SOURCEHOV
Results that Exceed Expectations

3232 McKinney Avenue
Suite 1000
Dallas, Texas 75204
Phone: 214.740.6500
Fax: 214.740.6556
www.sourcehov.com

VIA EMAIL TO BLUHMLG@TROYMI.GOV

August 27, 2012

City of Troy
Lori Bluhm, City Attorney
500 W. Big Beaver Road
Troy, MI 48084

RE: *Objection to Rezoning of Property*
1250 West 14 Mile Road

Dear Ms. Bluhm:

As a follow up to our conversation, this letter is to notify the City of Troy ("City") that SourceHOV LLC ("SourceHOV") is the current owner of the property commonly known as 1250 West 14 Mile Road, Troy, Michigan 48083 and more specifically described in the Deed attached hereto (the "Property").

We understand that approval of the attached Conditional Zoning Agreement ("Zoning Agreement") is slated to be considered by the Troy City Council this evening. Because SourceHOV, as owner, is not a party to the Zoning Agreement or to any other agreement or understanding with the City regarding any rezoning of the Property, we respectfully request that all consideration of this matter by the City Council be postponed until such time as we advise City Management of our desire to proceed with the same.

If you have any questions or require additional information, please contact me as soon as possible by email to kylebarnard@srcp.com or by phone at (214) 740-6610.

Sincerely,

Kyle Barnard
Associate Corporate Counsel

cc: Brent Savidant (via email to: savidant@troymi.gov)
Charles S. Gilbert (via email to: chuckgilbert@srcp.com)
Russell Birk (via email to russell.birk@sourcehov.com)
Greg Lyons (via email to greg.lyons@hovservices.com)
Nicholas Scavone, Jr. (via email to nscavone@bodmanlaw.com)

COVENANT DEED

1250 WEST 14 MILE ROAD LLC, a Michigan limited liability company ("Grantor"), whose address is 6755 Daly Road, West Bloomfield, Michigan 48322, c/o Lormax Stern, conveys to SOURCEHOV LLC, a Delaware limited liability company ("Grantee"), whose address is 3232 McKinney Ave., Suite 1000, Dallas, Texas 75204, the property described on Exhibit A attached hereto (the "Property"), for the full consideration set forth in the Real Estate Transfer Tax Valuation Affidavit, subject to the matters described on Exhibit B attached hereto.

Grantor covenants to and agrees with Grantee, that Grantor will warrant and defend the property conveyed unto the Grantee, its successors and assigns, forever, against the lawful claims and demands of all persons claiming by, from, or under the Grantor (other than the matters described on Exhibit B attached hereto), but against no other claims or persons.

The Property may be located within the vicinity of farm land or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Right to Farm Act.

The Grantor grants to the Grantee the right to make all available divisions, if any, under section 108 of the Land Division Act, Act No. 288 of the Public Acts of 1967.

IN WITNESS WHEREOF, the grantor has executed and delivered this Covenant Deed as of August 27, 2012.

1250 WEST 14 MILE ROAD LLC, a Michigan limited liability company

By: _____
Daniel L. Stern

Is: Member

ACKNOWLEDGMENT OF GRANTOR

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me on August 27, 2012, by Daniel L. Stern, a Member of 1250 WEST 14 MILE ROAD LLC, a Michigan limited liability company, on behalf of said company.

JEFFREY S. GUNSBERG
Notary Public-Oakland County
My Commission Expires
On July 4th, 2018

Notary Public, _____ County, Michigan
Acting In Oakland County, Michigan
My commission expires:_____

Parcel Identification No(s).: See Exhibit A attached

Send Subsequent Tax Bills To: Grantee

State Transfer Tax: See Real Estate Transfer Tax Valuation Affidavit

County Transfer Tax: See Real Estate Transfer Tax Valuation Affidavit

Prepared by and when recorded return to:

Michael T. Brennan
Bodman PLC
6th Floor at Ford Field
1901 St. Antoine Street
Detroit, Michigan 48226
(313) 259-7777

EXHIBIT A

DESCRIPTION OF REAL ESTATE

Land is situated in the City of Troy, County of Oakland, State of Michigan, and described as follows:

Lots 1, 2 and 3, Mark Builders Subdivision, according to the plat thereof recorded in Liber 84, of plats Page(s) 14 and 15, Oakland County Records, also part of the Southwest 1/4 of Section 35, Town 2 North, Range 11 East, City of Troy, Oakland County, Michigan, being described as: Commencing at the Southwest corner of said Section 35; thence South 88 degrees 24 minutes 00 seconds East 664.61; thence along the South line of said Section 35 South 88 degrees 21 minutes 07 seconds East 115.40 feet; thence North 02 degrees 54 minutes 30 seconds East 60.01 feet to a point on the North Right-of-Way line of Fourteen Mile Road (120' wide) and the point of beginning; thence along the West line of said Lot 3, North 02 degrees 54 minutes 30 seconds East 338.03 feet to a point which is the Northwest corner of said Lot 3; thence along the North line of said Lots 1, 2 & 3 South 87 degrees 05 minutes 30 seconds East 547.11 feet to a point which is the Northeast corner of said Lot 1; thence along the East line of said Lot 1, South 02 degrees 31 minutes 48 seconds West 29.33 feet; thence South 88 degrees 43 minutes 31 seconds East 158.15 feet; thence South 01 degrees 57 minutes 38 seconds West 297.62 feet to a point on said North Right-of-Way line; thence along said North Right-of-Way line North 88 degrees 21 minutes 07 seconds West 710.46 feet to the point of beginning.

Together with and subject to non-exclusive reciprocal easement for ingress and egress and utility purposes as contained in Declaration of Easements and Use Restrictions recorded in Liber 44271, Page 542, Oakland County Records.

Commonly Known As: 1250 14 Mile Road, Troy, Michigan 48083

Tax Parcel Identification: 20-35-356-055

EXHIBIT B

EXCEPTIONS

1. Easements over the Property as shown on the recorded plat.

2. Easement for public utilities over the Northerly 6 feet as disclosed on the plat.

3. Terms, conditions and provisions of Pole Line Permit in favor of the Detroit Edison Company as set forth in document recorded in Liber 3806, Page 822, Oakland County Records.

4. Terms, conditions and provisions as contained in the resolution of the construction and maintenance of drains as set forth in Liber 4215, Page 767 and Liber 4263, Page 625, Oakland County Records.

5. Terms conditions and provisions contained in the easement in favor of the City of Troy for the construction and maintenance of the water main as set forth in Liber 4556, Page 262, Oakland County Records.

6. Terms, conditions and provisions of the Master Right-of-Way Plan as disclosed in the Resolution concerning the amendments recorded in Liber 5686, Page 649, Oakland County Records.

7. Terms, conditions and provisions as contained in the grant of Easement in favor of the City of Troy for the construction, installation, repair, maintenance and replacement of a storm sewer recorded in Liber 7091, Page 807, Oakland County Records.

8. Terms, provisions and conditions as contained in Declaration of Easements and Use Restrictions by RBS Citizens, N.A., dated May 31, 2012 and recorded June 7, 2012 in Liber 44271, page 542, Oakland County Records.

9. The following matters disclosed by the ALTA/ACSM land Title Survey prepared by NF Engineers, Job No. G833-01, dated August 3, 2012: (i) building encroachment over Pole Line Permit recorded in Liber 3806, Page 822, Oakland County Records; and (ii) the brick wall encroachment over the southwest corner of the Property and the lot line along the easterly part of the North line of the Property.

STATE OF MICHIGAN

COUNTY OF OAKLAND

CITY OF TROY

CONDITIONAL REZONING AGREEMENT

This Development Agreement ("Agreement") is entered into by and between 1250 W. Fourteen Mile Road LLC, a Michigan limited liability company, the address of which is 6755 Daly Road LLC ("Developer"), and the City of Troy, a Michigan municipal corporation, having its principal offices at 500 W. Big Beaver Road, Troy, Michigan 48084 ("City").

RECITALS:

A. Developer is the owner of certain real property located in the City of Troy, Oakland County, Michigan, containing approximately 7.076 acres, as more particularly described on Exhibit A attached hereto (the "Property").

B. Developer has applied for Conditional Rezoning pursuant to Troy's Zoning Ordinance, Chapter 39, Section 16.04 from O (Office) district to IB (Integrated Industrial and Business) district. That Ordinance requires that an applicant for conditional rezoning prepare a Conditional Rezoning Agreement ("Agreement") which requires that specific provisions be included in the Agreement.

C. As part of approval of this Agreement, which will result in a rezoning of the Property from O (Office) district to IB (Integrated Industrial and Business) district, Developer has offered and agrees to make all required improvements as described in this Agreement. All conditions, representations and promises included in the Agreement have been voluntarily offered by the Developer to induce the City to rezone the land to the proposed classification. The Developer and the City agree that the rezoning and the terms of this Agreement provides for: (i) the promotion of the public health, safety and welfare; (ii) compatibility with the Master Plan; (iii) compliance with all terms and conditions of the zoning district to which the land is to be rezoned, except as otherwise allowed in the Agreement; (iv) compatibility with adjacent uses of land; and (vi) other legitimate objectives authorized under the Michigan Municipal Planning Act, MCL

125.3101, et. seq. and Chapter 39, Section 16.04 of the City of Troy Zoning Ordinance. Further, it is also agreed that the burden of the conditions on the Developer is roughly proportionate to the burdens being created by the development, and to the benefit which will accrue to Property as a result of the requirements represented in the project and/or development.

D. For the purpose of confirming the rights, obligations and restrictions in connection with the improvements and development undertaken on the Property, the parties have entered into this Agreement. The rezoning of the Property to IB (Integrated Industrial and Business) district shall become effective as set out in Section 3.1 of this Agreement. Once this Agreement is approved by the Troy City Council, it shall be binding upon the City, the Developer, the owner, the owner of units within the Development, any owners associations, and their agents, successors and assigns. The City's Zoning District Map shall be updated to reflect the amendment to the Zoning Ordinance and the District Map within a reasonable period of time after the effective date of the rezoning.

NOW, THEREFORE, the Developer 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:

ARTICLE I

GENERAL TERMS

1.1 This Agreement shall run with the land. The land is the Property described in the attached Exhibit A. Reference to "Developer" in this Agreement shall include the owner and future owners of the Property, Developer's agents, successors and assigns. It is the intent of Developer and the City to put all future owners of the Property, all future leaseholders and/or all parties in interest on notice of the rights, obligations and restrictions contained herein by recording this Agreement with the Oakland County Register of Deeds. If the project or development plan includes any type of condominium element, any termination of any condominium community or association shall not nullify or void this Agreement. As part of this Agreement and pursuant to State statute, if a Master Deed is not controlling for all or any portion of a condominium project, the terms and conditions of this Agreement shall be considered "Deed Restrictions" for any successors or assigns of the Property.

1.2 The Property shall be developed and improved only in accordance with the following which shall be referred to herein as the "Conditional Rezoning Agreement Documents":

A. Chapter 39, Section 16.04 of the City's Zoning Ordinance, and amendments, if any.

B. This Conditional Rezoning Agreement

C. Chapter 39, Section 4.15, which set out the requirements for development in an IB (Integrated Industrial and Business) district classification, unless those requirements are amended by the Conditional Rezoning Agreement.

D. The proposed 30 foot wide open space greenbelt shown on Exhibit B.

1.3 The Ordinance amendment granting the conditional rezoning reclassifies the zoning of the Property to an IB (Integrated Industrial and Business) district and constitutes the land use authorization for the Property, and all use improvement of the Property shall be in substantial conformity with the provisions of the Zoning Ordinance applicable to the zoning district and this Agreement.

ARTICLE II

CONDITIONS FOR REZONING

2.1 In consideration for the City's rezoning of the Property from its current classification of O (Office) district to a future classification of IB (Integrated Industrial and Business) district, the Developer agrees to be bound by the following conditions:

A. The property can be used for all permitted uses allowed in the IB zoning classification except for the following uses which are expressly prohibited:

- Manufacturing and assembly uses which utilize hazardous materials or which release any odor, noise or vibration into the environment
- Material recovering facilities
- Bus terminals
- Building and lumber supplies
- Outdoor commercial recreation
- Outdoor storage facilities
- Open air businesses
- Adult use businesses
- Vehicle repair stations
- Vehicle auctions
- Vehicle washes

- Dry cleaners and laundries
- Central dry cleaning/laundry plants
- Outdoor dining adjacent to the east and west sides and along the north rear of any buildings
- Commercial kennels/pet day care
- Vehicle fueling stations
- Ambulance facilities
- Commercial wind energy conversion systems and meteorological towers
- Truck terminals

B. **New development occurring at the property is also subject to the following additional conditions:**

- New buildings and structures shall be subject to all applicable ordinances, site plan requirements and site plan approval.

- Heights of new buildings shall not exceed two stories.

- A 30 foot wide open space greenbelt as shown Exhibit B shall be constructed adjacent to new buildings along the north and west boundary lines which abut residential homes. Not withstanding any other zoning or site plan development requirement, the open space greenbelt shall be landscaped with trees and other plantings approved by the Planning Commission as part of the site plan approval for each new building.

- Truck deliveries between 11PM and 8AM shall be prohibited.

- Outdoor storage of materials shall be prohibited.

2.2 Developer represents and confirms that the Property shall not be used or developed in a manner that is inconsistent with conditions placed on rezoning as set out in this Agreement.

2.3 Developer shall be subject to the expiration provisions of Section 16.04E of the Zoning Ordinance and Section 5.2 of this Agreement.

ARTICLE III

REZONING

3.1 Directly after approval of this Agreement, City Council shall pass a Resolution rezoning the Property from an O (Office) district zoning classification to an IB (Integrated Industrial and Business) district classification. 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 Conditional Rezoning Agreement. The Conditional Rezoning Approval and the amendment to Zoning Map shall not become effective until the Conditional Rezoning Agreement is recorded with the Oakland County Register of Deeds and a certified copy of the Agreement is filed with the City Clerk.

ARTICLE IV

DEVELOPER'S RIGHTS, OBLIGATIONS AND PROPERTY RESTRICTIONS

4.1 Developer shall have the right to develop the Property in accordance with the Conditional Rezoning Agreement Documents and shall receive Preliminary and Final approval 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 the Conditional Rezoning 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.

4.2 All development, use, and improvement of the Property shall be subject to and in accordance with this Agreement, the Conditional Rezoning Agreement Documents, 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.

4.3 Developer 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 V

THE CITY'S RIGHTS AND OBLIGATIONS

5.1 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.

5.2 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 by Developer The Zoning Administrator shall have the sole discretion to determine if progress has been diligently pursued by the Developer of the Property. 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.

5.3 The City may initiate legal action for the enforcement of any of the provisions, requirements, and obligations set forth in the Conditional Rezoning Agreement. In the event the City obtains any relief as a result of such litigation, Developer shall pay all court costs and attorney fees incurred by the City in connection with such suit;

5.4 If the Developer is developing the Property in non-compliance with the Conditional Rezoning 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.

5.5 To the extent the Conditional Rezoning Agreement Documents deviate from the City of Troy Development Standards, Zoning Ordinance or other City ordinances, or any amendments thereto, the Conditional Rezoning Agreement Documents shall control. All improvements constructed in accordance with the Conditional Rezoning Agreement Documents shall be deemed to be conforming under the Zoning Ordinance and in compliance with all ordinances of the City.

ARTICLE VI

MISCELLANEOUS PROVISIONS

6.1 This Agreement may not be modified, replaced, amended or terminated except as provided for in this Agreement.

6.2 This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

6.3 If there is a conflict between the terms of any of the Conditional Rezoning Agreement Documents, such documents shall control in the following order: (a) Chapter 39, Section 16.04 of the City's Zoning Ordinance, and amendments, if any (b) this Agreement and any Conditional Rezoning Agreement Documents. Where there is a question with regard to applicable regulations for a particular aspect of the Development, or with regard to clarification, interpretation, or definition of terms or regulations, and there are no apparent express provisions of the Conditional Rezoning Agreement Documents which apply, the City in the reasonable exercise of its discretion, shall determine the regulations of the City's Zoning Ordinance, as that Ordinance may have been amended, or other Ordinances which shall be applicable provided such determination is not inconsistent with the nature and intent of the Conditional Rezoning Agreement Documents.

6.4 After consulting with their respective attorneys, Developer and City confirm that this Agreement is authorized by and consistent will 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 all Conditional Rezoning Agreement Documents, and shall not be permitted in the future to claim that the effect of the Agreement and the Conditional Rezoning Agreement Documents result in an unreasonable limitation upon uses of all or a portion of the Property, or claim that enforcement of any of the Agreement and the Conditional Rezoning Agreement Documents 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 and the Conditional Rezoning Agreement Documents 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.

6.5 This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one agreement. The signature of any party to any counterpart shall be deemed to be a signature to, and may be appended to, any other counterpart.

6.6 This Agreement shall be binding on, and shall inure to the benefit of the parties and their respective successors and assigns.

THIS AGREEMENT was executed by the respective parties on the date specified with the notarization of their name.

"Developer"

1250 W. Fourteen Mile Road LLC,
a Michigan limited liability company

By: _____
Daniel L. Stern
Its: Manager and Member

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 20th day of August, 2012 by Daniel L. Stern, Manager and Member of 1250 Fourteen Mile Road LLC on behalf of the limited liability company.

Shelly A Miller
Shelly A Miller Notary Public
Wayne ~~Oakland~~ County, Michigan
My Commission Expires: 5/3/2018
Acting in Oakland County

CITY OF TROY, a Michigan municipal corporation

_____
By: Janice Daniels
Its: Mayor

_____
By: Aileen Bittner
Its: City Clerk

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this _____ day of August, 2012 by Janice Daniels, Mayor of Troy and Aileen Bittner, Troy City Clerk.

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

PREPARED BY:

Jason M. Horton
6755 Daly Road
West Bloomfield, MI 48332

WHEN RECORDED RETURN TO:

Susan M. Lancaster
Assistant City Attorney
City of Troy
500 W. Big Beaver Road
Troy, Michigan 48084

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF OAKLAND, STATE OF MICHIGAN, AND IS DESCRIBED AS FOLLOWS:

Land Situated in the State of Michigan, County of Oakland, City of Troy.

Parcel 1:

Lots 1, 2 and 3, Mark Builders Subdivision, according to the plat thereof recorded in Liber 84, of plats Page(s) 14 and 15, Oakland County Records.

Parcel 2:

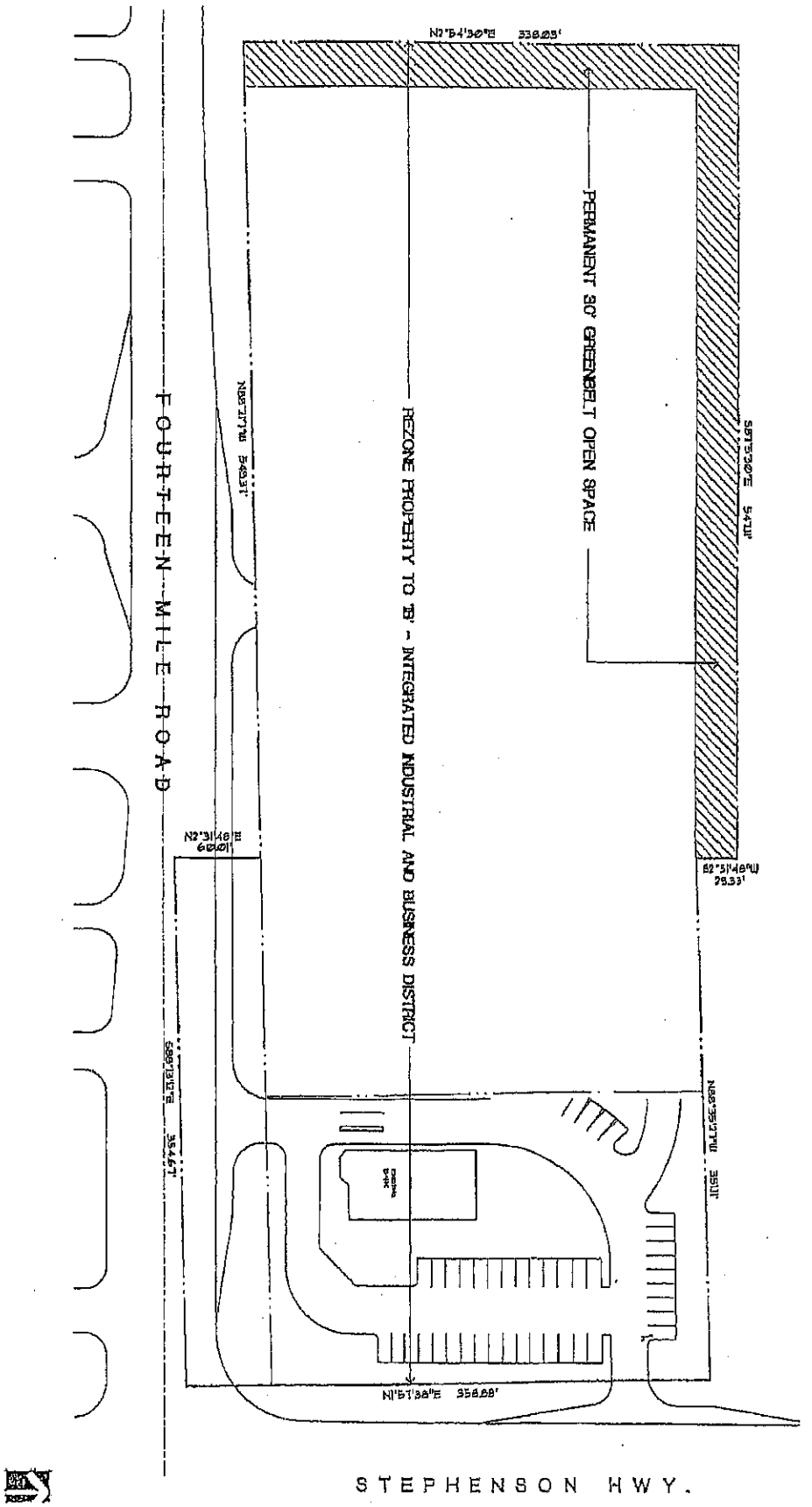
Part of the Southwest 1/4 of Section 35, Town 2 North, Range 11 East, City of Troy, Oakland County, Michigan, being described as beginning at a point on the South line of Section 35 distant South 88 degrees 24 minutes 00 seconds East 664.61 feet and South 88 degrees 13 minutes 12 seconds East 665.17 feet from the Southwest corner of said Section 35; thence continuing along the South section line, South 88 degrees 13 minutes 12 seconds East 354.67 feet; thence along the West line of Stephenson Highway (204 feet wide) North 01 degree 57 minutes 38 seconds East 358.88 feet; thence North 88 degrees 35 minutes 27 seconds West 351.11 feet;

thence South 02 degrees 31 minutes 48 seconds West 356.63 feet to the point of beginning. For tax purposes, Parcel 2 is described as:

T2N, R11E, SEC 35 MARK BUILDERS SUB LOTS 1, 2 & 3, ALSO PART OF SW 1/4 BEG AT PT DIST S 88-24-00 E 664.61 FT & S 88-13-12 E 655.17 FT FROM SW SEC COR, TH S 88-13-12 E 354.67 FT, TH N 01-57-38 E 358.88 FT, TH N 88-35-27 W 351.11 FT, TH S 02-31-48 W 357.14 FT TO BEG EXC S 60 FT TAKEN FOR RD

Parcel ID: 20-35-356-054

Street Address: 1250 West Fourteen Mile, Troy

EXHIBIT B

LOCATION OF PROPOSED 30 FOOT WIDE OPEN SPACE GREENBELT