STATE OF MICHIGAN

DEPARTMENT OF LABOR & ECONOMIC GROWTH

BEFORE THE STATE BOUNDARY COMMISSION

In the matter of:

Boundary Commission
Docket # 02-AP-7

The proposed annexation of territory in Holly Township to the City of Fenton

SUMMARY OF PROCEEDINGS
FINDINGS OF FACT AND CONCLUSIONS OF LAW

The territory approved for annexation from Holly Township to the City of Fenton is described in Attachment A.

A. On February 24, 2003, a petition was filed asking for the annexation of territory in Holly Township to the City of Fenton.

B. On April 17, 2003, the State Boundary Commission held an adjudicative meeting to determine the legal sufficiency of the petition. The Commission declared the petition to be legally sufficient, pursuant to Public Act 191 of 1968, as amended, and Public Act 279 of 1909, as amended.

C. On July 31, 2003, the State Boundary Commission held a public hearing in the City of Fenton to receive testimony given pursuant to Public Act 191 of 1968, as amended.

D. On November 18, 2003, at an adjudicative meeting, State Boundary Commissioners Ishbia, VerBurg and Walker voted to recommend that the Director of the Department of Labor & Economic Growth approve the annexation as petitioned. Genesee County Boundary Commissioner West voted no.

E. On December 18, 2003, at an adjudicative meeting, Boundary Commissioners Ishbia, VerBurg, Walker, and Genesee County Commissioner West voted to approve the draft Summary of Proceedings, Findings of Fact and Conclusions of Law (as amended).

FINDINGS OF FACT

1. The area proposed for annexation is 9.7 acres located in the southwest corner of Holly Township, Oakland County. The parcel is currently vacant. Approximately 55% is upland and 45% is wetland. It is zoned Agricultural Residential, which allows one home per 5 acres. If the property were rezoned pursuant to the Township Zoning Ordinance, a maximum of 3 homes could be built on the 9.7-acre parcel.

2. Holly Township does not provide water or sanitary sewer service to this portion of the Township. The land could only support one well and one septic field because of surrounding wetlands regulated by the Michigan Department of Environmental Quality.

3. The property does not have direct road access through Holly Township. A wetland and a railroad line are located to the north. A wetland is located to the east, and to the south is the Shiawassee River. On the immediate western border is land that the petitioner is developing as single-family residential, that lies in the City of Fenton, Genesee County.

4. The petitioner is developing 96.6 acres of property in the City of Fenton, west of the area proposed for annexation. The City of Fenton and the petitioner have established a Planned Unit Development Agreement for the parcel. The petitioner would like to extend the single-family residential section of the development in the area proposed for annexation, adding 8 detached single-family homes to their development.

5. The petitioner asked the parties to enter into an Act 425 agreement in 1998. The City Council was not interested in a 425 agreement for the petitioner's parcel at that time, and the City Manager stated that he is confident that the current City Council would not be interested in an Act 425 agreement.

6. **The Township testified:**

   The Township opposes the annexation and is willing to enter into an Act 425 agreement for the area proposed for annexation.

   Approval of the annexation would lead to governmental inefficiencies because a portion of the City would be in Oakland County. This would affect election administration and tax assessment.

7. **The City testified:**

   The City supports the annexation and has the ability to serve the property with all necessary public services, which are already being provided to the adjacent parcel being developed by the petitioner.

An Act 425 agreement would be inappropriate for this area because it is physically isolated from the Township, essentially an island, making it a difficult property for the Township to develop. Gas, electric, and phone lines would have to come through the City. Because the property is only accessible through City streets, the City will have to provide police and fire services. Storm water, sanitary sewer and water services are only available from the City. It is more efficient for the City to provide all services to the area. If the City is going to provide all services, it should receive all revenues.

8. **The petitioner testified:**

Holly Township receives $22.02 from the property tax assessment and $33.06 for a special assessment for fire and emergency services of 1.5 mills.

If the property were developed with a septic field there would be a greater pollution risk than if the City provided storm water management and sewer service.

In spite of good faith attempts to bring about a resolution to allow development of the property by agreement between the municipalities, further attempts at that process would be futile.

THE COMMISSION FINDS THAT

1. The petitioner requested the annexation to obtain utility services from the City for a proposed development project.

2. The City has the capacity and capability to provide the desired municipal services.

3. The Township is not able to provide sanitary sewer, water and some other public services.

4. The proposed annexation reflects the best of the available alternatives in providing municipal services to the area and its occupants.

5. The geographical features of the territory proposed for annexation dictate how services may be provided to the area.

6. The proposed annexation will not result in a substantial reduction of tax base or revenues of the township.

7. The proposed annexation will not have a deleterious effect on the broader community.

8. Development of the annexation under the jurisdiction of the City is consistent with present adjacent land use patterns.

9. Genesee County Boundary Commissioner West voted against the annexation because the area to be annexed is in Oakland County, while the City of Fenton is in Genesee County. This will create problems for election officials to coordinate the voting for the residents of the City of Fenton that live in Oakland County. State and national senatorial and representative districts cannot be changed by annexation of a part of one county to another.

CONCLUSIONS OF LAW

The record of this docket, in accordance with the criteria stipulated under Section 9 of the Public Act 191 of 1968, as amended, supports the Commission's recommendation that the Director of the Department of Labor & Economic Growth sign the attached Order approving the subject annexation and adopting the Summary of Proceedings and Findings of Fact and Conclusions of Law.

Kenneth VerBurg

Kenneth VerBurg, Chairperson
State Boundary Commission

1/15/04
Date

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BEFORE THE STATE BOUNDARY COMMISSION

In the matter of:

Boundary Commission
Docket # 02-AP-7

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FINAL ORDER

IT IS ORDERED THAT these Findings of Fact, Conclusions of Law and Order approving the annexation of territory in Holly Township to the City of Fenton, described in Attachment A shall be effective 30 days after the date signed by the Director of the Department of Labor & Economic Growth.

IT IS FURTHER ORDERED THAT the Manager of the State Boundary Commission shall transmit a copy of this Order and the attached Summary of Proceedings and Findings of Fact and Conclusions of Law to the clerks of Holly Township, the City of Fenton and Genesee County, and the Secretary of State.

David C. Hollister

David C. Hollister, Director
Michigan Department of Labor & Economic Growth

1-29-04
Date

ATTACHMENT A

Annexation Petition by Owners of at Least 75% Land
PART III

The territory proposed to be annexed to the City of Fenton is described as follows:

Part of the Southwest fractional 1/4 of Section 31, T5N-R7E, Holly Township, Oakland County, Michigan, more particularly described as follows: Beginning at the West 1/4 Corner of Section 31; thence along the East-West 1/4 line of Section 31, as previously surveyed, N 89°26'40" E, 660.00 feet; thence S 00°10'38" W, 693 feet, more or less, to the centerline of the Shiawassee River; thence Westerly, along the centerline of the Shiawassee River, 735 feet, more or less; thence along the West line of Section 31, also being the Oakland-Genesee County line, N 00°56'48" E, 654 feet, more or less, to the East 1/4 Corner of Section 36, T5N-R6E, City of Fenton, Genesee County, Michigan; thence continuing along the West line of Section 31 and the Oakland-Genesee County line, N 00°59'21" E, 26.40 feet, to the POINT OF BEGINNING, containing 9.7 acres, more or less and subject to any easements or restrictions of record.

February 4, 2003

FILED

FEB 24 2003 02 AP 07

STATE BOUNDARY COMMISSION

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