Date: August 4, 2005

To: John Szerlag, City Manager

From: Douglas J. Smith, Director of Real Estate and Development
Mark F. Miller, Planning Director

Subject: AGENDA ITEM – PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 212) – Articles IV, XXV, XXVI and XXVII, Freestanding Restaurants, Banks and Daycare Facilities in the R-C, O-M and O-S-C Districts.

The intent of this amendment is to permit restaurants, daycare facilities, banks, and financial institutions in the R-C, O-M and O-S-C Districts, subject to special use approval. The uses could sit on separate parcels created from the office property and would generally be located closer to the street than the existing office buildings. This will have the effect of strengthening the relationship between the street and the buildings on the site, and also improving marketability for existing office properties.

Presently daycare facilities, banks and financial institutions are not permitted in the R-C district; daycare facilities are not permitted in the O-M and O-S-C districts. Restaurants are permitted as accessory uses in the R-C, O-M and O-S-C district, provided the restaurant is "designed so as to provide a logical extension of the floor plan of the principal structure". This requirement has contributed to the creation of large off-street parking areas surrounding large office/restaurant buildings. Generally these buildings are set back a considerable distance from the street with little relationship to the street.

New definitions for "fast food restaurant", "financial institution" and "full service restaurant" were provided. Note that fast food restaurants will not be permitted uses in the O-M, O-S-C and R-C districts.

The Planning Commission held a public hearing on ZOTA 212 at the June 14, 2005 Regular Meeting, and recommended approval of the proposed text amendment. City Management recommends approval of ZOTA 212.

A Public Hearing will be held on this item at the August 15, 2005 City Council Meeting.

Attachments:
1. ZOTA 212, dated 6/21/05
2. Minutes from June 14, 2005 Planning Commission Regular Meeting.

Prepared by RBS/MFM

G:\ZOTAs\ZOTA 212 Freestanding Restaurants in RC\CC Public Hearing Memo 08 15 05.doc

PROPOSED ZONING ORDINANCE TEXT AMENDMENT
(ZOTA 212)
6/21/05
Text Amendment for Freestanding Restaurants, Banks, Bank Branches and Financial Institutions, and Nursery schools, day nurseries and child care centers in the R-C, OM and O-S-C Zoning Districts

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 the re-numbering of section 04.20.59 to 04.20.60, and by the addition of new sections 04.20.57 to 04.20.60 to read as follows:

04.00.00 **ARTICLE IV DEFINITIONS**

04.20.00 DEFINITIONS

04.20.55 EXCAVATION: any breaking of ground, except common household gardening and ground care.

04.20.56~~9~~ FAMILY: One or two persons or parents, with their direct lineal descendents and adopted children (and including the domestic employees thereof) together with not more than two persons not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit. Every additional group of two or less persons living on such housekeeping unit shall be considered a separate family for the purposes of this Chapter.

04.20.57~~60~~ FAMILY DAY CARE HOME: A private residence in which one (1) to six (6) children under the age of eighteen (18) are received for care and supervision from other than a parent or legal guardian for periods of less than twenty-four (24) hours a day, in addition to children related to an adult member of the family by blood, marriage or adoption. Family Day Care Home includes a home that gives care to such unrelated children for more than a total of thirty (30) days during a calendar year.

04.20.58 FAST FOOD RESTAURANT: An establishment that provides food and beverages to patrons that is primarily designed for over-the-counter sale of ready-to-eat foods and/or beverages from a limited, standardized menu,

and which does not have waiter/waitress service at dining tables; and where the food is typically paid for prior to eating. Such facilities may also sell food and beverages through a drive-up or drive-through service window.

04.20.59 FINANCIAL INSTITUTION: A savings and loan, credit union, mortgage office, or similar institution, including automated teller machines.

04.20.60 FULL SERVICE RESTAURANT: An establishment that provides food and beverages to patrons who order and are served while seated (i.e. waiter/waitress service) and typically pay after eating, and that may also provide this type of service in combination with alcoholic beverages prepared, served and consumed on the premises, takeout services, limited outdoor seating/dining, or live non-theatrical entertainment.

Chapter 39 of the City of Troy Code is amended by the addition of text to section 25.10.00 and the addition of new section 25.30.05, 25.30.06 and 25.30.07 to read as follows:

25.00.00 ARTICLE XXV O-M MID-RISE OFFICE DISTRICT

25.10.00 INTENT:

The O-M, Office Mid-Rise, District is intended to accommodate office buildings and restricted related retail and service establishments on large land parcels in proximity to areas of major commercial or civic development. Civic development shall mean Civic Center building. Such Districts are intended to provide transition between these areas and major thoroughfares, and areas of less intense development. Because of the large land area involved, it is felt that greater flexibility as to building height and related uses is warranted, as compared to the O-1 (Office Building) District. Because of this flexibility, great care must be taken as to planning of such areas and the development which is to occur within them. Site plan approval of each development is thus a necessity in order to assure that such Districts are fully compatible with adjacent areas. The O-M District is intended to encourage the development of uses and services that will support and enhance the marketability of office buildings in the O-M District, and to preserve the economic vitality of the area through the development of uses and services for the benefit of tenants and local residents.

25.30.05 Free-standing, full service restaurants situated on “pad-sites” or individual out-parcels subject to the following conditions:

A. Fast foot restaurants and restaurants with drive-up windows or service facilities shall be prohibited.

B. Minimum gross floor area of the building shall be 3500 square feet.

C. Individual parcels may be subdivided from existing developed parcels provided that the newly created lots shall comply with the density, area and bulk requirements for the zone.

D. Tables and seating for outdoor dining are permitted provided that the maximum seating area does not exceed 25% of the gross floor area of the building and provided that such outdoor areas are situated on a patio surface composed of concrete, pavers, or other similar materials. Such outdoor dining areas shall be partially screened by the use of planters, hedges, walls, fences, landscaping materials or any combination thereof to a minimum height of 36 inches, the design of such screening to be approved by the Planning Commission.

E. No portion of any outdoor seating area shall be located closer than 300 feet from any residential district. Live or recorded music is prohibited in outdoor seating areas.

F. Restaurants and food service establishments selling or serving alcoholic beverages shall further be subject to the requirements of the Michigan Liquor Control Commission.

G. The site shall be designed to ensure a safe and convenient pedestrian connection between the restaurant and the office building.

25.30.06 Banks, bank branches and financial institutions, subject to the following:

A. Individual parcels may be subdivided from existing developed parcels provided that the newly created lots shall comply with the density, area and bulk requirements for the zone.

B. Ingress and egress shall be provided so as not to conflict with adjacent uses or adversely affect traffic flow on adjacent thoroughfares

C. Drive-up windows or service facilities shall include the provision of back-up or waiting space, physically separated from off-street parking areas and drives, at the rate of four (4) car spaces for each service window or facility, in addition to the space at the service window or facility. Drives providing such waiting spaces shall have a minimum clear width of thirteen (13) feet.

D. The site shall be designed to ensure a safe and convenient pedestrian connection between the bank and the office building.

25.30.07 Nursery schools, day nurseries and child care centers (not including dormitories), subject to the following:

A. Individual parcels may be subdivided from existing developed parcels provided that the newly created lots shall comply with all zone requirements for lot area, building setbacks, and parking

B. The site shall be designed to ensure a safe and convenient pedestrian connection between the facility and the office building.

C. The facility shall be licensed with the Family Independence Agency or the appropriate licensing agency, should the licensing duties be provided by another organization.

Chapter 39 of the City of Troy Code is amended by the addition of text to section 26.10.00 and the addition of new section 26.30.05, 26.30.06 and 26.30.07 to read as follows:

26.00.00 **ARTICLE XXVI O-S-C OFFICE-SERVICE-COMMERCIAL DISTRICT**

26.10.00 INTENT:

The O-S-C (Office-Service-Commercial) District is designed and intended to accommodate large office buildings and restricted retail and service establishments which serve large numbers of people. A major purpose of this District is to provide limited areas for buildings of greater height and more intensive land use activity in an otherwise low-density community. Because of the greater building height, intensity of land use, and associated high volumes of vehicular and pedestrian traffic, this District is not compatible in conjunction with low-density residential areas. It is therefore intended that this District be located only in proximity to areas of major commercial or civic development, and to major thoroughfares or freeways. The O-S-C District is intended to encourage the development of uses and services that will support and enhance the marketability of office buildings in the O-S-C District, and to preserve the economic vitality of the area through the development of uses and services for the benefit of tenants and local residents. Further, because of the intensity of use and the potential diversification of land uses in such a District, great care must be taken as to the planning of such areas and the development which is to occur within them. Site plan approval of each development is thus an absolute necessity to assure a compatible arrangement of the varied land uses which are permitted to be established.

26.30.00 USES PERMITTED SUBJECT TO SPECIAL USE APPROVAL

26.30.05 Free-standing, full service restaurants situated on “pad-sites” or individual out-parcels subject to the following conditions:

A. Fast foot restaurants and restaurants with drive-up windows or service facilities shall be prohibited.

B. Minimum gross floor area of the building shall be 3500 square feet

C. Individual parcels may be subdivided from existing developed parcels provided that the newly created lots shall comply with the density, area and bulk requirements for the zone.

D. Tables and seating for outdoor dining are permitted provided that the maximum seating area does not exceed 25% of the gross floor area of the building and provided that such outdoor areas are situated on a patio surface composed of concrete, pavers, or other similar materials. Such outdoor dining areas shall be partially screened by the use of planters, hedges, walls, fences, landscaping materials or any combination thereof to a minimum height of 36 inches, the design of such screening to be approved by the Planning Commission.

E. No portion of any outdoor seating area shall be located closer than 300 feet from any residential district. Live or recorded music is prohibited in outdoor seating areas.

F. Restaurants and food service establishments selling or serving alcoholic beverages shall further be subject to the requirements of the Michigan Liquor Control Commission.

G. The site shall be designed to ensure a safe and convenient pedestrian connection between the restaurant and the office building.

26.30.06 Banks, bank branches and financial institutions, subject to the following:

A. Individual parcels may be subdivided from existing developed parcels provided that the newly created lots shall comply with the density, area and bulk requirements for the zone.

B. Ingress and egress shall be provided so as not to conflict with adjacent uses or adversely affect traffic flow on adjacent thoroughfares

C. Drive-up windows or service facilities shall include the provision of back-up or waiting space, physically separated from off-street parking

areas and drives, at the rate of four (4) car spaces for each service window or facility, in addition to the space at the service window or facility. Drives providing such waiting spaces shall have a minimum clear width of thirteen (13) feet.

D. The site shall be designed to ensure a safe and convenient pedestrian connection between the bank and the office building.

26.30.07 Nursery schools, day nurseries and child care centers (not including dormitories), subject to the following:

A. Individual parcels may be subdivided from existing developed parcels provided that the newly created lots shall comply with all zone requirements for lot area, building setbacks, and parking

B. The site shall be designed to ensure a safe and convenient pedestrian connection between the facility and the office building.

C. The facility shall be licensed with the Family Independence Agency or the appropriate licensing agency, should the licensing duties be provided by another organization.

Chapter 39 of the City of Troy Code is amended by the addition of text to section 27.10.00 and the addition of new section 27.30.04, 27.30.04 and 27.30.05 to read as follows:

27.00.00 **ARTICLE XXVII R-C RESEARCH CENTER DISTRICT**

27.10.00 INTENT:

The R-C (Research Center) District is designed to provide for industrial-research and office uses in planned developments. Such districts are to be located and developed so as to complement the significant light industrial character of the community, while at the same time providing for the necessary related non-manufacturing uses such as corporate office and research facilities. The R-C District is intended to encourage the development of uses and services that will support and enhance the marketability of office buildings in the R-C District, and to preserve the economic vitality of the area through the development of uses and services for the benefit of tenants and local residents. Further, the Research Center District is intended to provide for those major industrial-research, and office, and training uses which require proximity to major non-residential areas, rather than for smaller local-serving uses such as medical offices, real estate offices, etc., which could reasonably be located in local commercial and service areas elsewhere in the community.

27.10.00 INTENT

To encourage the development of uses and services that will support and enhance the marketability of office buildings in the R-C District.

To preserve the economic vitality of the area through the development of uses and services for the benefit of tenants and local residents.

27.30.00 USES PERMITTED SUBJECT TO SPECIAL USE APPROVAL

27.30.03 Free-standing, full service restaurants situated on "pad-sites" or individual out-parcels subject to the following conditions:

A. Fast foot restaurants and restaurants with drive-up windows or service facilities shall be prohibited.

B. Minimum gross floor area of the building shall be 3500 square feet.

C. Individual parcels may be subdivided from existing developed parcels provided that the newly created lots shall comply with the density, area and bulk requirements for the zone.

D. Tables and seating for outdoor dining are permitted provided that the maximum seating area does not exceed 25% of the gross floor area of the building and provided that such outdoor areas are situated on a patio surface composed of concrete, pavers, or other similar materials. Such outdoor dining areas shall be partially screened by the use of planters, hedges, walls, fences, landscaping materials or any combination thereof to a minimum height of 36 inches, the design of such screening to be approved by the Planning Commission.

E. No portion of any outdoor seating area shall be located closer than 300 feet from any residential district. Live or recorded music is prohibited in outdoor seating areas.

F. Restaurants and food service establishments selling or serving alcoholic beverages shall further be subject to the requirements of the Michigan Liquor Control Commission.

G. The site shall be designed to ensure a safe and convenient pedestrian connection between the restaurant and the office building.

27.30.04 Banks, bank branches and financial institutions, subject to the following:

A. Individual parcels may be subdivided from existing developed parcels provided that the newly created lots shall comply with the density, area and bulk requirements for the zone.

B. Ingress and egress shall be provided so as not to conflict with adjacent uses or adversely affect traffic flow on adjacent thoroughfares

C. Drive-up windows or service facilities shall include the provision of back-up or waiting space, physically separated from off-street parking areas and drives, at the rate of four (4) car spaces for each service window or facility, in addition to the space at the service window or facility. Drives providing such waiting spaces shall have a minimum clear width of thirteen (13) feet.

D. The site shall be designed to ensure a safe and convenient pedestrian connection between the bank and the office building.

27.30.05 Nursery schools, day nurseries and child care centers (not including dormitories), subject to the following:

A. Individual parcels may be subdivided from existing developed parcels provided that the newly created lots shall comply with all zone requirements for lot area, building setbacks, and parking

B. The site shall be designed to ensure a safe and convenient pedestrian connection between the facility and the office building.

C. The facility shall be licensed with the Family Independence Agency or the appropriate licensing agency, should the licensing duties be provided by another organization.

Section 2. 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 _____, 2005.

_____
Louise Schilling, Mayor

_____
Tonni Bartholomew, City Clerk

G:\ZOTAs\ZOTA 212 Freestanding Restaurants in RC\Draft 6 21 05.doc

ZONING ORDINANCE TEXT AMENDMENT

11. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 212) – Articles XXV, XXVI, and XXVII – Freestanding Restaurants, Banks and Daycare Facilities in the O-M (Mid-Rise Office), O-S-C (Office-Service-Commercial) and R-C (Research Center) Districts

Mr. Savidant presented a summary of the proposed zoning ordinance text amendment. He reviewed the latest three revisions that were incorporated in the proposed text. Mr. Savidant reported that City Management concurs with the proposed text amendment.

Items briefly discussed were the size of the play area with respect to State and City requirements, and the minimum height of a fence for outdoor dining with respect to requirements of the Michigan Liquor Control Commission.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2005-06-104
Moved by: Waller
Seconded by: Khan

RESOLVED, That the Planning Commission hereby recommends to the City Council that Articles IV, XXV, XXVI and XXVII, pertaining to Freestanding Restaurants, Banks and Daycare Facilities in the O-M, O-S-C and R-C Zoning Districts, and related additional definitions, be amended as printed on the Proposed Zoning Ordinance Text Amendment, and

BE IT FURTHER RESOLVED, That any reference to the requirement of the City ordinance for square footage of a play area be altered to match the requirements by State law.

Yes: Chamberlain, Khan, Littman, Schultz, Strat, Vleck, Waller, Wright
No: Drake-Batts

MOTION CARRIED

Ms. Drake-Batts said daycare facilities do not belong in parking lots and she expressed concern for the safety of children. She said the accessory uses would reduce the value of the buildings, affect leasing opportunities and generate litter.