AGENDA

Regular Meeting of the

CITY COUNCIL
OF THE CITY OF TROY

SEPTEMBER 13, 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.

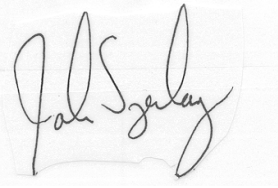
Identified below are goals for the City, which have been advanced by the governing body; and Agenda items submitted for your consideration is on course with these goals.

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,



John Szerlag, City Manager

CITY COUNCIL

AGENDA

September 13, 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: Pastor John R. Monson – St. Augustine Lutheran Church 1

ROLL CALL: 1

CERTIFICATES OF RECOGNITION: 1

A-1 No Certificates of Recognition presented. 1

CARRYOVER ITEMS: 1

B-1 No Agenda Items Carried Over 1

PUBLIC HEARINGS: 1

C-1 No Public Hearings Scheduled 1

POSTPONED ITEMS: 1

CONSENT AGENDA: 1

E-1a Approval of “E” Items NOT Removed for Discussion 1

E-1b Address of “E” Items Removed for Discussion by City Council and/or the Public 2

E-2 Minutes: Regular Meeting of August 23, 2004 and August 30, 2004 2

E-3	Proposed City of Troy Proclamations: No City of Troy Proclamations Proposed	2
E-4	Standard Purchasing Resolution 5: Approval to Expend Budgeted Funds – Troy Community Coalition	2
E-5	Request for Acceptance of a Permanent Easement for Public Utilities and a Warranty Deed for Street Right-of-Way – Cedar Pines Estates Site Condos – Project No. 03.926.3 – Sidwell #88-20-04-100-016 and Sidwell #88-20-04-100-048	2
E-6	Request to Waive Parking Restrictions – Congregation Shir Tikvah	3
E-7	Request for a Fireworks Permit for the 2004 Troy Daze Festival	3
E-8	Request for Acceptance of Warranty Deed for Detention Basin from Heatherwood Homes, Inc. – Sidwell #88-20-24-226-043 and -044	3
E-9	Request for Approval of Purchase Agreement for John Cionca, Sr., John Cionca, Jr., and George Daniel Cionca – 2931 Thames – Sidwell #88-20-25-229-003, Big Beaver, Rochester to Dequindre Road – Project #01.105.5	3
E-10	Request for Approval of Purchase Agreement – William Franklin Asbury – 2956 Sparta – Sidwell #88-20-25-203-001, Project No. 01.105.5 – Big Beaver Road Improvements, Rochester to Dequindre	4
E-11	Request for Approval of Purchase Agreement – Virginia H. Newman and Jeanette R. Lepinski – 2815 Thames – Sidwell #88-20-25-226-003, Big Beaver, Rochester to Dequindre Road – Project #01.105.5	4
E-12	Standard Purchasing Resolution 4: State of Michigan MiDEAL Program – Four Wheel Drive Pick-up Truck	4
E-13	Standard Purchasing Resolution 3: Exercise Renewal Option – Snow Removal Rental Equipment Including Operators	4
E-14	Private Agreement for Troy Commons Retail Center – Project No. 03.930.3	5
E-15	Request for Approval of Purchase Agreement, Tarek Nagia and Lina M. Magia – 2943 Thames, Sidwell #88-20-25-229-004 – Big Beaver, Rochester to Dequindre Road Project – No. 01.105.5	5
E-16	Municipal Credit and Community Credit Agreement	5

E-17 Standard Purchasing Resolution 3: Exercise Renewal Option – Snow Removal Service / Home Chore Program 6

E-18 Request to Authorize the Mayor and City Clerk to Sign an Easement to Detroit Edison on City Owned Parcel – Sidwell #88-20-03-401-050 – Vacant Storm Detention Area 6

E-19 Standard Resolution 9: Membership Renewal – Macomb County Criminal Justice Training Consortium and Approval to Use Training Services and the Macomb Police Academy 6

E-20 Request for Temporary Sales Trailer – Stonehaven Woods East Subdivision 7

E-21 Standard Resolution 4: MICTA Cooperative Purchasing Program 7

E-22 Request to Waive Parking Restrictions – 1921 Northwood 7

PUBLIC COMMENT: Limited to Items Not on the Agenda 8

REGULAR BUSINESS: 8

F-1 Appointments to Boards and Committees: (a) Mayoral Appointments: 1. Downtown Development Authority; 2. Economic Development Corporation, and (b) City Council Appointments: No appointments submitted. 8

F-2 Designation of Congress of Cities Voting and Alternate Voting Delegates 10

F-3 Final Plan Review – Cedar Pines Site Condominium, South of South Boulevard, East of Crooks Road – Section 4 – R-1B 10

F-4 Extension of Preliminary Plat – Tentative Approval – Beachview Estates – West Side of Beach, South of Long Lake – Section 18 11

F-5 Sole Source – X26 Advanced Taser – Less than Lethal Electrical Impulse Devices 11

F-6 2005 City Calendar 12

F-7 Request to Schedule Annual Goals and Objectives Workshop 12

F-8 Request to Schedule a Joint Meeting with the Downtown Development Authority (DDA) 12

F-9 Proposed Municipal Civil Infractions Ordinance – Chapter 100 13

F-10 Display Policy for Troy City Plaza 13

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS: 13

G-1 Announcement of Public Hearings: 13

(a) Proposed Zoning Ordinance Text Amendment (ZOTA 479-B) Northeast Corner of Rochester Road and Charrington Road – Section 23 – B-1 to H-S – Scheduled for September 27, 2004 13
(b) Proposed Zoning Ordinance Text Amendment (ZOTA 182)) for Section 12.50, R-1T – One Family Attached Residential Districts – Scheduled for September 27, 2004 13
(c) Parking Variance Request – 1800 W. Big Beaver – Scheduled for September 27, 2004 13
(d) Proposed Zoning Ordinance Text Amendment (ZOTA 200) for Article 34.70.00 – One Family Cluster Option – Scheduled for September 27, 2004 13
(e) Proposed Zoning Ordinance Text Amendment (ZOTA 199) for Section 03.40 – Site Plan Review / Approval – Scheduled for September 27, 2004 13
(f) Proposed Zoning Ordinance Text Amendment (ZOTA 203) Article II (Changes, Amendments and Approvals) – Scheduled for September 27, 2004. 13

G-2 Green Memorandums: 13

(a) State of Michigan Election Consolidation - Elimination of City of Troy, April General / Regular Election Date and the Establishment of New City General / Regular Election Date 13

COUNCIL REFERRALS: Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda 14

H-1 Reconsideration of Long Lake/Crooks Road/I-75 Interchange Project (Resolution #2004-07-368 14

H-2 3129 Alpine 14

COUNCIL COMMENTS: 15

I-1 No Council Comments were brought forward. 15

REPORTS: 15

J-1 Minutes – Boards and Committees: 15

(a) Youth Council/Final – May 26, 2004 15

(b) Historic Commission/Draft – July 27, 2004 15
(c) Planning Commission Special-Study/Draft – August 3, 2004 15
(d) Planning Commission Special-Study/Draft – August 3, 2004 15
(e) Building Code Board of Appeals/Final – August 4, 2004 15
(f) Planning Commission/Draft – August 10, 2004 15
(g) Planning Commission/Final – August 10, 2004 15
(h) Board of Zoning Appeals/Draft – August 17, 2004 15
(i) Youth Council/Draft – August 25, 2004 15

J-2 Department Reports: 15

(a) Permits Issued During the Month of August 2004 15
(b) Medi-Go Plus Report 15
(c) Preliminary Report from the Historic District Study Committee Concerning the Robert and Marilyn Miller Property 15

J-3 Letters of Appreciation: 16

(a) Letter from Lori Hebert - Program Coordinator-Academy of Counter-Terrorist Education for Louisiana State University to Sgt. Donald Ostrowski Thanking Him for Hosting the Law Enforcement Response to Weapons of Mass Destruction Courses Held in Pontiac, Michigan 16
(b) Letter from Richard R. Weiler - Director of the Police Officers Labor Council to Chief Craft Thanking Captain Dane Slater, Lt. Thomas Houghton and Sgt. Robert Redmond for Their Assistance in Filming a Promotion for their Law Enforcement Education Program Targeted for High School Students 16
(c) Letter from Jim Townsend - Executive Director, Tourism Economic Development Council (TEDC) to City Council Congratulating the City of Troy on the Enactment of an Ordinance Allowing Reciprocal Licensing of Taxicabs in the City of Troy 16
(d) Letter from Joseph S. Novitsky - AIA, Joseph S. Novitsky Architecture to John Szerlag Thanking Him and All the City Staff Responsible for Giving JSN the Opportunity to Perform as the City's Architect for Fire Station #3 16
(e) Letter from Jeffrey T. Newton, Sgt Miarng – Rear Detachment NCOIC – Michigan Army National Guard Recognizing Detective Mike Meinzinger for His Assistance in Facilitating the Donation and Transportation of Donated Equipment to Soldiers Stationed Overseas for Operation Iraqi Freedom II 16
(f) Letter from Lori Podsiadlik, Program Director for Troy Community Coalition to Sgt. R. Kowalski for His Help and Support of the Rochester Villas Summer Program 16

J-4 Proposed Proclamations/Resolutions from Other Organizations: 16

(a) City of Hamtramck – Objection to the SEMCOG 2030 Regional Transportation Plan 16
(b) Village of Beverly Hills – Opposition to the Elimination of 20J Funding for the Birmingham School District 16

J-5 Calendar 16

J-6 Letter from Dan G. Dirks-General Manager of SMART, Re: SMART Update 16

J-7 Letter from *Crain's Detroit Business*, Re: Recognizing Lori Bluhm as one of *Crain's Detroit Business's* 40 Under 40 Honorees for 2004 16

J-8 Letter from International Municipal Lawyers Association, Informing Lori Bluhm That She Has Met the Criteria to be Awarded the Designation of IMLA Local Government Fellow 16

J-9 Memorandum, Re: City of Troy v. White Chapel Memorial Association 16

J-10 Letter from Stop Interchange Now! Citizens' Coalition (SIN), Re: I-75/Long Lake Road Interchange Issue 16

J-11 Letter from Tom Krent, Re: Industrial Style Garage at 3129 Alpine 16

STUDY ITEMS: 17

K-1 International City/County Management Association (ICMA) Citizen Survey 17

PUBLIC COMMENT: Address of "K" Items 17

CLOSED SESSION: 17

L-1 Closed Session 17

RECESSED 17

RECONVENED 17

ADJOURNMENT 17

CALL TO ORDER:

INVOCATION & PLEDGE OF ALLEGIANCE: Pastor John R. Monson – St. Augustine Lutheran Church

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 No Certificates of Recognition presented.

CARRYOVER ITEMS:

B-1 No Agenda Items Carried Over

PUBLIC HEARINGS:

C-1 No Public Hearings Scheduled

POSTPONED ITEMS:

CONSENT 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.

E-1a Approval of "E" Items NOT Removed for Discussion

Suggested Resolution
Resolution #2004-09-
Moved by
Seconded by

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

Yes:
No:

E-1b Address of "E" Items Removed for Discussion by City Council and/or the Public

E-2 Minutes: Regular Meeting of August 23, 2004 and August 30, 2004

Suggested Resolution
Resolution #2004-09-

RESOLVED, That the Minutes of the 7:30 PM Regular Meeting of August 23, 2004 and the Minutes of the 7:30 PM Special Meeting of August 30, 2004 be **APPROVED** as submitted.

E-3 Proposed City of Troy Proclamations: No City of Troy Proclamations Proposed

E-4 Standard Purchasing Resolution 5: Approval to Expend Budgeted Funds – Troy Community Coalition

Suggested Resolution
Resolution #2004-09-

RESOLVED, That approval to expend funds budgeted in the 2004/2005 fiscal year to the Troy Community Coalition to provide community services to prevent drug and alcohol abuse in the amount of $100,000.00 is hereby **APPROVED** and the Mayor and City Clerk are **AUTHORIZED** on behalf of the City of Troy to sign the Agreement; a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-5 Request for Acceptance of a Permanent Easement for Public Utilities and a Warranty Deed for Street Right-of-Way – Cedar Pines Estates Site Condos – Project No. 03.926.3 – Sidwell #88-20-04-100-016 and Sidwell #88-20-04-100-048

Suggested Resolution
Resolution #2004-09-

RESOLVED, That the Permanent Easement for public utilities and the Warranty Deed for street right-of-way from Pratt Building Company, owner of property in the northwest ¼ of Section 4, having Sidwell #88-20-04-100-016 and Sidwell #88-20-04-100-048 are hereby **ACCEPTED;** and

BE IT FURTHER RESOLVED, That the City Clerk is hereby **DIRECTED TO RECORD** said documents with the Oakland County Register of Deeds Office; a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-6 Request to Waive Parking Restrictions – Congregation Shir Tikvah

Suggested Resolution
Resolution #2004-09-

RESOLVED, That the City Council of the City of Troy does hereby **WAIVE** the "NO PARKING" restrictions on the east side of Northfield Parkway from the entrance to Boulan Park to the entrance to Congregation Shir Tikvah, on Wednesday; September 15, 2004 from 7:00 pm - 11:00 pm; Thursday, September 16, 2004 from 9:00 am -5:00 pm; Friday, September 24, 2004 from 7:00 pm -11:00 pm; and Saturday, September 25, 2004 from 9:00 am -9:00 pm.

E-7 Request for a Fireworks Permit for the 2004 Troy Daze Festival

Suggested Resolution
Resolution #2004-09-

RESOLVED, That a fireworks permit be **ISSUED** to Melrose Pyrotechnics, Inc. of Kingsbury, Indiana for the display of fireworks at the conclusion of the 2004 Troy Daze Festival.

E-8 Request for Acceptance of Warranty Deed for Detention Basin from Heatherwood Homes, Inc. – Sidwell #88-20-24-226-043 and -044

Suggested Resolution
Resolution #2004-09-

RESOLVED, That the Warranty Deed from Heatherwood Homes, Inc. for a detention basin, being part of Sidwell #88-20-24-226-043 and -044, is hereby **APPROVED**; and

BE IT FURTHER RESOLVED, That the City Clerk is hereby **DIRECTED TO RECORD** said document with the Oakland County register of Deeds; a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-9 Request for Approval of Purchase Agreement for John Cionca, Sr., John Cionca, Jr., and George Daniel Cionca – 2931 Thames – Sidwell #88-20-25-229-003, Big Beaver, Rochester to Dequindre Road – Project #01.105.5

Suggested Resolution
Resolution #2004-09-

RESOLVED, That the Agreement to Purchase with conditions between John Cionca, Sr., John Cionca, Jr., and George Daniel Cionca, and the City of Troy, having Sidwell #88-20-25-229-003, for the acquisition of property at 2931 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.

E-10 Request for Approval of Purchase Agreement – William Franklin Asbury – 2956 Sparta – Sidwell #88-20-25-203-001, Project No. 01.105.5 – Big Beaver Road Improvements, Rochester to Dequindre

Suggested Resolution
Resolution #2004-09-

RESOLVED, That the Agreement to Purchase between William Franklin Asbury, and the City of Troy, having Sidwell #88-20-25-203-001, for the acquisition of property at 2956 Sparta 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 $175,000.00, plus closing costs.

E-11 Request for Approval of Purchase Agreement – Virginia H. Newman and Jeanette R. Lepinski – 2815 Thames – Sidwell #88-20-25-226-003, Big Beaver, Rochester to Dequindre Road – Project #01.105.5

Suggested Resolution
Resolution #2004-09-

RESOLVED, That the Agreement to Purchase between Virginia H. Newman and Jeanette R. Lepinski, and the City of Troy, having Sidwell #88-20-25-226-003, for the acquisition of property at 2815 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 $175,000.00, plus closing costs.

E-12 Standard Purchasing Resolution 4: State of Michigan MiDEAL Program – Four Wheel Drive Pick-up Truck

Suggested Resolution
Resolution #2004-09-

RESOLVED, That a contract to purchase one (1) Dodge, Model DR6L61, four-wheel drive pick-up truck from Bill Snethkamp Lansing Dodge, Inc. is hereby **APPROVED** through the State of Michigan MiDEAL Program (formerly the Extended Purchasing Program) at an estimated cost of $19,481.78.

E-13 Standard Purchasing Resolution 3: Exercise Renewal Option – Snow Removal Rental Equipment Including Operators

Suggested Resolution
Resolution #2004-09-

WHEREAS, On October 6, 2003, seasonal contracts with an option to renew for one additional season to provide snow removal rental equipment including operators was awarded to low

bidders, Sterling Topsoil & Grading, Inc. and Brooks Landscaping, Inc. (Resolution #2003-10-496-E-4).

WHEREAS, Both awarded bidders have agreed to exercise the option to renew under the same unit prices, terms and conditions.

NOW, THEREFORE, BE IT RESOLVED, That the options to renew the contract are hereby **EXERCISED** with Sterling Topsoil & Grading, Inc. and Brooks Landscaping, Inc. to provide seasonal snow removal rental equipment including operators under the same contract prices, terms and conditions expiring April 15, 2005; and

BE IT FURTHER RESOLVED, That City Staff is **AUTHORIZED** to extend the hourly contract prices to other contractors, after the successful bidders have been employed, to speed the snow removal process during times of snow emergencies.

E-14 Private Agreement for Troy Commons Retail Center – Project No. 03.930.3

Suggested Resolution
Resolution #2004-09-

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

E-15 Request for Approval of Purchase Agreement, Tarek Nagia and Lina M. Magia – 2943 Thames, Sidwell #88-20-25-229-004 – Big Beaver, Rochester to Dequindre Road Project – No. 01.105.5

Suggested Resolution
Resolution #2004-09-

RESOLVED, That the Agreement to Purchase with conditions between Tarek Nagia and Lina M. Nagia, and the City of Troy, having Sidwell #88-20-25-229-004, for the acquisition of property at 2943 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 $183,000.00, plus closing costs.

E-16 Municipal Credit and Community Credit Agreement

Suggested Resolution
Resolution #2004-09-

RESOLVED, That the request that the City transfer Municipal Credit funds in the amount of $76,084.00 and Community Credit funds in the amount of $94,827.00 to Troy Medi-Go Plus for the operation of transportation service for senior citizens and persons with disabilities is hereby **APPROVED**, and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the documents; copies of which shall be **ATTACHED** to the original Minutes of this meeting.

E-17 Standard Purchasing Resolution 3: Exercise Renewal Option – Snow Removal Service / Home Chore Program

Suggested Resolution
Resolution #2004-09-

WHEREAS, On November 3, 2003, a contract for seasonal requirements of snow removal services for the home chore program with an option to renew for one additional season was awarded to the low bidder, Advanced Services 1, Inc. as the primary contractor, for Proposal A and Proposal B (Resolution #2003-11-560-E-20).

WHEREAS, Advanced Services 1, Inc. has agreed to exercise the option to renew the contract under the same pricing, terms and conditions.

NOW, THEREFORE, BE IT RESOLVED, That the option to renew the contract is hereby **EXERCISED** with Advanced Services 1, Inc. to provide seasonal requirements of Snow Removal Services for the Home Chore Program at an estimated cost of $11,150.00, under the same prices, terms and conditions expiring April 1, 2005.

E-18 Request to Authorize the Mayor and City Clerk to Sign an Easement to Detroit Edison on City Owned Parcel – Sidwell #88-20-03-401-050 – Vacant Storm Detention Area

Suggested Resolution
Resolution #2004-09-

RESOLVED, That the Permanent Easement for overhead and underground utility facilities from the City of Troy to Detroit Edison Company, being part of property having Sidwell #88-20-03-401-050, is hereby **APPROVED,** and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the document; copies of which shall be **ATTACHED** to the original minutes of this meeting.

E-19 Standard Resolution 9: Membership Renewal – Macomb County Criminal Justice Training Consortium and Approval to Use Training Services and the Macomb Police Academy

Suggested Resolution
Resolution #2004-09-

WHEREAS, Macomb Community College has provided the City of Troy Police Department with training at their Criminal Justice Training Facility.

WHEREAS, It is desirable to continue all standardized reduced cost training services that result from this membership for the Macomb Police Academy, and in-service and specialized training programs such as re-certification of police officers in Emergency Vehicle Operations and utilize the state of the art Computerized Simulated Shooting Scenario System and Crime Lab.

NOW, THEREFORE, BE IT RESOLVED, That a one-year membership renewal is hereby **APPROVED** with the Macomb Community College to become a member of the Macomb County Criminal Justice Training Consortium at an annual fee of $21,400.00 and approval is hereby **GRANTED** to use the Macomb Police Academy and all other training services provided through consortium membership on a reduced cost or no cost basis.

E-20 Request for Temporary Sales Trailer – Stonehaven Woods East Subdivision

Suggested Resolution
Resolution #2004-09-

RESOLVED, That the request from Joseph Maniaci representing Mondrian Properties for the placement of a temporary office trailer on one of the lots of the Stonehaven Woods East Subdivision, is hereby **APPROVED** for a twelve-month period in accordance with Chapter 47, House Trailers and Trailer Courts, Section 6.41(3), of the Code of the City of Troy.

E-21 Standard Resolution 4: MICTA Cooperative Purchasing Program

Suggested Resolution
Resolution #2004-09-

RESOLVED, That the City Council of the City of Troy **AUTHORIZES** participation in MICTA contracts and **AUTHORIZES** the City Manager of the City of Troy to **ADMINISTRATIVELY AUTHORIZE** the use of this program above the $10,000.00 limit when deemed to be in the City of Troy's best interest, except for those "Capital" (401 account) purchases which shall be presented for Troy City Council review and pending approval.

E-22 Request to Waive Parking Restrictions – 1921 Northwood

Suggested Resolution
Resolution #2004-09-
Moved by
Seconded by

RESOLVED, That the City Council of the City of Troy does hereby **WAIVE** the "NO PARKING" restrictions on Northwood Street directly in front of 1921 Northwood on September 14 and September 16, 2004.

Yes:
No:

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.

REGULAR BUSINESS:

Persons interested in addressing the City Council on items, which appear on the printed Agenda, will be allowed to do so at the time the item is discussed upon recognition by the Chair during the Public Comment 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.

F-1 **Appointments to Boards and Committees: (a) <u>Mayoral Appointments</u>: 1.** Downtown Development Authority; **2.** Economic Development Corporation, and **(b) <u>City Council Appointments</u>:** No appointments submitted.

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) <u>Mayoral Appointments</u>

<u>Suggested Resolution</u>
Resolution #2004-09-
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

Term expires 07-01-2005 (Student)

CURRENT MEMBERS

NAME	TERM EXPIRES
Culpepper, Michael W	09/30/04
Frankel, Stuart	09/30/07
Hay, David	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
Schroeder, Douglas J	09/30/06
Weiss, Harvey	09/30/05
Schilling, Louise E	09/30/04
Wong, Fred **(Student)**	07/01/04

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:

F-2 Designation of Congress of Cities Voting and Alternate Voting Delegates

Suggested Resolution
Resolution #2004-09-
Moved by
Seconded by

RESOLVED, That _____ is hereby **DESIGNATED** as Voting Delegate and _____ is hereby **DESIGNATED** as the Alternate Voting Delegate to cast the vote of the City of Troy at the Annual Meeting of the National League of Cities to be held on December 4, 2004 at Indianapolis, Indiana.

Yes:
No:

F-3 Final Plan Review – Cedar Pines Site Condominium, South of South Boulevard, East of Crooks Road – Section 4 – R-1B

Suggested Resolution
Resolution #2004-09-
Moved by
Seconded by

RESOLVED, That the Final Plan as submitted by the petitioner, 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 Cedar Pines Site Condominium, located on the east of Crooks Road, south of South Boulevard, including 17 home sites, within the R-1B Zoning District, being 10.99 acres in size, is hereby **APPROVED**, as recommended by City Management.

Yes:
No:

F-4 Extension of Preliminary Plat – Tentative Approval – Beachview Estates – West Side of Beach, South of Long Lake – Section 18

Suggested Resolution
Resolution #2004-09-
Moved by
Seconded by

RESOLVED, That a one-year extension of the Tentative Approval be **GRANTED** to the Preliminary Plat of Beachview Estate Subdivision, on the west side of Beach, south of Long Lake in Section 18, **CONDITIONAL** on the petitioner completing a wetlands report or providing a letter of "no permit required" from the MDEQ, prior to receiving Final Preliminary Approval.

Yes:
No:

F-5 Sole Source – X26 Advanced Taser – Less than Lethal Electrical Impulse Devices

Suggested Resolution
Resolution #2004-09-
Moved by
Seconded by

WHEREAS, Michigan Taser Distributing is the sole source provider in Michigan of the X26 Advanced Taser and Accessories.

WHEREAS, This electrical impulse tool has now become legal for Michigan law enforcement to use to reduce injury and potential liability for the City.

NOW, THEREFORE, BE IT RESOLVED, That a contract is hereby **AWARDED** to Michigan Taser Distributing, the sole source provider for the X26 Advanced Tasers and accessories at an estimated total cost of $23,950.00 which includes freight.

Yes:
No:

F-6 2005 City Calendar

Suggested Resolution
Resolution #2004-09-
Moved by
Seconded by

RESOLVED, That the City of Troy print a quantity of 40,000 2005 City Calendars including postage and an 8-page spread for the Popular Annual Financial Report (PAFR) and an 8-page spread for advertising at an estimated net cost of $23,695.000

Yes:
No:

F-7 Request to Schedule Annual Goals and Objectives Workshop

Suggested Resolution
Resolution #2004-09-
Moved by
Seconded by

RESOLVED, That City Council **SCHEDULE** their annual Goals and Objectives Workshop with Dr. Lew Bender of the Southern Illinois University on December 10, 2004 from 6:00 PM to 10:00 PM, and on December 11, 2004, from 8:00 AM to 1:00 PM at the Police/Fire Training Center located at 4850 John R – Troy, Michigan.

Yes:
No:

F-8 Request to Schedule a Joint Meeting with the Downtown Development Authority (DDA)

Suggested Resolution
Resolution #2004-09-
Moved by
Seconded by

RESOLVED, That a joint meeting with the Downtown Development Authority (DDA) is **SCHEDULED** for Wednesday, September 22, 2004 at 7:30 AM at the offices of Doeren Mayhew on the 22nd floor of the Top of Troy building located at 755 W. Big Beaver – Troy, Michigan.

Yes:
No:

F-9 Proposed Municipal Civil Infractions Ordinance – Chapter 100

Suggested Resolution
Resolution #2004-09-
Moved by
Seconded by

RESOLVED, That an ordinance to be known and cited as Chapter 100, Municipal Civil Infractions, of the Code of the City of Troy is hereby **ADOPTED** as recommended by the City Attorney; a copy of this ordinance shall be **ATTACHED** to the original Minutes of this meeting.

Yes:
No:

F-10 Display Policy for Troy City Plaza

Suggested Resolution
Resolution #2004-09-
Moved by
Seconded by

RESOLVED, That the attached Display Policy for Troy City Plaza is **ADOPTED** as recommended by the City's Administration.

Yes:
No:

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

G-1 Announcement of Public Hearings:

(a) Proposed Zoning Ordinance Text Amendment (ZOTA 479-B) Northeast Corner of Rochester Road and Charrington Road – Section 23 – B-1 to H-S – Scheduled for September 27, 2004
(b) Proposed Zoning Ordinance Text Amendment (ZOTA 182)) for Section 12.50, R-1T – One Family Attached Residential Districts – Scheduled for September 27, 2004
(c) Parking Variance Request – 1800 W. Big Beaver – Scheduled for September 27, 2004
(d) Proposed Zoning Ordinance Text Amendment (ZOTA 200) for Article 34.70.00 – One Family Cluster Option – Scheduled for September 27, 2004
(e) Proposed Zoning Ordinance Text Amendment (ZOTA 199) for Section 03.40 – Site Plan Review / Approval – Scheduled for September 27, 2004
(f) Proposed Zoning Ordinance Text Amendment (ZOTA 203) Article II (Changes, Amendments and Approvals) – Scheduled for September 27, 2004

G-2 Green Memorandums:

(a) State of Michigan Election Consolidation - Elimination of City of Troy, April General / Regular Election Date and the Establishment of New City General / Regular Election Date

COUNCIL REFERRALS: Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda

H-1 Reconsideration of Long Lake/Crooks Road/I-75 Interchange Project (Resolution #2004-07-368

City Management received a request from Council Members Howrylak and Lambert to reconsider Council Resolution #2004-07-368.

Suggested Resolution
Resolution #2004-09-
Moved by
Seconded by

RESOLVED, That Resolution #2004-07-368, Moved by Lambert and Seconded by Howrylak , as it appears below be **RECONSIDERED** by City Council:

> *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***

Yes:
No:

Previous memoranda pertaining to this matter is enclosed.

On a related matter, J-10 is a letter dated September 8, 2004 from the Stop Interchange Now (SIN) Coalition requesting an advisory vote on the proposed I-75/Crooks/Long Lake Interchange project.

H-2 3129 Alpine

Council Member Stine has offered the resolution below for consideration:

Suggested Resolution
Resolution #2004-09-
Moved by
Seconded by

WHEREAS, The building permit issued for an “Addition to House and Large Attached Garage” at 3129 Alpine was issued in violation of existing City of Troy Zoning Ordinances.

WHEREAS, The person applying for the permit provided false information to obtain this building permit.

NOW, THEREFORE, BE IT RESOLVED, That City Management continue negotiating with the residents at 3129 Alpine to reduce the footprint and change the exterior of the 6,000 square foot attached accessory garage which is under construction so that the dual purpose of achieving neighborhood compatibility and a functioning attached garage for the residents can be accomplished.

Yes:
No:

Also included are previous memoranda related to this issue.

In a related matter, Item J-11 is a memo from Mr. Tom Krent requesting that the City Manager continue to negotiate with Mr. Piscopo of 3129 Alpine.

COUNCIL COMMENTS:

I-1 No Council Comments were brought forward.

REPORTS:

J-1 Minutes – Boards and Committees:

(a) Youth Council/Final – May 26, 2004
(b) Historic Commission/Draft – July 27, 2004
(c) Planning Commission Special-Study/Draft – August 3, 2004
(d) Planning Commission Special-Study/Draft – August 3, 2004
(e) Building Code Board of Appeals/Final – August 4, 2004
(f) Planning Commission/Draft – August 10, 2004
(g) Planning Commission/Final – August 10, 2004
(h) Board of Zoning Appeals/Draft – August 17, 2004
(i) Youth Council/Draft – August 25, 2004

J-2 Department Reports:

(a) Permits Issued During the Month of August 2004
(b) Medi-Go Plus Report
(c) Preliminary Report from the Historic District Study Committee Concerning the Robert and Marilyn Miller Property

J-3 Letters of Appreciation:

(a) Letter from Lori Hebert - Program Coordinator-Academy of Counter-Terrorist Education for Louisiana State University to Sgt. Donald Ostrowski Thanking Him for Hosting the Law Enforcement Response to Weapons of Mass Destruction Courses Held in Pontiac, Michigan

(b) Letter from Richard R. Weiler - Director of the Police Officers Labor Council to Chief Craft Thanking Captain Dane Slater, Lt. Thomas Houghton and Sgt. Robert Redmond for Their Assistance in Filming a Promotion for their Law Enforcement Education Program Targeted for High School Students

(c) Letter from Jim Townsend - Executive Director, Tourism Economic Development Council (TEDC) to City Council Congratulating the City of Troy on the Enactment of an Ordinance Allowing Reciprocal Licensing of Taxicabs in the City of Troy

(d) Letter from Joseph S. Novitsky - AIA, Joseph S. Novitsky Architecture to John Szerlag Thanking Him and All the City Staff Responsible for Giving JSN the Opportunity to Perform as the City's Architect for Fire Station #3

(e) Letter from Jeffrey T. Newton, Sgt Miarng – Rear Detachment NCOIC – Michigan Army National Guard Recognizing Detective Mike Meinzinger for His Assistance in Facilitating the Donation and Transportation of Donated Equipment to Soldiers Stationed Overseas for Operation Iraqi Freedom II

(f) Letter from Lori Podsiadlik, Program Director for Troy Community Coalition to Sgt. R. Kowalski for His Help and Support of the Rochester Villas Summer Program

J-4 Proposed Proclamations/Resolutions from Other Organizations:

(a) City of Hamtramck – Objection to the SEMCOG 2030 Regional Transportation Plan

(b) Village of Beverly Hills – Opposition to the Elimination of 20J Funding for the Birmingham School District

J-5 Calendar

J-6 Letter from Dan G. Dirks-General Manager of SMART, Re: SMART Update

J-7 Letter from *Crain's Detroit Business*, Re: Recognizing Lori Bluhm as one of *Crain's Detroit Business's* 40 Under 40 Honorees for 2004

J-8 Letter from International Municipal Lawyers Association, Informing Lori Bluhm That She Has Met the Criteria to be Awarded the Designation of IMLA Local Government Fellow

J-9 Memorandum, Re: City of Troy v. White Chapel Memorial Association

J-10 Letter from Stop Interchange Now! Citizens' Coalition (SIN), Re: I-75/Long Lake Road Interchange Issue

J-11 Letter from Tom Krent, Re: Industrial Style Garage at 3129 Alpine

STUDY ITEMS:

K-1 International City/County Management Association (ICMA) Citizen Survey

PUBLIC COMMENT: Address of "K" Items

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.

CLOSED SESSION:

L-1 Closed Session

Suggested Resolution
Resolution #2004-09-
Moved by
Seconded by

BE IT RESOLVED, That the City of Troy City Council **SHALL MEET** in Closed Session, as permitted by MCL 15.268 (e), Troy v. Premium Construction (John Pavone and Mukesh Mangela).

Yes:
No:

RECESSED

RECONVENED

ADJOURNMENT

Respectfully submitted,

John Szerlag, City Manager

A Regular Meeting of the Troy City Council was held Monday, August 23, 2004, at City Hall, 500 W. Big Beaver Road. Mayor Schilling called the Meeting to order at 7:51 P.M.

The Invocation was given by Rev. Paul Lehmann – Glen Oaks Alliance Church and the Pledge of Allegiance to the Flag was given.

ROLL CALL

PRESENT: Mayor Louise E. Schilling
Robin E. Beltramini (Absent/Excused)
Cristina Broomfield (Absent/Excused)
David Eisenbacher
Martin F. Howrylak (Absent/Excused
David A. Lambert
Jeanne M. Stine

Resolution to Excuse Council Members Beltramini, Broomfield and Howrylak

Resolution #2004-08-425
Moved by Stine
Seconded by Lambert

RESOLVED, That Council Members Beltramini, Broomfield, and Howrylak's absence at the Regular City Council meeting of Monday, August 23, 2004 **BE EXCUSED** due to being out of the county.

Yes: All-4
No: None
Absent: Beltramini, Broomfield, Howrylak

CERTIFICATES OF RECOGNITION:

A-1 **Presentations: 1)** Introduction of Brad Henson, Candidate for Parks and Recreation Board Student Representative and Anbereen Wiqar, Candidate for Advisory Committee for Persons with Disabilities Student Representative and **2)** Presentation given by the Troy Community Coalition regarding the implementation of a Troy Community Art Project showcasing the display of fiberglass beavers throughout the City of Troy and decorated by artists from Michigan. The decorated beavers will later be auctioned with proceeds benefiting The Community House outreach programs.

CARRYOVER ITEMS:

B-1 No Carryover Items

PUBLIC HEARINGS:

C-1 Commercial Vehicle Appeal – 6471 Denton

Resolution
Moved by Eisenbacher
Seconded by Lambert

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

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

B. Efforts by the applicant have determined that there are no reasonable or feasible alternative locations for the parking of the subject commercial vehicle.

C. A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.

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

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

_____

_____

_____

_____

_____.

NOW, THEREFORE, BE IT RESOLVED, That the request from Steven Hundich, 6471 Denton, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a two commercial pick-ups and a commercial trailer in a residential district is hereby **APPROVED** for _____ (not to exceed two years).

Vote on Amendment

Resolution #2004-08-426
Moved by Eisenbacher
Seconded by Lambert

RESOLVED, That the Resolution be **AMENDED** by **STRIKING** “two commercial pick-ups” and **INSERTING**, “second commercial pickup” in the last paragraph.

Yes: All-4
No: None
Absent: Beltramini, Broomfield, Howrylak

Vote on Amended Resolution

Resolution #2004-08-427
Moved by Eisenbacher
Seconded by Lambert

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

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

B. Efforts by the applicant have determined that there are no reasonable or feasible alternative locations for the parking of the subject commercial vehicle.

C. A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.

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

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

C. A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.

NOW, THEREFORE, BE IT RESOLVED, That the request from Steven Hundich, 6471 Denton, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a second commercial pick-up and a commercial trailer in a residential district is hereby **APPROVED** for four (4) months **or** 30-days after 200 parking spaces become available in the City of Troy due to the adoption of the proposed Zoning Ordinance Text amendment, Article XXVIII M-1 Light Industrial District text, Article XL General Provisions text and Article IV Definitions text, by the Planning Commission, whichever occurs first.

Yes: All-4
No: None
Absent: Beltramini, Broomfield, Howrylak

C-2 COBASYS/Texaco Ovonic

(b) Resolution to Authorize the City Assessor to File a Petition with the Michigan Tax Tribunal to Recapture Abated Taxes for the 2003 and 2004 Tax Years After Certification of the December 2004 Millage Rates Under Terms of the Letter of Agreement Between the City of Troy and Texaco Ovonic Battery Systems, L.L.C., Now Known as COBASYS, 1334 Maplelawn - Troy, Michigan

Resolution
Moved by Stine
Seconded by Lambert

RESOLVED, That the City Council of the City of Troy hereby **AUTHORIZES** the City Assessor to file a Petition with the Michigan Tax Tribunal to recapture abated taxes for the 2003 and 2004 Tax Years, after Certification of the December 2004 Millage Rates, under terms of the Letter of Agreement between the City of Troy and Texaco Ovonic Battery Systems, L.L.C., now known as COBASYS, 1334 Maplelawn - Troy, Michigan; and

BE IT ALSO RESOLVED, That a copy of this resolution be **FORWARDED** to the State Tax Commission by certified mail.

Vote on Amendment

Resolution #2004-08-428
Moved by Lambert
Seconded by Stine

RESOLVED, That the Resolution be **AMENDED** by **INSERTING**, “BE IT RESOLVED, That the recapture of the abated taxes will take place after the property is leased or not to exceed 2012, whichever occurs first; and”

Yes: All-4
No: None
Absent: Beltramini, Broomfield, Howrylak

Vote on Amended Resolution

Resolution #2004-08-429b
Moved by Stine
Seconded by Lambert

RESOLVED, That the City Council of the City of Troy hereby **AUTHORIZES** the City Assessor to file a Petition with the Michigan Tax Tribunal to recapture abated taxes for the 2003 and 2004 Tax Years, after Certification of the December 2004 Millage Rates, under terms of the Letter of

Agreement between the City of Troy and Texaco Ovonic Battery Systems, L.L.C., now known as COBASYS, 1334 Maplelawn - Troy, Michigan; and

BE IT RESOLVED, That the recapture of the abated taxes will take place after the property is leased or not to exceed 2012, whichever occurs first; and

BE IT ALSO RESOLVED, That a copy of this resolution be **FORWARDED** to the State Tax Commission by certified mail.

Yes: All-4
No: None
Absent: Beltramini, Broomfield, Howrylak

(d) Resolution to Vacate the Industrial Development District and Rescind the Industrial Facilities Exemption Certificate at 1334 Maplelawn – Troy, Michigan issued to Texaco Ovonic Battery Systems, L.L.C., now known as COBASYS – Certificate #2002-025--01

Resolution #2004-08-429d
Moved by Stine
Seconded by Lambert

WHEREAS, The City Council of the City of Troy created an Industrial Development District at 1334 Maplelawn – Troy, Michigan on February 4, 2002 – Resolution #2002-02-049.

WHEREAS, The City Council of the City of Troy granted an Industrial Facilities Exemption Certificate to Texaco Ovonic Battery Systems, L.L.C., now known as COBASYS at 1334 Maplelawn – Troy, Michigan on February 4, 2002 – Resolution #2002-02-050, said Certificate being #2002-025-01 by the State Tax Commission.

WHEREAS, Texaco Ovonic Battery Systems, L.L.C., now known as COBASYS, is abandoning the District and vacating the building at 1334 Maplelawn – Troy, Michigan and moving its operations to Orion Township for the 2005 Tax Year.

THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy hereby **VACATES** the Industrial Development District located at 1334 Maplelawn – Troy, Michigan effective December 31, 2004; and

BE IT FURTHER RESOLVED, That the City Council of the City of Troy hereby **RESCINDS** the Industrial Facilities Exemption Certificate for Texaco Ovonic Battery Systems, L.L.C., now known as COBASYS, 1334 Maplelawn – Troy, Michigan, said Certificate being #2002-025-01 effective December 31, 2004; and

BE IT FINALLY RESOLVED, That a copy of this resolution be **FOWARDED** to the State Tax Commission - Treasury Building, P.O. Box 30471 – Lansing, Michigan 48909-7971 by certified mail.

Yes: All-4
No: None
Absent: Beltramini, Broomfield, Howrylak

C-3 Zoning Ordinance Text Amendment (ZOTA #202) – Article 28.30.02 – Outside Storage of Commercial and Recreational Vehicles in Self Storage Facilities

Resolution #2004-08-430
Moved by Eisenbacher
Seconded by Stine

RESOLVED, That Article XXVIII M-1 Light Industrial District text, Article XL General Provisions text and Article IV Definitions text, be **ADOPTED** as recommended by the Planning Commission and City Management; and

BE IT FINALLY RESOLVED, That the ordinance text be **AMENDED** to read as written in the Proposed Zoning Ordinance Text Amendment (ZOTA #202) dated February 16, 2004.

Yes: All-4
No: None
Absent: Beltramini, Broomfield, Howrylak

POSTPONED ITEMS:

D-1 Approval of City at Large to Pay for Sidewalk Replacement Where Property Owners Meet Low to Moderate Income Guidelines

Pending Resolution

Resolution
Moved by Beltramini
Seconded by Eisenbacher

WHEREAS, Per Chapter 34 of the Troy City Code, homeowners are required to pay for sidewalk improvements.

NOW, THEREFORE, BE IT RESOLVED, That homeowners meeting the income guidelines established annually for the Community Development Block Grant Program shall be eligible for 100% coverage of the cost of their sidewalk repairs; funds for this **REIMBURSEMENT SHALL COME** from the General Fund.

Vote on Amendment by Substitution

Resolution #2004-08-431
Moved by Lambert
Seconded by Eisenbacher

RESOLVED, That the pending resolution be **AMENDED** by **STRIKING** it in its entirety and **SUBSTITUTED** with, "RESOLVED, That Troy City Council hereby **APPROVES** the proposed ordinance amendment to Chapter 34, Sidewalks and Drive Approaches, which will delineate eligibility for City payment of repair and replacement costs based on the Community Development Block Grant Program income limits established by the U.S. Department of Housing and Urban Development."

Yes: All-4
No: None
Absent: Beltramini, Broomfield, Howrylak

Vote on Substituted Resolution

Resolution #2004-08-432
Moved by Beltramini
Seconded by Eisenbacher

RESOLVED, That Troy City Council hereby **APPROVES** the proposed ordinance amendment to Chapter 34, Sidewalks and Drive Approaches, which will delineate eligibility for City payment of repair and replacement costs based on the Community Development Block Grant Program income limits established by the U.S. Department of Housing and Urban Development.

Yes: All-4
No: None
Absent: Beltramini, Broomfield, Howrylak

CONSENT AGENDA:

E-1a Approval of "E" Items NOT Removed for Discussion

Resolution #2004-08-433
Moved by Stine
Seconded by Lambert

RESOLVED, That all items as presented on the Consent Agenda are hereby **APPROVED** as presented.

Yes: All-4
No: None
Absent: Beltramini, Broomfield, Howrylak

E-1b Address of "E" Items Removed for Discussion by City Council and/or the Public – No "E" Items Removed

E-2 Minutes: Regular Meeting of August 9, 2004

Resolution #2004-08-433-E-2

RESOLVED, That the Minutes of the 7:30 PM Regular Meeting of August 9, 2004 be **APPROVED** as submitted.

E-3 Proposed City of Troy Proclamation(s): No City of Troy Proclamations proposed.

E-4 Request from First Baptist Church of Troy for Temporary Suspension of Chapter 47, House Trailers

Resolution #2004-08-433-E-4

RESOLVED, That the request from First Baptist Church, 2601 John R, for **TEMPORARY SUSPENSION** of Chapter 47, House Trailers, of the Code of the City of Troy, to permit placement and occupancy of an on-site motor home from October 8, 2004 through October 17,2004, to serve as a residence for a visiting pastor, is hereby **APPROVED.**

E-5 Approval of Request from Joseph J. Malla – Chairman, Veterans Monument Committee of Troy, to Display "Lest They Be Forgotten" Flag from the Veterans Monument Flag Pole under the American Flag on the City Hall Plaza

Resolution #2004-08-433-E-5

RESOLVED, That the Troy City Council hereby **APPROVES** the display of the new "Lest They Be Forgotten" flag from the Veterans Monument flag pole under the American flag. The flag was designed by the father of a fallen soldier as a tribute to his son and to all fallen service members.

E-6 Standard Purchasing Resolution 4: State of Michigan MiDEAL Program – Large Capacity Riding Rotary Mower with ROPS 4-Post Canopy

Resolution #2004-08-433-E-6

RESOLVED, That a contract to purchase one (1) large capacity riding rotary mower from Spartan Distributors is hereby **APPROVED** through the State of Michigan MiDEAL Program (formerly the Extended Purchasing Program) at an estimated cost of $38,115.00; and

BE IT FURTHER RESOLVED, That the purchase of the ROPS 4-Post Canopy from Spartan Distributors is **AUTHORIZED** at an estimated cost of $1,325.00.

E-7 Standard Purchasing Resolution 4: State of Michigan MiDEAL Program – Optical Scanning Services

Resolution #2004-08-433-E-7

RESOLVED, That a contract to provide optical scanning services from Graphic Sciences, Inc. is hereby **APPROVED** through the State of Michigan MiDEAL Program (formerly known as the Extended Purchasing Program) not to exceed $16,000.00, at unit prices contained in Appendix I; a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-8 Informal Quotation Process Award of Professional Engineering Services for Emergency Back-Up Power at the Community Center

Resolution #2004-08-433-E-8

RESOLVED, That a contract for professional services to prepare an electrical engineering design and limited architectural design for emergency back-up power at the Troy Community Center is hereby **APPROVED** to EAM Engineers, Inc. of Troy, MI, who submitted the lowest informal quotation at an estimated cost of $9,900.00, plus an additional $1,000.00 for reimbursable additional services if needed.

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

E-9 Standard Purchasing Resolution 1: Award to Low Bidder – Contract 04-5 – Section 30 Water Main Replacement

Resolution #2004-08-433-E-9

RESOLVED, That Contract No. 04-5, Section 30 Water Main Replacement, be **AWARDED** to Tony Anthony Inc., 328 South Street – Rochester, Michigan 48307, at an estimated total cost of $1,207,355.50; and

BE IT FURTHER RESOLVED, That the award is contingent upon submission of proper contract and bid documents, including: bonds, insurance certificates and all specified requirements.

BE IT FINALLY RESOLVED, That **AUTHORIZATION IS GRANTED** to add work due to unforeseen circumstances, which is not to exceed 10% of the original project cost.

E-10 Approval of Request to Waive Parking Restrictions

Resolution #2004-08-433-E-10

RESOLVED, That the City Council of the City of Troy does hereby **WAIVE** the "NO PARKING" restrictions on the west side of Donaldson Street from Square Lake Road to Cotswold Street on September 9, 2004, between the hours of 6:15 pm and 9:00 pm.

E-11 Winter Maintenance Agreement – Road Commission for Oakland County

Resolution #2004-08-433-E-11

RESOLVED, That the Winter Maintenance Agreement between the Road Commission for Oakland County and the City of Troy for snow and ice control of certain primary and local roads in accordance with the provisions of 1951 PA 51, amended as described and outlined in Exhibit A, is hereby **APPROVED** and the Mayor and City Clerk are **AUTHORIZED TO EXECUTE** the necessary documents; a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-12 Approval of Recognition as a Nonprofit Organization Status from the Michigan Accountancy Foundation (MAF) for the Purpose of Obtaining a Charitable Gaming License

Resolution #2004-08-433-E-12

RESOLVED, That the request from the Michigan Accountancy Foundation – Troy, Michigan – County of Oakland, asking that they be recognized as a nonprofit organization operating in the community for the purpose of obtaining a charitable gaming license be **APPROVED** as recommended by City Management.

E-13 Private Agreement for Cedar Pines Site Condominiums – Project No. 03.926.3

Resolution #2004-08-433-E-13

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

The meeting **RECESSED** at 9:12 PM.

The meeting **RECONVENED** at 9:26 PM.

PUBLIC COMMENT: Limited to Items Not on the Agenda

REGULAR BUSINESS:

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

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.

Vote on Resolution to Table

Resolution #2004-08-434
Moved by Lambert
Seconded by Eisenbacher

RESOLVED, That the proposed resolution for Preliminary Site Condominium Review for the Timbercrest Estates Site Condominium with 11 units/lots proposed on the south side of Wattles, west of Fernleigh in Section 24 and zoned R-1C be **TABLED** to permit the City Attorney to research the required City Council vote necessary to take action.

Yes: All-4
No: None
Absent: Beltramini, Broomfield, Howrylak

The meeting **RECESSED** at 10:25 PM.

The meeting **RECONVEND** at 10:28 PM.

The meeting **ADJOURNED** at 10:29 PM.

Agenda Items Carried-Over as on the Special City Council Meeting Agenda Scheduled for Monday, August 30, 2004:

F-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

(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

_____ **Unexpired term expires 09-30-2007**

_____ **Term expires 07-01-2005 (Student)**

Economic Development Corporation
Mayor, Council Approval (9) – 6 years

_____ **Term expires 04-30-2009**

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)

Parks and Recreation Board
Appointed by Council (10) 3 years

Term expires 07-01-2005 (Student)

Yes:
No:

F-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:

F-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:

F-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:

F-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:

F-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:

F-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:

F-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:

F-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:

F-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:

F-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:

F-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:

F-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:

G-1 Announcement of Public Hearings: No Public Hearing Announcements.

G-2 Green Memorandums:
(a) Memorandum, Re: Municipal Civil Infractions Ordinance
(b) Memorandum, Re: Group Day Care Homes

COUNCIL REFERRALS: Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda

H-1 No Council Referrals advanced to the City Manager.

COUNCIL COMMENTS:

I-1 No Council Comments submitted.

REPORTS:

J-1 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

J-2 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

J-3 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

J-4 Proposed Proclamations/Resolutions from Other Organizations: None proposed.

J-5 Calendar

J-6 Memorandum, Re: Status of Section 23 (Raintree Village No. 1) Pavement Replacement Project – Contract 04-4

J-7 Memorandum, Re: Update-Somerset Collection Ryder Cup Charity Event

J-8 Memorandum, Re: 2005 City Calendar

J-9 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.

J-10 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.

J-11 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

STUDY ITEMS:

K-1 No Study Items brought forward.

PUBLIC COMMENT: Address of "K" Items

CLOSED SESSION:

L-1 Closed Session – No Closed Session Requested.

Louise E. Schilling, Mayor

Barbara A. Holmes, CMC
Deputy City Clerk

A Special Meeting of the Troy City Council was held Monday, August 30, 2004, at City Hall, 500 W. Big Beaver Road. Mayor Schilling called the Meeting to order at 7:31 P.M.

The Invocation was given by Mayor Pro Tem Beltramini and the Pledge of Allegiance to the Flag was given.

ROLL CALL

PRESENT: Mayor Louise E. Schilling
Robin E. Beltramini
Cristina Broomfield
David Eisenbacher
Martin F. Howrylak (Absent/Excused)
David A. Lambert
Jeanne M. Stine

Resolution to Excuse Council Member Howrylak

Resolution #2004-08-435
Moved by Beltramini
Seconded by Stine

RESOLVED, That Council Member Howrylak's absence at the Special City Council meeting of Monday, August 30, 2004 **BE EXCUSED** due to being out of the county.

Yes: All-6
No: None
Absent: Howrylak

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-1C

Resolution #2004-08-436
Moved by Lambert
Seconded by Stine

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: All-6
No: None
Absent: Howrylak

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.

Vote on Amendment by Substitution

Resolution #2004-08-437
Motion by Stine
Seconded by Lambert

RESOLVED, That Resolution be amended by **SUBSTITUTING**:

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 Site Condominium, as submitted and as recommended for approval by City Management, 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 design considerations:

1. Petitioner to work with the Engineering Department to design engineering plans that will not create or exacerbate storm water problems on the adjacent properties.

2. Petitioner to work with the Parks and Recreation Department to adopt a Final Tree Preservation Plan that is in compliance with the Landscape Design and Tree Preservation Standards. Further, it is desirable to preserve the trees and their root structure along the eastern property line of the proposed site condominium. In addition, undesirable and unhealthy trees should be removed from the subject property.

Yes: All-6
No: None
Absent: Howrylak

Vote on Substituted Resolution

Resolution #2004-08-438
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 Site Condominium, as submitted and as recommended for approval by City Management, 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 design considerations:

1. Petitioner work with the Engineering Department to design engineering plans that will not create or exacerbate storm water problems on the adjacent properties.

2. Petitioner work with the Parks and Recreation Department to adopt a Final Tree Preservation Plan that is in compliance with the Landscape Design and Tree Preservation Standards. Further, it is desirable to preserve the trees and their root structure along the eastern property line of the proposed site condominium. In addition, undesirable and unhealthy trees should be removed from the subject property.

Yes: All-6
No: None
Absent: Howrylak

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

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

Resolution
Moved by Beltramini
Seconded by Eisenbacher

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 up to 5 home sites, within the R-1D Zoning District, being 2.236 acres in size, is hereby **APPROVED**, with the **FOLLOWING DESIGN CONSIDERATIONS**:

1. Petitioner obtain a MDEQ Wetlands Permit or a Jurisdictional Wetland Determination Document state authoritative status, prior to Final Approval.
2. Petitioner work with the Parks and Recreation Department to adopt a Final Tree Preservation Plan that is in compliance with the Landscape Design and Tree Preservation Standards, with attention to the removal of undesirable and unhealthy trees.
3. The petitioner and Engineering Department address the stormwater drainage concerns of the neighboring property owners in the preparation and approval of the engineering plans.
4. Staff review of overland and subterranean hydrology to ascertain connections to existing bodies of water.

Vote on Amendment

Resolution #2004-08-439
Moved by Lambert
Seconded by Stine

RESOLVED, That the Resolution be **AMENDED** by **INSERTING**, "5. City Staff to work with the petitioner to explore the potential of a conservation easement."

Yes: All-6
No: None
Absent: Howrylak

Vote on Amended Resolution

Resolution #2004-08-440
Moved by Lambert
Seconded by Stine

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 up to 5 home sites, within the R-1D Zoning District, being 2.236 acres in size, is hereby **APPROVED**, with the following design considerations:

1. Petitioner to obtain a MDEQ Wetlands Permit or a Jurisdictional Wetland Determination Document state authoritative status, prior to Final Approval.
2. Petitioner to work with the Parks and Recreation Department to adopt a Final Tree Preservation Plan that is in compliance with the Landscape Design and Tree

Preservation Standards, with attention to the removal of undesirable and unhealthy trees.

3. The petitioner and Engineering Department address the stormwater drainage concerns of the neighboring property owners in the preparation and approval of the engineering plans.
4. Staff review of overland and subterranean hydrology to ascertain connections to existing bodies of water.
5. City Staff to work with the petitioner to explore the potential of a conservation easement.

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

MOTION CARRIED

The meeting **RECESSED** at 9:16 PM.

The meeting **RECONVENED** at 9:29 PM.

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

Resolution #2004-08-441
Moved by Lambert
Seconded by Stine

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: All-6
No: None
Absent: Howrylak

B-12 Scheduling of a Study Session to Discuss Neighborhood Compatibility Issues

Resolution #2004-08-442
Moved by Stine
Seconded by Beltramini

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 and Downtown Development Authority (DDA) Goals and Objectives.

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

MOTION CARRIED

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

Resolution #2004-08-443
Moved by Beltramini
Seconded by Broomfield

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: All-6
No: None
Absent: Howrylak

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

(a) <u>Mayoral Appointments</u>

Resolution #2004-08-444
Moved by Schilling
Seconded by Beltramini

RESOLVED, That the following person is 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

David Hay **Unexpired term expires 09-30-2007**

Yes: All-6
No: None
Absent: Howrylak

(b) City Council Appointments

Resolution #2004-08-445
Moved by Beltramini
Seconded by Lambert

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

Anbereen Wiqar **Term expires 07-01-2005 (Student)**

Parks and Recreation Board
Appointed by Council (10) 3 years

Brad Henson **Term expires 07-01-2005 (Student)**

Yes: All-6
No: None
Absent: Howrylak

Appointments Carried-Over as Item F-1 on the Next Regular City Council Meeting Agenda Scheduled for Monday, September 13, 2004:

(a) Mayoral Appointments

Downtown Development Authority
Mayor, Council Approval (13) – 4 years

Term expires 07-01-2005 (Student)

Economic Development Corporation
Mayor, Council Approval (9) – 6 years

Term expires 04-30-2009

B-2 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

Resolution #2004-08-446
Moved by Stine
Seconded by Lambert

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: All-6
No: None
Absent: Howrylak

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

Resolution #2004-08-447
Moved by Stine
Seconded by Beltramini

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: All-6
No: None
Absent: Howrylak

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

Resolution #2004-08-446
Moved by Eisenbacher
Seconded by Beltramini

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: All-6
No: None
Absent: Howrylak

B-5 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

Resolution #2004-08-447
Moved by Eisenbacher
Seconded by Stine

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: All-6
No: None
Absent: Howrylak

B-7 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

Resolution #2004-08-448
Moved by Lambert
Seconded by Eisenbacher

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: All-6
No: None
Absent: Howrylak

B-8 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

Resolution #2004-08-449
Moved by Stine
Seconded by Lambert

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: All-6
No: None
Absent: Howrylak

B-9 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

Resolution #2004-08-450
Moved by Beltramini
Seconded by Stine

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: All-6
No: None
Absent: Howrylak

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

Resolution #2004-08-451
Moved by Eisenbacher
Seconded by Beltramini

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: All-6
No: None
Absent: Howrylak

COUNCIL COMMENTS:

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

B-15 Green Memorandums:
(a) Memorandum, Re: Municipal Civil Infractions Ordinance
(b) Memorandum, Re: Group Day Care Homes

Noted and Filed

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

Noted and Filed

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

Noted and Filed

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

Noted and Filed

B-19 Calendar

Noted and Filed

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

Noted and Filed

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

Noted and Filed

B-22 Memorandum, Re: 2005 City Calendar

Resolution #2004-08-452
Moved by Stine
Seconded by Lambert

RESOLVED, That the City Council **DIRECTS** City Management to place the 2005 City Calendar as a Regular Business Item on the agenda for the Regular City Council meeting scheduled for Monday, September 13, 2004

Yes: All-6
No: None
Absent: Howrylak

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

Noted and Filed

PUBLIC COMMENT: Limited to Items Not on the Agenda

The meeting **ADJOURNED** at 11:44 PM.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, MMC
City Clerk

August 24, 2004

To: John Szerlag, City Manager

From: John M. Lamerato, Assistant City Manager/Finance & Administration
Jeanette Bennett, Purchasing Director
Charles Craft, Chief of Police

Subject: **Agenda Item** – Standard Purchasing Resolution 5: Approval to Expend Budgeted Funds – Troy Community Coalition

APPROVAL TO EXPEND FUNDS

The Police Department requests approval to continue to provide funding to the TROY COMMUNITY COALITION in the amount of $100,000.00 for the 2004/2005 fiscal year.

BACKGROUND

The Troy Community Coalition will provide community services to prevent drug and alcohol abuse.

Funding requirements were previously approved by the City Council on September 22, 2003, resolution #2003-09-474, July 22, 2002, resolution #2002-07-427, September 10, 2001, resolution #2001-09-449 and August 21, 2000, resolution #2000-387-E4.

BUDGET

The Police Department's account for Contractual Services – Troy Community Coalition, #305.7802.109 has been designated for the funding of this program.

Reviewed as to Form and Legality: _____ _____
Lori Grigg Bluhm, City Attorney Date

Prepared by: Terry Colussi, Office Coordinator

August 31, 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

SUBJECT: AGENDA ITEM – REQUEST FOR ACCEPTANCE OF A PERMANENT EASEMENT FOR PUBLIC UTILITIES AND A WARRANTY DEED FOR STREET RIGHT-OF-WAY
CEDAR PINES ESTATES SITE CONDOS
PROJECT NO. 03.926.3 - Sidwell #88-20-04-100-016 & -048

In connection with the development of Cedar Pine Estates Site Condos, in the northwest ¼ of Section 4, the Real Estate and Development Department has acquired a permanent easement for public utilities and a warranty deed for street right-of-way from the property owner, Pratt Building Company. The consideration on each document is $1.00

Management recommends that City Council accept the attached documents.

PERMANENT EASEMENT

Sidwell #20-04-100-016 & #20-04-100-048
Project #03.926.3
Resolution #
Pratt Building Company, a Michigan Corporation, Grantor, whose address is 1080 N. Opdyke, Suite #200, Auburn Hills, MI 48326 for and in consideration of the sum of: One and no/100 Dollar ($1.00) paid by the CITY OF TROY, a Michigan Municipal Corporation, Grantee, whose address is 500 West Big Beaver Road, Troy, Michigan, grants to the Grantee the right to construct, operate, maintain, repair and/or replace public utilities, said easement for land situated in the City of Troy, Oakland County, Michigan, described as:

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION OF PARENT PARCEL AND UTILITY EASEMENT AREAS BEING CONVEYED

and to enter upon sufficient land adjacent to said improvement(s) for the purpose of the construction, operation, maintenance, repair and/or replacement thereof.

The premises so disturbed by the exercise of any of the foregoing powers shall be reasonably restored to its original condition by the Grantee.

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

IN WITNESS WHEREOF, the undersigned hereunto affixed his signature(s) this 17th day of August A.D. 20 04.

In presence of:
WITNESS

Donald L. Pratt

Marietta Misenar

By (L.S.)
Lynne C. Pratt, President
Pratt Building Company

STATE OF MICHIGAN)
COUNTY OF)

The foregoing instrument as acknowledged before me this 17th day of August, 2004, by Lynne C. Pratt, President of Pratt Building Company, a Michigan Corporation.

CASSANDRA L. MIRACLE
NOTARY PUBLIC OAKLAND CO., MI
MY COMMISSION EXPIRES Aug 17, 2007

Cassandra L. Miracle
Notary Public, Oakland County, Michigan

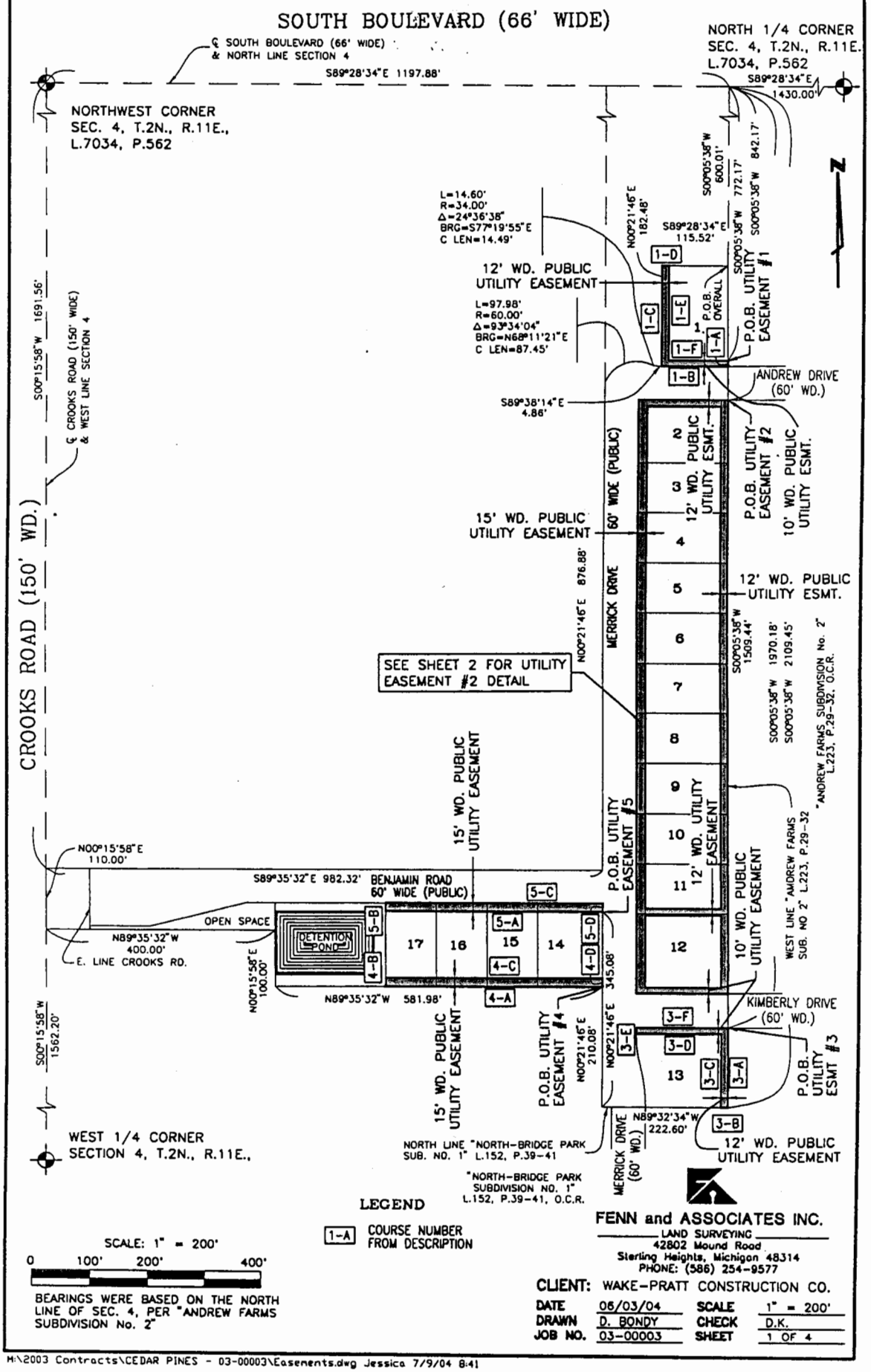
(Corporations)

My Commission Expires 8-17-2007

Prepared by:
Patricia A. Petitto
City of Troy
500 West Big Beaver
Troy, Michigan 48084

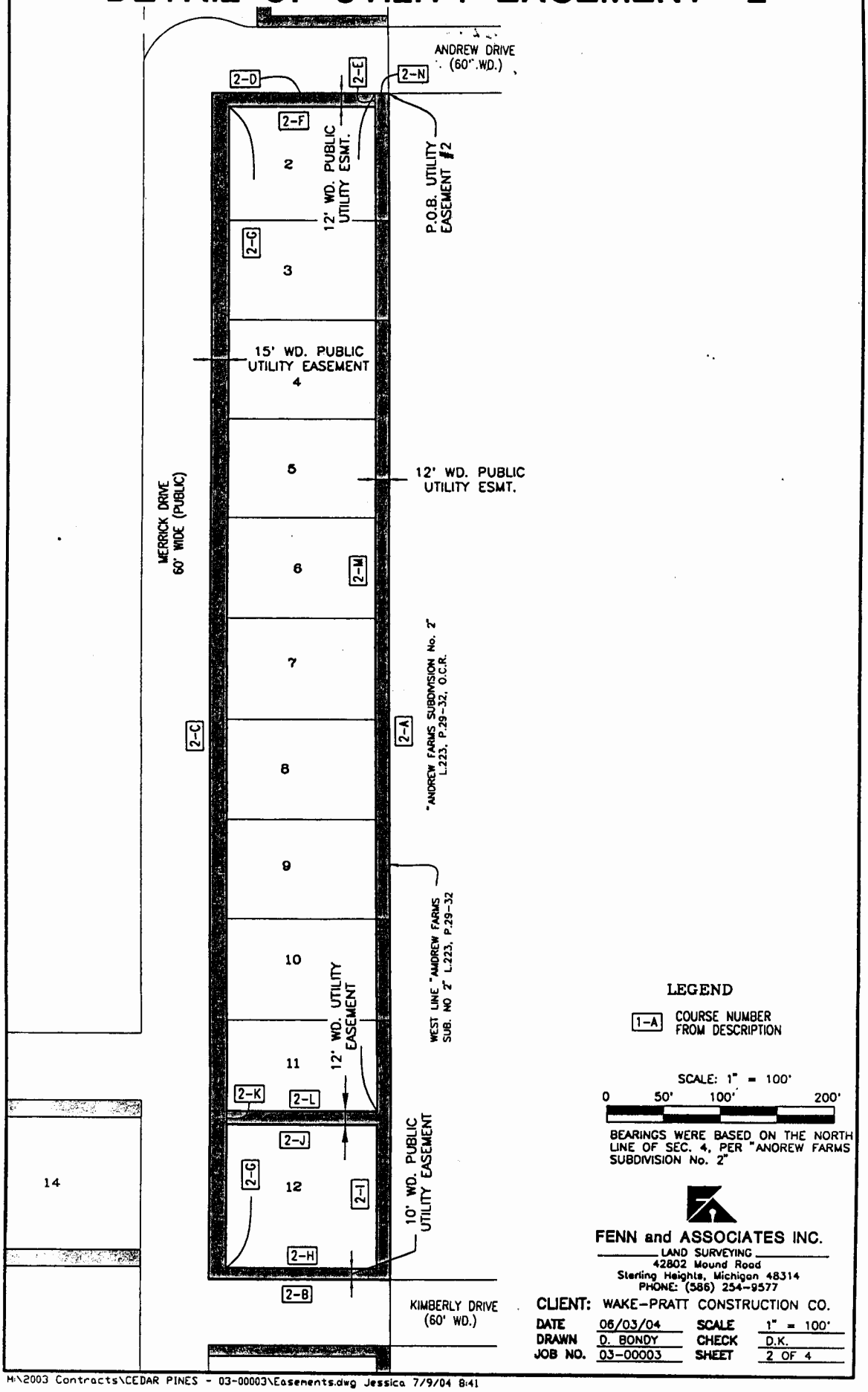
Return to:
City Clerk, City of Troy
500 West Big Beaver Road
Troy, Michigan 48084

PUBLIC UTILITY EASEMENTS



H:\2003 Contracts\CEDAR PINES - 03-00003\Easements.dwg Jessica 7/9/04 8:41

DETAIL OF UTILITY EASEMENT #2



H:\2003 Contracts\CEDAR PINES - 03-00003\Easements.dwg Jessica 7/9/04 8:41

DESCRIPTIONS

TOTAL PARCEL - (PARENT PARCEL - THIS AREA IS NOT BEING CONVEYED)

Part of the Northwest Quarter of Section 4, T.2N., R.11E., City of Troy, Oakland County, Michigan described as:
Commencing at the Northwest corner of Section 4;
thence S.89°28'34"E. 1197.88 feet along the North line of Section 4 and the centerline of South Boulevard (66.00 feet wide);
thence S.00°05'38"W. (recorded as S.00°06'35"W.) 600.01 feet to the Point of Beginning;
thence continuing S.00°05'38"W. (recorded as S.00°06'35"W.) 1509.44 feet partially along the West line of the "Andrew Forms Sub. No. 2", as recorded in Liber 223 of Plats, Pages 29-32, Oakland County Records, to the Southwest corner of said "Andrew Forms Sub. No. 2" and to the North line of the "North-Bridge Park Sub. No. 1" as recorded in Liber 152 of Plats, Pages 39-41 Oakland County Records;
thence N.89°32'34"W. (recorded as N.89°44'22"W.) 222.60 feet along the North line of the "North-Bridge Park Sub. No. 1";
thence N.00°21'46"E. 210.08 feet;
thence N.89°35'32"W. 581.96 feet (recorded as N.89°44'00"W. 574.01 feet);
thence N.00°15'58"E. 100.00 feet;
thence N.89°35'32"W. (recorded as N.89°44'00"W.) 400.00 feet to the West line of Section 4, also being the centerline of Crooks Road (120.00 feet wide), said point being 1562.20 feet from the West Quarter corner of Section 4;
thence N.00°15'58"E. 110.00 feet along the West line of Section 4 and the centerline of Crooks Road;
thence S.89°35'32"E. 982.32 feet (recorded as S.89°44'00"E. 975.54 feet);
thence N.00°21'46"E. 876.88 feet;
thence 97.98 feet along a non-tangent curve to the right having a radius of 60.00 feet, a central angle of 93°34'04", and a chord bearing N.68°11'21"E. 87.45 feet;
thence 14.60 feet along a tangent curve to the left having a radius of 34.00 feet, a central angle of 24°36'38", and a chord bearing S.77°19'55"E. 14.49 feet;
thence S.89°38'14"E. 4.86 feet;
thence N.00°21'46"E. 182.48 feet;
thence S.89°28'34"E. 115.52 feet to the Point of Beginning.
Containing 10.99 acres, more of less.
Subject to the rights of the public in Crooks Road and to any and all easements and/or rights of way of record or otherwise.

UTILITY EASEMENT 1 - EASEMENT AREA BEING CONVEYED

Part of the Northwest 1/4 of Section 4, T.2N., R.11E., City of Troy, Oakland County, Michigan described as:
Commencing at the Northwest corner of Section 4;
thence S.89°28'34"E. 1197.88 feet along the North line of Section 4;
thence S.00°05'38"W. 772.17 feet partially along the West line of the "Andrew Forms Sub. No. 2", as recorded in Liber 223 of Plats, Pages 29-32, Oakland County Records, to the Point of Beginning;
1-A) thence S.00°05'38"W. 10.00 feet along the West line of the "Andrew Forms Sub. No. 2";
1-B) thence N.89°38'14"W. 116.37 feet;
1-C) thence N.00°21'46"E. 182.48 feet;
1-D) thence S.89°28'34"E. 12.00 feet;
1-E) thence S.00°21'46"W. 172.45 feet;
1-F) thence S.89°38'14"E. 104.32 feet to the Point of Beginning.

UTILITY EASEMENT 2 - EASEMENT AREA BEING CONVEYED

Part of the Northwest 1/4 of Section 4, T.2N., R.11E., City of Troy, Oakland County, Michigan described as:
Commencing at the Northwest corner of Section 4;
thence S.89°28'34"E. 1197.88 feet along the North line of Section 4;
thence S.00°05'38"W. 842.17 feet partially along the West line of the "Andrew Forms Sub. No. 2", as recorded in Liber 223 of Plats, Pages 29-32, Oakland County Records, to the Point of Beginning;
2-A) thence S.00°05'38"W. 1068.01 feet along the West line of the "Andrew Forms Sub. No. 2";
2-B) thence N.89°38'14"W. 161.66 feet;
2-C) thence N.00°21'46"E. 1068.00 feet;
2-D) thence S.89°38'14"E. 144.65 feet;
2-E) thence S.00°05'38"W. 12.00 feet;
2-F) thence N.89°38'14"W. 129.71 feet;
2-G) thence S.00°21'46"W. 1046.00 feet;
2-H) thence S.89°38'14"E. 134.62 feet;
2-I) thence N.00°05'38"E. 130.00 feet;
2-J) thence N.89°38'14"W. 134.01 feet;
2-K) thence N.00°21'46"E. 12.00 feet;
2-L) thence S.89°38'14"E. 133.95 feet;
2-M) thence N.00°05'38"E. 916.01 feet;
2-N) thence S.89°38'14"E. 12.00 feet to the Point of Beginning.

FENN and ASSOCIATES INC.
LAND SURVEYING
42802 Mound Road
Sterling Heights, Michigan 48314
PHONE: (586) 254-9577

CLIENT: WAKE-PRATT CONSTRUCTION CO.

DATE	06/03/04	SCALE	-----
DRAWN	D. BONDY	CHECK	D.K.
JOB NO.	03-00003	SHEET	3 OF 4

DESCRIPTIONS

UTILITY EASEMENT 3 - EASEMENT AREA BEING CONVEYED

Part of the Northwest 1/4 of Section 4, T.2N., R.11E., City of Troy, Oakland County, Michigan described as:
Commencing at the Northwest corner of Section 4;
thence S.89°28'34"E. 1197.88 feet along the North line of Section 4;
thence S.00°05'38"W. 1970.18 feet partially along the West line of the "Andrew Forms Sub. No. 2", as recorded in Liber 223 of Plats, Pages 29-32, Oakland County Records, to the Point of Beginning;
3-A) thence S.00°05'38"W. 139.25 feet along the West line of the "Andrew Forms Sub. No. 2";
3-B) thence N.89°32'34"W. 12.00 feet;
3-C) thence N.00°05'38"E. 129.23 feet;
3-D) thence N.89°38'14"W. 149.99 feet;
3-E) thence N.00°21'46"E. 10.00 feet;
3-F) thence S.89°38'14"E. 161.95 feet to the Point of Beginning.

UTILITY EASEMENT 4 - EASEMENT AREA BEING CONVEYED

Part of the Northwest 1/4 of Section 4, T.2N., R.11E., City of Troy, Oakland County, Michigan described as:
Commencing at the Northwest corner of Section 4;
thence S.89°28'34"E. 1197.88 feet along the North line of Section 4;
thence S.00°05'38"W. 2109.45 feet partially along the West line of the "Andrew Forms Sub. No. 2", as recorded in Liber 223 of Plats, Pages 29-32, Oakland County Records, to the Southwest corner of said "Andrew Forms Sub. No. 2" and to the North line of the "North-Bridge Park Sub. No. 1" as recorded in Liber 152 of Plats, Pages 39-41 Oakland County Records;
thence N.89°32'34"W. 222.60 feet along the North line of the "North-Bridge Park Sub. No. 1";
thence N.00°21'46"E. 210.08 feet to the Point of Beginning;
4-A) thence N.89°35'32"W. 385.12 feet;
4-B) thence N.00°24'28"E. 15.00 feet;
4-C) thence S.89°35'32"E. 385.11 feet;
4-D) thence S.00°21'46"W. 15.00 feet to the Point of Beginning.

UTILITY EASEMENT 5 - EASEMENT AREA BEING CONVEYED

Part of the Northwest 1/4 of Section 4, T.2N., R.11E., City of Troy, Oakland County, Michigan described as:
Commencing at the Northwest corner of Section 4;
thence S.89°28'34"E. 1197.88 feet along the North line of Section 4;
thence S.00°05'38"W. 2109.45 feet partially along the West line of the "Andrew Forms Sub. No. 2", as recorded in Liber 223 of Plats, Pages 29-32, Oakland County Records, to the Southwest corner of said "Andrew Forms Sub. No. 2" and to the North line of the "North-Bridge Park Sub. No. 1" as recorded in Liber 152 of Plats, Pages 39-41 Oakland County Records;
thence N.89°32'34"W. 222.60 feet along the North line of the "North-Bridge Park Sub. No. 1";
thence N.00°21'46"E. 345.08 feet to the Point of Beginning;
5-A) thence N.89°35'32"W. 385.01 feet;
5-B) thence N.00°24'28"E. 15.00 feet;
5-C) thence S.89°35'32"E. 385.00 feet;
5-D) thence S.00°21'46"W. 15.00 feet to the Point of Beginning;

FENN and ASSOCIATES INC.
LAND SURVEYING
42802 Mound Road
Sterling Heights, Michigan 48314
PHONE: (586) 254-9577

CLIENT: WAKE-PRATT CONSTRUCTION CO.

DATE	06/03/04	SCALE	-----
DRAWN	D. BONDY	CHECK	D.K.
JOB NO.	03-00003	SHEET	4 OF 4

WARRANTY DEED

Sidwell # 20-04-100-016 & #20-04-100-048
Project # 03.926.3
Resolution #

The Grantor(s) Pratt Building Company, a Michigan Corporation, whose address is: 1080 N. Opdyke, Suite 200, Auburn Hills, MI 48326 convey(s) and warrant(s) to the City of Troy, a Michigan Municipal Corporation, Grantee, whose address is 500 West Big Beaver Road., Troy, Michigan 48084, the following described premises situated in the City of Troy, County of Oakland and State of Michigan:

SEE ATTACHED EXHIBIT "A" FOR LEGAL DESCRIPTION OF PARENT (TOTAL PARCEL) & AREA BEING CONVEYED FOR STREET RIGHT-OF-WAY

For the sum of One and no/100 Dollar ($1.00)

subject to easements and building and use restrictions of record and further subject to

Dated this 17th day of Aug., 2004

Signed in presence of:

Donald .L. Pratt

Marietta Misenar

Marietta Misenar

PRATT BUILDING COMPANY, a Michigan Corporation

By Lynne Pratt
Lynne Pratt
Its: President

STATE OF MICHIGAN)
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 17th day of Aug., 2004, by Lynne Pratt, President, of Pratt Building Company, a Michigan corporation, on behalf of the corporation.

CASSANDRA L. MIRACLE
NOTARY PUBLIC OAKLAND CO., MI
MY COMMISSION EXPIRES Aug 17, 2007

Cassandra L. Miracle
*Cassandra L. Miracle

Notary Public, County,
My commission expires:

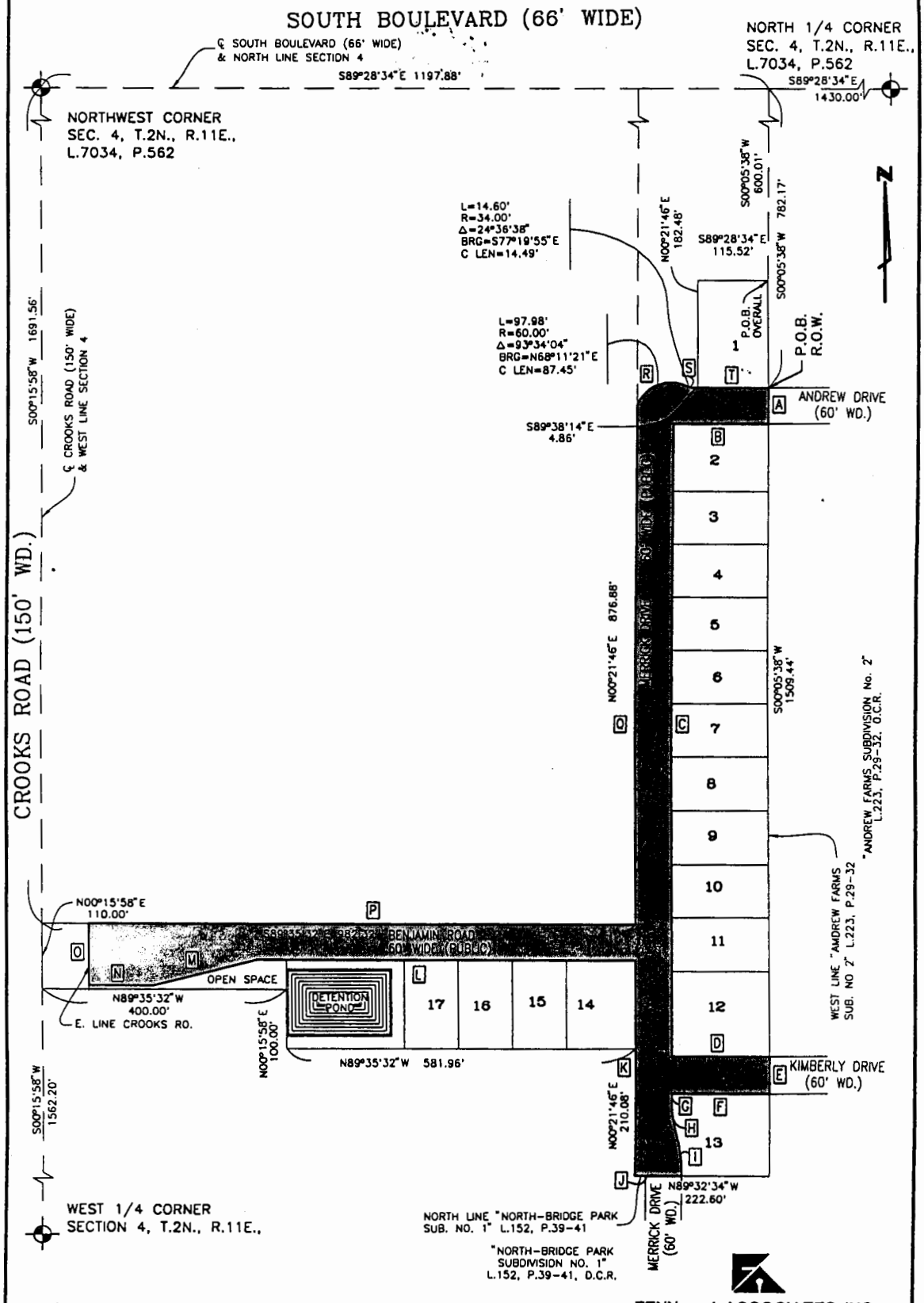
County Treasurer's Certificate		City Treasurer's Certificate
When recorded return to: City Clerk City of Troy 500 West Big Beaver Troy, MI 48084	Send subsequent tax bills to: Grantee	Drafted by: Patricia A. Petitto City of Troy 500 West Big Beaver Troy, MI 48084

Tax Parcel #20-04-100-016 & #20-04-100-048 Recording Fee Transfer Tax

TYPE OR PRINT NAMES UNDER SIGNATURES

RIGHT OF WAY

SOUTH BOULEVARD (66' WIDE)



SCALE: 1" = 200'

0 100' 200' 400'

BEARINGS WERE BASED ON THE NORTH LINE OF SEC. 4, PER "ANDREW FARMS SUBDIVISION No. 2"

LEGEND

[A] COURSE NUMBER FROM DESCRIPTION

FENN and ASSOCIATES INC.
LAND SURVEYING
42802 Mound Road
Sterling Heights, Michigan 48314
PHONE: (586) 254-9577

CLIENT: WAKE-PRATT CONSTRUCTION CO.

DATE	06/03/04	SCALE	1" = 200'
DRAWN	D. BONDY	CHECK	D.K.
JOB NO.	03-00003	SHEET	1 OF 2

DESCRIPTIONS

TOTAL PARCEL - (PARENT PARCEL - THIS AREA IS NOT BEING CONVEYED)

Part of the Northwest Quarter of Section 4, T.2N., R.11E., City of Troy, Oakland County, Michigan described as:
Commencing at the Northwest corner of Section 4;
thence S.89°28'34"E. 1197.88 feet along the North line of Section 4 and the centerline of South Boulevard (66.00 feet wide);
thence S.00°05'38"W. (recorded as S.00°06'35"W.) 600.01 feet to the Point of Beginning;
thence continuing S.00°05'38"W. (recorded as S.00°06'35"W.) 1509.44 feet partially along the West line of the "Andrew Farms Sub. No. 2", as recorded in Liber 223 of Plats, Pages 29-32, Oakland County Records, to the Southwest corner of said "Andrew Farms Sub. No. 2" and to the North line of the "North-Bridge Park Sub. No. 1" as recorded in Liber 152 of Plats, Pages 39-41 Oakland County Records;
thence N.89°32'34"W. (recorded as N.89°44'22"W.) 222.60 feet along the North line of the "North-Bridge Park Sub. No. 1";
thence N.00°21'46"E. 210.08 feet;
thence N.89°35'32"W. 581.96 feet (recorded as N.89°44'00"W. 574.01 feet);
thence N.00°15'58"E. 100.00 feet;
thence N.89°35'32"W. (recorded as N.89°44'00"W.) 400.00 feet to the West line of Section 4, also being the centerline of Crooks Road (120.00 feet wide), said point being 1562.20 feet from the West Quarter corner of Section 4;
thence N.00°15'58"E. 110.00 feet along the West line of Section 4 and the centerline of Crooks Road;
thence S.89°35'32"E. 982.32 feet (recorded as S.89°44'00"E. 975.54 feet);
thence N.00°21'46"E. 876.88 feet;
thence 97.98 feet along a non-tangent curve to the right having a radius of 60.00 feet, a central angle of 93°34'04", and a chord bearing N.68°11'21"E. 87.45 feet;
thence 14.60 feet along a tangent curve to the left having a radius of 34.00 feet, a central angle of 24°36'38", and a chord bearing S.77°19'55"E. 14.49 feet;
thence S.89°38'14"E. 4.86 feet;
thence N.00°21'46"E. 182.48 feet;
thence S.89°28'34"E. 115.52 feet to the Point of Beginning.
Containing 10.99 acres, more of less.
Subject to the rights of the public in Crooks Road and to any and all easements and/or rights of way of record or otherwise.

PUBLIC ROW - AREA BEING CONVEYED

Part of the Northwest 1/4 of Section 4, T.2N., R.11E., City of Troy, Oakland County, Michigan described as:
Commencing at the Northwest corner of Section 4;
thence S.89°28'34"E. 1197.88 feet along the North line of Section 4;
thence S.00°05'38"W. 782.17 feet partially along the West line of the "Andrew Farms Sub. No. 2", as recorded in Liber 223 of Plats, Pages 29-32, Oakland County Records, to the Point of Beginning;

A) thence S.00°05'38"W. 60.00 feet along the West line of the "Andrew Farms Sub. No. 2";
B) thence N.89°38'14"W. 156.65 feet;
C) thence S.00°21'46"W. 1068.00 feet;
D) thence S.89°38'14"E. 161.66 feet to the West line of the "Andrew Farms Sub. No. 2";
E) thence S.00°05'38"W. 60.00 feet along the West line of the "Andrew Farms Sub. No. 2";
F) thence N.89°38'14"W. 161.95 feet;
G) thence S.00°21'46"W. 12.57 feet;
H) thence 55.50 feet along a tangent curve to the left having a radius of 200.00 feet, a central angle of 15°53'57" and a chord bearing S.07°35'13"E. 55.32 feet;
I) thence 72.58 feet along a tangent curve to the right having a radius of 260.00 feet, a central angle of 15°59'38" and a chord bearing S.07°32'23"E. 72.34 feet to the North line of the "North-Bridge Park Sub. No. 1" as recorded in Liber 152 of Plats, Pages 39-41 Oakland County Records;
J) thence N.89°32'34"W. 77.60 feet along the North line of the "North-Bridge Park Sub. No. 1";
K) thence N.00°21'46"E. 360.08 feet;
L) thence N.89°35'32"W. 632.24 feet;
M) thence S.76°02'12"W. 175.26 feet;
N) thence N.89°35'32"W. 105.09 feet to the East line of Crooks Road (150.00 feet wide);
O) thence N.00°15'58"E. 103.50 feet along the East line of Crooks Road;
P) thence S.89°35'32"E. 907.32 feet;
Q) thence N.00°21'46"E. 876.88 feet;
R) thence 97.98 feet along a non-tangent curve to the right having a radius of 60.00 feet, a central angle of 93°34'04" and a chord bearing N.68°11'21"E. 87.45 feet;
S) thence 14.60 feet along a tangent curve to the left having a radius of 34.00 feet, a central angle of 24°36'38" and a chord bearing S.77°19'55"E. 14.49 feet;
T) thence S.89°38'14"E. 121.23 feet to the Point of Beginning.

FENN and ASSOCIATES INC.
LAND SURVEYING
42802 Mound Road
Sterling Heights, Michigan 48314
PHONE: (586) 254-9577

CLIENT: WAKE-PRATT CONSTRUCTION CO.

DATE	06/03/04	SCALE	-----
DRAWN	D. BONDY	CHECK	D.K.
JOB NO.	03-00003	SHEET	2 OF 2

August 21, 2004

TO: John Szerlag, City Manager

FROM: Charles T. Craft, Chief of Police

SUBJECT: Agenda Item - Request to Waive Parking Restrictions

The Congregation Shir Tikvah, 3900 Northfield Parkway, requests that the no parking restrictions on the east side of Northfield Parkway from the entrance to the synagogue parking lot to the entrance to Boulan Park be waived on the following dates and times:

- September 15, 2004, (Wednesday) 7:00 pm – 11:00 pm
- September 16, 2004, (Thursday) 9:00 am – 5:00 pm
- September 24, 2004, (Friday) 7:00 pm – 11:00 pm
- September 25, 2004, (Saturday) 9:00 am – 9:00 pm

This request is made to accommodate parking for attendees of the High Holidays observances on those dates. Shir Tikvah has an agreement to utilize the parking lot of the Stonehaven Church (Wattles Road e/o Northfield Parkway) and desires to eliminate the need for attendees to park in adjacent sub-divisions. Waiving the no parking restrictions will allow service attendees to park on the unpaved shoulder of the roadway. Synagogue officials indicate they will ensure those parking there do not impede traffic.

The police and fire departments process this request each year and are not opposed to it.

August 27, 2004

TO: John Szerlag, City Manager

FROM: William Nelson, Fire Chief WBN
David Roberts, Assistant Fire Chief DR

SUBJECT: Agenda Item – Fireworks Permit – Troy Daze

On July 14, 2004, a permit application from Melrose Pyrotechnics, Inc., of Kingsbury, Indiana, was received by Risk Management for a public fireworks display to be conducted at the close of this year's Troy Daze Festival.

BACKGROUND

Michigan's Fireworks Law requires that before anyone can conduct a fireworks display, a permit must be obtained from the local unit of government. The law states that any person or group that would like to conduct a fireworks display must apply to the local unit of government for a permit. The law defines local unit of government as the council or commission of a city or village, or the township board of a township.

With this fact in mind, Melrose Pyrotechnics, Inc., is requesting that City Council grant a permit for a public fireworks display to occur on Sunday, September 19, 2004.

RECOMMENDATION

The Fire Prevention Division has reviewed the permit application and recommends that City Council issue a fireworks permit to Melrose Pyrotechnics, Inc. Enclosed for Council's review is the permit application along with the permit to be signed and issued.

If there are any questions regarding this matter, please contact us.

MELROSE PYROTECHNICS, INC.

KINGSBURY INDUSTRIAL PARK HEINOLD COMPLEX
POST OFFICE BOX 302 KINGSBURY, IN 46345

T 219.393.5522 800.771.7976
F 800.775.7976

July 14, 2004

Steve Cooperrider
Risk Management
City of Troy
500 W. Big Beaver Rd.
Troy, MI 48084

Dear Steve ,

Please find enclosed the permit application for this years Troy Daze fireworks.

Once the permit is signed, please forward a copy to me for my files.

Thank you in advance for your cooperation.

Sincerely,

Wanda Schoof

Wanda Schoof
Melrose Pyrotechnics, Inc.

CHICAGO ATLANTA CHARLOTTE MINNEAPOLIS LOUISVILLE MILWAUKEE

E-MAIL sales@melrosepyro.com WEB SITE www.melrosepyro.com

FM-51 (3-98)
MICHIGAN STATE POLICE
FIRE MARSHAL DIVISION

APPLICATION FOR FIREWORKS DISPLAY PERMIT

☒ PUBLIC DISPLAY ☐ AGRICULTURAL PEST CONTROL Date of Application *7/12/04`*

Name of Applicant
MELROSE PYROTECHNICS, INC.
Address
P.O. BOX 302, KINGSBURY, IN 46345
Age (18 or over)

If a Corporation, Name of President
MICHAEL CARTOLANO
Address
P.O. BOX 302, KINGSBURY, IN 46345

If a Non-resident Applicant: Name of MI Attorney or Resident Agent
MIKE VAN LOO
Address
P.O. BOX 123, BELDING, MI 48809
Phone No.
(616) 794-0205

Name of Pyrotechnic Operator
MIKE VAN LOO
Address
P.O. BOX 123, BELDING, MI 48809
Age (18 or over)
34

No. Years Experience No. Displays
14 YEARS 250+
Where
MICHIGAN, ILLINOIS, INDIANA, KENTUCKY, OHIO

Name of Assistant:
JOHN KLAPKO
Address
P.O. BOX 123, BELDING, MI 48809
Age
40

Name of Other Assistant:
SCOTT FERMAN
Address
P.O. BOX 123, BELDING, MI 48809
Age
36

Exact Location of Proposed Display
Boulan Park

Date of Proposed Display *September 19, 2004* Time of Proposed Display *Dusk*

No. Of Fireworks	Kind of Fireworks to be Displayed
Approximately 3,000	*Aerial display shells ranging in size from 1 1/4 inches to 3 inches in diameter.*

Manner & Place of Storage Prior to Display (Subject to Approval of Local Fire Authorities)

NO STORAGE NECESSARY, DELIVERED ON DATE OF DISPLAY

Amount of Bond of Insurance (to be set by local gov't)
$5,000,000.00

Name of Bonding Corporation or Insurance Company
BRITTON-GALLAGHER & ASSOCIATES

Address of Bonding Corporation or Insurance Company
6240 SOM CENTER RD., CLEVELAND, OH 44139

Signature of Applicant Wanda Schoof *For Melrose Pyrotechnics, Inc.*

SEE OTHER SIDE FOR INSTRUCTIONS

Authority: 1968 PA 358
Compliance: Voluntary but a permit will not be issued without an application.

FM-49 (6099)
MICHIGAN STATE POLICE
FIRE MARSHAL DIVISION

PERMIT
FOR FIREWORKS DISPLAY

This permit is not transferable. Possession of this permit authorizes the herein named person to possess, transport, and display fireworks in the amounts, for the purpose of and at the place listed below only.

☒ PUBLIC DISPLAY ☐ AGRICULTURAL PEST CONTROL

Issued To *MELROSE PYROTECHNICS, INC.*		Age (18 or over)
Address *P.O. BOX 123, BELDING, MI 48809*		
Name of Organization, Group, Firm, or Corporation *City of Troy - Troy Daze*		
Address *500 W. Big Beaver Road, Troy, Michigan 48084*		
Number and Types of Fireworks *Approximately 3,000 aerial display shells ranging in size from 1 1/4 inches to 3 inches in diameter*		
Exact Location of Display *Boulan Park*		
City, Village, Township *Troy*	Date *September 19, 2004*	Time *Dusk*
Bond or Insurance Filed? ☒ Yes ☐ No		Amount *$5,000,000.00*

Issued by action of the ☐ council ☐ commission ☐ board of the

☐ city ☐ village ☐ township of _____
(Name of City, Village, Township)

on the _____ day of _____, _____

_____
(Signature and Title of Council/Commission/Board Representative)

AUTHORITY: 1968 PA 358
COMPLIANCE: Required
PENALTY:

September 2, 2004

TO: John Szerlag, City Manager

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

RE: AGENDA ITEM – REQUEST FOR ACCEPTANCE OF WARRANTY DEED FOR DETENTION BASIN FROM HEATHERWOOD HOMES, INC.
SIDWELL #88-20-24-226-043 & 044

In connection with the construction and completion of Beaver Creek Subdivision, located in Section 24, south of Wattles and west of Dequindre, the City of Troy has received a Warranty Deed for a detention basin. The basin was not included in the plat but abuts the subdivision on property owned by Heatherwood Homes, Inc. The basin has now met all engineering and construction requirements.

City Staff recommends the acceptance of this deed. The consideration on this document is $1.00.

WARRANTY DEED FOR CORPORATION -862
THE RIEGLE PRESS, INC., FLINT, MICHIGAN (State Bar of Michigan Form)

88-20-24-226-043
88-20-24-226-044

The Grantor Heatherwood Homes, Inc.
a Michigan corporation, whose address is
50507 Heatherwood Lane, Utica, Michigan 48317
conveys and warrants to City of Troy, a Municipal Corporation

whose address is 500 West Big Beaver Road, Troy, MI 48084

the following described premises situated in the City
of Troy, County of Oakland
and State of Michigan:

A parcel of land located in and being a part of the East 1/2 of Section 24, Town 2 North, Range 11 East, City of Troy, Oakland County, Michigan and being more particularly described as beginning at a point in the East and West 1/4 line of said Section 24, a distance of 622.48 feet North 89 degrees 22 minutes West of the East 1/4 post of said Section 24; thence North 01 degrees 11 minutes 59 seconds West 199.40 feet; thence North 89 degrees 44 minutes 14 seconds East 180.00 feet; thence South 01 degrees 11 minutes 59 seconds East 207.96 feet; thence South 89 degrees 44 minutes 14 seconds West 180.00 feet along the North line of "BEAVER TRAIL SUB. NO. 2" as recorded in Liber 134 of Plats, on pages 20, 21, 22 and 23 of the Oakland County Records, thence North 01 degrees 11 minutes 59 seconds West 8.56 feet to the point of beginning. Containing 0.86 of one acre of land.

for the sum of One Dollar ($1.00)

subject to easements and building and use restrictions of record and further subject to

Dated this 11th day of November, 19 92

Signed in presence of:

Patricia A. Petitto
* Patricia A. Petitto

Coletta M. Teifke
* Coletta M. Teifke

Signed:
HEATHERWOOD HOMES, INC.
(Name of Corporation) GRANTOR

By: * Richard W. Mavis
Its President

By: * Anthony Fanelli
Its Vice President

STATE OF MICHIGAN, } SS.
COUNTY OF OAKLAND

The foregoing instrument was acknowledged before me this 11th day of November, 19 92, by Richard W. Mavis and Anthony Fanelli,
(Name(s) of Officer(s))
the President and Vice President of Heatherwood Homes, Inc.
(Title(s) of Officer(s)) (Name of Corporation)
a Michigan corporation, on behalf of the corporation.
(State of Incorporation)

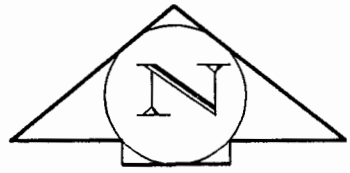
Patricia A. Petitto
* Patricia A. Petitto
Notary Public, Macomb County,
Michigan, Acting in Oakland County, Michigan
My commission expires: 3-30-93

County Treasurer's Certificate	City Treasurer's Certificate

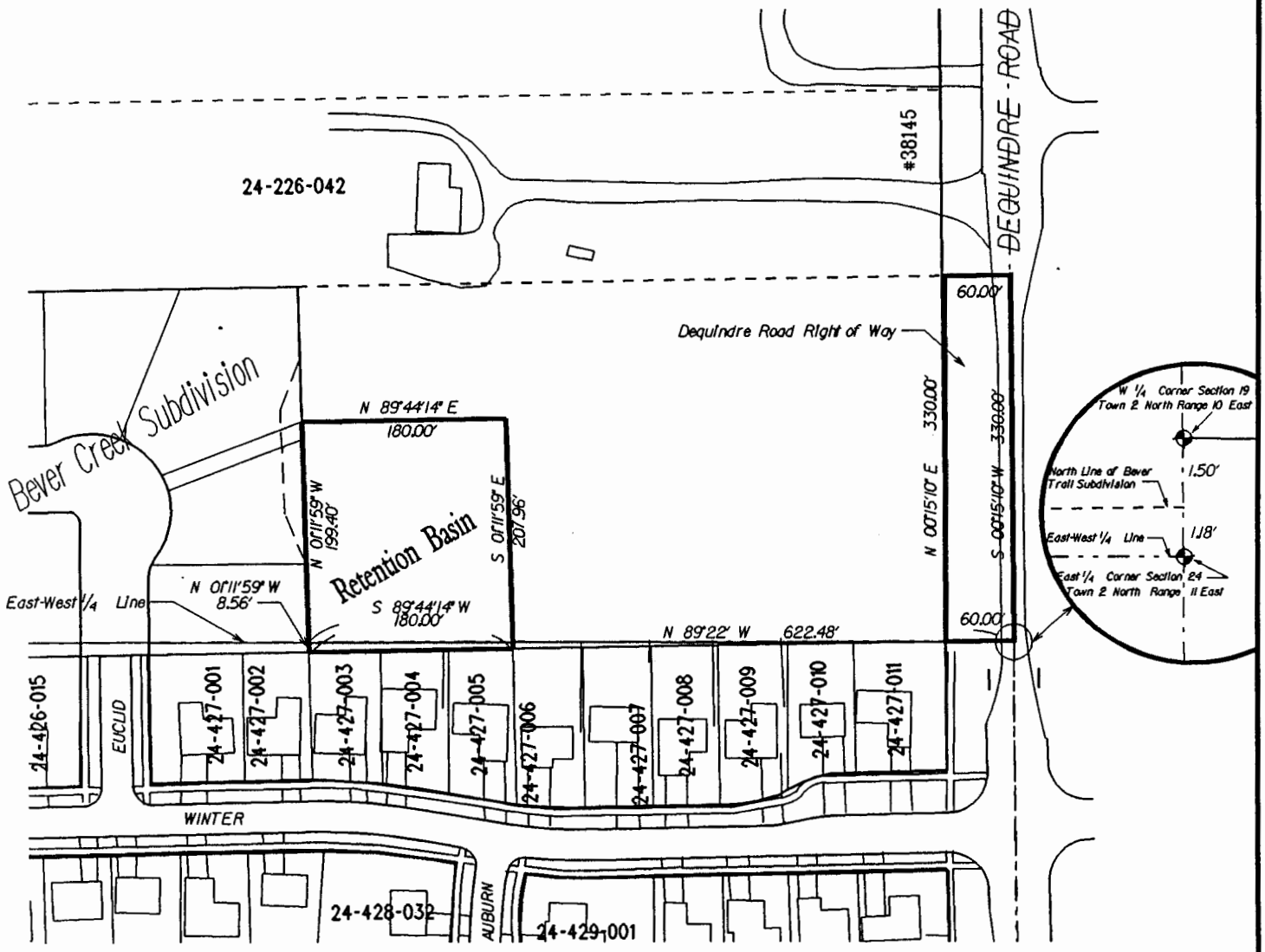
When Recorded Return To:	Send Subsequent Tax Bills To:	Drafted By:
City Clerk, City of Troy (Name) 500 West Big Beaver Road (Street Address) Troy, Michigan 48084 (City and State)		Patricia A. Petitto Business Address: 500 West Big Beaver Rd. Troy, Michigan 48084

Tax Parcel # _____ Recording Fee _____ Transfer Tax _____

* TYPE OR PRINT NAMES UNDER SIGNATURES.



SCALE: 1" = 150'
DATE: 11/11/92



		CITY OF TROY OAKLAND COUNTY, MICHIGAN		
		Beaver Creek Subdivision **Retention Basin and Right of Way**		
		SCALE	DRAWN BY	CHECKED	FILE
DATE	REV.	HOR. 1" = 150'	NAME rrb	NAME	
		VER.	DATE 11/11/92	DATE	
CONTRACT No.		C. NEALL SCHROEDER CITY ENGINEER		JOB No. FILE bcreek.dgn	

September 2, 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: AGENDA ITEM - Request for Approval of Purchase Agreement, John Cionca, Sr., John Cionca Jr., and George Daniel Cionca, 2931 Thames, Sidwell #88-20-25-229-003, 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 John Cionca, Sr., John Cionca Jr., and George Daniel Cionca, to purchase property at 2931 Thames, having Sidwell #88-20-25-229-003. The subject parcel is approximately 0.172 acres of land with a single family home and detached garage totaling 1,228 square feet. The owners have requested to retain ownership of the kitchen light fixture as the only additional condition in this agreement.

Based on an appraisal performed by R.S. Thomas & Associates, Inc., and reviewed by Kimberly Harper, Deputy Assessor, staff believes that $170,000.00, 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 John Cionca, Sr., John Cionca Jr., and George Daniel Cionca, in the total amount of $170,000.00, plus closing costs. Funds will come from the Big Beaver – Rochester to Dequindre Road Project #01.105.5.

Sidwell #88-20-25-229-003

CITY OF TROY
AGREEMENT TO PURCHASE REALTY
FOR PUBLIC PURPOSES

The CITY OF TROY (the "Buyer"), agrees to purchase from John Cionca, Sr., John Cionca, Jr., and George Daniel Cionca, as joint tenants with full rights of survivorship (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 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. 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 $1,228 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 WILL REMOVE AND RETAIN OWNERSHIP OF KITCHEN LIGHT FIXTURE.

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

IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this 23RD day of AUGUST, A.D. 2004.

In presence of:

Patricia A. Petitto

CITY OF TROY (BUYER)

SELLER:

John Cionca, SR.

John Cionca, JR.

George Daniel Cionca

EXHIBIT "A"

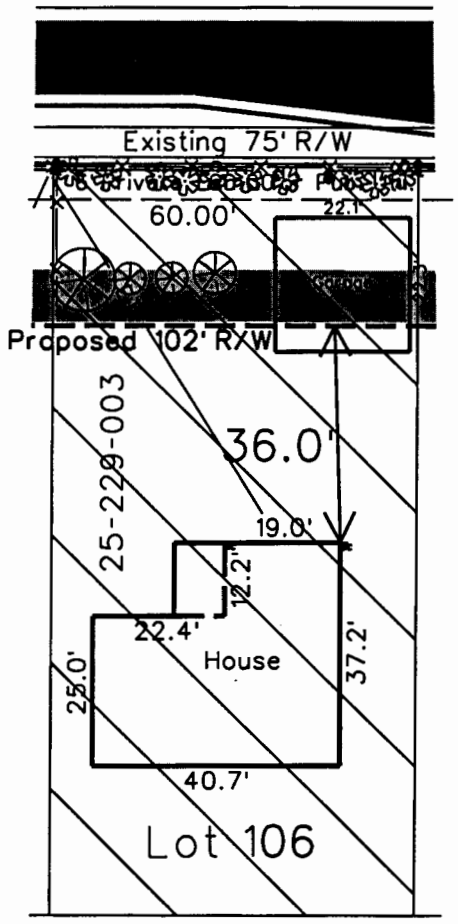
SIDWELL #88-20-25-229-003

Situated in the City of Troy, Oakland County, Michigan, Township 2 North, Range 11 East, described as:

Lot 106, YORKSHIRE SUBDIVISION, according to the Plat thereof recorded in Liber 115, Pages 29 and 30 of Plats, Oakland County Records.

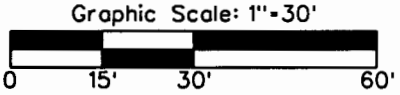
Commonly known as: 2931 Thames

Big Beaver Rd.



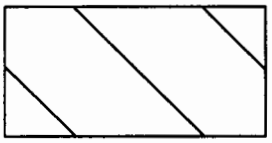
*2931
Thames

Graphic Scale: 1"=30'



Parcel #12

STATE OF MICHIGAN
George J. Ballard III
SURVEYOR NO. 41090
LICENSED PROFESSIONAL SURVEYOR



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

*2931 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.	JOB No.
1 of 1	01.105.5

City of Troy

A691A (2/98)

VALUATION STATEMENT TOTAL ACQUISITION

DATE: July 29, 2004

FEE OWNER(S): John Cionca, Sr., John Cionca, Jr., and George Daniel Cionca, as joint tenants with full rights of survivorship	OTHER INTEREST(S):

Your property has been appraised with values determined from current market data. The compensation offered and set forth in this statement is not less than the approved appraised value. The appraisal(s) used in establishing this compensation have been reviewed with you. The compensation disregards any decrease or increase in the fair market value caused by the project for which this property is being acquired. *If there are multiple parties of interest, a single offer of compensation is made. The compensation distribution is to be determined by agreement of the parties of interest, or by a court, if the parties interested in the property cannot agree.*

Market Value Compensation: $170,000.00

IMPROVEMENT IDENTIFICATION

Following are the buildings, structures, and fixtures which are considered part of the real property and are included in the compensation:

DESCRIPTION	RETENTION VALUE	OWNERSHIP (If different than fee owners.)
1,228 square foot 1-story brick ranch with 2 car detached garage		

PERSONAL PROPERTY

The following personal property within the area of the acquisition is not being acquired: (No values for these items are included in the purchase price.)You will be compensated for the reasonable moving expenses for that property as provided in federal regulations.

CONTROL SECTION STU 63459	PARCEL 12 – Sidwell #88-20-25-229-003	NAME John Cionca, Sr., John Cionca, Jr., and George Daniel Cionca
JOB NO. 49878	FED. ITEM NO. HH 2855	FED. PROJ. NO. STP 0163 (039) 01.105.5

August 31, 2004

TO: John Szerlag, City Manager

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

RE: AGENDA ITEM – REQUEST FOR APPROVAL OF PURCHASE AGREEMENT, WILLIAM FRANKLIN ASBURY, 2956 SPARTA, SIDWELL #88-20-25-203-001, 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 William Franklin Asbury, to purchase his property at 2956 Sparta, having Sidwell #88-20-25-203-001. The subject parcel is approximately 0.24 acres of land with a single family home and attached garage totaling 1,222 square feet.

Based on an appraisal prepared by R.S. Thomas & Associates, Inc., and reviewed by Kimberly Harper, Deputy Assessor, staff believes that $175,000.00, 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 William Franklin Asbury in the total amount of $175,000, plus closing costs. Funds will come from the Big Beaver Road– Rochester to Dequindre project.

2956 Sparta
Property Acquisition for Big Beaver Road Improvements
Rochester to Dequindre

Sidwell #88-20-25-203-001
Revised 7/30/04

CITY OF TROY
AGREEMENT TO PURCHASE REALTY
FOR PUBLIC PURPOSES

The CITY OF TROY (the "Buyer"), agrees to purchase from William Franklin Asbury, survivor of himself and Patricia June Asbury, his deceased wife, whose death certificate is recorded in Liber 18989, Page 472 of Oakland County Records (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-Five Thousand and no/100 Dollars ($175,000.00) 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 $1,222 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 HEREBY ACKNOWLEDGES THAT NO PROMISES WERE MADE EXCEPT AS CONTAINED IN THIS AGREEMENT.

IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this 25TH day of AUGUST, A.D. 2004.

In presence of:

Patricia A. Petitto

MICHAEL TOTH

CITY OF TROY (BUYER)

LARYSA FIGOL

SELLER:

William Franklin Asbury, survivor of himself and Patricia June Asbury, his deceased wife whose death certificate is recorded in Liber 18989, Page 472 of Oakland County Records.

Exhibit "A"

Wednesday, May 19, 2004

Section 25, Big Beaver Widening Project
Parcel: 88-20-25-203-001
Owner: William Franklin Asbury
Parcel #2

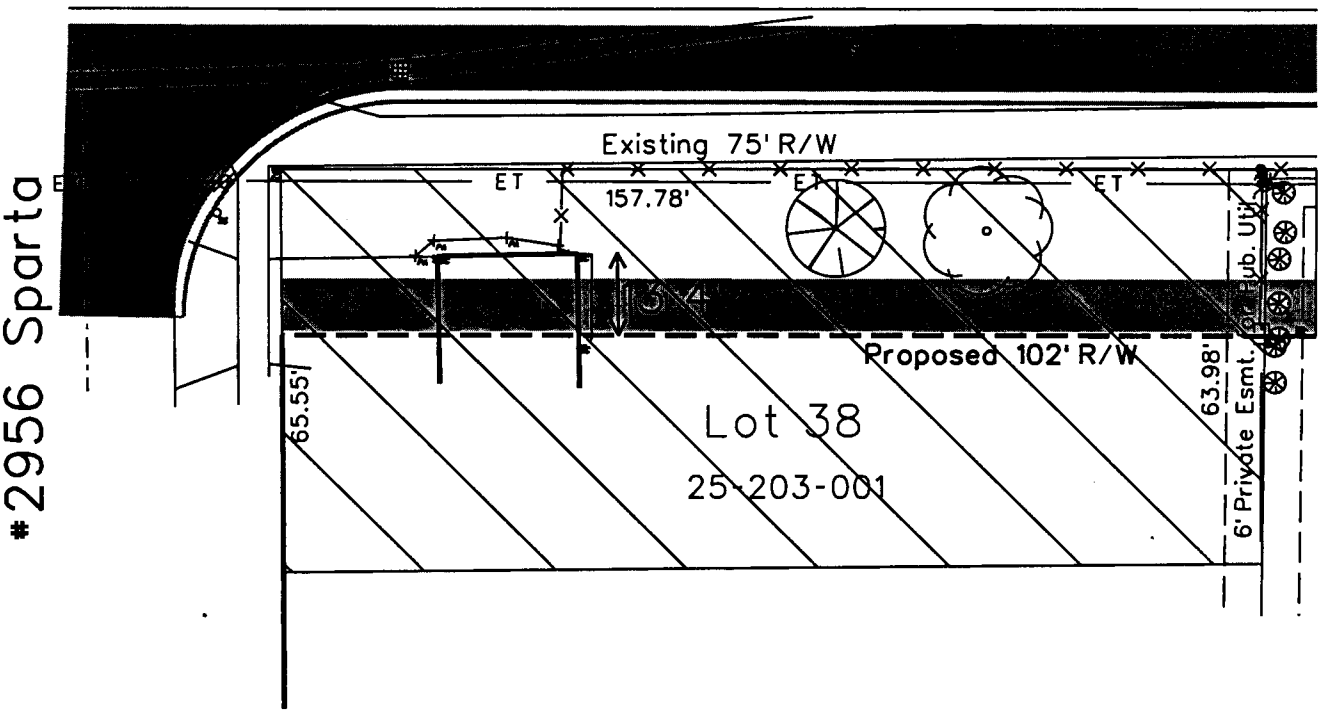
Parent Parcel Description (Title Commitment #63-510792)

Situated in the City of Troy, Oakland County, Michigan, described as:
Lot 38, 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 38, Mt. Olympia Estates Subdivision, according to the plat thereof as recorded in liber 116, page 31 of Plats, Oakland County Records. Containing 10,183 Square Feet or 0.234 Acres and being subject to all easements of record.

Big Beaver Rd.



Graphic Scale: 1"=30'

0 15' 30' 60'

Parcel #2

STATE OF MICHIGAN
George J. Ballard III
SURVEYOR NO. 41090
LICENSED PROFESSIONAL SURVEYOR

Right of Way Acquisition Area=10,183 Sq.Ft.

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

#2956 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

DATE	REV.

DOCUMENT PREPARED BY
George J. Ballard III
LAND SURVEYOR

CONTRACT No.

STEVEN J. VANDETTE
CITY ENGINEER

SHEET No.	JOB No.
1 of 1	01.105.5

September 2, 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: AGENDA ITEM - Request for Approval of Purchase Agreement, Virginia H. Newman and Jeanette R. Lepinski, 2815 Thames, Sidwell #88-20-25-226-003, 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 Virginia H. Newman and Jeanette R. Lepinski to purchase property at 2815 Thames, having Sidwell #88-20-25-226-003. The subject parcel is approximately 0.174 acres of land with a single family home and detached garage totaling 1,322 square feet. There are no additional conditions in this agreement.

Based on an appraisal performed by R.S. Thomas & Associates, Inc., and reviewed by Kimberly Harper, Deputy Assessor, staff believes that $175,000.00, 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 Virginia H. Newman and Jeanette R. Lepinski in the total amount of $175,000.00, plus closing costs. Funds will come from the Big Beaver – Rochester to Dequindre Road Project #01.105.5.

Sidwell #88-20-25-226-003

CITY OF TROY
AGREEMENT TO PURCHASE REALTY
FOR PUBLIC PURPOSES

The CITY OF TROY (the "Buyer"), agrees to purchase from Virginia H. Newman and Jeanette R. Lepinski, as joint tenants with full rights of survivorship (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-Five Thousand and no/100 Dollars ($175,000.00) 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 $1,322 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 HEREBY ACKNOWLEDGES THAT NO PROMISES WERE MADE EXCEPT AS CONTAINED IN THIS AGREEMENT.

IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this 27th day of August, A.D. 2004.

In presence of:

Patricia A. Pattis

Larry S. Tyl

CITY OF TROY (BUYER)

SELLERS:

Virginia H. Newman

Virginia H. Newman

Jeanette R. Lepinski

Jeanette R. Lepinski

EXHIBIT "A"

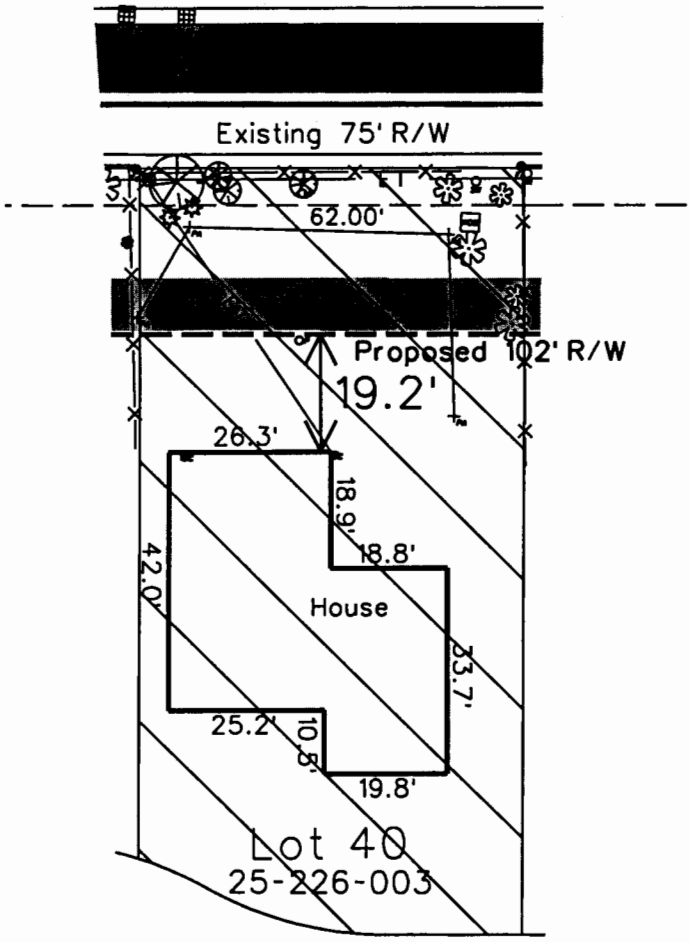
SIDWELL #88-20-25-226-003

Situated in the City of Troy, Oakland County, Michigan, Township 2 North, Range 11 East, described as:

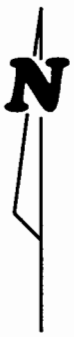
Lot 40, YORKSHIRE SUBDIVISION, according to the Plat thereof recorded in Liber 115, Pages 29 and 30 of Plats, Oakland County Records.

Commonly known as: 2815 Thames

Big Beaver Rd.



#2815 Thames



Graphic Scale: 1"=30'

0 15' 30' 60'

Parcel #5

STATE OF MICHIGAN
George J. Ballard III
SURVEYOR NO. 41090
LICENSED PROFESSIONAL SURVEYOR

Right of Way Acquisition
Areo=7,566 Sq.Ft.

DATE	REV.

DOCUMENT PREPARED BY
George J. Ballard III
LAND SURVEYOR

CONTRACT No.

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

#2815 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.	JOB No.
1 of 1	01.105.5

City of Troy

A691A (2/98)

VALUATION STATEMENT TOTAL ACQUISITION

DATE: September 2, 2004

FEE OWNER(S): Virginia H. Newman and Jeanette R. Lepinski, as joint tenants with full rights of survivorship	OTHER INTEREST(S):

Your property has been appraised with values determined from current market data. The compensation offered and set forth in this statement is not less than the approved appraised value. The appraisal(s) used in establishing this compensation have been reviewed with you. The compensation disregards any decrease or increase in the fair market value caused by the project for which this property is being acquired.
If there are multiple parties of interest, a single offer of compensation is made. The compensation distribution is to be determined by agreement of the parties of interest, or by a court, if the parties interested in the property cannot agree.

Market Value Compensation: $175,000.00

IMPROVEMENT IDENTIFICATION

Following are the buildings, structures, and fixtures which are considered part of the real property and are included in the compensation:

DESCRIPTION	RETENTION VALUE	OWNERSHIP (If different than fee owners.)
1,322 square foot 1-story brick ranch with 2 car attached garage		

PERSONAL PROPERTY

The following personal property within the area of the acquisition is not being acquired: (No values for these items are included in the purchase price.)You will be compensated for the reasonable moving expenses for that property as provided in federal regulations.

CONTROL SECTION STU 63459	PARCEL 5 – Sidwell #88-20-25-226-003	NAME Virginia H. Newman & Jeanette R. Lepinski
JOB NO. 49878	FED. ITEM NO. HH 2855	FED. PROJ. NO. STP 0163 (039) 01.105.5

September 1, 2004

TO: John Szerlag, City Manager

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

SUBJECT: **Agenda Item** – Standard Purchasing Resolution 4: State Of Michigan MiDEAL Program— Four wheel drive pick-up truck

RECOMMENDATION

City management requests approval and authorization to purchase one (1) four-wheel drive pick-up truck through the State of Michigan MiDEAL Program (formerly the Extended Purchasing Program) with Bill Snethkamp Lansing Dodge, Inc. at an estimated total cost of $19,481.78. This purchase is under State Contract #071B4200116, Mich. Spec. 3958- 0090.

SUMMARY

This purchase will replace #40, a 1992 Ford Van, which is severely rusted. This truck will be used by the Fire Staff Assistants and to pull the Fire Safety House.

2005	Dodge, Model DR6L61, 4 x 4 Short Box, ½ ton	$14,618.78
	Quad Cab (4 Door)	2,653.00
	5.7 V8 Engine	895.00
	Trailer Package	465.00
	Bed Liner	245.00
	Cloth Seats	110.00
	4 Wheel Anti-Lock Brakes	495.00
Grand Total		$19,481.78

BUDGET

Funds for the purchase of this vehicle are available in the Fire Department Capital Account, Apparatus Replacement, 401338.7984.

Prepared by: Richard Sinclair, Asst. Fire Chief

August 18, 2004

TO: John Szerlag, City Manager

FROM: Steve Vandette, Acting Assistant City Manager/Services
Jeanette Bennett, Purchasing Director
Timothy L. Richnak, Public Works Director

SUBJECT: **Agenda Item** - Standard Purchasing Resolution 3: Exercise Renewal Option –Snow Removal Rental Equipment Including Operators

RECOMMENDATION

On October 6, 2003, Troy City Council approved one-year contracts to provide seasonal requirements of snow removal rental equipment including operators with an option to renew for one additional season to low bidders, Sterling Topsoil & Grading and Brooks Landscaping (Resolution #2003-10-496-E-4). City management recommends accepting the offers to renew, at the same unit prices, terms and conditions as the original contract expiring April 15, 2005 (see letters attached).

The pre-approval would extend contract prices to other contractors at the time of a snow emergency, after the successful bidders have been employed at the same prices, terms and conditions.

Sterling Topsoil & Grading	Number of Units	Hourly Rate/Unit
Pickup with minimum 8 ft blade	1	$ 65.00
Road grader – 20,000 GVW	1	$135.00
Truck with 10 ft snow plow	2	$ 75.00
Brooks Landscaping		
Front end loader – 5 yd capacity	2	$138.50
- 3 yd capacity	1	$128.50
- 2 yd capacity	3	$120.00
- 4 yd capacity	1	$150.00
-10 yd capacity	1	$175.00
Pickup with minimum 8 ft blade	15	$ 65.00

MARKET SURVEY

A market survey was not deemed necessary as the only other bidder quoted prices averaging 41.6% higher than the two low bidders.

BUDGET

Funds are available in the Streets Department Operating Budget.

Prepared By: Emily Frontera, Administrative Aide

City of Troy

August 11, 2004

Attn: Mr. Giles N. Brooks
Brooks Landscaping Inc
PO Box 661
St Clair Shores, MI 48080

Dear Mr. Brooks

On October 6, 2003 the City of Troy entered into contract #20300323 OB with Brooks Landscaping Inc to provide one-year seasonal requirements of snow removal rental equipment including operators. This contract contained an option to renew for one additional year at the same prices, terms and conditions as the original contract.

Please fax this letter back indicating if Brooks Landscaping Inc wishes to renew this contract until April 14, 2005. Our fax number is (248) 524-3520. It should be understood that this request to renew the contract is subject to a favorable market survey. A request by City staff to determine the successful bidder's interest in renewing the contract in no way obligates the City. The option cannot be exercised without Troy City Council approval and a blanket purchase order issued.

If you have any questions please call me at (248) 524-3501

CHECK ONE:

Brooks Landscaping is interested in renewing the contract under the same prices, terms, and conditions: yes (X)

Brooks Landscaping is not interested in renewing the contract ( )

X Brooks Landscaping Inc
Signed: Authorized Company Representative
Giles N Brooks II President
Date: 08/12/04

Thank you,
Emily Frontera
Department of Public Works
City of Troy

City of Troy

August 12, 2004

Attn: Mr. Donald Gerlach
Sterling Topsoil & Grading, Inc.
37328 Utica Road
Sterling Heights, MI 48312

Dear Mr. Gerlach

On October 6, 2003 the City of Troy entered into contract #20300322 OB with Sterling Topsoil & Grading, Inc. to provide one-year seasonal requirements of snow removal rental equipment including operators. This contract contained an option to renew for one additional year at the same prices, terms and conditions as the original contract.

Please fax this letter back indicating if Sterling Topsoil & Grading, Inc. wishes to renew this contract until April 14, 2005. Our fax number is (248) 524-3520. It should be understood that this request to renew the contract is subject to a favorable market survey. A request by City staff to determine the successful bidder's interest in renewing the contract in no way obligates the City. The option cannot be exercised without Troy City Council approval and a blanket purchase order issued.

If you have any questions please call me at (248) 524-3501

CHECK ONE:

Sterling Topsoil & Grading, Inc. is interested in renewing the contract under the same prices, terms, and conditions: (X)

Sterling Topsoil & Grading, Inc. is not interested in renewing the contract ( )

x Donald W. Gerlach
Signed: Authorized Company Representative

Date: 8-16-2004

Thank you,
Emily Frontera
Department of Public Works
City of Troy

RECESS: 10:42 P.M. 11:00 P.M.

REGULAR BUSINESS

B. Items Not on the Current Agenda

CONSENT AGENDA

E-1 Approval of Consent Agenda

Resolution #2003-10-496
Moved by Lambert
Seconded by Stine

RESOLVED, That all items as presented on the Consent Agenda are hereby **APPROVED** as presented.

Yes: All-7

E-2 Minutes: Regular Meeting of September 22, 2003

Resolution #2003-10-496-E-2

RESOLVED, That the Minutes of the 7:30 PM Regular Meeting of September 22, 2003 be **APPROVED** as submitted.

E-3 City of Troy Proclamations:

Resolution #2003-10-496-E-3

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

a) National Disability Employment Awareness Month – October 2003
b) National Breast Cancer Awareness Month – October 2003

E-4 Standard Purchasing Resolution 1: Award to Low Bidders – Snow Removal Rental Equipment Including Operators

Resolution #2003-10-496-E-4

RESOLVED, That contracts to provide seasonal requirements of snow removal rental equipment including operators with an option to renew for one (1) additional season are hereby **AWARDED** to the following low bidders: Sterling Topsoil & Grading, Inc. and Brooks Landscaping at hourly rates contained in the bid tabulation opened August 1, 2003, a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

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

BE IT FURTHER RESOLVED, That City Staff is authorized to extend the hourly contract prices to other contractors, after the successful bidders have been employed, to speed the snow removal process during times of snow emergencies.

E-5 Standard Purchasing Resolution 1: Award to Low Bidder – Elevator Services Contract

Resolution #2003-10-496-E-5

RESOLVED, That a contract to provide three (3) year requirements of elevator inspection, maintenance, and repair with an option to renew for two (2) additional years is hereby **AWARDED** to the low bidder, Otis Elevator Company, at an estimated total cost for three years of $19,353.00, at prices contained in the bid tabulation opened September 10, 2003, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

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

E-6 Approval of Conditioned Agreement to Purchase for the On-going Sidewalk Gap Project – Christian and Christine Walters – 6545 Livernois – Sidwell #88-20-04-276-018

Resolution #2003-10-496-E-6
RESOLVED, That the Agreement to Purchase between the City of Troy and Christian and Christine Walters, having Sidwell #88-20-04-276-018 for acquisition of right-of-way in the amount of $20,395.00 plus closing costs, is hereby **APPROVED**, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-7 Standard Purchasing Resolution 1: Award to Low Bidder - Major Street Pavement Marking

Resolution #2003-10-496-E-7

RESOLVED, That a two-year contract with an option to renew for one additional year to provide Major Street Pavement Marking is hereby **AWARDED** to the low bidder, P.K. Contracting, Inc.,

September 22, 2003

To: The Honorable Mayor and City Council

From: John Szerlag, City Manager
Gary A. Shripka, Assistant City Manager/Services
Jeanette Bennett, Purchasing Director
Timothy L. Richnak, Public Works Director

Re: Standard Purchasing Resolution 1: Award to Low Bidders – Snow Removal Rental Equipment Including Operators

RECOMMENDATION

Bid proposals were opened August 1, 2003, for seasonal requirements of snow removal rental equipment including operators with an option to renew for one (1) additional season. These services are on a contract basis to supplement City forces during severe snowstorms. After reviewing the bid proposals, City management recommends awarding the contract to the low bidders, Sterling Topsoil & Grading and Brooks Landscaping at the following unit prices.

	NUMBER OF UNITS	HOURLY RATE/UNIT
STERLING TOPSOIL & GRADING		
Pickup with minimum 8 ft blade	1	$ 65.00
Road grader – 20,000 GVW	1	$135.00
Truck with 10 ft snow plow	2	$ 75.00
BROOKS LANDSCAPING		
Front end loader – 5 yd capacity	2	$138.50
- 3 yd capacity	1	$128.50
- 2 yd capacity	3	$120.00
- 4 yd capacity	1	$150.00
- 10 yd capacity	1	$175.00
Pickup with minimum 8 ft blade	15	$ 65.00

The award is contingent upon contractors submission of proper insurance certificates and all specified requirements.

To: Honorable Mayor and City Council
Re: Bid Award – Snow Removal Rental Equipment Including Operators

SUMMARY

Many companies do not bid on the snow removal service due to the variability of weather, the economy, and fluctuating equipment availability. However, snow emergencies often require hiring additional companies to assist in the snow removal effort. While any one specific company may not be available, others are, and we have hired them based upon emergency provision powers of the City Manager. Pre-approval to extend contract prices to other contractors, after the successful bidders have been employed, could speed the snow removal process. It is our recommendation that the contract be extended to other contractors, on an as needed basis, and impose the above hourly rates to these contractors at the time of a snow emergency.

BUDGET

Funds are available in the Streets Department Operating Budgets.

44 Vendors Notified on MITN System
3 Bid Responses Rec'd
2 No Bids: (1) Company indicated the job was too large.
(1) Company not interested at this time, but asked to be kept on the list for future projects.

Prepared by: Vicki C. Richardson, Solid Waste Coordinator

CITY OF TROY ITB-COT 03-11

Opening Date -- 8/1/03
Date Prepared -- 9/22/03

BID TABULATION
SNOW REMOVAL RENTAL EQUIPMENT

VENDOR NAME:		BROOKS LANDSCAPING	STERLING TOPSOIL & GRADING, INC	RIZZO SERVICES	
PROPOSAL: SNOW REMOVAL RENTAL EQUIPMENT INCLUDING OPERATORS					
ITEM	NO. OF PIECES OF EQUIPMENT AVAILABLE	HOURLY RATE	HOURLY RATE	HOURLY RATE	
1.	FRONT END LOADER: MINIMUM SIZE 3 YDS				
	5 YD CAPACITY	**(2) $138.50**	(4) $140.00	(2) $195.00	
	3 YD CAPACITY	**(1) $128.50**	(2) $130.00	(5) $145.00	
	OTHER SIZE: 10 YARD	**(1) $175.00**		More available if needed	
	4 YARD	**(1) $150.00**			
	2 YARD	**(3) $120.00**			
	PICKUP WITH MINIMUM 8 FT BLADE	**(15) $65.00**	**(1) $65.00**	(15) $95.00	
	(to assist loaders in clean up only)				
2.	ROAD GRADER: MINIMUM SIZE - 6 WHEEL 20,000 GVW	N/A	**(1) $135.00**	N/A	
	OTHER SIZE	N/A			
3.	TRUCK WITH 10FT SNOW PLOW	(5) $85.00	**(2) $75.00**	(10) $125.00	
	INSURANCE:				
	CAN MEET	XX	XX	XX	
	CANNOT MEET				
	CONTACT INFORMATION				
	Hours of Operation	24hrs/7days	7AM-6PM	24hr/7days	
	24 Hr Emergency Phone Yes or No	(586)823-6460	(586)264-3000	(866)772-8900	
	TERMS:	NET 15/INVOICE	NET 30 DAYS	NET 30 DAYS	
	WARRANTY:	N/A	BLANK	N/A	
	DELIVERY DATE:	**ON CALL**	**ON CALL**	ON CALL	
	EXCEPTIONS:	BLANK	BLANK	More Equipment is available for the City of Troy as needed.	

NO BIDS:
Dream Green
Troy Clogg Landscape Assoc

ATTEST:
Vicki Richardson
M Aileen Bittner
Linda Bockstanz

PROPOSAL-- Furnish One Season's Requirements of Snow Removal Rental Equipment Including Operators with an Option to Renew for One Additional Season

BOLDFACE TYPE DENOTES LOW BIDDERS

Jeanette Bennett
Purchasing Director

G:\SnowRemovalRentalEquipITB-COT 03-11

Michigan Inter-governmental Trade Network
MITN

Downloading History for ITB-COT 03-11 Snow Remov

The report below shows all fax and e-mail vendors that matched this document when it was originally issued. It also shows all vendors that have downloaded or ordered the document and any subsequent amendments as of **9/22/2003.**

Document Title:	Snow Removal Rental Equipment including Operators
Date Issued:	7/8/2003
Close Date:	8/1/2003
Date Amendment #1 was Issued:	7/15/2003

Click on the table headings for "Account Number" or "Company name" to re-sort this report by that column. You may also click on any vendor account number to view their account information.

Acct #	Company Name	Service	Date Obtained Document	Date Obtained Amendments
12306	Advanced Services Lawn and Landscape	E-mail	7/9/2003	
12964	Ajax Materials Corporation	E-mail	7/9/2003	
13555	Automotive Service Co.	E-mail	7/29/2003	
12114	B & B Lawn Service	Fax		#1 7/15/2003
10139	B & J Parking Lot Maintenance, Inc.	E-mail	7/25/2003	#1 7/25/2003
11742	Bowen Paving, Inc.	Fax		#1 7/15/2003
10355	Brooks Landscaping, Inc	Fax	7/20/2003	#1 7/15/2003
10682	C & R Maintenance d/b/a Rizzo Services	E-mail	7/23/2003	#1 7/23/2003
11355	Cartegraph	E-mail		
12856	CCH Incorporated	Free	7/11/2003	
10915	CITYWORKS, INC.	E-mail		
11732	Curbco, Inc.	Fax		#1 7/15/2003
12323	D.L.F. Trucking, Inc.	Fax		#1 7/15/2003
10123	Dean Sellers Ford	Free	7/16/2003	
14117	Doring, Incorporated	E-mail	9/16/2003	
13624	Dream Green	Free	7/31/2003	#1 7/31/2003
11211	Florence Cement Company	E-mail	7/17/2003	#1 7/17/2003
10938	Great Lakes Landscaping & Construction Inc.	Fax	7/25/2003	#1 7/25/2003
11604	Hyde Equipment Co.	Fax		#1 7/15/2003

12021	JOHN CARLO, INC.	E-mail	7/17/2003	
13409	kathys lawn maintenance	Free	7/26/2003	#1 7/26/2003
12606	KDS Landscape	Fax	7/13/2003	#1 7/15/2003
12014	L. Loyer Construction Company	Fax		#1 7/15/2003
11884	Mathisen Company	Fax		#1 7/15/2003
12149	National Alliance of Cabling & Technology	E-mail	7/11/2003	
11059	Pamar Enterprises, Inc.	E-mail		
10061	Parks Landscaping & Snow Service	Free	7/30/2003	
10065	Payne Landscaping, Inc.	E-mail		
13290	Printcorp	E-mail	7/30/2003	
11633	Pro Power Washing L.L.C.	Fax		#1 7/15/2003
13312	Public Safety Communications, LLC	E-mail	7/11/2003	
11720	Rolar Property Services Inc.	E-mail		
13223	Simpson Development Group	E-mail	7/21/2003	
13340	SPECIAL EVENTS PARTY RENTAL	Free	7/21/2003	
13616	Sterling Topsoil & Grading,Inc.	Free	7/31/2003	#1 7/31/2003
10327	T & M ASPHALT PAVING, INC.	E-mail		
10731	T.F.R. Enterprises, Inc.	E-mail		
11814	Tony Anthony Inc	E-mail	7/18/2003	#1 7/18/2003
10658	Troy Clogg Landscape Assoc., LLC.	E-mail	7/22/2003	#1 7/22/2003
10311	Turf Tenders Landscaping & Fertilizing Inc.	Free	8/1/2003	
10285	United Lawnscape, Inc.	Fax		#1 7/15/2003
12398	United Rentals	Free	7/10/2003	
11267	United Soils, Inc.	E-mail	7/15/2003	#1 7/15/2003
11851	Visual Image Exchange	Free	7/9/2003	

Return to Main Menu Return to Report Menu

September 7, 2004

TO: The Honorable Mayor and City Council

FROM: John Szerlag, City Manager
Steven Vandette, Acting Assistant City Manager/Services
William Huotari, Acting City Engineer WJH

SUBJECT: Private Agreement for Troy Commons Retail Center
Project No. 03.930.3

The Engineering Department has reviewed and approved plans for this project, which includes sanitary sewer, water main and soil erosion controls.

The Owner has provided a letter of credit for escrow and cash fees in the amount of the estimated cost of public improvements, as required.

Approval is recommended.

G:\Projects\Projects - 2003\03.930.3 - Troy Commons Retail Center\Private Agreement Cover Letter.doc

cc: Tonni Bartholomew, City Clerk (Original Agreement)
James Nash, Financial Services Director

Prepared by: G. Scott Finlay, P.E.
Civil Engineer

Enclosed Private Agreement, Detailed Summary, Sketch

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)

PROJECT NO. 03.930.3	PROJECT LOCATION: SE ¼ Section 22
RESOLUTION NO.	DATE OF COUNCIL APPROVAL:

KNOW ALL MEN BY THESE PRESENT; That the City of Troy, a Michigan Municipal Corporation of the County of Oakland, State of Michigan, hereinafter referred to as "City" and **Stuart Frankel Development Company** whose address is **2301 W. Big Beaver-Suite 510, Troy, MI 48084** and whose telephone number is **248-649-2924** hereinafter referred to as "Owners".

WITNESSETH, FIRST: That the City agrees to allow the installation of **Sanitary Sewer, Storm Sewer Water Main and Soil Erosion Controls** in accordance with plans prepared by **Nowak & Fraus** whose address is **1310 N. Stephenson Hwy., Royal Oak, MI 48067** and whose telephone number is **248-399-0886**; and approved prior to construction by the City specifications of the City shall be complied with for this construction.

SECOND: That the Owners agree to contribute the approximate contract price of **$32,621.00**. This amount will be transmitted to the City Clerk for installation of said improvements in the form of (check one):

Cash	☐
Certificate of Deposit	☐
Irrevocable Bank Letter of Credit	☒
Check	☐
Performance Bond & 10% Cash	☐

8/24/04
#4049
$7170.00
TC

Said funds shall be placed on deposit with the City upon the execution of this contract and shall be disbursed to the owner by the City only upon presentation of duly executed waivers of lien and sworn statements satisfactory to the City, and after final inspection and approval by the Engineering Department for the City. In addition, the owners agree to contribute the following cash fees:

* Plan Review and Construction Inspection Fee (Public Improvements)	$	2,642.00
Engineering Review Fee (Private Improvements)	$	1,378.00
Water Main Testing Fee	$	650.00
Street Cleaning/Road Maintenance (Refundable)	$	2,500.00
TOTAL:	$	**$7,170.00**

* 8.1% (.081) of approximate contract price

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS

(PRIVATE AGREEMENT)

PROJECT NO. 03.930.3	PROJECT LOCATION: SE ¼ Section 22
RESOLUTION NO.	DATE OF COUNCIL APPROVAL:

THIRD: The owners may contract for construction of said improvement or may have the City advertise for bids. In the even the Owners select their own contractor, such contractor shall be subject to prior written approval by the City and completed contract documents shall be submitted to the City.

Owners agree to arrange for a pre-construction meeting with the City Engineer and the contractor prior to start of work. All municipal improvements must be completely staked in the field under the direct supervision of a registered civil engineer or registered land surveyor, according to the approved plans.

FOURTH: Owners hereby acknowledge the benefit to their property conferred by the construction of the aforementioned and agree and consent to pay the total sum of **$ 39,791.00** for the construction of said public utilities in lieu of the establishments of any special district by the City. Further, owners acknowledge that the benefit to their property conferred by the improvement is equal to, or in excess of, the aforementioned amount.

FIFTH: Owners agree that if, for any reason, the total cost of completion of such improvement shall exceed the sum deposited with the City in accordance with Paragraph SECOND hereof, that Owners will immediately remit such additional amount to the City upon request and City will disburse such additional amount in accordance with Paragraph SECOND hereof. In the event the total cost of completion shall be less than the sum deposited with City in accordance with Paragraph SECOND hereof, City will reimburse to the Owners the excess funds remaining after disbursement of funds.

SIXTH: Owners agree to indemnify and save harmless City, their agents and employees, from and against all loss or expense (including costs and attorneys' fees) by reason of liability imposed by law upon the City, its agents and employees for damages because of bodily injury, including death, at any time resulting therefrom sustained by any person or persons or on account of damage to property, including work, provided such injury to persons or damage to property is due or claimed to be due to negligence of the Owner, his contractor, or subcontractors, employees or agents, Owner further agrees to obtain and convey to the City all necessary easements for such public utilities as required by the City Engineer.

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)

PROJECT NO. 03.930.3	PROJECT LOCATION: SE ¼ Section 22
RESOLUTION NO.	DATE OF COUNCIL APPROVAL:

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate on this _____day of _____, 20_____.

OWNERS

By: Troy Commons

Stuart Frankel

Please Print or Type

_____

Please Print or Type

CITY OF TROY

By:

_____

Louise E. Schilling, Mayor

_____

Tonni Bartholomew, City Clerk

STATE OF MICHIGAN, COUNTY OF OAKLAND

On this 26th day of August, A.D.2004, before me personally appeared STUART FRANKEL known by me to be the same person(s) who executed this instrument and who acknowledged this to be his/her/their free act and deed.

Jacqueline L. Clein

NOTARY PUBLIC, Oakland County, Michigan

JACQUELINE L. CLEIN
NOTARY PUBLIC WAYNE CO., MI
MY COMMISSION EXPIRES Oct 28, 2005
ACTING IN OAKLAND COUNTY, MI

My commission expires: _____

DETAILED SUMMARY OF REQUIRED ESCROW DEPOSITS AND CASH FEES
PRIVATE AGREEMENT FOR TROY COMMONS RETAIL CENTER
PROJECT NO. 03.930.3

The estimated costs of public improvements for the above-mentioned project are as follows:

Escrow Deposits:

Watermain	**16,010.00**
Sanitary Sewer	**14,136.00**
Soil Erosion Controls	**2,475.00**

Total Escrow Deposits: (Check) **$ 32,621.00**

Cash Fees:

Review & Inspection	$2,642.00
Engineering Review	1,378.00
Water Main Testing Fee	650.00
Street Cleaning/Road Maintenance	2,500.00

Total Cash Fees: (check) **$ 7,170.00**

GENERAL SITE NOTES

1. WHERE INDICATED, PROVIDE 12"x18" "PHYSICALLY HANDICAPPED" PARKING SIGN WITH BLK SCREEN BYANDA, & LETTERING, EQUAL TO MODEL PM14S AS MANUFACTURED BY SUPERSIGNE CO., DETROIT MICHIGAN.
2. "PHYSICALLY HANDICAPPED" AND FIRE SAFETY SIGNS SHALL BE MOUNTED ON 1 1/2" SQUARE GALVANIZED STEEL POST, WALL, OR FENCE AS INDICATED ON PLANS. LOCATE & INSTALL IN ACCORDANCE WITH APPLICABLE STANDARDS AND REGULATORS.
3. PARKING STALL STRIPES SHALL BE PAINTED BY PARKING CONTRACTOR. ALL SPACES SHALL BE DOUBLE STRIPED TO MEET CITY OF TROY REQUIREMENTS AND SHALL BE APPLIED IN ONE COAT USING A STANDARD STRIPING MACHINE. PAINT SHALL BE ROMARK #3 PARLON TRAFFIC PAINT OR EQUAL. COLOR: YELLOW
4. ALL NEW SITE LIGHTING SHALL BE SHIELDED DOWNWARD AND AWAY FROM ADJACENT PROPERTY.
5. SITE IDENTIFICATION SIGNAGE SHALL CONFORM TO LATEST REQUIREMENTS OF CITY OF TROY ORDINANCE.
6. ALL DRIVE AREAS MUST BE POSTED AS FIRE LANES WITH UNIFORM SIGNS IN KEEPING WITH THE STANDARDS ESTABLISHED IN THE MUTCD MANUAL OF TRAFFIC CONTROL DEVICES. SIGNS MUST BE ERECTED ON BOTH SIDES OF FIRE LANES WITH SPACING NOT TO EXCEED ONE-HUNDRED (100) FEET.
7. PAINT HYDRANTS ACCORDING TO CITY OF TROY SPECIFICATIONS
8. EXTERIOR CURB RAMPS SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE FOLLOWING CRITERIA.
   A. CURB RAMPS SHALL BE PROVIDED WHENEVER AN ACCESSIBLE ROUTE CROSSES A CURB.
   B. MAXIMUM SLOPE SHALL BE 1:12. THE TRANSITION FROM RAMPS, GUTTERS OR STREETS SHALL BE FLUSH.
   C. THE MINIMUM WIDTH SHALL BE 36", EXCLUSIVE OF FLARES, UNLESS OTHERWISE NOTED ON PLANS.
   D. CURB RAMPS SHALL HAVE A DETECTABLE WARNING CONSISTING OF RAISED TRUNCATED DOMES WITH A DIAMETER OF NOMINAL 0.9 IN., A HEIGHT OF NOMINAL 0.2 IN. AND A CENTER-TO-CENTER SPACING OF NOMINAL 0.9 IN. AND SHALL CONTRAST VISUALLY WITH ADJOINING SURFACES, EITHER LIGHT-ON-DARK, OR DARK-ON-LIGHT.
9. REFER TO SHEETS SP.102 AND SP.103 FOR SITE DETAILS.
10. REFER TO SHEET LP-101 FOR LANDSCAPING.
11. A DETECTABLE WARNING SHALL BE PROVIDED IN SIDEWALKS WHERE A WALK CROSSES OR ADJOINS A VEHICULAR WAY, AND THE WALKING SURFACES ARE NOT SEPARATED BY CURBS, RAILINGS OR OTHER ELEMENTS. THE BOUNDARY BETWEEN THE AREAS SHALL BE DEFINED BY A CONTINUOUS DETECTABLE WARNING WHICH IS 36" WIDE MINIMUM. THE DETECTABLE WARNING SHALL COMPLY WITH THE CRITERIA STATED ABOVE FOR CURB RAMPS.
12. CALL MISS DIG 72 HOURS PRIOR TO CONSTRUCTION.
13. ALL CONSTRUCTION AND MATERIALS SHALL CONFORM TO CURRENT STANDARDS AND SPECIFICATIONS OF THE CITY OF TROY
14. NO SIGNS ARE APPROVED AS PART OF THIS SITE PLAN APPROVAL. PRIOR TO ERECTING A SIGN, AN APPLICATION AND APPROPRIATE SUBMISSIONS SHALL BE MADE TO THE BUILDING DEPARTMENT AND ALL RELEVANT PARTIES FOR REVIEW, APPROVAL AND ISSUANCE OF A SIGN PERMIT.
15. ALL ENTRY DOORS TO TENANT SPACES SHALL BE FLUSH W/ SIDEWALK AND MEET BARRIER FREE REQUIREMENTS.
16. FINAL LOCATION OF ALL FIRE LANES TO BE APPROVED BY THE CITY OF TROY FIRE DEPARTMENT

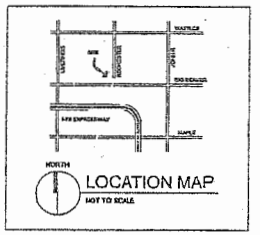
NOTE: PATCH AND REPAIR EXIST. PARKING SURFACE

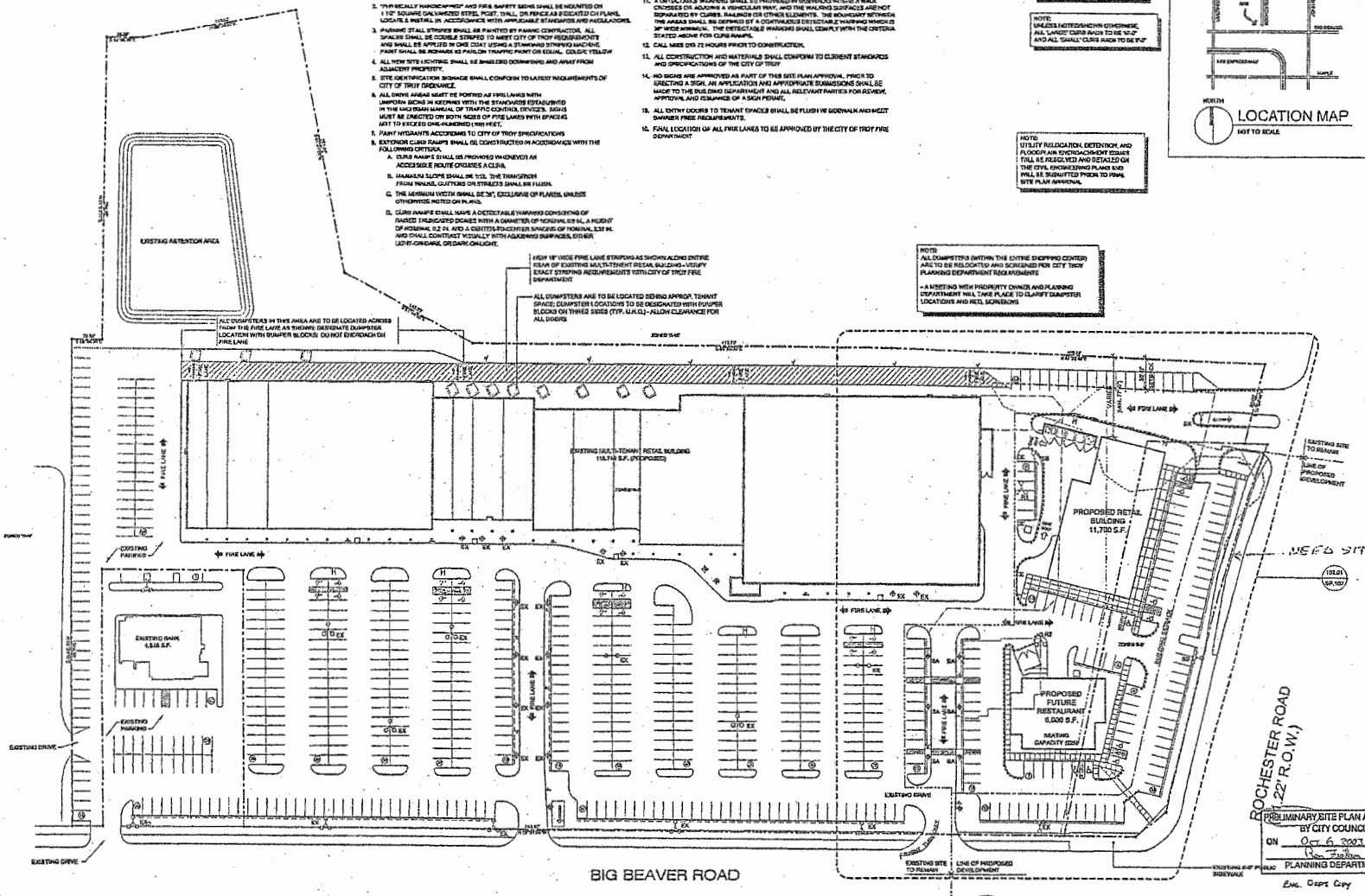
NOTE: UNLESS NOTED/SHOWN OTHERWISE: ALL LARGE CURB RADII TO BE 10'-0" AND ALL SMALL CURB RADII TO BE 5'-0"

NOTE: UTILITY RELOCATION, DETENTION, AND FLOODPLAIN ENCROACHMENT ISSUES WILL BE RESOLVED AND DETAILED ON THE CIVIL ENGINEERING PLANS AND WILL BE SUBMITTED PRIOR TO FINAL SITE PLAN APPROVAL.

NOTE: ALL DUMPSTERS (WITHIN THE ENTIRE SHOPPING CENTER) ARE TO BE RELOCATED AND SCREENED PER CITY TROY PLANNING DEPARTMENT REQUIREMENTS

- A MEETING WITH PROPERTY OWNER AND PLANNING DEPARTMENT WILL TAKE PLACE TO CLARIFY DUMPSTER LOCATIONS AND REFL SCREENING





OVERALL SITE PLAN

SCALE 1"=60'

REFER TO ENLARGED SITE PLAN (SHEET SP.102) FOR ALL DETAILED PLAN NOTES AND DIMENSIONS

LEGAL DESCRIPTION:

(OVERALL PARCEL: PARCELS A AND B COMBINED)

Land in the City of Troy, Oakland County, Michigan, described as: Lot 37 Beaver Brook Subdivision, according to the Plat thereof as recorded in Liber 53, Page 46 of Plats, Oakland County Records and Lots 10 through inc. 23 & 24, Supervisor's Plat No. 8, according to the Plat thereof as recorded in Liber 46, Page 41 of Plats (Oakland County Records, except that portion taken for road Right-of-Way, being more accurately described as follows: Commencing at the South ¼ corner of Section 22, T.1N, R.11E.; thence South 88° 41' 28" East, 30.00 feet; thence North 00° 31' 16" East, 100.00 feet to the Point of Beginning; thence North 00° 31' 16" East, 475.50 feet to the Northwest corner of Lot 10; thence South 88° 50' 30" East, 75.58 feet to the Southwest corner of Lot 37 Beaver Brook Subdivision; thence North 01° 07' 30" East, 294.93 feet to the Southerly Right-of-Way line of Hartland Avenue (60 foot wide); thence South 88° 50' 30" East, 38.38 feet along said Hartland Avenue Right-of-Way; thence North 00° 31' 00" East, 153.50 feet along said Hartland Avenue Right-of-Way; thence South 10° 37' 00" East, 261.67 feet; thence South 81° 44' 00" East, 143.00 feet; thence South 88° 50' 30" East, 413.23; thence South 01° 30' 40" East, 309.29 feet to a point on the Westerly Right-of-Way line of Rochester Road (width varies); thence South 14° 04' 40" West, 60.49 feet along said Rochester Road Right-of-Way; thence South 87° 29' 00" East, 20.14 feet; thence 270.56 feet along an arc with a curve to the left (Radius 2286.12 feet; Central angle 06° 47' 00", Chord bears South 17° 57' 30" West; thence South 14° 17' 00" West, 148.04 feet; thence South 87° 29' 42" West, 26.34 feet to a point on the 102 foot wide Right-of-Way line of Big Beaver Road; thence North 87° 57' 22" West, 601.95 feet along said 102 foot Right-of-Way line; thence North 00° 31' 10" East, 251.00 feet; thence North 88° 57' 25" West, 140.00 feet; thence South 00° 31' 10" West, 251.00 feet to a point on said 102 foot wide Right-of-Way; thence North 87° 57' 22" West 30.00 feet along said 102 foot wide Right-of-Way, to the Point of Beginning.

Containing 679,031 square feet or 15.59 acres of land.

LIGHT FIXTURE SCHEDULE

DESIGNATION	DESCRIPTION	MANUFACTURER	CATALOG NUMBER	LAMP	FINISH
EX	EXT. INDIRECT POLE MTD. (12'-0" POLE) LIGHT FIXTURE ON 2'-0" DIA. CONC BASE @ 24" A.F.G.	BEVER (ATLANTA)	RFT-1-12-H-50-3V	ONE 150-WATT COATED METAL HALIDE, RATED 15000 INITIAL LUMENS	ALUMINUM
GR SB	FIXTURES AND POLES TO MATCH EXISTING	-	-	-	NATURAL ALUMINUM
SO	WALL MOUNTED OUTDOOR SCONCE 20' A.F.G.	DIVERSITED (WALL ART)	WAD-0-1MM-MP	ONE 150-WATT METAL HALIDE LAMP	ALUMINUM
GR EX CH-DUE	EXISTING POLE MOUNTED AREA LIGHTING TO REMAIN U.N.O. - CLEAN AND REPAIR FIXTURE AS REQ'D. - PAINT (TYP.)				PAINT TO MATCH COLOR OF FIXTURE BA
GR R1	EXISTING POLE MOUNTED AREA LIGHTING TO BE REMOVED AND RELOCATED				
GR R2 OR CH-R2	RELOCATED (NEW) LOCATION OF EXISTING POLE MOUNTED AREA LIGHTING				

SITE INFORMATION

APPLICANT: STUART FRANKEL DEVELOPMENT COMPANY (OWNER)
2221 WEST BIG BEAVER
TROY, MICHIGAN 48084
248-649-7424

EXISTING ZONING: B-2 (LOW-RISE OFFICE DISTRICT)
B-3 (GENERAL BUSINESS DISTRICT)

USE: SINGLE-STORY RETAIL

SITE AREA:	ACRES (GROSS):	14.309 (610,174 S.F.)
	PARCEL A AND B	13.311 (579,972 S.F.)
	PARCEL C	0.997 (43,417 S.F.)

SET BACK PROVIDED AT OUTLOTS

SET BACKS:		
	FRONT (SOUTH) = 40 REQ'D.	77'-0"
	FRONT (EAST) = 40 REQ'D.	77'-0"
	SIDE (WEST) = 10' REQ'D.	65'-0"
	REAR (NORTH) = 20' REQ'D.	22'-0"

BUILDING AREA:

EXISTING:	GROSS AREA
TROY COMMONS MALL	118,718 S.F.
FIRST FEDERAL OF MICHIGAN	4,516 S.F.
PROPOSED:	
RETAIL BUILDING:	11,700 S.F.
RESTAURANT:	6,000 S.F.
TOTAL	140,934 S.F.

PARKING REQUIRED:

PER THE CONSENT JUDGEMENT A MINIMUM OF 675 PARKING SPACES ARE REQUIRED (INCLUDING PARKING FOR THE FIRST FEDERAL OF MICHIGAN)

PER MTA 2000, OF THOSE 675 SPACES, 13 SPACES (2% OF THE TOTAL) MUST BE BARRIER FREE ACCESSIBLE, 2 OF THE ACCESSIBLE SPACES MUST BE VAN ACCESSIBLE.

PARKING PROVIDED:

STANDARD PARKING:	647 SPACES
BARRIER FREE PARKING:	
AUTO:	13 SPACES
VAN:	12 SPACES
TOTAL:	672 SPACES

PRELIMINARY SITE PLAN APPROVED BY PLANNING COMMISSION ON Sept 9, 2003
Ron Tribbo
PLANNING DEPARTMENT
(AMENDED CONSENT J...)

PRELIMINARY SITE PLAN APPROVED BY CITY COUNCIL ON Oct 6, 2003
Ron Tribbo
PLANNING DEPARTMENT
ENG. DEPT COPY

BEFORE YOU DIG CALL MISS DIG 1-800-482-7171

STATE OF MICHIGAN KEVIN L. BIDDISON ARCHITECT No. 34144 LICENSED ARCHITECT

biddison
architecture + desi...
27790 Stansbury Blvd. Suite 100
Farmington Hills, MI 48334
(248) 426-7730 (248) 426-7710

Consulta...

Project ti...

PROPOSED SITE ADDITION FOR:

TROY COMMONS RETAIL CENTER PROPOSED OUT LO...

BIG BEAVER
TROY, MICHIGAN

Issued dra...

PRELIMINARY SITE PLAN APPROVAL	08.20.03	GG
REVISIONS PER CITY	09.03.03	BV
REVISIONS PER CITY	09.16.03	BV

Sheet titl...

OVERALL SITE PLAN

Project no...

1310.03

OCT 16 2003

Sheet no...

SP.101

September 7, 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: AGENDA ITEM - Request for Approval of Purchase Agreement, Tarek Nagia and Lina M. Nagia, 2943 Thames, Sidwell #88-20-25-229-004, 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 Tarek Nagia and Lina M. Nagia, to purchase property at 2943 Thames, having Sidwell #88-20-25-229-004. The subject parcel is approximately 0.172 acres of land with a single family home having 1,250 square feet and detached garage

Based on an appraisal performed by R.S. Thomas & Associates, Inc., and reviewed by Kimberly Harper, Deputy Assessor, staff believes that $183,000.00, 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 Tarek Nagia and Lina M. Nagia, in the total amount of $183,000.00, plus closing costs. Funds will come from the Big Beaver – Rochester to Dequindre Road Project #01.105.5.

Sidwell #88-20-25-229-004

CITY OF TROY
AGREEMENT TO PURCHASE REALTY
FOR PUBLIC PURPOSES

The CITY OF TROY (the "Buyer"), agrees to purchase from Tarek Nagia and Lina M. Nagia, 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, Eighty-three and no/100 Dollars ($183,000.00) 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 January 15, 2005. Seller will not be required to pay rent after the closing and prior to January 15, 2005. 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 HEREBY ACKNOWLEDGES THAT NO PROMISES WERE MADE EXCEPT AS CONTAINED IN THIS AGREEMENT.

IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this 7th day of September, A.D. 2004.

In presence of:

Patricia A. Petitto

Patty Gross

CITY OF TROY (BUYER)

SELLER:

Tarak Nagia

Tarek Nagia

Lina M. Nagia

Lina Nagia

Exhibit "A"

Friday, May 28, 2004

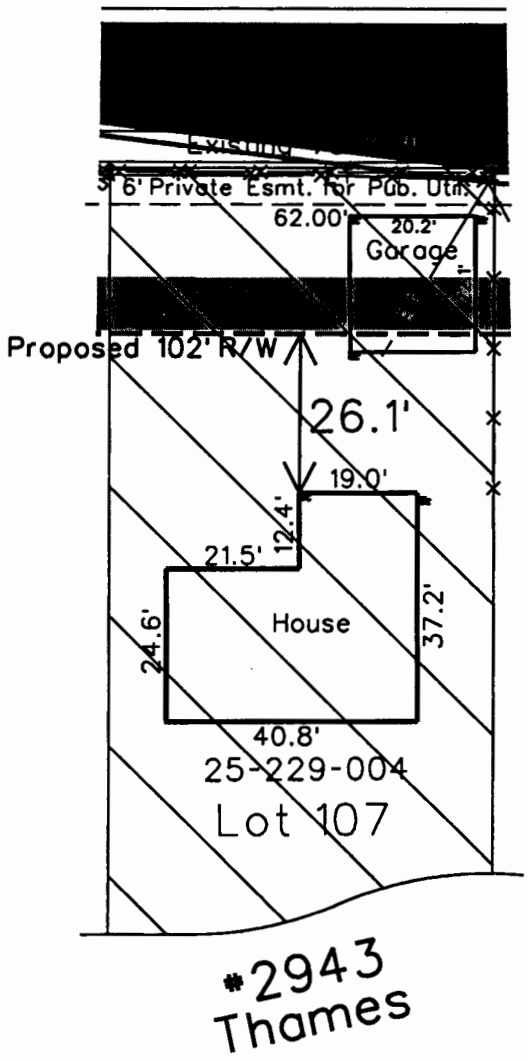
Section 25, Big Beaver Widening Project
Parcel: 88-20-25-229-004
Owner: Ziad Nagia and Linda Nagia, Husband and Wife
Tarek Nagia and Lina M. Nagia, Husband and Wife
Parcel #13

Parent Parcel Description (Title Commitment #63-510807)

Situated in the City of Troy, Oakland County, Michigan, described as:
Lot 107, 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 107, Yorkshire Subdivision, according to the plat thereof as recorded in liber 115, pages 29-30 of Plats, Oakland County Records. Containing 7,503 Square Feet or 0.172 Acres and being subject to all easements of record.



Graphic Scale: 1"=30'

0 15' 30' 60'

Parcel #13

STATE OF MICHIGAN
George J. Ballard III
SURVEYOR NO. 41090
LICENSED PROFESSIONAL SURVEYOR

Right of Way Acquisition Area=7,503 Sq.Ft.

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

#2943 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

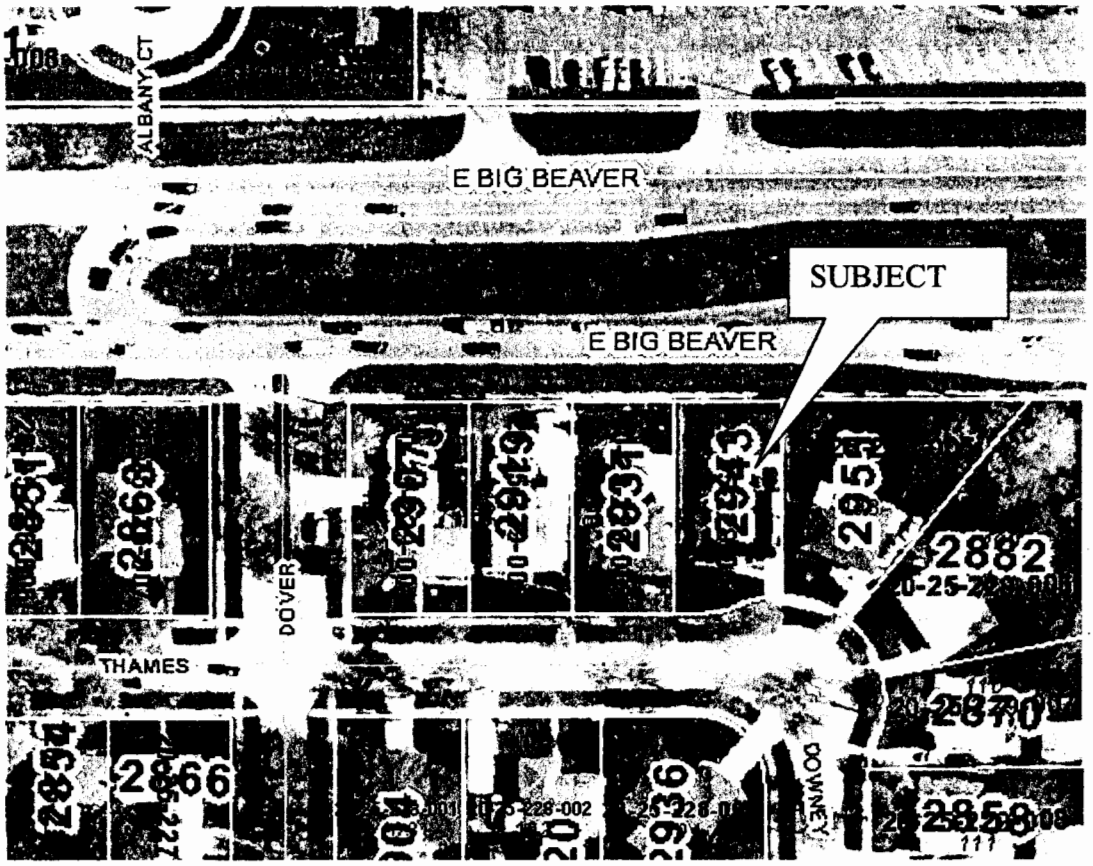
DATE	REV.

DOCUMENT PREPARED BY
George J. Ballard III
LAND SURVEYOR

CONTRACT No.

STEVEN J. VANDETTE
CITY ENGINEER

SHEET No.	JOB No.
1 of 1	01.105.5


ALBANY CT
E BIG BEAVER
SUBJECT
E BIG BEAVER
DOVER
THAMES
DOWNEY

August 16, 2004

To: John Szerlag, City Manager

From: John M. Lamerato, Assistant City Manager/Finance & Administration
Steve Vandette, Acting Assistant City Manager/Services
Carol Anderson, Parks and Recreation Director

Subject: Agenda Item: Municipal Credit and Community Credit Agreement

Recommendation

It is recommended that the agreement between SMART and the City for 2004-2005 be approved. This agreement states that the City will transfer Municipal Credit funds in the amount of $76,084 and Community Credit funds in the amount of $94,827 to Troy Medi-Go Plus for the operation of transportation service for senior citizens and persons with disabilities.

Background

Municipal credits are state-authorized funds that are divided among every city, township and village in Oakland, Wayne and Macomb Counties on a per capita basis. Community credits are a direct result of the SMART millage that provides opt-in communities with additional funds.

When Dial-A-Ride was restricted to Troy, we were required to give all of these credits to SMART. Now that our Dial-A-Ride service crosses city boundaries into Birmingham and Beverly Hills, we can retain our municipal and community credit dollars and use them to support our community based Troy Medi-Go Plus service. This allows dollars previously allocated to Medi-Go Plus from Troy's general fund to be used for other purposes.

Reviewed and Approved by City Attorney's Office

Prepared by Carla Vaughan, Recreation Supervisor

MUNICIPAL CREDIT and COMMUNITY CREDIT CONTRACT FOR FY - 2005

I Louise Schilling on behalf of the City of Troy apply to SMART for our Municipal and Community Credits for the period July 1, 2004 to June 30, 2005, and agree that the Municipal and Community Credits Master Agreement, which is incorporated herein by reference, will form part of this agreement. Specific terms, conditions, and budgetary projections are set forth in Exhibits A and B as necessary.

Our community agrees to use the $76,084.00 in **Municipal Credit** funds available to us as follows:

(1) Transfer of $ _____ to _____
TRANSFEREE COMMUNITY

At the cost of $ _____

(2) Transportation program operated/administered by the community
(Includes Charters, Van/Bus Program, Taxi Reimbursement)

At the cost of $ 76,084.00

(3) Transportation service purchased from SMART
(Includes SMART Tickets/Passes, Shuttle Service, Dial-A-Ride)

At the cost of $ _____

Total $ $76,084.00

Our community agrees to use the $94,827.00 In **Community Credit** funds available to us as follows:

(1) Transfer of $ _____ To _____
TRANSFEREE COMMUNITY

At the cost of $ _____

(2) Transportation program operated/administered by the community
(Includes Charters, Van/Bus Program, Taxi Reimbursement)

At the cost of $ 94,827.00

(3) Transportation service purchased from SMART
(Includes SMART Tickets/Passes, Shuttle Service, Dial-A-Ride)

At the cost of $ _____

(4) Capital Purchases

At the cost of $

Total $ $94,827.00

Capital purchases permitted with Community Credits are subject to applicable state and federal regulations, and SMART procurement guidelines. When advantageous, SMART may make procurements directly. Reimbursement for purchases made by a community requires presentation of proper documentation to support the purchase (i.e. purchase orders, receiving reports, invoices, etc.). Additional Community Credit dollars, available in FY 2003 – FY 2006, inclusive, may be required to serve local employer transportation needs per the coordination requirements set forth in the aforementioned Master Agreement.

City of Troy

By: _____

Dated _____

Its: Louise Schilling
Mayor

For the Suburban Mobility Authority for
Regional Transportation

Dated _____

By: _____
Dan G. Dirks
General Manager

September 2, 2004

TO: John Szerlag, City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Jeanette Bennett, Purchasing Director
Timothy L. Richnak, Public Works Director

SUBJECT: **Agenda Item** – Standard Purchasing Resolution 3: Exercise Renewal Option – Snow Removal Service/Home Chore Program

RECOMMENDATION

On November 3, 2003, City Council approved a contract to provide seasonal requirements of Snow Removal Services for the Home Chore Program with an option to renew for one additional winter season to the low bidder, Advanced Services 1, Inc. for Proposal A and Proposal B. (Council Resolution #2003-11-560-E-20). It is recommended that the City accept the offer by Advanced Services 1, Inc. to renew the contract at an estimated total cost per season of $11,150.00, based on four call-outs per season, at the following unit prices:

PROPOSAL: SNOW REMOVAL SERVICES FOR THE HOME CHORE PROGRAM

Est. No.	Description	Price for Snow Removal per Each Service Call	Price for Salting per Each Service Call
	Proposal A: Snow Removal East of Rochester Rd.		
34	Snow removal and/or salting at an average residential City of Troy home East of Rochester Rd. An average residential home lot is 60-85 x 125	$24.90	$10.00
5	Snow removal and/or salting at larger or corner lots – Lots over 85 x 125 East of Rochester Rd.	$29.90	$15.00
	Proposal B: Snow Removal West of Rochester Rd.		
33	Snow removal and/or salting at an average Residential City of Troy home West of Rochester Rd. An average residential home lot is 60-85 x 125	$24.90	$10.00
5	Snow removal and/or salting at larger or corner lots – Lots over 85 x 125 West of Rochester Rd.	$29.90	$15.00

MARKET SURVEY

The Purchasing Department has conducted a market survey and concurs with the recommendation to exercise the option to renew as the costs appear to be stable to the competition with the potential exception of gasoline.

BUDGET

Funds are reimbursed through the Oakland County Community Development Block Grant Program.

Prepared by: Vicki Richardson, Solid Waste Coordinator

City of Troy

June 30, 2004

ATT: Mr. Jeffrey F. Babbie
Advanced Services 1, Inc.
3106 Elphin
Sterling Heights, MI 48310

Dear Mr. Babbie:

On November 3, 2003 the City of Troy entered into contract #20300389 OB with Advanced Services 1, Inc. to provide one-year requirements of Snow Removal Services for the Home Chore Program. This contract contained an option to renew for one additional year at the same prices, terms, and conditions as the original contract.

Please send this letter back indicating if Advanced Services 1, Inc. wishes to renew this contract until April 1, 2005. It should be understood that this request to renew the contract is subject to a favorable market survey. A request by City staff to determine the successful bidder's interest in renewing the contract in no way obligates the City. The option cannot be exercised without Troy City Council approval and a blanket purchase order issued.

If you have any questions please call me at (248) 524-3399.

CHECK ONE:

Advanced Services 1, Inc. is interested in renewing the contract under the same prices, terms, and conditions: (✓)

Advanced Services 1, Inc. is not interested in renewing the contract: ( )

X _____
Signed: Authorized Company Representative

Date: July 15, 2004

Thank you,
Vicki Richardson, Solid Waste Coordinator, City of Troy

August 27, 2004

TO: Jeanette Bennett
Purchasing Director

FROM: Linda N. Bockstanz
Associate Buyer

RE: MARKET SURVEY – Snow Removal–Home Chore Program

LEAD OUTDOORS SERVICES – Mrs. C. Kennedy (248) 547-8548
Mrs. Kennedy has indicated that prices for Snow Removal/Home Chore will be about the same. She believes at this time there will be no increase or additional charges that he can foresee to add unless gasoline increases sufficiently.

ADVANCED IRRIGATION SYTEMS, INC.- Fran (248) 583-0533
According to Fran, Snow Removal/Homes Chore is expected to stay the same. She does not think there will be any changes in pricing unless gasoline goes sky high.

Based upon the above comments, I respectfully recommend that the City accept the offer to renew the contract for the Home Chore Snow Removal Program with the current vendor based on the fact that costs of snow removal are not expected to drop and may increase depending on the gasoline market.

CC: Susan Leirstein
File

E-16 Acceptance of Warranty Deed for Road Right-of-Way and Permanent Main Easement – Project No. 02.936.3 – Sidwell #88-20-04-426-003 – First Methodist Church **Water United**

Resolution #2003-11-560-E-16

RESOLVED, That the Warranty Deed for dedication of Livernois Road right-of-way and Permanent Easement for Water Main from First United Methodist Church of Troy, having Sidwell #88-20-04-426-003, are hereby **ACCEPTED**; and

BE IT FURTHER RESOLVED, That the City Clerk is hereby **DIRECTED TO RECORD** said warranty deed and permanent easement with Oakland County Register of Deeds, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

E-17 Announcement of Public Hearing – Community Development Block Grant (CDBG) 2004 Application and Re-programming of 2001 Funds

Resolution #2003-11-560-E-17

RESOLVED, That a Public Hearing be **SCHEDULED** before the Troy City Council on Monday, December 1, 2003 at 7:30 PM or as soon thereafter as the agenda will permit for the purpose of hearing public comments on the adoption of the Community Development Block Grant 2004 application in the amount of $199,253.00 and reprogramming of unexpended Year 2001 funds from Special Assessment to Section 36 Flood Drain Improvements.

E-18 Traffic Committee Recommendations

Resolution #2003-11-560-E-18

RESOLVED, That Traffic Control Order # 03-02-SS is hereby **APPROVED** for the installation of a permanent STOP sign to **REPLACE** a YIELD sign on Leetonia at Tallman.

E-20 Standard Purchasing Resolution 1: Award to Low Bidders – Snow Removal for the Home Chore Program

Resolution #2003-11-560-E-20

RESOLVED, That contracts for seasonal requirements of snow removal services for the Home Chore Program with an option to renew for one (1) additional winter season are hereby **AWARDED** to the low bidders, Advanced Services 1, Inc. as primary contractor, and Dream Green as secondary contractor, for Proposal A and Proposal B at an estimated cost per call out of $2,787.30 and $2,795.00 respectfully, for an estimated total cost per season of $11,180.00 at unit prices contained in the bid tabulation opened October 17, 2003, a copy of which shall be **ATTACHED** to the original Minutes of this meeting; and

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

E-22 Set Date for Goals and Objectives Study Session

Resolution #2003-11-560-E-22

RESOLVED, That a Study Session is hereby **SCHEDULED** for the purpose of discussing City Council's goals and objectives on Monday, November 10, 2003 at 5:30 PM in the Council Board Room.

E-23 Resolution to Excuse Mayor Pryor from Closed Session of Monday, October 20, 2003

Resolution #2003-11-560-E-23

RESOLVED, That Mayor Pryor's absence be **EXCUSED** from attending the Closed Session held on Monday, October 20, 2003.

ITEMS TAKEN OUT OF ORDER

E-2 Minutes: Special Meetings of October 20, 2003 and October 25, 2003, and the Regular Meeting of October 27, 2003

Resolution #2003-11-561
Moved by Howrylak
Seconded by Beltramini

RESOLVED, That the Minutes of the Special Meetings of October 20, 2003 **BE APPROVED** as corrected, and the Minutes of the Special Meeting of October 25, 2003 and the 7:30 PM Regular Meeting of October 27, 2003, be **APPROVED** as submitted.

Yes: All-6
No: None
Absent: Stine

10:07 P.M. - Mayor Pryor temporarily relinquished the Chair to Mayor Pro Tem Lambert.

E-11 4th Monday Meeting Schedule - Clarification

Resolution #2003-11-562
Moved by Beltramini

October 27, 2003

To: The Honorable Mayor and City Council

From: John Szerlag, City Manager
Gary A. Shripka, Assistant City Manager/ Services
Jeanette Bennett, Purchasing Director
Timothy L. Richnak, Public Works Director

Re: Standard Purchasing Resolution 1: Award To Low Bidders-
Snow Removal For The Home Chore Program

RECOMMENDATION

Bid proposals were opened October 17, 2003, for one (1) year requirements of Snow Removal Services for the Home Chore Program with an option to renew for one (1) additional year. After reviewing the bid proposals, City management recommends awarding contracts to the low total bidders, Advanced Services 1, Inc. as primary contractor and Dream Green as secondary contractor, for Proposal A and Proposal B at an estimated cost per service call of $2,787.30 and $2,795.00, respectfully. Based on historical data, we anticipate four (4) call-outs for snow removal and salting, at an estimated total cost per season of $11,180.00 at the following unit prices:

PROPOSAL: SNOW REMOVAL SERVICES FOR THE HOME CHORE PROGRAM

		Primary	Secondary	Primary	Secondary
Est. No.	**Description**	**Price for Snow Removal per Each Service Call**		**Price for Salting per Each Service Call**	
	Proposal A: Snow Removal East of Rochester				
34	Snow removal and/or salting at an average residential City of Troy home East of Rochester An average residential home lot is 60-85 x 125	$24.90	$25.00	$10.00	$10.00
5	Snow removal and/or salting at larger or corner lots – Lots over 85 x 125 East of Rochester Rd.	$29.90	$30.00	$15.00	$15.00
	Proposal B: Snow Removal West of Rochester				
33	Snow removal and/or salting at an average Residential City of Troy home West of Rochester An average residential home lot is 60-85 x 125	$24.90	$25.00	$10.00	$10.00
5	Snow removal and/or salting at larger or corner lots – Lots over 85 x 125 West of Rochester Rd.	$29.90	$30.00	$15.00	$15.00

SUMMARY

We expect to qualify approximately 77 residents in the home chore program. The successful bidder(s) will clear snow from driveways, sidewalks, porches, and walkways and will salt as needed. The number of service calls is dependent on the weather. The successful contractor(s) are called out to plow when at least 3" of snow has fallen but may be called out to salt more frequently. In the event the Primary contractor is unable to provide the services needed, the Secondary contractor will be contacted.

BUDGET

Funds for these services are reimbursed through the Oakland County Community Development Block Grant Program.

65 Vendors Notified on MITN System
5 Bid Responses Rec'd
1 Late Bid

Prepared by: Vicki C. Richardson, Solid Waste Coordinator

CITY OF TROY — ITB-COT 03-31

Opening Date -- 10-17-03 — BID TABULATION — Pg 1 of 2

Date Prepared -- 10/27/03 — SNOW REMOVAL SERVICES/HOME CHORE PROGRAM

VENDOR NAME:		* ADVANCED SERVICES 1, INC		** DREAM GREEN		LEAD OUTDOOR SERVICES	
		PRIMARY		*SECONDARY*			
EST NO.	LOT SIZE	$ SNOW REMOVAL/ SERVICE CALL	$ SALTING/ SERVICE CALL	$ SNOW REMOVAL/ SERVICE CALL	$ SALTING/ SERVICE CALL	$ SNOW REMOVAL/ SERVICE CALL	$ SALTING/ SERVICE CALL
PROPOSAL A: Snow Removal East of Rochester Road							
34	65 - 85X125	**$ 24.90**	**$ 10.00**	**$ 25.00**	**$ 10.00**	$ 20.00	$ 18.00
5	Over 85 X 125	**$ 29.90**	**$ 15.00**	**$ 30.00**	**$ 15.00**	$ 25.00	$ 20.00
PROPOSAL B: Snow Removal West of Rochester Road							
33	65 - 85X125	**$ 24.90**	**$ 10.00**	**$ 25.00**	**$ 10.00**	$ 20.00	$ 18.00
5	Over 85 X 125	**$ 29.90**	**$ 15.00**	**$ 30.00**	**$ 15.00**	$ 25.00	$ 20.00
TOTAL PER SERVICE CALL:			**$ 2,787.30**		**$ 2,795.00**		$ 2,996.00
ESTIMATED GRAND TOTAL:		**$ 11,149.20**		**$ 11,180.00**		$ 11,984.00	

(Based on an estimated four(4) call-outs per season)

DAYTIME PHONE #	(586) 268-0803	(248) 627-4819	(248) 547-8548
24- HR PHONE #	(248) 521-2456	(248) 722-5296	(248) 789-4505
	(248) 521-2459		
EQUIPMENT:	ATTACHED TO BID	LISTED IN BID	LISTED IN BID

EMPLOYEES:	FULL-TIME	10		2		4
	PART-TIME	8		2		7
TERMS:		BLANK		MONTHLY		BI-WEEKLY
EXCEPTIONS:		BLANK		PROPOSAL BASED ON ONE LOT PRICING		BI-WEEKLY PAYMENTS

PROPOSAL: One-Year Requirements of Snow Removal Services for the Home Chore Program with an Option to Renew for One(1) Additional Year

ATTEST:
Charlene McComb
Vicki Richardson
Linda Bockstanz

BOLDFACE TYPE DENOTES LOW TOTAL BIDDERS

Jeanette Bennett
Purchasing Director

G:SnowRemovalHomeChoreProgram ITB-COT 03-31

CITY OF TROY
BID TABULATION
SNOW REMOVAL SERVICES/HOME CHORE PROGRAM

Opening Date -- 10-17-03
Date Prepared -- 10/27/03

VENDOR NAME:	ADVANCED IRRIGATION SYSTEMS, INC		STALLINGS-JULIEN SALES & SERVICE			
EST NO. / LOT SIZE	$ SNOW REMOVAL/ SERVICE CALL	$ SALTING/ SERVICE CALL	$ SNOW REMOVAL/ SERVICE CALL	$ SALTING/ SERVICE CALL		
PROPOSAL A: Snow Removal East of Rochester Road						
34 — 65 - 85X125	$ 1,200.00	$ 425.00	$ 65.00	$ 34.00		
5 — Over 85 X 125	$ 250.00	$ 90.00	$ 85.00	$ 39.00		
PROPOSAL B: Snow Removal West of Rochester Road						
33 — 65 - 85X125	$ 1,150.00	$ 408.00	$ 65.00	$ 34.00		
5 — Over 85 X 125	$ 250.00	$ 90.00	$ 85.00	$ 39.00		
TOTAL PER SERVICE CALL:		$ 3,863.00		$ 7,873.00		
ESTIMATED GRAND TOTAL:	$ 15,452.00		$ 31,492.00			
(Based on an estimated four(4) call-outs per season)						
DAYTIME PHONE #	(248) 583-0533		(313) 345-6442			
24- HR PHONE #	(248) 854-0618		(313) 300-3358			
EQUIPMENT:	ATTACHED TO BID		LISTED IN BID			
EMPLOYEES: FULL-TIME		10		5		
PART-TIME		6		10		
TERMS:		NET 30 DAYS		N15 TO 30 DAYS		
EXCEPTIONS:	OUR BID IS LUMP SUM FOR THE QUANTITIES LISTED		IF $35 OF MORE HOMES ARE AWARDED TO OUR FIRM, WE WILL DEDUCT $10 OFF ON EACH HOME FOR SNOW REMOVAL AND $4 OFF FOR SALTING			

Downloading History for ITB-COT 03-31HCSnowRemov

The report below shows all fax and e-mail vendors that matched this document when it was originally issued. It also shows all vendors that have downloaded or ordered the document and any subsequent amendments as of **10/27/2003.**

Document Title:	Home Chore Snow Removal Program - One Year with a One Year Option
Date Issued:	10/1/2003
Close Date:	10/17/2003

Click on the table headings for "Account Number" or "Company name" to re-sort this report by that column. You may also click on any vendor account number to view their account information.

Acct #	Company Name	Service	Date Obtained Document	Date Obtained Amendments
10239	Advanced Irrigation Systems, Inc.	Fax	10/13/2003	
12306	Advanced Services Lawn and Landscape	E-mail	10/17/2003	
14279	Amerinational Community Services	E-mail		
11522	Atlas Janitorial cleaning service	E-mail	10/15/2003	
12114	B & B Lawn Service	Fax		
10139	B & J Parking Lot Maintenance, Inc.	E-mail		
11742	Bowen Paving, Inc.	Fax		
13917	Branch Tree Service, Inc.	Fax		
10355	Brooks Landscaping, Inc	Fax		
10682	C & R Maintenance d/b/a Rizzo Services	E-mail	10/7/2003	
11355	Cartegraph	E-mail		
10915	CITYWORKS, INC.	E-mail		
11732	Curbco, Inc.	Fax		
12323	D.L.F. Trucking, Inc.	Fax		
12287	Demko Inc.	Free	10/1/2003	
13317	DJG & Associates	E-mail		
14183	Donnelly Bros. Landscape & Snow Removal, Inc.	E-mail		
11785	Donson Supply, Inc.	Free	10/16/2003	
14533	Dream Green	Free	10/15/2003	

11185	Ellsworth Industries	Free	10/4/2003	
14091	Erdodi Maintenance & Event Decor	E-mail		
13905	Excell Landscaping	Free	10/1/2003	
10938	Great Lakes Landscaping & Construction Inc.	Fax		
11766	HES STALLINGS-JULIEN SALES & SERVICE	E-mail	10/15/2003	
11604	Hyde Equipment Co.	Fax		
10662	Inland Waters Pollution Control, Inc.	E-mail	10/14/2003	
13409	kathys lawn maintenance	Free	10/7/2003	
14108	Kevin's Lawn Care & Snow Removal	E-mail		
13922	Kezco & Associates Landscaping Inc	Free	10/14/2003	
12014	L. Loyer Construction Company	Fax		
13336	Lead Outdoor Services	Free	10/13/2003	
13464	Loch Le Monde Landscapes	Free	10/2/2003	
11884	Mathisen Company	Fax		
14523	Moreland's of Rochester	Free	10/14/2003	
12149	National Alliance of Cabling & Technology	E-mail	10/1/2003	
10295	NLS Lawn Care Inc.	Free	10/12/2003	
14421	None	Free	10/7/2003	
11059	Pamar Enterprises, Inc.	E-mail		
10065	Payne Landscaping, Inc.	E-mail		
11924	Presentations One Inc.	E-mail	10/7/2003	
13339	Pro Maintenance, Inc	E-mail		
13764	Race Recovery	E-mail		
10207	Rasins Landscape & Assoc., Inc.	E-mail		
11024	Roebuck Maintanence Corporation	Free	10/16/2003	
11720	Rolar Property Services Inc.	E-mail		
13355	S & R Tent Rental	E-mail	10/7/2003	
13730	SMART Management Group, LLC	E-mail		
13340	SPECIAL EVENTS PARTY RENTAL	Free	10/15/2003	
13914	Steele's Service's LLC	E-mail		
10113	Sullivan Corporation	Free	10/1/2003	
10327	T & M ASPHALT PAVING, INC.	E-mail		
12352	T and T Enterprise Corporation	Free	10/9/2003	
10731	T.F.R. Enterprises, Inc.	E-mail		
13439	Test Company Inc	Free	10/6/2003	
13301	The Devon Group	Free	10/13/2003	
11814	Tony Anthony Inc	E-mail		
13602	Total Outdoor Services	E-mail		
10658	Troy Clogg Landscape Assoc., LLC.	E-mail	10/6/2003	
14417	TruGreen Landcare	Free	10/7/2003	
10285	United Lawnscape, Inc.	Fax		

11267	United Soils, Inc.	E-mail	10/1/2003	
14335	Virtual Rain	E-mail	10/1/2003	
11851	Visual Image Exchange	Free	10/12/2003	
14338	Washtenaw Inc., Maintenance Services	E-mail	10/2/2003	
13436	Wolverine Contractors, Inc.	Fax		

Return to Main Menu Return to Report Menu

September 2, 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

SUBJECT: AGENDA ITEM - Request to Authorize the Mayor and City Clerk to Sign an Easement To Detroit Edison on City Owned Parcel Sidwell #88-20-03-401-050 – Vacant Storm Detention Area

In conjunction with the development of Peacock Farms Condominiums, Detroit Edison has requested that the City of Troy grant them a permanent easement for overhead and underground utility line facilities. The easement location has been approved by our Engineering Department and is part of the Oakland County Condominium plan No. 1582, Peacock Farms Storm Detention area.

Therefore, we recommend that City Council approve the attached easement from the City of Troy to Detroit Edison and authorize the Mayor and City Clerk to sign the easement.

Detroit Edison Overhead and Underground Easement (Right of Way) No. 359853-38

On _____, 2004, for the consideration of system betterment, Grantor grants to Grantee a permanent overhead and underground easement ("Right of Way") in, on and across a part of Grantor's Land called the "Right of Way Area."

"Grantor" is:

The City of Troy, a Michigan Municipal Corporation,
500 E. Big Beaver Road, Troy, Michigan 48084

"Grantee" is:

The Detroit Edison Company, a Michigan corporation, 2000 Second Avenue, Detroit, Michigan 48226
SBC Communications, Inc., formerly Ameritech, formerly Michigan Bell Telephone Company, a Delaware Corporation, 444 Michigan Avenue, Detroit, Michigan 48226
Comcast Cable Investors, L.P., Troy Systems, a Delaware Corporation, 6809 19-1/2 Mile Road, Sterling Heights, Michigan 48314
Consumers Energy Company, a Michigan Corporation, 212 Michigan Avenue, Jackson, Michigan 49201

"Grantor's Land" is in the Southeast 1/4, Section 3, Town 2 North, Range 11 East, City of Troy, County of Oakland, State of Michigan described as:

A parcel of land located in and being a part of the Southeast 1/4, Section 3, Town 2 North, Range 11 East, City of Troy, County of Oakland, State of Michigan, being more particularly described as: Oakland County Condominium Plan No. 1582, Peacock Farms Storm Detention Area, assessed with all units in Condominium Master Deed, as recorded in Liber 31521 of Plats, Page 170, Oakland County Records.
Sidwell No. 20-03-401-050

The "Right of Way Area" is a part of Grantor's Land and is described as:

As shown on the attached Right-of-Way drawing # 359853-38 dated 01-23-2004 attached hereto and made a part hereof.
The Right-of-Way easement is described as being the East Ten feet (10') of the West Fifteen feet (15') of Grantor's land.

1. Purpose: The purpose of this Right of Way is to construct, reconstruct, modify, add to, operate and maintain underground utility line facilities consisting of poles, guys, anchors, wires, manholes, conduits, pipes, cables, transformers and accessories.

2. Access: Grantee has the right of access to and from the Right of Way Area.

3. Buildings or other Permanent Structures: No buildings or other permanent structures are allowed in the Right of Way Area without Grantee's prior written consent.

4. Excavation: Under 1974 Public Act 53, you must call MISS DIG (1-800-482-7171) before excavating in the Right of Way Area.

5. Trees, Bushes, Branches, Roots, Structures and Fences: Grantee may trim, cut down, remove or otherwise control any trees, bushes, branches and roots in the Right of Way Area (or that could grow into the Right of Way Area) and remove structures and fences in The Right of Way Area that Grantee believes could interfere with the safe and reliable construction, operation and maintenance of Grantee's facilities. No trees, plant life, structures and fences can be planted, grown or installed within 8 feet of the front door and within 2 feet of the other sides of transformers and switching cabinet enclosures. Grantee will not be responsible to Grantor for damages to or removal of trees, plant life, structures and fences placed in front of transformer doors.

6. Restoration: If Grantee's employees, contractors, vehicles or equipment damage Grantor's Land while entering Grantor's Land for the purposes stated in this Right of Way, then Grantee will restore Grantor's Land as nearly as can be to its original condition.

7. Successors: This Right of Way runs with the land and binds and benefits Grantor's and Grantee's successors and assigns.

8. Exemption: Exempt under MCL 207.505(a) and MCL 207.526(a).

Grantors: *(Type or print name below signature)*
The City of Troy, a Michigan Municipal Corporation,

_____
By:

Its: City Clerk

_____
By:

Its: Mayor

Acknowledged before me in _____ County, Michigan, on _____, 2004, by _____, City Clerk, and _____, Mayor, for The City of Troy, a Michigan Municipal Corporation, for the Municipal Corporation.

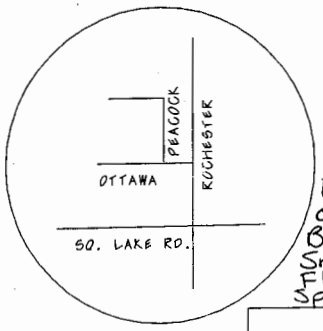
Notary's Stamp _____ Notary's Signature _____
(Notary's name, county, and date commission expires)

Prepared by and Return to:
Kimberly A. Tassen, The Detroit Edison Company, Royal Oak Service Center, 3425 Starr Road, Royal Oak, Michigan 48073

PEACOCK FARMS

OCCP NO. 1502

LIBER 31521 OF PLATS PG. 170



CENTERLINE OF 10 FOOT WIDE EASEMENT
NOTE: THE EASEMENT CENTERLINE MAY VARY IF FIELD CONSTRUCTION PROBLEMS ARISE. THEREFORE, FOR THE AS-INSTALLED EASEMENT CENTERLINE CALL (MISS DIG) AT 1-800-482-7171

E. 1/4 CORNER
SECT 3
T2N, R11E
CITY OF TROY

South line of Clark Estates L69 P9

P.O.B.

East line of Bassett + Smith Flowing Spring Acres L37 P9

North line of Golf Estates

977.90'
360.73'
162.50'
165.45'
162.06'
161.70'
163.56'
44.07'
748.45'
674.03'
464.40'
156.50'
43.73'
28.62'
173.03'
60.00'
15FT
10FT

-030 UNIT 14
-029 UNIT 13
-028 UNIT 12
-027 UNIT 11
-026 UNIT 10
-025 UNIT 9
-024 UNIT 8
-023 UNIT 7
-022 LOT 6
-040 UNIT 5
-039 UNIT 4
UNIT 3 -038
-037 UNIT 2
UNIT 1 -036
UNIT 15 -043
UNIT 16 -044
UNIT 17 -045
UNIT 18 -046
UNIT 19 -047
UNIT 20 -048
UNIT 21 -049
-050 Storm Detention
LOT 9

20-03-279-021
20-03-401-041
20-03-401-042
20-03-401-050
20-03-401-035

PEACOCK
ROCHESTER ROAD 120 FT. WIDE
OTTAWA
North

Lot 1
N/E corner of Lot 9
S/W corner of Lot 9

CENTERLINE OF 10 FOOT WIDE EASEMENT
NOTE: THE EASEMENT CENTERLINE MAY VARY IF FIELD CONSTRUCTION PROBLEMS ARISE. THEREFORE, FOR THE AS-INSTALLED EASEMENT CENTERLINE CALL (MISS DIG) AT 1-800-482-7171

SIDWELL NOS. 20-03-279-018 & 20-03-401-019 & 20-03-401-004

PART OF GOLF ESTATES
LIBER 58 OF PLATS PAGE 23

KELLY RAFF
01-23-2004
R/W# 359853 -38
NTS

RECEIVED
SEP 06 2004
CITY OF TROY
CITY MANAGER'S OFFICE

September 2, 2004

TO: John Szerlag, City Manager

FROM: Jeanette Bennett, Purchasing Director
Charles Craft, Chief of Police

SUBJECT: Agenda Item: Standard Resolution 9 - Membership Renewal - Macomb County Criminal Justice Training Consortium and Approval to Use Training Services and the Macomb Police Academy

RECOMMENDATION:

The Police Department recommends approval of a one-year membership renewal for Macomb County Criminal Justice Training Consortium (MCCJTC) through Macomb Community College at an estimated cost of $21,440.00 and use of the training services provided for in-service and specialized training, and the Macomb Police Academy (the cost of which is dependent upon the number of recruits hired).

BACKGROUND:

The membership, this fiscal year, is based upon 134 officers and results in a cost reduction of $660.00 from the fee charged last year. Membership in the MCCTJC allows reduced costs for in-service and specialized training (last year $11,115.00 was additionally spent on this type of training), and the Macomb Police Academy (Academy Tuition Comparison attached). It is anticipated that the Police Department will be hiring several new recruit officers and the amount of academy tuition may exceed $10,000.00.

In-service classes such as leadership, field officer training, operational Spanish, legal updates, and other interpersonal skill classes are either at no cost or reduced cost. With membership, reduced tuition costs result for specialized training, including but not limited to, re-certification in Emergency Vehicle Operations and the use of the state of the art Computerized Simulated Shooting Scenario System and Crime Lab, and the Macomb Police Academy. Also, the Police Department experiences standardization of training for all active and recruit officers by utilizing a sole source for police training. ***Currently, at a minimum, all officers use Consortium services at least two (2) times per year.***

BUDGET INFORMATION:

Funds for the membership renewal in this consortium and additional training costs have been budgeted in the Police Department - Training account number 321.7960. The academy costs are budgeted in account number 305.7960.

APPENDIX A

TUITION COMPARISON OF LOCAL POLICE ACADEMIES:

ACADEMY	MACOMB	WAYNE	OAKLAND
Member	**$3,100.00 ***		
Non-Member	$3,500.00		
Resident		$3,150.00	
Non-Resident		$3,700.00	
Regular			$3,400.00

DATE: September 8, 2004

TO: John Szerlag, City Manager

FROM: Steven J. Vandette, Acting Assistant City Manager/Services
Mark Stimac, Director of Building and Zoning

SUBJECT: Request for Temporary Sales Trailer,
Stonehaven Woods East Subdivision

I have received a request from Joseph Maniaci of Mondrian Properties for the placement of a temporary office trailer on one of the lots of the Stonehaven Woods East Subdivision located on the west side of Crooks, south of Wattles Road. The trailer is intended to be used for a temporary sales office. Their request anticipates the need for the trailer for twelve months.

Section 6.41 (3) of Chapter 47 of the Troy City Code allows the City Council to approve the placement of mobile offices, for use as a sales office, in residential developments for an initial period not to exceed 12 months. Based upon this provision, the petitioner is requesting this item be placed on Council's agenda for consideration.

I have attached a copy of his letter and information showing the proposed location of the trailer for your information.

MONDRIAN PROPERTIES

Experience the next level

August 20, 2004

Mark Stimac
City of Troy Building Department
500 W. Big Beaver Road
Troy, MI 48084

Dear Mr. Stimac:

We would like to apply for a sales trailer at 3840 Fadi Drive for Stonehaven Woods East Subdivision.

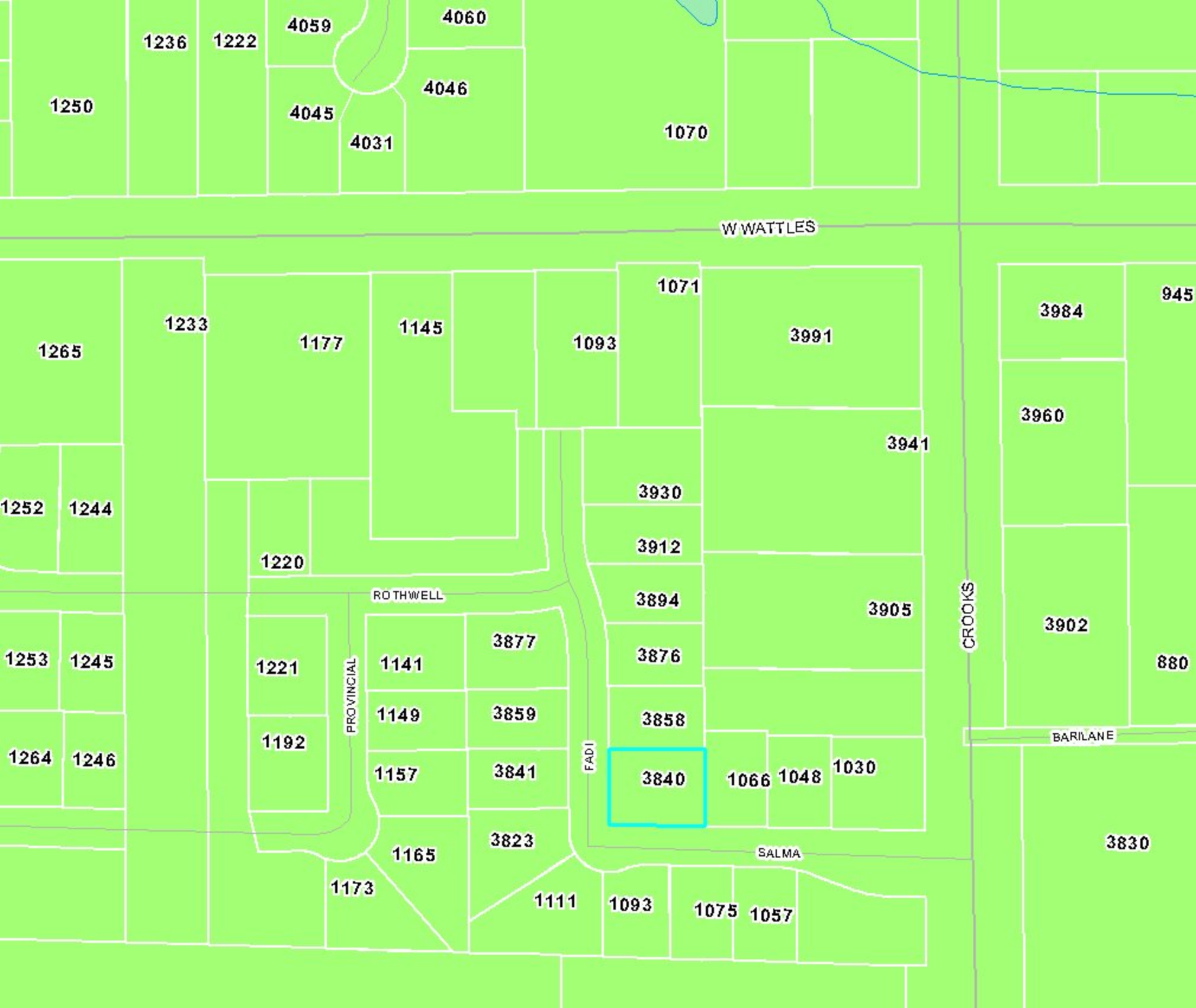
We have just purchased the lots from Choice Development Group and we will be starting the construction of our models shortly. In the meanwhile, we would like to apply for a 12 month permit for the sales trailer. The trailer will meet all ABA requirements.

If you have any questions or need any further information, please feel free to contact me.

Sincerely,

Joseph Maniaci
Managing Member

1111 W. Long Lake Road | Suite 103 | Troy, MI 48098
T. 248.813.8730 | F. 248.813.8734 | mondrianproperties.com


1250
1236
1222
4059
4060
4045
4046
4031
1070
W WATTLES
1265
1233
1177
1145
1093
1071
3991
3984
945
3960
3941
1252
1244
3930
3912
1220
ROTHWELL
3894
3905
3902
1253
1245
1221
PROVINCIAL
1141
3877
3876
880
1149
3859
3858
1192
1264
1246
1157
3841
FADI
3840
1066
1048
1030
BARILANE
CROOKS
1165
3823
SALMA
3830
1173
1111
1093
1075
1057

BUILDING PERMIT APPLICATION

CITY OF TROY
DEPARTMENT OF BUILDING INSPECTIONS
500 W. BIG BEAVER ROAD
TROY, MICHIGAN 48084
248-524-3344

BUILDING

Date: 08-20-2004

Project Information

Job Address: 3840 Fadi Drive Suite # _____

Lot: 04 Subdivision: Stonehaven Woods East Sidwell # 88-20-20-226-112

Building Type

☐ Industrial ☐ Office ☐ Commercial
☐ Residential ☐ Duplex ☐ Condo ☐ Multiple ☒ Other Mobile Sales Office

Request For Building Permit To:

☐ Construct ☐ Complete ☐ Add to ☐ Alter ☐ Repair ☐ Demolish ☒ Other Mobile Sales Office

☐ New Building ☐ Existing Structure ☐ Tenant Space
☐ Garage/Accessory Building ☐ Deck ☐ Patio ☐ Pool ☐ Spa ☐ Other _____

Additional Information on location of Construction (Floor/area of bldg.) _____

Size of Bldg./Addition/Tenant Space/Garage/Deck/etc.: 14' X 64'

ZONING: _____ USE GROUP: _____ CONST. TYPE: _____

ESTIMATED COST OF CONSTRUCTION $ 0 (By Contractor) $ _____ (By Department)

Applicant Information

Name: Mondrian Properties Phone: 248-813-8730 Fax: 248-813-8734

Address: 1111 W, Long Lake Road Suite 103 City: Troy State: MI Zip: 48085

License # 2102154486 Federal ID # 38-3493708 MESC # 3483708 Comp. Carrier Amerisure Companies

Owner Information

Name: Mondrian Properties Phone: 248-813-8730 Fax: 248-813-8734

Address: 1111 W. Long Lake Road Suite 103 City: Troy State: MI Zip: 48085

PLOT PLANS SHALL BE Submitted on Separate Sheets and shall show all easements and measurements (must be correct and in detail). Show all streets abutting lot, indicate front of lot, show all buildings, existing and proposed distances to lot lines.

I, CERTIFY THAT THE INFORMATION ON THIS APPLICATION IS TRUE AND CORRECT AND THAT I HAVE REVIEWED ALL DEED RESTRICTIONS WHICH MAY APPLY TO THIS CONSTRUCTION AND AM AWARE OF MY RESPONSIBILITY THEREUNDER.

Homeowner Affidavit
I hereby certify that the work described on this permit application shall be installed **by myself in my own home** in which I am living or about to occupy. All work shall be installed in accordance with the State of Michigan Building Code and shall not be enclosed, covered up or occupied until it has been **inspected** and **approved**. I will cooperate with the Building Inspector and assume all responsibility to arrange for necessary inspections.

Section 23a of the state construction code act of 1972, 1972PA 230, MCL 125.1523A, prohibits a person from conspiring to circumvent the licensing requirements of this state relating to persons who are to perform work on a residential building or a residential structure. Violators of Section 23a are subject to civil fines.

Signature of Applicant: [signature] Date: 8/19/04
(owner's signature indicates compliance with homeowner's affidavit)

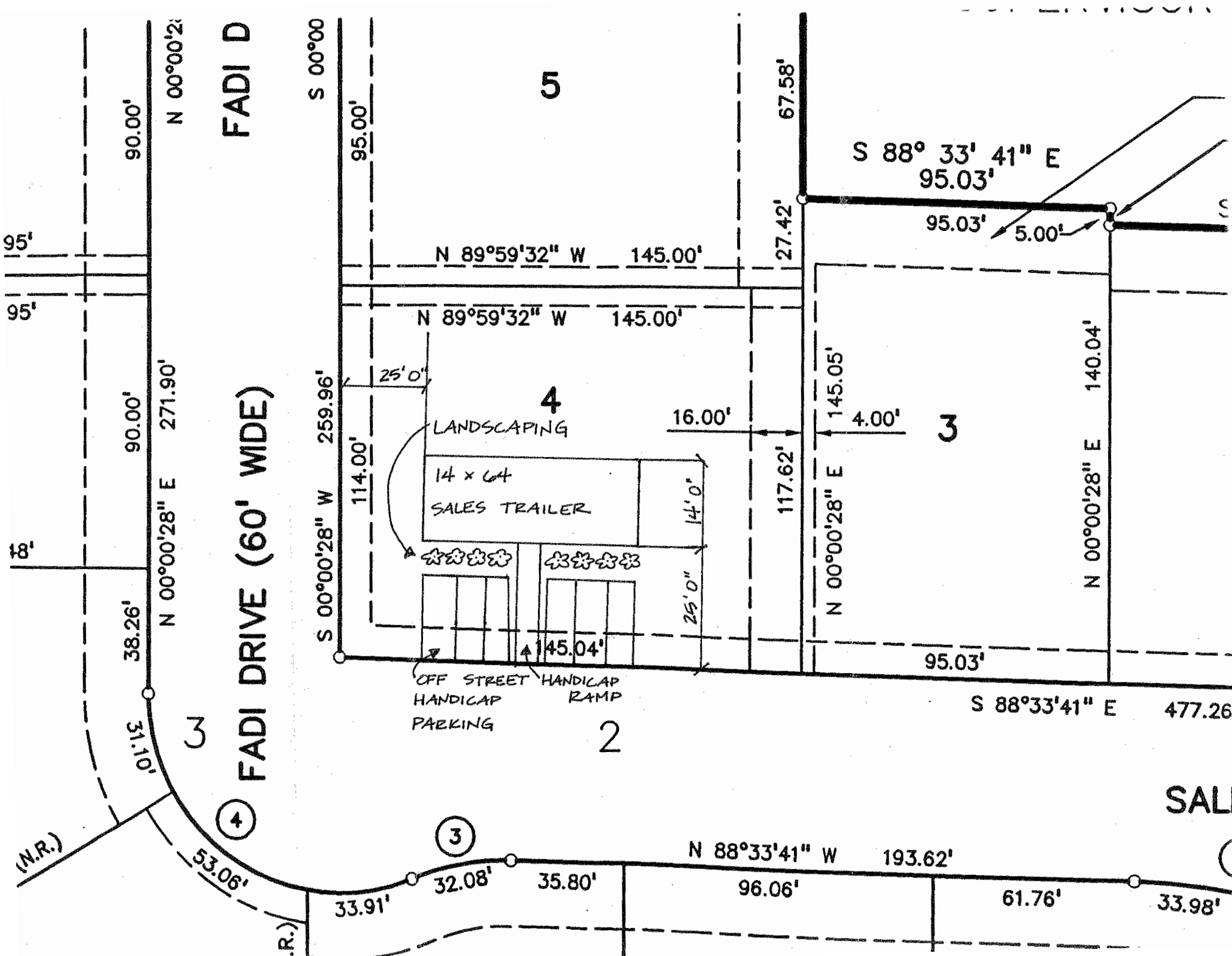
Or
Authorized Agent: _____
Joseph Maniaci

Subscribed and sworn to before me this 20 day of August Notary Public, Macomb County, Michigan

[signature]
Vickie Troutman

My commission expires 05-01-2011

A SOIL EROSION PERMIT MAY BE NECESSARY FOR YOUR BUILDING PERMIT TO BE PROCESSED
PLEASE SEE THE ENGINEERING DEPARTMENT


FADI DRIVE (60' WIDE)
FADI D
5
4
3
2
LANDSCAPING
14 x 64
SALES TRAILER
OFF STREET HANDICAP PARKING
HANDICAP RAMP
S 88° 33' 41" E
95.03'
5.00'
67.58'
27.42'
N 89°59'32" W 145.00'
N 89°59'32" W 145.00'
95.00'
90.00'
271.90'
259.96'
114.00'
25'0"
16.00'
145.05'
4.00'
140.04'
117.62'
14'0"
26'0"
145.04'
95.03'
S 88°33'41" E 477.26
N 00°00'28" E
S 00°00'28" W
38.26'
31.10'
53.06'
33.91'
32.08'
35.80'
96.06'
N 88°33'41" W 193.62'
61.76'
33.98'
(N.R.)
SAL

McDONALD

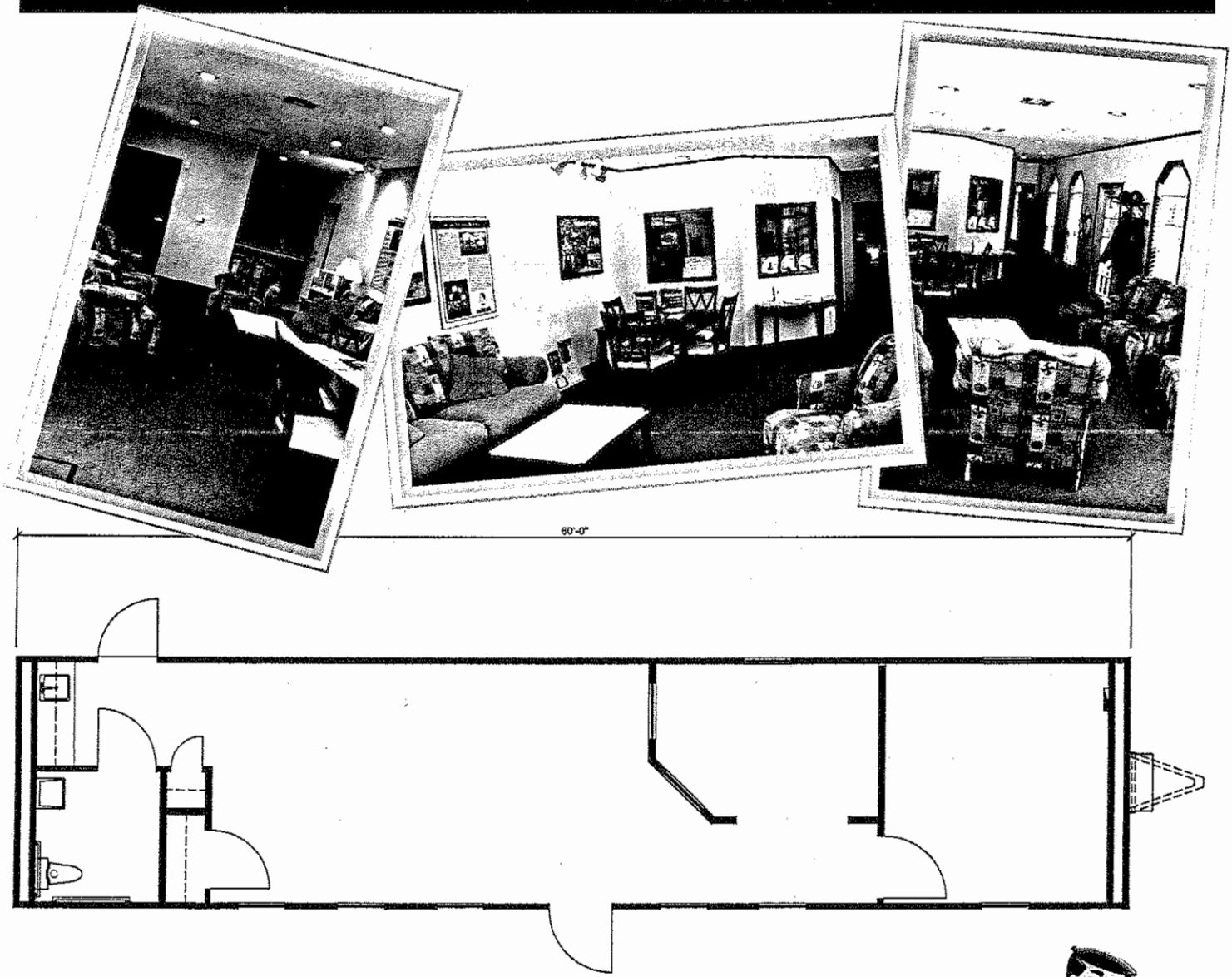
PRESIDENTIAL MODULAR OFFICES

- ★ Exclusive Architectural Design
- ★ Arched Windows with Special Trim
- ★ Large Display/Reception Area
- ★ Vinyl Covered Gypsum Interior
- ★ Recessed and Track Lighting
- ★ 15 Panel Entrance and Office Doors
- ★ Central HVAC
- ★ Coffee Bar with Sink & Cabinets
- ★ Large Storage Closet & Coat Closet
- ★ Handicapped Accessible
- ★ First Class, VIP Office
- ★ T1-11 Wood Sided with Special Trim
- ★ Professional Appearance
- ★ Built to ISO Quality Standards
- ★ Vinyl Canopy Over Entrance
- ★ Ceiling Height – Nearly 9'
- ★ Permanent or Temporary
- ★ Rent or Purchase
- ★ Immediate Delivery
- ★ Available in 12', 14' & 16' widths

1-800-221-4297

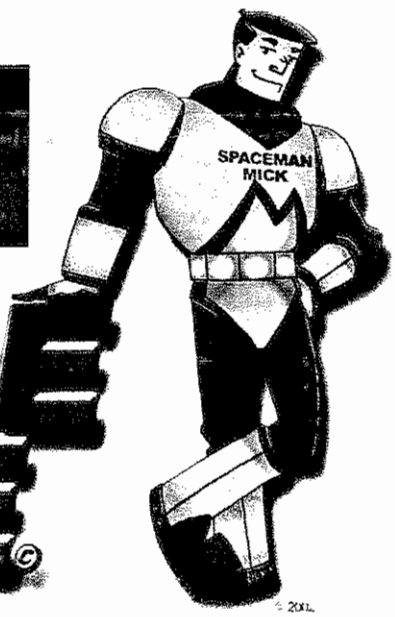
ISO 9001 QUALITY CERTIFIED

McDonald Presidential Modular Offices



1-800-221-4297

ISO 9001 QUALITY CERTIFIED



YOUR PLACE FOR SPACE©

www.McDonaldModular.com

September 7, 2004

TO: John Szerlag, City Manager

FROM: John M Lamerato, Assistant City Manager/Finance and Administration
Jeanette Bennett, Purchasing Director
Gert Paraskevin, Information Technology Director

Re: Standard Purchasing Resolution 4: MICTA Cooperative Purchasing Program

RECOMMENDATION

The Information Technology Department recommends participation in competitively bid contracts awarded by MiCTA. This corporation is a non-profit association of colleges, universities, K-12 school districts and consolidated school districts, not-for-profit healthcare providers, libraries, churches, governmental institutions, and other non-profit entities. It is recommended that the City Manager administratively authorize the use of this program above the $10,000 limit when deemed to be in the City of Troy's best interest, except for those "Capital" (401 account) purchases, which shall be presented for Troy City Council review and pending approval.

DETAIL

MiCTA exists for the purpose of identifying and resolving common telecommunications issues and problems; providing a clearinghouse of information relative to telecommunications; gaining information on new telecommunications products and services; improving the level of competency and enhancing the professional status of the member representatives; influencing the development of telecommunications services to members at reduced costs and improved quality; participating in governmental and regulatory proceedings affecting telecommunications issues; otherwise promoting the common telecommunications interests of the membership; and conducting any and all activities necessary or incidental to the foregoing purposes. The word telecommunications here refers to voice, data and video. One of the main functions of this organization is to administer RFP's on behalf of the membership. Since MiCTA has such a large member population they can obtain very competitive prices and rates. Appendix A provides some details on the current membership.

Troy has been a member of MiCTA since January 2001. Since that time the City has used this program for the purchase of Qwest long distance telephone services and limited Avaya telephone hardware. Our experience has shown the prices to be very favorable. Current MiCTA contract vendors are listed in Appendix B.

SUMMARY

Participation in the MiCTA program would allow the City to take advantage of the favorable discounts such a large organization can secure. This would save the City money in terms of both cost of purchases and time spent to carry out the bidding process.

BUDGET

Contracts utilized under this program will be funded from various departmental operating budgets.

Appendix A

MiCTA Members

MiCTA membership is currently 19615 organizations.

Member Organizations by Segment

Governmental	275
Health Care	5357
Higher Education	1435
Library	760
Primary/Secondary Education	4179
Public Sector	765
Religious & Charitable	6844

Michigan Governmental Members

Abayomi Community Development Corporation
Allegan County Information Services
Bloomfield Township
Calhoun County
CEDAM (Community Economic Development Association of Michigan
Charter Township of Springfield
Charter Township of West Bloomfield
City of Big Rapids
City of Cadillac
City of Dearborn Heights
City of Detroit Info Tech Services
City of Detroit Water & Sewerage Dept
City of Fenton
City of Kalamazoo
City of Lansing
City of Marquette
City of Midland
City of Mt Pleasant
City of Muskegon
City of Northville
City of Novi
City of Oak Park
City of Rochester Hills
City of Southfield
City of Troy
City of Warren
City of Wixom
Community Action Agency of South Central Michigan
County of Antrim
County of Ionia
County of Ottawa
County of St. Clair
Deerfield Township
Department of Environmental Quality - OEC
Department of Natural Resources
DMB - Office of Project Management
DMB-Office of the MI Info Network
Eaton County
Flint Area Convention & Visitors Bureau
Fremont Township
Genesee County
Grand Traverse County
Hannahville Indian Community
Heritage Netherlands Reformed Congregation
Jackson County
Joint Construction Code Authority
Kent County - Information Technology Department
Legislative Service Bureau
Menominee County
Merit Network
MESSA
Mich Information Technology Network
Michigan Association for Computer Users in Learning
Michigan Department Career Delvelopment
Michigan Department of Corrections
Michigan Department of Education
Michigan Department of National Resouces/Mid-Telecom
Michigan Economic Development Corporation
Michigan Education Leadership Group
Michigan Government Television
Middle Michigan Network for Educational Telecommunications
Midland County
Mt. Pleasant Area CVB
Muskegon Charter Township
Northeast Michigan Consortium
Northwest Mich Council of Governments
Nottawa Township
Oakland County
Owosso Charter Township
Riverview Church
Rolland Township
Saginaw Chippewa Indian Tribe
Sherman Township
Southwestern Oakland Cable Commission
State Court Administrative Office
State Literacy Resource Center
State of Michigan
State of Michigan, Management & Budget
Tuscola County
Tuscola County Health Department
Washtenaw County/City of Ann Arbor
Wayne County
West Bloomfield Township Parks & Recreation Commission
Women's Cultural Collaborative - Partnership for SWEEP

Appendix B

Current MiCTA Contracts

VENDOR & NOTES	CONTRACT #	BEGIN	END
Anixter Inc.	867706030175	4/1/03	3/31/06
Avaya	0601MSC-E0028	4/25/03	6/30/05
Brodart *2 1-yr. renew. w/app.*	0506MSC-A0017	6/1/02	5/31/05
CMC Telecom, Inc.	867701100136	10/19/01	10/18/04
Coffman Electrical Equipment Co. *2 1-Year Terms*	0504MSC-A0018	5/1/02	4/30/05
Communication Advisors, Inc.	867706010179	1/1/04	12/31/06
Desire2Learn	00604MSC-E0030	4/14/03	4/13/06
DIgby 4 Group, Inc.	867706020172	2/17/03	2/16/06
Gateway Companies Inc *2 poss. 1 year renewals*	0503MSC-E0015	4/1/02	3/31/05
InfoCore, Inc.	867705300170	10/1/02	9/30/05
Innovative Communications Inc *(Wireless LAN/WAN)*	0402MSC-E0009-A1	3/1/01	6/30/05
Innovative Communications Inc *(Internal Connections)*	0411MSC-E0013	12/1/01	11/30/04
Innovative Technologies Group *2 1-year Terms*	0504MSC-A0019	5/1/02	4/30/05
MarketRace	867704120178	12/31/03	12/30/04
MCI *(Master)*	867700030103	4/1/97	8/22/06
Merit	0312MSC-E0005	12/1/00	6/30/05
Office Depot *2 poss. 1-year Renewals*	0505MSC-A0016	6/1/02	5/31/05
PC MallGov Inc *2 poss. 1 year renewals*	0504MSC-A0021	5/1/02	4/30/05
Qwest	QWT00-1215MiCTA	8/1/98	12/14/05
Qwest *(USF Program)*	00-1215MiCTA	12/15/00	12/14/05
Sprint *(Internal Connections)*	0502MSC-EA0014	3/11/02	3/10/05
Sprint *(Voice Services)*	CSA BSG# 0007-301	3/26/01	6/30/05
Sprint PCS	0603MSC-A0029	4/1/03	3/31/06
Stratacache *3 1-yr. renew. w/app.*	0505MSC-A0023	6/1/02	5/31/05
Tech Depot *2 1-year Terms*	0505MSC-A0016	6/1/02	5/31/05
Total Solutions Group	867706080177	8/15/03	8/14/06
WebCT	0604MSC-A0032	6/17/03	6/16/06
Wireless Frontier Internet *2 poss. 1 yr terms*	0503MSC-A0022	4/1/02	3/31/05

To strengthen and promote cities as centers of opportunity, leadership, and governance.

National League of Cities

1301 Pennsylvania Ave., N.W.
Washington, DC 20004-1763
202-626-3000
Fax: 202-626-3043
www.nlc.org

2004 Officers

President
Charles Lyons
Selectman,
Arlington, Massachusetts

First Vice President
Anthony A. Williams
Mayor,
Washington, DC

Second Vice President
James C. Hunt
Council Member,
Clarksburg, West Virginia

Immediate Past President
John DeStefano, Jr.
Mayor,
New Haven, Connecticut

Executive Director
Donald J. Borut

August 16, 2004

MEMORANDUM

TO: City Clerks of Direct Member Cities

FROM: Donald J. Borut, Executive Director

SUBJECT: Congress of Cities Voting and Alternate Voting Delegates

The National League of Cities' **Annual Business Meeting** will be held on Saturday, December 4, 2004, at the Congress of Cities in Indianapolis, Indiana. As a direct member city, your elected officials are entitled to vote at the Annual Business Meeting. Based on the population of the city, each member city casts between one to twenty votes. The number of votes each city is allowed can be found on the table on the reverse side of this memorandum.

To be eligible to cast a city's vote(s), each voting delegate and alternate must be officially designated by the city using the attached credentials form. This form will be forwarded to NLC's Credentials Committee. **NLC Bylaws expressly prohibit voting by proxy**. The voting delegate must pick up his/her voting credentials **BEFORE** the Annual Business Meeting and must be present at the Annual Business Meeting to cast the city's vote(s).

Your city's elected officials should be made aware of this request so that decisions can be made on who will be the voting delegate and alternate at the Annual Business Meeting. Before the Congress of Cities, NLC will be sending out a special edition of the *Policy Informer* summarizing the proposed *National Municipal Policy* amendments and resolutions that are to be voted on at the Annual Business Meeting. This information should be shared with your voting delegates.

We ask that you return the completed form to NLC on or before **October 8, 2004**. Please follow the instructions on the card for filling out the form and make a copy for your own files. A pre-addressed envelope is attached for your convenience. If you have any questions or concerns, contact Keith Kirk at kirk@nlc.org or (202) 626-3176.

Past Presidents: **Karen Anderson,** Mayor, Minnetonka, Minnesota • **Clarence E. Anthony,** Mayor, South Bay, Florida • **William H. Hudnut, III,** Vice Mayor, Town of Chevy Chase, Maryland • **Sharpe James,** Mayor, Newark, New Jersey • **Brian J. O'Neill,** Councilman, Philadelphia, Pennsylvania • **Directors: Lorraine Anderson,** Councilmember, Arvada, Colorado • **Ronald Bates,** Mayor Pro Tem, Los Alamitos, California • **Phil Bazemore,** Mayor Pro Tem, Monroe, North Carolina • **Daniel Beardsley, Jr.,** Executive Director, Rhode Island League of Cities and Towns • **Conrad W. Bowers,** Mayor, Bridgeton, Missouri • **Rozelle Boyd,** Councillor, Indianapolis, Indiana • **Kenneth Bueche,** Executive Director, Colorado Municipal League • **Leo V. Chaney, Jr.,** Councilmember, Dallas, Texas • **Roger C. Claar,** Mayor, Bolingbrook, Illinois • **Roosevelt Coats,** Council Member, Cleveland, Ohio • **Lisa Dooley,** Executive Director, West Virginia Municipal League • **C. Virginia Fields,** Manhattan Borough President, New York, New York • **Clay Ford, Jr.,** Mayor Pro Tem, Gulf Breeze, Florida • **Del Haag,** Councilmember, Buffalo, Minnesota • **S. Ellis Hankins,** Executive Director, North Carolina League of Municipalities • **Ken Harward,** Executive Director, Association of Idaho Cities • **Lester Heitke,** Mayor, Willmar, Minnesota • **Ruth Hopkins,** Councilmember, Prairie Village, Kansas • **Ted Jennings,** Mayor, Brewton, Alabama • **Willa Johnson,** Councilwoman, Oklahoma City, Oklahoma • **Helen Kawagoe,** City Clerk, Carson, California • **Joseph Maestas,** Councilor, Española, New Mexico • **Cynthia McCollum,** Council Member, Madison, Alabama • **Rudolph McCollum, Jr.,** Mayor, Richmond, Virginia • **Don Moler,** Executive Director, League of Kansas Municipalities • **Carlton Moore,** Commissioner, Fort Lauderdale, Florida • **Joe Moore,** Alderman, Chicago, Illinois • **Nancy Nathanson,** Councilmember, Eugene, Oregon; • **Kathleen M. Novak,** Mayor, Northglenn, Colorado • **Alex Padilla,** City Council President, Los Angeles, California • **Bart Peterson,** Mayor, Indianapolis, Indiana • **Margaret Peterson,** Councilmember, West Valley City, Utah • **Terry Riley,** Council Member, Kansas City, Missouri • **John Russo,** City Attorney, Oakland, California • **Jeanie E. Smith,** Executive Director, Mississippi Municipal League • **Shep Stahel,** Deputy Mayor Pro Tem, Plano, Texas; • **Ted Tedesco,** Mayor, Ames, Iowa • **Liberato Silva,** Vice Mayor, Flagstaff, Arizona • **Dan Thompson,** Executive Director, League of Wisconsin Municipalities • **Dick Traini,** Assembly Chairman, Anchorage, Alaska

Recycled Paper

NATIONAL LEAGUE OF CITIES

2004 CONGRESS OF CITIES
INDIANAPOLIS, INDIANA

Number of Votes – Annual Business Meeting
Direct Member Cities

Article IV, Section 2 of NLC's Bylaws specifies the number of votes that each direct member city of the National League of Cities is entitled to cast at the Annual Business Meeting at the Congress of Cities. All member cities are required by the Bylaws to cast unanimous votes.

CITY POPULATION (per 2000 Census)	NUMBER OF VOTES
Under 50,000	1 vote
50,000 – 99,999	2 votes
100,000 – 199,999	4 votes
200,000 – 299,999	6 votes
300,000 – 399,999	8 votes
400,000 – 499,999	10 votes
500,000 – 599,999	12 votes
600,000 – 699,999	14 votes
700,000 – 799,999	16 votes
800,000 – 899,999	18 votes
900,000 and above	20 votes

F- Designation of Voting Delegates at Annual NLC Meeting – Indianapolis, Indiana

Suggested Resolution
Resolution #2004-09-
Moved by
Seconded by

RESOLVED, That _____ is hereby **DESIGANTED** as Voting Delegate and _____ is hereby **DESIGANTED** as the Alternate Voting Delegate to cast the vote of the City of Troy at the Annual Meeting of the National League of Cities to be held December 4, 2004 at Indianapolis, Indiana.

Yes:
No:

DATE: September 3, 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: AGENDA ITEM – FINAL PLAN REVIEW – Cedar Pines Site Condominium, South of South Boulevard, East of Crooks Road, Section 4 – R-1B

RECOMMENDATION

On August 18, 2004 City Council granted preliminary approval of the proposed site condominium.

The Engineering Department granted approval of the engineering plans based upon the City's Development Standards; therefore, the development will not cause or exacerbate drainage problems on contiguous properties, due to surface run-off from the proposed development. In addition, the petitioner executed a contract for installation of municipal improvements and provided the required escrow deposits and cash fees. The proposed site condominium complies with all applicable ordinance requirements. City Management recommends approval of the Final Plan for Cedar Pines Site Condominium.

GENERAL INFORMATION

Name of Owner / Applicant:
Christopher Pratt.

Location of Subject Property:
The property is located south of South Boulevard and east of Crooks Road, in Section 4.

Size of Subject Parcel:
The parcel is approximately 10.99 acres in area.

Description of Proposed Development, including number and density of units:
The applicant is proposing a 17-unit site condominium with 4 points of access. There is a boulevard entranceway on Crooks Road and interior street connections with Merrick Drive to the south, Kimberly Drive to the east and Andrew Drive to the east.

Current Use of Subject Property:
The parcel is presently vacant.

Current Use of Adjacent Parcels:
North: Single-family residential.

South: Single-family residential.

East: Single-family residential.

West: Faith Apostolic Church, Sunrise Troy Assisted Living, Troy Church of the Nazarene and single-family residential.

Current Zoning Classification:
The property is currently zoned R-1B One Family Residential.

Zoning Classification of Adjacent Parcels:
North: R-1B One Family Residential.

South: R-1B One Family Residential.

East: R-1B One Family Residential.

West: R-EC Residential Elder Care and R-1B 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: The applicant is utilizing the Lot Averaging Option, which permits a 10% lot area reduction, to 13,500 square feet.

Lot Width: The applicant is utilizing the Lot Averaging Option, which permits a 10% lot width reduction, to 90 feet.

Height: 2 stories or 25 feet.

Setbacks: Front: 40 feet.
Side (least one): 10 feet.
Side (total two): 25 feet.
Rear: 45 feet.

Minimum Floor Area: 1,200 square feet.

Maximum Lot Coverage: 30%.

The applicant meets the area and bulk requirements of the R-1B 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 and approved as part of the application.

Storm Water Detention:
The applicant is proposing to provide a detention pond in the southwest corner of the property.

Natural Features and Floodplains:
The Natural Features Map indicates that a drain runs along the western parcel boundary. A wetland report by King & MacGregor dated March 2003, indicates there are non-regulated wetlands located in the northern portion of the property. The City concurs that the wetlands are non-regulated.

Subdivision Control Ordinance, Article IV Design Standards:

Blocks: Most of the proposed streets have houses on only one side due to the narrowness of the parcel.

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

Easements: The applicant is providing a 15-foot wide public utility easement in front of each unit.

Topographic Conditions: The applicant has provided a Topographic Survey of the property.

Streets: Access to the site condominium will be from Crooks Road, Kimberly Drive, Merrick Drive, and Andrew Drive.

Sidewalks: The applicant is proposing to construct 5 foot wide sidewalks on both sides of all streets. Note that only the Traffic Committee can issue sidewalk waivers.

Utilities: The parcel will be served by public water and sewer.

Attachments:

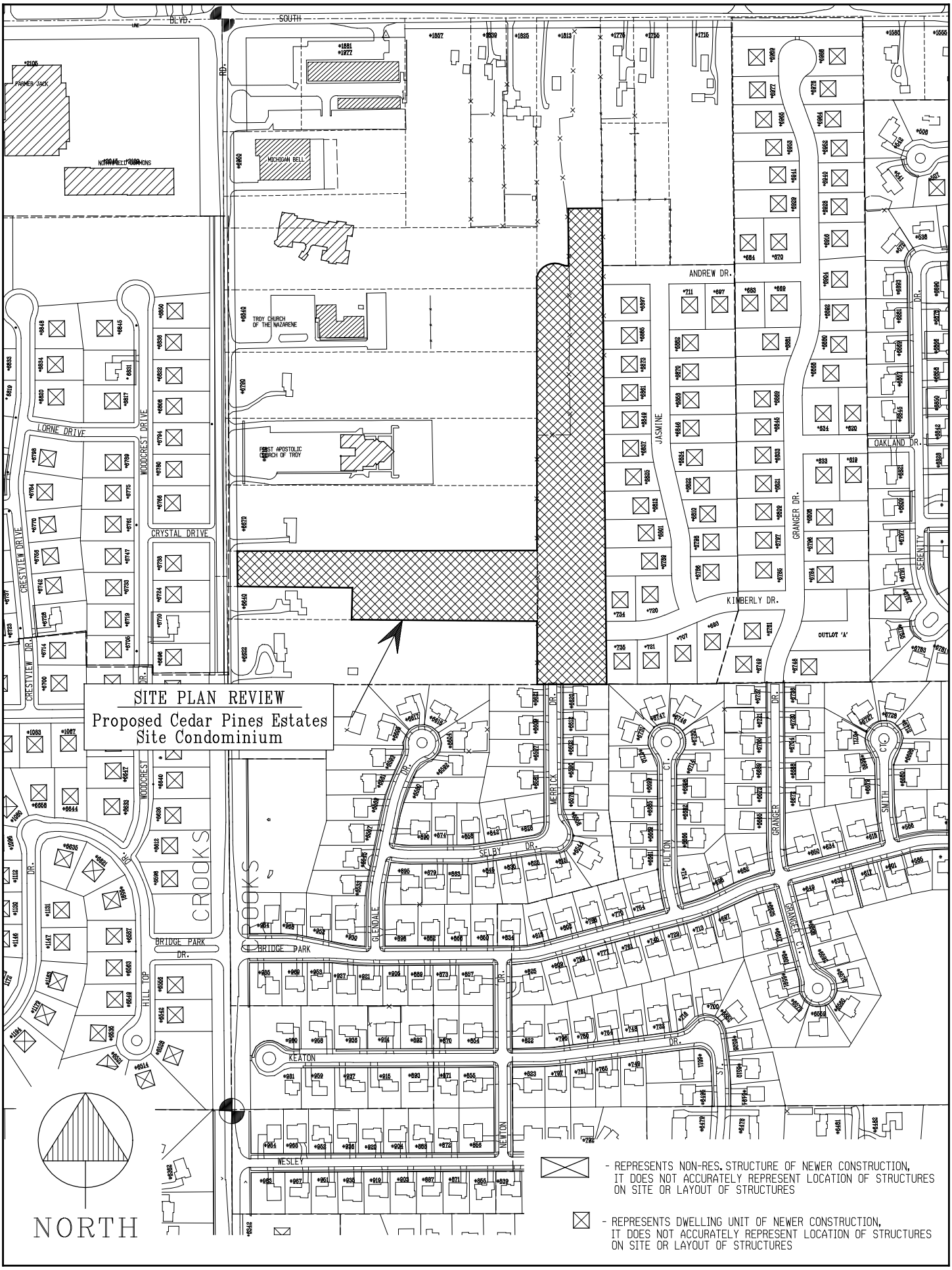
1. Maps
2. Unplatted Residential Development Levels of Approval
3. Comparison Between Site Condominiums and Plats
4. City Council Minutes from August 18, 2003
5. Contract for Installation of Municipal Services

cc: Applicant
File/ Cedar Pines Site Condominium

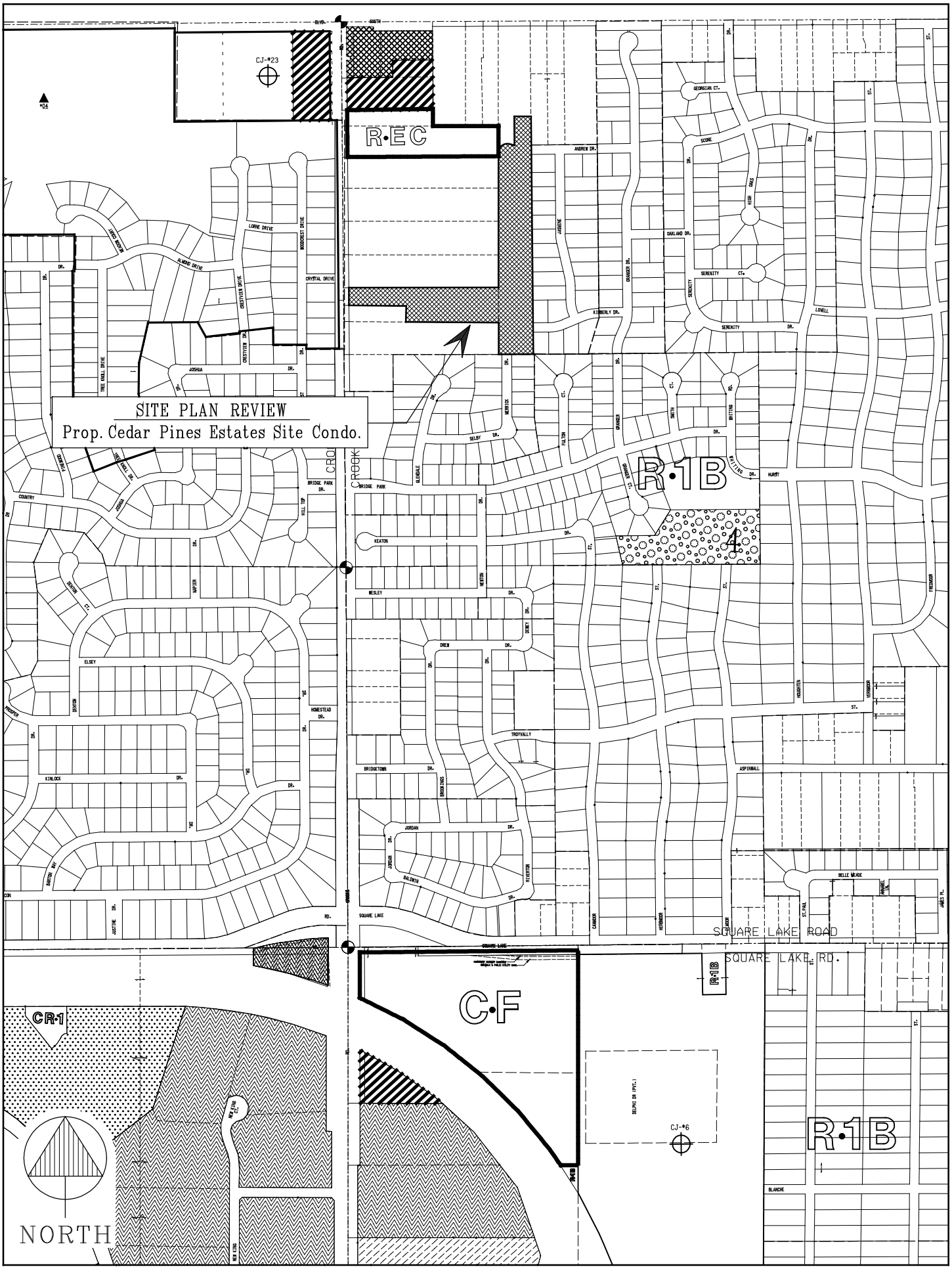
G:\SUBDIVISIONS & SITE CONDOS\Cedar Pines Estates Site Condo Sec. 4\Final Approval Cedar Pines Site Condo_CC 9-1-04.doc

CITY OF TROY

PREPARED BY CITY OF TROY PLANNING DEPT.



CEDAR PINES S.C. / SEC. 4 / 08-11-03


SITE PLAN REVIEW
Prop. Cedar Pines Estates Site Condo.
R-EC
R-1B
C-F
CR-1
CROOK
SQUARE LAKE ROAD
SQUARE LAKE RD.
NORTH
CJ-#23
CJ-#6
#04
LORNE DRIVE
WOODCREST DRIVE
CRYSTAL DRIVE
CRESTVIEW DR.
ALMOND DRIVE
JUDD MOUNTAIN
TREE HILL DRIVE
JOSHUA
COUNTRY
BRIDGE PARK
HILL TOP
KEATON
MESLEY
ELSEY
HOMESTEAD
KINLOCK
BRIDGETOWN
JORDAN
BALDWIN
TROYVALLY
DREW
SQUARE LAKE
ANDREW DR.
JASONE
GRANGER DR.
KIMBERLY DR.
GEORGIAN CT.
SCONE
OAKLAND DR.
SERENITY
LOWELL
HURST
SMITH
WHITING
FULTON
SELBY
GLENDALE
MERTON
HOUGHTEN
VERMONT
FREMONT
ASPINWALL
BELLE MEADE
ANGEL
ST. PAUL
CAMBOR
HERMANN
BLANCHE
DELPHI DR (PVT.)
REX LYNN CT.
BEN LUND
BARTON WAY
JUSTINE
CONCORD

SITE PLAN REVIEW
PROPOSED CEDAR PINES ESTATES SITE CONDOMINIUM
E SIDE OF CROOKS, S OF SOUTH BLVD
SEC. 4 R-1B (17 LOTS)

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.

F-5 Preliminary Site Condominium (Revised) Review – Cedar Pines Site Condominium – South of South Boulevard, East of Crooks Road – Section 4 – R-1B

Resolution #2003-08-419
Moved by Beltramini
Seconded by Eisenbacher

RESOLVED, That the Revised Preliminary Site Plan as submitted by the petitioner, 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 Cedar Pines Site Condominium and as recommended for approval by City Management, located east of Crooks Road and south of South Boulevard, including 17 home sites, within the R-1B Zoning District being 10.99 acres in size, is hereby **APPROVED.**

Yes: All-5
No: None
Absent: Broomfield, Howrylak

REC'D
AUG 17 2004
PLANNING DEPT.

August 17, 2004

TO: John Szerlag, City Manager

FROM: Steven Vandette, Acting Assistant City Manager/Services SV
William Huotari, Acting City Engineer WJH

SUBJECT: Agenda Item - Private Agreement for Cedar Pines Site Condominiums
Project No. 03.926.3

The Engineering Department is reviewing the plans for this project, which includes water main, storm sewer, sanitary sewer, detention, soil erosion, sidewalks and paving.

The Owner has provided a Letter of Credit for escrow and cash fees in the amount of the estimated cost of public improvements, as required.

Approval is recommended.

cc: Tonni Bartholomew, City Clerk (Original Agreement)
James Nash, Financial Services Director
Carol Anderson, Director of Parks and Recreation
Mark Miller, Planning Director
Nino Licari, City Assessor
Timothy Richnak, Director of Public Works
William Jawlik, Inspector Supervisor

Prepared by: G. Scott Finlay, PE
Civil Engineer

Enclosed: Private Agreement, Detailed Summary, Sketch, and Suggested Resolution

G:\Projects\Projects - 2003\03.926.3 - Cedar Pine Estates Site Condominiums\Private Agreement Cover Letter.doc

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)

PROJECT NO. 03.926.3 | PROJECT LOCATION: NW ¼ SECTION 4

RESOLUTION NO. | DATE OF COUNCIL APPROVAL:

KNOW ALL MEN BY THESE PRESENT; That the City of Troy, a Michigan Municipal Corporation of the County of Oakland, State of Michigan, hereinafter referred to as "City" and Pratt Building Company, L.L.C. whose address is 1080 N. Opdyke, Auburn Hills, MI 48326 and whose telephone number is 248-425-5770 hereinafter referred to as "Owners".

WITNESSETH, FIRST: That the City agrees to allow the installation of water main, storm sewer, detention, sanitary sewer, sidewalks, soil erosion, landscaping and paving in accordance with plans prepared by Fenn & Associates , whose address is 42802 Mound Rd, Sterling Heights, MI 48314 and whose telephone number is (586) 586-9577 and approved prior to construction by the City Specifications of the City shall be complied with for this construction.

SECOND: That the Owners agree to contribute the approximate contract price of **$575,435.00**. This amount will be transmitted to the City Clerk for installation of said improvements in the form of (check one):

- Cash ☐
- Certificate of Deposit ☐
- Irrevocable Bank Letter of Credit ☒
- Check ☐
- Performance Bond & 10% Cash ☐

Said funds shall be placed on deposit with the City upon the execution of this contract and shall be disbursed to the contractor by the City only upon presentation of duly executed waivers of lien and sworn statements satisfactory to the City, and after final inspection and approval by the Engineering Department for the City. In addition, the owners agree to deposit and contribute **$101,227.00** cash fee per the attached **Detailed Summary of Required Escrow Deposits Cash Deposits and Cash Fees.**

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)

PROJECT NO. 03.926.3 PROJECT LOCATION: NW ¼ SECTION 4

COUNCIL RESOLUTION NO. DATE OF COUNCIL APPROVAL:

THIRD: The owners may contract for construction of said improvement or may have the City advertise for bids. In the event the Owners select their own contractor, such contractor shall be subject to prior written approval by the City and completed contract documents shall be submitted to the City.
Owners agree to arrange for a pre-construction meeting with the City Engineer and the contractor prior to start of work. All municipal improvements must be completely staked in the field under the direct supervision of a registered civil engineer or registered land surveyor, according to the approved plans.

FOURTH: Owners hereby acknowledge the benefit to their property conferred by the construction of the aforementioned and agree and consent to pay the total sum of $ 676,662.00 for the construction of said public utilities in lieu of the establishments of any special district by the City. Further, owners acknowledge that the benefit to their property conferred by the improvement is equal to, or in excess of, the aforementioned amount.

FIFTH: Owners agree that if, for any reason, the total cost of completion of such improvement shall exceed the sum deposited with the City in accordance with Paragraph SECOND hereof, that Owners will immediately remit such additional amount to the City upon request and City will disburse such additional amount in accordance with Paragraph SECOND hereof. In the event the total cost of completion shall be less than the sum deposited with City in accordance with Paragraph SECOND hereof, City will reimburse to the Owners the excess funds remaining after disbursement of funds.

SIXTH: Owners agree to indemnify and save harmless City, their agents and employees, from and against all loss or expense (including costs and attorneys' fees) by reason of liability imposed by law upon the City, its agents and employees for damages because of bodily injury, including death, at any time resulting therefrom sustained by any person or persons or on account of damage to property, including work, provided such injury to persons or damage to property is due or claimed to be due to negligence of the Owner, his contractor, or subcontractors, employees or agents, Owner further agrees to obtain and convey to the City all necessary easements for such public utilities as required by the City Engineer.

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)

PROJECT NO. 03.926.3

PROJECT LOCATION: NW ¼ SECTION 4

COUNCIL RESOLUTION NO.

DATE OF COUNCIL APPROVAL:

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate on this _____ day of _____, 200_____.

OWNERS
By: Donald L. Pratt

DONALD L. PRATT
Please Print or Type

Please Print or Type

CITY OF TROY
By:

Louise E. Schilling, Mayor

Tonni Bartholomew, City Clerk

STATE OF MICHIGAN, COUNTY OF OAKLAND

On this 13th day of August, A.D.2004, before me personally appeared Donald Lynn Pratt known by me to be the same person(s) who executed this instrument and who acknowledged this to be his/her/their free act and deed.

Laurel Nottage

NOTARY PUBLIC, Oakland Cty, Michigan

Laurel Nottage
Notary Public
State of Michigan
My Comm. Exp. 10-12-04
Acting in Oakland County

My commission expires: 10-12-04

03.926.3

Detailed Summary of Required Escow Deposits, Cash Fees & Deposits
Cedar Pines Estate Site Condominiums
17 Units - Section 4

ESCROW DEPOSITS:

Sanitary Sewers	$54,315
Water Mains	$91,224
Storm Sewers	$110,987
Rear Yard Drains	$41,141
Pavement - CONCRETE	$162,165
Grading	$51,650
Detention Basin	$20,500
Soil Erosion Control Measures	$1,608
Monuments and Lot Corner Irons	$1,015
Temporary Access Road	$3,330
Sidewalks - ON SITE	$37,500
TOTAL ESCROW DEPOSITS (REFUNDABLE):	**$575,435**

CASH FEES (NON-REFUNDABLE):

Water Main Testing and Chlorination	$1,121
Street Name and Traffic Signs	$1,709
Maintenance of Detention Basin (20 year)	$17,400
Soil Erosion and Sedimentation Control Permits	$1,175
Testing Services	$8,632
Engineering Review and Inspection	$40,223
TOTAL CASH FEES (NON-REFUNDABLE):	**$70,261**

CASH DEPOSITS (REFUNDABLE):

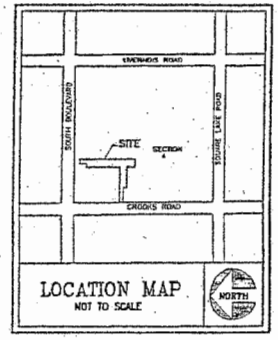
Sidewalk Closures	$1,944
Deposit for Maintenance & Cleaning of Ex. Public Streets Used for Access	$3,400
Landscape Deposit	$16,442
TOTAL CASH DEPOSITS (REFUNDABLE):	**$30,966**

Stormwater detention for this development will be provided by: A new detention basin onsite

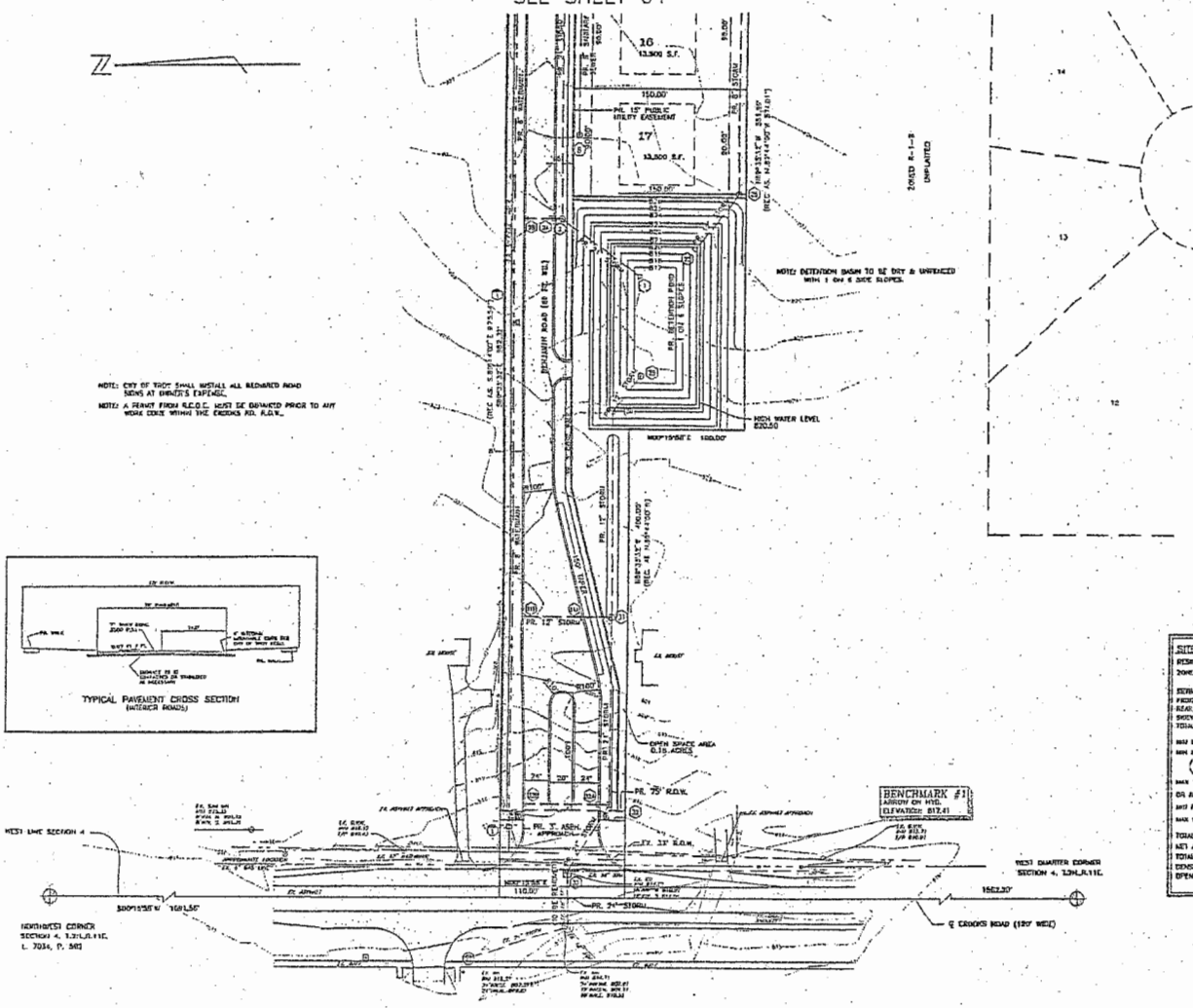
Engineer: Fenn & Associates
Developer: Wake - Pratt Construction Co.

SEE SHEET 04

NOTES:
1.) CONTRACTOR MUST SECURE A CITY OF TROY APPROACH PERMIT AND ARRANGE FOR INSPECTION BEFORE SUCH WORK IS BEGUN.
2.) SITE IMPROVEMENTS SHALL BE INSPECTED AND APPROVED PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY. CALL FOR A GRADE INSPECTION.
3.) ALL JOINTS FOR STORM DRAINS SHALL BE MODIFIED GROOVED TONGUE WITH RUBBER GASKET CONFORMING TO A.S.T.M. DESIGNATION C-361.



LOCATION MAP
NOT TO SCALE



LEGEND

- SECTION CORNER
- FOUND IRON, IRON, NAIL
- SET IRON
- R RECORDED
- M MEASURED
- C CALCULATED

EXISTING	PROPOSED
ELEC. PHONE OR CABLE TV BLK. WHC POLE & GUY WIRE	
WATERCOND CABLE TV	
TELEPHONE U.G. CABLE, SPLICING BOX & MANHOLE	
ELECTRIC U.G. CABLE & MANHOLE	
GAS LINE & VALVE	
WATERMAIN, VALVE, GATE VALVE, TAPPING SLEEVE & VALVE	
SANITARY SEWER, CLEANOUT & MANHOLE	
STORM DRAIN & MANHOLE	
COMBINED SEWER & MANHOLE	
CATCH BASIN, INLET	
YARD DRAIN	
STORM DRAIN & END SECTION	
POST & BOOKLET VALVE	
WATER SERVICE SHUTOFF, DRIVEWAY VALVE BOX	
MAILBOX	
POINT ELEVATION (AT 3 OR END OF LEADER)	671.41
CONTOUR LINE	671
FENCE	
GUARD RAIL	
SIGN (STREET NAME)	
SIGN	
TREE	
STORM DRAIN STRUCTURE NUMBER	
SANITARY SEWER MANHOLE NUMBER	
WATER MAIN FIRE HYDRANT NUMBER	
WATER MAIN VALVE NUMBER	
PR. 8" SANITARY SEWER	
PR. 8" WATERMAIN	
PR. STORM DRAIN	

SITE DATA

RESIDENTIAL SINGLE FAMILY
ZONED R-1B (WITH SEWER)

SETBACKS
FRONT ..... 40'
REAR ..... 45'
SIDEYARD MIN. ..... 10'
TOTAL ..... 25'

MIN SPACE AREA ..... 13,500 SQ. FT.
MIN LOT FRONTAGE ..... 50 FT.
(UTILIZING THE AVERAGE LOT SIZE REQUIREMENTS)
MAX. SIZE MINIMUM 60 LOT WIDTH

OA AREA IS ALLOWED
MIN FLOOR AREA ..... 1,400 SQ. FT.
MAX SHIT COVERAGE 30%

TOTAL ACREAGE 11.05
NET ACREAGE ..... 10.99 (LESS R.O.W.)
TOTAL UNITS 17
DENSITY = 17/NGUO = 1.55 UNIT/ACRE
OPEN SPACE AREA = 0.33 ACRES

SANITARY SEWER
SITE TO BE SERVICED BY AN EXISTING 8" SANITARY SEWER LINE LOCATED ON SOUTH SIDE OF AMBER FARMS SUB NO. 2

WATERMAIN
SITE TO BE SERVICED BY AN EXISTING 12" WATERMAIN LOCATED ON EAST SIDE OF CROOKS ROAD AND EAVES FROM ADJACENT STREETS.

STORM SEWER
STORM DRAINAGE SHALL BE DIRECTED TO THE PROPOSED DETENTION POND LOCATED AT THE SOUTHWEST CORNER OF THE PROJECT WITH REMAINDER FLOW DISCHARGED INTO THE 24" STORM ON WEST SIDE OF CROOKS ROAD.

NOTE:
UTILITY INFORMATION, AS SHOWN, INDICATES APPROXIMATE LOCATIONS AND TYPES OF FACILITIES ONLY, AS DISCLOSED TO THIS FIRM BY THE VARIOUS UTILITY COMPANIES RECORDS. NO GUARANTEE IS MADE OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY.

PRIOR TO CONSTRUCTION ALL LOCATIONS AND DEPTHS OF EXISTING OVERHEAD AND UNDERGROUND UTILITIES SHALL BE VERIFIED.

DURING CONSTRUCTION, CONTRACTOR SHALL USE EXTREME CAUTION WHEN OPERATING NEAR OVERHEAD AND/OR BURIED UTILITIES.

IN THE EVENT OF A DISCREPANCY IN THE LOCATION OF ANY UTILITY WHICH AFFECTS THE CONSTRUCTION OF PROPOSED IMPROVEMENTS, THE CONTRACTOR MUST CONTACT US FROM IMMEDIATELY.

CALL MISS DIG
(MISSING DIGS TOGETHER SAVE BOTH, AND MILLIONS)
BEFORE YOU DIG CALL MISS DIG 1-800-482-7171 (TOLL FREE)

BENCHMARK DATUM (U.S.C.&G.S.)

1. SITE BENCHMARK: ARROW ON HYDRANT, 70 FT. SOUTH OF SW PROPERTY CORNER ON EAST SIDE OF CROOKS ROAD, ELEVATION 817.41
2. SITE BENCHMARK: ARROW ON HYDRANT, 45 FT. SOUTH OF PROPERTY ON WEST SIDE OF MERRICK DR., ELEVATION 833.71
3. SITE BENCHMARK: TOP OF IRON IN CONC. MON., AT NW CORNER OF LOT 54 AMBER FARMS SUB NO. 2, ELEVATION 828.30
4. SITE BENCHMARK: TOP OF IRON IN CONC. MON., AT NW CORNER OF LOT 67 MEADOW FARMS SUB NO. 2, ELEVATION 828.87

NOTE:
1.) SITE IMPROVEMENTS SHALL BE INSPECTED AND APPROVED PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY. CALL FOR A GRADE INSPECTION.
2.) ALL JOINTS FOR STORM DRAINS SHALL BE MODIFIED GROOVED TONGUE WITH RUBBER GASKET CONFORMING TO A.S.T.M. DESIGNATION C-361.

DEVELOPER: MAKI-PRATT CONSTRUCTION CO.
1000 W. DEPOT - SUITE 200
AUBURN HILLS, MI 48326
PHONE: (248) 475-5770

CEDAR PINES ESTATES

SECTION 4, T.2N., R11E.
CITY OF TROY, OAKLAND COUNTY, MICHIGAN

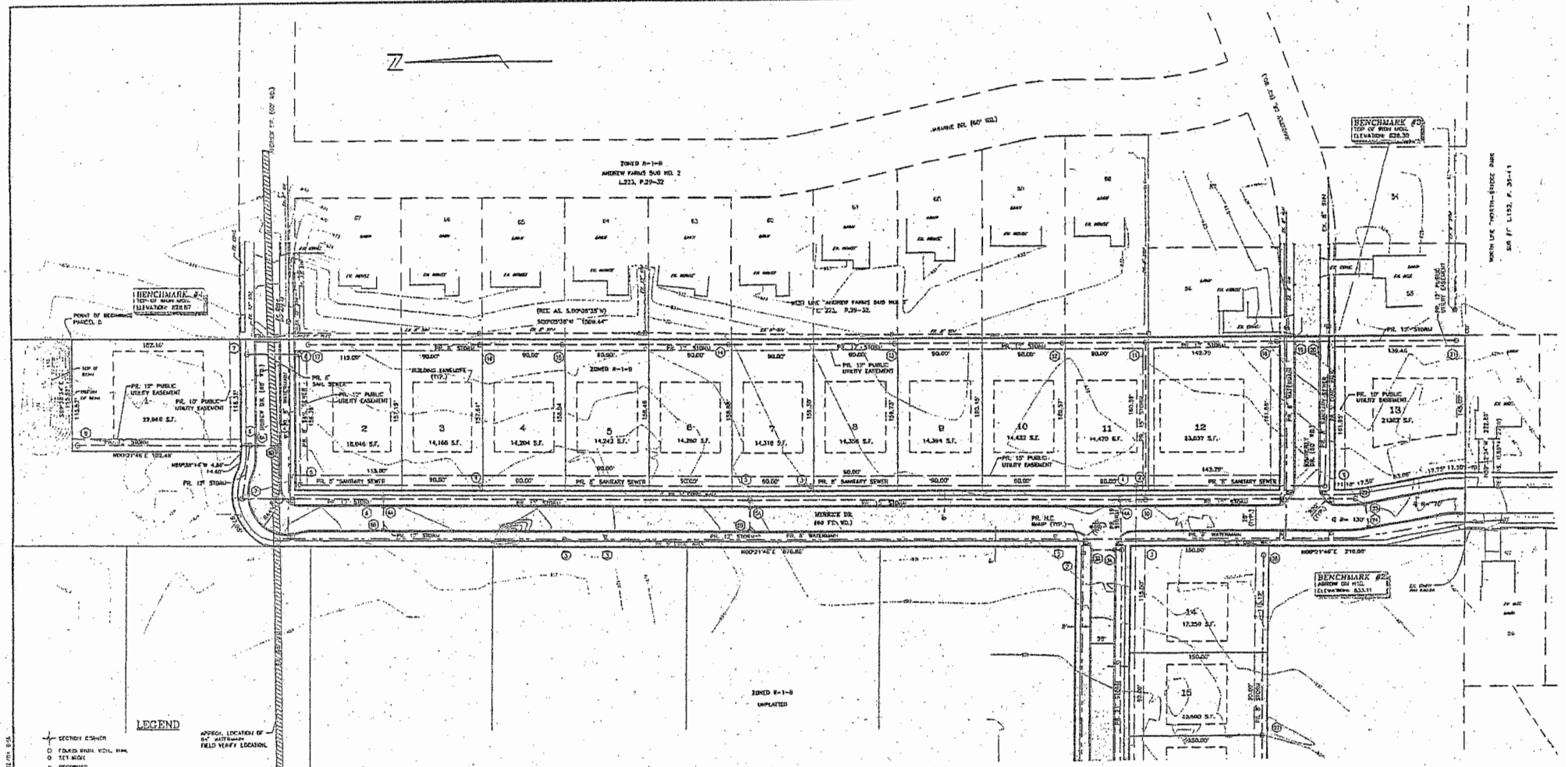
GENERAL PLAN

REVISIONS
03-24-03 PER ETI
07-23-03 PER ETI
07-25-03 PER ETI
08-13-03 PER RDC & CASCO

Brown & Associates Inc.
43820 Hayes Road
Sterling Heights, Michigan 48314
Phone: (586) 254-5577
Fax: (586) 254-0080

DRAWN BY: DLE 4/2/03
SCALE: 1" = 50'
DESIGNED BY: DEMO
DRAWING NUMBER: SHEET 03-0080 3 OF 17
DATE: 07/27/01
TOPOGRAPHY BY: J.S.K., P.C.

H:\2703 Construction\CEDAR PINES - 03-0080\Drawings\Cedar Pines-GENERAL PLAN.dwg Layout: 3 Apr 03, 10:58:54 AM



LEGEND

- SECTION CORNER
- FOUND IRON MON. PINS
- SET MON.
- R RECORDED
- M MEASURED
- C CALCULATED

APPROX. LOCATION OF 8-6" WATERMAIN FIELD VERIFY LOCATION.

EXISTING	PROPOSED
ELEC., PHONE OR CABLE TV SIN. LINE, POLE & GUY WIRE	
ENCLOSURE CABLE TV	
TELEPHONE ELE. CABLE, SPLICING BOX & MANHOLE	
ELECTRIC ELE. CABLE & MANHOLE	
GAS MAIN & VALVE	
WATERMAIN, TYPE, GATE VALVE, TAPPING SLEEVE & VALVE	
SANITARY SEWER, CLEANOUT & MANHOLE	
STORM DRAIN & MANHOLE	
CONTOURED SEWER & MANHOLE	
CATCH BASIN, INLET	
YARD BASIN	
STORM DRAIN & END SECTION	
FIRE HYDRANT VALVE	
WATER SERVICE SHUTOFF, HYDRANT VALVE BOX	
MAILBOX	
POLE ELEVATION (AT & OF END OF LEADER)	831.41
CONTOUR LINE	831
FENCE	
GUARD RAIL	
SHRUB (SIZE)	
SIGN	
VEG.	
SECTION CORNER IDENTIFICATION NUMBERS	
SANITARY SEWER MANHOLE NUMBER	
WATER MAIN GATE VALVE NUMBER	
WATER MAIN VALVE NUMBER	

NOTE:
UTILITY INFORMATION, AS SHOWN, INDICATES APPROXIMATE LOCATIONS AND TYPES OF FACILITIES ONLY, AS DISCLOSED TO US FROM BY THE VARIOUS UTILITY COMPANIES RECORDS. NO GUARANTEE IS MADE OR IMPLIED AS TO THE COMPLETENESS OR ACCURACY.

PRIOR TO CONSTRUCTION ALL LOCATIONS AND DEPTHS OF EXISTING OVERHEAD AND UNDER-GROUND UTILITIES SHALL BE VERIFIED.

DURING CONSTRUCTION, EXCAVATION SHALL USE EXTREME CAUTION WHEN EXCAVATING NEAR OVERHEAD AND/OR BURIED UTILITIES.

IN THE EVENT OF A DISCREPANCY IN THE LOCATION OF ANY UTILITY WHICH AFFECTS THE CONSTRUCTION OF PROPOSED IMPROVEMENTS, THE CONTRACTOR MUST CONTACT THIS FIRM IMMEDIATELY.

CALL MISS DIG
3 WORKING DAYS
(EXCLUDING SAT. SUN. AND HOLIDAYS)
BEFORE YOU DIG
CALL MISS DIG
1-800-482-7171
(TOLL FREE)

BENCHMARK DATUM:(U.S.G.S.)

1. SITE BENCHMARK: ARROW ON HYDRANT, 70 FT. SOUTH OF SW PROPERTY CORNER ON EAST SIDE OF DEQUINDRE ROAD, ELEVATION 817.41
2. SITE BENCHMARK: ARROW ON HYDRANT, 45 FT. SOUTH OF PROPERTY ON WEST SIDE OF MERRICK DR., ELEVATION 833.11
3. SITE BENCHMARK: TOP OF IRON IN CONC. MON., AT NW CORNER OF LOT 54 ANDREW FARMS SUB NO. 2, ELEVATION 828.30
4. SITE BENCHMARK: TOP OF IRON IN CONC. MON., AT SW CORNER OF LOT 67 ANDREW FARMS SUB NO. 2, ELEVATION 828.87

DEVELOPER: BAKE-PRATT CONSTRUCTION CO.
1880 N. ROCHESTER - SUITE 200
AUBURN HILLS, MI 48326
PHONE: (248) 475-8720

CEDAR PINES ESTATES

SECTION 4, T.2N., R11E.
CITY OF TROY, OAKLAND COUNTY, MICHIGAN

GENERAL PLAN

REVISIONS

01-14-04 PER CITY
01-29-04 PER CITY
01-22-04 PER CITY
01-12-04 PER REDC & ELEC.

Fran & Associates Inc.

SCALE: 1" = 50'
DRAWN BY: GENDY
DATE: 07/27/04
CHECKED BY: J.E.R., P.E.
DRAWING NUMBER: 03-0093
SHEET: 4 OF

DATE: September 1, 2004

TO: John Szerlag, City Manager

FROM: Douglas J. Smith, Real Estate & Development Director
Mark F. Miller, Planning Director

SUBJECT: EXTENSION OF PRELIMINARY PLAT – TENTATIVE APPROVAL - Beachview Estates – West Side of Beach, South of Long Lake – Section 18

RECOMMENDATION

The current Tentative Preliminary Plat Approval was granted a one-year extension by City Council on June 16, 2003, and expired on June 16, 2004. City Council initially granted Tentative Approval of the Preliminary Plat of the current proposed subdivision on July 10, 2000. Three previous extensions for this proposal have been granted by City Council on June 16, 2003, July 8, 2002 and October 1, 2001.

The Tentative Preliminary Plat as submitted for this proposed 8-lot subdivision meets applicable Ordinance requirements. The proposed plat will include dedication of the 43-foot half-width right-of-way for Beach Road.

The petitioner applied for an extension before the previous one-year extension had expired. The Planning Department held up the extension process in order to investigate the wetlands on site. The petitioner submitted a Wetlands Map prepared on June 5, 2000. The City Environmental Specialist conducted a site visit on the parcel on August 26, 2004. She discovered a number of on-site conditions that indicated that there are State-regulated wetlands on the property that would require approval from the Michigan Department of Environmental Quality (MDEQ) prior to any construction on site. For this reason, she recommends that the petitioner complete a full wetlands report, or provide a letter of “no permit required” from the MDEQ, prior to receiving Final Preliminary Plat Approval.

The petitioner has essentially completed all engineering drawings required for Final Preliminary Plat Approval. Conditions on site and in the adjacent area have not significantly changed since the Tentative Preliminary Plat Approval was extended by City Council. A one-year extension of this Tentative Preliminary Plat is recommended by City Management, conditional on the petitioner completing a wetlands report, or providing a letter of “no permit required” from the MDEQ, prior to receiving Final Plat Preliminary Approval.

BACKGROUND

The historical background includes original Tentative Preliminary Approval granted in November of 1998 for a 4.5 acre R-1A zoned site on the west side of Beach Road south of Long Lake Road. The proposed development involved five (5) platted lots and one (1) excepted residential acreage parcel fronting on Beach Road. This rather unusual approach was followed in order to enable the creation of six homesites which would be reasonably similar to typical R-1A lot configurations, based upon a single cul-de-sac street extending west from Beach Road.

The potential subdivision proprietors, Choice Properties, then acquired a portion of the existing homesite immediately to the north, thus bringing the total site area to 5.55 acres. The additional north-south dimension available through this acquisition has enabled Choice to revise the subdivision plat, involving a total of 8 platted lots, all of which would front on the proposed cul-de-sac street. The expanded site and revised layout further enables the creation of a detention basin parcel which abuts the small watercourse which crosses the southwest corner of the property.

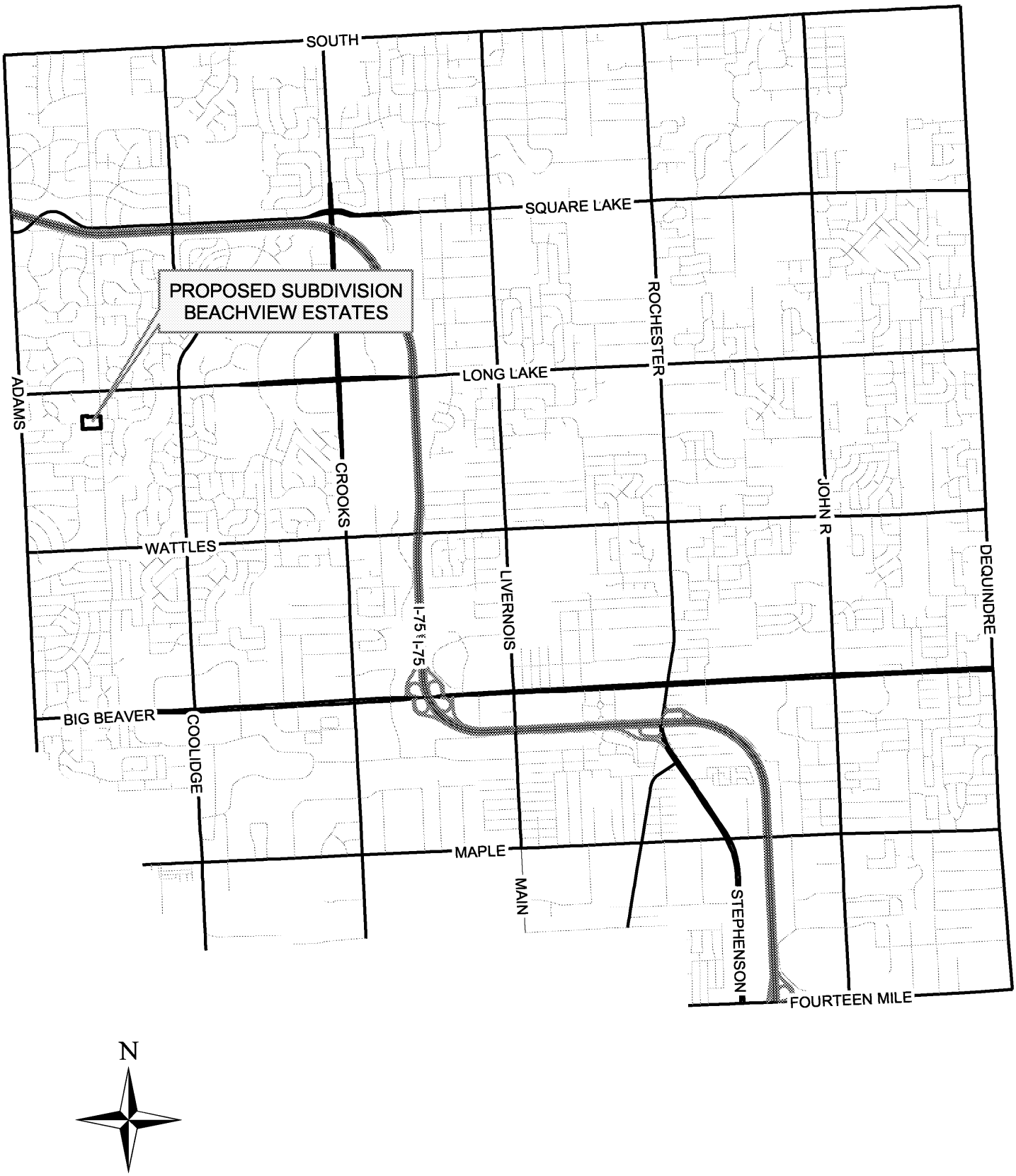
This proposed subdivision is to be developed in accordance with the lot-averaging provisions applicable to the subject R-1A Zoning District. As a result of the preliminary review of this site by the City's Environmental staff, it was determined that no further wetlands delineation or environmental review by Dr. Jaworski (the City's Interim Environmental Consultant) was necessary in 2000. In addition, the City's Natural Features Map indicates woodlands in the southwest corner of the subject property.

Attachments:

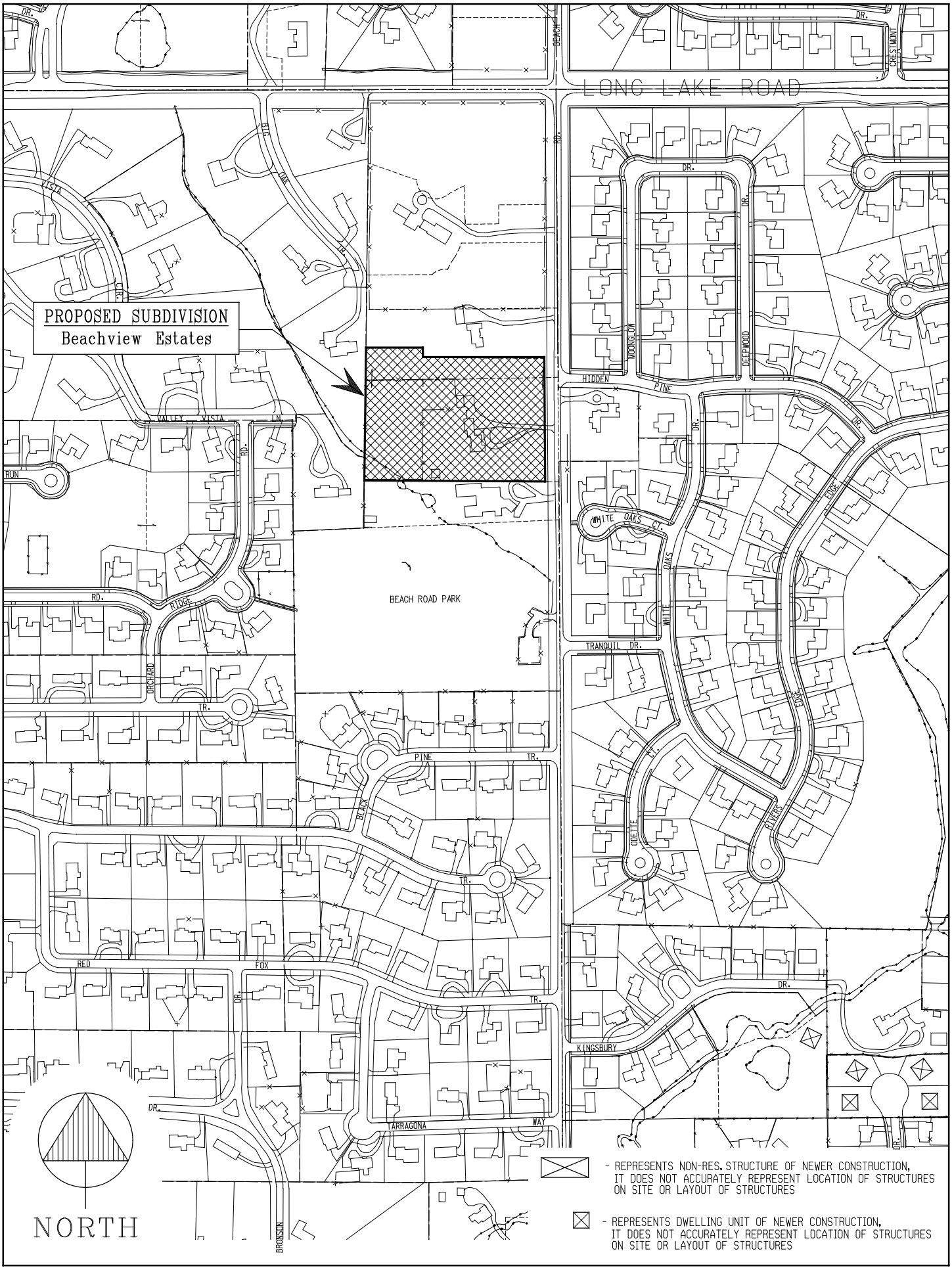
1. Maps
2. Wetlands Map
3. Environmental Coordinator memo, dated August 31, 2004
4. City Council minutes, dated June 16, 2003
5. Platted Residential Development Levels of Approval
6. Comparison Between Site Condominiums and Plats

cc: Petitioner
Steve Vandette, City Engineer
File/Beachview Estates

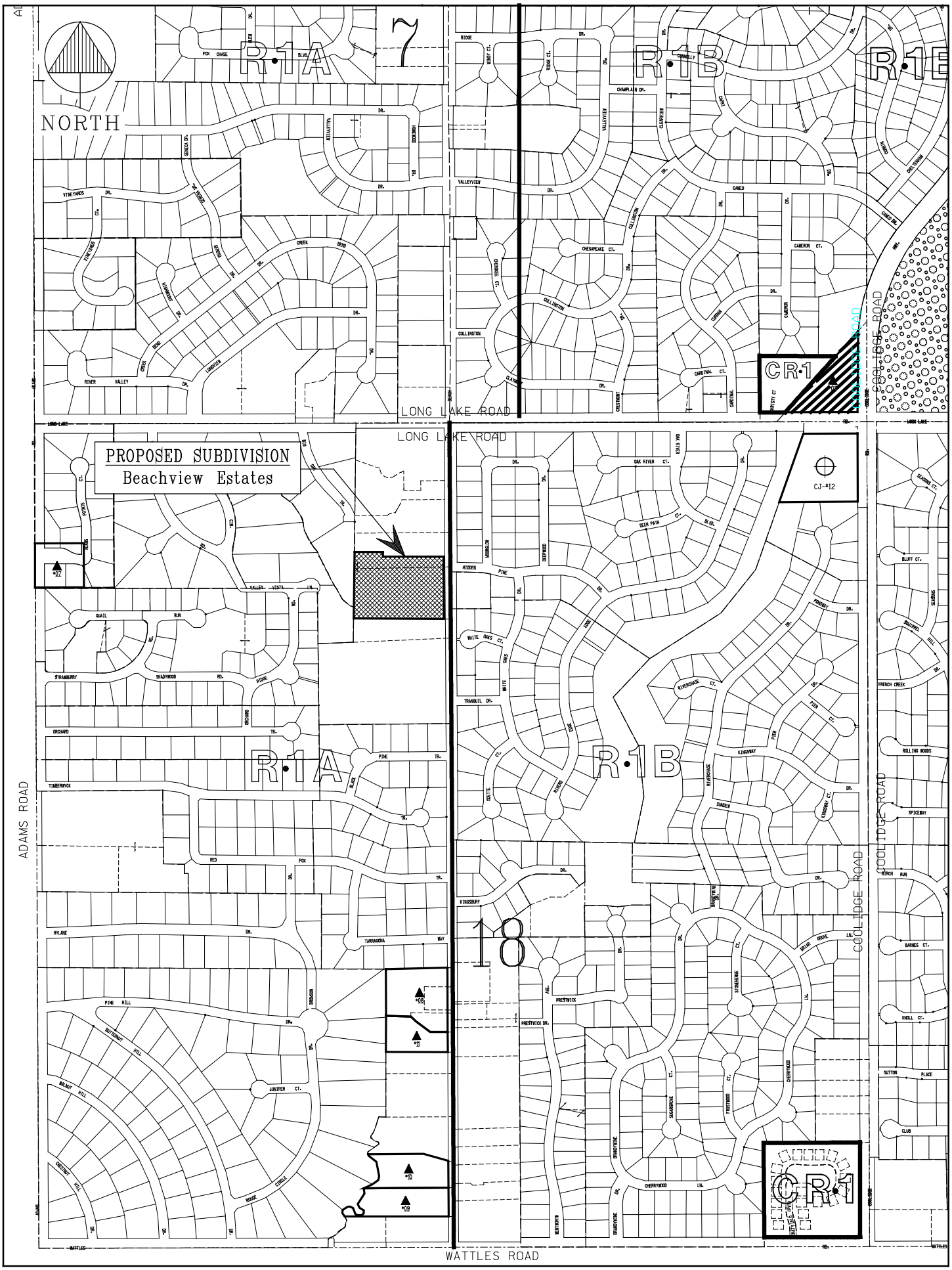
CITY OF TROY



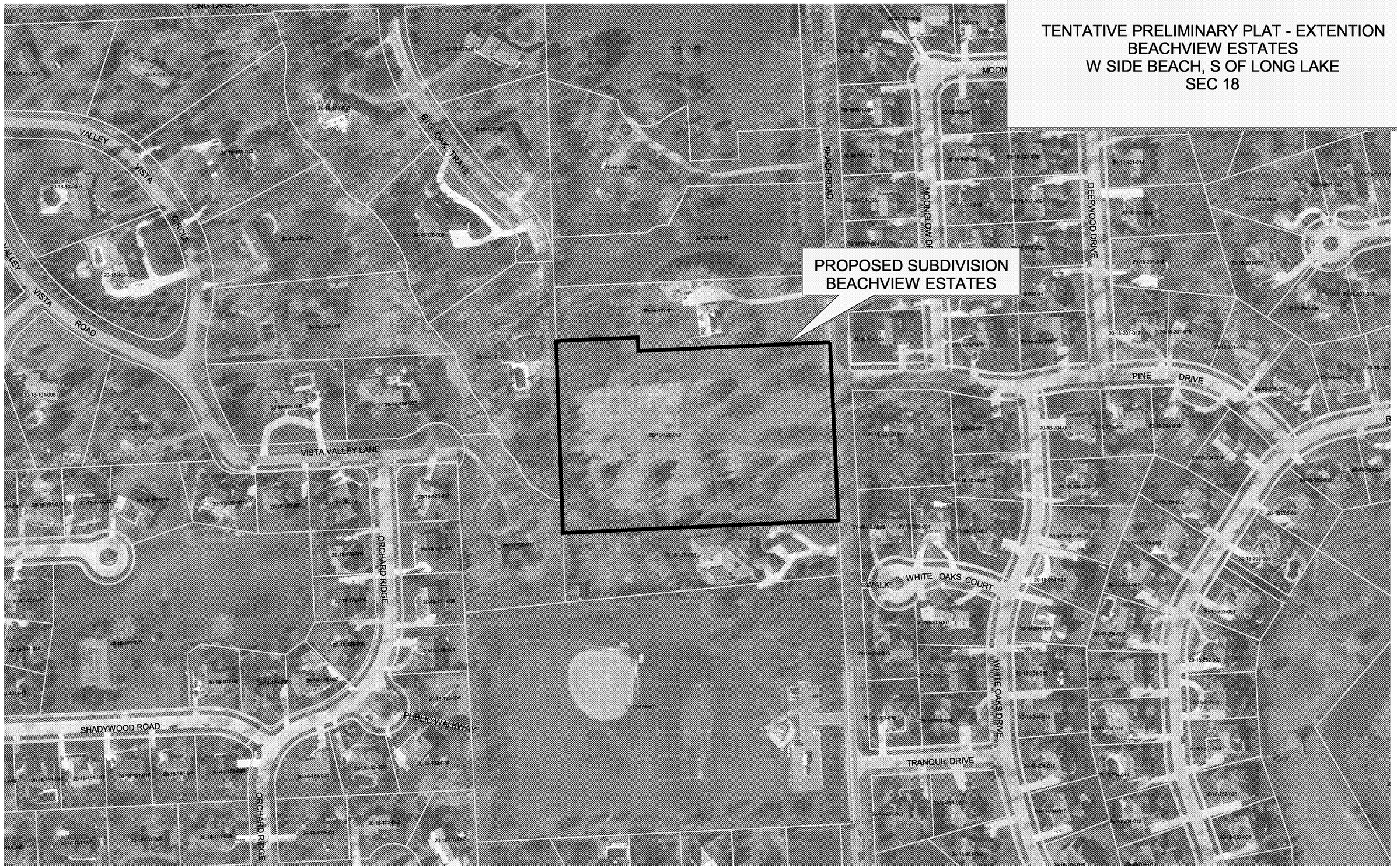
PREPARED BY CITY OF TROY PLANNING DEPT.



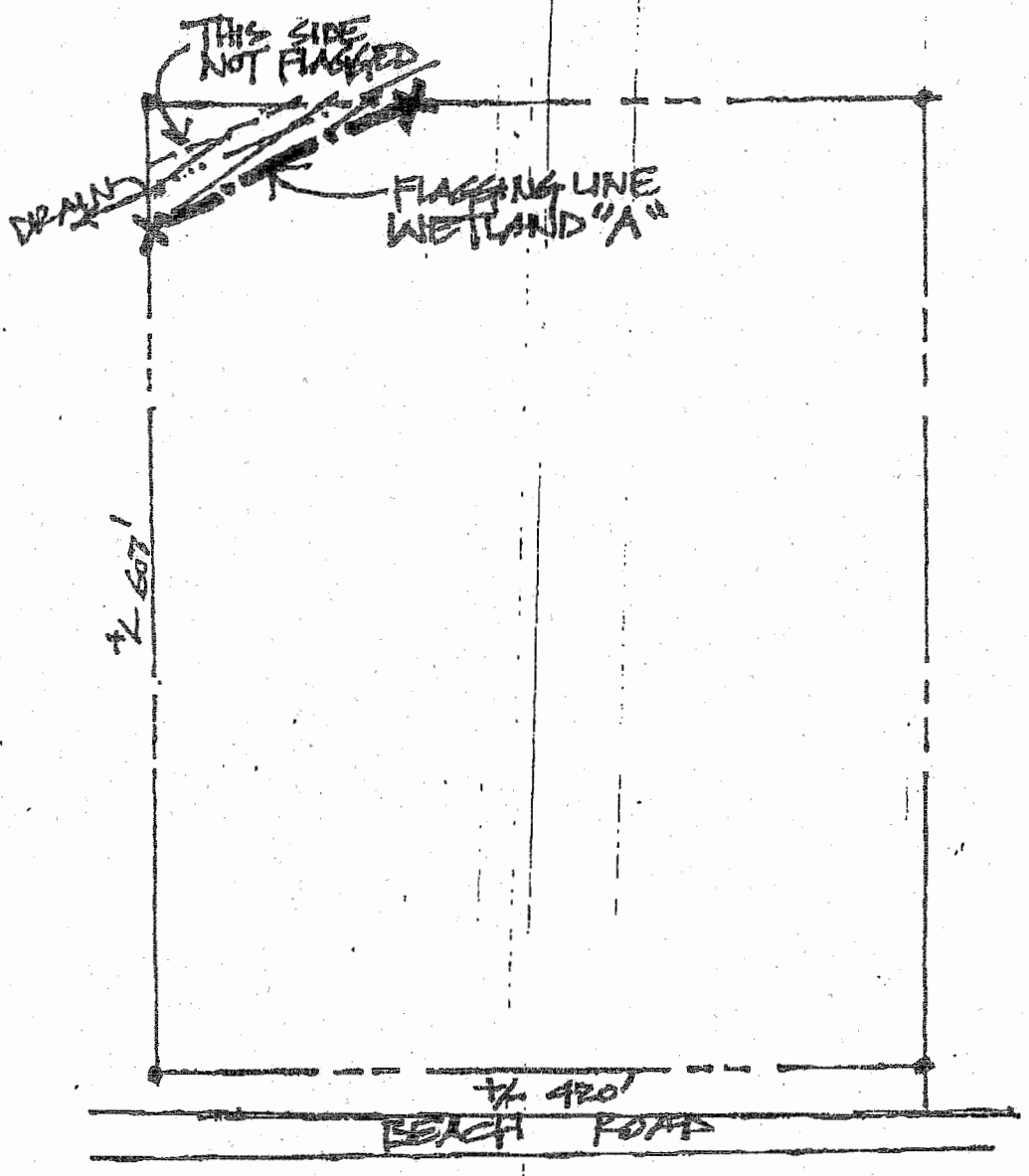
BEECHVIEW ESTATES SUB. / SEC. 18 / 09-25-01


NORTH
R-1A
R-1B
R-1E
7
18
PROPOSED SUBDIVISION
Beachview Estates
LONG LAKE ROAD
ADAMS ROAD
COOLIDGE ROAD
WATTLES ROAD
CR-1
CJ-#12
#07
#05
#11
#10
#09

TENTATIVE PRELIMINARY PLAT - EXTENTION
BEACHVIEW ESTATES
W SIDE BEACH, S OF LONG LAKE
SEC 18



Wetland Determinations



north

Preliminary Wetland Determination-Sketch Map

"Beachview Estates Site"
Sec. 18; City of Troy, Oakland Co.

HOLLOWAY ENVIRONMENTAL

Job #00-012
June 5, 2000 Scale: n/a

Areas Flagged

23 Devonshire Road
Pleasant Ridge, MI. 48069
Phone: (248) 546-9480
Fax: (248) 546-8449
E-mail: [redacted]

RECD

AUG 3 1 2004

PLANNING DEPT.

TO: Mark Miller, Planning Director

FROM: Jennifer Lawson, Environmental Coordinator

SUBJECT: Beachview Estates Wetlands

DATE: August 31, 2004

A site visit was conducted to the proposed Beachview Estates site in section 18 on August 26, 2004.

A majority of the site is an upland meadow, with several large specimen trees, including sycamore, oak and maple.

At the southwest corner of the site, a tributary of the Rouge River crosses the property. Adjacent to this tributary, wetland vegetation and soils exist. In addition to my field visit, I also noted several faded wetland delineation flags that have been present at the site for some time.

It is my recommendation that the City of Troy request the completion of a wetlands report, or a letter of "no permit required" from the MDEQ.

E-5 Extension of Preliminary Plat – Tentative Approval – Beachview Estates – West Side of Beach; South of Long Lake – Section 18

Resolution #2003-06-315
Moved by Beltramini
Seconded by Lambert

RESOLVED, That a one-year extension of the Tentative Approval be **GRANTED** to the Preliminary Plat of Beachview Estates Subdivision, on the west side of Beach, south of Long Lake in Section 18.

Yes: All-7

F-3 Ground Water and Methane Gas Monitoring at Sanctuary Golf Course Contract Change Order with NTH Consultants

Resolution #2003-06-316
Moved by Stine
Seconded by Eisenbacher

RESOLVED, That Change Order No. 1 to our existing contract with NTH Consultants for environmental services is hereby **APPROVED** in the amount of $57,400.00 for ground water and methane gas monitoring at the Sanctuary Golf Course. Funds are available from bonds issued by the Building Authority for the construction of the golf course.

Yes: All-7

F-8 2003 Annual Salary Update for Classified and Exempt Employees and Change to Personnel Rules & Regulations

Resolution #2003-06-317
Moved by Lambert
Seconded by Beltramini

RESOLVED, That the 2003 Classification and Pay Plans are hereby **APPROVED** as recommended by City Management and the Personnel Board, and a copy shall be **ATTACHED** to the original Minutes of this meeting; and

BE IT FURTHER RESOLVED, That the revision to the Personnel Rules and Regulations for Classified Personnel is hereby **APPROVED,** as recommended by City Management and the Personnel Board, and a copy shall be **ATTACHED** to the original Minutes of this meeting.

Yes: All-7

PLATTED RESIDENTIAL DEVELOPMENT LEVELS OF APPROVAL

Tentative Preliminary Plat Approval

The following items are included in the **Tentative Approval** process:

- Existing Conditions
- Tree Preservation Plan
- Street layout
- Number of lots
- Building setbacks
- Lot dimensions
- Stub Street for possible future developments
- Locations of easements
- The Planning Department analyses the potential future development of the abutting property.
- The developer must provide locations of wetlands and natural features on the property and the method of preservation.
- An environmental impact statement is required if the development consists of 25 lots or more.
- A sign is placed on the property informing the public of the proposed development.
- A notice of the public meeting before Planning Commission is mailed to the abutting property owners.

Final Preliminary Plat Approval

The following items are included in the **Preliminary Plat- Final Approval** process:

- Determine that all city development standards are met and complied with.
- Capacity of sanitary and storm sewers
- Size and location of Water mains
- Size and location of Detention / Retention basins
- Grading and rear yard drainage
- Paving and widening lanes
- Financial guarantees
- Sidewalk and driveway approaches
- Approval from other government agencies involved with the development.
- Verification of wetlands and M.D.E.Q. permit if necessary.
- Agreements, covenants or other documents for the dedication of land for public use or property owners use.

Final Plat Approval

Final Approval checks for conformance with the approved Tentative and Final Preliminary Plats and that all property conveyances such as R.O.W, Easements, Open Space and Parks are in proper order.

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.

F-05

August 24, 2004

RECEIVED
SEP 07 2004
CITY OF TROY
CITY MANAGER'S OFFICE

TO: John Szerlag, City Manager

FROM: Jeanette Bennett, Purchasing Director
Charles Craft, Chief of Police

SUBJECT: **Agenda Item -** Sole Source – X26 Advanced Taser, Less than Lethal Electrical Impulse Devices

RECOMMENDATION

City management requests approval to purchase twenty (20) X26 Advanced Tasers, less than lethal resistive subject control devices, as described on Appendix I, from Michigan Taser Distributing. The estimated total cost for the X26 Advanced Tasers and accessories is $23,950.00, freight included. Michigan Taser is the sole provider in Michigan for this equipment.

BACKGROUND

The X26 Taser will greatly assist the Troy Police Department in controlling resistive subjects they encounter in the field. This device operates by discharging an electrical impulse into the subject immediately ending the resistive behavior. The X26 Taser is a greatly improved model over the M26 model currently in use. It is half the size and weight of our current M26 model. The most impressive feature of the X26 was that it was designed with an integrated flashlight system. This feature alone increases both officer and subject safety, as officers will be able to see much better in low-level light situations.

The X26 Taser has a proven successful history in numerous states, including Michigan. By utilizing these devices, the Police Department will not only be able to provide a tool that will allow officers to successfully control resistive subjects without the risk of a "hands on" approach that could result in a high possibility of injury to both the suspect and the officers, but significantly reduce potential liability for the City.

BUDGET

The Police Department Drug Enforcement Capital Account# 401305.7978.065 has been designated for the funding of this purchase.

Prepared by: Sergeant Michael Bjork, Training Section Supervisor

APPENDIX I

Michigan Taser Distributing

32938 Scone Street
Livonia, MI 48154-4140

Office 734-525-8273
Fax # 734-525-8272

ron@michigantaser.com

BID

Date	BID #
8/3/2004	48

Name / Address
Troy Police Department Sgt. Michael Bjork 500 West Big Beaver Rd. Troy, Michigan 48084

Item	Description	Qty	Rate	Total
26000	X26E Taser Black	20	799.95	15,999.00
34228	15 ft (Box of 28) Air Cartridges	14	475.16	6,652.24
44228	21' (Box of 28), Air Cartridge	2	531.16	1,062.32
S & H	Shipping & Handling		237.13	237.13
			Total	$23,950.69

Acceptance of Proposal

All prices, specifications and terms are satisfactory and are hereby accepted

All order are charged 1% shipping and handling charge on net invoice price.

NET 10-DAY TERMS ***** ALL SALES ARE FINAL

Date:_____ Signature:_____

September 9, 2004

TO: John Szerlag, City Manager

FROM: John M. Lamerato, Assistant City Manager/Finance & Administration
Cindy Stewart, Community Affairs Director

Re: 2005 City Calendar

Attached is a summary sheet comparing revenue and expenditures related to the 2005 City Calendar. The 40,000 calendars would include an additional 8-page spread for the Popular Annual Financial Report (PAFR) plus 8-page spread for advertising. Advertising sales as well as inclusion of the PAFR will offset a portion of the printing costs. This also provides a better distribution of the PAFR.

Advertising and inclusion of the PAFR in the City Calendar would give us an estimated savings of $12,305.

Inquiries with Troy business owners tell us that advertising sales would be successful if the Calendar has a reliable means of distribution like direct mail to all residents and businesses. Expanding the PAFR distribution via the calendar is a significant step towards fulfilling Council Goals #1 and #3 (Minimize cost and increase efficiency of City government; Effectively and professionally communicate internally and externally).

The 2005 City Calendar would also be a keepsake to highlight the City of Troy's 50th Anniversary including pictures of Troy past and present.

50th Anniversary City of Troy Calendar & Annual Report Financial Plan

Avertising Rates			
		Regular Rate	Non Profit Disc 10%
Full Page		$ 1,900	$ 1,710
Half Page		$ 1,000	$ 900
Quarter		$ 550	$ 495
Eighth		$ 300	$ 270
Business Listing		$ 75	$ -
Add Second Color		add 20%	add 20%

Expenditures			
Printing Calendar (40,000)			$ 36,000
	Printing	$ 29,000	
	Postage	$ 7,000	
Advertising			$ 5,665
	8 page insert	$ 4,765	
	Sales materials	$ 500	
	Postage	$ 400	
Including PAFR			$ 4,765
	8 page insert	$ 4,765	
Total Expenditures			$ 46,430

Revenue/Savings			
Advertsing Sales			$ 18,275
	1 full page	$ 1,900.00	
	2 half Page	$ 2,000.00	
	14 Quarter Page	$ 7,700.00	
	16 Eighth Page	$ 4,800.00	
	25 Listings	$ 1,875.00	
Savings versus printing separate PAFR			$ 4,460
	Printing	$ 4,160	
	Postage	$ 300	
Total Revenue/Savings			$ 22,735

Net Cost for Calendar with PAFR & Advertising	$ 23,695

Half Page Vertical - 5.5x8
$1,000

Eighth Page - 5.5x4
$300

City of Troy
Calendar/Annual Report
Display Advertising Options

Full Page: 11"wide x 8"tall - $1,900
Half Page Horizontal: 11"wide x 4"tall - $1,000
Half Page Vertical: 5.5"wide x 8"tall - $1,000
Quarter Page: 5.5"wide x 4"tall - $550
Eighth Page: 2.75"wide x 4"tall - $300

Quarter Page - 5.5x4
$550

Full Page - 8x11
$1,900

Half Page Horiz - 4x11
$1,000

September 7, 2004

TO: The Honorable Mayor and City Council Members

FROM: John Szerlag, City Manager

SUBJECT: Schedule Annual Goals and Objectives Workshop – December 10 and 11, 2004

I recommend Council schedule a workshop with Dr. Lew Bender from Southern Illinois University on Friday, December 10, 2004 from 6:00 – 10:00 PM, and Saturday, December 11, 2004 from 8:00 AM to 1:00 PM.

Council Member Lambert indicated he could not make a November workshop, and Council Member Howrylak stated that he would be two hours late for the evening of December 10, but could be available for the entire Saturday session on December 11.

JS/mr\AGENDA ITEMS\2004\09.13.04 – Schedule Goals and Objectives Workshop

September 7, 2004

TO: The Honorable Mayor and City Council Members

FROM: John Szerlag, City Manager

SUBJECT: Schedule Joint Meeting with Downtown Development Authority (DDA)

I recommend Council schedule a joint meeting with the DDA on Wednesday, September 22, 2004 at 7:30 AM to discuss goals and objectives of the DDA, and the preferred future for the city of Troy.

This meeting will be held in the Top of Troy building, at the offices of Doeren Mayhew on the 22nd floor.

JS/mr\AGENDA ITEMS\2004\09.13.04 – Schedule Joint Meeting w DDA

TO: MAYOR AND MEMBERS OF TROY CITY COUNCIL
FROM: LORI GRIGG BLUHM, CITY ATTORNEY
ALLAN T. MOTZNY, ASSISTANT CITY ATTORNEY
DATE: SEPTEMBER 8, 2004
SUBJECT: MUNICIPAL CIVIL INFRACTIONS ORDINANCE

Attached is a copy of the proposed Municipal Civil Infractions Ordinance, Chapter 100 of the City Code. The enactment of the Municipal Civil Infraction Ordinance allows the City to decriminalize zoning, building, property maintenance and other ordinance violations by designating them as municipal civil infractions. The ordinance establishes the Municipal Ordinance Violations Bureau, which is under the supervision of the City Treasurer's Office. The ordinance also provides for a schedule of penalties for each designated violation. The ordinance would allow persons with uncontested violations to pay the scheduled fines directly to the City, as opposed to involving the 52-4 District Court. However, the ordinance still preserves the right of either the cited individual or the City to seek relief from the Court.

Converting designated ordinance violations from misdemeanors to municipal civil infractions can be more efficient, since the process is streamlined. Perhaps most importantly, the City may be granted equitable relief under a municipal civil infractions ordinance. Under the current system of misdemeanor prosecutions, equitable relief is generally not available, which frustrates the City's goal of obtaining compliance.

The adoption of the proposed Municipal Civil Infractions Ordinance is the first step. Subsequently, the City would need to set up the Municipal Ordinance Violations Bureau and order the various forms (citations and municipal ordinance violation notices) for processing the municipal civil infraction violations. The City would then need to designate which violations would be converted to municipal civil infractions, and would need to adopt ordinance amendments to accomplish the conversion.

It is our recommendation to adopt the proposed municipal civil infraction ordinance. If you have any questions and 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 in section 100.04.04, the authorized City official shall personally serve a copy of the municipal civil infraction citation upon the alleged violator.

100.04.04 If a municipal civil infraction involves the use or occupancy of land or a building or other structure, service may be made upon the owner or occupant of the land, building or structure by posting a copy of the citation on the land or attaching the copy to the building or 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 IInformal 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 by-passing 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

TO: Mayor and Members of Troy City Council
FROM: John Szerlag, City Manager
Steve Vandette, Acting Assistant City Manager- Services
Mark Stimac, Director of Building and Zoning
Carol Anderson, Director of Parks and Recreation
Lori Grigg Bluhm, City Attorney
DATE: September 9, 2004
SUBJECT: Display Policy for Troy City Plaza

Enclosed please find a proposed display policy for the Troy City Plaza. This proposal would allow for two designated display areas on City property located on the southeast corner of Town Center Drive and Civic Center Drive. A visual depiction of these two designated areas is included for your reference. We have also included a chart listing the available date groups for such displays. This date group chart would be incorporated into the policy absent objection from City Council, and would be created using the similar number of days for each year thereafter. The date groups are selected in a manner that allows for the City's regular property maintenance on Wednesdays. (displays must be removed on Tuesdays)

Also enclosed please find correspondence that has been received by City Administration since the August 9, 2004 City Council meeting.

The display policy requires the City of Troy to designate a new limited public forum. Pursuant to Capitol Square v. Pinette[1] and also Americans United for Separation of Church and State v. City of Grand Rapids[2], there is no violation of the First Amendment establishment clause where displays are purely private (no public funding); and where the displays are located in a designated public forum that is publicly announced and open to all on equal terms. However, it should be noted that once a public forum is opened, it is opened permanently.

If you have any questions concerning the above, please let us know.

---

[1] 115 S. Ct. 2440 (1995)
[2] 980 F.2d 1538 (6th Circuit 1992)

DISPLAY POLICY FOR TROY CITY PLAZA[1]

1.0 MISSION STATEMENT

The Troy City Plaza is dedicated to the positive expression of our cultural and historical heritage, philosophies, and ethnic diversity, encouraging activities and displays depicting events which highlight and honor them.

In recognition of the rights protected by the U.S. Constitution and Bill of Rights the City of Troy provides this plaza as a limited public forum.

This Policy is established to ensure equal access and opportunity to use the Troy City Plaza. All displays shall comply with the provisions of this Policy.

2.0 PUBLIC FUNDING PROHIBITION

2.1 There shall be a disclaimer prominently displayed immediately in the front of the designated display areas, readable from an automobile passing on the street directly in front of the structure, which shall read substantially as follows:

This display was not constructed with public funds and does not constitute an endorsement of any message by the City of Troy.

2.2 A notice must be prominently posted in the immediate area of the designated display areas advising the public that the area, as a limited public forum, is available to all Troy citizens and Troy civic and charitable groups.

2.3 All displays must be privately owned, erected, and maintained.

2.4 The City of Troy shall have no role in the planning, construction, erection, or storage of any display.

3.0 LOCATION OF AREAS DESIGNATED FOR DISPLAYS

3.1 The display areas shall be limited to two areas identified by the City of Troy on the Civic Center site as follows:

Display Area A - A 25’ x 25’ area located on the east side of Civic Center Drive, south of Town Center Drive.

---

[1] Although referenced as the Troy City Plaza, it is anticipated that there will be a re-naming of the limited public forum.

Display Area B - A 25' x 25' area located on the south side of Town Center Drive, east of Civic Center Drive.

3.2 The designated display area will remain in its natural vegetative state. The area does not currently have specific pathways for pedestrians to access the display. The area does not currently have any direct artificial light, other than the light that emanates from light poles that are already in place on the property.

3.3 There shall be no concrete or asphalt or other permanent materials placed or poured in the designated display area.

4.0 DISPLAY RULES AND REGULATIONS

4.1 Displays shall be erected and installed only within the designated display areas, as indicated by survey markers on the property.

4.2 No portion of the displays shall extend more than 20' above the ground, nor outside the display area.

4.3 No sound shall be emitted by the display that exceeds 65 decibels measured at a distance of 15' from the display area in any direction.

4.4 Displays shall be designed or secured so that they will not be moved out of the designated display area by forces of nature, such as the effect of wind. Displays shall be designed and installed to be structurally sound and self- supporting of their own weight and loads, so that the displays can withstand any negative effects of wind, rain, snow or other natural forces.

4.5 Displays shall be designed and installed in a manner to prevent damage to the City's designated display areas.

4.6 There shall be no excavation of the display site as part of the installation of the display.

4.7 No part of the display shall be driven into the ground, except that stakes not bigger than 4 square inches can be used to secure the display to the ground as long as there is no permanent damage to the property.

4.8 There shall be no detectible odors emanating from the display.

4.9 Displays shall not include foul, putrid, or hazardous material.

4.10 There shall be no open flames or pyrotechnics as part of any display.

4.11 There shall be no spray painting of the public property designated for the displays.

4.12 Displays may be set up beginning at 8:00 am on the first day of the designated date group. Displays must be totally removed from the display area by 6:00 pm on the last day of the designated date group. The designated date group is the number of the grouping of days for the allowable display periods, as set forth on the attached Exhibit A, which shall be prepared annually for each calendar year and incorporated by reference into this Policy. The designated date group shall be determined by the lottery, as set forth in section 5.0 of this policy.

4.13 No public assembly will be permitted in the designated display area. Displays shall be unattended, and there shall be no solicitation in the designated display area.

4.14 There is no accessibility to electricity on the site, and displays shall not require external electric power. In addition, generators or motors of any kind shall not be used on the property. Displays shall be permitted to utilize battery or solar power sources.

4.15 There shall not be awnings or canopies or tents erected in the designated display area.

4.16 There shall be no commercial speech in or on the designated display area. Signs with company logos which indicate sponsorship of a display shall not be considered commercial speech, as long as they are located in the designated area and do not exceed 8 ½ x 11" in size, and as long as the sponsorship signs do not include telephone numbers and/or web site addresses.

4.17 There shall be no profanity, pornography, or obscenity in or on the designated display area.

4.18 There shall be no vehicles used on, in, or leading to the designated display areas unless the City approves the use of a vehicle in

advance. Such approval shall be based on the ground conditions and the expected impact of the use of a vehicle.

5.0 SITE/DATE GROUP SELECTION PROCESS

5.1 Sites/Date Groups for the displays shall be selected by lottery process conducted by the City of Troy.

5.2 The selection lottery for each calendar year shall be held at 10:00 am on the first Wednesday of the month of November in the preceding year. This date shall also be used as the selection lottery for the remaining days in the 2004 calendar year.

5.3 Applications for the lottery shall be filed on forms provided by the City of Troy and shall be filed no less than 7 calendar days prior to the selection lottery.

5.4 Applications for the lottery shall be accepted from residents of the City of Troy above 18 years of age, or corporations, civic groups or charitable organizations located in the City of Troy.

5.5 Not more that one application for the lottery shall be accepted from any one individual or group.

5.6 The lottery process shall require the applications to be selected at random.

5.7 Applicants shall either appear in person at the lottery, or have their designee present, as identified in their application for the lottery. The applicants or their designee must be present to select their preferences for the designated display area. Applications that have been selected, for which there is no applicant or designated representative present at the time of the drawing, shall be disqualified.

5.8 If selected, applicants shall pick the designated display area (A or B) and date group for their display from the remaining available locations and date groups. This process shall continue until all dates for each location are selected or until all applications have been drawn in the lottery.

5.9 Any date groups not selected for either of the two designated display areas on the day of the lottery shall become available after the first day of December. Troy residents, corporations, civic or

charitable organizations can apply for one of these available dates by filing an application at least 21 calendar days in advance of the first day of the desired date group.

6.0 AGREEMENT BETWEEN CITY AND SUCCESSFUL APPLICANTS

6.1 Each successful applicant shall pay a non-refundable fee of $50.00 for each display to offset any public costs. This fee shall be paid at least 21 days prior to the first date of the date group, as designated by the lottery system described in Section 5.0 of this policy.

6.2 Each successful applicant shall enter into an agreement with the City of Troy at least 21 days prior to the first date of the date group, as designated by the lottery system described in Section 5.0 of this policy. The agreement shall be in the form approved by the City of Troy. The approved agreement form shall be supplied to all persons at the time of the yearly application for the lottery, and shall be subsequently available at City Hall, the Community Center, and the web site.

6.3 The agreement shall require the successful applicant to provide a proposed layout of the proposed display (at a suitable scale), which shall include the size (square footage) and location of any signs, booths, tables, or temporary structures of any kind. Applicant shall provide a written description of the display material types (wood, metal, plastic, etc.), the dimensions, and a description of the method of anchoring the display. This information shall be provided at least 21 days prior to the first date of the date group, as designated by the lottery system described in Section 5.0 of this Policy.

6.4 The agreement shall require each successful applicant proposing a display for the Troy City Plaza to submit an executed hold harmless agreement on the applicant's letterhead. The hold harmless agreement shall be signed by the applicant's authorized representative, and shall agree to defend, indemnify, or hold harmless the City of Troy, its elected and appointed officials, employees and volunteers and others working on behalf of the City of Troy; against any and all claims, demands, suits, loss, including all costs connected therewith, for any damages that may be asserted, claimed, or recovered against or from the City of Troy, its elected and appointed officials, employees, volunteers or others working on behalf of the City of Troy, by reason of personal injury,

including bodily injury and death; and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with the activity authorized by this permit.

6.5 The agreement shall require each successful applicant proposing a display for the Troy City Plaza to procure and maintain insurance acceptable to the City, demonstrating that general liability coverage is available for claims for personal injury or property damage caused by the display or attributed to the placement of the display. Such insurance shall be in the amount of $500,000 per occurrence and aggregate limit. The Certificate of Insurance shall name the City of Troy as an additional insured. The City reserves the right to modify the insurance requirements as necessary with 30 days notice to the successful applicant. The successful applicant agrees to provide the certificate of coverage at least 21 days prior to the first date of the date group, as designated by the lottery system described in Section 5.0 of this Policy. The successful applicant must keep said insurance or a similar policy with the above minimum insurance coverage in effect for the term of the display. The successful applicant shall submit to the City of Troy Risk Management Department a Certificate of Insurance acceptable to the City demonstrating coverage for the above insurance amounts. Additionally, the City may request a copy of said insurance certificate at any time during the display.

6.6 The agreement shall require each successful applicant proposing a display for the Troy City Plaza to provide a $100 deposit to the City. This deposit shall be security for the City against any property damage to the designated display areas caused by the successful applicant's display or any costs or contract or Troy personnel charges incurred by the City as a result of the successful applicant's failure to comply with the terms of the agreement or this display policy. This deposit shall be made at least 21 days prior to the first date of the date group, as determined by the lottery system set forth in Section 5.0 of this Policy. The existence of a deposit does not preclude the City from taking any other available legal action to recoup any City damages resulting from the successful applicant's failure to comply with the terms of the agreement or this display policy. Upon removal of the display, the deposit shall be returned to the successful applicant, less any costs incurred by the City as a result of the applicant's breach of the Policy or agreement.

6.7 The agreement shall require each successful applicant to submit the details for any graphics, and any messages or wording for the

display (at a suitable scale) at least 21 days prior to the first date of the date group, as determined by the lottery system set forth in Section 5.0 of this Policy. This information shall be reviewed by the Troy City Attorney or Attorney's designee for compliance with this Policy. The Attorney shall indicate any objections to the proposed display in writing within seven days of receiving the information. Objections can be based on the inclusion of pornography, profanity, obscenity, or commercial speech, which are prohibited in the limited public forum. The Attorney shall rely on First Amendment jurisprudence in making this determination. Appeals of the Attorney's decision can be made to the Troy City Council or by filing an action with the Oakland County Circuit Court.

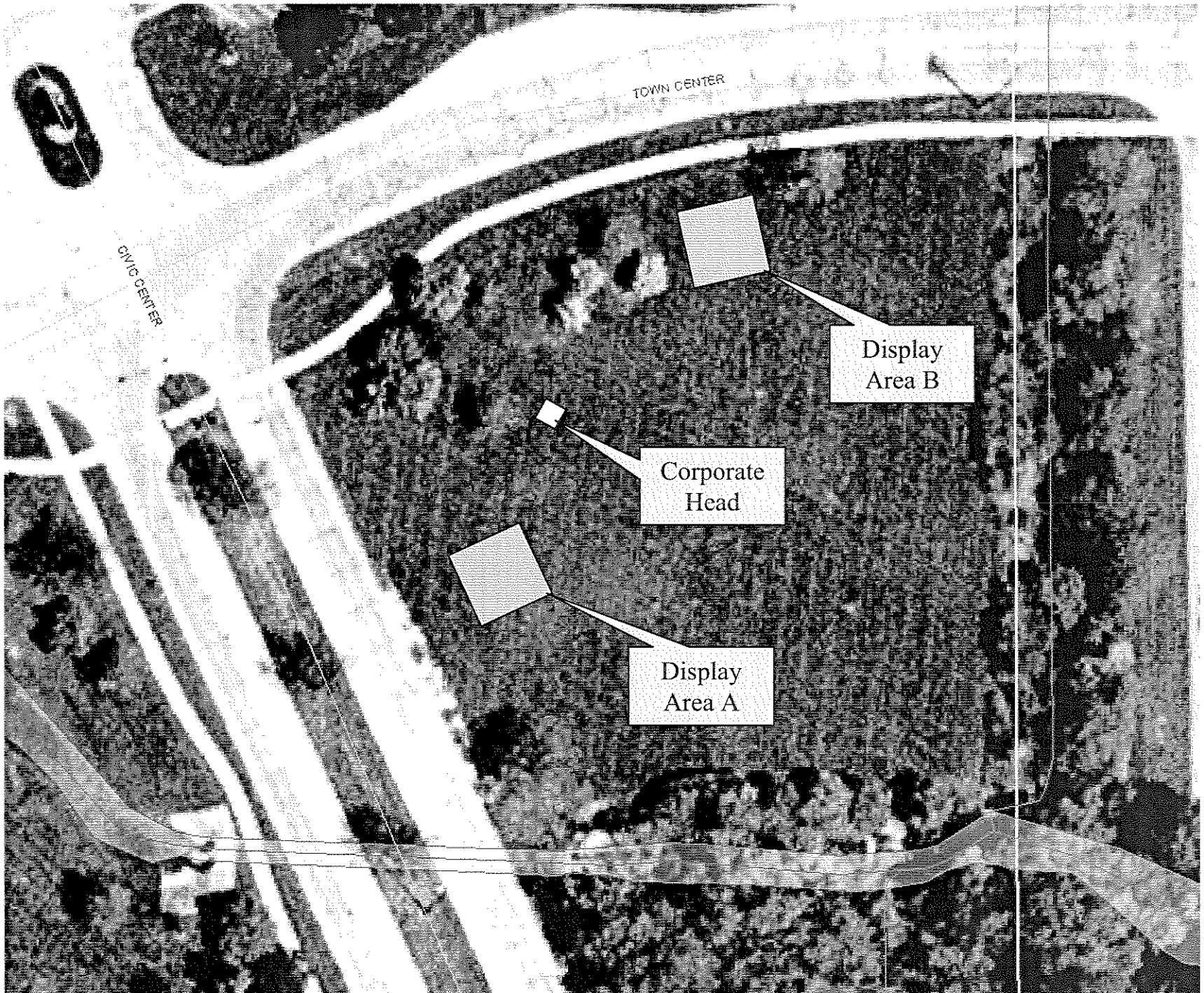
6.8 The displays must contain only the items that were submitted and approved by the City, in accordance with this policy.

6.9 The failure to comply with the terms this policy or the agreement will result in disqualification of the successful applicant, and shall be considered grounds for removal of the display (at the expense of the successful applicant) from the designated area and a forfeiture of the remaining time contained within the lottery assigned time slot.

6.10 The successful applicant agrees to comply with all federal, state, and local laws and regulations that apply to the display.

Date Group	Number of Days	Beginning Date	Ending Date
20	19	November 26 2004	December 14 2004
21	19	December 17 2004	January 4 2005
1	19	January 7 2005	January 25 2005
2	19	January 28 2005	February 15 2005
3	19	February 18 2005	March 8 2005
4	19	March 11 2005	March 29 2005
5	19	April 1 2005	April 19 2005
6	12	April 22 2005	May 3 2005
7	12	May 6 2005	May 17 2005
8	12	May 20 2005	May 31 2005
9	12	June 3 2005	June 14 2005
10	12	June 17 2005	June 28 2005
11	12	July 1 2005	July 12 2005
12	12	July 15 2005	July 26 2005
13	12	July 29 2005	August 9 2005
14	12	August 12 2005	August 23 2005
15	12	August 26 2005	September 6 2005
16	12	September 9 2005	September 20 2005
17	19	September 23 2005	October 11, 2005
18	19	October 14 2005	November 1 2005
19	19	November 4 2005	November 22 2005
20	19	November 25 2005	December 13 2005
21	19	December 16 2005	January 3 2006

EXHIBIT A


TOWN CENTER
CIVIC CENTER
Display Area B
Corporate Head
Display Area A

Lori G Bluhm

From: Sharona Shapiro [shapirosh@ajc.org]
Sent: Friday, August 27, 2004 1:48 PM
To: BluhmLG@ci.troy.mi.us
Subject: religious and holiday displays on public property

> The American Jewish Committee, Metropolitan Detroit Chapter urges the City
> of Troy to maintain its traditional stance in separating church and state
> and to think long and hard regarding the use of public property to promote
> individual religious beliefs. In light of recent discussions by City
> Council, members of the AJC who are Troy residents have expressed their
> concerns over the suggestions by some to encourage the use of Troy's
public
> space to display religious and holiday displays.
>
> Sharona Shapiro
> Michigan Area Director
> American Jewish Committee
> Metropolitan Detroit Chapter
> 6735 Telegraph Rd., Ste. 320
> Bloomfield Hills, MI 48301
> 248-646-7686
> 248-646-7688 FAX
> shapirosh@ajc.org
> detroit@ajc.org
>

Lori G Bluhm

From: Walter Graves [wgraves@wzglaw.com]

Sent: Friday, August 27, 2004 4:05 PM

To: rbeltram@wideopenwest.com

Cc: bluhmlg@ci.troy.mi.us; dave@lambert.net; talk2cristina@aol.com; mfhowryl@umich.edu; Jeanne M Stine; szerlagnj@ci.troy.mi.us; 000schilling@ameritech.net; david@eisenbacher.org

Subject: City Displays

Robin: I was following (admittedly in part) your discussions regarding the City display of events/celebrations based on a lottery system. I heard some of the people speak from the Jewish congregation, Shir Tikvah. I have many clients and friends who are Jewish and I know that they are always very wary of public displays, in part because of the fact that they are a minority. Many minorities, like some Jewish synagogues, like to maintain a low, quiet profile because they know there is an anti-semitic element out there. They don't seek to thrust attention upon themselves. So it doesn't thrill them to suggest that they are also free and encouraged to apply for and put up their display because they know, as a minority, it may provoke a reaction. They're typically not looking to mount a big minora or Star of David on City property because it may draw a negative reaction. Vandalism, which could have been arbitrary by some teenagers, now has the appearance of a religious hatred intent attached to it because the target was a non-Christian symbol, which may or may not even be true. (If somebody vandalizes the nativity scene, we'll just figure it's vandals; but if it's a Jewish symbol vandalized, then there's the ugly perception that it is "racially motivated" vandalism, and then the City of Troy is on the 11:00 news, when in fact it may have simply again been RANDOM vandalism.) So Jews and some minorities aren't even keen on putting up displays, and they know that the majority in the community, even in a lottery system (because of the odds), means much of the year will likely be DOMINATED by Christian displays (in part because there are so many Christian churches/organizations, etc., and the minority groups sometimes tend to lay low). I know the City Council wants to establish guidelines about being positive, nothing negative, but that is often open to interpretation. Some Satanists and Occultists do some very strange things that many of us are uncomfortable with, but they would argue that they are not hateful, they're not looking to oppress any one else; they just believe in sacrificing an animal (following the laws regarding butchering) before having a meal and they have a different set of gods. White Supremists will argue that they do not seek to oppress any one; they simply want to "celebrate" their heritage (because, hey, don't the African Americans have events to celebrate their heritage; why should white folks be excluded from that?). Getting back to positive messages only, if a Christian display suggests that "Jesus is the Way" or "Jesus is the Answer", doesn't that suggest the other folks are SOL because they're misguided and their religion doesn't offer the "answer"? There is an exclusionary message implicit in that and the City may be challenged and spend taxpayer dollars on that kind of suit. When I represent owners of shopping center (which as you know are treated like town squares open to the public), we recommend they don't allow ANYONE be permitted to enter the property to proselytize or solicit, because once they open the door to anyone, the neo-Nazis and the KKK and the Satanists apply and they sue if they're "discriminated" against and excluded. Some smaller outlying communities get away with doing whatever they want because they often don't have anyone in the community who cares to challenge what's happening. That's why there are still schools in small towns in the South with a picture of Jesus on the wall or they broadcast a prayer before a football game (even though they're not SUPPOSED to under law), because everyone in the town is homogenous - it's not an issue and no one cares to challenge it (not until the one aestheist kid in town calls the ACLU, then it's a mess). Troy is under a bigger microscope however. It is ironic that this entire issue was initiated by a group that wanted a nativity scene in December. God forbid that when the arbitrary lottery is conducted, if a Jewish group wins the lottery and gets the last couple weeks of December to celebrate Chanukkah, the Christians will be "What the heck! It's friggin' Christmas and us nativity scene folks have to look at that @#%$@#$ Star of David!" (Maybe the Kwaansa people will win the lottery [and is that even a religion? - that's open to debate]). I know the Council has the best of intentions and I wish you luck in the path on which you have embarked. Walter Graves

Law Offices of Walter Z. Graves
39533 Woodward Ave.
Suite 170
Bloomfield Hills, MI 48304
Tel (248) 433-9641
Fax (248) 433-1310
E-mail: wgraves@wzglaw.com

ACQUITTAL LEGAL SERVICES
REINA & BUFORD P.C.
755 W. Big Beaver Ste. 510
Troy, MI 48084
(248) 244 9345
FAX (248) 244 9389

SEP 7 2004 PM 4:24

FAX MEMO

TO : Lori Griggs Bluhm

FROM: Steve Reina

RE : Religious Displays on Public Property

DATE: September 7, 2004

Lori,

Attached hereto please find my memorandum of law in connection with the above referenced issue. It is being submitted pursuant to our discussion of Friday, September 3, 2004 wherein you indicated your willingness to receive a memorandum of law for ultimate presentment to City Council as part of the packet for their September 13, 2004 session.

I appreciate, as always, your many courtesies on this matter and am available should you have any questions. Please kindly send me a copy of the ultimate policy you submit to council.

Very truly yours,

Steve

cc: Rabbi Arnie Sleutelberg
Rabbi Aaron Starr
Michael Silverstein
Barry Rubin
Erica Peresman
Ravi Khattree
Members of the media/Troy community at large

MEMORANDUM OF LAW

TO : Mayor and Members of the Troy City Council

FROM: Steven J. Reina, Member Congregation Shir Tikvah
Troy resident and
Attorney at Law
Office address:
755 W. Big Beaver #510
Troy MI 48084
(248) 244 9345
stevereina@comcast.net

RE : Privately funded religious displays on City owned property

DATE: September 7, 2004

INTRODUCTION

On September 3, 2004, the undersigned met with City Attorney Lori Griggs Bluhm and, among other matters, ultimately requested permission to prepare a memorandum of law which could be incorporated along with the other materials being tendered to City Council in contemplation of its September 13, 2004 meeting wherein the city will revisit its consideration of a policy relating to the issue of privately funded religious displays on city owned property.

STATEMENT OF FACTS

In a public City Council meeting held on December 1, 2003, City Council voted and defeated a proposal from Councilman David Lambert to allow privately funded religious displays on public property. In the meeting held December 15, 2003, City Council defeated another proposal to research the feasibility of a City owned holiday display on the front lawn of City Hall.

In study session, City Council propounded a mission statement providing:

> "The Troy City plaza is dedicated to the positive expression of our cultural and historical heritage, philosophies, and ethnic diversity, encouraging activities and displays depicting events which highlight and honor them."

On June 21, 2004, City Council heard from the Ethnic Issues Advisory Board in relation to their survey of the community concerning community reaction to the placement of religious displays on city property.

Significantly, although the Ethnic Issues Advisory Board

supported the proposal, no non Christian group favored the proposal of putting religious displays on city property.

As part of the June 21, 2004 meeting, City Council directed City Staff to provide two resolutions on a policy in regard to the original Council resolution regarding cultural and historical displays for the Regular City Council meeting scheduled for August 23, 2004.

This date was then advanced to August 9, 2004.

In compliance with its request dated June 21, 2004, City Council considered the following two resolutions at its expedited August 9, 2004 meeting being:

"A.

NOW, THEREFORE, BE IT RESOLVED, That the policy for cultural, religious and historical displays will contain the following elements:

(see infra, Statement of Facts for pertinent discussion)

And City Staff is so directed to craft a policy for Council's final approval which contain the above elements.

OR

B.

NOW, THEREFORE, BE IT RESOLVED, That a Study Session scheduled for August 16, 30 or _____ 2004 for reason of getting direction from City Council so that staff may proceed to craft a policy for Council approval."

At the August 9, 2004 meeting, prior to choosing a resolution, the City Council heard from members of the public. Two speakers backed the proposal of allowing religious displays on city property for the reason that they supported the holiday placement of a creche on city property. Although therefore those two supporters spoke out in support of expedited action, the bulk of what council heard from the public as part of its discussion was opposition to the proposal of allowing religious displays on city property itself.

According to the Troy Somerset Gazette on its page one article of its August 16, 2004 edition, council watcher Victor Lenivov favored another study session, citing insurance requirements, liability and potential to put these displays at other locations, like the city's remnant parcels. He noted there are many other ideas for using land at the Civic Center, and the city's surplus parcels have major mile road exposure.

The undersigned was quoted to say: "Federal law says once you

open the door, you have to let in everybody." However, the undersigned also favored what was termed "proposal C" essentially at least another study session to include also public input to consider the potential negative feedback which could come from the adoption of procedures permitting religious displays on public property.

"Proposal C" was backed by three other speakers who addressed City Council being: Rabbi Aaron Starr, Michael Silverstein and David Ashland. For his part Ashland was quoted by the Gazette as saying: "Is it really good for the community?"

Public sentiment notwithstanding, City Council opted for Resolution A and on the record endeavored to answer those questions raised by the city legal department respecting the elements necessary for crafting a policy.

First off, the consensus seems to be that the area(s) to be used for the purpose of religious displays is the park located around the corner of Town Center and Civic Center Drive. Although not major thoroughfares, these roads must necessarily be used if one is going to Troy Library, the Troy Aquatic Center and possibly the Troy Police Department, the City Hall and the Troy District Court. See attachment, exhibit A.

According to the Gazette City Council has decided to parse out space for religious displays on public property by means of a lottery. Also, according to the Gazette, both Troy residents and Troy religious institutions can participate in the lottery. Companies can application for space through their Troy residents but not for the purpose of commercial speech. The Gazette reported that the City will also require those wishing to put up a display to do under their own funding and with the understanding that they will have to provide insurance including a "hold harmless" provision protecting the city. City Council also favored the posting of bond to indemnify the city against potential damage to public property, according to the Gazette.

In a final act on the matter, City Council commended its preferred elements back to the legal department for the formulation of a policy currently to be tendered to the Council at its meeting set currently set for September 13, 2004.

As of this writing, the undersigned has not been advised of any further changes in the date and time for consideration of this matter.

LAW AND DISCUSSION

The First Amendment of the United States constitution provides, in pertinent part, as follows:

> "Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof."

Although stated succinctly the Amendment actually propounds two important principles of law being: one, government shall take no action to **establish** religion and two, government shall take no action to **prohibit the free exercise** of religion. Like the philosophical interplay between the promotion of freedom and equality, the principles necessarily operate deontologically in opposition, not in tandem.

In practice, a First Amendment challenge to the display of religious symbols on public property most frequently will be made under the Establishment Clause but it may also be made under the Free Exercise Clause or the Free Speech Clause (itself a later part of the wording of the First Amendment). See 107 ALR5th 1, at 22.

As revealed by Attorney Michael P. Salhaney to the Birmingham City Commission in his opinion letter dated October 24, 2004 (concerning Menorah display in Shain Park), the United States Supreme Court elucidated the following three prong test pertaining to the application of the Establishment Clause in the case of Lemon v. Kurtzman, 403 US 602 (1971). Under the Lemon test, a statute or practice which touches upon religion must have the following elements to pass constitutional muster:

1. It must have a secular purpose;

2. It must neither advance nor inhibit religion in its principle or primary effect; and

3. It must not foster an excessive entanglement with religion. See Lemon at 612-613.

As can be gleaned from the foregoing discussion, the determination of whether a display will or will not be determined to be constitutionally valid depends on the nature of the proposed display. According to the Anti Defamation League of B'nai Brith, a quick guide on the issue of allowing a creche or religious icon alone or a mixed "non sectarian" religious display (e.g. cross and menorah or multiple religions represented) would be as follows:

Display	At School	Gov't Property	Public Forum
See above	Not acceptable	Not Acceptable	Acceptable only if privately placed and disclaimer insuring that viewers know that gov't did not place or endorse display

See attachment, Exhibit B.

In this case, the undersigned respectfully contends that the property in question cannot be considered to be public forum but rather, if litigated, would be found to be government property. This contention is made because the unique configuration of the City of Troy's municipal property uniquely recesses both the Court House and the police department from general street accessibility unless accessed by the side roads including Town Center and Civic Center Drive.

In the Supreme Court case of Allegheny v. American Civil Liberties Union Greater Pittsburgh Chapter, 492 US 573 (1989) on remand to 887 F2d 260 (3d Circuit 1989) and on remand to 887 F2d 262 (3d Circuit 1989) the court held the display of a creche alone on in front of a courthouse was violative of the Establishment Clause of the First Amendment. The court opined that the singular placement of an object of Christian worship in front of the courthouse would constitute an unnecessarily strong endorsement of religion by the municipality.

Closer to home, the local Circuit Court held in American Civil Liberties Union v. City of Birmingham, 791 F2d 1561 (6th Circuit 1986) that the prominent display of a creche on grounds before City Hall violated the Establishment Clause of the First Amendment. Significantly, the undersigned contends that the Birmingham case was actually less compelling than this one vis a vis the necessary traffic flow by the display in order to access a necessary municipal service. In that case, the service was the city hall but in this one it would be **both** the Troy District Court **and** the Troy City Police Department.

Significantly, the fact that the display is privately funded does not necessarily operate to remove the stain of unconstitutionality. In American Jewish Congress v. City of Beverly Hills, 90 F3d 379 (9th Circuit, interestingly enough, one of the most liberal, if not the most liberal Circuits in the country) held that the city's action of allowing a privately funded 27 foot Menorah on city grounds to be unconstitutional.

In a public park case, the city was forced to dismantle a cross that had been erected on park grounds. See American Civil Liberties Union of Georgia v. Rabun County Chamber of Commerce, Inc., 698 F2d 1098 (11th Circuit 1983).

Even with the placement of a disclaimer, religious displays have still been held violative of the First Amendment. In Smith v. County of Albermarle, Va., 895 F2d 953 (4th Circuit 1990) reh'g denied (March 28, 1990), a Nativity scene erected by the Jaycees on the front lawn of the county office building was deemed to suggestive of a governmental support of religion even though there was a disclaimer sign accompanying the display.

Interestingly enough Albermale was also significant for the fact that the display in question was deemed in that case to be in a park and therefore more in a domain otherwise treated under a

public forum analysis.

Continuing with a public forum type of analysis, it is interesting to note that even displays which may be deemed both Christian and Jewish have been found to be constitutionally violative even if placed on so called public forum property. In ACLU Nebraska Foundation v. City of Plattsmouth, Nebraska, 186 F2d 1024 (D. Nebraska 2002), a rendering of the Ten Commandments in a public park was deemed to be unconstitutional.

Yet another analogous case involving the misuse of a so called public forum was Burelle v. City of Nashua, 599 F Supp 792 (DNH 1984) wherein a display of a creche on the city hall plaza without the accompaniment of secular symbols or disclaimers that would announce the city's disinterest in the religious features of such a display warranted an injunction against the city's issuance of a license to a private group to maintain the display and the fact that public monies were not used for the display did not serve to dispel the aura that the municipal government had excessively entangled itself with a religious doctrine not shared by all of its taxpaying citizens.

Another problem is that even if it is ultimately found that the city has legitimately created a public forum, the termination of the public forum would not be immediate. See International Society for Krishna Consciousness, 505 US 672 (1992).

Although the foregoing discussion merely broaches the topic, there are a myriad of legal issues would could all be the subject of litigation as it relates to the City Council's current consideration of this proposal. With all due respect, a constituency that may now believe that they are being led by those wishing to fight the good fight may legitimately later question the value of that good fight as protracted attorney fees begin to mount.

CONCLUSION

It bears noting that this memorandum is not intended as a gauntlet but rather an olive branch.

The undersigned freely concedes that the foregoing analysis and discussion has been written on the issue as seen through Jewish eyes. In that regard, the undersigned takes pride in the long history of Jewish opposition to government establishment of religion. Perhaps starting in 165 before the common era, when Antiochus IV attempted to force the people of Judea to erect his statue in the Second Jewish Temple, there has been an enduring tradition in the Jewish community for the sanctity of private, non governmentally enforced religion.

In that regard, this writer also takes pride in the activities of those avatars of religious freedom who've raised their voices from all nations and all traditions. In this way, the Jewish

community does not lead, but merely joins the chorus which includes others such as Thomas Moore whose activities serve as the foundation of our current principles of religious tolerance.

The reason the undersigned has submitted this memorandum, the hope the undersigned has, is that this council will realize that the best way to promote any true notions of unity is by restricting government activity in this area to its rightful non existent purview and by letting those would celebrate their own religious tradition to do so in their own way on their own property. In this way, the chorus of our city's 55 religious institutions can be the same at the same time as it's being different.

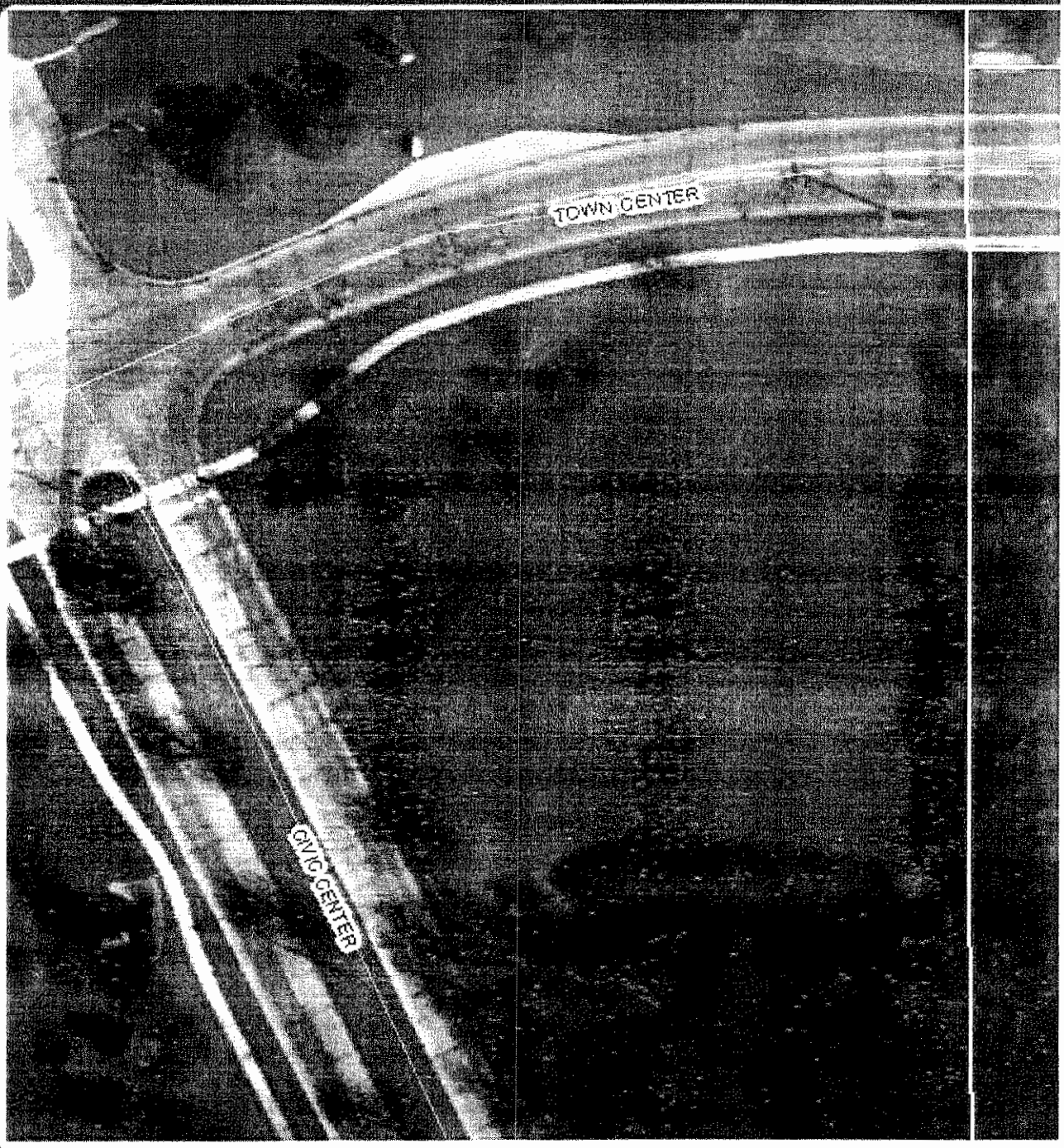
Dated: September 7, 2004

Steven J. Reina P42423
Attorney at Law

"EXHIBIT A"

City of Troy

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.

"Exhibit B"

The Anti-Defamation League's Quick Guide to Religious Displays

ADL Anti-Defamation League®	AT SCHOOL	GOVERNMENT PROPERTY (E.G., COURT HOUSE)	PUBLIC PROPERTY/"OPEN" PUBLIC SPACE*
CRÈCHE/ RELIGIOUS ICON ALONE** -or- MIXED/"NON-SECTARIAN" RELIGIOUS DISPLAY (E.G., CROSS *AND* MENORAH OR MULTIPLE RELIGIONS REPRESENTED)	Never Acceptable	Never Acceptable	Acceptable only if privately placed and disclaimer ensuring that viewers know that the government did not place or endorse the display.
MIXED RELIGIOUS AND NON-RELIGIOUS DECORATIONS (E.G., CROSS ON CHRISTMAS TREE)	*School placed:* Never acceptable *Student placed:* Acceptable only if (a) a student initiated the use of the religious symbol, (b) the school otherwise permitted the placing of decorations, and (c) the overall impression created is not one of school endorsement of religion.	Only acceptable when there is enough secular decoration to "outweigh" the religious effect of the religious elements of the display***	*Privately placed:* Acceptable; no disclaimer needed if there is enough secular decoration to "outweigh" the religious effect of the religious elements of the display *Gov't placed:* Only acceptable when there is enough secular decoration to "outweigh" the religious effect of the religious elements of the display
NON-RELIGIOUS SEASONAL DISPLAY (WHITE LIGHTS, REINDEER, SNOWMEN, ETC) CHRISTMAS TREES****	Acceptable. But watch for one-religion-only "secular images."	Acceptable, but encourage broad diversity	Acceptable, but encourage broad diversity

*- *"Open forums"* are places that are traditionally (or otherwise) devoted to free assembly and debate (often a street or park). *"Limited forums"* are places that are for the use of certain kinds of speakers and certain types of gatherings (often places where one might need a permit before holding a rally). In either place, the government cannot rule out private activity or a privately- placed display merely because it has religious content. Therefore, a private group wishing to erect a crèche would be allowed to, so long as that kind of activity is typically allowed under the rules of the forum (e.g., a permit). <u>However, government officials should ensure that no one would think that the government endorses or is the source of the display and should require a disclaimer to that effect</u>. A *"closed forum"* -- what we call "government property" above -- is a place that has not been opened for public speech either by tradition or by designation (examples might include courthouses or city halls). The government may restrict such the uses of such a forum to its intended purposes. In such a government-controlled forum, any placement of a religious item would seen as government-endorsed and therefore should be disallowed.

**- Menorahs count as religious; Dreidels may not.

***- Ask yourself: does the display, in its setting, give the appearance of a government endorsement of a religious message? If yes, the display is impermissible. Consider this discussion by the Supreme Court in which it approved a display of a crèche: "In addition to the crèche, the city's display contained: a Santa Claus house with a live Santa distributing candy; reindeer pulling Santa's sleigh; a live 40-foot Christmas tree strung with lights; statues of carolers in old-fashioned dress; candy-striped poles; a "talking" wishing well; a large banner proclaiming "SEASONS GREETINGS" . . . a dancing elephant, a robot, and a teddy bear." Given the overall "secular" context, the crèche was approved.

**** - "Non-religious" essentially by Supreme Court fiat.

© 2001 Anti-Defamation League

Lori G Bluhm

From: James Griffiths [jamesgriffiths@pacificjustice.org]
Sent: Wednesday, September 08, 2004 2:58 PM
To: kbriscoe@comcast.net
Subject: Nativity Display Guidelines

IN PREPARATION FOR COUNCIL MEETING SEPTEMBER 13, 2004

September 8, 2004

Mayor Louise E. Schilling

Mayor Pro Tem Robin E. Beltramini

Councilman David A. Lambert

Councilwoman Cristina Broomfield

Councilman David Eisenbacher

Councilman Martin Howrylak

Councilwoman Jeanne M Stine

City Attorney Lori Grigg Bluhm

Troy City Hall

500 W. Big Beaver

Troy, MI 48084

Re: Nativity Scenes on Public Property

Dear Troy Council members and City Attorney,

Thank you for your attention to the matters addressed in this letter. Please be advised that the Pacific Justice Institute is a non-profit legal organization that is committed to defending and preserving the ability of all citizens to appropriately exercise their constitutionally protected religious and free speech rights.

We have been contacted by a citizen of the City of Troy who indicated that the City Council is currently developing guidelines for a holiday nativity display and asked us for a legal opinion as to what policies and guidelines are constitutional. The following is a discussion of the relevant legal and constitutional principles which govern such a display.

Pacific Justice Institute recommends that the City Council enact policy regulations which would permit private organizations and parties to erect holiday displays in "public fora," such as streets, sidewalks, parks, and other traditional public meeting places. Private groups are constitutionally permitted to erect holiday displays that carry religious content, because they are exercising their own private Free Speech rights. In the alternative, the City itself may erect or sponsor a holiday display with religious content, or designate a City owned area as a "designated public forum," but then must also allow other content such as secular imagery appropriate to the particular holiday (*E.g.* a Christian nativity scene and reindeer, Santa, candy canes, etc.). The ultimate position of Pacific Justice Institute is, if a private party erects a holiday display containing religious imagery in a public forum, the display does not engender an Establishment Clause violation, and need not be accompanied by secular holiday imagery.

A. What Is A Public Forum?

The United States Supreme Court has identified three types of public property for First Amendment expressive purposes: the traditional public forum; the open or designated public forum; and, the non-public forum. *Perry Education v. Perry Local Educators Ass'n*, 460 U.S. 37 (1983). There are certain government properties that are presumed to be traditional public fora such as streets, sidewalks, and parks. *See United States v. Grace*, 461 U.S. 171, 177 (1983). As the Supreme Court has stated: "Wherever the title of streets and parks may rest, they have immemorially been held in trust for the use of the public, and time out of mind, have been used for the purposes of assembly, communicating thoughts between citizens, and discussing public questions." *Hague v. C.I.O.*, 307 U.S. 496, 515 (1939).

In addition to public streets, sidewalks and parks, town squares or public plazas are also public fora. Other government owned property, such as public buildings, public venues for political rallies in which "the state has opened for use by the public as a place for expressive activity," are considered to be "open or designated public" fora.

Whether the property in question is considered a traditional public forum (a street, sidewalk, park, or plaza) or a designated public forum (perhaps a government building, community center or other government owned facility), the right of governing authorities "to limit expressive activities are sharply circumscribed." *Perry Education Ass'n*, 460 U.S. at 45. Governments cannot prohibit religious speech in these places unless they demonstrate a compelling government interest for such a content-based exclusion. *See Carey v. Brown*, 447 U.S. 455, 461, 464 (1980). The Court held in *Lamb's Chapel v. Center Moriches School District*, 508 U.S. 384, 394 (1993) that: "[t]he principle that has emerged from our cases is that the First Amendment forbids the government to regulate speech in ways that favor some viewpoints or ideas at the expense of others."

B. The First Amendment to the United States Constitution Protects the Rights of Private Citizens to Erect Religious Displays in Public Fora.

The Constitution protects the rights of private citizens to engage in religious speech in a "public forum." In a leading First Amendment case, the Supreme Court held that a private group could erect a cross in a public park during the holiday season. *Capitol Square Review and Advisory Board v. Pinette*, 515 U.S. 753, 760 (1995). The Court explained:

> "Respondents' religious display in Capitol Square was private expression. Our precedent establishes that private religious speech, far from being a First Amendment orphan, is fully protected under the Free Speech Clause as secular private expression. Indeed, in Anglo-American history, at least, government suppression of speech has so

> commonly been directed precisely at religious speech that a free-speech clause without religion would be Hamlet without the prince."
>
> Id. (internal citations omitted).

The decision was based on the following facts: 1) the public park in question had historically been open to the public for a variety of expressive activities; 2) the group erecting the cross had requested permission through the same application process and on the same terms required of other private groups; and 3) the group planned to accompany the cross with a sign disclaiming any government sponsorship or endorsement. *Id.* at 763; *id.* at 782 (O'Connor, J., concurring); *id.* at 784 (Souter, J., concurring).

Before *Pinette*, the Supreme Court decided two other cases involving the constitutionality of holiday displays. *Lynch v. Donnelly*, 465 U.S. 668 (1984); *County of Allegheny v. ACLU*, 492 U.S. 573 (1989). Although they involved holiday displays erected either by the government itself on private property (*Lynch*) or on government property that was not a public forum (Allegheny), those two cases establish that religious displays on other types of government property (other than a public forum) may also be constitutional if they are accompanied by other secular symbols of the holiday. For example, the holiday display upheld in *Lynch* contained a crèche as well as a Santa Claus house, reindeer, candy canes, a Christmas tree, carolers, and toys. 465 U.S. at 671. The display upheld in *Allegheny* contained a Menorah and a Christmas tree. 492 U.S. at 582.

Thus, *Pinette*, *Lynch* and *Allegheny* produced a constitutional rule that private citizens may erect religious displays on public property if: 1) the property is a public forum on which the government has permitted a wide variety of expressive conduct; and 2) there is a sign informing the public that the display is sponsored by private citizens and the government is not endorsing the message of the display; or 3) the display is accompanied by a variety of secular holiday symbols such that the overall message of the display is not exclusively or primarily religious.

Most lower federal courts, including those in Michigan, have upheld the rights of private citizens to erect holiday displays in public parks. Any cases where the courts have denied private citizens such a right predate *Pinette* and are therefore no longer good law.

In *Americans United for Separation of Church and State v. City of Grand Rapids*, 980 F.2d 1538 (6th Cir. 1992), the Sixth Circuit has also held that a privately funded menorah display erected during Chanukah in a traditional public forum does not violate the Establishment Clause. The Court stated: "What the members of Chabad House seek in this court is fully consistent with, and does not violate, our traditional division between church and state. ... They merely ask that they not be spurned because they choose to praise God. Instead of forcing them to remain on our sidelines, our Constitution offers them platform from which to proclaim their message. In a traditional public forum, as at the ballot box, all citizens are insiders as they seek to influence our civic life." *Id.* at 1555.

There is nearly unanimous agreement among the federal courts that private religious displays in public fora are constitutional. In parks, town squares, plazas, and even government buildings which have been opened up for public expression, citizens, civic groups, and churches can erect private religious displays without violating the Establishment Clause.

Pursuant to the decision in the abovementioned authority, the City Council should inform private parties and organizations: (1) that they are well within their rights to erect holiday displays that contain religious imagery; (2) that all parties must apply for permission to erect the displays; (3) and that the parties erecting the displays should make a written on-site disclaimer of the City's involvement in the

choice of imagery.

If you have any inquiries regarding the issues discussed above or other First Amendment issues, please contact Pacific Justice Institute.

Sincerely,

James Griffiths, Esq.

Assistant Counsel

Pacific Justice Institute

Pacific Justice Institute
P.O. Box 276600
Sacramento, CA 95823
(916) 857-6900; fax (916) 857-6902
<<http://www.pacificjustice.org/>>

ATTORNEY/CLIENT PRIVILEGED CONFIDENTIAL MATERIAL
The information contained in this email message and all attachments is covered by the attorney/client and or work product privilege and is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by return e-mail. Thank You.

DATE: August 31, 2004

TO: John Szerlag, City Manager

FROM: Douglas J. Smith, Real Estate & Development Director
Mark F. Miller, Planning Director

SUBJECT: ANNOUNCEMENT OF PUBLIC HEARING (SEPTEMBER 27, 2004), ZONING ORDINANCE TEXT AMENDMENT (ZOTA 479-B), Northeast corner of Rochester Road and Charrington Road, Section 23 – B-1 to H-S (Z-#479-B).

RECOMMENDATION

Due to this rezoning case and two other H-S rezonings for existing gasoline service stations, City Management and the Planning Commission have initiated a ZOTA to review the 15,000 square feet minimum land area requirement. This ZOTA will address blight conditions that are occurring at the existing legal non-conforming use service stations throughout the City. A recommended amendment is expected to come before City Council in November or December of 2004.

This application is consistent with the Future Land Use Plan and compatible with the existing zoning districts and land uses. The subject property is 21,000 square feet in area and exceeds the 15,000 square feet minimum site area for service stations. The applicant proposes to redevelop and improve the existing service station. Based upon the existing Future Land Use Plan and Zoning Ordinance, the subject property is an appropriate location for a service station with its location on a major thoroughfare, and its proximity to other service stations and other automobile-oriented uses.

Prudent site planning suggests that consolidation of adjacent properties is desirable. A larger site would allow for the development of a service station that could meet the Zoning Ordinance requirements. However, the property to the east is a residential neighborhood and expansion of commercial zoning into this neighborhood is undesirable and unlikely.

It must be noted that the architectural site plan indicated that the proposed development requires a number of variances, including rear yard building setback and canopy setback. Other potential variances cannot be determined based on the submitted site plan. The applicant requires non-use variances from the Board of Zoning Appeals prior to preliminary site plan approval. However, the Board of Zoning Appeals did grant a canopy setback variance in 1981.

The Planning Commission held a Public Hearing on the proposed rezoning on August 10, 2004. Following the Public Hearing they recommended approval of the application. City Management concurs with the Planning Commission's recommendation.

Note that a resident abutting the subject parcel submitted a valid protest petition, including 65% of required landowners. Attached to the protest petition was a resident petition that was submitted to the Clerk's office on August 5, 2004. Copies of the resident petition were inadvertently excluded from the Planning Commission agenda packets. The Planning Commission was not aware of the resident petition at the Public Hearing.

The resident asked the Planning Commission to reconsider their recommendation based on new information. At the August 28, 2004 Special/Study meeting, the Planning Commission was provided the resident petition prior to deliberating reconsideration of their previous recommendation. It was the opinion of the City Attorney's Office that the Planning Commission can only reconsider its decision on a rezoning request during the same meeting that the decision was made. Planning Commission determined that the rezoning should not be reconsidered. Further, the Planning Commission recommended that City Council be advised pursuant to the City/Village Zoning Act that the rezoning can be approved, denied or remanded back to the Planning Commission for an additional Public Hearing.

GENERAL INFORMATION

Name of Owner / Applicant:
The application lists the owner of the property as Anddraos Kattouah. City records indicate that the owner of the property is Fast Track Acquisitions. The applicant is Anddraos Kattouah.

Location of Subject Property:
The property is located on the northeast corner of Rochester Road and Charrington Road, in Section 23.

Size of Subject Parcel:
The parcel is approximately 21,000 square feet in area.

Current Use of Subject Property:
The property is currently used as a Clark gas station, which received site plan approval and was constructed in 1966 and is a legal non-conforming use. The abutting houses to the east were constructed in 1968.

Current Zoning Classification:
B-1 Local Business. In 1981, City Council denied a H-S rezoning request for the subject property.

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

Proposed Uses and Buildings on Subject Parcel:
The applicant is proposing to expand the convenience store. The gasoline pump islands and overhead canopy are to remain as is.

Current Use of Adjacent Parcels:
North: Tax accountant and single-family residence.

South: Restaurant.

East: Single-family residence.

West: Fast food restaurant and tire sales.

Zoning Classification of Adjacent Parcels:
North: B-1 Local Business and R-1C One Family Residential.

South: B-2 General Business.

East: R-1C One Family Residential.

West: B-3 General Business.

ANALYSIS

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

PRINCIPAL USES PERMITTED:

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

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

Parking garages and off-street parking areas.

New and used automobile salesroom, showroom or office.

Sales, showrooms, and incidental repairs of recreational vehicles. Banks, savings and loan associations, and credit unions which may consist solely of drive-up facilities.

Public utility buildings and sub-stations.

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

USES PERMITTED SUBJECT TO SPECIAL CONDITIONS:

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

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

USES PERMITTED SUBJECT TO SPECIAL USE APPROVAL:

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

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

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

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

Business in the character of a drive-in restaurant.

Motel or hotel.

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

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

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

Vehicular and Non-motorized Access:
The parcel fronts both Rochester Road and Charrington Road.

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

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

Compliance with Future Land Use Plan:
The parcel is classified on the Future Land Use Plan as Non-Center Commercial. The Non-Center Commercial designation has a Primary Correlation with the B-3 General Business Zoning District and a Secondary Correlation with the H-S Highway Service Zoning District. The rezoning application is therefore consistent with the City of Troy Future Land Use Plan.

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

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

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

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

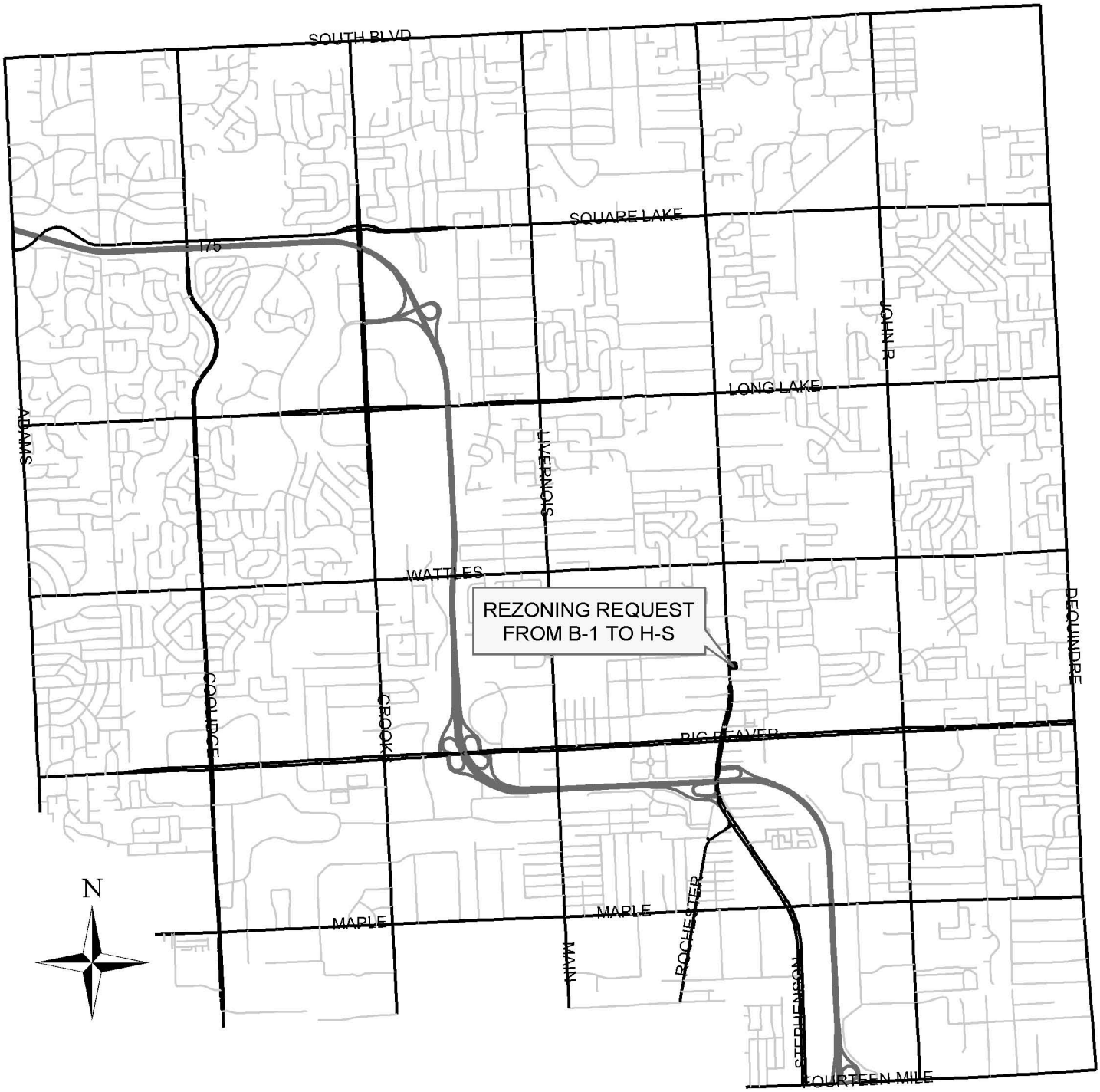
The application is consistent with the Location Standards for the H-S District.

cc: Applicant
File (Z-#479-B)

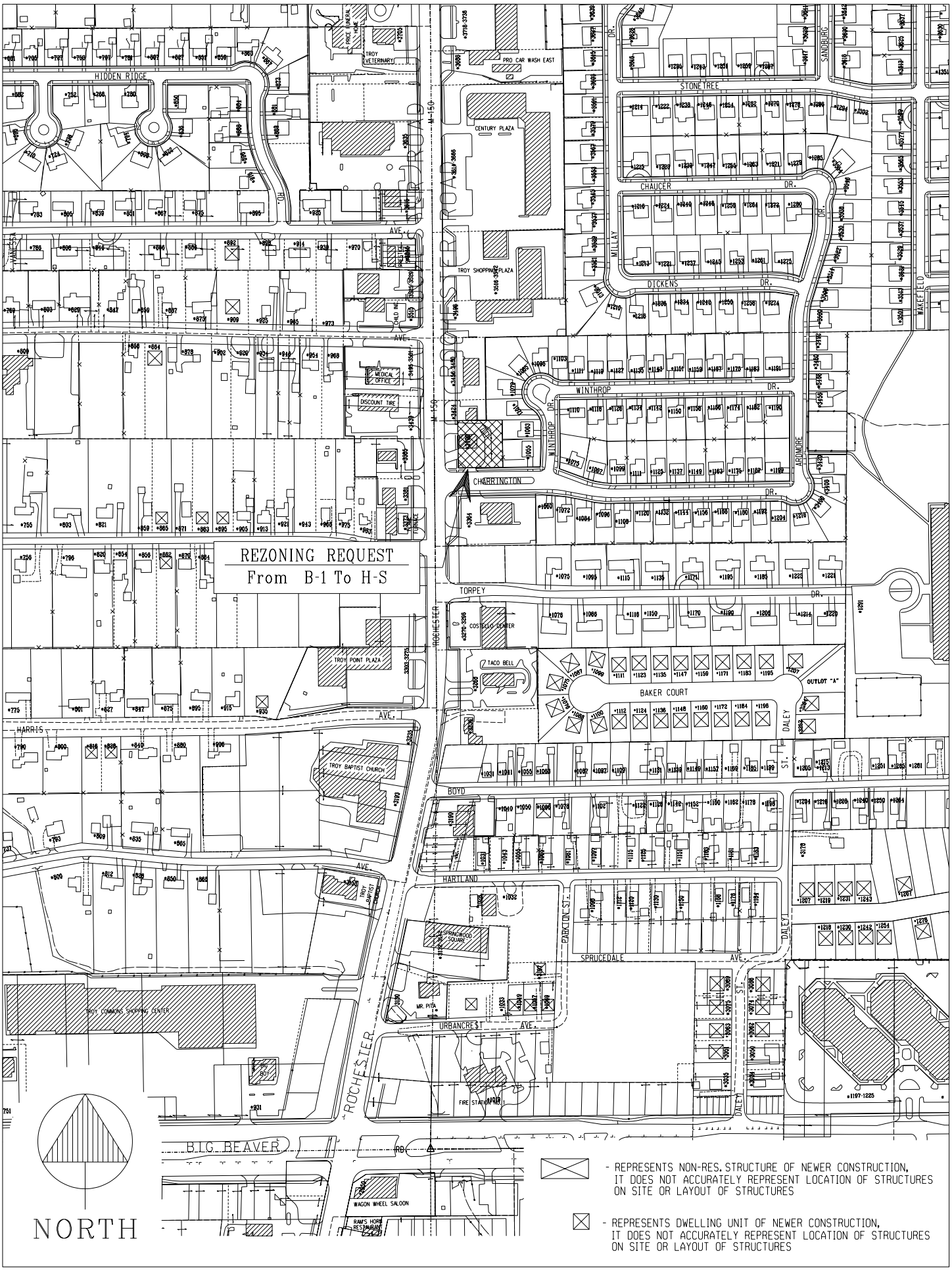
Attachments:
Maps
Letter from applicant, dated June 19, 2004
Rezoning Protest Petition, dated August 2004
Rezoning Resident Petition (no date provided)
Minutes from August 10, 2004 Planning Commission Regular Meeting
Minutes from August 24, 2004 Planning Commission Special/Study Meeting
E-mail Letter in opposition of rezoning, dated August 9, 2004

G:\REZONING REQUESTS\Z-479 B Charrington Clark Station Sec 23\CC Announcement of Public Hearing Memo 08 31 04.doc

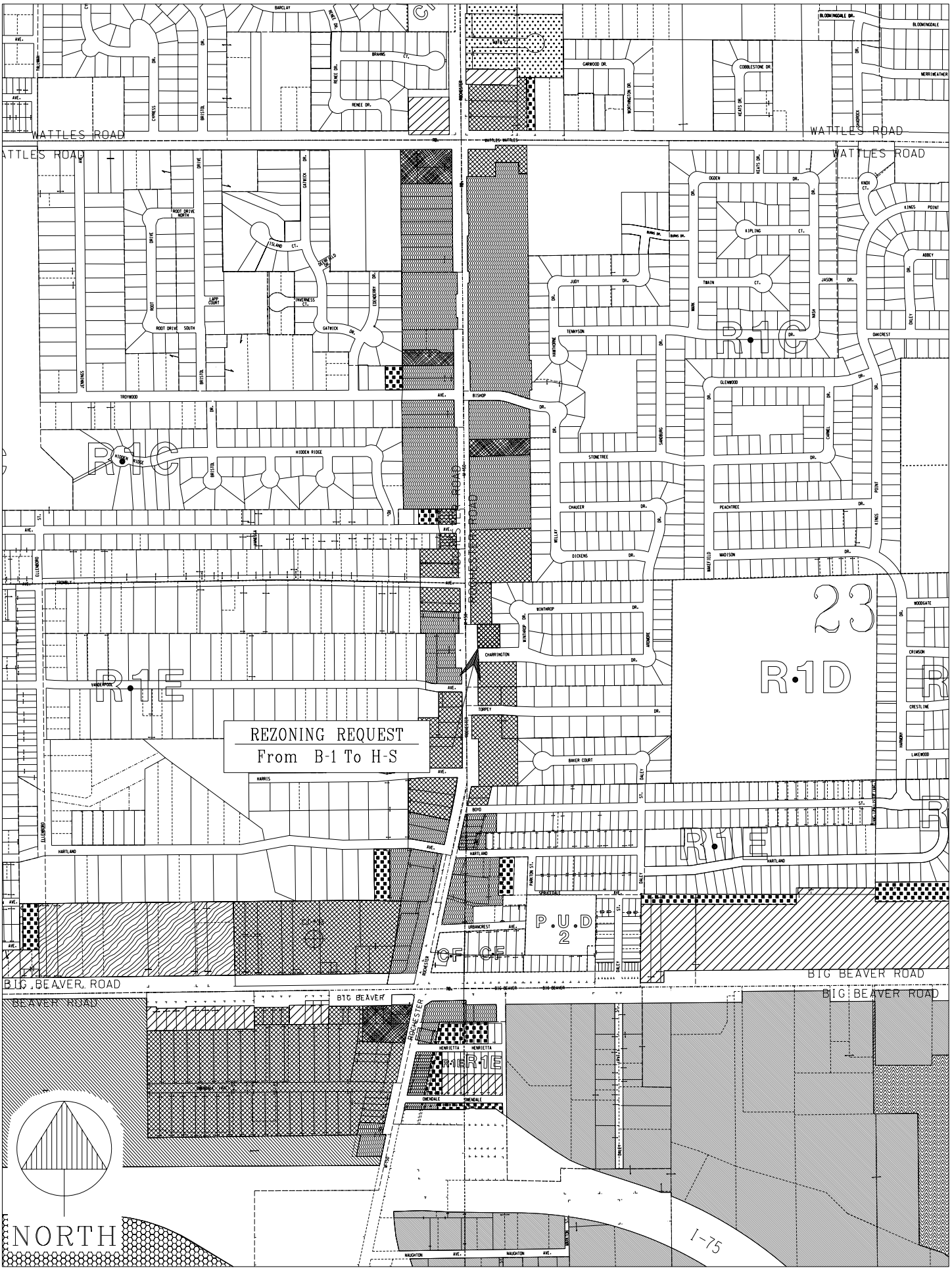
CITY OF TROY



PREPARED BY CITY OF TROY PLANNING DEPT.



Z-479 B / SEC. 23 / 06-30-04


REZONING REQUEST
From B-1 To H-S
WATTLES ROAD
BIG BEAVER ROAD
ROCHESTER ROAD
R-1C
R-1E
R-1D
P.U.D 2
23
I-75
NORTH

REZONING REQUEST
EXISTING CLARK STATION
FROM B-1 TO H-S
E SIDE OF ROCHESTER RD., N SIDE OF CHARRINGTON
SEC. 23 (Z-479 B)
REZONING REQUEST
FROM B-1 TO H-S
HIDDENRIDGE
COLEBROOK
TROMBLEY
ROCHESTER
MILLAY
CH
DICKENS
WAKEFIELD
MADISON
WINTHROP
ARDMORE
CHARRINGTON
VANDERPOOL
TORPEY
BAKER
HARRIS
DALEY
N
0
100
200
400
600
Feet

SPACE STATION OF TROY
3400 Rochester Road
Troy, MI 48084
248-689-7806

June 19, 2004

City of Troy Planning Department
500 W. Big Beaver
Troy, MI 48084

RE: Proposed Rezoning of 3400 Rochester Road, Troy, Michigan

Dear Commissioners:

We are respectfully requesting that the subject property at 3400 Rochester Road be rezoned from B-1 to H-S. As you are aware, the current property use is an automotive service station with a small sales building. Because the current use is a non-conforming use in a B-1 zoning district, it cannot be expanded. The purpose of the rezoning request would change the property to H-S (which is the correct zoning for the current use) and allow the existing sales building to be expanded. The existing fuel pumps, islands and canopy would remain as-is.

Because of the very competitive nature of automotive fuel sales, the current trends are to provide generous amounts of merchandise and goods similar to a neighborhood style convenience store (7-11 style) which allows for the sales of these types of items to support the fuel sales portion of the business. The existing location is extremely small and only a very small inventory can be maintained. If the rezoning cannot be accomplished and the sales area not expanded, it is almost impossible to maintain the fuel-sales only business. It is very difficult and costly to redevelop old automotive service station properties into other uses and if the current business were to close, it would potentially create an eyesore in the neighborhood.

The proposed expansion would not be detrimental to the existing neighborhood because it will provide a convenience store in close proximity to residential subdivisions in the area. The closest convenience store is over one mile from the current location. The expansion of the existing location would allow the residents nearby to have a convenient place to obtain small items. The expanded building and upgraded landscaping would also provide a better buffer between the fuel pumps and the residences to the east. Because of this, the proposed expansion would be beneficial to the owner and the community.

We are requesting that you understand our position and consider the benefits to everyone involved. Thank you in advance for your consideration and time.

Sincerely,

ANDDRAOS G. KATTOUAH
President

RE
JUN 28 2004
PLANN

Rezoning Protest Petition

RECEIVED
CITY OF TROY
2004 AUG -5 PM 4:09
REC'D
AUG 11 2004
PLANNING DEPT.

Submit this form to: **City Clerk's Office**
City of Troy
500 W. Big Beaver
Troy, MI 48084

Date: August, 2004

Contact Person: MR. JOHN DUSEK
Address: 1071 WINTHROP
City: TROY State: MI Zip: 48083
Telephone: 248-619-0362

Rezoning case being protested:
Case #: Z-479B Applicant Name: Andros G. Kattouah

What is a valid rezoning protest petition?

If a valid rezoning protest petition is filed in opposition to a rezoning request, the City Council cannot approve the request unless it does so by a vote of two-thirds of all Council members. A simple majority can approve all other rezoning requests. To be considered valid, the protest petition must:

(1) Be signed by the owner(s) of twenty percent (20%) or more of the area of land included in the proposed change ***or*** be signed by the owner(s) of twenty percent (20%) or more of the area of land included within an area extending outward 100 feet from any point on the boundary of the land included in the proposed change. **Publicly owned land shall be excluded in the calculating the twenty percent (20%) land area requirement.**

(2) Be signed by all persons having an ownership interest in the property as represented on the property deed - i.e., both spouses, the managing partner of a partnership, etc.

(3) Include a statement of opposition on each page of signatures at the top of the petition. The statement should be simply and clearly worded.

(4) Be submitted to the office of the City Clerk, 500 W. Big Beaver, at or before 12:00 p.m. on the date the Rezoning is scheduled for action by the City Council.

Attach signatures to this sheet on the form provided. The signature form may be duplicated if necessary.

100 Ft BUFFER EXCL. PUBLIC PROP = 42272.50 S.F
20% OF 100' BUFFER = 8454.50 S.F.
4 VALID SIGNERS = 27450.49 S.F. (65% of BUFFER)

City of Troy

Rezoning Protest Petition
Case #: Z-479B

Statement of Opposition:

We, the undersigned property owners, hereby **protest** the proposed Rezoning from the B-1 zoning district(s) to the H-S zoning district(s) Rezoning case identified above, applicant name Andros G. Kattouah

The Rezoning is scheduled for action by the City Council on _____ (date)

The reason(s) for this protest is/are: increasing safety concerns, noise, traffic, congestion, and our neighborhood will become a short cut for through traffic.

Print Name (clearly): JOHN DUDEK Date: August 4, 2004
Description or Parcel # of Parcel(s) Owned:
Signature: John Dudek
Address: 1071 WINTROP
Win 100 ft. ✓

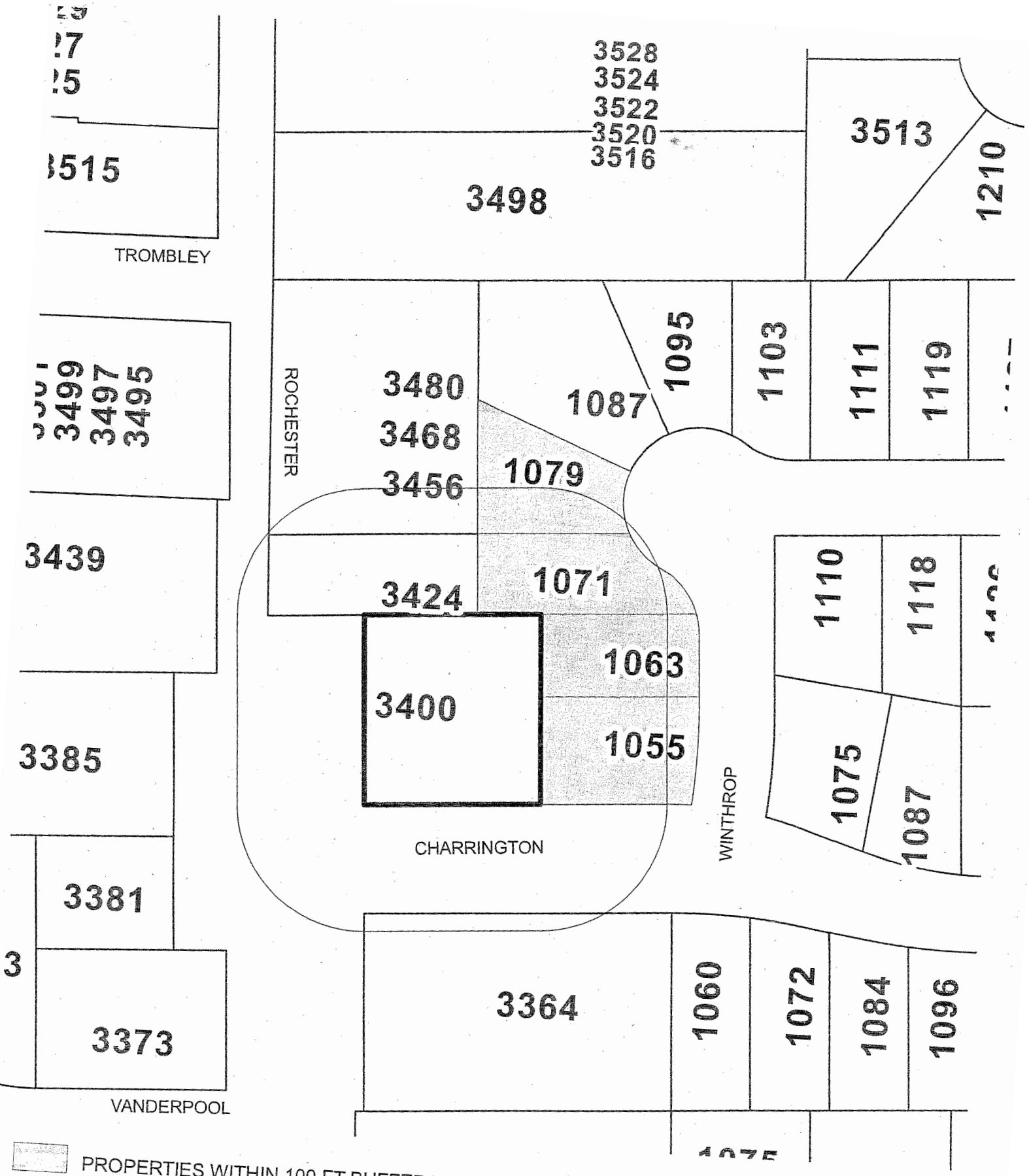
Print Name (clearly): MARJAN JESIH Date: AUGUST 4, 2004
Description or Parcel # of Parcel(s) Owned:
Signature: Marjan Jesih
Address: 1079 WINTHROP
Win 100 ft. ✓

Print Name (clearly): EDITH P. CONNELLY Date: 8-4-04
Description or Parcel # of Parcel(s) Owned:
Signature: Edith P. Connelly
Address: 1087 W. Winthrop

Print Name (clearly): TROMBLY INVESTMENT CO Date: 8-5-04
Description or Parcel # of Parcel(s) Owned: 3495-3503 ROCHESTER, TROY, MI
Signature: James Jablonski mgr
Address: 3503 Rochester RD, TROY, MI 48083

Print Name (clearly): PELLUMB GEGA Date: 8/5/04
Description or Parcel # of Parcel(s) Owned:
Signature: Pellumb Gega
Address: 1063 Winthrop Troy MI 48083
Win 100 ft. ✓

Print Name (clearly): ARBEN BEJLERI Date: 8.5.04
Description or Parcel # of Parcel(s) Owned:
Signature: Arben Bejleri
Address: 1055 WINTHROP TROY MI 48083
Win 100 ft. ✓



PROPERTIES WITHIN 100 FT BUFFER WHICH HAVE SIGNED PROTEST PETITION

Feet
50 100

N

We, the under signed residents of Charrington Place subdivision, ask the Planning Commission and the City Council of Troy, MI to deny the The Clark Gas Station, at 3400 Rochester Rd., request to rezone from a B-1(Local Business) to H-S (Highway Service). Case # Z-479B

Name (Print)	Address	Phone number	Signature
1 JOHN DUDEK	1071 WINTHROP	248 619 0362	John Dudek
2 MARJAN JESIH	1079 WINTHROP	248-689-6653	Marjan Jesih
3 EDITH P. BONNELL	1087 WINTHROP	248 528-9107	Edith P. Bonnell
4 SHIRLEY FRAZIER	1119 WINTHROP	248-689-4772	Shirley Frazier
5 WILLIAM DENNIS	1111 WINTHROP	248-528-1777	William Dennis
6 RICHARD W PETRIE	1110 WINTHROP	248-689-3923	Richard W Petrie
7 PATRILIA DUDEK	1071 WINTHROP	248-619-0362	Patricia Dudek
8 Carrie Keifer	1099 Charrington	248-689-6922	Carrie L Keifer
9 MARIAN MULLIGAN	1087 CHARRINGTON	248-680-1844	Marian Mulligan
10 Donna Merby	1144 Charrington	(248) 524-3875	Donna Merby
11 JIM MERBY	1144 CHARRINGTON	248 524 3875	[illegible]

We, the under signed residents of Charrington Place subdivision, ask the Planning Commission and the City Council of Troy, MI to deny the The Clark Gas Station, at 3400 Rochester Rd., request to rezone from a B-1(Local Business) to H-S (Highway Service). Case # Z-479B

Name (Print)	Address	Phone number	Signature
1 Mark R. McCullen	1156 Charrington	248 6894050	Mark R. McCullen
2 ROBERT McCULLEN	1156 CHARRINGTON	248 689 4050	Robert McCullen
3 JEFF BONTSAS	1216 CHARRINGTON DR.	248-528-2342	Jeffrey N. Bontsas
4 Marie Weber	1191 Winthrop Dr	248-680-0810	Marie J. Weber
5 John Morrison	1166 Winthop Dr		[illegible]
6 Mark Smith	1127 Winthrop Dr	248-457-1968	Mark Smith
7 PELLUMB. GEGA	1063 Winthop DR	248-680-0124	Pellumb Gega
8 ARBEN BEJLERI	1055 WINTHROP	248 457-0176	Arben Bejleri
9 RICHARD STACHO	1096 CHARRINGTON	248-528-2015	Richard Stacho
10 FRANK LUCKEN	3456 ARDMORE		Frank Lucken
11 CAROL LUCKEN	1453 BOYD		Carol Lucken

We, the under signed residents of Charrington Place subdivision, ask the Planning Commission and the City Council of Troy, MI to deny the The Clark Gas Station, at 3400 Rochester Rd., request to rezone from a B-1(Local Business) to H-S (Highway Service). Case # Z-479B

Name (Print)	Address	Phone number	Signature
1 JEANIE KRAUSS	3468 Ardmore Dr.	248-689-9735	
2 DEBORAH SWAIN	1190 Winthrop	248-689-3491	
3 Devon Mencke	1151 Winthrop Drive	248.619.0355	Devon Mencke
4 Don Mencke	1151 Winthrop Drive	248.619.0355	Donald B. Mencke
5 Cleora J. Dekay	1134 Winthrop	248.689-2728	Cleora J. DeKay
6 TIMOTHY J. GOHR	1126 WINTHROP	248.740.3250	
7			
8			
9			
10			
11			

7. PUBLIC HEARING – PROPOSED REZONING (Z 479-B) – Existing Clark Gas Station, Northeast corner of Rochester Road and Charrington Drive (3400 Rochester Road), Section 23 – From B-1 to H-S

Mr. Savidant presented a summary of the Planning Department report for the proposed rezoning of the existing Clark Gas Station. Mr. Savidant reported that it is the recommendation of the Planning Department to approve the rezoning application. He noted the petitioner would be required to obtain a number of variances from the Board of Zoning Appeals prior to meeting zoning ordinance requirements for preliminary site plan approval. Mr. Savidant also noted that the Planning Department has one written objection to the proposed rezoning on file.

Mr. Savidant clarified that a site plan for the development has not been distributed to the Commission, and that the Commission's consideration at tonight's meeting is the proposed rezoning only.

Mr. Schultz asked what the rear yard setback requirement would be for the development, in relation to the residential property to the east.

Mr. Savidant replied the rear yard setback requirement in the H-S zoning district is 30 feet except when the development abuts a residential district, in which case the setback requirement is 75 feet.

Mr. Miller stated that recently the Planning Department has received rezoning applications from a number of service stations. The service stations are requesting the H-S zoning classification in order to eliminate their non-conforming use status. Mr. Miller said that many of the City's service stations are old developments, and noted that the subject service station for rezoning consideration tonight has been in existence prior to the residential neighborhood to the east. Mr. Miller related that in the early 1980's, the intent of the City was to discourage the development of service stations. Because the service stations are not going away and because they cannot redevelop as non-conforming uses, the current thinking of City Management is that it would be better to rezone the properties and work with the petitioners to create safe, efficient and modern facilities.

John DeBruyne of SDA Architects, 2201 Twelve Mile Road, Warren, was present. Mr. DeBruyne said the petitioner is going through the proper channels to eliminate the non-conforming use, and noted the ultimate goal is to expand the retail portion of the establishment. Mr. DeBruyne confirmed that the service station would continue to service its customers with gasoline.

PUBLIC HEARING OPENED

Nels Bejleri was present to speak on behalf of his father, Arben Bejleri of 1055 Winthrop Drive, Troy. Mr. Bejleri expressed objection to the proposed rezoning. He cited concerns with the proposed development should the proposed rezoning be approved. The major concerns are the elevation of the development in relation to the residential homes to the east and the increase in parking and traffic with the expansion of the service station.

Chair Waller stated that concerns related to elevation, water flow and traffic are very valid, and the Commission would take into consideration all those concerns at the time the preliminary site plan is before the Commission for review and approval. He encouraged residents who are in opposition to the proposed rezoning and potential expansion of the service station to voice their concerns with the Planning Department, the Board of Zoning Appeals and the City Council.

Don Mencke of 1151 Winthrop Drive, Troy, was present. Mr. Mencke said he and some neighbors are concerned about the potential increase in traffic, traffic safety when crossing Rochester Road, elevation, property devaluation and the facility operating 24 hours. Mr. Mencke said the facility has not been taken care of by the owner until recently, and suggested that the rezoning be tabled for a couple of years to see how the owner takes care of the property. Mr. Mencke asked why the property must be rezoned to the H-S district.

Mr. Chamberlain briefly explained that the service station is required to be zoned in the H-S zoning district before any improvements can be made to the property.

John Mulligan of 1087 Charrington, Troy, was present. Mr. Mulligan said he and the neighbors are concerned that should the rezoning be approved, it leaves the property wide open for development. He also expressed concerns with the larger building and the potential of increased traffic, especially for cross traffic at Rochester Road.

The petitioner and property owner, Anddraos Kattouah of 3400 Rochester Road, Troy, was present. Mr. Kattouah said he understands the concerns expressed by the residents. He stated that it is not his desire to run a 24-hour operation, to sell alcohol, or to own a gas station. Mr. Kattouah said he purchased the gas station for his wife because everybody in her family has a gas station, and the business is not his main source of income. Mr. Kattouah said he has had the service station for the past nine months, and it has taken some time to become familiar with the property and business. He said he is requesting to have the property rezoned to eliminate the non-conforming use and to improve on the only eyesore in the entire block. He would like to add an additional 1,400 square feet to the facility and provide retail of essential items to the nearby residents. Mr. Kattouah said the closest convenience store is over one mile from the service station. Mr. Kattouah, a State-licensed residential appraiser, said the expansion

of the service station would have no negative effect on the value of the nearby residential homes.

PUBLIC HEARING CLOSED

Mr. Miller gave a brief explanation of the requirements placed on a non-conforming use in relation to site improvements. Mr. Miller noted that the subject parcel has a history of minor violations (i.e., litter, tall grass), which have all been resolved at this time. Mr. Miller stated that the charge of the Commission tonight is to look at the appropriateness of the proposed rezoning district at this location. He explained the procedure of a Special Use Approval that would be required for improvements to the service station, and the Planning Commission's discretionary control over the site as a Special Use.

Resolution # PC-2004-08-089

Moved by: Chamberlain
Seconded by: Strat

RESOLVED, That the Planning Commission hereby recommends to the City Council that the B-1 to H-S rezoning request, located on the northeast corner of Rochester Road and Charrington Drive, within Section 23, being 21,000 square feet in size, be granted.

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

MOTION CARRIED

Mr. Vleck said he agrees that the site needs to be redeveloped and understands it cannot make major improvements because of its non-conformity. He said he wished there was a way to be more flexible with different options.

7. RECONSIDERATION OF REZONING REQUEST – Northeast corner of Rochester Road and Charrington Road, Section 23 – B-1 to H-S (Z 479-B)

Mr. Miller reviewed the rezoning request that was considered and recommended for approval at the August 10, 2004 Planning Commission Regular Meeting. Mr. Miller reported that subsequent to the regular meeting, a resident brought to the City's attention that he had submitted an official protest petition and a resident petition in opposition to the proposed rezoning to the City Clerk's Office. The resident said the resident petition of opposition was specifically addressed to both the Planning Commission and City Clerk. Mr. Miller explained that the protest petition is a matter for City Council, but the intent of the resident was to get the resident petition of opposition in front of the Planning Commission at their August 10, 2004 meeting. He asked that the Planning Commission consider the reconsideration of the rezoning request based upon the information that was not presented to the Commissioners at the August 10 Regular Meeting.

Mr. Miller provided an explanation of the official protest petition. Mr. Miller said the Planning Department's recommendation for approval of the proposed rezoning as submitted would not change should there be a reconsideration of the matter.

Mr. Motzny reported there is no provision for reconsideration of matters in the Planning Commission Bylaws or Zoning Ordinance. Mr. Motzny said his previous opinion has not changed; that is that Robert's Rules of Order for reconsideration would have to take place at the very same meeting in which the initial vote was taken. Mr. Motzny does not believe a reconsideration of the matter is appropriate. He noted that the only time it may be appropriate is if the Commission thought the initial Public Hearing or procedure was defective and not a valid Public Hearing. Mr. Motzny said another way a matter could be reconsidered is that the Commission decides to suspend Robert's Rules of Orders to allow the reconsideration. Mr. Motzny said the residents who signed the petition have an opportunity to voice their objections to the City Council, and City Council has an option to remand the matter back to the Planning Commission.

It was noted that the petitioner of the rezoning request was not present at tonight's meeting.

Mr. Vleck said the Commission could be opening up a can of worms and cautioned that careful consideration is given to the reconsideration of the matter.

Mr. Khan believes the Commission should not reconsider the rezoning request. He said the residents had an opportunity to speak at the scheduled Public Hearing.

Mr. Schultz said the rezoning request should not be reconsidered based on the advice given by legal counsel. He said a precedent would be set.

John Dudek of 1071 Winthrop, Troy, was present. Mr. Dudek's property is adjacent to the service station. Mr. Dudek stated the Planning Department was helpful in providing information on the rezoning request and the process to follow if residents are in opposition to a proposed rezoning. Mr. Dudek created his own petition of opposition and collected 28 signatures from residents on August 4, 2004. On August 5, Mr. Dudek submitted to the City Clerk the official protest petition obtained from the City's website and the petition of opposition he created signed by 28 residents. He said the City Clerk's office had no idea how to handle a protest petition, that it was the first time they had ever received one. Mr. Dudek said he gave the Clerk's Office both petitions, which were date stamped. The Clerk's Office inadvertently stapled his created resident petition under the official protest petition. He said the Clerk's Office informed him they would take care of it, but it was never presented to the Planning Commission at their August 10, 2004 Regular Meeting. Mr. Dudek said the 28 people who signed the petition would have been at the Public Hearing to voice their opposition, but they felt the signed petition was an adequate voice. Mr. Dudek said he understood the Commission's beliefs that a reconsideration of the rezoning would set a precedent and a can of worms might be opened, but he feels the circumstances in this matter are very unique. He said the matter was not handled appropriately; nor maliciously – it was an accident. Mr. Dudek said he believes that the rezoning should be reconsidered and he would like to voice his concerns relating to the rezoning. He was unable to attend the Public Hearing because he was out of town. Mr. Dudek said he did everything in his power to voice his concerns, and his voice was never heard because the Planning Commission never saw the petition he developed. Mr. Dudek referenced the proposed PUD previously discussed at tonight's meeting wherein it was stated that it is very important to get neighborhoods involved and voices heard on proposed developments. He said this situation is a clear example that the voices of citizens and neighborhood residents have not been heard.

Mr. Miller confirmed that the proposed rezoning has not gone before the City Council yet, and that there will be a Public Hearing at the September 27, 2004 City Council meeting.

Chair Waller said mix-ups similar to what happened in the City Clerk's office just happen. He cited the three options of City Council: approve the rezoning, deny the rezoning, or remand the matter back to the Planning Commission.

Mr. Miller confirmed that the City Council would be provided a report similar to the one provided to the Planning Commission, along with the recommendation of the Planning Commission and City Management.

Mr. Schultz said he would like to see a communication sent to the City Council advising them that the petitions were not a part of the Planning Commission package, so that City Council will give the matter more weight. Mr. Schultz does not support reconsideration of the entire item at this point. He thinks it would be

fair to the residents who signed the petition that a complete disclosure be provided to the City Council why the Planning Commission did not see the petitions relating to the proposed rezoning prior to its review and recommendation.

It was confirmed that notices would be sent to property owners adjacent to the proposed rezoning notifying them of the Public Hearing before the City Council.

Mr. Vleck said the City Council should also be advised of its option to remand the matter back to the Planning Commission.

Mr. Strat stated that the opinion of legal counsel should be incorporated in the City Council report and recommendation.

Mr. Motzny suggested the appropriate motion might be to insure that the correspondence from citizens and the action taken at tonight's meeting is delivered to the City Council.

Resolution # PC-2004-08-099
Moved by: Vleck
Seconded by: Strat

RESOLVED, That the City Council be informed that the petition originally sent to the Planning Commission was inadvertently misplaced and the Planning Commission never received it, and that information was not taken into consideration in the motion; and also that the City Council be informed that one of their options is to remand the item back to the Planning Commission.

Discussion on the motion on the floor.

Mr. Schultz requested that the motion be amended to include the recommendation of legal counsel and that the Planning Commission Bylaws do not afford the Commission the opportunity for a reconsideration other than on the exact night of the action, and based upon that, the Planning Commission asks that the City Council be thoroughly informed of the situation and the recommendation of legal counsel.

All members were in favor.

Vote on the motion as amended.

Yes: All present (8)
No: None
Absent: Wright

MOTION CARRIED

Mr. Dudek asked that the 28 citizens who signed the petition be informed as to why the petition was not presented at the August 10, 2004 Regular Planning Commission Meeting.

Chair Waller replied to Mr. Dudek that he had no answer to his request tonight, but the request would be taken into consideration.

Mr. Dudek said he would stay in contact with Mr. Miller.

Paula P Bratto

From: jjboling [jjboling@wideopenwest.com]
Sent: Monday, August 09, 2004 10:09 PM
To: planning@ci.troy.mi.us
Subject: Opposition to request of rezoning of Clark Gas Station on Rochester Road

Dear Planning Commissioners:

We are writing to express our opposition to the proposed rezoning the Clark Gas Station at the corner of Rochester Road and Charrington Drive . We have lived on Charrington Drive for 36 years and know the area well.

We oppose the change in zoning for the following reasons:

1. There is enough traffic at that corner already and by allowing the station to expand will just create even more.
2. The gas station has been the site of robberies and crimes.By expanding the station, the potential of increase crimes exist.
3. Another food mart is not needed there. There is Buscemi's Party Store and Hungry Howies within one block of this gas station.
4. If the owners want to enlarge their business, they should sell and look for another site. They knew what the zoning was when they purchased the gas station.

As a resident, living just a few houses away from the gas station, we are opposed to any zoning changes at the Clark Gas Station.

Sincerely,
James

and Jeanette Boling

REC'D
AUG 10 2004
PLANNING DEPT

DATE: August 31, 2004

TO: John Szerlag, City Manager

FROM: Douglas J. Smith, Real Estate & Development Director
Mark F. Miller, Planning Director

SUBJECT: ANNOUNCEMENT OF PUBLIC HEARING (SEPTEMBER 27, 2004) - ZONING ORDINANCE TEXT AMENDMENT FOR SECTION 12.50, R-1T ONE FAMILY ATTACHED RESIDENTIAL DISTRICTS (ZOTA #182)

RECOMMENDATION

The Planning Commission has developed amendments to Section 12.50, R-1T One Family Attached Residential District. The general intent of this text amendment is to update the R-1T provisions of the zoning ordinance, including an increase in the rear yard perimeter setback requirements and requiring the interconnection with abutting public stub streets if public streets are proposed for the R-1T development.

The Planning Commission held a Public Hearing on this item on December 10, 2002. Following the Public Hearing, the Planning Commission recommended approval of ZOTA 182. City Council held a Public Hearing on the item on November 3, 2003. Following the Public Hearing, City Council adopted a resolution that referred the item back to the Planning Commission for further review of sidewalks, safety walks and the snow removal plan.

The Planning Commission studied the item further as directed by City Council. A Public Hearing was held on August 10, 2004 to solicit public input on the text amendment. The Planning Commission recommended approval of the attached amendment. City Management agrees with the Planning Commission and recommends approval of the proposed text amendment.

Reviewed as to Form and Legality: _____ _____
Lori Grigg Bluhm, City Attorney Date

cc: File/ZOTA #182
Planning Commission

Attachments:

1. ZOTA #182, dated July 1, 2004
2. Minutes from December 10, 2002 Planning Commission Public Hearing
3. Minutes from November 3, 2003 City Council Meeting.
4. Minutes from December 2, 2003 Planning Commission Special/Study Meeting.
5. Meeting from June 22, 2004 Planning Commission Special/Study Meeting.
6. Minutes from August 10, 2004 Planning Commission Regular Meeting.

G:\ZOTAs\ZOTA 182 R-1T\CC Announcement of Public Hearing Memo 08 31 04.doc

PROPOSED ZONING ORDINANCE TEXT AMENDMENT
(ZOTA 182)

R-1T One Family Attached Residential District
Development Standards

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

The City of Troy ordains:

Section 1. Short Title

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

Section 2. Amendment

Amend the indicated portions of the R-1T One Family Attached Residential District and the Schedule of Regulations – Residential text in the following manner:

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

12.50.00 DEVELOPMENT STANDARDS:

12.50.01 All units that abut a major thoroughfare shall have a rear or side yard relationship to said thoroughfare, and such yards shall not be less than fifty (50) feet in depth as measured from the right-of-way line of the thoroughfare as indicated on the Master Thoroughfare Plan. The Planning Commission may modify the dwelling unit orientation, or relationship to a major thoroughfare, when they determine that the parcel size and configuration are such that the rear or side yard relationship would be impractical or overly restrictive, and a more desirable residential environment can be created by permitting a front yard relationship to the thoroughfare.

All units that abut a freeway shall have a yard setback of not less than seventy-five (75) feet in depth as measured from the right-of-way line of the freeway.

All units that abut a secondary thoroughfare shall have a yard setback of not less than fifty (50) feet in depth as measured from the right-of-way line of the thoroughfare as indicated on the Master Thoroughfare Plan.

(Rev. 4-10-00)

12.50.02 No more than three (3) contiguous one family attached dwelling units may occupy the same horizontal front line, without offset. Beyond this limit, the horizontal front line of the abutting units shall be offset a minimum of four (4) feet.

12.50.03 In the course of reviewing plans for development, the Planning Commission may require that the dwelling unit elevations and orientation be modified or varied in order to minimize the repetitive visibility of garage entrances from the street at the front of the units.

(4-12-99)

12.50.04 Principal access and circulation through One-Family Attached Residential Developments, on sites over ten (10) acres in area, shall be provided by Public Streets constructed to City Standards, within sixty (60) foot wide rights-of-way. Secondary access and circulation through such developments, on which some of the residential buildings may have their sole frontage, may be provided by twenty-eight (28) foot wide streets constructed to City Public Street Standards, within forty (40) foot Private Street Easements. Five (5) foot easements for sidewalk and public utility purposes shall also be provided, adjacent to the private street easements. Building setbacks from the private street easements shall be the same as those required by this Chapter in relation to public streets.

Principal access to a One-Family Attached Residential Development of ten (10) acres or less in area may be provided by way of twenty-eight (28) foot wide streets constructed to City Public Street Standards, within forty (40) foot Private Street Easements, when in the opinion of the City Council the property configuration is such that the provision of sixty (60) foot public rights-of-way would be overly restrictive and would make the provision of desirable dwelling unit sites impractical. Five (5) foot easements for sidewalk and public utility purposes shall also be provided, adjacent to the private street easements. Building setbacks from the private street easements shall be the same as those required by this Chapter in relation to public streets.

The pavement width for private street elements may be reduced to twenty-four (24) feet, subject to the condition that the residential buildings shall be equipped with an automatic fire suppression system acceptable to the Troy Fire Department.

The street system in all developments involving private streets shall be subject to the review and approval of the City Council, after receiving a recommendation from the Planning Commission. The City Council's approval of private street elements shall be subject to their finding that the street system will provide for safe and efficient access for emergency and service vehicles throughout the development. The City Council's action shall further be conditioned on the execution of an Agreement with the developer, ensuring private ownership and maintenance of the private street elements, and precluding acceptance for maintenance of the private street elements by the City.

All entrances to major or secondary thoroughfares shall include deceleration and passing lanes as required by the City Development Standards.

(Rev. 5-1-00)

12.50.05 All developments shall include a sidewalk system which will enable pedestrian movement to and throughout the site, including sidewalks along any abutting public street frontage. <u>To ensure safety and convenience for pedestrians and other non-motorized users, sidewalk and safety path systems within the development shall be connected to existing and planned public sidewalk and safety path systems that are located outside of the development, whenever feasible. Planned safety paths are delineated on the City of Troy Transportation Plan.</u>

(4-12-99)

12.50.06 See Section 39.95.00 of the General Provisions for the regulations applicable to construction of buildings and uses in this District when the site falls within a designated Flood Hazard Area.

(Rev. 4-12-99)

<u>12.50.07</u> <u>In developments that utilize public streets for providing access to units within the development, the Planning Commission may require that an internal street be connected with an existing abutting public stub street.</u>

12.50.08 Developments shall maintain the following rear yard perimeter setbacks:

A. Adjacent to R-1A or R-1B: 45 feet.

B. Adjacent to R-1C or R-1D: 40 feet.

C. Adjacent to R-1E and all other zoning districts: 35 feet.

30.00.00 ARTICLE XXX SCHEDULE OF REGULATIONS

30.10.00

SCHEDULE OF REGULATIONS - RESIDENTIAL

	Use District	Minimum Lot Size Per Dwelling Unit: Area in Sq. Ft.	Minimum Lot Size Per Dwelling Unit: Width In Feet	Maximum Height of Structures (T): In Stories	Maximum Height of Structures (T): In Feet	Minimum Yard Setback (R) (Per Lot in Feet): Front	Sides: Least One	Sides: Total Two	Rear	Minimum Floor Area Per Unit (Square Feet)	Maximum % of Lot Area Covered by All Buildings
30.10.01	R-1A One Family Residential										
	Without Sewer	30,000(A)	150	2 ½	25(U)	40	15(N)	30	45	1,400	30%
	With Sewer	21,780(A)	120	2 ½	25(U)	40	15(N)	30	45	1,400	30%
30.10.02	R-1B One Family Residential										
	Without Sewer	21,780(A)	110	2 ½	25(U)	40	15(N)	30	45	1,400	30%
	With Sewer	15,000(A)	100	2 ½	25(U)	40	10(N)	25	45	1,400	30%
30.10.04	R-1C One Family Residential										
	Without Sewer	21,780(A)	110	2	25	30	15(N)	30	40	1,200	30%
	With Sewer	10,500(A)	85	2	25	30	10(N)	20	40	1,200	30%
30.10.05	R-1D One Family Residential										
	Without Sewer	21,780(A)	110	2	25	25	15(N)	30	40	1,000	30%
	With Sewer	8,500(A)	75	2	25	25	8(N)	20	40	1,000	30%
30.10.06	R-1E One Family Residential										
	Without Sewer	21,780	110	2	25	25	15(N)	30	35	1,000	30%
	With Sewer	7,500	60	2	25	25	5(N)	15	35	1,000	30%
30.10.07	CR-1 One Family Residential Cluster	See Section 11.00.00		2	25	25	See Section 11.00.00		35	1,000	30%
30.10.08	R-1T One Family Attached Residential	7,000	20	2 ½	25(U)	25(O)	See Section 12.50.08 20(O)	40(O)	35(O)	1,000	30%
30.10.09	R-2 Two Family Residential										
	Without Sewer	15,000	75	2	25	25	15(N)	30	35	1,000	30%
	With Sewer	5,000	40	2	25	25	10(N)	20	35	1,000	30%
30.10.10	R-M Multiple-Family Medium Density	See Section 14.00.00 (B)	(B)	2	25	30(O)	See Section 14.00.00 30(O)	60(O)	40(O)	(B) 1-BR-600	30%
30.10.11	RM-1 Multiple-Family (Low-Rise)	See Section 15.00.00 (B)	(B)	2	25	30(C)	See Section 15.00.00 30(C)	60(C)	30(C)	2-BR-800	30%
30.10.12	RM-2 Multiple-Family (Mid-Rise)	See Section 16.00.00 (B)	(B)	See Section 16.00.00		(C)	See Section 16.00.00 (C)	(C)	(C)	3-BR-1000	25%
30.10.13	RM-3 Multiple-Family (High-Rise)	See Section 17.00.00 (B)	(B)	See Section 17.00.00 (no Max)		(C)	See Section 17.00.00 (C)	(C)	(C)	4-BR-1200	25%

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, which ever 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 _____, _____.

_____
Louise Schilling, Mayor

_____
Tonni Bartholomew, City Clerk

G:\ZOTAs\ZOTA 182 R-1T\07 01 04 Joint Version.doc

11. PUBLIC HEARING - PROPOSED ZONING ORDINANCE TEXT AMENDMENT (ZOTA 182) – Articles 12.00.00 & 30.10.08 R-1T One Family Cluster

Mr. Miller gave an overview of the proposed zoning ordinance text amendment, R-1T One Family Cluster. The amendments to R-1T zoning districts include Section 12.50.05 addressing pedestrian and non-motorized users; Section 12.50.07 addressing snow removal; Section 12.50.08 addressing guest parking; and Section 12.50.09 addressing traffic circulation.

Mr. Kramer asked if the proposed amendments apply to condo minimum and site condo minimum developments.

Mr. Miller stated that site condo minimum developments are normally submitted in one family districts that follow subdivision rules. Mr. Miller noted that problems could arise with the multi family districts (CR-1), citing River Bend as an example. Mr. Miller said that the Planning Department has been given direction from City Council to review CR-1 zoning districts.

Mr. Kramer asked what the requirement is for guest parking in R-1T.

Mr. Miller responded the requirement is two spaces per unit, noting there are no spaces for guests currently.

Mr. Starr questioned what form of snow removal would be used.

Mr. Miller replied there would be designated areas in which to pile the snow.

PUBLIC HEARING OPENED

There was no public comment.

PUBLIC HEARING CLOSED

Moved by Starr Seconded by Storrs

RESOLVED, that the Planning Commission hereby recommends to the City Council that the Articles 12.00.00 & 30.10.08, of the Zoning Ordinance, be amended to read as follows:

R-1T One Family Attached Residential District
Development Standards

Amend the indicated portions of the R-1T One Family Attached Residential District and the Schedule of Regulations – Residential text in the following manner:

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

12.50.00 DEVELOPMENT STANDARDS:

12.50.01 All units that abut a major thoroughfare shall have a rear or side yard relationship to said thoroughfare, and such yards shall not be less than fifty (50) feet in depth as measured from the right-of-way line of the thoroughfare as indicated on the Master Thoroughfare Plan. The Planning Commission may modify the dwelling unit orientation, or relationship to a major thoroughfare, when they determine that the parcel size and configuration are such that the rear or side yard relationship would be impractical or overly restrictive, and a more desirable residential environment can be created by permitting a front yard relationship to the thoroughfare.

All units that abut a freeway shall have a yard setback of not less than seventy-five (75) feet in depth as measured from the right-of-way line of the freeway.

All units that abut a secondary thoroughfare shall have a yard setback of not less than fifty (50) feet in depth as measured from the right-of-way line of the thoroughfare as indicated on the Master Thoroughfare Plan.

(Rev. 4-10-00)

12.50.02 No more than three (3) contiguous one family attached dwelling units may occupy the same horizontal front line, without offset. Beyond this limit, the horizontal front line of the abutting units shall be offset a minimum of four (4) feet.

12.50.03 In the course of reviewing plans for development, the Planning Commission may require that the dwelling unit elevations and orientation be modified or varied in order to minimize the repetitive visibility of garage entrances from the street at the front of the units.

(4-12-99)

12.50.04 Principal access and circulation through One-Family Attached Residential Developments, on sites over ten (10) acres in area, shall be provided by Public Streets constructed to City Standards, within sixty (60) foot wide rights-of-way. Secondary access and circulation through such developments, on which some of the residential buildings may have their sole frontage, may be provided by twenty-eight (28) foot wide streets constructed to City Public Street Standards, within forty (40) foot Private Street Easements. Five (5) foot easements for sidewalk and public utility purposes shall also be provided, adjacent to the private street easements. Building setbacks from the private street easements shall be the same as those required by this Chapter in relation to public streets.

Principal access to a One-Family Attached Residential Development of ten (10) acres or less in area may be provided by way of twenty-eight (28) foot wide streets constructed to City Public Street Standards, within forty (40) foot Private Street Easements, when in the opinion of the City Council the property configuration is such that the provision of sixty (60) foot public rights-of-way would be overly restrictive and would make the provision of desirable dwelling unit sites impractical. Five (5) foot easements for sidewalk and public utility purposes shall also be provided, adjacent to the private street easements. Building setbacks from the private street easements shall be the same as those required by this Chapter in relation to public streets.

The pavement width for private street elements may be reduced to twenty-four (24) feet, subject to the condition that the residential buildings shall be equipped with an automatic fire suppression system acceptable to the Troy Fire Department.

The street system in all developments involving private streets shall be subject to the review and approval of the City Council, after receiving a recommendation from the Planning Commission. The City Council's approval of private street elements shall be subject to their finding that the street system will provide for safe and efficient access for emergency and service vehicles throughout the development. The City Council's action shall further be conditioned on the execution of an Agreement with the developer, ensuring private ownership and maintenance of the private street elements, and precluding acceptance for maintenance of the private street elements by the City.

All entrances to major or secondary thoroughfares shall include deceleration and passing lanes as required by the City Development Standards.

(Rev. 5-1-00)

12.50.05 All developments shall include a sidewalk system which will enable pedestrian movement to and throughout the site, including sidewalks along any abutting public street frontage. **To ensure safety and convenience for pedestrians and other non-motorized users, sidewalk and trail systems within the development shall be connected to existing and planned sidewalk and trail systems that are located outside of the development.**

(4-12-99)

12.50.06 See Section 39.95.00 of the General Provisions for the regulations applicable to construction of buildings and uses in this District when the site falls within a designated Flood Hazard Area.

(Rev. 4-12-99)

12.50.07 **The Preliminary Site Plan shall include a Snow Removal Plan which demonstrates how snow will be removed from streets and sidewalks within the development, and disposed of. Such Snow Removal Plan shall include proposed winter parking patterns, the proposed method used to remove snow, and the location, size and design of snow storage areas.**

12.50.08 **Guest parking shall be accommodated within the development at a ratio of one (1) guest parking space for every five (5) required off-street parking spaces. Guest parking spaces shall be clearly marked on the site plan.**

12.50.09 **To improve traffic circulation within the development and surrounding area, the Planning Commission may require that an internal street be connected with an existing abutting stub street or cross access easement. The Planning Commission may require that a development provide one (1) or more cross access easements for the purpose of a potential future connection to an abutting property or street. The Planning Commission may require two (2) or more abutting developments to share one (1) common access drive.**

12.50.10 **Developments abutting residentially zoned property shall maintain the following perimeter setbacks:**

A. **Adjacent to R-1A: 45 feet.**

B. **Adjacent to R-1B: 45 feet.**

C. **Adjacent to R-1C: 40 feet.**

D. **Adjacent to R-1D: 40 feet.**

E. **Adjacent to R-1E: 35 feet.**

Yeas	Absent
All present (5)	Chamberlain
	Pennington
	Vleck
	Wright

MOTION CARRIED

RESOLVED, That the City of Troy City Council **APPROVES** the Agreement Concerning Restoration of Conservation Easement Area between Kyung Youn Yun (2361 Cedar Knoll) and the City of Troy, and **AUTHORIZES** the Mayor and City Clerk to **EXECUTE THE AGREEMENT,** a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes: All-6
No: None
Absent: Stine

AND

(b) Resolution to Approve Agreement - Luis Bevilacqua – 2373 Cedar Knoll

Resolution #2003-11-556b
Moved by Beltramini
Seconded by Howrylak

RESOLVED, That the City of Troy City Council **APPROVES** the Agreement Concerning Restoration of Conservation Easement Area between Luis Bevilacqua (2373 Cedar Knoll) and the City of Troy, and **AUTHORIZES** the Mayor and City Clerk to **EXECUTE THE AGREEMENT,** a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

Yes: All-6
No: None
Absent: Stine

D-2 Proposed Zoning Ordinance Text Amendment for Section 12.50 – R-1T – One Family Attached Residential Districts (ZOTA #182)

Vote on Resolution to Refer t0o Planning Commission

Resolution #2003-11-557
Moved by Howrylak
Seconded by Beltramini

RESOLVED, That proposed Zoning Ordinance Text Amendment for Section 12.50 – R-1T – One Family Attached Residential Districts (ZOTA #182) be **REFERRED** to the Planning Commission for further review of sidewalks, safety walks and the snow removal plan.

Yes: All-6
No: None
Absent: Stine

10. ZONING ORDINANCE TEXT AMENDMENT (ZOTA 182) – Article 12.00.00 and 30.10.08 R-1T One Family Cluster

Mr. Miller reported City Council adopted a resolution that referred the matter back to the Planning Commission for further review of sidewalks, safety walks and the snow removal plan.

Mr. Miller addressed three minor revisions recommended by City Management.

1. City Management recommends changing the verbiage of Section 12.50.05 to require sidewalk and safety path connections wherever feasible, and requested clarification that "planned safety paths" are delineated on the City of Troy Transportation Plan.

   Mr. Miller said the City Council questioned the impact of safety paths and had a concern with the public utilizing private walks.

   The Commission concurred that the verbiage should be revised to read: "pedestrian interconnectivity shall be provided."

2. City Management recommends eliminating Section 12.50.07 that requires the preparation of a Snow Removal Plan.

   The Commission agreed to eliminate Section 12.50.07, Snow Removal Plan.

3. City Management recommends eliminating Section 12.50.08 that lists guest parking requirements for R-1T developments.

   The Commission concurred to eliminate Section 12.50.08.

4. City Management recommends amending Section 12.50.09 to eliminate the possibility of interconnectivity between an internal private street in an R-1T development with an internal public street in an adjacent neighborhood, and further eliminate the requirement of common access drive for abutting developments.

   It was the consensus of the Commission that Section 12.50.09 should remain as originally proposed.

8. ZONING ORDINANCE TEXT AMENDMENT (ZOTA 182) – Articles 12.00.00 and 30.10.08 R-1T One Family Attached

Mr. Miller presented a summary on ZOTA 182, R-1T One Family Attached. He reported that City Management recommends two revisions to the proposed text amendment. They are: (1) eliminate the possibility of interconnectivity between internal private streets in an R-1T development with internal public streets in adjacent neighborhoods; and (2) eliminate the requirement of common access drives for abutting developments.

Mr. Carlisle stated he is in agreement with the two revisions suggested by City Management. He further said that providing cross access between private and public roads within a condominium development could discourage the building of private roads, and he thinks that would not be in the best interest of the City.

Mr. Schultz said he does not support interconnection of roadways from condominium sites to public roads, nor does he support the interconnection of roadways between neighboring condominium sites. He said each site is an individual not-for-profit Michigan corporation responsible for liability and the maintenance of the property, and enforcing those developments to interconnect is not in the best interest of the people buying those homes.

Mr. Khan agreed with Mr. Schultz's comments.

It was the consensus of the Commission that the recommendation to City Council would incorporate the City Management revisions. It was further determined to schedule ZOTA 182, R-1T One Family Attached Residential District, for a Public Hearing at the August 10, 2004 Regular Meeting.

9. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 182) – Articles 12.00.00 and 30.10.08 R-1 T One Family Attached

Mr. Miller provided a summary of the proposed zoning ordinance text amendment that would update the R-1T provisions of the zoning ordinance.

Chair Waller suggested that the references to rear yard perimeter setbacks on the Schedule of Regulations reflect directly to Section 12.50.08.

The Planning Department will make the change.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2004-08-091

Moved by: Schultz
Seconded by: Wright

RESOLVED, that the Planning Commission hereby recommends to the City Council that Articles 12.00.00 and 30.10.08 of the Zoning Ordinance, be amended as revised by Mr. Waller on the Proposed Zoning Ordinance Text Amendment, dated 07/01/04.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

DATE: September 7, 2004

TO: John Szerlag, City Manager

FROM: Steven J. Vandette, Acting Assistant City Manager/Services
Mark Stimac, Director of Building and Zoning

SUBJECT: Announcement of Public Hearing
Parking Variance Request
1800 W. Big Beaver

We have received an application from MLS Equity L.L.C., owners of the existing office building at 1800 W. Big Beaver, to lease a portion of the office building for medical offices. The proposal would result in 9,599 net square feet being used for medical offices and 4,200 net square feet being used for general office of the existing 21,850 gross square foot building. Section 40.21.70 of the Zoning Ordinance requires that a minimum of 117 parking spaces be provided on this site with this arrangement. The plans submitted with the application indicate that there are only 85 parking spaces available on the site. In response to our denial of the building permit, the applicant has filed an appeal for the deficiency of the 32 spaces.

A Public Hearing has been scheduled for your meeting of September 27, 2004, in accordance with Section 44.01.00.

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

Attachments:

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

RECEIVED
SEP 0 2 2004
BUILDING DEPARTMENT

TO TROY CITY COUNCIL DATE: 9-2-04

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

Applicant: MLS Equity LLC - Michael A. Locricchio Phone: 248-822-9010

Address: 1800 W. Big Beaver Road, Suite 100, Troy, MI 48084

Address of Property: 1800 W. Big Beaver Rd., Troy, MI 48084

Lot # _____ Subdivision: _____

Zoning District: O-1 Sidwell # 88-20-20-476-050

Owner of Property: MLS Equity LLC and Matt Locricchio & Sons, Inc. Phone: 248-822-9010

Address: Same as above

This appeal is made on a determination by the Director of Building & Zoning, in the enforcement of the Zoning Ordinance, in a letter dated: 8/16/04

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

and particulars _____

REASON FOR VARIANCE:

Dimension of Stall? _____ Parking Spaces Required: 117

Number of Stalls? _____ Parking Spaces Provided: 85

Other Dimensions? _____ Variance Requested: 32

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

Article 40.00.00 of the Zoning Ordinance

The subject property has a 21,850 SF Office building between the 1st and 2nd floors. Currently, the first floor is being occupied by Metzler Locricchio Serra & Co with 5,250 SF of office space and Dynamic Back & Neck Pain Clinic with 4,118 SF of medical space which accounts for 9,368 SF of combined office and medical space after subtracting approximately 5,358 SF of "non-usable" space which consists of approximately 770 SF of an atrium, and bathrooms, common areas, hallways, etc. of approximately 4,588 SF. There is an additional empty (non-occupied) space on the 2nd floor of approximately 7,200 SF (before subtracting out bathrooms, common areas, hallways, etc.).

Using Zoning Ordinance 40.20.63 for Usable Space and 40.21.70 for Calculating Parking Spaces we arrived at the following numbers:

5,250 SF of existing occupied general office x 80% = 4,200 SF/ 200SF = 21 parking spaces required.

4,118 SF of 1st floor occupied medical office x 85% = 3,500 SF/ 100 = 35 parking spaces required.

7,175 SF of 2nd floor future medical office x 85% = 6,099 SF/ 100SF = 61 parking spaces required.

Total spaces required to build out future tenant space as Medical would be 117 spaces. Currently there are 85 spaces available. Owner would need a 32 space variance in order to accommodate a Medical Suite to be built in the empty space for lease on the 2nd floor.

PLOT PLAN OF SITE ATTACHED HERETO

RECEIVED
SEP 0 2 2004
BUILDING DEPARTMENT

STATE OF MICHIGAN)
)
COUNTY OF _____)

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

Date: 9-2-04 _____
(Signature of Applicant)

Signed and Sworn to before me this 2nd day of September 2004

_____
Notary Public

CYNTHIA K. ZENAS
NOTARY PUBLIC OAKLAND CO., MI
MY COMMISSION EXPIRES Nov 18, 2005

My Commission Expires: 11-18-05

Filing Fee $200.00	Date Paid _____

MLS+CO METZLER+LOCRICCHIO+SERRA+CO 1983 2003 CPAs + Tax + Financial Consultants

Member of American Institute of CPAs
Member of Michigan Association of CPAs

August 31, 2004

RECEIVED
SEP 0 2 2004
BUILDING DEPARTMENT

Troy City Council
500 West Big Beaver
Troy, MI 48084

Re: 1800 W. Big Beaver Road

Dear Council Members:

We are in receipt of a letter dated August 16, 2004 from Richard Kessler of the Building Dept. in response to our application for a building permit to alter the second floor of 1800 West Big Beaver for 2 medical tenants, which is currently vacant new construction. Our application has been denied based on our parking lot capacity.

Pursuant to requirements by the City of Troy, Metzler Locricchio Serra & Co., a CPA firm, has been designated 21 parking spaces based on being an office, and Dynamic Neck & Back Pain Clinic, our tenant, has been designated 35 parking spaces based on being medical. These two (2) tenants occupy a complete first floor of 1800 W. Big Beaver.

Metzler Locricchio Serra & Co. uses 18 spaces maximum, of the designated 21 spaces and Dynamic Neck & Back Pain Clinic uses at any given time, maximum of between 25 – 28 spaces. The last 4 days, we have counted cars in our lot at mid-morning and mid-afternoon and have found that the 2 tenants on the first floor occupy a maximum of 35 car spaces. This is substantially less than the required 56 spaces as noted above.

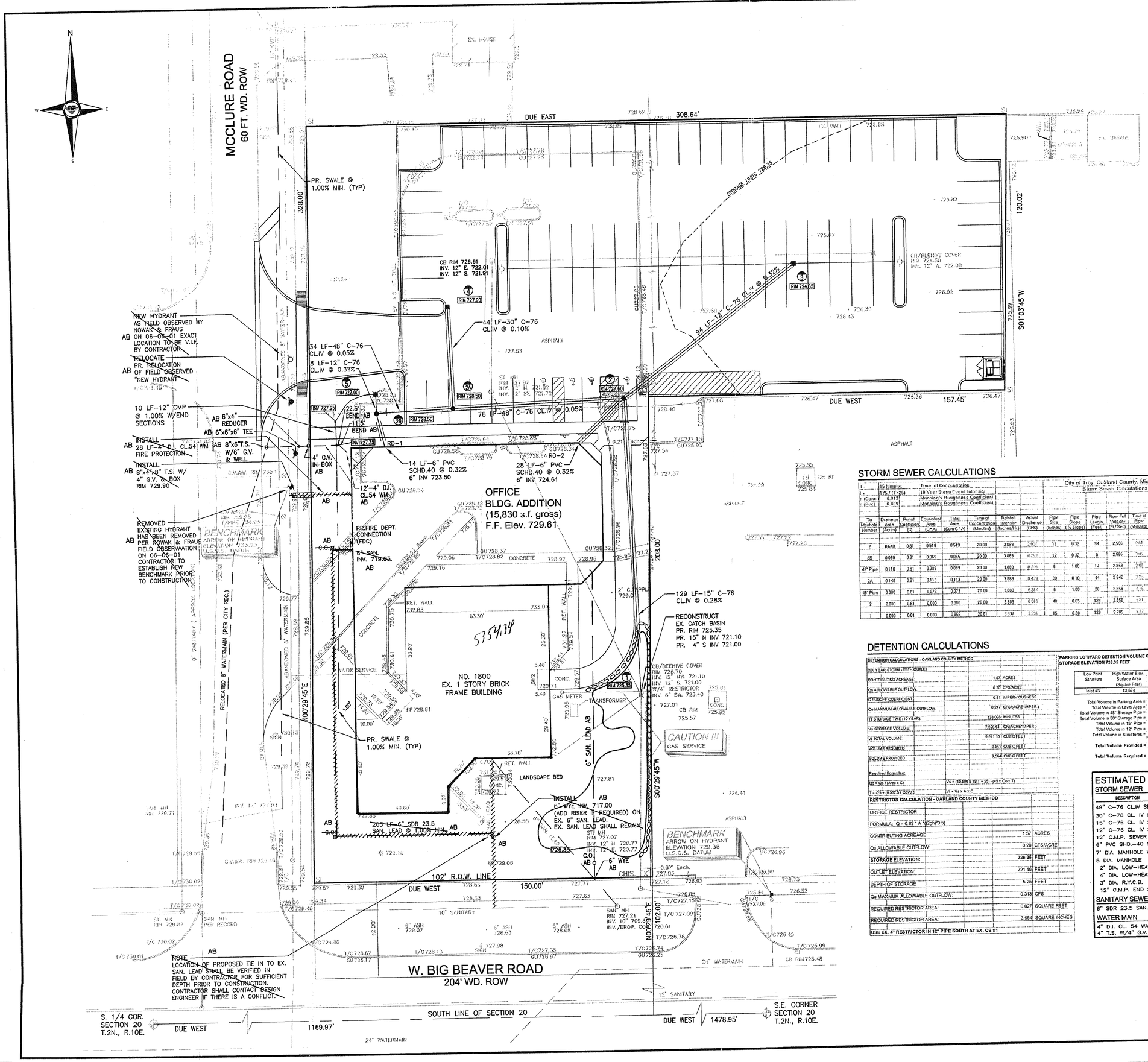
Since we have 85 total spaces and actual use of 35 throughout the day, we have 50 spaces available for the 2nd floor tenants. We propose to obtain a letter from the new tenants a maximum, that they will not require or use more than 42 parking spaces, worst-case scenario.

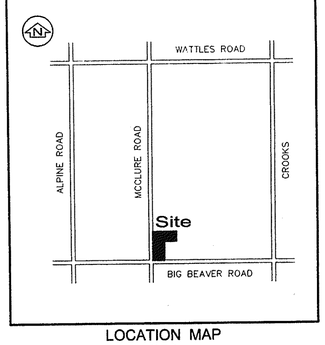
We are applying for a parking variance and respectfully request your consideration for relief from the City requirements. Thank you for your time.

Very truly yours,

Michael A. Locricchio, Member
MLS Equity, L.L.C.

1800 West Big Beaver Road
Suite 100
Troy, Michigan 48084-3531
248.822.9010 Office
248.822.9030 Fax
mlscocpa.com





LOCATION MAP
N.T.S.

LEGAL DESCRIPTION

Lot 87 except the South 42 feet, and all of Lot 85 of "Muer's Garden Farms" Subdivision as recorded in Liber 15 of plat, Page 45, Oakland County Records, of part of the S.E. 1/4 of Section 20, T.2N., R.11E., City of Troy, Michigan. Containing 68,163 square feet or 1.565 acres.

STORM SEWER CALCULATIONS

City of Troy, Oakland County, Michigan
Storm Sewer Calculations

T = 15 Minutes — Time of Concentration
i = 175 / (T+25) — 10 Year Storm Event Intensity
n (Conc) = 0.013 — Manning's Roughness Coefficient
n (Pvc) = 0.009 — Manning's Roughness Coefficient

Project No: 1-B631
Project Name: Building Addition
Location: Big Beaver & McClure
District: Oakland
Date: 06-06-01

To Manhole Number	Drainage Area (Acres)	Runoff Coefficient (C)	Equivalent Area (C*A)	Total Area (Sum C*A)	Time of Concentration (Minutes)	Rainfall Intensity (Inches/Hr)	Actual Discharge (CFS)	Pipe Size (Inches)	Pipe Slope (% Slope)	Pipe Length (Feet)	Flow Full Velocity (Ft/Sec)	Time of Flow (Minutes)	Full Pipe Capacity (CFS)	H.G. Elev. Upper End (Feet)	H.G. Elev. Lower End (Feet)	H.G. Slope (% Slope)	Theoretical Velocity (Ft/Sec)	Ground Elevation (Upper)	Change in Elevation (Feet)	Invert Elev. Upper End (Feet)	Invert Elev. Lower End (Feet)
1	0.640	0.81	0.518	0.518	20.00	3.889	2.012	12	0.32	94	2.566	0.61	1.80	722.39	722.35	0.02	0.663	724.65	0.33	721.86	721.56
2	0.640	0.81	0.518	0.518	20.00	3.889	2.012	12	0.32	8	2.566	0.05	1.80	723.91	723.91	0.005	0.322	727.00	0.03	723.14	723.11
2B	0.080	0.81	0.065	0.065	20.00	3.889	0.250	12	0.32	8	2.566	0.05	0.80	723.81	723.76	0.300	1.763	-	0.14	723.50	723.36
48" Pipe	0.110	0.81	0.089	0.089	20.00	3.889	0.344	6	1.00	14	2.858	0.08	0.56	723.81	723.76	0.300	1.763	-	0.14	723.50	723.36
2A	0.140	0.81	0.113	0.113	20.00	3.889	0.439	30	0.10	44	2.642	0.28	13.97	724.08	724.08	0.000	0.000	727.90	0.04	722.12	722.08
48" Pipe	0.090	0.81	0.073	0.073	20.00	3.889	0.284	6	1.00	28	2.858	0.16	0.56	724.08	724.73	0.256	1.446	-	0.28	724.61	724.33
2	0.000	0.81	0.000	0.000	20.00	3.889	0.000	48	0.05	124	2.556	0.81	12.12	724.76	724.76	0.000	0.000	728.00	0.06	721.62	721.56
1	0.000	0.81	0.000	0.659	20.61	3.837	2.526	15	0.20	129	2.785	0.77	2.46	722.43	722.10	0.260	2.686	727.60	0.36	721.46	721.10

DETENTION CALCULATIONS

DETENTION CALCULATIONS - OAKLAND COUNTY METHOD

(10) YEAR STORM - WITH OUTLET

CONTRIBUTING ACREAGE	1.57	ACRES
Qa ALLOWABLE OUTFLOW	0.20	CFS/ACRE
C RUNOFF COEFFICIENT	0.81	IMPERVIOUSNESS
Qo MAXIMUM ALLOWABLE OUTFLOW	0.247	CFS/ACRE(IMPER.)
ts STORAGE TIME (10 YEAR)	138.026	MINUTES
Vs STORAGE VOLUME	7,520.61	CFS/ACRE(IMPER.)
Vt TOTAL VOLUME	9,541.10	CUBIC FEET
VOLUME REQUIRED	9,541	CUBIC FEET
VOLUME PROVIDED	9,564	CUBIC FEET

Required Formulas:

Qo = Qa / (Area x C) — Vs = (60.60 x ts) + 25) - (40 x Qo x T)

T = 25 + (6.90 x Vs / Qo) — Vt = Vs x A x C

RESTRICTOR CALCULATION - OAKLAND COUNTY METHOD

ORIFICE RESTRICTOR		
FORMULA: Q = 0.62 * A * (2gh)^0.5		
CONTRIBUTING ACREAGE	1.57	ACRES
Qa ALLOWABLE OUTFLOW	0.20	CFS/ACRE
STORAGE ELEVATION:	726.35	FEET
OUTLET ELEVATION	721.10	FEET
DEPTH OF STORAGE	5.25	FEET
Qo MAXIMUM ALLOWABLE OUTFLOW	0.313	CFS
REQUIRED RESTRICTOR AREA	0.027	SQUARE FEET
REQUIRED RESTRICTOR AREA	3.954	SQUARE INCHES

USE EX. 4" RESTRICTOR IN 12" PIPE SOUTH AT EX. CB #1

PARKING LOT/YARD DETENTION VOLUME CALCULATIONS
STORAGE ELEVATION 726.35 FEET

Low Point Structure	High Water Elev Surface Area (Square Feet)	Depth of Storage (Feet)	Storage Volume (Cubic Feet)
Inlet #3	13,574	1.5	6787.0

Total Volume in Parking Area =	6,787.00	Cubic Feet
Total Volume in Lawn Area =	704.00	Cubic Feet
Total Volume in 48" Storage Pipe =	1,380.00	Cubic Feet
Total Volume in 30" Storage Pipe =	216.00	Cubic Feet
Total Volume in 15" Pipe =	159.00	Cubic Feet
Total Volume in 12" Pipe =	80.00	Cubic Feet
Total Volume in Structures =	238.00	Cubic Feet
Total Volume Provided =	9,564.00	Cubic Feet
Total Volume Required =	9,541.10	Cubic Feet

ESTIMATED QUANTITIES:

STORM SEWER

DESCRIPTION	QUANTITY	UNITS
48" C-76 CL.IV SEWER PIPE	110	L.F.
30" C-76 CL. IV SEWER PIPE	44	L.F.
15" C-76 CL. IV SEWER PIPE	129	L.F.
12" C-76 CL. IV SEWER PIPE	102	L.F.
12" C.M.P. SEWER	10	L.F.
6" PVC SHD.-40 SEWER PIPE	42	L.F.
7' DIA. MANHOLE W/2' SUMP	2	EA.
5 DIA. MANHOLE	1	EA.
2' DIA. LOW-HEAD INLET	1	EA.
4' DIA. LOW-HEAD CB	1	EA.
3' DIA. R.Y.C.B.	1	EA.
12" C.M.P. END SECTION	2	EA.
SANITARY SEWER		
6" SDR 23.5 SAN. LEAD	203	L.F.
WATER MAIN		
4" D.I. CL. 54 WATER MAIN	28	L.F.
4" T.S. W/4" G.V. & BOX	1	L.F.

STORM SEWER SCHEDULE

1. EX. CATCH BASIN
   EX. RIM 726.70
   PR. RIM 725.35
   PR. 15" N INV 721.10
   EX. 12" S INV 721.00
   W/ 4" RESTRICTOR
2. 7' DIA. MANHOLE W/2' SUMP
   RIM 727.60
   15" S INV 721.46
   48" W INV 721.56
   12" NE INV 721.56
   6" SW INV 724.33
2A. 7 DIA. MANHOLE
   RIM 728.50
   48" E&W INV 721.62
   30" N INV 722.08
2B. 5 DIA. MANHOLE
   RIM 728.50
   48" E INV 721.60
   48" N INV 723.11
3. 2' DIA. INLET
   RIM 724.65
   12" SW INV 721.86
4. 4 DIA. CATCH BASIN
   RIM 727.90
   30" S INV 722.12
5. 3' DIA. R.Y.C.B.
   RIM 727.00
   48" S INV 723.14

LEGEND

- MANHOLE — EXISTING SANITARY SEWER
- HYDRANT, GATE VALVE — SAN. CLEAN OUT
- MANHOLE, CATCH BASIN — EXISTING WATERMAIN
- EXISTING STORM SEWER
- EX. R. Y. CATCH BASIN
- EXISTING BURIED CABLES
- UTILITY POLE, GUY POLE, GUY WIRE — OVERHEAD LINES
- LIGHT POLE
- SIGN
- EXISTING GAS MAIN
- C.O., MANHOLE, HYDRANT, GATE VALVE — PR. SANITARY SEWER
- PR. WATERMAIN
- INLET, C.B., MANHOLE — PR. STORM SEWER
- PR. R. Y. CATCH BASIN
- SAND BACKFILL (95 % DENSITY)
- PROPOSED LIGHT POLE
- TC 725.00 — PR. TOP OF CURB ELEVATION
- GU 725.00 — PROPOSED GUTTER ELEVATION
- TW 725.00 — PR. TOP OF WALK ELEV.
- TP 725.00 — PR. TOP OF PAVEMENT ELEV.
- 725 — PROPOSED INLET FILTER
- DRAINAGE AREA LIMITS
- PROPOSED SILT FENCE

NOWAK & FRAUS

Consulting Engineers
Land Surveyors
Land Planners

1310 N. Stephenson Highway
Royal Oak, MI 48067-1508
Tel. (248) 399-0886
Fax. (248) 399-0805

SEAL

RECEIVED
SEP 0 2 2004
BUILDING DEPARTMENT

PROJECT
Office Building Addition

CLIENT
M. L. S. & Co.
1800 Big Beaver Rd.
Troy, MI 48084

PROJECT LOCATION
Part of the S.E. 1/4 of Section 20 T. 2 N., R. 11 E. City of Troy, Oakland Co., Michigan

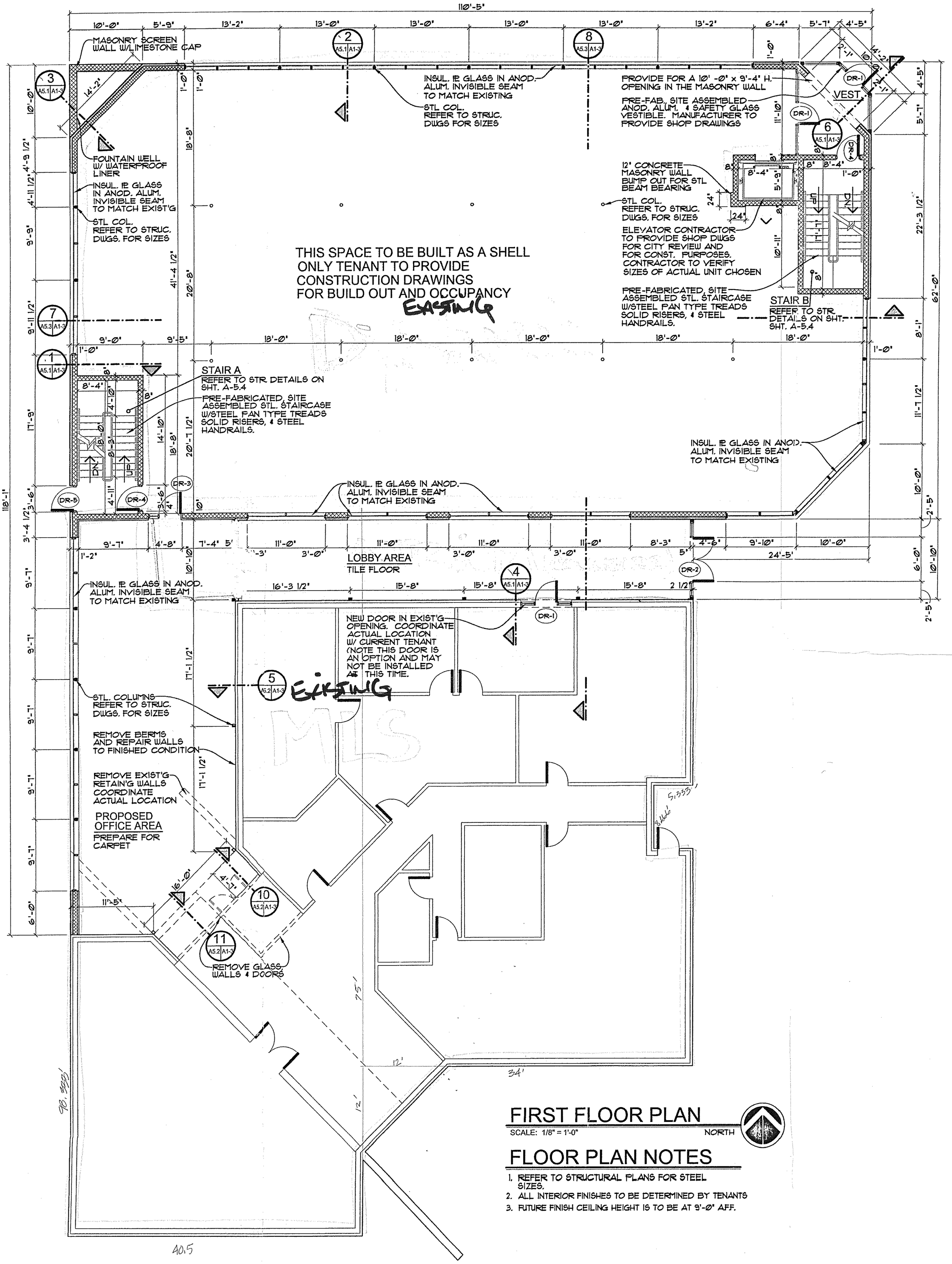
SHEET
As-Built Water Main & Sanitary Sewer Plan

72 HOURS (3 WORKING DAYS) BEFORE YOU DIG CALL MISS DIG 1-800-482-7171 (TOLL FREE)

DATE/ REVISION

DRAWN BY: A. Wiseman
DESIGNED BY: A. Wiseman
APPROVED BY: A. Orman
DATE: 02-07-03
SCALE: 1" = 20"

N/F JOB NO. 1-B631
SHEET NO. 1 of 1



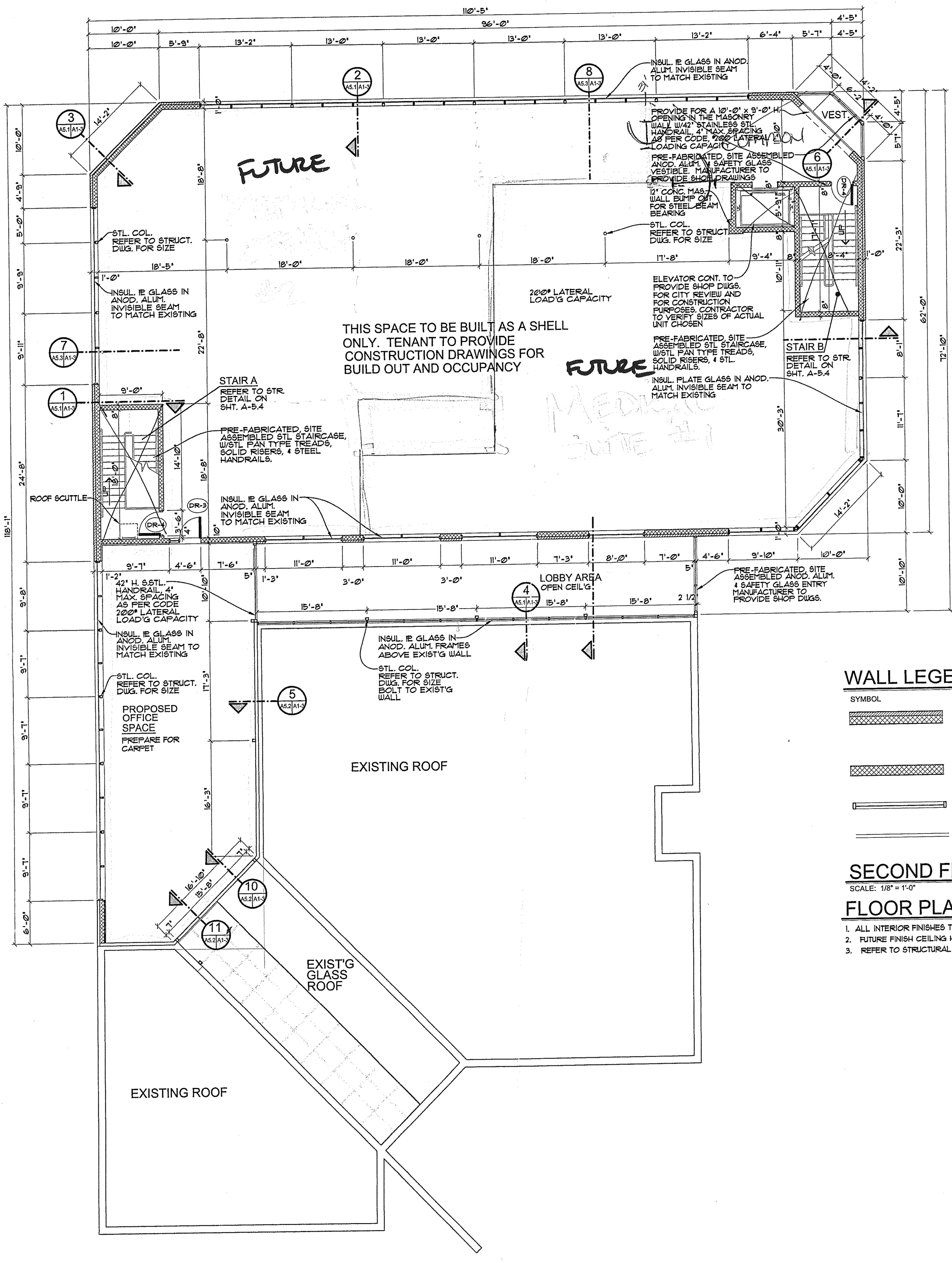
FIRST FLOOR PLAN

SCALE: 1/8" = 1'-0"

NORTH

FLOOR PLAN NOTES

1. REFER TO STRUCTURAL PLANS FOR STEEL SIZES.
2. ALL INTERIOR FINISHES TO BE DETERMINED BY TENANTS
3. FUTURE FINISH CEILING HEIGHT IS TO BE AT 9'-0" AFF.


110'-5"
96'-0"
FUTURE
INSUL. PE GLASS IN ANOD. ALUM. INVISIBLE SEAM TO MATCH EXISTING
PROVIDE FOR A 10'-0" x 9'-0" H. OPENING IN THE MASONRY WALL W/42" STAINLESS STL. HANDRAIL, 4" MAX. SPACING AS PER CODE, 200# LATERAL LOADING CAPACITY
VEST.
PRE-FABRICATED, SITE ASSEMBLED ANOD. ALUM. & SAFETY GLASS VESTIBLE. MANUFACTURER TO PROVIDE SHOP DRAWINGS
12" CONC. MAS. WALL BUMP OUT FOR STEEL BEAM BEARING
STL. COL. REFER TO STRUCT. DWG. FOR SIZE
ELEVATOR CONT. TO PROVIDE SHOP DWGS. FOR CITY REVIEW AND FOR CONSTRUCTION PURPOSES. CONTRACTOR TO VERIFY SIZES OF ACTUAL UNIT CHOSEN
PRE-FABRICATED, SITE ASSEMBLED STL STAIRCASE, W/STL PAN TYPE TREADS, SOLID RISERS, & STL. HANDRAILS.
STAIR B
REFER TO STR. DETAIL ON SHT. A-5.4
INSUL. PLATE GLASS IN ANOD. ALUM. INVISIBLE SEAM TO MATCH EXISTING
200# LATERAL LOAD'G CAPACITY
THIS SPACE TO BE BUILT AS A SHELL ONLY. TENANT TO PROVIDE CONSTRUCTION DRAWINGS FOR BUILD OUT AND OCCUPANCY
STL. COL. REFER TO STRUCT. DWG. FOR SIZE
INSUL. PE GLASS IN ANOD. ALUM. INVISIBLE SEAM TO MATCH EXISTING
STAIR A
REFER TO STR. DETAIL ON SHT. A-5.4
PRE-FABRICATED, SITE ASSEMBLED STL STAIRCASE, W/STL PAN TYPE TREADS, SOLID RISERS, & STEEL HANDRAILS.
ROOF SCUTTLE
INSUL. PE GLASS IN ANOD. ALUM. INVISIBLE SEAM TO MATCH EXISTING
42" H. S.STL. HANDRAIL, 4" MAX. SPACING AS PER CODE 200# LATERAL LOAD'G CAPACITY
INSUL. PE GLASS IN ANOD. ALUM. INVISIBLE SEAM TO MATCH EXISTING
STL. COL. REFER TO STRUCT. DWG. FOR SIZE
PROPOSED OFFICE SPACE
PREPARE FOR CARPET
LOBBY AREA
OPEN CEIL'G.
PRE-FABRICATED, SITE ASSEMBLED ANOD. ALUM. & SAFETY GLASS ENTRY MANUFACTURER TO PROVIDE SHOP DWGS.
INSUL. PE GLASS IN ANOD. ALUM. FRAMES ABOVE EXIST'G WALL
STL. COL. REFER TO STRUCT. DWG. FOR SIZE BOLT TO EXIST'G WALL
EXISTING ROOF
EXIST'G GLASS ROOF
EXISTING ROOF
WALL LEGEN
SYMBOL
SECOND FLO
SCALE: 1/8" = 1'-0"
FLOOR PLAN
1. ALL INTERIOR FINISHES TO BE
2. FUTURE FINISH CEILING HEIGH
3. REFER TO STRUCTURAL PLA

DATE: September 2, 2004

TO: John Szerlag, City Manager

FROM: Douglas J. Smith, Real Estate and Development Director
Mark F. Miller, Planning Director

SUBJECT: ANNOUNCEMENT OF PUBLIC HEARING (SEPTEMBER 27, 2004) - ZONING ORDINANCE TEXT AMENDMENT FOR ARTICLE 34.70.00 ONE FAMILY CLUSTER OPTION (ZOTA #200)

RECOMMENDATION

The Planning Commission and City Management have developed new provisions for a One Family Cluster Option. Presently cluster developments are permitted through the application of the CR-1 One Family Residential Cluster Option. This option is generally difficult to apply since it usually involves rezoning the property. In addition, the approval standards can be difficult to meet. The One Family Cluster Option is intended to be easier to apply, thereby encouraging its application.

The general intent of this text amendment is to permit cluster development by right in the R-1A through R-1E districts. Densities will be the same as already permitted in these districts, as determined by the creation of a parallel plan. To qualify for this option, a minimum of 30% of the parcel must be dedicated open space. Applicants can qualify for up to a 20% density bonus if the development provides at least 50% of dedicated open space and demonstrates design excellence, as recommended by the Planning Commission and determined by City Council.

The Planning Commission held a Public Hearing on this item on July 13, 2004. Following the Public Hearing, the Planning Commission recommended approval of ZOTA #200.

City Management agrees with the Planning Commission and recommends approval of the proposed text amendment.

Reviewed as to Form and Legality: _____ _____
Lori Grigg Bluhm, City Attorney Date

cc: File/ZOTA #200
Planning Commission

Attachments:

1. ZOTA #200
2. Minutes from July 13, 2004 Planning Commission Public Hearing
3. Minutes from June 22, 2004 Planning Commission Special/Study Meeting.

G:\ZOTAs\ZOTA 200 CR-1 ONE FAMILY CLUSTER OPTION\CC Announcement of Public Hearing Memo 09 02 04.doc

The City of Troy ordains:

Section 1. Amendment to Chapter 39

Chapter 39 of the City of Troy Code is amended by the addition of a new section 34.70.00 to read as follows:

34.70.00 ONE FAMILY CLUSTER OPTION

34.70.01 The One Family Cluster Option is offered as an alternative to traditional residential development for the purpose of:

A. Encouraging the use of property in accordance with its natural character.

B. Assuring the permanent preservation of open space and other natural features.

C. Providing recreational facilities and/or open space within a reasonable distance of all residents of the One Family Cluster development.

D. Allowing innovation and greater flexibility in the design of residential developments.

E. Facilitating the construction and maintenance of streets, utilities and public services in a more economical and efficient manner.

F. Ensuring compatibility of design and use between neighboring property.

G. Encouraging a less sprawling form of development, thus preserving open space as undeveloped land.

34.70.02 Eligibility Criteria

To be eligible for One Family Cluster consideration, the applicant must present a proposal for residential development that meets each of the following subsections (A-G):

A. Recognizable Benefits.

One Family Cluster shall result in a recognizable and substantial benefit, both to the residents of the property and to the overall quality of life in the City. The recognizable and substantial benefits can be provided through site design elements that are in excess of the requirements of this Ordinance, such as extensive landscaping, the inclusion of a transition area from adjacent residential land uses, and preservation of individual trees, wetlands (regulated and non-regulated), woodland areas and open space.

B. Open Space.

The proposed development shall provide at least one of the following open space benefits:

1. Significant Natural Assets. Preservation of significant natural assets contained on the site, such as significant individual trees (over 10 inch diameter), woodland areas, rolling topography with pre-development grades exceeding 15%, significant views, natural drainage ways, water bodies, floodplains, regulated or non-regulated wetlands, as long as it is in the best interest of the City to preserve these natural features which might be negatively impacted by conventional residential development. The determination of whether the site has significant natural assets shall be made by the Planning Commission and City Council after review of a Site Analysis Plan, prepared by the applicant, that inventories these features.

2. Recreation Facilities. If the site lacks significant natural features, it can qualify with the provision of usable recreation facilities to which all residents of the development shall have reasonable access. Such recreation facilities include areas such as a neighborhood park, passive recreational facilities, soccer fields, ball fields, bike paths, or similar facilities that provide a feature of community-wide significance and enhance residential development. Recreational facilities that are less pervious than natural landscape shall not comprise more than fifty (50) percent of the open space.

3. Creation of Natural Features. If the site lacks significant natural features, a proposed development may also qualify if the development will create significant natural features such as wetlands.

C. Guarantee of Open Space.

The applicant shall provide documentation to guarantee to the satisfaction of the Planning Commission and City Council that all open space portions of the development will be maintained as approved and that all commitments for such maintenance are binding on successors and future owners of the subject property. All such documents shall be subject to approval by the City Attorney. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the City, and that the continued maintenance guarantees remain satisfactory to the City, and the land uses continue as approved in the One Family Cluster development.

D. Cohesive Neighborhood.

The proposed development shall be designed to create a cohesive community neighborhood through common open space areas for passive or active recreation and resident interaction. All open space areas shall be reasonably accessible to all residents of the development.

E. Unified Control.

The proposed development site shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed. All documents shall be subject to the review and approval by the City Attorney.

F. Density Impact.

The proposed type and density of use shall not place an unreasonable impact on the subject and/or surrounding land and/or property owners and occupants and/or the natural environment. An unreasonable impact shall be considered an unacceptable significant adverse effect on the quality of the surrounding community and the natural environment in comparison to the impacts associated with conventional development.

G. Future Land Use Plan.

The proposed development shall be consistent with the Future Land Use Plan.

H. Zoning

The land is zoned for R-1A, R-1B, R-1C, R-1D or R-1E residential development.

34.70.03 Application Information Requirements: In addition to the information required by the City of Troy for all other site plans, any development proposing to utilize the One Family Cluster Plan shall contain the following:

A. A complete description of the land proposed to be dedicated for the common use aof lot owners in the association or to the City, including the following:

1. A legal description of dedicated open space required by Section 34.70.03(B), including dedicated easements.

2. A topographical and boundary survey of dedicated open space.

3. An identification of the types of soil in dedicated open space.

4. A Natural Features Plan that inventories all significant natural features on the property and on abutting properties, if applicable.

B. Information regarding current and proposed ownership and use of the dedicated open space, including the following:

1. The proposed ownership and control of the open space.

2. The proposed methods of regulating the use of the common facilities and areas so as to eliminate possible nuisances to other property owners and/or nuisances that require enforcement by the City of Troy.

3. The proposed and/or potential uses of dedicated open space and the proposed improvements to be constructed by the developer.

4. A timeline setting forth the anticipated dates of the dedication of the open space for the common use of unit owners in the association or to the City of Troy.

C. A detailed narrative and graphic plan that indicates a specific method(s) for protecting significant natural features including significant (over 10 inches in diameter) individual trees, woodlands, wetlands, and open space during construction. The plan shall be consistent with the City's tree preservation requirements, and shall be agreeable to the developer, who shall so indicate with his/her signature on the detailed narrative and graphic plan.

D. Other relevant information necessary to show that the proposed development qualifies for approval as a One Family Cluster development.

34.70.04 Dwelling Unit Density:

A. The number of dwelling units allowable within the One Family Cluster development shall be determined by the applicant through the preparation of a parallel plan for the subject property that is consistent with State, County and City requirements and design criteria for a tentative preliminary plat or unplatted site condominium. The parallel plan shall meet all standards for lot/unit size, lot/unit width and setbacks as normally required for the underlying one-family zoning district. The number of units identified in the parallel plan shall determine the number of units permitted in the development.

B. Density Bonus. A variable density bonus of up to twenty (20) percent may be allowed at the discretion of the City Council, after recommendation from the Planning Commission, based upon a demonstration by the applicant of design excellence in the One Family Cluster development. Projects qualifying for a density bonus shall include a minimum of fifty (50) percent of the property (One Family Cluster) to be dedicated open space held in common ownership. In addition, projects qualifying for a density bonus shall include at least one (1) of the following elements:

1. The inclusion of perimeter transition areas of at least one hundred fifty feet (150 feet) in width around all borders of the development.

2. Provisions and design that preserve natural features, including use of bio-retention techniques and sustainable building features.

3. Donation or contribution of land or amenities in order to provide a significant community benefit, such as for a school, park, fire hall, etc.

4. Other similar elements that the City Council, after recommendation from the Planning Commission, determined to be of exceptional quality.

34.70.05 Regulatory Flexibility: The City shall permit specific departures from the dimensional requirements of the Zoning Ordinance for yards and units as a part of the approval process. The applicant may cluster the dwellings on smaller lots, as long as the following requirements are satisfied:

A. Overall density shall not exceed the number of residential cluster units determined in 34.70.04 above.

B. Setback provisions shall be as follows:

1. Setback requirements for principal structures from all of the borders of the development shall be equal to the rear yard setback requirement for the underlying zoning district of the property directly adjacent to each border. The required open space areas may be located partially or completely within the required setback.

2. Setback requirements for principal structures on the interior of the development shall be as follows: If property lines do not exist between houses, the setbacks shall be measured to an imaginary line of equal distance between the houses. A duplex shall be treated as a single-

detached residence for the purpose of determining required setbacks. The minimum setbacks shall be as follows.

Front:	20'. There shall be at least 25' between the garage door and the closest edge of the sidewalk to allow for an automobile to be parked in the driveway without obstructing the sidewalk.
Rear:	25'.
Side:	7.5'. For detached units with "rear-to-side" relationships, the required setback shall be 15' for each unit, for a total of 30'.

C. All regulations applicable to parking, loading, general provisions, and other requirements shall be met.

D. The permitted uses shall be restricted to single family detached residential development, duplex residential development, residential accessory structures, non-commercial recreation uses and open space.

34.70.06 Open Space Requirements:

A. All land within a development that is not devoted to a residential unit, accessory structures, vehicle access, vehicle parking, a roadway, or an approved improvement, shall be set aside as common land for recreation, conservation, or preserved in an undeveloped state.

B. A One Family Cluster development shall maintain a minimum of thirty percent (30%) of the gross area of the site as dedicated open space held in common ownership. A minimum of twenty-five percent (25%) of the open space shall be upland area, which does not include any MDEQ-regulated or non-regulated wetlands that are accessible to all residents of the development.

C. Areas Not Considered Open Space. The following land areas are not included as dedicated open space for the purposes of the One-Family Cluster development option:

1. The area of any street right-of-way or private drive.

2. The submerged area of any lakes, rivers, ponds or streams.

3. The required setbacks surrounding a residential structure, except as otherwise provided.

4. Storm water detention or retention facilities, with the exception of Bio-retention areas that provide an active or passive recreation function, which can be considered open space.

D. The common open space may be centrally located along the road frontage of the development, located to preserve significant natural features, or located to connect open spaces throughout the development. The open space along the exterior public roads shall have a depth of at least one hundred (100) feet, either landscaped or preserved in a natural wooded condition. In its discretion, the City Council, after recommendation from the Planning Commission, may permit either minor reductions in width or variations in width of the open space along exterior roads to accommodate taking into consideration topographic and/or other natural resource conditions, as long as the density of existing vegetation to be preserved, and size and shape of the development area are taken into consideration. The open space along the exterior public roads shall be landscaped with a minimum of one (1) deciduous canopy tree (3 to 3 ½ inches in diameter) for each ten (10) feet of road frontage. Such plantings shall be planted in staggered rows or clustered into groupings to provide a natural appearance, and shall be planted so as to have minimal impact on the future usability of sidewalks and trails. Preservation of existing trees shall be credited towards meeting the frontage landscaping requirement.

E. Principal access to the development shall be provided by 28 foot wide public streets constructed to City standards that are located within sixty (60) foot wide rights-of- way or by 28 foot wide streets constructed to City public street standards that are located, within 40 foot private easements for public access.

Sidewalks shall be constructed across the frontage of all dwelling unit parcels in accordance with City standards, Public utilities shall be placed within street rights-of-way, or within easements approved as to size and location by the City Engineer.

F. Connections between the dedicated open space of the development and adjacent open space, public land or existing or planned safety paths is preferred and may be required by the City Council, after recommendation from the Planning Commission.

G. The dedicated open space shall be set aside by the developer through an irrevocable conveyance, such as deed restrictions, restrictive covenants, conservation easements, plat dedication, or other legal documents that are subject to review and approval by the City Council, after review and recommendation by the City Attorney. These irrevocable conveyance documents shall be approved prior to final approval of the development (final site plan approval), and the developer shall record such documents with the Oakland County Register of Deeds. These irrevocable conveyance

documents shall specifically identify the City of Troy or the common owners as beneficiary of its provisions.

H. The irrevocable conveyance referenced in subsection (G) shall assure that the open space will be protected from all forms of development, except as shown on the approved Final Site Plan. Such conveyance shall indicate the proposed allowable use(s) of the dedicated open space. The open space restrictions shall prohibit uses or activities that negatively affect the dedicated open space, including the following:

1. Dumping or storing of any material or refuse.

2. Activity that may cause risk of soil erosion or threaten any living plant material.

3. Cutting or removal of live plant material except for removal of dying or diseased vegetation.

4. Use of motorized off-road vehicles.

5. Cutting, filling or removal of vegetation from wetland areas

6. Use of pesticides, herbicides or fertilizers within any wetlands area.

I. The irrevocable conveyance referenced in subsection (G) shall provide the following:

1. The dedicated open space shall be perpetually maintained by parties that have an ownership interest in the open space.

2. Standards for scheduled maintenance of the open space.

3. If the owners of the dedicated open space have failed to maintain it so that it becomes a public nuisance, then the City shall undertake all future maintenance, and shall annually assess the costs for such maintenance upon the property owners in the association, based on the benefit allocation for each property.

J. Continuing Obligation. The dedicated open space shall forever remain open space, subject only to uses approved by the City on the approved Final Site Plan.

K. Allowable structures. Any structures or buildings accessory to a recreation or conservation use may be erected within the dedicated open space. These accessory structures or buildings shall not exceed one percent (1%) of the required open space area.

Chapter 39 of the City of Troy Code is amended by the re-numbering of section 04.20.121 to 04.20.120, and by the addition of new sections 04.20.121 and 04.20.122 to read as follows:

04.20.120~~1~~ OPEN FRONT STORE: a business establishment so developed that service to the patron be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term "open front store" shall not include automobile repair stations, automobile service stations, or uses involving drive-up windows or service pedestals.

04.20.121 OPEN SPACE: A parcel or area of land that is intended to provide light and air, and is designed for either resource protection, aesthetic, or recreational purposes. Open space uses may include, but are not limited to, lawns, decorative plantings, walkways, active and passive recreation areas, land use buffers, playgrounds, fountains, woodlands, wetlands and bio retention facilities. Open space shall not be deemed to include streets, driveways, parking lots, or other surfaces designed or intended for vehicular traffic

04.20.122 OPEN SPACE, COMMON: Open space within or related to a development, not in individually owned lots, which is designed for and dedicated to the common use or enjoyment of the residents of the development or general public.

Chapter 39 of the City of Troy Code is amended by the addition of new section 10.20.09 to read as follows:

10.20.09 The One Family Cluster Option may be utilized in the R-1A through R-1E districts, subject to the requirements of Section 34.70.00.

Section 2. 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 Schilling, Mayor

_____
Tonni Bartholomew, City Clerk

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

10. ZONING ORDINANCE TEXT AMENDMENT (ZOTA 200) – Article 34.70.00 One Family Cluster Option

Mr. Savidant presented a summary on ZOTA 200, One Family Cluster Option. He presented four drawings to demonstrate alternative versions of the cluster development option; i.e., parallel plan, cluster development based on proposed language, cluster development based on proposed language with 20% density bonus and formula plan (3.8 units per acre).

There was a lengthy discussion on the parallel plan versus the formula plan.

Mr. Khan expressed his thoughts and experience on cluster development using both the parallel and formula plans. Mr. Khan prefers the formula plan and believes that most developers prefer the formula plan because it invariably allows for a larger lot size development. He cited several examples of his experience with cluster developments in community cities. Mr. Khan said the proposed 20% bonus would create a problem, and noted that the proposed amendment does not address preservation issues.

Mr. Carlisle does not recommend the formula method. He said that because characteristics are so different for every property, the parallel plan is the only reasonable plan to utilize. Mr. Carlisle acknowledged the fact that the City's non-regulated wetlands and non-restrictive tree ordinance may be factors in cluster development in Troy. Mr. Carlisle said a density bonus might be necessary in Troy because cluster development has not been a practice. He cited benefits of offering a density bonus would be reduced infrastructure costs and increased values. Mr. Carlisle said the quality of the development would bring higher values because people are looking for an open space environment. Mr. Carlisle encouraged that criteria be set in the ordinance as a basis for the bonus determination.

Chair Waller said that saving open space, roads, trees, and wetlands should be kept in mind as the City's goal.

Mr. Miller stated that the CR-1 zoning district is not very good as it currently stands, and an alternative option should be provided. Mr. Miller said the CR-1 zoning district should not be removed because non-conforming uses would be created for the five developments currently in the CR-1 zoning district. He said the Planning Commission has indicated a desire to preserve natural features without creating an ordinance, and to use creativity in the development of small infill properties.

Ms. Lancaster suggested consideration be given to the development of mini residential PUD's.

Chair Waller confirmed the Public Hearing is scheduled for the July 13, 2004 Regular Meeting.

[Mr. Carlisle exited the meeting.]

DATE: August 31, 2004

TO: John Szerlag, City Manager

FROM: Douglas J. Smith, Real Estate & Development Director
Mark F. Miller, Planning Director

SUBJECT: ANNOUNCEMENT OF PUBLIC HEARING (SEPTEMBER 27, 2004) - ZONING ORDINANCE TEXT AMENDMENT FOR SECTION 03.40, SITE PLAN REVIEW / APPROVAL (ZOTA #199)

RECOMMENDATION

The Planning Commission has developed amendments to Section 03.40.00, Site Plan Review/Approval. The general intent of this text amendment is to update the site plan review provisions of the zoning ordinance, including expanding the information required on site plans and defining those instances when site plan review is required.

The Planning Commission held a Public Hearing on this item on May 13, 2003. Following the Public Hearing, the Planning Commission recommended approval of ZOTA 199. City Council held a Public Hearing on the item on November 3, 2003. Following the Public Hearing, City Council adopted a resolution that referred the item back to the Planning Commission for further review.

The Planning Commission studied the item further as directed by City Council. A Public Hearing was held on August 10, 2004 to solicit public input on the text amendment. The Planning Commission recommended approval of the attached amendment. City Management agrees with the Planning Commission and recommends approval of the proposed text amendment.

Reviewed as to Form and Legality: _____ _____
Lori Grigg Bluhm, City Attorney Date

cc: File/ZOTA #199
Planning Commission

Attachments:

1. ZOTA #199, dated August 4, 2004
2. Minutes from May 13, 2003 Planning Commission Public Hearing
3. Minutes from November 3, 2003 City Council Meeting.
4. Minutes from December 2, 2003 Planning Commission Special/Study Meeting.
5. Minutes from February 10, 2004 Planning Commission Public Hearing
6. Meeting from June 22, 2004 Planning Commission Special/Study Meeting.
7. Minutes from August 10, 2004 Planning Commission Regular Meeting.

G:\ZOTAs\ZOTA 199 Site Plan Review\CC Announcement of Public Hearing Memo 08 31 04.doc

PROPOSED ZONING ORDINANCE TEXT AMENDMENT

(ZOTA 199)

Site Plan Review / Approval Standards
And Submittal Requirements

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

The City of Troy ordains:

Section 1. Short Title

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

Section 2. Amendment

Amend the indicated portions of the Applications and Procedures Site Plan Review / Approval Standards and Submittal Requirements text in the following manner:

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

03.40.00 SITE PLAN REVIEW / APPROVAL

03.40.01 INTENT

03.40.02 The site plan review requirements in this Article are intended to provide a consistent and uniform method of review of proposed development plans, to ensure full compliance with the regulations in this Ordinance and other applicable ordinances and state and Federal laws, to achieve efficient use of the land, to encourage innovative design solutions, to protect natural resources, to ensure safety for both internal and external vehicular and pedestrian users, to achieve innovative storm water management solutions, and to prevent adverse impact on adjoining or nearby properties. It is the intent of these provisions to encourage cooperation and consultation between the City and the applicant to facilitate development in accordance with the City's land use objectives.

03.40.03 SITE PLAN REQUIRED

The development of any new use, the construction of any new structures, any change of an existing use of land or structure, and all other building or development activities shall require prior site plan approval pursuant to this Article. Specifically, site plan review shall be required for any of the following activities:

(1) Erection, moving, relocation, conversion or structural alteration to a building or structure to create additional usable floor space, other than a one family or two family dwelling.

(2) Development of uses other than an individual one family residential unit in the R-1A, R-1B, R-1C, R-1D, and R-1E districts.

(3) Any change in use that could affect compliance with the standards set forth in this Ordinance.

(4) Expansion or paving of off-street parking and/or a change in circulation or access for other than a one or two family dwelling.

(5) The development or construction of any accessory uses or structures at least 1,000 square feet in area or greater, except for uses or structures that are accessory to a one or two family dwelling.

(6) Any use or development for which submission of a site plan is required by the provisions of this Ordinance, including all Special Use Approval applications.

(7) A substantial revision to a development that has received Preliminary or Final Site Plan Approval, as determined by the Planning Director and Building and Zoning Director.

(8) Changes to pedestrian access or site and building interconnectivity.

(9) The Planning Director has the authority to waive the site plan review requirement if it is determined that a project does not affect compliance with the standards of this Ordinance or other regulations.

03.41.00 PROCEDURE

03.41.01 A petitioner seeking Site Plan Approval ~~for proposed development and/or use of property within the City of Troy~~ as required under Section ~~03.41.01~~ 03.40.03 shall submit an application for same at the Planning Department of the City of Troy, together with the appropriate fee, not less than thirty (30) days prior to the date of the Regular Meeting of the Planning Commission.

03.41.02 The Planning Department shall review the application with respect to the submittal requirements contained herein. Any application which fails to provide the information and materials specified within this Section shall be held in abeyance until all deficiencies have been rectified.

03.41.03 Applications in conformity with the requirements of this Section shall be reviewed inter-departmentally and any revisions and/or corrections necessary shall be made by the petitioner prior to presentation to the Planning Commission for Preliminary Site Plan Approval. The Planning Department shall inform the Planning Commission of any inter-departmental comments or concerns.

03.41.04 The request for Preliminary Site Plan Approval shall be presented to the Planning Commission and after action by the Planning Commission, the petitioner shall obtain a copy of the Approved Preliminary Site Plan upon which shall be noted any requirements for modifications, additional information, or executed documents and/or agreements. Planning Commission Preliminary Site Plan Approval shall be effective for a period of one year. Within that one-year period the petitioner shall submit a complete application for Final Site Plan Approval to the Planning Department in accordance with Section 03.41.07**.** If the petitioner does not renew the Preliminary Site Plan Approval or receive Final Site Plan Approval within 1 year, Preliminary Site Plan Approval shall expire. If at the time of renewal, the Planning Director determines that conditions have changed since Preliminary Site Plan Approval was first granted, the petitioner shall be required to resubmit the application for Preliminary Site Plan Approval.

(11-19-90)

03.41.05 Landscape Plans, in conformity with the City's Landscape Design Standards, related to the required greenbelts, landscape and open space areas, shall be submitted with the application for the Preliminary Site Plan. ~~to~~ The Department of Parks and Recreation shall ~~for~~ review and approve ~~approval~~, the Landscape Plan prior to the application for Preliminary ~~Final~~ Site Plan Approval.

03.41.06 Building and Engineering plans, conforming to all applicable portions of the City Code and the City's Engineering Design Standards, shall be submitted to the Building and Engineering Departments for their review and approval.

03.41.07 The petitioner shall, after review of building and engineering plans by the Building and Engineering Departments ~~and after review of landscape plans by the Department of Parks and Recreation~~, and before granting of any building permits, submit the site plan to the Planning Department for consideration and Final Site Plan Approval. This site plan submittal shall include those items indicated under Section 03.43.03 of this Article. Applications for Final Condominium Approval shall also include four (4) copies of the recorded Condominium Master Deed and Condominium Bylaws. It shall be the responsibility of the petitioner to secure all necessary approvals and authorizations related to the items covered under Section 03.43.03.
(11-19-90)

03.41.08 The Planning Department will review the submittal for Final Site Plan Approval to ascertain that all the requirements of Sections 03.41.07 and 03.43.03 have been complied with. Any submittal which fails to provide the

modifications, information and/or documents required shall be deemed incomplete and held in abeyance until all deficiencies have been rectified.

03.41.09 In the event that the Site Plan has been substantially revised from that which received Preliminary Site Plan Approval, as determined by the Planning Director, the Planning Department shall present the revised plan to the Planning Commission for their review and approval. The Planning Commission shall review the request for approval of the revised Site Plan, taking into account the configuration of the plan granted Preliminary Approval, and the implications of Building and Engineering Plan Review, along with any plan modifications proposed by the petitioner. The Planning Commission shall then, by resolution:

(1) Grant the request for Approval of the Revised Site Plan, subject to any additional modifications it deems necessary to assure the proper development of the proposed site and its' compatibility with adjacent or abutting properties, or

(2) Deny the request for Approval of the Revised Site Plan indicating specific reasons for denial, or

(3) Table the request for Approval of the Revised Site Plan, indicating the reasons for tabling.

03.41.10 When the Planning Department determines that the Final Site Plan is consistent with that which received Preliminary Site Plan Approval, and thus that further Planning Commission action is not necessary, they shall then review the applicable portions of complete submittals in order to confirm that all necessary City Department approvals, authorizations or certifications have been received from Departments including, but not limited to, the Engineering, Right-Of-Way, and Fire Departments. The Planning Department shall then grant Final Site Plan Approval and shall notify the Chief Building Inspector that building permits can be issued.

(11-19-90)

03.41.11 In those instances where Planning Commission review and approval of a revised site plan is necessary, and where modifications to the site plan are required by the Planning Commission, no building permits shall be issued until five copies of the modified site plan have been submitted and have been approved by the Building and Engineering Departments.

(11-19-90)

03.41.12 Final Site Plan Approval shall be effective for a period of one year.

(11-19-90)

03.42.00 APPLICATIONS

Application forms for Site Plan Approval for proposed development and/or use of property within the City of Troy are obtainable at the Planning Department of the City of Troy.

03.43.00 SUBMITTAL REQUIREMENTS

03.43.01 A petition or request for Preliminary Site Plan Approval shall be submitted on forms published by the Planning Department and shall contain the following:

(1) The name, address and telephone of the person applying for Preliminary Site Plan Approval.

(2) The name, address and telephone of the owner of the property.

(3) The relationship between the applicant and the property owner.

(4) The present zoning classification of the subject property.

(5) The proposed use of the property.

(6) A Certified Topographic ~~Architectural~~ Survey and a Certified Boundary Survey of the property, prepared and sealed by a Licensed Land Surveyor. The Topographic Survey shall provide one foot contour intervals and shall be printed on a 24 x 36 inch sheet. The legal description and boundary survey shall be provided on 8-1/2 x 14 inch pages attached to the application, suitable for recording in accordance with Act 132 of Public Acts of 1970. The legal description of acreage parcels and parcels from subdivisions platted prior to January 1, 1970 shall be tied to a recorded Section or Quarter-Section Corner. If the subject Section or Quarter-Section Corner is not recorded, it is the responsibility of the applicant to have the Corner recorded by a Licensed Surveyor by filing a "Land Corner Recordation Certificate" with the Oakland County Register of Deeds. A copy of the proposed "Land Corner Recordation Certificate" shall be attached to the Site Plan Approval application. The Planning Director may waive the Topographic Survey requirement for changes in use of existing buildings if each of the following conditions exist:

(a) No additional impervious surfaces will be constructed on the property.

(b) The Engineering Department determines that the existing storm water drainage system is sufficient given present conditions.

(7) A location map (minimum scale of 1"=400') indicating the subject property and the zoning classifications and uses of abutting and adjacent properties, on 8-1/2 x 11 pages, shall be attached to the application.

(8) Attached to this application shall be ten (10) ~~six (6)~~ prints of the proposed site plan drawn to a scale of not less than 1"=20', (1" = 50' for parcels of 3 acres or more) wherein the following items shall be clearly labeled and dimensioned:

(a) All drawings are to have a title block which shall have the name of the project and date of plans including revision dates.

(b) All drawings are to have a northpoint and the scale of the drawing is to be indicated.

(c) All lot and property lines.

(d) Location of all proposed structures.

(e) Existing and future right-of-way of adjacent streets, including centerlines and Section Lines where applicable.

(f) Location of all sidewalks, on and adjacent to the site, as required by the Zoning Ordinance and the Sidewalk Ordinance.

(g) Deceleration and passing lanes as required by the City of Troy Transportation Engineer.

(Rev. 5-17-93)

(h) Indication of the means by which storm water detention will be provided.

(i) Setbacks and required yards.

(j) Parking areas, access drives, loading and unloading areas, and trash receptacles.

(k) Greenbelts, landscape areas and other open space areas; and screening walls.

(l) The location of any existing driveways and streets within 100 feet of the subject property, including those across frontage streets.

(m) The location of existing cross access easements on abutting properties and the location of proposed cross access or joint drive easements on the subject property.

(n) Calculations for the following shall be included on the site plan:

1. Gross and net (after rights-of-way) site area.

2. Gross and net ("usable") building area.

3. Required parking and statement of parking provided.

4. Required landscape and open space area and statement of area provided.

(o) Site Plans for residential developments shall include the following additional information:

1. Calculation of the dwelling unit density allowable and a statement of the number of dwelling units, by type, provided.

2. Topography on site and one-hundred (100) ~~50~~ feet beyond, drawn at one (1) ~~two (2)~~ foot contour intervals, with existing drainage courses, flood plains, wetlands and tree stands indicated.

3. Two prints each of the typical floor plans and elevations of the proposed buildings, indicating building height.

(p) Number of employees on the largest working shift (if applicable).

(9) A wetlands determination shall be required for all applications for subdivisions and site condominiums. A wetlands determination shall be required for all other applications for preliminary site plan approval, when the Natural Features Map indicates there may be wetlands on site. A wetlands determination waiver may be granted by the Planning Director based on the Natural Features Map and other applicable site information.

(10) An Environmental Impact Statement shall be attached as a part of the submittal when required in accordance with Article VII of the Zoning Ordinance.

(11) A Tree Preservation Plan in accordance with the City of Troy Landscape Design and Tree Preservation Standards shall be attached to all applications for Site Plan Approval. This requirement may be waived, by the Planning Director or by the Superintendent of Public Grounds, in those instances where the Topographic ~~Architectural~~ Survey and/or other written information provided by the applicant demonstrate that the nature of the site is such that a Tree Preservation Plan would not be applicable, or would serve no practical purpose.

(12) A Landscape Plan prepared in conformance with the City of Troy's Landscape Design Standards.

(13) Preliminary Floor Plans.

(14) Preliminary Building Elevations.

(15) ~~Proposed~~ Preliminary Grading Plans, in accordance with the City of Troy Engineering Design Standards.

(16) Preliminary Tree Preservation Plan.

(17) All drawings shall be sealed and signed by a State of Michigan Professional Engineer, Registered Architect, Registered Landscape Architect, or Professional Community Planner.

03.43.02~~3~~ A petition or request for Final Site Plan Approval shall be submitted on forms published by the Planning Department and shall contain the following:

(1) The modifications and/or additional information required by the Planning Commission at the time of Preliminary Site Plan Approval;

(2) Any and all executed Easements, Agreements, or other documents required in conjunction with Preliminary Site Plan Approval, or required in conjunction with Building and Engineering Plan Reviews, including, but not limited to, the following:

(a) The dedication of rights-of-way,

(b) The conveyance of easements for public utilities, private access drives, cross access easements, joint driveway easements and pedestrian easements,

(c) "Private Agreements" for the installation of Public Improvements, by the petitioner.

(d) "Irrevocable Petition Agreements" for participation in potential Special Assessment Projects involving Road, Pedestrian and/or Public Utility improvements.

(3) A current Title Commitment, indicating all parties in interest in the subject property.

(4) A statement from the Landscape Analyst ~~Superintendent of Public Grounds~~ indicating that the Landscape Plans have been submitted, approved and the related fees have been paid.

(5) Approved Engineering Site Plans, developed in accordance with the City's Engineering Design Standards, indicating the location of the major elements of:

(a) The water distribution system,

(b) The sanitary sewer system,

(c) The storm drainage system, including the location size and shape of required storm water detention basins or other detention facilities.

(6) Site area and building area information and calculations to confirm that Zoning Ordinance requirements such as parking and landscape area are met. Final building floor area information shall include all floor levels including basement and mezzanine areas.

(7) The location of Fire Lanes as recommended by the Fire Department.

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 _____, ____.

_____
Louise Schilling, Mayor

_____
Tonni Bartholomew, City Clerk

G:\ZOTAs\ZOTA 199 Site Plan Review\Proposed Text Amendment 08 04 04.doc

14. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA-199) – Article 03.40.00 Site Plan Approval

Mr. Savidant summarized the intent of the proposed revisions to the site plan zoning ordinance text.

A brief discussion was held with respect to specific criteria required for site plan approval; i.e., city projects, car dealerships.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution

Moved by Schultz Seconded by Wright

RESOLVED, that the Planning Commission hereby recommends to the City Council that ARTICLE III (APPLICATIONS AND PROCEDURES), Section 03.40.00 (SITE PLAN REVIEW / APPROVAL) of the Zoning Ordinance, be amended to read as follows:

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

03.40.00 SITE PLAN REVIEW / APPROVAL

03.40.01 INTENT

03.40.02 The site plan review requirements in this Article are intended to provide a consistent and uniform method of review of proposed development plans, to ensure full compliance with the regulations in this Ordinance and other applicable ordinances and state and Federal laws, to achieve efficient use of the land, to protect natural resources, and to prevent adverse impact on adjoining or nearby properties. It is the intent of these provisions to encourage cooperation and consultation between the City and the applicant to facilitate development in accordance with the City's land use objectives.

03.40.02 SITE PLAN REQUIRED

The development of any new use, the construction of any new structures, any change of an existing use of land or structure, and all other building or development activities shall require prior site

plan approval pursuant to this Article. Specifically, site plan review shall be required for any of the following activities:

(1) Erection, moving, relocation, conversion or structural alteration to a building or structure to create additional usable floor space, other than a one family or two family dwelling.

(2) Development of uses other than an individual one family residential unit in the R-1A, R-1B, R-1C, R-1D, and R-1E districts.

(3) Any change in use that could affect compliance with the standards set forth in this Ordinance.

(4) Expansion or paving of off-street parking and/or a change in circulation or access for other than a one or two family dwelling.

(5) The development or construction of any accessory uses or structures at least 1,000 square feet in area or greater, except for uses or structures that are accessory to a one or two family dwelling.

(6) Any use or development for which submission of a site plan is required by the provisions of this Ordinance, including all Special Use Approval applications.

(7) A substantial revision to a development that has received Preliminary or Final Site Plan Approval, as determined by the Planning Director and Building and Zoning Director.

(8) Changes to pedestrian access or site and building interconnectivity.

(9) The Planning Director has the authority to waive the site plan review requirement if it is determined that a project does not affect compliance with the standards of this Ordinance or other regulations.

03.41.00 PROCEDURE

03.41.01 A petitioner seeking Site Plan Approval ~~for proposed development and/or use of property within the City of Troy~~ as required under Section ~~03.41.01~~ 03.40.02 shall submit an application for same at the Planning Department of the City of Troy, together with the appropriate

fee, not less than thirty (30) days prior to the date of the Regular Meeting of the Planning Commission.

03.41.02 The Planning Department shall review the application with respect to the submittal requirements contained herein. Any application which fails to provide the information and materials specified within this Section shall be held in abeyance until all deficiencies have been rectified.

03.41.03 Applications in conformity with the requirements of this Section shall be reviewed inter-departmentally and any revisions and/or corrections necessary shall be made by the petitioner prior to presentation to the Planning Commission for Preliminary Site Plan Approval. The Planning Department shall inform the Planning Commission of any inter-departmental comments or concerns.

03.41.04 The request for Preliminary Site Plan Approval shall be presented to the Planning Commission and after action by the Planning Commission, the petitioner shall obtain a copy of the Approved Preliminary Site Plan upon which shall be noted any requirements for modifications, additional information, or executed documents and/or agreements. Planning Commission Preliminary Site Plan Approval shall be effective for a period of one year. Within that one year period the petitioner shall submit a complete application for Final Site Plan Approval to the Planning Department in accordance with Section 03.41.07**.** If the petitioner does not renew the Preliminary Site Plan Approval or receive Final Site Plan Approval within 1 year, Preliminary Site Plan Approval shall expire. If at the time of renewal, the Planning Director determines that conditions have changed since Preliminary Site Plan Approval was first granted, the petitioner shall be required to resubmit the application for Preliminary Site Plan Approval.

(11-19-90)

03.41.05 Landscape Plans, in conformity with the City's Landscape Design Standards, related to the required greenbelts, landscape and open space areas, shall be submitted with the application for the Preliminary Site Plan. ~~to~~ The Department of Parks and Recreation shall ~~for~~ review and approve ~~approval~~, the Landscape Plan prior to the application for Preliminary ~~Final~~ Site Plan Approval.

03.41.06 Building and Engineering plans, conforming to all applicable portions of the City Code and the City's Engineering Design Standards, shall be submitted to the Building and Engineering Departments for their review and approval.

03.41.07 The petitioner shall, after review of building and engineering plans by the Building and Engineering Departments ~~and after review of landscape plans by the Department of Parks and Recreation~~, and before granting of any building permits, submit the site plan to the Planning Department for consideration and Final Site Plan Approval. This site plan submittal shall include those items indicated under Section 03.43.03 of this Article. It shall be the responsibility of the petitioner to secure all necessary approvals and authorizations related to the items covered under Section 03.43.03.

(11-19-90)

03.41.08 The Planning Department will review the submittal for Final Site Plan Approval to ascertain that all the requirements of Sections 03.41.07 and 03.43.03 have been complied with. Any submittal which fails to provide the modifications, information and/or documents required shall be deemed incomplete and held in abeyance until all deficiencies have been rectified.

03.41.09 In the event that the Site Plan has been substantially revised from that which received Preliminary Site Plan Approval, <u>as determined by the Planning Director,</u> the Planning Department shall present the revised plan to the Planning Commission for their review and approval. The Planning Commission shall review the request for approval of the revised Site Plan, taking into account the configuration of the plan granted Preliminary Approval, and the implications of Building and Engineering Plan Review, along with any plan modifications proposed by the petitioner. The Planning Commission shall then, by resolution:

(1) Grant the request for Approval of the Revised Site Plan, subject to any additional modifications it deems necessary to assure the proper development of the proposed site and its' compatibility with adjacent or abutting properties, or

(2) Deny the request for Approval of the Revised Site Plan indicating specific reasons for denial, or

(3) Table the request for Approval of the Revised Site Plan, indicating the reasons for tabling.

03.41.10 When the Planning Department determines that the Final Site Plan is consistent with that which received Preliminary Site Plan Approval, and thus that further Planning Commission action is not necessary, they shall then review the applicable portions of

complete submittals in order to confirm that all necessary City Department approvals, authorizations or certifications have been received from Departments including, but not limited to, the Engineering, Right-Of-Way, and Fire Departments. The Planning Department shall then grant Final Site Plan Approval and shall notify the Chief Building Inspector that building permits can be issued.

(11-19-90)

03.41.11 In those instances where Planning Commission review and approval of a revised site plan is necessary, and where modifications to the site plan are required by the Planning Commission, no building permits shall be issued until five copies of the modified site plan have been submitted and have been approved by the Building and Engineering Departments.

(11-19-90)

03.41.12 Final Site Plan Approval shall be effective for a period of one year.

(11-19-90)

03.42.00 APPLICATIONS

Application forms for Site Plan Approval for proposed development and/or use of property within the City of Troy are obtainable at the Planning Department of the City of Troy.

03.43.00 SUBMITTAL REQUIREMENTS

03.43.01 A petition or request for Preliminary Site Plan Approval shall be submitted on forms published by the Planning Department and shall contain the following:

(1) The name, address and telephone of the person applying for Preliminary Site Plan Approval.

(2) The name, address and telephone of the owner of the property.

(3) The relationship between the applicant and the property owner.

(4) The present zoning classification of the subject property.

(5) The proposed use of the property.

(6) A Certified Topographic ~~Architectural~~ Survey and a Certified Boundary Survey of the property, prepared and sealed by a Licensed Land Surveyor. The legal description and boundary survey shall be provided on 8-1/2 x 14 pages attached to the application, suitable for recording in accordance with Act 132 of Public Acts of 1970. The legal description of acreage parcels and parcels from subdivisions platted prior to January 1, 1970 shall be tied to a recorded Section or Quarter-Section Corner. If the subject Section or Quarter-Section Corner is not recorded, it is the responsibility of the applicant to have the Corner recorded by a Licensed Surveyor by filing a "Land Corner Recordation Certificate" with the Oakland County Register of Deeds. A copy of the proposed "Land Corner Recordation Certificate" shall be attached to the Site Plan Approval application. The Planning Director may waive the Topographic Survey requirement for changes in use of existing buildings if each of the following conditions exist:

(a) No additional impervious surfaces will be constructed on the property.

(b) The Engineering Department determines that the existing storm water drainage system is sufficient given present conditions.

(7) A location map (minimum scale of 1"=400') indicating the subject property and the zoning classifications and uses of abutting and adjacent properties, on 8-1/2 x 11 pages, shall be attached to the application.

(8) Attached to this application shall be ten (10) ~~six (6)~~ prints of the proposed site plan drawn to a scale of not less than 1"=20', (1" = 50' for parcels of 3 acres or more) wherein the following items shall be clearly labeled and dimensioned:

(a) All drawings are to have a title block which shall have the name of the project and date of plans including revision dates.

(b) All drawings are to have a northpoint and the scale of the drawing is to be indicated.

(c) All lot and property lines.

(d) Location of all proposed structures.

(e) Existing and future right-of-way of adjacent streets, including centerlines and Section Lines where applicable.

(f) Location of all sidewalks, on and adjacent to the site, as required by the Zoning Ordinance and the Sidewalk Ordinance.

(g) Deceleration and passing lanes as required by the City of Troy Transportation Engineer.

(Rev. 5-17-93)

(h) Indication of the means by which storm water detention will be provided.

(i) Setbacks and required yards.

(j) Parking areas, access drives, loading and unloading areas, and trash receptacles.

(k) Greenbelts, landscape areas and other open space areas; and screening walls.

(l) The location of any existing driveways and streets within 100 feet of the subject property, including those across frontage streets.

(m) The location of existing cross access easements on abutting properties and the location of proposed cross access or joint drive easements on the subject property.

(n) Calculations for the following shall be included on the site plan:

1. Gross and net (after rights-of-way) site area.

2. Gross and net ("usable") building area.

3. Required parking and statement of parking provided.

4. Required landscape and open space area and statement of area provided.

(o) Site Plans for residential developments shall include the following additional information:

1. Calculation of the dwelling unit density allowable and a statement of the number of dwelling units, by type, provided.

2. Topography on site and 50 feet beyond, drawn at two (2) foot contour intervals, with existing drainage courses, flood plains, wetlands and tree stands indicated.

3. Two prints each of the typical floor plans and elevations of the proposed buildings, indicating building height.

(p) Existing and proposed grades.

(q) Number of employees on the largest working shift (if applicable).

(9) A wetlands determination shall be required for all applications for preliminary site plan approval, including subdivisions and site condominiums.

(10) An Environmental Impact Statement shall be attached as a part of the submittal when required in accordance with Article VII of the Zoning Ordinance.

(11) A Tree Preservation Plan in accordance with the City of Troy Landscape Design and Tree Preservation Standards shall be attached to all applications for Site Plan Approval. This requirement may be waived, by the Planning Director or by the Superintendent of Public Grounds, in those instances where the Topographic ~~Architectural~~ Survey and/or other written information provided by the applicant demonstrate that the nature of the site is such that a Tree Preservation Plan would not be applicable, or would serve no practical purpose.

(12) A Landscape Plan prepared in conformance with the City of Troy's Landscape Design Standards.

(13) Floor Plans.

(14) Building Elevations.

(15) Grading Plans.

(16) Preliminary Tree Preservation Plan.

(17) Indicate the method used to remove snow and the location of on-site snow storage areas.

03.43.03 A petition or request for Final Site Plan Approval shall be submitted on forms published by the Planning Department and shall contain the following:

(1) The modifications and/or additional information required by the Planning Commission at the time of Preliminary Site Plan Approval;

(2) Any and all executed Easements, Agreements, or other documents required in conjunction with Preliminary Site Plan Approval, or required in conjunction with Building and Engineering Plan Reviews, including, but not limited to, the following:

(a) The dedication of rights-of-way,

(b) The conveyance of easements for public utilities, private access drives, cross access easements, joint driveway easements and pedestrian easements,

(c) "Private Agreements" for the installation of Public Improvements, by the petitioner.

(d) "Irrevocable Petition Agreements" for participation in potential Special Assessment Projects involving Road, Pedestrian and/or Public Utility improvements.

(3) A current Title Commitment, indicating all parties in interest in the subject property.

(4) A statement from the Landscape Analyst ~~Superintendent of Public Grounds~~ indicating that the Landscape Plans have been submitted, approved and the related fees have been paid.

(5) Approved Engineering Site Plans, developed in accordance with the City's Engineering Design Standards, indicating the location of the major elements of:

(a) The water distribution system,

(b) The sanitary sewer system,

(c) The storm drainage system, including the location size and shape of required storm water detention basins or other detention facilities.

(6) Site area and building area information and calculations to confirm that Zoning Ordinance requirements such as parking and landscape area are met. Final building floor area information shall include all floor levels including basement and mezzanine areas.

(7) The location of Fire Lanes as recommended by the Fire Department.

Yeas	Nays	Absent
Kramer	Vleck	Chamberlain
Littman		Storrs
Pennington		
Schultz		
Waller		
Wright		

MOTION CARRIED

Mr. Vleck stated he is not in favor of the motion because Section 03.43.01, (8) (q) references the “largest working shift” and he thinks the criteria would arrive at a fictitious number because tenancy is not known and therefore the largest working shift is unknown.

D-3 Proposed Zoning Ordinance Text Amendment for Section 03.40 – Site Plan Review/Approval (ZOTA #199)

Vote on Resolution to Refer to Planning Commission

Resolution #2003-11-558
Moved by Lambert
Seconded by Beltramini

RESOLVED, That proposed Zoning Ordinance Text Amendment for Section 03.40 – Site Plan Review/Approval (ZOTA #199) be **REFERRED** to the Planning Commission for further review.

Yes: All-6
No: None
Absent: Stine

RECESS: 9:20 P.M. – 9:41 P.M.

PUBLIC COMMENT:

A. Items on the Current Agenda

E-21 Standard Purchasing Resolution 1: Award to Low Bidder – Tri-County Purchasing Cooperative Pager Rental Contract

Resolution #2003-11-559
Moved by Eisenbacher
Seconded by Broomfield

RESOLVED, That a contract to provide three-year requirements of pager rentals for the City of Troy and various members of the Tri-County Purchasing Cooperative with an option to renew for up to three years is hereby **AWARDED** to the low bidder, Verizon Wireless Messaging Services, for an estimated annual cost of $29,103.00, at unit prices contained in the tabulation dated October 28, 2003, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

BE IT FURTHER RESOLVED, That the award is **CONTINGENT** upon contractor submission of properly executed proposal and agreement documents acceptable to the City of Troy **AUTHORIZED AND EXECUTED** by the Mayor and City Clerk.

Yes: All-6
No: None
Absent: Stine

9. ZONING ORDINANCE TEXT AMENDMENT (ZOTA 199) – Article 03.40.00 Site Plan Approval

Mr. Miller reported City Council adopted a resolution that referred the matter back to the Planning Commission for further review. He indicated that City Council gave no specific direction, but noted that a lot of discussion was on snow removal.

Mr. Miller addressed three minor revisions recommended by City Management.

1. City Management recommends that a wetlands determination be submitted only when the Natural Features Map indicates the possibility of wetlands, and further that the authority be given to the Planning Director to waive the wetlands determination requirement.
   The Commission was in concurrence with the recommendation.

2. City Management recommends eliminating the requirements of submitting floor plans, building elevations and grading plans with the Preliminary Site Plan application.

   It was the consensus of the Commission that preliminary floor plans, preliminary building elevations and proposed grading plans should be a requirement for Preliminary Site Plan application.

3. City Management recommends that the methods used to remove snow and the location of on-site snow storage areas should not be required to be shown on the site plan.

   The Commission agreed to eliminate snow removal from site plan approval requirements because snow removal is now incorporated in off-street parking requirements.

Mr. Motzny confirmed that a public hearing would not be necessary for the language revisions agreed to this evening because the revisions were not substantial.

Chairman Littman requested the Planning Department to prepare the revised language for the January meeting.

6. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 199) – Article 03.40.00 Site Plan Approval

Mr. Savidant presented a summary of the Planning Department report for the proposed Zoning Ordinance Text Amendment.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2004-02-019
Moved by: Chamberlain
Seconded by: Schultz

RESOLVED, that the Planning Commission hereby recommends to the City Council that ARTICLE III (APPLICATIONS AND PROCEDURES) of the Zoning Ordinance, be amended as printed on the updated version, dated 12/09/03.

Yes: All present (8)
No: None
Absent: Vleck

MOTION CARRIED

7. ZONING ORDINANCE TEXT AMENDMENT (ZOTA 199) – Article 03.40.00 Site Plan Approval

Mr. Miller presented a summary on ZOTA 199, Site Plan Approval. He reported City Management recommends a minor change; that is, change the reference of "proposed" grading plans to "preliminary" grading plans.

There was a brief discussion on the one-year timeframe given to a petitioner to either receive final site plan approval or renew the preliminary site plan approval.

Chair Waller asked that the Planning Commission be provided an explanation should the Planning Director grant a wetlands determination waiver [reference Section 03.43.01 (9)].

Additional minor changes were discussed and agreed to.

Ms. Lancaster reported that the Legal Department would keep a copy of the Condominium Master Deed and Condominium Bylaws for filing purposes only.

There was a brief discussion on the timeframe within the approval process to submit the required legal condominium documents.

It was the consensus of the Commission to schedule ZOTA 199, Site Plan Approval, for a Public Hearing at the August 10, 2004 Regular Meeting.

8. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 199) – Article 03.40.00 Site Plan Approval

Mr. Miller reported that two minor changes were incorporated in the proposed zoning ordinance text amendment relating to Site Plan Approval. A provision was added that requires site plans to be sealed by a State of Michigan Professional Engineer, Registered Architect, Registered Landscape Architect or Professional Community Planner. In addition, the intent statement was strengthened.

Mr. Wright reported a typographical error in Section 03.43.01 (17); the words "State of Michigan Profession Engineer" should read "State of Michigan Professional Engineer."

The Planning Department noted the error and the correction will be made.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2004-08-090

Moved by: Chamberlain
Seconded by: Wright

RESOLVED, That the Planning Commission hereby recommends to the City Council that Article 03.40.00 Site Plan Approval of the Zoning Ordinance, be amended as printed, with the change as suggested by Mr. Wright, on the Proposed Zoning Ordinance Text Amendment, dated 08/04/04.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

DATE: September 3, 2004

TO: John Szerlag, City Manager

FROM: Douglas J. Smith, Real Estate & Development Director
Mark F. Miller, Planning Director

SUBJECT: ANNOUNCEMENT OF PUBLIC HEARING (SEPTEMBER 27, 2004) ARTICLE II (CHANGES, AMENDMENTS AND APPROVALS) ZONING ORDINANCE AMENDMENTS (ZOTA #203)

RECOMMENDATION

The Planning Commission has developed amendments to Section 02.00.00, Changes, Amendments and Approvals. The general intent of this text amendment is to clarify the powers and duties of the Planning Commission and add voting requirements. Presently these provisions are in Chapter 40 of the City Code, and Planning Commission By-Laws, not in the Zoning Ordinance, which is the more appropriate location. Therefore, Chapter 40 should be rescinded upon the effective date of the 207th amendment to Chapter 39, Zoning Ordinance, of the Code of Ordinances.

The Planning Commission held a Public Hearing on this item on August 10, 2004. Following the Public Hearing, the Planning Commission recommended approval of ZOTA #203. City Management agrees with the Planning Commission and recommends approval of the proposed text amendment.

Reviewed as to Form and Legality: _____ _____
Lori Grigg Bluhm, City Attorney Date

cc: File/ZOTA #203

Attachments:
1. ZOTA #203, dated June 16, 2004
2. Minutes from August 10, 2004 Planning Commission Regular Meeting
3. Meeting from June 22, 2004 Planning Commission Special/Study Meeting

PROPOSED ZONING ORDINANCE TEXT AMENDMENT
(ZOTA 203)
Article II - Planning Commission, Changes and Amendments to the Zoning Ordinance, and Approvals

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

The City of Troy ordains:

Section 1. Short Title

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

Section 2. Amendment

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

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

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

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

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

02.10.02 POWERS AND DUTIES

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

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

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

(3) The recommendation of approval to City Council of all preliminary plats subdividing land, site condominium plans, planned unit developments, some special use approval applications and any amendments or alterations thereof.

(4) The recommendation to City Council on ordinance text amendments, street and alley vacations or extensions, and historic district designations.

(5) Acting as the approval authority on site plans and most special use approval applications.

02.10.03 VOTING REQUIREMENTS

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

02.10.04 FINANCES

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

02.20.00 CHANGES AND AMENDMENTS

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

02.30.00 VESTED RIGHT

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

02.40.00 COMMISSION APPROVAL

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

02.50.00 ENFORCEMENT, PENALTIES AND OTHER REMEDIES

02.50.01 VIOLATIONS:

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

02.50.02 PUBLIC NUISANCE PER SE:

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

02.50.03 FINES, IMPRISONMENT:

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

02.50.04 EACH DAY A SEPARATE OFFENSE:

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

02.50.05 RIGHTS AND REMEDIES ARE CUMULATIVE:

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

Section 3. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for

offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 4. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 5. Effective Date

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

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

_____
Louise Schilling, Mayor

_____
Tonni Bartholomew, City Clerk

G:\ZOTAs\ZOTA 203 Planning Commission Chapter 40\Plan Com and City Mgt Version 06 16 04.doc

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

The City of Troy ordains:

Section 1. Short Title

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

Section 2. Amendment

Repeal of Chapter 40.

~~CHAPTER 40~~

~~CITY PLANNING COMMISSION~~

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

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

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

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

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

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

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

Section 3. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 4. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 5. Effective Date

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

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

_____
Louise Schilling, Mayor

_____
Tonni Bartholomew, City Clerk

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

Mr. Miller provided a summary of the proposed zoning ordinance text amendment that would clarify the powers and duties and voting requirements of the Planning Commission.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2004-08-092

Moved by: Wright
Seconded by: Schultz

RESOLVED, That the Planning Commission hereby recommends to the City Council that Article 02.00.00 - Changes, Amendments and Approvals of the Zoning Ordinance, be amended as printed on the Proposed Zoning Ordinance Text Amendment, dated 06/16/04.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

9. 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 presented a summary on ZOTA 203, Changes, Amendments and Approvals to Article II, Chapter 40. He reported that City Management recommends the proposed text be changed to reflect that the compensation of the Planning Commission would be determined by the City Council. This text change would eliminate the requirement to amend the Zoning Ordinance should there be a change in the Planning Commission compensation.

A short discussion followed.

It was the consensus of the Commission that the recommendation to City Council would incorporate the City Management revision. It was further determined to schedule ZOTA 203, Changes, Amendments and Approvals to Article II, for a Public Hearing at the August 10, 2004 Regular Meeting.

Memorandum

To: John Szerlag, City Manager
From: John M. Lamerato, Assistant City Manager/Finance and Administration
Tonni L. Bartholomew, City Clerk
Date: September 3, 2004
Subject: State of Michigan Election Consolidation Elimination of City of Troy April General/Regular Election Date and the Establishment of New City General/Regular Election Date

---

As you are aware, the State of Michigan enacted Election Consolidation Laws, which have many impacts on Troy elections. The City of Troy has been diligent in implementing these new laws and has already placed several items before the electorate and will continue to work towards implementation prior to January of 2005. The immediate issue at hand is the selection of the City's General/Regular Election date.

State Law mandates that all elections within the State fall on one of four dates annually. Cities that do not currently conduct their local elections on the first Tuesday after the first Monday in odd-year Novembers are able to select either a May annual or bi-annual date or odd-year November date as the Local General/Regular election date. Should the City take no action, the Local General/Regular Election date would automatically fall to the odd-year November date.

Should City Council determine that they do not wish to automatically proceed to the odd-year November date, Council shall conduct a public hearing and immediately following such hearing, take action on establishing the Local General/ Regular Election date. The public hearing and action shall occur between September 1, 2004 and December 31, 2004.

Similarly, the School Districts that service City of Troy residents are also encompassed in the new consolidation laws and are mandated to establish their School Election dates as outlined above with the exception that they may, in addition to the May and November dates, select a fourth Tuesday in February date.

Effective January 2005, the Troy City Clerk's Office is mandated by law to conduct the Troy School District elections and may be involved in the conduct of

elections for the remaining districts within Troy. School Districts that select dates that do not coincide with the local elections will be responsible for reimbursement of election costs associated with the conduct of their election.

The City Clerk's Office has estimated the cost of an election to be $43,000.00. The projection does not include straight time wages. While straight time wages are not refundable it does merit noting that the impact of an additional School District Election annually on Clerk's Office staffing is significant. The administration of an election involves approximately two and one-half to three months of staffing prior to each election and two weeks of election wrap-up following an election.

The Clerk's Office routinely receives several public contacts associated with the odd-year November elections. Every odd-year in the past we have received several phone calls and counter contacts from residents requesting information regarding where they vote and what is on the ballot. Staff informs the residents that the City of Troy had an April General/Regular Election and does not have a November election. This has caused confusion and frustration amongst voters who believe that elections occur in November and that belief is reinforced by the news media providing coverage of the neighboring communities elections.

City Management recommends that based on the cost of administering elections and voter participation, that the City Council should select the odd-year Novembers for Local General/Regular Elections. As indicated above, the election date is established by either the Council taking no action or conducting a public hearing and then immediately making a resolution for an odd-year November Election date.

April 2004 Election Costs		$
Election Inspector Wages:	$	24,028.50
Full-time Employee Overtime Wages:	$	3,788.40
Building Operations Assistance Wages:	$	1,953.74
Ballots (31 Precincts):	$	3,859.50
Precinct Kits (31 + 32C):	$	504.00
Election Inspector Training Materials:	$	1,750.00
Postage (Election Inspector Mailings):	$	122.50
Absentee Voter Ballots (Folded):	$	852.50
AV Pencils:	$	635.00
AV Applications:	$	837.50
AV Secrecy Envelopes:	$	622.50
AV Inside (Return) Envelopes:	$	855.00
AV Outer Envelopes:	$	935.00
Shipping/Freight:	$	48.40
Postage (ballots and applications):	$	1,079.57
Prom Pack Coding:	$	550.00
Legal Ads:	$	109.17
Miscellaneous Operating Supplies:	$	1,000.00
TOTAL:	**$**	**43,531.28**

****Full-time and Part-time straight hour wages not included.****

RECEIVED
SEP 07 2004
CITY OF TROY
CITY MANAGER'S OFFICE

E-22

September 7, 2004

TO: John Szerlag, City Manager

FROM: Charles T. Craft, Chief of Police

SUBJECT: Agenda Item - Request To Waive Parking Restrictions

Jack Morton Worldwide, which is located at 1921 Northwood, requests that the no parking restrictions directly in front of 1921 Northwood be waived on September 14 and 16, 2004, for the purpose of parking two busses being utilized to transport Ryder Cup entertainers. They do not believe their parking lot is large enough to accommodate all the vehicles being used to transport Ryder Cup staff and entertainers.

Company representatives have assured me that the busses will not block any fire hydrants. The street is of sufficient width to all for the parking of the busses. We will remind the company to park the busses in the lot in such a fashion as to allow for emergency vehicle traffic around the building.

The Fire Department supports the granting of this waiver.

COUNCIL REFERRALS

A)

City Management received a request from Council Members Howrylak and Lambert to reconsider Council Resolution #2004-07-368, which reads as follows:

> RESOLVED, That City Council resolution 2004-07-368 is reconsidered:
>
> 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

Previous memoranda pertaining to this matter is enclosed.

On a related matter, an item under J-2 includes a letter dated September 8, 2004 from the Stop Interchange Now (SIN) Coalition requesting an advisory vote on the proposed I-75/Crooks/Long Lake Interchange project.

City of Troy

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

Area code (248)

Assessing
524-3311

Bldg. Inspections
524-3344

Bldg. Operations
524-3368

City Clerk
524-3316

City Manager
524-3330

Community Affairs
524-1147

Engineering
524-3383

Finance
524-3411

Fire-Administration
524-3419

Human Resources
524-3339

Information Technology
619-7279

Law
524-3320

Library
524-3545

Parks & Recreation
524-3484

Planning
524-3364

Police-Administration
524-3443

Public Works
524-3370

Purchasing
524-3338

Real Estate & Development
524-3498

Treasurer
524-3334

General Information
524-3300

September 1, 2004

Linda Thielfoldt
646 E Long Lake Road
Troy, MI 48085

Dear Ms. Thielfoldt:

The Troy City Clerk's Office has reviewed the petitions filed by the SIN group at the Special City Council meeting on Monday, August 30, 2004. The petition forms are found to be insufficient, as they do not contain a sworn statement of the circulator on each page as required by both Michigan Election Law, MCL 168.544c, and the City of Troy Charter Section 5.11.

As directed by the Bureau of Elections, I have reviewed both the Troy City Charter and Michigan Election Law and am unable to find a provision, which allows for the placement of an advisory question on a ballot. Additionally, I have talked with Mr. Christopher Thomas, Director of the State of Michigan Bureau of Elections, and Ellen Halsey, Oakland County Director of Elections, and they have both informed me that we cannot place an advisory question on the ballot.

At this time I will file the petitions with the Special Council Meeting of August 30, 2004 documents and notify the City Council of the insufficiency of the petitions.

While I recognized the efforts extended by the SIN group, I am unable to forward this matter on for ballot placement.

Sincerely,

Tonni L. Bartholomew

Tonni L. Bartholomew, MMC
City Clerk

CC: Troy City Council
John Szerlag, Troy City Manager
Lori Grigg-Bluhm, Troy City Attorney
Ellen Halsey, Oakland County Elections
Christopher Thomas, State of Michigan Bureau of Elections

May 27, 2004

TO: The Honorable Mayor and City Council Members

FROM: John Szerlag, City Manager

SUBJECT: Call For Special Meeting

Council Members Lambert and Eisenbacher called for a special meeting of the Troy City Council for 7:30 p.m. on Monday, August 30, 2004 in the City Council Chamber to take action on agenda items carried over from the Regular City Council Meeting held on Monday, August 23, 2004.

An agenda for these remaining items will be distributed today. In addition, attached is supplemental information relative to the 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 question for the November, 2004 election. Succinctly, all deadlines for the submittal of local ballot questions for the November general election have passed.

c: Tonni Bartholomew, City Clerk
Lori Bluhm, City Attorney
Peggy Clifton, Human Resources Director
Charles Craft, Chief of Police
John Lamerato, Assistant City Manager/Finance
William Nelson, Fire Chief
Doug Smith, Real Estate and Development Director
Steve Vandette, Acting Assistant City Manager/Services

My documents\szerlag\2004\To M&CC\Call for Special Meeting

City of Troy

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.

Memorandum

To: Honorable Mayor and City Council
From: John Szerlag, City Manager
John M. Lamerato, Assistant City Manager/Finance and Administration
Barbara A. Holmes, Deputy City Clerk
Susan M. Lancaster, Assistant City Attorney
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 LGB
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 or 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)

City of Troy

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

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 (initiatory 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

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

Governor Jennifer M. Granholm
P.O. Box 30013
Lansing, Michigan 48909

Dear Governor Granholm:

The proposed new interchange at I-75 and Long Lake Road is a bad idea for Troy! *It is not too late* to stop this expensive and unwanted project. Because the mayor of Troy and a majority of Troy City Council members have disregarded the ongoing public outcry, **Stop Interchange Now!** (SIN) is launching a petition drive to put this issue to a public advisory vote on the November general election ballot.

SIN opposes this project for the following reasons:

- **Not necessary!** We already have an interchange just one-half mile north of Long Lake at Crooks Road.
- **Costs too much!** This project will cost the City of Troy $2 million this year, and *at least* another $13 million in future years. Estimated cost to the state is at least $40 million!
- **Troy doesn't have the money!** The city administration admits that it will have to dip into reserves to pay for the project.
- **Tax hike!** Reserves won't be enough. An August 2003 memo from City Manager John Szerlag confirms that a tax increase will be necessary to cover costs for the project. Assistant City Manager John Lamerato recently disclosed that Troy citizens could face a tax increase within one year.
- **Increased traffic, congestion, noise and safety hazards!** The widening of Long Lake Road and the increased traffic will impact Long Lake Road and many nearby streets, creating increased congestion, noise and safety hazards.
- **Loss of green space!** If Troy is truly to become a "Cool City," then why did council cut $500,000 from the parks budget while spending money on an unnecessary road project? This project will take away green space on the east side of I-75.
- **Troy City Council ignores the will of the people!** Why are Mayor Louise Schilling and Council members Jeanne Stine, Robin Beltramini, Cristina Broomfield and David Eisenbacher turning deaf ears to the voice of the people? The outcry against this project is long and loud! Perhaps you will heed the results of an advisory vote in November. It is the *people* that matter most, not the businesses in Northfield Hills! Councilmen Martin Howrylak and David Lambert should be commended for their opposition to this wasteful project.

Please urge M-DOT and the Michigan Legislature to stop this unnecessary and unwanted project. I am sure that the $40 million it will cost the State of Michigan to build this interchange could be put to better use elsewhere in the state where the need for traffic improvements is much greater! I don't want to see my taxes go up, and I don't want more traffic and noise in Troy.

Respectfully,

Jon C. Angell, CPA

Address & Phone:
ANGELL & COMPANY, P.L.L.C.
3250 W. Big Beaver, Suite 139
Troy, MI 48084

248 649870

CC: CITY OF TROY

COUNCIL REFERRALS

B)

Council Member Stine has offered the resolution below for consideration:

> WHEREAS, The building permit issued for an "Addition to House and Large Attached Garage" at 3129 Alpine was issued in violation of existing City of Troy Zoning Ordinances, and
>
> WHEREAS, The person applying for the permit provided false information to obtain this building permit,
>
> NOW, THEREFORE BE IT RESOLVED, That City Management continue negotiating with the residents at 3129 Alpine to reduce the footprint and change the exterior of the 6,000 square foot attached accessory garage which is under construction so that the dual purpose of achieving neighborhood compatibility and a functioning attached garage for the residents can be accomplished.
>
> YES:
> NO:
> ABSENT:

Also included are previous memoranda related to this issue.

In a related matter, an item under J-2 contains a memo from Mr. Tom Krent requesting that the City Manager continue to negotiate with Mr. Piscopo of 3129 Alpine.

City of Troy

8/18/04

TO: John Szerlag, City Manager

FROM: Susan M. Lancaster, Assistant City Attorney

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.

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.

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

Smith
Miller
Vandette
Simic

CARLISLE/ WORTMAN Associates, Inc.

Community Planners Landscape Architects
605 S. Main, Suite 1 Ann Arbor, MI 48104 734-662-2200 *fax* 734-662-1935

FAX COVER SHEET

RECEIVED
AUG 0 2 2004
BUILDING DESIGN & SERVICES

PLEASE DELIVER THE FOLLOWING PAGES TO:

Name: John Szerlag

Date: 7-30-04

Organization:

Fax Number: 248 524-0851

THIS TRANSMISSION IS FROM:

Name: Dick Carlisle

 # OF PAGES SENT (Including Cover Sheet): 8

MESSAGE:

If any pages are not received, please call LIZ at 734-662-2200

CARLISLE/WORTMAN Associates, Inc.

Community Planners Landscape Architects
605 S. Main, Suite 1 Ann Arbor, MI 48104 734-662-2200 *fax* 734-662-1935
6401 Citation Dr., Suite E Clarkston, MI 48346 248-625-8480 *fax* 248-625-8455

July 30, 2004

RECEIVED
AUG 0 2 2004
BUILDING DEPARTMENT

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

Dear Mr. Szerlag:

You have asked for my opinion regarding a course that the City may take on the regulation of accessory garages in residential districts. On the basis of my review of the Ordinance, along with the background material provided to me by your staff, it is both appropriate and necessary for the City to modify the current approach to the regulation of accessory garages.

When regulating accessory garages of any kind, primary issues of consideration should be size, compatibility and use. I would also preface my recommendations are based in the belief that regulations do not have to be overly complex to be effective. To illustrate various points, I have included examples.

Size

The traditional manner of regulating accessory garages is size (i.e., square footage and height). As Section 40.55.00 Accessory Building and Structures has been applied, there is no size restriction on attached accessory structures other than occupied area of the rear yard. There are further restrictions on detached accessory structures, limiting them to 600 square feet or one half of the ground floor area of the residence.

In the instance of attached garages, a restriction on size would also be reasonable. Generally, communities limit the size of attached garages to a specific square footage (see Independence Township) or on the basis of the ground floor area of the dwelling (see Novi).

I prefer the latter approach, but not necessarily the Novi Ordinance. It seems quite reasonable to prevent a garage from being larger than the dwelling to which it is supposed to be accessory. A simple limitation that the attached garage cannot exceed the ground floor area of the residence would be effective.

In addition, you may also wish to consider allowing larger detached accessory structures based upon the size of the lot (see Orion Township). Again, it would seem reasonable that larger lots could accommodate larger accessory buildings.

Use

Use is always problematic. Once a structure is built, it is difficult to regulate what occurs inside. However, it is important to remember that accessory uses and, the structures which accommodate them, must be incidental and subordinate to the principle residential use.

One of the reasons why exceptionally large attached garages are built in Troy is the ambiguous restrictions on the parking of commercial vehicles in residential districts. While Section 40.66.00 restricts the outdoor parking of commercial vehicles, it does not restrict indoor parking of large commercial vehicles. To store such a vehicle also requires that the vehicle be driven through the neighborhood, creating a nuisance to residents and creating a safety problem, especially for children. In general, the continued presence of large commercial vehicles is inconsistent with the intent of the R-1A through R-1E Districts, and with the longstanding policy in Troy of protecting neighborhoods. Therefore, I would also suggest that the City re-evaluate the approach towards the parking of commercial vehicles in residential areas (See Orion).

I would also suggest the City reconsider the appellate procedures set forth in Section 44.02.00 for commercial vehicles that currently are heard before City Council. It is unusual for a City Council, a legislative body, to be put in the position to hear appeals on regulations it has passed. In addition, the standards set forth in Section 44.02.02 seem to be weighted more in favor of the applicant rather than providing protection to the neighborhood and public health, safety and welfare.

Compatibility

For now, I would advise the City to address the compatibility issue in the traditional ways; size, height, bulk, and setbacks. Attempting to regulate the types of materials becomes overly complicated and is likely to raise objections.

I hope this is helpful to you and Council in your deliberations. As always, I would be happy to attend a meeting to discuss this issue.

Sincerely,

CARLISLE/WORTMAN ASSOCIATES, INC.

Richard K. Carlisle, PCP, AICP

RECEIVED
AUG 0 2 2004
BUILDING DEPARTMENT

RKC: lh

225-05-2401

Independence

(2) The allowable floor area of a residential garage, whether attached or detached, shall not exceed nine hundred (900) square feet in the R-1A district and twelve hundred (1,200) square feet in the R-1B, R-1C, and R-1R districts.

(3) In the case of a combination of an attached and detached garage, the detached garage shall not exceed the difference between the square footage of the attached garage and allowable square footage set forth in section 5.03.1.b.(2), i.e., the total square footage of the attached and detached garage shall not exceed the allowable square footage of a residential garage.

(4) An attached residential garage shall conform to all setback and height requirements applicable to the principal dwelling.

Novi

RECEIVED
AUG 0 2 2004
BUILDING DEPARTMENT

Sec. 2503. Accessory Uses.

Accessory uses, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

1. *Accessory Buildings.*

   A. Where the accessory building is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this Ordinance applicable to the main building.

   B. Accessory buildings shall not be erected in any required front yard or in any required exterior side yard.

   C. No accessory building shall occupy more than twenty-five (25) percent of any required rear yard, provided that in a residential district, the accessory building shall not exceed the ground floor area of the main residence.

   D. No detached accessory building shall be located closer than ten (10) feet to any main building nor shall it be located closer than six (6) feet to any interior side lot or rear lot line.

   E. In those instances where the rear lot line abuts an alley right-of-way, the accessory building shall be no closer than one (1) foot to such rear lot line. In no instance shall an accessory building be located within an easement or dedicated rights-of-way. In those instances where the rear lot line abuts a street right-of-way, the accessory building shall be no closer to this line than the required front yard setback in the district in which the property is located.

   F. No detached accessory building in the R-1 through R-4, RT, RM-1, MH, OS-1, OS-2, B-1, P-1, and NCC Districts shall exceed one (1) story or fourteen (14) feet in height. Accessory buildings in all other districts may be built to a height equal to the maximum permitted height of the district; provided, if the accessory building exceeds one (1) story or fourteen (14) feet in height, the building shall be set back one (1) foot for each foot the building exceeds fourteen (14) feet in height.

   G. No detached or attached accessory building(s) intended for the parking and storage of private motor vehicles shall exceed, in total aggregate floor space of all such accessory buildings on a lot, six hundred (600) square feet in gross floor area in an R-2, R-3, R-4 or RT District or seven hundred fifty (750) square feet in an R-A or R-1 District. *

   In addition to the above allowable space for the parking and storage of private motor vehicles, there may be up to two hundred and fifty (250) square feet of space associated with said garage or in a separate detached accessory building on the same lot for the storage of tools and recreation equipment and/or for a dog house.

   Notwithstanding the above, not more than one (1) detached accessory building shall be permitted on any lot having less than 21,780 square feet of area. Use of any detached accessory building in any Residential, Business or Office District for a use other than the parking and storage of private motor vehicles, tools, recreation equipment or dog houses requires review and approval by the Board of Appeals.

   In no instance shall an accessory building exceed the ground floor area of the principal building on the lot or parcel. Notwithstanding the above, an accessory building in a R-A or R-1 District may exceed the ground floor area of the main building on the lot if (1) the lot or parcel of land on which the accessory building is located has at least one (1) acre of area, (2) such accessory building is *

RECEIVED AUG 0 2 2004 BUILDING DEPARTMENT

customarily incidental to an existing permitted principal use in said Districts, (3) does not exceed two thousand five hundred (2,500) square feet in ground floor area, and (4) complies with applicable setback requirements at Section 2508, 4 and 5, unless approved by the Board of Appeals upon a showing of need and no adverse effect upon adjacent properties.

2. *Accessory Structures.*

A. Accessory structures, except where otherwise permitted and regulated in this Ordinance, shall be located in the rear yard and shall meet the setback requirements of an accessory building.

B. Flagpoles may be located within any required front or exterior side yard. Such poles shall be located no closer to a public right-of-way than one-half (½) the distance between the right-of-way and the principal building.

C. (1) Canopies covering gasoline pump islands may extend into the required front or exterior side yards to a point fifteen (15) feet from the street right-of-way line. No signs shall be placed on any canopy other than a sign showing the height of the canopy. Such signs shall not exceed one (1) square foot in total display area.

(2) Canopies or awnings installed on the facade of a building shall not be considered as extending into the setback area, providing:

(a) The canopy or awning is retractable, or the canopy or awning can readily be disassembled without visible damage to the building facade or canopy itself; and

(b) If the canopy or awning is in a nonresidential area, administrative approval through the planning department is granted to assure compliance with this section and all other Zoning Ordinance requirements.

D. Structures such as private television antennas, pole antennas or other private communication antennas, or towers, shall be located in the rear yard or on a rooftop so long as the height of the antenna, or tower, does not exceed the minimum horizontal distance from its base to the nearest property line; except in no case shall an antenna or tower exceed the maximum height limitation of the district in which it is located. Dish antennas in single- and two-family districts shall be located in the rear yard only and shall be placed in accordance with the requirements governing setbacks for accessory buildings. Dish antennas in all other districts shall be located in the rear yard, an interior yard area that does not make up any part of a peripheral yard area, or on the top of buildings with flat roofs at or near the center of the roof.

E. The following restrictions shall apply to all buildings and structures other than for single-family residences:

(1) All roof top climate control equipment, elevator towers, transformer units and satellite dish antenna and similar items shall be screened from view so as not to be visible from any street, road or adjacent property. The planning commission may provide a waiver of this requirement as to satellite dishes where the requirement prevents the reception of satel-

3. A building, structure or use which is accessory to a single-family dwelling and attached to it shall, for the purposes of location and setbacks, be considered part of the principal building.

4. A building, structure or use which is accessory to a single-family dwelling and detached from it shall meet the same front and side yard setback requirements as the principal structure, as set forth in the Schedule of Regulations in Article XXVI of this Ordinance. However, the minimum rear yard setback shall be ten (10) feet for all detached accessory buildings. All accessory buildings and structures shall be included in the computation of total maximum area of all accessory buildings, and together with the principal building or structure shall not exceed the percentage of lot coverage requirements.

5. Detached accessory buildings or structures in non-residential districts shall conform to the height requirements for the principal building or structure, as set forth in the Schedule of Regulations in Article XXVI, except as specifically permitted otherwise in this Ordinance. However, detached accessory buildings or structures in non-residential districts that exceed the height of the principal building or structure, as constructed, shall not be located in the front yard.

   Detached accessory buildings or structures in residential districts shall not exceed the height of the principal building or structure as constructed. However, the height of a detached accessory building or structure may exceed the height of the principal building or structure, if said accessory building or structure is located at least one hundred fifty (150) feet distant and to the rear of the principal building or structure. In no case shall the height of a detached accessory building or structure exceed the maximum height requirement for the principal building or structure, as set forth in the Schedule of Regulations (Article XXVI), except as specifically permitted otherwise in this Ordinance.

6. Household animal enclosures, dog runs, central air conditioning units, heat pumps, and other mechanical system components that could, or are likely to, produce noise, odor, or other nuisances shall not be located adjacent to an adjoining property owner's living or sleeping area where windows and/or doors would be exposed to the nuisance.

   It is the intent of these provisions to place the responsibility of abating or controlling nuisances on the owner of the lot where the nuisances are produced, rather than on the adjoining neighbors.

7. Accessory buildings or structures are not to be used for commercial operations other than home occupations, as defined in Article II, Section 2.01.

8. The total of all accessory buildings or structures in a single-family residentially zoned district or on a parcel used for a single-family dwelling, except as modified in Paragraph 9, shall not exceed the following *(amended 11.28.85)*:

LOT SIZE	MAXIMUM FLOOR AREA OF DETACHED ACCESSORY BUILDINGS	MAXIMUM FLOOR AREA OF ATTACHED ACCESSORY BUILDINGS	TOTAL MAXIMUM FLOOR AREA OF ALL ACCESSORY BUILDINGS *
Up to 1/2 acre	750 sq. ft.	75% of the principal structure	1,150 sq. ft.
1/2 to 1 acre	900 sq. ft.		1,300 sq. ft.
1 to 2.5 acres	1,000 sq. ft.		1,500 sq. ft.
Over 2.5 acres	1,400 sq. ft.		1,900 sq. ft.
* Includes the combined floor area of each story of the structure.			

RECEIVED
AUG 0 2 2004
BUILDING DEPARTMENT

9. The total area of all accessory buildings or structures on a single-family residentially zoned parcel shall not exceed the above noted area, except in the following cases after consideration and approval by the Zoning Board of Appeals *(amended 11.28.85)*:

Orion

Section 6.00 - Preamble

The R-1, R-2, and R-3 Single Family Residential Districts are intended to provide areas within the Township suitable for residential use in a family type atmosphere. It is intended that R-1, R-2, and R-3 Districts be developed in accordance with availability of public utilities. Thus, it is intended that areas be established where public utilities are not available while smaller lot areas be established only where public sewers are available. R-1, R-2, and R-3 zones are designated in accordance with the Township Master Plan objectives in keeping with the semi-rural character envisioned for the majority of the Township. Furthermore, it is intended that the designation of R-1, R-2, and R-3 Districts take into account and preserve the environment and physical characteristics of the land.

RECEIVED AUG 0 2 2004 BUILDING DEPARTMENT

Section 6.01 - Principal Uses Permitted

The following uses shall be permitted, subject to the standards and requirements set forth herein:

A. Single family detached buildings.

B. Agriculture and farming use, including livestock and poultry raising, dairying, horticulture, forestry, sod farming, and similar agricultural enterprises or use of land or structures.

C. Mobile homes, subject to the standards set forth in Section 6.05. *(amended 11.01.84)*

D. Planned Unit Development, subject to the standards and approval requirements set forth in Section 30.13. *(amended 04.10.86)*

Section 6.02 - Accessory Uses Permitted

A. Accessory buildings, structures and uses, customarily incidental to any of the principal uses, when located on the same property and not involving any business, profession, trade or occupation other than provided for in the R-1, R-2, and R-3 Single Family Residential Zoning District.

B. A garage designed and used for the storage of not more than three (3) vehicles owned and used by the occupants of the primary residence. In addition, one (1) commercial vehicle may be parked on site or as permitted on the street in the residential district only in accordance with the following conditions *(amended 11.19.01)*:

1. The vehicle shall be used as the principal means of transportation of a resident of the dwelling and as an integral part of their employment, business or profession.

2. The commercial vehicle is not a dump truck, stake truck, flatbed truck, wrecker, septic tank pumper, semi-tractor, tanker truck, well-drilling rig, welding truck, semi-trailer or any type of commercial or construction equipment. Construction equipment is further defined in Article II of this Ordinance.

3. No part of the vehicle shall exceed nine (9) feet in overall height measured from the ground, nor shall the vehicle exceed twenty-one (21) feet in length.

4. The vehicle has no exposed outside storage of lumber, tools, pipes, glass or building material.

5. The vehicle has no more than one (1) rear axle and it does not exceed a three (3) ton pay load capacity.

However, the parking or storage of commercial vehicles or commercial equipment shall be allowed in any zoning district where such parking or storage is limited to vehicles or equipment engaged in the performance of a service on the adjacent or underlying property, for the period of time reasonably necessary to complete the service. Utility service vehicles, emergency service vehicles and agricultural vehicles are also exempt from these provisions.

July 16, 2004

To: John Szerlag, City Manager

From: Nino Licari, City Assessor

Cc: John Lamerato, Assistant City Manager – Finance/Administration

Re: Value influence of architecturally different attached accessory structures, either smaller than the primary residence, or larger

You had requested an estimate of potential value loss in properties in proximity to residential buildings with attached accessory structures; both with architecture conforming to the residence or architecture not compatible with the residence. Additionally, I will briefly opine on these accessory structures being smaller, or larger than the primary residence.

We have literally thousands of instances where an attached garage (accessory structure) is built was built in conjunction with the primary residence. These structures are of identical architectural styles as the primary residence, and less than half of the ground floor area of the residence.

In these instances, there is no impact, whatsoever, on the value of surrounding properties.

I was able to identify fourteen (14) residences with attached garages that are either almost equal (2), or greater in size (12) to the existing residence (see attached listing). All of these accessory structures were either added to the residence at a later date, or had the original garage expanded.

They range in size from 95% of the size of the residence, to 2.5 times the size of the residence. The majority of these structures (11) are less than 40% larger than the existing residence.

What is important to note, is that **all** of these attached accessory structures have conventional residential architectural styles, that either match, or compliment the residence. They also have conventional residential garage wall heights (8' to 10'), and typical residential roof peak heights (12' to 18').

Based on the market in these areas, I was unable to see any negative impact on the value of these properties.

As far as the situation occurring at 3129 Alpine, the structure under construction is 3.21 times the floor area of the existing residence (see attached building footprint sketch). It is a pole barn type of architecture. In other words, it is a wood pole frame construction, with prefabricated metal siding.

The wall height is 20 feet. The peak of the gable roof will be 24 feet in height. The roof will have a metal sheathing cover, instead of conventional shingles.

This structure will extend almost 120 feet past the rear of the house.

This structure will be attached to a conventionally built 2 story residence, with both brick and frame siding.

While the home is being remodeled to a more modern and pleasing state, the barn is not in compliance with any other home in the area, and therefore poses the greatest risk to value.

This structure is not only massive in its footprint, it will be extremely tall . Without some heavy screening, or a more esthetically pleasing exterior, I would estimate that this structure has the potential to affect the value of neighboring homes by as much as 10%, and possibly more.

Please bear in mind that this particular situation does not exist anywhere else in Troy. However, my estimate of value loss is based on similar situations where a different use either backs, sides, or fronts a residential area.

It is also my opinion that limitations on the size of these structures, and mandated architectural similarities to the exterior of the existing and surrounding residences would eliminate any loss in value from neighboring properties.

July 13, 2004

To: John Szerlag, City Manager

From: Nino Licari, City Assessor

Cc: John Lamerato, Assistant City Manager – Finance/Administration

Re: Attached Garages equal to or greater than home size

Per your request at today's staff meeting, attached is a listing of residential garages that are equal, or larger, in size than the home they are attached to.

Please note that there are 14 such instances in the City (exclusive of the home on Alpine). I had noted that we had 10 such structures at the meeting.

Mitch Grusnick was able to alert me to a new home under construction on Windmill (5287).

Additionally, the Building Department considers a garage, with a breezeway between it and the home, to be attached. Our software considers this to be separate. As the ordinance addresses attached garages, I searched for any additional garages that might fit this criteria.

One additional home was discovered, along with two other homes that had garages just slightly less than equal in size to the main residence. This brought the total to 14.

It should be noted that all of these garages have conventional residential construction materials, none are metal, pole barn type structures.

I am available if you have any questions.

DATE: July 9, 2004

TO: John Szerlag, City Manager

FROM: Steven J. Vandette, Acting Assistant City Manager/Services
Mark Stimac, Director of Building and Zoning

SUBJECT: Enforcement Activities – 3129 Alpine

On Tuesday, July 6, 2004, we visited the site at 3129 Alpine. The purpose of that visit was to review the construction that is underway and to examine the site for compliance with the provisions of the Troy City Ordinances regarding zoning, use, junk vehicles, and litter. The site is the location of a single family home that is in the process of being added to both in the living space and in the construction of a very large attached garage. This work is being done under permits that were issued in August of 2003.

To the best of my knowledge and belief, the additions to the home and the construction of the attached garage are being done in compliance with the provisions of the Troy Zoning Ordinance and the Michigan Building Code governing their construction. At this time the framing, enclosure, and interior finishes on the home addition are complete. The exterior siding on the home is yet to be completed. The foundations, portions of the slab and some of the vertical structural framing for the garage are in place.

As a construction site, there is expected, and permitted, to be some construction equipment and materials stored on the site. This would include the structural steel, siding materials, decorative columns, and a construction lift. Since the work included in this project also included the demolition of an existing attached garage, certain amounts of personnel household equipment and supplies that would normally be found in a residential garage would also be expected to be now outside on the site. This site is also a location where City Council recently renewed approval for the outdoor parking of two commercial vehicles. Those vehicles are also currently on the site.

In addition to the permitted materials that are listed above, a review of the site also identified that there were other materials and equipment stored on the site that are not permitted by the ordinance. We noted at least three lawnmowers that are on the site. Based upon the fact that the weeds on the site have not been cut in some time, as evidenced by a violation for the same that was sent on July 2, 2004, we have to assume that these lawnmowers do not work and therefore are junk and debris. We noted three mobile compressor trailers that are on the site. Based upon the scope of the work

involved in the permitted project, I can not determine that these are any part of the necessary equipment, and as such constitute illegal outdoor storage of contractor's equipment. There is also another piece of construction equipment that I cannot identify other than it is manufactured by FMC. This is also illegal storage of contractor's equipment. Finally, we have verified that neither of the two commercial vehicles approved by City Council have current license plates. They therefore are deemed to be junk vehicles.

We have identified these violations in a letter to the owner, Mr. Piscopo. That letter establishes a compliance date of July 19, 2004. The weed cutting, as identified in a previous violation notice is to be completed by July 11, 2004.

I have included copies of the current violation notices on this property for your reference. Please feel free to contact me if you have any other questions.

City of Troy
Building Department
500 West Big Beaver, Troy, MI 48084

Weeds/Grass Violation Notice

07/02/2004

PAUL & LOUISE PISCOPO
3129 ALPINE
TROY, MI 48084-1520

Subject: 3129 Alpine - Weed/Grass Violation

I inspected the above site on 7-01-04 and observed weeds throughout your property in excess of 10 inches in height.

This is a violation of Chapter 82 - Section PM-303.4 of the City of Troy Property Maintenance Code. The code requires that all grass and weeds be maintained at a height of 10" (ten inches) or less throughout the growing season.

Please cut grass and weeds and continue to maintain as required. The deadline for compliance is July 11, 2004.

Please call me at 248-680-7284 if you have any questions.

Sincerely,

_____
Don Phillips
Housing & Zoning Inspector

July 8, 2004

Paul & Louise Piscopo
3129 Alpine
Troy, MI 48084

Re: 3129 Alpine – Vehicle Violation, Zoning Violation, Litter Violation

Dear Mr. & Mrs. Piscopo,

A recent inspection of the above site revealed the following violations.

1. Several junk lawnmowers stored in both front & rear yards. Ch. 48, Sec. 6.101 (5)

2. Unapproved storage of contractor's equipment (3 compressors, an unidentified machine with the letters FMC) stored behind your house. Ch.39, Sec. 10.20.00

3. A 1978 white Chevy van and a 1987 GMC van, both with expired license tabs. Ch. 88, Sec. 9.20

The junk lawnmowers, and the unapproved storage of contractor's equipment, and any similar type of equipment not related to the construction must be removed from the property by July 19, 2004.

The 2 vehicles with the expired license tabs must also have current tabs displayed by July 19, 2004. **As we have previously addressed the problem of unlicensed or vehicles with expired license tabs, you may consider this your final notice. Failure to comply by the deadline will result in legal action. Future violations will result in legal action without prior notification.**

Also please be reminded to have the weeds on the property cut by July 11, 2004.

Please call me at 248-680-7284 if you have any questions.

Sincerely,

_____
Don Phillips
Housing & Zoning Inspector

DATE: August 9, 2004

TO: John Szerlag, City Manager

FROM: Steven J. Vandette, Acting Assistant City Manager/Services
Mark Stimac, Director of Building and Zoning

SUBJECT: Application of Zoning Ordinance Requirements for Accessory Structures to Attached Garages

I am in receipt of letters submitted from Mr. Tom Krent and Mr. Dennis Rivard relating to the application of Troy Zoning Ordinance provisions to the building at 3129 Alpine. In both letters there contentions are based upon the assumption that the Zoning Ordinance provisions for accessory buildings and structures in single-family zoning districts would apply to accessory structures that are attached to the main building on the property. I have to disagree with this assumption.

Section 40.57.02 of the Ordinance specifically states, *"Where the accessory building or structure is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this chapter applicable to a main building"*. Further it is unclear how compliance with Section 40.57.03, which states *"Accessory buildings or structures shall not be erected in any yard, except a rear yard"*, would be applied to an attached accessory structure since the main building is not permitted to encroach into the rear yard.

In my more than 24 years involved with the enforcement of the Troy Zoning Ordinance, I have never seen the provisions for accessory buildings and structures applied to structures attached to the main building on the site.

July 7, 2004

TO: John Szerlag, City Manager

FROM: The Honorable Mayor and City Council Members

SUBJECT: Property Maintenance, and Neighborhood Compatibility Issues

On July 6, 2004 I was invited to visit the home sit of Mr. and Mrs. Rivard who live next door to the house and garage under construction owned by Mr. Paul Piscopo of 3129 Alpine. What I viewed from Mr. and Mrs. Rivard's property is more aptly described in the attached photographs. As a result of the conditions at this site, I asked Director Building/Zoning Mark Stimac to compile a list of compliance/enforcement activity for this property. In addition, Mr. Stimac is going to ascertain whether the on-site equipment is functional and germane to the construction activity or if it's junk. Mr. Stimac's report will be forthcoming.

There are two other issues which come into play that require direction from City Council:

1) Size of attached garage relative to square footage of living quarters:

Staying with 3129 Alpine as our example, the house is roughly 3,300 square feet with a first floor footprint of 1,721 square feet, and the attached garage is going to be 6,000 square feet. If City Council agrees that there should be a more balanced relationship between living quarters and attached garage size, then I'll have staff work with the Planning Commission to come back with a recommendation.

2) It's my understanding that the attached garage at 3129 Alpine is going to have a corrugated sheet metal exterior (the kind one usually associates with industrial storage facilities). At this time there is nothing in our ordinances or building code precluding this type of exterior. My question to you is, "Should there be?" Again, should your response be in the affirmative, staff will work with the Planning Commission and come back with a recommendation.

Please know that any changes which may be made relative to garage size and exterior elevations would not be applicable to Mr. Piscopo's property, as he already has permits and is under construction. And in closing, in making your decision, you may wish to consider community values, rights of property owners, and reasonable expectations of adjacent property owners.

I can take direction at the Council meeting or we can schedule this to a study meeting. Please advise. And as always, feel free to contact me should you have any comments.

AGENDA ITEMS\2004\07.12.04 – Property Maint Issues

c: Lori Grigg Bluhm, City Attorney
Mark F. Miller, Planning Director
Douglas J. Smith, Real Estate & Development Director
Mark S. Stimac, Director of Building/Zoning
Steven J. Vandette, Acting Assistant City Manager/Services

Copy Mark S
Lori
Doug
Mark M
Steve
DD

July 30, 2004

TO: City of Troy
Mayor Louise Schilling
Mayor Pro Tem Robin Beltramini
Councilwoman Cristina Broomfield
Councilman David Eisenbacher
Councilman Martin Howrylak
Councilman Dave Lambert
Councilwoman Jeanne Stine
City Manager John Szerlag

FROM: Tom Krent • 3184 Alpine, Troy, MI 48084 • 248-649-4948 Tom Krent

SUBJECT: INDUSTRIAL-STYLE GARAGE AT 3129 ALPINE

I agree with all of you that our City Ordinance needs to be modified as a result of the building permit approval for the garage at 3129 Alpine.

At the July 19th Council meeting, each Council member offered good ideas for ways to amend our Zoning Ordinance so that an industrial-style building is not allowed in our residential neighborhoods. I, too, have ideas, and I've detailed my thoughts below.

I want to focus on four points that, if enacted, should resolve the non-compatibility issue of the Piscopos' garage at 3129 Alpine and prevent the City Building Department staff from issuing future permits for industrial-style garages in residential neighborhoods.

POINT 1

One major objection to the garage at 3129 Alpine is that it violates the existing Zoning Ordinance Section 10.25.01. *(refer to page 2 for Section 10.25.01)* The City Building Department staff issued a building permit because they considered the "garage" (industrial building) as part of the house structure and not an "Accessory Building". Even though this "garage" (industrial building) has a different structure and appearance from the house and does not even closely resemble the house, the City staff still provided a building permit for construction of both the house and garage as one structure. It is perfectly obvious that these are two very different buildings. Anyone who honestly cannot see the difference between the two sections should not be serving this City in the Building Department. It is a travesty of responsible city planning to allow construction of this "garage" (industrial building), especially because the garage (used mostly for business) covers more than three times the land than that of the house on this lot. In effect, this "combined" structure is devoted mostly to business and is located in a residential zone. The building of a large garage for personal use is permitted under the present ordinance.

DEFINITIONS: Section 04.20.65
GARAGE, PRIVATE: an accessory building for parking or storage of not more than the number of vehicles as may be required in connection with the permitted use of the principal structure.

> *"Garage, Private" is defined as an accessory building, PERIOD. It does not say that only a "detached garage" is an "accessory building" or that an "attached garage" is part of the house.*

DEFINITION OF GARAGE, as defined by the City Assessing Department
The City Assessing Department defines a garage (either attached or detached) as an "accessory building" and taxes it at a different rate than that of the house. From the City's Assessing Department's point of view, only living quarters are considered the house.

VIOLATION of Section 10.25.01, Part A, Subpart 2
If the City Building Department staff considered the garage an "Accessory Building" the existing Zoning Ordinance Section 10.25.01 would have prohibited its construction because the garage will be used for a "Home Occupation".

> DEFINITION Section 04.20.71: HOME OCCUPATION: An occupation carried on within the walls of a dwelling unit by a resident thereof, having no employees who are not themselves residents. Said occupations shall not be visible or noticeable in any manner or form from outside the walls of the dwelling and accessory structures.

VIOLATION of Section 10.25.01, Part A, Subpart 5
The building permit should never have been issued because the use for the garage at 3129 Alpine will be in violation of the existing Ordinance Section 10.25.01 part A, subpart 5. That is, Paul Piscopo will use the garage to store a garbage truck in a residential area and use the garbage truck (and other vehicles) for pick-up or delivery of materials, supplies, or products in excess of that normally incident to a one-family dwelling. For confirmation of this, just look in his backyard and see the items he has already stored there for years that are in excess of that normally incident to a one-family dwelling.

To make it perfectly clear to the City Building Department staff that the intent and purpose of our Ordinance Section 10.25.01 is to protect residential areas from losing their residential character and to avoid reduction of property values, I have amended the existing Section 10.25.01 language to read as follows:

NOTE: I made additions to the Ordinance language in bold lettering.

10.25.01 Home Occupations, as defined in Section 04.20.71, subject to the following conditions:

A) In order to insure compatibility of the subject residential parcel with the surrounding residential area, to maintain the residential character of the area, and to avoid reduction of property values, the following activities or uses shall be prohibited in conjunction with Home Occupations:

1. Signs relating to any occupation or business.

2. Accessory buildings **(attached or not attached) to a house and** devoted primarily to the subject Home Occupation or Business.

3. Off-street parking area greater that that amount maintained by neighboring dwellings within three hundred (300) feet of the subject site.

4. Outside storage or display of any items related to the subject Home Occupation or Business and, thus, not normally incident to a one-family dwelling.

5. Vehicular Traffic characterized by pick-up or delivery of materials, supplies, or products in excess of that normally incident to a one-family dwelling.

B) Any proposed structure that will be used in connection with a Home Occupation or Business that has more than 30%* of the structure's area devoted to business related use, must have the Planning Commission review and approve the new construction plans before a permit can be approved by the City Building Department.

POINT 2

The second major objection to the "garage" (industrial building) at 3129 Alpine is its industrial style. If the entire population of Troy were asked if that garage was typical to the design of homes in Troy, I'm sure over 90% of the answers would be NO. Yet, the City approved the building permit based on the premise that the "garage" (industrial building) is part of the house structure and not an "Accessory Building". In effect, it allows warehouse-style buildings for houses in Troy.

To make it perfectly clear to the City Building Department staff that the intent and purpose of our Ordinance Section 10.00.00 ARTICLE X ONE FAMILY RESIDENTIAL DISTRICTS – R-1A THROUGH R-1E is to protect the residential character of our houses and avoid reduction of property values, I suggest the following language:

Addition under Section 10.10.00 INTENT:

10.10.02 All new house construction and additions to or renovations of existing houses will be compatible with the surrounding residential area so as to maintain the residential character of the area and to avoid reduction of property values.

10.10.03 If an accessory building or structure is attached to a house, it shall be of the same architectural design, and the entire structure will have the same exterior materials.

POINT 3

The third major objection to the 3129 Alpine "garage" (industrial building) is how the size of it affects the neighbors, Dennis and Stacy Rivard. The Rivards and the Piscopos share a common property line. The 150 foot long and 20 foot high garage wall overwhelms the Rivards' backyard. It's like having their own "Berlin Wall".

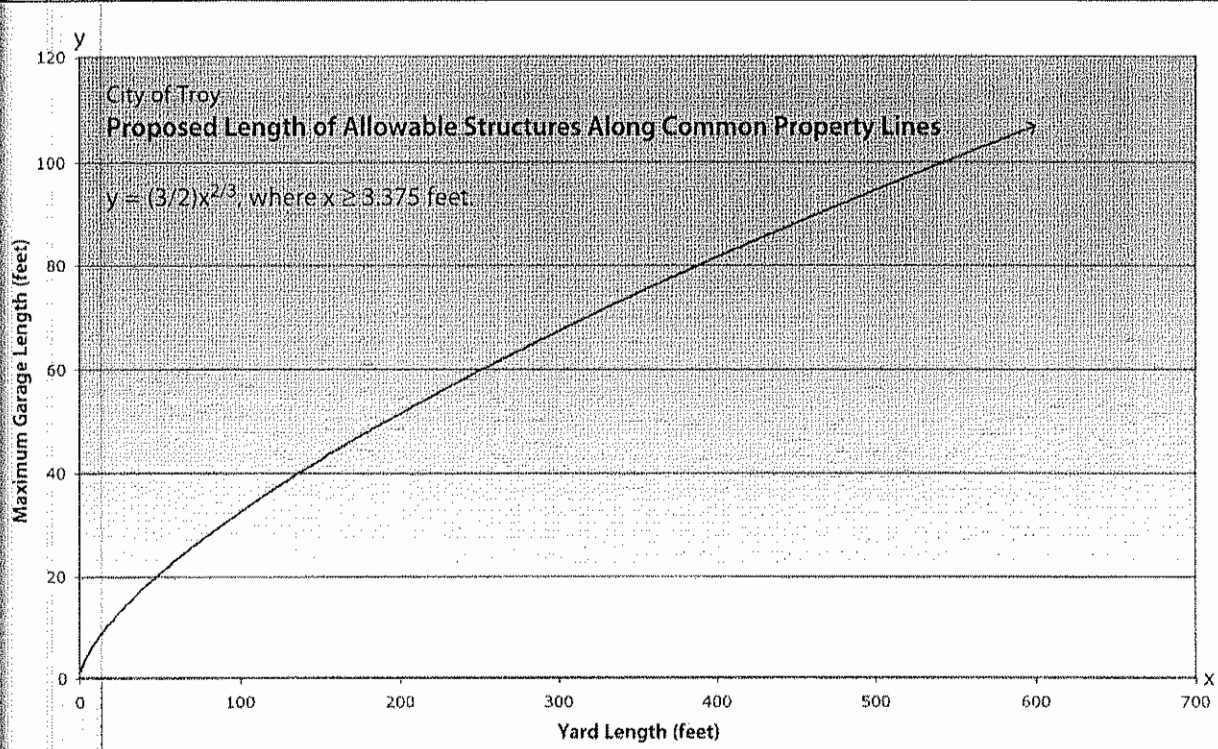
One way to mitigate a tall building is to increase the side setback, as was mentioned by Martin Howrylak. I think it would require a very large setback to allow an industrial-style building to appear residential from neighboring backyards. Personally, to make it residential in appearance, it would have to be set so far back that it would have to be out of sight. I don't think setbacks are the answer. There are probably hundreds, if not thousands, of two-story colonial-style homes that now exist in Troy with a 10 foot side setback. The existing setback works well in those neighborhoods, mainly because the colonial house looks like a house, not a warehouse.

After talking with Dennis Rivard, he felt that the size of the garage should be in some reasonable proportion to the size of the house and lot. The key is to find a balance between building and open space.

Troy has a large range of lot sizes and shapes. Because of that, assigning a fixed percent of a common side property line to the total length allowed for all structures near that property line will cause unreasonable results for lot sizes at the extremes, both very small and very large lots. To arrive at a balance , I propose a non-linear relationship based on the length of the common side property line and usable garage sizes and house additions that won't overwhelm the adjoining neighbor.

The formula I came up with is as follows: $y = (3/2)x^{2/3}$ or approximately $y \approx (1.5)x^{0.66}$ in decimal form.
Where "y" is the maximum length of all residential structures along the side property line, and "x" is the length of the side property line.

This formula is illustrated on the graph below:



Notes:

1. $y = x$ when $x = 3.375$. For values of $x < 3.375$, y becomes larger than x. Obviously, the resulting values for y, when $x < 3.375$, are nonsensical for this formula's intended application.
2. The constants in the formula are dependent upon all units being in feet.

EXAMPLES:
If the property length is 100 feet, then $y = (3/2)(100)^{2/3}$, which approximates to $y \approx 32.3$ feet.
If the property length is 300 feet, then $y = (3/2)(300)^{2/3}$, which approximates to $y \approx 67.2$ feet.

I propose that it be added to the Zoning Ordinance Section 30.10.00.
The City should test this formula against the 14 garages on the "Large Garage" list and other existing garages to see if it provides reasonable results for our City.

In the Rivards/Piscopos case, the length of the property on the shared side is 300 feet. That would make a maximum wall length of 67.2 feet.

NOTE:
I tried a simple linear formula using a factor of 30% of the side property line for the maximum of building length on that side. It worked well on small lots. Unfortunately, on large lots the results of the linear formula created building lengths that could prove too overwhelming for the adjacent neighbors.

Example:
If the property length is 100 feet, then y = 0.30(100) = 30 feet.
If the property length is 300 feet, then y = 0.30(300) = 90 feet.

POINT 4

The Rivards would like to have been notified by the City that a building permit for this large garage was being applied for prior to it being approved, so that they could have voiced any concerns to the City before the City approved the building permit.

I suggest that the City include **"and any new construction that is more than fifty percent (50)% of the existing ground floor living quarters of a house"** to the existing Section 40.57.11 NEIGHBORS NOTIFICATION. I also suggest that Section 40.57.11 be modified to notify 100% (not 50% indicated in the existing ordinance section text) of the developed lots or parcels which are immediately abutting the parcel on which the building or structure is to be placed.

Existing Section 40.57.11 text

40.57.11 NEIGHBORS NOTIFICATION:

Applications for permits for the placement or construction of sheds located in platted subdivisions or on acreage parcels of less than two (2) acres shall be submitted with evidence of notification of placement or construction, to the owners of record of fifty percent (50%) of the developed lots or parcels which are immediately abutting the parcel on which the subject building or structure is to be placed. On acreage parcels of two (2) acres or more, evidence of notification shall be provided in relation to all owners of record of developed land within one hundred (100) feet of the subject building or structure. Evidence of notification shall consist of either certified mail receipts, or a signed affidavit, from the required number of property owners.

The suggested changes are shown in bold lettering:
improper use of three commas were also removed.

40.57.11 NEIGHBORS NOTIFICATION:

Applications for permits for the placement or construction of sheds **and any new construction that is more than fifty percent (50)% of the existing ground floor living quarters of a house** located in platted subdivisions or on acreage parcels of less than two (2) acres shall be submitted with evidence of notification of placement or construction to the owners of record of **one hundred percent (100%)** of the developed lots or parcels which are immediately abutting the parcel on which the subject building or structure is to be placed. On acreage parcels of two (2) acres or more, evidence of notification shall be provided in relation to all owners of record of developed land within one hundred (100) feet of the subject building or structure. Evidence of notification shall consist of either certified mail receipts or a signed affidavit from the required number of property owners.

CONCLUSION

Since all members of the Council have voiced the need to amend our Zoning Ordinance as a result of the "industrial-style" garage at 3129 Alpine, I feel it is imperative that Council and City Management find a way to rectify the "industrial-style" garage on Alpine now under construction.

After all, it is the industrial-style garage on Alpine that has caused this Council to address the issue of such garages that have a negative impact on residential neighborhoods. In a nutshell, you cannot fix the problem for future construction and ignore our problem on Alpine.

Dennis Rivard has told me that it would be a great financial hardship for him to pursue litigation with the City for allowing this garage to be approved. It has most certainly lowered his property value. Instead of litigation, I would like the City to discuss with Paul and Louise Piscopo (owners of the 3129 Alpine property) a plan that would provide them with a garage that is residential in design and have the City pay for any costs needed to rectify this blight on Alpine that the City has allowed. If it is left to stand, the industrial-style garage will be "Grandfathered" with the property and remain there for all of our lives and possibly generations to come.

I sent the Council members an e-mail on July 19th. I've revised it a bit and listed only the main steps in reaching a non-litigious resolution, which would remove this non-complying building on Alpine.

STEPS TO RECTIFY THE MONSTER GARAGE ON ALPINE

1) Inform the Piscopos that the permit they were issued did not meet the Zoning Ordinance Section 10.25.01 part A, subparts 2 and 5. The intent of Troy's Zoning Ordinance is to prohibit a Home Occupation or Business from reducing the property values of the surrounding residential area and to prohibit construction of buildings that do not maintain the residential character of the area.

2) Have the City pay the Piscopos the costs they incurred for construction and pay the costs for the demolition of the "garage" (industrial building).

3) Have the City pay for an architect to design a new garage for the Piscopos that looks residential in design. The architect that designed the house should be the first choice. The City will do this because it provided a building permit that should not have been issued.

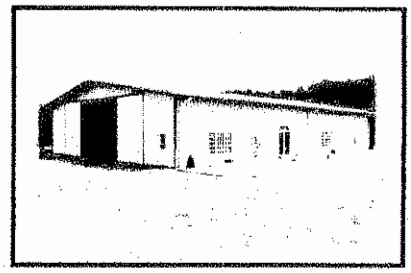
4) Have the Planning Commission review the revised garage plans before a new building permit is approved, so that the design is suitable for a residential neighborhood.

5) Have the City pay the costs of storing the Piscopos' items that would have been stored in the garage, currently under construction, until the revised garage is completed. That period should be limited to one year.

It may also be necessary for the City to pay the Piscopos compensation for loss of time in having their garage completed.

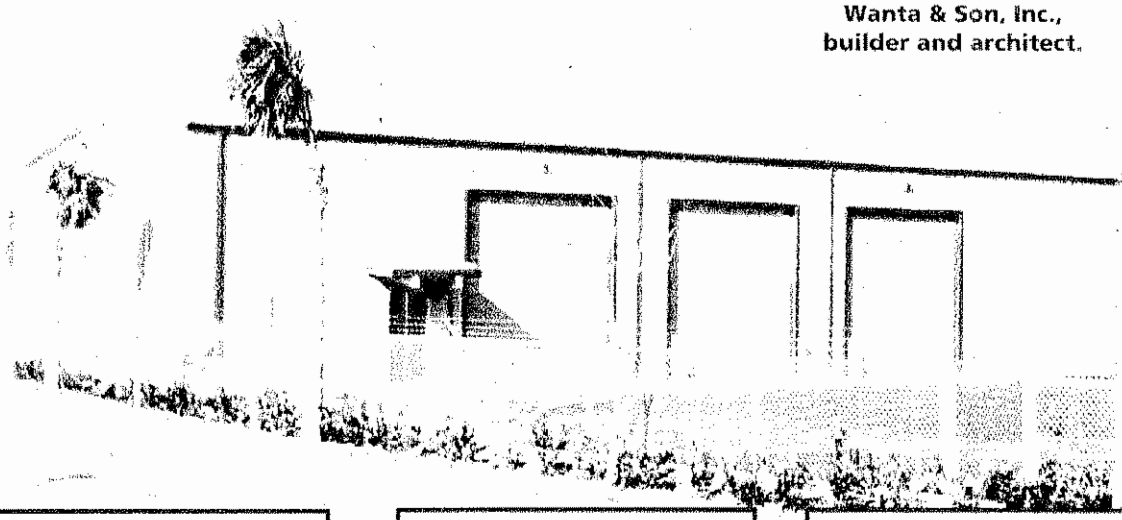
Note from page 2:
**A 30% business use was chosen because a clear majority (70%) of the use of the property should be residential.*

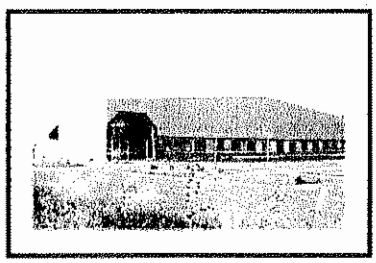
Only Star Buildings combine common sensibility with uncommonly beautiful designs!



Above, Gorski Farm Building;
Wanta & Son, Inc.,
builder and architect.

West Palm Beach Fire Truck Maintenance;
Select Contracting, Inc., builder.





Pro-Tech Engineering;
TJK Design & Const. Co., Inc.,
builder and architect.

New Town Hall of Portland;
M.C.J. Const. Co., Inc., builder;
Lawrence Witrowski, architect.

Sport-2-Sport;
Carney Construction, Inc., builder.

STAR BUILDINGS

STAR BUILDING SYSTEMS

8600 S. I-35
Oklahoma City, OK 73149
800-654-3921 Fax: (405) 636-2037
Check out our Web Site at: www.starbuildings.com
Or e-mail us at: Holly.Chambers@StarBuildings.net
10-01

Star Buildings are erected by independent building contractors. All Star claims as to the ultimate performance of its product are contingent upon proper erection techniques as employed by the erecting contractor. These techniques must be in accordance with Star Building Systems' suggested erection procedures. Star Building Systems is not liable for damages incurred through improper erection procedures. Descriptions and specifications contained herein were in effect at the time this publication was approved for printing. Star reserves the right to discontinue products at any time or change specifications and/or designs without notice and without incurring obligation.

Attached are copies of a CD submitted by Tom Krent
to the City Manager's Office
for inclusion with the Agenda packet

A meeting of the **Troy Youth Council (TYC)** was held on Wednesday, May 26, 2004 at 7:00 PM at City Hall in the Lower Level Conference Room, 500 West Big Beaver Road. Andrew Kalinowski called the meeting to order at 7:04 p.m.

MEMBERS PRESENT:	Min Chong
	Eric Gregory
	Monika Govindaraj (Arrived 7:16 P.M.)
	Catherine Herzog
	Maniesh Joshi
	Andrew Kalinowski
	Manessa Shaw
	YuJing Wang
MEMBERS ABSENT:	Emily Burns (excused)
	Juliana D'Amico (excused)
	Christina Krokosky (excused)
ALSO PRESENT:	Laura Fitzpatrick, Assistant to the City Manager

1. **Roll Call**
2. **Approval of Minutes**

Resolution # TY-2004-05- 013
Moved by Chong
Seconded by Herzog

RESOLVED, That the minutes of 4/28/04 be approved.

Yes: All - 7
No: None
Absent: 4 – Burns, D'Amico, Govindaraj, Krokosky
MOTION CARRIED

3. **Attendance Report:** Noted and Filed
   This meeting: 8 present, 3 absent – all 3 gave advance notification of absence.

4. **Membership Update:** Per resolution at the April Meeting, TYC Members Cheng and Michrina were asked to resign due to inadequate attendance at meetings. Fitzpatrick sent them a letter to this effect and they did not respond. Therefore, they have resigned via non-response.

5. Guests - Applicants to the TYC

Alexandra Bozimowski	
Jennifer Cui	
Maxine D'Amico	Not in attendance due to family trip out of the country
Ramya Gopal	
Josh Hepner	
Rishi Joshi	
Jessica Kraft	Not in attendance due to family engagement
Anna Qiu	
Nicole Vitale	
Karen Wullaert	

The TYC interviewed the eight applicants in attendance. There are four vacant seats. Applications for all candidates were reviewed in advance of and at the meeting.
Applicants were dismissed and the TYC passed this resolution:

Resolution # TY-2004-05-14
Moved by Herzog
Seconded by Chong

RESOLVED, That Alexandra (Sasha) Bozimowski, Rishi Joshi, Jessica Kraft, and Nicole Vitale are recommended for appointment to fill the four vacant seats on the Troy Youth Council.

Yes: All - 8
No: None
Absent: 3 – Burns, D'Amico, Krokosky
MOTION CARRIED

6. Motion to Excuse Absent Members Who Have Provided Advance Notification

Resolution # TY-2004-05-015
Moved by Herzog
Seconded by Chong

RESOLVED, That Burns, D'Amico, and Krokosky shall be excused.

Yes: All - 8
No: None
Absent: 3 – Burns, D'Amico, Krokosky
MOTION CARRIED

7. Youth Council Comments

8. Miscellaneous Announcements:

- *Next Meeting:* Reminder Next Meeting: WED AUGUST 25th 7:00 P.M.@ ***CITY HALL***
  - Pizza and pop to be served to welcome new members and kick off the new school year
  - Troy Daze Festival Preparations
  - For September Agenda: Cindy Stewart to speak about Event Planning

9. PUBLIC COMMENT

The meeting adjourned at 8:14 P.M.

_____
Catherine Herzog, Co-chair

_____
Laura Fitzpatrick, Assistant to the City Manager

TROY HISTORIC COMMISSION MINUTES – DRAFT **JULY 27, 2004**

A Regular Meeting of the Troy Historic Commission was held Tuesday, July 27, 2004 at the Troy Museum & Historic Village. Rosemary Kornacki called the meeting to order at 7:35 P.M.

ROLL CALL PRESENT: Brian Wattles

Kevin Lindsey
Roger Kaniarz
Ed Bortner
Rosemary Kornacki
Vera Milz
Nick McClellan, Student Representative nominee
Loraine Campbell, Museum Manager

ABSENT Terry Navritil

Chairperson Rosemary Kornacki welcomed Vera Milz who was appointed to the Historical Commission following the death of Jack Turner and student representative nominee, Nick Mc Clennan.

Resolution #HDC-2004-07-001
Moved by Lindsey
Seconded by Bortner

RESOLVED, That the absence of Terry Navritil be approved.
Yes: 6 — Wattles, Lindsey, Kaniarz, Bortner, Milz, and Kornacki
No: 0

MOTION CARRIED

Resolution #HDC-2004-07-002
Moved by Wattles
Seconded by Lindsey

RESOLVED, That the minutes of June 22, 2004 be approved.
Yes: 6 — Wattles, Lindsey, Kaniarz, Bortner, Milz, and Kornacki
No: 0

MOTION CARRIED

OLD BUSINESS

A. Church Parsonage Status

The Ribbon Cutting Ceremony for the Church and Parsonage was held on June 27, 2004. There were 630 people were in attendance. The comments by the public were very positive. Following the ribbon cutting we are still working on final inspections including installation of security and fire alarms. There is also a detailed punch list of tasks that need to be addressed before final payment is made to the remaining vendors on the project, including Gerald Yurk Associates. All work should be done by the end of August.

B. Capital Projects (discussed during tour of buildings)

Electrical Upgrades

Final inspection was completed and work approved.

Accessibility Ramps

Council approved the contract for Commercial Contracting Corporation for $71,170.00 on July 19. The company has been notified. As soon as they execute their performance bond, Labor and Materials payment Bond, Maintenance bond and insurance, the PO will be issued and work will begin.

Exterior Painting

Danmar Painting completed all items on the punch list. Purchasing is working with Downriver Maintenance for a credit on the damage done to the General Store porch roof.

Landscape Plan

Loraine is working with Ron Hynd to complete he landscape plan and specs for Phase 1, which is the installation of pavers to the new accessibility ramps, Church, Parsonage and Troy Hall.

C. Programs

See Attendance Reports.

D. Interns

Ben Sundling and Lisa Ogawa are currently completing the Troy Union Cemetery fieldwork.

NEW BUSINESS

A. Troy Historical Society Liaison Report

Arcadia Book-

The editorial staff has reviewed, corrected and returned the galleys of the book. Arcadia is processing the changes and will provide new proof sheets before the book is sent to the printer. Loraine, Vera Milz and Cindy Stewart have also met and discussed local marketing strategies. Loraine then completed the Marketing Questionnaire provided by Arcadia. We have been assigned a Marketing Rep and a Sales Rep for the book.

Theater Project
The play production was moderately successful. The Historical Society will review the financial report at their next meeting in September.

B. New Acquisitions:
No report this month. Bill Boardman is on vacation.

C. Staff:
Julie Davidson submitted her resignation in July. By working more hours at her other job she was eligible for benefits.
Darrien Howze submitted his resignation in July for personal reasons.

Darrien's position will be filled from the list of applicants developed for Jeanetta's position. Loraine has modified the Archive Tech Job Posting. The position is being approved for posting.

D. Commission Vacancies
Jack Turner passed away on June 27, 2004. Memorial contributions to the Troy Historical Society and Heritage Campaign have now exceeded $1,700. Vera Milz was approved by Council to replace Jack Turner on the Historical Commission.

The Troy Historic Commission Meeting was adjourned at 9:20p.m. The next regular meeting will be held Tuesday, August 24, 2004 at 7:30 p.m. at the Troy Museum & Historic Village.

Rosemary Kornacki
Chairman

Loraine Campbell
Recording Secretary

The Special/Study Meeting of the Troy City Planning Commission was called to order by Thomas Strat, Board of Zoning Appeals Representative, at 7:30 p.m. on August 3, 2004, in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Present:
Lynn Drake-Batts
Fazal Khan
Lawrence Littman
Robert Schultz
Thomas Strat
Mark J. Vleck

Absent:
Gary Chamberlain
David T. Waller
Wayne Wright

Also Present:
Mark F. Miller, Planning Director
Brent Savidant, Principal Planner
Allan Motzny, Assistant City Attorney
Jennifer Lawson, Environmental Specialist
Kathy Czarnecki, Recording Secretary

Resolution # PC-2004-08-081
Moved by: Khan
Seconded by: Schultz

RESOLVED, That Members Chamberlain, Waller and Wright be excused from attendance at this meeting.

Yes: All present (6)
No: None
Absent: Chamberlain, Waller, Wright

2. MINUTES

Resolution # PC-2004-08-082
Moved by: Schultz
Seconded by: Khan

RESOLVED, To approve the July 8, 2004 Special Meeting minutes as published.

Yes: Khan, Littman, Schultz, Strat
No: None
Abstain: Drake-Batts, Vleck
Absent: Chamberlain, Waller, Wright

MOTION CARRIED

Mr. Schultz requested that the July 13, 2004 Regular Meeting minutes reflect the following change:

> Under the Good of the Order, page 13, second paragraph, the second sentence to read: "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."

Resolution # PC-2004-08-083
Moved by: Schultz
Seconded by: Littman

RESOLVED, To approve the July 13, 2004 Regular Meeting minutes as amended.

Yes: Littman, Schultz, Strat, Vleck
No: None
Abstain: Drake-Batts, Khan
Absent: Chamberlain, Waller, Wright

MOTION CARRIED

Resolution # PC-2004-08-084
Moved by: Schultz
Seconded by: Khan

RESOLVED, To approve the July 27, 2004 Special/Study Meeting minutes as published.

Yes: Drake-Batts, Khan, Schultz, Strat, Vleck
No: None
Abstain: Littman
Absent: Chamberlain, Waller, Wright

MOTION CARRIED

3. PUBLIC COMMENTS

There was no one present who wished to speak.

4. NEW ZONING ORDINANCE TEXT AMENDMENT (ZOTA 209) – Article XXVIII, Veterinary Hospitals in the M-1 Light Industrial District

Mr. Miller presented the premise for a potential zoning ordinance text amendment that would allow veterinary clinics in the M-1 zoning district. He reviewed details of the

subject parcel and the petitioner's request. Mr. Miller asked for comments on the proposed ordinance language and direction from the Commission.

A short discussion followed.

It was the consensus of the Commission to move forward with the matter.

Mr. Miller confirmed that conditions could be placed on the Special Use Approval; i.e., as the use relates to boarding, noise, outdoor/indoor runs, hours of operation, etc.

Ms. Drake-Batts suggested informal site visits could be a helpful tool in the Commission's review and approval of proposed Special Use Requests (i.e., kennels, dog day care facilities, veterinary clinics).

5. NEW ZONING ORDINANCE TEXT AMENDMENT (ZOTA 210) – Article III, Protest Petitioners for Zoning Ordinance Amendments

Mr. Miller reviewed the draft ordinance language relating to protest petitions and the purpose of a protest petition. He noted that the language should also include the required petition form, the City Department to which the petition should be submitted and the deadline of submission.

Mr. Motzny stated that a protest petition could be filed for any amendment to the zoning map or zoning ordinance. Mr. Motzny reported that the Legal Department is recommending that an ordinance procedure be specified so there is no question that a protest has been officially filed. He said generally protest petitions are submitted to the City Clerk, whose office can verify that the petition meets the 20% signature requirement. He confirmed that the procedure should specify the form to be used and the deadline by which the protest petition must be received by the City Clerk.

Mr. Miller stated that the Planning Department would verify the protest petition.

A short discussion followed with respect to the number of petitions that could be filed for proposed rezonings, and the volume of signatures that would be required for a proposed zoning ordinance text amendment.

Mr. Strat asked the Legal Department and Planning Department to prepare draft ordinance language incorporating the required protest petition form and other necessary requirements for further review and approval by the Commission.

6. REDESIGN OF PRESIDENTIAL PLACE SITE CONDOMINIUM – Brain Storming Session relating to Green and Sustainable Development

Mr. Miller introduced Jennifer Lawson, the City's Environmental Specialist, who was present to give a presentation on green and sustainable development. Mr. Miller announced that Ms. Lawson's presentation includes an exercise on the "green" design of the proposed Presidential Place Site Condominium project. He confirmed

the project has yet to receive approval by the City Council, and the Commission's intent is to utilize the development project solely as an educational learning tool.

Ms. Lawson thanked the Commission for the invitation to attend and discuss green and sustainable development. Ms. Lawson provided a brief background of her education, employment and experience as an Environmental Specialist. She distributed an informational handout relating to design elements and briefly discussed required design elements and ecological design.

Ms. Lawson conducted a visual exercise wherein the Commissioners were provided a site drawing of the proposed Presidential Place Site Condominium property, and asked the Commissioners to illustrate their development ideas by incorporating as many ecological design elements as possible on the site.

The Commissioners individually reviewed their proposed designs and environmental characteristics as they related to the site.

Discussion followed with respect to the engineering design standards. Ms. Lawson reported that the Engineering Department is in the process of revising the current engineering design standards. She indicated the Planning Commission's comments would be considered in the revisions.

There was a brief discussion on the Kresge Foundation project and what developer incentives could be provided that would encourage future green and sustainable developments.

Mr. Miller said the City should think long term and be creative in the advancement of green and sustainable development. He announced a proposed Planned Unit Development (PUD) located on Big Beaver Road is scheduled as a pre-development and design phase discussion item at the August 24, 2004 Special/Study Meeting, and noted the Commission will most likely find the proposal attractive.

In conclusion, Ms. Lawson provided the following reading suggestions: (1) *Michigan Planner*, June 2004 edition, Open Space Preservation: Creating A System of Green Infrastructure; and (2) *Planning and Zoning News*, July 2004 edition, complete issue dedicated to green development.

Mr. Strat thanked Ms. Lawson for her excellent presentation and expressed the Commission's desire to engage in a close working relationship relating to environmental concerns.

7. DEVELOPMENT REPORT

Mr. Miller distributed copies of the development report, as provided to Member Schultz at a previous meeting.

Mr. Schultz noted the City's improved website is a good source of development information; i.e., list of building permits, access to the GIS system, etc.

8. PUBLIC COMMENTS

There was no one present who wished to speak.

GOOD OF THE ORDER

All the members expressed their thanks and appreciation for the educational and informative presentation given by Ms. Lawson.

Ms. Lawson said she is looking forward to working with the Commission.

Mr. Khan said he liked the hands-on environment of tonight's meeting.

Mr. Schultz acknowledged Mr. Strat's outstanding job in chairing tonight's meeting.

Mr. Miller announced the Planning Department received the petitioner's written request to withdraw the Special Use Request for the proposed Bark! Dog Day Care facility located on the north side of Industrial Row, east of Coolidge, in Section 32. Mr. Miller said residents within the 300-foot requirement have been notified of the withdrawal.

Mr. Strat said tonight's meeting was a real working session, and noted that sessions like this could be helpful in the development of problem sites that require more ingenuity.

A brief discussion followed with respect to the upcoming Michigan Society of Planning Annual Conference in Grand Rapids, Michigan.

ADJOURN

The Special/Study Meeting of the Planning Commission was adjourned at 9:15 p.m.

Respectfully submitted,

_____

Thomas Strat, BZA Representative

_____

Kathy L. Czarnecki, Recording Secretary

G:\Planning Commission Minutes\2004 PC Minutes\Draft\08-03-04 Special Study Meeting_Draft.doc

The Special/Study Meeting of the Troy City Planning Commission was called to order by Thomas Strat, Board of Zoning Appeals Representative, at 7:30 p.m. on August 3, 2004, in the Council Board Room of the Troy City Hall.

1. ROLL CALL

Present:
Lynn Drake-Batts
Fazal Khan
Lawrence Littman
Robert Schultz
Thomas Strat
Mark J. Vleck

Absent:
Gary Chamberlain
David T. Waller
Wayne Wright

Also Present:
Mark F. Miller, Planning Director
Brent Savidant, Principal Planner
Allan Motzny, Assistant City Attorney
Jennifer Lawson, Environmental Specialist
Kathy Czarnecki, Recording Secretary

Resolution # PC-2004-08-081
Moved by: Khan
Seconded by: Schultz

RESOLVED, That Members Chamberlain, Waller and Wright be excused from attendance at this meeting.

Yes: All present (6)
No: None
Absent: Chamberlain, Waller, Wright

2. MINUTES

Resolution # PC-2004-08-082
Moved by: Schultz
Seconded by: Khan

RESOLVED, To approve the July 8, 2004 Special Meeting minutes as published.

Yes: Khan, Littman, Schultz, Strat
No: None
Abstain: Drake-Batts, Vleck
Absent: Chamberlain, Waller, Wright

MOTION CARRIED

Mr. Schultz requested that the July 13, 2004 Regular Meeting minutes reflect the following change:

> Under the Good of the Order, page 13, second paragraph, the second sentence to read: "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."

Resolution # PC-2004-08-083
Moved by: Schultz
Seconded by: Littman

RESOLVED, To approve the July 13, 2004 Regular Meeting minutes as amended.

Yes: Littman, Schultz, Strat, Vleck
No: None
Abstain: Drake-Batts, Khan
Absent: Chamberlain, Waller, Wright

MOTION CARRIED

Resolution # PC-2004-08-084
Moved by: Schultz
Seconded by: Khan

RESOLVED, To approve the July 27, 2004 Special/Study Meeting minutes as published.

Yes: Drake-Batts, Khan, Schultz, Strat, Vleck
No: None
Abstain: Littman
Absent: Chamberlain, Waller, Wright

MOTION CARRIED

3. PUBLIC COMMENTS

There was no one present who wished to speak.

4. NEW ZONING ORDINANCE TEXT AMENDMENT (ZOTA 209) – Article XXVIII, Veterinary Hospitals in the M-1 Light Industrial District

Mr. Miller presented the premise for a potential zoning ordinance text amendment that would allow veterinary clinics in the M-1 zoning district. He reviewed details of the

subject parcel and the petitioner's request. Mr. Miller asked for comments on the proposed ordinance language and direction from the Commission.

A short discussion followed.

It was the consensus of the Commission to move forward with the matter.

Mr. Miller confirmed that conditions could be placed on the Special Use Approval; i.e., as the use relates to boarding, noise, outdoor/indoor runs, hours of operation, etc.

Ms. Drake-Batts suggested informal site visits could be a helpful tool in the Commission's review and approval of proposed Special Use Requests (i.e., kennels, dog day care facilities, veterinary clinics).

5. NEW ZONING ORDINANCE TEXT AMENDMENT (ZOTA 210) – Article III, Protest Petitioners for Zoning Ordinance Amendments

Mr. Miller reviewed the draft ordinance language relating to protest petitions and the purpose of a protest petition. He noted that the language should also include the required petition form, the City Department to which the petition should be submitted and the deadline of submission.

Mr. Motzny stated that a protest petition could be filed for any amendment to the zoning map or zoning ordinance. Mr. Motzny reported that the Legal Department is recommending that an ordinance procedure be specified so there is no question that a protest has been officially filed. He said generally protest petitions are submitted to the City Clerk, whose office can verify that the petition meets the 20% signature requirement. He confirmed that the procedure should specify the form to be used and the deadline by which the protest petition must be received by the City Clerk.

Mr. Miller stated that the Planning Department would verify the protest petition.

A short discussion followed with respect to the number of petitions that could be filed for proposed rezonings, and the volume of signatures that would be required for a proposed zoning ordinance text amendment.

Mr. Strat asked the Legal Department and Planning Department to prepare draft ordinance language incorporating the required protest petition form and other necessary requirements for further review and approval by the Commission.

6. REDESIGN OF PRESIDENTIAL PLACE SITE CONDOMINIUM – Brain Storming Session relating to Green and Sustainable Development

Mr. Miller introduced Jennifer Lawson, the City's Environmental Specialist, who was present to give a presentation on green and sustainable development. Mr. Miller announced that Ms. Lawson's presentation includes an exercise on the "green" design of the proposed Presidential Place Site Condominium project. He confirmed

the project has yet to receive approval by the City Council, and the Commission's intent is to utilize the development project solely as an educational learning tool.

Ms. Lawson thanked the Commission for the invitation to attend and discuss green and sustainable development. Ms. Lawson provided a brief background of her education, employment and experience as an Environmental Specialist. She distributed an informational handout relating to design elements and briefly discussed required design elements and ecological design.

Ms. Lawson conducted a visual exercise wherein the Commissioners were provided a site drawing of the proposed Presidential Place Site Condominium property, and asked the Commissioners to illustrate their development ideas by incorporating as many ecological design elements as possible on the site.

The Commissioners individually reviewed their proposed designs and environmental characteristics as they related to the site.

Discussion followed with respect to the engineering design standards. Ms. Lawson reported that the Engineering Department is in the process of revising the current engineering design standards. She indicated the Planning Commission's comments would be considered in the revisions.

There was a brief discussion on the Kresge Foundation project and what developer incentives could be provided that would encourage future green and sustainable developments.

Mr. Miller said the City should think long term and be creative in the advancement of green and sustainable development. He announced a proposed Planned Unit Development (PUD) located on Big Beaver Road is scheduled as a pre-development and design phase discussion item at the August 24, 2004 Special/Study Meeting, and noted the Commission will most likely find the proposal attractive.

In conclusion, Ms. Lawson provided the following reading suggestions: (1) *Michigan Planner*, June 2004 edition, Open Space Preservation: Creating A System of Green Infrastructure; and (2) *Planning and Zoning News*, July 2004 edition, complete issue dedicated to green development.

Mr. Strat thanked Ms. Lawson for her excellent presentation and expressed the Commission's desire to engage in a close working relationship relating to environmental concerns.

7. DEVELOPMENT REPORT

Mr. Miller distributed copies of the development report, as provided to Member Schultz at a previous meeting.

Mr. Schultz noted the City's improved website is a good source of development information; i.e., list of building permits, access to the GIS system, etc.

8. PUBLIC COMMENTS

There was no one present who wished to speak.

GOOD OF THE ORDER

All the members expressed their thanks and appreciation for the educational and informative presentation given by Ms. Lawson.

Ms. Lawson said she is looking forward to working with the Commission.

Mr. Khan said he liked the hands-on environment of tonight's meeting.

Mr. Schultz acknowledged Mr. Strat's outstanding job in chairing tonight's meeting.

Mr. Miller announced the Planning Department received the petitioner's written request to withdraw the Special Use Request for the proposed Bark! Dog Day Care facility located on the north side of Industrial Row, east of Coolidge, in Section 32. Mr. Miller said residents within the 300-foot requirement have been notified of the withdrawal.

Mr. Strat said tonight's meeting was a real working session, and noted that sessions like this could be helpful in the development of problem sites that require more ingenuity.

A brief discussion followed with respect to the upcoming Michigan Society of Planning Annual Conference in Grand Rapids, Michigan.

ADJOURN

The Special/Study Meeting of the Planning Commission was adjourned at 9:15 p.m.

Respectfully submitted,

_____

Thomas Strat, BZA Representative

_____

Kathy L. Czarnecki, Recording Secretary

G:\Planning Commission Minutes\2004 PC Minutes\Final\08-03-04 Special Study Meeting_Final.doc

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 that 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 sing, 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

Ted Dziurman, Chairman

Pamela Pasternak

Pamela Pasternak, Recording Secretary

The Regular Meeting of the Troy City Planning Commission was called to order by Chair Waller at 7:32 p.m. on August 10, 2004, in the Council Chambers of the Troy City Hall.

1. ROLL CALL

Present:
Gary Chamberlain
Lynn Drake-Batts
Fazal Khan
Robert Schultz
Thomas Strat
Mark J. Vleck
David T. Waller
Wayne Wright

Absent:
Lawrence Littman

Also Present:
Mark F. Miller, Planning Director
Brent Savidant, Principal Planner
Allan Motzny, Assistant City Attorney
Howard Wu, Student Representative
Kathy Czarnecki, Recording Secretary

Resolution # PC-2004-08-085
Moved by: Wright
Seconded by: Strat

RESOLVED, That Member Littman be excused from attendance at this meeting.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

2. MINUTES

Mr. Chamberlain requested that the July 27, 2004 Special/Study Meeting minutes reflect the following revision.

> Page 2, Agenda Item 5, second paragraph, add sentence to the end of the paragraph: "When City Management opposes something the Planning Commission is working on, they should come forward with constructive ideas and suggested solutions."

Resolution # PC-2004-08-086
Moved by: Chamberlain
Seconded by: Schultz

RESOLVED, To approve the July 27, 2004 Special/Study Meeting minutes as amended.

Yes: Chamberlain, Drake-Batts, Khan, Schultz, Strat, Waller
No: None
Abstain: Vleck, Wright
Absent: Littman

MOTION CARRIED

3. PUBLIC COMMENTS

There was no one present who wished to speak.

TABLED ITEM

4. PUBLIC HEARING – SPECIAL USE REQUEST (SU 324) – Proposed Dog Day Care/Commercial Kennel, BARK! LLC, North side of Industrial Row, East of Coolidge, Section 32 – M-1 (Note: Application has been withdrawn by the Applicant)

Mr. Miller confirmed the petitioner withdrew the Special Use application.

SPECIAL USE APPROVAL

5. PUBLIC HEARING – SPECIAL USE REQUEST (SU 326) – Square Lake Marathon Station, Southwest corner of Livernois and Square Lake (5991 Livernois), Section 9 – H-S

Mr. Savidant presented a summary of the Planning Department report for the proposed Special Use at the Square Lake Marathon Station. Mr. Savidant reported the petitioner is working with the Planning Department on improving the design of the site and addressing safety concerns. The Planning Department has prepared design alternatives to improve the layout of the site. It is the recommendation of the Planning Department to table the item to the August 24, 2004 Special/Study Meeting to discuss site design issues. Mr. Savidant said the petitioner is taking into consideration the design alternatives prepared by the Planning Department and is in agreement with the recommendation to table the item.

Mr. Savidant reported that the Planning Department is in receipt of a letter from the abutting property owner to the south, who shared his concerns and his interest in

attending the August 24, 2004 Special/Study Meeting. Mr. Savidant noted that a copy of the letter has been distributed to the Planning Commission prior to the beginning of tonight's meeting. Mr. Savidant confirmed that a copy of the letter would be provided to the petitioner.

Mr. Savidant confirmed that the current ordinance does not require site plans to be signed and sealed. He noted that requirement is incorporated in the proposed zoning ordinance text amendment relating to site plan approval, which is currently in the approval process.

The petitioner, Mike Elias of 5991 Livernois, Troy, was present. Mr. Elias said he would like to improve the small site to make it more efficient. He stated that he and the Planning Department are working on design issues, and he is in agreement with tabling the item.

PUBLIC HEARING OPENED

No one was present to speak.

Chair Waller announced the Public Hearing would remain open until the August 24, 2004 Special/Study Meeting.

Resolution # PC-2004-08-087
Moved by: Vleck
Seconded by: Wright

RESOLVED, That the Special Use Approval request for the Square Lake Marathon Station, located on the southwest corner of Square Lake Road and Livernois Road, Section 9, within the H-S Zoning District be tabled to the August 24, 2004 Special/Study Meeting.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

SITE PLAN

6. SITE PLAN REVIEW (SP 907) – Proposed Medical Offices, Conversion of Existing Maple Athletic Club Building, North side of Maple, West of Livernois (230 W. Maple), Section 28 – B-2

Mr. Savidant presented a summary of the Planning Department report for the proposed site plan. Mr. Savidant reported that it is the recommendation of the Planning Department to approve the site plan as submitted with the condition that

the site plan indicates four trees within the greenbelt along Maple Road per the ordinance requirements of Article 39.70.02.

Mr. Khan suggested consideration be given to relocating the dumpster. He expressed concerns with aesthetics and odors for the nearby residential homes.

There was discussion with respect to the relocation of the dumpster.

Mr. Savidant stated that the dumpster would be well screened in its proposed location, and suggested that the petitioner address the matter.

Ryan Johnson of Nowak & Fraus, 1310 N. Stephenson, Royal Oak, was present. Mr. Johnson said the dumpster location on the northwest corner is ideal because it is easily accessible for trash pickup and it is well screened by the existing 7 foot wall. He noted the dumpster would be gated and closed, and odors would be limited since it is a medical office use. Mr. Johnson said relocating the dumpster to the southeast corner would cause traffic concerns with trash pickup.

Mr. Chamberlain pointed out that the Commission can mandate all the dumpster enclosures it wants but the gates are never shut by the trash haulers or the dumpster users. He said the proposed location of the dumpster is in the direct site line of Maple Road, and it should be relocated to the southeast corner so it is completely screened from the road and away from the residential neighbors.

Mr. Vleck said the dumpster would be less attractive to the neighboring residents if it is relocated to the southeast corner because they will be staring straight at the front of the dumpster.

Mr. Johnson said his client would locate the dumpster wherever the Commission desires.

Chair Waller opened the floor for public comment.

Jim Meinershagen of 4657 Heatherbrook, Troy, was present. Mr. Meinershagen represented ABC Warehouse as the owner/user of the adjacent parcel to the west. He said the proposed development is a result of the prospective purchaser, current owner and himself working closely together, and he is in full support of the development.

Chair Waller acknowledged receipt of Mr. Meinershagen's letter of support and thanked him.

The floor was closed.

Resolution # PC-2004-08-088

Moved by: Chamberlain
Seconded by: Strat

RESOLVED, That the Preliminary Site Plan Approval, as requested for the proposed medical offices, located on the north side of Maple, west of Livernois, Section 28, within the B-2 Zoning District be granted, subject to the following condition:

1. That the dumpster currently shown on the northwest corner of the parcel be moved to the extreme east and as far south as it can get on the eastern boundary.

Discussion on the motion.

Mr. Vleck said he is not in agreement with relocating the dumpster, and referenced his personal experience with a dumpster on a restaurant site near his home.

Ms. Drake-Batts provided a brief review of the subject site and the proposed location of the dumpster.

There was a brief discussion on the Planning Department's recommendation that the petitioner provide four trees within the greenbelt along Maple Road.

Mr. Miller explained that all of the site plan drawings, inclusive of the landscape plan, are considered in the site plan approval. It was understood that the four trees would be provided in the final landscape plan.

Vote on the motion on the floor.

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

MOTION CARRIED

Mr. Vleck said the dumpster would be better served in the location originally proposed. He stated he is in favor of the site plan, but would prefer the original location of the dumpster.

REZONING REQUEST

7. PUBLIC HEARING – PROPOSED REZONING (Z 479-B) – Existing Clark Gas Station, Northeast corner of Rochester Road and Charrington Drive (3400 Rochester Road), Section 23 – From B-1 to H-S

Mr. Savidant presented a summary of the Planning Department report for the proposed rezoning of the existing Clark Gas Station. Mr. Savidant reported that it is the recommendation of the Planning Department to approve the rezoning application. He noted the petitioner would be required to obtain a number of variances from the Board of Zoning Appeals prior to meeting zoning ordinance requirements for preliminary site plan approval. Mr. Savidant also noted that the Planning Department has one written objection to the proposed rezoning on file.

Mr. Savidant clarified that a site plan for the development has not been distributed to the Commission, and that the Commission's consideration at tonight's meeting is the proposed rezoning only.

Mr. Schultz asked what the rear yard setback requirement would be for the development, in relation to the residential property to the east.

Mr. Savidant replied the rear yard setback requirement in the H-S zoning district is 30 feet except when the development abuts a residential district, in which case the setback requirement is 75 feet.

Mr. Miller stated that recently the Planning Department has received rezoning applications from a number of service stations. The service stations are requesting the H-S zoning classification in order to eliminate their non-conforming use status. Mr. Miller said that many of the City's service stations are old developments, and noted that the subject service station for rezoning consideration tonight has been in existence prior to the residential neighborhood to the east. Mr. Miller related that in the early 1980's, the intent of the City was to discourage the development of service stations. Because the service stations are not going away and because they cannot redevelop as non-conforming uses, the current thinking of City Management is that it would be better to rezone the properties and work with the petitioners to create safe, efficient and modern facilities.

John DeBruyne of SDA Architects, 2201 Twelve Mile Road, Warren, was present. Mr. DeBruyne said the petitioner is going through the proper channels to eliminate the non-conforming use, and noted the ultimate goal is to expand the retail portion of the establishment. Mr. DeBruyne confirmed that the service station would continue to service its customers with gasoline.

PUBLIC HEARING OPENED

Nels Bejleri was present to speak on behalf of his father, Arben Bejleri of 1055 Winthrop Drive, Troy. Mr. Bejleri expressed objection to the proposed rezoning. He cited concerns with the proposed development should the proposed rezoning be approved. The major concerns are the elevation of the development in relation to the residential homes to the east and the increase in parking and traffic with the expansion of the service station.

Chair Waller stated that concerns related to elevation, water flow and traffic are very valid, and the Commission would take into consideration all those concerns at the time the preliminary site plan is before the Commission for review and approval. He encouraged residents who are in opposition to the proposed rezoning and potential expansion of the service station to voice their concerns with the Planning Department, the Board of Zoning Appeals and the City Council.

Don Mencke of 1151 Winthrop Drive, Troy, was present. Mr. Mencke said he and some neighbors are concerned about the potential increase in traffic, traffic safety when crossing Rochester Road, elevation, property devaluation and the facility operating 24 hours. Mr. Mencke said the facility has not been taken care of by the owner until recently, and suggested that the rezoning be tabled for a couple of years to see how the owner takes care of the property. Mr. Mencke asked why the property must be rezoned to the H-S district.

Mr. Chamberlain briefly explained that the service station is required to be zoned in the H-S zoning district before any improvements can be made to the property.

John Mulligan of 1087 Charrington, Troy, was present. Mr. Mulligan said he and the neighbors are concerned that should the rezoning be approved, it leaves the property wide open for development. He also expressed concerns with the larger building and the potential of increased traffic, especially for cross traffic at Rochester Road.

The petitioner and property owner, Anddraos Kattouah of 3400 Rochester Road, Troy, was present. Mr. Kattouah said he understands the concerns expressed by the residents. He stated that it is not his desire to run a 24-hour operation, to sell alcohol, or to own a gas station. Mr. Kattouah said he purchased the gas station for his wife because everybody in her family has a gas station, and the business is not his main source of income. Mr. Kattouah said he has had the service station for the past nine months, and it has taken some time to become familiar with the property and business. He said he is requesting to have the property rezoned to eliminate the non-conforming use and to improve on the only eyesore in the entire block. He would like to add an additional 1,400 square feet to the facility and provide retail of essential items to the nearby residents. Mr. Kattouah said the closest convenience store is over one mile from the service station. Mr. Kattouah, a State-licensed residential appraiser, said the expansion of the service station would have no negative effect on the value of the nearby residential homes.

PUBLIC HEARING CLOSED

Mr. Miller gave a brief explanation of the requirements placed on a non-conforming use in relation to site improvements. Mr. Miller noted that the subject parcel has a history of minor violations (i.e., litter, tall grass), which have all been resolved at this time. Mr. Miller stated that the charge of the Commission tonight is to look at the appropriateness of the proposed rezoning district at this location. He explained the procedure of a Special Use Approval that would be required for improvements to the service station, and the Planning Commission's discretionary control over the site as a Special Use.

Resolution # PC-2004-08-089

Moved by: Chamberlain
Seconded by: Strat

RESOLVED, That the Planning Commission hereby recommends to the City Council that the B-1 to H-S rezoning request, located on the northeast corner of Rochester Road and Charrington Drive, within Section 23, being 21,000 square feet in size, be granted.

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

MOTION CARRIED

Mr. Vleck said he agrees that the site needs to be redeveloped and understands it cannot make major improvements because of its non-conformity. He said he wished there was a way to be more flexible with different options.

8. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 199) – Article 03.40.00 Site Plan Approval

Mr. Miller reported that two minor changes were incorporated in the proposed zoning ordinance text amendment relating to Site Plan Approval. A provision was added that requires site plans to be sealed by a State of Michigan Professional Engineer, Registered Architect, Registered Landscape Architect or Professional Community Planner. In addition, the intent statement was strengthened.

Mr. Wright reported a typographical error in Section 03.43.01 (17); the words "State of Michigan Profession Engineer" should read "State of Michigan Professional Engineer."

The Planning Department noted the error and the correction will be made.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2004-08-090

Moved by: Chamberlain
Seconded by: Wright

RESOLVED, That the Planning Commission hereby recommends to the City Council that Article 03.40.00 Site Plan Approval of the Zoning Ordinance, be amended as printed, with the change as suggested by Mr. Wright, on the Proposed Zoning Ordinance Text Amendment, dated 08/04/04.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

9. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 182) – Articles 12.00.00 and 30.10.08 R-1 T One Family Attached

Mr. Miller provided a summary of the proposed zoning ordinance text amendment that would update the R-1T provisions of the zoning ordinance.

Chair Waller suggested that the references to rear yard perimeter setbacks on the Schedule of Regulations reflect directly to Section 12.50.08.

The Planning Department will make the change.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2004-08-091

Moved by: Schultz
Seconded by: Wright

RESOLVED, that the Planning Commission hereby recommends to the City Council that Articles 12.00.00 and 30.10.08 of the Zoning Ordinance, be amended as revised by Mr. Waller on the Proposed Zoning Ordinance Text Amendment, dated 07/01/04.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

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

Mr. Miller provided a summary of the proposed zoning ordinance text amendment that would clarify the powers and duties and voting requirements of the Planning Commission.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2004-08-092

Moved by: Wright
Seconded by: Schultz

RESOLVED, That the Planning Commission hereby recommends to the City Council that Article 02.00.00 - Changes, Amendments and Approvals of the Zoning Ordinance, be amended as printed on the Proposed Zoning Ordinance Text Amendment, dated 06/16/04.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

GOOD OF THE ORDER

Mr. Chamberlain suggested that a policy be set with respect to the drawings and whatever else a petitioner for a particular project submits is considered the complete package for approval by the Commission.

Chair Waller directed the Planning Department to standardize the prepared Resolutions to include that all documentation as submitted to the City shall be a part of this approval.

Chair Waller announced he would like to attend the Greenbuild International Conference in Portland, Oregon from November 10-12, 2004, as representative of the City of Troy and the Planning Commission. He said he would entertain a motion requesting City Council's consideration of his attendance.

Resolution # PC-2004-08-093

Moved by: Khan
Seconded by: Vleck

RESOLVED, That the City Council consider the attendance of David Waller at the Greenbuild International Conference in Portland, Oregon, and that a written report be provided by Mr. Waller at the conclusion of the conference.

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

MOTION CARRIED

Ms. Drake-Batts said there are a lot of areas the City needs to spend money on, and she is one for educating herself and paying her own way. Ms. Drake-Batts said her vote would be consistent on similar items, now and in the future.

Chair Waller announced that the American Planning Association Conference is being held in San Francisco on March 19, 2005.

Mr. Miller took note of those Commissioners who plan to attend the Michigan Society of Planning Annual Conference in Grand Rapids from September 29 to October 2. He requested applications to be turned into the Planning Department as soon as possible, noting the early bird deadline is August 30. Mr. Miller said he would contact the Michigan Society of Planning office to check into the additional classes that might be offered.

Mr. Miller highlighted the items to be discussed at the August 24, 2004 Special/Study Meeting.

(1) Downtown Clawson Framework Urban Design Plan
(2) Special Use Request (SU 326) – Square Lake Marathon Station
(3) Proposed PUD located on the north side of Big Beaver between Alpine and McClure

ADJOURN

The Regular Meeting of the Planning Commission was adjourned at 8:55 p.m.

Respectfully submitted,

_____
David T. Waller, Chair

_____
Kathy L. Czarnecki, Recording Secretary

G:\Planning Commission Minutes\2004 PC Minutes\Draft\08-10-04 Regular Meeting_Draft.doc

The Regular Meeting of the Troy City Planning Commission was called to order by Chair Waller at 7:32 p.m. on August 10, 2004, in the Council Chambers of the Troy City Hall.

1. ROLL CALL

Present:
Gary Chamberlain
Lynn Drake-Batts
Fazal Khan
Robert Schultz
Thomas Strat
Mark J. Vleck
David T. Waller
Wayne Wright

Absent:
Lawrence Littman

Also Present:
Mark F. Miller, Planning Director
Brent Savidant, Principal Planner

Allan Motzny, Assistant City Attorney
Howard Wu, Student Representative
Kathy Czarnecki, Recording Secretary

Resolution # PC-2004-08-085
Moved by: Wright
Seconded by: Strat

RESOLVED, That Member Littman be excused from attendance at this meeting for personal reasons.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

2. MINUTES

Mr. Chamberlain requested that the July 27, 2004 Special/Study Meeting minutes reflect the following revision.

> Page 2, Agenda Item 5, second paragraph, add sentence to the end of the paragraph: "When City Management opposes something the Planning Commission is working on, they should come forward with constructive ideas and suggested solutions."

Resolution # PC-2004-08-086
Moved by: Chamberlain
Seconded by: Schultz

RESOLVED, To approve the July 27, 2004 Special/Study Meeting minutes as amended.

Yes: Chamberlain, Drake-Batts, Khan, Schultz, Strat, Waller
No: None
Abstain: Vleck, Wright
Absent: Littman

MOTION CARRIED

3. PUBLIC COMMENTS

There was no one present who wished to speak.

TABLED ITEM

4. PUBLIC HEARING – SPECIAL USE REQUEST (SU 324) – Proposed Dog Day Care/Commercial Kennel, BARK! LLC, North side of Industrial Row, East of Coolidge, Section 32 – M-1 (Note: Application has been withdrawn by the Applicant)

Mr. Miller confirmed the petitioner withdrew the Special Use application.

SPECIAL USE APPROVAL

5. PUBLIC HEARING – SPECIAL USE REQUEST (SU 326) – Square Lake Marathon Station, Southwest corner of Livernois and Square Lake (5991 Livernois), Section 9 – H-S

Mr. Savidant presented a summary of the Planning Department report for the proposed Special Use at the Square Lake Marathon Station. Mr. Savidant reported the petitioner is working with the Planning Department on improving the design of the site and addressing safety concerns. The Planning Department has prepared design alternatives to improve the layout of the site. It is the recommendation of the Planning Department to table the item to the August 24, 2004 Special/Study Meeting to discuss site design issues. Mr. Savidant said the petitioner is taking into consideration the design alternatives prepared by the Planning Department and is in agreement with the recommendation to table the item.

Mr. Savidant reported that the Planning Department is in receipt of a letter from the abutting property owner to the south, who shared his concerns and his interest in

attending the August 24, 2004 Special/Study Meeting. Mr. Savidant noted that a copy of the letter has been distributed to the Planning Commission prior to the beginning of tonight's meeting. Mr. Savidant confirmed that a copy of the letter would be provided to the petitioner.

Mr. Savidant confirmed that the current ordinance does not require site plans to be signed and sealed. He noted that requirement is incorporated in the proposed zoning ordinance text amendment relating to site plan approval, which is currently in the approval process.

The petitioner, Mike Elias of 5991 Livernois, Troy, was present. Mr. Elias said he would like to improve the small site to make it more efficient. He stated that he and the Planning Department are working on design issues, and he is in agreement with tabling the item.

PUBLIC HEARING OPENED

No one was present to speak.

Chair Waller announced the Public Hearing would remain open until the August 24, 2004 Special/Study Meeting.

Resolution # PC-2004-08-087
Moved by: Vleck
Seconded by: Wright

RESOLVED, That the Special Use Approval request for the Square Lake Marathon Station, located on the southwest corner of Square Lake Road and Livernois Road, Section 9, within the H-S Zoning District be tabled to the August 24, 2004 Special/Study Meeting.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

SITE PLAN

6. SITE PLAN REVIEW (SP 907) – Proposed Medical Offices, Conversion of Existing Maple Athletic Club Building, North side of Maple, West of Livernois (230 W. Maple), Section 28 – B-2

Mr. Savidant presented a summary of the Planning Department report for the proposed site plan. Mr. Savidant reported that it is the recommendation of the Planning Department to approve the site plan as submitted with the condition that

the site plan indicates four trees within the greenbelt along Maple Road per the ordinance requirements of Article 39.70.02.

Mr. Khan suggested consideration be given to relocating the dumpster. He expressed concerns with aesthetics and odors for the nearby residential homes.

There was discussion with respect to the relocation of the dumpster.

Mr. Savidant stated that the dumpster would be well screened in its proposed location, and suggested that the petitioner address the matter.

Ryan Johnson of Nowak & Fraus, 1310 N. Stephenson, Royal Oak, was present. Mr. Johnson said the dumpster location on the northwest corner is ideal because it is easily accessible for trash pickup and it is well screened by the existing 7 foot wall. He noted the dumpster would be gated and closed, and odors would be limited since it is a medical office use. Mr. Johnson said relocating the dumpster to the southeast corner would cause traffic concerns with trash pickup.

Mr. Chamberlain pointed out that the Commission can mandate all the dumpster enclosures it wants but the gates are never shut by the trash haulers or the dumpster users. He said the proposed location of the dumpster is in the direct site line of Maple Road, and it should be relocated to the southeast corner so it is completely screened from the road and away from the residential neighbors.

Mr. Vleck said the dumpster would be less attractive to the neighboring residents if it is relocated to the southeast corner because they will be staring straight at the front of the dumpster.

Mr. Johnson said his client would locate the dumpster wherever the Commission desires.

Chair Waller opened the floor for public comment.

Jim Meinershagen of 4657 Heatherbrook, Troy, was present. Mr. Meinershagen represented ABC Warehouse as the owner/user of the adjacent parcel to the west. He said the proposed development is a result of the prospective purchaser, current owner and himself working closely together, and he is in full support of the development.

Chair Waller acknowledged receipt of Mr. Meinershagen's letter of support and thanked him.

The floor was closed.

Resolution # PC-2004-08-088

Moved by: Chamberlain
Seconded by: Strat

RESOLVED, That the Preliminary Site Plan Approval, as requested for the proposed medical offices, located on the north side of Maple, west of Livernois, Section 28, within the B-2 Zoning District be granted, subject to the following condition:

1. That the dumpster currently shown on the northwest corner of the parcel be moved to the extreme east and as far south as it can get on the eastern boundary.

Discussion on the motion.

Mr. Vleck said he is not in agreement with relocating the dumpster, and referenced his personal experience with a dumpster on a restaurant site near his home.

Ms. Drake-Batts provided a brief review of the subject site and the proposed location of the dumpster.

There was a brief discussion on the Planning Department's recommendation that the petitioner provide four trees within the greenbelt along Maple Road.

Mr. Miller explained that all of the site plan drawings, inclusive of the landscape plan, are considered in the site plan approval. It was understood that the four trees would be provided in the final landscape plan.

Vote on the motion on the floor.

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

MOTION CARRIED

Mr. Vleck said the dumpster would be better served in the location originally proposed. He stated he is in favor of the site plan, but would prefer the original location of the dumpster.

REZONING REQUEST

7. PUBLIC HEARING – PROPOSED REZONING (Z 479-B) – Existing Clark Gas Station, Northeast corner of Rochester Road and Charrington Drive (3400 Rochester Road), Section 23 – From B-1 to H-S

Mr. Savidant presented a summary of the Planning Department report for the proposed rezoning of the existing Clark Gas Station. Mr. Savidant reported that it is the recommendation of the Planning Department to approve the rezoning application. He noted the petitioner would be required to obtain a number of variances from the Board of Zoning Appeals prior to meeting zoning ordinance requirements for preliminary site plan approval. Mr. Savidant also noted that the Planning Department has one written objection to the proposed rezoning on file.

Mr. Savidant clarified that a site plan for the development has not been distributed to the Commission, and that the Commission's consideration at tonight's meeting is the proposed rezoning only.

Mr. Schultz asked what the rear yard setback requirement would be for the development, in relation to the residential property to the east.

Mr. Savidant replied the rear yard setback requirement in the H-S zoning district is 30 feet except when the development abuts a residential district, in which case the setback requirement is 75 feet.

Mr. Miller stated that recently the Planning Department has received rezoning applications from a number of service stations. The service stations are requesting the H-S zoning classification in order to eliminate their non-conforming use status. Mr. Miller said that many of the City's service stations are old developments, and noted that the subject service station for rezoning consideration tonight has been in existence prior to the residential neighborhood to the east. Mr. Miller related that in the early 1980's, the intent of the City was to discourage the development of service stations. Because the service stations are not going away and because they cannot redevelop as non-conforming uses, the current thinking of City Management is that it would be better to rezone the properties and work with the petitioners to create safe, efficient and modern facilities.

John DeBruyne of SDA Architects, 2201 Twelve Mile Road, Warren, was present. Mr. DeBruyne said the petitioner is going through the proper channels to eliminate the non-conforming use, and noted the ultimate goal is to expand the retail portion of the establishment. Mr. DeBruyne confirmed that the service station would continue to service its customers with gasoline.

PUBLIC HEARING OPENED

Nels Bejleri was present to speak on behalf of his father, Arben Bejleri of 1055 Winthrop Drive, Troy. Mr. Bejleri expressed objection to the proposed rezoning. He cited concerns with the proposed development should the proposed rezoning be approved. The major concerns are the elevation of the development in relation to the residential homes to the east and the increase in parking and traffic with the expansion of the service station.

Chair Waller stated that concerns related to elevation, water flow and traffic are very valid, and the Commission would take into consideration all those concerns at the time the preliminary site plan is before the Commission for review and approval. He encouraged residents who are in opposition to the proposed rezoning and potential expansion of the service station to voice their concerns with the Planning Department, the Board of Zoning Appeals and the City Council.

Don Mencke of 1151 Winthrop Drive, Troy, was present. Mr. Mencke said he and some neighbors are concerned about the potential increase in traffic, traffic safety when crossing Rochester Road, elevation, property devaluation and the facility operating 24 hours. Mr. Mencke said the facility has not been taken care of by the owner until recently, and suggested that the rezoning be tabled for a couple of years to see how the owner takes care of the property. Mr. Mencke asked why the property must be rezoned to the H-S district.

Mr. Chamberlain briefly explained that the service station is required to be zoned in the H-S zoning district before any improvements can be made to the property.

John Mulligan of 1087 Charrington, Troy, was present. Mr. Mulligan said he and the neighbors are concerned that should the rezoning be approved, it leaves the property wide open for development. He also expressed concerns with the larger building and the potential of increased traffic, especially for cross traffic at Rochester Road.

The petitioner and property owner, Anddraos Kattouah of 3400 Rochester Road, Troy, was present. Mr. Kattouah said he understands the concerns expressed by the residents. He stated that it is not his desire to run a 24-hour operation, to sell alcohol, or to own a gas station. Mr. Kattouah said he purchased the gas station for his wife because everybody in her family has a gas station, and the business is not his main source of income. Mr. Kattouah said he has had the service station for the past nine months, and it has taken some time to become familiar with the property and business. He said he is requesting to have the property rezoned to eliminate the non-conforming use and to improve on the only eyesore in the entire block. He would like to add an additional 1,400 square feet to the facility and provide retail of essential items to the nearby residents. Mr. Kattouah said the closest convenience store is over one mile from the service station. Mr. Kattouah, a State-licensed residential appraiser, said the expansion of the service station would have no negative effect on the value of the nearby residential homes.

PUBLIC HEARING CLOSED

Mr. Miller gave a brief explanation of the requirements placed on a non-conforming use in relation to site improvements. Mr. Miller noted that the subject parcel has a history of minor violations (i.e., litter, tall grass), which have all been resolved at this time. Mr. Miller stated that the charge of the Commission tonight is to look at the appropriateness of the proposed rezoning district at this location. He explained the procedure of a Special Use Approval that would be required for improvements to the service station, and the Planning Commission's discretionary control over the site as a Special Use.

Resolution # PC-2004-08-089

Moved by: Chamberlain
Seconded by: Strat

RESOLVED, That the Planning Commission hereby recommends to the City Council that the B-1 to H-S rezoning request, located on the northeast corner of Rochester Road and Charrington Drive, within Section 23, being 21,000 square feet in size, be granted.

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

MOTION CARRIED

Mr. Vleck said he agrees that the site needs to be redeveloped and understands it cannot make major improvements because of its non-conformity. He said he wished there was a way to be more flexible with different options.

8. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 199) – Article 03.40.00 Site Plan Approval

Mr. Miller reported that two minor changes were incorporated in the proposed zoning ordinance text amendment relating to Site Plan Approval. A provision was added that requires site plans to be sealed by a State of Michigan Professional Engineer, Registered Architect, Registered Landscape Architect or Professional Community Planner. In addition, the intent statement was strengthened.

Mr. Wright reported a typographical error in Section 03.43.01 (17); the words "State of Michigan Profession Engineer" should read "State of Michigan Professional Engineer."

The Planning Department noted the error and the correction will be made.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2004-08-090

Moved by: Chamberlain
Seconded by: Wright

RESOLVED, That the Planning Commission hereby recommends to the City Council that Article 03.40.00 Site Plan Approval of the Zoning Ordinance, be amended as printed, with the change as suggested by Mr. Wright, on the Proposed Zoning Ordinance Text Amendment, dated 08/04/04.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

9. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 182) – Articles 12.00.00 and 30.10.08 R-1 T One Family Attached

Mr. Miller provided a summary of the proposed zoning ordinance text amendment that would update the R-1T provisions of the zoning ordinance.

Chair Waller suggested that the references to rear yard perimeter setbacks on the Schedule of Regulations reflect directly to Section 12.50.08.

The Planning Department will make the change.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2004-08-091

Moved by: Schultz
Seconded by: Wright

RESOLVED, that the Planning Commission hereby recommends to the City Council that Articles 12.00.00 and 30.10.08 of the Zoning Ordinance, be amended as revised by Mr. Waller on the Proposed Zoning Ordinance Text Amendment, dated 07/01/04.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

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

Mr. Miller provided a summary of the proposed zoning ordinance text amendment that would clarify the powers and duties and voting requirements of the Planning Commission.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2004-08-092

Moved by: Wright
Seconded by: Schultz

RESOLVED, That the Planning Commission hereby recommends to the City Council that Article 02.00.00 - Changes, Amendments and Approvals of the Zoning Ordinance, be amended as printed on the Proposed Zoning Ordinance Text Amendment, dated 06/16/04.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

GOOD OF THE ORDER

Mr. Chamberlain suggested that a policy be set with respect to the drawings and whatever else a petitioner for a particular project submits is considered the complete package for approval by the Commission.

Chair Waller directed the Planning Department to standardize the prepared Resolutions to include that all documentation as submitted to the City shall be a part of this approval.

Chair Waller announced he would like to attend the Greenbuild International Conference in Portland, Oregon from November 10-12, 2004, as representative of the City of Troy and the Planning Commission. He said he would entertain a motion requesting City Council's consideration of his attendance.

Resolution # PC-2004-08-093

Moved by: Khan
Seconded by: Vleck

RESOLVED, That the City Council consider the attendance of David Waller at the Greenbuild International Conference in Portland, Oregon, and that a written report be provided by Mr. Waller at the conclusion of the conference.

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

MOTION CARRIED

Ms. Drake-Batts said there are a lot of areas the City needs to spend money on, and she is one for educating herself and paying her own way. Ms. Drake-Batts said her vote would be consistent on similar items, now and in the future.

Chair Waller announced that the American Planning Association Conference is being held in San Francisco on March 19, 2005.

Mr. Miller took note of those Commissioners who plan to attend the Michigan Society of Planning Annual Conference in Grand Rapids from September 29 to October 2. He requested applications to be turned into the Planning Department as soon as possible, noting the early bird deadline is August 30. Mr. Miller said he would contact the Michigan Society of Planning office to check into the additional classes that might be offered.

Mr. Miller highlighted the items to be discussed at the August 24, 2004 Special/Study Meeting.

(1) Downtown Clawson Framework Urban Design Plan
(2) Special Use Request (SU 326) – Square Lake Marathon Station
(3) Proposed PUD located on the north side of Big Beaver between Alpine and McClure

ADJOURN

The Regular Meeting of the Planning Commission was adjourned at 8:55 p.m.

Respectfully submitted,

_____
David T. Waller, Chair

_____
Kathy L. Czarnecki, Recording Secretary

G:\Planning Commission Minutes\2004 PC Minutes\Final\08-10-04 Regular Meeting_Final.doc

The Chairman, Matthew Kovacs, called the meeting of the Board of Zoning Appeals to order at 7:30 P.M., on Tuesday, August 17, 2004 in Council Chambers of City Hall.

PRESENT: Kenneth Courtney
Marcia Gies
Michael Hutson
Matthew Kovacs
Mark Maxwell
Robert Schultz

ALSO PRESENT: Mark Stimac, Director of Building & Zoning
Susan Lancaster, Assistant City Attorney
Pamela Pasternak, Recording Secretary

ITEM #1 – APPROVAL OF MINUTES – MEETING OF JULY 20, 2004

Motion by Courtney
Supported by Gies

MOVED, to approve the minutes of the meeting of July 20, 2004 as written.

Yeas: 5 – Gies, Hutson, Kovacs, Maxwell, Courtney
Abstain: 2 – Fejes, Schultz

MOTION TO APPROVE MINUTES AS WRITTEN CARRIED

ITEM #2 – VARIANCE REQUEST. ST. AUGUSTINE EVANGELICAL CHURCH, 5475 LIVERNOIS, for relief of the 4'6" masonry wall required along the south and west sides of off-street parking.

Mr. Stimac informed the Board that St. Augustine Church is in the process of filing for a special use approval and the Planning Commission is in the process of looking at the site plan and may impose certain stipulations, regarding screening their outdoor play area. Mr. Stimac suggested that perhaps the Board would like to postpone this item until the meeting of September 21, 2004 in order to determine what the Planning Commission has decided.

Motion by Courtney
Supported by Gies

MOVED, to postpone the request of St. Augustine Evangelical Church, 5475 Livernois, for relief of the 4'-6" masonry wall required along the south and west sides of off-street parking until the meeting of September 21, 2004.

- To allow the Planning Commission to discuss and act on the special use approval request submitted by the Church.

ITEM #2 – con't.

Yeas: All – 7

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF SEPTEMBER 21, 2004 CARRIED

ITEM #3 – VARIANCE REQUEST. RWT BUILDING, LLC, 1309 BOYD (PROPOSED ADDRESS), for relief of the 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 last appeared before this Board at the meeting of July 20, 2004 and was postponed to allow the Board members to revisit the site to determine if the proposed home would create an adverse effect to surrounding property.

Mr. Courtney asked if the setback requirements would be met with the new home. Mr. Stimac indicated that the plans submitted indicate a new dwelling with 7 ½' on each side and 45' of building width, which would comply with the Ordinance. Mr. Courtney then stated that basically this variance would be creating two non-conforming lots.

Mr. Murray Deagle from RWT Building, LLC was present and stated that the proposed homes would comply with the requirements of the Ordinance with the exception of the lot area. Mr. Deagle also said this neighborhood is quite mixed in the type of homes that exist and did not feel this proposed split would cause an adverse effect to surrounding property. Mr. Deagle had approached the School District to see if they would consider selling some of the property behind this lot in order to have the lots meet the area requirement, but was told that they would not sell any of their land, however believes that this lot would conform with the other homes in the area regarding the depth of the lot. Mr. Deagle went on to say that he feels that the new construction would not only improve the neighborhood but would also add property value to the City of Troy. Mr. Deagle also said that they would be willing to move the house farther east in order to add to the side yard setback. RWT Building has been constructing new homes in Troy for the last ten years, and the homes that they build are generally 2200 square feet, and Mr. Deagle feels this size of home is very desirable in this area.

ITEM #3 – con't.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are seven (7) written objections on file. There are three (3) written approvals on file.

Mr. Kovacs stated that he had gone back to this site and noticed that there was a drainage ditch that ran along the back of the property. Mr. Kovacs also said that he did not see how a new home would obstruct the view of the school, as presently there are a number of large trees, and the school is set back approximately 200' from these trees. Mr. Kovacs also said that he did not see a problem with this request as he feels that the proposed home would fit in with the other homes in the area and feels that conforming to the Ordinance would be unnecessarily burdensome for the petitioner.

Mr. Courtney stated that he feels this is a conforming lot now and by granting a variance the Board would create two (2) non-conforming lots and the only hardship was monetary. Mr. Courtney said that he could not justify this variance.

Mr. Fejes agreed with Mr. Courtney and stated that he did not see any type of hardship at all with the land, and would not be able to justify a variance. Mr. Hutson said that he thinks that splitting this parcel would increase the congestion in the area and he could not find a practical difficulty that ran with the land.

Mr. Maxwell stated that he did not think splitting this property would create a hardship and felt that the proposed homes would fit in with this area and would improve the property.

Motion by Courtney
Supported by Hutson

MOVED, to deny the request of RWT Building, LLC, 1309 Boyd (proposed address), for relief of the 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.

- Variance would be contrary to public interest.
- Variance would have an adverse effect to surrounding property.
- Petitioner did not demonstrate a hardship.

Yeas: 5 – Hutson, Schultz, Courtney, Fejes, Gies
Nays: 2 – Kovacs, Maxwell

MOTION TO DENY REQUEST CARRIED

ITEM #4 – VARIANCE REQUEST. GEORGE KOSTOPOULOS, 2720 PINE HILL, for relief of the Ordinance to construct a garage addition, which would result in a 16' front yard setback to Bronson where Section 30.10.02 requires a 40' front setback.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a garage addition, which will result in a 16' front yard setback to Bronson. This property is a double front corner lot and requires a 40' minimum front yard setback from both Pine Hill and Bronson. The site plan submitted indicates the existing attached garage has a legal non-conforming 23'-6" front yard setback to Bronson. This garage was constructed at a time that Bronson did not go through. Section 30.50.04 of the Ordinance prohibits expansions of non-conforming structures in a way that increases the non-conformity.

Mr. Schultz asked if the existing garage had a front entrance and Mr. Stimac stated the current garage has a setback of 23'-6" and that garage will retain that setback and the current garage door faces to the south and they are planning to modify that with an entrance to the east.

Mr. Douglas Leahy of AZD Architects was present and stated that the configuration of the lot creates a problem and although the existing garage fronts on Pine Hill, they do plan to change the location of the door to open on the side. Mr. Leahy also indicated that they plan to put an addition on this home and by adding this garage it would soften the look of the proposed addition. The proposed garage would have a low profile and would face toward Bronson and would have a 35' setback from the road.

Mr. Courtney asked what would happen to the existing garage and Mr. Leahy stated that it would remain a garage.

Mr. Kovacs asked how large this home was and if it had a basement and Mr. Leahy said it was approximately 1600 square feet and did not have a basement.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There is one written approval on file. There are no written objections on file.

Mr. Hutson stated that he felt the configuration of this lot created a hardship for the petitioner and there is a lot of vegetation and landscaping, which would diminish the impact to surrounding property. Mr. Kovacs agreed and stated that the double frontage of the lot also created a hardship.

Motion by Hutson
Supported by Maxwell

ITEM #4 – con't.

MOVED, to grant the request of George Kostopoulos, 2720 Pine Hill, for relief of the Ordinance to construct a garage addition, which would result in a 16' front yard setback to Bronson where Section 30.10.02 requires a 40' front setback.

- Literal enforcement of the Zoning Ordinance precludes full enjoyment of the permitted use and makes conforming unnecessarily burdensome.
- Configuration of this lot creates a hardship.
- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #5 – VARIANCE REQUEST. JIM LAPLANTE, 1839 E. WATTLES, for relief of the Ordinance to construct a 980 square foot additional detached garage resulting in 1708 square foot of accessory buildings where 600 square feet of accessory building is permitted by Section 40.57.04.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct an additional detached garage. The site plan submitted shows an existing 728 square foot detached garage. The proposed 980 square foot additional detached garage would bring the total area of accessory buildings 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. A request for a 980 square foot addition to the existing detached garage was approved in July of 2004. The petitioner now wishes to construct this as a separate building.

Mr. Stimac also stated that after receiving this variance, the petitioner discovered the existing garage was built on a rat wall and now that the Building Code has changed a footing would be required for the addition. Basically, it would be very difficult for the petitioner to add an extension to the existing garage.

Mr. Courtney asked if this petitioner could present his case before the Building Code Board of Appeals to receive a variance, which would not require a footing for the additional building. Mr. Stimac stated that the petitioner certainly had the option to come to the Building Code Board of Appeals and that Board could grant such a variance. Mr. Courtney stated that he thought this would look better as one building rather than two separate buildings. Mr. Stimac said that in his opinion it would be better to build a new building with a rat wall rather than attach the new building with a footing to the existing garage, which has a rat wall and allows for movement in the building. Mr. Hutson said that he thought that this idea would be practical.

ITEM #5 – con't.

Mr. Kovacs asked what the recommended distance between the two buildings would be and Mr. Stimac stated that 6' was recommended to allow for the movement of one building without adversely affecting the other building. Mr. Kovacs then asked the petitioner what he would like to do.

Mr. LaPlante stated that all he wanted to do was to be able to build a garage. Mr. LaPlante indicated that he had spoken to several builders and they did not recommend attaching the new garage to the proposed structure. Mr. LaPlante also expressed concern that if the existing garage were to move, there was a chance that the cement would crack and he was concerned about creating additional problems. Mr. Kovacs stated that because of the size of the lot this would still look like one building.

Mr. Courtney asked if Mr. LaPlante had planned an opening between the two buildings and Mr. LaPlante stated that he had not. Mr. LaPlante said that he thought he would put his trashcans in the area between the two buildings and create some type of screening for this area. Mr. Courtney then asked if he would prefer one large building rather than two separate buildings. Mr. LaPlante said that he would just like to get started before winter and would go along with what the Board wanted him to do.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There is one written approval on file. There are no written objections on file.

Motion by Maxwell
Supported by Gies

MOVED, to grant Jim LaPlante, 1839 E. Wattles, relief of the Ordinance to construct a 980 square foot additional detached garage resulting in 1708 square feet of accessory buildings where 600 square feet of accessory buildings are permitted by Section 40.57.04.

- All commercial vehicles will be stored inside.
- Variance would not be contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- The large size of this lot would support this additional building.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #6 – VARIANCE REQUEST. ILIR BELLO, 2874 NORTHAMPTON, for relief of the Ordinance to construct a detached garage with a 3' setback from the proposed garage to the side property line on the west where Section 40.57.05 of the Ordinance requires a 6' minimum side yard setback for accessory buildings.

Mr. Stimac explained that the petitioner is requesting relief of the Ordinance to construct a detached garage. The site plan submitted indicates a 3' setback from the proposed garage to the side property line on the west. Section 40.57.05 of the Ordinance requires a 6' minimum side yard setback for accessory buildings.

Mr. Tom Trathen of Bruno Building was present and stated that the petitioner would like more room to maneuver their cars into the garage and this 3' setback would make it much easier for them.

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 no written objections on file.

Mr. Kovacs asked Mr. Stimac if the setbacks had changed due to the fact that when he drove through this area, he thought the garages were quite close to the lot lines. Mr. Stimac indicated that in 1986 the Ordinance changed from the 3' minimum side yard setback to the 6' setback requirement, therefore if the garages were built prior to that time, they would have been constructed with less of a side yard requirement. Mr. Kovacs asked how wide this lot was and Mr. Stimac stated it was 60'.

Motion by Maxwell
Supported by Courtney

MOVED, to grant Ilir Bello, 2874 Northampton, relief of the Ordinance to construct a detached garage with a 3' setback to the side property line on the west where Section 40.57.05 of the Ordinance requires a 6' minimum side yard setback for accessory buildings.

- Variance will not have an adverse effect to surrounding property.
- Proposed garage will be in line with other garages in the area.
- Variance is not contrary to public interest.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

ITEM #7 – VARIANCE REQUEST. MICHAEL AGNETTI, 1150 WOODSLEE, for relief of the 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 Ordinance to split a parcel of land and construct two single-family homes. The site plan submitted indicates demolishing the house at 1150 Woodslee, dividing the property into two parcels each having 7,200 square foot of area. Section 30.10.06 requires 7,500 square foot minimum lot sizes in R-1E Zoning Districts.

Mr. Jack Bertoia and Mr. Michael Agnetti were present regarding this matter. Mr. Bertoia indicated that this property is zoned R-2, and the original three (3) lots were platted as 40' lots. Several of the homes in area are in fact constructed on 40' lots. Mr. Hutson asked if Mr. Bertoia had been present earlier when the Board heard a similar request. Mr. Bertoia said that he was, however he felt this area of Troy was different in that it is a very mixed area and could support this request as there are many 40' lots as well as duplexes. Mr. Hutson asked what the practical hardship would be and Mr. Bertoia stated that there is none.

Mr. Courtney asked what Mr. Agnetti's interest in this property was. Mr. Agnetti stated that he wished to purchase the property and build on it, but before he bought it he wanted to make sure he could get a variance. Mr. Agnetti also said that all they want to do is to take these three (3) platted 40' lots and make them into two (2) 60' lots. Mr. Bertoia said that he thought other lots in this area were smaller than what they were proposing and did not feel it would create an adverse effect to surrounding property.

Mr. Kovacs asked if they were planning to build single-family homes and Mr. Agnetti stated that they did.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There is one (1) written approval on file. There are three (3) written objections on file.

Mr. Kovacs stated that he felt this was a very mixed area and said that in his opinion splitting this property would be an improvement and based on past zoning requirements, he feels that conformance to the Ordinance would be unnecessarily burdensome.

Ms. Gies asked if this property was vacant. Mr. Kovacs indicated that there was a house in the middle of the property, which would have to be demolished. Mr. Hutson said that he felt this variance would create an adverse effect and also felt that granting this variance would be heading in the wrong direction and would be eliminating green space.

ITEM #7 – con't.

Mr. Maxwell said that he had gone out to this site and because the property was located at the end of the block, he did not feel this would be detrimental to the surrounding property and would in fact be an improvement.

Motion by Courtney
Supported by Hutson

MOVED, to deny the request of Michael Agnetti, 1150 Woodslee, for relief of the 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.

- Variance would have an adverse effect to surrounding property.
- Petitioner did not demonstrate a hardship.
- Variance would be contrary to public interest.

Yeas: 5 – Courtney, Fejes, Gies, Hutson, Schultz
Nays: 2 – Kovacs, Maxwell

MOTION TO DENY REQUEST CARRIED

ITEM #8 – VARIANCE REQUEST. MR. JONATHAN SHERER, 3015 CROOKS, for relief of the Ordinance to construct a new commercial building, which will include a drive-up window accessory to a restaurant use on a parcel that is only .38 acres where Section 23.25.01 of the Troy Zoning Ordinance requires a site that is at least one acre in size in the H-S (Highway Service) Zoning District.

Mr. Stimac indicated that the petitioner is requesting relief of the Ordinance to construct a new commercial building. The plans submitted indicate that the development will include a drive-up window accessory to a restaurant use proposed in the building. Section 23.25.01 of the Troy Zoning Ordinance requires a site that is at least one acre in size in order to have a drive-up facility in the H-S (Highway Service) Zoning District. The parcel in question is only .38 acres.

Mr. Kovacs asked for background information regarding the requirement for a one-acre parcel. Mr. Stimac said that to the best of his knowledge it is his belief that when the language of the Ordinance was developed when they were considering fast-food restaurants such as McDonald's or Burger King, etc.; an appropriate drive up site was considered to be one-acre. Mr. Stimac also said that regarding this site, all of the other provisions in the Ordinance such as parking, the stacking lane and the green space requirement would be met. The only variance required is the minimum lot size.

Jonathan Sherer was present and said that his family has been in business in Troy for approximately thirty-four years. Mr. Sherer had been approached by Starbuck's to

ITEM #8 – CON'T.

improve this property and intersection by removing one of the driveways and moving the entrance farther from the corner of Big Beaver. Starbuck's is attempting to improve a number of their sites by adding a drive-thru window. Mr. Sherer introduced Mr. Steve Sorenson from JB McDonalds to also make a presentation regarding the engineering of this site.

Mr. Sorenson said that he had developed this site plan and he feels this corner could be improved greatly. Mr. Sorenson also said that he feels the hardship to the petitioner is the Ordinance. They would make this corner a right-turn only and would eliminate the second driveway, which he believes will increase safety on this corner. Landscaping would also be increased and would also be an improvement.

Mr. Fejes asked for an explanation regarding the entrance from Crooks Road and how the drive-thru would work. Mr. Sorenson said that it would be a right turn only from Crooks Road and the exit would be on Big Beaver. Mr. Fejes also asked if people would be able to come inside and eat. Mr. Sorenson said that there will be 22 seats inside the building and parking areas will be provided. Mr. Fejes further stated that he believes this corner is a disaster and is concerned that people will make a left leaving the property onto Crooks Road and is worried that this would be more of a safety hazard. Mr. Sorenson said that they do not want to send people out onto Crooks heading north, but believes this plan will help to clean up this area regarding traffic.

Mr. Schultz expressed concern about people trying to make a left out of this driveway onto Crooks Road. Mr. Schultz also stated that the Planning Commission has not reviewed these plans at this time and wondered if a stipulation could be added to any variance granted, to limit the variance only to a coffee shop. Ms. Lancaster stated that variances run with the land and would have to go with any type of similar activity. If something were to happen at the Planning Commission that would not allow for this building, the petitioner could redesign their plans to comply with the restrictions imposed by the Planning Commission, but the variance granted by this Board would still stand.

Mr. Kovacs asked if another type of business would have to meet the parking requirements, etc., and Ms. Lancaster stated that they would have to do whatever the Planning Commission told them to do.

Mr. Schultz stated that he would be opposed to granting a variance on this property until site plan approval was obtained from the Planning Commission. Mr. Kovacs asked if his concern was based on the fact that another type of business would come in and Mr. Schultz said that he would be worried that a hamburger stand would come in and this is not something that he would like to see at this intersection. Mr. Kovacs stated that another petitioner would still have to meet the other requirements of the Ordinance.

Mr. Courtney asked Mr. Sorenson if he worked for Starbuck's exclusively. Mr. Sorenson said that he does work for all types of businesses. Mr. Courtney said that he

ITEM #8 – CON'T.

thought the stacking lane for nine cars was not realistic as he believes McDonald's in the morning has a great deal more traffic waiting to get through the drive-thru. Mr. Sorenson said that the City's requirement was in excess of Starbuck's requirement, which are eight cars.

Mr. Al Haddad, the representative from Starbuck's was present. Mr. Haddad said that when they had laid out this site plan, they had a great many discussions with their office in Seattle and they have 8,000 units and have between 600 and 700 of these sites have the drive-thru, and they are trying to clean up the traffic aspects at this corner. Mr. Haddad also indicated that they did not believe they would need any more than the nine spaces as a stacking lane. Mr. Courtney asked if Starbuck's had units presently that required more than eight stacking spaces and Mr. Haddad said that they did not.

Mr. Hutson had a question about the proposed "entry only" from Crooks Road, and said that at Livernois and Long Lake one of the driveways was designated as "entry only" and at any one time has seen quite a few cars use this as an exit. Mr. Hutson asked if there was any type of configuration that would make using this drive as an exit just about impossible. Mr. Haddad said that they had tried to integrate all of the requirements of the City and the width of this drive would be 15', which would make a left turn more difficult. Mr. Hutson said that he thought the Planning Commission could address this issue.

Mr. Maxwell asked how many feet there were from the entry from Crooks Road to the drive-thru lane. Mr. Sorenson said he thought it would be 33' from the curb on Crooks Road.

Mr. Courtney asked if this item could be postponed until the Planning Commission gave the petitioner site plan approval. Mr. Stimac stated that the Planning Commission could not give site plan approval without this variance. A variance can be granted without site plan approval, but the site plan cannot be approved absent this variance.

Mr. Schultz stated that he did not believe a variance could be granted based on approval of the site plan by the Planning Commission. Mr. Stimac said that a variance could be granted per the site plan presented by the petitioner. Mr. Stimac also that he felt it would be very difficult to grant a variance and limit it to only a coffee shop. Ms. Lancaster said that the variance could be granted per this site plan, and if this site plan fails, the petitioner would have to come back. Ms. Lancaster also said that it would be better to grant the variance conditional to this site plan, rather than the type of business that is put on this site.

Mr. Courtney asked if the petitioner would have to come back to this Board if the Planning Commission made a change to the site plan presented. Ms. Lancaster stated that was true as the variance would be granted based on this site plan.

ITEM #8 – con't.

Mr. Fejes said that he thought traffic heading north on Crooks would cause a problem making a left into Starbucks. Mr. Sorenson said that if this location remained a Shell station people would still be able to make a left turn and they are attempting to eliminate this problem with the configuration of the driveway. Mr. Kovacs said that he thought people would still turn left into this property. Mr. Fejes said he was concerned that traffic would back up a great deal waiting to make the turn in during rush hour. Mr. Kovacs said that he did not feel there was a backup in this area from people making a left turn into the drive. Mr. Kovacs said he feels that they are trying to improve the current situation and even if it remains a gas station, left turns would be allowed.

Mr. Donaldson from JB Donaldson Company, asked if a variance could be granted with the stipulation that if anyone else wanted to put something in on this corner, they would have to come back to this Board. Mr. Kovacs said that basically anyone can come in with the exact same site plan submitted and if a variance is granted tonight, they would also be entitled to the same variance. Mr. Donaldson then asked if it would be possible to place a stipulation on the variance approval that it would be assigned only to this particular use.

Ms. Lancaster said that the variance would run with the site plan approved by the Planning Commission and would run with the land. Mr. Sherer said that a hamburger restaurant would have different requirements than Starbuck's and did not feel this would be a problem in the future.

Mr. Schultz said that his concern is that there are food establishments that do not provide interior seating and he does not want to see a fast food restaurant on the corner of Big Beaver and Crooks Road. Requirements for seating and parking are based on the H-S Zoning District and said that it was possible to some day have a fast food restaurant on this corner.

Mr. Kovacs asked if a time limit stipulation could be placed on the granting of this variance and Ms. Lancaster said that there is not a time limit on a variance. Normally, once a variance is granted there is no time limit, and basically the time limit would be until the Planning Commission approves the site plan as is, or, if there are changes required by the Planning Commission, the petitioner would be required to come back to the Board of Zoning Appeals. Mr. Kovacs asked if the Planning Commission had the authority to limit this site to a coffee shop rather than a fast food restaurant. Mr. Stimac said that requirements regarding drive-thru restaurants come from Section 23.25 and this particular property is 23.25.01, which means that there are a series of conditions that the Planning Commission has to find and the one condition that they are not meeting is the size of the lot. Mr. Stimac also said that if this was a restaurant without indoor seating, this would also comply with the requirements of the Ordinance with the exception of the one-acre requirement. Regarding the stacking lane, there is not a different requirement depending on the type of food served.

ITEM #8 – con't.

Mr. Courtney asked what would happen if an approval was granted and nothing happened with one year's time. Mr. Stimac said that there has been some discussion on this and officially there is nothing in the Ordinance regarding a time limit on a variance approval. Mr. Stimac also indicated that a time limit can be placed on a site approval. Mr. Courtney asked if a time limit could be added to this particular item. Mr. Stimac said that he thought you could only add a time limit if the conditions warrant a time limit restriction. Mr. Sherer said that he has been paying rent on this land since November without an operating business and he is looking at making an active profitable business there as soon as possible. Mr. Sherer also indicated that he felt this would be an improvement to this intersection and would also increase the safety. Mr. Sherer further stated that if this is not a Starbuck's, it will eventually become another gas station. Mr. Courtney asked if another gas station could go in at this location without a variance. Mr. Stimac said that a variance would not be required for a gas station.

Mr. Kovacs stated that he understood the Board's concern regarding the type of business coming into this location, however, he believes that the only matter that should be addressed is the size of the parcel. Mr. Kovacs also said that he feels the Board should be able to determine if a viable business can go in at this location.

Mr. Courtney stated that he would rather not have another gas station at this corner.

Mr. Schultz said that he feels that the responsibility of this Board as well as the Planning Commission is to make decisions, which are in the best interest of the City of Troy and is concerned that once a variance is granted for a drive-thru on this corner, any type of business could come in here. Mr. Schultz said that he is concerned that once a variance is granted, a drive-thru restaurant would always be located on this corner.

Mr. Hutson said that he did not feel there was a practical difficulty with this lot, and he feels that if the Ordinance requires one-acre for this type of facility, that is what should be required.

The Chairman opened the Public Hearing.

Mr. Don Sherer was present and stated that he has been doing business on this corner for approximately thirty-five years and believes that the plans that have been developed would work in this area. He stated that at one time this property was probably one-acre in size, but as Big Beaver and Crooks Roads have gotten bigger, the site has gotten smaller. Mr. Sherer also said that if this variance is not granted, they will probably open another gas station at this corner.

No one else wished to be heard and the Public Hearing was closed.

There are no written approvals or objections on file.

ITEM #8 – con't.

Mr. Kovacs and Mr. Hutson began a discussion regarding the one-acre requirement for drive-thru restaurants. Mr. Hutson said that he felt this was a huge variance request and thought that more thought should be put into it.

Mr. Courtney asked if a variance was required if the drive-thru window was eliminated. Mr. Stimac explained that the one-acre stipulation only applies to restaurants with a drive-thru window.

Motion by Courtney
Supported by Maxwell

MOVED, to postpone the request of Mr. Jonathan Sherer, 3015 Crooks, for relief of the Ordinance to construct a new commercial building, which will include a drive-up window accessory to a restaurant use on a parcel that is only .38 acres where Section 23.25.01 of the Troy Zoning Ordinance requires a site that is at least one acre in size in the H-S (Highway Service) Zoning District until the next regularly scheduled meeting of September 21, 2004.

- To allow the Planning Commission the opportunity to study the site plan and make any recommendations they feel are necessary.
- To allow Board members to study this request again.

Yeas: 6 – Courtney, Fejes, Gies, Hutson, Maxwell, Schultz
Nays: 1 - Kovacs

MOTION TO POSTPONE THIS REQUEST UNTIL THE MEETING OF SEPTEMBER 21, 2004 CARRIED

ITEM #9 – VARIANCE REQUEST. BRUCE HUDALLA, OF HEARTLAND SUNROOMS, 1183 BAKER, for relief of the Ordinance to construct a new sunroom addition and to maintain an existing awning installed without a building permit, both with 29' rear yard setbacks where Section 30.10.06 of the Ordinance requires a 35' minimum rear setback in R-1E Zoning Districts.

Mr. Stimac indicated that the petitioner is requesting relief of the Ordinance to construct a sunroom addition on an existing home. The site plan submitted indicates the new rear sunroom addition with a 29' rear yard setback. Section 30.10.06 requires a 35' minimum rear setback in R-1E Zoning Districts. Upon review of the plans we discovered that an awning was previously installed on the rear of this home without a building permit. This awning also has a 29' rear yard setback.

ITEM #9- con't.

Bruce Hudalla of Heartland Sunrooms was present and clarified to the Board that the awning had been constructed approximately 12 years ago and the homeowner was under the impression that a permit had been obtained by the contractor. Mr. Hudalla indicated they had contemplated several different sizes of building, and originally this room was proposed to be much larger. The size of the sunroom was made smaller in order to minimize the variance request once they realized that a variance was required. They have also re-located some of the equipment to other rooms in order to make this room smaller. This structure would be all glass and has a very low roof height, which would have a minimal impact to surrounding property. This room will also have a spa and rather than put up a separate building, they felt that by attaching this sunroom to the home, it will not only offer more protection for the hot tub, but will also make it easier for Mrs. Thornsberry to access it.

Mr. Courtney asked how large this building was and Mr. Hudalla said that the room is 8' x 16'.

Mr. Hutson asked about the plan for the spa and Mr. Stimac placed one on the overhead in order for the Board members to determine what would be built.

The Chairman opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

Mr. Hudalla presented a petition signed by ten of the neighbors on Baker indicating approval of this request. There are no written objections on file.

Mr. Courtney asked if all they were asking for was a 6' variance and Mr. Hudalla said that was correct.

Motion by Fejes
Supported by Maxwell

MOVED, to grant Bruce Hudalla, of Heartland Sunrooms, 1183 Baker, relief of the Ordinance to construct a new sunroom addition and to maintain an existing awning installed without a building permit, both with a 29' rear yard setback where Section 30.10.06 of the Ordinance requires a 35' minimum rear setback in R-1E Zoning Districts.

- Variance is not contrary to public interest.
- Variance would not have an adverse effect to surrounding property.
- Variance relates only to the property in question.

Yeas: All – 7

MOTION TO GRANT VARIANCE CARRIED

Mr. Kovacs explained that the Building Department had received a request to hold a special meeting of the Board of Zoning Appeals on Tuesday, August 31, 2004. Mr. Kovacs then determined that a quorum would be present with six (6) confirmed board members, and one member that was questionable. This meeting will be scheduled after the Building Department determines that the petitioner still wants this meeting to be held, and the special meeting fee of $300.00 is paid.

The Board of Zoning Appeals meeting adjourned at 9:30 P.M.

Matthew Kovacs, Chairman

Pamela Pasternak

Pamela Pasternak, Recording Secretary

A meeting of the **Troy Youth Council (TYC)** was held on Wednesday, August 25, 2004 at 7:30 PM at City Hall in the Lower Level Conference Room, 500 West Big Beaver Road. Catherine Herzog called the meeting to order at 7:32 p.m.

MEMBERS PRESENT: Alexandra (Sasha) Bozimowski
Emily Burns
Min Chong
Juliana D'Amico
Catherine Herzog
Maniesh Joshi
Rishi Joshi
Andrew Kalinowski
Jessica Kraft
Monika Raj
Manessa Shaw
Nicole Vitale
YuJing Wang

ALSO PRESENT: Laura Fitzpatrick, Assistant to the City Manager

1. **Roll Call:** All present
2. **Approval of Minutes**

Resolution # TY-2004-08- 016
Moved by Chong
Seconded by Wang

RESOLVED, That the minutes of 5/26/04 be approved.

Yes: 9
No: None
Absent: 0
Abstain: 4: Bozimowski, R. Joshi, Kraft, Vitale
MOTION CARRIED

3. **Attendance Report:** Noted and Filed
   New "year" beginning with this meeting.

4. **Troy Daze Festival:**

- *Welcome Booth Sign-Up*: Volunteer sign-up sheet circulated
- *Parade Sign-Up:* Volunteer sign-up sheet circulated
  Fitzpatrick to create flyer of Top Ten TYC Accomplishments; each TYC member volunteering at the festival will distribute 5-10 flyers to young people.
- *Parade Coordinators: Need 2 TYC Members to Assemble and Organize Candy & Make Reminder Phone Calls:* Raj and D'Amico volunteered

- *Promote:* Flyers distributed; Fitzpatrick to send additional flyers via snail mail tomorrow. TYC members are to promote the festival by sharing flyers with family, friends, classmates, teachers, coaches, etc.

5. **Visitor:** JoAnn Preston, Chair Ethni-City Events at Troy Daze

6. **Youth Council Comments**
   - Want a new logo; to be brought back at next meeting
   - Want to visit other Youth Councils; Fitzpatrick to bring back list and meeting schedule of other Youth Councils

7. **Miscellaneous Announcements:**
   - *Next Meeting:* Reminder Next Meeting: WED SEPT 22nd 7:00 P.M.@ ***CITY HALL***
     - Troy Daze Festival Re-cap
     - Cindy Stewart to speak about Event Planning

8. **PUBLIC COMMENT**

The meeting adjourned at 8:33 P.M.

_____
Catherine Herzog, Co-chair

_____
Laura Fitzpatrick, Assistant to the City Manager

DATE: September 1, 2004
TO: John Szerlag, City Manager
FROM: Mark Stimac, Director of Building & Zoning
SUBJECT: Permits issued during the Month of August 2004

	NO.	VALUATION	PERMIT FEE
INDUSTRIAL			
Add/Alter	8	$864,000.00	$6,050.75
Sub Total	**8**	**$864,000.00**	**$6,050.75**
COMMERCIAL			
Completion (New)	1	$704,400.00	$4,209.25
Completion Less Tenant	1	$1,000.00	$55.00
Add/Alter	25	$2,822,419.00	$16,348.75
Sub Total	**27**	**$3,527,819.00**	**$20,613.00**
RESIDENTIAL			
New	12	$2,355,710.00	$38,142.00
Add/Alter	37	$759,416.00	$8,888.00
Garage/Acc. Structure	13	$101,765.00	$1,675.00
Pool/Spa/Hot Tub	6	$35,790.00	$630.00
Repair	2	$30,000.00	$470.00
Fire Repair	2	$78,490.00	$715.00
Temporary Sales Trailer	1	$7,000.00	$165.00
Wreck	4	$0.00	$590.00
Fnd./Slab/Footing	1	$4,500.00	$135.00
Sub Total	**78**	**$3,372,671.00**	**$51,410.00**
TOWN HOUSE/CONDO			
New	32	$3,262,816.00	$27,406.00
Add/Alter	7	$46,974.00	$1,005.00
Sub Total	**39**	**$3,309,790.00**	**$28,411.00**
MULTIPLE			
Add/Alter	3	$24,000.00	$390.00
Sub Total	**3**	**$24,000.00**	**$390.00**
MUNICIPAL			
Add/Alter	2	$70,000.00	$0.00
Sub Total	**2**	**$70,000.00**	**$0.00**
RELIGIOUS			
Add/Alter	1	$10,000.00	$242.00
Sub Total	**1**	**$10,000.00**	**$242.00**

MISCELLANEOUS			
Satellite/Antennas	1	$1,500.00	$40.00
Signs	50	$0.00	$5,410.00
Fences	18	$0.00	$280.00
Sub Total	**69**	**$1,500.00**	**$5,730.00**
TOTAL	**227**	**$11,179,780.00**	**$112,846.75**

PERMITS ISSUED DURING THE MONTH OF AUGUST 2004

	NO.	PERMIT FEE
Cert. of Occupancy	70	$2,646.75
Plan Review	176	$6,072.00
Microfilm	38	$309.00
Building Permits	227	$112,846.75
Electrical Permits	246	$18,956.00
Heating Permits	231	$10,830.00
Air Cond. Permits	80	$3,040.00
Refrigeration Permits	1	$40.00
Plumbing Permits	192	$16,912.00
Storm Sewer Permits	38	$874.00
Sanitary Sewer Permits	29	$957.00
Sewer Taps	31	$6,434.00
TOTAL	**1359**	**$179,917.50**

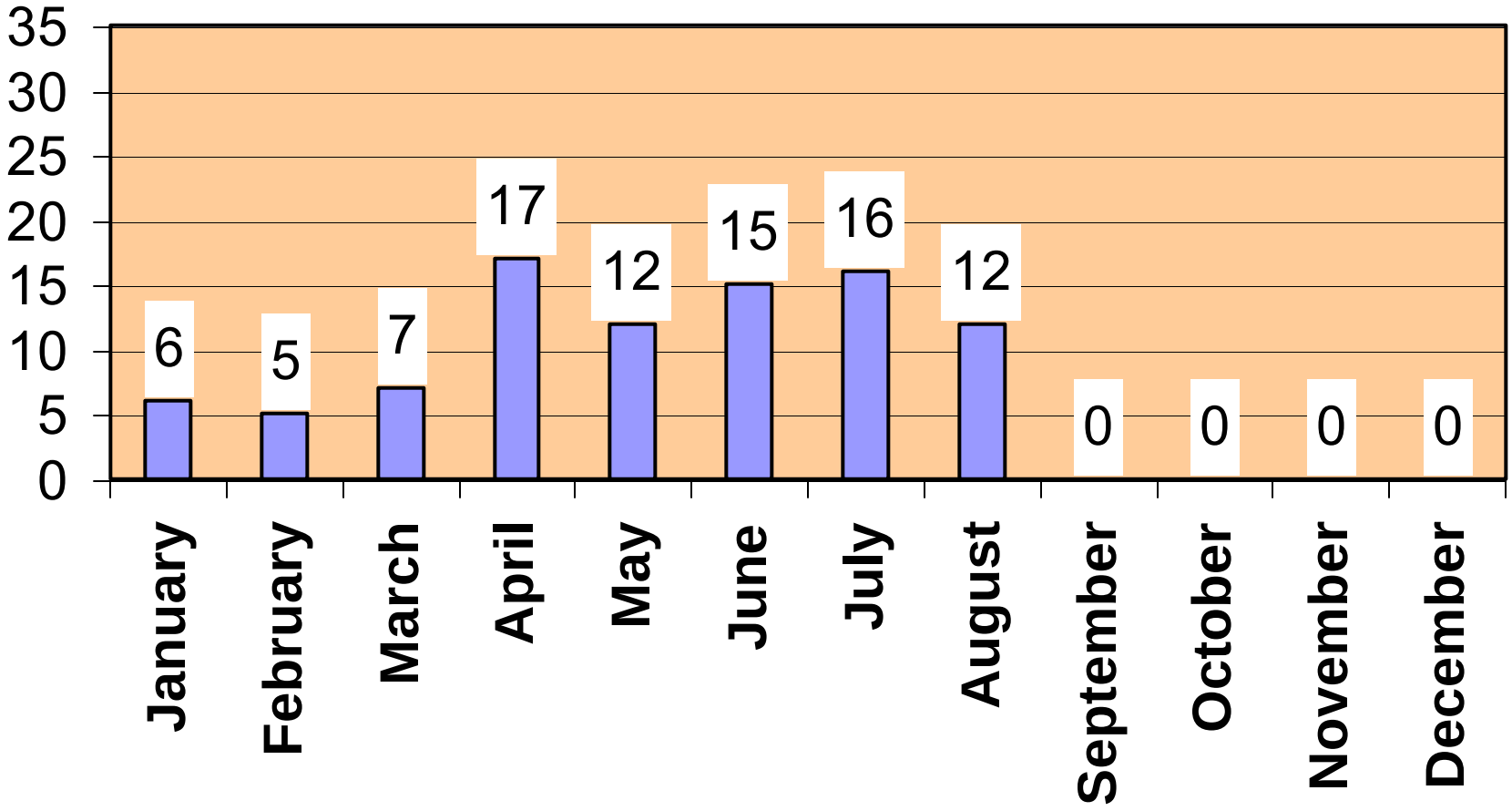
LICENSES & REGISTRATIONS ISSUED DURING THE MONTH OF AUGUST 2004

	NO.	LICENSE FEE
Mech. Contr.-Reg.	30	$150.00
Elec. Contr.-Reg.	35	$525.00
Master Plmb.-Reg.	22	$22.00
Sewer Inst.-Reg.	2	$100.00
Sign Inst. - Reg.	6	$60.00
E. Sign Contr-Reg.	1	$15.00
Fence Inst.-Reg.	6	$60.00
Bldg. Contr.-Reg.	29	$290.00
F.Alarm Contr.-Reg.	2	$30.00
TOTAL	**131**	**$1,222.00**

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	227	$11,179,780.00
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**	**1449**	############

SINGLE FAMILY DWELLING PERMITS 2004



BRIEF BREAKDOWN OF NON-RESIDENTIAL BUILDING PERMITS ISSUED DURING THE MONTH OF AUGUST 2004

Type of Construction	Builder or Company	Address of Job	Valuation
Commercial, Add/Alter	PACIFIC CONSTRUCTION	2800 W BIG BEAVER M-136	375,000.00
Commercial, Add/Alter	DAVID C. SALOMONE	320 W FOURTEEN MILE	150,000.00
Commercial, Add/Alter	THE DESIGN GROUP ARCHITECTS	2801 W BIG BEAVER C-133	105,000.00
Commercial, Add/Alter	ANTHONY SOAVE	2600 W BIG BEAVER	815,000.00
Commercial, Add/Alter	M & B CONSTRUCTION	363 W BIG BEAVER 300	200,000.00
Commercial, Add/Alter	CHARLES H. FELLOWS	3877 ROCHESTER	138,000.00
Commercial, Add/Alter	DAVE DIESON	100 W BIG BEAVER 425	168,000.00
Total Commercial, Add/Alter			1,951,000.00
Commercial, Completion New	WORKSTAGE LLC	2595 BELLINGHAM	704,400.00
Total Commercial, Completion New			704,400.00
Industrial, Add/Alter	EDGE CONTRACTING	2380 MEIJER	225,000.00
Industrial, Add/Alter	LIBERTY PROPERTY TRUST	894 MAPLELAWN	500,000.00
Total Industrial, Add/Alter			725,000.00

Records 11

Total Valuation: 3,380,400.00

J-02b

September 1, 2004

To: John Szerlag, City Manager

From: Steve Vandette, Acting Assistant City Manager/Services
Carol Anderson, Director of Parks and Recreation

Subject: Agenda Item – Medi-Go Plus Report

Attached is the annual report for Troy Medi-Go Plus transportation service for senior citizens and persons with disabilities for FY 03/04. The report contains information about funding, operations, and ridership statistics.

Prepared by Carla Vaughan

August 26, 2004

To: John Szerlag, City Manager
Carol Anderson, Director of Park and Recreation

From: Carla Vaughan

Re: Troy Medi-Go Plus

This report will update you on Troy Medi-Go Plus.

Funding
Funding for Medi-Go for the year ending December 31, 2003 was as follows:

City of Troy	$170,000
SMART	$20,327
Beaumont	$15,000
Rider Donations	$6,510
Other Donations	$640
Interest Income	$765
Total	$213,242

Staff
Medi-Go has one part-time coordinator, one part-time dispatcher and nine part-time drivers.

Vehicles
Medi-Go has four vans in use every day.

Ridership Statistics
Medi-Go currently has 489 different riders. 39% of these riders live in senior housing (132 at Oakland Park Towers, 23 at Bethany Villa, and 36 at American House). Annual ridership is as follows:

Year	Total One-Way Rides	Senior Rides	Disabled Rides
2003	10,339	8,112	2,227
2001	9,550	6,208	3,342
2002	9,099	7,039	2,060
2000	5,552	3,572	1,980
1999	4,944	3,347	1,597

Seniors may use the service for medical appointments, shopping and Community Center visits. 85% of senior rides are to medical appointments.

Persons with disabilities may use the service for medical appointments, work and school. 50% of rides for persons with disabilities are to work.

Medi-Go was unable to accommodate an average of 12 requests per month. These turn-downs were due mainly to requests for rides during peak time periods.

September 3, 2004

To: John Szerlag, City Manager

From: Steve Vandette, Acting Assistant City Manager – Services
Brian Stoutenburg, Library Director

Subject: **Agenda Item** – Preliminary Report from the Historic District Study Committee Concerning the Robert and Marilyn Miller Property

The lot and single-family residence located at 2356 East Long Lake Road, Troy, Michigan is currently an historic district. The owners, Robert and Marilyn Miller requested that their property be removed from historic district status. The Historic District Study Committee researched the property and submits this Preliminary Report in accordance with the City's Historic Preservation ordinance. This report indicates that the property be removed from the historic district.

After sixty days of this report's appearance on the City Council Agenda as an information item, a public hearing will be held. After the public hearing, the Historic Study Committee will write a Final Report. This report will be sent to the Historic District Commission and the Planning Commission for their recommendation. The Final Report and the recommendations along with the corresponding ordinance change will then be advanced to the City Council for their action.

J-03a

LOUISIANA STATE UNIVERSITY
AND AGRICULTURAL AND MECHANICAL COLLEGE
Academy of Counter-Terrorist Education · Division of Continuing Education

August 18, 2004

Donald Ostrowski
Troy Police Department

On behalf of the LSU Academy of Counter-Terrorist Education, thank you for hosting the Law Enforcement Response to Weapons of Mass Destruction courses in Pontiac, MI.

The participant feedback we received from this Indirect course is proving to be invaluable as we endeavor to develop first responder training to and mitigation of possible future anti-terrorism incidents. These types of courses are important not only to law enforcement but are imperative for the future of all first responders and emergency response personnel.

The students enjoyed the hospitality extended by you and your department. I look forward to working with you in the future, and if I can ever be of service to you, please do not hesitate to call me. You can contact me toll free at 1(877) 829-8550, or by email at: lhebert@ncbrt.lsu.edu. My direct telephone number is – 225-578-7382. ACE fax number is 225-578-7440. You may also contact me by mail at: **LSU Academy of Counter-Terrorist Education, 334 Pleasant Hall, Baton Rouge, LA 70803.**

Sincerely,

Lori Hebert
Program Coordinator
Academy of Counter-Terrorist Education

Cc: City Mgr.
Dept. Files

RECEIVED
Chief of Police
8-18-2004 CC

334 Pleasant Hall · Baton Rouge · Louisiana · 70803 · 877/829-8550 · 225/388-1375 · Fax 225/334-1642 · ace@doce.lsu.edu

J-03b

POLICE OFFICERS LABOR COUNCIL

Aug 16, 2004

Chief Charles Craft
Troy Police
500 W. Big Beaver
Troy, Mi 48084

Dear Chief Craft:

I would like to thank you for the assistance provided by your department on Friday August 13, 2004. The Police Officers Labor Council has developed the Law Enforcement Education Program (a 501(c) 3 charity) to help reduce the use of alcohol among our teens. We have presented this program at many of the high schools in our state and offer it to all high schools at no cost.

On Friday we had to film a promotion for the program and when we asked Capt Slater for the use of a marked patrol car for background, he readily agreed to assist. With the help of Lt. Houghton and Sgt Redmond we were able to accomplish our filming in a short amount of time and get out of your hair.

Again, I offer our sincere thanks to you, Capt Slater, Lt. Houghton and Sgt Redmond for your support. When the DVD is complete we will provide you with a copy. We will also be available to present the program at the Troy High Schools. You may want to pass that information along to the Youth Bureau.

Sincerely

Richard R Weiler, Director
Police Officers Labor Council

leeppromo

RECEIVED
Chief of Police
8/17/04 CC

Cc: City Mgr.
Capt. Slater
Cart Murphy
Employee Files
BB

667 E. Big Beaver
Suite 205
Troy, Michigan 48083
(248) 524-3200
Fax (248) 524-2752

MAPO
Michigan Association of Police Organizations

National Association of Police Organizations

Tourism Economic Development Council
TEDC

211 W. Fort Street
Suite 1000
Detroit, MI. 48226
313.202.1903

Council Members

James B. Nicholson (TEDC Chair)
President/CEO
PVS Chemicals, Inc.

Larry D. Alexander
President/CEO
Detroit Metro Convention & Visitors Bureau

Richard E. Blouse
President
Detroit Regional Chamber

Robert A. Ficano
Executive
Wayne County

Paul Hillegonds
President
Detroit Renaissance

Donald Jakeway
President
Michigan Economic Development Corporation

Ron L. Kagan
Director
Detroit Zoological Institute

Kwame Kilpatrick
Mayor
City of Detroit

L. Brooks Patterson
Executive
Oakland County

Shirley R. Stancato
President/CEO
New Detroit

Paul E. Tait
Executive Director
SEMCOG

Nancy M. White
Chair
Macomb County
Board of Commissioners

William W. Connellan
Executive Director
Tourism Economic Development Council

RECEIVED
AUG 24 2004
CITY OF TROY
CITY MANAGER'S OFFICE

J-03c

August 18, 2004

Mayor Louise E. Schilling and Members of the Troy City Council
Troy City Hall
500 W. Big Beaver
Troy MI 48084

Dear Mayor Schilling and Members of the City Council:

I am writing to congratulate you and your colleagues on the enactment of an ordinance allowing reciprocal licensing of taxicabs in the City of Troy. Under this groundbreaking legislation, the City of Troy will permit a taxi or limousine to pick up passengers within the city limits, provided that the vehicle is licensed in another community that has similar regulations. Additionally, as part of the licensing requirement of that city, the vehicle must have passed a mechanical inspection within the last 9 months.

This legislation represents an important first step in expanding the transportation options for the City's residents and visitors. According to the City of Troy's legal counsel, taxis licensed in the Cities of Detroit, Novi, Royal Oak, Birmingham, Dearborn, Southfield, Warren and Sterling Heights would be eligible to pick up passengers in Troy.

Improving metro Detroit's transportation system is vital to our region's economic future and to our competitiveness as a tourist and convention destination. Transportation, by definition, is a regional responsibility shared by all of our communities. Events such as next month's Ryder Cup, the 2005 MLB All-Star Game and Superbowl XL in 2006 will put metro Detroit on a national and even international stage. By opening your city to properly licensed taxis from across metro Detroit, you exemplify the kind of regional cooperation we will need to provide a great experience to visitors at those events.

The Tourism Economic Development Council (TEDC) is a division of the Detroit Metro Convention and Visitors Bureau, which brings together corporate, governmental and civic leaders in the region to work on a 10-year vision for increasing tourism spending in metro Detroit by $3 billion. We look forward to working with you and your colleagues to expand regional cooperation toward making metro Detroit a world-class destination.

Sincerely,

Jim Townsend
Executive Director

J-03d

JSN AIA
Joseph S. Novitsky
Architecture
30100 Telegraph, Ste. 350
Bingham Farms, MI 48025

City of Troy
John Szerlag
City Manager
500 West Big Beaver
Troy, Michigan 48084

RECEIVED
AUG 27 2004
CITY OF TROY
CITY MANAGER'S OFFICE

August 25, 2004

Re: City Services
Fire Station #3

Dear John,

As the Architect for the City of Troy's New Fire Station #3 on Big Beaver, I would like to put in writing the brief conversation we had at the grand opening of the Station –what a wonderful day and moment.

First of all, I would like to thank you and all the City personnel responsible for giving us a chance to perform as your Architect. It is an honor to serve this outstanding community. We here at JSN are grateful for the opportunity and proud of our work. We hope the City is pleased with their decisions and product.

Secondly, I want to stop, pause and thank you and all the Department Heads, and personnel for the terrific help, support and personal effort that we encountered throughout the experience. This is truly a dedicated and knowledgeable group. The Fire Department is an absolute joy to work with. We here at JSN work in many jurisdictions and States and have a wide range of circumstances to reflect on. The experience with the City of Troy is as good as it gets.

Please thank Council for their support and all staff for their help, guidance and personal effort. All went beyond the norm. We recognize and appreciate their individual efforts.

Sincerely,

Joseph S. Novitsky, AIA

Telephone: (248) 433-2030 Telefax: (248) 644-3919

J-03e

MICHIGAN ARMY NATIONAL GUARD
Company F 425th Infantry (ABN) (LRS)
Building 1405
43000 West Perimeter Road
Selfridge, Michigan 48045

MIAR-63B-1/63TC-F425I-Cdr 26 July 2004

MEMORANDUM FOR: City of Troy

SUBJECT: Letter of Recognition for Detective Mike Meinzinger

1. I would personally like to take this opportunity to thank Detective Mike Meinzinger for the work they have done to facilitate the donation and transportation of donated equipment.

2. The donations made by Detective Mike Meinzinger are not only greatly appreciated, but needed by our soldiers overseas.

3. The donations have made it possible for soldiers of Co F 425th INF (ABN) (LRS) to maintain physical and operational security either in areas of communication or operational situations while on deployment in support of Operation Iraqi Freedom II.

4. Donations such as these positively affect morale levels and contribute to mission accomplishment.

5. It is through the works of people like Detective Mike Meinzinger that this is possible, their efforts and patriotism help show support for the Armed Forces of the United States and the Michigan National Guard.

FOR THE COMMANDER:

JEFFREY T. NEWTON
SGT MIARNG
Rear Detachment NCOIC

"RANGERS LEAD THE WAY"

CC: City Manager
Capt. Slater
Off. Meinzinger
Dept. Files
BB

RECEIVED
Chief of Police
8/26/2004 CTC

J-03f

Troy Community Coalition

For the Prevention of Drug and Alcohol Abuse

Executive Board

Kathy Merritt
President

Jim Halushka
Vice President

Henry Allemon
Treasurer

Cristina Pappageorge
Secretary

Dennis Drury
Member-At-Large

Jacques Haddad
Member-At-Large

Dave Lambert
Past President

Chuck Palmer
Coalition of Healthy Communities

Ann Comiskey
Executive Director

August 26, 2004

Sergeant R. Kowalski
Troy Police Department
500 W. Big Beaver Rd.
Troy, MI 48084

Dear Sergeant Kowalski,

Thank you for your help with and support of the Rochester Villas Summer Program.

We had 45 students enrolled in the summer camp with an average of 25 who attended. As you know, most of these youth had no other options for their summer activities, and they benefited from the program by staying occupied and learning positive skills.

The active presence of the Troy Police Department was appreciated by everyone involved in the program; the camp staff and students, the Troy Community Coalition and Smith Middle School.

Attached is a summary of our findings from the focus group evaluation that you may find interesting. The students liked every program from the Police Department!

We are already making plans for next year and are considering adding a bus stop on the South side of the city to increase enrollment for this important program. If you have any suggestions to improve the camp please let us know.

Sincerely,

Lori Podsiadlik

Lori Podsiadlik
Program Director

CC: City Mgr
Capt's
Lt. Sowalwski
Dept. File

RECEIVED
Chief of Police
8/27/04 CTC

cc: Chief Charles Craft

4420 Livernois
Troy, MI 48098

248.823.5088
Fax: 248.823.5051
www.troycoalition.com

Resolution by Councilperson Klein

J-04a

RESOLVED, that the Hamtramck Common Council objects to the SEMCOG 2030 Regional Transportation Plan as deficient, as it has not been undertaken with any semblance of regional land use coordination, does not advance any effort to meet the region's most pressing socio-economic, environmental or fiscal challenges and is likely to hamper the region's ability to compete in the global economy, and

The Hamtramck Common Council believes an over-reliance on roads and automobiles is short sighted, does not recognize the need to connect people with opportunities for work, education, and recreation in a manner that all of the world's great cities do, through mass transit and light rail systems, and is likely to inhibit our ability to meet the challenges of rising oil prices and declining natural reserves of oil, and

More specifically, the Hamtramck Common Council requests the proposed expansion of I-75 in Oakland County be deleted from the plan, and that in its place, SEMCOG offer a real plan to develop light rail between Detroit and Pontiac.

The Hamtramck Common Council directs that this resolution be forwarded to all communities along the Woodward Corridor, including Detroit, Highland Park, Ferndale, Berkley, Huntington Woods, Royal Oak, Troy, Birmingham, West Bloomfield and Pontiac, as well as SEMCOG, Representative John Conyers, the Governor of the State of Michigan, State Senator Martha Scott, State Representative Bill McConico and County Commissioner Blackwell.

Supported by Councilperson Cedar.

Carried by the following vote:

Yeas: Councilperson Cedar, Cirgenski, Ahmed, Klein and Majewski.

Nays: None.

Absent: None.

* * * * * * * * * *

I HEREBY CERTIFY That the above and foregoing is a full, true and complete copy of a resolution adopted by the Common Council of the City of Hamtramck at a regular meeting held in the Council Chambers located at 3401 Evaline Street, in said City upon Tuesday the 24th day of August, 2004 at 7:00 o'clock p.m.

Genevieve Bukoski

GENEVIEVE BUKOSKI
Acting City Clerk

I hereby approve the forgoing resolution.

THOMAS JANKOWSKI, Mayor

J-04b

VILLAGE OF BEVERLY HILLS MICHIGAN

Resolution

Village of Beverly Hills

Whereas it has been brought to the attention of the Beverly Hills Village Council that Governor Jennifer Granholm and the Michigan Legislature propose to eliminate 20J funding for certain school districts, including the Birmingham School District, and

Whereas the citizens of Beverly Hills desire to maintain the highest level of public education for our children and have in the past consistently approved school millage requests to achieve this goal, and

Whereas eliminating 20J funding breaks the promise of Proposal A, breaks the promise of equal treatment to all school districts in Michigan, and breaks the promise we have made to the children of our Village, our region, and our state, and

Whereas eliminating the 20J funding unfairly targets districts that have voted for the higher levels of school funding, by eliminating the portion of funding guaranteeing our district the same per pupil funding increases as other school districts.

Now Therefore Be it Resolved, that the Beverly Hills Village Council finds that any reduction of 20J funding is contrary to the promises made to the residents of this State, and we further request that Governor Jennifer Granholm and the Michigan Legislature keep in place all such funding.

Be it Further Resolved, that copies of this resolution be sent to the Governor, the Majority and Minority leaders of the Michigan Senate and House, State Representatives for the Village of Beverly Hills, the Birmingham School Board, and all the communities within the Birmingham School District.

CERTIFICATION

I, Ellen E. Marshall, Clerk of the Village of Beverly Hills, Oakland County, Michigan do hereby certify and declare that the above is a true and correct copy of a resolution that was adopted by the Village Council at a special meeting held on Tuesday, August 31, 2004.

Ellen E. Marshall

Ellen E. Marshall
Village Clerk

Dated: September 1, 2004

18500 W. 13 Mile Road • Beverly Hills, MI 48025 • (248) 646-6404 • FAX (248) 646-3703

September 2004

September 2004

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

October 2004

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

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
		September 1	2	3	4
		8:30am BUILDING CODE BOARD OF APPEALS (Conference Room L 7:00pm Persons w/Dis (Conference Room Lower Level)	10:00am Senior Advisory (Community Center)		5
6	7	8	9	10	11
	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
13	14	15	16	17	18
7:30pm City Council-Regular (Council Chambers) 7:30pm Tentative Study Session (Council Boardroom)	7:30pm Planning Commission - Reg (Council Chambers) 7:30pm CC-Study Session (Council Boardroom)	7:30am DDA Meeting (Conference Room Lower Level)			19
20	21	22	23	24	25
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)				

Sept. 27 PH ZOTA 479-B
Sept. 27 PH ZOTA 182 Sec.12.50 R1T
Sept. 27 Park. Var. Req 1800 W. Big Beaver
Sept. 27, PH ZOTA 200
Sept. 27, PH ZOTA 199
Sept. 27 PH ZOTA 203 Art.II

J-5

October 2004

October 2004

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

November 2004

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

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
				October 1	2 3
4 7:30pm City Council-Regular (Council Chambers) 7:30pm Tentative Study Session (Council Boardroom)	5 7:00pm Ethnic Issues Advisory Board (Conference Room C) 7:30pm Planning - Study (Council Boardroom)	6 8:30am BUILDING CODE BOARD OF APPEALS (Conference Room L 7:00pm Persons w/Dis (Conference Room Lower Level)	7 10:00am Senior Advisory (Community Center)	8	9 10
11	12 7:30pm Planning Commission - Reg (Council Chambers)	13 12:00pm Retirement System Board of Trustees (Conference Room C)	14 7:30pm Library Adv (Library Conference Room) 7:30pm Parks and Recreation Bd (Community Center)	15	16 17
18 7:30pm City Council-Regular (Council Chambers) 7:30pm Study Session (Council Boardroom)	19 7:30pm BZA (Chambers) 7:30pm Historic District (Conference Room C) 7:30pm BOARD OF ZONING APPEALS (Council Chambers)	20 7:30am DDA Meeting (Conference Room Lower Level) 7:00pm Cable Adv (Conference Room C)	21	22	23 24
25 7:30pm City Council-Regular (Council Chambers)	26 7:30pm Planning-Study (Council Boardroom) 7:30pm Historical Commission (Troy Museum)	27 7:00pm Troy Youth (Conference Room Lower Level)	28	29	30 31

November 2004

November 2004

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

December 2004

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

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
November 1	2	3	4	5	6
	Election - State General 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)	10:00am Senior Advisory (Community Center)		7
8	9	10	11	12	13
7:30pm City Council-Regular (Council Chambers) 7:30pm Tentative Study Session (Council Boardroom)	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)		14
15	16	17	18	19	20
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)	7:30am DDA Meeting (Conference Room Lower Level) 7:00pm Troy Youth (Community Center)			21
22	23	24	25	26	27
	7:30pm Planning-Study (Council Boardroom) 7:30pm Historical Commission (Troy Museum)				28
29	30				
7:30pm City Council-Regular (City Council Chambers)					

J-06

RIDE SMART
First National Building
660 Woodward Avenue
Detroit, Michigan 48226
(313) 223-2100

August 19, 2004

Mr. John Szerlag
City of Troy
500 W. Big Beaver Road
Troy, MI 48084-5285

RECEIVED
AUG 23 2004
CITY OF TROY
CITY MANAGER'S OFFICE

Dear Mr. Szerlag:

This is to update you on a couple of issues that have been in the media relative to SMART, both of which may affect your community.

Ridership

The Detroit Free Press, Detroit News and Oakland Press have recently reported that ridership is increasing on SMART buses. In sixteen of the past eighteen months SMART has experienced gains in the number of customers using our service. In June 2004 weekday ridership increased by almost ten percent yet the average weekday miles decreased by one percent. Improvements in the market for entry level job seekers, new buses, a greatly improved website, improved customer service and enhanced efficiencies in the routing and delivery of service are all reasons for this increase.

There is no question that the partnerships we have developed with local communities and agencies like the City of Troy have contributed significantly to this increased ridership. Ms. Carla Vaughn is the coordinator of your local community's transportation service and SMART's observer in your community. We value Ms. Carla Vaughn's assistance, suggestions and contribution in making our service as responsive as possible to the needs of City of Troy's citizens and businesses.

No other area in the country has the community partnership and local decision making process in place for the provision of community transit service. This alone separates SMART from most transit systems in this country.

SMART has been recognized by the prestigious Beverly Foundation for innovative services to senior citizens and people with disabilities because of the community partnership program. The Community Transportation Association of America did an extensive ten page magazine article on the Partnership program in their Fall 2003 issue on community partnerships. In that same edition SMART is recognized by Federal Transit Administrator Jenna Dorn. We are also excited about an upcoming visit this fall by the Transportation Research Board (TRB) on how SMART has achieved our continued growth in the number of people using our bus. TRB is an academically driven association that is lead by the United States Academy of Science.

Services to People with Disabilities

It is reported in the Detroit News that a local attorney is leading an effort to sue SMART. The basis of the possible lawsuit is that people with disabilities are being discriminated against because transportation is limited or not available in some communities. The News article also convoluted issues of poor service for people with disabilities by the Detroit bus system (DDOT) e.g., non-working wheelchair lift) and SMART service. There are two main reasons why we believe that this is a frivolous lawsuit

First, SMART has directed over $116 million to upgrade all of it s buses so that no person that uses a wheelchair or has a mobility difficulty will be turned away. All of SMART's new linehaul buses (large fixed-route buses) are low floor, ramp equipped buses that have virtually eliminated any problem in boarding a bus. SMART commits over $20 million annually for the small bus Connector and Community Partnership program mentioned above. The main beneficiaries are senior citizens and people with disabilities. Over seven million rides have been provided to senior citizens and disabled customers in the past five years – all at reduced rates. SMART provides much more service than is required in the Americans with Disabilities Act (ADA) or the Michigan Handicappers Civil Rights Act. Enclosed for your review is a table that shows SMART's commitment to senior citizens and people with disabilities.

Second, our understanding of the potential lawsuit is that the communities that have financially supported SMART through the .60 mill property tax could be forced to pay for service in communities that do not provide funding for service. We are aware of no provision in the ADA, or any other federal law that would force SMART to provide transportation to people outside of the SMART service area. As you might expect, if a lawsuit is filed against SMART, we will vigorously defend the right to provide service only for those that are contributing financially to the system. I will keep you updated on the status of the possible lawsuit if it progresses.

We appreciate the support that we have received from the City of Troy and are working every day to provide the best possible service we can. Thank you for your commitment to public service and if at any time my staff or I can help server your community better, do not hesitate to contact SMART's Oakland County ombudsperson, Donna Sykes at 248-244-9110 or me at 313-223-2106.

Sincerely,

Dan G. Dirks

Dan G. Dirks
General Manager

SMART Investments and Programs to Service Senior Citizens and Persons with Disabilities

Program	Cost	Benefit
• Purchase 287 Low-Floor Linehaul Buses	$100 million capital	Ramps allow for easy access for wheelchair users and others with mobility limitations. Buses also lower (i.e. kneel). This has virtually eliminated wheelchair accessibility complaints.
• Purchase 289 Small Paratransit Buses (109 Directly Operated and 180 Community Partnership buses.)	$16 million capital	SMART has one of the largest fleets of small buses for neighborhood transportation in America. This allows for more curb-to-curb rides for senior citizens and people with disabilities.
• Provide Community Partnership, Specialized Services and Municipal Credit service	$ 7 million per year	Through the Community Partnership, Specialized Service and Municipal Credit program coordinating with local communities over 3 million rides have been provided in the last five years.
• SMART ADA Service	Included in Connector costs.	By the Americans with Disabilities Act (ADA) SMART is required to provide comparable paratransit (small bus) service for people with disabilities that are incapable of using fixed route service. This must be provided on the same days and times as the specific fixed route bus operates. . The customer must be certified by a health care professional that they are incapable of using the linehaul service. Currently 2,100 individuals are ADA Certified by SMART. Over 40,000 trips are provided annually.

SMART Investments and Programs to Service Senior Citizens and Persons with Disabilities

Program	Cost	Benefit
• SMART Connector Service	$13 million per year	SMART provides curb-to-curb Connector service used by senior citizens and people with disabilities. This service greatly exceeds paratransit service required by the ADA. Over 2 million Connector trips were provided in the past five years, with 85 % of the riders being senior citizens or persons with disabilities (400,000 annual trips).
• Discount Fare	$600,000 annually	SMART is required to provide one-half fare discounts for senior citizens and people with disabilities during non-peak travel periods. SMART provides a greater discount than half fare on all services for senior citizens and people with disabilities. Discounts apply all day, every day. Over 3 million discounted rides for senior citizens and persons with disabilities were provided on SMART linehaul buses in the past five years.
• Braille, Audio, Large Print Schedule and Other Information	$25,000 annually	SMART provides Schedule Information and Other Service Information in Braille or Large Print format. In addition, SMART's website offers schedule information in an alternative PDF format which can be scaled for larger print. SMART has also purchased a Braille printer so correspondence can be sent in Braille if required.
• Telecommunications Devices for the Deaf (TDD)	$2,500	SMART provides TDD phone access for both Linehaul Customer Information and Connector Customer Information.
• SMART "Mitts"	$1,000	SMART provides red and white bus stop "Mitts" that serve as portable bus stop markers. The Mitts can be used to hail a bus at any location, so a disabled rider does not need to be at a standard bus stop sign.

SMART Investments and Programs to Service Senior Citizens and Persons with Disabilities

Program	Cost	Benefit
• Travel Training	$25,000 annually	SMART has on staff an experienced travel trainer to assist persons with disabilities with using SMART bus service. Assistance is provided via telephone or with actual site visits and trip making.
• Elderly and Handicapped Advisory Committee	$2,000 annually	SMART has one of the longest standing local advisory councils for senior citizens and persons with disabilities in the nation. SMART's committee has been in constant existence since 1976.
• Test Rider	$2,000 annually	SMART pays a number of disabled customers to test the SMART system to make sure that services are working for people with disabilities. This has resulted in more reliable service.
• ADA Marketing	$10,000 annually	SMART markets it ADA services to disability groups in the SMART service area.

J-07

CRAIN'S DETROIT BUSINESS

1155 GRATIOT AVENUE • DETROIT, MICHIGAN 48207-2997 • (313) 446-6000 • www.crainsdetroit.com

August 23, 2004

Ms. Lori Bluhm
City Attorney
City of Troy
500 W. Big Beaver Road
Troy, MI 48084

Dear Ms. Bluhm:

CONGRATULATIONS! You have been chosen as one of *Crain's Detroit Business*'s 40 Under 40 honorees for 2004.

A member of our reporting staff may already have contacted you. If not, you will be contacted shortly. In the meantime, I wanted to pass along some important dates:

- Profiles of you and 39 other 40 Under 40 honorees will be published in the **Sept. 27** edition.
- To illustrate those profiles, please plan to attend a photo shoot on either **Tuesday, August 31** or **Wednesday, September 8.** You can make an appointment for your photo by calling **Glenn Triest** (Tree-est) **Photographic** at **(248) 542-7874**. The photo studio is on Livernois between Eight and Nine Mile Roads in Ferndale. A map of the studio location will be faxed to you once you make your appointment.
- **A party in your honor** will be held the evening of Oct. 13 at **Coach Insignia**, chef Matt Prentice's newest restaurant atop the Renaissance Center in downtown Detroit. You are invited to bring one guest; tickets may be purchased for additional guests at $50 each. You will receive an invitation in the mail in the coming weeks; additional tickets may be purchased online at www.crainsdetroit.com at that time.
- **We are preparing a video** featuring 40 Under 40 honorees to show during the reception. We need your help! Please send us your company logo, a photo of yourself at work or any products/processes you are in charge of, and a photograph of yourself as a child. The childhood photos have been a huge hit in the past. Please send all of the above to Jennifer Dunn, *Crain's Detroit Business*, 1155 Gratiot Ave., Detroit, MI 48207-2997, or by e-mail to jdunn@crain.com. We will be happy to return the photos; just put your name on the back. **We need your submissions no later than Sept. 8.**

Congratulations again! If you have any questions about the photos, profiles, party or video, please don't hesitate to contact me at 313-446-0399. We look forward to seeing you at the reception.

Sincerely,

Mary Kramer

Mary Kramer
Associate Publisher

P.S. Some companies in the past have congratulated their honoree through special advertising. If your marketing department would like to explore that opportunity, they can contact our Advertising Director, Marla Downs, at 313-446-6032 or by email at mdowns@crain.com.

International Municipal
Lawyers Association

1110 Vermont Avenue, N.W., Suite 200
Washington, D.C. 20005

tel: 202.466.5424
fax: 202.785.0152
e-mail: info@imla.org
web: http://www.imla.org

BOARD OF DIRECTORS

PRESIDENT
Garry E. Hunter
Director of Law
Athens, Ohio

FIRST VICE PRESIDENT
Bruce A. Noble
City Solicitor
Fredericton, New Brunswick
Canada

SECOND VICE PRESIDENT
Gary E. Rebenstorf
City Attorney
Wichita, Kansas

THIRD VICE PRESIDENT
James L. Abshier
City Attorney
Sioux City, Iowa

GENERAL COUNSEL & EXECUTIVE DIRECTOR
Henry W. Underhill, Jr.
Washington, D.C.

TREASURER
Charles W. Thompson, Jr.
County Attorney of Montgomery County
Rockville, Maryland

IMMEDIATE PAST PRESIDENT
James H. Epps, III
City Attorney
Johnson City, Tennessee

Richard L. Andrews
City Attorney
Bellevue, Washington

Joseph R. Bertoldo
City Attorney
Flagstaff, Arizona

Daniel P. Blondin
City Attorney
Naperville, Illinois

Jay B. Doegey
City Attorney
Arlington, Texas

Mark R. Hayes
General Counsel
Arkansas Municipal League
North Little Rock, Arkansas

Dennis J. Herrera
City Attorney
San Francisco, California

Merita A. Hopkins
Corporation Counsel
Boston, Massachusetts

Thomas W. Kelty
Village Attorney
Farmersville, Illinois

Linda Kingsley
Corporation Counsel
Rochester, New York

DeWitt F. McCarley
City Attorney
Charlotte, North Carolina

J. Rita McNeil
City Solicitor
Cincinnati, Ohio

Susan C. Rocha
City Attorney
Boerne, Texas

Robert M. White
City Attorney
Albuquerque, New Mexico

August 20, 2004

Lori Grigg Bluhm
City Attorney
500 W. Big Beaver Road
Troy, MI 48084

Re: Local Government Fellows Program

Dear Ms. Bluhm:

The International Municipal Lawyers Association (IMLA) is pleased to inform you that you have met the criteria to be awarded the designation of IMLA Local Government Fellow. The designation will be conferred upon you during the Awards Luncheon, Tuesday, October 5th, at the IMLA Annual Conference in San Antonio, Texas.

IMLA applauds the effort and commitment that you have demonstrated in attaining this designation. You now are one of a select number of individuals in the United States and Canada to be recognized as specialists in the field of local government law by our organization. This is truly a significant accomplishment, of which you should be extremely proud.

Congratulations!

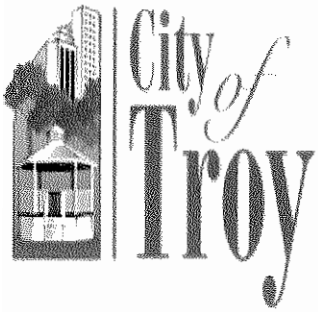
Sincerely,

William J. Kearns, Jr
Chair, IMLA Fellows Program Committee

By:

Henry W. Underhill Jr

Henry W. Underhill, Jr.
Executive Director/General Counsel



TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney LGB
DATE: September 7, 2004
SUBJECT: City of Troy v. White Chapel

On June 7, 2004, City Council authorized the retention of an appraiser for the properties required for the proposed I-75/Crooks/ Long Lake Interchange Improvement Project. This contract required the appraiser to guarantee that the work would be completed within 60- 90 days. Unfortunately, White Chapel has denied our formal requests for the necessary access to their property, which were made on July 28, 2004, August 3, 2004, and August 23, 2004.

Under the state condemnation procedure, (MCL 213.54), the City and its agents are permitted access to a property before filing a condemnation action to allow for the necessary testing and appraisal services. This entry is allowed "upon reasonable notice to the owner and at reasonable hours." If a property owner denies entry to a property, or places unreasonable conditions on a property, then a lawsuit can be filed to obtain an order allowing entry onto property for the limited purpose of inspecting and appraising a property. Such a lawsuit has been filed by the City of Troy, and is attached. The case has been assigned to Oakland County Circuit Court Judge Colleen A. O'Brien, who has set a hearing for September 15, 2004. The attorneys for White Chapel have subsequently expressed an interest in stipulating to an order allowing the requested entry. Such an action would eliminate the need to appear in court on September 15, 2004.

If you have any questions concerning the above, please let me know.

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

OAKLAND COUNTY CLERK
2004 SEP -3 P 3:24
BY: DEPUTY COUNTY CLERK

04-060878-CC
JUDGE COLLEEN A. O'BRIEN
TROY CITY V WHITE CHAPEL

In the Matter of the Complaint of the City of Troy for Entry upon Property for the purpose of inspecting and appraising property for the proposed I-75/Crooks/Long Lake Interchange Improvement Project.

CITY OF TROY, a municipal corporation,

Plaintiff,

v.

WHITE CHAPEL MEMORIAL ASSOCIATION,
a Michigan corporation,

Defendant.

Case No.

Hon.

BORIS K. YAKIMA (P22607)
THOMAS J. McCARTHY (P36755)
Attorneys for Plaintiff
MONAGHAN, LoPRETE, McDONALD,
YAKIMA & McCARTHY
40700 Woodward Avenue, Suite A
Bloomfield Hills, Michigan 48304
(248) 642-5770

LORI GRIGG BLUHM (P46908)
Co-counsel for Plaintiff
Corporation Counsel
City of Troy
Troy City Hall
500 W. Big Beaver Road
Troy, Michigan 48084
(248) 524-3320

ORDER SETTING DATE FOR SHOW CAUSE HEARING

At a session of said Court, held in the
City of Pontiac, Oakland County, State of Michigan,

COLLEEN A. O'BRIEN

on _____

PRESENT: HON. _____
CIRCUIT COURT JUDGE

Upon the filing and reading of the Complaint for Entry Upon Property wherein the City of Troy is seeking a license to enter upon private property pursuant to MCL 213.54 for purposes set forth in the above-described Complaint.

COLLEEN A. O'BRIEN

IT IS HEREBY ORDERED that Defendant shall appear before the Hon. _____, on 9-15, 2004, at 8:30 am o'clock in the morning noon, in Room ____, Oakland County Circuit Court, 1200 N. Telegraph Road, Pontiac, Michigan, and show cause why, if any, the court should not enter an order permitting the City of Troy to enter upon Defendant's property for the purpose of:

a) Make surveys, measurements, examinations, tests, soundings and borings;

b) Take photographs or samplings;

c) Appraise the property;

d) Conduct an environmental inspection;

e) Determine whether the property is suitable to take for public purposes.

IT IS FURTHER ORDERED that a copy of this Order and of the Complaint for Entry Upon Property be immediately served upon the Defendant prior to the hearing date.

COLLEEN A. O'BRIEN

_____
CIRCUIT COURT JUDGE

W:\t\Troy, City of\Pleadings\show cause order.wpd

A TRUE COPY
G. WILLIAM CADDELL
Oakland County Clerk - Register of Deeds
By: _____ Deputy

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

In the Matter of the Complaint of the City of Troy for Entry upon Property for the purpose of inspecting and appraising property for the proposed I-75/Crooks/Long Lake Interchange Improvement Project..

04-060878-CC

JUDGE COLLEEN A. O'BRIEN
TROY CITY V WHITE CHAPE

CITY OF TROY, a municipal corporation,

Plaintiff,

v.

WHITE CHAPEL MEMORIAL ASSOCIATION, a Michigan corporation,

Defendant.

Case No.

Hon.

'04 SEP -3 P2:20
DEPUTY COUNTY CLERK

BORIS K. YAKIMA (P22607)
THOMAS J. McCARTHY (P36755)
Attorneys for Plaintiff
MONAGHAN, LoPRETE, McDONALD, YAKIMA & McCARTHY
40700 Woodward Avenue, Suite A
Bloomfield Hills, Michigan 48304
(248) 642-5770

LORI GRIGG BLUHM (P46908)
Co-counsel for Plaintiff
Corporation Counsel
City of Troy
Troy City Hall
500 W. Big Beaver Road
Troy, Michigan 48084
(248) 524-3320

COMPLAINT FOR ENTRY UPON PROPERTY

There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the Complaint.

BORIS K. YAKIMA (P22607)
THOMAS J. McCARTHY (P36755)
Attorneys for Plaintiff

NOW COMES Plaintiff, CITY OF TROY, by and through its attorneys, MONAGHAN, LoPRETE, McDONALD, YAKIMA & McCARTHY, and for its Complaint for entry upon property, states as follows:

1. The City of Troy (the "City") is a municipal corporation located in the County of Oakland, State of Michigan.

2. Defendant White Chapel Memorial Association ("White Chapel") is a Michigan corporation that owns and operates White Chapel Memorial Cemetery in Troy, Michigan.

3. Pursuant to MCL 213.361(a) (1966 PA 295) the City is authorized and empowered to secure the fee simple or lesser estate in real property from owners for the right-of-way for limited access highways to be laid out, altered or widened or for changing the line of those highways.

4. Under MCL 213.365 the City's right to take property for the reasons stated herein extends to and includes property owned by cemetery corporations for cemetery purposes.

5. The City is now engaged in the I-75/Crooks/Long Lake Improvement Project that includes, *inter alia*, the acquisition of the necessary right-of-way to widen the existing right-of-way of Highway I-75, to construct a new interchange at Highway I-75 and Long Lake Road, together with the necessary connector distribution network (the "Project").

6. On June 7, 2004, the City authorized execution of an agreement with the Michigan Department of Transportation ("MDOT") in which the City agreed to acquire any and all additional right-of-way required for the Project.

7. To date, the City has acquired 23.93 acres out of a total of 27.75 acres (approximately 86%) of the right-of-way needed to construct the Project.

8. Part of the property owned by Defendant, and described below, is within the right-of-way acquisition area for the Project:

Parcel 1
(part taking)

Legal description:

Situated in the City of Troy, Oakland County, Michigan, described as:

That part of northwest 1/4, section 16, town 2 north, range 11 east, lying west of I-75 highway, also that part of north ½ of southwest 1/4 lying west of I-75 highway except west 60 feet taken for Crooks Road, also except that part taken for Long Lake Road described as beginning at northwest section corner; thence north 87 degrees 26 minutes 35 seconds east 2314.49 feet; to west line of I-75 Expressway; thence south 02 degrees 10 minutes 38 seconds east 50 feet; thence south 87 degrees 26 minutes 35 seconds west 1190 feet; thence south 82 degrees 42 minutes 06 seconds west 60.43 feet; thence south 87 degrees 26 minutes 35 seconds west 552.35 feet; thence south 86 degrees 45 minutes 42 seconds west 434.52 feet; thence south 43 degrees 43 minutes 19 seconds west 28.59 fee; thence south 87 degrees 26 minutes 35 seconds west 60 feet to west section line; thence northerly 80 feet to beginning.

Tax Identification No. 20-16-100-001

Commonly known as 621 West Long Lake Road

Owner: White Chapel Memorial Association, a Michigan corporation

9. The Uniform Condemnation Procedures Act ("UCPA") (1980 PA 87, MCL 213.51 et. seq.) sets forth the procedures that the City must follow for the acquisition of property, the conduct of condemnation actions, and the determination of just compensation.

10. Section 4(3) of the UCPA provides:

An agency or an agent or employee of an agency may enter upon property before filing an action for the purpose of making surveys, measurements, examinations, tests, soundings, and borings; taking

> photographs or samplings; appraising the property; conducting an environmental inspection; conducting archaeological studies pursuant to section106 of title I of the national historic preservation act, public law 890665, 16 U.S.C. 470f; or determining whether the property is suitable to take for public purposes. The entry may be made upon reasonable notice to the owner and at reasonable hours. An entry made pursuant to this subsection shall not be construed as a taking.

MCL 213.54(3)

11. The City has made requests to White Chapel on July 28, 2004, August 3, 2004, and August 23, 2004 for permission to enter upon the property. On August 27, 2004, the City extended its deadline for a response to its request to August 31, 2004.

12. On September 1, 2004, White Chapel provided a response to the City's request setting forth fourteen conditions the City must agree to prior to allowing access to the property, as well as a supplemental request for information and project plans from the City and MDOT. (Exhibits 1 and 2.) White Chapel's conditions are an unreasonable restriction upon the City's right to conduct its due diligence and inspect the property.

13. Under MCL 213.54(4):

> If reasonable efforts to enter under subsection (3) have been obstructed or denied, the agency may commence a civil action in the circuit court in the county in which the property or any part of the property is located for an order permitting entry. The complaint shall state the facts making the entry necessary, the date on which entry is sought, and the duration and the method proposed for protecting the defendant against damage. The court may grant a limited license for entry upon such terms as justice and equity require, including the following:
>
> (a) A description of the purpose of the entry.
> (b) The scope of activities that are permitted.
> (c) The terms and conditions of the entry with respect to time, place and manner of entry

14. The City's reasonable efforts to gain access to White Chapel's property have been exhausted, and therefore, it is necessary for this court to grant a limited license for entry upon White Chapel's property for purposes of conducting environmental inspections, appraisals, testing and a determination of whether the property is suitable to take for public purposes.

15. The City requests a date of entry as soon as practicable for a reasonable period of time. The City's agents will all be insured, which will protect the defendant against damage. The purpose of the entry and the scope of the activities are to:

a) Make surveys, measurements, examinations, tests, soundings and borings;

b) Take photographs or samplings;

c) Appraise the property;

d) Conduct an environmental inspection;

e) Determine whether the property is suitable to take for public purposes.

The inspection and testing will not harm the property or the Defendant.

16. Immediate entry upon the property is necessary because White Chapel is constructing a mausoleum in the vicinity of the City's Project area which may have a significant impact on the City's plans and Project.

WHEREFORE, this court is asked to enter an order:

A. Setting a date for hearing as soon as practicable after this Complaint is served, and order Defendant to appear before the court for hearing on the Complaint;

B. On the date of said hearing, enter an order allowing the City of Troy and its authorized agents to enter upon Defendant's property for the purpose of:

a) Making surveys, measurements, examinations, tests, soundings and borings;

b) Taking photographs or samplings;

c) Appraising the property;

d) Conducting an environmental inspection;

e) Determining whether the property is suitable to take for public purposes.

Respectfully submitted,

MONAGHAN, LoPRETE, McDONALD, YAKIMA & McCARTHY

By: _____

BORIS K. YAKIMA (P22607)
THOMAS J. McCARTHY (P36755)
Attorneys for Plaintiff
40700 Woodward Avenue, Suite A
Bloomfield Hills, Michigan 48304
(248) 642-5770

DATED: September 3, 2004

W:\A\Troy, City of\Pleadings\complaint for condemnation.wpd

PLUNKETT
COONEY

38505 Woodward
Suite 2000
Bloomfield Hills, MI 48304

(248) 901-4000
Fax (248) 901-4040
www.plunkettcooney.com

September 1, 2004

VIA FACSIMILE, E-MAIL AND U.S. MAIL

Boris K. Yakima, Esq.
Monaghan, LoPrete, McDonald,
Yakima, Grenke & McCarthy, P.C.
40700 Woodward Avenue
Suite A
Bloomfield Hills, Michigan 48304-5110

Re: *White Chapel Memorial Association*
Our File No. 15962.25803

Dear Mr. Yakima:

Pursuant to MCL §213.54(3), White Chapel Memorial Association ("White Chapel") agrees to your request that certain City of Troy representatives and contractors conduct a site inspection and limited physical testing of specific White Chapel property subject to the following conditions:

1. The only White Chapel property involved in this site inspection and limited physical testing will be the precise area of White Chapel property depicted on the Michigan Department of Transportation (MDOT") drawings which the City may seek to acquire for right-of-way purposes for a possible entrance ramp to I-75 at Long Lake Road. At this point, there is confusion concerning which drawings define the affected property. On Monday, August 23, 2004, you provided me with a shrunken MDOT drawing entitled Alternative B, dated June 17, 2004, Cont. Sec. 63174, Job No. 49565A. On Friday, August 27, 2004, Thomas J. McCarthy of your office, gave me full size drawings entitled, among other things, Long Lake Road Ramp C, dated August 19, 2004, Cont. Sec. 63174, Job No. 49565B. Please advise which drawings are applicable to the White Chapel property your client seeks to inspect and test, and please advise with reasonable specificity the White Chapel property involved. White Chapel does not consent to entry on any of its other property by City of Troy representatives and contractors.

2. The site inspection will be conducted by James Fuller of Fuller Appraisal Services, the real estate appraiser retained by the City of Troy to assist in determining just compensation to be offered White Chapel in the event that the proposed taking moves forward.

EXHIBIT 1

3. A ground-penetrating radar (GPR) survey will be conducted by representatives of Technical Engineers and Consultants, Inc. You have advised that the GPR survey is necessary to insure that the area sought to be acquired by the City of Troy contains no burials. You have also emphasized that the GPR survey is completely non-invasive and consists of a relatively small device (similar to a metal detector) being moved along the surface of the ground, which detects underground anomalies. White Chapel relies upon these representations.

4. The City of Troy agrees that by allowing this limited entry upon its property, White Chapel has not waived its right to challenge the City of Troy's authority or legal right or power to take, acquire or condemn White Chapel's cemetery property. In this respect, White Chapel's permission for a limited entry upon its property by certain City of Troy representatives and contractors shall not be construed as an admission by White Chapel that the City of Troy has any authority or legal right or power to take, acquire or condemn its cemetery property.

5. The City of Troy agrees that by allowing this limited entry upon its property, White Chapel has not waived its right to challenge the necessity of acquisition of all or part of its property pursuant to MCL §213.56(1) on any grounds in the event that the City of Troy or some other agency files a complaint for the acquisition of White Chapel property for the proposed on-ramp to I-75 that would be part of the proposed interchange at I-75 and Long Lake Road.

6. The City of Troy agrees that by allowing this limited entry upon its property, White Chapel is not put on notice of any condemnation of White Chapel property for the proposed on-ramp to I-75, and White Chapel continues to retain the right to develop any and all of its property as it deems fit.

7. The City of Troy agrees that limited entry upon White Chapel's property by certain City of Troy representatives and contractors shall be at a mutually acceptable time in which White Chapel's representatives, including, but not limited to, White Chapel's officers, attorneys, architect, or appraisers are available to accompany the City of Troy representatives when the site inspection and physical examination is being conducted. Representatives and contractors of the City of Troy are not permitted to conduct any inspection, appraisal, or

examination without White Chapel's representatives accompanying the City's representatives.

8. The City of Troy representatives and contractors agree that all site inspection or physical examinations shall be conducted during the weekdays after 6 p.m., in order to minimize any interruption or disruption of White Chapel's business operations, construction, or visitation by its customers and bereaved family members.

9. The City of Troy representatives and contractors agree to indemnify and hold White Chapel harmless for any personal injury City of Troy representatives and contractors may suffer or incur upon entry of White Chapel's property.

10. The City of Troy representatives and contractors agree to waive all duties of White Chapel to inspect and/or warn the City of Troy or its representatives of all obvious or non-obvious and dangerous conditions that may or may not be present upon White Chapel's property.

11. The City of Troy representatives and contractors agree to waive all duties of White Chapel to exercise reasonable care in the conduct of active operations, i.e. construction of its outdoor crypts and/or maintenance building.

12. The City of Troy agrees to share all results of the site inspection or physical examination with White Chapel.

13. The City of Troy agrees to keep the results of the site inspection or physical examination of White Chapel's property confidential and shall not disclose the results to any person or entity without the consent of White Chapel, unless required by law.

14. The City of Troy representatives and contractors agree that they will conduct their site inspection and limited physical testing of White Chapel property in a manner that minimizes any damage to White Chapel property and minimizes any hardship, burden or damage to White Chapel.

If these conditions are acceptable to the City of Troy, please confirm in writing as soon as conveniently possible. If you require any clarification, please do not hesitate to contact me at any time.

Thank you for your kind attention and cooperation.

Very truly yours,

Anthony J. Rusciano
Direct Dial (248) 901-4038
arusciano@plunkettcooney.com

AJR/kms
cc: Thomas J. McCarthy, Esq.
Blmfield.15962.25803.577786-3

PLUNKETT
COONEY

38505 Woodward
Suite 2000
Bloomfield Hills, MI 48304

(248) 901-4000
Fax (248) 901-4040
www.plunkettcooney.com

September 1, 2004

VIA FACSIMILE, E-MAIL AND U.S. MAIL

Boris K. Yakima, Esq.
Monaghan, LoPrete, McDonald,
Yakima, Grenke & McCarthy, P.C.
40700 Woodward Avenue
Suite A
Bloomfield Hills, Michigan 48304-5110

Re: *White Chapel Memorial Association*
Our File No. 15962.25803

Dear Mr. Yakima:

When we met on August 23, 2004 at the Troy City Hall with representatives of the City of Troy, Michigan Department of Transportation ("MDOT") and White Chapel Memorial Association ("White Chapel"), one topic of discussion was the concerns of White Chapel with the current preliminary design plans as presented.

During the meeting on August 23rd, representatives from the City of Troy and MDOT indicated that pursuant to the current preliminary design, two of three driveways to White Chapel's maintenance facilities would be closed completely. Further, it was represented that the remaining westernmost maintenance driveway would be partially closed. Vehicles and equipment could use this driveway to enter, but could not use the driveway to exit from the maintenance facility.

Could you please confirm in writing whether this information concerning the current design plan as it would impact White Chapel's driveways to its maintenance facilities is accurate? Has there been any modification or change in the plans on this point since our meeting on August 23rd? Is this portion of the design plan likely to be revised again in the future or should White Chapel assume that these closures and/or partial closures of our client's maintenance driveways will remain a final part of any design as it impacts White Chapel's property? Finally, could you please also indicate the reasons why these closures and/or restrictions of White Chapel's maintenance driveways were determined to be part of the design?

I appreciate that you have provided us on August 23 and 27, 2004 various preliminary final design plans for the possible right-of-way across White Chapel property for a possible entrance ramp to I-75 at Long Lake Road. From our perspective, it would also be helpful if we could secure a full set of the current engineering reports, surveys, environmental impact

EXHIBIT 2

statements, maps, plans, right-of-way and construction plans for the *entire* proposed I-75/Crooks-Long Lake Road Interchange Project, including, but not limited to, the possible widening or reconfiguration of Long Lake Road between Crooks Road and Livernois Road.

If you have any questions, please do not hesitate to contact me at any time.

Thank you for your kind attention and cooperation.

Very truly yours,

Anthony J. Rusciano
Direct Dial (248) 901-4038
arusciano@plunkettcooney.com

AJR/kms
cc: Thomas J. McCarthy, Esq.
Blmfield.15962.25803.577786-4

J-10

Please include in meeting packets for 9-13-04 Meeting!

Thanks
Pat

September 8, 2004

Mayor Schilling
Council Member Beltramini
Council Member Lambert
Council Member Eisenbacher
Council Member Broomfield
Council Member Howrylak
Council Member Stine
500 W. Big Beaver
Troy, MI 48084

RECEIVED
SEP 07 2004
CITY OF TROY
CITY MANAGER'S OFFICE

Dear Mayor and City Council

The Stop Interchange Now Citizens' Coalition would like to respond to Ms Bartholomew's letter of September 1, 2004 to Ms. Thielfoldt. First, Ms. Bartholomew made much ado about certain "requirements" that were missing from the petition. These requirements should be met and followed when petitioners are seeking to place an initiative to add or amend an ordinance. This is not the case with an advisory vote.

The City Administration has attempted to bootstrap initiatory petition requirements and laws governing the subject matter for initiatives and referendums to advisory ballot questions. This is simply a misunderstanding by the City Administration concerning two separate and distinct ballot questions. Here, SIN is not seeking an initiatory ballot question. It is merely petitioning this Council to vote to place the I-75/Long Lake Road Interchange issue on the ballot as an advisory question. The technical requirements do not have to be met, because the City Council has absolute discretion as to whether they want to entertain this issue or not. The petition to request City Council to place this issue as an advisory ballot question is the same as if all 4300 residents of Troy who signed the petition attended a City Council meeting requesting an advisory vote. Therefore, Ms. Bartholomew's objections to the form and sufficiency of the petitions SIN presented do not have any merit.

Second, Ms. Bartholomew and Ms. Bluhm have in separate correspondence to either SIN or this City Council have advised that advisory ballot questions are illegal. This is simply not the case. Once again, certain

legal memorandums from the City Attorney's office has mistakenly attempted to apply laws governing the subject matters of initiatory and referendia ballot questions to advisory ballot questions. Under Michigan law, there is no constitutional or statutory prohibition for a City to hold an advisory vote on an issue that comes within the subject matter of the City's power. Here, the issue of acquiring property and appropriating money for the construction of an interchange comes within the subject matter of the City's power.

Under the Home Rule City Act, MCL 117.4j, which governs the City of Troy, each city may provide in its charter "for any act to advance the interests of the city, the good government and prosperity of the municipality and its inhabitants and through its regularly constituted authority to pass all laws and ordinances relating to its municipal concerns subject to the constitution and general laws of this state." Under Troy's Charter, Section 2.1, the City has and is vested with any and all powers which Home Rule Cities may be permitted to exercise under the Constitution and Statutes of the State of Michigan, including all powers which cities of this class are or may be permitted to provide in their Charters, whether or not those powers are specifically enumerated in Troy's Charter. Therefore, under the Home Rule City Act and Troy's own charter, the City of Troy has the power to advance the interests of the city, good government, and its inhabitants by placing this issue onto the ballot as an advisory question. The placement of this issue onto the ballot would not delegate the City Council's authority or power to decide this issue. Rather, the outcome of the advisory ballot question would merely be one factor for the City Council to consider in determining whether to continue going forward with this interchange project.

It is also noted that other cities in the State of Michigan have held advisory votes on varying issues concerning their cities. On May 4, 2004, the City of Marysville held an advisory vote on whether residents wanted to continue a property tax to pay for a door-to-door bus service. On December 2, 2003, the City of Romulus held an advisory vote on whether a casino and racetrack should be allowed in the City. On September 9, 2003, the City of Highland Park held an advisory vote on whether the City should sell city-owned property. On the same date, the City of Muskegon held an advisory vote on whether casino gambling should be allowed in the City. In June of 2001, the City of Port Huron held an advisory vote on whether casino

gambling should be allowed in the City. In 2002, the City of Detroit held an advisory vote on whether the Belle Isle Zoo should remain open.

In should be pointed out that in reviewing the City of Muskegon advisory ballot question, the City of Muskegon's City Charter did not have any specific provision within their city charter providing for advisory ballots. Nevertheless, the City Council still voted to place the casino issue on the ballot and the county and state elections divisions did not object to the advisory ballot question.

Placing this issue as an advisory ballot question is really no different than a city survey, which cities, including Troy, do all the time. The advisory ballot question is simply a more formal means of surveying the residents on a critical issue where the integrity of the vote is more legitimate.

Since advisory votes are not illegal and have been conducted in other cities in the recent past, the City of Troy could hold an advisory vote on the proposed I-75/Long Lake Road Interchange. Therefore, on behalf of the thousands of Troy residents who have signed the advisory ballot question petition and are opposed to this project, we request this City Council to listen to its residents and place the issue of whether an interchange should be constructed at I-75 and Long Lake Road on the ballot at the next City of Troy election as an advisory question.

Thank you.

Respectfully,

Linda Thielfoldt
Mary Ann Bernardi
Phil Ohman
Eric Hunt
Susan Hunt
STOP INTERCHANGE NOW! Citizens' Coalition

Cc: City of Troy City Clerk, Ms. Bartholomew

RECEIVED
SEP 07 2004 J-11
CITY OF TROY
CITY MANAGER'S OFFICE

September 6, 2004

TO: City of Troy
Mayor Louise Schilling
Mayor Pro Tem Robin Beltramini
Councilwoman Cristina Broomfield
Councilman David Eisenbacher
Councilman Martin Howrylak
Councilman Dave Lambert
Councilwoman Jeanne Stine
City Manager John Szerlag

FROM: Tom Krent, 3184 Alpine, Troy, MI 48084 248-649-4948

SUBJECT: INDUSTRIAL-STYLE GARAGE AT 3129 ALPINE

I am asking you, as Council members, to allow John Szerlag to continue negotiating with the Piscopos to have their garage modified so that it looks residential in character and complies with our existing City Zoning Ordinances.

John Szerlag and Paul Piscopo have discussed excellent solutions that would remedy the issue. Both parties demonstrated a willingness to agree on a solution. The only item stopping a good agreement was Assistant City Attorney Susan Lancaster's legal opinion.

As I stated in my letter to you on August 23, 2004, the Assistant City Attorney, Susan M. Lancaster, has framed her opinion based on property condemnation practices. My opinion is that it should be framed as a mistake made by the City because the City issued a building permit in violation of its Zoning Ordinances.

This situation does NOT set a precedent as Susan Lancaster stated in her letter to John Szerlag dated 8/18.04. "...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." Her argument isn't correct because this is NOT a LEGAL structure according to our Zoning Ordinance.

Dennis Rivard and I have brought to your attention the fact that the building permit for this structure was issued in violation of existing City Zoning Ordinances. I feel it is very important that we as a city follow both the written word and intent of these ordinances. Otherwise, the integrity of our city government is in question.

I would have liked to end my letter here to make it short and simple, but I'm including information to reinforce my statements.

I have listed the Sections of our Zoning Ordinance that have been violated by this building permit. Please refer to the detailed review of these ordinances below and in prior letters sent to you by Dennis Rivard and me. **If you do not think the ordinances were violated, I would appreciate it if you could explain that to us.**

POINT 1

Using these two Zoning Ordinance Definitions...

04.20.65 GARAGE, PRIVATE: an accessory building for parking or storage of not more than the number of vehicles as may be required in connection with the permitted use of the principal structure.

04.20.01 ACCESSORY BUILDING: a subordinate building, the use of which is clearly incidental to that of the main building or to the use of the land. (See Section 40.55.00)

...and applying them to Section 40.57.02

40.57.02 Where the accessory building or structure is structurally attached to a main building, it shall be subject to, and must conform to, all regulations of this chapter applicable to a main building.

...the result is that the attached garage (accessory building) should be a subordinate building. It is clearly NOT a subordinate building.

The purpose of Section 40.57.02 is to insure that "accessory structures" meet building code standards that are applied to the main building. It does not state that the "accessory building" becomes part of the main building. The accessory building still retains its own identity as an accessory building. That point is demonstrated by our City Assessing Department. They maintain the distinction between the house and an attached accessory building when taxing the property and tax the two structures at two different rates.

POINT 2

Since Paul Piscopo runs a business from his house, "Home Occupation" sections of the Zoning Ordinance apply.

Zoning Ordinance Definition...

04.20.71 HOME OCCUPATION: An occupation carried on within the walls of a dwelling unit by a resident thereof, having no employees who are themselves residents. Said occupations shall not be visible or noticeable **in any manner or form** from outside the walls of the dwelling and accessory structures.

The structure itself is in the form of a commercial building and is very "noticeable" as a business structure. This violates the written word and intent of this Section of the Ordinance. The company that from which Paul Piscopo purchased the structure, Star Building Systems, markets their buildings for commercial and industrial use. I've looked at the Star Building Systems website (www.starbuildings.com) and found that none of the examples shown by the company are for residential houses. They show over 36 brochures with titles, Star Storage, Warehouse, Aviation, Shopping Centers, Manufacturing, Industrial Structures, Heavy Industrial Structures, Equestrian Facilities, Commercial Structures, Auto Dealerships, Livestock, etc.

POINTS 3, 4 & 5 REFER TO SECTION 10.25.01 OF THE CITY ZONING ORDINANCE.

10.25.01 Home Occupations, as defined in Section 04.20.71, subject to the following conditions:

A) In order to insure compatibility of the subject residential parcel with the surrounding residential area, to maintain the residential character of the area, and to avoid reduction of property values, the following activities or uses shall be prohibited in conjunction with Home Occupations:

1. Signs relating to any occupation or business.

2. Accessory buildings devoted primarily to the subject Home Occupation or Business.

3. Off-street parking area greater than that amount maintained by neighboring dwellings within three hundred (300) feet of the subject site.

4. Outside storage or display of any items related to the subject Home Occupation or Business and, thus, not normally incident to a one-family dwelling.

5. Vehicular Traffic characterized by pick-up or delivery of materials, supplies, or products in excess of that normally incident to a one-family dwelling.

POINT 3

This building violates Subpart 2. The primary reason for this type of accessory building is for his business. A building of this nature, with a 14 foot by 14 foot garage door, is not needed for the residential use of storing his two classic cars of which Paul Piscopo has spoken. However, it is necessary to store his garbage truck.

POINT 4

Paul Piscopo made a false written statement when he applied for his building permit. I detailed his false statement in my August 23rd letter to you, and Dennis Rivard provided copies of Paul Piscopo's false statements in his August 4th letter to you. I've included copies of those statements and of his property citations. FOR THIS REASON ALONE, THE BUILDING PERMIT SHOULD BE REVOKED.

The City required Paul Piscopo to submit a letter to gain approval of his building permit. One of Paul Piscopo's letters states, "...I, Paul Piscopo the homeowner, am aware of the Work at Home Ordinance. I have been working out of my house all of my working life and have not violated this ordinance nor do I intend to in the future." The other letter states, "...I, Paul Piscopo the homeowner, am aware of the Work at Home Ordinance. I have been working out of my house all of my working life. I do not regularly have employees report to work at my office I do service work and that's done at the job sight. I have not violated this ordinance nor do I intend to in the future."

Paul Piscopo has many violations. I've listed two and copies are attached.

> When he was renting the house from his dad, Joseph, he was cited on 11-3-99. Observed contractor equip. on site (4 compressors) plus bobcat loader and trailer, HVAC unit in driveway.
>
> On a later date: (no date listed on citation, but it had to be after May 29, 2001*) MS inspected site and observed contractors equipment stored on site (3 compressors & unidentified FMC machine, 4 junk lawnmowers & possible veh. w/ exp lic.

These two citations span over 17 months. Both of these violates Section 10.25.01, Part A, Subpart 4.

POINT 5

Paul Piscopo has been in violation of and will continue to violate Section 10.25.01, Part A, Subpart 5, because he will use a garbage truck (and other vehicles) for pick-up or delivery of materials, supplies, or products in excess of that normally incident to a one-family dwelling. For confirmation of this, just look in his backyard and see the items he has already stored there for years that are in excess of that normally incident to a one-family dwelling. Also, refer to the 15 attached citations at 3129 Alpine.

In addition, this structure violates the intent of this section. This Large Garage does NOT maintain the residential character of the area, and it has REDUCED the property values. (See attached letter from the City Assessors office.)

*Refer to the Rent/Purchase Options presented to Paul Piscopo by his parents. He did not own the property before that date, as he was renting it from his parents. Also, City of Troy inspection citations do not have a place for the inspector to write in the date of the inspection. Consequently, many of the citations do not have a date on them.

City of Troy — Building Permit No: PB2003-0883

Building Department
Phone:(248) 524-3344

500 W. Big Beaver Road
Fax: (248) 689-3120

Troy, Michigan 48084
Hours: Mon-Fri 8am - 4:30pm

Location

3129 ALPINE
88-20-20-401-018 Lot: 6
Subdivision: MUER'S GARDEN F
Zoning: R-1B Use Group: R-3
Construction Type: 5B

Owner

PISCOPO, PAUL & LOUISE
3129 ALPINE
TROY MI 48084-1520
248 643 4951

Issued: 08/18/2003

FOR INSPECTIONS - CALL (248) 689-5744
Inspections called in by 6:00 A.M. will be scheduled the same day.

Applicant

OWNER OF PROPERTY
PISCOPO, PAUL & LOUISE
3129 ALPINE
TROY MI 48084-1520
248 643 4951

Work Description: R- FOLDED - ADDITION TO HOUSE AND LARGE ATTACHED GARAGE. MEET ALL CODES AND INSPECTIONS.

Special Stipulations: GARAGE CANNOT BE OCCUPIED BEFORE ADDITION IS COMPLETE. PROPERTY IS RESIDENTIAL ZONED, GARAGE APPROVED FOR RESIDENTIAL AND HOME OCCUPATON USE ONLY.

Work will meet all codes and inspections.

Paid	Permit Item	Work Type	Fee Basis	Item Total
At Issue	Alterations	Bond Alter	1.00	$50.00
At Issue	Value $10,001 and up	Building Permit	189,840.00	$1,060.00
At Issue	Plan Review Fee	Plan Review	189,840.00	$65.00

Res., Garage/Acc. Structure

Total Due: 1175.00

PB2003-0883%PB%1175.00

Payment Validation

PAID

AUG 18 2003

CITY OF TROY
TREASURER'S OFFICE

This permit is issued subject to the Building Code, Zoning Ordinance and all other Ordinances of the City of Troy, and shall become void once work is abandoned for a period of ninety (90) days.

Separate permits must also be obtained for signs and any plumbing, heating, refrigeration, electric, sewer or on lot disposal work.

This permit conveys no right to occupy any street or public right-of-way, either temporarily or permanently.

[ ] TREASURER COPY [✓] DEPARTMENT COPY [ ] CONTRACTOR COPY

Paul Piscopo
3129 Alpine Street
Troy, MI 48084

August 6, 2003

City of Troy
500 W. Big Beaver Rd
Troy Mi 48084

To Whom It May Concern,

This letter is to clarify the use of the addition being added to the 3129 Alpine St home. I, Paul Piscopo the homeowner, am aware of the Work at Home Ordinance. I have been working out of my house all of my working life and have not violated this ordinance nor do I intend to in the future. The Large Garage I will be building is so that I may park my equipment and or my commercial vehicle inside and relieve the need for a commercial vehicle variance at this time.

Sincerely,

Paul Piscopo
Home Owner

Paul Piscopo
3129 Alpine Street
Troy, MI 48084

RECEIVED
AUG 0 7 2003
BUILDING DEPARTMENT

August 6, 2003

City of Troy
500 W. Big Beaver Rd
Troy Mi 48084

To Whom It May Concern,

This letter is to clarify the use of the addition being added to the 3129 Alpine St home. I, Paul Piscopo the homeowner, am aware of the Work at Home Ordinance. I have been working out of my home office for all of my working life. I do not regularly have employees report to work at my office I do service work and that's done at the job sight. I have not violated this ordinance nor do I intend to in the future.

The Large Garage I will be building is so that I may park my equipment and or my commercial vehicle inside and relieve the need for a commercial vehicle variance at this time. I will also be removing the tent in the back yard when the garage is finished.

Sincerely,

Paul Piscopo
Home Owner

Your Jurisdiction
INSPECTION DIVISION

Number EN1999-0145

Type Zoning Violation

Open_____ Closed_____

Council_____ Inspector Don Phillips

Complaint Address: 3129 Alpine

General Address

JOSEPH PISCOPO

7307 BEA LANE

Complainant

Rental: N

Complaint

11-3-99 Observed contractors equip. on site (4 compressors) plus bobcat loader and trailer,HVAC unit in driveway.

Printed: 07/28/04 16:27:18

Your Jurisdiction
INSPECTION DIVISION

Number EN2000-0126

Type Zoning Violation

Open_____ Closed_____

Council_____ Inspector Don Phillips

Complaint Address: 3129 Alpine

General Address

PISCOPO, JOSEPH

7307 BEA LANE

Complainant

Rental: N

Complaint

1-31-00 - Survey - Observed "Big Beaver Plumbing" truck on site. Lic # 2580-FD

Printed: 07/29/04 07:57:01

Your Jurisdiction
INSPECTION DIVISION

Number EN2000-0237

Type Zoning Violation

Open_____ Closed_____

Council_____ Inspector Don Phillips_____

Complaint Address: 3129 Alpine

General Address

PISCOPO, JOSEPH

7307 BEA LANE
248 643 4951

Complainant

Rental: N

Complaint

Check site for proper location of truck

Printed: 07/29/04 07:57:20

Your Jurisdiction
INSPECTION DIVISION

Number EN2000-1086 Type

Open_____ Closed_____

Council_____ Inspector Don Phillips

Complaint Address: 3129 Alpine

General Address	**Complainant**
PISCOPO, JOSEPH 7307 BEA LANE 248 643 4951	

Rental: N

Complaint

Per G. Shripka - Check site for unapproved commercial vehicle.

Printed: 07/29/04 07:57:55

Your Jurisdiction
INSPECTION DIVISION

Number EN2000-1130 Type Zoning Violation

Open_____ Closed_____

Council_____ Inspector D Phillips_____

Complaint Address: 3129 Alpine

General Address	Complainant
PISCOPO, JOSEPH 7307 BEA LANE 248 643 4951	Mayor Stine

Rental: N

Complaint

Mayor Stine called to report activity at site: many cars, junk, 2 enclosed 30' trailers on site. Referred to DP

Printed: 07/29/04 07:58:12

Your Jurisdiction
INSPECTION DIVISION

Number EN2001-0029 Type Zoning Violation

Open_____ Closed_____

Council_____ Inspector D Phillips_____

Complaint Address: 3129 Alpine

General Address

PISCOPO, JOSEPH

7307 BEA LANE
248 643 4951

Complainant

Rental: N

Complaint

1-11-01 Mayor Stine notified G.N. of white cargo trailer stored in front yard for 2 weeks.

Printed: 07/29/04 07:58:31

Your Jurisdiction
INSPECTION DIVISION

Number EN2001-0120

Type Zoning Violation

Open_____ Closed_____

Council_____ Inspector D Phillips_____

Complaint Address: 3129 Alpine

General Address	Complainant
PISCOPO, JOSEPH 7307 BEA LANE 248 643 4951	

Rental: N

Complaint

Checked site for violations

Printed: 07/29/04 08:00:53

Your Jurisdiction
INSPECTION DIVISION

Number EN2001-0136

Type Zoning Violation

Open_____ Closed_____

Council_____ Inspector D Phillips_____

Complaint Address: 3129 Alpine

General Address	**Complainant**
PISCOPO, JOSEPH 7307 BEA LANE 248 643 4951	

Rental: N

Complaint

Printed: 07/29/04 08:01:11

Your Jurisdiction
INSPECTION DIVISION

Number EN2002-01606

Type Commercial Vehicles

Open_____ Closed_____

Council_____ Inspector D Phillips_____

Complaint Address: 3129 Alpine

General Address

PISCOPO, JOSEPH

7307 BEA LANE
248 643 4951

Complainant

Rental: N

Complaint

complaint of extra commercial vehicles

Printed: 07/29/04 08:01:30

Your Jurisdiction
INSPECTION DIVISION

Number EN2003-04074

Type Junk Car

Open_____ Closed_____

Council_____ Inspector D Phillips_____

Complaint Address: 3129 Alpine

General Address

PISCOPO, PAUL & LOUISE

3129 ALPINE
248 643 4951

Complainant

Rental: N

Complaint

Unlic DO van in d/w

Printed: 07/29/04 08:02:23

Your Jurisdiction
INSPECTION DIVISION

Number EN2003-04120

Type Junk Car

Open_____ Closed_____

Council_____ Inspector D Phillips_____

Complaint Address: 3129 Alpine

General Address	Complainant
PISCOPO, PAUL & LOUISE 3129 ALPINE 248 643 4951	

Rental: N

Complaint

Obsv'd unlic bl BU on property

Printed: 07/29/04 08:02:47

Your Jurisdiction
INSPECTION DIVISION

Number EN2004-00255 Type Junk Car

Open_____ Closed_____

Council_____ Inspector D Phillips_____

Complaint Address: 3129 Alpine

General Address

PISCOPO, PAUL & LOUISE

cell # 248-789-3617
3129 ALPINE
248 643 4951

Complainant

Rental: N

Complaint

Complaint of inop garbage truck

Printed: 07/29/04 08:03:06

Your Jurisdiction
INSPECTION DIVISION

Number EN2004-00260

Type Commercial Vehicles

Open_____ Closed_____

Council_____ Inspector D Phillips_____

Complaint Address: 3129 Alpine

General Address

PISCOPO, PAUL & LOUISE

cell # 248-789-3617
3129 ALPINE
248 643 4951

Complainant

Rental: N

Complaint

entered in error - have GN burn

Printed: 07/29/04 08:03:23

Your Jurisdiction
INSPECTION DIVISION

Number EN2004-00992 Type Noxious Weeds

Open_____ Closed_____

Council_____ Inspector_D Phillips_____

Complaint Address: 3129 Alpine

General Address

PISCOPO, PAUL & LOUISE

cell # 248-789-3617
3129 ALPINE
248 643 4951

Complainant

Rental: __N__

Complaint

Neighbor complaint of tall weeds on property.

Printed: 07/29/04 08:03:38

Your Jurisdiction
INSPECTION DIVISION

Number EN2004-01010

Type Zoning Violation

Open_____ Closed_____

Council_____ Inspector D Phillips

Complaint Address: 3129 Alpine

General Address

PISCOPO, PAUL & LOUISE

cell # 248-789-3617
3129 ALPINE
248 643 4951

Complainant

Rental: N

Complaint

MS inspected site and observed contractors equipment stored on site (3 compressors & unidentified FMC machine, 4 junk lawnmowers & possible veh. w/ exp lic.

Printed: 07/29/04 08:03:52

July 16, 2004

To: John Szerlag, City Manager

From: Nino Licari, City Assessor

Cc: John Lamerato, Assistant City Manager – Finance/Administration

Re: Value influence of architecturally different attached accessory structures, either smaller than the primary residence, or larger

You had requested an estimate of potential value loss in properties in proximity to residential buildings with attached accessory structures; both with architecture conforming to the residence or architecture not compatible with the residence. Additionally, I will briefly opine on these accessory structures being smaller, or larger than the primary residence.

We have literally thousands of instances where an attached garage (accessory structure) is built was built in conjunction with the primary residence. These structures are of identical architectural styles as the primary residence, and less than half of the ground floor area of the residence.

In these instances, there is no impact, whatsoever, on the value of surrounding properties.

I was able to identify fourteen (14) residences with attached garages that are either almost equal (2), or greater in size (12) to the existing residence (see attached listing). All of these accessory structures were either added to the residence at a later date, or had the original garage expanded.

They range in size from 95% of the size of the residence, to 2.5 times the size of the residence. The majority of these structures (11) are less than 40% larger than the existing residence.

What is important to note, is that <u>all</u> of these attached accessory structures have conventional residential architectural styles, that either match, or compliment the residence. They also have conventional residential garage wall heights (8' to 10'), and typical residential roof peak heights (12' to 18').

Based on the market in these areas, I was unable to see any negative impact on the value of these properties.

As far as the situation occurring at 3129 Alpine, the structure under construction is 3.21 times the floor area of the existing residence (see attached building footprint sketch). It is a pole barn type of architecture. In other words, it is a wood pole frame construction, with prefabricated metal siding.

The wall height is 20 feet. The peak of the gable roof will be 24 feet in height. The roof will have a metal sheathing cover, instead of conventional shingles.

This structure will extend almost 120 feet past the rear of the house.

This structure will be attached to a conventionally built 2 story residence, with both brick and frame siding.

While the home is being remodeled to a more modern and pleasing state, the barn is not in compliance with any other home in the area, and therefore poses the greatest risk to value.

This structure is not only massive in its footprint, it will be extremely tall . Without some heavy screening, or a more esthetically pleasing exterior, I would estimate that this structure has the potential to affect the value of neighboring homes by as much as 10%, and possibly more.

Please bear in mind that this particular situation does not exist anywhere else in Troy. However, my estimate of value loss is based on similar situations where a different use either backs, sides, or fronts a residential area.

It is also my opinion that limitations on the size of these structures, and mandated architectural similarities to the exterior of the existing and surrounding residences would eliminate any loss in value from neighboring properties.

7307 Belane
Algonac MI 48001
May 29, 2001

Dear Paul & Louise;

This letter is to inform you that as of July 1, 2001, your rent will be $600.00 Per month. As of today, you owe $400.00 rent for May and $400.00 rent for June. At this time we are offering you four options.

OPTION 1

If you want to buy the house at 3129 Alpine, the price will be determined by the mean of three Real Estate quotes. We will allow you $200.00 a month credit for every month you paid after July 2001, deducted from the purchase price. This option is good for one year from July 1, 2001.

OPTION 2

We will list the house. You will have 30 days to buy at the price of the highest offer to purchase, through the Realitor, exempt Realtor fee and allowing same credit as in option 1. If you decide not to buy at that price – you may be evicted by new owner.

OPTION 3

If you decide not to rent or buy the house in the next year, you will have 30 days to clean up the property and vacate.

OPTION 4

If you want to continue renting at $600.00 per month. This contract is valid from July 1, 2001 thru June 30, 2002, at which time a new contract will be issued.

Please select your option, sign and date this letter and mail back within 10 days, certified mail.

These options are FIRM and NON-NEGOTABLE.

Sincerely,

Joseph & Valorie Piscopo

Joseph Piscopo 5-29-01 Valorie Piscopo 5-29-01

K-01

September 8, 2004

TO: The Honorable Mayor and City Council Members

FROM: John Szerlag, City Manager

SUBJECT: International City/County Management Association (ICMA) Citizen Survey

In my July 15, 2004 letter to you along with supporting documentation (which is attached for ease of reference) I asked for your advice on which additional questions, if any, should be incorporated in the survey. Succinctly, we're allowed to include three optional yes/no policy type questions in addition to the basic template of issues for a fee of $8,200. And we can include two open-ended questions for an additional amount of $1,250 each. The open-ended question would enable the resident surveyed to write a response.

To offer a starting point for our discussions, you may wish to consider the following policy issues that can be responded to in a yes/no fashion:

- Would you be in favor of reducing the level of City services to maintain the current tax rate?

- For quality of life services, should there be an increase in user fees before an increase in taxes is considered? Quality of life services pertain to Parks and Recreation, Library, Museum, and Nature Center.

- Would you be in favor of implementing new user fees where none currently exist? Examples pertain to Library, parks, and recreation uses/programs.

My rationale for offering these questions is twofold:

1) It's part of an ongoing dialogue we have relative to the budgetary process.

2) Local legislative policies can be defined as an allocation of community values. As such, an accurate read will let us know how the community views these issues.

In terms of the open-ended question, you may wish to address the issue of traffic congestion. This was the number one concern by respondents to the 1999 survey conducted by Market Measurement; so you may wish to ask the following:

- Our last survey conducted in 1999 indicated that traffic congestion was Troy's number one concern. How do you feel about this and how would you like the City of Troy to address traffic congestion?

Finally, we made some minor changes to the ICMA template to have a closer orientation to Troy. The proposed changes are attached to this memo.

I look forward to discussing this matter with you, and, as always, please feel free to call should you have any questions.

JS/mr\AGENDA ITEMS\2004\09.13.04 – ICMA Citizen Survey

c: Department Directors
Laura Fitzpatrick, Assistant to the City Manager

July 15, 2004

TO: The Honorable Mayor and City Council Members

FROM: John Szerlag, City Manager

SUBJECT: International City/County Management Association (ICMA) Citizen Survey

The International City/County Management Association (ICMA) has partnered with National Research Center, Inc., a professional survey organization, to develop and test a survey template that combines standard and customized questions. As a result, ICMA members can take advantage of a national citizen survey at a fraction of the cost of most consultant surveys. Over 350 other governmental agencies have availed themselves of the service for ICMA members.

For the fee of $8,200 the National Citizen Survey basic service offers us:

1) Customized survey form with three optional questions
2) Three mailings with 1,200 randomly selected households
3) A margin of error (95% confidence interval) of no more than plus or minus five percentage points
4) Three reports: Executive Summary, Statistical Analysis of Survey Results, and Optional Comparison with National Norms
5) Technical assistance by phone and email

As stated above, we're allowed to include three optional questions. And I'd like your advice on which questions we should ask. So too, for inclusion of an open-ended question we would pay an additional $1,250. The open-ended question would enable the resident surveyed to write a response.

Please review the template survey and determine if additional questions should be included. We'll then discuss this matter as a study item for either the August 9 or 23 Council meeting, depending upon Agenda length.

In closing, please know that funds are budgeted for this project in the Community Affairs Department's consultant services account; number 748.7816.010. Once we're set on the questions, I'll have staff register the City of Troy to have the ICMA survey mailed October 25, 2004.

c: John M. Lamerato, Assistant City Manager/Finance & Administration
Cynthia Stewart, Community Affairs Director
Steven J. Vandette, Acting Assistant City Manager/Services

JS/mr\AGENDA ITEMS\2004.07.19.04 – ICMA Citizen Survey

Timeline for The National Citizen Survey™ September 2004 Class

Legend: ◄ Indicates when items **from NRC are due to you** ► Indicates when items **from you are due to NRC** ♦ Indicates information items

Item	Week	Actual Dates
Preparing for the survey		
♦ The NCS survey process is initiated upon receipt of your enrollment form and first payment	week 1	Sept 6
◄ NRC mails you The NCS worksheet packet	week 2	Sept 13
► Due to NRC: Worksheets and additional payment for add-on options	week 4	Sept 27
♦ NRC uses the information you provided to generate the sample and customize the survey instrument for your jurisdiction	weeks 5-6	Oct 4-Oct 11
◄ NRC provides confirmation documents about options selected by your jurisdiction and a sample of the postcard and mailing envelope for your records	week 5	Oct 4
► Due to NRC: Confirmation of options selected.	week 6	Oct 11
◄ NRC provides samples of survey materials (cover letters and survey instrument) for your records	week 6	Oct 11
♦ NRC prints materials and prepares mailings	weeks 5-6	Oct 4- Oct 11
◄ NRC mails evaluation questionnaire and timesheet about the data collection process to you	week 7	Oct 18
Conducting the survey		
♦ Survey materials are mailed		
♦ Prenotification postcards delivered to post office	week 7	Oct 18
♦ 1st wave of surveys delivered to post office	week 8	Oct 25
♦ 2nd wave of surveys delivered to post office	week 9	Nov 1
♦ Data collection: surveys received for your jurisdiction	weeks 8-12	Oct 25-Nov 22
♦ *Note 1*: During this time, you will receive postcards that were undeliverable due to bad addresses, or vacant housing units. This is normal. Please count all the postcards, as we will subtract the number of returned postcards from the total number mailed to estimate the number of "eligible" households in calculating the final response rate.		
♦ *Note 2*: You may receive phone calls from citizens during this time period who call to inform you they are outside of your jurisdiction's boundaries, or that they do not wish to receive additional mailings, etc. Please reassure them that their household was randomly selected, and while they may receive a total of three mailings from you, they will not receive any additional mailings after that time.		
► Due to NRC: evaluation questionnaire and timesheet about the data collection process	week 12	Nov 22
► Due to NRC: Final count of returned postcards	week 12	Nov 22
♦ Survey processing and report writing	week 12-14	Nov 22-Dec 6
♦ During this time, NRC will process the surveys, perform the data analysis, and produce a two-part draft report for your jurisdiction. The report of results will contain a description of the methodology, information on understanding the results, and graphs and tables of your results. The second report will include a description of NRC's database of normative data from across the U.S. and actual comparisons to your results, where appropriate.		
◄ NRC emails draft report (in PDF format) to you	week 15	Dec 13
► Due to NRC: jurisdiction feedback on the draft report	week 16	Dec 20
◄ NRC mails final report and data file to you (unless otherwise specified)	week 17	Dec 27
◄ NRC mails final invoice to you	week 17	Dec 27
◄ NRC mails final evaluation questionnaire and timesheet to you	week 17	Dec 27
► Due to NRC: Final half of costs of The NCS	week 18	Jan 3
► Due to NRC: completed final evaluation questionnaire and timesheet	week 18	Jan 3

THE NATIONAL CITIZEN SURVEY™

Why Survey? Some Talking Points

You as a manager know that citizen surveying is a "power tool" for performance evaluation and improvement, but you also know that power tools carry risks and many elected officials are cautious about using them.

A few talking points may help you explain why citizen surveying is not only a good idea but also a necessity for today's responsive local government.

1. Citizen surveying bridges the gap between the government and citizens who don't come to meetings, but do vote, pay taxes, and make decisions about where to live and build their businesses.

2. The best way to encourage good performance is to measure it, and the best indicator of government performance is citizen satisfaction. Two out of three local governments that monitor their contracts use citizen satisfaction as a guide.

3. Surveying is how you measure progress. Surveying is not a one-time event. You start a trend line with your first survey. In following years, declining scores tell you where to focus improvements; rising scores reward departments that are improving.

4. Surveys done by professionals come with analysis and explanation that put local scores in perspective. Surveys done by outside consultants are free of bias and establish a neutral benchmark that all parties can accept.

5. Surveying is always done in the context of planning for the future—balancing priorities, setting new objectives, preparing the next budget, improving services. You create, you measure; you refine, you reassess. Strong management demands a credible feedback system.

6. The cost of surveying is repaid with interest in terms of citizen satisfaction with government, staff commitment to change, and conservation of resources.

ICMA makes available several resources for you to use in working with your elected officials to decide whether to survey citizens and whether to use The National Citizen Survey™. See The NCS™ webpage at icma.org/ncs for

- Articles on surveying and The NCS™
- Answers to frequently asked questions about The NCS™
- A PowerPoint presentation on The NCS™
- And many more materials.

The XYZ of ABC 2003 Citizen Survey

Please complete this questionnaire if you are the adult (age 18 or older) in the household who most recently had a birthday. The adult's year of birth does not matter. Please circle the response that most closely represents your opinion for each question. Your responses are anonymous and will be reported in group form only.

1. Please circle the number that comes closest to your opinion for each of the following questions:

	excellent	good	fair	poor	don't know
How do you rate ABC as a place to live?	1	2	3	4	5
How do you rate your neighborhood as a place to live?	1	2	3	4	5
How do you rate ABC as a place to raise children?	1	2	3	4	5
How do you rate ABC as a place to retire?	1	2	3	4	5
How do you rate the overall quality of life in ABC?	1	2	3	4	5

2. Please rate each of the following characteristics as they relate to ABC as a whole:

	excellent	good	fair	poor	don't know
Sense of community	1	2	3	4	5
Openness and acceptance of the community towards people of diverse backgrounds	1	2	3	4	5
Overall appearance of ABC	1	2	3	4	5
Opportunities to attend cultural activities	1	2	3	4	5
Shopping opportunities	1	2	3	4	5
Air quality	1	2	3	4	5
Recreational opportunities	1	2	3	4	5
Job opportunities	1	2	3	4	5
Access to affordable quality housing	1	2	3	4	5
Access to affordable quality child care	1	2	3	4	5
Access to affordable quality health care	1	2	3	4	5
Ease of car travel in ABC	1	2	3	4	5
Ease of bus travel in ABC	1	2	3	4	5
Ease of rail/subway travel in ABC	1	2	3	4	5
Ease of bicycle travel in ABC	1	2	3	4	5
Ease of walking in ABC	1	2	3	4	5

3. Please rate the speed of growth in the following categories in ABC over the past 2 years:

	much too slow	somewhat too slow	right amount	somewhat too fast	much too fast	don't know
Population growth	1	2	3	4	5	6
Retail growth (stores, restaurants etc.)	1	2	3	4	5	6
Jobs growth	1	2	3	4	5	6

4. To what degree, if at all, are the following problems in ABC:

	not a problem	minor problem	moderate problem	major problem	don't know
Crime	1	2	3	4	5
Drugs	1	2	3	4	5
Too much growth	1	2	3	4	5
Lack of growth	1	2	3	4	5
Graffiti	1	2	3	4	5
Noise	1	2	3	4	5
Run down buildings, weed lots, or junk vehicles	1	2	3	4	5
Taxes	1	2	3	4	5
Traffic congestion	1	2	3	4	5
Unsupervised youth	1	2	3	4	5
Homelessness	1	2	3	4	5
Weeds	1	2	3	4	5

5. Please rate how safe you feel from the following occurring to you in ABC:

	very safe	somewhat safe	neither safe nor unsafe	somewhat unsafe	very unsafe	don't know
Violent crime (e.g., rape, assault, robbery)	1	2	3	4	5	6
Property crimes (e.g., burglary, theft)	1	2	3	4	5	6
Fire	1	2	3	4	5	6

6. Please rate how safe you feel:

	very safe	somewhat safe	neither safe nor unsafe	somewhat unsafe	very unsafe	don't know
In your neighborhood during the day	1	2	3	4	5	6
In your neighborhood after dark	1	2	3	4	5	6
In ABC's downtown area during the day	1	2	3	4	5	6
In ABC's downtown area after dark	1	2	3	4	5	6
In ABC's parks during the day	1	2	3	4	5	6
In ABC's parks after dark	1	2	3	4	5	6

7. During the past twelve months, were you or anyone in your household the victim of any crime?

❑ no *[go to question #9]* ❑ yes *[go to question #8]* ❑ don't know

8. If yes, was this crime (these crimes) reported to the police?

❑ no ❑ yes ❑ don't know

9. In the last 12 months, about how many times, if ever, have you or other household members participated in the following activities in ABC?

	never	once or twice	3 to 12 times	13 to 26 times	more than 26 times
Used ABC public libraries or their services	1	2	3	4	5
Used ABC recreation centers	1	2	3	4	5
Participated in a recreation program or activity	1	2	3	4	5
Visited a neighborhood or XYZ park	1	2	3	4	5
Ridden a local bus within ABC	1	2	3	4	5
Attended a meeting of local elected officials or other local public meeting	1	2	3	4	5
Watched a meeting of local elected officials or other local public meeting on cable television	1	2	3	4	5
Recycled used paper, cans or bottles from your home	1	2	3	4	5
Volunteered your time to some group/activity in ABC	1	2	3	4	5
Read ABC Newsletter	1	2	3	4	5
Used the Internet for anything	1	2	3	4	5
Used the Internet to conduct business with ABC	1	2	3	4	5
Purchased an item over the Internet	1	2	3	4	5

10. How do you rate the quality of each of the following services in ABC?

	excellent	good	fair	poor	don't know
Police services	1	2	3	4	5
Fire services	1	2	3	4	5
Ambulance/emergency medical services	1	2	3	4	5
Crime prevention	1	2	3	4	5
Fire prevention and education	1	2	3	4	5
Traffic enforcement	1	2	3	4	5
Garbage collection	1	2	3	4	5
Recycling	1	2	3	4	5
Yard waste pick-up	1	2	3	4	5
Street repair	1	2	3	4	5
Street cleaning	1	2	3	4	5
Street lighting	1	2	3	4	5
Snow removal	1	2	3	4	5
Sidewalk maintenance	1	2	3	4	5
Traffic signal timing	1	2	3	4	5
Amount of public parking	1	2	3	4	5
Bus/transit services	1	2	3	4	5
Storm drainage	1	2	3	4	5
Drinking water	1	2	3	4	5
Sewer services	1	2	3	4	5
XYZ parks	1	2	3	4	5
Recreation programs or classes	1	2	3	4	5
Range/variety of recreation programs and classes	1	2	3	4	5
Recreation centers/facilities	1	2	3	4	5
Accessibility of parks	1	2	3	4	5
Accessibility of recreation centers/facilities	1	2	3	4	5
Appearance/maintenance of parks	1	2	3	4	5
Appearance of recreation centers/facilities	1	2	3	4	5
Land use, planning and zoning	1	2	3	4	5
Code enforcement (weeds, abandoned buildings, etc)	1	2	3	4	5
Animal control	1	2	3	4	5
Economic development	1	2	3	4	5
Health services	1	2	3	4	5
Services to seniors	1	2	3	4	5
Services to youth	1	2	3	4	5
Services to low-income people	1	2	3	4	5
Public library services	1	2	3	4	5
Variety of library materials	1	2	3	4	5
Public information services	1	2	3	4	5
Municipal courts	1	2	3	4	5
Public schools	1	2	3	4	5
Cable television	1	2	3	4	5

11. Overall, how would you rate the quality of the services provided by...

	excellent	good	fair	poor	don't know
The XYZ of ABC?	1	2	3	4	5
The Federal Government?	1	2	3	4	5
The State Government?	1	2	3	4	5

12. Have you had any in-person or phone contact with an employee of the XYZ of ABC within the last 12 months (including police, receptionists, planners or any others)?

☐ no *[go to question #14]* ☐ yes *[go to question #13]*

13. What was your impression of employees of the XYZ of ABC in your most recent contact? (Rate each characteristic below.)

	excellent	good	fair	poor	don't know
Knowledge	1	2	3	4	5
Responsiveness	1	2	3	4	5
Courtesy	1	2	3	4	5
Overall impression	1	2	3	4	5

14. Please rate the following statements by circling the number that most clearly represents your opinion:

	strongly agree	somewhat agree	neither agree nor disagree	somewhat disagree	strongly disagree	don't know
I receive good value for the XYZ of ABC taxes I pay	1	2	3	4	5	6
I am pleased with the overall direction that the XYZ of ABC is taking	1	2	3	4	5	6
The XYZ of ABC government welcomes citizen involvement	1	2	3	4	5	6
The XYZ of ABC government listens to citizens	1	2	3	4	5	6

15. What impact, if any, do you think the economy will have on your family income in the next 6 months? Do you think the impact will be:

☐ very positive ☐ somewhat positive ☐ neutral ☐ somewhat negative ☐ very negative

16. Please check the response that comes closest to your opinion for each of the following questions:

a. **Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1 Policy Question #1**

☐ scale point 1 ☐ scale point 4
☐ scale point 2 ☐ scale point 5
☐ scale point 3 ☐ scale point 6

b. **Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2 Policy Question #2**

☐ scale point 1 ☐ scale point 4
☐ scale point 2 ☐ scale point 5
☐ scale point 3 ☐ scale point 6

c. **Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3 Policy Question #3**

☐ scale point 1 ☐ scale point 4
☐ scale point 2 ☐ scale point 5
☐ scale point 3 ☐ scale point 6

d. **OPTIONAL [See Worksheets for details and price of this option] Open-Ended Question Open-Ended Question Open-Ended Question Open-Ended Question Open-Ended Question Open-Ended Question Open-Ended Question Open-Ended Question Open-Ended Question Open-Ended Question Open-Ended Question Open-Ended Question**

_____

_____

_____

Our last questions are about you and your household. Again, all of your responses to this survey are completely anonymous and will be reported in group form only.

17. Do you live within the XYZ limits of the XYZ of ABC?

- ❑ no
- ❑ yes

18. Are you currently employed?

- ❑ no *[go to question #19]*
- ❑ yes *[go to question #18a]*

18a. What one method of transportation do you *usually* use (for the longest distance of your commute) to travel to work?

- ❑ Motorized vehicle (e.g. car, truck, van, motorcycle etc…)
- ❑ Bus, Rail, Subway, or other public transportation
- ❑ Walk
- ❑ Work at home
- ❑ Other

18b. If you checked the motorized vehicle (e.g. car, truck, van, motorcycle, etc.) box in 18a, do other people (adults or children) *usually* ride with you to or from work?

- ❑ no
- ❑ yes

19. How many years have you lived in ABC?

- ❑ less than 2 years
- ❑ 2-5 years
- ❑ 6-10 years
- ❑ 11-20 years
- ❑ more than 20 years

20. Which best describes the building you live in?

- ❑ one family house detached from any other houses
- ❑ house attached to one or more houses (e.g. a duplex or townhome)
- ❑ building with two or more apartments or condominiums
- ❑ mobile home
- ❑ other

21. Is this house, apartment, or mobile home...

- ❑ rented for cash or occupied without cash payment?
- ❑ owned by you or someone in this house with a mortgage or free and clear?

22. Do any children 12 or under live in your household?

- ❑ no
- ❑ yes

23. Do any teenagers aged between 13 and 17 live in your household?

- ❑ no
- ❑ yes

24. Are you or any other members of your household aged 65 or older?

- ❑ no
- ❑ yes

25. Does any member of your household have a physical handicap or is anyone disabled?

- ❑ no
- ❑ yes

26. What is the highest degree or level of school you have completed? (mark one box)

- ❑ 12th Grade or less, no diploma
- ❑ high school diploma
- ❑ some college, no degree
- ❑ associate's degree (e.g. AA, AS)
- ❑ bachelor's degree (e.g. BA, AB, BS)
- ❑ graduate degree or professional degree

27. How much do you anticipate your household's total income before taxes will be for the current year? (Please include in your total income money from all sources for all persons living in your household.)

- ❑ less than $24,999
- ❑ $25,000 to $49,999
- ❑ $50,000 to $99,999
- ❑ $100,000 or more

28. Are you Spanish/Hispanic/Latino?

- ❑ no
- ❑ yes

29. What is your race? (Mark one or more races to indicate what race you consider yourself to be)

- ❑ American Indian or Alaskan native
- ❑ Asian or Pacific Islander
- ❑ Black, African American
- ❑ White/Caucasian
- ❑ Other

30. In which category is your age?

- ❑ 18-24 years
- ❑ 25-34 years
- ❑ 35-44 years
- ❑ 45-54 years
- ❑ 55-64 years
- ❑ 65-74 years
- ❑ 75 years or older

31. What is your sex?

- ❑ female
- ❑ male

32. Are you registered to vote in your jurisdiction?

- ❑ no
- ❑ yes
- ❑ don't know

33. Did you vote in the last election?

- ❑ no
- ❑ yes
- ❑ don't know

34. Are you likely to vote in the next election?

- ❑ no
- ❑ yes
- ❑ don't know

Thank you for completing this survey. Please return the completed survey in the postage paid envelope to: National Research Center, Inc., 3005 30th St., Boulder, CO 80301

© 2001-2003 National Research Center, Inc.

Timeline for The National Citizen Survey™ October 2004 Class

Legend: ◄ Indicates when items **from NRC are due to you** ► Indicates when items **from you are due to NRC** ♦ Indicates information items

Item	Week	Actual Dates
Preparing for the survey		
♦ The NCS survey process is initiated upon receipt of your enrollment form and first payment	week 1	Oct 4
◄ NRC mails you The NCS worksheet packet	week 2	Oct 11
► Due to NRC: Worksheets and additional payment for add-on options	week 4	Oct 25
♦ NRC uses the information you provided to generate the sample and customize the survey instrument for your jurisdiction	weeks 5-6	Nov 1-8
◄ NRC provides confirmation documents about options selected by your jurisdiction and a sample of the postcard and mailing envelope for your records	week 5	Nov 1
► Due to NRC: Confirmation of options selected.	week 6	Nov 8
◄ NRC provides samples of survey materials (cover letters and survey instrument) for your records	week 6	Nov 8
♦ NRC prints materials and prepares mailings	weeks 5-6	Nov 1-8
◄ NRC mails evaluation questionnaire and timesheet about the data collection process to you	week 7	Nov 15
Conducting the survey		
♦ Survey materials are mailed		
♦ Prenotification postcards delivered to post office	week 7	Nov 15
♦ 1st wave of surveys delivered to post office	week 8	Nov 22
♦ 2nd wave of surveys delivered to post office	week 9	Nov 29
♦ Data collection: surveys received for your jurisdiction	weeks 8-12	Nov 22-Dec 20
♦ *Note 1*: During this time, you will receive postcards that were undeliverable due to bad addresses, or vacant housing units. This is normal. Please count all the postcards, as we will subtract the number of returned postcards from the total number mailed to estimate the number of "eligible" households in calculating the final response rate.		
♦ *Note 2*: You may receive phone calls from citizens during this time period who call to inform you they are outside of your jurisdiction's boundaries, or that they do not wish to receive additional mailings, etc. Please reassure them that their household was randomly selected, and while they may receive a total of three mailings from you, they will not receive any additional mailings after that time.		
► Due to NRC: evaluation questionnaire and timesheet about the data collection process	week 12	Dec 20
► Due to NRC: Final count of returned postcards	week 12	Dec 20
♦ Survey processing and report writing	week 12-14	Dec 20-Jan 3
♦ During this time, NRC will process the surveys, perform the data analysis, and produce a two-part draft report for your jurisdiction. The report of results will contain a description of the methodology, information on understanding the results, and graphs and tables of your results. The second report will include a description of NRC's database of normative data from across the U.S. and actual comparisons to your results, where appropriate.		
◄ NRC emails draft report (in PDF format) to you	week 15	Jan 10
► Due to NRC: jurisdiction feedback on the draft report	week 16	Jan 17
◄ NRC mails final report and data file to you (unless otherwise specified)	week 17	Jan 24
◄ NRC mails final invoice to you	week 17	Jan 24
◄ NRC mails final evaluation questionnaire and timesheet to you	week 17	Jan 24
► Due to NRC: Final half of costs of The NCS	week 18	Jan 31
► Due to NRC: completed final evaluation questionnaire and timesheet	week 18	Jan 31

Timeline for The National Citizen Survey™ November 2004 Class

Legend: ◄ Indicates when items **from NRC are due to you** ► Indicates when items **from you are due to NRC** ♦ Indicates information items

Item	Week	Actual Dates
Preparing for the survey		
♦ The NCS survey process is initiated upon receipt of your enrollment form and first payment	week 1	Nov 1
◄ NRC mails you The NCS worksheet packet	week 2	Nov 8
► Due to NRC: Worksheets and additional payment for add-on options	week 4	Nov 22
♦ NRC uses the information you provided to generate the sample and customize the survey instrument for your jurisdiction	weeks 5-6	Nov 29-Dec 6
◄ NRC provides confirmation documents about options selected by your jurisdiction and a sample of the postcard and mailing envelope for your records	week 5	Nov 29
► Due to NRC: Confirmation of options selected.	week 6	Dec 6
◄ NRC provides samples of survey materials (cover letters and survey instrument) for your records	week 6	Dec 6
♦ NRC prints materials and prepares mailings	weeks 5-6	Nov 29-Dec 6
◄ NRC mails evaluation questionnaire and timesheet about the data collection process to you	week 7	Dec 13
Conducting the survey **Please note that for NOVEMBER only, we delay sending surveys until January 2005		
♦ Survey materials are mailed		
♦ Prenotification postcards delivered to post office	week 7	Jan 4
♦ 1st wave of surveys delivered to post office	week 8	Jan 11
♦ 2nd wave of surveys delivered to post office	week 9	Jan 18
♦ Data collection: surveys received for your jurisdiction	weeks 8-12	Jan 11-Feb 8
♦ *Note 1*: During this time, you will receive postcards that were undeliverable due to bad addresses, or vacant housing units. This is normal. Please count all the postcards, as we will subtract the number of returned postcards from the total number mailed to estimate the number of "eligible" households in calculating the final response rate.		
♦ *Note 2*: You may receive phone calls from citizens during this time period who call to inform you they are outside of your jurisdiction's boundaries, or that they do not wish to receive additional mailings, etc. Please reassure them that their household was randomly selected, and while they may receive a total of three mailings from you, they will not receive any additional mailings after that time.		
► Due to NRC: evaluation questionnaire and timesheet about the data collection process	week 12	Feb 8
► Due to NRC: Final count of returned postcards	week 12	Feb 8
♦ Survey processing and report writing	week 12-14	Feb 8-22
♦ During this time, NRC will process the surveys, perform the data analysis, and produce a two-part draft report for your jurisdiction. The report of results will contain a description of the methodology, information on understanding the results, and graphs and tables of your results. The second report will include a description of NRC's database of normative data from across the U.S. and actual comparisons to your results, where appropriate.		
◄ NRC emails draft report (in PDF format) to you	week 15	March 1
► Due to NRC: jurisdiction feedback on the draft report	week 16	March 8
◄ NRC mails final report and data file to you (unless otherwise specified)	week 17	March 15
◄ NRC mails final invoice to you	week 17	March 15
◄ NRC mails final evaluation questionnaire and timesheet to you	week 17	March 15
► Due to NRC: Final half of costs of The NCS	week 18	March 22
► Due to NRC: completed final evaluation questionnaire and timesheet	week 18	March 22