CITY COUNCIL REPORT

DATE: August 14, 2007

TO: Phillip L. Nelson, City Manager

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

SUBJECT: Announcement of Public Hearing - Zoning Ordinance Text Amendment (File Number: ZOTA 230) – Articles X and XVIII – Wireless Communication Towers on School Property in the R-1A through R-1E One Family Residential and C-F Community Facilities Districts

Background:

- A public hearing is scheduled for the September 10, 2007 City Council meeting.
- The Planning Commission held a public hearing for this item at the July 10, 2007 Regular meeting and recommended approval of ZOTA 230.
- The amendment will permit freestanding towers and antennas on public school and City park sites in the R-1A through R-1E and C-F zoning districts. Additionally, it reduces the required setback from five (5) times the height of the tower to two (2) times the height of the tower.
- Mike Adamczyk, Assistant Superintendent of the Troy School District, requested a text amendment that would permit wireless communication towers on school property. The Planning Commission determined that the same standard should apply to City parks.

Financial Considerations:

- The amendment could open potential revenue streams for school districts and the City of Troy.

Legal Considerations:

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

Policy Considerations:

- The proposed amendment is consistent with City Council Goal I (Enhance the livability and safety of the community) and Goal III (Retain and attract investment while encouraging redevelopment).

Options:

- City Council can approve, deny or modify the proposed text amendment.
- No action until public hearing on September 10, 2007.

Approved as to form and legality: _____

Lori Grigg Bluhm, City Attorney

Attachments:

1. Draft ZOTA 230 City Council Public Hearing Draft.
2. Minutes from July 10, 2007 Planning Commission Regular meeting.

Prepared by RBS/MFM

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ZONING ORDINANCE TEXT AMENDMENT (ZOTA 230)

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

The City of Troy ordains:

Section 1. Amendment to Chapter 39

Chapter 39 of the City of Troy Code is amended by amending Section X (R-IA THROUGH R-1E ONE-FAMILY RESIDENTIAL DISTRICTS) and Section XVIII (C-F COMMUNITY FACILITIES) to read as follows:

10.30.08 Utility and public service buildings and uses (without storage yards) when, in the opinion of the Planning Commission, said buildings and uses:

A. Maintain the residential character of the area, and,

B. Are located so as not to hinder the natural or presumed development of the area, or detract from the value of existing development; and,

C. Do not constitute a safety or health hazard, a nuisance, or have a noxious effect on the surrounding residential area either due to appearance or operations; and,

D. Operating requirements necessitate the location of such uses and buildings within the District to serve the immediate vicinity.

Such buildings and uses shall be developed according to the following standards:

E. All proposed uses and facilities shall be contained within masonry buildings and structures similar to or compatible with buildings in the adjacent residential areas.

(Rev. 10-05-98)

F. Said structures and uses shall be located no closer than eighty (80) feet from any property line abutting a public right-of-way or other residentially zoned land, except as otherwise provided in this Section.

(Rev. 10-05-98)

-------- G. A landscaped berm at least five (5) feet in height shall be required in all yards abutting Residential Districts and/or public rights-of-way. Said berms shall be landscaped with a minimum of a double row, ten (1) feet apart, of upright coniferous evergreens (pine or spruce species, as acceptable to the Department of Parks and Recreation), five (5) to six (6) feet in height, twenty (20) feet on center, staggered ten (10) feet on center. All required yards shall be further landscaped in grass as a minimum. The nature of other screening, fencing, etc., in addition to the aforementioned berms, shall be subject to the approval of the Planning Commission.

(Rev. 10-05-98)

H. Overhead transmission lines and tower structures supporting such lines are expressly prohibited from such sites. All lines serving such sites shall be underground.

(Rev. 10-05-98)

I. Freestanding tower structures and antennas may be permitted only on sites which are developed or otherwise committed for use other than the construction of one-family dwellings~~, and shall not be permitted on developed City park and public school sites~~.

1. The setback for a freestanding tower structure, from an abutting residentially zoned or used parcel, shall be at least equal to two (2) ~~five (5)~~ times the height of the structure. This setback requirement shall not apply to sites on which antenna tower structures were constructed prior to July 1, 1998.

2. Actions to approve the construction or placement of freestanding tower structures and antennas shall be conditioned upon submittal by the applicant of financial assurances, in a form acceptable to the City Manager, in order to assure that the subject facilities will be removed from the site within one (1) year of the date that their use ceases.

(Rev. 10-05-98)

J. In order to maximize the efficiency of the provision of utility services, while also minimizing the impact of such facilities on the total community, collocation, or the provision of more than one utility facility at a single location, may be required by the Planning Commission. In this regard, the applicant may be required to provide information regarding the feasibility of

collocation at proposed sites.

1. In the case of freestanding tower structures and antennas, variations from this collocation direction shall be considered only in conjunction with a report from an independent qualified and licensed professional engineer, indicating reasons why collocation is physically or technically not feasible.

Nothing in these regulations shall be construed to prevent the construction, installation and operation of necessary utility and public service buildings and uses within the Residential Districts. These provisions are not, however, intended to include power-generating facilities, bulk power and fuel stations, or other large scale facilities which, by their nature and service area, could reasonably be located in Non-Residential Districts.

(Rev. 10-05-98)

18.25.02 Publicly-owned service buildings, public utility buildings, telephone exchange buildings, electric transformer stations and sub-stations, gas regulator stations, and water and sewage pumping stations, without storage yards.

A. Said structures and uses shall be located no closer than eighty (80) feet from any property line abutting a public right-of-way or residentially zoned land, except as otherwise provided in this Section.

B. Overhead transmission lines and tower structures supporting such lines are expressly prohibited from such sites. All lines serving such sites shall be underground.

C. In order to maximize the efficiency of the provision of utility services, while also minimizing the impact of such facilities on the total community, collocation, or the provision of more than one utility facility at a single location, may be required by the Planning Commission. In this regard, the applicant may be required to provide information regarding the feasibility of collocation at proposed sites.

1. Applications for the placement of freestanding tower structures and antennas under this Section, which do not involve collocation, shall be considered only in conjunction with a report from an independent qualified and licensed professional engineer, indicating reasons why collocation is physically or technically not feasible.

D. Freestanding tower structures and antennas may be permitted only on sites which are developed or otherwise committed for use other than the construction of one-family dwellings~~, and shall not be permitted on developed City park and public school sites~~.

E. The setback for a freestanding communications antenna tower structure, from an abutting residentially zoned or used parcel, shall be at least equal two (2) ~~five (5)~~ times the height of the structure. This setback requirement shall not apply to sites on which antenna tower structures were constructed prior to July 1, 1998.

F. Actions to approve the placement of freestanding tower structures and antennas under this Section shall be conditioned upon submittal, by the applicant, of financial assurances in a form acceptable to the City Manager, in order to assure that the subject facilities will be removed from the site within one (1) year of the date that their use ceases.

(Rev. 07-10-00)

Section 2. Savings

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

Section 3. Severability Clause

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

Section 4. Effective Date

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

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

_____
Louise Schilling, Mayor

_____
Tonni Bartholomew, City Clerk

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ZONING ORDINANCE TEXT AMENDMENT

9. ZONING ORDINANCE TEXT AMENDMENT (ZOTA 230) – Freestanding Tower Structures and Antennas in Parks and on School Property

Mr. Miller reviewed the revisions made to the proposed zoning ordinance text amendment relating to wireless communication towers on school property and City park sites.

A brief discussion followed.

Ms. Lancaster cited unpublished case law that prompted the proposed ordinance text amendment.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2007-07-120
Moved by: Kerwin
Seconded by: Littman

RESOLVED, That the Planning Commission hereby recommends to the City Council that Article X (R-IA THROUGH R-1E ONE-FAMILY RESIDENTIAL DISTRICTS) pertaining to permitting freestanding tower structures and antennas in parks and on school property subject to Special Use Approval, and Article XVIII (C-F COMMUNITY FACILITIES), pertaining to permitting freestanding tower structures and antennas in parks and on school property subject to Special Conditions, be amended as printed on the proposed Zoning Ordinance Text Amendment.

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

MOTION CARRIED

Mr. Vleck supports the ordinance amendment but would prefer the fall zone to be five times the height of the structure. He believes a bigger fall zone would give the City a stronger public stance should there be objections to a proposed structure.

Ms. Kerwin said the text amendment would be helpful and is responsive to many objections voiced by the residents.

Ms. Lancaster confirmed that requests for freestanding tower structures in parks or on school property would be required to go through the special use approval process.

Chair Schultz stated that City Council would have final action on the proposed zoning ordinance text amendment.