CITY COUNCIL ACTION REPORT

March 26, 2007

TO: Phillip L. Nelson, City Manager

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

SUBJECT: Public Hearing – Proposed Office Building, East of Livernois, South side of Wattles, Section 22 – R-1C to O-1 (File Number: Z-725)

Background:

- The Planning Commission recommended denial of the request to rezone the parcel to O-1 at the February 13, 2007 Regular meeting.
- The Future Land Use Plan classifies the Wattles Road frontage in this area as Public and Quasi-Public (Community Facility). The parcel has been planned as Public and Quasi-Public (Community Facility) since 1999.
- City Council considered this item at the March 19, 2007 Regular meeting and postponed the item to the April 2, 2007 Regular meeting.

Financial Considerations:

- There are no financial considerations for this item.

Legal Considerations:

- City Council has the authority to act on this application.

Policy Considerations:

- Denial of the rezoning request would be consistent with City Council Goal I, Enhance the livability and safety of the community.

Options:

- City Council can approve the rezoning application.
- City Council can deny the rezoning application.
- The Planning Commission recommended denial of the rezoning application on February 13, 2007.

Attachments:

1. Maps.
2. Statement from applicant.
3. Minutes from February 13, 2007 Planning Commission Regular meeting.
4. Letter of opposition dated March 18, 2007.

Prepared by RBS/MFM

cc: Applicant
File /Z 725

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CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY
File Number Z-725

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 39 of the Code of the City of Troy.

Section 2. Amendment to Zoning District Map

This Ordinance shall amend the Zoning District Map, from R-1C One Family Residential to O-1 Low Rise Office Building, for parcel 88-20-22-101-003, located east of Livernois on the south side of Wattles in Section 22, and described in the following legal description and illustrated on the attached Survey Drawing:

> T2N, R11E, NW 1/4 of Section 22
>
> Commencing at the N.W. corner of Section 22; thence S 88°28'45" E, 603.40 ft. measured (603.25 ft. record), along the North line of Section 22 and the centerline of Wattles Rd. and the Point of Beginning; thence continuing S 88°28'45" E, 350.00 ft.; thence S 01°31'15" W, 33.00 ft.; thence S 50°35'13" W, 463.87 ft. measured (463.00 ft. record); thence N 01°35'42" E, 336.92 ft. measured (336.00 ft. record) to the Point of beginning and containing 1.014 ac. Except the North 60 ft. taken for Wattles Rd.

Section 3. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 4. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 5. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, 2007.

_____
Louise Schilling, Mayor

_____
Tonni Bartholomew, City Clerk

G:\REZONING REQUESTS\Z-725 Office Building Sec 22\ZOTA 725 Ordinance 03 19 07.doc

H:\SURV\2003\030708\act132\SURVEY.dwg

SURVEY DRAWING

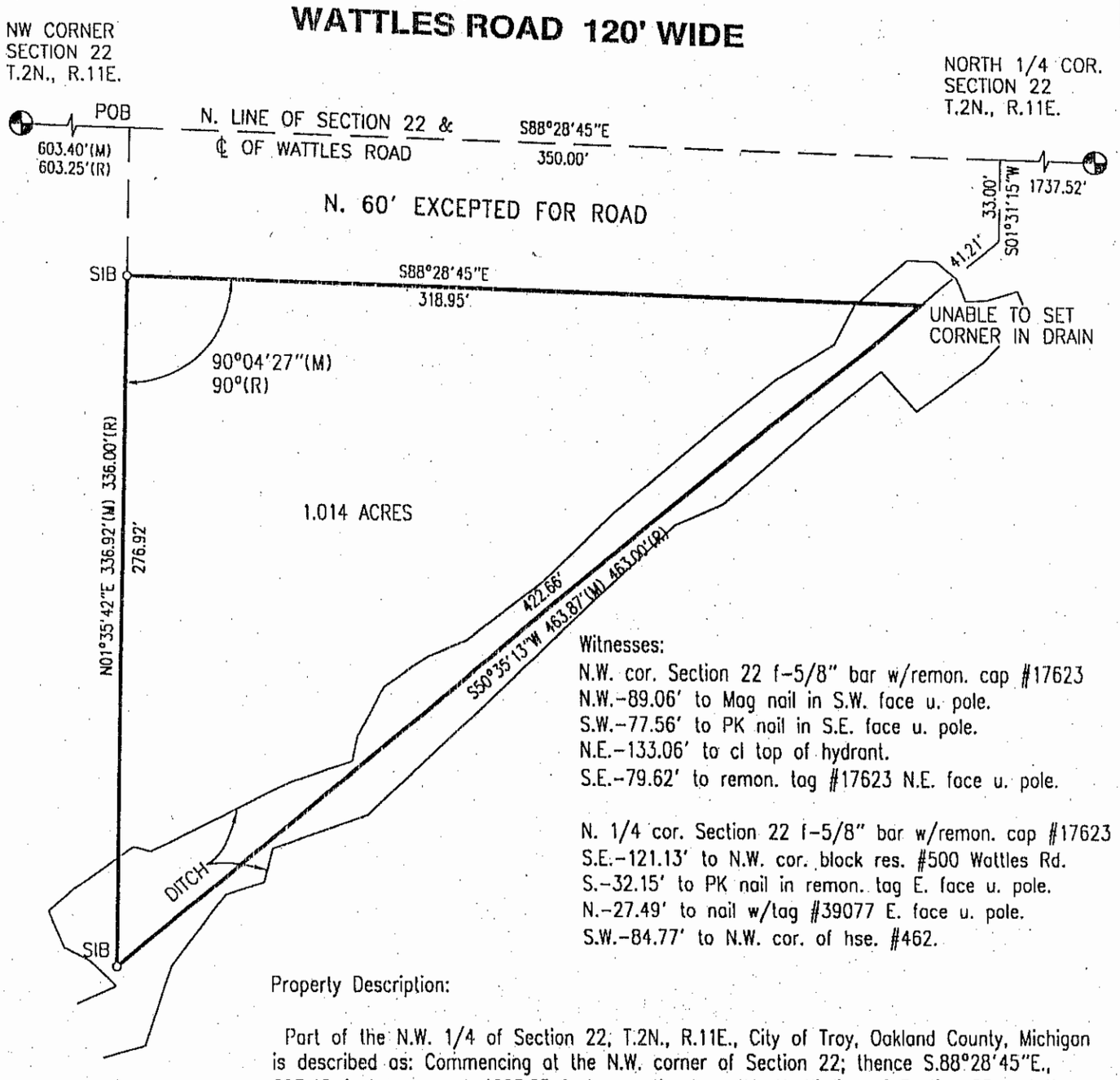
N.

Scale : 1" = 60'

0' 30' 60' 120'

NOTES:

- BEARINGS IN RELATION TO ADJOINING SURVEY WORK.
- NO TITLE WORK HAS BEEN SUPPLIED BY THE CLIENT FOR PURPOSES OF THIS SURVEY. THEREFORE NO GUARANTEE IS MADE THAT ANY OR ALL EASEMENTS, BOTH RECORDED AND UNRECORDED ARE SHOWN ON THIS SURVEY.



Witnesses:
N.W. cor. Section 22 f-5/8" bar w/remon. cap #17623
N.W.-89.06' to Mag nail in S.W. face u. pole.
S.W.-77.56' to PK nail in S.E. face u. pole.
N.E.-133.06' to cl top of hydrant.
S.E.-79.62' to remon. tag #17623 N.E. face u. pole.

N. 1/4 cor. Section 22 f-5/8" bar w/remon. cap #17623
S.E.-121.13' to N.W. cor. block res. #500 Wattles Rd.
S.-32.15' to PK nail in remon. tag E. face u. pole.
N.-27.49' to nail w/tag #39077 E. face u. pole.
S.W.-84.77' to N.W. cor. of hse. #462.

Property Description:

Part of the N.W. 1/4 of Section 22, T.2N., R.11E., City of Troy, Oakland County, Michigan is described as: Commencing at the N.W. corner of Section 22; thence S.88°28'45"E., 603.40 feet measured, (603.25 feet record), along the North line of Section 22 and the centerline of Wattles Road and the Point of Beginning; thence continuing S.88°28'45"E., 350.00 feet; thence S.01°31'15"W., 33.00 feet; thence S.50°35'13"W., 463.87 feet measured, (463.00 feet record); thence N.01°35'42"E., 336.92 feet measured, (336.00 feet record) to the Point of Beginning and containing 1.014 acres. Except the North 60 foot taken for Wattles Road.

REC'D
JAN 12 2007
PLANNING DEPT.

Surveyor's Certificate

I hereby certify that I have surveyed and mapped the land above platted and/or described on July 17, 2003 and that the ratio of closure on the unadjusted field observations of such survey was no greater than 1/156,758 and that all of the requirements of P.A. 132 1970 as amended have been complied with.

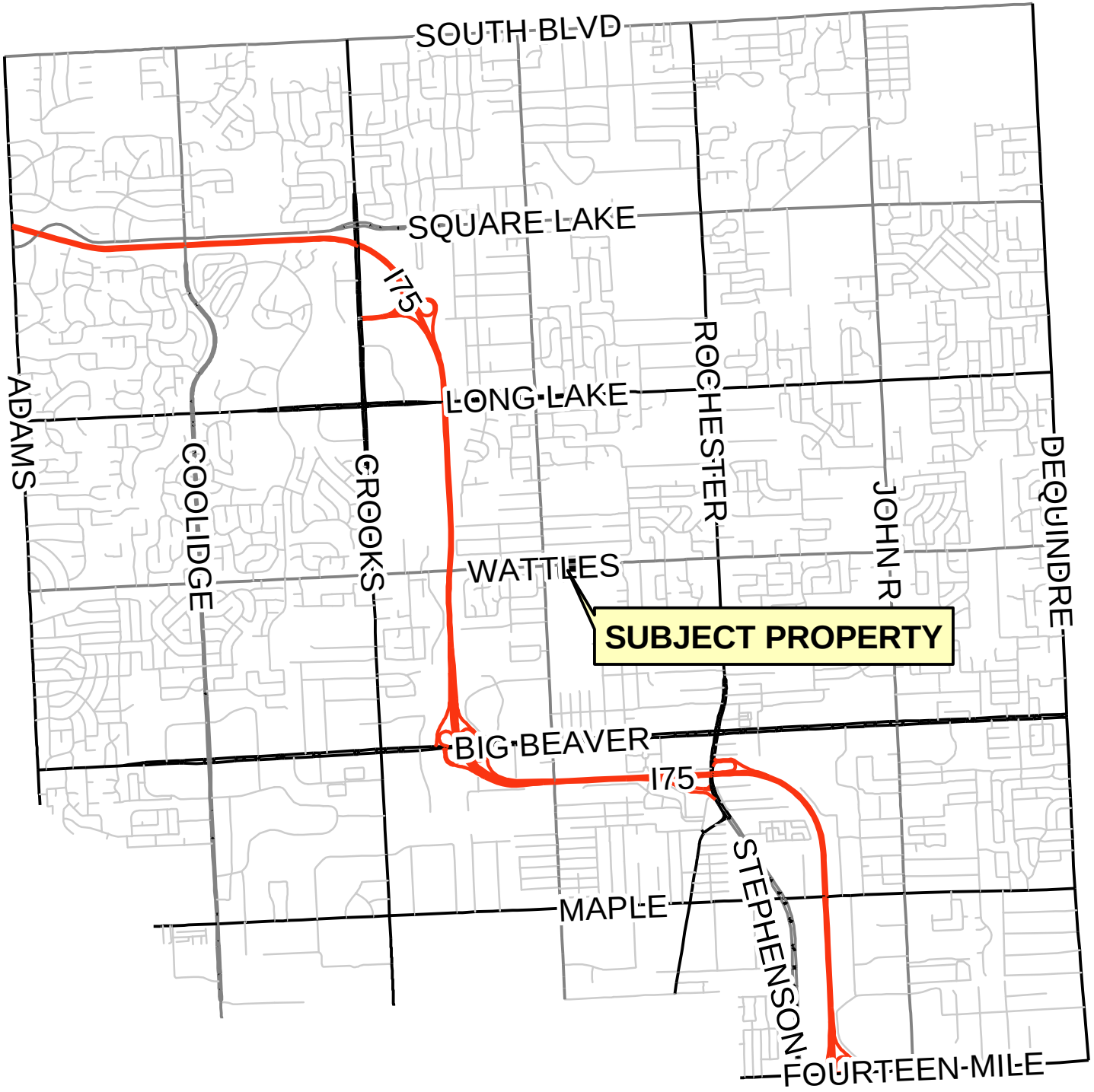
PHONE 586 731-8030
FAX 586 731-2605
URBAN LAND CONSULTANTS ©
CIVIL ENGINEERS PLANNERS LAND SURVEYORS
GPS CONSULTANTS
8800 23 MILE ROAD SHELBY TWP., MI 48316-4518

LEGEND
FIB = Found Iron Bar ●
FIP = Found Iron Pipe ●
SIB = Set Iron Bar/Cap ○
R = Record Distance
M = Measured Distance
C = Calculated

WARREN C. AVEY
PROFESSIONAL SURVEYOR
WARREN C. AVEY
LICENSED LAND SURVEYOR
No. 30076

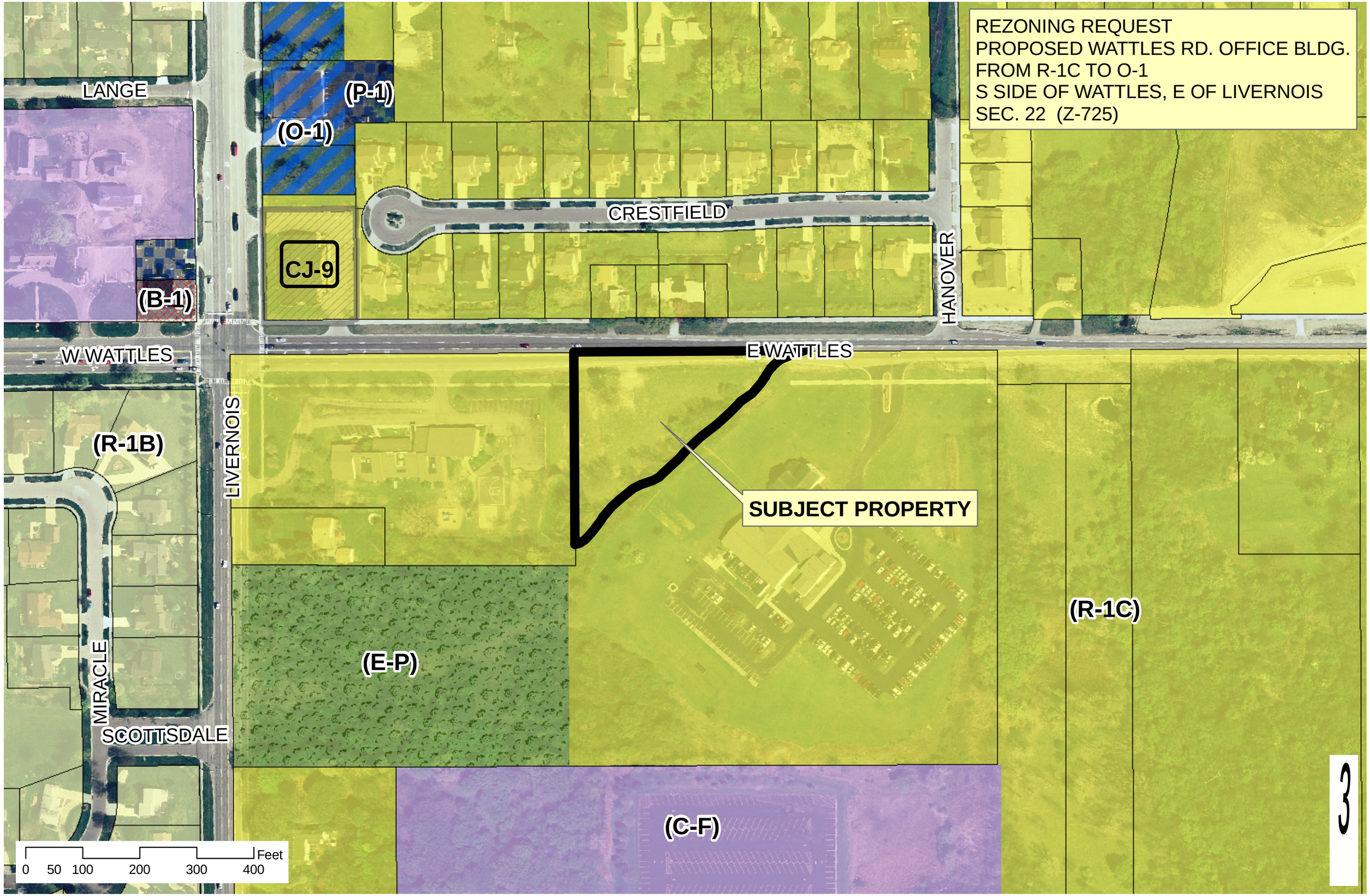
Date 07-27-03
Drawn J.L.M.
Check W.C.A.
Sheet 1 OF 1
Fld. Bk.
Job No. 030708-6777

CITY OF TROY



PREPARED BY CITY OF TROY PLANNING DEPT.

REZONING REQUEST
PROPOSED WATTLES RD OFFICE BLDG.
FROM R-1C TO O-1
S SIDE OF WATTLES RD., E OF LIVERNOIS
SEC. 22 (Z-725)
LANGE
CRESTFIELD
HANOVER
W WATTLES
E WATTLES
LIVERNOIS
SUBJECT PROPERTY
MIRACLE
SCOTTSDALE
0 50 100 200 300 400 Feet
3


REZONING REQUEST
PROPOSED WATTLES RD. OFFICE BLDG.
FROM R-1C TO O-1
S SIDE OF WATTLES, E OF LIVERNOIS
SEC. 22 (Z-725)
LANGE
(P-1)
(O-1)
CRESTFIELD
CJ-9
(B-1)
HANOVER
W WATTLES
E WATTLES
LIVERNOIS
(R-1B)
SUBJECT PROPERTY
(R-1C)
(E-P)
MIRACLE
SCOTTSDALE
(C-F)
Feet
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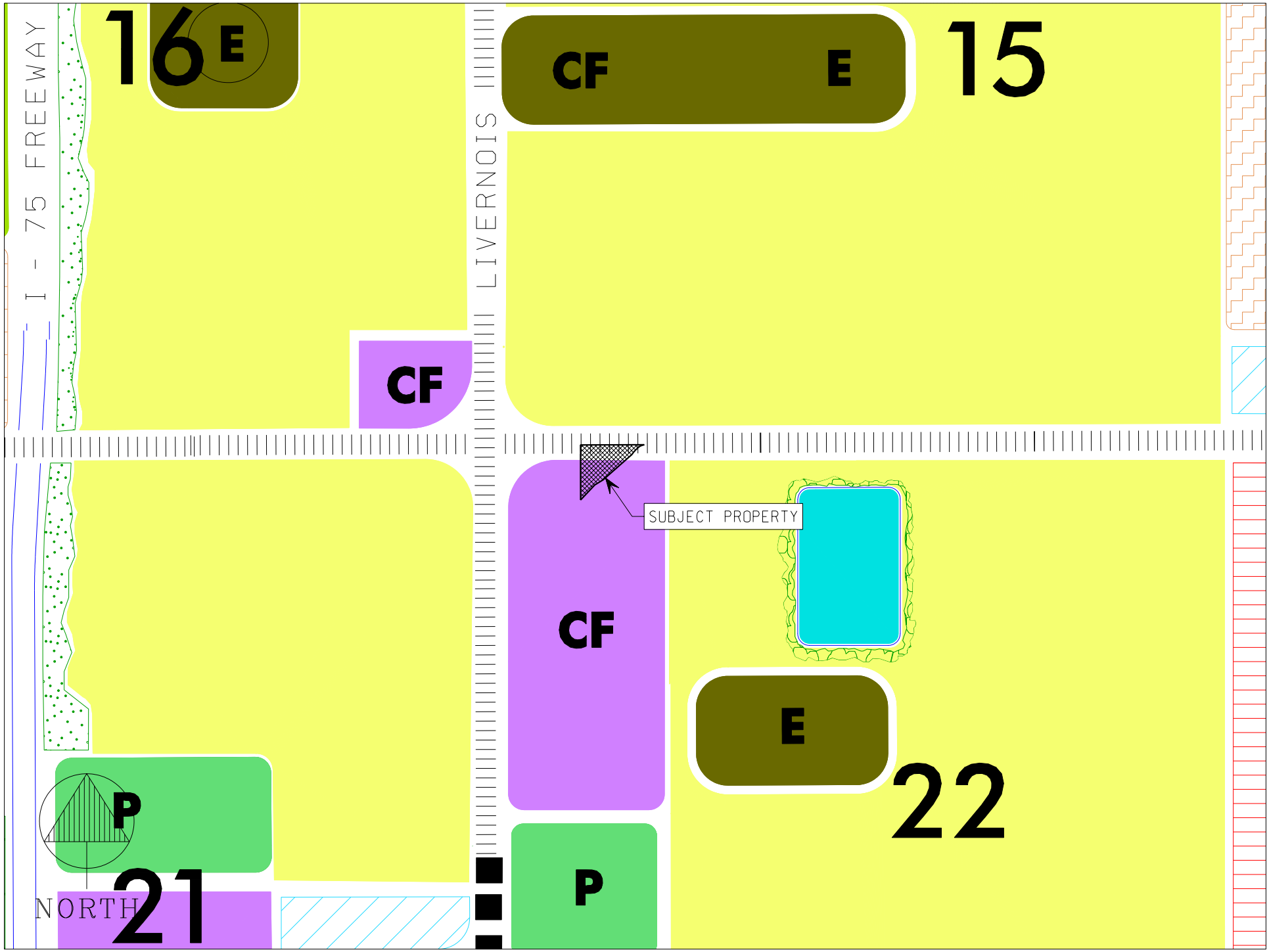
I - 75 FREEWAY
LIVERNOIS
16
E
CF
E
15
CF
SUBJECT PROPERTY
CF
E
22
P
P
21
NORTH

APEX
ENGINEERING GROUP INC.
CIVIL ENGINEERING & LAND PLANNING CONSULTANTS

47745 VAN DYKE AVENUE
SHELBY TOWNSHIP, MI 48317

TELEPHONE: 586-739-5200
FACSIMILE: 586-254-5314

January 5, 2007

Mark F. Miller, AICP/PCP
Planning Director
City of Troy, Planning Department
500 W. Big Beaver Road
Troy, MI 48084

RE: Rezoning Request, From R-1-C to O-1
Wattles Road, Section 22, City of Troy
Parcel ID No. 88-20-22-101-003

Dear Mr. Miller:

The enclosed plans and application package are being submitted in conjunction with a request to rezone a parcel of land in Section 22 from R-1-C, Single Family Residential to O-1, Low Rise Office District. The parcel is currently zoned R-1-C, Single Family Residential District, contains 1.01 acres of land and has approximately 319 feet of Wattles Road frontage. The site is triangular is shape and is located on the south side of Wattles Road between Livernois and Rochester Roads. The St. Lucy Croatian Catholic Church is to the east and south of the subject property. Brookfield Academy is located to the west of the site. Walsh College and Zion Christian Church occupy large parcels to the south of the subject site.

An office use is a more compatible use when compared to other land uses within the specific geographic area of the subject site. Benefits of an office use will include a larger quantity of required landscaping, greater setbacks, reduced traffic conflicts and controlled hours of operation. Greater screening requirements allow for additional areas of landscaping to buffer the existing parking lot to the west. One point of ingress/egress will be proposed rather than multiple curb cuts with vehicles backing out onto Wattles Road.

The underlying zoning for each of the adjacent parcels is R-1-C. R-1-C is also the classification of the parcels across Wattles Road to the north. The area is Master Planned for community facilities and low density residential use along this portion of Wattles Road. The parcel could be considered for an infill project for an office use between the school and church. Historically, it is much more difficult to market new construction of single family homes that front upon major roads such as Wattles Road. There is also a large inventory of homes for sale within the area and the overall residential market is relatively soft.

The site could be considered an extension of the non-residential use that is present at the intersection of Wattles and Livernois Roads. An introduction of a residential use on the subject parcel would not be consistent with the existing uses along this segment of Wattles Road.

Your consideration of the request to rezone a parcel of land within Section 22 of the City of Troy is greatly appreciated. Please contact our office if you have any questions or concerns.

Sincerely,

WE Mosher

William E. Mosher, IV, P.E.

JAN 12 2007

REZONING REQUEST

7. PUBLIC HEARING - REZONING REQUEST (Z-725) – Proposed Office Bldg., East of Livernois, South side of Wattles, Section 22 – From R-1C (One Family Residential) to O-1 (Low Rise Office)

Planning Director Miller presented a summary on the Planning Department report for rezoning request Z-725. He noted that there was an error on the written correspondence regarding this location, and it should read that it is located on the south side of Wattles.

Bill Mosher, 47745 Van Dyke, Shelby Township, was present on behalf of the petitioner. He stated that this is a unique parcel. It has been for sale for three years with residential zoning, but the housing market is weak. There have, however, been a lot of inquiries for office use. This is a more compatible use in light of the surrounding parcel arrangements and their uses.

Tony Haddad, 6507 John R, the petitioner, stated he would like to proceed with the rezoning request.

PUBLIC HEARING OPENED

Lee Nardi, 6507 John R, stated he lives directly across the street from the proposed office. There is way too much noise from the church and mainly the school. There are floodlights on at the school that light up the neighborhood. The proposed office location will be directly in front of his front window and he does not wish to look at it. In addition, we have a lot of truck traffic creating a large amount of noise, and any office use would make the area less desirable.

PUBLIC HEARING CLOSED

Commissioner Vleck stated he agreed that if it were to be rezoned, it would be spot zoning; however, we have a piece of property where on the north it is residential, but on both the east and west side there are heavy use zoning. It would be difficult to justify a residential use going into this area and poses a difficult zoning question.

Commissioner Tagle asked if there are any wetlands.

Planning Director Miller replied that the natural features map does not indicate any wetlands.

Chairperson Schultz added that the east and south property of the border are active drains.

Mr. Haddad informed the Planning Commission that approximately a year ago the Brookfield academy wanted to buy the property. They were unable to put a daycare in the location due to ordinance restrictions. Despite the ordinance being changed, they pulled out of the purchase agreement. The point is, the ordinance already exists to permit daycare at a private academy and that is consistent with office zoning.

Chairperson Schultz asked if daycares, in schools, require O-1 zoning.

Planning Director Miller responded that the City amended the Zoning Ordinance to allow a daycare be in a single family zoning district in a private school. They are also permitted in other residential zoning when they are adjacent to an O-1 zoning or other commercial zoning.

Chairperson Schultz clarified that this property does not require O-1 zoning if Brookfield Academy wanted to put a daycare at that site.

Resolution # PC-2007-02- -
Moved by: Vleck
Seconded by:

RESOLVED, That the Planning Commission hereby recommends to the City Council that the R-1C to O-1 rezoning request, located east of Livernois, on the south side of Wattles, within Section 22, being approximately 1 acre in size, be granted.

MOTION DIED for lack of second.

Resolution # PC-2007-02-034
Moved by: Hutson
Seconded by: Tagle

RESOLVED, That the Planning Commission hereby recommends to the City Council that the R-1C to O-1 rezoning request, located east of Livernois, on the south side of Wattles, within Section 22, being approximately 1 acre in size be denied, for the following reasons:

1. The application is inconsistent with the Future Land Use Plan.
2. If approved the O-1 parcel would constitute an undesirable spot zone.

Yes: Hutson, Schultz, Tagle
No: Vleck, Kerwin
Absent: Littman, Strat, Troshynski, Wright

NO ACTION ON MOTION due to failure to obtain minimum of five (5) votes needed to pass or fail.

Resolution # PC-2007-02-035
Moved by: Schultz
Seconded by: Tagle

RESOLVED, That the Planning Commission hereby reconsiders the vote on the R-1C to O-1 rezoning request, located east of Livernois, on the south side of Wattles, within Section 22, being approximately 1 acre in size.

Yes: All present (5)
No: None
Absent: Littman, Strat, Troshynski, Wright

MOTION CARRIED

Resolution # PC-2007-02-036
Moved by: Hutson
Seconded by: Tagle

RESOLVED, That the Planning Commission hereby recommends to the City Council that the R-1C to O-1 rezoning request, located east of Livernois, on the south side of Wattles, within Section 22, being approximately 1 acre in size be denied, for the following reasons:

1. The application is inconsistent with the Future Land Use Plan.
2. If approved the O-1 parcel would constitute an undesirable spot zone.

Yes: Hutson, Kerwin, Schultz, Tagle, Vleck
No: None
Absent: Littman, Strat, Troshynski, Wright

MOTION CARRIED

Paula P Bratto

From: Alan Luo [alanluogm@gmail.com]
Sent: Sunday, March 18, 2007 9:57 AM
To: Paula P Bratto
Subject: Z-725 Wattles Rd. Office

We are against this zoning change due to the increased traffic and negative impact to our house value.

Thanks.

Shan Wang & Aihua Luo
99 Crestfield Ave
Troy, MI 48085