	5621 HOUGHTEN	8-26-06	✓

CIRCULATOR - DO NOT SIGN OR DATE CERTIFICATE UNTIL AFTER CIRCULATING PETITION.

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that each signature on the petition was signed in his or her presence; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition.

Charles R Jackson 8-26-06
 Signature of Circulator DATE
 Charles R. Jackson
 Printed Name of Circulator
 405 W. Square Lake Rd. Troy, MI 48098
 Complete Address

PETITION

Add'l sheet to Protest Petition
from: Charles Jackson

We, the undersigned property owners of the City of Troy, County of Oakland, and State of Michigan, request the following:

A denial of the proposed rezoning of the 10 acre parcel north of K-Max Corporation from R-1B (Single family residential) to R-EC (High density, elderly care).

Signature	Printed Name	Property Address	Date of Signature
<i>Jule King</i>	JULE KING	130 MCKINLEY	9-2-06
<i>Autha Blake</i>	Autha Blake	116 McKinley	9-2-06
<i>Kelly Johnson</i>	Kelly Johnson	5500 Houghten	9-7-06
<i>Walter Kylonen</i>	WALTER KYLONEN	425 W. S. H. RD	9-8-06
<i>Camden Wolfe</i>	Camden Wolfe	5921 Houghten	9-8-06
<i>DeLoee Bufkin</i>	DeLoee Bufkin	5781 Houghten	9-9-06
<i>Darrell Bufkin</i>	DARRELL BUFKIN	5781 Houghten	9-9-06
<i>Paul C. Drury</i>	PAUL C. DRURY	5485 Wright	9-9-06
<i>Pauline C. Drury</i>	PAULINE C. DRURY	5485 Wright	9-9-06
<i>Linda S. Clark</i>	LINDA S. CLARK	285 McKinley	9/9/06
<i>Jerry Hall</i>	JERRY HALL	207 MCKINLEY	9-9-06
<i>Donald Bress</i>	DONALD BRESS	151 STALWART	9-9-06
<i>Cecilija Joknovi</i>	Cecilija Joknovi	199 Stalwart	9-9-06
<i>Eric Hakka</i>	Eric Hakka	220 Stalwart	9-9-06
<i>John Little</i>	JOHN LITTLE	211 STALWART	9-9-06
<i>Jennifer L. Gasiiecki</i>	Jennifer L. Gasiiecki	196 Stalwart	9-9-06
<i>Heather M. Allison</i>	Heather M. Allison	5841 Houghten	9.9.06

CIRCULATOR - DO NOT SIGN OR DATE CERTIFICATE UNTIL AFTER CIRCULATING PETITION.

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that each signature on the petition was signed in his or her presence; and that, to his or her best knowledge and belief, each signature is the genuine signature of the person purporting to sign the petition.

Charles R Jackson 9-9-06
 Signature of Circulator DATE
 Charles R. Jackson
 Printed Name of Circulator
 405 W. Square Lake Rd. Troy, MI 48098
 Complete Address

HANDOUT @ 7-12-06
PLANNING COMMISSION MTG
Z 714 #5
Date: 6/10/06

from: unknown

TO: CITY OF TROY
ATTN: PLANNING COMMISSION
SUBJECT: REZONING of SEC. 9 (Z-714)

Dear Members of the Board,

We the undersigned, as residents of the **Beaver Hills** subdivision, would like to express our opinion in the matter of rezoning Section "9" from R-1B to R-EC.

We are an older, yet active, neighborhood. Our children ride bicycles, play games, and socialize at the edge of our roads. We have no sidewalks or streetlights. We are already contending with "cut through" traffic.

The introduction of emergency (911) calls will involve not only an ambulance, but (as mandated) a TROY POLICE vehicle as well. Both traveling at a high rate of speed, with sirens blaring on a 24 hour basis.

Our property value will decline substantially.

THIS IS UNACCEPTABLE TO US!

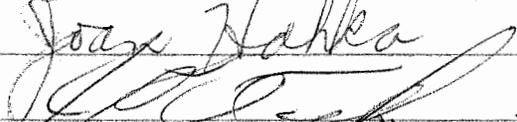
The proposed plans of "The Choice Group" involve access to this area through **Stalwart Drive, and Houghton Drive ONLY!**
THERE IS NO ACCESS FROM A MAIN ROAD!

PLUS! Once the zoning is changed, they can rework "Site plan 100" to exclude single family housing. And according to their current plan they must do so. The Fire Marshall, for the **City of Troy**, doubts proper access for fire trucks at all the west entrances!

PLEASE REVIEW THE ATTACHED LIST OF COMPLIANANTS:

Date: 6/10/06

TO: CITY OF TROY
ATTN: PLANNING COMMISSION
SUBJECT: REZONING of SEC. 9 (Z-714)

NAME	ADDRESS	PH #
Mauran Muro	5308 Daniels	248-879-5520
Marion MacCarroll	5311 Daniels	248-879-8398
Jay MacCarroll	5311 Daniels	248-879-7203
Robert W. Toleno	5631 Houghten	248-879-1181
GEORGE BUNDA	5325 VIRGILIA	(248) 879-9996
ELENA BUNDA	" "	" "
LUCRETIA BUNDA	" "	" "
MAMUN MAITEH	5351 Virgilia Dr.	(248) 879-5158
Jamie MAITEH	" " "	" " "
Bilal MAITEH	5351 Virgilia Dr.	(248) 528-6822
	220 STALWART	248 828-4194
MORRIS DeBoerter	100 STALWART	248 879-1642
BLAINE DIXON	80 STALWART	248 828-3792
GARY DIXON	80 STALWART	248 828 3792
Jeff Dixon	85 Stalwart	248 8159655
Jennifer Dixon	85 Stalwart	248-913-9655
Joan Hakka	220 Stalwart	248-8284194
	5309 Wright	248-879-0434
Kestie Niedzwiedz	5370 Wright	248-879-9166
PEREK NIEDZWIEDZ	5370 WRIGHT	248-879-9166
JAMIE BLOK	2532 TARRABONA WAY	248-594-0809
Hendell Green	5350 WRIGHT	

Date: 6/10/06

TO: CITY OF TROY
ATTN: PLANNING COMMISSION
SUBJECT: REZONING of SEC. 9 (Z-714)

NAME

ADDRESS

PH #

John Helms	5374 Daniels Dr	248-879-9534
Yvonne Smith	5330 Daniels	248-879-8665
Xenia Wiley	534 West	248-879-7221
Eul Payne	5330 DANIELS	248 561 9908
Donald E. Tuggle	5290 DANIEL	248-879-7649
Mark A. Ruffalo	5270 DANIELS	313-226-5933
Jack Moore	5260 DANIELS	248-879-0836
Donald Speech	5184 DANIELS	248-828-3175
Nasreen Aked	5146 Daniels	248 879-8380
Cheryl Demski	5275 Daniels	248-879-2879
Sharon Miller	5387 Daniels	248 879 8229
Barbara Tige	5384 Daniels	248 879 9532
Thomas Tige	5384 Daniels	248-879-9532
Lisa J. Ross	5410 Daniels	248-828-8111
Jimmy J. Ross	5410 Daniels	248-828-8111
Gary E. Miller	5407 DANIELS	248-765-0694
GIRISHI KHOSLA	5450 DANIELS	248-879-2531
DOROTHY NEUMANN	431 MCKINLEY	248-828-3505
JAMES NEUMANN	431 MCKINLEY	248-828-3505
Kelly Johnson	5500 Houghton	248 879 2873
MATTHEW BROWN	5501 HOUGHTON	248-709-4950
J MARK BROWN	467 MCKINLEY	248-813-9268

Date: 6/10/06

TO: CITY OF TROY
ATTN: PLANNING COMMISSION
SUBJECT: REZONING of SEC. 9 (Z-714)

NAME	ADDRESS	PH #
Tonya Rivard	5100 Wright Dr	248 828 8098
Dr Cummy	5375 Daniels	" 828-4388
Maurice F Black	5333 DANIELS	248-879-9371
Laisy A. Black	5333 Daniels	248-879-9371
Leslie Berg	5521 Houghton	248-815-7017
Ubeta Berg	5520 HOUGHTEN	248-879-0304
Ubeta Berg	5520 HOUGHTEN	248-879-0304
Misraal Kubaik	5540 Houghton	248-879-0791
Ray Bray	5580 Houghton	248 879 7279
Wanda Andrews	Houghton	
Yokky Delessandro	5581 Houghton	828-3789
Phoebe Crandall	5620 Houghton	248 879-6297
Tom Holdsworth	5374 DANIELS	248 879-9534
Jeff Miller	5621 HOUGHTEN	248-879-7439
Vicki Miller	5621 Houghton	879-7435
Dennis Lewusic	5620 Houghton	879 7724
Dorothy Coleman	5631 Houghton	879-1181
Ruthie Bonds	5631 Houghton	879-1028
Eugene Delessandro	5651 Houghton	879-1028
Mr Khora	5450 Daniels	879-2531
Evelyn Brown	5660 Houghton Dr	879 9310
Mary Lou Brown	5660 Houghton Dr	879 9310
RYAN RATHKAMP	5520 WRIGHT	879 5142

Date: 6/10/06

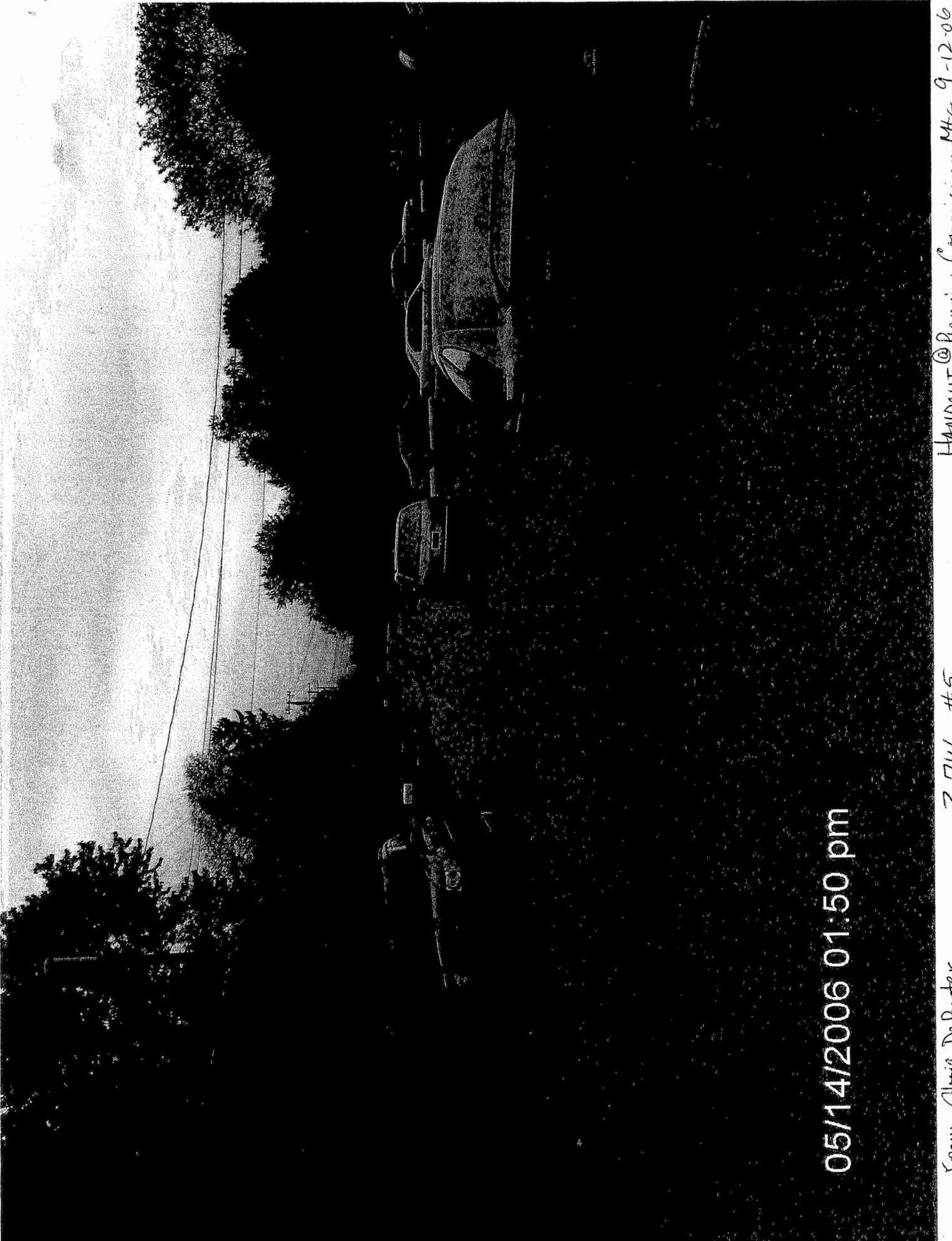
TO: CITY OF TROY
ATTN: PLANNING COMMISSION
SUBJECT: REZONING of SEC. 9 (Z-714)

NAME

ADDRESS

PH #

NAME	ADDRESS	PH #
BARBARA Demick	5314 WRIGHT	248 879 7681
Richard Demick	5314 WRIGHT	248-879 9681
LEVIN MOORE	5680 HOUGHTEN	248 879 0886
Alan MOORE	5680 HOUGHTEN	248 879 0886
Janette Anderson	5550 HOUGHTEN	248 879-0715
Shelma Lee	5561 HOUGHTEN	248-879. 6240
Tressa Longwell	5681 Houghten	248-879-0654
Gyongye Waattis	5699 Houghten	248-879-0637
John Major	5215 Daniels	248-879-1032
Ronald Marceon	5600 Houghten	248 879-0062
DON FORSYTH	5246 WRIGHT ST	248 879-6997
CHARLES HOEKSTRA	5221 DANIELS	248 879 0659
ROKANNE SCHAMANTE, TRUSTEE	270 MCKINLEY	248.655-4290
Keith Priddy	(Homeowner) 210 MCKINLEY	248 879 1952
Dolores Grinty	210 MCKINLEY	248-879-0632
Sonda S Harkington	190 McKinley	248 879 8307
Steve Kalkreuth	5520 WRIGHT	248 879 5142
Natasha Winters	5540 WRIGHT	248 390-3396
Leslie Minard	5561 WRIGHT	248-224-6430
Wanda Neal	5561 Wright	248-245-7568
Ray Debra	5580 WRIGHT	248 879 6619
Mark Hayes	230 McKinley	248 879 6157
Wawn Hayes	" " "	" " "



05/14/2006 01:50 pm

From: Gloria DePorter

Z 714 #5

HANDOUT @ Planning Commission Mtg 9-12-06



Z 714 #5

HANDOUT @ PLANNING PERMISSION MTC

9-12-06

Paula P Bratto

From: Bambach, Kathleen [kathleen.bambach@delphi.com]
Sent: Tuesday, May 02, 2006 2:09 PM
To: Paula P Bratto
Subject: Public Hearing May 9, 2006 Regarding Rezoning of Property of Beaver Hills Subdivision
Importance: High

I will be out of town on May 9, 2006 when the Planning Commission is scheduled to meet on the request of Kamal Shouhayib of Choice Development Corp. to rezone the property located in my subdivision. I would like you take my concerns into consideration when determining this matter.

I am sure that the reason Kamal Shouhayib wants to build on this site is because it would be cheaper than building on the main street, where it belongs. There is vacant land owned by the City of Troy located on Long Lake between Livernois and Crooks where this facility could be built.

If this property is rezoned and this facility is built the property value of all of our houses will go down. The added heavy traffic through our subdivision of construction workers, construction trucks, EMS, police, visitors and 3 shifts of facility workers puts the children and animals that live in our subdivision at risk, not to mention what it will do to our streets. The citizens of this subdivision live here because it is residential and a safe place to raise a family. Why should their safety and happiness be jeopardized?

It seems like we are constantly battling over maintaining a peaceful environment to live. We just got through with the I-75 interchange issue. I request that the rezoning of the parcel of land located in Beaver Hills Subdivision be denied.

Sincerely,

Patricia A. Paquette
A Concerned Citizen

Note: If the reader of this message is not the intended recipient, or an employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by replying to the message and deleting it from your computer. Thank you.

#8

Paula P Bratto

From: SHARON MILLER [sharmill@prodigy.net]
Sent: Friday, May 05, 2006 1:46 PM
To: Paula P Bratto
Subject: rezone

Z 714

Planning Commission,

My name is Sharon Miller. I own the property at 5387 Daniels,T2NR11E SEC9,Lot 74.

I am against the request to rezone our area from R-1B to R-EC.

I realize the property which Choice Development Corp. prepresents is private property and the owners can develop it but I don't feel it should be rezoned.

This land is a woodland which is home to many wild animals. It is also very wet--I don't know if it's considered a wetland but those kinds of plants thrive there.

Since Delphi was developed further north of us, the water table is higher and when there is significant rain our backyard stays wet with laying water which lasts for several days. Any building would also impact this--probably negatively!

Consideration should be given to this old, established neighborhood as to how any developement would effect it.

Thank you,
Sharon L Miller

REC'D

MAY - 5 2006

PLANNING DEPT.

0
Z 714

May 7, 2006

Item: Request to Rezone Property from R-1B to R-EC

To: City of Troy / Planning Commission / Public Hearing

We, Brett and Kelly Johnson, residents of Troy for 17 years, greatly oppose the request to rezone the property from R-1B (One Family Residential) to R-EC (Residential Elder Care).

For 17 years, we have lived on 5500 Houghten Street with our three children. Our corner home is on the northeast section of Houghten and McKinley Streets. Over the years, we've enjoyed our quiet neighborhood, the peaceful setting, and the many families we have come to know.

With the request to rezone the above mentioned property, we believe it would deter and devalue the family residential status of this section of Troy. We want to keep the wholesome integrity of our neighborhood. The request to rezone for the purpose of an elderly care facility would greatly diminish our neighborly community.

Lastly, we are strongly against the request to rezone the stated property for the purpose of an elderly care facility or the like.

Brett & Kelly Johnson
5500 Houghten Street
Troy MI 48098
248-879-2873

REC'D

MAY - 9 2006

PLANNING DEPT

#0
2714

Paula P Bratto

From: Phoebe Crandall [phoebe.crandall@sbcglobal.net]
Sent: Monday, May 08, 2006 6:10 PM
To: Paula P Bratto
Subject: Input to the public hearing on 5-9-06 - rezone request by Choice Development Corp

I strongly oppose the request by Mr. Kamal Shouhayib of Choice Development Corp. to rezone the property in lots 95 through 102 and lots 105 through 112, both inclusive, in Beaver Hills Subdivision, from R-1B to R-EC. I oppose this zoning change for the following reasons:

The rezone is not in character with the quiet, residential nature of the area that currently provides homes for many families who choose the neighborhood specifically for its quiet character and low density.

The rezone will greatly increase traffic onto residential streets that are not adequate to handle the increase safely. If this rezone is granted, traffic in the neighborhood will increase not only because the density of residents will be greatly increased, but also because of the movement of three shifts per day of facility staff, as well as commercial and emergency vehicles servicing the Elder Care Complex. None of the streets in the area is suitable for the increased traffic. The streets are narrow and have no sidewalks, making them particularly unsafe for traffic that will be cutting through the area to get out to Long Lake or Square Lake.

I do not know whether the city's plan has established a proportion of Troy's land that decisionmakers feel should be reserved for R-EC housing. If there is a need for more areas zoned R-EC in Troy, I hope the City will direct Choice Development Corp. to identify a piece of land that is better suited to this use than the area currently under consideration.

Phoebe W. Crandall
5620 Houghten Drive
Troy, MI 48098
(248) 420-4288

REC'D

MAY - 9 2006

PLANNING DEPT.

0

Z 714

Paula P Bratto

From: Jan Holdsworth [jcholdsworth@wideopenwest.com]
Sent: Monday, May 08, 2006 9:50 PM
To: Paula P Bratto
Subject: ReZone Request by Choice Development Corp

I strongly oppose the request by Mr. Kamal Shouhayib of Choice Development Corp. to rezone the property in lots 95 through 102 and lots 105 through 112, both inclusive, in Beaver Hills Subdivision, from R-1B to R-EC. I oppose this zoning change for the following reasons:

The wetlands behind our neighbors homes has been an area where the neighborhood children have played for years. Specifically in the winter time when the children go back and play on the hill when it has snowed. The increase in traffic onto our already busy residential street would not only be from more residents but from the three shifts per day of employed workers from the Elder Care Complex. It would certainly be a concern because of the ambulance and police traffic that would surely be a part of an Elder Care community.

Jan Holdsworth
 5374 Daniels Drive
 Troy, MI 48098
 248-879-9534

REC'D
MAY - 9 2006
 PLANNING DEPT

J. Mark Brown

467 McKinley, Troy, MI 48098

Tel: 248-882-5764 Fax: 248-813-9268 jmarkbrown@mac.com

HANDED OUT TO
PLANNING COMMISSION
ON 5/9/06 AT
MEETING
2714

City of Troy Planning Department
Planning Commission
500 W. Big Beaver Road
Troy, MI

RE: Rezoning Request - Beaver Hills Subdivision

Tuesday, May 9, 2006

Dear Planning Commission and Planning Department,

I am writing in opposition of the rezoning request by Mr. Kamal Shouhayib of the Choice Development Corporation. I live with my family in the Beaver Hills subdivision (467 McKinley - Lot 104). I also have an interest in 5501 Houghton and the adjacent property. I grew up in this subdivision and built my current home in 1998. I purchased the property and built my home, together with current and future improvements, based on the understanding that the property to the south was zoned, and would remain zoned, single family residential (R-1B).

Our subdivision has recently been undergoing a revitalization. Several homes have been torn down and new homes built, many more homes have been remodeled and enlarged. While there has been substantial investment in and improvements to many of the homes, this subdivision has remained a close, family-oriented neighborhood. Streets are filled with children, people walking the pets, families walking together to neighborhood parties. In short, many of us have moved here and invested in our homes because it is a stable, close-knit, family-oriented neighborhood.

Mr. Shouhayib's opportunistic proposal to rezone this property would destroy our neighborhood and dramatically reduce all of our property values. To replace 16 home sites with a high density senior residential complex within our neighborhood is both appalling and absurd. Following are several issues of particular concern me:

1. Mr. Shouhayib's scheme would replace 16 single-family home sites with 166 units housing at least 236 persons in a commercial complex. This complex would require 24 hour staffing, a tremendous amount of commercial deliveries throughout the day, and would dramatically increase the amount of emergency traffic. His proposal would require all of the service and residential, not to mention the construction, traffic to enter and leave from within our neighborhood. This reason alone should be sufficient to recommend non-approval.
2. This proposal does in any way not comply with the City of Troy's Future Use Plan. As the subject property is currently vacant (a property containing both woodlands and wetlands), the Future Use Plan becomes particularly relevant in guiding how this property is developed. In particular, the residential portion of Future Use Plan specifically addresses in-fill development calling for:

1. "As Troy's residential development continues to completion, many of the residential land parcels involved will be relatively small "in-fill" sites which require careful design in order to be properly integrated into the surrounding areas."
 2. "Continue the development of Troy's residential areas at densities compatible with adjacent areas."
 3. "Encourage the provision and maintenance of open space and environmental areas within residential areas."
3. This project also fails to comply with the pertinent zoning requirements for Residential-Elder Care District (R-EC). It grossly fails to comply with these requirements, following are just a few examples:
1. 19.30.00 (a) "The land use or activity being proposed shall be of such location, size, and character as to be compatible with the orderly development of the Zoning District in which it is situated, and shall not be detrimental to the orderly development, property values, environment or use of the adjacent land and/or districts."
 2. 19.30.00 (b) "The land use or activity under consideration is within the capacity limitations of the existing or proposed public services and facilities which serve its location."
 3. 19.30.03 (b) "The proposed site shall have at least one property line abutting a major thoroughfare frontage of at least 120 feet of right-of-way width, existing or proposed. . . All vehicular ingress and egress shall be directly from a major thoroughfare."
 4. 19.30.03 (f) "such facilities shall be so designed architecturally as to reflect the predominant architectural character of the adjacent residential areas."

This rezoning proposal fails on many counts and should be denied for a multitude of reasons. A high-density residential/commercial complex of this nature and scope can in no way be integrated into an existing, stable neighborhood. Both the traffic and nature of this project would negatively impact the property values and the residential nature of the entire subdivision. This brazen proposal shows his lack of respect toward this neighborhood and to the City of Troy's Zoning Ordinance and Future Use Plan.

Granted, many in this neighborhood would prefer to have Kamax move and the existed property remain woodlands or open space. However, we realize that if this property is to be developed, then it should be done so in keeping with character of the neighborhood, and consistent with the Future Use Plan and within the City's Zoning Ordinance. We have purchased, constructed and improved our homes relying on the City of Troy to adhere to those same ordinances and plans. I agree with the Planning Department's recommendation and would urge the Planning Commission and subsequently the City Counsel to deny this proposal in its entirety.

Sincerely yours,

J. Mark Brown

Paula P Bratto

TT0
Z 714

From: James Crandall [james.crandall@johnbernardllc.com]
Sent: Tuesday, May 09, 2006 1:23 PM
To: Paula P Bratto
Subject: Planned rezoning for Choice Development corp

REC'D

MAY - 9 2006

Dear Sir:

I oppose most heartily the proposed rezoning of the that area bounded by ~~PLANNING DEPT~~ Met, McKinnely St. and Long Lake Rd. While the development might look good to city planners, because of the intensive use of property and the potential property tax increase, in the long run I view it as short sighted.

The area surrounding the Beaver Hills subdivision that is comprise of such road as Houghten, Habrand, Blanche, Stalworth, Wright as well as the ones mentioned above is a single family residential neighborhood in transition. If your commission has viewed the area, they will notice that the smaller houses of the 1960s are being replaced or significantly expanded by very large residential structures. These houses are adding greatly to the neighborhood presence and are increasing the property tax roll in a big way. When compared to the proposed development, the property values within this 1 mile block of homogeneous residential properties in time will exceed any short term gain by intensive development from a commercial project. As you may be aware of, the key to the rejuvenation of the neighborhood is that it is one of the last places in Troy that has sufficient land that allows for escalating upward improvement (larger and newer homes) instead of lateral improvement which comes from routine maintenance or renovation of existing structures that can't be enlarged. The lots in the area range from over a half acre to close to three quarters of an acre. Ultimately a mile square of \$500,000+ homes will greatly outweigh a the value of an intensely developed 10 acres+. I see this proposal stifling residential gentrification because of an inappropriate mix of residential and commercial properties.

Two more issues provide me with concern; traffic and wet land protection. When coupled with the Delphi construction the proposed development will continue to encourage more traffic and faster traveling traffic between Long Lake and Square Lake via Houghten and Daniels. The neighborhood is fresh with new young families with many children younger than middle school age and the traffic already flows at a pace disrespectful of a safe condition. Another problem will be the impact upon the wet lands. As you know the neighborhood already has a high water table and most of the houses that were built with basements flood routinely to some extent. The Delphi construction exacerbated the impact on the neighborhood houses and I see this proposed development only making the situation worse.

I question the wisdom of stuffing a commercial development into a purely residential area on the east side of I-75, when the west side of the interstate is more the character that the proposal would fit in with. I am also told that the proposed use may or may not be the end result, because there will be no guarantee that the final use is the same as what the property owners are being told it will be. Without that guarantee, I will not support any development other than single family residential.

Thank you,
Jim Crandall

Paula P Bratto

From: Fred Morrell [fmorrell@wideopenwest.com]

Sent: Tuesday, May 09, 2006 4:41 PM

To: Paula P Bratto

Subject: Site Plan

We strongly object to the zoning change regarding the plan for The Choice Group site plan effecting Stalwart, Houghten and the property involved. The change would greatly increase traffic in this family neighborhood and decrease our property values. Our concerns are also with the amount of outside persons needing to operate such a facility and the safety of our children.

Fred and Diane Morrell
5590 Houghten Dr.
Troy, Michigan 48098

248-879-0373

5/10/2006

Paula P Bratto

From: Gegeroy@aol.com
Sent: Tuesday, May 09, 2006 5:10 PM
To: Paula P Bratto
Subject: Site plan

We strongly object to the zoning change regarding the plan for the choice group site plan effecting Stalwart, Houghten, and the property involved. This installing of such a commercial operation in middle of a single family residential neighborhood with traffic, safety and noise that will come along with such an operation is ridiculous!

We already have traffic cutting through Houghten on a daily bases. Vehicles fly down our street like it is the Langhorn speedway. I am concerned for our children and Our neighborhood if such a thing would come about.

**Roy and Geraldine Bray
5580 Houghten Dr.
Troy, Mi 48098**

248-879-7279

5681 Houghten St.
Troy, MI 48098
May 20, 2006

REC'D

MAY 22 2006

PLANNING DEPT.

Troy Planning Commission
500 W. Big Beaver Rd.
Troy, Michigan 48084

Members of the Commission:

I am writing this letter in protest to the rezoning request 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.

I have lived here since 1955, have seen our city grow from a township to a fine city. Our subdivision is one of the oldest in the city, unique because the houses are all different. The people here are very proud of their homes, fixing them up and improving them all the time.

My reasons for protesting this development are: We have many little children living in the subdivision and we have no sidewalks for them to ride their bikes. If this Elder Care facility is built and Houghten Street is opened up to the facility, it would create a great deal more of traffic than we now have, especially if ambulances and fire trucks go up and down our street. I feel that a facility of this sort should only be accessible from a main road and not thru a subdivision. Access to the facility should be from 18 Mile Road, not only for deliveries, but for all reasons.

I also feel that the trees and wild life would be destroyed by this facility. We don't have too many natural lands left in Troy anymore. Please don't sacrifice what we do have left.

I hope that you will give this your utmost consideration and turn down the request.

Thank you



Tressa J. Campbell

Paula P Bratto

From: twinmindi@wideopenwest.com
Sent: Tuesday, June 06, 2006 12:21 PM
To: Paula P Bratto
Subject: Proposed rezoning - Proposed Senior Housing

I am writing to voice my concern about the appropriateness of rezoning from one family residential to residential elder care.

I live at 5741 Houghten Drive; traffic is already high for a residential street and despite the 25 mph speed posted, it is rarely observed or enforced. We already have a problem with traffic.

I am also the manager of an assisted living facility - I know by experience that there is a high volume of emergency and non-emergency vehicles that frequent the building; these may include: Smart Busses, cabs, UPS, FedEx, facility bus, visitors, home health care staff, plus the fire trucks and ambulances that are daily occurrences.

The proposed rezoning should be voted "no" tonight in order to preserve our Troy neighborhood.

Thank you,
Mindi Hunsaker
5741 Houghten Drive
Troy, MI 48098-2910
(248) 879-0303

--
WOW! Homepage (<http://www.wowway.com>)

Paula P Bratto

#5
2714

From: Brent Savidant
Sent: Monday, June 12, 2006 9:37 AM
To: Mark F Miller; Paula P Bratto; Kathy Czarnecki
Subject: FW: K-Max Proposal Houghten and McKinley

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

From: Cynthia A Stewart
Sent: Monday, June 12, 2006 9:34 AM
To: Brent Savidant
Subject: FW: K-Max Proposal Houghten and McKinley

I already sent to John L and Brian M

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

From: ConnieJay111@aol.com [mailto:ConnieJay111@aol.com]
Sent: Monday, June 12, 2006 9:20 AM
To: Louise Schilling; dave@lambert.net; rbeltram@wideopenwest.com; talk2cristina@aol.com; Wade Fleming; Mfhowryl@umich.edu; stinejm@wwnet.net
Cc: Cynthia A Stewart
Subject: K-Max Proposal Houghten and McKinley

Mr. Miller: I am a resident on Blanche off of Livernois between Square Lake and Long Lake. I urge you not to approve the proposed K-Max construction at a 10 acre parcel south of Houghten and McKinley. This proposal, if approved, will have a marked adverse impact on our community between traffic concerns and the fact that a crowded development is exactly the opposite of our neighborhood with its 3/4 acre lots. I understand this is on the agenda for tomorrow's city counsel meeting, which I cannot attend because I cannot drive.

It will also have a terrible impact for my neighbor who just built a beautiful house adjacent to the proposed construction. We are a neighborhood of walkers, there are no sidewalks and the additional traffic would make street walking very dangerous for the residents, their children and their dogs. I am currently disabled, I cannot drive, and walking is my only daily hobby. I am really distressed to think that my future walks in my own neighborhood might become fraught with danger because of the substantially increased traffic this proposed construction represents.

There has been a spate of recent attempts to destroy our quiet enjoyment of our beautiful community between Delphi's request for an "emergency" entrance down my street and the ill fated ramp off of I-75. Please don't let this pass.

If the parcel must be developed, would it be possible to approve residential construction that is consistent with the existing neighborhood?

Please do not put the corporate interests above the interests of the residents.

Thank you for your attention to this very important matter.

Constance A. Johnson
150 Blanche
Troy MI 48098
248-765-4452

6/12/2006

#5

P.C. 6-13-06



CITY COUNCIL ACTION REPORT

Date October 10, 2006

TO: Mayor and City Council

FROM: Phillip L. Nelson, City Manager
 Tonni L. Bartholomew, City Clerk

SUBJECT: Proposed Cancellation of November 27, 2006 Regular City Council Meeting and
 Reconsideration of the 2007 City Council Meeting Schedule as Requested by
 Mayor Schilling

Background:

- Mayor Schilling requested that I prepare proposed resolutions for the cancellation of the November 27, 2006 Regular City Council Meeting as well as the elimination of the third Regular City Council meeting in the months which contain three regularly scheduled City Council meetings.

Financial Considerations:

- There are no financial considerations associated with this item.

Legal Considerations:

- There are no legal considerations associated with this item.

Policy Considerations:

- There are no policy considerations associated with this item.

Options:

- It is recommended that Troy City Council approve the proposed resolutions to cancel the November 27, 2006 City Council meeting as well as the third regularly scheduled City Council meeting in months where there are three meetings and schedule Special meetings and Special "Study" meetings as needed.

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 does not fulfill committment.

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*

TROY HISTORIC COMMISSION MINUTES – FINAL**JUNE 28, 2006**

The rescheduled meeting of the Troy Historic Commission was held Wednesday, June 28, 2006 at the Troy Museum & Historic Village. The meeting was proceeded by the annual tour of the grounds at 7:00 P.M. Rosemary Kornacki called the meeting to order at 8:25 P.M.

ROLL CALL **PRESENT:** Rosemary Kornacki
 Roger Kaniarz
 Kevin Lindsey
 Vera Milz
 Remedios Solarte
 Terry Navratil

Loraine Campbell, Museum Manager
 Brian Stoutenburg, Library Director

ABSENT: Brian Wattles

Resolution #HDC-2006-06-001**Moved by Navratil****Seconded by Lindsey****RESOLVED, That the absence of Brian Wattles be approved**

Yes: 6—Kornacki, Kaniarz, Lindsey, Milz, Solarte and Navratil

No: 0

MOTION CARRIED**Resolution #HDC-2006-06-002****Moved by Lindsey****Seconded by Kaniarz****RESOLVED, That the minutes of March 28, 2006 be approved**

Yes: 6—Kornacki, Kaniarz, Lindsey, Milz, Solarte and Navratil

No: 0

MOTION CARRIED**OLD BUSINESS****A. Capital Projects**

Fencing

Fence was installed along Lange Street by American Fence and Supply. They will complete installation of the gate after the driveway behind the General Store is paved.

Interior Painting

Action Painting Co. of Southfield reneged on their contract to paint the interior of Poppleton School, the Print Shop and Town Hall. The contract was awarded to Danmar Painting for \$6,275.00.

Exterior Painting

Sherwin Williams paint representatives collected paint samples from the General Store. The building is delaminating- shedding the paint and a thin layer of wood fibers. They recommend stripping the building completely and applying one thin layer of Woodscapes, a semi-opaque wood stain that is porous and will allow any moisture in the wood to wick through. Detroit Spectrum stripped off a 4-foot square section on the back of the building to determine time and materials costs for stripping. Danmar painting applied Woodscapes to half of the area. We were not pleased with the look as the oils in the cedar bled through, leaving a dirty look. Danmar will pickle the other half of the test area to see if that yields a better result.

Windows

The contract to repair and reglaze the windows in Poppleton and the Print Shop and fabricate six over six windows for the Log Cabin was awarded to Turner Restorations for \$7,450. That work will begin the week of June 26.

Roofs

Mark Stimac has been delayed in working on the specifications for new cedar shake roofs for the Cabin, Print Shop, General Store and Cobbler's Shed (behind the Caswell House).

Paving

The City of Troy Streets Department is paving the driveway area behind the General Store. The 10-foot wide drive will run from the road to the back of the building. On the east side of the drive they will install a geo-web product to create a stable base for parking three vehicles. Additional geo-web on the west side of the drive will provide a stable base for parking one vehicle. The work will be completed in time for the July 15 Motoring Memories Car Show.

B. Programs

See Attendance Reports

270 people attended Heritage Day on June 24. The event is in direct competition with Opa Fest, which has been dramatically expanded and draws thousands of people. Loraine feels that it is time to rethink this event or delete it.

Planning for Motoring Memories, the new summer car show is nearly complete. There are sixty cars, 10 motorcycles and a few bicycles entered in the show. The committee has secured two Platinum Sponsors (\$500 each), Coffee Net and EM Schroeder Insurance. Gold Sponsors (\$100) include Gil's Northwood Collision, Chip's Caddies, American Cleaning, and Uncles Luke's Feed Store. Master Auto

Service is a Silver Sponsor and Trevarrow Hardware is a Bronze Sponsor. The event will include live music, good food, a vintage fashion show and children's activities.

NEW BUSINESS

A. Grants

The Study Committee submitted our list of preferred surveyors. We are waiting for the AAM map coordinator to tell us which member from our list is available.

B. Interns

Three interns will be working at the museum during the Spring /Summer Term. Stacey Miller is working on the National Historic Place Application for the 1927 Township Hall.

Natalie Bojesen and Candice Belanger are English majors at Oakland University. They have completed a review of all our archive materials related to the schools and are collecting additional information from the Birmingham Press archives housed at Baldwin Public Library. They are also interviewing Viola Smith and Ruth Wass.

C. Village Landscaping

Michele Dunham and a team of volunteers have planted gardens in front of Town Hall, the Church and the Pass-a-long Garden in front of the Parsonage. Michele is developing plans for the garden between Caswell and Poppleton School.

D. New Acquisitions

See attached reports.

E. Eagle Scouts:

Rashid Sidwah, a freshman at Troy High School is completing an Eagle Scout Project to build latticework enclosures around the five air conditioning condensers adjacent to the buildings. Rashid has met with Steve Pallotta to verify the design and has received \$250 contributions each from the Troy Historical Society and the Troy Garden Club. The balance of the \$1,200 he needs to finish the work will come from smaller donations and a bottle drive. Rashid anticipates his project will be completed in August.

Two additional Eagles Scout nominees have asked for projects at the Museum. These may include installation of a wash yard behind Caswell and benches for the story tree, also in the setback area.

F. Troy Historical Society Liaison Report

The Heritage Campaign work presently includes the car show and an outreach, awareness- building project called Tell Us Your Story for the business community.

G. Reports and Communications

a. Staff

No report.

b. Commission

Brain Wattles is recuperating from a heart attack. The commission passed on best wishes for a speedy recovery.

The Troy Historic Commission Meeting was adjourned at 9:40 p.m. The next regular meeting will be held Tuesday, September 26, 2006 at the Troy Museum & Historic Village at 7:30 PM.

Rosemary Kornacki
Chairman

Loraine Campbell
Recording Secretary

A meeting of the Troy Election Commission was held Friday, July 7, 2006, at City Hall, 500 W. Big Beaver Road. City Clerk Bartholomew called the Meeting to order at 8:17 AM.

ROLL CALL:

PRESENT: David Anderson, City Clerk Tonni Bartholomew
ABSENT: Timothy Dewan
ALSO PRESENT: Deputy City Clerk Barbara Holmes

Minutes: Regular Meeting of March 20, 2006

Resolution #EC-2006-07-8
Motion by Anderson
Seconded by Bartholomew

RESOLVED, That the Minutes of Monday, March 20, 2006, are **APPROVED** as submitted.

Yes: All-2
Absent: Dewan

Approval of Election Inspector Assignments for the August 8, 2006 Primary Election

Resolution #EC-2006-07-9
Motion by Anderson
Seconded by Bartholomew

RESOLVED, That Election Inspectors be appointed for the Tuesday, August 8, 2006 Primary Election, as presented by the City Clerk, is hereby **APPROVED**.

Yes: All-2
Absent: Dewan

Adjournment:

The meeting was adjourned at 8:22 AM.

Tonni L. Bartholomew, MMC
City Clerk

TRAFFIC COMMITTEE MINUTES JULY 19, 2006 FINAL

A regular meeting of the Troy Traffic Committee was held Wednesday, July 19, 2006 in the Lower Level Conference Room at Troy City Hall. Pete Ziegenfelder called the meeting to order at 7:33 p.m.

1. Roll Call

PRESENT: Sara Binkowski
 Jan Hubbell
 Richard Kilmer
 Pete Ziegenfelder
 Prithvi Murthy, Student Rep.

ABSENT: John Diefenbaker
 Ted Halsey
 Gordon Schepke

Also present: Doris Fenner, 405 E. Lovell
 Brian Dickerson, 416 E. Lovell
 Beth Duncan, 6730 Westaway
 Cheryl Shuwayhat, 392 E. Lovell
 Toby Buechner, 2411 Hampton
 Ron Trendler, 313 E. Lovell
 Rob, Annabelle, & Gabriella Tyrrell, 6775 Montclair
and: John Abraham, Traffic Engineer
 Sgt. Dan Daniel, Traffic Safety Division, Troy Police Dept.

Resolution to Excuse Absent Members**RESOLUTION #2006-07-55**

Moved by Hubbell
Seconded by Kilmer

To excuse the absent members.

YES: All-4
NO: None
ABSENT: 3
MOTION CARRIED

2. Minutes – June 21, 2006**RESOLUTION #2006-07-56**

Moved by Hubbell
Seconded by Binkowski

To approve the June 21, 2006 minutes as printed.

YES: All-4
NO: None
ABSENT: 3
MOTION CARRIED

PUBLIC HEARINGS**3. Request for Sidewalk Waiver – 1600 West Maple**

Troy Gymnastics requests a waiver for the sidewalk at 1600 West Maple. The sidewalk ordinance requires that sidewalk be installed in conjunction with a change of ownership and occupancy. The Public Works Department recommends denial of this waiver request. Petitioner has signed an “Agreement for Irrevocable Petition for Sidewalks.”

Petitioner states that his property backs on Blaney and there are no other sidewalks on either side of his property. There are trees, a metal fence, brush, and a drainage ditch along Blaney, and a sidewalk would lead nowhere and connect to nothing. The entrance to the business is in the front of the building on Maple.

RESOLUTION #2006-07-57

Moved by Hubbell

Seconded by Binkowski

1. WHEREAS, City of Troy Ordinances, Chapter 34, Section 8(D) allows the Traffic Committee to grant temporary waivers of the City of Troy Design Standards for Sidewalks upon a demonstration of necessity; and

WHEREAS, Troy Gymnastics has requested a temporary waiver of the requirement to construct sidewalk on the property because there are no other sidewalks in the area; and

WHEREAS, the Traffic Committee has determined the following:

- a. A variance will not impair the public health, safety or general welfare of the inhabitants of the City and will not unreasonably diminish or impair established property values within the surrounding area, and
- b. A strict application of the requirements to construct a sidewalk would result in practical difficulties to, or undue hardship upon, the owners, and
- c. The construction of a new sidewalk on the property line at the back of the property would lead nowhere and connect to no other walk, and thus will not serve the purpose of a pedestrian travel-way.

NOW THEREFORE, BE IT RESOLVED that the Traffic Committee grants a two-year waiver of the sidewalk requirement for the property at 1600 West Maple, which is owned by Toby Buechner.

YES: All-4
NO: None
ABSENT: 3
MOTION CARRIED

REGULAR BUSINESS

4. Request Installation of 3-way STOP signs at East Lovell and Westaway

Sheryl Shuwayhat, 392 East Lovell, requests 3-way STOP signs at East Lovell and Westaway. Ms. Shuwayhat reports high speeds on Lovell and is concerned for her kids and other kids on the street. She feels another STOP sign will break up the speed of the motorists between Donaldson and Montclair.

At present there is a STOP sign on Westaway at Lovell, assigning right of way to Lovell traffic at the 3-way intersection. For converting this intersection to an all-way STOP controlled intersection, one of the following conditions should be satisfied as per the Michigan Manual of Uniform Traffic Control Devices.

- ❖ *Where traffic signals are warranted and urgently needed, the multi-way STOP is an interim measure that can be installed quickly to control traffic while arrangements are being made for traffic signal installation.*
- ❖ *An accident problem as indicated by five or more reported accidents of the type susceptible to correction by a multi-way STOP during a 12-month period. Such accidents include right and left turn collisions.*
- ❖ *Minimum Traffic Volume - The total vehicular volume entering the intersection from all approaches must average at least 500 vehicles per hour for any eight hours of an average day.*

None of the warrants for an ALL-WAY STOP controlled intersection have been met for this intersection. It has been documented by different agencies that unwarranted STOP signs normally result in high violation rates and also promote general loss of credibility of all traffic control signs.

Traffic volumes on both streets are relatively low. Traffic volume studies show that E. Lovell carries around 511 vehicles in a day at Westaway, and Westaway carries around 140 vehicles a day. Traffic volumes on Troy residential streets range between 300 and 5000 vehicles per day.

Traffic crash analysis also shows no reported crashes at the intersection in the past three years. Field observations show that there are no major sight obstructions at the intersection and no observed conflicts in who has the right of way, due to the STOP sign on Westaway.

Ms. Shuwayhat reported that there are no sidewalks in the neighborhood, and kids can't safely bike or skateboard in the street because of speeding cars. She appreciates the police presence and the radar trailer in the area, but reports that drivers start speeding again as soon as the officers leave. She also reported that due to lack of sidewalks, kids have no safe place to walk and play.

Ms. Hubbell commented that if the neighbors are truly concerned about safety of the children, they should consider petitioning for sidewalks on E. Lovell.

Beth Duncan, 6703 Westaway, reports seeing a lot of speeding cars and close calls with her kids. She has also seen cars passing stopped school buses.

Rob Trendler lives at 313 Lovell, about 300 feet from the intersection. He said he also appreciates police in the neighborhood, but when the officers leave the drivers start speeding again. He reports that many other roads in Troy with shorter spans between intersections have STOP signs, and Lovell needs STOP signs for pedestrian safety.

Rob Tyrrell, 6775 Montclair, reiterated that there is too much speeding and the street is dangerous for kids. He also reports that there was a recent crash at the intersection.

Jan Hubbell pointed out that STOP signs have been shown to be ineffective in decreasing speeds, and that past studies in Troy have shown that the speeders are often residents of the areas in question. Stop signs can also give children and pedestrians a false sense of security, as many motorists will not stop, but will roll through the intersection.

Doris Fenner lives at 405 E. Lovell, and her driveway is on Westaway. She stated that there are YIELD signs on Lovell one block east of Westaway and ALL-WAY STOPS at Donaldson, one block west. She is opposed to installation of more traffic control signs. She feels drivers will ignore the STOP signs, particularly since there are signs one block west and one block east of Westaway. She is aware of a particular driver at a nearby house who squeals his tires and speeds on a regular basis.

Brian Dickerson, 446 E. Lovell, also spoke in favor of additional STOP signs.

Sgt. Daniel said the radar trailer was at Lovell and Westaway from 10 a.m. to 10 p.m., and only 417 cars went through the intersection in that 12-hour period. The average speed was 23.9, the maximum was 38, and the minimum was 10 mph. The 85th percentile speed was 28 mph. The largest volume was during the 4-6 pm rush hour. The police have worked in the area with laser radar guns and found the speeds were not excessive.

Ms. Binkowski suggested some traffic calming measures could be tried, such as speed humps. Dr. Abraham mentioned the Neighborhood Traffic Harmonization

program and volunteered to sit with residents and check speeds with the radar gun. Volunteers could record license plate numbers of speeders so the Chief of Police can send out warning letters, as the first phase of the NTH program.

RESOLUTION #2006-07-58

Moved by Hubbell

Seconded by Binkowski

Recommend no changes on East Lovell at Westaway.

YES: All-4
 NO: None
 ABSENT: 3
 MOTION CARRIED

5. **Request for a STOP Sign on Songbird at Meadowlark**

Paul Jabra requests installation of a STOP sign on Songbird at Meadowlark. He reports that drivers speed on Songbird and whip around the corner. He is concerned that many young drivers in the neighborhood do not know that Songbird traffic has to yield to Meadowlark traffic.

This is a closed subdivision with very low traffic volume, and only 12 residences total. Normally, low volume intersections are not signed, particularly T intersections where it is basic driver knowledge that the leg of the T (Songbird) has to yield to Meadowlark. Traffic volume studies show that Songbird carries around 140 vehicles a day and Meadowlark carries around 120 vehicles in a day. Meadowlark is a dead end on both the north and south sides.

There were no reported crashes at this intersection since the subdivision was built a few years ago.

For a STOP sign to be installed, one of the following conditions should be satisfied as per the Michigan Manual of Uniform Traffic Control Devices.

- ❖ *Intersection of a less important road with a main road, where application of a normal right of way rule is disruptive to capacity on the main road.*
- ❖ *Street entering a through highway or street.*
- ❖ *Unsignalized intersection in a signalized area.*
- ❖ *Other intersections with a combination of high speed, restricted view, and serious accident record.*

None of the warrants for a STOP sign have been met for this intersection. It has been documented by different agencies that unwarranted STOP signs normally

result in high violation rates and also promote general loss of credibility of all traffic control signs.

No one attended the meeting to address the committee, and the members saw no need for a STOP sign at this location.

RESOLUTION #2006-07-59

Moved by Hubbell

Seconded by Binkowski

Recommend no changes on Songbird at Meadowlark.

YES: All-4

NO: None

ABSENT: 3

MOTION CARRIED

6. Visitors' Time

No one wished to address the committee.

7. Other Business

Mr. Ziegenfelder said he would be absent from the September meeting.

Mr. Kilmer requested "NO OUTLET" signs on Tacoma and Olympia. Dr. Abraham will request same from the Department of Public Works.

RESOLUTION #2006-07-60

Moved by Hubbell

Seconded by Kilmer

To cancel the August Traffic Committee meeting.

YES: All-4

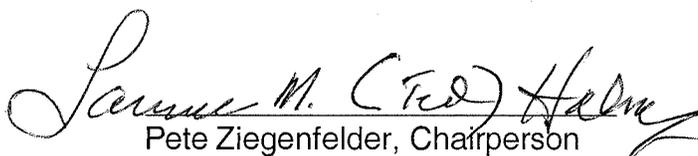
NO: None

ABSENT: 3

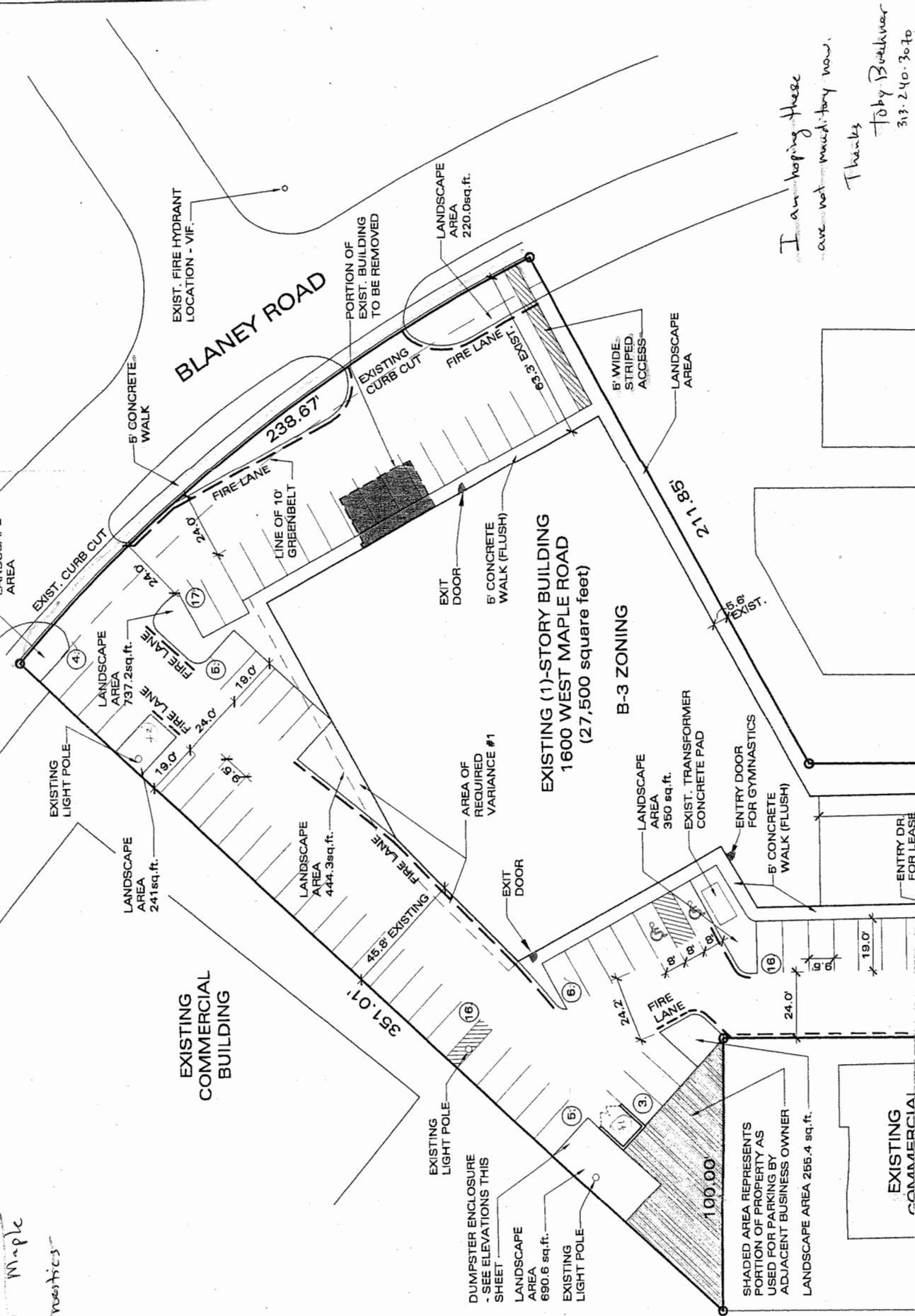
MOTION CARRIED

8. Adjourn

The meeting adjourned at 8:25 p.m. The next meeting is scheduled for September 20, 2006.

 
 Pete Ziegenfelder, Chairperson Laurel Nottage, Recording Secretary

1600 W Maple
Troy Gymnastics



I am hoping these
are not mandatory now.
Thanks
Toby Breckner
313-240-3070

EXISTING COMMERCIAL BUILDING

EXISTING (1)-STORY BUILDING
1600 WEST MAPLE ROAD
(27,500 square feet)

B-3 ZONING

EXISTING COMMERCIAL

SHADED AREA REPRESENTS
PORTION OF PROPERTY AS
USED FOR PARKING BY
ADJACENT BUSINESS OWNER
LANDSCAPE AREA 255.4 sq.ft.

DUMPSTER ENCLOSURE
- SEE ELEVATIONS THIS
SHEET

LANDSCAPE
AREA
690.6 sq.ft.
EXISTING
LIGHT POLE

EXISTING
LIGHT POLE

EXISTING
COMMERCIAL
BUILDING

LANDSCAPE
AREA
241sq.ft.

LANDSCAPE
AREA
737.2sq.ft.

LANDSCAPE
AREA
444.3sq.ft.

LANDSCAPE
AREA
350 sq.ft.

LANDSCAPE
AREA
220.0sq.ft.

LANDSCAPE
AREA

BLANEY ROAD

EXIST. FIRE HYDRANT
LOCATION - VIF.

5' CONCRETE
WALK

PORTION OF
EXIST. BUILDING
TO BE REMOVED

EXISTING
CURB CUT

FIRE LANE

FIRE LANE

63.3' EXIST.

5' WIDE
STRIPED
ACCESS

LANDSCAPE
AREA

EXIST. CURB CUT

FIRE LANE

24.0'

24.0'

24.0'

24.0'

24.0'

24.0'

24.0'

24.0'

24.0'

24.0'

24.0'

24.0'

24.0'

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

17

5

6

6

6

6

6

6

6

6

6

6

6

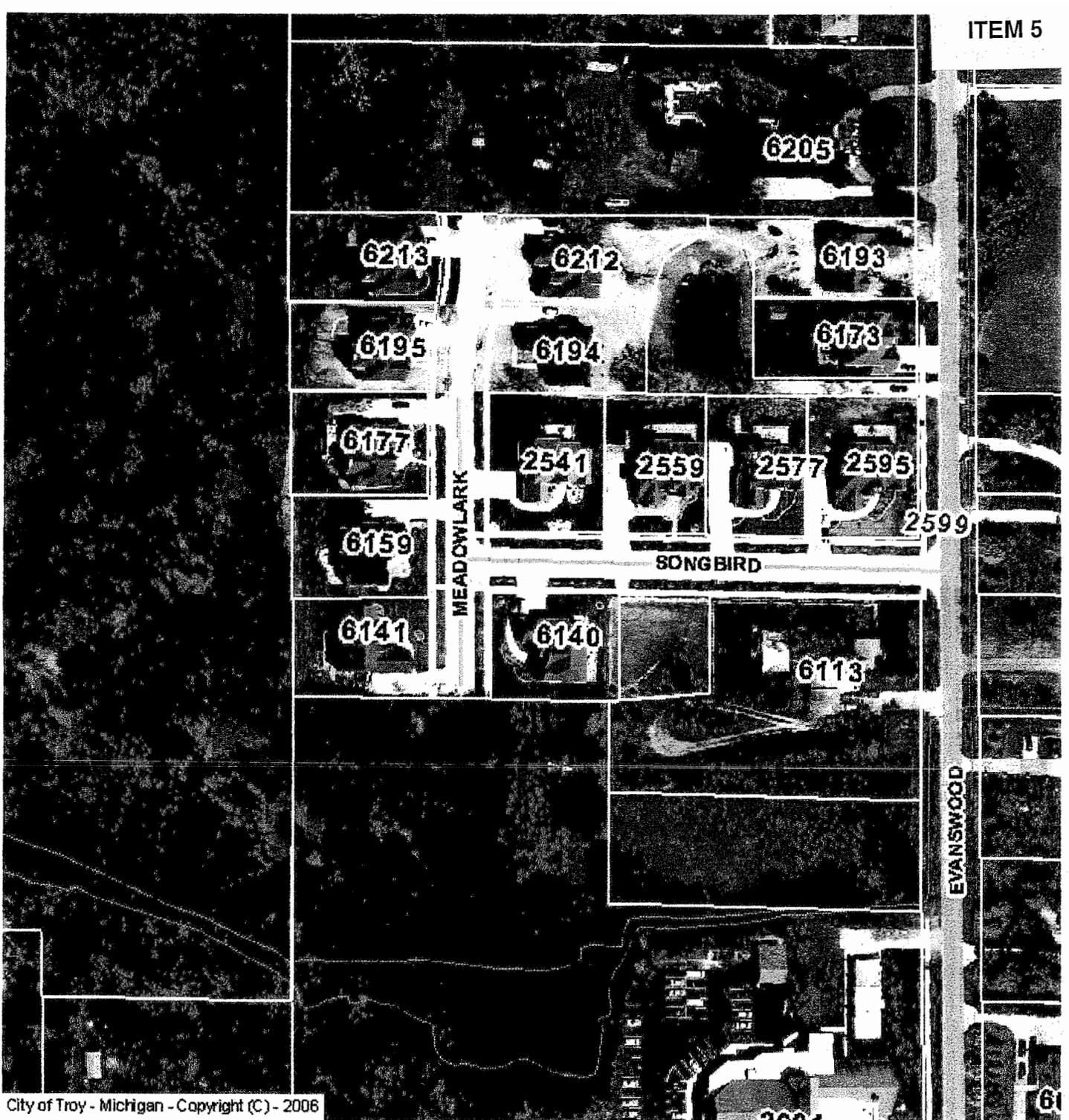


Geographical Information Systems Online



City of Troy - Michigan - Copyright (C) - 2006

Note: The information provided by this application has been compiled from recorded deeds, plats, tax maps, surveys, and other public records and data. It is not a legally recorded map survey. Users of this data are hereby notified that the source information represented should be consulted for verification.



City of Troy - Michigan - Copyright (C) - 2006

TROY HISTORIC DISTRICT COMMISSION MINUTES – FINAL**AUGUST 15, 2006**

A special meeting of the Troy Historic District Commission was held Tuesday, September 19, 2006 at City Hall. Barbara Chambers called the meeting to order at 7:32P.M.

ROLL CALL	PRESENT	Barbara Chambers
		Muriel Rounds
		Sabah Jihad
		Paul Lin
		Ann Partlan
		Loraine Campbell, Museum Manager
	ABSENT	Robert Hudson
		Marjorie Biglin
	GUEST	Brian Murphy, Asst. City Manager

0Resolution #HDC-2006-08-001**Moved by Partlan****Seconded by Rounds****RESOLVED, That the absences of Biglin and Hudson be excused.**

Yes: 5— Chambers, Rounds, Jihad, Lin, and Partlan

No: 0

MOTION CARRIED**Resolution #HDC-2006-09-002****Moved by Rounds****Seconded by Partlan****RESOLVED, That the minutes of the June 28, 2006 meeting be approved.**

Yes: 5— Chambers, Rounds, Jihad, Lin, and Partlan

No: 0

MOTION CARRIED**NEW BUSINESS****A. Request by the City of Troy Re. 3645 Crooks Road**

The Asst. City Manager explained to the Commission that the City of Troy has purchased the historic resource at 3645 Crooks Road. The site is zoned residential but has been a legal, non-conforming commercial site since 1955. The city will use the site as the field office for the Engineering Department. The building was inspected and does require immediate repairs to the roof, a new

rear door and a new HVAC system. Additionally, the city wishes to install an asphalt pathway behind the house. Mr. Murphy provided Building Operations photos of the roof and building exterior. He also indicated that in the future he would like to see a complete historic restoration of the building. The Commission members agreed that they and the Historic District Study Committee would support that effort and research the original appearance of the building.

Resolution #HDC-2006-08-003
Moved by Partlan
Seconded by Rounds

RESOLVED, That the request by the City of Troy to install a new roof, back door and asphalt pathway to the historic resource at 3645 Crooks Road be approved.

Yes: 5— Chambers, Rounds, Jihad, Lin, and Partlan
No: 0

MOTION CARRIED

The Troy Historic District Commission Meeting was adjourned at 7:52 PM. The next meeting will be held Tuesday, September 19, 2006 at 7:30 p.m. at City Hall in Conference Room C.

Barbara Chambers
Chairperson

Loraine Campbell
Recording Secretary

A meeting of the **Troy Youth Council (TYC)** was held on August 23, 2006 at 7:00 PM at the Troy Community Center, 3179 Livernois. Katie Thoenes and Nicole Vitale called the meeting to order at 7:02 p.m.

- MEMBERS PRESENT: Alexandra (Sasha) Bozimowski
Andrew Corey
Maxine D’Amico
Ales Gabriel
Jessica Kraft (Co-chair)
Kristin Randall (Secretary)
Neil Shaw
Nicole Vitale (Co-chair)
Karen Wullaert , Late
- MEMBERS ABSENT: Rishi Joshi, Joseph Niemiec, Anupama Prasad
Katie Thoenes (late)
- VISITORS: Sandy Macknis, Troy Daze Committee
- STAFF PRESENT: Scott Mercer, Recreation Supervisor

1. Roll Call

2. Approval of Minutes

Resolution # TY-2006-08-10
 Moved by Vitale
 Seconded by Bozimowski

RESOLVED, That the minutes of May 24 26, 2006 be approved.
 Yes: All – 9
 No: None
 Absent: 4 - Joshi, Prasad, Niemiec, Thoenes

3. Welcome New Council Member: Alex Gabriel was welcomed to the Youth Council.

4. Attendance Report:

Attendance record sheet was distributed with meeting dates for 2006 – 07 Youth Council year. Attendance records were cleared to begin new year.

5. Futures Process:

No update at this time. Final report has not been completed.

6. Troy Daze Festival:

- Sandy Macknis asked to Youth Council to volunteer at the headquarters booth to help distribute t-shirts, oversee volunteers and fill in where needed. Macknis distributed available times for sign up. Macknis stated that all volunteers were required to pay the \$7 entry fee in order to volunteer.
- Discussion on how to stay current with Troy Daze information. Mercer will bring a sign up sheet with Troy Daze meeting dates in September so Youth Council representatives can attend Troy Daze meetings throughout the year.
- Corey to join Officer Kaptur Friday evening to experience problem areas.

7. Motion to Excuse Absent Members Who Have Provided Advance Notification

Resolution # TY-2006-08-11

Moved by Kraft

Seconded by Randall

RESOLVED that Anupama Prasad, Katie Thoenes (late) are excused.

Yes: 11

No: 0

Absent: 3 – Joshi, Niemiec, Prasad

8. Youth Council Comments –

-None.

9. Public Comments –

-None.

10. Public Comments - None

The meeting adjourned at 7:26 P.M.

Nicole Vitale, Co-chair

Scott Mercer, Recreation Supervisor

Reminder Next Meeting: October 25 at 7:00 P.M. @ *Troy Community Center*

**ADVISORY COMMITTEE FOR PERSONS WITH DISABILITIES – DRAFT –
SEPTEMBER 6, 2006**

A Regular Meeting of the Troy Advisory Committee for Persons with Disabilities was held Wednesday, September 6, 2006, at the lower level Conference Room at City Hall. Chairman Stewart called the meeting to order at 7:01 p.m.

Present: M. Apte, Alternate C. Buchanan, member
 S. Burt, member A. Done, member
 P. Hammond, member T. House, member
 G. Hyun, student P. Manetta, member
 D. Pietron, member J. Stewart, member
 C. Weidman, student S. Werpetski, member

Present: M. Grusnick, staff
 K. Jearls, staff

Absent: A. Fuhrman, Alternate, EA

ITEM III – APPROVAL OF MINUTES OF MEETING OF August 2, 2006

Werpetski made a motion that the minutes of August 2, 2006 be approved. Supported by Done. All voted in favor.

ITEM IV – SCHEDULED PRESENTATIONS

ITEM V – UNFINISHED BUSINESS

The Committee discussed revisions to our brochure such as larger font size, bold lettering, and the elimination of shading, italics and possibly quotes. Stewart will report our findings to Community Affairs who will then bring them to the graphic designer. A motion was made by Buchanan, seconded by Hammond, to allow Stewart and Grusnick to approve changes in the text and graphics.

ITEM VI – NEW BUSINESS

We welcome Margaret Apte, a citizen of Troy, as an alternate member to our Committee.

We will be following Robert's Rules of Order for the meetings.

It was agreed that most City Council meetings do not necessitate the need for an assigned Committee member's attendance. Werpetski volunteered to review the Council agendas and inform Grusnick and Stewart of any items of interest to this Committee.

Weideman and Hyun will research handicap accessible festivals held in Michigan. They will also be researching the existence of other Advisory Committees for Persons With Disabilities across the Country as well as websites and adaptive recreation programs.

ITEM VII – REPORTS

ITEM VIII – PUBLIC COMMENT

Carlene Geier, Troy resident, attended our meeting.

ITEM IX – MEMBER COMMENT

Buchanan has talked to Don Mouch, Troy Fire Dept., regarding a Disaster Preparedness Plan for persons with disabilities.

Hammond asked for additional assistance for a resident in her trailer park that is unable to maneuver in his home due to health problems.

Pietron asked for support at the Senior Advisory Meeting 9/7/06 re: the discontinuance of the Meals On Wheels program.

Werpetinski has requested that precinct workers not use handicapped parking so that it is left available for persons with disabilities coming to vote. She would like a directory of resources for assistance to be created for the use of Troy citizens. Werpetinski also suggested that all correspondence going out from this Committee be submitted through Grusnick before being submitted to City Council.

Weideman and Hyun reported that they both will be researching ways to streamline students with disabilities into activities and functions at their respective High Schools and help them to become more involved.

House suggested that there be no food served at our meetings.

Manetta questioned the size and location of the handicap parking spaces near the restaurant at the shopping center at Long Lake and John R. Grusnick will review the plans.

Stewart asked if this Committee would be interested in getting involved in activities for special needs children or adults.

Stewart suggested an after-meeting 'brainstorming study session'. Feedback would then be forwarded to members and included on future agendas.

Stewart suggested that any member of this Committee could write an article of news for the Observer Eccentric as a guest columnist.

ITEM X – ADJOURNMENT

Done made a motion to adjourn at 9:37 which was seconded by Burt.

Jeff Stewart, Chairperson

Kathy Jearls, Recording Secretary

**ADVISORY COMMITTEE FOR PERSONS WITH DISABILITIES – FINAL –
SEPTEMBER 6, 2006**

A Regular Meeting of the Troy Advisory Committee for Persons with Disabilities was held Wednesday, September 6, 2006, at the lower level Conference Room at City Hall. Chairman Stewart called the meeting to order at 7:01 p.m.

Present: M. Apte, Alternate C. Buchanan, member
 S. Burt, member A. Done, member
 P. Hammond, member T. House, member
 G. Hyun, student P. Manetta, member
 D. Pietron, member J. Stewart, member
 C. Weidman, student S. Werpetinski, member

Present: M. Grusnick, staff
 K. Jearls, staff

Absent: A. Fuhrman, Alternate, EA

ITEM III – APPROVAL OF MINUTES OF MEETING OF August 2, 2006

Werpetinski made a motion that the minutes of August 2, 2006 be approved. Supported by Done. All voted in favor.

ITEM IV – SCHEDULED PRESENTATIONS

ITEM V – UNFINISHED BUSINESS

The Committee discussed revisions to our brochure such as larger font size, bold lettering, and the elimination of shading, italics and possibly quotes. Stewart will report our findings to Community Affairs who will then bring them to the graphic designer. A motion was made by Buchanan, seconded by Hammond, to allow Stewart and Grusnick to approve changes in the text and graphics.

ITEM VI – NEW BUSINESS

We welcome Margaret Apte, a citizen of Troy, as an alternate member to our Committee.

We will be following Robert's Rules of Order for the meetings.

It was agreed that most City Council meetings do not necessitate the need for an assigned Committee member's attendance. Werpetinski volunteered to review the Council agendas and inform Grusnick and Stewart of any items of interest to this Committee.

Weideman and Hyun will research handicap accessible festivals held in Michigan. They will also be researching the existence of other Advisory Committees for Persons With Disabilities across the Country as well as websites and adaptive recreation programs.

**ADVISORY COMMITTEE FOR PERSONS WITH DISABILITIES – FINAL –
SEPTEMBER 6, 2006**

ITEM VII – REPORTS

ITEM VIII – PUBLIC COMMENT

Carlene Geier, Troy resident, attended our meeting.

ITEM IX – MEMBER COMMENT

Buchanan has talked to Don Mouch, Troy Fire Dept., regarding a Disaster Preparedness Plan for persons with disabilities.

Hammond asked for additional assistance for a resident in her trailer park that is unable to maneuver in his home due to health problems.

Pietron asked for support at the Senior Advisory Meeting 9/7/06 re: the discontinuance of the Meals On Wheels program.

Werpetinski has requested that precinct workers not use handicapped parking so that it is left available for persons with disabilities coming to vote. She would like a directory of resources for assistance to be created for the use of Troy citizens. Werpetinski also suggested that all correspondence going out from this Committee be submitted through Grusnick before being submitted to City Council.

Weideman and Hyun reported that they both will be researching ways to streamline students with disabilities into activities and functions at their respective High Schools and help them to become more involved.

House suggested that there be no food served at our meetings.

Manetta questioned the size and location of the handicap parking spaces near the restaurant at the shopping center at Long Lake and John R. Grusnick will review the plans.

Stewart asked if this Committee would be interested in getting involved in activities for special needs children or adults.

Stewart suggested an after-meeting 'brainstorming study session'. Feedback would then be forwarded to members and included on future agendas.

Stewart suggested that any member of this Committee could write an article of news for the Observer Eccentric as a guest columnist.

ITEM X – ADJOURNMENT

Done made a motion to adjourn at 9:37 which was seconded by Burt.

**ADVISORY COMMITTEE FOR PERSONS WITH DISABILITIES – FINAL –
SEPTEMBER 6, 2006**

Jeff Stewart, Chairperson

Kathy Jearls, Recording Secretary

The Chairman, Ted Dziurman, called the meeting of the Building Code Board of Appeals to order at 8:30 A.M., on Wednesday, September 06, 2006, in the Lower Level Conference Room of the Troy City Hall.

PRESENT: Ted Dziurman
Rick Kessler
Rick Sinclair
Tom Rosewarne
Frank Zuazo

ALSO PRESENT: Mark Stimac, Director of Building & Zoning
Marlene Struckman, Housing Inspector Supervisor

ITEM #1 – APPROVAL OF MINUTES – MEETING OF AUGUST 2, 2006.

Motion by Richnak
Supported by Kessler

MOVED, to approve the minutes of the meeting of August 2, 2006 as written.

Yeas: All – 5

MOTION TO APPROVE MINUTES CARRIED

ITEM #2 - VARIANCE REQUEST. MR. & MRS. SANTA, 2245 ALEXANDER, for relief of Chapter 83 to install a picket fence.

Mr. Stimac explained that the petitioner is requesting relief of Chapter 83 to install a 36” to 42” picket fence in the front setback adjacent to the property line along Paris. This property is a double front corner lot. As such, it has front yard setback requirements along both Alexander and Paris streets. Chapter 83 limits the height of fences in the front setbacks at this location to 30” in height.

Mr. Stimac explained that this property previously obtained a variance for a 42” fence along the rear yard in the front yard setback along Paris.

Mr. Santa was present and stated that he wanted the fence for the safety of his child and that it would go with the fence at the rear of the property. He said there is a chain link fence owned by the City of Troy that is over 4’ high.

Mr. Stimac explained if he installed the fence along the northwest corner it could be higher but he would have to go along the house.

The petitioner stated he would not go past the front of the home and it is non-obscuring.

ITEM #2 – con't.

Mr. Richnak stated that a fence 30" in height would be permitted, but the petitioner is requesting a 6" to 12" variance.

Mr. Nelson asked what the chain link fence was for.

Mr. Richnak responded that it was for the Henry Graham Drain. It is owned by Oakland County but is maintained by the City of Troy.

Mr. Dziurman asked about the fence that was at the rear of this property. Mr. Stimac stated that it also required a variance to erect a 42" high fence for that portion in the front yard setback along Paris.

Mr. Zuazo asked if the petitioner would consider reducing the length of the fence approximately 10'-15'. The petitioner stated he wanted it to look good.

Mr. Richnak asked why they left a gap in the fence that would allow children to get out of the yard. The petitioner stated he was planning to park a car there in the future and that he can view his child in the yard from his kitchen window.

Mr. Kessler asked if the petitioner accessed his rear yard through the garage because the intent of the ordinance is to have an open space in the front. He stated a fence right along the property line tends to be a wall. He said if you would move the fence back to the side garage door it would leave an open space to Alexander and Paris. He also recommended to move the fence 5' off the sidewalk to allow for the grass to be maintained.

The petitioner stated that his wife is the one who wants the fence and that she was planning on being at the meeting. He said she would be here in 5-10 minutes.

Mr. Dziurman asked if anyone objected to postponing this item until the end of the meeting to allow Ms. Santa to appear. There were no objections. Mr. Dziurman postponed the item until the end of the meeting.

ITEM #3 – VARIANCE REQUEST. BARRY CASTILLOUX, 90 CHOPIN, for relief of the 2003 Michigan Residential Code to finish a basement.

Mr. Stimac stated that the petitioner is requesting relief of the 2003 Michigan Residential Code to alter the basement of the existing home to create two bedrooms with a 6'-6" finished ceiling height. The plans also show an existing unfinished area of the basement that will be used as an access corridor to the bedrooms. This unfinished area has a 6'-7" ceiling height and includes a dropped I-beam and ductwork with a 6'-1" ceiling height. The 2003 Michigan Residential Code, section R 305 requires a 7' minimum ceiling height in habitable area including corridors and 6'-6" clear height under dropped beams and ducts.

ITEM #3 – con't.

Mr. Castilloux was present. Mr. Dziurman asked about an emergency window for this location. The petitioner stated there would be two, one in each bedroom. He also stated that he needed the bedrooms because his wife operates a Daycare out of the home. He said that currently his two children (10 year old son and 8 year old daughter) share a bedroom because the other bedroom is being used as a play area for the children his wife takes care of.

Mr. Dziurman asked if he was going to finish the ceiling. The petitioner stated he was going to put in acoustical tiles. He currently has 6'-7" of floor to ceiling. Installing the material he is using will lower the height to 6'-6". He stated the home was built between the years of 1936 to 1939. He said he would be using glow in the dark tape adhesive on the beams and duct so no one would hit their head. Also, he stated he would use caution tape in areas where the glow in the dark material would not work unless it was dark.

Mr. Dziurman asked about putting in emergency lighting for when power fails. The petitioner agreed to do anything that would make the area safe for his children.

Mr. Kessler asked what the quality of the area was if the space was to be used as bedrooms. Is the area dry and free of any leaks or dampness? He also he asked if the area leading to the bedrooms would remain clear of any storage?

The petitioner stated the area would remain clean because he uses his garage as a storage area. He presented photos showing the bedroom that is currently used as a play area. The second photo was the one bedroom used by his son and daughter. He needs to have the living area and two bedrooms for the daycare business. He currently has 6 children but the State has licensed his home for 12 children. The petitioner stated he would need all of the first floor living space to accommodate 12 children.

Mr. Dziurman stated that if it were a requirement to have 35 square feet per child then for 6 children you would only need 210 square feet of living space. The petitioner stated he still wanted to finish the basement.

Mr. Kessler asked what material was he going to use. The petitioner stated he is using 2 X 4 with ½" drywall.

Mr. Nelson asked if he was going to use hard wire smoke detectors that were interconnected. The petitioner stated he had already spoken to the Electrical Inspector, Joe VanSumer about the possibility of hard wiring the smoke detectors.

Motion by Kessler
Supported by Richnak

ITEM #3 – con't.

MOVED, to grant Barry Castilloux, 90 Chopin relief of the 2003 Michigan Residential Code to alter the existing home to create two bedrooms in the basement with 6'-6" finished ceiling height and the unfinished area that includes a dropped I-beam and ductwork with 6'-1" ceiling height.

- Smoke detectors must be installed with the current building code and to be hardwired and interconnected.
- Emergency lighting must be installed so that it doesn't project out where someone would get injured.

Mr. Richnak stated he wanted to amend the motion to include the area coming off duct work would be at a 45 degree angle instead of a 90 degree angle.

Mr. Stimac stated that this basement finish is not quite like ones that were previously heard by the board in that they are not proposing to enclose the existing ductwork and beam. He wanted to be sure that the Board was not mandating that they be enclosed possibly further reducing the clear height.

The petitioner did agree to add an angled the portion adjacent to the beam to a 45-degree angle.

Motion by Kessler
Supported by Richnak

(As Amended) MOVED, to grant Barry Castilloux, 90 Chopin relief of the 2003 Michigan Residential Code to alter the existing home to create two bedrooms in the basement with 6'-6" finished ceiling height and the unfinished area that includes a dropped I-beam and ductwork with 6'-1" ceiling height.

- Smoke detectors must be installed with the current building code and to be hardwired and interconnected.
- Emergency lighting must be installed so that it doesn't project out where someone would get injured.
- Provide angle portion below the beam to be 45 degrees.

Yeas: All – 5

MOTION TO GRANT VARIANCE CARRIED

ITEM #2 (continued) –

Mrs. Santa arrived at the meeting and Mr. Dziurman explained to her that before her arrival, her husband stated why they were requesting the variance for the fence. Mrs. Santa stated they need the fence higher than 30" for their son's safety.

ITEM #2 (continued) –

Mr. Santa stated that an additional 6” in height should not be a problem.

Mr. Kessler wanted to know if the petitioner would consider moving the fence back up to the side garage door so there would not be an open space in the fence, which would then allow installing the fence all the way to the house.

The petitioners stated they wanted to leave the opening in the fence for parking a vehicle.

The Chairman opened the public hearing. No one wished to be heard and the Public Hearing was closed.

There were 3 written responses in the file. Two approved of the installation of the fence and one stated that the drivers on Alexander approaching Paris would have limited visibility for seeing small children or small vehicles including bicycles.

Motion by Kessler
Supported by Richnak

MOVED, to grant Mr. & Mrs. Santa, 2245 Alexander relief of Chapter 83 to install a picket fence 36” to 42” high in the front setback adjacent to the property line along Paris.

- Erect fence along Alexander to 1’ east of the garage service door.
- Erect fence 4’ off of the sidewalk on the private property.

Yeas: All – 5

MOTION TO GRANT VARIANCE CARRIED

The Building Code Board of Appeals meeting adjourned at 9:10 A.M.

Ted Dziurman, Chairman

Marlene Struckman, Acting -Recording
Secretary

Advisory Committee for Senior Citizens

A regular meeting of the Advisory Committee for Senior Citizens was held on Thursday, Sept. 7 2006 at the Troy Community Center. Chair Bud Black called the meeting to order at 1:05 PM.

Present: Bud Black, Member
Frank Shier, Member
JoAnn Thompson, Member
Merrill Dixon, Member
Carla Vaughan, Staff

David Ogg, Member
Mary Sarossy, Member
Pauline Noce, Member
James Berar, Member

Absent: Jo Rhoads, Member, excused

Visitors: Carol Anderson, Peggy Hammond, Susan Werpetinski, Dorothy Pietron, Carlene Geier, Wes Myers, Harold Stephenson, Mildred Myers, Ed Forst, Gloria Weisgerber, Bill Weisgerber, Steven Banch

Approval of Minutes

Resolution # SC-2006-9-001
Moved by JoAnn Thompson
Seconded by David Ogg

RESOLVED, That the Minutes of June 1, 2006 be approved as submitted.

Yes: 8
No: 0

MOTION CARRIED

Old Business

Shuffleboard and Bocce Ball: Carol Anderson reported that the project was rebid, and two bids were received. One will be recommended for approval at the Sept. 18 City Council meeting and it is expected that the courts will be built this fall. James Berar commented that it should be stressed that the courts are for all ages. JoAnn Thompson encouraged committee members to attend the council meeting to show their support.

Golf Leagues: Carla reported that after several meetings, an agreement was reached with the golf league officers. It was determined that league members will not have to pay for a minimum number of golfers. Non-resident golfers will pay the non-resident rate, and there will be a \$5 per person administrative fee. Funds will be distributed to the league officers as before, but a detailed report of financing will be provided.

Catering Service at the Community Center: Carol Anderson reported that no one bid on the new contract for the Community Center, and there was only one bid for the golf course. A revised RFP is going out next week for this contract that expires in May. A discussion was

held regarding the future of the senior lunch program and reasons why attendance might be falling. Mary Sarossy volunteered to preliminary investigation of options for the lunch program.

New Business

Street Signs: James Berar stated that the street signs in Troy are hard to read and the lettering on any new signs should be bigger. JoAnn Thompson commented that a different color might also be easier to read.

Reports

Park Board: Merrill Dixon reported that the Park Board did not meet during the summer. Sylvan Glen is done and a ribbon cutting ceremony was held.

Medi-Go: No report

Senior Program: Carla handed out a copy of the senior program annual report for the fiscal year that ended June 30. She noted that the number of seniors receiving the newsletter via email is up 36% to 375. Attendance at the lunch program continues to decline - down 31% from last year. We are now serving an average of 35 meals per day. The sale of passes for single exercise classes is up 105% to 451 this year. Creative Endeavors showed a 19% increase in sales. There were 276 pieces of hospital equipment loaned out last year, up from 180 last year. The service is much appreciated.

JoAnn Thompson asked if the pool staff could refrain from vacuuming the deck during their class as it makes it hard to hear the instructor. Carla will pass this request on to the pool staff.

OLHSA: No report.

Oakland County Senior Advisory Board: No report

Suggestion Box: Exercise instructor Marilyn McCauly has resigned, and here was one suggestion that Therese, who is subbing for Marilyn this summer, be hired to take her place. Carla reported that Therese was approached about this, but she has taken a full time job and will not be available. Eileen, a new instructor, has agreed to teach the class. She conducted the class yesterday and was well received.

Comments:

David Ogg and other committee members would like the meetings moved back to room 302. Carla will take care of this.

James Berar circulated an article about volunteers building a park in Birmingham.

JoAnn Thompson reported that the Elf Shelf is looking for a new site since Troy High has become so expensive.

David Ogg asked about Troy Daze, and Carla reported on the senior event and referred him to the senior newsletter for details.

Mary Sarossy commented that she is glad to have the opportunity to be of service as a member of this committee.

The meeting was adjourned at 3 p.m.

Respectfully submitted,

Bud Black, Chair

Carla Vaughan, Secretary

The Regular Meeting of the Troy City Planning Commission was called to order by Vice Chair Schultz at 7:32 p.m. on September 12, 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 (arrived 8:30 p.m.)
Mark J. Vleck
David T. Waller
Wayne Wright

Also Present:

Mark F. Miller, Planning Director
Brent Savidant, Principal Planner
Susan Lancaster, Assistant City Attorney
Kathy Czarnecki, Recording Secretary

2. APPROVAL OF AGENDA

Resolution # PC-2006-09-141

Moved by: Kerwin
Seconded by: Wright

RESOLVED, To approve the Agenda as presented.

Yes: All present (8)
No: None
Absent: Strat (arrived 8:30 p.m.)

MOTION CARRIED

3. MINUTES

Resolution # PC-2006-09-142

Moved by: Littman
Seconded by: Kerwin

RESOLVED, To approve the August 22, 2006 Special/Study meeting minutes as published.

Yes: All present (8)
No: None
Absent: Strat (arrived 8:30 p.m.)

MOTION CARRIED

4. PUBLIC COMMENTS – Items not on the Agenda

There was no one present who wished to speak.

POSTPONED ITEMS

5. 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 announced a request from the petitioner to postpone the matter for 90 days was received by the Planning Department on September 7. Mr. Miller reported a valid protest petition relating to the rezoning request was submitted to the Planning Department, and that copies were distributed to the Planning Commission. He indicated it is at the discretion of the Planning Commission to postpone the matter, or act upon the rezoning request.

[A person from the audience handed what appeared to be a traditional petition to Mr. Miller. Vice Chair Schultz said the item would be noted and filed.]

PUBLIC HEARING OPENED

P. J. Cumming of 5375 Daniels, Troy, was present. Ms. Cumming spoke in opposition to the proposed rezoning request and the postponement of the item. Ms. Cumming also addressed the proposed site plan.

Charles Jackson of 405 W. Square Lake Road, Troy, was present. Mr. Jackson spoke in opposition to the proposed rezoning request, and provided an additional sheet of signatures to the protest petition. He addressed traffic concerns, safety of school children, and the number of senior developments in the City. Mr. Jackson thinks it might be intentional on the part of the petitioner to request postponements, so residents would eventually forget about the proposed development.

Vice Chair Schultz indicated a postponement allows a petitioner additional time to work on outstanding items related to the proposal, noting in this case the petitioner might be attempting to gain access to a major thoroughfare.

Mr. Littman asked if the petitioner met with the residents.

Mr. Jackson replied that, to his knowledge, there has been no meeting with residents.

Rob Shouhayib of Choice Development, 755 W. Big Beaver Road, Troy, was present. Mr. Shouhayib respectfully requested a postponement to allow additional time to address the concerns of the residents and details of the plan. He indicated a meeting with residents on Daniels was held, and they would be happy to meet with any other residents. Mr. Shouhayib said a status report could most likely be provided within the next couple of weeks.

Mr. Vleck asked the petitioner if they are attempting to get direct access to a major thoroughfare.

Mr. Shouhayib replied that access to a major thoroughfare is an option under serious consideration.

Mr. Vleck said he would not be in favor of another postponement. Mr. Vleck said a status report on the proposed development prior to tonight's meeting would have been appreciated, and noted a lot of people are affected by the proposed development.

Mr. Khan said it would be appreciated if a request to postpone were received by the Planning Department to allow enough time to let residents know prior to the scheduled public hearing.

Mr. Waller indicated he would be in favor of honoring the petitioner's request to postpone. He has confidence in the petitioner's ability to produce good quality projects, based on their history of development in the City.

John Major of 5215 Daniels, Troy, was present. Mr. Major spoke in opposition of the proposed rezoning request and postponement. He confirmed the petitioner met with residents, but he did not believe all residents who would be affected were invited to the meeting. Mr. Major said the petitioner shows disregard for the residents as relates to the lack of information and notice of intention to postpone.

Vince Pangle of 5235 Wright, Troy, was present. Mr. Pangle spoke in opposition to the proposed rezoning request. He addressed the Zoning Ordinance standards for rezoning requests and the petitioner's presentation to request a postponement.

Millie Francuck of 5661 Wright, Troy, was present. Ms. Francuck spoke in opposition of the proposed rezoning request. She addressed the safety of school children and property contamination. Ms. Francuck suggested taking the matter to the residents as an advisory question.

Brooke Hertzberg of 233 McKinley Drive, Troy, was present. Ms. Hertzberg spoke in opposition of the proposed rezoning request. She addressed the negative impact the proposed use would have on the residential neighborhood.

Peter Horan of 5520 Wright, Troy, was present. Mr. Horan spoke in opposition of the proposed rezoning request. He suggested that a vote of the audience be taken to determine how many residents are for or against the rezoning request.

Ms. Vleck addressed the parliamentary procedure followed by the Planning Commission.

It was the recommendation of Ms. Lancaster that the Planning Commission not conduct a show of hands, for or against, the proposed rezoning request, and provided a brief explanation of the basis of her recommendation.

Richard Hughes of 1321 Roger Court, Troy, was present. Mr. Hughes addressed the advisory vote option, and potential access to the subject property via a service drive along Interstate 75.

Mr. Wright briefly addressed a service drive along Interstate 75.

Gloria DePoorter of 100 Stalwart, Troy, was present. Ms. DePoorter spoke in opposition of the proposed rezoning request. She asked what evidence the City needs to prove the proposed use would not work in the neighborhood. Ms. DePoorter submitted two photographs of parked cars on a residential street within the proposed development.

Mr. Miller provided an explanation of the decision-making role of the Planning Commission.

Mr. Littman addressed the advisory role of the Planning Commission to City Council. Mr. Littman said he would be in favor of denying the rezoning request, and noted he voted against postponement of the item previously. He said there is nothing the petitioner can do to make the proposed development fit the Zoning Ordinance or Master Plan.

Ms. Kerwin said she would support denial of the rezoning request because it does not warrant rezoning.

Mr. Wright said he would support denial of the rezoning request also, indicating the proposed development did not make sense to him since the initial presentation.

PUBLIC HEARING CLOSED

Resolution # PC-2006-09-143

Moved by: Vleck

Seconded by: Littman

RESOLVED, That the Planning Commission hereby recommends to the City Council that the R-1B to R-EC rezoning request, located on the north side of Long

Lake, east side of I-75, within Section 9, being approximately 8.6 acres in size, be denied, for the following reasons:

- The application does not comply with the Future Land Use Plan
- The application does not meet the Location Standards of Section 19.40.00.

Yes: Kerwin, Khan, Littman, Vleck, Wright

No: Drake-Batts, Schultz, Waller

Absent: Strat (arrived 8:30 p.m.)

MOTION CARRIED

Ms. Drake-Batts said the denial does not stop the petitioner from going forward with the proposed development; the petitioner will simply submit another application.

Mr. Waller agreed with Ms. Drake-Batts' comments. He thinks it is reasonable to give the petitioner another opportunity to resolve the major issues of the proposed development.

Vice Chair Schultz agreed with comments made by Ms. Drake-Batts and Mr. Waller.

Mr. Miller provided a brief explanation of the administrative procedure for Planning Commission recommendations to City Council, and informed residents to contact the Planning Department for further information.

6. PUBLIC HEARING – STREET VACATION REQUEST (SV 148-C) – Daley Street, South of Big Beaver, East of Rochester Road, abutting Lots 28 and 33 of Supervisor's Plat No. 11 Subdivision, Section 26 – Zoned M-1 (Light Industrial) District (the abutting parcels)

Mr. Miller identified handouts relating to the street vacation request that were distributed to members prior to the beginning of tonight's meeting. Mr. Miller reported the Planning Department received a written request to postpone the item to the October Regular meeting from Ken Demark. He noted Mr. Demark's relationship to the petitioner is unknown.

Mr. Miller said a review of the street vacation request determined the proposed vacation could negatively impact access to the property for large trucks backing onto the property to make pick-ups or deliveries. Mr. Miller asked for a clear understanding of the petitioner's need for the proposed street vacation.

Mr. Waller asked if the Planning Director or Assistant City Attorney had any advice with respect to the lawsuit filed on the street vacation request.

Ms. Lancaster said the City is convinced the subject street is a public road, and the lawsuit would have no bearing on the Planning Commission's determination of the matter.

PUBLIC HEARING OPENED

Paul Asker of Asker, Clos & Perlmutter, 35551 Ford Road, Westland, was present to represent the petitioner. Mr. Asker addressed his September 11, 2006 correspondence [copy provided to the Planning Commission prior to the beginning of tonight's meeting] and provided a detailed synopsis of the pending litigation relating to the proposed street vacation. He stated the vacation would allow Behr America to provide additional parking. He indicated that Daley would continue to be a driveway in which truck traffic could turn around. Mr. Asker said Behr America does not intend to fence or gate the vacated street.

[Mr. Strat arrived at 8:30 p.m.]

Mr. Miller recommended a cross access easement that would essentially give permission to others to trespass Behr property.

Mr. Asker said he would discuss the matter of cross access easement with his client.

Robert Easterly of 189 E. Big Beaver, Troy, was present. Mr. Easterly represents Prototfab Corp. located at 2835 Daley. He clarified that Ken Demark, who requested a postponement of the item, is one of the principals of Photofab Corp. Mr. Easterly addressed his correspondence dated July 6, 2006 and September 11, 2006, copies of which were distributed to the Planning Commission prior to the beginning of tonight's meeting. Mr. Easterly provided a detailed synopsis of the pending lawsuit and detailed the direct and negative affect the proposed street vacation would have on his client's business.

There was general discussion on parcel ownership, underground utilities, trespassing concerns, discrepancies in the legal description, City Management's recommendation for denial, and justification of postponing the matter.

PUBLIC HEARING CLOSED

Resolution # PC-2006-09-144

Moved by: Littman

Seconded by: Khan

RESOLVED, To postpone this matter to the October 2006 Regular meeting to allow petitioners to start court proceedings and for petitioners to look at the possibility of providing a turnaround easement.

Discussion on the motion on the floor.

Mr. Vleck stated he would vote affirmatively on the motion. He would like the opportunity to review the material that was distributed to the members prior to the beginning of the meeting.

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

MOTION CARRIED

Ms. Drake-Batts said she did not need 30 days to make a decision on the matter.

Vice Chair Schultz requested a recess at 9:11 p.m.

The meeting reconvened at 9:23 p.m.

[Chair Strat resided.]

7. SPECIAL USE REQUEST (SU 117-C) – Proposed Private School, Proposed St. Mark Christian Academy at St. Mark Coptic Orthodox Church, West side of Livernois, South of Kirk Lane (3603 Livernois), Section 21 – R-1B

Mr. Miller reported the petitioner requested in a written communication dated September 11, 2006, to postpone the matter to the October 2006 Regular meeting.

The petitioner was not present.

Resolution # PC-2006-09-145

Moved by: Khan
Seconded by: Schultz

RESOLVED, To postpone the matter to the December 2006 Regular meeting.

Discussion on the motion on the floor.

Ms. Kerwin addressed traffic congestion at this location and expressed concerns with safety. She asked if City Management could study the site with respect to traffic and potential implications in the interim of another postponement.

Mr. Miller said he would ask the City's Traffic Engineer to conduct a minor traffic study at this location. He will keep the members advised of the findings.

Vote on the motion on the floor.

Yes: All present (9)
 No: None

MOTION CARRIED

8. REZONING REQUEST (Z 719) – Proposed Troy Medical Office, West side of Livernois, North of Big Beaver, Section 21 – From R-1B (One Family Residential) to O-1 (Low Rise Office)

Mr. Miller said the petitioner requested a postponement to the November 2006 Regular meeting to pursue the option of a conditional rezoning. Mr. Miller said no action is necessary.

Ms. Lancaster recommended entertaining a motion to postpone the item so the record would be clear.

Mr. Savidant said the petitioner indicated during conversations with the Planning Department that he might request a review of the item at a study session.

Resolution # PC-2006-09-146

Moved by: Schultz
 Seconded by: Khan

RESOLVED, To postpone the item until the November 2006 Regular meeting.

Yes: All present (9)
 No: None

MOTION CARRIED

9. SITE PLAN REVIEW (SP 932) – Proposed Stonewood Pangborn Industrial Building Addition, Southeast Corner of Coolidge and Industrial Row (2963 Industrial Row), Section 32, M-1 (Light Industrial) District

Mr. Miller presented a summary of the Planning Department report on the proposed site plan, and reported it is the recommendation of City Management to approve the site plan as submitted contingent upon providing the required 9.5 feet of width for all the parking spaces.

The petitioner, Benny Spielmann of 13211 Northend Avenue, Oak Park, was present. Mr. Spielmann indicated Mr. Pangborn, part owner of Stonewood Pangborn, and the project architect were also present. He addressed the site plan revisions that were made in consideration of Planning Commission comments from the August Regular meeting. Mr. Spielmann indicated he had no problem

eliminating one parking space, and that would allow the necessary space to widen all the parking spaces to the required 9.5-foot width.

Alternate options discussed related to obtaining a variance from the Board of Appeals (BZA) for a reduction in parking, or a reduction in width of the total parking spaces.

Members Vleck and Littman indicated their support of the proposed development by eliminating one parking space.

Mr. Miller briefly addressed handicapped parking.

Chair Strat said the proposed site plan is cramped, but he is supportive of new development coming into the City.

Mr. Spielmann provided copies of the revised site plan, signed and sealed by his architect, which shows the elimination of one parking space and the reconfiguration of 9.5 foot-wide parking spaces.

Resolution # PC-2006-09-147

Moved by: Schultz

Seconded by: Khan

RESOLVED, That Preliminary Site Plan Approval, as requested for the proposed Stonewood Pangborn Industrial Building Addition, located on the southeast corner of Coolidge and Industrial Row, located in Section 32, on approximately 0.92 acres, within the M-1 zoning district, is hereby granted, and that the Planning Commission allows a reduction of one parking place along the north edge of the building from seven (7) parking spaces to six (6) 9.5 foot wide parking spaces, pursuant to Section 40.20.12, with the following condition.

1. That the eliminated parking space is turned into a greenbelt.

Yes: All present (9)

No: None

MOTION CARRIED

SPECIAL USE REQUESTS

10. **PUBLIC HEARING – SPECIAL USE REQUEST (SU 337)** – Existing Clark Station, Southwest corner of Rochester Road and South Blvd. (6951 Rochester Road), Section 3, Zoned H-S (Highway Service) District

Mr. Savidant presented a summary of the Planning Department report on 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 with conditions. City Management recommends deleting the north drive on Rochester Road, providing protection for the new canopy supports or eliminating them, and providing a 30-inch screen wall in lieu of the 10-foot wide greenbelt along those portions of South Boulevard and Rochester Road where a 10-foot greenbelt is not provided. Mr. Savidant reviewed Section 39.70.05, as relates to the material of screen wall, and Section 23.30.02 (A), as relates to curb cuts for ingress and egress to service stations.

William Quinlan of Quinlan Associates, 31325 Harper Avenue, St. Clair Shores, was present to represent the petitioner. Mr. Quinlan asked for approval of the site plan as submitted. He indicated the proposed second curb cut on Rochester Road would better facilitate interior traffic and not impede right-turning traffic from South Boulevard to Rochester Road. Mr. Quinlan said the petitioner has concerns that the required screen wall would hinder maneuverability.

There was discussion on alternate layouts, preservation of the existing islands, fill locations for underground tanks, loss of trees, and curb cuts as relates to accessibility and maneuverability.

No one present indicated they wished to speak on this application.

Resolution # PC-2006-09-148

Moved by: Khan
Seconded by: Schultz

RESOLVED, That Special Use Approval and Preliminary Site Plan Approval, pursuant to Section 23.30.02 of the Zoning Ordinance, as requested for the existing Clark Station, located at the southwest corner of Rochester Road and South Blvd., located in Section 3, within the H-S zoning district, are hereby granted, subject to the following conditions:

1. Delete the north drive on Rochester Road.
2. Provide protection for the new canopy supports, or eliminate those supports.
3. Provide a 30-inch screen wall in lieu of the ten-foot wide greenbelt along those portions of South Boulevard and Rochester Road where a 10-foot greenbelt is not provided.

Yes: All present (9)
No: None

MOTION CARRIED

11. PUBLIC HEARING – SPECIAL USE REQUEST (SU 338) – Proposed Auto Detailing and Repair Facility, East side of Souter, South of Maple Road (1402 Souter), Section 34, Zoned M-1 (Light Industrial) District

Mr. Savidant reported the petitioner submitted a request in writing, dated September 5, 2006, to postpone the item to the October Regular meeting.

Resolution # PC-2006-09-149

Moved by: Khan
Seconded by: Wright

RESOLVED, That the subject item be postponed to the October 10, 2006 Regular meeting.

Yes: All present (9)
No: None

MOTION CARRIED

12. PUBLIC HEARING – SPECIAL USE REQUEST (SU 339) – Proposed Health Club, South side of Big Beaver, West of Rochester Road (former Home Expo Bldg.), Section 27, Zoned B-2 (Community Business) District

Mr. Savidant presented a summary of the Planning Department report on the proposed special use request, and reported it is the recommendation of City Management to approve the special use request as submitted.

There was discussion on the site plan comments provided by the City's Landscape Analyst. It was assumed that the intent of the comments is that any missing, dying or dead landscape material would be replaced with new landscape material.

David Hunter of Professional Engineers Associates, 2430 Rochester Court, Troy, was present to represent the petitioner. Mr. Hunter said Monte Rosenberger of DeBartolo Development was present also. He indicated the petitioner is purchasing the former Home Depot parcel that is approximately 9 acres, and would be responsible for the landscaping within that parcel. Mr. Hunter said DeBartolo Development is under contract to purchase the entire building and is looking at proposed retail uses for the remainder of the building.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Mr. Schultz asked if the subject parcel would be included if the Planning Commission specified in the Special Use Approval that landscaping must be brought up to the standards of the originally approved site plan.

Mr. Savidant said it would.

Mr. Littman asked if there would be enough parking on site for a health club.

Mr. Savidant replied that the applicant meets all parking requirements of the Zoning Ordinance.

Mr. Vleck asked how the percentage of required landscaping for the subject parcel would relate to the required landscaping for the entire site.

Mr. Savidant stated the petitioner is seeking only a special use approval, and no site improvements are planned at this time.

Mr. Miller said the site is considered as one development at this time. He indicated the Assessing Department would require the petitioner to meet all Zoning Ordinance requirements prior to granting a request to split the lot.

Resolution # PC-2006-09-150

Moved by: Vleck
Seconded by: Littman

RESOLVED, That Special Use Approval, pursuant to Section 21.30.03 of the Zoning Ordinance, as requested for the proposed Health Club, located on the south side of Big Beaver, west of Rochester Road, located in Section 27, within the B-2 zoning district, is hereby granted.

Yes: All present (9)
No: None

MOTION CARRIED

13. PUBLIC HEARING – SPECIAL USE REQUEST (SU 271-B) – Amendment of Special Use Approval, Existing Rainbow Rascals Child Development Center, West side of Crooks, South of Investment Drive (4533 Crooks), Section 17, Zoned R-1B (One Family Residential) District

Mr. Savidant presented a summary of the Planning Department report. It is the recommendation of City Management to approve the amendment of the Special Use Approval to permit the overnight parking of two commercial vehicles on the property, subject to conditions. City Management recommends limiting the overnight parking to two vehicles with a maximum capacity of 15 passengers and parking the vehicles on the two most northeastern parking spaces. Photographs of

two vehicles the petitioner would like to use were distributed to the members prior to the beginning of tonight's meeting.

The petitioner, Patrick Fenton, owner and operator of Rainbow Development, 17500 W. Eleven Mile Road, Lathrup Village, was present. Mr. Fenton said the Troy facility currently does not have any vehicles parked on site.

PUBLIC HEARING OPENED

John Vidosh of 1077 Whisper Way Ct., Troy, was present. Mr. Vidosh spoke in opposition of the request. Mr. Vidosh was present at the meeting when Rainbow Rascals received their Special Use Approval and recalls the two conditions to the approval. He stated the petitioner has violated those conditions and have not been good neighbors, as relates to a second dumpster and parked bus. Mr. Vidosh addressed the location of parked vehicles should tonight's request be granted. He also expressed distaste for the windmills placed on the lawn by the children and the length of time the windmills have remained.

PUBLIC HEARING CLOSED

Mr. Fenton provided explanations for the violations cited by Mr. Vidosh, and indicated they were appropriately handled.

Mr. Wright said the reason Planning Commission did not allow overnight parking of commercial vehicles when a Special Use Approval was granted was because the child development center is situated in the R-1B residential zoning district.

Chair Strat agreed with the resident's comments on the windmills at this site.

Resolution # PC-2006-09-151

Moved by: Waller

Seconded by: Schultz

RESOLVED, That conditions of Special Use Approval, pursuant to Section 10.30.03 of the Zoning Ordinance, as requested for the existing Rainbow Rascals Child Development Center, located on the west side of Crooks Road, south of Investment Drive, located in Section 17, within the R-1B zoning district, are hereby amended to permit the overnight parking of two commercial vehicles on the property, subject to the following conditions:

1. There shall be a maximum of two vehicles with a maximum capacity of 15 passengers each parked on the parcel overnight. These vehicles shall be parked on the two most northeastern parking spaces on the parcel.

Yes: Drake-Batts, Kerwin, Khan, Littman, Schultz, Vleck, Waller

No: Strat, Wright

MOTION CARRIED

Mr. Wright voted no because the center is located in a residential zoning district.

Chair Strat concurred.

ZONING ORDINANCE TEXT AMENDMENT

14. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 226) – Articles 04.00.00 and 24.00.00 – Medical Equipment Sales and Service in the O-1 (Low Rise Office) District

Mr. Miller briefly reviewed the proposed zoning ordinance text amendment relating to medical equipment sales and service in the O-1 district. He indicated that City Management concurs with the direction of the Planning Commission.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

A short discussion followed.

- Special use approval versus permit by right.
- Domino affect to retail uses.
- Intensity of proposed use.
- Impact on office district.
- Intent of City Council direction.

Resolution # PC-2006-09-152

Moved by: Wright

Seconded by: Kerwin

RESOLVED, That the Planning Commission hereby recommends to the City Council that Articles IV and XXIV, pertaining to revisions to permit Medical Equipment Sales and Service in the O-1 (Low Rise Office) District, as printed on the proposed Zoning Ordinance Text Amendment, be approved.

Yes: Kerwin, Khan, Strat, Waller, Wright

No: Drake-Batts, Littman, Schultz, Vleck

MOTION CARRIED

Members Drake-Batts, Littman, Schultz and Vleck indicated their preference to allow medical equipment sales and service by special use approval.

There was a brief discussion on existing medical uses in the O-1 zoning district.

SITE PLAN REVIEWS

15. **SITE PLAN REVIEW (SP 883-C)** – Amendment to Consent Judgment – Heartland Health Care Skilled Nursing Facility, South side of South Blvd., East of Livernois, Section 3 – Consent Judgment

Mr. Miller reviewed the request to amend the Consent Judgment by providing an additional 16 parking spaces on site. It is the recommendation of City Management to approve the revised site plan as submitted. Mr. Miller indicated the revisions would not affect compliance with any Zoning Ordinance provisions. It was noted that the Planning Department report incorrectly states the parking spaces would be incorporated on the southwest side of the building; it should read the southeast side.

The petitioner was present in the audience.

Chair Strat opened the floor for public comment.

There was no one present who wished to speak.

The floor was closed.

Resolution # PC-2006-09-153

Moved by: Wright

Seconded by: Kerwin

RESOLVED, That the Planning Commission recommends to City Council that Preliminary Site Plan Approval, pursuant to a proposed Amendment to Consent Judgment, for a revised site plan, located on the south side of South Boulevard and East of Livernois Road within Section 3, within the O-1 zoning district, be approved.

Yes: All present (9)

No: None

MOTION CARRIED

16. **SITE PLAN REVIEW (SP 909)** – Landowner – Proposed Amendment to Consent Agreement – Starbucks Restaurant, Northwest corner of Big Beaver Road and Crooks Road, Section 20 – H-S (Consent Judgment)

Mr. Miller reported a request to postpone the item to the October 2006 Regular meeting was received today from Joseph M. Rogowski, Berry Reynolds & Rogowski, PC, on behalf of the petitioner. It was noted the petitioner requested a postponement from the Board of Zoning Appeals (BZA) for requested variances relating to the proposed development.

Mr. Miller provided a history of the item. He indicated that City Management was not provided enough time to consider the application and make a recommendation, but identified some concerns after a cursory review of the site plan.

Ms. Lancaster explained the administrative process for a Consent Agreement amendment. She indicated the Planning Commission would review the site plan before a presentation of the complete package to the City Council. The request to amend the Consent Agreement and site plan approval would be considered and determined by the City Council.

There was discussion on the relationship of the proposed use with implementation of the Big Beaver Corridor plan.

Resolution # PC-2006-09-154

Moved by: Schultz
Seconded by: Littman

RESOLVED, To postpone this item to the October 2006 Regular meeting.

Yes: All present (9)
No: None

MOTION CARRIED

OTHER ITEMS

17. **PUBLIC COMMENTS** – Items on Current Agenda

There was no one present who wished to speak.

GOOD OF THE ORDER

The members and City Management overwhelmingly welcomed back Mr. Wright!

Mr. Wright said it was good to be back!

Ms. Drake-Batts addressed traffic congestion on the northwest corner of Big Beaver and Crooks, near the retail center [Einstein Bagels]. She asked if a “no left turn” sign on to Crooks could be erected.

Mr. Miller said he would bring it to the attention of the City’s Traffic Engineer.

Mr. Schultz, former member of the City’s Traffic Committee, said placement of directional signs is based on the number of accidents.

Mr. Waller addressed the landscaping on Crooks and Big Beaver, in front of Kelly Services.

Ms. Kerwin announced the dates/times for the grand opening/open house/ribbon cutting of the new Boys and Girls Club.

Ms. Lancaster said it was good to see everybody!

Mr. Miller reviewed agenda items on the next study session meeting. He reminded members that a venue must be determined for the November 7, 2006 Special/Study meeting.

Mr. Vleck commented on the number of postponements at tonight's meeting, and the length of time it took to conduct the meeting.

Mr. Littman reminded members of the upcoming Kresge Foundation tour.

Chair Strat addressed the progress made on streamlining the PUD process.

The Regular Meeting of the Planning Commission was adjourned at 11:20 p.m.

Respectfully submitted,

Thomas Strat, Chair

Kathy L. Czarnecki, Recording Secretary

G:\Planning Commission Minutes\2006 PC Minutes\Final\09-12-06 Regular Meeting_Final.doc

The Special/Study Meeting of the Troy City Planning Commission was called to order by Chair Strat at 7:34 p.m. on September 26, 2006 in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Present:

Lynn Drake-Batts
Mary Kerwin
Lawrence Littman
Robert Schultz
Thomas Strat
David T. Waller
Wayne Wright

Absent:

Fazal Khan
Mark J. Vleck

Also Present:

Mark F. Miller, Planning Director
R. Brent Savidant, Principal Planner
Susan Lancaster, Assistant City Attorney
Jonathan Shin, Student Representative
Richard Carlisle, Carlisle/Wortman Associates, Inc.
Rod Arroyo, Birchler Arroyo Associates, Inc.
Randy Metz, Grissim Metz Andreise Associates
Davis Peterhans, C3 Community Core Creators

Resolution # PC-2006-09-155

Moved by: Schultz
Seconded by: Wright

RESOLVED, That Members Khan and Vleck are excused from attendance at this meeting for personal reasons.

Yes: All present (7)
No: None
Absent: Khan, Vleck

MOTION CARRIED

2. APPROVAL OF AGENDA

Resolution # PC-2006-09-156

Moved by: Littman
Seconded by: Wright

RESOLVED, To approve the Agenda as presented.

Yes: All present (7)
No: None
Absent: Khan, Vleck

MOTION CARRIED

3. MINUTES

Resolution # PC-2006-09-157

Moved by: Schultz

Seconded by: Wright

RESOLVED, To approve the September 12, 2006 Regular meeting minutes as published.

Yes: All present (7)

No: None

Absent: Khan, Vleck

MOTION CARRIED

4. PUBLIC COMMENT (Items Not on the Agenda)

There was no one present who wished to speak.

5. BOARD OF ZONING (BZA) APPEALS REPORT

Mr. Wright reported on the September 19, 2006 Board of Zoning Appeals (BZA) meeting.

6. DOWNTOWN DEVELOPMENT AUTHORITY (DDA) REPORT

Mr. Miller reported on the September 20, 2006 Downtown Development Authority (DDA) meeting.

7. PLANNING AND ZONING REPORT

Mr. Miller presented the Planning and Zoning report.

8. BIG BEAVER CORRIDOR STUDY PRESENTATION

Rod Arroyo of Birchler Arroyo Associates led discussion of the Big Beaver Corridor Study, beginning with the key concepts listed on Page 38.

General discussion of the document followed.

Chair Strat requested a recess at 9:00 p.m.

[Ms. Drake Batts left at 9:00 p.m. due to illness.]

The meeting reconvened at 9:10 p.m.

Discussion on the Big Beaver Corridor Study continued.

Richard Carlisle, Planning Consultant, Carlisle & Wortman Associates, presented short-term implementation items identified in the Big Beaver Corridor Study.

Resolution # PC-2006-09-158

Moved by: Schultz

Seconded by: Kerwin

WHEREAS, The Downtown Development Authority (DDA) commissioned a study focused on the continued vitality of the Big Beaver Corridor as a regional destination point and a world class boulevard; and

WHEREAS, The City of Troy has a vested interest in continued development and increasing the quality of life and other opportunities for our community; and

WHEREAS, The key concepts of the document were adopted by both the Downtown Development Authority and City Council;

THEREFORE, BE IT RESOLVED, That the key concepts included in the Big Beaver Corridor Study are hereby supported by the Planning Commission.

Yes: All present (6)

No: None

Absent: Drake-Batts (left at 9:00 p.m.), Khan, Vleck

MOTION CARRIED

The Planning Commission thanked the project team for their hard work and excellent document.

9. ZONING ORDINANCE TEXT AMENDMENT (ZOTA 225) – Article XXXV - Amendments to Planned Unit Development Provisions

Mr. Miller updated the Planning Commission on the PUD provisions. The PUD approval process is proposed to be modified so that projects can receive conceptual approval without the petitioner having to invest significant time and money into the project.

A flow chart that summarizes the proposed PUD approval process was discussed.

Mr. Miller indicated that a draft text amendment would be prepared and presented to the Planning Commission in the near future.

10. VENUE FOR NOVEMBER 7, 2006 SPECIAL/STUDY MEETING AND ESTABLISHMENT OF 2007 MEETING SCHEDULE

The Planning Commission discussed this item and the conflict with the General Election. They agreed to hold the November 7, 2006 meeting at the Police and Fire Training Center.

Resolution # PC-2006-09-159

Moved by: Wright
Seconded by: Waller

WHEREAS, There is a Planning Commission Special/Study meeting scheduled for November 7, 2006; and

WHEREAS, There will be no meeting rooms available in Troy City Hall on November 7, 2006 because of the General Election;

THEREFORE BE IT RESOLVED, The Planning Commission shall hold its Special/Study meeting on November 7, 2006, at the Police and Fire Training Center, located at 4850 John R, Troy, MI.

Yes: All present (6)
No: None
Absent: Drake-Batts (left at 9:00 p.m.), Khan, Vleck

MOTION CARRIED

Resolution # PC-2006-09-160

Moved by: Wright
Seconded by: Schultz

RESOLVED, The Planning Commission hereby approves the City Planning Commission calendar for 2007 as presented, with the exception that the following dates shall be deleted: January 2, 2007, July 3, 2007, and September 4, 2007, because of conflicts with national holidays.

Yes: All present (6)
 No: None
 Absent: Drake-Batts (left at 9:00 p.m.), Khan, Vleck

MOTION CARRIED

POSTPONED ITEM

11. ZONING ORDINANCE TEXT AMENDMENT (ZOTA 212-B) – Articles 25.00.00, 26.00.00, 27.00.00 – Improving design and strengthening the relationship of freestanding restaurants, day care centers and banks with the abutting streets in the R-C, O-M, and O-S-C Zoning Districts

Mr. Savidant presented this item. It was agreed that Mr. Waller would assist the Planning Department in preparing provisions that require more sustainable design elements, including definitions of these elements.

12. PUBLIC COMMENTS – Items on Current Agenda

There was no one present who wished to speak.

GOOD OF THE ORDER

Resolution # PC-2006-09-161

Moved by: Littman
 Seconded by: Waller

RESOLVED, That Member Drake-Batts is excused from attendance at this meeting for personal reasons.

Yes: All present (6)
 No: None
 Absent: Drake-Batts, Khan, Vleck

MOTION CARRIED

Mr. Schultz discussed the City of Palm Desert, California, and their requirements that developers contribute to a fund for public art.

Mr. Waller indicated that the City of Loveland, Colorado, has a similar program.

Ms. Kerwin indicated that she believes the public would support landscaping and public art. She also announced dates and times for the Grand Opening of the Boys and Girls Club of Troy.

Mr. Miller talked about the upcoming Comprehensive Plan process.

ADJOURN

The Special/Study Meeting of the Planning Commission adjourned at 10:20 p.m.

Respectfully submitted,

Thomas Strat, Chair

R. Brent Savidant, Principal Planner

G:\Planning Commission Minutes\2006 PC Minutes\Draft\09-26-06 Special Study Meeting_Draft.doc

A meeting of the Troy Election Commission was held Monday, October 2, 2006, at City Hall, 500 W. Big Beaver Road. City Clerk Bartholomew called the Meeting to order at 5:16 P.M.

ROLL CALL:

PRESENT: David Anderson, City Clerk
Tonni Bartholomew
ABSENT: Timothy Dewan
ALSO PRESENT: Deputy City Clerk
Barbara Holmes

Minutes: Regular Meeting of July 7, 2006

Resolution #EC-2006-10-10
Motion by Anderson
Seconded by Bartholomew

RESOLVED, That the Minutes of Friday, July 7, 2006, are **APPROVED** as submitted.

Yes: Anderson, Bartholomew
No: None
Absent: Dewan

Approval of Election Inspector Assignments for the November 7, 2006 General Election

Resolution #EC-2006-10-11
Motion by Anderson
Seconded by Bartholomew

RESOLVED, That Election Inspectors be appointed for the Tuesday, November 7, 2006 Election, as presented by the City Clerk, is hereby **APPROVED**.

Yes: Anderson, Bartholomew
No: None
Absent: Dewan

Adjournment:

The meeting was adjourned at 5:19 P.M.

Tonni L. Bartholomew, MMC
City Clerk

Advisory Committee for Senior Citizens

A regular meeting of the Advisory Committee for Senior Citizens was held on Thursday, Oct. 5 2006 at the Troy Community Center. Chair Bud Black called the meeting to order at 1:05 PM.

Present: Bud Black, Member David Ogg, Member
Frank Shier, Member Mary Sarossy, Member
Pauline Noce, Member James Berar, Member
Jo Rhoads, Member, excused Carla Vaughan, Staff

Absent: JoAnn Thompson, Member excused
Merrill Dixon, Member excused

Visitors: Steve Haveranek, Paula Fleming, Wade Fleming

Approval of Minutes

Resolution # SC-2006-10-001
Moved by Pauline Noce
Seconded by Mary Sarossy

RESOLVED, That the Minutes of Sept. 5, 2006 be approved as submitted.

Yes: 7
No: 0

MOTION CARRIED

Visitor Comments

Steve Haveranek from Emerald Food Service answered questions and provided information about the senior lunch program.

Paula Fleming discussed the Terrace Café at Athens High School and announced that Homecoming for both high schools is this Friday.

Wade Fleming announced that a satisfactory agreement was reached with the senior golf leagues and that he did not want to see them move to another city.

Old Business

Shuffleboard and Bocce Ball: Carla reported that the contract was approved and that work will start any day now as soon as weather permits.

Catering Service at the Community Center: Carla reported that new bids were due last Friday and Emerald Food Service was the only company to bid the food service RFP. The bid is being reviewed and council will be asked for permission to negotiate a contract.

Mary Sarossy presented a report detailing her discussion with Joel Gottsacker at the Area Agency on Aging about the senior lunch program.

New Business

Home Repair Program: Carla reported that the Big Beaver United Methodist Church has been doing repairs for seniors for several months. The Community Foundation of Troy wants to fund this program. Senior volunteers are needed on the steering committee. Interested persons should contact Carla. Positions include:

- Intake Coordinator
- Delivery of Service – Chairperson
- Delivery of service - Electrical
- Delivery of service - Plumbing
- Delivery of service - Handyman
- Delivery of service - Other
- Volunteer recruitment and recognition
- Resource procurement and fundraising
- Bookkeeping – finances
- Marketing/client recruitment

Reports

Park Board: No report

Medi-Go: Jo Rhoads reported that there is a need for Saturday service and for seniors to get to church activities.

Senior Program: Carla reported that we now have a captioned telephone that was donated by the manufacturer to demonstrate to seniors. Seniors are invited to set up an appointment to come in and try it out and see how it works. Over 250 seniors attended the third annual SeniorNet computer lab open house in September. The all-volunteer SeniorNet steering committee developed and presented five free workshops to help promote the computer lab, and they are to be commended for a great job. The Fine Art Show on November 3 will be held in the lobby this year for greater exposure. Attendance at Troy Daze was down. David Ogg said there were complaints about how the bingo was run (could only win once).

OLHSA: Pauline Noce reported that she feels that Troy is excluded from many of their programs. Seniors can visit the county website for information about programs for seniors including Bill’s Big Dig snow removal. SOAR Optimists in Royal Oak provided gifts for needy seniors last year and may do it again this year. The senior job-training program has a new sponsor and the Detroit Urban League will be handling the program now.

Oakland County Senior Advisory Board: Jo Rhoads reported that there are no minutes and she is concerned about what is passed on. They are still working on a directory.

Suggestion Box: Carla reported that there were no suggestions this month

Comments:

James Berar stated that he has trouble hearing at the meetings and asked members to look up when they speak. Carla will look at moving the group to a quieter room.

The meeting was adjourned at 2:40 p.m.

Respectfully submitted,

Bud Black, Chair

Carla Vaughan, Secretary

DATE: October 2, 2006
 TO: Phillip Nelson, City Manager
 FROM: Mark Stimac, Director of Building & Zoning
 SUBJECT: Permits issued during the Month of September 2006

	NO.	VALUATION	PERMIT FEE
<u>INDUSTRIAL</u>			
Fnd. New	1	\$2,100,000.00	\$12,645.00
Add/Alter	4	\$301,000.00	\$2,687.00
Wall	1	\$75,000.00	\$670.00
Sub Total	6	\$2,476,000.00	\$16,002.00
<u>COMMERCIAL</u>			
Fnd. New	1	\$465,000.00	\$3,400.00
Tenant Completion	2	\$80,000.00	\$850.00
Add/Alter	15	\$2,159,289.00	\$17,159.00
Sub Total	18	\$2,704,289.00	\$21,409.00
<u>RESIDENTIAL</u>			
New	11	\$2,311,303.00	\$17,786.00
Add/Alter	33	\$1,133,549.00	\$11,940.00
Garage/Acc. Structure	7	\$60,800.00	\$994.00
Pool/Spa/Hot Tub	6	\$107,337.00	\$1,321.00
Repair	3	\$99,314.00	\$1,044.00
Wreck	8	\$0.00	\$470.00
Sub Total	68	\$3,712,303.00	\$33,555.00
<u>TOWN HOUSE/CONDO</u>			
New	6	\$624,000.00	\$5,238.00
Add/Alter	3	\$29,600.00	\$411.00
Sub Total	9	\$653,600.00	\$5,649.00
<u>INSTITUTIONAL/HOSPITAL</u>			
Add/Alter	3	\$2,026,000.00	\$13,217.00
Sub Total	3	\$2,026,000.00	\$13,217.00
<u>RELIGIOUS</u>			
Add/Alter	2	\$1,225,000.00	\$8,865.00
Sub Total	2	\$1,225,000.00	\$8,865.00
<u>MISCELLANEOUS</u>			
Satellite/Antennas	2	\$30,000.00	\$435.00
Signs	39	\$0.00	\$3,965.00
Fences	14	\$0.00	\$220.00
Sub Total	55	\$30,000.00	\$4,620.00
TOTAL	161	\$12,827,192.00	\$103,317.00

PERMITS ISSUED DURING THE MONTH OF SEPTEMBER 2006

	NO.	PERMIT FEE
Mul. Dwel. Insp.	302	\$3,020.00
Cert. of Occupancy	43	\$3,139.60
Plan Review	158	\$11,597.00
Microfilm	32	\$446.00
Building Permits	161	\$103,317.00
Electrical Permits	163	\$11,622.00
Heating Permits	101	\$5,090.00
Air Cond. Permits	31	\$1,570.00
Plumbing Permits	113	\$8,014.00
Storm Sewer Permits	39	\$1,931.00
Sanitary Sewer Permits	25	\$851.00
Sewer Taps	23	\$10,160.00
TOTAL	1191	\$160,757.60

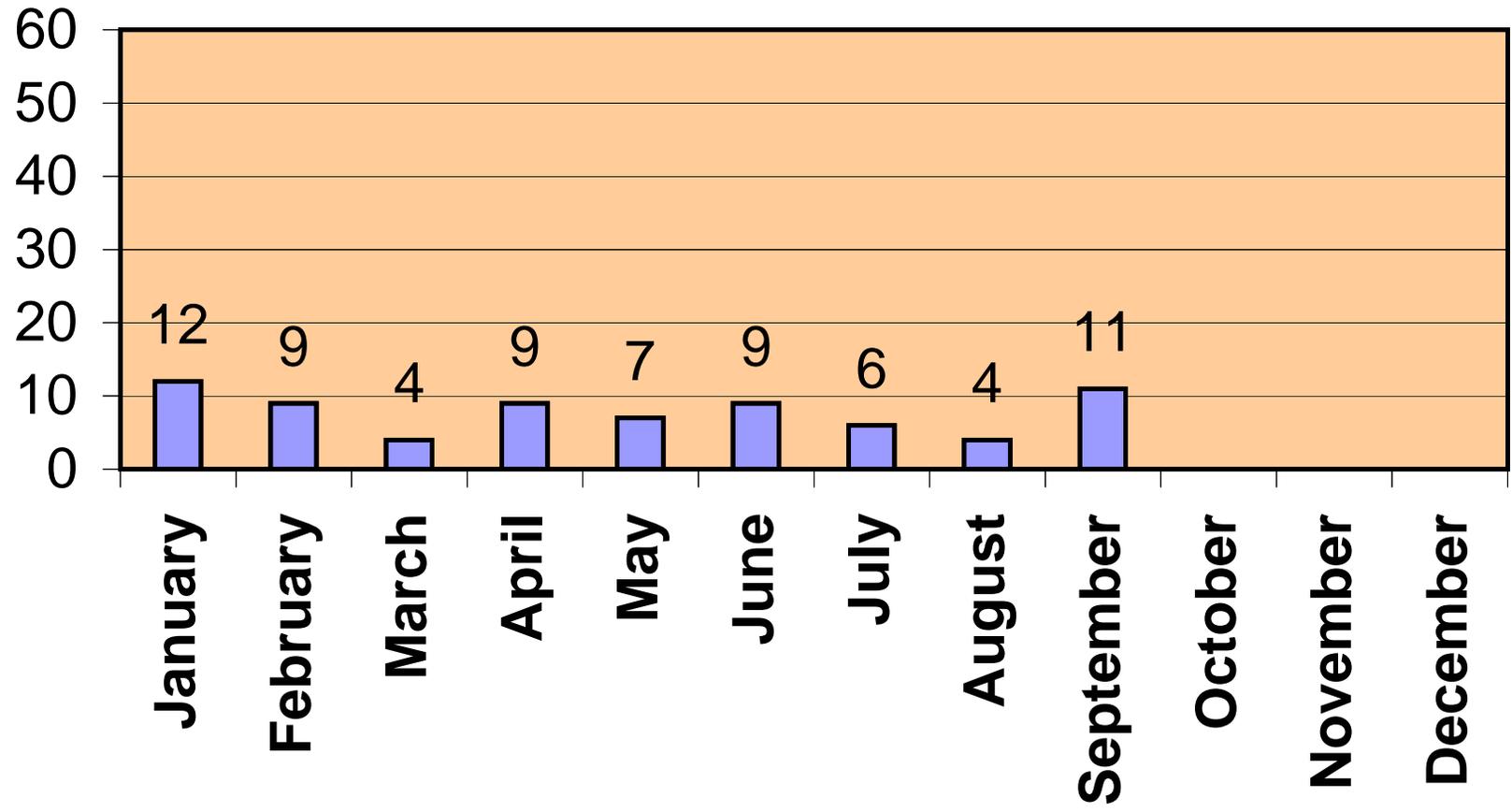
LICENSES & REGISTRATIONS ISSUED DURING THE MONTH OF SEPTEMBER 2006

	NO.	LICENSE FEE
Mech. Contr.-Reg.	71	\$355.00
Elec. Contr.-Reg.	21	\$315.00
Master Plmb.-Reg.	17	\$17.00
Sewer Inst.-Reg.	7	\$350.00
Sign Inst. - Reg.	2	\$20.00
E. Sign Contr-Reg.	1	\$15.00
Fence Inst.-Reg.	1	\$10.00
Bldg. Contr.-Reg.	22	\$220.00
F.Alarm Contr.-Reg.	2	\$30.00
TOTAL	25	\$1,332.00

BUILDING PERMITS ISSUED

	<u>BUILDING PERMITS 2005</u>	<u>PERMIT VALUATION 2005</u>	<u>BUILDING PERMITS 2006</u>	<u>PERMIT VALUATION 2006</u>
JANUARY	93	\$6,617,765.00	116	\$7,273,163.00
FEBRUARY	133	\$8,586,755.00	94	\$6,659,691.00
MARCH	143	\$19,405,253.00	127	\$5,629,425.00
APRIL	234	\$16,039,899.00	174	\$5,766,996.00
MAY	229	\$8,974,377.00	216	\$11,290,598.00
JUNE	207	\$14,432,280.00	218	\$10,681,352.00
JULY	176	\$7,490,327.00	198	\$11,269,902.00
AUGUST	202	\$13,132,327.00	150	\$14,170,725.00
SEPTEMBER	207	\$11,424,698.00	161	\$12,827,192.00
OCTOBER	169	\$12,606,760.00	0	\$0.00
NOVEMBER	137	\$9,014,642.00	0	\$0.00
DECEMBER	91	\$13,489,338.00	0	\$0.00
TOTAL	2021	\$141,214,421.00	1454	\$85,569,044.00

SINGLE FAMILY DWELLING PERMITS 2006



**BRIEF BREAKDOWN OF NON-RESIDENTIAL BUILDING PERMITS
ISSUED DURING THE MONTH OF SEPTEMBER 2006**

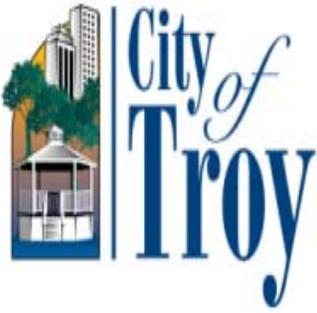
Type of Construction	Builder or Company	Address of Job	Valuation
Commercial, Add/Alter	KIRCO CONSTRUCTION LLC	101 W BIG BEAVER 645	175,000
Commercial, Add/Alter	WOODS CONSTRUCTION INC	650 JOHN R	250,000
Commercial, Add/Alter	WOODS CONSTRUCTION INC	650 JOHN R	192,000
Commercial, Add/Alter	FISHER DEVELOPMENT INC	2801 W BIG BEAVER D-128	187,289
Commercial, Add/Alter	DOUBLEJACK ELECTRIC COMPANY	2240 CUNNINGHAM	1,000,000
Total Commercial, Add/Alter			1,804,289
Commercial, Foundation New	GIEESON, C.E.	1430 W MAPLE 1470	465,000
Total Commercial, Foundation New			465,000
Industrial, Add/Alter	WOJAS, PATRICK	1972 MEIJER	160,000
Total Industrial, Add/Alter			160,000
Industrial, Foundation New	BEHR AMERICA INC	2716 DALEY	2,100,000
Total Industrial, Foundation New			2,100,000
Inst./Hosp., Add/Alter	AIM CONSTRUCTION INC	44201 DEQUINDRE 5TH FL	176,000
Inst./Hosp., Add/Alter	SKANSKA USA BUILDERS INC	44201 DEQUINDRE S PK	1,700,000
Inst./Hosp., Add/Alter	KASCO INC	44199 DEQUINDRE 315	150,000
Total Inst./Hosp., Add/Alter			2,026,000
Religious, Add/Alter	MUIRHEAD CONSTRUCTION	4571 JOHN R -4577	225,000
Religious, Add/Alter	KIRCO CONSTRUCTION LLC	3150 ADAMS	1,000,000
Total Religious, Add/Alter			1,225,000

CITY COUNCIL EXPENSE REPORT
Month of September, 2006

<u>Council Person</u>	<u>Expense Date</u>	<u>Purpose</u>	<u>Amount</u>	<u>Totals</u>
Beltrami, Robin	9/13/2006	Quarterly Fax & DSL Line October - December 2006	\$ 123.72	
				\$ 123.72
Broomfield, Cristina	9/13/2006	Quarterly Fax & DSL Line October - December 2006	\$ 194.85	
				\$ 194.85
Wade Fleming	9/13/2006	Quarterly Fax & DSL Line October - December 2006	\$ 215.70	
				\$ 215.70
Howrylak, Martin F.			\$ -	
				\$ -
Lambert, David	9/13/2006	Quarterly Fax & DSL Line October - December 2006	\$ 182.92	
				\$ 182.92
Schilling, Louise E.	9/13/2006	Quarterly DSL Line October - December 2006	\$ 117.90	
				\$ 117.90
Stine, Jeanne M.	9/13/2006	Quarterly Fax & DSL Line October - December 2006	\$ 119.85	
				\$ 119.85
Total for Month				\$ 954.94

NOTE: This report is presented in compliance with Rules of Procedure for the City Council,
Item 18. Miscellaneous Expenses

Date Prepared: 9/29/2006
Final Preparation By: J. Nash



TO: MAYOR AND MEMBERS OF CITY COUNCIL
FROM: LORI GRIGG BLUHM, CITY ATTORNEY
 ROBERT F. DAVISSON, ASSISTANT CITY ATTORNEY
 CHRISTOPHER J. FORSYTH, ASSISTANT CITY ATTORNEY
 SUSAN M. LANCASTER, ASSISTANT CITY ATTORNEY
 ALLAN T. MOTZNY, ASSISTANT CITY ATTORNEY
DATE: October 9, 2006
SUBJECT: 2006 THIRD QUARTER LITIGATION REPORT

The following is the quarterly report of pending litigation and other matters of interest. **The accomplishments during the THIRD quarter of 2006 are in bold.**

A. ANATOMY OF THE CASE

Once a lawsuit has been filed against the City or City employees, the City Attorney's office prepares a memo regarding the allegations in the complaint. At that time, our office requests authority from Council to represent the City and/or the employees. Our office then engages in the discovery process, which generally lasts for several months, and involves interrogatories, requests for documents, and depositions. After discovery, almost all cases are required to go through case evaluation (also called mediation). In this process, three attorneys evaluate the potential damages, and render an award. This award can be accepted by both parties, and will conclude the case. However, if either party rejects a case evaluation award, there are potential sanctions if the trial result is not as favorable as the mediation award. In many cases, a motion for summary disposition will be filed at the conclusion of discovery. In all motions for summary disposition, the Plaintiff's version of the facts are accepted as true, and if the Plaintiff still has failed to set forth a viable claim against the City, then dismissal will be granted. It generally takes at least a year before a case will be presented to a jury. It also takes approximately two years before a case will be finalized in the Michigan Court of Appeals and/or the Michigan Supreme Court.

B. ZONING CASES

These are cases where the property owner has sued for a use other than that for which the land is currently zoned and/or the City is suing a property owner to require compliance with the existing zoning provisions.

1. Troy v. Papadelis and Papadelis v. Troy - This is a case filed by the City against Telly's Nursery, seeking to enjoin the business from using the northern parcel for commercial purposes. After a lengthy appellate history, an order was entered in the Oakland County Circuit Court, requiring compliance on or before April 29, 2002. The Papadelis family failed to comply with the court's order, and therefore a Contempt Motion was filed. Oakland County Circuit Court Judge Colleen O'Brien determined that the defendants were in contempt of court, and required them to pay \$1,000 to the City of Troy. However, the court also determined that the defendants

were in compliance with the City of Troy zoning ordinances as of the date of the court decision. The Troy City Council authorized an appeal of this decision to the Michigan Court of Appeals. It was filed on September 27, 2002. The neighbors filed an application for leave to appeal, which was denied by the Michigan Court of Appeals on 2/10/03. After receiving criminal citations from the City for expansion of the business, Papadelis filed a federal lawsuit against the City of Troy, alleging civil rights violations and seeking an injunction against the prosecution and/or further expansion. The neighboring property owners filed a Motion to Intervene, which was granted by Federal US District Court Judge Arthur Tarnow. Troy filed a counterclaim in the Federal Court case but it was dismissed by Judge Tarnow, who refused to exercise jurisdiction over the counter-complaint, since it would require him to interpret the opinion of the Oakland County Circuit Court Judge. Troy has subsequently filed two separate motions to dismiss the Papadelis complaint. One of the motions asserted the same jurisdictional claim that was raised against the counter-complaint. The Court granted Troy's motion based on jurisdictional issues and dismissed the case without prejudice. The court did not rule on the other motion, but instead, directed the Papadelises to re-file their case in state court. The Papadelis family then re-filed its lawsuit in Oakland County Circuit Court. Troy filed an answer and a counterclaim. Troy also immediately filed a motion for summary disposition seeking dismissal of the complaint and a judgment in favor of Troy. The counterclaim seeks an order requiring the Papadelis family to remove two greenhouses and other structures that have been built upon the property without approvals that are required under the zoning ordinance. The Court scheduled an early intervention conference (settlement conference) for October 18, 2005. The Court has set the hearing date for the Motion for Summary Disposition for January 4, 2006. Subsequent to the filing of Troy's Motion for Summary Disposition, Plaintiffs' filed a Cross Motion for Summary Disposition, and the hearing was rescheduled for January 18, 2006. On February 17, 2006, the Court entered its written Opinion and Order, dismissing the Papadelis claim for money damages and their claim for injunctive relief. However, the Court also granted Summary Disposition in favor of the Plaintiffs on their claim for declaratory relief, and held that "retail" activity was not occurring on the northern parcel, and that the "agricultural" activities on the northern parcel were protected under the Right to Farm Act. Additionally the Court ruled the Plaintiffs' were exempt from City permitting requirements under the agricultural building permit exemption of the State Construction Code Act. The Court also dismissed the City's counterclaim. Troy has filed an appeal with the Michigan Court of Appeals. Plaintiffs' have filed a cross appeal challenging the dismissal of their claims for money damages and injunctive relief. All the required briefs have been filed with the Court of Appeals, which will either schedule an oral argument or will inform the parties that the case will be decided without oral argument. Since this case was assigned to the expedited track for summary disposition appeals, a final decision on appeal is expected before the end of September of this year.

On June 16, 2006, the Building Department discovered that the Papadelis family was erecting a new, large pole barn structure on the property at 3301 John R. Road. This structure was likely in violation of local and/or state law. The Building Department followed the procedure for issuing a Stop Work Order. In addition, our office filed an emergency motion with the Court of Appeals, seeking to enjoin construction of the building pending final outcome of the appeal. On June 21, 2006, the Court of Appeals granted the motion for immediate consideration, but denied the motion to enjoin construction of the building. The denial of the motion has no bearing on the final outcome of this appeal, and if Troy ultimately prevails on appeal, the new building will have to be removed. Despite the issuance of the Stop Work Order, the construction continued on the new building. The Papadelis Family then filed a Motion to hold the City Attorney and the Director of Building and Zoning in contempt of court. In this Motion, the Papadelis family argued that the Circuit Court ruling (Judge Colleen O'Brien) allows the construction of the new building without a permit and without having to comply with the zoning ordinance provisions regulating the size and location of buildings. Judge O'Brien denied this Motion on June 28, 2006, and ruled that her earlier ruling (the ruling on appeal) was limited to the buildings on the property at the time of the ruling, and did not extend to allow for new construction on the site. **On September 19, 2006, the Court of Appeals affirmed the decisions of the Circuit Court. Thus, the Court affirmed the declaratory judgment in favor of the plaintiffs, but it also affirmed the dismissal of plaintiff's civil rights claims against the City, Mark Stimac, and Marlene Struckman.**

2. Gerback v Troy, et al –The lawsuit stems from City Council's denial of a requested re-zoning of a 2.74 acre parcel of property, located on the west side of Rochester Road, south of Trinway. The property is currently zoned R-1C (one family residential). Plaintiff unsuccessfully sought to re-zone the property to R-1T (one family attached residential). Plaintiff argues in his complaint that the denial of the requested re-zoning was "arbitrary and capricious," and fails to advance a legitimate government interest. Count I of the complaint alleges a denial of substantive due process, and argues that the denial of the rezoning bears "no reasonable relationship to the health, safety and welfare of the public of Troy." Count II asserts an equal protection claim, where Plaintiff argues that he has been treated less favorably than other owners of "similarly situated" property, since properties of greater depths have received the requested R-1T zoning. The complaint seeks an injunction that "prevents the City of Troy from interfering with Plaintiff's proposed use of the property." Troy filed an answer, affirmative defenses and a motion for summary disposition. In November, this motion was granted in part and denied in part. Plaintiff was granted the opportunity to amend the complaint. Plaintiff has filed an amended complaint and is essentially raising the same claims that were raised in the original complaint. Plaintiff argues that the R-1C zoning classification is arbitrary and capricious, and it denies him equal protection under the law. The amended

complaint, like the original, seeks an injunction. The parties have completed the discovery phase, and a trial date has been set. Troy has filed a new motion for summary disposition, which argues that there are no genuine issues of material fact as to any of Plaintiff's claims. **On July 10, 2006, the parties entered into a Consent Judgment, and the case is now closed.**

3. Gerback (as a member of 300 Park Venture, L.L.C.) v Troy – This lawsuit was filed August 25, 2005, but it was not served on Troy until September 20, 2005. The case involves a parcel consisting of 0.892 acres located on the northwest corner of Rochester Road and Marengo that is presently zoned R-1B (One Family Residential). Plaintiff filed an application to rezone the property to B-1 for the purpose of developing a Binson's Home Health Care Center. The Planning Commission voted to recommend that City Council deny the rezoning. On August 1, 2005, City Council postponed the decision on the rezoning request until the first meeting in March 2006, to allow for the Planning Commission to consider amending the Future Land Use Plan in the Rochester Road Corridor between Square Lake Road and South Boulevard, before Council would make a decision on the rezoning request. In count I of the complaint, the Plaintiff contends City Council has breached a clear legal duty by refusing to act on Plaintiff's Rezoning Request. He seeks a writ of mandamus requiring City Council to act on the rezoning request "within a reasonable time period, not to exceed twenty-one (21) days." Counts II and III allege City Council has effectively denied the rezoning request by the postponement. He argues that such denial constitutes a violation of Plaintiff's right to substantive due process (count II) and the right to equal protection under the law (count III). In both counts II and III, Plaintiff seeks an injunction that prevents Troy "from interfering with Plaintiff's proposed use of the Property." In addition to responding to the complaint, Troy also filed an immediate motion for summary disposition, arguing that the Plaintiff had failed to set forth a claim that entitled him to his requested relief. The hearing on this motion is scheduled for January 4, 2006. After a hearing, the Court granted Troy's Motion for Summary Disposition in part, and dismissed Count I of Plaintiff's complaint that sought a writ of mandamus. As to the other two counts of the complaint, the Court determined there were issues of fact that could only be decided at a trial. The parties are now conducting discovery in preparation for trial. Plaintiff filed a motion to amend the complaint to reinstate the mandamus claim and to add a new claim for damages based on inverse condemnation. After a hearing on the motion, the Court took the matter under advisement and indicated a written decision would be issued. On June 21, 2006, Judge Chabot issued her written opinion, denying the Plaintiff's motion to amend the complaint. Trial is scheduled for July 13, 2006. **At the request of Plaintiff, the trial has been rescheduled for October 30, 2006.**
4. D & K Hannawa, LLC v Troy –The lawsuit was filed to amend the recorded plat known as Supervisor's Plat No. 23. In order to amend a recorded plat, a lawsuit must be filed and served on all property owners within 300 feet of the proposed development, as well as the state and local government and utility

companies. This particular plat is proposed for amendment, since a platted private alley precludes their construction of their proposed building on Lots 1 and 2. Plaintiff D & K Hannawa, LLC is asking that the plat be amended as the first step in vacating the alley. **On July 10, 2006, the Troy City Council approved a consent judgment, which was subsequently entered with the Court. An amended plat has also been prepared for review.**

5. **Karagiannakis and Garrett Family Ltd.Partnership v. City of Troy, et. al. –** The lawsuit was filed, seeking a Declaratory Judgment that a 43-foot easement is a “public” roadway easement under the control of the City of Troy. Garrett Family Ltd. Partnership has an option to purchase an outlot that is currently owned by Mr. and Mrs. Karagiannakis. The property would be a part of a proposed site condominium project. However, Troy’s Zoning Ordinance requires that there be public street access for all new residential development. Therefore, this lawsuit was filed to convert the 43- foot wide driveway into a “public roadway.” Our office filed an immediate Motion for Summary Disposition, arguing that there is no authority for the Court to grant the requested relief, since the Land Division Act requires a re-plat action to accomplish what the Plaintiffs propose. In a re-plat action, the Plaintiffs would file the case against all property owners within 300 feet, as well as the utilities and the units of government. Plaintiffs’ response to the City’s Motion for Summary Disposition is due on October 18, 2006. Oral arguments are scheduled for November 29, 2006.

C. EMINENT DOMAIN CASES

These are cases in which the City wishes to acquire property for a public improvement and the property owner wishes to contest either the necessity or the compensation offered. In cases where only the compensation is challenged, the City obtains possession of the property almost immediately, which allows for major projects to be completed.

1. Parkland Acquisition (Section 36)

1. Troy v. Premium Construction, L.L.C. – The City has filed this lawsuit against Premium Construction, L.L.C. (John Pavone and Mukesh Mangala) to acquire property for a park in Section 36. After a prolonged discovery process, a bench trial began on February 22, 2005. The Court had to interrupt the bench trial proceedings with a number of other matters, including criminal jury trials, and had the parties on stand by and/or took limited testimony for several months. The last testimony in the lengthy bench trial was taken on June 10, 2005. After the testimony, the Judge required the parties to submit post-trial “Finding of Facts and Conclusion of Law” and a summary Memorandum,

which were timely submitted by July 13, 2005. Replies to those briefs were due July 20, 2005. The parties are now anxiously waiting for the Judge's decision. It is unknown when the decision will be rendered. After several months, Oakland County Circuit Court Judge Mark Goldsmith requested portions of the transcript of the lengthy trial proceedings. Unfortunately, this request has been unexpectedly delayed, since the transcribing court reporter broke his wrist, and is unable to complete the work himself and/or have others complete it for him. The parties continue to wait for the Court's decision. The Court issued his written opinion on February 3, 2006. The Defendants filed a Motion for Attorney Fees, and a hearing on that request was scheduled for April 5, 2006. The Court issued a written order on June 9, 2006 determining the amount of attorney fees. An appeal of the Court's decisions was filed with the Michigan Court of Appeals on June 30, 2006. **The Michigan Court of Appeals subsequently ordered mandatory facilitation, which is continuing. In the meantime, the parties are currently waiting for the trial court reporter to complete the transcripts of the proceedings for delivery to the Court of Appeals. The completion of this transcript will trigger the due dates for the briefs to be filed in this case.**

D. CIVIL RIGHTS CASES

These are cases that are generally filed in the federal courts, under 42 U.S.C. Section 1983. In these cases, the Plaintiffs argue that the City and/or police officers of the City of Troy somehow violated their civil rights.

There are no pending civil rights cases at this time.

E. PERSONAL INJURY AND DAMAGE CASES

These are cases in which the Plaintiff claims that the City or City employees were negligent in some manner that caused injuries and/or property damage. The City enjoys governmental immunity from ordinary negligence, unless the case falls within one of four exceptions to governmental immunity: a) defective highway exception, which includes sidewalks and road way claims; b) public building exception, which imposes liability only when injuries are caused by a defect in a public building; c) motor vehicle exception, which imposes liability when an employee is negligent when operating their vehicle; d) proprietary exception, where liability is imposed when an activity is conducted primarily to create a profit, and the activity somehow causes injury or damage to another; e) trespass nuisance exception, which imposes liability for the flooding cases.

There are no pending personal injury cases at this time.

F. MISCELLANEOUS CASES

1. In Re Hooters of Troy Inc. – Hooters has filed this lawsuit to challenge the June 19, 2006 City Council denial of their application to transfer a liquor license and entertainment permit. Hooters was seeking to re-locate their business from John R to Rochester Road, to the building that was previously occupied by the Wagon Wheel Saloon. Hooters has signed agreements with the former owners (Sign of the Beef Carver- Wagon Wheel), for the building and also the liquor license with entertainment permit. Pursuant to state law, local legislative approval is required for a transfer of Class C Liquor License and entertainment permit. In their complaint, Hooter’s alleges that the City Council denial of the transfer of the liquor license violates their equal protection rights and due process rights. They are asking the Court for an order of superintending control, which means they are asking a Circuit Court Judge to overrule City Council’s decision. Hooters is also asking for costs, attorney fees, and incidental damages as a result of the delay in moving its operation to Rochester Road. **Shortly after filing their complaint, Hooter’s filed a motion requesting a superintending control order. On July 26, 2006 Oakland County Circuit Court Judge John McDonald, after hearing argument, denied Hooter’s motion and dismissed their case. Judge McDonald in making his ruling, stated that municipalities are afforded broad discretion in review applications for new or transferred liquor licenses, and that Troy City Council exercised this discretion properly in denying Hooter’s request for to transfer a Class C Liquor License and new entertainment permit. On August 4, 2006, Hooters filed a claim of appeal with the Michigan Court of Appeals. They also filed a motion for immediate consideration and motion for peremptory reversal arguing that Judge McDonald’s decision was so blatantly wrong that immediate reversal is warranted. On August 16, 2006, the Court of Appeals granted Hooter’s motion for immediate consideration but denied their motion for peremptory reversal. Hooter’s appeal is still pending, and all the required briefs have been filed with the Court of Appeals.**

G. CRIMINAL APPEALS

1. People v Robert Toma – Mr. Toma pled guilty to being a Minor in Possession of Alcohol. However, after the sentencing, Mr. Toma filed an Application for Leave to Appeal with the Oakland County Circuit Court, arguing that his sentence exceeded the maximum sentence for this misdemeanor offense. The Appeal was denied by the Oakland County Circuit Court on July 19, 2006.

If you have any questions concerning these cases, please let us know.

**CITY OF TROY
TRAVEL EXPENSE REPORT**

Name: Robin Beltramini Position: Council member

Other Employees Included in Request: _____

Trip Destination: Marquette MI Date From: Sept 27, 2006 To: Sept 29, 2006

Purpose of Trip: Michigan Municipal League Convention

Items	Dates:	Sun	Mon	Tues	Wed	Thurs	Fri	Sat	TOTAL
Miles (Personal Car)					41		41		
Enter Current Mileage Rate: \$ 0.44 /mile					\$18.04		\$18.04		\$ 36.08
City Car Expense (Details on Bottom)									
Air/Bus/Train					240. ⁶⁰				240. ⁶⁰
Registration					309				309. ⁰⁰
Room (Attach all Receipts)					50. ⁹⁹	50. ⁹⁸			101. ⁹⁷
Meals (Include tips and taxes. Note meals included with registration)									
Breakfast:							7. ³⁷		7. ³⁷
Lunch:					9. ¹⁶				9. ¹⁶
Dinner:							3. ³⁹		3. ³⁹
Other parking Detail, Explain Below							21. ⁰⁰		21. ⁰⁰
Additional Other tips Detail, Explain Below					2. ⁰⁰		3. ⁰⁰		5. ⁰⁰
TOTAL EXPENSE					\$ 629. ⁷⁹	50. ⁹⁸	52. ⁸⁰		\$ 733. ⁵⁷

Details of City Car Expense		
Total Mileage		Cash Advanced
Gasoline/Oil Purchased (Attach Receipts)		658. ⁹⁴
Maintenance Work (Attach Receipts)		Balance Due Employee
Parking/Storage		\$ 74. ⁶³
Other ()		(or) Balance Due City
Total		

Requested By: Robin E. Beltramini Date: 10/05/06

Department Head: [Signature] Date: 10/10/06

Approved - Human Resources Director: [Signature] Date: 10-9-06

Approved - Financial Services Director: [Signature] Date: _____

Notes and Explanations:

Charge to: Council Educational Training Dept. Account # 102. 7960



"Our single promise to you is exceptional service"

27 September 2006

Lt. Bob Rossman
Troy Police Department
500 W. Big Beaver
Troy, Michigan 48084

Dear Lt. Rossman:

On 19 September, 2006 Crews from Alliance Mobile Health responded to an ambulance request at 2901 Crooks in Troy with Officer Jeff Denny from your department (please excuse any misspellings). Upon arrival the crew found a female with an immediately life threatening condition. Your officer rendered life saving treatment including the administration of CPR prior to the ambulance arriving on scene. He also did an outstanding job assisting paramedics on the scene with the care of the patient including breathing for the patient. Officer Denny's actions saved the life of the female victim. Officer Denny is a true credit to your department and a pleasure to work with. Please call with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Buell".

Jim Buell MS, EMT-P/IC
Director of Operations
Alliance Mobile Health
(248) 495-7418

RECEIVED
Chief of Police

9/28/2006 CB

CC: City Mgr.
Off. Denny's file
Off. Denny
BB

October 2006

October 2006							November 2006						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
1	2	3	4	5	6	7	5	6	7	1	2	3	4
8	9	10	11	12	13	14	12	13	14	15	16	17	18
15	16	17	18	19	20	21	19	20	21	22	23	24	25
22	23	24	25	26	27	28	26	27	28	29	30		
29	30	31											

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
					October 1
2	3	4	5	6	7
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
9	10	11	12	13	14
	7:30pm Planning Commission Regular Meeting (Council Chambers)				15
16	17	18	19	20	21
7:30pm City Council Meeting (Council Chambers)	3:00pm Brownfield Redevelopment 7:30pm BZA (Chambers) 7:30pm Historic District Commission (C)	7:30am CANCELLED DDA Meeting (Conference Room Lower Level)			22
23	24	25	26	27	28
7:30pm City Council Meeting (Council Chambers)	7:30pm Planning Commission Special/Study (Council Boardroom)				29
30	31				

November 2006

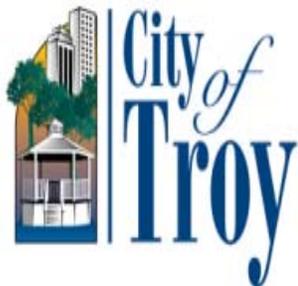
November 2006							December 2006						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
5	6	7	1	2	3	4	3	4	5	6	7	8	9
12	13	14	8	9	10	11	10	11	12	13	14	15	16
19	20	21	15	16	17	18	17	18	19	20	21	22	23
26	27	28	22	23	24	25	24	25	26	27	28	29	30
			29	30			31						

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
		November 1	2	3	4
		8:30am BUILDING CODE BOARD OF APPEALS (Conference Room LL)			5
6	7	8	9	10	11
	7:30pm Planning Commission Special/Study (Council Boardroom)				12
13	14	15	16	17	18
7:30pm City Council Meeting (Council Chambers)	7:30pm Planning Commission Regular Meeting (Council Chambers)	7:30am DDA Meeting (Conference Room Lower Level)			19
20	21	22	23	24	25
7:30pm City Council Meeting (Council Chambers)	7:30pm BZA (Chambers) 7:30pm Historic District Commission (Conference Room C)		City Hall Closed Thanksgiving		26
27	28	29	30		
7:30pm City Council Meeting (Council Chambers)	7:30pm Planning Commission Special/Study (Council Boardroom)				

December 2006

December 2006							January 2007																						
S	M	T	W	T	F	S	S	M	T	W	T	F	S																
	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
				December 1	2
					3
4	5	6	7	8	9
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)			10
11	12	13	14	15	16
	7:30pm Planning Commission Regular Meeting (Council Chambers)				17
18	19	20	21	22	23
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)		City Hall Closed	24
25	26	27	28	29	30
City Hall Closed				City Hall Closed	31



TO: The Mayor and Members of City Council
FROM: Lori Grigg Bluhm, City Attorney
Susan M. Lancaster, Assistant City Attorney
DATE: October 10, 2006
SUBJECT: D & K Hannawa v. City of Troy

D & K Hannawa has proposed a development at the northwest corner of the intersection of Crooks and Maple Road. However, in order to complete this development, D & K Hannawa, L.L.C. (hereafter Hannawa) was required to file a lawsuit against the City of Troy, other governmental entities and utilities, as well as all neighboring property owners within 300 feet. The lawsuit was required under the Land Division Act state statute, since some of the proposed development would have been located on private alleys that were designated on the original plat (Lots 1 and 2 of Supervisor's Plat No. 23).

In July 2006, the City Council approved a consent judgment, allowing for the requested vacation of the private alleys. All other parties similarly agreed to the entry of the consent judgment, and the case was concluded upon the Court's entry of the order.

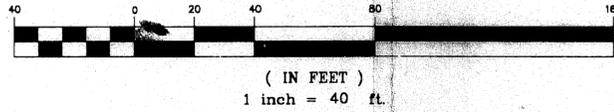
The consent judgment requires the submission of a revised plat for review and approval by the State of Michigan. Although not required by state statute, the consent judgment also required that the Plaintiffs submit a copy of the proposed revised plat to the City of Troy, which is a courtesy designed to keep the City informed about any new plat submissions. The proposed revised plat is attached for your review. City Administration has reviewed this revised plat, and has determined that it satisfies all of the requirements of the consent judgment, as well as other requirements of the City of Troy.

Unless City Council has any objections, City Administration will acknowledge receipt and approval of the revised plat, as required by the Court order. This revised plat would then be forwarded to the State of Michigan for final approval.

AMENDED PLAT OF
LOT 1 AND 2 OF
"SUPERVISOR'S PLAT NO. 23"

A SUBDIVISION OF PART OF THE S.E. 1/4 OF SECTION 29,
TOWN, 2, NORTH, RANGE, 11, EAST, CITY OF TROY, OAKLAND
COUNTY, MICHIGAN, U.S.A.

GRAPHIC SCALE



E. 1/4 COR. SEC. 29 (E-10)
T.2N., R.11E., CITY OF
TROY, OAKLAND CO.
L.17156 P.268, O.C.R.

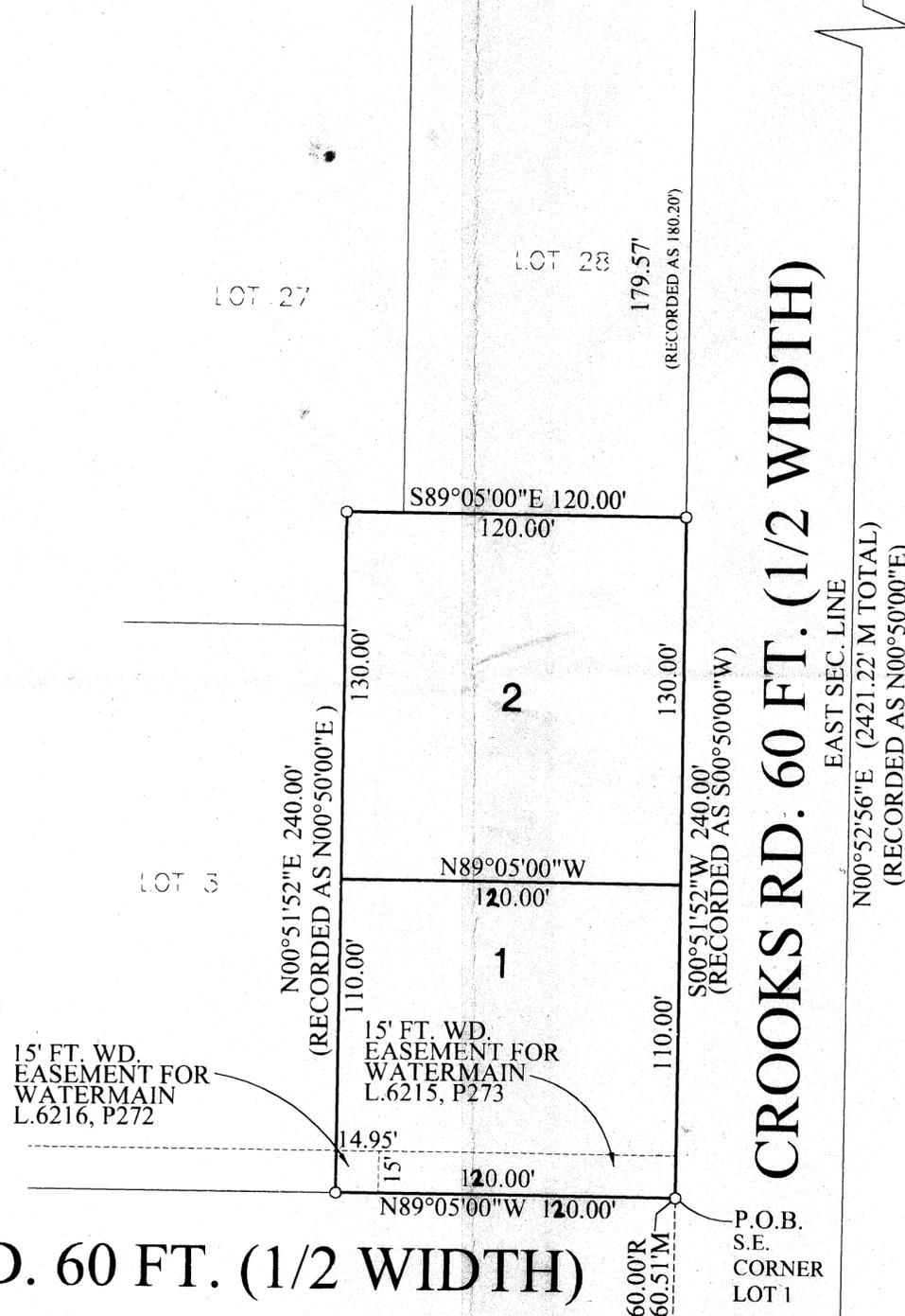
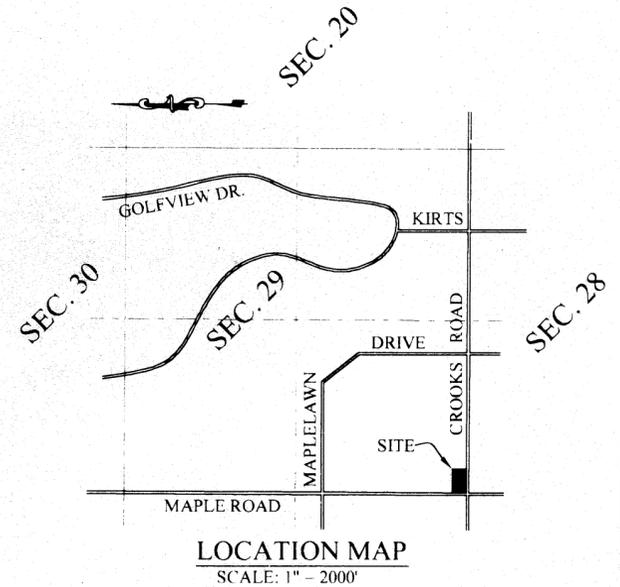
PLAT LEGEND

ALL DIMENSIONS ARE SHOWN IN FEET.

THE SYMBOL "O" INDICATES A CONCRETE
MONUMENT (CONSISTING OF A 1/2" DIA.
STEEL ROD ENCASED IN A 4" DIAMETER
CONCRETE CYLINDER, 3' LONG).

ALL LOT MARKERS ARE 1/2" DIAMETER STEEL
ROD AND ARE 18" LONG. THEY ARE NOT CAPPED.

ALL BEARINGS ARE IN RELATION TO THE
SOUTH LINE OF LOT 1 OF
"SUPERVISOR'S PLAT NO. 23" AS RECORDED
IN LIBER 15 OF PLATS, PAGE 85, OAKLAND
COUNTY RECORDS.



MAPLE RD. 60 FT. (1/2 WIDTH)

CROOKS RD. 60 FT. (1/2 WIDTH)

S 1/4 COR.
SEC. 29 (D-11)
T.2N., R.11E.
CITY OF TROY
OAKLAND CO.
L.17156 P.284,
O.C.R.

SOUTH SECTION LINE
N.89°01'55"W (2669.76' TOTAL)
(RECORDED AS N89°05'00"W)

S.E. COR.
SEC. 29 (E-11)
T.2N., R.11E.
CITY OF TROY
OAKLAND CO.
L.17156 P.286, O.C.R.

NOTE:
THIS PLAT IS SUBJECT TO RESTRICTIONS AS REQUIRED
BY ACT 288 OF 1967, AS AMENDED ON CERTAIN LOTS
WITH RESPECT TO THE REQUIREMENTS OF THE MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY, WHICH ARE
RECORDED IN LIBER _____, PAGES _____,
OF THIS COUNTY.



REICHERT SURVEYING INC.
140 FLUMERFELT LANE
ROCHESTER, MICHIGAN 48306

George H Reichert
GEORGE H. REICHERT (OWNER)
PROFESSIONAL SURVEYOR NO. 30099

AMENDED PLAT OF
LOT 1 AND 2 OF
"SUPERVISOR'S PLAT NO. 23"

A SUBDIVISION OF PART OF THE S.E. 1/4 OF SECTION 29,
TOWN, 2, NORTH, RANGE, 11, EAST, CITY OF TROY, OAKLAND
COUNTY, MICHIGAN, U.S.A.

SURVEYOR'S CERTIFICATE

I, George H. Reichert, Surveyor, Certify:
That I have surveyed, divided and mapped the land shown on the
plat, described as follows:

AMENDED PLAT OF LOTS 1 & 2 OF "SUPERVISOR'S PLAT NO. 23"
A SUBDIVISION OF PART OF THE S.E. 1/4 OF SEC. 29 T.2N., R.11E.,
CITY OF TROY, OAKLAND COUNTY, MICHIGAN, AS RECORDED IN LIBER 15
OF PLATS, PAGE 58, OAKLAND COUNTY RECORDS. BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST
CORNER OF SAID SECTION 29, T.2N., R.11E., CITY OF TROY, OAKLAND
COUNTY MICHIGAN. THENCE N.89°01'55"W, 59.08 FT. (RECORDED AS
N.89°05'00"W., 60.00') ALONG THE SOUTH SECTION LINE AND
CENTERLINE OF MAPLE ROAD.; THENCE N.00°51'52"E., 60.51 FT.
(RECORDED AS N.00°50'00"E., 60.00') TO THE POINT OF BEGINNING;
THENCE N.89°05'00"W., 120.00 FT.; THENCE N.00°51'52"E., 240.00 FT.,
(RECORDED AS N.00°50'00"E.); THENCE S.89°05'00"E., 120.00 FT.;
THENCE S.00°51'52"W., 240.00 FT. (RECORDED AS S.00°50'00"W.); TO
THE POINT OF BEGINNING. CONTAINING 0.66 ACRES.

That I have made such a survey, land division, and plat by the
direction of the owners of such land.

That such plat is a correct representation of all exterior
boundaries of the land surveyed and the subdivision of it.

That the required monuments and lot markers have been located in
the ground.

That the accuracy of the survey is within the limits required by
Section 126 of the Act.

That the bearings shown on the plat are expressed as required by
Section 126 (3) of the Act and as explained in the plat legend.

REICHERT SURVEYING, INC.
140 FLUMERFELT LANE
ROCHESTER, MICHIGAN 48306



George H. Reichert
GEORGE H. REICHERT
PROFESSIONAL SURVEYOR NO. 30099

DATE: Oct. 2, 2006

I, George H. Reichert, Surveyor, do hereby certify that the amended plat
of Lot 1 & 2 of "Supervisor's Plat No. 23" of part of the southeast 1/4 of
Section 29, T.2N., R.11E., City of Troy, Oakland County, Michigan, is
a true and exact copy of the portion of the plat as amended by the
order to vacate in the matter of D & K Hannawa, L.L.C., Petitioner which
was entered by Circuit Court Judge Michael Warren, in the Circuit Court
of the County of Oakland, State of Michigan, in testimony whereof I have
here unto set my hand and official seal in the County of Oakland, State of
Michigan, this 2ND day of OCTOBER, 2006. Circuit Court File No. 06-071869-CH

George H. Reichert
Professional Surveyor
140 Flumerfelt Lane
Rochester, Michigan 48306



George H. Reichert
GEORGE H. REICHERT
PROFESSIONAL SURVEYOR NO. 30099

I, Ruth Johnson, Clerk of the County of Oakland, do hereby certify that the
amended plat of Lot 1 & 2 of "Supervisor's Plat No. 23" of part of the southeast 1/4
of Section 29, T.2N., R.11E., City of Troy, Oakland County, Michigan, is
a true and exact copy of the part of the plat as amended by the order
in the matter of H. K. Hannawa, L.L.C., Petitioner which was entered by
Circuit Court Judge Michael Warren, in the Circuit Court of the County
of Oakland, State of Michigan, in testimony whereof I have here unto set
my hand and official seal in the County of Oakland, State of Michigan,
this _____ day of _____, 2006. Circuit Court File No. 06-071869-CH

Ruth Johnson
County Clerk-Register of Deeds

RECORDING CERTIFICATE

STATE OF MICHIGAN)
COUNTY OF OAKLAND)

This plat was received for record on the _____ day of
_____, 200__ A.D., at _____ M. o'clock and
recorded in Liber _____, of Plats on Pages

Ruth Johnson, County Clerk
Register of Deeds

PLAT AMENDED BY CONSENT JUDGMENT TO VACATE
THE PRIVATE ALLEY ACCORDING TO CIRCUIT COURT
ORDER OF JUDGE MICHAEL WARREN, JULY 13, 2006, BY
CIRCUIT COURT JUDGEMENT NO. 06-071869-CH AND IN
LIBER 37854, PAGE 684, OAKLAND COUNTY RECORDS.

JENNIFER GRANHOLM
GOVERNOR



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

NIDA R. SAMONA
LIQUOR COMMISSION
CHAIRPERSON

October 6, 2006

CITY OF TROY
ATTN: CITY CLERK
500 W. BIG BEAVER RD
TROY, MI 48084-5285

Dear Clerk:

With regard to the issuance of full year on premise licenses, the City of Troy now has an opening for such a license. This opening was created due to the cancellation of 2005 Class C license issued to Jumbo Investment, Inc., 1555 E. Maple, Troy, MI 48084, Oakland County.

The population for City of Troy is 80,959; the quota is fifty-four (54) and there are fifty-three (53) quota licenses for the sale of alcoholic liquor for consumption on the premises currently issued in your governmental unit.

Consideration can be given to the issuance of one (1) full year on premise license.

If you have any questions, please feel free to contact the On Premises Unit at (517) 322-1400.

MICHIGAN LIQUOR CONTROL COMMISSION
Licensing Division

dbh