May 9, 2005

TO: John Szerlag, City Manager

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

SUBJECT: AGENDA ITEM – PUBLIC HEARING FOR REZONING APPLICATION – South side of Henrietta Avenue, south of Big Beaver Road and east of Rochester Road, Section 27 – R-1E to P-1 (Z 695)

RECOMMENDATION

The application is consistent with the intent of the Future Land Use Plan and compatible with surrounding land uses and zoning districts. Rezoning the property to P-1 Vehicular Parking Zoning District will allow the applicant to expand his off-street parking facilities and add viability to his property. At the same time, the rezoning will offer protection to the abutting residential property to the east, as off-street parking will be the only permitted use. A 4.5-foot high masonry wall is required to be constructed on the eastern property line, to provide a buffer with the residential parcel to the east. On April 12, 2005, the Planning Commission recommended approval of the rezoning request. City Management concurs with the Planning Commission recommendation.

HISTORY OF PARCEL

On May 11, 2004 the Planning Commission recommended denial of the application. On August 9, 2004 City Council instructed the Planning Commission to look at the potential installation of an E-P zoning buffer located between the proposed rezoning property and the adjacent residences with attention given to grade as it might affect development.

The City and Village Zoning Act, PA 207 of 1921, was amended in January 2005 to allow communities conditional approval of rezoning applications based upon specific use and design conditions; provided they are requested voluntarily by the applicant. The applicant met with the Planning Department to develop a site plan for a proposed overflow parking area. The applicant originally proposed adding a landscaped berm as a buffer between the parking lot and the residence to the east. The applicant indicated that the resident to the east preferred a screen wall rather than a landscaped berm. The site plan was amended to provide a masonry wall to assist in buffering the P-1 property from the abutting residential property to the east. It should be noted that the wall design represents the minimum requirement under the provisions of the P-1 district.

During this process, the City Attorney's Office determined that the conditional rezoning approach should not be used as written due to a lack of appropriate standards to be used in its application (see attached memo). The applicant has requested that the Planning Commission consider the rezoning application, including the site plan. Note that an E-P buffer was not proposed on the site plan.

GENERAL INFORMATION

Name of Owner / Applicant:
The owner and applicant is Arnold D. Becker.

Location of Subject Property:
The property is located on the south side of Henrietta Avenue, south of Big Beaver Road and east of Rochester Road, in Section 27.

Size of Subject Parcel:
The parcel is approximately 10,880 square feet in area, or 0.25 acres.

Current Use of Subject Property:
The property is currently vacant.

Current Zoning Classification:
R-1E One Family Residential District.

Proposed Zoning of Subject Parcel:
P-1 Vehicular Parking District.

Proposed Uses and Buildings on Subject Parcel:
The applicant is proposing to construct a paved parking area with a 4.5-foot high screen wall on the eastern property line, as required when adjacent to a residential zoning district.

Current Use of Adjacent Parcels:
North: Off-street parking area.
South: Off-street parking area.
East: Single family residential.
West: Kaufman's Auto Body and a vacant commercial building.

Zoning Classification of Adjacent Parcels:
North: P-1 Vehicular Parking.
South: O-1 Office Building.
East: R-1E One Family Residential.
West: P-1 Vehicular Parking.

ANALYSIS

Range of Uses Permitted in Proposed Zoning District and Potential Build-out Scenario:

PRINCIPAL USES PERMITTED:
Premises in such Districts shall be used only as off-street vehicular parking areas, and shall be developed and maintained subject to such regulations hereinafter provided.

Vehicular and Non-motorized Access:
The parcel fronts on Henrietta Street.

Potential Storm Water and Utility Issues:
The applicant will have to provide on-site storm water 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 parcel is classified on the Future Land Use Plan as Non-Center Commercial. There is no specific plan designation for P-1 Vehicular Parking in the Future Land Use Plan. The only use permitted within the P-1 zone is off-street parking. The off-street parking area will provide additional parking for uses that are zoned B-3. The B-3 Zoning District has a primary correlation with the Non-Center Commercial classification. Based on this reasoning, the application complies with the Future Land Use Plan.

Compliance with Location Standards
There are no location standards for the P-1 Vehicular Parking Zoning District.

Attachments:
1. Maps.
2. Memo prepared by Assistant City Attorney dated April 7, 2005.
3. Minutes from April 12, 2005 Planning Commission meeting.
4. Minutes from August 9, 2004 City Council meeting.
5. Minutes from May 11, 2004 Planning Commission meeting.
6. Photographs of site.

cc: Applicant
File (Z 695)

Prepared by RBS, MFM

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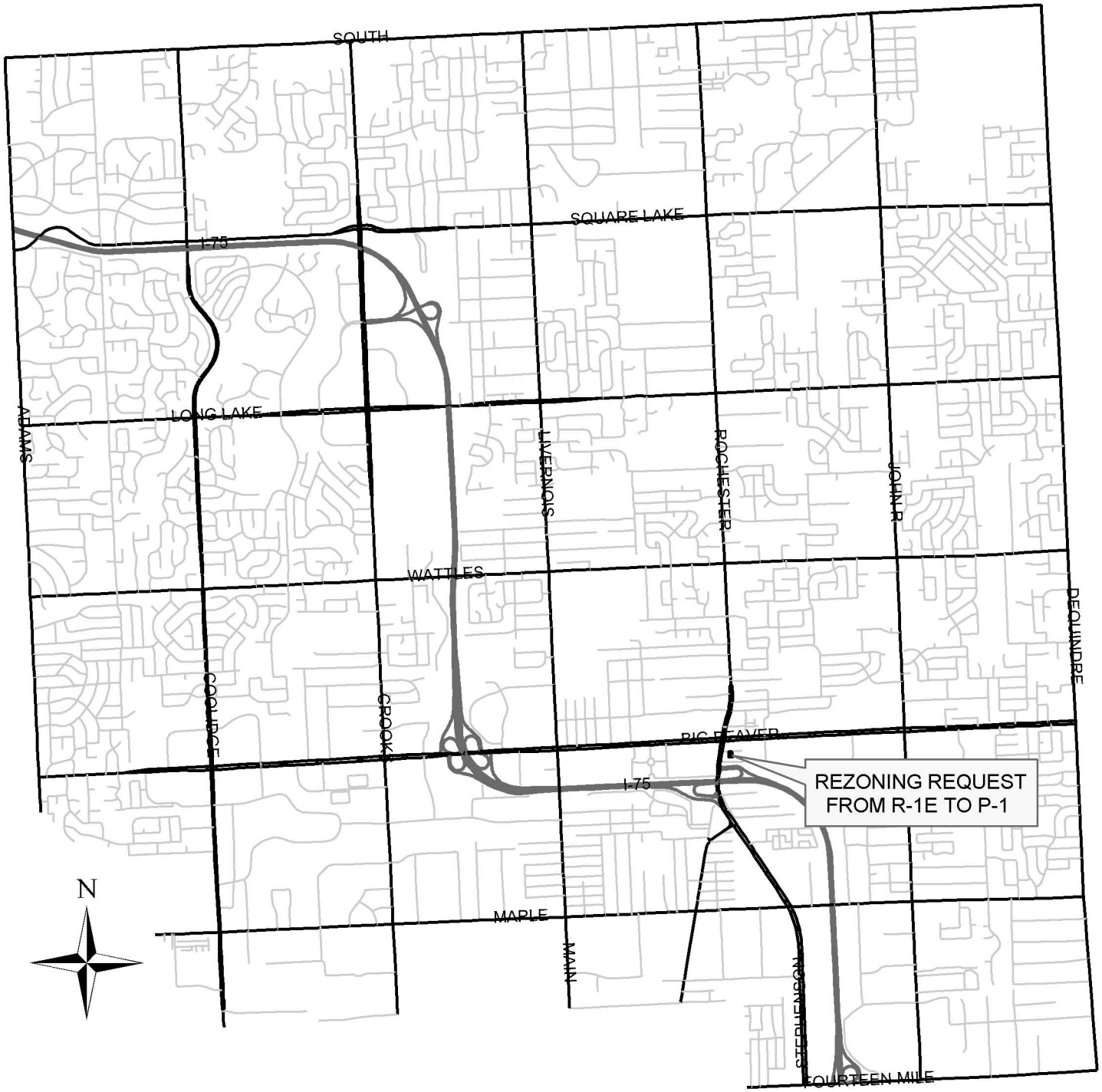
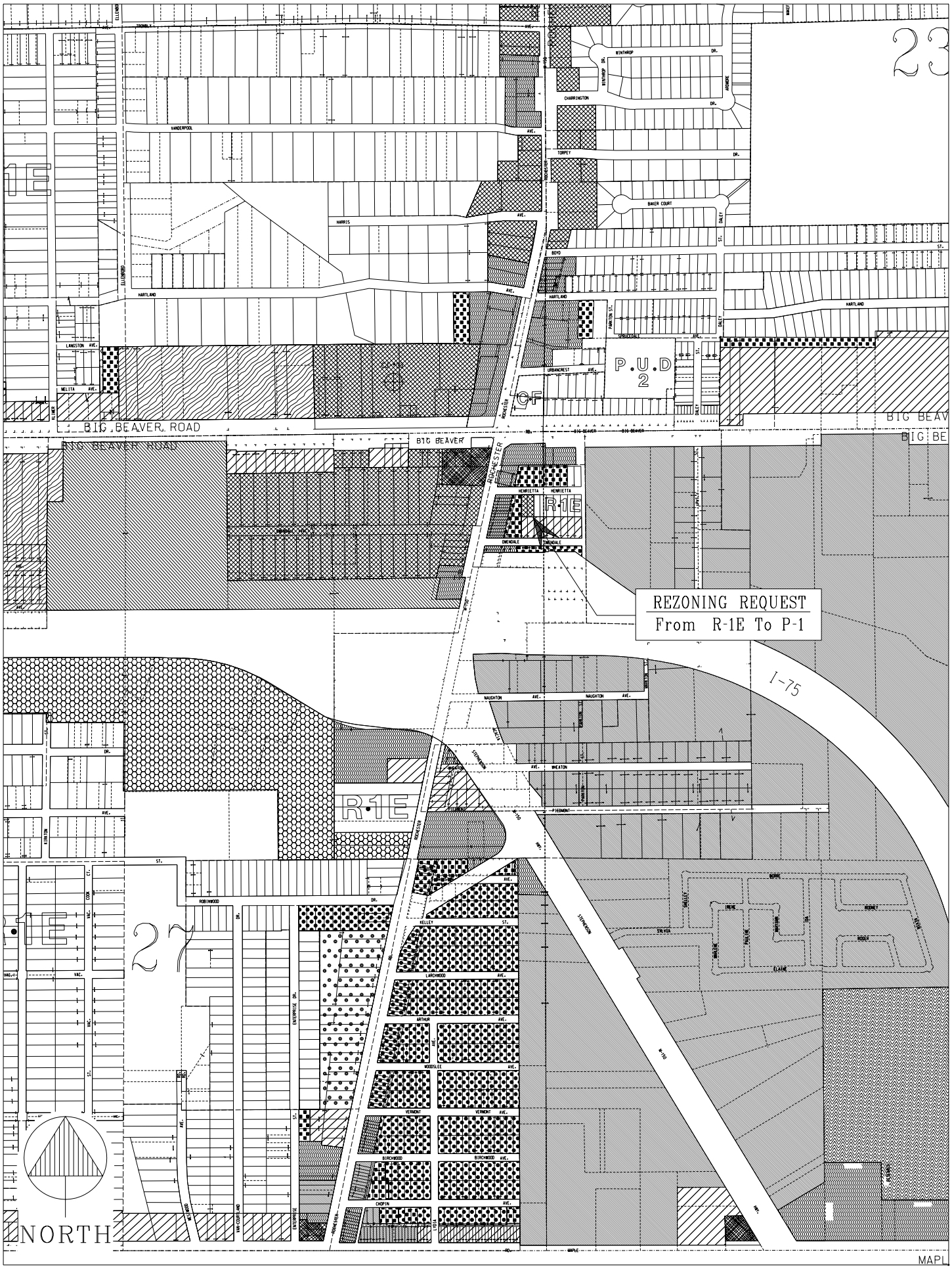
CITY OF TROY

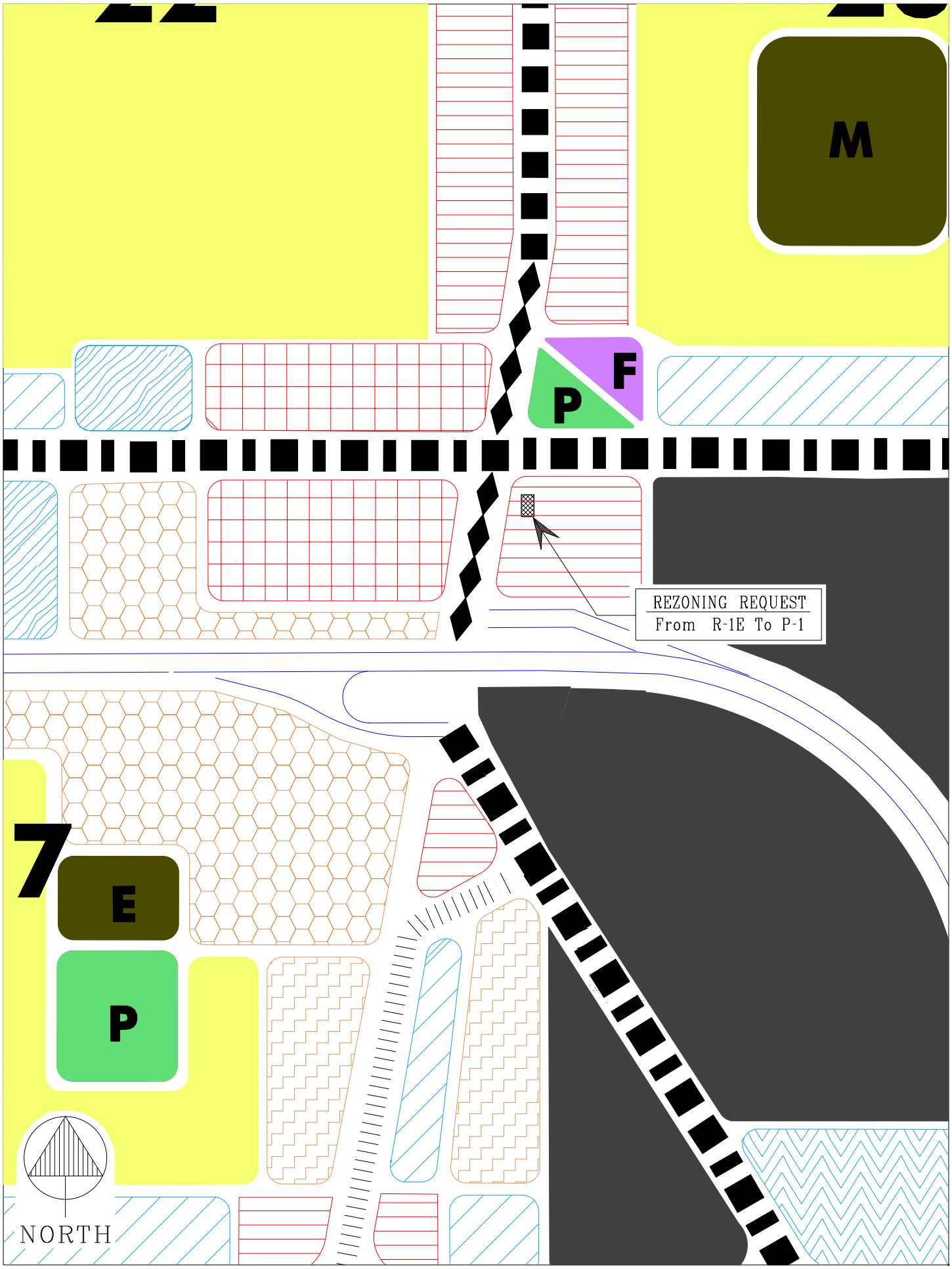


PREPARED BY CITY OF TROY PLANNING DEPT.



23
BIG BEAVER ROAD
BIG BEAVER
ROCHESTER
P.U.D 2
R-1E
REZONING REQUEST
From R-1E To P-1
I-75
27
NORTH

Z-695 / SEC. 27 / 04-15-04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REZONING REQUEST
From R-1E To P-1
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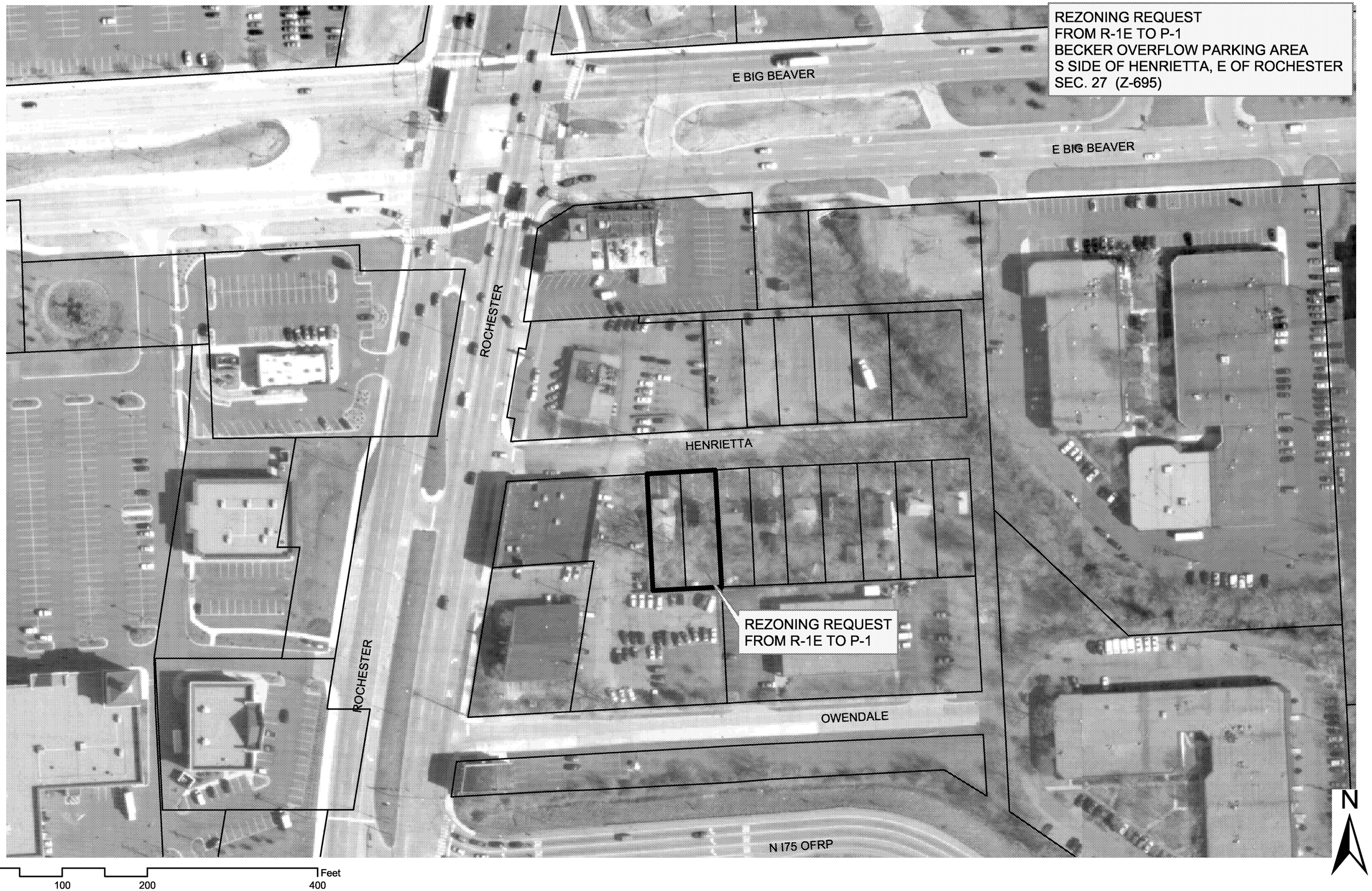
REZONING REQUEST
FROM R-1E TO P-1
BECKER OVERFLOW PARKING AREA
S SIDE OF HENRIETTA, E OF ROCHESTER
SEC. 27 (Z-695)
E BIG BEAVER
E BIG BEAVER
ROCHESTER
HENRIETTA
REZONING REQUEST
FROM R-1E TO P-1
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City of Troy

TO: Members of Planning Commission
FROM: Allan T. Motzny, Assistant City Attorney
DATE: April 7, 2005
SUBJECT: Contract or Conditional Zoning

On December 30, 2004, Governor Granholm signed into law three Public Acts that allows authority for townships, counties, cities and villages to enter into a contract with a private developer as part of a rezoning. The new legislation added a new section to the various zoning statutes including a new section 4g to the City and Village Zoning Act, MCL 125.584g. Under this section, an owner of land may voluntarily offer in writing, and the city may approve, certain use and development of the land as a condition to rezoning. However, since its enactment, it has been the consensus of most municipal law attorneys who have reviewed the legislation that it was passed prematurely due to the total lack of standards for its application. Accordingly, amendments to the new legislation are being prepared and should be introduced within the next year, and hopefully within the next few months. In the meantime, it is our recommendation the City not consider any request for contract or conditional rezoning until the legislation has been amended to provide appropriate standards.

4. PUBLIC HEARING – PROPOSED REZONING (Z 695) – Proposed Becker Overflow Parking Area, South side of Henrietta, East of Rochester Road, Section 27 – From R-1E to P-1

Mr. Miller presented a summary of the Planning Department report and a brief history of the proposed rezoning. Mr. Miller reported that it is the recommendation of the Planning Department to approve the rezoning application because it is consistent with the intent of the Future Land Use Plan and is compatible with surrounding land uses and zoning districts. He noted that the City Council asked the Planning Commission to consider zoning a strip of land along the eastern property line to E-P.

Chair Strat said the grade difference shown on the site plan effectuates a 6.5-foot masonry wall on the residential side of the development, but he clearly noted that the site plan should not be a consideration in the approval process of the rezoning request.

Mr. Schultz indicated that a potential water problem could result from the difference in grade.

Mr. Savidant noted that the Engineering Department, upon a cursory review of the site plan, indicated the water problem could be addressed.

Eileen Youngerman of 35 W. Huron, Pontiac, was present to represent the petitioner. Ms. Youngerman, a certified property manager for Arnold Becker for 17.5 years, said the primary purpose of the proposal is to create an overflow parking area and square off the property to make it more of a viable location for tenancy. She said the perceived lack of parking by potential tenants has resulted in a vacant building for a very long time. Ms. Youngerman said the project engineering team is also present this evening should the members wish to address any questions to them.

PUBLIC HEARING OPENED

Nancy Haynes of 1046 Henrietta, Troy, was present. Ms. Haynes, who lives east of the proposed parking lot, said she has talked extensively with Ms. Youngerman about the proposal. Ms. Haynes says she does not want to live next door to a parking lot or to two vacant lots, and said it is a “catch 22” situation. She voiced concerns with respect to potential flooding, potential users of the parking lot (i.e., restaurant customers), and noise. Ms. Haynes said the petitioner has tentatively agreed to put up signs that the parking lot is for office users only and to keep the dumpster in its current location closer to the office building.

Chair Strat informed Ms. Haynes that she would have an opportunity to voice her concerns again at the time of site plan approval.

Ms. Drake-Batts asked if Ms. Haynes would prefer the property remain as is or have it rezoned.

Ms. Haynes said she was not sure. She reflects on last summer when the weeds were growing and the mosquitoes were breeding. Ms. Haynes said she would prefer the masonry wall as opposed to the berm. Ms. Haynes confirmed she was opposed to the rezoning originally, but thinks she has just come to terms with the matter.

Mark Kozlow of 1058 Henrietta, Troy, was present. Mr. Kozlow said he would like to see a plan that takes care of the residences in the area as well as the office building property owner. He said the houses are surrounded by industry and are limited with respect to building out and market appeal for resale. Mr. Kozlow also noted industrial development is limited because of the size of the lots.

PUBLIC HEARING CLOSED

Mr. Vleck said he is not comfortable with rezoning the area from residential to a parking lot and that there is no control after the property is rezoned. Mr. Vleck said screen walls are not appropriate buffers because they are not decorative. He said the City is shortchanging residents by slowly letting commercial in the area and suggested that it might be appropriate to conduct a special study on the area.

Mr. Chamberlain said a study is not necessary on the area because there is a plan in place. The Future Land Use Plan designates the area as something other than residential. Mr. Chamberlain addressed the piecemeal development in the area.

Ms. Drake-Batts asked if there was a guarantee the screen wall would be erected should the property be rezoned.

Mr. Miller said there would be no guarantee because (1) the property might be rezoned but never built and (2) the petitioner might seek a variance or waiver from the Board of Zoning Appeals. Mr. Miller said the Planning Commission would review the proposed development at the time of site plan approval. He noted the minimum Zoning Ordinance requirements would have to be met, and the Planning Department would encourage the petitioner to provide additional landscaping for a better transition.

Ms. Drake-Batts said she does not think the property should be rezoned until there is a tenant in the building.

Mr. Schultz recapped that should the rezoning request be approved, there is no guarantee that the screen wall would be constructed, and the property owner has the right to leave the property as it currently is with no improvements; therefore

the adjacent resident would still have a weed pile next to her and no screen wall for years to come in the future.

Chair Strat commented on the office vacancy in the City and said it would be easier to lease the building with an approval already from the City to build the parking lot. He also noted that there would be a continuous straight line of zoning along the southern and northern property lines, so the rezoning would not be considered “spot” zoning. Chair Strat indicated he would be voting in favor of the rezoning for those reasons.

Mr. Khan indicated support of the rezoning because it would be difficult to lease the building if parking is insufficient. Mr. Khan said to give the petitioner the benefit of the doubt that the property would be improved.

A brief discussion was held with respect to the current parking requirements on the site.

Mr. Miller said the general parking requirements for retail is 1:200, and that the site currently meets the minimum parking requirements. Mr. Miller confirmed that should the parking lot be built, it would allow expansion opportunities for the existing building.

Mr. Vleck cited previous developments that were rezoned to parking because the petitioners claimed there was not enough parking for the buildings; and upon approval of the rezoning requests, the property owners used the option to add to their existing buildings and ended up with the same amount of parking. Mr. Vleck said that City Council requested the Planning Commission to look at the potential installation of an E-P zoning buffer. Mr. Vleck said he would be more comfortable utilizing the State law to allow the condition of rezoning approvals upon specific use and design conditions.

Ms. Drake-Batts said it appears the additional parking would be just a plus in leasing the property because the current parking is sufficient for the existing building. Ms. Drake-Batts said she would consider the rezoning request when there is a plan; and in her perspective, what was submitted is not a plan.

Mr. Miller said the petitioner has the right to request the rezoning and the request should be reviewed in relation to the City’s Future Land Use Plan. Mr. Miller reviewed the Future Land Use Plan with respect to the residential use and the planned commercial-type uses. It is Mr. Miller’s opinion that the rezoning request is appropriate as configured.

Chair Strat said he is hopeful that should the rezoning request be approved, it would act as a catalyst to expand the facility and improve the appearance of the existing building. He addressed the significance of the site because of its gateway location.

Resolution # PC-2005-04-047
Moved by: Khan
Seconded by: Chamberlain

RESOLVED, That the Planning Commission hereby recommends to the City Council that the R-1E to P-1 (Z-695) rezoning request located on the south side of Henrietta and east of Rochester, within Section 27, being 0.25 acres in size, be granted, for the following reason:

1. It is consistent with the intent of the Future Land Use Plan.

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

MOTION CARRIED

Mr. Vleck stated that the City Council sent the rezoning request back to the Planning Commission for consideration of an environmentally protected zone and that option was not discussed. Mr. Vleck said he believes expanding this particular area next to residential at this point in time is not the appropriate action.

Ms. Drake-Batts said her opinion has been made clear from her previous comments.

Mr. Wright agreed with the comments of Mr. Vleck. Mr. Wright said the request is premature at this time and he would like to see some consolidation of parcels in this area that would realize a better plan.

C-2 Rezoning Application (Z-#402-C) – North Side of Big Beaver, West of John R Road, Section 23 – E-P to O-1 and R-1E to E-P

Resolution #2004-08-392
Moved by Stine
Seconded by Lambert

RESOLVED, That the E-P to O-1 and R-1E to E-P rezoning request, located on the north side of Big Beaver Road, west of John R Road, Section 23, being 11.08 acres in size, is hereby **GRANTED,** as recommended by the Planning Commission and City Management.

Yes: All-7

C-3 Rezoning Application (Z-#695) – South Side of Henrietta Avenue, South of Big Beaver Road and East of Rochester Road – Section 27 – R-1E to P-1 (Z-#695)

Resolution
Moved by Lambert
Seconded by Stine

RESOLVED, That the R-1E to P-1 rezoning request, located on the south side of Henrietta Avenue, south of Big Beaver Road and east of Rochester Road, Section 27, being 10,880 square feet in size, is hereby **DENIED.**

Proposed Amended Resolution by Substitution

Resolution
Moved by Eisenbacher
Seconded by Beltramini

RESOLVED, That the Resolution be **AMENDED BY STRIKING** it in its entirety and **SUBSTITUTED** with, "RESOLVED, That the R-1E to P-1 rezoning request, located on the south side of Henrietta Avenue, south of Big Beaver Road and east of Rochester Road, Section 27, being 10,880 square feet in size, is hereby **RETURNED** to the Planning Commission**."**

Vote on Resolution to Amend Proposed Amended Resolution by Substitution

Resolution #2004-08-393
Moved by Beltramini
Seconded by Eisenbacher

RESOLVED, That the proposed Amendment to the Amended Resolution by Substitution be further **AMENDED** by **INSERTING**, "BE IT FURTHER RESOLVED, That the Troy City Council **INSTRUCTS** the Planning Commission to look at the potential installation of an E-P zoning buffer located between the proposed rezoning property and the adjacent residences with attention given to grade as it might affect development."

Yes: All-7

Vote on Amendment Resolution as Amended to Proposed Amended Resolution by Substitution

Resolution #2004-08-394
Moved by Eisenbacher
Seconded by Howrylak

RESOLVED, That the Resolution be **AMENDED BY STRIKING** it in its entirety and **SUBSTITUTED** with, "RESOLVED, That the R-1E to P-1 rezoning request, located on the south side of Henrietta Avenue, south of Big Beaver Road and east of Rochester Road, Section 27, being 10,880 square feet in size, is hereby **RETURNED** to the Planning Commission; and

BE IT FURTHER RESOLVED, That the Troy City Council **INSTRUCTS** the Planning Commission to look at the potential installation of an E-P zoning buffer located between the proposed rezoning property and the adjacent residences with attention given to grade as it might affect development."

Yes: All-7

Vote on Substituted Resolution as Amended

Resolution #2004-08-395
Moved by Lambert
Seconded by Stine

RESOLVED, That the R-1E to P-1 rezoning request, located on the south side of Henrietta Avenue, south of Big Beaver Road and east of Rochester Road, Section 27, being 10,880 square feet in size, is hereby **RETURNED** to the Planning Commission; and

BE IT FURTHER RESOLVED, That the Troy City Council **INSTRUCTS** the Planning Commission to look at the potential installation of an E-P zoning buffer located between the proposed rezoning property and the adjacent residences with attention given to grade as it might affect development.

Yes: All-7

POSTPONED ITEMS:

D-1 Authorization for the City Manager to Work with the Planning Commission Relative to Neighborhood Compatibility Issues

Resolution
Moved by Beltramini
Seconded by Lambert

RESOLVED, That the City Manager is **AUTHORIZED** to work with the Planning Commission to develop ordinance language that will address the relationship of accessory and/or add-on

8. PUBLIC HEARING – PROPOSED REZONING (Z-695) – Proposed Becker Overflow Parking Area, South Side of Henrietta, East of Rochester Road, Section 27 – From R-1E to P-1

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 application.

Mr. Strat asked why consideration is not being given to rezoning the parcel to O-1. He said there is potential to having a parking area surrounded by light industrial or office buildings. Mr. Strat said it seems more appropriate to use the entire site.

Mr. Miller replied that the City is responding to the petitioner's request for a rezoning to the P-1 classification, and the Planning Department would review other alternative zoning classifications should they be submitted.

Mr. Vleck questioned the parking calculations in relation to the building size.

Discussion followed with respect to the parking calculations in relation to the existing building and the potential expansion of the existing building. Mr. Miller did not know if the existing building could be expanded, given the size of the lot.

Mr. Wright said the petitioner might be requesting a parking zoning classification instead of office because the property as a parking lot would most likely be assessed at a lower value.

Mr. Vleck said that residents are generally not in favor of office or parking developments adjacent to their residences. Mr. Vleck asked for details on the required screening to the residents.

Mr. Miller said the subject parcel is designated as non-center commercial on the Future Land Use Plan. He said the designation has a primary correlation with the B-3 zoning classification and a secondary correlation with the H-S zoning classification. Mr. Miller said there is no correlation to office zoning, but noted there is some office zoning in the area. Mr. Miller confirmed the west side of Rochester Road is zoned B-2.

Mr. Wright said if memory serves him correctly, the intent of the Master Plan for that area is to consolidate the individual pieces of property to one large piece that would accommodate a large commercial center, the same intent for the parcels on the west side of Rochester Road.

The petitioner, Eileen Youngerman of 35 W. Huron, Pontiac, was present. Ms. Youngerman, property manager for Arnold Becker, has worked for Mr. Becker for almost 17 years. She said that Mr. Becker is requesting the rezoning to provide off-street parking as an attraction to prospective tenants. Ms. Youngerman

stated the screening wall to the adjacent residential homes would be consistent with the previous wall and would provide the residents with more of a buffer from the office use.

PUBLIC HEARING OPENED

Nancy Haynes of 1046 Henrietta, Troy, was present. Ms. Haynes voiced objection to the rezoning because the parking lot would be right up against her living room and bedroom. She said the existing office building has been empty for almost two years, with the exception of the sale of Persian rugs for a short period of time. Ms. Haynes referenced the parking lot that connects with the American Transmission parking lot. She said today she counted 25 cars in various stages of decay that she is afraid will overflow into the proposed parking lot. Ms. Haynes objected to the lights, noise and overall nuisances from the existing restaurant and bar. She said the proposed parking lot is not necessary because the office building is not currently occupied.

Mr. Miller said the screening wall would be poured concrete at a height of 4.5 feet.

Chair Waller stated the zoning ordinance contains specific language relating to the shielding of lights from residential property, and informed Ms. Haynes to notify the Building Department with lighting concerns.

Mark Kozlow of 1058 Henrietta, Troy, was present. Mr. Kozlow voiced objection to the proposed rezoning because he would like to see a plan to cover the whole area, and he would like to maintain the fair market value of his home. Mr. Kozlow noted that the existing building has been vacant for approximately two years, and it appears that the petitioner has no plans for the use of the property. Mr. Kozlow said the previous business at this location did not require additional parking.

Jena Carrington of 1062 Henrietta, Troy, was present. Ms. Carrington, the only homeowner on Henrietta with children, moved specifically to the area so her children could attend Troy schools. Ms. Carrington emphasized that this is their home. Ms. Carrington voiced objection to the proposed rezoning. She said there is no reason to put in a parking lot for a building that has been sitting empty for two years. She said there is plenty of space for a business to come in and there is no need to add parking until there is a plan.

PUBLIC HEARING CLOSED

Discussion continued on the lot configuration, setback requirements for the building and screening wall, and parking requirements for the existing building and potential buildout of the existing building.

Mr. Vleck said he does not see P-1 zoning as a transition zone to residential. Mr. Vleck said that should the property be rezoned to P-1, there is a potential for building expansion and a more intense use.

Mr. Strat said he is not in favor of the proposed rezoning because the petitioner has not demonstrated a need or a plan for the rezoning.

Ms. Drake-Batts asked the petitioner why she is requesting the rezoning now. She asked if there is a prospective tenant or if there are plans for redevelopment.

Ms. Youngerman responded that one of the reasons the building is vacant is because they got caught up in the "S" curve of Rochester Road. She said Mr. Becker, who owned Corey Dinette, put the store in that location so the building would not remain vacant. Ms. Youngerman indicated the real estate agent is having difficulty getting a prospective commercial tenant (preferably office) because of the lack of parking adjoining the building. She pointed out that a prospective tenant goes elsewhere when he/she sees inadequate parking for a potential of 25 to 30 employees. Ms. Youngerman said it is proposed to provide a 20-foot greenbelt between the screening wall and the parking lot.

Mr. Khan said he does not think the proposed rezoning would be suitable with respect to the small lot size of the adjacent residential homes and the required screening wall. He said doing piecemeal rezoning of the parcels would not solve the matter.

Mr. Vleck said he is vehemently against rezoning both parcels because there would be no control of the parcels.

Mr. Wright agreed that the proposed rezoning is premature and he would like to see the parcels developed as one big area. Mr. Wright said that should the parcel be rezoned to P-1, the result would be a parking classification in the middle of other zoning classifications.

Mr. Miller reported the schematic site plan shows a 20-foot setback from the proposed parking area. Mr. Miller reminded the Commission that the Planning Department does not review schematic site plans at the time of rezoning submissions, and noted the City cannot require any conditions on schematic site plans. Mr. Miller stated that the schematic site plan was not included in the Commission's meeting packet.

Resolution # PC-2004-05---
Moved by: Wright
Seconded by: Drake-Batts

RESOLVED, that the Planning Commission hereby recommends to the City Council that the R-1E to P-1 (Z-695) rezoning request located on the south side of Henrietta and east of Rochester, within Section 27, being 0.25 acres in size, be denied, for the following reason:

1. Such rezoning is premature at this time.

Discussion on the motion.

Mr. Vleck asked that the motion be revised to read that the P-1 zoning's close proximity to the existing residential area is an inadequate buffer zone when compared to the residential.

Mr. Wright and Ms. Drake-Batts had no objection to the revision.

Resolution # PC-2004-05-059 (as amended)
Moved by: Wright
Seconded by: Drake-Batts

RESOLVED, that the Planning Commission hereby recommends to the City Council that the R-1E to P-1 (Z-695) rezoning request located on the south side of Henrietta and east of Rochester, within Section 27, being 0.25 acres in size, be denied, for the following reasons:

1. Such rezoning is premature at this time.

2. The P-1 zoning's close proximity to the existing residential area is an inadequate buffer zone when compared to the residential.

Vote on the motion as amended.

Yes: All present (7)
No: None
Absent: Chamberlain, Littman

MOTION CARRIED