




500 West Big Beaver
Troy, MI 48084
troymi.gov

CITY COUNCIL AGENDA ITEM

Date: January 23, 2024

To: Honorable Mayor and Members of the Troy City Council 

From: Mark F. Miller, City Manager
Lori Grigg Bluhm, City Attorney
Robert F. Bruner, Deputy City Manager
Megan E. Schubert, Assistant City Manager
R. Brent Savidant, Planning Director
Julie Quinlan Dufrane, Assistant City Attorney

Subject: FIRST AMENDMENT TO CONDITIONAL REZONING AGREEMENT BETWEEN CITY OF TROY AND MNK TROY 1 LLC, located East side of Rochester Road, South of Shallowdale, (88-20-14-152-001 and 88-20-14-301-031).

MNK Troy 1 LLC is seeking a one-year extension of a Conditional Rezoning Agreement approved by Council on June 14, 2021. As specified in Troy's zoning ordinance, the conditional rezoning agreements are valid for two years. In this case, although the agreement was approved in June, the developer didn't do the necessary recording until February 2, 2022, which is now the effective date of the Conditional Rezoning Agreement. A copy of the recorded document is attached. As with any Conditional Rezoning, in contrast to a straight rezoning, a developer voluntarily offers conditions that the City accepts. This type of development is intended to provide predictability and reduce the potential negative impacts of the development on neighboring properties. In this case, the developer wanted to have the subject parcel rezoned from R-1C, RT, and EP to RT. The developer, MNK Troy 1 LLC, worked closely with the abutting neighbors to ensure that their concerns about the proposed development were addressed in the Agreement.

Under the express terms of the agreement, the developer's ability to further pursue this development without going through another rezoning request process expires on February 2, 2024. There is a provision that would allow for City Council, in its' sole discretion, to extend the agreement if the developer persuades Council that he has diligently pursued the proposed development, and that there has been substantial completion, in accordance with permits issued by the City. In his request for a one year extension under this provision, the developer reports that "unprecedented" market conditions, including high interest rates, labor shortages, bank failures, and supply chain disruptions, have all had a devastating impact on the construction industry, especially "small builders" like MNK Troy 1 LLC. The developer also provided the following list, incorporated in the proposed First Amended Conditional Rezoning Agreement, of ways it believes it has diligently pursued completion of the project:

1. Completed construction engineering and City approvals
2. Completed architectural construction drawings and obtained City approval



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3. Substantially completed Master Deed documents
4. A substantial number of city permits have been taken out since the recording of the Conditional Rezoning Agreement
5. Completed tree removal from Development Parcels
6. Completed environmental inspection
7. Completed house demolition from Development Parcels
8. All state permits and approvals, including soil erosion permit, have been pursued
9. MNK Troy 1 LLC has expended significant funds upwards of several hundred thousand dollars, in order to complete the above progress towards substantial completion.
10. MNK Troy 1 LLC plans to commence construction within the upcoming year.

City Administration, including Community Development Director Brent Savidant, favors a one-year extension to this Conditional Rezoning Agreement, given the obstacles that the developer faced in the last two years, and in recognition that the developer's proposal in 2021, reflected in the Conditional Rezoning Agreement, includes conditions that were designed to address the significant input developer received from the residential neighbors.

Attachments:

1. Proposed First Amendment to Conditional Rezoning Agreement
2. Recorded Conditional Rezoning Agreement dated June 14, 2021
3. Minutes from City Council Meeting dated June 14, 2021
4. Carlisle Wortman Memo dated January 21, 2020

FIRST AMENDED CONDITIONAL REZONING AGREEMENT

THIS FIRST AMENDMENT TO CONDITIONAL REZONING AGREEMENT (“Agreement”) is hereby entered by and between MNK Troy 1 LLC, 1052 Oaktree Lane, Bloomfield Hills, Michigan, 48304, (“Developer”), and the CITY OF TROY, MICHIGAN, a Michigan Municipal Corporation (“City”), on 500 W Big Beaver, Troy Michigan, 48084.

RECITALS

A. The Developer is currently the fee owner of real property located at 4516 and 4396 Rochester Road, Troy, Michigan.

B. The City and Developer entered into a Conditional Rezoning Agreement dated June 14, 2021 which was recorded with the Oakland County Register of Deeds on February 2, 2022 which is fully incorporated by reference and attached as (Exhibit A).

C. Pursuant to Section 6.2 of the Conditional Rezoning Agreement, the approval is set to expire on February 2, 2024.

D. MNK Troy 1 LLC seeks a one-year extension of the Conditional Rezoning Agreement and recites as follows the diligence it has performed to comply with the Agreement and Section 6.2:

1. Completed construction engineering and City approvals
2. Completed architectural construction drawings and City approvals
3. Substantially completed Master Deed documents
4. A Substantial amount of City permits have been requested since the recording of this Agreement
5. Completed tree removal from Development Parcels
6. Completed environmental inspection
7. Completed house demolition from Development Parcels
8. Pursued all state permits and approvals, including soil erosion permit

9. MNK Troy 1 LLC has expended significant funds upwards of several hundred thousand dollars, in order to complete the above progress towards substantial completion.
10. Unprecedented developments in market conditions, lending trends in new construction, high interest rates, labor shortages, bank failures and supply chain disruptions have all had a devastating impact on the construction industry. These developments have especially impacted small builders like MNK Troy 1 LLC.
11. MNK Troy 1 LLC plans to commence construction within the upcoming year.
12. Due to the above progress towards substantial completion in accordance with the Troy Zoning Ordinance and this Agreement, MNK Troy 1 LLC requests a one (1) year extension of this Agreement.

E. The City, by action of its City Council at its meeting of January 29, 2024, passed a Resolution agreeing to extend conditional rezoning approval by one year.

NOW, THEREFORE, MNK Troy 1 LLC and the City agree to amend the Conditional Rezoning Agreement as follows:

AGREEMENT

In consideration of the foregoing and by mutual agreement, the parties agree as follows:

1. Paragraph 6.2 shall be deleted and replaced with the following:

6.2 Expiration. Conditional Rezoning approval shall expire one year from the new effective date of this agreement as set forth in section 7.3. MNK Troy 1 LLC may seek another one year extension so long as it demonstrates that progress has been diligently pursued and substantial completion has occurred in accordance with permits issued by the City. The City shall have sole discretion to determine if progress has been diligently pursued by MNK Troy 1 LLC. The City, through its employees and agents, shall at all times be allowed to enter onto the Property to determine the progress of the development.

2. Paragraph 7.3 shall be deleted and amended as follows:

7.3 Effective Date. The effective date of this Amended Conditional Rezoning Agreement is (10) ten days after the date on which the Troy City Council passes a Resolution granting the extension, identified in Recital E above.

3. Paragraph 9.3 shall be amended as follows:

9.3 **Recording.** This Amended Conditional Rezoning Agreement shall be recorded with the Oakland County Register of Deeds within (10) ten days after approval of the extension granted by the Troy City Council at the expense of MNK Troy 1 LLC. MNK Troy 1 LLC shall provide the Troy City Clerk with a certified copy of the Agreement as recorded, showing the date of recording, liber and page numbers.

4. Except as otherwise specifically amended above, all terms and conditions of the Conditional Rezoning Agreement entered into by the parties on June 14, 2021 are reaffirmed and ratified and shall remain in full force effect as of the date of this Amendment. If there is any dispute between the Conditional Rezoning Agreement and this First Amended Conditional Rezoning Agreement, then this First Amended Conditional Rezoning Agreement shall control followed in turn by the Troy Zoning Ordinance.

MNK Troy 1, LLC

Witness

By: _____
Arti Mangla
Its: Managing Member

STATE OF MICHIGAN)
) SS.
COUNTY OF OAKLAND)

The foregoing First Amended Conditional Rezoning Agreement was acknowledged before me this ____ day of _____, 2024, by Arti Mangla as Managing Member of MNK Troy 1, LLC.

_____, Notary Public
_____ County,
Acting in Oakland County
My Commission Expires: _____

Signatures continued on next Page

CITY OF TROY, MICHIGAN,
a Michigan municipality

Witness

By: _____
Ethan Baker
Its: Mayor

Witness

By: _____
M. Aileen Dickson
Its: Clerk

STATE OF MICHIGAN)
) SS.
COUNTY OF OAKLAND)

The foregoing First Amended Conditional Rezoning Agreement was acknowledged before me this ____ day of _____, 2024, by Ethan Baker on behalf of the City of Troy, a Michigan municipality.

_____, Notary Public
_____ County, Michigan
Acting in Oakland County
My Commission Expires: _____

STATE OF MICHIGAN)
) SS.
COUNTY OF OAKLAND)

The foregoing First Amended Conditional Rezoning Agreement was acknowledged before me this ____ day of _____, 2024, by M. Aileen Dickson on behalf of the City of Troy, a Michigan municipality.

_____, Notary Public
_____ County, Michigan
Acting in Oakland County
My Commission Expires: _____

Prepared by and when recorded return to:

Troy City Clerk
500 W. Big Beaver Road
Troy, MI 48084

RECEIVED
OAKLAND COUNTY
REGISTER OF DEEDS

2022 FEB -2 PM 1:24

310960 Liber 57394 Page 26 thru 43
2/2/2022 1:33:08 PM Receipt #000246901
\$21.00 Misc Recording
\$4.00 Remonumentation
\$5.00 Automation
\$0.00 Transfer Tax
UCC #
PAID RECORDED - Oakland County, MI
Lisa Brown, Clerk/Register of Deeds

CONDITIONAL REZONING AGREEMENT

THIS CONDITIONAL REZONING AGREEMENT ("Agreement") is hereby entered by and between MNK Troy 1 LLC, 1052 Oaktree Lane, Bloomfield Hills, Michigan, 48304, ("Developer"), and the CITY OF TROY, MICHIGAN, a Michigan Municipal Corporation ("City"), on 500 W Big Beaver, Troy Michigan, 48084

18P

RECITALS

A The Developer is currently the fee owner of real property located at 4516 and 4396 Rochester Road, Troy, Michigan, more specifically described on Exhibit A attached hereto ("Development Parcels")

B The Developer intends to improve and develop the Development Parcels as an attached single family townhome community, and to facilitate this development, the Developer desires to have the Development Parcels re-zoned from RT, R1-C and EP to RT under the Troy Zoning Ordinance

C The Developer has voluntarily offered to enter into this Conditional Rezoning Agreement consistent with the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended

E This Conditional Rezoning Agreement is made by the City pursuant to authority granted to the City under MCLA §125 3405, as amended

F The City, by action of its City Council at its meeting of 6/14/2021, has accepted the offer of the Developer to enter into this Conditional Rezoning Agreement

NOW, THEREFORE, MNK Troy 1 LLC and the City for the good and valuable consideration outlined in this Agreement, the receipt and sufficiency of which are hereby acknowledged, agree as follows

Return to: Counter Customer

OKLB

ARTICLE 1
DEFINITIONS AND COVENANTS

1 1 "Commencement Date" means the date of June 24, 2021, which is ten (10) days after the acceptance of the conditional rezoning offer by the City

1 2 "Conditional Rezoning Agreement" shall mean Chapter 39, Section 16 04 of the City's Zoning Ordinance, as amended, this Agreement, including the offered conditions, see Article 3

1 2 "Improvements" means (a) acquisition of building permits, or (b) submission of required site bonds to the City, or (c) on-site improvements such as site grading, in-ground utility changes, and building staking

1 3 "Troy Zoning Ordinance" means Chapter 39 of the Code of Ordinances of the City of Troy

1 4 "Zoning Enabling Act" means State of Michigan's Act 110 of the Public Acts of 2006, as amended (MCLA §125 3101, et seq , as amended)

ARTICLE 2
DESCRIPTION OF DEVELOPMENT

2 1 **Development Description.** The development involves the construction of an attached single family townhome community consisting of no more than 32 units in eight buildings on the Development Parcels as shown in the concept only sketch in Exhibit B attached hereto

2 2 **Development Parcel.** The Property is described on Exhibit A, attached hereto and also constitutes the entire property covered by this Agreement

2 3 **Current Ownership of Property.** The Property is currently owned by MNK Troy 1 LLC

2 4 **Concept Plan.** No drawings or other submittals for the Property have been approved by the City Developer has submitted a concept plan, Exhibit B, which is non-binding on either party

ARTICLE 3

CONDITIONS FOR REZONING

3.1 Voluntary Conditions Under § 405 of the Michigan Zoning Enabling Act, Developer voluntarily offers and agrees to be bound by the following uses and restrictions as a condition to rezoning approval

- a MNK Troy 1 LLC intends to develop and improve the Property in accordance with the concept plan that was submitted and recommended for approval by the Troy Planning Commission resolution adopted at its January 28, 2020 meeting, and as adopted by the City Council on June 14, 2021. However, the parties understand that the concept plan as submitted is not binding on either party. MNK Troy 1 LLC intends to submit site plans in accordance with the City's Zoning Ordinance which will then be reviewed by City Administration and Planning Commission in the usual course.
- b The Development shall meet all requirements for the RT Zoning District under Section 4.07 of the Troy Zoning Ordinance.
- c An Open Space Preservation Easement shall be submitted to the Troy City Council for acceptance and approval prior to final site plan approval. The easement shall cover the eastern portion of the Zoning Parcels and will be equal to the area currently zoned EP (0.93 acres). This area will provide approximately a 24% open space buffer from adjacent neighboring parcels to the east of the Zoning Parcels as depicted in the attached concept only sketch (Exhibit B).
- d The detention basin shall be designed to store water for a limited time after a storm event and shall otherwise remain dry per engineering design.
- e Building materials shall consist of durable low maintenance or maintenance free materials, examples include but are not limited to brick, asphalt shingles, and plank siding. A variety of color palates will also be offered during the site plan review process which will be reviewed by the Troy Planning Commission.
- f Each unit shall include a 2-car garage.
- g A minimum of 9-guest parking spaces shall be provided.
- h In addition to the required open space buffer between this project and the abutting properties zoned R-1C, additional screening shall

be provided along 250-feet of the southern property line as per Exhibit B

- i 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
- j The Development shall include a maximum of 8 buildings and 32 individual units
- k For the purpose of eliminating potential headlight glare affecting the homes on the north side of the property, specifically those homes located at 1016, 1030, and 1044 Shallowdale, a building will be placed at the terminus of the northernmost driveway to shield the homes from headlight glare as depicted on Exhibit B or a similar configuration This building shall meet the following requirements
 - 1 The building setback shall be a minimum of 35 feet from the north boundary line of the parcel,
 - 2 The front entrance of all building units shall face North, and
 - 3 The garage entrance of all building units shall face south
- l To enhance screening of the Open Space Preservation Easement, 3 rows of coniferous screening trees shall be provided on the east side of the detention pond and 2-rows of coniferous screening trees shall be provided on the north side of the detention pond

3.2 **Representation.** MNK Troy 1 LLC represents and confirms that the Property shall not be used or developed in a manner inconsistent with the conditions set forth in this Agreement

3.3 **Expiration.** MNK Troy 1 LLC shall be subject to the expiration of the provisions of Section 16.04 E of the Troy Zoning Ordinance and Section 6.2 of this Agreement

ARTICLE 4

REZONING

4.1 **Resolution and Zoning Map Amendment.** Directly after City Council's approval of this Agreement, City Council shall pass a Resolution rezoning the Development Parcels from RT, R1-C, and EP zoning to RT zoning. That Resolution shall also state that the Zoning Map shall be amended to reflect a new zoning classification. The Planning Director shall take necessary action to amend the Zoning Map to the new classification along with a relevant designation that will provide reasonable notice of the Agreement. The Conditional Rezoning Approval and the amendment to the Zoning Map shall not become effective until the Agreement is recorded with the Oakland County Register of Deeds and a certified copy of the Agreement is filed with the City Clerk.

ARTICLE 5

DEVELOPER'S RIGHTS, OBLIGATIONS AND PROPERTY RESTRICTIONS

5.1 **Right to Develop.** MNK Troy 1 LLC shall have the right to develop the Property in accordance with the Conditional Rezoning Agreement once the City has approved the site plan. Final Site Plan Approval shall be in accordance with the City's Zoning Ordinance and this Agreement. If development and/or actions are undertaken on or with respect to the Property in violation of this Agreement, such development and/or actions shall constitute a violation of the City of Troy Code of Ordinances and deemed a nuisance per se. In such cases, the City may issue a stop work order relative to the Property and seek any other lawful remedies. Until curative action is taken to bring the Property into compliance with the Conditional Rezoning Agreement, the City may withhold or, following notice and an opportunity to be heard, revoke permits and certificates in addition to or in lieu of such other lawful action to achieve compliance.

5.2 **Compliance with Agreement.** All development, use, and improvement of the Property shall be subject to and in accordance with this Conditional Rezoning Agreement, all applicable City Ordinances, and shall also be subject to and in accordance with all other approvals and permits required under applicable City Ordinances and State law.

5.3 **Compliance with City Ordinances.** MNK Troy 1 LLC shall comply with the City Code of Ordinances, make any necessary application for permits and obtain any necessary permits for the development of the Property, including signage.

**ARTICLE 6
THE CITY'S RIGHTS AND OBLIGATIONS**

6.1 **Police Powers.** The action of the City in entering into this Conditional Rezoning Agreement is based upon the understanding that the intent and spirit of the police power objectives of the City relative to the Property are embodied in the Conditional Rezoning Agreement Documents and those powers are assured based upon the development and/or undertakings on the Property. The City is thus achieving its police power objective and has not, by this Agreement, bargained away or otherwise compromised any of its police power objectives.

6.2 **Expiration.** Conditional Rezoning approval shall expire following a period of two (2) years from the effective date of the rezoning as set out above unless progress has been diligently pursued and substantial completion has occurred in accordance with permits issued by the City. The City shall have the sole discretion to determine if progress has been diligently pursued by MNK Troy 1 LLC. The City, through its employees and agents, shall at all times be allowed to enter onto the Property to determine the progress of the development.

6.3 **Enforcement.** The City may initiate legal action for the enforcement of any of the provisions, requirements, and obligations set forth in this Agreement.

6.4 **Non-Compliance.** If MNK Troy 1 LLC is not developing the Property in compliance with this Agreement, the City may issue a stop work order as to any or all aspects of the Development, may deny the issuance of any requested building permit or certificate of occupancy within any part or all of the Development regardless of whether the Developer is the named applicant for such permit or certificate of occupancy, and may suspend further inspections of any or all aspects of the Development.

**ARTICLE 7
GENERAL PROVISIONS**

7.1 **The City's Representations and Warranties.** The City represents and warrants to MNK Troy 1 LLC as follows:

- a **Authority.** The City has the authority to enter into this Agreement and to perform and carry out all obligations, covenants and provisions hereof. The City's authority shall be evidenced by appropriate resolutions.
- b **Transfer of Ownership.** The transfer of title of the Property from MNK Troy 1 LLC to an entity in which the principals of MNK Troy 1 LLC do have an ownership interest, if such transfer is made prior to substantial completion of the Improvements, shall not constitute an event of default under this Conditional Rezoning Agreement,

- c **Compliance.** The Conditional Rezoning Agreement complies with the requirements of City Ordinances, including the Troy Zoning Code
- d **Sole Authority.** The City Council is the sole and appropriate municipal body to enter into the Conditional Rezoning Agreement with MNK Troy 1 LLC
- e **Plan Review.** The City will timely review the plans and documents submitted for building permits, public utilities and signage, and any amendments thereto submitted by MNK Troy 1 LLC to achieve the purposes of this Conditional Rezoning Agreement
- f **Use.** The intended land use for the Property is a permissible use under the Troy Zoning Code and Troy Master Plan
- g **Validity of Use.** In the event that the Troy Zoning Code is amended such that the use provided for in this Agreement for the Property are no longer permitted uses of right, the use provided for in this Agreement and continuation of those uses shall be governed by the provisions of Troy's Zoning Ordinance governing non-conforming lots, uses and structures currently set forth in Article 14 of the Zoning Ordinances
- h **Restraints** Neither the execution nor delivery of this Agreement nor the consummation of the transaction contemplated hereby is in violation of any provision of any existing law or regulation, order or decree of any court or governmental entity, the City's Charter, or any agreement to which the City is a party or by which it is bound
- i **Disclosure** No representation or warranty by the City, or any statement or certificate furnished to MNK Troy 1 LLC pursuant hereto or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact or will omit to state any fact necessary to make the statements contained herein or therein not misleading
- j **Litigation** The City has no notice of and there is no pending or threatened litigation, administrative action or examination, claim or demand before any court or any federal, state or municipal governmental department, commission, board, bureau, agency or instrumentality thereof which would affect the City or its principals from carrying out the covenants and promises made herein

7.2 **MNK Troy 1 LLC's Representations and Warranties.** MNK Troy 1 LLC represents and warrants to the City as follows

- a **Organization** MNK Troy 1 LLC has all requisite power and authority to own and operate its assets and properties, to carry on business as now being conducted, and to enter into and perform the terms of the Conditional Rezoning Agreement
- b **Authorization** The execution and delivery of this Agreement and consummation of the transactions contemplated hereby have been duly authorized by MNK Troy 1 LLC
- c **Restraints** Neither the execution nor delivery of this Agreement nor the consummation of the transaction contemplated hereby is in violation of any provision of any existing law or regulation, order or decree of any court or governmental entity, MNK Troy 1 LLC's organizational documents, or any agreement to which MNK Troy 1 LLC is a party or by which it is bound
- d **Disclosure** No representation or warranty by MNK Troy 1 LLC, or any statement or certificate furnished to the City pursuant hereto or in connection with the transactions contemplated hereby, contains or will contain any untrue statement of a material fact or will omit to state any fact necessary to make the statements contained herein or therein not misleading
- e **Litigation** MNK Troy 1 LLC has no notice of and there is no pending or threatened litigation, administrative action or examination, claim or demand before any court or any federal, state or municipal governmental department, commission, board, bureau, agency or instrumentality thereof which would affect MNK Troy 1 LLC or its principals from carrying out the covenants and promises made herein
- f **Financial** MNK Troy 1 LLC is financially able to develop the Property
- g **Compliance with Laws.** MNK Troy 1 LLC shall comply with all Laws and all City ordinances applicable to the construction, ownership, maintenance, operation and use of the Property

7.3 **Effective Date.** The effective date of this Conditional Agreement is ten (10) days after the date the Troy City approves the rezoning, or on the date the Agreement is recorded with the Oakland County Register of Deeds, whichever date is later

ARTICLE 8
NOTICES

All notices, consents, approvals, requests and other communications, herein collectively called "Notices," required or permitted under this Conditional Rezoning Agreement shall be given in writing, signed by an authorized representative of the City, and MNK Troy LLC 1 and mailed by certified or registered mail, return receipt requested, personally delivered, sent by overnight courier or sent by e-mail to a party as follows

To City Planning Director
 City of Troy
 500 W Big Beaver Road
 Troy, Michigan 48084
 Tel (248) 524-3364
 Email SavidantB@troymt.gov

With a Copy to City Attorney
 City of Troy
 500 W Big Beaver Road
 Troy, Michigan 48084
 Tel (248) 524-3320
 Email bluhmlg@troymt.gov

To MNK Troy 1 LLC MNK Troy 1, LLC
 1052 Oaktree Lane
 Bloomfield Hills, Michigan 48304
 Telephone (248) 895-5564
 Email Arti@premiumdevgroup.com

All such notices, certificates or other communications shall be deemed served upon the date of personal delivery, the day after delivery to a recognized overnight courier, the date of the transmission by facsimile or other electronic means is verified or two days after mailing by registered or certified mail. Any party may by notice given under this Conditional Zoning Agreement designate any further or different addresses or recipients to which subsequent notices, certificates or communications hereunder shall be sent

ARTICLE 9
MISCELLANEOUS

9.1 **Non-Liability of City, Officials and Employees.** No City official, officer, employee, board member, city council member, elected or appointed official, attorneys, consultants, advisors, agents and representatives, shall be personally liable to MNK Troy

1 LLC for any default or breach by the City of any obligation under this Conditional Rezoning Agreement or in any manner arising out of the performance of this Conditional Rezoning Agreement by any party

9.2 **Successors/Provisions Running With the Land.** This Conditional Rezoning Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. The provisions of Sections 3.1 and 5.1 of this Conditional Rezoning Agreement shall be deemed benefits and burdens which shall run with the Property.

9.3 **Recording.** This Conditional Rezoning Agreement shall be recorded with the Oakland County Register of Deeds at the expense of MNK Troy 1 LLC. MNK Troy 1 LLC shall provide the Troy City Clerk with a certified copy of the Agreement as recorded, showing the date of recording, liber and page numbers.

9.4 **Complete Agreement.** This Conditional Rezoning Agreement constitutes the entire agreement between the parties with respect to the subject of this Conditional Rezoning Agreement and it may not be amended or its terms varied except in writing and signed by the required parties.

9.5 **Conflicts.** In the event of conflict between the provisions of this Conditional Rezoning Agreement and the provision of the Troy Zoning Code, the provisions of this Agreement shall prevail in the following order: (i) this Agreement, (ii) the final site plan, (iii) Chapter 39, Section 16.04 of the City's Zoning Ordinance.

9.6 **Default Remedies of MNK Troy 1 LLC.** The City shall not be in default in any term or condition of this Agreement unless and until MNK Troy 1 LLC has provided the City with written notice that the City has failed to comply with an obligation under this Agreement, and the City has failed to cure such failure within thirty (30) days of the written notice, unless the nature of the noncompliance is such that it cannot be cured with due diligence within such period, in which case the City has failed to commence the cure within such period and thereafter diligently pursued the cure. In the event of a default, MNK Troy 1 LLC's sole remedy at law or in equity shall be the right to seek specific performance as to the issuance of approvals, consents, or the issuance of building permits required by the City pursuant to this Agreement.

9.7 **Default Remedies of City.** MNK Troy 1 LLC shall not be in default in any term or condition of this Agreement unless and until the City has provided MNK Troy 1 LLC with written notice that MNK Troy 1 LLC has failed to comply with an obligation under this Agreement, and MNK Troy 1 LLC has failed to cure such failure within thirty (30) days of the written notice, unless the nature of the noncompliance is such that it cannot be cured with due diligence within such period, in which case MNK Troy 1 LLC has failed to commence the cure within such period and thereafter diligently pursued the cure. In the event of a default, the City's sole remedy at law or in equity shall be the right to seek specific performance of the obligations of MNK Troy 1 LLC pursuant to this Agreement.

9 8 **Third-Party Beneficiaries.** No term or provision of this Conditional Rezoning Agreement is intended to be, or shall be, for the benefit of any person not a party to the Agreement, and no such person shall have any right or cause of action hereunder

9 9 **Severability.** The invalidity of any article, section, subsection, clause or provision of this Agreement shall not affect the validity of the remaining articles, sections, subsections, clauses, or provisions hereof, which shall remain valid and enforceable to the fullest extent permitted by law

9 10 **Waiver of Breach.** A party to this Agreement does not waive any default, condition, promise, obligation, or requirement applicable to any other party hereunder, unless such waiver is in writing, signed by an authorized representative of that party, and expressly stated to constitute such waiver. Such waiver shall only apply to the extent given and shall not be deemed or construed to waive any such or other default, condition, promise, obligation, or requirement in any past or future instance. No failure of a party to insist upon strict performance of any covenant, agreement, term or condition of this Agreement or to the exercise of any right or remedy in the event of a default shall constitute a waiver of any such default in such covenant, agreement, term, or condition.

9 11 **Governing Law.** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Michigan. MNK Troy 1 LLC agrees, consents and submits to the personal jurisdiction of any competent court of jurisdiction in Oakland County, Michigan, for any action brought against it arising out of this Agreement. MNK Troy 1 LLC also agrees that it will not commence any action against the City because of any matter whatsoever arising out of, or relating to, the validity, construction, interpretation and enforcement of this Agreement in any courts other than those within Oakland County, Michigan. Nothing hereunder shall be construed to limit or prohibit MNK Troy 1 LLC to petition or submit land use or zoning requests to the City after the Effective Date.

9 12 **Reasonableness.** After consulting with their respective attorneys, Developer and City confirm that this Agreement is authorized by and consistent with all applicable state and federal law and the United States and Michigan Constitutions, that the terms of this Agreement are reasonable, that they shall be estopped from taking a contrary position in the future, and that each shall be entitled to injunctive relief to prohibit any actions by the other inconsistent with the terms of this Agreement. Developer and the City fully accept and agree to the final terms, conditions, requirements and obligations of the Agreement and shall not be permitted in the future to claim that the effect of the Agreement results in an unreasonable limitation upon uses of all or a portion of the Property, or claim that enforcement of any of the Agreement causes an inverse condemnation or taking of all or a portion of the Property. Furthermore, it is agreed that the improvements and undertakings set forth in the Agreement are roughly proportional to the burden being created by the development, and to the benefit which will accrue to the Property as a result of the requirements represented by the development.

Prepared by and when recorded return to

MNK Troy 1, LLC
c/o Arti Mangla
1052 Oaktree Lane
Bloomfield Hills, Michigan 48304

EXHIBIT 'A'

PROPERTY DESCRIPTION

Record Property Descriptions.

#20-14-301-031

T2N, R11E, SEC 14 SQUARE ACRES SUB N O 1 W 500 FT OF LOT 37 ALSO W 500 FT OF THAT PART OF LOT 38 DESC AS BEG AT NW LOT COR, TH S 89-53-15 E 1058.79 FT, TH S 00-36-30 E 128.35 FT, TH N 82-59-15 W 1068.14 FT TO BEG EXC W 15 FT OF ABOVE DESC PARCEL TAKEN FOR ROCHESTER

#20-14-152-001

T2N, R11E, SEC 14 PART OF NW 1/4 BEG AT W 1/4 COR, TH N 00-36-30 W 219.59 FT, TH S 89-47-15 E 325 FT, TH S 00-16-30 E 219.59 FT, TH N 89-47-15 W 325 FT TO BEG EXC W 75 FT TAKEN FOR RD 1.26 A

As Surveyed Total Property Description.

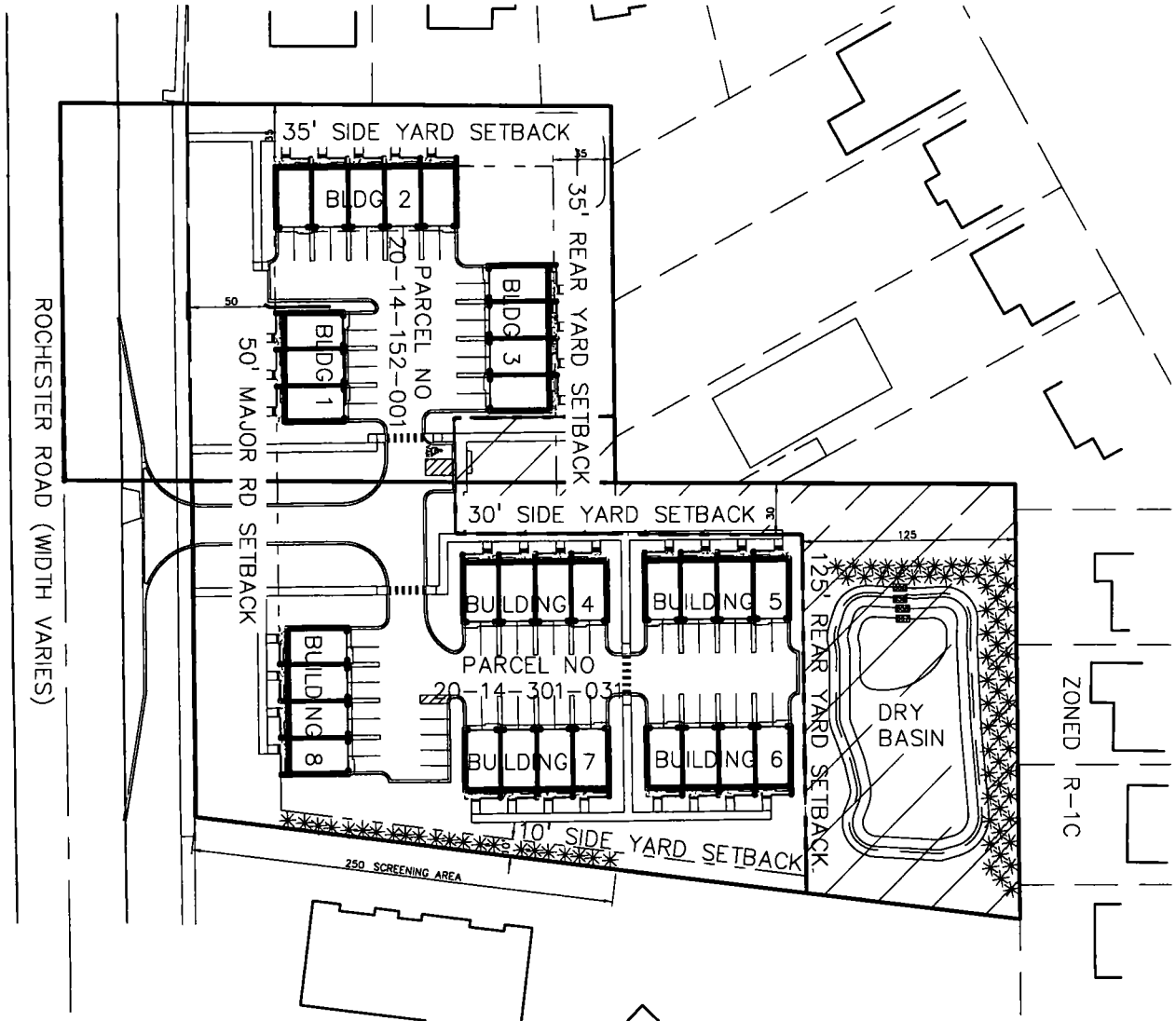
A parcel of land in the West 1/2 of Section 14, T2N, R11E, City of Troy, Michigan together with part of Lots 37 and 38, "Square Acres Sub No 1," as recorded in Liber 44, Page 48 of Oakland County Records described as, Beginning at the West 1/4 corner of Section 14, thence N00°37'21"W, 219.59 feet along the west line of Section 14 and the centerline of Rochester Road to the SE corner of "Shallowbrook Sub," as recorded in Liber 144, Page 20 of Oakland County Records, thence along said "Shallowbrook Sub" the following three courses, S89°47'15"E, 325.00 feet, S00°37'21"E, 219.59 feet, S89°47'15"E, 235.00 feet along the east/west 1/4 line of Section 14, thence S00°37'57"E, 254.28 feet, thence N82°58'45"W, 489.31 feet to a point on the 75.0 foot right of way of Rochester Road, thence along said line N00°37'47"W, 196.26 feet to a point on the east/west 1/4 line of Section 14; thence along said line N89°47'15"W, 75.01 feet to the Point of Beginning and containing 4.146 acres.

PROPERTY ADDRESS

20-14-301-031 – 4396 ROCHESTER RD

20-14-152-001 – 4516 ROCHESTER RD

EXHIBIT B



JUNE 7, 2021



500 West Big Beaver
Troy, MI 48084
troymi.gov

**CITY OF TROY
OAKLAND COUNTY, MICHIGAN
RESOLUTION**

At a Regular meeting of the Troy City Council held on Monday, June 14, 2021, the following Resolution was passed

E-1 Conditional Rezoning (CR JPLN2019-001) – Proposed MNK Troy 1, LLC, East Side of Rochester Road, South of Shallowdale, Parcel #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 (*Introduced by: R. Brent Savidant, Community Development Director*)

The Mayor opened the Public Hearing for public comment
The Mayor closed the Public Hearing after receiving no public comment

Resolution #2021-06-093
Moved by Hamilton
Seconded by Chamberlain-Creangă

WHEREAS, The City is in receipt of a proposed rezoning request from R-1C (One Family Residential), RT (One Family Attached Residential) and EP (Environmental Protection) Districts to RT (One Family Attached Residential) District, and,

WHEREAS, The subject property to be rezoned, located on the east side of Rochester Road, south of Shallowdale, parcels 88-20-14-152-001 and 88-20-14-301-031, being approximately 1.877 acres in size, and,

WHEREAS, The applicant voluntarily offered a number of conditions, as described in the Conditional Rezoning Agreement and related attachments, as per Section 16.04 of the City of Troy Zoning Ordinance, and,

WHEREAS, One of the conditions voluntarily submitted by the applicant was a concept sketch for a 32-unit condominium development, and,

WHEREAS, Future development of the subject property will require Preliminary Site Plan Approval by the Planning Commission, at which time the application shall be required to meet all Zoning Ordinance standards and all voluntarily offered conditions, and,

WHEREAS, The conditional rezoning was recommended for approval by the Planning Commission by a 8-0 vote, and,

WHEREAS, The proposed rezoning is supported by the Master Plan and advances the general and specific development policies of the Master Plan, and,

WHEREAS, The proposed rezoning meets the Standards for Rezoning Approval listed in Section 16 03 C of the City of Troy Zoning Ordinance, and,

WHEREAS, The proposed site design mitigates potential impacts on adjacent properties

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** the R-1C, RT and EP Districts to RT District Conditional Rezoning Agreement and related attachments

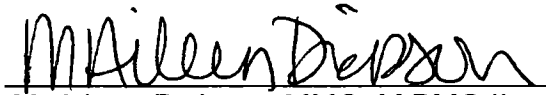
BE IT FURTHER RESOLVED, That Troy City Council **AUTHORIZES** the Mayor and City Clerk to sign the Conditional Rezoning Agreement on behalf of the City of Troy

BE IT FINALLY RESOLVED, The City of Troy Zoning District Map is hereby **AMENDED**

Yes All-7
No None

MOTION CARRIED

I, M Aileen Dickson, duly appointed City Clerk of the City of Troy, do hereby certify that the foregoing constitutes a true and complete copy of a resolution adopted by the Troy City Council at a Regular Meeting duly called and held on Monday, the Fourteenth day of June, 2021


M Aileen Dickson, MMC, MiPMC II
City Clerk

Mayor Baker performed the Invocation. The Pledge of Allegiance to the Flag was given.

A. CALL TO ORDER:

A Regular Meeting of the Troy City Council was held on Monday, June 14, 2021, at City Hall, 500 W. Big Beaver Rd. Mayor Baker called the meeting to order at 7:30 PM.

B. ROLL CALL:

- a) Mayor Ethan Baker
- Edna Abraham
- Mayor Pro Tem Theresa Brooks
- Rebecca A. Chamberlain-Creangă
- Ann Erickson Gault
- David Hamilton
- Ellen Hodorek

C. CERTIFICATES OF RECOGNITION AND SPECIAL PRESENTATIONS:

C-1 Proclamation in Recognition and Appreciation of the Troy Garden Club on Their 50th Anniversary *(Presented by: Mayor Ethan Baker)*

C-2 Proclamation for Posttraumatic Stress Disorder Awareness Month – June, 2021 *(Presented by: Mayor Ethan Baker)*

D. CARRYOVER ITEMS:

D-1 No Carryover Items

E. PUBLIC HEARINGS:

E-1 Conditional Rezoning (CR JPLN2019-001) – Proposed MNK Troy 1, LLC, East Side of Rochester Road, South of Shallowdale, Parcel #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 *(Introduced by: R. Brent Savidant, Community Development Director)*

The Mayor opened the Public Hearing for public comment.

The Mayor closed the Public Hearing after receiving no public comment.

Resolution #2021-06-093

Moved by Hamilton

Seconded by Chamberlain-Creangă

WHEREAS, The City is in receipt of a proposed rezoning request from R-1C (One Family Residential), RT (One Family Attached Residential) and EP (Environmental Protection) Districts to RT (One Family Attached Residential) District; and,

WHEREAS, The subject property to be rezoned, located on the east side of Rochester Road, south of Shallowdale, parcels 88-20-14-152-001 and 88-20-14-301-031, being approximately 1.877 acres in size; and,

WHEREAS, The applicant voluntarily offered a number of conditions, as described in the Conditional Rezoning Agreement and related attachments, as per Section 16.04 of the City of Troy Zoning Ordinance; and,

WHEREAS, One of the conditions voluntarily submitted by the applicant was a concept sketch for a 32-unit condominium development; and,

WHEREAS, Future development of the subject property will require Preliminary Site Plan Approval by the Planning Commission, at which time the application shall be required to meet all Zoning Ordinance standards and all voluntarily offered conditions; and,

WHEREAS, The conditional rezoning was recommended for approval by the Planning Commission by a 8-0 vote; and,

WHEREAS, The proposed rezoning is supported by the Master Plan and advances the general and specific development policies of the Master Plan; and,

WHEREAS, The proposed rezoning meets the Standards for Rezoning Approval listed in Section 16.03.C of the City of Troy Zoning Ordinance; and,

WHEREAS, The proposed site design mitigates potential impacts on adjacent properties.

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** the R-1C, RT and EP Districts to RT District Conditional Rezoning Agreement and related attachments.

BE IT FURTHER RESOLVED, That Troy City Council **AUTHORIZES** the Mayor and City Clerk to sign the Conditional Rezoning Agreement on behalf of the City of Troy.

BE IT FINALLY RESOLVED, The City of Troy Zoning District Map is hereby **AMENDED**.

Yes: All-7
No: None

MOTION CARRIED

E-2 Preliminary Site Plan Review (File Number SP2020-0013) – Proposed The Meadows of Troy (One Family Residential Cluster), East of John R, North of Square Lake (Parcel #88-20-01-300-016), Section 01, Currently Zoned R-1D (One Family Residential) District (Introduced by: R. Brent Savidant, Community Development Director)

The Mayor opened the Public Hearing for public comment.
The Mayor closed the Public Hearing after receiving comment from Chuck Shepherd, Mary Bogush, and Tina Catron.

Resolution #2021-06-094

Moved by Hamilton
Seconded by Hodorek

WHEREAS, The City is in receipt of a proposed preliminary site plan application for The Meadows of Troy, a 31-unit detached single family condominium One Family Cluster development; and,

WHEREAS, The base density under the R-1D (One-Family Residential) District as determined by the submission of a parallel plan is 25 units; and,

WHEREAS, In exchange for 6 additional units above the base density established by the parallel plan, the applicant is providing 30% open space, for a total of 31 units; and,

WHEREAS, The cluster development better protects the site's natural resources than if the site were not developed as a cluster; and,

WHEREAS, The cluster development better protects the adjacent properties than if the site were not developed as a cluster; and,

WHEREAS, The cluster development is compatible with adjacent properties; and,

WHEREAS, The site can be adequately served with municipal water and sewer; and,

WHEREAS, The applicant is providing a public parking lot and trail head to provide access to the Troy School District property; and,

WHEREAS, The applicant is providing a housing product with first floor master bedroom and bath, a housing type desired by the community; and,

WHEREAS, The proposed cluster development was recommended for approval by the Planning Commission by a 5-4 vote;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** the proposed The Meadows of Troy Site Condominium, 31-units/lots, located on the north side of Square Lake, east of John R, Section 1, currently zoned R-1D (One Family Residential) District, subject to the following:

1. Provide a new wetland assessment or extension from EGLE.
2. Provide a maintenance agreement for the public parking lot.
3. Provide easement over Turtle Woods Drive for access to the public parking lot.

Yes: All-7
No: None

MOTION CARRIED

The Meeting **RECESSED** at 9:36 PM.

The Meeting **RECONVENED** at 9:41 PM.

F. PUBLIC COMMENT:

There was no one wishing to provide public comment.

G. CITY COUNCIL/CITY ADMINISTRATION RESPONSE/REPLY TO PUBLIC COMMENT:**H. POSTPONED ITEMS:**

H-1 No Postponed Items

I. REGULAR BUSINESS:

I-1 Board and Committee Appointments: a) Mayoral Appointments – None; b) City Council Appointments – None

a) Mayoral Appointments: None

b) City Council Appointments: None

I-2 Board and Committee Nominations: a) Mayoral Nominations – None; b) City Council Nominations – None

a) Mayoral Nominations: None

b) City Council Nominations: None

I-3 No Closed Session Requested

I-4 Confirmation of Appointment of Renee Hazen to City Treasurer (*Introduced by: Robert J. Bruner, Assistant City Manager*)

Resolution #2021-06-095

Moved by Baker

Seconded by Abraham

WHEREAS, The City Manager has the authority to appoint the City Treasurer with confirmation by the City Council Under Section 3.9 of the City Charter; and,

WHEREAS, The City Manager certified the eligibility of Renee Hazen as City Treasurer;

THEREFORE, BE IT RESOLVED, That Troy City Council **CONFIRMS** the City Manager's Appointment of Renee Hazen as City Treasurer effective of July 1, 2021.

Yes: All-7

No: None

MOTION CARRIED

J. CONSENT AGENDA:

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

Resolution #2021-06-096-J-1a
Moved by Abraham
Seconded by Hamilton

RESOLVED, That Troy City Council hereby **APPROVES** all items on the Consent Agenda as printed.

Yes: All-7
No: None

MOTION CARRIED

J-1b Address of “J” Items Removed for Discussion by City Council

J-2 Approval of City Council Minutes

Resolution #2021-06-096-J-2

RESOLVED, That Troy City Council hereby **APPROVES** the following Minutes as submitted:

- a) City Council Minutes-Draft – May 24, 2021
-

J-3 Proposed City of Troy Proclamations:

Resolution #2021-06-096-J-3

- a) Proclamation in Recognition of Pastor Robert Cornwall for 13 Years of Service at Central Woodward Christian Church
-

J-4 Standard Purchasing Resolutions:

- a) **Standard Purchasing Resolution 3: Exercise Renewal Option – MITN Purchasing Cooperative – Catch Basin, Storm Water Pipe and Concrete Stabilization Program**

Resolution #2021-06-096-J-4a

RESOLVED, That Troy City Council hereby **APPROVES** a one (1) year contract renewal to the low bidder, *Havener Properties LLC dba Havener Tech of Troy, MI*, for Injections to Stabilize Storm Water Catch Basins on an as-needed and as-scheduled basis as per the MITN cooperative bid hosted by City of Farmington Hills at the unit pricing listed below, but not to exceed budgetary limitations; contract expiring June 30, 2022.

| ITEM # | DESCRIPTION | UNIT | UNIT PRICE |
|--------|--|----------|------------|
| 1. | Injection stabilization of Storm Water Catch Basin | Each | \$515.00 |
| 2. | Injection stabilization of Storm Water Pipe or Concrete Slab | Pound | \$10.00 |
| 3. | Mobilization | Lump Sum | \$0.00 |

b) Standard Purchasing Resolution 1: Award to Sole Bidder – Pump Repair and Emergency Repair Services – Indoor and Outdoor Pools and Stormwater Detention Basin Pump Stations

Resolution #2021-06-096-J-4b

RESOLVED, That Troy City Council hereby **AWARDS** a three (3) year contract with an option to renew for two (2) additional years to the sole bidder meeting specifications, *Kennedy Industries of Wixom, MI*, for Pump Repair and Emergency Services on an as-needed basis at the Troy Family Aquatic Center, Troy Community Center and Stormwater Detention Basin Pump Stations, at unit prices contained in the bid tabulation opened June 3, 2021; contracts to expire June 30, 2026.

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

c) Standard Purchasing Resolution 4: H-GAC Cooperative Purchasing Program – Ladder Truck for the Fire Department

Resolution #2021-06-096-J-4c

RESOLVED, That Troy City Council hereby **AWARDS** a contract to *Apollo Fire Equipment of Romeo, MI*, the local authorized dealer in Michigan for Sutphen, for the purchase of one (1) Sutphen SLR75 Ladder Truck from *Sutphen Corporation of Dublin, OH* for an estimated total cost of \$894,239.47 as detailed in the attached proposal and as per the H-GAC Cooperative Purchasing Contract #FS12-19.

d) Standard Purchasing Resolution 4: Sourcewell Cooperative Purchasing Program – Air Tender Truck for the Fire Department

Resolution #2021-06-096-J-4d

RESOLVED, That Troy City Council hereby **AWARDS** a contract to *Apollo Fire Equipment of Romeo, MI*, the local authorized dealer in Michigan for Hackney, for the purchase of one (1) Hackney Air Tender vehicle from *VT Hackney of Washington, NC* for an estimated total cost of \$396,309 as detailed in the attached proposal and as per the Sourcewell Cooperative Purchasing Contract #022818-VTH.

e) **Award Standard Purchasing Resolution 3: Exercise Renewal Option – Workers’ Compensation Renewal**

Resolution #2021-06-096-J-4e

RESOLVED, That Troy City Council **APPROVES** the one (1) year renewal Agreement with the Michigan Municipal League Workers’ Compensation Fund for Workers’ Compensation Insurance and **AUTHORIZES** payment in an amount not to exceed the annual premium of \$658,217 for one (1) year and **AUTHORIZES** the City Attorney to execute any documents necessary for the renewal of the Agreement with the Michigan Municipal League Workers’ Compensation Fund; contract to expire June 30, 2022.

J-5 Request for Acceptance of Four Permanent Easements from GFA Development, Inc. – Sidwell #88-20-27-331-030 and -032

Resolution #2021-06-096-J-5

RESOLVED, That Troy City Council hereby **ACCEPTS** four permanent easements for storm sewers and surface drainage, and sidewalks from GFA Development, Inc., owner of the properties having Sidwell #88-20-27-331-030 and -032.

BE IT FURTHER RESOLVED, That the City Clerk is hereby **DIRECTED TO RECORD** the permanent easements with Oakland County Register of Deeds, copies of which shall be **ATTACHED** to the original Minutes of this meeting.

J-6 Request for Acceptance of a Warranty Deed and Permanent Easements from Regency of Troy, Sidwell #88-20-32-126-001

Resolution #2021-06-096-J-6

RESOLVED, That Troy City Council **ACCEPTS** a warranty deed for right-of-way and three permanent easements for storm sewers and surface drainage, emergency ingress/egress, and water mains from Troy Senior Leasing, LLC, owner of the property having Sidwell #88-20-32-126-001.

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

K. MEMORANDUMS AND FUTURE COUNCIL AGENDA ITEMS:

K-1 Announcement of Public Hearings: None Submitted

K-2 Memorandums (Items submitted to City Council that may require consideration at some future point in time):

a) Chapter 107 – Troy Traffic and Motor Vehicle Ordinance

L. COUNCIL REFERRALS:

Items Advanced to the City Manager by the Mayor and City Council Members for Placement on the Agenda

L-1 No Council Referrals**M. REPORTS:****M-1 Minutes – Boards and Committees: None Submitted**

- a) Global Troy Advisory Committee-Final – November 18, 2020
 - b) Global Troy Advisory Committee-Final – December 16, 2020
 - c) Global Troy Advisory Committee-Final – January 13, 2021
 - d) Retiree Healthcare Benefits Plan & Trust Board-Final – February 10, 2021
 - e) Volunteer Firefighters' Incentive Plan & Trust Board of Trustees-Final – February 10, 2021
 - f) Global Troy Advisory Committee-Final – February 20, 2021
 - g) Employees' Retirement System Board of Trustees-Final – March 10, 2021
- Noted and Filed
-

M-2 Department Reports:

- a) Annual Reporting – Troy Local Development Finance Authority (LDFA)
 - b) Coronavirus State and Local Fiscal Recovery Funds
- Noted and Filed
-

M-3 Letters of Appreciation: None Submitted**M-4 Proposed Proclamations/Resolutions from Other Organizations:**

- a) Oakland County Board of Commissioners Miscellaneous Resolution MR #21177 – Endorsement of Greenhouse Gas Emission Reduction Goals and Creation of Environmental Sustainability Evaluation Standards
- Noted and Filed
-

N. COUNCIL COMMENTS:**N-1 Council Comments**

Mayor Baker commented that Saturday was the Run for Nature 5k for the Troy Nature Center, and that Council Member Chamberlain-Creangă is now the fastest runner on City Council, taking home 1st Place of all women runners. He commented that the Nature Center did a really nice job of creating a safe and fun event.

Council Member Chamberlain-Creangă thanked Mayor Baker and Council Member Hamilton for getting her back into running races. She thanked the Troy Nature Society for putting on a great event.

Council Member Chamberlain-Creangă reminded everyone that residents have until this Friday to take the Master Plan survey. Go to www.troymi.gov for the survey link, or use the link on the

flyer created to advertise the survey. Even if you don't have a computer, you can contact the Planning Department for a paper copy of the survey by emailing masterplan@troymi.gov.

Council Member Hamilton commented that the groundbreaking for the Town Center Park occurred last week. He said the Park is scheduled to be completed in about 2.5 months.

Council Member Hamilton thanked Pastor Bob Cornwall for his service to the City of Troy and offered congratulations on his retirement.

Mayor Baker announced that tomorrow evening, the Troy Public Library is hosting a virtual Meet the Author event at 7:00 PM with special guest speaker, Karen Tumulty, author of The Triumph of Nancy Reagan.

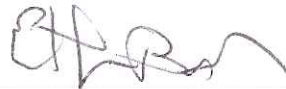
Council Member Hamilton commented that the Troy Public Library is now open to the public and will begin their 7-day a week schedule starting July 12th.

O. CLOSED SESSION

O-1 No Closed Session

P. ADJOURNMENT:

The Meeting **ADJOURNED** at 9:56 PM.



Mayor Ethan Baker



M. Aileen Dickson, MMC, MiPMC II
City Clerk

2021 SCHEDULED SPECIAL CITY COUNCIL MEETINGS:

2021 SCHEDULED REGULAR CITY COUNCIL MEETINGS:

| | |
|--------------------------|-----------------|
| June 28, 2021 | Regular Meeting |
| July 12, 2021 | Regular Meeting |
| July 26, 2021 | Regular Meeting |
| August 9, 2021 | Regular Meeting |
| August 30, 2021 | Regular Meeting |
| September 13, 2021 | Regular Meeting |
| September 27, 2021 | Regular Meeting |
| October 11, 2021..... | Regular Meeting |
| October 25, 2021..... | Regular Meeting |
| November 8, 2021 | Regular Meeting |
| November 22, 2021 | Regular Meeting |
| December 6, 2021 | Regular Meeting |
| December 13, 2021 | Regular Meeting |



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:

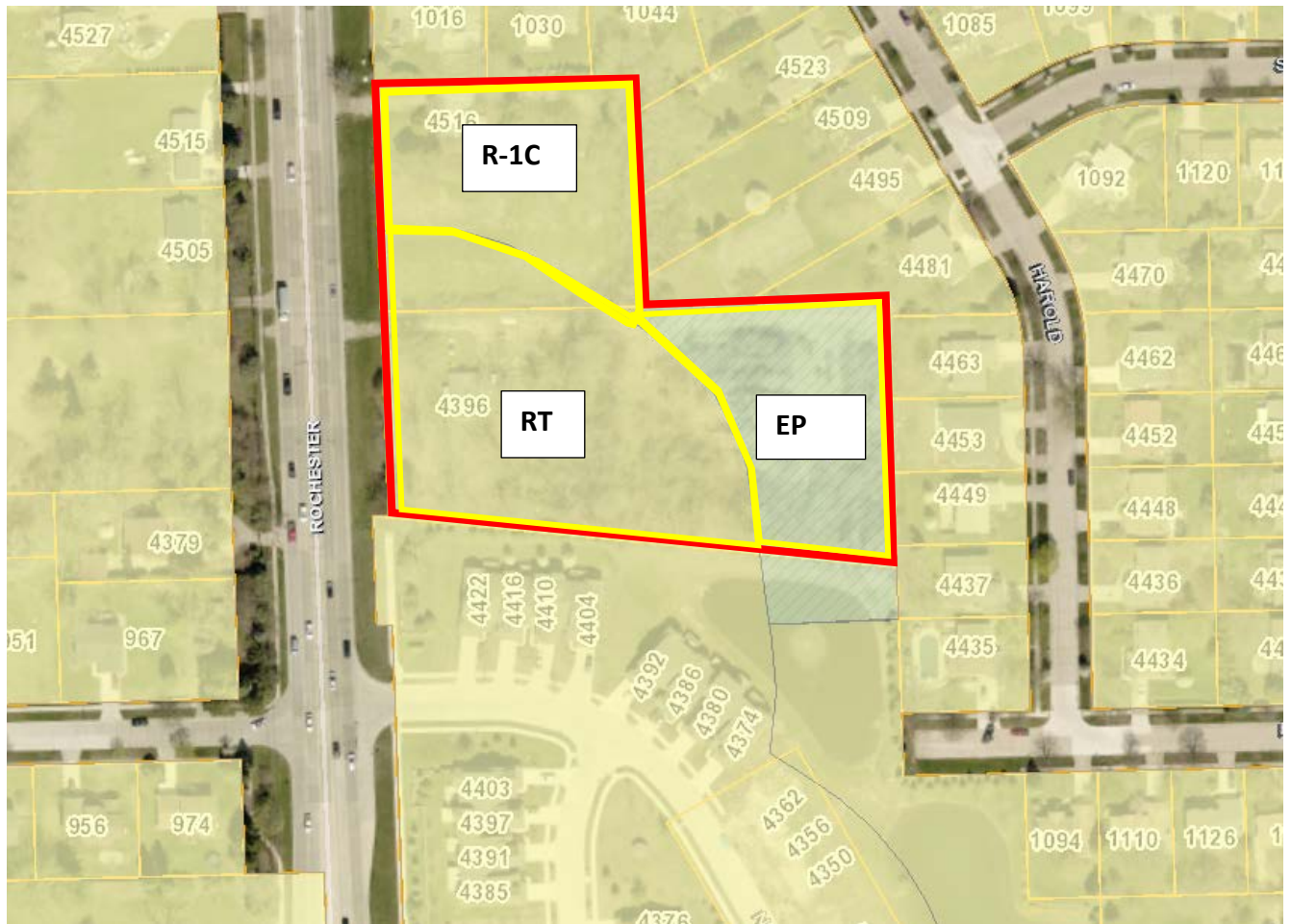
1. Development shall meet all requirements for the RT Zoning District.
2. An Open Space Preservation Easement shall be provided over the eastern portion of the site, in an area equal to that of the EP zoned area (0.93 ac) providing a guaranteed 24% open space buffer.

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.

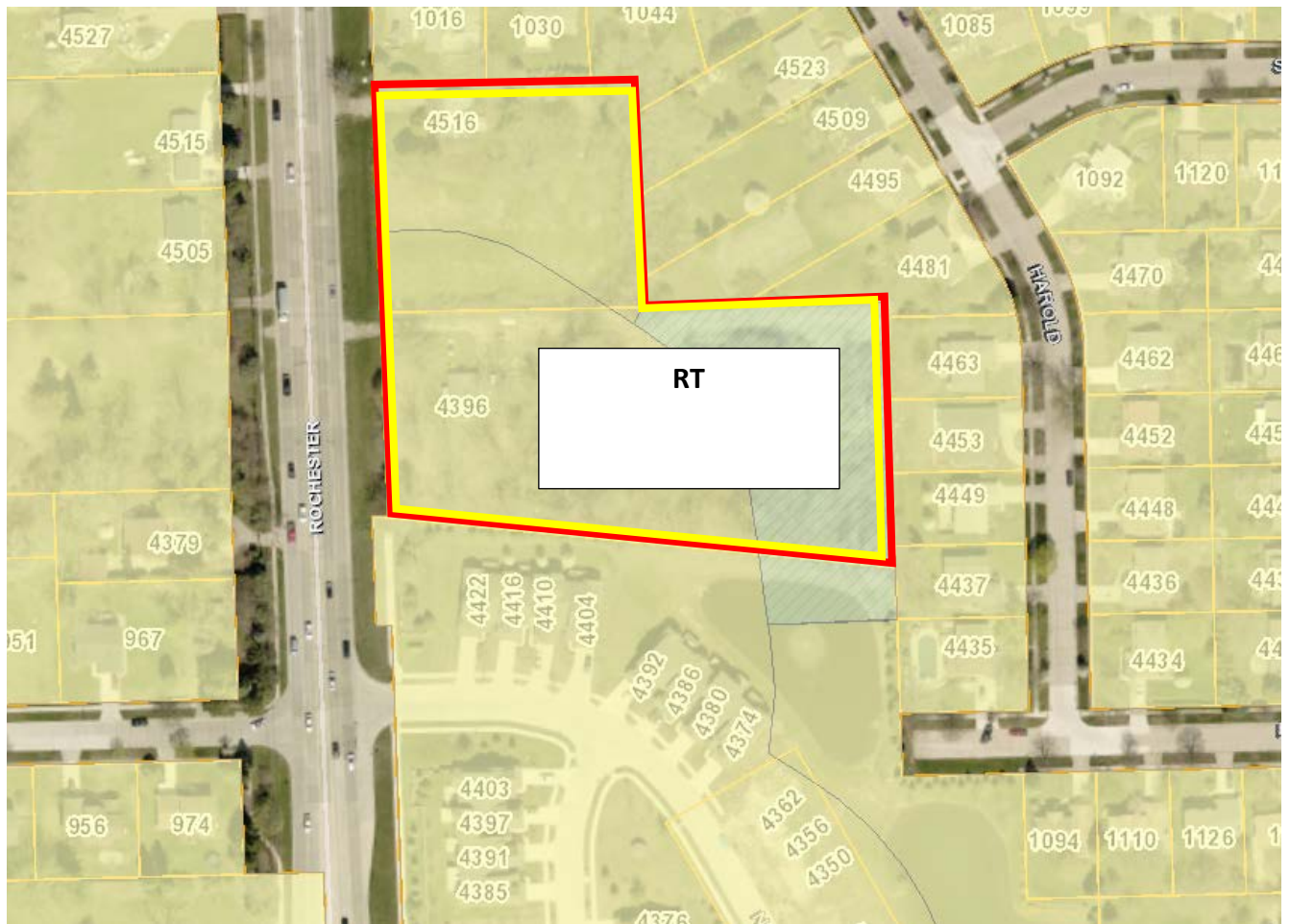
CURRENT ZONING

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

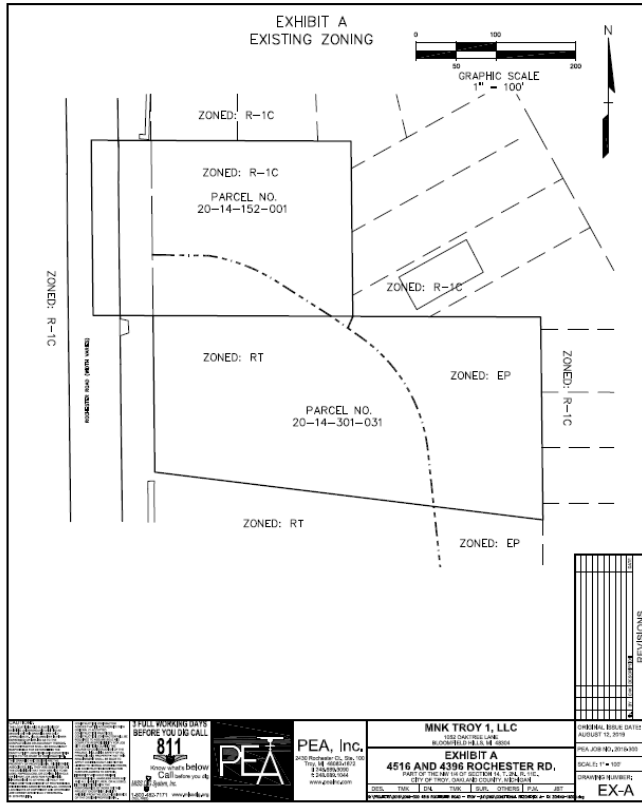
CHANGES SINCE LAST PLANNING COMMISSION REVIEW

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.

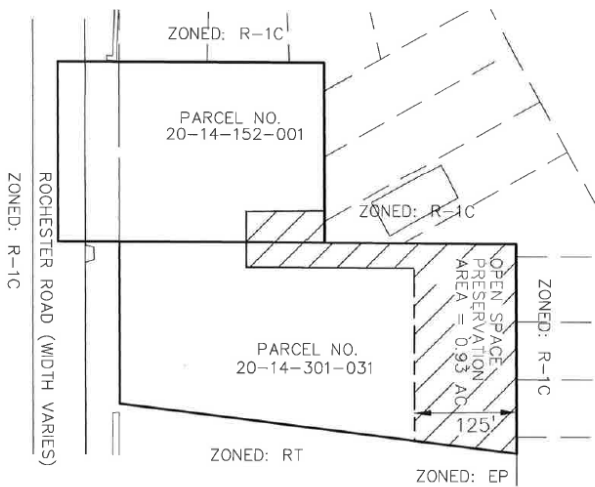
Please note that the applicant has not identified what are the rights, uses, and limitations of the “Open Space Preservation Area.” If this rezoning is recommended for approval, additional details of the “Open Space Preservation Area” will need to be provided.

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 zoning:

RT: +/-164,107 sq/ft (3.7 acres)
 Open Space Preservation
 Area: +/- 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

frontage between these nodes.....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.

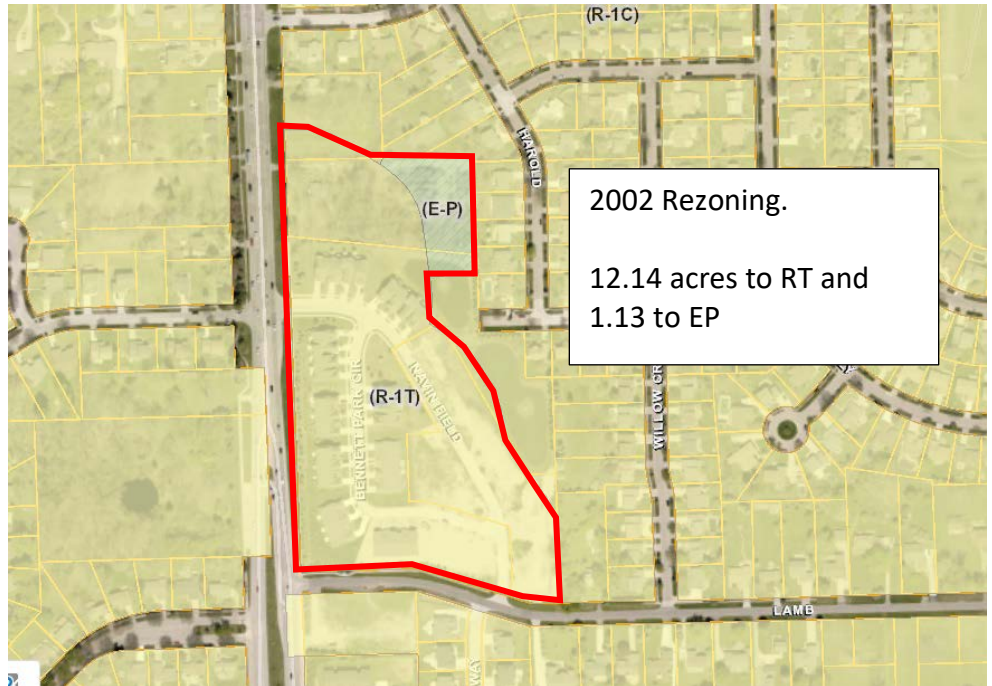
The table below outlines the development differences of the proposed plan versus what could be done by-right under the current zoning:

| | 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