CITY COUNCIL REPORT

DATE: December 15, 2008

TO: Phillip L. Nelson, City Manager

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

SUBJECT: Announcement of Public Hearing – Rezoning Application – Proposed Sonic Restaurant, East side of John R, North of Fourteen Mile Road, Section 36 – B-2 to H-S (File Number: Z-735)

Background:

- A public hearing is scheduled for the January 26, 2009 City Council meeting.
- The Planning Commission recommended approval of the request to rezone the parcel to H-S at the December 9, 2008 Regular meeting.
- The property is located in the South John R Road Future Land Use designation. This classification is intended to allow for the continued operation and long term improvement to the area, focused on the provision of "comparison" commercial products. This area serves a large region, beyond the City of Troy, and blends with the area to the south, outside the City's boundaries. The rezoning application is consistent with the Future Land Use Plan in the Master Plan.
- The application is consistent with the general character of the area and is 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, 2008 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 or deny the rezoning application.

- No City Council action until the January 26, 2009 public hearing.

Attachments:
1. Maps.
2. Minutes (draft) from the December 9, 2008 Planning Commission Regular meeting.
3. Planning Commission report dated December 1, 2008.
4. Public comment.

Prepared by RBS/MFM

cc: Applicant
File /Z 735

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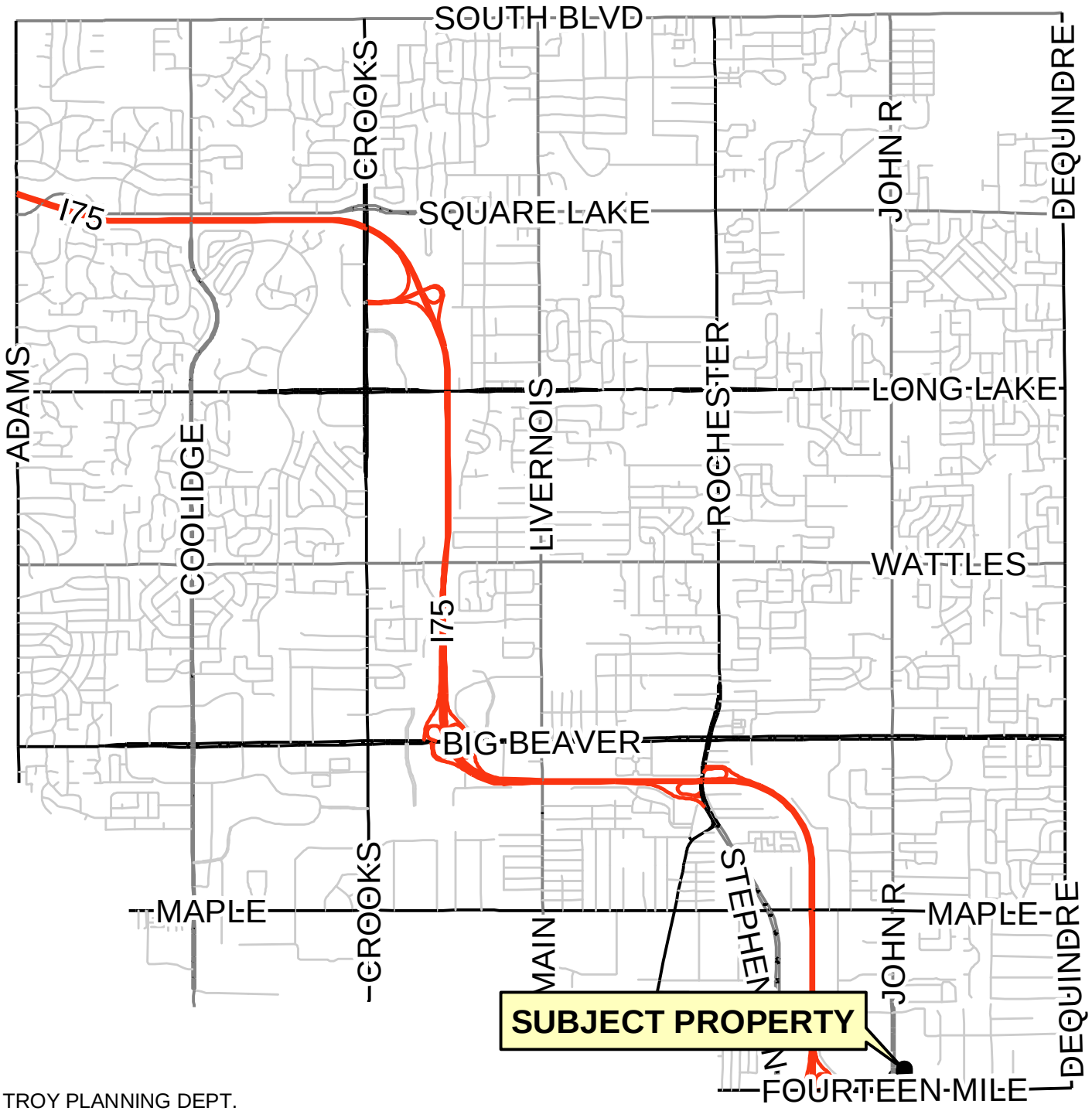
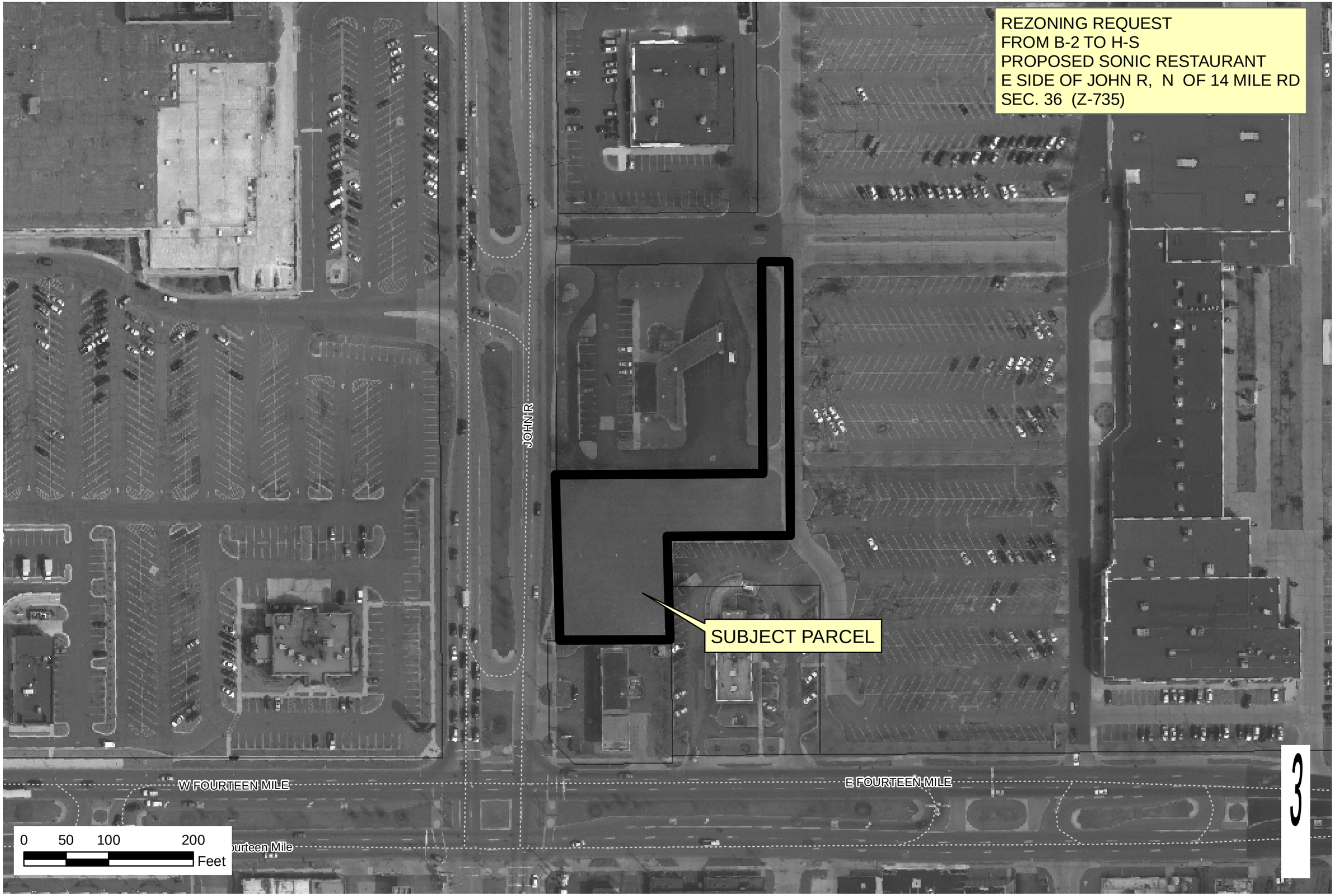
CITY OF TROY



PREPARED BY CITY OF TROY PLANNING DEPT.


REZONING REQUEST
FROM B-2 TO H-S
PROPOSED SONIC RESTAURANT
E SIDE OF JOHN R, N OF 14 MILE RD
SEC. 36 (Z-735)
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SUBJECT PARCEL
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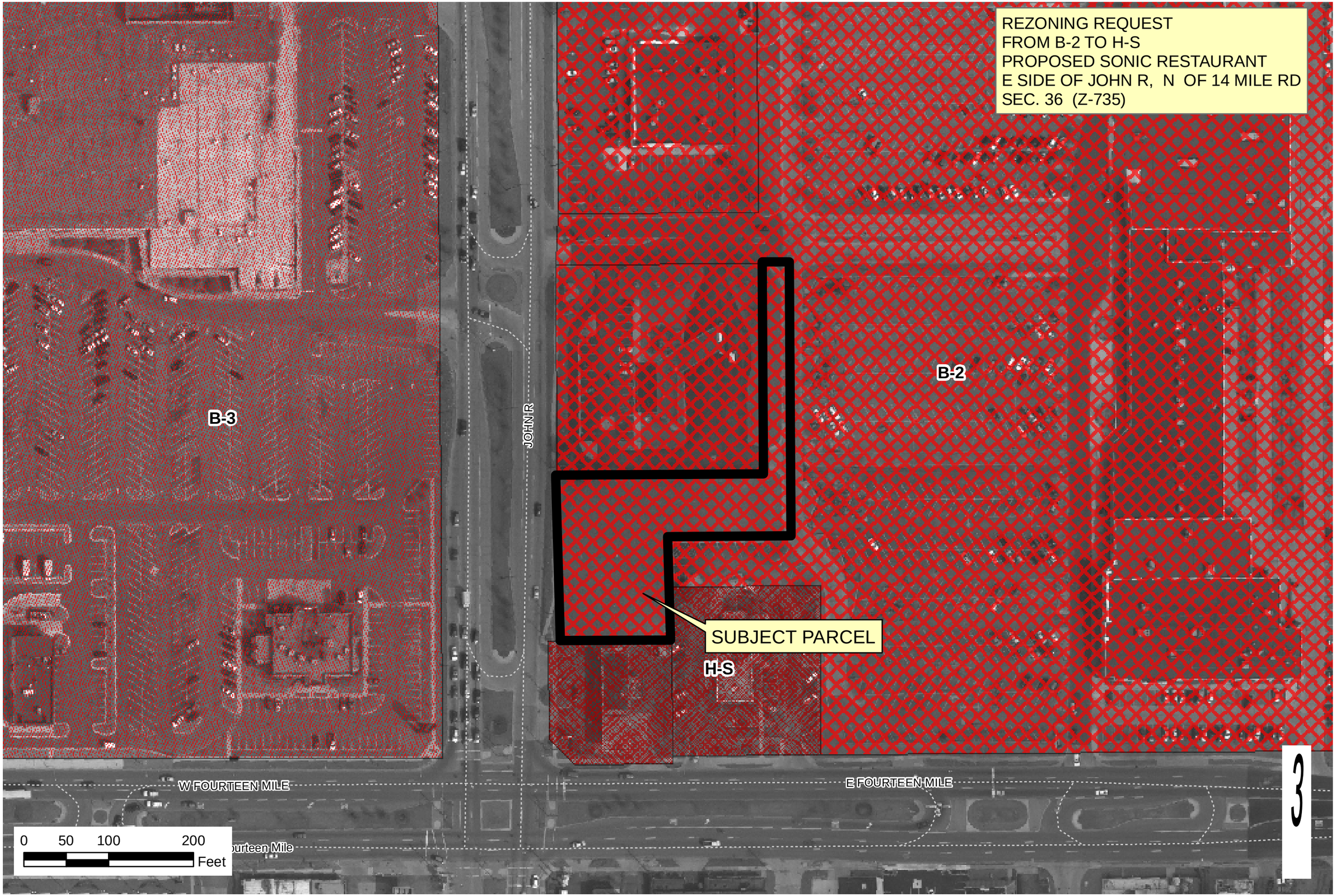
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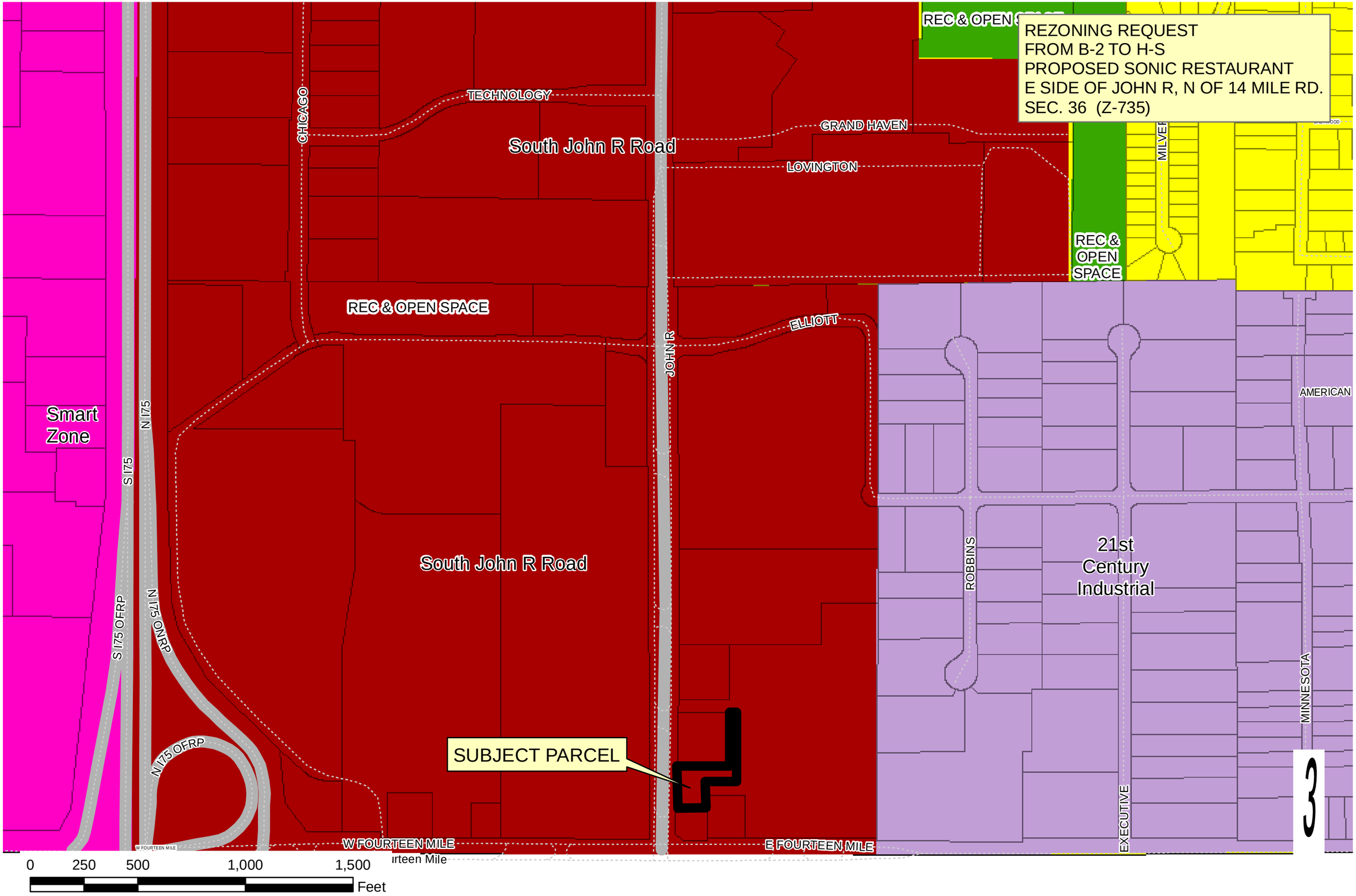
REZONING REQUEST
FROM B-2 TO H-S
PROPOSED SONIC RESTAURANT
E SIDE OF JOHN R, N OF 14 MILE RD.
SEC. 36 (Z-735)
REC & OPEN SPACE
TECHNOLOGY
CHICAGO
GRAND HAVEN
South John R Road
LOVINGTON
MILVER
REC & OPEN SPACE
REC & OPEN SPACE
ELLIOTT
JOHN R
AMERICAN
Smart Zone
N I75
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S I75 OFRP
N I75 ONRP
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South John R Road
ROBBINS
21st Century Industrial
MINNESOTA
SUBJECT PARCEL
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6. PUBLIC HEARING – REZONING APPLICATION (Z 735) – Proposed Sonic Drive-In Restaurant, East side of John R Road, North of Fourteen Mile Road, Section 36, From B-2 (Community Business) to H-S (Highway Service) District

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

There was a brief discussion on:

- The "finger" portion of the property.
- Landscape requirements/standards in relation to the bank to the north.
- Landbanked parking.

John Gaber, attorney for the owner, 380 N. Old Woodward, Birmingham, was present to represent the petitioner. Mr. Gaber introduced John Parapetti, Sr. Vice President of Development of Urban Retail Properties, and James Butler of Professional Engineers Associates. Mr. Gaber said the proposed use is a good fit for the property and is compatible with the retail center. He addressed the principal uses permitted in the H-S zoning district in relation to the size of the property. Mr. Gaber also addressed the "finger" portion of the site and its relation to the bank in terms of landscaping and site access.

Chair Schultz addressed the site layout; specifically, the "finger" portion. He said the 8,200 square feet would most likely not be utilized. Chair Schultz indicated the petitioner was avoiding seeking a variance from the Board of Zoning Appeals (BZA).

Mr. Gaber agreed they would prefer not to go before the BZA.

Mr. Hutson said it is unlikely anyone could do anything with that 'finger' portion of the property. He said the proposed use is an acceptable use and he sees no harm in going forward with the proposal.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2008-12-146
Moved by: Hutson
Seconded by: Vleck

RESOLVED, That the Planning Commission hereby recommends to the City Council that the B-2 to H-S rezoning request, located on the east side of John R, north of Fourteen Mile, within Section 36, being approximately 1.012 acres in size, be granted.

Yes: All present (6)
Absent: Strat, Ullmann, Wright

MOTION CARRIED

G:\REZONING REQUESTS\Z-735 Sonic Restaurant Sec 36\12-09-08 Regular Meeting_Draft.doc

DATE: December 1, 2008

TO: Planning Commission

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

SUBJECT: PUBLIC HEARING – REZONING APPLICATION – Proposed Sonic Restaurant, East side of John R, North of Fourteen Mile Road, Section 36 – B-2 to H-S (Z-735)

GENERAL INFORMATION

Name of Owner / Applicant:
The owner is Urbancal – Oakland Plaza, LLC. The applicant is Urban Retail Properties, LLC.

Location of Subject Property:
The property is located on the east side of John R, north of Fourteen Mile Road, in section 36.

Size of Subject Property:
The property is approximately 1.012 acres in size.

Current Use of Subject Property:
The property is vacant.

Current Zoning Classification:
B-2 Community Business.

Proposed Zoning of Subject Parcel:
H-S Highway Service.

Proposed Uses and Buildings on Subject Parcel:
The applicant proposes to construct a Sonic drive-in restaurant on the site.

Zoning Classification of Adjacent Parcels:
North: B-2 Community Business.
South: B-2 Community Business and H-S Highway Service.
East: B-2 Community Business.
West: B-3 General Business.

Current Use of Adjacent Parcels:
North: Bank.
South: Gas station and Burger King restaurant.
East: Shopping center parking area.
West: Logan's Steak House and parking area for mall.

ANALYSIS

Range of Uses Permitted in the Proposed H-S Highway Service Zoning District and Potential Build-out Scenario:

PRINCIPAL USES PERMITTED:

Retail establishments to service the needs of the highway traveler including such facilities as: drug stores, convenience food stores, gift shops, and restaurants other than those of the drive-in or open front store type.

Bus or transit passenger stations, taxicab offices and dispatching centers, and emergency vehicle or ambulance facilities. Sleeping accommodations may be provided in conjunction with ambulance facilities.

Parking garages and off-street parking areas.

New and used automobile salesroom, showroom or office.

Sales, showrooms, and incidental repairs of recreational vehicles.

Banks, savings and loan associations, and credit unions which may consist solely of drive-up facilities.

Public utility buildings and sub-stations.

Accessory structures and uses customarily incident to the above permitted uses.

USES PERMITTED SUBJECT TO SPECIAL CONDITIONS:

Drive-up windows or service facilities, as an accessory to restaurants permitted within this district.

Drive-up service facilities, as accessory to principal permitted uses within H-S districts, apart from restaurants.

Outside seating of twenty (20) seats or less for restaurants, or other food service establishments.

USES PERMITTED SUBJECT TO SPECIAL USE APPROVAL:

Automobile service stations for the sale of engine fuels, oil, and minor accessories only, and where no repair work is done, other than incidental service, but not including, steam cleaning, undercoating, vehicle body repair, painting, tire recapping, engine rebuilding, auto dismantling, upholstering, auto glass work and other such activities whose external effects could adversely extend beyond the property lines.

Auto washes where engine fuels are sold as a significant part of the operation.

Auto washes, not including the sale of engine fuels, when the entire operation is completely enclosed within a building or structure.

Uses, other than those specified in Article 23.20.06 of the Zoning Ordinance, wherein drive-up service facilities are the sole use of the property.

Business in the character of a drive-in restaurant.

Motel or hotel.

Outdoor sales space for exclusive sale or lease of new or second hand automobiles, trucks, mobile homes, trailers, or recreational vehicles.

Automobile repair garages, provided all activities are conducted within a completely enclosed building.

Outside seating areas, in excess of twenty (20) seats, for restaurants, or other food service establishments.

Potential Storm Water and Utility Issues:
The applicant will have to provide on-site storm water detention and all other utilities.

Compliance with Location Standards of the H-S District:
The Location Standards for the H-S District in Article 23.40.01 of the Zoning Ordinance states the following:

The H-S (Highway Service) District may be applied when the application of such a classification is consistent with the intent of the Master Land Use plan and policies related thereto, or with other land use policies of the City of Troy, and therefore, on a limited basis, may involve the following types of areas:

23.40.02 Areas indicated on the Master Land Use Plan for non-center commercial use.

23.40.03 Areas within broader areas generally designated for Light Industrial use, where the City has established, through rezoning, areas to provide commercial and service uses for the surrounding Light Industrial area.

Note the newly adopted Master Plan does not have a Non-Center Commercial use designation.

CONSISTENCY WITH CITY OF TROY MASTER PLAN

Quality of Life Considerations;
The proposed zoning district will permit a range of automobile-oriented uses in an automobile-oriented area.

Design and Community Character Considerations:
The area is an automobile-oriented regional shopping area. The proposed H-S zoning district permits a wide range of automobile-oriented uses, although the parcel's small size limits the uses that could be developed. Permitted uses will be consistent with the character of the existing area.

Preservation and Enhancement of Natural Features:
The Natural Features Map indicates there are no significant natural features located on the property.

Low Impact Development Considerations:
There is no indication that the applicant intends to utilize LID techniques.

Non-motorized Access Considerations:
The development will require building perimeter sidewalks and a connection to the public sidewalk on John R. Sidewalk connections to abutting properties will also be required.

Access Management Considerations:
Access to the property is provided from John R Road. The development will require cross-access connections with abutting properties. Existing curb cuts and boulevard turnarounds will need to be considered when determining appropriate locations for entry drives. A deceleration lane may be required based on trip generation for the proposed use.

Compliance with Ten Tenets of Smart Growth:
The following is a list of the Ten Tenets of Smart Growth:

1. Create a range of housing opportunities.
2. Create walkable communities.
3. Encourage community and stakeholder collaboration in development decisions.
4. Foster distinctive, attractive communities with a strong sense of place.
5. Make development decisions predictable, fair, and cost effective.
6. Mix land uses.
7. Preserve open space, farmland, natural beauty and critical environment areas.
8. Provide a variety of transportation options.
9. Strengthen and direct development towards existing communities.
10. Take advantage of compact building design.

The H-S rezoning application does not appear to comply with the Ten Tenets of Smart Growth.

Consistency with Future Land Use Plan:
The property is located in the South John R Road Future Land Use designation. This classification is intended to allow for the continued operation and long term improvement to the area, focused on the provision of "comparison" commercial products. This area serves a large region, beyond the City of Troy, and blends with the area to the south, outside the City's boundaries. The rezoning application is consistent with the Future Land Use Plan.

CITY MANAGEMENT RECOMMENDATION

The rezoning application is consistent with the intent of the Master Plan and compatible with abutting zoning districts and uses.

City Management recommends approval of the rezoning request.

cc: Applicant
File / Z 735

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REC'D
NOV 14 2008
PLANNING DEPT.

STATEMENT IN SUPPORT OF REZONING REQUEST
FROM B-2 (Community Business) TO H-S (Highway Service)

Tax ID #20-36-351-008 (part of)
NE Corner of John R and 14 Mile

Urban Retail Properties, LLC ("Applicant") requests rezoning of the subject parcel ("Parcel") from B-2 (Community Business) to H-S (Highway Service) to allow for the future development of the Parcel as a Sonic Drive-In Restaurant. In support of its rezoning request, the Applicant provides the following information as requested by #13 of the City's Rezoning Request Form.

Rezoning is Consistent With the City's Master Plan

Both the map and the text of the Master Plan for the City of Troy ("Master Plan") indicate that H-S would be an appropriate zoning classification for the Parcel. Section 23.10.00 of the City's Zoning Ordinance provides that the intent of the Highway Service District is to provide servicing for the needs of vehicular traffic along major thoroughfares, such as John R Road. The Master Plan designates Oakland Plaza, where the Parcel is located, as a "Regional Center," which is a large commercial shopping and service area for Troy residents and others. One of the future development policies of the Master Plan is to "Support the upgrading and enhancement, or redevelopment, of existing commercial development areas . . ." The rezoning of the Parcel to H-S would allow a drive-in restaurant, which is the type of use intended to be found with a Regional Center. Rezoning would also allow for the upgrading and enhancement of Oakland Plaza, enabling it to add a drive-in restaurant. For these reasons, the Applicant believes the requested rezoning is supported by the Master Plan.

Rezoning is Necessary for the Property Owner to Enjoy its Property Rights

The owner of any commercial property has the right to develop its property in a manner that is permitted under the local zoning ordinance, subject to any other applicable governmental regulations. Such development is necessary to enable the property owner to realize a return on its investment in the property. The Parcel is currently undeveloped, due primarily to its small size. The property owner, as well as the prior owners, have sought to develop the Parcel, but have been constrained by the small size of the Parcel, which does not exceed one (1) acre. Given this size constraint, no retail business, service business, or restaurant is able to feasibly develop the Parcel because there simply is insufficient space for the necessary building size, together with the parking to service such business. A drive-in restaurant is one of the few uses that can be developed on the Parcel due to its size constraints. The requested rezoning to H-S would enable the property owner to develop its property for a productive use, which use would not be permitted under the existing B-2 zoning of the Parcel. Without the rezoning, the property

owner would be unable to put the Parcel to any productive use, thereby depriving the property owner of the use of its property.

Rezoning is Compatible With Surrounding Land Uses

Rezoning of the Parcel to H-S would be compatible with, and not detrimental to the surrounding land uses. The Parcel is located within Oakland Plaza, a regional shopping center of 161,551 square feet located on 19.02 acres. The Parcel abuts outlots used for a Mobil Gas Station, a Burger King Restaurant, and a Chase Bank. There is a large parking field between the Parcel and the in-line retail/commercial space of Oakland Plaza. Further, the properties to the north, south, east and west of Oakland Plaza are all retail/commercial properties. Therefore, rezoning the Parcel to H-S for use as a drive-in restaurant would allow patrons and employees of the surrounding establishments to enjoy another dining option. It may bring additional shoppers to Oakland Plaza and the surrounding properties, creating a definite benefit to such establishments. Therefore, the rezoned use of the Parcel would benefit, and not be detrimental to the surrounding properties.

The traffic generated by the development of the Parcel as a drive-in restaurant will likewise not be detrimental to surrounding properties. The Parcel is on a major thoroughfare, which services the regional Oakland Mall across the street. The roads were developed to service the traffic demands of the large adjacent shopping centers. Further, the additional traffic generated by the Parcel would be marginal considering amount of traffic in the area, and would primarily be existing traffic already found in the area. A small drive-in restaurant is not likely to draw much traffic that would not already be in this commercial area. Finally, the parking needs of the drive-in restaurant would not adversely impact the surrounding properties, since all parking would be accommodated on site.

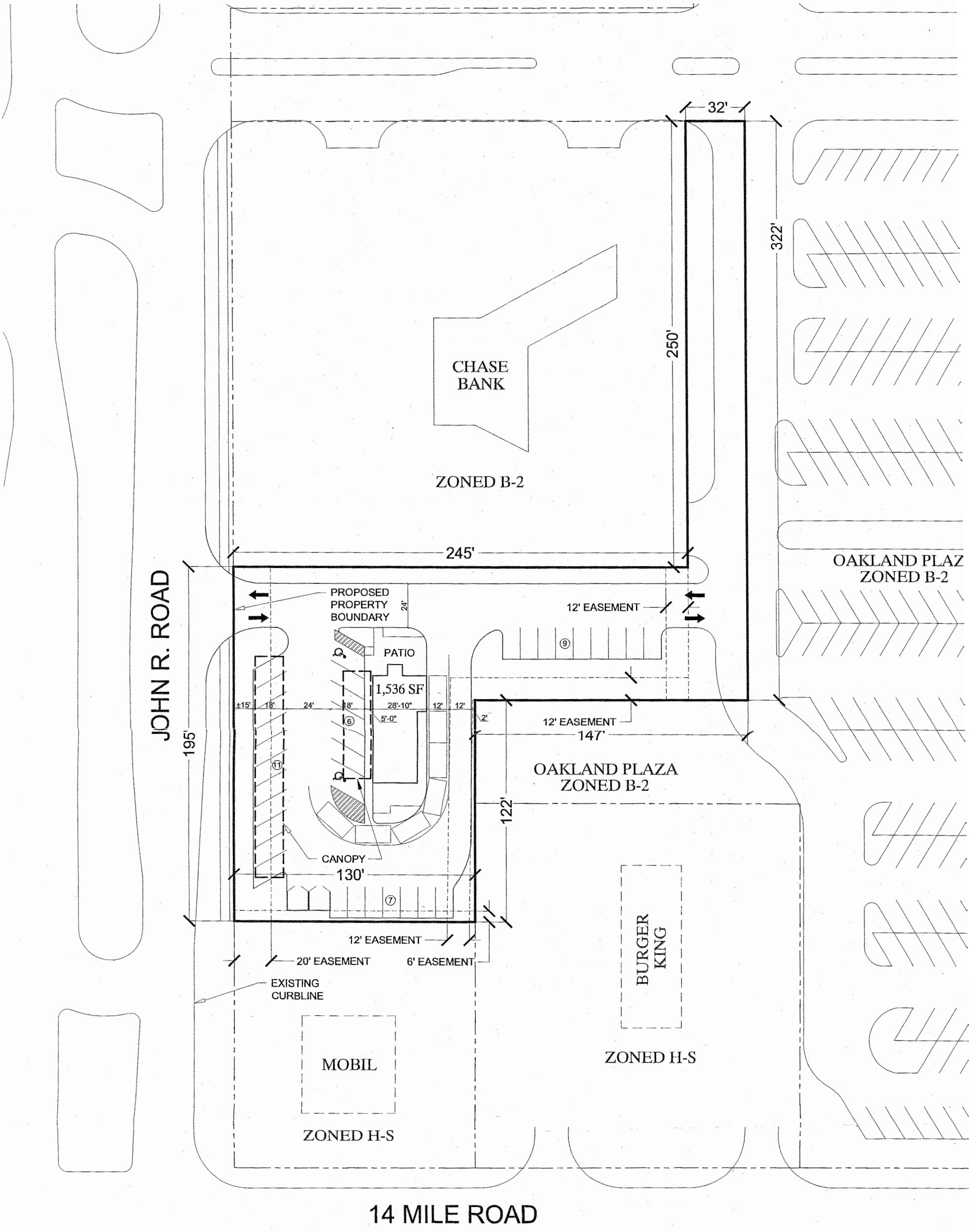
Further, the Parcel is presently an undeveloped site within a regional shopping center. This is an ideal location for such a development. It creates no adverse impacts on the surrounding businesses, and can actually enhance the center as a desirable shopping destination. Parking is accommodated entirely on site. The surrounding roads and internal cross access within Oakland Plaza are compatible with the proposed development. Therefore, this development would occur in an area zoned, planned, and intended by the City for restaurant use.

The Applicant further believes that the City should not be concerned that a rezoning to H-S would allow for the development of any other principal uses permitted in H-S zoning. Such permitted uses set forth in Section 23.20.00 include the following:

- Retail establishments and restaurants to service the needs of the highway traveler
- Bus or transit stations, taxicab offices and dispatching centers, emergency vehicle facilities
- Parking garages and off-street parking areas

- Sales, showrooms and incidental repairs of recreational vehicles
- Banks, which may consist solely of drive-up facilities
- Public utility buildings and sub-stations
- Accessory structures

Some of these permitted uses may be detrimental to the surrounding commercial businesses. However, as discussed above, the Parcel is constrained by its small size. All of these permitted uses require an area larger than the size of the Parcel. The applicant believes that this constraint should provide comfort to assure the City that none of these permitted uses can be developed on the Parcel. Instead, the Applicant will need to pursue a Special Use Approval pursuant to Section 23.30.06 to obtain the City's permission to develop the Parcel for a drive-in restaurant.



CONCEPTUAL SITE PLAN FOR SONIC

OAKLAND PLAZA
TROY, MICHIGAN
11-12-08

NORTH

1" = 50'

REC'D
NOV 14 2008
PLANNING DEPT.

STATE OF MICHIGAN
JAMES P. BUTLER
ENGINEER
No. 28605
LICENSED PROFESSIONAL ENGINEER

11/14/08

Paula P Bratto

From: Ron C [chickro1@gmail.com]
Sent: Tuesday, November 25, 2008 9:14 PM
To: Paula P Bratto
Subject: Proposed zoning change -88-20-36-351-008

Dear Planning Department

Please do not change the zoning from B-2 to H-S. The main body of the parcel of land does not meet the 1.0 acre minimum for a H.S. business.

The shape of the proposed parcel makes the long northerly finger of land nearly worthless to a business. It does add sufficient square feet to meet the technical requirements of the zoning classification, but it does not meet the spirit of the 1.0 acre requirement. The people who drafted the 1.0 acre requirement did not consider silly shapes of land. Silly shapes should not be considered in changing the zoning of our land.

Didn't the neighboring Burger King have to meet the 1.0 acre requirement?

Please tell them NO to this rezoning request. Please stick to the zoning plan. Please leave what we have as it is! There is no need to respont to this e-mail.

I live in Section 36.

Ron Chick
1380 Leafgreen Drive