500 West Big Beaver
Troy, MI 48084
troymi.gov

248.524.3364
planning@troymi.gov

PLANNING COMMISSION
MEETING AGENDA
REGULAR MEETING

Carlton Faison, Chairman, Tom Krent, Vice Chairman
Ollie Apahidean, Karen Crusse, Marianna Perakis,
Michael W. Hutson, David Lambert, Sadek Rahman and John J. Tagle

January 28, 2020 **7:00 P.M.** **Council Chambers**

1. ROLL CALL

2. APPROVAL OF AGENDA

3. APPROVAL OF MINUTES – January 14, 2020

4. PUBLIC COMMENT – For Items Not on the Agenda

CONDITIONAL REZONING

5. PUBLIC HEARING – CONDITIONAL REZONING REQUEST (File Number CR 2019-001) – Proposed MNK TROY 1, LLC, East of Rochester Road, South of Shallowdale (88-20-14-152-001 and 88-20-14-301-031), Section 14, From R-1C (One Family Residential), RT (One Family Attached Residential) and EP (Environmental Protection) Districts to RT (One Family Attached Residential) District

OTHER BUSINESS

6. PLANNING COMMISSION 2019 ANNUAL REPORT

7. PUBLIC COMMENT – Items on Current Agenda

8. PLANNING COMMISSION COMMENT

9. ADJOURN

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

Chair Faison called the Regular meeting of the Troy City Planning Commission to order at 7:01 p.m. on January 14, 2020 in the Council Chamber of the Troy City Hall.

1. ROLL CALL

Present:
Ollie Apahidean
Karen Crusse
Carlton M. Faison
Michael W. Hutson
Tom Krent
David Lambert
Marianna Perakis
Sadek Rahman
John J. Tagle

Also Present:
R. Brent Savidant, Community Development Director
Ben Carlisle, Carlisle Wortman Associates
Julie Quinlan Dufrane, Assistant City Attorney
Jackie Ferencz, Planning Department Administrative Assistant
Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF AGENDA

Resolution # PC-2020-01-001
Moved by: Lambert
Support by: Rahman

RESOLVED, To approve the Agenda as prepared.

Yes: All present (9)

MOTION CARRIED

3. APPROVAL OF MINUTES

Mr. Krent asked the minutes to reflect a correction in the time of adjournment.

Resolution # PC-2020-01-002
Moved by: Krent
Support by: Tagle

RESOLVED, To approve the minutes of the December 10, 2019 Regular meeting as revised.

Yes: All present (9)

MOTION CARRIED

4. PUBLIC COMMENT – Items not on the Agenda

There was no one present who wished to speak.

PUBLIC HEARING

5. PUBLIC HEARING – REZONING REQUEST (File Number Z 2019-0039) – Proposed Addison Heights Subdivision Rezoning, East of Livernois, South side of Arthur (88-20-27-307-033), Section 27, From P (Vehicular Parking) District to R-1E (One Family Residential) District

Mr. Savidant explained what a rezoning request is and its approval process. He provided a history of the zoning of the property. Mr. Savidant addressed the request as relates to the Rezoning Standards and Master Plan. Mr. Savidant said the applicant wants to construct a residential home on the site. It was recommended that the Planning Commission recommends to the City Council to grant approval of the rezoning request.

The applicant Ross Martin was present.

PUBLIC HEARING OPENED

There was no one present who wished to speak.

PUBLIC HEARING CLOSED

There was discussion on:
- Ownership of adjacent parcels.
- Potential development in the future along Livernois and the right of way.

Resolution # PC-2020-01-003
Moved by: Hutson
Support by: Tagle

RESOLVED, That the Planning Commission hereby recommends to the City Council that the P (Vehicular Parking) District to R-1E (One Family Residential) District rezoning request, as per Section 16.03 of the City of Troy Zoning Ordinance, located on the south side of Arthur, East of Livernois, within Section 27, being approximately 0.24 acres in size, be **GRANTED** for the following reasons:

1. The proposed rezoning is consistent with the Master Plan.
2. The proposed rezoning does not appear to cause or increase any nonconformity.
3. If rezoned the property will be capable of accommodating service and facility loads caused by use of the development.
4. The rezoning does not appear to impact public health, safety, or welfare.
5. The rezoning will ensure compatibility with adjacent uses of land.

Yes: All present (9)

MOTION CARRIED

PRELIMINARY SITE PLAN APPROVALS

6. PRELIMINARY SITE PLAN REVIEW (File Number SP2019-0022) – Proposed Crooks Road Townhomes, West side of Crooks, North of Wattles, Section 17, Currently Zoned NN (Neighborhood Node "I") District

Ms. Perakis disclosed she formerly lived in the Woodlands subdivision from 2008 to 2014 and her home on Parkstone backed up to the subject property. She also disclosed that the applicant is a current neighbor of hers and she was in opposition to the applicant's proposed apartment project that was formerly considered by the City. Ms. Perakis said there is no conflict of interest and that she can be objective in her consideration of the application.

Mr. Carlisle outlined the revisions the applicant proposes to the application based on discussion from the Planning Commission, staff and the public when considered at the September 24, 2019 meeting. He noted the site plan revisions are identified on page 5 of his report dated January 7, 2020. Mr. Carlisle reported there are significant outstanding site plan items on the revised site plan, as relates to screening/landscaping along adjacent residential property lines, tree removal loss due to the stormwater facility and lighting impact to adjacent property.

Mr. Carlisle recommended to postpone the application to allow the applicant to address site plan items.

Present were Carmine Avantini, AICP, of Community Image Builders, Arvin Stafa, Brandon Bronikowski, James Butler and Greg Bono, both of Professional Engineering Associates (PEA).

Mr. Avantini presented a PowerPoint presentation and addressed the additional acreage, decrease in density, increase in guest parking, traditional two-car garages, increased setback, screening and buffer to residential, building height, line of sight visual, grade difference, location of EVA, parking and pedestrian traffic. Mr. Avantini indicated several site plan issues identified by the Planning Consultant have been addressed. He asked for a favorable vote conditioned on the remaining issues that could be administratively addressed through engineering and final site plan processes.

Mr. Stafa addressed building height, grading, outlots and public engagement. Mr. Bronikowski addressed building materials and circulated building material samples. Mr. Bono addressed stormwater management. Mr. Butler said concerns relating to floodplain and wetlands would be addressed through the engineering process.

Chair Faison opened the floor for public comment.

The following spoke in opposition, voicing concerns with grade difference, drainage, flooding, compatibility, property values, application process, no public engagement, traffic impact and safety.

- James Chang, 4397 Bender
- Latish Adnani, 4219 Crooks
- Tom Reiss, 1400 Bradbury
- Jerry Rauch, 4187 Penrose
- Doug and Linda Gerard, 4197 Carson
- Mike and Laura Lipinski, 4233 Carson
- Thomas Mikulski, 4408 Cahill
- Daphne (Ntiri) and Jean-Claude Quenum, 4198 Carson
- JinMing Xu, 4179 Carson
- Bob Laudicina, 1286 Fountain
- Paul Balas, 4087 Parkstone
- Nadwa Gowda, 4412 Lehigh *(illegible)*
- Trevor Babi, 4537 Cahill
- Jeff Silagy, Whisper Way
- Raghav Kashi, 4420 Cahill

David Donnellon, architect and municipal planner; represented the seller of the property. He stated the development is permitted by right in the Neighborhood Node zoning district and addressed the balance between the Neighborhood Node and Single Family Residential zoning districts.

Chair Faison closed the floor for public comment.

There was discussion on:

- Grading difference, as relates to drainage and engineering design process.
- Stormwater management.
- Outlots; ownership, potential to build, property lines.
- Wetland and floodplain, as relates to MDEQ and engineering design process.
- Compatibility and transition to residential, as relates to landscape buffer, building height, line of vision, building materials.
- Line of vision scale and calculations.
- Neighborhood Node districts as relates to Master Plan, philosophy.
- Traffic impact; study.
- “Real” density.
- Engagement with neighbors; strongly encouraged.
- Intent of Master Plan.
- Joint meeting with City Council to discuss Neighborhood Node zoning districts.

Ms. Dufrane interjected the discussion to state the proposed development is permitted by right on the subject property.

Mr. Avantini asked the Board's consideration to postpone the item to allow an opportunity to respond to and investigate comments made this evening and to possibly gain insight from the joint meeting.

Resolution # PC-2020-01-004
Moved by: Krent
Support by: Lambert

RESOLVED, That Preliminary Site Plan Approval, pursuant to Article 8 of the Zoning Ordinance, as requested for the proposed Crooks Road Townhomes, located on the west side of Crooks, North of Wattles, Section 17, within the NN (Neighborhood Node "I") District, be postponed, for the following reasons:

1. Allow the applicant time to digest comments made by residents, Planning Commission and staff and to address the site plan items identified in the Planning Consultant report and staff review.

Yes: Apahidean, Crusse, Lambert, Faison, Krent, Rahman, Tagle
No: Hutson, Perakis

MOTION CARRIED

Chair Faison called for a recess at 9:33 p.m. The meeting reconvened at 9:50 p.m.

7. PRELIMARY SITE PLAN REVIEW (File Number SP JPLN2019-0040) – Proposed Square Lake Court Townhomes, South side of Square Lake Road, West of Dequindre, Section 12, (88-20-12-200-025), Currently Zoned NN (Neighborhood Node "N") District

Mr. Carlisle reviewed the Preliminary Site Plan application for Square Lake Court Townhomes. He addressed the need for a dedicated guest parking area, a cross-access easement along the southern property line, additional trees along the west property line, shielding light fixtures and architectural detail on elevations.

Mr. Carlisle recommended to postpone the Preliminary Site Plan application to allow the applicant to address the guest parking, architectural detailing and other site plan concerns identified in his report dated January 7, 2020.

Present were Renis Nushaj, Erion Nikolla of Eureka Building Company and James Butler of Professional Engineering Associates (PEA).

Mr. Butler addressed the outstanding site plan issues relating to the photometric plan, landscaping and guest parking. He said the additional trees would be added and the light fixture shielded. Mr. Butler indicated 10 to 12 parallel spaces could be dedicated for guest parking along the southern property line.

Mr. Nikolla addressed design and architectural features of the elevations, building materials and colors. Building material samples were circulated.

Mr. Nushaj addressed the City's requirement for a cross-access easement. Mr. Nushaj believes a cross-access easement agreement should be a private contract among involved parties, not a requirement of the City, and views the City's requirement as an encumbrance on private property.

There was discussion on:
- Guest parking; accommodation and layout.
- Ownership of property to south.
- Cross-access easement and EVA requirements.
- Traffic circulation; no comments from Engineering review.
- Recent revisions to site plan.

Ms. Dufrane referenced Zoning Ordinance sections that relate to the requirement of a cross-access easement and exceptions to that requirement; i.e., if it is demonstrated that there are either physical limitations or functional circumstances that prevent such access from being installed.

Mr. Carlisle said the EVA is noted on the site plan; the cross-access easement is not noted on the site plan.

Mr. Savidant stated that both the Fire Department and Engineering Department recommend a cross-access easement, but it is the authority of the Planning Commission to place a cross-access easement on a property.

Resolution # PC-2020-01-005
Moved by: Krent
Seconded by: Crusse

RESOLVED, That Preliminary Site Plan Approval, pursuant to Article 8 of the Zoning Ordinance, as requested for the proposed Square Lake Court Townhomes, 14 units, located on the South side of Square Lake, West of Dequindre (PIN 88-20-12-200-025), Section 12, Zoned NN (Neighborhood Node "N"), be granted, subject to the following:

1. Add dedicated guest parking.
2. Provide cross-access easement along southern property line.
3. Add additional trees along west property line.
4. Replace light fixture with shielded one.
5. Identify all materials.
6. Add additional architectural details to the side elevations.

Yes: Crusse, Lambert, Faison, Krent, Rahman, Tagle
No: Apahidean, Hutson, Perakis

MOTION CARRIED

OTHER BUSINESS

8. PLANNING COMMISSION 2020 MEETING SCHEDULE – REVISION

Mr. Savidant asked for the Board's consideration to revise the 2020 Planning Commission meeting calendar by removing the March 10, 2020. He explained an election is being held that day and there could be a conflict in reserving a meeting room.

Resolution # PC-2020-01-006
Moved by: Lambert
Seconded by: Rahman

RESOLVED, To revise the 2020 Planning Commission Schedule and remove the March 10, 2020 date.

Yes: All present (9)

MOTION CARRIED

9. ELECTION OF OFFICERS

Chair Faison opened the floor for nominations of Chair. Ms. Crusse nominated Mr. Faison. Mr. Hutson nominated Mr. Krent. There were no further nominations placed on the floor.

Mr. Faison said he would be happy to serve another year or happy to step down to allow the opportunity to another member.

Mr. Krent accepted the nomination.

Roll call vote on the nomination of Mr. Faison for Chair

Yes: Crusse, Lambert, Faison, Rahman
No: Apahidean, Hutson, Krent, Perakis, Tagle

MOTION FAILED

Roll call vote on the nomination of Mr. Krent for Chair

Yes: Apahidean, Lambert, Faison, Hutson, Krent, Perakis, Rahman, Tagle
No: Crusse

MOTION CARRIED

Mr. Krent is the newly elected Chair.

Chair Faison opened the floor for nominations of Vice Chair. Mr. Tagle nominated Mr. Lambert. There were no further nominations placed on the floor.

Mr. Lambert accepted the nomination and is the newly elected Vice Chair.

_____

There was discussion on the role, structure and formation of the Planning Commission representative to the Zoning Board of Appeals; consideration might be given to making revisions.

Chair Faison opened the floor for nominations of Zoning Board of Appeals (ZBA) Representative. Mr. Apahidean nominated Mr. Rahman. There were no further nominations placed on the floor.

Mr. Rahman accepted the nomination and is the newly elected ZBA Representative.

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10. PUBLIC COMMENT

There was no one present who wished to speak.

11. PLANNING COMMISSION COMMENT

There were general Planning Commission comments, some relating to:

- Compatibility, transition of Neighborhood Nodes to single family residential.
- Opening the floor for public comment following a Public Hearing.
- 2020 Michigan Regional Future City Competition at Novi Showplace on January 28.

Chair Faison was acknowledged and thanked for a good job as Chair!

A warm welcome was extended to Ms. Perakis.

The Regular meeting of the Planning Commission adjourned at 11:19 p.m.

Respectfully submitted,

_____

Carlton Faison, Chair

_____

Kathy L. Czarnecki, Recording Secretary

DATE: January 23, 2020

TO: Planning Commission

FROM: R. Brent Savidant, Community Development Director

SUBJECT: PUBLIC HEARING – CONDITIONAL REZONING (CR JPLN2019-001) – Proposed MNK TROY 1, LLC Conditional Rezoning, East side of Rochester Road, South of Shallowdale, (88-20-14-152-001 and 88-20-14-301-031), Section 14, From R-1C (One Family Residential), RT (One Family Attached Residential) and EP (Environmental Protection) Districts to RT (One Family Attached Residential) and EP (Environmental Protection) Districts

The applicant MNK Troy1, LLC seeks a conditional rezoning of the subject parcel from R-1C, RT and EP to RT. The applicant did not provide a complete Preliminary Site Plan application but did provide concept sketches.

The Planning Commission considered this application at the October 22, 2019 Regular meeting and postponed the item "to provide the applicant an opportunity to clarify their application, based on issues identified in the report and comments by the Planning Commission. Furthermore, postponement will provide the applicant an opportunity to consider public comments from residents and input from the Planning Commission". The applicant submitted a revised application for Planning Commission consideration.

The site is within the Rochester Road classification in the City of Troy Master Plan. The Planning Commission is a recommending body for this application.

The attached report prepared by Carlisle/Wortman Associates, Inc. (CWA), the City's Planning Consultant, summarizes the project. CWA prepared the report with input from various City departments including Planning, Engineering, Public Works and Fire. City Management supports the findings of fact contained in the report and the recommendations included therein.

Attachments:

1. Maps
2. Report prepared by Carlisle/Wortman Associates, Inc.
3. Application
4. Minutes from October 22, 2019 Planning Commission meeting (excerpt)
5. Public comment

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PROPOSED RESOLUTION RECOMMENDING APPROVAL

PUBLIC HEARING – CONDITIONAL REZONING (CR JPLN2019-001) – Proposed MNK Troy 1, LLC Conditional Rezoning, East side of Rochester Road, South of Shallowdale, (88-20-14-152-001 and 88-20-14-301-031), Section 14, From R-1C (One Family Residential), RT (One Family Attached Residential) and EP (Environmental Protection) Districts to RT (One Family Attached Residential) District

Resolution # PC-2020-01-
Moved by:
Seconded by:

RESOLVED, That the Planning Commission hereby recommends to the City Council that the R-1C, RT and EP to RT conditional rezoning request, as per Section 16.04 of the City of Troy Zoning Ordinance, located on the east side of Rochester Road, south of Shallowdale, within Section 14, being approximately 1.877 acres in size, be **GRANTED** for the following reasons:

1. The request complies with the Master Plan.
2. The RT District would permit greater flexibility in use and development of the property.
3. The conditions offered by the applicant reasonably protect the adjacent properties.
4. The rezoning would be compatible with surrounding zoning and land use.
5. The site can be adequately served with municipal water and sewer.
6. The development of the property should not unreasonably impact adjacent properties.

BE IT FURTHER RESOLVED, That the Planning Commission recommends the following site plan design considerations:

Yes:
No:

MOTION PASSED / FAILED

PROPOSED RESOLUTION RECOMMENDING DENIAL

PUBLIC HEARING – CONDITIONAL REZONING (CR JPLN2019-001) – Proposed MNK Troy 1, LLC Conditional Rezoning, East side of Rochester Road, South of Shallowdale, (88-20-14-152-001 and 88-20-14-301-031), Section 14, From R-1C (One Family Residential), RT (One Family Attached Residential) and EP (Environmental Protection) Districts to RT (One Family Attached Residential) District

Resolution # PC-2020-01-
Moved by:
Seconded by:

RESOLVED, That the Planning Commission hereby recommends to the City Council that the R-1C, RT and EP to RT conditional rezoning request, as per Section 16.04 of the City of Troy Zoning Ordinance, located on the east side of Rochester Road, south of Shallowdale, within Section 14, being approximately 1.877 acres in size, be **DENIED** for the following reasons:

1. The request does not comply with the Master Plan.
2. The conditions offered by the applicant do not reasonably protect the adjacent properties.
3. The rezoning would not be compatible with surrounding zoning and land use.
4. The development of the property unreasonably impacts adjacent properties.

BE IT FURTHER RESOLVED, That the Planning Commission recommends the following site plan design considerations:

Yes:
No:

MOTION PASSED / FAILED

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GIS Online

595 0 297 595 Feet

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

GIS Online

595 0 297 595 Feet

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

Carlisle | Wortman
ASSOCIATES, INC.
117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

Date: October 15, 2019
January 21, 2020

Conditional Rezoning Analysis
For
City of Troy, Michigan

Project Name: MNK Troy 1, LLC

Location: 4516 and 4396 Rochester Road

Current Zoning: RT, One-family Residential Attached; R-1C, One-family Residential; and EP, Environmental Protection

Proposed Rezoning: Conditional Rezoning to RT, One-family Residential Attached

Required Information: As provided within this review

PROJECT AND SITE DESCRIPTION

The applicant is proposing to rezone two parcels. The two parcels currently include split zoning of RT, One-family Residential Attached; R-1C, One-family Residential; and EP, Environmental Protection. The applicant has revised their application to seek approval to rezone the portion currently zoned EP, Environmental Protection to RT, Residential Attached. The previous application amended, but did not eliminate, the EP area. Thus, the applicant proposes to conditional rezone all portions of the two parcels to RT, One-family Residential Attached.

If rezoned, the applicant proposes to construct an attached residential development. On Page 8, of the applicant's November 21, 2019 report, the applicant notes the following voluntary conditions:

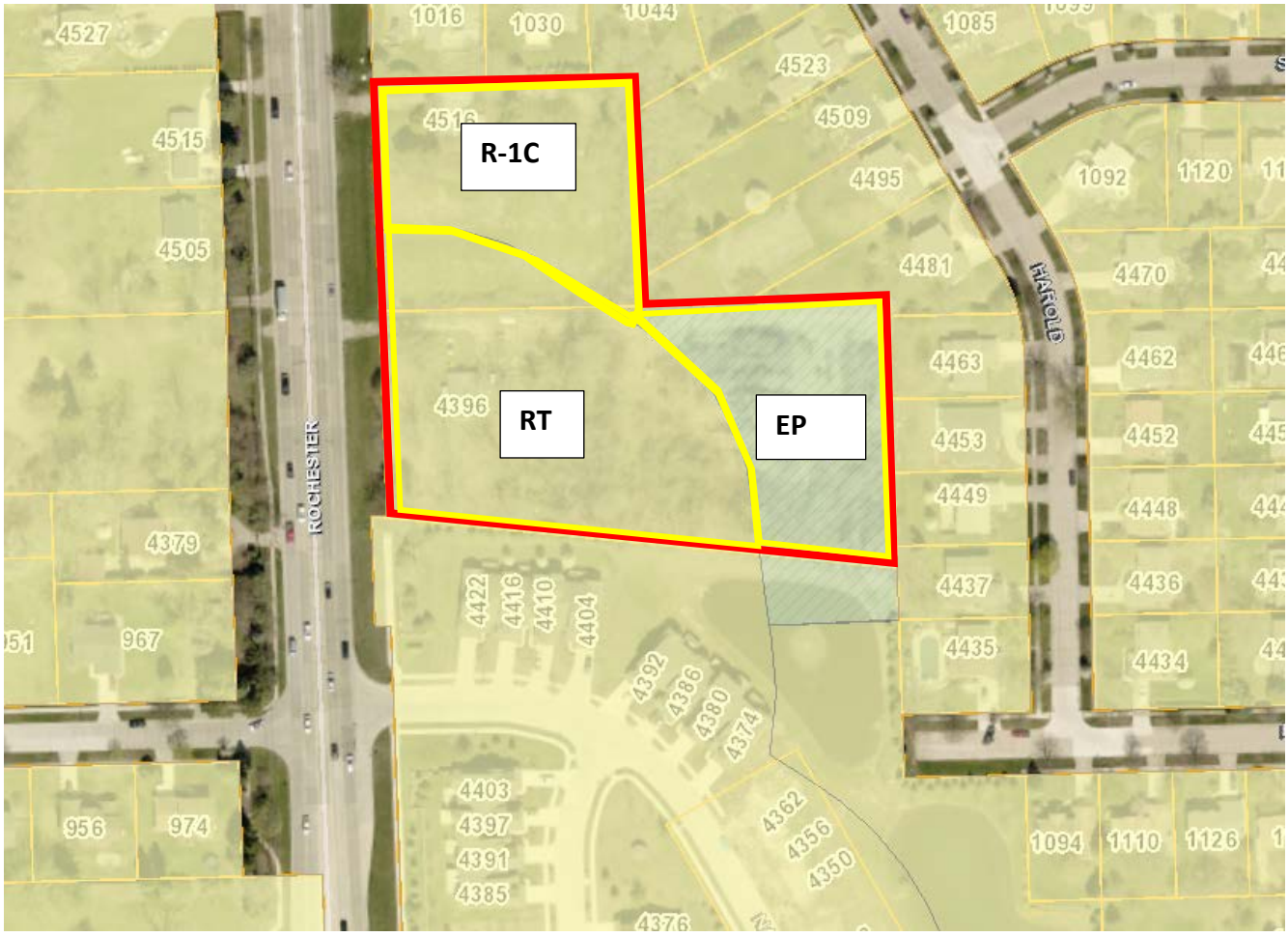
1. Development shall meet all requirements for the RT Zoning District.
2. An Open Space Preservation Easement shall be provided over the eastern portion of the site, in an area equal to that of the EP zoned area (0.93 ac) providing a guaranteed 24% open space buffer.

3. A dry detention basin will be provided with a 15' landscape buffer which will provide an enhanced screened area.
4. Building will consist of a mix of brick, asphalt shingles, plank siding, and a variety of color palates and durable low-maintenance or maintenance free materials.
5. Each unit shall have a 2-car garage. A minimum of 9-guest parking spaces will be provided.
6. In addition to required single-family screening to R-1C to the north, screening shall be provided for the existing two buildings, or up to 250-feet of Briggs Park, to the south.
7. No exterior refuse containers shall be proposed. Individual waste and recycling containers shall be stored in each unit's garage and placed at the curb on collection days.

The applicant has submitted a concept plan for informational purposes only. If the conditional rezoning is approved the applicant will be required to submit a site plan that meets the conditions voluntarily offered by the applicant.

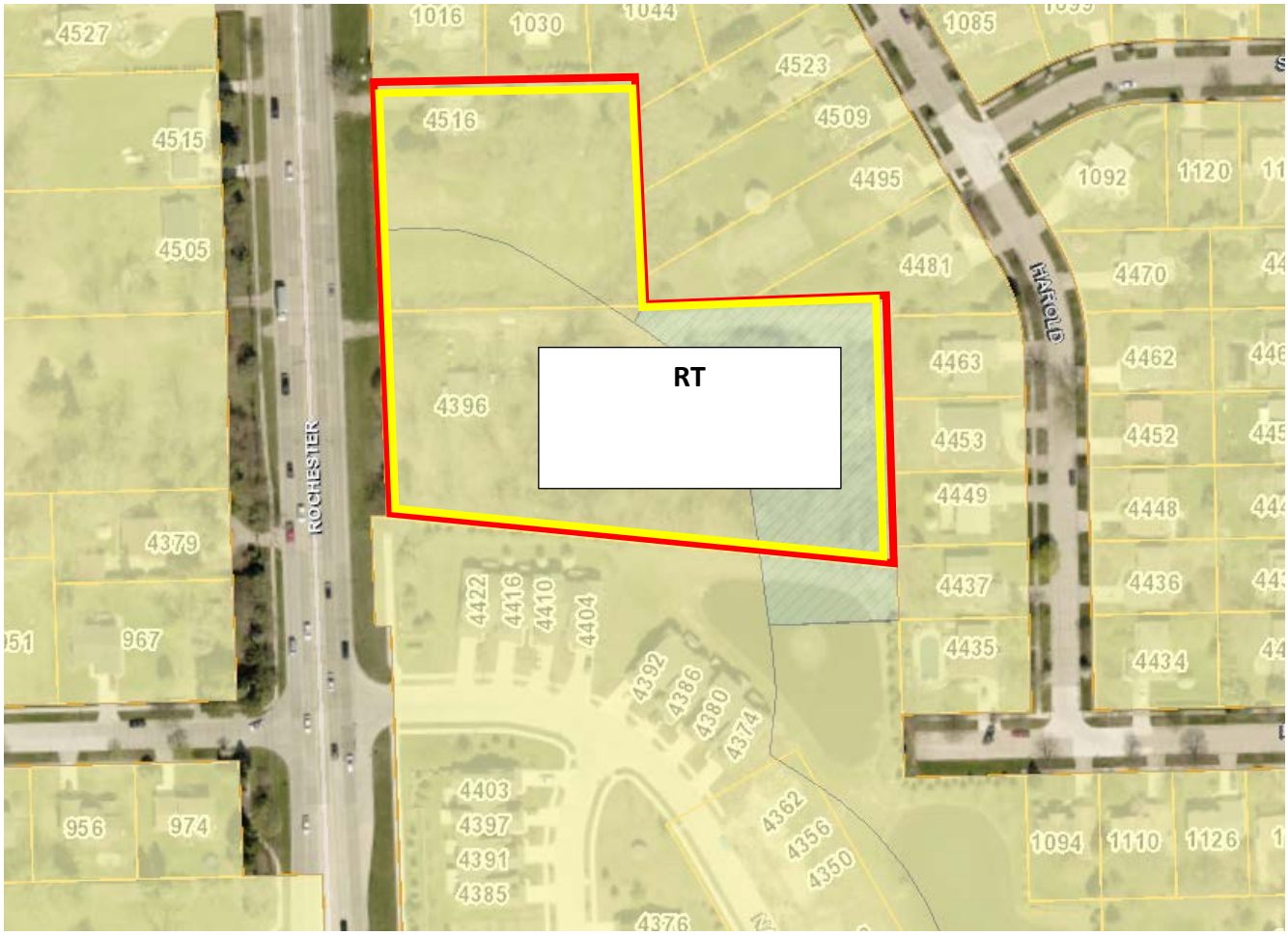
CURRENT ZONING

Currently the two parcels include three (3) different zoning designations:



PROPOSED ZONING

Applicant proposes to rezone all portions of the site to RT



PREVIOUS PLANNING COMMISSION REVIEW

The application was last considered by the Planning Commission on October 22, 2019. In the October submittal, the applicant incorrectly applied the lot area of the EP, Environmental Protection zoned portion of the site towards overall lot density. This is not permitted.

At the October 22, 2019 meeting there was neighborhood opposition with regards to:

- Reduction of EP, Environmental Protection area
- The use of EP, Environmental Protection area towards density
- Reduction of open space
- Use of EP, Environmental Protection zoned property for detention pond.

At that meeting the Planning Commission discussion included:

- Intent of EP, Environmental Protection zone property is to serve as a buffer to residential from more intense uses
- Proposed reduction of EP, Environmental Protection zoned area and open space
- Consideration of homeowners who purchased homes with understanding of EP, Environmental Protection zoned property

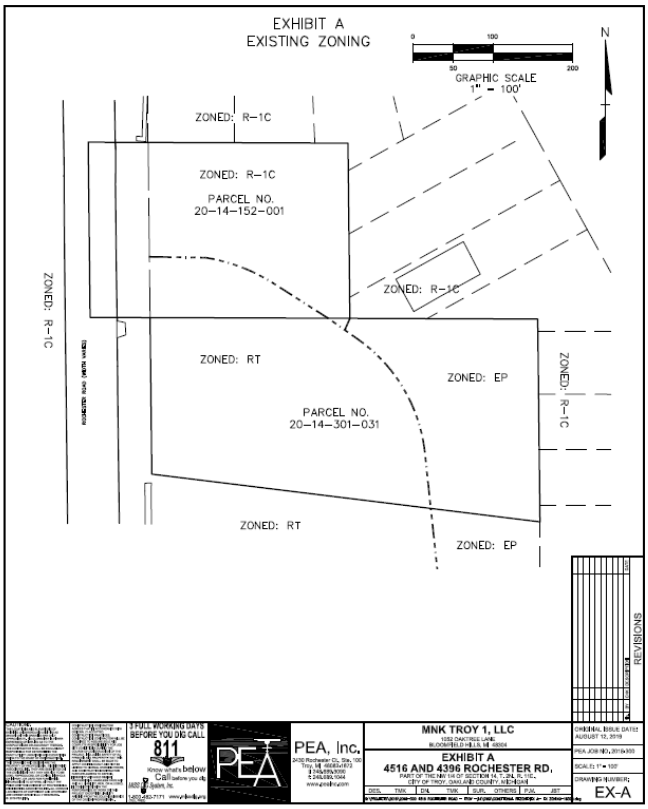
CHANGES SINCE LAST PLANNING COMMISSION REVIEW

The applicant has revised their application to seek approval to conditionally rezone both the R-1C, One Family Residential and EP, Environmental Protection portions of the site to RT, One-family Residential Attached. As a condition of the rezoning, the applicant proposes to place a "Open Space Preservation Area" in the same approximate area as the currently zoned EP portion of the property. The applicant still proposes to maintain the detention pond within the rear portion of the site in the "Open Space Preservation Area".

As noted in our previous review, the applicant incorrectly applied the area of the EP zoned area to their overall density. If the currently zoned EP portion was rezoned to RT, the applicant would be able to use the newly rezoned RT, One-family Residential Attached and "Open Space Preservation Area" portions towards the overall site density.

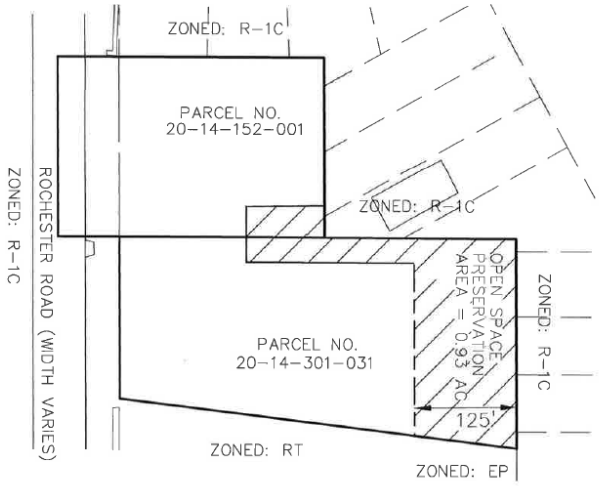
Please note that the applicant has not identified what are the rights, uses, and limitations of the "Open Space Preservation Area." If this rezoning is recommended for approval, additional details of the "Open Space Preservation Area" will need to be provided.

ZONING



Current zoning:

R1-C: +/-42,955 sq/ft (0.99 acres)
RT: +/-80,518 sq/ft (1.85 acres)
EP: +/- 40,634 sq/ft (0.93 acres)



PROPOSED SITE ZONING: RT (3.77 ACRES)
WITH 0.93 ACRE TO BE PLACE IN AN OPEN SPACE PRESERVATION EASEMENT

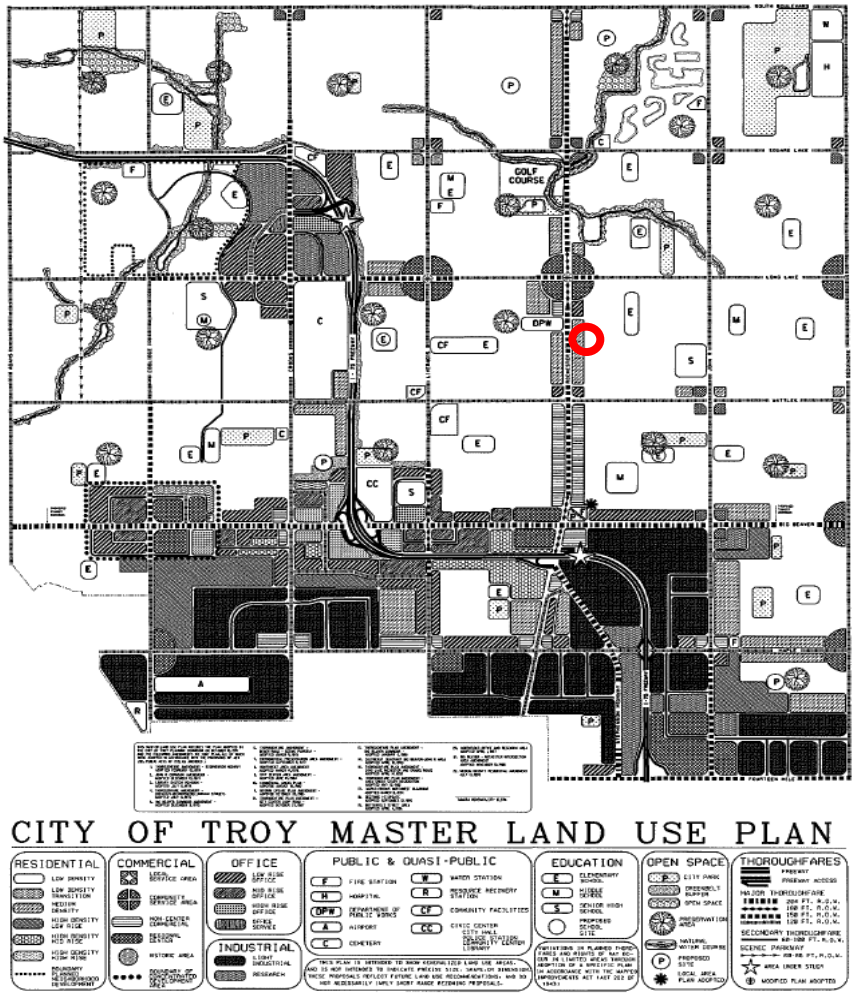
Proposed zoning:

RT: +/-164,107 sq/ft (3.7 acres)

Open Space Preservation
Area: +/- 40,634 sq/ft (0.93 acres)

MASTER PLAN

In 1999, the city updated the Master Land Use Plan. During the process, the city spent considerable amount of time and input deliberating the future use of key corridors including Big Beaver, Crooks, Maple, and Rochester. Due to traffic volume, noise, and market economics, the Future Land Use Plan recognized parcels that abut major mile corridors such as Rochester would be difficult to develop or redevelop as single-family residential. For this reason, the city considered alternative land use patterns along these corridors that were contextually relevant and compatible with surrounding and adjacent land use.



The 1999 amended Master Land Use Plan, added medium density residential along Rochester Road north of Wattles.

In 2002, the City adopted a Future Land Use Plan, which retained medium density residential along Rochester Road north of Wattles. In 2008, the City comprehensively updated the Master Plan. The process of updating the Master Plan included a significant public participation component that included numerous opportunities for public input. The 2008 comprehensive update to the Master Plan also retained medium density residential and other low impact uses along Rochester Road north of Wattles.

The Master Plan was updated in 2017, and also retained both medium density residential and other limited low impact uses along Rochester Road north of Wattles. From a land use perspective, the updated 2017 Master Plan calls for this site:

> *Uses along Rochester Road will include a variety of mixed uses, established in a "pulsing" pattern where the most intense mixed-use or exclusively non-residential development will occur near the Neighborhood Nodes situated along its main intersections. Lower-impact uses, such as small scale retail or condominiums should be encouraged along the corridor*

> *<u>frontage between these nodes…..</u>The areas between nodes should develop as lower-rise office and multiple-family. The height differences encourage a visual "pulse." (pg. 87-88)*

This section of Rochester Road Master Plan also calls for use of innovative stormwater management:

> *Ultimately, the Rochester Road Corridor will become a regional showcase for effective stormwater management and enhancement of the natural environment, while encouraging a combination of high-quality land uses. Effective landscaping focused on native plantings, and improved land use and access management along Rochester will create a green corridor that provides a high level of service for motorists, and which provides an effective natural buffer between high traffic volumes and people visiting adjacent properties. The creation of this green corridor would occur primarily in the right-of-way along road frontages and in the median of a future boulevard.*
>
> *New construction along the corridor may include detention and retention basins that work together from site-to-site with other features to create a continuous, linear landscape feature. By connecting properties, the basins create visual relief from traffic. Low impact development methods will be used throughout the corridor to filter stormwater runoff. (pg. 87)*

The site has been master-planned for medium density multiple family residential for 20 years, and other low impact uses for the past 10 years.

PROPOSED DEVELOPMENT VS. BY-RIGHT

The stated intent of the RT, One Family Attached District is as follows:

> *SECTION 4.07 RT, One Family Attached District*
>
> *Intent. The intent of the RT, One-Family Attached Residential District is to provide medium density residential areas in those areas which are served with public sewer and water, and where attached forms of residential development achieves the objectives of the Master Plan. The District is designed primarily to permit attached residential dwellings which may serve as a transition between high intensity or nonresidential use areas, and lower density residential land use areas. The RT District is further intended to provide medium density residential development in compact areas so as to encourage walkability.*

The stated intent of the EP, Environmental Protection District is as follows:

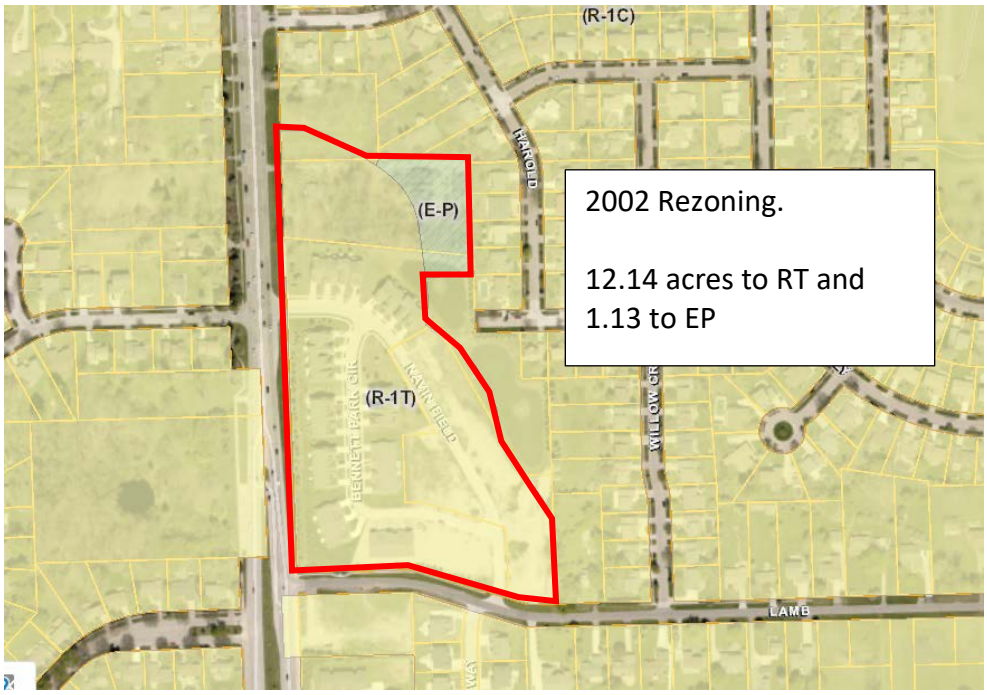
> *SECTION 4.12 EP, Environmental Protection District*
>
> *A. Intent. Natural features and open space areas constitute important physical, aesthetic, recreation and economic assets of the City. Therefore, the City of Troy has enacted a series*

of development options and Zoning Districts which have, as a portion of their intent, the conservation, preservation and provision of open space and natural resource areas. The intent of the EP, Environmental Protection District is to act in concert with these development options and Zoning Districts and to recognize other areas warranting preservation, conservation, or protection, in such a manner as to: provide for the protection, preservation, use, and maintenance of natural resource areas, minimizing disturbance to them, and to prevent damage resultant from their loss; protect natural resource and open space areas for their economic support of property values when allowed to remain in an undisturbed natural state; provide for the paramount public concern for these natural resource areas in the interest of health, safety, and the general welfare of the residents of the City of Troy; and promote the public health, safety, and general welfare by preventing or minimizing loss or damage to property, and personal injury, due to flooding.

The table below outlines the development differences of the proposed plan versus what could be done by-right under the current zoning:

	By-Right Existing RT, R-1C, and EP Zoning	**Proposed by applicant if rezoned to RT**
Density	R-1C: +/- 4 RT: +/- 16 EP: 0	RT: +/- 32
Height	2.5 stories and 30 feet	2.5 stories and 30 feet
Setbacks	R-1C: Front (Rochester): 50 feet Sides: 10/20 feet total Rear: 40 feet RT: Front (Rochester): 50 feet Sides: 5 / 15 feet total Rear: 35 feet	Front (Rochester): 50 feet Sides: 5 / 15 feet total Rear: 35 feet
Open Space	R-1C: Max % of lot covered by building: 30% RT: Max % of lot covered by building: 30% + 20% landscape area	RT: Max % of lot covered by building: 20% + 20% Open Space

ZONING HISTORY



In 2002, the city rezoned 12.14 (net) acres to RT and 1.13 (net) acres to EP. Approximately 11 acres of the site zoned RT was developed for the attached residential development directly south of the parcels in question. The remaining 0.99 acres of the RT zoned property is the portion of the site that the applicant would like to develop.

Please note that the area of the site currently zoned R-1C that the applicant is seeking to rezone was originally part of the area proposed for rezoning in 2002. During Planning Commission and City Council deliberation, the portion of the site that is currently zoned R-1C was dropped from the rezoning request. At the time of 2002 rezoning, the City Council felt that portion of the site zoned R-1C and EP would provide a good transition to the single-family residential uses to the north and east.

The applicant provided additional zoning details in their November 21, 2019 memo. The applicant's additional zoning details includes copies of Planning Commission minutes, previous non-approved concept plans, and original rezoning requests. Adjacent property owner, Jim McCauly, in a January 20, 2020 refutes many of the points made by the applicant. It is difficult, and potentially irresponsible, for today's Planning Commission or City Council to interpret the discussion, thoughts, or motivation of a Planning Commission and City Council from almost 20 years ago. We cannot confirm the intent of requiring the EP zoning, nor whether or not the EP zoned area would be allowed to be used for Stormwater Detention during the site plan review process.

Previous discussion aside, the fact today is that a portion of the site is zoned EP, Environmental Protection. The fundamental purpose of the EP zoning is to provide a preserved buffer and environmental protection area between two divergent land uses. EP zoning does not allow the area to be counted towards overall density, but does allow for "stormwater detention" if said detention is designed in a naturalized manner including the use of "best management practices." The detention location and design would have to be approved by the Planning Commission as part of the site plan approval process.

REZONING STANDARDS

As set forth in Section 16.03.C, the Planning Commission shall consider the following standards:

1. *The proposed rezoning is consistent with the Master Plan. If the current zoning is in material conflict with the Master Plan, such conflict is due to one of the following:*
    a. *A change in City policy since the Master Plan was adopted.*
    b. *A change in conditions since the Master Plan was adopted.*
    c. *An error in the Master Plan.*

2. *The proposed rezoning will not cause nor increase any non-conformity.*

3. *Public services and facilities affected by a proposed development will be capable of accommodating service and facility loads caused by use of the development.*

4. *The rezoning will not impact public health, safety, or welfare.*

5. *The rezoning will ensure compatibility with adjacent uses of land.*

Though the conditional rezoning is one application and must be considered holistically, there are really two separate rezoning questions that the Planning Commission must consider. The first is the rezoning of the front portion of the site from R-1C to RT. The site has been master-planned for medium density multiple family residential for 20 years, and other low impact uses for the past 10 years. Rezoning the portion of the site from R-1C, One-family Residential to RT, One-family Residential Attached is consistent with the Master Plan. In addition, the applicant is providing increased setbacks along the northern and eastern property line to provide an additional buffer.

The second rezoning discussion is regarding the portion zoned EP, Environmental Protection. Fundamentally the applicant is seeking a rezoning to use the area that is currently designed as EP, Environmental Protection for both their density calculations, as well stormwater management. As the concept plan shows, the detention pond is not “naturalized” and appears to be a rather utilitarian design. The proposed screening is a double row of trees, where the spacing, height and species are not identified. The detention area and tree screening as presented does not provide much of a site amenity or a naturalized area to either the future residents of the development or adjacent properties.

RECOMMENDATIONS

We recommend that the Planning Commission consider the application, consider public comments, and provide direction to the applicant.

CARLISLE/WORTMAN ASSOC., INC.
Benjamin R. Carlisle, AICP, LEED AP

Civil Engineers | Land Surveyors | Landscape Architects
experienced. responsive. passion for quality.
Corporate Office: 2430 Rochester Court • Suite 100 • Troy, MI 48083
t: 248.689.9090 • f: 248.689.1044 • www.peainc.com

November 21, 2019
PEA Project No: 2018-300

Mr. Brent Savidant
Community Development Director
City of Troy Planning Department
500 W. Big Beaver
Troy, MI 48084

RE: CR JPLN2019-001
Conditional Rezoning Application – 2nd submittal
Parcels 20-14-152-001 and 20-14-301-031
4516 and 4396 Rochester Road
City of Troy, Oakland County, Michigan

Dear Mr. Savidant:

At the October 22, 2019 City of Troy Planning Commission meeting, we participated in a Public Hearing to present the proposed rezoning of two parcels located on the East side of Rochester Road, South of Shallowdale. Based on feedback from the public, city staff, and the commissioners, we requested to be postponed to refine our application.

On behalf of **MNK Troy 1, LLC**, we respectfully re-submit this petition to conditionally rezone Parcel #20-14-152-001 and Parcel #20-14-301-031 to RT (One-family Residential).

Prior to 2006, the City of Troy Zoning Ordinance did not have a zoning mechanism to provide open space buffers. Despite the fact that there may not be environmentally sensitive issues, the EP (Environmental Protection) zoning district was commonly used to provide a buffer between two different zoning classifications.

This is the case for #4516 and #4396 Rochester Road, which were rezoned in 2002 for a specific site plan submitted by the applicant for an 18-ac assemblage. The EP zoning was designated over the detention pond shown on #4396 to provide an open space buffer between a few houses of the Shallowdale Subdivision and the proposed development. The curvilinear zoning lines follow a path that is unique to a site plan which was abandoned by the applicant and can no longer be built because 12-acres of the original 18-ac project have been developed as Briggs Park (2006). Almost 40% of parcel #4396 was designated as EP. The "wonky" zoning was left in place and remains a burden on the property.

Utilizing an Open Space Preservation Agreement, the petitioner proposes to reconfigure the "wonky" zoning lines to better develop these two properties. The 0.93-ac EP designated area will be removed and replaced with an Open Space agreement which was not available at the time of the rezoning in 2002. The easement provides a more specific and permanent mechanism to preserve open space versus the EP zoning district.

Project and Site Description:

Pursuant to the provisions of the Michigan Zoning Enabling Act, P.A. 110 of 2006, as amended, and pursuant to all applicable provisions of law, we are requesting the Zoning Map of the City of Troy be amended to conditionally rezone #4516 and #4396 Rochester Road, being parcel number 20-14-152-001 and 20-14-301-031, from RT, R-1C, and EP to RT (One-family Residential).

Findings of Fact:

1. In March 2002, Biltmore Land Co. applied to rezone 14-parcels (totaling 18-acres), including #4516 and #4396 Rochester Road (***Exhibit 1***). The Planning Department recommended approval of the rezoning of the entire 18-acres to RT.

2. In 2002, the Future Land Use plan designated the property as Medium Density Residential and in the 2019 staff report it was stated the same.

3. In July 2002, Biltmore revised their plan and submitted a second site plan, with the consent of the Planning Department, providing a 35 to 50-ft wide buffer on the north and eastern boundary (***Exhibit 2***). The meeting minutes from July 16, 2002 indicated:
    a. There were no Natural features on #4516 & #4396, per the Environmental Impact Study (EIS).
    b. The rezoning was consistent with the future land use
    c. The petitioner agreed to revise their rezoning request to provide an EP zoning district to "**serve as a land use buffer between the future attached condominium development and the Shallow Brook Subdivision**"

    This request was postponed by the City Council and sent back to Planning Commission.

4. In 2002, the Open Space ordinance was not in place and EP zoning was intended to be used to create an open space buffer. The detention pond was shown placed in the EP zoned area. Per the 5/14/02 PC meeting, Commission Waller stated, "No ordinance in place for open space…" (***Exhibit 3***)

5. In September 2002, Biltmore Properties, after several submittals and input from staff, submitted a final site plan (***Exhibit 4***). This final site plan showed part of #4396 as a detention pond and requested to rezone the said area to EP, the only zoning available at the time to assure and implement open space and buffer as requested by neighbors. In the absence of an open space policy, the oddly shaped

EP zoning was created to follow the shape of the pond. The site plan was approved by the commissioners, staff and the neighbors with a clear understanding that the area will have a detention pond and would act as open space.

The following excerpts are from the (Planning Director Mr. Miller letter to the Commission dated 9/5/2002 **(Exhibit 5)** and 9/10/2002 PC Meeting notes attached – (***Exhibit 6***):

- *Mr. Miller letter stated "a detention pond is proposed for the property to be rezoned to EP and used as a land buffer";*
- *Mr. Miller letter stated "the property rezoned to EP may be used as land use buffer pursuant to section 8.10 and 8.50.07… a detention pond may be designed as a part of the land use buffer …";*
- *PC Meeting Commissioner Chamberlin added "the part that would be rezoned EP and then used as a detention…… the amount of property being rezoned EP is that the size of 6:1 or 4:1 detention?";*
- *Biltmore responded "it will be detention";*
- *Commissioner Littman mentioned "…guaranteeing its (EP) going to be a detention pond";*
- *Staff added "EP zoning …would provide an open space";*
- *Commissioner Littman stated "is detention pond considered natural open space"*
- *Staff responded, "it could be".*

The neighboring residents and Mr. McCauley, from Shallowdale Subdivision HOA President, participated in the meeting and were satisfied with the approval of the detention pond and open space as buffer. Despite there was no ordinance requirement to provide such a buffer, the city approved the buffer with a pond for the benefit of the few neighbors and assured it by placing an EP zoning district in absence of any other means.

This September 2002 plan removed the EP strip along the perimeter which was submitted earlier in May 2002 and created a detention pond over a 0.93-ac of open space to be designated as EP on #4396. Minutes from the September 10, 2002 meeting show the commissioners focused on the fact that the detention pond was located within the EP zoning to provide an open space area. This approval created three different zoning districts on #4516 and #4396 (***Exhibit 7***).

6. Due to the lack agreements with parcel owners, the developer, Biltmore Properties, failed to purchase the properties and the 2002 approved site plan was abandoned leaving the EP zoned area on #4396 meaningless and the owner encumbered with an awkward zoning designation and shape.

7. In 2005, a new developer, APR Development, applied for a new site plan after purchasing 12.3-ac of the original 18-ac. This plan did not include #4516 and #4396, possibly due to the EP encumbrance. A special study public hearing was held in August 2005. The plan was revised and presented at the December 2005

Planning Commission Meeting. The minutes show that there was no discussion about the previously approved site plan and the zonings that were placed on #4516 and #4396 at the time. Briggs Park was zoned RT and EP. The site plan was approved without the EP area size increasing to include the entire pond area, nor was an open space buffer required. The new site plan was approved at the December Planning Commission meeting, and administratively re-approved in September 2006. (***Exhibit 8)***

Based on the 12/13/05 PC meeting minutes, the city approved Briggs Park with two ponds on the east side of the development. The surrounding residents and Mr. McCauley were present at the meeting, met with the developer, and were satisfied with the ponds adjacent to their development. (***Exhibit 9)*** Even though the 2002 site plan had expired and was replaced with the newly approved 2006 site plan without the 4516 & 4396 parcels, the 2002 EP designation was not revised to include the entire Briggs Park Detention Basin. An open space buffer was not created to include the basin area; hence Briggs Park was not required to provide a "formal" buffer between itself and the adjacent parcel (#4396).

8. The attached affidavit from the 2002 owner of parcel #4396 states that he had not signed any agreements with Biltmore as contended in their 3/26/2002 application. (***Exhibit 10***) The owner indicates that he was not aware of any rezoning (the property was rented) and received no compensation from anyone. Biltmore had no authority to encumber his property with EP zoning. No proof of ownership or agreements could be found in the city files. At the time of selling the parcel, the owner and buyer broker met with the staff who assured of a reversal and an easy rezoning process as the approved plan was abandoned. Having satisfied that the rezoning will be no problem, the sale was consummated at above the market value.

9. Current owners, MNK, understood prior to purchasing the property that it contained EP zoning and they met the staff over the years with various concepts including a mixed-use concept. In 2018 and 2019 MNK had meetings with the City of Troy staff, including the full team of engineers and architects. The staff was very supportive of the development with an open space buffer which included a pond in the EP area, consistent with 2002 and 2006 approvals. The applicants understanding regarding the allowed density during these discussions was to calculate it for the entire area not excluding the EP as the definition of EP area did not specify any exclusion. Hence all concepts were shown as such. Neighbors were informed about the past open space buffer requirements. All engineering concepts showed the EP area as open space with a pond. This seemed satisfactory to all.

10. Recent site plans approved by the city, set a precedence that detention ponds were acceptable in EP zoned open space areas.

- Whispering Park: This site was conditional rezoned from EP to R1C with overlaid open space. The detention basin was located in the open space area.

- Dequindre Taco Bell: This site placed underground detention in the 40' wide EP area that buffered the neighboring residential property. A buffer wall and landscaping were added in the EP area.

Future Land Use:

The City of Troy Master Plan indicates the subject parcels are in the "Rochester Road" future land use district. The intent of this district is to promote a regional model green corridor with a strong focus on access management. The Master Plan states that lower impact uses, like condominiums, should be encouraged along the Rochester Road corridor frontage between Neighborhood Nodes. Additionally, the Master Plan recommendation for the Rochester Road Corridor, RT Zoning meets the definition of the "Missing Middle" which is lacking in Troy. "Missing Middle housing is composed of smaller single-family homes, duplexes, fourplexes, lofts, townhouses, mid-scale apartments and live-work units. Missing Middle housing achieves moderate density that can be appealing to both younger and older populations."

Proposed Use & Site Plan:

Under the proposed conditional rezoning (***Exhibit 11***), the east side of the property will remain as a transition zone and open space buffer between the proposed attached single-family dwellings and the existing neighborhood to the east. We propose to eliminate the EP zoning and, in its place, provide an equal sized Open Space Preservation Area (0.93-ac) that will be reconfigured to straighten out the existing unique curved zoning districts currently impacting the properties. The closest distance between the proposed condominium to the rear of the closest existing home is approximately 185-ft.

As stated in the City of Troy Zoning Ordinance, open space is defined as: "A parcel or area of land that is intended to provide light and air, and is designed for 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 include streets, driveways, parking lots, or other surfaces designed or intended for vehicular traffic." As the low point to the parcel is located at the southeast corner of the site, the petitioner proposes to provide detention within the open space area similar to the 2002 previously approved site plan on this property, and other recent developments in the city.

Approximately 50% of the site is currently zoned RT. We propose to rezone the remaining R1-C area to RT in order to create a uniformly zoned property. "Briggs Park" to the south is already zoned RT. The requested change is consistent with adjacent zoning district

and no spot zoning will occur. In addition, similar rezoning on Rochester Road has been approved both north and south of this property.

The proposed development (***Exhibit 12***), shall be limited to 9-buildings and 32 total units. Each unit is an attached two and a half-story single-family residential unit. Each unit will be 1400 to 1700-SF and include an attached 2-car garage. The buildings will be materials consisting of a mix of brick, asphalt shingles, plank siding, with variety of color palates and durable low-maintenance or maintenance free materials. The open space area will include a dry detention basin and landscape screening between the proposed buildings and the Shallowdale Subdivision.

Surrounding Zoning and Land Use:

The property is located on the east side of Rochester Road between Wattles and Long Lake Roads. The parcel has a lot width of 416-feet, a lot depth of 485-feet, and approximately 164,132 square feet or 3.77 acres of lot area and allowing a maximum of 32 units. Each parcel is currently developed with a one-family residence. Surrounding uses include single-family dwellings to the north, east and west, and multiple-family dwellings to the south.

Proposed Development vs. By-right:

	By-Right Existing RT, R-1C, and EP Zoning	**Proposed RT Zoning**
Density	R-1C: +/- 4 RT: +/- 16 EP: 0	RT: +/- 32
Height	2.5 stores and 30 feet	2.5 stores and 30 feet
Setbacks	R-1C: Front (Rochester): 50 feet Sides: 10/20 feet total Rear: 40 feet RT: Front (Rochester): 50 feet Sides: 5/15 feet total Rear: 35 feet	Front (Rochester): 50 feet Sides: 10/40 feet total Rear: 35 feet
Lot Coverage	R-1C: Max % of lot covered by building: 30% RT: Max % of lot covered by building: 30% + 20% landscape area	RT: Max % of lot covered by building: 30% + 20% landscape area
Open Space	R-1C: 0% RT: 0%	RT: 24% (0.93 ac)

Public Involvement:

In order to present the project and seek input from the surrounding homeowners, the petitioner met with several of the residences in Shallowbrook Subdivision. Letters of support, from three of the homeowners surrounding the property were provided to the petitioner after meeting with them and are included with this submittal (***Exhibit 13***). The petitioners met with Jon and Wendy Hughes at 4495 Harold (with tennis court) and reviewed the basic plan and both expressed satisfaction with screening and development. The petitioner also met with Jim McCauley, the President of the Shallowbrook Homeowners Association and discussed with him the proposed site plan, and his concerns about screening, construction quality, location of pond and reason thereof, the problem of wet ponds and therefore no wet pond, detention, no gazebo, the large buffer and open space to be left in place provided which shall not have any negative impact on their property but would rather enhance it due to the quality of development. As the four houses on the east boundary of 4396 current view consists of a tall green wall of shrubs and trees and no visibility beyond it, petitioner assured him that the adequate screening will be provided, and the view maintained. He also mentioned no gazebo and no wet pond. McCauley expressed his concerns about the EP zoning and the petitioner assured that it will take into consideration all his comments.

Rezoning Standards/Reasons of Recommendation:

The petitioner's request for rezoning is based upon the following:

A. The uniquely shaped EP/buffer area rezoning was for a specific site plan presented by Biltmore that was abandoned. Subsequently, Briggs Park was developed which made the original site plan impossible to build.
B. There are no natural features on #4396 to protect, as per the definition of EP. The EP zoned area was proposed to be used as a detention pond and considered to be open space buffer at the time of the 2002 rezoning approval.
C. The proposal to designate the EP as Open Space satisfies the intent of the same buffer as was intended by the then planning commission.
D. According to the Master Plan for the Rochester Road Corridor, RT Zoning meets the definition of the "Missing Middle" which is lacking in Troy. "Missing Middle housing is composed of smaller single-family homes, duplexes, fourplexes, lofts, townhouses, mid-scale apartments and live-work units. Missing Middle housing achieves moderate density that can be appealing to both younger and older populations."
E. The majority of the site is currently zoned RT which allows medium density attached residential dwellings. The requested One-Family Attached Residential District is consistent with the future land use map. Adjacent properties with the same planned future use designation were developed with multiple family dwelling units. The proposed number of multiple-family dwelling units is consistent with the characteristics of surrounding buildings and uses.

F. Rezoning would create a uniform district that could not be provided prior to the Michigan Zoning Enabling Act.
G. The proposed number of multiple-family dwelling units is compatible with surrounding uses and zoning in terms of the environment, density, traffic volumes, aesthetics, infrastructure, and potential influence on property values.
H. The street system is capable of safely and efficiently accommodating expected traffic volumes generated by the proposed number of multiple-family dwelling units.
I. The capacity of public utilities and services is sufficient to accommodate the proposed number of multiple-family dwelling units without compromising the city's health, safety and welfare.
J. There is an apparent demand in the City for multiple-family dwelling units in relation to the amount of land in the city currently zoned and available to accommodate the demand.
K. The requested One-Family Attached Residential District does not create an isolated and unplanned spot zone as adjacent properties to the south are zoned RT.
L. The rezoning of the property does not unreasonably impact the adjacent properties or its values.

Voluntary Conditions:

Under Section 405 of the Zoning Enabling Act, the petitioner voluntarily offers uses and restrictions of the property as a condition to rezoning the land. These conditions result in recognizable and material benefits to the city that would unlikely be achieved otherwise under the site's existing zoning.

The following conditions are provided voluntarily as conditions of rezoning approval:

1. Development shall meet all requirements for the RT Zoning District.
2. An Open Space Preservation Easement shall be provided over the eastern portion of the site, in an area equal to that of the EP zoned area (0.93 ac) providing a guaranteed 24% open space buffer.
3. A dry detention basin will be provided with a 15' landscape buffer which will provide an enhanced screened area.
4. Building materials shall be a mix of brick, asphalt shingles, plank siding, with variety of color palates and durable low-maintenance or maintenance free materials.
5. Each Unit shall have a 2-car garage. A minimum of 9-guest parking space shall be provided.
6. In addition to required single-family screening to R-1C to the north, screening shall be provided for the existing two buildings, or up to 250-feet of Briggs Park, to the south.
7. No exterior refuse containers shall be proposed. Individual waste and recycling containers shall be stored in each unit's garage and placed at the curb on collection days.

The proposed rezoning will allow the site to be developed in a manner consistent with the City of Troy's Master Plan and maintains the intended open space buffer between proposed condominium and the existing single-family homes better than if the site was developed under its current zoning.

In summary, the very reason for using the 2002 EP zoning was to provide a guaranteed open space / buffer area with a pond. In 2006, in the absence of an open space ordinance, the Briggs Park detention pond area created an open space buffer. The EP area was not expanded to include the pond area, nor was a formal open space buffer required. The 2002 site plan was abandoned, and new site plans were provided; however, the EP zoning was left in place despite no longer fitting the 2002 layout. Based on these facts the applicant requests to rezone the EP zoning to RT zoning, which is consistent with City of Troy staff, neighbors, and commissioner's 2002 and 2006 approvals. The applicant declares that the current EP area will be used as a dry detention pond, like what was shown on the 2002 approval. The applicant also proposes to provide adequate screening in the setback area to give a similar view as currently provided from the neighbor's backyards. (A wall of trees at the property line). It should also be noted that invasive and dying trees will be removed from the EP area.

Thank you for your consideration,

PEA, Inc.

John B. Thompson, PE
Senior Project Manager

Attachment: Application

Exhibit 1 – 3/02 Biltmore Rezoning Request
Exhibit 2 – 7/02 Biltmore Site Plan and 7/02 Public Hearing notes
Exhibit 3 – 5/02 Planning Commission Meeting Minutes
Exhibit 4 – 9/02 Biltmore Approved Site Plan
Exhibit 5 - 09/02 Letter from Planning Director to Planning Commission
Exhibit 6 – 9/02 Planning Commission Meeting Minutes
Exhibit 7 – 9/02 Approved Zoning Map Sketch
Exhibit 8 – 9/06 Briggs Park Site Plan
Exhibit 9 – 12/05 Planning Commission Meeting Minutes
Exhibit 10 – Affidavit from George Khalife
Exhibit 11– Proposed Rezoning Sketch
Exhibit 12 – Conditional Rezoning Plan
Exhibit 13 – Letter of Support #1016 Shallowdale, #4453 Harold, #4432 Harold

EXHIBIT 1

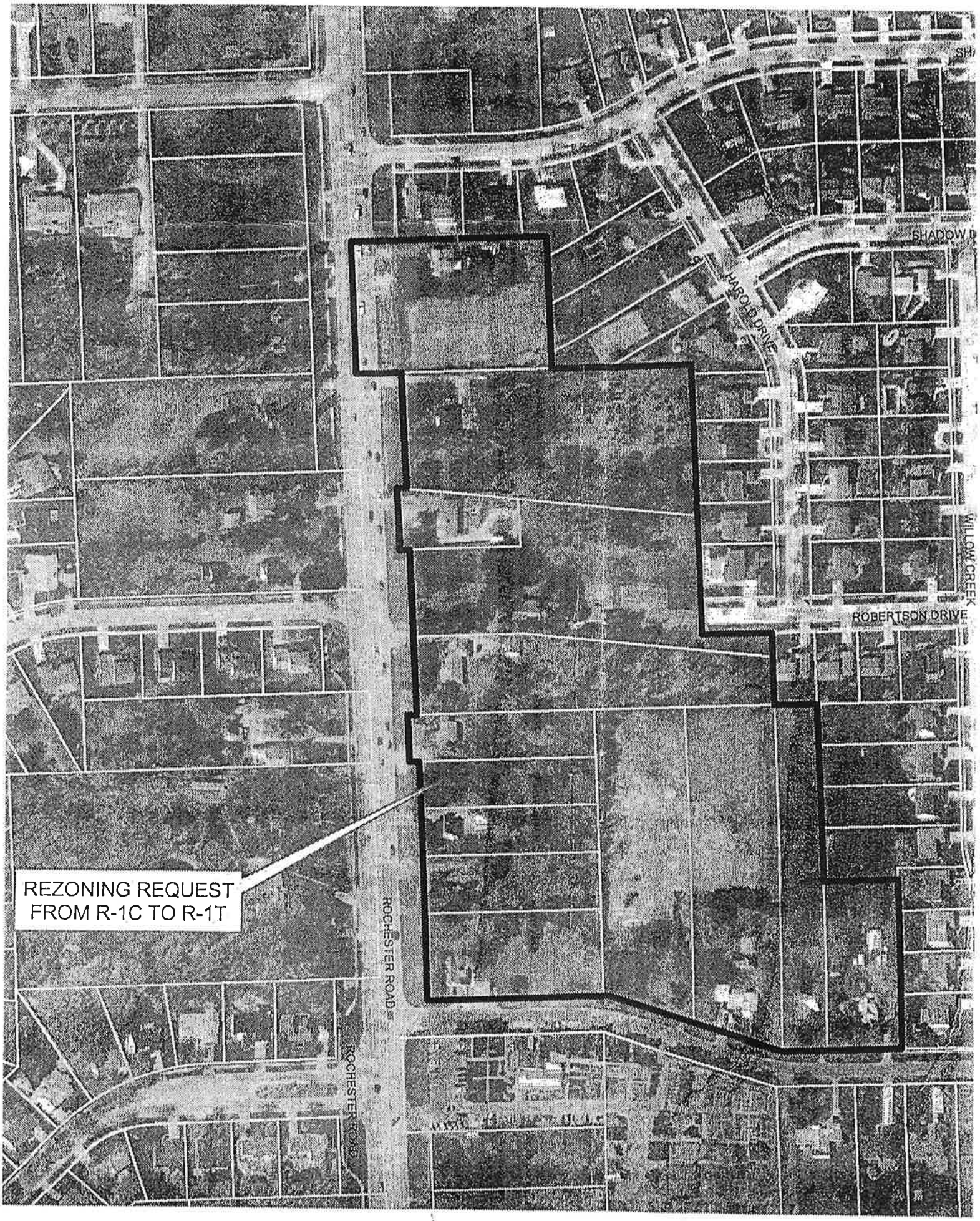
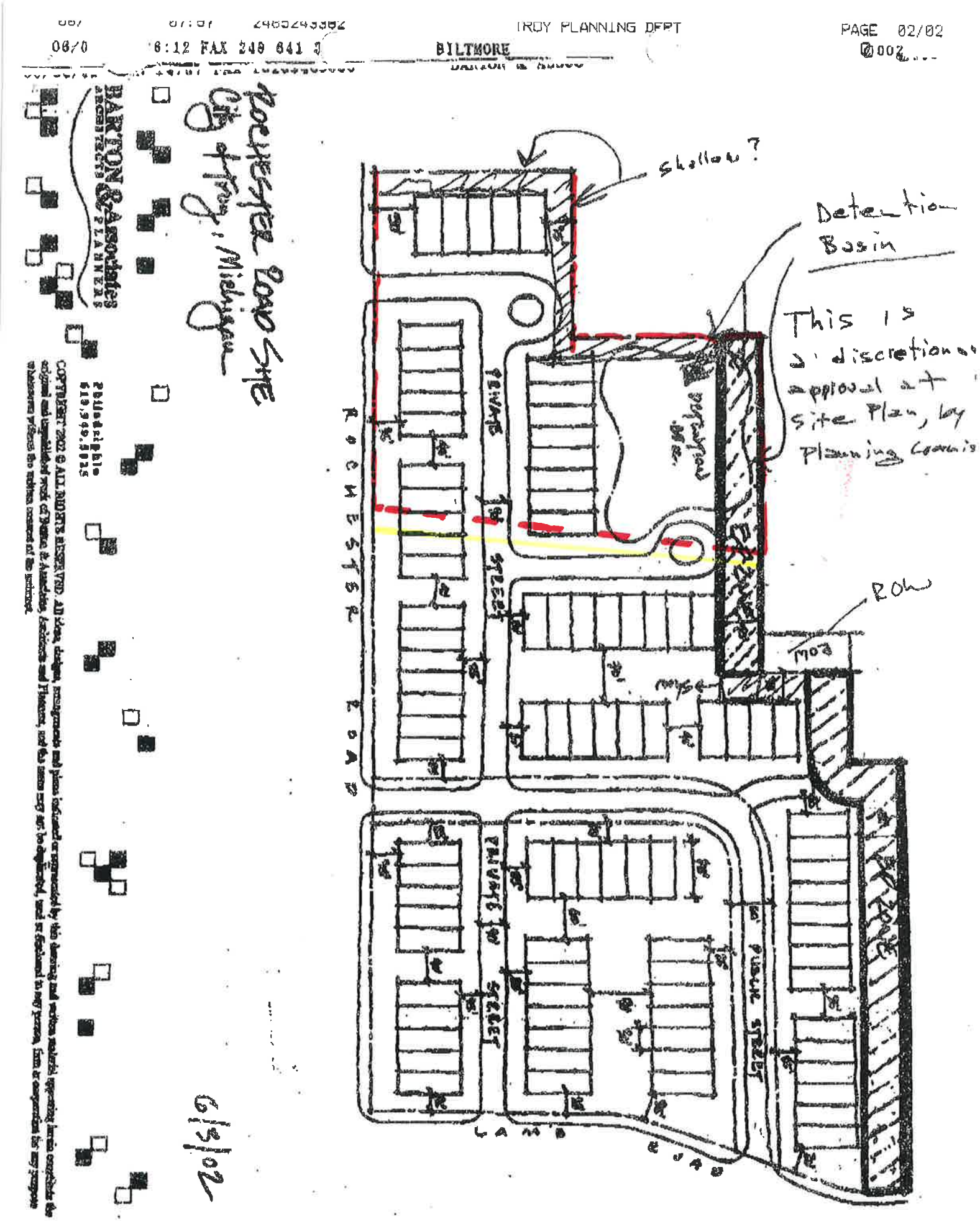

HAROLD DRIVE
ROBERTSON DRIVE
WILLOW CREEK
ROCHESTER ROAD
ROCHESTER ROAD
REZONING REQUEST
FROM R-1C TO R-1T

EXHIBIT 2


Rochester Road Site
City of Troy, Michigan
BARTON & ASSOCIATES
ARCHITECTS PLANNERS
Detention Basin
This is a discretionary approval at Site Plan, by Planning Commis
ROW
ROCHESTER ROAD
PERIMETER STREET
LAMB ROAD
6/5/02

C-3

22

JUL 23 2002

Postpone for 60 Days → Action at P.C. Level.

July 16, 2002

To: The Honorable Mayor and City Council

From: John Szerlag, City Manager
Gary Shripka, Assistant City Manager/Services
Mark Miller, Planning Director MM

Subject: PUBLIC HEARING - PROPOSED REZONING (Z-681) – Proposed Wattles Road Condominium, East side of Rochester, North side of Lamb, Section 14 R-1C to R-1T & E-P, Section 14

David Stollman, Biltmore Land Co. LLC submitted a R-1C One Family Residential to R-1T Medium Density Residential and E-P Environmental Protection rezoning request for 18.10 acres of land located on the east side of Rochester Road and the north side of Lamb Road. The subject properties are large lot single family residences. This rezoning proposal consolidates 13 properties west of the Shallow Brook Subdivision. An Environmental Impact Statement was submitted with the application. It appears that no natural features are located on the subject properties.

The current use of the subject properties includes 10 single family homes and 3 vacant residential parcels. The adjacent land uses include: single family residences to the north, east, and west; and Tom's Landscape Nursery to the south.

indout 1999 revision

The current Future Land Use Plan designation for the subject property is Medium Density Residential. The adjacent land use designations include: Medium Density Residential to the north, south, and west; and Low Density Residential to the east.

Stop office commercial pressure

The current zoning district classification of the subject property is R-1C One Family Residential. The adjacent zoning district classifications include: R-1C One Family Residential to the north, south, east, and west.

Stop deteriorating Homes on large parcel fronting

On May 14, 2002 the Planning Commission conducted a public hearing regarding the rezoning request. Ten residents of the Shallow Brook Subdivision spoke in opposition at the public hearing. Subsequently the Planning Commission recommended denial of the R-1T rezoning request for the overall subject property, for the following reason, *"Parcel is large enough to be developed as currently zoned and there is no real need for rezoning."* Since the Planning Commission meeting, the petitioner and Planning Department discussed possible zoning district solutions to provide a transitional or buffer area between the proposed R-1T zoning and the R-1C zoning of the Shallow Brook Subdivision.

? need? Future Land Use Plan

? → will this become a lawsuit!

EXHIBIT 3

Mr. Kramer stated that he would like to have the petitioner address the most basic question and that is what is the benefit to the City of Troy to double the density of this project.

Mr. Stollman stated that one of the major issues of the City was lack of housing for those who couldn't afford to buy a home or who no longer wanted to live in a house. These type of densities allow for condominiums to help balance the use of housing stock

Mr. Littman stated that nothing is permanent. Do you have a thought on what these units would sell for.

Mr. Stollman stated anywhere from $250,000 to $350,000.

Mr. Kramer stated that we received a summary from the City Assessor on the property valuation, and asked Mr. Miller if he remembered the number of condominiums. It was a very large number already because this Commission has approved so many in the past year.

Mr. Miller stated he did not remember the number.

Mr. Waller stated that recently the State amended the City and Village Zoning Act, with open space provisions. We don't have an ordinance yet to comply, but does this particular parcel of 18 acres fit that open space provision.

Ms. Lancaster stated that we will have to develop cluster zoning in conformance with the amendment.

Mr. Waller asked the petitioner if the cluster option is an option.

Mr. Stollman stated that we do not meet the criteria for the open space preservation amendment.

Mr. Wright stated he agrees with the residents. This parcel is large enough for single family homes.

Proposed Resolution

Moved by Wright Seconded by Kramer

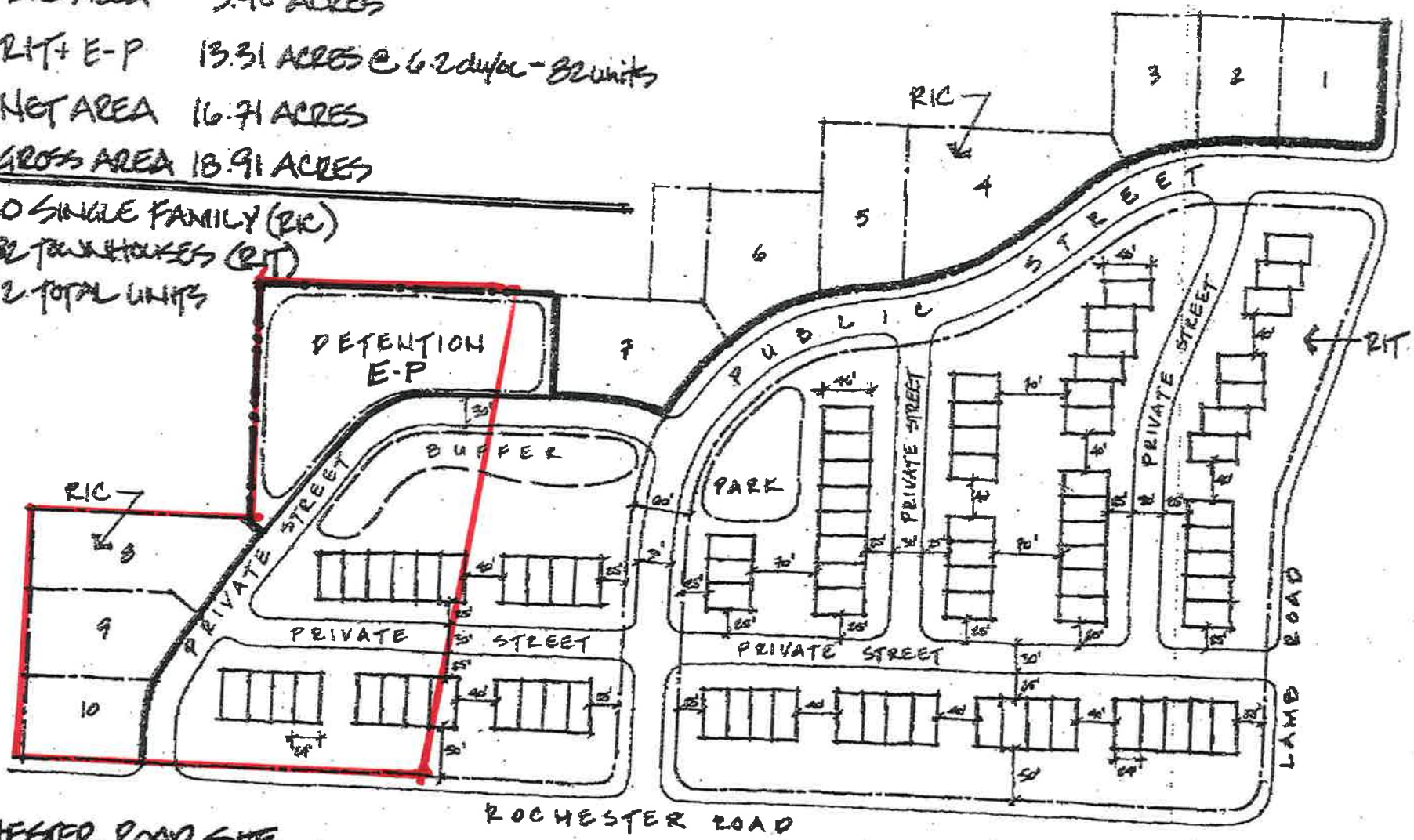
RESOLVED, that the Planning Commission hereby recommends to the City Council that the R-1C to R-1T rezoning request located on the east side of Rochester Road and north of Lamb Road in Section 14, being 18.10 acres in size, be denied for the following reason:

EXHIBIT 4

DENSITY CALCULATION

- RIC AREA 3.40 ACRES
- RIT + E-P 13.31 ACRES @ 6.2 du/ac - 82 units
- NET AREA 16.71 ACRES
- GROSS AREA 18.91 ACRES

- 10 SINGLE FAMILY (RIC)
- 82 TOWNHOUSES (RIT)
- 92 TOTAL UNITS



ROCHESTER ROAD SITE
TROY, MICHIGAN
(24' x 46') TOWNHOUSES

CONCEPT PLAN

BARTON & Associates
ARCHITECTS & PLANNERS

BARTON & Associates, L.P. · BARTON & Associates, Inc. · Thomas C. Barton III, AIA
700 E. Main Street, 3rd Floor Norristown, PA 19401-4102 Phone 610.930.2800 Fax 610.930.2808

EXHIBIT 5

September 5, 2002

TO: The Planning Commission

From: Mark F. Miller, Planning Director MFM
Brent Savidant, Principal Planner BS
Ronald Figlan, Planner RF
Paula Preston Bratto, Planner PPB

SUBJECT: REZONING APPLICATION – Z-#681, Biltmore Rezoning, East side of Rochester Road, north of Lamb Road, section 14 – R-1C to R-1T and E-P.

GENERAL INFORMATION

Name of Owner / Applicant:
Biltmore Properties Corporation.

Location of Subject Property:
The parcel is located on the east side of Rochester Road, north of Lamb Road in section 14.

Size of Subject Parcel:
The parcel is approximately 18.71 net acres in size.

Current Use of Subject Property:
Single-family residences.

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

Proposed Zoning of Subject Parcel:
The applicant is proposing to rezone 0.93 acres to E-P Environmental Protection, 12.38 (net) acres to R-1T One Family Attached and retain 3.40 (net) acres as R-1C One Family Residential. The applicant has provided legal descriptions of each proposed Zoning District.

Proposed Uses and Buildings on Subject Parcel:
The applicant has submitted a conceptual sketch of the proposed development. The sketch shows a development comprised of 82 one family attached dwellings on the R-1T-zoned property and 10 detached single-family homes on the property which is to remain R-1C. A detention pond is proposed for the property proposed to be rezoned to E-P and used as a land use buffer, as permitted by the Zoning Ordinance. A public street runs through the property, connecting

Lamb Road to Rochester Road. A number of private streets also connect to the public streets.

Robertson Drive is not shown to extend through to Rochester Road.

Note that this sketch is not binding in any way and does not constitute a site plan. It is intended only to show what the applicant conceptually plans to do with the property once rezoned

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

South: Tom's Landscape and single-family residences.

East: Single-family residences.

West: Single-family residences.

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

South: R-1C One Family Residential.

East: R-1C One Family Residential.

West: R-1C One Family Residential.

Parcel History:
The applicant applied to rezone 18.10 gross acres to R-1T. At the May 14, 2002, Planning Commission Public Hearing, the Planning Commission recommended denial of the application. The applicant revised their application to provide an E-P rezoning request to act as a land use buffer. At the July 22, 2002, City Council Public Hearing, the City Council recommended the application be postponed for sixty (60) days and sent the application back to the Planning Commission for reconsideration. The applicant has resubmitted the application, including an additional parcel, and is seeking to rezone only 12.38 (net) acres of the 16.71 (net) acre parcel to R-1T. Of the remaining 5.42 acres, 3.40 (net) acres will remain R-1C and 0.93 acres will be rezoned to E-P. This portion of the property will serve as a transition zone and land use buffer between the attached single-family dwellings and the existing neighborhood to the east.

ANALYSIS

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

All uses that are principal permitted uses in the R-1A through R-1E Zoning Districts are also principal permitted uses in the R-1T Zoning District. Two family dwellings and one family attached dwellings are also principal permitted uses. The applicant could develop 82 attached units on the portion of the property zoned R-1T, based on Zoning Ordinance requirements. This is the same number of lots shown on the sketch plan.

The property rezoned to E-P Environmental Protection may be used as a land use buffer pursuant to Section 8.10.00 and 8.50.07. A detention pond may be designed as part of the land use buffer, if approved by the Planning Commission.

Vehicular and Non-motorized Access:

There is potential vehicular access to the property from Rochester Road, Lamb Road and Robertson Drive. The applicant submitted a sketch that shows vehicular access to Lamb Road and Rochester Road.

Potential Stormwater and Utility Issues:

It does not appear that there are any utility issues associated with the site. The applicant will need to provide stormwater detention on the property.

Natural Features and Floodplains:

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

Compliance with Future Land Use Plan:

The Future Land Use Plan designates this area as Medium Density Residential. The Plan correlates the Medium Density Residential classification with the R-1T One Family attached Zoning District. The rezoning application complies with the Future Land Use Plan.

PLANNING DEPARTMENT RECOMMENDATION

The rezoning application complies with the Future Land Use Plan. The portion of the property to remain R-1C will serve as a transition area between the attached housing in the R-1T Zoning District and the adjacent R-1C property. The portion of the property zoned E-P will buffer the development from the adjacent residential area.

The rezoning request is compatible with existing land uses and zoning districts.

At the May 14, 2002, Planning Commission Public Hearing for the initial R-1T rezoning application, area residents' voiced their concerns about rezoning the

EXHIBIT 6

7. PUBLIC HEARING - PROPOSED REZONING (Revised Request) (Z-681) – Proposed Rochester Road Condominium Development, East side of Rochester, North side of Lamb, Section 14 – R-1C to R-1T & E-P

Mr. Savidant presented a summary of the Planning Department report for the proposed Rochester Road Condominium rezoning request.

Mr. Chamberlain asked, the part that would be rezoned E-P and then used as a detention basin, is that a detention basin 6:1 or 4:1 slope?

Mr. Savidant replied, that is an issue that will be ironed out in the Site Plan stage.

Mr. Starr asked, do we have actual numbers of the distance of the R-1T to the east? How deep is it from Rochester Road?

Mr. Savidant stated that his estimate is approximately 700 feet. It is difficult to measure at this time because the line is not straight.

Kevin Kohls, 2025 West Long Lake, stated that he represented Biltmore Properties Corporation. There has been a lot of work that has gone into this rezoning request and since the earlier recommendation of denial by this Commission, Biltmore has worked closely with the neighbors and the Planning Department to make this work by looking at the adjacent property. The zoning that we are presenting to you tonight solves a lot of difficulties, i.e., difficulties encountered by the neighbors, difficulties we've encountered in processing this, and difficulties by the City. We bring to the table tonight a proposal that preserves the existing zoning along the easterly edge of this property and to the north which complies entirely with the Master Plan, will prevent Robertson from being extended to Rochester Road and will limit the curb cuts from this difficult assembly onto Rochester Road. The legal description that you have been presented tonight is a slight modification to reduce the acres requested for rezoning. The result is a plan that we expect will be very successful. The home and condominium prices will be in the $250,000 range, certainly comparable to the surrounding homes.

Mr. Chamberlain asked, if the amount of property that is being proposed to be rezoned E-P, is that the size of a 6:1 or a 4:1 detention?

Mr. Kohls replied, it will be a 6:1 detention, very gentle slope, without fences.

Mr. Chamberlain stated that the Commission was handed a letter tonight in which a request was made that it become part of the record by a Ron Angle, 4437 Harold Drive, Troy.

Public hearing opened.

John Moran, 1110 Robertson, stated he did not know what 6:1 detention pond meant and asked what would the maximum drop be?

Mr. Chamberlain stated that the Commission is unable to answer that at this time. What we are trying to do is eliminate the chain link fences altogether. We would like to see 6:1 so they are able to get in there with mowers; and with a 6:1 slope, if there's water in it, people can get out of it. That is where we are coming from.

Paul Stockyj, Attorney for owners of Parcel #1, stated that the Sevedra family have been residents of the City of Troy for quite some time. Members of the family are present here tonight. Mr. Sevedra senior accumulated this property lot by lot and it took him several decades to do that. He had a dream to have this property developed someday. Unfortunately, he is not going to be present to see that dream realized because he passed away in June of 2002. Family members that are present here today would like to see this property be developed.

Ron Angle, 4437 Harold, stated that he has backed up to this property for 26 years. His concern is the opening of Robertson. He does not want Robertson being opened. However, looking at a development back there would be better than looking at what is presently back there. He would like to look at something that is halfway decent back there.

Public hearing closed.

Mr. Littman commented on this E-P zoning guaranteeing it's going to be a detention pond, and that by being turned over to the City, it will be protected from development. With it being an E-P area, he doesn't understand why it needs to be rezoned.

Mr. Savidant stated that E-P zoning was sought by the surrounding area residents. It would provide an open space area that would serve as a buffer and could never be developed.

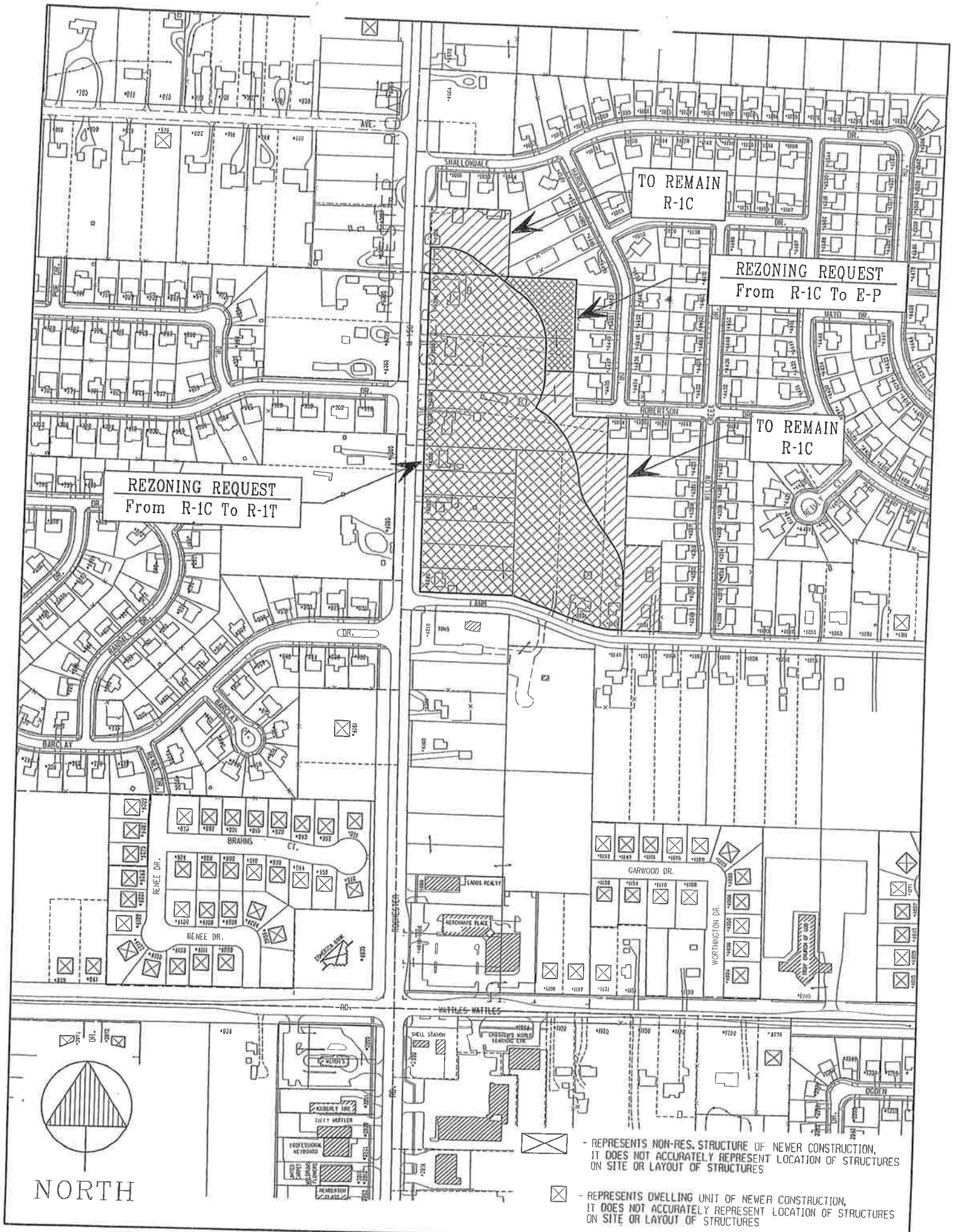
Mr. Littman asked, is the detention pond considered natural open space?

Mr. Savidant stated that it could be. The City does require that detention ponds typically be turned over to the City for maintenance.

Ms. Lancaster stated that if it's turned over to the City, it is the City's responsibility to maintain it.

Mr. Kramer stated that he does not remember any automatic designation that E-P zones are dedicated to the City.

EXHIBIT 7



Z-681 revised request / SEC. 14 / 08-28-02

EXHIBIT 8

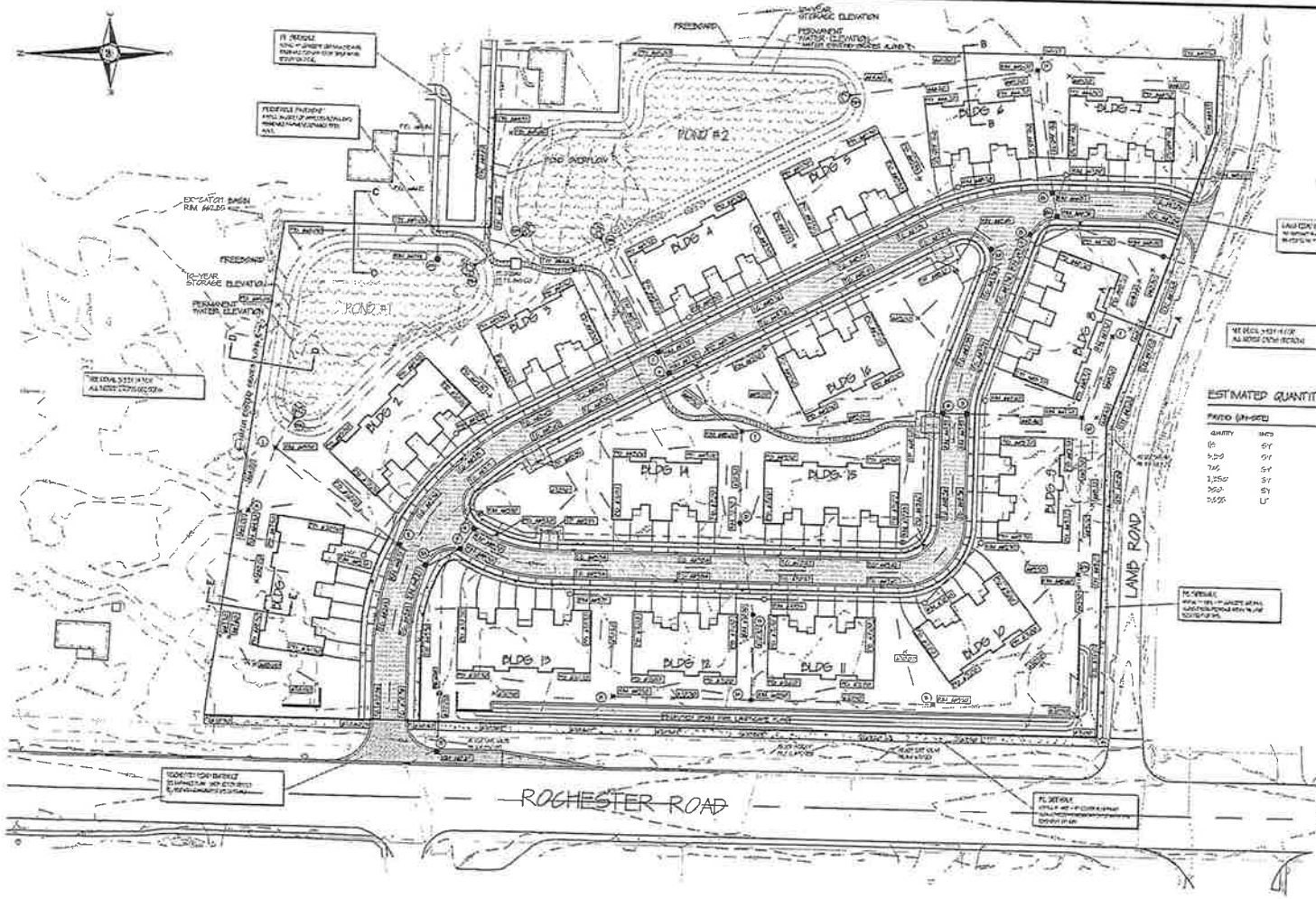
9. SITE PLAN REVIEW (SP 921) – Proposed Briggs Crossing Condominium, North side of Lamb, East side of Rochester Road, Section 14 – R-1T and R-1C

Mr. Savidant presented a brief summary of the proposed Briggs Crossing Condominium.

Brad Byarski of 2617 Beacon Hill, Auburn Hills, was present to represent the petitioner, Michigan Home Builders. Mr. Byarski provided an overview of two development concepts. One design provides a storm water detention pond in the northeast corner of the property and 61 units. The alternate design provides a "wet" storm water retention pond, a park area and 66 units; this concept would require a 5-foot front yard setback variance.

Comments were solicited from around the table. Members voiced concerns with the proposed setbacks, density, parking and sidewalks.

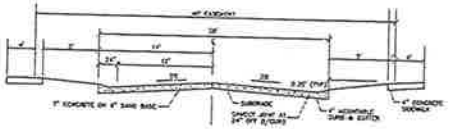
Mr. Byarski provided an update on the proposed PUD 5, Caswell Town Center, located on the east side of Rochester Road, south of South Boulevard.



ESTIMATED QUANTITIES

PAVED (PAVERS)

QUANTITY	UNITS	DESCRIPTION
15	SY	7" CONCRETE SECTION (PAVERS)
5,520	SY	7" CONCRETE SECTION (REMOVAL)
745	SY	8' CONCRETE BIKE PATH
1,350	SY	4" CONCRETE SIDEWALK
350	SY	PERVIOUS PATHWAY
1,675	LF	6" MOUNTABLE CURB AND GUTTER



HATCH LEGEND

- PROPOSED CONCRETE SIDEWALK
- PROPOSED 7" CONCRETE PAVEMENT
- PROPOSED PERVIOUS PAVEMENT
- PROPOSED 9" CONCRETE PAVEMENT

LEGEND

- TC 800.00 — PROP. TOP OF CURB ELEVATION
- FFE 800.00 — PROP. TOP OF WALK ELEVATION
- TP 800.00 — PROP. TOP OF PAVE ELEVATION
- FG 0.00 — PROP. FINISH GRADE ELEVATION
- PROP. DRAINAGE DIRECTION

NOWAK & FRAUS

Consulting Engineers
Land Surveyors
Land Planners

46777 Woodward Avenue
Pontiac, Michigan 48342
Tel. (248) 332-7931
Fax. (248) 332-8257

PROJECT
Briggs Park Condominium

CLIENT
Michigan Home Builders
2617 Beacon Hill Drive
Auburn Hills, MI 48328

PROJECT LOCATION
Part of the SW 1/4 of Section 14
T. 2 North, R. 11 East
City of Troy,
Oakland County, Michigan

SEAL:

DATE/REVISION
05-20-06 Per City of Troy
07-21-06 Per City of Troy

SHEET
Paving and Grading Plan

DRAWN BY: LWS
CHECKED BY: R.M. / S.W.S.
APPROVED BY: R.M.
DATE: 02-15-06
SCALE: 1" = 50'
JOB NO. D622
SHEET NO. 5

EXHIBIT 9

RESOLVED, The City of Troy has a problem in its industrial zone of a multitude of vacancies and the tax base is being eroded; therefore the Planning Commission hereby recommends to the City Council that Paragraph 04.20.73, Indoor Commercial Recreation Facility, include performance studios, performance theaters and art studios, and that other facilities may be included in this paragraph as well as the facilities named in that paragraph in the language in front of us tonight.

Yes: All present (7)
No: None
Absent: Schultz, Waller

MOTION CARRIED

SITE PLAN REVIEW

7. SITE PLAN REVIEW (SP 921) – Proposed Briggs Park Condominium, North side of Lamb, East side of Rochester Road, Section 14 – R-1T, R-1C and E-P

Mr. Savidant presented a summary of the Planning Department report for the proposed Briggs Park Condominium, and reported that it is the recommendation of the Planning Department to approve the site plan as submitted with the condition that the 8-foot wide sidewalk on the east side of Rochester Road is concrete, as opposed to asphalt as shown on the site plan.

Mr. Savidant provided clarification on the setbacks.

The petitioner, Brad Byarski of Michigan Homes Builders, 13400 Canal, Sterling Heights, was present. Mr. Byarski provided a brief history of the site and addressed a previous submission of which the Planning Commission had concerns relating to density, sidewalks, guest parking, and an easement variance. Mr. Byarski reviewed the new site plan and presented drawings and elevations of the proposed development. He agreed to change the sidewalk on the east side of Rochester Road from asphalt to concrete.

[Mr. Kulesza arrived at 8:35 p.m.]

Discussion followed with respect to guest parking, on-street parking, snow removal, and storm water management.

Resolution # PC-2005-12-194
Moved by: Chamberlain
Seconded by: Khan

RESOLVED, That Preliminary Site Plan Approval, as requested for the proposed Briggs Park Condominium, located on the north side of Lamb, east of Rochester,

located in Section 14, on approximately 12.13 acres, within the R-1T, E-P and R-1C zoning districts, is hereby granted, subject to the following conditions:

1. The 8-foot wide sidewalk on the east side of Rochester Road shall be concrete, as per City of Troy Engineering Standards.
2. That on-street parking is provided opposite the fire hydrants especially in the area on the north side of the island.
3. Provide bioswales.

Discussion.

Members of the audience asked to speak. Chair Strat said public comment on a site plan review is at the discretion of the Chair, and the floor would not be opened at this time.

Vote on the motion on the floor.

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

MOTION FAILED

Mr. Vleck abstained because he thought the public should have an opportunity to speak on the matter.

Mr. Wright indicated his no vote was for the same reason.

Chair Strat voted no because the petitioner did not adhere to the recommendations of the Environmental Specialist as relates to storm water management.

Resolution # PC-2005-12-195

Moved by:	Littman
Seconded by:	Vleck

RESOLVED, To reconsider the issue with public input, not limited to what the Chairman chooses.

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

MOTION CARRIED

Ms. Drake-Batts said the submission has been before this body three times, with no participation from the public yet. They have had three times to give their piece.

Chair Strat opened the floor for public comment.

Jim McCauley of 4435 Harold, Troy, was present. Mr. McCauley is President of the Shallowbrook Homeowners Association. He said they have been before this body at the time of the rezoning requests, but notices were not sent out on the proposed development and site plan review. Mr. McCauley provided a brief history of the previous rezoning requests, in which an agreement was worked out with the developer to provide a buffer for the single family homes in the area. Mr. McCauley distributed an informational handout to the members and addressed potential violations/conflicts with the Zoning Ordinance, specifically Article 12.50.05 as relates to a required 60-foot right of way for property over 10 acres in size and Article 12.50.08 as relates to rear perimeter setbacks. Mr. McCauley said they are not against condominiums but they want an appropriate buffer zone provided between the medium density and single family homes, as originally negotiated.

John Moran of 1110 Robertson, Troy, was present. Mr. Moran expressed concern with the 8-foot retention pond, specifically the potential danger to children. He said there is not a market for condominiums and he would prefer to see site condominiums going in there.

The floor was closed.

Mr. Chamberlain asked for comment from the Assistant City Attorney on the setback concern addressed by the first speaker.

Mr. Motzny replied that he discussed the setback matter with the Planning Director, and Mr. Miller indicated that the setback provisions are being complied with.

Mr. Miller stated that a yard is measured from the structure to the property line, and noted that the definition of yard is in the definition section of the Zoning Ordinance. Mr. Miller said there is nothing in the ordinance that requires the subject property to be under all one zoning district. He said the proposed setback is equal to, or greater than, the single family setback requirement.

Ms. Drake-Batts questioned why residents were not notified of the meeting.

Mr. Miller replied that site plan approval does not require public notification.

Ms. Drake-Batts said she shares the concern of the 8-foot depth of the pond.

Mr. Miller said there are provisions for ponds as long as certain engineering standards are met. Mr. Miller said the depth of a pond is not a zoning issue but is regulated under the engineering development standards.

Chair Strat shared his concern with the pond's accessibility and potential vulnerability. Chair Strat said there are many areas of the site plan that could be improved upon.

It was noted that the site plan indicates a 1:6 slope on the pond and no fence would be required.

Mr. Khan stated that people pay premiums to purchase lots that back up to lakes and he has no problem with the pond.

Resolution # PC-2005-12-196
Moved by: Vleck
Seconded by: Chamberlain

RESOLVED, That Preliminary Site Plan Approval, as requested for the proposed Briggs Park Condominium, located on the north side of Lamb, east of Rochester, located in Section 14, on approximately 12.13 acres, within the R-1T, E-P and R-1C zoning districts, is hereby granted, subject to the following conditions:

1. The 8-foot wide sidewalk on the east side of Rochester Road shall be concrete, as per City of Troy Engineering Standards.
2. The water mains will be moved to the outside of the island area to provide for on-street parking within the island area.

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

MOTION CARRIED

Chair Strat voted no because none of the environmental standards requested by the Environmental Specialist are being implemented into the site plan.

STUDY ITEM

10. PLANNED UNIT DEVELOPMENT (PUD 5) – Proposed Caswell Town Center including 14 single family homes, 74 condominium units, ±19,000 s.f. retail space and the existing Petruzzello's banquet center, Southeast corner of Rochester Road and South Blvd., Section 2 – B-3 (General Business), P-1 (Vehicular Parking) and R-1D (One Family Residential) Districts

Mr. Miller said that, in general, City Management views the proposed PUD as a good development plan and feels it would be a dramatic improvement for the area. Mr. Miller said reviews by City departments and the Planning Consultant have identified some issues that need to be resolved.

EXHIBIT 10

AFFIDAVIT

I George Khalife, resident of 4577 Wintergreen, Troy, MI do hereby solemnly declare as follows;

1. That I was the owner of 4396 Rochester Road, Troy MI, during the years 2001-2004.
2. That the property was rented, and I did not live there.
3. That sometimes in early 2002 Biltmore Land Co. met my real estate agent George Jabbour and expressed a desire to purchase my property, but we could not agree on the price. No other meeting ever happened thereafter.
4. That neither I nor my agent ever received any option or purchase agreement with Biltmore Land Co. and no such agreements were ever signed by me.
5. That I was never informed or consented to any re-zoning on my property to Biltmore Land Co.
6. That I was never offered, took nor received any compensation for any rezoning of my property.
7. That any statements or documents presented by Biltmore about the ownership of my parcel on any rezoning application or otherwise was false and a misrepresentation.
8. That in 2004, thru my agent I learnt about the rezoning of my property (as I never lived there) and he stated that the rezoning was in error.
9. That to the best of my belief the City was not presented with an agreement showing Biltmore ownership on which basis Biltmore was granted the rezoning.
10. That the erroneous rezoning by Biltmore/City caused irreparable harm to my property at the time. My 50% of the property was zoned EP without our participation and any benefit to us and my rights to develop were taken away.
11. That after rezoning, Biltmore walked away from all owners due to lack of agreements and a new developer bought the property from the Saavendra Family and no offer was ever made for our property by the new developer. The new buyer just bought the clean parcels south of us and had all the benefit of the EP zoning on my parcel.
12. In July 2004, thru Mr. George Jabbour, we signed a purchase agreement with Premium Construction. George Jabbour got the due diligence papers and helped Premium and after getting satisfactory answers from City regarding rezoning, Premium closed.

George Khalife 10-25-2019

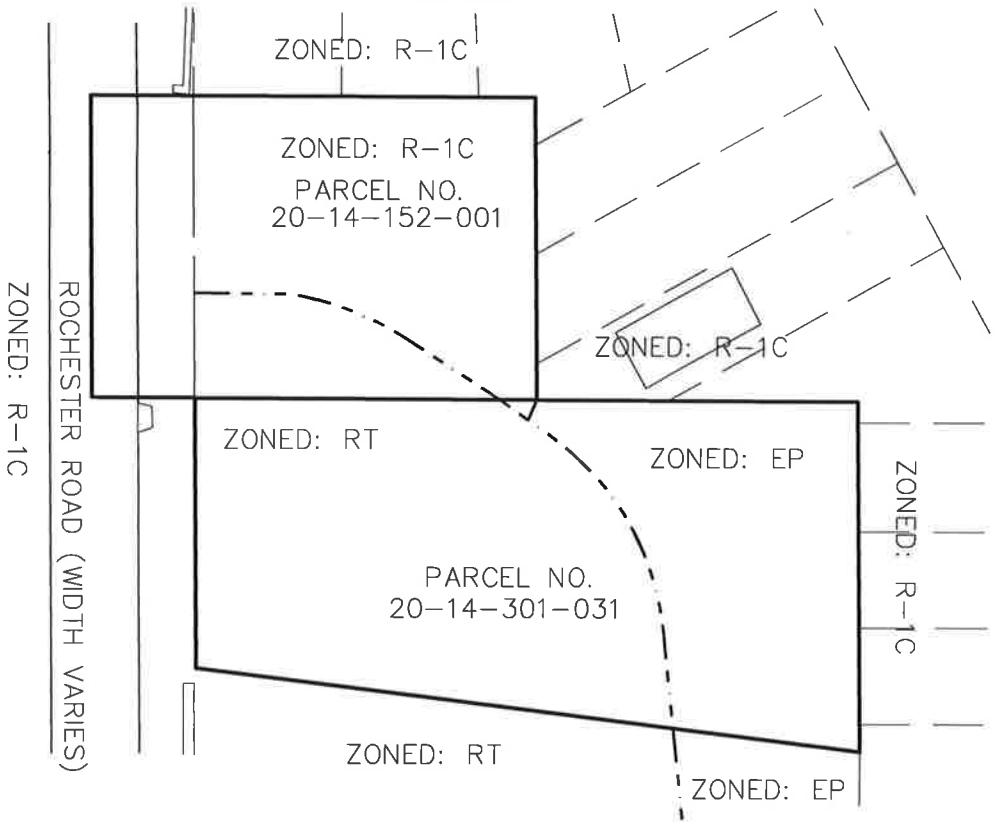
George Khalife: 4577 Wintergreen, Troy MI

Witness:

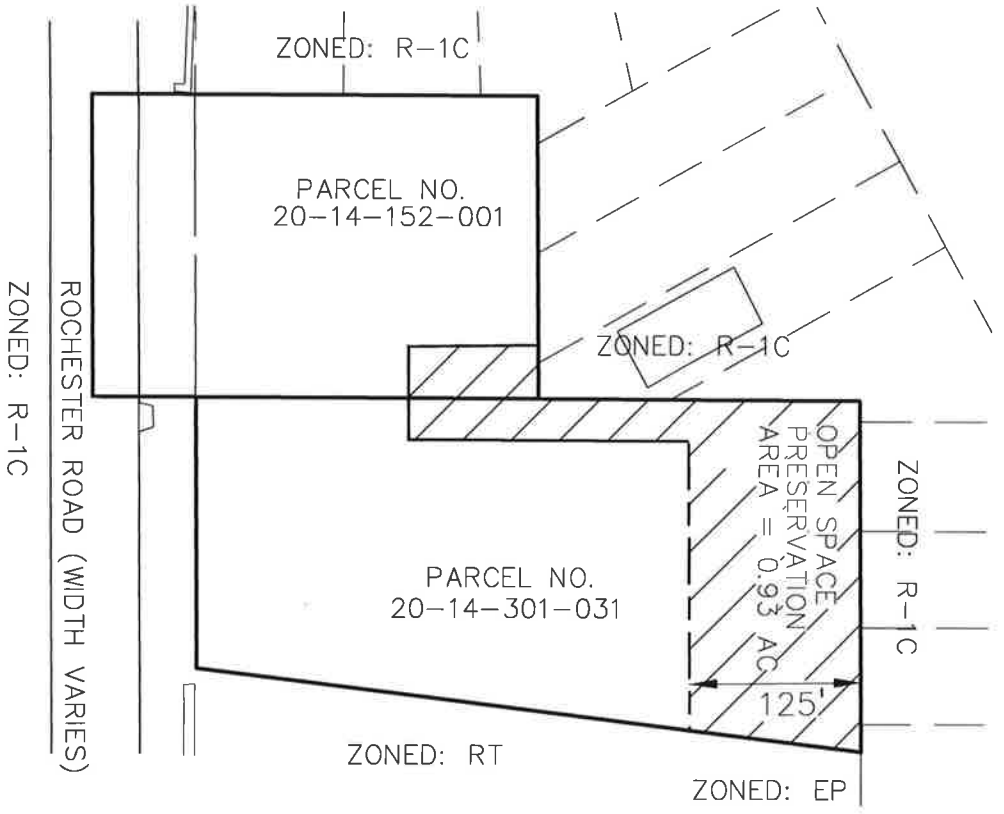
George Jabbour, Licensed Real Estate Agent: 38735 Cottonwood Drive, Sterling Heights, MI

EXHIBIT 11

EXHIBIT 11
ZONING



CURRENT SITE ZONING:
R1-C (0.99 ACRE), RT (1.85 ACRE), EP (0.93 ACRE)



PROPOSED SITE ZONING: RT (3.77 ACRES)
WITH 0.93 ACRE TO BE PLACE IN AN OPEN SPACE PRESERVATION EASEMENT

EXHIBIT 12

EXHIBIT 11

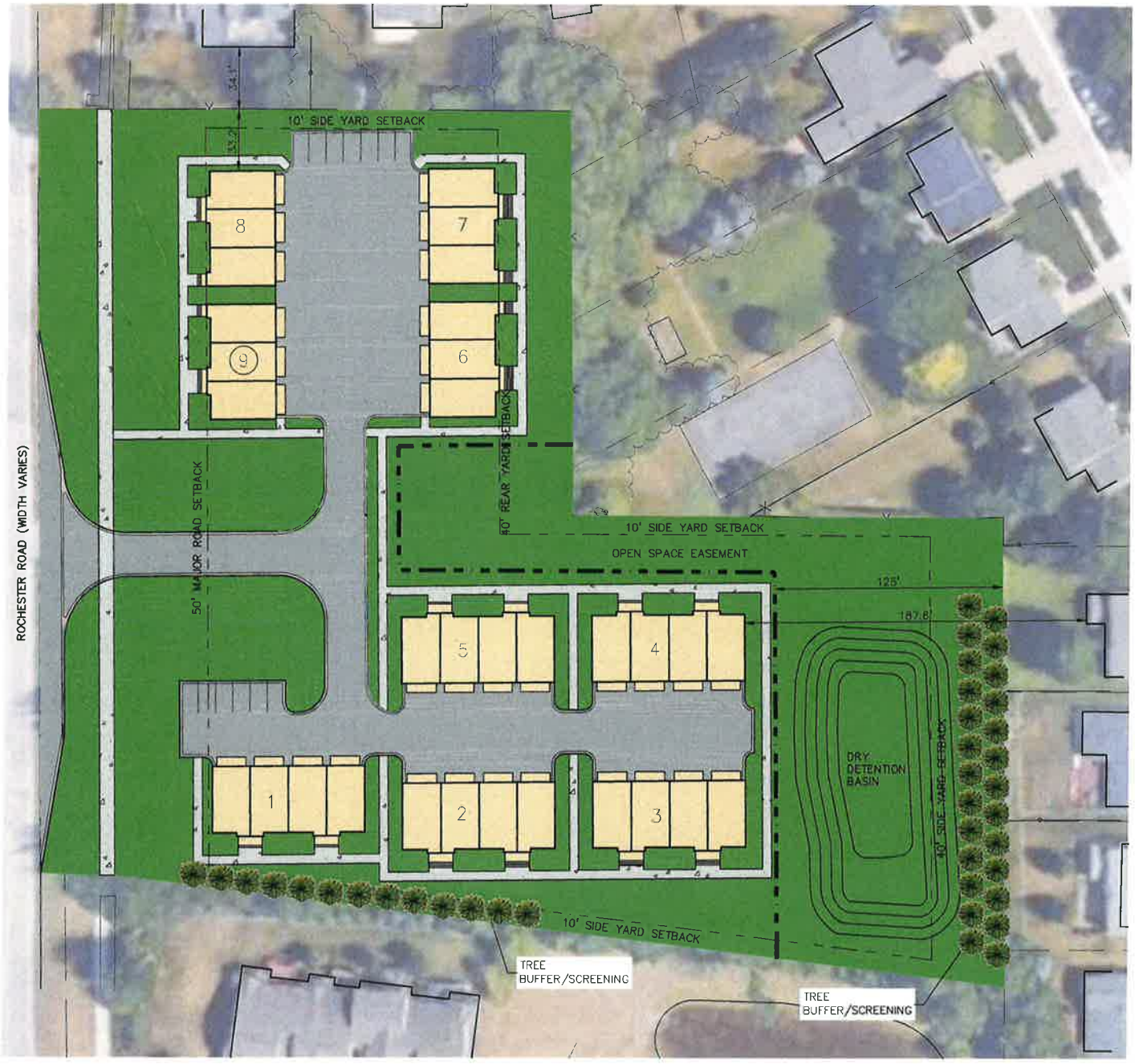

ROCHESTER ROAD (WIDTH VARIES)
10' SIDE YARD SETBACK
50' MAJOR ROAD SETBACK
40' REAR YARD SETBACK
10' SIDE YARD SETBACK
OPEN SPACE EASEMENT
125'
187.6'
DRY DETENTION BASIN
40' SIDE YARD SETBACK
10' SIDE YARD SETBACK
TREE BUFFER/SCREENING
TREE BUFFER/SCREENING
1
2
3
4
5
6
7
8
9

EXHIBIT 13

To,
The Planning Commission
City of Troy, MI

Reference: Conditional Zoning for 4516 & 4396 Rochester Road

I, Sandy Nivanh, resident of 1016 Shallowdale, Troy MI, do hereby wish to express that I am fully satisfied with the developers proposal and do not have any objections. I am confident that they will do a good job.

Sincerely,

Sandy Nivanh
1016 Shallowdale
Troy MI

To,
The Planning Commission
City of Troy, MI

Reference: Conditional Zoning for 4516 & 4396 Rochester Road

I, Shantal Latif, of 4453 Harold Dr. , do hereby wish to express that I am fully satisfied with the developers proposal and do not have any objections. I am confident that they will do a good job.

Sincerely, Shantal

To,
The Planning Commission
City of Troy, MI

Reference: Conditional Zoning for 4516 & 4396 Rochester Road

I, Jesse Yoon, of 4433 Harold Dr, do hereby wish to express that I am fully satisfied with the developers proposal and do not have any objections. I am confident that they will do a good job.

Sincerely,

6. PUBLIC HEARING – CONDITIONAL REZONING (CR JPLN2019-001) – Proposed MNK Troy 1, LLC Conditional Rezoning, East side of Rochester, South of Shallowdale (88-20-14-152-001 and 88-20-14-301-031), Section 14, From R-1C (One Family Residential), RT (One Family Attached Residential) and EP (Environmental Protection) Zoning Districts to RT (One Family Attached Residential) and EP (Environmental Protection) Zoning Districts

Mr. Carlisle reviewed the Conditional Rezoning application. He addressed the history of the parcels as relates to zoning and land use policies, noting for the past 20 years the zoning classification for Rochester Road is medium density residential. Mr. Carlisle compared what could be developed by right versus what could be developed with the proposed conditional rezoning.

Mr. Carlisle addressed site plan issues; 1) the proposed EP zoned portion cannot be counted toward the overall lot density, reducing the maximum number of units to 27; 2) the proposed setbacks differ from setbacks shown on conceptual plan; and 3) the minimum landscape requirement is 20%, not 15% as proposed.

Mr. Carlisle recommended to postpone the application so the applicant can address site plan issues and take into consideration comments from both the Planning Commission and public.

John Thompson of Professional Engineering Associates (PEA) was present.

PUBLIC HEARING OPENED

- Jon Hughes, 4495 Harold; voiced opposition. He addressed concerns with a reduction of the EP-zoned portion and its effect on his property.
- Jim McCauley, 4435 Harold; representative of Shallowbrook Homeowners' Association. Mr. McCauley addressed concerns with the reduction of the negotiated EP zoned area, EP density as relates to the number of proposed lots, reduction of open space, retention/detention plans and deficiencies in the application. He asked the Board's consideration in postponing the item to allow the applicant to address the impact on homeowners as relates to the negotiated buffer in place since 2002.

PUBLIC HEARING CLOSED

There was discussion on:

- Intent of EP zoned area to serve as buffer to residential from more intense uses.
- Proposed reduction of EP zoned area and open space.
- Consideration of homeowners who purchased homes with understanding of EP zoned protected area.
- Conditional Rezoning process; recommending body to City Council.

Mr. Thompson said the applicant is amenable to addressing concerns expressed this evening at the public hearing and take into consideration comments of the Planning Commission. He said the intent is to provide significant buffer and open space that

correlates to the original agreement. Mr. Thompson said development of the property as currently zoned almost makes the property undevelopable.

Resolution # PC-2019-10-074
Moved by: Hutson
Support by: Rahman

RESOLVED, That the Planning Commission hereby postpones this item to provide the applicant an opportunity to clarify their application, based on issues identified in the report and comments by the Planning Commission. Furthermore, postponement will provide the applicant an opportunity to consider public comments from residents and input from the Planning Commission.

Yes: All present (8)
Absent: Tagle

MOTION CARRIED

To: Brent Savidant, Community Development Director, City of Troy
Chairman Faison and the City of Troy Planning Commission Board

January 20, 2020

RE: CR JPLN2019-001
Conditional Rezoning application - 2nd submittal Rebuttal
Parcels 20-14-152-001 & 20-14-301-031
4516 & 4396 Rochester Rd., Troy, Oakland County Michigan

Dear Chairman Faison,

I would first like to thank you and the board for giving your time back to the city we all love. As a lifelong resident, teacher, parent and business owner I have seen the growth and progress over the years that makes the city of Troy the great place it is today. I am a firm believer in community and the benefits it brings all of us. Serving on the Shallowbrook Homeowners Association for 16 years, 10 years as president (2002-2012), and the lead HOA representative who was directly involved with the 2002 to present zoning of the area north of Lamb Road to Shallowdale Drive which includes Briggs Park Condominiums and the current MNK property requesting a conditional rezoning; I felt the need to respond to the re-submitted conditional rezoning proposal from Mr. Thompson, Senior Project Manager for PEA Inc. and MNK Troy 1 LLC representative. After reading the conditional rezoning proposal, I found numerous facts that were incorrect, statements that are misleading or out of context, and important omission of facts or events. I want to apologize in advance for the length of my response.

Here is a summary of the rebuttal to the fact finding portion of the conditional rezoning proposal dated November 21, 2019 from Mr. Thompson, Senior Project Manager for PEA Inc. and MNK Troy 1 LLC representative to Mr. Brent Savidant, Community Development Director at the City of Troy Planning Department.

Respectfully Submitted,
Jim McCauley
4435 Harold Drive, Troy MI 48085

Summary:

- Since the 2002 rezoning application submitted by Biltmore, **every** rezoning request has been **DENIED** by the Planning Commission and the City Council until applicants have resolved buffer/transition concerns from the residents of Shallowbrook and its Homeowner Association representatives.
- At the time of rezoning in 2002, MNK was not a property owner or representative of any property. So, their working knowledge is limited to Planning Commission or City Council minutes which are not complete transcripts of the events and are incomplete.
- In 2004, MNK Troy 1 LLC purchased the property for $345,000. "The sale was consummated at ABOVE MARKET VALUE" (MNK fact finding #9 last line) with the knowledge .93 acres was zoned EP.
- In 2005, MNK properties were not included in the Briggs Park Development due to the elevated asking price. (see attachment 6)
- Any MNK Troy 1 LLC reference to residents state of mind during the 2002 to 2006 rezoning process or site plan approval for the Briggs Park Development is pure speculation and false. At no time were they involved in either process.
- A buffer/transition area was negotiated between the developers and Shallowbrook HOA representatives to secure a reasonable set back from developments and existing homes that was approved by the City Council. The EP zoned area still serves that purpose today and should for any future developments.

I hope you take the time to read the fact finding rebuttal and view the documentation of each item provided. I believe this will give you different prospective supported with facts and accounts from people who were present and directly involved in those processes.

Finding of Facts: Rebuttal Support Facts

1. **On March 26, 2002**, Biltmore Land Co. filed a City of Troy "Rezoning Application". That application was presented to the **Planning Commission on May 14, 2002 at a meeting with a Public Hearing.** It was "RESOLVED, that the Planning Commission hereby recommends to the City Council that the R-1C to R-1T rezoning request located on the east side of Rochester Road and north of Lamb Road in section 14, being 18.10 acres in size be ***DENIED*** for the following reason." Also, please read the comments after the motion carried to deny the rezoning by the Planning Commission members Storrs, Starr and Chamberlain who supported the application. As Planning Commission member Storrs states, "Maybe we could reduce the depth of the R-1T to the east by providing an R-1C transition to it." Both Starr and Chamberlain "agreed with Mr. Storrs in creating a transition." **(See Attachment 1)**
2. N/A
3. **On July 22, 2002, at the City of Troy City Council meeting,** agenda item C-3 under Public Hearing; Biltmore Land Co. submitted a rezoning request in which they included a concept plan that was not under consideration, not an approved site plan. **(See Attachment 2)** The City Council RESOLVED to **postpone** for 60 days. The Council wanted a "NEW" recommendation forwarded to the Planning Commission for reconsideration. At that time, Council instructed the petitioner to come back with a reasonable R-1C transition. At this time, for the first time, Biltmore Land Co. engaged in negotiations with the Shallowbrook HOA on a reasonable R-1C buffer/transition area.
4. Unsure why they referenced a statement for the Planning Commission meeting on May 14, 2002.
5. After negotiations between Biltmore Land Co. and Shallowbrook HOA representatives, a R-1C and EP buffer/transition area was agreed upon. The R-1C zoning was intended to be 10 single family home sites meeting city ordinances for size requirements. The EP zoning irregular shape is to provide a buffer/transition area in depth to where the R-1C could not be reasonably developed. This was a **rezoning proposal** and we agreed to rezoning and rezoning only. Any discussion regarding a detention pond, we did not participate in as we understood that it was a site plan concern. They provided a "**Concept Plan**" in their **Exhibit 4** which even states this on the drawing and not an "Approved site plan" as the applicant suggests.

IMPORTANT: Shallowbrook homeowners understood the process was a rezoning proposal, not a site plan approval. Our first concern was maintaining the buffer/transition area. After that was approved at the **October 21, 2002 City Council** meeting, we were prepared to defend the City of Troy EP ordinances revised on April 23, 2001. Where the use of an EP zoned area does not include detention or retention ponds for a use (**Ordinance 8.20.00-8.20.05**), "it is the intent.....with section 8.80.00" **(See Attachment 3)**

The following excerpts are carefully selected sentences from two different items constructed to have you believe this was accepted as a site plan proposal. If you separate the Planning Commission meeting comments from Mr. Miller's letter and read the Planning Commission minutes, you will see the omitted statements in a conversation of what it might look like if used for detention. In the applicants **Exhibit 6**, Mr. Savidant presented a summary of the Planning Department Report for the proposed Rochester Road Condominium request. Mr. Chamberlain asks about the EP zone and detention. **Mr. Savidant replied, "That is an issue that will be ironed out in the site plan stage."** Again, Shallowbrook homeowners understood the process and this was a rezoning proposal, not a site plan approval. So, commenting on this

during this stage of the process would have been inappropriate. Refer back to **IMPORTANT** comment above.

6. The applicant is incorrect on this matter. Biltmore had options to purchase subject property from owners per their Rezoning Application File Number Z-681, dated 3-26-02. Their application also had attached agreements to purchase properties. **(See Attachment 4)** Due to the recession beginning in 2001 and Biltmore not gaining the necessary rezoning until October 21, 2002, the project never moved forward after the approved rezoning.

   Also, the EP zoned area that was negotiated between the Biltmore and Shallowbrook HOA and supported by city staff had a function then of being a buffer/transition from the proposed R-1T development to Shallowbrook subdivision. That function has not changed! It creates the depth desired to match the distance from proposed R-1T developments similar in distance from homes along Harold Drive. Its intent to provide a buffer in 2002 is still the intent today and the future.

7. A better understanding of the timeline and event beginning in 2004 after rezoning of properties on October 21, 2002:

   August 2004: The applicant's omission of this piece of information in the proper time table, I believe, is critical to understanding events that lead to the present time. MNK Troy 1 LLC purchased 4396 Rochester Road on August 8, 2004 for the price of $345,000 for 2.51 acres (City Assessing Report). So, MNK was never the owner or involved in the planning process or negotiations proceeding this date.

   The reason 4516 and 4396 Rochester Road were not being included in the 2005 APR Development proposal was the cost. MNK's asking price was way out of line with parcel prices, causing APR Development to move forward without those properties and 1161 Lamb. Also, the APR Development proposal, Briggs Park Development, was never RT and EP. Rather it was RT and R-1C. Also, there was no changes made from the rezoning approved by the City Council at the October 21, 2002 City Council meeting. **(See Attachment 5)**

   May 10, 2005: Planning Commission Meeting - agenda item #13 APR Proposed Rezoning of the R-1C to R-T. APR Developers attempted to remove the negotiated buffer/transition approved by City Council on October 21, 2001. The request was **DENIED** with a 5-1 vote. No change to the rezoning approved by the City Council at the October 21, 2002 City Council meeting. The buffer/transition remained in place then and is still in place now!

   August 2005: Planning staff and Briggs Park developers met without our knowledge or input.

   October 2005: The rezoning request signs were removed. When inquiring about the status of the property, we were informed of the December 13, 2005 Planning Commission meeting. We submitted in advance to the Planning Department four ordinance violations to be included in their report so they could be addressed at the December site plan review. Violations were never addressed with the response, "They met ordinance requirements."

   December 13, 2005: During the Planning Commission meeting, as Shallowbrook HOA President, my presentation included 4 items which only 2 were listed in the minutes of the meeting. These 4 points were later used in our BZA Appilcation on January 3, 2006. Points of that presentation regarding the site plan not meeting ordinance requirements were: **(See Attachment 6)**

- Allows the use of R-1C zoned property which is not listed as principle use permitted.(Ex: open space.) Storm water retention and walking paths serving as required elements of a townhouse development within property zoned R-1T (sec 10.20.00 et seq)
- Fails to meet 40' rear set back from the R-1C District (sec 12.50.08)
- Fails to meet the 70% rear year open space requirement within the R-1T district (sec 12.60.02)
- Lack of public streets (12.50.04)

We never met with the developer or had any knowledge of site plan meeting. When Ms. Drake-Batts was asked, "Why residents were not notified of the meeting," Mr. Miller replied, "That site plan approval does not require public notification." This was the Site Plan review brought to the Planning Commission and was approved even with residents voicing concerns and 4 major ordinance violations. For the MNK to characterize the homeowners and I as "satisfied" with this site plan approval - is **completely false**. Our real feeling was seen in our actions following the December 13, 2005 Planning Commission meeting.

January 3, 2006: I filed, on behalf of the Shallowbrook HOA and its residents, an **Application for Hearing, Board of Zoning Appeals**, City of Troy. We were *placed on the January 17th agenda for the BZA hearing.* We were appealing the decision of the Planning Director that the site plan meets ordinance requirements. (sec. 10.20.00 et seq., 12.50.04, 12.50.08, sec. 12.60.02) **(See Attachment 6)**

January 12, 2006: I received a letter from the City of Troy Attorney stating, "It is our opinion that the BZA does not have jurisdiction to entertain Mr. McCauley's petition." **(See Attachment 7)**

8. Refer to **Attachment 5**: The Biltmore states twice in their relationship to the property and its owners (item #5 & #14) I would make the strong assumption that staff verified these options to purchase all the properties rezoned. Only after a recent FOIA request by MNK, it was found that options to purchase were not physically in the file. I would like MNK to produce any written evidence that staff lead them to believe this was an "easy rezoning". That would be completely out of character and inconsistent with staff's approach to such matters.

   The **key line in MNK's fact finding is found here**: "The sale was consummated at ABOVE MARKET VALUE"! This directly led to the property not being included in the Briggs Park development.

9. Where in our city ordinance does it allow EP zoned areas to be included in calculating density? Two of the three neighbors that were approached do not speak English as their primary language and require interpreters. No interpreters were present and they didn't understand. The third just moved in and did not fully grasp what the MNK representative was showing him.

10. Whispering Park EP was rezoned to R-1C with overlaid open space, then detention was placed in the open space. No detention was placed in an EP zoned area. So, that is misleading and false. Taco bell on Dequirdre Rd. is underground detention which consist of two 60' long storm drains. This underground detention can still be improved with landscaping, a wall or even returned to a natural state after installing the storm drain pipes. If this area wasn't zoned as EP, to provide a buffer to R-1C to the north, it could be underground detention with a parking lot paved on it, similar to Business along Rochester Road business.

Mr. Kramer stated that he would like to have the petitioner address the most basic question and that is what is the benefit to the City of Troy to double the density of this project.

Mr. Stollman stated that one of the major issues of the City was lack of housing for those who couldn't afford to buy a home or who no longer wanted to live in a house. These type of densities allow for condominiums to help balance the use of housing stock

Mr. Littman stated that nothing is permanent. Do you have a thought on what these units would sell for.

Mr. Stollman stated anywhere from $250,000 to $350,000.

Mr. Kramer stated that we received a summary from the City Assessor on the property valuation, and asked Mr. Miller if he remembered the number of condominiums. It was a very large number already because this Commission has approved so many in the past year.

Mr. Miller stated he did not remember the number.

Mr. Waller stated that recently the State amended the City and Village Zoning Act, with open space provisions. We don't have an ordinance yet to comply, but does this particular parcel of 18 acres fit that open space provision.

Ms. Lancaster stated that we will have to develop cluster zoning in conformance with the amendment.

Mr. Waller asked the petitioner if the cluster option is an option.

Mr. Stollman stated that we do not meet the criteria for the open space preservation amendment.

Mr. Wright stated he agrees with the residents. This parcel is large enough for single family homes.

Proposed Resolution

Moved by Wright Seconded by Kramer

RESOLVED, that the Planning Commission hereby recommends to the City Council that the R-1C to R-1T rezoning request located on the east side of Rochester Road and north of Lamb Road in Section 14, being 18.10 acres in size, be denied for the following reason:

1. Parcel is large enough to be developed as currently zoned and there is no real need for rezoning.

Yeas	Nays	Absent
Vleck	Littman	
Waller	Chamberlain	
Kramer	Storrs	
Pennington	Starr	
Wright		

MOTION CARRIED

Mr. Littman stated the rezoning request is consistent with the Future Land Use Plan.

Mr. Storrs stated he agreed with Mr. Littman. Rochester Road frontage could be developed in a non-commercial mode. We need to do something like this. He didn't think there was a risk in getting substandard housing in this location. Maybe we could reduce the depth of R-1T to the east providing an R-1C transition to it.

Mr. Starr agreed with prior comments. He wasn't anticipating this size or depth of rezoning request.

Mr. Chamberlain stated that the Future Land Use Plan is trying to keep the subject property residential as opposed to commercial. This rezoning request was an effective way to block out commercial encroachment. He agreed with Mr. Storrs in creating a transition. This is consistent with the Future Land Use Plan.

14. PUBLIC HEARING - PROPOSED REZONING (Z-597) – Proposed Long Lake Road Condominium, West of Rochester, South of Long Lake, Section 15 – R-1C to R-1T

Mr. Miller stated that David Stollman, Biltmore Land Co. LLC submitted a R-1C One Family Residential to R-1T Medium Density Residential rezoning request for 14.51 acres of land owned by William Goodman, Goodman Development Co. LLC. Subject property is located on the south side of Long Lake Road and west of Rochester Road. This vacant property was part of a B-2 rezoning request, apparently for a Home Depot, that was recommended for denial by the Planning Commission and denied by City Council. The Natural Features Map indicates potential for woodlands on the subject property.

Mr. Miller further stated that the subject parcel is vacant. The adjacent land uses include: a single family residence to the west where preliminary site plan

C-3 Proposed Rezoning (Z-681) – Proposed Wattles Road Condominium – East Side of Rochester, North Side of Lamb – Section 14 – R-1C to R-1T & EP

Resolution #2002-07-417
Moved by Beltramini
Seconded by Eisenbacher

RESOLVED, That the R-1C to R-1T and E-P rezoning request, located on the east side of Rochester Road and north of Lamb Road in Section 14, being 18.10 acres in size, is hereby **POSTPONED FOR 60 DAYS** and forwarded to the Planning Commission for reconsideration.

Yes: All-7

RECESS: 9:02 PM – 9:22 PM

C-4 Rezoning (Z-597) –Long Lake Road Condominium – West of Rochester – South of Long Lake – Section 15 – R-1C to R-1T

Resolution #2002-07-418
Moved by Pallotta
Seconded by Beltramini

RESOLVED, That the R-1C to R-1T rezoning request located on the south side of Long Lake Road and west of Rochester Road in Section 15, being 14.51 acres in size, is hereby granted, as recommended by the Planning Commission and City Management.

Yes: All-7

POSTPONED ITEMS

D-1 Senate Bill Number 3

Resolution #2002-07-
Moved by Eisenbacher
Seconded by Howrylak

WHEREAS, Michigan Public Act 179 of 1947 provides for the formation of municipal trash authorities, but fails to provide provisions for members to withdraw or for the dissolution of the authority; and

WHEREAS, Michigan Senate Bill No. 3 addresses these omissions and seeks to institute a procedure for a municipality to withdraw from its trash authority or for the dissolution of the authority where it no longer serves the purpose for which it was formed; and

WHEREAS, Senate Bill No 3 gives municipalities the freedom to withdraw from its authority, to dissolve the authority or to recombine with other municipalities in some new form to provide trash disposal services; and

(Attachment 3)

08.10.01 Persons seeking to rezone property to the Zoning District governed by this Article shall conform to the requirements of Section 03.20.00.

08.20.00 PRINCIPAL USES PERMITTED:
In an E-P, Environmental Protection District, no land, except as otherwise provided herein, shall be used except for one or more of the following uses, subject to the conditions hereinafter imposed for each use.

08.20.01 Conservation of open space, wooded areas, waterways, vegetation, flood plains, wetlands, and natural preserves for wildlife. Such areas shall be of sufficient area to permit their retention in an undisturbed natural state, with abutting development controlled so as to guarantee and enhance this character.

08.20.02 Forestry and non-commercial nursery practices, provided that such practices contribute to the enhancement of this area.

08.20.03 Passive recreation facilities, such as, but not limited to, walkways, bicycle paths, field trails for nature study and sitting areas; provided that such facilities are located so as to cause minimal encroachment and/or intrusion upon the natural resource areas within the subject area.

08.20.04 Active recreation facilities, on those sites established for open space preservation or retention purposes, and not for the preservation of significant natural features or resources.

(10-7-96)

08.20.05 Landscaped land use buffer areas, developed in accordance with the provisions of this ARTICLE and the Landscape Design and Tree Preservation Standards as adopted by the City Council, when the E-P District is specifically enacted for this purpose.

(10-7-96)

08.30.00 USES PERMITTED SUBJECT TO SPECIAL USE APPROVAL:
The following uses shall be permitted, subject to a determination, by the approving authority as specified in section 08.80.00, that the impact upon any significant natural features within the subject area shall be minimal; and, subject to the conditions hereinafter imposed for each use.

08.30.01 Non-commercial outdoor recreational facilities, such as, but not limited to, tennis and other court-type game facilities, field- type facilities, game facilities, golf, picnic shelters and swimming pools; provided that any necessary facilities or accessory buildings, structures or uses are constructed and located so as to cause minimal encroachment and/or intrusion upon any natural resource area, and to minimize any negative effects on adjacent residential properties.

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

(Attachment 4)

CITY OF TROY
REZONING APPLICATION

CITY OF TROY PLANNING DEPARTMENT
500 W. BIG BEAVER
TROY, MICHIGAN 48084
248-524-3364
FAX: 248-524-3382

FILE NUMBER Z-681
DATE FILED 3-26-02
APPLICATION FEE PAID ☑

NOTICE TO THE APPLICANT

REGULAR MEETINGS OF THE TROY CITY PLANNING COMMISSION ARE HELD ON THE SECOND TUESDAY OF EACH MONTH AT 7:30 P.M. AT THE CITY HALL. APPLICATIONS FOR **REZONING** SHALL BE FILED NOT LATER THAN THIRTY (30) DAYS BEFORE THE SCHEDULED DATE OF THE MEETING.

PLEASE FILE TWO (2) ORIGINALS

AN APPLICATION FEE OF **$ 500.00** PER REQUEST SHALL BE SUBMITTED. A $100.00 PORTION OF THIS FEE SHALL BE REFUNDED TO THE APPLICANT IF A PUBLIC HEARING IS NOT HELD BY THE CITY COUNCIL REGARDING SAID APPLICATION.

TO THE CITY COUNCIL:

I (WE), THE UNDERSIGNED, DO HEREBY RESPECTFULLY PETITION AND MAKE APPLICATION TO THE TROY CITY COUNCIL TO AMEND THE CITY OF TROY ZONING ORDINANCE AND THE ZONING DISTRICT MAP AS HEREINAFTER REQUESTED, AND IN SUPPORT OF THIS APPLICATION, THE FOLLOWING FACTS ARE SHOWN:

1. NAME OF THE PROPOSED DEVELOPMENT: Wattles Road Condominiums
2. LOCATION OF THE SUBJECT PROPERTY: East side of Rochester Road North of Lamb

   THE SUBJECT PROPERTY HAS A FRONTAGE OF 1060 FEET AND A DEPTH OF 743 FEET ON Rochester Road

   ~~STREET~~, LOCATED BETWEEN Lamb AND Shadowdale STREETS.
3. TAX ID NUMBER(S) (SIDWELL) OF SUBJECT PROPERTY: See Exhibit A attached
4. APPLICANT FOR REZONING:

   NAME David J. Stollman
   COMPANY Biltmore Land Co. LLC
   ADDRESS 2025 West Long Lake Road #104
   CITY Troy STATE MI ZIP 48098
   TELEPHONE 248.641.3900
   FAX 248.641.3999

   OWNER OF THE SUBJECT PROPERTY:

   NAME See attached Exhibit A
   COMPANY N/A
   ADDRESS N/A
   CITY N/A STATE N/A ZIP N/A
   TELEPHONE N/A
   FAX N/A
5. THE APPLICANT BEARS THE FOLLOWING RELATIONSHIP TO THE OWNER OF THE SUBJECT PROPERTY: Applicant has options to purchase subject property from owners. See Exhibit Bs attached & Agreement to Purchase.
6. IT IS DESIRED AND REQUESTED THAT THE HEREINAFTER DESCRIBED PROPERTY BE REZONED

   FROM: R-1C One Family Residential
   TO: R-1T One Family Attached Residential

7. THE SUBJECT PROPERTY IS ACREAGE OR IS A PART OF A RECORDED PLAT, AND, ATTACHED TO THIS APPLICATION IS A **CERTIFIED SURVEY** WHICH INCLUDES A LEGAL DESCRIPTION AND A BOUNDARY SURVEY OF THE PROPERTY, INCLUDING A SCALED DRAWING, PREPARED BY A LICENSED LAND SURVEYOR. THE LEGAL DESCRIPTION AND DRAWINGS SHALL BE PROVIDED ON 8 ½" X 11" PAGES ATTACHED TO THE APPLICATION. THE LEGAL DESCRIPTION OF ACREAGE PARCELS SHALL BE TIED TO A SECTION CORNER.

8. A **LOCATION MAP** (MINIMUM SCALE OF 1" = 400') INDICATING THE SUBJECT PROPERTY AND THE ZONING CLASSIFICATIONS AND USES OF ABUTTING AND ADJACENT PROPERTIES, ON 8 ½" X 11" PAGES, IS ATTACHED TO THIS APPLICATION.

9. IT IS PROPOSED THAT THE PROPERTY WILL BE PUT TO THE FOLLOWING USES:
Residential

10. IT IS PROPOSED THAT THE FOLLOWING BUILDINGS WILL BE CONSTRUCTED:
One Family Attached Residential

11. ATTACHED TO THIS APPLICATION ARE TWO (2) PRINTS OF A PROPOSED **SITE PLAN,** INDICATING THE SUBJECT PROPERTY AND THE BUILDINGS/USES PROPOSED TO BE CONSTRUCTED. THESE SITE PLANS ARE TO BE DRAWN IN A SCALE NOT LESS THAN 1" = 40'.

12. AN **ENVIRONMENTAL IMPACT STATEMENT** (12) COPIES, SHALL BE SUBMITTED WITH THIS APPLICATION IN THOSE INSTANCES WHERE SUCH IS REQUIRED IN ACCORDANCE WITH ARTICLE VII OF THE ZONING ORDINANCE.

13. ATTACHED HERETO IS A **STATEMENT** INDICATING WHY, IN THE OPINION OF THE APPLICANT, THE CHANGE REQUESTED IS NECESSARY FOR THE PRESERVATION AND ENJOYMENT OF SUBSTANTIAL PROPERTY RIGHTS, AND WHY SUCH CHANGE WILL NOT BE DETRIMENTAL TO THE PROPERTY OF OTHER PERSONS LOCATED IN THE VICINITY THEREOF.

14. **SIGNATURE OF THE PROPERTY OWNER:** See attached Exhibit Bs and Agreement to Purchase.
BY THIS SIGNATURE, THE PROPERTY OWNER AUTHORIZES PLACEMENT OF A SIGN ON THE PROPERTY TO INFORM THE PUBLIC AS TO THIS REQUEST FOR REZONING.

15. **SIGNATURE OF THE APPLICANT:** David J. Stollman, Vice President

(Attachment 5)

Attention city of Troy Planning and Commission;

I purchased the property south of 4396 Rochester Rd back in 2005, to build "Briggs Park Condominiums". APR Development looked at the property at 4396, Rochester road but decided to not purchase the property. The property was zoned with E.P. & R-1C. APR Development decided not to buy because of the price and not because of the E.P. zoning

Sincerely,

1/14/2020

Gary Abitheira

APR Development

(Attachment 6)

Attachment One

Appeal of the grant of site plan approval by the Planning Commission on the grounds that the plan does not meet the following ordinance standards or requirements:

1. Allows the use of R-1C (One-Family Residential) zoned property which is not listed as a principal use permitted i.e.; open space, storm water retention and walking paths serving as required elements of a townhouse development within property zoned R-1T. (Sec 10.20.00 et seq)
2. Fails to meet the required 40 foot rear yard perimeter setback from the R-1C district. (Sec 12.50.08)
3. Fails to meet the 70% rear yard open space requirement within the R-1T district. (Sec 12.60.02)
4. Fails to provide the required public road access and circulation through the development. In addition the plan provides secondary access and circulation through the development, on which all of the residential buildings have their sole frontage provided by private street easements. This is contrary to the provisions of the ordinance which only allows for some units to have sole frontage provided by private street easements. (Sec 12.50.04)

(Attachment 7)

TO: Members of Troy Board of Zoning Appeals
FROM: Lori Grigg Bluhm, City Attorney LGB
Susan M. Lancaster, Assistant City Attorney SML
DATE: January 12, 2006
SUBJECT: Item # 11- Appeal of Planning Commission Approval of Briggs Si Condominium

Jim McCauley, on behalf of the Shallowbrook Subdivision Homeowners Association, initiated this item (#11) by filing a petition with the Director of Building and Zoning just prior to the deadline for publication of the agenda. In order to accommodate Mr. McCauley, the item was quickly placed on the January BZA agenda, and the required notification was provided to the neighboring property owners. Subsequently, our office had the opportunity to review the matter, and discovered that the petition was an "appeal" of a Troy Planning Commission site plan approval.

After reviewing the applicable state statutes and Troy ordinance provisions, it is our opinion that the BZA does not have jurisdiction to entertain Mr. McCauley's petition. We recommend that the BZA immediately move to take no further action on the request, since the Board does not have jurisdiction in the matter.

Troy's ordinance, Section 43.30.00, states, in pertinent part:

> *APPEALS. An appeal may be made to the Board of Appeals by any person or entity affected by a decision of the Director of Building and Zoning.*

Troy's ordinance is consistent with the City and Village Zoning Act, (MCL 125.585 (3)), which states as follows:

> *The board of appeals shall hear and decide appeals from and review any order, requirements, decision, or determination made by an administrative official or body charged with the enforcement of an ordinance adopted under this act. The board of appeals shall also hear and decide matters referred to the board or upon which the board is required to pass under an ordinance adopted under this act. (Emphasis added)*

The Planning Commission is not a body "*charged with the enforcement of an ordinance.*" Following this, since neither the state statute nor Troy's ordinance allow for an appeal of a Planning Commission's site plan approval, the BZA does not have jurisdiction over this matter.

If you have any questions, do not hesitate to contact us.

Opposition of Rezoning Letter

To: Brent Savidant Date: 1/20/2020

City of Troy Planning Commission

As a concern neighbor of 4516 & 4396 Rochester Road, MNK Troy 1 LLC, I oppose the 2nd submittal proposed conditional rezoning of this property. We respectfully ask for no zoning change on this parcel not because we are anti-growth but because we are enthusiastic supporters of well-planned urban development. Our most compelling reasons include, but not limited to:

- Rezoning impacts adjacent properties and their values with head in parking 10 feet from back yards.
- The loss of the EP zoned area that was negotiated and has been in place for the past 17 years. The EP zone purpose is to buffer any development to any existing Shallowbrook homes.
- With proposed site plan, headlight would be coming into our back window.

Also, for the forgoing reasons, we urge you to vote against this proposed conditional rezoning request.

Name: Chin-Jung Chen

Signature: Chin-Jung Chen

Address: 4463 Harold Dr, Troy, MI 48085

Retraction Letter

To: Date: 1/18/20

City of Troy Planning Commission

As a concerned neighbor of 4516 & 4396 Rochester Road, MNK Troy 1 LLC, **I am opposed and retracting our support to the 2nd submittal proposed conditional rezoning of this property.** We respectfully ask for ***no zoning change*** on this parcel not because we are anti-growth but because we are enthusiastic supporters of smart, planned urban development. Our most compelling reasons include, but not limited to:

- Rezoning impacts adjacent properties and their value with head in parking 10 feet from back yards.
- The loss of the EP zoned area that was negotiated and has been in place for the past 17 years. The EP zones purpose is to buffer any development to existing Shallowbrook homes.

Also, for the foregoing reasons, we urge you to ***vote against*** this proposed conditional rezoning request.

Name: Shahjahan Latif

Signature: Shahjahan Latif

Address: 4453 Harold dr. Troy, MI 48085

Retraction Letter

To:
City of Troy Planning Commission

Date: 01/17/2020

As a concerned neighbor of 4516 & 4396 Rochester Road, MNK Troy 1 LLC, **I am opposed and retracting our support to the 2nd submittal proposed conditional rezoning of this property.** We respectfully ask for ***no zoning change*** on this parcel not because we are anti-growth but because we are enthusiastic supporters of smart, planned urban development. Our most compelling reasons include, but not limited to:

- Rezoning impacts adjacent properties and their value with head in parking 10 feet from back yards.
- The loss of the EP zoned area that was negotiated and has been in place for the past 17 years. The EP zones purpose is to buffer any development to existing Shallowbrook homes.

Also, for the foregoing reasons, we urge you to ***vote against*** this proposed conditional rezoning request.

Name: Khamsaeng Nivanh

Signature: Khamsaeng Nivanh

Address: 1016 Shallowdale Dr. Troy, MI 48085

Jesus Baptist Michigan Church

33300 Dequindre road.
Sterling Heights, MI 48310

Date : January 19, 2020

Subject: Retraction Letter For Address 4437 Harold Drive

As a concerned neighbor of 4516 &4396 Rochester Road , MNK Troy 1 LLC,
I am opposed and retracting our support to the 2nd submittal proposed conditional rezoning of this property. We respectfully ask for no zoning change on this parcel not because we are anti-growth but because we are enthusiastic supporters of smart, planned urban development. Our most compelling reasons include, but not limited to:

-Rezoning impacts adjacent properties and their value with head in parking 10 feet from back yards.

-The loss of the EP zoned area that was negotiated and has been in place for the past 17 years. The EP zones purpose is to buffer any development to existing shallowbrook homes.

Please be aware that the developer's letter of support was signed by a teenager that had no authority to sign such documents regarding 4437 Harold Drive, Troy MI.

Also, for the foregoing reasons, we urge you to vote against this proposed conditional rezoning request.

Name; Jesus Baptist Michigan Church
33300 dequindre road
sterling heights , MI 48310

president

Dong k kim

500 West Big Beaver
Troy, MI 48084
troymi.gov

PLANNING COMMISSION
2019 ANNUAL REPORT

The Michigan Planning Enabling Act requires that municipal planning commissions prepare an annual written report to the legislative body concerning operations and the status of planning activities undertaken during the calendar year. In accordance, the following information has been compiled:

PLANNING COMMISSION

In 2019 the Planning Commission consisted of Carlton Faison (Chair), Tom Krent (Vice Chair), Ollie Apahidean, Karen Crusse, Barbara Fowler, Michael Hutson, David Lambert, Sadek Rahman, and John Tagle.

Karen Crusse was Zoning Board of Appeals (ZBA) Representative.

The Planning Commission held twenty two (22) meetings during the year.

John Tagle and Michael Hutson served on the Sustainable Design Review Committee.

Planning Commission Training

Planning Commission members John Tagle, Tom Krent, Sadak Rahman and Barbara Fowler attended training sessions at the Michigan Association of Planning (MAP) Annual Conference held in Kalamazoo, Michigan, in September, 2019.

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PLANNING COMMISSION 2019 ANNUAL REPORT

SITE PLAN REVIEWS

The Planning Commission considered the following applications in 2019:

Project	Description	PC Action
SP JPLN2018-0027	Beaumont Parking Lot Expansion, West side of Dequindre, South of South Boulevard (44201 Dequindre), Section 1, Zoned CF	Granted Preliminary Site Plan Approval 01/08/19
SP JPLN2018-0026	Imperium Troy Development, 18,000 SF retail building, East side of Crooks, South of Wilshire (911 Wilshire), Section 21, Zoned BB	Granted Preliminary Site Plan Approval 01/08/19
SU JPLN2018-0018	901 Tower Retail with drive-through, Southeast corner of Crooks Road and Tower Drive (901 Tower), Section 9, Zoned OM	Granted Special Use Approval & Preliminary Site Plan Approval 01/22/19
SU JPLN2017-0003	Bethesda Romanian Pentecostal Church Addition, North side of Long Lake, East of John R, South of Tucker (2075 E Long Lake), Section 12, Zoned R-1C	Denied Special Use Approval & Preliminary Site Plan Approval 04/09/19
SP JPLN2018-0013	West Troy Meadows, 35-unit One Family Cluster, North of Wattles, West of Livernois (parcel 88-2016-401-002), Section 16, Zoned R-1B	Recommended Preliminary Site Plan Approval 02/12/19
SP JPLN2018-0002	Preserves of Troy, 23-unit One Family Cluster, North of Square Lake Road, West of Dequindre (parcel 88-20-01-451-001 and 88-20-01-300-016), Section 1, Zoned R-1D	Recommended Preliminary Site Plan Approval 02/12/19
SP JPLN2018-0001	Chadbury Place, 16-unit One Family Cluster, South of Long Lake, between John R and Dequindre (parcel 88-20-13-127-020), Section 13, Zoned R-1C	Recommended Preliminary Site Plan Approval 02/12/19
SU JPLN2018-0007	Holiday Inn Hotel, East of Crooks Road, north side of Tower (900 Tower), Section 9, Zoned OM	Granted Special Use Approval & Preliminary Site Plan Approval 02/26/19
SU JPLN2018-0025	Springhill Suites Hotel, East side of Rochester Road, South of Big Beaver Road (88-20-27-228-009, -010, -017, -018, 88-20-27-227-017), Section 27, Zoned BB & P	Granted Special Use Approval & Preliminary Site Plan Approval 05/14/19
SP JPLN2019-0004	Life Christian Church Daycare, North of Big Beaver, West of Rochester Road (parcel 88-20-22-477-057), Section 22, Zoned GB	Granted Preliminary Site Plan Approval 04/09/19
SP JPLN2019-0007	Crooks Medical Office Building, South of Butterfield, West of Crooks (parcel 88-20-29-227-021), Section 29, Zoned O	Granted Preliminary Site Plan Approval 04/23/19
SP JPLN2019-0005	East Maple Plaza Retail Building, South side of Maple, West of Dequindre (2790 East Maple	Granted Preliminary Site Plan Approval 05/14/19

	Road), Section 36, Zoned NN "B"	
SU JPLN2019-0014	Panera Restaurant with Drive -Through, North side of Fourteen Mile, West of John R (390 W. Fourteen Mile), Section 35, Zoned GB	Granted Special Use Approval & Preliminary Site Plan Approval 08/27/19
SP JPLN2019-0018	MIU Surgery Center, North side of Town Center, West of Livernois (130 Town Center), Section 21, Zoned O	Granted Preliminary Site Plan Approval 06/11/19
SP JPLN2019-0013	Ashton Park, 29 unit One-Family Cluster Development, SE corner of East Square Lake and Willow Grove (parcel 88-20-11-201-001), Section 11, Zoned R-1C	Recommended Preliminary Site Plan Approval 07/09/19
SP JPLN2019-0011	Starbucks Restaurant with Drive-Through, North side of Big Beaver, West of John R Road (parcel 88-2023-476-015), Section 23, Zoned GB	Granted Special Use Approval & Preliminary Site Plan Approval 07/09/19
SU JPLN2019-0021	Great Lakes Church building addition, East side of Coolidge, North of Wattles (parcel 88-20-17-851-028), Section 17, Zoned R-1B	Granted Special Use Approval & Preliminary Site Plan Approval 07/23/19
SC JPLN2017-0028	Eden Gardens Site Condominium, 27 units/lots, West side of Rochester Road between E. Maple Road and Stephenson Highway (Parcel 88-20-27-451-141), Section 27, Zoned R-T	Granted Preliminary Site Plan Approval 08/13/19
SP JPLN2019-0018	Somerset Park Apartments Administration & Leasing Building, East of Coolidge, South of Big Beaver (Parcel 88-20-29-176-002), Section 29, Zoned MF	Granted Preliminary Site Plan Approval 08/13/19
SU JPLN2019-0029	Grace Corner Medical Office, North West Corner of Dequindre Road and East Square Lake Road, Section 1, Zoned NN "N"	Granted Preliminary Site Plan Approval 09/10/19
SP JPLN2019-0022	Crooks Road Townhomes, West side of Crooks Road, North of Wattles Road, Section 17, Zoned NN "I"	Postponed 09/24/19
SP JPLN2019-0031	GFA Hopedale Site Condominium, 7 units/lots, North of Hopedale, West of John R, South of Square Lake (88-20-11-277-024), Section 11, Zoned R-1C	Granted Preliminary Site Plan Approval 10/22/19
SU JPLN2019-0008	Courtyard Hotel, East side of New King, West of Crooks, 5550 New King (PIN 88-20-08-276-006), Section 8, Zoned OM	Granted Special Use Approval & Preliminary Site Plan Approval 11/12/19
SP JPLN2019-0032	GFA Long Lake Multifamily Development, West side of Dequindre, north of Long Lake (PIN 88-20-12-476-070), Section 12, Zoned NN "J" & EP	Postponed 11/12/19
SU JPLN2019-0033	Bethesda Romanian Pentecostal Church Addition, North of Long Lake, East of John R, South of Tucker (2075 E Long Lake), Section 12, Zoned R-1C	Granted Special Use Approval & Preliminary Site Plan Approval 12/10/19

SU JPLN2019-0036	Horizon Bank Site Improvements, West side of Crooks, south of Big Beaver (2555 Crooks), Section 29, Zoned O	Granted Special Use Approval & Preliminary Site Plan Approval 11/26/19
SP JPLN2019-0037	Bostick 801, LLC Redevelopment, East side of Crooks, south of Big Beaver (801 W. Big Beaver), Section 28, Zoned BB	Granted Special Use Approval & Preliminary Site Plan Approval 12/10/19

ZONING ORDINANCE AMENDMENTS

The Planning Commission considered the following amendment applications in 2019:

Amendment	Description	PC Action
CR JPLN2016-001	Cooper's Hawk Winery & Restaurant, North side of Big Beaver between Troy and Frankton, Section 22, From R-1E to BB	Recommended Preliminary Site Plan Approval 01/08/19
CR JPLN2018-005	Long Lake Square Townhomes, South side of Long Lake Road, west of Livernois (121 W Long Lake; Parcels 88-20-16-200-007, 008), Section 16, From R-1B to NN "M"	Recommended Preliminary Site Plan Approval 02/26/19
CR JPLN2018-004	BGB Luxury Apartments, West side of John R, North of Big Beaver Road 1819-1929 E Big Beaver and 3125 John R, Section 23, From MF to UR	Postponed item 04/23/19
PUD2018-0020	Altair Campus, south side of Big Beaver, west of John R (parcels 88-20-26-200-078, 88-20-26-200-093 & 88-20-26-226-004), Zoned PUD-7 & RC	No action taken
Z JPLN2019-0015	Big Beaver Rezoning, East side of McClure, North of Big Beaver Road (PIN 88-20-20-476-007, -008 & -009), Section 20, From R-1B to BB	Recommended Rezoning Denial 05/28/19
Z JPLN2019-0010	Big Beaver West Rezoning, West side of Alpine, North of Big Beaver Road (PIN 88-20-20-401-019 & 88-20-20-401-020), Section 20, From R-1B to BB	Recommended Rezoning Denial 05/28/19
Z JPLN2019-0015	Sylvanwood Court RT Development Rezoning, NW corner of Rochester Road and Sylvanwood (88-20-10-426-029, 88-20-10-426-030, 88-20-10-426-031), Section 10, From R-1C to RT	Recommended Rezoning Approval 10/08/19
Z JPLN2019-0030	Clearview Homes Rezoning, SW corner of Rochester Road and De Etta Avenue (88-20-03-278-027), Section 3, From R-1B to O	Recommended Rezoning Approval 10/08/19
CR JPLN2019-001	MNK Troy 1, LLC Conditional Rezoning, East side of Rochester Road, South of Shallowdale, (88-20-14-152-001 and 88-20-14-301-031), Section 14, From R-1C, RT & EP to RT & EP	Postponed item 10/22/19

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CR JPLN2019-003	Livernois Court, West of Livernois, North of Big Beaver, (88-20-22-301-008 and 88-20-22-301-009), Section 22, From R-1C to BB	Postponed on 12/10/19
ZOTA 254	Zoning Ordinance Text Amendment – Cluster Square Footage	Postponed on 12/10/19
ZOTA 255	Zoning Ordinance Text Amendment – Transitions in NN Zoning District	Recommended Approval 12/10/19

SUSTAINABLE DEVELOPMENT REVIEW COMMITTEE

The Sustainable Development Review Committee considered the following items in 2019:

Project	Description	SDRC Action
Schaeffler Parking Lot Improvements	Located on SE corner of Big Beaver and Bellingham (1750 E. Big Beaver), Section 28, Zoned RC	Granted SDP status to provide more than 50% of the site's required parking in front yard in RC district 1/30/19