



TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
DATE: October 12, 2005
SUBJECT: Proposed Amendment- Long Lake Crossings

Transwestern Commercial Services is the owner of the Long Lake Crossing Building at 1301 W. Long Lake Road, in the City of Troy. They have recently secured a new tenant for one of the suites in the building. The tenant intends to use the space for computer instruction programs. The tenant is scheduled to move into the space by October 31, 2005.

In September 2005, Casey Powell of Transwestern Commercial Services learned that there is a Consent Judgment that controls the allowable uses of the property. This Consent Judgment was allegedly not recorded with the Oakland County Register of Deeds, but was indicated on the zoning maps of the City of Troy. The Consent Judgment covered several parcels of property in the southwest corner of Long Lake Road and Coolidge Highway. The Consent Judgment represents a settlement of a case that was filed against the City in 1982, and was tried before former Oakland County Circuit Court Judge Alice Gilbert, Zahav Investment Company, Plymouth Investment Company, and Biltmore Properties Company et. al v. City of Troy, Case No. 82-238690 CZ.

Pursuant to the terms of the Consent Judgment, the property at 1301 W. Long Lake Road is required to be developed consistent with the provisions of O-1 (Office) zoning. According to a 1996 amendment to Chapter 39, Section 24.25.03, this would allow:

Technical training uses, when such are accessory or secondary to the Principal Uses permitted in this District, and thus not operated as independent businesses. Additional parking (in accordance with Section 40.21.32) shall be provided for that floor area devoted to technical training (classrooms) which is in excess of thirty (30) percent of the total area of the Principal Use.

Troy's zoning ordinance does not allow for a primary technical training use, which is what is proposed for Transwestern's new tenant. The O-1 provisions are also different than the provisions in Troy's O-M and O-S-C zoning districts, which allow for "Any use charged with the principal function of office-type research or technical training." (Chapter 39, Sections 25.20.03 and 26.20.03).

In May 1993, the City of Troy received a request to allow training as a permitted use for this particular property. At that time, Alan Hayman, agent for the owner of the property, New York Life Insurance Company, requested an amendment to the Consent Judgment that would allow for "Any use charged with the principal function of office type research or technical training" to accommodate Walsh College, who proposed to use the space for "instructional and related administrative purposes." The resolution passed by the City Council at that time stated:

Resolution #93-509

RESOLVED, that the terms of the proposed amendment to the Consent Judgment between Zahav Investment Company, et. al and the City of Troy controlling the Long Lake Crossing site, located at 1301 W. Long Lake, as presented on this date, is hereby approved subject to review by the City Attorney regarding adequacy of language, and the City Attorney is hereby authorized to execute and enter the documents in Oakland County Circuit Court, a copy of which shall be attached to the original minutes of this meeting.

The City's records indicate that a proposed amendment to the Consent Judgment was drafted on or about August 16, 1993. There is also file correspondence discussing different provisions of the proposal between the attorney for the City and the attorney for New York Life Insurance Company. For unknown reasons, the amendment was never executed or filed with the Oakland County Circuit Court or the Oakland County Register of Deeds. Perhaps there was no follow up, since Section 24.25.03 was amended in 1996 to allow for training as a permitted use, but not the primary use of an O-1 district property.

Casey Powell of Transwestern Commercial indicates that Walsh College did use a portion of the first floor of the property at 1301 W. Long Lake Road for training purposes. He is now seeking permission for a similar use, on behalf of his new tenant.

In the event that the Troy City Council is inclined to amend the Consent Judgment to allow technical training as a permitted primary use for the property at 1301 W. Long Lake Road, a draft amendment has been included for your review and/ or approval.

If you have any questions concerning the above, please let me know.

CC: Troy Planning Commission Members
John Szerlag, City Manager
Doug Smith, Director of Real Estate and Development
Brian Murphy, Assistant City Manager- Services
Mark Stimac, Director of Building and Zoning
Mark Miller, Planning Director
Planning Commission Members

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

TRANSWESTERN COMMERCIAL
SERVICES, Successors in interest to
ZAHAV INVESTMENT COMPANY,
PLYMOUTH INVESTMENT COMPANY,
and BILTMORE PROPERTIES COMPANY,

Plaintiffs

v.

Case No. 82-238690 CZ

CITY OF TROY, a Michigan Municipal
Corporation,

Defendant.

CITY OF TROY
CITY ATTORNEY'S OFFICE
Lori Grigg Bluhm (P46908)
Attorney for Defendant
500 W. Big Beaver Rd.
Troy, MI 48084
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E-mail Bluhmlg@ci.troy.mi.us

SECOND AMENDMENT TO THE CONSENT JUDGMENT

1. On January 2, 1986, a Consent Judgment was voluntarily entered into between Plaintiffs ZAHAV INVESTMENT COMPANY, PLYMOUTH INVESTMENT COMPANY, and BILTMORE PROPERTIES COMPANY, and Defendant CITY OF TROY, which is attached as Exhibit A.

2. This Consent Judgment was subsequently amended on January 29, 1988 (First Amended Consent Judgment). This amendment was between Plaintiff BILTMORE PROPERTIES COMPANY, and it concerned only one of five parcels of property that are covered by the Consent Judgment (Parcel 1). The First Amended Consent Judgment is attached as Exhibit B.
3. Plaintiff TRANSWESTERN COMMERCIAL SERVICES, is the successor owner of a portion of the 24 acre Parcel 5 (the Long Lake Crossing Parcel, as distinguished from Parcel 1), which is covered by the terms of the Consent Judgment. TRANSWESTERN COMMERCIAL SERVICES owns the office building that is located at 1301 W. Long Lake Road, Troy, Michigan, and is tax parcel number 20-17-200-026.
4. The initial Consent Judgment limits the development and use of Parcel 5, the Long Lake Crossing Parcel, to those uses that are allowed in the City of Troy's O-1 (Office) zoning district, as set forth in paragraph 5 of the Consent Judgment, which is attached as Exhibit A.
5. TRANSWESTERN COMMERCIAL SERVICES and the CITY OF TROY agree that the Consent Judgment shall be amended to provide that in addition to the other uses allowed under the provisions in Paragraph 5 of the Consent Judgment.

NOW THEREFORE,

IT IS HEREBY ORDERED that Paragraph 5 of the Consent Judgment is amended to provide that in addition to the other uses allowed under the provisions in Paragraph 5 of the Consent Judgment, up to 20% of the total square footage of the gross leaseable area of the building can have a principle use of office type research or technical training, as long as the Plaintiff can demonstrate, to the satisfaction of the City of Troy, that there is sufficient parking to accommodate the proposed research or technical training in addition to all other parking requirements for the building.

IT IS FURTHER ORDERED that except as provided in the Consent Judgment or its amendments, all other regulations of the O-1 zoning district, which is Article XXIV (Chapter 24) of the Troy zoning ordinance, shall apply and control the use, development and occupancy of Parcel 5.

IT IS FURTHER ORDERED that all other provisions of the Consent Judgment entered on January 2, 1986, and amended on January 29, 1988, shall remain in full force and effect.

Circuit Judge

Approved as to form and substance
and stipulated for entry:

TRANSWESTERN COMMERCIAL
SERVICES

By:

CITY OF TROY,

By: Louise E. Shilling, Mayor

By: Tonni Bartholomew, Clerk

Lori Grigg Bluhm (P46908)
City Attorney

12/16/85
12/23/85
(B-16)
only

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

ZAHAV INVESTMENT COMPANY, a
Michigan Limited Co-Partnership,
PLYMOUTH INVESTMENT COMPANY, a
Michigan Limited Co-Partnership,
And BILTMORE PROPERTIES COMPANY,
A Michigan Partnership,

Plaintiffs,

V

Case No. 82 238690 CZ

CITY OF TROY, a Michigan
Municipal Corporation,

Defendant.

Marty A. Burnstein
Ginn, Kramer, Jacobson
And Burnstein, P.C.
Attorneys for Plaintiffs
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Southfield, Michigan 48075
(313) 358-3222

John J. Martin, III
City of Troy
Attorney for Defendant
500 West Big Beaver Road
Troy, Michigan 48084
(313) 524-3320

BY
DEPUTY COUNTY CLERK

1986 JAN 2 PM 2 53

RECEIVED FOR FILING
OAKLAND COUNTY CLERK

CONSENT JUDGMENT

At a session of said court held in the
Court House Tower, City of Pontiac, Oakland
County, Michigan on _____

PRESENT: HONORABLE _____

JAN 2 1986
ALICE L. GILBERT
CIRCUIT JUDGE

This case having come on for trial and after trial the
Plaintiffs, Zahav Investment Company, (ZAHAV), Plymouth

A TRUE COPY
LYNN D. ALLEN
Oakland County Clerk / Register of Deeds
[Signature]
Deputy

EXHIBIT A

Investment Company, (PLYMOUTH), and Biltmore Properties Company, (BILTMORE), and the Defendant, City of Troy, (TROY), having entered into negotiations to compromise and settle this litigation and having stipulated and agreed upon the form and substance of this Consent Judgment to reflect their agreed upon settlement, and this Court having approved this Judgment;

Now, Therefore, It is ordered and adjudged as follows:

1. After the date of this Judgment, the land described as Parcel 1 on the General Plan attached as Exhibit A may be developed, used, and occupied for the purposes now set forth in Article XXV, D-1 (Office Building District), of the Troy Zoning Ordinance attached as Exhibit B, subject, however, to the following modifications and additional land use regulations:

A. The office building to be constructed on Parcel 1 may consist of a full basement which cannot be used or leased for any purpose other than storage and placement of furnace, sump pump, or other mechanical equipment; a first floor on which the maximum gross floor area of office space shall not exceed 20,000 square feet, and a pitched roof which may include heating and cooling equipment. Any basement constructed shall not exceed 7 feet in height as measured between the basement floor and the bottom of the duct work. Other than a full basement and the first floor, no other floors shall be permitted. The office building to be constructed in Parcel 1 shall be substantially similar in appearance to the

building depicted on the layout attached as Exhibit C.

B. Except as set forth above, the Schedule of Regulations now applicable to the O-1 district, being Article XXX of the Troy Zoning Ordinance and attached as Exhibit D, shall apply and control the use, development, and occupancy of Parcel 1.

C. Upon completion of construction of an office building on Parcel 1, Biltmore shall be charged with a total of eight (8) sanitary sewer taps against its allocation of sanitary sewer taps pursuant to the Sanitary Sewer Agreement between Biltmore and Troy dated August 22, 1979, as amended.

2. After the date of this Judgment, the land described as Parcel 2 on the General Plan attached as Exhibit A may be developed, used, and occupied for the purposes now set forth in Article X (R-1B-One-Family Residential) of the Troy Zoning Ordinance attached as Exhibit E, subject, however, to the following modifications and additional land use regulations:

A. The Schedule of Regulations now applicable to the R-1B district and attached as Exhibit D, shall apply and control the use, development and occupancy of Parcel 2 with the requirement that the minimum lot width shall be 100 feet at the front building setback line and the minimum lot size shall not be less than 15,000 square feet.

B. The size, number, configuration, and street pattern of the lots developed on Parcel 2 shall be in

accordance with tentative preliminary plat approval granted by the Troy Planning Commission on May 23, 1985, and by the Troy City Council on June 3, 1985, and shall be known as Oak River Subdivision No. 3. Upon Biltmore's request, Troy shall grant extensions of the plat approval in writing for successive one year periods as long as the Plat continues to conform to the approvals granted by Troy on May 23, 1985 and June 3, 1985.

Any future processing of Biltmore's Oak River Subdivision Plat No. 3 shall be subject to the Michigan Subdivision Control Act and Troy's Ordinances and Regulations.

3. After the date of this Judgment, the land described as Parcel 3 on the General Plan attached as Exhibit A may be developed, used, and occupied for the purposes now set forth in Article X (R-1B-One-Family Residential) of the Troy Zoning Ordinance attached as Exhibit E, subject, however, to the following modifications and additional land use regulations:

A. Parcel 3 may be developed using the Averaged Lot Size Residential Development Option now set forth in Article XXXV of the Troy Zoning Ordinance attached as Exhibit F.

B. The Schedule of Regulations now applicable to the R-1B district and attached as Exhibit D, shall apply and control the use, development and occupancy of Parcel 3 with the requirement that the minimum lot width shall be 95 feet at the front building setback line.

C. Upon entry hereof, this Consent Judgment, shall be recorded and shall constitute restrictive covenants as follows: (i) the use of storage sheds, buildings, and construction of any kind on the area labelled "Open Space Preservation Area" on Parcel 3 as depicted on the General Plan attached as Exhibit A shall be prohibited; (ii) only those uses permitted in the R-1B zoning district shall be permitted as to Parcels 2, 3, 4, 6, 7, and 8; and (iii) these restrictive covenants shall be enforceable by any lot owner within Parcels 2, 3, 4, 6, 7, and 8.

D. Except as provided in this Judgment and subject to the requirements of the Subdivision Control Act, being MCLA 560.101 et seq, as amended, and Troy's Ordinances and Regulations, the size, number, configuration, and street pattern of the lots developed on Parcel 3 shall be determined by Biltmore and/or Plymouth and approved by the Troy City Council. Neither Biltmore, Plymouth, nor Troy shall be bound by the configuration and number of lots portrayed on Exhibit A for Parcel 3.

4. After the date of this Judgment, the land described as Parcel 4 on the General Plan attached as Exhibit A may be developed, used, and occupied for the purposes now set forth in Article X (R-1B-One-Family Residential) of the Troy Zoning Ordinance attached as Exhibit E, subject, however, to the following modifications and additional land use regulations:

A. Parcel 4 may be developed using the Averaged Lot Size Residential Development Option now set forth in Article XXXV of the Troy Zoning Ordinance attached as Exhibit F.

B. The size, number, configuration, and street pattern of the lots developed on Parcel 4 shall be in accordance with tentative preliminary plat approval granted by the Troy Planning Commission on May 23, 1985, and by the Troy City Council on June 3, 1985, and shall be known as Merihill Acres Subdivision No. 3 or such other name as Biltmore may select with Troy's approval. Plaintiff, at its option, may increase the lot sizes in said plat. Upon Biltmore's request, Troy shall grant extensions of the plat approval in writing for successive one year periods as long as the Plat continues to conform to the approvals granted by Troy on May 23, 1985 and June 3, 1985. Any future processing of Biltmore's Merihill Acres Subdivision Plat No. 3 shall be subject to the Michigan Subdivision Control Act and Troy's Ordinances and Regulations as they each exist on the date of this Judgment.

*"Long Lake Crossing"
Parcel*

5. After the date of this Judgment, the land described as Parcel 5 on the General Plan attached as Exhibit A may be developed, used, and occupied for the purposes now set forth in Article XXV, 0-1 (Office Building District), of the Troy Zoning Ordinance attached as Exhibit B, subject, however, to the following modifications and additional land use regulations:

B. A. Any office building constructed on Parcel 5 may contain a full or partial basement which cannot be used or leased for any purpose other than storage and placement of furnace, sump pump and other mechanical equipment. There will not be any above ground parking decks constructed in connection with any office building on Parcel 5.

C. B. The Schedule of Regulations now applicable to the O-1 district, being Article XXX of the Troy Zoning Ordinance and attached as Exhibit D, shall control the use, occupancy, and development of Parcel 5 with the requirements that the floor to floor elevation between the first and second stories, the second and third stories, and the third story and the roof of structures within Parcel 5 may not exceed 12 feet 6 inches for each floor and a total wet sprinkler fire suppression system conforming to Article 17 of the 1984 BOCA Building Code shall be provided.

D. G. Prior to the issuance of a certificate of occupancy for the first office building constructed on Parcel 5, Biltmore shall construct a 6 foot high earth berm with a ratio of 1 on 3 side slopes, which shall be approximately 36 feet wide at the base within a 40 foot greenbelt easement to be established by Biltmore on the westerly boundary line of Parcel 5. The earth berm shall be landscaped in accordance with the standards of the City of Troy pertaining to subdivision non-access greenbelts as specifically set forth in Chapter 41, Section 4.02 of Troy's Subdivision Control Ordinance and

substantially similar to that depicted on Exhibit G attached.

E. D. Prior to the issuance of a certificate of occupancy for the first office building constructed on Parcel 5, and unless otherwise agreed by Troy and Biltmore, Biltmore shall construct a 6 foot high earth berm with a ratio of 1 on 3 side slopes, which shall be approximately 36 feet wide at the base within a 40 foot greenbelt easement to be established by Biltmore on the southerly boundary line of Parcel 5. The earth berm shall be landscaped in accordance with the standards of the City of Troy pertaining to subdivision non-access greenbelts as specifically set forth in Chapter 41, Section 4.02 of Troy's Subdivision Control Ordinance and substantially similar to that depicted on Exhibit G attached.

F. E. Prior to the issuance of a certificate of occupancy for the first office building constructed on Parcel 5, Biltmore shall install concrete road pavements 36 feet in width in Northfield Parkway from Long Lake Road South to the center of Section 17, and a sidewalk 5 feet in width on the East side of Northfield Parkway from Long Lake Road to the center of Section 17.

6. After the date of this Judgment, the land described as Parcel 6 on the General Plan attached as Exhibit A may be developed, used, and occupied for the purposes now set forth in Article X (R-1B-One-Family Residential) of the Troy Zoning Ordinance attached as Exhibit E, subject, however, to the following modifications and additional land use

regulations:

A. The size, number, configuration, and street pattern of the lots developed on Parcel 6 shall be in accordance with tentative preliminary plat approval granted by the Troy Planning Commission on May 23, 1985, and by the Troy City Council on June 3, 1985, and shall be known as Merihill Acres Subdivision No. 2. Upon Biltmore's request, Troy shall grant extensions of the plat approval in writing for successive one year periods as long as the Plat continues to conform to the approvals granted by Troy on May 23, 1985 and June 3, 1985. Any future processing of Biltmore's Merihill Acres Subdivision Plat No. 2 shall be subject to Michigan's Subdivision Control Act and Troy's Ordinances and Regulations.

7. After the date of this Judgment, the land described as Parcel 7 on the General Plan attached as Exhibit A may be developed, used, and occupied for the purposes now set forth in Article X (R-1B-One-Family Residential) of the Troy Zoning Ordinance attached as Exhibit E, subject, however, to the following modifications and additional land use regulations:

A. Parcel 7 may be developed using the Averaged Lot Size Residential Development Option now set forth in Article XXXV of the Troy Zoning Ordinance attached as Exhibit F.

B. The Schedule of Regulations now applicable to the R-1B district and attached as Exhibit D, shall apply and

control the use, development and occupancy of Parcel 7 with the requirement that the minimum lot width shall be 90 feet at the front building setback line.

C. Except as provided in this Judgment and subject to the requirements of the Subdivision Control Act, being MCLA 560.101 et seq, as amended, and Troy's Ordinances and Regulations, the size, number, configuration and street pattern of the lots developed on Parcel 7 shall be determined by Biltmore and approved by the Troy City Council. Neither Biltmore nor Troy shall be bound by the configuration and number of the lots portrayed on Exhibit A for Parcel 7.

B. After the date of this Judgment, the land described as Parcel 8 on the General Plan attached as Exhibit A may be developed, used, and occupied for the purposes now set forth in Article X (R-1B-One-Family Residential) of the Troy Zoning Ordinance attached as Exhibit E, subject, however, to the following modifications and additional land use regulations:

A. The Schedule of Regulations now applicable to the R-1B district and attached as Exhibit D, shall apply and control the use, development and occupancy of Parcel 8 with the requirement that the minimum lots width shall be 100 feet at the front building setback line and the minimum lot size shall not be less than 15,000 square feet.

B. Except as provided in this Judgment and subject to the requirements of the Subdivision Control Act,

being MCLA 560.101 et seq, as amended, and Troy's Ordinances and Regulations, the size, number, configuration and street pattern of the lots developed on Parcel B shall be determined by Biltmore and approved by the Troy City Council. Neither Biltmore nor Troy shall be bound by the configuration and number of the lots portrayed on Exhibit A for Parcel B.

9. The Plaintiffs shall undertake construction of improvements on Parcels 7 and 8 prior to or simultaneous with development of either Parcel 1 or Parcel 5, whichever first occurs.

10. With regard to Coolidge Road south of Long Lake Road, Troy will use its best efforts during the years 1986 or 1987, at Troy's option, to cause the construction of an extension of the southbound lane of Coolidge Road Boulevard, from its present location south of Long Lake Road, to a point approximately three-quarters of a mile south of Long Lake Road. The cost and expense of the construction of the Boulevard extension shall be borne by Troy. Troy shall have the option to utilize Biltmore to arrange for construction of the Boulevard extension through the use of a paving contractor who shall be paid by Troy. Upon completion of construction of the extension of Coolidge Road Boulevard, Biltmore shall pay to Troy, as its financial contribution to the cost of the Coolidge Road extension, an amount of money equal to the cost of constructing acceleration, de-acceleration and passing lanes for each intersection that does or in the future will provide

ingress and egress into Coolidge Road as to Parcels 1, 2, 3, and 4, which cost of construction of the acceleration, de-acceleration and passing lanes shall be estimated by M.C.S. Associates, Inc. and approved by Troy at the time of construction of the extension.

A. In the event Troy elects to exercise its option to have Biltmore arrange for the construction of the Coolidge Boulevard extension through the use of a paving contractor, Troy will be required to make progress payments to Biltmore (for simultaneous payment to the paving contractor) on the 10th day of each month for the work completed during the preceding month as certified in writing by Biltmore's project engineer. All progress payments made by Troy shall be less a 10% retention. The 10% retention monies shall not be released until Biltmore's project engineer certifies in writing that the work is fully completed in accordance with the plans and specifications and Troy accepts in writing the pavement extension for permanent maintenance.

11. Troy will use its best efforts to cause the construction of a Boulevard street, street lighting, sidewalks, drains and landscaping along Long Lake Road which will extend from the I-75 Expressway West through Northfield Parkway and Corporate Drive (Ring Road) near or adjacent to the East line of Parcel 5 and other roads in the area described on the General Plan attached as Exhibit A. The cost and expense of the construction of these facilities shall be borne by the

benefitted landowners as determined by a special assessment district established by Troy. The Plaintiffs, as benefitted landowners, acknowledge that they will benefit from such facilities constructed by Troy and agree to pay their fair share of the assessments based upon the benefits received.

12. The Plaintiffs' use, development, and occupancy of their respective parcels shall be governed by Articles X, XXV, XXX, XXXV, and XXXIX of the current Troy Zoning Ordinance, Troy's Subdivision Control Ordinance, and Troy's Sign Ordinances, without variance, as modified only by the provisions of this Consent Judgment.

13. Within 90 days after the entry of this Consent Judgment, the Plaintiffs shall dedicate to Troy or any other governmental agency having jurisdiction the following proposed rights of way:

A. The South 60 feet of Long Lake Road adjacent to the North boundary line of Parcel 1 as described on the General Plan attached as Exhibit A.

B. The West 60 feet of Coolidge Road adjacent to the East boundary lines of Parcels 2 and 8. The legal description for the dedication within Parcel 2 is already included in the plat for Oak River Sub. No. 3. The legal description for the dedication within Parcel 8 is described on the General Plan attached as Exhibit A.

C. The East 60 feet of Coolidge Road adjacent to the West boundary lines of Parcels 3 and 4 which has already been dedicated with the recording information shown on the General Plan attached as Exhibit A.

D. The South 75 feet of Long Lake Road adjacent to the North boundary line of Parcel 5 described on the General Plan attached as Exhibit A.

E. The South 75 feet of Long Lake Road adjacent to the North boundary line of Parcel 3 described on the General Plan attached as Exhibit A.

F. All of the right of way owned by Plaintiffs for Northfield Parkway, being 86 feet wide located between Long Lake Road and the center of Section 17, which is adjacent to Parcels 4, 5, and 7 described on the General Plan attached as Exhibit A and which has not been previously dedicated.

G. A right of way, if requested by Troy, not exceeding 60 feet in width dedicated from Parcel 5, described on the General Plan attached as Exhibit A, adjacent to all or a part of the East line of Parcel 5.

14. The Plaintiffs shall follow the general plan set forth and detailed in the General Plan, attached as Exhibit A, provided that minor modifications to the General Plan not inconsistent with the spirit of this Consent Judgment may be made, without the necessity of amending this Consent Judgment, so long as Troy and the then current titleholder of the affected parcel consent to such modification.

15. Troy's classification of Parcels 2, 3, 4, 6, 7, and 8 as "R-1B" within the meaning of Chapter 39, Section

Revised
12/23/85

10.00.00, et seq, of the Troy City Code is constitutional and reasonable.

16. This Consent Judgment may be amended as it applies to any one or more of the eight (8) separate parcels by the written consent of the owner of the parcel(s) which is the subject of the amendment and Troy. The consent of no other owners (including no owners of any of the other parcels) persons or entities whatsoever shall be required for such the amendment.

17. The provisions of this Consent Judgment shall be binding upon and inure to the benefit of the parties, those acting under their discretion and control, and their respective heirs, successors, assigns, and transferees.

18. The Plaintiffs, or their successors and assigns, shall reimburse the City of Troy for all costs incurred by Troy in defending any action which may be brought hereafter by Plaintiffs, its successors, assigns, or third parties, seeking to set aside or vacate any portion of this Consent Judgment.

19. If any Plaintiffs or any entity consisting of the officers and directors of any of the Plaintiffs acquire the school property identified on Exhibit A, any future development of the land shall be in accordance with the requirements of the R-1B district in effect on this date.

20. This Court shall retain Jurisdiction of this case in order to effectuate the intent of this Consent Judgment, and to enforce compliance with the terms of this Consent Judgment, and to reconcile any differences of the parties that may arise in connection with the performance of this Consent Judgment.

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12/23/85

21. A certified copy of this Consent Judgment shall be recorded in the Oakland County Register of Deeds with regard to the real property described in this Consent Judgment.

ALICE L. GILBERT
CIRCUIT JUDGE

Alice Gilbert, Oakland
County Circuit Court
Judge

APPROVED AS TO FORM AND CONTENT:

GINN, KRAMER, JACOBSON and
BURNSTEIN, P.C.

BY:

Marty A. Burnstein

MARTY A. BURNSTEIN
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(313) 358-3222

CITY OF TROY

BY:

John J. Martin III

JOHN J. MARTIN, III
(P 25888)
Attorney for Defendant
500 West Big Beaver Road
Troy, Michigan 48084
(313) 524-3320

Dated:

12-26-85

DISK 92
COHENCON/JMT

Chapter 39 - Zoning Ordinance

25.00.00 ARTICLE XXV O-M MID-RISE OFFICE DISTRICT

25.10.00 INTENT:

The O-M, Office Mid-Rise, District is intended to accommodate office buildings and restricted related retail and service establishments on large land parcels in proximity to areas of major commercial or civic development. Civic development shall mean Civic Center building. Such Districts are intended to provide transition between these areas and major thoroughfares, and areas of less intense development. Because of the large land area involved, it is felt that greater flexibility as to building height and related uses is warranted, as compared to the O-1 (Office Building) District. Because of this flexibility, great care must be taken as to planning of such areas and the development which is to occur within them. Site plan approval of each development is thus a necessity in order to assure that such Districts are fully compatible with adjacent areas.

25.10.01 Persons seeking to rezone property to the Zoning District governed by this Article shall conform to the requirements of Section 03.20.00.

25.20.00 PRINCIPAL USES PERMITTED:

The O-M District shall not be applied to parcels of less than five (5) acres in area. In such Districts, no building, structure or land shall be erected or used except for one or more of the following uses, unless otherwise provided in this Ordinance:

25.20.01 Any use permitted as a principal use in the O-1 Office Building District as established under Article XXV of this chapter.

25.20.02 Data processing and computer centers, including sales, service and maintenance of electronic data processing equipment.

25.20.03 Any use charged with the principal function of office-type research or technical training.

25.20.04 Other uses similar to the above uses.

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

25.25.00 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS:

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use. Plan Commission review and approval shall be required when the establishment of such uses involves the construction of a new building or addition to an existing building.

Chapter 39 - Zoning Ordinance

26.00.00 ARTICLE XXVI O-S-C HIGH RISE OFFICE DISTRICT

26.10.00 INTENT:

The O-S-C (Office-Service-Commercial) District is designed and intended to accommodate large office buildings and restricted retail and service establishments which serve large numbers of people. A major purpose of this District is to provide limited areas for buildings of greater height and more intensive land use activity in an otherwise low density community. Because of the greater building height, intensity of land use, and associated high volumes of vehicular and pedestrian traffic, this District is not compatible in conjunction with low density residential areas. It is therefore intended that this District be located only in proximity to areas of major commercial or civic development, and to major thoroughfares or freeways. Further, because of the intensity of use and the potential diversification of land uses in such a District, great care must be taken as to the planning of such areas and the development which is to occur within them. Site plan approval of each development is thus an absolute necessity to assure a compatible arrangement of the varied land uses which are permitted to be established.

26.10.01 Persons seeking to rezone property to the Zoning District governed by this Article shall conform to the requirements of Section 03.20.00.

26.20.00 PRINCIPAL USES PERMITTED:

In an O-S-C District, no building, structure or land shall be erected or used except for one or more of the following uses, unless otherwise provided in this ordinance:

26.20.01 Any use permitted as a principal use in the O-1 office building District as established under Article XXIV of this chapter.

26.20.02 Data processing and computer centers, including sale, service, and maintenance of electronic data processing equipment.

26.20.03 Any use charged with the principal function of office-type research or technical training.

26.20.05 Other Uses Similar to the Above Uses.

26.20.06 Accessory Structures and Use Customarily Incident to the Above Permitted Uses.

88-63
1-25-83

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

218

ZAHAV INVESTMENT COMPANY, a
Michigan Limited Co-Partnership,
PLYMOUTH INVESTMENT COMPANY, a
Michigan Limited Co-Partnership,
and BILTMORE PROPERTIES COMPANY,
a Michigan Partnership,

Plaintiffs,

v

Case No. 82-238690 CZ

CITY OF TROY, a Michigan
Municipal Corporation,

Defendant.

Peter A. Letzmann (P16587)
City Attorney
John J. Martin, III (P25888)
Assistant City Attorney
Attorneys for Defendant
500 W. Big Beaver Road
Troy, Michigan 48084
(313) 524-3320

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FIRST AMENDED CONSENT JUDGMENT

At a session of said court held in
the Courthouse in the City of
Pontiac, Oakland County, Michigan,
on: JAN 29 1988

PRESENT: HONORABLE ALICE L. GILBERT, CIRCUIT JUDGE

The parties having agreed that paragraph 1 of the Consent
Judgment entered by this court on January 2, 1986, shall be
amended as set forth in paragraph 1 below;

IT IS ORDERED AND ADJUDGED:

1. After the date of this Judgment, the land described as
Parcel 1 on the General Plan attached as Exhibit A may be deve-

EXHIBIT B

loped, used, and occupied for the purposes now set forth in Article XXV, O-1 (Office Building District), of the Troy Zoning Ordinance attached as Exhibit B, subject, however, to the following modifications and additional land use regulations:

A. The office building to be constructed on Parcel 1 may consist of a full basement which cannot be used or leased for any purpose other than storage and placement of furnace, sump pump, or other mechanical equipment; a first floor on which the maximum gross floor area of office space shall not exceed 20,000 square feet, and a pitched roof which may include heating and cooling equipment. Any basement constructed shall not exceed 7 feet in height as measured between the basement floor and the bottom of the duct work. Other than a full basement and the first floor, no other floors shall be permitted. The office building to be constructed in Parcel 1 shall be substantially similar in appearance to the building depicted on the layout attached as Exhibit C.

B. The office building to be constructed on Parcel 1 shall substantially conform to the Site Plan, attached as Exhibit H, and the Landscape Development Plan, attached as Exhibit I.

C. Except as set forth above, the Schedule of Regulations now applicable to the O-1 district, being Article XXX of the Troy Zoning Ordinance and attached as

Exhibit D, shall apply and control the use, development, and occupancy of Parcel 1.

D. Upon completion of construction of an office building on Parcel 1, Biltmore shall be charged with a total of eight (8) sanitary sewer taps against its allocation of sanitary sewer taps pursuant to the Sanitary Sewer Agreement between Biltmore and Troy dated August 22, 1979, as amended.

2. All other provisions of the Consent Judgment entered on January 2, 1986, shall remain in full force and effect.

ALICE L. GILBERT

CIRCUIT JUDGE

APPROVED AS TO FORM AND CONTENT:

PLAINTIFFS:

BILTMORE PROPERTIES CORPORATION,
a Michigan Corporation, The
sole owners of Parcel 1
described in this First
Amended Consent Judgment

By: *Norman J. Cohen*
Norman J. Cohen
Its President

DEFENDANT:

CITY OF TROY, a Michigan
municipal corporation

By: *Richard E. Doyle*
Richard E. Doyle
Mayor

By: *Kenneth L. Courtney*
Kenneth L. Courtney
City Clerk

By: *Peter A. Letzmann*
Peter A. Letzmann (P16587)
City Attorney
Attorney for Defendant

A TRUE COPY

LYNN D. ALLEN

Oakland County Clerk - Register of Deeds

By: *Lynn D. Allen*
Deputy