



CITY COUNCIL ACTION REPORT

June 30, 2008

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Asst. City Manager/Economic Development Services
Mark Stimac, Director of Building and Zoning
Steven J. Vandette, City Engineer *[Signature]*

SUBJECT: Amendment to Chapter 34, Sidewalks and Driveway Approaches

Background:

- SBA Communications is proposing a new communications tower within the I-75 right of way across Square Lake from Firefighter's Park.
- The Michigan Department of Transportation (MDOT) has approved the tower within their right of way but will not allow access from I-75.
- SBA has applied for an approach permit to construct a driveway approach from the tower site to Square Lake Road, which abuts the site.
- A "Driveway Approach" is defined in City Ordinance Chapter 34, Sidewalks and Driveway Approaches, as the improved portion of the street right of way designed to provide for vehicular travel from private property to a public roadway.
- Ordinance Chapter 34 does not have regulations which permit an approach from right of way to right of way, as is the case for the tower approach from the Square Lake Road right of way to the MDOT right of way.
- Since the MDOT right of way is not private property, the proposed approach did not meet the definition of a driveway approach and the permit request from SBA was not processed.
- In order to process an approach permit for the SBA tower site, a revision to the definition that changes "private property" to "abutting property" is needed.
- Since the Development Standards provides the basis for design of sidewalk and driveway approaches and includes the Standard Specifications, a revision to 34.04 is a proposed housekeeping change to reflect that fact.
- The fees for sidewalk and approach permits should be moved to Chapter 60. A separate agenda item makes changes to Chapter 60 to accomplish that move.

Financial Considerations:

There are no financial considerations.

Legal Considerations:

There are no legal considerations.

Policy Considerations:

- Consistent with Goal #3 of the City of Troy Goals & Objectives policy (Maintain Relevance of Public Infrastructure to Meet Changing Public Needs).

Options:

- The Council can approve or disapprove the suggested resolution.
- The Council can amend the suggested resolution.

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 34 OF THE CODE
OF THE CITY OF TROY

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 34 of the Code of the City of Troy.

Section 2. Amendment

34.01 Definitions

When used in this Chapter, the words defined in this Section shall have the following meanings:

~~(a)~~ "Sidewalk" shall mean the improved portion of the street right-of-way designed for pedestrian travel.

~~(a)(b)~~ "Development Standards" shall mean the basis for design of public and private improvements as established by the Engineer. These Development Standards incorporate the City of Troy Standard Details and Specifications for construction as established by the Engineer.

~~(b)(c)~~ "Director of Building and Zoning" means the City of Troy Director of Building and Zoning, or his/her designee.

~~(e)(d)~~ "Driveway Approach" shall mean the improved portion of the street right-of-way designed to provide for vehicular travel from abutting property ~~private property~~ to a public roadway.

~~(d)(e)~~ "Director" shall mean the Public Works Director of the City, or his/her designee.

~~(e)(f)~~ "Engineer" shall mean the City Engineer or his/her designee.

~~(f)(g)~~ "Superintendent" shall mean the Public Works Superintendent of Streets and Drains for the City of Troy.

(Rev. 06-17-02)

34.02 Permits

34.02.01 No person shall construct, rebuild or repair any sidewalk or driveway approach

without first obtaining a sidewalk and approach permit from the Director of Building and Zoning, except that sidewalk or driveway approach repairs of less than fifty (50) square feet of sidewalk or driveway approach may be made without a permit.

34.02.02 The sidewalk and approach permit shall be prominently displayed on the construction site.

34.02.03 The fee for the sidewalk and approach permit shall be specified in Chapter 60 of the Code, set by City Council resolution, which shall be incorporated by reference.

34.02.04 No sidewalk or driveway approach shall be poured until the site has been inspected and approved by the Director or his designee.

34.02.05 Each time a proposed sidewalk or driveway approach construction is inspected and rejected by the City, a re-inspection fee ~~of twenty dollars (\$20.00)~~ shall be paid prior to re-inspection. The re-inspection fee shall be specified in Chapter 60 of the Code.

34.02.06 In the event that a sidewalk or driveway approach is poured without a required permit, and/or without the required inspection or without a re-inspection, the sidewalk or driveway approach must be removed and replaced at the expense of the owner.

A. As an alternative to removal and replacement, if all visible portions of the sidewalk or driveway approach meet the sidewalk and approach specifications, the contractor may elect to prove that the concrete meets the thickness and strength requirements of the specifications by having cores taken from the sidewalk or driveway approach and having them measured and tested by an approved independent testing laboratory.

B. As a second alternative to removal and replacement, if all visible portions of the sidewalk or driveway approach meet the City's specifications, the contractor may elect to deposit a two (2) year cash bond with the City to cover the cost, as estimated by the Director, for the removal and replacement of the entire sidewalk or driveway in the event that deficiencies develop within a two (2) year time period.

(Rev. 06-17-02)

34.03 Line and Grade Stakes

The Contractor or Property Owner shall furnish line and grade stakes as may be necessary to construct the sidewalk or driveway approach as approved by the City. This shall include establishment of the property line, adjacent to the sidewalk or driveway approach to be constructed. This may require the contractor to either locate existing lot corner irons and monuments; or have a licensed land surveyor establish new lot corner irons and monuments. All lot corner irons and monuments shall bear the license number of the surveyor that performed the work.

(Rev. 06-17-02)

34.04 Sidewalk and Driveway Approach Specifications

All sidewalk or driveway approach construction, rebuild, and/or repair shall conform to the ~~"Development Standards Standard Specifications for Sidewalks and Driveway Approaches"~~ as established by the ~~Engineer~~Director.

Section 3. Savings

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

Section 4. Severability Clause

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

Section 5. Effective Date

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

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

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Louise E. Schilling, Mayor

Tonni Bartholomew, City Clerk