

AGENDA

Regular Meeting of the

CITY COUNCIL OF THE CITY OF TROY

NOVEMBER 29, 2004

CONVENING AT 7:30 P.M.

**Submitted By
The City Manager**

TO: The Honorable Mayor and City Council
Troy, Michigan

FROM: John Szerlag, City Manager

SUBJECT: Background Information and Reports

Ladies and Gentlemen:

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

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

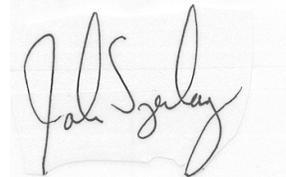
Identified below are goals for the City, which have been advanced by the governing body; and Agenda items submitted for your consideration is on course with these goals.

Goals

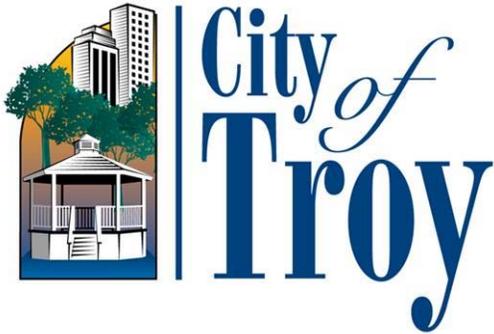
1. Minimize cost and increase efficiency of City government.
2. Retain and attract investment while encouraging redevelopment.
3. Effectively and professionally communicate internally and externally.
4. Creatively maintain and improve public infrastructure.
5. Protect life and property.

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

Respectfully submitted,

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

John Szerlag, City Manager



CITY COUNCIL

AGENDA

November 29, 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: 1

ROLL CALL: 1

CERTIFICATES OF RECOGNITION: 1

A-1 Presentations: International Day of Persons with Disabilities – December 3, 2004 1

CARRYOVER ITEMS: 1

B-1 No Carryover Items 1

PUBLIC HEARINGS: 1

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C-2 Commercial Vehicle Appeal -1855 Boulan 2

C-3 Commercial Vehicle Appeal - 2887 E. Wattles Road 3

C-4 Commercial Vehicle Appeal – 3035 Heritage 5

C-5 Parking Variance Request – 1717 Stutz Drive 6

C-6 Request for Rezoning (Z-697) West Side of Crooks Road, North of Big Beaver Road – Section 20 – P-1 to O-1 and B-3 8

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RECONVENED **12**

ADJOURNMENT **12**

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Monday, January 24, 2005	Regular City Council	12
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Monday, February 28, 2005	Regular City Council.....	12

CALL TO ORDER:**INVOCATION & PLEDGE OF ALLEGIANCE:**

Pastor Dan Lewis from Troy Christian Chapel

ROLL CALL:

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

CERTIFICATES OF RECOGNITION:

A-1 Presentations: International Day of Persons with Disabilities – December 3, 2004

CARRYOVER ITEMS:

B-1 No Carryover Items

PUBLIC HEARINGS:

C-1 Proposed Consent Judgment City of Troy v. Premium Development

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

Suggested Resolution

Resolution #2004-11-

Moved by

Seconded by

RESOLVED, That the proposed Consent Judgment in the matter of *City of Troy v. Premium Construction, L.L.C.*, et. al. (Case No. 01-035191-CC) is hereby **APPROVED** and the Assistant City Attorney is hereby **AUTHORIZED** to sign the Consent Judgment on behalf of the City.

FURTHER RESOLVED, The City Council hereby **APPROVES** the conceptual site plan for the property previously owned by Premium Construction, L.L.C. and described in Exhibit A of the Consent Judgment. Furthermore, the approved conceptual site plan shall be **ATTACHED** to the Consent Judgment as Exhibit B.

Yes:

No:

C-2 Commercial Vehicle Appeal -1855 Boulan

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

Suggested Resolution

Resolution #2004-11-

Moved by

Seconded by

RESOLUTION A FOR APPROVAL

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

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

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

NOW, THEREFORE, BE IT RESOLVED, That the request from Sergiu Botezan, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a Chevrolet cube van in a residential district is hereby **APPROVED** for _____ (not to exceed two years).

Or

RESOLUTION B FOR DENIAL

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

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

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

NOW, THEREFORE, BE IT RESOLVED, That the request from Sergiu Botezan, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a Chevrolet cube van in a residential district is hereby **DENIED**.

Yes:

No:

C-3 Commercial Vehicle Appeal - 2887 E. Wattles Road

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

Suggested Resolution

Resolution #2004-11-

Moved by

Seconded by

RESOLUTION A FOR APPROVAL

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

- A. The occurrence of the subject commercial vehicle on the residential site involved is compelled by parties other than the owner or occupant of the subject residential site (e.g. employer).
- B. Efforts by the applicant have determined that there are no reasonable or feasible alternative locations for the parking of the subject commercial vehicle.

- C. A garage or accessory building on the subject residential site cannot accommodate, or cannot reasonably be constructed or modified to accommodate, the subject commercial vehicle.
- D. The location available on the residential site for the outdoor parking of the subject commercial vehicle is adequate to provide for such parking in a manner which will not negatively impact adjacent residential properties, and will not negatively impact pedestrian and vehicular movement along the frontage street(s)." and

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

NOW, THEREFORE, BE IT RESOLVED, That the request from Costel Luca, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a Ford cube van in a residential district is hereby **APPROVED** for _____ (not to exceed two years).

Or

RESOLUTION B FOR DENIAL

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

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

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

NOW, THEREFORE, BE IT RESOLVED, That the request from Costel Luca, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a Ford cube van in a residential district is hereby **DENIED**.

Yes:

No:

C-4 Commercial Vehicle Appeal – 3035 Heritage

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

Suggested Resolution

Resolution #2004-11-

Moved by

Seconded by

RESOLUTION A - FOR APPROVAL

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

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

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

NOW, THEREFORE, BE IT RESOLVED, That the request from Tai Hsiang Chiang, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a GMC Cube van in a residential district is hereby **APPROVED** for _____(not to exceed two years).

Or

RESOLUTION B - FOR DENIAL

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

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

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

NOW, THEREFORE, BE IT RESOLVED, That the request from Tai Hsiang Chiang, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a GMC Cube van in a residential district is hereby **DENIED**.

Yes:

No:

C-5 Parking Variance Request – 1717 Stutz Drive

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

Suggested Resolution

Resolution #2004-11-

Moved by

Seconded by

Proposed Resolution A - For Approval

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

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

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

- A. That absent a variance, no reasonable use can be made of the property; or
- B. That absent a variance, a significant natural feature would be negatively affected or destroyed; or
- C. That absent a variance, public health, safety and welfare would be negatively affected; or
- D. That literal enforcement of the Zoning Ordinance precludes full enjoyment of the permitted use and makes conforming unnecessarily burdensome. In this regard, the City Council shall find that a lesser variance does not give substantial relief, and that the relief requested can be granted within the spirit of the Ordinance, and within the interests of public safety and welfare; and

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

NOW, THEREFORE, BE IT RESOLVED, That the request from Joseph Damico of Damico Contracting, Inc, for waiver of 4 additional parking spaces at the development at 1715-1717 Stutz be **APPROVED**.

Or

Proposed Resolution B - For Denial

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

1. The variance would not be contrary to public interest or general purpose and intent of the Zoning Ordinance.
2. The variance does not permit the establishment of a prohibited use as a principal use within a zoning district.

3. The variance does not cause an adverse effect to properties in the immediate vicinity or zoning district.
4. The variance relates only to property described in the application for variance; and

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

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

NOW, THEREFORE, BE IT RESOLVED, That the request from That the request from Joseph Damico of Damico Contracting, Inc, for waiver of 4 additional parking spaces at the development at 1715-1717 Stutz be **DENIED**.

Yes:

No:

C-6 Request for Rezoning (Z-697) West Side of Crooks Road, North of Big Beaver Road – Section 20 – P-1 to O-1 and B-3

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

Suggested Resolution

Resolution #2004-11-

Moved by

Seconded by

RESOLVED, that the P-1 to O-1 and B-3 rezoning request, located on the west side of Crooks Road, north of Big Beaver Road, section 20, being 3.11 acres in size, is hereby **GRANTED**, as recommended by City Management and the Planning Commission.

Yes:

No:

POSTPONED ITEMS:

D-1 Zoning Ordinance Text Amendment (ZOTA 200) for Article 34.70.00 – One Family Cluster Option

Suggested Resolution

Resolution #2004-11-

Moved by

Seconded by

RESOLVED, that Article XII (R-1T One Family Attached Residential District) and Article XXXIV (Residential Development Options), Article IV (Definitions) and Article X (One Family Residential Districts) of the City of Troy Zoning Ordinance, be **AMENDED** to read as written in

the PROPOSED ZONING ORDINANCE TEXT AMENDMENT (ZOTA 200), dated 09/03/04, as recommended by the Planning Commission and City Management.

Yes:

No:

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 #2004-11-

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 November 15, 2004

Suggested Resolution

Resolution #2004-11-

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

E-3 Proposed City of Troy Proclamations:

Suggested Resolution

Resolution #2004-11-

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

- a) International Day of Persons with Disabilities – December 3, 2004

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.

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- F-1** **Appointments to Boards and Committees:** No appointments to Boards and Committees scheduled.

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

G-1 **Announcement of Public Hearings:**

- a) Zoning Ordinance Text Amendment (ZOTA 215A) – Article 04.20.00 and Articles 40.55.00-40.59.00, Pertaining to Accessory Buildings Definitions and Provisions – Scheduled for December 6, 2004

-
- G-2** **Green Memorandums:** No Green Items Submitted

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

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- H-1** **Resolution Affirming the Principles of Federalism and Civil Liberties – Advanced by Council Member Eisenbacher**

COUNCIL COMMENTS:

I-1 No Council Comments Brought Forward

REPORTS:

J-1 **Minutes – Boards and Committees:** No Minutes Submitted

J-2 Department Reports:

- a) October 31, 2004 Monthly Financial Report
- b) State-Facilitated Emerald Ash Borer Tree Removal Contract, and Status Report on Troy's Ash Borer Control Program

J-3 **Letters of Appreciation:** No Letters of Appreciation Submitted

J-4 Proposed Proclamations/Resolutions from Other Organizations:

- a) Resolution Adopted by Royal Oak City Commission, November 8, 2004 Regarding: House Bill 4358

J-5 **Calendar**

STUDY ITEMS:

K-1 **Alternative Sites for Minor League Baseball Facility – Carryover From 6:00 P.M.**
Special Meeting if Needed

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 - No Closed Session Requested**

RECESSED

RECONVENED

ADJOURNMENT

Respectfully submitted,



John Szerlag, City Manager

SCHEDULED CITY COUNCIL MEETINGS:

- Monday, December 06, 2004 Regular City Council
- Monday, December 20, 2004 Regular City Council
- Monday, January 10, 2005 Regular City Council
- Monday, January 24, 2005 Regular City Council
- Monday, February 7, 2005 Regular City Council
- Monday, February 21, 2005..... Regular City Council
- Monday, February 28, 2005..... Regular City Council

**INTERNATIONAL DAY OF PERSONS WITH DISABILITIES
DECEMBER 3, 2004**

WHEREAS, The **International Day of Persons with Disabilities** celebrates and acknowledges the experience and capabilities of persons with disabilities; and

WHEREAS, First proclaimed in 1992 by the United Nations, the **International Day of Persons with Disabilities** annual observance aims to increase understanding and awareness of disability issues and trends; and

WHEREAS, More than half a billion persons are disabled as a result of mental, physical or sensory impairment, and their lives are often limited by physical or social barriers; and

WHEREAS, The day encourages the mobilization of support for practical action at all levels, by, with and for persons with disabilities; in the past two decades much has been accomplished in recognition of persons with disabilities; and

WHEREAS, The theme for this year's **International Day of Persons with Disabilities** is "Independent Living and Sustainable Livelihoods;" and

WHEREAS, **International Day of Persons with Disabilities** hopes to increase awareness by from integrating disabled persons into all aspects of political, social, economic & cultural life; and

WHEREAS, Troy's Advisory Committee for Persons with Disabilities is an active proponent to ensure access to public services and facilities for citizens of all abilities.

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Troy does hereby proclaim **December 3, 2004 as International Day of Persons with Disabilities** in the City of Troy, and encourages all citizens to respect and appreciate one another's needs and abilities;

Signed this 29th day of November 2004.

Louise E. Schilling, Mayor

Robin E. Beltramini, Mayor Pro Tem

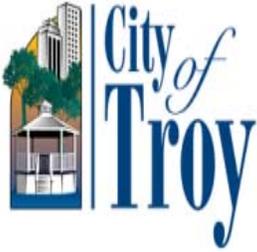
Cristina Broomfield, Councilwoman

David Eisenbacher, Councilman

Martin F. Howrylak, Councilman

David A. Lambert, Councilman

Jeanne M. Stine, Councilwoman



TO: Mayor and Members of Troy City Council
FROM: John Szerlag, City Manager
Brian Murphy, Assistant City Manager- Services
Doug Smith, Real Estate and Development Director
Mark Miller, Planning Director
Lori Grigg Bluhm, City Attorney
DATE: November 16, 2004
SUBJECT: Proposed Consent Judgment- Troy v. Premium Construction

The City initiated a condemnation action to acquire a 15.28 acre parcel of property located in Section 36, on the south side of Maple Road, between John R. Road and Dequindre Road. Premium Construction L.L.C. was the owner of this property, with partners John Pavone and Mukesh Mangela. This property was acquired in order to provide a limited neighborhood park in this section of the City of Troy.

As with all condemnation cases, the City budgets for the acquisition by relying upon an independent appraisal of the property. In this case, the City's appraisal valued the property at \$1,783,000, which has already been paid for the property. In contrast, the appraisal hired by Premium Construction values the property at \$4,500,000.

The large difference between the two appraisals is due to a disagreement as to the amount of regulated wetlands on the property. Premium argues that development is possible on the entire parcel, and in support of this argument, they point to the property to the east, the American House development, where the MDEQ allowed a substantial development on the property, in spite of the existence of wetlands.

As the fiduciary for all of the City's taxpayers, the City has an obligation to look at the impact of a worse case scenario, where Premium Construction would prevail entirely in the unpredictable jury process. Under this scenario, the City could be ordered to pay an additional \$2,700,000 in compensation, plus statutorily mandated attorney fees, costs, and interests, which is a total exposure of up to \$6,500,000. This amount greatly exceeds the amount budgeted for this acquisition, and therefore provided the City with an incentive to willingly engage in the Court ordered facilitation. Through this process, the facilitator has proposed a settlement of the condemnation case that would allow the City to retain a neighborhood park, while simultaneously minimizing the risk of a substantial verdict against the City. The proposed consent judgment represents this facilitation proposal, and City Administration recommends approval of it, due to the safeguards that are provided.

In essence, the proposal allows the City to develop approximately eight acres of the southern half of the property as a passive park. The property north of the Spencer Drain would be returned to Premium Construction for development in accordance with the approved site plan, which is incorporated into the proposed consent judgment. The returned property would be developed under the R-1T zoning classification (single family attached residential), which is in compliance with the City's Future Land Use Plan, and therefore would likely have been approved for re-zoning under future re-zoning requests. The development is limited to a maximum of 45 residential units. In addition, the settlement would cap the City's liability at \$866,000 for statutory attorney fees.

City Administration recommends approval of the proposed consent judgment and also approval of the proposed preliminary site plan, and requests authority to execute the judgment on behalf of the City. As always, if you have any questions concerning the above, please let us know.

STATE OF MICHIGAN

OAKLAND COUNTY CIRCUIT COURT

CITY OF TROY, a Michigan
Municipal corporation,

Plaintiff,

v

Case No. 01-035191-CC

Hon. Mark A. Goldsmith

PREMIUM CONSTRUCTION, L.L.C., a
Michigan Limited Liability Company,

Defendant.

_____ /

CITY OF TROY-CITY ATTORNEY'S OFFICE

By: Susan M. Lancaster (P33168)

Attorney for Plaintiff

500 W. Big Beaver Road

Troy, MI 48084

(248) 524-3320

David W. Berry (P25418)

Ronald E. Reynolds (P40524)

Attorney for Defendant Premium Construction, L.L.C

32255 Northwestern Highway #280

Farmington Hills MI 48334-1527

(248) 851-3434

_____ /

PROPOSED CONSENT JUDGMENT

At a session of Court held in the
Courthouse in the City of Pontiac,
Oakland County, MI

on: _____

PRESENT: HONORABLE MARK A. GOLDSMITH CIRCUIT JUDGE

In this cause, the parties have stipulated to entry of this Consent Judgment, now therefore,

IT IS ORDERED:

1. Plaintiff shall deed back to Defendant a portion of the property which was included in the Declaration of Taking and filed with the Oakland County Register of Deeds on June 26, 2002, free and clear of any claims, liens or encumbrances arising under Plaintiff's ownership of the property. The property that will be deeded to the Defendant is legally described on Exhibit A, which is attached hereto. The deed returning the property shall be filed with and recorded by the Oakland County Register of Deeds.
2. The property described on Exhibit A is hereby rezoned from R-1E to R-1T and may be developed and occupied for purposes set forth in the provisions of the Troy Zoning Ordinance, Chapter 39, Section 12.00.00 (R-1T, One Family Attached Residential District), which are in effect on the date of the entry of this Consent Judgment.
3. The property described on Exhibit A shall be developed in substantial compliance with the conceptual site plan, attached hereto as Exhibit B and approved by City Council on _____, whether developed by Defendant or Defendant's heirs, successors or assigns. Prior to any development on the Property, as described in Exhibit A, Defendant, or Defendant's heirs, successors or assigns shall submit a complete Preliminary Site Plan Application to the Troy Planning Department, which shall include all documentation that is required by Troy ordinances and

development standards in effect at the time the Consent Judgment is entered. The Planning Director shall then review the application and documentation to determine compliance with the approved concept site plan (attached as Exhibit B), and also compliance with the Troy ordinances in effect on the date of entry of this Consent Judgment, and shall make a recommendation concerning the Preliminary Site Plan Application to the Troy City Council. If the Planning Director determines that the Preliminary Site Plan is consistent with the approved concept plan (attached as Exhibit B), and also the City of Troy ordinances and development standards that are in effect on the date of entry of this Consent Judgment, then City Council shall approve the Preliminary Site Plan Application. This may require the granting of variances in order to allow 45 units on the property, as described in Exhibit A. The Troy City Council shall not unreasonably withhold approval of variances that are needed to complete the development as proposed in the approved concept plan (attached as Exhibit B). Such variances shall be reduced to writing, and also identified on the approved Preliminary Site Plan and Final Site Plan.

4. If the Planning Director determines that the Defendant's (or Defendant's heirs, successors and assigns) Preliminary Site Plan Application substantially deviates from the approved conceptual plan (attached as Exhibit B), then the Troy City Council shall hold a public hearing, after which City Council shall either approve or deny the Preliminary Site Plan

Application, and approval shall not be unreasonably withheld. However, the Troy City Council shall not approve the Preliminary Site Plan Application if it allows more than 45 units on the property, as described in Exhibit A. The Troy City Council shall not unreasonably withhold approval of variances to the requirements of the Troy ordinances or development standards that are needed to permit 45 units to be developed on the property, which is described in Exhibit A. Such variances shall be reduced to writing, and also identified on the approved Preliminary Site Plan and Final Site Plan.

5. Plaintiff shall support Defendant's request for a Letter of Map Revision (LOMR), if any, to floodway and/or floodplain on the property and will comply with all reasonable requests for documentation in support of the Defendant's application for a LOMR. If the Michigan Department of Environmental Quality (MDEQ) or the Federal Emergency Management Agency (FEMA) rules that all or a portion of the property on Exhibit A cannot be developed due to the existence of wetlands and/or floodway or floodplain or those agencies make rulings which negatively impact the development of the property, Defendant (or Defendant's heirs, successors and assigns) will be allowed to request a revision and/or reconfiguration to the approved Conceptual Site Plan. Consistent with paragraph 3 above, Plaintiff shall not unreasonably withhold the grant of variances for or approval of the revised proposed development.

6. Defendant and its attorneys shall not be required to pay back the Plaintiff any money previously paid to the Defendant by Plaintiff. The Plaintiff shall not be required to pay the Defendant any additional money including interest and the Defendant waives any interest on any monies due under the terms of this Consent Judgment. The Plaintiff will not be required to reimburse the Defendant for any attorney fees or costs it has or will expend, including but not limited to, appraisal fees and other expert fees, except as expressly set out in this Consent Judgment.
7. Within thirty days of entry of this Consent Judgment, the Plaintiff shall pay Defendant's attorney, Berry & Reynolds, P.C., \$866,000.00 which will be paid directly to Berry & Reynolds, P.C., as payee without naming the Defendant as an additional payee, for costs and expenses, including expert fee and costs and attorney fees and costs. The Plaintiff shall not be required to pay interest on this amount. Plaintiff is under no further obligation to The Defendant for any costs and fees incurred in this litigation.
8. A certified copy of this Consent Judgment with the Exhibits hereto shall be filed and recorded with the Oakland County Register of Deeds.
9. Upon the completion of all obligations and payment of all amounts due under this Consent Judgment, any and all claims of Defendant which have been asserted or which could have been asserted against Plaintiff arising out of the taking of the subject property or by reason of any other claims

for damages which could or may have been asserted by reason of the commencement of the instant proceedings shall be forever barred.

10. This Court retains jurisdiction to enforce the terms of this Consent Judgment.

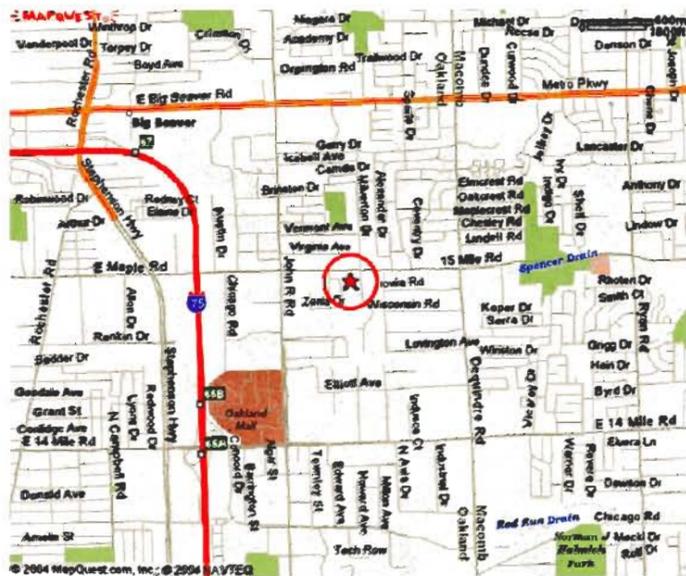
11. This Consent Judgment resolves the last pending claims and closes the case.

Circuit Judge

Approved as to substance and form;
notice of entry waived

Susan M. Lancaster (P33168)
Attorney for Plaintiff

David W. Berry (P25418)
Ronald E. Reynolds (P40524)
Attorneys for Defendant



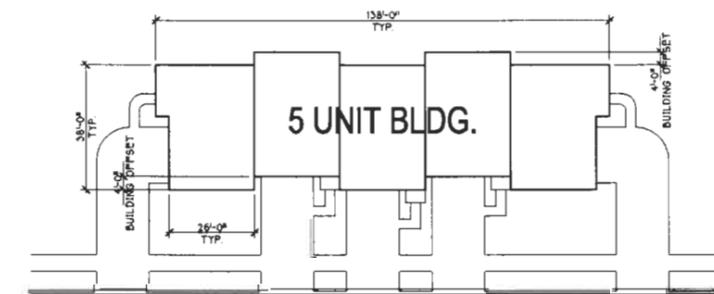
LOCATION MAP

SITE/ BUILDING DATA	REQUIRED	PROPOSED
Residential Yard Setbacks		
Front	25'	25'
Side	40'	40'
Rear	35'	35'
Distance Between Two Buildings	40'	56'
$S = La + Lb + 2(Ha + Hb) / 6$ $S = 42' + 42' + 2(32' + 32') / 6$		
Building Height	2 1/2 Stories 25' Max. 27'-32' Max. W/ Approved Fire Suppression	2 1/2 Stories 26'-11"
Lot Coverage	30% Max.	8%
Approximate Floor Area Per Unit	Min. 1,000 s.f.	1,800 - 2,000 s.f.

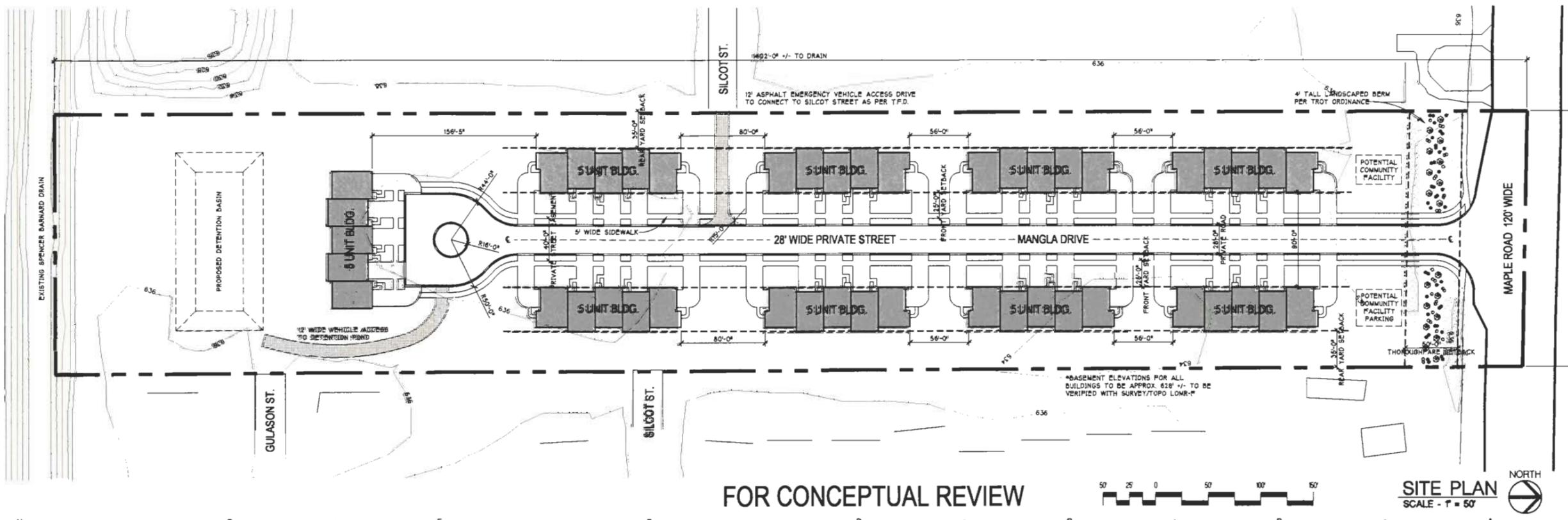
ONE FAMILY ATTACHED RESIDENTIAL DISTRICT	
Site Zoning	R-1T
Site Area (after right-of-way)	
Gross	7.93 +/- acres
Net - right-of-way	7.87 +/- acres
Site Area (usable)	
Gross	7.87 +/- acres
Net - private street easement	6.83 +/- acres
Total Residential Units	45 units
Residential Site Density	45 units / 7.93 acres = 5.67 units/acre
Minimum Lot Size Per Dwelling Unit	7,000 s.f. / 20' width

LEGAL DESCRIPTION:

COMMENCING FROM THE NW 1/4 OF SEC. 36 T2N., R11E., CITY OF TROY OAKLAND COUNTY, MICHIGAN MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE NW 1/4 OF SEC. 36 T2N., R11E., THENCE S89°20'00"W 492.00 FT., TO THE NW 1/4 CORNER ALSO BEING THE POINT OF BEGINNING. THENCE S89°20'00"W 243.05 FT., THENCE S00°03'53"E 1396.27 FT., THENCE N89°12'46"E 247.62 FT., THENCE N00°00'10"E 1402.00 FT., TO THE POINT OF BEGINNING. SAID LOT CONTAINS 7.93+/- ACRES AND IS SUBJECT TO ALL RIGHTS-OF-WAY AND EASEMENTS OF RECORD.



TYPICAL BUILDING DIMENSIONS
SCALE - 1" = 25'



FOR CONCEPTUAL REVIEW

SITE PLAN
SCALE - 1" = 50'

MAPLE ORCHARDS



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CONSULTANT
CONCEPTUAL SITE PLAN REVIEW
SHEET TITLE

04-823
PROJECT NUMBER

SP-1
SHEET NUMBER

DATE: November 17, 2004

TO: John Szerlag, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark Stimac, Director of Building and Zoning

SUBJECT: Agenda Item - Public Hearing
Request for Commercial Vehicle Appeal
1855 Boulan

On October 20, 2004, a violation was issued for the outdoor parking of a commercial vehicle located on the residential property at 1855 Boulan. In particular, a violation was issued for the parking of a Chevrolet cube van east of the garage. In response to our violation Mr. Sregiu Botezan, a resident of the home and son of the property owner, has filed an appeal application for your consideration. The appeal requests that a public hearing date be held in accordance with the ordinance. A public hearing has been scheduled for your meeting of November 29, 2004.

The main building on the property is 1,586 square feet in size. Section 40.57.04 would allow a detached accessory building of 793 square feet. There is also considerable room and setback available to build attached accessory buildings. The 30% lot coverage rule would dictate the maximum building size and limit the size to 7,830 square feet or an addition of 6,244 square feet.

A request for a similar, but different, vehicle was heard and denied by City Council at their meeting of May 7, 2001. A copy of those minutes are attached.

Copies of the application, site plan, photos and map showing the 300' notice area are attached for your reference. Should you have any questions or require additional information, kindly advise.

Prepared by: Mark Stimac, Director of Building and Zoning

COMMERCIAL VEHICLE
APPEAL APPLICATION

RECEIVED

OCT 27 2004

BUILDING DEPARTMENT

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

NAME: SERGIU V. BOTEZAN (SON of PROPERTY owner & resident @ this location)

ADDRESS: 1855 BOULAN DR

CITY: TROY MI. ZIP: 48084 PHONE: (248) 614-0008

ADDRESS OF SITE: 1855 BOULAN DR, TROY, MI 48084

NUMBER OF VEHICLES: ONE

VEHICLE IDENTIFICATION NUMBER(S)
1GBJG31F9W1055560

LICENSE PLATE NUMBER(S) 6157 AY

DESCRIPTION OF VEHICLE(S) CUBE VAN

REASON FOR APPEAL (see A - D below)

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

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

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

COMMERCIAL VEHICLE APPEAL APPLICATION

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

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



(signature of applicant)

STATE OF MICHIGAN
COUNTY OF Oakland

On this 27 day of October, 2004 before me personally appeared the above named person who depose and sayeth that he/she signed this application with full knowledge of its contents and that all matters stated therein are true.

Barbara A Holmes
Notary Public, County, Michigan

My Commission Expires: Dec 16, 2004

BARBARA A. HOLMES
Notary Public, Oakland County, MI
My Commission Expires December 16, 2004

MORTGAGE SURVEY

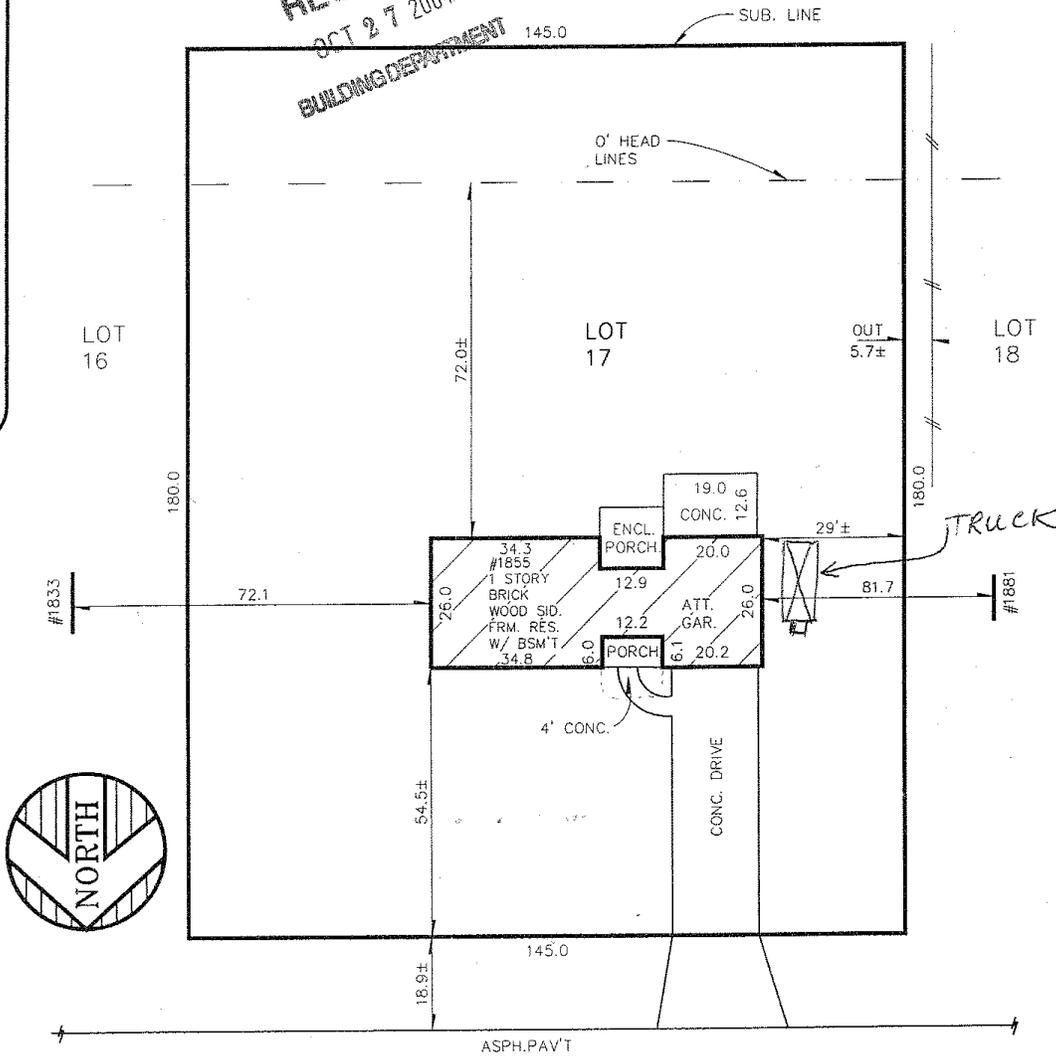
Certified to: TOWNE MORTGAGE COMPANY

Applicant: SEVER AND MARIA V. BOTEZAN

Property Description:

Lot 17; TROY HIGHLANDS, a subdivision of part of the N.E. 1/4 of Section 20, T.2 N., R.11 E., Troy Twp. (now City of Troy), Oakland County, Michigan, as recorded in Liber 59 of Plats, Page 45 of Oakland County Records.

RECEIVED
OCT 27 2004
BUILDING DEPARTMENT



BOULAN RD. 60' WD.





27 14:08

C-1 Appeal of Dangerous Building Determination – 612 Trombley, Parcel #22-401-006 – Continued

RESOLVED, That the resolution be amended subject to the following conditions: (1) Amend habitable or demolished date from May 28, 2001 to May 28, 2002; (2) Petitioner to install fence; (3) City Administration to provide a listing as to what work must be performed by the petitioner to remove the dangerous building status; (4) Petitioner to provide feedback to City Administration regarding completed work within 45 days; and (5) The 45 day requirement will be extended accordingly if a delay in work is caused due to restrictions set by a governmental agency.

Yes: Pryor, Beltramini, Howrylak, Kaszubski, Lambert, Pallotta

No: Schilling

Vote on Amended Resolution

Resolution #2001-05-229

Moved by Pallotta

Seconded by Kaszubski

RESOLVED, That if the structure at 612 Trombley is not made habitable or demolished on or before "May 28, 2002", then the City of Troy is authorized to cause the structure to be razed and removed either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be charged as a lien upon the property at 612 Trombley, Troy, MI subject to the following provisions "(1) Petitioner to install fence; (2) City Administration to provide a listing as to what work must be performed by the petitioner to remove the dangerous building status; (3) Petitioner to provide feedback to City Administration regarding completed work within 45 days; and (4) The 45 day requirement will be extended accordingly if a delay in work is caused due to restrictions set by a governmental agency."

Yes: Pryor, Beltramini, Howrylak, Kaszubski, Lambert, Pallotta

No: Schilling

POSTPONED ITEMS

D-1 Request for Commercial Vehicle Appeal – 1855 Boulan

Resolution #2001-05-230

Moved by Pallotta

Seconded by Schilling

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:

D-1 Request for Commercial Vehicle Appeal – 1855 Boulan – Continued

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

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

NOW, THEREFORE, BE IT RESOLVED, That the request from Cipitan Botezan, 1855 Boulan, for waiver of Chapter 39, Section 40.66.00, of the Code of the City of Troy, to permit outdoor parking of a Ford cube van in a residential district is hereby denied.

Yes: Beltramini, Kaszubski, Lambert, Pallotta, Schilling

No: Pryor, Howrylak

RECESS 9:03 PM – 9:23 PM

D-2 Standard Purchasing Resolution 1: Award to Low Bidder – Remote Camera System

Resolution #2001-05-231

Moved by Pallotta

Seconded by Schilling

RESOLVED, That a contract to furnish and install one (1) remote camera system for Council Chambers is hereby awarded to the low bidder, Thalner Electronic Lab at an estimated total cost of \$66,430.88.

BE IT FURTHER RESOLVED, That the award is contingent upon contractor submission of properly executed bid and contract documents, including bonds, insurance certificates and all

RECEIVED

NOV 17 2004

BUILDING DEPARTMENT

TO: CITY COUNCIL

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

My reason for this approval objection is:

We live at 1876 Boulan, directly across from 1855 Boulan. No, it does not bother us to have this truck parked in their driveway. We hope they can continue to do so!

NAME: Mrs Clifford Tenenhouse

ADDRESS OR PROPERTY DESCRIPTION 1876 Boulan

RECEIVED
NOV 18 2004
BUILDING DEPARTMENT

TO: CITY COUNCIL

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

My reason for this approval [] objection is:

City Ordinance are for a good reason, to keep neighborhoods from turning into industrial sites. NEXT HE'LL want to put up a 6,000 square ft garage. The owner of the truck doesn't even live there. I say NO!

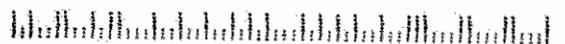
NAME: _____

ADDRESS OR PROPERTY DESCRIPTION _____

John Gilson
1900 Doulon
Troy MI 48084



City of Troy
500 WEST Big BEAVER
Troy, MI 48084
Building Dept.



RECEIVED

NOV 19 2004

BUILDING DEPARTMENT

TO: CITY COUNCIL

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

My reason for this approval objection is:

WE ARE BECOMING LESS & LESS LIKE
A RESIDENTIAL NEIGHBORHOOD AND
MORE LIKE A COMMERCIAL GHETTO.
TRUCKS DON'T BELONG IN A RESI-
DENTIAL AREA.

AS A FORMER TRUCKER, OWNING
MY OWN EQUIPMENT, I WAS NOT ALLOWED, BY
TROY CITY ORDINANCE TO PARK MY TRUCK IN
MY OWN DRIVEWAY. AS A RESULT, IT WAS
NECESSARY FOR ME TO PAY A FEE FOR
PARKING IN AN INDUSTRIAL DISTRICT,
AND ARRANGING FOR TRANSPORTATION
BACK AND FORTH FROM MY HOME TO MY TRUCK.

NAME:

John F. Stone

ADDRESS OR PROPERTY DESCRIPTION

1915 Coulson

Troy 45084

RECEIVED

NOV 19 2004

BUILDING DEPARTMENT

TO: CITY COUNCIL

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

My reason for this approval objection is:

Commercial vehicles do not belong in a residential area. If we continue to let people build monster garages and start parking commercial vehicles to run businesses - the next step will be petitions to rezone our residential neighborhood to a business zone.

NAME: Lannis + Janice Sutherland

ADDRESS OR PROPERTY DESCRIPTION 1926 Boulton

DATE: November 17, 2004

TO: John Szerlag, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark Stimac, Director of Building and Zoning

SUBJECT: Agenda Item - Public Hearing
Request for Commercial Vehicle Appeal
2887 E. Wattles Road

On October 21, 2002, City Council approved a commercial vehicle appeal for Mr. Costel Luca for a vehicle located on his residential property at 2887 E. Wattles. In particular, a variance was granted for a period of two years to park a Ford cube van, outdoors on the property. That variance has now expired. In response to our recent contact, Mr. Luca has filed a new appeal application for your consideration. The appeal requests that a public hearing date be held in accordance with the ordinance. A public hearing has been scheduled for your meeting of November 29, 2004.

The existing home on the property has only 808 square feet of ground floor area and we have no record of any existing accessory buildings on site. The Zoning would permit up to 600 square feet of detached accessory building on this site. The owner could also construct an attached garage within the limits of the setbacks and the 30% lot coverage. The 30% lot coverage maximum would limit the buildings to 5,460 square feet and therefore would allow an addition up to 4,652 square feet.

Copies of the application, site plan, photos and 300' notice map are attached for your reference. Should you have any questions or require additional information, kindly advise.

Prepared by: Mark Stimac, Director of Building and Zoning

**COMMERCIAL VEHICLE
APPEAL APPLICATION**

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

NAME: COSTEL LUCA

ADDRESS: 2887 E. WATTLES RD

CITY: Troy MI. ZIP: 48085 PHONE: (248) 680-7415

ADDRESS OF SITE: SAME

NUMBER OF VEHICLES: 1

VEHICLE IDENTIFICATION NUMBER(S)
1FDLE47F2VH B15137

LICENSE PLATE NUMBER(S) 0649AD

DESCRIPTION OF VEHICLE(S) CUBE VAN

REASON FOR APPEAL (see A - D below) THE PROPERTY HAS NO GARAGE TO ^{Accommodate} ~~the~~ ~~vehicle~~
The vehicle. We ARE Looking For A ^{Another} Home so we will BE
moving soon, I JUST NEED AN EXTENTION ON THE PREVIOUS GRANT.

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

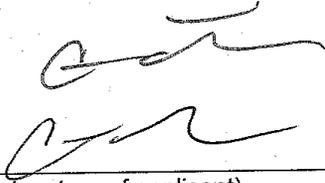
44.02.01 ACTIONS TO GRANT APPEALS ... SHALL BE BASED UPON AT LEAST ONE OF THE FOLLOWING FINDINGS BY THE CITY COUNCIL:

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

COMMERCIAL VEHICLE APPEAL APPLICATION

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

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



(signature of applicant)

STATE OF MICHIGAN
COUNTY OF OAKLAND

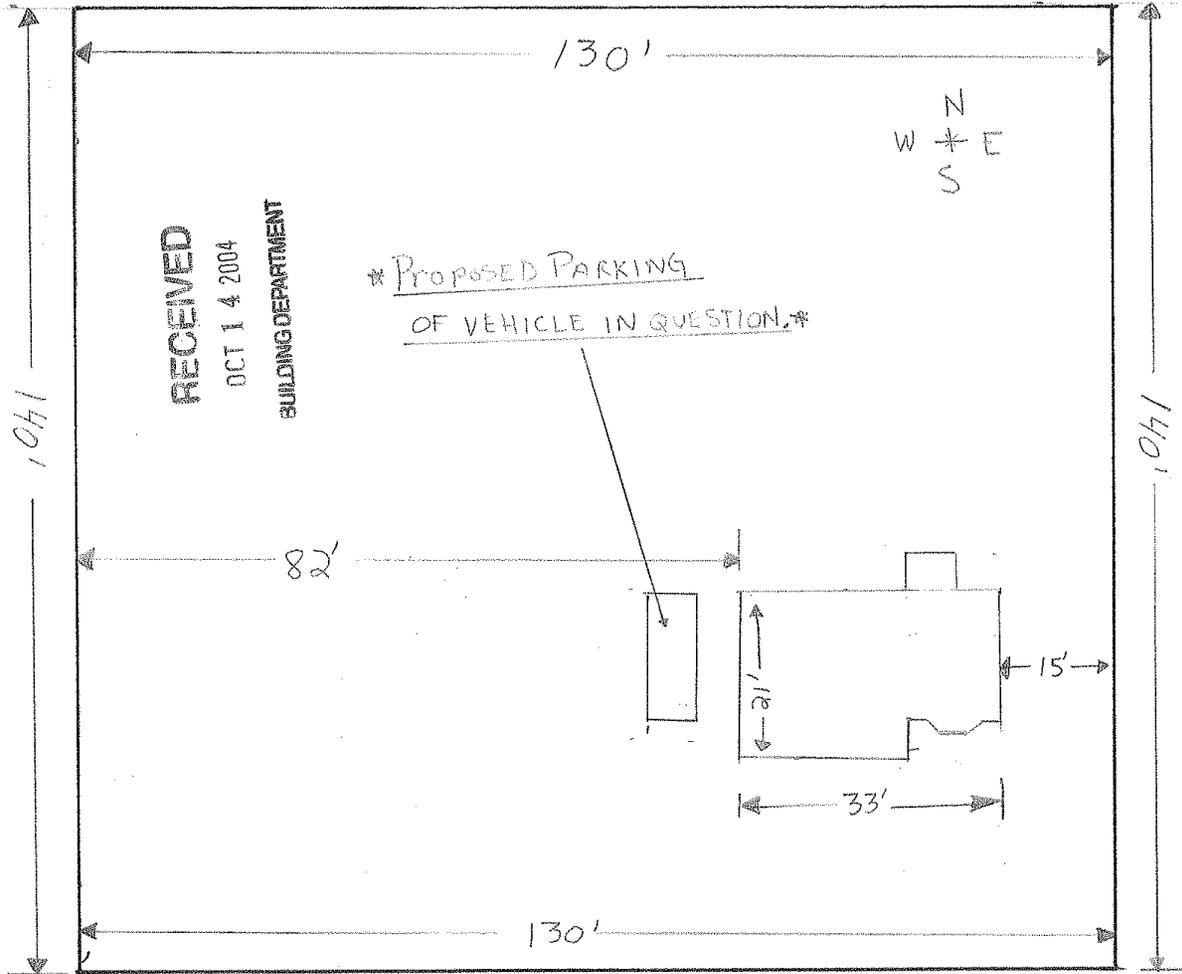
On this 14th day of October, 2004 before me personally appeared the above named person who depose and sayeth that he/she signed this application with full knowledge of its contents and that all matters stated therein are true.

Pamela R Pasternak
Notary Public, _____ County, Michigan

PAMELA R. PASTERNAK
Notary Public, State of Michigan, County of Macomb
My Commission Expires September 1, 2007
Acting in the County of Oakland

My Commission Expires: _____

WOODED AREA



ADDITIONAL 27' FROM SOUTH PROPERTY
LINE TO WATTLES RD. #↓

2887 E WATTLES RD	
TROY MI 48098	SCALE: 20' = 1"
10/14/04	

We, the undersigned, fully support the request of Costel Luca for relief of the Zoning Ordinance to park a Ford box truck on his property at 2887 E. Wattles.

The lack of attention and upkeep of the property by previous owners was far more detrimental to the quiet enjoyment and value of neighboring properties than the zoning variance sought by the current owner. During the former owner's occupancy of the property, an old sailboat and camper from the back of a pick up truck were stored in the backyard. They were truly an eyesore. The house was not maintained by the previous owners, who left it unpainted with a back door boarded up with plywood. The residence looked as though it should be condemned as unfit for habitation, compelling our former neighbor on Morningdale to install a fence to block the view of 2887 E. Wattles prior to listing the house for sale.

Since Mr. Luca has resided at the property the condition and appearance has been dramatically improved. We are very appreciative of the yard being cleared of household discards, which filled an entire commercial dumpster in the removal process. The house looks much better with new siding and a back door. A new roof is currently being put in place. The home improvements are necessary before a garage can be built for the truck.

If the Ford truck offers Mr. Luca the opportunity to earn an income, we see no problem with having it on his property. Therefore, we have no objection to storing the Ford box truck on the property.

Sincerely,

Maryann J. Clark

Maryann J. Clark

Thomas M. ...
John ...

Muma Shay

Ang L. Clark

Diana Brewster

Anthony A. Velasquez

Joseph Molen

Ricky M. Nussle

Ana Free

4058 Morningdale Drive

4056 Morningdale

4022 Morningdale DR.

4040 morningdale E

4058 Morningdale dr.

2770 E Wattles

3909 E. WATTLES RD.

2939 E WATTLES

4037 Morningdale

4055 Morningdale

BUILDING DEPARTMENT

OCT 14 2004

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RECEIVED

OCT 14

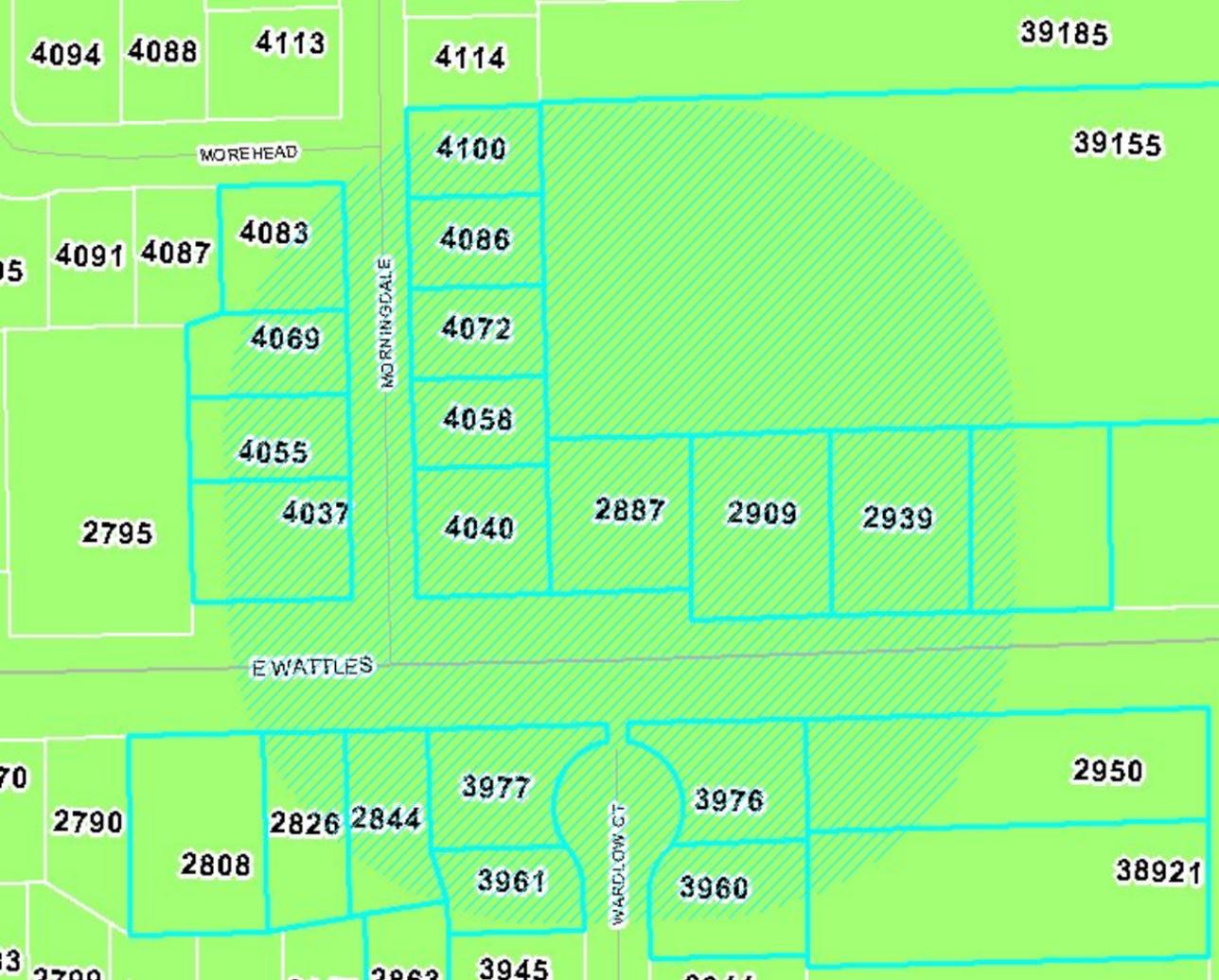
BUILDING DEPT



REC

OCT

BUILDING



RECEIVED

NOV 17 2004

BUILDING DEPARTMENT

TO: CITY COUNCIL

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

My reason for this approval objection is:

IT WOULD AFFECT THE RESIDENTIAL FEEL OF THE
AREA. I'M ALSO CONCERN ABOUT SUCH REQUEST BECOMING
MORE FREQUENT

NAME: JOHN CHG 

ADDRESS OR PROPERTY DESCRIPTION 4569 HIGHLAND AVE DC

DATE: November 17, 2004

TO: John Szerlag, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark Stimac, Director of Building & Zoning

SUBJECT: Agenda Item - Public Hearing
Commercial Vehicle Appeal
3035 Heritage

On October 27, 2004, information was sent to Tai Hsiang Chiang that identified restrictions related to a commercial vehicle located on residential property. As part of that information, they were advised that the GMC cube van parked on the property did not comply with the exceptions found in Chapter 39, Section 40.66.00. They were given the option to remove the vehicle or appeal to City Council for relief of the Ordinance.

In response to our letter, they filed an appeal. The appeal requests that a public hearing date be held in accordance with the ordinance. A public hearing has been scheduled for your meeting of November 29, 2004.

The main building on this site is 1490 square feet. Section 40.57.04 of the Zoning Ordinance would permit 745 square feet of accessory building to be built on this property. Because of the increased setbacks required along a major thoroughfare such as Big Beaver Road, there is no room to add attached garages to the home even though the yard along the south side appears to be large. There is also no direct vehicular access permitted to Big Beaver Road from this site.

We have included copies of the application, photograph of the vehicle, site plan, and copy of the 300' notice map for your reference.

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

Attachments

Prepared by: Mark Stimac, Director of Building and Zoning

**COMMERCIAL VEHICLE
APPEAL APPLICATION**

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

NAME: TAI HSIANG CHIANG

ADDRESS: 3035 HERITAGE DR.

CITY: TROY MI. ZIP: 48083 PHONE: (248)528-3866

ADDRESS OF SITE: FRONT OF GARAGE DRIVE WAY Cell # (313) 304-1578

NUMBER OF VEHICLES: 1

VEHICLE IDENTIFICATION NUMBER(S)
1GDGG31K3TF852044

LICENSE PLATE NUMBER(S) CO221J

DESCRIPTION OF VEHICLE(S) 1996 GMC VAN

REASON FOR APPEAL (see A - D below) THE LOCATION AVAILABLE ON THE RESIDENTIAL SITE

FOR THE OUTDOOR PARKING OF THE SUBJECT COMMERCIAL VEHICLE IS ADEQUATE TO PROVIDE FOR SUCH PARKING IN A MANNER THAT WILL NOT NEGATIVELY IMPACT ADJACENT RESIDENTIAL PROPERTIES, AND WILL NOT NEGATIVELY IMPACT PEDESTRIAN AND VEHICULAR MOVEMENT ALONG THE FRONTAGE STREET(S).

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

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

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

COMMERCIAL VEHICLE APPEAL APPLICATION

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

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



(signature of applicant)

STATE OF MICHIGAN
COUNTY OF OAKLAND

On this 8TH day of NOVEMBER, 2004 before me personally appeared the above named person who depose and sayeth that he/she signed this application with full knowledge of its contents and that all matters stated therein are true.



Notary Public, _____ County, Michigan

My Commission Expires: _____

MICHAEL F. THOMAS
NOTARY PUBLIC OAKLAND CO., MI
MY COMMISSION EXPIRES MAY 31, 2008

MTN: BELINDA

①

MORTGAGE CERTIFICATE

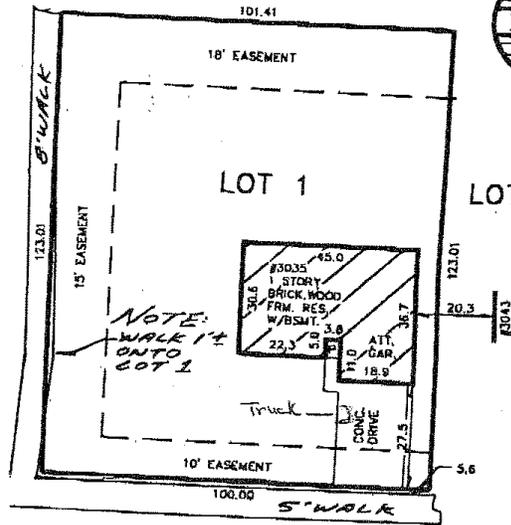
CERTIFIED TO ALL TITLE COMPANIES AND TO REPUBLIC BANCORP MORTGAGE INCORPORATED

Applicant: TAI-HSIANG CHIANG AND YEHNEY JIANG

Property Description:
Lot 1 of GOLDEN GATE SQUARE SUB., City of Troy, Oakland County, Michigan, as recorded in Liber 183 of Plats, Pages 9 and 10 of Oakland County Records.

I, Michael J. Yambor, certify that the parcel as described is in Zone "C" according to the recorded plat as conforming to the Subdivision Control Act of 1987.
NOTE: Unless actual elevations are measured, no liability for the above statement will be assumed.

BIG BEAVER RD. 120' WD.



HERITAGE DRIVE 60' WD.

We hereby certify that this mortgage inspection shows the improvement(s) as located on the premises described. That the improvement(s) are entirely within lot lines and that there are no encroachments upon the premises described by the improvement(s) of any adjoining premises except as indicated. We further certify that this mortgage certificate was prepared for identification purposes only for the mortgagee in connection with a new mortgage within 20 days of the date shown, and is not to be used to establish property lines, assessment lines, public right-of-ways, parking lines, conformity or non-conformity to state, county, or local ordinances and/or codes, etc. Easements as shown are per recorded plat unless otherwise noted. Fences and other way locations shown are approximate. To accurately locate fences, etc. and property corners, a certified Land Survey (State Survey) is recommended.



LEGAL DESCRIPTION PROVIDED BY OTHERS.
Michael J. Yambor
JOB NO. 96-27069 SCALE 1"=30'
DATE 10/25/96 DR. BY G.C.



MICHAEL J. YAMBOR & ASSOCIATES, INC.
Licensed Land Surveyors
(810) 244-0954 - Telefax (810) 244-9410
500 Oliver, Troy, Michigan 48064



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HERITAGE

E BIG BEAVER

E BIG BEAVER

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DATE: November 17, 2004

TO: John Szerlag, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Mark Stimac, Director of Building and Zoning

SUBJECT: Agenda Item - Public Hearing
Parking Variance
1717 Stutz Drive

We have received a permit application from Joseph Damico of Damico Contracting, Inc, for the alteration of an existing industrial building at 1717 Stutz Drive. This is a tenant space in a multi tenant industrial building addressed 1715-1717 Stutz. As part of that alteration, the plans include the installation of two new overhead doors on the south side of the building. That area of the site currently contains the parking lot for the building. The installation of the doors would eliminate 4 of the existing parking spaces. The resultant parking available for this site would be only 36 spaces. Section 40.21.81 of the Zoning Ordinance requires that for an industrial building of this size, a minimum of 40 parking spaces be available on the site.

In response to our denial of the permit application for this work, the applicants have submitted a request for variance for the 4 parking space deficiency. A Public Hearing has been scheduled for your meeting of November 29, 2004, in accordance with Section 44.01.00.

I should note that subsequent to denying the permit application, it has come to our attention that the overhead doors have already been installed at this site. We have taken action to see that the overhead doors are not used until this matter can be resolved.

Prepared by: Mark Stimac, Director of Building and Zoning

<p>PARKING VARIANCE APPLICATION FOR PUBLIC HEARING BEFORE CITY COUNCIL CITY OF TROY</p>	<p>RECEIVED NOV 03 2004 BUILDING DEPARTMENT</p>
--	---

TO TROY CITY COUNCIL

DATE: 11-2-04

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: DAMICO CONTRACTING, INC. Phone: 248-524-4870
 Address: 1898 LARCHWOOD, TROY, MI 48083
 Address of Property: 1717 STUTZ, TROY, MI 48084
 Lot # 6 Subdivision: MILES-KAPLAN INDUSTRIAL PARK
 Zoning District: M1 LIGHT IND Sidwell # 20-29-326-022
 Owner of Property: AL JADACH Phone: 248-376-0897
 Address: 1820 VINTON ROAD, ROYAL OAK, MI 48067

This appeal is made on a determination by the Director of Building & Zoning, in the enforcement of the Zoning Ordinance, in a letter dated: 11-1-04

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: <u>20</u>
Number of Stalls? _____	Parking Spaces Provided: <u>16</u>
Other Dimensions? _____	Variance Requested: <u>4 SPACES</u>

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)

SEE ATTACHED LETTER.
 NOTE: SITE PLAN SHOWS BOTH 1717 AND 1715 STUTZ. 20 SPACES ALLOCATED TO EACH ADDRESS.



RESIDENTIAL & COMMERCIAL CARPENTRY

November 2, 2004

City of Troy City Council

Re: Parking Variance for 1717 Stutz

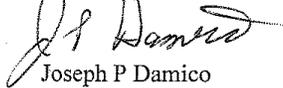
RECEIVED
NOV 03 2004
BUILDING DEPARTMENT

Dear Council,

In reference to the attached parking variance application we respectfully request relief from zoning ordinance, section 40.21.81. We have operated our businesses here in Troy for over 20 years and are relocating within the city for additional warehouse/office space. We have a total of 10 employees that would need parking. Four of these employees spend nearly 75% of their time out of the office. Our businesses have no dealings with the public and expect additional parking requirements to be about 1 or 2 cars per day at any given time for no longer than 2 hours. We have already invested in excess of \$50,000.00 for this move and we would suffer significantly if we were unable to use the overhead doors for access to the warehouse.

Your attention to this matter is greatly appreciated.

Sincerely,



Joseph P Damico

November 17, 2004

TO: John Szerlag, City Manager

FROM: Douglas J. Smith, Real Estate & Development Director
Mark F. Miller, Planning Director

SUBJECT: AGENDA ITEM – PUBLIC HEARING – ZONING ORDINANCE MAP AMENDMENT (Z-697) – West side of Crooks Road, North of Big Beaver Road, Section 20 – P-1 to O-1 and B-3.

RECOMMENDATION

The rezoning application complies with the Future Land Use Plan and is compatible with adjacent zoning districts and land uses. The Planning Commission considered this item at their Regular Meeting on October 12, 2004. Following the Public Hearing on this item the Planning Commission recommended approval of the rezoning request. City Management concurs with the Planning Commission recommendation.

GENERAL INFORMATION

Name of Owner / Applicant:

The owner is First American Title Corporation. The applicant is Weiss Properties, LLC.

Location of Subject Property:

The property is located on the west side of Crooks Road, north of Big Beaver Road in Section 20.

Size of Subject Parcel:

The parcel is approximately 3.11 acres in area.

Current Use of Subject Property:

The property is currently vacant of buildings and structures. A detention basin is located in the eastern half of the property and an off-street parking area is located in the southwest corner of the property.

Current Zoning Classification:

P-1 Vehicular Parking.

Proposed Zoning of Subject Parcel:

O-1 Office Building and B-3 General Business.

Proposed Uses and Buildings on Subject Parcel:

The applicant proposes a one-story retail building fronting on Crooks Road and a 3-story office building at the rear of the parcel.

Current Use of Adjacent Parcels:

North: Office.

South: Office and restaurants.

East: Office.

West: Office.

Zoning Classification of Adjacent Parcels:

North: R-1B One Family Residential (controlled by Consent Judgment).

South: P-1 Vehicular Parking and O-1 Office Building.

East: O-M Office Mid-Rise.

West: P-1 Vehicular Parking.

ANALYSIS

Range of Uses Permitted in O-1:

PRINCIPAL USES PERMITTED:

Office Buildings for any of the following occupations: executive, administrative; professional; accounting; writing; clerical stenographic; drafting; and sales.

Medical office, including clinics.

Banks, credit unions, savings and loan associations, and similar uses. Such uses may include drive-in facilities only as an accessory use.

Publicly owned buildings, exchanges, and public utility offices.

Other uses similar to the above uses.

USES PERMITTED SUBJECT TO SPECIAL CONDITIONS:

Uses customarily supporting or serving the Principal Uses permitted in this District, such as pharmacies or drug stores, optical services, copy services, office supplies, book stores, art galleries, or restaurants; provided that these uses are within the

building housing the Principal Uses which they support, and provided that there is no direct outside entrance for these uses separate from the entrance serving the Principal Uses.

Data processing and computer centers, including sales support, service and maintenance of electronic data processing equipment. The sales support, service and maintenance functions shall be accessory or secondary to the Principal Uses permitted in this District, and thus shall not be operated as independent businesses.

Technical training uses, when such are accessory or secondary to the Principal Uses permitted in this District, and thus not operated as independent businesses.

USES PERMITTED SUBJECT TO SPECIAL USE APPROVAL:

Mortuary establishments.

Private service clubs fraternal organizations and lodge halls, including accessory structures and uses customarily incidental to such uses, racquet and athletic clubs.

Private ambulance facilities.

Utility sub-stations, transformer stations or gas regulator stations (without storage yards).

Mechanical or laboratory research involving testing and evaluation of products, or prototype or experimental product or process development.

Child care centers, nursery schools, or day nurseries (not including dormitories).

Range of Uses Permitted in O-1:

PRINCIPAL USES PERMITTED:

Any retail business or service establishment permitted in B-2 Districts as Principal Uses Permitted and Uses Permitted Subject to Special Conditions.

Mortuary establishments.

Bus or transit passenger stations, taxicab offices and dispatching centers, and emergency vehicle or ambulance facilities.

Parking garages and off-street parking areas.

Sales, showrooms, and incidental repair of recreational vehicles.

New and used car salesroom, showroom, or office.

Governmental offices, public utility offices, exchanges, transformer stations, pump stations and service yards but not including outdoor storage.

Other uses similar to the above uses.

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 B-3 Districts, apart from restaurants.

Bowling alley, billiard hall, indoor archery range, indoor skating rinks, indoor tennis courts, athletic or health clubs, or similar forms of indoor commercial recreation, when the subject uses are located at least 100 feet from any Residential District.

Open air business uses when developed as uses subordinate to primary uses and structures within the B-3 District.

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

USES PERMITTED SUBJECT TO SPECIAL USE APPROVAL

Persons seeking Special Use Approval for specified uses governed by this Article shall conform to the requirements of Section 03.30.00.

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

Motel or Hotel.

Veterinary hospitals or clinics, provided all activities are conducted within a totally enclosed main building and provided further that all abutting or adjacent property is non-residentially zoned.

Commercial Kennels.

Automobile repair garages, provided all activities are conducted within a completely enclosed building. Such uses shall not include the sale of fuels, vehicle body repair,

painting, refinishing, tire recapping, auto dismantling, or other such activities whose external effects could adversely extend beyond the property lines.

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

Vehicular and Non-motorized Access:

The property fronts on Crooks Road and Wilshire Boulevard.

Potential Storm Water and Utility Issues:

The applicant will be required to provide on-site detention.

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 Future Land Use Plan classifies the front of the property as Non-Center Commercial and the rear of the property as Low Rise Office. According to the Future Land Use Plan, the Low Rise Office plan designation has a primary correlation with the O-1 Office Building District. The Non-Center Commercial plan designation has a primary correlation with the B-3 Zoning District. The application is therefore consistent with the Future Land Use Plan.

Compliance with Location Standards:

The B-3 General Business District does not contain location Standards.

Article 24.40.10 Location Standards states the following: "The O-1 (Office Building) District may be applied when the application of such a classification is consistent with the intent of the Master Land Use Planning and policies related thereto, and therefore involves the following types of areas:

24.40.11 Areas indicated as low-rise office.

The application is therefore consistent with the Location Standards of the O-1 Office Building District.

Attachments:

1. Maps.
2. Minutes from October 12, 2004 Planning Commission Regular Meeting.

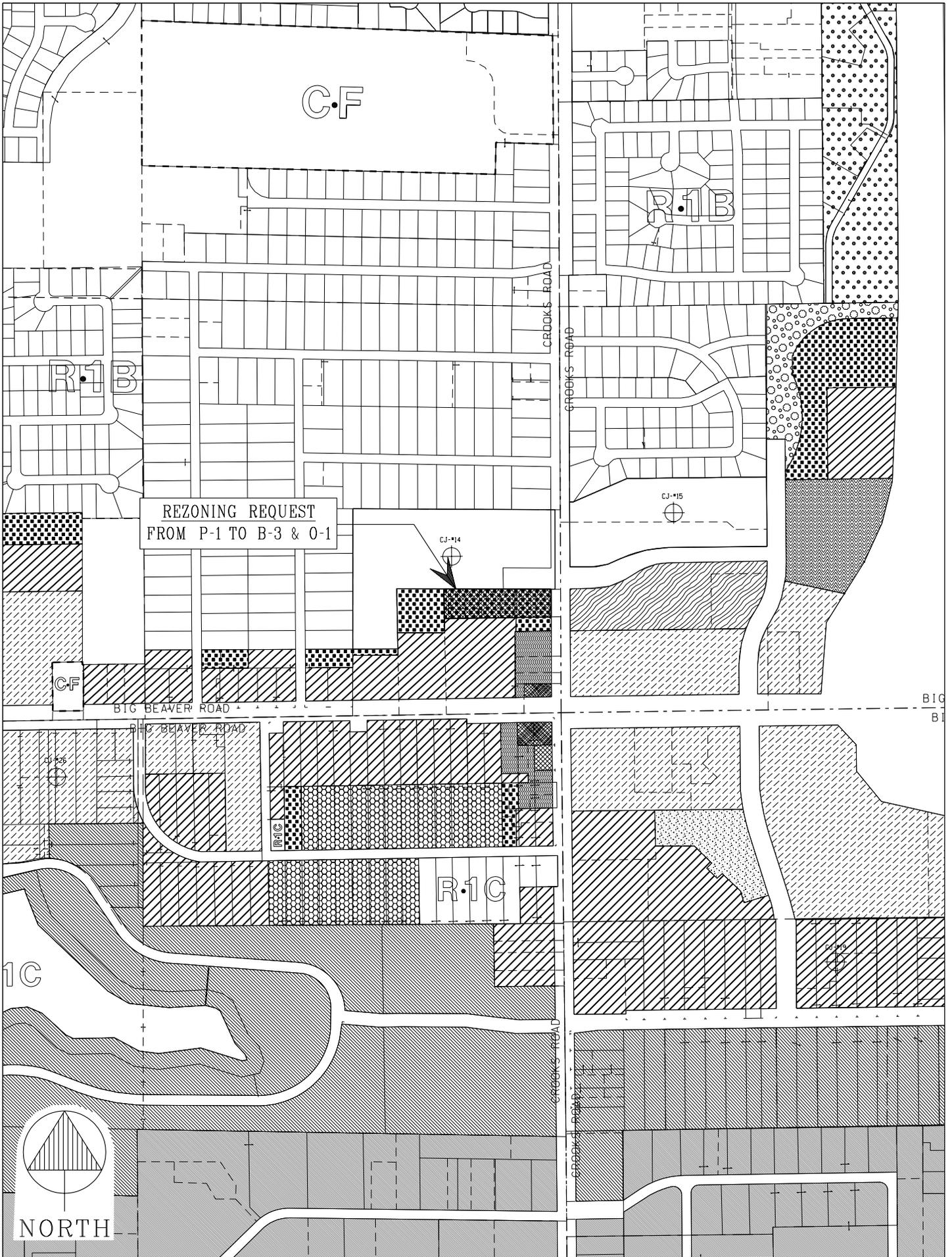
cc: Applicant
File (Z 697)

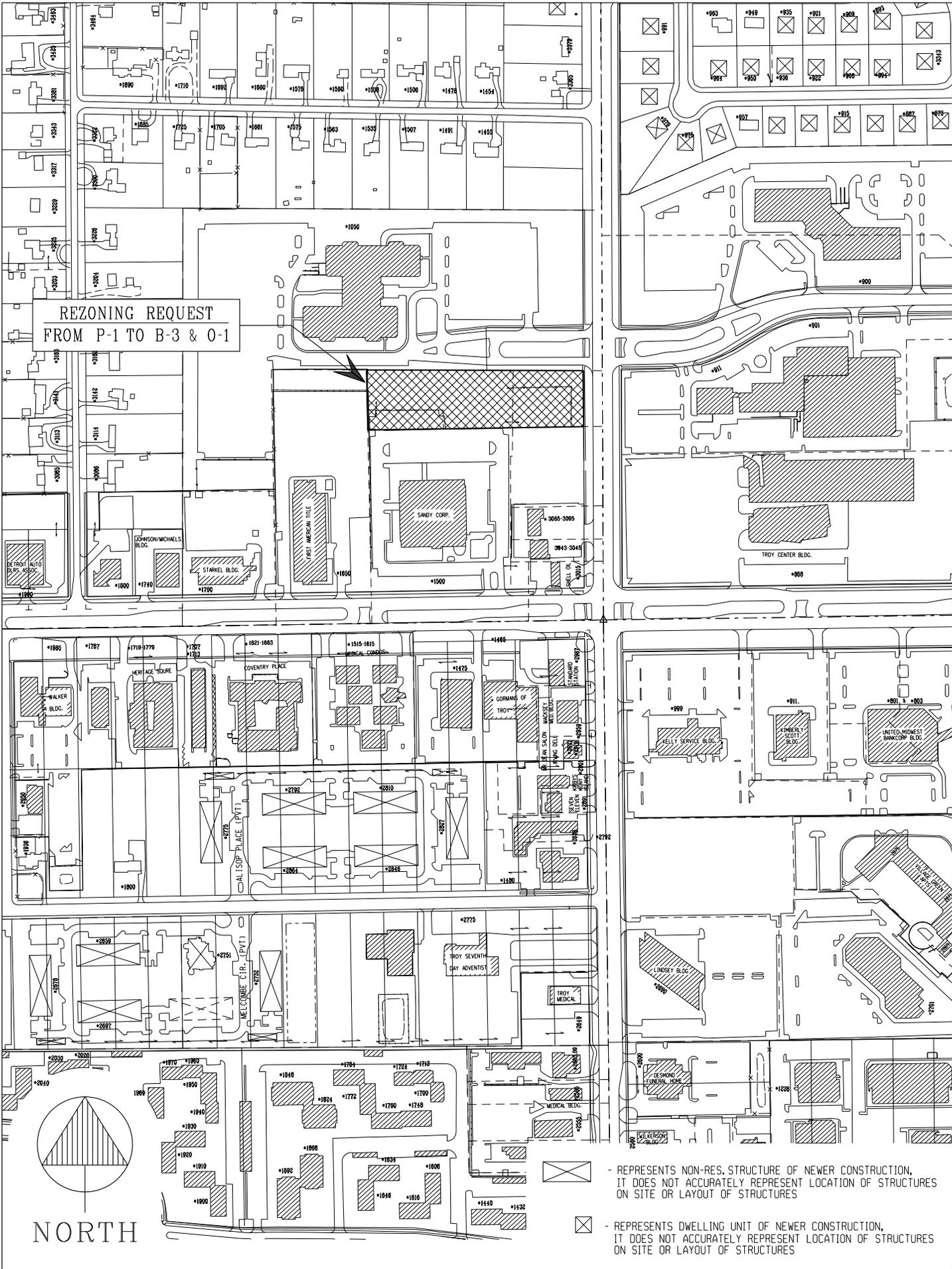
G:\REZONING REQUESTS\Z-697 Crooks Road Office and Development\CC Public Hearing Crooks Rd Rezoning 11 29 04.doc

Prepared by RBS

CITY OF TROY







REZONING REQUEST
FROM P-1 TO B-3 & 0-1

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

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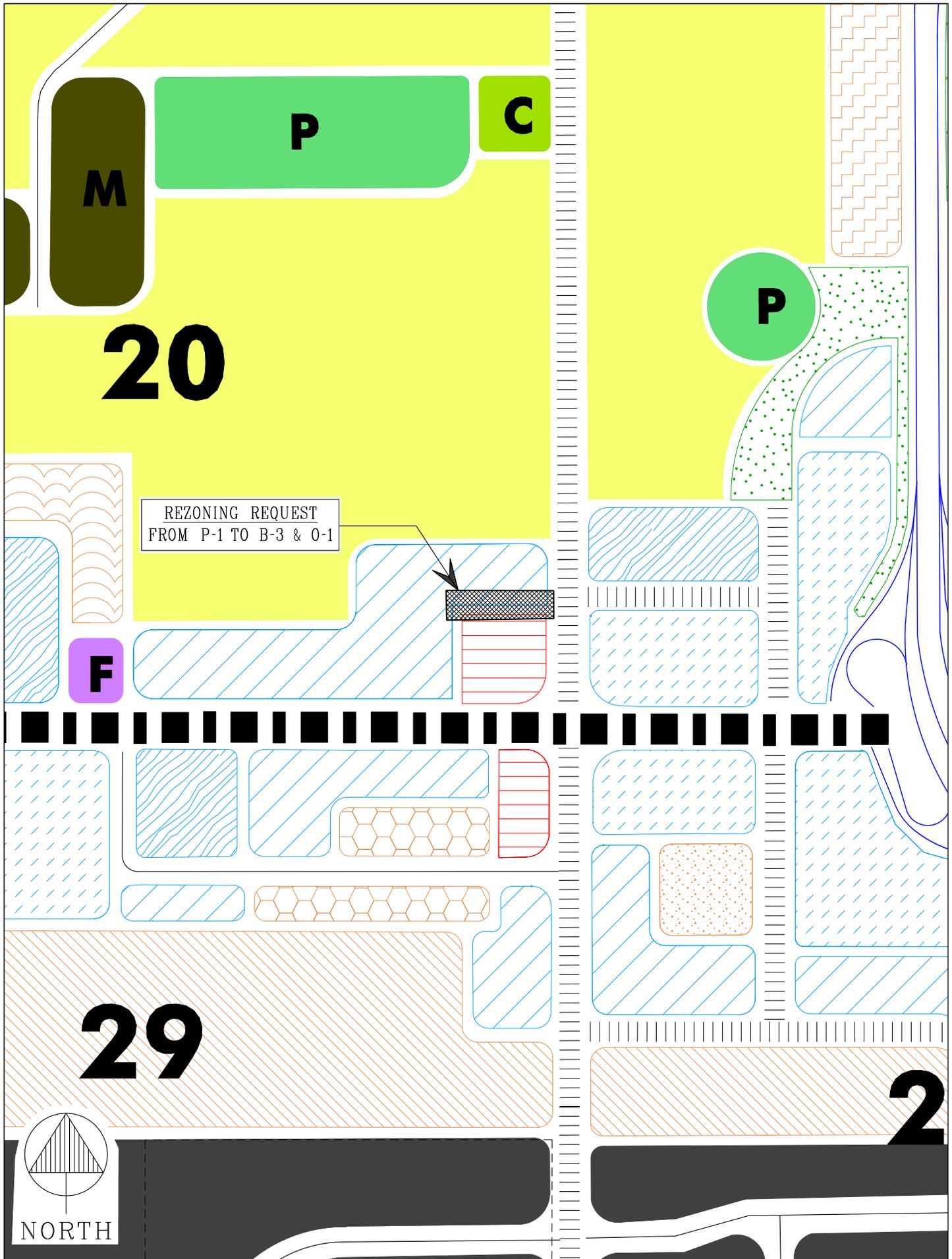
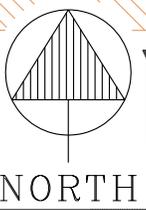
P

REZONING REQUEST
FROM P-1 TO B-3 & O-1

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2





REZONING REQUEST
PROPOSED CROOKS ROAD OFFICE & RETAIL DEVEL.
FROM P-1 TO B-3 & O-1
NORTH OF BIG BEAVER, WEST SIDE OF CROOKS
SEC. 20 (Z-697)

REZONING REQUEST
FROM P-1 TO B-3 & O-1

0 50 100 200 300 400 Feet



REZONING REQUEST

7. PUBLIC HEARING – PROPOSED REZONING (Z 697) – Proposed Crooks Office and Retail Development, West side of Crooks, North of Big Beaver, Section 20 – From P-1 (Vehicular Parking) to O-1 (Low Rise Office) and B-3 (General Business)

Mr. Miller presented a summary of the Planning Department report for the proposed rezoning. Mr. Miller reported that it is the recommendation of the Planning Department to approve the rezoning request.

Michael Boggio of 30100 Telegraph Road, Bingham Farms, was present to represent the petitioner. Mr. Boggio demonstrated, with the use of display boards, the extension of the B-3 and O-1 zoning northward to Wilshire Boulevard that is in conformance with the Future Land Use Plan. Mr. Boggio indicated that, with site plan approval, the proposed development would provide future access from Wilshire Boulevard to the properties to the south. He said the access would be a welcome addition to area.

Mr. Strat asked if the proposed O-1 zoning would be landlocked.

Mr. Boggio replied that there is an easement currently to the west that would allow traffic from the O-1 zoned property to enter and exit out to Big Beaver. He noted the petitioner has control over the entire piece of property, and would be proposing easements between the B-3 and O-1 zoned properties. Mr. Boggio further addressed site plan issues with respect to cross access easements to the west and south and a new curb cut approach to the new development.

Chair Waller asked why the proposed B-3 zoning is further to the west than the existing B-3 zoning property line.

Mr. Boggio replied that the B-3 zoning is extended further to the west to alleviate parking difficulties during lunch hours in the development.

Mr. Littman asked if the property to the west would have cross access easement to the new development.

The petitioner, Harvey Weiss of 6960 Orchard Lake Road, West Bloomfield, was present. Mr. Weiss said there is an agreement with First American Title to give the proposed development access to Big Beaver Road and, in turn, they would be given access to Crooks Road.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2004-10-115

Moved by: Schultz

Seconded by: Strat

RESOLVED, That the Planning Commission hereby recommends to the City Council that the P-1 to O-1 and B-3 rezoning request, located on the west side of Crooks Road and north of Big Beaver Road, within Section 20, being 3.11 acres in size, be granted.

Yes: All present (6)

No: None

Absent: Chamberlain, Khan, Vleck

MOTION CARRIED

DATE: November 17, 2004

TO: John Szerlag, City Manager

FROM: Douglas J. Smith, Real Estate and Development Director
Mark F. Miller, Planning Director

SUBJECT: AGENDA ITEM - PUBLIC HEARING - ZONING ORDINANCE TEXT
AMENDMENT FOR ARTICLE 34.70.00 ONE FAMILY CLUSTER OPTION
(ZOTA 200)

RECOMMENDATION

This item was tabled at the September 27, 2004 City Council meeting and referred to City Management to address City Council concerns.

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 District. This zoning district is generally difficult to apply since it involves rezoning of the property. In addition, the rezoning approval standards can be difficult to meet. The proposed 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 identical as those permitted in the R-1A through R-1E districts, as determined by the required 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.

BACKGROUND

It must be stressed that the One Family Cluster Option is an option; it is not a mandatory requirement. The primary intent of the One Family Cluster provisions is to maintain and preserve open space and natural features, such as those that exist along the Beach Road Corridor. While it will be permissible for developers to add amenities such as playing fields and landscaped gardens, most open space subdivisions in Michigan are characterized by open space that is simply left alone in its natural state. The cost of maintenance of property that is left in its natural state is minimal compared to open space that requires

regular maintenance. All residential developments could construct amenities under the existing development regulations and financial impacts; for example, an extensive landscaped subdivision entrance.

It is the responsibility of a purchaser of a unit in a cluster development to find out what the maintenance costs will be prior to purchasing a unit. Section 34.70.03 of the draft provisions require that a detailed narrative and graphic plan be provided that indicates specific methods for protecting significant natural features. Section 34.70.06.H requires that standards for scheduled maintenance of the open space be included in the irrevocable conveyance. This information will be available to prospective purchasers through title work and City records.

Randall Arendt is one of the nation's leading proponents of cluster developments, often referred to as conservation subdivisions. He summarizes the conservation subdivision design process in his book Growing Greener: Putting Conservation into Local Plans and Ordinances (Island Press, 1999). A summary of this process is included for informational purposes.

The Planning Department has prepared drawings to illustrate the one family cluster option concept. The parcel in question is rectangular-shaped, with approximately 100 feet of woodlands along the southern and eastern property line and a small non-regulated wetland in the northwest corner. The underlying zoning is R-1C. The parallel plan indicates that if the wetland were to be filled and the trees cut down (which is permitted under current zoning), the layout would yield 11 units (Drawing #1). If the cluster option were utilized, the 11 units would be located in such a way to preserve most of the trees as well as all of the wetland (Drawing #2). The required 30% open space would be conserved and dedicated to the use of all of the residents of the development.

cc: File/ZOTA #200
Planning Commission

Attachments:

1. "The Four-Step Approach to Designing Conservation Subdivisions", from Growing Greener: Putting Conservation into Local Plans and Ordinances, by Randall Arendt, Island Press, 1999.
2. One Family Cluster Option drawings.
3. ZOTA #200, dated 09/03/04.
4. Report for September 27, 2004 City Council meeting, dated September 20, 2004.
5. Minutes from September 27, 2004 City Council Meeting.
6. Minutes from July 13, 2004 Planning Commission Public Hearing.
7. Minutes from June 22, 2004 Planning Commission Special/Study Meeting.
8. Public comment.

Prepared by: MFM, RBS, PPB

• *Sketch Plan:* Applicants should always be strongly encouraged, if not required, to submit a Sketch Plan showing at least the general location of proposed development areas and conservation areas. In some states, the enabling legislation does not allow local governments to require Sketch Plans in addition to the Preliminary Plan and the Final Plan. In such states this step should remain voluntary, as a separate procedure. Sketch Plans cost little to prepare because they involve virtually no engineering input except for a general knowledge of soil and slope conditions (which are pertinent for septic systems and street alignments). In their most basic form they may consist of simple "bubble maps" drawn on clear overlay sheets placed on top of the Existing Resources/Site Analysis Map, and for this reason they are sometimes referred to as "Sketch Plan Overlays." However they are produced, Sketch Plans provide an excellent opportunity for mutual communication at a very critical stage of the subdivision process, before large sums are expended to meet the substantial engineering requirements for detailed designs. Most applicants are understandably reluctant to modify their proposals after they have been heavily engineered because those documents represent a sizable investment of funds.

• *Conceptual Preliminary Plan:* This book recommends that municipalities return to the original intent of Preliminary Plans, as first envisioned in most states' enabling laws. Although many communities have since blurred the distinction between the "preliminary" and the "final" plan, the first document had originally been intended by legislatures to be fairly conceptual in nature and not costly to produce. On the other hand, the purpose of the Final Plan was to supply the highly detailed drawings on which construction decisions would be based.

Because developers sometimes choose to exercise their legal right not to submit Sketch Plans, this book's model ordinance language for preliminary plans defines them as essentially conceptual

in nature requiring them to provide approximate dimensions and to show approximate locations rather than very precise ones. These Conceptual Preliminary Plans are essentially the same documents as the optional Sketch Plan and they serve a similar purpose: to permit discussion on the overall concept prior to preparing expensive engineering drawings that are really not needed by municipal officials until later stages. When preparing Conceptual Preliminary Plans, applicants should be strongly encouraged to follow the special four-step design approach for laying out conservation subdivisions, as described and illustrated in the next section (and detailed in the model ordinance language in Appendix 3).

The Conceptual Preliminary Plan is followed by submission of a Detailed Final Plan in the next 90-day period. Extensions to these two periods can usually be negotiated between the applicant and the municipality fairly easily when there is an indication of good faith on both sides.

The Four-Step Approach to Designing Conservation Subdivisions

The design process for conservation subdivisions is firmly based on the detailed site information provided through the Existing Resources/Site Analysis Map, together with off-site data shown on the Context Map regarding potential linkages to resource areas on adjoining properties and the surrounding neighborhood in general. The primary purpose of this design approach is to provide landowners and developers with their full legal density in a way that conserves not only the most special features of the proposed development site, but that also helps to protect an interconnected network of conservation lands extending across the community. *The heart of this design process can be summarized as four sequential steps beginning with the all-important identification of the conservation land that should potentially be*

Source: Growing Greener: Putting Conservation into Local Plans and Ordinances, by Randall Arendt (Island Press, 1999).

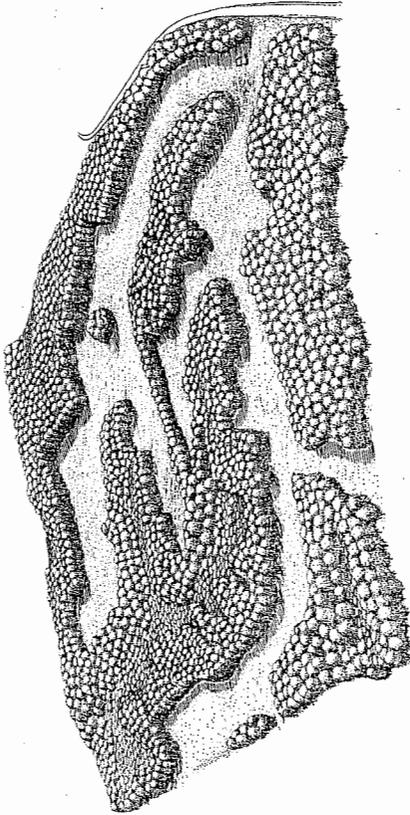


Figure 5-2. EXISTING RESOURCES: This 50-acre site will be used to illustrate how a basic conservation subdivision can be designed using the four-step approach. This is the same site that was employed in Chapter 4 to show how five different potential development-and-conservation options could be implemented under the model zoning provisions in Appendix 3 of this book.

protected. Those steps, which are illustrated in Figures 5-5 through 5-10, are: (1) identifying conservation areas, (2) locating house sites, (3) aligning streets and trails, and (4) drawing in the lot lines.

“Yield Plan” to Determine Density

As an alternative to deducting certain percentages of various kinds of constrained land—in order to determine the *net* developable acreage on any given tract—ordinances can establish procedures for preparing a simple “Yield Plan,” as illustrated in Figure 5-3.

Under this approach, applicants submit a lightly engineered sketch showing the maximum number of lots they could reasonably expect to achieve through a conventional layout, given the presence of fundamental building constraints such as wetlands, floodplains, and steep slopes (over 25 percent). In unsewered areas, the planning commission would then require that a 10 percent

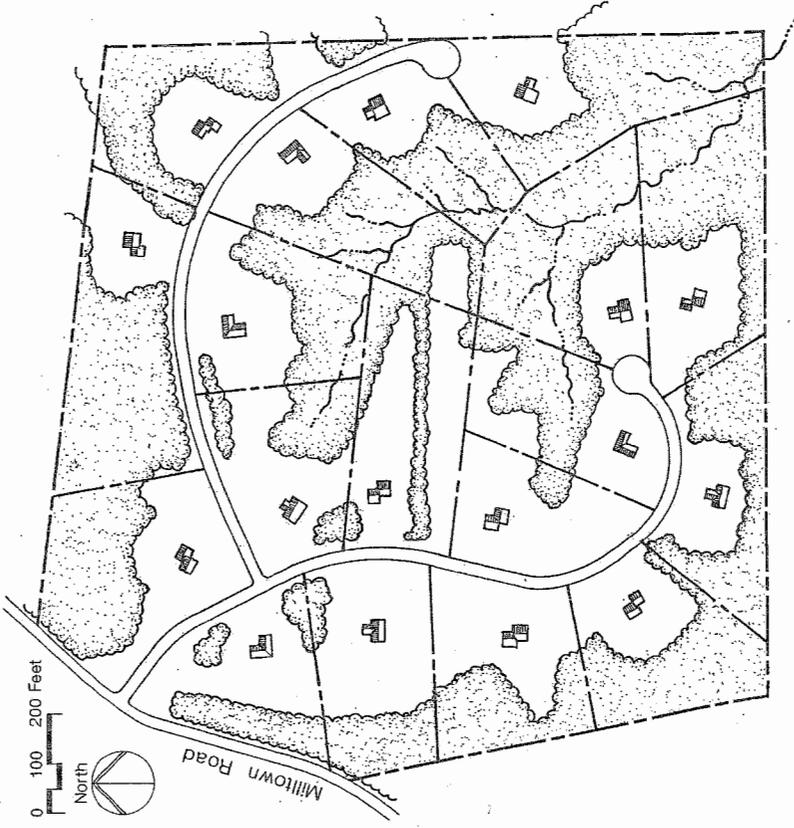


Figure 5-3. YIELD PLAN.

sample of lots, of its choosing, be tested for on-site septic suitability. If all these lots pass, the number of lots shown on the Yield Plan is approved; but if any lots fail they are deleted and another 10 percent sample is required. Again, local officials would select those lots to be evaluated, focusing on those that appear to be the most marginal or dubious.

Figure 5-3 is a Yield Plan and Figure 5-4 illustrates what the property would look like if that Yield Plan were implemented.

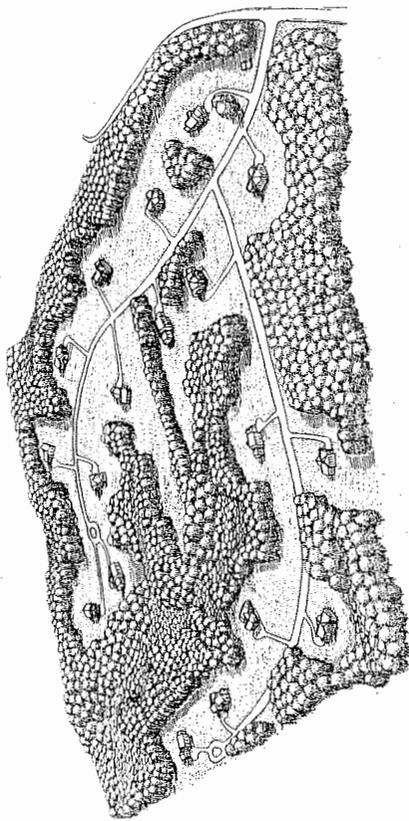


Figure 5-4. CONVENTIONAL SUBDIVISION: This bird's-eye perspective illustrates how the property would appear if the Yield Plan were built.

Step 1: Identifying Conservation Areas

Step 1, involving the delineation of lands to be conserved, is divided into two parts. Part 1 is to locate the inherently unbuildable parts of the property that are wet, floodprone, or steep (Primary Conservation Areas). Part 2 involves selecting a certain proportion (usually at least half) of the remaining relatively unconstrained land and designating that as a Secondary Conservation Area. The choice as to which elements of the site are to be so considered should be guided by clearly ranked criteria for determining conservation areas, which are discussed later in this chapter. In general, the features that are selected for inclusion in Secondary Conservation Areas are those which are the most sensitive environmentally, the most significant historically or culturally, or the most scenic.

This property's Primary Conservation Areas are fairly straightforward, consisting of well-defined wetlands and floodplains, often bordered by steeply sloping ground (see Figure 5-5). Some of these unbuildable areas also include Secondary Conservation Area elements, such as mature woods in the bottomland hardwood forest and on the

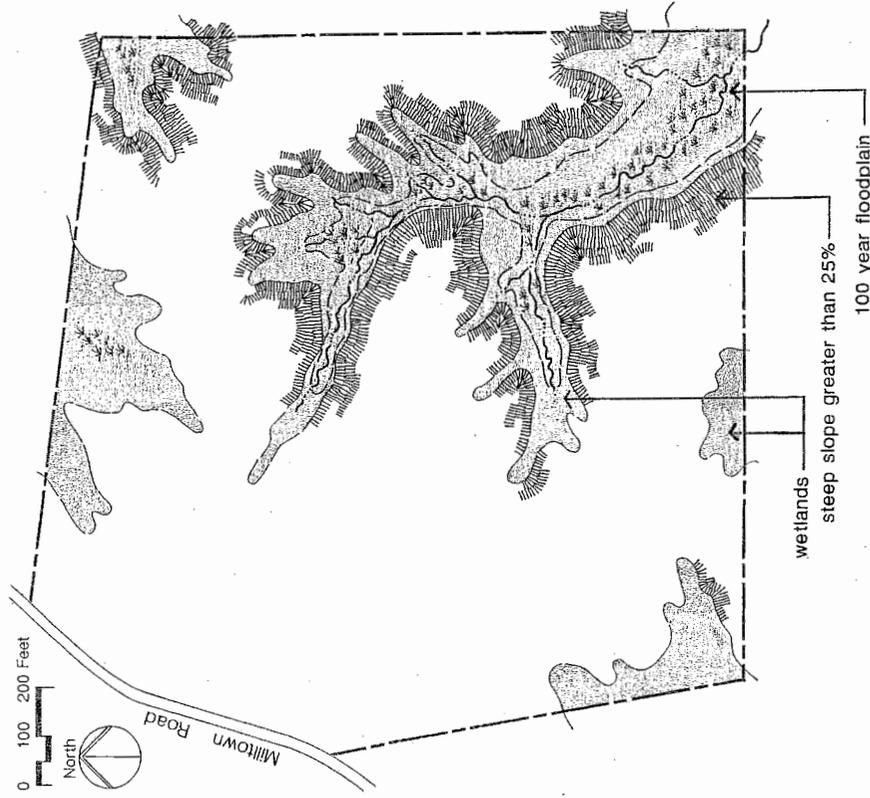


Figure 5-5. PRIMARY CONSERVATION AREAS.

steep slopes that were passed over by timber harvesters because of their limited accessibility.

Secondary Conservation Areas also include the upland woodlands, the "Great Oak," two wildflower meadows, a couple of serpentine rock outcroppings, a family cemetery, the cellar hole of the original farmstead, and a stone wall and hedgerow running across the middle of the property (see Fig. 5-6). The rural character of the site, as seen from the township road, is also defined by the open views into

borhood commons. Expressed in simple terms, designers of conservation subdivisions substitute greenways for fairways and provide community greens in place of putting greens. Whether one is interested in building homes around a facility for a single sport, or arranging them in a parklike setting full of natural features that all can enjoy (including wildlife), the only practical way is to begin by defining the open space first.

When the first sketch is attempted, the site designer should not be reluctant to "greenline" more land than he or she thinks will eventually be designated as open space. This will ensure that no potentially desirable area is prematurely left out, excluding it from consideration in the design process.

This exercise will quickly identify the likely core areas of future development on the property. One should then work outward from those cores, careful to recommend for development only those other areas that appear to be least important to conserve when looking at the site as a whole (including its relationship to resources existing on neighboring parcels).

Step 2: Locating the House Sites

As with golf course developments, the next design step is to identify potential house site locations. Since it is well known that most people prefer (and are often willing to pay extra) to see open space from their windows, it makes economic sense to create as many view lots as possible and to provide usable open space within convenient walking distance from all the other houses.

One obvious way to maximize the number of view lots is to minimize their width and maximize the livability of the homes built on them through creative modifications (such as designing houses with a windowless side wall virtually abutting one side lot line, and another sidewall containing windows facing onto a wider side yard—and toward the "blind" side of the next house).

Another way to increase the number of houses with views is to design several flag-shaped lots with long narrow strips of land con-

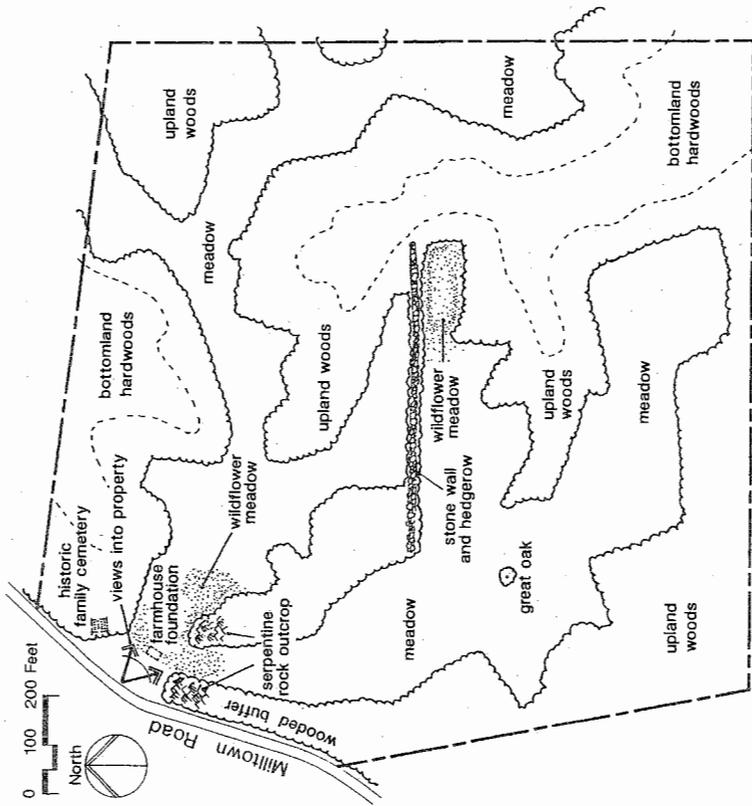


Figure 5-6. SECONDARY CONSERVATION AREAS.

the upper meadow and by the wooded buffer just to the south of that opening. Typically, very few of these elements would be preserved with a conventional layout, as illustrated in the Yield Plan showing the baseline density under the preexisting zoning ordinance (see Fig. 5-3).

Coincidentally, this is the general approach used by designers of highly successful golf course developments, with the basic distinction that here the subdivider preserves natural areas such as fields, meadows, and woodlands and creates informal open spaces such as neigh-

necting them with the street. These lots are especially useful in odd corners of a neighborhood, such as at the end of a cul-de-sac or along a sharp curve in the street. Although they are essentially variations on wedge-shaped lots common in such situations, they often provide more usable yard space than do wedge-lots since their shape in the area where the house is situated tends to be more rectangular.

Although flag lots are most appropriate in relatively low-density subdivisions where the overall density is one acre or more per dwelling, these "flag lots" can also be useful at higher densities and should generally be permitted in all developments, with certain restrictions. To curb potential abuses, they should be limited to no more than 15 or 20 percent of the total number of lots (for instance), and when the "flag" portion is less than 10,000 square feet the planning commission should be authorized to require adequate visual screening between adjoining lots (particularly those that share a front-back boundary).

Although it is rarely possible to design layouts so that every house has a view over major open space, it is often feasible to give most houses a view of at least a minor open space, such as a small neighborhood common or village green, or several acres of trees and grass around a small pond doubling as a stormwater retention facility, attractively landscaped with native species such as red-twig dogwood shrubs.

Once the Primary and Secondary Conservation Areas have been delineated, the remaining lands that stand out as the most logical places to situate the house lots and streets are called Potential Development Areas (see Fig. 5-7).

Step 2 involves locating house sites within these Potential Development Areas in a way that maximizes the number of homes enjoying direct views of the conservation land (see Fig. 5-8).

It is clear that identifying house sites before lot lines and streets allows building locations to be carefully selected so that natural, his-

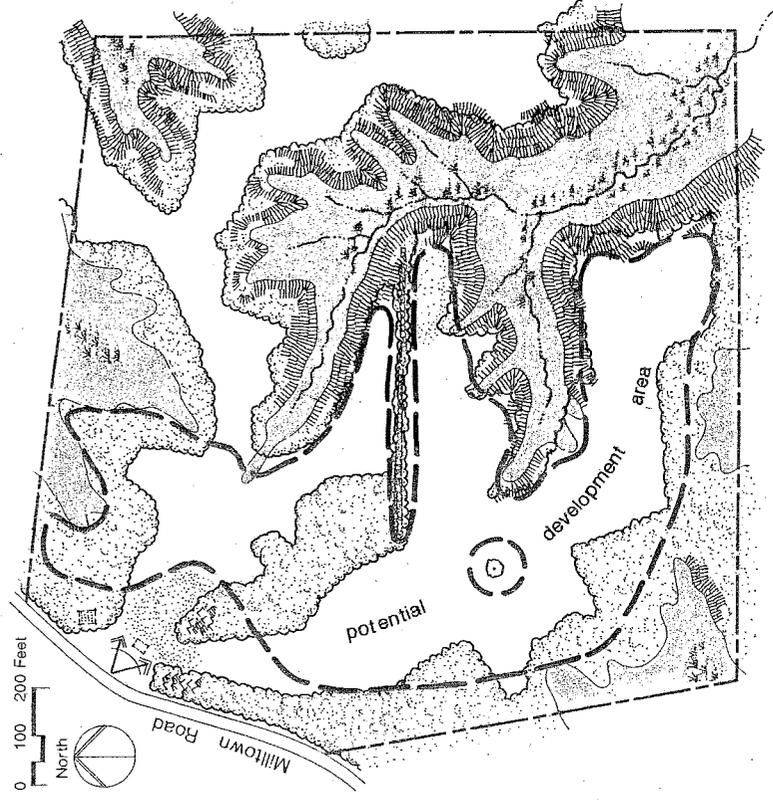


Figure 5-7. POTENTIAL DEVELOPMENT AREAS.

torical, or cultural features worth preserving, including large trees and prominent rock outcrops as well as historic or cultural features such as stone walls, cellar holes, battle trenches, and archaeological remains, can be avoided. Because it is not always possible to draw the Secondary Conservation Areas sufficiently large to include all these features, some of the less significant areas might fall into those parts of the site slated for development. However, the flexibility of this design approach enables the majority of such features—and all of the best ones—to be designed around.

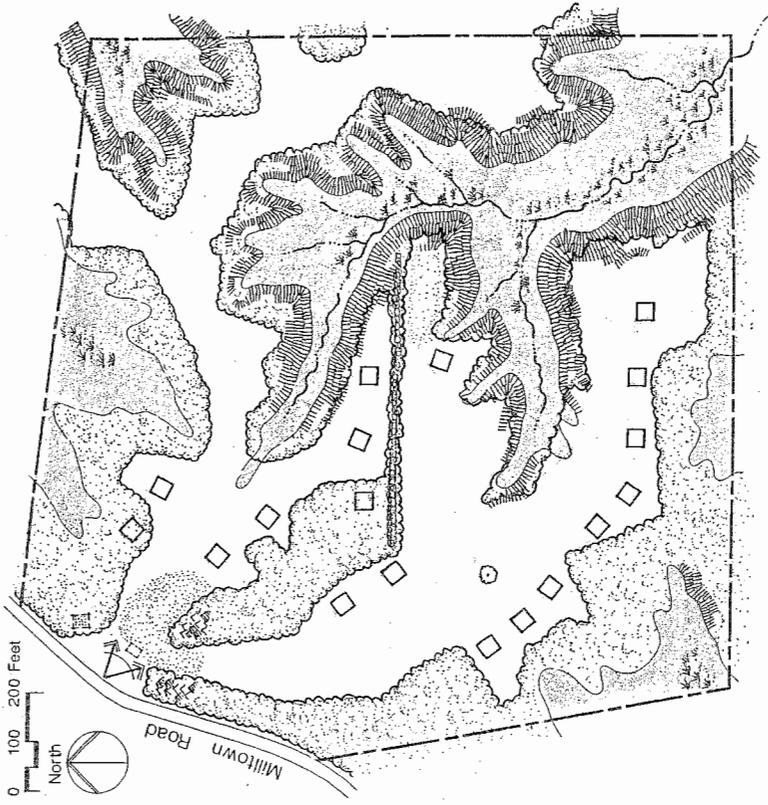


Figure 5-8. LOCATING HOUSE SITES.

Step 3: Aligning Streets and Trails

After the conservation land has been at least tentatively identified and potential house sites have been sketched in, the third logical step is to determine the best way to access every residence with a street system (see Fig. 5-9). This part of the exercise essentially involves "connecting the dots." Readers should note that the *single-loaded* streets (with houses on one side only) in the conservation design are not longer or more expensive than the *double-loaded* streets serving the same

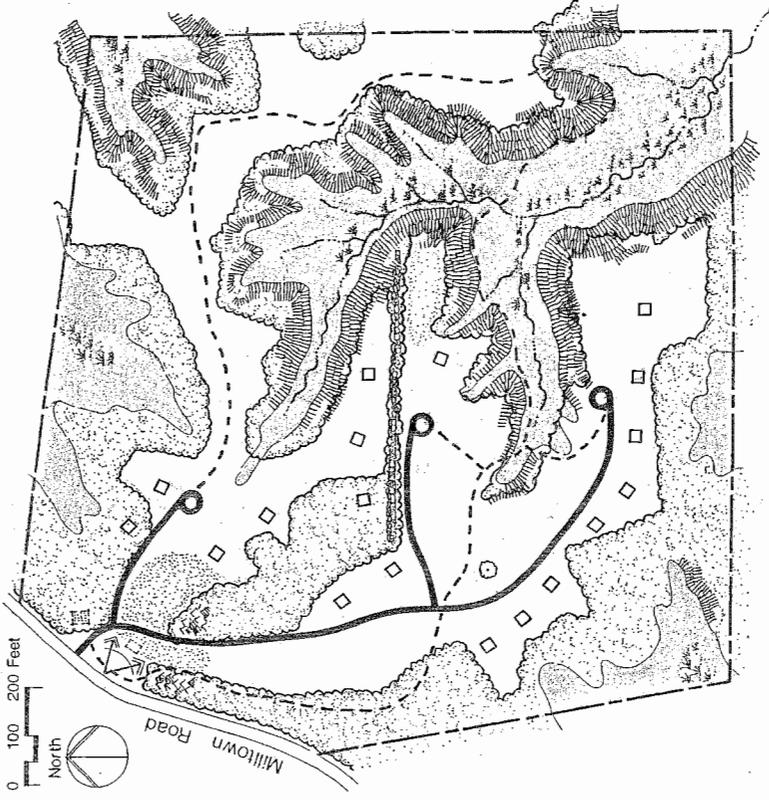


Figure 5-9. ALIGNING STREETS AND TRAILS.

number of lots in the conventional layout on the Yield Plan illustrated in Figure 5-3.

Areas with relatively level or rolling topography pose few street design challenges from an engineering standpoint, with the major considerations being to avoid crossing wetlands and to minimize the length (and cost) of new access streets. There are further considerations from an environmental perspective, such as avoiding large trees, mature tree stands, or wildlife habitats. Sometimes it is possible to split

the travel lanes so that they curve apart forming an elongated, boulevard-style island between them, where a certain large tree or other natural or historic feature may be preserved and given visual prominence. (When the preservation of large trees is involved, it is essential that the entire area under the canopy's outer "drip line" be kept undisturbed from heavy construction equipment, which can easily cause permanent damage to root systems. To achieve this, temporary construction fences should be erected ten feet beyond such drip lines until all construction activity has been finished in the tree's immediate location.) An excellent example of tree and woodland preservation in a new conservation subdivision is "Garnet Oaks" in Bethel Township, Delaware County, Pennsylvania, where the developer's site designer carefully aligned streets to avoid impacting major trees and where all contractors and subcontractors were required to attend a special training seminar on tree conservation practices cosponsored by the Morris Arboretum and Realen Homes.

Step 4: Drawing in the Lot Lines

The fourth and final step is the easiest, once the conservation areas have been delineated, the house sites located, and the road alignments determined (see Fig. 5-10). At this point in the design process, drawing in the lot lines is usually little more than a formality (and one that is unnecessary in condominium developments where all land is jointly owned). Clearly the most significant aspects of a development, from the viewpoint of future residents, are how their houses relate to the open space, to each other, and to the street (see Fig. 5-11). Lot lines are the least important element in the development design process, yet they and the street pattern are typically the first items to be set down on paper.

Maintaining livability on the somewhat smaller lots needed in conservation subdivisions does not pose much of a design problem in zoning districts where the normally required lot is one or two acres. The

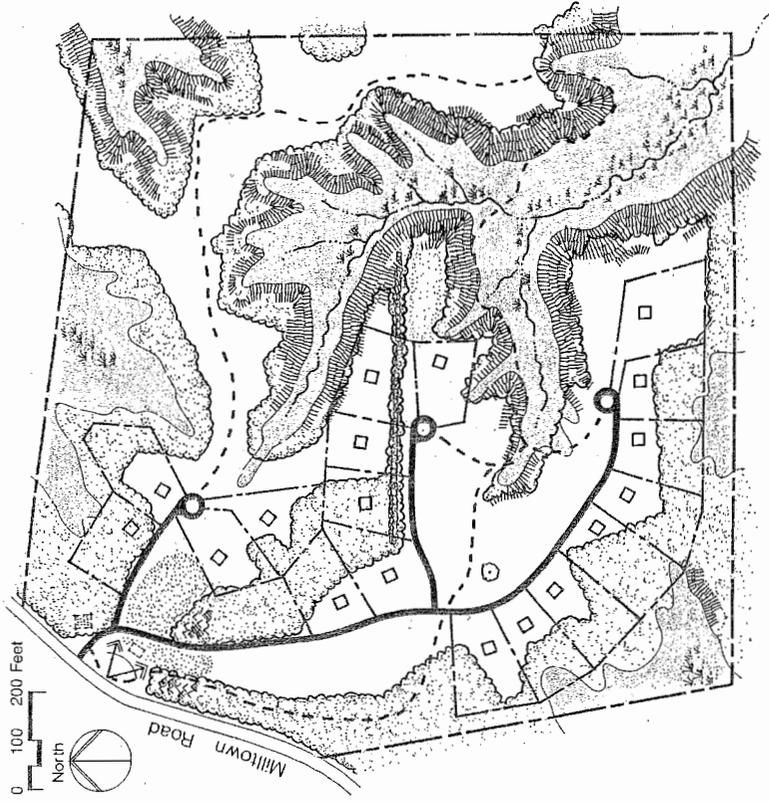


Figure 5-10. DRAWING IN THE LOT LINES.

challenge increases as density rises and lot sizes become more compact. As mentioned above in Step 2, lot lines in high-density, single-family developments can be drawn fairly close to side walls with few or no windows, enabling larger and more usable side yards to be provided on the opposite side of the house. This approach can be taken further by building on one of the side lot lines ("zero-lot line" construction).

The issue of appropriate lot depth is directly related to the presence or absence of open space along rear lot lines. When conserva-

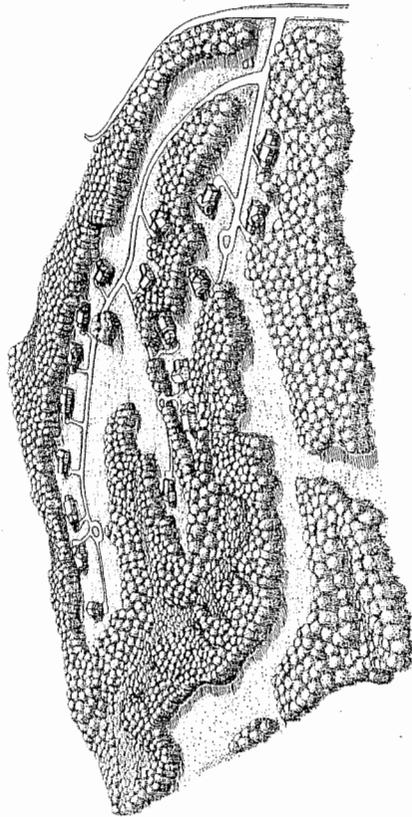


Figure 5-11. Bird's-eye perspective illustrating a conservation subdivision using the four-step design approach.

tion land is located immediately behind them, there is good justification for shortening proposed house lots, as the open space visually extends the perceived depth of back yards.

Therefore, a logical argument can be made to reduce both the width and the depth of lots where houses are located off center (i.e., closer to one side line, thereby maximizing one side yard) and where lots abut conservation areas behind them. In developments with public sewerage or with private central treatment facilities (such as "spray irrigation"), where zoning densities might allow one dwelling per 20,000 square feet of land, 75 percent open space can be achieved by designing house lots of 5,000 square feet. These smaller, village-scale lots are often deemed to be more desirable than conventional half-acre lots by several distinct groups of potential home buyers—such as empty-nesters, young couples, and single parents with a child or two—who want some private outdoor living space but who also wish to minimize their yard maintenance responsibilities. This is especially true when the lots back up to protected open space, which psychologically enlarges the dimensions of the actual lot.

Architects, landscape architects, and site designers have for many years recognized that the most efficient use of a house lot occurs when the house is located "off center and up front." Equal side yards generally produce two functionally useless areas on lots narrower than 80 feet, and front yards are practically useless in any case because they are so much within the public view. Unless homes are located along heavily traveled streets with considerable traffic noise, there is little need for deep front setbacks to provide buffering. Placing homes where front porches or stoops are within conversational distance of sidewalks helps create conditions for friendlier neighborhoods, where passersby can exchange pleasantries with residents sitting on porches on weekend afternoons or summer evenings.

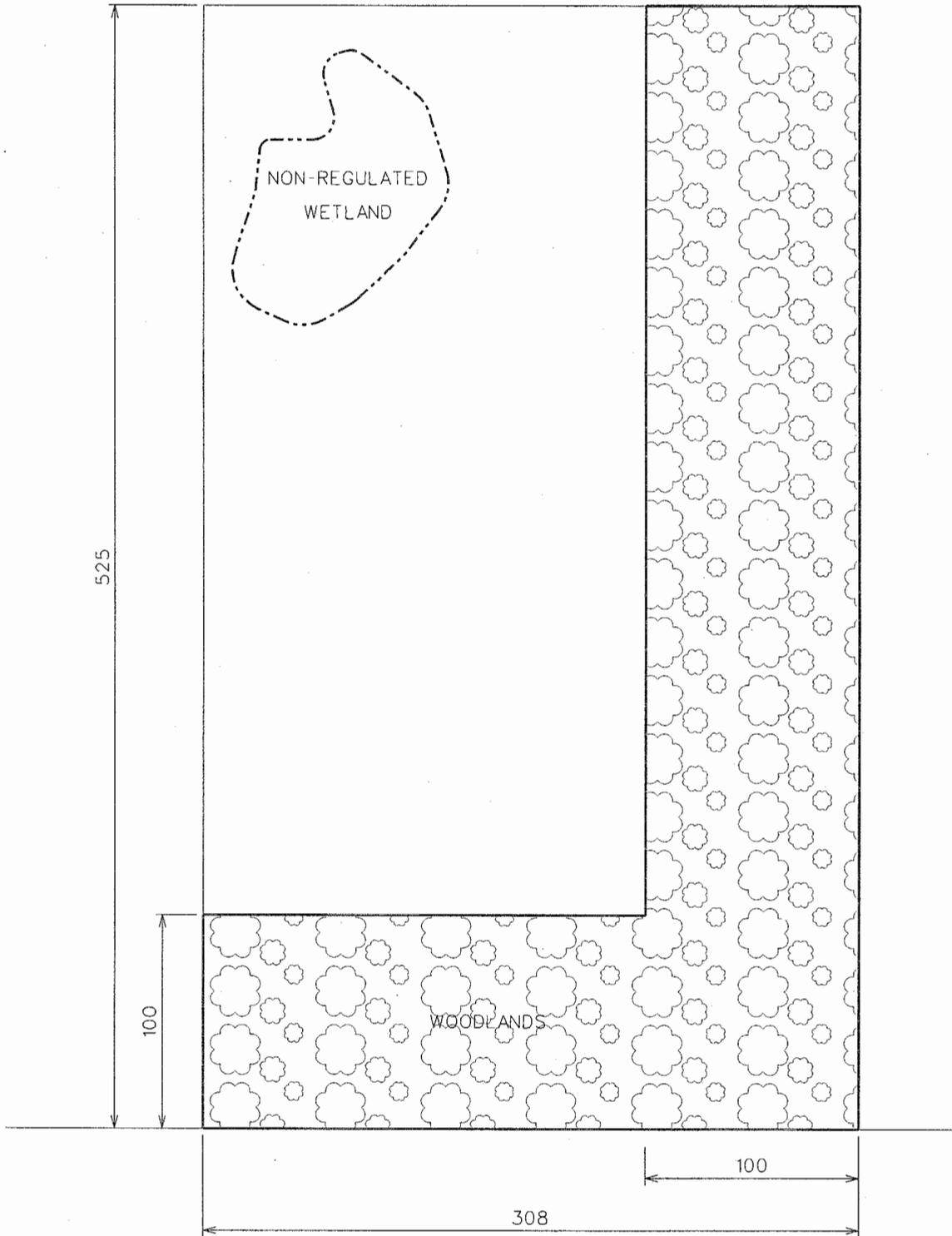
Note on Design Sequence for Village Layouts

The above sequence of steps is generally modified in situations where a more formal, neo-traditional, or village-type layout is desired, as in Option 5 developments. In such cases, Step 2 becomes the location of streets and squares followed by the location of house sites. Whereas the relationship between homes and open space is of the greatest importance in more rural conservation subdivisions, the relationship between buildings, streets, and squares is the dominant design consideration in the neo-traditional approach to site design. Both design approaches place more emphasis on the designation of public open space and on the provision of sidewalks, footpaths, and trails—in an effort to foster a pedestrian-friendly community atmosphere—compared with conventional suburban "cookie-cutter" layouts offering just house lots and streets.

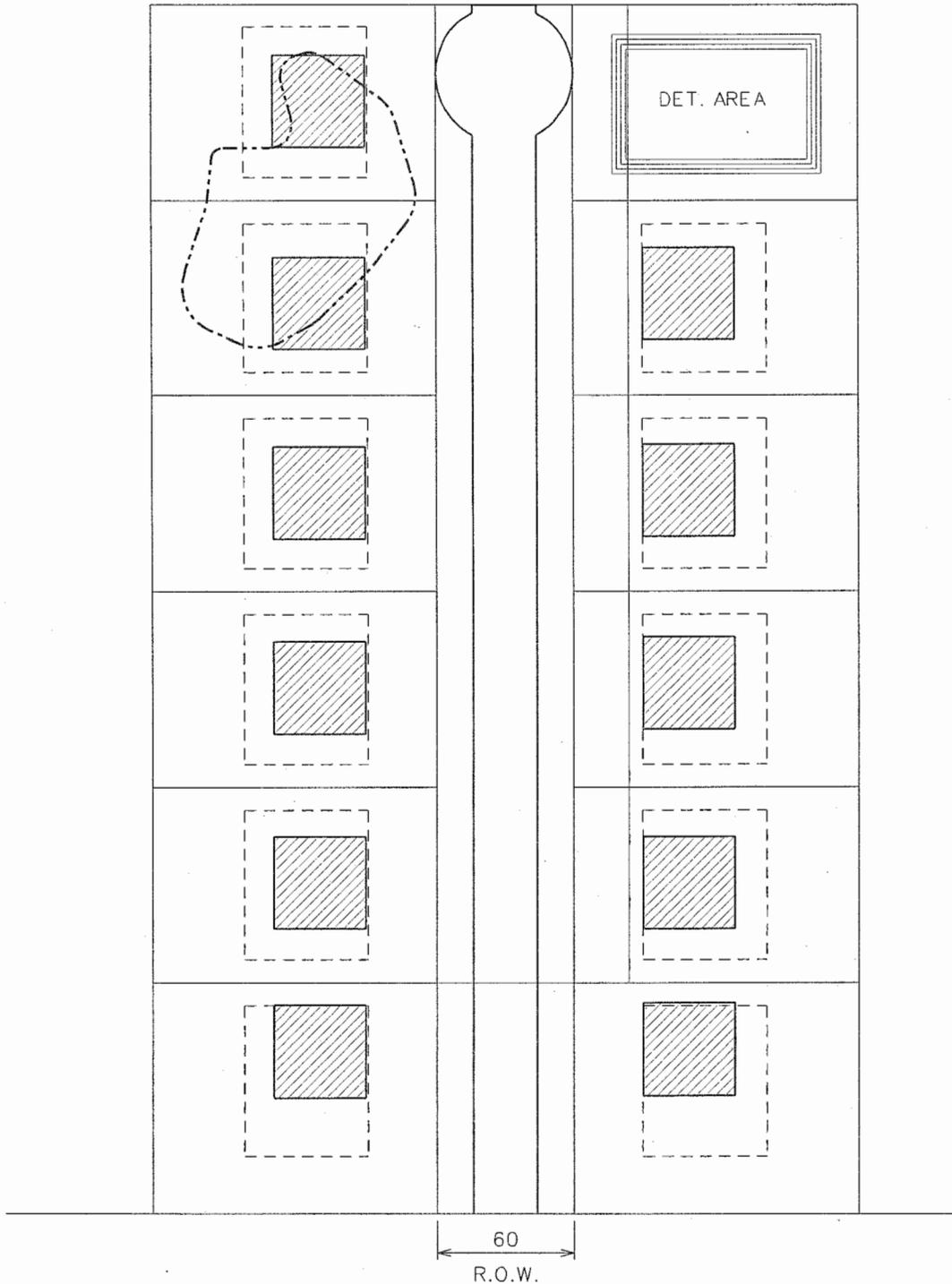
Technical Notes on Street Design

A number of more technical recommendations regarding street design considerations are provided below. Many of these points can be

PROPOSED SITE
3.71 AC
ZONED R-1C
3.1 DU/AC

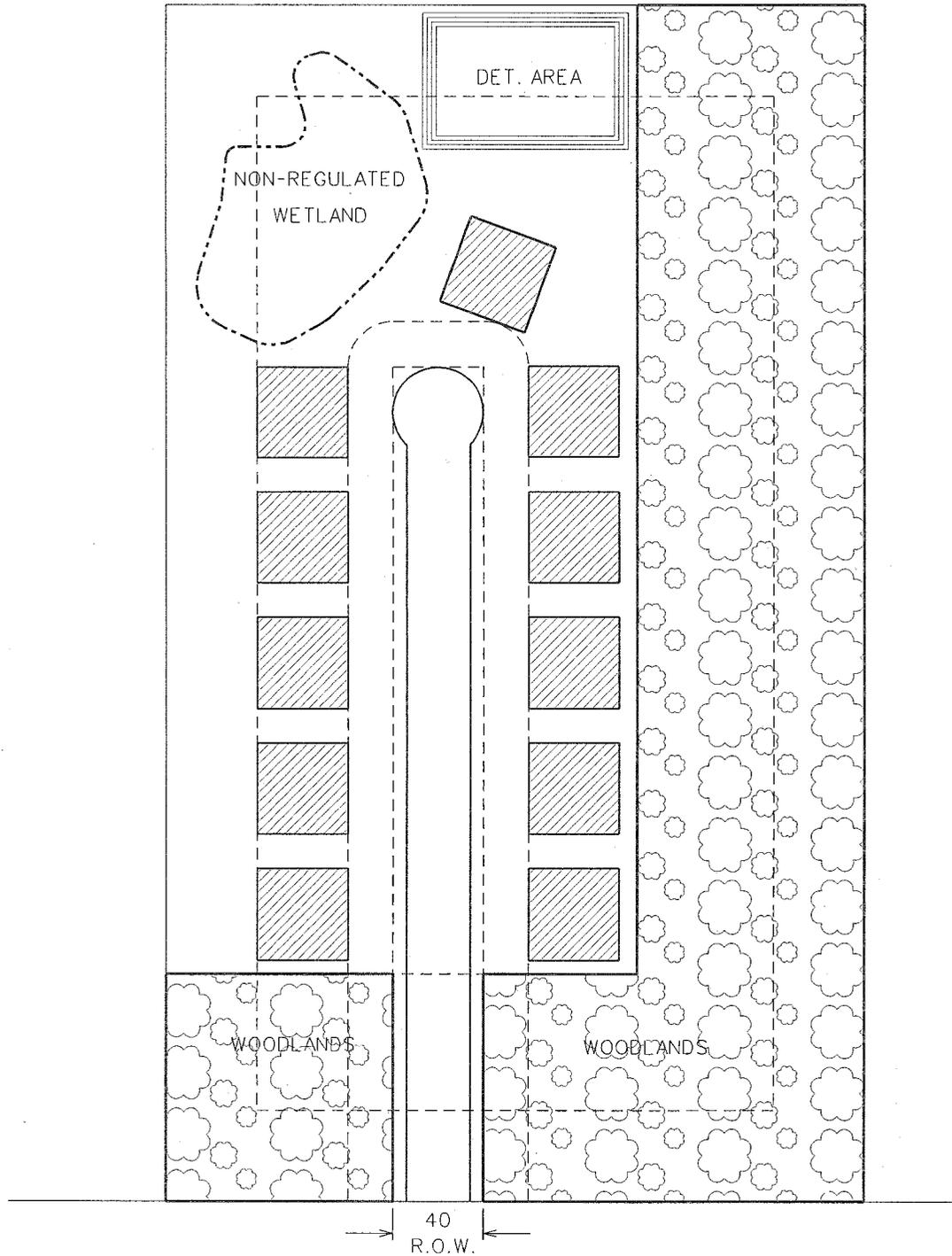


DRAWING #1
PARALLEL PLAN
(TYPICAL R-1C)



11 UNITS
0 TREES PRESERVED
WETLAND FILLED

DRAWING #2 CLUSTER OPTION



11 UNITS
MOST TREES PRESERVED
WETLAND PRESERVED
30% + OPEN SPACE PRESERVED

**PROPOSED ZONING ORDINANCE TEXT AMENDMENT
(ZOTA 200)
09/03/04**

Text Amendment for One Family Cluster Option

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

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 of 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 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

DATE: September 20, 2004

TO: John Szerlag, City Manager

FROM: Douglas J. Smith, Real Estate and Development Director
Mark F. Miller, Planning Director

SUBJECT: PUBLIC HEARING - 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 District. This zoning district is generally difficult to apply since it involves rezoning of the property. In addition, the rezoning approval standards can be difficult to meet. The proposed 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 identical as those permitted in the R-1A through R-1E districts, as determined by the required 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, dated 09/03/04.
2. Minutes from July 13, 2004 Planning Commission Public Hearing.
3. Minutes from June 22, 2004 Planning Commission Special/Study Meeting.

C-3 Zoning Ordinance Text Amendment (ZOTA 182) for Section 12.50, R-1T – One Family Attached Residential Districts

Resolution #2004-09-505

Moved by Lambert

Seconded by Broomfield

RESOLVED, That Article XII (R-1T One Family Attached Residential District) and Article XXX (Schedule of Regulations), of the City of Troy Zoning Ordinance, be **AMENDED** to read as written in the PROPOSED ZONING ORDINANCE TEXT AMENDMENT (ZOTA 182), dated July 1, 2004, as recommended by the Planning Commission and City Management and further **AMENDED** by **INSERTING**, "and users of all devices legally permitted on sidewalks and safety paths" after "non-motorized users" in Section 12.50.05.

Yes: All-6

No: None

Absent: Schilling

C-4 Zoning Ordinance Text Amendment (ZOTA 200) for Article 34.70.00 – One Family Cluster Option

Resolution #2004-09-506

Moved by Stine

Seconded by Lambert

RESOLVED, That Article XII (R-1T One Family Attached Residential District) and Article XXXIV (Residential Development Options), Article IV (Definitions) and Article X (One Family Residential Districts) of the City of Troy Zoning Ordinance, be **POSTPONED** until the Regular City Council meeting scheduled for Monday, November 29, 2004 and **REFERRED** to City Management for further revision.

Yes: All-6

No: None

Absent: Schilling

C-5 Proposed Zoning Ordinance Text Amendment (ZOTA 199) for Section 03.40 – Site Plan Review / Approval

Resolution #2004-09-507

Moved by Lambert

Seconded by Howrylak

RESOLVED, That Article III (Site Plan Review/Approval), of the City of Troy Zoning Ordinance, be **AMENDED** to read as written in the PROPOSED ZONING ORDINANCE TEXT AMENDMENT (ZOTA 199), dated August 4, 2004, as recommended by the Planning Commission and City Management.

Yes: Beltramini, Broomfield, Howrylak, Lambert

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.]

Mark F Miller

From: Mary F Redden
Sent: Thursday, October 07, 2004 8:37 AM
To: Mark F Miller; Douglas J Smith
Subject: FW: Cluster Zoning, Etc.

As info...

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

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

From: Dave Lambert [mailto:dave@lambert.net]
Sent: Tuesday, October 05, 2004 11:35 PM
To: dick@minnick2.com; wallerdt@aol.com
Cc: Robert M. Schultz; John Szerlag
Subject: Re: Cluster Zoning, Etc.

Dick:

Thanks for the information. You've raised several good points and made some good suggestions. Like yourself, I've served as a homeowner association president and I know that finding volunteers and collecting dues are significant challenges for almost all associations.

I would raise one question and one disagreement.

1. Are the problems you identify unique to the Cluster Zoning proposal?
2. If someone has held up the Custer Zoning alternative as a good way to "bring together" residents, that argument does not carry much weight with me. I view the Cluster Zoning as a tool for preserving our City's "green" spaces.

Dave Lambert
Web address: www.dave.lambert.net

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

From: "Dick Minnick" <minnick9100@comcast.net>
To: <wallerdt@aol.com>
Cc: "Robert M. Schultz" <rmschultztroy@aol.com>; "John Szerlag" <szerlagaj@ci.troy.mi.us>; "Cristina Broomfield" <talk2cristina@aol.com>; "David A. Lambert" <dave@lambert.net>; "David Eisenbacher" <david@eisenbacher.org>; "Jeanne M. Stine" <stinejm@wwnet.net>; "Louise Schilling" <000schilling@ameritech.net>; "Martin Howrylak" <Mfhowryl@umich.edu>; "Robin E. Beltramini" <rbeltram@wideopenwest.com>
Sent: Tuesday, October 05, 2004 2:22 PM
Subject: Cluster Zoning, Etc.

> David,
>
> Thank you for your interest in finding a better solution for
> the cluster zoning alternatives. As you asked, pasted below
> is the paper that I wrote last year for the Troy City
> Council (per Beltramini & Broomfield request) after speaking
> a couple of times on the subject.
>
> In summary, I see two major areas of concern with the

> present and proposed zoning text:

>
> (1) There needs to be a scope review up-front on new
> developments so that the cost of on-going maintenance will
> be a reasonable amount compared with the value of the homes.
> For smaller developments, the viability of maintaining an
> active homeowners association should also be considered.

>
> (2) There needs to be greater accountability by the
> developer for the common property during construction and
> turnover to the association. As it presently stands, the
> homeowners association has absolutely no legal recourse
> against the developer from day one of the turnover.

>
> A few updates to the March 2003 paper:

> * Our assessments for 2004 were \$700.

> * The recent mortgage refinancing "boom" has allowed us to
> collect on many of the property liens that we have
> outstanding for non-payment of assessments.

> * We made peace with St. Mark's church and they have
> installed a landscaped berm between our properties that is
> acceptable to both our residents and the city.

> * We had to rebuild 12 of the lighting fixtures at the
> entrance. We removed about 10 other "commercial" fixtures
> because we couldn't afford to repair or replace them. We
> hope to be able to reuse some of the parts to repair the
> remaining fixtures that no longer work.

> * We "lost" several more trees at the entrance (in storms,
> but the trees were already distressed and split). We're
> having most replaced with smaller specimens this fall.

> * Vandals have begun stealing the brass letters on our
> entrance sign again. They cost \$400 each to replace and are
> less than our insurance deductible.

>
> NEWER THOUGHTS:

> (1) Consider that about 75% of the purchasers of new
> single-family housing in Troy are immigrants, mostly Asian
> Indian and middle eastern. Many don't fully understand the
> nature of mandatory association assessments, deed
> restrictions, and the like. Our experience is that they are
> very unlikely to volunteer to serve as association officers
> or to assist in various work projects.

> (2) Although the proponents of "open space" or cluster
> zoning state that one of the benefits is the "bringing
> together" of the residents, we have found the opposite to be
> true. Our park, and the cost of maintaining it, has become a
> very divisive factor in our subdivision. Maintaining the
> park consumes about 80% of our budget, but directly benefits
> only 40% of the homes that abut the commons area. The other
> 60% of residents didn't pay a lot premium and are less
> interested in funding assessment increases. When we are
> faced with the necessity of repaving the park's asphalt
> walkway in a few years, we will need a special assessment to
> cover the expense, which may be very difficult to get
> approved by the residents.

> (3) As the fill-in subdivisions get smaller and smaller, the

> cost per home to maintain commons areas increases
> substantially. An equal concern is that the "pool" of
> homeowners to serve on the association becomes smaller. If
> the association fails to organize or ceases to operate at a
> future date, the city becomes responsible for performing
> minimal maintenance of the association's property and can
> bill the residents directly. John Szerlag said that this
> would not be a good idea.
>
> (4) Professional Management: I've thought about hiring
> professional managers to oversee the maintenance of the
> commons areas, much like many condo associations do. I don't
> know their typical fee structure, but I think the cost would
> be prohibitive. In our case, I'm sure that it would require
> at least 100 hours per year for site inspections,
> contracting the work, resident communication, invoicing and
> collecting assessments, etc. This could easily amount to an
> annual charge of \$10,000 which would be a substantial
> portion of our current operating budget of about \$30,000.
> Besides, there would still have to be a functioning
> association to oversee the management contract and to be
> ultimately responsible for collecting the assessments.
>
> (5) Land Ownership: I now believe that the root problem is
> the ownership of the land by the homeowners association. If
> they didn't own any land, they would only be concerned about
> social activities, enforcing deed restrictions, and minor
> projects. There would be few financial obligations and if
> they ceased to function, no damage would be done.
>
> If the association did not own the commons land, who would?
> The city doesn't want to be in the business of maintaining
> private parks. If the city owned the land, then I believe it
> would become a public park which would probably not be
> acceptable to the residents.
>
> It might be possible to "give" the land to an independent
> organization who would have the right to levy assessments
> and be responsible for its maintenance (and be entitled to
> some profit), but I've never heard of such an arrangement.
> And I doubt that prospective purchasers would feel
> comfortable without having some control.
>
> I now believe that the best approach would be to divide up
> the commons area among those lots that abut the space. Some
> sort of easement could be placed on the commons portion
> along with deed restrictions that require each owner to
> maintain the area to certain standards. I think the
> landscape planning could make allowances to ease the
> homeowner's responsibilities such as making sure there is
> lawn mower access to the park portion and including
> landscaping and irrigation systems for all the affected
> homes. But this is not a perfect solution. Some residents
> may not maintain their common portion to the same standard
> expected by others and there are sure to be complaints that
> residents using the common portion have damaged the
> landscaping that must be maintained by the owner of that
> portion.
>
> If there is to be common land that does not abut any
> residential lots, then that land could be given to the city
> and maintained to right-of-way or remnant parcel standards.
> Clearly, the planning process should seek to minimize the
> amount of such land and, perhaps, restrict it to parcels
> that will be left in their natural state and require very
> little maintenance.
>

> (6) If the land ownership issues cannot be managed, then
> perhaps cluster zoning should NOT be allowed in
> single-family residential developments but restricted to
> "regular" condominiums. For a condominium, even one that
> consists of single-family detached units, land designated
> for common use is not an issue because there is a single
> owner for all the land and the assessments include
> maintenance for the entire development.

>
>
> I would be willing to participate in any meeting or study
> session if it would be helpful.

>
>
> ----- March 2003 Paper
> -----

>
>
> Comments and Recommendations Concerning Proposed Troy Zoning
> Ordinance Text Amendment for Open Space Preservation

>
>
> Nearly everyone seems to favor the preservation of
> "open spaces" in their community. Residents prefer less
> dense housing developments. Developers make higher profits
> on housing with premium locations. And cities benefit from
> increased tax revenues.

>
> I suspect, however, that the assumption of the
> Michigan legislators was that the "open space" land would be
> attractive in its natural state and could be set aside
> without requiring "improvements" and on-going maintenance.
> In Troy, developers typically create a well-landscaped
> "linear park" as a commons area in exchange for being
> permitted to build more or larger units that command a
> higher sales price. The ownership of such "commons" land
> becomes a key issue, particularly if the development
> consists of single-family, individually-owned homes.

>
> Background

>
> As a long-time Troy resident, in 1999 I purchased
> the last remaining site in Westwood Park, a 23-acre, 51-home
> subdivision in the R1B zoning district. It was developed
> under the "cluster" zoning option, which permitted the
> builder to construct five or six additional homes by using
> slightly narrower lots. The homes are also larger because of
> the reduced setback requirements. To qualify for the special
> zoning, the developer included a two acre park in the center
> of the subdivision and an elaborate entrance, which became
> prominent sales features.

>
> The developer turned over the commons areas to the
> subdivision's newly-formed association in August 1999. I was
> one of the three residents who agreed to serve as a
> volunteer. Suddenly, we became corporate officers and the
> owners of the two-acre park, a cul-de-sac, and a walkway
> that connects to Huber Park. We also became responsible for
> maintaining the very generous landscaping easements along
> Livernois and the subdivision entrance. We've got a
> commercial irrigation system that covers the entire park and
> entrance areas (two water meters serving about three acres
> total area), about 30 commercial lighting fixtures along the
> entrance, more than 2000 linear feet of brick walls, 1000
> feet of 6-foot wide asphalt sidewalk through the park, and
> hundreds of trees and shrubs.

> We didn't get much money, however, because the developer had
> apparently spent all of the one-time \$500 assessments (which
> were supposed to go to a reserve fund for future unplanned
> expenses) as well as most of the current year collections
> and he had failed to collect second-year assessments from
> many residents. We weren't satisfied with the accounting,
> but had no legal recourse.

>
> We've had more than our share of problems with what
> we got from the developer. He provided no electrical or
> plumbing diagrams, nor a list of contractors who performed
> the original work. Troubleshooting the continuing electrical
> shorts and irrigation leaks has been very difficult and
> expensive. The sprinkler system was poorly laid out, missing
> many spots and over-watering others, and the heads in the
> cul-de-sac do not work (we have now determined that they
> were connected to the model home-rather than the park
> irrigation system-and the pipe was broken when the driveway
> was installed). Most of the trees that were planted are very
> distressed and we expect that many more will die. There are
> grading issues in the park area that cause problems for some
> residents and are damaging the asphalt walk. The brick wall
> on the south required extensive mortar repairs last year.

>
> Overall, it's a very attractive subdivision and I
> believe that our residents are very proud of it. But our
> homeowner's association is struggling. It's been very
> difficult to recruit board members. Most of the residents
> are indifferent about attending annual meetings (we couldn't
> elect officers last year because we didn't have a 50% quorum
> even with absentee proxies) and volunteering for work
> projects such as fertilizing trees and tuck-pointing brick
> mortar. A few residents refuse to pay their assessments.
> We've placed liens on their property, but we won't get the
> funds until the homes are eventually resold.

>
> Our association assessments were set by the builder at \$500
> annually. This was insufficient to cover our required
> operating costs, despite the board's heroic efforts to
> minimize the use of water and electricity, to solicit
> competitive bids for landscaping, and to perform repair work
> ourselves. Replacing dead trees at the entrance has been
> deferred along with the repaving of sections of the asphalt
> walkway. We spend almost nothing on social activities and
> our newsletter is donated. We've increased our assessments
> by the maximum permitted amount (\$605 in 2002, \$665 in
> 2003). I understand that our assessments are the highest in
> Troy by a 3:1 margin due to our small size. We get many
> complaints about both the quality of the services we are
> providing as well as the high assessment levels.

>
> We've also had a serious issue with St. Mark's
> church construction to the north of our subdivision.
> According to the original residents, the builder had
> promised to provide trees to landscape the new berm, but
> there's no documentation and the builder has denied making
> any agreements. The church elders have been unresponsive to
> our inquiries. The Troy Zoning Board has apparently granted
> the church several variances that impact our residents
> without contacting us.

>
> Concerns

>
> I'm naturally concerned about what may happen to our
> subdivision if we are unable pay for required maintenance of
> the commons areas or, worse yet, if the homeowners
> association becomes inactive from a lack of volunteers.

- > Subdivisions typically have a difficult time maintaining
- > active associations beyond the first ten years, but often
- > get a second wind later on when new residents move in.
- >
- > Collectively we purchased the commons areas from the
- > developer, yet none of us ever signed a contract describing
- > the "goods" and setting a price. During development and
- > selling the original sites, the builder can promise almost
- > anything but has no obligation to deliver. As an
- > association, we received no warranty and had no legal
- > recourse for uncompleted features or shoddy materials or
- > workmanship.
- >
- > I am also very concerned about Troy's efforts to
- > encourage more "cluster" developments, particularly on very
- > small (as little as four acres?) sites of single-family
- > homes. I don't know how one can expect a homeowners
- > association with, say, 10 members, to support the effort and
- > finances associated with the ownership of an "open space"
- > area.
- >
- > Recommendations
- >
- > 1) Require submission of complete description and a
- > financial operating plan for the commons areas before
- > approving a new development
- >
- > a) Require a binding agreement for the developer to
- > provide specific improvements (e.g., irrigation,
- > landscaping, lighting) with construction drawings and
- > material lists, etc.
- >
- > b) Require line item detail for each type of expense,
- > including full maintenance and repair of commons areas, plus
- > allowances for other typical association expenses such as
- > insurance, social activities, newsletters, and a reserve
- > fund for large, non-recurring expenses
- >
- > c) Ensure builder doesn't "low ball" assessment levels
- > or over-promise association services and responsibilities
- >
- > d) Require developer to provide copies to prospective
- > purchasers and to make it part of individual purchase
- > agreements
- >
- > e) Deny project approval if the scope of the "commons
- > area" is not reasonable and consistent with the size of the
- > development and expected owner participation levels
- >
- > 2) Require greater accountability of developer during
- > construction period and turnover to association
- >
- > a) Prevent builder from using initial assessments to
- > complete the original development or to correct defects
- >
- > b) Require builder to obtain competitive bids on all
- > contracted services
- >
- > c) Prohibit signing multi-year services contracts that
- > would be binding on association after turnover to residents
- >
- > d) Require builder to provide complete working drawings
- > for all construction, electrical, plumbing, and site work
- > and a detailed list of all contractors who performed the
- > original work
- >
- > e) Require builder to provide a full accounting of all

- > association funds that has been verified by an independent
- > auditor
- >
- > f) Require builder to provide a one-year warranty on
- > all improvements from the date of turnover to the homeowners
- > association members
- >
- > 3) Provide on-going assistance to homeowners
- > associations
- >
- > a) Discard existing hands-off attitude toward "private
- > agreements". City costs will increase if associations fail
- > and "open space" is not maintained. Very few associations
- > have the resources to enforce any land-use restrictions.
- >
- > b) Include mandatory assessments on city tax bills
- >
- > c) Negotiate group insurance rates for homeowners
- > associations
- >
- > d) Leverage city's purchasing power for landscaping,
- > snow removal, and other services such as legal assistance
- >
- > e) Subsidize COTHA so that membership is free to all
- > associations. Work through COTHA to provide training for
- > volunteer board members in various aspects of association
- > management and administration

> ----- end of paper

> | Dick Minnick, Troy Michigan USA
> | dick@minnick2.com

A Regular Meeting of the Troy City Council was held Monday, November 15, 2004, at City Hall, 500 W. Big Beaver Road. Mayor Schilling called the Meeting to order at 7:31 PM.

Pastor Marvin Walker, Faith Apostolic Church, gave the Invocation and the Pledge of Allegiance to the Flag was given.

ROLL CALL

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

Resolution to Excuse Council Member Howrylak

Resolution #2004-11-585
Moved by Beltramini
Seconded by Stine

RESOLVED, That Council Member Howrylak's absence at the Regular City Council meeting and Closed Session of November 15, 2004 be **EXCUSED** due to being out of the City.

Yes: All-6
No: None
Absent: Howrylak

CERTIFICATES OF RECOGNITION:

A-1 Presentations: Mayor Schilling presented Pam Brady with a proclamation on behalf of America Recycles Day – November 15, 2004. Mayor Schilling presented members of the religious community with a proclamation on behalf of Christian Heritage Week – November 21 – 27, 2004.

CARRYOVER ITEMS: No Carryover Items Submitted

PUBLIC HEARINGS: No Public Hearings Requested

POSTPONED ITEMS:

D-1 Standard Resolution #4 for Big Oak Trail Paving, SAD No. 04.201.1

Resolution #2004-11-586
Moved by Lambert
Seconded by Beltramini

WHEREAS, The City Council has caused Special Assessment Roll No. 04.201.1 to be prepared for the purpose of defraying the Special Assessment District's portion of the following described public improvement in the City of Troy: Bituminous Paving of Big Oak Trail.

WHEREAS, The City Council and the City Assessor have met after due legal notice and have reviewed said Special Assessment Roll and have heard all persons interested in said Special Assessment Roll appearing at said hearing.

WHEREAS, The City Council is satisfied with said Special Assessment Roll as prepared by the City Assessor.

THEREFORE, BE IT RESOLVED, That Special Assessment Roll No. 04.201.1 in the amount of \$25,850.00 is hereby **CONFIRMED** as prepared by the City Assessor; a copy of which shall be **ATTACHED** to the Minutes of this meeting.

Yes: All-6
No: None
Absent: Howrylak

D-2 Zoning Ordinance Text Amendment For Article 03.40, Site Plan Review / Approval (ZOTA 199)

Reconsidered Resolution as Amended

Resolution #

Moved by Lambert

Seconded by Howrylak

RESOLVED, That Article III (Site Plan Review/Approval), of the City of Troy Zoning Ordinance, be **AMENDED** to read as written in the PROPOSED ZONING ORDINANCE TEXT AMENDMENT (ZOTA 199), dated August 4, 2004, as recommended by the Planning Commission and City Management, and as further **AMENDED** by Troy City Council as follows:

“One year” be **STRICKEN** and “two years” be **INSERTED** in the second, third, and fourth sentences of Section 03.41.04; and

“One-year” be **STRICKEN** and “two years” be **INSERTED** in Section 03.41.04; and

“One-hundred (100)” be **STRICKEN** and “fifty (50)” be **INSERTED** in Section 03.43.01 (8) (o).

Yes:
No:

Substitute Amendment Resolution

Resolution #2004-11-587

Moved by Broomfield

Seconded by Stine

RESOLVED, That the postponed resolution regarding Zoning Ordinance Text Amendment for Article 03.40, Site Plan Review / Approval (ZOTA 199), be **AMENDED** by substituting "RESOLVED, That City Council **AUTHORIZES** the City Manager to work with the Planning Commission to develop Site Plan Review requirements based upon City Council and the Builders Task Force comments" for the postponed resolution in its entirety.

Yes: All-6
No: None
Absent: Howrylak

Vote on Amended Main Motion

Resolution #2004-11-588

Moved by Lambert

Seconded by Howrylak

RESOLVED, That the postponed resolution regarding Zoning Ordinance Text Amendment for Article 03.40, Site Plan Review / Approval (ZOTA 199), be **AMENDED** by substituting "RESOLVED, That City Council **AUTHORIZES** the City Manager to work with the Planning Commission to develop Site Plan Review requirements based upon City Council and the Builders Task Force comments" for the postponed resolution in its entirety.

Yes: All-6
No: None
Absent: Howrylak

Planning Commission Direction Regarding Amending Zoning Ordinance 03.40 Site Plan Review

Resolution #

Moved by Eisenbacher

Seconded by Broomfield

RESOLVED, That City of Troy **ESTABLISH** a procedure to communicate by email to interested parties and by letter to the President of the Builders Task Force when there are proposed changes to the ordinance that involve things that will effect the building procedure.

Yes: All-6
No: None
Absent: Howrylak

Amendment

Resolution #2004-11-589

Moved by Beltramini

Seconded by Eisenbacher

RESOLVED, That the resolution regarding Zoning Ordinance Text Amendment for Article 03.40, Site Plan Review Planning Commission Review, be **AMENDED** by striking "by email to interested parties and by letter to the President of the Builders Task Force " and inserting "by letter to the Builders Task Force and other parties by electronic mail when requested. "

Yes: All-6
No: None
Absent: Howrylak

Vote on Amended Main Motion

Resolution #2004-11-590
Moved by Eisenbacher
Seconded by Broomfield

RESOLVED, That City of Troy **ESTABLISH** a procedure to communicate by letter to the Builders Task Force and other parties by electronic mail when requested when there are proposed changes to the ordinance that involve things that will effect the building procedure.

Yes: All-6
No: None
Absent: Howrylak

CONSENT AGENDA:

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

Resolution #2004-11-591
Moved by Stine
Seconded by Broomfield

RESOLVED, That all items as presented on the Consent Agenda are hereby **APPROVED** as presented with the exception of Item E-2, which shall be considered after Consent Agenda (E) items, as printed.

Yes: All-6
No: None
Absent: Howrylak

E-3 Proposed City of Troy Proclamations:

Resolution #2004-11-591-E-3

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

- a) America Recycles Day 2004
- b) Christian Heritage Week

E-4 Standard Purchasing Resolution 2: Bid Award – Lowest Acceptable Bidder – Ice Melt Compound

Resolution #2004-11-591-E-4

RESOLVED, That a contract to provide one (1) year requirements of Ice Melt Compound with an option to renew for one (1) additional year for the City of Troy and participating MITN (Michigan Intergovernmental Trade Network) Purchasing Cooperative Members is hereby **AWARDED** to the lowest bidder meeting specifications, Washington Elevator Co., Inc. at the unit price contained in the bid tabulation opened October 20, 2004, a copy of which shall be **ATTACHED** to the original Minutes of this meeting, with a contract expiration of October 31, 2005.

E-5 Request for Approval of Relocation Claim, Louis and Diana Thomas, 2863 Thames, Sidwell #88-20-25-226-007, Project No. 01.105.5 – Big Beaver Road Improvements, Rochester to Dequindre

Resolution #2004-11-591-E-5

RESOLVED, That as required by Michigan Laws and Federal Regulations, the City Council of the City of Troy hereby **APPROVES** the Relocation Claim from Louis and Diana Thomas pertaining to the City of Troy's acquisition of their property at 2863 Thames, having Sidwell #88-20-25-226-007, and **AUTHORIZES** payment in the amount of \$6,129.19.

E-6 Request for Approval of Relocation Claim, Virginia H. Newman, 2815 Thames, Sidwell #88-20-25-226-003, Project No. 01.105.5 – Big Beaver Road Improvements, Rochester to Dequindre

Resolution #2004-11-591-E-6

RESOLVED, That as required by Michigan Laws and Federal Regulations, the City Council of the City of Troy hereby **APPROVES** the Relocation Claim, for moving expenses, from Virginia H. Newman pertaining to the City of Troy's acquisition of her property at 2815 Thames, having Sidwell #88-20-25-226-003, and **AUTHORIZES** payment in the amount of \$3,241.50.

E-7 Request for Approval of Relocation Claim, John Cionca, Sr., 2931 Thames, Sidwell #88-20-25-229-003, Project No. 01.105.5 – Big Beaver Road Improvements, Rochester to Dequindre

Resolution #2004-11-591-E-7

RESOLVED, That as required by Michigan Laws and Federal Regulations, the City Council of the City of Troy hereby **APPROVES** the Relocation Claim from John Cionca, Sr., pertaining to the City of Troy's acquisition of their property at 2931 Thames, having Sidwell #88-20-25-229-003, and **AUTHORIZES** payment in the amount of \$4,720.60.

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

E-2 Minutes: Regular Meeting of November 8, 2004

Resolution #2004-11-592

Moved by Stine

Seconded by Broomfield

RESOLVED, That the Minutes of the 7:30 PM Regular Meeting of November 8, 2004 be **APPROVED** as submitted.

Yes: All-6

No: None

Absent: Howrylak

PUBLIC COMMENT: Limited to Items Not on the Agenda**REGULAR BUSINESS:**

F-1 Appointments to Boards and Committees:

City Council Appointments: Advisory Committee for Persons with Disabilities

City Council Appointments

Resolution #2004-11-593

Moved by Beltramini

Seconded by Lambert

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

Advisory Committee for Persons with Disabilities**Appointed by Council (9) – 3 years****Cynthia Buchanan****Term expires 11/01/2007**

Yes: All-6

No: None

Absent: Howrylak

MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

G-1 Announcement of Public Hearings:

- a) Request for Rezoning (Z-697) West Side of Crooks Road, North of Big Beaver Road – Section 20 – P-1 to O-1 and B-3– **Scheduled for November 29, 2004**
- b) Parking Variance Request – 1717 Stutz Drive – **Scheduled for November 29, 2004**
- c) Commercial Vehicle Appeal – 3035 Heritage – **Scheduled for November 29, 2004**
Noted and Filed

G-2 Green Memorandums: No Green Items Submitted

COUNCIL REFERRALS: Items Advanced to the City Manager by Individual City Council Members for Placement on the Agenda: No Council Referrals Advanced

COUNCIL COMMENTS: No Council Comments Advanced

REPORTS:

J-1 Minutes – Boards and Committees:

- a) Advisory Committee for Persons with Disabilities/Draft – October 6, 2004
- b) Advisory Committee for Persons with Disabilities/Final – October 6, 2004
- c) Advisory Committee for Senior Citizens/Final – October 7, 2004
- d) Liquor Advisory Committee Minutes/Final – October 11, 2004
- e) Planning Commission Special-Study/Draft – October 26, 2004
- f) Troy Youth Council/Draft – October 27, 2004
- g) Advisory Committee for Senior Citizens/Draft – November 4, 2004
- h) Liquor Advisory Committee Minutes/Draft – November 8, 2004

Noted and Filed

J-2 Department Reports: None Presented

J-3 Letters of Appreciation:

- a) Letter from Robert J. O'Neill, Jr., Executive Director of ICMA to John Szerlag, Thanking Him for Participation in the 90th Annual Conference in San Diego
- b) Letter from David Gorcyca, Oakland County Prosecuting Attorney, to Chief Charles Craft, Congratulating the Troy Police Department on Winning First Place in the Class A Division of the 67th Michigan Police Shoot
- c) Letter from John Gladysz, Director of Price Funeral Home to Captain Edward Murphy, Thanking the Troy Police Department, Sergeant Cantlon, and Police Service Aides Mary Stark and Jeff Strong for Their Assistance During a Large Funeral Procession
- d) Letter from David Prince to the Troy Police Department, In Appreciation for a Police Station Tour

Noted and Filed

J-4 Proposed Proclamations/Resolutions from Other Organizations:

- a) Notice of Hearing for the Electric Customers of the Detroit Edison Company Case No. U-14275

Noted and Filed

J-5 Calendar

Noted and Filed

J-6 I-75 Crooks / Long Lake Interchange Improvement – Information on Environmental Assessment

Noted and Filed

J-7 Statue to be Added to the Peace Garden
Noted and Filed

J-8 Citation of Excellence – Troy Public Library
Noted and Filed

J-9 Council Member Lambert’s Report from the MML 2004 Annual Convention at Mackinac Island
Noted and Filed

J-10 Resolution from Oakland County Clerk – Register of Deeds – Board of Commissioners – Opposition to Efforts to Rush Revisions to Michigan’s Tax Code During Lamé Duck Season
Noted and Filed

J-11 2004 3CMA Savvy Award – Community Visioning Process Entry
Noted and Filed

Vote on Resolution to Suspend Rules of Procedure for the City Council, Rule #5

Resolution #2004-11-594
Moved by Beltramini
Seconded by Eisenbacher

RESOLVED, That City Council **SUSPEND** Rules of Procedure for the City Council, Rule #15 - L Closed Session and **AUTHORIZE** City Council to discuss and take action on agenda item L-1 prior to K-1.

Yes: All-6
No: None
Absent: Howrylak

CLOSED SESSION:

L-1 Closed Session

Resolution #2004-11-596
Moved by Stine
Seconded by Broomfield

BE IT RESOLVED, That the City of Troy City Council **SHALL MEET** in Closed Session, as permitted by MCL 15.268 (e); Story v. City of Troy – Pending Litigation.

Yes: All-6
No: None
Absent: Howrylak

STUDY ITEMS:

K-1 Alternative Sites for Minor League Baseball Facility

PUBLIC COMMENT: Address of "K" Items

The meeting **RECESSED** at 8:56 PM

The meeting **RECONVENED** at 9:20 PM.

The meeting **ADJOURNNED** at 11:17 PM.

Louise E. Schilling, Mayor

Tonni L. Bartholomew, MMC
City Clerk

DATE: November 18, 2004

TO: John Szerlag, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Douglas J. Smith, Real Estate and Development Director
Mark S. Stimac, Director of Building and Zoning
Mark F. Miller, Planning Director

SUBJECT: AGENDA ITEM – ANNOUNCEMENT OF PUBLIC HEARING (DECEMBER 6, 2004) – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 215A) – Article 04.20.00 and Articles 40.55.00-40.59.00, pertaining to Accessory Buildings Definitions and Provisions

City Council adopted a resolution on October 4, 2004 which authorized the Planning Commission and City Management to address accessory structures and neighborhood compatibility within the R-1A through R-1E Zoning Districts, addressing size, use and compatibility. City Council requested that the Planning Commission forward a recommendation to City Council in the fastest time period possible. City Management developed an operational definition of compatibility as an issue related to size and use of accessory structures. Therefore, compatibility of accessory structures has been addressed in a zoning ordinance text amendment through the traditional regulatory methods: height, size, setbacks and use.

City Management engaged Richard Carlisle, City Planning Consultant, to assist in preparing the zoning ordinance text amendments. Mr. Carlisle prepared an initial draft that served as a working draft for City Management and the Planning Commission. This item was discussed at the October 26, 2004 and November 2, 2004 Planning Commission Special/Study Meetings. City Management recommended dividing ZOTA 215 into three separate items to be considered separately but concurrently. These items are Accessory Buildings Definitions and Provisions (ZOTA 215A), Commercial Vehicle Definitions (ZOTA 215B), and Commercial Vehicle Parking Appeals (ZOTA 215C). The Planning Commission held a Public Hearing on the three separate items on November 9, 2004, and recommended approval of ZOTA 215A (Accessory Buildings Definitions and Provisions). Furthermore, the Planning Commission tabled ZOTA 215B and ZOTA 215C to provide additional time for further review.

City Management and the Planning Commission have made every attempt to consider this item as quickly as possible, as requested by City Council. The proposed text is in a working draft format and has not been put in an ordinance format. City Management has not had sufficient time to conduct a complete review of the draft text amendment. A copy of the draft text has been forwarded to the City Attorney for review and comment. We expect correspondence from the City Attorney prior to the December 6, 2004 Public Hearing.

A copy of the modified draft was provided to Mr. Carlisle for review and comment. We expect correspondence from Mr. Carlisle prior to the December 6, 2004 Public Hearing.

Attachments:

1. Minutes from October 4, 2004 City Council meeting.
2. ZOTA 215A provisions showing all proposed markups.
3. ZOTA 215A provisions in final draft form, with no markups.
4. Minutes from October 26, 2004 Planning Commission Special/Study Meeting.
5. Minutes from November 2, 2004 Planning Commission Special/Study Meeting.
6. Minutes from November 9, 2004 Planning Commission Regular Meeting.

cc: File/ZOTA 215A

G:\ZOTAs\ZOTA 215 Accessory Structures in R-1\ZOTA 215A Nov 17 2004 PC.doc

Prepared by RBS

RESOLVED, That the City Council of the City of Troy, after conclusion of a Public Hearing on this date, October 4, 2004 has **DETERMINED** that Year 2002 unspent funds should be re-programmed from Remove Architectural Barriers to Special Assessment.

Yes: All-7

POSTPONED ITEMS:

D-1 Building Permit Moratorium - Resolution Proposed by Council Member Stine

Resolution
Moved by Stine
Seconded by Beltramini

RESOLVED, That a moratorium be placed upon the issuance of any building permit for detached or attached accessory buildings on residentially zoned property where the material is not similar to the main building. That this moratorium be for a period of 6 months or until the City Council approves revisions to our ordinances as they relate to neighborhood compatibility issues currently under consideration by the Planning Commission, whichever comes first.

Vote on Resolution to Amend by Substitution

Resolution #2004-10-523
Moved by Howrylak
Seconded by Eisenbacher

RESOLVED, That the Resolution be **AMENDED** by **STRIKING** the Resolution in its entirety and **SUBSTITUTING** with, "That the issue of neighborhood compatibility/accessory buildings be referred to the Planning Commission for the soonest possible recommendation with respect to the following three noted items: size, use and compatibility."

Yes: All-7

Vote on Resolution as Amended by Substitution

Resolution #2004-10-524
Moved by Stine
Seconded by Beltramini

RESOLVED, That the issue of neighborhood compatibility/accessory buildings be referred to the Planning Commission for the soonest possible recommendation with respect to the following three noted items: size, use and compatibility.

Yes: All-7

[Revise Section 04.20.00 DEFINITIONS as follows]:

04.20.01 ACCESSORY BUILDING: A subordinate building, or portion thereof, the use of which is clearly incidental to that of supplemental or subordinate to the main building or to the use of the land and is devoted exclusively to an accessory use. The various types of accessory buildings shall be further defined as follows:

- A. BARN: A building specifically or partially used for the storage of farm animals such as, but not limited to, horses, cattle, sheep, goats, and fowl, other than a dog house.
- B. GARAGE: A building, or portion of the main building, of not less than one hundred eighty (180) square feet designed and intended to be used for the periodic parking or storage of one or more private motor vehicles, yard maintenance equipment or recreational vehicles such as, but not limited to, boats, trailers, all terrain vehicles and snowmobiles.
- C. STORAGE BUILDING/SHED: A building designed and intended to be used for the storage of tools, garden tractors, lawn mowers, motorcycles, small recreation vehicles such as, but not limited to, snowmobiles, ATV's, and motor scooters.

04.20.02 ACCESSORY SUPPLEMENTAL BUILDING. An accessory building used by the occupants of the principal building for recreation or pleasure, such as a gazebo, swimming pool cabana, building housing a spa, or greenhouse. The various types of accessory supplemental buildings shall be further defined as follows:

- A. CABANA: A building used in conjunction with a swimming pool and used for no other purpose than the housing of pool filter equipment, pool accessories such as, but not limited to, vacuum cleaning equipment, brooms and safety equipment, and/or changing of clothes.
- B. DOG HOUSE: A building designed and used for housing not more than three dogs, cats or other similar animals owned by the occupant of the parcel on which located.
- C. GAZEBO: A detached, roofed or sheltered structure, which is generally of open, screened, or lattice-work construction, and may be used for outdoor seating.
- D. GREENHOUSE: A detached, building constructed of permanent or temporary framing that is set directly on the ground and is covered with glass panels or plastic or other transparent material, and is used to grow plants

E. PLAY HOUSE: A detached building designed and used for children's play.

40.20.02 ACCESSORY STRUCTURE: A structure, or portion thereof, which is supplemental or subordinate to the main building or to the use of the land.

04.20.03 ACCESSORY USE: ~~is a~~ A use which is supplemental and subordinate to the main use on a lot and is used for purposes clearly incidental to those of the main use.

04.20.10 ANTENNAS: Structures or facilities for the reception or transmission of radio, television, and microwave signals.

~~4.20.65 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.~~

~~4.20.67 GARAGE, PUBLIC: any garage other than a private garage available to the public, operated for gain, and used for storage, repair, rental, greasing, washing, sales, servicing, adjusting or equipping of automobiles or other motor vehicles.~~

[Revise Section 40.55.00 – 40.59.00 as follows]:

40.55.00 ACCESSORY BUILDINGS, ACCESSORY SUPPLEMENTAL BUILDINGS AND ACCESSORY STRUCTURES

Accessory buildings, accessory supplemental buildings and accessory structures shall be subject to this Section and the applicable requirements of Sections 40.56.00 through 40.58.00.

~~40.55.02-01~~ A. ~~Accessory buildings and structures, By~~ their definition and nature, ~~they~~ shall be ~~secondary and clearly incidental~~ supplemental or subordinate to the principal building on a parcel of land. ~~Such buildings or structures~~

B. ~~Shall therefore not be permitted as the only building or structure~~ be on a the same parcel of land, as the principal building they serve.

~~40.55.03~~ C. Their construction, erection, installation or placement shall be in accordance with the requirements of the Building Code and the Electrical Code. Permits shall be required for buildings greater than thirty-six (36) square feet in area and/or greater than four (4) feet in height. Permits shall be required for all ground-mounted antennas, and for roof-mounted antennas greater than four (4) feet in height. Electrical service for ground-mounted antennas shall be provided only through underground lines.

~~40.55.04~~ D. Detached buildings and structures may be prefabricated or built on the site, and shall have ratwalls or other acceptable foundations not less than twenty four (24) inches in depth, or be built so that the floor and walls are located a minimum of six (6) inches above the underlying ground. Trailer-mounted buildings and structures are prohibited. (Rev. 04-23-01)

E. Shall not be located within a dedicated easement or right-of-way.

~~40.56.00~~ The various types of accessory buildings and structures shall be defined as follows:

~~ANTENNAS: Structures or facilities for the reception or transmission of radio, television, and microwave signals.~~

~~BARNs: A building specifically or partially used for the storage of farm animals such as, but not limited to, horses, cattle, sheep, goats and fowl, other than a dog house, so called.~~

~~CABANAS: A building of not more than one hundred (100) square feet used in conjunction with a swimming pool and used for no other purpose than the housing of pool filter equipment, pool accessories such as, but not limited to, vacuum cleaning equipment, brooms and safety equipment, and/or changing of clothes. (Rev. 04-23-01)~~

~~DOG HOUSES: A building of not more than thirty six (36) square feet with a total height of not more than four feet, designed and used for housing not more than three dogs, cats or other similar animals owned by the occupant of the parcel on which located. (Rev. 04-23-01)~~

~~GARAGES: A building of not less than one hundred eighty (180) square feet designed and intended to be used for the periodic parking or storage of one or more private motor vehicles, yard maintenance equipment or recreational vehicles such as, but not limited to, boats, trailers, all terrain vehicles and snowmobiles. (Rev. 04-23-01)~~

~~GAZEBO: A roofed or sheltered structure, not more than one hundred seventy nine (179) square feet in area, which is generally of open, screened, or lattice work construction, and may be used for outdoor seating. (Rev. 04-23-01)~~

~~GREEN HOUSES: A building constructed of permanent or temporary framing that is set directly on the ground and is covered with glass panels or plastic or other transparent material, and is used to grow plants from seed.~~

~~SHEDS: A building of not more than one hundred seventy nine (179) square feet designed and intended to be used for the storage of tools, garden tractors, lawn mowers, motorcycles, small recreation vehicles such as, but not limited to, snowmobiles, ATV's, motor scooters, or used as doll houses, play houses or children's club houses. (Rev. 04-23-01)~~

40.56.00 ACCESSORY BUILDINGS IN R-1A THROUGH R-1E, R-2 and CR-1 ZONING DISTRICTS

~~40.57.01 — Detached accessory buildings and structures may be prefabricated or built on the site, and shall have ratwalls or other acceptable foundations not less than twenty four (24) inches in depth, or be built so that the floor and walls are located a minimum of six (6) inches above the underlying ground. Trailer mounted accessory buildings and structures are prohibited. (Rev. 04-23-01)~~

40.56.01 Attached Accessory Buildings

40.57.02 A. 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 in addition to the requirements of this Section.

B. The area of attached accessory buildings shall not exceed one-half (1/2) of the ground floor footprint of the living area of the dwelling or six hundred (600) square feet whichever is greater.

C. The size of any door to an attached accessory building shall not exceed eight (8) feet in height.

40.56.02 Detached Accessory Buildings

A. There shall be no more than two detached accessory buildings per lot or parcel, excluding accessory supplemental buildings as set forth in Section 40.56.03.

40.57.03- B. Detached accessory buildings shall not be erected in any yard, except a rear yard.

40.57.04 C. Detached accessory buildings and detached accessory supplemental buildings shall occupy not more than twenty-five (25) percent of a required rear yard. In no instance shall

D. The combined ground floor area of all detached accessory buildings and detached accessory supplemental buildings six hundred (600) square feet or one-half of the ground floor area of the main building, whichever is greater. (Rev. 04-23-04) shall not exceed four hundred-fifty (450) square feet plus two (2) percent of the total lot area. However, in no instance shall the combined floor area of all detached accessory buildings and detached accessory supplemental buildings exceed the ground floor footprint of the living area of the dwelling or six hundred (600) square feet whichever is greater.

40.57.05 E. No detached accessory building or structure except antennas, dog houses or cabanas shall be located closer than ten (10) feet to any main building, nor shall any accessory building or structure be located closer than six (6) feet to any side or rear lot line. In those instances where the rear lot line is coterminous with an alley right-of-way, the accessory building or structure shall not be closer than six (6) feet to such rear lot

~~line. In no instance shall an accessory building or structure be located within a dedicated easement or right-of-way. (Rev. 01-05-04)~~

40.57.06 ~~F. No A detached accessory building or structure, in any Residential, C-F, B-1, and P-1 District shall not exceed one (1) story or fourteen (14) feet in height. Amateur radio antennas are permitted up to a height of 75 feet if used in accordance with the terms of a valid Amateur Radio Service License issued by the Federal Communications Commission or permitted under Federal Regulation by a reciprocal agreement with a foreign country. Other pole, mast type antennas may, however, be permitted to be constructed to a height equal to the permitted maximum height of structures in these Districts. Other pole, mast, whip, or panel type antennas which are roof mounted or attached to a building shall not extend more than twelve (12) feet above the highest point of a roof. Satellite dish antennas in Residential Districts, which extend more than fourteen (14) feet in height or fourteen (14) feet above grade, shall not exceed twenty four (24) inches in diameter. Satellite dish and amateur radio antennas shall be placed so that rotation can occur without encroachment into the required setback. (Rev. 01-05-04)~~

~~H. When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot or parcel to its rear, said building or structure shall not project beyond the front setback line required on the lot or parcel to the rear of such corner lot. When an accessory building or structure is located on a corner lot, the side lot line of which is substantially a continuation of the side lot line of the lot to its rear, said building shall not project beyond the side yard line of the lot or parcel to the rear of such corner lot.~~

~~G. The size of any door to a detached accessory building shall not exceed eight (8) feet in height.~~

~~H. An accessory building defined as a barn or a greenhouse shall be subject to the approval of the Zoning Board of Appeals.~~

~~40.57.07 Accessory buildings and structures in all Districts not specified in Section 40.57.06 may be constructed to one (1) story or fourteen (14) feet in height or may, subject to Board of Appeals review and approval, be constructed equal to the permitted maximum height of the structures in said Districts. Exception: Roof mounted antennas, not extending more than twelve (12) feet above the highest point of a roof, are not subject to Board of Appeals review. (Rev. 04-23-01)~~

40.56.03 Accessory Supplemental Buildings

- A. No more than **three (3)** detached **accessory** supplemental buildings shall be permitted.
- B. The total floor area **of all detached accessory supplemental buildings** shall not exceed two hundred (200) square feet.
- C. ~~An accessory supplemental building shall not be located in any required yard other than a rear~~ **front yard.**
- D. No detached **accessory supplemental building** shall be located closer than six (6) feet to any side or rear lot line.
- E. A **detached accessory** supplemental building shall not exceed one (1) story or fourteen (14) feet in height.
- F. The size of any door to an **accessory supplemental building** shall not exceed **eight (8) feet in height.**

40.57.00 ACCESSORY BUILDINGS IN OTHER ZONING DISTRICTS

- A. All accessory buildings shall be subject to the same placement and height requirements applicable to principal structures in the district in which located.

40.58.00 ACCESSORY STRUCTURES

- A. Amateur radio antennas are permitted up to a height of 75 feet if used in accordance with the terms of a valid Amateur Radio Service License issued by the Federal Communications Commission or permitted under Federal Regulation by a reciprocal agreement with a foreign country. Other pole, mast type antennas may, however, be permitted to be constructed to a height equal to the permitted maximum height of structures in these Districts. Other pole, mast, whip, or panel type antennas which are roof-mounted or attached to a building shall not extend more than twelve (12) feet above the highest point of a roof. Satellite dish antennas in Residential Districts, which extend more than fourteen (14) feet in height or fourteen (14) feet above grade, shall not exceed twenty four (24) inches in diameter. Satellite dish and amateur radio antennas shall be placed so that rotation can occur without encroachment into the required setback.

40.57.08 B. No more than two (2) antenna structures (no more than one of which may be ground-mounted, and thus detached from the main building) shall be permitted for each lot or parcel, with the following exception:

A.1. On non-residential parcels, two (2) antenna structures shall be permitted for the first twenty thousand (20,000) square feet of gross building area, with one antenna structure permitted for each additional twenty thousand (20,000) square feet of gross building area, or major portion thereof.

B-2. The numerical limits of this Section shall not apply in the following situations:

1.a. Panel-type antennas which are visually integrated with the building surface on which they are mounted (similar color, not extending above wall, equipment penthouse or enclosure surface).

2.b. Pole, mast, whip, or panel-type antennas mounted on or adjacent to the roof of residential or non-residential buildings sixty (60) feet or more in height.

~~40.57.09 — When an accessory building or structure is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot or parcel to its rear, said building or structure shall not project beyond the front setback line required on the lot or parcel to the rear of such corner lot. When an accessory building or structure is located on a corner lot, the side lot line of which is substantially a continuation of the side lot line of the lot to its rear, said building shall not project beyond the side yard line of the lot or parcel to the rear of such corner lot.~~

~~40.57.10 — When an accessory building or structure in any Residence, Business or Office District is defined as other than an antenna, cabana, dog house, garage or shed, construction or placement of the accessory building or structure shall be subject to the approval of the Board of Zoning Appeals. Examples of those structures requiring Board of Zoning Appeals approval would thus include, but not be limited to, Barns, Greenhouses, and free-standing Gazebos. Gazebos constructed as a part of attached open patios or deck structures in a rear yard shall be regulated in accordance with Section 41.45.00 of this Chapter, and shall not require Board of Zoning Appeals approval.~~

~~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.~~

~~40.57.12~~

~~The construction, erection, installation or placement of accessory buildings or structures shall be in accordance with the requirements of the Building Code and the Electrical Code. Building Permits shall be required for accessory buildings greater than thirty six (36) square feet in area and/or greater than four (4) feet in height. Building permits shall be required for all ground-mounted antennas, and for roof-mounted antennas greater than four (4) feet in height. Electrical service for ground-mounted antennas shall be provided only through underground lines.~~

~~A. — Recreation uses.~~

~~B. — Porch, patio, terrace, or entranceway areas.~~

~~In no instance shall the area encompassed, together with main and accessory buildings, exceed the lot area coverage provisions indicated in Section 30.10.00 "Schedule of Regulations Residential". Such covering or enclosure must also comply with the main building setback requirements included in Section 30.10.00. Porch, patio, terrace or entranceway covers may be permitted to encroach into such yards in accordance with Section 41.50.00. Recreation facilities involving temporary covers, on sites in excess of one acre in area, shall conform to the requirements of Section 10.30.06, Sub Sections (C) and (D).~~

[Revise Section 04.20.00 DEFINITIONS as follows]:

04.20.01 **ACCESSORY BUILDING:** A building, or portion thereof, which is supplemental or subordinate to the main building or to the use of the land and is devoted exclusively to an accessory use. The various types of accessory buildings shall be further defined as follows:

- A. **BARN:** A building specifically or partially used for the storage of farm animals such as, but not limited to, horses, cattle, sheep, goats, and fowl, other than a dog house.
- B. **GARAGE:** A building, or portion of the main building, of not less than one hundred eighty (180) square feet designed and intended to be used for the periodic parking or storage of one or more private motor vehicles, yard maintenance equipment or recreational vehicles such as, but not limited to, boats, trailers, all terrain vehicles and snowmobiles.
- C. **STORAGE BUILDING/SHED:** A building designed and intended to be used for the storage of tools, garden tractors, lawn mowers, motorcycles, small recreation vehicles such as, but not limited to, snowmobiles, ATV's, and motor scooters,

04.20.02 **ACCESSORY SUPPLEMENTAL BUILDING.** An accessory building used by the occupants of the principal building for recreation or pleasure, such as a gazebo, swimming pool cabana, building housing a spa, or greenhouse. The various types of accessory supplemental buildings shall be further defined as follows:

- A. **CABANA:** A building used in conjunction with a swimming pool and used for no other purpose than the housing of pool filter equipment, pool accessories such as, but not limited to, vacuum cleaning equipment, brooms and safety equipment, and/or changing of clothes.
- B. **DOG HOUSE:** A building designed and used for housing not more than three dogs, cats or other similar animals owned by the occupant of the parcel on which located.
- C. **GAZEBO:** A detached, roofed or sheltered structure, which is generally of open, screened, or lattice-work construction, and may be used for outdoor seating.
- D. **GREENHOUSE:** A detached, building constructed of permanent or temporary framing that is set directly on the ground and is covered with glass panels or plastic or other transparent material, and is used to grow plants.

E. PLAY HOUSE: A detached building designed and used for children's play.

04.20.02 ACCESSORY STRUCTURE: A structure, or portion thereof, which is supplemental or subordinate to the main building or to the use of the land.

04.20.03 ACCESSORY USE: A use which is supplemental and subordinate to the main use and is used for purposes clearly incidental to those of the main use.

04.20.10 ANTENNAS: Structures or facilities for the reception or transmission of radio, television, and microwave signals.

[Revise Section 40.55.00 – 40.59.00 as follows]:

40.55.00 ACCESSORY BUILDINGS, ACCESSORY SUPPLEMENTAL BUILDINGS AND ACCESSORY STRUCTURES

Accessory buildings, accessory supplemental buildings and accessory structures shall be subject to this Section and the applicable requirements of Sections 40.56.00 through 40.58.00.

A. By their definition and nature, they shall be supplemental or subordinate to the principal building on a parcel of land.

B. Shall be on a the same parcel of land, as the principal building they serve.

C. Their construction, erection, installation or placement shall be in accordance with the requirements of the Building Code and the Electrical Code. Permits shall be required for buildings greater than thirty-six (36) square feet in area and/or greater than four (4) feet in height. Permits shall be required for all ground-mounted antennas, and for roof-mounted antennas greater than four (4) feet in height. Electrical service for ground-mounted antennas shall be provided only through underground lines.

D. Detached buildings and structures may be prefabricated or built on the site, and shall have ratwalls or other acceptable foundations not less than twenty four (24) inches in depth, or be built so that the floor and walls are located a minimum of six (6) inches above the underlying ground. Trailer-mounted buildings and structures are prohibited.

E. Shall not be located within a dedicated easement or right-of-way.

40.56.00 ACCESSORY BUILDINGS IN R-1A THROUGH R-1E, R-2 and CR-1 ZONING DISTRICTS

40.56.01 Attached Accessory Buildings

A. 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 in addition to the requirements of this Section.

B. The area of attached accessory buildings shall not exceed one-half (1/2) of the ground floor footprint of the living area of the dwelling or six hundred (600) square feet whichever is greater.

C. The size of any door to an attached accessory building shall not exceed eight (8) feet in height.

40.56.02 Detached Accessory Buildings

A. There shall be no more than two detached accessory buildings per lot or parcel, excluding accessory supplemental buildings as set forth in Section 40.56.03.

B Detached accessory buildings shall not be erected in any yard, except a rear yard.

C. Detached accessory buildings and detached accessory supplemental buildings shall occupy not more than twenty-five (25) percent of a required rear yard.

D. The combined ground floor area of all detached accessory buildings and detached accessory supplemental buildings shall not exceed four hundred-fifty (450) square feet plus two (2) percent of the total lot area. However, in no instance shall the combined floor area of all detached accessory buildings and detached accessory supplemental buildings exceed the ground floor footprint of the living area of the dwelling or six hundred (600) square feet whichever is greater.

E. No detached accessory building shall be located closer than ten (10) feet to any main building, nor closer than six (6) feet to any side or rear lot line.

F. A detached accessory building shall not exceed one (1) story or fourteen (14) feet in height.

G. The size of any door to a detached accessory building shall not exceed eight (8) feet in height.

H. An accessory building defined as a barn or a greenhouse shall be subject to the approval of the Zoning Board of Appeals.

40.56.03 Accessory Supplemental Buildings

- A. No more than three (3) detached accessory supplemental buildings shall be permitted.
- B. The total floor area of all detached accessory supplemental buildings shall not exceed two hundred (200) square feet.
- C. An accessory supplemental building shall not be located in any front yard.
- D. No detached accessory supplemental building shall be located closer than six (6) feet to any side or rear lot line.
- E. A detached accessory supplemental building shall not exceed one (1) story or fourteen (14) feet in height.
- F. The size of any door to an accessory supplemental building shall not exceed eight (8) feet in height.

40.57.00 ACCESSORY BUILDINGS IN OTHER ZONING DISTRICTS

All accessory buildings shall be subject to the same placement and height requirements applicable to principal structures in the district in which located.

40.58.00 ACCESSORY STRUCTURES

- A. Amateur radio antennas are permitted up to a height of 75 feet if used in accordance with the terms of a valid Amateur Radio Service License issued by the Federal Communications Commission or permitted under Federal Regulation by a reciprocal agreement with a foreign country. Other pole, mast type antennas may, however, be permitted to be constructed to a height equal to the permitted maximum height of structures in these Districts. Other pole, mast, whip, or panel type antennas which are roof-mounted or attached to a building shall not extend more than twelve (12) feet above the highest point of a roof. Satellite dish antennas in Residential Districts, which extend more than fourteen (14) feet in height or fourteen (14) feet above grade, shall not exceed twenty four (24) inches in diameter. Satellite dish and amateur radio antennas shall be placed so that rotation can occur without encroachment into the required setback.

B. No more than two (2) antenna structures (no more than one of which may be ground-mounted, and thus detached from the main building) shall be permitted for each lot or parcel, with the following exception:

1. On non-residential parcels, two (2) antenna structures shall be permitted for the first twenty thousand (20,000) square feet of gross building area, with one antenna structure permitted for each additional twenty thousand (20,000) square feet of gross building area, or major portion thereof.
2. The numerical limits of this Section shall not apply in the following situations:
 - a. Panel-type antennas which are visually integrated with the building surface on which they are mounted (similar color, not extending above wall, equipment penthouse or enclosure surface).
 - b. Pole, mast, whip, or panel-type antennas mounted on or adjacent to the roof of residential or non-residential buildings sixty (60) feet or more in height.

7. ZONING ORDINANCE TEXT AMENDMENT (ZOTA 215) – Articles 04.20.00, 10.00.00, 30.00.00, 31.00.00, and 40.00.00 Accessory Structures and Neighborhood Compatibility

Mr. Miller introduced the City representatives who were present for discussion of the matter and informed those present of the presentation format that would be followed.

Mr. Szerlag announced that the situation on Alpine resulted from a resident finding a loophole in the Zoning Ordinance that would allow a monster garage to be built. City Council's concern resulted in a study session with City staff and the Planning Consultant. The recommendation of City Council was to have the Planning Commission find a way to plug the loopholes that currently exist in the ordinance and amend the ordinance to allow for better compatibility on attached and detached accessory structures. Mr. Szerlag said regulation of size, use and compatibility was discussed at the study session, and that compatibility was defined as the conditional element of size, use, height, and setbacks, but not materials. On behalf of City Council, Mr. Szerlag stressed the urgency to find a solution that would plug the loopholes in the ordinance and stop future construction of monster garages or accessory structures. He explained that City staff is continuing its negotiations with the Alpine property owner to resolve the matter of that particular monster garage.

Mr. Miller provided a slide presentation. The presentation displayed 14 homes in the City that have existing garages with more square footage than the actual homes.

[Mr. Strat arrived at 7:48 p.m.]

Mr. Stimac said the garages displayed in the slide presentation are all attached garages, but acknowledged there are homes in the City with detached garages that exceed the ground floor area of the living space of the home. Mr. Stimac reviewed various changes that were made in the Zoning Ordinance, and cited examples of related accessory structures. He reported that cases before the Board of Zoning Appeals requesting to construct detached garages of significant size have been based on the City requirement to store commercial vehicles. Mr. Stimac said that, in part, the construction of large garages is the result of residents complying with the ordinance that requires residents to store their commercial vehicles indoors.

Mr. Chamberlain asked the number of parcels with attached and detached large garages that were constructed in compliance with the Zoning Ordinance requirement to store commercial vehicles.

Mr. Stimac estimated 30 parcels, but noted that a study has not been done. Mr. Stimac said the parameter of the 14 garages displayed in the slide presentation was that the square footage of the garage exceeds the square footage of the house, and that detached garages were not covered in the slide presentation. Mr. Stimac said it is his opinion that many of the large garages in the City, both

attached and detached, have been generated in part by the desire to house commercial vehicles.

Mr. Strat asked how many of the garages have been built in the last 5 to 10 years.

Mr. Stimac responded that approximately 20 out of the estimated 30 garages were built within the last 8 to 10 years.

Mr. Carlisle distributed two informational items: (1) proposed definitions and ordinance language changes relating to outdoor parking and commercial vehicles in residential districts and a revised definition of a commercial vehicle; and (2) Truck Driver's Guidebook. Mr. Carlisle provided the material as a preface to his opinion that the current regulations relating to parking of commercial vehicles have in part led to the concern of monster accessory structures. He said, to some degree, the construction of extremely large buildings has resulted from the regulations placed on parking of commercial vehicles in residential areas. Mr. Carlisle would ultimately like to see parking of commercial vehicles restricted in residential districts. Mr. Carlisle said that if commercial parking is not addressed, the City is in essence doing only half the job as it addresses monster accessory structures.

Mr. Carlisle highlighted his observations of the current Zoning Ordinance and reviewed his recommended revisions to the ordinance that were provided in his October 21, 2004 memorandum. Mr. Carlisle suggested that material compatibility be addressed in the future.

Specific items discussed were:

- Definition of "incidental"
- Material compatibility
- Garage door height and size / definition of measurement
- Size limitation on greenhouse
- "Barn" designation in the ordinance
- Ground floor living area
- Definition of play structures; recreational structures
- User-friendly Zoning Ordinance (readability, indexing, etc.)
- Appeal process
- City Council's aspect

Mr. Strat referenced his "revised" e-mail that was inadvertently not distributed to the Commission members prior to tonight's meeting. Mr. Strat said he is not in favor of a percentage of lot size as a consideration in the size of an accessory building; i.e., narrow lots. He said the size of a garage door should be limited. Mr. Strat suggested that an appeal process be in place to grant exceptions, and that consideration be given to Special Land Use approval that would require a Public Hearing. He suggested that building elevations and identification of materials be requirements of the review process. Mr. Strat said it is very difficult to legislate and enforce material compatibility.

Mr. Schultz said enforcement of the current Zoning Ordinance with respect to commercial vehicles is most important. He agrees that the garage door height should be limited. Mr. Schultz said the material used for an accessory structure is a matter of preference and should not be dictated by the City. Mr. Schultz said he would be in favor of limiting an attached accessory structure to 750 square feet, or $\frac{3}{4}$ of the ground floor living area of the house.

Ms. Drake-Batts would like the ordinance to address material compatibility. She questioned if the suggested limitations on the garage door would be enough.

Mr. Littman questioned (1) the clarity of the phrase "clearly incidental" in Section 04.20.01, (2) no size limitation on greenhouses, and (3) the meaning of ground floor living area.

There was a brief discussion whether the ordinance should provide definitions of specific structures that are related to recreational hobbies; i.e., playhouses.

Mr. Stimac stated that play structures need to be specifically defined in the ordinance.

Mr. Carlisle said there was discussion at the City Council level that residents should not be penalized from being able to have recreational types of structures. Those types of structures are not used for storage, are not typically large in size and have a specific purpose as well as design.

Chair Waller suggested the ordinance reflect some sort of indexing and referencing for a user-friendly ordinance.

Mr. Chamberlain said the text in the Special Use ordinance has been reorganized and has not moved forward.

Mr. Chamberlain said the main issue to solve is the problem of monster commercial garages. He said the slide presentation tonight showed some garages that were compatible with the home and the land. He said the heart of the whole issue and where the process should begin is with the definition of commercial vehicles. Mr. Chamberlain said staff is asking for direction in the next two weeks, prior to the Public Hearing. Mr. Chamberlain said the door height is important and it is necessary to make sure that the garage door disappears into the ceiling. Mr. Chamberlain said that Special Land Use approval would not work. He said it would become a crapshoot for anyone who wants to construct an accessory building because they would not know whether the City would approve it. Mr. Chamberlain said the ordinance must be written with the appropriate text and size limitations, and appeals to any restrictions would go before the BZA for review and approval. Mr. Chamberlain said the City should not get involved in building material compatibility because the building appearance is in the eyes of the beholder and this is not a Communist country. Mr. Chamberlain said the concern with narrow lot

size is not an issue, and noted that setbacks within the ordinance would resolve that concern. Mr. Chamberlain said he agrees with the recommendations of Mr. Carlisle except that the garage door height should be addressed, and his preference would be that it be over 8 feet.

Mr. Wright said he likes the commercial vehicle definition created by Mr. Carlisle. He noted the definition was an item with which the Commission struggled in the late 1980's and early 1990's.

Mr. Strat commended Mr. Carlisle's recommendations. He stated the garage door would not dictate the height of the door as far as internal clearance. Mr. Strat again stressed that the matter should be considered by Special Land Use approval and that the BZA is not the appropriate appeal process.

Mr. Stimac asked that there be a height limitation indicated for supplemental buildings. Mr. Stimac noted that it would not be difficult for a resident to prove a hardship to the Board of Zoning Appeals with respect to the garage door height limitation.

Mr. Stimac acknowledged that stacked condominiums should be addressed, where the first floor of the building is primarily a garage. He said consideration should be given to the definition of building versus multiple buildings and how the formula would apply to non single-family residential detached structures, such as carports.

Mr. Szerlag suggested a tiered approach in addressing (1) monster accessory buildings, (2) commercial vehicles, and (3) material compatibility. He stressed the immediate need to address the size of accessory structures and to enable the Building Department to not issue building permits for monster garages.

Mr. Miller confirmed that the exact proposed ordinance text amendment does not have to be published prior to the Public Hearing. It is required to publish only a summary of the ordinance sections in which proposed revisions are being considered. Mr. Miller reminded the Commission that the matter could be discussed further at the next study session.

Council Member Robin Beltramini was present. Ms. Beltramini commended Mr. Carlisle for a good job in summarizing the will of the City Council. She said she appreciates the tiered approach suggested by Mr. Szerlag. Ms. Beltramini said she surmised by tonight's comments and her good notes that at least half of the members believe the concern of monster accessory structures is driven by the commercial vehicle issue, and that she agrees. She said she heard a fair amount of consensus from the members with respect to the ordinance provisions. Ms. Beltramini said she would prefer that the members brainstorm on the heart of the matter, and address the material compatibility at a later date.

Council Member Jeanne Stine was present. Ms. Stine said the crux of the matter is dependent on the need to hide commercial vehicles, and she was very pleased that Mr. Carlisle addressed that aspect with the City Council. She asked for clarification on the definition of "incidental", as cited in Section 40.55.01.

Mr. Carlisle said "incidental" is defined as secondary; not primary.

Ms. Stine asked if that would deal with size also.

Mr. Carlisle said that is a very important point. He said it is highly suspect when an "accessory structure" exceeds the principle structure by three or four times.

Ms. Stine referenced the accessory structure located on Windmill [from the slide presentation]. Ms. Stine said it is the size of the garage that is so disconcerting, not so much the materials. She said the neighbors are not happy, and the purpose of that particular garage is to house commercial vehicles. Ms. Stine said one of the initial purposes of the Alpine monster garage was to house recreational vehicles. She suggested that a definition be created for "recreational vehicle".

Mr. Smith commented that there has been a lot of discussion on the three uses of accessory buildings, storage, recreation and vehicles. He suggested that the uses be incorporated into the ordinance.

Mr. Strat briefly addressed outdoor storage facilities with respect to housing commercial and recreational vehicles.

Discussion followed with the approach to take on the matter.

Ms. Beltramini said she believes City Council wants some definable effort on this issue on the part of the Planning Commission members prior to the City Council Public Hearing in November. She said they would take "half a loaf" should that be all that is available.

Ms. Stine said she is familiar with City Council objectives, attitude and concerns, and is appreciative of the City Manager's suggested tiered approach. Ms. Stine said the "whole loaf" might be more acceptable to City Council. She said that commercial vehicles is a difficult matter to address at the table.

Mr. Szerlag said he also sensed that from City Council, and thinks it would be reasonable to address commercial vehicles and material compatibility in 30 to 45 days after addressing the immediate concern of monster accessory structures.

Mr. Chamberlain said the definition of commercial vehicle is adequate and City Council should be given the "whole loaf".

Mr. Szerlag said City Management and the Legal Department would work together to move the matter forward.

Revisions to the proposed amendments:

- Height of garage door (consensus 8 feet, arrived from straw vote)
- Height of garage (14 foot)
- Limitation of 200 square feet on all supplemental accessory buildings
- Add height limit to supplemental buildings
- Address condominiums with respect to ground floor living area
- Definition list to have specificity

It was determined that separate reports and separate proposed amendments would be prepared for accessory structures and commercial vehicles, and material compatibility would be addressed in the very near future.

Chair Waller asked Mr. Carlisle if a chart could be created showing parameters of accessory buildings.

7. ZONING ORDINANCE TEXT AMENDMENT (ZOTA 215) – Articles 04.20.00, 10.00.00, 30.00.00, 31.00.00, and 40.00.00 Accessory Structures and Neighborhood Compatibility

Mr. Miller reported that extensive meetings have been held wherein the Planning Department and Building Department reviewed the proposed zoning ordinance text amendments as revised by the Planning Commission at its last meeting. Mr. Miller distributed the most current revisions. He noted that the Planning Consultant, Richard Carlisle, has reviewed the revisions and said the changes are appropriate. Mr. Miller reported that Mr. Carlisle was not able to attend tonight's meeting due to a conflict in his calendar. Mr. Miller reported that the proposed language has not been reviewed by the City Attorney's Office for legalities or format.

Mr. Stimac clarified that three separate resolutions are being prepared so that the resolutions can be considered independently. The three resolutions relate to (1) accessory building provisions; (2) commercial vehicle definitions; and (3) the commercial vehicle appeal process.

Chair Waller asked around the table whether the members would like to consider submitting commercial vehicles to City Council as part of their review on accessory buildings and neighborhood compatibility.

It was the consensus of the members to consider all three items.

There was a brief discussion on the publication of the Public Hearing notice for the proposed zoning ordinance text amendments. The Attorney's Office will provide an opinion prior to the November 9, 2004 Regular Meeting.

Discussion followed on specific sections of the proposed zoning ordinance text amendment.

Section 04.20.32

It was determined that trailers should be defined.

Section 40.65.02

Mr. Stimac explained the revision cleans up a long-standing inconsistency in the section. Mr. Stimac noted that the revision has no impact on the proposed amendments relating to accessory structures.

The typographical error in the third line will be corrected; i.e., change the word "of" to "or".

Section 40.66.00

There was discussion on:

- Gross vehicle weight rating (GVWR)
 - Lettering, graphics, advertising on vehicles
 - Dual use of vehicles (commercial and personal)
 - Limitation on the number of vehicles
 - Household occupancy; i.e., more than one family member in same commercial business
 - Indoor and outdoor parking and storage
 - Home occupation ordinance and enforcement
-

There was a 5-minute recess for technical reasons.

Proposed revision. Outdoor parking of more than one commercial vehicle with the gross vehicle weight rating (GVWR) of less than 10,000 pounds or the indoor or outdoor parking of any commercial vehicle with the gross vehicle weight rating (GVWR) above 10,001 pounds shall be prohibited.

Sections 43.74.00, 43.74.01, 43.74.02

There was discussion on:

- Time period of appeals
- Tracking / updating of VIN numbers
- Administration approval
- Fee for appeals and renewals

Proposed revision: The BZA may grant appeals for an initial period not to exceed two years, and may thereafter extend such actions for a period up to 3 years.

04.20.01, 04.20.02 Definitions

Proposed revision: Include public parking garages in definitions.

Section 40.56.01

There was discussion on:

- Building height limitation
- Ground floor living area formula; i.e., quad, tri-level, 3-car garage
- Footprint language
- Door height limitation
- Limitations on number of detached accessory buildings

There was a 5-minute recess for technical reasons.

Section 40.56.02

There was discussion on:

- Footprint language relating to combined ground floor area

Section 40.56.03

There was discussion on:

Limitations on number of detached accessory supplemental buildings
Locations of detached accessory supplemental buildings
Carports, sheds

Proposed revisions:

- (1) Reword Section 40.56.03 (C) with respect to setbacks
- (2) Change limitation of detached accessory supplement buildings to 3

Section 40.57.06

There was discussion on:

- Variance requirements for barns and greenhouses

11. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 215A)
– Article 04.20.00 and Articles 40.55.00-40.59.00, pertaining to Accessory Buildings Definitions and Provisions

Mr. Miller presented a summary of the proposed zoning ordinance text amendment that relates specifically to accessory building definitions and provisions. He reviewed the revisions that were made after the November 2, 2004 Planning Commission Special/Study Meeting. Mr. Miller recommended an additional change to Section 40.56.03(C). He said the intent and clarity of the section would be better if it read: "An accessory supplemental building shall not be allowed in a front yard." Mr. Miller also noted that the number of accessory supplemental buildings was changed from 2 to 3.

Vice Chair Chamberlain said he would like to see all three proposed zoning ordinance text amendments considered tonight and recommendations forwarded to City Council.

Mr. Vleck disagreed and said he would like more time to consider the proposed amendments. Mr. Vleck said the members had a very short timeframe to consider the matter, and that more time and consideration was put into other proposed zoning ordinance text amendments that had much less of an affect on residents. Mr. Vleck voiced dissatisfaction with the Public Hearing notice. He said anyone reading the Public Hearing notice would not have a clue that the City has taken under consideration restricting the size of accessory buildings and changing commercial vehicle provisions. Mr. Vleck said he would like more time to discuss the 8-foot height restriction of garage doors. He said the height of mini conversion vans range from 8 feet 2 inches to 9 feet 10 inches. He suggested restricting the size of an attached or detached accessory building to the square footage of the house. Mr. Vleck said that the proposed amendments are overall too restrictive.

Mr. Schultz questioned if the revision to Section 40.56.03 adequately handles a corner lot that is considered a double front.

Mr. Miller said they are both considered front yards.

Mr. Schultz said he is comfortable moving forward with the accessory building proposed amendments, but not comfortable going forward with the proposed amendments relating to commercial vehicles and the appeal process.

Mr. Wright said he agrees with Mr. Chamberlain. He would like to see all three items off the Planning Commission table and onto the City Council table. Mr. Wright said the commercial vehicle section is simple and has been bandied around for 15 years.

Mr. Littman said he is comfortable with the 8-foot restriction on the garage door height. Mr. Littman agreed to move forward with the amendments relating to accessory buildings, but would like more time to review and get further input from the Planning Consultant on commercial vehicles and the appeal process.

Ms. Drake-Batts said she would like to see a higher height restriction on the garage door. She would also like to see language added so that materials used on an accessory building are consistent with materials of the residence. Ms. Drake-Batts said she would like to see all three text amendments considered and forwarded to City Council tonight.

Mr. Strat said he is comfortable with the 8-foot restriction on the garage door height. Mr. Strat said the members and staff worked very hard on the proposed zoning ordinance text amendments relating to accessory buildings and would like to see that go forward to City Council. He would prefer more time to review the text amendments relating to commercial vehicle definitions.

Mr. Khan said he is comfortable with the 8-foot restriction on the garage door height and going forward on all three proposed text amendments.

PUBLIC HEARING OPENED

Tom Krent of 3184 Alpine, Troy, was present. Mr. Krent said the proposed amendments relating to the size of accessory structures are too restrictive. Mr. Krent brought to the attention of the Commission that the 2% growth factor formula was added to the proposed amendment on detached accessory structures but not attached accessory structures. Mr. Krent distributed a photograph that depicts a neighbor's view of a large "warehouse garage". Mr. Krent said such a building would be horrible to the character and continuity of the neighborhood. Mr. Krent also addressed materials. He said ribbed steel panel material that is used on industrial storage facilities does not belong in a residential neighborhood. He noted that the Zoning Ordinance as currently written allows the material. Mr. Krent said he has spoken to neighboring community officials who agree that ribbed steel panel material should not be used in residential areas.

PUBLIC HEARING CLOSED

Mr. Vleck agrees with the comments of Mr. Krent with respect to the size restrictions of accessory structures and doors. Mr. Vleck would like to see materials addressed and language added to the Zoning Ordinance that materials must be consistent with the residence.

It was noted by the Planning Department and confirmed that the language to incorporate the 2% growth factor formula for attached accessory structures could be accomplished prior to the City Council Public Hearing.

Vice Chair Chamberlain asked for comments from around the table.

Mr. Vleck recommended that all accessory structures be equal to the ground floor space, and the construction of attached or detached structures is at the homeowner's discretion.

Vice Chair Chamberlain said that would not work with some of the large existing parcels in the City. He recommended the separation of detached and attached structures.

Mr. Khan said the proposed amendments are good to go before City Council and, if necessary, revisions to the text could be made in the future.

Mr. Strat concurred with the comments of Mr. Khan. He said the ordinance should be designed for the norm and not the exception, and that the exceptions can go before the BZA.

Ms. Drake-Batts said the proposed text is good to go.

Mr. Littman said he is fine with the proposed text. He questioned the rationale for attached buildings being 600 square feet and detached buildings being 450 square feet plus the 2% growth factor.

Vice Chair Chamberlain said it works out to be the same number.

Mr. Miller explained the general direction is to provide more of a limit on the attached structures in an effort to model traditional home development.

Mr. Wright said he is okay with the proposed text as printed. He would like to see compatible materials addressed in the near future.

Mr. Schultz said he is fine with the proposed text as printed. He would not like to see the 2% growth factor on attached accessory structures. Mr. Schultz said that under no circumstances should an attached accessory structure be greater than the size of the home. Mr. Schultz said he would like to see an additional paragraph under 40.56.01 Attached Accessory Buildings that would state exterior finishes of attached accessory buildings shall be similar or compatible with the exterior of the principal structure. Mr. Schultz said he would not support similar language for detached accessory structures.

Mr. Vleck questioned if the latest text revisions have been reviewed by the City's Planning Consultant and the City Attorney's office.

Mr. Miller confirmed that the City's Planning Consultant, Richard Carlisle, reviewed the revisions as of Monday, November 8. Mr. Carlisle is in concurrence with the revisions and stated it is the discretion of individual communities to determine the size of accessory structures as a part of the community character.

Resolution # PC-2004-11-133

Moved by: Khan
Seconded by: Strat

RESOLVED, That the Planning Commission hereby recommends to the City Council that Article 04.20.00 and Articles 40.55.00-40.59.00, pertaining to Accessory Buildings Definitions and Provisions, be amended as printed on the Proposed Zoning Ordinance Text Amendment, dated 11/09/04, subject to the following condition.

1. Revise Section 40.56.03 C to read: "An accessory supplemental building shall not be allowed in a front yard."

Discussion on the motion.

Resolution # PC-2004-11-134

Moved by: Schultz
Seconded by: Wright

RESOLVED, To amend the motion on the floor that if there are changes to the proposed text by either City Council or City staff, that said recommendations or requests be returned to the Planning Commission for its consideration for inclusion and resubmission of the ZOTA to City Council.

Vote on the amendment to the motion on the floor.

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

MOTION FAILED

Resolution # PC-2004-11-135

Moved by: Wright
Seconded by: Schultz

RESOLVED, To amend the motion on the floor to add under Section 40.56.01 Attached Accessory Buildings, paragraph D, to read: "The exterior materials on any attached accessory buildings shall be compatible with the exterior materials of the main dwelling structure."

Discussion on the amendment to the motion on the floor.

Mr. Khan said it is normal to have the same material for an attached garage.

Mr. Wright and other members referenced the photograph submitted by Mr. Krent and confirmed that the 3129 Alpine structure is attached and is constructed of different material than the house.

Mr. Littman asked the definition of "compatible" and who would be the determining party.

A brief discussion followed on the definition of "compatible".

Ms. Drake-Batts suggested using the word "consistent" instead of "compatible".

Mr. Strat questioned the enforceability of the Zoning Ordinance with respect to "compatible" or "consistent" materials. He said it is an interpretation, and he

would assume the determining party would be the Building Department's plan reviewer.

Mr. Motzny said whenever the words "compatible, consistent, typical" or similar terms are used, a problem is created. The ordinance is vague because it leaves too much discretion to the person who has to make a decision. Mr. Motzny said the cure to the problem is to provide standards as to what "compatible" or similar terms mean. Mr. Motzny said whether the ordinance is enforceable or not is whether or not some judge says there are sufficient standards to define what "compatible" or similar terms mean.

Vice Chair Chamberlain reminded the members that a Public Hearing in front of City Council has been scheduled at the end of the month.

Vote on the [amendment to the motion on the floor.

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

MOTION FAILED

Vote on the original motion.

Resolution # PC-2004-11-133

Moved by: Khan
Seconded by: Strat

RESOLVED, That the Planning Commission hereby recommends to the City Council that Article 04.20.00 and Articles 40.55.00-40.59.00, pertaining to Accessory Buildings Definitions and Provisions, be amended as printed on the Proposed Zoning Ordinance Text Amendment, dated 11/09/04, subject to the following condition.

1. Revise Section 40.56.03 C to read: "An accessory supplemental building shall not be allowed in a front yard."

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

MOTION CARRIED

Mr. Vleck made the following comments on his no vote.

- (1) Section 40.57.02 B – The area of the attached accessory building should be equal to the square footage of the house and not half the ground floor print; and the 600 square feet should be 800 square feet.

- (2) Section 40.57.02 C – Should be stricken, or the 8 feet should be increased to either 10 or 12 feet because it does not include standard conversion vans that are used by the physically disabled.
- (3) Section 40.57.04 D – The 450 square feet should be 600 square feet plus 2% of the total lot area.
- (4) Section 40.57.06 G – Should be stricken and any other references to garage door height should be deleted or increased to 10 or 12 feet.

**RESOLUTION AFFIRMING THE PRINCIPLES OF FEDERALISM AND
CIVIL LIBERTIES**

WHEREAS, the City of Troy believes there is no inherent conflict between national security and the preservation of liberty, and affirms its strong support of the rights of Americans to be both safe and free; and

WHEREAS, the City of Troy recognizes the Constitution of the United States as our nation's charter of liberty, and that the Bill of Rights enshrines the fundamental and inalienable rights of America, including the freedoms of speech, religion, assembly, privacy; and

WHEREAS, the City of Troy has a distinguished record of upholding the Constitution, and the Bill of Rights, and safeguarding the freedoms and rights of American residents; and

WHEREAS, on September 11, 2001, terrorists from abroad attacked the U.S. by commandeering four commercial airliners, and destroyed the World Trade Center in New York, significantly damaged the Pentagon, and caused a jetliner crash resulting in significant civilian casualties; and

WHEREAS, the terrorist attack was an attack on a nation that is home to a diverse population and plunged the nation into deep concern regarding its national security and vulnerability to future attacks; and

WHEREAS, the City of Troy condemns all terrorist acts wherever occurring; and

WHEREAS, the City of Troy believes that efforts to prevent and respond to acts of terrorism require extensive coordination, cooperation, and accountability among the federal, state, and local level; and

WHEREAS, the City of Troy recognizes that protecting our citizens against future terrorist attacks requires the federal government to aggressively pursue potential terrorists but these efforts to combat terrorism should not disproportionately infringe on the civil rights and liberties of the people of the U.S.; and

WHEREAS, the prevention of future terrorists attacks is a critical national priority, but it is equally important to preserve the civil liberties and personal freedoms embodied in the Bill of Rights over 200 years ago, and which have been preserved through a constant vigilance against periodic threats to its principles; and

WHEREAS, in response to the terrorist attacks, on October 26, 2001, the U.S. Congress passed, and President Bush signed into law, the USA PATRIOT Act, an acronym for "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism," by a Senate vote of 98-1 and House of Representative vote of 357-66; and

WHEREAS, the City of Troy believes that a number of provisions of the USA PATRIOT Act threaten fundamental rights and civil liberties, including:

- Section 213 which permits law enforcement to perform searches with no one present and to delay notification of the search of a citizen's home;
- Section 215 which permits the FBI Director to seek records from bookstores and libraries including books of patrons based on minimal evidence of wrongdoing and prohibits librarians and bookstore employees from disclosing the fact that they have been ordered to produce such documents;
- Section 218 which amends the "probable cause" requirement before conducting secret searches or surveillance to obtain evidence of a crime;
- Sections 215, 218, 358, and 508 which permit law enforcement authorities to have broad access to sensitive mental health, library, business, financial, and educational records despite the existence of previously adopted state and federal laws which were intended to strengthen the protection of these types of records;

- Sections 411 and 412 which give the Secretary of State broad powers to designate domestic groups as “terrorist organizations” and the Attorney General power to subject immigrants to indefinite detention or deportation even if no crime has been committed; and
- Sections 507 and 508 which impose an unfunded mandate on state and local public universities who must collect information on students that may be of interest to the Attorney General.

WHEREAS, municipal government budgets across the nation are strained and these added duties constitute unfunded mandates on cities police departments, libraries, universities, etc. that cities cannot financially absorb; and

WHEREAS, new legislation has been drafted entitled the Domestic Security Enhancement Act (DSEA) (also known as PATRIOT II) which contains numerous new sweeping law enforcement and intelligence gathering powers, many of which are not related to terrorism, and which would severely dilute, if not undermine, many basic constitutional rights; and

WHEREAS, in response to the threats against civil liberties embodied in certain provisions of the PATRIOT ACT, legislation has been introduced in the House and Senate that would roll back certain provisions of the PATRIOT ACT.

NOW, THEREFORE, BE IT RESOLVED that the City of Troy supports the U.S. campaign against terrorism, but the City of Troy affirms its commitment to the U.S. Constitution and respective state constitutions; and

BE IT FURTHER RESOLVED that the City of Troy urges President George W. Bush, and executive branch members to review, revise and rescind executive orders and policies adopted since the terrorist attacks, that limit or compromise the liberties guaranteed by the Constitution and the Bill of Rights; and

BE IT FURTHER RESOLVED that the City of Troy urges the U.S. Congress to amend the PATRIOT ACT in order to restore and protect our nation’s fundamental and inalienable rights and liberties; and

BE IT FURTHER RESOLVED that the City of Troy supports the "Freedom to Read Protection Act of 2003" that would reinstate legal standards for libraries and bookstores and the Protecting the Rights of Individuals Act which would require a court order before conducting electronic surveillance; and

BE IT FURTHER RESOLVED that the City of Troy supports the sunset of key provisions of the PATRIOT Act and increased Congressional oversight over the role of the agencies responsible for enforcing the law; and

BE IT FURTHER RESOLVED that the City of Troy calls on Congress, the Department of Homeland Security, and other related agencies to partner with cities to protect our hometowns while simultaneously preserving the liberties of Americans; and

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the U.S. President George W. Bush, the U.S. Attorney General nominee Dr. Condoleezza Rice, Senator Debbie Stabenow, Senator Carl Levin, and Representative Joseph Knoellenberg.

CITY OF TROY
MONTHLY FINANCIAL REPORT
31-Oct-04

CITY OF TROY
 Monthly Financial Report
 General Fund
 For the Period Ending October 31, 2004

CITY OF TROY GENERAL FUND

Description	Last Year Actual	2004-05 Budget	Current Month	Year To Date	%
GENERAL FUND REVENUES					
TAXES	30,985,388	31,996,690	39,968	32,309,292	100.98
BUSINESS LICENSES & PERMITS	39,557	37,000	1,780	6,963	18.82
NON-BUS. LICENSES & PERMITS	1,610,428	1,480,000	139,101	586,691	39.64
FEDERAL GRANTS	100,354	22,000	0	0	.00
STATE AGENCIES	7,295,363	6,645,000	17,895	1,312,145	19.75
CONTRIBUTIONS-LOCAL	162,365	135,000	36,424	41,174	30.50
CHARGES FOR SERVICES - FEES	1,209,542	1,156,600	127,341	195,312	16.89
CHARGES FOR SERVICES - REND.	1,600,633	1,677,500	126,679	439,403	26.19
CHARGES FOR SERVICES - SALES	305,582	147,000	30,741	46,185	31.42
CHARGES FOR SERVICES - REC	2,857,298	2,742,500	156,092	923,373	33.67
FINES & FORFEITS	960,250	975,000	58,032	180,203	18.48
INTEREST AND RENTS	865,998	954,000	113,425	262,600	27.53
OTHER REVENUE	439,460	450,110	14,672	138,202	30.70
OTHER FINANCING SOURCES	9,434,778	10,654,450	0	0	.00
TOTAL GENERAL FUND REVENUE	57,866,996	59,072,850	862,150	36,441,543	61.69
EXPENDITURES					
LEGISLATIVE	1,926,046	2,025,620	134,043	540,771	26.70
FINANCE	4,331,477	4,840,690	310,127	1,304,653	26.95
OTHER GEN GOVERNMENT	2,471,227	2,619,120	225,863	714,013	27.26
POLICE	20,543,113	22,059,220	1,641,942	6,255,864	28.36
FIRE	3,732,506	3,899,000	241,179	1,613,256	41.38
BUILDING INSPECTION	1,926,514	2,075,770	138,093	586,668	28.26
STREETS	4,678,297	5,412,320	394,715	1,339,887	24.76
ENGINEERING	2,766,755	3,013,880	206,078	838,931	27.84
RECREATION	7,797,872	8,208,820	541,701	2,610,236	31.80
LIBRARY	4,547,589	4,908,410	332,178	1,323,326	26.96
TRANSFERS OUT	678,000	10,000	0	0	.00
TOTAL GEN FUND EXPENDITURES	55,399,396	59,072,850	4,165,919	17,127,605	28.99

CITY OF TROY
 Monthly Financial Report
 Refuse Fund
 For the Period Ending October 31, 2004

REFUSE FUND

Description	Last Year Actual	2004-05 Budget	Current Month	Year To Date	%
REVENUES					
TAXES	3,886,715	3,967,000	0	4,057,657	102.29
CHARGES FOR SERVICES - REND.	152,700	0	0	0	.00
CHARGES FOR SERVICES - SALES	1,348	1,000	110	424	42.40
INTEREST AND RENTS	38,942	40,000	9,370	21,750	54.38
OTHER FINANCING SOURCES	455,230	451,180	0	0	.00
TOTAL REVENUE	4,534,935	4,459,180	9,480	4,079,831	91.49
EXPENDITURES					
CONTRACTORS SERVICE	4,300,686	4,280,000	318,624	1,114,515	26.04
OTHER REFUSE EXPENSE	34,903	51,180	0	7,507	14.67
RECYCLING	96,612	128,000	10,798	40,030	31.27
TOTAL EXPENDITURES	4,432,201	4,459,180	329,422	1,162,052	26.06

CAPITAL FUND

Description	Last Year Actual	2004-05 Budget	Current Month	Year To Date	%
REVENUES					
TAXES	7,586,118	8,938,000	0	9,141,951	102.28
FEDERAL GRANTS	1,965	0	0	863	.00
STATE AGENCIES	3,016,325	4,267,750	0	0	.00
CHARGES FOR SERVICES - REND.	1,611,639	140,000	14,236	25,071	17.91
INTEREST AND RENTS	339,025	325,000	67,121	164,347	50.57
OTHER REVENUE	680,280	0	9,626	11,376	.00
OTHER FINANCING SOURCES	14,608,910	14,738,780	0	0	.00
TOTAL REVENUE	27,844,262	28,409,530	90,983	9,343,608	32.89
EXPENDITURES					
FINANCE	9,827	55,000	0	2,463	4.48
OTHER GEN GOVERNMENT	4,830,407	3,714,000	644	361,567	9.74
POLICE	184,126	487,120	30,423	46,494	9.54
FIRE	50,298	447,500	0	1,415	.32
BUILDING INSPECTION	56,212	20,000	247	1,462	7.31
STREETS	9,396,123	17,132,000	1,251,900	3,639,815	21.25
ENGINEERING	21,604	17,000	0	0	.00
RECREATION	2,403,981	3,971,000	105,594	311,670	7.85
LIBRARY	213,622	0	0	0	.00
MUSEUM	1,460,743	247,000	93,494	120,637	48.84
STORM DRAINS & RET PONDS	644,502	1,512,890	165,855	335,921	22.20
INFORMATION TECHNOLOGY	93,214	806,020	9,389	9,389	1.16
TOTAL EXPENDITURES	19,364,659	28,409,530	1,657,546	4,830,833	17.00

CITY OF TROY
Monthly Financial Report
Sanctuary Lake Golf Course
For the Period Ending October 31, 2004

SANCTUARY LK GOLF COURSE FUND

Description	Last Year Actual	2004-05 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - SALES	2,164	50,000	2,786	17,939	35.88
CHARGES FOR SERVICES - REC	78,976	1,675,400	75,500	488,290	29.14
INTEREST AND RENTS	79	61,000	137	273	.45
OTHER REVENUE	51	0	42-	22-	.00
OTHER FINANCING SOURCES	0	0	0	0	.00
TOTAL REVENUE	81,270	1,786,400	78,381	506,480	28.35
EXPENDITURES					
SANCTUARY LAKE GREENS	2,501	752,160	87,200	388,379	51.64
SANCTUARY LAKE PRO SHOP	44,575	876,260	31,757	123,401	14.08
SANCTUARY LAKE CAPITAL	0	88,500	0	0	.00
TOTAL EXPENDITURES	47,076	1,716,920	118,957	511,780	29.81

CITY OF TROY
Monthly Financial Report
Golf Course
For the Period Ending October 31, 2004

SYLVAN GLEN GOLF COURSE FUND

Description	Last Year Actual	2004-05 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - SALES	44,907	50,000	3,766	19,141	38.28
CHARGES FOR SERVICES - REC	1,102,938	1,214,410	58,346	569,588	46.90
INTEREST AND RENTS	117,318	85,000	10,941	53,217	62.61
OTHER REVENUE	292	0	216-	395-	.00
OTHER FINANCING SOURCES	11,530	185,520	0	0	.00
TOTAL REVENUE	1,276,985	1,534,930	72,837	641,551	41.80
	=====	=====	=====	=====	=====
EXPENDITURES					
SYLVAN GLEN GREENS	822,466	899,600	62,001	257,815	28.66
SYLVAN GLEN PRO SHOP	364,887	316,330	21,277	110,986	35.09
SYLVAN GLEN CAPITAL	146,550	319,000	0	18,524	5.81
TOTAL EXPENDITURES	1,333,903	1,534,930	83,278	387,325	25.23
	=====	=====	=====	=====	=====

CITY OF TROY
 Monthly Financial Report
 Aquatic Center
 For the Period Ending October 31, 2004

AQUATIC CENTER FUND

Description	Last Year Actual	2004-05 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - REC	344,233	420,000	214-	136,940	32.60
INTEREST AND RENTS	26,053	28,300	2,881	12,123	42.84
OTHER REVENUE	30-	0	0	40-	.00
TOTAL REVENUE	370,256	448,300	2,667	149,023	33.24
EXPENDITURES					
AQUATIC CENTER	541,886	595,460	29,861	240,393	40.37
CAPITAL	17,399	50,000	0	0	.00
TOTAL EXPENDITURES	559,285	645,460	29,861	240,393	37.24

CITY OF TROY
 Monthly Financial Report
 Sewer Fund
 For the Period Ending October 31, 2004

SEWER FUND

Description	Last Year Actual	2004-05 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - FEES	202,124	200,000	15,978	79,045	39.52
CHARGES FOR SERVICES - REND	9,710,263	9,870,000	977,568	1,399,739	14.18
INTEREST AND RENTS	208,707	210,000	38,948	92,069	43.84
OTHER REVENUE	0	0	0	0	.00
TOTAL REVENUE	10,121,094	10,280,000	1,032,494	1,570,853	15.28
EXPENDITURES					
ADMINISTRATION	8,640,930	8,324,640	1,103,073	2,793,554	33.56
MAINTENANCE	1,527,109	1,484,540	59,253	253,283	17.06
CAPITAL	507,522	2,294,600	0	0	.00
TOTAL EXPENDITURES	10,675,561	12,103,780	1,162,326	3,046,837	25.17

CITY OF TROY
 Monthly Financial Report
 Water Fund
 For the Period Ending October 31, 2004

WATER FUND

Description	Last Year Actual	2004-05 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - FEES	1,068,683	850,000	101,193	370,830	43.63
CHARGES FOR SERVICES - SALES	9,967,814	12,301,000	1,213,594	2,089,331	16.99
INTEREST AND RENTS	314,382	296,000	16,677	55,419	18.72
OTHER REVENUE	0	0	0	0	.00
TOTAL REVENUE	11,350,879	13,447,000	1,331,464	2,515,580	18.71
EXPENDITURES					
ADMINISTRATION	8,818,627	11,083,430	1,176,121	3,791,054	34.20
TRANS AND DISTRIBUTION	210,016	206,340	4,506	17,071	8.27
CUSTOMER INSTALLATION	32,750	108,570	5,475	21,383	19.70
CONTRACTORS SERVICE	172,722	210,650	23,212	70,696	33.56
MAIN TESTING	69,635	196,130	6,559	17,992	9.17
MAINTENANCE OF MAINS	298,021	354,570	30,188	145,832	41.13
MAINTENANCE OF SERVICES	203,269	201,510	19,922	54,098	26.85
MAINTENANCE OF METERS	231,710	220,410	15,760	62,434	28.33
MAINTENANCE OF HYDRANTS	250,020	339,420	41,258	73,594	21.68
METERS AND TAP-INS	263,186	339,560	13,520	72,841	21.45
WATER METER READING	79,236	86,630	16,413	59,834	69.07
ACCOUNTING AND COLLECTING	53,133	54,030	7,395	47,478	87.87
CAPITAL	2,042,382	5,534,400	253,355	699,506	12.64
TOTAL EXPENDITURES	12,724,707	18,935,650	1,613,684	5,133,813	27.11

CITY OF TROY
 Monthly Financial Report
 Motor Pool
 For the Period Ending October 31, 2004

MOTOR POOL FUND

Description	Last Year Actual	2004-05 Budget	Current Month	Year To Date	%
REVENUES					
CHARGES FOR SERVICES - REND	0	5,000	0	0	.00
INTEREST AND RENTS	3,537,634	3,635,000	292,163	1,293,508	35.58
OTHER REVENUE	330,513	142,800	50,459	91,665	64.19
OTHER FINANCING SOURCES	1,422,810	1,573,410	0	0	.00
TOTAL REVENUE	5,290,957	5,356,210	342,622	1,385,173	25.86
EXPENDITURES					
ADMINISTRATION	468,897	519,080	32,769	139,705	26.91
OPERATION AND MAINTENANCE	2,874,935	3,095,630	290,671	892,035	28.82
DPW FACILITY MAINTENANCE	318,617	365,200	19,973	72,952	19.98
CAPITAL	630,232	1,376,300	1,771	4,648	.34
TOTAL EXPENDITURES	4,292,681	5,356,210	345,184	1,109,340	20.71

Current Portfolio

Quantity	Security Description	Date Acquired	Adjust/Unit Cost Basis	Total Cost Basis	Estimated Market Price	Estimated Market Value	Unrealized Gain or (Loss)	Estimated Accrued Interest	Estimated Annual Income	Current Yield %
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Cash and Money Accounts

625	WCMA TREASURY FUND CLASS 4		1.00	625	1.00	625			6	.97
				626	626				6	.97

Total Cash and Money Accounts

A change in tier assignment will automatically convert the class of WCMA money fund shares held in your account. The WCMA Agreement and Program Description and the WCMA Fund Prospectus contain more details.

Government and Agency Securities ¹

2,139,000	US TREASURY BILL ZERO% NOV 04 2004	08/26/04	99.72	2,133,093	99.98	2,138,700	N/A			
2,183,000	US TREASURY BILL ZERO% NOV 12 2004	09/03/04	99.71	2,176,866	99.95	2,181,908	N/A			
2,527,000	U.S. TREASURY BILL ZERO% DEC 09 2004	09/09/04	99.60	2,516,892	99.81	2,522,375	N/A			
3,699,000	U.S. TREASURY BILL ZERO% DEC 16 2004	09/16/04	99.58	3,683,759	99.78	3,691,010	N/A			
2,113,000	U.S. TREASURY BILL ZERO% JAN 06 2005	09/23/04	99.50	2,102,584	99.66	2,105,942	N/A			
2,986,000	U.S. TREASURY BILL ZERO% JAN 13 2005	09/30/04	99.50	2,971,107	99.62	2,974,832	N/A			
2,514,000	U.S. TREASURY BILL ZERO% JAN 20 2005	10/07/04	99.50	2,501,534	99.58	2,503,642	N/A			
2,253,000	U.S. TREASURY BILL ZERO% JAN 27 2005	10/14/04	99.49	2,241,697	99.54	2,242,816	N/A			
2,021,000	US TREASURY BILL ZERO% FEB 03 2005	10/21/04	99.48	2,010,490	99.50	2,010,955	N/A			
3,117,000	U.S. TREASURY BILL ZERO% FEB 10 2005	10/28/04	99.44	3,099,635	99.45	3,100,105	N/A			
				25,437,662	25,472,289					

Total Government and Agency Securities ¹



Fifth Third Securities, Inc.

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YOUR BROKERAGE ACCOUNT STATEMENT

September 30, 2004 to
October 29, 2004

YOUR ACCOUNT

30707214

CITY OF TROY - GENERAL ACCOUNT

Your investments — cash account cont'd

	Quantity	Price on 10/29/04 (\$)	Value on 10/29/04 (\$)	Est. annual income (\$)	Est. yield (%)
Mortgage & asset-backed securities cont'd					
FEDERAL HOME LOAN MTG CORP MUL MTG PARTN CTF SER 2003 CL 2617 dDtd 05/01/03 CPN/MATY 4% 11/15/30 FACTOR IS 0.79431 FHR03 2617BG	2,500,000	97.9710	1,945,504.86	79,431.86	4.08
FEDERAL HOME LN MTG CORP MULTI MTG PARTN CTF REMIC 2003 CL 26 dDtd 06/01/03 CPN/MATY 2.25% 03/15/22 FACTOR IS 0.82528 FHR03 2625QX	1,000,000	98.5320	813,168.03	18,568.87	2.28
FEDERAL HOME LN MTG CORP MUTLI MTG PARTN CTF REMIC 2003 CL 26 dDtd 07/01/03 CPN/MATY 3.5% 03/15/33 FACTOR IS 0.65584 FHR03 2640WA	1,300,000	98.4640	839,508.11	29,841.14	3.55
FEDERAL HOME LN MTG CORP MUTLI MTG PARTN CTF REMIC 2003 CL 26 dDtd 08/01/03 CPN/MATY 4.5% 11/15/32 FACTOR IS 1.00000 FHR03 2669DT	700,000	100.0540	700,378.00	31,500.00	4.49
Total mortgage & asset backed securities			13,149,545.49	509,843.74	3.88
Municipal bonds					
KENT CNTY MICH VAR RATE TAXABL TAX NTS BOOK ENTRY ONLY OPT PU 05/16/02 100.000 & EA DAY NOTIF DATES 7 DAYS B4 PUT dDtd 05/10/02 CPN/MATY 0% 03/01/05 FC 07/01/02 @ 100 PRE-REF N MOODYS MIG1 S&P SP1+ 490278P93	209,000	100.0000	209,000.00		
Total municipal bonds			209,000.00		
Total taxable fixed income			15,056,420.49	548,093.74	3.64
Total fixed income			15,056,420.49	548,093.74	3.64
Value of your cash account			16,810,042.22		

Total value of your account

\$16,810,042.22

Activities in your account — cash account

Date	Activity	Details	Quantity	Price (\$)	Amount added to (deducted from) your account(\$)
10/01/04	TAXABLE BND INT	KENT CNTY MICH VAR RATE TAXABL TAX NTS BOOK ENTRY ONLY OPT PU INT P/D 10/1/04 DV06 CPN/MATY 0% 03/01/05			301.22
10/04/04	SWEEP	SWEPT TO 5/3 INSTL GOVT MM PR AUTOMATIC PURCHASE			(301.22)
10/07/04	BUY	FEDERAL HOME LN MTG CORP MULTI MTG PARTN CTF REMIC 2003 CL 26 CPN/MATY 2.25% 03/15/22	1,000,000	98.8750	(816,308.23)
10/07/04	SWEEP	SWEPT FR 5/3 INSTL GOVT MM PR			831,729.96
10/08/04	BUY	FEDERAL HOME LN MTG CORP MULTI MTG PARTN CTF REMIC 2003 CL 25 CPN/MATY 3% 07/15/14	3,000,000	99.9375	(1,899,555.23)
10/08/04	SWEEP	SWEPT FR 5/3 INSTL GOVT MM PR			1,884,133.50
10/12/04	BUY	FEDERAL HOME LOAN MTG CORP MUL MTG PARTN CTF SER 2003 CL 2617 CPN/MATY 4% 11/15/30	2,500,000	98.7813	(1,964,021.86)
10/12/04	SWEEP	SWEPT FR 5/3 INSTL GOVT MM PR			1,964,021.86
10/15/04	SELL	FEDERAL HOME LOAN MTG CORP MUL MTG PARTN CTF SER 2003 CL 2602 CPN/MATY 5.5% 09/15/32	(800,000)	100.0000	45,188.21

September 30, 2004 to
October 29, 2004

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YOUR ACCOUNT

30707214
CITY OF TROY - GENERAL ACCOUNT**Summary of your income** cont'd

Charges and other deductions	This period	Year-to-date
Accrued interest on purchases	\$3,844.68	\$202,984.21
Total charges and other deductions	\$3,844.68	\$202,984.21
Net total	\$36,958.78	\$571,358.65

Your investments — cash account

	Quantity	Price on 10/29/04 (\$)	Value on 10/29/04 (\$)	Est. annual income (\$)	Est. yield (%)
Cash and equivalents					
5/3 INSTL GOVT MM PREF CLASS			1,753,621.73		1.40
Total cash and equivalents			1,753,621.73		

Fixed income — taxable**Government and federal agency bonds**

FEDERAL HOME LOAN BANK CONS BD CPN RATE 2 1/4% TO 7/05; THEREAF CALLABLE dDtc 07/23/03 CPN/MATY 2.25% 07/23/09 FC 01/23/04 @ 100 MOODYS Aaa S&P AAA 31339YJ52	1,700,000	99.8750	1,697,875.00	38,250.00	2.25
Total government and federal agency bonds			1,697,875.00	38,250.00	2.25

Mortgage & asset-backed securities

FHLMC PARTN CTF POOL E95237 dDtd 03/01/03 CPN/MATY 5% 03/01/13 FACTOR IS 0.74513 FHLMC E95237	1,000,000	102.4770	763,592.93	37,256.79	4.87
FEDERAL NATL MTG ASSN GTD PASS THRU CTF REMIC 2003 CL 24 GA dDtd 03/01/03 CPN/MATY 3.5% 01/25/27 FACTOR IS 0.61890 FNR03 24GA	750,000	99.7470	463,005.81	16,246.30	3.50
FEDERAL NATL MTG ASSN GTD PASS THRU CTF REMIC 2003 CL 55 YA dDtd 05/01/03 CPN/MATY 5.5% 11/25/31 FACTOR IS 0.73664 FNR03 55YA	500,000	100.4800	370,088.04	20,257.60	5.47
FEDERAL NATL MTG ASSN MULTICLA MTG PARTN CTF REMIC 2003 CL 79 dDtd 07/01/03 CPN/MATY 5% 11/25/32 FACTOR IS 0.28043 FNR03 79WE	1,500,000	99.2110	417,334.62	21,032.67	5.03
FEDERAL HOME LOAN MTG CORP MUL MTG PARTN CTF SER 2002 CL 2537 dDtd 12/01/02 CPN/MATY 4.25% 05/15/30 FACTOR IS 0.34690 FHR02 2537LA	2,000,000	100.4970	697,249.13	29,486.53	4.22
FEDERAL HOME LOAN MTG CORP MUL MTG PARTN CTF SER 2002 CL 2535 dDtd 12/01/02 CPN/MATY 4% 08/15/26 FACTOR IS 1.00000 FHR02 2535LK	3,500,000	100.3490	3,512,215.00	140,000.00	3.98
FEDERAL HOME LN MTG CORP MULTI MTG PARTN CTF REMIC 2003 CL 25 dDtd 02/01/03 CPN/MATY 3% 07/15/14 FACTOR IS 0.64691 FHR03 2564CN	3,000,000	99.5220	1,931,455.96	58,221.98	3.01
FEDERAL HOME LOAN MTG CORP MUL MTG PARTN CTF SER 2003 CL 2589 dDtd 03/01/03 CPN/MATY 4% 03/15/26 FACTOR IS 1.00000 FHR03 2589GH	700,000	99.4350	696,045.00	28,000.00	4.02

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T-Bills, Commercial Paper, C.D. etc.

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Fund	Mat Yr.	Mat Mo.	Mat Day	Type	Loc	Pur Yr.	Pur Mo.	Pur Day	Rate	Name	Face	Accrue 6/30	Book
112	2004	11	4	9	ML	2004	8	26	1.440	TBILL	2,139,000		2,133,093.98
	2004	11	5	7	FLAGSTAR	2004	8	20	1.820	CD	3,047,915		3,047,915.00
	2004	11	12	7	FLAGSTAR	2004	8	27	1.850	CD	2,011,041		2,011,040.56
	2004	11	12	9	ML	2004	9	3	1.460	TBILL	2,183,000		2,176,866.38
	2004	11	19	7	IND BANK	2004	8	27	1.700	CD	2,027,118		2,027,117.68
	2004	11	23	7	HUNT BANK	2004	9	24	2.000	CD	2,008,458		2,008,458.33
	2004	11	24	7	REPUBLIC	2004	9	3	1.700	CD	1,042,686		1,042,686.10
	2004	11	24	7	HUNT BANK	2004	9	10	1.840	CD	2,000,000		2,000,000.00
	2004	11	30	7	FLAGSTAR	2004	8	31	1.910	CD	2,000,000		2,000,000.00
	2004	12	3	7	FLAGSTAR	2004	8	26	1.910	CD	2,000,000		2,000,000.00
	2004	12	3	7	FLAGSTAR	2004	10	1	2.050	CD	2,029,890		2,029,890.37
	2004	12	9	9	ML	2004	9	10	1.620	TBILL	2,527,000		2,516,892.00
	2004	12	10	7	FLAGSTAR	2004	9	3	1.950	CD	2,007,840		2,007,840.00
	2004	12	10	7	FLAGSTAR	2004	9	10	2.010	CD	2,000,000		2,000,000.00
	2004	12	16	9	ML	2004	9	16	1.650	TBILL	3,699,000		3,683,759.09
	2004	12	17	7	FLAGSTAR	2004	9	3	1.950	CD	2,026,341		2,026,340.74
	2004	12	17	7	FLAGSTAR	2004	9	10	2.010	CD	2,000,000		2,000,000.00
	2004	12	23	7	FLAGSTAR	2004	9	10	2.010	CD	2,000,000		2,000,000.00
	2004	12	23	7	INDEP BANK	2004	10	22	2.100	CD	1,016,617		1,016,616.66
	2004	12	30	8	NATL CITY	2003	6	30	1.050	FHLB	1,000,000		1,000,000.00
	2004	12	30	8	FITB	2003	7	30	3.600	FHR03 2640	900,000		845,412.13
	2004	12	30	8	FITB	2003	7	30	5.000	FNR03 79WE	1,500,000		394,541.95
	2004	12	30	8	FITB	2004	1	27	5.500	FNR 55YA	500,000		368,320.09
	2004	12	30	8	FITB	2004	1	30	4.250	FHR 2537LA	2,000,000		772,044.53
	2004	12	30	8	FITB	2004	1	30	4.000	FHR 2535LK	3,500,000		3,500,000.00
	2004	12	30	8	FITB	2004	3	25	4.500	FHR 2669DT	700,000		703,000.00
	2004	12	30	7	FLAGSTAR	2004	9	10	2.010	CD	2,000,000		2,000,000.00
	2004	12	30	7	FITB	2004	10	15	1.760	CD	6,014,333		6,014,333.33
	2005	1	6	9	ML	2004	9	23	1.720	TBILL	2,113,000		2,102,584.66
	2005	1	7	7	FLAGSTAR	2004	9	10	2.010	CD	2,039,126		2,039,126.44
	2005	1	7	7	HUNT BANK	2004	10	1	2.040	CD	2,039,543		2,039,542.94
	2005	1	13	9	ML	2004	9	30	1.740	TBILL	2,986,000		2,971,107.33
	2005	1	14	7	FLAGSTAR	2004	9	15	2.030	CD	2,028,476		2,028,476.45
	2005	1	20	9	ML	2004	10	7		TBILL	2,514,000		2,501,534.76
	2005	1	21	7	FLAGSTAR	2004	10	8	2.190	CD	3,041,233		3,041,232.81
	2005	1	21	7	FLAGSTAR	2004	10	15	2.210	CD	2,000,000		2,000,000.00
	2005	1	24	7	STAND FED	2004	10	25	1.900	CD	4,713,148		4,713,147.70
	2005	1	27	9	ML	2004	10	14	1.750	TBILL	2,253,000		2,241,697.44
	2005	1	28	7	FLAGSTAR	2004	10	15	2.210	CD	2,000,000		2,000,000.00
	2005	2	3	9	ML	2004	10	21	1.830	TBILL	2,021,000		2,010,490.80
	2005	2	4	7	FLAGSTAR	2004	10	15	2.210	CD	2,000,000		2,000,000.00
	2005	2	10	9	ML	2004	10	28	1.940	TBILL	3,117,000		3,099,635.72
	2005	2	11	7	FLAGSTAR	2004	10	15	2.210	CD	2,000,000		2,000,000.00
	2005	2	18	7	FLAGSTAR	2004	10	15	2.210	CD	2,016,083		2,016,083.33
	2005	2	18	7	FLAGSTAR	2004	10	22	2.230	CD	2,065,561		2,065,560.94
	2005	2	25	7	FITB	2004	10	15	1.950	CD	2,000,000		2,000,000.00
	2005	3	1	8	FITB	2002	10	9		KENT DTAN	209,000		209,000.00

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T-Bills, Commercial Paper, C.D. etc.

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Fund	Mat Yr.	Mat Mo.	Mat Day	Type	Loc	Pur Yr.	Pur Mo.	Pur Day	Rate	Name	Face	Accrue 6/30	Book
112	2005	3	4	7	FITB	2004	10	15	1.950	CD	2,000,000		2,000,000.00
	2005	3	4	8	REPUBLIC	2004	10	22	2.000	CD	2,029,526		2,029,525.87
	2005	5	30	8	FITB	2003	5	19	5.000	FHLMC95237	1,000,000		756,805.97
	2005	6	30	8	FITB	2003	2	27	1.200	MAX SAVER	6,557,320		6,557,320.08
	2005	6	30	8	FITB	2004	1	1	1.000	MONEY FUND	1,753,622		1,753,621.73
	2005	6	30	8	FITB	2004	7	26	1.200	FNR03 24GA	550,000		465,449.71
	2005	6	30	8	HUNT BANK	2004	8	27	2.630	MM	519,790		519,790.04
	2005	6	30	8	FITB	2004	9	13	2.500	FHR03 2589	693,000		693,000.00
	2005	6	30	8	FITB	2004	10	7	2.250	FHR 2625QX	816,308		816,308.23
	2005	6	30	8	FITB	2004	10	8	3.000	FHR 2564CN	1,899,555		1,899,555.23
	2005	6	30	8	FITB	2004	10	12	4.000	FHR 2617BG	1,964,022		1,964,021.86
	2005	9	29	8	NATL CITY	2004	3	29	1.500	FHLB	1,000,000		1,000,000.00
	2005	12	22	8	NATL CITY	2004	3	22	2.030	FHLB	1,025,000		1,025,000.00
	2009	4	23	8	FITB	2003	7	23	2.140	FHLB	1,700,000		1,700,000.00
										TOTAL			121,585,788.96
591	2004	11	29	7	REPUBLIC	2004	8	30	1.750	CD	138,499		138,498.98
	2005	1	3	7	HUNT BANK	2004	8	27	1.850	CD	150,847		150,847.08
	2005	3	4	8	NATL CITY	2004	3	25	1.200	FNMA	1,500,000		1,483,803.33
	2005	6	30	7	COMERICA	1997	7	1	1.340	GOV'T POOL	1,844,405		1,844,405.11
	2005	6	30	8	STAND FED	2003	2	20	.980	M MKT	2,693,294		2,693,293.72
	2005	6	30	8	NATCITY	2004	3	25	1.000	DREYFUS MM	33,756		33,755.61
	2005	6	30	8	FITB	2004	4	14		FHLB	1,000,000		994,062.50
	2027	1	25	8	FITB	2004	2	2	3.750	FNR03 24MN	1,015,000		1,015,000.00
										TOTAL			8,353,666.33
688	2005	6	30	7	BANK ONE	1997	7	1	1.390	GOV'T POOL	1,305,617		1,305,617.00
										TOTAL			1,305,617.00
										TOTAL			131,245,072.29

*** END OF REPORT ***

7 = CD 8 = Paper 9 = T-Bills

November 10, 2004

To: John Szerlag, City Manager

From: Brian P. Murphy, Assistant City Manager/Services
Carol K. Anderson, Parks and Recreation Director

Subject: Agenda Item: State-Facilitated Emerald Ash Borer Tree Removal Contract, and Status Report on Troy's Ash Borer Control Program

At their November 8, 2004 meeting, City Council requested information on the State-Facilitated Emerald Ash Borer Tree Removal Contract, as well as a status report on the City's Emerald Ash Borer Control Program with respect to the effectiveness of chemical treatments.

State Ash Tree Removal Contract

The devastation from the Emerald Ash Borer (EAB) on the region's ash trees and its impact on both municipalities and residents alike has prompted the State of Michigan, through the Department of Agriculture (MDA) and Management and Budget (DMB) to develop a program utilizing the State's contracting system to obtain standardized pricing for ash tree removal.

The goal of the program is to provide municipalities and homeowners with a more affordable rate for tree removal, while increasing business opportunities for area tree care and removal companies. Only those communities and homeowners in the thirteen EAB quarantined counties – Genesee, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Monroe, Oakland, St. Claire, Shiawassee, Washtenaw, and Wayne are eligible to participate. Participation by municipalities in the affected counties is entirely voluntary, although the municipality must participate in order for its residents to participate.

How the Program Works

It is important to note that this program does not offer financial assistance to municipalities or homeowners for ash tree removal. It is also important to understand that the program relies on the local unit of government to administer the program and act as an agent for the State. The responsibility for taking resident requests for tree removal, verifying quantities and tree sizes, contacting participating contractors, scheduling and coordinating removals with contractor and resident, accepting payment from resident, and paying contractors after inspection of completed tree removal will fall to one, or more individuals acting as local coordinator(s). In the case of the City of Troy, Parks and Recreation staff would likely perform this function. It would also be the City's responsibility to mediate disputes between homeowner and contractor resulting from property damage.

The program requires prospective vendors to obtain an "Invitation to Bid" from the DMB and return it to the State by the deadline date of December 1, 2004. Proposals will include information about the vendor as well as bid prices for removal of ash trees in various size ranges. A State review panel will then evaluate the proposals and develop both a list of vendors meeting the program criteria and standardized pricing for ash tree removals of municipal and residential trees. The State expects to award the contract(s) on December 15, 2004, with a start date of the three-year contract of January 1, 2005.

Areas of Concern

While City staff agrees with goal of the program to provide lower costs to the homeowner for removal of diseased and dead ash trees on their private property, several area of concern should be discussed before the City agrees to participate.

The main concern is the inordinate amount of staff time that will be necessary to coordinate and administer the program. Someone, or several individuals will need to devote a great deal of their time to this program for the next several years until all private ash trees are removed. The staff that would be responsible for this program already administers a contract for removal of an estimated 30,000 public ash trees, as well as upcoming contracts for replanting those trees being removed. Participation in this program will necessitate a shift of workload among remaining staff, or reduction in services currently being offered.

There are also financial issues to discuss, which will have direct impact on other City departments. Under the program, residents would be required to prepay for the tree work to be done. One method for this would require the City to set up an account for receipt of perhaps thousands of residents' prepayment for tree removal services. Following removal, the City would then have to process and release payment to the contractor performing the work. Another possible method would be to add the cost of removal to the individual's property taxes. This method, however, would require a separate City funding source to pay the contractor for services rendered, rather than make them wait for taxes to be received by the City before receiving payment.

Status of Troy's Emerald Ash Borer Control Program

Troy continues its policy of ash tree removals in response to the introduced insect know as the Emerald Ash Borer. The decision to begin and continue this removal policy is based on the following:

- As per MSU, trees showing 15% or greater borer damage are not suitable candidates for treatment attempts.
- Dr. Deborah McCullough indicates that current treatment success rates range from 33 to 60%.

- Due to the estimated number of ash trees in Troy and the narrow window for applications of control chemicals, the City would have to contract out control services.
- Note that the recommended chemicals are highly toxic. Staff is concerned about the long-term effects of broad applications of these chemicals to the environment. While professional applications can provide a higher degree of containment, staff is very concerned about misuse of these chemicals by the general public, as well as the possibility of long-term soil and water contamination.
- Estimated average treatment cost per tree is \$150.00 annually. As the average ash tree in Troy would have lived for another 40 years, each tree would cost the City approximately \$6000.00 to treat during its life.
- **The estimated 30,000 ash trees on municipal property would have cost an estimated \$180 million dollars to treat over the next 40 years.**
- City Staff currently estimates it will take \$6 million and four years to remove 30,000 municipal ash trees.
- Prior to the Emerald Ash Borer infestation, the City installed 650 trees annually at an estimated cost of \$89,300.00. In response to the tree loss the City currently has a three-year replacement contract for 1300 trees annually with an estimated total contract cost of \$537,350.00.
- **If the City were to replace 30,000 trees at the current cost of \$125.00 per tree, the City would incur a total estimate cost of \$3.75 million.**
- It is therefore estimated that total removal and replacement of 30,000 trees would cost approximately \$9.75 million. An estimated saving of approximately \$170.25 million over the cost of treatment, assuming an effective treatment was available and all municipal trees were treated.
- Note that the municipalities that have chosen to treat their ash are dealing with much smaller quantities – fewer than 1000 ash trees. The City of Grosse Pointe Farms, featured in a news article touting the benefit of treating ash rather than adopting the State recommendation of eradication, has been treating 500 public ash trees.
- A survey was conducted of several surrounding communities – Farmington Hills, Southfield, Ann Arbor, Birmingham, and Sterling Heights to find out how each city is approaching the Emerald Ash Borer problem with their municipal trees.

Farmington Hills - Treated some of their estimated 377 municipal ash two years ago with no success. No longer treating. Are now removing all ash when they reach 50% dieback. Performing the removals with contractors, as well as city staff.

Southfield - Not treating any ash. Are removing all municipal ash (est. 2200 trees), using both contractors and city staff. Estimate the cost of contracted removals at @\$500/tree.

Ann Arbor - Not treating their municipal ash. Plan to remove all of their 18,000-20,000 ash with contractors and city staff. Have removed @1800 trees since 2002.

Birmingham - Not treating their municipal ash. Are removing all of their 850 ash by contract (J. H. Hart).

Sterling Heights - Not treating their municipal ash, but have allowed residents to treat at their own expense. Are removing all of their estimated 14,000 ash, with contractor removing trees 6" in diameter and larger, and having city crews remove ash with diameters smaller than 6".

Summary

The State is continuing to hold meetings throughout the region to answer questions for members of local units of government regarding the State-Facilitated Emerald Ash Borer Tree Removal Contract program. Formal training sessions will be available after the contracts are in place. Staff will continue to provide updates as critical information becomes available. We will have a better idea of the level of contractor participation and proposed bid prices for tree removal after bids have been received by the State and will then be able to evaluate whether this is a beneficial program for the residents of Troy. Staff will also continue to investigate other possibilities that may provide residents with removal options without committing as many City resources to the effort.

Regarding the City's Emerald Ash Borer Control Program, the decision to remove Troy's municipal ash trees was based on the best information available from the State Department of Agriculture, and others represented on the State Emerald Ash Borer Task Force. Contrary to a minority or individuals in the tree care industry, removal of the ash in the thirteen county quarantine area remains the recommended method to eradicate the Emerald Ash Borer and keep it from spreading to other parts of Michigan, surrounding states and potentially the eastern one-third of the United States.

Treatment of the City's 30,000+ municipal ash trees was not an option, due to cost, logistics of treating all trees within a small treatment window timeframe, and the advanced state of borer infestation in this area at the time this pest was first discovered.

CKA/jb

At a Regular Meeting of the Royal Oak City Commission held on Monday, November 8, 2004, in City Hall, 211 Williams Street, the following Resolution was adopted:

WHEREAS, the City of Royal Oak recognizes the importance of trucks to the Michigan economy and the need to transport goods and materials efficiently and economically; however, HB 4358 is fiscally irresponsible and poses a great threat to public safety; and

WHEREAS, House Bill 4358 proposes to increase the length of trucks on Michigan roads from 59 to 65 feet, allow trucks to travel over any road in the state, and reduce the penalty of overweight trucks to \$250; and

WHEREAS, the State of Michigan and the City of Royal Oak have billions of dollars invested in road infrastructure, local road repair and maintenance; allowing increased truck length and reducing the penalty for truck weight will accelerate the deterioration of state and local roads which are already among the poorest condition in the nation; and

WHEREAS, it is very expensive to design, construct, and maintain streets of adequate strength to handle the excessive weight of large trucks; one legal 80,000-pound tractor-trailer does as much damage to pavement as 9,600 cars — damage that increases exponentially as a truck's weight rises. Many studies recognize that trucks do not pay their fair share of road taxes relative to the amount of damage they cause to road pavement; and

WHEREAS, many older roads, subdivision streets and intersections were designed for trucks 53 feet long or less, based on turning radius, and cannot accommodate significantly longer vehicles; and

WHEREAS, the \$250 penalty set forth in HB 4358 will be virtually meaningless to most trucking companies and is out of balance with the damage done to state and local roadways by overweight trucks; penalties must be large enough to encourage truckers to stay on designated routes and observe weight limits; removing judicial review encourages repeat offenses and regular abuse of weight limitations; and

WHEREAS, local governments are in the best position to evaluate which roads in their community can safely handle truck traffic. To restrict the ability of the City of Royal Oak to control where trucks travel within our city is fiscally irresponsible and will cause grave danger to citizens, and private and public property.

NOW, THEREFORE, BE IT RESOLVED that the City of Royal Oak urges the Michigan legislature and the Governor to oppose HB 4358, a bill which is bad public policy and not in the interests of the citizens of Michigan.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Governor, the Senate Transportation Committee, the Senate Majority and Minority Leaders and members of the Michigan legislature who represent our residents.

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the Royal Oak City Commission at a meeting held on November 8, 2004.

Mary Ellen Brewer

City Clerk

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CITY OF TROY
CITY MANAGER'S OFFICE

November 2004

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

- 9/29 PH Prop. Consent Judg. Premium Dev. v. Troy
- 9/29 PH Comm. Veh. App. - 1855 Boulan
- 9/29 PH Comm. Veh. App. - 2887 E. Wattles
- 9/29 PH Comm. Veh. App. - 3035 Heritage
- 9/29 PH Parking Var. Req. - 1717 Stutz
- 9/29 PH Req. for Rezoning (Z-697) Sect. 20

December 2004

December 2004							January 2005						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
5	6	7	8	9	10	11	2	3	4	5	6	7	8
12	13	14	15	16	17	18	9	10	11	12	13	14	15
19	20	21	22	23	24	25	16	17	18	19	20	21	22
26	27	28	29	30	31		23	24	25	26	27	28	29
							30	31					

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
		December 1			2
		8:30am BUILDING CODE BOARD OF APPEALS (Conference Room L)			3
		7:00pm Persons w/Dis (Conference Room Lower Level)			4
					5
6	7	8	9	10	11
7:30pm City Council-Regular (Council Chambers)	7:00pm Ethnic Issues Advisory Board (Conference Room C)	12:00pm Retirement System Board of Trustees (Conference Room C)	7:30pm Library Adv (Library Conference Room)		
7:30pm Tentative Study Session (Council Boardroom)	7:30pm Planning - Study (Council Boardroom)		7:30pm Parks and Recreation Bd (Community Center)		12
					13
13	14	15	16	17	18
	2:00pm Board of Review (Conference Room D)	7:30am DDA Meeting (Conference Room Lower Level)			
	7:30pm Planning Commission - Reg (Council Chambers)	7:00pm Troy Youth (Community Center)			19
					20
20	21	22	23	24	25
7:30pm City Council-Regular (Council Chambers)	7:30pm BZA (Chambers)				
7:30pm Study Session (Council Boardroom)	7:30pm Historic District (Conference Room C)				26
	7:30pm BOARD OF ZONING APPEALS (Council Chambers)				27
27	28	29	30	31	

9/29 PH Prop. Consent Judg. Premium Dev. v. Troy
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 9/29 PH Comm. Veh. App. - 3035 Heritage
 9/29 PH Parking Var. Req. - 1717 Stutz
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January 2005

January 2005						
S	M	T	W	T	F	S
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					

February 2005						
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					

Monday	Tuesday	Wednesday	Thursday	Friday	Sat/Sun
					January 1, 05
					2
3	4	5	6	7	8
		8:30am BUILDING CODE BOARD OF APPEALS (Conference Room LL)			9
10	11	12	13	14	15
7:30pm City Council-Regular (Council Chambers)					16
17	18	19	20	21	22
	7:30pm BZA (Chambers) 7:30pm BOARD OF ZONING APPEALS (Council Chambers)	7:30am DDA Meeting (Conference Room Lower Level)			23
24	25	26	27	28	29
7:30pm City Council-Regular (Council Chambers)					30
31					

9/29 PH Prop. Consent Judg. Premium Dev. v. Troy
 9/29 PH Comm. Veh. App. - 1855 Boulan
 9/29 PH Comm. Veh. App. - 2887 E. Watties
 9/29 PH Comm. Veh. App. - 3035 Heritage
 9/29 PH Parking Var. Req. - 1717 Stutz
 9/29 PH Req. for Rezoning (Z-697) Sect. 20