

AGENDA

Special Meeting of the

**CITY COUNCIL
OF THE CITY OF TROY**

AUGUST 30, 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.

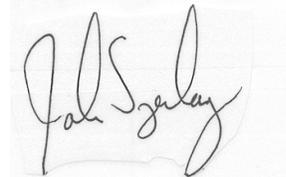
Identified below are goals for the City, which have been advanced by the governing body; and Agenda items submitted for your consideration is on course with these goals.

Goals

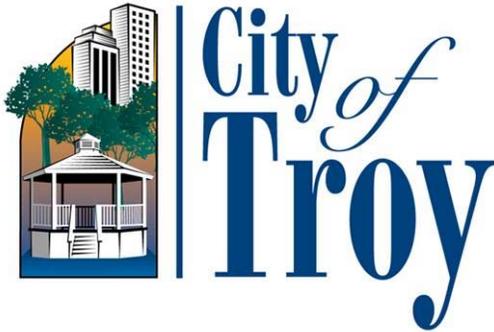
1. Minimize cost and increase efficiency of City government.
2. Retain and attract investment while encouraging redevelopment.
3. Effectively and professionally communicate internally and externally.
4. Creatively maintain and improve public infrastructure.
5. Protect life and property.

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 rectangular background.

John Szerlag, City Manager



CITY COUNCIL

AGENDA

AUGUST 30, 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: Mayor Pro Tem Beltramini 1

ROLL CALL: 1

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Improvement Project as an advisory ballot issue for the November 2004 election. Also attached are memoranda from City Management, and the City Attorney's Office related to this matter.

15

B-24 Memorandum, City Manager John Szerlag, Re: Meeting with Mr. Piscopo of 3129 Alpine regarding the size and elevation of attached garage. Also included is a memo from Assistant City Attorney Susan M. Lancaster indicating that public funds cannot be used to reduce the size of Mr. Piscopo's attached accessory structure. Resident communications are also attached.

15

B-25 E-Mail Correspondence Received from Victor Lenivov, Re: Traffic Model at I-75/Crooks/Long Lake Road – HRC Job No. 20040293.02 and Response from John Abraham – Deputy City Engineer/Traffic Engineer

15

PUBLIC COMMENT: Limited to Items Not on the Agenda

15

RECESSED

16

RECONVENED

16

ADJOURNMENT

16

CALL TO ORDER:**INVOCATION & PLEDGE OF ALLEGIANCE:** Mayor Pro Tem Beltramini**ROLL CALL:**

Mayor Louise E. Schilling
Robin Beltramini
Cristina Broomfield
David Eisenbacher
Martin F. Howrylak
David A. Lambert
Jeanne M. Stine

TABLED ITEM: Regular Business Items from the Regular Meeting of Monday, August 23, 2004

B-10 Preliminary Site Condominium Review – Proposed Timbercrest Estates Site Condominium – 11 Units/Lots Proposed, South Side of Wattles – West of Fernleigh – Section 24 – R-1CSuggested Resolution

Resolution #2004-08-

Moved by

Seconded by

RESOLVED, That the Preliminary Plan as submitted under Section 34.30.00 of the Zoning Ordinance (Unplatted One-Family Residential Development) for the development of a One-Family Residential Site Condominium known as Timbercrest Estates Site Condominium, as submitted and as recommended for approval by Planning Commission, located on the south side of Wattles, west of Fernleigh, including 11 home sites, within the R-1C zoning district, being 4 acres in size, is hereby **REMOVED FROM THE TABLE**.

Yes:

No:

Pending Resolution as Recommended by the Planning Commission

Resolution

Moved by Stine

Seconded by Lambert

RESOLVED, That the Preliminary Plan as submitted under Section 34.30.00 of the Zoning Ordinance (Unplatted One-Family Residential Development) for the development of a One-Family Residential Site Condominium known as Timbercrest Estates Site Condominium, as submitted and as recommended for approval by Planning Commission, located on the south side of Wattles, west of Fernleigh, including 11 home sites, within the R-1C zoning district, being 4 acres in size, is hereby **APPROVED**, with the following conditions, as **STIPULATED** by the Planning Commission in their resolution of July 13, 2004:

1. That the drainage of this property to the properties to the east that are developed, is engineered such that there are no water flows that create standing water in the properties to the east.
2. The tree survey lists a number of trees that are not the kind of trees the City of Troy wants, and those trees that do meet the requirement of being a good tree, on the property lines specifically, that every effort be made to do the underground utility work without cutting roots and maybe the recommendation would be not to do any rear yard underground utility work, but make it all down Timbercrest.
3. If there are trees to be destroyed, the item needs to come back to see how best the City and the petitioner can get together and save as many trees as possible.

Yes:

No:

CARRYOVER ITEMS: Regular Business Items from the Regular Meeting of Monday, August 23, 2004

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 section under item 12. "F" of the agenda. Other than asking questions for the purposes of gaining insight or clarification, Council shall not interrupt or debate with 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 item, unless so permitted by the Chair, in accordance with the Rules of Procedure of the City Council, Article 15, as amended May 3, 2004. 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.

B-11 Preliminary Site Condominium Review – Proposed Presidential Place Site Condominium – 5 Units/Lots Proposed, West Side of John R Road – North of Square Lake Road – Section 2 – R-1D

Suggested Resolution

Resolution #2004-08-

Moved by

Seconded by

(a) Proposed Resolution A as Recommended by City Management

RESOLVED, That the Preliminary Plan as submitted under Section 34.30.00 of the Zoning Ordinance (Unplatted One-Family Residential Development) for the development of a One-Family Residential Site Condominium known as Presidential Place Site Condominium, as submitted, and as recommended for approval by City Management, located on the west side of

John R Road, north of Square Lake Road, including 5 home sites, within the R-1D zoning district, being 2.236 acres in size, is hereby **APPROVED**.

OR

(b) Proposed Resolution B as Recommended by the Planning Commission

RESOLVED, That the Preliminary Plan as submitted under Section 34.30.00 of the Zoning Ordinance (Unplatted One-Family Residential Development) for the development of a One-Family Residential Site Condominium known as Presidential Place Site Condominium, as submitted, and as recommended for approval by the Planning Commission, located on the west side of John R Road, north of Square Lake Road, including 5 home sites, within the R-1D zoning district, being 2.236 acres in size, is hereby **APPROVED** with the **FOLLOWING CONDITIONS**, as stipulated by the Planning Commission in their resolution of July 13, 2004:

1. The petitioner obtain an MDEQ Wetlands Permit or Jurisdictional Wetland Determination Document stating authoritative status, prior to Final Approval.
2. That all existing illegal trees on the property will be removed.
3. That the design recommendations provide that the petitioner will duly note all drainage concern for neighboring properties and plan for adequate drainage.

Yes:

No:

B-1 Appointments to Boards and Committees: (a) Mayoral Appointments: 1. Downtown Development Authority, 2. Economic Development Corporation; (b) City Council Appointments: 1. Advisory Committee for Persons with Disabilities, 2. Parks and Recreation Board

The appointment of new members to all of the listed board and committee vacancies will require only one motion and vote by City Council. Council members submit recommendations for appointment. When the number of submitted names exceed the number of positions to be filled, a separate motion and roll call vote will be required (current process of appointing). Any board or commission with remaining vacancies will automatically be carried over to the next Regular City Council Meeting Agenda.

The following boards and committees have expiring terms and/or vacancies. Bold red lines indicate the number of appointments required:

(a) Mayoral Appointments

Suggested Resolution

Resolution #2004-08-

Moved by

Seconded by

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

Downtown Development Authority

Mayor, Council Approval (13) – 4 years

Marc W Rosenow resigned due to employment Unexpired term expires 09-30-2007

Term expires 07-01-2005 (Student)

CURRENT MEMBERS

NAME	TERM EXPIRES
Culpepper, Michael W	09/30/04
Frankel, Stuart	09/30/07
Hodges, Michele	09/30/05
Kennis, William	09/30/06
Kiriluk, Alan M	09/30/04
York, Thomas	09/30/04
MacLeish, Daniel	09/30/05
Price, Carol	09/30/07
Reschke, Ernest C	09/30/06
Rosenow, Marc W (Resigned)	09/30/07
Schroeder, Douglas J	09/30/06
Weiss, Harvey	09/30/05
Schilling, Louise E	09/30/04
Wong, Fred (Student)	07/01/04

INTERESTED APPLICANTS

NAME	DATE APPLIED	DATE SENT TO COUNCIL
Baughman, Deborah L	03/29/01-06/18/01- 05/2003	04/09/01-07/09/01
Bloom, Jerry E	03/08/04-03/2006	04/12/04
Brod bine, Anju C	08/13/02-08/2004	08/19/02
Calice, Mark A	06/01/1997	
Elenbaum, Anita	04/17/02-04/2004	04/22/02
Hay, David R	07/19/04-07/2006	08/23/04
Howrylak, Frank J	04/05/01-06/11/03- 05/2005	04/09/01-06/16/03
Hyun, Yul Woong (Jeff)	09/26/03-09/2005	10/06/03
Huber, Laurie G	06/18/01-05/2003	07/09/01
Keisling, Laurence G	04/29/04-04/2006	05/03/04
O'Brien, Michael	07/28/03-07/2005	08/04/03
Petrulis, Al	02/11/03-02/2005	02/17/03
Pritzloff, Mark	04/17/03-04/2005	04/28/03
Schultz, Robert M	06/19/01-06/2003	01/22/01-07/09/01
Shah, Jayshree	08/28/01-01/12/04- 04/23/04-04/2006	09/17/01-02/02/04-05/03/04
Shier, Frank	02/18/03-02/2005	03/03/03
Shiner, Mary E	11/28/01-11/2003	12/09/01

Silver, Neil S	08/11/00-06/20/01- 06/09/03-05/2005	08/21/00-07/09/01
Smits, Beatrice G	12/02/03-12/2005	12/15/03
Victor, Robert	06/03/03-05/2005	06/16/03
Wilberding, Bruce J	08/05/99-06/17/03- 03/10/04-03/2006	04/12/04
Wright, Wayne C	01/07/99-06/18/03- 06/2005	
Yousif, Gary	11/24/03-11/2005	01/05/04

INTERESTED STUDENT APPLICANTS

NAME	DATE APPLIED	DATE SENT TO COUNCIL
None on file		

Economic Development Corporation

Mayor, Council Approval (9) – 6 years

Term expires 04-30-2009

CURRENT MEMBERS

NAME	TERM EXPIRES
Bluhm, Kenneth	04/30/06
Gigliotti, Robert S	04/30/08
Licari, Leger (Nino)	04/30/10
Parker, Michael	04/30/07
Hoef, Paul V.	04/30/09
Rocchio, James A.	04/30/03
Salgat, Charles	04/30/10
Sharp, John	04/30/09
Smith, Douglas	04/30/05

INTERESTED APPLICANTS

NAME	DATE APPLIED	DATE SENT TO COUNCIL
Almassian, Carolyn	04/22/02-04/2004	05/06/02
Baptista, Michael	05/02/03-05/2005	06/02/03
Baughman, Deborah L	06/18/01-05/2003	07/09/01
Chang, Jouky	10/02/01-10/2003	10/15/01
Courtney, Kenneth	03/12/04-03/2006	03/15/04
Hoef, Paul V	09/12/01-08/14/02-08/2004	09/17/01
Hyun, Yul Woong (Jeff)	09/26/03-09/2005	10/06/03
Lang, Victoria	06/16/03-06/2005	07/07/03
Pritzloff, Mark	04/17/03-04/2003	04/28/03
Shah, Jayshree	08/28/01-04/16/04-04/2006	09/17/01-05/03/04
Silver, Neil S	08/11/00-06/20/01-05/2003	08/21/00-07/09/01
Smits, Beatrice	12/02/03-12/2005	12/15/03
Victor, Robert	06/03/03-05/2005	06/16/03

Wilberding, Bruce	06/17/03-06/2005	07/07/03
Wright, Wayne	06/18/03-06/2005	07/07/03

Yes:

No:

(b) City Council Appointments

Suggested Resolution

Resolution #2004-08-

Moved by

Seconded by

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

Advisory Committee for Persons with Disabilities

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

Term expires 07-01-2005 (Student)

CURRENT MEMBERS

NAME	TERM EXPIRES
Susan Robosan-Burt	11/01/06
Angela Done	11/01/05
Nancy Johnson	11/01/06
Leonard G. Bertin	11/01/05
Pauline Manetta	11/01/06
Dick Kuschinsky	11/01/04
Theodora House	11/01/06
Grace Yau (Student)	11/01/04
Dorothy Ann Pietron	11/01/04
Nada Raheb (Student)	07/01/03
Mark Pritzloff	11/01/06
Cynthia Buchanan	11/01/04
Kul B. Gauri	11/01/05
Adam Fuhrman	11/01/06

INTERESTED STUDENT APPLICANTS

NAME	DATE APPLIED	DATE SENT TO COUNCIL
Anbereen Wiqar	09/10/04	08/23/04

Parks and Recreation Board

Appointed by Council (10) 3 years

Term expires 07-01-2005 (Student)

CURRENT MEMBERS

NAME	TERM EXPIRES
Bordas, Douglas M	09/30/05
Dixon, Merrill W (Sr Rep)	09/30/06
Edmunds, Ida (School Rep)	07/31/05
Fejes, Kathleen M	09/30/04
Redpath, Stuart	09/30/06
Kaltsounis, Orestes (Rusty)	09/30/06
Kerns, Amy (Student)	07/01/04
Krent, Tom	09/30/04
Kovacs, Meaghan	09/30/05
Stewart, Jeffrey (Troy Daze Rep)	09/30/06
Zikakis, Janice C	09/30/05
Anderson, Carol	(Ex-officio)

INTERESTED STUDENT APPLICANTS

NAME	DATE APPLIED	DATE SENT TO COUNCIL
Henson, Brad	12/01/03	08/23/04

Yes:

No:

B-2 Request for Approval of Purchase Agreement, Helen A. Kaleto also known as Helen A. Rychlewski – 2839 Thames – Sidwell #88-20-25-226-005 – Big Beaver, Rochester to Dequindre Road Project #01-105.5

Suggested Resolution

Resolution #2004-08-

Moved by

Seconded by

RESOLVED, That the Agreement to Purchase with conditions between Helen A. Kaleto also known as Helen A. Rychlewski and the City of Troy, having Sidwell #88-20-25-226-005, for the acquisition of property at 2839 Thames is hereby **APPROVED**; and

BE IT FURTHER RESOLVED, That authorization is hereby **GRANTED** to purchase the property in the Agreement referenced above in the amount of \$210,000.00 plus closing costs.

Yes:

No:

B-3 Community Development Block Grant Status Change from Metropolitan City to Urban County

Suggested Resolution

Resolution #2004-08-

Moved by

Seconded by

WHEREAS, In 1975, the U.S. Department of Housing and Urban Development (HUD) designated the County of Oakland (County) as an "Urban County" for the purpose of administering federal grants including the Community Development Block Grant (CDBG) program on behalf of local communities with populations less than 50,000.

WHEREAS, In 1975, the City of Troy (City) entered into a cooperative agreement with the County to join the Urban County program.

WHEREAS, In 1980, the City population exceeded 50,000 and HUD recognized Troy as a Metropolitan City.

WHEREAS, In 1982, HUD approached the City and presented the options that the City could consider to receive CDBG funding as a Metropolitan City.

WHEREAS, The City selected to keep its Metropolitan City status and sign a joint agreement with the County to continue under the Urban County administration.

WHEREAS, The City's Metropolitan City designation under joint agreement with the County adversely affects the ability to access additional federal HOME Investment Partnerships (HOME) program resources to serve the housing needs of the City's low and moderate income residents.

WHEREAS, The lack of additional HOME program resources results in the City's loss of seven Home Improvement Program loan opportunities annually.

WHEREAS, The loss of Home Improvement Program activity impedes revitalization efforts in the City's low and moderate income neighborhoods.

WHEREAS, The County has requested that the City relinquish its Metropolitan City designation and be incorporated in the Urban County program.

WHEREAS, The inclusion of the City as part of the urban county will allow the county to qualify as a participating jurisdiction to receive additional HOME funds and benefit the City's low and moderate income residents beginning in Program Year 2005.

NOW, THEREFORE, BE IT RESOLVED, That the City of Troy **REQUESTS TO RELINQUISH** its Metropolitan City status, terminate the joint agreement with Oakland County per 24 CFR 570.308 and be incorporated into the Urban County program thereby allowing HUD to allocate HOME funds to Oakland County in the City's behalf; and

BE IT FURTHER RESOLVED, That the City **REQUESTS** HUD to waive the three-year period requirement per 24 CFR 570.5 to allocate HOME funds to Oakland County for Home Improvements in the City of Troy beginning in Program Year 2005.

Yes:

No:

B-4 Street Vacation Application (SV-185) – South 149.26 feet of Beach Road, South of Hampton Lane within Wendover Woods Subdivision No. 2 – Section 19

Suggested Resolution

Resolution #2004-08-

Moved by

Seconded by

WHEREAS, A request has been received for the vacation of a portion of the 43-foot-wide platted Beach Road Street right-of-way, benefiting sidwell # 20-19-379-003, 2411 Hampton; further described as:

Part of Beach Road as recorded in “Wendover Woods Subdivision No. 2”, Liber 104, Page 38-39, of Oakland County, Michigan records. That part of Beach Road being 43.00 feet wide extending from the north lot line of Lot 53 extended east to the south lot line of Lot 53 extended east of said “Wendover Woods Subdivision No. 2” being more particularly described as beginning at the southeast corner of said Lot 53; thence North 00 degrees 26 minutes 20 seconds East, along the east line of said lot, 149.26 feet to the northeast corner of Lot 53 and the south line of Hampton Lane; thence South 89 degrees 33 minutes 40 seconds East, along said south line extended easterly, 43.00 feet to the east line of said “Wendover Woods Subdivision No. 2”; thence South 00 degrees 26 minutes 20 seconds West, along said east line, 149.66 feet to the south line of said plat; thence North 89 degrees 01 minutes 51 seconds West, along said south line, 43.00 feet to the southeast corner of said Lot 53 and the point of beginning. Said road vacation is approximately 149 feet in length.

NOW, THEREFORE, BE IT RESOLVED, That the request for vacation of that portion of the 43-foot-wide platted Beach Road Street right-of-way, extending south 149 feet from Hampton Lane, and abutting lot 53 of Wendover Woods Subdivision No. 2, be **GRANTED**, subject to the retention of an easement for public utilities over the eastern 15 feet of the right-of-way, further described as:

Part of Vacated Beach Road as recorded in “Wendover Woods Subdivision No. 2”, Liber 104, Page 38-39, of Oakland County, Michigan records. Beginning at the southeast corner of Lot 53 of said “Wendover Woods Subdivision No. 2”; thence North 00 degrees 26 minutes 20 seconds East, along the east line of said lot, 149.26 feet to the northeast corner of Lot 53 and the south line of Hampton Lane; thence South 89 degrees 33 minutes 40 seconds East, along said south line extended easterly, 15.00 feet; thence South 00 degrees 26 minutes 20 seconds West, parallel to the east line of Lot 53, 149.40 feet to the south line of said plat; thence North 89 degrees 01 minutes 51 seconds West, along said south line, 15.00 feet to the southeast corner of said Lot 53 and the point of beginning. Containing 2,240 Square Feet or 0.051 Acres more or less.

BE IT FINALLY RESOLVED, The City Clerk shall **FORWARD AND RECORD** said vacation resolution in accordance with Sections 256 and 257 of Act 288 of Michigan Public Acts of 1967, as amended.

Yes:

No:

B-5 Request for Approval of Agreement to Purchase Right-of-Way to the 75-foot Line for Sidewalk – 6130 Rochester Road – Section 2 – Sidewalk Gap – Owner: John Stewart

Suggested Resolution

Resolution #2004-08-

Moved by

Seconded by

RESOLVED, That the Agreement to Purchase with conditions between John Stewart and the City of Troy to purchase right-of-way in fee to the 75 foot line at 6130 Rochester Road, Sidwell #88-20-02-301-004 is hereby **APPROVED**; and

BE IT FURTHER RESOLVED, That **AUTHORIZATION IS HEREBY GRANTED** to purchase the property in the Agreement referenced above in the amount of \$39,619.59, plus closing costs.

Yes:

No:

B-6 Emerald Food Services, Inc.: Proposed Contract and Amendment Executions and Request for Quota Class C Liquor License

Suggested Resolution

Resolution #2004-08-

Moved by

Seconded by

WHEREAS, On April 12, 2004, a contract was approved for one year with two additional one-year options for food service at Sanctuary Lake Golf Course to the bidder with the highest score and overall return as the result of a best value process, Emerald Food Service, Inc. (Resolution #2004-04-186).

WHEREAS, The award included a combined revenue sharing plan with the Community Center Café Operation.

WHEREAS, The expiration dates of both contracts should coincide and staff recommends having both contracts expire one year after commencement of the food service operation at the golf course with either two additional one-year options to renew or additional two-year options to be determined at the end of the first year of operation.

WHEREAS, An integral requirement of the contract for Sanctuary Lake Golf Course includes application of Emerald Food Service, Inc. for a new Quota Class C Liquor License which has occurred.

WHEREAS, The Liquor Advisory Committee recommends the application for a new Quota Class C Liquor License pursuant to the meeting held on August 9, 2004 and a background investigation of the applicant by the Troy Police Department revealed no criminal activity or disqualifying factors.

(a1) Execution of Sanctuary Lake Golf Course Food and Beverage Service Contract

NOW, THEREFORE, BE IT RESOLVED, That the food and beverage service contract for Sanctuary Lake Golf Course with Emerald Food Service, Inc. is hereby **APPROVED** and the Mayor and City Clerk are hereby **AUTHORIZED TO EXECUTE** the documents; a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

(a2) Execution of the Third Amendment of the Agreement for the Community Center Café/Pro Shop

BE IT RESOLVED, That the third amendment of the Agreement for the Community Center Café/Pro Shop with Emerald Food Service, Inc. is hereby **APPROVED** and the Mayor and City Clerk are hereby **AUTHORIZED TO EXECUTE** the documents; a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

(b) New License

BE IT RESOLVED, That the request from Emerald Food Service, Inc. for a new Quota Class C Licensed Business with Sunday Sales, Official Permit (food) and Outdoor Service Area, located at 1450 E. South Blvd. – Troy, MI 48085 – Oakland County, “above all others”; be considered for approval. It is the consensus of this legislative body that the application be **RECOMMENDED** “above all others” for issuance; and

(c) Agreement

BE IT FURTHER RESOLVED, That the City Council of the City of Troy **DEEMS IT NECESSARY** to enter agreements with applicants for liquor licenses for the purpose of providing civil remedies to the City of Troy in the event licensees fail to adhere to City of Troy Codes and Ordinances; and

NOW, THEREFORE, BE IT FINALLY RESOLVED, That the City Council of the City of Troy hereby **APPROVES** an agreement with Emerald Food Service, Inc., which shall become **EFFECTIVE** upon approval of the request for a new Quota Class C Licensed Business with Sunday Sales, Official Permit (food), and Outdoor Service Area, “above all others”, located at 1450 E. South Blvd, - Troy, MI; and the Mayor and City Clerk are authorized to **EXECUTE THE DOCUMENT**; a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes:

No:

B-7 Request for Approval of Purchase Agreement for Maple Road/Coolidge to Crooks Water Main and Sidewalk Project #01.501.5 – McGregor Manufacturing Corporation – 2785 West Maple – Sidwell #88-20-32-126-001

Suggested Resolution

Resolution #2004-08-

Moved by

Seconded by

RESOLVED, That the Agreement to Purchase between the City of Troy and McGregor Manufacturing Corporation, having Sidwell #88-20-32-126-001 for acquisition of right-of-way at 2785 West Maple is hereby **APPROVED**; and

BE IT FURTHER RESOLVED, That **AUTHORIZATION IS HEREBY GRANTED** to purchase the property in the Agreement referenced above in the amount of \$132,900.00 plus closing costs.

Yes:

No:

B-8 Request for Approval of Purchase Agreement for Thien Van Le & Yen Lu, - 2919 Thames – Sidwell #88-20-25-229-002 – Project No. 01.105.5 – Big Beaver Road Improvements – Rochester to Dequindre

Suggested Resolution

Resolution #2004-08-

Moved by

Seconded by

RESOLVED, That the Agreement to Purchase between Thien Van Le and Yen Lu and the City of Troy, having Sidwell #88-20-25-229-002, for the acquisition of property at 2919 Thames is hereby **APPROVED**; and

BE IT FURTHER RESOLVED, That **AUTHORIZATION IS HEREBY GRANTED** to purchase the property in the Agreement referenced above in the amount of \$173,000.00, plus closing costs.

Yes:

No:

B-9 Request for Approval of Purchase Agreement for Paul K. Davis – 2955 Sparta – Sidwell #88-20-25-202-001 – Project No. 01.105.5 – Big Beaver Road Improvements – Rochester to Dequindre

Suggested Resolution

Resolution #2004-08-

Moved by

Seconded by

RESOLVED, That the Agreement to Purchase between Paul K. Davis and the City of Troy, having Sidwell #88-20-25-202-001, for the acquisition of property at 2919 Thames is hereby **APPROVED**; and

BE IT FURTHER RESOLVED, That **AUTHORIZATION IS HEREBY GRANTED** to purchase the property in the Agreement referenced above in the amount of \$170,000.00, plus closing costs.

Yes:
No:

B-12 Request to Schedule a Study Session to Discuss Neighborhood Compatibility Issues

Suggested Resolution
Resolution #2004-08-
Moved by
Seconded by

RESOLVED, That a Study Session is **SCHEDULED** for Tuesday, September 14, 2004 at 7:30 PM in the Council Board Room of Troy City Hall – 500 W. Big Beaver – Troy, Michigan 48084 to discuss Neighborhood Compatibility Issues.

Yes:
No:

B-13 Confirmation of Appointment; Mr. Brian Murphy as Assistant City Manager/Services

Suggested Resolution
Resolution #2004-08-
Moved by
Seconded by

RESOLVED, That the appointment by the City Manager of Mr. Brian Murphy as Assistant City Manager/Services of the City of Troy is hereby **CONFIRMED**.

Yes:
No:

B-14 Sole Source – Purchase of Opticom Emitters for Emergency Vehicles

Suggested Resolution
Resolution #2004-08-
Moved by
Seconded by

WHEREAS, Carrier and Gable, Inc. is the sole provider of 3M Opticom equipment in Michigan.

WHEREAS, It is necessary to upgrade the system to eliminate potential unauthorized preemption of traffic signals.

WHEREAS, To effect the change to a coded system, it is necessary to replace the assorted emitters on Fire and MFR vehicles.

NOW, THEREFORE, BE IT RESOLVED, That the City of Troy is **AUTHORIZED TO PURCHASE** forty-five (45) Opticom emitters from Carrier and Gable, Inc. at an estimated total cost of \$31,950.00 which includes trade-ins.

Yes:

No:

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

B-15 Green Memorandums:

- (a) Memorandum, Re: Municipal Civil Infractions Ordinance
- (b) Memorandum, Re: Group Day Care Homes

REPORTS:

B-16 Minutes – Boards and Committees:

- (a) Civil Service Commission (Act 78)/Final – February 26, 2004
- (b) Advisory Committee for Persons with Disabilities/Draft – June 2, 2004
- (c) Advisory Committee for Persons with Disabilities/Final – June 2, 2004
- (d) Liquor Advisory Committee/Final – June 14, 2004
- (e) Troy Daze Advisory Committee/Final – June 22, 2004
- (f) Historic Study Committee/Draft – June 29, 2004
- (g) Planning Commission-Special/Final – July 8, 2004
- (h) Planning Commission/Final – July 13, 2004
- (i) Employees' Retirement System Board of Trustees/Final – July 14, 2004
- (j) Board of Zoning Appeals/Draft – July 20, 2004
- (k) Historic Study Committee/Draft – July 26, 2004
- (l) Planning Commission-6:00 PM-Special/Final – July 27, 2004
- (m) Planning Commission-7:30 PM-Special/Final – July 27, 2004
- (n) Troy Daze Advisory Committee/Draft – July 27, 2004
- (o) Building Code Board of Appeals/Draft – August 4, 2004

- (p) Liquor Advisory Committee/Draft – August 9, 2004
- (q) Civil Service Commission (Act 78)/Draft – August 10, 2004
- (r) Employees' Retirement System Board of Trustees/Draft – August 11, 2004

B-17 Department Reports:

- (a) Permits Issued During the Month of July 2004
- (b) Troy Medi-Go Plus – 2003 Annual Report/Newsletter
- (c) Letter from Martha W. Northrup to Troy City Council Re: Wood Fires in the City of Troy
- (d) Memorandum, Re: Political Sign Ordinance – Chapter 85-A of the Troy City Code

B-18 Letters of Appreciation:

- (a) Letter from Gus Chutorash, Director of Camping for the Detroit Area Council, Boy Scouts of America to John Szerlag Recognizing Mark Stimac for His Contribution to the Boy Scouts
- (b) Letter from Michael Drapeau to Chief Craft Thanking Sgt. Robert Redmond and the Traffic Safety Division, and John Abraham for Their Response to His Speeding Concerns in His Neighborhood
- (c) Letter from Barnett Jones, Chief of Police for the City of Sterling Heights to Chief Craft in Appreciation of the Tireless Assistance the Troy Police Department Provided in the Aftermath of the Tragic Death of Officer Mark Sawyers

B-19 Calendar

B-20 Memorandum, Re: Status of Section 23 (Raintree Village No. 1) Pavement Replacement Project – Contract 04-4

B-21 Memorandum, Re: Update-Somerset Collection Ryder Cup Charity Event

B-22 Memorandum, Re: 2005 City Calendar

B-23 Attached is a communication from Mrs. Mary Ann Bernardi requesting that City Council place the issue of the proposed I-75/Crooks Road/Long Lake Interchange Improvement Project as an advisory ballot issue for the November 2004 election. Also attached are memoranda from City Management, and the City Attorney's Office related to this matter.

B-24 Memorandum, City Manager John Szerlag, Re: Meeting with Mr. Piscopo of 3129 Alpine regarding the size and elevation of attached garage. Also included is a memo from Assistant City Attorney Susan M. Lancaster indicating that public funds cannot be used to reduce the size of Mr. Piscopo's attached accessory structure. Resident communications are also attached.

B-25 E-Mail Correspondence Received from Victor Lenivov, Re: Traffic Model at I-75/Crooks/Long Lake Road – HRC Job No. 20040293.02 and Response from John Abraham – Deputy City Engineer/Traffic Engineer

PUBLIC COMMENT: Limited to Items Not on the Agenda

Public comment is limited to not more than twice nor longer than five (5) minutes on any item, unless so permitted by the Chair, in accordance with the Rules of Procedure of the City Council, Article 15, as amended May 3, 2004. City Council requests that if you do have a question or concern, to bring it to the attention of the appropriate department(s) whenever possible. If you feel that the matter has not been resolved satisfactorily, you are encouraged to bring it to the attention of the City Manager, and if still not resolved satisfactorily, to the Mayor and Council.

RECESSED

RECONVENED

ADJOURNMENT

Respectfully submitted,

John Szerlag, City Manager

August 16, 2004

TO: John Szerlag, City Manager

FROM: Steven J. Vandette, Acting Assistant City Manager/Services
Douglas J. Smith, Real Estate & Development Director
William J. Huotari, Acting City Engineer
Mark F. Miller, Planning Director

SUBJECT: PRELIMINARY SITE CONDOMINIUM REVIEW – Proposed Timbercrest Estates Site Condominium, 11 units/lots proposed, South side of Wattles, West of Fernleigh, Section 24 – R-1C

RECOMMENDATION

At the July 13, 2004 Planning Commission Regular Meeting, the Planning Commission adopted the following resolution and conditions:

Resolution # PC-2004-07-075

Moved by: Chamberlain
Seconded by: Schultz

RESOLVED, That the Planning Commission recommends to City Council, that the Preliminary Site Plan (Section 34.30.00 Unplatted One-Family Residential Development), as requested for Timbercrest Estates Site Condominium, including 11 units, located south of Wattles Road and west of Fernleigh Road, Section 24, within the R-1C zoning district be granted, subject to the following conditions:

1. That an adjacent property plat layout for the properties to the south and to the west be on file at the Planning Department before the item goes to City Council.
2. That the drainage of this property to the properties to the east that are developed is engineered such that there are no water flows that create standing water in the properties to the east.
3. The tree survey lists a number of trees that are not the kind of trees the City of Troy wants, and those trees that do meet the requirement of being a good tree, on the property lines specifically, that every effort be made to do the underground utility work without cutting roots and maybe the recommendation would be not to do any rear yard underground utility work, but make it all down Timbercrest.
4. If there are trees to be destroyed, the item needs to come back to see how best the City and the petitioner can get together and save as many trees as possible.

Yes: All present (6)
No: None
Absent: Drake-Batts, Khan, Wright

MOTION CARRIED

The Planning Department has prepared a potential layout for the abutting property to the south and west, as stipulated in condition #1. The potential impact of drainage on abutting properties, as stipulated in condition #2, will be reviewed by the Engineering Department prior to Final Engineering Approval. The Landscape Analyst has reviewed and approved a Tree Preservation Plan, which indicates the trees to be preserved and the trees that will remain on site. The Tree Preservation Plan is not consistent with conditions #3 and #4 but meets all City standards. City Management recommends approval of the Preliminary Site Condominium Plan as submitted. Two resolutions have been provided to City Council for consideration, Resolution A (as recommended by City Management) and Resolution B (as recommended by Planning Commission).

GENERAL INFORMATION

Name of Owner / Applicant:

The owners are Benjamin Gill and Omar Ammori. The engineer is Beckman Wehbe Corporation.

Location of subject property:

The property is located on the south side of Wattles, west of Fernleigh, in Section 24.

Size of subject parcel:

The parcel is approximately 4 acres in area.

Description of proposed development:

The applicant is proposing to develop an 11-unit site condominium.

The applicant submitted an alternative layout at the request of the Planning Department. In this layout, the road ends in a cul-de-sac rather than a stub street. This layout yields 10 units. The Planning Department recognizes the potential for future development on parcels to the south, and prefers a stub road that could be extended in the future.

Current use of subject property:

A single family residence presently sits on the parcel.

Current use of adjacent parcels:

North: Single family residential.

South: Single family residential.

East: Single family residential.

West: Single family residential.

Current zoning classification:

The property is currently zoned R-1C One Family Residential.

Zoning classification of adjacent parcels:

North: R-1C One Family Residential.

South: R-1C One Family Residential.

East: R-1C One Family Residential.

West: R-1C One Family Residential.

Future Land Use Designation:

The property is designated on the Future Land Use Plan as Low Density Residential.

ANALYSIS

Compliance with area and bulk requirements:

Lot Area: 10,500 square feet is required. The application meets this requirement.

Lot Width: 85 feet. The application meets this requirement.

Height: 2 stories or 25 feet. The application will be required to meet this requirement.

Setbacks: Front: 30 feet. The application meets this requirement.
Side (least one): 10 feet. The application meets this requirement.
Side (total two): 20 feet. The application meets this requirement.
Rear: 40 feet. The application meets this requirement.

Minimum Floor Area: 1,200 square feet. The application will be required to meet this requirement.

Maximum Lot Coverage: 30%. The application will be required to meet this requirement.

The applicant meets the area and bulk requirements of the R-1C One Family Residential District.

Off-street parking and loading requirements:

The applicant will be required to provide 2 off-street parking spaces per unit.

Environmental provisions, including Tree Preservation Plan:

A Tree Preservation Plan was submitted and approved.

Stormwater detention:

The applicant is proposing to construct a detention basin in the northwest corner of the property, just north of Unit 11.

Natural features and floodplains:

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

Subdivision Control Ordinance, Article IV Design Standards

Blocks: The applicant is proposing a simple street layout that will stub at the southern property line.

Lots: There are 11 lots proposed for the development.

Topographic Conditions: The topography is relatively flat, with some trees on the property. The wetland report completed by King & MacGregor Environmental Inc. on May 13, 2004 states that there are six separate wetland areas (non-regulated) ranging in size from 700 to 10,000 square feet. The total area of wetland is estimated to be approximately 16,000 square feet.

Streets: The applicant is proposing a 28-foot wide street within a 60-foot wide right-of-way. The street will be stubbed at the southern property line.

Sidewalks: The applicant is proposing a 5-foot wide sidewalk along both sides of the proposed street and an 8-foot wide sidewalk on the south side of Wattles Road.

Utilities: The property will be served with public water and sewer.

DEPARTMENTAL REVIEW

The following is a summary of comments generated during the City of Troy Departmental Review process:

Building Department

There is a requirement for an 8-foot wide sidewalk on Wattles (this has been provided).

Engineering Department

No floodplain or wetlands. Sanitary, water and storm all available on Wattles to provide service. Provide 8' wide sidewalk along Wattles. Passing lane per Traffic Engineer.

Environmental Specialist

No wetlands or floodplain issues.

Department of Public Works

No floodplain or woodland issues. No brownfield issues. Rear yard drains will be required in yards.

Fire Department

OK.

Transportation Engineer

If there are plans to continue development, a passing lane will be required.

Parks and Recreation Department

Tree Preservation Plan approved.

Road Commission of Oakland County

There is no work proposed in public right-of-way under the jurisdiction of the Road Commission for Oakland County.

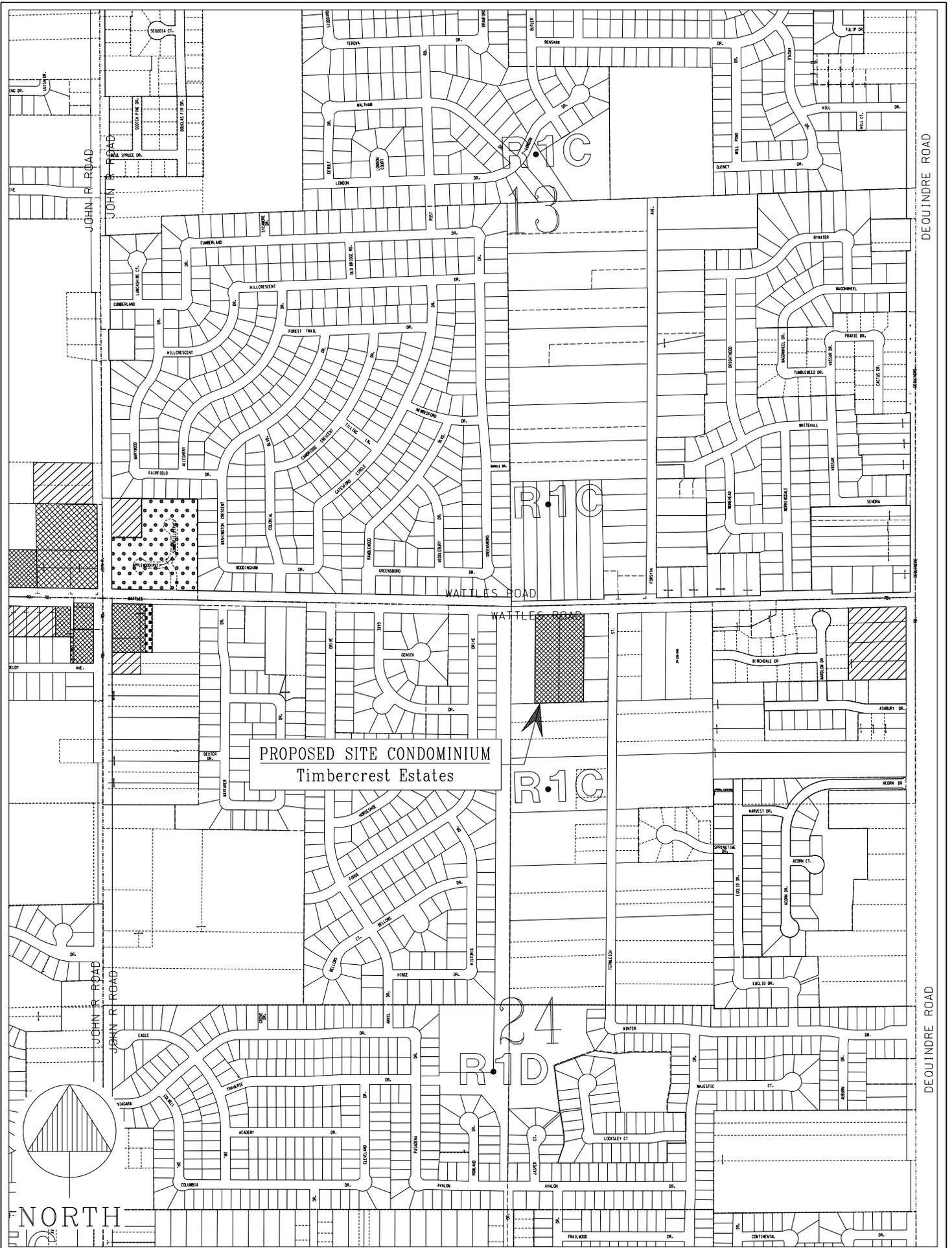
Attachments:

1. Maps
2. Unplatted Residential Development Levels of Approval
3. Comparison Between Site Condominiums and Plats
4. Planning Commission Minutes from July 13, 2004
5. Letter from King & MacGregor Environmental Inc., dated May 13, 2004
6. Potential Future Development
7. Resident Correspondence, dated 8-18-04

cc: Applicant
File/ Timbercrest Estates Site Condominium

CITY OF TROY





PROPOSED SITE CONDOMINIUM
 Timbercrest Estates

R1C

R1C

R1C

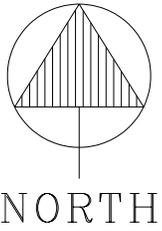
R24

R1D

NORTH



PROPOSED SITE CONDOMINIUM
Timbercrest Estates

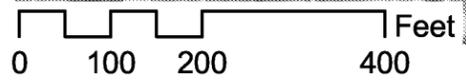


-  - REPRESENTS NON-RES. STRUCTURE OF NEWER CONSTRUCTION, IT DOES NOT ACCURATELY REPRESENT LOCATION OF STRUCTURES ON SITE OR LAYOUT OF STRUCTURES
-  - REPRESENTS DWELLING UNIT OF NEWER CONSTRUCTION, IT DOES NOT ACCURATELY REPRESENT LOCATION OF STRUCTURES ON SITE OR LAYOUT OF STRUCTURES

SITE PLAN REVIEW
PROPOSED TIMBERCREST ESTATES SITE CONDOMINIUM
S SIDE OF WATTLES, W OF FERNLEIGH
SEC. 24 (11 LOTS/UNIT PROPOSED)



SITE CONDOMINIUM SITE PLAN REVIEW
PROPOSED TIMBERCREST ESTATES



UNPLATTED RESIDENTIAL DEVELOPMENT LEVELS OF APPROVAL

Preliminary Plan Approval

A sign is placed on the property informing the public of the proposed development.

Adjacent property owners are notified by mail

Public meeting held by **Planning Commission** for review and recommendation to City Council
City Council reviews and approvals plan

The following items are addressed at Preliminary Plan Approval:

- Street Pattern, including potential stub streets for future development
- Potential development pattern for adjacent properties
- Fully dimensioned residential parcel layout, including proposed building configurations
 - Number of lots
 - Building setbacks
 - Lot dimensions
 - Locations of easements
- Preliminary sanitary sewer, storm sewer, and water main layout
- Environmental Impact Statement (if required)
- Location(s) of wetlands on the property

Final Plan Approval

Notice sign is posted on site

City Council review and approval of:

- Final Plan
- Contract for Installation of Municipal Improvements (Private Agreement)

The following items are addressed at Final Plan Approval:

- Fully dimensioned plans of the total property proposed for development, prepared by registered Civil Engineer or Land Surveyor
- Corners of all proposed residential parcels and other points as necessary to determine that the potential parcels and building configurations will conform with ordinance requirements
- Warranty Deeds and Easement documents, in recordable form for all ROW. and easements which are to be conveyed to the public
- Construction plans for all utilities and street improvements, prepared in accordance with City Engineering Design Standards:
 - Sanitary and Storm sewer
 - Water mains
 - Detention / Retention basins
 - Grading and rear yard drainage
 - Paving and widening lanes
 - Sidewalk and driveway approaches
- Approval from other government agencies involved with the development
- Verification of wetlands and M.D.E.Q. permit if necessary
- Financial guarantees to insure the construction of required improvements and the placement of proper property and parcel monuments and markers shall be furnished by the petitioner prior to submittal of the Final Plan to the City Council for review and approval
- Floor Plans and Elevations of the proposed residential units

COMPARISON BETWEEN SITE CONDOMINIUMS AND PLATS

The site condominium is a form of development that closely resembles the more traditional form of land subdivision known as a “subdivision” or a “plat”. Although both types of development have the same basic characteristics, site condominiums are a newer form of development and are not, therefore, as familiar to homebuyers and neighbors as the more customary plats. An important concept related to any type of condominium development is that condominiums are a form of OWNERSHIP, not a type of physical development.

The following summary is intended to compare and contrast the two types of development.

1. **Comparisons between site condominiums and plats.**
 - a. **Statutory Basis** – Site condominium subdivisions first became possible under the Michigan Condominium Act, which was adopted by the Michigan Legislature in 1978. Plats are created under the Michigan Land Division Act, formerly the Michigan Subdivision Control Act of 1967.
 - b. **Nature and Extent of Property Ownership** – An individual homesite building in a platted subdivision is called a “lot”. In a site condominium, each separate building site or homesite is referred to by the Condominium Act as a “unit”. Each unit is surrounded by “limited common area”, which is defined as common elements reserved in the master deed for the exclusive use of less than all of the co-owners”. The remaining area in the site condominium is “general common area”, defined as the common elements reserved in the master deed for the use of all of the co-owners. The nature and extent of ownership of a platted lot and a condominium unit, with the associated limited common area, are essentially equivalent from both a practical and legal standpoint.
 - c. **Compliance with Zoning Ordinance** – Both site condominiums and subdivisions are required to comply with the minimum requirements of the City of Troy Zoning Ordinance for area and bulk, including minimum lot size, lot width, setbacks and building height. Essentially, site condominiums and subdivisions in Troy must “look” similar.
 - d. **Creation/Legal Document** – A site condominium is established by recording in the records of the county in which the land is located a master deed, bylaws and condominium subdivision plan (“plan”). A platted subdivision is created by the recording of a subdivision plat (“plat”), usually coupled with a declaration of easements, covenants, conditions and restrictions. The plan depicts the condominium units and limited and general common areas, while the plat defines the lots. Both have

substantially the same geometrical appearance and characteristics. The master deed and bylaws on the one hand and the declaration on the other have essentially the same functions with respect to the site condominium or platted subdivision, namely, establishment of: (i) building and use restrictions; (ii) rights of homeowners to use common areas; (iii) financial obligations of owners; and, (iv) procedures for operation of the subdivision.

- e. **Home Maintenance and Real Estate Taxes** – Each unit and lot, as respectively depicted on a condominium plan or subdivision plat, together with any home located thereon, are required to be individually maintained by the owner. Likewise, separate real estate taxes are assessed on each condominium unit or platted lot and paid individually by each homeowner.
- f. **Roads and Utilities** – In most plats, roads are dedicated to the public and maintained by the county road commission or the municipality in which the subdivision is located. Site condominium roads can be either public or private. Sanitary sewer and water supply are public in both. Storm water detention can vary between public and private dedication in both platted and condominium subdivisions.
- g. **Common Areas** – In a site condominium, general common areas, such as open space, entrance areas and storm drainage system, are owned by condominium unit owners in common as an incident of ownership of each unit. In a platted subdivision, legal title to common areas is owned by a homeowners association. In both forms of development, a homeowners association administers the common areas for the benefit of all homeowners equally.
- h. **Homeowners Association** – It is important in both types of development to incorporate a homeowners association comprised of all lot owners or unit owners, as the case may be, to maintain common areas, enforce restrictions and regulations, collect assessments and otherwise administer the common affairs of the development. Because the Condominium Act confers special enforcement powers upon homeowner associations, which are not characteristic of platted subdivision associations, it is generally thought that the condominium form is superior from the standpoint of enforcing rules and regulations of the private community.
- i. **Financial Obligations of Homeowners** – In both types of development, the homeowners association is given the power to assess property owners to pay for maintenance of all common areas and other expenses of administration. Failure to pay give rise to a lien on the defaulting owner's homesite thus providing financial security that the common areas will be properly maintained for the benefit of all homeowners.

- j. **Public Relations** – The same types of public health, safety and welfare regulations apply to both forms of development. Procedurally, the methods of applying for and obtaining plat or condominium plan approval are similar at the municipal level.
- k. **Unique Characteristics of Condominium Unit Purchase** – The Condominium Act provides special benefits for site condominium unit purchasers: (i) a 9-day period after signing a purchase agreement within which a purchaser may withdraw without penalty; and (ii) a requirement that all condominium documents, supplemented by an explanatory disclosure statement, be furnished to all purchasers at the time of entry into a purchase agreement. There are no similar benefits to purchasers provided under the Land Division Act.
- l. **Local and State Review** – Both development types require City Council approval, following a recommendation by the Planning Commission. Unlike subdivisions, site condominiums do not require the review and approval of the Michigan Department of Consumer and Industry Services. For this reason it can sometimes take a substantially shorter period of time to obtain necessary public approvals of site condominiums than platted subdivisions.

2. Reason for choosing one form versus another.

Developers and municipalities often prefer the site condominium approach because of better control of market timing. It should be emphasized that the site condominium choice never sacrifices any public protections that would otherwise be present in the case of a platted subdivision under similar circumstances.

3. Conclusion.

The platted subdivision approach and the newer site condominium technique are two different statutory methods of reaching essentially the same practical and legal result of dividing real estate into separate residential building sites. Both methods are required to meet substantially the same public health, safety and welfare requirements. The site condominium is sometimes chosen over the platted subdivisions because of perceived benefits to purchasers, homeowners, and developers.

5. SITE PLAN REVIEW – Proposed Timbercrest Estates Site Condominium, 11 units/lots proposed, South side of Wattles, West of Fernleigh, Section 24 – R-1C

Mr. Miller presented a summary of the Planning Department report for the proposed Timbercrest Estates Site Condominium. Mr. Miller noted that the Planning Department recognizes the potential for future development on parcels to the south and west, and the Planning Department has worked with the petitioner to create a layout that would include a stub street to the south property line that would allow for the extension of further development. Mr. Miller reported that it is the recommendation of the Planning Department to approve the preliminary site condominium plan as submitted.

Mr. Chamberlain said the Planning Commission should be advised on the potential development of surrounding properties in relation to proposed projects. Mr. Chamberlain noted there is a potential curb cut on Wattles Road should the property to the west of the proposed development be developed, and it is very important to the Commission how that property to the west might be developed.

Mr. Miller said his research showed the property to the west as an old outlet that runs one-half mile to the south and the majority of the property is owned by the State of Michigan. Mr. Miller reported that the City has a long history of asking petitioners to provide information on potential development of surrounding properties, but there is no requirement. He noted there is a requirement in the Subdivision Ordinance to provide information on potential development of large tracts of unplatted land. Mr. Miller apologized for the Planning Department's error in not providing information on the potential development of the 160-foot wide property to the west. Mr. Miller said the matter was discussed with the petitioner, and indicated the petitioner may be able to address it further. He said the Planning Department could prepare alternate layouts for the surrounding area for a future study meeting, should the Commission desire. Mr. Miller said the City should provide a means for future development in the rear portions that front Fernleigh.

Mr. Chamberlain pointed out that the Planning Department should have on file how this particular piece of property could be developed before the item is forwarded to the City Council for review and approval.

Discussion continued on the potential development of the property to the west with respect to different design layouts, emergency access, additional access points, and a boulevard entrance.

Nader Wehbe of Beckman Wehbe Corp., 25775 W. Ten Mile Road, Southfield, and Ben Gill of Chesterfield Building, 31125 Westwood, Farmington Hills, were present.

Mr. Wehbe commented on the access situation and alternate layouts. He said he worked closely with the Planning Department, and it is the preference of the Planning Department to provide the stub road because it would create many possibilities to extend the road for future development.

Mr. Gill stated that negotiations with the owner to purchase the property to the west were unsuccessful.

Chair Waller opened the floor for public comment.

Claude Vidal of 2506 E. Wattles Road, Troy, was present. Mr. Vidal is the owner of the property to the west and has lived there for 52 years. He said that is the reason he asked such an exorbitant purchase price. Mr. Vidal said he does not appreciate the Commission dissecting his property and telling him how it should be developed. Mr. Vidal said there is a retention pond on the DNR strip, and asked if he would really have to look out his front window at the proposed project's retention pond that would be located directly next door and in the front of his house. Mr. Vidal stated that he had a speech prepared but implied he was too emotional to present it.

Stephen Munteer of 3845 Fernleigh Drive, Troy, was present. Mr. Munteer said his home is at the southeast corner of the proposed development. Mr. Munteer expressed concerns with the potential traffic and safety issues that would result from the proposed development. He said currently it is almost impossible to exit onto Wattles Road, in either direction, during morning traffic. He expressed concerns with the potential widening of Wattles Road, and noted that the proposed development is at the narrowest part of the Wattles Road. Mr. Munteer said he would like to see lower density on the development or improvement to the traffic flow from the property.

Pat O'Donnell of 3951 Fernleigh, Troy, was present. Ms. O'Donnell expressed her objection to the proposed development because it appears to be too high of a density for the space available, and she believes it would take away from the atmosphere of the neighborhood. Ms. O'Donnell also asked for information on the widening of Wattles Road to five lanes.

Mr. Miller replied that the ultimate right of way for Wattles Road is 120 feet wide, which would accommodate a five-lane road. Mr. Miller informed Ms. O'Donnell to contact the Engineering Department for the improvement schedule for Wattles Road.

Max Akins of 2545 E. Wattles Road, Troy, was present. Mr. Akins said he does not want to look at a retention pond across from his house, which is where the proposed retention pond would be located. He asked how the City would widen Wattles Road at that particular point and expressed concerns with the remaining frontage of his home.

A short discussion followed on the future widening of Wattles Road.

Mr. Wehbe responded to the concerns expressed on the retention pond. He said the proposed retention basin is 3 feet high with a 1:6 slope, unfenced and well landscaped. Mr. Wehbe said the retention pond would look like a depression on the ground, and would fill up with water only during rain events. Mr. Wehbe confirmed the detention pond would be conveyed to the City for maintenance purposes.

Chair Waller announced that any drainage concerns should be brought to the attention of the Planning Department or Engineering Department.

Mr. Strat asked if the petitioner proposed to do the landscaping as indicated on the plan, approximately 4 feet deep.

Mr. Wehbe answered in the affirmative.

Mr. Vleck directed comments to the resident who owns the property to the west. He said the reason the Commission would like to be advised of future development is that should the property be sold, the Commission must take into consideration what may happen in the future, and that the Commission tries to design as best it can for future development. The Commission's concern in looking at the property to west is whether or not the street layout would accommodate possible future developments.

Mr. Littman requested an explanation on the location of the retention basin.

Mr. Wehbe responded that the property is considered fairly level, and the retention basin is best positioned at the outlet in the corner of the property. He said also that its location near a public road is best for overflow purposes. Mr. Wehbe said that everything on site would stay on sight, inclusive of landscaping and trees, and the run-off water would be collected in the underground storm system.

Mr. Schultz apologized to the property owner to the west if there was a misunderstanding. He said the Commission is not indicating that his property must be developed. Mr. Schultz explained that it is in the best, long-term interest of the property owner that he/she is not left with an undevelopable piece of property.

Mr. Strat asked if the Planning Department received any specific comments on the proposed development from the Environmental Specialist.

Mr. Miller replied that the only comment from the Environmental Specialist is that there are no wetlands or flood plain issues.

Chair Waller asked that the motion reflect the comments of the petitioner that the trees along the property line would be saved, and that should rear yard drain routing result in tree loss, the petitioner would come back before the Planning Commission.

The floor was closed.

Resolution # PC-2004-07-075

Moved by: Chamberlain

Seconded by: Schultz

RESOLVED, That the Planning Commission recommends to City Council, that the Preliminary Site Plan (Section 34.30.00 Unplatted One-Family Residential Development), as requested for Timbercrest Estates Site Condominium, including 11 units, located south of Wattles Road and west of Fernleigh Road, Section 24, within the R-1C zoning district be granted, subject to the following conditions:

1. That an adjacent property plat layout for the properties to the south and to the west be on file at the Planning Department before the item goes to City Council.
2. That the drainage of this property to the properties to the east that are developed is engineered such that there are no water flows that create standing water in the properties to the east.
3. The tree survey lists a number of trees that are not the kind of trees the City of Troy wants, and those trees that do meet the requirement of being a good tree, on the property lines specifically, that every effort be made to do the underground utility work without cutting roots and maybe the recommendation would be not to do any rear yard underground utility work, but make it all down Timbercrest.
4. If there are trees to be destroyed, the item needs to come back to see how best the City and the petitioner can get together and save as many trees as possible.

Yes: All present (6)

No: None

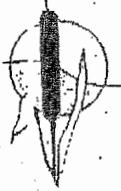
Absent: Drake-Batts, Khan, Wright

MOTION CARRIED

Mr. Schultz proposed that the motion be amended to reflect that the petitioner is required to bring back the site plan for approval should there be any significant change to the site plan.

Mr. Chamberlain asked for a legal opinion on the proposed amendment to the motion.

Mr. Motzny said the Commission could put the language in the motion but, in his opinion, City Council is not required to honor the request because the motion is only a recommendation to City Council.



King & MacGregor
Environmental
Inc.

May 13, 2004

Mr. Benjamin Gill
31125 Westwood
Farmington H, MI 48331

REC'D

MAY 28 2004

PLANNING DEPT.

Re: Lots 2 and 3 of "Eyster's Dequindre Farms Subdivision No. 5"
Wattles Road, City of Troy
Orion Township, Oakland County

Dear Mr. Gill:

On April 22 and May 5, 2004 we visited the subject property for purposes of conducting a preliminary wetland evaluation. This report is intended to provide a summary of observations made during that visit and an opinion as to the jurisdiction of the Michigan Department of Environmental Quality (MDEQ) over any wetland areas within the subject property.

Property Description

The 4-acre property is located on the southern side of Wattles Road, east of John R Road, between Forge Drive and Fernleigh Street. The property consists of two parcels. The eastern parcel has an existing residence and consists of maintained lawn and landscaping. The western parcel is vacant but appears to have had a residence at one time. It now contains meadow with scattered trees and shrubs. Treelines exist along portions of the boundary between the two parcels and along the southern parcel boundaries. The topography is generally level with some shallow ditches and small depressions.

Preliminary Review

The following sources of information were reviewed:

- Soil Survey of Oakland County, Michigan (1980)
- USGS Warren, Mich. quadrangle map (photorevised 1980)
- National Wetlands Inventory map (Warren, Mich. quadrangle; November, 1978)
- MDEQ Oakland County Preliminary Wetland Inventory map (March 5, 2003)
- 2002 aerial photograph with two-foot interval topography from Oakland County

The Oakland County Soil Survey indicates one soil type on the property; Capac sandy loam. This soil type is described as somewhat poorly drained. No wetlands or surface water features are indicated on the property on the USGS, National Wetland Inventory, or the MDEQ Oakland County Preliminary Wetland Inventory maps.

On-Site Review

Six separate small wetland areas were identified on the property. These ranged in size from approximately 700 to 10,000 square feet. The total area of wetland is estimated to be approximately 16,000 square feet.

5380 N. Canton Center Rd.
Suite 482
Canton, MI 48187
Phone: 734/354-0594
Fax: 734/354-0593

Other Offices:
Grand Rapids
St. Clair Shores
East Lansing
Big Rapids

Mr. Benjamin Gill
Re: Wattles Road, Troy

May 13, 2004
Page 2

The wetland areas are associated with the shallow ditches and depressions of the vacant parcel. They are characterized by the presence of species such as green ash, red-osier dogwood, sandbar willow, reed canary grass, purple loosestrife, and Indian hemp dogbane. Upland portions of the vacant parcel are characterized by the presence of fescue grasses, tall goldenrod, Queen Anne's lace, clover, wild strawberry, common dandelion, black raspberry, and multiflora rose.

Regulatory Jurisdiction

In Oakland County the MDEQ regulates wetlands that are 5 acres in size or greater, and/or wetlands that are contiguous to an inland lake, pond, or stream. MDEQ regulations define a "lake" as a permanent open waterbody greater than five acres in size and a "pond" as a permanent open waterbody one to five acres in size. MDEQ regulations define a "stream" as a body of water that has definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water. "Contiguous" is defined as a permanent surface water connection or other direct physical contact with, and/or being located within 500 feet of a lake, stream, or pond.

The wetlands on the subject property are all less than 5 acres in size and not within 500 feet of a lake or pond. With the exception of the aerial photograph, the sources of information listed above show two tributaries to Big Beaver Creek located to the north and south of the subject property. Development and drainage improvements in the vicinity of the property appear to have altered the condition of these two tributaries. The tributary to the north could not be located with observations from Wattles and Fernleigh Roads where it was shown to have passed under the roads. Portions of this tributary appear to have been enclosed. The tributary to the south, which appears to have extended hundreds of feet west of Fernleigh Street, now, due to upstream filling, appears to extend perhaps a hundred feet or less. The upper reach of this tributary may have been diverted into a detention basin east of Forge Drive. This detention basin, located southwest of the subject property, does not have permanent water. An eroded channel in the basin appears to connect the inlet pipe on the west side of the basin to the outlet at the south side of the basin. Should the MDEQ consider either of the remnants of these former surface tributaries to be streams, and they are located within 500 feet of any of the wetlands on the subject property, those wetlands would then be regulated by the MDEQ.

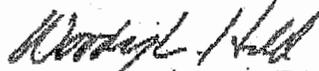
Please be advised that the information provided in this report is a professional opinion. The ultimate decision on wetland boundary locations and jurisdiction thereof rests with the MDEQ and, in some cases, local and/or federal government. Therefore, there may be adjustments to boundaries based upon review of a regulatory agency. An agency determination can vary, depending on various factors, including, but not limited to, experience of the agency representative making the determination and the season of the year. In addition, the physical characteristics of the site can change with time, depending on the weather, vegetation patterns, drainage, activities on adjacent parcels, or other events. Any of these factors can change the nature or extent of wetlands on the site.

Mr. Benjamin Gill
Re: Wattles Road, Troy

May 13, 2004
Page3

Thank you for contacting King & MacGregor Environmental, Inc. Please feel free to call me in our Southeast Michigan Office if you have any questions or we can be of further assistance.

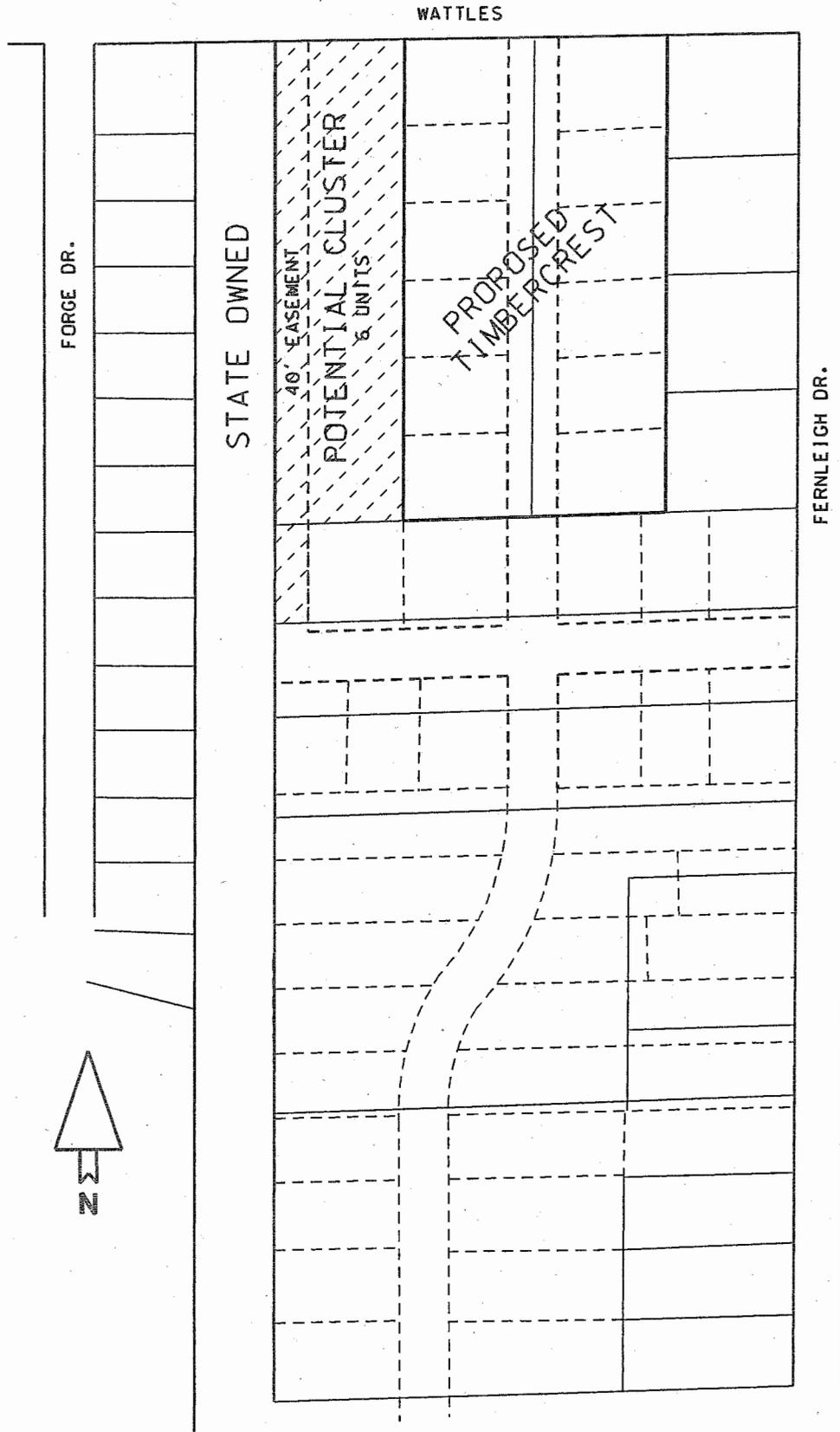
Sincerely,



King & Macgregor Environmental, Inc.
Woody L. Held



POTENTIAL FUTURE DEVELOPMENT



Kathy Czarnecki

From: Mary F Redden
Sent: Wednesday, August 18, 2004 10:00 AM
To: Kathy Czarnecki
Subject: FW: Timbercrest Estates

Hi, Kathy~

The following email is going to be attached to your Agenda item for Timbercrest Estates. Will you please include this in your .pdf file to the Clerk's Office? Thanks~

Mary Redden
Admin. Assistant to the City Manager
City of Troy
(248) 524-3329

-----Original Message-----

From: Jean-Claude Vidal [mailto:jcvidalus@yahoo.com]
Sent: Tuesday, August 17, 2004 10:40 PM
To: 000schilling@ameritech.net
Cc: dave@lambert.net; talk2cristina@aol.com; david@eisenbacher.org; mfhowryl@umich.edu; stinejm@wnet.net; szerlagaj@ci.troy.mi.us; millermf@ci.troy.mi.us
Subject: Timbercrest Estates

Dear Councilmembers:

I was to be on vacation the week of August 9 when the Timbercrest Estates, a condominium development, was originally scheduled to be reviewed. I rescheduled my vacation and it now conflicts with the August 23 review date. I hope to be back in time to attend the council meeting, but in case I'm not, I am submitting this letter as my public comment of record.

I would like to express some worries, concerns and disappointments to you, the officials of this fair city.

I am a fifty three year resident of this community, long before Troy was a city. I have seen many changes: sod farms turned into subdivisions, corn fields turned into parking lots, fruit orchards becoming office plazas. With each change, the city became a little colder.

I'm sure I'm not the first resident to complain to you about the rampant, unchecked building allowed to go on in this city. So I'll skip the generalities and get to specific problems.

Timbercrest Estates on Wattles Road. OK. So a developer can cram eleven condominiums where once stood two houses. I can almost accept that. What I cannot accept is the complete indifference the Planning Commission (including the Planning Director) has to the concerns of long time residents. I had some concerns in a statement I was going to make at the meeting. Before I was allowed to speak, the Commission rambled on for several minutes asking the developer why he had not bought more surrounding property, especially mine, in order to make a larger development. Not one word of concern was said about the house or family that had been there for over half a century.

I'm sure I am not alone in telling you, that in my opinion, the city planners do a great disservice to this community.

When the Planning Commission asked the developer's engineer if there was a water problem on the site, he, of course, said no. The Planning Director, when asked specific questions by several commissioners, could not provide accurate answers. He admitted that no wetland studies had been conducted at the site. When I and several neighbors wanted to dispute the water problem, the chair person would not recognize us, we could not speak.

The following day I went to the Engineering department, expressing my concerns about the flooding at the rear of this site, asking if this, the rear of the property, should not be the obvious location for the retention pond, since for five decades I have seen standing water in the back of this property. They assured me that they require the development to have proper drainage before work can begin.

For the last two weeks, before City Council's final approval, tons and tons of fill has been dumped on the property adjacent to mine.

I would like to know who will be responsible if and when my acreage becomes a flood plain?

The developer mentioned he plans to save as many trees as possible. There are no trees worth saving on the property adjacent to mine. I'm requesting that the developer be required to plant a green belt on the west side of the development.

Thank you for this opportunity to voice my opinion and

as stated before, if I am not able to attend the City Commission meeting on August 23, I would like this letter to be submitted as my public comment for the record.

Jean-Claude Vidal
2506 E. Wattles Rd.
Troy, MI 48085
248-689-7284

Do you Yahoo!?
Yahoo! Mail is new and improved - Check it out!
http://promotions.yahoo.com/new_mail

August 17, 2004

TO: John Szerlag, City Manager

FROM: Steven J. Vandette, Acting Assistant City Manager/Services
Douglas J. Smith, Real Estate and Development Director
William J. Huotari, Acting City Engineer
Mark F. Miller, Planning Director

SUBJECT: PRELIMINARY SITE CONDOMINIUM REVIEW – Proposed Presidential Place Site Condominium, 5 units/lots proposed, West side of John R Road, North of Square Lake Road, Section 2 – R-1D

RECOMMENDATION

At the July 13, 2004 Planning Commission Regular Meeting, the Planning Commission adopted the following resolution and conditions:

Resolution # PC-2004-07-074

Moved by: Vleck
Seconded by: Littman

RESOLVED, That the Planning Commission recommends to City Council, that the Preliminary Site Plan (Section 34.30.00 Unplatted One-Family Residential Development), as requested for Presidential Place Site Condominium, including 5 units, located on the west side of John R Road and north of Square Lake Road, Section 2, within the R-1D zoning district be granted, subject to the following conditions:

1. Construction of a 5-foot wide concrete sidewalk, designed and constructed to City standards, within the 5-foot wide sidewalk easement.
2. The petitioner obtain an MDEQ Wetlands Permit or Jurisdictional Wetland Determination Document stating authoritative status, prior to Final Approval.
3. The petitioner create a general common area to replace the recreation easement that provides access to the pond and gazebo.
4. That all existing illegal trees on the property will be removed.
5. That the note on the drawing that states "sump pump discharge directly to pond for Units 4 and 5 will be removed.
6. That the design recommendations provide that the petitioner will duly note all drainage concern for neighboring properties and plan for adequate drainage.

Yes: Chamberlain, Littman, Schultz, Vleck, Waller
No: Strat
Absent: Drake-Batts, Khan, Wright

MOTION CARRIED

City Management agrees with the Planning Commission recommendation for approval, however City Management does not agree with all of the conditions of approval. Condition #1 has been met, as the petitioner has added the required sidewalk to the site plan. Conditions # 2 and 6 are engineering design considerations that will be addressed prior to Final Site Condominium Approval. Condition #3 is no longer relevant, as the petitioner has removed the recreation easement along the southern boundary of the site and proposes only a landscape, surface drainage and utility easement. The City does not have the authority to impose Condition #4, as the Landscape Design and Tree Preservation Standards do not require the removal of existing trees. Condition #5 has been met, as the petitioner has removed the note related to sump pump discharge of units 4 and 5.

City Management recommends approval of the Preliminary Site Condominium Plan as submitted. Two resolutions have been provided to City Council for consideration, Resolution A (as recommended by City Management) and Resolution B (as recommended by Planning Commission)

GENERAL INFORMATION

Name of Owner / Applicant:

Beatris Haddad and Joseph Haddad own the property and are the applicants.

Location of subject property:

The property is located on the west side of John R Road, south of South Boulevard and north of Square Lake Road in section 2.

Size of subject parcel:

The parcel is approximately 2.236 acres in area.

Description of proposed development:

The applicant is proposing to develop a 5-unit site condominium.

The applicant submitted an alternate layout for the development, as requested by the Planning Department (Layout "C"). The proposed 60-foot wide public road stubs at the southern property line, creating a stub street and future connection to the south. The property to the south appears to be comprised almost entirely of MDEQ-regulated wetlands. The layout yields 5 units. Because there is limited potential to develop the property to the south, the Planning Department does not recommend approval of the alternate layout.

Current use of subject property:

The property is presently vacant.

Current use of adjacent parcels:

North: City of Troy Fire Station No. 5.

South: Vacant.

East: Vacant.

West: Single family residential.

Current zoning classification:

The property is currently zoned R-1D One Family Residential.

Zoning classification of adjacent parcels:

North: R-1D One Family Residential.

South: R-1D One Family Residential.

East: R-1D One Family Residential.

West: R-1D One Family Residential.

Future Land Use Designation:

The property is designated on the Future Land Use Plan as Low Density Residential.

ANALYSIS

Compliance with area and bulk requirements:

Note: The applicant is utilizing the Lot Averaging Option, which permits the reduction of lot area and lot width by up to 10% on some lots.

Lot Area: 7,650 square feet with lot averaging, with an average size of at least 8,500 square feet.

Lot Width: 67.5 feet with lot averaging.

Height: 2 stories or 25 feet.

Setbacks: Front: 25 feet.
Side (least one): 8 feet.
Side (total two): 20 feet.
Rear: 40 feet.

Minimum Floor Area: 1,000 square feet.

Maximum Lot Coverage: 30%.

The applicant meets the area and bulk requirements of the R-1D One Family Residential District.

Off-street parking and loading requirements:

The applicant will be required to provide 2 off-street parking spaces per unit.

Environmental provisions, including Tree Preservation Plan:

A Preliminary Tree Preservation Plan was submitted as part of the application.

Stormwater detention:

The applicant is proposing an on-site detention basin in the southeast corner of the property.

Natural features and floodplains:

The Natural Features Map indicates there is a pond in the southwest corner of the parcel. In addition, there is a small area of potential wetlands along the southern property line.

Subdivision Control Ordinance, Article IV Design Standards:

Blocks: Access to the site condominium will be provided by private street with access on John R.

Lots: All units meet the minimum area and bulk requirements of the Zoning Ordinance.

Topographic Conditions: The site slopes upward approximately 12 feet from the east side to the west side of the property.

Streets: The 28-foot wide paved street is within a 40-foot wide private street easement.

Sidewalks: The applicant is proposing 5-foot wide sidewalk easement on the south side of the street. The north side of the street will not be fronted by houses and therefore does not require a sidewalk. The site plan does not indicate a constructed sidewalk, which is required. An 8-foot wide sidewalk is proposed for the west side of John R. A 5-foot wide asphalt pathway is proposed along the southern property line.

Utilities: The parcel is served by public water and sewer.

Easements: The applicant proposes a 40-foot wide private street easement and a 5-foot wide sidewalk easement outside of and abutting the private street easement. A 15-foot wide non-access easement is proposed along John R. A 20-foot wide easement for landscape, surface drainage, and utilities is proposed along the southern property line.

DEPARTMENTAL REVIEW

The following is a summary of comments generated during the City of Troy Departmental Review process:

Building Department

No comments provided.

Engineering Department

Must provide retention not detention. Drainage on John R is not adequate. Wrap water main around cul-de-sac.

Environmental Specialist

No floodplain issues. Island in cul-de-sac could be a bio-retention area to collect stormwater runoff. MDEQ letter from October 17, 1996 is not valid anymore. MDEQ letter is unclear as to what parcel determination was made for. The delineated wetlands are contiguous to a +/- 30-acre wetland. Must apply for an MDEQ permit, or provide a jurisdictional wetland determination document from the MDEQ stating authoritative status prior to final approval.

Department of Public Works

No floodplain or brownfield issues. Potential for rain garden in the traffic island.

Fire Department

OK.

Transportation Engineer

No comments.

Parks and Recreation Department

Preliminary Tree Preservation Plan approved.

Road Commission of Oakland County

No comments provided.

Attachments:

1. Maps
2. Unplatted Residential Development Levels of Approval
3. Comparison Between Site Condominiums and Plats
4. Planning Commission Minutes from July 13, 2004.
5. Letter from S & R Environmental Consulting, dated June 9, 2004.

cc: Applicant
File/ Presidential Place Site Condominium

CITY OF TROY





PROPOSED SITE CONDOMINIUM
Presidential Place

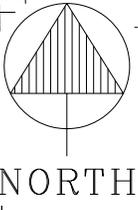
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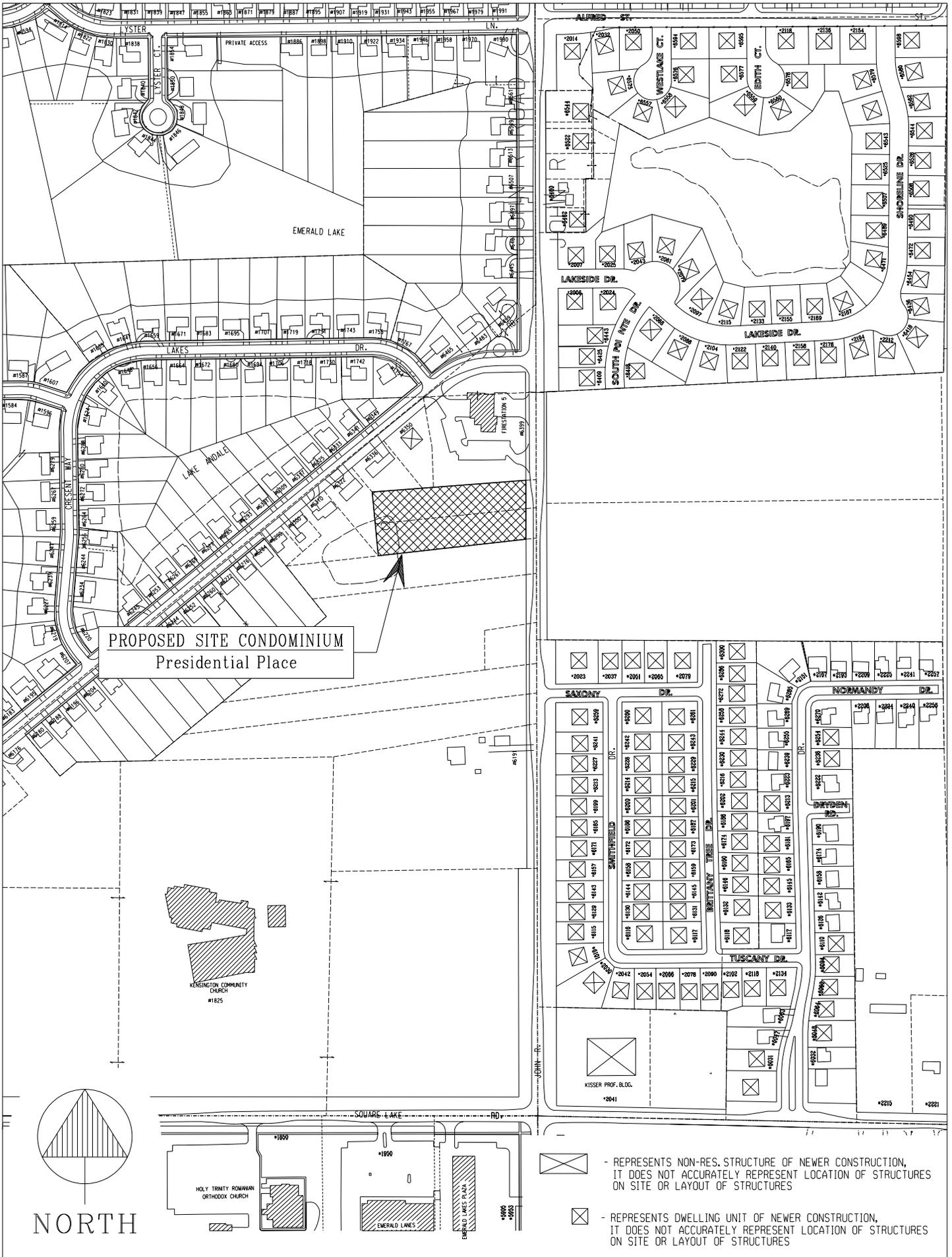
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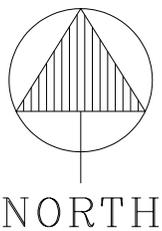
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R.1C





PROPOSED SITE CONDOMINIUM
 Presidential Place



-  - REPRESENTS NON-RES. STRUCTURE OF NEWER CONSTRUCTION, IT DOES NOT ACCURATELY REPRESENT LOCATION OF STRUCTURES ON SITE OR LAYOUT OF STRUCTURES
-  - REPRESENTS DWELLING UNIT OF NEWER CONSTRUCTION, IT DOES NOT ACCURATELY REPRESENT LOCATION OF STRUCTURES ON SITE OR LAYOUT OF STRUCTURES

PRESIDENTIAL PLACE SITE CONDO.
PROPOSED SITE CONDOMINIUM
W SIDE OF JOHN R, N OF SQUARE LAKE
SEC. 2 (5 LOTS)



THREE LAKES

SOUTHPOINTE

LAKESIDE

CRESCENT WAY

JOHN R

PROPOSED SITE CONDOMINIUM
PRESIDENTIAL PALACE

SAXONY

NORMANDY

ATKINS

SMITHFIELD

BRITANY TREE

SILVERSTONE

DRYDEN

0 100 200 400 Feet

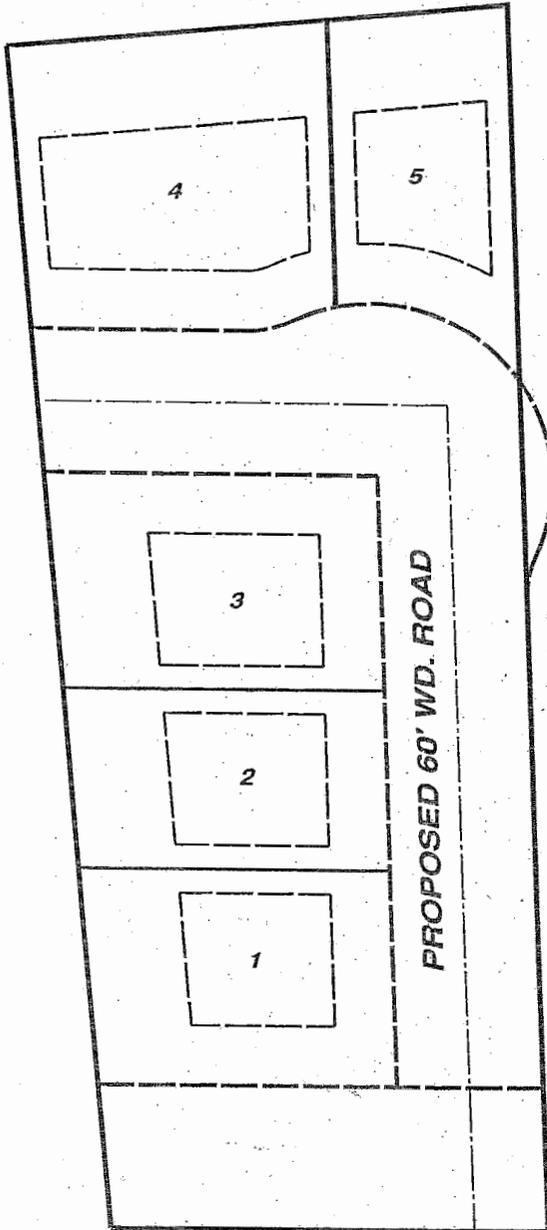


ALTERNATE LAYOUT

REC'D

JUN 30 2004

PLANNING DEPT.



JOHN R ROAD 120' WIDE

E. 1/4 COR.
SECTION 2
T.2N., R.11E.

LAYOUT "C"

5 LOTS

SCALE: 1"=60'



APEX
ENGINEERING GROUP INC.
CIVIL ENGINEERING & LAND PLANNING CONSULTANTS

47745 VAN DYKE AVENUE
SHELBY TOWNSHIP, MI 48317

PHONE: 586-739-5200
FAX: 586-254-5314

PROJECT:
"PRESIDENTIAL
PLACE"
SITE CONDOMINIUM

PART OF THE S.E. 1/4 OF SECTION 2,
CITY OF TROY, OAKLAND CO., MI

CLIENT:
NADHAM "TONY" HADDAD
6507 JOHN R. ROAD
TROY, MICHIGAN 48065
248-879-5121

JOB NO: 03-022
DATE: 6/30/04
DRAWN BY: R.K.F.
CHECKED BY: W.E.M.

UNPLATTED RESIDENTIAL DEVELOPMENT LEVELS OF APPROVAL

Preliminary Plan Approval

A sign is placed on the property informing the public of the proposed development.

Adjacent property owners are notified by mail

Public meeting held by **Planning Commission** for review and recommendation to City Council
City Council reviews and approvals plan

The following items are addressed at Preliminary Plan Approval:

- Street Pattern, including potential stub streets for future development
- Potential development pattern for adjacent properties
- Fully dimensioned residential parcel layout, including proposed building configurations
 - Number of lots
 - Building setbacks
 - Lot dimensions
 - Locations of easements
- Preliminary sanitary sewer, storm sewer, and water main layout
- Environmental Impact Statement (if required)
- Location(s) of wetlands on the property

Final Plan Approval

Notice sign is posted on site

City Council review and approval of:

- Final Plan
- Contract for Installation of Municipal Improvements (Private Agreement)

The following items are addressed at Final Plan Approval:

- Fully dimensioned plans of the total property proposed for development, prepared by registered Civil Engineer or Land Surveyor
- Corners of all proposed residential parcels and other points as necessary to determine that the potential parcels and building configurations will conform with ordinance requirements
- Warranty Deeds and Easement documents, in recordable form for all ROW. and easements which are to be conveyed to the public
- Construction plans for all utilities and street improvements, prepared in accordance with City Engineering Design Standards:
 - Sanitary and Storm sewer
 - Water mains
 - Detention / Retention basins
 - Grading and rear yard drainage
 - Paving and widening lanes
 - Sidewalk and driveway approaches
- Approval from other government agencies involved with the development
- Verification of wetlands and M.D.E.Q. permit if necessary
- Financial guarantees to insure the construction of required improvements and the placement of proper property and parcel monuments and markers shall be furnished by the petitioner prior to submittal of the Final Plan to the City Council for review and approval
- Floor Plans and Elevations of the proposed residential units

COMPARISON BETWEEN SITE CONDOMINIUMS AND PLATS

The site condominium is a form of development that closely resembles the more traditional form of land subdivision known as a “subdivision” or a “plat”. Although both types of development have the same basic characteristics, site condominiums are a newer form of development and are not, therefore, as familiar to homebuyers and neighbors as the more customary plats. An important concept related to any type of condominium development is that condominiums are a form of OWNERSHIP, not a type of physical development.

The following summary is intended to compare and contrast the two types of development.

1. **Comparisons between site condominiums and plats.**
 - a. **Statutory Basis** – Site condominium subdivisions first became possible under the Michigan Condominium Act, which was adopted by the Michigan Legislature in 1978. Plats are created under the Michigan Land Division Act, formerly the Michigan Subdivision Control Act of 1967.
 - b. **Nature and Extent of Property Ownership** – An individual homesite building in a platted subdivision is called a “lot”. In a site condominium, each separate building site or homesite is referred to by the Condominium Act as a “unit”. Each unit is surrounded by “limited common area”, which is defined as common elements reserved in the master deed for the exclusive use of less than all of the co-owners”. The remaining area in the site condominium is “general common area”, defined as the common elements reserved in the master deed for the use of all of the co-owners. The nature and extent of ownership of a platted lot and a condominium unit, with the associated limited common area, are essentially equivalent from both a practical and legal standpoint.
 - c. **Compliance with Zoning Ordinance** – Both site condominiums and subdivisions are required to comply with the minimum requirements of the City of Troy Zoning Ordinance for area and bulk, including minimum lot size, lot width, setbacks and building height. Essentially, site condominiums and subdivisions in Troy must “look” similar.
 - d. **Creation/Legal Document** – A site condominium is established by recording in the records of the county in which the land is located a master deed, bylaws and condominium subdivision plan (“plan”). A platted subdivision is created by the recording of a subdivision plat (“plat”), usually coupled with a declaration of easements, covenants, conditions and restrictions. The plan depicts the condominium units and limited and general common areas, while the plat defines the lots. Both have

substantially the same geometrical appearance and characteristics. The master deed and bylaws on the one hand and the declaration on the other have essentially the same functions with respect to the site condominium or platted subdivision, namely, establishment of: (i) building and use restrictions; (ii) rights of homeowners to use common areas; (iii) financial obligations of owners; and, (iv) procedures for operation of the subdivision.

- e. **Home Maintenance and Real Estate Taxes** – Each unit and lot, as respectively depicted on a condominium plan or subdivision plat, together with any home located thereon, are required to be individually maintained by the owner. Likewise, separate real estate taxes are assessed on each condominium unit or platted lot and paid individually by each homeowner.
- f. **Roads and Utilities** – In most plats, roads are dedicated to the public and maintained by the county road commission or the municipality in which the subdivision is located. Site condominium roads can be either public or private. Sanitary sewer and water supply are public in both. Storm water detention can vary between public and private dedication in both platted and condominium subdivisions.
- g. **Common Areas** – In a site condominium, general common areas, such as open space, entrance areas and storm drainage system, are owned by condominium unit owners in common as an incident of ownership of each unit. In a platted subdivision, legal title to common areas is owned by a homeowners association. In both forms of development, a homeowners association administers the common areas for the benefit of all homeowners equally.
- h. **Homeowners Association** – It is important in both types of development to incorporate a homeowners association comprised of all lot owners or unit owners, as the case may be, to maintain common areas, enforce restrictions and regulations, collect assessments and otherwise administer the common affairs of the development. Because the Condominium Act confers special enforcement powers upon homeowner associations, which are not characteristic of platted subdivision associations, it is generally thought that the condominium form is superior from the standpoint of enforcing rules and regulations of the private community.
- i. **Financial Obligations of Homeowners** – In both types of development, the homeowners association is given the power to assess property owners to pay for maintenance of all common areas and other expenses of administration. Failure to pay give rise to a lien on the defaulting owner's homesite thus providing financial security that the common areas will be properly maintained for the benefit of all homeowners.

- j. **Public Relations** – The same types of public health, safety and welfare regulations apply to both forms of development. Procedurally, the methods of applying for and obtaining plat or condominium plan approval are similar at the municipal level.
- k. **Unique Characteristics of Condominium Unit Purchase** – The Condominium Act provides special benefits for site condominium unit purchasers: (i) a 9-day period after signing a purchase agreement within which a purchaser may withdraw without penalty; and (ii) a requirement that all condominium documents, supplemented by an explanatory disclosure statement, be furnished to all purchasers at the time of entry into a purchase agreement. There are no similar benefits to purchasers provided under the Land Division Act.
- l. **Local and State Review** – Both development types require City Council approval, following a recommendation by the Planning Commission. Unlike subdivisions, site condominiums do not require the review and approval of the Michigan Department of Consumer and Industry Services. For this reason it can sometimes take a substantially shorter period of time to obtain necessary public approvals of site condominiums than platted subdivisions.

2. Reason for choosing one form versus another.

Developers and municipalities often prefer the site condominium approach because of better control of market timing. It should be emphasized that the site condominium choice never sacrifices any public protections that would otherwise be present in the case of a platted subdivision under similar circumstances.

3. Conclusion.

The platted subdivision approach and the newer site condominium technique are two different statutory methods of reaching essentially the same practical and legal result of dividing real estate into separate residential building sites. Both methods are required to meet substantially the same public health, safety and welfare requirements. The site condominium is sometimes chosen over the platted subdivisions because of perceived benefits to purchasers, homeowners, and developers.

4. SITE PLAN REVIEW – Proposed Presidential Place Site Condominium, 5 units/lots proposed, West side of John R, North of Square Lake, Section 2 – R-1D

Mr. Miller presented a summary of the Planning Department report for the proposed Presidential Place Site Condominium. Mr. Miller reported that it is the recommendation of the Planning Department to approve the preliminary site condominium plan as submitted, subject to three conditions: (1) construction of a 5-foot wide concrete sidewalk, designed and constructed to City standards, within the 5-foot wide sidewalk easement; (2) that the petitioner obtain an MDEQ Wetlands Permit or Jurisdictional Wetland Determination Document stating authoritative status prior to Final Approval; and (3) that the petitioner create a general common area to replace the recreation easement that provides access to the pond and gazebo.

Mr. Schultz questioned the limited space remaining with respect to the 25-foot front setback and the required 5-foot sidewalk, and asked if the building could be pushed back to eliminate the possibility of parked cars on the sidewalk.

Mr. Miller replied that the 25-foot setback is the City's current standard.

Mr. Chamberlain expressed concern with the designated trees on the preliminary tree preservation plan. He said he would not vote favorably on the site plan unless the trees were removed from the tree preservation plan.

Mr. Miller said the preliminary tree plan is in essence only a tree inventory, and it is at the discretion of the Commission to remove the trees from the tree preservation plan at this time. Mr. Miller noted the petitioner would be required to remove the trees from the plan prior to getting final site plan approval.

Mr. Chamberlain expressed concern that a potential dam could be created with the fill dirt that would be necessary for the proposed development, and said this is a good example that final grading plans should be required for site plan approval.

Mr. Miller replied that the petitioner's engineer would address this concern.

Mr. Strat questioned why the recommendations of the City's Environmental Specialist have not been incorporated in the site plan; i.e., bio retention in the center aisle. He said the plan shows no creativity with respect to the retention pond.

Chair Waller questioned the location of the required 8-foot sidewalk.

Mr. Miller clarified that the 8-foot sidewalk is along John R and the 5-foot sidewalk is within the interior roads.

Chair Waller shared information with respect to new ideas on storm water detention. He proposed that the petitioner contact the Planning Department with respect to incorporating the new ideas in the development of the project's storm water detention.

There was a brief discussion on the site plan designation of "detention" and the Engineering Department's recommendation of a "retention" pond. Mr. Miller said he would check the original Engineering Department review and confirm the correct designation.

Bill Mosher of Apex Engineering, 47745 Van Dyke, Shelby Township, was present on behalf of the petitioner. Mr. Mosher confirmed that the site plan shows the sidewalk easement on the outside of the 40-foot private road easement. Mr. Mosher said a wetlands permit would be obtained, and noted that a previous MDEQ letter of no authority had expired. Mr. Mosher said the plan would be revised to include a general common area instead of the recreational component. To address the setback concerns, Mr. Mosher said it would be possible to impose a 30-foot setback on Lots 1 and 2, but not on Lots 3, 4, and 5. Mr. Mosher said the designated trees would be removed from the tree preservation plan. He also addressed the grading issues and stated he would work with the Engineering Department to insure that the detention is sufficient. Further, Mr. Mosher said he would work on a creative concept for the proposed detention pond.

Mr. Miller reported that the Engineering Department's review specifically states "retention", not "detention". The Engineering Department's review states there is a lack of drainage capacity on John R and notes there are no planned improvements until the year 2008 or later.

Discussion followed with respect to maintaining the pond as a retention pond, once improvements are completed on John R.

Mr. Mosher said he would like to keep the pond dry and the building envelopes as large as possible, and noted there is a detention facility at the fire station. Mr. Mosher said he would work with the Engineering Department on a complete evaluation of the storm water detention.

Mr. Strat asked if the petitioner would come back to the Planning Commission for resubmission of site plan approval should the preliminary engineering requirements change.

Mr. Mosher answered in the affirmative. He stated that a condition of the Condominium Act is to review some forms of drainage and lot configurations. Mr. Mosher said that should the Engineering Department not waive the requirement for a retention facility, there would be changes in the layout and it would be necessary to re-evaluate the plan.

Chair Waller asked if it is reasonable to have the City review the fire station retention pond at the same time.

Mr. Miller replied that a request could be made to the Engineering Department.

Discussion continued on the grades.

Mr. Mosher said he would do whatever is necessary to get the project going; i.e., bio swales, catch basin, etc.

Chair Waller opened the floor for public comment.

Leonid Shashlo of 6336 Atkins Drive, Troy, was present. Mr. Shashlo voiced his objections to the proposed development. He said Unit #5 of the proposed development is too close to his property. Mr. Shashlo expressed concern for the young children playing near two roads and the potential to destroy the existing environment and wildlife.

Jerry Slywka of 6322 Atkins Drive, Troy, was present. Mr. Slywka has been a Troy resident for 25 years. Mr. Slywka bought the property in 1969 and sold the property to Mr. Haddad approximately six or seven years ago. Mr. Slywka said Mr. Haddad promised to build two nice houses on the property for his sons. Mr. Slywka protested strongly to the proposed development because of potential danger to the existing environment, nature and wildlife. Mr. Slywka voiced concerns that the sump pumps would be connected to the pond. He asked that the 17-foot pond not be touched because it provides clean water for his children and grandchildren to swim in. Mr. Slywka questioned the logic of the City that it placed such strong restrictions on the quality of water when he created the pond, but has no interest in the water quality with the proposed development. Mr. Slywka said the proposed development would affect his life and the lives of his neighbors, children and grandchildren. Further, Mr. Slywka questioned the size of the lots in relation to the size of the homes, and encouraged the City to impose soil and boring tests on the property.

Chair Waller explained that the petitioner is proposing to create a pond for aesthetic pleasure and the pond would not be used for water sports or anything similar. Chair Waller confirmed that a wetlands report would be provided. He also stated that a natural features ordinance proposed several years ago was not passed because the majority of residents were in opposition to it.

Mr. Vleck clarified that (1) there is no rezoning request on the subject parcel; (2) the proposed development is on the petitioner's property and not on anybody else's property; (3) the Planning Commission does not have the authority to deviate from the requirements set forth by the City; and (4) the petitioner has met all of the City codes and requirements.

Kinette Bayliss, owner of 2.5 acres of property located to the south of the proposed development, Sidwell No. 88-20-02-427-007, was present. Ms. Bayliss is very concerned about the development of the property. She said it was her understanding that the property would remain as two residential lots after it was sold. She questioned how the property could go from two residential lots to five lots without the property getting rezoned. Ms. Bayliss said her concerns are similar to the concerns expressed by Mr. Slywka; i.e., sump pump run-off into the pond and the clean water in the pond for recreational purposes. She said that she and Mr. Slywka developed the pond to be what it is and it is very important to them that the pond water remains the same. She asked for an explanation why the City would go from all wetlands to constructing condominiums.

Mr. Miller provided a brief explanation of the R-1D zoning district and its requirements and provisions for development.

Ms. Bayliss asked if there was a capacity requirement for the use of the pond.

Chair Waller announced that the floor at tonight's meeting is the wrong forum to discuss the pond. He said that any concern about the quality of the pond and whether or not the sump pumps from Lots 4 and 5 might be directed toward the pond is something that should be negotiated with the property owner. Chair Waller said that concerns should be brought to the attention of the City Council. He explained that the decision made tonight by the Planning Commission is only a recommendation to the City Council for its review and approval. Chair Waller stated that Mr. Haddad owns part of the pond and Ms. Bayliss can only wish that the future property owners would have her passion for its quality. Chair Waller assisted Ms. Bayliss in locating the retention pond on the proposed site plan in relation to her property.

Mr. Chamberlain said his sump pump drains into the storm system, and he presumes that is how sump pumps are in operation today.

Mr. Miller agreed. Mr. Miller further advised the Planning Commission to strike the notation on the site plan that relates to the discharge of the sump pumps to Lots 4 and 5. He stated that the information is extraneous at this time.

Priscilla King of 6310 Atkins, Troy, was present. Ms. King said the Planning Commission informed her the property could not be developed because it was wetlands. Ms. King strongly objected to the proposed development, and stated that her husband spent years trying to improve the property.

The floor was closed.

Resolution # PC-2004-07-074

Moved by: Vleck
Seconded by: Littman

RESOLVED, That the Planning Commission recommends to City Council, that the Preliminary Site Plan (Section 34.30.00 Unplatted One-Family Residential Development), as requested for Presidential Place Site Condominium, including 5 units, located on the west side of John R Road and north of Square Lake Road, Section 2, within the R-1D zoning district be granted, subject to the following conditions:

1. Construction of a 5-foot wide concrete sidewalk, designed and constructed to City standards, within the 5-foot wide sidewalk easement.
2. The petitioner obtain an MDEQ Wetlands Permit or Jurisdictional Wetland Determination Document stating authoritative status, prior to Final Approval.
3. The petitioner create a general common area to replace the recreation easement that provides access to the pond and gazebo.
4. That all existing illegal trees on the property will be removed.
5. That the note on the drawing that states "sump pump discharge directly to pond for Units 4 and 5 will be removed.
6. That the design recommendations provide that the petitioner will duly note all drainage concern for neighboring properties and plan for adequate drainage.

Discussion on the motion.

Mr. Littman requested that the motion be amended to reflect the site plan designation of a "retention" pond, as recommended by the Engineering Department.

Mr. Miller explained the difference between a detention pond and a retention pond. He said detention pond water is detained and slowly released so there is not a quick flash of water that would overburden the storm water drainage system. Retention pond water is retained and in essence is a wet pond. Mr. Miller noted that not all storm water drainage systems are City owned; that the County owns some of the systems.

Mr. Vleck recommended the site maintain a detention pond because the fire station has an existing detention pond and a retention pond with its standing water would create a risk factor for West Nile Virus.

Vote on the motion on the floor, as moved and seconded.

Yes: Chamberlain, Littman, Schultz, Vleck, Waller

No: Strat

Absent: Drake-Batts, Khan, Wright

MOTION CARRIED

Mr. Strat stated his reasons for not voting in favor of the motion. He feels (1) the final engineering has not been provided to determine exactly the size of the detention pond or retention pond; (2) the wetlands report might affect the final layout of the design of the site and the plan might have to return to the Planning Commission for a second approval; (3) the plan does not protect the value of the adjacent property owners; and (4) there is a lack of innovative design and bio retention, as indicated by the City's Environmental Specialist review comments.

Members Chamberlain and Strat encouraged the residents to voice their objections to the City Council.

Mr. Miller said the item most likely would be on the City Council agenda at their 2nd meeting in August or their 1st meeting in September. Mr. Miller confirmed that abutting property owners would be notified.



P.O. Box 157 • St. Charles, Michigan 48655 • Phone (989) 865-6297

REC'D

JUN 30 2004

PLANNING DEPT.

June 9, 2004

Mr. William Mosher, PE
Apex Engineering Group, Inc.
47745 Van Dyke Avenue
Shelby Township, MI 48317

Dear Mr. Mosher:

At your request, I recently examined a property off Atkins and John R Roads in Troy. This property was previously inspected by the Michigan Department of Environmental Quality (DEQ File No. WD96-86) which found no regulated wetlands on the site. I found two small areas of wetland vegetation (primarily dominated by willow and cottonwood); however, each appeared to be isolated hydrologically from other nearby wetlands to the east and a retention pond to the west. Apparently, the wetland vegetation has grown where ground has been disturbed. I am aware that two residences have been removed from the property, so it is likely these areas were disturbed by heavy equipment involved in the demolition.

Both areas of wetland vegetation are much smaller than 5 acres and not directly connected with a pond, lake or stream. They are within 500 feet of the retention pond, but there is no evidence of any hydrologic connection or relationship with the pond. Therefore, my findings are consistent with the earlier ruling of the MDEQ--that there are no wetlands that should be considered regulated on the property.

Please write or call if you have questions about my findings.

Sincerely,

S & R Environmental Consulting

Patrick J. Rusz, Ph.D.
Chief Wetlands Ecologist

August 16, 2004

TO: John Szerlag, City Manager

FROM: Steven J. Vandette, Acting Assistant City Manager/Services
Douglas J. Smith, Real Estate & Development Director
Dennis C. Stephens, Right of Way Representative

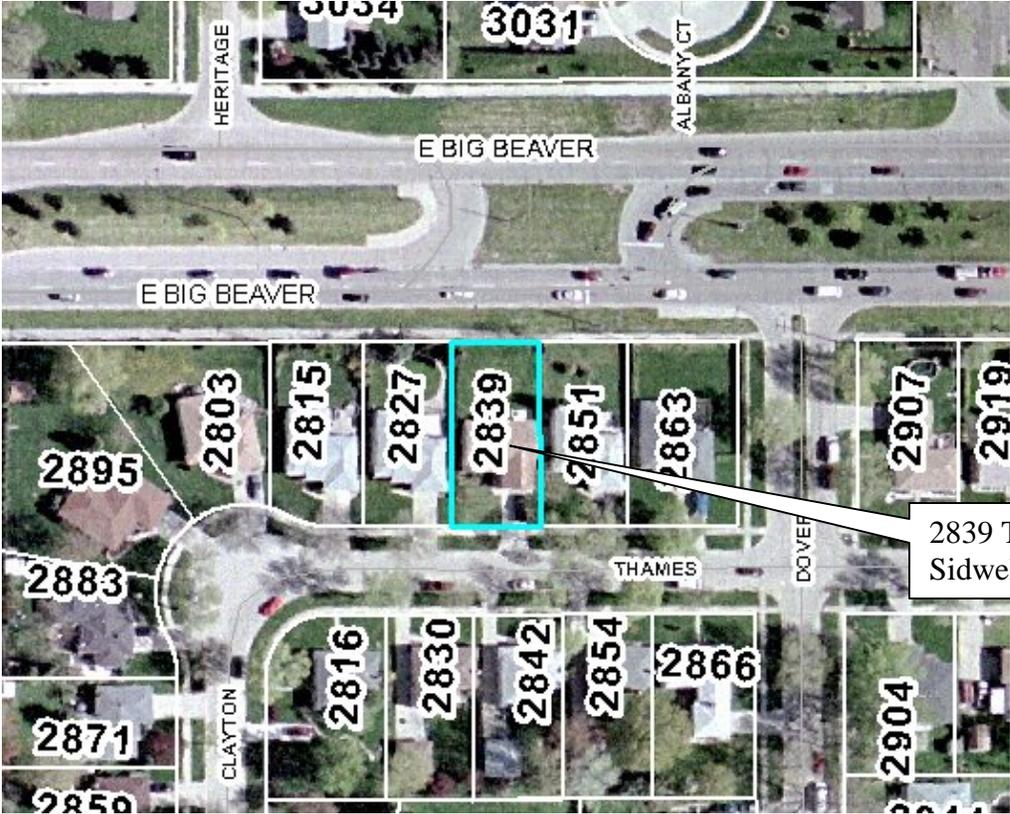
RE: Request for Approval of Purchase Agreement, Helen A. Kaleto also known as Helen A. Rychlewski, 2839 Thames, Sidwell #88-20-25-226-005, Big Beaver, Rochester to Dequindre Road Project #01.105.5

As part of the proposed Big Beaver Road Widening Project – Rochester to Dequindre, the Real Estate & Development Department has reached an agreement with Helen A. Kaleto also known as Helen A. Rychlewski to purchase property at 2839 Thames, having Sidwell #88-20-25-226-005. The subject parcel is approximately 0.172 acres of land with a single family home and attached garage totaling 1,216 square feet. The seller has requested that she be allowed to retain ownership of the items listed in Condition #10 of the Agreement to Purchase

Based on an appraisal performed by R.S. Thomas & Associates, Inc., and reviewed by Kimberly Harper, Deputy Assessor, staff believes that \$210,000.00, the compensation agreed upon, is a justifiable value to this acquisition.

In order for the City to proceed with the acquisition of this parcel, staff requests that City Council approve the attached Purchase Agreement with Helen A. Kaleto also known as Helen A. Rychlewski in the total amount of \$210,000.00, plus closing costs. Funds will come from the Big Beaver – Rochester to Dequindre Road Project #01.105.5.

BIG BEAVER - ROCHESTER TO DEQUINDRE ROAD
PROJECT #01.105.5



2839 Thames
Sidwell# 88-20-25-226-005

CITY OF TROY
AGREEMENT TO PURCHASE REALTY
FOR PUBLIC PURPOSES

The CITY OF TROY (the "Buyer"), agrees to purchase from Helen A. Kaletto, also known as Helen A. Rychlewski (the "Seller"), the following described premises (the "Property"):

SEE ATTACHED EXHIBIT "A"

for a public project within the City of Troy and to pay the sum of Two Hundred, Ten Thousand and no/100 Dollars (\$210,000.00) under the following terms and conditions:

1. Seller shall assist Buyer in obtaining all releases necessary to remove all encumbrances from the property so as to vest a marketable title in Buyer.

2. Seller shall pay all taxes, prorated to the date of closing, including all special assessments, now due or which may become a lien on the property prior to the conveyance.

3. Seller shall deliver the Warranty Deed upon payment of the purchase money by check drawn upon the account of the City of Troy.

4. Buyer shall, at its own expense, provide title assurance information to the Buyer, and the Seller shall disclose any encumbrances against the property.

5. This Agreement is binding upon the parties and closing shall occur within ninety (90) days of the date that all liens have been released and encumbrances have been extinguished to the satisfaction of the Buyer, unless extended by agreement of the parties in writing. It is further understood and agreed that this period of time is for the preparation and authorization of purchase money.

6. Buyer shall notify the Seller immediately of any deficiencies encumbering marketable title, and Seller shall then proceed to remove the deficiencies. If the Seller fails to remove the deficiencies in marketable title to Buyer's approval, the Buyer shall have the option of proceeding under the terms of this Agreement to take title in a deficient condition or to render the Agreement null and void, and any deposit tendered to the Seller shall be returned immediately to the Buyer upon demand.

7. The City of Troy's sum paid for the property being acquired represents the property being free of all environmental contamination. Although the City of Troy will not withhold or place in escrow any portion of this sum, the City reserves its rights to bring Federal and/or State and/or local cost recovery actions against the present owners and any other potentially responsible parties, arising out of a release of hazardous substances at the property.

8. Seller acknowledges that this offer to purchase is subject to final approval by Troy City Council.

9. Seller agrees to vacate the premises on or before December 1, 2004; or sign a Short-Term Rental Agreement for continued occupancy on a short term basis, which shall be determined by the City. Seller will not be required to pay rent after the closing and prior to December 1, 2004. Beginning on December 1, 2004, rent will be at a rate of \$1,216 per month and shall be pro-rated if Seller occupies the property for a period less than one full month. Seller shall be responsible for and pay all utility bills for this property as long as Seller occupies the premises. At Seller's expense, Seller shall be responsible for maintaining the property until the premises are vacated.

10. Additional conditions, if any: Seller shall retain ownership of the following items: 1 Dwarf Maple tree, New Carpet in 2 rooms, 2 chandeliers, window treatments (blinds, vertical)

SELLER HEREBY ACKNOWLEDGES THAT NO PROMISES WERE MADE EXCEPT AS CONTAINED IN THIS AGREEMENT.

1 Ceiling Fan

IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this
day of _____, A.D. 20 _____

In presence of:

Christine A. Hill
Pat Gross

CITY OF TROY (BUYER)

[Signature]

SELLER:

Helen A. Kaleto
Helen A. Kaleto, also known as
Helen A. Rychlewski

Exhibit "A"

Wednesday, May 19, 2004

Section 25, Big Beaver Widening Project
Parcel: 88-20-25-226-005
Owner: Helen A. Rychlewski
Parcel #7

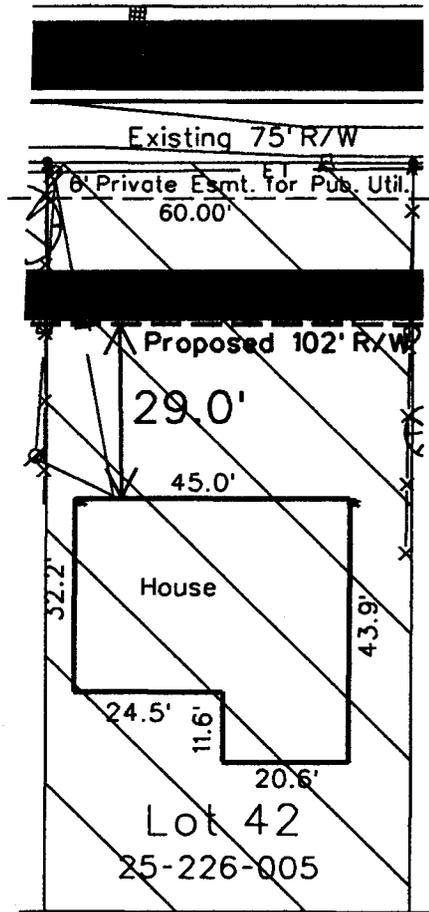
Parent Parcel Description (Title Commitment #63-510798)

Situated in the City of Troy, Oakland County, Michigan, described as:
Lot 42, Yorkshire Subdivision, according to the plat thereof as recorded in liber
115, pages 29-30 of Plats, Oakland County Records.

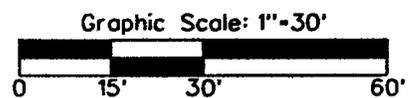
Proposed Right of Way Acquisition

Situated in the City of Troy, Oakland County, Michigan, described as:
Lot 42, Yorkshire Subdivision, according to the plat thereof as recorded in liber
115, pages 29-30 of Plats, Oakland County Records. Containing 7,500 Square
Feet or 0.172 Acres and being subject to all easements of record.

Big Beaver Rd.



***2839
Thames**



Parcel #7



Right of Way
Acquisition
Area-7,500 Sq.Ft.

DATE	REV.

DOCUMENT PREPARED BY
George J. Ballard III
LAND SURVEYOR

CONTRACT No.

		500 W. Big Beaver Rd. Troy, Michigan 48084 (248) 524-3594 www.ci.troy.mi.us	
*2839 Thames Right of Way Acquisition Sketch			
SCALE	DRAWN BY	CHECKED	FILE
HDR.	NAME GJB III	NAME	See Above
VER.	DATE 5-19-04	DATE	VIEW #1
STEVEN J. VANDETTE CITY ENGINEER		SHEET No.	JOB No.
		1 of 1	01.105.5

DATE: July 29, 2004

TO: John Szerlag, City Manager

FROM: Steve Vandette, Acting Assistant City Manager / Services
Tim Richnak, Public Works Director

RE: **Agenda Item** – Community Development Block Grant Status
Change from Metropolitan City to Urban County.

RECOMMENDATION

That the City of Troy change its CDBG status from Metropolitan City status, terminate the Joint Agreement with Oakland County and request Urban County status and become incorporated into the Oakland County Program.

DETAILS

Oakland County has provided an allocation analysis based on the City of Troy status as a Metropolitan City vs. Urban County. Attached is the allocation analysis and a letter stating that if the City of Troy were to relinquish its Metropolitan City status it could regain it at the end of each three-year cycle of the program. This is an important issue allowing the City of Troy to retain the option to become a Metropolitan City based on future allocation analysis and case study.

At the present time it is not in the best interest of the City of Troy to act alone as a Metropolitan City for the following key reasons.

- Low / Moderate-income areas qualify with 51% of the population falling below those levels. We currently receive a 36.1% threshold to qualify as a Low / Moderate level.
- Funding levels allowed for Public Service activities (Home Chore) are currently at 50% (\$97,000) of CDBG appropriations. Acting as a Metropolitan City Public Service activities expenditures are limited to 15% (\$64,000). Currently our annual Public Services activities are in excess of \$70,000.
- To act alone as a Metropolitan City additional direct City of Troy cost would include additional requirements for staff, software, training, printing, office supplies, cell phone, vehicle, home inspections, legal fees, review fees, and mandatory compliance with federal certifications.
- The City would be responsible for any of these costs in excess of 20% (\$85,800) of the funding as a Metropolitan City. Estimates are that these

additional direct costs would significantly exceed the allowable 20% funding level.

We agree with the Allocation Analysis Recommendation that the City of Troy relinquish its Metropolitan City status, terminating the joint agreement with Oakland County and be incorporated into Oakland County's Urban County Program. This would allow HUD to allocate Home funds to Oakland County on behalf of the City of Troy rather than those funds being allocated to the State of Michigan

SUMMARY

Funding levels to the City of Troy would increase by \$156,000 over Metropolitan City funds coming in the form of additional Home Improvement Program resources. The change from Metropolitan City Status to Urban County Status would allow for any unused funds to be available to other residents in Oakland County. Currently the State of Michigan would capture the funding and could distribute it across all counties across Michigan.

Attachments:

1. Community Development Block Grant (CDBG) Participant Designation
2. Allocation Analysis Summary
3. Troy CDBG Allocation Analysis Metropolitan City vs. Urban County
4. Letter to HUD

Reviewed and Approved by City Attorney's Office



L. BROOKS PATTERSON, OAKLAND COUNTY EXECUTIVE

C O U N T Y M I C H I G A N
D E P A R T M E N T O F C O M M U N I T Y
A N D E C O N O M I C D E V E L O P M E N T

COMMUNITY AND HOME IMPROVEMENT DIVISION
Karry L. Rieth, Manager

August 9, 2004

Ms. Jeanette Harris, CPD
MI State Office U.S. Dept of Housing and Urban Development
McNamara Federal Building
17th Floor 477 West Michigan Avenue
Detroit, MI 48226

Dear Ms. Harris:

In 1975, the County of Oakland (County) was designated as an "Urban County" by the U.S. Department of Housing and Urban Development (HUD) for the purpose of administering federal grants including the Community Development Block Grant (CDBG) program. In 1975, the City of Troy (City) signed a cooperative agreement with the County to join the "Urban County" program.

In 1980, the City population exceeded 50,000 and HUD recognized it as a Metropolitan City (MC). In 1982, HUD approached the City and presented the option that as a MC Troy could consider receiving CDBG funding. The City selected to keep its MC status and sign a joint agreement with the County to continue under the "Urban County" administration.

The MC designation under a joint agreement adversely affects the ability of the County to access additional HOME program funds to serve the needs of low and moderate-income City residents. Therefore, the County has requested that the city relinquishes its MC designation and incorporate into the "Urban County" program.

The City Council reviewed the County request at their August 9, 2004 meeting. A resolution was presented to the City requesting a waiver from the three-year period requirement, termination of the joint agreement, and the simultaneous relinquishment of Troy's MC designation. The Council approved the resolution by a vote of ____ to _____. Copies of the resolution and meeting minutes are enclosed.

Sincerely,

L. Brooks Patterson, County Executive

Louse E. Schilling, Mayor City of Troy

Date _____

Date _____

John Szerlag, Manager, City of Troy

Date _____

Cc: Shannon Hefter, HUD CPD

Allocation Analysis Summary

Page 1 of 2

PURPOSE

Recommendation that the City of Troy relinquishes its Metropolitan City status, terminating the joint agreement with Oakland County per 24 CFR 570.308, and be incorporated into Oakland County's Urban County Program. This action will allow the Department of Housing & Urban Development (HUD) to allocate HOME funds to Oakland County on behalf of the City of Troy for home improvement projects.

DISCUSSION

In 1975, HUD designated Oakland County as an "Urban County" for the purpose of administering federal grants, including the Community Development Block Grant (CDBG), on behalf of local communities with populations less than 50,000. Also in 1975, the City of Troy entered into a cooperative agreement with Oakland County to join the Urban County program.

In 1990, the City's population exceeded 50,000, which allowed HUD to recognize Troy as a Metropolitan City. In 1992, HUD approached the City and presented various options of how the City could continue to receive and administer CDBG funds. At that time, the City elected to keep its Metropolitan City status and entered into a joint agreement with Oakland County.

Currently, the City of Troy designation under the joint agreement with Oakland County adversely affects the ability of the City and the County to access additional federal HOME Investment Partnership funds (The HOME program allocates resources to serve the housing needs of low and moderate-income residents). These resources are currently being retained by the State of Michigan and are being distributed statewide. Neither the County nor Troy benefits from these funds. With a change in the City's CDBG designation, HUD would redirect HOME funds from the state level to Oakland County to benefit seven additional Troy residents. The value of these funds totals 174,000 (\$145,000 in HOME funds for improvements and \$29,000 in County home improvement administrative costs).

Oakland County has requested that the City of Troy relinquish its Metropolitan City designation and be incorporated into the County's Urban County Program in order to allow the County to receive additional HOME funds that can be used to benefit low and moderate income residents beginning in Program Year 2005. These resources will be allocated directly to Oakland County to aid Troy residents.

If the City elects to retain its current CDBG joint agreement status with the County, nothing changes and the County would not be eligible to obtain additional HOME funds for Troy home improvement projects.

The City of Troy, as another option, could opt to participate with HUD directly as an individual metropolitan city at the beginning of any three-year CDBG cooperation period (the next three-year period begins May 1, 2006). Under this option the City would sever its relationship in the Urban County CDBG program and assume full administrative duties of the CDBG program as an entitlement jurisdiction. The City would no longer be eligible for Oakland County's much larger pool of Home Improvement Program funds, HOME program funding or many of the added values of participating in an Urban County program. A cost benefit analysis of the issue is attached for your review. Based on this information, Oakland County recommends that the City continue its agreement with the Urban County.

Currently the City of Troy receives \$195,344 (2004) in annual CDBG appropriations. The County allows its communities to allocate a maximum of 50% of the allocation (or \$97,672 for Troy) for Public Service activities. In 2004, Troy allocated over \$70,000 for its Home Chore public service program.

If the City of Troy opted to become an independent metropolitan city, the City could receive as much as \$429,000 in annual HUD allocations. However, this increase in funding also comes with additional restrictions on the possible use and allocation of funds. Of this amount a maximum of twenty percent (20%) may be allocated to offset administrative and planning related costs ($\$429,000 * 20\% = \$85,800$). HUD also limits public service expenditures to a maximum of 15% of the allocation (\$64,350). This limits the amount of Home Chore or other Public Service funding to serve residents.

Allocation Analysis Summary

Page 2 of 2

To be eligible for reimbursement through HUD, CDBG funds would be accountable for standards more stringent than the City currently faces under the agreement with Oakland County. Instead of 'Low/Moderate Income Areas' within the City meeting a 36.1% threshold of population below the moderate-income level as defined by HUD the City would only be able to undertake actions serving the public in areas where 51% of the population fall below the moderate-income level. Oakland County currently provides all federally mandated program requirements including contract compliance, environmental guidance and reporting, citizen participation, five year consolidated plan development, performance measures, fair housing initiatives, federal financial disbursement and reporting systems and also provides many other federal procedures and documents.

Oakland County currently administers a complex comprehensive Home Improvement Program (HIP) that meets HUD lead based paint requirements. In 2003, nine (9) Troy households received no interest deferred loans and/or 3 percent interest installment loans for home improvements. The \$180,000 value of the improvements plus \$36,000 worth of HIP administrative costs result in a total benefit to residents of \$216,000. The County offers an efficient and high level of HIP service due to economies of scale, years of experience and knowledge of complex HUD rules, regulations, requirements, service caps, compliance issues, environmental and lead based paint reviews and certifications. The County also has compliant auditing, accounting and mortgage systems in place.

In summary, the County recommends that Troy maximize its CDBG and HOME benefit to residents by incorporating into Oakland County's Urban County Program. In 2004, the City directly received \$195,344 in CDBG appropriations and nearly \$216,000 of improvements through Oakland County's Home Improvement Program (HIP) equaling \$411,344 (\$195,344 + \$216,000). This direct funding plus additional HOME funding of \$174,000 equals \$585,344. Although Troy could receive about \$429,290 in CDBG funds as a metropolitan city, the various direct and indirect costs of administering the program would diminish project spending capacity, public service potential and result in the loss of many other added values provided by being a current participant in the Oakland County program.

FISCAL INFORMATION

No fiscal impact if City of Troy is incorporated into Oakland County's Urban County Program. All eligible expenses incurred will be reimbursed. Some major fiscal impacts to be incurred if City of Troy chooses to become an independent entitlement jurisdiction including direct and indirect costs for additional staff, training, software, legal fees, audit fees, review fees and compliance with federally mandated certifications and other requirements.

RECOMMENDATION

Recommendation that the City of Troy relinquish its Metropolitan City status, terminating the joint agreement with Oakland County per 24 CFR 570.308, and be incorporated into Oakland County's Urban County program which would allow the Department of Housing & Urban Development (HUD) to allocate HOME funds to Oakland County on behalf of the City of Troy.

**Troy CDBG Allocation Analysis
Metropolitan City vs. Urban County**

2004 Allocation as Metropolitan City (HUD)	\$429,000.00
2004 Allocation as Metropolitan City with Joint Agreement (Urban County)	\$195,344.00

Metropolitan City Program Costs

2004 HUD Allocation		\$429,000.00
20% Administrative Costs	-	\$85,800.00
Available Project Funds		\$343,200.00

Metropolitan City Impacts

- | | |
|--|---|
| <ul style="list-style-type: none"> • Citizen Participation Plan • Environmental Review Record/SHPO • Annual Action and Consolidated Plan • Certifications • Fair Housing Compliance • Reporting Requirements/CAPER • Contract Compliance/Labor Requirements • Auditing | <ul style="list-style-type: none"> • Higher Exception Criteria of 51% L/M • 15% Public Service Cap • No access to Planning Funds • Local/Fed Mandated Accounting Sys • Spending Performance Ratio • Direct General Fund Administrative Costs • Indirect Program Administrative Costs |
|--|---|

2003 Urban County Home Improvement Program (HIP) Investment

9 Units x \$20,000.00		\$180,000.00
Administrative Costs	+	\$36,000.00
Total HIP Investment		\$216,000.00

Metropolitan City vs. Urban County Allocation Analysis

2004 Urban County Allocation	\$195,344.00
HIP Investment	\$216,000.00
Additional HOME Allocation	\$145,000.00
Additional HOME Administration	\$29,000.00
Urban County Investment	\$585,344.00
Avail Metro City Project Funds -	\$429,290.00
Net Urban County Benefit	\$156,054.00

Added Value

Housing Counseling Services
Homeless Pro Rata Share
Homeless Services (26 consumers)
Home Improvement Program Promotion
CDBG Administration <ul style="list-style-type: none"> • Citizen Participation Plan • Environmental Review Record including SHPO • Annual Action Plan/Consolidated Plan/Certifications • Financial and Performance Reporting Requirements including CAPER • Compliance Fair Housing/Lead Based Paint • Auditing • Local/Federal Mandated Accounting System
Additional HIP Resources = \$174,000.00
Exception Criteria 36.1 L/M Density vs. 51%
20% Planning/Administration Cap
50% Public Service Cap

May 14, 2004

John Szerlag
Manager
City of Troy
500 West Big Beaver Road
Troy MI 48084

Dear Mr. Szerlag:

Re: Community Development Block Grant (CDBG) Participant Designation

This letter is a request to meet with City of Troy officials to discuss the opportunity to receive additional funds from the U.S. Department of Housing and Urban Development (HUD) to assist low and moderate income residents. The following information is provided to prepare you for the meeting.

In 1974, Congress passed the Housing and Community Development Act to consolidate many of the federal categorical grant programs into one block grant program, entitled the Community Development Block Grant (CDBG). This legislation placed regulatory authority with HUD and program responsibility with local officials. Money became available to metropolitan cities, urban counties and states in 1975 to meet the needs of low and moderate income people, address slum and blight conditions or meet an urgent community need where funding was not available. The Act provides several avenues for a variety of communities across the nation to access funding based upon its size and composition.

HUD qualified Oakland County as an "Urban County" in 1975 to receive federal CDBG funds. This designation allows small communities with populations less than 50,000 to receive funds collectively by joining populations to meet a minimum urban county population threshold of 100,000. As part of the administrative process, each participating jurisdiction must sign a cooperative agreement indicating that it agrees to join the urban county program for a period of three years. Cooperation agreements must be renewed every three years. At the end of each three-year period, communities may opt out of the program or renew participation with the County. Communities may join the Urban County program at any time during the three years, but they may not opt out of the program during the agreement period.

A small community with a population of less than 50,000 has two options to access funds. It may apply for funding from the State through the Michigan State Housing Development Authority (MSHDA) in a competitive process called the "Small Cities" program or elect to participate with an urban county.

A community with a population greater than 50,000, also known as a Metropolitan City, has two options. They may access funding as a qualified independent entitlement jurisdiction participating directly with HUD or as a participating community in an urban county.

The 1970 Census indicated that Troy had a population of 39,419 people. Since the City did not qualify as a Metropolitan City, it chose to be included under the Oakland County Urban County program. The 1980 Census revealed that 67,102 people resided within the City. Since Troy surpassed the minimum requirement of 50,000 people, it was defined as a Metropolitan City. HUD approached the City in 1982 and presented three options that the city could consider to receive CDBG funding. The options were:

1. exercise the independent Metropolitan City status, receive funding directly from HUD and administer its own program;
2. keep the Metropolitan City status and sign a joint agreement with Oakland County to continue under the Urban County program administration; or
3. relinquish the Metropolitan City designation and be incorporated in the Urban County program administered by the County.

City of Troy administrators selected option two at that time.

There is no practical difference between options two and three as they relate to the City. In options two and three, the money is allocated to Oakland County to administer the program. Under the county program, Troy receives funds based upon a formula approved by the Oakland County Board of Commissioners. The city has maximum discretion to spend its formula allocation within program guidelines. In addition, city residents can participate in Oakland County's Home Improvement Program. The Home Improvement Program offers low interest installment and/or deferred payment loans to qualified homeowners to upgrade Troy's housing stock. This pool of funding is available to Troy residents over and above the CDBG formula allocation.

In option two HUD considers Troy to be a Metropolitan City that has a joint agreement with the County. Based on this designation, HUD uses Troy's demographics to calculate its CDBG annual allocation separately from the Urban County. Under option three, the City of Troy would relinquish the Metropolitan City designation and Troy's demographics would be included automatically by HUD in calculating Oakland County's allocation formula.

Troy retains the right to select any of the three options at the end of each three-year cooperation agreement period regardless of its current chosen status. The end of the current three-year cooperation agreement period is April 2006.

The discussion thus far leads to a new funding opportunity for Oakland County's HOME Investment Partnerships Act program (HOME). In 1992, Oakland County began to receive HOME funding through HUD to expand the County's Home Improvement Program and to develop homeownership opportunities. HOME funding is allocated to Oakland County each year along with CDBG and Emergency Shelter Grant funds in a consolidated application process. HUD allocates HOME funds to Oakland County based on the Urban County's participating community demographics with the exclusion of CDBG designated Metropolitan Cities such as Troy.

HUD informed Oakland County in April that Troy's demographics have been excluded from Oakland County's HOME allocation due to its status as a Metropolitan City. Instead, an amount of funds reflecting Troy demographics is calculated by HUD in the HOME formula and included in the State of Michigan's HOME program. This lost funding opportunity totals \$145,000 for 2004.

The State HOME program is administered by MSHDA and offers programs in an open competition forum. Under the current HOME construct, Troy would have to competitively apply to MSHDA for individual housing programs. To Oakland County's knowledge, Troy has not benefited from the State's HOME program.

HOME program rules differ from CDBG rules. Troy does not meet HOME qualifications to receive funding independently as a Metropolitan City. To benefit from HOME funds, Troy must either relinquish its Metropolitan City status under the County CDBG program to be included in the County's HOME formula or the funds calculated under the HOME program for Troy would continue to go to the State's HOME program.

Oakland County and Troy have a unique opportunity to redirect HOME funds from the State to Oakland County to benefit Troy residents. To accomplish this, the City must reconsider the CDBG funding designation options and request that HUD grant a waiver to select option three within the current three-year period. This waiver request from HUD to the current three-year period requirement would allow Troy to change their status for Program Year 2005 to redirect funding from the State to Oakland County on the City's behalf.

After considerable review and discussions with HUD staff, Oakland County recommends that the City of Troy relinquish its Metropolitan City designation and be incorporated in the Urban County program administered by the County. This change in designation will allow additional resources to become available to Troy's low and moderate income residents beginning program year 2005.

If Troy declines to relinquish its Metropolitan City designation, there is an alternative approach under the HOME program to redirect funding back to Oakland County through the formation of a HOME Consortium. There are specific rules and time restraints that govern the creation of a Consortium that we can review with you at the meeting.

We look forward to discussing these issues with you and bringing additional HOME funds to the City of Troy and Oakland County to address the needs of low and moderate income residents. Your office will be contacted on Wednesday, May 20, 2004 to schedule a meeting.

Sincerely,

Karry L. Rieth
Manager

cc: Louise Schilling, Mayor, City of Troy
Shannon Hefter, HUD Community Planning & Development Representative
Sam Lamerato, Troy Representative, Comm. & Home Improvement Citizens Advisory Council
Vicki C. Richardson, Troy Solid Waste Coordinator
Timothy Richnak, Troy Public Works Director
Dennis Toffolo, Oakland County Community & Economic Development Director

August 16, 2004

TO: John Szerlag, City Manager

FROM: Steven J. Vandette, Acting Assistant City Manager/Services
 Douglas J. Smith, Real Estate & Development Director
 William J. Huotari, Acting City Engineer
 Mark F. Miller, Planning Director

SUBJECT: STREET VACATION APPLICATION (SV-185) – South 149.26 feet of Beach Road, south of Hampton Lane, within Wendover Woods Subdivision No. 2, Section 19

RECOMMENDATION

City Council adopted an authorizing resolution for this item on June 21, 2004. The petitioner has attempted to dedicate easement rights to a public utility company; however, he must obtain ownership of the property before the easement rights can be dedicated. City Management recommends approval of the final street vacation request and the reservation of a 15-foot wide private easement for public utilities upon vacation (see attached easement language). Therefore, the City can then reserve the easement rights to the public utility company as part of the vacation.

GENERAL INFORMATION

Name of applicant(s):

Toby and Julie Buechner.

Location of property owned by applicant(s):

The applicant owns lot 53 of Wendover Woods Subdivision No. 2. The property is located on the south side of Hampton Lane, abutting Beach Road to the west.

History of Right of Way:

The right-of-way is entirely within Wendover Woods Subdivision No. 2, which was platted in 1961. A portion of the right-of-way is paved and functions as the applicant's driveway. The property to the south is completely built out as a residential neighborhood so there is no need to maintain the property as a right-of-way.

Length and width of right-of-way:

The right-of-way is 143.26 feet long by 43 feet wide. The entire section of right-of-way is located within Wendover Woods Subdivision No. 2. The ownership of the entire portion of right-of-way will revert to the applicant. A portion of the right-of-way is paved and presently functions as the applicant's driveway.

ANALYSIS

Reason for Street Vacation (as stated on the Street/Alley Vacation Application):

The application states the following: "I would like to put up a home addition that gets close to but not on this easement".

Future Land Use Designation:

The property is designated on the Future Land Use Plan as Low Density Residential.

Need for Future Easements:

There is a 12-foot wide utility easement that runs along the south end of lots 53 through 55. Since this easement can be accessed from Caswell Road, the City has no need for future easements within this portion of the Beach Road right-of-way.

There are DTE overhead wires located within the right-of-way. The right-of-way can be vacated with the reservation of a 15-foot wide easement for the DTE facilities.

Attachments:

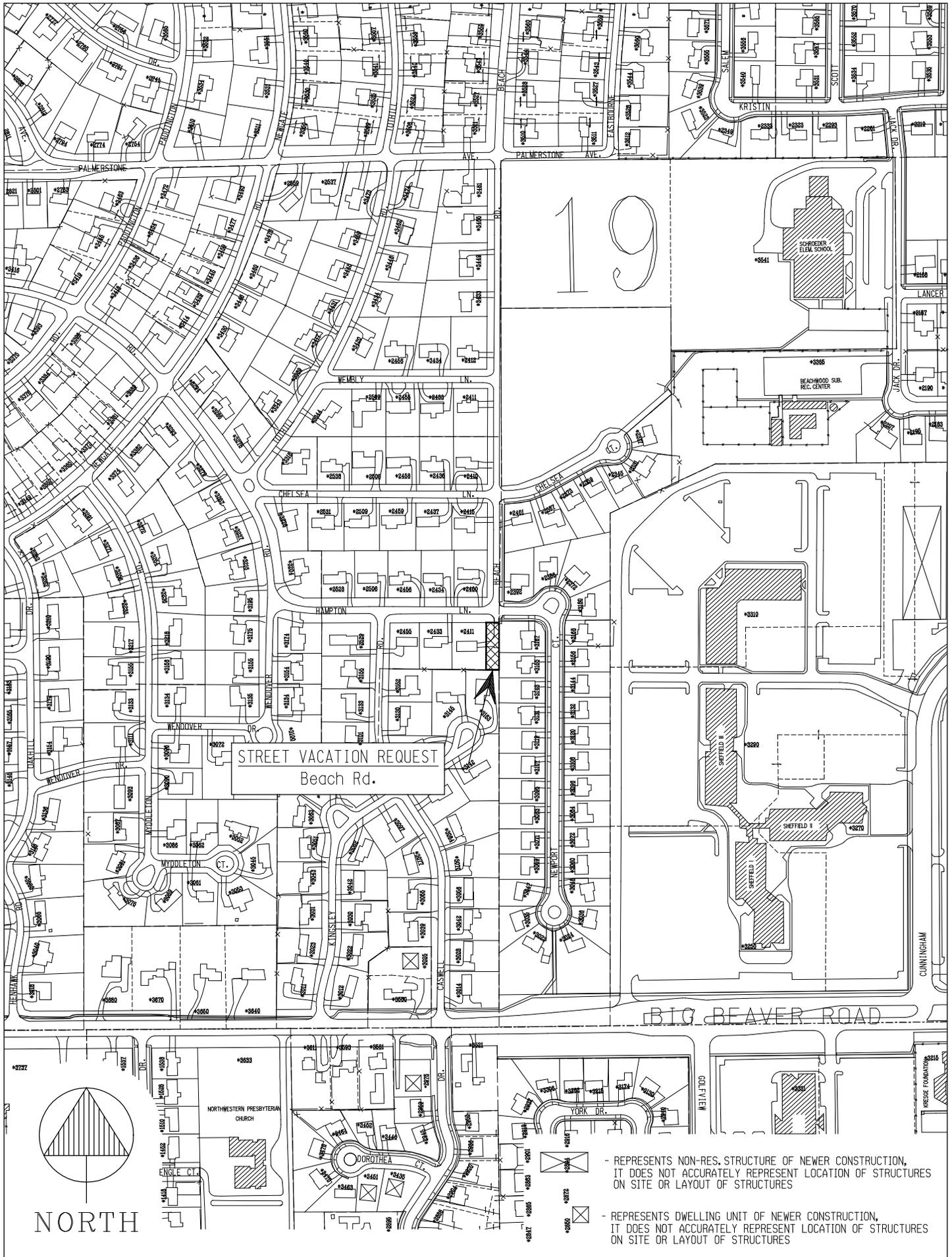
1. Maps
2. Minutes from June 21, 2004 City Council Public Hearing
3. Easement description

cc: Applicant
File/ SV 185

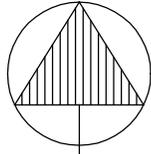
G:\STREET VACATION\SV 185 BEACH RD SEC 19\CC Final Vacation Beach Road St Vacation 08 16 04.doc

CITY OF TROY





STREET VACATION REQUEST
Beach Rd.



NORTH

- REPRESENTS NON-RES. STRUCTURE OF NEWER CONSTRUCTION,
IT DOES NOT ACCURATELY REPRESENT LOCATION OF STRUCTURES
ON SITE OR LAYOUT OF STRUCTURES

- REPRESENTS DWELLING UNIT OF NEWER CONSTRUCTION,
IT DOES NOT ACCURATELY REPRESENT LOCATION OF STRUCTURES
ON SITE OR LAYOUT OF STRUCTURES

STREET VACATION REQUEST
S 149.26 FT. OF BEACH RD. S OF HAMPTON
SEC. 19 (SV-185)



0 100 200 Feet



CALL TO ORDER:

INVOCATION & PLEDGE OF ALLEGIANCE: Pastor Dan Lewis-Troy Christian Chapel

ROLL CALL:

- Mayor Louise E. Schilling
- Robin Beltramini
- Cristina Broomfield
- David Eisenbacher
- Martin F. Howrylak
- David A. Lambert
- Jeanne M. Stine

CERTIFICATES OF RECOGNITION:

A-1 **Introduction of Student Representative Applicants:** Library Board - Cheng Chen and Lauren Andreoff, Troy Daze Festival Committee - Dhwani Meht, and Youth Council - Alexandra Bozimowski, Rishi Joshi, Jessica Kraft and Nicole Vitale

A-2 **Presentations:** (a) Brian Wattles, Chair – Civic Center Priority Task Force, Re: “Report Amendment” for the Civic Center Site Plan; (b) Tom Kaszubski, Chair – Ethnic Issues Advisory Committee, Re: Committee’s Proposal, Which They Were Tasked, Relative to Cultural and Historical Displays that Foster Good Community Relations

CARRYOVER ITEMS:

B-1 No Carryover Items brought forward.

PUBLIC HEARINGS:

C-1 **Street Vacation Application (SV-185) South 149.26 Feet of Beach Road – South of Hampton Lane Within Wendover Woods Subdivision No. 2 – Section 19**

City Management requests a 5-minute presentation regarding this item.

Suggested Resolution
 Resolution #2004-06-
 Moved by
 Seconded by

WHEREAS, A request has been received for the vacation of a portion of the 43-foot-wide platted Beach Road Street right-of-way, extending south 149.26 feet from Hampton Lane, and abutting Lot 53 of Wendover Woods Subdivision No. 2.

WHEREAS, The property which shall benefit from this requested vacation is Lot 53 of Wendover Woods Subdivision No. 2 – Section 19 (City of Troy Tax Parcel #20-19-379-003).

WHEREAS, City Management and the Planning Commission have recommended that this street vacation be granted without retaining easements for public sewer, water, storm sewer or access.

WHEREAS, It must be determined whether there is a need to retain easements within the right-of-way to be vacated, based in part on input or responses from applicable utility companies.

NOW, THEREFORE, BE IT RESOLVED, That the City Council concurs in the recommendations of City Management and the Planning Commission, and approves an authorizing resolution for the street vacation request; and

BE, IT FURTHER RESOLVED, That final action on this street vacation request shall be taken by the City Council, after the following action:

The petitioner will dedicate the necessary easements within the right-of-way to be vacated, based in part on input or responses from applicable utility companies.

Yes:

No:

C-2 Rezoning Application (Z-694) – West Side of Dequindre – South of Big Beaver – Section 25 – B-1 to B-2 or B-3

City Management requests a 5-minute presentation regarding this item.

Suggested Resolution

Resolution #2004-06-

Moved by

Seconded by

(a) **Proposed Resolution A – As Recommended by City Management and the Planning Commission**

RESOLVED, That the B-1 to B-2 or B-3 zoning request, located on the west side of Dequindre Road, south of Big Beaver Road, Section 25, being 0.65 acres in size, is hereby **DENIED**, as **RECOMMENDED** by City Management and the Planning Commission.

OR

(b) **Proposed Resolution B – As Requested by the Petitioner**

RESOLVED, That the B-1 to B-2 or B-3 zoning request, located on the west side of Dequindre Road, south of Big Beaver Road, Section 25, being 0.65 acres in size, is hereby **APPROVED**, as **REQUESTED** by the Petitioner.

OR

Tuesday, August 3, 2004

Section 19, SW 1/4
Proposed Street Vacation & Easement
Parcel: 88-20-19-379-003
Address: 2411 Hampton Lane

Description of Proposed Road Vacation:

Beach Rd.

Part of Beach Road as recorded in "Wendover Woods Subdivision No.2", Liber 104, Page 38-39, of Oakland County, Michigan records. That part of Beach Road being 43.00 feet wide extending from the north lot line of Lot 53 extended east to the south lot line of Lot 53 extended east of said "Wendover Woods Subdivision No.2" being more particularly described as beginning at the southeast corner of said Lot 53; thence North 00 degrees 26 minutes 20 seconds East, along the east line of said lot, 149.26 feet to the northeast corner of Lot 53 and the south line of Hampton Lane; thence South 89 degrees 33 minutes 40 seconds East, along said south line extended easterly, 43.00 feet to the east line of said "Wendover Woods Subdivision No.2"; thence South 00 degrees 26 minutes 20 seconds West, along said east line, 149.66 feet to the south line of said plat; thence North 89 degrees 01 minutes 51 seconds West, along said south line, 43.00 feet to the southeast corner of said Lot 53 and the point of beginning. Said road vacation is approximately 149 feet in length.

Description of Proposed 15 feet wide Private Easement for Public Utilities:

Part of Vacated Beach Road as recorded in "Wendover Woods Subdivision No.2", Liber 104, Page 38-39, of Oakland County, Michigan records. Beginning at the southeast corner of Lot 53 of said "Wendover Woods Subdivision No.2"; thence North 00 degrees 26 minutes 20 seconds East, along the east line of said lot, 149.26 feet to the northeast corner of Lot 53 and the south line of Hampton Lane; thence South 89 degrees 33 minutes 40 seconds East, along said south line extended easterly, 15.00 feet; thence South 00 degrees 26 minutes 20 seconds West, parallel to the east line of Lot 53, 149.40 feet to the south line of said plat; thence North 89 degrees 01 minutes 51 seconds West, along said south line, 15.00 feet to the southeast corner of said Lot 53 and the point of beginning. Containing 2,240 Square Feet or 0.051 Acres more or less.

August 17, 2004

TO John Szerlag, City Manager

FROM: Steven J. Vandette, Acting Assistant City Manager/Services
Doug Smith, Real Estate and Development Director
Dennis C. Stephens, Right of Way Representative

SUBJECT: Request for approval of Agreement To Purchase Right of Way to
the 75 foot line for sidewalk – 6130 Rochester Road - Section 2
Sidewalk Gap
Owner: John Stewart

On June 7, 2004 City Council authorized an unconditioned offer to purchase right-of-way on the east side of Rochester road, north of Square Lake Road, in Resolution #2004-06-316, to fill a sidewalk gap. The value authorized and the appraised value was \$36,619.59.

The appraised value for this parcel was prepared by Andrew Reed, a state Certified General Appraiser and reviewed by Kimberly A. Harper, Deputy Assessor. Timothy Richnak, Public Works Director prepared the Tree and Shrub Evaluation.

Mr. Stewart has signed and returned the Agreement to Purchase with an increase in the amount, to \$39,619.59, which is \$3,000.00 more than the approved amount. There is also a condition that the city will bring a water tap to the right of way line on this parcel at a fee not to exceed \$2,000.00 that the owner will need to pay.

The Right-of-Way Department has conferred with the Department of Law and the Water and Sewer Department.

City staff believes it would be in the City's best interest to approve this Agreement to Purchase, with conditions.

CITY OF TROY
AGREEMENT TO PURCHASE REALTY
FOR PUBLIC PURPOSES

The CITY OF TROY (the "Buyer"), agrees to purchase from John Stewart, a single man (the "Sellers"), the following described premises (the "Property"):

See Exhibit "A" Attached Hereto and By Reference Made a Part Hereof

for a public project within the City of Troy and to pay the sum of Thirty ^{Nine} Thousand Six Hundred Nineteen and 59/100 Dollars (\$39,619.59.00) under the following terms and conditions:

1. Seller shall assist ^{39,619.59.00} Buyer in obtaining all releases necessary to remove all encumbrances from the property so as to vest a marketable title in Buyer.
2. Seller shall pay all taxes, prorated to the date of closing; including all special assessments, now due or which may become a lien on the property prior to the conveyance.
3. Seller shall deliver the Warranty Deed upon payment of the purchase money by check drawn upon the account of the City of Troy.
4. Buyer shall, at its own expense, provide title assurance information to the Buyer, and the Seller shall disclose any encumbrances against the property.
5. This Agreement is binding upon the parties and closing shall occur within ninety (90) days of the date that all liens have been released and encumbrances have been extinguished to the satisfaction of the Buyer, unless extended by agreement of the parties in writing. It is further understood and agreed that this period of time is for the preparation and authorization of purchase money.
6. Buyer shall notify the Seller immediately of any deficiencies encumbering marketable title, and Seller shall then proceed to remove the deficiencies. If the Seller fails to remove the deficiencies in marketable title to Buyer's approval, the Buyer shall have the option of proceeding under the terms of this Agreement to take title in a deficient condition or to render the Agreement null and void, and any deposit tendered to the Seller shall be returned immediately to the Buyer upon demand.
7. The Purchaser will assume all responsibility and liability for environmental concerns and cleanup, if necessary, on this property.
8. Seller acknowledges that this offer to purchase is subject to final approval by Troy City Council.
9. Seller grants to Buyer temporary possession and use of the property commencing on this date and continuing to the date of closing in order that the Buyer may proceed with the public project.

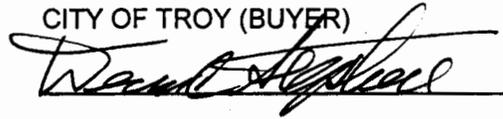
10. Additional conditions, if any: Water Service will be installed to the 75 foot line to make municipal water available at a cost to the property owner not to exceed \$2000.00, with the cost to run & hook-up the service to the house from the 75 foot line to be the responsibility of the property owner.

SELLER HEREBY ACKNOWLEDGES THAT NO PROMISES WERE MADE EXCEPT AS CONTAINED IN THIS AGREEMENT.

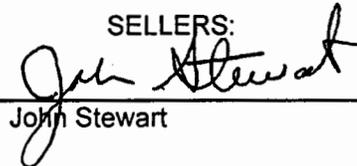
IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this _____ day of _____, A.D. 2004.

In presence of:

CITY OF TROY (BUYER)



SELLERS:



John Stewart

Right of Way Acquisition Sketch



Scale: 1"-200'

Date: 12-28-01

Date: 09-12-03 Revised

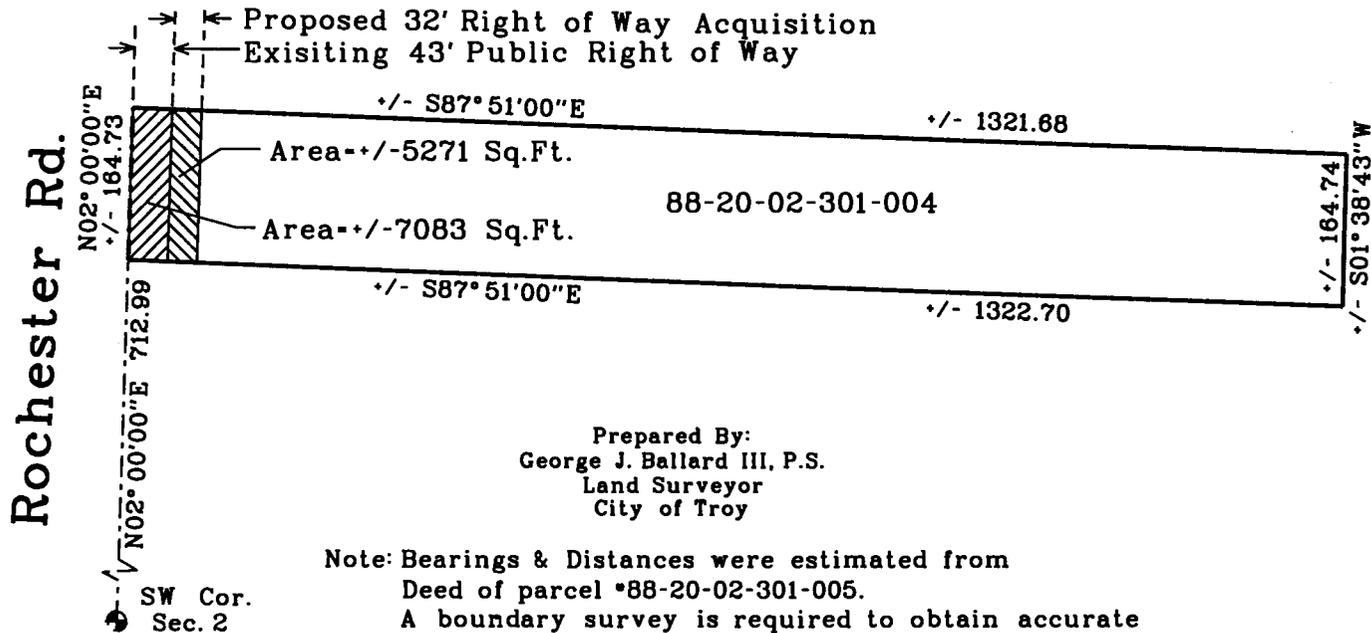


EXHIBIT "A"

Section 2, Part of the SW 1/4
Parcel: 88-20-02-301-004
Owner: Stewart
Address: 6130 Rochester Rd.

Description of Parent Parcel:

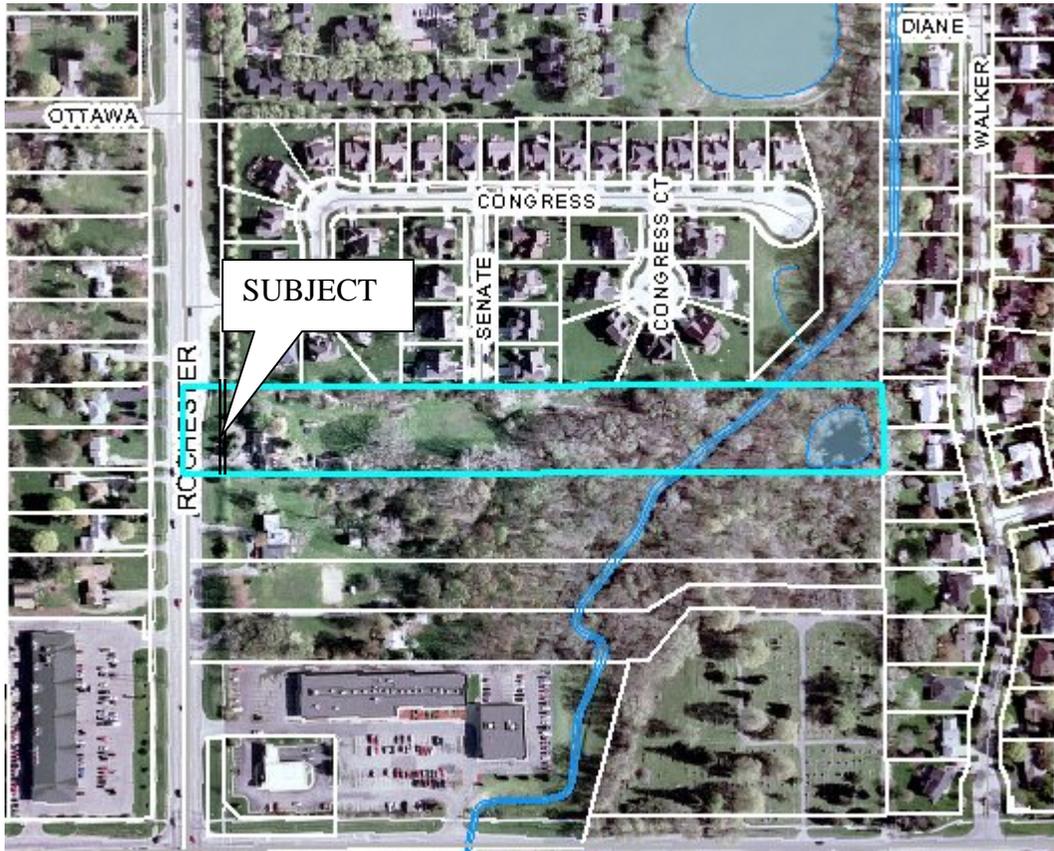
Part of the West ½ of the Southwest ¼ of Section 2, Town 2 North, Range 11 East, City of Troy, Oakland County, Michigan. The North 5 acres of the South 26 acres of the West ½ of the Southwest ¼ of said section 2, of which the West 43 feet is in Road Way.

Description of R/W Acquisition:

The West 75.00 feet of the following described parcel, of which the West 43 feet is in Road Way

Part of the West ½ of the Southwest ¼ of Section 2, Town 2 North, Range 11 East, City of Troy, Oakland County, Michigan. The North 5 acres of the South 26 acres of the West ½ of the Southwest ¼ of said section 2. Containing an estimated 5,271 Square Feet or 0.121 Acres more or less.

ROCHESTER ROAD GAP SIDEWALK
6130 ROCHESTER ROAD – SECTION 2



August 18, 2004

To: John Szerlag, City Manager

From: Jeanette Bennett, Purchasing Director

Subject: Agenda Items: Emerald Food Services, Inc.
Contract and Amendment Executions and Class C Liquor License

RECOMMENDATION:

Four inter-related agenda items are recommended by staff for approval and affect contracts with Emerald Food Service, Inc. The items are as follows:

- (a1) Contract execution of the Food Service at Sanctuary Lake Golf Course
- (a2) Execution of the third amendment to the Community Center Café / Pro Shop Agreement
- (b) The new Class C (quota) liquor license for Emerald Food Service, Inc. for Sanctuary Lake Golf Course
- (c) The corresponding agreement for the Liquor License

BACKGROUND:

On April 12, 2004, City Council awarded a contract to Emerald Food Service, Inc. for food and beverage service at Sanctuary Lake Golf Course (resolution #2004-04-186). The accepted proposal required combined revenue sharing for the Community Center Café / Pro Shop and the Golf Course. The expiration dates of both contracts should, therefore, coincide. The expiration date would be one year after the commencement of the food service at the golf course with two additional one-year options to renew or additional two-year options to be determined at the end of the first year of operation.

The third amendment to the Community Center and the final contract documents for Sanctuary Lake are attached and it is requested that the City Clerk and Mayor execute these documents.

On August 9, 2004, the Liquor Advisory Committee approved a new full year (quota) Class C liquor license with Sunday Sales, Official Permit (Food), and Outdoor Service Area for Emerald Food Service, Inc. After a background investigation of the applicant revealed no criminal activity or disqualifying factors, the request by Emerald Food Service, Inc. for the license is attached and the Police Department has no objection to this request. Also attached is the license agreement since City Council deems it necessary to enter into an agreement with applicants for liquor licenses for the purpose of providing civil remedies to the City of Troy in the event licensees fail to adhere to Troy Codes and Ordinances.

August 17, 2004

To: John Szerlag, City Manager

From: Steve Vandette, Acting Assistant City Manager
Jeanette Bennett, Purchasing Director
Carol K. Anderson, Parks and Recreation Director

Subject: Agenda Item: Food Service Contract Execution

On April 12, 2004, City Council awarded a contract to Emerald Food Service at the Sanctuary lake Golf Course for one year with two additional one-year options. The resolution (#2004-04-186) included recasting the lease agreement of the Community Center so that the revenue sharing of the two facilities is combined and expiration dates are consistent.

Terms of the agreement have been successfully negotiated with the vendor. As clarification, expiration of the agreements will be one year after the commencement of food service. The vendor applied for a liquor license and was approved by the Liquor Advisory Committee for a Class C liquor license at the August 9, 2004 meeting.

The contract is attached and it is requested that the City Clerk and Mayor execute the documents.

Reviewed and approved by City Attorney's Office

AGREEMENT
FOOD SERVICE AT SANCTUARY LAKE GOLF COURSE

THIS "AGREEMENT" entered into on _____, 2004, between the CITY OF TROY, 500 W. Big Beaver Road, Troy, Michigan 48084, hereinafter referred to as the "City", and Emerald Food Services I, LLC., a Michigan limited liability company, whose address is 1980 Greenfield, Berkley, Michigan 48072, hereafter known as the food service provider for Sanctuary Lake Golf Course, hereinafter referred to as the "Operator";

WITNESSETH:

In consideration of the City granting to the Operator the exclusive privilege and right of conducting the sale of food, beverages including alcoholic beverages, vending machines, and catering rights for golf outings at the Sanctuary Lake Golf Course, the parties agree as follows:

1. REVENUE SHARING PLAN: The Operator and the City have previously entered into an Agreement with Amendments in which the Operator has the use of the kitchen area at the Troy Community Center Café/Pro Shop and catering rights at the times and locations set forth or excluded in the Agreement and its Amendments. The Community Center Café/Pro Shop Agreement and Amendments set up a revenue sharing plan.

The parties to this Agreement (Food Service at Sanctuary Lake Golf Course Agreement) desire to use the same revenue sharing plan as set out in the Community Center Café/Pro Shop Agreement and Amendments and, for computation purposes, the parties desire to combine the gross receipts for the food and beverage operation at both the Community Center Café/Pro Shop and Sanctuary Lake Golf Course, including all monies derived from the operation of the café/pro shop, catering service including off-premises catering where food was prepared in the Troy Community Center kitchen but excluding revenue from coffee/tea service at the Center for seniors from 8:00 a.m. to noon, the golf course grillroom, the golf course outside food service area, catering for golf outings and vending machines and sundry items at both locations less Michigan Sales Tax (6% as of the date of this Agreement). A sixteen percent (16%) service fee in lieu of a gratuity may be added to catering for outings only. That 16% service fee shall be included in the gross receipts under this Agreement. In exchange, the Operator agrees to pay the City an incremental percentage of the combined yearly gross receipts of both facilities with a guaranteed minimum per year based on the revenue sharing plan as follows:

- | | |
|-------------------------------|--|
| a. 0 to \$200,000 per year | \$10,000 guaranteed minimum
(Minimum guaranteed per year) |
| b. \$200,001 to \$300,000 | 7% |
| c. \$300,001 to \$600,000 | 10% |
| d. \$600,001 per year or more | 12% |

Since it is impossible to estimate what the total gross receipts will be for the first year of the combined operation, the City agrees to accept monthly payments representing one-twelfth (1/12) of the guaranteed minimum of \$10,000.00, or \$833.33, to be paid on the first (1st) day of each month beginning with the month after the date on which the Operator has opened its Sanctuary Lake food service business and generated its first revenue for Sanctuary Lake Golf

Course, herein after “combined start-up date”, until total gross receipts for the first year of combined operations can be computed. The period of time between combined start-up date and the one (1) year anniversary of that start up date shall be defined herein as the “combined first fiscal year” of the combined operations and each year thereafter shall be known as a “fiscal year”.

Within sixty (60) days after the end of the combined first fiscal year, the Operator will provide an accounting of gross receipts from the combined first fiscal year and reconcile the amount actually paid to the City during the combined first fiscal year with the amount due the City of the percentage of gross receipts under the revenue sharing plan. The City has the right to request documentation of the reconciliation and, upon reasonable notice to the Operator, shall be provided with access to books and records of the Operator for review or audit, if deemed necessary. If additional monies are due the City for the combined first fiscal year of operation under the Agreement, those monies shall be paid forthwith to the City but no later than sixty (60) days after the date of the end of the first fiscal year.

The parties agree that the final figure accepted by the City as the combined first fiscal year gross receipts shall be used to compute payments under the Agreement for the first option in which the contract is renewed. That figure, shall be divided by 12 to obtain the monthly payment amount for the second fiscal year of operation. Those payments shall continue to be due and payable to the City on the first (1st) day of each month. If calculations of the gross receipts for the combined first fiscal year are not immediately available to calculate monthly payments for the second fiscal year, then the Operator will continue to pay \$833.33 per month and as soon as the calculations are available, monthly payments shall be adjusted accordingly and all monies due the City, if any, for previous monthly payments for the combined second fiscal year shall be paid forthwith. Thereafter, monthly payments for the combined second fiscal year shall be made as set out above.

Within sixty (60) days after the end of the combined second fiscal year of the operation, the Operator will provide an accounting of gross receipts for the combined second fiscal year and reconcile the amount paid to the City for the combined second fiscal year with the amount due the City of the percentage of gross receipts under the revenue sharing plan. The City has the right to request documentation of the reconciliation and shall be provided with access to books and records of the Operator for review or audit if deemed necessary. If additional monies are due the City for the combined second fiscal year of operation, those monies shall be paid forthwith to the City but no later than sixty (60) days after the end of the combined second fiscal year. In the event, that the Operator submits documentation acceptable to the City that it has overpaid the City during the combined second fiscal year of the operation under the revenue sharing plan, the City will forthwith refund the overpayment to the Operator.

The final figure accepted by the City as the combined second fiscal year gross receipts shall be used to compute payments under the Agreement for the third fiscal year of operation if the option to renew the contract is exercised. That figure shall be divided by 12 to obtain the monthly payment amount for the combined third fiscal year of operation. Those payments shall continue to be due and payable to the City on the first (1st) day of each month and calculated as set out above. At the end of the combined third fiscal year, if there are additional extensions of the contract, or whenever the Agreement is terminated, the Operator will provide an accounting of gross year receipts for the combined third fiscal year or for the year to the date of termination of the Agreement, and reconcile the amount paid to the City with the amount due the City and the same terms and conditions as set out above for the combined first and second fiscal years of operation shall apply. If the Agreement is terminated after the third contract anniversary year,

the gross receipts shall be pro-rated based on the number of months between the end of the combined second fiscal year and the termination of the Agreement. If this Agreement is extended for any additional time periods, monthly payments due the City shall be computed in the same manner and on the same terms and conditions as set out above.

2. **USE OF KITCHEN AND LIMITATIONS:** The Operator shall provide a food/beverage service to all users of the Sanctuary Lake Golf Course. The Operator shall be the exclusive caterer of commercially prepared food/beverages served at the golf course. User groups that wish to have food/beverages catered for their events shall make arrangements, including payment, directly with the Food Service Operator. The Operator's services shall include preparation, delivery, and clean up of food and/ or beverages.

3. **HOURS OF OPERATION:** The operating schedule for the Sanctuary Lake Golf Course shall be as follows unless the designated City representative provides written amendments to the following schedule:

MINIMUM OPENING DATES AND TIMES

April 1st – April 25th:	Monday thru Sunday 7:30 am
April 26th – May 16th:	Monday thru Sunday 7:00 am
May 17th – June 6th:	Monday thru Sunday 6:30 am
June 7th – August 22nd:	Monday thru Friday 6:30 am Saturday & Sunday 6:00 am
August 23rd – September 5th:	Monday thru Sunday 6:30 am
September 6th – September 26th:	Monday thru Sunday 7:00 am
September 27th – November 15th:	Monday thru Sunday 7:30 am

Note: Opening dates and times are subject to change to meet user demand. A minimum of 72 hours notice will be given for all changes.

OPERATING TIMES FOR OUTSIDE GRILL AND BEVERAGE CART:

The Outside Grill and Beverage Cart are expected to be open and running daily. The outside grill is to be opened no later than 9:30 a.m. and close no earlier than 5:00 p.m. daily. Upon agreement with the Director of Golf, the schedule may be changed to due weather and/or special circumstances.

Vending machines will be placed and filled for operation during the normal golf season with the exception of any vending machines that are placed in the golf range area. The golf range vending machines will be maintained during the entire year.

4. **MAINTENANCE OF PREMISES:** The Operator shall maintain the interior of the kitchen/dining area, vending area(s), outside food service area, the service window, if applicable, and all adjacent areas in a clean and neat manner and in compliance with all City ordinances, State law and applicable health standards and regulations. The Operator shall

maintain the trash receptacles in all kitchen / dining areas. The Operator is responsible for cleaning all equipment and reporting any type of mechanical problem to the Parks and Recreation Department. The City has a contractor for the cleaning of all restrooms. However, the Operator shall be responsible for making sure that all restrooms which are located in the kitchen and grilling area only are kept in a clean and neat manner when the restroom cleaning contractor is not on site. This includes the picking up of all trash left on floors or counter-tops, restocking hand towels, toilet tissue, soap, and emptying any trash receptacles if needed. It will be the responsibility of the Operator to lock entrance and exit gates to the facility at the end of each day.

5. OPERATOR'S EMPLOYEES: The Operator shall provide appropriate uniforms and name badges for its employees and shall require that all employees maintain themselves and their uniforms in a clean and neat appearance. The Operator is responsible for all wages, benefits or any other condition of employment and acknowledges that its employees have no employment relationship with the City. The City shall have the right to mandate that the Operator terminate an employee for inappropriate behavior. All employees serving alcoholic beverages shall do so within the guidelines of the State of Michigan Liquor Laws and may be terminated due to violations of this law.

6. INSPECTION AND REPAIRS: The City shall have the right to enter and/or inspect the kitchen area at any reasonable time and make repairs and/or improvements, as it deems necessary. The City will pay the expense of periodic maintenance caused by normal wear and tear of the kitchen equipment. Any maintenance or repair to Operator equipment is the sole responsibility of the Operator. Other repairs will be done at the City's expense unless it is determined that the repair was necessary due to the misuse or negligence of the Operator, its employees and/or agents in which event the Operator shall be responsible for the costs of said repairs. The City will make every effort to notify the Operator in advance if non-City employees will be entering onto the premises at the City's request. Any additions, repairs and/or improvements made on the premises shall become the property of the City.

7. SERVING OF ALCOHOLIC BEVERAGES:

(i) The City shall require the Operator to obtain a liquor license for the premises known as Sanctuary Lake Golf Course under the Operator's name and keep the license in good standing during the term of the Agreement. Violation of the State of Michigan Liquor laws will be considered as a violation of the Agreement and may result in termination of the Agreement at the City's discretion. Employees serving alcoholic beverages shall do so in compliance with the State of Michigan Liquor laws and guidelines as set forth by the Michigan Liquor Control Commission. Serving violations by an employee will be just cause for termination of the Agreement at the City's discretion, and the Operator shall be deemed responsible if such conduct occurs. The Operator shall in no way jeopardize the liquor license obtained for the Sanctuary Lake Golf Course facility.

(ii) Both the City and the Operator acknowledge that a liquor license in the restaurant industry has a significant market value. Operator further acknowledges that if it desired to open a restaurant with liquor service in the private sector, it would have to secure a liquor license. The liquor license would have to be approved by a municipality, which might have a limited number of licenses or no licenses available; or the Operator might have to pay a substantial amount of money to purchase an existing liquor license from another liquor licensee. Operator understands that the City is not in the restaurant industry but desires to enhance the services available to the public at the City's Sanctuary Lake Golf Course, a municipal golf course, by

having food and beverage service on the premises. The Operator acknowledges that it is the City's responsibility to insure a smooth transition of any food or beverage service at the Sanctuary Lake Golf Course if the Operator's Agreement is not renewed or if it is terminated. Therefore, the City is willing to forgo payment by the Operator of the market value of the liquor license which the City has agreed to approve for issuance to the food service vendor of the Sanctuary Lake Golf Course as part of the award of the bid in this matter, but if and only if, the food service vendor, in this instance the Operator, transfers the liquor license acquired by the food service vendor, in this instance the Operator, for Sanctuary Lake Golf Course to the City or the City's approved vendor at the termination of the Agreement by either party for any cause and/or for non-renewal of the Agreement. The Operator understands that this paragraph is an essential term and condition of this Agreement that the liquor license acquired by the Operator remain with the premises known as Sanctuary Lake Golf Course. The Operator understands that, but for the Operator's agreement to the terms and conditions in this paragraph, that City Council would not have approved this Agreement. Therefore, the Operator shall transfer the liquor license acquired for the Sanctuary Lake Golf Course to the new food service vendor selected by the City Council or to the City upon termination for any cause or by any party of the Agreement or upon non-renewal of the Agreement.

(iii) Upon termination of this Agreement by either party or upon expiration and non-renewal of the Agreement, the Operator shall cooperate fully and professionally to insure the transfer of the liquor license to the new food service vendor or the City, at the City's discretion. The Operator acknowledges that failure to cooperate in the transfer of the liquor license as set out herein will result in severe money damages to the City, loss of the liquor license and loss of the market value of the liquor license by the City. In lieu of a denial by a court of specific performance under this Agreement for the transfer of the liquor license to the City or a new food service vendor approved by the City, the City shall be entitled to payment of the market value of the liquor license in the amount of \$100,000.00, representing a minimum market value of the liquor license.

(iv) Although the initial term of this Agreement is a one (1) year period commencing the date of food service operations at the Sanctuary Golf Course, the City agrees that if the Agreement is not renewed for at least an additional two (2) years, or two (2) one (1) year terms, or if the Operator is terminated by the City for reasons other than violation of the State of Michigan Liquor Law and guidelines as set forth by the Michigan Liquor Control Commission, the City will purchase and take possession of all non-food inventory including by way of example, but not limited to, dishes, small wares, silverware, glasses, serving pieces, equipment (including specialized golf cart), non Emerald Food Service signage, and the like. The cost for such purchases shall be the Operator's documented cost of acquisition for such items minus depreciation based on the rules and regulations published by the Internal Revenue Service Act 1986, as amended. The Operator shall also have the discretion to remove those items from the premises and not receive payment as set out herein. The City shall pay the costs of the non-food inventory as set out herein within sixty (60) days after receipt of documentation of Operator's cost.

Additionally, within the three year period as set out above, the City shall also pay to the Operator the documented cost associated with the acquisition of a liquor license for example, the application and processing fee. The City shall not be responsible for the potential market value of the liquor license, any unopened liquor or other items not directly related to the acquisition of a liquor license. The City shall pay the costs for the acquisition of the liquor license as set out herein within sixty (60) days after receipt of documentation of Operator's cost.

8. **ENTERTAINMENT:** There shall be no entertainment including, but not limited to, music, singers, dancing, videos, movies, DVD's, modeling, magicians, without approval of the Director of Parks and Recreation.

9. **KITCHEN SUPPLIES / EQUIPMENT AND MODIFICATION:** The Operator shall provide all necessary supplies and personnel to staff the operation of the kitchen/dining area(s), catering service for golf outings, and vending machines that are required and not on the ***Kitchen Equipment*** List attached to the Request for Proposal. Building and/or equipment modifications shall be approved in advance by the Director of Parks and Recreation or his or her designated representative and shall become the property of the City at the conclusion or upon termination by either party of this Agreement. Additionally, the designated City representative shall approve equipment brought into the facility by the Operator or at the request of the Operator in advance of delivery to the Sanctuary Lake Golf Course. Any modification or addition of equipment required by the Oakland County Health Department shall be the responsibility of the Operator.

10. **PRICES / PRICE AND HOUR CHANGES:** Products sold or marketed, the prices charged, and the operation schedules of the kitchen/dining area(s) are subject to regulation by the City and, once established, no changes shall be made without prior approval of the Director of Parks and Recreation or his/her designee. Prices will be re-evaluated at the conclusion of each year of the Agreement. Increases in prices shall be no greater than the percentage increase of the Consumer Price Index of Food Eaten Away from Home. Prices shall be posted for patrons and a detailed printed description of prices shall be available for review by the City.

11. **RECORDS:** The Operator shall keep accurate records of all sales and receipts through the use of computerized/electronic cash registers which provide daily tapes and reports. The City, prior to commencement of the Agreement, shall approve the cash registers that will be used for the operation of the food services described in this agreement. At the City's option, Operator shall make available for inspection by the City, or it's designated representative or shall submit forthwith at City's request, a copy of its monthly Michigan Department of Treasury Sales Tax Return. An annual report, summarizing the monthly reports, shall be submitted to the City within sixty (60) days after the first anniversary date of the Agreement and each year thereafter that the Agreement is in effect. The City shall have the right to inspect the books, records, and inventories of the Operator at any reasonable time.

12. **ASSIGNMENT OF AGREEMENT / INDEPENDENT CONTRACTOR:** The Operator shall have no authority or power to assign, sublet and/or transfer any rights, privileges or interests under this Agreement without prior written consent from the City. The Operator acknowledges that it is an independent contractor with no authority to bind the City to any contracts or agreements, written or oral.

13. **COMPLIANCE WITH LAWS:** The Operator shall at all times be in compliance with all federal and state statutes and City ordinances and with all Oakland County Health Department licensing requirements, rules and regulations. The serving of alcoholic beverages will be in full compliance with State of Michigan Liquor Laws. The Operator will be responsible to obtain a State of Michigan Liquor License and keep it in force during the term of the contract. If the Operator receives liquor violations that jeopardize the facility's liquor license, the violations will be considered a breach of contract and, at the City's discretion, the contract may be terminated.

14. **INSURANCE:** The Operator shall maintain liability insurance for any actions, claims, liability or damages caused to persons and/or property arising out of the operation and/or maintenance of the food service, kitchen/dining area(s) and its catering operation for golf outings where food has been prepared in the Sanctuary Lake Golf Course food preparation area(s), in addition to liquor liability insurance, product liability insurance, and worker's compensation. All insurance coverage shall be approved by the City. Certificates of Insurance shall comply with the sample form attached to the Request for Proposal. The City shall be named as an additional insured under all policies except worker's compensation. All insurance companies must be licensed and admitted to do business in the State of Michigan. All insurance set out herein shall be maintained for the duration of the Agreement. Failure to maintain coverage or to continue to maintain coverage shall be considered a breach of contract with immediate termination of the Agreement at the will of the City. The Operator is responsible for any deductibles under its policies of insurance. The Operator agrees to indemnify and hold the City harmless for any claims, actions, liabilities or damages arising out of the operation, maintenance or management of the food service, kitchen/dining area(s), vending area(s), on-premises catering for golf outings where food has been prepared in the Sanctuary Lake Golf Course food preparation area(s).

15. **REPORTS OF CLAIMS:** Copies of all claims, damage, or accident reports received by the Operator, its employees and/or agents, whether submitted to an insurance company or not, relating to any damage or accident that occurred or is alleged to have occurred shall be sent to the City.

16. **PERSONAL PROPERTY TAXES:** The Operator shall be liable for any personal property taxes assessed against its equipment or inventory.

17. **UTILITY COSTS:** The City will pay utility costs.

18. **TERM OF AGREEMENT:** This Agreement shall terminate one (1) year after commencement of food service operations for Sanctuary Lake Golf Course unless cancelled by either party upon ninety (90) days written notice sent by certified mail as set out in Paragraph 19. Cancellation may be without cause by either party. If cancellation by the City is without cause or for failure to renew within the first 3 years of the Agreement as set out in Paragraph 7(iv), the additional terms of Paragraph 7(iv) shall apply. If the Community Center Café/Pro Shop Agreement is terminated but this Agreement is not (Food Service at Sanctuary Lake Golf Course), the revenue sharing plan set out in Paragraph 1 shall continue in effect without including the gross receipts for the Community Center Café/Pro Shop. At the end of the term of this Agreement, the City may at its option renew this Agreement within the parameters set forth for the Community Center Café / Pro Shop which includes any number of one (1) year periods under the same terms and conditions as set out in this Agreement if approved by City Council and if agreed to by the Operator. Renewal of this Agreement is not contingent on renewal of the Community Center Café/Pro Shop. As set out in the Community Center Café/Pro Shop Agreement, if this Agreement is cancelled or not renewed, the Community Center Café/Pro Shop Agreement may continue but under the same terms and conditions in effect prior to the existence of this Agreement or the Addendum to the Community Center Café/Pro Shop Agreement signed simultaneously with this Agreement.

19. **NOTICE:** All written notices to be given under this Agreement shall be mailed by certified mail, return receipt requested, to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five days subsequent to mailing.

20. **SECTION HEADINGS.** All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

21. **ENTIRE AGREEMENT:** This Agreement incorporates by reference the Request for Proposal, General Specifications, Vendor's Questionnaire, and the Operator's Proposal as set out herein. These documents constitute the entire Agreement and any changes thereto shall be in writing signed by both the parties unless otherwise set out in the Agreement.

IN WITNESS WHEREOF, the City and the Operator have executed this Agreement.

WITNESS:

(Operator)
(Title)

APPROVED: BY: _____
(Mayor)

City Manager or Designee CITY OF TROY _____
(Owner)

RESOLUTION NUMER: #2004-04-186

APPROVED AS TO FORM AND LEGALITY:

BY: _____

City Attorney ATTEST: _____
(City Clerk)

August 2, 2004

To: John Szerlag, City Manager

From: Steve Vandette, Acting Assistant City Manager
Jeanette Bennett, Purchasing Director
Carol K. Anderson, Parks and Recreation Director

Subject: Agenda Item: Approval of Third Amendment – Community Center Café/Pro Shop Agreement

Recommendation

City management recommends the approval of the third amendment of the Community Center Café/Pro shop agreement.

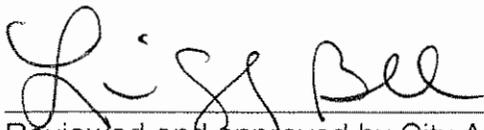
Background

On April 12, 2004, City Council awarded a contract to Emerald Food Service to provide food service at Sanctuary Lake Golf Course. (Resolution 2004-04-186)

The contract required combined revenue sharing for the Community Center and Golf Course. The expiration dates for the contracts for the Community Center should therefore now be revised to coincide with the dates of the Golf Course food vendor service contract.

The vendor has agreed to these modifications, and has executed the attached third amendment to the Contract for the Community Center. This contract provides for a new expiration date that is one year after the commencement of food service at the golf course.

The contract is attached and it is requested that the City Clerk and Mayor approve the contracts and authorize the Mayor and City Clerk to execute the contract on behalf of the City.



Reviewed and approved by City Attorney's Office

THIRD AMENDMENT TO AGREEMENT FOR THE COMMUNITY
CENTER CAFÉ / PRO SHOP

This is an Amendment to the Agreement for the Community Center Café / Pro Shop, also know as Emerald Café, which was entered into by the City of Troy, Michigan, a Michigan municipal corporation, 500 W. Big Beaver Road, Troy, Michigan 48084, hereinafter "City", and Emerald Food Services Inc., a Michigan Corporation, 1980 Greenfield, Berkley, Michigan 48072, hereafter "Operator", on March 18, 2002. Except for the additions or changes specified herein to the revenue sharing plan as set out in Paragraph 1 and the term of the Agreement as set out in Paragraph 19, the terms and conditions of the original Agreement and any previous Amendments to that Agreement remain in full force and effect.

1. **REVENUE SHARING PLAN:** Simultaneously with this Third Amendment to the Community Center Café/Pro Shop Agreement, the Operator and the City are entering into an Agreement for food service for the Sanctuary Lake Golf Course.

The parties to this Agreement desire to use the same revenue sharing plan as set already set out in this Community Center Café/Pro Shop Agreement and Amendments in the Food Service at Sanctuary Lake Golf Course Agreement and, for computation purposes, the parties desire to combine the gross receipts for the food and beverage operation at both the Community Center Café/Pro Shop and Sanctuary Lake Golf Course, including all monies derived from the operation of the café/pro shop, catering service including off-premises catering where food was prepared in the Troy Community Center kitchen but excluding revenue from coffee/tea service at the Center for seniors from 8:00 a.m. to noon,

the golf course grillroom, the golf course outside food service area, catering for golf outings and vending machines and sundry items at both locations less Michigan Sales Tax (6% as of the date of this Agreement). In exchange, the Operator agrees to pay the City an incremental percentage of the combined yearly gross receipts of both facilities with a guaranteed minimum per year based on the revenue sharing plan as follows:

- | | |
|-------------------------------|--|
| a. 0 to \$200,000 per year | \$10,000 guaranteed minimum
(Minimum guaranteed per year) |
| b. \$200,001 to \$300,000 | 7% |
| c. \$300,001 to \$600,000 | 10% |
| d. \$600,001 per year or more | 12% |

Since it is impossible to estimate what the total gross receipts will be for the first year of the combined operation, the City agrees to accept monthly payments representing one-twelfth (1/12) of the guaranteed minimum of \$10,000.00, or \$833.33, to be paid on the first (1st) day of each month beginning with the month after the date on which the Operator has opened for business and generated its first revenue for Sanctuary Lake Golf Course, herein after "combined start-up date", until total gross receipts for the first year of combined operations can be computed. The period of time between combined start-up date and the one (1) year anniversary of that start up date shall be defined herein as the "combined first fiscal year" of the combined operations and each year thereafter shall be known as a "fiscal year".

Within sixty (60) days after the end of the combined first fiscal year, the Operator will provide an accounting of gross receipts from the combined first fiscal year and reconcile the amount actually paid to the City during the combined first fiscal year with the amount due the City of the percentage of gross receipts under the revenue sharing plan. The City has the right to request documentation of the reconciliation and shall be provided with access to books and records of the Operator for review or audit, if deemed necessary. If additional monies are due the City for the combined first fiscal year of operation under the Agreement, those monies shall be paid forthwith to the City but no later than sixty (60) days after the date of the end of the first fiscal year.

The parties agree that the final figure accepted by the City as the combined first fiscal year gross receipts shall be used to compute payments under the Agreement for the first option in which the contract is renewed. That figure, shall be divided by 12 to obtain the monthly payment amount for the second fiscal year of operation. Those payments shall continue to be due and payable to the City on the first (1st) day of each month. If calculations of the gross receipts for the combined first fiscal year are not immediately available to calculate monthly payments for the second fiscal year, then the Operator will continue to pay \$833.33 per month and as soon as the calculations are available, monthly payments shall be adjusted accordingly and all monies due the City, if any, for previous monthly payments for the combined second fiscal year shall be paid forthwith. Thereafter, monthly payments for the combined second fiscal year shall be made as set out above.

Within sixty (60) days after the end of the combined second fiscal year of the operation, the Operator will provide an accounting of gross receipts for the combined second fiscal year and reconcile the amount paid to the City for the combined second fiscal year with the amount due the City of the percentage of gross receipts under the revenue sharing plan. The City has the right to request documentation of the reconciliation and shall be provided with access to books and records of the Operator for review or audit if deemed necessary. If additional monies are due the City for the combined second fiscal year of operation, those monies shall be paid forthwith to the City but no later than sixty (60) days after the end of the combined second fiscal year. In the event, that the Operator submits documentation acceptable to the City that it has overpaid the City during the combined second fiscal year of the operation under the revenue sharing plan, the City will refund the overpayment to the Operator.

The final figure accepted by the City as the combined second fiscal year gross receipts shall be used to compute payments under the Agreement for the third fiscal year of operation if the option to renew the contract is exercised. That figure shall be divided by 12 to obtain the monthly payment amount for the combined third fiscal year of operation. Those payments shall continue to be due and payable to the City on the first (1st) day of each month and calculated as set out above. At the end of the combined third fiscal year, if there are additional extensions of the contract, or whenever the Agreement is terminated, the Operator will provide an accounting of gross year receipts for the combined third fiscal year or for the year to the date of termination of the Agreement, and

reconcile the amount paid to the City with the amount due the City and the same terms and conditions as set out above for the combined first and second fiscal years of operation shall apply. If the Agreement is terminated after the third contract anniversary year, the gross receipts shall be pro-rated based on the number of months between the end of the combined second fiscal year and the termination of the Agreement. If this Agreement is extended for any additional time periods, monthly payments due the City shall be computed in the same manner and on the same terms and conditions as set out above.

2. It is understood that a separate Agreement establishing all other terms and conditions for Sanctuary Lake Golf Course will be required to be signed simultaneously and includes the Revenue Sharing Plan described above in Paragraph 1.

3. Paragraph 19 of the original Community Center Café/Pro Shop Agreement is also amended as follows:

19. **TERM OF AGREEMENT:** This Agreement shall terminate _____, 2005 in conjunction with the termination of the Food Service at Sanctuary Lake Golf Course Agreement unless cancelled by either party upon ninety (90) days written notice sent by certified mail as set out in Paragraph 20. If the Food Service at Sanctuary Lake Golf Course Agreement is terminated or not renewed but the food service for the Community Center Café/Pro Shop is continued by the Operator, then this Third Amendment to the Agreement for the Community Center Café/Pro shop shall become null and void as of the date of termination or cancellation of the Sanctuary Lake

Golf Course Food Agreement and the parties shall revert back to the previous revenue sharing plan in effect directly prior to the effective date of this Third Amendment to Agreement. At the end of the term of the Sanctuary Lake Food Service Agreement, the City may at its option renew this Agreement for the Community Center Café / Pro Shop for any number of two (2) year periods under the same terms and conditions as set out in this Agreement if approved by City Council and if agreed to by the Operator. Renewal of this Agreement is not contingent on renewal of the Food Service at Sanctuary Lake Golf Course Agreement.

EMERALD FOOD SERVICES INC.

CITY OF TROY,

Name:

Title: _____

By: Louise E. Schilling, Mayor

By: Tonni Bartholomew, City Clerk

Date: _____

RECEIVED

AUG 17 2004

CITY OF TROY
CITY MANAGER'S OFFICE

August 17, 2004

TO: Mr. John Szerlag, City Manager

FROM: Charles Craft, Chief of Police *CC*
Gary Mayer, Police Captain *GM*
Thomas Gordon, Police Sergeant *TG*

SUBJECT: Agenda Item - Application for new Class C (quota) license by Emerald Food Service, Inc.

EMERALD FOOD SERVICE, INC. requests a **new full year (quota) Class C** license with Sunday Sales, Official Permit (Food), and Outdoor Service Area, to be located at 1450 E. South Blvd., Troy, MI 48085, Oakland County. *Sanctuary Lake golf course*

At its August 9th meeting, the Liquor Advisory Committee entertained this request. Present to answer questions from the Board was Kim Haveranek, from Emerald Food Service, and Carol Anderson, City of Troy Parks & Recreation Director. Emerald Food Service has provided food and beverage service at the Troy Community Center for 17 years, and has been recommended to receive the contract for service at the Sanctuary Lake golf course.

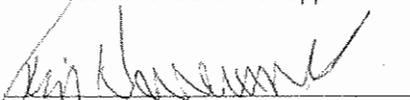
There is indoor seating for 50 patrons and outdoor seating for 180 on the pavilion. There will be a serving station outside. Ms. Haveranek is aware of the liquor enforcement policies of the Troy Police Department, and indicated that she will arrange for server training on site. The Committee unanimously approved this request.

The police department's background investigation of the applicant revealed no criminal activity or disqualifying factors. Consequently, we have no objection to this request.

AGREEMENT REGARDING LIQUOR LICENSE REQUEST

This Agreement, made this 10th day of MAY, 2004, by and between the CITY OF TROY, MICHIGAN, a municipal corporation, with offices located at 500 W. Big Beaver Road, Troy, Michigan, 48084, hereinafter known as THE CITY, and **EMERALD FOOD SERVICE, INC.**, the applicant, hereinafter known as APPLICANT.

1. The City Council of the City of Troy, for and in consideration of the following covenants and conditions, agrees to recommend to the Michigan Liquor Control Commission Approval of the APPLICANT "above all others" for a **new full year (quota) Class C license with Sunday Sales, Official Permit (Food), and Outdoor Service Area, to be located at 1450 E. South Blvd., Troy, MI 48085, Oakland County.**
2. In consideration of the City of Troy's recommendation for approval of the license, APPLICANT hereby agrees that:
 - (a) It has read and is aware of the provisions of City of Troy Ordinances, Chapter Nos. 67, 68, 92, and Chapter No. 98 (effective 02/01/2001), and agrees that it shall be deemed to have knowledge of any subsequent amendments to said Chapters which may become effective during the term of this agreement.
 - (b) It has read and is in receipt of copies of the provisions of the City of Troy, City Council Resolution No. 93-1028 regarding Entertainment Permits, and agrees that it shall be deemed to have knowledge of any subsequent amendments to the Resolution which may become effective during the term of this agreement.
 - (c) It agrees to observe and comply with all laws, statutes, ordinances, rules, regulations or resolutions of the United States government, State of Michigan, and the City of Troy, or any department or agency of the governmental entities, as well as the rules and regulations of the Michigan Liquor Control Commission as they pertain to the operation of a liquor licensed business in the City of Troy.
 - (d) It agrees to immediately require all employees who serve/sell alcohol to attend a recognized alcohol awareness program, and forward the names of each certified employee to the Troy Police Department. The alcohol awareness program must either be recognized by the Troy Police Department (i.e. TIPS, TAMS), or the program must be reviewed by the Troy Police Department to insure that the program is comparable to the recognized programs.
3. APPLICANT agrees that the recommendation for Approval agreed upon by the City Council is not a property right and is approved upon the express and continuing condition that no violation as set forth in paragraph 2 of this agreement shall occur.
4. APPLICANT agrees that the recommendation for Approval agreed upon by the City Council is approved upon the express and continuing condition that the physical characteristics (including but not limited to the inside layout, building design and engineering, seating capacity, parking space allocations, fire exits, and other physical attributes); and also the nature and type of business intended to be conducted remain virtually the same.
5. APPLICANT agrees that upon such violation, after full investigation and an opportunity for said applicant to be heard, upon a finding by the City Council that a violation as set forth in paragraph 2 of this agreement has occurred, the City Council shall have just cause for revocation of said recommendation for approval.



Kim Haveranek

EMERALD FOOD SERVICE, INC.

Witnesses:

[Signature]
[Signature]

Subscribed and sworn to before me
this 10th day of May, 2004

[Signature]

DEBRA A. PINGLE
NOTARY PUBLIC OAKLAND CO., MI
MY COMMISSION EXPIRES Feb 7, 2007

Notary Public, Oakland
County, Michigan
My commission expires: 02-07-07

CITY OF TROY

By: _____
Louise Schilling, Mayor

By: _____
Tonni Bartholomew, City Clerk

Witnesses:

Subscribed and sworn to before me
this _____ day of _____, 200____

Notary Public, Oakland
County, Michigan
My commission expires:

A regular meeting of the Liquor Advisory Committee was held on Monday, August 9, 2004 in Conference Room C of Troy City Hall, 500 West Big Beaver Road. Chairman Max K. Ehlert called the meeting to order at 7:00 p.m.

ROLL CALL:

PRESENT: Max K. Ehlert, Chairman
Henry W. Allemon
Anita Elenbaum
W. Stan Godlewski
James R. Peard
Emily Polet, Student Representative
Carolyn Glosby, Assistant City Attorney
Sergeant Thomas J. Gordon
Pat Gladysz

ABSENT: Alex Bennett
James C. Moseley

Resolution to Excuse Committee Members Bennett and Moseley

Resolution #LC2004-08-116
Moved by Allemon
Seconded by Ehlert

RESOLVED, that the absence of Committee members Bennett and Moseley at the Liquor Advisory Committee meeting of August 9, 2004 BE EXCUSED.

Yes: 5
No: None
Absent: Bennett and Moseley

Resolution to Approve Minutes of June 14, 2004 Meeting

Resolution #LC2004-08-117
Moved by Allemon
Seconded by Elenbaum

RESOLVED, that the Minutes of the June 14, 2004 meeting of the Liquor Advisory Committee be approved.

Yes: 5
No: None
Absent: Bennett and Moseley

Agenda Items:

1. **EMERALD FOOD SERVICE, INC.** requests a **new full year (quota) Class C** license with Sunday Sales, Official Permit (Food), and Outdoor Service Area, to be located at 1450 E. South Blvd., Troy, MI 48085, Oakland County. *This request is being made by the food service vendor for the new Sanctuary Lakes golf course.*

Present to answer questions from the Committee was Kim Haveranek from Emerald Food Service, Inc. and Carol Anderson, City of Troy Parks & Recreation Director.

The contract for food and beverage service at the new Sanctuary Lakes Golf Course was put out for bid. Carol Anderson, City of Troy Parks & Recreation Director, has recommended that Emerald Food Service, Inc. be awarded this contract. They have provided food and beverage service at the Troy Community Center for 17 years.

There is indoor seating for 50 patrons and outdoor seating for 180 on the pavilion. The pavilion was constructed with the option to enclose the area in the future. Emerald Food proposes to have both grill and banquet menus. There will be a serving station outside. They will most likely be open for this golf season with food service but not with liquor service. Managers and wait staff will be trained through the TIPS program. Ms. Haveranek indicated she will attempt to have the training performed on-premise.

The beverage service contract will be awarded for one year from the start of food service with two options to renew for two years each. At that point, the contract will be put out for bid. The contract states that Emerald Food Service, if awarded the contract, will be the licensee. When their contract with the City ends, they must cooperate with subsequent food vendor or return the license to the City.

Resolution #LC2004-08-118
Moved by Allemon
Seconded by Peard

RESOLVED, that EMERALD FOOD SERVICE, INC. be awarded a new full year (quota) Class C license with Sunday Sales, Official Permit (Food), and Outdoor Service Area, to be located at 1450 E. South Blvd., Troy, MI 48085, Oakland County.

Yes: 5
No: None
Absent: Bennett and Moseley

The meeting adjourned at 7:35 p.m.

Max K. Ehlert, Chairman

Patricia A. Gladysz, Clerk-Typist

(b) The local legislative body that has jurisdiction, except in cities with a population of 1,000,000 or more.

(c) The commission.

History: 1979 ACS 4, Eff. Feb. 3, 1981; 1979 ACS 16, Eff. Nov. 15, 1983.

R 436.1409 Nudity prohibited; applicability to electronic reproduction.

Rule 9. (1) An on-premise licensee shall not allow in or upon the licensed premises a person who exposes to public view the pubic region, anus, or genitals or who displays other types of nudity prohibited by statute or local ordinance.

(2) An on-premise licensee shall not allow in or upon the licensed premises the showing of films, television, slides, or other electronic reproductions which depict scenes wherein any person exposes to public view the pubic region, anus, or genitals or displays other types of nudity prohibited by statute or local ordinance. This prohibition does not apply to any publicly broadcast television transmission from a federally licensed station.

History: 1979 ACS 4, Eff. Feb. 3, 1981.

R 436.1411 Explicit sexual activity prohibited; applicability to electronic reproduction.

Rule 11. (1) An on-premise licensee shall not allow in or upon the licensed premises a person who performs, or simulates performance of, sexual intercourse, masturbation, sodomy, bestiality, fellatio, or cunnilingus.

(2) An on-premise licensee shall not allow in or upon the licensed premises the showing of films, television, slides, or other electronic reproductions which depict scenes wherein a person performs, or simulates performance of, sexual intercourse, masturbation, sodomy, bestiality, fellatio, or cunnilingus. This prohibition does not apply to any publicly broadcast television transmission from a federally licensed station.

History: 1979 ACS 4, Eff. Feb. 3, 1981.

R 436.1413 Clothing changes by entertainers.

Rule 13. (1) If an on-premise licensee offers entertainment wherein performers are required to change costumes or attire, the licensee shall provide and make use of dressing facilities set aside for use by male and female performers.

(2) An on-premise licensee shall not allow the use of restrooms, public rooms, kitchens, or other similar areas for the changing of clothing by entertainers.

History: 1979 ACS 4, Eff. Feb. 3, 1981.

R 436.1415 Dance floor; requirements.

Rule 15. An on-premise licensee who is the holder of a dance permit shall not allow dancing on the licensed premises, except on a dance floor that is not less than 100 square feet. The dance floor shall be well defined and clearly marked and shall be without tables, chairs, or other obstacles while customers are dancing.

History: 1979 ACS 4, Eff. Feb. 3, 1981.

R 436.1417 Employees serving food or liquor prohibited from eating, drinking, or mingling with customers; licensees, agents, and employees prohibited from soliciting customers; allowing customer to solicit liquor prohibited.

Rule 17. (1) An on-premise licensee shall not allow a person who is engaged in the serving of food or alcoholic liquor to eat, drink, or mingle with the customers.

(2) An on-premise licensee, or the clerk, servant, agent, or employee of an on-premise licensee, shall not solicit a customer for the purchase of alcoholic liquor for himself or herself or for any other person.

(3) An on-premise licensee, or the clerk, servant, agent, or employee of an on-premise licensee, shall not allow a customer to solicit alcoholic liquor for himself or herself or for any other person.

History: 1979 ACS 4, Eff. Feb. 3, 1981.

R 436.1419 Outdoor service without approval prohibited; requirements for outdoor service if approval is granted.

Rule 19. (1) An on-premise licensee shall not have out-of-doors service without the prior written approval of the commission.

(2) If approval for outdoor service is granted, the out-of-doors service area shall be well defined and clearly marked and the on-premise licensee shall not sell, or allow consumption of, alcoholic liquor out-of-doors, except in the defined area.

History: 1979 ACS 4, Eff. Feb. 3, 1981.

R 436.1421 Sample bottles or cans; sale prohibited; removal from premises.

Rule 21. (1) An on-premise licensee shall not sell or give away the contents of a sample bottle or can.

(2) An on-premise licensee shall remove sample bottles or cans from the licensed premises within 24 hours of their receipt.

History: 1979 ACS 4, Eff. Feb. 3, 1981.

R 436.1423 Soliciting, accepting, or receiving rebates, refunds, or adjustments from a person other than the commission for broken or defective containers prohibited.

Rule 23. An on-premise licensee who is licensed to sell spirits shall not solicit, accept, or receive rebates, refunds, or adjustments for any broken or defective spirit containers from a person other than the commission or an agent or employee of the commission.

August 18, 2004

TO: John Szerlag, City Manager

FROM: Steven J. Vandette, Acting Assistant City Manager/Services
Douglas J. Smith, Real Estate & Development Director
Patricia A. Petitto, Senior Right of Way Representative

RE: AGENDA ITEM - Request for Approval of Purchase Agreement for
Maple Road/Coolidge to Crooks Water Main and Sidewalk
Project #01.501.5 – McGregor Manufacturing Corporation
2785 West Maple - Sidwell #88-20-32-126-001

As part of the Maple Road/Coolidge to Crooks Water Main and Sidewalk Project, an agreement has been reached with McGregor Manufacturing Corporation to purchase 14,256 square feet of right-of-way at 2785 West Maple. This property is located on the south side of Maple, east of Coolidge, in the northwest $\frac{1}{4}$ of Section 32.

Based on an appraisal prepared by Thomas H. Chuba and Kenneth A. Blondell of Integra Realty Resources, and recent market information, management believes that the appraised value of \$132,900 is justifiable. The property is zoned M-1 and the compensation is for both real property and landscaping. This agreement has been reviewed and approved by both our Law Department and Engineering Department.

In order for the City to proceed with this project, management requests that City Council approve the attached purchase agreement in the amount of \$132,900, plus closing costs. Funding for this project will come from the Water Main Fund.

CITY OF TROY
AGREEMENT TO PURCHASE REALTY
FOR PUBLIC PURPOSES

The CITY OF TROY (the "Buyer"), agrees to purchase from McGregor Manufacturing Corporation, a Michigan Corporation, (the "Seller"), the following described premises (the "Property"):

Part of the Northwest ¼ of Section 32, Town 2 North, Range 11 East, City of Troy, Oakland County, Michigan. Described as: The North 60.00 feet of the West 12 Acres of the East 40 Acres of the North 60 Acres of the Northwest ¼, except the South 275.00 feet. Containing 14,256 Square Feet or 0.327 Acres more or less. The North 33.00 feet of which is currently being used for roadway purposes for a public project within the City of Troy

and to pay the sum of **One Hundred and Thirty Two Thousand, Nine Hundred** and no/100 dollars (\$132,900.00) under the following terms and conditions:

1. Seller shall assist Buyer in obtaining all releases necessary to remove all encumbrances from the Property so as to vest a marketable title in Buyer.
2. Seller shall pay all taxes, prorated to the date of closing, including all special assessments, now due or which may become a lien on the property prior to the conveyance.
3. Seller shall deliver a Warranty Deed upon payment of the purchase money by check drawn upon the account of the City of Troy.
4. Buyer shall, at its own expense, obtain title insurance for the Property.
5. This Agreement is binding upon the parties and closing shall occur within ninety (90) days of the date that all liens have been released and encumbrances have been extinguished to the satisfaction of the Buyer, unless extended by agreement of the parties in writing. It is further understood and agreed that this period of time is for the preparation and authorization of purchase money.
6. Buyer shall notify the Seller immediately of any deficiencies encumbering marketable title, and Seller shall then proceed to remove the deficiencies. If the Seller fails to remove the deficiencies in marketable title to Buyer's approval, the Buyer shall have the option of proceeding under the terms of this Agreement to take title in a deficient condition or to render the Agreement null and void, and any deposit tendered to the Seller shall be returned immediately to the Buyer upon demand.

7. The sale of the Property as provided for herein is made on a strictly "AS IS" "WHERE IS" basis. Buyer expressly acknowledges that, in consideration of the agreements of Seller herein, SELLER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF QUANTITY, QUALITY, CONDITION, HABITABILITY, MERCHANTABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, ANY IMPROVEMENTS LOCATED THEREON OR ANY SOIL CONDITIONS RELATED THERETO.

8. Seller acknowledges that this offer to purchase is subject to final approval by Troy City Council.

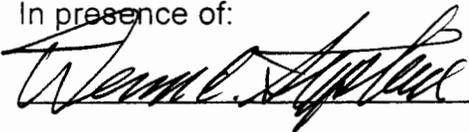
9. Seller grants to Buyer temporary possession and use of the property commencing on this date and continuing to the date of closing in order that the Buyer may proceed with the public project. If the Troy City Council fails to approve this Agreement, or if the conveyance contemplated herein does not close for any reason, Buyer hereby covenants and agrees to repair any damage that occurs to the Property, at Buyer's sole cost and expense, and to return the Property to the same condition as existed immediately prior to the execution of this Agreement. Buyer hereby indemnifies, protects, defends and holds Seller harmless from and against any and all losses, damages, claims, causes of action, judgments, damages, costs and expenses that Seller suffers or incurs as a result of any damage caused at, to, in, or at the Property as a result of (i) any injury to persons or property damage caused by or resulting from the Buyer's temporary possession and use of the Property, or (ii) construction liens filed or asserted in connection with the Buyer's temporary possession and use of the Property. Buyer's undertakings pursuant to this Section 9 shall indefinitely survive the closing or termination of this Agreement.

10. Additional conditions, if any: The legal description to be checked and certified by land surveyor.

SELLER HEREBY ACKNOWLEDGES THAT NO PROMISES WERE MADE EXCEPT AS CONTAINED IN THIS AGREEMENT.

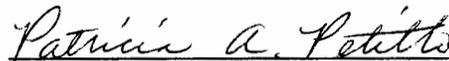
IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this 18 day of August, A.D. 2004.

In presence of:



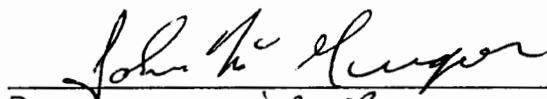


CITY OF TROY (BUYER)



SELLER:

McGregor Manufacturing Corporation,
A Michigan Corporation



By: President
Its:

7. The sale of the Property as provided for herein is made on a strictly "AS IS" "WHERE IS" basis. Buyer expressly acknowledges that, in consideration of the agreements of Seller herein, SELLER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT IN NO WAY LIMITED TO, ANY WARRANTY OF QUANTITY, QUALITY, CONDITION, HABITABILITY, MERCHANTABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, ANY IMPROVEMENTS LOCATED THEREON OR ANY SOIL CONDITIONS RELATED THERETO.

8. Seller acknowledges that this offer to purchase is subject to final approval by Troy City Council.

9. Seller grants to Buyer temporary possession and use of the property commencing on this date and continuing to the date of closing in order that the Buyer may proceed with the public project. If the Troy City Council fails to approve this Agreement, or if the conveyance contemplated herein does not close for any reason, Buyer hereby covenants and agrees to repair any damage that occurs to the Property, at Buyer's sole cost and expense, and to return the Property to the same condition as existed immediately prior to the execution of this Agreement. Buyer hereby indemnifies, protects, defends and holds Seller harmless from and against any and all losses, damages, claims, causes of action, judgments, damages, costs and expenses that Seller suffers or incurs as a result of any damage caused at, to, in, or at the Property as a result of (i) any injury to persons or property damage caused by or resulting from the Buyer's temporary possession and use of the Property, or (ii) construction liens filed or asserted in connection with the Buyer's temporary possession and use of the Property. Buyer's undertakings pursuant to this Section 9 shall indefinitely survive the closing or termination of this Agreement.

10. Additional conditions, if any:

SELLER HEREBY ACKNOWLEDGES THAT NO PROMISES WERE MADE EXCEPT AS CONTAINED IN THIS AGREEMENT.

IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this _____ day of _____, A.D. 2004.

In presence of:

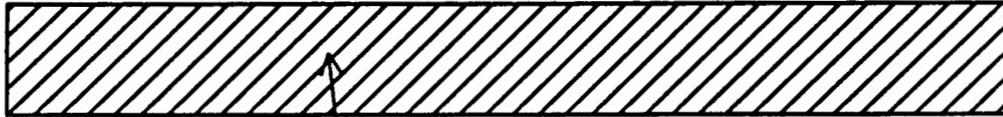
CITY OF TROY (BUYER)

SELLER:
McGregor Manufacturing Corporation,
A Michigan Corporation

By:
Its:

2785 W. Maple Rd.

528 +/-



Proposed 60' Wide
Right of Way
Acquisition



Axtell

715 +/-

715 +/-

88-20-32-126-001

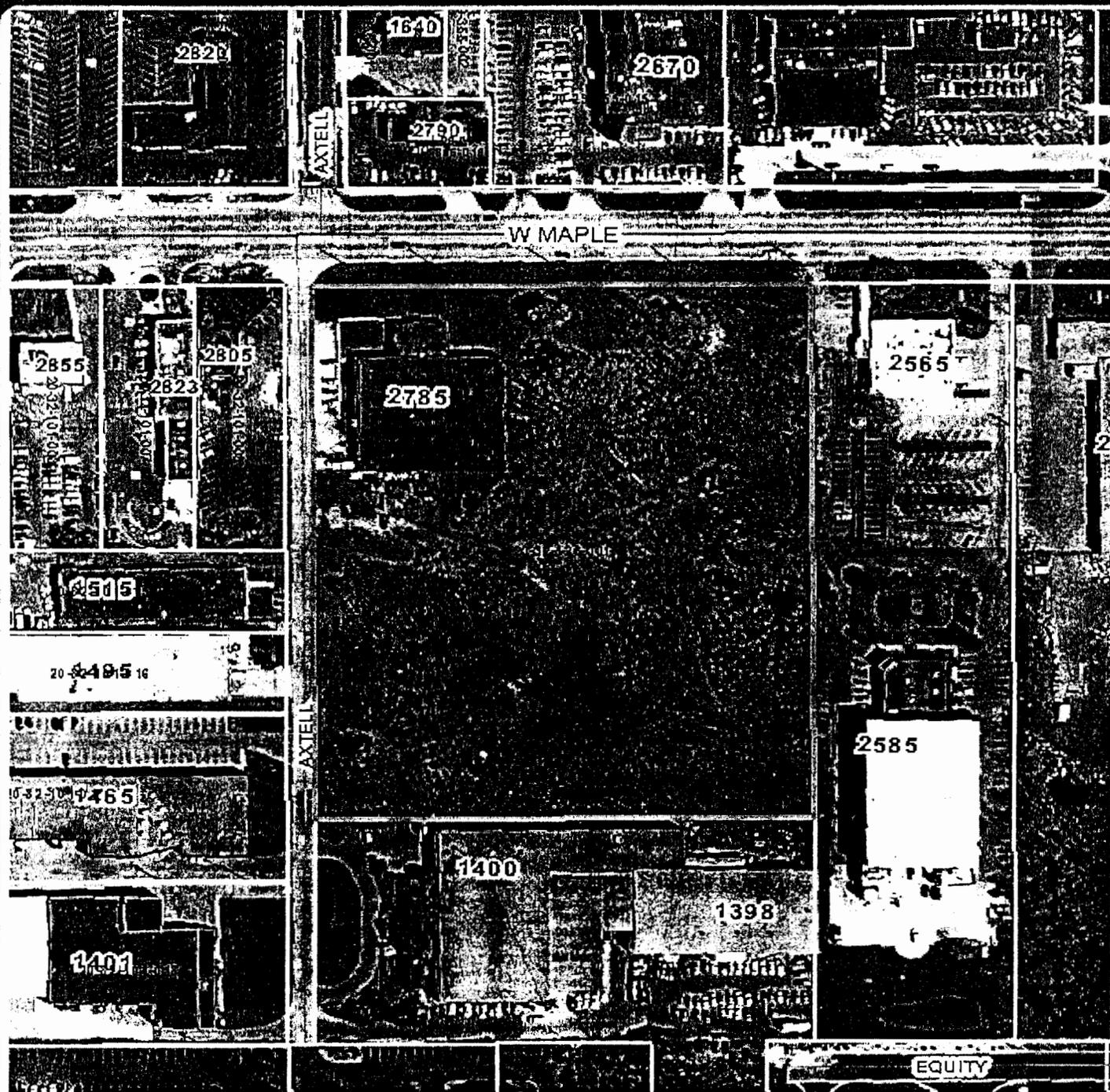
528 +/-

G:\Surveying\GEORGE\Easement Drawings\88-20-32-126-001.dgn

CITY OF TROY OAKLAND COUNTY, MICHIGAN			
2785 W. Maple 60' Wide R/W Acquisition Sketch			
SCALE	DRAWN BY	CHECKED	FILE
HOR. 1" = 100'	NAME GJB III	NAME	See Below
VER.	DATE 5-9-03	DATE	VIEW
DOCUMENT PREPARED BY George J. Ballard III CITY SURVEYOR	CONTRACT No.	STEVEN J. VANDETTE CITY ENGINEER	SHEET No. 1 of 1 JOB No. 01.501.5



Geographical Information Systems Online



Note: The information provided by this application has been compiled from recorded deeds, plats, tax maps, surveys, and other public records and data. It is not a legally recorded map survey. Users of this data are hereby notified that the source information represented should be consulted for verification.



August 18, 2004

TO: John Szerlag, City Manager

FROM: Steven J. Vandette, Acting Assistant City Manager/Services
Douglas J. Smith, Real Estate & Development Director
Patricia A. Petitto, Senior Right of Way Representative

RE: Request for Approval of Purchase Agreement
Thien Van Le & Yen Lu, 2919 Thames
Sidwell #88-20-25-229-002 Project No. 01.105.5
Big Beaver Road Improvements, Rochester to Dequindre

As part of the proposed Big Beaver Road Widening Project – Rochester to Dequindre, the Real Estate & Development Department has reached an agreement with Thien Van Le and Yen Lu to purchase his property at 2919 Thames, having Sidwell #88-20-25-229-002. The subject parcel is approximately 0.172 acres of land with a single family home and detached garage totaling 1,161 square feet. The sellers have requested that they be allowed to retain ownership of the item listed in Condition #10 of the Agreement to Purchase.

Based on an appraisal prepared by R.S. Thomas & Associates, Inc., and reviewed by Kimberly Harper, Deputy Assessor, staff believes that \$173,000, the compensation agreed upon, is a justifiable value for this acquisition.

In order for the City to proceed with the acquisition of this parcel, staff requests that City Council approve the attached Purchase Agreement with Thien Van Le and Yen Lu in the total amount of \$173,000, plus closing costs. Funds will come from the Big Beaver Road– Rochester to Dequindre project.

CITY OF TROY
AGREEMENT TO PURCHASE REALTY
FOR PUBLIC PURPOSES

The CITY OF TROY (the "Buyer"), agrees to purchase from Thien Van Le and Yen Lu, husband and wife (the "Sellers"), the following described premises (the "Property"):

SEE ATTACHED EXHIBIT "A"

for a public project within the City of Troy and to pay the sum of One Hundred, Seventy-Three Thousand and no/100 Dollars (\$173,000.00) under the following terms and conditions:

1. Seller shall assist Buyer in obtaining all releases necessary to remove all encumbrances from the property so as to vest a marketable title in Buyer.

2. Seller shall pay all taxes, prorated to the date of closing, including all special assessments, now due or which may become a lien on the property prior to the conveyance.

3. Seller shall deliver the Warranty Deed upon payment of the purchase money by check drawn upon the account of the City of Troy.

4. Buyer shall, at its own expense, provide title assurance information to the Buyer, and the Seller shall disclose any encumbrances against the property.

5. This Agreement is binding upon the parties and closing shall occur within ninety (90) days of the date that all liens have been released and encumbrances have been extinguished to the satisfaction of the Buyer, unless extended by agreement of the parties in writing. It is further understood and agreed that this period of time is for the preparation and authorization of purchase money.

6. Buyer shall notify the Seller immediately of any deficiencies encumbering marketable title, and Seller shall then proceed to remove the deficiencies. If the Seller fails to remove the deficiencies in marketable title to Buyer's approval, the Buyer shall have the option of proceeding under the terms of this Agreement to take title in a deficient condition or to render the Agreement null and void, and any deposit tendered to the Seller shall be returned immediately to the Buyer upon demand.

7. The City of Troy's sum paid for the property being acquired represents the property being free of all environmental contamination. Although the City of Troy will not withhold or place in escrow any portion of this sum, the City reserves its rights to bring Federal and/or State and/or local cost recovery actions against the present owners and any other potentially responsible parties, arising out of a release of hazardous substances at the property.

8. Seller acknowledges that this offer to purchase is subject to final approval by Troy City Council.

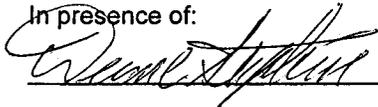
9. Seller agrees to vacate the premises on or before December 1, 2004; or sign a Short-Term Rental Agreement for continued occupancy on a short term basis, which shall be determined by the City. Seller will not be required to pay rent after the closing and prior to December 1, 2004. Beginning on December 1, 2004, rent will be at a rate of \$1,161 per month and shall be pro-rated if Seller occupies the property for a period less than one full month. Seller shall be responsible for and pay all taxes and utility bills for this property as long as Seller occupies the premises.

10. Additional conditions, if any: Seller will retain Shower/Tub door

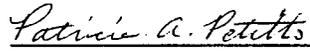
SELLER HEREBY ACKNOWLEDGES THAT NO PROMISES WERE MADE EXCEPT AS CONTAINED IN THIS AGREEMENT.

IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this 18TH day of AUGUST, A.D. 2004.

In presence of:


Paul Gross

CITY OF TROY (BUYER)



SELLER:


Thien Van Le

Yen Lu



EXHIBIT "A"

Section 25, Big Beaver Widening Project
Parcel: 88-20-25-229-002
Owner: Thien Van Le and Yen Lu, husband and wife
Parcel #11

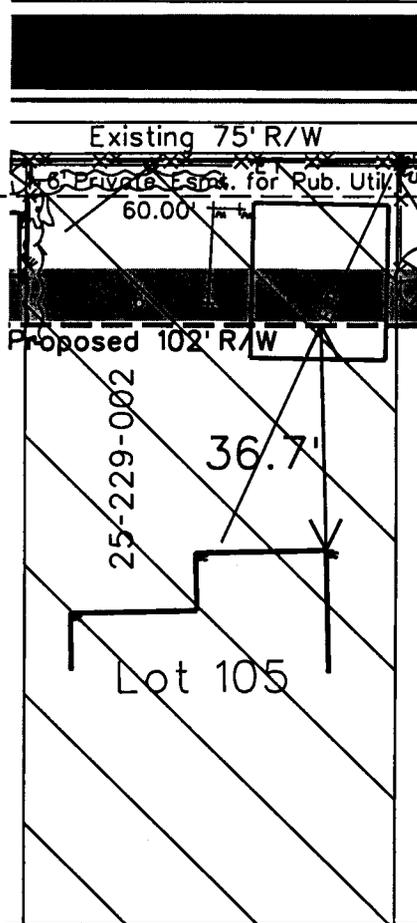
Parent Parcel Description (Title Commitment #63-510805)

Situated in the City of Troy, Oakland County, Michigan, described as:
Lot 105, Yorkshire Subdivision, according to the plat thereof as recorded in liber 115,
pages 29-30 of Plats, Oakland County Records.

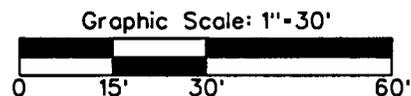
Proposed Right of Way Acquisition

Situated in the City of Troy, Oakland County, Michigan, described as:
Lot 105, Yorkshire Subdivision, according to the plat thereof as recorded in liber 115,
pages 29-30 of Plats, Oakland County Records. Containing 7,500 Square Feet or
0.172 Acres and being subject to all easements of record.

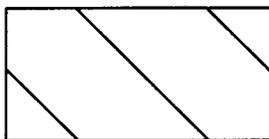
Big Beaver Rd.



#2919
Thames



Parcel #11



Right of Way
Acquisition
Area-7,500 Sq.Ft.

DATE	REV.

DOCUMENT PREPARED BY
George J. Ballard III
LAND SURVEYOR

CONTRACT No.

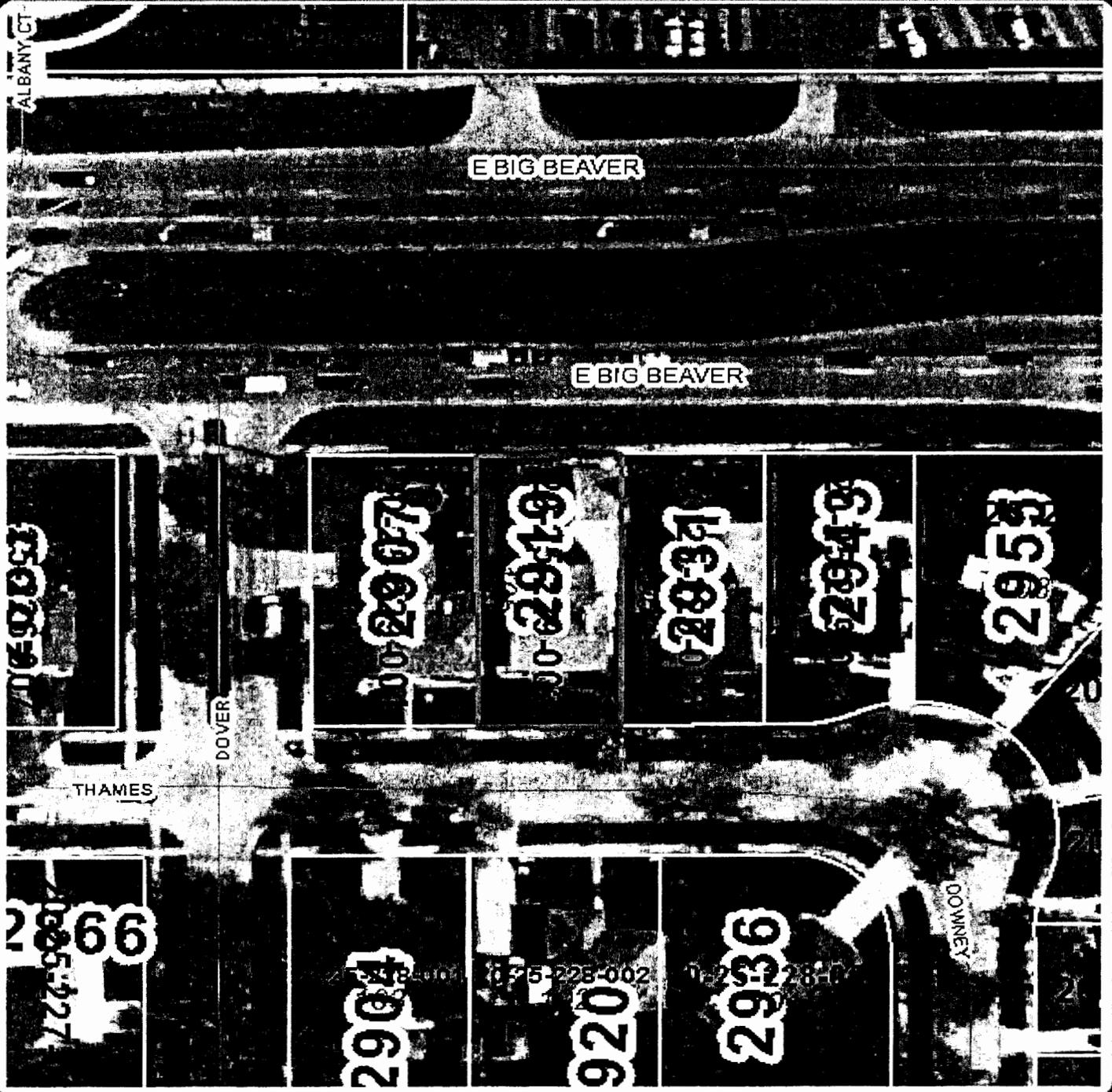
City of Troy
500 W. Big Beaver Rd.
Troy, Michigan 48084
(248) 524-3594
www.ci.troy.mi.us

#2919 Thames
Right of Way
Acquisition Sketch

SCALE	DRAWN BY	CHECKED	FILE
HOR.	NAME GJB III	NAME	See Above
VER.	DATE 5-19-04	DATE	VIEW *1
STEVEN J. VANDETTE CITY ENGINEER		SHEET No. 1 of 1	JOB No. 01.105.5



Geographical Information Systems Online



Note: The information provided by this application has been compiled from recorded deeds, plats, tax maps, surveys, and other public records and data. It is not a legally recorded map survey. Users of this data are hereby notified that the source information represented should be consulted for verification.



August 17, 2004

TO: John Szerlag, City Manager

FROM: Steven J. Vandette, Acting Assistant City Manager/Services
Douglas J. Smith, Real Estate & Development Director
Patricia A. Petitto, Senior Right of Way Representative

RE: Request for Approval of Purchase Agreement
Paul K. Davis, 2955 Sparta, Sidwell #88-20-25-202-001
Project No. 01.105.5 - Big Beaver Road Improvements,
Rochester to Dequindre

As part of the proposed Big Beaver Road Widening Project – Rochester to Dequindre, the Real Estate & Development Department has reached an agreement with Paul K. Davis to purchase his property at 2955 Sparta, having Sidwell #88-20-25-202-001. The subject parcel is approximately 0.188 acres of land with a single family home and detached garage totaling 1,176 square feet.

Based on an appraisal prepared by R.S. Thomas & Associates, Inc., and reviewed by Kimberly Harper, Deputy Assessor, staff believes that \$170,000, the compensation agreed upon, is a justifiable value for this acquisition.

In order for the City to proceed with the acquisition of this parcel, staff requests that City Council approve the attached Purchase Agreement with Paul K. Davis in the total amount of \$170,000, plus closing costs. Funds will come from the Big Beaver Road– Rochester to Dequindre project.

Sidwell #88-20-25-202-001

**CITY OF TROY
AGREEMENT TO PURCHASE REALTY
FOR PUBLIC PURPOSES**

The City of Troy (the "Buyer") agrees to purchase from Paul K. Davis, a single man (the Seller) the following described premises (the "Property"):

"SEE ATTACHED EXHIBIT "A"

for a public project within the City of Troy and to pay the sum of One Hundred, Seventy Thousand and no/100 Dollars (\$170,000.00) under the following terms and conditions:

1. Seller shall assist Buyer in obtaining all releases necessary to remove all encumbrances from the property so as to vest a marketable title in Buyer.

2. Seller shall pay all taxes, prorated to the date of closing, including all special assessments, now due or which may become a lien on the property prior to the conveyance.

3. Seller shall deliver the Warranty Deed upon payment of the purchase money by check drawn upon the account of the City of Troy.

4. Buyer shall, at its own expense, provide title assurance information to the Buyer, and the Seller shall disclose any encumbrances against the property.

5. This Agreement is binding upon the parties and closing shall occur within ninety (90) days of the date that all liens have been released and encumbrances have been extinguished to the satisfaction of the Buyer, unless extended by agreement of the parties in writing. It is further understood and agreed that this period of time is for the preparation and authorization of purchase money.

6. Buyer shall notify the Seller immediately of any deficiencies encumbering marketable title, and Seller shall then proceed to remove the deficiencies. If the Seller fails to remove the deficiencies in marketable title to Buyer's approval, the Buyer shall have the option of proceeding under the terms of this Agreement to take title in a deficient condition or to render the Agreement null and void, and any deposit tendered to the Seller shall be returned immediately to the Buyer upon demand.

7. The City of Troy's sum paid for the property being acquired represents the property being free of all environmental contamination. Although the City of Troy will not withhold or place in escrow any portion of this sum, the City reserves its rights to bring Federal and/or State and/or local cost recovery actions against the present owners and any other potentially responsible parties, arising out of a release of hazardous substances at the property.

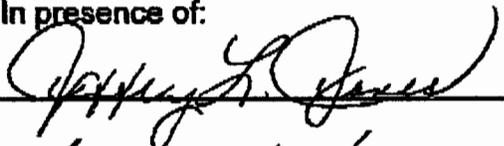
8. Seller acknowledges that this offer to purchase is subject to final approval by Troy City Council.

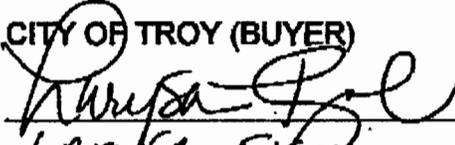
9. Additional conditions, if any: _____

SELLER HEREBY ACKNOWLEDGES THAT NO PROMISES WERE MADE EXCEPT AS CONTAINED IN THIS AGREEMENT.

IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this 17th day of August, A.D. 2004.

In presence of:


JEFFREY L. JONES

CITY OF TROY (BUYER)

LARISA FIGO


BORIS POTAPENKO

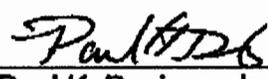
SELLER:
 8/17/04
Paul K. Davis, a single man

EXHIBIT "A"

Wednesday, May 19, 2004

**Section 25, Big Beaver Widening Project
Parcel: 88-20-25-202-001
Owner: Paul K. Davis
Parcel #1**

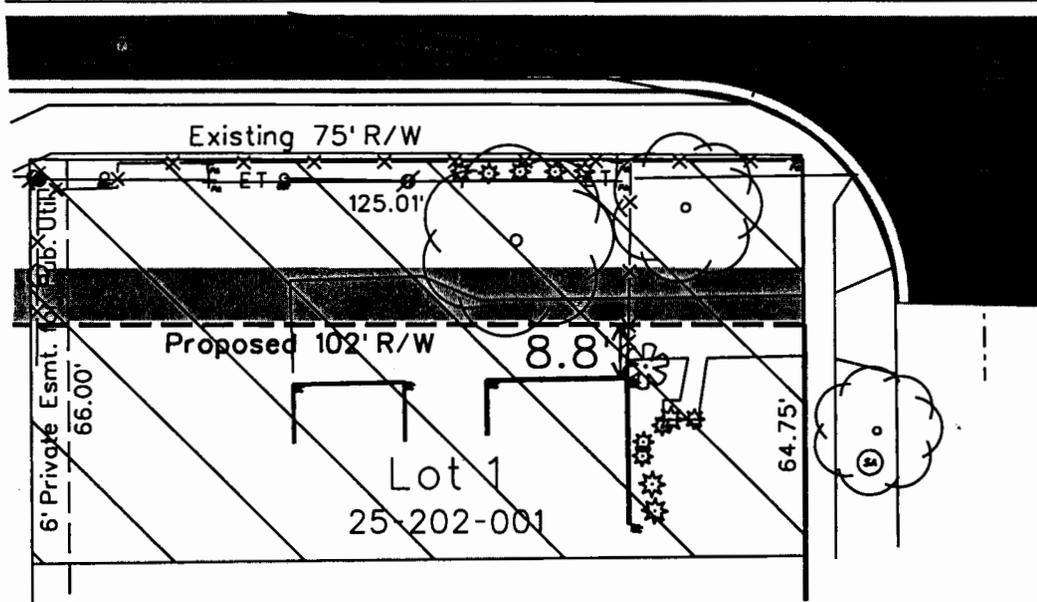
Parent Parcel Description (Title Commitment #63-510790)

Situated in the City of Troy, Oakland County, Michigan, described as:
Lot 1, Mt. Olympia Estates Subdivision, according to the plat thereof as recorded
in liber 116, page 31 of Plats, Oakland County Records.

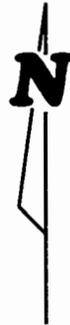
Proposed Right of Way Acquisition

Situated in the City of Troy, Oakland County, Michigan, described as:
Lot 1, Mt. Olympia Estates Subdivision, according to the plat thereof as recorded
in liber 116, page 31 of Plats, Oakland County Records. Containing 8,172
Square Feet or 0.188 Acres and being subject to all easements of record.

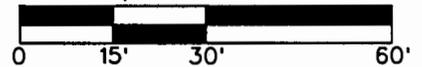
Big Beaver Rd.



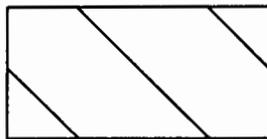
#2955 Sparta



Graphic Scale: 1"=30'



Parcel #1



Right of Way Acquisition
Area=8,172 Sq.Ft.



500 W. Big Beaver Rd.
Troy, Michigan 48084
(248) 524-3594
www.ci.troy.mi.us

#2955 Sparta
Right of Way
Acquisition Sketch

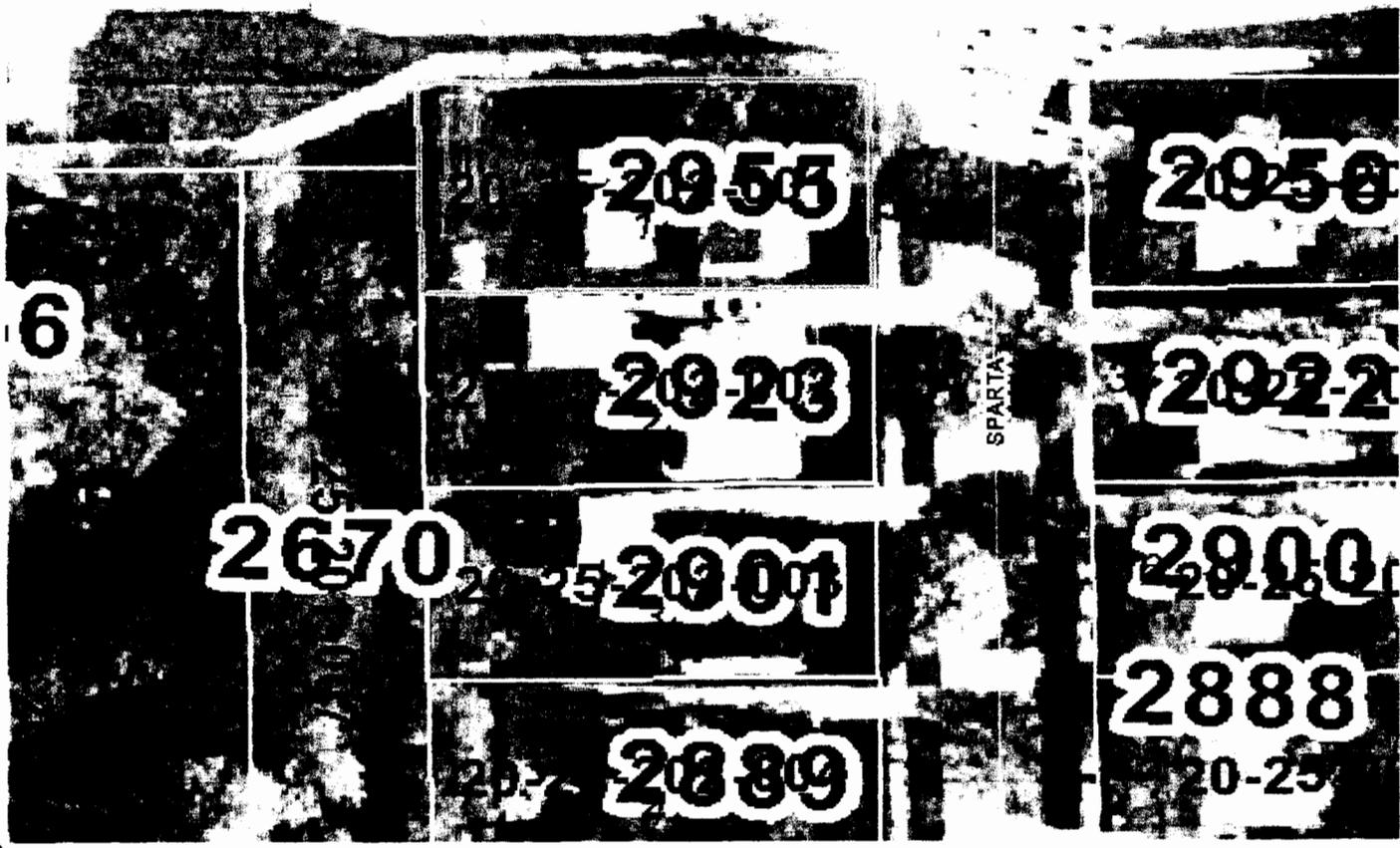
SCALE	DRAWN BY	CHECKED	FILE
HOR.	NAME GJB III	NAME	See Above
VER.	DATE 5-19-04	DATE	VIEW #1
DOCUMENT PREPARED BY George J. Ballard III LAND SURVEYOR		CONTRACT No.	SHEET No. 1 of 1
STEVEN J. VANDETTE CITY ENGINEER		JOB No. 01.105.5	



Geographical Information Systems Online

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E BIG BEAVER



Note: The information provided by this application has been compiled from recorded deeds, plats, tax maps, surveys, and other public records and data. It is not a legally recorded map survey. Users of this data are hereby notified that the source information represented should be consulted for verification.



August 18, 2004

TO: The Honorable Mayor and City Council Members

FROM: John Szerlag, City Manager

SUBJECT: Schedule Study Session to Discuss Neighborhood Compatibility Issues

We received several dates from our planning consultant, Dick Carlisle when he would be available to meet City Council and City Staff regarding neighborhood compatibility issues. The date that seems to work for the majority of Council Members is Tuesday, September 14, 2004 at 7:30 PM. I recommend that we set a study session for September 14 with Mr. Carlisle.

In addition, if I can schedule a special meeting with the Downtown Development Authority (DDA), we may be able to have a joint Council/DDA meeting on this date as well.

August 19, 2004

TO: The Honorable Mayor and City Council Members
FROM: John Szerlag, City Manager 
SUBJECT: Confirmation of Appointment; Mr. Brian Murphy
as Assistant City Manager/Services

In conformance with various Charter and Code requirements, I respectfully request your confirmation of my appointment of Mr. Brian Murphy as Troy's Assistant City Manager/Services. Mr. Murphy is currently the Village Manager of Beverly Hills, Michigan where he has served in that capacity since 2001. In addition, Mr. Murphy has city manager experience in Belding, Michigan, as well as municipal management experience in Grosse Pointe Park, and Grosse Pointe.

Enclosed you will find Mr. Murphy's resume of experience and education. I've also enclosed applicable Charter and Code provisions relative to this issue; specifically, Sections 3.9, 3.11 (c), and Section 3.13 of the City Charter. Sections 1 and 1.1 of Chapter 3 of our Code are also enclosed.

As always, please feel free to call should you have any questions.

JS/mr\AGENDA ITEMS\2004\08.23.04 - Confirmation of Brian Murphy

c: Brian Murphy

2004 MAY 24 A 8:15

30

CITY OF TROY
HUMAN RESOURCES

1926 Condor
Troy, Michigan 48084

May 21, 2004

Assistant Manager Search
c/o Mrs. Peggy Clifton, Human Resources Director
City of Troy
500 West Big Beaver
Troy, Michigan 48084

Dear Mrs. Clifton and Mr. Szerlag:

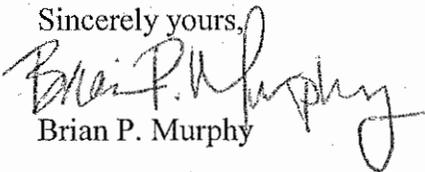
Thank you for including my name for consideration in your search to fill the vacant Assistant City Manager – Services position. Enclosed is a copy of my resume, salary history and reference list as application for the position. For your convenience, I also included a topical index that highlights some of my professional experiences categorically, as outlined in the ICMA advertisement.

As I understand, it is important that the next assistant should have strong organizational, financial and communication skills. I also understand that a full service community such as Troy expects the successful candidate to have experience implementing and managing infrastructure capital projects. As my resume will show, I have the requisite knowledge, skills, ability and experience to meet these concerns as well as the other needs of the city.

Overall, my professional and personal experiences translate into, and provide, a well-rounded talent that will meet the wealth of concerns and requirements of this position.

I look forward to hearing from you. Also, if you need additional information, please let me know. I trust that my application will remain confidential, unless I am a final candidate for the position.

Sincerely yours,


Brian P. Murphy

Brian P. Murphy

1926 Condor
Troy, Michigan 48084
(248)816-0828

Education

Masters in Public Administration
Rackham School of Graduate Studies
University of Michigan - Dearborn
Date of Graduation: August, 1998

B.S. in Public Administration
Oakland University
Rochester, Michigan
Date of Graduation: May, 1993

Professional Experience

Village Manager, Village of Beverly Hills, Michigan (population 10,437)

June, 2001 to Present

Dave Domzal, President
(248)646-6106 home

Description of Beverly Hills: Located in Oakland County, it is an upscale suburb in the Detroit area. The quiet residential community quickly developed in the 1960's, and is now seeing pockets of residential redevelopment. The Village also is in the process of improving its water and sewer systems, with the construction of an \$11 million combined sewer interceptor and almost \$4 million water main improvement project.

Responsibilities: Responsible for overseeing the daily affairs of all village departments, enterprise funds and component units. These services include public safety services, contracted water and wastewater services, contracted public works services, construction and maintenance of streets and other infrastructure, building and code enforcement, park operations and maintenance, contracted library services, and rubbish collection, disposal and recycling services. The general fund totals \$6.0 million, with all funds totaling \$9.1 million. Please see the attached topical index for more information.

City Manager, City of Belding, Michigan (population 6,202)

July, 1999 to May, 2001

Brent Goodsell, Mayor
(616)669-7888

Description of Belding: Located in Ionia County, it is a rural, stand-alone community within relative proximity to the Grand Rapids area. It is experiencing some new residential growth and some loss of commercial and local employment base. In 2000, residents participated in a strategic planning exercise, outlining the community's preferred future as a bedroom community, with commercial and recreational opportunities to support that "hometown" feeling.

Responsibilities: Responsible for overseeing the daily affairs of all city departments, enterprise funds and component units. These services include police protection, fire protection, ambulance services, planning and zoning, water and wastewater services, construction and maintenance of streets and other infrastructure, building and code enforcement, cemetery operations, park operations and maintenance, library, and demand-response transportation system. The general fund totals \$2.1 million, with all funds totaling \$7.1 million. Please see the attached topical index for more information.

Assistant City Manager, City of Grosse Pointe Park, Michigan (population 12,857)

August, 1995 to July, 1999

Dale Krajniak, City Manager

(313)822-1826

Description of Grosse Pointe Park: Older, affluent suburb of Detroit. Renowned for the many estates and mansions of prominent Detroit and Wayne County families. Having been over 90% developed since 1940, the City is seeing a need for re-construction of existing systems, and construction of new systems. In 1997, the City began construction of a \$24 million storm sewer separation system.

Responsibilities: Originally hired to assist the City Manager with administrative tasks, including Personnel/Human Resources Management, budget preparation, grant oversight and administration, and administration of both the Tax Increment Finance Authority and the Downtown Development Authority. Duties were expanded to include construction oversight of new Ice Rink/Reflecting Pool (1996), and the storm sewer separation project (1997-98). Also given additional responsibilities overseeing the Public Service Department. Please see the attached topical index for more information.

Assistant to the City Manager, City of Grosse Pointe, Michigan (population 5,681)

March, 1993 to August, 1995

Tom Kressbach, City Manager (retired)

(313)886-5698 home

Description of Grosse Pointe: Adjacent to Grosse Pointe Park, it also is an older, affluent suburb of Detroit. Renowned for the many estates and mansions of prominent Detroit and Wayne County families.

Responsibilities: Responsible for the development and administration of Certificate of Occupancy and Code Enforcement ordinances and programs. Also responsible for grant oversight, departmental budget preparation, assistance with labor negotiations, and capital equipment acquisitions. Also administered the fundraising and construction efforts of the City of Grosse Pointe Foundation. The Foundation funded the construction and development of new park facilities in newly acquired lakefront property (1994-95).

Administrative Intern, City of Troy, Michigan (population 72,884)

June, 1992 to January, 1993

Frank Gerstenecker, City Manager (retired)

(248)879-0639 home

Description of Troy: Located in Oakland County, it is one of the larger and more influential communities in the region. It is also experiencing significant growth and the resulting struggles of balancing individual rights with community needs and responsibilities.

Responsibilities: With direction from the City Attorney and the Chief Building Inspector, assisted in the development of residential inspection and condemnation ordinances. Assisted the Fire Department in reviewing and developing administrative policies. Other responsibilities included, assistance in planning and organizing the City's curbside recycling program, and preparation of the City's 1993-94 CDBG application.

Recent Professional Committees/Assignments

MLGMA – Winter Institute Committee 2001-2003 (Chair 2003), Ethics Committee (2004) and Community & Education Committee (2004)

ICMA – Awards Committee (2002), Michigan Representative to 2005 Annual Conference

MML – Annual Conference Committee (2003)

Michigan Municipal Risk Management Authority – Finance Committee (since 2003)

Beverly Hills, Michigan

Topical index

Direction/Control of Operating Departments

- Oversee the daily management of 50 full time employees, and 8 part time employees. Public works and library services are provided by contract.
- Rearranged and cross-trained staff duties and responsibilities to maintain resident service expectations amid staff reductions.
- Developed a Personnel Policies and Procedure Manual.
- Completed labor negotiations with 4 union groups represented by the Michigan Association of Police, the Police Officers Labor Council and AFSCME.
- Employing the Qualification Based Selection process, prepared an RFQ for Planning Consultant Services.

Budget Development and Controls

- Developed and implemented the Narrative Budget, as a tool to promote efficiencies and strategic budgeting policies. The Village intends on submitting the FY 2004/2005 budget to the GFOA for award consideration.
- Developed a prioritized five-year Capital Improvement Plan to promote proper maintenance of, and improvements to, public structures. The C.I.P. outlines an expected outlay of \$14 million over the next five years.
- Developed a Comprehensive Financial Policies manual, including an investment policy, a capital assets policy and a debt management policy. Currently working on an investment policy for the Public Safety Pension Fund.
- Completed a \$4 million State Drinking Water Revolving Fund water main bond issue.
- Drafted successful grant applications totaling over \$1 million, including \$400,000 for storm water quality improvements and almost \$20,000 for Public Safety Capital improvements.

Capital Project Planning and Execution

- Currently constructing the first phase of the combined sewer interceptor system.
- Completed the first two year's worth of improvements to the Village's primary park, following a successful dedicated millage question. To date, the improvements totaled over \$600,000. The balance of the work is to be done over the next three years, totaling \$350,000.
- Completed two Special Assessment District projects.
- Responsible for administrative oversight of annual street resurfacing program.

Beverly Hills, Michigan

Topical Index

Page 2

Policy Development

- Initiated quarterly Village Council planning sessions, which has grown to include monthly study sessions.
- Compiled, updated and prepared the Village's Organizational and Council Policies Manual.
- Assisted Village Council in a review of the Village Charter and prepared amendments for presentation to the voters for consideration.
- Developed a five-year General Fund Revenue and Expense forecast to help foster budget discussions with Council.
- Completed report on organizational options for the dispatch services. The report reviewed contracting and staffing options for the department, with a recommendation that Village maintain its current services at current staffing levels.
- Currently conducting an organizational efficiency study of the Public Safety Department.

Staff Development

- Developed an in-house/in-service training program.
- Currently working on developing an organizational Succession Plan, which will include staff training and development needs to help nurture internal growth and maturity and organizational stability.

Intergovernmental Cooperation

- Serve as Beverly Hills representative to SOCRRA. Currently serving as Vice-Chair and also a member of the Golf Course Committee. The Golf Course Committee is charged with seeking private developers for a possible end use development on the SOCRRA Rochester Hills landfill.
- Coordinated a forum between the Villages of Beverly Hills, Bingham Farms, and Franklin to discuss shared issues and concerns.

Citizen Relations

- Initiated a community-wide strategic planning program, to gain a better understanding of how residents perceive the Village and to identify the issues important to its residents.
- In process of developing Cable programming to better inform and educate residents on current Village matters.
- Hosted neighborhood meetings regarding upcoming construction projects and regarding the impact of proposed Special Assessment Districts.

Belding, Michigan

Topical Index

Direction/Control of Operating Departments

- Responsible for the daily management of 50 full time employees, 28 part time employees, 20 part-paid firefighters, and 16 reserve police officers.
- Modeled staff arrangements, both physically and organizationally, to encourage team approach to problem solving.
- Directed the transition of the emergency services dispatch operation to a civilian unit, resulting in a savings of \$105,000 per year.
- Completed labor negotiations with 2 union groups represented by the Police Officers Labor Council.
- Using the Qualification Based Selection process, selected an engineering firm to serve as the city's engineer-of-record, versus bidding out of work on a per project basis.

Budget Development and Controls

- Improved the city's financial position in FY 1999/2000, by improving the general fund balance by 15%, to 25.7%.
- Reduced the city's risk management costs by 43%, by bidding out services. Further realized a 20% savings on health care costs, without reducing benefits to employees.
- Stabilized the Belding Area Ambulance Service's budget, through programmatic and administrative changes.
- Submitted the City's Comprehensive Annual Financial Report, FY ending June 2000, for GFOA *Certificate of Achievement for Excellence in Financial Reporting* consideration.
- Developed a prioritized five-year Capital Improvement Plan (the first in 7 years), to promote proper maintenance of, and improvements to, public structures. The C.I.P. outlines an expected average outlay of \$1.1 million per year over the next five years.
- Completed a bond issue for park improvements.
- Drafted successful grant applications totaling \$985,000, including \$210,000 for park improvements and \$175,000 for Community Center improvements.

Capital Project Planning and Execution

- Directed improvements to the city's sewer lagoon system, after inheriting an MDEQ Administrative Consent Order. The improvements called for removal of over 2.1 million gallons of contaminated effluent.
- Completed improvements to the city's three well sites. The improvements called for physical agitation of the screens at the three well sites to promote maximum flow.
- In concert with the well improvements, the city completed a wellhead protection plan, and prepared a Water System Master Plan, to preserve the drinking water supply system.
- Completed reconstruction of five major streets, totaling 1.5 miles, including water and sewer improvements, at a cost of \$1.4 million.
- Installed 1800 linear feet of 8" water main, to replace existing 1" main in residential neighborhood. City staff installed at a cost of \$36,000.
- Sold last remaining properties in city's Industrial Park, and drafted development agreement that call for conditions on the type and timeline for improvements on the site.

Belding, Michigan

Topical Index

Page 2

Policy Development

- Drafted amendments to the city's personnel policy and procedure manual, as it relates to inconsistencies in employee benefits, discipline, and grievance and appeal procedures.
- Completed report on staffing levels, functions, cost and organizational options for the fire department.
- While participating in the Troy Urban Management Program, assisted in developing a Wetlands and Natural Feature Protection ordinance.

Staff Development

- Developed/initiated employee performance measures, using elements of 360° feedback. As part of the performance review, developed compensation models for department heads that results in parity between functional groups. The practice and exercise encouraged employee initiative, and resulted in improved department head morale.

Intergovernmental Cooperation

- Drafted a conditional land sharing agreement (PA 425) between the city and surrounding township, which resulted in a \$1.2 million private investment and brought 20 new jobs.
- Authored a Brownfield Redevelopment Plan that will provide SBT credits on \$4.5 million in improvements.
- Negotiated settlement agreement with MDEQ, after learning that the city's water wells were labeled deficient.

Citizen Relations

- Developed a public-private partnership with a local bank, to provide favorable terms on home improvement loans to low- and moderate-income homeowners, landlords willing to rent to low- and moderate-income tenants, and owners of "historically relevant" homes.
- Amended the City's annual calendar to include timely information regarding the city and its departments and provide answers to frequently asked questions.
- Developed and coordinated *Building a Better Belding*, a city-sponsored, citizen-driven visioning plan, and created an implementation strategy into the budgeting process to make sure that the city would annually review the progress made on the strategic plan.
- Prepared a Downtown Area Beautification Plan with area merchants, following discussions with the business owners. In progress was a joint effort with the businesses to create a Principal Shopping District ordinance to establish funding mechanism for improvements.

Grosse Pointe Park, Michigan

Topical Index

Direction/Control of Operating Departments

- Assisted the City Manager in the daily management of the Public Service Department, with seven departments and 26 full time employees.
- Conducted labor negotiations with four union groups represented by the Teamsters and the Police Officers Labor Council.

Budget Development and Controls

- Assisted the City Manager with Budget preparation and audit.
- Served as Treasurer to the Pointe Area Assisted Transportation Service, a para-transit bus service for area Seniors and Handicapped.
- Responsible for oversight of City's annual CDBG application and program.
- Acquired grant monies from local foundations to fund aesthetic improvements to public properties.

Capital Project Planning and Execution

- Provided daily supervision on the \$22 million Sewer Separation Project.
- Assisted the City Manager in oversight of the Ice Rink/Reflecting Pool construction project.
- City Hall Renovation Phases II and III intendance.
- Responsible for administrative oversight of annual street resurfacing program.
- Downtown Development Authority – assisted in the development of a 41-unit condominium complex, and an office building.
- Tax Increment Finance Authority – administered 3 residential rehabilitation programs and one commercial rehabilitation program.

Staff Development

- Developed Employee Handbook, and personnel policies regarding Sexual Harassment and Drug and Alcohol Testing.
- Developed Safety and Health Manual, and resultant employee training program.
- Created, with the assistance of the Public Service Department, a strategic plan for the Building Department.

Citizen Relations

- Developed a community information program to provide residents with timely and complete information on the aforementioned sewer separation project. The information program included a semi-annual update of the project status sent to every household, regular directed mailings to impacted homeowners, and a cable access program.

Section 3.9

Administrative Officers:

The administrative officers of the City shall be the City Manager, Attorney, Clerk, Treasurer, Assessor, Police and Fire Chiefs and such additional administrative officers as may be created by ordinance. The Council may, by ordinance, create additional administrative offices and may by ordinance combine any administrative offices in any manner it deems necessary or advisable for the proper and efficient operation of the City, but the Council may not change the duties, powers or responsibilities of the Office of the City Manager as provided herein. The City Manager and Attorney shall be appointed by the Council for an indefinite period, shall be responsible to and serve at the pleasure of the council and the Council shall fix the compensation of those officers.

All administrative officers of the City except the City Manager and Attorney shall be appointed by the City Manager for an indefinite period subject to confirmation by the Council. Such officers shall be responsible to the City Manager, and the City Manager shall fix the compensation therefor in accordance with the budget appropriations and subject to the approval of the Council. Such officers may be discharged by the City Manager with approval of the City Council.

Except as otherwise provided by statute or this Charter, the Council may establish by ordinance such departments of the City as it deems necessary or advisable and shall prescribe therein the functions of each department and the duties, authorities, and responsibilities of the officers thereof. The City Manager may prescribe such duties and responsibilities for the officers responsible to him and for their departments not inconsistent with this Charter, ordinances or resolutions of the City Council.

Section 3.10 City Manager; Appointment and Qualification:

The City Manager shall be the chief administrative officer of the City. He shall be selected on the basis of fitness and ability alone. At the time of his appointment, he need not be a resident of the City or State, but during the tenure of his office, he shall reside within the City. A vacancy in this office shall be filled by the City Council within one-hundred and twenty (120) days.

Section 3.11 City Manager: Functions and Duties:

The City Manager shall be the chief administrative officer of the city government. His functions and duties shall be:

- (a) To be responsible to the Council for the efficient administration of all administrative departments of the city government except the department under the direction of the attorney;
- (b) To see that all laws and ordinances are enforced;
- (c) To appoint, with the consent of the Council, the heads of the several city departments whose appointment is not otherwise specified in this charter, and to discharge such department heads without the consent of the Council, and to direct and supervise such department heads;
- (d) To give to the property department or officials ample notice of the expiration or termination of any franchises, contracts or agreements;
- (e) To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise, or in any contract, are faithfully kept and performed;
- (f) To recommend an annual budget to the Council and to administer the budget as finally adopted under policies formulated by the Council, and to keep the Council fully advised at all times as to the financial condition and needs of the city;
- (g) To recommend to the Council for adoption such measures as he may deem necessary or expedient; and to attend Council meetings with the right to take part in discussions but not to vote;
- (h) To exercise and perform all administrative functions of the city that are not imposed by this charter or ordinance upon some other official;
- (i) To be responsible for the maintenance of a system of accounts of the city which shall conform to any uniform system required by law and by the Council and to generally accepted principles and procedure of governmental accounting.

- (j) To perform such other duties as may be prescribed by this Charter or as may be required of him by ordinance or by direction of the Council.

Section 3.12 Acting City Manager:

The Council may appoint or designate an Acting City Manager during the period of a vacancy in the office or during the absence of the City Manager from the city. Such Acting Manager shall, while he is in office, have all the responsibilities, duties, functions and authority of the City Manager.

Section 3.13 Relationship of Council to Administrative Service:

Neither the Council nor any of its members or committees shall dictate the appointment of any person to office by the City Manager or in any way interfere with the City Manager or other city officer to prevent them from exercising their judgment in the appointment or employment of officers and employees in the administrative service. Except for the purpose of inquiry, the council and its members shall deal with the administrative service solely through the City Manager, and neither the council nor any member thereof shall give orders to any of the subordinates of the City Manager.

Section 3.14 Clerk: Functions and Duties:

- (a) The Clerk shall be the Clerk of the Council and shall attend all meetings of the Council and shall keep a permanent journal of its proceedings in the English language.
- (b) The Clerk shall be custodian of the city seal, and shall affix it to all documents and instruments requiring the seal, and shall attest the same. He shall also be custodian of all papers, documents, and records pertaining to the city the custody of which is not otherwise provided for.
- (c) The Clerk shall certify by his signature all ordinances and resolutions enacted or passed by the Council.
- (d) The Clerk shall provide and maintain in his office a supply of forms for all petitions required to be filed for any purpose by the provisions of this charter.

CHAPTER 3 - ADMINISTRATIVE SERVICE

1. Division of Administrative Service. The administrative service of the City shall be under the supervision and direction of the City Manager, except as otherwise provided by the City Charter, and shall be divided into the following offices and departments, each of which shall be the responsibility of and under the control of a head as listed opposite such office or department:

ADMINISTRATIVE OFFICERS

<u>Office or Department</u>	<u>Official Head</u>
Office of Clerk	City Clerk
Office of Assessor	City Assessor
Office of Treasurer	City Treasurer
Department of Police	Police Chief
Department of Fire	Fire Chief
Department of Law	City Attorney

(Rev. 5-1-78)

- 1.1. The following City employees shall be responsible for certain functions as provided in this Chapter but shall not be deemed administrative officers as the term is defined in section 3.9 of the Charter.

<u>Office or Department</u>	<u>Official Head</u>
Department of Finance	Finance Director
Department of Health	Health Officer
Department of Public Works	Director of Public Works
Division of Engineering	City Engineer
Department of Building	Director of Buildings and Inspections
Division of Water and Sewer	Superintendent of Water and Sewer

(Rev. 5-1-78)

CLERK

- 1.2. Office of Clerk. This office shall be headed by the City Clerk, who shall serve as Clerk of the Council and perform such other duties for the Council as may be required by it. He shall be responsible for the publication, filing, indexing and safe keeping of all proceedings of the Council. (Rev. 5-1-78)
- 1.36. Election Records. He shall keep and maintain all election records and have custody of all property used in connection with elections.
- 1.37. Other Duties. He shall publish all legal notices unless otherwise provided; collect all license fees required by ordinance or statute except as otherwise provided; be the custodian of the official seal; and notify the appointing authority of any board or commission thirty (30) days prior to the expiration of the term of office of any member thereof.

August 16, 2004

TO: John Szerlag, City Manager

FROM: Jeanette Bennett, Purchasing Director
William S. Nelson, Fire Chief

SUBJECT: **Agenda Item:** Sole Source- Purchase of Opticom Emitters for
Emergency Vehicles

RECOMMENDATION

The Fire Department recommends the City purchase forty-five (45) Opticom emitters from Carrier and Gable Inc., the sole provider of Opticom equipment in Michigan for an estimated total cost of \$31,950.00.

BACKGROUND

The Fire department has utilized emergency vehicle traffic signal preemption for over 25 years. Due to intellectual property rights, there were only two manufacturers of the equipment required at the traffic signals and on the emergency vehicles and both systems were compatible. Recently, the patents on this technology have expired and the two major vendors 3M and Tomar have introduced coded systems in which equipment is not interchangeable.

In addition, other small electronic manufacturers have produced generic emitters, which can preempt non-coded intersections. The sale of these units to the general public has caused concern within the Road Commission for Oakland County as well as the City administration.

To eliminate the potential for unauthorized preemption of traffic signals, it is necessary to upgrade to one of the coded systems. Currently, Troy has 87 intersections equipped with Opticom equipment that can be programmed to eliminate non-coded vehicle emitters. The existing emitters on the fire and MFR vehicles are not capable of being programmed to activate the Opticom equipped intersections once these intersections are programmed to accept coded emitters only.

To effect the change to a coded system, it is necessary to replace the assorted emitters on the fire and EMS vehicles. 3M has an exclusive sales agreement with the Carrier and Gable, Inc., which means we can only purchase Opticom equipment from them for use in Michigan. Attached is a quote from Carrier and Gable, which reflects a discount of approximately 25% when the City participates in the 3M trade-in program.

BUDGET

Funds to purchase these units are budgeted in the Fire department equipment account #338.7740.115



Carrier & Gable, Inc.

24110 Research Drive
Farmington Hills, MI 48335
(248) 477-8700 / (248) 473-0730 - FAX
WWW.CARRIERGABLE.COM

QUOTATION

Sales Quote Number **3754**

Sales Quote Date: **06/24/04**

Expires On:

Page: **1**

Sell To: TROY, CITY OF
BILL NELSON - 248.689.7520
500 W. BIG BEAVER
TROY, MI 48084

Ship To: TROY, CITY OF
CITY HALL
500 W. BIG BEAVER
TROY, MI 48084

Quote/Bid Ref: OPTICOM EMITTERS
Shipment Within
Shipping Terms
Terms NET 30 DAYS

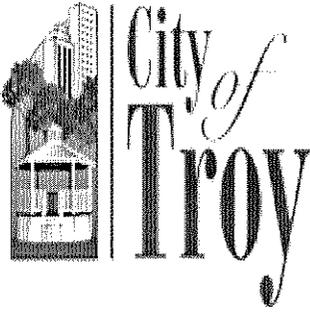
Customer ID 2110
Salesperson Frank Carrier

Signed By C&G Representative:

Item No.	Description	Cross-Ref. No.	Qty.	Unit Price	Total Price
151-792H	OPTICOM EMITTERS 3M TRADE IN PROGRAM EMITTER, HIGH PRIORITY 792H		45	710.00	31,950.00

Amt Subject to Sales Tax 0.00
Amt Exmt from Sales Tax 31,950.00

Subtotal: 31,950.00
Total Sales Tax: 0.00
Total: 31,950.00



TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: LORI GRIGG BLUHM, CITY ATTORNEY *LGB by AGM*
ALLAN T. MOTZNY, ASSISTANT CITY ATTORNEY *J/M*
DATE: AUGUST 17, 2004
SUBJECT: MUNICIPAL CIVIL INFRACTIONS ORDINANCE

Attached please find a proposed municipal civil infraction ordinance. The enactment of a municipal civil infraction ordinance allows the City to decriminalize zoning, building and some property maintenance misdemeanor charges, and provides for expedited processing. In those cases where a violation is not contested, fines can be paid directly to the City's Municipal Ordinance Violations Bureau (supervised by the Treasurer's Office) as opposed to paying the court. If a charge is contested, there are several procedural advantages with respect to prosecution that are not available in a misdemeanor prosecution. The ordinance also provides enforcement measures that are presently not available for violations designated as misdemeanors.

The ordinance is intended to be placed on a future agenda for final action, but in the meantime your questions, concerns, and comments are appreciated. The first step is to implement a municipal civil infraction ordinance. Once that is accomplished, then proposed revisions to the specific ordinances that would be converted to municipal civil infraction ordinances will be submitted to City Council for final action.

As always, if you have any questions or concerns, please let us know.

CITY OF TROY

AN ORDINANCE TO AMEND
THE CODE OF THE CITY OF TROY
BY THE ENACTMENT OF CHAPTER 100

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as Chapter 100, Municipal Civil Infractions, of the Code of the City of Troy.

Section 2. Amendment

The Code of the City of Troy shall be amended as follows:

CHAPTER 100

MUNICIPAL CIVIL INFRACTIONS

100.01 **Definitions.** The following definitions are to be used in this Chapter:

100.01.01 "Authorized City Official" means a Police Officer, a Building Department Inspector Supervisor, a Housing and Zoning Inspector, a Police Service Aide or other personnel of the City legally authorized by ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

100.01.02 "Bureau" means the Municipal Civil Infractions Bureau established by this Chapter.

100.01.03 "Citation" means a written complaint or notice to appear in court upon which an authorized City official records the occurrence or existence of one or more municipal civil infractions by the person cited.

100.01.04 "Municipal Civil Infraction Action" means a civil action in which the defendant is alleged to be responsible for violating an ordinance designated as a municipal civil infraction.

100.01.05 "Municipal civil infraction determination" means a determination that a defendant is responsible for a municipal civil infraction by one of the following:

(a) An admission of responsibility for the municipal civil infraction.

(b) An admission of responsibility for the municipal civil infraction "with explanation".

(c) A finding of responsibility by a preponderance of the evidence at an informal hearing, as set forth in Section 100.07, or at a formal hearing, as set forth in Section 100.08.

(d) The entry of a default judgment for failing to appear at a scheduled informal hearing or a scheduled formal hearing, or as otherwise directed by a citation or court notice.

100.01.06 "Municipal Ordinance Violation Notice" means a notice, other than a citation, directing a person to appear at the municipal ordinance violations bureau in the City of Troy, and to pay the fine and costs prescribed by ordinance for the violation.

100.02 Commencement of actions; jurisdiction; time and place for appearance.

100.02.01 A municipal civil infraction action is commenced upon the issuance of a citation. The City of Troy is the plaintiff in cases involving a violation of the City of Troy ordinances.

100.02.02 The 52-4 Judicial District Court shall have jurisdiction over municipal civil infraction actions committed in the City of Troy.

100.02.03 The citation shall set an appearance date within a reasonable time of the issuance of the citation.

100.02.04 The place specified in the citation for appearance shall be the 52-4 District Court.

100.03 Citations; form; modification; signature

100.03.01 Each citation shall be numbered consecutively and be in a form as approved by the state court administrator.

100.03.02 The original citation shall serve as the complaint and notice to appear, and shall be filed with the 52-4 District Court.

100.03.03 A copy of the citation shall be retained by the City of Troy, and the third copy shall be given to the alleged violator.

100.03.04 If the citation contains a statement "I declare under the penalties of

perjury that the statements above are true to the best of my information, knowledge, and belief” and this statement is included immediately above the date and signature of the authorized City official, then the citation shall be treated as made under oath.

100.03.05 A citation shall contain the name of the plaintiff, the name and address of the defendant, the alleged municipal civil infraction violation, the location where the defendant is required to appear in court, the telephone number of the court, the time by which the appearance shall be made, and the additional information required by this section.

100.03.06 The citation shall inform the defendant that he or she may do one of the following:

(a) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or prior to the time specified for appearance.

(b) Admit responsibility for the municipal civil infraction "with explanation" by mail, in person, or by representation at or prior to the time specified for appearance.

(c) Deny responsibility for the municipal civil infraction.

100.03.07 The citation shall also inform the defendant of all of the following:

(a) If the defendant desires to deny responsibility or admit responsibility "with explanation", the defendant must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.

(b) A hearing will be scheduled as an informal hearing unless either the defenant or the authorized city official specifically request a formal hearing.

(c) At an informal hearing the defendant must appear in person before a District Court Judge or Magistrate, without the opportunity of being represented by an attorney.

(d) At a formal hearing the defendant must appear in person before a District Court Judge with the opportunity of being represented by an attorney.

100.03.08 The citation shall contain a notice in boldfaced type that the failure of the defendant to appear within the time specified in the citation or at the time

scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the defendant on the municipal civil infraction.

100.03.09 The return of the citation with an admission of responsibility and with full payment of applicable civil fines and costs, the return of the citation with an admission of responsibility with explanation, or timely application to the court for a scheduled date and time for a formal hearing or an informal hearing constitutes a timely appearance.

100.04 Issuance of citations; witnesses; investigation; personal service; actions involving land, buildings, or structures;

100.04.01 An authorized city official shall issue a municipal civil infraction citation when the official witnesses the named person violate a City of Troy ordinance that is designated as a municipal civil infraction.

100.04.02 An authorized city official may issue a municipal civil infraction citation under the following circumstances:

(a) An authorized city official has reasonable cause to believe that the named person is responsible for a municipal civil infraction, based upon investigation.

(b) When an authorized city official has reasonable cause to believe that the named person is responsible for a civil infraction, based upon the investigation of a complaint by someone who allegedly witnessed alleged municipal civil infraction, as long as the City Attorney or an Assistant City Attorney approves of the issuance of the citation in writing.

100.04.03 Except as otherwise provided, the authorized City official shall personally serve a copy of the municipal civil infraction citation upon the alleged violator.

100.04.04 In lieu of personal service of a municipal civil infraction citation upon an alleged violator, service may be made by posting the copy on the land or attaching the copy to the building or structure when the alleged violation involves the use or occupancy of land or a building or other structure. In addition to the posting, a copy of the citation shall also be sent by first-class mail to the owner of the land, building, or structure at the owner's last known address. A citation served in this manner shall be processed in the same manner as a citation served personally upon a defendant.

- 100.05** **Appearances; in person, by representation, or by mail; admission with explanation; denial of responsibility, informal or formal hearing**
- 100.05.01** A person to whom a citation is issued under section 100.04 shall appear by the time specified in the citation and may respond to the allegations in the citation as provided in this section.
- 100.05.02** If the defendant wishes to admit responsibility for the municipal civil infraction, the defendant may do so by appearing in person, by representation, or by mail. If appearance is made by representation or mail, the court may accept the admission with the same effect as though the defendant personally appeared in court. Upon acceptance of the admission, the court may order any of the sanctions permitted under section 100.11.
- 100.05.03** If the defendant wishes to admit responsibility for the municipal civil infraction "with explanation", the defendant may do so in either of the following ways:
- (a) By appearing by mail.
- (b) By contacting the court in person, by mail, by telephone, or by representation to obtain from the court a scheduled date and time for an appearance, at which time the defendant shall appear in court in person or by representation.
- 100.05.04** If a defendant admits responsibility for a municipal civil infraction "with explanation" under section 100.05.03, the court shall accept the admission as though the defendant has admitted responsibility under section 100.05.02 and may consider the defendant's explanation by way of mitigating any sanction that the court may order under section 100.11. If appearance is made by representation or mail, the court may accept the admission with the same effect as though the defendant personally appeared in court, but the court may require the defendant to provide a further explanation or to appear in court.
- 100.05.05** If the defendant wishes to deny responsibility for a municipal civil infraction, the defendant shall do so by appearing for an informal or formal hearing. If the hearing date is not specified on the citation, the defendant shall contact the court in person, by representation, by mail, or by telephone, and obtain a scheduled date and time to appear for an informal or formal hearing. If the hearing date is specified on the citation, the defendant shall appear on that date. The hearing shall be an informal hearing, unless a formal hearing is requested by the defendant or the plaintiff as provided by section 100.06. If a hearing is scheduled by telephone, the court shall mail the defendant a confirming notice of that

hearing by regular mail to the address appearing on the citation or to an address that is furnished by the defendant. An informal hearing shall be conducted pursuant to section 100.07, and a formal hearing shall be conducted pursuant to section 100.08.

100.06 Formal hearings; requests; time; notification of parties

100.06.01 The court shall schedule a formal hearing if either the defendant or the plaintiff expressly requests a formal hearing as provided by this section.

100.06.02 A request for a formal hearing must be received by the court at least 10 days before a scheduled informal hearing date. The request may be made in person, by representation, by mail, or by telephone.

100.06.03 The party requesting a formal hearing shall notify the other party or parties of the request. Notification of the request must be received by the other parties at least 10 days before the scheduled informal hearing date. The notification of a request for a formal hearing may be made in person, by representation, by mail, or by telephone.

100.07 Informal hearings; Magistrate or Judge, procedure; no representation by attorneys; notice of hearing, witnesses; preponderance of the evidence standard; appeals

100.07.01 An informal hearing shall be conducted by a District Court Magistrate, if authorized by the Judges of the District Court, or by a Judge of the District Court. A District Court Magistrate may administer oaths, examine witnesses, and make findings of fact and conclusions of law at an informal hearing. The Judge or District Court Magistrate shall conduct the informal hearing in an informal manner so as to do substantial justice according to the rules of substantive law, but is not bound by the statutory provisions or rules of practice, procedure, pleading, or evidence, unless the rules of practice relate to privileged communications, which shall be binding. There shall not be a jury at an informal hearing. A verbatim record of an informal hearing is not required.

100.07.02 At an informal hearing, the parties shall not be represented by an attorney.

100.07.03 Notice of a scheduled informal hearing shall be given to the plaintiff. The plaintiff and defendant may subpoena witnesses. Witness fees are not required to be paid in advance to a witness. Witness fees for plaintiff's witness(es) are payable by the district control unit of the District Court for the place where the hearing occurs.

- 100.07.04** If the Judge or District Court Magistrate determines by a preponderance of the evidence that the defendant is responsible for a municipal civil infraction, the Judge or Magistrate shall enter an order against the defendant as provided in section 100.11. Otherwise, a judgment shall be entered for the defendant, but the defendant is not entitled to any costs of the action.
- 100.07.05** The plaintiff and/or defendant are entitled to appeal an adverse judgment entered at an informal hearing. An appeal shall be de novo in the form of a scheduled formal hearing as follows:
- (a) The appeal from a Judge of the District Court shall be heard by a different Judge of the district.
 - (b) The appeal from a District Court Magistrate shall be heard by a Judge of the district.
- 100.08** **Formal hearing; Judge; representation of defendant by attorney; representation of plaintiff by City Attorney, witnesses; no jury trial; preponderance of the evidence standard**
- 100.08.01** A formal hearing shall be conducted only by a Judge of the District Court.
- 100.08.02** In a formal hearing, the defendant may be represented by an attorney, but is not entitled to counsel appointed at public expense.
- 100.08.03** Notice of a formal hearing shall be given to the City Attorney. The City Attorney or Assistant City Attorney shall appear in court for a formal hearing and shall issue a subpoena to each necessary witness for the plaintiff. The defendant may also subpoena witnesses. Witness fees need not be paid in advance to a witness. Witness fees for Plaintiff's witness(es) are payable by the district control unit of the District Court for the place where the hearing occurs.
- 100.08.04** There shall not be a jury trial in a formal hearing.
- 100.08.05** If the Judge determines by a preponderance of the evidence that the defendant is responsible for a municipal civil infraction, the Judge shall enter an order against the defendant as provided in section 100.11. Otherwise, a judgment shall be entered for the defendant, but the defendant is not entitled to recover any costs incurred in defending the action.
- 100.09** **Admissions or denial of responsibility; arrest warrants**

100.09.01 If an authorized City official issues a citation under section 100.04, the court may accept an admission with explanation or an admission or denial of responsibility upon the citation without the necessity of a sworn complaint. If the defendant denies responsibility for the municipal civil infraction, further proceedings shall not be held until a sworn complaint is filed with the court. A warrant for arrest for failure to appear on the municipal civil infraction citation under section 100.10 shall not be issued until a sworn complaint relative to the municipal civil infraction is filed with the court.

100.10 Failure to appear, default judgment

100.10.01 If the defendant fails to appear as directed by the citation or other notice under section 100.05, at a scheduled informal hearing, or at a scheduled formal hearing, the court shall enter a default judgment against the defendant.

100.11 Not a lesser included offense; civil fines, costs, damages, expenses; collection of defaults in payment; failure to comply with judgment; failure to answer citation, misdemeanor

100.11.01 A municipal civil infraction is not a lesser included offense of a criminal offense or an ordinance violation that is not a municipal civil infraction.

100.11.02 If a defendant is determined to be responsible or responsible "with explanation" for a municipal civil infraction, the Judge or District Court Magistrate may order the defendant to pay a civil fine and costs. The civil fine, costs, and damages and expenses are due immediately. However, the Judge or District Court Magistrate may grant a defendant an extension of time to pay a civil fine, costs, and damages and expenses or may grant permission for a defendant to make installment payments.

100.11.03 If a defendant is ordered to pay a civil fine under section 100.11.02, the Judge or District Court Magistrate shall summarily tax and determine the costs of the action, which is defined as all expenses that plaintiff has incurred directly or indirectly in pursuing the municipal civil infraction to the entry of judgment. Costs of not less than \$9.00 or more than \$500 shall be ordered. Except as otherwise provided by law, costs shall be payable to the general fund of the plaintiff.

100.11.04 In addition to ordering the defendant to pay a civil fine and costs, the Judge or District Court Magistrate shall have equitable jurisdiction and may issue a writ or order as provided under state law.

100.11.05 A District Court Magistrate shall impose the sanctions permitted under

sections 100.11.03 and 100.11.04 only to the extent expressly authorized by the Chief Judge of the District Court.

- 100.11.06** The District Court may establish a schedule of civil fines and costs to be imposed for municipal civil infractions that occur within the City. If a schedule is established, it shall be prominently posted and readily available for public inspection at the Court. A schedule need not include all municipal civil infractions. A schedule may provide for exclusions from the scheduled fines in cases where the defendant has a prior record of municipal civil infraction violations.
- 100.11.07** A judgment may be collected by any means authorized for the enforcement of a judgment under State law.
- 100.11.08** If a defendant fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the court may proceed under section 100.12 or 100.13, as applicable.
- 100.11.09** A defendant who fails to answer a citation or notice to appear in court for a municipal civil infraction is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$500, or both.
- 100.12** **Default in payment of fines, costs, damages, or expenses; civil contempt; imprisonment**
- 100.12.01** If a defendant defaults in the payment of a civil fine or costs, or any order allowing installment payments, then the court may issue a summons, show cause order or a bench warrant, requiring defendant to show cause why the defendant should not be held in civil contempt. Plaintiff can file a motion seeking this relief, or the Court can grant the relief on its own motion.
- 100.12.02** If a corporation or an association is ordered to pay a civil fine or costs, the individuals authorized to make disbursement on behalf of the corporation or association shall pay the fine, costs, damages or expenses, and the failure to do so shall be civil contempt.
- 100.12.03** Unless the defendant shows that the default was not an intentional refusal to obey the order of the court, the court shall find that a default constitutes a civil contempt and may order the defendant or authorized representative committed until all or a specified part of the amount due is paid in accordance with sections 100.12.05 and 100.12.06.
- 100.12.04** If it appears that the default in the payment of a fine, costs, damages or

expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment, or revoking the fine and costs.

100.12.05 The term of imprisonment on civil contempt for nonpayment of a civil fine or costs shall be specified in the order of commitment, and shall not exceed one day for each \$30.00 due. A person committed for nonpayment of a civil fine, costs, damages or expenses under this chapter shall be given credit toward payment for each day of imprisonment at the rate of \$30.00 per day.

100.12.06 A defendant committed to imprisonment for civil contempt for nonpayment of a civil fine, costs, or damages or expenses shall not be discharged from custody until one of the following occurs:

(a) The defendant is credited with the total amount of the outstanding fines, costs, damages or expenses under section 100.12.05.

(b) The amount due is collected through execution of process or otherwise.

(c) The amount due is satisfied pursuant to a combination of subdivisions (a) and (b).

100.12.07 The civil contempt shall be purged upon discharge of the defendant from incarceration once the indebtedness has been satisfied.

100.13 **Violations involving land, buildings, or structures; failure to pay fine or costs, liens; notice of lien; enforcement and discharge; priority; action for collection of fines and costs; period of lien**

100.13.01 In a municipal civil infraction action brought for a violation involving the use or occupation of land or a building or other structure, if a defendant does not pay a civil fine or costs or an installment ordered under section 100.11 within 30 days after the date on which payment is due, the plaintiff may obtain a lien against the land, building, or structure involved in the violation by recording a copy of the court order requiring payment of the fine and costs with the register of deeds for the county in which the land, building, or structure is located. The court order shall not be recorded unless a legal description of the property is incorporated in or attached to the court order. The lien is effective immediately upon recording of the court order with the register of deeds.

100.13.02 The court order recorded with the register of deeds shall constitute notice

of the pendency of the lien. In addition, a written notice of the lien shall be sent by the plaintiff by first-class mail to the owner of record of the land, building, or structure at the owner's last known address.

100.13.03 The lien may be enforced and discharged by the City in the manner prescribed by the City Charter or by the State General Property Tax Act.

100.13.04 A lien created under this section has priority over any other lien unless one or more of the following apply:

(a) The other lien is a lien for taxes or special assessments.

(b) The other lien is created before the effective date of this ordinance.

(c) Federal or state law provides that the other lien has priority.

(d) The other lien is recorded before the lien under this section is recorded.

100.13.05 Any attempt by the City to collect fines or costs by any process does not invalidate or waive the lien upon the land, building, or structure.

100.13.06 A lien provided for by this section shall not continue for a period longer than five years after a copy of the court order imposing a fine or costs is recorded, unless an action to enforce the lien is commenced within the five year period.

100.14 **Costs incurred in compelling appearance of defendant**

100.14.01 If the defendant in a municipal civil infraction action is determined responsible for a municipal civil infraction, the Judge or District Court Magistrate, in addition to any fine and costs imposed under section 100.11, may assess additional costs incurred in compelling the appearance of the defendant. Any recovered additional costs shall be returned to the general fund of the City.

100.15 **Municipal civil infraction notice**

100.15.01 Instead of issuing a citation, an authorized City official may issue and serve a municipal ordinance violation notice under the same circumstances and upon the same persons as provided in this ordinance. If an authorized City official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the

civil fine and costs prescribed by ordinance for the violation are not paid at the municipal ordinance violations bureau, a citation may be filed with the court and a copy of the citation may be served by first-class mail upon the alleged violator at his or her last known address. The citation filed with the court pursuant to this subsection need not comply in all particulars with section 100.03, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice.

100.16 Municipal ordinance violations bureau; establishment; location; supervision; employees; rules and regulations; disposition of violations; scope of authority; appearance; payment of fines and costs

100.16.01 There is hereby established a Municipal Ordinance Violations Bureau (Bureau), to accept admissions of responsibility for municipal civil infractions and to collect and retain civil fines and costs as prescribed.

100.16.02 The Bureau shall be located at City Hall and shall be under the supervision and control of the City Treasurer. The City Treasurer shall adopt rules and regulations for the operation of the Bureau and appoint any necessary qualified City employees to administer the Bureau.

100.16.03 The Bureau may accept admissions of responsibility and payment for municipal ordinance violation notices that have been properly issued and for which a fine has been scheduled. The Bureau is not required to accept admissions of responsibility and payment for municipal ordinance violations when an authorized City official has issued a municipal civil infraction citation. The parties shall not be restricted or prohibited from bypassing the Bureau and having a violation processed before a court of appropriate jurisdiction.

100.16.04 The Bureau's authority is limited to accepting admissions of responsibility (without explanation) for municipal ordinance notices and collecting and retaining civil fines and costs as a result of those admissions. The Bureau shall not accept payment of a fine from any person who denies having committed the cited offense. The Bureau shall not determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.

100.16.05 A defendant receiving a municipal ordinance violation notice shall either appear at the Bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice or shall inform the Bureau that he or she denies responsibility and will not pay the fines and costs. An appearance may be made by mail, in person or by representation. If a defendant does not pay the fine and

costs, a municipal civil infraction citation may be filed with the District Court and a copy of the citation may be served by first class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the Court does not need to comply with all requirements for citations as provided in Section 100.03, but shall consist of a sworn complaint containing the allegations stated in the Municipal Ordinance Violation Notice and shall fairly inform the alleged violator how to respond to the citation.

100.16.06 The City Treasurer or other designated city official/employee shall retain a copy of all municipal ordinance notices and shall account to the City Council once a month or at such other intervals as the City Council may require concerning the number of admissions and denials of responsibility for ordinance violations within the jurisdiction of the Bureau and the amount of fines/costs collected with respect to such violations. The civil fines/costs collected shall be deposited in the general fund of the City.

100.17 **Schedule of municipal civil infraction fines and costs**

100.17.01 Unless a different schedule of civil fines is provided for by an applicable ordinance, the civil fines payable to the Bureau upon admissions of responsibility shall be as follows:

1st violation within 3-year period*	\$ 65.00
2nd violation within 3-year period*.....	125.00
3rd violation within 3-year period*.....	250.00
4th or subsequent violation within 3-year period*.....	500.00

*determined on the basis of the date of violation(s).

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 _____, 2004.

Louise E. Schilling, Mayor

Tonni Bartholomew, City Clerk

August 13, 2004

To: John Szerlag, City Manager

From: Douglas J. Smith, Real Estate & Development Director
Mark Stimac, Building & Zoning Director
Mark F. Miller, Planning Director

Subject: GROUP DAY CARE HOMES

A Group Day Care Home provider, Mrs. Sharon Schafer, was recently cited by the Troy Building and Zoning Department for violation of the City of Troy Zoning Ordinance. Mrs. Schafer operates a Group Day Care Home, which is licensed by the State of Michigan but is not a permitted use in the R-1C One Family Residential Zoning District. Mrs. Schafer has brought this issue to the attention of the Planning Commission, and the Planning Commission is reviewing the issue.

Presently Family Day Care Homes are permitted subject to special conditions in the R-1A through R-1E zoning districts. Child Care Centers are permitted subject to special conditions or special use approval in every residential district and are permitted by right or special conditions in the B-1, B-2 and B-3 districts.

The following definitions are provided by the Family Independence Agency of the State of Michigan:

Family Day Care Home – “A private residence that the child care provider lives in and cares for up to six unrelated children for more than 4 weeks in a year when the children's parents/guardians are not immediately available”.

Group Day Care Home – “A private residence that the child care provider lives in and cares for up to 12 unrelated children for more than 4 weeks in a year when the children's parents/guardians are not immediately available”.

Child Care Center - A facility, other than a private residence, where child care is provided for 1 or more children whose parents/guardians are not immediately available. Centers must be licensed if they provide care for more than 2 consecutive weeks per year. Centers include public and private preschools, nursery schools, parent cooperative preschools, full-day child care centers and drop in centers.

(Source: Family Independence Agency, State of Michigan).

Currently there are approximately 20 Group Day Care Homes, 46 Family Day Care Homes, and 47 Child Day Care Centers in Troy (Source: Family Independence Agency, State of Michigan). These facilities provide a child care capacity for 3,964 children. It should be noted that the 20 Group Day Care Homes are licensed by the State of Michigan but are not permitted in the R-1A through R-1E zoning districts. Therefore, all are presently operating illegally in Troy.

The City Attorney's Office has researched this issue and has determined that there is a statutory requirement for cities to permit Family Day Care Homes by right in single-family residential districts. Troy complies with this requirement. There is no requirement that cities permit Group Day Care Homes in a single-family residential zoning district. It is expected that the Planning Commission will continue researching this issue to decide whether to recommend amending the Zoning Ordinance.

Attachments:

1. Explanation of Group Day Care and Family Day Care licensing
2. Lists of Family Day Care, Group Day Care and Child Care Centers in Troy

cc: File
Sharon Schafer

www.michigan.gov
(To Print: use your browser's print function)

Release Date: December 05, 2003

Group Day Care in Your Home

It is illegal in the State of Michigan to care for unrelated children in your home without being licensed by the Michigan Family Independence Agency.

The first step in getting licensed is to request an application from the Licensing unit:

- [Online Licensing Application Request](#)
- (Fill out this form to submit on-line)
- Call: 517-241-2488
- **Toll free: 1-866-685-0006**
- Mail to:
 - Office of Children and Adult Licensing
 - Licensing unit
 - 7109 W. Saginaw 2nd Floor
 - PO Box 30650
 - Lansing, MI 48909-8150

EXPLANATION OF GROUP DAY CARE LICENSING

Licensing is the process by which the Michigan Family Independence Agency regulates group day care homes.

To receive a group day care home license, to care for 7-12 children, you will need to **submit** the following:

- The child day care application (OCAL-3970) along with your check or money order [payable to the State of Michigan (no cash)]. **THE FEE IS NON-REFUNDABLE**
- A **Supplemental** Information form.
- **TB tests** for:
 - All persons, 14 years of age and older, living in your home (include yourself and your spouse).
 - Any other person who will help provide care.
- A signed licensing record **criminal and protective services clearance** on yourself and all members of your household 18 years of age and over.
- If you or a member of your household has been convicted of a criminal offense, or has a record of substantiated child abuse or neglect, further study will need to be done by your licensing consultant.
- The purpose of this study is to determine whether such previous involvement would currently affect your ability to care for children and meet the family day care home rules.
- Written **discipline policy**.
- Proof of age-appropriate **CPR** and **First Aid Training**.
- A **statement** signed by a licensed physician or his/her designee which attests to your **health** and the health of any assistant caregivers.
- Proof of recent (within last year) **inspection** and **approval** of your **heating system** (including wood burning appliances) by one of the following:

- a licensed heating contractor
- a qualified fire inspector
- insurance company
- State Mechanical Inspector
- local building inspector
- **Emergency Plans** for tornado, fire, and accident, and illness.

WHAT ELSE NEEDS TO HAPPEN?

- You may be requested to attend an **orientation** session.
- If your home has a **private well and/or septic system**, an inspection and approval of the system(s) are required. This inspection, done by the local Health Department or the State Department of Community Health prior to licensure at **no cost to you, will be requested by the consultant.**
- **For fire safety you will need:**
 - **Fire extinguishers** on each floor used by children in care. These **must** be rated at least **2A-10BC**. Not every fire extinguisher is a 2A-10BC, so make sure you have this rating or one that exceeds the requirement.
 - A **smoke detector** on each floor of your home.
- Call your **local zoning board** to determine if you can operate a licensed group day care home in your neighborhood.
- The licensing consultant will **inspect** your home to check that you have met all of the rule requirements.
- After the inspection has been made, and all the required information has been submitted, a **decision** regarding your application will be made.
- A letter will be sent to you with the **licensing decision** and a copy of the **licensing study report.**
 - If the decision is to **issue** you a license, the letter will indicate when you may begin caring for children and that this initial license is in effect for **6 months**.
 - After 6 months, providing you continue to **meet all the rules** and continue to **live at the same address**, you will be issued a license every 2 years.
 - If the licensing decision is to **deny** your application you have the right to appeal the decision.
- While you are licensed, **inspections** by the licensing consultant will be made **annually** or if a **complaint** has been made.

A license is issued to a **specific** person at a **specific** address.

If you move, your license is no longer valid.

- If you plan to move, contact the Department **prior** to the move so that you can be licensed at your new address.
- If, at any time, you decide to no longer care for children, please notify your licensing office.

If you wish to continue with the licensing process or have any questions, please feel free to contact your licensing office.

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(To Print: use your browser's print function)

Release Date: December 05, 2003

Family Day Care in Your Home

It is illegal in the State of Michigan to care for unrelated children in your home without being licensed or registered by the Family Independence Agency.

The first step in getting licensed is to request an application from the Licensing Unit:

Submit Request On-Line: [Online Licensing Application Request](#)

Call: 517-241-2488

Toll Free: 1-866-685-0006

Mail To: Office of Children and Adult Licensing

Licensing Unit

PO Box 30650

Lansing, MI 48909-8150

EXPLANATION OF FAMILY DAY CARE REGISTRATION

Registration is the process by which the Family Independence Agency regulates family day care homes. The process requires that family day care home providers **certify** to the Department that **they and their home** are in **compliance** with the **rules for family day care homes**.

To receive family day care **certification**, to care for 1-6 children, you will be required to provide the following:

- **TB tests** for:
 - Yourself.
 - All persons, 14 years of age and older, living in your home (include your spouse).
 - Any other person who will help provide care.
- A **statement** signed by a licensed physician or his/her designee which attests to your health and the health of any other person who will provide care.
- A signed licensing record **criminal and protective services clearance** on yourself and all members of your household 18 years of age and over.

If you or a member of your household has been convicted of a criminal offense, or has a record of substantiated child abuse or neglect, further study will need to be done by your licensing consultant.

The purpose of this study is to determine whether such previous involvement would currently affect your ability to care for children and meet the family day care home rules.
- A **non-refundable fee** of \$25.00, payable to the **STATE OF MICHIGAN**.
- Proof of a recent (within last year) **inspection** and **approval** of your **heating system**(including wood burning appliances) by one of the following:
 - a licensed heating contractor
 - a qualified fire inspector
 - an insurance company
 - State Mechanical inspector
 - local building inspector
- A **smoke detector** on each floor of your home.
- A written **schedule of daily activities** which provides opportunities for children's physical, intellectual, emotional, and social development. The schedule must include active and quiet play, indoor and outdoor play, meal and snack times, and rest times.
- A **list of indoor and outdoor play equipment available** for the children (at least 20 different items must be listed.)
- A **sketch** of the layout of your home.
- **Emergency plans** for tornado, fire, accident, and illness.

- Written **discipline policy**.

In addition to these requirements, you must also request an application packet and complete the forms in that packet.

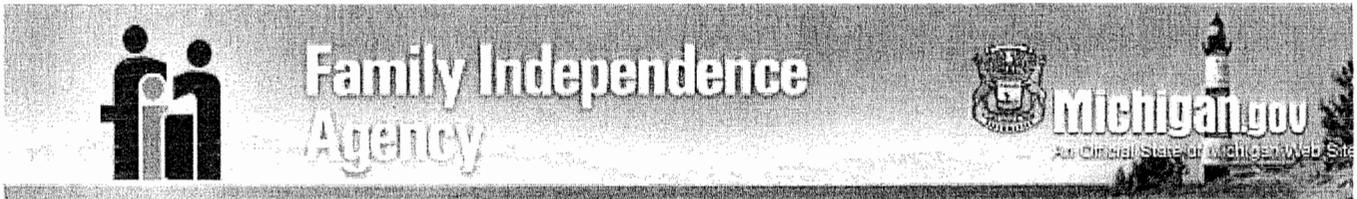
WHAT HAPPENS NEXT?

1. The **application packet** will provide you with instructions and the necessary forms you need to make a completed application packet.
2. When you have returned a **completed** application packet, it will be reviewed and evaluated. **[if it is not a complete packet it will all be returned to you.]**
3. You will be **scheduled for an orientation**.
 - This orientation lasts approximately 6 hours.
 - It will cover the licensing rules and the child care organization act.
 - Additional information will be provided which will help you to be successful in the business of caring for children.
 - Time will be provided for you to ask questions.
 - **Please do not bring your children.**
4. If your home has a **private well and/or septic system**, an inspection and approval of the system(s) are required. The inspections are conducted by the local health department of the State Department of Community Health at **no cost** to you. **The inspection will be requested by the consultant.**
5. At the end of the orientation session, you will be given a **Statement of Registration**.
 - This is a **legal document** on which you certify that you are in compliance with the family day care home rules and the child care licensing law (Act No. 116 of the Public Acts of 1973, as amended).
 - You will be asked to **take it** with you and **check your home** before signing and returning it.
 - When you have determined you are in compliance with the rules and the law and have returned the signed Statement of Registration, you will be issued a **Certificate of Registration**.
 - This registration is in effect for **3 years**, as long as you continue to meet the rules and reside at the same address.
6. Once you are registered, a licensing consultant will **inspect your home** to assess how you are meeting the rules.
 - Other inspections may be made during these 3 years.
 - An inspection is made if a complaint is received about your family day care home.
7. Within 3 years of becoming registered you need to obtain **certification in age-appropriate CPR and First Aid**.
8. A certificate is issued to a **specific person** at a **specific address**.
 - **If you move, your certificate is no longer valid.**
 - If you plan to move, contact the Department **prior** to the move so that you can be registered at your new address.
 - If, at any time, you decide to no longer care for children, please notify your licensing office.

If you have any questions or need assistance, please feel free to contact the Licensing Unit office.

(This information current as of 12/03.)
01/12/04

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Search

Statewide Results Child Day Care Centers and Homes

Click on the name of the facility for more detailed information including online reports completed on or after July 1, 2002.

FAMILY DAY CARE HOMES

License Number	Facility Name	City	County	Zi Co
DF630048286	BACKERS, ANNA	TROY	OAKLAND	48098 -80
DF630048505	BECKER, SUSAN	TROY	OAKLAND	48084 -80
DF630246432	BHATIA, MANJU	TROY	OAKLAND	48083 -80
DF630266983	BOEHMS MELISSA	TROY	OAKLAND	48098 -80
DF630048677	BRINKMAN LINDA	TROY	OAKLAND	48098 -80
DF630048184	BROWN VICKI	TROY	OAKLAND	48083 -80
DF630244279	CAMPBELL, JENNIFER	TROY	OAKLAND	48083 -80
DF630262392	CASTILLOUX, DEANE	TROY	OAKLAND	48083 -80
DF630048548	COHN-LADUKE, SANDRA	TROY	OAKLAND	48098 -80
DF630243722	CZUBAY TOBI	TROY	OAKLAND	48083 -80
DF630261634	DELUCA, LAURA	TROY	OAKLAND	48085 -80
DF630242119	DONNELLY HEIDI	TROY	OAKLAND	48098 -80
DF630048896	DUNLEAVY CAROLINE	TROY	OAKLAND	48098 -80
DF630266584	GOSELIN JAN	TROY	OAKLAND	48098 -80
DF630262135	GUIRGUIS, MANAL	TROY	OAKLAND	48085 -80
DF630256579	INEZ WHITEHEAD	TROY	OAKLAND	48083 -80
DF630049812	KELLETT BRENDA GAYE	TROY	OAKLAND	48098 -80
DF630255318	KIDDIE KORNER DAY CARE	TROY	OAKLAND	48083 -80
DF630096768	KIMBERLY KAYE MARVIN	TROY	OAKLAND	48098 -80
DF630047858	KIRSCH MILDRED	TROY	OAKLAND	48083 -80

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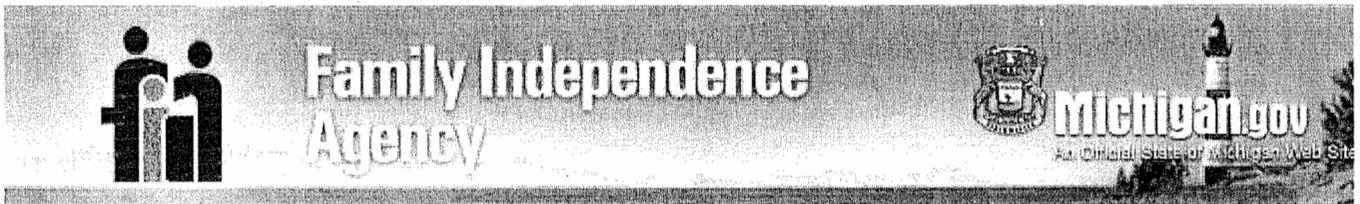
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FAMILY DAY CARE HOMES

License Number	Facility Name	City	County	Zi Co
DF630048017	KLINE MONICA	TROY	OAKLAND	48083 -80
DF630243166	LADOUCEUR MARY	TROY	OAKLAND	48084 -80
DF630096820	LEE DIANE M	TROY	OAKLAND	48098 -80
DF630255452	LEE, MOOHONG	TROY	OAKLAND	48098 -80
DF630262860	MAAROUF, NELLY	TROY	OAKLAND	48083 -80
DF630081674	MAHINDRU RANJANA	TROY	OAKLAND	48098 -80
DF630251803	MALAK, AFAF	TROY	OAKLAND	48083 -80
DF630247928	MATEUS JOSYLIN	TROY	OAKLAND	48083 -80
DF630049767	MELINDA BRADLEY	TROY	OAKLAND	48085 -80
DF630257317	MICHELLE L. SINUTKO	TROY	OAKLAND	48085 -80
DF630048241	MONRO SUZANNE	TROY	OAKLAND	48098 -80
DF630049518	NOLAN LANI	TROY	OAKLAND	48098 -80
DF630047312	ODDY GAYLE	TROY	OAKLAND	48083 -80
DF630049504	ODDY SHANNON BROOKE	TROY	OAKLAND	48084 -80
DF630259839	SATAPATHY, DIVYMANI	TROY	OAKLAND	48083 -80
DF630047336	SCYPHERS WENDY	TROY	OAKLAND	48083 -80
DF630086596	SHAIKH NOORUNNISA	TROY	OAKLAND	48098 -80
DF630048246	SHERMAN RENE	TROY	OAKLAND	48083 -80
DF630049607	SMITH DONNA	TROY	OAKLAND	48098 -80
DF630250621	STEFUT, ANGELA	TROY	OAKLAND	48084 -80

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FAMILY DAY CARE HOMES

License Number	Facility Name	City	County	Zip Code
DF630047009	STEIMEL NANCY	TROY	OAKLAND	48098 -80
DF630078084	SWEESY SUSAN R	TROY	OAKLAND	48083 -80
DF630260964	SZCZEPANEK, JULIE	TROY	OAKLAND	48083 -80
DF630253674	TERRY LEETTA OLEJNICZAK	TROY	OAKLAND	48084 -80
DF630259411	TYE, LINDA	TROY	OAKLAND	48083 -80
DF630260589	VYAS, USHA	TROY	OAKLAND	48084 -80
DF630268780	WEBB, BARBARA	TROY	OAKLAND	48085 -80

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GROUP DAY CARE HOMES

License Number	Facility Name	City	County	Zip
DG630094063	BONNIE JOHNSTON	TROY	OAKLAND	48084
DG630247036	CHILDS NICHOL	TROY	OAKLAND	48083
DG630062449	COLLINS JUDITH	TROY	OAKLAND	48098
DG630248217	DEMIROVIC SEHIJA AND DEMIROVIC SELMA	TROY	OAKLAND	48085
DG630062403	DEPAUW MARLYA	TROY	OAKLAND	48098
DG630091292	DOYLE JOYCE	TROY	OAKLAND	48098
DG630062589	DUFORD KIMBERLY	TROY	OAKLAND	48084
DG630086358	FULLER PAULETTE	TROY	OAKLAND	48083
DG630081102	HAQUE TALAT ARA	TROY	OAKLAND	48098
DG630261849	KIECA, DOREEN	TROY	OAKLAND	48083
DG630066523	KRISCOVICH KAREN	TROY	OAKLAND	48083
DG630250938	MANNING GROUP DAY CARE HOME	TROY	OAKLAND	48085
DG630072259	MCCOMB LINDA	TROY	OAKLAND	48098
DG630064396	MOHIUDDIN SYEDA A	TROY	OAKLAND	48098
DG630062578	PETERSON KATHLEEN	TROY	OAKLAND	48098
DG630252013	RAZIKA THOMAS GROUP HOME	TROY	OAKLAND	48083
DG630062384	REYNOLDS DEBORAH	TROY	OAKLAND	48098
DG630062373	SAIDE JANICE	TROY	OAKLAND	48083
DG630062527	SCHAFFER SHARON	TROY	OAKLAND	48098
DG630062602	ZIEHM, JENNIFER	TROY	OAKLAND	48085

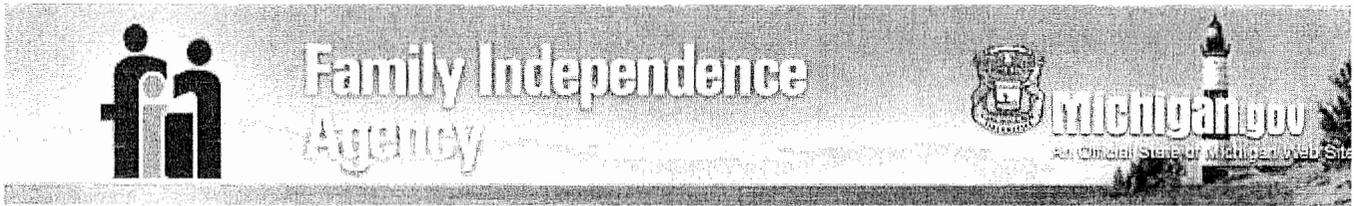
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CHILD DAY CARE CENTERS

License Number	Facility Name	City	County	
DC630020791	BABES IN TOYLAND	TROY	OAKLAND	48085
DC630020142	BARNARD SCHOOL	TROY	OAKLAND	48083
DC630018858	BEMIS SCHOOL	TROY	OAKLAND	48084
DC630256138	BROOKFIELD ACADEMY-TROY CAMPUS	TROY	OAKLAND	48083
DC630077865	CHILDRENS WORLD LEARNING CENTER #555	TROY	OAKLAND	48098
DC630018605	CHILDRENS WORLD LEARNING CENTER #819	TROY	OAKLAND	48085
DC630018719	CHILDTIME CHILDREN'S CENTER	TROY	OAKLAND	48098
DC630020143	COSTELLO SCHOOL	TROY	OAKLAND	48098
DC630017940	DISCOVERY CORNER	TROY	OAKLAND	48083
DC630016748	FAITH LUTHERAN COOP AND PRESCH	TROY	OAKLAND	48083
DC630016694	FIRST BAPTIST CHILD CARE CTR	TROY	OAKLAND	48083
DC630096647	GRACE CHRISTIAN LEARNING CENTER	TROY	OAKLAND	48084
DC630016738	GREENTREES PRESCHOOL INC	TROY	OAKLAND	48098
DC630020498	HAMILTON ELEMENTARY SCHOOL	TROY	OAKLAND	48098
DC630019841	HILL ELEMENTARY SCHOOL	TROY	OAKLAND	48098
DC630254463	KENSINGTON COMMUNITY PRESCHOOL	TROY	OAKLAND	48085
DC630250933	KID'S LEARNING CONNECTION	TROY	OAKLAND	48085
DC630016731	KINDER AND CARE LEARNING CENTER 44	TROY	OAKLAND	48098
DC630020281	KINDER CARE LEARNING CTR #1345	TROY	OAKLAND	48098
DC630017433	KINDER CARE LEARNING CENTER 265	TROY	OAKLAND	48084

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Click on the name of the facility for more detailed information including online reports completed on or after July 1, 2002.

CHILD DAY CARE CENTERS

License Number	Facility Name	City	County	
DC630019842	LEONARD SCHOOL	TROY	OAKLAND	48098
DC630018860	MARTELL ELEMENTARY SCHOOL	TROY	OAKLAND	48098
DC630016715	MEADOWBROOK NURSERY SCHOOL	TROY	OAKLAND	48099
DC630019840	MORSE SCHOOL	TROY	OAKLAND	48084
DC630022231	NILES PRESCHOOL	TROY	OAKLAND	48098
DC630017853	NORTH HILLS CHILD CARE CENTER	TROY	OAKLAND	48084
DC630072505	OAKLAND CHILDREN'S ACADEMY	TROY	OAKLAND	48083
DC630259964	OLHSA TROY HEAD START	TROY	OAKLAND	48084
DC630017247	PEMBROKE PRESCH AND LATCHKEY	TROY	OAKLAND	48084
DC630021876	RAINBOW CHILD DEVELOPMENT CENTER	TROY	OAKLAND	48098
DC630017656	RAINBOW PRE SCHOOL	TROY	OAKLAND	48084
DC630019241	RENAISSANCE MONTESSORI CENTER	TROY	OAKLAND	48098
DC630258026	SCHOOLHOUSE MONTESSORI OF TROY	TROY	OAKLAND	48084
DC630018951	SCHROEDER SCHOOL	TROY	OAKLAND	48084
DC630018071	SOMERSET EARLY CHILDHOOD CENTER	TROY	OAKLAND	48084
DC630083081	ST AUGUSTINE LUTHERAN PRESCHOOL	TROY	OAKLAND	48098
DC630016683	ST STEPHENS COOP NURSERY	TROY	OAKLAND	48098
DC630258979	ST. MARY'S CHILD DEVELOPMENT CENTER	TROY	OAKLAND	48083
DC630018540	SUSICK ELEM PRESCHOOL	TROY	OAKLAND	48084
DC630247072	SUSICK ELEMENTARY HEAD START	TROY	OAKLAND	48083

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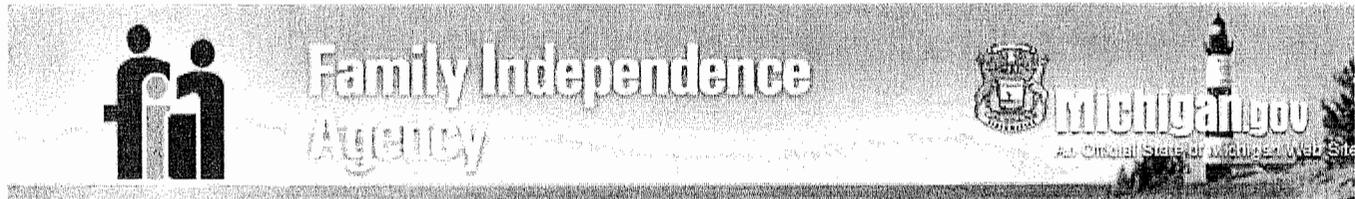
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Click on the name of the facility for more detailed information including online reports completed on or after July 1, 2002.

CHILD DAY CARE CENTERS

License Number	Facility Name	City	County	
DC630017178	TROY ATHENS LAB NURSERY SCHOOL	TROY	OAKLAND	48098
DC630016708	TROY COOPERATIVE PRESCHOOL	TROY	OAKLAND	48098
DC630022593	TROY LITTLE SCHOLARS	TROY	OAKLAND	48098
DC630020146	TROY UNION SCHOOL	TROY	OAKLAND	48098
DC630018877	WASS ELEMENTARY	TROY	OAKLAND	48098
DC630018862	WATTLES ELEMENTARY SCHOOL	TROY	OAKLAND	48098
DC630087794	ZION CHRISTIAN PRESCHOOL & CHILD CARE	TROY	OAKLAND	48083

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A Meeting of the Civil Service Commission (Act 78) was held Thursday, February 26, 2004, at Troy City Hall, 500 W. Big Beaver Road in the Council Boardroom. Chairman McGinnis called the meeting to order at 7:05 PM.

ROLL CALL

PRESENT: Chairman Donald E. McGinnis, Jr.
Commissioner Patrick Daugherty
Commissioner David Cannon

ALSO PRESENT: Lori Bluhm - City Attorney, Peggy Clifton - Human Resources Director, Police Chief Charles Craft, Captain Edward Murphy, Barbara A. Holmes - Deputy City Clerk, Jeanette Menig - Human Resources Specialist, Police Officer Mark F. Livingston, Roxanne Ostrowski, Lieutenant Stephen M. Zavislak (retired), Craig Lange – Lange & Cholack, P.C., Christine Felts – Court Reporter – Christine Felts & Associates

Approval of Minutes of January 22, 2004

Resolution #CSC-2004-02-005
Moved by Cannon
Seconded by Daugherty

RESOLVED, That the Minutes of the meeting of January 22, 2004 be **APPROVED** as presented.

Yes: All-3

Petitions and Communications

It was the consensus of the Commission to move forward Petitions and Communications Items (c) Approval of Eligible List – Police Officer and (b) Request for an Act 78 Appeal Hearing – Police Officer – Mark F. Livingston.

(c) Approval of Eligible List – Police Officer

Resolution #CSC-2004-02-006
Moved by Cannon
Seconded by Daugherty

RESOLVED, That the Eligible List for Classification: Police Officer established on Thursday, January 22, 2004 and **APPROVED** (Resolution #CSC-2004-01-002) as presented on Thursday, January 22, 2004 be hereby **AMENDED** with the **REVISED** Eligible List for Classification: Police Officer established on Tuesday, February 24, 2004.

Yes: All-3

(c) Request for an Act 78 Appeal Hearing – Police Officer Mark F. Livingston

Chair McGinnis noted that Police Officer Livingston does not have legal counsel and advised him that it is within his right to seek counsel.

Police Officer Mark F. Livingston's request for an Act 78 appeal hearing challenges the rejection of his application for the rank of Lieutenant within the Troy Police Department. Police Officer Livingston maintains that he meets the requirements because the posting does not specify that the two years of lower rank must be served with the City of Troy. Officer Livingston advised that as a sergeant for the City of Detroit, he tested for lieutenant prior to coming to Troy and would have been promoted to lieutenant in the City of Detroit in July 1998.

Mr. Lange advised that Section 12.2 of the State Statute clearly states that two years in the next lower rank in the police department is required, and 5 years service in the police department is required, and that the petitioner's request should be rejected based on this section.

Chair McGinnis asked the petitioner whether he believes he qualifies under the act or the posting.

Police Officer Livingston believes he qualifies based upon the posting.

Mr. Lange noted that the posting includes language stating "pursuant to Act 78".

Commissioner Daugherty asked Police Officer Livingston when he believes he became eligible.

Police Officer Livingston responded that he has two years as police sergeant with the City of Detroit and five years as a police officer with Troy.

Mr. Lange restated that state statute requires two years in a lower rank and that a candidate cannot jump from police officer to sergeant.

Chair McGinnis believes the statute should be interpreted to mean that the rank of sergeant is in the City of Troy.

Commissioner Cannon agreed that the law is clear and asked whether there is any case law that interprets this section differently.

Mr. Lange replied that there is no case law and restated that the language is clear in this matter. However, he noted that the petitioner does not disagree with the statute and that his appeal is based upon the posting.

Commissioner Daugherty asked whether an exception has ever been made within the Troy Police Department.

Chief Craft replied that this appeal is the first encountered by Troy's Police Department.

Commissioner Cannon sees ambiguity in the **statute posting** and asked whether any exceptions have been made in other jurisdictions.

Chief Craft responded that there are none that he is aware of, but understands that some jurisdictions hire laterally.

Commissioner Cannon understands that they are bound by state statute and that there is no case law available at this time to support Officer Livingston's appeal.

Chair McGinnis noted that Chief Craft has already indicated that there has never been a case in Troy, but asked whether or not Police Officer Livingston can provide evidence that there has been a situation where a posting supersedes the state statute.

City Attorney Bluhm advised that she has done some research and would do further, but was unable to discover any case law in her initial research.

Chair McGinnis believes the petition is legitimate and asked that future postings be less ambiguous and more reflective of the statute.

Resolution #CSC-2004-02-007

Moved by Cannon

Seconded by Daugherty

RESOLVED, That the petition requesting an Act 78 Appeal Hearing by Police Officer Mark F. Livingston be **DENIED** without prejudice due to the State Statute clearly defining the two (2) year requirement of serving lower rank within the police department that the petitioner is currently serving; and

BE IT FURTHER RESOLVED, That the petitioner can resubmit a request for an appeal hearing if he is able to bring forward practical evidence stipulating that this requirement has been waived.

Yes: All-3

(a) Request for an Act 78 Appeal Hearing – Roxanne Ostrowski

Chair McGinnis noted that Ms. Ostrowski does not have legal counsel and advised her that it is within her right to seek counsel

Ms. Ostrowski replied that she is aware that she can have counsel, but does not believe it is necessary at this time. She proceeded to state that she is before the Commission because she was previously employed as a Service Aide with the City of Troy for four years and received the same background and psychological testing then that she received when she applied more recently with Troy for a police officer position. She continued by stating that she is appealing the decision of the withdrawal of her application because she believed that everything went well and since the information on her application had been unchanged since she applied as a Service Aide and was hired. Chair McGinnis noted for the record Ms. Ostrowski's waiver of right to Counsel.

Chair McGinnis believes the Commission should have a copy of the police officer rejection correspondence in hand.

Mr. Lange provided the rejection and psychological background information to the Commission.

Chair McGinnis asked whether or not Ms. Ostrowski waived her right to keep the information confidential.

Ms. Ostrowski advised that she did not receive the documents.

Mr. Lange understands that the petitioner filed a Freedom of Information request and that it was denied.

City Attorney Bluhm advised that the petitioner was not provided with a copy; she was provided with a summary however.

Chair McGinnis believes that due process would require that the petitioner should have been provided with the documentation.

City Attorney Blum replied that this type of information is not released and added that she did not realize that it would be submitted as evidence.

Chair McGinnis asked that a formal request be made to the Act 78 Commission authorizing the release of the psychological analysis and background information to the petitioner.

Mr. Lange agrees that the petitioner needs to review the documents to assess her appeal.

Chair McGinnis believes the petitioner has a right to privacy and that she should review the documents before they are released to the Commission.

Mr. Lange informed the Commission that because the documents are official police documents that they should not be released to the petitioner. He then requested that the documents be made available to the petitioner in-camera.

City Attorney Bluhm believes in-camera viewing of the documents is the perfect solution.

Ms. Ostrowski made a formal request to the Act 78 Commission to view her background check and psychological evaluation.

Commissioner Cannon asked whether the petitioner is waiving her right to privacy.

Ms. Ostrowski replied that she would like to first review the documents prior to moving forward with her appeal request.

Chair McGinnis acknowledged that the petitioner has made a formal request to the Act 78 Commission for discovery purposes and that the psychological evaluation and background check be made available to her.

Mr. Lange noted that there are attachments to the background check and that the Commission will have to determine whether or not the attachments should be made available to the petitioner.

Chair McGinnis replied that if the attachments are used as evidence, then they are to be made available to the petitioner.

Mr. Lange noted that Lieutenant Zavislak's report is very comprehensive and that it will not be necessary to offer the attachments as evidence. He continued by stating that the petitioner can contact the Human Resources Department to arrange to view the documents.

Chair McGinnis asked whether or not the petitioner would seek counsel.

Ms. Ostrowski replied that she would determine whether or not she would seek counsel if she felt it was necessary after reviewing the documents.

Chair McGinnis asked when would the petitioner view the documents.

Ms. Ostrowski advised that she would make an appointment within one week.

Chair McGinnis understands that the petitioner would withdraw or pursue her appeal based upon her review of the documents.

Ms. Ostrowski agreed.

There was a consensus of the Commission to return the unviewed evidence to Mr. Lange until the petitioner makes a decision regarding her appeal hearing.

Commissioner Cannon advised that he would be out of the country from March 12, 2004 through April 3, 2004.

Chair McGinnis advised that he will be out of the area from March 10, 2004 through March 24, 2004, and then unavailable until April 9, 2004.

Chair McGinnis advised that the Commission would not be available again until the latter part of April should the petitioner wish to pursue her appeal.

Chair McGinnis confirmed that the petitioner would be provided with the documentation regarding her background check and psychological evaluation and added that if any other documents are to be put forward in regard to this Act 78 ruling, that she would be provided with those documents as well.

New Business: None presented

Old Business: None presented

Adjournment: The meeting was adjourned at 8:00 PM.

Donald E. McGinnis, Jr., Chairman

Barbara A. Holmes, CMC - Deputy City Clerk

A Regular Meeting of the Troy Advisory Committee for Persons with Disabilities was held Wednesday, June 2, 2004, at the lower level conference room at City Hall. Angela Done called the Meeting to order at 7:05 P.M.

Present: C. Buchanan, member S. Burt, member
 A. Done, member T. House, member
 N. Johnson, member P. Manetta, member
 D. Pietron, member M. Pritzlaff, alternate

Present: M. Grusnick, staff
 K. Jearls, staff

Absent: L. Bertin, member Gauri, K, member
 D. Kuschinsky, member Yau, Grace, alternate

ITEM B – APPROVAL OF MINUTES OF MEETING OF May 5, 2004

Pietron made a motion that the minutes of May 5, 2004 be approved. Supported by Buchanan. All voted in favor.

ITEM C – VISITORS, DELEGATIONS AND GENERAL PUBLIC

Dave Lambert was in attendance.

ITEM D – NEW BUSINESS

Burt attended council meeting and reported on two items; ramping for historical structures located at the Troy Museum, which is out for bids again, and discounted rates for the disabled population using the Sanctuary Golf Course

The suggestion was made by Burt to attend only one meeting per month because of time concerns. Discussion followed; no further action taken at this time.

The City has finally received the accessibility checklists for Troy voting precincts. To be involved in the inspections, call Mark Stimac at 248-524-3344. After doing an inspection, notify Mark of your findings.

ITEM E – REGULAR BUSINESS

Pietron and Manetta will attend council meeting on 6/7 and House on 6/21.

Buchanan will attend 7/12 council meeting and House on 7/19.

ITEM F – OLD BUSINESS

Buchanan distributed copies and asked for input on a draft for 'Face To Face' – a brochure to be handed out at Troy Daze.

Burt is printing the invites and letters for Ability Expo.

Done will contact cable company regarding advertisement for Troy Daze.

Any other concerns about Troy Daze, e-mail or call Cindy Stewart.

ITEM G – INFORMATIONAL ITEMS

There will be no meeting held in July.

ITEM H – ADJOURN

Burt made a motion to adjourn at 8:10, House seconded.

Leonard Bertin, Chair

Kathy Jearls, Recording Secretary

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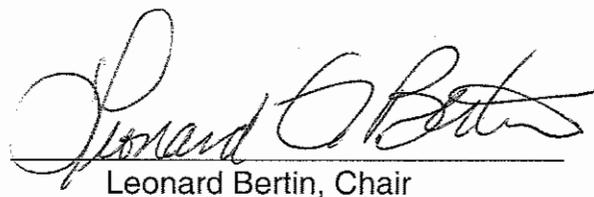
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ITEM H – ADJOURN

Burt made a motion to adjourn at 8:10, House seconded.


Leonard Bertin, Chair


Kathy Jearls, Recording Secretary

A regular meeting of the Liquor Advisory Committee was held on Monday, June 14, 2004 in Conference Room C of Troy City Hall, 500 West Big Beaver Road. Chairman Max K. Ehlert called the meeting to order at 6:58 p.m.

ROLL CALL:

PRESENT: Max K. Ehlert, Chairman
Henry W. Allemon
Alex Bennett
Anita Elenbaum
W. Stan Godlewski
James R. Peard
Carolyn Glosby, Assistant City Attorney
Sergeant Thomas J. Gordon
Pat Gladysz

ABSENT: James C. Moseley
Emily Polet, Student Representative

Resolution to Excuse Committee Member James C. Moseley

Resolution #LC2004-06-113
Moved by Allemon
Seconded by Bennett

RESOLVED, that the absence of Committee member Moseley at the Liquor Advisory Committee meeting of June 14, 2004 BE EXCUSED.

Yes: 6
No: 0
Absent: Moseley

Resolution to Approve Minutes of May 10, 2004 Meeting

Resolution #LC2004-06-114
Moved by Elenbaum
Seconded by Ehlert

RESOLVED, that the Minutes of the May 10, 2004 meeting of the Liquor Advisory Committee be approved.

Yes: 6
No: 0

Absent: Moseley

Agenda Items:

1. **BABYLON RESTAURANT GROUP, INC.** requests a **new full year (quota) Class C** license with Sunday Sales and Official Permit (Food) to be located at 888 W. Big Beaver Rd., Troy, MI 48084, Oakland County. *Proposed restaurant to be called The Melting Pot, featuring fondue based menu*

Present to answer questions from the Committee were Aaron VanDeMark, Ryan Husaynu, and Jonathan Brateman.

Mr. VanDeMark informed the Committee that The Melting Pot is an upscale, dinner-only restaurant with a fondue-based menu that will occupy space on the first floor vacated by Fidelity Bank. There are currently Melting Pot establishments in 30 states in the nation, with the proposed Troy location being the first in Michigan. There is the possibility for future restaurants in Ann Arbor and Novi. The Melting Pot attracts couples for special occasion and romantic events, with over 80% of the revenue resulting from food sales. There will be 198 seats in the restaurant and 14 seats at the bar. Mr. VanDeMark has been in the restaurant management business for several years, the past two years spent as manager of a Melting Pot in Raleigh, North Carolina. He is an owner with a 60% share of the business and will be the on-site manager with approximately 40 employees. His partner, Bill Holt, will own 40% of the business. All employees will be trained in the TIPS/TAMS program and will be required to sign the company's "Statement of Liquor Dispensing Policies" at the time of hire.

Sgt. Gordon reported that his background investigation revealed one incident in Greensboro, North Carolina in 1998 involving restaurant employees smoking marijuana while on duty. At the time of this incident, Bill Holt was the manager of the restaurant. The employees were terminated.

Resolution #LC2004-06-115

Moved by Allemon

Seconded by Elenbaum

RESOLVED, that BABYLON RESTAURANT GROUP, INC. be granted new full year (quota) Class C license with Sunday Sales and Official Permit (Food) to be located at 888 W. Big Beaver Rd., Troy, MI 48084, Oakland County.

Yes: 6

No: 0

Absent: Moseley

Informational Items

PIDGEON RIVER IMPORTS, LLC, requests a new Outstate Seller of Wine license, to be located at 3250 W. Big Beaver Rd., Troy, MI 48084,

Oakland County. [MLCC REQ ID #232608] *Office use only, no storage of alcoholic beverages on site*

This item will be handled by Sgt. Gordon and no action is required by the Committee.

KNIGHTS OF COLUMBUS, ST. JOSEPH CHALDEAN COUNCIL NO. 9154, requests to **transfer location (governmental unit)** of 2003 **Club** licensed business from 35220 Mound, Sterling Heights, MI 48310, Macomb County, to 36949 Dequindre, Troy, MI 48084, Oakland County. [MLCC REQ ID# 233780] *Current site of Asia Mart market; Zoning issues may prevent transfer*

No information to report on this item.

EMERALD FOOD SERVICE, INC. requests a **new full year (quota) Class C** license with Sunday Sales, Official Permit (Food), and Outdoor Service Area, to be located at 1450 E. South Blvd., Troy, MI 48085, Oakland County. *This request is anticipated to be made by the food service vendor for the new Sanctuary Lakes golf course; not yet in process*

Assistant City Attorney Carolyn Glosby reported that the City is currently negotiating a food vendor contract for Sanctuary Lakes Golf Course. There was a discussion by the Committee as to the anticipated request for a quota Class C license and the small number of seats available in the club house.

The meeting adjourned at 7:43 p.m.

Max K. Ehlert, Chairman

Patricia A. Gladysz, Clerk-Typist

FINAL**TROY DAZE ADVISORY COMMITTEE**

A regular meeting of the Troy Daze Advisory Committee was held **Tuesday, June 22, 2004** at the Troy Community Center. Meeting was called to order at 7:33 pm.

Present:

Marilyn Musick	Bob Preston
Jim Cyrulewski	Bill Hall
Bob Berk	Mike Gonda
Cecile Dilley	Jeff Stewart
Kessie Kaltsounis	Dhwani Mehta
Cheryl Whitton Kaszubski	

City Staff Present:

Tonya Perry	Cindy Stewart
Bob Matlick	Bob Kowalski
Jeff Biegler	

Resolution # TD-2004-05-16

Moved by Cheryl Whitton Kaszubski

Seconded by Cecile Dilley

RESOLVED that the minutes from the May 25, 2004 Troy Daze Advisory Committee are approved as submitted.

Yeas: All
Nays: None
MOTION CARRIED

OLD BUSINESS

1) Update on Contracts

- a) Shirts: Colors available per Jeff Biegler are white, birch, black, forest green, light blue, maroon, navy, putty, red, royal blue, sports grey.

Resolution #TD-2004-05-17

Moved by Mike Gonda

Seconded by Kessie Kaltsounis

RESOLVED that an order be placed for black golf shirts for members and t-shirts for volunteers (150 quantity).

Yeas: All
Nays: None
MOTION CARRIED

- b) Fireworks: P.O. in the system
- c) Pony Rides: Bob Berk spoke with Shirley at Wilson's Pony Rides. Steve Cooperrider, Risk Manager says they need to provide general liability and auto liability and workers compensation unless family members work for them. Coverage more than enough. Maximum 40'x90' area needed. Pony, camel rides and petting zoo. Troy Daze receives 15% of take. Hours not discussed - Friday, Saturday and Sunday.
- d) Stage/Dance Floor/Lighting: all quotes are out and waiting for them to be returned.
- e) Formal bid on tents: next council meeting, S & R Tent Rental low bid.

Resolution #TD-2004-05-18

Moved by Cheryl Whitton Kaszubski

Seconded by Kessie Kaltsounis

RESOLVED that the Troy Daze Advisory Committee is adjourned.

Yeas: All

Nays: None

MOTION CARRIED

Meeting is adjourned at 7:45 pm.

Cheryl Whitton-Kaszubski, Treasurer

Cindy Stewart, Recording Secretary

TROY DAZE MINUTES

A regular meeting of the Troy Daze Festival Committee was held **Tuesday, June 22, 2004** at the Troy Community Center. Meeting was called to order at 7:46 pm.

ROLL CALL

Present:

Marilyn Musick	Bob Preston
Jim Cyrulewski	Bill Hall
Bob Berk	Mike Gonda
Cecile Dilley	Jeff Stewart
Kessie Kaltsounis	Dhwani Mehti
Tom Kaszubski	Len Bertin
Diane Mitchell	Bob Broquet
Cheryl Kaszubski	Scott Wharf
Cynthia Buchanan	Dave Lambert
Poncho Massaini	Laura Fitzpatrick
JoAnn Preston	Dan O'Brien

City Staff Present:

Tonya Perry
Bob Matlick
Jeff Biegler
Cindy Stewart
Bob Kowalski

Minutes:

Motion to approve the minutes from May 25, 2004.

Moved by Cheryl Whitton Kaszubski
Seconded by Cecile Dilley
Approved unanimously.

No treasurer's report.

July meeting—photo of committee for supplement.

Correspondence

Coalition request for ride tickets to be used at Jam Fest. Okay- check sent to Arnold's Amusements. Tickets to be given to Nickie Kaptur.

Ride tickets for Thursday night- \$0.50 are cheapest in the state, now all tickets \$1. Special 10 rides for \$10 or \$0.50 if buy less.

In packet:

- Equipment Request Form
- Award and Check Request Form

Events Chairpersons

Marilyn Musick (Children's Tent - Young People's Palace) – entertainers to date include:

Magician – Sunday 3 pm and 5 pm, Ventriloquist – Saturday 2 pm and 4 pm. Times: Saturday 12-7 pm and Sunday 12-7 pm. Needs: stages 8x8, bales of hay for kids to sit on
Cheryl Whitton Kaszubski (Corporate Sponsors) - Finalize and mail all info out. National City Bank - new sponsor for Kids Palace

Diane Mitchell (Cutest Toddler) - 5 contestants to date, need 100.

Tom Kaszubski (Parade) - lots of applications in already, got application for “Alice”

Kessie Kaltsounis (shuttle carts) – Order 15 carts with lights

Bill Hall (Mr. Troy/Info booth) - order helium, 5 tanks. Will check if need balloons.

Cele Dilley (Booths) – To date 45 under tent, 2 outside, 14 food vendors

Community Bowling should be a business. Per Cindy - Krispy Kreme will donate all doughnuts Wed-Mon

Bob Preston (student volunteers) - contract issued to Bishop Foley SADD Chapter increased rate \$6 to \$7/hour.

Len Bertin (Ability Expo) – Info/applications mailed out. Assistance from Advisory Committee for Persons with Disabilities will be provided. Hours: Thursday 12:30-7 pm. Need 10 volunteer shirts

JoAnn Preston (EthniCity) - Any chance of Internet connection in tent? Probably not. Applications slowing coming in.

Bob Matlick (Fire Department) - Clawson Fire accepted challenge from Troy for water battle

Dan O'Brien (Outdoor EthniCity Entertainment) - 24 contracts sent out, 7 groups booked.

How to deal with fees? Call Cheryl for last year's budget. Get line up to Cindy.

Mike Gonda (Operations) - Request to Boulan Middle School to keep lights on for Troy Daze Met with Pepsi- set for this year. 2 liter bottles for Special Needs Day. Pepsi rep will be at Booth meeting. Truck for vendors to access. Spoke with Tim Richnak DPW to use yard to unload trailer - No.

Laura Fitzpatrick (Jaycees 5K/10K) - Getting insurance this week through state organization. New sponsor – Noodles

Jeff Stewart (Special Needs Kids) – Meeting with Linda H. Report next month.

Cindy Stewart (Publicity) - New supplement vendor – C&G Newspaper. Will get ad sizes/costs & contact info to everyone.

New Business:

Troy Roots 2005

Looking for people re: Talking History, photos, info displays.

Motion to adjourn the Festival Committee meeting by Cheryl Whitton Kaszubski

Seconded by Bob Berk

Yeas: All

Nays: None

MOTION CARRIED

Meeting is adjourned at 8:36 pm.

TROY HISTORIC STUDY COMMITTEE – DRAFT**JUNE 29, 2004**

This Meeting of the Troy Historic Study Committee was held Tuesday, June 29, 2004 at the Troy Museum & Historic Village. The meeting was called to order at 7:40 P.M.

ROLL CALL **PRESENT:** Kevin Lindsey
Charlene Harris
Kinda Hupman
Bob Miller
Linda Rivetto
Paul Lin
Marjorie Biglin

STAFF: Loraine Campbell

Mrs. Marilyn Miller attended the meeting. She and husband Robert Miller own the historically designated structure at 2356 East Long Lake Road.

Resolution #HDC-2004-06-001**Moved by Harris****Seconded by Biglin**

RESOLVED, That the minutes of the June 1, 2004 meeting be approved as submitted.

Yes: 7 —Lindsey, Harris, Hupman, Miller, Rivetto, Lin and Biglin

No: 0

MOTION CARRIED**OLD BUSINESS****A. Request to de-list 2356 E. Long Lake Rd**

Research conducted on the property revealed:

1. The original characteristics of the structure had already been lost when the structure was designated
2. The data used to support the original designation was incorrect
3. The historic district was established with defective procedures

Resolution #HDC-2004-06-002**Moved by Harris****Seconded by Biglin**

RESOLVED, That.the Committee complete a report recommending that 2356 E. Long Lake Road be de-listed.

Yes: 5 —Lindsey, Harris, Hupman, Rivetto, and Biglin
No: 0
Abstain: 2 Miller and Lin

MOTION CARRIED

The committee will hold a public hearing at the next scheduled meeting.

**B. 46 E. Square Lake Road
Resolution #HDC-2004-06-003
Moved by Lin
Seconded by Lindsey**

RESOLVED, The committee will conduct thorough research on this property before making a recommendation.

Yes: 7 —Lindsey, Harris, Hupman, Miller, Rivetto, Lin and Biglin
No: 0

MOTION CARRIED

NEW BUSINESS

A. 5875 Livernois

The letter from the resident requesting de-listing was read. Linda Rivetto, Kinda Hupman and Charlene Harris drove by the home. It is poor repair. It appears the elderly homeowner is concerned about being forced to make repairs because of the designation. Loraine will check if Mr. Davis is eligible for some assistance in keeping up basic home repairs.

The Troy Historic Study Committee Meeting was adjourned at 9:00 p.m. The next regular meeting will be held Monday, July 26, 2004 at 7:30 p.m. at the Troy Museum & Historic Village.

Kevin Lindsey
Chairman

Loraine Campbell
Recording Secretary

The Special Meeting of the Troy City Planning Commission was called to order by Chair Waller at 3:00 p.m. on July 8, 2004, at the Sanctuary Lake Golf Course, 1450 E. South Boulevard, Troy, Michigan.

1. ROLL CALL

Present:

Gary Chamberlain
Fazal Khan
Lawrence Littman
Robert Schultz
Thomas Strat
David T. Waller

Absent:

Lynn Drake-Batts
Mark J. Vleck
Wayne Wright

Also Present:

Mark F. Miller, Planning Director
Allan Motzny, Assistant City Attorney

Resolution # PC-2004-07-071

Moved by: Littman

Seconded by: Schultz

RESOLVED, That Members Drake-Batts, Vleck and Wright be excused from attendance at this meeting.

Yes: All present (6)
No: None
Absent: Drake-Batts, Vleck, Wright

2. PUBLIC COMMENT

There was no one present who wished to speak.

3. TOUR OF GOLF COURSE

There was general discussion regarding the design of the golf course.

4. PUBLIC COMMENT

There was no one present who wished to speak.

ADJOURN

The Special Meeting of the Planning Commission was adjourned at 4:37 p.m.

Respectfully submitted,

David T. Waller, Chair

Mark F. Miller, Planning Director

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The Regular Meeting of the Troy City Planning Commission was called to order by Chair Waller at 7:30 p.m. on July 13, 2004, in the Council Chambers of the Troy City Hall.

1. ROLL CALL

Present:

Gary Chamberlain
Lawrence Littman
Robert Schultz
Thomas Strat
Mark J. Vleck
David T. Waller

Absent:

Lynn Drake-Batts
Fazal Khan
Wayne Wright

Also Present:

Mark F. Miller, Planning Director
Allan Motzny, Assistant City Attorney
Howard Wu, Student Representative
Kathy Czarnecki, Recording Secretary

Resolution # PC-2004-07-072

Moved by: Chamberlain
Seconded by: Schultz

RESOLVED, That Members Drake-Batts, Khan and Wright be excused from attendance at this meeting.

Yes: All present (6)
No: None
Absent: Drake-Batts, Khan, Wright

MOTION CARRIED

2. MINUTES

Resolution # PC-2004-07-073

Moved by: Chamberlain
Seconded by: Schultz

RESOLVED, To approve the June 22, 2004 Special/Study Meeting minutes as published.

Yes: Chamberlain, Schultz, Strat, Waller
No: None
Abstain: Littman, Vleck
Absent: Drake-Batts, Khan, Wright

MOTION CARRIED

3. PUBLIC COMMENTS

There was no one present who wished to speak.

SITE CONDOMINIUM SITE PLANS

4. SITE PLAN REVIEW – Proposed Presidential Place Site Condominium, 5 units/lots proposed, West side of John R, North of Square Lake, Section 2 – R-1D

Mr. Miller presented a summary of the Planning Department report for the proposed Presidential Place Site Condominium. Mr. Miller reported that it is the recommendation of the Planning Department to approve the preliminary site condominium plan as submitted, subject to three conditions: (1) construction of a 5-foot wide concrete sidewalk, designed and constructed to City standards, within the 5-foot wide sidewalk easement; (2) that the petitioner obtain an MDEQ Wetlands Permit or Jurisdictional Wetland Determination Document stating authoritative status prior to Final Approval; and (3) that the petitioner create a general common area to replace the recreation easement that provides access to the pond and gazebo.

Mr. Schultz questioned the limited space remaining with respect to the 25-foot front setback and the required 5-foot sidewalk, and asked if the building could be pushed back to eliminate the possibility of parked cars on the sidewalk.

Mr. Miller replied that the 25-foot setback is the City's current standard.

Mr. Chamberlain expressed concern with the designated trees on the preliminary tree preservation plan. He said he would not vote favorably on the site plan unless the trees were removed from the tree preservation plan.

Mr. Miller said the preliminary tree plan is in essence only a tree inventory, and it is at the discretion of the Commission to remove the trees from the tree preservation plan at this time. Mr. Miller noted the petitioner would be required to remove the trees from the plan prior to getting final site plan approval.

Mr. Chamberlain expressed concern that a potential dam could be created with the fill dirt that would be necessary for the proposed development, and said this is a good example that final grading plans should be required for site plan approval.

Mr. Miller replied that the petitioner's engineer would address this concern.

Mr. Strat questioned why the recommendations of the City's Environmental Specialist have not been incorporated in the site plan; i.e., bio retention in the center aisle. He said the plan shows no creativity with respect to the retention pond.

Chair Waller questioned the location of the required 8-foot sidewalk.

Mr. Miller clarified that the 8-foot sidewalk is along John R and the 5-foot sidewalk is within the interior roads.

Chair Waller shared information with respect to new ideas on storm water detention. He proposed that the petitioner contact the Planning Department with respect to incorporating the new ideas in the development of the project's storm water detention.

There was a brief discussion on the site plan designation of "detention" and the Engineering Department's recommendation of a "retention" pond. Mr. Miller said he would check the original Engineering Department review and confirm the correct designation.

Bill Mosher of Apex Engineering, 47745 Van Dyke, Shelby Township, was present on behalf of the petitioner. Mr. Mosher confirmed that the site plan shows the sidewalk easement on the outside of the 40-foot private road easement. Mr. Mosher said a wetlands permit would be obtained, and noted that a previous MDEQ letter of no authority had expired. Mr. Mosher said the plan would be revised to include a general common area instead of the recreational component. To address the setback concerns, Mr. Mosher said it would be possible to impose a 30-foot setback on Lots 1 and 2, but not on Lots 3, 4, and 5. Mr. Mosher said the designated trees would be removed from the tree preservation plan. He also addressed the grading issues and stated he would work with the Engineering Department to insure that the detention is sufficient. Further, Mr. Mosher said he would work on a creative concept for the proposed detention pond.

Mr. Miller reported that the Engineering Department's review specifically states "retention", not "detention". The Engineering Department's review states there is a lack of drainage capacity on John R and notes there are no planned improvements until the year 2008 or later.

Discussion followed with respect to maintaining the pond as a retention pond, once improvements are completed on John R.

Mr. Mosher said he would like to keep the pond dry and the building envelopes as large as possible, and noted there is a detention facility at the fire station. Mr. Mosher said he would work with the Engineering Department on a complete evaluation of the storm water detention.

Mr. Strat asked if the petitioner would come back to the Planning Commission for resubmission of site plan approval should the preliminary engineering requirements change.

Mr. Mosher answered in the affirmative. He stated that a condition of the Condominium Act is to review some forms of drainage and lot configurations. Mr. Mosher said that should the Engineering Department not waive the requirement for a retention facility, there would be changes in the layout and it would be necessary to re-evaluate the plan.

Chair Waller asked if it is reasonable to have the City review the fire station retention pond at the same time.

Mr. Miller replied that a request could be made to the Engineering Department.

Discussion continued on the grades.

Mr. Mosher said he would do whatever is necessary to get the project going; i.e., bio swales, catch basin, etc.

Chair Waller opened the floor for public comment.

Leonid Shashlo of 6336 Atkins Drive, Troy, was present. Mr. Shashlo voiced his objections to the proposed development. He said Unit #5 of the proposed development is too close to his property. Mr. Shashlo expressed concern for the young children playing near two roads and the potential to destroy the existing environment and wildlife.

Jerry Slywka of 6322 Atkins Drive, Troy, was present. Mr. Slywka has been a Troy resident for 25 years. Mr. Slywka bought the property in 1969 and sold the property to Mr. Haddad approximately six or seven years ago. Mr. Slywka said Mr. Haddad promised to build two nice houses on the property for his sons. Mr. Slywka protested strongly to the proposed development because of potential danger to the existing environment, nature and wildlife. Mr. Slywka voiced concerns that the sump pumps would be connected to the pond. He asked that the 17-foot pond not be touched because it provides clean water for his children and grandchildren to swim in. Mr. Slywka questioned the logic of the City that it placed such strong restrictions on the quality of water when he created the pond, but has no interest in the water quality with the proposed development. Mr. Slywka said the proposed development would affect his life and the lives of his neighbors, children and grandchildren. Further, Mr. Slywka questioned the size of the lots in relation to the size of the homes, and encouraged the City to impose soil and boring tests on the property.

Chair Waller explained that the petitioner is proposing to create a pond for aesthetic pleasure and the pond would not be used for water sports or anything similar. Chair Waller confirmed that a wetlands report would be provided. He also stated that a

natural features ordinance proposed several years ago was not passed because the majority of residents were in opposition to it.

Mr. Vleck clarified that (1) there is no rezoning request on the subject parcel; (2) the proposed development is on the petitioner's property and not on anybody else's property; (3) the Planning Commission does not have the authority to deviate from the requirements set forth by the City; and (4) the petitioner has met all of the City codes and requirements.

Kinette Bayliss, owner of 2.5 acres of property located to the south of the proposed development, Sidwell No. 88-20-02-427-007, was present. Ms. Bayliss is very concerned about the development of the property. She said it was her understanding that the property would remain as two residential lots after it was sold. She questioned how the property could go from two residential lots to five lots without the property getting rezoned. Ms. Bayliss said her concerns are similar to the concerns expressed by Mr. Slywka; i.e., sump pump run-off into the pond and the clean water in the pond for recreational purposes. She said that she and Mr. Slywka developed the pond to be what it is and it is very important to them that the pond water remains the same. She asked for an explanation why the City would go from all wetlands to constructing condominiums.

Mr. Miller provided a brief explanation of the R-1D zoning district and its requirements and provisions for development.

Ms. Bayliss asked if there was a capacity requirement for the use of the pond.

Chair Waller announced that the floor at tonight's meeting is the wrong forum to discuss the pond. He said that any concern about the quality of the pond and whether or not the sump pumps from Lots 4 and 5 might be directed toward the pond is something that should be negotiated with the property owner. Chair Waller said that concerns should be brought to the attention of the City Council. He explained that the decision made tonight by the Planning Commission is only a recommendation to the City Council for its review and approval. Chair Waller stated that Mr. Haddad owns part of the pond and Ms. Bayliss can only wish that the future property owners would have her passion for its quality. Chair Waller assisted Ms. Bayliss in locating the retention pond on the proposed site plan in relation to her property.

Mr. Chamberlain said his sump pump drains into the storm system, and he presumes that is how sump pumps are in operation today.

Mr. Miller agreed. Mr. Miller further advised the Planning Commission to strike the notation on the site plan that relates to the discharge of the sump pumps to Lots 4 and 5. He stated that the information is extraneous at this time.

Priscilla King of 6310 Atkins, Troy, was present. Ms. King said the Planning Commission informed her the property could not be developed because it was

wetlands. Ms. King strongly objected to the proposed development, and stated that her husband spent years trying to improve the property.

The floor was closed.

Resolution # PC-2004-07-074

Moved by: Vleck
Seconded by: Littman

RESOLVED, That the Planning Commission recommends to City Council, that the Preliminary Site Plan (Section 34.30.00 Unplatted One-Family Residential Development), as requested for Presidential Place Site Condominium, including 5 units, located on the west side of John R Road and north of Square Lake Road, Section 2, within the R-1D zoning district be granted, subject to the following conditions:

1. Construction of a 5-foot wide concrete sidewalk, designed and constructed to City standards, within the 5-foot wide sidewalk easement.
2. The petitioner obtain an MDEQ Wetlands Permit or Jurisdictional Wetland Determination Document stating authoritative status, prior to Final Approval.
3. The petitioner create a general common area to replace the recreation easement that provides access to the pond and gazebo.
4. That all existing illegal trees on the property will be removed.
5. That the note on the drawing that states "sump pump discharge directly to pond for Units 4 and 5 will be removed.
6. That the design recommendations provide that the petitioner will duly note all drainage concern for neighboring properties and plan for adequate drainage.

Discussion on the motion.

Mr. Littman requested that the motion be amended to reflect the site plan designation of a "retention" pond, as recommended by the Engineering Department.

Mr. Miller explained the difference between a detention pond and a retention pond. He said detention pond water is detained and slowly released so there is not a quick flash of water that would overburden the storm water drainage system. Retention pond water is retained and in essence is a wet pond. Mr. Miller noted that not all storm water drainage systems are City owned; that the County owns some of the systems.

Mr. Vleck recommended the site maintain a detention pond because the fire station has an existing detention pond and a retention pond with its standing water would create a risk factor for West Nile Virus.

Vote on the motion on the floor, as moved and seconded.

Yes: Chamberlain, Littman, Schultz, Vleck, Waller
No: Strat
Absent: Drake-Batts, Khan, Wright

MOTION CARRIED/DENIED

Mr. Strat stated his reasons for not voting in favor of the motion. He feels (1) the final engineering has not been provided to determine exactly the size of the detention pond or retention pond; (2) the wetlands report might affect the final layout of the design of the site and the plan might have to return to the Planning Commission for a second approval; (3) the plan does not protect the value of the adjacent property owners; and (4) there is a lack of innovative design and bio retention, as indicated by the City's Environmental Specialist review comments.

Members Chamberlain and Strat encouraged the residents to voice their objections to the City Council.

Mr. Miller said the item most likely would be on the City Council agenda at their 2nd meeting in August or their 1st meeting in September. Mr. Miller confirmed that abutting property owners would be notified.

[Student Representative Howard Wu joined the meeting]

5. SITE PLAN REVIEW – Proposed Timbercrest Estates Site Condominium, 11 units/lots proposed, South side of Wattles, West of Fernleigh, Section 24 – R-1C

Mr. Miller presented a summary of the Planning Department report for the proposed Timbercrest Estates Site Condominium. Mr. Miller noted that the Planning Department recognizes the potential for future development on parcels to the south and west, and the Planning Department has worked with the petitioner to create a layout that would include a stub street to the south property line that would allow for the extension of further development. Mr. Miller reported that it is the recommendation of the Planning Department to approve the preliminary site condominium plan as submitted.

Mr. Chamberlain said the Planning Commission should be advised on the potential development of surrounding properties in relation to proposed projects. Mr. Chamberlain noted there is a potential curb cut on Wattles Road should the property to the west of the proposed development be developed, and it is very important to the Commission how that property to the west might be developed.

Mr. Miller said his research showed the property to the west as an old outlot that runs one-half mile to the south and the majority of the property is owned by the

State of Michigan. Mr. Miller reported that the City has a long history of asking petitioners to provide information on potential development of surrounding properties, but there is no requirement. He noted there is a requirement in the Subdivision Ordinance to provide information on potential development of large tracts of unplatted land. Mr. Miller apologized for the Planning Department's error in not providing information on the potential development of the 160-foot wide property to the west. Mr. Miller said the matter was discussed with the petitioner, and indicated the petitioner may be able to address it further. He said the Planning Department could prepare alternate layouts for the surrounding area for a future study meeting, should the Commission desire. Mr. Miller said the City should provide a means for future development in the rear portions that front Fernleigh.

Mr. Chamberlain pointed out that the Planning Department should have on file how this particular piece of property could be developed before the item is forwarded to the City Council for review and approval.

Discussion continued on the potential development of the property to the west with respect to different design layouts, emergency access, additional access points, and a boulevard entrance.

Nader Wehbe of Beckman Wehbe Corp., 25775 W. Ten Mile Road, Southfield, and Ben Gill of Chesterfield Building, 31125 Westwood, Farmington Hills, were present.

Mr. Wehbe commented on the access situation and alternate layouts. He said he worked closely with the Planning Department, and it is the preference of the Planning Department to provide the stub road because it would create many possibilities to extend the road for future development.

Mr. Gill stated that negotiations with the owner to purchase the property to the west were unsuccessful.

Chair Waller opened the floor for public comment.

Claude Vidal of 2506 E. Wattles Road, Troy, was present. Mr. Vidal is the owner of the property to the west and has lived there for 52 years. He said that is the reason he asked such an exorbitant purchase price. Mr. Vidal said he does not appreciate the Commission dissecting his property and telling him how it should be developed. Mr. Vidal said there is a retention pond on the DNR strip, and asked if he would really have to look out his front window at the proposed project's retention pond that would be located directly next door and in the front of his house. Mr. Vidal stated that he had a speech prepared but implied he was too emotional to present it.

Stephen Munteer of 3845 Fernleigh Drive, Troy, was present. Mr. Munteer said his home is at the southeast corner of the proposed development. Mr. Munteer expressed concerns with the potential traffic and safety issues that would result from the proposed development. He said currently it is almost impossible to exit onto Wattles Road, in either direction, during morning traffic. He expressed concerns with

the potential widening of Wattles Road, and noted that the proposed development is at the narrowest part of the Wattles Road. Mr. Mounteer said he would like to see lower density on the development or improvement to the traffic flow from the property.

Pat O'Donnell of 3951 Fernleigh, Troy, was present. Ms. O'Donnell expressed her objection to the proposed development because it appears to be too high of a density for the space available, and she believes it would take away from the atmosphere of the neighborhood. Ms. O'Donnell also asked for information on the widening of Wattles Road to five lanes.

Mr. Miller replied that the ultimate right of way for Wattles Road is 120 feet wide, which would accommodate a five-lane road. Mr. Miller informed Ms. O'Donnell to contact the Engineering Department for the improvement schedule for Wattles Road.

Max Akins of 2545 E. Wattles Road, Troy, was present. Mr. Akins said he does not want to look at a retention pond across from his house, which is where the proposed retention pond would be located. He asked how the City would widen Wattles Road at that particular point and expressed concerns with the remaining frontage of his home.

A short discussion followed on the future widening of Wattles Road.

Mr. Wehbe responded to the concerns expressed on the retention pond. He said the proposed retention basin is 3 feet high with a 1:6 slope, unfenced and well landscaped. Mr. Wehbe said the retention pond would look like a depression on the ground, and would fill up with water only during rain events. Mr. Wehbe confirmed the detention pond would be conveyed to the City for maintenance purposes.

Chair Waller announced that any drainage concerns should be brought to the attention of the Planning Department or Engineering Department.

Mr. Strat asked if the petitioner proposed to do the landscaping as indicated on the plan, approximately 4 feet deep.

Mr. Wehbe answered in the affirmative.

Mr. Vleck directed comments to the resident who owns the property to the west. He said the reason the Commission would like to be advised of future development is that should the property be sold, the Commission must take into consideration what may happen in the future, and that the Commission tries to design as best it can for future development. The Commission's concern in looking at the property to west is whether or not the street layout would accommodate possible future developments.

Mr. Littman requested an explanation on the location of the retention basin.

Mr. Wehbe responded that the property is considered fairly level, and the retention basin is best positioned at the outlet in the corner of the property. He said also that its location near a public road is best for overflow purposes. Mr. Wehbe said that

everything on site would stay on sight, inclusive of landscaping and trees, and the run-off water would be collected in the underground storm system.

Mr. Schultz apologized to the property owner to the west if there was a misunderstanding. He said the Commission is not indicating that his property must be developed. Mr. Schultz explained that it is in the best, long-term interest of the property owner that he/she is not left with an undevelopable piece of property.

Mr. Strat asked if the Planning Department received any specific comments on the proposed development from the Environmental Specialist.

Mr. Miller replied that the only comment from the Environmental Specialist is that there are no wetlands or flood plain issues.

Chair Waller asked that the motion reflect the comments of the petitioner that the trees along the property line would be saved, and that should rear yard drain routing result in tree loss, the petitioner would come back before the Planning Commission.

The floor was closed.

Resolution # PC-2004-07-075

Moved by: Chamberlain

Seconded by: Schultz

RESOLVED, That the Planning Commission recommends to City Council, that the Preliminary Site Plan (Section 34.30.00 Unplatted One-Family Residential Development), as requested for Timbercrest Estates Site Condominium, including 11 units, located south of Wattles Road and west of Fernleigh Road, Section 24, within the R-1C zoning district be granted, subject to the following conditions:

1. That an adjacent property plat layout for the properties to the south and to the west be on file at the Planning Department before the item goes to City Council.
2. That the drainage of this property to the properties to the east that are developed is engineered such that there are no water flows that create standing water in the properties to the east.
3. The tree survey lists a number of trees that are not the kind of trees the City of Troy wants, and those trees that do meet the requirement of being a good tree, on the property lines specifically, that every effort be made to do the underground utility work without cutting roots and maybe the recommendation would be not to do any rear yard underground utility work, but make it all down Timbercrest.
4. If there are trees to be destroyed, the item needs to come back to see how best the City and the petitioner can get together and save as many trees as possible.

Yes: All present (6)
No: None
Absent: Drake-Batts, Khan, Wright

MOTION CARRIED

Mr. Schultz proposed that the motion be amended to reflect that the petitioner is required to bring back the site plan for approval should there be any significant change to the site plan.

Mr. Chamberlain asked for a legal opinion on the proposed amendment to the motion.

Mr. Motzny said the Commission could put the language in the motion but, in his opinion, City Council is not required to honor the request because the motion is only a recommendation to City Council.

ZONING ORDINANCE TEXT AMENDMENTS

6. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 202) – Outdoor Storage of Commercial and Recreational Vehicles in M-1 Light Industrial District

Mr. Miller presented a summary of ZOTA 202 and the most recent revisions.

Chair Waller referred to a letter received from Shurguard stating that it recognizes the need and is very much in favor of the proposed zoning ordinance text amendment.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2004-07-076

Moved by: Schultz
Seconded by: Littman

RESOLVED, That the Planning Commission hereby recommends to the City Council that Article 28.30.02, Article 40.21.83 and Article 04.20.128 of the Zoning Ordinance, be amended as printed on the Updated Version of the Zoning Ordinance Text Amendment (ZOTA 202), dated 02/16/04.

Yes: All present (6)
 No: None
 Absent: Drake-Batts, Khan, Wright

MOTION CARRIED

7. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 200) – Article 34.70.00 One Family Cluster Option

Mr. Miller presented a summary of ZOTA 200. Mr. Miller reviewed clarifications and/or corrections to the following sections of the proposed zoning ordinance text amendment: 34.70.02 (B)(1), 34.70.05 (A) and 34.70.06 (D).

A thorough discussion followed on the size of trees to be planted. After a straw vote, the tree size determined was 3 to 3.5 dbh.

A discussion followed on the wording of Section 34.70.02 (B)(1). It was determined that the paragraph should read: "...significant individual trees, significant individual trees ten inches in diameter or larger...".

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2004-07-077

Moved by: Chamberlain
 Seconded by: Littman

RESOLVED, That the Planning Commission hereby recommends to the City Council that Article 34.70.00, Article 10.20.09 and Articles 04.20.120 through 04.20.122 of the Zoning Ordinance, be amended as printed on the Updated Version, dated 06/29/04, and the changes noted by the Planning Director on the paragraphs 34.70.02 (B)(1), 34.70.05 (A) and 34.70.06 (D).

Yes: All present (6)
 No: None
 Absent: Drake-Batts, Khan, Wright

MOTION CARRIED

8. PUBLIC COMMENT

There was no one present who wished to speak.

GOOD OF THE ORDER

Mr. Miller announced that the Planning Department is in receipt of a letter from the Oakland Mall stating that due to the new acquisition and change of ownership of the Lord & Taylor department store, Lord & Taylor is no longer moving forward with its plan to put a store at Oakland Mall.

Mr. Schultz referenced an informational item on last night's City Council agenda. A 3,300 square foot home is being built on Alpine with a 6,000 square foot attached garage, and the construction is taking place totally within the City's ordinances. Mr. Schultz suggested that the Planning Commission should consider moving forward with changing ordinances as they pertain to accessory structures or garages that outweigh the house.

Mr. Miller reported that the matter will be a City Council regular item to seek direction on (1) what can happen from an existing standpoint and define an enforcement on Alpine; and (2) whether City Council would like the Planning Commission and City Management to address compatibility of those structures and attached garages, and whether size should be limited on attached garages.

Mr. Schultz distributed information with respect to green sustainable development. He also stated his appreciation for the tour of the Sanctuary Lakes Golf Course. He said the tour was very informative and the facility is one that the citizens of Troy can be justifiably proud.

Mr. Littman welcomed Mr. Wu to the Commission, and encouraged his input on Planning Commission matters.

Mr. Strat asked the status of the zoning ordinance text amendment with respect to site plan approval and the requirement to submit landscape plans.

Mr. Miller reported the proposed ZOTA is scheduled for a Public Hearing in August, and would be forwarded to the City Council for review and approval in September. Mr. Miller said the amendment, if adopted by City Council, would become effective 10 days after its approval. Mr. Miller said a determination would have to be made for site plan applications that are in the process of site plan review and the effective date of the amendment.

Mr. Strat asked if the Planning Commission could directly receive the review comments of the various departmental site plan reviews.

Mr. Miller said the departmental comments are incorporated verbatim in the Planning Department reports. He would prefer not to make additional copies of the departmental reviews when review comments are easily incorporated into the reports. Mr. Miller said a complete review would be provided to the Planning Commission should there be substantial comments.

Mr. Miller confirmed that the Downtown Development Authority (DDA) is meeting tomorrow morning. He said a presentation is being given by the City Manager with respect to the vision of the DDA on items that the Planning Commission has been involved.

Mr. Chamberlain said that tonight's meeting is the first meeting being recorded on DVD.

Resolution # PC-2004-07-078

Moved by: Chamberlain

Seconded by: Vleck

RESOLVED, That all Planning Commission meetings be recorded on DVD and a copy of the DVD be stored at the Planning Department for future reference.

Yes: All present (6)

No: None

Absent: Drake-Batts, Khan, Wright

MOTION CARRIED

Chair Waller asked the City Attorney to prepare a document explaining the origins and the rule of law of the City of Troy development standards; how it came to be, how it is viewed, how it is approved, and how it is utilized.

ADJOURN

The Regular Meeting of the Planning Commission was adjourned at 9:57 p.m.

Respectfully submitted,

David T. Waller, Chair

Kathy L. Czarnecki, Recording Secretary

A meeting of the Employees' Retirement System Board of Trustees was held on Wednesday, July 14, 2004, at Troy City Hall, 500 W. Big Beaver Rd., Troy, MI. The meeting was called to order at 12:07 p.m.

TRUSTEES PRESENT: Mark Calice (Departed @ 1:20)
Robert Crawford
Thomas Houghton, Chair
David A. Lambert
John M. Lamerato
William R. Need
Steven A. Pallotta
John Szerlag

ALSO PRESENT: Laura Fitzpatrick
Steve Gasper, UBS
John Grant, UBS

MINUTES

Resolution # ER – 2004 – 07 - 027

Moved by Lambert
Seconded by Crawford

RESOLVED, That the minutes of the June 9, 2004 meeting be approved.

Yeas: All 7

RETIREMENT REQUESTS

Resolution # ER – 2004 – 07 - 028

Moved by Lamerato
Seconded by Szerlag

RESOLVED, That the following retirement request be approved:

Kathleen McCabe, DB, 7/31/04, Police, 24 years, 3 months

Yeas: All 7

Roger Owens duty disability retirement was postponed to the August 11, 2004 meeting.

OTHER BUSINESS – MARCH 31, 2004 INVESTMENT PERFORMANCE

Steve Gasper and John Grant of UBS, reviewed with the Board the March 31, 2004 Investment Performance.

INVESTMENTS

Resolution # ER – 2004 – 07 - 029

Moved by Houghton
Seconded by Pallotta

RESOLVED, That the following investments be purchased and sold:
\$500,000 AT&T, 6% due 9/15/08; Sell – Aqilent Technologies; Enron; Country Wide Financial; Purchase – 4,000 shares Eaton Vance; 6,000 shares Donaldson; 5,000 shares Dow Chemical; 6,000 shares Del Monte; 4,000 shares Danaher; 4,000 shares Diebold; 4,000 shares Chico Fas; 8,000 shares EMC; 4,200 shares Caremark Rx; 4,000 shares Baldor Electric; 6,000 shares Capital One; and 2,000 shares Chevron,

AND, LET IT BE FURTHER RESOLVED, That we transfer \$500,000.00 into the NAIC Account and purchase 2,000 shares from each of their monthly recommendations.

Yeas: All 6
Absent: Calice

The next meeting is August 11, 2004 at 12:00 p.m. at City Hall, Conference Room C, 500 W Big Beaver, Troy, MI.

The meeting adjourned at 1:55 p.m.

Thomas Houghton, Chairman

John M. Lamerato, Secretary

The Chairman, Matthew Kovacs, called the Board of Zoning Appeals meeting to order at 7:30 P.M in Council Chambers of City Hall, on Tuesday, July 20, 2004.

PRESENT: Kenneth Courtney
 Marcia Gies
 Michael Hutson
 Matthew Kovacs
 Mark Maxwell
 Thomas Strat

ABSENT: Christopher Fejes

ALSO PRESENT: Mark Stimac, Director of Building & Zoning
 Susan Lancaster, Assistant City Attorney
 Pamela Pasternak, Recording Secretary

Motion by Gies
Supported by Hutson

MOVED, to excuse Mr. Fejes from this meeting as he is out of town.

Yeas: All – 6

MOTION TO EXCUSE MR. FEJES CARRIED

ITEM #1 – APPROVAL OF MINUTES – MEETING OF JUNE 15, 2004

Mr. Strat indicated that he wished to change the first paragraph on page #8, regarding the request of Mr. & Mrs. Kevin Lindsey, 6890 Norton, to indicate that he had stated that he wanted the petitioner to receive a written report from a structural engineer on whether the barn could or could not be modified to accommodate the camper.

Motion by Courtney
Supported by Gies

MOVED TO APPROVE THE MINUTES OF THE MEETING OF JUNE 15, 2004 WITH THE ABOVE STATEMENT ADDED

Yeas: 4 – Gies, Maxwell, Strat, Courtney
Abstain: 2 – Hutson, Kovacs

MOTION TO APPROVE MINUTES WITH CORRECTION CARRIED

ITEM #2 – VARIANCE REQUEST. RWT BUILDING, LLC, 1309 BOYD (PROPOSED ADDRESS), for relief of the Zoning Ordinance to divide a parcel of land, which will result in two 7,200 square foot parcels, where Section 30.10.06 of the Ordinance requires a minimum lot area of 7,500 square feet in the R-1E Zoning District.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to divide a parcel and construct a new single-family residence. The existing home at 1321 Boyd is located on Lot #29 with a portion of the attached garage located on Lot #28. Although these two lots are shown as two separate parcels for tax purposes, since the same individual owns them, Section 40.50.02 of the Zoning Ordinance considers this to be an undivided parcel. Individually these lots are only 7,200 square feet in area. Section 30.10.05 of the Ordinance requires a minimum lot area of 7,500 square feet in the R-1E Zoning District. The plans submitted propose to remove the garage, separate the lots creating two 7,200 square foot parcels, and build a new home on Lot #28.

This item first appeared before this Board at the meeting of June 15, 2004 and was postponed at the request of the petitioner.

Mr. Gregory Wieg, the owner of this property was present. Mr. Wieg stated that he has owned this lot for approximately 12 years and this property was assigned a separate sidwell number, and was assessed a value of \$50,000 for tax purposes and he believed was considered to be a buildable lot. Mr. Wieg said that he has retired and wished to sell the property to this developer as he is well known to Mr. Wieg and believes that any home he puts in will enhance the value of this area.

Mr. Courtney asked if Mr. Wieg had ever checked with the City to determine if another home could be built on this property. Mr. Wieg stated that he had not and had assumed because of the high value of the lot that it was a buildable lot.

Mr. Hutson stated that in order to grant a variance this Board must find a practical difficulty with the land and as far as he could determine the hardship in this case was a financial one. Mr. Wieg said that it is a financial hardship to him and he had always paid taxes on it with the idea that it was a buildable lot. Mr. Wieg also said that this home would be in keeping with the character of the area. Mr. Hutson said that he had visited this area and did not want to contribute to the congestion in the area.

Mr. Kovacs asked about the size of the lots in this area. Mr. Stimac indicated most of the lots in the area are 60' wide, which was the way they were originally platted. Mr. Stimac also stated that he thought that the depth of the north side of the street were 120' deep. Mr. Stimac also pointed out that some of the homes are on two lots and there is an access drive to the school on the single lot immediately to the west.

The Chairman opened the Public Hearing.

Mr. Brad Comb, 1296 Boyd, was present and stated that he was concerned about building a house on that corner as it will block traffic. Mr. Comb said that this is a very

ITEM #2 – con't.

congested area and is concerned about the children going to school. Mr. Comb also said that he would not have a problem with this if it was a mid-block lot, but would rather not see a house built here. Mr. Comb is also concerned about the number of trees that would be taken down and is opposed to this variance.

Mrs. Diane Alati, 1308 Boyd was present and stated that she is opposed to this variance request. Mrs. Alati said that this is a very high traffic area and believes that construction on this lot would create a larger problem. Mrs. Alati also said that a bond was recently passed and a new, larger school facility was going to be built here and the congestion would be increased.

No one else wished to be heard and the Public Hearing was closed.

There are six (6) written objections on file. There are three (3) written approvals on file.

Mr. Kovacs indicated that he thought a new home would fit in this area and did not think it would create a problem.

Mr. Maxwell asked who owned the access lot to the school. Mr. Stimac said that to the best of his knowledge he thought it would be owned by the school district. Mr. Maxwell indicated that he thought if there was school expansion there should also be expansion to the access drive as well.

Mr. Kovacs asked if the proposed residence would comply with the requirements of the Ordinance. Mr. Stimac said that the plan as proposed would comply with the setback requirements of the R-1E Zoning District.

Mr. Courtney said that he believes that are enough small lots in the area and thinks this lot should be left alone. Mr. Courtney thinks that the Board should honor the Ordinance "as is".

Mr. Strat asked if this property was considered a corner lot and Mr. Stimac said that because the access drive to the school is not a public street, this property is not considered by the Ordinance to be a corner lot. Mr. Strat asked if the existing structure meets the side yard requirements. Mr. Stimac said that the plans submitted indicate that the existing house has a 10' setback to the east property line and has a 6' setback to the west property line exclusive of the garage. The R-1E Zoning District requires a minimum of 5' with a total of 15' for the setback.

Mr. Kovacs stated that the petitioner thought he was paying taxes on a buildable lot and Mr. Stimac said that he could not comment on the procedures regarding City assessments. This property as indicated has two separate tax bills, but does have a structure that straddles both property lines.

ITEM #2 – con't.

Mr. Courtney stated that the assessment on this property is on the total combined property. Mr. Courtney asked if the school was planning to expand the drive to the school. Mr. Stimac said that the parcel of land that the school owns is 60', and thought a standard residential street could go in there. Mr. Courtney then asked what the setbacks for the proposed house would be if a public street were put in. Mr. Stimac said that the proposed house would have to have a minimum 10' setback from the west property line and a 5' setback to the east property line.

Motion by Courtney
Supported by Hutson

MOVED, to deny the request of RWT Building, LLC, 1309 Boyd (proposed address), for relief of the Zoning Ordinance to divide a parcel of land, which will result in two 7,200 square foot parcels, where Section 30.10.05 of the Ordinance requires a minimum lot area of 7,500 square feet in the R-1E Zoning District.

- Petitioner did not demonstrate a hardship with the land.

Yeas: 2 – Hutson, Courtney
Nays: 4 – Kovacs, Maxwell Strat, Gies

MOTION TO DENY FAILS

Motion by Courtney to postpone.

Mr. Maxwell said that the property owner needs a variance to build on a second lot, and feels that some of the problems mentioned belong to the school in the area. Mr. Maxwell also said that there are a number of lots in the area that are small and thinks this would fit in.

Mr. Hutson stated that the Board is bound by the Ordinance and a variance requires a practical difficulty with the land and did not feel that there was a hardship with the land. Mr. Hutson also said that this is a crowded area and would rather not make it more crowded and would rather see a home on a double lot than two homes on smaller lots.

Motion by Courtney
Supported by Strat

ITEM #2 – con't.

MOVED, to postpone the request of RWT Building, LLC, 1309 Boyd (proposed address), for relief of the Zoning Ordinance to divide a parcel of land, which will result in two 7,200 square foot parcels, where Section 30.10.06 of the Ordinance requires a minimum lot area of 7,500 square feet in the R-1E Zoning District until the next scheduled meeting of August 17, 2004.

- To allow the Board members to revisit the site to determine if the proposed home would create an adverse effect to surrounding property.

Yeas: All – 6

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF AUGUST 17, 2004 CARRIED

ITEM #3 – VARIANCE REQUEST. MR. & MRS. KEVIN LINDSEY, 6890 NORTON, for relief of the Ordinance to park a camper in the front yard of residential property where Section 40.65.02 requires parking of recreation vehicles behind the front face of the principal building.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to park their camper in the front yard of residential property. Section 40.65.02 of the Zoning Ordinance requires that recreational vehicles be parked in a building or behind the front face of the principal building on residential property.

This item first appeared before this Board at the meeting of June 15, 2004 and was postponed to allow the petitioner the opportunity to determine if the existing barn could be used to store this camper.

Mr. Lindsey was present and stated that he did not recall Mr. Strat asking for written verification from a structural engineer; however he had contacted two building contractors specializing in historic buildings and had brought in a letter from one of them. This letter states that because of the age and style of the structure it was not recommended that any changes be made. It was also indicated that a structural change could result in future structural problems. This is a historical building and was built around 1830 and any changes would have to go before the historical commission, as it is considered to be outside work and would affect the appearance of the barn.

Mr. Courtney asked how the barn doors open and Mr. Lindsey said they slide open. Mr. Courtney asked if the center beam could be removed, and Mr. Lindsey said that if the center beam were removed the doors would have to be widened as well in order to fit the camper inside. Mr. Courtney and Mr. Strat both indicated that they thought the camper would fit in, if the center beam were removed. Mr. Lindsey said this a post and beam barn and the beams would have to be cut into to fit the camper inside.

ITEM #3 – con't.

Mr. Hutson stated that when he visited this property he noticed that the camper was behind a wall of shrubs and asked if they were deciduous. Mr. Lindsey said that they were and although the trees were quite thick in this area, they do lose their leaves in the winter.

The Chairman opened the Public Hearing.

Mr. Lance Reigns, 37 Birchwood was present. Mr. Reigns asked what the legal aspect was for the variance of this camper being on this property. Mr. Kovacs explained that the Ordinance states that a recreational vehicle must be stored behind the front face of the principle building. Mr. Reigns said that his home is adjacent to an alley and wondered if he could store a recreational vehicle in this area. Mr. Kovacs said that the Board was there to consider the request of Mr. Lindsey. Mr. Stimac said that a recreational vehicle could not be parked on the alley, but it could be parked alongside the house as long as it was behind the front line of the house. Mr. Stimac said the barn in question is in front of the house and was granted a variance for this some years ago.

Mr. Kovacs asked if Mr. Reigns was for or against this request and Mr. Reigns stated he was neither, he was just concerned about the legal aspect.

No one else wished to be heard and the Public Hearing was closed.

There are three (3) written approvals on file. There are two (2) written objections on file.

Mr. Kovacs asked if the camper could be stored right behind the barn and Mr. Lindsey said it couldn't because the property slopes up.

Mr. Maxwell said that he did not feel this was a large camper and felt that the property was well screened, and therefore did not think Mr. Lindsey needed to change the structure of the barn.

Motion by Maxwell

MOVED, to grant the request of Mr. & Mrs. Kevin Lindsey, 6890 Norton, for relief of the Ordinance to park a camper in the front yard of residential property where Section 40.65.02 requires parking of recreation vehicles behind the front face of the principle building.

Motion dies due to lack of support.

Ms. Gies stated that she has a problem with this request and believes the camper could be stored off-site. Mr. Hutson said that he agrees with Ms. Gies and said that perhaps if evergreens were in place, however, he feels that this camper should be stored off-site.

ITEM #3 – con't.

Mr. Kovacs said that he felt this property could support this type of variance. Mr. Hutson said that the barn required a variance, and he feels that if granted, they would just keep adding variance after variance.

Mr. Courtney said that in his neighborhood there were a number of recreational vehicles and most of them are stored off-site and feels the petitioner could do the same thing. Mr. Kovacs also said that he had seen a number of recreational vehicles stored next to homes and does not see a difference between them and this particular one.

Mr. Strat stated that the Planning Commission is in the process of drafting a new Ordinance to encourage recreational vehicles and other types of vehicles to not park in residential areas. Mr. Strat also said that City Council is bombarded with requests to park large commercial vehicles to be stored on residential property and the Planning Commission is tightening up the Ordinance and providing space in the industrial storage areas for storing these types of vehicles.

Mr. Maxwell pointed out that this is not a large vehicle and does feel this would be a problem. Mr. Kovacs thinks it would be difficult to modify the barn and does not feel this variance request is out of line. Ms. Gies asked what would happen if a variance was granted for this vehicle and then a larger vehicle was purchased. Mr. Stimac said it would depend on the motion and if it was specific to a 10' x 10' trailer, it would be specific to that size.

Mr. Strat said that he did not find a practical difficulty with the land and did not feel that the petitioner demonstrated a hardship.

Motion by Courtney
Supported by Strat

MOVED, to deny the request of Mr. & Mrs. Kevin Lindsey, 6890 Norton, for relief of the Ordinance to park a camper in the front yard of residential property where Section 40.65.02 requires [parking of recreation vehicles behind the front face of the principle building.

- Petitioner did not demonstrate a hardship.
- Variance would have an adverse effect to surrounding property.

Yeas: 4 – Strat, Courtney, Gies, Hutson
Nays: 2 – Maxwell, Kovacs

MOTION TO DENY REQUEST CARRIED

ITEM #4 – VARIANCE REQUEST. MR. JIM LAPLANTE, 1839 E. WATTLES, for relief of the Ordinance to construct a detached garage addition, which would result in a total area of accessory buildings of 1,708 square feet, where Section 40.57.04 limits the area of all accessory buildings on this site to 600 square feet.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a detached garage addition. The proposed 980 square foot addition would bring the total area of this garage to 1,708 square feet. Section 40.57.04 limits the area of all accessory buildings on a site to 600 square feet or one-half the ground floor area of the main building whichever is greater. As the home on this property is only 914 square feet on the ground floor, accessory buildings are limited to 600 square feet on this site. There is also a 100 square foot shed located on the property; however, the petitioner has indicated that this building would be removed if the variance were granted.

Mr. LaPlante was present and stated that basically he wants to make his garage larger as he owns a small landscaping business, as well as several recreational vehicles and would like to use this building to store same. Mr. LaPlante brought in a petition signed by eight (8) of his neighbors indicating approval of his request. Mr. LaPlante also said that he has a commercial vehicle that requires a variance from City Council every two years, and this addition would eliminate the need for this variance request.

Mr. Courtney asked if all of the equipment would be stored inside this building. Mr. LaPlante said that the commercial vehicles would only be outside when they were coming in or going out. Mr. LaPlante also said that he has to work on his vehicles in front of the existing garage and if granted this variance he could work on them inside the structure.

Mr. Strat asked how long Mr. LaPlante has been in business. Mr. LaPlante said he has had his own business for about six (6) years, but has actually been in the landscaping field for about 10 years.

Mr. Hutson asked about the outbuilding, which was going to be removed. Mr. LaPlante said that it is about 80' behind the existing garage and is basically a shed.

The Chairman opened the Public Hearing.

Mrs. LaPlante was present also and stated that they would not have to seek a variance for the storage of the commercial vehicle from City Council as the vehicle would fit inside the garage. Mr. Kovacs asked how many times they have gone before City Council and Mrs. LaPlante said that they have received a variance twice and each variance runs for two (2) years.

Mr. Strat asked what would happen if this business was increased. Mr. LaPlante said that he would look for a piece of commercial property. Mr. Strat asked if they would come back to the Board requesting another variance and Mr. LaPlante indicated that he would not.

No one else wished to be heard and the Public Hearing was closed.

ITEM #4 – con't.

There is one (1) written approval on file, as well as signed petition brought in by applicant.
There is one (1) written objection on file.

Mrs. Gies stated that she did not see a problem with this request because of the size of the lot.

Mr. Strat asked what the hardship was. Mrs. LaPlante said that basically they are running out of storage room and eventually they would like to add on to the home. Mrs. LaPlante also said this is a very large piece of property and they need extra storage room.

Mr. Kovacs asked if this garage could be constructed if it was an attached garage. Mr. Stimac said that as long as it met setback requirements it could be put up without the need for a variance.

Mr. Strat asked if there was enough room to put up an attached garage and Mr. Stimac said that there was.

Mr. Maxwell asked what type of property surrounded this parcel. Mr. LaPlante said that a parking lot for a Church was behind his property, and to the east is commercial property, and the west side is residential property. Mr. Maxwell said that he is surrounded by commercial property on two sides and Mr. LaPlante said he was.

Motion by Maxwell
Supported by Courtney

MOVED, to grant Jim LaPlante, 1839 E. Wattles, relief of the Ordinance to construct a detached garage addition, which would result in a total area of accessory buildings of 1,708 square feet, where Section 40.57.04 limits the area of all accessory buildings on this site to 600 square feet.

- With the condition that the commercial vehicles will be stored inside the garage.
- Variance will not have an adverse effect to surrounding property.
- Variance is not contrary to public interest.

Yeas: All – 6

MOTION TO GRANT VARIANCE CARRIED

ITEM #5 – VARIANCE REQUEST. DAVID KAGE, 48 BIRCHWOOD (PROPOSED ADDRESS), for relief of the Ordinance to construct a new home on an existing 40' wide parcel with an area of 4,800 square feet where Section 30.10.06 requires a 60' minimum lot width and 7,500 square feet minimum area in the R-1E Zoning District.

ITEM #5 – con't.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a new home on an existing 40' wide parcel with an area of 4,800 square feet where Section 30.10.06 requires a 60' minimum lot width and 7,500 square feet minimum area in the R-1E Zoning District. This property is in single ownership with the adjacent property at 40 Birchwood. Each one is a platted 40-foot wide lot in the Addison Heights Subdivision. Section 40.50.02 requires that adjacent, single ownership parcels that do not meet lot width or area be considered an undivided parcel. Dividing these parcels for the purpose of constructing an additional single family home is in violation of the Ordinance.

Mr. Kovacs asked what the current width of the property was and Mr. Stimac explained that the two lots are 80' wide and 9600 square feet in area. Mr. Kovacs also asked about the other lots in this area. Mr. Stimac stated that these lots range in width from 40' to 100'.

Mr. Ornathan Kage was present and said that he is Mr. Kage's son. Mr. Kage said that he wants to build a home close to his parents in order to help them out as much as possible. Mr. Kage indicated that his siblings are not in the area and therefore the care of his parents falls mainly on his shoulders. Mr. Kage also said that he and his wife would like to start a family, and his parents would help them out by watching their children.

Mr. Kovacs asked how long Mr. Kage has owned this property. Mr. David Kage said that he has owned it since 1961.

The Chairman opened the Public Hearing.

Mr. Lance Reigns, 37 Birchwood was present and asked how large the proposed home would be. Mr. Kage said it would be approximately 1800 square feet. Mr. Reigns said that he would like to reserve his opinion until later in the hearing.

Ms. Imbrunone, 22 Birchwood was present and stated that Mr. Kage has always been a good neighbor. Ms. Imbrunone indicated that Mr. Bogdonavich purchased one of the other lots in the area and a home was built on same, and she thought that there was approximately 20' available that he could purchase. Mr. Stimac said he thought this vacant lot was 60' wide.

Mr. Bogdonavich was present and stated that his family lives in this area and they own the property to the east. They had split these lots into two 60' parcels and eventually his brother plans to build a home on the vacant lot.

ITEM #5 – con't.

Ms. Imbrunone also said that if a home was built on this property, a number of trees would be removed and felt this proposed home would be very small. Ms. Imbrunone was very opposed to building a house in between their two homes.

Mr. Bogdonavich said that his family owns eight (8) homes in this area and feels that a new home would add to the value of this neighborhood. He also said that there are several new homes in this area, which have increased the value of this area.

Mr. Courtney said that Mr. Bogdonavich's family is building on 60' lots and questioned the fact that this proposed home would be on a 40' lot. Mr. Bogdonavich said that he has seen the proposed plan and did not feel it would be any different than what is in the area presently.

Mr. Reigns came back to the podium and stated that he agreed with Ms. Imbrunone and suggested that Mr. Kage add to his present home, rather than add another home. Mr. Reigns said that the size of this lot would be too small to support another home.

No one else wished to be heard and the Public Hearing was closed.

There is one (1) written objection on file. There are no written approvals on file.

Ms. Gies said that she did not feel a variance was necessary and did not want to see the lots go down to 40'. Mr. Hutson agreed with Ms. Gies and said that he did not want to see the lots downsized and feels that 40' is too small.

Mr. Kovacs said that he can sympathize with the Kages, however, he feels this lot would be too small.

Motion by Hutson
Supported by Gies

MOVED, to deny the request of David Kage, 48 Birchwood (proposed address), for relief of the Ordinance to construct a new home on an existing 40' wide parcel with an area of 4,800 square feet where Section 30.10.06 requires a 60' minimum lot width and 7,500 square feet minimum area in the R-1E Zoning District.

- Petitioner did not demonstrate a hardship.
- Variance would minimize the lot size.
- Variance would have an adverse effect to surrounding property.
- Variance would be contrary to public interest.

Yeas: All – 6

MOTION TO DENY REQUEST CARRIED

ITEM #6 – VARIANCE REQUEST. DAVID R. KRALL, ATTORNEY FOR WHITE CHAPEL CEMETERY, 621 W. LONG LAKE, for relief of the Ordinance to construct a new maintenance building in the front yard of the White Chapel Mausoleum, which will have an average roof height of 23'. Section 40.57.03 of the Zoning Ordinance only allows the construction of accessory buildings in the rear yard and Section 40.57.06 limits accessory buildings to not more than 14' in height.

Mr. Stimac explained that the Petitioner is requesting relief of the Zoning Ordinance to construct a new maintenance building. This building is an accessory building to the permitted use of the property as a cemetery. Section 40.57.03 of the Zoning Ordinance only allows the construction of accessory buildings in the rear yard. To do this the building would have to be placed south of the main mausoleum building. The plans indicate that this building will be placed in the front yard of the mausoleum near the northeast corner of the site. Further, Section 40.57.06 of the Zoning Ordinance limits accessory buildings to not more than 14 feet in height. The plans submitted indicate that the building will have an average roof height of 23'.

Mr. Dennis Cowan, Attorney from Plunkett & Cooney was present to represent White Chapel. Mr. Cowan had some procedural questions regarding the packets the members had received and said that after his presentation he would call up Mr. Krall and Mr. Prykucki. Mr. Cowan said that several years ago White Chapel had drafted a master plan for the cemetery property, which included the replacement of certain maintenance buildings, as well as the construction of mausoleums. This building has always been located on the northeast section of the property and there are no other maintenance buildings or sheds anywhere else on the property. The mausoleum for White Chapel cemetery is located approximately one-half mile from the entrance to the cemetery and was placed in this area as a safety issue to minimize traffic congestion. Troy's Ordinance dictates that this new building would have to be constructed south of the Mausoleum and this would be an unnecessary hardship. Mr. Cowan also said this is a very large piece of property, which is approximately 205 acres. Mr. Cowan also indicated that this location made it a safe area for vendors and trucks to make deliveries to maintenance areas. If this building were located in the south area of this property, it would cause these vendors and trucks to travel a large distance through the cemetery to reach this building. Mr. Cowan also said that it would cause a problem for the workers for White Chapel. Mr. Cowan further stated that there is no excess property available on the south side of the property, and gravesites would have to be removed in order for this building to be located in this area. This property is unique in that it is a cemetery and there are no subdivisions or residential property adjacent to it.

Mr. Cowan also said that the height variance would not create any inconsistency with residential areas as there are none in the immediate area. White Chapel owns very large vehicles and back hoes and need this building to be functional with appropriate height for the storage and maintenance of these buildings.

ITEM #6 – con't.

Mr. David Krall was present and is president of White Chapel Cemetery. Mr. Krall has been with the cemetery for 24 years. Mr. Krall also indicated that the location of the maintenance building is part of their master plan and they plan to remove the existing storage building and construct this new facility. Mr. Krall stated that if this building had to be placed on the south end of the property, it would create a problem for traffic coming in and vendors and trucks would interfere with families coming in. Mr. Krall stated that he has never received any complaints in his 24 years regarding the placement of the present maintenance building.

Mr. Steve Prykucki was present and said that he is the superintendent of the grounds of White Chapel. Mr. Prykucki said that he lives on the grounds and has been there 30 years. Mr. Prykucki is responsible for the day-to-day operation of the cemetery. Mr. Prykucki said that the pole barn would have 16' walls and would allow for the equipment to be parked in there, which includes the backhoes that are 12' to 13' in height. Mr. Prykucki also indicated that if the maintenance building had to be located at the south end of the property it would create a number of problems regarding the families coming in and seeing the equipment running near the mausoleums. Mr. Prykucki also indicated that if the maintenance building were to be located at the south end of the property, it would be create a very inefficient use of the workers time because of the distance involved.

Mr. Courtney asked what the height at the tallest point of the proposed structure. Mr. Prykucki said that he believes it is about 23'. Mr. Courtney asked what the height of the wall was at the entrance. Mr. Prykucki said that he thought it was at least 23' high. Mr. Courtney indicated that the structure would not be visible because of the height of this wall.

Mr. Courtney asked if the proposed location would interfere with the potential right of way requirements for I-75. Mr. Stimac said that the only issues pertaining to this building were the height and the location in the front setback. Mr. Stimac also said that based on the plan submitted, it appears the highest peak would be 28'-8".

Mr. Strat asked what the building was going to be made of. Mr. Prykucki indicated that it was basically wood construction. Mr. Strat stated that approximately 6 months before at the Planning Commission on August 12, 2003, Mr. Prykucki indicated that the structure would be made of concrete, resembling stone. Mr. Prykucki indicated that the revised plans show a pole barn of wood construction due to the cost issue. Mr. Strat inquired as to how long the master plan has been in existence, to which Mr. Prykucki stated 1999. He also wondered how many changes were made to the master plan. Mr. Krall said they have made several modifications to the master plan. Mr. Strat asked if they owned adjoining parcels of land, including the property to the south and if they are in negotiations to purchase more land. Mr. Prykucki said the cemetery does not own anymore than the 205 acres and would not like to comment on any other land

ITEM #6 – con't.

acquisition possibilities. Mr. Strat said he is aware of some land being considered for purchase.

Mr. Strat asked what height their backhoe was; if it was 14' high. Mr. Prykucki indicated it is 12 ½' high for normal driving conditions but it can be lowered to get into a building. Mr. Strat asked what the reason was for requesting a storage building this high. Mr. Prykucki indicated that the overhead door would be 14' high, and in order to have a 14' high door, you would need 12" overhead for the track. Pole barns are built in 2' increments so 16' walls would allow for that.

Mr. Strat inquired how wide the designated property on Long Lake is and how far it is from the east entry at I-75. Mr. Prykucki indicated it is roughly 230' from the I-75 fence to where the first fence is next to the residence. From there, it is double to triple to the main entrance. Mr. Strat said the structure would be visible as you traveled Long Lake and Mr. Prykucki said there is a stockade fence to separate burials from the maintenance area in place now. Mr. Prykucki answered that that is the main entrance and if they had to place the maintenance building in another location they would have to move burial sites. Mr. Strat also said it can be viewed from I-75 and also that the area has been cleaned recently.

Mr. Strat asked if they had any plots designated in the area along I-75 to the south. Mr. Prykucki said there are plots designated for the southeast corner but Mr. Strat said they are not designated on the plans submitted. Mr. Strat asked if there was any undeveloped land and Mr. Prykucki indicated there was not on the eastern edge of I-75. The revised master plan showed crypts and a mausoleum in that area. The original plan dates back to the 1970's. Mr. Strat indicated that he recently did try to purchase lots along that area and was told they were not available. Mr. Strat did say he was opposed to this maintenance area and Mr. Prykucki said there was no available land behind the main mausoleum without moving gravesites and it would impose a hardship to move the maintenance facilities. Mr. Stimac stated that the document titled A-2 showed no gravesites but confirmed with the petitioner that they do in fact exist in that area. Mr. Stimac said that by Ordinance and by definition the rear yard starts when you are past the main mausoleum building.

Mr. Hutson asked if there would be a condemnation proceeding within this footprint area. Mr. Cowan asked that this not be considered during this variance procedure. Mr. Hutson indicated that he was attempting to gather information and that the board would decide what information would or would not be considered.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There is one (1) written objection on file. There are no written approvals on file.

ITEM #6 – con't.

Motion by Courtney
Supported by Strat

MOVED, to postpone the request of Mr. David R. Krall, Attorney for White Chapel Cemetery, 621 W. Long Lake, for relief of the Ordinance to construct a new maintenance building in the front yard of the White Chapel Mausoleum, which will have an average roof height of 23'. Section 40.57.03 of the Zoning Ordinance only allows the construction of accessory buildings in the rear yard and Section 40.57.06 limits accessory buildings to not more than 14' in height.

In response to the question Mr. Stimac said there has not been formal action served; however, the most recent right of way proposal that staff is working with for the interchange improvement will not affect this building directly or adversely affect the required setbacks.

Yeas: 4 – Gies, Kovacs, Maxwell, Courtney
Nays: 2 – Hutson, Strat

MOTION TO POSTPONE REQUEST FAILS

Mr. Hutson stated that we have two variances before us. The first is the height of the maintenance building and the second is the location. He indicated that he was satisfied that this is a unique property. The maintenance building has always been in the northeast corner. He is comfortable that this is the appropriate location for the new building. He is not, however, convinced that the building needs to be that high.

Mr. Strat indicated that the building is actually a two-story building. It has a loft space. He raised concerns regarding the aesthetics of the project regarding the height of the building. Mr. Strat also mentioned the fact that there may be an on-ramp to I-75 constructed in the area that will raise visibility in that area.

Mr. Kovacs indicated that based upon the size of this parcel and the equipment necessary to maintain it, he felt that the height was appropriate.

Mr. Courtney asked about being able to screen the building.

Mr. Stimac said that a motion could be made to divide the question; deal with the location of the building and then the height variance. Mr. Stimac was not sure what type of screening could be used with a building this size and height.

Mr. Hutson was concerned about the height of this building as it relates to the other existing buildings on the site and thinks that the question should be divided.

ITEM #6 – con't.

Motion by Gies
Supported by Courtney

MOVED, to approve the request of David R. Krall, Attorney for White Chapel Cemetery, 621 W. Long Lake, for relief of the Ordinance to construct a new maintenance building in the front yard of the White Chapel Mausoleum, which will have an average roof height of 23'. Section 40.57.03 of the Zoning Ordinance only allows the construction of accessory buildings in the rear yard and Section 40.57.06 limits accessory buildings to not more than 14' in height.

- Variance would not be contrary to public interest.
- Variance would not have an adverse effect to surrounding property.

Yeas: 4 – Gies, Kovacs, Maxwell, Courtney
Nays: 2 – Hutson, Strat

MOTION TO GRANT VARIANCE CARRIED

The Board of Zoning Appeals meeting adjourned at 9:46 p.m.

Matthew Kovacs - Chairman

Pamela Pasternak

Pamela Pasternak – Recording Secretary

TROY HISTORIC STUDY COMMITTEE – DRAFT**JULY 26, 2004**

This Meeting of the Troy Historic Study Committee was held Monday, July 26, 2004 at the Troy Museum & Historic Village. The meeting was called to order at 7:40 P.M.

ROLL CALL

PRESENT: Kevin Lindsey
Charlene Harris
Linda Rivetto
:
Paul Lin

ABSENT: Kinda Hupman
Bob Miller
Marjorie Biglin
Loraine Campbell

Because Mr. and Mrs. Miller were not present the public hearing was postponed until August 10, 2004.

The Troy Historic Study Committee Meeting was adjourned at 8:00 p.m. The next regular meeting will be held Tuesday, August 10, 2004 at 7:30 p.m. at the Troy Museum & Historic Village.

Kevin Lindsey
Chairman

Loraine Campbell
Recording Secretary

The Special/Study Meeting of the Troy City Planning Commission was called to order by Chair Waller at 6:00 p.m. on July 27, 2004, at the Saleen / SSV Facility, 1225 E. Maple Road, Troy, Michigan.

1. ROLL CALL

Present:

Gary Chamberlain
Robert Schultz
Thomas Strat
David T. Waller

Absent:

Lynn Drake-Batts
Fazal Khan
Lawrence Littman
Mark J. Vleck
Wayne Wright

Also Present:

Mark F. Miller, Planning Director
Brent Savidant, Principal Planner
Allan Motzny, Assistant City Attorney
Douglas J. Smith, Real Estate & Development Director

Let the record reflect that because there was no quorum, the July 27, 2004 Special / Study Meeting was not held.

Respectfully submitted,

David T. Waller, Chair

Mark F. Miller, Planning Director

The Special/Study Meeting of the Troy City Planning Commission was called to order by Chair Waller at 7:30 p.m. on July 27, 2004, in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Present:

Gary Chamberlain
Lynn Drake-Batts
Fazal Khan
Lawrence Littman
Robert Schultz
Thomas Strat
David T. Waller

Absent:

Mark J. Vleck
Wayne Wright

Also Present:

Mark F. Miller, Planning Director
Brent Savidant, Principal Planner
Allan Motzny, Assistant City Attorney
Douglas J. Smith, Real Estate and Development Director
Kathy Czarnecki, Recording Secretary

Resolution # PC-2004-07-079

Moved by: Chamberlain
Seconded by: Schultz

RESOLVED, That Members Vleck and Wright be excused from attendance at this meeting.

Yes: All present (7)
No: None
Absent: Vleck, Wright

2. PUBLIC COMMENTS

There was no one present who wished to speak.

3. DISCUSSION OF SALEEN / SSV TOUR

Chair Waller said the tour was very impressive.

Mr. Schultz said that Troy should be very pleased and proud to have a manufacturing facility of that caliber.

Mr. Smith said he is hopeful that other automotive vendors, suppliers and manufacturers are attracted to the City.

4. DISCUSSION OF SANCTUARY LAKE GOLF COURSE TOUR

Chair Waller said the course is now open for play.

Mr. Strat said he was impressed with the golf course, especially as it relates to storm water management. He said it is an excellent example of what can be done with storm water management.

Chair Waller said that Sylvan Glen Golf Course received an award late last year from the Michigan State Turf Grass Association. He said that during the planning and development stage of Sanctuary Lake Golf Course, there was discussion with respect to the City of Troy applying to the National Audubon Society for cooperative sanctuary status.

5. ORDINANCE REVISION DISCUSSION (ZOTA 205) – 10 Foot Landscape Greenbelts – Minimum Tree Requirements – Non Residential and Residential

Mr. Miller reported that the City's Landscape Analyst has the opinion that trees can be planted closer than 30 feet on center in a 10-foot landscape greenbelt. Mr. Miller referred to a memorandum from the City's Planning Consultant, Richard Carlisle, received by fax late this afternoon in which Mr. Carlisle states that he concurs with the opinion of the City's Landscape Analyst. Mr. Miller noted that coniferous trees including spruce or pine trees are not recommended in the landscaped greenbelt due to their spread and density. He asked for the direction and input of the Commission on the proposed zoning ordinance text amendment.

Mr. Chamberlain referenced the development that commenced this discussion of a proposed zoning ordinance text amendment; i.e., a narrow lot with less than 125 feet on a major road. He said another issue for discussion is whether it is appropriate or not to plant trees on main roads that are near utility lines. He questioned again the City's procedure and authoritative body to waive various trees that are required by the zoning ordinance. Mr. Chamberlain voiced his disappointment that City Management did not provide a suggested solution to the matter. When City Management opposes something the Planning Commission is working on, they should come forward with constructive ideas and suggested solutions.

Discussion continued on species of trees, types of vegetation, clustering of landscape material, landscape calculations for residential and non-residential developments, landscape requirements for municipal developments, review of other communities' landscape policies and website information, and the review and approval of landscape plans in the near future as a condition of site plan approval.

Mr. Smith said he is in support of allowing the Planning Commission greater flexibility with respect to landscape requirements. Mr. Smith gave an account of the landscape plan carried out administratively along Maplelawn, and said he would provide the Planning Commission documentation of that plan.

Chair Waller requested the City Attorney to prepare a written explanation outlining the City's procedure with respect to the relief of the City's landscape requirements and the person/s who are given the authority to waive the requirements.

It was the consensus of the Commission to continue its study and review of this matter.

6. ZONING ORDINANCE TEXT AMENDMENT (ZOTA 199) – Article 03.40.00 Site Plan Approval

Mr. Miller reported this is the last opportunity to discuss the proposed ZOTA relating to Site Plan Approval before its scheduled Public Hearing at the August 10, 2004 meeting. He asked if the members had any additional comments or discussion on the proposed amendment.

Section 03.41.05 was briefly discussed as it relates to the landscape plan approval prior to the application for preliminary site plan approval.

Mr. Strat requested and it was the consensus of the Commission to include the following comments in the Intent of Site Plan Review/Approval, Section 03.40.02:

- To achieve efficient use of the land
- To encourage creative, innovative design planning solutions
- To prevent adverse impact on adjoining or nearby properties
- To ensure safety for both vehicle and pedestrian usage [internal and external circulation]
- To protect natural resources
- To achieve innovative storm water management solutions

A brief discussion was held on the site plan approval process as it relates to the re-location of dumpsters.

It was the consensus of the Commission to require that Site Plans be sealed and signed by a professional engineer, registered architect or landscape architect and/or professional community planner.

Mr. Chamberlain suggested that consideration be given to incorporating the text into Chapter 39 as well.

7. ZONING ORDINANCE TEXT AMENDMENT (ZOTA 182) – Articles 12.00.00 and 30.10.08 R-1T One Family Attached

Mr. Miller reported this is the last opportunity to discuss the proposed ZOTA relating to the R-1T provisions of the zoning ordinance before its scheduled Public Hearing at the August 10, 2004 meeting. He asked if the members had any additional comments or discussion on the proposed amendment.

There were no comments.

8. 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 reported this is the last opportunity to discuss the proposed ZOTA relating to the powers and duties and voting requirements of the Planning Commission before its scheduled Public Hearing at the August 10, 2004 meeting. He asked if the members had any additional comments or discussion on the proposed amendment.

There were no comments.

9. POTENTIAL ORDINANCE REVISION DISCUSSION – Group Daycare Homes in the R-1 (One Family Residential) Districts

Mr. Miller gave a review of the group daycare home matter. He reported City Management is of the opinion to not move forward at this time to allow group daycare homes. City Management feels the negative affects from group daycare homes, specifically potential traffic impact, outweigh the need for group daycare homes. Mr. Miller said the Planning Department would assist the Commission in the development of a zoning ordinance text amendment should it desire to move forward.

Ms. Drake-Batts said she would support changes to the zoning ordinance to allow group daycare homes by Special Use.

Mr. Khan reported that there are surrounding communities that allow group daycare homes by Special Use, and those communities indicated to him that there have been no negative impacts to their communities.

Chair Waller asked if City Management's concerns related to traffic impact have been based on complaints or anticipation.

Mr. Miller replied anticipation. He said the number of children dropped off / picked up for daycare services and the additional employees required for group daycare facilities would result in traffic that is above and beyond the normal single family neighborhood traffic.

Ms. Drake-Batts commented that by allowing group daycare homes as a Special Use provides the neighbors with a say in the matter. Ms. Drake-Batts feels strongly that families must have a place to drop off their children for care. Ms. Drake-Batts, speaking from personal experience, said family daycare centers provide children with more love and attention than a public daycare center. She said her son was in a group daycare facility that cared for more than 6 children, and traffic was not an issue because (1) most parents had more than one child in its care; and (2) the varying work schedule of parents. Ms. Drake-Batts said children were dropped off

between the hours of 7:00 a.m. and 10:00 a.m., and picked up between the hours of 3:00 p.m. and 6:00 p.m. Ms. Drake-Batts recalled no traffic issues, citing that there was always available space in the driveway and never more than 2 cars at the home at one time. She noted that there are not many people who choose to be in that kind of business.

Mr. Schultz concurs that group daycare facilities should be allowed by Special Use. He said the additional traffic would be on public roads, of which the public has a right to use.

Mr. Littman supports the concept that group daycare homes should be allowed by Special Use and acknowledged the need for them. Mr. Littman said he would propose a motion to further discuss and review the matter should the Chair believe that would be the proper procedure to move forward.

Mr. Chamberlain said the Planning Commission is losing sight of the matter. He said that currently daycare facilities allow up to 6 children without a Special Use approval. Mr. Chamberlain thinks that daycare facilities for 7 to 12 children are businesses. He said there is a lot of land in Troy that is zoned for businesses and similar uses, and there are areas and zoning text that allow daycare centers adjacent to residential and office developments. Mr. Chamberlain said daycare centers for more than 6 children would be breaking down the residential neighborhood and making it a business endeavor. He commented that current home businesses do not entail the amount of traffic that one would see for group daycare homes. He reminded the Commission that Special Uses in residential areas have not been touched with respect to zoning ordinance text amendments. Mr. Chamberlain said he is not in favor of expanding daycare facilities in residential areas that would exceed the capacity of 6 children. He asked that the Planning Department provide additional information (i.e., number of daycare facilities in the City, capacity of the facilities) prior to review by the Commission. Mr. Chamberlain cautioned the Commission to not rush into the matter.

Mr. Savidant reported that currently in the City of Troy there are approximately 20 group daycare homes, 46 family daycare homes and 47 child daycare [commercial] centers.

Mr. Khan questioned the outcome of the current 20 group daycare homes should the Planning Commission not address the matter at this time. Mr. Khan would like the Commission to look further into the matter.

Mr. Miller said the Planning Department would prepare in-depth information on the types of daycare facilities, geographic locations, capacities of daycare facilities, and regulations, uses, impacts and experiences of daycare facilities in surrounding communities.

Chair Waller distributed handouts provided by Mrs. Sharon Schafer.

Kim Duford of 3141 McClure, Troy, and Sharon and Dave Schafer of 5593 Mandale, Troy, were present.

Ms. Duford, President of Oakland County Child Care Association (OCCCA), reviewed the data distributed to the Commission and noted the information was extracted from the State of Michigan government licensing site. Ms. Duford reported that Oakland County alone has the third highest number of parents in the work force. Ms. Duford said the association has been around forever, as long as there have been daycare homes. She said Troy's ordinance that dates back to 1968 does not currently address the needs of daycare. She said there is shortages of care for infants, special need children and school-age children, and family daycare homes alleviate the shortages as well give other options to parents. Ms. Duford asked the Commission to give consideration to the best environment and quality care for children. She said that the "cool" City of Troy should provide daycare options to its residents. She reported that over all these years, there have been no complaints from neighbors and no complaints on traffic. Ms. Duford stated that drop off / pick up times vary and most facilities do not enroll the total capacity of 12 children. Ms. Duford extended an invitation to the Commission to visit any of the daycare facilities to learn what home daycare is all about.

Ms. Schafer reviewed statistics that she shared with the Commission at the May 4, 2004 Special/Study Meeting. Ms. Schafer, who has been licensed to provide daycare in the City of Troy over 15 years, said that very nice families have come through her home. She expressed her appreciation for the Commission's efforts on her behalf, and said she would be happy to address any concerns or questions of the Commission.

Mr. Khan questioned if the Mayor and City Council and other daycare providers in Troy have been informed that this matter is under consideration for further review.

Ms. Schafer reported that other daycare providers in Troy have met and discussed the matter, but she thought it in the best interest at this time to keep the communication on a small scale. Ms. Schafer said she also discussed group and family daycare with members of the City Council, but has not made contact with the Mayor.

Chair Waller acknowledged that the matter should be reviewed further and brought back to a future study session. It was the consensus of the Commission that it would consider any proposed zoning ordinance text amendment to be the initiative of the Planning Commission.

Mr. Miller recommended that the City's zoning ordinance should be updated as it relates to definitions related to daycare facilities, as the text is clearly outdated.

10. POTENTIAL ORDINANCE REVISION DISCUSSION – Automobile Service Station Minimum Lot Area Requirements in the H-S (Highway Service) District

Mr. Miller provided information relating to zoning districts and minimum lot area for service stations. Mr. Miller reviewed the matrix that lists service stations and other uses in Troy.

A lengthy discussion followed with respect to cross access easements, driveway entrances, future outlook of service stations, retail and mixed uses, obsolete zoning text, the City's history relating to control of service stations, and Brownfield properties.

It was the consensus of the Commission to further study and discuss potential ordinance revisions relating to service stations.

11. POTENTIAL ORDINANCE REVISION DISCUSSION – “Green” Development

Mr. Miller reported that the Planning Department's research revealed that other communities have not incorporated “green” or sustainable development into their zoning ordinances. Chair Waller has indicated a desire to become the first community in Oakland County to adopt such standards in the Zoning Ordinance.

Mr. Miller also suggested that the City's Environmental Specialist attend the next study meeting to discuss environmental issues and design plans for City projects, specifically on the proposed Presidential Place Site Condominium.

Resolution # PC-2004-07-080

Moved by: Chamberlain

Seconded by: Littman

RESOLVED, That the August 3, 2004 Special/Study Meeting be held at the Nature Center.

Discussion on the motion.

Mr. Chamberlain said there is no requirement to videotape study meetings.

Mr. Strat questioned if topic of environmental issues and the Environmental Specialist's intent to make the meeting a working session would have any relation and/or advantage to meeting at the Nature Center.

Engineering regulations on “green” and sustainable development were discussed.

Positive comments were made with respect to Troy being a catalyst in this endeavor.

Ms. Drake-Batts suggested that the Planning Commission's priority work list be revised to incorporate its review and study of (1) “green” and sustainable development and (2) service stations.

Vote on the motion on the floor.

Yes: Chamberlain, Khan, Strat, Waller
No: Littman, Schultz
Abstain: Drake-Batts
Absent: Vleck, Wright

Mr. Schultz thinks the City's Community Affairs office should be provided more time to prepare for the videotaping of an off-site meeting.

Mr. Littman thinks the meeting will be very educational and the meeting should be taped.

12. REVIEW OF AUGUST 10, 2004 REGULAR MEETING

Mr. Miller announced that the Planning Department unofficially received word that the Special Use Request for the proposed Bark! Dog Day Care located on the north side of Industrial Row, east of Coolidge, in Section 32, has been withdrawn. Mr. Miller reported he would follow through and confirm this information.

13. PUBLIC COMMENT

There was no one present who wished to speak.

GOOD OF THE ORDER

Mr. Littman questioned the status of the Maple Road Corridor Study.

Chair Waller replied that the Maple Road Corridor Study sub-committee is moving forward with the study. He indicated he would make contact with all the sub-committees to review the status of other projects.

Mr. Strat gave a report on the July 20, 2004 Board of Zoning Appeals (BZA) meeting. Of particular interest was a variance request petitioned by White Chapel Cemetery to construct a pole barn of an average roof height of 23 feet. The variance was approved. Mr. Strat said he thought the Planning Commission should have reviewed the request.

Mr. Khan asked if the City gave tax incentives to the Saleen Facility.

Mr. Miller replied in the negative.

Chair Waller replied that the State did, and said the Real Estate and Development Department could provide more information.

Mr. Miller reported on the following planning and zoning development items:

- Crestwood Site Condominium, north side of Wattles, east of Livernois, Section 15, R-1C – Received final approval by the City Council at their July 19, 2004 meeting.
- Oakland Mall correspondence with respect to the Lord & Taylor store.
- Downtown Development Authority (DDA) and City Council joint meeting is forthcoming, at which time the DDA will present their vision.
- Royal Diner Restaurant on Maple Road – Building expansion and mixed use addressed.
- Former Maple Athletic Club – Proposed medical office use site plan is being reviewed by the Planning Department as it relates to parking requirements, prior to the review and approval by the Planning Commission.

ADJOURN

The Special/Study Meeting of the Planning Commission was adjourned at 9:40 p.m.

Respectfully submitted,

David T. Waller, Chair

Kathy L. Czarnecki, Recording Secretary

DRAFT**TROY DAZE ADVISORY COMMITTEE**

A regular meeting of the Troy Daze Advisory Committee was held **Tuesday, July 27, 2004** at the Troy Community Center. Meeting was called to order at 7:33 pm.

Present:

Marilyn Musick	Bob Preston
Jim Cyrulewski	Bill Hall
Bob Berk	Mike Gonda
Cecile Dilley	Jeff Stewart
Kessie Kaltsounis	Dhwani Mehta
Cheryl Whitton Kaszubski	

City Staff Present:

Tonya Perry	Cindy Stewart
Bob Matlick	Gerry Scherlinck
Jeff Biegler	

Resolution # TD-2004-05-19

Moved by Mike Gonda

Seconded by Bill Hall

RESOLVED that the minutes from the June 22, 2004 Troy Daze Advisory Committee are approved as submitted.

Yeas: All
Nays: None
MOTION CARRIED

NEW BUSINESS

Resolution # TD-2004-05-20

Moved by Cheryl Whitton

Seconded by Mike Gonda

RESOLVED that Dhwani Mehta is appointed as the chairperson for P.A. announcements.

Yeas: All
Nays: None
MOTION CARRIED

OLD BUSINESS

1) Update on Contracts

a) Shirts: decided on black.

- b) Fireworks all set
- c) Tents, golf carts, porta-johns, trailers, electrical, sound, portable generators all set
- d) Stage/Dance Floor/Lighting: comparing prices.
- e) Need tables & chairs

2. Revised Milestone Recognition List – add Kmart, Pepsi to the list as corporate sponsor.
Order plaques.

Resolution #TD-2004-05-21

Moved by Mike Gonda

Seconded by Cele Dilley

RESOLVED that the Troy Daze Advisory Committee is adjourned.

Yeas: All

Nays: None

MOTION CARRIED

Meeting is adjourned at 7:45 pm.

Cheryl Whitton-Kaszubski, Treasurer

Cindy Stewart, Recording Secretary

TROY DAZE MINUTES

A regular meeting of the Troy Daze Festival Committee was held **Tuesday, July 27, 2004** at the Troy Community Center. Meeting was called to order at 7:45 pm.

ROLL CALL

Present:

Marilyn Musick	Bob Preston
Jim Cyrulewski	Bill Hall
Bob Berk	Mike Gonda
Cecile Dilley	Jeff Stewart
Kessie Kaltsounis	Dhwani Mehta
Tom Kaszubski	Laura Fitzpatrick
Diane Mitchell	Dan O'Brien
Cheryl Kaszubski	Jeff Winarski
Cynthia Buchanan	Shirley Darge
Poncho Massaini	Tom Tighe
Lois Cyrulewski	Cyndee Krstich
Len Bertin	Harold Jankowiak
Bob Broquet	Megan Cyrulewski
Scott Wharf	Alison Miller
Dave Lambert	Linda Hannon
Diane Mitchell	

City Staff Present:

Bob Matlick
Jeff Biegler
Cindy Stewart
Gerry Scherlinck

Minutes:

Motion to approve the minutes from June 22, 2004 with correction that JoAnn Preston was here.

Moved by Kessie Kaltsounis
Seconded by Bill Hall
Approved unanimously.

Treasurer's report.

Through May 31, 2004
Exp: \$176,321.86
Rev: no report

Correspondence

Fee Recommendation Addition for children's area – entertainment and games
3 tickets for \$1.00 for games.

Kiddieland Games (fish pond, race car, beanie toss)

Medium Games (toss tic tac toe, putt it, roller bowler)
Hard Games (crazy ball)

Arnold Amusement Rides
\$1.50 kiddie rides
\$2.00 medium rides
\$2.50 large rides

Thursday evening only promo - 10 rides \$10

Need volunteer and business of yr. Nominations @ next meeting Aug. 24th

Events Chairpersons

Marilyn Musick (“The Magic Cauldron”) – Using same tent as Ability Expo on Thurs & Naturalization Ceremony on Friday. Kids crafts have own tent. Need 9 tables and 20 chairs, 15 bales of hay, 6 x 10 stage. Tent open Sat 12 – 8p and Sun 1 - 7p.

Cheryl Whitton (Corporate Sponsors) – Get check requests in. Trophies gold and black. Ad in supplement thanking donors – CS suggested a smaller ad with all sponsors listed for Miss Troy, Mr. Troy, Jaycee Race. Need for new banners: National City & Troy Times.

Diane Mitchell (Cutest Toddler) – 11 entries to date.

Tom Kaszubski (Opening Ceremonies) – Need 144 chairs. Tim McAvoy, Troy schools, offering to help. Ordering 125 mum plants

(Parade) 35 units in to date. Trying for fife and drums corp from Plymouth. Alice entries came in - decision next month.

Kessie Kaltsounis (Shuttle Carts) – Driver volunteers coming in.

Bill Hall (Mr. Troy/Info booth) – Sign at info booth listing entertainment. All set with balloons, need helium, 4 tables and 6 chairs. Committee needs to sign up for hours in Info booth. Mr Troy – 1 application in. President Tuxedo all set. Idea to have Mr. Troy on Miss Troy float. If yes, need to redo sign.

Cele Dilley (Booths) – Booth times under tent , Fri 4p – 10p, Sat. 11a – 10p, Sun. 11a – 7p. Food: Fri. 4p – 11p, Sat. 11a – 11p, Sun. 11a – 9p.

To date, 57 under tent. 15 food vendors, most the same. New - Mexican food “White Dove” Concessions, Maui Wowie Smoothies, Ice Cream Cart – Key Lime Pie Bars \$3

Bob Preston (Student Volunteers) – waiting for written response from Bishop Foley. Marilyn needs student volunteers for kids tent.

Cynthia Buchanan (Ability Expo) – Applications mailed. 24 spaces available. Tables same as last year. 24 tables & 48 chairs.

JoAnn Preston (EthniCity) – Naturalization Ceremony (50 new citizens). Poster contest moving along - need more entries. 9 paid groups in to date for EthniCity. This year will include info on voting around the world. Thurs (8 am – 8pm) or Fri. (8 am – 4 pm) set up for Ethnicity Booths.

Bob Matlick (Fire Department) - Application in to City Clerks office for fireworks. Fire Dept doing inspections Thursday and Friday. Water Battle on – Clawson v Troy

Dan O’Brien (Outdoor EthniCity Entertainment) – 14 confirmed. Waiting for 6-8 additional. 40x40 canopy/tent over area to watch outdoor stage for shade

Mike Gonda (Operations) – Motto – “same as last year”. Al Lindsey – could provide sun tents and coolers (minimal cost) at staging area for parade.

Laura Fitzpatrick (Jaycees 5K/10K) – 6 entries to date. Registration online. Meeting with PD soon with specifics.

Jeff Stewart/Linda Hannon (Special Needs Kids) – Try new plan re-loading buses at end of day. Call buses from lot when kids ready. Idea for lunch – pizza only? Gets confusing having both foods. Jeff and Linda will talk to Dave or Paul Buscemi re: what he'd cover. Troy Daze providing pop – 2 liter bottles and cups on tables.

Serving Lunch – gather volunteers 15 minutes early to organize. Jeff will coordinate servers, assign jobs. Newcomers Club – ask for prepacked rice krispy treats if they call and offer cookies.

Okay for a banner – in memory of Larry Selaty.

Cindy Stewart (Publicity) – C + G info passed out re: advertising. Supplement out Sept. 9.

Megan C (car show) – Aug 12 meeting w/ dealers, Chrysler, Bentley, Ford, Lincoln, Volvo, Hummer, Pontiac/GMC. Asking Handleman & Altair to be sponsors. Be sure and let Corporate Sponsor Committee aware of whom you're asking so not to duplicate.

Lois C (Entertainment) – Everything booked. Need promos for Talent Show

Harold (photo contest) – Need 1 table, 2 chairs. Photos can be hung Thurs or Friday. He will be available entire weekend.

Update on sponsors – Meteor \$500 and awards. We might have met their criteria of banners to be printed (15) and they will increase donation to \$1500.

Jim C – attempt to get volunteer help from seniors by having Carla put info in Senior News and Views. (Info booth, car show, shuttle drivers, student art)

Jeff B – Wilson's Pony and Camel. They need to connect with Steve C (Risk Mgt). Lawn signs – send to Cindy. Need by Sept 8 (booth mtg.)

Gerry S (Police) – working with committee chairs and fire dept. regarding parade, race, fireworks

Cyndee K (Miss Troy) – Considering giving Miss Troy her prize \$ night of contest. In past, checks came late; in the future some girls might be finished with college. If not in rules, okay to put in check request now and give her money night of pageant. Trophies will be here Aug 2. Black drapes last year very dark. Ordered gold gossamer to decorate and lighten curtain. 32 contestants.

Shirley Darge (Ethnic Ent – in tent) – 2 groups inside stage. Sun evening: Latin group and Aloha Tropics. Looking for Thursday group

Alison Miller (teen event) – Sat Night Battle of the Bands – 3 groups, 30 minutes each. 1 prize \$100. 3 judges (Miss Troy, Chief Craft, mystery judge)

Dhwani Mehta (student rep) – will contact schools regarding volunteers for PA announcements.

Jean Stine couldn't make meeting but will help coordinate student volunteers from local schools.

New Business: None

Motion to adjourn the Festival Committee meeting by Bill Hall

Seconded by Kessie Kaltsounis

Yeas: All

Nays: None

MOTION CARRIED

Meeting is adjourned at 9:35 pm.

A regular meeting of the Building Code Board of Appeals was held on Wednesday, August 4, 2004 in the Council Board Room of City Hall. The Chairman, Ted Dziurman, called the meeting to order at 8:30A.M.

PRESENT: Ted Dziurman
Rick Kessler
Tom Rosewarne
Richard Sinclair
Frank Zuazo

ALSO PRESENT: Ginny Norvell, Housing & Zoning Inspector Supervisor
Pamela Pasternak, Recording Secretary

ITEM #1 – APPROVAL OF MINUTES MEETING OF JULY 7, 2004

Motion by Kessler
Supported by Zuazo

MOVED, to approve the minutes of the meeting of July 7, 2004 as written.

Yeas: All – 5

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

ITEM #2 – VARIANCE REQUESTED. PATRICK SIEBER, OF ALLIED SIGNS, 846 E. BIG BEAVER, for relief of the Sign Ordinance to install a second wall sign, 66 square feet in size.

Petitioner is requesting to install a second wall sign, 66 square feet in size for the Fitness Experience. Section 9.02.04, B of the Ordinance permits a maximum of 98 square feet of wall signage at this location. There is an existing wall sign on the north side of the building, which is 95 square feet, and with the addition of the proposed 66 square foot sign on the south side of the building facing I-75 the signage would total 161 square feet.

This request appeared before this Board at the meeting of June 2, 2004 and was postponed to allow the petitioner the opportunity to determine if the sign on the front of the building could be made smaller. This item last appeared before this Board at the meeting of July 7, 2004 and was further postponed to allow the petitioner the opportunity to be present.

The Chairman explained that the Building Department had received a written request from the petitioner requesting that this item be postponed for one more month.

Motion by Sinclair
Supported by Rosewarne

ITEM #2 – con't.

MOVED, to postpone the request of Patrick Sieber of Allied Signs, 846 E. Big Beaver, for relief of the Sign Ordinance to install a second wall sign, 66 square feet in size until the next scheduled meeting of September 1, 2004.

- Postponed at the request of the petitioner.

Yeas: All – 5

MOTION TO POSTPONE REQUEST UNTIL SEPTEMBER 1, 2004 CARRIED

ITEM #3 – VARIANCE REQUESTED. SYED HUSSAINI, 2105 HILLCRESCENT, for relief of Chapter 83 to install a 6' high privacy fence.

Ms. Norvell explained that the petitioner is requesting relief of Chapter 83 to install a 6' high privacy fence. This property is a double front corner lot. It has front yard requirements along both Hillcrescent and Marywood. Chapter 83 limits fences in the area between the house and the west property line to a 48" high non-obscuring fence. The site plan submitted indicates a 6' high privacy fence located 6" from the property line along Marywood.

Mr. Hussaini was present and stated that he and his family had lived here for more than seven (7) years. Approximately two years ago they began to have problems with people in the neighborhood harassing them regarding the way they dress and also by coming on to their property and ringing the doorbell and then running away. Mr. Hussaini stated that any time they are in the yard people will walk by and make disparaging comments to them. They have also experienced damage to their property by cars driving on the back lawn. Mr. Hussaini also stated that there is a great deal of litter thrown on their property as well as excrement from dogs.

Mr. Dziurman asked what type of fence the Hussaini's were thinking of and Mr. Hussaini said it was a white vinyl fence. Mr. Hussaini explained that it looked like a wooden privacy fence, but was made of vinyl instead. He also said that he did not think the location of this fence would cause any type of obstruction or bother any of the neighbors.

Mr. Kessler stated that he had driven by the site yesterday and had seen several other homes on corner lots, which had complied with the Ordinance and put up 48" high non-obscuring fences. Mr. Kessler went on to say that this is quite a large lot and he feels that the Hussaini family could achieve the privacy they are looking for by putting up a 48" high fence and then perhaps placing a privacy fence around the patio.

Mr. Hussaini said that he had seen other corner houses in this area that had privacy fences and felt that his property should have the same. Mr. Kessler said that the

ITEM #3 – con't.

determination regarding corner lots was based on the relationship of this home to other homes on the street.

Mrs. Hussaini was also present and said that she believed they should be allowed to put up this fence as other homes in the area also had 6' high privacy fences.

Mr. Kessler stated that in order for a variance to be granted the petitioner must demonstrate a hardship that runs with the land and he did not feel that there was any type of hardship. Mr. Hussaini said that eventually they would like to put in a pool and would want a privacy fence at that time.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are two (2) written approvals on file. There are three (3) written objections on file.

Mr. Dziurman stated that he sympathized with Mr. & Mrs. Hussaini, however, he agreed with Mr. Kessler in that he felt the patio could be screened, but did not feel the entire yard should have a 6' high fence.

Mr. Hussaini said that they would like to put the fence around the whole yard. Mr. Kessler stated that he felt the 6' privacy fence would be comparable to putting up a wall and felt it would have an adverse effect to the surrounding property. Mr. Kessler also stated that Mr. Hussaini could put up a fence that would comply with the Ordinance, and help to give him the privacy he desires.

Mrs. Hussaini said that if they put up a smaller fence they would still have people cutting through their property and did not believe a smaller fence would alleviate the problems.

Motion by Kessler
Supported by Zuazo

MOVED, to deny the request of Syed Hussaini, 2105 Hillcrescent for relief of Chapter 83 to install a 6' high privacy fence located 6" from the property line along Marywood.

- Petitioner did not demonstrate a hardship.
- Variance would have an adverse effect to surrounding property.

Yeas: All – 5

MOTION TO DENY REQUEST CARRIED

ITEM #4 – VARIANCE REQUESTED. ROBERT E. MOORHOUSE, 5950

ROCHESTER ROAD, for relief of the Sign Ordinance to replace an existing 32 square foot ground sign with a 35 square foot ground sign located in the ultimate right of way of Square Lake Road, at the 42 foot line.

Ms. Norvell explained that this property, although addressed to Rochester Road, has a driveway that extends out to Square Lake Road. The petitioner is requesting relief of Chapter 78 to replace an existing 32 square foot ground sign with a 35 square foot ground sign along this driveway. Section 9.01, Table B of the Sign Ordinance requires that the sign be placed behind the ultimate right of way (60 foot line) on Square Lake Road. The site plan submitted indicates that the new sign would remain at the current location in the ultimate right of way (at the 42 foot line).

Mr. Moorhouse was present and stated that the decorative sides of the sign made the sign larger than he had originally thought. Ms. Norvell explained that the Ordinance does permit a 36 square foot sign at this location; however, the variance the petitioner needs is to be able to leave the sign in the ultimate right of way.

Mr. Dziurman explained that in the past other petitioners asking for the same type of variance had been granted their requests, with the stipulation that if the City were to acquire additional right of way property the signs would be removed at no cost to the City. Mr. Moorhouse said that he did not have a problem with this stipulation. Ms. Norvell said that in November 1998, a variance was granted for this original sign in the right of way, and an agreement was signed at that time that the petitioner would remove the sign if necessary at his own cost.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are two (2) written objections on file. There are no written approvals on file.

Mr. Kessler stated that he had driven out to this site and felt that the mature trees would make visibility of this location very difficult if the sign had to be placed farther back on the property.

Motion by Sinclair
Supported by Rosewarne

MOVED, to grant Robert E. Moorhouse, 5950 Rochester Road, relief of the Sign Ordinance to replace an existing 32 square foot ground sign with a 35 square foot ground sign located in the ultimate right of way of Square Lake Road, at the 42 foot line.

ITEM #4 – con't.

- Should the City of Troy acquire additional property for the right of way the petitioner will remove the sign at no cost to the City.
- Mature vegetation would make visibility very difficult if sign were to be moved back.
- Variance is not contrary to public interest.

Yeas: All - 5

MOTION TO GRANT REQUEST CARRIED

ITEM #5 – VARIANCE REQUESTED. CHRISTINE YANDURA, PORSCHE ENGINEERING SERVICES, 1965 RESEARCH, for relief of Chapter 78 to install a 24 square foot tenant identification wall sign.

Ms. Norvell explained that the petitioner is requesting relief of Chapter 78 to install a 24 square foot tenant identification sign at 1965 Research. Section 9.02.03 D of the Sign Ordinance limits the size of a tenant identification sign to not more than 20 square feet.

Ms. Christine Yandura and Mr. Tim Meyer were present. Mr. Meyer explained that the existing sign is quite old and faded and they would like to put up a larger, more modern sign on this site. Mr. Meyer went on to say that the tenant in the other part of this building are in the process of moving and their sign will be taken down. Porsche Engineering Services is in negotiations with the landlord to take over this space. Mr. Meyer also explained that this sign is made in Germany and they are not able to downsize it. The new sign would enhance the area and would be an improvement over the old sign.

Mr. Dziurman asked what the size of the existing sign and Ms. Norvell said that it is a little less than 20 square feet.

Mr. Dziurman asked why the petitioner felt the other tenant would be moving. Ms. Yandura explained that they had constructed a new building and has made it clear that they would be leaving this site within two months.

Ms. Norvell stated that if in fact the other tenant moves out and removes the existing 68 square foot wall sign, this proposed sign would then be considered the primary sign and conform to the Ordinance. Ms. Norvell clarified for the Board that the sign Ordinance allows for a primary wall sign on this building to be a maximum of 198 square feet.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are no written approvals or objections on file.

ITEM #5 – con't.

Mr. Kessler said that he had found that the maturity of the trees causes a hardship to the visibility of the existing signs and he could understand the need for a larger sign. Mr. Kessler then asked what their plans were once the other tenant had vacated the building. Ms. Yandura said that they are in negotiations with the landlord and signage is one of the things that they are discussing. Mr. Kessler asked if they would have the primary wall sign once they took over this space and Ms. Yandura said that they would. Ms. Yandura also indicated that they would not want to put up a larger sign. Ms. Norvell explained that this location would allow the primary wall sign to be 198 square feet, and the petitioner is only requesting a 24 square foot sign. Mr. Kessler said that it would depend on what type of agreement they worked out with the landlord. Mr. Meyer stated that the landlord was in support of their request.

Motion by Rosewarne
Supported by Kessler

MOVED, to grant Christine Yandura, Porsche Engineering Services, 1965 Research, relief of Chapter 78 to install a 24 square foot tenant identification wall sign, where Section 9.02.03 D of the Sign Ordinance limits the size of a tenant identification sign to not more than 20 square feet.

- Letter from landlord indicating that the primary wall sign on the building would be restricted to 194 square feet.
- Variance would not be contrary to public interest.
- Mature vegetation limits visibility.

Yeas: All – 5

MOTION TO GRANT VARIANCE CARRIED

ITEM #6 – VARIANCE REQUESTED. TOM SHUFFLIN, ASI MODULEX, 300 JOHN R., Space C, for relief of the Sign Ordinance to install two wall signs, each 50 square feet in size, resulting in a total of 100 square feet of wall signage.

Ms. Norvell explained that the existing single tenant commercial building at this location is being re-developed as a multi-tenant building. The petitioner, who represents one of the proposed tenants, is requesting relief of Chapter 78 to install two wall signs, each 50 square feet in size, resulting in a total of 100 square feet of wall signage. Section 9.02.04 B of the Ordinance limits wall signage to 10% of the front face of the tenant space. This would permit 77 square feet of wall signage at this location.

Mr. Shufflin was present and stated that they wished to place one sign on the front of the building and one on the side of the building to improve visibility to oncoming traffic.

ITEM #6 – con't.

Ms. Norvell explained that one of the proposed signs could be approved; the petitioner requires a variance for the second wall sign. Mr. Shufflin said that both John R. and 14 Mile Road are high traffic areas, and he feels that two (2) signs will increase visibility.

Mr. Kessler stated that he had gone out to this site and did not feel two signs were necessary as this building is more visible than other buildings in the complex.

Mr. Kessler also said that even if someone passed the site they would be able to turn in to the complex just a little farther down the road and also this area has boulevards for drivers to turn around and come back to the location.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are no written approvals or objections on file.

Motion by Kessler
Supported by Rosewarne

MOVED, to deny the request of Tom Shufflin, ASI Modulex, 300 John R., Space C, for relief of the Sign Ordinance to install two wall signs, each 50 square feet in size, resulting in a total of 100 square feet of wall signage, where Section 9.01.04 B of the Ordinance allows for only 77 square feet of wall signage at this location.

- Petitioner did not demonstrate a hardship.
- The variance would cause an adverse effect to surrounding property.
- This variance would be contrary to public interest.

Yeas: All – 5

MOTION TO DENY REQUEST CARRIED

The Building Code Board of Appeals meeting adjourned at 9:15 A.M.

Ted Dziurman, Chairman



Pamela Pasternak, Recording Secretary

A regular meeting of the Liquor Advisory Committee was held on Monday, August 9, 2004 in Conference Room C of Troy City Hall, 500 West Big Beaver Road. Chairman Max K. Ehlert called the meeting to order at 7:00 p.m.

ROLL CALL:

PRESENT: Max K. Ehlert, Chairman
Henry W. Allemon
Anita Elenbaum
W. Stan Godlewski
James R. Peard
Emily Polet, Student Representative
Carolyn Glosby, Assistant City Attorney
Sergeant Thomas J. Gordon
Pat Gladysz

ABSENT: Alex Bennett
James C. Moseley

Resolution to Excuse Committee Members Bennett and Moseley

Resolution #LC2004-08-116

Moved by Allemon

Seconded by Ehlert

RESOLVED, that the absence of Committee members Bennett and Moseley at the Liquor Advisory Committee meeting of August 9, 2004 BE EXCUSED.

Yes: 5
No: None
Absent: Bennett and Moseley

Resolution to Approve Minutes of June 14, 2004 Meeting

Resolution #LC2004-08-117

Moved by Allemon

Seconded by Elenbaum

RESOLVED, that the Minutes of the June 14, 2004 meeting of the Liquor Advisory Committee be approved.

Yes: 5

No: None
Absent: Bennett and Moseley

Agenda Items:

1. **EMERALD FOOD SERVICE, INC.** requests a **new full year (quota) Class C** license with Sunday Sales, Official Permit (Food), and Outdoor Service Area, to be located at 1450 E. South Blvd., Troy, MI 48085, Oakland County. *This request is being made by the food service vendor for the new Sanctuary Lakes golf course.*

Present to answer questions from the Committee were Kim Haveranek from Emerald Food Service, Inc. and Carol Anderson, City of Troy Parks & Recreation Director.

The contract for food and beverage service at the new Sanctuary Lakes Golf Course was put out for bid. Carol Anderson, City of Troy Parks & Recreation Director, has recommended that Emerald Food Service, Inc. be awarded this contract. They have provided food and beverage service at the Troy Community Center for 17 years.

There is indoor seating for 50 patrons and outdoor seating for 180 on the pavilion. The pavilion was constructed with the option to enclose the area in the future. Emerald Food proposes to have both grill and banquet menus. There will be a serving station outside. They will most likely be open for this golf season with food service but not with liquor service. Managers and wait staff will be trained through the TIPS program. Ms. Haveranek indicated she will attempt to have the training performed on-premise.

The beverage service contract will be awarded for one year from the start of food service with two options to renew for two years each. At that point, the contract will be put out for bid. The contract states that Emerald Food Service, if awarded the contract, will be the licensee. When their contract with the City ends, they must cooperate with subsequent food vendor or return the license to the City.

Resolution #LC2004-08-118

Moved by Allemon

Seconded by Peard

RESOLVED, that EMERALD FOOD SERVICE, INC. be awarded a new full year (quota) Class C license with Sunday Sales, Official Permit (Food), and Outdoor Service Area, to be located at 1450 E. South Blvd., Troy, MI 48085, Oakland County.

Yes: 5
No: None
Absent: Bennett and Moseley

The meeting adjourned at 7:35 p.m.

Max K. Ehlert, Chairman

Patricia A. Gladysz, Clerk-Typist

A Meeting of the Civil Service Commission (Act 78) was held Tuesday, August 10, 2004, at Troy City Hall, 500 W. Big Beaver Road in the Lower Level Conference Room. Chairman McGinnis called the meeting to order at 7:00 PM.

ROLL CALL

PRESENT: Chairman Donald E. McGinnis, Jr.
Commissioner Patrick Daugherty
Commissioner David Cannon (Absent/Excused)

ALSO PRESENT: Lori Bluhm - City Attorney, Peggy Clifton - Human Resources Director, Police Chief Charles Craft, Captain Edward Murphy, Sgt. Michael Bjork, Sgt. Thomas Gordon, Sgt. John Schaufler, Barbara A. Holmes - Deputy City Clerk, Greg Schultz – Lange & Cholack, P.C., Christine Felts – Court Reporter – Christine Felts & Associates, Petitioner Jamie Hill

Approval of Minutes of February 26, 2004

Resolution #CSC-2004-02-008

Moved by McGinnis

Seconded by Cannon

RESOLVED, That the Minutes of the meeting of January 22, 2004 be **APPROVED** as presented.

Yes: McGinnis, Cannon

No: None

Absent: Daugherty

Petitions and Communications**(a) Request for an Act 78 Appeal Hearing – Jamie Hill**

Chair McGinnis asked the petitioner if he would prefer to postpone the hearing until there is a full complement of the Commission.

Mr. Hill replied that he would waive that right at this time.

Chair McGinnis asked the petitioner if he had any evidence to present.

Mr. Hill replied that he did not have any evidence, but that he did have mostly questions that he would like to raise.

Greg Schultz, legal counsel from Lange & Cholack, P.C., distributed documentation relative to the petitioner's hearing.

The hearing **RECESSED** at 7:08 PM to allow time for review of the documentation presented by Mr. Schultz.

The hearing **RECONVENED** at 7:16 PM.

Chair McGinnis advised that this is the first time any documentation was presented to the Commission relative to the petitioner's hearing.

Mr. Hill noted that this is the first time he has seen any kind of documentation of this kind also. He added that he requested copies of his employment file, but the document presented tonight was not in his file.

Chair McGinnis advised the petitioner that based upon what the petitioner has read tonight, that he may request a postponement to review the documentation and come back before the Commission at a later date. He further noted that the petitioner cannot challenge the documentation based upon what he thinks, but rather he must return with evidence.

Chair McGinnis questioned whether the petitioner had the appropriate documentation in terms of his defense of the allegations.

Mr. Schultz noted that the summary appears on page five of the document and that the first four pages only serve as background information.

Chair McGinnis asked Mr. Hill to be prepared to address all the allegations in an orderly way with evidence of why he believes the city has done something improperly.

Commissioner Cannon agreed that the petitioner must make his case.

Mr. Hill believes he needs additional documentation regarding the investigation.

Chair McGinnis responded that there may or may not be more documentation.

Commissioner Cannon would like to hear what the petitioner's claim is.

Mr. Hill questioned how he could prove his point.

Chair McGinnis explained that the hearing is not conducted as a jury trial. He added that the petitioner could represent himself and ask questions directly, or hire an attorney as to why the city is denying him employment.

Chair McGinnis asked the petitioner how much time he will need to make his case.

Mr. Hill responded that he would need at least a week.

Chair McGinnis asked the petitioner to contact the City Attorney's office in writing as soon as possible so that the matter may be concluded.

Lori Bluhm requested that the petitioner prepare a list of what he is looking for.

Chair McGinnis agreed adding that it would provide the city with an opportunity to look at the matter more thoroughly and faster.

Mr. Schultz noted that he understands that Sgt. Gordon provided the petitioner with the opportunity to meet with him.

Chair McGinnis restated that the petitioner has not seen this document until tonight and should have at least been given the summary to review. He noted that the documents could be reviewed on camera.

Chief Craft advised that they will provide all documentation that the decision was based upon if requested.

Chair McGinnis believes the documentation can be limited to the summary and added that the decision is ultimately up to the department.

Chair McGinnis and Commissioner Cannon agreed that any information deemed confidential could be struck from the summary.

Chair McGinnis asked if the petitioner was going to hire an attorney.

Mr. Hill replied that he would.

Chair McGinnis noted that at this time, the appeal hearing is postponed to date to be determined.

Chair McGinnis further noted that the documents presented by Lange & Cholack, P.C. were returned to Mr. Schultz at this time.

New Business: None presented

Old Business: None presented

Adjournment: The meeting was adjourned at 7:36 PM.

Donald E. McGinnis, Jr., Chairman

Barbara A. Holmes, CMC - Deputy City Clerk

RETIREMENT REQUESTS

Resolution # ER – 2004 – 08 - 032

Moved by Lamerato
Seconded by Szerlag

RESOLVED, That the following retirement request be approved:

Philip A. Dimaria, DB, 8/11/04, Police, 28 years, 10 months
Roger A. Owens, DB, 8/21/04, Public Works, 28 years, 7 months
William D. McCabe, DC, 8/21/04, Police, 25 years

Yeas: All 6
Absent: Lambert

OTHER BUSINESS – PART- TIME SERVICE CREDIT

Part-time service request of Christine Hill of 2 years be received and filed.

OTHER BUSINESS –PRIOR GOVERNMENTAL SERVICE

The requests of Cynthia Stewart be received and filed.

INVESTMENTS

Resolution # ER – 2004 – 08 - 033

Moved by Pallotta
Seconded by Houghton

RESOLVED, That the following investments be purchased and sold:

Purchase - \$500,000 GMAC Smart Notes, 5.25% due 8/15/09; \$500,000 Bank America, 5.125% due 8/15/14; **Sell** – Hershey; King Pharmaceutical; Kroger; KV Pharmaceutical; Magna Entertainment; MGIC; MI Developments; **Purchase** – 4,800 shares Hartford Financial Services; 1,750 shares Hibbett Sporting Goods; 7,000 shares IDEX; 10,000 shares Int'l Game Technologies; 8,000 shares Linen N Things; 5,000 shares McDonalds; 9,000 shares Methode Electronics; 9,000 shares Michaels Stores; 5,000 shares MMM; 8,000 shares New England Business Services; 10,000 shares NOKIA; 7,000 shares Pepsi; 5,000 shares PF Changs; 5,000 shares Panera Bread; 4,000 shares Omnicom; 3,000 shares Orthofix; and place stop/loss on K-mart at \$55 and Kraft at \$27.

Yeas: All 6
Absent: Lambert

The next meeting is September 8, 2004 at 12:00 p.m. at City Hall, Conference Room C, 500 W Big Beaver, Troy, MI.

The meeting adjourned at 1:30 p.m.

DATE: August 2, 2004
 TO: John Szerlag, City Manager
 FROM: Mark Stimac, Director of Building & Zoning
 SUBJECT: Permits issued during the Month of July 2004

	NO.	VALUATION	PERMIT FEE
<u>INDUSTRIAL</u>			
Add/Alter	2	\$180,000.00	\$1,354.00
Parking Lot	1	\$80,000.00	\$671.00
Sub Total	3	\$260,000.00	\$2,025.00
<u>COMMERCIAL</u>			
Fnd./Shell New	1	\$9,900,000.00	\$40,896.00
Tenant Completion	1	\$38,000.00	\$404.00
Add/Alter	24	\$4,523,153.00	\$28,635.25
Repair	2	\$377,000.00	\$2,385.00
Sub Total	28	\$14,838,153.00	\$72,320.25
<u>RESIDENTIAL</u>			
New	16	\$2,375,143.00	\$46,244.30
Add/Alter	33	\$643,529.00	\$6,988.50
Garage/Acc. Structure	7	\$21,500.00	\$610.00
Pool/Spa/Hot Tub	8	\$175,618.00	\$1,940.00
Fire Repair	1	\$43,843.00	\$380.00
Wreck	4	\$4,000.00	\$590.00
Fnd./Slab/Footing	2	\$7,675.00	\$205.00
Sub Total	71	\$3,271,308.00	\$56,957.80
<u>TOWN HOUSE/CONDO</u>			
New	12	\$993,000.00	\$9,712.00
Add/Alter	3	\$43,500.00	\$580.00
Sub Total	15	\$1,036,500.00	\$10,292.00
<u>MULTIPLE</u>			
Add/Alter	1	\$8,000.00	\$130.00
Garage/Acc. Structure	1	\$24,750.00	\$285.00
Sub Total	2	\$32,750.00	\$415.00
<u>INSTITUTIONAL/HOSPITAL</u>			
Add/Alter	1	\$350,000.00	\$2,214.00
Sub Total	1	\$350,000.00	\$2,214.00
<u>MISCELLANEOUS</u>			
Signs	34	\$0.00	\$3,318.00

Fences	27	\$0.00	\$415.00
Sub Total	61	\$0.00	\$3,733.00
TOTAL	181	\$19,788,711.00	\$147,957.05

PERMITS ISSUED DURING THE MONTH OF JULY 2004

	NO.	PERMIT FEE
Mul. Dwel. Insp.	20	\$200.00
Cert. of Occupancy	53	\$4,010.75
Plan Review	159	\$9,637.50
Microfilm	30	\$392.00
Building Permits	181	\$147,957.05
Electrical Permits	231	\$17,400.00
Heating Permits	197	\$10,110.00
Air Cond. Permits	85	\$3,995.00
Plumbing Permits	156	\$11,346.00
Storm Sewer Permits	18	\$1,347.00
Sanitary Sewer Permits	29	\$1,117.00
Sewer Taps	32	\$6,656.00
TOTAL	1191	\$214,168.30

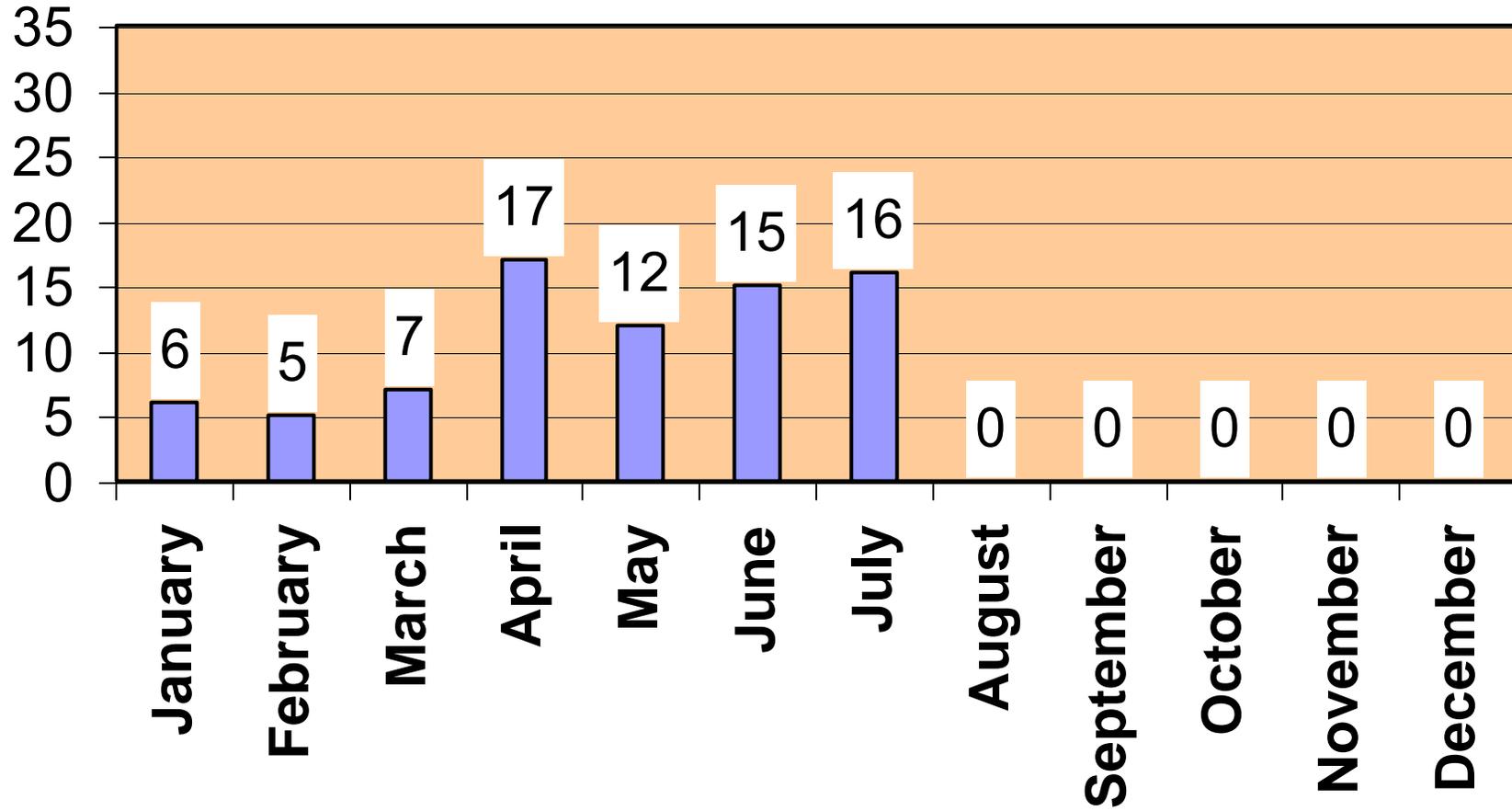
LICENSES & REGISTRATIONS ISSUED DURING THE MONTH OF JULY 2004

	NO.	LICENSE FEE
Mech. Contr.-Reg.	19	\$95.00
Elec. Contr.-Reg.	20	\$300.00
Master Plmb.-Reg.	32	\$32.00
Sewer Inst.-Reg.	8	\$400.00
Sign Inst. - Reg.	9	\$90.00
Fence Inst.-Reg.	4	\$40.00
Bldg. Contr.-Reg.	26	\$260.00
F.Alarm Contr.-Reg.	2	\$30.00
TOTAL	120	\$1,247.00

BUILDING PERMITS ISSUED

	BUILDING PERMITS 2003	PERMIT VALUATION 2003	BUILDING PERMITS 2004	PERMIT VALUATION 2004
JANUARY	83	\$3,349,579.00	100	\$5,235,481.00
FEBRUARY	98	\$6,941,418.00	130	\$21,354,496.00
MARCH	106	\$10,102,093.00	159	\$9,372,242.00
APRIL	150	\$7,185,781.00	180	\$14,158,227.00
MAY	269	\$13,984,618.00	236	\$11,511,644.00
JUNE	209	\$20,116,880.00	236	\$16,224,865.00
JULY	196	\$17,222,754.00	181	\$19,788,711.00
AUGUST	179	\$7,971,188.00	0	\$0.00
SEPTEMBER	181	\$13,656,695.00	0	\$0.00
OCTOBER	195	\$11,302,769.00	0	\$0.00
NOVEMBER	136	\$5,897,752.00	0	\$0.00
DECEMBER	182	\$18,153,988.00	0	\$0.00
TOTAL	1984	\$135,885,515.00	1222	\$97,645,666.00

SINGLE FAMILY DWELLING PERMITS 2004



Troy Medi-Go Plus

SERVING THE COMMUNITY SINCE 1988

June 2004

10,000 Rides In 2003!

Our Mission

Troy Medi-Go Plus is a nonprofit community organization dedicated to helping Troy senior citizens and adults with a disability who are in need of transportation to get to medical appointments and other important destinations

Donations are Important to Troy Medi-Go's Success

Please use the enclosed envelope to send your tax-deductible donation today!

Troy Medi-Go Plus surpassed a milestone for the first time in its history by providing 10,382 rides in 2003. This valuable community service has grown from operating one bus with a part-time driver and dispatcher in 1988 into a mature transportation operation with a four-vehicle fleet, a part-time director, and nine part-time employees.

Troy Medi-Go Plus provides door-to-door transportation for Troy residents age 60 and older and persons with disabilities age 18 and older. While the service began as a non-emergency transportation service for medical appointments, it has expanded over the years to meet resident needs for shopping and recreation, as well as employment and education transportation for adults with a disability.

Our vehicles drove 105,898 miles in 2003.

Troy Medi-Go Plus's major sponsor is the city of Troy, but significant contributions are also made by SMART, the Beaumont Foundation, and the Michigan Department of Transportation. Rider contributions and other donations are also a major source of support, with over \$11,400 donated in 2003.

Two-thirds of all Medi-Go Plus trips take older Troy residents to non-emergency medical appointments, and almost 12% of rides are to the Troy Community Center. Disabled residents received 1,220 rides, and 1,007 rides were provided to older adults for other purposes, such as shopping.

Passenger Guidelines

Medi-Go Plus has passenger guidelines that help ensure that as many persons as possible are served through a safe and dependable service.

- Passengers must notify Medi-Go Plus of a cancellation of scheduled service. Failure to notify means the bus cannot be available to other riders and can lead to probationary status or loss of service.
- The bus may arrive as soon as ten minutes early, or ten minutes later than the appointment time.
- No passenger may create an unsafe condition through abusive or threatening behavior.
- Troy Medi-Go Plus does not operate in unsafe weather, such as when Troy schools close for a weather emergency.

To contact Troy Medi-Go Plus:

3179 Livernois
Troy, Michigan
48083
(248) 457-1100

SMART Earns National Spotlight: Troy Medi-Go Partnership featured

The following is an excerpt from the Fall 2003 edition of *Community Transportation*, a public transportation industry publication which recognized SMART for its exemplary transportation programs

Wired for Service

"Some people at certain points in their life know what they're supposed to be doing. I've known what I was supposed to do since I was a young girl," says Jo Rhoads, founder of Troy Medi-Go and current Vice President of the Board of Directors for what has become Troy Medigo Plus.

Rhoads' dedication to seniors, her life's work, led to an awareness of mobility needs in her community. She

amassed some 100 volunteers from her church to connect the community's seniors with their medical care. But as volunteers were lost, she contemplated a more structured and permanent transit system for Troy. The City Council supported her idea, dedicating \$16,000 from the city coffers, and numerous residents chipped in dollars from their own pockets. A donated van from the area non-profit Independence for Life put her strategy on the road.

"I think it's the most terrific thing," says passenger Lorraine as she's picked up after her appointment at Beaumont Hospital. "It's difficult for someone like me, I'm by myself. I drive still, but it's getting more difficult. I renew my license next year.

I think they may say, 'You can't drive anymore.' I'd be lost without this."

Since learning about the service three years ago while in the hospital with an injured arm, she's become a regular.

"They told me I could take it to rehabilitation. Then I found out they'll take you shopping and to the community center!"

Drive Val D'Souza picks up Stanley, a dialysis patient, at the outpatient facility near the hospital. Hailing from Poland and speaking little English, Stanley has his son-in-law communicate his experience with Medigo.

"It's a lifesaver. They pick him up. They bring him home," he says. "Stanley used to drive. Then he got in an accident. If it wasn't for Medi-Go, someone would have to quit their job to get him to treatment three times a week."

When Medi-Go began, the service provided rides to medical appointments only, with cancer and chemotherapy patients the priority. In the last several years, the system has been able to branch out – taking seniors grocery shopping, and connecting disabled residents to school and work. Hence, Medi-Go Plus. Rhoads credits the system's partnership with SMART for Medi-Go's wider reach. Access to ideas, assistance, a channel for vehicles, maintenance and gas, and especially new technology, she says, have produced a structure that can

accommodate a wider variety of need.

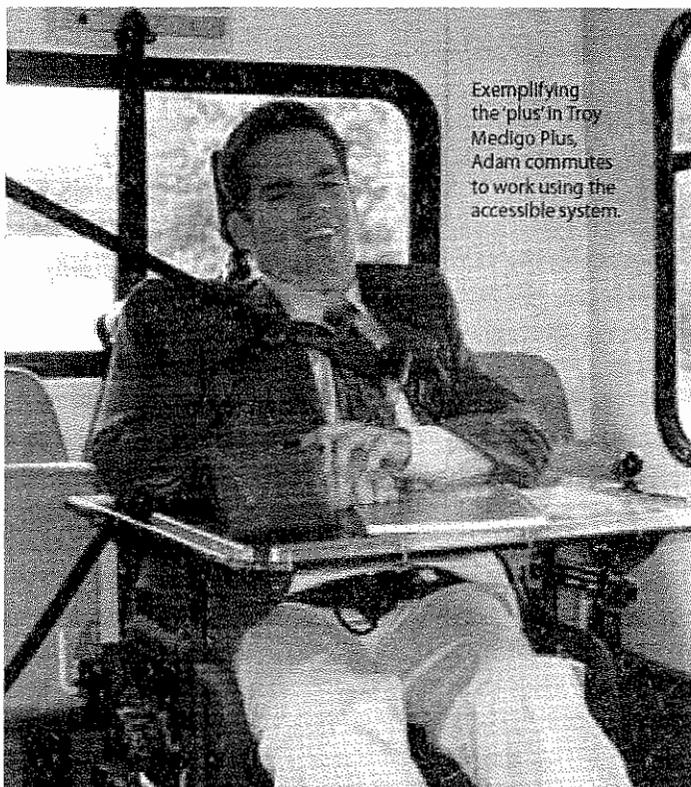
Walk into the computer room at SMART's Oakland County office and the possibilities are evident. With an unlimited license for scheduling software, SMART's community partners – even the smallest systems – can tap into the latest technology. Troy Medigo Plus, with an office staff of two, books their trips directly on the SMART server via the Internet.

SMART's remote scheduling system, explains Dirks, grew out of provider discussions in the quarterly County Coordinating Committee meeting. Participants – including public and private providers, Area Agencies on Aging, agencies serving disabled clients, local ARCs, intermediate schools, the Family Independence Agency, local government officials, medical facilities and regional planning organizations – shared their experience and concerns.

"If one community had a problem, you knew it was a problem for everyone," says Dirks. "The meetings developed a common theme – 'Wouldn't it be great if we could all get together?'"

The central real-time demand-response system – viewed by Dirks and Ristau as the hallmark of coordination – has enormous possibilities. Community-based transit providers potentially can

Continued on next page



Exemplifying the 'plus' in Troy Medigo Plus, Adam commutes to work using the accessible system.

Meet the Troy Medi-Go Director, Drivers and Dispatcher



Sandra Moore
Director

Sandra has served as Director of Troy Medi-Go Plus since 2001, and is responsible for day-to-day operations.



Eugenia D'Souzas
Dispatcher

Troy Medi-Go and schedules rides for our callers.



Troy Medi-Go Plus's 2003 crew of friendly drivers, from left to right, are Jack Barber, Bill Di Laura (former), Bob Rivard, Valerian D'Souza, and Ken Firman. Other drivers not pictured are John Hotka, Bernard Seachrist, and Jim Tumino.

SMART story continued from previous page

combine and coordinate with not only the SMART system but with all regional providers. Including Medigo, eight systems are now plugged in the tri-county area on the same real-time page.

More efficient scheduling over the past two years has helped stretch a limited budget, and has enabled Troy Medigo Plus to increase ridership from 24 to 40 passengers a day. With all rides logged in a database, information on customers and destinations is accessible through a few keystrokes, and proves valuable in seeking support from local hospitals and businesses. Beaumont Hospital alone contributes \$15,000 each year. More support enables more connections.

More exposure couldn't hurt. SMART is helping communities take advantage of the immediacy and reach of the Internet. Through its new website, community residents can explore all the mobility options available in their area and learn how to access them. The "browse by community" feature, explains Ristau, will eventually include links to communities' own websites.

It's Adam's first day of school. As a student teacher of U.S. history in Clawson, Adam will be taking Troy Medigo to and from work each day. He already knows driver Val, since he's been using the service to attend Oakland University for the past four years.

Aida knows Val, too. In fact, she knows all the Medigo drivers by name. She stopped driving four years ago, and first took the service to medical appointments. She's been taking the bus to her job at Sears for two years now.

When the millage idea was first floated, Rhoads was familiar with SMART, and knew a complimentary partnership could be beneficial to her community. Yet, she was apprehensive.

"We're very hands-on, very personalized. And that's the way we want it. I was afraid we might lose the individuality we're known for," says Rhoads of her uncertainty. "But that hasn't happened. We've been given carte blanche. We still have local control over what we feel we need to do for our community.



Thanks to Our Supporters

The Beaumont Foundation

The Beaumont Foundation has been an annual contributor toward the operation of Troy Medi-Go Plus service almost since our inception. Transportation for non-emergency medical purposes continues to be the primary service to Troy Medi-Go Plus riders. In 2003, almost two thirds of all trips were for medical purposes, and 60% of these trips were to William Beaumont Hospital, its clinics, and/or physicians. The Beaumont Foundation's early contributions allowed Troy Medi-Go Plus to secure its funding, match additional state funds, and assure a higher level of service for Troy residents. The Board of Directors are indebted to The Beaumont Foundation for its continued support, and depend on the annual donation (\$15,000 in 2003) to maintain service.

The Beaumont Foundation was established in 1986 to formalize the health care system's fundraising and community outreach efforts. The Foundation has a 49-member Board of Directors that works closely with the health system's Board of Directors and Trustees. The Foundation exists exclusively for the purpose of securing philanthropic gifts and grants to further the medical, educational, scientific, and charitable purposes of Beaumont hospitals.

Beaumont Hospitals is one of the largest health care systems in the United States. It has more inpatient admissions than any other health care system in the country and also is a volume leader in emergency room visits and outpatient surgeries. In quality rankings, both the AARP and U.S. News and World Report rank the system among the top ten systems in the country. In 2003 the Beaumont Foundation raised \$25.8 million in cash from more than 8,300 gifts. The Foundation has experienced significant growth in each of the last four years, raising more than \$85 million at a cost of \$.15 per dollar raised.

Troy is fortunately to be served by one of the nation's leading health care systems, and the Troy Medi-Go Board of Directors is grateful for its tireless efforts to raise funds that make their annual charitable contribution toward transportation for the elderly and persons with a disability.

Other Supporters

Troy Medi-Go also received significant funding from the city of Troy, SMART, and state funding from the Michigan Department of Transportation. In addition, the city of Troy donates office space and other administrative services which are invaluable. Troy Medi-Go Plus riders owe a debt of gratitude to elected city officials and the administration for their unwavering support. The support from the city has allowed the program to grow to become a four vehicle system that is able to respond to most requests for transportation.

Troy Medi-Go Plus Board of Directors

Ron Ristau
*President
SMART*

Jo Rhoads
*Vice President
Troy Resident*

Sheila Mckenzie DC
*Co-Secretary
Loving Hearts
Chiropractic*

Doris Schuchter
*Co-Secretary
Troy Resident*

Dan Mayville
*Treasurer
Mayville &
Associates PC*

Henry Allemon
*Midwest Guaranty
Bank*

Hon. Dennis Drury
52nd District Court

Kessie Kaltsounis
*Creative Education
Center*

Jim McGuire
*Area Agency on
Aging 1-B*

Carla Vaughan
*City of Troy
Recreation*

RECEIVED

AUG 13 2004

CITY OF TROY
CITY MANAGER'S OFFICE

Martha W. Northrup
642 Amberwood Dr.
Troy, MI 48085

August 11, 2004

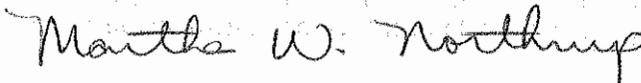
City of Troy
Attn: City Council
500 W. Big Beaver
Troy, MI 48084

Dear Ladies and Gentlemen of the Troy City Council:

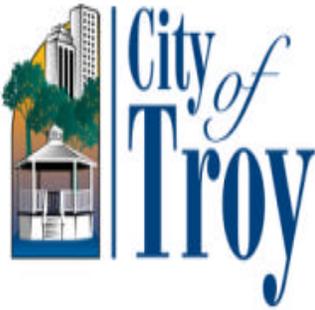
It has been brought to my attention that it is legal to burn wood fires in the City of Troy. I have asthma and breathing smoke causes severe breathing difficulties for me. One of my neighbors has been burning wood for the last four days. After determining which direction the smoke was coming from I called the police. The police came and determined that it was a legal fire and nothing could be done about it. I am unable to go outside or have the windows open in my house when it is smoky outside.

There are an estimated 35 million people in the United States with asthma and smoke is a strong trigger for asthma. I am asking that the Council reconsider this fire burning law for cleaner air and for the health of all Troy residents.

Sincerely,



Martha W. Northrup



TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Allan T. Motzny, Assistant City Attorney
DATE: August 10, 2004
SUBJECT: Political Sign Ordinance- Chapter 85-A of Troy City Code

Chapter 78 of the Troy City ordinances sets forth the regulations for signs in the City. Under these provisions, certain signs are exempt from permit requirements. These exceptions include small signs (not more than two square feet in area), real estate signs, garage sale signs, non-commercial signs (not exceeding six square feet), and corporate flags. In addition, Chapter 85-A of the City of Troy ordinances allows for political signs without a permit.

The City has recently received a letter from the ACLU, criticizing Section 3 of the Political Signs Ordinance (Chapter 85-A), which provides:

3. Political Sign Control

- (a) Political signs may be erected in addition to all other signs permitted by Chapter 78 without a permit if they comply with the provisions of this section. Permission shall be obtained from the property owners where signs are located.
- (b) Uses: Political signs shall be solely for the purpose of providing information relating to the election of a person to public office, or relating to a political party, or relating to a matter to be voted upon at an election called by a public body, or any other public issue or expression of opinion, and shall be permitted subject to the following conditions.
 - (1) Maximum Area and Number: No more than two (2) political signs shall be placed on any parcel of real property in one ownership and the area of each sign shall not exceed two and one half (2.5) square feet. Political Signs shall not be located closer than twenty (20) feet to the edge of the traveled portion of the roadway and not in a dedicated right-of-way. Political signs shall be ground or wall signs, no ground sign shall be higher than thirty-six (36) inches above average mean grade of the yard on which it is placed.
 - (2) No sign shall be erected or displayed earlier than thirty (30) days before an election or event to which it relates, and shall be removed within ten (10) calendar days after the event or election. Signs that express an opinion unrelated to an election date are limited to a period of display not to exceed thirty (30) days in one (1) calendar year on any parcel of real property in one ownership. Signs shall not be attached to any utility pole or be located within any public right- of- way.

- (3) Such signs shall not be erected in such a manner that they will or reasonably may be expected to interfere with, obstruct, confuse or mislead traffic.

The ACLU letter erroneously used an outdated version of Troy's ordinance for its legal analysis. However, the ACLU letter can be narrowed down to four areas where Troy ALLEGEDLY violates the First Amendment of the constitution: the number of allowed signs; the limitations on the size of each political sign, the time limitations for political signs and the separation of political signs from other types of signs.

A. Number of Allowed Signs

Troy's ordinance allows up to two political signs on any single piece of property. There is no distinction between residential and non-residential properties under Chapter 85-A. It is our opinion that there is no legal reason to amend the City's ordinance- which includes valid time, place, and manner restrictions. However, some members of City Council may wish to increase the allowable number of political signs, or may wish to provide different allowances for differing zoning districts. Some members of the public have advocated for an unlimited number of political signs. Others have requested one allowable sign per candidate or ballot question, which could result in several signs in a presidential election cycle. Others support the current ordinance, and others recommend a hybrid approach. If a majority of City Council seeks to amend this provision of the ordinance, then City Administration can compile a chart of the allowable political signs in other metro Detroit jurisdictions prior to any Council action on amendments. This compilation may be complicated, since some jurisdictions limit the total "face" amount, rather than limit the number of signs.

B. Limitations on Sizes of Political Signs

Troy's political sign ordinance limits the size of political signs to a maximum display area of 2 ½ square feet, and a height not to exceed 3 feet. For double- sided signs, the area of both sides is included in the area calculation. It is our opinion that this size limitation is a valid time, place and manner restriction, and therefore there is no legal reason to amend the City's ordinance. However, if a majority of City Council desires to allow larger political signs, then City Administration can research the ordinances of other jurisdictions to provide some additional guidance to City Council.

C. Time Limitations for Political Signs

Troy's political sign ordinance provides that political signs may not be displayed earlier than thirty (30) days before an election, and they must be removed within ten (10) calendar days after an election. In addition, signs that express an opinion unrelated to an election are limited to thirty (30) days of display per calendar year. Based on our research, it is our opinion that these provisions are valid time, place and manner restrictions that do not violate the First Amendment of the United States Constitution. However, if a majority of City Council desires to amend these sections of the ordinance, City Administration can provide some recommended language.

D. Segregation of Political Signs

Troy separates its political sign regulations from the other sign regulations. The ACLU letter challenges that this practice violates the constitutional requirement of content neutrality regulations. In support of this allegation, the ACLU relies almost exclusively on a 1996 opinion by Eastern District of Michigan Judge Anna Diggs Taylor in *Dimas v. City of Warren* (939 F. Supp. 545). This federal district court opinion is binding only on the City of Warren, since it was not appealed. Similarly, there is a recent district court case, *King Enterprises, Inc. v. Thomas Township*, 215 F. Supp. 891 (2004), which is similarly not binding on the City of Troy. The decisions in the *Dimas* and *King Enterprises* cases are based on how the courts interpreted the term “content neutral”. Essentially, those courts opined that any regulation based on the type of sign, (e.g. political sign) are content based, subjecting the regulation to strict scrutiny. However, there are other court decisions that apply a different analysis when determining the content neutrality of an ordinance. The recent decision of the Michigan Court of Appeals in *Outdoor Systems Inc. v City of Clawson*, ___ Mich App ___; ___ NW2d ___ (2004), discussed the proper analysis for determining content neutrality:

The principal inquiry in determining content neutrality, in speech cases generally and in time, place, or manner cases in particular, is whether the government has adopted a regulation of speech because of disagreement with the message it conveys. The government’s purpose is the controlling consideration. A regulation that serves purposes unrelated to the content of expression is deemed neutral, even if it has an incidental effect on some speakers or messages but not others. Government regulation of expressive activity is content neutral so long as it is “justified without reference to the content of the regulated speech.” [*Ward v Rock Against Racism*, 491 U.S. 781, 791-792; 109 S Ct 2746; 105 L Ed 2d 661 (1989) (citations omitted).]

This published decision of the Michigan Court of Appeals is binding on the City of Troy, and therefore it is appropriate to utilize the analysis set forth in the *Outdoor Systems* case in determining the validity of Troy’s ordinance. Applying such analysis, it is our opinion the City of Troy Political Sign Ordinance is content neutral because it does not regulate what may or may not be said on a particular political sign.

Since signs are a form of expression, any ordinance regulating signs must be drafted to insure the ordinance does not infringe upon freedom of speech as guaranteed by the First Amendment to the United States Constitution. *Metromedia, Inc. v City of San Diego*, 453 US 190; 101 S Ct 2882; 69 L Ed 2d 800 (1981). It is well-settled, however, that time, place and manner restrictions on expression are constitutionally permissible if they are justified without reference to the content of regulated speech, they serve a significant government interest, and they leave open ample alternative channels for communication of the information. *Gannett Outdoor Co. of Michigan v City of Troy*, 156 Mich App 126, 132-133; 409 NW2d 719 (1986). As a content neutral regulation, the time, place and manner restrictions set forth in Troy’s political sign ordinance are valid if they serve a significant government interest and they leave open ample alternative channels for communication of the information. *Gannett*, 132-133. Chapter 78 of the Troy City Code reveals sign regulations in the City of Troy serve

many purposes including the promotion of traffic safety, prevention of visual obstruction, fostering the most appropriate uses of the land, and preserving and improving the appearance of the city. Such interests have been held sufficient governmental interest to support content neutral sign regulations. *Gannett*, 136; *Outdoor Systems, Inc.* Troy's ordinance also leaves open ample alternative channels for communication of information regarding political candidates and ideas. In addition to showing their support of candidates and expressing opinions on political signs in accordance with the ordinance, residents of Troy may also distribute literature concerning candidates, they may post signs and bumper stickers on automobiles, and they may freely express their ideas and political concerns using the newspaper and the internet. Thus the regulations set forth in Troy's ordinance are valid.

Please let us know if you should have any questions or if additional research would be helpful.

POLITICAL SIGN ORDINANCE REQUIREMENTS OF VARIOUS MUNICIPALITIES

The * appearing in some blanks denotes the ordinance had no specific provision governing the matter.

Municipality	Number of signs per parcel	Size	Time limitations
Clawson	3	Maximum area of 3 sq. feet. Maximum height of 4 sq. feet.	45 days before election. 72 hours after election.
Sterling Heights	3	Maximum area for all signs on one parcel is 9 square feet in one and two family districts. Max. area of 12 square feet in all other districts.	Signs may not be displayed prior to the deadline for becoming a candidate or having an issue placed on the ballot. Signs must be removed 7 days after the election.
Southfield	*	Maximum of 32 square feet of signage.	60 days before election. Must be removed 30 days after election.
West Bloomfield	*	Maximum of 6 square feet per face with max. of 2 faces on residential parcels. Max. of 32 square feet per face w/ max. of 2 faces on nonresidential parcels. Max. height of 3 feet for residential parcels and 6 ft for nonresidential.	Signs may be displayed for sixty days. After sixty days, signs may still be displayed subject to requirements set forth in ordinance. Signs must be removed 10 days after election.
Royal Oak	*	Maximum of 10 square feet in area for one face signs and 20 square feet for two face signs. Political signs are only allowed on private property.	*
Orion Twp	Only 4 allowed at one intersection. No limits on per parcel basis.	Max. area of 6 square feet per side for residential and 12 square ft. per side for nonresidential with a max. of 2 sides.	60 days prior to election. Signs must be removed 7 days following election.
Clinton Twp	*	Max. of 16 square ft. in area on residential parcels and max. of 32 sq. ft. of area on nonresidential parcels.	30 days before election. Signs must be removed 10 days after an election.

Berkley	*	The amount of signage allowed per parcel varies with a max. of 6 square ft for residential and 20 square feet for commercial.	Signs must be removed within 10 days after an election. There is no provision with regard to how soon before an election that political signs may be displayed.
Beverly Hills	*	Individual signs shall not exceed 4 square feet and the total area of political signs on one parcel shall not exceed 20 square feet.	Political signs must be removed within 10 days following an election. Signs that express an opinion unrelated to an election are limited to a period of display of 30 days.
City of Northville	*	*	45 days prior to an election. Signs must be removed 5 days after an election.
Rochester Hills	*	Political signs may not exceed 6 square feet in area and are only allowed on parcels with at least one occupied building.	31 days before an election. Signs must be removed within 48 hours after an election.
Auburn Hills	4	Maximum area of 6 square feet per sign.	30 days before election. Signs must be removed first Monday following an election.
Novi	1 sign for each cand. or ballot issue.	Maximum of 6 square feet in area and maximum height of 5 feet.	30 days before election. Signs must be removed 5 days after election.
Madison Heights	*	Maximum area of 16 square feet.	Political signs may be displayed a total of 60 days or until 10 days after an election, whichever occurs first.
East Lansing	3	Maximum area of 6 square feet and maximum height of 3 and 1/2 feet.	30 days before an election. Signs must be removed 7 days after an election.
Dearborn Heights	*	Maximum area of 4.5 square feet.	30 days before election. Signs must be removed 5 days after election.
Oak Park	*	Maximum area of 12 square feet per sign. Maximum height of 6 feet per sign.	45 days before election. Signs must be removed 10 days after election.
Ann Arbor	*	Maximum height of 48 inches, maximum width of 36 inches, and the bottom of each sign must be at least 6 inches off the ground.	Signs must be removed within 18 hours after an election. There is no provision with regard to how soon before an election that political signs may be displayed.

Warren	2 signs per candidate and per issue. 3 “opinion” signs per residential lot.	Election signs may have a maximum area of 16 square feet if located on major thoroughfare and a maximum of 6 square feet if located on residential property. Opinion signs may not exceed 4 square feet in area.	Election signs may be displayed 60 days prior to an election and must be removed 7 days after an election. There are no time limitations provided with respect to “opinion” signs.
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DETROIT AREA COUNCIL
BOY SCOUTS OF AMERICA

B-18a

1776 West Warren Avenue • Detroit, Michigan 48208-2291
Phone: (313) 897-1965 Fax: (313) 897-9870

August 3, 2004

RECEIVED

AUG 04 2004

CITY OF TROY
CITY MANAGER'S OFFICE

Mr. John Szerlag
City Manager
City of Troy
500 W. Big Beaver
Troy, MI 48084

Scout Law

A Scout is:

- Trustworthy
- Loyal
- Helpful
- Friendly
- Courteous
- Kind
- Obedient
- Cheerful
- Thrifty
- Brave
- Clean
- and
- Reverent

Dear Mr. Szerlag:

I am sure you would be interested in knowing that an employee of yours has contributed a week of his time for a very worthwhile community project.

He has provided leadership for a group of Scouts at summer camp operated by the Detroit Area Council, Boy Scouts of America where they enjoyed outdoor activities. They also, through his leadership and the well-known methods of the Scouting program, gained experience in citizenship training, character building and mental and physical fitness.

The summer camp experience is the highlight for a Scout troop that has been conducting Scout meetings, as well as many weekend camping trips, during the past year under the supervision of its own Scout leaders.

Scout Oath

On my honor
I will do my best
To do my duty
to God and
my country
and to obey
the Scout Law;
to help other
people at all
times; to keep
myself physically
strong, mentally
awake, and
morally straight.

Without the support of your company and the many others who do allow employees time off, the Boy Scouts would not be the program it is today.

We hope you will join us in thanking Mark Stimac for sharing his life with the young people of today who will be leaders of tomorrow.

Sincerely,

GUS CHUTORASH
Director of Camping

GC/uvs

cc: Debbie Stimac



Michael Drapeau

* Troy * MI * 48083

July 26, 2004

Police Chief Craft
Troy Police Dept.
500 W. Big Beaver Rd.
Troy, MI 48084

Dear Chief Craft:

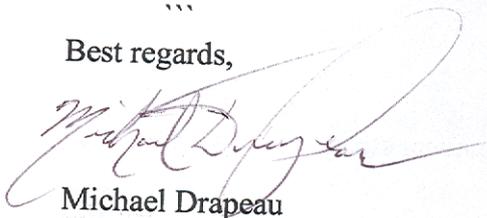
I wanted to send this letter as a thank you for the professionalism of your Traffic Safety Division last week. In particular, to Sgt. Robert Redmond and two traffic safety officers of whose names I do not know. I called to express concerns of speeding in my neighborhood--Beaver Estates Subdivision. Your staff responded quickly and did a superb job in handling the speeding problem that evening.

I have been working with John Abraham for a year on the "Neighborhood Traffic Harmonization Program". There is a serious problem of speeding on my street—Wolverine Drive and also on the perpendicular street—Avalon Drive. On Wednesday, June 21st, I left John a voicemail asking if your department could run traffic on Wolverine. John kindly contacted Sgt. Redmond and by Thursday my request was fulfilled.

Two professional officers teamed up in a single unmarked unit with two laser-guns checking speeds north and southbound on Wolverine as well as westbound on Avalon during the prime time of 4:30-5:30 PM. Their efforts were highly successful with many traffic stops and appropriately written citations. I wish these officers would be recognized for their efforts and for taking my request so seriously.

I am a former police officer from the State of Texas and tend to hold law enforcement to high standards. I remember community oriented policing and problem oriented policing (POP) projects were important initiatives in the 1990's. Your department met, if not exceeded my expectations and I'd like you to know that I truly appreciate it.

Best regards,



Michael Drapeau



cc: John Abraham
Sgt. Robert Redmond
Lt. Scott McWilliams

CC: John SZERAG,
CAPT. MURPHY
Lt. McWilliams
DEPT FILES
BB



POLICE DEPARTMENT
40333 Dodge Park Road
Sterling Heights, MI 48313
TEL 586.446.2800 • FAX 586.276.4068
WEBSITE www.sterling-heights.net

CITY COUNCIL
Mayor Richard J. Notte
Mayor Pro Tem Joseph V. Romano
Councilman Richard L. Bracci
Councilwoman Deanna Koski
Councilman Steve Rice
Councilwoman Maria G. Schmidt
Councilwoman Barbara A. Ziarko

Chief Barnett Jones

August 6, 2004

Chief Charles Craft
Troy Police Department
500 W. Big Beaver
Troy, MI 48043

Dear Chief Craft:

On behalf of the entire Sterling Heights Police Department, I am writing to express our sincere appreciation for the tireless assistance your agency provided in the aftermath of the tragic death of Officer Mark Sawyers. We have been genuinely grateful for the invaluable support and logistical assistance your department provided and honored by your personal compassion and heartfelt prayers.

We share in a brotherhood of law enforcement and this has been a powerful validation of that kinship. You understood the significance of our needs and the pain of our loss and responded without hesitation.

Though we cannot thank everyone personally, please extend our sentiments to your personnel for helping us lay a fallen officer to rest with dignity, honor, and respect. We also ask that you continue to offer your prayers for the family of Officer Mark Sawyers and for the members of our department, as we continue to recover from this tragedy.

United in public service, friendship, and prayer,


Barnett Jones
Chief of Police

CC: City Manager
Captains
Off. Blazewich
Sgt. Redmond
File
BB

RECEIVED
Chief of Police
8/10/2004 CTC

August 2004

August 2004						
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Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
					August 1
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	Election - State Primary 7:30pm Planning - Study (Council Boardroom)	8:30am BUILDING CODE BOARD OF APPEALS (Conference Room L) 7:00pm Persons w/Dis (Conference Room Lower Level)			8
9	10	11	12	13	14
7:30pm City Council-Regular (Council Chambers) 7:30pm Tentative Study Session (Council Boardroom)	7:00pm Act 78-Hearing (Lower Level Conference Room) 7:30pm Planning Commission - Reg (Council Chambers)	12:00pm Retirement System Board of Trustees (Conference Room C)	7:30pm Library Adv (Library Conference Room) 7:30pm Parks and Recreation Bd (Community Center)		15
16	17	18	19	20	21
	8:00am Historic District (Conference Room C) 7:30pm BZA (Chambers) 7:30pm BOARD OF ZONING APPEALS (Council Chambers)	7:30am Updated: DDA Meeting (Conference Room Lower Level)			22
23	24	25	26	27	28
7:30pm City Council-Regular (Council Chambers) 7:30pm Study Session (Council Boardroom)	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
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September 2004

September 2004						
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Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
		September 1			
		8:30am BUILDING CODE BOARD OF APPEALS (Conference Room LL) 7:00pm Persons w/Dis (Conference Room Lower Level)	10:00am Senior Advisory (Community Center)		
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	7:00pm Ethnic Issues Advisory Board (Conference Room C) 7:30pm Planning - Study (Council Boardroom)	12:00pm Retirement System Board of Trustees (Conference Room C)	7:30pm Library Adv (Library Conference Room) 7:30pm Parks and Recreation Bd (Community Center)		12
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7:30pm City Council-Regular (Council Chambers) 7:30pm Tentative Study Session (Council Boardroom)	7:30pm Planning Commission - Reg (Council Chambers)	7:30am DDA Meeting (Conference Room Lower Level)			19
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7:30pm City Council-Regular (Council Chambers) 7:30pm Study Session (Council Boardroom)	7:30pm BZA (Chambers) 7:30pm Historic District (Conference Room C) 7:30pm BOARD OF ZONING APPEALS (Council Chambers)	7:00pm Troy Youth (Conference Room Lower Level)			26
27	28	29	30		
7:30pm City Council-Regular (Council Chambers)	7:30pm Planning-Study (Council Boardroom) 7:30pm Historical Commission (Troy Museum)				

October 2004

October 2004							November 2004						
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31													

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
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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)	8:30am BUILDING CODE BOARD OF APPEALS (Conference Room LL) 7:00pm Persons w/Dis (Conference Room Lower Level)	10:00am Senior Advisory (Community Center)		8
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	7:30pm Planning Commission - Reg (Council Chambers)	12:00pm Retirement System Board of Trustees (Conference Room C)	7:30pm Library Adv (Library Conference Room) 7:30pm Parks and Recreation Bd (Community Center)		15
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7:30pm City Council-Regular (Council Chambers)	7:30pm Planning-Study (Council Boardroom) 7:30pm Historical Commission (Troy Museum)	7:00pm Troy Youth (Conference Room Lower Level)			29
					30
					31

August 9, 2004

TO: John Szerlag, City Manager

FROM: Steven J. Vandette, Acting Assistant City Manager/Services
William Huotari, Acting City Engineer

SUBJECT: Status of Section 23 (Raintree Village No. 1) Pavement Replacement Project
Contract 04-4

The proposed pavement replacement project in Raintree Village No. 1 has been delayed until the spring/summer of 2005. This delay is due to resident interest, expressed at the July 29, 2004 information meeting, in receiving additional information from the city on complete replacement of the existing road, including curbs and approaches (between sidewalk and curb), with concrete.

At the information meeting five (5) road reconstruction and repair methods that were considered by the city for the streets in Raintree Village No. 1 were discussed in detail along with costs and physical characteristics of each method over a 20-year service period. The city's recommended method and most cost effective method is to remove the inner twenty-four feet of existing concrete pavement, while leaving two (2) foot wide concrete curb and gutter sections on each side, and replacing the middle twenty-four feet of pavement with full-depth (7-inches) asphalt (bituminous) pavement. Other alternative methods discussed were replacing the middle section with concrete, full reconstruction with concrete, spot slab replacements and asphalt overlay. Historically, only the spot slab replacement method and asphalt overlay method have been done without any special assessment cost to property owners as these methods were the most cost effective repair methods. A copy of the presentation is attached for your reference.

If a majority of residents would like an enhancement to the project beyond the recommended method, the added cost for full concrete replacement or middle section replacement with concrete can be done if property owners fund the difference between the recommended method and either of the two concrete methods (spot concrete replacement and asphalt overlay methods are also higher in cost but not feasible for streets in Raintree No. 1). The City is preparing information relative to the two "enhanced" concrete methods along with special assessment costs and procedures that will be presented and discussed with residents at a future meeting. The time and date for this meeting has not yet been set. A notice will be sent to all residents in Raintree Village No. 1 once the special assessment project information has been prepared and a meeting scheduled. We anticipate this meeting would be held sometime this fall.

RECEIVED

AUG 17 2004

August 16, 2004

TO: John Szerlag, City Manager

FROM: Charles T. Craft, Chief of Police

Charles T. Craft

CITY OF TROY
CITY MANAGER'S OFFICE

SUBJECT: Update – Somerset Collection Ryder Cup Charity Event

CC: Division Captains, Chief Nelson, Mark Stimac

This memorandum is an update of my April 6, 2004, notification regarding the Ryder Cup charity event that will be held at the Somerset Collection on Thursday, September 16, 2004, between the hours of 6:00 pm and 11:00 pm. The event, entitled "Legends Fore Charity", is being hosted by Saks 5th Avenue and is the only authorized Ryder Cup charity event. Proceeds are going to Michigan Children's Charities.

Saks will be closed for the invitation only event and a large tent will be constructed in their North parking. Attendee parking is off-site and guests will be shuttled to the store. Organizers expect numerous local and national celebrities among the 3500 – 5000 attendees. It is possible that high level government and foreign officials may attend. Approximately 1500 people will be on site to staff the event. National and local television will broadcast the event live. There will be extensive food and beverage service as well as national level entertainment. The event organizers are securing the necessary permits and authorizations.

This event raises significant security issues for both the attendees as well as those driving through the area. Therefore, we are closing Big Beaver and Coolidge Roads between the hours of 5:30 pm and 11:00 pm. Traffic will be re-routed onto Golfview, Lakeview, and Cunnigham streets. Although there are sure to be delays, the traffic plan should allow Big Beaver and Coolidge traffic to drive through the area without passing directly by the event. We anticipate having signs announcing the temporary road closure in place one week prior to the event. Businesses in the area have been notified and will be re-notified prior to the event. In addition, we will issue a press release detailing the road closure and alternate routes. The organizers have provided for private security and we will have a police presence inside the event in addition to officers staffing the perimeter.

It should be noted that Thursday, September 16, is also the opening night of Troy Daze. Overtime will be necessary to appropriately staff both events.

*C: John A
Steve V*

J-7

August 17, 2004

TO: John Szerlag, City Manager

FROM: John M. Lamerato, Assistant City Manager/Finance & Administration
Cindy Stewart, Community Affairs Director

Re: 2005 City Calendar

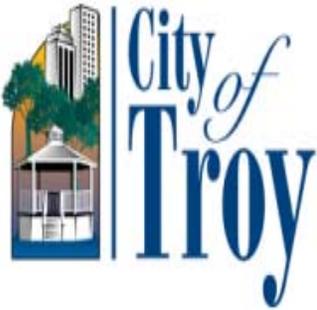
In an effort to reduce costs this year, we plan to print 20,000 City Calendars and incorporate the Popular Annual Financial Report (PAFR) into the City Calendar by adding an 8-page spread. It will also provide a better distribution of the PAFR.

Since the mailing of the City Calendar was removed during budget adoption, it will be difficult to estimate how many calendars we will distribute at City Hall, Community Center, Library and various other locations throughout the City.

The estimated cost to print 20,000 calendars plus 8 pages for the PAFR is \$27,045. Last year's PAFR cost was \$4,160. This will give us a net savings of approximately \$2,765 for printing plus \$6,020 for postage costs since we will not be mailing the calendar. Since we will be changing the quantity, it will result in our re-bidding the printing of the calendar.

After talking with a variety of local business owners and companies in Troy, we have determined that ad sales would not be feasible due to the limited means of distribution. Many people have expressed concern with advertising in a publication without a guaranteed distribution method.

Absent any objection, staff will proceed with the project as described.



TO: Mayor and Members of Troy City Council
FROM: John Szerlag, City Manager
John Lamerato, Assistant City Manager- Finance and Administration
Tonni Bartholomew, City Clerk
Lori Grigg Bluhm, City Attorney
DATE: August 25, 2004
SUBJECT: SIN Request for Ballot Question

On Tuesday, August 24, 2004 at approximately 4:00 pm, the City received a letter from the Stop Interchange Now Citizen's Coalition (SIN Coalition), alleging that the failure to convene a Special Meeting on Wednesday August 25, 2004 was a denial of due process. In response to the very unusual circumstance in having an early adjournment to the Monday, August 23, 2004 Regular City Council meeting, the following information is provided for your convenience.

On July 12, 2004, City Council failed a resolution requiring research and the drafting of ballot language for the Long Lake/ Crooks Road/ I-75 Interchange project (2004-07-368). Contained in the July 12, 2004 meeting packet were several items, including two memorandums from the City Attorney advising that only legislative issues should be submitted to the voters. In addition, the documents included in the August 23, 2004 City Council packet are also included for your convenience. These items are attached, and still reflect the recommendations and concerns of City Administration.

Prior to the August Primary Election, both the City Clerk and the City Attorney were contacted by a member of the SIN Coalition about petition circulation and other potential avenues for placing this issue before the voters. Although City Administration was able to respond to the questions concerning the election process and provided the statutory references, both the Clerk and the Attorney encouraged consultation with an attorney.

At the August 9, 2004 City Council meeting, a citizen presented copies of some petitions to City Council, which are held by the City Clerk. As of today's date, there have been no original petitions filed with the City Clerk, as required by State Statute (MCL 168.646a). However, on August 18, 2004, City Administration received a fax which stated:

On behalf of the SIN Coalition, I would like to request that the acceptance of the SIN Coalition's petitions (requesting that an advisory vote on the I-75 project be put on the November ballot) be placed on the city council meeting agenda of August 23, 2004 under *Reports and Communications* for discussion by city council members.

The statutory date for submittal of petitions for placement of local ballot questions on the November General Election was August 10, 2004, based on the state statute deadlines (MCL 168.646a(2)). It should be noted that as of the receipt of the fax, the statutory deadline had already passed.

However, with four affirmative votes (majority of the members elect, as required by City Charter, Section 5.6), City Council could have reconsidered the July 12, 2004 resolution (2004-07-368) and directed the attorney to draft proposed ballot language, affording time to meet the stringent requirements for ballot proposals, including but not limited to the 100 word limit and to assure neutrality of the proposed ballot language. This could have been done at the August 23, 2004 Regular City Council meeting. However, the ballot language would have to had been drafted AND approved by City Council on or before August 24, 2004 in order to meet the 70-day State Statutory filing deadline (MCL 168.646a(2)).

To date, the SIN Coalition has only referenced the submittal of petitions and not ballot language. The copies of the petitions in the Clerk's possession do not contain the required ballot language (MCL 168.646a), and do not otherwise meet the City Charter petition submittal requirements. (City Charter, Section 5.11)

At this time, all deadlines for the submittal of local ballot questions for the November General Election have passed.

July 18, 2004

Mary Ann Bernardi
Troy, MI

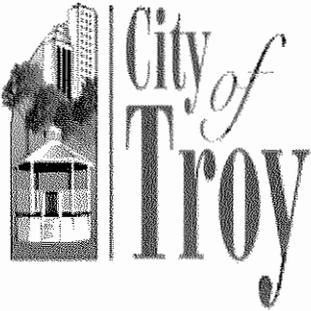
Dear Mr. Szerlag:

On behalf of the SIN Coalition, I would like to request that the acceptance of the SIN Coalition's petitions (requesting that an advisory vote on the I-75 project be put on the November ballot) be placed on the city council meeting agenda of August 23, 2004 under *Reports and Communications* for discussion by city council members.

Thank you in advance,

Mary Ann Bernardi

Mary Ann Bernardi



Memorandum

To: Honorable Mayor and City Council
From: John Szerlag, City Manager *JS*
John M. Lamerato, Assistant City Manager/Finance and Administration *JML*
Barbara A. Holmes, Deputy City Clerk *BH*
Susan M. Lancaster, Assistant City Attorney *smk*
Date: August 19, 2004
Subject: City Management Response to Citizen's Request for Ballot Advisory Question on Long Lake/Crooks Road/I-75 Interchange Project for the State General Election Scheduled for November 2, 2004

This memo addresses issues that must be considered regarding the citizen's request that City Council reconsider their Resolution #2004-07-368 that denies further research and drafting of proposed ballot language for the Long Lake/Crooks Road/I-75 interchange project that would allow voters to provide input on this project.

- The City Attorney has provided City Council with a legal opinion in memos dated November 26, 2002 and July 8, 2004 indicating that cities are limited to referendums or initiatives which do not include advisory questions of an administrative or executive nature. The City Charter does not provide for the placement of an advisory question on the ballot. This opinion was provided in relationship to the resolution concerning placing an advisory question on the ballot for the Long Lake/Crooks Road/I-75 interchange project at the July 12, 2004 Regular City Council meeting.
- The City Clerk has provided a memorandum addressing the submittal of ballot language for local proposals and the election schedule established by the State of Michigan in accordance with State Election Law.
- In order for City Council to consider the citizen's request, action must be taken to suspend Council Rules and Procedures. A simple majority may waive the Rules of Procedure.
- Pursuant to Section 5.6 (b) (7) of the City Charter, an affirmative vote of a majority of the members elect of the Council is required to reconsider or rescind any vote of the Council. At the Regular City Council meeting on Monday, July 12, 2004, City Council took action to deny further research and

drafting of proposed ballot language. City Council's motion to direct the City Attorney to research and draft ballot language for the I-75 Interchange Project failed in a vote of 4-3. Therefore, a motion to reconsider this action must be brought forward before this action can be considered.

- If the resolution to reconsider is successful, then ballot language must be approved by City Council at the August 23, 2004 meeting. On August 24, 2004, the City Clerk must schedule a meeting of the Election Commission which requires eighteen hours notice pursuant to Section 4 of the Open Meetings Act, (MCLA 15.261 et seq.). A quorum of the Election Commission is required to certify the proposed ballot language. The Election Commission meeting must take place no later than August 25, 2004 to meet the Oakland County filing deadline of August 26, 2004. The Election Commission has the authority to disapprove the ballot language at which point City Council must reconsider the ballot language.

If you have any further questions or concerns, please contact the City Attorney's Office.

H-1 Research Regarding Advisory Ballot Question – Council Member Lambert

Resolution #2004-07-368

Moved by Lambert

Seconded by Howrylak

RESOLVED, That Troy City Council **DIRECTS** the City Attorney to research and draft ballot language for the Long Lake/Crooks Road/I-75 Interchange project that will allow voters to provide input on this project.

Yes: Eisenbacher, Howrylak, Lambert

No: Broomfield, Stine, Schilling, Beltramini

MOTION FAILED



TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney *LG*
DATE: July 8, 2004
SUBJECT: Submitting ballot questions to the voters

In response to a recent inquiry from Councilmember Lambert, enclosed please find a memorandum that was previously submitted to City Council for the December 2, 2002 agenda. The memo addresses an inquiry about placing a question on the ballot.

Michigan law has long provided that only legislative actions are properly placed before the voters in an election. As early as 1919, in *Scovill v. City of Ypsilanti*,¹ the Michigan courts have prohibited a city council from "reliev(ing) itself of the duties imposed upon it by the fundamental law of the municipality." (p. 296) More recently, in *West v. Portage*,² the Court focused on the "historical meaning of the word referendum... because referendum, by definition, only has application to legislative action." The *West* Court reasoned that allowing initiative or referendums on administrative or executive matters could lead to a vote on "whether a particular secretary or clerk is to be hired or terminated, whether garbage is to be collected on Monday or Tuesday, and whether male municipal employees may wear shortsleeved shirts in summer time and female employees wear pantsuits at any time." The *West* Court went on to state "We recently had occasion to observe that 'for practical reasons, the people's power or right of referendum has usually been subjected to certain constitutional restrictions.' For reasons historical and practical and in implementation of the apparent intent of the Legislature, the rights of initiative and referendum under the home-rule act are limited to legislative measures."

In *Rollingwood Homeowners Corp. Inc. v. City of Flint*,³ the Court adopted the *West* holding, and held that "There is nothing inherently legislative about a decision to acquire real estate." Similarly, in *Beach v. City of Saline*,⁴ the Court precluded ballot questions on the City's decision to purchase land, holding that this was an administrative, as opposed to legislative, action. More recently in *Green Oak Township v. Munzel*,⁵ the Court held that there was no authority to challenge a consent judgment through the referendum process. In *Green Oak Township*, the Court also rejected the equitable right of referendum theory, even where there is an alleged circumvention of a zoning ordinance, which is a legislative action subject to a right of referendum.

Under Michigan law, the right of referendum does not extend to administrative or executive decisions. The power is limited to legislative actions, which are usually defined as ordinances or resolutions. If you have any questions or concerns, please let me know.

¹ 207 Mich. 288, 174 NW 139 (1919),

² 392 Mich. 458, 221 NW2d 303 (1974)

³ 386 Mich. 258, 268, 191 NW2d 325 (1971)

⁴ 101 Mich. App. 795, 300 NW2d 698 (1980)

⁵ 255 Mich. App. 235, 661 NW2d 243 (2003)



TO: Mayor and Members of Troy City Council
FROM: John Szerlag, City Manager *AS*
John Lamerato, Assistant City Manager- Finance/Administration *JL*
Tonni L. Bartholomew, City Clerk *TLB*
Lori Grigg Bluhm, City Attorney *LGB*
DATE: November 26, 2002
SUBJECT: Initiatory/Referendary Petitions

In the City of Troy, there are only two mechanisms for voters to place an item on the ballot without action by City Council. The first mechanism is explicitly provided for in our Charter, in Section 5.11. Under this provision, voters can submit a petition, signed by not less than 10% of the registered electors of the City (approximately 5,500 signatures required), which can either challenge an existing ordinance (referendary petition) or seek to enact a new ordinance (initatory petition). Last year, the Charter Revision Committee reviewed the issue of reducing the required amount of signatures in this provision, and recommended no action be taken at that time.

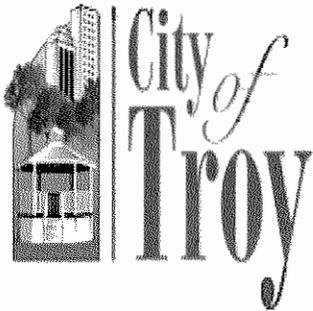
State law also allows for initiatory petitions to amend the City Charter. (MCL 117.21) Under this statute, voters can submit a petition for a Charter amendment, which must be signed by not less than 5% of the registered electors of the City (approximately 2,750 signatures).

City Council can also submit an ordinance change or a Charter amendment to the voters with a 3/5 vote of the members elect. If Council desires to submit an issue for the election, action should be taken as soon as possible to allow for the approval of the Attorney General's Office and the Governor's Office prior to the printing of the ballot. Last year, the City received many complaints about the late delivery of ballots, which was tied directly to time delays incurred in obtaining the required approvals of the ballot language. Therefore, it is our strong recommendation that any item for the April election be approved no later than the December 16, 2002 City Council meeting.

Although there have been some requests to submit advisory questions to the voters, the Michigan Attorney General has opined that governmental bodies should not be expending resources to place advisory questions on the ballots. (1983-1984 OAG, No. 6143; 1985-1986 OAG no. 6411).

If you have any questions concerning the above, please let us know.

G-11



Memorandum

To: John Szerlag, City Manager
From: John M. Lamerato, Assistant City Manager/Finance and Administration
Barbara A. Holmes, Deputy City Clerk *Bar*
Date: August 19, 2004
Subject: State of Michigan Election Schedule for the Submittal of Ballot Language for Local Proposals for the General Election Scheduled for Tuesday, November 2, 2004

gml *MLP*

Attached is the "Election Schedule for the November 2, 2004 State General Election" established by the State of Michigan in accordance with State Election Law. Outlined in the schedule are deadlines relevant to the submittal of petitions and ballot language for local questions and/or local proposals. At this time, the schedule clearly specifies that the dates for submittal have past. Conservatively speaking, the entire process for submitting ballot language is approximately 10-12 weeks. During that time frame, specific ballot language must be drafted meeting specific state guidelines. The language must be approved by the local jurisdiction's governing body and its Election Commission, and then forwarded to the County Clerk within two days of its approval.

Therefore, in order to meet ballot language deadlines and insure that the additional deadlines for the election process are met in a timely manner, it is recommended that ballot language for local questions and/or local proposals be prepared no later than the candidate filing deadline. The candidate filing deadline for the General Election scheduled for Tuesday, November 2, 2004 election was Thursday, July 15, 2004.

In addition, note that the absentee ballots are scheduled for delivery from Oakland County on September 18, 2004. Any delays in the printing of ballots may delay the delivery of absent voter ballots.

11/02/2004 - GENERAL - STATE GENERAL ELECTION

07/15/2004 4:00:00 PM	By 4 p.m., candidates without party affiliation file qualifying petitions for the election. (168.590c)
07/19/2004 4:00:00 PM	By 4 p.m. candidates without party affiliation withdrawal deadline. (168.590c)
08/03/2004	Minor parties hold county caucuses; notify county clerk of nominated candidates within 1 business day after the caucus. (168.686a)
08/03/2004	Minor parties hold state conventions; notify Secretary of State of nominated candidates within 1 business day of the convention. (168.686a)
08/10/2004	Last date petitions to place county and local questions on the election ballot can be filed with county and local clerks. (168.646a)
08/11/2004	Beginning of the period for major political parties to hold fall county conventions. (168.592)
08/24/2004	Ballot wording of county and local proposals to be presented at the election certified to county and local clerks; local clerks receiving ballot wording forward to county clerk within two days. (168.646a)
08/28/2004	End of the period for major political parties to hold fall county conventions. (168.592)
09/03/2004	Candidates without party affiliation certified to the election ballot. (168.590f)
09/03/2004	Major political parties hold fall state conventions. (168.591)
09/03/2004	Deadline for changing polling places. (168.662)
09/18/2004	County clerk delivers absent voter ballots to the local clerk deadline (168.714)
09/23/2004	Election inspector appointments for election begin. (168.674)
09/24/2004	First notice of close of registration for the election is published. (168.498)
10/04/2004	Last day to register for the election. (168.498)
10/12/2004	Election inspector appointment for election end. (168.674)
10/17/2004	Close of books for Pre-General Campaign Statement. (169.233)
10/22/2004	Pre-General Campaign Statements filed. (169.233)
10/23/2004	First notice of the election is published. (168.653a)
10/28/2004	A public accuracy test must be conducted at least 5 days before the election. (Rule 168.778) Notice must be given 48 hours (2 days) before the public accuracy test. (168.641)
10/29/2004 4:00:00 PM	By 4 p.m. write-in candidates file Declaration of Intent forms. (168.737a)
10/30/2004 2:00:00 PM	By 2 p.m. electors who wish to receive an absentee ballot for the election by mail submit absent voter applications. (168.759)
11/01/2004 4:00:00 PM	Up to 4 p.m. electors qualified to obtain an absentee ballot for the election may vote in person in the clerk's office. (168.761)
11/02/2004	Up to 4 p.m. emergency absentee voting for the election. (168.759b)
11/02/2004	November General Election date. (168.641)
11/03/2004 1:00:00 PM	1 p.m. the board of county canvassers meet to initiate the canvass of the election. (168.821)
11/16/2004	Board of county canvassers complete canvass of election; county clerks forward results to Secretary of State within 24 hours. (168.822, 168.828)
11/22/2004	Board of State canvassers meet to initiate the canvass of the election. (168.842)
11/22/2004	Close of books for Post-General Campaign Statements. (169.233)
12/02/2004	Post General Campaign Statements filed. (169.233)



TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney *LG*
DATE: July 8, 2004
SUBJECT: Submitting ballot questions to the voters

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TO: Mayor and Members of Troy City Council
FROM: John Szerlag, City Manager
John Lamerato, Assistant City Manager- Finance/Administration
Tonni L. Bartholomew, City Clerk
Lori Grigg Bluhm, City Attorney
DATE: November 26, 2002
SUBJECT: Initiatory/Referendary Petitions

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If you have any questions concerning the above, please let us know.

G-11

August 18, 2004

TO: John Szerlag, City Manager

FROM: Laura Fitzpatrick, Assistant to the City Manager *LF*

SUBJECT: SIN Petitions

Attached is one page from the SIN petitions. A batch of these petitions was presented to the City Clerk by Richard Hughes at the August 9, 2004 City Council meeting. This is the petition that Mary Ann Bernardi references in her letter. She explained to me that the remainder of the petitions will be given to the City Council at the August 23, 2004 meeting.

Advisory Petition

R (1)

We the undersigned registered and qualified voters of the City of Troy, County of Oakland, State of Michigan do hereby, by our signatures, petition our Mayor/Council allow us a vote on the approving the I-75 Long Lake Proposed Interchange, as soon as possible.

No.	SIGNATURE	PRINTED NAME	STREET ADDRESS OR RURAL ROUTE	POST OFFICE ZIP	DATE OF SIGNING		
					Month	Day	Year
1	<i>Richard Hughes</i>	RICHARD HUGHES	1381 Roger Ct	48083	6	7	04
2	<i>Audrea Ann Zimbranski</i>	Audrea Ann Zimbranski	2842 Shadywood	48098	6	7	04
3	<i>Steve Voiles</i>	STEVE VOILES	5330 ABINGTON	48085	6	7	04
4	<i>Emil G. Kaczmar</i>	EMIL G. KACZMAR	415 LANGE	48098	6	8	04
5	<i>Helen Kaczmar</i>	HELEN KACZMAR	415 LANGE	48098	6	8	04
6	<i>Frank J. Howrylak</i>	FRANK J. HOWRYLAK	3035 Newport Ct	48084	6	8	04
7	<i>Ira M. Shambarger</i>	IRA M. SHAMBERGER	1156 Bradley	48085	6	8	04
8	<i>Raymond H. Kuhn</i>	RAYMOND H. KUHN	5165 BIRMINGHAM PLACE DR	48098	6	9	04
9	<i>Patrick H. Caldwell</i>	PATRICK H. CALDWELL	6430 VERNWOOD	48098-1845	6	18	04
10	<i>Ivan R. Johnson</i>	IVAN R. JOHNSON	6100 WINDRUSH	48098	6	18	04
11	<i>Zoe R. Johnson</i>	Zoe R. JOHNSON	6100 Windrush	48098	6	18	04
12	<i>William D. Richards</i>	WILLIAM D. RICHARDS	3750 BEACH RD	48084	6	18	04
13	<i>Mary Ann Bernardi</i>	Mary Ann Bernardi	384 Lawson Ct	48084	6	18	04
14	<i>Joyce Anne Manke</i>	JOYCE ANNE MANKE	244 LESDALE	48085	6	24	04
15	<i>Mike Sowers</i>	MIKE SOWERS	2525 TOWNHILL RD	48084	6	24	04
16	<i>Alice Nalarian</i>	ALICE NALARIAN	3980 WHITFIELD	48098	6	21	04
17	<i>Deborah Ann DeBecker</i>	Deborah Ann DeBecker	1879 Knoll Ct	48098	6	30	04
18	<i>James Thomas</i>	JAMES THOMAS	5309 WRIGHT	48098	6	30	04
19	<i>Nancy Thomas</i>	NANCY THOMAS	2241 W. WATLES	48098	6	30	04
20	<i>Michael J. Baron</i>	MICHAEL J. BARON	5620 WRIGHT DR	48098	7	2	04

30
 Signature of Circulator, and address *Richard Hughes* Richard Hughes Date 7-2-04
 1381 Roger Ct Troy, Mi. 48083 689-2528 i-248

August 17, 2004

TO: The Honorable Mayor and City Council Members

FROM: John Szerlag, City Manager



SUBJECT: Meeting with Mr. Piscopo of 3129 Alpine
Regarding Size and Elevation of Attached
Accessory Garage

EXECUTIVE SUMMARY:

As indicated by Council resolution, I met with Mr. Paul Piscopo of 3129 Alpine for reason of developing options to reduce the footprint and/or change the exterior of the 6,000 square foot attached accessory garage, which is under construction. The preamble to my discussion with Mr. Piscopo was that he is within his rights to construct this garage as a permit was pulled in accordance with the Michigan Construction Code as well as our zoning ordinance. However, Troy essentially has a "loop hole" in its ordinance as the intent is to have attached accessory structures achieve compatibility with the surrounding neighborhood. Our objective thus became to list options that would serve the dual purpose of achieving neighborhood compatibility, and a functional attached garage for Mr. Piscopo.

Of salience to this entire issue is an attached memorandum from Assistant City Attorney Susan Lancaster which essentially says that the City of Troy is precluded from expending municipal funds pertaining to reducing the size of Mr. Piscopo's attached accessory structure. Given this, the possible options for solving this challenge, which surfaced during an earlier meeting with Mr. Piscopo, Doug Smith, Mark Stimac and myself, become academic. Still, you may find some value in knowing the possible options we identified. As such, following is a succinct discussion of these options.

Once we framed the challenge of neighborhood compatibility vis-à-vis functional attached accessory garage, the following options or outcomes surfaced:

- 1) Acquisition of Mr. Piscopo's 3129 Alpine Street residence.
- 2) Relocation of Mr. Piscopo's equipment off-site and redesign of attached garage to a more traditional balance with the main structure.

The Honorable Mayor and City Council Member
Meeting with Mr. Piscopo of 3129 Alpine
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August 18, 2004

- 3) Redesign of Mr. Piscopo's attached garage with on-site functionality. In other words, the garage would still be large, but would fit in better with the neighborhood.

Although quite preliminary, the estimated range of costs for the above options are somewhere between \$150,000 and \$500,000. Of course, acquisition would be at the high side of the range whereby a redesign of the attached garage with on-site functionality would be on the low side.

As always, please feel free to contact me should you have any questions.

JS/mr\AGENDA ITEMS\2004\Options for 3129 Alpine

c: Lori Grigg Bluhm, City Attorney
John M. Lamerato, Assistant City Manager/Finance & Administration
Susan Lancaster, Assistant City Attorney
Paul Piscopo, 3129 Alpine, Troy
Mark S. Stimac, Director of Building/Zoning
Douglas J. Smith, Real Estate & Development Director
Steven J. Vandette, Acting Assistant City Manager/Services



8/18/04

TO: John Szerlag, City Manager
FROM: Susan M. Lancaster, Assistant City Attorney *SML*
RE: 3129 Alpine

The Troy City Charter provides that the City can purchase "private property of every type and nature for public use". General Fund monies can be used for the purchase of property for public purposes. The Michigan Constitution requires that expenditures and appropriations of public money by municipalities be for public purposes. Const 1963, Art. 7, Section 26. The Home Rule Cities Act enumerates the types of public purpose contemplated, for example, city buildings, roadways, museums, libraries, parks, prisons, and public grounds. MCLA 117.4e.

Generally, a public purpose has for its objective the promotion of the public health, safety, morals, and general welfare for all. *Gregory Marina, Inc. v City of Detroit*, 378 Mich 364 (1977). The test of a public purpose should be whether the purchase confers a direct benefit of reasonably general character to a significant part of the public, as distinguished from a remote or theoretical benefit. McQuillan, *Municipal Corporations*, Section 39.19.

There are a wide variety of cases which make it obvious that a public municipal purpose cannot be precisely defined. In fact, there are differing opinions from various courts concerning the same or similar expenditures. Generally, a city cannot authorize municipal monies or lend its credit to any individual or corporation nor can a municipality aid a private entity under the guise of performing municipal service.

Regarding Mr. Piscopo's garage, it is my opinion that the purchase of the garage does not confer a direct benefit to the general public. The City will not use the garage so it is not a needed municipal building. Further, selling it later to a developer demonstrates that there is a private purpose in purchasing the property.

Since the City does not intend to use the garage, relocating the owner to a new garage and purchasing or leasing property for a new garage for his business needs is aiding a private individual in the conduct of his business which is not a public purpose. This reasoning also applies to hiring an architect to redesign Mr. Piscopo's garage to make it more compatible with the neighborhood. Those actions will result in benefit to Mr. Piscopo and his immediate neighbors not the general public. In addition, instituting a policy of buying private property because of the neighbors' dissatisfaction sets precedent for numerous situations where neighbors could petition City Council to buy property to eliminate a legal structure the neighbors find offensive.

Mary F Redden

From: Cynthia A Stewart
Sent: Wednesday, August 18, 2004 11:47 AM
To: Cristina Broomfield (E-mail); Cynthia A Stewart; Dave Lambert (E-mail 2); David Eisenbacher (E-mail); Jeanne Stine (E-mail); John Szerlag; Louise Schilling (E-mail); Martin Howrylak (E-mail); Robin Beltramini (E-mail)
Cc: Mark S Stimac; Steven J Vandette
Subject: FW: Piscopo "Garage"

-----Original Message-----

From: tom.loafman@gm.com [mailto:tom.loafman@gm.com]
Sent: Wednesday, August 18, 2004 11:23 AM
To: stewartca@ci.troy.mi.us
Subject: Piscopo "Garage"

As a resident of Troy I take pride since our city is normally held up as a positive community to live in.

However the latest issue regarding this monstrous garage is an embaressment to me and most others in Troy.

Please get our ordinances regarding garages in line with most respectable communities, and stop the building of this ridiculous garage. Unfortunately, out in the work place, Troy is now becoming the butt of jokes due to this issue.

Thomas Loafman
368 Lawson Ct.
Troy, MI 48084

Mary F Redden

From: Cynthia A Stewart
Sent: Wednesday, August 18, 2004 11:48 AM
To: Cristina Broomfield (E-mail); Cynthia A Stewart; Dave Lambert (E-mail 2); David Eisenbacher (E-mail); Jeanne Stine (E-mail); John Szerlag; Louise Schilling (E-mail); Martin Howrylak (E-mail); Robin Beltramini (E-mail)
Cc: Mark S Stimac; Steven J Vandette
Subject: FW: Piscopo Garage Embarassment

-----Original Message-----

From: tom.loafman@gm.com [mailto:tom.loafman@gm.com]
Sent: Wednesday, August 18, 2004 11:42 AM
To: oosochilling@ameritech.net; dave@mail.ci.troy.mi.us
CC: council@ci.troy.mi.us
Subject: Piscopo Garage Embarassment
To: Troy City Council

Please help correct the "Piscopo Garage" issue. The ordinance needs to be fixed (to be in line with other respected communities), and we need to stop the building of this monstrous garage. We know what the right answer to this is, but need the will to move forward with it.

I'm proud to live in Troy, but am embarassed over the press coverage Troy is getting on this issue.

Thomas Loafman
368 Lawson Ct.
Troy, MI 48084

P.S. I live at least several miles away from this Piscopo garage site, so am not directly affected.

Dear Mr. Lenivov:

We had earlier requested our Traffic Consultant Hubbell Roth and Clark to respond to some of the concerns you and other residents had regarding the traffic volumes used for their April 2004 traffic simulation for the above project. HRC worked with the Michigan Department of Transportation and performed simulation studies of the area with the revised traffic numbers that MDOT provided. Attached please find a response from HRC. The final report of this simulation will be included in the agenda packet for a September meeting of the City Council.

If you have any questions regarding this, please do not hesitate to contact me.

Sincerely,

John Abraham
(248) 524 3379

-----HRC Response -----
August 19, 2004

City of Troy
500 West Big Beaver Road
Troy, Michigan 48084
Attention: Dr. John Abraham, Deputy City Engineer/Traffic Engineer

Re: Traffic Model at I-75/Crooks/Long Lake Road HRC Job No. 20040293.02

Dear Dr. Abraham:

At your request, we prepared a revised traffic simulation of traffic conditions for the roadway network in the area bounded by Square Lake Road, Livernois Road, Long Lake Road, and Crooks Road. This area includes the I-75/Crooks/Long Lake Road interchange where improvements are proposed to provide safer and more efficient traffic movement. The new simulation incorporated revised travel demand estimates provided by the Michigan Department of Transportation (MDOT). Generally speaking, the revised traffic volume estimates for the year 2025 distributed more traffic to Long Lake Road and less traffic to Crooks Road than the previous forecast. The results of the new traffic simulation show that peak hour average speeds on the network are significantly improved with the interchange improvement in place. The improvement in average speed in the network is comparable to the average speed improvement documented with the traffic simulation completed in April 2004. The reduction in congestion is expected to reduce the potential for traffic crashes in the area.

The forecasts of future travel in the Metropolitan Detroit region come from a regional model developed and maintained by the Southeast Michigan Council of Governments (SEMCOG). MDOT uses travel forecasts developed by SEMCOG as the basis for their regional transportation plans in southeast Michigan. The SEMCOG travel forecasts take into account the demographic and economic characteristics of the whole region, therefore their forecasts are at the corridor level rather than the level of an individual arterial street. Finally, MDOT forecasts traffic volumes for individual arterial streets.

Based on comments made at the Troy City Council meeting, MDOT decided to re-examine all of the 2025 travel forecasts used in the study area. When MDOT completed its examination of the travel forecasts, it developed projected future traffic volumes for the Build and No-build scenarios. HRC received the revised projected traffic volumes in early August and HRC inputted the new volumes into the CORSIM traffic model to determine the level of service at key intersections in the study area and the measures of effectiveness.

The results and conclusions of the new CORSIM analysis are similar to those found in the earlier study. With the interchange improvements in place (Build Scenario), average speed on the roadway system increases and the vehicle hours of travel are reduced. Our August 2004 report shows the revised traffic assignments at specific intersections, and documents the improvements at each intersection in the study area. The simulation results indicate operations on Crooks Road and Long Lake Road are significantly improved with the interchange improvements in place. This improvement in operations is a result of additional access to I-75, the provision of collector/distributor roads along I-75, and the road improvements to the surface streets. Both the April and the August 2004 traffic simulations found that due to a significant traffic increase within the study area by 2025, the existing roadway network can not handle 2025 traffic, and the proposed interchange improvements will significantly improve the operating conditions of intersections in the study area.

The new interchange configuration allows traffic that was concentrated at the I-75/Corporate Drive/Crooks Road intersection to be distributed to alternate access points. This distribution of the traffic load reduces delay, traffic congestion, and air pollution in the area. By reducing the traffic congestion in the area, the potential for traffic crashes in the study area is also reduced. Therefore, we expect the interchange improvements to result in improvements to both the capacity and safety of the roadway network.

Very truly yours,

HUBBELL, ROTH & CLARK, INC.
Richard F. Beaubien, P.E., P.T.O.E.
Associate/Transportation Director