CITY COUNCIL ACTION REPORT

DATE: August 22, 2007

TO: Phillip L. Nelson, City Manager

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

SUBJECT: Public Hearing – Rezoning Application – Office Use, West side of Rochester Road, South of De Etta (6493 Rochester), Section 3 – R-1B to O-1 (File Number Z-727)

Background:

- The Planning Commission recommended denial of the request to rezone the parcel to O-1 at the July 10, 2007 Regular meeting.

- The parcel is classified on the Future Land Use Plan as Medium Density Residential and has been since 1999. The application is inconsistent with the Medium Density Residential classification. In addition, the parcel falls within the Rochester Road Overlay District classification, which provides flexibility in terms of permitted uses as a tradeoff for high quality, innovative design. The Rochester Road Overlay classification was approved in 2006. It has not been demonstrated that the application meets the criteria of the Rochester Road Overlay District classification, which permits more intense uses than the underlying zoning district, based on a number of standards.

- The character of the west side of Rochester Road in this area is a mix of retail and office uses. The abutting property to the south was rezoned to B-1 Local Business on December 18, 2006. Rezoning the subject property to O-1 Low Rise Office would be less intense than the abutting B-1 zoning and would therefore serve as more of a transitional use between the residential neighborhood to the west and Rochester Road than the B-1 property.

- The application is not consistent with the intent of the Future Land Use Plan. However, it is consistent with the general character of the area and compatible with adjacent zoning districts and land uses.

Financial Considerations:

- There are no financial considerations for this item.

Legal Considerations:

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

Policy Considerations:

- Approval of the rezoning application would be consistent with City Council Goal III (Retain and attract investment while encouraging development).

Options:

- City Council can approve or deny the rezoning application.

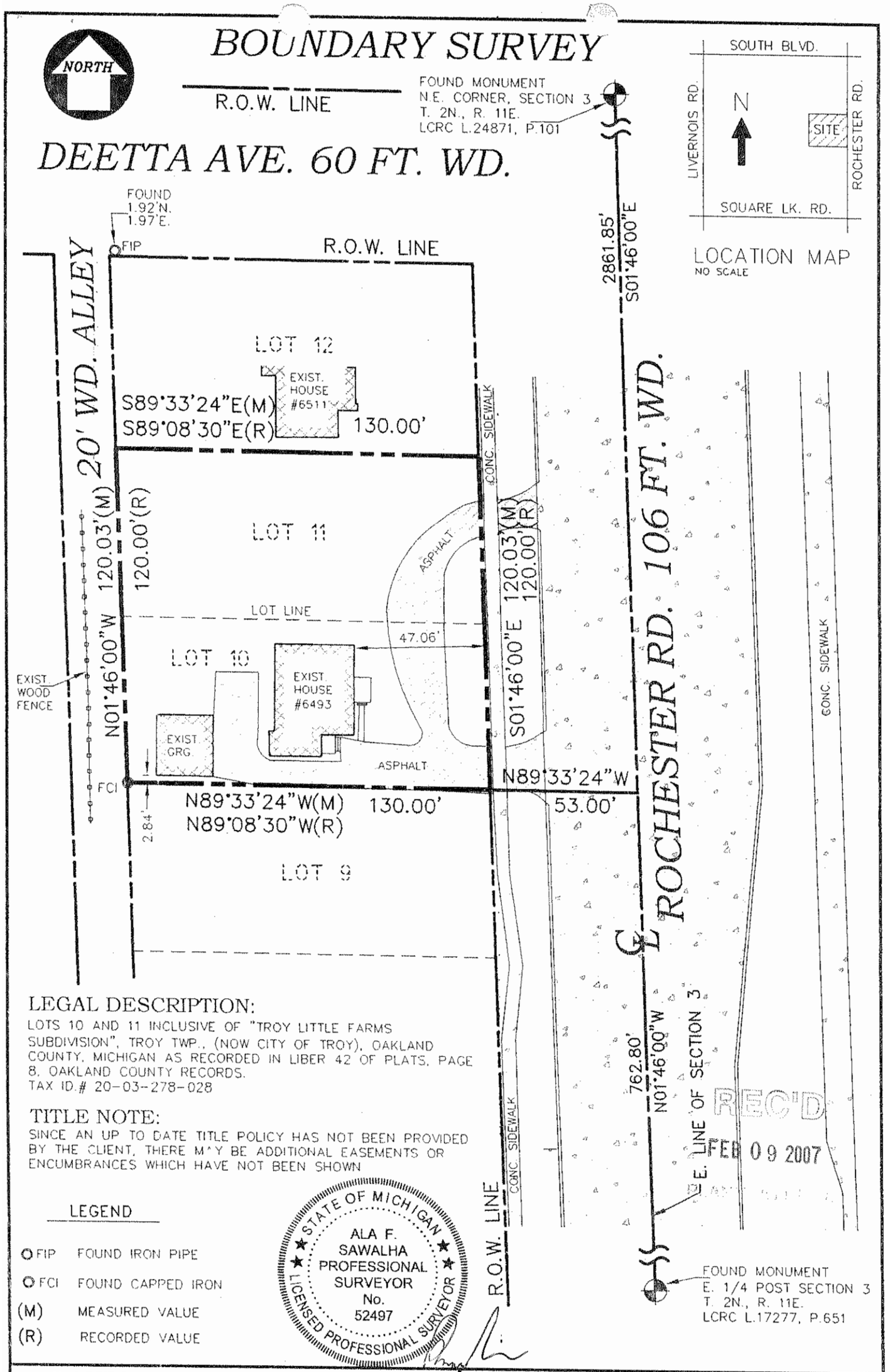
Attachments:
1. Maps.
2. Minutes from the March 13, 2007 Planning Commission Regular meeting.
3. Minutes from the July 10, 2007 Planning Commission Regular meeting.
4. Correspondence from Robin Siegel, dated June 1, 2007.

Prepared by RBS/MFM

cc: Applicant
File /Z 727

G:\REZONING REQUESTS\Z-727 Office 6493 Rochester Sec 3\CC Public Hearing 09 10 07.doc

BOUNDARY SURVEY



LEGAL DESCRIPTION:

LOTS 10 AND 11 INCLUSIVE OF "TROY LITTLE FARMS SUBDIVISION", TROY TWP., (NOW CITY OF TROY), OAKLAND COUNTY, MICHIGAN AS RECORDED IN LIBER 42 OF PLATS, PAGE 8, OAKLAND COUNTY RECORDS.
TAX ID.# 20-03-278-028

TITLE NOTE:

SINCE AN UP TO DATE TITLE POLICY HAS NOT BEEN PROVIDED BY THE CLIENT, THERE MAY BE ADDITIONAL EASEMENTS OR ENCUMBRANCES WHICH HAVE NOT BEEN SHOWN

LEGEND

- FIP — FOUND IRON PIPE
- FCI — FOUND CAPPED IRON
- (M) — MEASURED VALUE
- (R) — RECORDED VALUE

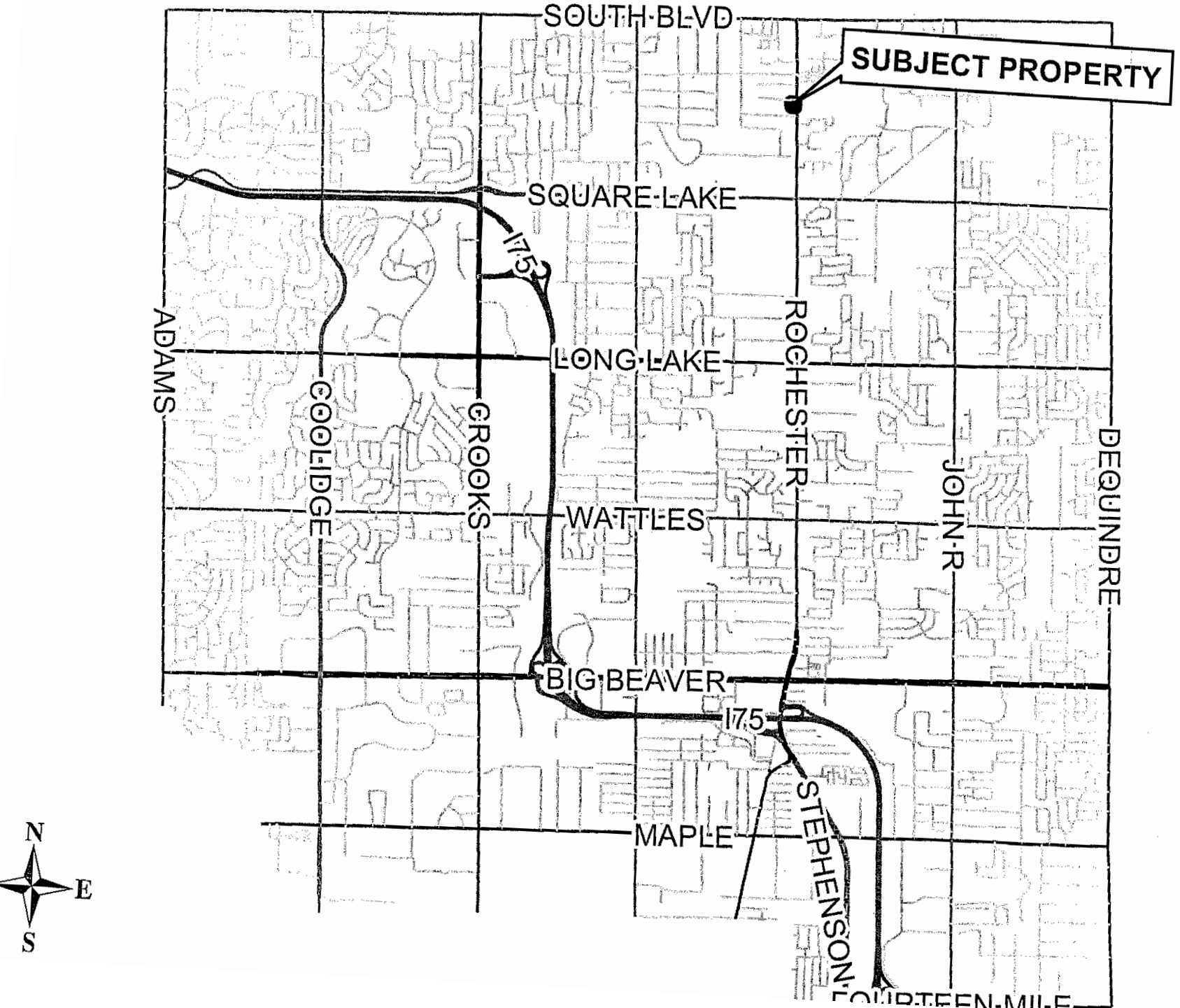
LANDMARK ENGINEERING CO.
Civil Engineering . Land Surveying
24001 Southfield Road, Suite 210
Southfield, Michigan 48075
Tel: 248-557-3000
Fax: 248-557-3059
Email: landmark@landmarkengineeringco.com

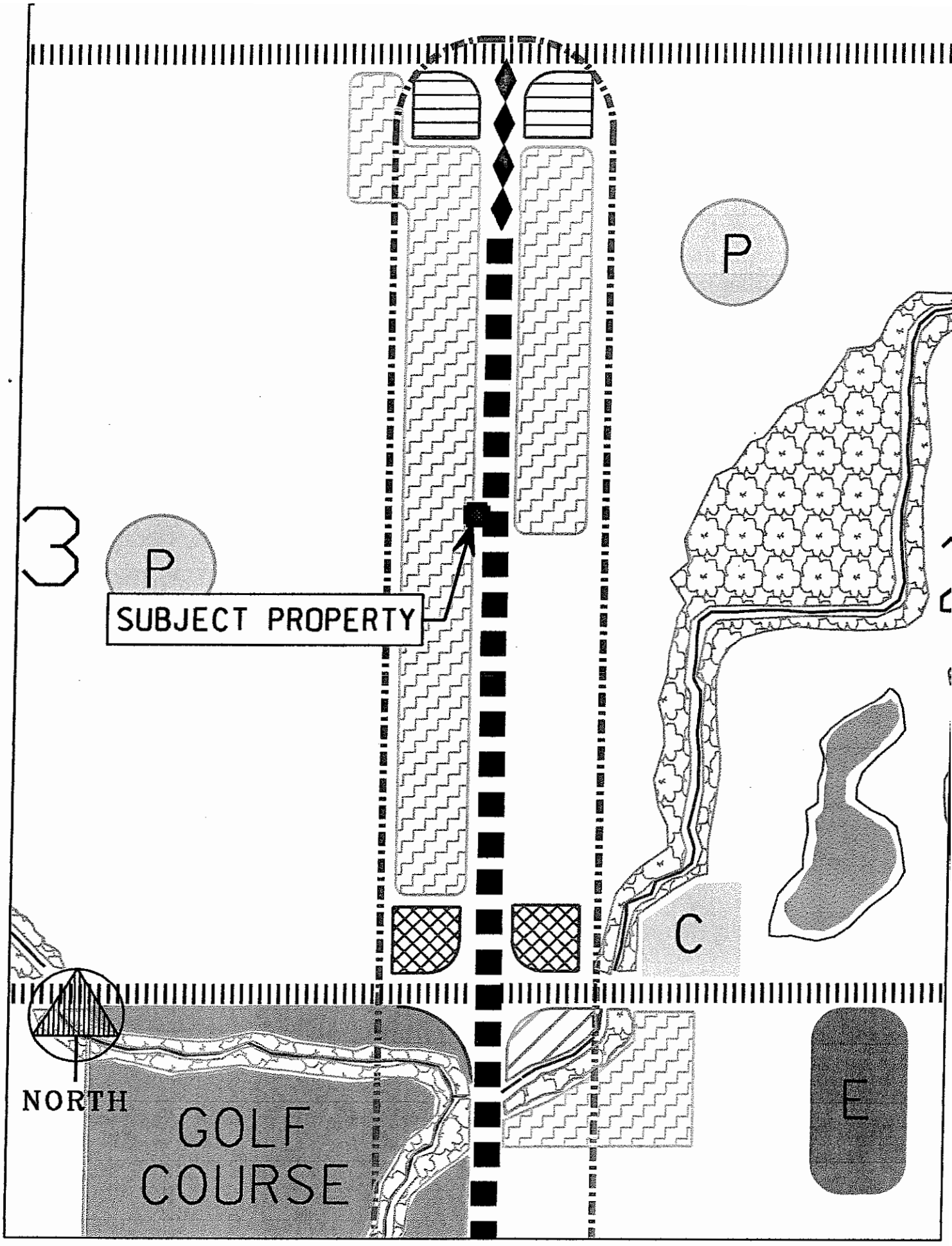
CLIENT: SANDRA SIEGEL

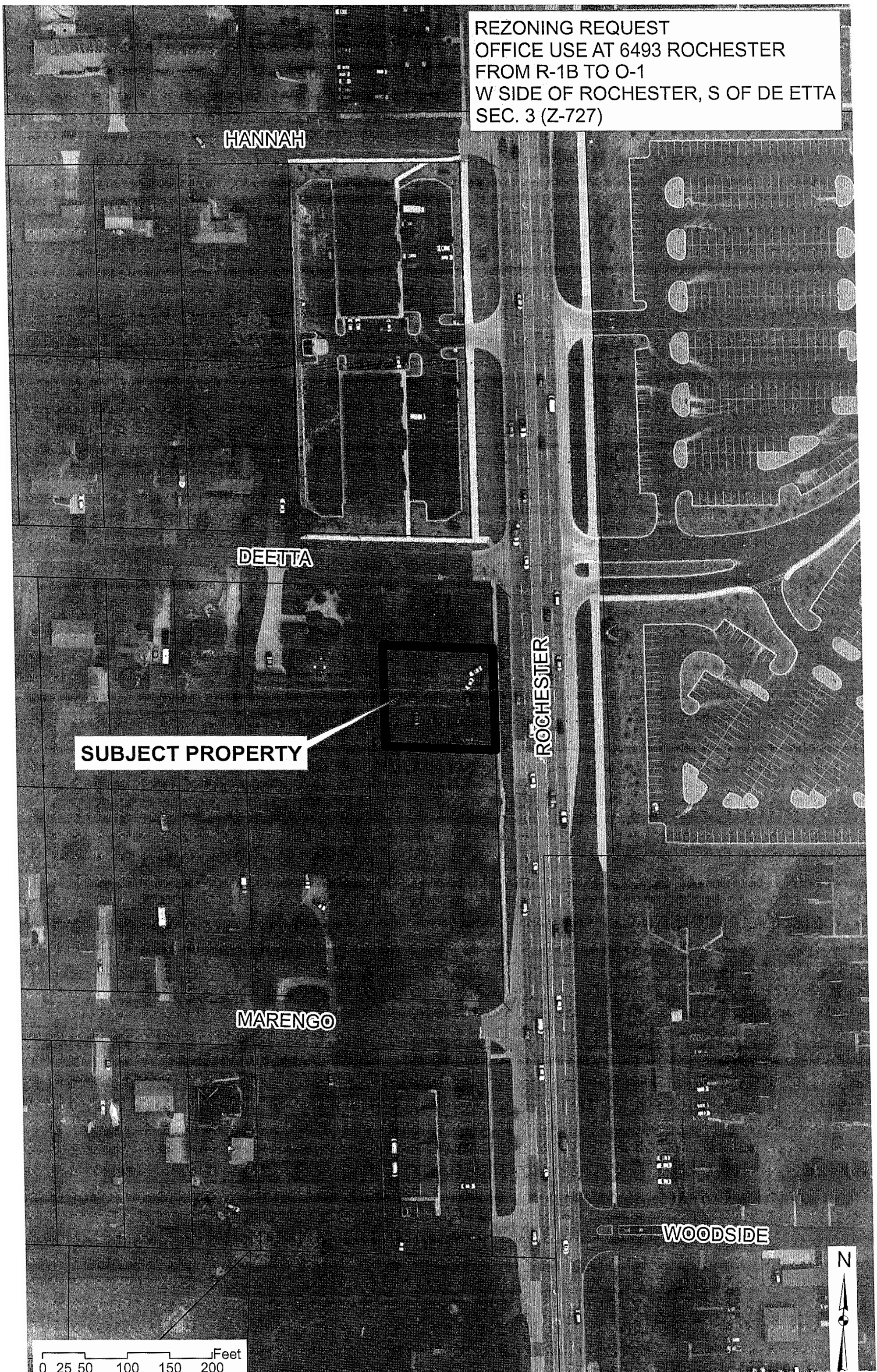
40 0 20 40
SCALE 1 INCH = 40 FEET

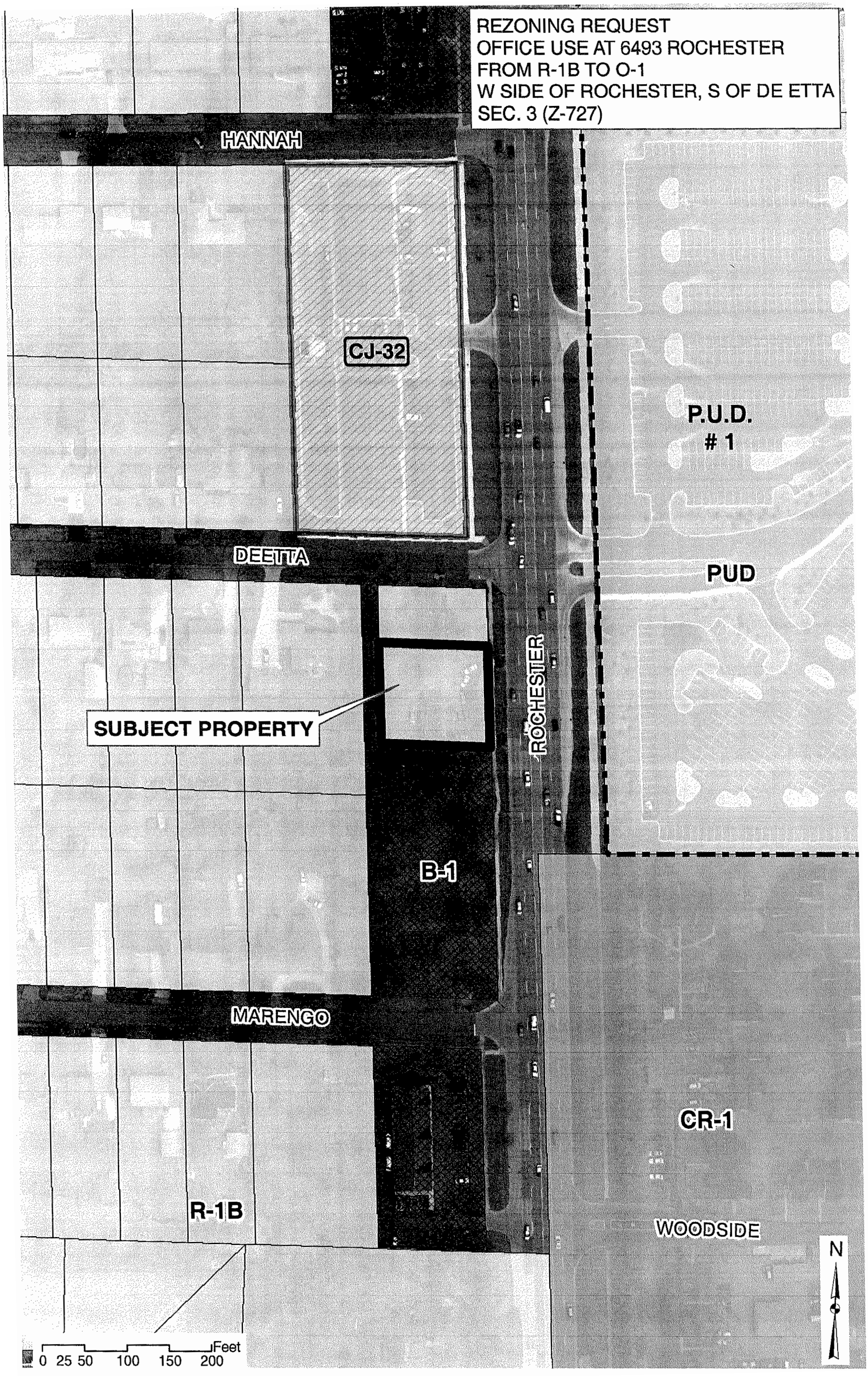
DATE: 2-5-07
FILE# 1077TS01
JOB NO. 1077
SHEET 1 OF 1

CITY OF TROY


SOUTH BLVD
SUBJECT PROPERTY
SQUARE LAKE
I75
LONG LAKE
ADAMS
COOLIDGE
CROOKS
ROCHESTER
JOHN R
DEQUINDRE
WATTLES
BIG BEAVER
I75
MAPLE
STEPHENSON
N
E
S


P
3
P
SUBJECT PROPERTY
C
NORTH
GOLF
COURSE
E


REZONING REQUEST
OFFICE USE AT 6493 ROCHESTER
FROM R-1B TO O-1
W SIDE OF ROCHESTER, S OF DE ETTA
SEC. 3 (Z-727)
HANNAH
DEETTA
ROCHESTER
SUBJECT PROPERTY
MARENGO
WOODSIDE
N
Feet
0 25 50 100 150 200


REZONING REQUEST
OFFICE USE AT 6493 ROCHESTER
FROM R-1B TO O-1
W SIDE OF ROCHESTER, S OF DE ETTA
SEC. 3 (Z-727)
HANNAH
CJ-32
P.U.D.
1
DEETTA
PUD
SUBJECT PROPERTY
ROCHESTER
B-1
MARENGO
CR-1
R-1B
WOODSIDE
N
0 25 50 100 150 200 Feet

7. PUBLIC HEARING – REZONING REQUEST (Z 727) – Proposed Office Use, West side of Rochester Road, South of DeEtta (6493 Rochester Road), Section 3 – From R-1B (One Family Residential) to O-1 (Low Rise Office)

Mr. Miller presented a summary of the Planning Department report on the proposed rezoning request, and reported it is the recommendation of City Management to approve the rezoning application.

Chair Schultz asked if there was any investigation into what size building could be placed on this site.

Mr. Miller replied no.

The petitioner, Lawrence Hromek of 23711 Sandpiper, Clinton Township, was present to represent the owner, Robin Siegel. Mr. Hromek said the building size could not be much larger than the existing building. He indicated the proposed vacation of the 20-foot easement for the alley would create an additional 20 feet for parking.

Ms. Troshynski questioned if any consideration was given to accessing the property from the north.

Mr. Hromek said they have no desire to access the property from the north and the existing drive on Rochester Road would be used.

Chair Schultz asked if the petitioner has an interest in consolidating with the property to the north.

Mr. Hromek stated the property to the north, which is currently vacant, is a rental property that has been rented by different tenants.

PUBLIC HEARING OPENED

Eileen Carty of 990 DeEtta, Troy, was present. Ms. Carty spoke in opposition to the proposed rezoning request. She said Troy is taking on a Lincoln Park persona with strip malls and small storefronts. Ms. Carty addressed recent commercial developments on Rochester Road, specifically Rochester Office Parc Building and Binson's Home Health Care Center, and how they have negatively impacted her residential home. She also addressed the proposed alley vacation, which she discovered is no benefit to her because her home does not fall within the appropriate subdivision boundaries. Ms. Carty asked to go on record stating that her property and quality of life have deteriorated vastly since she moved into her home.

PUBLIC HEARING CLOSED

Mr. Vleck expressed concern with the small corner lot to the north that would remain as a small undevelopable residential property should the rezoning request go forward. He would like consideration to be given to consolidation of the properties.

Mr. Strat noted that he voted against the previous rezoning request at this location based on the concerns of Ms. Carty. He asked for clarification on the alley vacation.

Ms. Lancaster clarified the "drawn" alley proposed to be vacated is platted as an alley on a subdivision plat, and only the subdivision owners within that plat have an interest in the alley. She indicated the developer must start a re-plat action, which is a complicated matter.

Mr. Miller stated a Public Hearing on the proposed vacation is scheduled on the next City Council agenda. He indicated the request is to vacate the entire alley between DeEtta and Marengo.

The members encouraged Ms. Carty to advise the City in writing of her concerns and any associated costs for damage incurred from the recently constructed developments; i.e., mailbox replacement, lawn ruts, unshielded vehicular lights, dead landscaping, unkempt dumpster, etc.

Resolution # PC-2007-03-059
Moved by: Vleck
Seconded by: Wright

RESOLVED, That the Planning Commission hereby recommends denial to the City Council that the R-1B to O-1 rezoning request, located on the west side of Rochester, south of DeEtta, within Section 3, being approximately 15,600 square feet in size, be denied, for the following reason:

1. By rezoning this property, a financially un-redevelopable residential property to the north would remain.

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

MOTION FAILED

Ms. Kerwin expressed her reasoning to grant the rezoning request. She said it appears that Rochester Road is not going to be a place for residences, as is the case for this remnant parcel. Ms. Kerwin said she does not see it as an issue for

redevelopment in the future, and the overlay accommodates for parcels such as this.

Resolution # PC-2007-03-060
Moved by: Kerwin
Seconded by: Littman

RESOLVED, That the Planning Commission hereby recommends to the City Council that the R-1B to O-1 rezoning request, located on the west side of Rochester, south of DeEtta, within Section 3, being approximately 15,600 square feet in size, be granted, for the following reason:

1. The application is compatible to adjacent zoning districts and land uses.

Discussion on the motion on the floor.

Mr. Littman asked how site plan compliance would be insured, assuming a site plan would not come before the Planning Commission.

Mr. Miller said site plan approval would be required for the site. He noted the parcel would become a legal non-conformity should the parcel be rezoned and setback requirements do not meet the ordinance.

Vote on the motion on the floor.

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

MOTION FAILED

Mr. Wright said he would be more inclined to approve the rezoning request if there was an attempt to consolidate the two parcels, and noted the problem is the remaining residential parcel that would never be redeveloped as R-1.

Resolution # PC-2007-03-061
Moved by: Wright
Seconded by: Troshynski

RESOLVED, To postpone this item until there is some attempt to consolidate with the property to the north.

Discussion on the motion on the floor.

Ms. Troshynski said the rezoning request goes against the intent of the Planning Commission to decrease the driveways along Rochester Road, from Square Lake to South Boulevard.

Mr. Miller said the Planning Commission has postponed items and requested petitioners to look into consolidation of properties in the past.

Vote on the motion on the floor.

Yes: All present (8)
No: None
Absent: Hutson

MOTION CARRIED

POSTPONED ITEM

5. PUBLIC HEARING – REZONING REQUEST (Z 727) – Proposed Office Use, West side of Rochester Road, South of DeEtta (6493 Rochester Road), Section 3 – From R-1 B (One Family Residential) to O-1 (Low Rise Office)

Mr. Miller presented a summary of the Planning Department report on the proposed rezoning request. Mr. Miller reported that although the application is not consistent with the intent of the Future Land Use Plan, it is the recommendation of City Management to approve the rezoning application. He reported that the request is consistent with the general character of the area and compatible with adjacent zoning districts and land uses. Mr. Miller indicated it is bad planning to leave the single family residential parcel to the north, but noted the Planning Commission conducted themselves reasonably by requesting the petitioner to assemble that piece of property.

Mr. Vleck asked what would be required of the petitioner to bring the property in compliance with the O-1 office zoning district.

Mr. Miller said the petitioner would be required to go through site plan approval because the office use has not been approved for that site.

Mr. Vleck addressed site improvements that would be required in relation to quality and long-term development. Mr. Vleck asked if the City could initiate a rezoning on the property to the north.

Ms. Lancaster confirmed the City could initiate a rezoning for any property. She indicated City Council could rezone the parcel by going through the appropriate approval process.

Mr. Vleck asked if the existing property owner would be allowed to continue as residential.

Mr. Miller said the use would be allowed to continue and the property would be considered a true nonconforming use. He noted the site would lose its nonconforming status should it be abandoned as a single family use. Mr. Miller said the greater issue for the property to the north is that it would be very unlikely that it could be developed as office.

Mr. Vleck asked if the subject property could continue its operation as it exists, without site improvements, should it be rezoned to O-1.

Mr. Miller replied that technically the use has not been approved for the subject property and is not permitted in that zoning district. He said the owner would have to show good faith in moving forward with site plan approval to have an office at that location.

The owner, Robin Siegel of 283 W. Square Lake Road, Troy, was present. Ms. Siegel addressed the existing screening to the west along the residential area.

Chair Schultz explained different screening requirements would have to be met should the site be zoned office. He informed the petitioner that should the rezoning go forward, the site would have to be redeveloped as an office and go through the site plan approval process.

Ms. Siegel said they would be more than happy to do that and would make every effort to fully comply with all zoning ordinance requirements. She confirmed that the site is currently being used as office only.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

There was discussion on the screen wall requirements for O-1 zoning.

Mr. Vleck said he is not 100% comfortable with the proposed rezoning. He addressed the petitioner's attempt to consolidate the property to the north, the cost involved for site improvements that would be required for office, its relation to the Rochester Road corridor, and the developable status of the residential property to the north. Mr. Vleck said a conditional rezoning might be a favorable option.

Mr. Littman addressed the small size of the subject parcel should it be developed as office. He said it might very well be a problem for both the petitioner and the City.

Mr. Vleck said the property to the north would be less developable and less desirable should the subject property be rezoned and the required screen wall is in place.

Mr. Tagle asked if a screen wall is required between the property to the south [Binson's] and the subject property.

Mr. Miller replied a screen wall is required unless the property to the south [Binson's] receives a waiver from the Board of Zoning Appeals.

Chair Schultz said he would like to see a potential conditional rezoning application submitted on the subject property to see how it might be developed as office.

Mr. Vleck said he would consider the rezoning request further if there was some collaboration between Binson's and the subject property for a cross access easement.

Messrs. Hutson and Littman addressed the option of a conditional rezoning application.

Mr. Strat said he would not support the rezoning request because there is potential the existing house could become a legal nonconforming use automatically. He said the property to the north would remain an orphan parcel until the owner decides to sell or consolidate. Mr. Strat said he would be supportive of a conditional rezoning should the petitioner be willing.

Mr. Vleck said his preference would be for the City to initiate a rezoning request for the property to the north. He questioned the time frame for the City to initiate such a request.

Mr. Miller said public hearings could be scheduled next month for both the Planning Commission and City Council, should the Planning Commission make a resolution tonight to initiate a rezoning.

Ms. Troshynski indicated she would not be in favor of the general rezoning request because of its affect on the neighborhood.

Mr. Littman said, as a policy, he is not in favor of City initiated rezoning requests especially in cases where the owner is not in support.

Resolution # PC-2007-07-116
Moved by: Littman
Seconded by: Strat

RESOLVED, That the Planning Commission hereby recommends to the City Council that the R-1B to O-1 rezoning request, located on the west side of Rochester, south of DeEtta, within Section 3, being approximately 15,600 square feet in size, be denied, due to problems in how the site might develop.

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

MOTION CARRIED

Mr. Vleck said he is not necessarily in favor of the rezoning request, but he would like to see the petitioner pursue other options to develop the property. He said there could be potential for a desirable development if the petitioner collaborates

with the Binson's development. Mr. Vleck addressed his position for a City-initiated rezoning on the property to the north.

Ms. Kerwin said she would have preferred a motion to postpone. She indicated she might have voted in favor of denial if the motion had stipulated denial was based on non-compliance with the Future Land Use Plan.

Chair Schultz advised the public of the approval process for rezoning requests at the City Council level. He indicated to the petitioner that the Planning Department would be the resource on conditional rezoning applications.

A brief discussion followed on the procedure for City-initiated rezoning requests.

Robin Siegel, P.C.

Attorneys at Law

Robin Siegel,
Sandra Gross,
Candie Tou Clement,
Attorneys

P.O. Box 70036
Rochester Hills, Michigan 48307
(248) 879-9290 - telephone
(248) 879-9380 – facsimile
robin@rsiegelpc.com
sandra@rsiegelpc.com
candie@rsiegelpc.com

June 1, 2007

Mark Miller
City of Troy Planning Commission
City Hall
500 West Big Beaver
Troy, Michigan 48084

Re : Rezoning Request – Z-727
: 6493 Rochester Road, Troy, Michigan 48085

Dear Mr. Miller:

Thank you for you time and consideration of this matter. As you may recall, we were before the City Planning Commission in March of this year. At that hearing, the planning commission requested that I try to "consolidate" my property with the property North of mine (6511 Rochester Road, Troy) so that there would not be one small residential lot left.

We have made several attempts to contact the owner of that property, Mr. Sam Girgenti. As outlined in the attached affidavits and supporting documentation, submitted by Sandra Gross, and me, we have:

- Sent Mr. Girgenti several letters both to the property in question (6511 Rochester Road) and to his address of record, with no response.
- Our Real Estate Agent, contacted him to see if he would be interested in selling his property. He stated that he is not interested in selling his property.
- Sandra Gross and I discussed with him the possibility of him joining us in a request to re-zone his property, at NO COST TO HIM, which he declined.

As well as those attempts, it my understanding that my consultant, Larry Hromek, spoke with him by telephone several times, without result.

I do not think that further attempts to consolidate my property with his would prove fruitful. Therefore, please re-schedule us for the next available planning commission hearing. Please also let me know if you have any recommendations for us.

Thank you again for your time and attention to this matter.

Sincerely,

Robin Siegel

Overnight Courier Address:
6493 Rochester Road
Troy, MI 48085