

AN ORDINANCE TO AMEND SECTION 5.20  
OF CHAPTER 50 OF TITLE V OF THE CODE  
OF THE CITY OF EAST GRAND RAPIDS

The City of East Grand Rapids ordains:

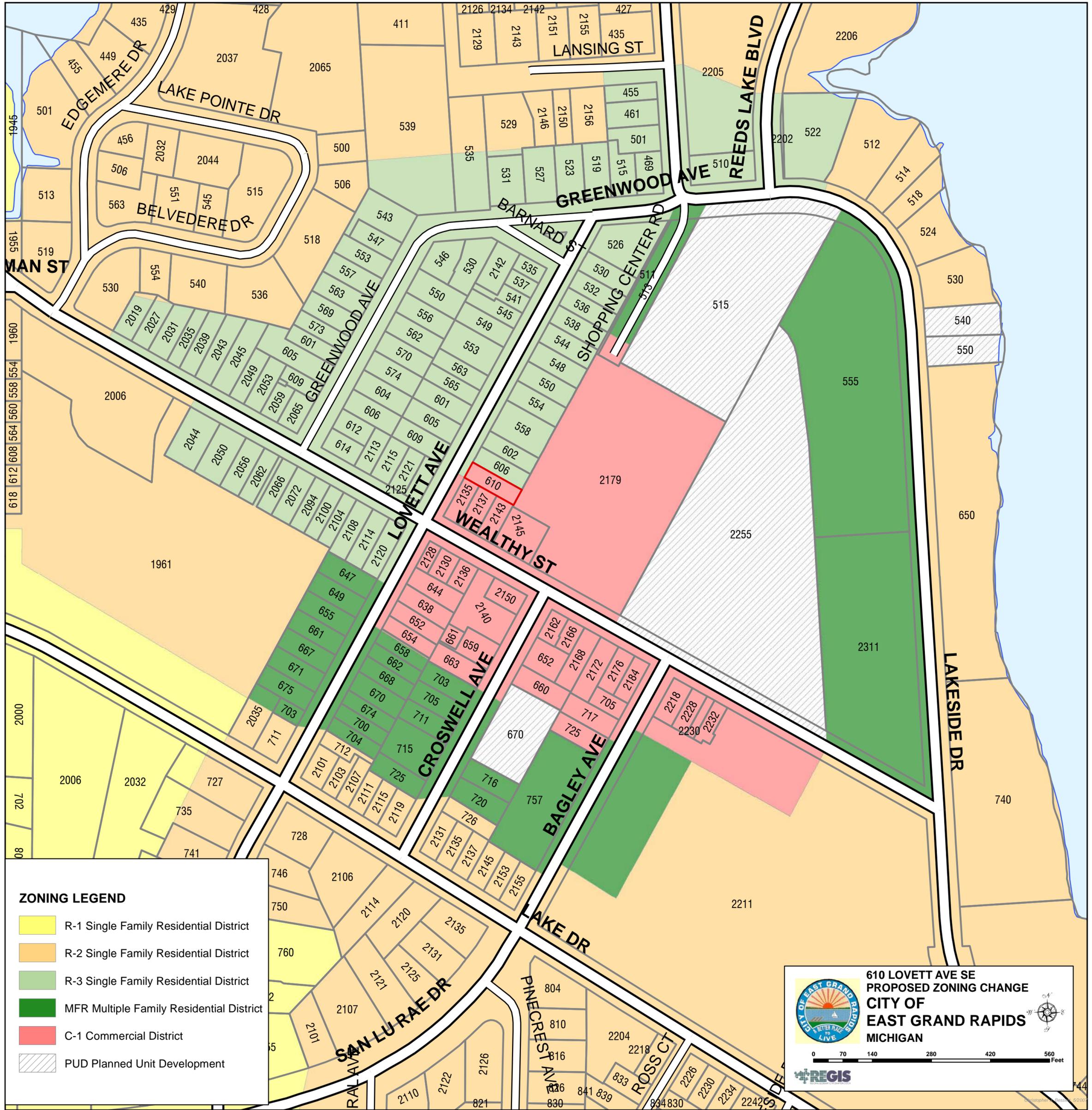
Section 1. Section 5.20 of Chapter 50 of Title V of the East Grand City Code is hereby amended by changing the City Zoning map to indicate that the following described parcel is zoned C-1 Commercial, as shown on the attached revised map:

South 41 feet of Lot 25, Judd's Subdivision, City of East Grand Rapids

Section 2. This ordinance shall be effective on February 26, 2016.

Section 3. This ordinance shall be published in full pursuant to the provisions of Chapter VII, Section 7.5 of the Charter of the City of East Grand Rapids.

10136925\_1.docx



**ZONING LEGEND**

- R-1 Single Family Residential District
- R-2 Single Family Residential District
- R-3 Single Family Residential District
- MFR Multiple Family Residential District
- C-1 Commercial District
- PUD Planned Unit Development

**610 LOVETT AVE SE  
PROPOSED ZONING CHANGE**

**CITY OF  
EAST GRAND RAPIDS  
MICHIGAN**

REGIS



**CITY OF EAST GRAND RAPIDS**  
750 LAKESIDE DRIVE SE • EAST GRAND RAPIDS, MICHIGAN 49506

**Zoning Review Application**

Project Name Rezoning Request from R-3 to  
 Property Address 610 Lovett C-1  
 Project Description \_\_\_\_\_

Type of Request (check)	Fee
<input checked="" type="checkbox"/> Site Plan Review (Administrative)	<del>\$200</del>
<input type="checkbox"/> Site Plan Review (Intermediate)	\$300*
<input type="checkbox"/> Site Plan Review (Complete)	\$500*
<input checked="" type="checkbox"/> Rezoning Application	<b>\$800</b>
<input type="checkbox"/> Special Use Permit	\$500
<input type="checkbox"/> Planned Unit Development	\$1,000*

*(attach separate sheet if necessary)*

\*Escrow fees may also be required.

Permanent Parcel Number 41-14-33-216-013  
 Zoning District R-3  
 Current Property Use Hair/Beauty Salon

Contact Information (Please provide email addresses.)

	Company	Address	Contact Person	Daytime Phone
Applicant	Coiffeteria	610 Lovett	Catherine Jacobs, Atty	682-5574
Owner	Marielle Shuster	same	n/a	745-9737
Developer	n/a	n/a	n/a	n/a
Designer	n/a	n/a	n/a	n/a

**See the back of this form for items that must be attached to this application at the time of submission.**

Marielle Shuster  
 Property Owner Signature

Catherine Jacobs  
 Applicant Signature (if different)

10/26/15  
 Date

10/26/2015  
 Date

## Attachments Required For Preliminary Review

	Site Plan Review			Rezoning Application	Special Use Permit	Planned Unit Development
	Administrative	Intermediate	Complete			
A narrative describing the overall objective of the proposed project	X	X	X	X	X	X
Site Plan Drawings showing:						
A. Name of Applicant	X	X	X	X	X	X
B. North arrow	X	X	X	X	X	X
C. Legend	X	X	X	X	X	X
D. Scale of drawing	X	X	X	X	X	X
E. A location map w/exact location of project and surrounding area	X	X	X	X	X	X
F. Location, size, appearance of any existing or proposed signs	X	X	X	X	X	X
G. Location and type of exterior lighting	X	X	X	X	X	X
H. Screening and buffering with reference to dimensions and character	X	X	X	X	X	X
I. Dimensions of setbacks, locations, heights and size of buildings and structures	X	X	X	X	X	X
J. Proposed parking areas with lines showing individual spaces – include all barrier-free parking.	X	X	X	X	X	X
K. Highlights of changes made from existing building(s), parking or site plans.	X					
L. Locations of fire hydrants, curbs, gutters, utility lines, easements.	X	X	X	X	X	X
M. Topography of site			X	X	X	X
N. Proposed grading			X	X	X	X
O. Drainage, storm and sanitary sewers			X	X	X	X
Environmental Impact			X		*	*
Fiscal Impact Analysis			X		*	*
Traffic Impact Analysis			X		*	*

\* Depending on the scope of the development, these items may be required.

This list is provided as a summary of ordinance requirements, and additional information may be required in some cases. Please see the appropriate section of the City's zoning ordinance for complete details of all the above.

# Application for Rezoning

**Applicant:** Coiffeteria Hair Salon/Marielle Shuster, Owner  
**Current Zoning Classification:** Residential (R-3)  
**Request:** Rezoning from R-3 to C-1 in the “Commercial Core” district

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## Applicable Zoning Regulations and EGR Master Plan

1. East Grand Rapids Zoning Ordinance

**§5.13: Definitions M-N**

**Master Plan:** The plan adopted by the City of East Grand Rapids in accordance with the Michigan Planning Enabling Act, Act 33 of 2008, as amended

2. §5.77 Minimum Parking Requirements

**(B) C-1 District Parking Space Requirements**

**Use:** Beauty parlor or barber shop

**Required Parking Spaces:** Two (2) Spaces for each beauty or barber shop chair

Currently, with the shared parking and the on street parking, there are 13 available parking spaces.

3. East Grand Rapids Zoning Ordinance

**§5.108: Rezoning and Text Amendment Guidelines:** the following guidelines shall be used by the Planning Commission, and may be used by the City Commission in consideration of amendments to the Zoning Ordinance:

**(B) Map Amendments (Rezoning):**

Below are the City’s requirements for a rezoning request. In blue, the applicant has responded to each requirement.

1. Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of the city of East Grand Rapids Master Plan; or, if conditions have changed since the Master Plan was adopted, consistency with recent development trends in the area.

The current Master Plan for EGR includes the subject property in the “CC” commercial core map.



The Applicant's property is located in the "CC" section, just above and to the left of the letter "A" in the orange circle. The "CC" designation is Commercial Core. Uses: Retail, offices, services, restaurants. Building Height: 2 stories, 28 feet maximum.

In the *Master Plan Amendment Map 4: Gaslight Village Subarea Plan*, adopted November 6, 2006.

- Whether the proposed district and the uses allowed are compatible with the site's physical, geological, hydrological and other environmental features. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts.

The subject parking property operates in the commercial district of the Gaslight Village, sharing its parking with the businesses that front Wealthy Street. The salon has been operating for many years and there have been no negative impacts on the residential neighbors. The traffic has not been an issue for either the residential neighbors or the neighboring business owners. Coiffeteria would fall under the permitted C-1 use of "service".

3. Whether, if rezoned, the site is capable of accommodating the uses allowed, considering existing or planned infrastructure including streets, sanitary sewers, storm sewer, water, sidewalks, and street lighting.

**The operation of the salon, without incident or negative impact, demonstrates the site's capability of accommodating the use from an infrastructural impact.**

4. Other factors deemed appropriate by the Planning Commission or City Commission.
4. **City of East Grand Rapids Master Plan adopted November 9, 1999  
Chapter 3, as updated November 6, 2006**  
Map 4: Gaslight Village Subarea Plan (the map is included in the text below)
5. **East Grand Rapids Zoning Ordinance Article 9: Off-Street Parking Requirements  
§ 5.78 Modifications and Exemptions**  
(A) **Exemptions.** Uses within certain locations in the Gaslight Village business district shall be exempt from parking requirements otherwise applicable, as specified in C-1 *district Parking Space Requirements* table.
  1. **Exempt Zone Defined.** For purposes of this section, the “exempt zone” shall include all properties zoned C-1 within the following described areas:
    - c. the east side of Lovett Street

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The Coiffeteria Salon has been operating as a hair salon at 610 Lovett since 1993. The original owners/operators were Jon and Jennifer Clifford. The building out of which the salon operates, is zoned R-3.



A view of the front/side of the subject property from the parking lot.



Looking at the property from Lovett Street towards Reed Lake. The view shows the shared parking lot with Hoffman Jeweler's. Visible, to the right side of the photo, is the Lovett Street side of the jewelry store.

## **Zoning History**

The property is presently zoned **R-3**. The property shares a parking lot with Hoffman Jewelers in the C-1 district.

In 1980, a variance was granted to allow a dental office to operate on the first floor of the subject property. In 1985, a variance was granted to allow an insurance agency to operate on the second floor. The dentist vacated the first floor in 1991 and the insurance office vacated the property in 1993.

In November of 1993, the East Grand Rapids City Commission approved a variance to allow the first floor of the salon to operate as a commercial use (beauty salon). The following were conditions of granting the variance:

1. Upon the approval of the variance request for the first floor, the 1985 variance grant for the second floor of the property will terminate immediately.
2. The existing wood sign located in the front yard of the parcel will be removed.
3. Future signage will be limited to one unlit sign placed on the exterior of the building, and shall be constructed so as to conform to Section 8.21 of Chapter 81 of the City Code as it relates to wall signs.
4. Changes to exterior of the building are prohibited, with the exception of the changes set forth in the initial variance application.
5. Parking requirements shall conform to the current City of East Grand Rapids parking ordinance.

6. The beauty salon shall be allowed only three chairs for business use.
7. A total of eight (8) parking spaces shall be provided for the property located at 610 Lovett SE, to be allocated as follows:
  - (a) A total of six (6) parking spaces shall be provided for beauty salon use only; and
  - (b) A total of two (2) parking spaces shall be provided for upper level property use only.

The conditions were met and the variance was granted.

## **Property Use History**

At some time during the Clifford's ownership of the salon, they operated the salon using the three chairs on the first floor and also utilizing the second floor in different salon capacities. At the time of the sale from the Clifford's to the Applicant, the salon was using both floors for salon services.

Applicant began operating the salon in 2006. Since the time of Applicant's ownership, the salon has offered various salon services on both floors, in continuation of the operation of the previous owner.

## **Applicant Request**

The Applicant is respectfully requesting a change in zoning from **R-3 to C-1** so that its zoning is not only compatible with the property's long-standing operating history, but more importantly to be compatible with the adjacent properties in the C-1 district.

While the subject property is zoned R-3, it actually lies within the C-1 commercial core "CC" district. This can be seen in Map 4 (included above) of the Amendments to the Master Plan which was adopted November 6, 2006.

When the Master Plan was amended in November of 2006, the Commercial Core district lines were drawn to include the subject property in the CC district which is all part of the C-1 district. In the City's wisdom, it recognized that the subject property should be included and a part of the C-1 district.

The salon shares its parking lot with Hoffman Jewelers. The parties have a parking agreement that runs with the land. The C-1 parking required for a beauty parlor or barber shop is two spaces for each beauty or barbershop chair. There are 22 available spaces between in the shared space with Hoffman Jewelers. There are two additional on-street parking spaces available on Lovett. The available parking is more than adequate for the salon purposes. The salon operates with 6 chairs, requiring 12 spaces. It should be noted that parking availability has not been an issue for the patrons of the salon or the jeweler. See the parking space drawing as attachment 2.

If the City grants the rezoning from R-3 to C-1, there must be a consideration of other potential future uses and the parking issues. The subject property is approximately 1,400 of usable square feet, which will control other possible future C-1 uses.

If, for example, the subject property were to become a restaurant, the parking requirement would be 1 parking space for every 100 feet of usable floor area. This may translate into the need for approximately 14 spaces for a restaurant use. Note that this calculation does not take into consideration any space that would be needed for commercial refrigeration or a commercial kitchen and that would ultimately reduce the “usable space” for parking calculations.

If the space were to become a health club or dance studio, there would be a need for 1 space for every 200 square feet of usable floor area, plus 1 space per employee. This may translate into the need for approximately 7 spaces plus the number of spaces needed for the number of employees.

If the space were to become a business office or professional service space, the requirements are 1 space for every 330 square feet of usable space. This may translate into the need for approximately 4 spaces for a professional office.

A dentist or medical office requires 1 space for each 200 square feet of usable floor area. This may translate into the need for approximately 7 spaces for a dentist or medical office space.

The above scenarios are merely illustrative to show the parking requirements for different uses in the C-1 district. None of the uses would require more parking than currently exists.

It should be noted that pursuant to Article 9 of the EGR Zoning Ordinance, § 5.78(A)(1)(c), which is spelled out above, the location of the subject property is exempted from the off street parking requirements.

Based upon the City’s requirements for rezoning, which have all been met, and the City’s inclusion of the subject property in the CC district in its Master Plan, the applicant requests the City rezone the property from R-3 to C-1.

**Attachment 1**  
**Zoning Variance Request Documents**  
**10 Pages**



September 22, 1993

To: East Grand Rapids City Commissioners

I am requesting a variance to use the main floor of 610 Lovett as a beauty salon (a variance has been granted for a dentist office at this same address in the past). A variance is necessary because the property is zoned residential.

Attached is a floor plan of the beauty salon and the proposed parking plan. The parking plan has 25 parking spaces (including one limited access for apartment use). All spaces are 9' by 20'. To achieve this, three things must be done.

1. Angle fire escape on the rear of 610 Lovett in a different direction.
2. Remove part of the iron fence next to 610 Lovett to make access to the existing driveway.
3. Repaint parking lot.

All of these things are minor changes and will be done if the variance is passed.

Thank you,

  
Michael Hoffman



CITY OF  
EAST GRAND RAPIDS, MICHIGAN

November 17, 1993

WILLIAM BARAGAR  
DIRECTOR  
CITY SERVICES

Mr. Michael Hoffman  
610 Lovett, S.E.  
E. Grand Rapids, MI 49506

Dear Mr. Hoffman:

The City Commission, at its regular meeting held on November 15, 1993, approved your application for a variance to allow the first floor of the building for commercial use (beauty salon).

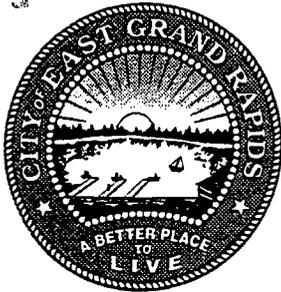
Please be advised that this variance must conform with the conditions as specified in Section 5.171-2 (enclosed) of the City Code.

Sincerely,

William Baragar  
Director City Services

WB:seb:1249

Enclosure



CITY OF  
EAST GRAND RAPIDS, MICHIGAN

WILLIAM BARAGAR  
DIRECTOR  
CITY SERVICES

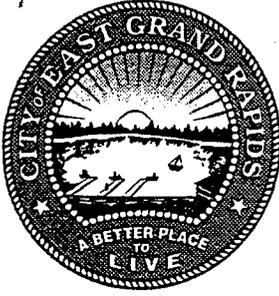
NOTICE

A zoning variance hearing will be held upon the request of Michael Hoffman, 2946 Pioneer Club Rd., to allow the first floor of the building, located at 610 Lovett, to be used as a Beauty Salon. Plans are on file in the City Services Department for review.

DATE: November 15, 1993  
TIME: 7:30 PM  
PLACE: East Grand Rapids Municipal Offices  
750 Lakeside Drive, SE

William Baragar  
Director of City Services

WB:seb:1230



CITY OF  
EAST GRAND RAPIDS, MICHIGAN

WILLIAM BARAGAR  
DIRECTOR  
CITY SERVICES

MEMORANDUM

TO: Honorable Mayor and City Commissioners  
FROM: Wm. Baragar, City Services Director  
DATE: October 6, 1993

RE: Variance Request for 610 Lovett SE

Action Requested: It is requested that a zoning variance be granted, at the request of Mr. Michael Hoffman, to allow the operation of a beauty salon on the first floor of the property located at 610 Lovett SE.

Background: At its October 18, 1993 meeting, the City Commission tabled this matter and directed City staff to propose conditions to be considered by the City Commission for the granting of this variance. The conditions and Mr. Hoffman's response to those conditions are attached hereto. Also, the applicant has modified his original application to reflect three work stations in the beauty salon, instead of four. The amended application documents are attached for your consideration.

This property was granted two variances in the past. The first variance, granted in 1980, was to allow the operation of a dental office on the first floor. The second variance, granted in 1985, was to allow the operation of an insurance agency on the second floor. Prior to these variances, the property was a multi-family residence. The dental office vacated the property in 1991. Sections 5.171-2(A) and (B) provide for the termination of this first floor variance (see attached). The insurance agency vacated the second floor of the property in 1993. As the use of this floor has not been discontinued for a period of one year or more (see Section 5.171-2(A)), this variance is still in effect.

Conclusion: A beauty parlor is an allowed use within the business district. To my knowledge, this application meets all other requirements of the zoning ordinance.

WB:jfk/2515  
Attachments

\_\_\_\_\_  
Brian Donovan, City Manager  
750 Lakeside Drive S.E. • East Grand Rapids, Michigan 49506

Telephone 616-940-4817

CONDITIONS OF VARIANCE  
REQUESTED FOR THE PROPERTY LOCATED AT  
610 LOVETT SE

1. Upon approval of the variance request for the first floor, the 1985 variance granted for the second floor of the property will terminate immediately.
2. The existing wood sign located in the front yard of the parcel will be removed.
3. Future signage will be limited to one unlit sign placed on the exterior of the building, and shall be constructed so as to conform to Section 8.21 of Chapter 81 of the City Code as it relates to wall signs.
4. Changes to the exterior of the building is prohibited, with the exception of the changes set forth in the initial variance application.
5. Parking requirements shall conform to the current City of East Grand Rapids parking ordinance.
6. The beauty salon shall be allowed only three chairs for business use.
7. A total of eight (8) parking spaces shall be provided for the property located at 610 Lovett SE, to be allocated as follows:
  - (a) A total of six (6) parking spaces shall be provided for beauty salon use only; and
  - (b) A total of two (2) parking spaces shall be provided for upper level property use only.

## RESPONSE TO CONDITIONS OF VARIANCE FOR 610 LOVETT SE

1. The current lease on the second floor is binding until 9-30-94.  
After September 1994 I suggest limiting the use to anything requiring 2 or less parking spaces. For example, a business office requiring only one space.
2. Sign was removed on October 20, 1993.
3. Agreed
4. Agreed.
5. Agreed.
6. Agreed.
7. Agreed.



CITY OF  
EAST GRAND RAPIDS, MICHIGAN

WILLIAM BARAGAR  
DIRECTOR  
CITY SERVICES

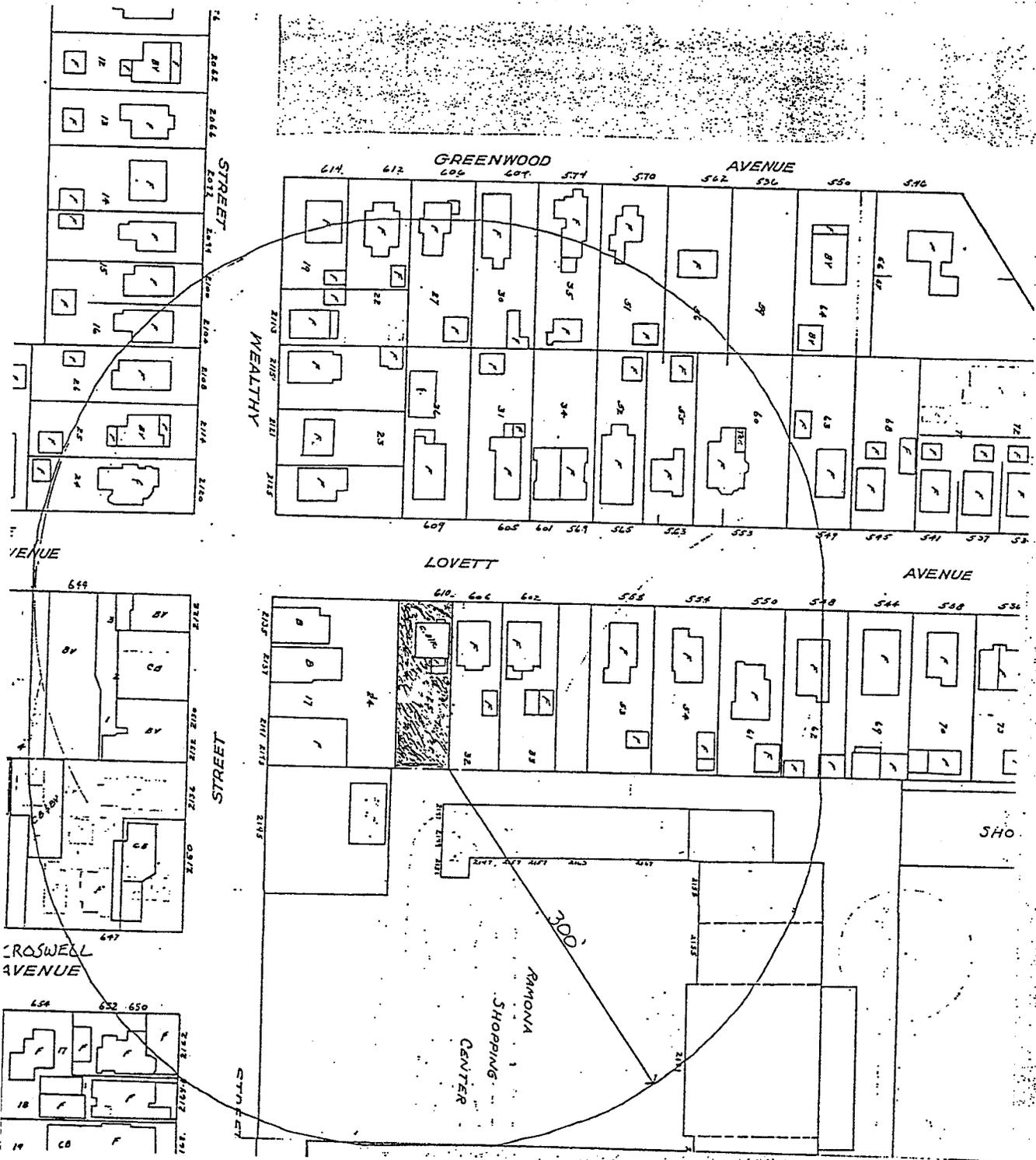
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DATE: October 18, 1993  
TIME: 7:30 PM  
PLACE: East Grand Rapids Municipal Offices  
750 Lakeside Drive, SE

William Baragar  
Director of City Services

WB:seb:1183



GREENWOOD AVENUE

WEALTHY STREET

LOVETT AVENUE

AVENUE

STREET

CROSWELL AVENUE

RAMONA SHOPPING CENTER

300'

SHO.

CITY OF EAST GRAND RAPIDS, MICHIGAN  
REQUEST FOR ZONING ORDINANCE VARIANCE

DATE: 7.22.93

NOTE TO APPLICANT: You should pay careful attention to answering the questions in this application as accurately and completely as you possibly can. This will give you the best possibility of your application appearing on an early agenda for action and for approval by the Board of Zoning Appeals. Upon receipt of your application, the Engineering Services Office will mail no less than ten (10) days advance notice of hearing to all property owners within a 300 foot radius of the property involved in the variance request. You should arrange to be present at the hearing. A filing fee of seventy-five (\$75.00) dollars must accompany your application (a check or money order is preferable).

1. Name of Applicant: MICHAEL HOFFMAN
2. Address of Applicant: 2946 PIONEER CLUB
3. Address of property involved, if different from above:  
GIO LOVETT
4. Permanent Parcel number of property on which variance is requested:  
41-14-33-276-013
5. Cite the specific section(s) of the Zoning Ordinance from which you are asking a variance: 5.81, 5.111
6. Please check all the items below which are applicable to your request for variance:
  - a. The situation which causes you to seek a variance does not result from any action of yours.
  - b. A grant of the variance would do substantial justice to you as well as to other property owners and will not be of substantial detriment to neighboring properties.
  - c. The request for variance is based upon conditions and circumstances described on the attached sheet which are unique to your property and not generally applicable to others in your neighborhood.
  - d. Compliance with the Zoning Ordinance would unreasonably prevent you from using the property or would be unnecessarily burdensome.

In the space provided below you must provide a narrative statement setting forth: (1) what you wish to do with the property; (2) why you need the variance; (3) the specific decision you seek; and (4) the reason your project cannot be accomplished within the requirements of the Zoning Ordinance. Please feel free to use an additional sheet, if necessary.

*see attached letter*

You must also provide a legible sketch of your proposed project and such other information as may be required by the Engineering Services Director. (Conditions may be attached to the granting of the variance by the Board of Zoning Appeals.)

Date of Hearing (office use only)

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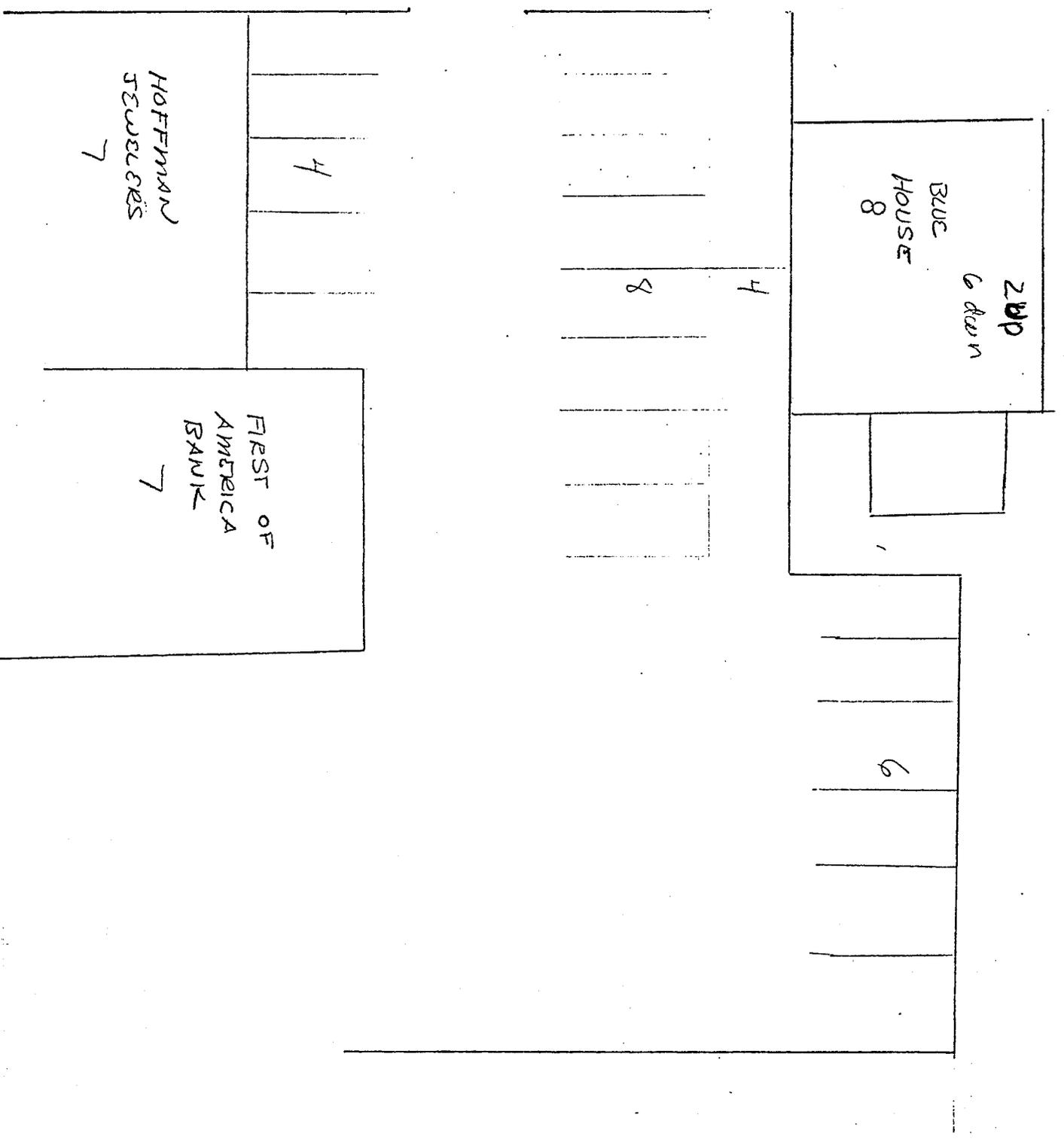
*Michael R. Hoffman*  
Applicant Signature

c:600

Attachment 2  
Parking Map

ALL SPACES ARE 9x20

22 TOTAL



HOFFMAN SCULPTORS 7

FIRST OF AMERICA BANK 7

## RECIPROCAL EASEMENT AGREEMENT

THIS RECIPROCAL EASEMENT AGREEMENT is made as of the 4<sup>TH</sup> day of April, 2008, between MICHAEL S. HOFFMAN, TRUSTEE OF THE MICHAEL S. HOFFMAN TRUST UNDER TRUST AGREEMENT DATED APRIL 10, 1991, AS AMENDED AND RESTATED IN ITS ENTIRETY BY RESTATED TRUST AGREEMENT DATED SEPTEMBER 16, 1992, AS AMENDED APRIL 25, 1994 AND DECEMBER 30, 1997, AS AMENDED AND RESTATED IN ITS ENTIRETY BY RESTATED TRUST AGREEMENT DATED JUNE 14, 1999 ("Hoffman") and MARIELLE RIDAY SHUSTER, a married woman, whose address is 1122 Spice Bush Drive, S.E., Ada, MI 49301 ("Shuster"), with reference to the following facts:

### RECITALS

A. Hoffman is the owner of real property located at 2135 Wealthy Street, S.E., Grand Rapids, Michigan 49506, and legally described as:

The West 40.7 Feet of Lots 17 and 24 of Judd's Subdivision of Boynton and Judd's Lake Addition to the City of Grand Rapids (now East Grand Rapids), according to the recorded plat thereof. (The "Hoffman Property").

B. Shuster is the owner of real property located at 610 Lovett Avenue, S.E., Grand Rapids, Michigan 49506, and legally described as:

The Southerly 41 feet of Lot 25, of Judd's Subdivision of Boynton and Judd's Lake Addition, City of East Grand Rapids, Kent County Michigan, except a right of way forever over the Northerly 4 feet of said premises for a driveway and granting a right of way forever over a strip of land 4 feet wide along the North side of said premises. The 8 feet of land above referred to, to be used as a driveway for the joint use of said premises and the premises lying directly north of said premises. (The "Shuster Property")

C. Prior to signing this Agreement, Hoffman conveyed by deed to Shuster the Shuster Property.

D. Shuster's agreement to purchase the Shuster Property from Hoffman was conditioned upon Shuster and Hoffman's mutual agreement that a reciprocal easement be

created over the existing driveway and parking areas located on the Hoffman and Shuster properties.

E. As referenced above, the existing driveway presently provides ingress and egress from Wealthy Street and Lovett Avenue to the parking areas located on the Hoffman Property and the Shuster Property. Such ingress and egress and parking areas are also the subject of an Easement Agreement dated November 5, 1998, recorded at Liber 4580, Page 1079, Kent County records.

F. Pursuant to the conditions of the sale of the Shuster Property to Shuster, Hoffman and Shuster desire to grant and receive a non-exclusive ingress and egress easement over the existing parking lot and driveway areas of their respective properties (the "Easement Property") for the mutual benefit of both parties, the purpose of which is to continue the present and future commercial uses of the Hoffman or the Shuster properties.

G. This Agreement has been entered into to set forth the parties' respective understandings, rights, and obligations concerning the easement.

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, the following grants, agreements, covenants, and restrictions are made:

1. Creation of Reciprocal Easement. The parties do hereby establish and create for the mutual benefit of each other, and their respective heirs, representatives, successors, grantees, assigns, employees, tenants, invitees, guests, and customers, a reciprocal, nonexclusive, appurtenant, and perpetual easement over their respective properties for the following purpose:

- a. Pedestrian and vehicular ingress and egress from Lovett Avenue and Wealthy Street to the Shuster Property and Hoffman Property, as well as for parking vehicles in the parking areas located on the Shuster Property and the Hoffman Property.

The owners, owner representatives, employees, tenants, invitees, agents, licensees, clients, and customers of the Shuster Property and Hoffman Property shall have equal rights to use the other party's property solely for pedestrian and vehicular ingress and egress and parking purposes described herein.

2. Dominant Estate. The Hoffman Property shall be the dominant estate for use of the ingress and egress and parking in the parking areas located on the Shuster Property and the Shuster Property shall be the dominant estate for use of the ingress and egress and parking in the parking areas located on the Hoffman Property.

3. Damage to Property and Indemnity. Each party to this Agreement shall repair any damage to any real property of the other party caused by or in connection with the easement rights granted in this document, and shall indemnify and hold harmless the other party from all claims or liability arising from the acts or omissions of the indemnitor and its employees, tenants, invitees, agents, licensees, clients, or customers in connection with the exercise of any easement rights described herein, unless caused by or occasioned wholly or in material part by any act or omission of the other party, or its employees, tenants, invitees, agents, licensees, clients, or customers .

4. Maintenance, Repair, and Improvement Each party shall be solely responsible for all costs of maintenance, repair, and replacement of any portion of the Easement Property that is located on their respective property, so as to keep the Easement Property in a good state of repair and free of snow, ice, and debris.

5. Default. If any party defaults in the full, faithful, and punctual performance of any obligation hereunder to be performed by such party, then the party or parties to be benefitted by the performance of the obligations, will, in addition to all other remedies they may have at law or in equity, have the right if such alleged default is not cured within 30 days of service of written notice (or immediately, if an emergency), to perform such obligation on behalf of such defaulting party and be reimbursed by such defaulting party for the cost thereof.

6. Dispute Resolution.

6.1 Any controversy or claim between the parties arising out of or related to this Agreement, or the breach thereof (other than the failure to pay for an approved cost or expense) may, at the option of any party, be settled by arbitration which shall be conducted by either the Better Business Bureau of Western Michigan or the American Arbitration Association, under their respective rules which are then in effect. Arbitration of any claim or controversy arising out of or relating to this Agreement or the breach thereof must be filed within such time as would be permitted by law for the filing of a suit on such claim in any Court, and, any arbitration which is filed late shall be dismissed and, if not dismissed, the late filing may be presented as a defense in any suit to enforce the arbitration award.

6.2 Each party to this Agreement specifically agrees, by signing this Agreement, or by otherwise becoming subject to it, that it is giving up any right to file suit and have a trial by a judge or a jury of any claim or controversy arising out or relating to this Agreement or the breach thereof (other than the failure to pay for an approved cost or expense and except for any suit to enforce an arbitration award) and that said parties are agreeing to provisions of this Agreement freely and voluntarily. The award rendered by the arbitrator or arbitrators shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

7. Binding Effect. The parties declare that this Agreement will be binding upon the parties, their members, grantees, successors, and assigns, and that the easements, rights, powers and obligations created herein will run with the land. Each owner of any portion of, or interest in the Hoffman Property or the Shuster Property, by acceptance of a deed, land contract, or other conveyance to any part of the property benefitted or burdened by this Agreement does thereby agree to all terms, provisions, obligations, and conditions of this Agreement.

8. Amendment and Termination. This Agreement may be amended, altered, modified or terminated by, and only by, the mutual written agreement of all persons then owning or having an interest of record in the properties affected by the amendment or by all parties owning or having an interest of record in the easement right or power that is to be terminated.

9. Miscellaneous.

9.1 No Gift or Dedication. Nothing herein contained will be deemed to be a gift or dedication of any portion of the Hoffman Property or the Shuster Property to the general public or for any public purposes whatsoever.

9.2 No Third Party Beneficiaries. No third party, except grantees, or heirs, representatives, successors and assigns of the parties will be a beneficiary of any provision of this Agreement.

9.3 Notices. Every notice, demand, request, or other communication which is required or which any party desires to give or make or communicate upon or to any other party, will be in writing and will be given or made or communicated or by mailing the same by postage prepaid registered or certified mail, return receipt requested, to the party at that party's last known address. Every notice, demand, request, or other communication sent will be deemed to have been given, made or communicated, on the third business day after the same will have been deposited, registered or certified, properly addressed as aforesaid, postage prepaid, in the United States mail.

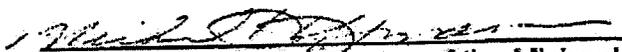
9.4 No Waiver. No waiver of any default by any party will be implied from any omission by the other party hereto to take any action in respect to such default if such default continues or is repeated. One or more waivers of any default in the performance of any term, provisions, or covenant of this document will not be deemed to be a waiver of any subsequent default in the performance of the same term, provision, or covenant, or any other term, provision or covenant of this document.

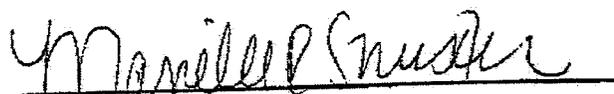
9.5 Construction. This Agreement shall be governed by the laws of the State of Michigan. The headings contained herein are for convenience only and shall not

be used to define, explain, modify, or aid in the interpretation or construction of the contents of this Agreement.

9.6 No Transfer Tax. This instrument is exempt from the county real estate transfer tax pursuant to the provisions of MCLA 207.505(a), MSA 7.456(5)(a), and from the state real estate transfer tax pursuant to the provisions of MCLA 207.526(a), MSA 7.456(26)(a), since the value of the consideration given is less than \$100.00.

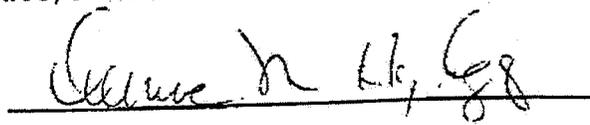
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

  
Michael S. Hoffman, Trustee of the Michael S. Hoffman Trust, u/a/d 4/10/91, as amended and restated in its entirety by Restated Trust Agreement dated 9/16/92, as amended 4/25/94 and 12/30/97, as amended and restated in its entirety by Restated Trust Agreement dated 6/14/99

  
Marielle Riday Shuster

STATE OF MICHIGAN            )  
  )ss  
COUNTY OF                    )

The foregoing instrument was acknowledged before me this 4th day of April, 2008, by Michael S. Hoffman, Trustee of the Michael S. Hoffman Trust u/a/d 4/10/91, as amended and restated in its entirety by Restated Trust Agreement dated 9/16/92, as amended 4/25/94 and 12/30/97, as amended and restated in its entirety by Restated Trust Agreement dated 6/14/99, on behalf of the Trust.

  
Notary Public, \_\_\_\_\_ County, MI  
Acting in and for \_\_\_\_\_ County, MI  
My Commission Expires: \_\_\_\_\_

STATE OF MICHIGAN     )  
  ) ss  
COUNTY OF                    )

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of April, 2008, by Marielle Shuster

*Stacey A. George*

Notary Public, \_\_\_\_\_ County, MI  
Acting in and for \_\_\_\_\_ County, MI  
My Commission Expires: \_\_\_\_\_

THIS INSTRUMENT PREPARED BY  
AND AFTER RECORDING RETURN TO:  
Stacey A. George  
Charron & Hanisch, PLC  
4949 Plainfield Avenue  
Grand Rapids, MI 49525  
(616) 363-0300

Attachment 4  
Survey of Subject Property

