

CITY COUNCIL ACTION REPORT

DATE: February 11, 2009

TO: Phillip L. Nelson, City Manager

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

SUBJECT: Public Hearing – Street Vacation — Portions of Daley Street abutting Lots 28 and 33 of Supervisors Plat No. 11 Subdivision, South of Big Beaver, North of I-75, Section 26 (File Number: SV 148-D)

Background:

- The Planning Commission recommended approval of the street vacation request at the January 13, 2009 Regular meeting.
- The attached report prepared for the Planning Commission dated January 8, 2009 summarizes the application.
- Vacating the portions of Daley Street is required by the State of Michigan Department of Energy, Labor and Economic Growth, Office of Land Survey and Remonumentation, which is the office responsible for approving subdivision amendments. It is necessary to vacate the small portion of the Daley Street right-of-way easement previously requested by Behr America, Inc. so that the gap between prior vacated properties can be eliminated and to eliminate the previously reserved public turnaround on the vacated property.
- Following vacation, ownership of the vacated portions of Daley Street will revert to Behr America.

Financial Considerations:

- There are no financial considerations for this item.

Legal Considerations:

- City Council has the authority to act on this application.
- The State of Michigan requires that Supervisor's Plat No. 11 be amended in order to vacate portions of Daley Street.

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 street vacation request.

Approved as to form and legality:

Lori Grigg Bluhm, City Attorney

Attachments:

1. Minutes from the January 13, 2009 Planning Commission Regular meeting.
2. Planning Commission report dated January 8, 2009.
3. Public comment.

Prepared by RBS/MFM

cc: Applicant
File /SV 148-D

G:\STREET VACATION\SV 148-D Daley Street Sec 26\CC Public Hearing 02 16 09.docx

EXHIBIT A

Big Beaver Rd. (204' Wide)

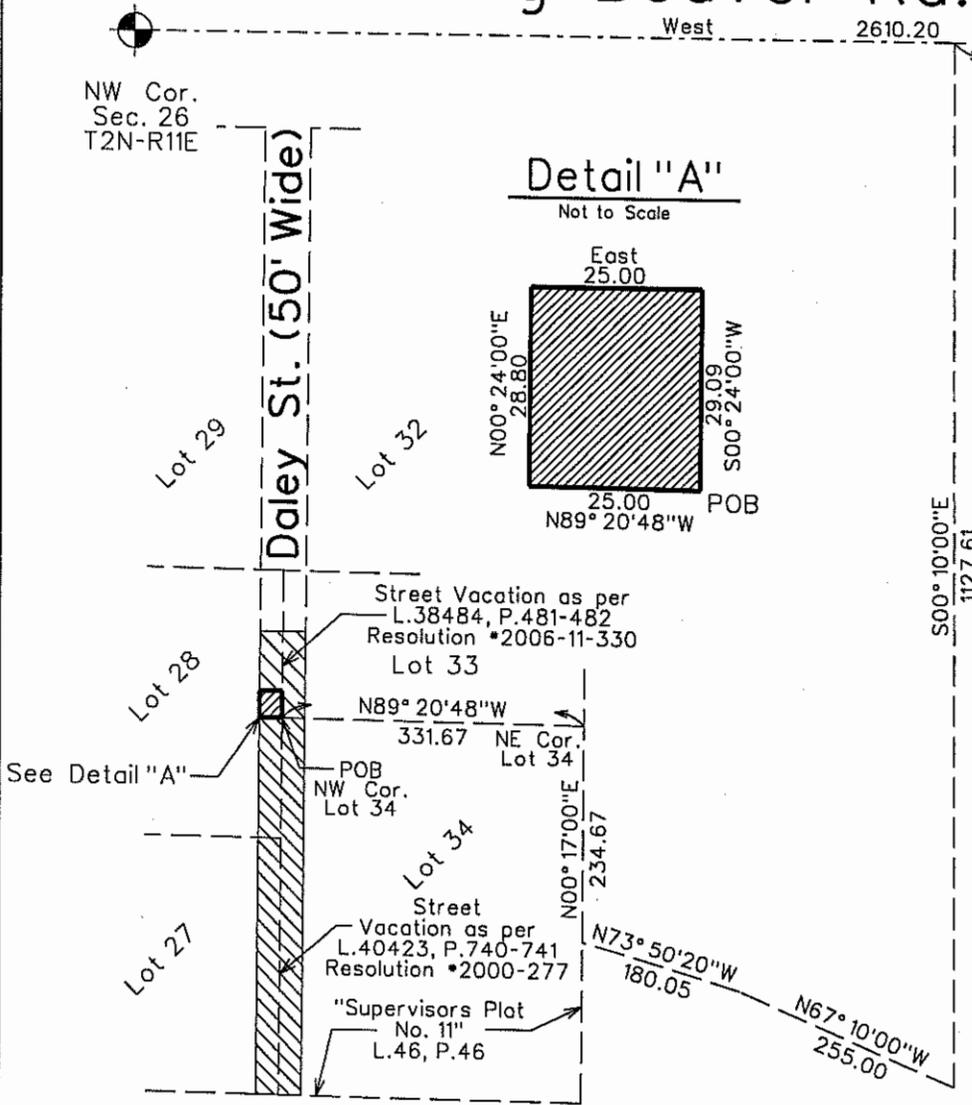
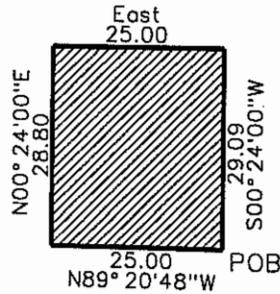
NW Cor.
Sec. 26
T2N-R11E

N 1/4 Cor.
Sec. 26
T2N-R11E

Daley St. (50' Wide)

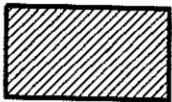
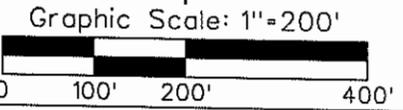
Detail "A"

Not to Scale



S00° 10' 00" E
1127.61

West 2610.20
899.31



Proposed Street
Easement Vacation Area
Area=724 Sq.Ft.

CITY OF TROY OAKLAND COUNTY, MICHIGAN			
Daley Street Vacation Sketch			
SCALE	DRAWN BY	CHECKED	FILE
HOR. 1"=200'	NAME GJB III	NAME	See Above
VER.	DATE 08-25-08	DATE	VIEW *1
DOCUMENT PREPARED BY George J. Ballard III LAND SURVEYOR	CONTRACT No.	SHEET No. 10F1	JOB No.
STEVEN J. VANDETTE CITY ENGINEER			

02-09 Label Revisions
09-10 Additional Descriptions
DATE REV.

Monday, February 09, 2009

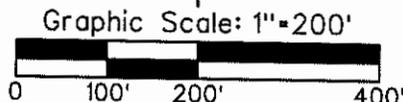
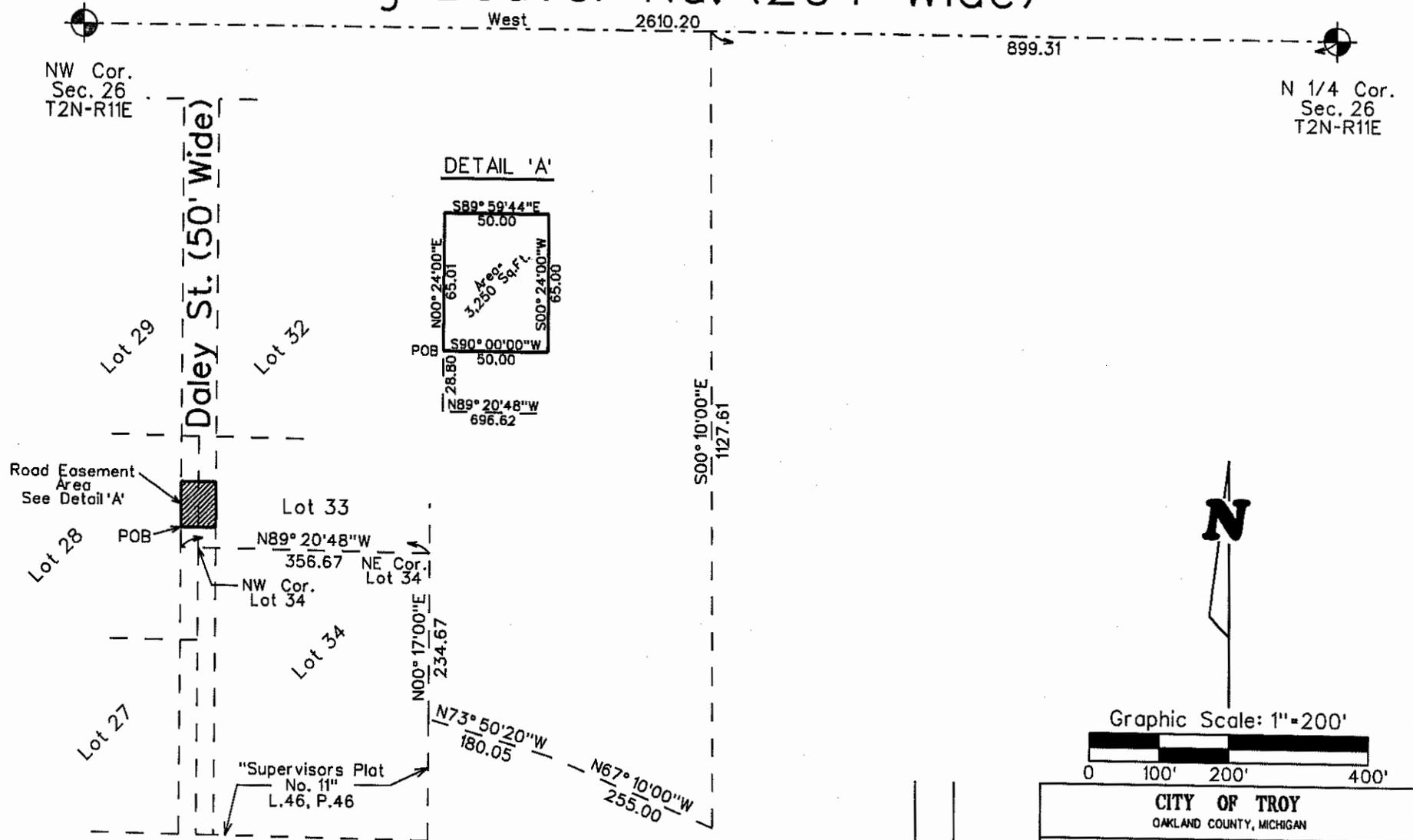
Section 26, Part of the NW 1/4
Parcel: Daley Street Vacation

Daley Street Vacation: (Created from PEA, Inc. Survey)

Part of Lot 28 of "Supervisor's Plat No. 11", a subdivision of part of the Southwest ¼ of the Southwest ¼ of Section 23 and part of the Northwest ¼ of the Northwest ¼ of Section 26, T2N-R11E, City of Troy, Oakland County, Michigan, as recorded in Liber 46, Page 46, being more particularly described as:
Commencing at the North ¼ Corner of said Section 26; thence West 899.31 feet; thence South 00 degrees 10 minutes 00 seconds East 1127.61 feet; thence North 67 degrees 10 minutes 00 seconds West 255.00 feet; thence North 73 degrees 50 minutes 20 seconds West 180.05 feet to the east line of said "Supervisor's Plat No. 11"; thence North 00 degrees 17 minutes 00 seconds East, along said east line, 234.67 feet to the northeast corner of Lot 34 of said plat; thence North 89 degrees 20 minutes 48 seconds West, along the north line of Lot 34, 331.67 feet to the northwest corner of Lot 34, the east line of Lot 28, the centerline of Daley Street and the Point of Beginning; thence North 89 degrees 20 minutes 48 seconds West 25.00 feet to the west line of Daley Street; thence North 00 degrees 24 minutes 00 seconds East, along said west line, 28.80 feet; thence Due East 25.00 feet to the east line of Lot 28 and centerline of Daley Street; thence South 00 degrees 24 minutes 00 seconds West, along said east line of Lot 28 and centerline of Daley Street, 29.09 feet to the Point of Beginning. Containing 724 square feet or 0.017 acres, more or less.

EXHIBIT B

Big Beaver Rd. (204' Wide)



CITY OF TROY
OAKLAND COUNTY, MICHIGAN

Daley St. Roadway Easement Sketch

SCALE	DRAWN BY	CHECKED	FILE
HOR. 1"=200'	NAME GJB III	NAME	See Above
VER.	DATE 01-09-09	DATE	VIEW #1

DOCUMENT PREPARED BY George J. Ballard III LAND SURVEYOR	CONTRACT No.	STEVEN J. VANDETTE CITY ENGINEER	SHEET No. 10F1	JOB No.
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Section 26, Part of the NW 1/4
Parcel: Daley Street Roadway Easement

Description of Roadway Easement:

Part of Lots 28 and 33 of "Supervisor's Plat No. 11", a subdivision of part of the Southwest ¼ of the Southwest ¼ of Section 23 and part of the Northwest ¼ of the Northwest ¼ of Section 26, T2N-R11E, City of Troy, Oakland County, Michigan, as recorded in Liber 46, Page 46, being more particularly described as: Commencing at the North ¼ Corner of said Section 26; thence West 899.31 feet; thence South 00 degrees 10 minutes 00 seconds East 1127.61 feet; thence North 67 degrees 10 minutes 00 seconds West 255.00 feet; thence North 73 degrees 50 minutes 20 seconds West 180.05 feet to the east line of said "Supervisor's Plat No. 11"; thence North 00 degrees 17 minutes 00 seconds East, along said east line, 234.67 feet to the northeast corner of Lot 34 of said plat; thence North 89 degrees 20 minutes 48 seconds West, along the north line of Lot 34, 356.67 feet to the west line of Daley Street; thence North 00 degrees 24 minutes 00 seconds East, along said west line, 28.80 feet to the Point of Beginning; thence North 00 degrees 24 minutes 00 seconds East, along the said west line, 65.01 feet; thence South 89 degrees 59 minutes 44 seconds East 50.00 feet to the east line of Daley Street; thence South 00 degrees 24 minutes 00 seconds West, along said east line, 65.00 feet; thence South 90 degrees 00 minutes 00 seconds due West 50.00 feet to the Point of Beginning. Containing 3,250 square feet or 0.075 acres, more or less.

EXHIBIT C

Sidwell #

PUBLIC VEHICULAR MANEUVERABILITY EASEMENT

KNOWN ALL MEN BY THESE PRESENTS, that BEHR AMERICA, INC, a Delaware Corporation, whose address is 2700 Daley Street, Troy, Michigan 48083, as a condition to the grant of a right-of-way vacation of Parcel A by the CITY OF TROY, a Michigan Municipal Corporation, hereinafter called the CITY, whose address is 500 West Big Beaver Road, Troy, Michigan, as described in "Exhibit A" attached, does hereby grant to the CITY for use by the public a vehicle maneuverability easement on the existing roadway contained within Parcel B as described in "Exhibit B" attached hereto and located in the City of Troy;

The easement granted on Parcel B includes the right of the public to back up a vehicle onto the easement property to enable the vehicle to continue northward on Daley Street and/or to drive a vehicle forward onto the easement property for the purpose of backing the vehicle onto property which fronts on Daley Street.

The easement does not include a right to park a vehicle on the easement property for any length of time beyond that reasonably necessary to safely perform a vehicular maneuver to turn around.

This instrument shall be binding upon and inure to the benefit of the parties hereto, their heirs, representative, successors, and assigns and the covenants contained herein shall run with the land.

IN WITNESS WHEREOF, the undersigned hereunto affixed _____ signatures(s) this _____ day of _____, 2009.

In the presence of:

BEHR AMERICA, INC., a Delaware Corporation,

By: _____
Its: _____

STATE OF MICHIGAN)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2009, by _____ to me known to be the person(s) described, who by me duly sworn, did say that they are the individual(s) named in the foregoing instrument, who then acknowledged the same to be their own free act and deed.

Notary Public, _____, County, Michigan

My Commission Expires _____

Prepared by:
City of Troy
500 West Big Beaver
Troy, MI 48084

Return to:
City Clerk, City of Troy
500 West Big Beaver Road
Troy, Michigan 48084

LEGAL DESCRIPTION

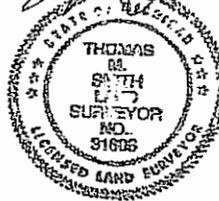
DESCRIPTION OF VACATION:

Part of Lots 28 and 33, Supervisor's Plat No. 11, A subdivision of Part of the Southwest 1/4 of the Southwest 1/4 of Section 23 and Part of the Northwest 1/4 of the Northwest 1/4 of Section 26, T.2N., R.11E., City of Troy, Oakland County Michigan, as recorded in (L.46, P.46), more particularly described as:

Commencing from a point in the centerline of Daley Street (50' wide) distant S 00°24'17" W, 65.00 feet from the Northwesterly most corner of Lot 33; thence S 89°59'44" E, 25.00 feet to the East line of said Daley street; thence along the East line of said Daley Street S 00°24'17" W, 94.38 feet; thence N 89°19'34" W, 25.00 feet to the centerline of said Daley Street; thence along said centerline N 00°25'07" E, 29.02 feet; thence N 89°59'11" W, 25.00 feet to the West line of said Daley Street; thence along said West line N 00°24'17" E, 65.07 feet; thence S 89°59'44" E, 25.00 feet to the centerline of said Daley Street and the point of beginning.

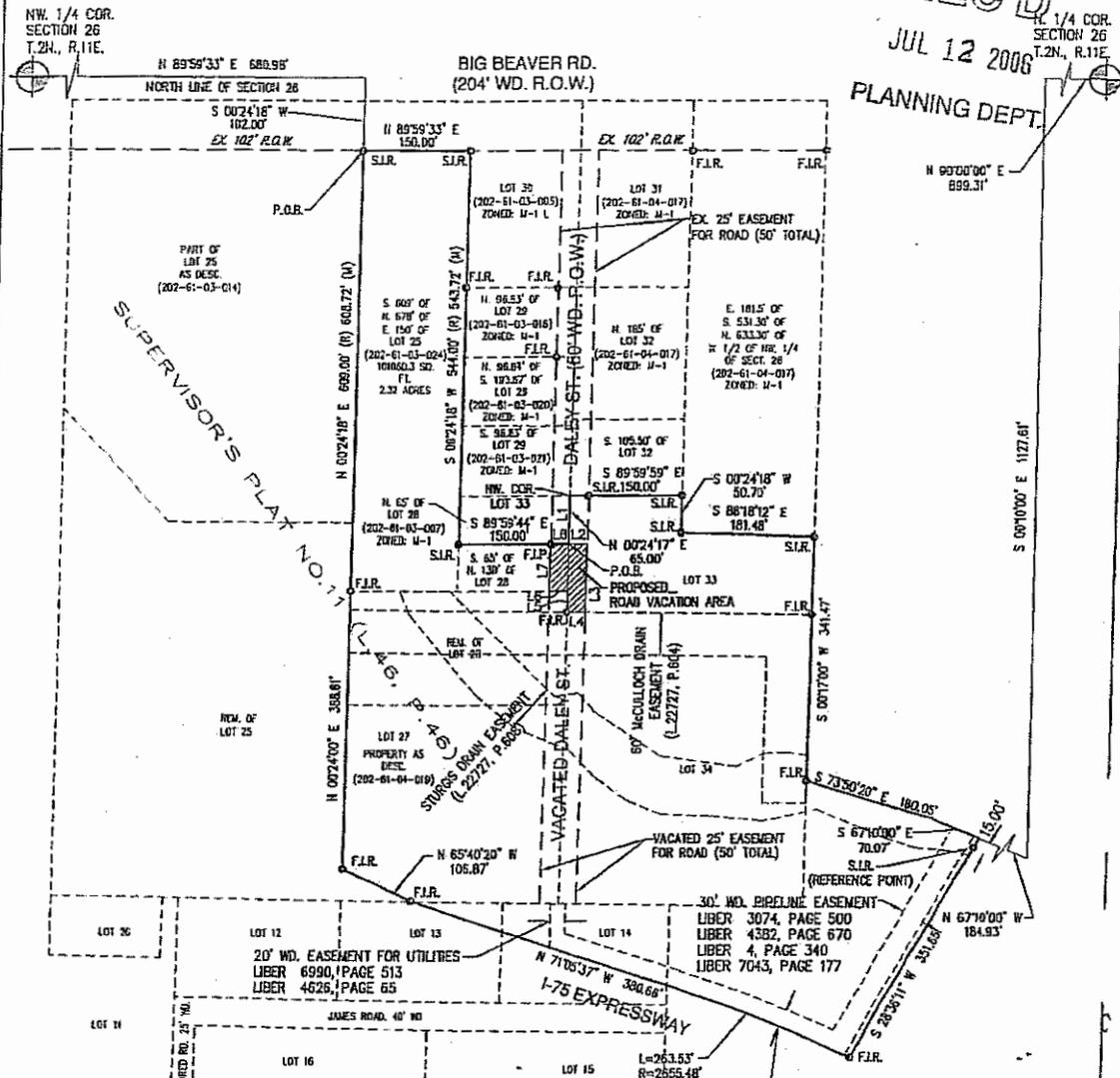
Parcel A

EXHIBIT A

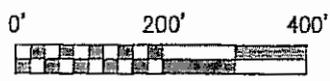
ISSUED FOR:	REVD BY:	ISSUED FOR:	REVD BY:
ISSUED FOR:	REVD BY:	ISSUED FOR:	REVD BY:
		MICKALICH and ASSOCIATES, INC. CIVIL ENGINEERING SURVEYING PLANNING	
		2359 AVON INDUSTRIAL DR, ROCHFESTER HILLS, MI. 48309 INTERNET: WWW.MICKALICH.COM PHONE: (248) 852-1900 FAX: (248) 852-1070	
DRAWN BY <u>MLB</u> JOB No. <u>06023</u>		DESCRIPTION	
DATE <u>5-17-06</u> SHEET No. <u>2</u> of <u>2</u> SCALE <u>1"=200'</u>		BEHR BUILDING & PARKING ROAD VACATION	

ROAD VACATION

REC'D
JUL 12 2006
PLANNING DEPT.



BASE OF BEARING IS THE NORTH SECTION LINE OF SECTION 26, T.2N., R.11E.



SCALE: 1" = 200'



LINE	BEARING	DISTANCE
L1	S 00°24'17" W	65.00'
L2	S 89°59'44" E	25.00'
L3	S 00°24'17" W	94.38'
L4	N 89°19'34" W	25.00'
L5	N 00°25'07" E	29.02'
L6	N 89°59'11" W	25.00'
L7	N 00°24'17" E	65.07'
L8	S 89°59'44" E	25.00'

Parcel A

ISSUED FOR: <i>[Signature]</i>	REVD BY:	ISSUED FOR:	REVD BY:
ISSUED FOR:	REVD BY:	ISSUED FOR:	REVD BY:

SURVEYOR'S SEAL

MICKALICH and ASSOCIATES, INC.
CIVIL ENGINEERING SURVEYING PLANNING
2359 AVON INDUSTRIAL DR., ROCHESTER HILLS, MI. 48309
INTERNET: WWW.MICKALICH.COM PHONE (248) 852-1900 FAX: (248) 852-1070

DRAWN BY: <u>MLB</u>	JOB No: <u>06023</u>	DESCRIPTION: BEHR BUILDING & PARKING ROAD VACATION
DATE: <u>5-17-06</u> SHEET No. <u>1</u> of <u>2</u> SCALE: <u>1"=200'</u>		

EXHIBIT A

Section 26, Part of the NW 1/4
Parcel: Daley Street Roadway Easement

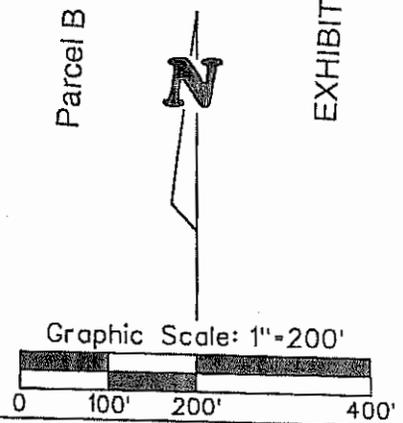
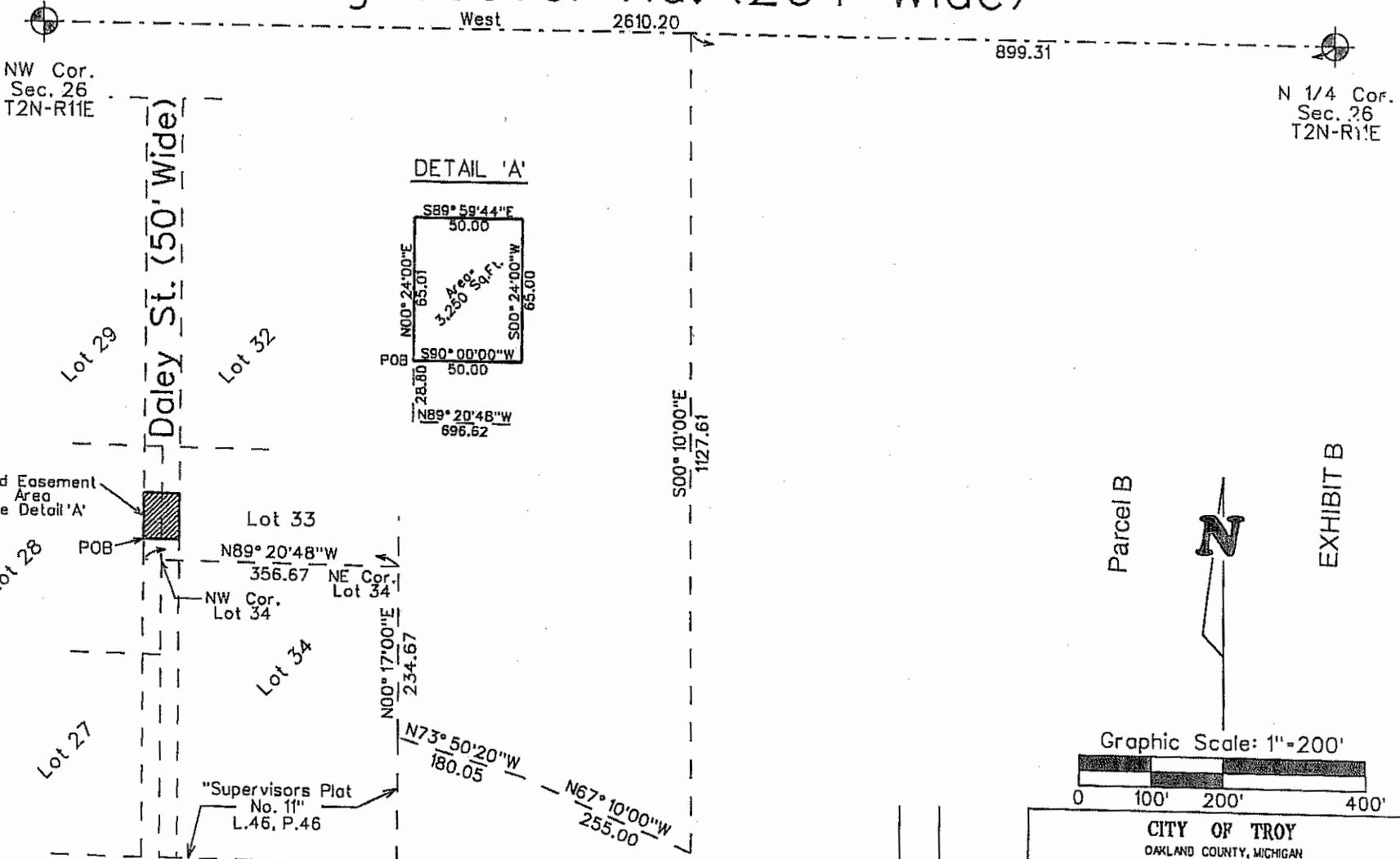
Description of Roadway Easement:

Part of Lots 28 and 33 of "Supervisor's Plat No. 11", a subdivision of part of the Southwest ¼ of the Southwest ¼ of Section 23 and part of the Northwest ¼ of the Northwest ¼ of Section 26, T2N-R11E, City of Troy, Oakland County, Michigan, as recorded in Liber 46, Page 46, being more particularly described as: Commencing at the North ¼ Corner of said Section 26; thence West 899.31 feet; thence South 00 degrees 10 minutes 00 seconds East 1127.61 feet; thence North 67 degrees 10 minutes 00 seconds West 255.00 feet; thence North 73 degrees 50 minutes 20 seconds West 180.05 feet to the east line of said "Supervisor's Plat No. 11"; thence North 00 degrees 17 minutes 00 seconds East, along said east line, 234.67 feet to the northeast corner of Lot 34 of said plat; thence North 89 degrees 20 minutes 48 seconds West, along the north line of Lot 34, 356.67 feet to the west line of Daley Street; thence North 00 degrees 24 minutes 00 seconds East, along said west line, 28.80 feet to the Point of Beginning; thence North 00 degrees 24 minutes 00 seconds East, along the said west line, 65.01 feet; thence South 89 degrees 59 minutes 44 seconds East 50.00 feet to the east line of Daley Street; thence South 00 degrees 24 minutes 00 seconds West, along said east line, 65.00 feet; thence South 90 degrees 00 minutes 00 seconds due West 50.00 feet to the Point of Beginning. Containing 3,250 square feet or 0.075 acres, more or less.

PARCEL B

EXHIBIT B

Big Beaver Rd. (204' Wide)



CITY OF TROY
OAKLAND COUNTY, MICHIGAN

Daley St. Roadway Easement Sketch

SCALE	DRAWN BY	CHECKED	FILE
HOR. 1"=200'	NAME GJB III	NAME	See Above
VER.	DATE 01-09-09	DATE	VEN *1
DATE	REV.	SHEET No.	JOB No.
		10F1	

DOCUMENT PREPARED BY
George J. Ballard III
LAND SURVEYOR

CONTRACT No.

STEVEN J. VANDETTE
CITY ENGINEER

STREET VACATION

5. **PUBLIC HEARING – STREET VACATION REQUEST (SV 148-D)** – A portion of the Daley Street Easement (50 feet wide), South of Big Beaver Road, East of Rochester Road, approximately 29 feet long and 724 square feet in area, part of Lot 28 of Supervisor’s Plat No. 11 Subdivision and an easement for public turnaround on Lots 28 and 33 of Supervisor’s Plat No. 11 Subdivision, Section 26

Mr. Miller addressed the error identified during the plat approval process. A small portion of the right-of-way easement was inadvertently not included in the legal description in Resolutions passed by City Council in 2000 and 2001 to approve the Daley Street vacation. Mr. Miller also addressed the public utility easement in the vacated property as relates to the turnaround.

Discussion followed.

PUBLIC HEARING OPENED

The following persons were present and addressed the Commission.

William Hart of Artisans Prototfab, 2835 Daley, Troy.

Ken Demark of Bold Enterprises, 2873 Daley, Troy.

Olaf Maly of Behr America, 2700 Daley, Troy.

PUBLIC HEARING CLOSED

Assistant City Attorney Forsyth stated State law prohibits the building or placement of structures, permanent or temporary, on public utility easements, and said the public utility easement would continue to be used as a mechanism for vehicular maneuverability.

Discussion continued on:

- The terms “maneuverability” versus “turnaround”.
- Wording of the proposed Resolution that would administratively correct the error relating to the street vacation and public turnaround easement.

Resolution # PC-2009-01-005

Moved by: Hutson

Seconded by: Tagle

RESOLVED, To table the proposed Resolution until later this evening.

Yes: All present (8)

Absent: Vleck

MOTION CARRIED

[Item previously tabled – see pages 2-3]

Resolution # PC-2009-01-007

Moved by: Hutson

Seconded by: Tagle

RESOLVED, That the Planning Commission hereby recommends to the City Council that the street vacation request for a portion of the Daley Street Easement (50 feet wide), South of Big Beaver Road, East of Rochester Road, approximately 29 feet long and 724 square feet in area, part of Lot 28 of Supervisor's Plat No. 11 Subdivision be approved; and

BE IT FURTHER RESOLVED, That the Planning Commission hereby recommends to the City Council that the easement for public turnaround on Lots 28 and 33 of Supervisor's Plat No. 11 Subdivision, Section 26, be vacated and replaced with a public vehicular maneuverability easement as depicted in the attached Daley Street Roadway Easement sketch, dated January 9, 2009; and

BE IT FINALLY RESOLVED, That the Planning Commission hereby recommends to the City Council that said public vehicular maneuverability easement be approved as a condition of the street vacation.

Yes: All present (8)

Absent: Vleck

MOTION CARRIED



2873

2868

2835

DALEY

2850

2852

Roadway Easement
Area (50' X 65')



**Daley Street Roadway
Easement Sketch**

1 inch = 50 feet

DATE: January 8, 2009

TO: The Planning Commission

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

SUBJECT: PUBLIC HEARING – STREET VACATION APPLICATION (SV 148-D) –
Portions of Daley Street abutting Lots 28 and 33 of Supervisor's Plat No. 11
Subdivision, South of Big Beaver, North of I-75, Section 26

In 2000, Behr America, Inc. purchased property for its corporate headquarters on the south side of Big Beaver, near I-75 and Rochester Road. Since that time, Behr has also acquired additional property for its corporate headquarters. This property is within Supervisor's Plat No. 11, which has a designated 50 foot wide public street right-of-way easement (Daley Street). Prior to Behr's construction of the headquarters, Behr requested that the southernmost 400 feet of Daley Street be vacated. At the June 19, 2000 City Council meeting, City Council, after receiving a favorable recommendation from the Planning Commission, conditionally granted the requested street vacation (Resolution #2000-277). On March 5, 2001, after specific conditions were met, City Council officially vacated the Daley Street right-of-way easement (Resolution #2001-03-137-E-12) and reserved a public utility easement. In approximately 2006, Behr acquired additional property and made a second request to increase the Daley Street right-of-way easement vacation, which was approved by the Troy City Council on November 13, 2006 (Resolution #2006-11-330). A public utility easement and a public turn-around were reserved by the City.

Although there are City Council resolutions approving the requested vacation of Daley Street, Supervisor's Plat No. 11 must also be amended before any permanent structures can be located on the vacated property. Since additional construction is proposed, Behr was required to initiate a re-plat action in Oakland County Circuit Court to remove the designated 50 foot right-of-way easement on the vacated Daley Street. The City of Troy with other governmental and public utility entities are named defendant to that action as mandated by the Land Division Act, MCL 560.101, et.seq. The City has already filed an answer.

During the course of discovery in the re-plat lawsuit, it has been determined that a small portion of the right-of-way easement traversing Lot 28 in Supervisor's Plat No. 11 was inadvertently not included in the legal description of the resolutions of June 19, 2000 or March 5, 2001 although that portion was included in Behr America's request for vacation. Attached is a sketch which indicates the portion of the right-of-way easement that was not included. Failure to include that portion of Lot 28 results in a gap between the two portions

of the Daley Street right-of-way easement which were previously vacated. Without the adoption of a new resolution, the re-plat action cannot go forward.

Additionally, although the City is reserving the public utility easement in the vacated property, it is necessary to vacate the previously reserved public turn around on the property. It has been determined by City Management that there is inadequate radius for a public turn around in the vacated property. Use of the property designated for a public turn around might result in personal injury or property damage at the location. The vacation of the public turnaround is included in the resolution.

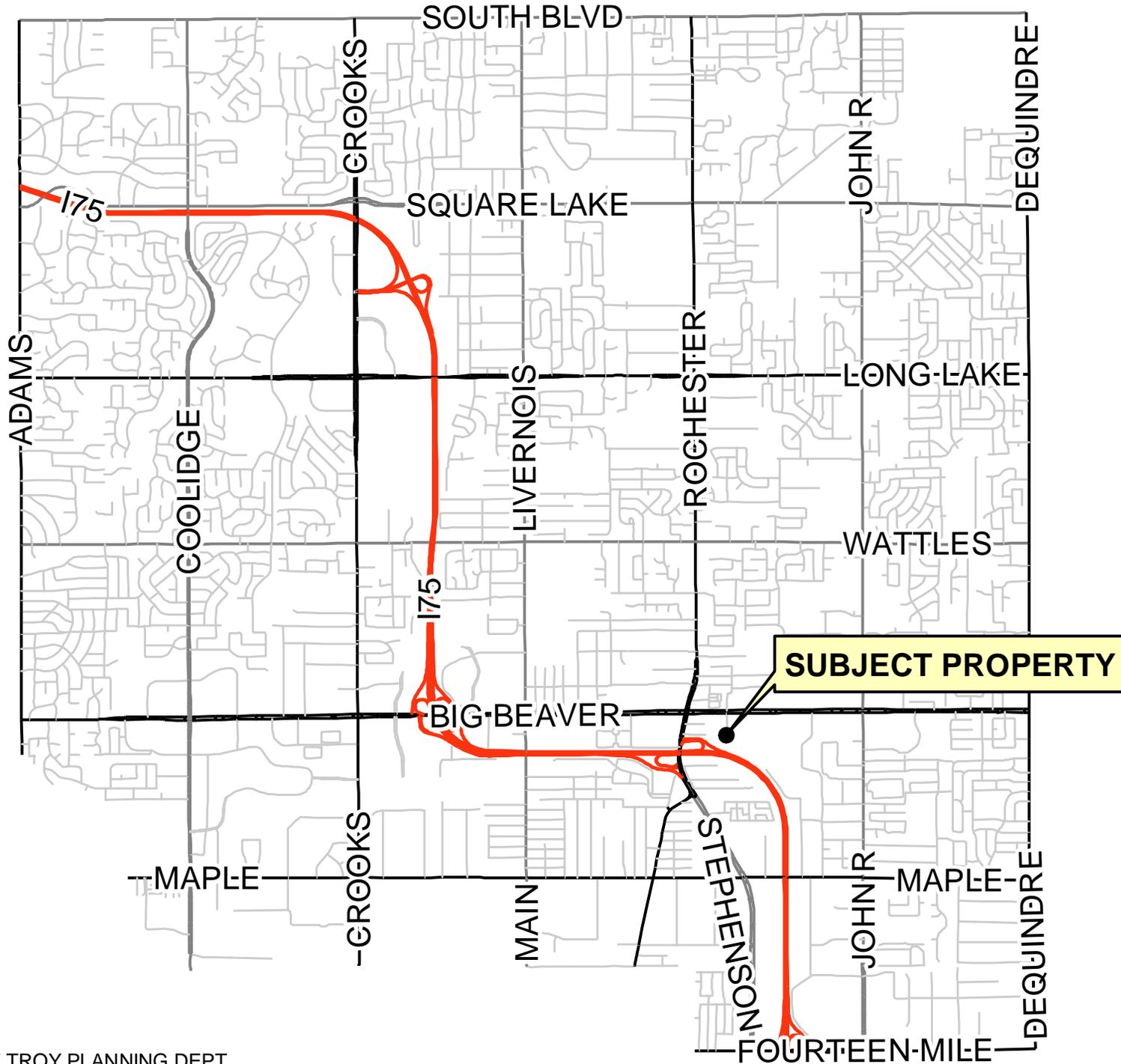
It is necessary to vacate the small portion of the Daley Street right-of-way easement on Lot 28 previously requested by Behr America, Inc. so that the gap between prior vacated properties can be eliminated and to eliminate the previously reserved public turnaround on the vacated property.

At the October 10, 2006 Planning Commission public hearing, Bill Hart of Prototfab (2835 Daley) expressed his opposition to vacation of the portion of Daley Street located south of 2835 Daley. He stated that if that portion of Daley were to be vacated, trucks pulling semi trailers would no longer be able to utilize that portion of Daley Street for maneuvering into and out of his driveway, which is located on the north side of the Prototfab building. For this reason, it is proposed that the language reserving a public turnaround on the vacated portion of Daley be vacated and a new condition placed on the granting of the 2006 vacation requiring Behr America to execute an easement for a legally described portion of the vacation for the purposes of turning maneuvers only.

cc: Applicant
File/ SV 148-D

G:\STREET VACATION\SV 148-D Daley Street Sec 26\Daley Street Vacation PC Report 01 13 09.docx

CITY OF TROY

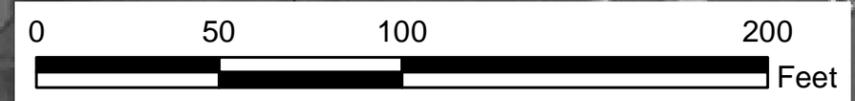


STREET & EASEMENT VACATION REQUEST
DALEY STREET
S OF BIG BEAVER, E OF ROCHESTER RD.
SEC. 26 (SV-148 D)

DALEY

PUBLIC TURNAROUND EASEMENT
TO BE VACATED (CC RES 2006-11-330)

STREET EASEMENT
TO BE VACATED



6. PUBLIC HEARING – STREET VACATION REQUEST (SV 148-C) – Daley Street, South of Big Beaver, East of Rochester Road, abutting Lots 28 and 33 of Supervisor's Plat No. 11 Subdivision, Section 26 – Zoned M-1 (Light Industrial) District (the abutting parcels)

Mr. Miller presented a summary of the Planning Department report on the proposed street vacation, and reported it is the recommendation of City Management to approve the request with two conditions. The conditions are to retain all public and private utility easements and to retain a public access easement for turnaround purposes. Mr. Miller said a turnaround in this situation might be more accurately described as an area for maneuvering.

Ms. Lancaster addressed the pending lawsuit and indicated a court action would have no affect on the Planning Commission's determination. Ms. Lancaster also addressed the retention of a public access easement for turnaround purposes.

The petitioner, Phil Tocco of 5645 Winslow Court, Pittsfield Twp, was present. Mr. Tocco distributed color-coded diagrams to the members that clarified the street vacation request, and provided a brief history of the situation. Mr. Tocco said the easement would enable maneuverability in the right of way and provide additional parking for Behr employees. Mr. Tocco indicated the project engineers were available for questions.

PUBLIC HEARING OPENED

Robert Easterly of 189 E. Big Beaver, Troy, was present. Mr. Easterly, an attorney, represents Protofab located at 2835 Daley, Troy. He addressed the concerns of his client and the pending lawsuit. Mr. Easterly indicated the lawsuit should be resolved before the City makes a determination on the street vacation. He asked that property rights of the citizens be protected and that the members deny the request.

Bill Hart of 5685 Indian Trail, East China Township, was present. Mr. Hart, an officer of Protofab, addressed the property dimensions of 2835 Daley and the concern with essential truck deliveries to the business. He also addressed the existing problem with parking in the area.

Ms. Lancaster explained that nothing physically would change the City property, and the City would retain the right for maneuverability in the roadway.

A brief discussion continued with respect to the turnaround access and maneuverability.

Ken Demark of 2611 Colby, Bloomfield Hills, was present. Mr. Demark is the owner of 2873 Daley. He addressed specifications of the turnaround, green space, a parking variance, existing parking problems and undeveloped land to the west that could be used by Behr for additional parking. Mr. Demark said cars from Behr park in his lot and in the fire lanes. He indicated that cars from Behr would invariably use the turnaround for parking.

PUBLIC HEARING CLOSED

Resolution # PC-2006-10-170

Moved by: Khan

Seconded by: Vleck

RESOLVED, That the Planning Commission hereby recommends to the City Council that the street vacation request, as submitted, for Daley Street, South of Big Beaver, East of Rochester Road, abutting Lots 28 and 33 of Supervisor's Plat No. 11 Subdivision, Section 26, be approved, subject to the following conditions:

1. Retention of all public and private utility easements.
2. Retention of a public turnaround easement.
3. Roadway will be kept clear of parked vehicles at all times.

Discussion on the motion on the floor.

Mr. Littman questioned the street vacation, should it be granted by City Council, with respect to the outcome of ownership determined by Court action.

Ms. Lancaster clarified the pending lawsuit is a claim of adverse possession on the property. She indicated the action taken by City Council would remain, Behr would retain the property and the conditions would remain on the property. Ms. Lancaster also stated the conditions would remain should the property be sold.

Ms. Kerwin indicated she would not support the motion. She foresees problems with the enforcement of keeping the roadway clear of parked cars, as stipulated in the third condition of the motion.

Vote on the motion on the floor.

Yes: Drake-Batts, Khan, Strat, Vleck, Waller

No: Kerwin, Littman, Schultz

Absent: Wright

MOTION CARRIED

Mr. Littman believes the request should be considered after Court action on the pending lawsuit. He sees no reason to rush through the approval process because it is going to work the same either way. Mr. Littman said he does not think there will be enough room for trucks to turn around.

Mr. Schultz said he would rather wait until the litigation is complete, so you know who owns property on both sides.

Ms. Kerwin did not support the motion based on the third condition.

Mr. Khan said decisions should not be based on future litigation.

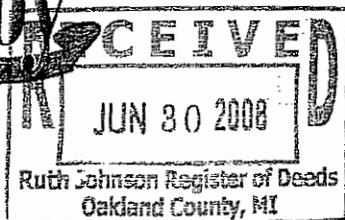
Chair Strat said supported the motion because a landlocked situation would not be created with the vacation



LIBER 40423 PG 740

26987
LIBER 40423 PAGE 740
\$13.00 MISC RECORDING
\$4.00 RECONUMENTATION
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500 West Big Beaver
Troy, Michigan 48084
www.troymi.gov



PAID RECORDED - OAKLAND COUNTY
RUTH JOHNSON, CLERK/REGISTER OF DEEDS

RESOLUTIONS

STREET EASEMENT VACATION - SOUTH END OF DALEY,
SOUTH OF BIG BEAVER, SECTION 26

CITY OF TROY
OAKLAND COUNTY, MICHIGAN

- Area code (248)
- Assessing
524-3311
- Bldg. Inspections
524-3344
- Bldg. Maintenance
524-3368
- City Clerk
524-3316
- City Manager
524-3330
- Community Affairs
524-1147
- Engineering
524-3383
- Finance
524-3411
- Fire-Administration
524-3419
- Human Resources
524-3339
- Information Services
619-7279
- Law
524-3320
- Library
524-3545
- Parks & Recreation
524-3484
- Planning
524-3364
- Police-Administration
524-3443
- Public Works
524-3370
- Purchasing
524-3338
- Real Estate & Development
524-3498
- Treasurer
524-3334
- General Information
524-3300

At the Regular meetings of the Troy City Council held on Monday, June 19, 2000, and Monday, March 5, 2001, the following Resolutions were passed:

Resolution #2000-277
Moved by Pallotta
Seconded by Allemon

WHEREAS, A request has been received from Behr America, Inc., for the vacation of the following described portion of the 50 foot wide Daley Street Easement lying within Supervisor's Plat No. 11 (Liber 46, Page 46 of Oakland County Plats) in order to enable development of the subject street area in conjunction with the abutting portions of Lots 27, 28, 33, and 34 of Supervisor's Plat No. 11:

(Description of Street Easement Area)

Beginning at the North ¼ Corner of Section 26, T. 2N., R. 11E., West 899.31 feet; thence S 00D 10M 00S E, 1127.61 feet; thence N 67D 10M 00S W, 184.93 feet; thence N 67D 10M 00S W, 70.07 feet; thence N 73D 50M 20S W, 180.05 feet; thence N 00D 17M 00S E, 243.67 feet; thence N 89D 20M 48S W, 306.67 feet to the Point of Beginning; thence S 00D 24M 00S W, 408.03 feet; thence N 88D 51M 17S W, 49.75 feet; thence N 00D 24M 00S E, 407.87 feet, thence S 89D 20M 48S E, 50.00 feet to the Point of Beginning;

and

O.K.-A.N.

WHEREAS, The properties which shall benefit from the vacation include portions of Lots 27, 28, 33, and 34 of Supervisor's Plat No. 11 (City of Troy Tax Parcels 20-26-103-009 and 017, and Parcel 20-26-104-013); now part of 20-26-104-020

NOW THEREFORE, BE IT RESOLVED, That this request for vacation of a portion of the Daley Street Easement be granted, subject to the following conditions:

- A. Verification by the City Engineer of the accuracy of the description of the area to be vacated;
- B. Determination by the City Engineer of the nature and extent of easements to be retained and/or conveyed in conjunction with this vacation action;

- C. Response from the Oakland County Drain Commissioners Office as to the nature of easements to be retained and/or conveyed in conjunction with this vacation action;
- D. Action by Behr America to assure that they will dedicate a street right-of-way to the City, within the same described area as the area now proposed for vacation in the event that their proposed building project does not proceed; and

BE IT FURTHER RESOLVED, That final action shall be taken by the City Council to vacate said portion of the platted Daley Street easement, after receipt of the above described information from the City Engineer and the Oakland County Drain Commissioners Office, along with the required action by Behr America through a document acceptable to the City Attorney.

Yes: All-7

Resolution #2001-03-137-E-12
 Moved by Pallotta
 Seconded by Kaszubski

WHEREAS, All of the conditions have now been satisfied relative to vacating that portion of Daley Street identified in the attached memorandum;

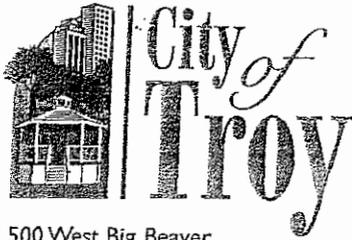
NOW, THEREFORE, BE IT RESOLVED, That final vacation of any interest that the City of Troy has in the Daley Street platted street easement is granted for the described portion of Daley Street; and

BE IT FURTHER RESOLVED, That the City of Troy will retain an easement for public utilities over the entire area to be vacated. The City Clerk shall record this Resolution in accordance with Sections 256 and 257 of Act 288 of the Michigan Public Acts of 1967, as amended.

Yes: All-6

I, Tonni L. Bartholomew, duly appointed City Clerk of the City of Troy, do hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Troy City Council at Regular Meetings duly called and held on Monday, the 19th day of June, 2000 and Monday, the 5th day of March, 2001.

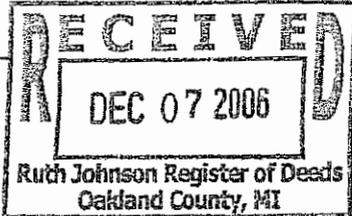

 Tonni L. Bartholomew
 City Clerk



500 West Big Beaver
Troy, Michigan 48084
Fax: (248) 524-0851
www.ci.troy.mi.us

295485
LIBER 38484 PAGE 481
\$13.00 MISC RECORDING
\$4.00 REDEMPTION
12/07/2006 03:25:54 P.M. RECEIPT# 137

PAID RECORDED - OAKLAND COUNTY
RUTH JOHNSON, CLERK/REGISTER OF DEEDS



CITY OF TROY
OAKLAND COUNTY, MICHIGAN
RESOLUTION

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C-3 Street Vacation (File Number: SV 148-C) – Portions of Daley Street abutting Lots 28 and 33 of Supervisors Plat No. 11 Subdivision, South of Big Beaver, North of I-75, Section 26

At a Regular meeting of the Troy City Council held on Monday, November 13, 2006 the following Resolution was passed:

Resolution #2006-11-330
Moved by Fleming
Seconded by Beltramini

Handwritten signature/initials

WHEREAS, A request has been received for the vacation of a portion of the 50-foot-wide platted Daley Street right-of-way, located south of Big Beaver Road, and abutting lots 28 and 33 of Supervisors Plat No. 11;

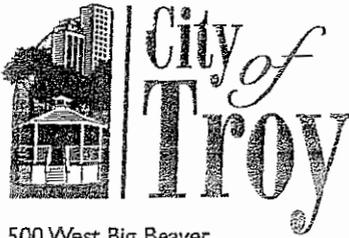
WHEREAS, The property which shall benefit from this requested vacation is Lot 28 and 33 of Supervisors Plat No. 11, Section 26 (City of Troy Tax Parcels 20-26-103-024 and 20-26-104-019); and

WHEREAS, City Management and the Planning Commission have recommended that this street vacation be granted with the retention of public and private utility easements and public turnaround easement;

THEREFORE, BE IT RESOLVED, That the City Council concurs in the recommendations of City Management and the Planning Commission, and **VACATES** the portion of the Daley Street right-of-way; and

Exhibit 4

O.K. - LG



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Treasurer
524-3334

General Information

BE IT FURTHER RESOLVED, That the City Council **RETAINS** easements for public and private easements and public turnaround within the vacated Daley Street right-of-way.

Yes: Stine, Beltramini, Broomfield, Fleming, Howrylak
No: Lambert
Absent: Schilling

MOTION CARRIED

I, Tonni L. Bartholomew, duly appointed City Clerk of the City of Troy, do hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Troy City Council at a Regular Meeting duly called and held on Monday, the 13th day of November, 2006.

Tonni L. Bartholomew, MMC
City Clerk

When recorded return to:
City Clerk
City of Troy
500 West Big Beaver Road
Troy, MI 48084



E-Mail: protofabcorp@att.net www.protofabcorp.com
Phone: 248-689-3730 Fax: 248-689-3215
2835 Daley Dr. Troy, MI 48083

December 29, 2008

Protofab Corp. protests a vacant request on Daley Dr. Furthermore, the condition of Daley Street last year was that BEHR had to maintain turn-around access. If they renege on the turn around access I feel the city should renege on the vacated portion of Daley Dr.

Thank you,

William H. Hart IV

REC'D

JAN - 6 2009

PLANNING DEPT.



To: Planning Commission of the City of Troy

Date: January 12, 2009

Re: SV-148 D Daley Street Easement/Vacation

To Whom It May Concern:

There are two separate issues here that are being combined into one issue. This issues need to be separated, and re-scheduled until all the facts are in.

1. First Issue: Correcting the "small portion of the right-of-way easement traversing lot 28 in Supervisors Plat N. 11" that was inadvertently not included in the legal description. Is NOT under dispute and is a separate issue unto it self.
2. Second Issue: Attempting to reverse the approved language/stipulation and replace it with "turning maneuvers only"

What are "turning maneuvers only"? If you don't know....how can you vote on it? I have asked for the definition but no one knows. The best answer received was that "maybe someone at the meeting will know and can explain it". The burden being asked of taxpayers to come to a meeting so that "maybe" someone can explain it is ridiculous and a waste of taxpayers time. And gives the impression that the city is attempting to obscure some other potential agenda by keeping the facts and definitions from the public until the last minute, maybe.

It would seem that this issue has neither been planned nor presented to the public correctly and should simply be postponed until all the facts are in. No one will be damaged by a postponement to allow the Commission and the public get the facts. Or the vacation should simply be completely reversed.

Thank you for your time.

Sincerely,

Ken Demark
CEO
BOLD Technologies, Inc.