TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Susan M. Lancaster, Assistant City Attorney
DATE: May 29, 2007
SUBJECT: Karagiannakis and Garrett Family Partnership v. City of Troy, et. al.

Enclosed please find a copy of a re-plat lawsuit that was recently served on the City of Troy. The Plaintiffs, Nick and Leslie Karagiannakis, are the owners of property that is designated as "Outlot B" in the Troy Villas Subdivision No. 1 (north of Square Lake Road, west of Rochester Road). The Co-Plaintiffs, Garrett Family Limited Partnership (hereinafter "Garrett") has a purchase agreement with the Karagiannakis family for a portion of this property, which has or will be combined with the rear portions of other parcels that front on Square Lake Road. Garrett proposes to build a 12-unit site condominium on this approximately 6.04 acre parcel, which is currently landlocked and is located behind several homes that front on Ottawa and Donaldson.

The plat for the property, Troy Villas Subdivision No. 1, does not expressly designate a public roadway easement that would allow for a roadway to be constructed over the property owned by co-defendants Arthur and Delphine Lubiarz (480 Ottawa). The plat instead grants only a 43-foot private easement over that property. In 1981, a private driveway agreement over this 43-foot private easement allowed for the construction of the Karagiannakis' residence (500 Ottawa). However, this agreement is extremely limited, and authorizes only a private driveway to a single-family residence. It could not be used to service a 12-unit condominium site. The only way to convert the private easement over the Lubiarz property to a public road is to amend the plat and obtain a 43-foot wide public road easement, which could then be combined with the 17-foot wide public road easement for the recently re-platted Golf Estates Subdivision to provide the required 60 feet, for a public road. This adjoining property is currently owned by other co-defendants, James and Cynthia Smith (536 Ottawa).

The Plaintiffs had previously filed an action for Declaratory Judgment. In response, the City filed a Motion for Summary Disposition arguing that the requested relief could only be granted through a lawsuit under the Michigan Subdivision Control Act, which would be filed against all persons having an interest that could be impacted by revisions to the plat. Plaintiffs agreed to voluntarily dismiss their Declaratory Judgment action lawsuit, and have now filed this plat revision lawsuit.

Our office will assume defense of this lawsuit absent objection from City Council. Please let us know if we can provide additional information.

Approved, SCAO

Original - Court
1st copy - Defendant

07-083014-CZ

JUDGE EDWARD SOSNICK
KARAGIANNAKIS V KLEINE,ROBERT

STATE OF MICHIGAN JUDICIAL DISTRICT 6th JUDICIAL CIRCUIT COUNTY PROBATE	SUMMONS AND COMPLAINT

Court address
1200 N. TELEGRAPH ROAD, PONTIAC, MI 48341

Court telephone no.
(248) 858-1000

Plaintiff name(s), address(es), and telephone no(s).	v	Defendant name(s), address(es), and telephone no(s).
Nick and Leslie Karagiannakis 500 Ottawa, Troy, MI 48085 Garrett Family Limited Partnership 5877 Livernois, Suite 103, Troy, MI 48098		City of Troy, Michigan a Michigan Municipal Corporation 500 W. Big Beaver Road Troy, MI 48084 Attn: City Clerk
Plaintiff attorney, bar no., address, and telephone no. Thomas G. Sawyer, (P19929) Hutson, Sawyer, Reilly, Rupp & Schroeder 292 Town Center Drive Troy, MI 48084 (248) 689-5700		

SUMMONS **NOTICE TO THE DEFENDANT:** In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside this state). MCR 2.111(C)
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued	This summons expires	Court clerk
MAY 17 2007	AUG 16 2007	

*This summons is invalid unless served on or before its expiration date.

This document must be sealed by the seal of the court.

COMPLAINT ***Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.***

Family Division Cases

☐ There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.

☐ An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.

The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.

General Civil Cases

☐ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.

☑ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in Oakland County Circuit Court.

The action ☐ remains ☑ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
06-077072-CZ	Edward Sosnick	P20796

VENUE

Plaintiff(s) residence (include city, township, or village)	Defendant(s) residence (include city, township, or village)
Troy, Oakland County, Michigan	Troy, Oakland County, Michigan
Place where action arose or business conducted Troy, Oakland County, Michigan	

May 17, 2007
Date

Signature of attorney/~~plaintiff~~

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you to fully participate in court proceedings, please contact the court immediately to make arrangements.

PROOF OF SERVICE

SUMMONS AND COMPLAINT
Case No. 07- -CZ

TO PROCESS SERVER: You are to serve the summons and complaint not later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the court clerk. If you are unable to complete service you must return this original and all copies to the court clerk.

CERTIFICATE / AFFIDAVIT OF SERVICE / NONSERVICE

☐ **OFFICER CERTIFICATE**
I certify that I am a sheriff, deputy sheriff, bailiff, appointed court officer, or attorney for a party [MCR 2.104(A)(2)], and that: (notarization not required)

OR

☐ **AFFIDAVIT OF PROCESS SERVER**
Being first duly sworn, I state that I am a legally competent adult who is not a party or an officer of a corporate party, and that: (notarization required)

☐ I served personally a copy of the summons and complaint,
☐ I served by registered or certified mail (copy of return receipt attached) a copy of the summons and complaint,

together with _____
List all documents served with the Summons and Complaint

_____

_____ on the defendant(s):

Defendant's name	Complete address(es) of service	Day, date, time

☐ I have personally attempted to serve the summons and complaint, together with any attachments on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete address(es) of service	Day, date, time

Service fee	Miles traveled	Mileage fee	Total fee
$		$	$

_____
Signature

_____
Title

Subscribed and sworn to before me on _____ , _____ County, Michigan.
Date

My commission expires: _____ Signature: _____
Date Deputy court clerk/Notary public

Notary public, State of Michigan, County of _____

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the summons and complaint, together with _____
Attachments

_____ on _____
Day, date, time

_____ on behalf of _____.
Signature

07-083014-CZ

OAKLAND COUNTY JUDGE EDWARD SOSNICK
KARAGIANNAKIS V KLEINE,ROBER

STATE OF MICHIGAN
CIRCUIT COURT FOR THE
COUNTY OF OAKLAND

Nick Karagiannakis and Leslie Karagiannakis,
husband and wife, and
Garrett Family Limited Partnership,
a Michigan Limited Partnership,

Plaintiffs,

Case No. -CZ

V.

Robert J. Kleine, Treasurer of the State of Michigan, John P. McCulloch, Oakland County Drain Commissioner, Larry P. Crake, Chairperson of the Oakland County Road Commission, City of Troy, Michigan, a Michigan Municipal Corporation, Arthur S. Lubiarz and Delphine J. Lubiarz, husband and wife and James E. Smith and Cynthia A. Smith, husband and wife, AT&T Corp, Consumers Energy Company, DTE Energy Company, and all of those persons and entities which are named and listed on the list of Defendants located in, or within 300 feet of, the properties at issue in this cause, or those persons taking under them, which list of Defendants is attached hereto and made a specific part hereof under the Michigan Land Division Act, THERE IS AN ATTACHED LIST OF NAMES AND ADDRESSES OF ADDITIONAL PROPERTY OWNERS AND MORTGAGEE DEFENDANTS, WHICH ARE ALSO NAMED AS DEFENDANTS IN THIS CAUSE AND ARE MADE A PART OF THIS CAPTION OF DEFENDANTS, IN THIS CAUSE AS IF FULLY SET FORTH HEREIN IN EXHIBIT "4",

Defendants

_____/

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By: Thomas G. Sawyer, (P-19929)
292 Town Center Drive
Troy, MI 48084-1774
Phone: (248) 689-5700
Fax: (248) 689-5741
Attorneys for Plaintiffs

_____/

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COMPLAINT FOR CORRECTION OR REVISION OF PLATS UNDER SECTIONS 221 THROUGH 229 OF THE MICHIGAN LAND DIVISION ACT, MCLA 560.221 THROUGH 229, OR FOR REPLAT, AND FOR FURTHER EQUITABLE RELIEF

NOW COME the Plaintiffs, by their attorneys, HUTSON, SAWYER, REILLY, RUPP & SCHROEDER, and for their Complaint For Correction or Revision of Plats Under Sections 221 through 229 of the Michigan Land Division Act, MCLA 560.221 through 229, and for further equitable relief state:

JURISDICTIONAL AND GENERAL ALLEGATIONS

1. Plaintiffs, Nick Karagiannakis and Leslie Karagiannakis, husband and wife, are each residents of Troy, Oakland County, Michigan (herein together "Plaintiffs Karagiannakis") and are the owners of Outlot "B", Troy Villas Sub No. 1, a subdivision plat as recorded on April 5, 1960, in Liber 100 of Plats, Page 35, Oakland County Records. A copy of the plat of Troy Villas Sub No. 1 is attached as Exhibit "1".

2. Plaintiff, Garrett Family Limited Partnership, is a Michigan limited partnership, with its offices in Troy, Oakland County, Michigan (herein 'Plaintiff Garrett"), and has acquired rights to purchase part of Outlot "B" in Troy Villas Sub No. 1.

3. In addition, Plaintiff Garrett is the owner of property abutting Troy Villas Sub No. 1, (herein the "Garrett Property"), which Plaintiff Garrett proposes would

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be added to and become a part of Troy Villas Sub No. 1, City of Troy, Oakland County, Michigan, if Plaintiffs prevail in this cause under Count II of this Complaint. The Garrett Property is described in the attached Exhibit "2".

3. Defendant, City of Troy, Michigan, is a Michigan municipal corporation, with its offices in Troy, Oakland County, Michigan (herein "Defendant Troy"), and has certain jurisdiction over the streets, roadways, public easements, easements for road purposes and dedicated rights-of-way, in Troy Villas Sub No. 1, and Golf Estates Sub, Troy, Oakland County, Michigan, as Golf Estates was recorded on April 21, 1947, in Liber 58 of Plats, Page 23, Oakland County Records, and is required to be joined as a party Defendant under Section 224a of the Michigan Land Division Act. A copy of the Plat of Golf Estates Sub is attached as Exhibit "3" showing the 17 foot dedicated roadway along the westerly property line of Lot 18 in that subdivision.

4. Defendants, Arthur S. Lubiarz and Delphine J. Lubiarz, husband and wife, are, upon information and belief, residents of the City of Troy, Oakland County, Michigan (herein jointly and severally "Defendants Lubiarz"), and are, upon information and belief, the owners of Lot 69, Troy Villas No. 1, Troy, Oakland County, Michigan, except for the West 13 feet, as recorded in Liber 100 of plats, page 35, Oakland County Records, commonly known as 480 Ottawa Drive,

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and are required to be joined as Defendants under Sec. 224a of the Land Division Act.

5. Defendants, James E. Smith and Cynthia A. Smith, husband and wife, are, upon information and belief, residents of the City of Troy, Oakland County, Michigan, (herein jointly and severally "Defendants Smith"), and are, upon information and belief, the owners of that part of Lot 18, Golf Estates Subdivision, Troy, Oakland County, Michigan, described as follows:

> Lot 18, except the East 381 feet of Golf Estates Subdivision, according to the plat thereof, which plat was recorded on May 7, 1947, in Liber 58 of Plats, Page 23, Oakland County Records, commonly known as 536 Ottawa Drive.

and are required to be joined as Defendants under Sec. 224a of the Land Division Act.

6. Defendant, Jay B. Rising, is the Michigan State Treasurer, and is required to be joined as a Defendant under Sec. 224a of the Land Division Act.

7. Defendant, John P. McCulloch is the Oakland County Drain Commissioner, and is required to be joined as a Defendant under Sec. 224a of the Land Division Act.

8. Defendant, Larry B. Crake, is Chairperson of the Oakland County Road Commission, and is required to be joined as a Defendant under Sec. 224a of the Land Division Act.

9. To the knowledge of Plaintiffs, the following public utilities have installations or equipment in Troy

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Villas Sub No. 1 and/or Golf Estates Sub and are required to be joined as Defendants under Sec. 224a of the Land Division Act:

AT&T
DTE Energy
Consumers Energy

10. Upon information and belief, the Defendants, whose names and addresses are listed on Exhibit "4" attached hereto, are either (a) the owners of record title of each lot or parcel of land located within 300 feet of the lands described in this Complaint for correction or revision, or (b) are those persons or entities of record claiming under those owners of record title, and all the persons listed in Exhibit "4" are required to be joined as Defendants under Section 224a of the Land Division Act.

11. When Golf Estates Subdivision was platted on May 7, 1947, the plat reserved a 43 foot easement along the west side of Lot 18.

12. In 1947, when Golf Estates was platted and Defendant Troy was a township, it was, upon information and belief, the practice, policy and procedure of the Oakland County Road Commission, Troy Township and other townships in Oakland County, when property was being platted, but where dedicated streets were not necessarily being installed at that time, to require 43 foot wide easements on each side of the ½ section line for future road purposes. This explains

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the condition contained in the plat of Golf Estates Sub that sets aside and provides a 43 foot easement along the westerly side of Lots 17, 18 and 63 of Golf Estates Sub which was intended for future roadway purposes.

13. While regulations at the time of platting older subdivisions in Oakland County contemplated road rights-of-way along ½ section lines to be 86 feet in width, under current circumstances the regulations of the Defendant Troy, and most municipalities in Oakland County, require public road rights-of-way for single family residential development to be 60 feet in width (rather than 86 feet in width), except along section lines.

14. On December 21, 1964, for the benefit of the predecessors of Defendants Smith, in whose shoes such Defendants now stand, a Court Order vacating Easement and Correcting Description was entered in Oakland County Circuit Court, whereby the 43 foot easement for road purposes, along the westerly boundary of Lot 18 of Golf Estates Sub was vacated, except that the westerly 17 feet of the easement was not vacated, but was "dedicated to the City of Troy by petitioners herein for road purposes", and objections raised, as stated in the Order against "the vacation of the easterly 26 feet of said easement are withdrawn". Defendant Troy was a party to that lawsuit and Court Order which

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dedicated the westerly 17 feet of the easement for road purposes.

15. The result of the December 21, 1964 Court Order was to establish a 17 foot right-of-way for road purposes dedicated to the City of Troy abutting the westerly side of Lot 18 of Golf Estates Sub, which, when combined with the 43 foot easement described in paragraphs 16 and 17 just below, the required 60 feet for road purposes for single family development was thereby preserved which assured road access to and the opportunity to develop Outlot "B", Troy Villas Sub No. 1. A copy of the above Court Order is attached as Exhibit 5.

16. When Troy Villas Sub was platted on February 3, 1955, as part of Troy Township, as recorded in Liber 77 of Plats, Page 26, Oakland County Records, it also required a 43 foot easement along the East line of the subdivision, which was intended for future roadway purposes. Although the plat did not state specifically that the easement was granted for roadway purposes, there can be no valid dispute that this was the reason why it was 43 feet wide in accordance with the policy and procedure of Oakland County Government and Troy Township at that time for ½ section lines. A copy of that plat is attached hereto as Exhibit "6".

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17. When Troy Villas Sub No. 1 was platted on April 5, 1960, at which time Defendant Troy had become a city, that plat was established by platting Outlot A of Troy Villas Sub into Troy Villas Sub No. 1, and provided a 43 foot easement "for road purposes" along the East line of the subdivision, which provided access to Outlot "B" of Troy Villas Sub No. 1.

18. In July 1971, the then owners of Outlot "B" obtained written permission from Defendant Troy to construct a roadway to Outlot "B", which permission was required to meet the requirements of Section 5.167 of the Troy City Code. Copies of that permission were recorded with the Oakland County Register of Deeds in Liber 5696, page 275, OCR, on July 22, 1971. That permission and the provisions of 5.167 of the Troy City Code in effect at that time are attached as Exhibits "7" and "8", respectively. This access roadway was then constructed to Outlot "B".

19. In 1981, the then owners of Outlot "B" again sought permission from Defendant Troy to utilize the 43 foot easement for road purposes as shown on the plat of Troy Villas Sub No. 1, for ingress and egress to and from Outlot "B"; and the Troy City Council, by resolution, directed its City Attorney to prepare an agreement "to grant said use of road easement, while maintaining the authority of the City over the right-of-way". A copy of that resolution is

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attached as Exhibit "9".

20. The Troy City Attorney prepared such an agreement which was signed by Defendant Troy and the then owners of Outlot "B". The terms of the Agreement repeatedly referred to the road easement on the plat as being a "public easement for road purposes", and as a "public easement which was 43 feet wide", and that the City Grantor "shall retain authority over said public road easement right-of-way". A copy of that Agreement was recorded with the Oakland County Register of Deeds on April 13, 1981, in Liber 8002, page 722 OCR, and is attached as Exhibit "10".

21. The language of the foregoing agreement clearly recognized that the 43 foot easement for road purposes was intended as a public road easement right-of-way available to the public for its use.

22. Recently, Plaintiffs Karagiannakis and Plaintiff Garrett have sought through Defendant Troy to utilize this 43 foot public road easement in Troy Villas Sub No. 1, when combined with and added to the 17 foot wide dedicated strip for road purposes in Golf Estates Sub, to establish a 60 foot wide public roadway easement which would permit public access to, and for construction of, a site condominium project on a portion of Outlot "B" of Troy Villas Sub No. 1, utilizing such 60 foot wide public roadway easement.

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23. Upon information and belief, based upon consultation with a retired Michigan licensed civil engineer and surveyor, Richard Graham, who was the Troy City Engineer in the 1960's and 1970's, and consultation with a senior management representative of the Oakland County Road Commission, it was historically, a common practice, policy and procedure in rural communities such as Troy Township (and later the City of Troy) when plats were approved by the municipality, by the Oakland County Plat Board, by the Oakland County Road Commission and by the Auditor General of the State of Michigan, to reserve easements 43 feet wide on each side of a ½ section line (a total of 86 feet wide) to assure that there would be land reserved for construction of public roadways along these ½ section lines. The Affidavit of Richard Graham in support of this Complaint is attached hereto and made a part hereof.

24. Upon information and belief, the above referenced governmental entities at that time didn't necessarily require that the roadways be dedicated or that road improvements be installed at the time of platting, but required that the plat would preserve 43 feet of land by easement on each side of the ½ section line for future road use; this is the reason why the earlier plats in Troy Township and later the City of Troy either make reference to

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easements for road or street purposes or reserve 43 foot easements along the ½ section lines.

25. Defendant Troy, or its predecessor, Troy Township, have utilized these types of reserved road easements in plats to establish public roadways in other instances that Plaintiffs are aware of.

26. Upon information and belief, under current regulations, the Oakland County Road Commission, Defendant Troy and most municipalities in Oakland County, the practice of requiring an easement for right-of-way purposes has been changed, and such entities now require the dedication of the fee interest in a road right-of-way even when the roadway is not being constructed and opened at that time.

27. Upon information and belief, Defendant Troy now is concerned that even though the plat of Troy Villas Sub No. 1 refers specifically to a 43 foot easement for "road purposes", that the plat does not state that the easement for road purposes is dedicated to the public, and that Defendant Troy believes it is necessary or advisable to have a dedicated public street right-of-way in order to allow this roadway to be installed to Outlot "B", even though at the time when Troy Villas Sub No. 1 and Golf Estates Sub were platted it was not the practice to require specific dedication of the land on which the 43 foot easement was established and reserved for future road use.

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28. The establishment of right-of-way easements, rather than dedicated fee interests for the 17 foot easement in Golf Estates Sub and the 43 foot easement and Troy Villas Sub No. 1, was accomplished pursuant to the then prevailing requirements and fully complied with the policy, practice and procedure for road rights-of-way by the governmental entities then having jurisdiction over such roadways; in acquiring Outlot B, Plaintiffs relied upon such then lawful establishment of roadway easements, and it is now not feasible to comply with the changed policy as specified in the following paragraph.

29. Plaintiffs believe, and therefore allege, that the intent of Defendant Troy in approving the plat of Troy Villas Sub No. 1 for recording in 1960, as well as the intent of other governmental agencies approving the plat, was to reserve this 43 foot easement for road purposes for a public roadway in the future, together with the 43 foot easement reserved along the westerly side of Golf Estates Sub; both easements being located along the ½ Section line of Section 3, City of Troy, Michigan.

30. Further evidence of Defendant Troy's intent to establish a future roadway at this location, is evidenced by the fact that on December 21, 1964, Defendant Troy consented to a Court Order specifically agreeing to vacate a 26 foot portion of the 43 foot easement in Golf Estates Sub, in

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exchange for a dedication of the westerly 17 feet of that easement for road purposes. The only logical reason for dedicating the 17 feet was to tie it in directly with the 43 foot easement reserved for roadway in Troy Villas Sub No. 1, thereby establishing a total of 60 feet for a future public roadway along the ½ section line, intended to be known as Montclair Street.

31. Without the availability of a public roadway 60 feet wide serving Outlot B of Troy Villas Sub No. 1, Plaintiffs Karagiannakis and/or Plaintiff Garrett would be arbitrarily and unreasonably prohibited, without the achievement of any legitimate governmental interest, and contrary to the public policy encouraging the productive use of land, from utilizing all of Outlot B for a permitted use and development for single family residential purposes as intended when that subdivision was platted.

COUNT I - CORRECTION OR REVISION OF PLATS TO ESTABLISH A PUBLIC ROADWAY

32. Plaintiffs repeat and re-allege the allegations of paragraphs 1 through 31 of this Complaint as though fully set forth herein.

33. Sections 221 through 229 of the Michigan Land Division Act, MCLA 560.221 through 229, set forth provisions for the correction or revision of plats.

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34. Upon information and belief, Plaintiffs have joined the necessary parties to correct or revise the plats of Troy Villas Sub No. 1 and Golf Estates Sub to establish that:

(a) The existing 43 foot road easement extending South from Ottawa Drive to a point 179.92 feet North of the Southeast corner of Outlot "B" of Troy Villas Sub No. 1 should be determined to be a public roadway dedicated to the use of the public and all incidental uses for public utilities, to be used as a public roadway in conjunction with the 17 foot dedicated easement referenced in subparagraph (b) just below, to provide service for the benefit of Outlot B.

(b) The existing 17 foot easement in Golf Estates Sub presently dedicated to the City of Troy for road purposes by Court Order of the Oakland County Circuit Court dated December 21, 1964, shall be determined to be a dedicated public roadway as part of the plat of Golf Estates Sub, dedicated to the use of the public, and used as a public roadway, with all incidental uses for public utilities to be used in conjunction with the 43 foot easement referenced in subparagraph (a) just above, to provide service for the benefit of Outlot B.

35. That the plats of Troy Villas Sub No. 1 and Golf Estates Sub shall be corrected and revised to establish that

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the 43 foot easement and 17 foot dedicated roadway are combined together to create a dedicated public roadway which includes the incidental right to use them for the installation of public utilities to provide service for the benefit of Outlot B.

36. That this Court should direct all parties having jurisdiction to take all necessary action to ensure that the above roadway easements are dedicated to the public and that the plats of Troy Villas Sub No. 1 and Golf Estates Sub are properly corrected and revised and recorded with the Oakland County Register of Deeds in accordance with this Judgment.

WHEREFORE, Plaintiffs pray that:

A. This Court correct and revise the plat of Troy Villas Sub No. 1, City of Troy, Oakland County, Michigan, so that the existing 43 foot easement extending South from Ottawa Drive to a point 179.92 feet North of the Southeast corner of Outlot "B" is determined to be a public roadway dedicated to the use of the public, together with all incidental uses for public utilities to provide service for the benefit of Outlot B.

B. This Court correct and revise the plat of Golf Estates Sub, City of Troy, Oakland County, Michigan, so that this extending 17 foot dedicated easement which is part of the Easterly 17 feet of Lot 18 is determined to be a public roadway dedicated to the use of the public, together with

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all incidental uses for public utilities, to provide service for the benefit of Outlot B.

C. That the interested parties, including all governmental authority having jurisdiction over plat corrections and revisions, take all necessary action to assure that these roadway easements are dedicated to the public, and that the plats of Troy Villas Sub No. 1 and Golf Estates Sub are corrected and revised in accordance with this Judgment and recorded with the Oakland County Register of Deeds.

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COUNT II - ALTERNATIVE CORRECTION OR REVISION OF PLATS TO ESTABLISH PUBLIC EASEMENT FOR ROADWAY USE

37. Plaintiffs repeat and re-allege the allegations of paragraphs 1 through 36 of the Complaint as though fully set forth herein.

38. In the event that this Court should determine that the plats of Troy Villas Sub No. 1 and Golf Estates Sub cannot be corrected or revised to establish a dedicated public roadway 60 feet wide as prayed for in Count I, then Plaintiffs assert that, as an alternative, the Court should enter its order and judgment establishing a public and/or private easement with the width determined appropriate by the Court, including:

A. Pursuant to the plat of Troy Villas Sub No. 1, this Court should determine that the plat of Troy Villas Sub No. 1 should be corrected or revised to clarify that there is a valid established easement for roadway purposes at least 43 feet wide that can be utilized as a public and/or private easement access road to Outlot "B", which can be utilized by Plaintiffs or their successor owners of Outlot "B" for ingress, egress and installation of public utilities within such easement pursuant to the Michigan Land Division Act and applicable provisions of the Troy City Code; and,

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AX (248) 689-5741

B. That the Oakland County Circuit Court has previously determined in 1964 that there is a 17 foot dedicated roadway extending along the Westerly property line of Lot 18 of Golf Estates Sub, and this Court should determine that the plat of Golf Estates Sub should be corrected or revised to clarify that there is a valid 17 foot dedicated roadway pursuant to Court Order that should be shown on the plat of Golf Estates Sub; and that this 17 foot roadway can be utilized by Plaintiffs, or their successors or owners of Outlot "B", as part of the roadway access to Outlot "B".

39. That Defendant Troy has previously authorized Plaintiffs Karagiannakis, and their predecessors as owners of Outlot "B", to utilize the 43 foot easement for access to Outlot "B" since at least 1971, and this Court should determine that this easement is intended to provide easement access and incidental public utility use of this easement, and that Plaintiffs can extend that existing roadway across Outlot "B" to accommodate the site condominium project that they intend to construct within Outlot "B".

WHEREFORE, Plaintiffs pray for alternative relief as follows:

A. That the plat of Troy Villas Sub No. 1 shall be corrected or revised to clarify that there is a valid established easement for roadway purposes at least 43 feet

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wide that can be utilized as a public and/or private easement access road to Outlot "B", and that this shall include the right to use that roadway easement for installation of public utilities, to provide service for the benefit of Outlot B.

B. That the plat of Golf Estates Sub shall be corrected or revised to clarify and there is a valid 17 foot dedicated roadway that should be included on the plat of Golf Estates Sub, which can be utilized by Plaintiffs, or their successors, along with the 43 foot easement across Troy Villas No. 1, as part of the roadway access to Outlot "B", including the right to use that roadway easement for installation of public utilities, to provide service for the benefit of Outlot B.

C. That the interested parties, including all governmental authority have jurisdiction over plat corrections and revisions, take all necessary action to assure that their roadway easements are corrected or revised, to indicate that they are part of the plats of Troy Villas Sub No. 1 and Golf Estates Sub, including incidental use of the easements for public utilities and are recorded with the Oakland County Register of Deeds.

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COUNT III - FURTHER CORRECTION OR REVISION TO THE PLAT OF TROY VILLAS SUB NO. 1 BY REPLAT TO ADD ADDITIONAL LAND TO OUTLOT "B"

41. Plaintiffs repeat and re-allege the allegations of paragraphs 1 through 40 hereof as though fully set forth herein.

42. In the event the Court elects to correct or revise the plat of Troy Villas Sub No. 1 to establish a public and/or private easement for roadway purposes and installation of public utilities across part of Troy Villas Sub No. 1 and/or Golf Estates Sub, as prayed for as an alternative relief in Count II of this Complaint, rather than to grant the relief prayed for by Plaintiffs in Count I of this Complaint, then it will be necessary to further correct or revise the plat of Troy Villas Sub No. 1 by replat to add a parcel of land to the plat as an additional part of Outlot "B"; such parcel of land in the City of Troy, Oakland County, Michigan, to be added to the plat as part of the replat is described as follows:

> SEE LEGAL DESCRIPTION PART "B" OF PARCEL 20 containing 0.99 acres attached hereto as Exhibit "2" which is part of Certificate of Survey of Professional Engineering Associates dated 6/17/05, Job No. 2002014.

43. The addition of this acreage land to Outlot "B" as part of the replat of Troy Villas Sub No. 1 will permit Plaintiffs to include that property in its site condominium

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development as part of an additional lot and to provide a detention area within the site condominium development as shown on the plan for site condominium development attached hereto as Exhibit "11".

WHEREFORE, Plaintiffs pray for alternate relief as follows:

A. If this Court elects to correct or revise the plat of Troy Villas Sub No. 1 and/or Golf Estates Sub in accordance with the alternative relief set forth in Count II of the Complaint, that it further replat the subdivision by the addition of the acreage property in the City of Troy, Oakland County, Michigan, described in paragraph 42 of this Count III as a part of Outlot "B".

B. That the interested parties, including all governmental authority having jurisdiction over plat correction and revisions and replats of a subdivision, take all necessary action to assure that such additional acreage parcel is added to Outlot "B" of Troy Villas Sub No. 1 thereby increasing the size of Outlot "B" to the extent of such additional property.

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COUNT IV - DECLARATORY JUDGMENT UNDER MCR 2.605 OR OTHER EQUITABLE RELIEF DETERMINING THAT LOT 69, (EXCEPT THE WEST 13 FEET) OF TROY VILLAS SUB NO. 1, AND LOT 18 (EXCEPT THE EAST 381 FEET OF GOLF ESTATES SUB) ARE NOT NON-CONFORMING LOTS IF A PUBLIC ROADWAY OR A PUBLIC OR PRIVATE ROADWAY ARE ESTABLISHED ABUTTING THOSE PROPERTIES.

44. Plaintiffs repeat and re-allege the allegations of paragraphs 1 through 43 of the Complaint as though fully set forth herein.

45. The plat of Golf Estates Sub was recorded in 1947 when Defendant Troy was a township, and the plat provided for a 43 foot easement along the westerly side of Lot 18 in that Sub. Plaintiffs assert that the 43 foot easement was clearly intended for road purposes in accordance with accepted platting practices in Oakland County at that time.

46. Upon information and belief, in about 1964, the then owners of part of Lot 18, Golf Estates Sub built a home directly in that 43 foot easement.

47. Upon information and belief, when the owners of part of Lot 18 discovered that they had constructed their home within a roadway easement, they initiated a plat revision lawsuit to amend the plat of Golf Estates Sub and they joined Defendant Troy in that lawsuit.

48. That lawsuit resulted in a Court Order in 1964, Exhibit "5" hereto, which eliminated the 43 foot easement across part of Lot 18 and the owners of part of Lot 18

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dedicated the remaining 17 feet of that easement to Defendant Troy for roadway purposes.

49. Upon information and belief, the intent and result of the 1964 Court Order was to remove the home on part of Lot 18 from its encroachment into the 43 foot easement, and left Defendant Troy with a dedicated 17 foot roadway which tied in with the abutting 43 foot easement for road purposes in Troy Villas Sub No. 1, thereby establishing a 60 foot roadway, to provide service for the benefit of Outlot B.

50. Upon information and belief, there was no Defendant Troy ordinance requirement in 1964 that the side yard of lots having double road frontage must set back 40 feet from the roadway, and so the home was permitted to remain on part of Lot 18 well within 40 feet of the roadway frontage on its side yard; however, and in all events, the home was constructed within the easement, and now within close proximity of the dedicated 17 foot roadway easement, by the predecessors of Defendants Smith, in whose shoes such Defendants now stand, with full notice of the easement as provided by the 1964 Court Order.

51. Upon information and belief, by 1982, part of Lot 18 Golf Estates Sub was a non-conforming lot, as evidenced in part by the fact that the owners applied for and obtained a variance to build a 30 foot by 40 foot accessory building on their non-conforming lot.

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52. Upon information and belief, the owners of part of Lot 69, Troy Villas Sub No.1, obtained a permit to build their house in September 1976. In their plot plan submitted to Defendant Troy they did not show that they were building the house within approximately 32.5 feet of the existing roadway easement on the East side of their house. It is not certain what the Defendant Troy side yard setback requirement was at that time from roadway easements, but it is clear that the house and attached garage were built within approximately 32.50 feet of that roadway easement which had been approved and constructed before the house was built on part of Lot 69.

53. Upon information and belief, the Defendant Troy has not enforced its side yard setback requirements against either the Smith property, part of Lot 18, Golf Estates Sub, or the Lubiarz property, part of Lot 69, Troy Villas Sub No. 1, and both properties are presently non-conforming uses since their side yards encroach into the existing 40 foot side yard set back from roadways or roadway easements.

54. It is anticipated that Defendant Troy and/or Defendant Lubiarz and/or Defendants Smith may assert that the granting of Plaintiff's request in Count I and/or Count II of this Complaint for a correction or revision to the plats of Troy Villas Sub No. 1 and Golf Estates Sub will

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result in the creation of a new non-conforming use of their property which will impair the value of their property.

55. However, any non-conforming use was self-imposed as to Defendants Smith on part of Lot 18 of Golf Estates Sub since their predecessor built the home right into the 43 foot easement of which 17 feet is now a dedicated roadway to Defendant Troy as a result of the 1964 Court Order.

56. As to the Defendants Lubiarz property, part of Lot 69 of Troy Villas Sub No. 1, their building is already located within approximately 32.5 feet of the existing 43 foot easement for roadway purposes.

57. This Court under its declaratory relief powers in MCR 2.605 has the authority to equitably determine that the Defendants Lubiarz and Defendants Smith properties are already non-conforming structures or uses, and that the non-conformity is not caused by any acts of Plaintiffs in attempting to utilize their property, Outlot "B", for valid site condominium development purpose.

58. This Court should determine under its general equitable powers that Defendants Lubiarz and Defendants Smith properties are presently non-conforming properties under the Defendant Troy Ordinances, and that the non-conformity is not established by permitting Plaintiffs to use their property for a valid legal purpose, but was established by prior actions of Defendants Smith and

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Lubiarz, or their predecessors in whose shoes they now stand, in relation to the now existing ordinances of Defendant Troy.

59. Plaintiffs should not be deprived of the use of their property when the 60 foot roadway between Troy Villas Sub No. 1 and Golf Estates sub has existed since at least 1960, and any non-conformity will not be caused by the grant of relief sought by Plaintiffs in Count I and/or Count II, but was caused by the acts of Defendants Lubiarz and/or Smith, or their predecessors in whose shoes they now stand, by constructing their homes within the required setback area, or as a result of the previous establishment of the setback area by Ordinance after the homes had been constructed on part of Lot 18 and part of Lot 69 and thereby created an existing non-conformity of those two lots.

WHEREFORE, Plaintiffs pray as follows:

A. That this Court enter a Declaratory Judgment under MCR 2.605 determining that the granting of the relief prayed for by Plaintiffs under this lawsuit will not be the cause of any non-conforming condition to the properties of Defendants Lubiarz or Defendants Smith and that any such condition already existed prior to the filing of this case.

B. That Plaintiffs are entitled to general equitable relief under the powers granted to this Court to declare that, if the Court grants Plaintiffs the right to

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utilize their property for the purposes prayed for in Count I and/or Count II, such grant of relief sought by Plaintiffs shall not result in the creation of nonconforming uses, and that previously created non-conforming uses existed on the Smith and Lubiarz properties at the time of filing this case.

Respectfully submitted,

HUTSON, SAWYER, REILLY,
RUPP & SCHROEDER

By: _____
Thomas G. Sawyer (P19929)
Attorneys For Plaintiffs
292 Town Center Drive
Troy, MI 48084-1774
(248) 689-5700

Dated: MAY 17, 2007

Complaint For Further Relief

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ORIGINAL

.190 .35

"TROY VILLAS NO. 1"

A PART OF THE S.W. ¼ OF SEC. 3, T-2-N, R-11-E, CITY OF TROY, OAKLAND COUNTY, MICHIGAN.

JANUARY 1959

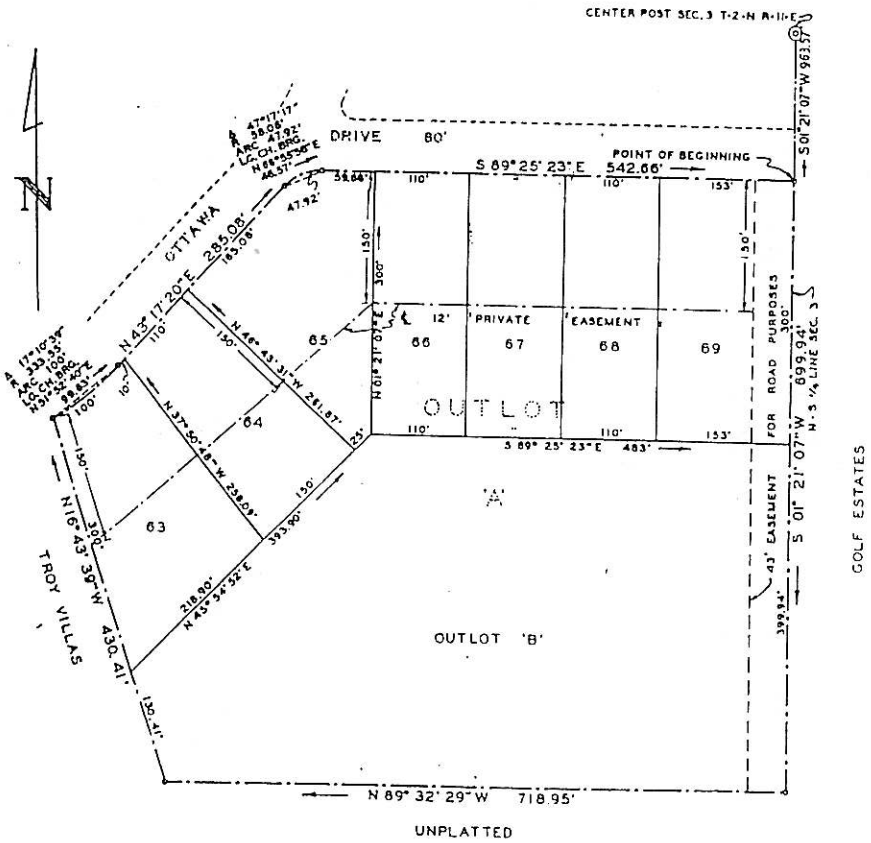
SCALE: 1" = 100'

0 25 50 100 200 300 400

ALL DIMENSIONS ARE GIVEN IN FEET AND DECIMALS THEREOF.
CURVE DISTANCES SHOWN ARE MEASURED ALONG ARC OF CURVE

EXAMINED AND APPROVED
Date
OTIS M. SMITH
AUDITOR GENERAL
By
O. L. MACKAY - Plat Engineer

Plat approved pursuant to provisions of Act 172 of P. A. of 1929, as amended this
day of 19
OAKLAND COUNTY PLAT BOARD
Chairman-Chm. Bd. of Supvrs.
Chairman Jr. County Clk. Treas. of Drains
Chairman County Drain Commissioner
R. F. Mickle, Chm. Board of Auditors
J. C. Ashton, Vice Chm. Board of Auditors
R. E. Lilly, Secretary Board of Auditors



DESCRIPTION OF LAND PLATTED

The land embraced in the annexed plat of "Troy Villas No. 1", a part of the S.W. 1/4 of Section 3, T-2-N., R-11-E., City of Troy, Oakland County, Michigan, being a replat of Outlot "A" of Troy Villas, is described as follows; Beginning at a point on the N. & S. 1/4 line of Section 3, T-2-N., R-11-E., City of Troy, Oakland County, Michigan, said point being S.01°21'07"W., 963.57 feet from the center post of said Section 3; thence S.01°21'07"W., along the said N. & S. 1/4 line, 699.94 feet; thence N.89°32'29"W., 718.95 feet; thence N.16°43'39"W., 430.41 feet; thence along the arc of a curve to the left, said curve having a radius of 333.55 feet and long chord bearing N.51°52'40"E., 99.63 feet, an arc distance of 100.0 feet; thence N.43°17'20"E., 285.08 feet; thence along the arc of a curve to the right, said curve having a radius of 58.06 feet and long chord bearing N.66°55'58"E., 46.57 feet, an arc distance of 47.92 feet; thence S.89°25'23"E., 542.66 feet to the point of beginning, containing 7 lots and 1 outlot.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That we Max Rosenfeld and Fannie Rosenfeld, his wife as proprietors, have caused the land embraced in the annexed plat to be surveyed, laid out and platted, to be known as "Troy Villas No. 1", a part of the S.W. 1/4 of Section 3, T-2-N., R-11-E., City of Troy Oakland County, Michigan, and that the streets as shown on said plat are hereby dedicated to the use of the public and all easements indicated as "Private Easements" are not dedicated to the use of the public but the right to use such private easements is hereby reserved for public utilities and for any uses designated hereon and no permanent structures are to be erected within the limits of said easements.

Signed and Sealed in
the Presence of:

ROSEANN MALCOLM Witness — Max Rosenfeld (L.S.)

JUNE E. METCALF Witness — Fannie Rosenfeld (L.S.)

ACKNOWLEDGEMENT

STATE OF MICHIGAN, ss.
County of , ss.

On this day of 19 , before me, a Notary Public in and for said county, personally came the above named Max Rosenfeld and Fannie Rosenfeld, known to me to be the persons who executed the above dedication, and acknowledged the same to be their free act and deed.

ROSEANN MALCOLM
Notary Public Co., Mich.

My Commission expires

MUNICIPAL APPROVAL

This plat was approved by the City of Troy
of the County of Oakland
at a meeting held 6-1-5

J. LAWSON LOCKHART
City

SURVEYOR'S CERTIFICATE

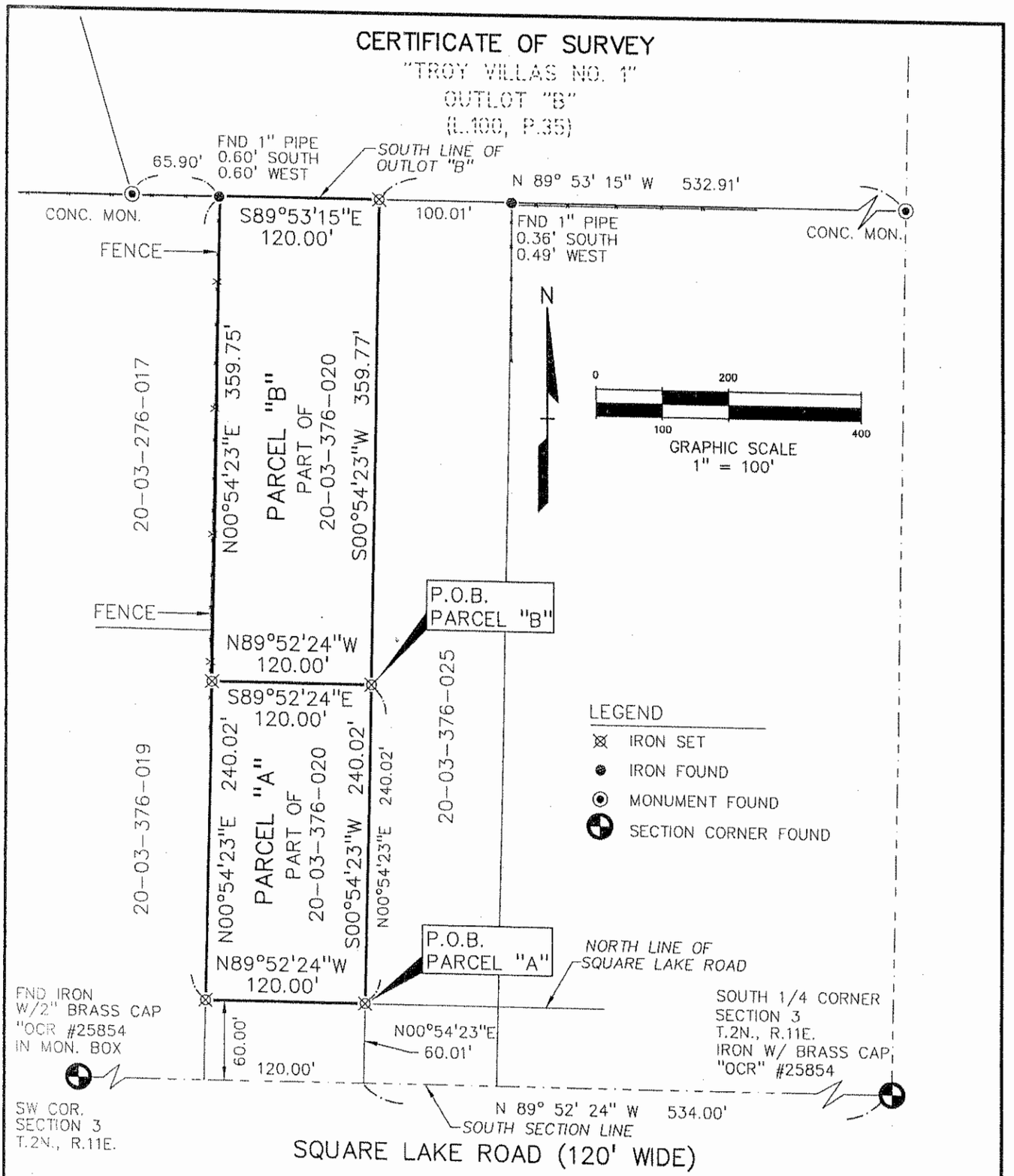
I hereby certify that the plat hereon delineated is a correct one and that permanent metal monuments consisting of bars not less than one-half inch in diameter and 36 inches in length, or shorter bars of not less than one-half inch in diameter lapped over each other at least 6 inches with an overall length of not less than 36 inches, encased in a concrete cylinder at least 4 inches in diameter and 36 inches in depth have been placed at points marked thus [O] as thereon shown at all angles in the boundaries of the land platted, at all the intersections of streets, intersections of alleys, or of streets and alleys, and at the intersections of streets and alleys with the boundaries of the plat as shown on said plat.

E. J. Giffels, Registered Professional Engineer

EXHIBIT 1

CERTIFICATE OF SURVEY

"TROY VILLAS NO. 1"
OUTLOT "B"
(L.100, P.35)



I, Nicola Marini, a Licensed Land Surveyor in the State of Michigan, certify that I have surveyed the parcel(s) of land hereon described; that are no encroachments except as shown; that the field error of closure is 1 part in 70,000; and that I have complied with the survey requirements of Public Act 132 of 1970, as amended. The seller of this property is required to record this instrument at the time of sale.

NICOLA MARINI, MI L.S. 26462
AGENT FOR P.E.A.

PROFESSIONAL ENGINEERING ASSOCIATES
2430 Rochester Ct. Suite 100
Troy, MI 48083-1872
(248) 689-9090

CLIENT:		
LADD'S INC. 5877 LIVERNOIS ROAD S-103 TROY, MICHIGAN 49098	SCALE: 1"= 100' DATE: 6-17-05 REVISED 5-10-07	JOB No: 2002014 DWG. No: 1 of 2

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EXHIBIT "2"

CERTIFICATE OF SURVEY

LEGAL DESCRIPTION
(FROM TAX ID. 20-03-376-020)

LAND LOCATED IN THE CITY OF TROY, COUNTY OF OAKLAND, STATE OF MICHIGAN, DESCRIBED AS FOLLOWS:
THE WEST 120 FEET OF THE EAST 5 ACRES OF THE SOUTH 20 ACRES (MEASURED AS EAST 20 ACRES) OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 3, TOWN 2 NORTH, RANGE 11 EAST, EXCEPT THE SOUTH 60 FEET THEREOF TAKEN FOR SQUARE LAKE ROAD.

LEGAL DESCRIPTION
PARCEL "A"

PART OF THE ABOVE LEGAL DESCRIPTION FROM TAX ID. 20-03-376-020, PART OF THE SOUTHWEST 1/4 OF SECTION 3, T. 2 N., R. 11 E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN, COMMENCING AT THE SOUTH 1/4 CORNER OF SECTION 3; THENCE ALONG THE SOUTH SECTION LINE N 89°52'24" W, 534.00 FEET; THENCE N 00°54'23" E, 60.01 FEET TO THE NORTH RIGHT OF WAY LINE OF SQUARE LAKE ROAD (120 FEET WIDE) AND THE POINT OF BEGINNING; THENCE N 89°52'24" W, 120.00 FEET; THENCE N 00°54'23" E, 240.02 FEET; THENCE S 89°52'24" E, 120.00 FEET; THENCE S 00°54'23" W, 240.02 FEET TO THE POINT OF BEGINNING, CONTAINING 0.66 ACRES.

LEGAL DESCRIPTION
PARCEL "B"

PART OF THE ABOVE LEGAL DESCRIPTION FROM TAX ID. 20-03-376-020, PART OF THE SOUTHWEST 1/4 OF SECTION 3, T. 2 N., R. 11 E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN, COMMENCING AT THE SOUTH 1/4 CORNER OF SECTION 3; THENCE ALONG THE SOUTH SECTION LINE N 89°52'24" W, 534.00 FEET; THENCE N 00°54'23" E, 60.01 FEET TO THE NORTH RIGHT OF WAY LINE OF SQUARE LAKE ROAD (120 FEET WIDE); THENCE CONTINUING N 00°54'23" E, 240.02 FEET TO THE POINT OF BEGINNING; THENCE N 89°52'24" W, 120.00 FEET; THENCE N 00°54'23" E, 359.75 FEET TO THE SOUTH LINE OF OUTLOT "B"; THENCE S 89°53'15" E, 120.00 FEET; THENCE S 00°54'23" W, 359.77 FEET TO THE POINT OF BEGINNING, CONTAINING 0.99 ACRES.

SECTION CORNERS

SOUTH 1/4 CORNER SECTION 3, T.2N.,R.11E.
BRASS CAP PS No. 25854

PK NAIL WITH TAG No. 25854 IN NW FACE UTILITY POLE	N13°E., 29.80'
PK NAIL WITH TAG No. 25854 IN NW FACE UTILITY POLE	S25°E., 53.20'
PK NAIL WITH TAG No. 25854 IN NW FACE UTILITY POLE	S04°E., 88.58'
TOP NUT OF HYDRANT	S36°W., 51.87'

SOUTHWEST CORNER SECTION 3, T.2N., R.11E.
BRASS CAP PS No. 25854

PK NAIL WITH TAG No. 25854 IN NW FACE UTILITY POLE	N53°E, 69.15'
PK NAIL WITH TAG No. 25854 IN SW FACE UTILITY POLE	S50°E., 50.25'
PK NAIL WITH TAG No. 25854 IN NW FACE UTILITY POLE	S52°W., 54.62'
PK NAIL WITH TAG No. 25854 IN S FACE UTILITY POLE	N65°W., 62.88'

PROFESSIONAL ENGINEERING ASSOCIATES
2430 Rochester Ct. Suite 100
Troy, MI 48083-1872
(248) 689-9090

CLIENT: LADD'S INC. 5877 LIVERNOIS ROAD S-103 TROY, MICHIGAN 49098	SCALE: NONE	JOB No: 2002014
	DATE: 6-17-05 REVISED 5-10-07	DWG. No: 2 of 2

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ORIGINAL

"GOLF ESTATES"

A SUBDIVISION OF A PART OF THE SE.¼ OF SEC. 3 T.2N.R.11E.

TROY TWP.

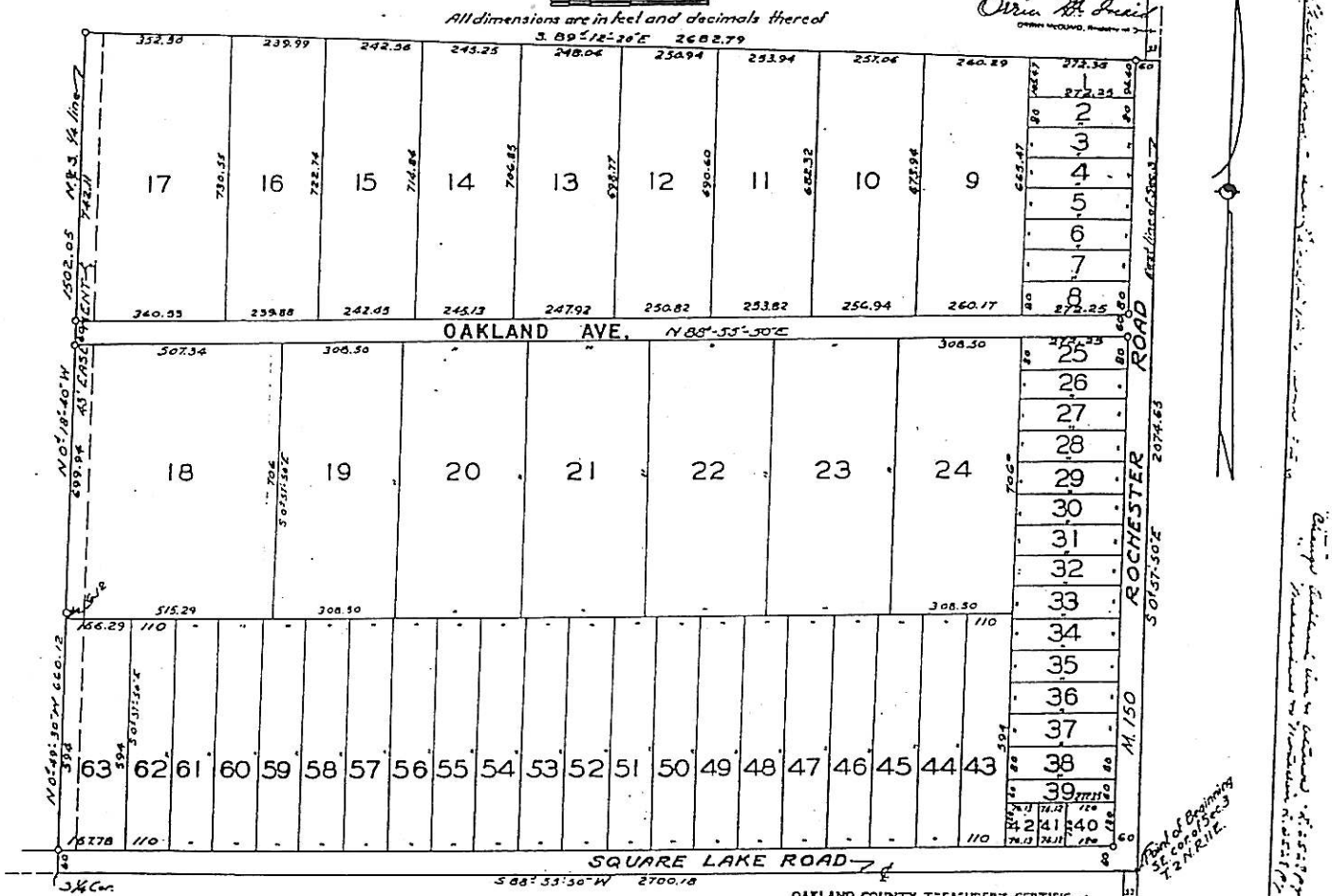
OAKLAND COUNTY, MICH.

Examined and Approved
May 6, 1947
Thos. Brown Jr.
Director of Property Tax Division

REGISTER OF DEEDS
Oakland County, Mich. } ss.
Received for record May 7 1947
at 13 o'clock 33 min. P.M. and recorded in
Liber 38 pg. 44-45 of Oakland
County Records.
Orin McCloud, Register of Deeds

SCALE 1 inch = 200 ft.

All dimensions are in feet and decimals thereof



DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that we THE GOLF ESTATES SUBDIVISION COMPANY MICHIGAN corporation by LEWIS G. ERB its President, and MARY G. MacDONALD its Secretary, as proprietor, have caused the land embraced in the annexed plat to be surveyed, laid out and platted to be known as "GOLF ESTATES" a subdivision of a part of the SE 1/4 of Section 3 T 2 N R 11 E Troy Township, Oakland County, Michigan and that the streets and alleys as shown on said plat are hereby dedicated to the use of the public.

Signed and Sealed in the Presence of:

THE GOLF ESTATES SUBDIVISION COMPANY

JOHN C. DOYLE (Witness) — LEWIS G. ERB (President)

CLARE J. ANKELOW (Witness) — MARY G. MacDONALD (Secretary)

ACKNOWLEDGMENT

STATE OF MICHIGAN } ss.
County of Oakland }

On this 1st day of April A.D. 1947, before me a Notary Public in and for said county appeared LEWIS G. ERB and MARY G. MacDONALD to me personally known, who being each by me duly sworn did say that they are the President and Secretary respectively of the GOLF ESTATES SUBDIVISION COMPANY a Michigan corporation, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors and said LEWIS G. ERB and MARY G. MacDONALD acknowledged said instrument to be the free act and deed of said corporation. Corporation has no corporate seal.

Clare L. Johnson
Notary Public, Oakland County
My Commission expires March 24, 1949

DESCRIPTION OF LAND PLATTED

The land embraced in the annexed plat of "GOLF ESTATES" a subdivision of a part of the SE. 1/4 of Section 3, T. 2 N. R. 11 E. Troy Township, Oakland County, Michigan is described as follows:

Beginning at the SE. corner of said section 3, thence S 88° 55' 50" W on the South Section line 2700.18 ft. to the S 1/4 corner, thence N 0° 49' 30" W on the N and S 1/4 line 660.12 ft., thence N 0° 18' 40" W on the 1/4 line 1502.05 ft., thence S 89° 12' 20" E. 2682.79 ft. to the East section line, thence S 0° 57' 50" E on the East section line 2074.65 ft. to the point of beginning.

APPROVAL BY BOARD OF COUNTY AUDITORS

Approved by the Board of County Auditors of Oakland County, Michigan, this 22nd day of April 1947

Robert T. Moore (Chairman)
John C. Austin
W. H. Morley

MUNICIPAL APPROVAL

This plat was approved by the Township Board of the Township of Troy at a meeting held

NORMAN R. BARNARD (Clerk)

APPROVED
Charles M. Ziegler
State Highway Commissioner

OAKLAND COUNTY TREASURER'S CERTIFICATE

No. R6338 — April 21, 1947

I HEREBY CERTIFY that there are no Tax Liens or Titles held by the State or any individual in favor of any person for unpaid taxes or special assessments on any of the lands described on the within plat, except as shown on the face hereof.

Chas. W. Foster
County Treasurer

Width and location of State Trunk Lines and Federal Aid Roads O. K.

CHARLES M. ZIEGLER
State Highway Commissioner

APPROVAL BY BOARD OF COUNTY ROAD COMMISSIONERS

This plat has been examined and was approved on the 19th day of July 1946 by the Oakland County Board of Road Commissioners.

Lee O. Brooks (Chairman)
Luther D. Allen (Member)
Sot Lonnerson (Member)

SURVEYOR'S CERTIFICATE

I hereby certify that the plat hereon delineated is a correct one and that permanent monuments consisting of bars not less than one-half inch in diameter and 48 inches in length, or shorter bars of not less than one-half inch in diameter tapped over each other at least 6 inches with an over-all length of not less than 48 inches, encased in a concrete cylinder at least four inches in diameter and 48 inches in depth have been placed at points marked thus (o) as thereon shown at all angles in the boundaries of the land platted, and all intersections of streets with the boundaries of the plat as shown on said plat.

Earl L. Clark
EARL L. CLARK
Registered Land Surveyor

Liber 58 pg. 23

Old Wes plat and Lot 18 Liber 50 pg 357 12/31/64

EXHIBIT "3"

LIST OF NAMES AND ADDRESSES
OF ADDITIONAL PROPERTY OWNERS
AND MORTGAGES DEFENDANTS
NOT SPECIFICALLY NAMED IN CAPTION
TO CASE NO. 07-_____-CZ

Michael A. Johnson and Nelly M. Alvarado
422 E. Square Lake Road
Troy, MI 48085

New Century Financial, LLC
300 Park, Suite 100
Birmingham, MI 48085

Charter One Bank, N.A.
1250 W. 14 Mile Road
Troy, MI 48085

Dollar Bank, F.S.B.
Mortgage Service Center
PO Box 8466
Canton, OH 44711

Earl Melton and Margrethe Melton
6055 Montclair Drive
Troy, MI 48085

Standard Federal Bank
2600 W. Big Beaver Road
Troy, MI 48084

Douglas F. Avery and Bonny A. Avery
440 Ottawa Drive
Troy, MI 48085

Gloria K. Hein Living Trust
382 Ottawa Drive
Troy, MI 48085

Gary W. Molnar and Charlene K. Molnar
323 E. Square Lake Road
Troy, MI 48085

Walter L. Krell
350 Ottawa Drive
Troy, MI 48085

EXHIBIT "4"

ABN AMRO Mortgage Group, Inc.
2600 W. Big Beaver Road
Troy, MI 48084

Darell Dowdy and Dyanne Dowdy
390 E. Square Lake Road
Troy, Mi 48085

Standard Federal Bank, N.A., Collateral Services
4747 W. Irving Park Road
Chicago, IL 60641-9915

Timothy Ellis
374 Ottawa Drive
Troy, MI 48085

Rizwan Qadir
4108 Glencastle
Troy, MI 48098

Mortgage Electronic Registration Systems
PO Box 2026
Flint, MI 48501-2026

Frank L. Schaller and Debra L. Schaller
362 Ottawa Drive
Troy, MI 48085

Lisa A. Blankenship
400 Ottawa Drive
Troy, MI 48085

Roman Kulikowski and Marianna Kulikowski
450 Ottawa Drive
Troy, MI 48085

Ukrainian Self Reliance (MI) Credit Union
26791 Ryan Road
Warren, MI 48901

Alisha L. Fall Revocable Living Trust
324 Ottawa
Troy, MI 48085

National City Bank
6750 Miller Road
Brecksville, OH 44141

National City Mortgage Company
3232 Newmark Drive
Miamisburg, OH 45342

Garmin L. Ingram and Vicki L. Ingram
443 E. Square Lake Road
Troy, MI 48085

Comerica Bank
PO Box 75000, One Detroit Center
500 Woodward Avenue
Detroit, MI 48226-7235

Karen Bayour
360 E. Square Lake Road
Troy, MI 48085

Michael A. Johnson Builder, LLC
440 E. Square Lake Road
Troy, MI 48085

Raymond W. Thornlow and Jacqueline C. Thornlow
6089 Montclair Drive
Troy, MI 48085

Credit Union One
400 E. Nine Mile Road
Ferndale, MI 48220

Franklin D. Landmesser and Avis C. Landmesser
568 Ottawa Drive
Troy, MI 48085

Grace Joan Peters Weiss
525 E. Square Lake Road
Troy, MI 48085

Chase Manhattan Mortgage Corporation
1500 N. 19th Street
Monroe, LA 71201

William C. Lewis and Kathy L. Lewis
555 E. Square Lake Road
Troy, MI 48085

Flagstar Bank, FSB
5151 Corporate Drive
Troy, MI 48098

Louis Polsinelli, Jr. and Wanda Polsinelli
585 E. Square Lake Road
Troy, MI 48085

Joseph D. Clemons and Alicia M. Clemons
338 Ottawa Drive
Troy, MI 48085

LaSalle Bank, NA
4747 W. Irving Park Road
Chicago, IL 60641

Robert Schultz, Jr. and Barbara Ann Schultz
Joint Revocable Trust Dated 4/22/94
361 E. Square lake Road
Troy, MI 48085

Jimmie Peace and Pauline E. Peace
405 E. Square Lake Road
Troy, MI 48085

Wells Fargo Home Mortgage, Inc.
1 Home Campus
DesMoines, IA 50328

Katherine L. Marshall
333 E. Square Lake Road
Troy, MI 48085

Best Source Credit Union
289 N. Telegraph
Waterford, MI 48328

Robert J. Fuller and Sharon Fuller
411 E. Square Lake Road
Troy, MI 48085

National City Bank of Michigan/Illinois
16333 Trenton Road
Southgate, MI 48195

Merrill Lynch Credit Corp
4802 Deer Lake Drive East
Jacksonville, FL 32246-6984

Richard C. Biggers
406 E. Square Lake Road
Troy, MI 48085

The Zobel Family Living Trust
615 Ottawa Drive
Troy, MI 48085

Franklin W. Roush and Linda M. Roush
Joint Trust dated 10/18/2006, and
any Amendments thereto
6312 Donaldson
Troy, MI 48085

Roy R. Morgan and Violet P. Morgan
565 Ottawa Drive
Troy, MI 48085

Gerald W. Hall and Karen D. Hall
610 Ottawa Drive
Troy, MI 48085

William S. Wallace and Lynn M. Flint
605 E. Square Lake Road
Troy, MI 48085

JP Morgan Chase Bank, NA
1111 Polaris Parkway
Columbus, OH 43240

Thomas A. Newland and Penelope E. Newland
535 Ottawa Drive
Troy, MI 48085

Comerica Bank
39200 Six Mile Road
Livonia, MI 48152

Mary L. Edgar
485 Ottawa Drive
Troy, MI 48085

David M. Sidlar and Kristen L. Moeller
445 Ottawa Drive
Troy, MI 48085

Kathleen M. Seger
6302 Donaldson
Troy, MI 48085

94551

LIBER 4698 PAGE 257

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

1964 DEC 21 AM 10 51

IN RE: PETITION TO VACATE EASEMENT IN GOLF ESTATES SUBDIVISION AND TO CORRECT DESCRIPTION OF ROCHESTER ROAD.

COUNTY CLERK

RECORDED OAKLAND COUNTY MICHIGAN REGISTER OF DEEDS RECORDS

1964 DEC 21 AM 10 58

- - - - - -

TELES LONGTIN and WAHNEETA LONGTIN, his wife,

Plaintiffs,

-vs-

NO. 12393

AUDITOR-GENERAL, et al.

ORDER VACATING EASEMENT AND CORRECTING DESCRIPTION

Defendants.

At a session of the aforesaid Court held in the City of Pontiac, County and State above named on the _____ day of DEC 21 1964, A. D., 1964.

PRESENT: HONORABLE PHILIP PRATT
Circuit Judge

The Petition in this cause having been filed by Teles Longtin and Wahneeta Longtin his wife, under oath, and several hearings having been held in open Court with proceedings recorded in the usual manner, and petitioners having produced satisfactory evidence of the statutory methods of service, and the parties hereto having reached an amicable settlement of this matter,

IT IS HEREBY ORDERED, that the relief prayed for in said Petition is granted, and that said plat, being the plat of Golf Estates, a subdivision of part of the Southeast 1/4 of Section 3, Town 2 North, Range 11 East, Troy Township, Oakland County, Michigan, as recorded in Plats, Liber 58, Page 23, Oakland County Records, and the restrictions thereto as recorded

Let to-
MALCOLM M. HEBER
ATTORNEY AT LAW
WASHINGTON SQUARE BLDG.
ROYAL OAK, MICHIGAN
LI 1 3385

4.00

EXHIBIT "5"

in Liber 2129, Pages 326 through 328, Oakland County Records, are hereby amended so that the misdescription of Rochester Road is removed hereby from said Lot 18, except the east 381 feet, and that the 43 foot easement appearing in said plat and restrictions is hereby vacated as to said Lot 18, except the East 381 feet and the title to the same is hereby vested in the owners of said lot; except that the westerly 17 feet of said easement is not vacated, but is dedicated to the City of Troy by petitioners herein for road purposes. The Court hereby recognizes that all objections heretofore raised against the vacation of the easterly 25 feet of said easement are withdrawn.

PHILIP PRATT
Circuit Judge

APPROVED AS TO FORM AND SUBSTANCE AND OBJECTIONS WITHDRAWN:

/s/
Stanley E. Durka
Attorney for the City of Troy
960 E. Maple Road
Birmingham, Michigan
644-2336

/s/
Donald Wm. Sargent
Attorney for Joseph Bilicki, et al
1141 E. Seven Mile Road
Detroit 3, Michigan
Tw. 1-1000

A TRUE COPY
DAVID R. CALHOUN
Oakland County Clerk Register of Deeds
By: [signature]
Deputy

MALCOLM M. HEBER
ATTORNEY AT LAW
WASHINGTON SQUARE BLDG
ROYAL OAK, MICHIGAN

EXHIBIT 6

23795

"TROY VILLAS"

A PART OF THE SW. 1/4 OF SEC. 3 T-2-N R-11-E. TROY TOWNSHIP OAKLAND COUNTY MICHIGAN.

JANUARY 1954

SCALE 1" = 200'

0 50 100 200 300 400 600 800

NOTE: ALL DIMENSIONS ARE GIVEN IN FEET AND DECIMALS THEREOF. CURVE DISTANCES SHOWN ARE MEASURED ALONG ARC OF CURVE.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that we Max Rosenfeld and Fannie Rosenfeld, his wife, and Frank Leonard and Grace Leonard, his wife

as proprietors, have caused the land embraced in the annexed plat to be surveyed, laid out and platted, to be known as "TROY VILLAS," a part of the S.W. 1/4 of Sec. 3, T-2-N, R-11-E, Troy Township, Oakland County, Michigan

and that the streets as shown on said plat are hereby dedicated to the use of the public AND THE EASEMENTS SHOWN ARE RESERVED FOR PUBLIC UTILITIES AND NO PERMANENT STRUCTURE SHALL BE ERECTED THEREON.

Signed and Sealed in the Presence of:

Lester C. Ladd — LESTER C. LADD
Gordon E. Ladd — GORDON E. LADD (Witness)

Max Rosenfeld — Max Rosenfeld
Fannie Rosenfeld (L.S.) — Fannie Rosenfeld
Frank Leonard (L.S.) — Frank Leonard
Grace Leonard (L.S.) — Grace Leonard

RECORDED OAKLAND COUNTY MICHIGAN REGISTER OF DEEDS RECORDS 1955 APR 13 PM 12 04 Liber 77 Page 26 Ora M. Reed REGISTER OF DEEDS

EXAMINED AND APPROVED APR 11 1955
Victor Turpowski, AUDITOR GENERAL
Plat Engineer

ACKNOWLEDGMENT

STATE OF MICHIGAN
County of OAKLAND } ss.
On this 2nd day of DECEMBER 1954, before me, a Notary Public in and for said County, personally came the above named Max Rosenfeld and Fannie Rosenfeld, his wife Frank Leonard and Grace Leonard, his wife
known to me to be the persons who executed the above dedication, and acknowledged the same to be their free act and deed.

Lester C. Ladd
LESTER C. LADD
Notary Public OAKLAND County
My Commission expires MAY 14 1956

DESCRIPTION OF LAND PLATTED

The land embraced in the annexed plat of "TROY VILLAS," a part of the S.W. 1/4 of Sec. 3, T-2-N, R-11-E, Troy Township, Oakland County, Michigan

is described as follows: Beginning at the W 1/4 corner of Sec. 3, T-2-N, R-11-E, Troy Township, Oakland County, Michigan, thence S 87°41' E along the E and W 1/4 line of said section, 2692.57 feet to the center of said section, thence S 01°21'07" W along the N and S 1/4 line of said section, 1663.51 feet, thence N 89°32'29" W, 1333.95 feet, thence N 32°07'43" W, 715.2 feet, thence N 70°28'20" W, 258.16 feet, thence N 10°58'30" W, 629.55 feet, thence N 87°41' W, 574.16 feet to the west line of said section, thence North along said west line, 428.0 feet to the place of beginning.

CONTAINING 63 PARCELS. LOTS 1 to 62 incl & Outlot A

OAKLAND COUNTY TREASURER'S CERTIFICATE

Sec. 3 T-2-N R-11-E
Date June 2 1955
I, ALL LIENS or TITLES held against the within description, and all taxes and special assessments previous to the date of this certificate have been paid, or are not now due and payable, or have been entered upon the records of this office as required.
Charles L. Burke
CHARLES L. BURKE Treasurer

SURVEYOR'S CERTIFICATE

I hereby certify that the plat hereon delineated is a correct one and that permanent metal monuments consisting of bars not less than one-half inch in diameter and 24 inches in length, or shorter bars of not less than one-half inch in diameter firmly driven and other at least 6 inches with an overall length of not less than 24 inches encased in a concrete cylinder at least 6 inches in diameter and 48 inches in length have been placed at points marked thus (...P...) as thereon shown at all angles in the boundaries of the land platted, at all the intersections of streets, intersections of alleys, at points on streets and alleys, and at the intersections of streets and alleys with the boundaries of the land platted as shown on said plat.

E. J. Gillels
E. J. GILLELS Registered Professional Engineer

APPROVAL BY BOARD OF COUNTY ROAD COMMISSIONERS

This plat has been examined and was approved on the Sixth day of January 1955 by the Oakland County Board of Road Commissioners.

Lee G. Brooks (Chairman)
Joe D. Emerson (Member)
Robert O. Felt (Member)

MUNICIPAL APPROVAL

This plat was approved by the Township Board of the Township of Troy at a meeting held January 18, 1955.

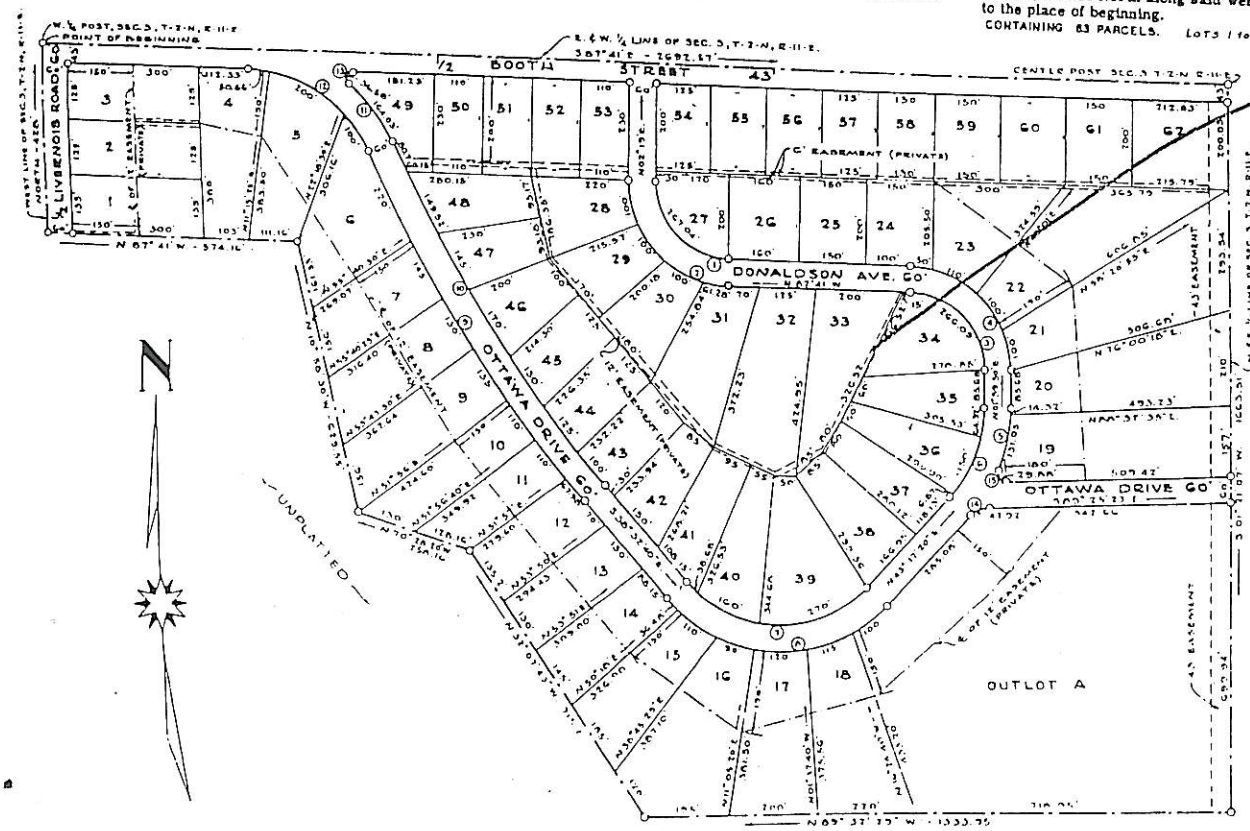
Clifton Truesdell (Clerk)

APPROVAL BY BOARD OF COUNTY AUDITORS

Approved by the Board of County Auditors of Oakland County, Michigan, this ..... day of ..... 19....

Approved by Oakland County Plat Board pursuant to Act 172 of P.A. of 1929, as amended, this 3 day of February 1955
REGISTER OF DEEDS
By Ora M. Reed
COUNTY BOARD OF AUDITORS
By Fitzmoore
By J. Austin
By M. Mitchell

VAC PRIVATE EASEMENT 7492-633 4-24-79
Restrictions L3328 pg 416
Amend. to Restrs L3371 p. 84
P/P O/LA see L100 P35, 46-160
Troy Villas #1
R/P Vacate 1942 see
Troy Villas #2 L101 p1
4/29/60



CURVE DATA

CURVE	DEGREE OF CURVE	RADIUS	ARC	CENTRAL ANGLE	LONG CHORD	BEARING OF LONG CHORD
1	33°42'12"	170'	267.04	90°	240.42'	N42°41' W.
2	24°54'40"	230'	361.28	90°	325.77	N42°41' W.
3	33°42'12"	170'	266.88	89°40'50"	239.74	N42°50'35" W
4	24°54'40"	230'	360'	89°40'50"	324.36	N42°50'35" W
5	15°36'35"	366.92	264.43	41°19'30"	258.74	N72°38'35" E.
6	10°40'05"	306.92	221.10	41°19'30"	216.43	N72°38'35" E.
7	20°56'43"	273.54	468.64	98°10'	413.42	S87°37'40" E.
8	17°10'39"	333.54	571.64	98°10'	504.10	S87°37'40" E.
9	01°34'54"	3700'	917.96	16°30'	914.91	S30°03'40" E.
10	01°33'58"	3640	900.22	16°30'	896.93	S30°03'40" E.
11	18°44'39"	303.92	164.03	25°49'30"	162.65	S34°25'35" E.
12	18°31'06"	309.92	350.64	66°06'20"	331.62	S34°33'40" E.
13		15'	36.58	139°45'11"	28.12	S22°27'25" W.
14	90°41'02"	50.06	47.52	43°17'11"	46.37	N66°55'50" E.
15		15'	29.88	114°07'10"	24.98	S32°21'40" E

LIBER 5696 PAGE 275

71 52392

RECORDED
OAKLAND COUNTY MICHIGAN
REGISTER OF DEEDS RECORDS

TEMPORARY ROAD AGREEMENT

1971 JUL 22 PM 12 42

City of Troy
500 W. Big Beaver
Troy, Michigan

LYNN D. ALLEN
CLERK-REGISTER OF DEEDS

Gentlemen:

The undersigned Thomas H. Tucker and Ann H. Tucker, his wife (2217 Clawson, Royal Oak, Mi) owns x or has ___ an interest in the following described property situated in the City of Troy, County of Oakland, State of Michigan, to-wit:

Outlot B; Troy Villas Subdivision #1

At the present time, there is no improved road from Ottawa to said property described above. (I) (We) request permission to use the future road right-of-way for a temporary road and agree:

1. To construct at our expense any road or drainage needed to obtain access.

2. To maintain said roadway at no expense to the City.

3. To join in petitioning for a road improvement in _____ and we hereby waive any right to object to the insufficiency of any such petition by reason of the failure of the undersigned to join therein.

4. To accept City rubbish service at the point where said temporary road meets an approved public right-of-way.

5. To save the City harmless from any damage resulting from inability of the City to provide the above described property with police, fire and other municipal services as a result of inadequate access to said property.

6. To notify any purchaser from us of said premises of the existence of this agreement and consent to the marking of tax bills and records showing the temporary nature of the road and the obligations hereunder.

7. To meet all requirements of Section 5.167 of the Troy City Code.

8. To pay the cost of recording this agreement in the Tract Index of the Oakland County Register of Deeds.

EXHIBIT 7

TEMPORARY ROAD AGREEMENT (Continued)

9. Other Conditions:

The property owner must place a culvert pipe across the ditch along Ottawa according to standard as established by the Public Works Department.

Dated: May 28, 1971

WITNESSES:

Joel A. Garrett

Charles W. Hassett

SIGNED:

Thomas H. Tucker

Ann H. Tucker

2217 Clawson
Royal Oak, Mich. 48073

APPLICATION APPROVED BY:

(City Manager)
Frank Gerstenecker

DATE: 7-2-71

STATE OF MICHIGAN
COUNTY OF Oakland

On this 28th day of May A.D. 19 71 before me, a Notary Public in and for said county, personally appeared Thomas H. Tucker and Ann H. Tucker to me known to be the same person (s) described in and who executed the within instrument, who then acknowledged the same to be their free act and deed.

NOTARY PUBLIC, Oakland COUNTY
Joel A. Garrett
My Commission Expires July 9, 1972

Distribution:

Manager Office
Building Department
Public Works Department
City Clerk's Office
Owner
Register of Deeds Office

This document prepared by
Joel A. Garrett
434 Lesdale
Troy, Mich. 48084

Return to: K.L. Courtney, City Clerk
City of Troy
500 W. Big Beaver Road
Troy, Michigan 48084

Masonry walls shall be erected on a concrete foundation which shall have a minimum depth of forty inches below a grade approved by the Building Inspector and shall be not less than four (4) inches wi the wall to be erected.

Masonry walls may be constructed with openings above thirty-two (32) inches above grade provided su ings are not larger than sixty-four (64) square inches and do not comprise more than one-third (1/3) of the of that part of the wall located more than thirty-two (32) inches above grade.

(4) The Board of Appeals may waive or modify the foregoing requirements where cause can be shown that purpose would be served, provided that in no instance shall a required wall be permitted to be less than six inches (4' - 6") in height.

In consideration of requests to waive wall requirements between nonresidential and residential districts, th shall refer the request to the Planning Commission for a determination.

In such cases as the Planning Commission determines the residential district to be a future nonresidential a Board may temporarily waive wall requirements for an initial period not to exceed twelve (12) months. of subsequent waivers shall be permitted, provided that the Planning Commission shall make a determin hereinbefore described, for each subsequent waiver prior to the granting of such waiver by the Board.

5.166. USE RESTRICTION:

No portion of a lot or parcel once used in complying with the provisions of this Ordinance for yards, lot area per density as for a development in the multiple family district, or percentage of lot occupancy, in connection existing or proposed building or structure, shall again be used as part of the lot or parcel required in connecti any other building or structure existing or intended to exist at the same time.

* 5.167 Required Street Access. Any parcel of land which is to be occupied by a or building, other than an accessory use or building, shall have frontag and direct access to a public street or private easement which meets one the following conditions:

1) a public street with a roadway which has been accepted for maintenance by the City, or

2) a public street right-of-way which has not been accepted for maintenance by the City for use as a public street providing the property owner has signed an agreement with the City in which he agrees to:

(a) assume complete responsibility for the maintenance of said street access, and,
(b) join in petitioning for a special assessment street improvement project, and,
(c) notify any purchaser or lessee of said property of the existence of said agreement, or,

10-16-67

* 3) a permanent and unobstructed private easement of record having a width of at least thirty feet, except where an access easement of record of less width existed prior to the adoption of this amendment, and a roadway meeting City standards for vehicular traffic, leading to a public street as defined under item (1) above, providing property owner has signed an agreement with the City in which he agrees to:

(a) assume complete responsibility for the maintenance of said street access, and,
(b) notify any purchaser or lessee of said property of the existence of said agreement.

* Zoning Ordinance Provision in effect at the time of original Agreement re-use of Road Easement for access from Ottawa St. to "Outlot B" of Troy Villa.

EXHIBIT 8

RESOLUTION TO APPROVE STREET USE AGREEMENT - OTTAWA TO OUTLOT B, TROY VILLAS SUBDIVISION

C-9

Resolution #81-308
Moved by Taucher
Supported by Pallotta

RESOLVED, That the request from Ladds, Inc.- Hometrend, to use the road easement from Ottawa Street to Outlot B, Troy Villas Subdivision, for driveway access to the site, is hereby granted; and

BE IT FURTHER RESOLVED, That the City Attorney is directed to prepare an agreement to grant said use of road easement, while maintaining the authority of the City over the right-of-way.

Yeas: All-6
Absent: Doyle

EXHIBIT "9"

CC 4-13-81

LIBER 5012 PAGE 722

Rec. 81-308
4/13/81

PUBLIC ROAD EASEMENT USE AGREEMENT 81 34298

THIS AGREEMENT, made and entered into this 25TH day of APRIL, 1981, by and between the CITY OF TROY, a Michigan municipal corporation, of 500 W. Big Beaver Road, Troy, Michigan 48084 (hereinafter called the "Grantor") and Randy McWilliams and Kathy McWilliams, his wife (hereinafter called the "Grantees"), of 405 E. Square Lake Road, Troy, Michigan 48098

WITNESSETH:

WHEREAS, the Grantees own an interest in the following described premises located in the City of Troy, County of Oakland, State of Michigan, to-wit:

Outlot "B"; Troy Villas Subdivision #1

and

WHEREAS, access to said premises can only be obtained through the public easement for road purposes which runs along the Easterly edge of Grantees' land; and

WHEREAS, it is Grantor's desire to grant permission to Grantees to use said public easement for the common use of Grantees, members of their families and households, their guests, visitors, invitees and licensees for the purpose of ingress and egress to and from Grantees' land;

NOW, THEREFORE, in consideration of the premises and the covenants and under takings hereinafter contained, and for Ten ($10.00) Dollars, receipt of which is hereby acknowledged, Grantor and Grantees mutually agree as follows:

1. Grant of Permission. Grantor hereby grants permission to use said public easement to Grantees as follows:

Grantor grants to, and creates for the benefit of Grantees permission to use the 43 foot strip of land running along the Easterly boundary of Grantees' land and extending North from the Northerly border of Grantees' land to Ottawa Street.

7.00

EXHIBIT "10"

2. Limited Use of Public Easement for Road Purposes. The use of said public easement shall be limited to the following purposes: constructing, maintaining and repairing, altering, and/or replacing a driveway of suitable material for the purpose of providing Grantees with ingress and egress to and from their land; and doing all work necessary for the construction of said driveway.

3. Obligation for Costs and Expenses. Grantees shall be responsible for the payment of any and all costs and expenses incurred in and arising out of any use of said easement for any of the purposes described in paragraphs 1 and 2 of this Agreement.

4. Indemnification of Grantor. Grantees shall indemnify Grantor against, and shall hold Grantor harmless from, any and all losses, injuries or damages of any kind whatsover which shall be caused by or arise out of any use of said easement by Grantees, members of their family or household, their guests, visitors, invitees and licensees including the inability of the Grantor to provide the above described premises with police, fire and other municipal services as a result of inadequate access to said premises.

5. Notification of Subsequent Purchasers. Grantees shall notify any purchaser from them of said premises of the existence of this Agreement and consent to the marking of tax bills and records showing the nature of the use of said easement and the obligations hereunder.

6. Recordation. Grantees shall pay the cost of recording this Agreement in the Tract Index of the Oakland County Register of Deeds and furnish a copy to the Troy City Clerk's Office.

7. Other Conditions.

A. Grantor shall retain authority over said public road easement right-of-way.

B. Grantees shall place a culvert pipe across the ditch along Ottawa Street to standards established by the Public Works Department.

C. Grantees shall accept City rubbish service at the point where said easement meets Ottawa Street.

WITNESSES:

Albert B. Balliet

Albert B. Balliet

Ross A. Martin

Ross A. Martin

SIGNED:

Randy McWilliams

Randy McWilliams

Kathy McWilliams

Kathy McWilliams

APPROVED BY:

CITY OF TROY

Anna K. Snyder

Anna K. Snyder

Tamara A. Renshaw

Tamara A. Renshaw

Richard E. Doyle

RICHARD E. DOYLE, MAYOR

Kenneth L. Courtney

KENNETH L. COURTNEY, CITY CLERK

STATE OF MICHIGAN)
)SS
COUNTY OF OAKLAND)

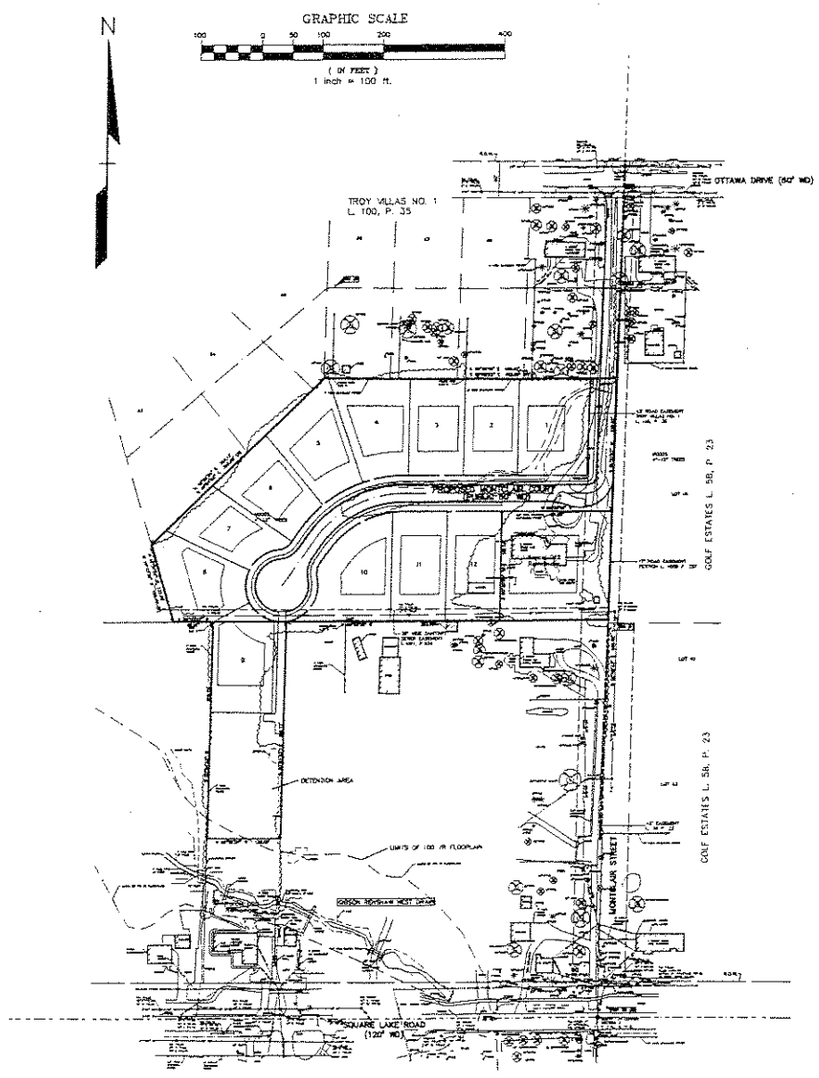
On this 27th day of April, 1981, before me, a Notary Public in and for said county, personally appeared Richard E. Doyle and Kenneth L. Courtney to me known to be the same person(s) described in and who executed the within instrument, who then acknowledged the same to be their free act and deed.

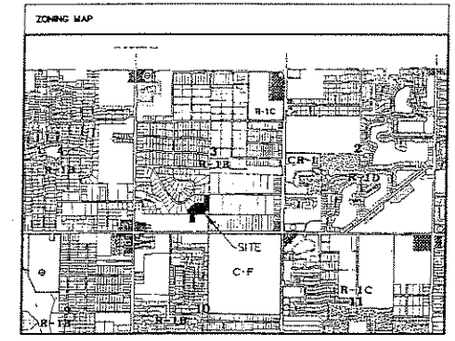
Anna K. Snyder

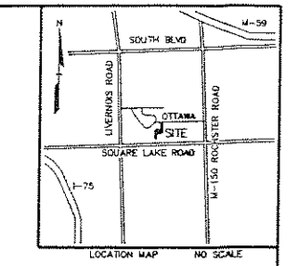
Anna K. Snyder,
Notary Public, Oakland
County, Michigan
My commission expires: 3/13/'82

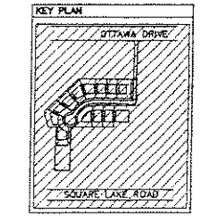
Drafted by:
City of Troy
500 W. Big Beaver Rd.
Troy, Mich 48084

After recording
return to:
Leads Inc
4086 Rochester Rd.
Troy, Mich 48098









LEGAL DESCRIPTION
TOTAL PARCEL

PART OF OUTLOT "B" OF "TROY VILLAS NO. 1", PART OF THE SOUTHWEST 1/4 OF SECTION 3, T. 2 N., R. 11 E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN (L. 100, P. 35) AND PART OF THE SOUTHWEST 1/4 OF SECTION 3, T. 2 N., R. 11 E., CITY OF TROY, OAKLAND COUNTY, MICHIGAN, COMMENCING AT THE SOUTH 1/4 CORNER OF SECTION 3; THENCE ALONG THE NORTH AND SOUTH 1/4 LINE AS MONUMENTED N 00°48'43" E, 659.92 FEET TO THE SOUTHEAST CORNER OF "OUTLOT B"; THENCE N 01°21'07" E, 179.92 FEET TO THE POINT OF BEGINNING; THENCE N 89°29'10" W, 181.59 FEET; THENCE S 00°30'50" W, 181.15 FEET TO THE SOUTH LINE OF "OUTLOT B; THENCE ALONG THE SOUTH LINE OF SAID "OUTLOT B" N 89°53'15" W, 353.96 FEET; THENCE S 00°54'23" W, 358.77 FEET; THENCE N 89°52'24" W, 120.00 FEET; THENCE N 00°54'23" E, 359.75 FEET TO THE SOUTH LINE OF "OUTLOT B"; THENCE ALONG SAID LINE N 89°53'15" W, 65.91 FEET; THENCE N 16°31'54" W, 133.88 FEET; THENCE N 45°52'24" E, 394.12 FEET; THENCE S 89°29'10" E, 483.47 FEET TO A POINT ON THE NORTH AND SOUTH 1/4 LINE AS MONUMENTED; THENCE ALONG SAID LINE S 01°21'07" W, 220.02 FEET TO THE POINT OF BEGINNING, CONTAINING 8.33 ACRES.

ZONING REQUIREMENTS	
ZONED R-1B (USE LOT AVERAGING)	
MINIMUM LOT AREA	= 13,500 SQUARE FEET
MINIMUM AVERAGE LOT AREA	= 15,000 SQUARE FEET
MINIMUM LOT WIDTH AT BUILDING SETBACK	= 90 FEET (115 FT. FOR CORNER LOTS)
MINIMUM FRONT SETBACK	= 40 FEET
MINIMUM SIDE SETBACK	= 10 FEET WITH COMBINED MINIMUM OF 25 FEET
MINIMUM REAR SETBACK	= 45 FEET

SITE DATA TABLE	
MINIMUM LOT AREA PROVIDED	= 13,573 SQUARE FEET
AVERAGE LOT AREA PROVIDED	= 16,353 SQUARE FEET

DEVELOPMENT NOTES

1. DEVELOPMENT IS A SITE CONDOMINIUM WITH A PUBLIC STREET.
2. THE SANITARY SEWER SYSTEM WILL OUTLET TO AN EXISTING 12" SEWER ON THE SOUTH SIDE OF THE SITE.
3. THE WATER SYSTEM WILL BE LOOPED, CONNECTING TO AN EXISTING 12" WATER MAIN ON THE NORTH SIDE OF SQUARE LAKE ROAD AND AN EXISTING 8" WATER MAIN ON THE NORTH SIDE OF OTTAWA ROAD.
4. STORM WATER WILL BE COLLECTED IN AN UNDERGROUND SYSTEM AND DETAINED IN A DETENTION BASIN WHICH WILL OUTLET TO THE GIBSON RENSHAW WEST DRAIN.
5. PAVEMENT SHALL BE 28' WD. BACK TO BACK, 7" THICK PORTLAND CEMENT CONCRETE WITH A 4" INTEGRAL MOUNTABLE CURB AND GUTTER.
6. SOIL EROSION CONTROL WILL BE PROVIDED PER THE O.C.D.C. AND CITY OF TROY REQUIREMENTS.
7. SITE ACCESS SHALL BE FROM OTTAWA DRIVE WITHIN THE 30' WIDE EXISTING MONTCLAIR STREET ROAD EASEMENT.

LEGEND

INDEX OF DRAWINGS	
SP-1	GENERAL PLAN
SP-2	SITE PLAN
SP-3	PRELIMINARY ENGINEERING PLAN (NORTH)
SP-4	PRELIMINARY ENGINEERING PLAN (SOUTH)
TP-1	TREE PRESERVATION/LANDSCAPE PLAN
T-1	TOPOGRAPHIC SURVEY (NORTH)
T-2	TOPOGRAPHIC SURVEY (SOUTH)

CAUTION !!!

THE LOCATIONS AND ELEVATIONS OF EXISTING UNDERGROUND UTILITIES AS SHOWN ON THIS DRAWING ARE ONLY APPROXIMATE. NO GUARANTEE IS EITHER EXPRESSED OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY THEREOF. THE CONTRACTOR SHALL BE EXCLUSIVELY RESPONSIBLE FOR DETERMINING THE EXACT UTILITY LOCATIONS AND ELEVATIONS PRIOR TO THE START OF CONSTRUCTION.

BEFORE YOU DIG CALL MISS DIG 1-800-482-7171

CONSTRUCTION. CONTRACTOR AGREES THAT IN CONFORMANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONTRACTOR WILL BE SOLELY AND COMPLETELY RESPONSIBLE FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY; THAT THIS RESPONSIBILITY SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS; AND CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD DESIGN PROFESSIONAL HARMLESS FROM ANY AND ALL LIABILITY REAL OR ALLEGED IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF THE DESIGN PROFESSIONAL.

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1	JM	DLR	CITY PLANNING COMMENTS	8-8-05
1	KJ	DLR	SHOP REVIEW	8-8-05
No.	By	Ck.	Revision / Description	Date

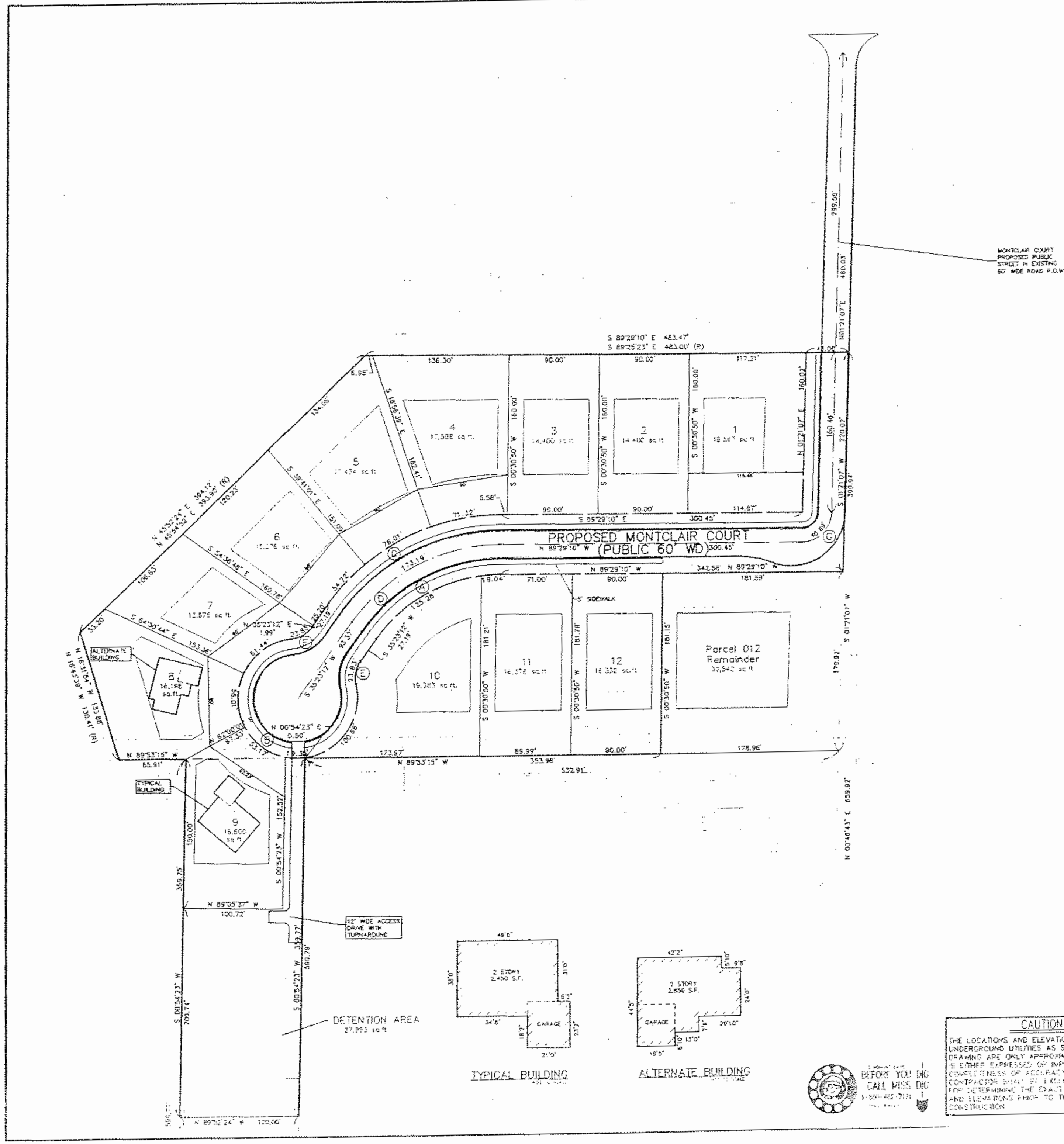
LADD'S INC.
5877 LIVERNOIS ROAD SUITE 103
TROY, MICHIGAN 48098

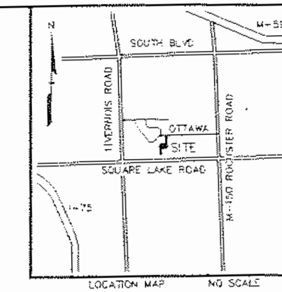
GENERAL PLAN
MONTCLAIR CONDOMINIUM
TROY, OAKLAND COUNTY, MICHIGAN

DESIGN	MJC	DRAWN	JM	SCALE 1" = 100'	JOB NO. 70002 SL4
DN.	MJC	P.M.	DLR	DATE 7-22-05	DWG. NO. SP-1

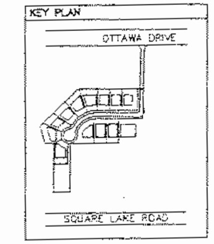
PEA
PROFESSIONAL ENGINEERING ASSOCIATES
2430 Rochester Ct., Suite 100
Troy, MI 48083-1872
(248) 689-9090

EXHIBIT "11"





LOCATION MAP NO SCALE



GRAPHIC SCALE

(IN FEET)
1 inch = 50 ft.

LOT AREAS FOR MONTCLAIR CONDOMINIUM		
LOT NUMBER	LOT AREA (SQUARE FEET)	WIDTH AT SETBACK
1	18,567	115.46 *
2	14,400	90
3	14,400	90
4	17,588	90
5	17,434	90
6	15,276	90
7	13,675	90
8	16,198	90
9	18,600	92.23
10	19,383	161.65*
11	16,378	90
12	16,332	90
TOTAL	196,234	—
AVERAGE	16,353	—
MIN **	13,500	90/135*

* CORNER LOT
** WITH LOT AVERAGING

CURVE DATA

(A) ARC = 144.32'
RADIUS = 150.00'
DELTA = 55°07'38"
CHORD = 138.82'
CH. BRG. = S 62°57'01" W

(B) ARC = 290.64'
RADIUS = 60.00'
DELTA = 277°32'20"
CHORD = 79.05'
CH. BRG. = S54°36'48"E

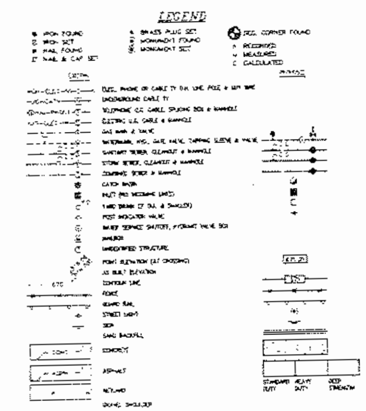
(C) ARC = 202.05'
RADIUS = 210.00'
DELTA = 55°07'38"
CHORD = 194.35'
CH. BRG. = N 62°57'01" E

(D) ARC = 173.19'
RADIUS = 180.00'
DELTA = 55°07'38"
CHORD = 166.58'
CH. BRG. = S 62°57'01" W

(E) ARC = 23.83'
RADIUS = 28.00'
DELTA = 48°46'10"
CHORD = 23.12'
CH. BRG. = S 11°00'07" W

(F) ARC = 23.83'
RADIUS = 28.00'
DELTA = 48°46'10"
CHORD = 23.12'
CH. BRG. = N 59°46'17" E

(G) ARC = 46.59'
RADIUS = 30.00'
DELTA = 89°09'44"
CHORD = 42.12'
CH. BRG. = S 45°55'59" W



BEFORE YOU DIG CALL MISS DIG

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LADD'S INC.
5877 LIVERNOIS ROAD SUITE 103
TROY, MICHIGAN 48098

SITE PLAN
MONTCLAIR CONDOMINIUM
TROY, OAKLAND COUNTY, MICHIGAN

DES WJC	SUR NM	SCALE 1" = 50'	JOB NO 2002 014
DN WJC	P.M. DJB	DATE 7-22-05	DWG NO SP-2

PEA
PROFESSIONAL ENGINEERING ASSOCIATES
2430 Rochester Ct. Suite 100
Troy, MI 48083-1872

AFFIDAVIT OF RICHARD GRAHAM
IN SUPPORT OF COMPLAINT OF PLAINTIFFS

RICHARD GRAHAM, being first duly sworn, deposes and states:

1. I have personal knowledge of the facts herein stated. If sworn as a witness I can testify competently to the facts herein stated.

2. I am a graduate of Michigan State University with a degree in Civil Engineering. I graduated in 1959.

3. I am a licensed professional engineer and licensed surveyor in the State of Michigan. I became a licensed professional engineer in 1965.

4. I worked for the City of Troy, for approximately 15 years, first as an engineer, and then as City Engineer and Director of Public Works from 1964 until 1972, and then again from 1974 until 1980. In 1980 I joined an engineering firm which I purchased in 1985. I retired in 1999. In that firm I did engineering projects for real estate developers and did engineering work and consultation for municipalities.

5. I am very familiar with the platting process in the City of Troy from the early 1960's forward.

6. I have examined all of the exhibits attached to the Plaintiffs' Complaint.

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REILLY, RUPP
& SCHROEDER
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AX (248) 689-5741

7. I am aware of the fact that in 1947 when Golf Estates Subdivision was platted, that it was the common practice of Troy Township and the Oakland County Road Commission to require the reservation of 43 feet for roadway purposes on each side of a 1/4 section line so that the total roadway width reserved was 86 feet when the platting occurred. It was not always necessary to actually dedicate or build those roadways at that time, but it was the intent of the plat to reserve them by easement for future roadway purposes.

8. This was done in Golf Estates Subdivision in 1947 with a 43-foot easement and was later done in 1954 for Troy Villas Subdivision which abutted Golf Estates. This platting process resulted in providing 86-foot wide easements intended for roadway purposes between Golf Estates and Troy Villas subdivisions.

9. Examination of the plat of Troy Villas No. 1 in 1960 again evidences a 43′ easement, but by this time the City of Troy was requiring language on the plat that the 43′ easement utilize the words "road purposes". Even though the roadway was not installed at the time of this plat in 1960, it was clearly intended by the plat to reserve this roadway for future access.

10. These easements were also very important to the developers of properties in subdivisions in order to be

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certain that the developer retained access to his property as he sold off a portion of the lots. In the case of Troy Villas No. 1, it appears that the only access to Outlot B is the "easement for road purposes" running South from Ottawa Drive to Outlot B.

11. I also note from Exhibit "5" attached to Plaintiffs' Complaint, entitled ORDER VACATING EASEMENT AND CORRECTING DESCRIPTION, dated December 21, 1964, that the City of Troy permitted the vacating of the 43-foot easement running along the Westerly edge of Golf Estates Subdivision, but reserved the Westerly 17 feet which was dedicated to the City of Troy. The easement vacation of 27 feet was requested by the homeowner in Golf Estates Subdivision because he had improperly constructed his home within this 43 foot easement. Troy concurred with this vacation because by 1964 it was recognized that straight through streets in single family residential areas were not desirable from a traffic and safety perspective. Troy standards for local streets called for 60-foot roadways. Thus, by reserving 17 feet of Golf Estates, plus 43 feet in the abutting Troy Villas No. 1 subdivision, the City of Troy was reserving the 60-foot roadways that they were now requiring, instead of 86-foot easements.

12. I have also examined a certain Public Road Easement Agreement dated April 25, 1981, entered into by the

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City of Troy and the then owner of Outlot "B" of Troy Villas Subdivision, and it appears to be quite clear that it was intended to permit that 43-foot easement to be used for access to Outlot "B" in Troy Villas No. 1.

13. I have also examined a certain agreement between the City of Troy and the then owner of Outlot "B" dated July 22, 1971, and attached to the Complaint as Exhibit "7". It too permitted the 43-foot easement to be utilized by the owner of Outlot "B" for access to their property.

14. That road easement right of way, whether or not the City of Troy wants to dedicate it as a roadway or retain it solely as an easement, is the only access to Outlot "B" which is available to serve the Plaintiffs, Nick and Leslie Karagiannakis. Without that easement Outlot "B" would be landlocked.

Dated: April 30, 2007

Richard Graham

Richard Graham

STATE OF MICHIGAN)
) SS.
COUNTY OF OAKLAND)

Subscribed and sworn to by Richard Graham on April 30, 2007.

Maurene C. Centalla
Notary Public, Macomb County, MI
My Commission Expires: 4/15/13
Acting in Oakland County

grahamaffidavit

MAURENE C. CENTALLA
NOTARY PUBLIC, STATE OF
COUNTY OF MACOMB
MY COMMISSION EXPIRES Apr 15, 2013
ACTING IN COUNTY OF Oakland

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REILLY, RUPP
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