



CITY COUNCIL AGENDA ITEM

Date: May 7, 2013

To: Brian Kischnick, City Manager

From: Mark F. Miller, Director of Economic & Community Development
R. Brent Savidant, Planning Director

Subject: ZONING ORDINANCE TEXT AMENDMENT (File Number: ZOTA 245) – Sober Living Facilities

City Council held a public hearing on this item on April 4, 2013 and postponed the item to the May 13, 2013 City Council Regular meeting. Some City Council members submitted written questions related to this item. These questions and responses are attached. The Troy Police Department prepared a report related to a sober living facility in Shelby Township. This report is attached.

The text amendment would regulate sober living facilities in the City of Troy, including a definition for sober living facilities. Sober living facilities with 6 or fewer residents are regulated as single family residential uses and are permitted by right, without City review, similar to adult foster care small group homes. Sober living facilities with 7 or more residents are permitted subject to special use approval in the R-1A through R-1E, RT, MR, UR, IB and OM districts. As such, they will require special use approval by Planning Commission, including submission of a preliminary site plan that meets all related standards for sober living facilities.

The attached memos prepared by CarlisleWortman Associates, Inc. provide additional background.

The Planning Commission discussed this item at four public meetings. The Planning Commission held a public hearing on this item on March 26, 2013, and recommended approval of the text amendment.

Attachments:

1. Draft text amendment, ZOTA 245
2. City Council questions/Planning Department responses
3. Police report for 5010 Nocturne Lane, Shelby Township
4. City Council item from April 15, 2013 Regular meeting, including attachments
5. PowerPoint presentation from April 15, 2013 City Council meeting
6. City Council minutes from April 15, 2013 Regular meeting (draft/excerpt)

CITY OF TROY

AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY
CITY COUNCIL PUBLIC HEARING DRAFT

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 39, Zoning Ordinance, of the Code of the City of Troy.

Section 2. Amendment

Chapter 39 of the Code of the City of Troy is amended as follows

Add the following definition to Section 2.02 DEFINITIONS:

SOBER LIVING FACILITY: A temporary residential living arrangement for seven (7) or more adult persons leaving an institutional setting recovering from drug or alcohol addiction and in need of a supportive living arrangement in order to readjust to living outside the institution. These are persons who are receiving therapy and counseling from licensed or certified professional staff and trained non-professional or paraprofessional support staff who are present when residents are present, to help them recuperate from the effects of drug or alcohol addiction. Sober living facility may provide limited supportive services to residents only, including: mental health services; clinical rehabilitation services; social services; financial management services; legal services; and other similar supportive services. Residency is limited to a specific number of weeks or months, typically 24 months or less. This definition does not constitute halfway houses for those released from prison or a homeless situation.

Add the following to Section 4.21 SCHEDULE OF USE REGULATIONS:

Institutional

	R1A- R1E	RT	MF	UR	MHP	CF	EP	CB	GB	IB	O	OM	RC	PV	P
<u>Sober Living Facilities</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>S</u>	<u>NP</u>	<u>S</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>

Add Section 6.33 to read as follows:

SECTION 6.33 SOBER LIVING FACILITIES:

- A. ~~Sober Living Facilities serving six (6) persons or less. A Sober Living Facility serving six (6) persons or less shall be considered a single family use of property.~~
- B. ~~Sober Living Facilities serving seven (7) or more adult persons.~~
 - 1. A. All residents shall be eighteen (18) years of age or older.
 - 2. B. Frontage on either a major or minor arterial street shall be required.
 - 3. C. Appropriate licenses with the State of Michigan shall be maintained.
 - 4. D. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located provided there is a minimum site area of twenty-five hundred (2,500) square feet per adult, excluding employees and/or caregivers.
 - 5. E. Facilities may include ancillary facilities such as multi-purpose recreational rooms and meeting rooms.

Add the following to Table 13.06-A to read as follows:

Institutional and Places of Gathering

<u>Sober Living Facilities</u>	<u>1 space for each 1 per bed and 1 space per employee and/or caregiver at largest shift</u>
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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 amendment to the Zoning Ordinance shall take effect seven (7) days after publication, which shall be published within 15 days of adoption, as required the Michigan Zoning Enabling Act (Act 110 of 2006).

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 _____, 2013.

Dane Slater, Mayor

Aileen Bittner, City Clerk

**RESPONSES TO CITY COUNCIL QUESTIONS
PREPARED BY CITY OF TROY PLANNING DEPARTMENT**

The following questions were asked by City Councilman Campbell. Responses follow each question in red.

- What is the reasoning or justification why these Sober Living Facilities have developed such a “NEED” in Troy?

The need for sober living facilities was determined by the Planning Commission based on discussions with recovery center providers and residents who indicated there was a demand in Troy but no facilities presently. Furthermore, the Michigan Zoning Enabling Act requires that municipalities provide for all legal land uses provided there is a demonstrated need for the use and an appropriate location exists for such use. The use is not permitted in the Zoning Ordinance. Based on a demonstrated need, the Planning Commission wanted to be proactive and amend the Zoning Ordinance to permit these uses. That way the City is able to define the use, determines what the appropriate standards are for such use, and determines the appropriate locations for such use.

- It appears to me that these type of facilities, if needed, will not fit within a family neighborhood environment. With the multiple residents being over 18 years of age and most likely having a car and some sort of job would not be workable for parking, traffic and noise control in a neighborhood. All of the information about these facilities on the internet has the facilities on main roads

Sober living facilities are for 7 residents or more. The Planning Commission considered them to be more of a commercial use than a traditional single family home, similar to Adult Foster Care Small and Large Group Homes. That is the reason that they would be permitted subject to Special Use Approval and with specific use standards to ensure secondary impacts upon adjacent and neighboring properties can be mitigated. For example, the parking requirement is to provide 1 space per bed and (1) off-street parking space per employee and/or caregiver at largest shift. In addition, one of the proposed standards is that they be located on major or minor arterial roads, which has the effect of pulling them out of existing neighborhoods.

- I would also like to know what type of on-sight management these facilities have.

The proposed definition addresses the types of management one could expect to find in a recovery centers.

- During their presentation they stated that Troy does not have any sober living facilities.....really? There are 503 of these facilities state wide and there are (4) right here in Troy. (see the list below)

See next response below.

- If the zoning does not allow for these facilities currently, then how are there four in Troy?
 1. Rivers Bend / 33975 Dequindre, Troy
 2. Perspectives of Troy P.C. / 888 West Big Beaver, Troy
 3. Michigan behavioral Medicine / 625 East Big Beaver, Troy
 4. Insight Recovery Center / 631 East Big Beaver , Troy

These four facilities would not be considered sober living facilities, which are residential uses. They would be considered clinics, which are presently permitted in many Zoning Districts in the City of Troy.

The following questions were asked by City Councilman Henderson. Responses follow each question in red.

Power point presentation Slide 3 indicated ZOTA 245 Sober living facilities “presently not permitted in Troy”. Q: can it remain that way legally?

This question relates to exclusionary zoning and therefore should be addressed by the City Attorney.

Slide 4 indicates a zoning ordinance shall not totally prohibit the establishment of a land use in the presence of a “demonstrated need”. Q: what constitutes a demonstrated need?

Demonstrated need in this instance was determined by the Planning Commission based on discussions with recovery center providers and residents who indicated there was a demand in Troy but no facilities presently in the City. Furthermore, the Michigan Zoning Enabling Act requires that municipalities provide for all legal land uses provided there is a demonstrated need for the use and an appropriate location exists for such use. The use is not permitted in the Zoning Ordinance. Based on a demonstrated need, the Planning Commission wanted to be proactive and amend the Zoning Ordinance to permit these uses. That way the City defines the use, determines what the appropriate standards are for such use, and determines the appropriate locations for such use.

Slide 5 definition of a sober living facility is defined as a temporary residential arrangement for 7 or more adult persons. Q: Will our proposed ordinance eliminate uses for 6 or less?

No. These would be permitted by right in One Family Residential Zoning Districts. The 7 resident threshold is based on the definition of family and case law which makes the regulation of facilities under 6 persons difficult.

Slide 5 again, Sober living facilities may provide limited supported services to “residents”. Q: Does this mean residents of a particular sober living facility, or residents of Troy generally?

It means residents of a particular sober living facility.

Slide 7, Similar facilities with 6 or fewer residents would be regulated the same as a single family home.

Q: Does that mean 6 or fewer is already essentially allowed without approval, no ordinance change necessary?

Yes. The 7 resident threshold is based on the definition of family and case law which makes the regulation of facilities under 6 persons difficult.

Slide 8, Regarding special use approvals. Q: Can we revise the ordinance allowing no facilities in a residential area, or two family area, yet still allow them in all other districts?

The draft before City Council was recommended for approval by Planning Commission. City Council may revise the language as desired. These facilities are residential uses. There are like residential uses (adult foster care small and large group homes, senior assisted/independent living facilities, adult foster care congregate facilities) that are presently permitted in one and two family districts.

Slide 11, All special uses requirements. Q: can we increase the distance of mailing notifications to neighbors within 500 or 1000 feet, and can we require approval from 2/3 of said neighbors before approval of a Sober Living Facility?

The draft before City Council was recommended for approval by Planning Commission. City Council may revise the language as desired. The 300 foot notification requirement is consistent with State law and is

applied to all applications that require a Planning Commission public hearing. The approval of 2/3 of neighbors would likely be impossible to meet.

Slide 12, SLF's must meet the following non discretionary standards. Frontage on either a major or minor artery, and minimum site area of 2,500 sq. ft. Q: Can we require only on a major artery, and bump the size up to 5000 sq ft per adult (how about 10,000 sq ft.)

The draft before City Council was recommended for approval by Planning Commission. City Council may revise the language as desired. The major or minor arterial and minimum site area of 2,500 sq. ft requirements are consistent with regulations for like uses.

Slide 13 the map. It shows a couple areas where the proposed allowable area could be over 50% of a square mile. Q: Can we have a similar map(s) indicating an exclusion of residential areas (if answer to the above question regarding excluding residential areas is yes), a map showing only locations on major arteries, and finally a map showing the exclusion of both residential and minor arteries?

These maps could be prepared. Before doing so, it may be beneficial to consult with the City Attorney to ensure that preparing these maps would not give the impression of being exclusionary.

Slide 15 hours of operation. Q: would it not be assumed the hours of operation on a SLF would be 24/7?

They are 24/7 operations insofar as there would likely be someone in the facility at all times. Structured activities would likely take place during typical business hours. Most residents would be working or at school during the day and would reside in the facility at other times.



For the Prevention of Drug and Alcohol Abuse

Executive Board

Julie Kitchen

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Beaumont Health System

Dr. Douglas Carpenter

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John Munoz

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Tasneem Hakim

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Judge Dennis Drury

Member-At-Large

52-4 District Court

Chief Gary Mayer

Member-At-Large

Troy Police Department

Jerry Korach

Past President

Citizen of Troy

Nancy Morrison

MA, LLP, CPS

Executive Director

Troy Community Coalition

May 10, 2013

Dr. Paul Smith

Great Lakes Recovery Community

1202 Walton Blvd.

Suite 210

Rochester Hills, MI 48307

Dear Dr. Smith:

The Troy Community Coalition for the Prevention of Drug and Alcohol Abuse is pleased to write a letter of support for the Great Lakes Recovery Community. It was a pleasure meeting with you in October of 2012 to learn about the property and facilities you have purchased in Troy to create an outpatient and residential treatment center. Your efforts in providing high quality, long term treatment and supportive living for individuals suffering from substance use disorders should be commended.

After visiting your facility in Shelby Township and meeting the Sober Living Director, staff and clients, I saw first-hand the valuable and beneficial treatment and program services that you offer. Recurrent drug testing, monitored medication disbursement, alcohol free and drug free living conditions, individual and group psychotherapy, mentoring, employment resources, educational opportunities and the solid structure you have in place are all factors that play a role in your highly successful operation. Your dedicated staff, high standards and your certification from the Commission on Accreditation of Rehabilitation Facilities (CARF) set you apart from other recovery and treatment centers. You have created an institution of excellence to facilitate the best possible outcomes for your clients.

The superior services that you provide are essential to the well being of our residents and for the health of all Michigan residents. We are committed to assisting you in achieving your goals. We look forward to continuing our relationship with the Great Lakes Recovery Community. With your proven track record, we are optimistic that you will succeed with your new endeavor in the Troy community.

Sincerely,

Nancy Morrison, MA, LLP, CPS

Executive Director

4420 Livernois
Troy, MI 48098
248.823.5088
Fax: 248.823.5051



INTEGRITY * RESPECT * LAWS AND THE CONSTITUTION * ACCOUNTABILITY * PROBLEM SOLVING * PROFESSIONALISM

MEMORANDUM

DATE: April 25, 2013

TO: Gary Mayer, Chief of Police

FROM: George Zielinski, Police Sergeant
Jeff Oberski, Police Analyst Planner

RE: Sober Living Facility - 5010 Nocturne Ln, Shelby Township

Per your informational request, Jeff Oberski and I looked into the Sober Living facility in Shelby Township. Jeff queried and pulled all police runs to the address, 5010 Nocturne Lane, as well as any police reports involving persons reporting that address as their residence.

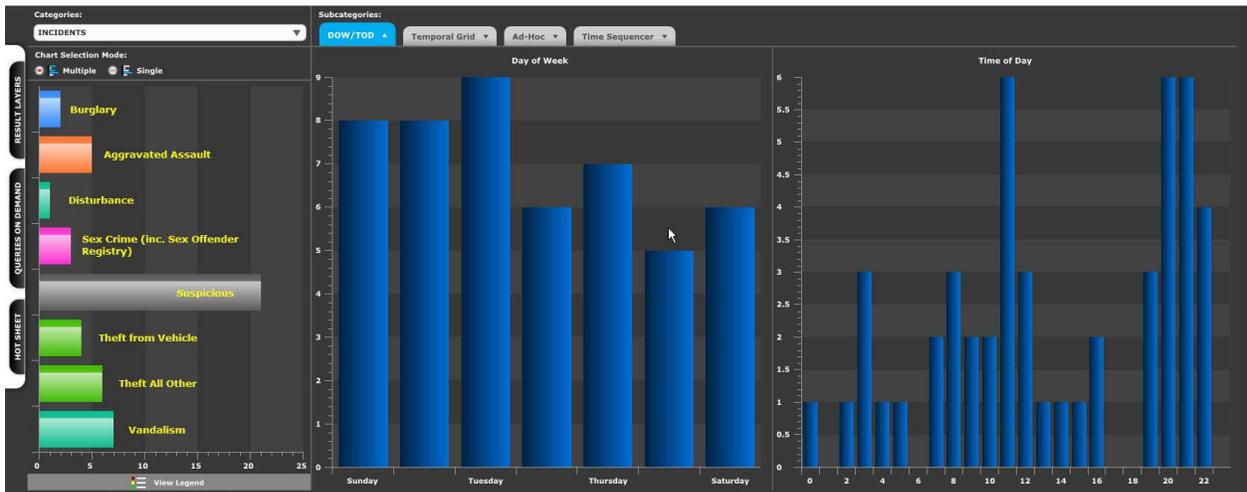
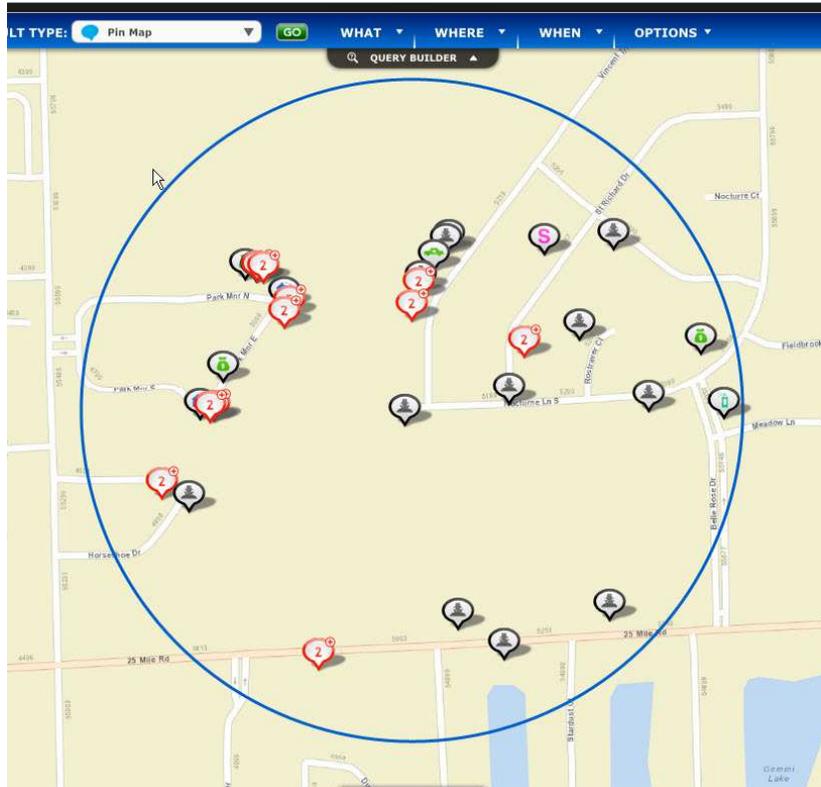
It appears the address was privately owned, until around 2010. Since then, there have been 4 police runs to the address, which included:

- Mental (Welfare Check) & commitment
- Fatal Drug Overdose
- Suspicious Circumstances (power outage)
- Open Building

Additionally, there have been two drug arrests in other jurisdictions where the arrestee reports 5010 Nocturne Lane as their residence.

The police reports indicate this address as a home for recovering drug addicts. One report indicates "The facility does not have a staff member on scene 24 hours a day. Residents at the facility can come and go as they please."

A query in CrimeView Dashboard for selected reported incidents within ¼ mile (walking distance) of this address in the last 2 years returned with 49 incidents (see attached spreadsheet and graphics). Of course, there is no evidence any of these incidents are related to 5010 Nocturne Lane, but the possibility exists given the relationship between drug addiction and crime.



REPORTED OFFENSE	LOCATION	DISPOSITION	OCCUR DATE/TIME
B&E - BURGLARY - FORCED ENTRY - RESIDENCE - HOME INVASION	4850 PARK MANOR E 4114	REPORT TAKEN	12/3/2012 11:51
SUSPICIOUS CIRCUMSTANCES	4865 N PARK MANOR 2305	NO REPORT	1/8/2012 7:45
SUSPICIOUS CIRCUMSTANCES	4850 E PARK MANOR	NO REPORT	1/27/2012 12:37
SOF REGISTRATION	4938 E PARK MANOR 3209	ADVISED	1/24/2012 20:22
SUSPICIOUS CIRCUMSTANCES	4865 N PARK MANOR	NO REPORT	1/29/2012 22:16
LARCENY (OTHER)	4855 N PARK MANOR 2105	REPORT TAKEN	12/25/2011 8:00
ASSAULT/ BATTERY/SIMPLE (INCL DOMESTIC AND POLICE OFFICER)	4865 N PARK MANOR 2210	NO REPORT	1/31/2012 20:37
SUSPICIOUS CIRCUMSTANCES	5267 ROSTRAVER CT	CLOSED	2/1/2012 0:16
ASSAULT/ BATTERY/SIMPLE (INCL DOMESTIC AND POLICE OFFICER)	4938 E PARK MANOR 3103	REPORT TAKEN	12/31/2011 10:09
SUSPICIOUS CIRCUMSTANCES	5350 S NOCTURNE LN	NO REPORT	3/14/2012 19:24
SUSPICIOUS CIRCUMSTANCES	5010 S NOCTURNE LN	CLOSED	3/19/2012 21:54
SUSPICIOUS CIRCUMSTANCES	4938 E PARK MANOR	NO REPORT	4/3/2012 19:48
SUSPICIOUS CIRCUMSTANCES	5129 VINCENT TRL	NO REPORT	4/9/2012 3:12
SUSPICIOUS CIRCUMSTANCES	5130 25 MILE RD	NO REPORT	4/12/2012 11:08
SUSPICIOUS CIRCUMSTANCES	4938 E PARK MANOR	NO REPORT	4/22/2012 21:49
SUSPICIOUS CIRCUMSTANCES	5091 VINCENT TRL	NO REPORT	5/24/2012 21:04
LARCENY (OTHER)	4865 N PARK MANOR 2108	REPORT TAKEN	7/2/2012 15:16
SUSPICIOUS CIRCUMSTANCES	4938 E PARK MANOR	NO REPORT	7/5/2012 20:10
DAMAGE TO PROPERTY - MDOP (OTHER)	5069 VINCENT TRL	CANCEL	8/6/2012 12:25
DISORDERLY CONDUCT (OTHER)	5267 25 MILE RD	NO REPORT	8/21/2012 10:28
B&E - BURGLARY - FORCED ENTRY - RESIDENCE - HOME INVASION	4938 PARK MANOR EAST	REPORT TAKEN	7/28/2012 11:59
DAMAGE TO PROPERTY - MDOP (OTHER)	5069 VINCENT TRL	REPORT TAKEN	8/5/2012 9:59
LARCENY (OTHER)	4882 25 MILE RD	REPORT TAKEN	9/14/2012 21:00
DAMAGE TO PROPERTY - MDOP (OTHER)	5091 VINCENT TRL	CLOSED	8/6/2012 11:09
SUSPICIOUS CIRCUMSTANCES	4718 HORSESHOE DR	NO REPORT	10/25/2012 20:22
DAMAGE TO PROPERTY - MDOP (OTHER)	4850 E PARK MANOR	REPORT TAKEN	11/2/2012 9:32
ASSAULT/ BATTERY/SIMPLE (INCL DOMESTIC AND POLICE OFFICER)	4850 E PARK MANOR 4125	CLEARED BY ARREST	11/21/2012 22:57
SUSPICIOUS CIRCUMSTANCES	SAINT RICHARD DR&S NOCTURNE LN	UNABLE TO LOCATE	12/1/2012 20:59
SUSPICIOUS CIRCUMSTANCES	5332 FIELDCREST DR	NO REPORT	6/4/2011 8:00
DAMAGE TO PROPERTY - MDOP (OTHER)	4865 N PARK MANOR	REPORT TAKEN	7/16/2011 21:00
LARCENY - PERSONAL PROPERTY FROM VEHICLE - LFA	5131 VINCENT TRL	REPORT TAKEN	7/27/2011 2:00
LARCENY - PERSONAL PROPERTY FROM VEHICLE - LFA	5134 SAINT RICHARD DR	REPORT TAKEN	7/26/2011 22:00
LARCENY - PERSONAL PROPERTY FROM VEHICLE - LFA	5109 VINCENT TRL	REPORT TAKEN	7/26/2011 21:00
DAMAGE TO PROPERTY - MDOP (OTHER)	5134 SAINT RICHARD DR	REPORT TAKEN	7/29/2011 11:00
MISSING PERSONS	5091 VINCENT TRL	NO REPORT	8/11/2011 7:49
DISORDERLY CONDUCT (OTHER)	4850 E PARK MANOR	NO REPORT	8/25/2011 3:07
DAMAGE TO PROPERTY - MDOP (OTHER)	55316 BELLE ROSE DR	REPORT TAKEN	9/11/2011 5:03
CSC 1ST DEGREE -PENETRATION PENIS/VAGINA	5231 SAINT RICHARD DR	REPORT TAKEN	10/31/2011 20:41
ASSAULT/ BATTERY/SIMPLE (INCL DOMESTIC AND POLICE OFFICER)	4882 25 MILE RD	NO REPORT	11/5/2011 14:58
LARCENY - PERSONAL PROPERTY FROM VEHICLE - LFA	4850 E PARK MANOR 4120	REPORT TAKEN	11/7/2011 8:03
ASSAULT/ BATTERY/SIMPLE (INCL DOMESTIC AND POLICE OFFICER)	4865 N PARK MANOR 2127	NO REPORT	11/13/2011 4:18
DISORDERLY CONDUCT	4713 HORSESHOE DR	CLEARED BY ARREST	12/9/2011 3:06

DAMAGE TO PROPERTY - MDOP (OTHER)	4713 HORSESHOE DR	NO REPORT	11/22/2011 19:15
LARCENY (OTHER)	4938 E PARK MANOR	REPORT TAKEN	11/29/2011 11:06
SUSP AUTO, PH,	5075 25 MILE RD	NO REPORT	2/27/2013 16:00
SEX OFFENDER R	4938 E PARK MANOR	CLOSED	3/6/2013 22:22
LARCENY (OTHER)	55355 E NOCTURNE LN	REPORT TAKEN	5/8/2011 12:00
SUSP AUTO, PH,	4850 E PARK MANOR 4205	NO REPORT	4/4/2013 16:45
LARCENY	4850 E PARK MANOR 4321	REPORT TAKEN	3/19/2013 13:48



CITY COUNCIL AGENDA ITEM

Date: April 9, 2013

To: Brian Kischnick, City Manager

From: Mark F. Miller, Director of Economic & Community Development
R. Brent Savidant, Planning Director

Subject: PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (File Number: ZOTA 245) – Sober Living Facilities

The text amendment will regulate sober living facilities in the City of Troy, including a definition for sober living facilities. Sober living facilities with 6 or fewer residents are treated as single family residential uses, similar to adult foster care small group homes. Sober living facilities with 7 or more residents are permitted subject to special use approval in the R-1A through R-1E, RT, MR, UR, IB and OM districts. As such, they will require special use approval by Planning Commission, including submission of a Preliminary Site Plan and meeting all related standards for sober living facilities.

The attached memos prepared by Carlisle\Wortman Associates, Inc. provide additional background.

The Planning Commission discussed this item at four public meetings. The Planning Commission held a public hearing on this item on March 26, 2013, and recommended approval of the text amendment.

Attachments:

1. Zoning Ordinance Text Amendment Public Hearing Draft
2. Report prepared by CWA dated February 6, 2013
3. Report prepared by CWA dated March 8, 2013
4. Planning Commission minutes from March 26, 2013 Special/Study meeting (excerpt)

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- B. Sober Living Facilities serving seven (7) or more adult persons.
 - 1. All residents shall be eighteen (18) years of age or older.
 - 2. Frontage on either a major or minor arterial street shall be required.
 - 3. Appropriate licenses with the State of Michigan shall be maintained.
 - 4. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located provided there is a minimum site area of twenty-five hundred (2,500) square feet per adult, excluding employees and/or caregivers.
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Dane Slater, Mayor

Aileen Bittner, City Clerk



CARLISLE

WORTMAN
associates, inc.

605 S. Main Street, Ste. 1
Ann Arbor, MI 48104

(734) 662-2200
(734) 662-1935 Fax

MEMORANDUM

TO: R. Brent Savidant, AICP, Planning Director

FROM: Ben Carlisle, AICP

DATE: February 6, 2013

RE: Sober Living Zoning Ordinance Amendments

An organization, Great Lakes Recovery Community, is interested in using a property in Troy as a structured and professionally administered residential treatment facility to serve infirmed persons suffering from a primary substance use disorder diagnosis or dual diagnoses of substance use disorder/addiction and psychiatric illness. The use is not specifically listed in the Schedule of Regulations of the City of Troy Zoning Ordinance.

Section 4.05 of the Zoning Ordinance gives the Zoning Administrator the authority to determine which district a use is permitted in. The Zoning Administrator may refer a proposed use to the Planning Commission for determination of the appropriate district(s) in which said use may be permitted. Furthermore, the Adult Foster Care Facility Licensing Act, 218 of 1979, clearly states that an establishment commonly described as an alcohol or a substance abuse rehabilitation center is not classified as an adult foster care facility. Thus this type of facility is not defined nor regulated under that act. Though the applicant notes they are working with the State, currently this is essentially a non-state regulated group home facility. However, since persons recovering from alcohol and drug addiction are considered to be handicapped, they have certain protections under the Americans with Disabilities Act and the Federal Fair Housing Act. Thus, any regulation that treats sober living homes less favorably than similar uses may be considered exclusionary and difficult to justify.

On January 22, 2013 the Planning Commission met to discuss the interpretation and appropriate districts of such use. After lengthy discussion, the Planning Commission directed staff to define the use; add the use to the schedule of uses (Section 4.21) as not-permitted, permitted, or special use based on appropriateness in each district; and add any necessary specific use regulations. This memo is a recommendation of draft language based on the best practices and the direction of the Planning Commission:

BEST PRACTICES:

Zoning studies and associated regulations for sober living or recovery centers were limited. Through research we identified three communities that defined similar uses and adopted associated regulations:

Saint Paul, Minnesota

The City Council directed a Sober House Zoning Study in May 2005, after the Council was informed that the number of sober houses locating in the city was on the rise. The study found that similar to Troy, the Ordinance did not list the use nor provide a similar use. As a result of the study, the City Council passed an ordinance addressing the following:

- Added definition:

A dwelling unit occupied by more than four persons, all of whom are in recovery from chemical dependency and considered handicapped under the Federal Fair Housing Act Amendments of 1988. It provides a non-institutional residential environment in which the residents willingly subject themselves to written rules and conditions, including prohibition of alcohol and drug use (except for prescription medications obtained and used under medical supervision), intended to encourage and sustain their recovery. The residents of a sober house are similar to a family unit, and share kitchen and bathroom facilities and other common areas of the unit. Sober houses are financially self-supporting. This definition does not include facilities that receive operating revenue from governmental sources. Sober houses do not provide on-site supportive services to residents, including the following: mental health services; clinical rehabilitation services; social services; medical, dental, nutritional and other health care services; financial management services; legal services; vocational services; and other similar supportive services.

- Added application procedure
- Limited sober houses in residential districts to ten or less residents
- Requires a Special Use for any facility over 17 residents
- Incorporated parking standards of 1.5 parking space per resident
- Created minimum lot area as the minimum lot area of the district plus 800 sq/ft per resident
- Set concentration distance: No sober living facility may be located within 300 of another

Los Angeles, CA

In 2011, Los Angeles adopted an ordinance that defined sober houses and similar facilities as “Alcoholism or Drug Abuse Recovery or Treatment Facility.” Defined as *any premises, place or building licensed by the State of California that provides 24-hour residential nonmedical services to adults who are recovering from problems related to alcohol, drug or alcohol and drug misuse or abuse, and who need alcohol and drug recovery treatment or detoxification services.* In addition to the definition, the ordinance adopted the following standards:

- If located in residential neighborhood, the facility is consistent with the residential character
- Security lighting must be shielded
- Occupancy limit of two residents for every bedroom

Champaign County, IL

In 2010, the County adopted an ordinance allowing recovery centers. These facilities were limited to agricultural zoning districts as a special use and they must be operated by and located on the same property as a church or temple. The following additional standards were adopted:

- Must be served by public transportation

- The maximum number of residents allowed at one time shall be the smaller of the following numbers:
 - 10% of the maximum occupancy of the main worship area of the associated church or temple
 - 30 persons
- The minimum required lot area shall be:
 - 20,000 square feet if served by a connected to sanitary sewer system
 - 30,000 square feet plus 7,000 square feet per resident if not served by a connected sanitary sewer system
- Facility shall include 24 hour supervision

It appears that these regulations were adopted for a specific property and/or applicant.

Shelby Township:

Great Lakes Recovery Center operates a six-woman facility in Shelby Township, which the Planning Commission visited. I contacted Glenn Wynn, Planning Director of Shelby Township. Mr. Wynn was not aware of the facility and noted that there are no specific use and regulations of this facility in the ordinance. Since they are under seven (7) persons, they are considered a State Regulated Adult Residential facility. Mr. Wynn also noted that they have not received any complaints or any correspondence from the neighborhood regarding the use.

TROY ZONING AMENDMENT:

Based on the direction of the Planning Commission and review of best practices, we recommend naming these facilities “recovery center” and adding following zoning amendments:

Definition:

Recovery Center: A temporary residential living arrangement for seven (7) or more persons leaving an institutional setting recovering from drug or alcohol addiction and in need of a supportive living arrangement in order to readjust to living outside the institution. These are persons who are receiving therapy and counseling from support staff who are present when residents are present, to help them recuperate from the effects of drug or alcohol addiction. Recovery center may provide limited supportive services to residents only, including: mental health services; clinical rehabilitation services; social services; financial management services; legal services; and other similar supportive services. Residency is limited to a specific number of weeks or months. This definition does not constitute halfway houses for those released from prison or a homeless situation.

The intent of the definition is to distinguish between recovery center and more service-intensive, government-licensed housing facilities occupied by residents with a higher level of dependence, and to reduce the existing lack of clarity about what constitutes a “legitimate” recovery center. This definition would not include dwelling units occupied by six (6) or less residents, which are covered by the standard definition of family, and by-right in single-family residential.

Use Table:

	R1A-R1E	RT	MR	UR	MHP	CF	EP	CB	GB	IB	O	OM	RC	PV	P
Recovery Center	S	S	S	S	NP	NP	NP	NP	NP	S	NP	S	NP	NP	NP
For Comparison Purposes only															
Senior assisted/independent living	P	P	P	P	NP	P	NP	P	P	P	NP	P	NP	NP	NP
Multiple-family dwellings (2-8 stories)	NP	NP	P	P	NP	NP	NP	NP	NP	P	NP	NP	NP	NP	NP
Convalescent centers	NP	NP	S	S	NP	P	NP	P	P	P	P	P	NP	NP	NP
Adult foster care, family home	P	P	P	P	P	P	NP								
Adult foster care, Small group home	S	S	S	S	S	S	NP								
Adult foster care, large group home	S	S	S	S	S	S	NP								
Adult foster care, congregate facility	S	S	S	S	S	S	NP								

Specific Use Provisions:

Recovery Center:

- A. Recovery Center serving six (6) persons or less. A Recovery Center serving six (6) persons or less shall be considered a single-family use of property.
- B. Recovery Center Adult serving between seven (7) or more persons.
 1. A site plan, prepared in accordance with Article 8 shall be required to be submitted.
 2. Frontage on either a major or minor arterial street shall be required.
 3. Parking: 1 space per bed and (1) off-street parking space per employee and/or caregiver at largest shift shall be provided.
 4. Appropriate licenses with the State of Michigan shall be maintained.
 5. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located provided there is a minimum site area of twenty-five hundred (2,500) square feet per adult, excluding employees and/or caregivers.
 6. Facility may include ancillary facilities are allowed such as multi-purpose recreational rooms and meeting rooms.

Benjamin R. Carlisle

CARLISLE/WORTMAN ASSOC., INC.
Benjamin R. Carlisle, LEED AP, AICP



CARLISLE

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(734) 662-2200

(734) 662-1935 Fax

MEMORANDUM

TO: R. Brent Savidant, AICP, Planning Director

FROM: Ben Carlisle, AICP

DATE: March 8, 2013

RE: Sober Living Zoning Ordinance Amendments

On February 12, the Planning Commission first considered zoning language regarding sober living facilities. The revised language below considers the comprehensive discussion between staff and the Planning Commission, as well as input from a Sober Living facility provider. Changes to the zoning ordinance language since the February 12 consideration is either underlined or ~~struckthrough~~ accordingly.

Please remember that since persons recovering from alcohol and drug addiction are considered to be disabled, they have certain protections under the Americans with Disabilities Act and the Federal Fair Housing Act. Thus, any regulation that treats sober living homes less favorably than similar uses may be considered exclusionary and difficult to justify. See our February 6, 2013 memo for more details regarding project background and zoning best practices.

If the Planning Commission agrees with the following Zoning Ordinance language, a public hearing will be scheduled.

TROY ZONING AMENDMENT:

Based on the direction of the Planning Commission and review of best practices, we recommend adding the following definition and zoning provisions:

Definition:

Sober Living Facility ~~Recovery Center~~: A temporary residential living arrangement for seven (7) or more adult persons leaving an institutional setting recovering from drug or alcohol addiction and in need of a supportive living arrangement in order to readjust to living outside the institution. These are persons who are receiving therapy and counseling from licensed or certified professional staff and trained non-professional or paraprofessional support staff who are present when residents are present, to help them recuperate from the effects of drug or alcohol addiction. Recovery center may provide limited supportive services to residents only, including:

mental health services; clinical rehabilitation services; social services; financial management services; legal services; and other similar supportive services. Residency is limited to a specific number of weeks or months, typically 24 months or less. This definition does not constitute halfway houses for those released from prison or a homeless situation.

The intent of the definition is to distinguish between sober living facility and more service-intensive, government-licensed housing facilities occupied by residents with a higher level of dependence, and to reduce the existing lack of clarity about what constitutes a “legitimate” sober living facility. This definition would not include dwelling units occupied by six (6) or less residents, which are covered by the standard definition of family, and by-right in single-family residential.

Use Table:

	R1A-R1E	RT	MR	UR	MHP	CF	EP	CB	GB	IB	O	OM	RC	PV	P
Recovery Center	S	S	S	S	NP	NP	NP	NP	NP	S	NP	S	NP	NP	NP
For Comparison Purposes only															
Senior assisted/independent living	P	P	P	P	NP	P	NP	P	P	P	NP	P	NP	NP	NP
Multiple-family dwellings (2-8 stories)	NP	NP	P	P	NP	NP	NP	NP	NP	P	NP	NP	NP	NP	NP
Convalescent centers	NP	NP	S	S	NP	P	NP	P	P	P	P	P	NP	NP	NP
Adult foster care, family home	P	P	P	P	P	P	NP								
Adult foster care, Small group home	S	S	S	S	S	S	NP								
Adult foster care, large group home	S	S	S	S	S	S	NP								
Adult foster care, congregate facility	S	S	S	S	S	S	NP								

Specific Use Provisions:

Recovery Center:

- A. Recovery Center serving six (6) persons or less. A Recovery Center serving six (6) persons or less shall be considered a single-family use of property.
- B. Recovery Center Adult serving between seven (7) or more adult persons.

1. A site plan, prepared in accordance with Article 8 shall be required to be submitted.
 2. All residents must be eighteen (18) years of age or older.
 3. Frontage on either a major or minor arterial street shall be required.
 4. Parking: 1 space for each 1 per bed and (1) off-street parking space per employee and/or caregiver at largest shift shall be provided.
 5. Appropriate licenses with the State of Michigan shall be maintained.
 6. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located provided there is a minimum site area of twenty-five hundred (2,500) square feet per adult, excluding employees and/or caregivers.
 7. Facility may include ancillary facilities are allowed such as multi-purpose recreational rooms and meeting rooms.
-



CARLISLE/WORTMAN ASSOC., INC.
Benjamin R. Carlisle, LEED AP, AICP

ZONING ORDINANCE TEXT AMENDMENT

12. **PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (File Number ZOTA 245) – Sober Living Facilities**

Mr. Carlisle gave an update on the proposed Zoning Ordinance Text Amendment, confirming recent revisions made at the suggestions of Board members and sober living facilities in the area.

Mr. Savidant informed the Board that the proposed text was revised to correct any reference to “recovery center” to “sober living facility”.

Mr. Carlisle said with approval tonight, the process going forward would be:

- Announcement of Public Hearing at City Council, April 8.
- City Council Public Hearing, April 15.
- With City Council approval, text language would be in effect 10 days after adoption.
- Applicant would proceed with Rezoning Request and Special Use Approval on potential site.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2013-03-027

Moved by: Kempen

Seconded by: Schepke

RESOLVED, That the Planning Commission hereby recommends to the City Council that Articles 2, 4, 6, and 13 of Chapter 39 of the Code of the City of Troy, which includes provisions related to sober living facilities, be amended as printed on the proposed Zoning Ordinance Text Amendment.

Yes: All present (5)

Absent: Edmunds, Sanzica, Strat, Tagle

MOTION CARRIED

Mr. Schultz said he believes the City is “putting the cart before the horse” because sober living facilities are not recognized by the State of Michigan. He indicated his affirmative vote is to allow the item to go forward due to the absence of four Board members this evening.

**TROY CITY COUNCIL
REGULAR MEETING**

April 15, 2013

7:30 p.m.

PUBLIC HEARING

**Zoning Ordinance Text Amendment
(File # ZOTA 245)**

Sober Living Facilities

ITEM #E-01

ZOTA 245 SOBER LIVING FACILITIES

- Presently not permitted in Troy
- Initiated by Planning Commission – Need
- Planning Commission considered input from:
 - Great Lakes Recovery Community
 - Other private sober living facility providers
- Planning Commission visited a sober living facility in Shelby Township

Michigan Zoning Enabling Act Act 110 of 2006, as amended

A zoning ordinance...shall not have the effect of totally prohibiting the establishment of a land use within a local unit of government in the presence of a demonstrated need for that use within either that local unit of government or the surrounding area...unless a location within the local unit of government does not exist where the use may be appropriately located or the use is unlawful.

MCL 125.3207

DEFINITION OF SOBER LIVING FACILITY:

A temporary residential living arrangement for seven (7) or more adult persons leaving an institutional setting recovering from drug or alcohol addiction and in need of a supportive living arrangement in order to readjust to living outside the institution. These are persons who are receiving therapy and counseling from licensed or certified professional staff and trained non-professional or paraprofessional support staff who are present when residents are present, to help them recuperate from the effects of drug or alcohol addiction. Sober living facility may provide limited supportive services to residents only, including: mental health services; clinical rehabilitation services; social services; financial management services; legal services; and other similar supportive services. Residency is limited to a specific number of weeks or months, typically 24 months or less. This definition does not constitute halfway houses for those released from prison or a homeless situation.

A SOBER LIVING FACILITY IS NOT:

- Halfway House
- Correctional Facility
- Homeless Shelter
- Boarding House
- Day Care Facility
- Group Home
- Medical Clinic
- Medical Marijuana Dispensary
- Methadone Clinic

**SIMILAR FACILITIES WITH 6 OR FEWER
RESIDENTS WOULD BE REGULATED
THE SAME AS A SINGLE FAMILY HOME**

- Functional equivalent of domestic family
- Consistent with case law
- Similar to:
 - Foster Care Family Homes
 - Adult Foster Care Small Group Homes
 - Family Day Care Homes

SOBER LIVING FACILITIES WOULD BE PERMITTED SUBJECT TO SPECIAL USE APPROVAL IN THE FOLLOWING ZONING DISTRICTS:

- R-1A through R-1E One Family Residential District
- RT Two Family Residential District
- MF Multiple Family District
- UR Urban Residential District
- IB Integrated Industrial and Business District
- OM Office Mixed Use District

• **Similar to:**

- Adult Foster Care Group Homes
- Senior Assisted/Independent Living Homes
- Adult Day Care Center

**SOBER LIVING FACILITIES REQUIRE
SPECIAL USE APPROVAL**

ALL SPECIAL USES REQUIRE THE FOLLOWING:

- Planning Commission Public Hearing
- All Property Owners within 300 feet notified by mail
- Meeting Notice published in newspaper
- Sign placed on property
- Application must meet all Discretionary and Non-Discretionary Standards

SOBER LIVING FACILITIES MUST MEET THE FOLLOWING NON-DISCRETIONARY STANDARDS:

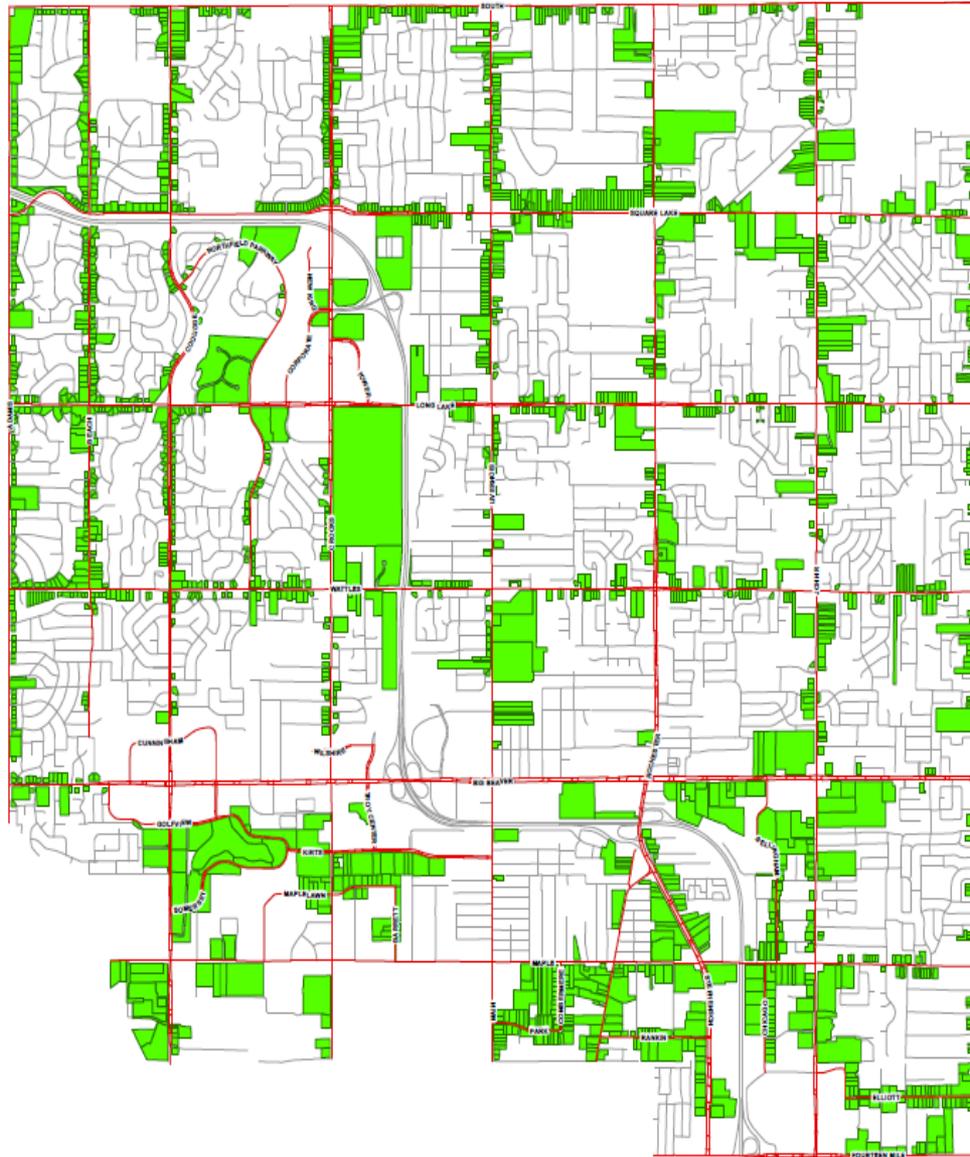
A. All residents shall be eighteen (18) years of age or older.

B. Frontage on either a major or minor arterial street shall be required.

C. Appropriate licenses with the State of Michigan shall be maintained.

D. The subject parcel shall meet the minimum lot area requirements for the zoning district in which it is located provided there is a minimum site area of twenty-five hundred (2,500) square feet per adult, excluding employees and/or caregivers.

E. Facilities may include ancillary facilities such as multi-purpose recreational rooms and meeting rooms.



Legend

- Potential Sober Site
- Major and Minor Arterial Road

**Potential Sites -
Sober Living Facilities**



ALL SPECIAL USES MUST MEET THE FOLLOWING DISCRETIONARY STANDARDS:

1. Compatibility with Adjacent Uses
2. Compatibility with the Master Plan
3. Traffic Impact
4. Impact on Public Services
5. Impact on the Overall Environment

PLANNING COMMISSION SHALL ALSO CONSIDER THE FOLLOWING FACTORS:

- 1.The nature and character of the activities, materials, equipment, or conditions of operation; either specifically or typically associated with the use.
- 2.Vehicular circulation and parking areas.
- 3.Outdoor activity, storage and work areas.
- 4.Hours of operation.
- 5.Production of traffic, noise, vibration, fumes, odors, dust, glare and light.

SUMMARY:

1. Zoning Ordinance does not currently have any standards or regulatory review process for use
2. Locations are limited by zoning districts and discretionary/non-discretionary standards
3. Use is similar to other uses permitted in Zoning Ordinance
4. Sober Living Facilities require Special Use Approval

A. PUBLIC HEARINGS:**E-1 Zoning Ordinance Text Amendment (File Number: ZOTA 245) - Sober Living Facilities**

The Mayor **OPENED** the Public Hearing. Comment was received from Marv Reinhardt, Tom Telotte, and Paul Smith.

The Meeting **RECESSED** at 8:29 PM.

The Meeting **RECONVENED** at 8:36 PM.

The Mayor **CLOSED** the Public Hearing after receiving additional comment from David Lord and Gordon Schepke.

Resolution
Moved by McGinnis
Seconded by Fleming

RESOLVED, That Articles 2, 4, 6, and 13 of Chapter 39 of the Code of the City of Troy, pertaining to permitting sober living facilities within specified zoning districts by special use approval, including provisions related to a definition for and specific standards related to sober living facilities, be **AMENDED** to read as written in the proposed Zoning Ordinance Text Amendment (ZOTA 245), City Council Public Hearing Draft, as recommended by the Planning Commission.

Resolution to Postpone Item E-01 to the May 13, 2013 City Council Meeting

Resolution #2013-04-077
Moved by Slater
Seconded by Henderson

RESOLVED, That Item E-01 Zoning Ordinance Text Amendment (File Number: ZOTA 245) - Sober Living Facilities be **POSTPONED** until the next Regular City Council Meeting on May 13, 2013.

Yes: Fleming, Henderson, McGinnis, Pennington, Tietz
No: None
Absent: Campbell

MOTION CARRIED