



CITY COUNCIL ACTION REPORT

DATE: November 19, 2008

TO: Phillip L. Nelson, City Manager

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

SUBJECT: Amended Consent Order and Judgment – Proposed McDonald’s Restaurant with drive-up facilities, Northwest corner of Rochester Road and Big Beaver Road, Section 22 – B-2 and B-3 (File Number SU-361)

Background:

- The applicant Troy Commons LLC intends to amend the consent judgment for the above referenced property to permit a McDonald’s Restaurant with drive-up facilities. The applicant prepared a Preliminary Site Plan application for the proposed project.
- The Planning Commission recommended approval of the Preliminary Site Plan at the October 28, 2008 Special/Study meeting, subject to the following:
 1. The current area noted as handicap parking will be converted to outdoor patio space.
 2. The handicap parking spaces will be moved to a convenient location which will result in loss of approximately five (5) parking spaces.
- The applicant submitted two site plans. Site Plan A provides an outdoor seating area and relocated handicap parking spaces, as per the Planning Commission recommendation. Site Plan B provides handicap parking spaces on the southeast side of the building, as originally proposed and as preferred by the applicant. This relocation would require users of handicap parking spaces to traverse the traffic maneuvering lane to enter the restaurant.
- The application 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:

- The application is consistent with the following “Outcome Statements” as established at the July 1 Special Council meeting:
 - II. Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues.
 - III. Troy is rebuilding for a healthy economy reflecting the values of a unique community in a changing and interconnected world.

Options:

- City Council can approve the amended consent judgment and Site Plan A (with outdoor seating, as recommended by the Planning Commission).
- City Council can approve the amended consent judgment and Site Plan B (without outdoor seating, as preferred by the applicant).
- City Council can approve the amended consent judgment and site plan, with conditions.
- City Council can deny the amended consent judgment and site plan.

Approved as to form and legality:

Lori Grigg Bluhm, City Attorney

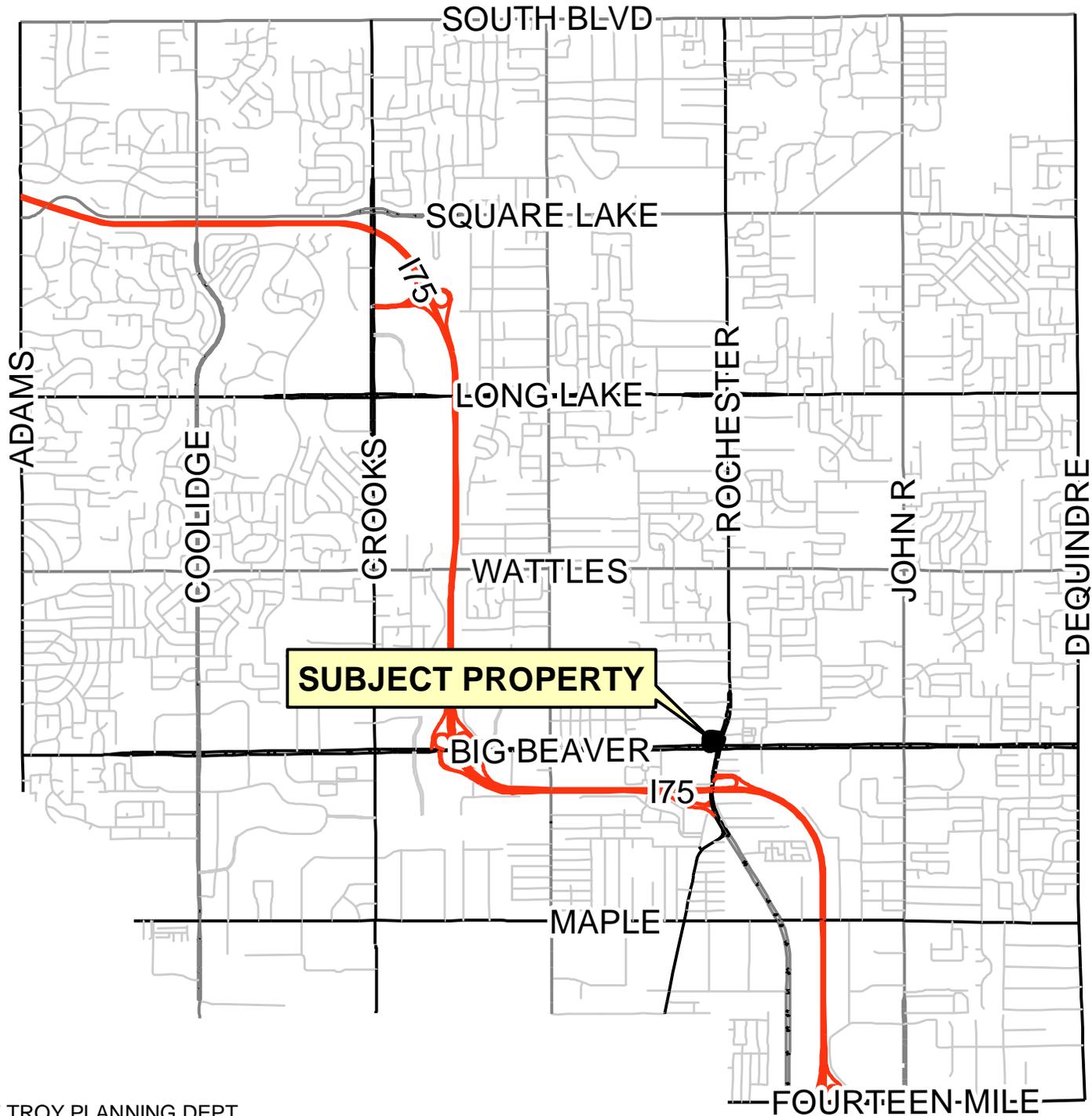
Attachments:

1. Maps.
2. Planning Commission report, dated October 21, 2008.
3. Minutes from the October 28, 2008 Planning Commission Regular meeting.
4. Letter of Opposition.
5. Amendment to Consent Judgment.

Prepared by RBS/MFM

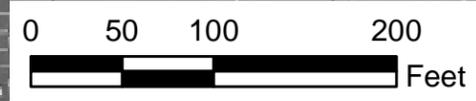
cc: Applicant
File /SU 361

CITY OF TROY



SPECIAL USE REQUEST
PROPOSED McDONALDS RESTAURNT W/ DRIVE UP
NW CORNER BIG BEAVER & ROCHESTER RD.
SEC. 22 (SU-361)

SUBJECT SITE



R-1E

SPECIAL USE REQUEST
PROPOSED McDONALDS RESTAURNT W/ DRIVE UP
NW CORNER BIG BEAVER & ROCHESTER RD.
SEC. 22 (SU-361)

B-3

B-2

SUBJECT SITE

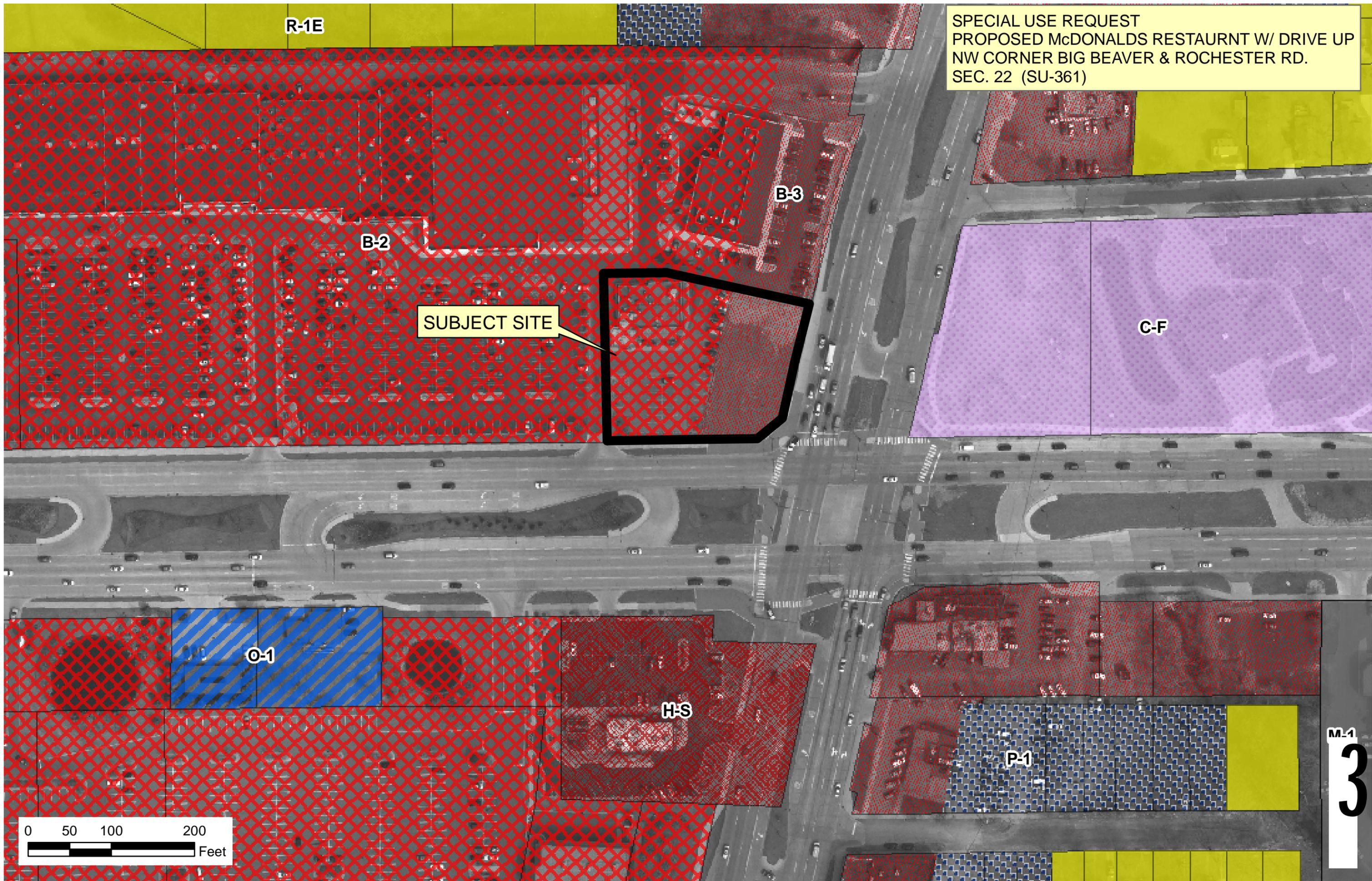
C-F

O-1

H-S

P-1

M-1
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DATE: October 21, 2008

TO: The Planning Commission

FROM: Mark F. Miller, Planning Director
R. Brent Savidant, Principal Planner
Ronald Figlan, Planner
Paula Preston Bratto, Planner

SUBJECT: CONSENT JUDGEMENT (SU-361) – McDonalds Restaurant with Drive-up Facilities, Northwest corner of Big Beaver & Rochester Road, Section 22, B-2 (Community Business) and B-3 (General Business) Districts

GENERAL INFORMATION

Name of owner / applicant:

The owner of the property is Troy Commons LLC. The applicant is McDonald's USA.

Location of subject property:

The property is located on the northwest corner of Big Beaver Road and Rochester Road in section 22.

Size of subject parcel:

The subject parcel is approximately 0.97 acres in area.

Proposed Use of Subject Parcel:

The applicant is proposing to develop a McDonald's restaurant with drive-thru windows on the parcel.

The use of the property is controlled by consent judgment.

Current Use of Subject Property:

A vacant Big Boy Restaurant building and off street parking spaces presently sit on the property.

Current Zoning Classification:

The property is currently zoned B-2 Community Business District and B-3 General Business District. The entire building will be located within the B-2 district.

Current Use of Adjacent Parcels:

North: Retail/restaurant.
South: Restaurant with drive-thru.
East: Park/retention basin (City owned).
West: Parking for retail shopping center.

Zoning Classification of Adjacent Parcels:

North: B-2 Community Business District and B-3 General Business District.

South: H-S Highway Service District and B-2 Community Business District.

East: C-F Community Facility District.

West: B-2 Community Business District.

Future Land Use Designation:

The Future Land Use Plan classifies the property as Non-Center Commercial.

ANALYSIS

Compliance with area and bulk requirements of the B-2 District:

Lot Area: Minimum required area of 1.0 acre for a restaurant with drive thru in B-2 district (Section 21.30.02.B). The parcel is 0.97 acres in area.

Lot Width: Minimum 150 foot width required for a restaurant with drive thru in B-2 district (Section 21.30.02.B). The parcel width is 174 feet.

Height: Maximum height permitted is 2 stories and 30 feet. The proposed height is one story and 21 feet, 4 inches.

Setbacks: Front: 75 feet required. 81 feet 4 inches (south) and 76 feet 10 inches (east) provided.
Side: 20 feet required. 55 feet 11 inches (west) provided.
Rear: 30 feet required. 55 feet (north) provided.

The applicant does not meet the minimum lot area of the B-2 district.

Off-Street Parking and Loading Requirements:

The restaurant requires 50 off-street parking spaces; 50 spaces are provided. The applicant proposed 16 stacking spaces for the two proposed drive thru windows.

A loading/unloading area is proposed for the north side of the building.

Vehicular and Non-motorized Access:

Vehicular access will be provided by two-way access drives on the west and north side of the property. Additionally, an exit drive is proposed for the north and west sides of the property. No additional curb cuts are proposed for either Big Beaver Road or Rochester Road, as access to the parent parcel is provided to the north on Rochester and to the west on Big Beaver.

The owner of the parent parcel Troy Commons LLC proposes to modify the northern site entrance on Rochester Road. They propose to shorten the length of the existing

island so that traffic entering the site can turn left (south) directly, without having to complete a U-turn to do so. This proposed improvement is shown on Sheet C1.

There is an existing sidewalk on the north side of Big Beaver and the west side of Rochester. The applicant proposes a connecting sidewalk from the building entrance to the intersection of Big Beaver Road and Rochester Road. Perimeter sidewalks are also proposed for the north and east sides of the building, and on the north side of the parking area south of the building.

Storm Water Detention:

The applicant proposes to utilize the existing off-site detention pond.

Landscaping:

The application meets the 10% landscaping requirement and minimum greenbelt tree requirement.

A note on the site plan indicates that the landscaping near the intersection will be coordinated with the City's intersection enhancement project. Additionally, street trees along Rochester and Big Beaver will be positioned per the intersection enhancement project.

Environmental provisions:

The site plan shows a screened trash corral on the west side of the restaurant.

Natural features and floodplains:

The Natural Features Map indicates there are no significant natural features located on the property.

Compatibility with adjacent land uses:

The proposed restaurant is surrounded by compatible land uses. The restaurant will replace an unsightly vacant restaurant building.

Compatibility with Big Beaver Corridor Study

The site is located within the Big Beaver Corridor. The Big Beaver Corridor Study was adopted by the Planning Commission as part of the City of Troy 2008 Master Plan and includes the following Key Concepts:

1. Gateways, districts and transitions.
2. Trees and landscape as "ceilings and walls".
3. Walking becomes entertainment.
4. Mixing the uses turns on the lights.
5. The automobile and parking are no longer #1.
6. Civic art as the wise sage of the boulevard.

The proposed restaurant has a stronger relationship with the intersection than the existing building on site. The restaurant has 16 stacking spaces and two drive-thru

windows, however the main entrance at the front of the building is oriented to the intersection, including a sidewalk connection. Site landscaping is integrated with the proposed landscape improvements at the intersection and in the right of way.

CITY MANAGEMENT RECOMMENDATION

The use of the property is controlled by consent judgment. Therefore, City Council has approval authority and the Planning Commission is a recommending body for this application.

The Planning Department recommends approval of the special use request and site plan, as submitted.

cc: Applicant
File\ SU 361

G:\SPECIAL USE\SU-361 McDonald's Restaurant Sec 22\McDonalds Restaurant Report 10 28 08.docx

SITE PLAN

8. CONSENT JUDGMENT AMENDMENT AND PRELIMINARY SITE PLAN APPROVAL – McDonald's Restaurant with Drive-up Facilities, Northwest corner of Big Beaver and Rochester Road, Section 22, B-2 (Community Business) and B-3 (General Business) Districts

Mr. Savidant summarized the item.

Stuart Frankel, Troy Commons LLC, the owner of the subject parcel, introduced the project team.

Otis Carter, McDonald's USA, 1021 Karl Greimel Drive, Brighton, briefly described the project.

Michael Kazarian, McDonald's USA, 1021 Karl Greimel Drive, Brighton, stated they expect approximately 140 vehicles during the lunch rush, between the hours of 11:00 a.m. to 1:00 p.m.

Mr. Strat suggested the applicant eliminate the three handicap parking spaces on the east side of the building and provide an outdoor seating area in this location.

General discussion followed.

Chair Schultz opened the floor to the public for comment.

There was no one who wished to speak.

Resolution # PC-2008-10-125

Moved by: Vleck

Seconded by: Strat

RESOLVED, That the Planning Commission hereby recommends that the proposed Amendment to Consent Judgment and Preliminary Site Plan Approval, as requested for the proposed McDonald's Restaurant with drive-up facilities, located on the northwest corner of Big Beaver and Rochester Roads, located in Section 22, within the B-2 and B-3 zoning districts, be granted, subject to the following conditions:

1. The current area noted as handicap parking will be converted to outdoor patio space.
2. The handicap parking spaces will be moved to a convenient location which will result in loss of approximately five (5) parking spaces.

Yes: Hutson, Sanzica, Schultz, Strat, Tagle, Ullmann, Vleck

No: Maxwell

Absent: Wright

MOTION CARRIED

Mr. Maxwell explained he did not support the resolution because he has concerns with traffic volumes and the lack of consistency with the Big Beaver Road Corridor Study.

Paula P Bratto

From: jarendsmd@comcast.net
Sent: Tuesday, September 30, 2008 10:28 AM
To: Paula P Bratto
Subject: Drive-up window @ Big Beaver & Rochester Rd.

To whom it may concern:

Please spare us from any more congestion than already exists at that corner. McDonalds is bad enough with their cheap and unappealing image. We should be able to do better with someone else in the future.

J Arends M.D. 675 E. Big Beaver #201 Troy, Mi. 48083 248-457-8888

Troy resident for 35 years.

STATE OF MICHIGAN
OAKLAND COUNTY CIRCUIT COURT

CITY OF TROY, a Michigan
municipal corporation,

Plaintiff,

Case No. 82-235070 CC
Hon. Shalina Kumar

v

TROY COMMONS, a Michigan
co-partnership,

Defendant.

_____ /

City of Troy – City Attorney’s Office
Lori Grigg Bluhm (P46908)
Christopher J. Forsyth (P63025)
Attorneys for Defendant
500 W. Big Beaver Road
Troy, MI 48084
(248) 524-3320

_____ /

STIPULATED SECOND ORDER AMENDING THE CONSENT JUDGMENT

At a session of said Court
Held in the Courthouse in the
City of Pontiac, Oakland County, MI
on: _____

PRESENT: HONORABLE SHALINA KUMAR

The Parties hereby stipulate and agree to this amendment to the First Amended Consent Judgment as to Parcel 60 dated January 7, 1998, which replaced the Consent Judgment as to Parcel 60 entered on May 2, 1985, as set forth below:

WHEREAS, Plaintiff initiated this case to acquire right of way from Defendant for drainage purposes and to widen Big Beaver Road; and

WHEREAS, the Parties resolved a portion of the condemnation case by entry of a consent judgment on May 2, 1985; and

WHEREAS, the Parties negotiated a final settlement of the case, which was reduced to the First Amended Consent Judgment as to Parcel 60, and which was entered by the Court on January 7, 1998. The First Amended Consent Judgment replaced the consent judgment entered on May 2, 1985; and

WHEREAS, subsequent to the entry of the First Amended Consent Judgment, Defendant acquired additional property which has been combined with the property that is subject to the First Amended Consent Judgment; and

WHEREAS, Defendant has made a proposal to demolish one of the structures (the Big Boy Restaurant) on the property that is subject to this First Amended Consent Judgment (Troy Commons Shopping Center, hereinafter "Center") and replace it with a restaurant with drive thru facilities; and

WHEREAS, the First Amended Consent Judgment does not allow for restaurants with drive thru facilities; and

WHEREAS, the construction of a restaurant with a drive thru facility would also require egress and ingress improvements from the Rochester Road entry points to the Center; and

WHEREAS, the parties are desirous of amending this First Amended Consent Judgment to accommodate a proposed restaurant with drive thru facilities; and

WHEREAS, this Court has retained jurisdiction over this action, including any matters arising out of the performance of the First Amended Consent Judgment As to Parcel 60;

NOW THEREFORE,

IT IS HEREBY ORDERED that the First Amended Consent Judgment as to Parcel 60, is further amended as follows:

1. Although a restaurant with drive thru facilities would not otherwise be permitted by the terms of the Consent Judgment, the Troy City Council has the option of giving special use approval simultaneous with a subsequent site plan approval for the Center.
2. Prior to the issuance of a temporary certificate of occupancy for any restaurant with drive thru facilities, Defendant shall modify the existing Rochester Road entry to the Property that is subject to this Consent Judgment. This modification includes, but is not limited to the removal of a portion of the existing island, the relocation of the existing light pole, and the striping of directional arrows at the existing drive.

3. Except as specifically provided, the First Amended Consent Judgment as to Parcel 60 shall otherwise remain in full force and effect, and without further modification. Any reference to the Consent Judgment includes all properly executed amendments to the Consent Judgment.
4. The Court shall continue to retain jurisdiction over the matter.
5. This Stipulated Second Order Amending the Consent Judgment shall be recorded with the Oakland County Register of Deeds.

IT IS SO ORDERED

Honorable Shalina Kumar
Oakland County Circuit Court

Approved as to form and content:

CITY OF TROY

Christopher J. Forsyth
Assistant City Attorney

TROY COMMONS, a Michigan Co-partnership

Stuart Frankel, Partner

Plans are included with
Council agenda packets
and available for viewing at the
City Clerk's Office and the Troy Public Library