

# **Rezoning Application**

**Submitted by Talon Development Group, Inc.**

**The Balian and Iseler Properties**  
**Property Identification Numbers 15-22-351-001 & 15-22-351-002**  
**Hamlin and Livernois**  
**Rochester Hills, MI**

# Signed Application Form

**APPLICATION TO REZONE**

City of Rochester Hills

Applicant TALON DEVELOPMENT GROUP, INC. c/o STEVEN VANDEN BOSSCHE

Address 550 HULET DRIVE, SUITE 103 BLOOMFIELD HILLS, MI 48302  
(Street) (City) (State) (Zip)

Telephone 248.745.3531 Fax 1.248.334.1915

Applicant's Interest in Property WE HAVE THE PROPERTIES UNDER CONTRACT

Property Owner(s) MS ANNETTE BALIAN MR. BRIAN ISELER  
859 NORTHGATE 1921 LIVERNOIS RD. SOUTH  
Address ROCHESTER, MI 48306 ROCHESTER HILLS, MI 48307  
(Street) (City) (State) (Zip)

**PROPERTY CHARACTERISTICS:**

Platted Lot Lot No. \_\_\_\_\_ Subdivision \_\_\_\_\_  
 Acreage Parcel Parcel Identification No. 70-15-22-351-002 BALIAN  
70-15-22-351-001 ISELER

Location NORTH EAST CORNER OF HAMLIN & LIVERNOIS  
ISELER 260' 335' W/R.O.W.

Property Dimensions: Width at Road Frontage BALIAN 399.91' Depth 335'

Total Area: Number of acres APPROX. 4.25 Present use VACANT & SINGLE FAMILY

**CHANGE OF ZONING:**

R-3 Current Zoning 0-1 Proposed Zoning

If rezoned, the property will be used for PROFESSIONAL/MEDICAL OFFICES & DAY CARE

**CHECK LIST:**

These items must be provided to process this application:

- Location Map
- Environmental Impact Statement
- Deed restriction or Certification that none exist
- Proof of Ownership or Interest in Property
- Statement indicating why change is requested
- Notarized letter from property owner indicating no objection
- Letter of Intent
- Filing Fee

I hereby authorize the employees and representatives of the City of Rochester Hills to enter and conduct an investigation of the above referenced property.

5/6/05 Annette Balian  
(Date) (Signature of Property Owner)

I certify that all of the above statements and those contained in the documents submitted are true and correct.

MAY 4, 2005 Steven Vanden Bossche  
(Date) (Signature of Applicant)

|                        |
|------------------------|
| For Official Use Only: |
| File No. _____         |
| Escrow No. _____       |
| Date: _____            |

**APPLICATION TO REZONE**  
City of Rochester Hills

Applicant TALON DEVELOPMENT GROUP, INC. c/o STEVEN VANDEN BOSSCHE  
Address 550 HULET DRIVE, SUITE 103 BLOOMFIELD HILLS, MI 48302  
(Street) (City) (State) (Zip)  
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Applicant's Interest in Property WE HAVE THE PROPERTIES UNDER CONTRACT

Property Owner(s) MS ANNETTE BALIAN MR. BRIAN ISELER  
854 NORTHGATE 1921 LIVERNOIS RD. SOUTH  
Address ROCHESTER, MI 48306 ROCHESTER HILLS, MI 48307  
(Street) (City) (State) (Zip)

**PROPERTY CHARACTERISTICS:**

Platted Lot Lot No. \_\_\_\_\_ Subdivision \_\_\_\_\_  
 Acreage Parcel Parcel Identification No. 70-15-22-351-002 BALIAN  
70-15-22-351-001 ISELER

Location NORTH EAST CORNER OF HAMLIN & LIVERNOIS  
ISELER 260' 335' W/R.O.W.  
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**CHECK LIST:**

These items must be provided to process this application:

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Location Map                                      | <input checked="" type="checkbox"/> Environmental Impact Statement                               |
| <input checked="" type="checkbox"/> Deed restriction or Certification that none exist | <input checked="" type="checkbox"/> Proof of Ownership or Interest in Property                   |
| <input checked="" type="checkbox"/> Statement indicating why change is requested      | <input checked="" type="checkbox"/> Notarized letter from property owner indicating no objection |
| <input checked="" type="checkbox"/> Letter of Intent                                  | <input checked="" type="checkbox"/> Filing Fee   |

I hereby authorize the employees and representatives of the City of Rochester Hills to enter and conduct an investigation of the above referenced property.

5-6-05 (Date) Brian K. Iseler (Signature of Property Owner)

I certify that all of the above statements and those contained in the documents submitted are true and correct.

MAY 4, 2005 (Date) Steven Vanden Bossche (Signature of Applicant)

For Official Use Only:  
File No. \_\_\_\_\_  
Escrow No. \_\_\_\_\_  
Date: \_\_\_\_\_

**Property Owners' Approval Letters  
for Rezoning**

May 4, 2005

Mr. Ed Anzek  
Planning Department Director  
City of Rochester Hills  
1000 Rochester Hills Drive  
Rochester Hills, MI 48309

RE: Letter of Approval for Rezoning Application Submission  
Rezoning of Property, The Balian Property  
Property No. 15-22-351-002  
Located at the Northeast Corner of Hamlin and Livernois

Dear Mr. Anzek:

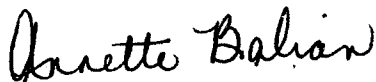
This letter is submitted as part of Talon Development Group's application for a rezoning request of my property. Per the city's requirements, I am providing you with notification that I, as the owner of the parcel listed above, approve of, and have no objection to Talon Development Group, Inc., submitting for a rezoning of the property.

Per the application requirements, a legal description of the property is enclosed.

This letter is being provided per the city's rezoning application requirements. I hope you find this letter satisfactorily meets your requirements. If not, please contact Mr. Steven Vanden Bossche, of Talon Development who will make arrangements for any additional information you might require.

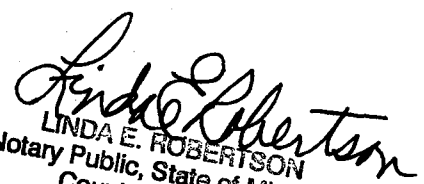
Thank you for your attention and assistance.

Yours truly,



Mrs. Annette Balian

Enclosure



LINDA E. ROBERTSON  
Notary Public, State of Michigan  
County of Oakland  
My Commission Expires Feb. 1, 2008  
Acting in the County of OAKLAND  
5-4-05

**General Information for Parcel 70-15-22-351-002  
Assessing Data Current As Of: 15:05 06/22/2004**

**Property Address**

ROCHESTER HILLS, MI 48307

**Owner Information**

BALIAN ANNETTE  
854 NORTHGATE RD  
ROCHESTER, MI 48306-2514

**Taxpayer Information**

SEE OWNER INFORMATION

**General Information For Tax Year 2004**

|                         |          |                        |          |                    |        |
|-------------------------|----------|------------------------|----------|--------------------|--------|
| <b>Property Class:</b>  | RV       | <b>Assessed Value:</b> | \$80,000 | <b>P.R.E. %:</b>   | 0.000% |
| <b>School District:</b> | 220      | <b>Taxable Value:</b>  | \$29,410 | <b>Date Filed:</b> | //     |
| <b>SEV:</b>             | \$80,000 | <b>Map #</b>           | OFF      |                    |        |

**Land Information**

|                     |           |                        |            |                          |            |
|---------------------|-----------|------------------------|------------|--------------------------|------------|
| <b>Acreage:</b>     | 2.74      | <b>Frontage (EFF):</b> | 398.00 Ft. | <b>Depth (EFF):</b>      | 300.00 Ft. |
| <b>Zoning Code:</b> | RV        | <b>Mortgage Code:</b>  |            | <b>Renaissance Zone:</b> | NO         |
| <b>Land Value:</b>  | \$160,000 |                        |            |                          |            |

**Legal Information**

T3N, R11E, SEC 22 PART OF SW 1/4 BEG AT SW SEC COR, TH N 399.94 FT, TH N 89-40-00 E 335 FT, TH S 399.91 FT, TH S 89-39-00 W 335 FT TO BEG, EXC S 60 FT IN RD, ALSO EXC W 60 FT OF N 260 FTOF S 320 FT IN RD 2.26 AB321B-2

**Comments**

6/7/02 REAPPR.

**Sales**

| Sale Date | Sale Price | Instrument | Grantor | Grantee | Terms Of Sale | Liber/Page | Short Note |
|-----------|------------|------------|---------|---------|---------------|------------|------------|
|-----------|------------|------------|---------|---------|---------------|------------|------------|

May 4, 2005

Mr. Ed Anzek  
Planning Department Director  
City of Rochester Hills  
1000 Rochester Hills Drive  
Rochester Hills, MI 48309

RE: Letter of Approval for Rezoning Application Submission  
Rezoning of Property, The Iseler Property  
Property No. 15-22-351-001  
Located north of the Northeast Corner of Hamlin and Livernois

Dear Mr. Anzek:

This letter is submitted as part of Talon Development Group's application for a rezoning request of my property. Per the city's requirements, I am providing you with notification that I, as the owner of the parcel listed above, approve of, and have no objection to Talon Development Group, Inc., submitting for a rezoning of the property.

Per the application requirements, a legal description of the property is enclosed.

This letter is being provided per the city's rezoning application requirements. I hope you find this letter satisfactorily meets your requirements. If not, please contact Mr. Steven Vanden Bossche, of Talon Development who will make arrangements for any additional information you might require.


Thank you for your attention and assistance.

Yours truly,



Mr. Brian Iseler

Enclosure



LINDA E. ROBERTSON  
Notary Public, State of Michigan  
County of Oakland  
My Commission Expires Feb. 1, 2008  
Acting in the County of OAKLAND  
5-4-05



### General Information for Parcel 70-15-22-351-001 Assessing Data Current As Of: 15:05 06/22/2004

**Property Address**

1921 S LIVERNOIS RD  
ROCHESTER HILLS, MI 48307-3369

**Owner Information**

ISELER BRIAN  
1921 S LIVERNOIS RD  
ROCHESTER HILLS, MI 48307-3369

**Taxpayer Information**

SEE OWNER INFORMATION

**General Information For Tax Year 2004**

|                         |           |                        |           |                    |            |
|-------------------------|-----------|------------------------|-----------|--------------------|------------|
| <b>Property Class:</b>  | RI        | <b>Assessed Value:</b> | \$100,360 | <b>P.R.E. %:</b>   | 100.000%   |
| <b>School District:</b> | 220       | <b>Taxable Value:</b>  | \$92,330  | <b>Date Filed:</b> | 02/15/1997 |
| <b>SEV:</b>             | \$100,360 | <b>Map #</b>           | OFF       |                    |            |

**Land Information**

|                     |          |                        |            |                          |            |
|---------------------|----------|------------------------|------------|--------------------------|------------|
| <b>Acreage:</b>     | 2.00     | <b>Frontage (EFF):</b> | 260.00 Ft. | <b>Depth (EFF):</b>      | 335.00 Ft. |
| <b>Zoning Code:</b> | RI       | <b>Mortgage Code:</b>  |            | <b>Renaissance Zone:</b> | NO         |
| <b>Land Value:</b>  | \$90,000 |                        |            |                          |            |

**Legal Information**

T3N, R11E, SEC 22 PART OF SW 1/4 BEG AT PT DIST N 399.94 FT FROM SW SEC COR, TH N 260.06 FT, TH N 89-39-00 E 335 FT, TH S 260.16 FT, TH S 89-40-00 W 335 FT TO BEG 2 AB321B-1

**Comments**

04-29-2002 REAPPRAISAL- 2 CARS IN DRIVE, NO ANSWER AT DOOR, L.L. ON DOOR AND MEASURED. SOME BRICKS CRUMBLING IN BACK OF THE HOUSE IN THE CORNER WHERE THE BI LEVEL AND SLAB AREA MEET. IT APPEARS IT MAY BE DUE TO WATER DAMAGE COMING OFF FROM THE ROOF. BRICK IS ALSO CRUMBLING AROUND ONE OF THE CHIMNEY'S. HOUSE HAS SOME NEWER WINDOWS & SOME OLDER WINDOWS. SHINGLES APPEAR TO BE NEWER, BUT AROUND THE OTHER CHIMNEY, THEY ARE PULLIN UP. HOUSE HAS OLDER SIDING, EXTERIOR APPEARS TO BE IN NEED OF MAINTAINANCE. ADDED DRIVEWAY. HOUSE SITS ON A LARGE PEICE OF PROPERTY, BUT IS DIRECTLY ACROSS FROM COMMERCIAL PROPERTIES/ SITS ON A MAIN ROAD BUT IS FARTHER BACK ON THE LOT. OVERALL CONDITION IS AVERAGE. - KMS 05-14-02 HAD APT. WENT THRU HOUSE. PER H/O HE PURCHASED THE HOUSE FROM THE ROCHESTER ATHLETIC CLUB. THE HOUSE SAT VACANT FOR 3 YEARS BEFORE HE PURCHASED IT. DURING THAT TIME THE FURNACE WAS SHUT OFF BUT THE WATER WAS NOT, THE PIPES BURST AND CAUSED WATER DAMAGE IN THE LOWER LEVEL. H/O REMOVED PARTITIONS IN THE LOWER LEVEL, NOW HAS NO FINISH, JUST CEMENT FLOOR AND BLOCK WALLS AND DROP CEILING. KITCHEN WAS IN POOR CONDITION AT TIME OF SALE, IT HAS NOW BEEN UPDATED. BATHS ARE BOTH OLD AND STILL DATED. FURNACE IS ORIGINAL, BASEMENT HAS SOME MOISTURE PROBLEMS AROUND THE WALL NEAR THE FLOOR, NO ACTUAL FLOODING, JUST MOISTURE COLLECTING ON THE BLOCK. \*\*SALE NOT REPRESENTATIVE DUE TO CONDITION\*\* - KMS

**Sales**

| Sale Date  | Sale Price | Instrument | Grantor                  | Grantee      | Terms Of Sale     | Liber/Page | Short Note |
|------------|------------|------------|--------------------------|--------------|-------------------|------------|------------|
| 02/14/1997 | \$145,000  | WD         | #ROCHESTER ATHLETIC CLUB | ISELER,BRIAN | ARMS LENGTH TRANS | 17027:147  | OFF        |

**Principals  
Talon Development Group, Inc.**

**Rezoning Application**  
**Talon Development Group, Inc.**  
**The Balian & Iseler Properties**  
**Property Identification Numbers 15-22-351-002 & 15-22-351-001**  
**Hamlin and Livernois, Rochester Hills, Michigan**

**Principals for the Applicant**  
**Talon Development Group, Inc.**

Mr. Michael Polsinelli, President & CEO

Ms. Cathy Wilson, Vice President, Real Estate

Mr. Patrick Reidy, Vice President, Finance

Mr. John Dondanville, Vice President, Construction

All the above have the following contact information:

Talon Development Group, Inc.  
550 Hulet Drive, Suite 103  
Bloomfield Hills, MI 48302

General Phone Number  
1.248.334.1950  
Fax Number  
1.248.334.1915

**Copy of Applicant's Purchase Agreements  
Applicant's Interest in the Properties**

50  
fyi

**REAL ESTATE PURCHASE AGREEMENT**

THIS AGREEMENT made this 1 day of March, 2005, by and between Annette Balian, whose address is 854 Northgate Road, Rochester, Michigan 48306 ("Seller") and Aquila Realty Inc., a Michigan corporation, whose address is 550 Hulet Drive, Suite 103, Bloomfield Hills, Michigan 48302 ("Purchaser").

**WITNESSETH:**

This Agreement of Sale is based upon the following recitals:

A. Seller is the owner in fee simple of certain unimproved land located at the Northeast Corner of Hamlin and Livernois Roads, Rochester Hills, Oakland County, Michigan, containing approximately 2-1/4 gross acres, having parcel identification number 15-22-351-002, referred to herein as the "Property". If the exact acreage and legal description are not known upon the execution hereof, then at such time as the exact legal and acreage are determined in accordance with the Survey (as defined herein), Exhibit A will be amended and attached hereto.

B. Seller has agreed to sell and Purchaser has agreed to purchase the Property pursuant to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing, it is hereby agreed:

**ARTICLE 1  
PROPERTY**

As used herein, the term "Property" shall mean and refer to:

1.1 The real estate described on Exhibit A and all buildings and improvements located thereon, together with all easements, air, mineral, riparian, and all tenements, hereditaments, privileges and appurtenances thereto belonging or in any way appertaining thereto, including, without limitation, the right to make any and all division rights under Section 108 of the Land Division Act, Act. No. 288 of the Public Acts of 1967, as amended ("Land Division Act");

1.2 Any land lying in the bend of any street, road or avenue, open or proposed, at the foot of or adjoining the Property to the center line thereof, if any;

1.3 Any intangible personal Property located on or about or arising out of the ownership of the Property;

1.4 Any pending or future award made in condemnation or to be made in lieu thereof, and any unpaid award for damages to the Property;

1.5 The use of appurtenant easements, whether or not of record, strips and rights-of-way abutting, adjacent, contiguous or adjoining the Property;

1.6 All licenses, permits and franchises issued by any State, Federal or local municipal authorities, relating to the use, maintenance or operation of the Property, to the extent such licenses, permits and franchises are transferable;

## ARTICLE 2 PURCHASE AND SALE: PURCHASE PRICE

2.1 Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, the Property. The total purchase price for the Property shall be [REDACTED] Dollars and shall be paid at closing (as hereinafter defined), less the deposit (as hereinafter defined) and shall be subject to adjustments and prorations as set forth herein.

## ARTICLE 3 DEPOSIT AND INVESTIGATION PERIOD

3.1 Upon acceptance of this Agreement, Purchaser shall deliver an earnest money deposit in cash in the amount of [REDACTED] Dollars to Devon Title Company, 1680 Crooks Road, Troy, MI 48084 the "Escrow Agent"), to be held in accordance with the terms hereof (such deposit and any interest thereon is hereinafter referred to as the "Deposit"). The Escrow Agent shall place the Deposit in an interest bearing demand account or a bank money market account. The Deposit is intended solely to evidence Purchaser's interest in acquiring the Property and Seller shall not have any right in the Deposit, nor shall Escrow Agent have any obligation to Seller hereunder. In the event Purchaser shall terminate this Agreement during the Inspection Period, the Escrow Agent shall immediately return the Deposit to Purchaser upon receipt of notice of such termination, otherwise, the Deposit shall be applied against the Purchase Price at Closing.

3.2 Purchaser shall have [REDACTED] days from and after full execution of this Agreement (the "Investigation Period") to determine, in its sole and absolute discretion, whether the Property is in all respects acceptable to Purchaser and otherwise suitable for development for Purchaser's intended use of the Property, including, but not limited to: review of all documents and materials, including leases furnished to Purchaser by Seller; completion of such tests, investigations, and environmental studies as Purchaser may determine to be necessary or helpful; and to obtain all governmental approvals, including but not limited to site plan approval, and building permits for the Property and, if applicable, on adjacent properties (the "Project"), as determined solely by Purchaser. At any time during this Investigation Period, Purchaser shall have the right to terminate this Agreement for any reason or for no reason in Purchaser's sole discretion, provided only

(S)  
CW

that written notice of Purchaser's election to terminate is furnished to Seller. In the event that Purchaser elects to terminate this Agreement pursuant to this Section 3.2, the Deposit shall be promptly returned to Purchaser upon Escrow Agent's receipt of notice of termination from Purchaser.

3.3 In the event Purchaser has not obtained the necessary rezoning of the Property, Purchaser shall be entitled to extend the Investigation Period for [redacted] periods of [redacted] days each upon notice to Seller given at any time prior to the expiration of the Investigation Period together with payment to the Escrow Agent of an "Extension Deposit" in the amount of [redacted] Dollars each (the "Additional Investigation Periods"). At any time during the Additional Investigation Periods, Purchaser shall have the right to terminate this Agreement provided only that written notice of Purchaser's election to terminate is furnished to Seller prior to the expiration of the Additional Investigation Periods. The Extension Deposits shall be applied to the Purchase Price if the sale and purchase under this Agreement is consummated, but shall be non-refundable in all events except Seller's default or Seller's inability to convey title to the Purchaser at Closing, as required under this Agreement.

3.4 In connection with Purchaser's investigation of the Property (and throughout the term of this Agreement), Purchaser and its employees, designees and agents shall have the right to inspect, or cause to be inspected, the physical condition of the Property and all other documents and materials of any kind relating to the Property. Seller agrees to grant to Purchaser and its employees and agents access to the Property and the aforesaid related materials at all reasonable times and to cooperate with Purchaser in such inspection. Purchaser shall have the right to perform soil borings and other engineering, mechanical and environmental tests upon the Property. Purchaser shall have the right to discuss the development of the Property with appropriate governmental authorities, representatives of utility companies and others deemed necessary by Purchaser.

In the event Purchaser shall not terminate this Agreement during the Investigation Period or Additional Investigation Periods, as the case may be, then the Closing shall occur within thirty (30) days of the expiration of the Investigation Period or Additional Investigation Periods and the Deposits shall be applied to the Purchase Price for the Property at Closing. Notwithstanding the foregoing, Purchaser may waive any remaining time under any available Investigation Period by notice to Seller and to Escrow Agent, in which event Closing shall occur within thirty (30) days of such notice. Closing shall occur at the offices of Timmis & Inman, or at such other place as shall be mutually agreeable to the parties.

#### ARTICLE 4 TITLE, SURVEY AND INSPECTION MATTERS

4.1 Seller agrees, at Seller's sole cost and expense, to furnish Purchaser, as soon as possible, but in no event later than thirty (30) days after the execution of this Agreement by Seller (or at such other date as is expressly provided below), the following:

(a) a commitment for a policy of title insurance (ALTA 1970 Form B) for the Property without standard exceptions. The Commitment shall be in the amount of the Purchase Price, dated as of a date later than the date hereof, issued by a title insurance company acceptable to Purchaser (the "Title Company"), and shall have attached to it legible copies of all documents listed as exceptions in Schedule B thereto. If objection to title or the Commitment is made, or if Purchaser requests endorsements to the title commitment to satisfy Purchaser or any prospective lender of Purchaser, Seller shall have thirty (30) days from the date it is so notified in writing to remedy the claimed defects and to deliver a revision of the Commitment satisfactory to Purchaser. If any defect is not or cannot be remedied within this time, Purchaser shall have the right to (a) cure the defect by its own efforts, complete the transaction and deduct from the Purchase Price the amount necessary to cure the defect or (b) terminate this Agreement. At Closing, the Title Company shall update the Commitment as of the Closing Date and endorse the Commitment to Purchaser's satisfaction.

(b) a copy of the real and personal Property tax assessments, if any, and tax bills with respect to the Property along with any notices received regarding potential changes in the amount of taxes to be paid.

(c) any environmental, soil borings, reports, wetland studies, engineering reports or other studies or reports in the Seller's possession concerning the physical condition and operation of the Property or recommended improvements.

(d) any and all other reports, studies, plans, specifications, agreements, contracts relating directly or indirectly to the Property or which may affect Purchaser's proposed development of the Property.

(e) Purchaser may pay for and obtain a survey (the "Survey") of the Property prepared by a land surveyor licensed under the laws of the State of Michigan. The Survey shall be (a) prepared in compliance with Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys (1988), and (b) certified to Purchaser and to the Title Company and to any lender of Purchaser. The Survey shall show the location of all boundaries, improvements, structures, easements, right-of-ways, restrictions, covenants, encroachments, wetlands, flood plains, flood ways and such other information as Purchaser or Purchaser's lender shall reasonably require. The Survey shall also certify as to the total acreage contained within the Property, means of ingress and egress to a public road or street are available, the parcels (if more than one) are contiguous, and the net usable acreage contained within the property as herein defined. If the Survey is for any reason unacceptable to Purchaser, Seller shall have thirty (30) days to remedy the defect to the satisfaction of Purchaser. If Seller is unable to remedy the defect in the Survey within this time, Purchaser shall have the right to (a) cure the defect by its own efforts and deduct from the Purchase Price the amount necessary to cure the defect or (b) terminate this Agreement. In the event the sale contemplated herein is consummated, Purchaser shall receive a credit at closing for one-half (1/2) the cost the total cost of the Survey. Total cost of the Survey not to exceed Three Thousand (\$3,000.00) Dollars.



## **ARTICLE 5 CLOSING**

At Closing, Seller shall execute and deliver to Purchaser (as required) and Purchaser shall execute and deliver to Seller (as required) the following:

### **5.1 Seller shall:**

(a) execute and deliver to Purchaser a Warranty Deed to the Property conveying: (i) any and all land division rights under the Land Division Act; (ii) title to the Property which is marketable, subject only to recorded building and use restrictions and recorded easements acceptable to Purchaser, free and clear of all liens, claims, encumbrances and rights of any other parties whatsoever and otherwise in a condition acceptable to the Title Company for the issuance of a title insurance policy pursuant to the Commitment (the "Title Policy"), together with a Transfer Valuation Affidavit setting forth the Purchase Price;

(b) execute and deliver to Purchaser such other documents relating to the purchase of the Property and which may reasonably be requested by Purchaser or Title Company; and

(c) pay real estate transfer taxes (if any) imposed under Michigan law, title insurance premiums, and any other costs which are incurred by the Seller in connection with delivery of title or incident to Seller's obligations pursuant to this Agreement.

### **5.2 At Closing, Purchaser shall:**

(a) pay to Seller the Purchase Price less the Deposit, subject to adjustments and prorations as set forth in Article 6;

(b) pay any recording fees relating to the recording of instruments delivered under this Agreement; and

(c) execute and deliver all other documents which may be necessary in connection with the Closing. At the Closing, Escrow Agent shall release the Deposit to Seller.

## **ARTICLE 6 PRORATION OF ITEMS**

The following items shall be prorated between the parties and shall be adjustments to the Purchase Price:

6.1 Real and personal property taxes attributable to the period prior to the Closing Date shall be allocated to Seller and all real and personal property taxes

attributable to the period on and after the Closing Date shall be allocated to Purchaser. Any tax bill which is required to be prorated pursuant to this Section 6.1, and which has not yet been received by the Closing Date will be estimated using the current years assessment and prior years mileage rate; however if the current year's assessment is not available then such estimate will be the prior years tax bill. The parties agree that should the actual taxes be higher or lower than estimated pursuant to the previous sentence, a subsequent cash adjustment shall be made to correct the proration, and this provision of the Agreement shall survive the Closing Date. Any special assessments with respect to the Property which become due and payable after the Closing Date shall (excluding those payable in installments) be paid by Purchaser. Any special assessments with respect to the Property which become due and payable before the Closing Date (including those payable in installments, which shall be deemed due and payable by Seller at Closing), shall be paid by Seller.

6.2 Purchaser shall receive a credit against the Purchase Price for all liquidated costs, charges, liabilities or obligations of any nature which are attributable to the period prior to the Closing Date and remain unpaid as of the Closing Date and Seller shall receive a credit for any liquidated costs, charges, liabilities or obligations of any nature have been paid by Seller and are attributable to the period on and after the Closing Date.

## **ARTICLE 7 DEFAULT**

7.1 If prior to the Closing Seller fails to perform in accordance with this Agreement or if any material representation or warranty of Seller is untrue, Seller shall be in default. In the event of a default hereunder by Seller or if any condition to Purchaser's obligations hereunder which is Seller's obligation to satisfy is not satisfied on or before the Closing, the Deposit shall be returned to Purchaser in accordance with Section 7.2 and Purchaser may institute an action for damages, or the Purchaser may elect to waive such default or condition precedent and proceed to close. Alternatively, Purchaser may elect to specifically enforce the terms hereof and institute an action for the recovery of any damages sustained by the Purchaser. In the event the Purchaser fails to perform in accordance with this Agreement, Purchaser shall be in default. In the event of default hereunder by Purchaser, this Agreement shall terminate and Seller shall request the Deposit from the Escrow Agent in accordance with Section 7.2, as liquidated damages and, as its sole and exclusive remedy. In all other cases the Deposit (or the balance thereof) shall be returned to Purchaser. The remedies provided for in this Section 7 are the exclusive remedies available in the event of default as described in this Section 7.

7.2 Subject to Section 7.1, in the event that Purchaser has not terminated during the Investigation Period, Additional Investigation Period or as otherwise provided herein, and following expiration of the Investigation Period, Additional Investigation Period or other time period as provided herein, the Closing shall not occur due to a default of Seller or Purchaser, then upon receipt of an affidavit from the non-breaching party stating the reasons for the failure to close, together with written instructions as to the release of the Deposit, the Escrow Agent shall release the Deposit in accordance with said

instructions unless Escrow Agent receives an objection from the other party within ten (10) days of receipt of the Affidavit directing release of the Deposit, in which case Escrow Agent shall hold the Deposit until it receives joint instructions from Seller and Purchaser as to the release of the Deposit. Escrow Agent may also deliver the Deposit to a court of competent jurisdiction and thereafter be relieved of all liability whatsoever with respect to the same. All notices to the Escrow Agent shall be sent to all parties to this Agreement at the same time as such notices are sent to the Escrow Agent.

## **ARTICLE 8 REPRESENTATIONS AND WARRANTIES**

Seller warrants and represents that as of the date hereof and at Closing, to the best of Seller's knowledge:

8.1 Seller has full power and authority to own its properties. Seller has full power and authority to enter into this Agreement and to consummate the transactions contemplated herein. This Agreement and all other agreements or documents to be executed by Seller pursuant hereto are or shall be as of the Closing Date, as the case may be, duly executed and delivered by Seller and shall be valid, binding and enforceable in accordance with their respective terms. Seller does not need the consent of any of its partners, members, or shareholders, as the case may be, to the transaction contemplated by this Agreement which has not been received and neither the execution of this Agreement nor the consummation of the transactions contemplated herein will (i) require a consent which will not have been obtained on or prior to the Closing Date under any agreement to which a Seller is bound, including but not limited to, any right of first refusal or option to purchase granted to a third party, or (ii) give rise to any other rights, at law or by agreement, that would give rise to any rights of first refusal or prevent the consummation of the transaction contemplated herein.


8.2 None of the Property has been excavated or used as a landfill. No fill has been deposited on the Property. No construction debris or other debris (including, without limitation, rocks, stumps or concrete) is buried on any of the Property. There are no hazardous wastes, toxic materials, electrical transformers or underground storage tanks in, on, about or beneath the Property or asbestos or any other material or substance present in, on, about or beneath the Property or any other fact or circumstance which results in noncompliance with any federal, state and local environmental laws and regulations.


8.3 Seller has good and marketable title to the Property free and clear of all liens and encumbrances except as set forth in Exhibit B attached hereto and upon purchase from Seller, Purchaser shall acquire ownership of the entirety of interests in the Property, including without limitation all rights to develop the Property without restriction or limitation by any other persons and, further, all rights to split the Property.

8.4 Neither Seller nor the Property are subject to any judgment, order, writ, injunction or decree of any court or governmental instrumentality which might prohibit the

consummation of the transaction contemplated herein. There is no claim or any litigation, proceeding or investigation existing or threatened against Seller (including Bankruptcy) which might prohibit the consummation of the transaction contemplated herein or the development of the Property as the Project.

8.5 Seller is not subject to any commitment, obligation or agreement, including, but not limited to, any right of first refusal or option to purchase granted to a third party, which might prevent the consummation of the transaction contemplated herein or which might bind Purchaser, subsequent to the consummation of this Agreement.

  
~~8.6 Neither the whole nor any portion of the Property is subject, directly or indirectly, to any governmental decree or order to be sold, condemned, expropriated or otherwise taken by any public authority, nor are there any existing facts or conditions known to Seller which might give rise to any forced sale, condemnation, expropriation or other taking.~~

  
~~8.7 Seller has not received any notice and has no knowledge of any planned or commenced public improvements which may result in special assessments against the Property or which might otherwise materially affect the Property.~~

8.8 The Property is not located in a "flood plain" or "flood way" or any area requiring flood insurance, nor are there any areas designated as "wetlands".

8.9 None of the information prepared and provided by Seller, or its agents pursuant hereto or any of the representations and warranties set forth in this Section 8, contain any untrue statement of material fact or fail to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they were made, not misleading.

## ARTICLE 9 DAMAGE AND CONDEMNATION

9.1 The risk of loss or damage to the Property by fire, condemnation or otherwise prior to the date of Closing shall remain with the Seller. Seller shall promptly notify Purchaser of any impending or actual condemnation proceedings against the Property or any portion thereof of which Seller has notice. If any portion of the Property shall be threatened to be taken as a result of condemnation proceedings or damaged as a result of fire or other casualty prior to the Closing, Purchaser shall have the right to:

(a) terminate this Agreement by written notice to Seller within ten (10) days after receipt of notice of such proceedings or damage, in which case Purchaser shall receive the Deposit and neither party shall have any further liability hereunder; or

(b) proceed to Closing as herein provided, agreeing to take the Property in its then-current condition, and in such event Purchaser shall be entitled to receive all of the condemnation or insurance proceeds payable as a result of such

condemnation or such damage or, at Purchaser's option, the Purchase Price shall be reduced by the amount of such condemnation or insurance proceeds which shall then belong to Seller.

The provisions of this Article 9 shall be in lieu of (and Seller and Purchaser hereby waive the provisions of) any contradictory provision of any statute or case law affecting risk of loss of real or personal Property.

## **ARTICLE 10 SELLER'S CONTINUING OBLIGATIONS**

10.1 From the date of this Agreement to the Closing Date, Seller shall conduct its business involving the Property in the ordinary course, and during said period will:

(a) refrain from transferring any of the Property or creating on the Property any easements, liens, mortgages, encumbrances or other interest without the prior written consent of Purchaser;

(b) refrain from entering into any contracts or other commitments regarding the Property, other than in the ordinary and usual course of business, without the prior written consent of Purchaser;

(c) continue to maintain and repair the Property and to keep the same in good condition and repair, and Seller will permit no wasting of the Property;

(d) keep in effect Seller's existing policies of public liability and hazard and extended coverage insurance insuring the Property;

(e) promptly comply or cause there to be compliance with all notices of violation of laws or municipal ordinances, regulations, orders or requirements of department of housing, building, fire, labor, health, or other state, city or municipal departments or other governmental authorities having jurisdiction against or affecting the Property or the use of operation thereof.

(f) continue to pay on a timely basis and before any delinquent late charge or interest shall apply all real estate, personal Property tax, insurance and all other expenses.

(g) refrain from excavating the Property or allowing the Property to be used as a landfill and Seller will not allow construction debris or other debris (including, without limitation, rocks, stumps or concrete) to be buried on any of the Property.

(h) perform its obligations on a timely basis and without default under any agreement relating to the Property.

10.2 Upon acceptance hereof, Seller agrees it shall not, nor shall any of its

(AB) (C) Agreement

representatives or agents, continue or enter into any ~~discussions or agreements~~ for the sale, exchange or transfer of the Property with any party other than Purchaser while this transaction is pending.

10.3 At all times from the date hereof to Closing, Seller shall make all payments required to be made under any mortgage, land contract or other financing instrument, if any, affecting all or any part of the Property in the manner and at the times provided thereunder and perform all other obligations required thereunder. Prior to or at Closing, Seller shall cause any mortgage, land contract, financing instrument or any other encumbrance to be paid and discharged of record. Seller has received no notice from any mortgagee or vendor that a default or breach exists which remains uncured, and no such notice shall have been received and such default or breach remain uncured at Closing.

## ARTICLE 11 CONDITIONS PRECEDENT TO CLOSE

11.1 Anything to the contrary notwithstanding, Purchaser shall have no obligation to consummate this transaction, unless and until the conditions set forth in this Article have been satisfied by Seller or waived by Purchaser in writing. Such conditions precedent are as follows:

(a) All representations, warranties and covenant of Seller hereunder shall be true and correct in all material respects on the Closing Date.

(b) Between the date of this Agreement and Closing Date, there shall have been no intervening destruction, damage or condemnation which would entitle Purchaser to terminate this Agreement.

(c) No hazardous wastes or violations of any State or Federal environmental law shall have been discovered.

(d) In connection with any representation or warranty which is limited to Seller's knowledge, no information shall have been discovered which, if known by Seller, would make such representation or warranty incorrect or misleading.

## ARTICLE 12 NO ASSUMPTION OF LIABILITIES

12.1 The parties acknowledge that this transaction contemplates only the sale and purchase of the Property and that Seller is not selling a business, nor do the parties intend that Purchaser be deemed a successor of Seller with respect to any liabilities of Seller to any third parties. Accordingly, Purchaser shall neither assume nor be liable for any of the debts, liabilities, taxes or obligations of, or claims against, Seller or of any other person or entity of any kind or nature, whether existing now, on the Closing Date or at any time thereafter and Seller hereby represents, warrants, covenants and agrees to defend, indemnify and hold Purchaser harmless from any liability with respect thereto,

including attorney's fees.

12.2 Seller shall be fully responsible for and shall indemnify and hold Purchaser harmless from and against all loss, cost and expense, including reasonable attorney's fees, arising out of all operations of Seller's business (if any) from the Property prior to the Closing Date, including, but not limited to all suits, actions, damages and claims which may be asserted or threatened against the Purchaser from and after the Closing Date, but which shall have arisen out of any aspect of the business or its operations prior to the Closing Date.

### ARTICLE 13 MISCELLANEOUS

13.1 Upon acceptance of this Agreement, Seller hereby agrees that Purchaser shall be entitled to record notice of this Agreement with the appropriate real estate recording office for Oakland County, Michigan.

13.2 The covenants and agreements herein contained shall bind and inure to the benefit of the successors and assignees of Seller and Purchaser. Purchaser shall have the right to assign this Purchase Agreement without the written consent of Seller and Purchaser will thereby be released of all liability hereunder, provided, however, any such assignment shall not be effective unless such assignment is pursuant to a written instrument; assignee agrees to assume all of the obligations under this Agreement; and notice of such assignment is delivered to Seller.

13.3 For purposes of this Agreement, all notices shall be in writing and shall be addressed to the party or parties being notified at the address set forth below or at such other address as a party may from time to time designate in writing.

To Seller: Laurie Balian  
1889 Pine Street  
Birmingham, MI 48009

With a copy to: Annette Balian  
854 Northgate Road  
Rochester, MI 48306

To Purchaser: Aquila Realty Inc.  
550 Hulet Drive, Suite 103  
Bloomfield Hills, MI 48302  
Attention: Cathy Wilson

With a copy to: Timmis & Inman  
300 Talon Centre  
Detroit, MI 48207  
Attention: Bradley J. Knickerbocker, Esq.

To Escrow Agent: Devon Title Company  
1680 Crooks Rd.  
Troy, MI 48084  
(248) 273-4300  
Attention:

Notice may be given by postage prepaid, certified or registered mail, return receipt requested, or by overnight courier.

13.4 Whenever any time period hereunder expires upon a Saturday, Sunday or a legal holiday under the State of Michigan, such date shall be extended until the next succeeding business day.

13.5 Seller will defend, indemnify and hold harmless Purchaser and its successors and assigns (including reasonable attorney's fees), against and in respect of, any and all damages, claims, loss, and expense, which Purchaser may sustain resulting from any misrepresentation, breach of warranty, or nonfulfillment of any covenant, condition or agreement on the part of Seller.

13.6 The representations, warranties, covenants, and agreements contained in this Agreement and the exhibits thereto or other instrument provided for in this Agreement shall be effective as of the Closing Date, shall survive the Closing Date, and shall continue in full force and effect.

13.7 This Agreement shall be governed by the laws of the State of Michigan.

13.8 This Agreement may be executed in counterparts and all counterparts when so executed shall constitute one and the same Agreement. This Agreement shall become binding only upon attachment of all exhibits listed herein and delivery by Seller to Purchaser of a fully executed counterpart with all exhibits so attached. The date on which said delivery is made by Seller shall be referred to herein as the "Effective Date."

13.9 Time shall be of the essence.

13.10 Purchaser shall not place any signs on the property without prior written consent of the seller.

(AB)  
CW



**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date set forth below.

**SELLER:**

Dated: 3/1, 2005

By: Annette Balian  
Annette Balian  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_  
Its: \_\_\_\_\_

**PURCHASER:  
AQUILA REALTY INC.**

Dated: 3/1, 2005

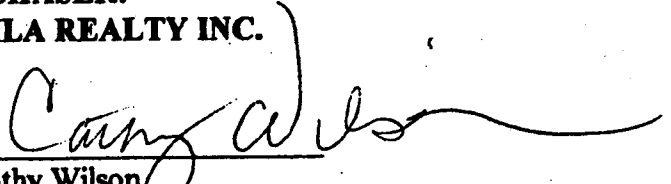
By: Cathy Wilson  
Cathy Wilson  
Its: Vice President

**PURCHASER'S RECEIPT OF ACCEPTED OFFER**

The undersigned Purchaser hereby acknowledges the receipt of the Seller's signed acceptance of the foregoing Real Estate Purchase Agreement.

**PURCHASER:  
AQUILA REALTY INC.**

Dated: 3/1, 2005

By:   
Cathy Wilson  
Its: Vice President

Devon Title Company hereby joins this Agreement for purposes of acknowledging receipt of the Earnest Money Deposit and agreeing to be bound by the terms hereof as the same relate to the Earnest Money Deposit and/or Title Insurance Company.

**DEVON TITLE COMPANY**

Dated: \_\_\_\_\_, 2005

By: \_\_\_\_\_  
\_\_\_\_\_  
Its: \_\_\_\_\_

COPY

## REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT made this 22 day of JUNE, 2004, by and between Brian Iseler, whose address is 1921 South Livernois, Rochester Hills, Michigan 48307 ("Seller") and Aquila Realty Inc., a Michigan corporation, whose address is 550 Hulet Drive, Suite 103, Bloomfield Hills, Michigan 48302 ("Purchaser").

### WITNESSETH:

This Agreement of Sale is based upon the following recitals:

A. Seller is the owner in fee simple of certain improved land located at 1921 Livernois, Rochester Hills, Oakland County, Michigan, containing approximately two (2) acres, having parcel identification number 15-223-51-001, referred to herein as the "Property". If the exact acreage and legal description are not known upon the execution hereof, then at such time as the exact legal and acreage are determined in accordance with the Survey (as defined herein), Exhibit A will be amended and attached hereto.

B. Seller has agreed to sell and Purchaser has agreed to purchase the Property pursuant to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing, it is hereby agreed:

### ARTICLE 1 PROPERTY

As used herein, the term "Property" shall mean and refer to:

1.1 The real estate described on Exhibit A and all buildings and improvements located thereon, together with all easements, air, mineral, riparian, and all tenements, hereditaments, privileges and appurtenances thereto belonging or in any way appertaining thereto, including, without limitation, the right to make any and all division rights under Section 108 of the Land Division Act, Act. No. 288 of the Public Acts of 1967, as amended ("Land Division Act");

1.2 Any land lying in the bend of any street, road or avenue, open or proposed, at the foot of or adjoining the Property to the center line thereof, if any;

1.3 Any intangible personal Property located on or about or arising out of the ownership of the Property;

1.4 Any pending or future award made in condemnation or to be made in lieu

thereof, and any unpaid award for damages to the Property;

1.5 The use of appurtenant easements, whether or not of record, strips and rights-of-way abutting, adjacent, contiguous or adjoining the Property;

1.6 All licenses, permits and franchises issued by any State, Federal or local municipal authorities, relating to the use, maintenance or operation of the Property, to the extent such licenses, permits and franchises are transferable;

1.7 All plans and specifications in possession of Seller relating to the construction of any existing improvements on the real estate and all unexpired claims, warranties, guaranties and sureties received by Seller in connection with the construction, improvement or equipment of or on the Property; and

1.8 All contracts or other agreements for services or maintenance relating to the Property.

## **ARTICLE 2 PURCHASE AND SALE: PURCHASE PRICE**

2.1 Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, the Property. The total purchase price for the Property shall be [REDACTED] [REDACTED] Dollars and shall be paid at closing (as hereinafter defined), less the deposit (as hereinafter defined) and shall be subject to adjustments and prorrations as set forth herein.

## **ARTICLE 3 DEPOSIT AND INVESTIGATION PERIOD**

3.1 Upon acceptance of this Agreement, Purchaser shall deliver an earnest money deposit in cash in the amount of Ten Thousand (\$10,000.00) Dollars to Cislo Title Company, 40700 Woodward Avenue, Suite 200, Bloomfield Hills, Michigan 48304 (the "Escrow Agent"), to be held in accordance with the terms hereof (such deposit and any interest thereon is hereinafter referred to as the "Deposit"). The Escrow Agent shall place the Deposit in an interest bearing demand account or a bank money market account. The Deposit is intended solely to evidence Purchaser's interest in acquiring the Property and Seller shall not have any right in the Deposit, nor shall Escrow Agent have any obligation to Seller hereunder. In the event Purchaser shall terminate this Agreement during the Inspection Period, the Escrow Agent shall immediately return the Deposit to Purchaser upon receipt of notice of such termination, otherwise, the Deposit shall be applied against the Purchase Price at Closing.

3.2 Purchaser shall have one hundred eighty (180) days from and after the execution of this Agreement by Seller (the "Investigation Period") to determine, in its sole and absolute discretion, whether the Property is in all respects acceptable to Purchaser and otherwise suitable for development for Purchaser's intended use of the Property, including,

but not limited to: review of all documents and materials, including leases furnished to Purchaser by Seller; completion of such tests, investigations, and environmental studies as Purchaser may determine to be necessary or helpful; and to obtain all governmental approvals, including but not limited to site plan approval, and building permits for the Property and, if applicable, on adjacent properties (the "Project"), as determined solely by Purchaser. At any time during this Investigation Period, Purchaser shall have the right to terminate this Agreement for any reason or for no reason in Purchaser's sole discretion, provided only that written notice of Purchaser's election to terminate is furnished to Seller. In the event that Purchaser elects to terminate this Agreement pursuant to this Section 3.2, the Deposit shall be promptly returned to Purchaser upon Escrow Agent's receipt of notice of termination from Purchaser.

3.3 In the event Purchaser has not obtained all governmental approvals (as herein defined), Purchaser shall be entitled to extend the Investigation Period for one (1) period of one hundred eighty (180) days upon notice to Seller given at any time prior to the expiration of the Investigation Period together with payment to the Escrow Agent of an "Extension Deposit" in the amount of Seven Thousand (\$7,000.00) Dollars (the "Additional Investigation Period"). At any time during the Additional Investigation Period, Purchaser shall have the right to terminate this Agreement provided only that written notice of Purchaser's election to terminate is furnished to Seller prior to the expiration of the Additional Investigation Period. The Extension Deposit shall be applied to the Purchase Price if the sale and purchase under this Agreement is consummated, but shall be non-refundable in all events except Seller's default or Seller's inability to convey title to the Purchaser at Closing, as required under this Agreement.

3.4 In connection with Purchaser's investigation of the Property (and throughout the term of this Agreement), Purchaser and its employees, designees and agents shall have the right to inspect, or cause to be inspected, the physical condition of the Property and all other documents and materials of any kind relating to the Property. Seller agrees to grant to Purchaser and its employees and agents access to the Property and the aforesaid related materials at all reasonable times and to cooperate with Purchaser in such inspection. Purchaser shall have the right to perform soil borings and other engineering, mechanical and environmental tests upon the Property. Purchaser shall have the right to discuss the development of the Property with appropriate governmental authorities, representatives of utility companies and others deemed necessary by Purchaser.

In the event Purchaser shall not terminate this Agreement during the Investigation Period or Additional Investigation Period, as the case may be, then the Closing shall occur within forty-five (45) days of the expiration of the Investigation Period or Additional Investigation Period and the Deposit shall be applied to the Purchase Price for the Property at Closing. Notwithstanding the foregoing, Purchaser may waive any remaining time under any available Investigation Period by notice to Seller and to Escrow Agent, in which event Closing shall occur within thirty (30) days of such notice. Closing shall occur at the offices of Timmis & Inman, or at such other place as shall be mutually agreeable to the parties.

**ARTICLE 4**  
**TITLE, SURVEY AND INSPECTION MATTERS**

4.1 Seller agrees, at Seller's sole cost and expense, to furnish Purchaser, as soon as possible, but in no event later than thirty (30) days after the execution of this Agreement by Seller (or at such other date as is expressly provided below), the following:

(a) a commitment for a policy of title insurance (ALTA 1970 Form B) for the Property without standard exceptions. The Commitment shall be in the amount of the Purchase Price, dated as of a date later than the date hereof, issued by a title insurance company acceptable to Purchaser (the "Title Company"), and shall have attached to it legible copies of all documents listed as exceptions in Schedule B thereto. If objection to title or the Commitment is made, or if Purchaser requests endorsements to the title commitment to satisfy Purchaser or any prospective lender of Purchaser, Seller shall have thirty (30) days from the date it is so notified in writing to remedy the claimed defects and to deliver a revision of the Commitment satisfactory to Purchaser. If any defect is not or cannot be remedied within this time, Purchaser shall have the right to (a) cure the defect by its own efforts, complete the transaction and deduct from the Purchase Price the amount necessary to cure the defect or (b) terminate this Agreement. At Closing, the Title Company shall update the Commitment as of the Closing Date and endorse the Commitment to Purchaser's satisfaction.

(b) a survey (the "Survey") of the Property prepared by a land surveyor licensed under the laws of the State of Michigan. The Survey shall be (a) prepared in compliance with Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys (1988), (b) certified to Purchaser and to the Title Company and to any lender of Purchaser, and (c) dated later than the date of this Agreement. The Survey shall show the location of all boundaries, improvements, structures, easements, right-of-ways, restrictions, covenants, encroachments, wetlands, flood plains, flood ways and such other information as Purchaser or Purchaser's lender shall reasonably require. The Survey shall also certify as to the total acreage contained within the Property, means of ingress and egress to a public road or street are available, the parcels (if more than one) are contiguous, and the net usable acreage contained within the property as herein defined. If the Survey is for any reason unacceptable to Purchaser, Seller shall have thirty (30) days from the date it is notified in writing by Purchaser of the conditions of unacceptability to deliver a revision of the Survey satisfactory to Purchaser. If Seller is unable to remedy the defect in the Survey within this time, Purchaser shall have the right to (a) cure the defect by its own efforts and deduct from the Purchase Price the amount necessary to cure the defect or (b) terminate this Agreement.

Notwithstanding anything herein to the contrary, in the event the survey shows the Property to be less than 2 acres, defined as net of wetlands, drainage easements and public road R.O.W., this Agreement shall be amended and the Purchase Price shall be the product of the total square footage multiplied by [REDACTED] per square foot.

(c) a copy of the real and personal Property tax assessments, if any, and tax

bills with respect to the Property since 1990 along with any notices received regarding potential changes in the amount of taxes to be paid.

(d) any environmental, soil borings, reports, wetland studies, engineering reports or other studies or reports in the Seller's possession concerning the physical condition and operation of the Property or recommended improvements.

(e) any and all other reports, studies, plans, specifications, agreements, contracts relating directly or indirectly to the Property or which may affect Purchaser's proposed development of the Property.

## **ARTICLE 5 CLOSING**

At Closing, Seller shall execute and deliver to Purchaser (as required) and Purchaser shall execute and deliver to Seller (as required) the following:

### 5.1 Seller shall:

(a) execute and deliver to Purchaser a Warranty Deed to the Property conveying: (i) any and all land division rights under the Land Division Act; (ii) title to the Property which is marketable, subject only to recorded building and use restrictions and recorded easements acceptable to Purchaser, free and clear of all liens, claims, encumbrances and rights of any other parties whatsoever and otherwise in a condition acceptable to the Title Company for the issuance of a title insurance policy pursuant to the Commitment (the "Title Policy"), together with a Transfer Valuation Affidavit setting forth the Purchase Price;

(b) execute and deliver to Purchaser such other documents relating to the purchase of the Property and which may reasonably be requested by Purchaser or Title Company; and

(c) pay real estate transfer taxes (if any) imposed under Michigan law, title insurance premiums, and any other costs which are incurred by the Seller in connection with delivery of title or incident to Seller's obligations pursuant to this Agreement.

### 5.2 At Closing, Purchaser shall:

(a) pay to Seller the Purchase Price less the Deposit, subject to adjustments and prorations as set forth in Article 6;

(b) pay any recording fees relating to the recording of instruments delivered under this Agreement; and

(c) execute and deliver all other documents which may be necessary in

connection with the Closing. At the Closing, Escrow Agent shall release the Deposit to Seller.

## **ARTICLE 6 PRORATION OF ITEMS**

The following items shall be prorated between the parties and shall be adjustments to the Purchase Price:

6.1 Real and personal property taxes attributable to the period prior to the Closing Date shall be allocated to Seller and all real and personal property taxes attributable to the period on and after the Closing Date shall be allocated to Purchaser. Any tax bill which is required to be prorated pursuant to this Section 6.1, and which has not yet been received by the Closing Date will be estimated using the current year's assessment and prior year's mileage rate; however if the current year's assessment is not available then such estimate will be the prior year's tax bill. The parties agree that should the actual taxes be higher or lower than estimated pursuant to the previous sentence, a subsequent cash adjustment shall be made to correct the proration, and this provision of the Agreement shall survive the Closing Date. Any special assessments with respect to the Property which become due and payable after the Closing Date shall (excluding those payable in installments) be paid by Purchaser. Any special assessments with respect to the Property which become due and payable before the Closing Date (including those payable in installments, which shall be deemed due and payable by Seller at Closing), shall be paid by Seller.

6.2 Purchaser shall receive a credit against the Purchase Price for all liquidated costs, charges, liabilities or obligations of any nature which are attributable to the period prior to the Closing Date and remain unpaid as of the Closing Date and Seller shall receive a credit for any liquidated costs, charges, liabilities or obligations of any nature have been paid by Seller and are attributable to the period on and after the Closing Date.

## **ARTICLE 7 DEFAULT**

7.1 If prior to the Closing Seller fails to perform in accordance with this Agreement or if any material representation or warranty of Seller is untrue, Seller shall be in default. In the event of a default hereunder by Seller or if any condition to Purchaser's obligations hereunder which is Seller's obligation to satisfy is not satisfied on or before the Closing, the Deposit shall be returned to Purchaser in accordance with Section 7.2 and Purchaser may institute an action for damages, or the Purchaser may elect to waive such default or condition precedent and proceed to close. Alternatively, Purchaser may elect to specifically enforce the terms hereof and institute an action for the recovery of any damages sustained by the Purchaser. In the event the Purchaser fails to perform in accordance with this Agreement, Purchaser shall be in default. In the event of default hereunder by Purchaser, this Agreement shall terminate and Seller shall request the Deposit from the Escrow Agent in accordance with Section 7.2, as liquidated damages



and, as its sole and exclusive remedy. In all other cases the Deposit (or the balance thereof) shall be returned to Purchaser. The remedies provided for in this Section 7 are the exclusive remedies available in the event of default as described in this Section 7.

7.2 Subject to Section 7.1, in the event that Purchaser has not terminated during the Investigation Period, Additional Investigation Period or as otherwise provided herein, and following expiration of the Investigation Period, Additional Investigation Period or other time period as provided herein, the Closing shall not occur due to a default of Seller or Purchaser, then upon receipt of an affidavit from the non-breaching party stating the reasons for the failure to close, together with written instructions as to the release of the Deposit, the Escrow Agent shall release the Deposit in accordance with said instructions unless Escrow Agent receives an objection from the other party within ten (10) days of receipt of the Affidavit directing release of the Deposit, in which case Escrow Agent shall hold the Deposit until it receives joint instructions from Seller and Purchaser as to the release of the Deposit. Escrow Agent may also deliver the Deposit to a court of competent jurisdiction and thereafter be relieved of all liability whatsoever with respect to the same. All notices to the Escrow Agent shall be sent to all parties to this Agreement at the same time as such notices are sent to the Escrow Agent.

## **ARTICLE 8 REPRESENTATIONS AND WARRANTIES**

Seller warrants and represents that as of the date hereof and at Closing:

8.1 Seller has full power and authority to enter into this Agreement and to consummate the transactions contemplated herein. This Agreement and all other agreements or documents to be executed by Seller pursuant hereto are or shall be as of the Closing Date, as the case may be, duly executed and delivered by Seller and shall be valid, binding and enforceable in accordance with their respective terms. Seller does not need the consent of any of its partners, members, or shareholders, as the case may be, to the transaction contemplated by this Agreement which has not been received and neither the execution of this Agreement nor the consummation of the transactions contemplated herein will (i) require a consent which will not have been obtained on or prior to the Closing Date under any agreement to which a Seller is bound, including but not limited to, any right of first refusal or option to purchase granted to a third party, or (ii) give rise to any other rights, at law or by agreement, that would give rise to any rights of first refusal or prevent the consummation of the transaction contemplated herein.

8.2 None of the Property has been excavated or used as a landfill. No fill has been deposited on the Property. No construction debris or other debris (including, without limitation, rocks, stumps or concrete) is buried on any of the Property. There are no hazardous wastes, toxic materials, electrical transformers or underground storage tanks in, on, about or beneath the Property or asbestos or any other material or substance present in, on, about or beneath the Property or any other fact or circumstance which results in noncompliance with any federal, state and local environmental laws and regulations.

8.3 Seller has good and marketable title to the Property free and clear of all liens and encumbrances except as set forth in Exhibit B attached hereto and upon purchase from Seller, Purchaser shall acquire ownership of the entirety of interests in the Property, including without limitation all rights to develop the Property without restriction or limitation by any other persons and, further, all rights to split the Property.

8.4 There are no violations by Seller of any laws, zoning ordinances or building rules or regulations affecting the Property. Neither Seller nor the Property are subject to any judgment, order, writ, injunction or decree of any court or governmental instrumentality which might prohibit the consummation of the transaction contemplated herein. There is no claim or any litigation, proceeding or investigation existing or threatened against Seller (including Bankruptcy) which might prohibit the consummation of the transaction contemplated herein or the development of the Property as the Project.

8.5 Seller is not subject to any commitment, obligation or agreement, including, but not limited to, any right of first refusal or option to purchase granted to a third party, which might prevent the consummation of the transaction contemplated herein or which might bind Purchaser, subsequent to the consummation of this Agreement.

8.6 Neither the whole nor any portion of the Property is subject, directly or indirectly, to any governmental decree or order to be sold, condemned, expropriated or otherwise taken by any public authority, nor are there any existing facts or conditions known to Seller which might give rise to any forced sale, condemnation, expropriation or other taking.

8.7 Seller has not received any notice and has no knowledge of any planned or commenced public improvements which may result in special assessments against the Property or which might otherwise materially affect the Property.

8.8 The Property is adequately served by utilities, including electricity, and telephone and Seller is not aware of any inadequacies with respect to such utilities.

8.9 There are no other facts or circumstances affecting the Property that may affect Purchaser's proposed development or use of the Property or which might prevent the consummation of the transactions contemplated herein.

8.10 The Property is not located in a "flood plain" or "flood way" or any area requiring flood insurance, nor are there any areas designated as "wetlands".

8.11 Seller has received no notice from any mortgagee or vendor that a default or breach exists under any agreement which remains uncured.

8.12 None of the information prepared and provided by Seller, or its agents pursuant hereto or any of the representations and warranties set forth in this Section 8, contain any untrue statement of material fact or fail to state a material fact necessary to make the statements contained therein, in light of the circumstances in which they were

made, not misleading.

## **ARTICLE 9 DAMAGE AND CONDEMNATION**

9.1 The risk of loss or damage to the Property by fire, condemnation or otherwise prior to the date of Closing shall remain with the Seller. Seller shall promptly notify Purchaser of any impending or actual condemnation proceedings against the Property or any portion thereof of which Seller has notice. If any portion of the Property shall be threatened to be taken as a result of condemnation proceedings or damaged as a result of fire or other casualty prior to the Closing, Purchaser shall have the right to:

(a) terminate this Agreement by written notice to Seller within ten (10) days after receipt of notice of such proceedings or damage, in which case Purchaser shall receive the Deposit and neither party shall have any further liability hereunder; or

(b) proceed to Closing as herein provided, agreeing to take the Property in its then-current condition, and in such event Purchaser shall be entitled to receive all of the condemnation or insurance proceeds payable as a result of such condemnation or such damage or, at Purchaser's option, the Purchase Price shall be reduced by the amount of such condemnation or insurance proceeds which shall then belong to Seller.

The provisions of this Article 9 shall be in lieu of (and Seller and Purchaser hereby waive the provisions of) any contradictory provision of any statute or case law affecting risk of loss of real or personal Property.

## **ARTICLE 10 SELLER'S CONTINUING OBLIGATIONS**

10.1 From the date of this Agreement to the Closing Date, Seller shall conduct its business involving the Property in the ordinary course, and during said period will:

(a) refrain from transferring any of the Property or creating on the Property any easements, liens, mortgages, encumbrances or other interest without the prior written consent of Purchaser;

(b) refrain from entering into any contracts or other commitments regarding the Property, other than in the ordinary and usual course of business, without the prior written consent of Purchaser;

(c) continue to maintain and repair the Property and to keep the same in good condition and repair, and Seller will permit no wasting of the Property;

(d) keep in effect Seller's existing policies of public liability and hazard and extended coverage insurance insuring the Property;

(e) promptly comply or cause there to be compliance with all notices of violation of laws or municipal ordinances, regulations, orders or requirements of department of housing, building, fire, labor, health, or other state, city or municipal departments or other governmental authorities having jurisdiction against or affecting the Property or the use of operation thereof.

(f) continue to pay on a timely basis and before any delinquent late charge or interest shall apply all real estate, personal Property tax, insurance and all other expenses.

(g) refrain from excavating the Property or allowing the Property to be used as a landfill and Seller will not allow construction debris or other debris (including, without limitation, rocks, stumps or concrete) to be buried on any of the Property.

(h) perform its obligations on a timely basis and without default under any agreement relating to the Property.

10.2 Upon acceptance hereof, Seller agrees it shall not, nor shall any of its representatives or agents, continue or enter into any discussions or agreements for the sale, exchange or transfer of the Property with any party other than Purchaser while this transaction is pending.

10.3 At all times from the date hereof to Closing, Seller shall make all payments required to be made under any mortgage, land contract or other financing instrument, if any, affecting all or any part of the Property in the manner and at the times provided thereunder and perform all other obligations required thereunder. Prior to or at Closing, Seller shall cause any mortgage, land contract, financing instrument or any other encumbrance to be paid and discharged of record. Seller has received no notice from any mortgagee or vendor that a default or breach exists which remains uncured, and no such notice shall have been received and such default or breach remain uncured at Closing.

## **ARTICLE 11 CONDITIONS PRECEDENT TO CLOSE**

11.1 Anything to the contrary notwithstanding, Purchaser shall have no obligation to consummate this transaction, unless and until the conditions set forth in this Article have been satisfied by Seller or waived by Purchaser in writing. Such conditions precedent are as follows:

(a) All representations, warranties and covenant of Seller hereunder shall be true and correct in all material respects on the Closing Date.

(b) Between the date of this Agreement and Closing Date, there shall have been no intervening destruction, damage or condemnation which would entitle Purchaser to terminate this Agreement.

(c) No hazardous wastes or violations of any State or Federal environmental law shall have been discovered.

(d) In connection with any representation or warranty which is limited to Seller's knowledge, no information shall have been discovered which, if known by Seller, would make such representation or warranty incorrect or misleading.

## **ARTICLE 12 NO ASSUMPTION OF LIABILITIES**

12.1 The parties acknowledge that this transaction contemplates only the sale and purchase of the Property and that Seller is not selling a business, nor do the parties intend that Purchaser be deemed a successor of Seller with respect to any liabilities of Seller to any third parties. Accordingly, Purchaser shall neither assume nor be liable for any of the debts, liabilities, taxes or obligations of, or claims against, Seller or of any other person or entity of any kind or nature, whether existing now, on the Closing Date or at any time thereafter and Seller hereby represents, warrants, covenants and agrees to defend, indemnify and hold Purchaser harmless from any liability with respect thereto, including attorney's fees.

12.2 Seller shall be fully responsible for and shall indemnify and hold Purchaser harmless from and against all loss, cost and expense, including reasonable attorney's fees, arising out of all operations of Seller's business (if any) from the Property prior to the Closing Date, including, but not limited to all suits, actions, damages and claims which may be asserted or threatened against the Purchaser from and after the Closing Date, but which shall have arisen out of any aspect of the business or its operations prior to the Closing Date.

## **ARTICLE 13 MISCELLANEOUS**

13.1 Upon acceptance of this Agreement, Seller hereby agrees that Purchaser shall be entitled to record notice of this Agreement with the appropriate real estate recording office for Oakland County, Michigan.

13.2 The covenants and agreements herein contained shall bind and inure to the benefit of the successors and assignees of Seller and Purchaser. Purchaser shall have the right to assign this Purchase Agreement without the written consent of Seller and Purchaser will thereby be released of all liability hereunder, provided, however, any such assignment shall not be effective unless such assignment is pursuant to a written instrument; assignee agrees to assume all of the obligations under this Agreement; and notice of such assignment is delivered to Seller.

13.3 For purposes of this Agreement, all notices shall be in writing and shall be addressed to the party or parties being notified at the address set forth below or at such other address as a party may from time to time designate in writing.

To Seller: Brian Iseler  
1921 South Livernois  
Rochester Hills, MI 48307

With a copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To Purchaser: Aquila Realty Inc.  
550 Hulet Drive, Suite 103  
Bloomfield Hills, MI 48302  
Attention: Cathy P. Wilson

With a copy to: Timmis & Inman  
300 Talon Centre  
Detroit, MI 48207  
Attention: Bradley J. Knickerbocker, Esq.

To Escrow Agent: Cislo Title Company  
40700 Woodward Avenue, Suite 200  
Bloomfield Hills, MI 48304  
Attention: Matt Delecki

Notice may be given by postage prepaid, certified or registered mail, return receipt requested, or by overnight courier.

13.4 Whenever any time period hereunder expires upon a Saturday, Sunday or a legal holiday under the State of Michigan, such date shall be extended until the next succeeding business day.

13.5 Seller will defend, indemnify and hold harmless Purchaser and its successors and assigns (including reasonable attorney's fees), against and in respect of, any and all damages, claims, loss, and expense, which Purchaser may sustain resulting from any misrepresentation, breach of warranty, or nonfulfillment of any covenant, condition or agreement on the part of Seller.

13.6 The representations, warranties, covenants, and agreements contained in this Agreement and the exhibits thereto or other instrument provided for in this Agreement shall be effective as of the Closing Date, shall survive the Closing Date, and shall continue in full force and effect.

13.7 Purchaser shall grant Seller the right to remove any improvements from the Property prior to Purchaser's demolition of the existing improvements. Purchaser shall hold Seller harmless from any liability arising out of such removal. Purchaser shall provide Seller with thirty (30) days advance notice in which time Purchaser may remove such

items. Purchaser shall not create a safety hazard as a result of the removal of any improvements and shall coordinate its efforts with Seller's work. Purchaser shall notify Seller of its intent and items to be removed prior to commencement of removal of said items.

13.8 This Agreement shall be governed by the laws of the State of Michigan.

13.9 This Agreement may be executed in counterparts and all counterparts when so executed shall constitute one and the same Agreement. This Agreement shall become binding only upon attachment of all exhibits listed herein and delivery by Seller to Purchaser of a fully executed counterpart with all exhibits so attached. The date on which said delivery is made by Seller shall be referred to herein as the "Effective Date."

13.9 Time shall be of the essence.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth below.

**SELLER:**

Dated: JUNE 22, 2004

By: Brian Iseler  
Brian Iseler  
Its: \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**PURCHASER:  
AQUILA REALTY INC.**

Dated: June 22, 2004

By: Cathy P. Wilson  
Cathy P. Wilson  
Its: Vice President

**PURCHASER'S RECEIPT OF ACCEPTED OFFER**

The undersigned Purchaser hereby acknowledges the receipt of the Seller's signed acceptance of the foregoing Real Estate Purchase Agreement.

**PURCHASER:  
AQUILA REALTY INC.**

Dated: June 22, 2004

By: Cathy P. Wilson  
Cathy P. Wilson  
Its: Vice President

Cislo Title Company hereby joins this Agreement for purposes of acknowledging receipt of the Earnest Money Deposit and agreeing to be bound by the terms hereof as the same relate to the Earnest Money Deposit and/or Title Insurance Company.

**CISLO TITLE COMPANY**

Dated: \_\_\_\_\_, 2004

By: \_\_\_\_\_  
\_\_\_\_\_  
Its: \_\_\_\_\_





**AQUILA REALTY INC.**

**VIA FEDERAL EXPRESS**

January 17, 2005

Mr. Brian Iseler  
1921 South Livernois  
Rochester Hills, Michigan 48307

Re: Purchase Agreement  
1921 South Livernois, Rochester Hills

Dear Brian:

Per our phone conversation of January 14, 2005, this letter shall serve as our written mutual agreement to extend the initial Investigation Period for sixty (60) days to March 20, 2005

Kindly indicate your acceptance to the foregoing by signing where indicated below and returning to me in the enclosed envelope.

Sincerely,

Cathy P. Wilson  
Vice President

Enclosure

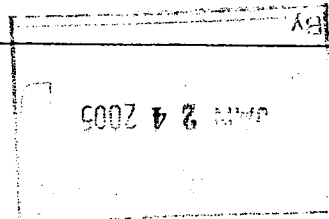
cc: Terry Sheerin, Cislo Title  
Brad Knickerbocker  
Michael V. Polsinelli  
Pat Reidy

AGREED AND ACCEPTED THIS \_\_\_ DAY OF JANUARY, 2005.

By:   
Brian Iseler

Date: 1-20-05

H:\users\lrobertson\cpw\BIseler\1921LivernoisRochesterHillsPA 01.17.05





**AQUILA REALTY INC.**

March 16, 2005

**Mr. Terrence A. Sheerin  
Cislo Title Company  
40700 Woodward Avenue, Suite 200  
Bloomfield Hills, Michigan 48304**

**Re: Purchase Agreement, 1921 Livernois Road  
Rochester Hills, Michigan**

Dear Terry:

Pursuant to the terms of the above referenced Purchase Agreement, we are hereby extending the Investigation Period and have enclosed a check in the amount of [REDACTED] (Extension Deposit).

Please feel free to call me if you have any questions. Thanks.

Sincerely,

Cathy P. Wilson

Enclosure

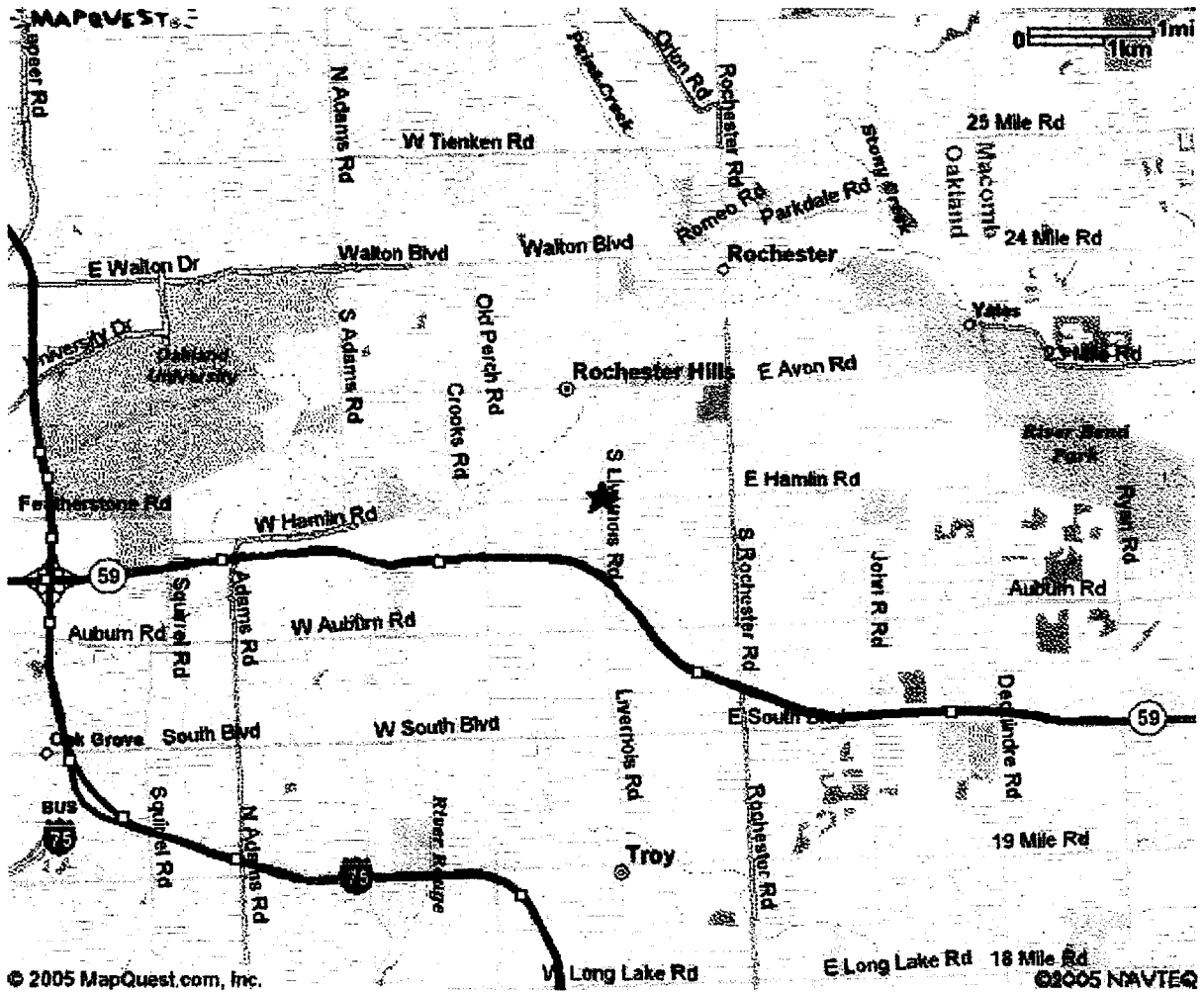
cc: Brian Iseler

H:\users\robertson\cpw\TSheerinCisloTitleIselerPAExtensionDeposit 03.16.05

## Location Maps

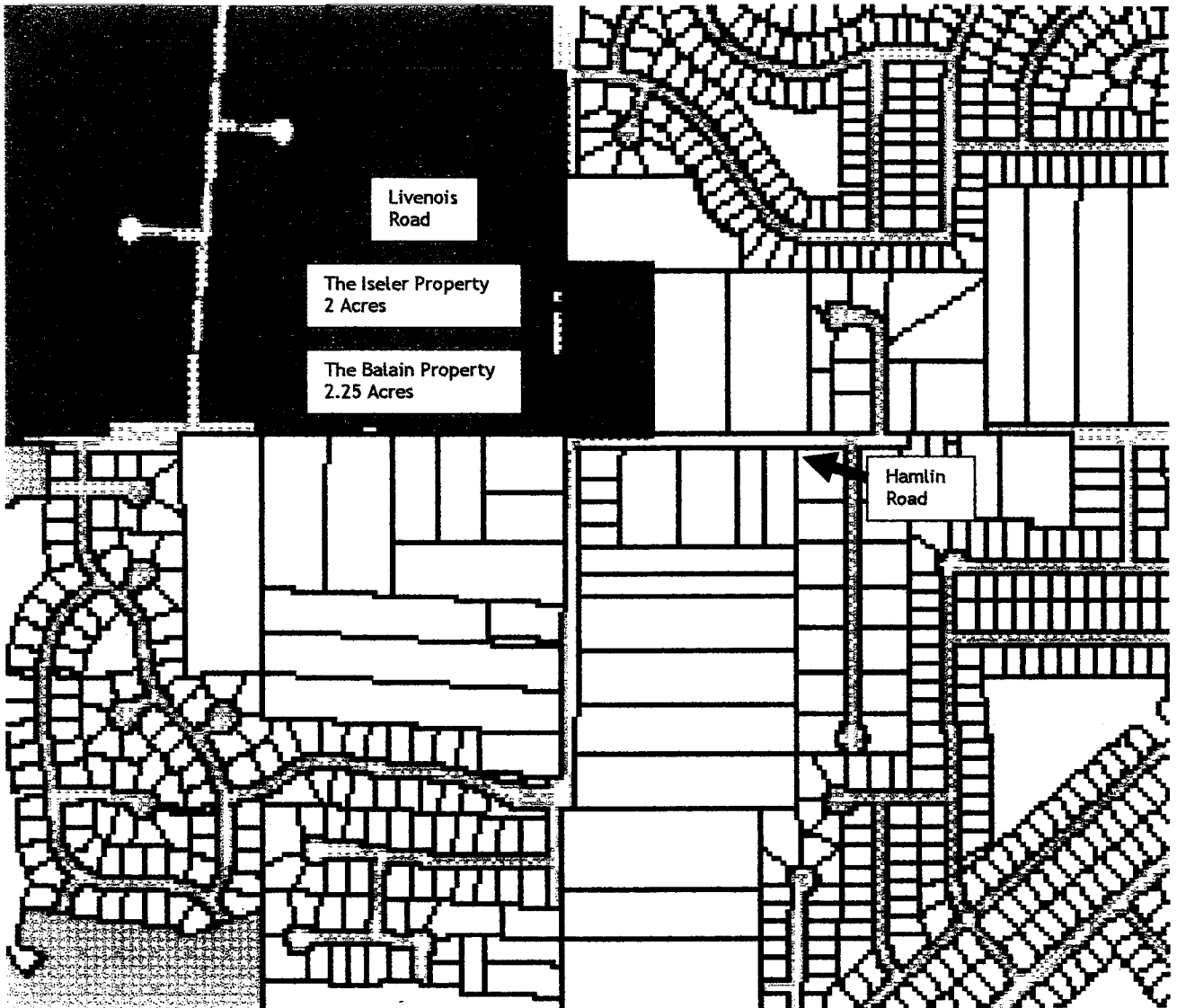
# MAPQUEST

Notes



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This map is informational only. No representation is made or warrant given as to its content. User assumes all risk of use. MapQuest and its subsidiaries assume no responsibility for any loss or delay resulting from such use.



North

## Location Map

Rezoning Application  
The Balain & Isler Properties  
Property Identification Number 15-22-351-002 & 15-22-351-001  
Hamlin and Livernois, Rochester Hills, Michigan

# The Properties' Legal Descriptions

[Click here for instructions.](#)[Printer Friendly Version](#)

**General Information for Parcel 70-15-22-351-002  
Assessing Data Current As Of: 15:05 06/22/2004**

**Property Address**

ROCHESTER HILLS, MI 48307

**Owner Information**

BALIAN ANNETTE  
854 NORTHGATE RD  
ROCHESTER, MI 48306-2514

**Taxpayer Information**

SEE OWNER INFORMATION

**General Information For Tax Year 2004**

|                         |          |                        |          |                    |        |
|-------------------------|----------|------------------------|----------|--------------------|--------|
| <b>Property Class:</b>  | RV       | <b>Assessed Value:</b> | \$80,000 | <b>P.R.E. %:</b>   | 0.000% |
| <b>School District:</b> | 220      | <b>Taxable Value:</b>  | \$29,410 | <b>Date Filed:</b> | //     |
| <b>SEV:</b>             | \$80,000 | <b>Map #</b>           | OFF      |                    |        |

**Land Information**

|                     |           |                        |            |                          |            |
|---------------------|-----------|------------------------|------------|--------------------------|------------|
| <b>Acreage:</b>     | 2.74      | <b>Frontage (EFF):</b> | 398.00 Ft. | <b>Depth (EFF):</b>      | 300.00 Ft. |
| <b>Zoning Code:</b> | RV        | <b>Mortgage Code:</b>  |            | <b>Renaissance Zone:</b> | NO         |
| <b>Land Value:</b>  | \$160,000 |                        |            |                          |            |

**Legal Information**

T3N, R11E, SEC 22 PART OF SW 1/4 BEG AT SW SEC COR, TH N 399.94 FT, TH N 89-40-00 E 335 FT, TH S 399.91 FT, TH S 89-39-00 W 335 FT TO BEG, EXC S 60 FT IN RD, ALSO EXC W 60 FT OF N 260 FTOF S 320 FT IN RD 2.26 AB321B-2

**Comments**

6/7/02 REAPPR.

**Sales**

| Sale Date | Sale Price | Instrument | Grantor | Grantee | Terms Of Sale | Liber/Page | Short Note |
|-----------|------------|------------|---------|---------|---------------|------------|------------|
|-----------|------------|------------|---------|---------|---------------|------------|------------|

[Click here for instructions.](#)

Printer Friendly Version

## General Information for Parcel 70-15-22-351-001

### Assessing Data Current As Of: 15:05 06/22/2004

**Property Address**

1921 S LIVERNOIS RD  
ROCHESTER HILLS, MI 48307-3369

**Owner Information**

ISELER BRIAN  
1921 S LIVERNOIS RD  
ROCHESTER HILLS, MI 48307-3369

**Taxpayer Information**

SEE OWNER INFORMATION

**General Information For Tax Year 2004**

|                         |           |                        |           |                    |            |
|-------------------------|-----------|------------------------|-----------|--------------------|------------|
| <b>Property Class:</b>  | RI        | <b>Assessed Value:</b> | \$100,360 | <b>P.R.E. %:</b>   | 100.000%   |
| <b>School District:</b> | 220       | <b>Taxable Value:</b>  | \$92,330  | <b>Date Filed:</b> | 02/15/1997 |
| <b>SEV:</b>             | \$100,360 | <b>Map #</b>           | OFF       |                    |            |

**Land Information**

|                     |          |                        |            |                          |            |
|---------------------|----------|------------------------|------------|--------------------------|------------|
| <b>Acreage:</b>     | 2.00     | <b>Frontage (EFF):</b> | 260.00 Ft. | <b>Depth (EFF):</b>      | 335.00 Ft. |
| <b>Zoning Code:</b> | RI       | <b>Mortgage Code:</b>  |            | <b>Renaissance Zone:</b> | NO         |
| <b>Land Value:</b>  | \$90,000 |                        |            |                          |            |

**Legal Information**

T3N, R11E, SEC 22 PART OF SW 1/4 BEG AT PT DIST N 399.94 FT FROM SW SEC COR, TH N 260.06 FT, TH N 89-39-00 E 335 FT, TH S 260.16 FT, TH S 89-40-00 W 335 FT TO BEG 2 AB321B-1

**Comments**

04-29-2002 REAPPRAISAL- 2 CARS IN DRIVE, NO ANSWER AT DOOR, L.L. ON DOOR AND MEASURED. SOME BRICKS CRUMBLING IN BACK OF THE HOUSE IN THE CORNER WHERE THE BI LEVEL AND SLAB AREA MEET. IT APPEARS IT MAY BE DUE TO WATER DAMAGE COMING OFF FROM THE ROOF. BRICK IS ALSO CRUMBLING AROUND ONE OF THE CHIMNEY'S. HOUSE HAS SOME NEWER WINDOWS & SOME OLDER WINDOWS. SHINGLES APPEAR TO BE NEWER, BUT AROUND THE OTHER CHIMNEY, THEY ARE PULLIN UP. HOUSE HAS OLDER SIDING, EXTERIOR APPEARS TO BE IN NEED OF MAINTAINANCE. ADDED DRIVEWAY. HOUSE SITS ON A LARGE PEICE OF PROPERTY, BUT IS DIRECTLY ACROSS FROM COMMERCIAL PROPERTIES/ SITS ON A MAIN ROAD BUT IS FARTHER BACK ON THE LOT. OVERALL CONDITION IS AVERAGE. - KMS 05-14-02 HAD APT. WENT THRU HOUSE. PER H/O HE PURCHASED THE HOUSE FROM THE ROCHESTER ATHLETIC CLUB. THE HOUSE SAT VACANT FOR 3 YEARS BEFORE HE PURCHASED IT. DURING THAT TIME THE FURNACE WAS SHUT OFF BUT THE WATER WAS NOT, THE PIPES BURST AND CAUSED WATER DAMAGE IN THE LOWER LEVEL. H/O REMOVED PARTITIONS IN THE LOWER LEVEL, NOW HAS NO FINISH, JUST CEMENT FLOOR AND BLOCK WALLS AND DROP CEILING. KITCHEN WAS IN POOR CONDITION AT TIME OF SALE, IT HAS NOW BEEN UPDATED. BATHS ARE BOTH OLD AND STILL DATED. FURNACE IS ORIGINAL, BASEMENT HAS SOME MOISTURE PROBLEMS AROUND THE WALL NEAR THE FLOOR, NO ACTUAL FLOODING, JUST MOISTURE COLLECTING ON THE BLOCK. \*\*SALE NOT REPRESENTATIVE DUE TO CONDITION\*\* - KMS

**Sales**

| Sale Date  | Sale Price | Instrument | Grantor                  | Grantee      | Terms Of Sale     | Liber/Page | Short Note |
|------------|------------|------------|--------------------------|--------------|-------------------|------------|------------|
| 02/14/1997 | \$145,000  | WD         | #ROCHESTER ATHLETIC CLUB | ISELER,BRIAN | ARMS LENGTH TRANS | 17027:147  | OFF        |



**Deed Restrictions  
Letters from Property Owners**

May 4, 2005

Mr. Ed Anzek  
Planning Department Director  
City of Rochester Hills  
1000 Rochester Hills Drive  
Rochester Hills, MI 48309

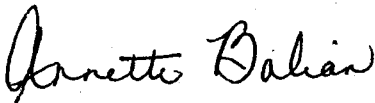
RE: Deed Restrictions  
Rezoning of Property, The Balian Property  
Property No. 15-22-351-00 2  
Located at the Northeast Corner of Hamlin and Livernois

Dear Mr. Anzek:

The deed restrictions for my property, as evidenced from the title commitment enclosed herein, include an easement for the construction and maintenance of a public water main.

This information is being provided per the city's rezoning application requirements.

Yours truly,

A handwritten signature in cursive script that reads "Annette Balian".

Mrs. Annette Balian

Enclosure

Issued Through:  
**DEVON TITLE AGENCY**  
1680 Crooks Road  
Troy, MI 48084  
(248) 273-4300

Agents for: **COMMONWEALTH LAND TITLE INSURANCE COMPANY**

**ALTA COMMITMENT**

**SCHEDULE A**

**COMMITMENT NO. 202598**

1. **Effective Date: December 10, 2003, AT 8:00 am**
2. **Policy or policies to be issued:** **AMOUNT**
  - (a) **OWNERS POLICY** **[REDACTED]**  
**Proposed Insured:**  
**To Be Determined**
  - (b) **MORTGAGEE POLICY** **\$1,000.00**  
**Proposed Insured:** **(W/O STD. EXCEPTIONS)**  
**To Be Determined, its successors and/or assigns as their respective interests may appear.**
3. **The estate or interest in the land described or referred to in this Commitment and covered herein is Fee Simple and title thereto is at the effective date hereof vested in:**  
**Annette T. Balian, Trustee under the Annette T. Balian Revocable Trust dated January 12, 1983**
4. **The land referred to in this commitment is described as follows:**  
**Land situated in the City of Rochester Hills, County of Oakland, State of MI.**  
**Part of the Southwest 1/4, Town 3 North, Range 11 East, Section 22, Michigan; described as follows:**  
**Beginning at the Southwest corner, thence North 399.94 feet, thence North 89 degrees 40 minutes 00 seconds East 335 feet, thence South 399.91 feet, thence South 89 degrees 39 minutes 00 seconds West 335 feet to the point of beginning, except the South 60 feet in road, also except the West 60 feet of the North 260 feet of the South 320 feet in road.**  
**Commonly known as: Vacant Livernois**  
**Tax Item No: 15-22-351-002**

**This commitment valid and binding for a period of 90 days from the date hereof. Thereafter it is void and of no effect.**  
**SCHEDULE A of this commitment—Page 1**

The following requirements to be complied with:

1. **REQUIREMENT: SUBMIT THE TRUST AGREEMENT TO DEVON TITLE AGENCY. UPON EXAMINATION OF THE ABOVE TRUST, THIS COMMITMENT IS SUBJECT TO SUCH FURTHER REQUIREMENTS AS MAY THEN BE DEEMED NECESSARY.**

**RECORD A CERTIFICATE OF TRUST CONTAINING, BUT NOT LIMITED TO, (1) THE NAME OF THE TRUST, (2) DATE THE TRUST WAS EXECUTED, (3) THE NAMES OF THE SETTLOR AND TRUSTEES, (4) CERTIFICATE THAT THE TRUST IS VALID UNDER THE LAWS OF MICHIGAN, (5) STATEMENT THAT THE SUBJECT PROPERTY IS COVERED BY THE TERMS OF THE TRUST, (6) QUOTATION OF ALL LANGUAGE IN THE TRUST CONCERNING MANAGEMENT OF REAL PROPERTY, (7) THE TIME WHEN THE TRUST TERMINATES, (8) THAT AT THE DATE OF THE DOCUMENT TO BE EXECUTED ON BEHALF OF THE TRUST, THE TRUST WAS IN FULL FORCE AND EFFECT AND HAS NOT BEEN AMENDED.**

2. **REQUIREMENT: RECORD DEED FROM THE RECITED OWNER TO THE PARTY TO BE INSURED.**
3. **REQUIREMENT: RECORD MORTGAGE TO BE INSURED AND SUBMIT SATISFACTORY EVIDENCE TO INSURER THAT EACH MORTGAGOR IS 18 YEARS OF AGE OR OVER.**

**NOTE: THE SPOUSE OF ANY MORTGAGOR MUST JOIN IN THE EXECUTION OF SAID MORTGAGE.**

4. Taxes for 2002 December and prior are paid  
2003 July taxes are PAID --- \$621.27  
2003 December taxes are PAID --- \$736.85  
Special Assessments: NONE

**NOTE: Standard Exceptions under the Owners Policy will be deleted upon completion of the following requirements:**

- (a) Proper sworn statements and waivers showing payments or release of lien rights covering improvements made on subject land in the last 125 days or satisfactory proof that no improvements have been made within the last 125 days.
- (b) Satisfactory survey by an approved surveyor showing no variation in location or dimensions, encroachments, or adverse rights, and such evidence of possession as may be required. Any such variation in location or dimension, encroachments or adverse rights disclosed on subject survey shall be excepted from coverage on final owners policy.

**"NOTE" All of the above items will be shown on final policy unless eliminated to our satisfaction.**

**NOTE: THE INSURER MUST BE NOTIFIED OF ANY NEW CONSTRUCTION AND RESERVES THE RIGHT TO ADD ANY ADDITIONAL REQUIREMENTS**

Insurer assumes no responsibility for (a) the accuracy or retroactive changes made to the public record with regard to any tax or (b) any loss or damage sustained by taxes and/or assessments arising or becoming due after the date of closing.

NOTE: Please direct questions/comments to: Devon Title Agency  
Att: Commitment Dept  
(248) 273-4300

**This commitment is invalid unless the Insuring Provisions and Schedules A and B-II are attached.  
SCHEDULE B-I of this commitment--Page 2**

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company.

1. Subject to the terms, conditions and other matters contained in an Easement dated November 24, 1970 and recorded February 2, 1971 in liber 5615, page 263, Oakland County Records.
2. Rights of the public and of any governmental unit in any part of the land taken, used or deeded for street, road or highway purposes.
3. Terms, conditions and provisions of any recorded deed including any deed transferring title contemplated herein, which in its description contains the subject property and which pertains to the transfer of divisions under the Subdivision Control Act, as amended.
4. Taxes and assessments that become a lien against the property after the date of closing. The company assumes no liability for tax increases occasioned by retroactive revaluation, changes in the land usage or loss of any homestead exemption status for the insured premises.

**COUNTERSIGNED:  
DEVON TITLE AGENCY**

  
\_\_\_\_\_  
**AUTHORIZED SIGNATORY**

5615 PAR 263

EASEMENT

71 7154

KNOW ALL MEN BY THESE PRESENTS, That William F. Shaffer and Theresa E. Shaffer, his wife, of 19721 Irvington, Detroit, Michigan

hereinafter called the Grantor, for and in consideration of the sum of Three Hundred and Fifty Dollars (\$350.00) paid to them by the County of Oakland, a Michigan Constitutional Corporation, hereinafter called the County, whose address is 1200 North Telegraph Road, Pontiac, Michigan, do hereby grant to the County the right to construct, operate, maintain, repair and/or replace a water main across and through the following described land situated in the Township of Avon, Oakland County, Michigan to-wit:

Part of the Southwest 1/4 of Section 22, T3N, R11E, Avon Township, Oakland County, Michigan, more particularly described as follows: Beginning at the Southwest corner of said Section 22, thence due North 399.94 ft along the West line of said Section 22; thence North 89°40' East 335.0 ft; thence due South 399.91 ft to the South line of said Section 22; thence South 89°39'40" West along the South line of said Section 22, to the point of beginning, containing 3.5756 acres more or less. Otherwise known as Parcel B321B-2 on the Township of Avon tax rolls.

"A" A permanent easement consisting of the East 27.0 ft of the West 60.0 ft of Parcel B321B-2.

"B", Also a permanent easement consisting of the North 27.0 ft of the South 60.0 ft of the East 40.0 ft of the West 100.0 ft of Parcel B321B-2.

STATE OF MICHIGAN REAL ESTATE TRANSFER TAX DEPT. OF TREASURY 00.55

And further, the Grantor does hereby grant a temporary construction easement to the County consisting of a strip of land 10.0 ft wide, parallel to and adjoining the Easterly and Northerly edges of the above described permanent easements "A" and "B".

Said temporary construction easement shall terminate upon the completion date of construction.

The premises so disturbed by reason of the exercise of any of the foregoing powers shall be reasonably restored to its original condition by the County.

This instrument shall be binding upon and inure to the benefit of the parties hereto, their heirs, representatives, successors, and assigns.

IN WITNESS WHEREOF, the undersigned have hereunto affixed their signatures this 24th day of November, A. D. 1970.

In presence of

Lloyd Mac Donald (Notary Public signature)

William E. Shaffer (L.S.)
Theresa E. Shaffer (L.S.)

STATE OF MICHIGAN COUNTY OF Oakland

On this 24 day of November, A. D. 1970, before me, a Notary Public in and for said county, personally appeared William E. Shaffer and Theresa E. Shaffer, his wife

to me known to be the same persons described in and who executed the within instrument, who then acknowledged the same to be their free act and deed.

This instrument drafted by: W. F. Hardenburg, Jr. 350 S. Telegraph Road, Pontiac, Michigan

Lloyd Mac Donald Notary Public, Michigan. My commission expires

OAKLAND COUNTY RECORDS FEB 21 1971 5615 263 P 263 POSTED BY

May 4, 2005

Mr. Ed Anzek  
Planning Department Director  
City of Rochester Hills  
1000 Rochester Hills Drive  
Rochester Hills, MI 48309

RE: Deed Restrictions  
Rezoning of Property, The Iseler Property  
Property No. 15-22-351-001  
Located to the north of the Northeast Corner of Hamlin and Livernois

Dear Mr. Anzek:

The deed restrictions for my property, as evidenced from the title commitment enclosed herein, include an easement for a pathway and a 33' wide road right of way.

This information is being provided per the city's rezoning application requirements.

Yours truly,



Mr. Brian Iseler

Enclosure



ISELER  
PROPERTY

SCHEDULE A

Commitment No. BH-20099

1. Commitment Date: April 8, 2004 at 8:00 A.M.

2. Policy (or policies) to be issued:

(a) ALTA Owner's Policy

Policy Amount: [REDACTED]

Proposed Insured:

Aquila Realty, Inc.

3. The Fee Simple interest in land described in this Commitment is owned, at the Commitment date by:

Brian Iseler

4. The land referred to in this Commitment, situated in the City of Rochester Hills County of Oakland, State of Michigan, is described as follows:

Part of the Southwest 1/4 of Section 22, Town 3 North, Range 11 East, City of Rochester Hills, Oakland County, Michigan, described as: Beginning at a point distant North 399.93 feet from the Southwest corner of said Section 22; thence North 260.06 feet; thence North 89 degrees 39 minutes 00 seconds East 335.00 feet; thence South 260.16 feet; thence South 89 degrees 40 minutes 00 seconds West 335.00 feet to the point of beginning.

Commonly known as: 1921 S. Livernois



CISLO TITLE COMPANY  
Title Insurance & Escrow Services

40700 Woodward Ave., Suite 200 • Bloomfield Hills, MI 48304

Phone: (248)594-0975 • Fax: (248)594-0983

**SCHEDULE B - SECTION I  
REQUIREMENTS**

COMMITMENT NO. BH-20099

The following requirements must be met:

- (a) Pay the agreed amounts for the interest in the land and/or mortgage to be insured.
- (b) Pay us the premiums, fees and charges for the policy.
- (c) Documents satisfactory to us creating the interest in the land and/or mortgage to be insured must be signed, delivered and recorded.

1. RECORD DEED FROM BRIAN ISELER TO AQUILA REALTY, INC.

2. REQUIREMENT: PROPER DISCHARGE OR SUBORDINATION OF THE FOLLOWING MORTGAGE(S) OTHERWISE IT/THEY SHALL APPEAR AS AN EXCEPTION ON THE POLICY TO BE ISSUED.

MORTGAGE for \$ 153,100.00 executed by Brian Iseler, a single man, to Pathway Financial, LLC, recorded October 8, 2003 in Master Liber 31054, Page(s) 671, which mortgage has been assigned to Wells Fargo Home Mortgage, Inc. recorded in Liber 31656, Page 1983, Oakland County Records.

MORTGAGE for \$ 30,000.00 executed by Brian Iseler to National City Bank recorded December 30, 2002 in Master Liber 31761, Page(s) 99, Oakland County Records.

3. In the event the loan secured by the mortgage to be insured (the insured mortgage) is closed and disbursed by a branch office of the company or an agent of the Company, for whom we have provided you with an uncancelled closing protection letter, the policy committed for by this commitment will be issued in the form required by your closing instructions. Such policy will only include exceptions disclosed by this commitment and any amendments to or updates of this commitment provided to you prior to closing.

4. REQUIREMENT: PAY TAXES AND ASSESSMENTS UNLESS SHOWN AS PAID.

Tax Description No. 15-22-351-001

15-22-351-001

|                       |                 |
|-----------------------|-----------------|
| County Paid thru 2003 | \$ 1,501.04     |
| Summer Paid thru 2003 |                 |
| 2004                  | \$ 1,251.78 DUE |

Special assessments, sewer and water connection and service charges are not examined.

(d) You must tell us in writing the name of anyone not referred to in this commitment who will get an interest in the land or who will make a loan on the land. We may make additional requirements or exceptions relating to the interest or the loan.

**SCHEDULE B - SECTION II  
EXCEPTIONS**

**COMMITMENT NO. BH-20099**

Any policy we issue will have the following exceptions unless they are taken care of to our satisfaction.

1. Any discrepancies or conflicts in boundary lines, any shortages in area, or any encroachment or overlapping of improvements.
2. Any facts, rights, interest or claims which are not shown by the public record but which could be ascertained by an accurate survey of the land or by making inquiry of persons in possession thereof.
3. Easements, liens or encumbrances or claims thereof, which are not shown by the public record.
4. Any lien, or right to lien for services, labor or material imposed by law and not shown by the public record.
5. Taxes and Assessments not due and payable at Commitment Date.
6. Terms and conditions of an easement for pedestrian-bicycle pathway as recorded in Liber 16917, Page 201.
7. Any rights, title, interest or claim thereof to that portion of the land taken, used or granted for streets, roads or highways.

KNOW ALL MEN BY THESE PRESENTS, That Rochester Athletic Club, L.L.C.  
a Michigan Limited Liability company, whose address is  
1261 Springwood Court, Rochester Hills, Michigan 48309

hereinafter called Grantor, hereby grants to the to the CITY OF ROCHESTER HILLS, hereinafter called  
City, (A Michigan Municipal Corporation), whose address is 1000 Rochester Hills Drive, Rochester  
Hills, MI 48309-3031 an easement for the construction, operation, maintenance, repair, replacement,  
and/or public use of a pedestrian-bicycle pathway over, under, upon and through the following land  
located in the City of Rochester Hills, County of Oakland, State of Michigan, to-wit:

Part of the Southwest 1/4, T3N, R11E, Section 22, Michigan described as follows:  
Beginning at a point distant North 399.94 feet from the Southwest corner of said Section  
22; thence North 260.06 feet; thence North 89° 39' 00" East 335.00 feet; thence South  
160.16 feet; thence South 89° 40' 00" West 335.00 feet to the Point of Beginning.

Sidwell No. 15-22-351-001  
Also known as 1921 Livernois Road, Rochester Hills, Michigan

A permanent Pedestrian/Bicycle Pathway Easement described as follows: The Eastern  
27.00 feet of the Westerly 60.00 feet of the above described parcel and the Westerly  
33.00 feet R.O.W. described as the Westerly 33.00 feet of the above described parcel.

(See Exhibit 'A' - Attached)

PL 15-22-351-001

RECEIVED 478  
RECORDED - OAKLAND COUNTY  
LYNN D. ALLEN, CLERK/REGISTER OF DEEDS

In connection with the grant of easement, Grantor grants and conveys to the CITY OF ROCHESTER  
HILLS all of Grantor's right, title and interest in the pedestrian-bicycle pathway, and the facilities  
incidental thereto, which may be located in the easement described herein.

All property disturbed or altered, now or in the future, by reason of the construction, operation,  
maintenance, repair and/or replacement of the pedestrian-bicycle pathway shall be restored by the City to  
its immediately prior condition, except to the extent permanent improvements or alterations necessary to  
the use and exercise of easement rights granted hereunder are made.

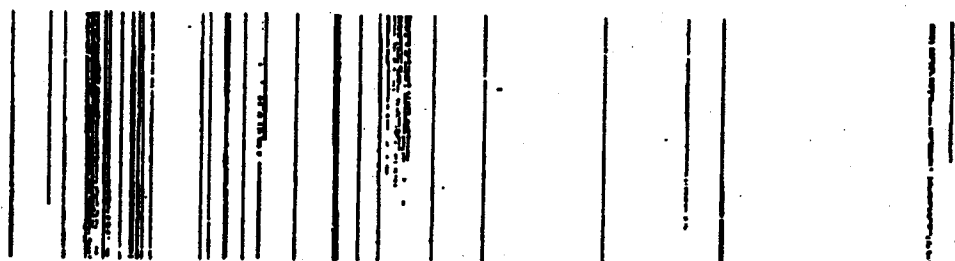
The easement shall be irrevocable and non-exclusive, and Grantor and Grantor's successors and assigns,  
may use and enjoy the easement in common with the City.

Grantor expressly reserves to itself and Grantor's successors and assigns, so long as there is no  
interference with the construction, operation, maintenance, repair and/or replacement, and public use of  
the pedestrian-bicycle pathway: (a) the right of ingress and egress over, under, through and across the  
easement parcel, and (b) the right to grant other non-exclusive easements and rights-of-way across, over,  
under and through the easement parcel, with the condition that prior to such a grant written consent be  
obtained from the City.

Grantor agrees that no structures, fences, rocks, trees, bushes or other obstructions shall be placed within  
the easement or within such proximity thereto as to interfere with, or, in the opinion of the City,  
threatens to interfere with the construction, operation, or maintenance, or threaten to cause or create  
additional or future maintenance of the pedestrian/bicycle pathway. Temporary nonuse or limited use of  
this easement by the City shall not prevent the City from later making use of the easement to the full

K. - KB

STATE OF MICHIGAN  
REAL ESTATE  
REGISTERED PROFESSIONAL  
JAN 16 9 01 41 09



extent herein authorized or from relocating the pedestrian/bicycle pathway within the easement as determined necessary by the City.

For the Total Sum of Two Thousand Eight Hundred and Twenty Dollars and 00/100 (\$2820.00) Dollars.

IN WITNESS WHEREOF, the undersigned hereunto affixed their signatures this 12<sup>th</sup> day of September A.D. 19 96

In presence of:  
WITNESS

Signature: David Endreszl  
Print Name: David Endreszl

Corporation: Rochester Athletic Club, L.L.C.

By: Philip D. Riggio (L.S.)  
Print Name: Philip D. Riggio

Inc: PRES.

Signature: Stephen C. Schultz  
Print Name: Stephen C. Schultz

By: Maria Riggio (L.S.)  
Print Name: Maria Riggio

Inc: SECRETARY

STATE OF MICHIGAN )  
                          ) ss.  
COUNTY OF Oakland )

On this 12<sup>th</sup> day of September, A.D. 1996, before me, a Notary Public in and for said County, appeared Philip D. Riggio and Maria Riggio to me personally known, who being by name sworn, did say that they are respectively the President and Secretary of Rochester Athletic Club, L.L.C. Corporation, and that said instrument was signed and sealed on behalf of Rochester Athletic Club, L.L.C. by authority of its Board of Directors and acknowledge said instrument to be the free act and deed of said Corporation.

David Endreszl  
Notary Public, Oakland County, Michigan

My Commission Expires JAN 26, 1997  
DAVID ENDRESZL  
NOTARY PUBLIC OAKLAND COUNTY, MICH  
MY COMMISSION EXPIRES 01-26-97

(Corporation)

Prepared By:  
David Endreszl, P.E.  
Endreszl and Associates Engineering  
8700 Pine Knob Road  
Clarkston, MI 48348

When Recorded Return to:  
City of Rochester Hills  
Attn: Clerk's Office  
1000 Rochester Hills Drive  
Rochester Hills, MI 48309-3033

August 28, 1996-01

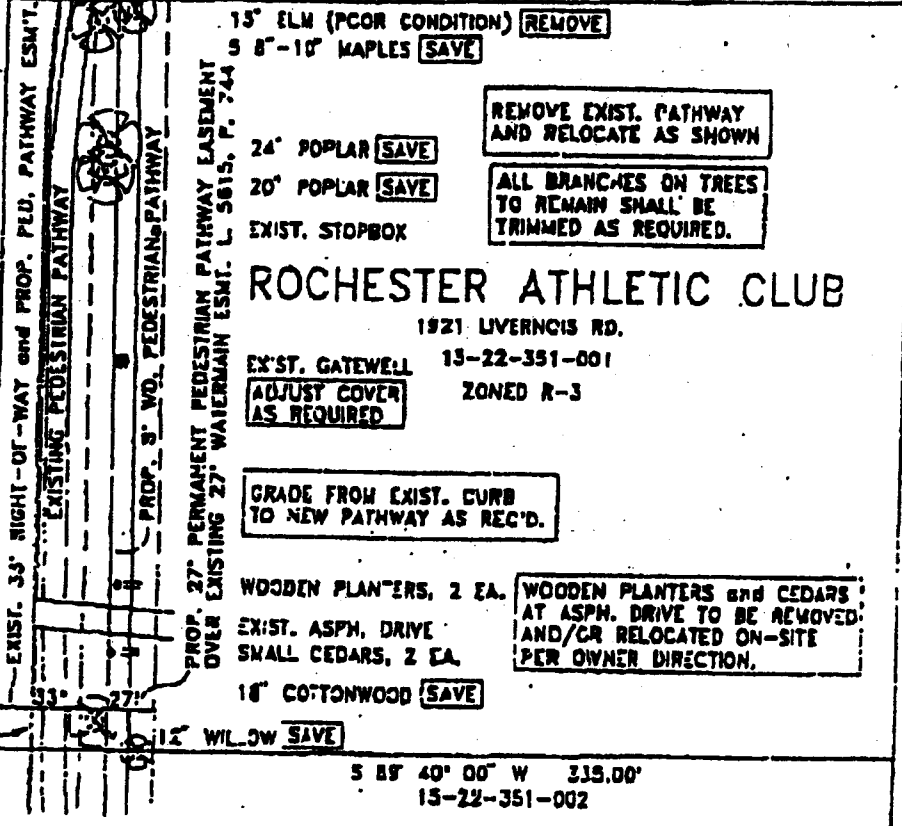
N 88° 38' 00" E 335.00'

1" = 60'

LIVERNOIS ROAD

NORTH 260.05'

CURB LINE



S 88° 40' 00" W 335.00'  
 13-22-351-002

|     |          |                        |
|-----|----------|------------------------|
| 2   | 10/20/96 | ADDED W.M. EASEMENT    |
| 1   | 6/12/96  | REVISED PER CITY       |
| No. | Date     | Revision (Description) |

**E**ndreszl &  
**A**ssociates  
**E**ngineering

CONSULTING  
 CIVIL ENGINEERING  
 LAND PLANNING

8700 Pine Knob Road  
 Clarkston, MI 48348  
 (810) 394-0842

SKETCH OF EASEMENT  
 ROCHESTER ATHLETIC CLUB  
 1921 LIVERNOIS RD.

|                 |                       |                  |
|-----------------|-----------------------|------------------|
| Scale: 1" = 60' | Design: Ck. By:       | Job No.: 92-015L |
| Date: 7-25-96   | Drawn By: D.A.L.-L.G. | Dwg. No.: 1 of 1 |

# MORTGAGE SURV

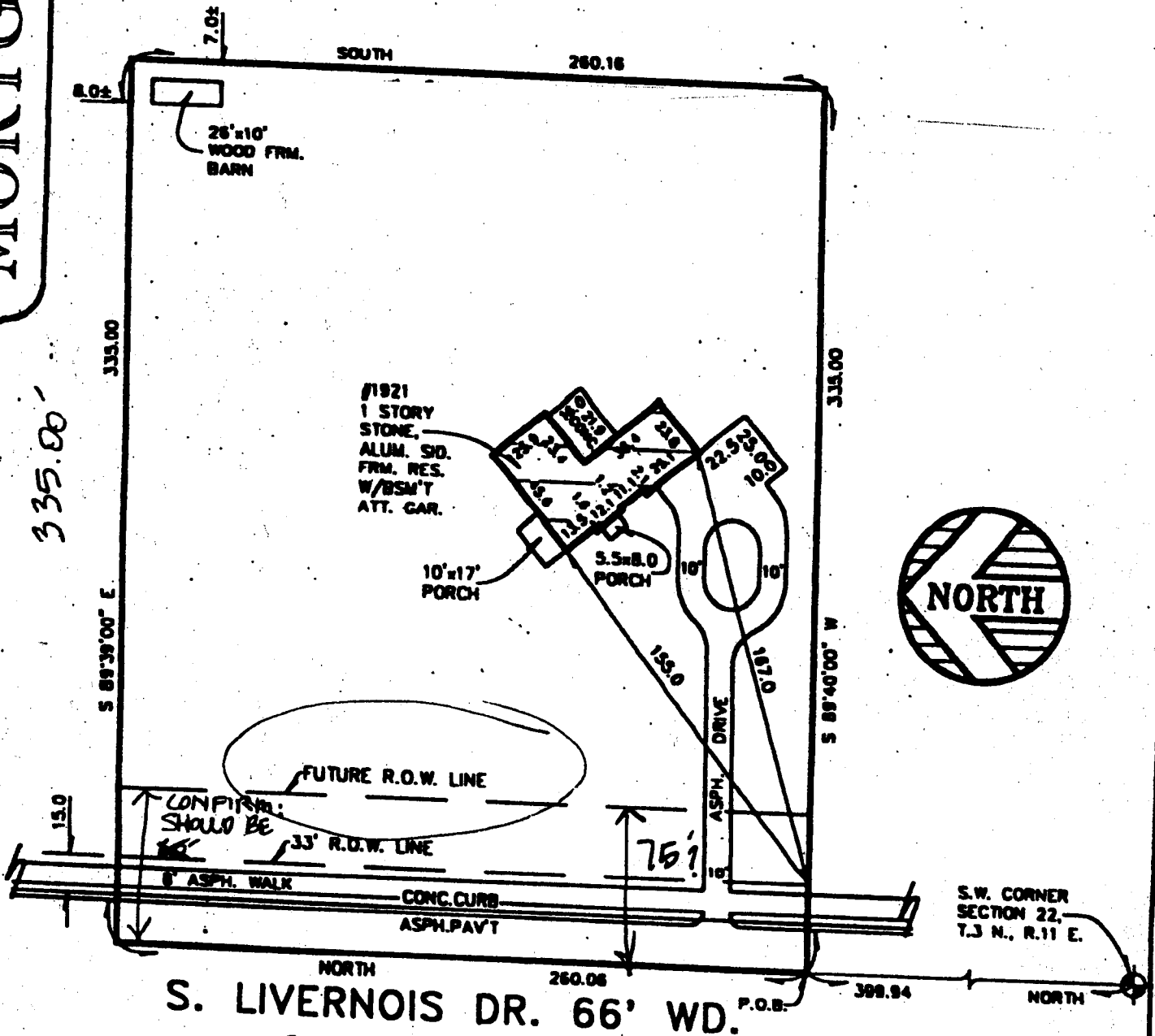
Certified to: COUNTRYWIDE FUNDING CORPORATION

Applicant: BRIAN ISELER

**Property Description:**

Land situated in the Township of Avon (now City of Rochester Hills), Oakland County, Michigan, described as: Beginning at a point distant North 399.94 feet, from the Southwest corner; thence North 260.06 feet; thence North 89 degrees 39 minutes 00 seconds East 335.00 feet; thence South 260.16 feet; thence South 89 degrees 40 minutes 00 seconds West 335.00 feet, to the point of beginning. Subject to any part taken, used or deeded for street, road, or highway purposes.

260.16'



**CERTIFICATE:** We hereby certify that we have surveyed the above-described property in accordance with the description furnished for the purpose of a mortgage loan to be made by the forementioned applicants, mortgager, and that the buildings located thereon do not encroach on the adjoining property, nor do the buildings on the adjoining property encroach upon the property heretofore described, except as shown. This survey is not to be used for the purpose of establishing property lines, nor for construction purposes, no stakes having been set at any of the boundary corners.

*Marcus E. Lawrence*

JOB NO. 97-03017 SCALE 1"=60'  
 DATE 02/10/97 DR. BY F.B.

**KEM-TEC**  
 LAND SURVEYORS  
 18041 East Nine Mile Road  
 Eastpointe, MI 48021-2318  
 (810) 772-2222  
 FAX: (810) 772-0948



**KEM-TEC WEST**  
 LAND SURVEYORS  
 205 N. Main Street  
 Ann Arbor, MI 48104-1412  
 (313) 964-0000 • (800) 433-6133  
 FAX: (313) 964-0007

# **Statement of Preservation of Property Rights and Protecting Public Welfare**



## **Rezoning Application**

**Talon Development Group, Inc.**

**The Balian & Iseler Properties**

**Property Identification Numbers 15-22-351-002 & 15-22-351-001**

**Hamlin and Livernois, Rochester Hills, Michigan**

### **Statement for the Preservation of Substantial Property Rights and Why the Change is Not Detrimental**

The rezoning is necessary for the preservation of substantial property rights because:

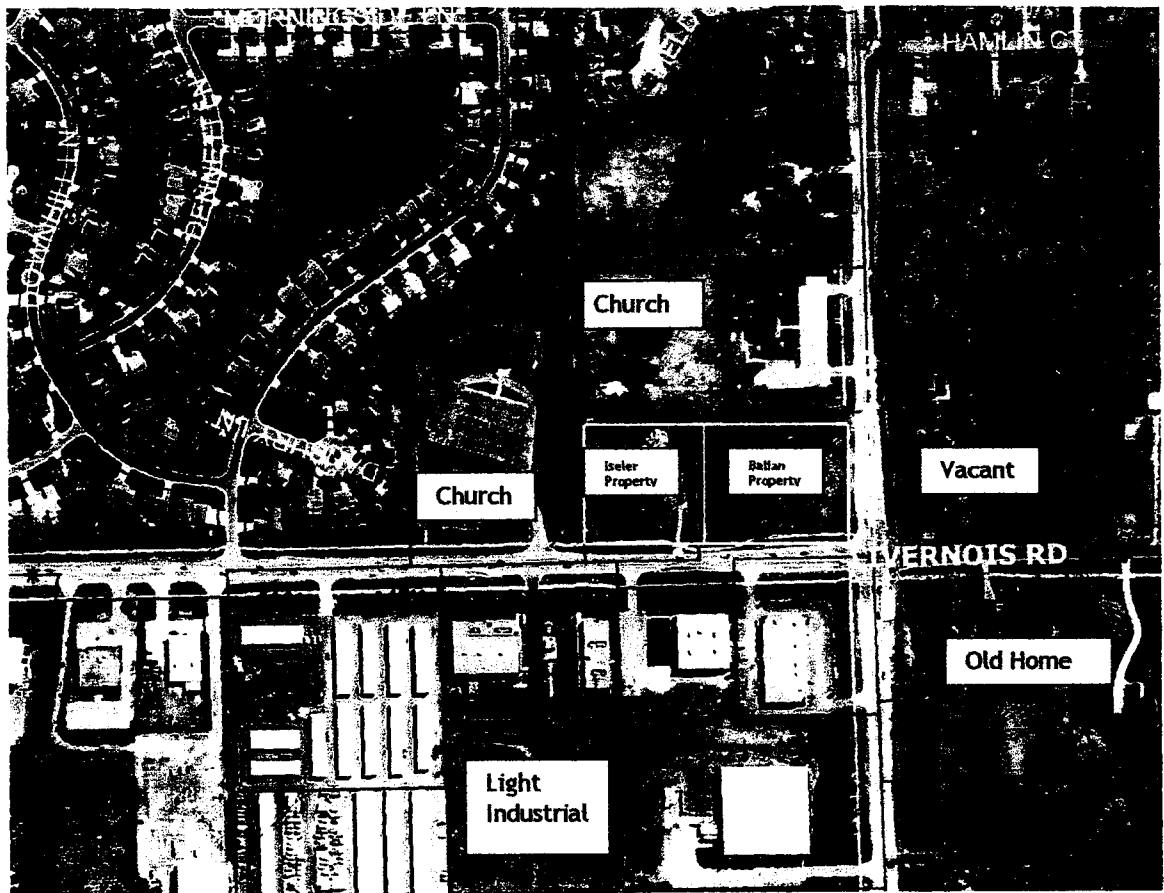
1. The current property owners desire to dispose of their properties but the factors of: Light industrial across the street; churches to the east and west; traffic; and the pending widening of Hamlin and Livernois Roads, all of which were (or will be) done with the approval of the city and other levels of government. These factors create a condition which is inconsistent with residential use. This results in a condition which is a defacto deprivation of these owners right to dispose of their properties. By allowing the rezoning, it shall maintain their right to dispose of their property as it will create a condition whereby the property will have the ability to be used for uses other than single family residential and thus the properties will be marketable.

The change will not be detrimental to the public welfare of the property of others in the vicinity because:

1. It will not negatively impact upon the overall ecology.
  - It will not produce pollutants.
  - It will not create objectionable noises.
  - It will not create objectionable lighting effects.
  - It will not disrupt adjacent property owners' use and enjoyment of their properties.
  - It will not impact upon ground water and surface water sources.
  - It will not impact traffic to any significant degree.
2. It will provide a lasting, long term, positive impact and benefit for the community because:

- These are neighborhood uses offering professional office space and children's day care. The synergy of the uses in relationship to existing residential and commercial areas and its accessibility to transportation routes results in a development which benefits the community overall but particularly the nearby residential area.
  - Parents will benefit from the day care center which offers convenient and exceptional services. The day care operator is a leader of the industry and well-respected in the industry for providing caring, safe and educational services.
  - It will provide modern office space for professionals who wish to establish or relocate a practice while, perhaps, living close by.
  - It will add to and diversify the local tax base through property tax and personal property tax revenues.
3. It is a reasonable transitional use for such an area because:
- Day care centers and offices have long been an accepted and appropriate transitional use between uses such as residential and light industrial, which is the mix of uses in the area. The uses directly to the west are light industrial.
  - The adjoining properties to the north and east contain uses which are not single family, even though this is a single family residential zoning district. The uses will not abut existing single family houses.
  - It's a corner parcel which fronts on two roads that facilitate significant volumes of traffic. The pending improvements to Hamlin and Livernois Roads, will significantly improve traffic function which is conducive to the uses proposed and which will simultaneously make the property less desirable for single family development.
  - It is likely that this property will be evaluated for uses other than single family as part of the city's updating of its master land use plan.
  - Similar conditions currently exist in the city. It is not a set of uses or conditions which create a new precedent within the city.

The aerial photo which follows illustrates the surrounding uses to the subject properties.



North is to the left of this sheet.

In summary, we respectfully submit that this proposed rezoning is an appropriate, reasonable and necessary to preserve a substantial property right.

**Letter of Intent  
Intended Development of the Properties**

**Rezoning Application**  
**Talon Development Group**  
**The Balian & Iseler Properties**  
**Property Identification Numbers 15-22-351-002 & 15-22-351-001**  
**Hamlin and Livernois, Rochester Hills, Michigan**

**Letter of Intent**  
**for the Development of the Subject Properties**

Talon Development Group, Inc. submits this request to rezone the properties from their current single family zoning to O-1, office.

Talon Development Group, Inc., proposes to create a mixed use development on the subject properties including a professional office building and a day care center. It is proposed to site plan both uses on both properties as a combined parcel of land so as to best utilize the land and take advantage of opportunities to share entry points, parking and storm water management. By taking this approach the overall site plan will be superior to site planning both uses independently. Since the planning of the improvements to Hamlin and Livernois Roads is in process, it is possible for the site planning and road planning to be coordinated, thereby best facilitating accessibility to the property and maximizing traffic efficiency on the roads.

Talon respectfully submits that the properties are not suited to single family residential use, which is what the current zoning allows. Although one of the properties contains a home (the Iseler property), it's one that was built a long time ago, most likely before the light industrial across the street was constructed and when traffic was much lighter. Today the adjacent uses and traffic, combined with the upcoming improvements to Hamlin and Livernois, make the property very undesirable for single family residential use. The current owner of the corner parcel (the Balian property) has had numerous inquiries about the parcel, all of which however are inquiries from developers of commercial uses. There has been no interest in developing the property with a single family home.

Advantages of the rezoning include contributing towards a more diverse tax base; an attractive beautifully landscaped development enhancing the overall character of the intersection; the introduction of a new day care center offering convenient and excellent child care services for the nearby residential community; and the introduction of new professional office space which may entice professionals to relocate to the city further enhancing the economic benefits to the community.

We respectfully submit that this proposed rezoning is a proposal which benefits all the parties. We look forward to working with the city in this endeavor.

# Environmental Impact Statement

# Application for Rezoning

Talon Development Group

Balian and Iseler Properties

Property Identification Numbers 15-22-351-002 & 15-22-351-001

Hamlin and Livernois, Rochester Hills, Michigan

## Environmental Impact Statement

### Part 1

#### A. "What are the characteristics of the land, waters, plant and animal life present?"

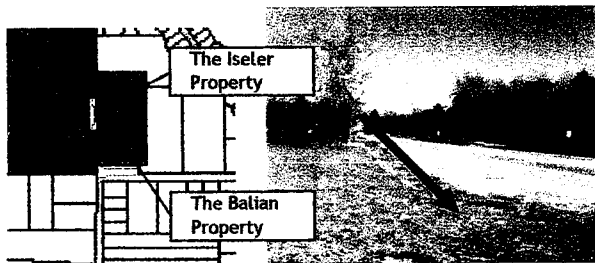
The properties' terrain is slightly undulating and appears to have an overall slope beginning at the northern edge of the Iseler property to the southern boundary of the Balian property at Hamlin Road. The properties are not known to not contain wetland or floodplain areas, neither is found on the city's floodplain (FEMA maps) or the wetlands map. There are no lakes or ponds. Storm water drainage is accommodated by open ditches located at the properties' southern boundary, Hamlin Road, and the western boundary, Livernois. An underground stormwater sewer main is located at the approximate center of the properties' overall frontage along Livernois which handles storm water from some portion of the properties and for the larger area along Livernois.



View into the Balian property from the west side of Livernois, looking east. This is approximately the center point of the overall frontage along Livernois of both the properties.



View of stormwater drainage ditch along the west border, at Livernois. This ditch empties into existing storm sewer.



North is up.

View of stormwater drainage ditch along the south border, at Hamlin.

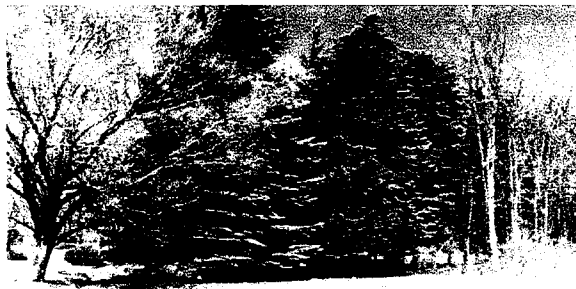
The Balian property, located at the north east corner of the intersection of Hamlin and Livernois is vacant and over the years undergrowth and smaller trees have grown covering about 60% of the property. The trees range in size from being as small as saplings to approaching 6" caliper, with a few trees approaching 12" caliper. Otherwise, there are no trees of significant size on this property. The trees are almost entirely deciduous including maple, poplar and elm. There are a few evergreens, most of which are thin from a lack of full exposure to sunlight. At the property's eastern border the trees are larger, in the 4" to 6" caliper range. On the Iseler property there is an existing row of mature evergreens, approximately of 30 to 40' in height, located along this property's southern boundary or nearly centered in the overall land area. There are a few other large evergreens located at the home's corners and few mature deciduous trees such as a maple and a willow. Along the property's east border is a row of large existing trees which include a mixture of deciduous and evergreen trees.



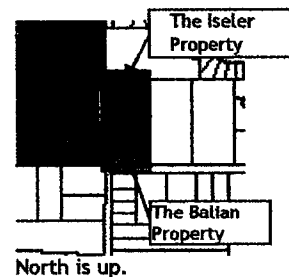
View looking into Balian property's vegetated area as seen from the property's north border at Hamlin.



View of Iseler property's evergreen trees, at the border of the Iseler and Balian properties.



View looking into the Balian property from south side of Livernois. Looking west, into the property's north border.



There is no known significant animal habitat.

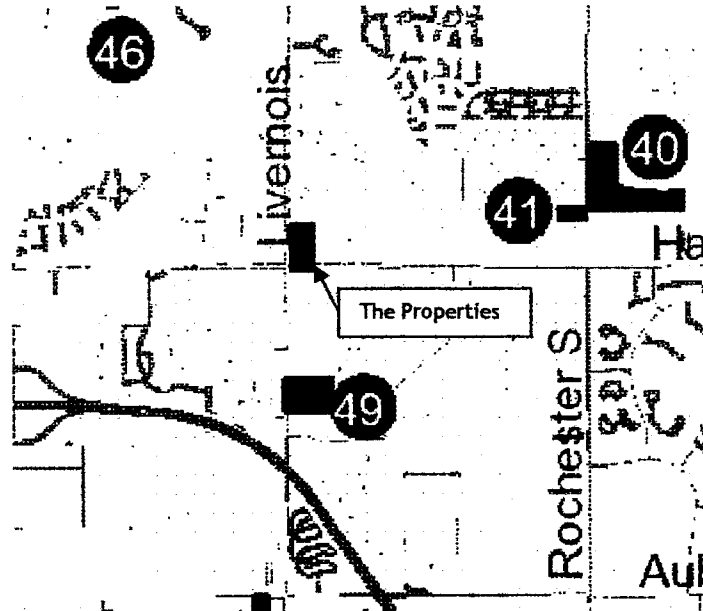
Soils appear to be clayish in composition and are expected to be generally suitable for construction without having to employ extraordinary construction methods. Geotechnical investigations have yet to be performed.



The ground water supply is not known and there is no proposed use for tapping into the ground water.

**B. "Is there any historical or cultural value to the land?"**

There is no known historical or cultural value to either property.



**Historic District and Sites Map (Partial)**

There are no indications, according to the city's map, that the subject properties are in an historic district or are of historic designation.

Source: City of Rochester Hills, Website

**C. "Are there any man-made structures on the parcel?"**

There are no man-made structures or buildings on the Balian property; there is an older single family home on the northern parcel, the Iseler property. The home appears to have been built in the late 1950s.

**D. "Are there important scenic features?"**

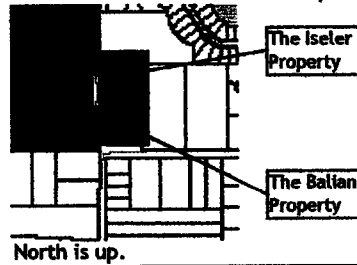
There are no important or extraordinary scenic features, as looking either into or from the properties. Looking from the properties to the west is existing light manufacturing uses; the north adjacent property contains an older church; adjacent and to the east is another older church. The church buildings are separated from the properties by their parking lots and or lawn areas; to the south is a large vacant parcel with existing sporadic naturalized vegetation.



View looking to the west from the properties' west border, at Livernois.



View looking to the south from the properties' South border, at Hamlin.



View to church, from property's east border.

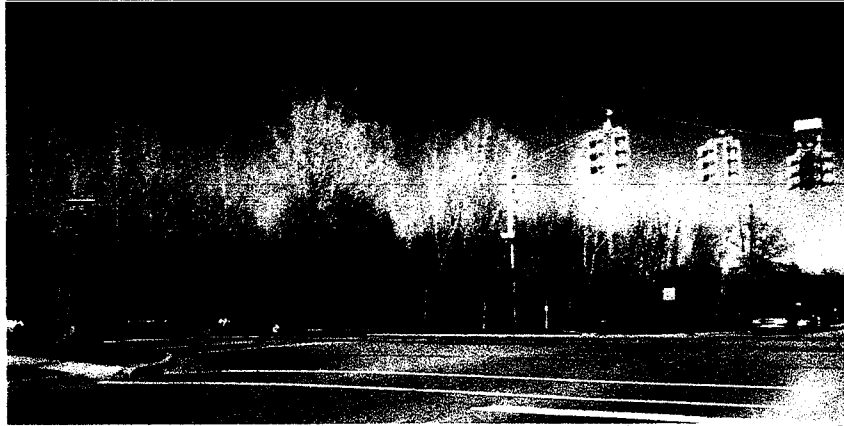


View of Iseler property house.

***E. "What access to the property is available at this time?"***

When combined, both properties can be accessed from both Hamlin and Livernois, since the property is located at the intersection. There are no curb cuts or paved access points into the Balian property, which is vacant; there is a driveway off of Livernois for the existing home on the Iseler property.

Both Hamlin and Livernois Roads are being planned for expansion. Both roads are to have boulevards created with center left turns within the median. As the planning of the roads is in the early stages, there is an opportunity to plan the boulevards and the left turn lanes to align with the curb cuts that will be needed for the subject property. This is a unique opportunity to best facilitate access to and from the site while planning for the traffic on Hamlin and Livernois Roads.



View looking into the Balian property's southeast corner (otherwise considered the northeast corner of the intersection). Access to the property will be either Hamlin or Livernois or both, as determined as part of property plan approvals.



Crosswalks are provided at intersections, as well as paved paths at Livernois and Hamlin.

***F. "What utilities are available?"***

Municipal water and sewer are available. According to the Rochester Hills DPS, municipal sewer is located about 100' from the properties' south border, on the south side of Hamlin. Water is located along the north side of Hamlin and the east side of Livernois, the two lines intersect at properties' southwest corner; both run along the property's frontage. Capacities of existing lines must be examined as part of the property engineering process at the time of property plan approvals, but it is believed that these existing lines have capacity for future development.

A stormwater main is located to the east side of Livernois and located near the properties' northwest corner. It handles some stormwater in the area, but the extent to which it handles stormwater for the proposed property development will be determined as part of the engineering process at the time of site plan approvals. Stormwater management is expected to occur on property and therefore the development of the property should not burden existing stormwater systems.

## **Part II The Plan - Commercial**

This Part of the Environmental Impact Statement is not applicable as it applies to parcels of 5 acres or more. The Balian property is 2.25 acres and the Iseler property is 2 acres, there is a total of 4.25 acres.

## **Part III Impact Factors**

### **A. "What are the natural and urban characteristics of the plan?"**

#### **1. "Total number of acres of undisturbed land."**

Although the property has not yet been site planned, it is anticipated that to the extent possible, existing vegetation along the north and east properties' borders would be retained and therefore some portion of the land may be undisturbed. Until however, a site plan is prepared, incorporating setbacks, parking, screening and the building footprints, this question cannot be answered.

#### **2. "Number of acres of wetland or water existing."**

There are no known existing wetlands nor are there any water bodies. Neither wetlands nor floodplain are found on the city's maps for these properties. No water bodies are planned.

#### **3. "Number of acres of water to be added."**

None; not applicable.

#### **4. "Number of acres of private open space."**

None; not applicable.

#### **5. "Number of acres of public open space."**

None, not applicable.

#### **6. "Extent of off-site drainage."**

The properties' drainage will be in compliance with the City of Rochester Hills and the Oakland County Drain Commission's requirements. To the extent allowable, the properties will discharge to municipal storm sewer, main along Livernois. On-site detention or retention will be required and so all on-site storm water shall be managed on-site. Therefore off-site drainage will be that of the road right of ways and other properties up-stream, via the existing public drainage facilities. There is no short term or long term negative impact.

#### **7. "List of any community facilities included in the plan."**

No community facilities are to be provided, except however, the continuation of the pedestrian walk along Hamlin Road. This will provide an immediate and long term benefit to area residents. The site plan will be performed to coordinate with the proposed road widening of Hamlin and Livernois Roads and any such public improvements.

#### **8. "How will utilities be provided?"**

As the water mains front the properties, it is not necessary to cross either Hamlin or Livernois. The water main will be tapped per the direction of the

city or other applicable unit of government. The sewer main will be brought across Hamlin and extended into the property. All major private utilities are available. There are no long runs of extension of municipal utilities off site. The provision of utilities offers no negative impact either immediately or over the long term.

***B. "What is the current planning status?"***

The properties have not yet been site planned and engineered. This is awaiting the outcome of the request for rezoning.

***C. "Projected timetable for the proposed project."***

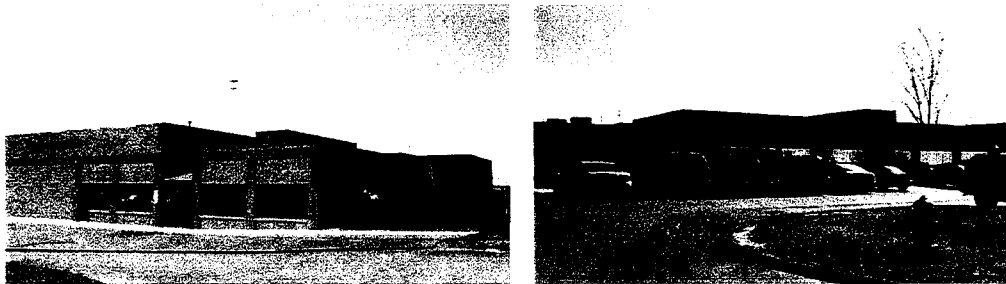
In the event of an approval of the rezoning, it is anticipated that site planning and approvals activities will take about 3 to 6 months, including the issuance of building permits. Building construction would take approximately an additional 6-12 months. A more detailed schedule can be created following the outcome of the rezoning application.

***D. "Describe or map the plan's special adaptation to the geography."***

Not applicable, no site planning performed. However, no special adaptations are envisioned or expected to be necessary.

***E. "Relation to surrounding development or areas."***

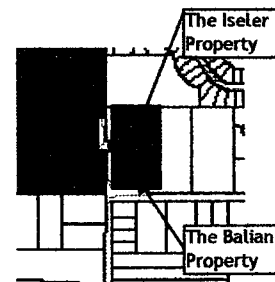
The properties are located at the fringe of existing light industrial properties. To the direct west and northwest of the properties, there are a number of light manufacturing firms and a self-storage facility.



Light industrial firms (and dance studio), located west of the property.



Self storage facility northwest of the property on west side of Livernois.



North is up.

The properties are also located at the fringe of residential and residentially-related uses. Adjacent to the properties north border, is a small older existing church. Adjacent to the properties' east border is another church.



Existing church adjacent to the Balian property's east border.

To the properties' south and south west, there are larger parcels, the one to the direct south being vacant and the one to the south west has an aging single family home.



Vacant land directly to the south of the Balian property and aging home to the southwest.

property and will not interrupt vehicular traffic on Hamlin and Livernois. Permits, as are required either by the city or the county shall be obtained and therefore traffic direction procedures will be coordinated and performed accordingly. This is a short term issue, which will have no long term negative impact upon road usage.

3. Possible interruption of water service. In order to tap into existing water mains, it may be necessary to momentarily shut down the water supply in the area. If possible the tap will be a "live-tap" in which case there will be no noticeable interruption in water service to users in the area. Note that the tap in to the water main will occur during working hours, therefore the interruption to residential users is minimized further due to a significant percentage of the residential users will be at work. Normally, the process of a live water tap is a matter of hours and therefore should be a one-time interruption for only one day. This is a very short term issue and so will have no negative lasting effect.

**G. "List any possible pollutants."**

There are none. Not applicable.

**H. "What adverse or beneficial changes must inevitably result from the proposed development?"**

1. "Physical."

a. "Air Quality"

The use does not produce any negative or positive impacts upon air quality.

b. "Water effects."

The use will not affect water bodies. As storm water will be managed according to required practices there will be no negative short term or long term impacts relating to flooding, flow rates, absorption or sedimentation.

c. "Wildlife habitat."

There is no known significant wildlife habitat.

d. "Vegetative cover."

Much of the existing trees will have to be removed. There will however, be an effort to retain as many trees as is possible as part of the site planning process, and these saved trees will supplement the new landscaping overall enhancing the site. This will be both an immediate and long term benefit. New vegetative cover, in the form of site landscaping, which shall include maintained turf and ornamental plant materials shall be provided in all disturbed unused portions of the properties. The new landscaping will create a noticeable improvement to the character of the intersection.

e. "Noise"

The use does not produce any increased noise levels. There are no outside uses, except for the day care center's play area, otherwise the uses occur indoors. The play area will be utilized during the weekdays only, and scheduled with a fraction of the total number of

children playing at any given time. The number of children playing may be 30 to 40 and their time outdoors is limited. Given both sides of the play area are bordered by churches and single family residences are a significant distance, it is not likely that the play area will present any noise concerns. There are no short or long term negative impacts.

f. "Night-light."

While the building and parking lot will be lighted per the requirements of the zoning ordinance and building codes, it is not a night time use. Lighting will be set, via automatic timers so as to operate only as needed. Parking lot lighting shall be fitted with shields so as to direct the light onto the parking lot and to avoid light from illuminating off-site areas and to minimize ambient lighting.

Lighting will not affect adjacent or nearby properties. When lighting is on in the early evening hours, this will occur and will be limited to the late fall through late winter months, when daylight is shorter. Surrounding uses are already shielded or not affected. The lighting for the proposed parking lot will be in effect no different than that of the adjacent parking lots of the churches located to both the north and east of the subject properties. The adjacent churches to the east and north are a significant distance from the subject properties' borders and also separated from the properties by large parking lots; to the south is vacant and the property to the west is light industrial with its own lighted parking. Therefore lighting of the proposed parking lot presents no short or long term negative impacts.

2. "Social"

a. "Visual"

The development of a new office building and a day care center will be a positive impact upon the visual qualities of the immediate area. These uses will transition with the existing light manufacturing uses mitigating and transitioning the lesser attractive qualities of the existing light manufacturing buildings to the west with that of the churches and residences. The office building will be of pleasing and professional-looking architecture. The day care center will be one story, and constructed of residential materials, giving it a residential feeling. Additionally site landscaping will enhance the visual appeal of the intersection. This will be a positive benefit with an immediate and long term effect.

b. "Traffic"

The impacts upon traffic will be negligible. It is anticipated that the site plan will incorporate only two access points, one off of Hamlin and one off of Livernois. These two access points will serve both uses thereby minimize the number of access points on Hamlin and Livernois Roads. This is one of the advantages of the



proposed mixed use. Otherwise, if the properties were treated as separate sites, it would be necessary to have a total of three access points. Acceleration/deceleration lanes will be provided as required. Further, the future boulevards will efficiently facilitate the traffic into and from this site. No short term or long term negative impact.

c. "Modes of transportation"

Visitors to the property will primarily be via automobile. Pedestrian pathways will connect the property to the public walks along Hamlin and Livernois, therefore the surrounding area will be accessible via foot or bicycle. Crosswalk lighting already exists at the intersection, facilitating pedestrians and bicyclist traffic. Intermodal accessibility will be a positive benefit with an immediate and long term effect.

d. "Accessibility of residents."

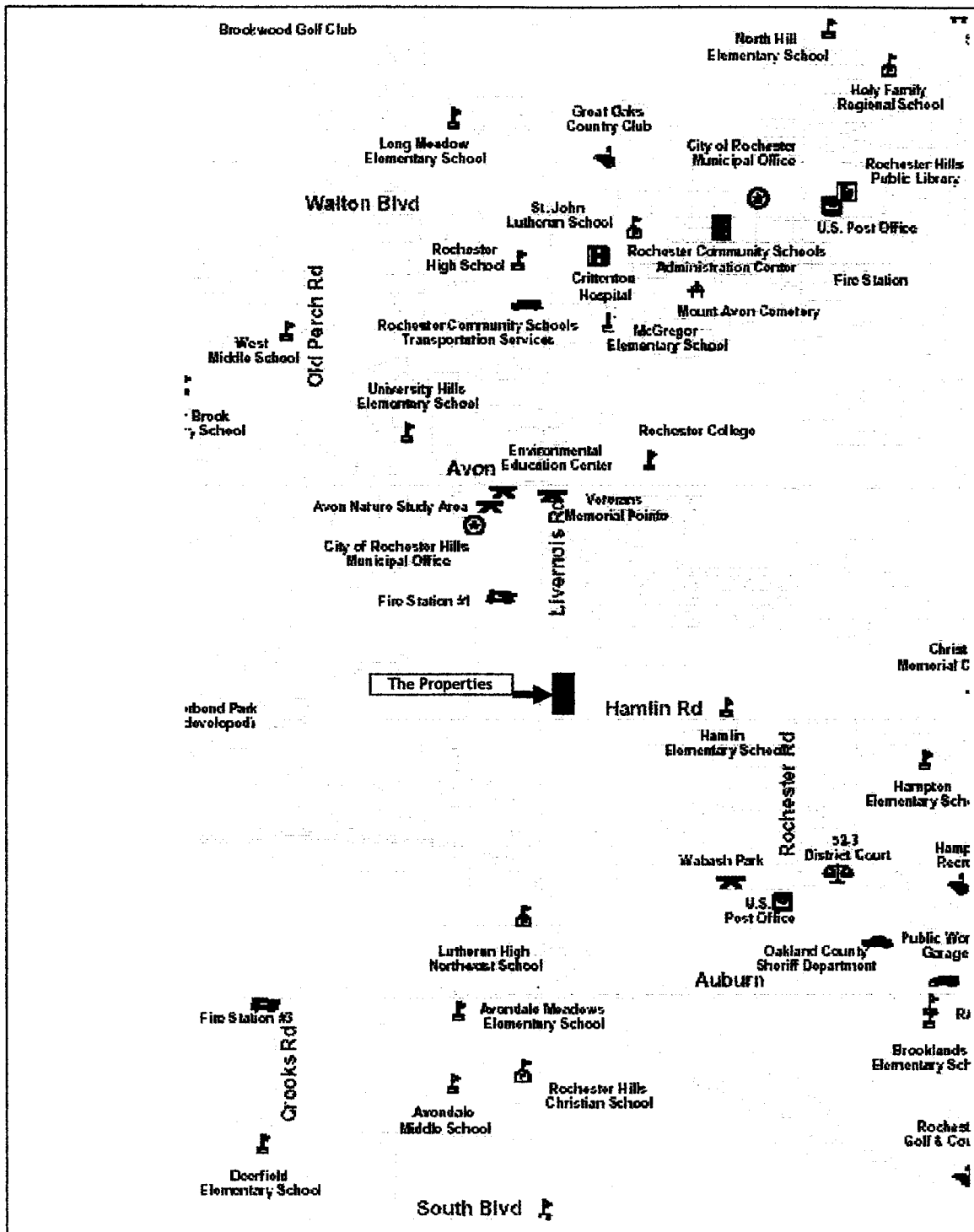
This location of an office building and a day care center is a benefit to the residents and those who work in the area. These are neighborhood uses located within a few miles of a significant number of homes; public and private schools; office buildings and professional centers; places of employment such as the light manufacturing; pharmacies; medical offices and Crittenton Hospital; banks; and retail centers. All of which means, that area residents will have the convenience of a new work place, perhaps additional professional services and medical offices, and high-quality day care nearby; directly on their everyday route. For those who work in the office building and day care center, their everyday needs i.e. lunch, retailers, etc., are also in close proximity and this will benefit the local economy. This will be a positive benefit with an immediate and long term effect.



Local retail/shopping center.



Crittenton Hospital



**Map of Points of Interest (Partial)**

Source: City of Rochester Hills, Website

North is up.

The map above, while not indicating every relevant everyday destination a resident or worker may visit, illustrates those major destination points along the Livernois corridor and Hamlin corridors.

3. "Economic"

a. Influence on surrounding land values.

The improvement to the corner through the development of an attractive office and day care center will positively impact surrounding land values. The buildings will be in keeping with the residential and suburban nature of the area, not unlike that of the existing churches (one of which is planning to expand); the property's manicured turf and landscaping will add instant appeal to the intersection. This will be a positive immediate and long term benefit.

b. "Growth inducement potential."

These uses are not expected to necessarily be a catalyst for other office development in the area. However, if future development of a similar nature should occur, this would be a positive and long term impact upon the city's economic and community needs. Potentially the close proximity of professional office space may induce residents to seek housing in the immediate area.

c. "Offsite costs of Public improvements."

Offsite costs of public improvements will be negligible, if any. The Developer will be responsible for the costs of the extensions of municipal sewer and water, and other such improvements as required as part of the site plan approvals.

d. "Proposed tax revenue."

The anticipated revenue from property taxes isn't yet known. But certainly, the benefit to the city is the property tax revenue these uses will generate. Further, property tax revenues from an office building and day care center will be far greater than that of two single family homes on these properties. In addition, the tenants will contribute to the tax base through personal property taxes, the amount of which is also not yet known. This is an immediate and long term positive impact, which will improve with millage rate increases.

e. "Availability or provisions for utilities."

Municipal sewer is located near the south end of the property and water is at the property line. Ample capacity is believed to exist and no improvements to municipal utilities are necessary to serve the intended use. All other necessary private utilities are in the area and available. No immediate or long term negative impacts.

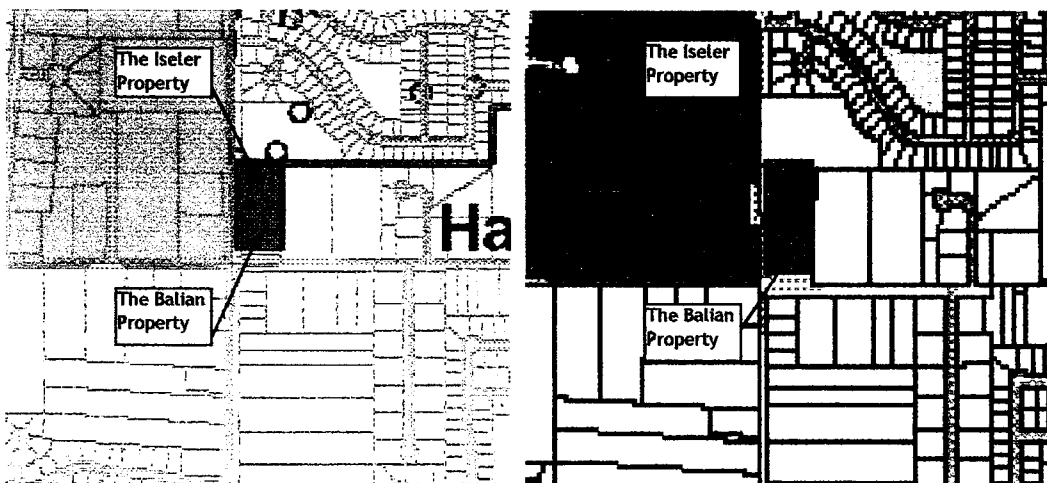
I. "Additional Factors."

1. *"In relation to land immediately surrounding the proposed development, what has been done to avoid disrupting existing uses and intended future uses as shown on the Master Plan?"*

The development of these properties will not constitute a disruption to existing uses; rather, it is supplementary and complimentary to existing uses. The existing uses surrounding the properties have been there for a

very long time and are not likely to change. The introduction of a day care center and a professional office building will not induce existing uses to change nor will they prohibit or affect the ability of the current uses to continue. It's more likely that it may inspire existing property owners to perform further improvements to their properties. Office uses have long been considered by planners to be an appropriate transitional use. Day care centers are very complimentary to residential areas and transition between residential and higher uses, such as offices and light industrial uses. In this case it transitions between light industrial and two churches which separate the properties from the single family residential subdivision. Most of the homes near the site are a long distance from the properties and in no instance does either of the proposed uses immediately abut a single family home. Among the more important effects to be realized from this rezoning will be the addition of uses which will create a more diversified tax base for the city and a dramatically improve the character of this intersections providing an excellent transition of uses from light industrial to residential.

The submission of this rezoning application is timely. It is the applicant's understanding that the city's mater plan is in the process of being revised. The revision includes examining the subject properties for uses other than single family. Presumably, the examination of this intersection is being performed because the market factors are not present to induce single family home development and a higher and better use will also better accomplish fiscal goals of the city. Uses other than single family residential make sense for this corner as the Hamlin Road and Livernois corridors are already a mixture of commercial and residential uses. Further Hamlin and Livernois already function as major thoroughfares whose traffic management will only be improved and better facilitated by the boulevards. It's such thoroughfares which make commercial uses appropriate and residential uses inappropriate. Therefore the proposed rezoning is in keeping with the character and development patterns already established in this vicinity.



Yellow: Single Family Residential Zoning  
Grey: Light Industrial Zoning  
Purple: Subject Site

**Current Zoning Map (Partial)**

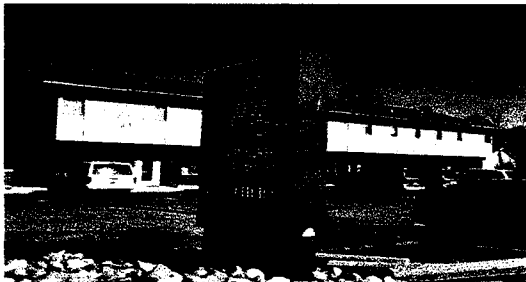
Source: City of Rochester Hills, MI, Website

Yellow: Single Family Residential  
Brown: Light Industrial  
Purple: Subject Site

**1999 Master Land Use Plan (Partial)**

Source: City of Rochester Hills, 1999 Master Land Use Plan

Note that the presence of an office building near or within a residential area is not new to the Livernois corridor. Further to the north on Livernois, near Walton Blvd., there are existing homes which are directly across the street from existing medical offices. This relationship is not unlike the proposed location as it offers a mixture of uses near residential housing.



Existing medical office on Livernois, south of Walton Blvd.



Homes on Livernois, across from exist. offices.



Another view of the same medical building as seen previously. Access to this building is from a side street which intersects with Livernois and serves residences across the street.

**2. "What specific steps are planned to revitalize the disturbed areas or replace the removed vegetative cover?"**

As will be required as part of site plan approvals, a landscape plan for the property will be produced. It will provide the quantity and quality of plant materials as required by the zoning ordinance. Additionally, to the extent possible, existing trees will be saved and incorporated into the landscape plan. It is anticipated that this will primarily include existing trees along the east boundary of the properties. Existing trees that are to remain shall be identified and marked so that during construction these trees can be protected. Bare earth areas will, of course, be covered with some form of ground cover, such as turf, or mulch in planting beds, which will control sedimentation and runoff.

**3. "What beautification steps are built into the development?"**

Beautification is in the form of pleasing architecture and a well-designed landscape plan. Additionally, site amenities and signage will also add to the aesthetic appeal of the buildings and therefore the area in general. This is an immediately and long term positive impact.

4. *"What alternative plans are offered?"*

Not applicable.

#### **Part IV - Summary**

Based upon the forgoing information, the net environmental impact on the City of Rochester Hills will not be negative, and in fact, will be positive.

The rezoning and the development of an office building and day care center on the subject properties will have no impact on the overall ecology; it is not a use that produces pollutants; it's not a use that creates objectionable noises; it's not a use that will disrupt adjacent property owners' use and enjoyment of their properties; it will not impact upon ground water and surface water management.

The lasting impact upon the community is that day care services are needed office are a use that is in demand and will be more conveniently available to the nearby and significant residential community as well as to those who work in the area. Its location and proximity to other uses, such as schools, offices, day care, shopping, hospitals and other supporting medical offices means that daily trips by area residents and workers can be combined with their other everyday stops, thereby consolidating trip generations and durations.

The economic effect to the city will be positive, creating additional property tax and personal tax revenues as well as employment taxes. The indirect benefit is the additional contribution to the local economy by those who work in the medical office building, and for those workers who don't already reside in the city, they may relocate to Rochester Hills, further contributing to the property tax base and to the local economy.

Offices are usually considered as a good transitional use. In this location, it will transition between the existing light industrial and the residential areas. Being that the properties are located at the fringe of both, it is an excellent transitional site. Its location on a corner is important for the visibility of the office building and day care center, which is a factor that will contribute to the success of these users and therefore result in a long term benefit to the community. Further to the north, the mix of offices, residential and commercial uses are very much the same. Existing and new residential is directly adjacent to existing medical office buildings. Further, although one of the subject properties has been used as a single family residence for over 40 years, the other subject property, which has been zoned as residential for many years, remains vacant, as does the corner property to the south. The

property to the south west of the subject property, although it contains a home, is old and unimproved suggesting that it is not a desirable single family home location. There hasn't been pressure from the market to create single family homes at these corners. In a highly desirable community, such as Rochester Hills, this suggests that other uses, such as a day care center and professional office building, is a more appropriate use.

We therefore respectfully submit this is a reasonable and beneficial rezoning request. We appreciate your consideration and hope that we can work together to effectuate this rezoning. Your consideration is very much appreciated.