

AGENDA

Regular Meeting

of the

CITY COUNCIL OF THE CITY OF TROY

MARCH 22, 2004

CONVENING AT 7:30 P.M.

**Submitted By
The City Manager**

TO: The Honorable Mayor and City Council
Troy, Michigan

FROM: John Szerlag, City Manager

SUBJECT: Background Information and Reports

Ladies and Gentlemen:

This booklet provides a summary of the many reports, communications and recommendations that accompany your Agenda. Also included are suggested or requested resolutions and/or ordinances for your consideration and possible amendment and adoption.

Supporting materials transmitted with this Agenda have been prepared by department directors and staff members. I am indebted to them for their efforts to provide insight and professional advice for your consideration.

Identified below are goals for the City, which have been advanced by the governing body; and Agenda items submitted for your consideration are on course with these goals.

Goals

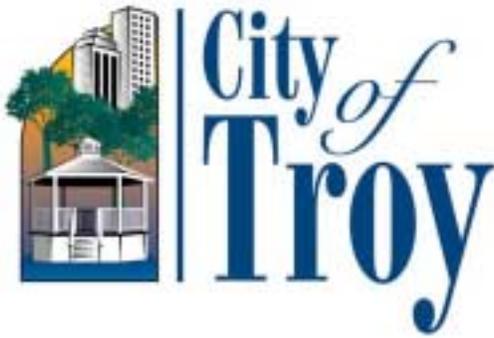
1. Minimize cost and increase efficiency of City government.
2. Retain and attract investment while encouraging redevelopment.
3. Effectively and professionally communicate internally and externally.
4. Creatively maintain and improve public infrastructure.
5. Protect life and property.

As always, we are happy to provide such added information as your deliberations may require.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Szerlag", is written over a light gray grid background.

John Szerlag, City Manager



CITY COUNCIL

AGENDA

March 22, 2004 – 7:30 PM
Council Chambers
City Hall - 500 West Big Beaver
Troy, Michigan 48084
(248) 524-3317

CALL TO ORDER **1**

**INVOCATION & PLEDGE OF ALLEGIANCE – Fr. Stratton Dorozenski – St. Nicholas
Greek Orthodox Church** **1**

ROLL CALL **1**

PRESENTATION: No presentations scheduled. **1**

PUBLIC HEARINGS: **1**

C-1 Parking Variance Request - 3614-3674 Rochester Rd 1

C-2 Commercial Vehicle Appeal - 1918 Muer 2

C-3 Commercial Vehicle Appeal – 2803 Rhodes 4

C-4 Commercial Vehicle Appeal – 6640 John R 5

POSTPONED ITEM: **7**

D-1 PUBLIC HEARING: Article II (Changes, Amendments and Approvals) Zoning
Ordinance Amendments and the Repeal of Chapter 40 (ZOTA #203) 7

PUBLIC COMMENT: **8**

A. Items on the Current Agenda 8

NOTICE: People with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk at (248) 524-3317 or via e-mail at clerk@ci.troy.mi.us at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

B.	Items Not on the Current Agenda	8
<u>CONSENT AGENDA</u>		<u>8</u>
E-1	Approval of Consent Agenda	9
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<u>COUNCIL REFERRALS</u>		<u>10</u>
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G-1	Calendar	10
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CALL TO ORDER

INVOCATION & PLEDGE OF ALLEGIANCE – Fr. Stratton Dorozenski – St. Nicholas Greek Orthodox Church

ROLL CALL

Mayor Matt Pryor
Robin Beltramini
Cristina Broomfield
David Eisenbacher
Martin F. Howrylak
David A. Lambert
Jeanne M. Stine

PRESENTATION: No presentations scheduled.

PUBLIC HEARINGS:

C-1 Parking Variance Request - 3614-3674 Rochester Rd

Suggested Resolution
Resolution #2004-03-
Moved by
Seconded by

(a) Proposed Resolution A for Approval

WHEREAS, Articles XLIII and XLIV (43.00.00 and 44.00.00) of the Zoning Ordinance provide that the City Council may grant variances from the off-street parking requirements of the Zoning Ordinance upon general findings that:

1. The variance would not be contrary to public interest or general purpose and intent of the Zoning Ordinance.
2. The variance does not permit the establishment of a prohibited use as a principal use within a zoning district.
3. The variance does not cause an adverse effect to properties in the immediate vicinity or zoning district.
4. The variance relates only to property described in the application for variance; and

WHEREAS, Article XLIII (43.00.00) requires that in granting, the City Council shall find that the practical difficulties justifying the variances are:

- A. That absent a variance, no reasonable use can be made of the property; or

- B. That absent a variance, a significant natural feature would be negatively affected or destroyed; or
- C. That absent a variance, public health, safety and welfare would be negatively affected; or
- D. That literal enforcement of the Zoning Ordinance precludes full enjoyment of the permitted use and makes conforming unnecessarily burdensome. In this regard, the City Council shall find that a lesser variance does not give substantial relief, and that the relief requested can be granted within the spirit of the Ordinance, and within the interests of public safety and welfare; and

WHEREAS, The City Council finds the above-stated general conditions to be present and finds the practical difficulty stated above to be operative in the appeal.

NOW, THEREFORE, BE IT RESOLVED, That the request from Dennis Dahnke for waiver of 8 additional parking spaces at the development at 3614 – 3674 Rochester Road be **APPROVED**.

OR

(b) Proposed Resolution B for Denial

WHEREAS, Articles XLIII and XLIV (43.00.00 and 44.00.00) of the Zoning Ordinance provide that the City Council may grant variances from the off-street parking requirements of the Zoning Ordinance upon general findings that:

1. The variance would not be contrary to public interest or general purpose and intent of the Zoning Ordinance.
2. The variance does not permit the establishment of a prohibited use as a principal use within a zoning district.
3. The variance does not cause an adverse effect to properties in the immediate vicinity or zoning district.
4. The variance relates only to property described in the application for variance; and

WHEREAS, Article XLIII (43.00.00) requires that in granting, the City Council shall find that there are practical difficulties justifying the variances; and

WHEREAS, City Council has not found that the requirements of Articles XLIII and XLIV (43.00.00 and 44.00.00) of the Zoning Ordinance have been met.

NOW, THEREFORE, BE IT RESOLVED, That the request from Dennis Dahnke for waiver of 8 additional parking spaces at the development at 3614 – 3674 Rochester Road be **DENIED**.

Yes:

No:

C-2 Commercial Vehicle Appeal - 1918 Muer

Suggested Resolution
 Resolution #2004-03-
 Moved by

Seconded by

(a) Proposed Resolution A for Approval

WHEREAS, Section 44.02.02 of Chapter 39, Zoning, of the Code of the City of Troy provides that actions to grant appeals to the restrictions on outdoor parking of commercial vehicles in residential districts pursuant to Section 40.66.00 of Chapter 39 of the Code of the City of Troy "shall be based upon at least one of the following findings by the City Council:

- A. The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).
- B. Efforts by the applicant have determined that there are no reasonable or feasible alternative locations for the parking of the subject commercial vehicle.
- C. A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.
- D. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner which will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s)."; and

WHEREAS, The City Council of the City of Troy has found that the petitioner has demonstrated the presence of the following condition(s), justifying the granting of a variance: _____

NOW, THEREFORE, BE IT RESOLVED, That the request from Mr. Cristian Artan, 1918 Muer, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a Dodge stake truck and utility trailer in a residential district is hereby **APPROVED** for _____(not to exceed two years).

OR

(b) Proposed Resolution B For Denial

WHEREAS, Section 44.02.02 of Chapter 39, Zoning, of the Code of the City of Troy provides that actions to grant appeals to the restrictions on outdoor parking of commercial vehicles in residential districts pursuant to Section 40.66.00 of Chapter 39 of the Code of the City of Troy "shall be based upon at least one of the following findings by the City Council:

- A. The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).

- B. Efforts by the applicant have determined that there are no reasonable or feasible alternative locations for the parking of the subject commercial vehicle.
- C. A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.
- D. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner which will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s)."; and

WHEREAS, The City Council of the City of Troy has not found that the petitioner has demonstrated the presence of condition(s), justifying the granting of a variance:

NOW, THEREFORE, BE IT RESOLVED, That the request from Mr. Cristian Artan, 1918 Muer, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a Dodge stake truck and utility trailer in a residential district is hereby **DENIED**.

Yes:

No:

C-3 Commercial Vehicle Appeal – 2803 Rhodes

Suggested Resolution

Resolution #2004-03-

Moved by

Seconded by

(a) Proposed Resolution A For Approval

WHEREAS, Section 44.02.02 of Chapter 39, Zoning, of the Code of the City of Troy provides that actions to grant appeals to the restrictions on outdoor parking of commercial vehicles in residential districts pursuant to Section 40.66.00 of Chapter 39 of the Code of the City of Troy "shall be based upon at least one of the following findings by the City Council:

- A. The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).
- B. Efforts by the applicant have determined that there are no reasonable or feasible alternative locations for the parking of the subject commercial vehicle.
- C. A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.
- D. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner which will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s)."; and

WHEREAS, The City Council of the City of Troy has found that the petitioner has demonstrated the presence of the following condition(s), justifying the granting of a variance:_____

NOW, THEREFORE, BE IT RESOLVED, That the request from Mr. Doug Brown, 2803 Rhodes, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a Chevrolet box truck in a residential district is hereby **APPROVED** for (not to exceed two years).

OR

(b) Proposed Resolution B For Denial

WHEREAS, Section 44.02.02 of Chapter 39, Zoning, of the Code of the City of Troy provides that actions to grant appeals to the restrictions on outdoor parking of commercial vehicles in residential districts pursuant to Section 40.66.00 of Chapter 39 of the Code of the City of Troy "shall be based upon at least one of the following findings by the City Council:

- A. The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).
- B. Efforts by the applicant have determined that there are no reasonable or feasible alternative locations for the parking of the subject commercial vehicle.
- C. A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.
- D. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner which will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s)."; and

WHEREAS, The City Council of the City of Troy has not found that the petitioner has demonstrated the presence of conditions, justifying the granting of a variance.

NOW, THEREFORE, BE IT RESOLVED, That the request from Mr. Doug Brown for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a Chevrolet box truck in a residential district is hereby **DENIED**.

Yes:
No:

C-4 Commercial Vehicle Appeal – 6640 John R

Suggested Resolution
Resolution #2004-03-
Moved by

Seconded by

(a) Proposed Resolution A for Approval

WHEREAS, Section 44.02.02 of Chapter 39, Zoning, of the Code of the City of Troy provides that actions to grant appeals to the restrictions on outdoor parking of commercial vehicles in residential districts pursuant to Section 40.66.00 of Chapter 39 of the Code of the City of Troy "shall be based upon at least one of the following findings by the City Council:

- A. The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).
- B. Efforts by the applicant have determined that there are no reasonable or feasible alternative locations for the parking of the subject commercial vehicle.
- C. A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.
- D. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner which will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s)."; and

WHEREAS, The City Council of the City of Troy has found that the petitioner has demonstrated the presence of the following condition(s), justifying the granting of a variance: _____

 NOW, THEREFORE, BE IT RESOLVED, That the request from Mr. Kirk Stender, 6640 John R., for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a Freightliner tractor/trailer in a residential district is hereby **APPROVED** for _____ (not to exceed two years).

OR

(b) Proposed Resolution B for Denial

WHEREAS, Section 44.02.02 of Chapter 39, Zoning, of the Code of the City of Troy provides that actions to grant appeals to the restrictions on outdoor parking of commercial vehicles in residential districts pursuant to Section 40.66.00 of Chapter 39 of the Code of the City of Troy "shall be based upon at least one of the following findings by the City Council:

- A. The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).
- B. Efforts by the applicant have determined that there are no reasonable or feasible alternative locations for the parking of the subject commercial vehicle.
- C. A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.

D. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner which will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s)."; and

WHEREAS, The City Council of the City of Troy has not found that the petitioner has demonstrated the presence of condition(s), justifying the granting of a variance: _____

NOW, THEREFORE, BE IT RESOLVED, That the request from Mr. Kirk Stender, 6650 John R., for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a Freightliner tractor/trailer in a residential district is hereby **DENIED**.

Yes:
No:

POSTPONED ITEM:

D-1 PUBLIC HEARING: Article II (Changes, Amendments and Approvals) Zoning Ordinance Amendments and the Repeal of Chapter 40 (ZOTA #203)

Suggested Resolution
Resolution #2004-03-
Moved by
Seconded by

(a) Proposed Resolution A – Option A – Planning Commission Version

RESOLVED, That Article II (CHANGES, AMENDMENTS AND APPROVALS) of the Zoning Ordinance, Option A, be **ADOPTED**, as recommended by the Planning Commission; and

BE IT FURTHER RESOLVED, That Chapter 40 of the City Code is hereby **REPEALED**; and

BE IT FINALLY RESOLVED, That Article II as indicated in Option A – Planning Commission version dated March 16, 2004 be hereby **AMENDED**.

OR

(b) Proposed Resolution B – Option B – City Management Version

RESOLVED, That Article II (CHANGES, AMENDMENTS AND APPROVALS) of the Zoning Ordinance, Option B, be **ADOPTED**, as recommended by the City Management; and

BE IT RESOLVED, That Chapter 40 of the City Code is hereby **REPEALED**; and

BE IT FURTHER RESOLVED, That each Planning Commission member **SHALL RECEIVE** as compensation for his services the sum of Twenty Five Dollars (\$25.00) for each Regular or

Special Meeting of the Commission which is attended by each member but not to exceed Nine Hundred Dollars (\$900.00) per annum; and

BE IT FINALLY RESOLVED, That Article II as indicated in Option B – City Management version dated March 16, 2004 be hereby **AMENDED**.

OR

(c) Proposed Resolution C – Resolution to Postpone- City Management

RESOLVED, That the Zoning Ordinance Amendments (ZOTA #203) and the Repeal of Chapter 40 be **POSTPONED** until after the City Manager has met with the Planning Commission and City Staff in an interest-based approach to find commonalities and objectives, and then report back his findings to the City Council.

Yes:

No:

PUBLIC COMMENT:

A. Items on the Current Agenda

Any person not a member of the Council may address the Council with recognition of the Chair, after clearly stating the nature of his/her inquiry. No person not a member of the Council shall be allowed to speak more than twice or longer than five (5) minutes on any question, unless so permitted by the Chair. The Council may waive the requirements of this section by a majority of the Council Members. Consistent with Order of Business #11, the City Council will move forward the specific Business Items which audience members would like to address. The Mayor shall announce the items which are to be moved forward and will ask the audience if there are any additional items which they would like to address. All Business Items that members of the audience would like to address will be brought forth and acted upon at this time. Items will be taken individually and members of the audience will address council prior to council discussion of the individual item.

B. Items Not on the Current Agenda

After Council is finished acting on all Business Items that have been brought forward, the public is welcome to address the Mayor and Council on items that are specifically not on the agenda. (Rules of Procedure for the City Council, Article 15 as amended September 22, 2003)

CONSENT AGENDA

The Consent Agenda includes items of a routine nature and will be approved with one motion. That motion will approve the recommended action for each item on the Consent Agenda. Any Council Member may remove an item from the Consent Agenda and have

it considered as a separate item. Any item so removed from the Consent Agenda shall be considered after other items on the consent business portion of the agenda have been heard. (Rules of Procedure for the City Council, Article 13, as amended September 22, 2003)

E-1 Approval of Consent Agenda

Suggested Resolution
Resolution #2004-03-
Moved by
Seconded by

RESOLVED, That all items as presented on the Consent Agenda are hereby **APPROVED** as presented with the exception of Item(s) _____, which shall be considered after Consent Agenda (E) items, as printed.

Yes:
No:

E-2 Minutes: Regular Meeting of March 15, 2004

Suggested Resolution
Resolution #2004-03-

RESOLVED, That the Minutes of the 7:30 PM Regular Meeting of March 15, 2004 be **APPROVED** as submitted.

E-3 Proposed City of Troy Proclamations

Suggested Resolution
Resolution #2004-03-

RESOLVED, That the following City of Troy Proclamations be **APPROVED**:

- (a) April 2004 – Alcohol Awareness Month
- (b) Troy High School Symphonic Band – Performance at Carnegie Hall

REGULAR BUSINESS

Persons interested in addressing the City Council on items, which appear on the printed Agenda, will be allowed to do so at the time the item is discussed upon recognition by the Chair (during the public comment portion of the agenda item's discussion). Other than asking questions for the purposes of gaining insight or clarification, Council shall not interrupt members of the public during their comments. For those addressing City Council, petitioners shall be given a fifteen (15) minute presentation time that may be extended with the majority consent of Council and all other interested people, their time may be limited to not more than twice nor longer than five (5) minutes on any question,

unless so permitted by the Chair, in accordance with the Rules of Procedure of the City Council, Article 15, as amended September 22, 2003. Once discussion is brought back to the Council table, persons from the audience will be permitted to speak only by invitation by Council, through the Chair.

F-1 Closed Session – None requested.

COUNCIL COMMENTS/COUNCIL REFERRALS - No Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda

COUNCIL REFERRALS

REPORTS AND COMMUNICATIONS

G-1 Calendar

PUBLIC COMMENT

Public Comment is limited to people who have not addressed Council during the 1st Public Comment section (Rules of Procedure for the City Council, Article 5 (15), as amended May 6, 2002).

STUDY ITEMS – No Study Items submitted.

It is City Management's recommendation to recess the Regular meeting at this time and to immediately reconvene it in the Council Board Room to provide for a study environment. Additionally, it would be recommended that the Mayor request the City Clerk to post notice that the City Council meeting has been relocated to the Council Board Room.

Respectfully submitted,

John Szerlag, City Manager

DATE: March 16, 2004

TO: John Szerlag, City Manager

FROM: Gary A. Shripka, Assistant City Manager/Services
Mark Stimac, Director of Building and Zoning

SUBJECT: Agenda Item - Public Hearing
Parking Variance Request
3614 – 3674 Rochester Road

We have received an application from Dennis Dahnke representing Short Circuit to locate a "Short Circuit 30 Minute Workout" facility in an existing tenant space at the Century Plaza shopping center at 3614 – 3674 Rochester Road. Specifically, they are proposing to occupy the space at 3648 Rochester for a 1,330 square foot health and fitness club. Considering this proposed use as well as the other existing uses in the center, a total of 300 parking spaces are required by Section 40.21.01 of the Troy Zoning Ordinance. Based upon a variance for 57 spaces granted by City Council in September of 2003, this required parking has been reduced to 243 spaces. The plans submitted with the application and a review of the site indicates that the only 235 parking spaces are available. The permit application for this tenant alteration has been denied. In response, the petitioners have filed an appeal of the parking requirement of the 8 additional spaces.

A Public Hearing has been scheduled for your meeting of March 22, 2004, in accordance with Section 44.01.00.

We have enclosed copies of the petitioner's application and supporting documentation as well as a copy of the site plan of the facility for your reference. We will be happy to provide additional information regarding this request if you desire.

Attachments:

PARKING VARIANCE APPLICATION
FOR PUBLIC HEARING BEFORE CITY COUNCIL
CITY OF TROY

RECEIVED

FEB 17 2004

BUILDING DEPARTMENT

TO TROY CITY COUNCIL

DATE: 2/17/2004

Request is hereby made for a variance to modify the parking provisions of the Zoning Ordinance enacted by the City Council or contrary to a decision rendered by the Building Official in denying an application for a permit.

Applicant: Dennis Dahnke dba/Short Circuit Phone: 248-310-4243

Address: 31964 Alden Ct., Beverly Hills, MI 48025

Address of Property: 3614-3674 Rochester Rd., Century Plaza

Please send letter to this address.

Lot # NA Subdivision: NA

Zoning District: NA Sidwell # 23-156-003

Owner of Property: Century Plaza L.L.C. Phone: 248-855-5075

Address: 31731 Northwestern Hwy., Farmington Hills, MI 48334-1654

This appeal is made on a determination by the Director of Building & Zoning, in the enforcement of the Zoning Ordinance, in a letter dated: 2/12/2004

Has there been a previous appeal involving this property? No If Yes, state date _____ and particulars _____

REASON FOR VARIANCE:

Dimension of Stall? _____

Parking Spaces Required: 300

Number of Stalls? _____

Parking Spaces Provided: 292

Other Dimensions? _____

Variance Requested: 8

Outline your appeal, listing sections of the ordinance from which relief is sought and also outline your proposals, indicating your hardships. (continued on back of page)

PLOT PLAN OF SITE ATTACHED HERETO

STATE OF MICHIGAN)
COUNTY OF OAKLAND

I HEREBY DISPOSE AND SAY THAT ALL THE ABOVE STATEMENTS, AND INFORMATION IN THE ATTACHED PAPERS AND SITE PLANS SUBMITTED ARE TRUE AND CORRECT.

Date: 2/17/04 Dennis Bohrer
(Signature of Applicant)

Signed and Sworn to before me this 17 day of February 2004

Mary Laraine McHenry
Notary Public

My Commission Expires: May 30, 2007

Filing Fee \$200.00 Date Paid 2-17-04

February 17, 2004

TO: CITY COUNCIL
CITY OF TROY

From: Dennis Dahnke
Short Circuit Workout Studio

RE: PARKING VARIANCE

The attached Century Plaza site map shows the location of Short Circuit unit #18. Abutting the north side of this unit is parking seldom used by other visitors to the plaza because it is out-of-the-way to all units except for #18 and #19 (currently vacant). It contains 11 stripped parking spaces for customers, and an additional 3 for tenants. The members of Short Circuit will be encouraged to park here, and no doubt will choose to do so because of its convenience to the unit.

Member usage of similar exercise facilities indicates that our facility will see a slacking-off of business between the hours of 12 noon to 3 p.m. This balances nicely with the 6 restaurant/fast food businesses in the plaza whose peak traffic occurs during this same time period

Sincerely,



Dennis Dahnke

RECEIVED
FEB 17 2004
BUILDING DEPARTMENT

Century Plaza - Parking Analysis

Address (Rochester)	Tenant	Area (s.f.)	Parking Factor	Req'd Parking
3614-3674	Shopping Center (gross sq. ft.)	35,345	1/170 G.S.F. (=208 spaces)	208
3614-3618	Café Franco	(80 seats) 3,880	1:2 + 1:10 =	48
3620	Gymboree	12 students/1,015	1 per 3 students (occ. load)	4
3622	Mark C. Smith Insurance	1,260	1/200 G.S.F.	6
3624	Vacant	1,260	1/200 G.S.F.	6
3626	Tubby's	(28 seats) 1,260	1:2 + 1:10 =	17
3628	Kelly's Hair Salon	(5 chairs) 1,260	3:2 chairs + 1-1/2:1 chairs	10.5
3630	Minato Sushi	(30 seats) 1,206	1:2 + 1:10 =	18
3632	H & R Block	1,230	1/200 G.S.F.	6
3634	Old Cafe	(30 seats) 1,260	1:2 + 1:10 =	18
3636	Artistic Salon	(5 chairs) 1,260	3:2 chairs + 1-1/2:1 chairs	10.5
3638	Nailco	1,890	1/200 GSF	9
3640-3644	Ashoka Indian Cuisine	(88 seats) 3,150	1:2 + 1:10 =	53
3646	Park Avenue Cleaners	1,260	1/200 G.S.F.	6
3648	PROPOSED SHORT CIRCUIT 30-Minute Workout	1,330	1/50 S.F. exercise area 747 s.f.	15
3656	Vacant	1,260	1/200 G.S.F.	6
3658	Penn's Thai Café	(20 seats) 1,260	1:2 + 1:10 =	12
3660	Smoker's Haven	1,200	1/200 G.S.F.	6
3662-3664	Leslie's Poolmart	4,283	1/200 G.S.F.	21
3666-3668	Vacant	2052	1/200 G.S.F.	10
3670-3674	ZOUP Restaurant**	(30 seats) 2,300	1:2 + 1:10 =	18
			TOTAL	300
	Parking Required = 300 Parking Provided = 253 site plan Parking Provided = 235 actual * *reduced because of fire hydrants, electrical transformers, and 15 trash dumpsters. **Parking variance granted to ZOUP			

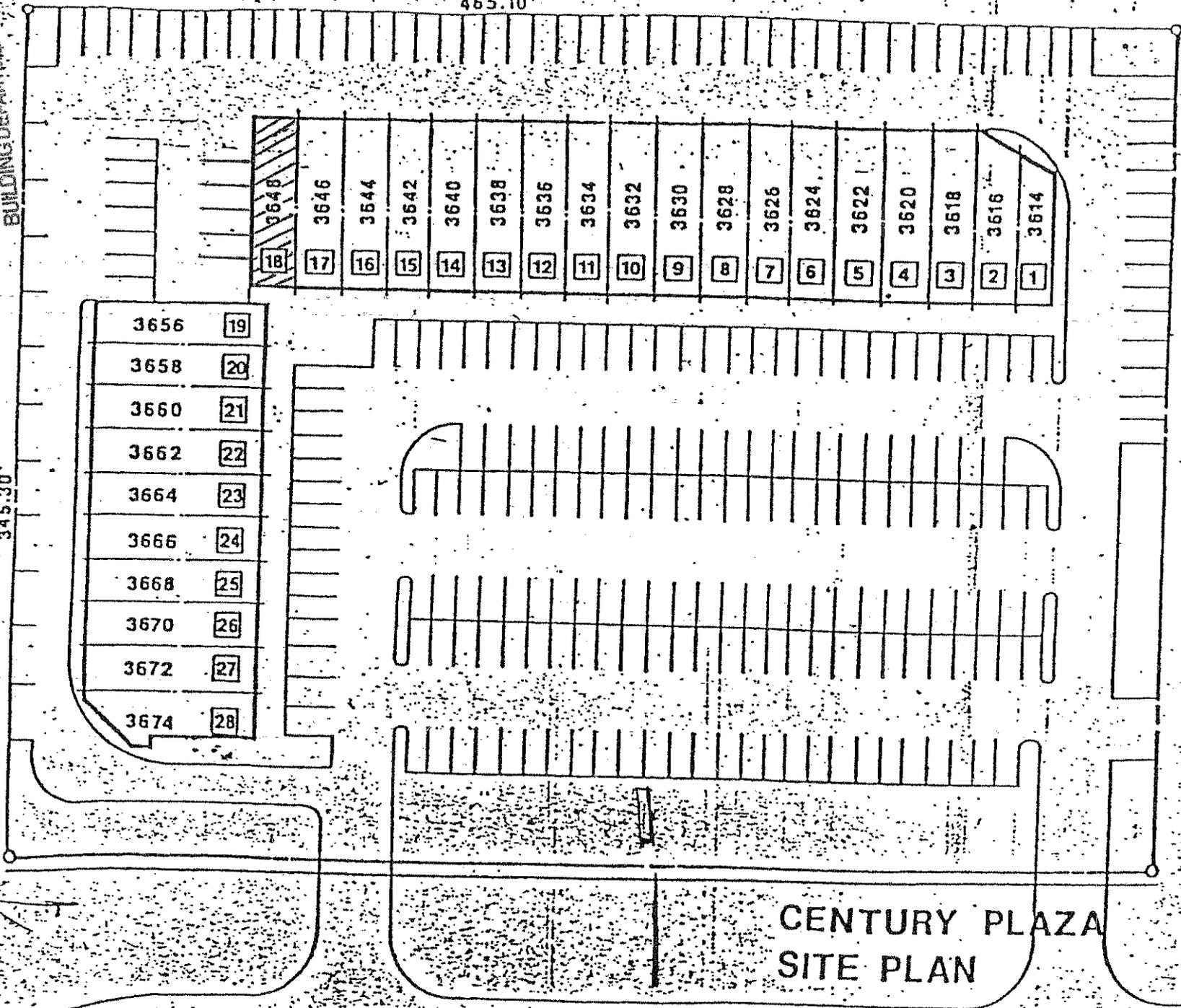
RECEIVED

FEB 17 2004

BUILDING DEPARTMENT

345.30'

465.10'

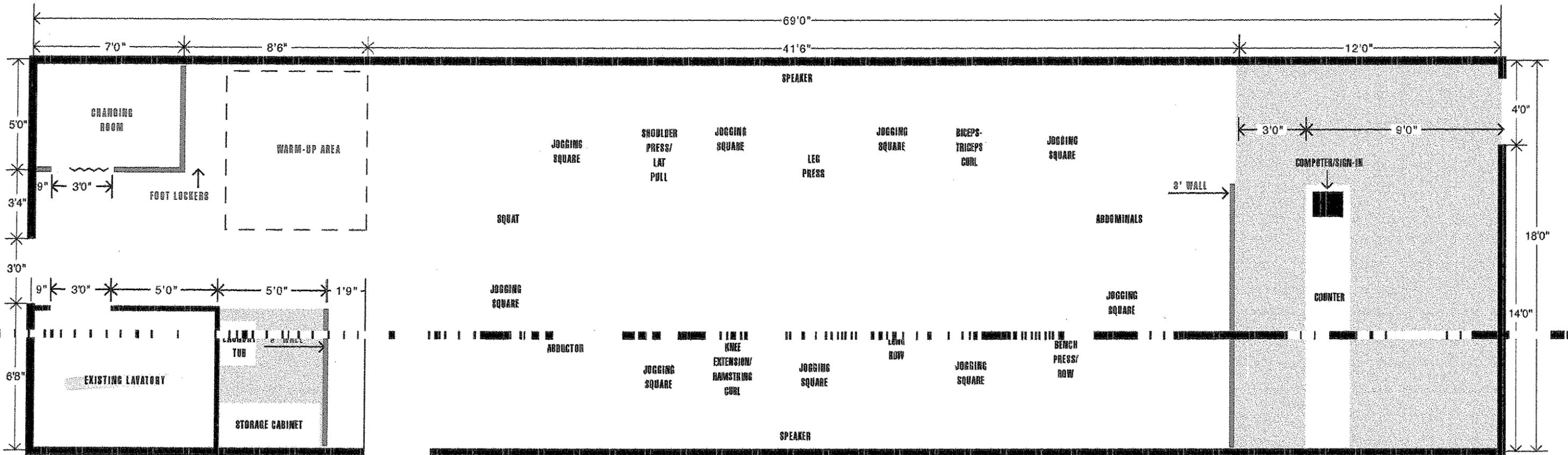


CENTURY PLAZA
SITE PLAN

ROCHESTER ROAD

RECEIVED
JAN 13 2004
BUILDING DEPARTMENT

Short Circuit
3648 Rochester Rd.
Troy, MI 48083
Size: 1330 sq. ft.



DATE: March 16, 2004

TO: John Szerlag, City Manager

FROM: Gary A. Shripka, Assistant City Manager/Services
Mark Stimac, Director of Building & Zoning

SUBJECT: Agenda Item - Public Hearing
Commercial Vehicle Appeal
1918 Muer

On January 22, 2004, information was sent to Mr. Cristian Artan that identified restrictions related to a commercial vehicle located on residential property. As part of that information, he was advised that the Dodge stake truck and utility trailer parked on the property did not comply with the exceptions found in Chapter 39, Section 40.66.00. He was given the option to remove the vehicle and trailer or appeal to City Council for relief of the Ordinance.

In response to our letters, Mr. Artan has filed an appeal. The appeal requests that a public hearing date be held in accordance with the ordinance. A public hearing has been scheduled for your meeting of March 22, 2004.

Copies of the application, site plan submitted by the petitioner, and photos provided by the petitioner and also taken by staff are included for your reference.

Should you have any questions or require additional information, kindly advise.

MS/pr

Attachments

COMMERCIAL VEHICLE
APPEAL APPLICATION

BUILDING DEPARTMENT

Request is hereby made for permission to keep a commercial vehicle(s) as described below, on the following residential zoned site:

NAME: MARIANA ARTAN
LAURENTIU ARTAN

ADDRESS: 1918 MUCK TROY MICH

CITY: TROY MI. ZIP: 48064 PHONE: 248 250-2262

ADDRESS OF SITE: MUCK 1918

NUMBER OF VEHICLES: 1

VEHICLE IDENTIFICATION NUMBER(S)
1B6ME368XK5124092

LICENSE PLATE NUMBER(S) TL31AV TRAILER 7 400615

DESCRIPTION OF VEHICLE(S) DODGE TRUCK WHITE
2002 HAULIN T-10"

REASON FOR APPEAL (see A - D below) This truck is the life
of my business, with out this truck I can not
pay my bills.

THE APPLICANT IS AWARE OF THE REQUIRED FINDINGS WHICH ARE STATED IN THE FOLLOWING:

44.02.01 ACTIONS TO GRANT APPEALS ... SHALL BE BASED UPON AT LEAST ONE OF THE FOLLOWING FINDINGS BY THE CITY COUNCIL:

- A. The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).
- B. Efforts by the applicant have determined there are no reasonable or feasible alternative locations for parking of the subject commercial vehicle.
- C. A garage or accessory building on the subject site cannot accommodate, or cannot reasonably be constructed or modified to accommodate the subject commercial vehicle
- D. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner that will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s).

COMMERCIAL VEHICLE APPEAL APPLICATION

40.02.2. The City Council may grant appeals in relation to the type, character or number of commercial vehicles to be parked outdoors in Residential Districts for an initial period not to exceed two (2) years, and may thereafter extend such actions for a similar period.

Supporting data, attached to the application, shall include: a plot plan, drawn to scale, a description and location of the vehicle(s) and a photo of the vehicle on-site..



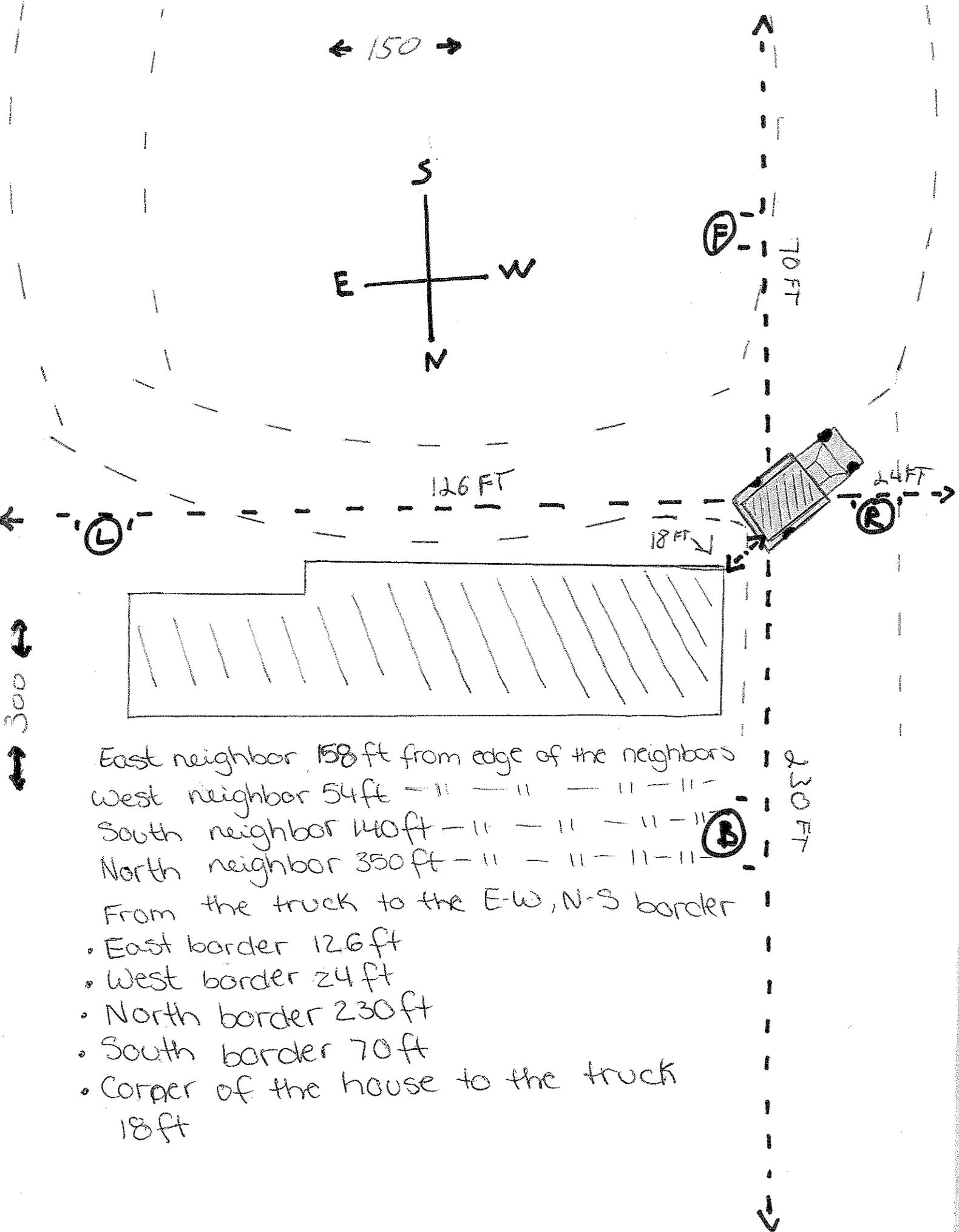
(signature of applicant)

STATE OF MICHIGAN
COUNTY OF OCLAWO

On this 2 day of February, 20 04 before me personally appeared the above named person who depose and sayeth that he/she signed this application with full knowledge of its contents and that all matters stated therein are true.

Mary Laraine McHenry
Notary Public, County, Michigan

My Commission Expires: May 30, 2007



East neighbor 150 ft from edge of the neighbors
 West neighbor 54 ft — " — " — " — " — "
 South neighbor 140 ft — " — " — " — " — "
 North neighbor 350 ft — " — " — " — " — "

From the truck to the E-W, N-S border

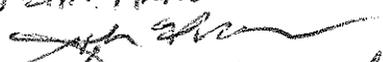
- East border 126 ft
- West border 24 ft
- North border 230 ft
- South border 70 ft
- Corner of the house to the truck 18 ft

1918 Muer
Troy, mi 48084
1989 Stake Truck
Owner: Mariana Artan
Laurentiu Artan

Signature of Neighbors in the neighborhood
that don't have concerns about the
truck.

Apurthiu J. Olyne 3463 Crooks
(corner of Muer)

John Hanson 1516 Muer


1515 Muer

Ed Hancock

Justine Fields 1565 Muer

William Dugan 1650 Muer

Ronald & Schmitt 1707 Muer

John A. Pett
1730 Muer.

Photo Taken by Building Department Staff



Photos provided by applicant



MCCLURE

MUER



RECEIVED

MAR 12 2004

BUILDING DEPARTMENT

TO: CITY COUNCIL

Please register my approval objection to the request described on the reverse side.

My reason for this approval objection is:

They are good neighbors

NAME: ~~MARK SOPHIEA~~

ADDRESS OR PROPERTY DESCRIPTION 1900 MUER DR
TROY, MI

DATE: March 16, 2004

TO: John Szerlag, City Manager

FROM: Gary A. Shripka, Assistant City Manager/Services
Mark Stimac, Director of Building & Zoning

SUBJECT: Agenda Item - Public Hearing
Commercial Vehicle Appeal
2803 Rhodes

On February 16, 2004, information was sent to Mr. Doug Brown that identified restrictions related to a commercial vehicle located on residential property. As part of that information, he was advised that the box truck parked on the property did not comply with the exceptions found in Chapter 39, Section 40.66.00. He was given the option to remove the vehicle or appeal to City Council for relief of the Ordinance.

In response to our letters, Mr. Brown has filed an appeal. The appeal requests that a public hearing date be held in accordance with the ordinance. A public hearing has been scheduled for your meeting of March 22, 2004.

Should you have any questions or require additional information, kindly advise.

MS/pr

Attachments

COMMERCIAL VEHICLE
APPEAL APPLICATION

RECEIVED

FEB 25 2004

BUILDING DEPARTMENT

Request is hereby made for permission to keep a commercial vehicle(s) as described below, on the following residential zoned site:

NAME: DOUG BROWN

ADDRESS: 2803 RHODES DR

CITY: TROY MI. ZIP: 48083 PHONE: 248-765-2086 CELL
" 619-0695 HOME

ADDRESS OF SITE: 2803 RHODES DR

NUMBER OF VEHICLES: 1

VEHICLE IDENTIFICATION NUMBER(S)
1GBJG314031143004

LICENSE PLATE NUMBER(S) ZL-0829

DESCRIPTION OF VEHICLE(S) 2003 CHEVY CUBEVAN

REASON FOR APPEAL (see A - D below) B+C+D I DO NOT FEEL SAFE

LEAVING THIS TRUCK WITH THOUSANDS OF DOLLARS WORTH OF

TOOLS FOR MY WORK IN A PARKING LOT SOMEWHERE. IF THE TRUCK
HAS TO GO THEN SO DO I AND MY FAMILY, ITS MY WORK

THE APPLICANT IS AWARE OF THE REQUIRED FINDINGS WHICH ARE STATED IN THE FOLLOWING:

44.02.01 ACTIONS TO GRANT APPEALS ... SHALL BE BASED UPON AT LEAST ONE OF THE FOLLOWING FINDINGS BY THE CITY COUNCIL:

- A. The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).
- B. Efforts by the applicant have determined there are no reasonable or feasible alternative locations for parking of the subject commercial vehicle.
- C. A garage or accessory building on the subject site cannot accommodate, or cannot reasonably be constructed or modified to accommodate the subject commercial vehicle
- D. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner that will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s).

COMMERCIAL VEHICLE APPEAL APPLICATION

40.02.2. The City Council may grant appeals in relation to the type, character or number of commercial vehicles to be parked outdoors in Residential Districts for an initial period not to exceed two (2) years, and may thereafter extend such actions for a similar period.

Supporting data, attached to the application, shall include: a plot plan, drawn to scale, a description and location of the vehicle(s) and a photo of the vehicle on-site.. SEE PICTURES

Joseph P. Brown

(signature of applicant)

STATE OF MICHIGAN
COUNTY OF Macomb

On this 23 day of February, 2004 before me personally appeared the above named person who depose and sayeth that he/she signed this application with full knowledge of its contents and that all matters stated therein are true.

ROSE EDWARDS
Notary Public, Wayne County, Michigan
My Commission Expires April 10, 2007
Acting in Macomb County

Rose Edwards

Notary Public, County, Michigan

My Commission Expires: April 10, 2007



MORTGAGE SURVEY



RECEIVED

FEB 25 2004

BUILDING DEPARTMENT

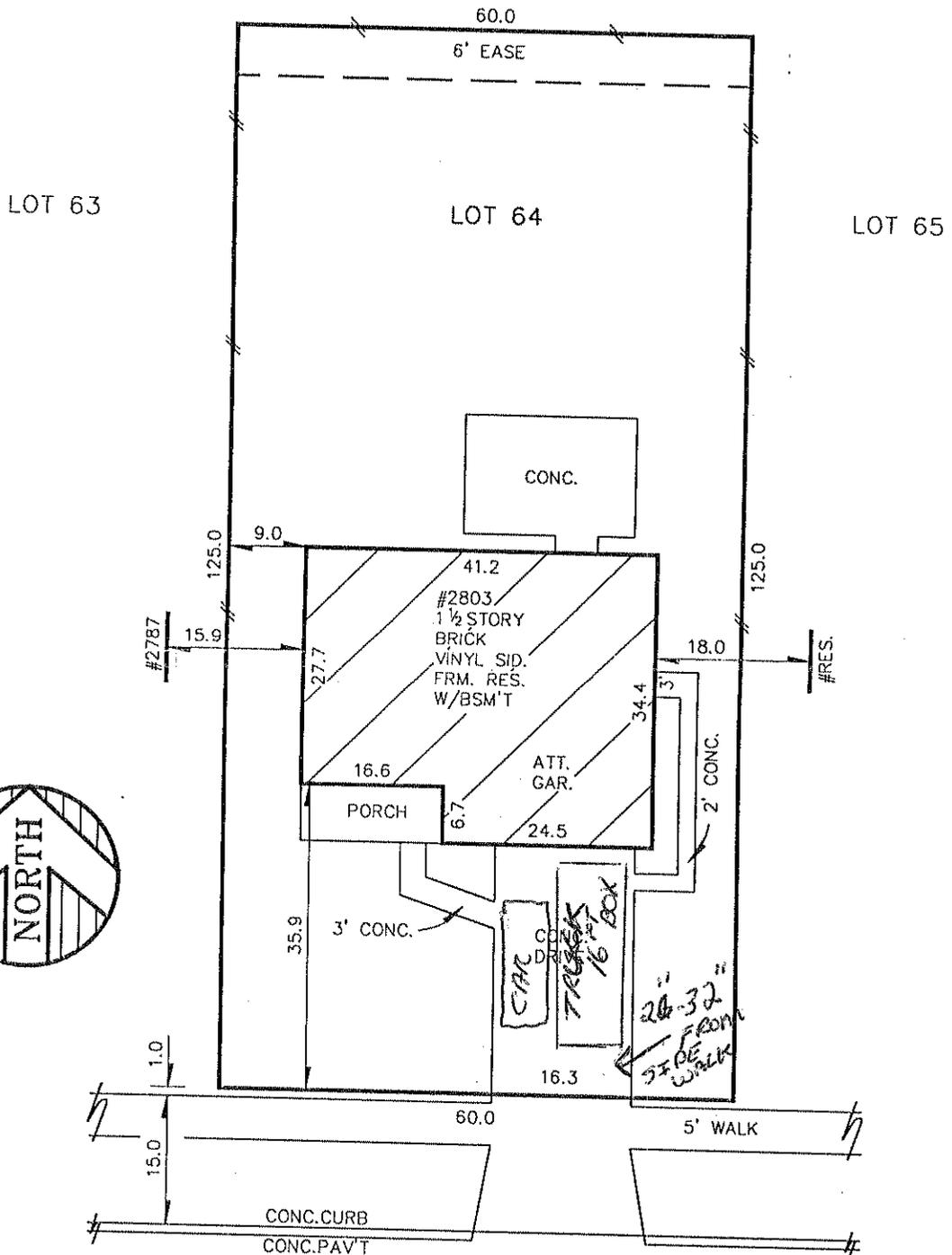
Certified to:

Applicant: DOUGLAS AND JENNIFER BROWN

Property Description:

Lot 64; EVA HAUS SUB., part of the N.E. 1/4 and S.E. 1/4 of Section 25, T.2 N., R.11 E., City of Troy, Oakland County, Michigan, as recorded in Liber 116 of Plats, Pages 10, 11 and 12 of Oakland County Records.

FLOOD PLAIN Comm. No. 260180 Map No. 0006 E Date: 09-16-88
 Flood Zone C. Areas of minimal flooding.



RHODES DR. 60' WD.

CERTIFICATE: We hereby certify that we have surveyed the above-described property in accordance with the description furnished for the purpose of a mortgage loan to be made by the forementioned applicants, mortgagor, and that the buildings located thereon do not encroach on the adjoining property, nor do the buildings on the adjoining property encroach upon the property heretofore described, except as shown. This survey is not to be used for the purpose of establishing property lines, nor for construction purposes, no stakes having been set at any of the boundary corners.



Shane P. Azbell

JOB NO: 01-26643 SCALE: 1"=20'
 DATE: 08/23/01 DR BY: DD

KEM-TEC
 LAND SURVEYORS

22556 Gratiot Avenue
 Eastpointe, MI 48021-2312
 (810) 772-2222
 FAX: (810) 772-4048

KEM-TEC WEST
 LAND SURVEYORS

800 E. STADIUM
 Ann Arbor, MI 48104-1412
 (734) 994-0888 * (800) 433-6133
 FAX: (734) 994-0667



TO: CITY COUNCIL

Please register my approval objection to the request described on the reverse side.

My reason for this approval objection is:

RECEIVED

MAR 12 2004

BUILDING DEPARTMENT

THIS TRUCK IS NOT BOTHERSOME OR AN
OBSTACLE. IT IS NOT A RV OR BOAT,
I BELIEVE THIS VEHICLE IS THIS MAN'S
MEANS OF EARNING INCOME AND RELIEF
IS THE CORRECT DECISION.

NAME: JERRA ROBINSON



3/10/04

ADDRESS OR PROPERTY DESCRIPTION 2779 RHODES

RECEIVED

MAR 16 2004

BUILDING DEPARTMENT

TO: CITY COUNCIL

Please register my approval objection to the request described on the reverse side.

My reason for this approval objection is:

Mr. Brown's truck is kept parked in his driveway. It is not an obstruction to car traffic or pedestrians. The truck itself is not an eyesore. Neither myself or my wife have any objections to the truck being parked on Mr. Brown's property.

Thank You
Lyle M. Conley
2827 Rhodes
Tooy, Mi. 48063

NAME: LYLE CONLEY

ADDRESS OR PROPERTY DESCRIPTION 2827 RHODES

RECEIVED

MAR 16 2004

TO: CITY COUNCIL

Please register my approval objection to the request described on the reverse side.

My reason for this approval objection is:

This is residential and want to keep it that way, without sensibly commercializing lettering the roadway.

Once that is allowed other would follow.

Its bad enough pick ups & van are allowed to clutter the streets.

NAME: Miriam Danner

ADDRESS OR PROPERTY DESCRIPTION 2826 Rhodes

RECEIVED

MAR 15 2004

TO: CITY COUNCIL

BUILDING DEPARTMENT

Please register my approval [] objection [] to the request described on the reverse side.

My reason for this approval [] objection [] is:

I am opposed to Mr. Brown's request for the following reasons:

1. Before purchasing a home in Jay he should have checked city ordinances on storing commercial trucks on residential property.
2. If his request is approved we will have more requests for relief. Our streets will be full of trucks, trailers, motor homes and boats.
3. Since Mr. Brown does not use his garage to store vehicles and the truck uses the entire half of the driveway, there is not room to park the other four vehicles at the house. After one vehicle is pulled onto the driveway and blocks the sidewalk.
4. If the truck were not there perhaps other vehicles could be moved and I could exit my driveway without difficulty.

NAME:

Nancy Schable

ADDRESS OR PROPERTY DESCRIPTION

2802 Rhodes St
Jay, 48083

RECEIVED

MAR 15 2004

TO: CITY COUNCIL

BUILDING DEPARTMENT

Please register my approval [] objection [X] to the request described on the reverse side.

My reason for this approval [] objection [X] is: FOR SEVERAL REASONS.

- A BOX TRUCK PARKED IN A DRIVEWAY AT A RESIDENTIAL HOME IS,
1. ITS AN UNSIGHTLY AND UNNECESSARY PROBLEM TO ALLOW THIS.
 2. THIS TRUCK NEEDS TO BE STORED AT A STORAGE FACILITY LIKE I DO WITH MY 5TH WHEEL TRAILER.
 3. HOMEOWNER NEIGHBORS CANNOT SEE DOWN THE STREET FOR THE SAFETY OF CHILDREN.
 4. THIS IS FORCING CARS TO THE STREET AND IS SO CROWDED IN THE STREET, NEIGHBORS CAN HARDLY BACK OUT OF THEIR DRIVEWAY.
 5. A TRUCK PARKED IN THIS MANNER COULD AFFECT THE VALUE OF HOMES.
 6. THIS PERSON SHOULD HAVE CHECKED WHAT CITY ORDINANCES IT HAS BEFORE MOVING IN.
 7. THE ORDINANCE NEEDS TO BE ENFORCED AND NOT VARIED OR ALL YOU WILL SEE ARE TRAILERS, TRUCKS AND BOATS PARKED IN DRIVEWAYS.
 8. A SIMILAR PROBLEM OCCURED ON AFTON A YEAR OR SO AGO AND THE TRUCK WAS ORDERED TO MOVE.

NAME: BOB & ANN ROURKE

ADDRESS OR PROPERTY DESCRIPTION 2831 SARATOGA DR.

THE 2803 PROPERTY IS VISIBLE FROM MY BACKYARD.

*Robert J. Rourke
Ann J. Rourke*

RECEIVED
MAR 09 2004
BUILDING DEPARTMENT

TO: CITY COUNCIL

Please register my approval [] objection [X] to the request described on the reverse side.

My reason for this approval [] objection [X] is:

IT DOES NOT IMPROVE THE LOOKS
of the AREA RATHER DEGRADES IT.
ALSO FEELS IT SETS A BAD PRECEDENTS
AS TO IF SOME ELSE WOULD WANT SUCH A
VARIANCE

NAME: Nicholas Riesen

ADDRESS OR PROPERTY DESCRIPTION 2769 ATHENA
88-20-25-276-006

DATE: March 16, 2004

TO: John Szerlag, City Manager

FROM: Gary A. Shripka, Assistant City Manager/Services
Mark Stimac, Director of Building & Zoning

SUBJECT: Agenda Item - Public Hearing
Commercial Vehicle Appeal
6640 John R

On February 23, 2004, information was sent to Mr. Kirk Stender that identified restrictions related to the commercial vehicle located on residential property. As part of that information, he was advised that the Freightliner tractor/trailer parked on that property did not comply with the exceptions found in Chapter 39, Section 40.66.00. He was given the option to remove the vehicle or appeal to City Council for relief of the Ordinance.

In response to our letters, Mr. Stender has filed an appeal. The appeal requests that a public hearing date be held in accordance with the ordinance. A public hearing has been scheduled for your meeting of March 22, 2004.

Should you have any questions or require additional information, kindly advise.

MS/pr

Attachments

COMMERCIAL VEHICLE
APPEAL APPLICATION

Request is hereby made for permission to keep a commercial vehicle(s) as described below, on the following residential zoned site:

NAME: Life Line Baptist Church Rev. Jerry V. Stender /

ADDRESS: 6640 John R Kirk A. Stender

CITY: Froy MI. ZIP: 48085 PHONE: 248 879 0710

ADDRESS OF SITE: 6640 John R

NUMBER OF VEHICLES: 1

VEHICLE IDENTIFICATION NUMBER(S)
1FUYS DZ B 5 W P 94 6693

LICENSE PLATE NUMBER(S) Indiana 288-437

DESCRIPTION OF VEHICLE(S) 1998 Blue Freight Liner Century class

RECEIVED

MAR 01 2004

BUILDING DEPARTMENT

REASON FOR APPEAL (see A - D below) The truck is only here 1 or 2 weekends
a month. This is our son and this is his residence.

Looking for a 2 year Variance.

THE APPLICANT IS AWARE OF THE REQUIRED FINDINGS WHICH ARE STATED IN THE FOLLOWING:

44.02.01 ACTIONS TO GRANT APPEALS ... SHALL BE BASED UPON AT LEAST ONE OF THE FOLLOWING FINDINGS BY THE CITY COUNCIL:

- A. The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).
- B. Efforts by the applicant have determined there are no reasonable or feasible alternative locations for parking of the subject commercial vehicle.
- C. A garage or accessory building on the subject site cannot accommodate, or cannot reasonably be constructed or modified to accommodate the subject commercial vehicle
- D. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner that will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s).

COMMERCIAL VEHICLE APPEAL APPLICATION

40.02.2. The City Council may grant appeals in relation to the type, character or number of commercial vehicles to be parked outdoors in Residential Districts for an initial period not to exceed two (2) years, and may thereafter extend such actions for a similar period.

Supporting data, attached to the application, shall include: a plot plan, drawn to scale, a description and location of the vehicle(s) and a photo of the vehicle on-site..

Renee Lynn v. Stevens
(signature of applicant)

STATE OF MICHIGAN
COUNTY OF Oakland

On this 1st day of March, 2004 before me personally appeared the above named person who depose and sayeth that he/she signed this application with full knowledge of its contents and that all matters stated therein are true.

Pamela R. Pastorek Macomb
Notary Public, County, Michigan acting in Oakland
My Commission Expires: 09-01-07

Commercial Vehicle Appeal
February 24, 2004

RECEIVED

MAR 01 2004

BUILDING DEPARTMENT

Rev. Jerry V. Stender, Kirk Stender, Life Line Baptist Church Board of Directors.

We recently were informed by Marlene Stuckman of the building Department, that we are in violation of a zoning ordinance. We apologize and hereby state that we were un-aware of such ordinance.

The reason for the freightliner semi-tractor/trailer being here is that it belongs to our youngest son and this is his home. In the past Kirk was driving for PAM and now he is an owner/operator for Schanno/Herschbock trucking out of Sioux city Nebraska. Kirk has been parking a freightliner in our lot since May of 2001.

I am at a loss as to why it is important to cite us with a violation after these many months? Kirk is on the road for two or three weeks at a time and then home for the week end. He would be parked in our lot for one or two weekends a month. Kirks road trips take him from Iowa to Maine, so we never know when he will return.

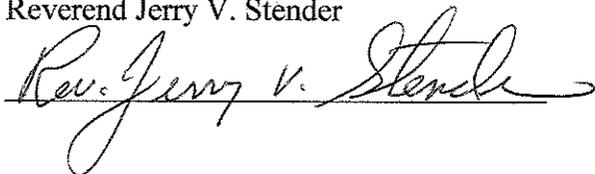
The truck is parked on the far northern end of the Church parking lot and the front bumper is 53 to 63 feet back from the white line on John R. Road. This makes it 11 to 21 feet behind the front of the Church.

I have enclosed two pictures showing the truck as you look south on John R and as you look north. From these pictures you can see that the truck is parked far enough back as to not draw attention to itself. **It certainly is not another item up for sale along John R.** Also, it is not a piece of construction equipment that shall soon line John R as they reconstruct our street.

I am not sure where Ms. Struckman got the idea that we had a garage? The house and garage on the north side of our property is not ours. I do not know of any garage in the area big enough to house this semi, with the exception of the local fire station.

We the people of Life Line Baptist Church ask that you grant a variance to park the freightliner on our property without restrictions.

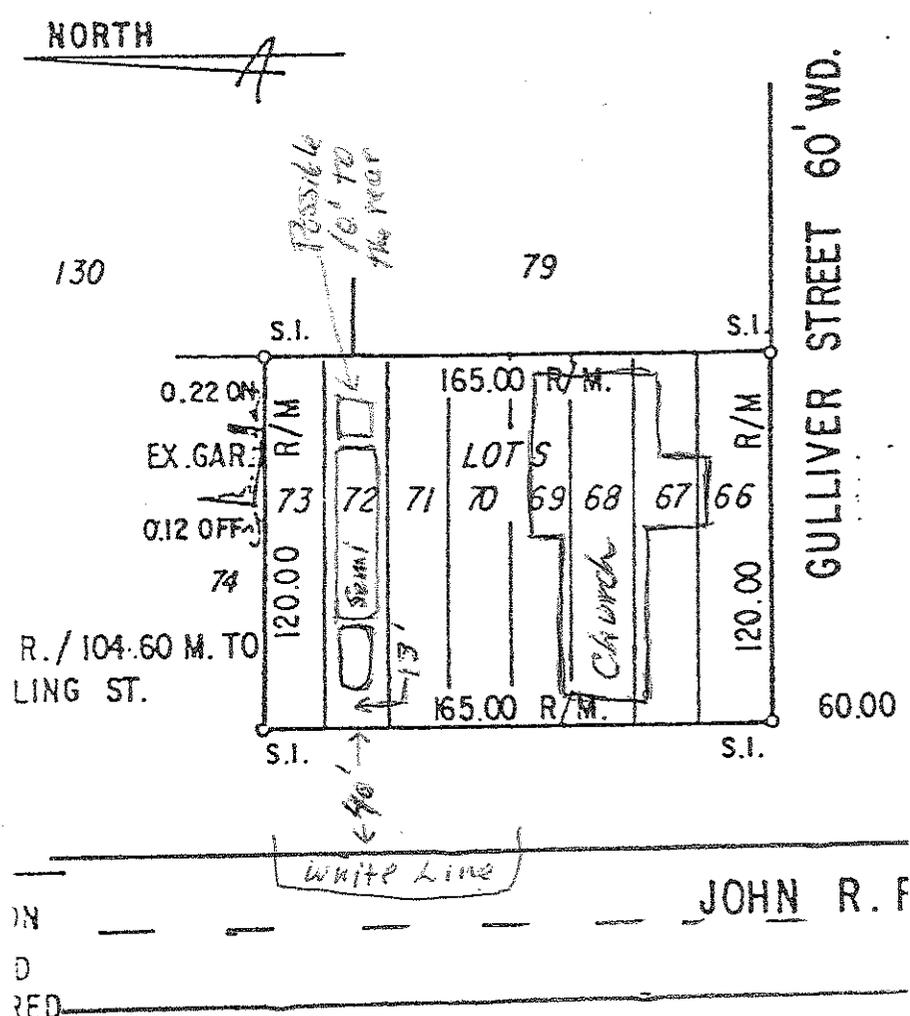
Sincerely,
Reverend Jerry V. Stender



RECEIVED

MAR 01 2004

BUILDING DEPARTMENT



DESCRIPTION: *66-73* Lots ~~66-73~~ including SUPERVISOR'S PLAT of part of the NW 1, Oakland Co., Mich.



Looking North on John R
9 AM 2-23-04 53' from white line
11' back of Church Front



Looking South on John R
53' from white line 2-23-04
11' back of church front. 9 AM



Trustee Meeting and Determination
Sunday, February 29, 2003

It is hereby noted that we have addressed the issue of the city ordinance violation and hereby request the city to grant us a variance that would allow Kirk Stender, our member and trustee, the free access to park his truck in our parking lot.

Pastor/President: Rev. Jerry V. Stender. Rev. Jerry V. Stender

Trustee: Douglas Arnold. Douglas Arnold

Trustee: Scott Stender. Scott Stender

Trustee: Kirk Stender. out of town

RECEIVED
MAR 01 2004
BUILDING DEPARTMENT

RECEIVED

MAR 01 2004

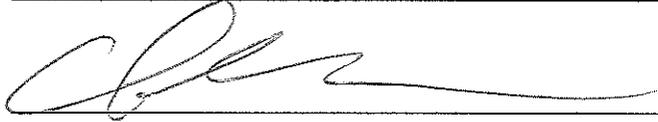
BUILDING DEPARTMENT

Neighborhood signatures in favor of
One Semi-tractor/trailer parked at 6640 John R..

James W Munchianro 6675 John R 2-27-04

Jan W Munchianro

CHARLES BEACH 6655 John R 2-28-04



6660 John R

Not Home this weekend

RECEIVED

MAR 09 2004

BUILDING DEPARTMENT

TO: CITY COUNCIL

Please register my approval objection to the request described on the reverse side.

My reason for this approval objection is:

I Agree I do NOT like The Big
Semi TRUCK and Trailer There. IT LOOKS
SO BAD. IT MAKES THE ~~AREA~~
neighbor hood LOOK Run
Down. Plus THAT IS NOT AN
INDUSTRY PARKING lot, AND I DO
Believe A SHOULD BE MOVED.

Thank you

NAME:

John Nancy Logenkovski

ADDRESS OR PROPERTY DESCRIPTION

6660 JOHN R. NEXT DOOR.

March 18, 2004

TO: The Honorable Mayor and City Council Members

FROM: John Szerlag, City Manager

SUBJECT: Request to Table Article II (Changes, Amendments and Approvals)
Zoning Ordinance Amendments and Repeal of Chapter 40
(ZOTA #203)

The attached memorandum indicates a divergence of opinion on how to handle the proposed Zoning Ordinance Text Amendment (ZOTA). As such, Resolution A relative to this matter is the Planning Commission version, and Resolution B is the City Management version. At this time I propose that City Council adopt Resolution C, which brings this matter back to the Planning Commission for further review and study with Staff.

Please know that earlier this week I spoke with Vice Chair Gary Chamberlain and Planning Commissioner Thomas Strat and indicated that my preference would be to meet with the Planning Commission whenever there is a difference of opinion in terms of how to proceed with a ZOTA. I would utilize the interest-based approach to find commonalities of objectives; and while we may not always be successful, at least we would have a process that focuses more on our interests as opposed to our positions. Messrs. Chamberlain and Strat were receptive to this concept, and I'll be addressing the Planning Commission at their April 6, 2004 meeting in hopes of getting full Board concurrence.

Finally, the Planning Commission had resolved to table this matter for further review and Resolution C would also accommodate this request.

DATE: March 16, 2004

TO: John Szerlag, City Manager

FROM: Gary A. Shripka, Assistant City Manager/Services
Mark F. Miller, Planning Director

SUBJECT: AGENDA ITEM – Article II (Changes, Amendments and Approvals) Zoning Ordinance Amendments and Repeal of Chapter 40 (ZOTA # 203)

On February 23, 2004 City Council postponed the subject zoning ordinance text amendment. The City Attorney reviewed and provided revisions to the proposed amendment to make it be consistent with city and state law. These revisions were then submitted to the Planning Commission, who recognized that there is both a Planning Commission and City Management version of the proposed text amendment. Because of the two versions the Planning Commission adopted the following resolution:

Resolution # PC-2004-03-028

Moved by: Schultz

Seconded by: Wright

RESOLVED, *That this body request that City Council return the tabled ZOTA #203 to this body for review and future forwarding to City Council:*

Yes: All present (9)

No: None

MOTION CARRIED

The powers and duties of the Planning Commission are presently listed in Chapter 40 of the City Code, titled "City Planning Commission". The Planning Commission Voting Requirements are presently listed only in the Planning Commission Bylaws. The Planning Commission, with assistance from City Management and the City Attorney's office, determined that these provisions should more appropriately be included in the Zoning Ordinance. City Management agrees with this determination.

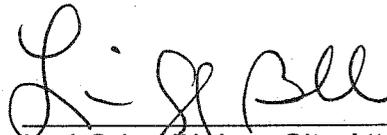
This text amendment will have the effect of listing these important provisions in Article II in the City of Troy Zoning Ordinance. Chapter 40 of the City Code will be repealed.

There are two versions of the text amendment, Option A - Planning Commission Version and Option B - City Management Version. There are some minor differences between the two versions.

1. City Management recommends eliminating Article 02.10.04 from the Planning Commission Version, which states that the City Planning Commission is allowed to incur expenses. State law already permits the Planning Commission to incur expenses, so stating this fact is unnecessary.
2. City Management recommends the Planning Commission compensation be determined by City Council, as opposed to listing the compensation in Chapter 39.
3. The Planning Commission powers and duties listed in Article 02.10.02 was expanded.
4. Article 02.10.03 was amended to be consistent with the Municipal Planning Act.

In addition Option B sets the compensation for the Planning Commission members. The compensation provision was removed from the City Management version so that City Council has the ability to amend Planning Commission compensation without going through the text amendment process.

Reviewed as to Form and Legality:



Lori Grigg Bluhm, City Attorney

3-17-04
Date

cc: File/ZOTA #203
Planning Commission

Attachments:

1. City Council Minutes, February 23, 2004
2. Planning Commission Minutes, March 2, 2004
3. City Attorney Memo, Dated February 27, 2004
4. Option A – Planning Commission Version
5. Option B – City Management Version
6. City Council Agenda Item Memo, Dated February 19, 2004

**C-4 Article II (Changes, Amendments and Approvals) Zoning Ordinance
Amendments and Repeal of Chapter 40 (ZOTA #203) 3.22**

Vote on Postponement

Resolution #2004-02-092

Moved by Howrylak

Seconded by Broomfield

RESOLVED, That Article II (Changes, Amendments and Approvals) Zoning Ordinance Amendments and Repeal of Chapter 40 (ZOTA #203) be **POSTPONED** until the Regular City Council Meeting scheduled for Monday, March 22, 2003.

Yes: All-7

12. ARTICLE II (Changes, Amendments and Approvals) ZONING ORDINANCE AMENDMENTS (ZOTA #203)

Mr. Miller reported that this matter was tabled by the City Council to their March 22, 2004 Regular Meeting to allow review by the Legal Department.

Mr. Chamberlain asked if the Planning Commission, as the petitioner, could withdraw the matter for further review and revision by the Planning Commission.

Mr. Motzny responded that the matter is still in the hands of the City Council and in accordance with the statute, City Council must take action. He surmised that City Council would honor the Planning Commission's withdrawal request, but noted they would not have to honor it.

Mr. Motzny confirmed that the changes made to both the Planning Commission and City Management versions were not substantive changes and the language is now consistent with the Charter and the State enabling statutes.

Discussion followed with respect to getting matters reviewed by the City Attorney and City Management prior to the Planning Commission's recommendation to City Council for its review and approval.

Chair Waller stated that it would be reasonable for the City Attorney and/or the Planning Director to speak at the City Council meeting to collectively report how both parties feel about the revisions to this matter, and possibly that input would assist the City Council in its determination of the outcome of the matter.

Resolution # PC-2004-03-028

Moved by: Schultz

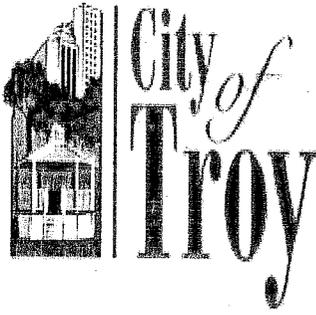
Seconded by: Wright

RESOLVED, That this body request that City Council return the tabled ZOTA #203 to this body for review and future forwarding to City Council.

Yes: All present (9)

No: None

MOTION CARRIED



TO: MEMBERS OF THE CITY OF TROY PLANNING COMMISSION
FROM: LORI GRIGG BLUHM, CITY ATTORNEY *LG*
ALLAN T. MOTZNY, ASSISTANT CITY ATTORNEY *AM*
DATE: FEBRUARY 27, 2004
SUBJECT: ~~ZOTA 203~~ – AMENDMENT TO ARTICLE II, CHAPTER 39 (ZONING ORDINANCE) AND REPEAL OF CHAPTER 40

We have reviewed the proposed language of ZOTA 203, which would amend Article II of Chapter 39 of the City Code (Zoning Ordinance), and repeal of Chapter 40 of the City Code. As a result of our review, we have made language revisions to both versions of the proposed amendment. Initially, to comply with Sections 5.2 and 5.3 of the City of Troy Charter, we have added the required ordaining language, an effective date for the ordinance amendment, and a section specifically repealing Chapter 40.

In both versions, we revised Section 2.10.00 to include the Michigan Compiled Laws citation for the Public Acts that are referenced in that section. In Section 2.10.01 of both versions we removed the language that members of the Planning Commission shall “have the qualifications of electors” to make the language of the ordinance consistent with Section 3 of the Municipal Planning Act, MCL 125.33. We also added language to both versions at the end of Section 2.10.01 to require that vacancies occurring on the Planning Commission will be filled by the mayor, “subject to the approval by a majority vote of City Council.” This additional language is necessary to comply with Section 6.6 of the City of Troy Charter that requires vacancies in appointive offices to be filled in the same manner provided for making the original appointment. Finally, we revised Section 2.10.03 in the City Management Version only. The City Management Version provided that if City Council granted itself final approval authority of master plan or future land use plan amendments, the Planning Commission could approve on a concurrence of a majority of those commission members present. However, Section 8 of the Municipal Planning Act, MCL 125.38 provides that municipal plans must be approved by two-thirds of the members of the Planning Commission even if City Council by resolution has asserted the right to approve or reject the plan. Under Section 8, if the legislative body has asserted the right to approve or reject the plan by resolution, the plan still must be approved by two-thirds of the members of the Planning Commission before it is submitted to the legislative body for rejection or approval. Accordingly, we have revised the proposed Section 2.10.03 in the City Management Version in order to be consistent with the Municipal Planning Act.

Please let us know if you should have any questions.

PROPOSED ZONING ORDINANCE TEXT AMENDMENT
(ZOTA 203)

Article II - Planning Commission, Changes and Amendments to the Zoning Ordinance, and Approvals

OPTION B - CITY MANAGEMENT VERSION

The City of Troy ordains:

Article II of Chapter 39 of the Code of the City of Troy is amended with the Changes, Amendments and Approvals text in the following manner to replace Chapter 40 of the City Code (to be repealed) including language regarding Voting Requirements:

Section 1 – Amendment to Article II of Chapter 39

(Underlining, except for major section titles, denotes changes.)

02.00.00 ARTICLE II PLANNING COMMISSION, CHANGES, AND AMENDMENTS TO THE ZONING ORDINANCE, AND APPROVALS

02.10.00 PLANNING COMMISSION
The City Planning Commission that was created pursuant to Public Act 285 of 1931, MCL 125.31, et seq., as amended, and the City Charter, is hereby continued. The City Planning Commission is hereby designated as the Commission specified in Section 4, of Act 207 of the Public Acts of 1921, MCL 125.584, as amended, and shall perform the duties of said Commission as provided in the Statute and this Chapter.

02.10.01 MEMBERS, TERMS
The City Planning Commission shall consist of nine (9) members who shall represent insofar as possible different professions or occupations and who shall be appointed by the Mayor subject to the approval by a majority vote of the City Council. No member shall hold any other municipal office except that one of such members may be a member of the Board of Zoning Appeals. Each member shall receive compensation for services as determined by City Council. The term of each member shall be three (3) years, except that three (3) members of the first commission so appointed shall serve for the term of one (1) year, three (3) for a term of two (2) years and three for a term of three (3) years. All members shall hold office until their successors are appointed. Members may, after a public hearing, be removed by the Mayor for inefficiency, neglect of duty or malfeasance in office. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor, subject to the approval by a majority vote of City Council.

02.10.02 POWERS AND DUTIES
The City Planning Commission shall have the powers and duties vested in it by the laws of the State of Michigan and the Ordinance Code of the City of Troy and shall consider and make its recommendations to the City Council on any matters referred to it by the City Council relating to such duties including:

- (1) The making and adopting of a master plan for the physical development of the municipality. Such plan shall show among other things, the Commission's recommendations for the general location, character and extent of streets, boulevards, parkways, playgrounds, parks, location of public buildings, and utilities, and the change of use, extension, removal, relocation, widening, narrowing, vacating or abandoning of any of the foregoing.
- (2) A zoning plan for the control of the height, area, bulk, location and use of buildings and premises, and all changes and amendments thereof.
- (3) The recommendation of approval to City Council of all preliminary plats subdividing land, site condominium plans, planned unit developments, some special use approval applications and any amendments or alterations thereof.
- (4) The recommendation to City Council on ordinance text amendments, street and alley vacations or extensions, and historic district designations.
- (5) Acting as the approval authority on site plans and most special use approval applications.

02.10.03

VOTING REQUIREMENTS

The concurring vote of 5 members of the Planning Commission is necessary to decide in favor of the applicant on site plan review and special use requests unless the Planning Commission does not have final jurisdiction on the matter. The concurring vote of 6 members of the Planning Commission is necessary for approval of master plan or future land use plan amendments. All other issues before the Planning Commission that are recommendations, including, but not limited to, rezoning proposals, site condominium plans, planned unit developments, ordinance text amendments, subdivision plats, street and alley vacations or extensions, and historic district designations are recommendations to City Council and the concurrence of a majority of those Commission members present and voting at the meeting is necessary to recommend an action to the City Council.

02.20.00

CHANGES AND AMENDMENTS

The Troy City Council may from time to time, on recommendation from the City Planning Commission, or on petition amend, supplement or change the District boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in Act 207 of the Public Acts of 1921 as amended.

02.30.00

VESTED RIGHT

Nothing in this Chapter should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, District, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

02.40.00

COMMISSION APPROVAL

In cases where the City Planning Commission is empowered to approve certain use of premises under the provisions of this Chapter, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said Commission for the proper consideration of the matter. The Planning Commission shall investigate the

circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, of the time and place of any hearing which may be held relative thereto as required under its rules of procedure. The Planning Commission may impose such conditions or limitations in granting approval as may in its judgment be necessary to fulfill the spirit and purpose of this Chapter. Any approval given by the Commission, under which premises are not used or work is not started within twelve (12) months or when use or work has been abandoned for a period of twelve (12) months, shall lapse and cease to be in effect.

02.50.00 ENFORCEMENT, PENALTIES AND OTHER REMEDIES

02.50.01 VIOLATIONS:

Any person, firm or corporation violating any of the provisions of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than one hundred (\$100.00) dollars and the costs of prosecution or, in default of the payment thereof, shall be punished by imprisonment in the County Jail for a period not to exceed ninety (90) days for each offense, or by both such fine and imprisonment in the discretion of the Court, together with the costs of such prosecution.

02.50.02 PUBLIC NUISANCE PER SE:

Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Chapter and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order to any court of competent jurisdiction.

02.50.03 FINES, IMPRISONMENT:

The owner of any building, structure or premises or part thereof, where any condition in violation of this Chapter shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.

02.50.04 EACH DAY A SEPARATE OFFENSE:

A separate offense shall be deemed committed upon each day during or when violation occurs or continues.

02.50.05 RIGHTS AND REMEDIES ARE CUMULATIVE:

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

Section 2. Repeal of Chapter 40

Chapter 40 of the City of Troy Code is hereby repealed.

Section 3. Effective Date

This ordinance shall become effective ten days from the date hereof or upon publication, whichever shall later occur.

This ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI on _____, 2004.

Matt Pryor, Mayor

Tonni Bartholomew, City Clerk

**PROPOSED ZONING ORDINANCE TEXT AMENDMENT
(ZOTA 203)**

Article II - Planning Commission, Changes and Amendments to the Zoning Ordinance, and Approvals

OPTION A - PLANNING COMMISSION VERSION

The City of Troy ordains:

Article II of Chapter 39 of the Code of the City of Troy is amended with the Changes, Amendments and Approvals text in the following manner to replace Chapter 40 of the City Code (to be repealed) including language regarding Voting Requirements:

Section 1 – Amendment to Article II of Chapter 39

(Underlining, except for major section titles, denotes changes.)

02.00.00 ARTICLE II PLANNING COMMISSION, CHANGES, AND AMENDMENTS TO THE ZONING ORDINANCE, AND APPROVALS

02.10.00 PLANNING COMMISSION
The City Planning Commission heretofore created pursuant to Public Act 285 of 1931, MCL 125.31, et seq., as amended, and the City Charter, is hereby continued. The City Planning Commission is hereby designated as the Commission specified in Section 4, of Act 207 of the Public Acts of 1921, MCL 125.584, as amended, and shall perform the duties of said Commission as provided in the Statute and this Chapter.

02.10.01 MEMBERS, TERMS
The City Planning Commission shall consist of nine (9) members who shall represent insofar as possible different professions or occupations and who shall be appointed by the Mayor subject to the approval by a majority vote of the City Council. No member shall hold any other municipal office except that one of such members may be a member of the Board of Zoning Appeals. Each member shall receive as compensation for his services the sum of Twenty Five (\$25.00) Dollars for each Regular or Special Meeting of the Commission which is attended by each member but not to exceed Nine Hundred Dollars (\$900.00) per annum. The term of each member shall be three (3) years, except that three (3) members of the first commission so appointed shall serve for the term of one (1) year, three (3) for a term of two (2) years and three for a term of three (3) years. All members shall hold office until their successors are appointed. Members may, after a public hearing, be removed by the Mayor for inefficiency, neglect of duty or malfeasance in office. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor, subject to the approval by a majority vote of City Council.

02.10.02 POWERS AND DUTIES
The City Planning Commission shall have the powers and duties vested in it by the laws of the State of Michigan and the Ordinance Code of the City of Troy and shall consider and make its recommendations to the City Council on any matters referred to it by the City Council relating to such duties including:

- (1) The making and adopting of a master plan for the physical development of the municipality. Such plan shall show among other things, the Commission's recommendations for the general location, character and extent of streets, boulevards, parkways, playgrounds, parks, location of public buildings, and utilities, and the change of use, extension, removal, relocation, widening, narrowing, vacating or abandoning of any of the foregoing.
- (2) A zoning plan for the control of the height, area, bulk, location and use of buildings and premises, and all changes and amendments thereof.
- (3) The recommendation of approval of all preliminary plats subdividing land in the City of Troy and of any amendments or alterations thereof.

02.10.03

VOTING REQUIREMENTS

The concurring vote of 5 members of the Planning Commission is necessary to decide in favor of the applicant on site plan review and special use requests unless the Planning Commission does not have final jurisdiction on the matter. The concurring vote of 6 members of the Planning Commission is necessary for approval of master plan or future land use plan amendments. All other issues before the Planning Commission, including, but not limited to, rezoning proposals, site condominium plans, planned unit developments, ordinance text amendments, subdivision plats, street and alley vacations or extensions, and historic district designations are recommendations to City Council and the concurrence of a majority of those Commission members present at the meeting is necessary to recommend an action to the City Council.

02.10.04

FINANCES

The City Planning Commission may be allowed such funds for expenses as deemed advisable by the City Council and all debts and expenses incurred by the City Planning Commission shall be limited by such amount.

02.20.00

CHANGES AND AMENDMENTS

The Troy City Council may from time to time, on recommendation from the City Planning Commission, or on petition amend, supplement or change the District boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in Act 207 of the Public Acts of 1921 as amended.

02.30.00

VESTED RIGHT

Nothing in this Chapter should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, District, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

02.40.00

COMMISSION APPROVAL

In cases where the City Planning Commission is empowered to approve certain use of premises under the provisions of this Chapter, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said Commission for the proper consideration of the matter. The Planning Commission shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, of the time and place of any hearing which may be held relative thereto as required under its rules of procedure. The Planning Commission may impose such

conditions or limitations in granting approval as may in its judgment be necessary to fulfill the spirit and purpose of this Chapter. Any approval given by the Commission, under which premises are not used or work is not started within twelve (12) months or when use or work has been abandoned for a period of twelve (12) months, shall lapse and cease to be in effect.

02.50.00 ENFORCEMENT, PENALTIES AND OTHER REMEDIES

02.50.01 VIOLATIONS:

Any person, firm or corporation violating any of the provisions of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than one hundred (\$100.00) dollars and the costs of prosecution or, in default of the payment thereof, shall be punished by imprisonment in the County Jail for a period not to exceed ninety (90) days for each offense, or by both such fine and imprisonment in the discretion of the Court, together with the costs of such prosecution.

02.50.02 PUBLIC NUISANCE PER SE:

Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Chapter and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order to any court of competent jurisdiction.

02.50.03 FINES, IMPRISONMENT:

The owner of any building, structure or premises or part thereof, where any condition in violation of this Chapter shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.

02.50.04 EACH DAY A SEPARATE OFFENSE:

A separate offense shall be deemed committed upon each day during or when violation occurs or continues.

02.50.05 RIGHTS AND REMEDIES ARE CUMULATIVE:

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

Section 2. Repeal of Chapter 40

Chapter 40 of the City of Troy Code is hereby repealed.

Section 3. Effective Date

This ordinance shall become effective ten days from the date hereof or upon publication, whichever shall later occur.

This ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI on _____, 2004.

Matt Pryor, Mayor

Tonni Bartholomew, City Clerk

**PROPOSED ZONING ORDINANCE TEXT AMENDMENT
(ZOTA 203)**

Article II - Planning Commission, Changes and Amendments to the Zoning Ordinance, and Approvals

OPTION A - PLANNING COMMISSION VERSION

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY

The City of Troy ordains:

Section 1. Short Title

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

Section 2. Amendment

Article II of Chapter 39 of the Code of the City of Troy is amended with the Changes, Amendments and Approvals text in the following manner to replace Chapter 40 of the City Code (to be repealed) including language regarding Voting Requirements:

(Underlining, except for major section titles, denotes changes.)

02.00.00 **ARTICLE II PLANNING COMMISSION, CHANGES, AND AMENDMENTS TO THE ZONING ORDINANCE, AND APPROVALS**

02.10.00 **PLANNING COMMISSION**
The City Planning Commission heretofore created pursuant to Public Act 285 of 1931, MCL 125.31, et seq., as amended, and the City Charter, is hereby continued.
The City Planning Commission is hereby designated as the Commission specified in Section 4, of Act 207 of the Public Acts of 1921, **MCL 125.584, as amended**, and shall perform the duties of said Commission as provided in the Statute and this Chapter.

02.10.01 MEMBERS, TERMS
The City Planning Commission shall consist of nine (9) members who shall represent insofar as possible different professions or occupations and who shall be appointed by the Mayor subject to the approval by a majority vote of the City Council. No member shall hold any other municipal office except that one of such members may be a member of the Board of Zoning Appeals. Each member shall receive as compensation for his services the sum of Twenty Five (\$25.00) Dollars for each Regular or Special Meeting of the Commission which is attended by each member but not to exceed Nine Hundred Dollars (\$900.00) per annum. The term of each member shall be three (3) years, except that three (3) members of the first commission so appointed shall serve for the term of one (1) year, three (3) for a term of two (2) years and three for a term of three (3) years. All members shall hold office until their successors are appointed. Members may, after a public hearing, be removed by the Mayor for inefficiency, neglect of duty or malfeasance

in office. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor, subject to the approval by a majority vote of City Council.

02.10.02 **POWERS AND DUTIES**

The City Planning Commission shall have the powers and duties vested in it by the laws of the State of Michigan and the Ordinance Code of the City of Troy and shall consider and make its recommendations to the City Council on any matters referred to it by the City Council relating to such duties including:

- (1) The making and adopting of a master plan for the physical development of the municipality. Such plan shall show among other things, the Commission's recommendations for the general location, character and extent of streets, boulevards, parkways, playgrounds, parks, location of public buildings, and utilities, and the change of use, extension, removal, relocation, widening, narrowing, vacating or abandoning of any of the foregoing.
- (2) A zoning plan for the control of the height, area, bulk, location and use of buildings and premises, and all changes and amendments thereof.
- (3) The recommendation of approval of all preliminary plats subdividing land in the City of Troy and of any amendments or alterations thereof.

02.10.03 **VOTING REQUIREMENTS**

The concurring vote of 5 members of the Planning Commission is necessary to decide in favor of the applicant on site plan review and special use requests unless the Planning Commission does not have final jurisdiction on the matter. The concurring vote of 6 members of the Planning Commission is necessary for approval of master plan or future land use plan amendments. All other issues before the Planning Commission, including, but not limited to, rezoning proposals, site condominium plans, planned unit developments, ordinance text amendments, subdivision plats, street and alley vacations or extensions, and historic district designations are recommendations to City Council and the concurrence of a majority of those Commission members present at the meeting is necessary to recommend an action to the City Council.

02.10.04 **FINANCES**

The City Planning Commission may be allowed such funds for expenses as deemed advisable by the City Council and all debts and expenses incurred by the City Planning Commission shall be limited by such amount.

02.20.00 **CHANGES AND AMENDMENTS**

The Troy City Council may from time to time, on recommendation from the City Planning Commission, or on petition amend, supplement or change the District boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in Act 207 of the Public Acts of 1921 as amended.

02.30.00 **VESTED RIGHT**

Nothing in this Chapter should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, District, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

02.40.00 COMMISSION APPROVAL

In cases where the City Planning Commission is empowered to approve certain use of premises under the provisions of this Chapter, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said Commission for the proper consideration of the matter. The Planning Commission shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, of the time and place of any hearing which may be held relative thereto as required under its rules of procedure. The Planning Commission may impose such conditions or limitations in granting approval as may in its judgment be necessary to fulfill the spirit and purpose of this Chapter. Any approval given by the Commission, under which premises are not used or work is not started within twelve (12) months or when use or work has been abandoned for a period of twelve (12) months, shall lapse and cease to be in effect.

02.50.00 ENFORCEMENT, PENALTIES AND OTHER REMEDIES

02.50.01 VIOLATIONS:

Any person, firm or corporation violating any of the provisions of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than one hundred (\$100.00) dollars and the costs of prosecution or, in default of the payment thereof, shall be punished by imprisonment in the County Jail for a period not to exceed ninety (90) days for each offense, or by both such fine and imprisonment in the discretion of the Court, together with the costs of such prosecution.

02.50.02 PUBLIC NUISANCE PER SE:

Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Chapter and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order to any court of competent jurisdiction.

02.50.03 FINES, IMPRISONMENT:

The owner of any building, structure or premises or part thereof, where any condition in violation of this Chapter shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.

02.50.04 EACH DAY A SEPARATE OFFENSE:

A separate offense shall be deemed committed upon each day during or when violation occurs or continues.

02.50.05 RIGHTS AND REMEDIES ARE CUMULATIVE:

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

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 Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, _____.

Matt Pryor, Mayor

Tonni Bartholomew, City Clerk

CITY OF TROY
AN ORDINANCE TO REPEAL
CHAPTER 40 OF THE CODE
OF THE CITY OF TROY

The City of Troy ordains:

Section 1. Short Title

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

Section 2. Amendment

Repeal of Chapter 40.

~~CHAPTER 40~~

~~CITY PLANNING COMMISSION~~

~~5.231 Commission Continued. The City Planning Commission heretofore created pursuant to Public Act 285 of 1931, as amended, and the City Charter, is hereby continued.~~

~~5.232 Members, Terms. The City Planning Commission shall consist of nine (9) members who shall have the qualifications of electors and shall represent insofar as possible different professions or occupations and who shall be appointed by the Mayor subject to the approval by a majority vote of the City Council. No member shall hold any other municipal office except that one of such members may be a member of the Board of Zoning Appeals. Each member shall receive as compensation for his services the sum of Twenty Five (\$25.00) Dollars for each Regular or Special Meeting of the Commission which is attended by each member but not to exceed Nine Hundred Dollars (\$900.00) per annum. The term of each member shall be three (3) years, except that three (3) members of the first commission so appointed shall serve for the term of one (1) year, three (3) for a term of two (2) years and three for a term of three (3) years. All members shall hold office until their successors are appointed. Members may, after a public hearing, be removed by the Mayor for inefficiency, neglect of duty or malfeasance in office. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor.~~

~~5.233 Powers and Duties. The City Planning Commission shall have the powers and duties vested in it by the laws of the State of Michigan and the Ordinance Code of the City of Troy and shall consider and make its recommendations to the City Council on any matters referred to it by the City Council relating to such duties, including:~~

~~————— (1) The making and adopting of a master plan for the physical development of the municipality. Such plan shall show among other things, the Commission's recommendations for the general location, character and extent of streets, boulevards, parkways, playgrounds, parks, location of public buildings, and utilities, and the change of use, extension, removal, relocation, widening, narrowing, vacating or abandoning of any of the foregoing.~~

~~————— (2) A zoning plan for the control of the height, area, bulk, location and use of buildings and premises, and all changes and amendments thereof;~~

~~(3) The approval of all plats subdividing land in the City of Troy and of any amendments or alterations thereof.~~

~~5.234 Finances. The City Planning Commission may be allowed such funds for expenses as deemed advisable by the City Council and all debts and expenses incurred by the City Planning Commission shall be limited by such amount.~~

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 Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, _____.

Matt Pryor, Mayor

Tonni Bartholomew, City Clerk

**PROPOSED ZONING ORDINANCE TEXT AMENDMENT
(ZOTA 203)**

Article II - Planning Commission, Changes and Amendments to the Zoning Ordinance, and Approvals

OPTION B - CITY MANAGEMENT VERSION

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY

The City of Troy ordains:

Section 1. Short Title

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

Section 2 – Amendment to Article II of Chapter 39

Article II of Chapter 39 of the Code of the City of Troy is amended with the Changes, Amendments and Approvals text in the following manner to replace Chapter 40 of the City Code (to be repealed) including language regarding Voting Requirements:

(Underlining, except for major section titles, denotes changes.)

02.00.00 **ARTICLE II PLANNING COMMISSION, CHANGES, AND AMENDMENTS TO THE ZONING ORDINANCE, AND APPROVALS**

02.10.00 **PLANNING COMMISSION**
The City Planning Commission that was created pursuant to Public Act 285 of 1931, MCL 125.31, et seq., as amended, and the City Charter, is hereby continued.
The City Planning Commission is hereby designated as the Commission specified in Section 4, of Act 207 of the Public Acts of 1921, **MCL 125.584, as amended**, and shall perform the duties of said Commission as provided in the Statute and this Chapter.

02.10.01 MEMBERS, TERMS
The City Planning Commission shall consist of nine (9) members who shall represent insofar as possible different professions or occupations and who shall be appointed by the Mayor subject to the approval by a majority vote of the City Council. No member shall hold any other municipal office except that one of such members may be a member of the Board of Zoning Appeals. Each member shall receive compensation for services as determined by City Council. The term of each member shall be three (3) years, except that three (3) members of the first commission so appointed shall serve for the term of one (1) year, three (3) for a term of two (2) years and three for a term of three (3) years. All members shall hold office until their successors are appointed. Members may, after a public hearing, be removed by the Mayor for inefficiency, neglect of duty or malfeasance in office. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor, subject to the approval by a majority vote of City Council.

02.10.02

POWERS AND DUTIES

The City Planning Commission shall have the powers and duties vested in it by the laws of the State of Michigan and the Ordinance Code of the City of Troy and shall consider and make its recommendations to the City Council on any matters referred to it by the City Council relating to such duties including:

- (1) The making and adopting of a master plan for the physical development of the municipality. Such plan shall show among other things, the Commission's recommendations for the general location, character and extent of streets, boulevards, parkways, playgrounds, parks, location of public buildings, and utilities, and the change of use, extension, removal, relocation, widening, narrowing, vacating or abandoning of any of the foregoing.**
- (2) A zoning plan for the control of the height, area, bulk, location and use of buildings and premises, and all changes and amendments thereof.**
- (3) The recommendation of approval to City Council of all preliminary plats subdividing land, site condominium plans, planned unit developments, some special use approval applications and any amendments or alterations thereof.**
- (4) The recommendation to City Council on ordinance text amendments, street and alley vacations or extensions, and historic district designations.**
- (5) Acting as the approval authority on site plans and most special use approval applications.**

02.10.03

VOTING REQUIREMENTS

The concurring vote of 5 members of the Planning Commission is necessary to decide in favor of the applicant on site plan review and special use requests unless the Planning Commission does not have final jurisdiction on the matter. The concurring vote of 6 members of the Planning Commission is necessary for approval of master plan or future land use plan amendments. All other issues before the Planning Commission that are recommendations, including, but not limited to, rezoning proposals, site condominium plans, planned unit developments, ordinance text amendments, subdivision plats, street and alley vacations or extensions, and historic district designations are recommendations to City Council and the concurrence of a majority of those Commission members present and voting at the meeting is necessary to recommend an action to the City Council.

02.20.00

CHANGES AND AMENDMENTS

The Troy City Council may from time to time, on recommendation from the City Planning Commission, or on petition amend, supplement or change the District boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in Act 207 of the Public Acts of 1921 as amended.

02.30.00

VESTED RIGHT

Nothing in this Chapter should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, District, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

02.40.00 COMMISSION APPROVAL

In cases where the City Planning Commission is empowered to approve certain use of premises under the provisions of this Chapter, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said Commission for the proper consideration of the matter. The Planning Commission shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, of the time and place of any hearing which may be held relative thereto as required under its rules of procedure. The Planning Commission may impose such conditions or limitations in granting approval as may in its judgment be necessary to fulfill the spirit and purpose of this Chapter. Any approval given by the Commission, under which premises are not used or work is not started within twelve (12) months or when use or work has been abandoned for a period of twelve (12) months, shall lapse and cease to be in effect.

02.50.00 ENFORCEMENT, PENALTIES AND OTHER REMEDIES

02.50.01 VIOLATIONS:

Any person, firm or corporation violating any of the provisions of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than one hundred (\$100.00) dollars and the costs of prosecution or, in default of the payment thereof, shall be punished by imprisonment in the County Jail for a period not to exceed ninety (90) days for each offense, or by both such fine and imprisonment in the discretion of the Court, together with the costs of such prosecution.

02.50.02 PUBLIC NUISANCE PER SE:

Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Chapter and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order to any court of competent jurisdiction.

02.50.03 FINES, IMPRISONMENT:

The owner of any building, structure or premises or part thereof, where any condition in violation of this Chapter shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.

02.50.04 EACH DAY A SEPARATE OFFENSE:

A separate offense shall be deemed committed upon each day during or when violation occurs or continues.

02.50.05 RIGHTS AND REMEDIES ARE CUMULATIVE:

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

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 Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, _____.

Matt Pryor, Mayor

Tonni Bartholomew, City Clerk

CITY OF TROY
AN ORDINANCE TO REPEAL
CHAPTER 40 OF THE CODE
OF THE CITY OF TROY

The City of Troy ordains:

Section 1. Short Title

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

Section 2. Amendment

Repeal of Chapter 40.

CHAPTER 40

CITY PLANNING COMMISSION

~~5.231 Commission Continued. The City Planning Commission heretofore created pursuant to Public Act 285 of 1931, as amended, and the City Charter, is hereby continued.~~

~~5.232 Members, Terms. The City Planning Commission shall consist of nine (9) members who shall have the qualifications of electors and shall represent insofar as possible different professions or occupations and who shall be appointed by the Mayor subject to the approval by a majority vote of the City Council. No member shall hold any other municipal office except that one of such members may be a member of the Board of Zoning Appeals. Each member shall receive as compensation for his services the sum of Twenty Five (\$25.00) Dollars for each Regular or Special Meeting of the Commission which is attended by each member but not to exceed Nine Hundred Dollars (\$900.00) per annum. The term of each member shall be three (3) years, except that three (3) members of the first commission so appointed shall serve for the term of one (1) year, three (3) for a term of two (2) years and three for a term of three (3) years. All members shall hold office until their successors are appointed. Members may, after a public hearing, be removed by the Mayor for inefficiency, neglect of duty or malfeasance in office. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor.~~

~~5.233 Powers and Duties. The City Planning Commission shall have the powers and duties vested in it by the laws of the State of Michigan and the Ordinance Code of the City of Troy and shall consider and make its recommendations to the City Council on any matters referred to it by the City Council relating to such duties, including:~~

~~————— (1) The making and adopting of a master plan for the physical development of the municipality. Such plan shall show among other things, the Commission's recommendations for the general location, character and extent of streets, boulevards, parkways, playgrounds, parks, location of public buildings, and utilities, and the change of use, extension, removal, relocation, widening, narrowing, vacating or abandoning of any of the foregoing.~~

~~————— (2) A zoning plan for the control of the height, area, bulk, location and use of buildings and premises, and all changes and amendments thereof;~~

~~(3) The approval of all plats subdividing land in the City of Troy and of any amendments or alterations thereof.~~

~~5.234 Finances. The City Planning Commission may be allowed such funds for expenses as deemed advisable by the City Council and all debts and expenses incurred by the City Planning Commission shall be limited by such amount.~~

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 Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, _____.

Matt Pryor, Mayor

Tonni Bartholomew, City Clerk

February 19, 2004

TO: John Szerlag, City Manager

FROM: Gary A. Shripka, Assistant City Manager/Services
Mark Stimac, Director of Building and Zoning
Mark F. Miller, Planning Director

SUBJECT: AGENDA ITEM – PUBLIC HEARING - Article II (Changes, Amendments and Approvals) Zoning Ordinance amendments and repeal of Chapter 40 (ZOTA # 203)

The powers and duties of the Planning Commission are presently listed in Chapter 40 of the City Code, titled "City Planning Commission". The Planning Commission Voting Requirements are presently listed only in the Planning Commission Bylaws. The Planning Commission, with assistance from City Management and the City Attorney's office, determined that these provisions should more appropriately be included in the Zoning Ordinance. City Management agrees with this determination.

This text amendment will have the effect of listing these important provisions in Article II in the City of Troy Zoning Ordinance. Chapter 40 of the City Code will be repealed.

There are two versions of the text amendment, the City Management Version and the Planning Commission Version. There are some minor differences between the two versions.

1. City Management recommends eliminating Article 02.10.04 from the Planning Commission Version, which states that the City Planning Commission is allowed to incur expenses. State law already permits the Planning Commission to incur expenses, so stating this fact is unnecessary.
2. City Management recommends the Planning Commission compensation be determined by City Council, as opposed to listing the compensation in Chapter 39.
3. The Planning Commission powers and duties listed in Article 02.10.02 was expanded.
4. Article 02.10.03 was amended to clarify that the Planning Commission may be the approval body for a new master plan or future land use plan amendments, but only if City Council does not grant itself approval authority.

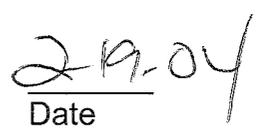
5. Article 02.10.03 was modified to require that a majority of Planning Commission members present and voting at a meeting is necessary to recommend an action to City Council.

In addition Resolution B sets the compensation for the Planning Commission members. The compensation provision was removed from the City Management version so that City Council has the ability to amend Planning Commission compensation without going through the text amendment process.

Although the proposed amendment includes consolidation of language from the Planning Commission By-Laws and Chapter 40, the City Attorney would like to conduct a more thorough review and technical re-write of the proposed amendment. This item could be approved by City Council if so desired, with the understanding that a subsequent amendment could be presented with technical changes at a later date.

Reviewed as to Form and Legality:


Lori Grigg Blum, City Attorney


Date

cc: File/ZOTA #203
Planning Commission

Attachments:

1. Planning Commission Version, dated 12 04 03
2. City Management Version, dated 02 16 04
3. Planning Commission minutes, dated 12 09 03

PROPOSED RESOLUTION A

PROPOSED ZONING ORDINANCE TEXT AMENDMENT
OPTION A – PLANNING COMMISSION VERSION

Article II – Planning Commission, Changes and Amendments to the Zoning Ordinance, and Approvals

Resolution #2004-
Moved by
Seconded by

RESOLVED, that Article II (CHANGES, AMENDMENTS AND APPROVALS) of the Zoning Ordinance, Option A, be adopted, as recommended by the Planning Commission.

BE IT FURTHER RESOLVED, Chapter 40 of the City Codes is hereby repealed.

BE IT FINALLY RESOLVED, to amend Article II as indicated in Option A – Planning Commission Version, dated 12/04/03.

PROPOSED RESOLUTION B

PROPOSED ZONING ORDINANCE TEXT AMENDMENT
OPTION B – CITY MANAGEMENT VERSION

Article II – Planning Commission, Changes and Amendments to the Zoning Ordinance, and Approvals

Resolution #2004-
Moved by
Seconded by

RESOLVED, that Article II (CHANGES, AMENDMENTS AND APPROVALS) of the Zoning Ordinance, Option B, be adopted, as recommended by City Management.

BE IT FURTHER RESOLVED, Chapter 40 of the City Codes is hereby repealed.

BE IT FURTHER RESOLVED, each Planning Commission member shall receive as compensation for his services the sum of Twenty Five (\$25.00) Dollars for each Regular or Special Meeting of the Commission which is attended by each member but not to exceed Nine Hundred Dollars (\$900.00) per annum

BE IT FINALLY RESOLVED, to amend Article II as indicated in Option B – City Management Version, dated 2/16/04.

**PROPOSED ZONING ORDINANCE TEXT AMENDMENT
(ZOTA 203)**

Article II - Planning Commission, Changes and Amendments to the Zoning Ordinance, and Approvals

PLANNING COMMISSION VERSION

Amend the indicated portions of Article II Changes, Amendments and Approvals text in the following manner to replace Chapter 40 of the City Code (to be repealed) including language regarding Voting Requirements:

(Underlining, except for major section titles, denotes changes.)

02.00.00 ARTICLE II **PLANNING COMMISSION, CHANGES, AND AMENDMENTS TO THE ZONING ORDINANCE, AND APPROVALS**

02.10.00 PLANNING COMMISSION
The City Planning Commission heretofore created pursuant to Public Act 285 of 1931, as amended, and the City Charter, is hereby continued. The City Planning Commission is hereby designated as the Commission specified in Section 4, of Act 207 of the Public Acts of 1921, as amended, and shall perform the duties of said Commission as provided in the Statute in connection with the amendment of this Chapter.

02.10.01 **MEMBERS, TERMS**
The City Planning Commission shall consist of nine (9) members who shall have the qualifications of electors and shall represent insofar as possible different professions or occupations and who shall be appointed by the Mayor subject to the approval by a majority vote of the City Council. No member shall hold any other municipal office except that one of such members may be a member of the Board of Zoning Appeals. Each member shall receive as compensation for his services the sum of Twenty Five (\$25.00) Dollars for each Regular or Special Meeting of the Commission which is attended by each member but not to exceed Nine Hundred Dollars (\$900.00) per annum. The term of each member shall be three (3) years, except that three (3) members of the first commission so appointed shall serve for the term of one (1) year, three (3) for a term of two (2) years and three for a term of three (3) years. All members shall hold office until their successors are appointed. Members may, after a public hearing, be removed by the Mayor for inefficiency, neglect of duty or malfeasance in office. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor.

02.10.02 **POWERS AND DUTIES**
The City Planning Commission shall have the powers and duties vested in it by the laws of the State of Michigan and the Ordinance Code of the City of Troy and shall consider and make its recommendations to the City Council on any matters referred to it by the City Council relating to such duties including:

- (1) The making and adopting of a master plan for the physical development of the municipality. Such plan shall show among other things, the Commission's recommendations for the general location, character and extent of streets, boulevards, parkways, playgrounds, parks, location of

public buildings, and utilities, and the change of use, extension, removal, relocation, widening, narrowing, vacating or abandoning of any of the foregoing.

- (2) A zoning plan for the control of the height, area, bulk, location and use of buildings and premises, and all changes and amendments thereof.
- (3) The recommendation of approval of all preliminary plats subdividing land in the City of Troy and of any amendments or alterations thereof.

02.10.03

VOTING REQUIREMENTS

The concurring vote of 5 members of the Planning Commission is necessary to decide in favor of the applicant on site plan review and special use requests unless the Planning Commission does not have final jurisdiction on the matter. The concurring vote of 6 members of the Planning Commission is necessary for approval of master plan or future land use plan amendments. All other issues before the Planning Commission, including, but not limited to, rezoning proposals, site condominium plans, planned unit developments, ordinance text amendments, subdivision plats, street and alley vacations or extensions, and historic district designations are recommendations to City Council and the concurrence of a majority of those Commission members present at the meeting is necessary to recommend an action to the City Council.

02.10.04

FINANCES

The City Planning Commission may be allowed such funds for expenses as deemed advisable by the City Council and all debts and expenses incurred by the City Planning Commission shall be limited by such amount.

02.20.00

CHANGES AND AMENDMENTS

The Troy City Council may from time to time, on recommendation from the City Planning Commission, or on petition amend, supplement or change the District boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in Act 207 of the Public Acts of 1921 as amended.

02.30.00

VESTED RIGHT

Nothing in this Chapter should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, District, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

02.40.00

COMMISSION APPROVAL

In cases where the City Planning Commission is empowered to approve certain use of premises under the provisions of this Chapter, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said Commission for the proper consideration of the matter. The Planning Commission shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, of the time and place of any hearing which may be held relative thereto as required under its rules of procedure. The Planning Commission may impose such conditions or limitations in granting approval as may in its judgment be necessary to fulfill the spirit and purpose of this Chapter. Any approval given by the Commission, under which premises are not used or work is not started within twelve (12) months or when use or work has been abandoned for a period of twelve (12) months, shall lapse and cease to be in effect.

02.50.00 ENFORCEMENT, PENALTIES AND OTHER REMEDIES

02.50.01 VIOLATIONS:

Any person, firm or corporation violating any of the provisions of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than one hundred (\$100.00) dollars and the costs of prosecution or, in default of the payment thereof, shall be punished by imprisonment in the County Jail for a period not to exceed ninety (90) days for each offense, or by both such fine and imprisonment in the discretion of the Court, together with the costs of such prosecution.

02.50.02 PUBLIC NUISANCE PER SE:

Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Chapter and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order to any court of competent jurisdiction.

02.50.03 FINES, IMPRISONMENT:

The owner of any building, structure or premises or part thereof, where any condition in violation of this Chapter shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.

02.50.04 EACH DAY A SEPARATE OFFENSE:

A separate offense shall be deemed committed upon each day during or when violation occurs or continues.

02.50.05 RIGHTS AND REMEDIES ARE CUMULATIVE:

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

**PROPOSED ZONING ORDINANCE TEXT AMENDMENT
(ZOTA 203)**

Article II - Planning Commission, Changes and Amendments to the Zoning Ordinance, and Approvals

OPTION B - CITY MANAGEMENT VERSION

Amend the indicated portions of Article II Changes, Amendments and Approvals text in the following manner to replace Chapter 40 of the City Code (to be repealed) including language regarding Voting Requirements:

(Underlining, except for major section titles, denotes changes.)

02.00.00 **ARTICLE II PLANNING COMMISSION, CHANGES, AND AMENDMENTS TO THE ZONING ORDINANCE, AND APPROVALS**

02.10.00 **PLANNING COMMISSION**
The City Planning Commission that was created pursuant to Public Act 285 of 1931, as amended, and the City Charter, is hereby continued. The City Planning Commission is hereby designated as the Commission specified in Section 4, of Act 207 of the Public Acts of 1921, **as amended**, and shall perform the duties of said Commission as provided in the Statute in connection with the amendment of this Chapter.

02.10.01 MEMBERS, TERMS
The City Planning Commission shall consist of nine (9) members who shall have the qualifications of electors and shall represent insofar as possible different professions or occupations and who shall be appointed by the Mayor subject to the approval by a majority vote of the City Council. No member shall hold any other municipal office except that one of such members may be a member of the Board of Zoning Appeals. Each member shall receive compensation for services as determined by City Council. The term of each member shall be three (3) years, except that three (3) members of the first commission so appointed shall serve for the term of one (1) year, three (3) for a term of two (2) years and three for a term of three (3) years. All members shall hold office until their successors are appointed. Members may, after a public hearing, be removed by the Mayor for inefficiency, neglect of duty or malfeasance in office. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor.

02.10.02 POWERS AND DUTIES
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public buildings, and utilities, and the change of use, extension, removal, relocation, widening, narrowing, vacating or abandoning of any of the foregoing.

- (2) A zoning plan for the control of the height, area, bulk, location and use of buildings and premises, and all changes and amendments thereof.
- (3) The recommendation of approval to City Council of all preliminary plats subdividing land, site condominium plans, planned unit developments, some special use approval applications and any amendments or alterations thereof.
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02.10.03

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The concurring vote of 5 members of the Planning Commission is necessary to decide in favor of the applicant on site plan review and special use requests unless the Planning Commission does not have final jurisdiction on the matter. The concurring vote of 6 members of the Planning Commission is necessary for approval of master plan or future land use plan amendments, unless City Council grants itself final approval authority. All other issues before the Planning Commission that are recommendations, including, but not limited to, rezoning proposals, site condominium plans, planned unit developments, ordinance text amendments, subdivision plats, street and alley vacations or extensions, master plan or future land use plan amendments, and historic district designations are recommendations to City Council and the concurrence of a majority of those Commission members present and voting at the meeting is necessary to recommend an action to the City Council.

02.20.00

CHANGES AND AMENDMENTS

The Troy City Council may from time to time, on recommendation from the City Planning Commission, or on petition amend, supplement or change the District boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in Act 207 of the Public Acts of 1921 as amended.

02.30.00

VESTED RIGHT

Nothing in this Chapter should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, District, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

02.40.00

COMMISSION APPROVAL

In cases where the City Planning Commission is empowered to approve certain use of premises under the provisions of this Chapter, the applicant shall furnish such surveys, plans or other information as may be reasonably required by said Commission for the proper consideration of the matter. The Planning Commission shall investigate the circumstances of each such case and shall notify such parties, who may in its opinion be affected thereby, of the time and place of any hearing which may be held relative thereto as required under its rules of procedure. The Planning Commission may impose such

conditions or limitations in granting approval as may in its judgment be necessary to fulfill the spirit and purpose of this Chapter. Any approval given by the Commission, under which premises are not used or work is not started within twelve (12) months or when use or work has been abandoned for a period of twelve (12) months, shall lapse and cease to be in effect.

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Any person, firm or corporation violating any of the provisions of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than one hundred (\$100.00) dollars and the costs of prosecution or, in default of the payment thereof, shall be punished by imprisonment in the County Jail for a period not to exceed ninety (90) days for each offense, or by both such fine and imprisonment in the discretion of the Court, together with the costs of such prosecution.

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Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of this Chapter and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order to any court of competent jurisdiction.

02.50.03 FINES, IMPRISONMENT:

The owner of any building, structure or premises or part thereof, where any condition in violation of this Chapter shall exist or shall be created, and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.

02.50.04 EACH DAY A SEPARATE OFFENSE:

A separate offense shall be deemed committed upon each day during or when violation occurs or continues.

02.50.05 RIGHTS AND REMEDIES ARE CUMULATIVE:

The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

ZONING ORDINANCE TEXT AMENDMENT

6. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 203) – Article 02.00.00 – Changes, Amendments and Approvals, edit text to replace Chapter 40 of the City Code (to be repealed) and include language regarding Voting Requirements

Mr. Miller reviewed the proposed text amendment that would list the Planning Commission powers and duties and voting requirements in the City of Troy Zoning Ordinance.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2003-12-066

Moved by: Wright

Seconded by: Storrs

RESOLVED, that the Planning Commission hereby recommends to the City Council that ARTICLE II (CHANGES, AMENDMENTS AND APPROVALS) of the Zoning Ordinance, be amended as printed on the Planning Commission recommended amendment, dated 12/04/03.

Yes: Kramer, Littman, Schultz, Storrs, Vleck, Waller, Wright

No: Strat

Absent: Chamberlain

MOTION CARRIED

Mr. Strat said he would have preferred more time to review the matter.

Mr. Schultz said that Section 01.10.04 (FINANCES) may have to be addressed in the future based on the Planning Commission budgetary process that was discussed at the recent joint meeting with the City Council and City Management.

Mr. Strat agreed that his primary concern with the text amendment was Section 01.10.04 (FINANCES).

A Regular Meeting of the Troy City Council was held Monday, March 15, 2004, at City Hall, 500 W. Big Beaver Road. Mayor Pryor called the Meeting to order at 7:33 P.M.

The Invocation was given by Mr. Philip Fitzgerald – First Baptist Church and the Pledge of Allegiance to the Flag was given.

ROLL CALL

PRESENT: Mayor Matt Pryor
Robin E. Beltramini
Cristina Broomfield
David Eisenbacher
Martin F. Howrylak
David A. Lambert
Jeanne M. Stine

PRESENTATIONS:

A-1 Presentations: (a) Mayor Pryor presented a proclamation to Baker Middle School on behalf of the City of Troy designating them as a Named Michigan Blue Ribbon Exemplary School; (b) Debbie Swartz, Stewardship Program Specialist for the Michigan Turfgrass Environmental Stewardship Program gave a presentation and recognized Carol Anderson and Marv Ash's certification in the Michigan Turfgrass Environmental Stewardship Program for Sylvan Glen Golf Course; (c) Mayor Pryor presented Marv Ash with a service commendation in recognition of his years of service with the City of Troy; (d) County Commissioner Marty Knollenberg invited Troy City Council and residents to a meeting to be held in the Oakland County Board of Commissioners Auditorium at 7:00 p.m. on Thursday, March 25, 2004 to hear a presentation given by the Mayor of Detroit, Kwame Kilpatrick and Mr. Victor Mercado, the Director of the Detroit Water and Sewage Department regarding how water rates are calculated for county residents. (e) County Commissioner Chuck Palmer discussed the ramifications of the proposed tax shift in revenue sharing funds and the proposed change of the payment date of the county's revenues to July from December. Commissioner Palmer advised that the date change would mean a loss of \$1.12 Million at the beginning of the program. Commissioner Palmer advised that the County's Management and Budget Office suggested that this proposal will likely amount to a total county loss of \$1.4 Billion statewide. Commissioner Palmer advised that the Oakland County Commission does not support this proposal and asked that all Oakland County communities also oppose the proposal.

PUBLIC HEARINGS: No public hearings scheduled

POSTPONED ITEM:

D-1 Community Affairs Department Renovation

Resolution
Moved by Stine
Seconded by Beltramini

RESOLVED, That City Staff is **AUTHORIZED** to renovate office space for the Community Affairs Department and Conference Room as outlined in Appendix A, Detailed Cost Estimates at an estimated total project cost of \$65,530.00, utilizing in-house personnel, approved contracts, and standard purchasing procedures.

Resolution to Amend

Resolution
Moved by Pryor
Seconded by Eisenbacher

RESOLVED, That the Resolution be **AMENDED** by eliminating cabinetry, workstations, chairs, desks. etc. and reduce the cost from the estimated total project cost of \$65,530.00 by approximately \$37,700.00.

Vote on Substitution Amendment

Resolution
Moved by Stine
Seconded by Beltramini

RESOLVED, That the "*Resolution to Amend*" be **AMENDED** by **INSERTING** the following **SUBSTITUTE** Resolution, "That City Staff is **AUTHORIZED** to renovate office space for the Community Affairs Department and Conference Room as outlined in Appendix A, Detailed Cost Estimates **as listed in Appendix C** at an estimated total project cost of **\$65,530.00** **\$59,235.00**, utilizing in-house personnel, approved contracts, and standard purchasing procedures.

Vote on Resolution to Amend Substitution Amendment

Resolution #2004-03-134
Moved by Eisenbacher
Seconded by Howrylak

RESOLVED, That Substitution Amendment be **AMENDED** by **INSERTING**, "the portion of the proposal related to furniture be delayed and reconsidered by City Council in the 2004-2005 budget cycle."

Yes: Pryor, Broomfield, Eisenbacher, Howrylak, Lambert
No: Beltramini, Stine

MOTION CARRIED

Vote on Substitution Amendment as Amended

Resolution #2004-03-135
Moved by Stine
Seconded by Beltramini

RESOLVED, That the "Resolution to Amend" be **AMENDED** by **INSERTING** the following **SUBSTITUTE** Resolution, "That City Staff is **AUTHORIZED** to renovate office space for the Community Affairs Department and Conference Room as outlined in Appendix A, Detailed Cost Estimates **as listed in Appendix C** at an estimated total project cost of ~~\$65,530.00~~ **\$59,235.00**, utilizing in-house personnel, approved contracts, and standard purchasing procedures and the portion of the proposal related to furniture be delayed and reconsidered by City Council in the 2004-2005 budget cycle.

Yes: All-7

Vote on Resolution as Substituted and Amended

Resolution #2004-03-136

Moved by Stine

Seconded by Beltramini

That City Staff is **AUTHORIZED** to renovate office space for the Community Affairs Department and Conference Room as outlined in Appendix A, Detailed Cost Estimates as listed in Appendix C at an estimated total project cost of \$59,235.00, utilizing in-house personnel, approved contracts, and standard purchasing procedures and the portion of the proposal related to furniture be delayed and reconsidered by City Council in the 2004-2005 budget cycle.

Yes: All-7

PUBLIC COMMENT:

A. Items on the Current Agenda

E-20 McCulloch Drainage District Enlargement - Rochester Commons PUD, Project No. 03.914.3 – Section 23

Resolution #2004-03-137

Moved by Lambert

Seconded by Beltramini

RESOLVED, That the McCulloch Drainage District **BE ENLARGED** to accommodate the 4.86 acres of the proposed Rochester Commons PUD in Section 23.

Yes: All-7

F-7 Ladd's Inc. 5-Acre Parcel Appraisal

Proposed Resolution to Postpone

Resolution

Moved by Pryor

Seconded by Beltramini

RESOLVED, That *Ladd's Inc. 5-Acre Parcel Appraisal* be **POSTPONED** until the Regular City Council Meeting scheduled for Monday, April 19, 2004.

Vote on Substitute Resolution

Resolution #2004-03-138
Moved by Howrylak
Seconded by Stine

RESOLVED, That *Resolution to Postpone* be **STRICKEN** in its entirety and **SUBSTITUTED** with "RESOLVED, That Troy City Council **DIRECTS** City Management to **KEEP OWNERSHIP** of the entire property having Sidwell #88-20-11-201-024 and develop a park site when funds become available."

Yes: Howrylak, Stine, Beltramini
No: Lambert, Pryor, Broomfield, Eisenbacher

MOTION FAILED

Vote on Resolution to Postpone

Resolution #2004-03-139
Moved by Pryor
Seconded by Beltramini

RESOLVED, That *Ladd's Inc. 5-Acre Parcel Appraisal* be **POSTPONED** until the Regular City Council Meeting scheduled for Monday, April 19, 2004.

Yes: Pryor, Beltramini, Broomfield
No: Lambert, Stine, Eisenbacher, Howrylak

MOTION FAILED

Vote on Proposed Resolution A – Option 1

Resolution #2004-03-140
Moved by Howrylak
Seconded by Stine

RESOLVED, That Troy City Council **DIRECTS** City Management to **KEEP OWNERSHIP** of the westerly part of the property having Sidwell #88-20-11-201-024 and develop a park site when funds become available.

Yes: Stine, Beltramini, Howrylak
No: Pryor, Broomfield, Eisenbacher, Lambert

MOTION FAILED

Proposed Resolution A – Option 2

Resolution
Moved by Pryor
Seconded by Broomfield

RESOLVED, That Troy City Council **DIRECTS** City Management **TO SELL** the 5-acre City owned parcel being the westerly part of property having Sidwell #88-20-11-201-024 to Ladd's, Inc. for the appraised value of \$580,000.00.

Proposed Amendment to Resolution A – Option 2

Resolution
Moved by Broomfield
Seconded by Eisenbacher

RESOLVED, That *Resolution A – Option 2* be **AMENDED** by **INSERTING**, “**CONTINGENT** upon City Management providing documentation to substantiate which funds were used to purchase the property.”

Vote on Resolution to Postpone

Resolution #2004-03-141
Moved by Howrylak
Seconded by Stine

RESOLVED, That *Ladd's Inc. 5-Acre Parcel Appraisal* be **POSTPONED** indefinitely.

Yes: Howrylak, Stine
No: Pryor, Beltramini, Broomfield, Eisenbacher, Lambert

MOTION FAILED**Vote on Resolution to Postpone**

Resolution #2004-03-142
Moved by Broomfield
Seconded by Beltramini

RESOLVED, That *Ladd's Inc. 5-Acre Parcel Appraisal* be **POSTPONED** until the Regular City Council Meeting scheduled for Monday, April 19, 2004.

Yes: Howrylak, Lambert, Stine
No: Beltramini, Broomfield, Eisenbacher, Pryor

MOTION CARRIED

The meeting **RECESSED** at 9:09 PM.

The meeting **RECONVENED** at 9:31 PM.

F-4 Troy Racquet Club Rates

Resolution #2004-03-143
Moved by Eisenbacher
Seconded by Stine

RESOLVED, That the 2004-05 rates for membership and court time for Troy Racquet Club are hereby **APPROVED** as stated in the report from the Parks and Recreation Department dated March 4, 2004; a copy of which shall be **ATTACHED** to and made a part of the original Minutes of this meeting.

Yes: All-7

B. Items Not on the Current Agenda

CONSENT AGENDA

E-1 Approval of Consent Agenda

Resolution #2004-03-144
Moved by Lambert
Seconded by Broomfield

RESOLVED, That all items as presented on the Consent Agenda are hereby **APPROVED** as presented with the exception of Item E-20, which was considered under Public Comment A, and Items E-15 and E-16, which shall be considered after Consent Agenda (E) items, as printed.

Yes: All-7

E-2 Minutes: Regular Meeting of March 1, 2004 and Regular Meeting/Liquor Violation Hearings of March 3, 2004

Resolution #2004-03-144-E-2

RESOLVED, That the Minutes of the 7:30 PM Regular Meeting of March 1, 2004 and the Minutes of the 7:30 PM Regular Meeting/Liquor Violation Hearings of March 3, 2004 be **APPROVED** as submitted.

E-3 City of Troy Proclamations:

Resolution #2004-03-144-E-3

RESOLVED, That the following City of Troy Proclamations be **APPROVED**:

- (a) Baker Middle School – Named Michigan Blue Ribbon Exemplary School
- (b) Service Commendation – Marv Ash

E-4 Scheduling of a Joint Meeting with City Council and the Parks & Recreation Board

Resolution #2004-03-144-E-4

RESOLVED, That a joint meeting **BE SCHEDULED** with Troy City Council and the Parks & Recreation Board on Monday, March 29, 2004 at 7:30 PM to discuss Parks and Recreation items in the Lower Level Conference Room at Troy City Hall, 500 W. Big Beaver – Troy, Michigan.

E-5 Standard Purchasing Resolution 1: Award to Low Bidder – Fertilization Services at Sylvan Glen Golf Course

Resolution #2004-03-144-E-5

RESOLVED, That a contract to furnish all materials, equipment, and labor for one-year requirements of fertilization services at Sylvan Glen Golf Course with an option to renew for an additional year is hereby **AWARDED** to the low bidder, Simplot Partners for an estimated total cost of \$26,360.00, at unit prices contained in the attached bid tabulation opened January 27, 2004; a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon contractor submission of properly executed bid documents, including insurance certificates and all other specified contract requirements.

E-6 Abandoned Industrial Development District and Industrial Facilities Exemption Certificate

Resolution #2004-03-144-E-6

WHEREAS, The City Council of the City of Troy had formerly established an Industrial Development District (IDD), and granted an Industrial Facilities Exemption Certificate (IFEC) for Certificate #95-514; and

WHEREAS, The project and building have been abandoned and vacated.

THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy hereby **VACATES** the Industrial Development District established at 894 Maplelawn (IFEC #95-514), located in the City of Troy, County of Oakland, State of Michigan; and

THEREFORE, BE IT FURTHER RESOLVED, That the City Council of the City of Troy also **RESCINDS** and **REVOKES** the following abandoned and vacated Industrial Facilities Exemption Certificate (IFEC) being Certificate #95-514; and

BE IT FINALLY RESOLVED, That a copy of this Resolution shall be **FORWARDED** to the Michigan State Tax Commission by certified mail.

E-7 Sole Source – Nuisance Goose Control Services for Sanctuary Lake and Sylvan Glen Golf Courses

Resolution #2004-03-144-E-7

WHEREAS, Gooseworks Humane Goose Control is the sole known provider of complete nuisance goose control services for Southeastern Michigan; and

WHEREAS, Gooseworks Humane Goose Control has been under contract the past two years providing nuisance goose control services at Sylvan Glen Golf Course; and

WHEREAS, Gooseworks Humane Goose Control has successfully completed the required training and obtained the goose egg and nest destruction, roundup (capture) and transportation permits from the Michigan DNR.

NOW, THEREFORE, BE IT RESOLVED, That comprehensive nuisance goose control services for a period of nine (9) months at Sanctuary Lake and Sylvan Glen Golf Courses be **PROVIDED** by Gooseworks Humane Goose Control, the sole known provider, at an estimated total cost of \$12,600.00; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon contractor submission of properly executed contract documents, including insurance certificates and any other contract requirements.

E-8 Standard Purchasing Resolution 4: Oakland County Cooperative Purchasing Agreement – Fleet Vehicles

Resolution #2004-03-144-E-8

RESOLVED, That the contracts to provide fleet vehicles from Red Holman Pontiac, Golling Chrysler Jeep and Buff Whelan Chevrolet are hereby **APPROVED** through Oakland County Cooperative Purchasing Agreements at an estimated total cost of \$102,596.22.

E-9 Standard Purchasing Resolution 1: Award to Low Bidders – Hauling and Disposal of Dirt and Debris

Resolution #2004-03-144-E-9

RESOLVED, That contracts to provide one-year requirements of hauling and disposal services of dirt and debris with an option to renew for one additional year are hereby **AWARDED** to the low bidders, Jackies Transport Inc., Luke's Trucking and Excavating, L.L.C., and A&B Trucking, Inc., for an estimated annual cost of \$34,000.00, \$4,000.00, and \$50,000.00 respectively, at unit prices contained in the bid tabulation opened February 18, 2004; a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

BE IT FURTHER RESOLVED, That the awards are **CONTINGENT** upon contractors' submission of properly executed bid documents, including insurance certificates and all other specified requirements; and if the price of on-road diesel fuel exceeds \$2.00/gallon during the contract term, the City is **AUTHORIZED** to pay a \$.25/ton fuel surcharge to Luke's Trucking for hauling broken asphalt.

E-10 Sole Source – East Jordan Iron Works – Complete Hydrant and Repair Parts Contract

Resolution #2004-03-144-E-10

WHEREAS, East Jordan Iron Works, the manufacturer, has agreed to provide East Jordan complete hydrants, as well as hydrant and valve repair parts directly to the City of Troy at discounts greater than those of distributors.

NOW, THEREFORE, BE IT RESOLVED, That a contract to provide East Jordan complete hydrants, and valve and hydrant repair parts is hereby **APPROVED** with East Jordan Iron Works at discounts of 48% and 45% respectively, to expire October 31, 2006.

E-11 Private Agreement – Rochester Commons PUD – Project No. 03.914.3

Resolution #2004-03-144-E-11

RESOLVED, That the Contract for the Installation of Municipal Improvements (Private Agreement) between the City of Troy and Gulf Rochester Commons, L.L.C. is hereby **APPROVED** for the installation of sanitary sewer, storm sewer, detention, water main, sidewalks, landscaping, soil erosion and paving on the site and in the adjacent right-of-way, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the documents; a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-12 Standard Purchasing Resolution 1: Bid Award – Log Loader and Trailer

Resolution #2004-03-144-E-12

RESOLVED, That a contract to purchase one (1) wheeler log loader and trailer manufactured by Metavic is hereby **AWARDED** to the sole bidder, Payeur Distributions for an estimated total cost of \$38,675.00, at unit prices contained in the bid tabulation opened February 24, 2004; a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-13 Standard Purchasing Resolution 2: Bid Award – Low Bidders Meeting Specifications – Turfgrass Chemical Products

Resolution #2004-03-144-E-13

RESOLVED, That contracts to purchase 2004 seasonal requirements of Turfgrass protection products are hereby **AWARDED** to the lowest acceptable bidders meeting specifications as follows:

BIDDERS:**ITEMS:**

United Horticultural Supply of Linden, MI	1, 4, 7, 8, 10, 11, 12, 34, 35, 36
Great Lakes Turf, L.L.C., Grand Rapids, MI	13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32
Turfgrass Incorporated of South Lyon, MI	3, 9, 31
Simplot Partners of Farmington Hills, MI	5, 6
Carslo Incorporated of Camargo, IL	2

For an estimated total cost of \$100,408.00, at unit prices contained in the bid tabulation opened February 17, 2004; a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-14 Standard Purchasing Resolution 6: Grant Approval and Authorization to Expend City Funds – FireTrax and CoBRA Software and Equipment

Resolution #2004-03-144-E-14

RESOLVED, That the Troy City Council does hereby **AUTHORIZE** the Troy Fire Department to receive a State of Michigan RRTN Grant and expend funds for the purchase of the FireTrax Personnel Accountability System from Rescue Sales and Services, and the CoBRA Command Software Database from Fischer Safety, Inc., the distributors for these proprietary systems with the PEAC-WMD Software Application obtained through normal purchase procedures at an estimated cost of \$49,660.00; and

BE IT FURTHER RESOLVED, That the Fire Department Operations equipment budget is hereby **AMENDED** due to the grant award in the amount of \$50,000.00.

E-17 Standard Purchasing Resolution 1 – Award to Low Bidder – Air Cylinders

Resolution #2004-03-144-E-17

RESOLVED, That a contract to purchase thirty (30) Air Cylinders for the Fire Department is hereby **AWARDED** to the low bidder, Argus Supply Company, for an estimated cost of \$18,876.00, at unit prices contained in the bid tabulation opened February 18, 2004; a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-18 Standard Purchasing Resolution 1 – Independent Fee Appraiser for Proposed Major Road Sidewalk Projects: South Boulevard/South Side, John R to Dequindre & Square Lake/North Side, John R to Dequindre

Resolution #2004-03-144-E-18

RESOLVED, That a contract for independent fee appraisal services is hereby **AWARDED** to the low bidder, Andrew Reed & Associates, Inc. for a total cost of \$17,850.00 proposed major road sidewalk projects; and

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon contractor submission of properly executed contract documents, including insurance certificates and all other specified requirements.

E-19 Standard Purchasing Resolution 1 – Award to Low Bidders – Water System Materials

Resolution #2004-03-144-E-19

RESOLVED, That contracts to provide one-year requirements for Water System Materials are hereby **AWARDED** to the low bidders: Vanderlind & Son, SLC Meter Service, Inc., East Jordan Iron Works, Inc., Cambridge Brass, Etna Supply Company and National Waterworks, Inc., for an estimated annual cost of \$27,917.00, \$22,383.00, \$33,392.00, \$2,389.00, \$9,039.00 and \$5,176.00 respectively, at unit prices contained in the bid tabulation opened February 20, 2004; a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-21 Motion to Confirm Prior Council Action of August 8, 2003 – E-15 Proposal to Continue Replacing Incandescent Lamps with Light Emitting Diodes (LED) for Traffic Signals

Resolution #2004-03-144-E-21

RESOLVED, That the City of Troy hereby **SUPPORTS** the Road Commission for Oakland County's proposal to continue to replace incandescent lamps used in traffic signals with light-emitting diodes (LEDs) at intersections where the City and RCOC share maintenance participation, per the list identified in the memorandum dated July 25, 2003 from the Road Commission for Oakland County; which is **ATTACHED** hereto and made part of the original Council Minutes.

ITEMS TAKEN OUT OF ORDER

E-15 Traffic Committee Recommendations

Resolution #2004-03-145

Moved by Eisenbacher

Seconded by Beltramini

RESOLVED, That Control Order #04-01-MR is hereby **APPROVED** to establish a "NO LEFT TURN 7:15-7:45 A.M. EXCEPT BUSES" on the Troy High School drive onto Northfield Parkway.

Yes: All-7

E-16 Establishment of a Service Fee for Returned Checks

Resolution #2004-03-146

Moved by Howrylak

Seconded by Pryor

RESOLVED, That the Finance Department is **AUTHORIZED** to initiate a fee of \$15.00 for any check returned unpaid to the City for reason of Non-Sufficient Funds, and to adjust such fee as necessary to recover costs incurred.

Yes: Pryor, Eisenbacher, Howrylak

No: Lambert, Stine, Beltramini, Broomfield

MOTION FAILED**Proposed Resolution to Establish a Service Fee for Returned Checks as Submitted**

Resolution

Moved by Stine

Seconded by Lambert

RESOLVED, That the Finance Department is **AUTHORIZED** to initiate a fee of \$25.00 for any check returned unpaid to the City for reason of Non-Sufficient Funds, and to adjust such fee as necessary to recover costs incurred.

Vote on Resolution to Amend

Resolution #2004-03-147

Moved by Howrylak

Seconded by Broomfield

RESOLVED, That the *Resolution to Establish a Service Fee for Returned Checks as Submitted* be **AMENDED** by **INSERTING**, "the service fee for any check returned unpaid to the City for reason of non-sufficient funds shall be waived for those residents who are at 125% of the poverty level."

Yes: Broomfield, Eisenbacher, Howrylak

No: Stine, Pryor, Beltramini, Lambert

MOTION FAILED**Vote on Resolution to Amend**

Resolution #2004-03-148

Moved by Lambert

Seconded by Howrylak

RESOLVED, That *Resolution to Establish a Service Fee for Returned Checks as Submitted* be **AMENDED** by **STRIKING** "\$25.00" and **INSERTING** "\$20.00".

Yes: All-7

Vote on Resolution as Amended

Resolution #2004-03-149
Moved by Stine
Seconded by Lambert

RESOLVED, That the Finance Department is **AUTHORIZED** to initiate a fee of \$20.00 for any check returned unpaid to the City for reason of Non-Sufficient Funds, and to adjust such fee as necessary to recover costs incurred.

Yes: All-7

REGULAR BUSINESS

F-1 Appointments to Boards and Committees: (a) Mayoral Appointments: None; City Council Appointments: CAC-Cable Advisory Committee and Parks & Recreation Board

City Council Appointments-CAC-Cable Advisory Committee

Resolution #2004-03-150
Moved by Lambert
Seconded by Stine

RESOLVED, That the following persons are hereby **APPOINTED BY THE CITY COUNCIL** to serve on the Boards and Committees as indicated:

CAC-Cable Advisory Committee

Appointed by Council (7) – 3 years

Penny Marinos _____ Term expires 02-28-2007

W. Kent Voight _____ Term expires 02-28-2007

Yes: All-7

City Council Appointments-Parks and Recreation Board

Resolution #2004-03-151
Moved by Lambert
Seconded by Beltramini

RESOLVED, That the following person is hereby **APPOINTED BY THE CITY COUNCIL** to serve on the Boards and Committees as indicated:

Parks and Recreation Board

Appointed by Council (10) – 3 years

Stuart Redpath _____ Unexpired term expires 09-30-2006

Yes: All-7

Appointments Carried-Over as Item F-1 on the Next Regular City Council Meeting Agenda Scheduled for April 12, 2004:

Mayoral Appointments

Economic Development Corporation

Mayor, Council Approval (9) – 6 years

Stuart F Redpath-Does not seek reappointment _____ Term expires 04-30-2009

_____ Term expires 04-30-2009

_____ Term expires 04-30-2009

City Council Appointments

Advisory Committee for Persons with Disabilities

Appointed by Council (9 Regular, 3 Alternates) – 3 years

_____ Term expires 11-01-2006 (Alternate)

_____ Term expires 07-01-2004 (Student)

Employee Retirement System Board of Trustees

3 by Council, 3 by Members, Assistant City Manager/Finance, City Manager–Ordinance–3 years
Change in number of members to include a retiree appointed by City Council per Council Resolution #2004-03-108-E-14 – March 1, 2004.

Retiree _____ Term expires 12-31-2004

Troy Daze

Appointed by Council (9) – 3 years

_____ Term expires 11-30-2004

_____ Term expires 07-01-2003 Student

F-2 Closed Session – No action taken.

F-3 Concession Stand Operations

Resolution

Moved by Howrylak

Seconded by Broomfield

RESOLVED, That a contract to provide five (5) seasonal requirements of Concession Stand Operations with an option to renew the contract for five (5) additional seasons for the Troy Family Aquatic Center, Boulan Park, Firefighters Park, and Flynn Park is hereby **AWARDED** to Russell Chavaux, for an annual guarantee of 12% of gross sales or a minimum of \$12,000.00 whichever is greater as contained in the attached bid tabulation opened March 3, 2004; a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

BE IT FURTHER RESOVLED, That the award is **CONTINGENT** upon vendor submission of proper contract and bid documents, including insurance certificates and all specified requirements with the exclusion of Item 17 from the contract.

Vote on Resolution to Amend

Resolution #2003-03-152

Moved by Lambert

Seconded by Beltramini

RESOLVED, That the Resolution for *Concession Stand Operations* be **AMENDED** by **STRIKING**, "with the exclusion of Item 17 from the contract" and **INSERTING**, "with the amendment of Contract Item 17 to reflect a Parks rate of \$25.00 per hour and a maximum amount of \$100.00 per day."

Yes: Lambert, Beltramini

No: Howrylak, Stine, Pryor, Broomfield, Eisenbacher

MOTION FAILED**Vote on Resolution as Submitted**

Resolution #2004-03-153

Moved by Howrylak

Seconded by Broomfield

RESOLVED, That a contract to provide five (5) seasonal requirements of Concession Stand Operations with an option to renew the contract for five (5) additional seasons for the Troy Family Aquatic Center, Boulan Park, Firefighters Park, and Flynn Park is hereby **AWARDED** to Russell Chavaux, for an annual guarantee of 12% of gross sales or a minimum of \$12,000.00 whichever is greater as contained in the attached bid tabulation opened March 3, 2004; a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

BE IT FURTHER RESOVLED, That the award is **CONTINGENT** upon vendor submission of proper contract and bid documents, including insurance certificates and all specified requirements with the exclusion of Item 17 from the contract.

Yes: Pryor, Broomfield, Eisenbacher, Howrylak

No: Lambert, Stine, Beltramini

MOTION CARRIED

F-5 Reconsideration of Approved Minutes of February 18, 2004

Vote on Reconsideration of Resolutions #2004-02-078, #2004-02-080 and #2004-02-081:

Resolution #2004-03-154

Motion by Eisenbacher

Seconded by Broomfield

RESOLVED, That Resolutions #2004-02-078, #2004-02-080 and #2004-02-081 be
RECONSIDERED.

Yes: All-7

RESOLUTIONS #2004-02-078 and #2004-02-081 AS ADOPTED:

(a) Alibi Lounge of Troy, Inc. (dba: Alibi Lounge)

Resolution #2004-02-078

Moved by Stine

Seconded by Beltramini

WHEREAS, The City Council of the City of Troy has reviewed the following infractions of liquor control codes and regulations and/or ordinances of the State of Michigan and/or the City of Troy respectively; and

WHEREAS, The City Council has given public notice that it will deliberate and determine whether to adopt a resolution to recommend to the Michigan Liquor Control Commission that the license not be renewed after a Public Hearing on Wednesday, February 18, 2004, for the following licensed establishment:

Name: Alibi Lounge of Troy, Inc. (dba: Alibi Lounge)

Address: 6700 Rochester Road

License No.: Class C (858-2002)

and, having found violation for the following codes and/or regulations: SALE TO MINOR (Compliance Test) on October 28, 2003; and

WHEREAS, This Licensee had a prior violation dated October 11, 2002 – Sale to Minor (Compliance Test); and

WHEREAS, After due notice the Licensee was given opportunity to review these cited infractions, and opportunity to confront witnesses and/or statements by accusers while in the presence of this City Council, sitting as a hearing body on Wednesday, February 18, 2004;

NOW, THEREFORE, BE IT RESOLVED, By the City Council of the City of Troy, that after due notice, appropriate hearing and deliberations, and having made findings, it is recommended to the Michigan Liquor Control Commission that License Number 858-2002 (Class C) in the name of Alibi Lounge of Troy, Inc. in the City of Troy, **BE RENEWED** with the **STIPULATION** that the Licensee will implement their proposed "Employee Acknowledgement of Policy Pertaining to Sales of Alcoholic Beverages" and submit the Troy Police Department with copies of the revised Employee Acknowledgement of Policy signed by employees which will include the revision that all patrons who are served alcohol will be required to provide valid identification providing that person to be 21 years of age or older; and a certified copy of this resolution will be **SENT** to the Michigan Liquor Control Commission.

Yes: All-7

(c) Picano Restaurant, Inc. (dba: Picano's)

Resolution #2004-02-081

Moved by Stine

Seconded by Lambert

WHEREAS, The City Council of the City of Troy has reviewed the following infractions of liquor control codes and regulations and/or ordinances of the State of Michigan and/or the City of Troy respectively; and

WHEREAS, The City Council has given public notice that it will deliberate and determine whether to adopt a resolution to recommend to the Michigan Liquor Control Commission that the license not be renewed after a Public Hearing on Wednesday, February 18, 2004, for the following licensed establishment:

Name: Picano Restaurant, Inc. (dba: Picano's)
Address: 3775 Rochester Road
License No.: Class C (7024-2002)

and, having found violation for the following codes and/or regulations: SALE TO MINOR (Compliance Test) on October 29, 2003; and

WHEREAS, This Licensee had a prior violation dated May 3, 2001 – Sale to Minor (Compliance Test); and

WHEREAS, After due notice the Licensee was given opportunity to review these cited infractions, and opportunity to confront witnesses and/or statements by accusers while in the presence of this City Council, sitting as a hearing body on Wednesday, February 18, 2004;

NOW, THEREFORE, BE IT RESOLVED, By the City Council of the City of Troy, that after due notice, appropriate hearing and deliberations, and having made findings, it is recommended to the Michigan Liquor Control Commission that License Number 7024-2002 (Class C) in the name of Picano Restaurant, Inc., in the City of Troy, **BE RENEWED** with the **STIPULATION** that the Licensee will implement an employee policy pertaining to sales of alcoholic beverages which will include the provision that all patrons who are served alcohol will be required to provide valid identification providing that person to be 21 years of age or older and that all

uncertified servers and/or servers with certificates older than six months will be TIPS or TAMS trained, and Licensee will provide documentation of certificates and demonstrate a contract to the Troy Police Department by March 30, 2004; and a certified copy of this resolution will be **SENT** to the Michigan Liquor Control Commission.

Yes: All-7

Vote on Amendment to Resolutions #2004-02-078 and #2004-02-081:

Resolution #2004-03-155
 Moved by Eisenbacher
 Seconded by Stine

RESOLVED, That the Resolutions #2004-02-078 and #2004-02-081 will be **AMENDED** by **STRIKING** "all patrons" in the phrase "...**STIPULATION** that the Licensee will implement an employee policy pertaining to sales of alcoholic beverages which will include the provision that all patrons who are served alcohol will be required to provide valid identification providing that person to be 21 years of age or older..." **INSERTING** "patrons that appear to be under the age of 35".

Yes: All-7

Vote on Amended Resolutions:

(a) Alibi Lounge of Troy, Inc. (dba: Alibi Lounge)

Resolution #2004-03-155 (a)
 Moved by Stine
 Seconded by Beltramini

WHEREAS, The City Council of the City of Troy has reviewed the following infractions of liquor control codes and regulations and/or ordinances of the State of Michigan and/or the City of Troy respectively; and

WHEREAS, The City Council has given public notice that it will deliberate and determine whether to adopt a resolution to recommend to the Michigan Liquor Control Commission that the license not be renewed after a Public Hearing on Wednesday, February 18, 2004, for the following licensed establishment:

Name: Alibi Lounge of Troy, Inc. (dba: Alibi Lounge)
 Address: 6700 Rochester Road
 License No.: Class C (858-2002)

and, having found violation for the following codes and/or regulations: SALE TO MINOR (Compliance Test) on October 28, 2003; and

WHEREAS, This Licensee had a prior violation dated October 11, 2002 – Sale to Minor (Compliance Test); and

WHEREAS, After due notice the Licensee was given opportunity to review these cited infractions, and opportunity to confront witnesses and/or statements by accusers while in the presence of this City Council, sitting as a hearing body on Wednesday, February 18, 2004;

NOW, THEREFORE, BE IT RESOLVED, By the City Council of the City of Troy, that after due notice, appropriate hearing and deliberations, and having made findings, it is recommended to the Michigan Liquor Control Commission that License Number 858-2002 (Class C) in the name of Alibi Lounge of Troy, Inc. in the City of Troy, **BE RENEWED** with the **STIPULATION** that the Licensee will implement their proposed "Employee Acknowledgement of Policy Pertaining to Sales of Alcoholic Beverages" and submit the Troy Police Department with copies of the revised Employee Acknowledgement of Policy signed by employees which will include the revision that patrons that appear to be under the age of 35 who are served alcohol will be required to provide valid identification providing that person to be 21 years of age or older; and a certified copy of this resolution will be **SENT** to the Michigan Liquor Control Commission.

Yes: All-7

(b) Picano Restaurant, Inc. (dba: Picano's)

Resolution #2004-03-155 (b)

Moved by Stine

Seconded by Lambert

WHEREAS, The City Council of the City of Troy has reviewed the following infractions of liquor control codes and regulations and/or ordinances of the State of Michigan and/or the City of Troy respectively; and

WHEREAS, The City Council has given public notice that it will deliberate and determine whether to adopt a resolution to recommend to the Michigan Liquor Control Commission that the license not be renewed after a Public Hearing on Wednesday, February 18, 2004, for the following licensed establishment:

Name: Picano Restaurant, Inc. (dba: Picano's)
Address: 3775 Rochester Road
License No.: Class C (7024-2002)

and, having found violation for the following codes and/or regulations: SALE TO MINOR (Compliance Test) on October 29, 2003; and

WHEREAS, This Licensee had a prior violation dated May 3, 2001 – Sale to Minor (Compliance Test); and

WHEREAS, After due notice the Licensee was given opportunity to review these cited infractions, and opportunity to confront witnesses and/or statements by accusers while in the presence of this City Council, sitting as a hearing body on Wednesday, February 18, 2004;

NOW, THEREFORE, BE IT RESOLVED, By the City Council of the City of Troy, that after due notice, appropriate hearing and deliberations, and having made findings, it is recommended to the Michigan Liquor Control Commission that License Number 7024-2002 (Class C) in the

name of Picano Restaurant, Inc., in the City of Troy, **BE RENEWED** with the **STIPULATION** that the Licensee will implement an employee policy pertaining to sales of alcoholic beverages which will include the provision that patrons that appear to be under the age of 35 who are served alcohol will be required to provide valid identification providing that person to be 21 years of age or older and that all uncertified servers and/or servers with certificates older than six months will be TIPS or TAMS trained, and Licensee will provide documentation of certificates and demonstrate a contract to the Troy Police Department by March 30, 2004; and a certified copy of this resolution will be **SENT** to the Michigan Liquor Control Commission.

Yes: All-7

RESOLUTION #2004-02-080 AS ADOPTED:

(b) LaShish, Inc. (dba: LaShish)

Resolution #2004-02-080

Moved by Stine

Seconded by Howrylak

WHEREAS, The City Council of the City of Troy has reviewed the following infractions of liquor control codes and regulations and/or ordinances of the State of Michigan and/or the City of Troy respectively; and

WHEREAS, The City Council has given public notice that it will deliberate and determine whether to adopt a resolution to recommend to the Michigan Liquor Control Commission that the license not be renewed after a Public Hearing on Wednesday, February 18, 2004, for the following licensed establishment:

Name: LaShish, Inc. (dba: LaShish)
Address: 3720 Rochester Road
License No.: Class C (100797-2002)

and, having found violation for the following codes and/or regulations: SALE TO MINOR (Compliance Test) on October 28, 2003; and

WHEREAS, This Licensee had a prior violation dated August 16, 2001 – Sale to Minor (Compliance Test); and

WHEREAS, After due notice the Licensee was given opportunity to review these cited infractions, and opportunity to confront witnesses and/or statements by accusers while in the presence of this City Council, sitting as a hearing body on Wednesday, February 18, 2004;

NOW, THEREFORE, BE IT RESOLVED, By the City Council of the City of Troy, that after due notice, appropriate hearing and deliberations, and having made findings, it is recommended to the Michigan Liquor Control Commission that License Number 100797-2002 (Class C) in the name of LaShish, Inc. in the City of Troy, **BE RENEWED** with the **STIPULATION** that Licensee provide their form of an employee contract and all uncertified servers and/or servers with certificates older than six months will be TIPS or TAMS trained and Licensee will provide

documentation thereof to the Troy Police Department by March 30, 2004; and a certified copy of this resolution will be **SENT** to the Michigan Liquor Control Commission.

Yes: All-7

Vote on Amendment to Resolution #2004-02-080:

Resolution #2004-03-156
Moved by Eisenbacher
Seconded by Stine

RESOLVED, That the Resolutions #2004-02-079 will be **AMENDED** by **INSERTING** “which will include the provisions that patrons that appear to be under the age of 35 who are served alcohol will be required to provide valid identification providing that person to be 21 years of age or older” in the phrase “...**STIPULATION** that Licensee provide their form of an employee contract which will include the provisions that patrons that appear to be under the age of 35 who are served alcohol will be required to provide valid identification providing that person to be 21 years of age or older and all uncertified servers...”.

Yes: All-7

Vote on Amended Motion:

(a) LaShish, Inc. (dba: LaShish)

Resolution #2004-03-156 (a)
Moved by Stine
Seconded by Howrylak

WHEREAS, The City Council of the City of Troy has reviewed the following infractions of liquor control codes and regulations and/or ordinances of the State of Michigan and/or the City of Troy respectively; and

WHEREAS, The City Council has given public notice that it will deliberate and determine whether to adopt a resolution to recommend to the Michigan Liquor Control Commission that the license not be renewed after a Public Hearing on Wednesday, February 18, 2004, for the following licensed establishment:

Name: LaShish, Inc. (dba: LaShish)
Address: 3720 Rochester Road
License No.: Class C (100797-2002)

and, having found violation for the following codes and/or regulations: SALE TO MINOR (Compliance Test) on October 28, 2003; and

WHEREAS, This Licensee had a prior violation dated August 16, 2001 – Sale to Minor (Compliance Test); and

WHEREAS, After due notice the Licensee was given opportunity to review these cited infractions, and opportunity to confront witnesses and/or statements by accusers while in the presence of this City Council, sitting as a hearing body on Wednesday, February 18, 2004;

NOW, THEREFORE, BE IT RESOLVED, By the City Council of the City of Troy, that after due notice, appropriate hearing and deliberations, and having made findings, it is recommended to the Michigan Liquor Control Commission that License Number 100797-2002 (Class C) in the name of LaShish, Inc. in the City of Troy, **BE RENEWED** with the **STIPULATION** that Licensee provide their form of an employee contract which will include the provisions that patrons that appear to be under the age of 35 who are served alcohol will be required to provide valid identification providing that person to be 21 years of age or older and all uncertified servers and/or servers with certificates older than six months will be TIPS or TAMS trained and Licensee will provide documentation thereof to the Troy Police Department by March 30, 2004; and a certified copy of this resolution will be **SENT** to the Michigan Liquor Control Commission.

Yes: All-7

F-6 Change Order #1 for Water Main Abandonment on Crooks, Maple to Temple City – Contract No. 03-6

Resolution #2004-03-157

Moved by Beltramini

Seconded by Stine

RESOLVED, That Change Order No. 1 to Contract No. 03-6, - Crooks Road – Maple Road to Temple City, be **APPROVED** and Troelsen Excavating Company be **AUTHORIZED** to work at an estimated total cost of \$108,241.00; the approved contract amount is increased to \$373,251.00; and

BE IT FURTHER RESOLVED, That if additional work is required, such additional work is **AUTHORIZED** in an amount not to exceed 10% of the change order amount.

Yes: All-7

F-8 Reconsideration of City Manager Employment Agreement

Vote on Reconsideration of Resolution #2004-03-110a:

Resolution #2004-03-158

Motion by Beltramini

Seconded by Stine

RESOLVED, That Resolution #2004-03-110a be **RECONSIDERED**.

Yes: Broomfield, Eisenbacher, Lambert, Stine, Pryor, Beltramini

No: Howrylak

MOTION CARRIED

Proposed Resolution Regarding City Manager and City Attorney's Employment Agreements

Resolution
Motion by Pryor
Seconded by Stine

RESOLVED, That the City Manager's contract be **APPROVED** in the same form as the original contract with the **CONDITION** that the City Attorney's Employment Agreement will match the City Manager's Employment Agreement.

Proposed Substitute Resolution

Resolution
Motion by Beltramini
Seconded by Stine

RESOLVED, That the Resolution be **STRICKEN** in its entirety and **SUBSTITUTED** with "that the City Manager's 2000 Employment Agreement with the inclusion of the severance package and the additional compensation be executed as submitted.

The meeting **RECESSED** at 11:39 PM.

The meeting **RECONVENED** at 11:49 PM.

Vote on Resolution to Postpone

Resolution #2004-03-159
Motion by Eisenbacher
Seconded by Howrylak

RESOLVED, That the City Manager's Employment Agreement be **POSTPONED** to a future Study Session for further negotiations.

Yes: Eisenbacher, Howrylak, Lambert, Stine

No: Pryor, Beltramini, Broomfield

MOTION CARRIED**Vote on Resolution to Reconsider Resolution #2004-03-159**

Resolution #2004-03-160
Motion by Pryor
Seconded by Beltramini

RESOLVED, That Resolution #2004-03-159, Moved by Eisenbacher and Seconded by Howrylak postponing the City Manager's Employment Agreement to a future Study Session for further negotiations be **RECONSIDERED**.

Yes: Pryor, Beltramini, Broomfield, Eisenbacher

No: Howrylak, Lambert, Stine

MOTION FAILED

Vote on Resolution to Reconsider Resolution #2004-03-159

Resolution #2004-03-161

Motion by Pryor

Seconded by Howrylak

RESOLVED, That Resolution #2004-03-159, Moved by Eisenbacher and Seconded by Howrylak postponing the City Manager's Employment Agreement to a future Study Session for further negotiations be **RECONSIDERED**.

Yes: All-7

Vote on Substitute Resolution to Adopt City Manager Employment Agreement

Resolution #2004-03-162

Motion by Beltramini

Seconded by Broomfield

RESOLVED, That the salary of the City Manager **SHALL BE** \$133,786.00 per year **EFFECTIVE** January 1, 2004; and

BE IT FURTHER RESOLVED, That the City Manager **SHALL CONTINUE** to be included in the "exempt" classification and be provided the fringe benefits of this classification; and

BE IT FURTHER RESOLVED, That this resolution constitutes the employment agreement between the City Manager and the City of Troy; and

BE IT FINALLY RESOLVED, That the City Manager's Employment Agreement be **POSTPONED** to a future Study Session for further negotiations.

Yes: All-7

F-9 City Code – Chapter 60, Fees and Bonds – Notary Fees

Resolution #2004-03-163

Moved by Eisenbacher

Seconded by Beltramini

RESOLVED, That an ordinance amendment to Chapter 60, Sections 60.03 and 60.04 is hereby **ADOPTED** as recommended by City Management **SUBJECT** to fees charged to Troy Residents for the first notary act as no charge also apply to Troy Property Owners; a copy of this ordinance shall be **ATTACHED** to the original Minutes of this meeting

Yes: All-7

F-10 Kaftan Enterprises, Inc. v. City of Troy

Resolution #2004-03-164

Moved by Lambert

Seconded by Broomfield

RESOLVED, That the City of Troy City Council **APPROVES** the proposed release by Kaftan Enterprises, Inc., with regard to its claims in 52/4 District Course Case No. 03-C01103 GC and **AUTHORIZES** payment in the amounts stated therein and further **AUTHORIZES** the City Attorney to **EXECUTE** the stipulation for dismissal with prejudice; a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes: All-7

F-11 Story v. City of Troy

Resolution #2004-03-165

Moved by Eisenbacher

Seconded by Stine

RESOLVED, That the City Attorney is hereby **AUTHORIZED and DIRECTED** to represent the City of Troy in any and all claims and damages in the matter of Doris C. Story and Morris Story v. the City of Troy and to **RETAIN** any necessary expert witnesses to adequately represent the City.

Yes: All-7

COUNCIL COMMENTS/COUNCIL REFERRALS – No items referred.**REPORTS AND COMMUNICATIONS**

G-1 Minutes – Boards and Committees:

- (a) Animal Control Board/Final – November 19, 2003
- (b) Local Development Finance Authority/Final – December 1, 2003
- (c) Employees' Retirement System Board of Trustees/Final – December 10, 2003
- (d) Downtown Development Authority/Final – January 21, 2004
- (e) Youth Council/Final – January 21, 2004
- (f) Civil Service Commission (Act 78)/Final – January 22, 2004
- (g) Troy Daze/Final – January 27, 2004
- (h) Election Commission/Final – January 29, 2004
- (i) Planning Commission/Final – February 10, 2004
- (j) Advisory Committee for Persons with Disabilities/Draft – February 4, 2004
- (k) Advisory Committee for Persons with Disabilities/Final – February 4, 2004
- (l) Advisory Committee for Senior Citizens/Draft – February 5, 2004

- (m) Liquor Advisory Committee/Final – February 9, 2004
 - (n) Planning Commission/Draft – February 24, 2004
 - (o) Youth Council/Draft – February 25, 2004
 - (p) Election Commission/Draft – March 1, 2004
 - (q) Advisory Committee for Senior Citizens/Draft – March 4, 2004
Noted and Filed
-

G-2 Department Reports:

- (a) Permits Issued During the Month of February 2004
 - (b) Monthly Financial Report – February 29, 2004
Noted and Filed
-

G-3 Announcement of Public Hearings:

- (a) Commercial Vehicle Appeal – 2803 Rhodes – **SCHEDULED for March 22, 2004**
 - (b) Commercial Vehicle Appeal – 6640 John R – **SCHEDULED for March 22, 2004**
Noted and Filed
-

G-4 Green Memorandums:

- (a) Revisions to Chapter 97 Troy City Code – Coin Operated Amusement Devices and Arcades
Noted and Filed
-

G-5 Proclamations/Resolutions from Other Organizations:

- (a) City of Royal Oak – Resolution Endorsing Feasibility of a Metropark at the Michigan State Fairgrounds
 - (b) City of Walled Lake – Resolution Regarding a Moratorium on Detroit Water and Sewer Rate Increases
 - (c) City of Royal Oak – Resolution Regarding the Proposed “I-75 Widening Project”
Noted and Filed
-

G-6 Calendar

Noted and Filed

G-7 Letters of Appreciation:

- (a) Letter of Appreciation from Larry Harworth, Operations Manager and Larry Feld, Chief Mechanic – Huntington Woods Public Works Thanking Sam Lamerato for His Prompt Attention to Repairing One of Their Trucks
- (b) Letter of Appreciation from Judy Williams to Chief Craft Thanking Officer Josh Jones for Assisting Her With Her Flat Tire
- (c) Thank You Card from Chris and Rachel Joost Thanking the Police Department for its Contribution to the Successful Apprehension for Those Responsible for the Holiday Inn Shooting
- (d) Letter of Appreciation from Ronald P. Monache to Chief Craft Thanking Officer Russell Barrows for Assisting His Elderly Sister When She Experienced Car Trouble in Troy
- (e) Letter of Appreciation from Troy Athens Student Congress to Tom Rosewarne Thanking Him for Loaning Them City of Troy Construction Equipment for Their Conference, “*Constructing Leaders*”
- (f) News Article, Re: “*The 100 Best Fleets in North America*” – Utility Fleet Management
Noted and Filed

G-8 Memorandum, Re: Auction – Vehicle Sale on January 17, 2004 in St. Clair Michigan
Noted and Filed

G-9 Minutes – Construction Code Commission – Department of Labor & Economic Growth – Bureau of Construction Codes & Fire Safety, Re: Indicating that Mr. Gary Shripka is Vice-Chairman
Noted and Filed

G-10 Memorandum, Re: Inergy Automotive Systems v City of Troy
Noted and Filed

G-11 Memorandum, Re: Ad Hoc Joint Committee
Noted and Filed

G-12 Memorandum, Re: Authorized Server Training for Liquor Licensees
Noted and Filed

G-13 Memorandum, Re: Payment Method for Recreation Pass
Noted and Filed

G-14 Memorandum, Re: Code Enforcement Activities January 2003 to Date
Noted and Filed

G-15 Memorandum, Re: Bidcorp On-Line Auction – Test Computer Sale – Final Reporting
Noted and Filed

G-16 Memorandum, Re: Licensed Liquor Establishment Compliance Investigations
Noted and Filed

G-17 Memorandum, Re: Report on Water System Feasibility Study

Noted and Filed

PUBLIC COMMENT

STUDY ITEMS – No Study Items submitted

The meeting **ADJOURNED** on Tuesday, March 16, 2004 at 12:22 AM.

Matt Pryor, Mayor

Tonni L. Bartholomew, MMC - City Clerk

**PROCLAMATION
APRIL 2004 ALCOHOL AWARENESS MONTH**

WHEREAS, The students of Athens Safe Rides are hosting a week of activities to encourage students to make smart decisions regarding drugs and alcohol during spring break and throughout their lives; and

WHEREAS, The students of Athens Safe Rides volunteer to educate themselves and to provide teens with free, safe and confidential transportation home on Friday and Saturday nights during the school year; and

WHEREAS, The parents, Troy Police Department, businesses, government leaders, community organizations and schools have taken many positive steps to reduce underage drinking in the Troy community; and

WHEREAS, Alcohol is a major factor in the four leading causes of death among persons ages 10 – 24 as a result of motor vehicle crashes, unintentional injuries, homicide and suicide; and

WHEREAS, Alcohol is the most frequently used drug by high school seniors and young people begin drinking, on average, at 13.1 years of age; and

WHEREAS, Alcohol abuse is linked to as many as two-thirds of all sexual assaults and date rapes of teens and college students and is a major factor in unprotected sex among youth, which increases their risk of contracting HIV and other transmitted diseases;

NOW, THEREFORE, BE IT RESOLVED That the Troy City Council does hereby proclaim that **April 2004 is Alcohol Awareness Month** in the City of Troy, Michigan.

BE IT FURTHER RESOLVED that the Troy City Council calls upon all citizens, parents, youth, government agencies, businesses and workplaces, hospitals and schools in Troy to support efforts that will prevent underage drinking in our community.

Signed the 22nd day of March 2004

**PROCLAMATION
TROY HIGH SYMPHONIC BAND
PERFORMANCE AT CARNEGIE HALL**

WHEREAS, The **Troy High Symphonic Band** will be featured at the New York Spring Instrumental Music Festival at Carnegie Hall on April 3, 2004 presented by the Field Studies Center; and

WHEREAS, The **Troy High Symphonic Band** is one of only four bands nationwide selected for this music festival based on their outstanding audition performance tape; and

WHEREAS, Seventy-six members of the **Troy High Symphonic Band** will travel to New York City with their director Brian Nutting to perform at Carnegie Hall; and

WHEREAS, University of Kansas professor James Barnes will conduct the band's performance; Barnes wrote the music the band will play "Third Symphony, Opus 89;" and

WHEREAS, The composition, subtitled "Tragic Symphony" is a moving work based on Barnes' struggle with the death of his young daughter and the joyful birth of his son; under Barnes' conductorship, the band will strive to capture the exact movement and sound of this great work; and

WHEREAS, This once in a lifetime opportunity will allow Troy band members to perform on a world famous stage, Carnegie Hall, a venue that is synonymous with success, tradition and musical excellence; and

WHEREAS, The entire Troy community is proud of the **Troy High Symphonic Band** and wish them well as they represent Troy in New York City; and

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy congratulates the **Troy High Symphonic Band** for being chosen to perform at Carnegie Hall; and

BE IT FURTHER RESOLVED, That the City Council joins the citizens of this community in appreciation and celebration of the **Troy High Symphonic Band**.

Presented this 31st day of March 2004.

March 2004

March 2004							April 2004						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
	1	2	3	4	5	6					1	2	3
7	8	9	10	11	12	13	4	5	6	7	8	9	10
14	15	16	17	18	19	20	11	12	13	14	15	16	17
21	22	23	24	25	26	27	18	19	20	21	22	23	24
28	29	30	31				25	26	27	28	29	30	

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
March 1	2	3	4	5	6
7:00pm Election Commission (Conference Room D) 7:30pm City Council-Regular (Council Chambers) 7:30pm Tentative Study Session (Council Boardroom)	1:00pm Bd of Review (Conference Room D) 7:00pm Ethnic Issues Advisory Board (Conference Room C) 7:30pm Planning - Study (Council Boardroom)	7:00pm Persons w/Dis (Conference Room Lower Level) 7:30pm City Council-Liquor Violation Hearing (Council Chambers)	10:00am Senior Advisory (Community Center)		
8	9	10	11	12	13
9:00am Bd of Review (Conference Room D)	1:00pm Bd of Review (Conference Room D) 7:30pm Planning Commission - Reg (Council Chambers)	3:00pm ERS Meeting - Conf Room C (room has already been booked) (agenda)	7:30pm Library Adv (Library Conference Room) 7:30pm Parks and Recreation Bd (Community Center)		
15	16	17	18	19	20
7:30pm City Council-Regular (Council Chambers) 7:30pm Tentative Study Session (Council Boardroom)	7:30pm Historic District (Conference Room C)	7:30am DDA Meeting (Conference Room Lower Level)			
22	23	24	25	26	27
7:30pm City Council-Regular (Council Chambers)	7:30pm Planning-Study (Council Boardroom) 7:30pm Historical Commission (Troy Museum) 7:30pm Troy Daze (Community Center)	7:00pm Troy Youth (Conference Room Lower Level)			
29	30	31			
7:30pm City Council (Conference Room Lower Level)					

3/22 PH Comm. Veh. Appl. - 2803 Rhodes
 3/22 PH Comm. Veh. Appl. 6640 John R
 3/22 PH Comm. Veh. Appl. - 1918 Muer
 3/22 PH Parking Var. - 3614-3674 Rochester

April 2004

April 2004						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

May 2004						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
			April 1	2	3
			10:00am Senior Advisory (Community Center)		4
					5
5	6	7	8	9	10
Election - City General	10:00am Board of Canvassers (Conference Room D) 7:00pm Ethnic Issues Advisory Board (Conference Room C) 7:30pm Planning - Study (Council Boardroom)	7:00pm Persons w/Dis (Conference Room Lower Level)	7:30pm Library Adv (Library Conference Room) 7:30pm Parks and Recreation Bd (Community Center)		11
12	13	14	15	16	17
7:30pm City Council-Regular (Council Chambers) 7:30pm Tentative Study Session (Council Boardroom)	7:30pm Planning Commission - Reg (Council Chambers)	3:00pm ERS Meeting - Conf Room C (room has already been booked) (agenda)			18
19	20	21	22	23	24
7:30pm City Council-Regular (Council Chambers) 7:30pm Tentative Study Session (Council Boardroom)	7:30pm Historic District (Conference Room C)	7:30am DDA Meeting (Conference Room Lower Level)	7:00pm Cable Adv (Conference Room C)		25
26	27	28	29	30	
	7:30pm Planning-Study (Council Boardroom) 7:30pm Historical Commission (Troy Museum) 7:30pm Troy Daze (Community Center)	7:00pm Troy Youth (Conference Room Lower Level)			

3/22 PH Comm. Veh. Appl. - 2803 Rhodes
 3/22 PH Comm. Veh. Appl. 6640 John R
 3/22 PH Comm. Veh. Appl. - 1918 Muer
 3/22 PH Parking Var. - 3614-3674 Rochester

May 2004

May 2004							June 2004						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
						1			1	2	3	4	5
2	3	4	5	6	7	8	6	7	8	9	10	11	12
9	10	11	12	13	14	15	13	14	15	16	17	18	19
16	17	18	19	20	21	22	20	21	22	23	24	25	26
23	24	25	26	27	28	29	27	28	29	30			
30	31												

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
					May 1
					2
					3
7:30pm City Council-Regular (Council Chambers) 7:30pm Tentative Study Session (Council Boardroom)	7:00pm Ethnic Issues Advisory Board (Conference Room C) 7:30pm Planning - Study (Council Boardroom)	Precinct Delegate Filing Deadline- 7:00pm Persons w/Dis (Conference Room Lower Level)	10:00am Senior Advisory (Community Center)		8
					9
					10
7:30pm City Council-Regular (Council Chambers) 7:30pm Tentative Study Session (Council Boardroom)	7:30pm Planning Commission - Reg (Council Chambers)	3:00pm ERS Meeting - Conf Room C (room has already been booked) (agenda)	7:30pm Library Adv (Library Conference Room) 7:30pm Parks and Recreation Bd (Community Center)		15
					16
					17
	7:30pm Historic District (Conference Room C)	7:30am DDA Meeting (Conference Room Lower Level)			22
					23
					24
7:30pm City Council-Regular (Council Chambers)	7:30pm Planning-Study (Council Boardroom) 7:30pm Historical Commission (Troy Museum) 7:30pm Troy Daze	7:00pm Troy Youth (Conference Room Lower Level)			29
					30
					31

3/22 PH Comm. Veh. Appl.- 2803 Rhodes
 3/22 PH Comm. Veh. Appl. 6640 John R
 3/22 PH Comm. Veh. Appl. - 1918 Muer
 3/22 PH Parking Var. - 3614-3674 Rochester