



500 West Big Beaver  
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## CITY COUNCIL AGENDA ITEM

Date: July 21, 2021

To: Honorable Mayor and Members of the Troy City Council

From: Lori Grigg Bluhm, City Attorney  
Julie Quinlan Dufrane, Assistant City Attorney

Subject: Safet "Sam" Stafa v City of Troy



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The City was served on July 16, 2021 with the attached lawsuit, filed by Safet "Sam" Stafa against the City of Troy. This lawsuit seeks a writ of mandamus or declaratory relief that would require the City to approve Plaintiff's proposed site plan for a development located on the northwest corner of Crooks and Wattles Roads. Plaintiff's site plan was denied by the Planning Commission on November 10, 2020, and Plaintiff subsequently appealed this adverse decision to the Zoning Board of Appeals ("ZBA"), where he sought a reversal of the Planning Commission decision, arguing that it was arbitrary and capricious. The ZBA denied Plaintiff's requested relief with a 4-3 vote at its meeting on January 19, 2021.

Plaintiff's Complaint argues that the City (both the Planning Commission and the Zoning Board of Appeals) misapplied the City's zoning ordinance as it relates to compatibility. Specifically, Plaintiff alleges that under Troy's Zoning Ordinance at Section 8.06.A, "compatibility" only applies where a proposed development is adjacent to an existing commercial district. Plaintiff argues it was arbitrary and capricious for the Planning Commission to apply the compatibility standard to his proposed project. Plaintiff's Complaint also finds fault with the City's determination that as proposed, the project "lacks adequate transition," because neither Planning Commission nor ZBA made specific findings of fact to support the decision. Finally, Plaintiff's Complaint alleges that the City's recent amendment of the Neighborhood Node Zoning Ordinance provisions was done in bad faith and should not apply to Plaintiff's project.

This case has been assigned to Oakland County Circuit Court Judge Jeffery S. Matis. The Court will issue a scheduling order shortly after appearances are filed in this case.

A proposed resolution authorizing our office to represent the City's interest in this matter is proposed for your consideration.

Please let us know if you have any questions concerning this matter.

This case has been designated as an eFiling case, for more information please visit  
www.oakgov.com/efiling.

STATE OF MICHIGAN

CIRCUIT COURT FOR THE COUNTY OF OAKLAND

SAFET "Sam" STAFA,

Plaintiff,

v

THE CITY OF TROY,  
a Michigan Municipal Corporation,

Defendant.

2021-189046-AW

Case No. 20-\_\_\_\_\_-AW

Hon. JUDGE JEFFERY S. MATIS

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**VERIFIED COMPLAINT FOR DECLARATORY RELIEF, WRIT OF  
MANDAMUS AND EX PARTE MOTION TO SHOW CAUSE WHY SITE PLAN  
APPROVAL SHOULD NOT BE GRANTED PURSUANT TO MCR 3.305(C)**

There is no other civil action between these parties arising out of the same transaction or occurrence as alleged in this Complaint pending in this Court, nor has any such action been previously filed and dismissed or transferred after having been assigned to a judge.

Plaintiff, Safet "Sam" Stafa ("Stafa or Plaintiff/Developer"), by counsel, for his Complaint for Declaratory Relief, Writ of Mandamus and Ex Parte Motion to Show Cause Why Site Plan Approval Should Not Be Granted Pursuant to MCR 3.305(C), mandating Defendant, the City of Troy to grant the Plaintiff's site plan approval for the proposed Crooks Road Townhomes, on the property whose full legal description is attached hereto as **Exhibit A** (the "subject property"), states as follows:

## STATEMENT OF FACTS

1. The Plaintiff/Developer had entered into an Agreement of Sale for a 2.73 acre site conditioned on site plan approval. Thereafter, a preliminary site plan ("PSP") was submitted to the Planning Commission ("PC") who, in turn, forwarded it to Carlisle Wortman Associates, Inc., Ann Arbor, Michigan ("CWA"), a planning firm that provides consulting services to municipal clients such as Defendant.

2. On September 24, 2019, the PC heard a PSP for the first iteration of the planned project. While the planned project was compliant with the Zoning Ordinances, the PC postponed approval of the PSP so that the Plaintiff/Developer could address certain items listed in the CWA review.

3. Shortly thereafter, on November 12, 2019, Plaintiff entered into an Agreement of Sale conditioned on site plan approval, to purchase a 5.72 acre parcel (from the same seller as the 2.73 acre site) on the west side of Crooks Road, just north of Wattles Road, in Troy, Michigan. At that time, the subject property was zoned Neighborhood Nodes ("NN") District ("NND") (Agreement of Sale attached as **Exhibit B**).

4. The City of Troy went through exhaustive statutory procedures to adopt the Master Plan and Zoning Ordinance with regard to the NND zoning. Through the legislative process, the City determined, with input of certain residents, its staff and consultants, the appropriate uses and building forms the City desired on properties to be zoned NND. In order for a Zoning Ordinance to be adopted, it must ensure compatibility with adjacent uses of land. *See Zoning Ordinance Section 16.03.C.5.* The Michigan Municipal Planning Act (MCL 125.3807(2)(a) & (b)) states that the Master Plan is to be coordinated, adjusted, harmonious,

efficient, and economical and to consider the character of the planning jurisdiction and its suitability for particular uses, judged in terms of such factors as trends in land and population development. The Michigan Zoning Enabling Act (MCL 125.3203(1)) requires that the Zoning Ordinance be based upon a plan to ensure that uses of land shall be situated in appropriate locations and relationships. The City did not do this exercise in a vacuum. The City, in adopting the Master Plan, and in implementing that plan by adoption of the Zoning Ordinance for the subject property, established that Plaintiff/Developer's proposed and permitted use under the planned project was suitable and appropriate for the location. The City established what uses can be developed on the property and the Plaintiff/Developer, in presenting the plan, was merely operating within the strictures established by the City.

5. With the expanded site, for the second iteration of the planned project, Plaintiff's plan now called for the construction of 74 townhomes in 13 buildings, a permitted use under the Ordinance. The plan required no variances, waivers or exceptions from the Zoning Ordinance. Moreover, the planned project was modest in size and scope as it exceeded what was required. (Preliminary Site Plan and Letter from Engineering Firm dated 03/16/2020 attached as **Exhibit C**).

Consider this: Under the NND, all dimensional standards were met:

	<b>Required</b>	<b>Provided</b>	<b>Compliance</b>
Front (east property line)	10-foot build-to-line	15 feet	Complies
Side (north)	N/A, building may be place up to property line	40 feet	Complies
Side (south)	N/A, building may be placed up to property line	80 feet	Complies
Rear (west)	30-foot minimum setback	139 feet	Complies
Building Height	Maximum 4 stores, 55 feet, minimum 2 stories	3 stories, 37.5 feet to peak of roof	Complies
Lot Coverage (Building)	30%	19.3%	Complies



Minimum Open Space	15%	55%	Complies
Parking Location	Cannot be located in front yard	Within garages	Complies

The Zoning Ordinance in its definition of Building Heights, states that the building height for a gable and gambrel roof is measured to the mid-point of the roof. The buildings have gable and gambrel styled roofs. Further, buildings B, C and D of the planned project (the most northern buildings; the "**Transitional Buildings**") have a peak height of 36' and a mid-point height of 27'9". The other 10 buildings have a peak height of 37'4" and mid-point height of 33'1". For reference, a single-family home in an R1-B District is permitted 30' to mid-point.

6. In its review dated November 6, 2020, CWA found that the proposed use was appropriate for the site, but urged the PC to consider if the Plaintiff/Developer has provided appropriate **transition**, (CWA November 6, 2020 and January 7, 2020 reviews attached as **Exhibit D**).

7. On January 14, 2020, the PC postponed the PSP hearing in order to give Plaintiff/Developer time to digest comments made by neighbors, PC staff and to address certain items identified in CWA's review, which primarily related to "proper screening/ landscaping along adjacent residential property lines, tree removal loss due to storm water facility, and lighting impact to adjacent properties". At that same meeting, the PC approved a different developer's PCP for the first phase of his proposed Square Lake Court Townhomes ("SLC"), also zoned NN. (PC Minutes of Meeting for January 14, 2020, attached as **Exhibit E**).

8. On March 6, 2020, and again on July 30, 2020, Plaintiff and the seller reached an agreement to extend the Agreement of Sale, as it was set to be terminated according to its terms, (First and Second Amendments to Agreement of Sale attached as **Exhibit F**).

9. The Plaintiff/Developer made changes to the site plan based on the comments of the PC and the public. After review, CWA found that the proposed use was appropriate for the site, however, they suggested that the PC pay close attention to the NN design standards (Section 5.06 E of the Zoning Ordinance and the site plan review design standards (Section 8.06 of the Zoning Ordinance) (Section 5.06 of the Zoning Ordinance attached as **Exhibit Q**).

10. On November 10, 2020, the PC denied Plaintiff's revised PSP, citing a "lack of compatibility and inadequate transition." (PC Minutes of November 10, 2020 Meeting of the PC attached as **Exhibit G**).

11. It is important to note that, behind the scenes, Defendant actively pursued amending the text of the Zoning Ordinance only as it applied to NNDs. In a memorandum directed to the PC, its Director, and the City Manager dated October 15, 2019, a principal of CWA, Benjamin R. Carlisle, proposed amending the Zoning Ordinance, but only as to NNDs. The proposed amendment (ultimately adopted on May 24, 2021), *inter alia*, limited building heights on parcels abutting residentially zoned parcels to 30' in height, not to exceed 2.5 stories. (CWA Memo to PC dated 10/15/2019 attached as **Exhibit H**). (Troy City Council Agenda dated 05/13/2021 attached as **Exhibit I**). On information and belief, this will prove to be of particular significance because, between October 15, 2019, and May 24, 2021, the PC approved several site plans for other developer's NNDs, while surreptitiously pursuing the Ordinance change while improperly denying Plaintiff's application.

12. The seller directed a Notice of Termination of the Agreement of Sale to the Plaintiff. In order to have standing to appeal, on November 20, 2020, the Plaintiff and the seller of the subject property, reached agreement to amend the Agreement of Sale for the third time.

(Notice of Termination of Agreement of Sale and Third Amendment of Agreement of Sale attached as **Exhibit J**).

13. On December 8, 2020, the PC approved its November 10, 2020 Meeting Minutes, thereby memorializing its denial of the PSP.

14. On December 11, 2020, the Plaintiff filed a timely application with the City of Troy, Zoning Board of Appeals ("ZBA"). Having extended the Agreement of Sale, the seller of the subject property joined in the application. (ZBA Application attached as **Exhibit K**).

15. Despite the fact that the site plan information required by the Zoning Ordinance was in full compliance with MCL 125.3501 (Michigan Zoning Enabling Act) and MCL 125.3102(s), state and federal statutes and the PC's own standards, at a meeting held on January 19, 2021, the ZBA, by a 4-3 vote, failed to reverse the PC's determination by approving the PSP. (Minutes of ZBA Meeting of January 19, 2021 attached as **Exhibit L**.) This continued failure to comply with the Zoning Ordinance took place despite the holdings in *Hessee Realty, Inc. v Ann Arbor*, 61 Mich App 319 (1975), and *Keating Int'l Corp v Orion Township*, 51 Mich App 122 (1974), *aff'd* 395 Mich 539 (1975), that in the event of full compliance, the plan must be approved.

16. After a seven-month negotiation, on June 18, 2021, Plaintiff/Developer and the seller finally negotiated and entered into a Fourth Amendment to the Agreement of Sale, providing the Plaintiff with a sufficient interest in the conditional purchase agreement to ensure a vigorous prosecution of his rights. (Fourth Amendment to Agreement of Sale attached hereto as **Exhibit M**).

## JURISDICTION AND VENUE

17. This Court has jurisdiction under MCR 2.605, MCR 3.305(A)(2), and MCR 3.305(C). MCR 3.305(A)(2) permits an action for mandamus to be brought in Circuit Court and MCR 3.305(C) provides that a plaintiff may make a motion for immediate action in the Complaint and the Circuit Court may issue an order to show cause why an order should not be entered.

## STANDING

18. Under the circumstances described in this Complaint, the Plaintiff has standing to pursue this matter under MCR 7.122(A); MCL 125.3605; *Detroit Fire Fighters Ass'n v City of Detroit*, 449 Mich 629 (1995); *Donaldson v Alcona Cty Bd of Cty Rd Comm's*, 219 Mich App 718, 722 (1996); *Lansing School Education Ass'n v Lansing Bd of Educ*, 487 Mich 349 (2010) (whenever a litigant meets the requirements of MCR 2.605); *Rodney Lockwood & Co. v Southfield*, 93 Mich App 206 (1979); *Willingham v Dearborn*, 359 Mich 7 (1960); *Keating Int'l Corp. v Orion Twp*, 51 Mich App 122 (1974), *aff'd* 395 Mich 539 (1975); *Knopf v Sterling Heights*, 391 Mich 139 (1974); (substantive due process) *United States v Moore*, 543 F3d 891, 896 (7<sup>th</sup> Cir) (2008) (Ct holding that to be considered similarly situated, Plaintiff and his comparators "must be *prima facie* identical in all relevant respects or directly comparable in all material respects); and *Brown v East Lansing Zoning Bd of Appeals*, 109 Mich App 688 (1981).

## PARTIES

19. The Plaintiff, Safet "Sam" Stafa, is a resident of the City of Troy, and is the Purchaser under a conditional sales contract to purchase the subject property (see **Exhibits B, F, J and K**).

20. The Defendant, City of Troy, is a municipal corporation organized and existing under the laws of the State of Michigan.

### WRIT OF MANDAMUS

21. MCR 3.305 permits an action for mandamus to be brought in the Circuit Court. Furthermore, MCR 3.305(C) provides that a plaintiff may make a motion for immediate action, and the Circuit Court may issue an order to show cause as to why an order should not be entered. MCR 3.305(C) also provides that a motion of this type may be made in the Complaint.

22. To obtain a writ of mandamus in Michigan, a plaintiff must prove all of the following: (1) The plaintiff has a clear, legal right to performance of the specific duty sought; (2) the defendant has a clear legal duty to perform; (3) the act is ministerial (meaning that the duty to act is so clearly defined by law that it leaves no room to use discretion or judgment); and (4) no other adequate legal or equitable remedy exists that might achieve the same result). See *Rental Props Owners Ass'n of Kent Co. v Kent Co. Treasurer*, 308 Mich App 498, 518 (2014).

23. The Plaintiff had a clear legal right to have his site plan approved under the NND classification of the Zoning Ordinance because it met the requirements of MCL 125.3501(5) and MCL 125.3102(s). Under the *Hessee* and *Keating* cases, *supra*, if a site plan contains the information required by the Zoning Ordinance, other local unit of government planning documents, and state and federal statutes, IT MUST BE APPROVED. Action on a site plan should also be timely. Where a planning commission repeatedly tabled or postponed action on a site plan over an 11-month period (similar to the situation at hand), where all objections to its approval had been addressed by the applicant, the court ordered the site plan approved. *Keating, supra*.

24. The PC and the ZBA did not have the discretion to deny the site plan on concerns and criteria that were not listed in the Zoning Ordinance.

25. On November 10, 2020, the PC denied the PSP for the planned project for the following reasons: "lack of compatibility and inadequate transition". The reasons provided for denial are without reference to a specific section in the Zoning Ordinance and were not supported by competent, material or substantial evidence on the record. Whatever scant reasoning that was offered, was vague, arbitrary and capricious. Considering that CWA wrote: "Overall, we find the proposed use to be appropriate for the site" and, during the January 14, 2020 PC meeting, the City Attorney was quoted as saying: "The proposed development is permitted by right on the project property," the decisions of the PC and the ZBA were without legal basis.

26. The Zoning Ordinance, with regard to compatibility and transition standards, is vague as: (a) it lacks the standards needed to govern the PC's discretion; (b) is so indefinite that it permits unstructured and unlimited discretion to be exercised by the PC to determine whether the law has been violated; (c) fails to give the Developer reasonable notice of the prohibited conduct, is vague, overboard, lacking definite standards; and (d) is incapable of being rationally administered.

27. To reiterate, the PC Determination was arbitrary and capricious, was based on erroneous findings of fact, constituted an abuse of discretion and was an erroneous interpretation of the Zoning Ordinance.

**COMPATIBILITY IS NOT REQUIRED AND, EVEN IF IT WERE,  
THE PLANNED PROJECT IS COMPATIBLE WITH ADJACENT PROPERTIES.**

28. The PC Determination did not provide any findings of fact to support the allegation that the planned project lacked compatibility with adjacent zoning or uses. Moreover,

the PC's Determination is flawed because it applied a compatibility standard where there is no basis to do so and it failed to consider facts that support compatibility.

29. **Compatibility is Not Required in the Neighborhood Nodes District.** Nowhere in the 15 pages of text of the NND in the Zoning Ordinance (Section 5.06) is the word "compatible" or "compatibility" present. The obvious reason is that the NND is form-based zoning, such that the ultimate use of and building forms permitted on a property in that district are based upon the size of the site and street type. There is no reason to require a use in a NND to be compatible with adjacent properties because Defendant, City of Troy, made that determination when it adopted the NND.

30. **Compatibility in the Site Plan Review Guidelines is misapplied, and even so, the planned project satisfies its Requirements.** Section 8.06.A of the Zoning Ordinance contains the following language with regard to compatibility (emphasis added):

**SECTION 8.06 SITE PLAN REVIEW DESIGN STANDARDS**

These design standards are intended to enhance the overall character of Troy by building upon patterns of development that create or enhance sense of place and have well-defined and vibrant design context.

The following general standards and any standards established for a specific use shall be applied when considering a site plan application:

- A. Development shall ensure compatibility to existing commercial districts and provide a transition between land uses through application of the following requirements:

31. This design standard is inapplicable to the planned project. As written, "compatibility" is limited to existing commercial districts. There being no existing commercial districts adjacent or near the subject property, this design standard is inapplicable. To apply this

design standard and its requirements was a misapplication and misinterpretation of the Zoning Ordinance.

32. **The Application of a Compatibility Standard to the Project is Arbitrary, Capricious and Unequal.** On April 28, 2020, the PC approved a PSP for a very similar project in a NND on the south side of East Square Lake Road and west of Dequindre Road (the “**SLC Project**”); (see PC Minutes for April 28, 2020 Meeting attached as **Exhibit N**). The SLC Project totaled 62 units in 13 townhome styled buildings with a building height of 34’10” (to the mid-line for a hip roof). This project abuts a single-family neighborhood with single-family zoning and commercial use in an NND. (See CWA review for SLC Project dated April 6, 2020 attached as **Exhibit O**).

33. As compared to the planned project, the SLC Project: is 23% more dense with density at 16 units per acre; has buildings that are taller; has smaller setbacks; less open space; and more lot coverage. In every objective way, the SLC Project is more developed and intense than the planned project; however, the PC never raised or considered the issue of “compatibility” in approving the SLC Project, even though it abuts single family residential. The PC’s denial of the PSP for the planned project is arbitrary, capricious and unequal because the PC applied a standard of compatibility to the planned project that it did not apply to a similarly situated project, especially considering that the planned project is less intense than the SLC Project.

34. The SLC Project approval was preceded by approval of another similarly situated project by the name of Long Lake Square (“LLSq”). A prominent builder had applied for a Conditional Re-Zoning which **Up-Zoned** the parcel to NND just prior to Plaintiff’s first iteration of a plan for the subject property. On February 20, 2019, the PC unanimously considered and approved a higher density development with less open space, and adjacent to a high-end single



family neighborhood. (CWA Conditional Re-Zoning Review LLSq dated January 24, 2019, attached as **Exhibit P**).

35. While the general rule is that a court will apply the ordinance in effect at the time the court renders its decision (see *Grand/Sakwa of Northfield, LLC v Township of Northfield*, 304 Mich App 137 (2010)), it will apply the ordinance in effect at the time of the court's decision when it finds that an amendment was passed is in bad faith (see *Lockwood, supra*). The handling of Plaintiff's PSP application and the approval of other PSPs in NNDs during the period when the NND amendment was being considered and ultimately passed, meets the *Lockwood* definition of bad faith.

36. The Court should consider the timing of the Ordinance amendment in relationship to the Plaintiff's application, the significance of the amendment in relationship to the expressed goal of the community, the application of the amendment to similar property owners, the reach of the regulation beyond the litigation, and the relationship of the Ordinance amendment to a view of the total circumstances, among other things. The fact that the property owner's application motivated the change is not, in itself, dispositive of the question. The issue of bad faith is factual and will be determined by the trier of fact after consideration of all relevant factors. *Willingham v Dearborn*, 359 Mich 7 (1960).

37. The Planned Project as a Residential Use is Compatible with Adjacent Residential Uses and the Neighborhood Node Zoning to the South. The planned project is adjacent to a vacant parcel zoned NND to the south. The planned project seeks to use the subject property pursuant to the NND zoning, so it is compatible with that Zoning and future use under the NND zoning.

38. The planned project is also compatible with the adjacent properties to the north and west that are zoned R1-B and are currently used for single family housing. First, the planned project is residential, contained in townhome style buildings resembling houses. Moreover, the buildings are set back 138' and 40' from the west and north subject property lines, respectively. Simply, given the distance and type of use, there is no conflict in compatibility with the property to the west and north of the subject property.

39. Not only is the subject property for a residential use, the buildings in the planned project will have an upgraded facade compared to the adjacent single-family homes. The Plaintiff/Developer committed to using brick and cement board siding (a/k/a Hardie Board) for the facades. One PC Member stated that he drove the adjacent neighborhood and noted vinyl siding on some of the homes and therefore considered this planned project to be an upgrade.

40. **The PC's Improper Application of a "Compatibility" Standard Required the ZBA to Reverse the PC's Determination and Approve the PSP.** As stated above, the ZBA can reverse an administrative decision being appealed if ANY one (1) or more of the following requirements are met:

- (a) The administrative decision was arbitrary or capricious;
- (b) The administrative decision was based on an erroneous finding of material fact;
- (c) The administrative decision constituted an abuse of discretion; or
- (d) The administrative decision was based on erroneous interpretation of the Zoning Ordinance or zoning law.

41. In this case, reversal by the ZBA was fully supported based on each and all of the requirements.

- (1) **The decision of the PC and ZBA to deny the PSP was arbitrary and capricious.**

The PC applied the standard of compatibility to the planned project, when no such standard is application to this planned project. Further, it applied the compatibility standard to

the planned project, even though it did not apply such a standard in approving the similarly situated SLC Project and LLSq that were both more intense than the planned project. By these actions, singularly and collectively, the SLP and LLSq projects' Determination were arbitrary and capricious.

- (2) The decision of the PC and ZBA to deny the PSP was based on an erroneous finding of material fact.

First, there was no finding of any facts by the PC. The approval motion merely stated a "lack of compatibility" without any findings of fact to support that conclusion. To the contrary, the PC ignored numerous facts to support the planned project being compatible to its adjacent properties, including the fact that the City of Troy, through its Master Plan and Zoning Ordinance, already determined the use proposed by the planned project to be compatible and the fact that the planned project sought to use the subject property for a residential use, similar to adjacent properties to the north and west. Therefore, the PC Determination was based on an erroneous finding of material fact.

- (3) The Decision of the PC and ZBA to Deny the PSP constituted an abuse of Discretion

As stated above, the PC applied a compatibility standard to the planned project that is not found in the NND and is inapplicable to the planned project under the Site Plan Ordinance. Even so, by applying a subjective standard, not itemizing facts to support the alleged incompatibility and ignoring facts supporting compatibility, the PC abused its discretion.

- (4) The Decision of the PC and ZBA to Deny the PSP was based on an erroneous interpretation of the Zoning Ordinances.

As stated above, the NND does not contain any compatibility standard and the design guideline contained in Section 8.06 of the Zoning Ordinance, does not apply to the planned project. The PC, by applying a compatibility standard, interpreted the Zoning Ordinance in

error, for if the PC had correctly interpreted the Zoning Ordinance, denial could not be based upon lack of compatibility. The PC's application of a compatibility standard upon the planned project and the action of the ZBA in endorsing that application, is an erroneous interpretation of the Zoning Ordinance.

(a) **The Planned Project Provides Adequate Transition.** Without identifying how the planned project lacked "transition" or articulating what would be an adequate transition for the subject property, the PC ignored all the Design Features (as listed below) being provided by the Plaintiff/Developer that make the planned project an appropriate transition between existing and future adjacent uses. The concept of transition in NND for this subject property identified as an NN:B site is provided for in Section 5.06.E.3 of the Zoning Ordinance.

(b) While not always present between NN:A sites and residential neighborhoods and, when possible or preferable based on the parcel arrangement and existing circumstances, the NN:B category allows the Node to develop in a tiered manner, with more intense developments and uses permitted within the core of the Node, and less intense projects providing a buffer for the residential area.

(c) This planned project did exactly what the NND Ordinance required: a moderate density multi-family project of townhomes of modest heights, with significant setbacks and built with high quality materials that provide a transitional buffer to the residential area to the north from the future more intense uses that will be developed to the south of the planned project in adjacent NND parcels. Under the Ordinance, the future development to the south could be 4-story medical office buildings or commercial uses in one or more developments down to Wattles Road.

(d) The NND Ordinance provides a design standard for “transitional features” in Section 5.06.E.3 of the Zoning Ordinance. However, the Determination states “lack of transition” not lack of “transitional features”. The PC ignored the NND Ordinance concerning transitional features<sup>1</sup> and ostensibly relied upon language from Section 8.06.A of the Site Plan Ordinance where it states with regard to transition (emphasis supplied):

#### **SECTION 8.06 SITE PLAN REVIEW DESIGN STANDARDS**

These design standards are intended to enhance the overall character of Troy by building upon patterns of development that create or enhance sense of place and have well-defined and vibrant design context.

The following general standards and any standards established for a specific use shall be applied when considering a site plan application:

(A) Development shall ensure compatibility to existing commercial districts and provide a transition between land uses through application of the following requirements:

- (1) Building design shall enhance the character of the surrounding area in relation to building and parking placement, landscape and streetscape features, and architectural design.
- (2) Street fronts shall provide a variety of architectural expression that is appropriate in its context and prevents monotony.
- (3) Building design shall achieve a compatible transition between areas with different height, massing, scale, and architectural style.

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<sup>1</sup> The NND Ordinance provides a design standard for “transitional features” in Section 5.06.E.3 (Exhibit Q):

E. Design Standards. In addition to standards set forth in this Ordinance, all proposed development shall comply with the standards set forth herein.

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#### **3. Transitional Features.**

- a. Transitional features are architectural elements, site features, or alterations to building massing that are used to provide a transition between higher intensity uses and low- or moderate-density residential areas. These features assist in mitigating potential conflicts between those uses. Transitional features are intended to be used in combination with landscape buffers or large setbacks.
- b. Intensity. A continuum of use intensity, where moderate intensity uses are sited between high-intensity uses and low-intensity uses, shall be developed for multi-building developments. An example would be an office use between commercial and residential uses.
- c. Height and Mass. Building height and mass in the form of building step-backs, recess lines or other techniques shall be graduated so that structures with higher intensity uses are comparable in scale with adjacent structures of lower intensity uses.
- d. Orientation. Primary building facades shall be placed away from the residential use.
- e. Architectural Features. Similarly sized and patterned architectural features such as windows, doors, arcades, pilasters, cornices, wall offsets, building materials, and other building articulations included on the lower-intensity use shall be incorporated in the transitional features.

(A) **The Building Design of The Project Does Enhance the Character of The Surrounding Area.**

The planned project's building design incorporates several features to enhance the character of the surrounding area ("**Design Features**"):

- a) Building facades are to be constructed with high quality materials of brick and cement board siding;
- b) Building heights of 27'9" and 33'1" are comparable to existing single family uses and zoning heights of 30'; especially considering that the subject property has a lower elevation than the properties to the north;
- c) All resident parking for the planned project is enclosed within garages, such that the only hardscape is for the drives and guest parking;
- d) The planned property does not require any tree mitigation as tree preservation and replacement exceed City Ordinances.
- e) There is a 138' setback to the west and a 40' setback to the Woodlands of Troy Subdivision;
- f) The 13 Buildings are residential townhomes with gabled roofs with 2 different sizes spread out in a campus-like setting;
- g) The planned project provides for 55% Open Space, which is more than three times the minimum amount of 15% required by the Zoning Ordinance; and
- h) Lot Coverage (Building) is less than 20%, a third less than the 30% maximum required by the Zoning Ordinance.

These Design Features are undisputed. The PC made no findings of fact to the contrary.

A. **The Street Front of the Planned Project is Appropriate for the Use and is Not Monotonous.**

Along Crooks Road, the planned project provided for three 5-unit buildings, split by the access boulevard. This design is appropriate for the use and is not monotonous.

B. **Building Design for the Planned Project Provided a Compatible Transition Between Areas with Different Height, Massing, Scale, and Architectural Style.**

The planned project, through its residential use and Design Features, provides an appropriate transition both within the NND and between the NND and the adjacent single family uses. The NND contemplates that uses of land will intensify moving toward the core of the NND and will lessen moving away from the NND core. The subject property represents the farthest parcel of this particular Neighborhood Node; therefore, it has to accommodate a use that will be more intense to the south. Similarly, it must and does provide a buffer to the existing single family uses to the north.

A moderate multi-family townhouse development spread out over 13 buildings with comparable heights to single family homes, landscaped buffers, increased setbacks and open space represents the most optimal transition that could be envisioned for the subject property.

**C. The PC's Improper Denial of the PSP Based on "Inadequate Transition" Should Have Been Reversed by the ZBA.**

As stated above, the ZBA can reverse an administrative decision being appealed if ANY one (1) or more of the following requirements are met:

- (a) The administrative decision was arbitrary or capricious;
- (b) The administrative decision was based on an erroneous finding of material fact;
- (c) The administrative decision constituted an abuse of discretion; or
- (d) The administrative decision was based on erroneous interpretation of the Zoning Ordinance or zoning law.

In this case, reversal by the ZBA was fully supported.

- (a) The decision of the PC and ZBA to deny the PSP was arbitrary and capricious.

The PC applied the transition standard to the planned project, but did not apply such a standard in approving the similarly situated projects that are more intense than the planned project. By this action, the PC Determination was arbitrary, capricious and unequal.

- (b) The decisions of the PC and the ZBA to deny the PSP were based on erroneous finding of material fact.

First, there was no finding of any facts by the PC. The approval motion merely stated there was “inadequate transition” without any findings of fact to support that conclusion. To the contrary, the PC ignored all the Design Features which support the planned project as being an appropriate transition between its adjacent properties. Therefore, the PC Determination and the action of the ZBA, were based on an erroneous finding of material fact.

- (c) The decision of the PC and ZBA to deny the PCP constituted an abuse of discretion.

By applying a subjective standard, not itemizing facts to support the alleged incompatibility and ignoring facts supporting an adequate transition, the PC and ZBA abused their discretion.

- (d) The decision of the PC and the ZBA to deny the PSP constituted a violation of Plaintiff's Equal Protection Rights under the Fourteenth Amendment of the U.S. Constitution. Plaintiff was treated differently than others in similar circumstances.

Federal appellate courts have held that to be considered similarly situated, the Plaintiff and his comparators “must be *prima facie* identical in all relevant respects or directly comparable . . . in all material respects”. *United States v Moore*, 543 F3d 891, 896 (7<sup>th</sup> Cir 2008). Plaintiff clearly met the test of *Moore*.

(e) Under MCR 2.605, this Court has the power to adjudicate the matters at issue and enter its judgment declaring the rights to all parties to this action.

(f) Under the facts as stated above, there is an actual controversy of sufficient immediacy between the parties, and a multiplicity of litigation will be avoided if all of these issues are determined by this Court at one time.



(g) Plaintiff has exhausted all available administrative remedies and has no adequate remedy other than the remedy sought by this Complaint.

WHEREFORE, Plaintiff respectfully requests the following relief from the Court:

- A. Declaratory judgment that Plaintiff has standing to pursue this matter;
- B. Declaratory judgment that the Zoning Ordinance with regard to NND compatibility and transition standards is vague, overbroad, lacking definite standards and is incapable of being rationally administered;
- C. Declaratory judgment that Plaintiff's proposed site plan was in total compliance with the Zoning Ordinance, other local units of government planning documents, state and federal statutes, and, as an administrative, ministerial action, must be approved;
- D. Declaratory judgment that the decisions of the PC and the ZBA were arbitrary and capricious, were based on an erroneous finding of material fact, and constituted an abuse of discretion;
- E. Declaratory judgment that the Defendant's actions deprived the Plaintiff of his Fourteenth Amendment Rights of Equal Protection under the Law;
- F. Declaratory judgment that the amended ordinance adopted on May 24, 2021, was enacted in bad faith;
- G. Issue a Writ of Mandamus directing the City of Troy to approve the site plan under the ordinance in effect as of the date of Plaintiff's application, or to appear before the Court to Show Cause as to why they have not done so, and after a hearing, issue a peremptory Writ of Mandamus commanding Defendant to issue the PSP.

H. Such other relief as the Court may deem just and proper.

Respectfully submitted,

Dated: July 15, 2021

Henry N. Sandweiss, PLLC  
/s/ Henry N. Sandweiss  
Henry N. Sandweiss (P19879)  
30150 Telegraph Road, Suite 444  
Bingham Farms, Michigan 48025  
(248) 594-8000  
(866) 366-1359 fax  
sandweisshenry@yahoo.com  
*Attorneys for Plaintiff*

STATE OF MICHIGAN     )  
COUNTY OF OAKLAND    )

Safet "Sam" Stafa, being sworn says:

1. I am the Plaintiff in this action and have personal knowledge of myself, my activities and my intentions as set forth in the foregoing Complaint.
2. The facts alleged in this Complaint are true except those stated on information and belief, which I believe are true, and, if called to testify, I would competently testify to the matters stated herein.

*Safet Stafa*  
Safet "Sam" Stafa

Subscribed and sworn to before me,  
on July 15, 2021.

*Careen Eagle*  
Careen Eagle, Notary Public  
Notary Public, Oakland County, Michigan  
My Commission Expires: 2.3.26  
Acting in Oakland County

This case has been designated as an eFiling case, for more information please visit  
[www.oakgov.com/efiling](http://www.oakgov.com/efiling).

STATE OF MICHIGAN  
OAKLAND COUNTY CIRCUIT COURT

SAFET "Sam" STAFA,  
Plaintiff,

2021-189046-AW  
JUDGE JEFFERY S. MATIS

V

THE CITY OF TROY,  
Defendant.

EXHIBITS A THROUGH C

VERIFIED COMPLAINT FOR DECLARATORY RELIEF, WRIT OF  
MANDAMUS AND EX PARTE MOTION TO SHOW CAUSE WHY SITE  
PLAN APPROVAL SHOULD NOT BE GRANTED PURSUANT TO MCR  
3.305(C)

**EXHIBIT A**

**Legal Description**

**SCHEDULE C**  
**Legal Description**

Land situated in the City of Troy, County of Oakland, State of MI described as follows:

Parcel 1:

The North 1/2 of Lot 3 except the East 27 feet taken for Crooks Road, Supervisor's Plat of Troy Farmsites, as recorded in Liber 56, Page 59 of Plats, Oakland County Records.

Parcel 2:

The South 1/2 of Lot 3, except the East 27 feet taken for road purposes, SUPERVISOR'S PLAT OF TROY FARMSITES, as recorded in Liber 56, Page 59, Oakland County Records.

Parcel 3:

Part of Lot 4, more particularly described as: Beginning at a point distant South 89° 42' 00" West 351.80 feet and North 00° 05' 55" East 284.38 feet from the Southeast Section corner, thence North 00° 05' 55" East 145.22 feet, thence North 89° 42' 00" East 290.87 feet, thence South 00° 01' 30" East 145.22 feet, thence South 89° 42' 00" West 291.18 feet to beginning, SUPERVISOR'S PLAT OF TROY FARMSITES, as recorded in Liber 56, Page 59, Oakland County Records.

## **EXHIBIT B**

### **Agreement of Sale**

# AGREEMENT OF SALE

The undersigned, hereinafter designated as the Purchaser, hereby offers and agrees to purchase land and premises situated in the City of Troy, County of Oakland, State of Michigan described as follows: 4115 Crooks Rd., 4095 Crooks Rd., and a sliver of land, plus or minus 10,000 sq. ft, contiguous to 4095 Crooks Rd. (the properties") The Tax IDs for these properties are 20-17-476-013, 20-17-476-014, and 20-17-476-055 respectively. Upon acceptance of this Offer, a full legal description of the premises is to be attached hereto and become a part hereof.

The Purchaser shall be responsible for the costs of surveying the properties.

Together with all improvements and appurtenances, if any; the Purchaser agrees to pay therefore the sum of:

Two Million, Four Hundred Thousand and 00/100 (\$2,400,000.00) Dollars, pursuant to the terms and conditions stated in a purchase money Mortgage and Note which provides for a down payment of One Million Five Hundred Thousand and 00/100 (\$1,500,000.) Dollars, and payment of the balance on or before June 1, 2020, plus interest at the rate of nine (9%) percent per annum, interest to start on the date of closing. As security for payment of the Note, the Purchaser shall execute and deliver a first priority mortgage on the premises being conveyed. The sale is further subject to existing restrictions of record, easements for public utilities and driveways, and zoning ordinances, if any, which shall be reviewed and approved by Purchaser.

## IMPORTANT CONTINGENCY:

Notwithstanding anything contained herein to the contrary, the Seller and the Purchaser mutually understand and agree that: 1) There is currently a valid Agreement of Sale in force, entered into between the parties relating to 4165 and 4115 Crooks Road, Troy, MI which, among other salient terms, provides for a \$50,000. earnest money Deposit. On the condition that the Seller herein, timely accepts this Agreement of Sale, the Agreement of Sale mentioned above will be considered null and void and of no further effect except that the \$50,000. earnest money Deposit shall be released by the title company holding it and re-applied as part of the earnest money Deposit under this Agreement of Sale. See Deposit Authorization, section 8 below.

## THE SALE IS TO BE CONSUMMATED IN THE FOLLOWING MANNER:

Delivery of the usual warranty deed conveying a marketable title, subject to permitted exceptions and free and clear of any and all mortgages and security interests, but subject to (I) easements and rights of public utilities, as evidenced by the Title Commitment, (II) covenants, conditions, private easements and restrictions, (III) real estate taxes and assessments for the then current year as are not due and payable as of the date of Closing, and (IV) encumbrances or exceptions to title shown on the title commitment to which Purchaser does not object or which with Purchaser's consent are waived and accepted or insured over and, (V) the use restriction. The Seller agrees to be responsible for the payment of all transfer payments.

### **COMMITMENT FOR TITLE POLICY:**

1. The Seller shall deliver to the Purchaser as soon as the contingency period expires, a complete commitment for a policy of title insurance issued by a mutually acceptable title insurance corporation, for an amount not less than the purchase price hereunder, guaranteeing title in the condition required herein, bearing date later than the acceptance hereof which will be accepted as sufficient showing of title.

### **TIME OF CLOSING - PURCHASER'S DEFAULT:**

2. If this Offer is accepted by the Seller, and if title can be conveyed in the condition required hereunder, the Purchaser agrees to complete the sale on or before February 1, 2020. In the event of default by the Purchaser hereunder, the Seller may, as his sole remedy, declare a forfeiture hereunder and retain the deposit(s) as liquidated damages.

### **TITLE and/or SURVEY OBJECTIONS - SELLER'S DEFAULT:**

3. If reasonable objection to the title or matters of survey is made, based upon a written opinion of Purchaser's attorney that either of them is not in the condition as reasonably required for performance hereunder, the Seller shall have thirty (30) days from the date he is notified in writing of the particular defects claimed, to either (1) remedy the title; (2) obtain title insurance as required above; or (3) refund the deposit in full termination of this Agreement if unable to remedy the title or obtain title insurance. If the Seller remedies the title or shall obtain such title policy within the time specified, the Purchaser agrees to complete the sale within ten (10) days of written notification thereof. If the Seller fails to remedy the title or obtain such title insurance or to give the Purchaser the above written notification within said thirty (30) days, the deposit(s) shall be refunded forthwith in full termination of this agreement. Title to the properties shall be deemed reasonably satisfactory to Purchaser if the condition of title does not have a material adverse effect on Purchaser's intended use of the properties as a multi-family development. In no event shall Purchaser object to utility easements of record. Any consensual liens may be discharged by Seller from the proceeds of sale at Closing.

### **POSSESSION:**

4. The Seller shall deliver and the Purchaser shall accept possession of said property at the time of closing, subject to the right of tenants as follows: No tenants unless mutually agreed to by Seller and Purchaser.

### **OWNER OCCUPIED:**

5. If the Seller occupies the property or any part thereof, it shall be vacated on or before date of closing unless mutually agreed upon by Purchaser and Seller. Further, the Seller agrees to pay a usage fee of \$-0- per day, from the date of closing to date of vacating the property.

### **ENCUMBRANCE REMOVAL:**

6. Any existing encumbrances upon the premises which the Seller is required to remove under this Offer may be paid and discharged with the purchase money at the time of the consummation of the sale, or if the Purchaser elects, assumed with abatement of the purchase price.



### **TAXES; PRORATED ITEMS:**

7. All taxes and assessments which have become a lien upon the land at the date of this agreement shall be paid by the Seller except that, current taxes, if any, shall be prorated and adjusted as of the date of closing.

### **DEPOSIT AUTHORIZATION:**

8. Upon full execution of this Agreement, First American Title Company is hereby authorized to pay over to Seller the deposit money in the amount of \$50,000. that it currently holds under their file number 259080. Subject only to section 3 herein, this deposit money shall then be non-refundable to Purchaser but shall be credited upon the purchase price if the sale is completed. On December 1, 2019, Purchaser agrees to deposit with the Seller an additional deposit in the amount of \$100,000. which sum shall also be non-refundable to Purchaser subject to section 3 herein, but shall be applied to the purchase price when the sale is consummated.

### **ACCEPTANCE TIME:**

9. For valuable consideration, the Purchaser agrees that this Offer is irrevocable for five (5) days from the date hereof, and if it is not accepted by the Seller within that time, the deposit shall be returned forthwith to the Purchaser.

### **CLOSING PLACE:**

10. The closing of this sale shall take place at the office of the title company or at any other mutually acceptable location.

### **NOTICES:**

11. All notices, deliveries or tenders given or made in connection herewith shall be deemed completed and legally sufficient, if mailed or delivered to the respective party for whom the same is intended at his address herein set forth.

12. Payment of the purchase money shall be made at closing in cash or certified check.

13. The pronouns and relative words herein used are written in the masculine and singular only. If more than one join in the execution hereof as Seller or Purchaser, or either be of the feminine sex or a corporation, such words shall be read as if written in plural, feminine or neuter, respectively. The covenants herein shall bind the heirs, personal representative, administrators, executors, assigns and successors of the respective parties.

14. It is understood that this property is being purchased in its present condition and that it will be delivered by the Seller to the Purchaser in substantially the same condition as when this Offer was made.

### **ADDITIONAL CONDITIONS:**

15. Seller represents and warrants that there are no pending or existing lawsuits and is not aware of any lawsuits or litigation covering the subject property and further holds Purchaser harmless from the same.

16. "Superfund" Act: To the best of Seller's knowledge, no land fill exists on the Property and no hazardous waste or material has been deposited on the property and the property is free from any environmental problems as set forth in the Comprehensive Environmental Response Compensation and Liability Act ("Superfund"). Seller hereby agrees to indemnify and to hold Purchaser harmless from and against any and all loss, liability, damage or expense (including reasonable attorney's fees) resulting from any breach of warranty or misrepresentation under this Section 16. This warranty, representation and agreement of indemnity shall not be affected or limited by any inspection made by the Purchaser pursuant to Section 16 and shall survive the closing of this Agreement.

16. Representation: Seller warrants and represents that it has the authority to accept this Agreement of Sale and that it now holds the title to the property to be conveyed.

17. Additional Documents: Each party agrees to execute any additional documents reasonably requested by the other to carry out the intent of this Agreement.

18. Hold Harmless and Indemnification: The Purchaser agrees to indemnify and hold Seller harmless from any claims, suits, damages, costs, losses and any expenses resulting and arising from and out of Purchaser's or its officers, directors, agents and/or employees occupancy, possession, use and ownership of the property herein during the time the Purchase Agreement is in existence. The Seller agrees to indemnify and hold Purchaser harmless from any claims, suits, damages, costs, losses and any expenses resulting and arising from and out of the negligence of its officers, directors, agents and/or employees during the time the Purchase Agreement is in existence.

19. Survival of Representation and Warranties: The representations and warranties as set forth in this Agreement shall be continuing and survive the Closing.

20. Date of this Agreement: For the purposes of the transaction contemplated by this Agreement, the "Date of this Agreement" is acknowledged to be November 1, 2019.

21. Headings: The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of the provisions of this Agreement.

22. Saturdays, Sundays and Holidays: Whenever in this Agreement it is provided that notice must be given or an act performed or payment made on a certain date, and if such date falls on a Saturday, Sunday or holiday, the date of the notice of performance or payment shall be the next following business day.

23. Waiver: No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions, whether or not similar, nor shall any waiver be a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

24. **No adverse Information:** Seller represents and warrants that it has no adverse information with regard to the real estate which it has not disclosed to Purchaser and that there are no judicial or administrative proceedings pending or threatened against the real estate and Seller is not aware of any facts which might result in any action, suit or other proceedings.

25. **Eminent Domain:** If before closing all or any part of the real estate is taken by eminent domain, Purchaser may terminate this Agreement. If Purchaser terminates, neither Seller nor Purchaser shall have any further obligation to the other and the earnest money deposit will be promptly returned to Purchaser. If Purchaser does not terminate, this Agreement will remain in effect and Seller will assign to Purchaser all of Seller's rights to receive any awards that may be made for such taking.

26. **Cooperation:** The parties hereto agree to cooperate with each other in every reasonable way in carrying out the transaction contemplated hereby, in obtaining and delivering all required closing documents, and obtaining the required governmental approvals, and agree to use their best efforts to expeditiously accomplish same. In addition, Seller agrees to cooperate in the platting of said property including, but not limited to, its signature when required and providing existing documents.

27. **Risk:** All risk of loss or damage to the property shall be upon Seller until closing is made therefore.

28. **Access:** Seller represents and warrants that there exists access to the properties for vehicular and pedestrian ingress and egress from public roads and there does not exist any fact or condition which would result in the termination or impairment of that access.

29. **No representation or recommendation** is made by any party as to the legal sufficiency, legal effect or tax consequences of this Offer to Purchase or the transaction relating thereto; the parties shall rely solely upon the advice of their own legal counsel as to the legal and tax consequences of this Offer to Purchase. All Purchasers of real estate should have their title examined by an attorney.

30. **Non-Circumvention Agreement:** Purchaser is aware that the Seller has been attempting to acquire certain Properties (exhibit A) Purchaser agrees that for a period of 10 years from the Closing or the expiration or termination of this Agreement, Purchaser will not in any manner, directly or indirectly seek to acquire any legal, equitable or beneficial interest in the Adjacent Property. Purchaser acknowledges and agrees that Seller would not have entered into this Agreement without the undertakings of Purchaser under this Paragraph 30. Purchaser agrees to execute a more formal and comprehensive non-circumvention agreement within five (5) days of a written demand by Seller.

31. **Special Condition:** Seller has advised Purchaser that one of the properties located at 4095 Crooks Road is being acquired by Choice Development Corporation ("CDC"), pursuant to a Purchase Agreement dated October 4, 2019 with the Mildred G. Gnevy Living Trust u/a/d March 26, 1996 (the "4095 Agreement"). It shall be a condition to obligations of each party under this Agreement that CDC acquire the property described in the 4095 Agreement (the "4095 Property"). CDC shall exercise reasonable efforts to acquire the 4095 Property in accordance with the terms of the 4095 Agreement. Purchaser shall have the right to conduct due diligence on the 4095 Property on behalf of and with the reasonable cooperation of CDC. Purchaser acknowledges that the proceeds from the sale of the properties will be used by CDC to acquire the 4095 Property. If for any reason other than a default by CDC under the 4095 Agreement, the seller refuses to close the sale of the 4095 Agreement either on the terms set forth in the 4095 Agreement or such other terms as may be acceptable to CDC in its sole

discretion, then either party shall have the right to terminate this Agreement and the Deposit shall be returned to Purchaser.

32. Ownership of Properties: Purchaser acknowledges that the properties are owned by Kamal H. Shouhayib ("KHS"), individually and CDC as more particularly described in the title commitment to be provided. The agreements made by KHS and CDC under this Agreement are only as to that portion of the properties owned by KHS and CDC respectively.

PURCHASER: Sam Stafa on behalf of an  
entity to be formed



Name: Sam Stafa

Address: 550 Stephenson Hwy.

Troy, Michigan 48063

Phone: 248-890-8421

### SELLER'S ACKNOWLEDGMENT OF DEPOSIT:

Received from the above named Purchaser the deposit money above mentioned which will be returned forthwith if the foregoing Offer is not accepted within the time above set forth.

By: Choice Development  
Kamal Shouhavib  
Its: President



### ACCEPTANCE OF OFFER:


TO THE ABOVE NAMED PURCHASER:

The foregoing Offer is hereby accepted and the Seller agrees to sell said premises upon the terms stated.

By the execution of this instrument, the Seller acknowledges the receipt of a copy of this Agreement.

### SELLERS:

Choice Development Corporation,  
a Michigan corporation

By:   
Kamal H. Shouhavib, President

Address: 2265 Livernois Road, Suite 500  
Troy, Michigan 48083

  
Kamal H. Shouhavib, Individually

# **PURCHASER'S RECEIPT OF ACCEPTED OFFER:**

The Purchaser hereby acknowledges the receipt of the Seller's signed acceptance of the foregoing Offer to Purchase.

IN THE PRESENCE OF:

PURCHASER: Sam Stafa or an  
Entity to be Formed.

\_\_\_\_\_

(print name)

Name: Sam Stafa

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

Address: 550 Stephenson Hwy.  
Troy, Michigan 48083

Phone: \_\_\_\_\_

**Exhibit A**

**1070 W Wattles -Current Owner William Nielson  
3941 Crooks- Current Owner Dan O Sullivan, Trust  
3905 Crooks- Current Owner Richard Parkinson  
811 W. Wattles- Current Owner Rodney Harris**

## **EXHIBIT C**

**Preliminary Site Plan  
and letter from Engineering Firm dated 03/16/2020**



# PRELIMINARY SITE PLANS FOR

## CROOKS ROAD TOWNHOMES

PART OF THE SE 1/4 OF SECTION 17, T. 2N., R. 11E.,

CITY OF TROY, OAKLAND COUNTY, MICHIGAN

### OWNER:

TOLLBROOK NORTH LLC  
1812 WICK AVE.  
TROY, MI 48063  
CONTACT: SAM STAFIA  
PHONE: (248) 890-8821  
EMAIL: SSTAFIA36@GMAIL.COM

### ARCHITECT:

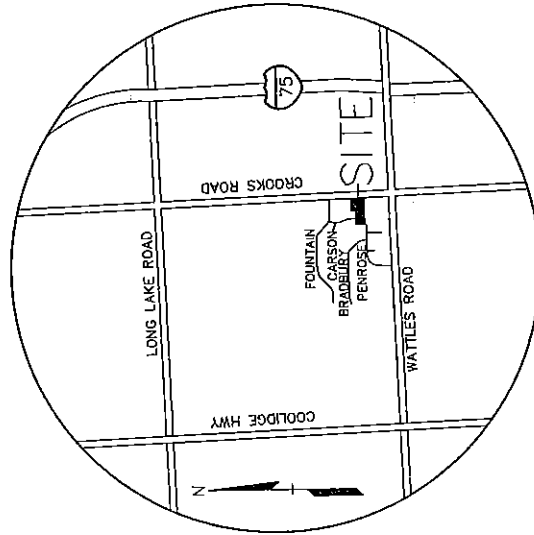
BRIAN NEPPER ARCHITECTURE P.C.  
630 N. OLD WOODWARD SUITE 203  
TROY, MI 48063  
CONTACT: BRIAN NEPPER  
PHONE: (248) 259-1784

### CIVIL ENGINEER:

PEA, INC.  
2430 ROCHESTER CT. SUITE 100  
TROY, MI 48063  
CONTACT: GREGORY BENO, P.E.  
PHONE: (248) 689-1044 EXT. 1145  
FAX: (248) 689-1044  
EMAIL: GREGORY@PEAINC.COM

### LANDSCAPE ARCHITECT:

PEA, INC.  
7527 NEMCO WAY, SUITE 115  
BRIGHTON, MI 48116  
CONTACT: LYNN WHIPPLE, P.L.A.  
PHONE: (517) 246-8973  
FAX: (517) 246-8973  
EMAIL: LWHIPPLE@PEAINC.COM



LOCATION MAP  
NO SCALE

### INDEX OF DRAWINGS:

C-0.0	COVER SHEET
C-1.0	TOPOGRAPHIC SURVEY
C-2.0	PRELIMINARY SITE PLAN
C-3.0	PRELIMINARY GRADING PLAN
C-4.0	PRELIMINARY UTILITY SHEET
C-5.0	NOTES AND DETAILS
L-1.0	PRELIMINARY LANDSCAPE PLAN
L-1.1	LANDSCAPE DETAILS
T-1.0	TREE PRESERVATION LIST
T-1.1	TREE PRESERVATION PLAN
SL-1.0	PHOTOMETRIC PLAN
SL-1.1	PHOTOMETRIC DETAILS

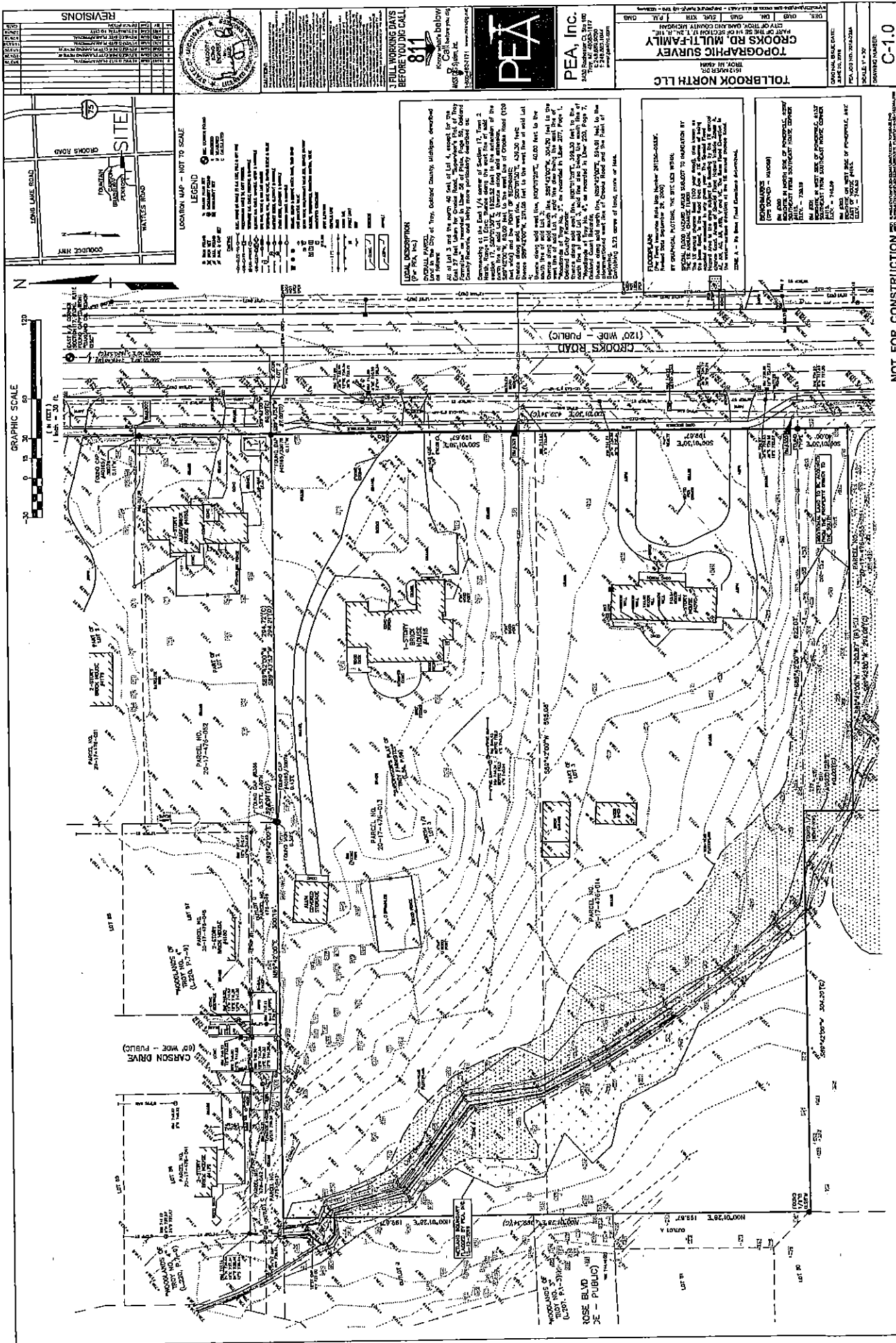
  

A-1	UNIT PLANS - BUILDINGS A & E-N
A-2	UNIT PLANS - BUILDINGS B, C & D
A-3	UNIT ELEVATIONS - FRONTS AND SIDE BUILDINGS A & E-N
A-4	UNIT REAR ELEVATIONS - BUILDINGS A & E-N
A-5	UNIT ELEVATIONS - FRONTS AND SIDE BUILDINGS B, C & D
A-6	UNIT REAR ELEVATIONS - BUILDINGS B, C & D
A-7	5 UNIT BUILDING ELEVATIONS - BUILDINGS A & E-N
A-8	5 UNIT BUILDING ELEVATIONS - BUILDINGS A & E-N
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A-13	6 UNIT BUILDING ELEVATIONS - BUILDINGS B, C & D
A-14	6 UNIT BUILDING ELEVATIONS - BUILDINGS B, C & D
A-15	PAVILION PLANS AND ELEVATION

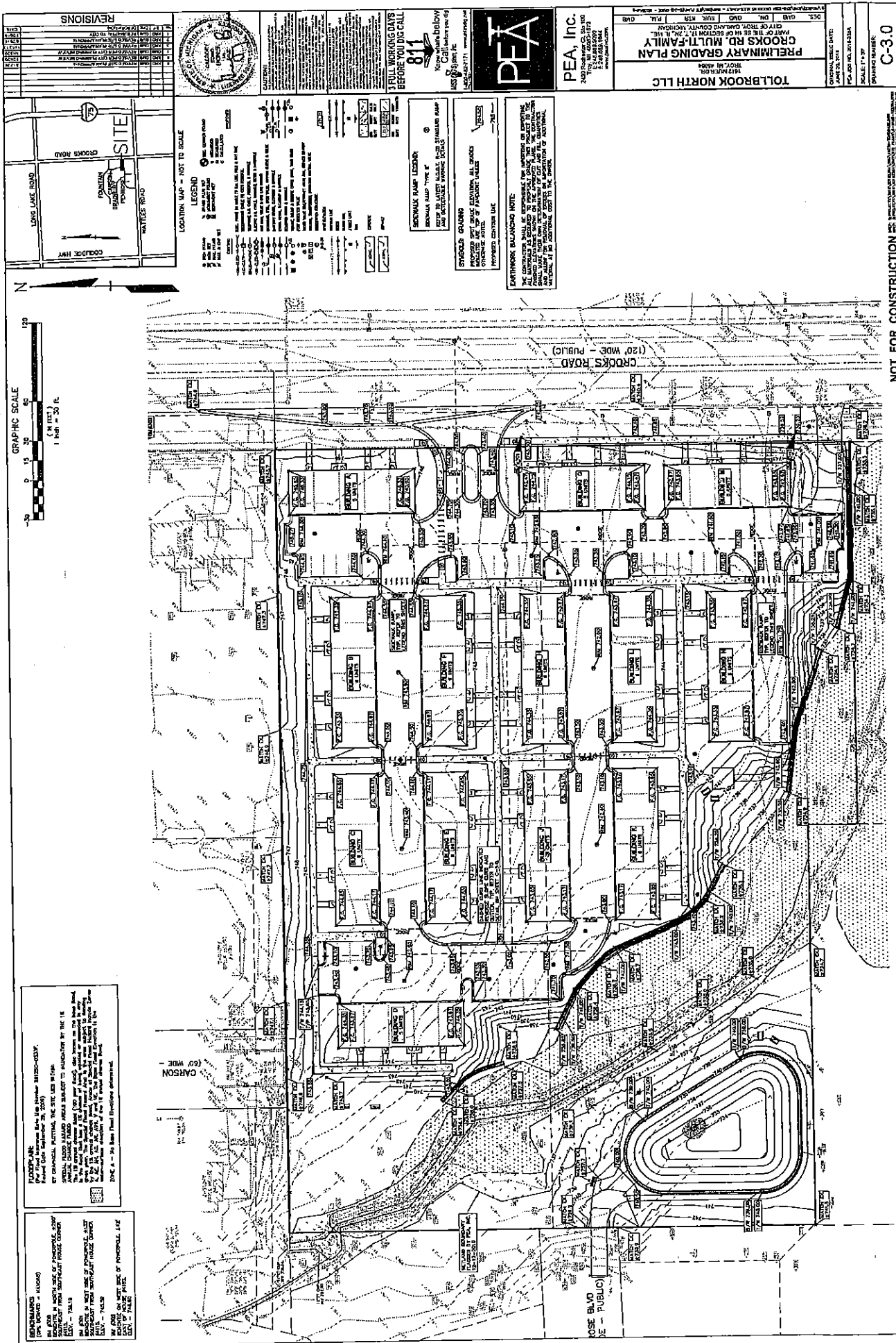
### ARCHITECTURAL SHEETS:

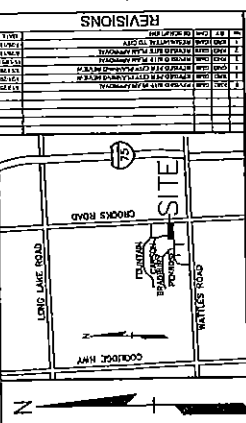
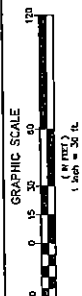
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A-8	5 UNIT BUILDING ELEVATIONS - BUILDINGS A & E-N
A-9	6 UNIT BUILDING ELEVATIONS - BUILDINGS A & E-N
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A-11	5 UNIT BUILDING ELEVATIONS - BUILDINGS B, C & D
A-12	5 UNIT BUILDING ELEVATIONS - BUILDINGS B, C & D
A-13	6 UNIT BUILDING ELEVATIONS - BUILDINGS B, C & D
A-14	6 UNIT BUILDING ELEVATIONS - BUILDINGS B, C & D
A-15	PAVILION PLANS AND ELEVATION

<b>REVISIONS</b> <table border="1"> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> <tr> <td>1</td> <td>10/1/03</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>2</td> <td>10/1/03</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>3</td> <td>10/1/03</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>4</td> <td>10/1/03</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>5</td> <td>10/1/03</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>6</td> <td>10/1/03</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>7</td> <td>10/1/03</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>8</td> <td>10/1/03</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>9</td> <td>10/1/03</td> <td>ISSUED FOR PERMIT</td> </tr> <tr> <td>10</td> <td>10/1/03</td> <td>ISSUED FOR PERMIT</td> </tr> </table>		NO.	DATE	DESCRIPTION	1	10/1/03	ISSUED FOR PERMIT	2	10/1/03	ISSUED FOR PERMIT	3	10/1/03	ISSUED FOR PERMIT	4	10/1/03	ISSUED FOR PERMIT	5	10/1/03	ISSUED FOR PERMIT	6	10/1/03	ISSUED FOR PERMIT	7	10/1/03	ISSUED FOR PERMIT	8	10/1/03	ISSUED FOR PERMIT	9	10/1/03	ISSUED FOR PERMIT	10	10/1/03	ISSUED FOR PERMIT	<b>PEA, Inc.</b> 2430 ROCHESTER CT. SUITE 100 TROY, MI 48063 PHONE: (248) 689-1044 FAX: (248) 689-1044 EMAIL: GREGORY@PEAINC.COM	<b>COVER SHEET</b> CROOKS RD. MULTI-FAMILY 1812 WICK AVE. TROY, MI 48063 10/1/03	<b>NOT FOR CONSTRUCTION</b>
NO.	DATE	DESCRIPTION																																			
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2	10/1/03	ISSUED FOR PERMIT																																			
3	10/1/03	ISSUED FOR PERMIT																																			
4	10/1/03	ISSUED FOR PERMIT																																			
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8	10/1/03	ISSUED FOR PERMIT																																			
9	10/1/03	ISSUED FOR PERMIT																																			
10	10/1/03	ISSUED FOR PERMIT																																			









LEGEND

LOCATION MAP - NOT TO SCALE

LEGEND

LOCATION MAP - NOT TO SCALE

LEGEND

LOCATION MAP - NOT TO SCALE

PEA, INC.

PEA, INC.

PEA, INC.

PEA, INC.

PEA, INC.

PEA, INC.

PEA, INC.

PEA, INC.

PRELIMINARY UTILITY SHEET

CROOKS RD. MULTI-FAMILY

TOLLBROOK NORTH LLC

1113 HUNTER CIRCLE

THIRD FLOOR

THIRD FLOOR

THIRD FLOOR

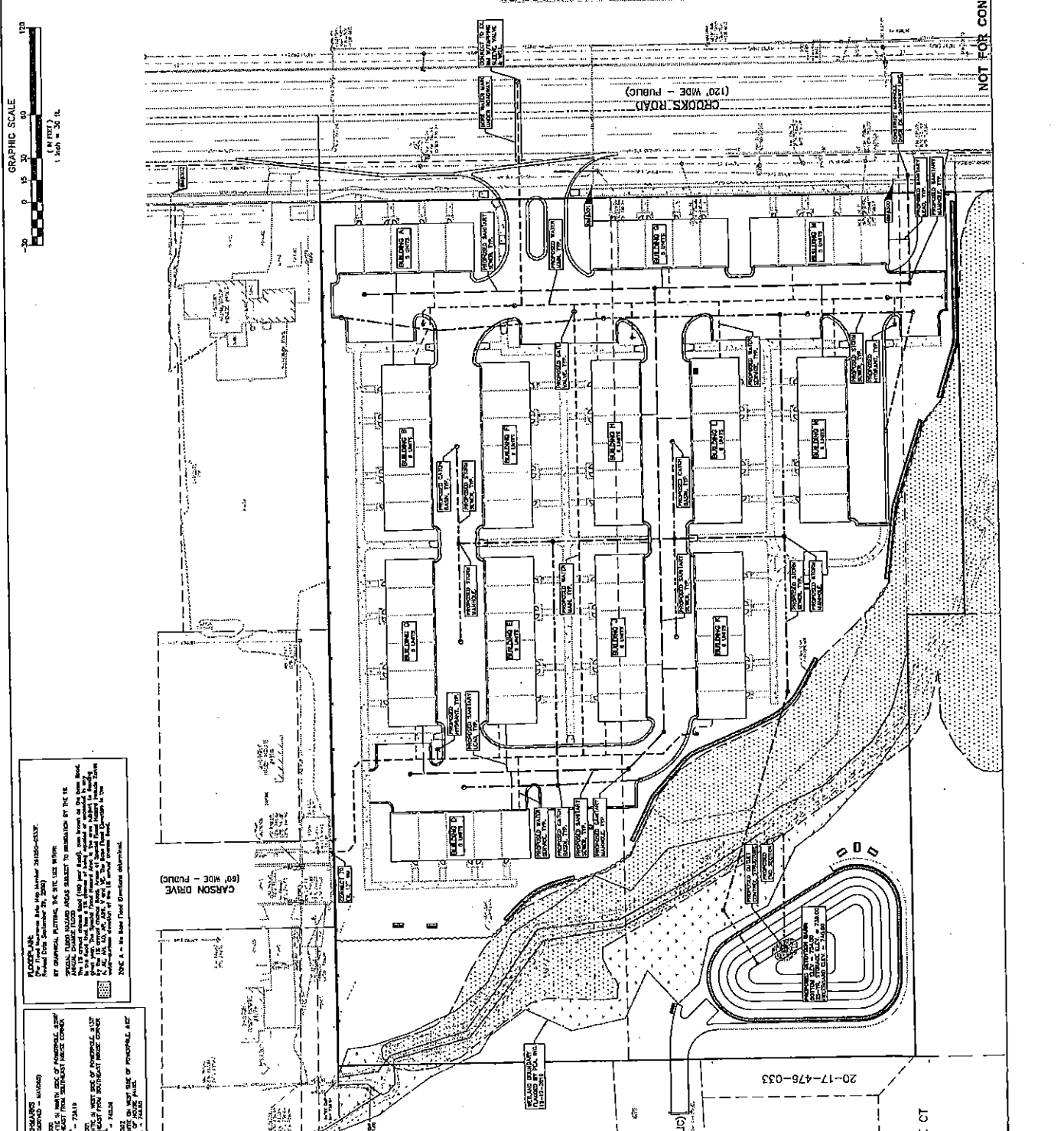
THIRD FLOOR

REVISIONS

REVISIONS

REVISIONS

REVISIONS



NOT FOR CONSTRUCTION

NOT FOR CONSTRUCTION

NOT FOR CONSTRUCTION

NOT FOR CONSTRUCTION

NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMITS	10/1/00
2	ISSUED FOR BIDDING	10/1/00
3	ISSUED FOR CONSTRUCTION	10/1/00
4	ISSUED FOR CONSTRUCTION	10/1/00
5	ISSUED FOR CONSTRUCTION	10/1/00
6	ISSUED FOR CONSTRUCTION	10/1/00
7	ISSUED FOR CONSTRUCTION	10/1/00
8	ISSUED FOR CONSTRUCTION	10/1/00
9	ISSUED FOR CONSTRUCTION	10/1/00
10	ISSUED FOR CONSTRUCTION	10/1/00



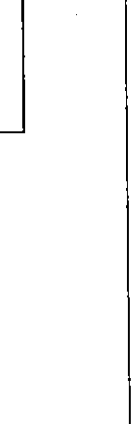
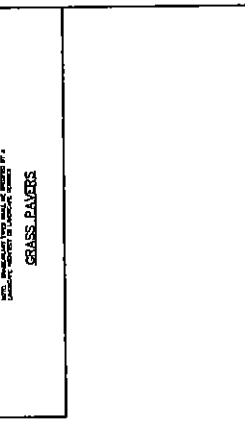
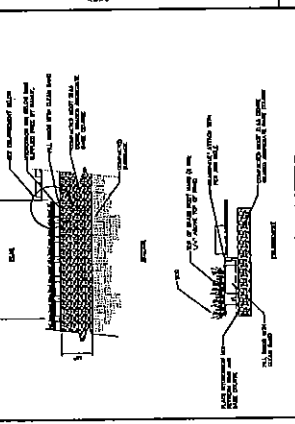
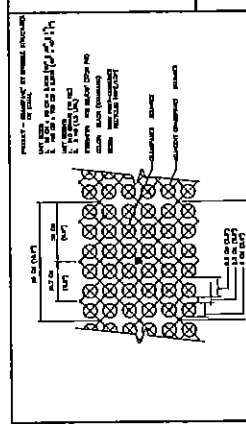
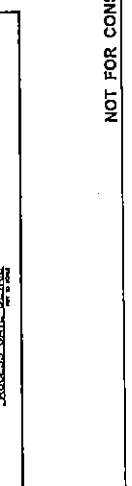
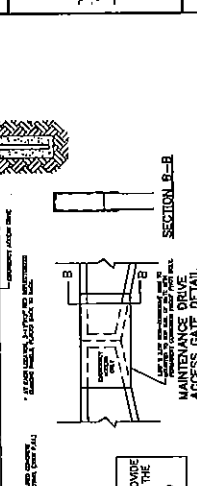
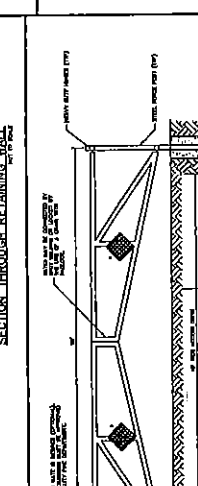
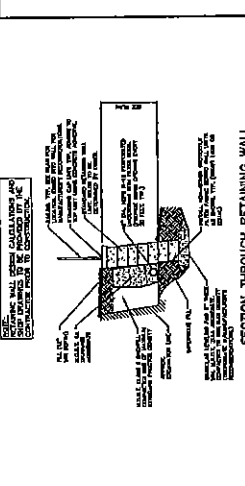
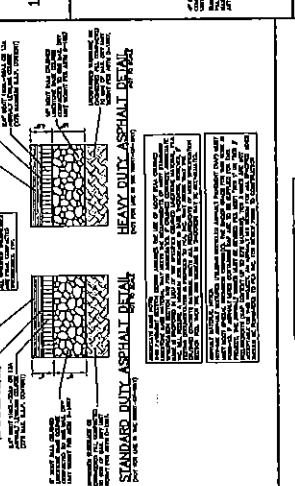
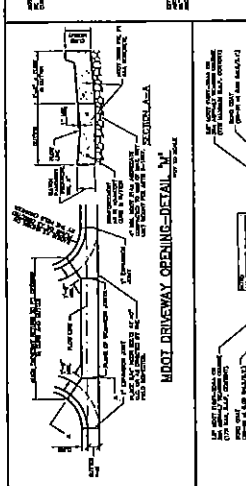
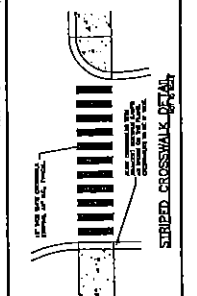
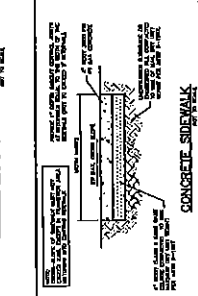
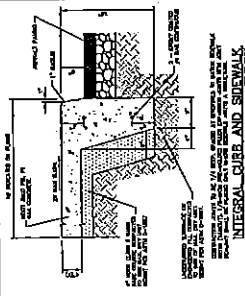
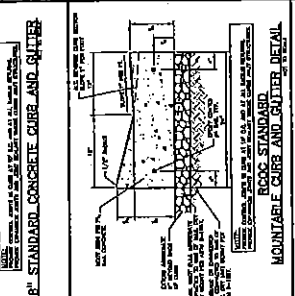
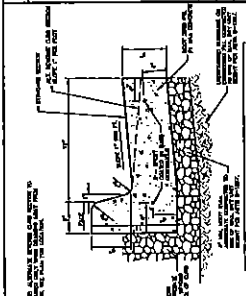
**PE A**  
 811  
 KENNEDY DRIVE BELOW  
 MASS. 811 CALL CENTER FOR 811  
 1-800-345-8111  
 www.mass.gov/811

**PE A, Inc.**  
 2435 INDUSTRIAL CT. 2ND FLOOR  
 BOSTON, MA 02128  
 TEL: 617-448-8000  
 FAX: 617-448-8001  
 www.pea.com

**TOLLBROOK NORTH LLC**  
 1615 AVENUE D  
 BOSTON, MA 02128  
 TEL: 617-448-8000  
 FAX: 617-448-8001  
 www.tollbrook.com

**NOTES AND DETAILS**  
 CROOKS RD. MOUNTAIN  
 CITY OF TOWN OF AND COUNTY OF  
 10/1/00  
 SCALE: 1" = 1'-0"

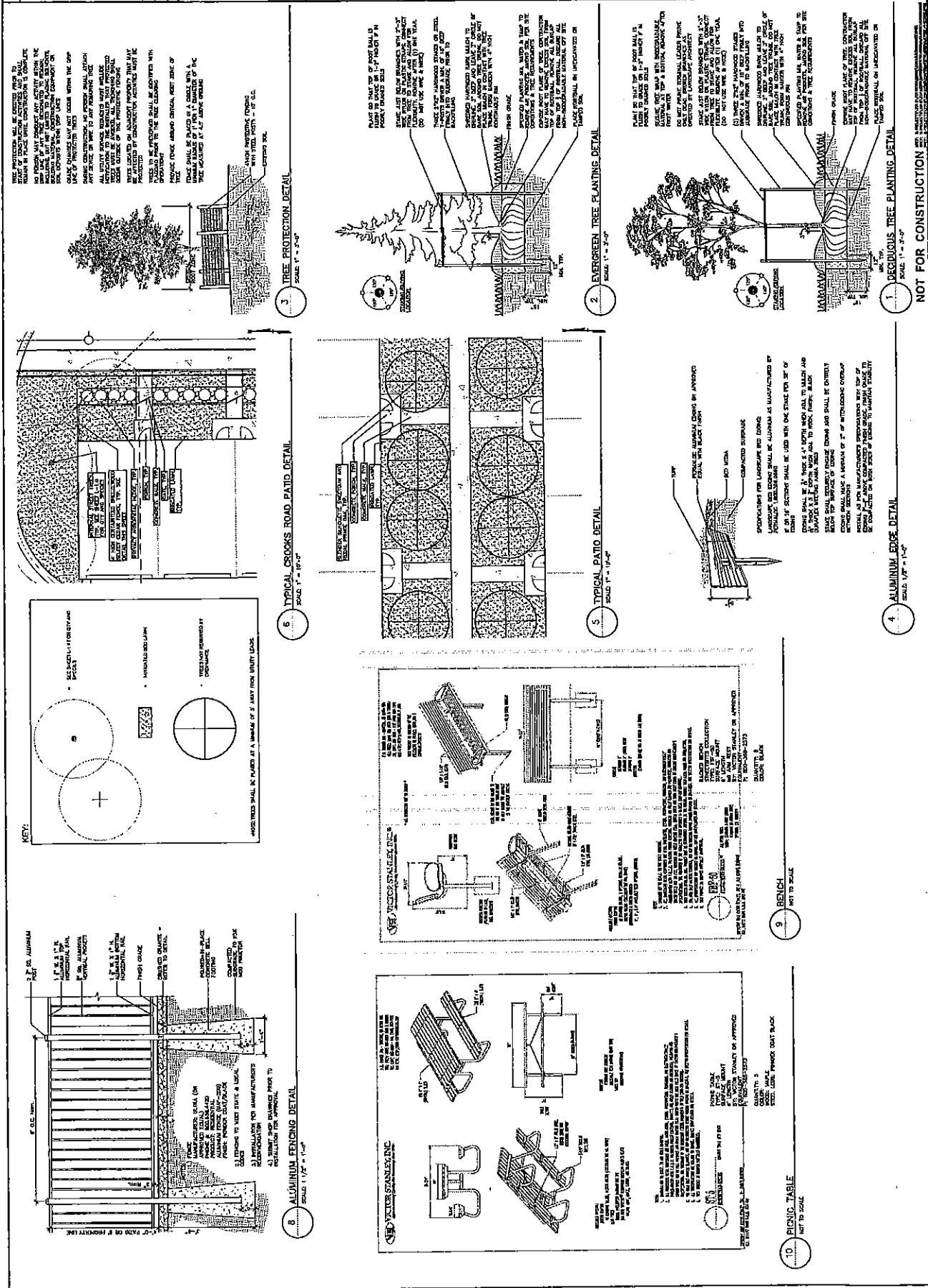
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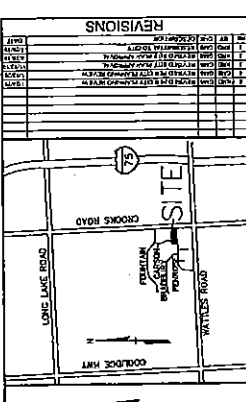
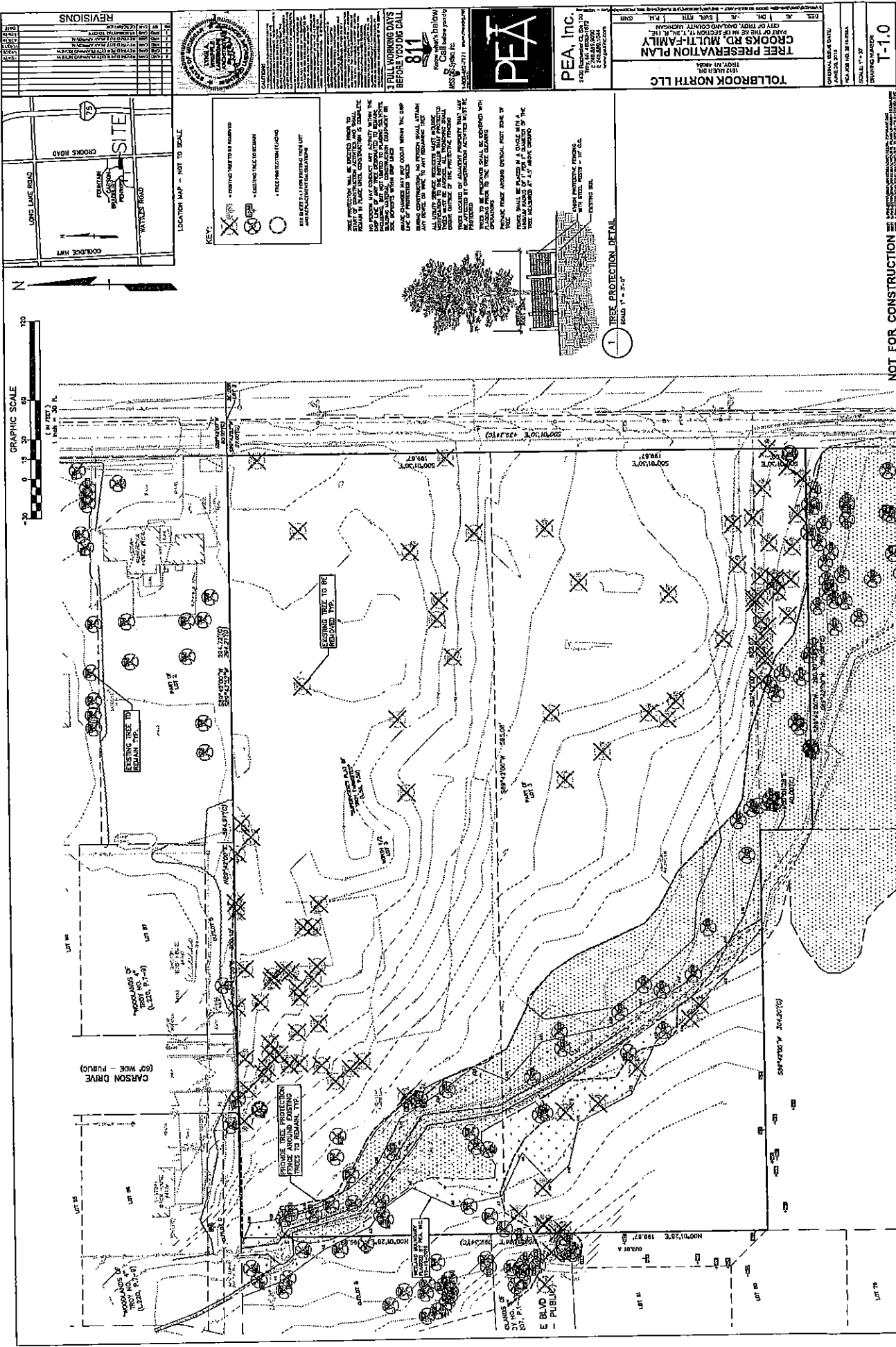
NOT FOR CONSTRUCTION











REVISIONS

NO.	DATE	DESCRIPTION
1	10/15/11	ISSUED FOR PERMIT
2	11/01/11	REVISED TREE PROTECTION
3	11/01/11	REVISED TREE PROTECTION
4	11/01/11	REVISED TREE PROTECTION
5	11/01/11	REVISED TREE PROTECTION
6	11/01/11	REVISED TREE PROTECTION
7	11/01/11	REVISED TREE PROTECTION
8	11/01/11	REVISED TREE PROTECTION
9	11/01/11	REVISED TREE PROTECTION
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11	11/01/11	REVISED TREE PROTECTION
12	11/01/11	REVISED TREE PROTECTION
13	11/01/11	REVISED TREE PROTECTION
14	11/01/11	REVISED TREE PROTECTION
15	11/01/11	REVISED TREE PROTECTION
16	11/01/11	REVISED TREE PROTECTION
17	11/01/11	REVISED TREE PROTECTION
18	11/01/11	REVISED TREE PROTECTION
19	11/01/11	REVISED TREE PROTECTION
20	11/01/11	REVISED TREE PROTECTION

**PEA, Inc.**  
2000 West 10th Street, Suite 100  
Tulsa, Oklahoma 74107  
Phone: (918) 438-1111  
Fax: (918) 438-1112  
www.pea.com

**PEA**

**PEA, Inc.**  
2000 West 10th Street, Suite 100  
Tulsa, Oklahoma 74107  
Phone: (918) 438-1111  
Fax: (918) 438-1112  
www.pea.com

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2000 West 10th Street, Suite 100  
Tulsa, Oklahoma 74107  
Phone: (918) 438-1111  
Fax: (918) 438-1112  
www.pea.com

**TOLLBROOK NORTH LLC**  
1812 LINDEN DR  
TULSA, OK 74104

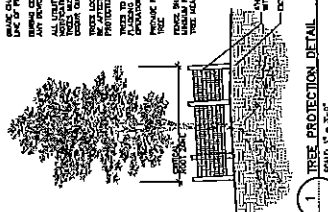
**TREE PRESERVATION PLAN**  
CROOKS RD. MULTI-FAMILY  
CITY OF TULSA, OKLAHOMA  
COUNTY OF TULSA, OKLAHOMA

DATE: 10/15/11  
BY: [Signature]  
CHECKED: [Signature]  
APPROVED: [Signature]

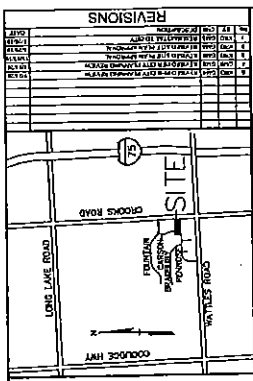
SCALE: 1" = 20'  
SHEET NO. 18 OF 20A  
DATE: 10/15/11

**T-1.0**

**NOT FOR CONSTRUCTION**

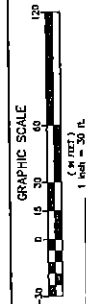


1 TREE PROTECTION DETAIL  
SCALE: 1" = 2'-0"

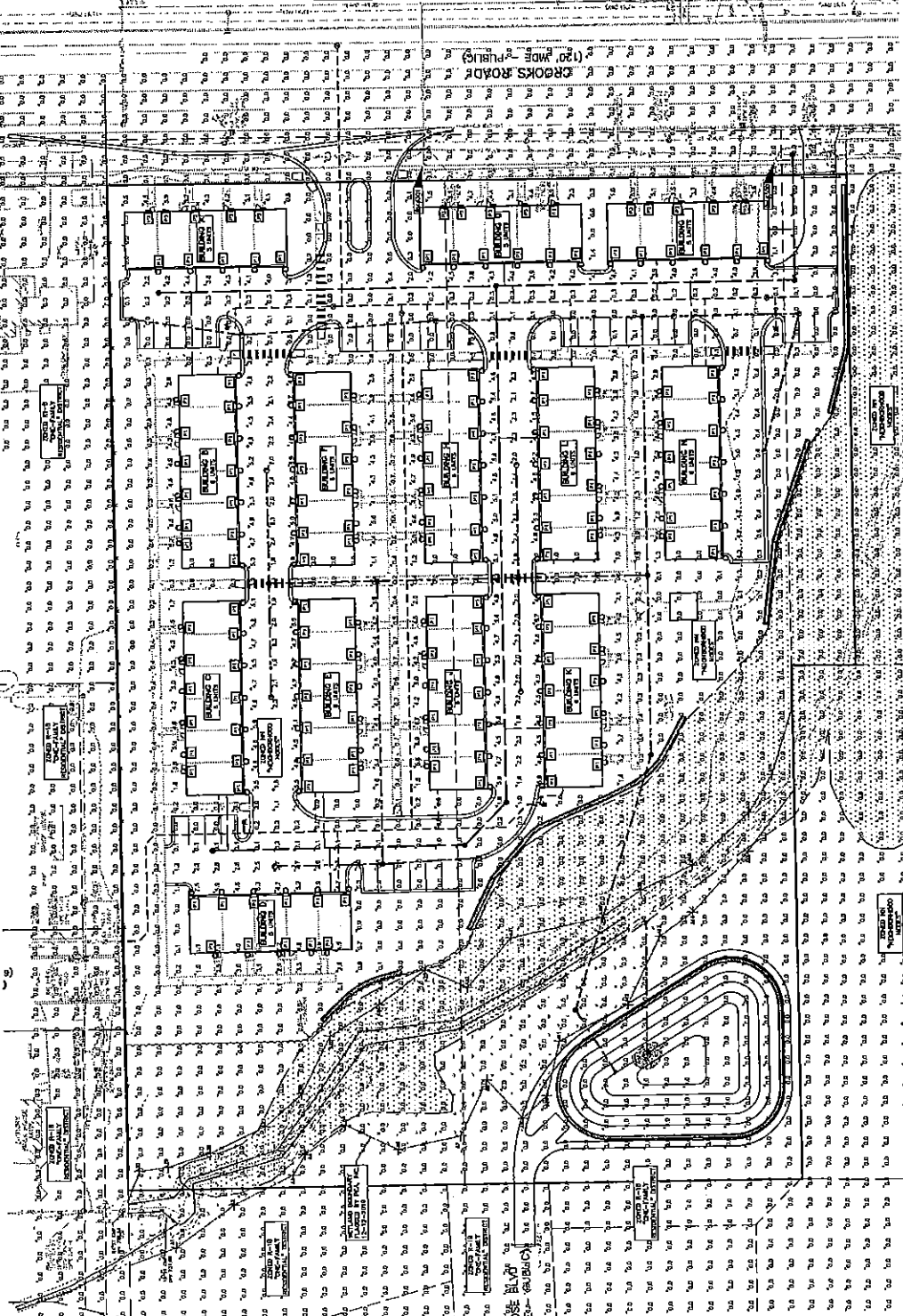
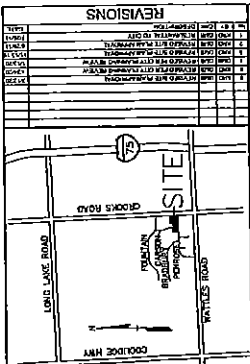


LOCATION MAP - NOT TO SCALE

WOODLAND TREES REMOVED	48	REPLACE AT 100% OF REMOVED DBH
WOODLAND TREES REMOVED	48"	24" REPLACEMENT
WOODLAND TREES REMOVED	24"	12" REPLACEMENT
WOODLAND TREES REMOVED	12"	6" REPLACEMENT
WOODLAND TREES REMOVED	6"	3" REPLACEMENT
WOODLAND TREES REMOVED	3"	1.5" REPLACEMENT
WOODLAND TREES REMOVED	1.5"	0.75" REPLACEMENT
WOODLAND TREES REMOVED	0.75"	0.375" REPLACEMENT
WOODLAND TREES REMOVED	0.375"	0.1875" REPLACEMENT
WOODLAND TREES REMOVED	0.1875"	0.09375" REPLACEMENT
WOODLAND TREES REMOVED	0.09375"	0.046875" REPLACEMENT
WOODLAND TREES REMOVED	0.046875"	0.0234375" REPLACEMENT
WOODLAND TREES REMOVED	0.0234375"	0.01171875" REPLACEMENT
WOODLAND TREES REMOVED	0.01171875"	0.005859375" REPLACEMENT
WOODLAND TREES REMOVED	0.005859375"	0.0029296875" REPLACEMENT
WOODLAND TREES REMOVED	0.0029296875"	0.00146484375" REPLACEMENT
WOODLAND TREES REMOVED	0.00146484375"	0.000732421875" REPLACEMENT
WOODLAND TREES REMOVED	0.000732421875"	0.0003662109375" REPLACEMENT
WOODLAND TREES REMOVED	0.0003662109375"	0.00018310546875" REPLACEMENT
WOODLAND TREES REMOVED	0.00018310546875"	0.000091552734375" REPLACEMENT
WOODLAND TREES REMOVED	0.000091552734375"	0.0000457763671875" REPLACEMENT
WOODLAND TREES REMOVED	0.0000457763671875"	0.00002288818359375" REPLACEMENT
WOODLAND TREES REMOVED	0.00002288818359375"	0.000011444091796875" REPLACEMENT
WOODLAND TREES REMOVED	0.000011444091796875"	0.0000057220458984375" REPLACEMENT
WOODLAND TREES REMOVED	0.0000057220458984375"	0.00000286102294921875" REPLACEMENT
WOODLAND TREES REMOVED	0.00000286102294921875"	0.000001430511474609375" REPLACEMENT
WOODLAND TREES REMOVED	0.000001430511474609375"	0.0000007152557373046875" REPLACEMENT
WOODLAND TREES REMOVED	0.0000007152557373046875"	0.00000035762786865234375" REPLACEMENT
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Symbol	Legend	Description
○	P1 - PRELIMINARY	PRELIMINARY
○	P2 - PROPOSED	PROPOSED
○	P3 - PROPOSED	PROPOSED



**PEA, Inc.**  
 1701 N. 10th St., Suite 200  
 Fargo, ND 58103  
 Phone: (701) 785-1111  
 Fax: (701) 785-1112  
 www.pea-inc.com

**PEA**  
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 Call Before You Dig  
 1-800-4-A-DIG  
 1-800-426-3462

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 1701 N. 10th St., Suite 200  
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 Fax: (701) 785-1112  
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 Fargo, ND 58103  
 Phone: (701) 785-1111  
 Fax: (701) 785-1112  
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REV	DATE	DESCRIPTION
1	01/11/11	ISSUED FOR PERMIT
2	02/11/11	REVISIONS
3	03/11/11	REVISIONS
4	04/11/11	REVISIONS
5	05/11/11	REVISIONS
6	06/11/11	REVISIONS
7	07/11/11	REVISIONS
8	08/11/11	REVISIONS
9	09/11/11	REVISIONS
10	10/11/11	REVISIONS
11	11/11/11	REVISIONS
12	12/11/11	REVISIONS

**NOT FOR CONSTRUCTION**

**NOT FOR CONSTRUCTION**

**Cylinder 200K LED 1" Wal Light Treured Black**  
**1064672 (Purchased)**

**Lead P 1 P 2**

**KICHLER**

**Customer Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City:** \_\_\_\_\_

**State:** \_\_\_\_\_

**Zip:** \_\_\_\_\_

**Phone:** \_\_\_\_\_

**Fax:** \_\_\_\_\_

**E-mail:** \_\_\_\_\_

**Website:** \_\_\_\_\_

**Business Type:** \_\_\_\_\_

**Product/Service:** \_\_\_\_\_

**Quantity:** \_\_\_\_\_

**Unit Price:** \_\_\_\_\_

**Total Price:** \_\_\_\_\_

**Tax:** \_\_\_\_\_

**Shipping:** \_\_\_\_\_

**Payment Terms:** \_\_\_\_\_

**Notes:** \_\_\_\_\_

**Order Number:** \_\_\_\_\_

**Order Date:** \_\_\_\_\_

**Order Status:** \_\_\_\_\_

**Order Type:** \_\_\_\_\_

**Order Source:** \_\_\_\_\_

**Order Reference:** \_\_\_\_\_

**Order History:** \_\_\_\_\_

**Order Details:** \_\_\_\_\_

**Order Summary:** \_\_\_\_\_

**Order Total:** \_\_\_\_\_

**Order Comments:** \_\_\_\_\_

**Order Footer:** \_\_\_\_\_

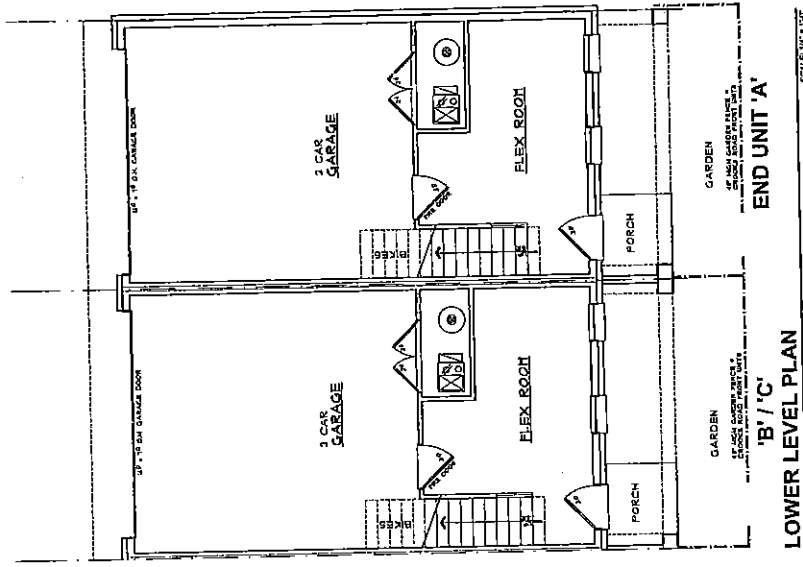


BRIAN KASPER ARCHITECTURE P.C.  
DESIGN • PLANNING • INTERIORS  
630 NORTH 50th STREET, SUITE 201  
TAMPA, FLORIDA 33604  
TEL: 813.259.1794

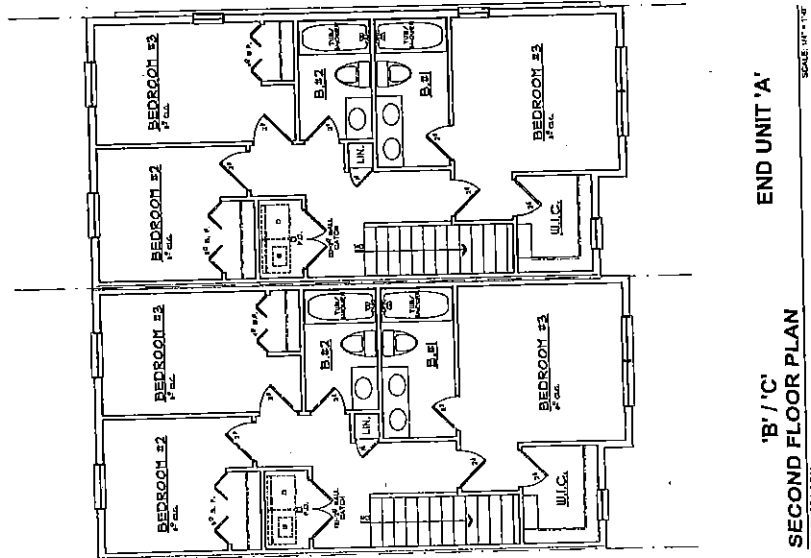
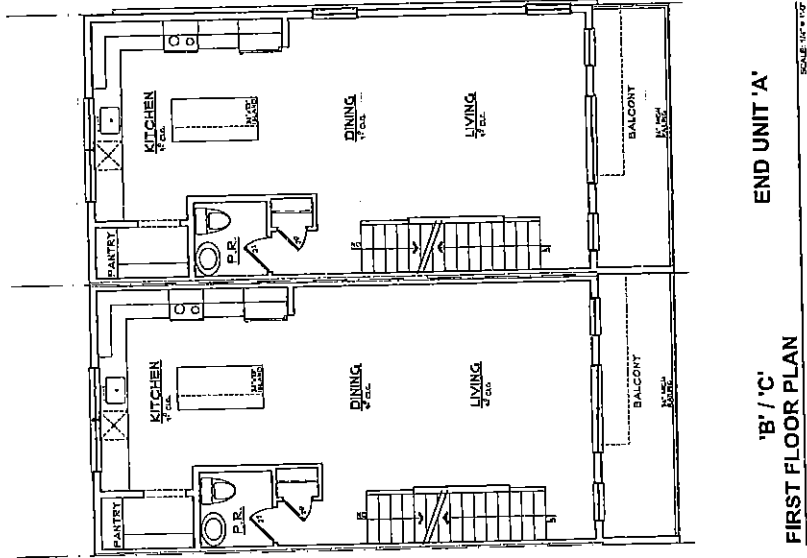
UNIT PLANS  
BUILDINGS A & E-N  
S.P.A.

TOLLBROOK NORTH LLC  
CROOKS ROAD TOWNHOMES  
TROY, MICHIGAN

NO.	REVISION
1	ISSUED FOR PERMIT
2	ISSUED FOR CONSTRUCTION
3	ISSUED FOR RECORD
4	ISSUED FOR AS-BUILT
5	ISSUED FOR FINAL REVIEW
6	ISSUED FOR FINAL APPROVAL
7	ISSUED FOR FINAL RECORD
8	ISSUED FOR FINAL AS-BUILT
9	ISSUED FOR FINAL FINAL REVIEW
10	ISSUED FOR FINAL FINAL APPROVAL
11	ISSUED FOR FINAL FINAL RECORD
12	ISSUED FOR FINAL FINAL AS-BUILT
13	ISSUED FOR FINAL FINAL FINAL REVIEW
14	ISSUED FOR FINAL FINAL FINAL APPROVAL
15	ISSUED FOR FINAL FINAL FINAL RECORD
16	ISSUED FOR FINAL FINAL FINAL AS-BUILT
17	ISSUED FOR FINAL FINAL FINAL FINAL REVIEW
18	ISSUED FOR FINAL FINAL FINAL FINAL APPROVAL
19	ISSUED FOR FINAL FINAL FINAL FINAL RECORD
20	ISSUED FOR FINAL FINAL FINAL FINAL AS-BUILT



SQUARE FOOTAGE	
LOWER LEVEL	44,500 FT.
1ST FLOOR	171,500 FT.
2ND FLOOR	100,500 FT.
TOTAL	316,500 FT.





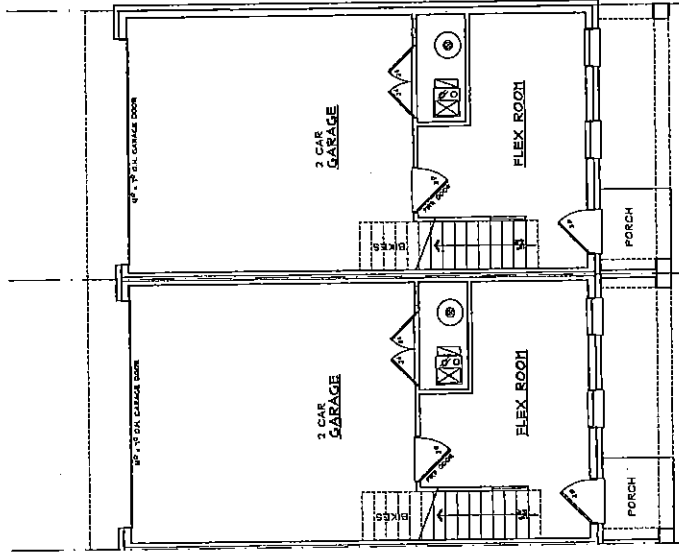
BRIAN KNEPPER ARCHITECTURE P.C.  
DESIGN - PLANNING - INTERIORS  
2330 S. 10TH AVE., SUITE 200  
TROY, MICHIGAN 48060  
BRIANKNEPPER.COM  
248.259.1704

UNIT PLANS  
BUILDINGS B, C & D  
S.P.A.

TOLBROOK NORTH LLC  
CROOKS ROAD TOWNHOMES  
TROY, MICHIGAN

PROJECT NO.	110-10
DATE	11-10-10
DESIGNED BY	BRK
CHECKED BY	BRK
DATE	11-10-10
PROJECT NAME	TOLBROOK NORTH LLC
PROJECT ADDRESS	CROOKS ROAD TOWNHOMES
PROJECT CITY	TROY, MICHIGAN
PROJECT STATE	MI
PROJECT ZIP	48060
PROJECT PHONE	248.259.1704
PROJECT FAX	248.259.1704
PROJECT EMAIL	brk@brian-knepper.com
PROJECT WEBSITE	brian-knepper.com
PROJECT SOCIAL MEDIA	
PROJECT OTHER	

A-2

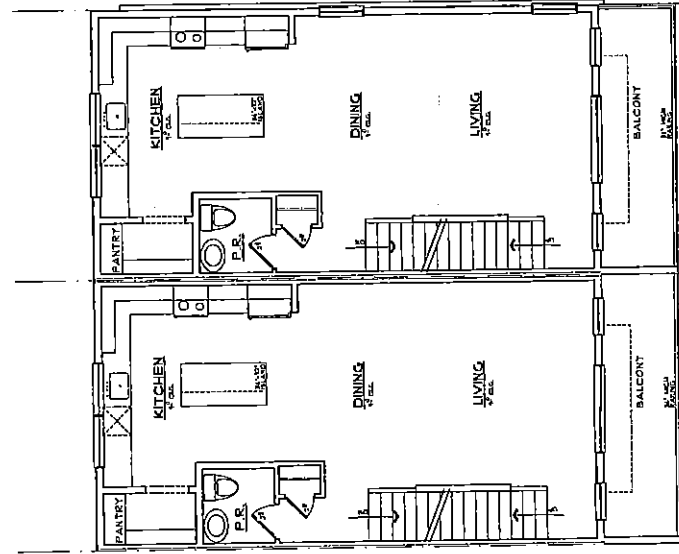


END UNIT 'A'

'B'/'C'

LOWER LEVEL PLAN

SCALE: 1/8" = 1'-0"

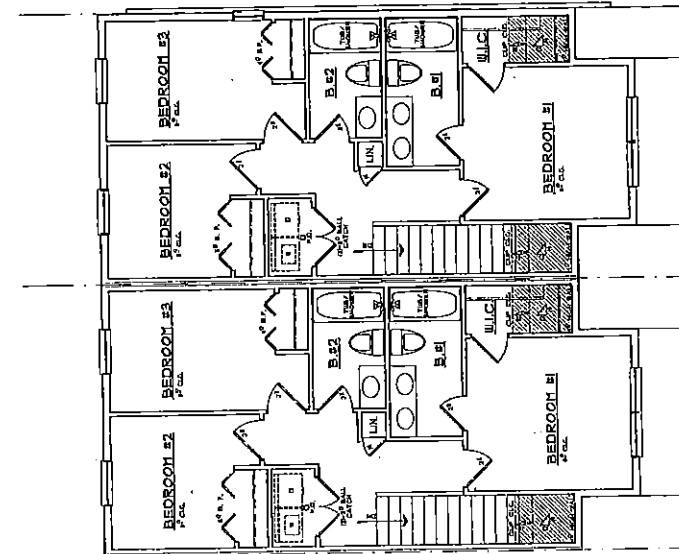


END UNIT 'A'

'B'/'C'

FIRST FLOOR PLAN

SCALE: 1/8" = 1'-0"



END UNIT 'A'

'B'/'C'

SECOND FLOOR PLAN

SCALE: 1/8" = 1'-0"

SQUARE FOOTAGE	
LOWER LEVEL	814 SQ. FT.
1ST FLOOR	471 SQ. FT.
2ND FLOOR	530 SQ. FT.
TOTAL	1,815 SQ. FT.



A-3

DATE: 11-15-10

PROJECT: 10000

PROJECT: 10000

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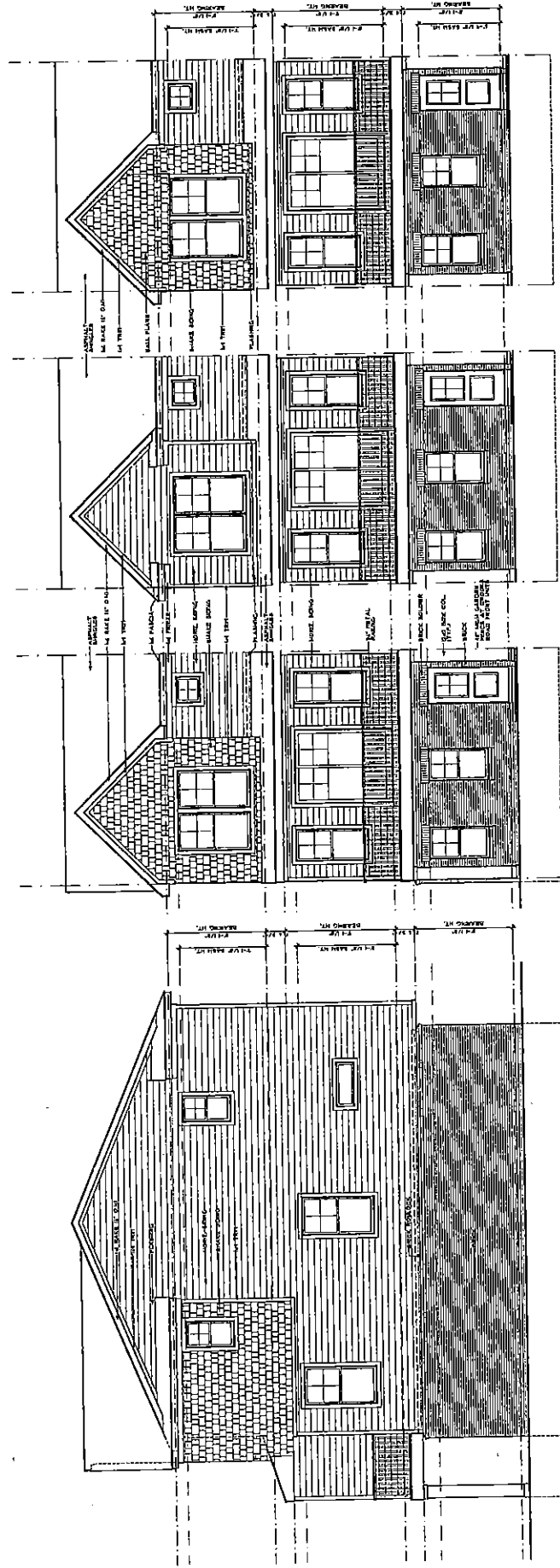
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ELEVATION 'C'  
BUILDINGS A & C  
SCALE: 1/4" = 1'-0"

ELEVATION 'B'  
BUILDINGS A & C  
SCALE: 1/4" = 1'-0"

ELEVATION 'A'  
BUILDINGS A & B  
SCALE: 1/4" = 1'-0"

RIGHT SIDE ELEVATION  
LEFT SIDE ELEVATION - OPPOSITE - SIMILAR  
BUILDINGS A & B  
SCALE: 1/4" = 1'-0"



TOLBROOK NORTH LLC  
CROOKS ROAD TOWNHOMES  
TROY, MICHIGAN

UNIT ELEVATIONS  
FRONTS AND SIDE  
BUILDINGS A & B-N  
S.P.A.

BRIAN NEPPER ARCHITECTURE P.C.  
DESIGN • PLANNING • INTERIORS  
430 NORTH OAK STREET, SUITE 201  
ANN ARBOR, MICHIGAN 48103  
248.259.1784



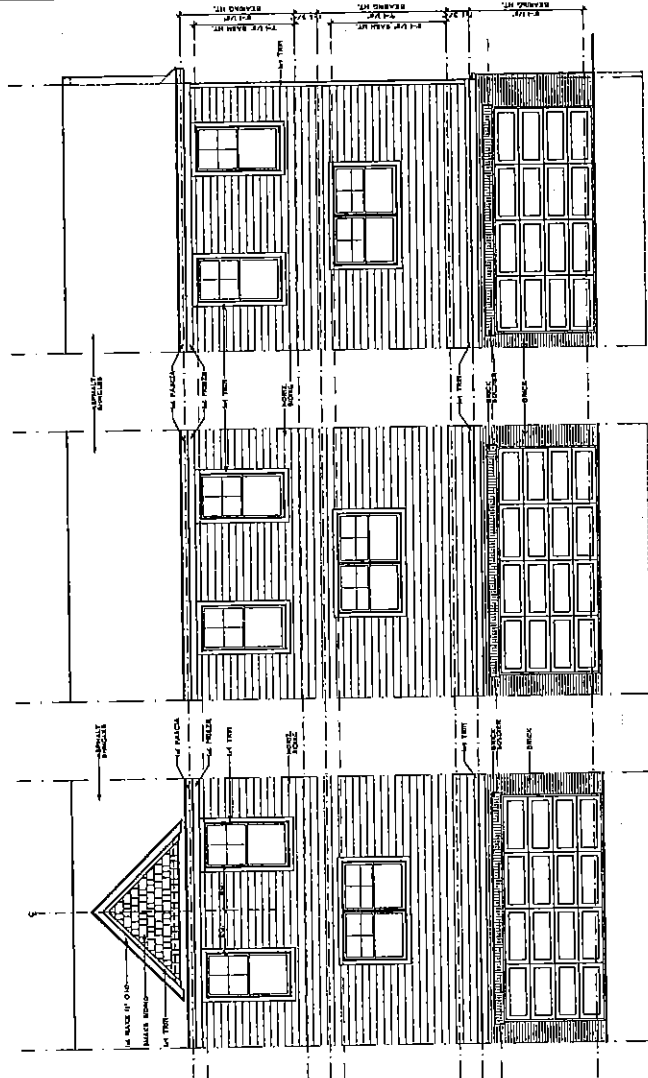
A-4



REAR ELEVATION 'A'  
END UNIT BUILDING AT 64' SCALE: 1/4" = 1'-0"

REAR ELEVATION 'B'  
BUILDING AT 64' SCALE: 1/4" = 1'-0"

REAR ELEVATION 'C'  
BUILDING AT 64' SCALE: 1/4" = 1'-0"



TOLLBROOK NORTH LLC  
CROOKS ROAD TOWNHOMES  
TROY, MICHIGAN

UNIT REAR ELEVATIONS  
BUILDINGS A & B-N  
S.P.A.

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DESIGN • PLANNING • INTERIORS  
820 N. HARTLAND AVENUE, SUITE 100  
TROY, MICHIGAN 48064  
248.259.1794







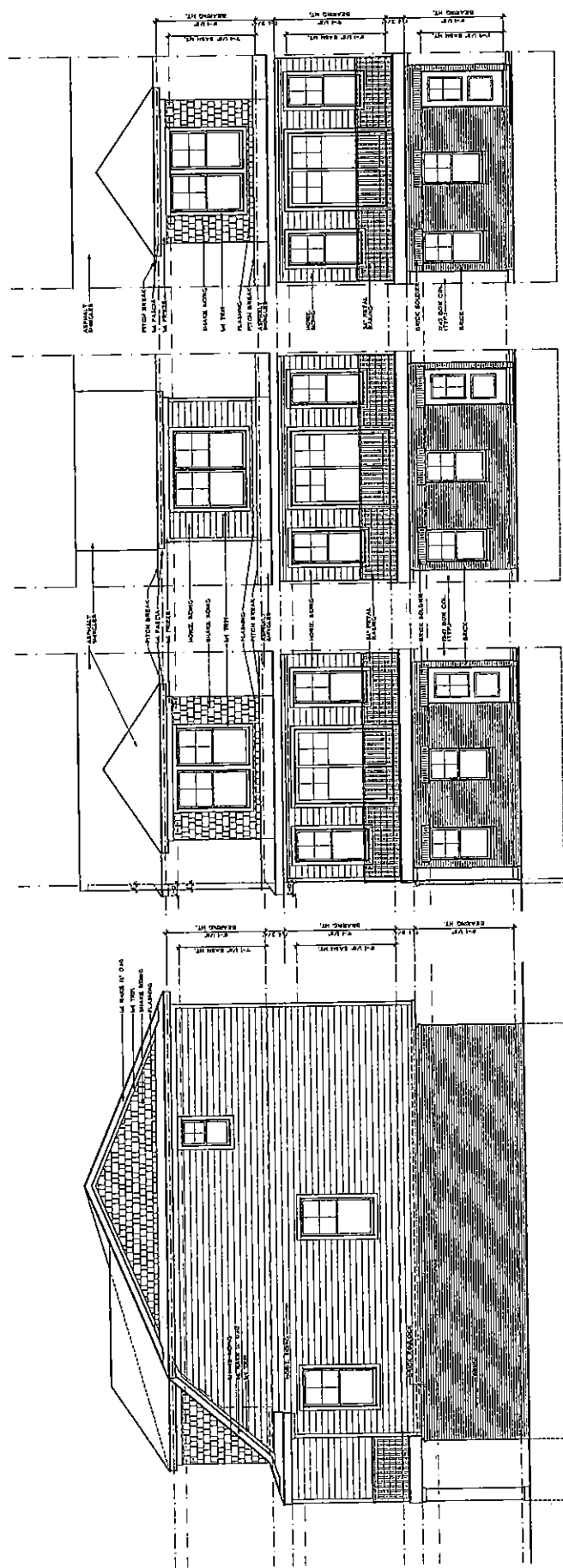
A-5

ELEVATION 'C'  
BUILDINGS B, C & D  
SCALE: 1/4" = 1'-0"

ELEVATION 'B'  
BUILDINGS B, C & D  
SCALE: 1/4" = 1'-0"

ELEVATION 'A'  
BUILDINGS B, C & D  
SCALE: 1/4" = 1'-0"

RIGHT SIDE ELEVATION  
LEFT SIDE ELEVATION - OPPOSITE - SULAR  
SCALE: 1/4" = 1'-0"

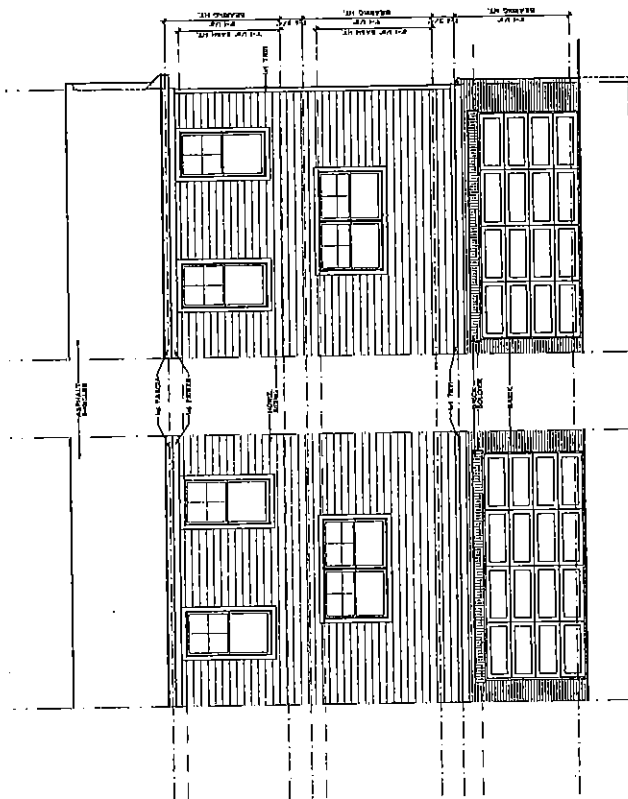


TOLBROOK NORTH LLC  
CROOKS ROAD TOWNHOMES  
TROY, MICHIGAN

UNIT ELEVATIONS  
BUILDINGS B, C & D  
S.P.A.

BRIAN KNEPPER ARCHITECTURE P.C.  
DESIGN - PLANNING - INTERIORS  
42000 CROOKS ROAD, SUITE 200  
TROY, MICHIGAN 48063  
248.289.1744







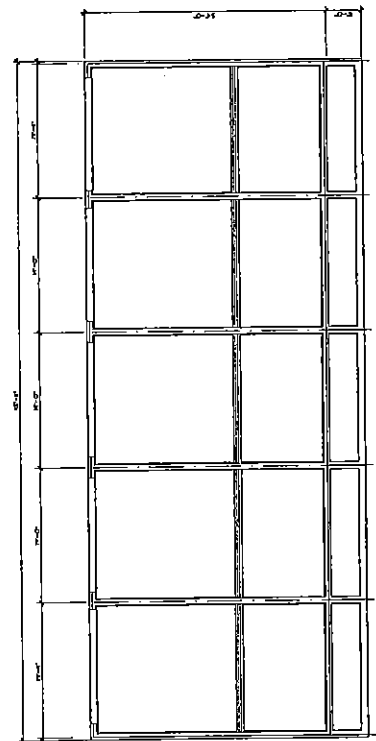
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DATE	01/11/11
BY	BRN
CHECKED	BRN
DATE	01/11/11

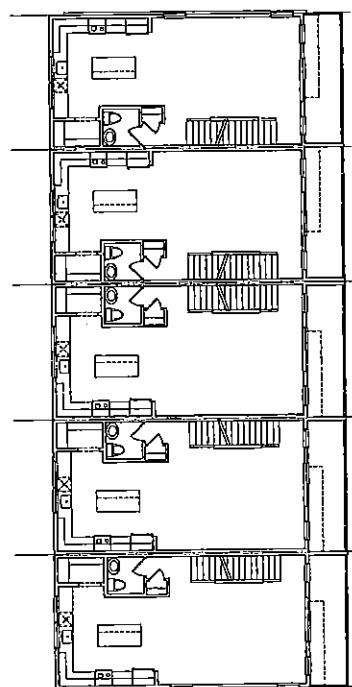
PROJECT / PROJECT  
TOLLEBROOK NORTH LLC  
CROOKS ROAD TOWNHOMES  
TROY, MICHIGAN

UNIT 101  
5 UNIT BUILDING PLANS  
BUILDINGS A I E-N  
S.P.A.

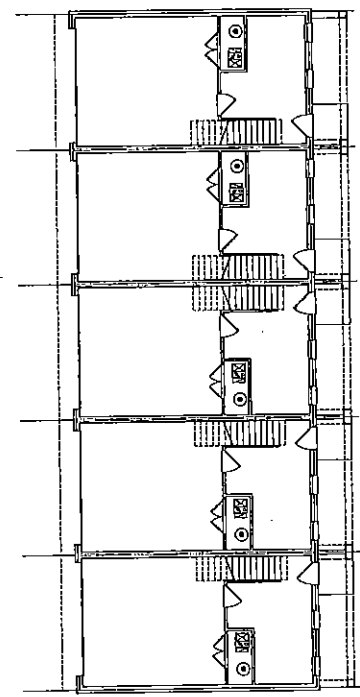
BRIAN KEEPER ARCHITECTURE P.C.  
DESIGN • PLANNING • INTERIORS  
10000 WOODLAND BLVD. #201  
TROY, MICHIGAN 48068  
248.259.1784  
BRIANKEEPER.COM



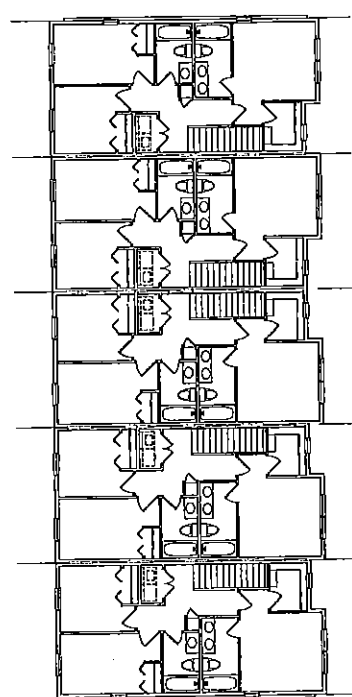
FOUNDATION PLAN  
5 UNIT BUILDING  
SCALE: 1/8" = 1'-0"



FIRST FLOOR PLAN  
5 UNIT BUILDING  
SCALE: 1/8" = 1'-0"



LOWER LEVEL PLAN  
5 UNIT BUILDING  
SCALE: 1/8" = 1'-0"



SECOND FLOOR PLAN  
5 UNIT BUILDING  
SCALE: 1/8" = 1'-0"



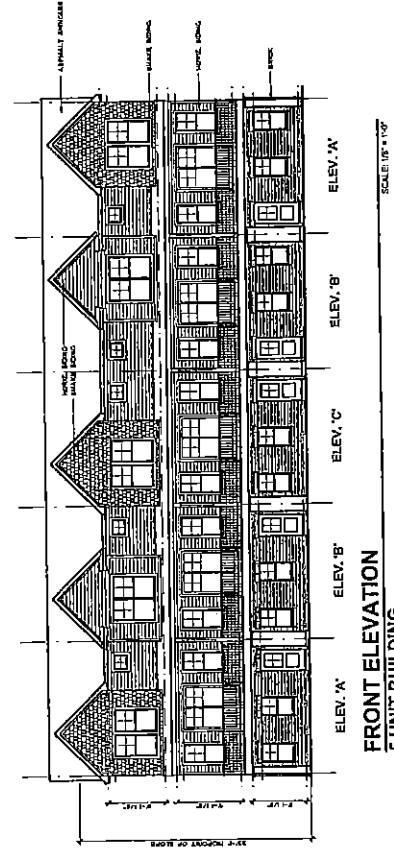
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DATE: 12/1/14  
DRAWN BY: BNP  
CHECKED BY: BNP  
PROJECT: 14-001

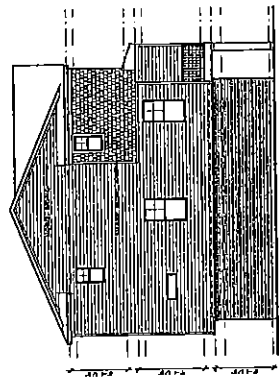
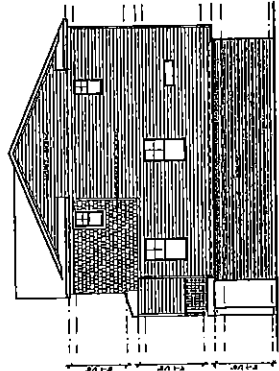
CLIENT / PROJECT:  
TOLLBROOK NORTH LLC  
CROOKS ROAD TOWNHOMES  
TROY, MICHIGAN

5 UNIT BUILDING ELEVATIONS  
BUILDINGS A & E-N  
S.P.A.

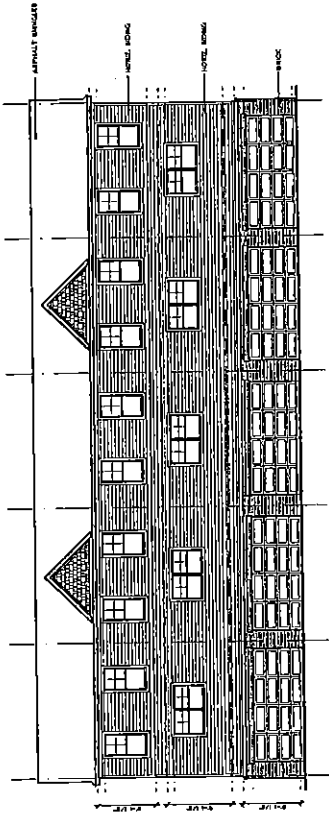
BRIAN NEEPER ARCHITECTS P.C.  
DESIGN - PLANNING - INTERIORS  
34000 PARKWAY DRIVE  
BIRMINGHAM, MICHIGAN 48412  
248.258.1784



RIGHT SIDE ELEVATION  
SCALE 1/8" = 1'-0"



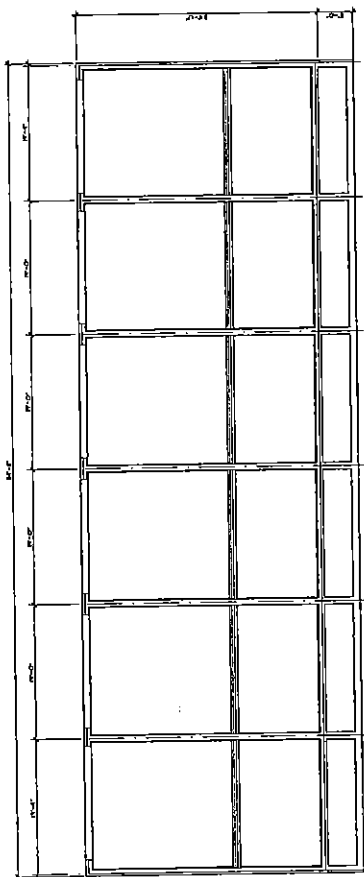
REAR ELEVATION  
5 UNIT BUILDING  
SCALE 1/8" = 1'-0"



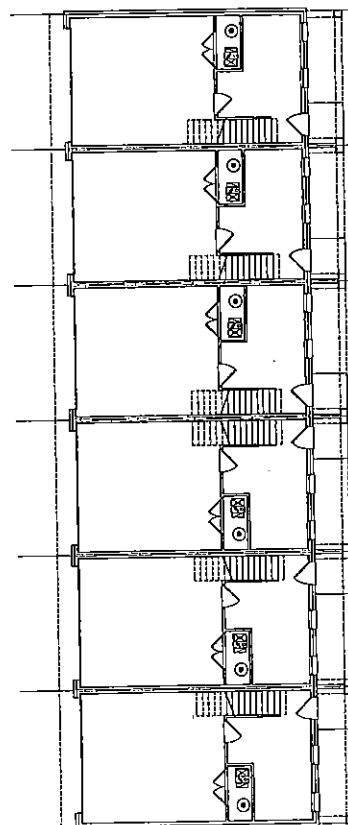
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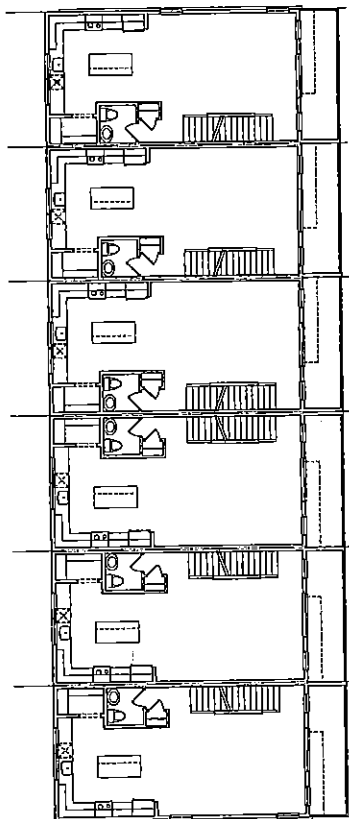
FOUNDATION PLAN  
6 UNIT BUILDING



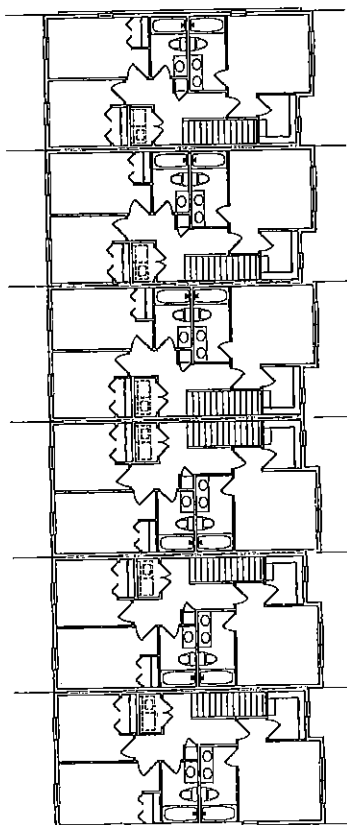
LOWER LEVEL PLAN  
6 UNIT BUILDING



FIRST FLOOR PLAN  
6 UNIT BUILDING



SECOND FLOOR PLAN  
6 UNIT BUILDING



SCALE: 1/8" = 1'-0"

SCALE: 1/8" = 1'-0"

UNIT BUILDING PLANS  
BUILDINGS A I E-N  
S.P.A.

TOLLBROOK NORTH LLC  
CROOKS ROAD TOWNHOMES  
TROY, MICHIGAN

BRIAN NEPPER ARCHITECTURE P.C.  
DESIGN - PLANNING - INTERIORS  
348. 259. 1744  
BRIANNE@BNA.COM  
348. 259. 1744





A-10

PERMIT

LOCATION

DATE

BY

FOR

PROJECT

DATE

BY

FOR

PROJECT

DATE

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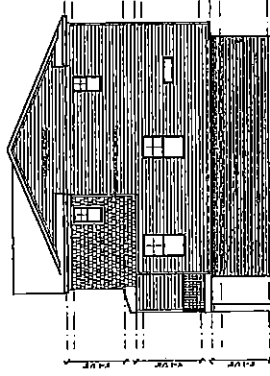
DATE

BY

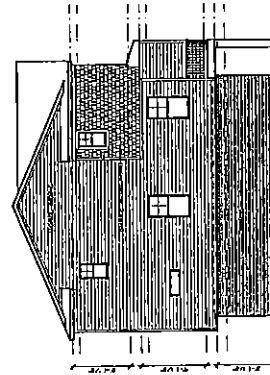
FOR

PROJECT

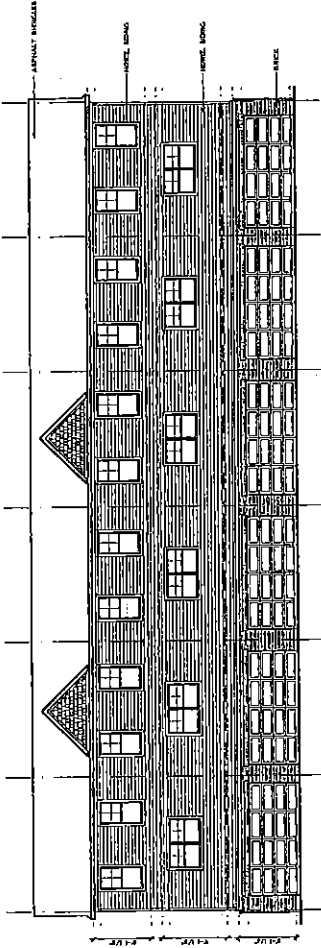
RIGHT SIDE ELEVATION  
SCALE: 1/8" = 1'-0"



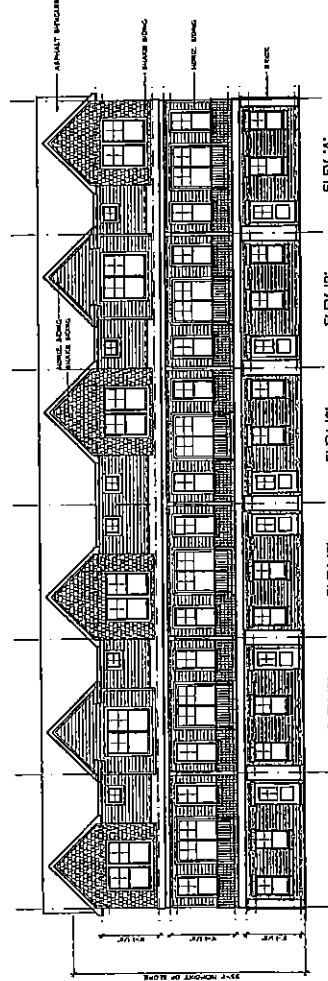
LEFT SIDE ELEVATION  
SCALE: 1/8" = 1'-0"



REAR ELEVATION  
6 UNIT BUILDING  
SCALE: 1/8" = 1'-0"



FRONT ELEVATION  
6 UNIT BUILDING  
SCALE: 1/8" = 1'-0"



SCALE: 1/8" = 1'-0"

SCALE: 1/8" = 1'-0"

SCALE: 1/8" = 1'-0"

SCALE: 1/8" = 1'-0"



BRIAN NEPPER ARCHITECTURE P.C.  
DESIGN - PLANNING - INTERIORS  
248.259.1704  
BRIANNEP@GMAIL.COM  
830 SOUTH CANTONMENT ROAD  
ANN ARBOR, MICHIGAN 48106

6 UNIT BUILDING ELEVATIONS  
BUILDINGS A & E-N  
S.P.A.

TOLLBROOK NORTH LLC  
CROOKS ROAD TOWNHOMES  
TROY, MICHIGAN



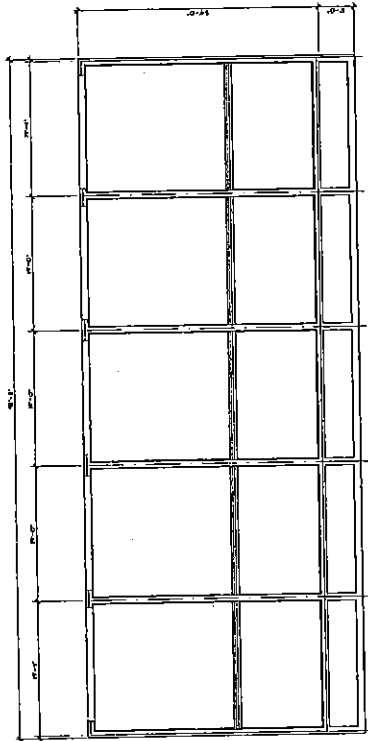
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PROJECT NO.	11-031
DATE	11-03-11
BY	WJF
CHECKED	WJF
DESIGNED	WJF
IN CHARGE	WJF

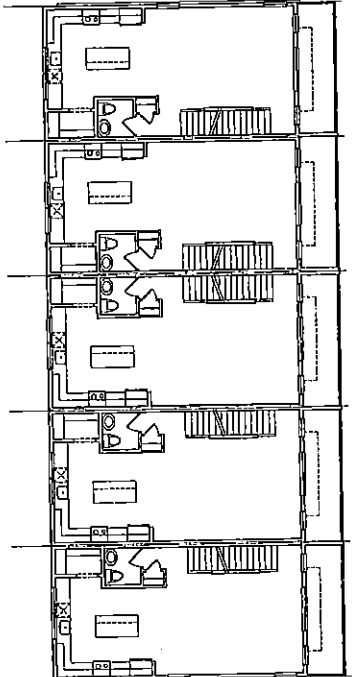
CLIENT: TOLLBROOK NORTH LLC  
CROOKS ROAD TOWNHOMES  
TROY, MICHIGAN

5 UNIT BUILDING PLANS  
BUILDINGS B, C & D  
S.P.A.

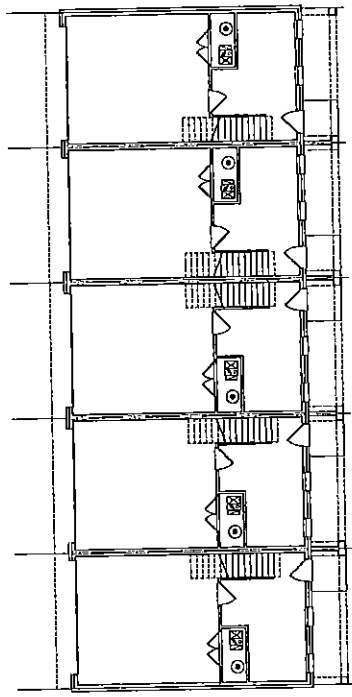
BRIAN NEPPER ARCHITECTURE P.C.  
DESIGN • PLANNING • INTERIORS  
840 SOUTH HAWTHORNE, SUITE 200  
ANN ARBOR, MICHIGAN 48106  
248.259.1784



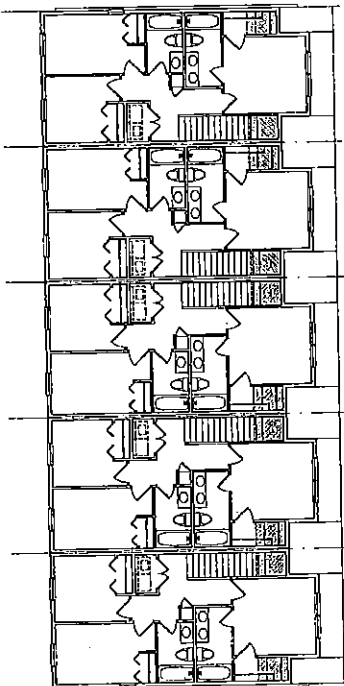
FOUNDATION PLAN  
5 UNIT BUILDING  
SCALE: 1/8" = 1'-0"



FIRST FLOOR PLAN  
5 UNIT BUILDING  
SCALE: 1/8" = 1'-0"



LOWER LEVEL PLAN  
5 UNIT BUILDING  
SCALE: 1/8" = 1'-0"



SECOND FLOOR PLAN  
5 UNIT BUILDING  
SCALE: 1/8" = 1'-0"

\* CONCRETE SLABED FLOOR UNIT LAYERS SHOWN WITH REINFORCING



A-12

DATE: 11/13/18

BY: [Signature]

FOR: [Signature]

PROJECT: [Signature]

NO. 11113-18

DATE: 11/13/18

BY: [Signature]

FOR: [Signature]

PROJECT: [Signature]

NO. 11113-18

DATE: 11/13/18

BY: [Signature]

FOR: [Signature]

PROJECT: [Signature]

NO. 11113-18

DATE: 11/13/18

BY: [Signature]

FOR: [Signature]

PROJECT: [Signature]

NO. 11113-18

DATE: 11/13/18

BY: [Signature]

FOR: [Signature]

PROJECT: [Signature]

NO. 11113-18

DATE: 11/13/18

BY: [Signature]

FOR: [Signature]

PROJECT: [Signature]

NO. 11113-18

DATE: 11/13/18

BY: [Signature]

FOR: [Signature]

PROJECT: [Signature]

NO. 11113-18

DATE: 11/13/18

BY: [Signature]

FOR: [Signature]

PROJECT: [Signature]

NO. 11113-18

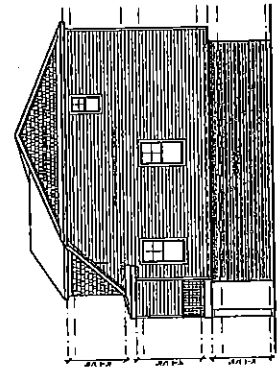
DATE: 11/13/18

BY: [Signature]

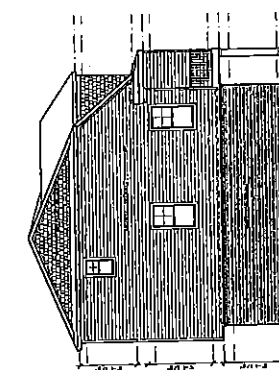
FOR: [Signature]

PROJECT: [Signature]

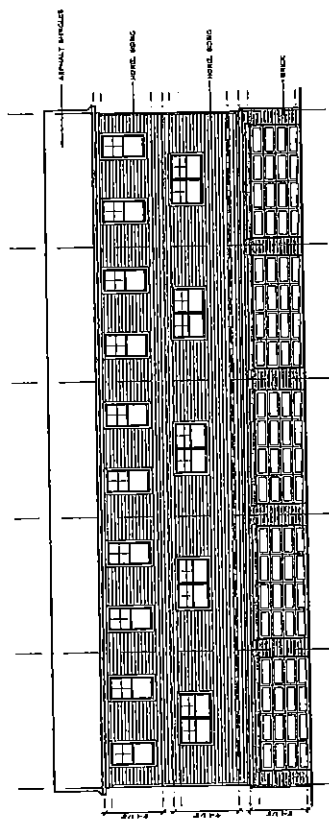
RIGHT SIDE ELEVATION  
SCALE: 1/8" = 1'-0"



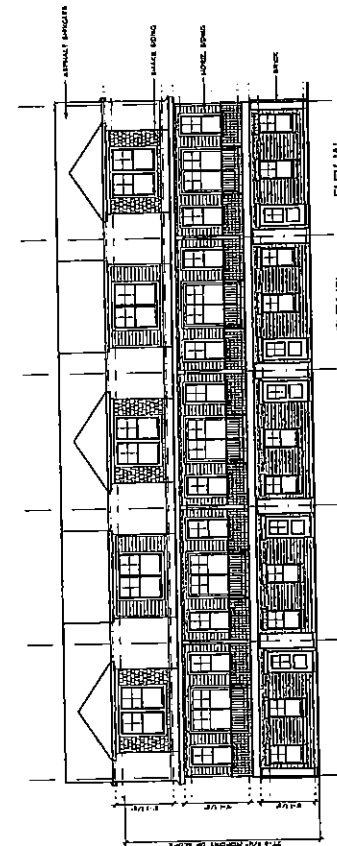
LEFT SIDE ELEVATION  
SCALE: 1/8" = 1'-0"



REAR ELEVATION  
5 UNIT BUILDING  
SCALE: 1/8" = 1'-0"



FRONT ELEVATION  
5 UNIT BUILDING  
SCALE: 1/8" = 1'-0"



5 UNIT BUILDING ELEVATIONS  
BUILDINGS B, C & D  
S.P.A.

TOLLBROOK NORTH LLC  
CROOKS ROAD TOWNHOMES  
TROY, MICHIGAN

BRIAN KEEPER ARCHITECTURE P.C.  
DESIGN • PLANNING • INTERIORS  
1300 North Old Orchard Road  
Farmington Hills, MI 48334  
248.259.1784  
bkeeper@bkeeper.com

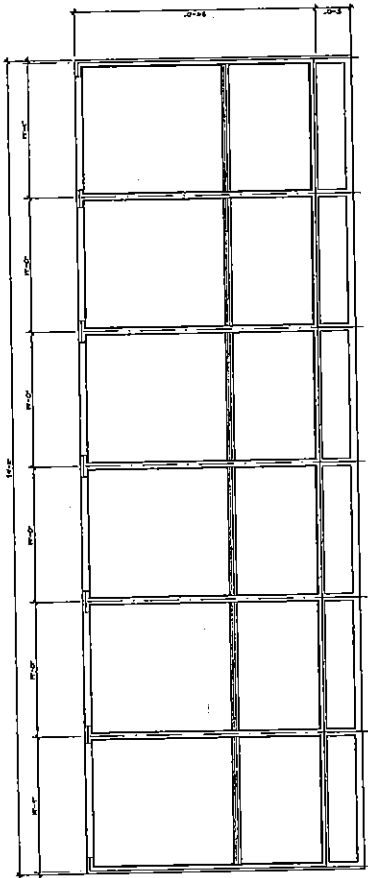


A-13



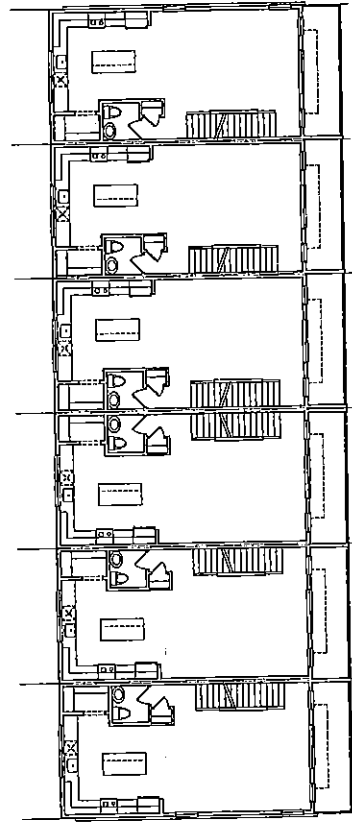
SCALE 1/8" = 1'-0"

FOUNDATION PLAN  
6 UNIT BUILDING



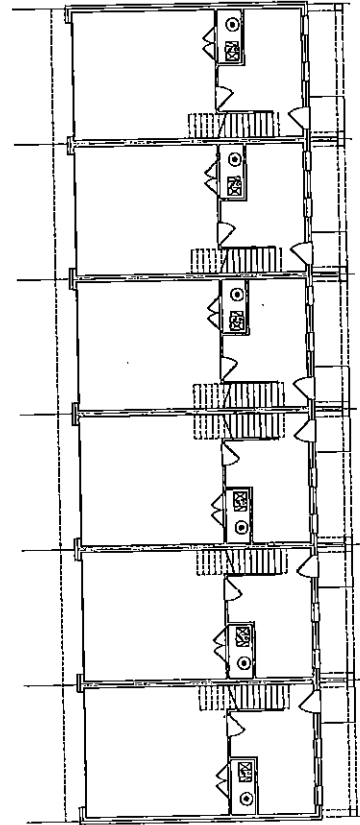
SCALE 1/8" = 1'-0"

FIRST FLOOR PLAN  
6 UNIT BUILDING



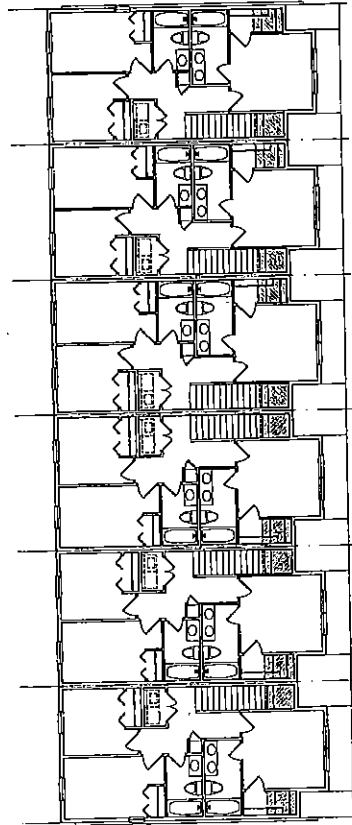
SCALE 1/8" = 1'-0"

LOWER LEVEL PLAN  
6 UNIT BUILDING



SCALE 1/8" = 1'-0"

SECOND FLOOR PLAN  
6 UNIT BUILDING



TOLBROOK NORTH LLC CROOKS ROAD TOWNHOMES TROY, MICHIGAN		S.P.A. 6 UNIT BUILDING PLANS BUILDINGS B, C & D		BRIAN NEPPER ARCHITECTURE P.C. DESIGN - PLANNING - INTERIORS 3830 PLANTINGWAY, SUITE 200 BIRMINGHAM, MICHIGAN 38202 248.269.1784		ARCHITECTURE	
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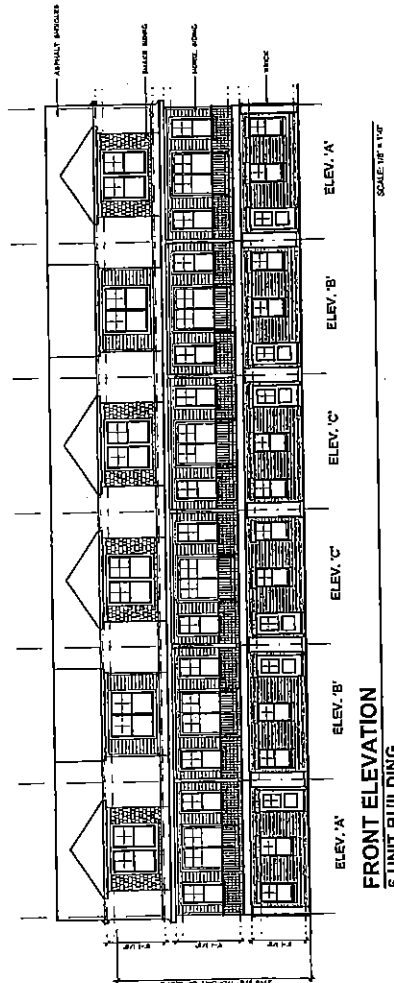
A-14

PROJECT NO.	2014-001
DATE	01/15/14
DESIGNER	BRIAN KEEPER
CHECKER	BRIAN KEEPER
DATE	01/15/14
PROJECT	6 UNIT BUILDING ELEVATIONS
CLIENT	TOLLBROOK NORTH LLC
LOCATION	CROOKS ROAD TOWNHOMES
CITY	TROY, MICHIGAN

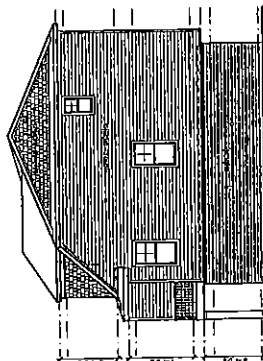
TOLLBROOK NORTH LLC  
CROOKS ROAD TOWNHOMES  
TROY, MICHIGAN

6 UNIT BUILDING ELEVATIONS  
BUILDINGS B, C & D  
S.P.A.

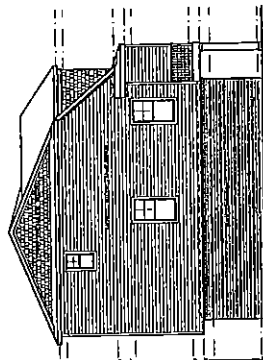
BRIAN KEEPER ARCHITECTURE P.C.  
DESIGN - PLANNING - INTERIORS  
248.253.1704



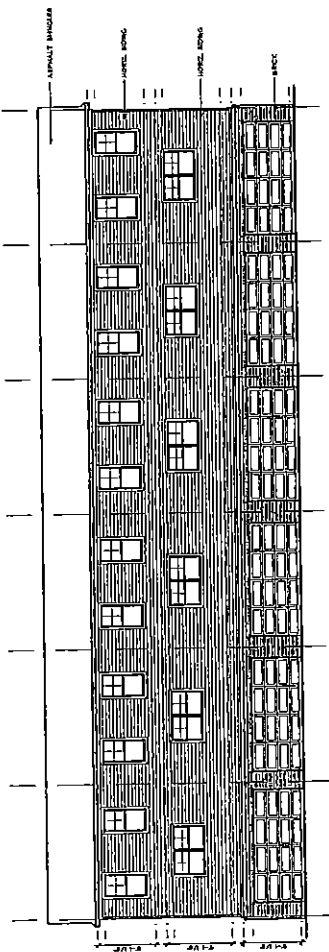
FRONT ELEVATION  
6 UNIT BUILDING  
SCALE: 1/8" = 1'-0"



RIGHT SIDE ELEVATION  
SCALE: 1/8" = 1'-0"



LEFT SIDE ELEVATION  
SCALE: 1/8" = 1'-0"



REAR ELEVATION  
6 UNIT BUILDING  
SCALE: 1/8" = 1'-0"



A-15

PROJECT NO.	2018-001
DATE	01/15/18
DESIGNER	UNEXC
CHECKED	UNEXC
INCHES	1/4" = 1'-0"
FEET	1" = 1'-0"

PROPOSED	EXISTING
NEW	EXISTING
DEMOLITION	EXISTING
REVISION	EXISTING

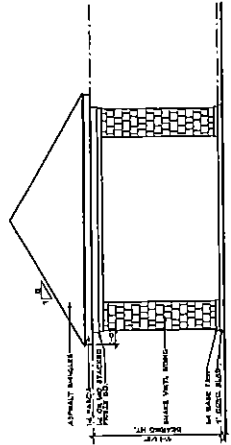
CHART 2 PROJECT  
TOLLBROOK NORTH LLC  
CROOKS ROAD TOWNHOMES  
TROY, MICHIGAN

PAVILION  
PLANS AND ELEVATION  
S.P.A.

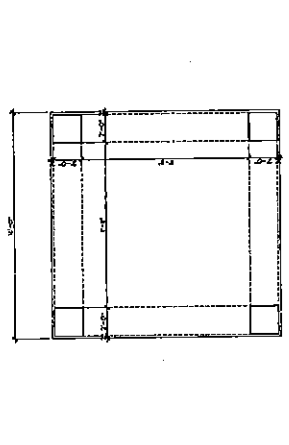
BRIAN NEPPER ARCHITECTURE P.C.  
DESIGN • PLANNING • INTERIORS  
242 ZEEB RD.  
BIRMINGHAM, AL 35201  
205.988.1784



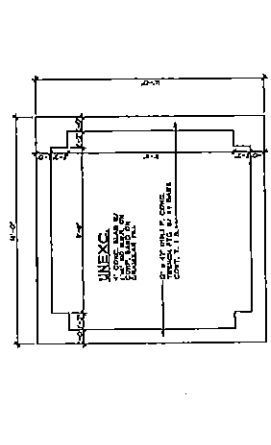
PAVILION ELEVATION  
SCALE 1/4" = 1'-0"



PAVILION PLAN  
SCALE 1/4" = 1'-0"



PAVILION FOUNDATION  
SCALE 1/4" = 1'-0"





Civil Engineers | Land Surveyors | Landscape Architects

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Corporate Office: 2430 Rochester Court • Suite 100 • Troy, MI 48063  
t: 248.689.9090 • f: 248.689.1044 • www.peainc.com

March 16, 2020

Brent Savidant  
City of Troy  
Planning Department  
500 W. Big Beaver  
Troy, MI 48084

RE: Crooks Road Townhomes  
Preliminary Site Plan Submittal – Architectural Design Statements (Revised)

Dear Mr. Savidant:

The following are revised responses to the requested statements in item #6 on the site plan application:

**A. Description of context of site and how project responds to character of the area:**

The site is located at the Northern most edge of Neighborhood Node I on Crooks near Wattles. According to the zoning ordinance the Neighborhood Nodes should draw people and should be visually distinguished from the surrounding area because of their greater intensity, density and design. The intent for this site is to build a 74-unit townhouse condominium project that will begin to increase pedestrian activity in this node within a distinctive architecturally designed community. We have added various amenities to the site including a pavilion, foot trail along with benches and picnic tables.

**B. Description of the project's design concept:**

The Design concept of the community is a townhome with full balconies facing the green spaces, thoughtful sidewalk placement for safe pedestrian and cycle activity as well as conservation and protection of the existing natural existing features the site. We aim to provide our future residents all the benefits of living in the area while maintenance free social lifestyle.

**C. Description of how the project achieves the design concept:**

We are proposing modern open interior floor plans, each home to have a traditional 2-car side by side garage. We are also, protecting many of the on-site natural features and many existing trees as well as, proposing the addition of a combination many of new deciduous trees within the community and evergreen trees along the northern and western property lines. The exterior architecture focuses on breaking down the 3-story building mass through delineating the individual homes. The Townhome fronts maximize the connection to outdoor space with the Townhome fronting on landscaped green spaces and landscaped court yards. All homes will have large second floor balcony and ground level porches which flow into a professionally landscaped tree lined green spaces and courtyards. The site design connects these unit front garden spaces through interconnected walks creating a social walkable neighborhood that seeks to be connected to the future developments of the node.

**D. Description of the development program (intended uses, known or possible tenants, etc.):**

Our Proposed Condominium Development will have a target market that will include:

- Young adults moving out of their parents' house and living on their own
- Younger adults recently married or in a co-habitant relationship
- Younger adults starting families and/or with younger children
- Empty nesters looking to downsize, eliminate maintenance responsibilities, and live close to nice restaurant and shopping destinations.

**E. Description of how the building materials enhance the design concept:**

The building materials have been chosen based on their qualities of durability, sustainability, longevity, traditional appearances and low maintenance. The bases of the buildings are grounded by the use of a dark earth tone brick as a foundation material. The building fronts rise into 3 distinctive gabled elevations clad in shake, horizontal and vertical fiber cement siding which allude to patterns of existing nearby residential facades. The use of traditional materials in a modern expression of traditional pure forms will create a transitional yet timeless architectural feel. The generous amounts of windows allow for a strong connection to the outside and a modern expression on the façade.

**F. If the project is in a form-based district, provide a description of how the project meets the transparency requirements:**

The units that front Crooks Road will be provided with a private garden space partially enclosed by a 48" tall garden fence screen and landscape hedge green screening as a buffer to the street front, this would account for 42% of the first floor fronting the right of way. The first-floor building façade includes an additional 28% glazing transparency.

**G. Note any other important elements, features or design concepts not covered above that will help the planning commission understand how the project fosters excellence in design of the built environment:**

Our revised plans have greatly taken into consideration the past comments from Planning Commission Board Members and adjacent Neighbors. We have worked on concerns that were expressed at the September 24<sup>th</sup>, 2019 and January 14<sup>th</sup>, 2020 Planning Commission Meeting. Important design elements and features are as follows:

- We have completely reoriented the design of the townhomes with the revised layout.
- We have doubled the land area for the development by acquiring a property to the south of the original proposed project, which has allowed us to accommodate the following:
  - Re-orient the townhomes and revise the overall layout of the development
  - Reduce the unit density, in terms of building lot coverage, from 32% to 19.3%.
  - Increase the overall green space, in terms of open space area, from 43.2% (~51,000 sf on 2.73 acres) to 55.0% (~131,000 sf on 5.72 acres) and very minimal disturbance of existing natural features on the property. (Storm system/Detention pond construction only)
  - Increase on-site guest parking to 34 spaces.
  - Increase the setback along northern property line (adjacent single-family) to 40 feet.
  - Provide 20 feet of green belt area as well as the required 1 large evergreen per 10 feet.
- We are proposing an 8-foot decorative black aluminum fence along the northern property line.

- To create a transition adjacent to the single-family residential subdivision, we reduced the ordinance-measured height for Buildings "B", "C", and "D" to 27'-8 11/16" tall and 2 ½ stories, which is actually lower than permitted height of single family residential R1A- R1E at 30 ft.
- To address neighbor concerns about the location of the Emergency Vehicle Access (EVA), we have eliminated the connection to Carson Drive, which will therefore keep Carson Drive as a quiet dead-end street. The EVA has been relocated to the southern portion of the site, connecting to Crooks Rd. south of Building
- There was concern from the residents on Carson Dr. about the possibility of future residents/guests from our proposed community parking on Carson Drive and accessing their units. We have addressed these concerns by providing items mentioned previously (additional guest parking, 8-foot fence, landscape buffer/green belt area, and elimination of EVA at Carson Dr.)

If you should have any questions or require any additional information, please feel free to contact this office.

Sincerely,

PEA, Inc.

Gregory Bono, P.E.  
Project Coordinator

July 20, 2020

Brent Savidant City of Troy Planning Department 500 W. Big Beaver Troy, MI 48084

RE: Crooks Road Townhomes Preliminary Site Plan Submittal – Architectural Design Statements

Dear Mr. Savidant:

The following are responses to the requested statements in item #6 on the site plan application:

**A. Description of context of site and how project responds to character of the area:**

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We have added various amenities to the site including a pavilion, foot trail along with benches and picnic tables.

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design connects these unit front garden spaces through interconnected walks creating a social walkable neighborhood that seeks to be connected to the future developments of the node.

**D. Description of the development program (intended uses, known or possible tenants, etc.):**

Our Proposed Development will have a target market that will include:

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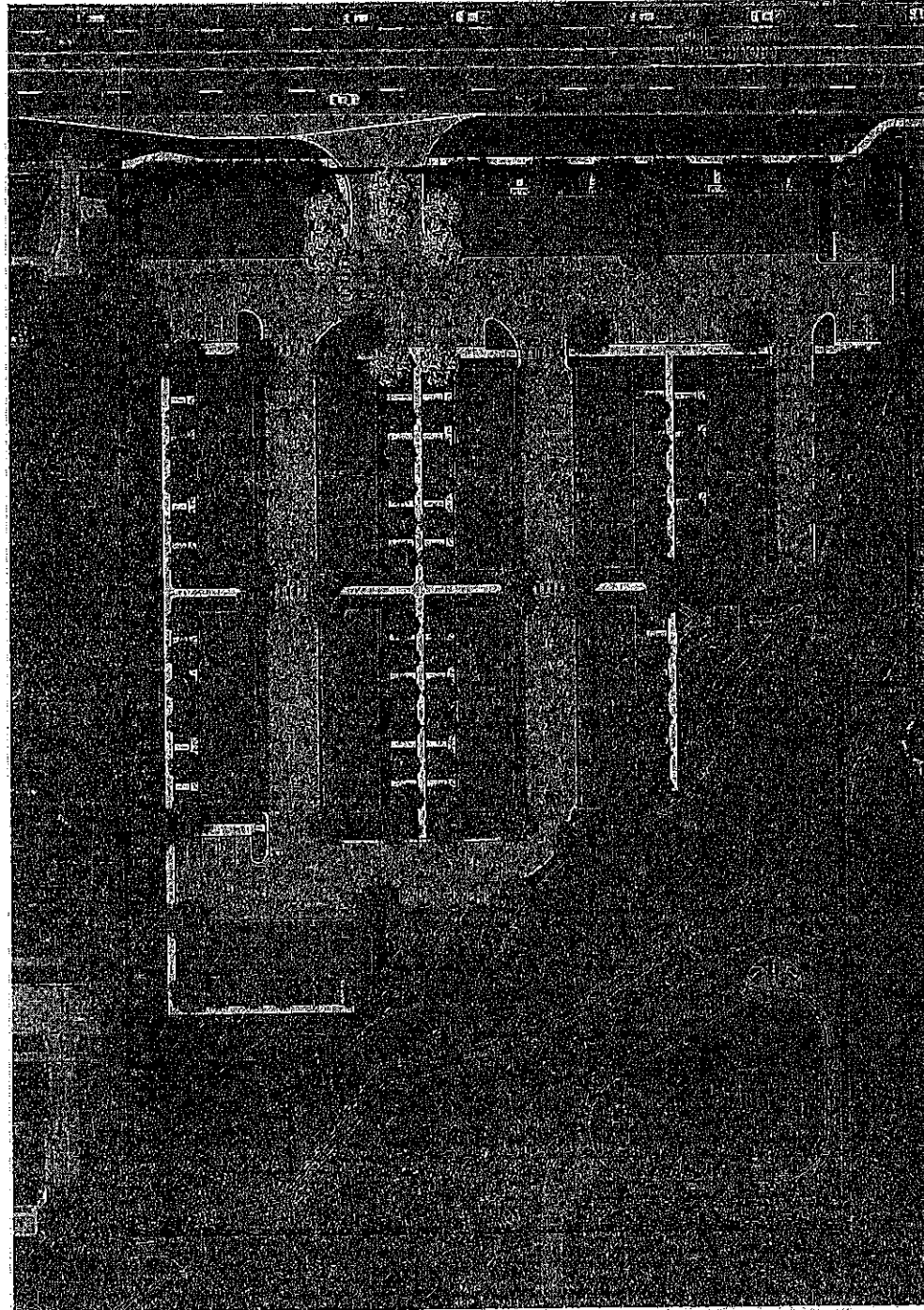
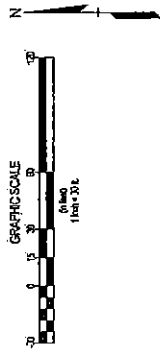
**G. Note any other important elements, features or design concepts not covered above that will help the planning commission understand how the project fosters excellence in design of the built environment:**



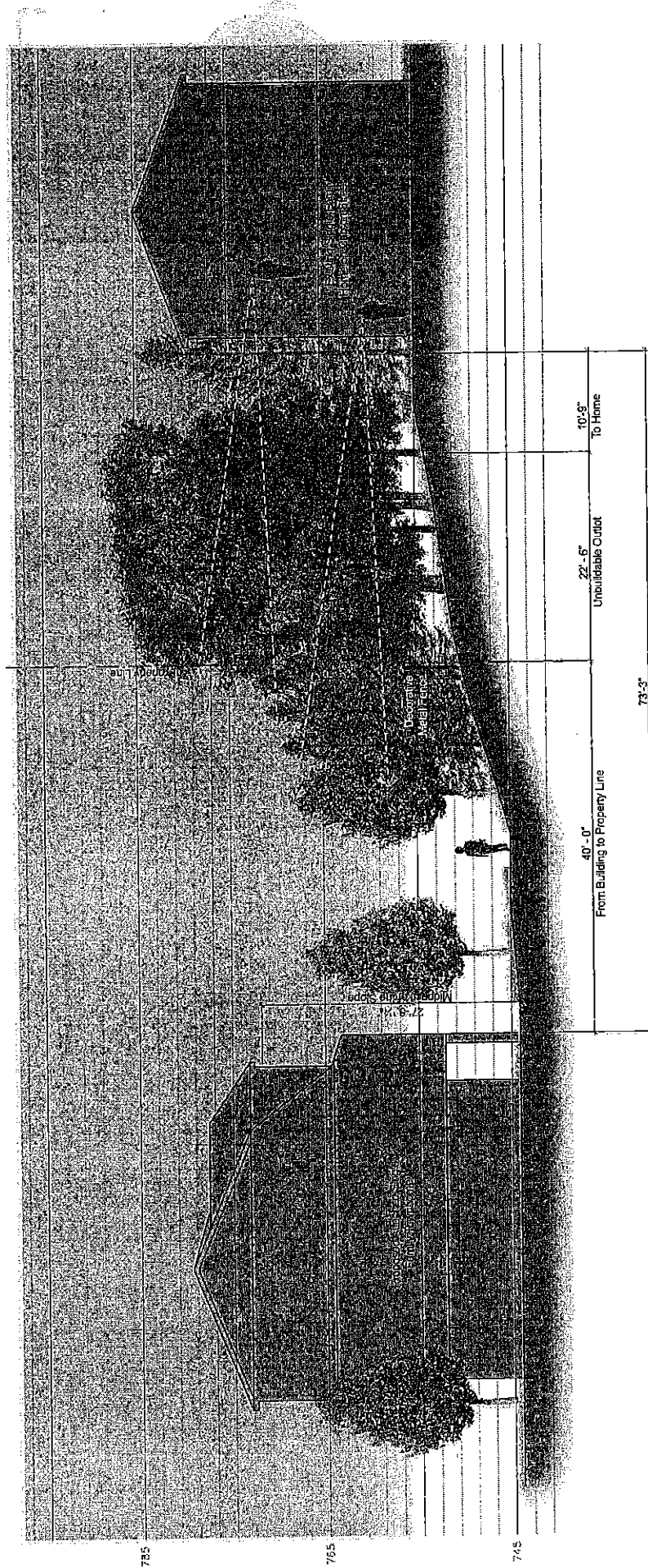
Our revised plans have greatly taken into consideration the past comments from Planning Commission Board Members and adjacent Neighbors. We have worked on concerns that were expressed at the September 24<sup>th</sup>, 2019 and January 14<sup>th</sup>, 2020 Planning Commission Meeting.

We have completely reoriented the design of the townhomes, layout and have doubled the land by acquiring a property to the south of the original proposed project, decreased density, increased green space and protection of existing natural features on the property and greatly increased on site guest parking. Regarding the northern property line and adjacent single family to the north, we have increased the setback to 40 feet, provided 20 feet of a green belt as well as the required 1 large evergreen per 10 feet. In addition to this, we are also proposing a 6-foot decorative black aluminum fence along the entire northern property line. To create transition we dropped the height in Building "B", "C", "D" which are adjacent to single family residential to 27'-8 11/16" tall and 2 ½ stories which is actually lower than permitted height of single family residential R1A- R1E at 30 ft.

Our updates were done to address neighbor concerns which were centered around visual impact and the removal of the initially proposed "EVA" Emergency Vehicular access to maintaining Carson Drive as a quiet dead-end street. There was also concern from the residents on Carson about the possibility of future residents on our proposed community parking on Carson Drive and then walking over to our proposed community. In response to this, we have addressed these concerns by providing ample guest parking, proposing placement of a 6ft. privacy fence along the entirety of the northern property as well as, landscape buffer and green belt. In addition to that, in our most updated plans we remove our previously proposed "EVA" Emergency Vehicular Access. This will ensure that Carson Drive remains a permanent quiet dead end and prohibit any parking and walking over on Carson Drive from the potential future residents on our proposed Project as well as, provides a nice green belt, tree screening, privacy fence and large setbacks.



PEA, Inc.  
10275 Laramie Way, Suite 110  
Denver, Colorado 80231  
P: 303.733.4400  
F: 303.733.4401  
www.pea.com



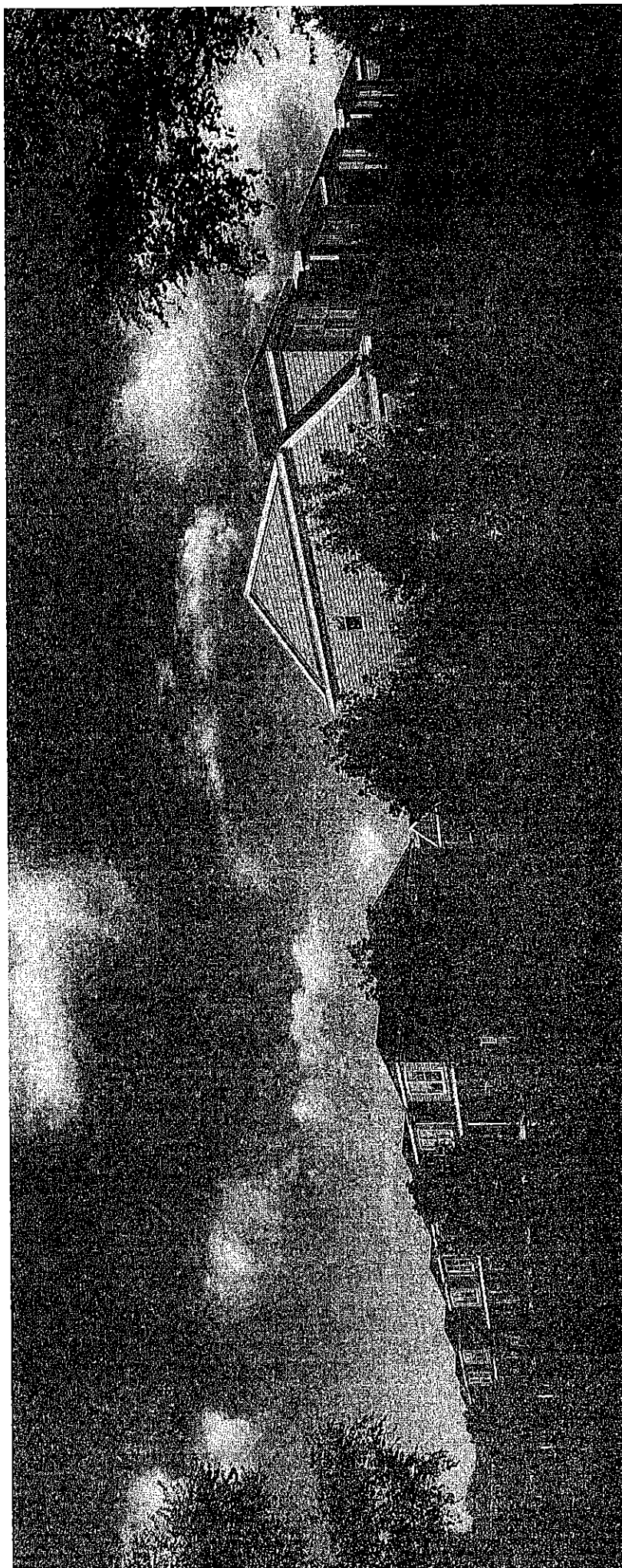
PEA, Inc.  
7827 Nichols Way, Ste 115  
Troy, Michigan 48063  
T 917.546.4383  
F 917.546.4870  
www.pea.com

# Crooks Rd Townhomes

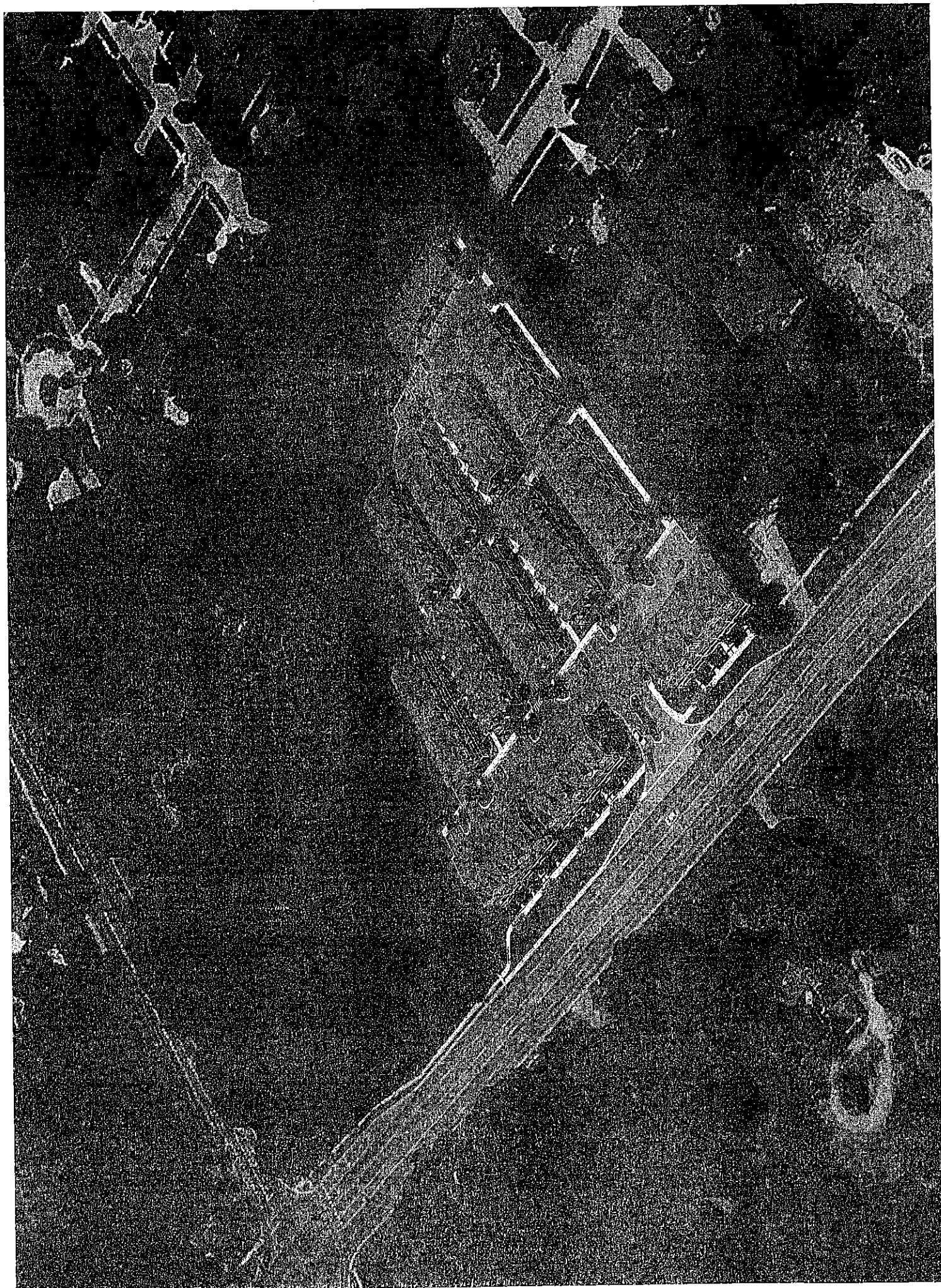
Troy, Michigan

March, 2020









This case has been designated as an eFiling case, for more information please visit  
[www.oakgov.com/efiling](http://www.oakgov.com/efiling).

STATE OF MICHIGAN

OAKLAND COUNTY CIRCUIT COURT

SAFET "Sam" STAFSA,  
Plaintiff,

2021-189046-AW

JUDGE JEFFERY S. MATIS

V

THE CITY OF TROY,  
Defendant.

## EXHIBIT D

**VERIFIED COMPLAINT FOR DECLARATORY RELIEF, WRIT OF  
MANDAMUS AND EX PARTE MOTION TO SHOW CAUSE WHY SITE  
PLAN APPROVAL SHOULD NOT BE GRANTED PURSUANT TO MCR  
3.305(C)**

## **EXHIBIT D**

**CWA Preliminary Site Plan Reviews  
Dated January 7, 2020 and November 6, 2020**





**Carlisle | Wortman**  
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

Date: September 17, 2019  
January 7, 2020  
November 6, 2020

**Preliminary Site Plan Review  
For  
City of Troy, Michigan**

**Applicant:** Tollbrook North LLC

**Project Name:** Crooks Road Townhomes

**Plan Date:** March 12, 2020

**Location:** Between Wattles Road and Long Lake Road, on the East side of Crooks Road

**Zoning:** Neighborhood Node (NN) – I

**Action Requested:** Preliminary Site Plan Approval

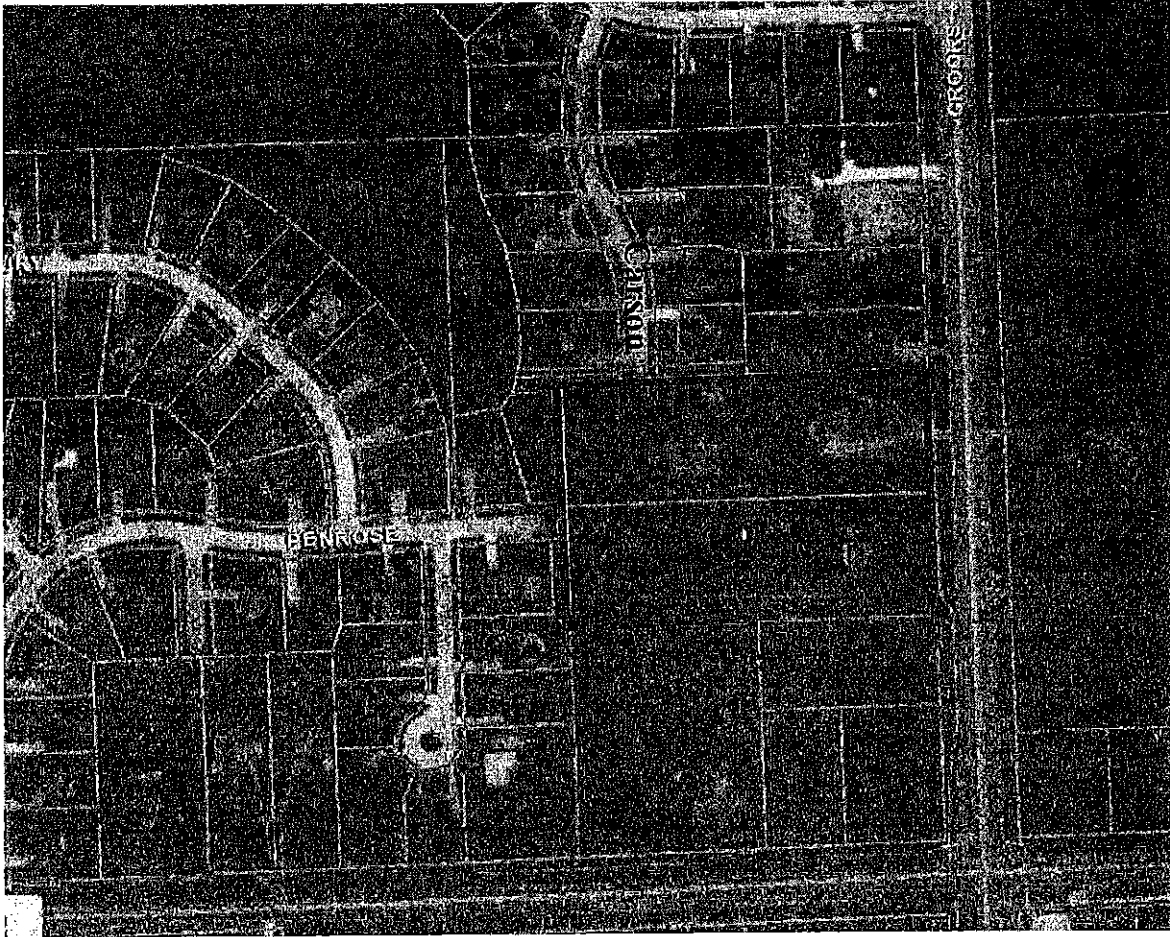
**SITE DESCRIPTION**

The subject site is located on the east side of Crooks Road, between Wattles Road and Long Lake Road. The approximate 5.73-acre site is improved with two single-family homes. The two houses will be removed if the proposed development is approved.

The applicant proposes to develop the site as a 74-unit townhome project, grouped into a total of thirteen (13) buildings. Access to the site is via Crooks Road.

Buildings A, H, and R front on Crooks Road, and all other buildings front on interior drives. The number of units in each building vary from 5 to 6. All units are three (3) stories in height and accompanied by a 2-car tandem garage.

A list of full changes is included on Page 4 of this report. All housing development will be on the east side of the drain, and the site's detention pond will be on the west side of the drain.



Size of Subject Property:

The parcel is 5.72 net acres

Proposed Uses of Subject Parcel:

Seventy-four (74) townhome units

Current Use of Subject Property:

The subject property is currently improved with a single-family home

Current Zoning:

The property is currently zoned NN, Neighborhood Node District

Surrounding Property Details:

Direction	Zoning	Use
North	R1-B, Single Family	Single Family Residential
South	NN, Neighborhood Node	Vacant/Single Family Residential
East	R1-B, Single Family	Single Family Residential
West	R1-B, Single Family	Single Family Residential

**NATURAL FEATURES**

**Topography:** A topographic survey has been provided on sheet C-1.0 and shows that the site has a slightly higher elevation in the northwest portion of the property. Elevations decrease heading toward its south and southwest boundaries. Grading will occur on the west side of the drain to accommodate the stormwater facility.

**Wetlands:** The applicant completed a wetland delineation on December 12, 2019. The applicant has confirmed that an EGLE regulated wetland does exist on the site. The applicant is proposing grading and tree planting within wetland. Any impact upon wetland requires a permit from EGLE. Wetland mitigation details are not provided. Final wetland permit is required with final engineering review; however, applicant should confirm wetland mitigation plan.

**Floodplain:** The Lane Drain, and associated floodplain is located at the southwest corner of the site. The preliminary plans show that no development and grading within the floodplain. However, the applicant will be required to confirm the floodplain and obtain any necessary permits for floodplain impact as part of the final engineering review.

**Woodlands:** A tree inventory has been provided on sheet T-1.1. The applicant has identified a total of 69 woodland trees and 6 landmark trees on site. Of the 69 woodland trees, the applicant is removing 49 and preserving 20. Of the 6 landmark trees, the applicant is removing 5 and preserving 1.

Replacement Details		
Protected Tree	Inches Removed	Replacement Required
Landmark	108 inches	108 inches
Woodland	447 inches	224 inches
Preservation/Mitigation	Inches Preserved	Credit
Landmark	13 inches	26 inches

Woodland	225 inches	450 inches
Protected Replacement Required	332 Inches	
Preservation Credit	426 Inches	
<b>Total</b>	<b>+ 94-inch credit</b>	
<b>Total Tree Mitigation</b>	Zero. The number of inches preserved and credited exceed the mitigation required.	

The noted tree removal is the same as in previous plans where access to the stormwater facility was unclear. The applicant should confirm tree removal as a result of access to the stormwater pond.

**Items to be addressed:** 1). Provide wetland mitigation plan; and 2). Confirm tree removal as a result of access to stormwater plan.

#### PREVIOUS PLANNING COMMISSION REVIEW

The application was last considered in January 2020. Action on the site plan was postponed. Staff and Planning Commission discussion included:

- *Compatibility and transition*
- *Neighborhood node districts as relates to Master Plan*
- *Access to stormwater facility*
- *Tree removal and loss of screening due to installation of stormwater facility.*
- *Access and EVA to Crooks Road.*
- *Pedestrian connections*
- *Increased screening*
- *Architecture and materials*

There were a number of residents who spoke in opposition to the project. These comments include:

- Grading difference at relates to drainage and engineering design process.
- Stormwater management
- Wetlands and floodplain, as relates to EGLE and engineering design process
- Compatibility and transition to residential, as relates to landscape buffer, building height, line of vision, building materials
- Line of vision scale and elevations
- Neighborhood node districts as relates to Master Plan
- Traffic impact study
- Density
- Engagement with neighbors
- Intent of Master Plan
- Joint meeting with City County to discuss intent of Neighborhood Node

## SITE PLAN CHANGES

Based on the discussion from the Planning Commission, staff, and the public, the applicant has made changes their site plan. There were no major changes to the plan since the last Planning Commission review; however, changes include:

- Added Emergency Vehicle Access point on Crooks as requested by Fire Department
- Internally connected units via sidewalks.
- Provided access to the stormwater detention facility via Penrose Boulevard. This access is only for stormwater facility and does not connect to the rest of the site.
- Provided pedestrian path and picnic tables around stormwater facility via Penrose Boulevard.
- Indicated tree removal and loss of existing screening on western property line as result of installation of stormwater facility and access via Penrose Boulevard.
- Applicant confirmed presence of state regulated wetland. Revised plan shows grading within wetland.
- Added additional landscape screening along western property line.
- Added community pavilion.
- Replaced vinyl fence with aluminum fence along northern property line.

## SITE ACCESS AND CIRCULATION

Vehicular access to the site is via Crooks Road. The applicant has removed the Emergency Vehicle Access (EVA) connection at Carson Drive, and added an EVA on Crooks. The applicant has connected all units via an internal pedestrian sidewalk network.

The Fire and Engineering Department confirms that access and circulation is sufficient.

**Items to be addressed:** None

## AREA, WIDTH, HEIGHT, SETBACKS

Table 5.03.B.3, Building Form C of Section 5.03, Standards Applicable to All Districts of the Zoning Ordinance establishes the dimensional requirements for the NN, Neighborhood Node District. The requirements and proposed dimensions are shown in the following table.

	Required	Provided	Compliance
Front (east property line)	10-foot build-to-line	15 feet	Complies. Planning Commission can grant up to a 30-foot building placement.
Side (north)	N/A, building may be placed up to property line	40-feet	Complies

Side (south)	N/A, building may be placed up to property line	80 feet	Complies
Rear (west)	30-foot minimum setback	139 feet	Complies
Building Height	Maximum 4 stories, 55 feet, Minimum 2 stories	3 stories, 37.5 feet to peak of roof (as indicated on building elevations)	Complies
Lot Coverage (Building)	30%	19.3%	Complies
Minimum Open Space	15%	55.0%	Complies
Parking Location	Cannot be located in front yard	Within garages	Complies

**Items to be addressed:** None

#### TRAFFIC

The city's traffic engineering consultant OHM has been asked to review the plan from a traffic impact standpoint. At the time of writing this memo, the review has not been finalized.

**Items to be Addressed:** Comply with traffic findings as necessary.

#### PARKING

Section 13.06.G of the Zoning Ordinance requires:

	Required	Provided
Residential: 2 spaces per unit	74 Units = 148 spaces	148 garage spaces + 34 guest spaces = 182 spaces
Barrier Free	0	0
Bicycle Parking	0	Located within garages
Loading	0	0
<b>Total</b>	<b>148 spaces</b>	<b>148 spaces within garages and 34 guest spaces</b>

As noted by the City Engineer, ADA guest parking should be provided.

**Items to be Addressed:** Provide ADA guest parking.

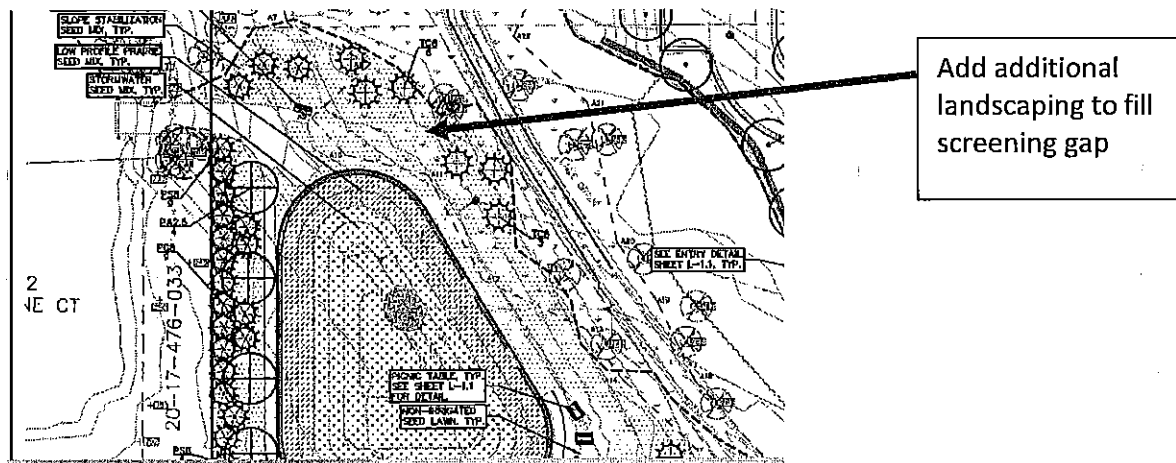
**LANDSCAPING**

A landscaping plan has been provided on sheet L-1.0 and are supplemented by tree protection and planting details on sheet L-1.1. The following table discusses the development's compliance with the landscape requirements set forth in Section 13.02.

	Required:	Provided:	Compliance:
<b>North Property Line:</b>			
<u>Landscape buffering:</u> Required buffering between two differentiating land uses. Alternative 1 or 2.	1 large evergreen every 10 feet or 1 narrow evergreen every 3 feet.  = 590 feet / 10 = 59 large evergreen  Or  Alternative screening method may be considered by the Planning Commission.	59 large evergreen + 6-foot tall vinyl privacy fence	Planning Commission to consider the use of a aluminum fence in addition to required screening.
<b>West Property Line:</b>			
<u>Landscape buffering:</u>	1 large evergreen every 10 feet or 1 narrow evergreen every 3 feet.  = 400 feet / 10 = 40 large evergreen	44 large evergreen	Complies
<b>East Property Line:</b>			
<u>(Crooks Road) Street Trees:</u> The Ordinance requires that the greenbelt shall be landscaped with a minimum of one (1) deciduous tree for every thirty (30) lineal feet, or fraction thereof, of frontage abutting a public road right-of-way.	400 feet = 14 trees	21 trees	Complies
<b>Overall:</b>			
<u>Site landscaping:</u> A minimum of fifteen percent (15%) of the site area shall be comprised of landscape material. Up to twenty-five	15%	55%	Complies

percent (25%) of the required landscape area may be brick, stone, pavers, or other public plaza elements, but shall not include any parking area or required sidewalks.			
---	--	--	--

There will be significant tree removal and loss of existing screening on western property line as result of installation of stormwater facility and access via Penrose Boulevard. The applicant proposes installation of landscape screening along western property line. However, there is a gap in screening where the access road turns south. The applicant should add additional landscaping to fill in this gap.



#### Transformer / Trash Enclosure:

The applicant has not indicated a central trash enclosure. It is assumed that each unit will have trash bins in the garage to be rolled out for trash pickup.

**Items to be Addressed:** 1). Planning Commission to consider the use of an aluminum fence in addition to required screening; and 2). Add additional landscaping to fill in gap; and 3). Confirm trash pickup.

#### **STORMWATER**

The proposed stormwater facility is located on the west side of the drain. As noted, installation of facility will require tree loss and existing screening along western property line. Applicant proposes to install a dense evergreen screen to replace screening that is lost. The public works department notes that the City will not be responsible for detention pond maintenance or underground storm system.



***Items to be Addressed: None***

#### **PHOTOMETRICS**

A photometric plan has been provided on sheet SL-1.0, and additional details are provided on sheet SL-1.1. A total of 140 building light fixtures are proposed of two (2) varying types. Wall light fixtures placed at each unit's entrance and rear are described as having a height of six (6) feet. A note indicates that all area light fixtures are to be directed away from neighboring properties and roadways. Controlling light source is particularly important along northern and western property line.

***Items to be Addressed: None***

#### **FLOOR PLAN AND ELEVATIONS**

Floor plans and elevations have been provided on sheets A-1 through A-7. The elevations provided show architectural details, variations in material and pattern (brick, siding, asphalt shingles and wood trim wrapped with aluminum), as well as general color scheme. The applicant provided an electronic material board.

***Items to be Addressed: None***

#### **DESIGN STANDARDS and SITE PLAN REVIEW STANDARDS**

The Neighborhood Node design standards as well as Site Plan review standards provide the Planning Commission with direction when reviewing the proposed site plan and design features of this development.

##### Section 5.06.E. outlines Design Standards:

1. *Building Orientation and Entrance*
2. *Ground Story Activation*
3. *Transitional Features*
4. *Site Access, Parking, and Loading*

Please see Section 5.06.E for standard details

##### Section 8.06 outlines Site Plan Review Design Standards.

1. *Development shall ensure compatibility to existing commercial districts and provide a transition between land uses.*
2. *Development shall incorporate the recognized best architectural building design practices.*
3. *Enhance the character, environment and safety for pedestrians and motorists.*

Please see Section 8.06 for standard details

**CWA Response:** *Make site plan changes as noted, of particular importance is impact upon adjacent properties including proper screening/landscaping, stormwater detention access, confirmation of tree removal/screening, and and lighting.*

## SUMMARY

A key tenet of the Master Plan and enforced in the zoning regulations of the form-base district is the protection of existing neighborhoods and providing the appropriate transition from higher intensity uses to lower or moderate-density residential areas. Section 5.06.E.3 of the Zoning Ordinance sets forth transitional features that shall be considered in the review of any development in the form-based district:

### 3. Transitional Features.

- a. *Transitional features are architectural elements, site features, or alterations to building massing that are used to provide a transition between higher intensity uses and low- or moderate-density residential areas. These features assist in mitigating potential conflicts between those uses. Transitional features are intended to be used in combination with landscape buffers or large setbacks.*
- b. *Intensity. A continuum of use intensity, where moderate intensity uses are sited between high-intensity uses and low-intensity uses, shall be developed for multi-building developments. An example would be an office use between commercial and residential uses.*
- c. *Height and Mass. Building height and mass in the form of building step-backs, recess lines or other techniques shall be graduated so that structures with higher intensity uses are comparable in scale with adjacent structures of lower intensity uses.*
- d. *Orientation. Primary building facades shall be placed away from the residential use.*
- e. *Architectural Features. Similarly sized and patterned architectural features such as windows, doors, arcades, pilasters, cornices, wall offsets, building materials, and other building articulations included on the lower-intensity use shall be incorporated in the transitional features.*

In combination, these transitional features assist in mitigating potential conflicts between uses.

Overall, we find the proposed use to be appropriate for the site. However, there are some site planning elements that should be considered by the Planning Commission. Though multiple-family residential is a permitted use, multiple-family residential can include a wide range of housing types, products, and scale. When considering the type of multiple-family proposed and number of units, the Planning Commission should consider if the applicant has provided the appropriate transition.

November 6, 2020

Sincerely,

A handwritten signature in dark ink, appearing to read "Ben R. Carlisle", is written over a horizontal line.

**CARLISLE/WORTMAN ASSOC., INC.**  
Benjamin R. Carlisle, LEED AP, AICP

This case has been designated as an eFiling case, for more information please visit [www.oakgov.com/efiling](http://www.oakgov.com/efiling).

STATE OF MICHIGAN

OAKLAND COUNTY CIRCUIT COURT

SAFET "Sam" STAFA,  
Plaintiff,

2021-189046-AW

JUDGE JEFFERY S. MATIS

V

THE CITY OF TROY,  
Defendant.

## EXHIBITS E THROUGH L

**VERIFIED COMPLAINT FOR DECLARATORY RELIEF, WRIT OF  
MANDAMUS AND EX PARTE MOTION TO SHOW CAUSE WHY SITE  
PLAN APPROVAL SHOULD NOT BE GRANTED PURSUANT TO MCR  
3.305(C)**

**EXHIBIT E**

**Minutes of PC Meeting of 01/14/2020**

Chair Faison called the Regular meeting of the Troy City Planning Commission to order at 7:01 p.m. on January 14, 2020 in the Council Chamber of the Troy City Hall.

1. ROLL CALL

Present:

Ollie Apahidean  
Karen Crusse  
Carlton M. Faison  
Michael W. Hutson  
Tom Krent  
David Lambert  
Marianna Perakis  
Sadek Rahman  
John J. Tagle

Also Present:

R. Brent Savidant, Community Development Director  
Ben Carlisle, Carlisle Wortman Associates  
Julie Quinlan Dufrane, Assistant City Attorney  
Jackie Ferencz, Planning Department Administrative Assistant  
Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF AGENDA

**Resolution # PC-2020-01-001**

Moved by: Lambert  
Support by: Rahman

**RESOLVED**, To approve the Agenda as prepared.

Yes: All present (9)

**MOTION CARRIED**

3. APPROVAL OF MINUTES

Mr. Krent asked the minutes to reflect a correction in the time of adjournment.

**Resolution # PC-2020-01-002**

Moved by: Krent  
Support by: Tagle

**RESOLVED**, To approve the minutes of the December 10, 2019 Regular meeting as revised.

Yes: All present (9)

**MOTION CARRIED**

4. PUBLIC COMMENT – Items not on the Agenda

There was no one present who wished to speak.

PUBLIC HEARING

5. PUBLIC HEARING – REZONING REQUEST (File Number Z 2019-0039) – Proposed Addison Heights Subdivision Rezoning, East of Livernois, South side of Arthur (88-20-27-307-033), Section 27, From P (Vehicular Parking) District to R-1E (One Family Residential) District

Mr. Savidant explained what a rezoning request is and its approval process. He provided a history of the zoning of the property. Mr. Savidant addressed the request as relates to the Rezoning Standards and Master Plan. Mr. Savidant said the applicant wants to construct a residential home on the site. It was recommended that the Planning Commission recommends to the City Council to grant approval of the rezoning request.

The applicant Ross Martin was present.

PUBLIC HEARING OPENED

There was no one present who wished to speak.

PUBLIC HEARING CLOSED

There was discussion on:

- Ownership of adjacent parcels.
- Potential development in the future along Livernois and the right of way.

**Resolution # PC-2020-01-003**

Moved by: Hutson

Support by: Tagle

**RESOLVED**, That the Planning Commission hereby recommends to the City Council that the P (Vehicular Parking) District to R-1E (One Family Residential) District rezoning request, as per Section 16.03 of the City of Troy Zoning Ordinance, located on the south side of Arthur, East of Livernois, within Section 27, being approximately 0.24 acres in size, be **GRANTED** for the following reasons:

1. The proposed rezoning is consistent with the Master Plan.
2. The proposed rezoning does not appear to cause or increase any nonconformity.
3. If rezoned the property will be capable of accommodating service and facility loads caused by use of the development.
4. The rezoning does not appear to impact public health, safety, or welfare.
5. The rezoning will ensure compatibility with adjacent uses of land.

Yes: All present (9)

**MOTION CARRIED**

**PRELIMINARY SITE PLAN APPROVALS**

6. PRELIMINARY SITE PLAN REVIEW (File Number SP2019-0022) – Proposed Crooks Road Townhomes, West side of Crooks, North of Wattles, Section 17, Currently Zoned NN (Neighborhood Node "I") District

Ms. Perakis disclosed she formerly lived in the Woodlands subdivision from 2008 to 2014 and her home on Parkstone backed up to the subject property. She also disclosed that the applicant is a current neighbor of hers and she was in opposition to the applicant's proposed apartment project that was formerly considered by the City. Ms. Perakis said there is no conflict of interest and that she can be objective in her consideration of the application.

Mr. Carlisle outlined the revisions the applicant proposes to the application based on discussion from the Planning Commission, staff and the public when considered at the September 24, 2019 meeting. He noted the site plan revisions are identified on page 5 of his report dated January 7, 2020. Mr. Carlisle reported there are significant outstanding site plan items on the revised site plan, as relates to screening/landscaping along adjacent residential property lines, tree removal loss due to the stormwater facility and lighting impact to adjacent property.

Mr. Carlisle recommended to postpone the application to allow the applicant to address site plan items.

Present were Carmine Avantini, AICP, of Community Image Builders, Arvin Stafa, Brandon Bronikowski, James Butler and Greg Bono, both of Professional Engineering Associates (PEA).

Mr. Avantini presented a PowerPoint presentation and addressed the additional acreage, decrease in density, increase in guest parking, traditional two-car garages, increased setback, screening and buffer to residential, building height, line of sight visual, grade difference, location of EVA, parking and pedestrian traffic. Mr. Avantini indicated several site plan issues identified by the Planning Consultant have been addressed. He asked for a favorable vote conditioned on the remaining issues that could be administratively addressed through engineering and final site plan processes.

Mr. Stafa addressed building height, grading, outlots and public engagement. Mr. Bronikowski addressed building materials and circulated building material samples. Mr. Bono addressed stormwater management. Mr. Butler said concerns relating to floodplain and wetlands would be addressed through the engineering process.



Chair Faison opened the floor for public comment.

The following spoke in opposition, voicing concerns with grade difference, drainage, flooding, compatibility, property values, application process, no public engagement, traffic impact and safety.

- James Chang, 4397 Bender
- Latish Adnani, 4219 Crooks
- Tom Reiss, 1400 Bradbury
- Jerry Rauch, 4187 Penrose
- Doug and Linda Gerard, 4197 Carson
- Mike and Laura Lipinski, 4233 Carson
- Thomas Mikulski, 4408 Cahill
- Daphne (Ntiri) and Jean-Claude Quenum, 4198 Carson
- JinMing Xu, 4179 Carson
- Bob Laudicina, 1286 Fountain
- Paul Balas, 4087 Parkstone
- Nadwa Gowda, 4412 Lehigh (*illegible*)
- Trevor Babi, 4537 Cahill
- Jeff Silagy, Whisper Way
- Raghav Kashi, 4420 Cahill

David Donnellon, architect and municipal planner; represented the seller of the property. He stated the development is permitted by right in the Neighborhood Node zoning district and addressed the balance between the Neighborhood Node and Single Family Residential zoning districts.

Chair Faison closed the floor for public comment.

There was discussion on:

- Grading difference, as relates to drainage and engineering design process.
- Stormwater management.
- Outlots; ownership, potential to build, property lines.
- Wetland and floodplain, as relates to MDEQ and engineering design process.
- Compatibility and transition to residential, as relates to landscape buffer, building height, line of vision, building materials.
- Line of vision scale and calculations.
- Neighborhood Node districts as relates to Master Plan, philosophy.
- Traffic impact; study.
- "Real" density.
- Engagement with neighbors; strongly encouraged.
- Intent of Master Plan.
- Joint meeting with City Council to discuss Neighborhood Node zoning districts.

Ms. Dufrane interjected the discussion to state the proposed development is permitted by right on the subject property.

Mr. Avantini asked the Board's consideration to postpone the item to allow an opportunity to respond to and investigate comments made this evening and to possibly gain insight from the joint meeting.

**Resolution # PC-2020-01-004**

Moved by: Krent

Support by: Lambert

**RESOLVED**, That Preliminary Site Plan Approval, pursuant to Article 8 of the Zoning Ordinance, as requested for the proposed Crooks Road Townhomes, located on the west side of Crooks, North of Wattles, Section 17, within the NN (Neighborhood Node "I") District, be postponed, for the following reasons:

1. Allow the applicant time to digest comments made by residents, Planning Commission and staff and to address the site plan items identified in the Planning Consultant report and staff review.

Yes: Apahidean, Crusse, Lambert, Faison, Krent, Rahman, Tagle

No: Hutson, Perakis

**MOTION CARRIED**

Chair Faison called for a recess at 9:33 p.m. The meeting reconvened at 9:50 p.m.

7. PRELIMINARY SITE PLAN REVIEW (File Number SP JPLN2019-0040) – Proposed Square Lake Court Townhomes, South side of Square Lake Road, West of Dequindre, Section 12, (88-20-12-200-025), Currently Zoned NN (Neighborhood Node "N") District

Mr. Carlisle reviewed the Preliminary Site Plan application for Square Lake Court Townhomes. He addressed the need for a dedicated guest parking area, a cross-access easement along the southern property line, additional trees along the west property line, shielding light fixtures and architectural detail on elevations.

Mr. Carlisle recommended to postpone the Preliminary Site Plan application to allow the applicant to address the guest parking, architectural detailing and other site plan concerns identified in his report dated January 7, 2020.

Present were Renis Nushaj, Erion Nikolla of Eureka Building Company and James Butler of Professional Engineering Associates (PEA).

Mr. Butler addressed the outstanding site plan issues relating to the photometric plan, landscaping and guest parking. He said the additional trees would be added and the light fixture shielded. Mr. Butler indicated 10 to 12 parallel spaces could be dedicated for guest parking along the southern property line.

Mr. Nikolla addressed design and architectural features of the elevations, building materials and colors. Building material samples were circulated.

Mr. Nushaj addressed the City's requirement for a cross-access easement. Mr. Nushaj believes a cross-access easement agreement should be a private contract among involved parties, not a requirement of the City, and views the City's requirement as an encumbrance on private property.

There was discussion on:

- Guest parking; accommodation and layout.
- Ownership of property to south.
- Cross-access easement and EVA requirements.
- Traffic circulation; no comments from Engineering review.
- Recent revisions to site plan.

Ms. Dufrane referenced Zoning Ordinance sections that relate to the requirement of a cross-access easement and exceptions to that requirement; i.e., if it is demonstrated that there are either physical limitations or functional circumstances that prevent such access from being installed.

Mr. Carlisle said the EVA is noted on the site plan; the cross-access easement is not noted on the site plan.

Mr. Savidant stated that both the Fire Department and Engineering Department recommend a cross-access easement, but it is the authority of the Planning Commission to place a cross-access easement on a property.

**Resolution # PC-2020-01-005**

Moved by: Krent

Seconded by: Crusse

**RESOLVED**, That Preliminary Site Plan Approval, pursuant to Article 8 of the Zoning Ordinance, as requested for the proposed Square Lake Court Townhomes, 14 units, located on the South side of Square Lake, West of Dequindre (PIN 88-20-12-200-025), Section 12, Zoned NN (Neighborhood Node "N"), be granted, subject to the following:

1. Add dedicated guest parking.
2. Provide cross-access easement along southern property line.
3. Add additional trees along west property line.
4. Replace light fixture with shielded one.
5. Identify all materials.
6. Add additional architectural details to the side elevations.

Yes: Crusse, Lambert, Faison, Krent, Rahman, Tagle

No: Apahidean, Hutson, Perakis

**MOTION CARRIED**

**OTHER BUSINESS****8. PLANNING COMMISSION 2020 MEETING SCHEDULE – REVISION**

Mr. Savidant asked for the Board's consideration to revise the 2020 Planning Commission meeting calendar by removing the March 10, 2020. He explained an election is being held that day and there could be a conflict in reserving a meeting room.

**Resolution # PC-2020-01-006**

Moved by: Lambert

Seconded by: Rahman

**RESOLVED**, To revise the 2020 Planning Commission Schedule and remove the March 10, 2020 date.

Yes: All present (9)

**MOTION CARRIED****9. ELECTION OF OFFICERS**

Chair Faison opened the floor for nominations of Chair. Ms. Crusse nominated Mr. Faison. Mr. Hutson nominated Mr. Krent. There were no further nominations placed on the floor.

Mr. Faison said he would be happy to serve another year or happy to step down to allow the opportunity to another member.

Mr. Krent accepted the nomination.

**Roll call vote on the nomination of Mr. Faison for Chair**

Yes: Crusse, Lambert, Faison, Rahman

No: Apahidean, Hutson, Krent, Perakis, Tagle

**MOTION FAILED****Roll call vote on the nomination of Mr. Krent for Chair**

Yes: Apahidean, Lambert, Faison, Hutson, Krent, Perakis, Rahman, Tagle

No: Crusse

**MOTION CARRIED**

Mr. Krent is the newly elected Chair.

Chair Faison opened the floor for nominations of Vice Chair. Mr. Tagle nominated Mr. Lambert. There were no further nominations placed on the floor.

Mr. Lambert accepted the nomination and is the newly elected Vice Chair.

There was discussion on the role, structure and formation of the Planning Commission representative to the Zoning Board of Appeals; consideration might be given to making revisions.

Chair Faison opened the floor for nominations of Zoning Board of Appeals (ZBA) Representative. Mr. Apahidean nominated Mr. Rahman. There were no further nominations placed on the floor.

Mr. Rahman accepted the nomination and is the newly elected ZBA Representative.

10. PUBLIC COMMENT

There was no one present who wished to speak.

11. PLANNING COMMISSION COMMENT

There were general Planning Commission comments, some relating to:


- Compatibility, transition of Neighborhood Nodes to single family residential.
- Opening the floor for public comment following a Public Hearing.
- 2020 Michigan Regional Future City Competition at Novi Showplace on January 28.

Chair Faison was acknowledged and thanked for a good job as Chair!

A warm welcome was extended to Ms. Perakis.

The Regular meeting of the Planning Commission adjourned at 11:19 p.m.

Respectfully submitted,

 FOR CARLTON FAISON  
Carlton Faison, Chair

 FOR KATHY CZARNECKI  
Kathy L. Czarnecki, Recording Secretary

## **EXHIBIT F**

### **First and Second Amendments to Agreement of Sale**

## FIRST AMENDMENT TO AGREEMENT OF SALE

THIS FIRST AMENDMENT TO AGREEMENT OF SALE ( "First Amendment") is entered into as of this 4<sup>th</sup> day of March, 2020 (the "Effective Date"), by and between SAM STATA, on behalf of any entity to be formed ("Purchaser") and CHOICE DEVELOPMENT CORPORATION, a Michigan corporation and KAMAL H. SHOUHAYIB, individually (collectively, "Seller").

### Recitals

The facts underlying the execution of this First Amendment are as follows:

A. On November 12, 2019 Purchaser and Seller entered into a Purchase Agreement (the "Original Agreement"), relating to the purchase and sale of real property located in the City of Troy, Michigan as more particularly described in the Original Agreement (the "Property").

B. The Original Agreement required Purchaser to complete the sale on or before February 1, 2020 (the "Original Closing Date"). Purchaser has requested that the closing be extended to a date reasonably acceptable to the parties not later than May 20, 2020 (the "Outside Closing Date").

C. Seller is willing to extend the Closing date up to the Outside Closing Date but only on the terms set forth in this First Amendment including Purchaser's agreement to consummate an escrow closing on before May 13, 2020 (the "Escrow Closing Date").

### Agreement

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Purchaser and Seller hereby agree as follows:

1. Closing Date. Purchaser and Seller hereby agree and acknowledge that the Closing Date shall be extended from the Original Closing Date to the Outside Closing Date. Time is of the essence with respect to every term, obligation, promise, and covenant set forth within the Agreement as amended hereby.

2. Purchaser's Satisfaction of Closing Conditions. Purchaser acknowledges and agrees that Purchaser has satisfied or waived any conditions precedent to Closing set forth in the Agreement including, without limitation, all title, survey, environmental and governmental approval matters. Seller's only remaining obligation shall be to convey the Property to Purchaser in the manner described in the Original Agreement.

3. Special Agreement Relating to 4095 Crooks Road. Purchaser has been advised by Seller that the owner of that portion of the property defined as the 4095 Property in the

Original Agreement has the right to remain in occupancy of the 4095 Property for a period of up to sixty (60) days from Closing pursuant to the following provision:

Temporary Occupancy Agreement. Seller shall have the right to remain in occupancy of the Property for a period of 60 days from Closing. Seller shall not be required to pay rent but shall maintain the Property in the same condition existing as of the Closing and shall pay for all utilities and maintain liability insurance in favor of Purchaser during such temporary occupancy period. Seller shall indemnify, defend and hold Purchaser harmless from and against any damages, losses, claims and expenses (including reasonable attorney's fees), relating to events occurring on the Property during the period of Seller's occupancy, except to the extent caused by Purchaser. Seller and Purchaser shall enter into a Temporary Occupancy Agreement at Closing reasonably satisfactory to both parties.

4. Ratifications. Except as specifically herein amended, all terms, provisions, conditions and exhibits contained in the Original Agreement are hereby confirmed, ratified and restated and shall remain unmodified and in full force and effect. In the event that any provision of this First Amendment shall conflict with the terms, provisions, conditions, and exhibits of the Original Agreement, the terms of this First Amendment shall govern and control. Purchaser acknowledges and agrees that Seller has performed all of its obligations under the Original Agreement through the Effective Date.

5. Counterparts; Signatures. This First Amendment may be executed in any number of counterparts and by each of the undersigned on separate counterparts, and each such counterpart shall be deemed to be an original, but all such counterparts put together shall constitute but one and the same First Amendment. Signatures to this First Amendment transmitted by PDF, electronic mail or other electronic means shall be treated as originals in all respects for purposes of this First Amendment.

6. Successors and Assigns. This First Amendment shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

7. Capitalized Terms. Capitalized terms not otherwise defined herein shall have the meanings attributed to them in the Original Agreement.

8. Escrow Closing. Purchaser acknowledges and agrees that the proceeds from the closing of the sale of the Property pursuant to the Original Agreement as amended hereby, will be used by Seller to consummate the purchase of the 4095 Property (the "4095 Closing"). In order to assure Seller that Seller will have adequate funds to consummate the 4095 Closing, the Closing shall take place through an escrow with the Title Company, on the Escrow Closing Date (the "Escrow Closing"). At the Escrow Closing, the parties shall execute and deliver into escrow with the Title Company, all Closing documents, certificates deeds, closing statements and other agreements required to consummate the Closing in accordance with the Original Agreement as hereby amended. At the Escrow Closing Purchaser shall deposit the balance of the Purchase Price with the Title Company plus or minus any prorations required under the Original Agreement, as amended. Seller shall prepare the escrow agreement which shall be subject to Purchaser's reasonable comments.

**SIGNATURE PAGE FOLLOWS**



**SIGNATURE PAGE TO FIRST AMENDMENT TO PURCHASE AGREEMENT**

**PURCHASER:**

Sam Stafa on behalf of an entity to be formed

By: 

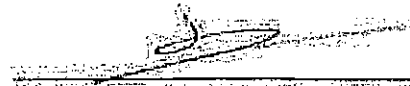
Sam Stafa

**SELLER:**

Choice Development Corporation,  
a Michigan corporation

By: 

Kamal H. Shouhayib, President

  
Kamal H. Shouhayib, Individually

## SECOND AMENDMENT TO AGREEMENT OF SALE

THIS SECOND AMENDMENT TO AGREEMENT OF SALE ("Second Amendment") is entered into as of this 30th day of July, 2020 (the "Effective Date"), by and between SAM STAFSA, on behalf of an entity to be formed ("Purchaser") and CHOICE DEVELOPMENT CORPORATION, a Michigan corporation and KAMAL H. SHOUHAYIB, individually (collectively "Seller").

### Recitals

A. On November 12, 2019, Purchaser and Seller entered into a Purchase Agreement (the "Original Agreement"), relating to the purchase and sale of real property located in the City of Troy, Michigan, as more particularly described in the Original Agreement (the "Property").

B. The Original Agreement required Purchaser to complete the sale on or before February 1, 2020 (the "Original Closing Date"). The First Amendment to Agreement of Sale dated March 6, 2020 ("First Amendment"), among other things, extended the closing to a date not later than May 20, 2020 (the "Outside Closing Date"). The Original Agreement, as modified by the First Amendment, is collectively referred to as the "Agreement".

C. Seller is willing to extend the Outside Closing Date, but only on the terms set forth in this Second Amendment, including Purchaser's agreement to consummate an escrow closing on or before the earlier of (i) September 30, 2020, or (ii) ten (10) business days following approval by the City of Troy Michigan Planning Commission that of Purchaser's intended development of the Property as a multi-family residential project ("Purchaser's Proposed Development") has been granted subject only to reasonable or customary conditions ("City Approval").

D. As used in this Second Amendment, Purchaser's Proposed Development means the development described in the Site Plan submitted by Purchaser to the City of Troy with the following modifications (the "Site Plan"):

(i) the height of the 17 units located in buildings B, C and D shall be reduced from 33.1' to 27'8-11/16" (as measured to the midpoint of the slope); and

(ii) as amenities to Purchaser's Proposed Development, Purchaser shall add a pathway by the proposed detention pond, along with a pavilion and picnic area.

### Agreement

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Purchaser and Seller hereby agree as follows:

1. Purchaser and Seller hereby agree that the Outside Closing Date shall be extended to September 30, 2020. Purchaser acknowledges and agrees that except as provided in Paragraph h5 of this Second Amendment, Seller is under no obligation to extend the Outside Closing Date beyond September 30, 2020 and as part of the First Amendment, Purchaser acknowledged and agreed that all deposits and fees paid by Purchaser had been irrevocably forfeited as liquidated damages. If the closing fails to occur on or before September 30, 2020 (except as a result of a material default by Seller) and Outside Closing Date is not extended pursuant to Paragraph 5 hereof, Seller may by written notice to Purchaser, immediately terminate the Agreement, as amended. If Purchaser fails to close on or before the Outside Closing Date, as the same may be extended, then unencumbered marketable title to the Site Plan and all of Purchaser's due diligence materials including engineering studies, architectural drawings, surveys, environmental reports and soils studies shall be deemed immediately and unconditionally assigned and sold to Seller and this Second Amendment shall be deemed an assignment and bill of sale as to such assigned and sold due diligence materials. Seller shall be added as a co-applicant with respect to obtaining City Approval for Purchaser's Proposed Development but unless the Agreement is terminated as a result of Purchaser's failure to close by the Outside Date, as the same may be extended, Purchaser, at his sole expense, shall be solely responsible for obtaining City Approval.

2. Purchaser acknowledges and agrees that (i) Seller has performed all of Seller's obligations under the Agreement through the date hereof and (ii) Purchaser has satisfied or waived any conditions precedent to Closing set forth in the Agreement including, without limitation, all title, survey, environmental and governmental approval matters. Seller's only remaining obligation shall be to convey the Property to Purchaser.

3. All other terms, provisions and conditions of the Agreement, as amended by this Second Amendment to Agreement of Sale, shall continue to remain in full force and effect, except as hereinabove modified. In the event of any conflict or inconsistency between the terms of the Agreement and this Second Amendment, the terms of this Second Amendment shall control.

4. Purchaser shall, at its sole expense, exercise its best efforts to obtain City Approval as soon as possible; provided, however, that City Approval is not a condition to Purchaser's obligations under the Agreement as modified hereby. Purchaser shall provide Seller with copies of all communications with the City of Troy and a schedule for obtaining City Approval.

5. As long as Purchaser is not in default under the Agreement as hereby amended, Purchaser shall have the right to extend the Outside Closing Date as follows:

(a) If Purchaser delivers written notice to Seller, on or before September 26, 2020 of Purchaser's election to extend the Outside Closing Date and delivers an extension fee of \$10,000.00 to Seller (in immediately available funds), then the Outside Closing Date shall be extended to November 8, 2020 or 10 days of the date Purchaser obtains City Approval, whichever occurs first.

(b) If Purchaser delivers written notice to Seller, on or before October 31, 2020 of Purchaser's election to further extend the Outside Closing Date and delivers an

extension fee of \$15,000.00 to Seller (in immediately available funds), then the Outside Closing Date shall be extended to December 16, 2020 or 10 days of the date Purchaser obtains City Approval, whichever occurs first.

(c) Any extension fees shall be non-refundable, shall be paid directly to Seller by federal wire transfer and shall not be applicable against the purchase price. Seller shall be under no obligation to further extend the Outside Closing Date.

6. The purchase price shall be paid in full in immediately available funds which shall be wire transferred to the Title Company before noon local time on the date of Closing. The Title Company shall in turn wire the closing proceeds to Seller. There shall be no purchase money note and mortgage.

**PURCHASER:**

*Sam Stafa* 07-15-20 20  
Sam Stafa, on behalf of an entity  
to be formed

**SELLER:**

Choice Development Corporation, a  
Michigan corporation

By: *[Signature]*  
Kamal H. Shouhayib, President

*[Signature]*  
Kamal H. Shouhayib, Individually

## **EXHIBIT G**

### **Minutes of PC Meeting of 11/10/2020**

Chair Krent called the virtual Regular meeting of the Troy City Planning Commission to order at 7:03 p.m. on November 10, 2020. Chair Krent introduced the procedure to be followed for a remote meeting.

1. ROLL CALL

Present:

Ollie Apahidean  
Karen Crusse  
Carlton M. Faison  
Michael W. Hutson  
Tom Krent  
David Lambert  
Marianna Perakis  
Sadek Rahman  
John J. Tagle (audibly only)

Also Present:

R. Brent Savidant, Community Development Director  
Ben Carlisle, Carlisle Wortman Associates  
Julie Quinlan Dufrane, Assistant City Attorney  
Jackie Ferencz, Planning Department Administrative Assistant  
Kathy L. Czarnecki, Recording Secretary

2. SUSPENSION OF PLANNING COMMISSION BYLAWS

**Resolution # PC-2020-11-027**

Moved by: Rahman

Support by: Perakis

WHEREAS, the Michigan Department of Health and Human Services (MDHHS) Director Robert Gordon issued an Order on October 5, 2020 under MCL 333.2253 restricting indoor gathering sizes to protect public health and safety, and

WHEREAS Public Act 228 of 2020 permits public meetings to be held by electronic means where an in-person meeting could detrimentally increase exposure of board members and the general public to COVID-19,

THEREFORE BE IT RESOLVED, That as allowed by Planning Commission Rules of Procedure Article IV, Section 6, the Troy Planning Commission hereby **TEMPORARILY SUSPENDS** the requirement of holding a meeting at the Troy City Hall and **ALLOWS** all Troy Planning Commission Members to electronically participate in any Planning Commission meeting through December 31, 2020.

Members participating electronically will be considered present and in attendance at the meeting and may participate in the meeting as if physically present. However, members must avoid using email, texting, instant messaging, and other such electronic forms of communication to make a decision or deliberate toward a decision.

RESOLVED, As allowed by Planning Commission By-laws and Rules of Procedure Article X, the Troy Planning Commission hereby **TEMPORARILY SUSPENDS AND MODIFIES** the By-laws and Rules of Procedure concerning the Order of the Agenda, as set forth in Article V, Section 3, to consolidate the Public Comment sections of the meeting for any meeting held through December 31, 2020.

RESOLVED, As allowed by Planning Commission By-laws and Rules of Procedure Article X, the Troy Planning Commission hereby **TEMPORARILY SUSPENDS AND ALLOWS** two methods of receiving Public Comment for virtual meetings. Public comments can be submitted for the Planning Commission meeting by sending an email to: [planning@troymi.gov](mailto:planning@troymi.gov). Emails received prior to 4:00 pm on the day of the Planning Commission meeting, will be read at the meeting and made part of the public record. Public comments can also be submitted by calling the following phone number and leaving a voicemail message: (248) 524-1305. Recorded voicemail messages received prior to 4:00 pm on the day of the Planning Commission meeting will be played at the meeting. For emails and recorded messages received after the deadline, reasonable efforts will be made to read emails and play recorded messages received during the meeting. Email and voicemail public comments will be limited to three minutes each.

Yes: All present (9)

**MOTION CARRIED**

3. APPROVAL OF AGENDA

**Resolution # PC-2020-11-028**

Moved by: Perakis

Support by: Apahidean

**RESOLVED**, To approve the Agenda as prepared.

Yes: All present (9)

**MOTION CARRIED**

4. APPROVAL OF MINUTES

Mr. Lambert asked that the draft minutes reflect that Resolution # PC-2020-10-026 was moved by him and not Mr. Tagle.

**Resolution # PC-2020-11-029**

Moved by: Lambert

Support by: Rahman

**RESOLVED**, To approve the minutes of the October 27, 2020 Regular meeting as revised.

Yes: All present (9)

**MOTION CARRIED**

5. PUBLIC COMMENT – For Items Submitted via Email or Telephone Message

Email messages received after the online posting of the agenda, in response to Agenda item #6.

- Carl Koenig, 4393 Cahill; oppose
- Jan Walsh, 4318 Bender Court; oppose
- Omar Shouhayib, 2265 Livernois, Choice Development; in support
- Laura Lipinski, 4233 Carson; oppose
- Ken McCabe, no address; oppose
- Thomas and Patricia Reiss, 1400 Bradbury; oppose
- Charlotte MacPherson, no address; oppose
- Senthil Kumar, 4073 Parkstone; oppose
- Lisa Paglino, 1061 Redding; oppose
- Neal and Paulette Shaw, 3861 Jennings; oppose
- Linda Baatz, no address; oppose
- Anirudh Sure, no address; oppose
- Daryl and Denise Jamison, no address; oppose
- Yumin and Zhang Ying Sheng, 4678 Tifton; oppose
- Tom Shaw, 4040 Glencastle; oppose
- John and Shelly Shallcross, 1059 Fountain; oppose
- Vivian Zoma, no address; oppose
- Sathya Dev, no address; oppose
- Maureen Cash, 4278 Lehigh; oppose
- Bonnie Jeffrey, no address; oppose
- Maureen Pickard, no address; oppose
- Celine T (concerned citizen), no address; oppose
- Faina Temkin, no address; oppose
- Larry and Jennifer Patton, 1417 Fountain; oppose
- Srinivasan Ravindran, no address; oppose
- Medha Tripathi, no address; oppose
- Angela He, 1347 Fountain; oppose
- Natarajan Athreya, 4089 Glencastle; oppose
- No name (Boots2344), 1310 Fountain; oppose
- Jonathan Maksabo, no address; oppose
- Ralph Schick, 4117 Penrose; oppose
- Amy Hirina, 4234 Carson; oppose
- Shalin Shah, no address; oppose
- No name, no address; oppose
- Harshini Chandrasekaran, no address; oppose
- Varun Aravapally, no address; oppose
- Ayesha Khan, no address; oppose
- Aryamaan Gaddam, no address; oppose
- Andrea Noble, Treasurer Woodlands of Troy HOA; oppose
- Rose Marie Ialapi, no address; oppose



- Matt Parowski, 240 W. Wattles; oppose
- Sanjay Shah and Bela Shah, no address; oppose
- June Yount, no address; oppose
- Aashit Shah, 4088 Parkstone; oppose
- Aashka Shah, no address; oppose
- Abbassieh Sobh, no address; oppose
- Amy Leigh Talarico, no address; oppose
- Arushi Mahajan, no address; oppose
- L. Xiaob (Bob), no address; oppose
- Brian Bartkowiak, 4278 Lehigh; oppose
- Brian Conolly; no address; oppose
- Carl Koenig, 4393 Cahill; oppose
- Carmen Franco, no address; oppose
- Carol Kohut, no address; oppose
- Cynthia Desmon, no address; oppose
- Cindy Sweeney, 4037 Glencastle; oppose
- Dan Raubinger, no address; President Woodlands of Troy HOA; oppose
- Daphne Ntiri, 4198 Carson; oppose
- Daryl Dickhudt, 4143 Glencastle; oppose
- David and Claudette Rusing, 1425 Bradbury; oppose
- Deanna Vetrone, no address; oppose
- Debbie A. Knauss, 3897 Meadowbrook; oppose
- Devinder Singh, 2452 Claymont; oppose
- Edmund Jaskulka, 4291 Lehigh; oppose
- Geeta Desai, 1844 Rolling Woods; oppose
- Geomy George, 4025 Glencastle; oppose
- James and Sharon Murray, 1267 Bradbury; oppose
- Jayashree Rao, 4415 Wintergreen; oppose
- Jenn-Tser and Jin-Feng Pan, 4059 Parkstone; oppose
- Jenny Chang, no address; oppose
- Jinming Xu, 4179 Carson; oppose
- John Bridge, 4089 Penrose; oppose
- Gerald and Judith Holmberg, no address; oppose
- Thomas and Karen Shaw, 4040 Glencastle; oppose
- Katherine Mikulski, 4408 Cahill; oppose
- Kosta and Carol Hardaloupas, no address; oppose
- Kristen Rondeau, 5090 Longview; oppose
- Les and Liz Kobylak, 1938 Canary; oppose
- Lisa Paglino, no address; oppose
- Lopa Rana, no address; oppose
- Mark and Diane Paul, 3844 Root; oppose
- Mary Kay Michaels, 4535 Hycliffe; oppose
- Mary Kennedy, no address; oppose
- Masood Siddiqui, no address; oppose

- Mike Lipinski, 4233 Carson; oppose
- Praveen Gomer, 1062 Whisper Way; oppose
- Pat Baker, no address; oppose
- Paul Pabian, no address; oppose
- Priti Gupta, no address; oppose
- Ringo Zhang, no address; oppose
- Robert Laudicina, 1286 Fountain; oppose
- Robert Marku, no address; oppose
- Scott and Claudia Leman, 1075 Fountain; oppose
- Sujith Nair, 1337 Bradbury; oppose
- Susan Turpin, 4216 Carson; oppose
- Xiao Min Chen, 975 Emerson; oppose
- Jerry Rauch, 4187 Penrose; oppose
- Xiaoqing Yu, 1260 Bradbury; oppose
- Yi Guo and Zhe Xu, 1192 Provincial; oppose
- Yongpeng Zhang, no address; oppose
- Zachary Reed, 1395 Fountain; oppose
- Kevin Zhou, no address; oppose
- Shelley Stenger, no address; oppose
- Aditi Mahajan, no address; oppose
- Atika Singh, no address; oppose
- Dorothy Shetler, 4558 Rivers Edge; oppose
- Fred Tarazi, 4388 Cahill; oppose
- Jayne and Rick Smith, no address; oppose
- Jean-Claude Quenum, 4198 Carson; oppose
- Jigna Shah, 4088 Parkstone; oppose
- Kelly Coval, no address; oppose
- Kristi Roncelli, no address; oppose
- Mary Branch, no address; oppose
- Michael and Peggy O'Shaughnessey, no address; oppose
- Mike Temkin, no address; oppose
- Patricia Orłowski, 1381 Bradbury; oppose
- Paul Balas, 4087 Parkstone; oppose
- Ravi, no address; oppose
- Renee Weiss, no address; oppose
- Rhea Sautter, no address; oppose
- Rose Wright and James Laherty, 1269 Autumn; oppose
- Lisa Paglino, 1061 Redding; oppose
- Sumit Mathur, 4426 Hycliffe; oppose
- Ashish and Swati Mody, 4752 Rivers Edge; oppose

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Chair Krent called a recess at 9:32 p.m. The meeting reconvened at 9:38 p.m.

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Voicemail messages received in response to Agenda Item #6.

- Aashit Shah, 4088 Parkstone; oppose
- Thomas Mikulski, 4408 Cahill; oppose
- Edmund Jaskulka, 4291 Lehigh; oppose
- Praveen Gomer, 1062 Whisper Way; oppose
- David Rusing, 1425 Bradbury; oppose
- Indiscernible name; oppose
- Joyce Barnett, 3448 Tothill; oppose
- Deepak Parekh, 2956 Devonwood; oppose
- Indiscernible name; oppose
- Robert Marku, 3394 Kilmer; oppose
- Tim Dryzga, 4642 Bentley; oppose
- Jigna Shah, 4088 Parkstone; oppose
- Gloria Vanevery, 2140 Charnwood; oppose
- Resident, Woodlands of Troy; oppose
- Victor Nowak, 1132 Fountain; oppose
- Michael Walsh, 4318 Bender Court; oppose
- Heena Shah, 1701 Caliper; oppose
- Deborah Louzecky, 6327 Donaldson; oppose
- Carol Quigley, 2489 Tall Oaks; oppose
- (first name indiscernible) Raghavulu, 4020 Penrose; oppose
- Henry Bzdziuch, 2337 Valleyview; oppose

#### **PRELIMINARY SITE PLAN APPROVAL**

6. **PRELIMINARY SITE PLAN REVIEW (File Number SP JPLN2019-0022)** – Proposed Crooks Road Townhomes, West side of Crooks Road, North of Wattles Road, Section 17, Currently Zoned NN (Neighborhood Node "I") District

Mr. Savidant gave a history of the Preliminary Site Plan application from its initial submission on June 28, 2019. He indicated a public hearing is not required for the application but at two previous Planning Commission meetings, the Chair opened the floor for public comment. At the September 24, 2019 meeting, 30 people spoke and 82 email messages were received. At the January 14, 2020 meeting, 18 people spoke and 59 email messages were received.

Mr. Savidant indicated the applicant has brought back the application with minor modifications after meeting with representatives of the abutting neighborhood. He said the administration notified the Woodlands Homeowners Association with a link to the agenda packet posted online this past Friday afternoon, which generated the public comment presented this evening. Mr. Savidant said the applicant has a right to due process by law to be heard by the Planning Commission.

Mr. Carlisle gave a review of the Preliminary Site Plan application identifying the recent modifications to the plan since last reviewed by the Planning Commission and as identified in his report dated November 6, 2020. He shared the renderings provided by the applicant.

Mr. Carlisle reported the proposed use is appropriate for the site and multiple family residential is a permitted use in the neighborhood node. He asked the Planning Commission to take into consideration the type of multiple family residential proposed, the number of units proposed, and transitional features as set forth in Section 5.06.E.3 of the Zoning Ordinance.

Discussion among members and administration:

- Building height permitted in Neighborhood Node districts.
- Pedestrian path and picnic area.
  - Amenity for development or adjacent Penrose residents; question for applicant.
  - Access; no physical vehicular or pedestrian connection.
- Community Image Builders communication; some valid points, some points not related specifically to Troy.
- Stormwater management; review during final site plan process by City Engineering Department, as well State permits required.
- No applications on file for proposed development on remaining corners of Wattles and Crooks.

Present were Attorney Greg Obloy of Carson Fischer, Carmine Avantini of Community Image Builders, James Butler and Gregory Bono of Professional Engineering Associates and the applicant Arban Stafa of Tollbrook North LLC.

Mr. Obloy said the applicant met with representatives of the abutting residential neighborhood after the Planning Commission meeting in January and resubmitted the plan in March with revisions to address transition and Planning Consultant review comments. Mr. Obloy clarified the picnic area is intended as an amenity for the neighborhood to the west. Mr. Obloy said the application complies with all requirements of the Zoning Ordinance and respectfully requested action this evening to approve the Preliminary Site Plan.

Mr. Avantini gave a PowerPoint presentation. He addressed a reduction in building height, elevation difference between uses, amenities and building material. Mr. Avantini said building material is brick and cement fiber board, no vinyl. He noted trash collection would be internally for individual townhomes with no dumpsters on site. Mr. Avantini's presentation showed various renderings and a three-dimensional view of the development in context to neighboring homes.

There was discussion on:

- Neighborhood meeting on January 23, 2020 at City Hall Library; applicant indicated no compromise reached.
- Pedestrian path and picnic area.
- Elevation and grading differences; approximate 5-foot difference, accuracy of information provided by applicant.
- Transitional features and compatibility with surrounding neighbors.
  - Interpretation(s) of design standards subjective.
- Application as relates to Zoning Ordinance requirements and Master Plan.
- Traffic study dated January 14, 2020; same data and conclusion for revised application.
- Department reviews of application; no outstanding issues cited.
- Recent legal matter received in City Attorney office.

**Resolution # PC-2020-11-**

Moved by: Lambert

Support by:

**RESOLVED**, That Preliminary Site Plan Approval, pursuant to Article 8 of the Zoning Ordinance, as requested for the proposed Crooks Road Townhomes, located on the west side of Crooks, North of Wattles, Section 17, within the NN (Neighborhood Node "I") District, be DENIED, for the following reason(s):

1. That the applicant has not provided the appropriate transition.
2. That it does not meet the design standards, does not enhance the character, environment and safety of pedestrian and motorists through the requirements of the Zoning Ordinance.

Reason #2 offered by Ms. Perakis prior to support on the motion.

Ms. Perakis shared concerns about the safety of children in the context of lack of sidewalks and internal traffic circulation with respect to pedestrians and vehicles.

Ms. Dufrane encouraged further discussion if Ms. Perakis believes there is a safety issue.

Chair Krent stated there appears to be plenty of sidewalks; the open issue is whether the application meets transition and compatibility standards.

Mr. Savidant responded to the concerns expressed by Ms. Perakis about safety. He said the application was submitted to appropriate City departments for review. Mr. Savidant said the traffic professionals and the Fire Department cited no safety concerns with the development. Mr. Savidant said there is nothing dangerous about the project and that the Planning Department does not forward applications to the Planning Commission to act upon if there are any safety concerns.

**EXHIBIT H**

**CWA Memo to PC dated 10/15/2019**



## Carlisle | Wortman

ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

### MEMORANDUM

**TO:** City of Troy Planning Commission  
Mark Miller, AICP, City Manager  
R. Brent Savidant, AICP, Planning Director

**FROM:** Benjamin R. Carlisle, AICP

**DATE:** October 15, 2019

**RE:** Transitions and Increasing Square Footage Cap in a Cluster Development

---

The Planning Commission has recently held discussions regarding two potential zoning amendments to address ongoing topics: 1. Transitions, particularly adjacent to single family residential; and 2). Increasing the maximum square footage cap to qualify for a density bonus in the cluster development option.

#### **1. Transitions**

The Planning Commission recently discussed transitions and frictions points between intense uses adjacent to single-family uses. At that meeting a number of options were presented for the Planning Commission to consider. The direction of the Planning Commission was to consider zoning amendments to ensure an appropriate intensity, height, and bulk transition between areas of potential friction. Due to the uniqueness of Big Beaver zoning, we recommend that right now we only focus on Neighborhood Nodes.

Based upon the direction from the Planning Commission, we offer the following amendments for consideration. These amendments would only apply to Neighborhood Nodes.

#### Development height, setback, and greenbelt provisions for any non-single family development in Neighborhood Nodes.

##### **1. Height:**

- a. *Any building, or portion of a building, on a parcel abutting a one-family residentially zoned parcel shall not exceed 2.5-stories, 30 feet in height.*
- b. *Any building, or portion of a building, on a parcel that is not abutting a one-family residentially zoned parcel shall not exceed 3-stories, 38 feet in height.*

## 2. Setback and Greenbelt:

- a. *When a parcel is abutting a one-family residential zoned parcel the building setback from the property line of the one-family residential zoned parcel shall be no less than the height of the proposed building or twenty (20) feet, whichever is greater.*
- b. *When a parcel is abutting a one-family residential zoned parcel a minimum 20-foot landscaped greenbelt shall be maintained from the property line of the one-family residential zoned parcel. The greenbelt shall be landscaped and screened in accordance with 13.02.B.*
- c. *The Planning Commission may deviate from these setback and greenbelt provisions in the course of its site plan review process; however, the Planning Commission shall not permit a setback or greenbelt that is less than required in the building form or Section 13.02.B. In the review of the deviation, the Planning Commission shall consider the following standards:*
  - i. *The deviation will not adversely impact public health, safety, and welfare.*
  - ii. *The deviation maintains compatibility with adjacent uses.*
  - iii. *The deviation is compatible with the Master Plan and in accordance with the goals and objectives of the Master Plan and any associated subarea and corridor plans.*
  - iv. *The deviation will not adversely impact essential public facilities and services, such as: streets, pedestrian or bicycle facilities, police and fire protection, drainage systems, refuse disposal, water and sewage facilities, and schools.*
  - v. *The deviation will be in compliance with all other zoning ordinance standards.*
  - vi. *The deviation will not adversely impact any on-site or off-site natural features.*

## 2. Housing Diversity and Options

The Planning Commission has questioned why the development community has not taken advantage of the housing diversity and option density bonus for smaller homes. Input from the development community notes that 1,500 sq/ft is too small to consider construction even with the associated density bonus. The Planning Commission has been told that a slight increase to 1,700 sq/ft would greatly assist in utilizing the density bonus. As such, we have proposed revised language to increase the maximum size to receive the density bonus from 1,500 to 1,700 sq/ft.

Revised Language:

*Housing Diversity and Options. A bonus above the base yield number of units established in 10.04.C.1 may be provided for a development that provides a diverse variety of housing types or*



*provides a type of housing that is desired, but not currently offered in the city. The following requirements shall be met for the all bonus unit in excess of the base yield number of units:*

- a. Maximum home square footage shall not exceed ~~1,500~~ 1,700 sq/ft; and*
- b. Master first floor bedroom and bathroom shall be provided.*

Based upon discussion and direction of the Planning Commission, we can put this in ordinance form and prepare for a public hearing.

I look forward to discussing this further.

Sincerely,



CARLISLE/WORTMAN ASSOC., INC.  
Benjamin R. Carlisle, LEED AP, AICP

9. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (File Number ZOTA 255)  
– Transitions in NN (Neighborhood Node) Zoning District

Mr. Carlisle reviewed the proposed text amendment to address the transition between intense use of Neighborhood Node development adjacent to single family residential through the site plan review process.

There was discussion on:

- Northwest corner of Dequindre and Wattles zoned Neighborhood Node.
- Restrictions applicable only to sites abutting single family residential.

PUBLIC HEARING OPENED

- Jerry Rauch, 4187 Penrose; thanked the Board with their follow-through on addressing density associated with Neighborhood Nodes, referenced his letter provided to the Board with respect to taking under consideration related Zoning Ordinance requirements.
- Laura Lipinski, 4233 Carson; addressed density, transition and traffic impact associated with development adjacent to single family residential.
- Dan Raubinger, 4083 Penrose; representing Woodlands of Troy Homeowners Association, expressed strong support of the text amendment changes, addressed effect of the changes to Wattles and Crooks Neighborhood Node.

PUBLIC HEARING CLOSED

**Resolution # PC-2019-12-089**

Moved by: Lambert

Support by: Fowler

**RESOLVED**, That the Planning Commission hereby recommends to the City Council that Article 10 of Chapter 39 of the Code of the City of Troy, which includes provisions related to height and setback in the NN Neighborhood Node Zoning District, be amended as printed on the proposed Zoning Ordinance Text Amendment.

Yes: All present (9)

**MOTION CARRIED**

**EXHIBIT I**

**Troy City Council Agenda dated 05/13/2021**



500 West Big Beaver  
Troy, MI 48084  
troymi.gov

## CITY COUNCIL AGENDA ITEM

Date: May 13, 2021

To: Mark F. Miller, City Manager

From: Robert J. Bruner, Assistant City Manager  
R. Brent Savidant, Community Development Director

Subject: PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (File Number ZOTA 255)  
– Transitions in NN (Neighborhood Node) Zoning District

This item was initiated by Staff based on conversations with the Planning Commission and developers. The intent of the amendment is to protect single family residential property values by ensuring smooth transitions between multi-family and commercial development and single family residential neighborhoods.

The provision mandates that maximum height for a building abutting a one-family residentially zoned parcel shall not exceed 2.5 stories, 30 feet in height. Further, when a parcel abuts a one-family residential zoned parcel the building setback from the property line of the one-family residential zoned parcel shall be no less than the height of the proposed building or twenty (20) feet, whichever is greater.

The Planning Commission considered this item on December 10, 2019 and recommended approval of the text amendment by a 9-0 vote.

A City Council public hearing has been scheduled for May 24, 2021.

### Attachments:

1. Draft text amendment.
2. Memo prepared by Carlisle/Wortman Associates, Inc., dated October 15, 2019.
3. Minutes from December 10, 2019 Planning Commission Regular meeting (excerpt).

CITY OF TROY  
AN ORDINANCE TO AMEND  
CHAPTER 39 OF THE CODE  
OF THE CITY OF TROY  
CITY COUNCIL PUBLIC HEARING DRAFT

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 39, Zoning Ordinance, of the Code of the City of Troy.

Section 2. Amendment

Chapter 39 of the Code of the City of Troy is amended as follows:

**Revise Section 5.06.E.3 to read as follows:**

Height and mass. Building height and mass in the form of building step-backs, recess lines or other techniques shall be graduated so that structures with higher intensity uses are comparable in scale with adjacent structures of lower intensity uses.

- c. ~~Height and Mass. Building height and mass in the form of building step-backs, recess lines or other techniques shall be graduated so that structures with higher intensity uses are comparable in scale with adjacent structures of lower intensity uses.~~
  - i. Any building, or portion of a building, on a parcel abutting a one-family residentially zoned parcel shall not exceed 2.5-stories, 30 feet in height.
  - ii. Any building, or portion of a building, on a parcel that is not abutting a one-family residentially zoned parcel shall not exceed 3-stories, 38 feet in height.
- d. Setback and Greenbelt:
  - i. When a parcel is abutting a one-family residential zoned parcel the building setback from the property line of the one-family residential zoned parcel shall be no less than the height of the proposed building or twenty (20) feet, whichever is greater.
  - ii. When a parcel is abutting a one-family residential zoned parcel a minimum 20-foot landscaped greenbelt shall be maintained from the property line of the one-family residential zoned parcel. The greenbelt shall be landscaped and screened in accordance with 13.02.B.
  - iii. The Planning Commission may deviate from these setback and greenbelt provisions in the course of its site plan review process; however, the Planning Commission shall not permit a setback or greenbelt that is less than required in the building form or Section 13.02.B. In the review of the deviation, the Planning Commission shall consider the following standards:

- i. The deviation will not adversely impact public health, safety, and welfare.
- ii. The deviation maintains compatibility with adjacent uses.
- iii. The deviation is compatible with the Master Plan and in accordance with the goals and objectives of the Master Plan and any associated subarea and corridor plans.
- iv. The deviation will not adversely impact essential public facilities and services, such as: streets, pedestrian or bicycle facilities, police and fire protection, drainage systems, refuse disposal, water and sewage facilities, and schools.
- v. The deviation will be in compliance with all other zoning ordinance standards.
- vi. The deviation will not adversely impact any on-site or off-site natural features.

d e. Orientation. ~~Primary building facades shall be placed away from the~~ Buildings shall be oriented in such a way as to minimize the impact on abutting residential uses.

e f. Architectural Features. Similarly sized and patterned architectural features such as windows, doors, arcades, pilasters, cornices, wall offsets, building materials, and other building articulations included on the lower-intensity use shall be incorporated in the transitional features.

### Section 3. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

### Section 4. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 5. Effective Date

This amendment to the Zoning Ordinance shall take effect seven (7) days after publication, which shall be published within 15 days of adoption, as required the Michigan Zoning Enabling Act (Act 110 of 2006).

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Ethan Baker, Mayor

\_\_\_\_\_  
Aileen Dickson, City Clerk

**EXHIBIT J**

**Notice of Termination; Third Amendment to Agreement of Sale**



**DENNIS M. GANNAN, PLLC**

Professional Limited Liability Company

2265 Livernois Road, Suite 500

Troy, Michigan 48083

Telephone: 248.362.3870

Facsimile: 248.362.4154

[gannanlaw@aol.com](mailto:gannanlaw@aol.com)

November 3, 2020

***Via Overnight Mail and Email --  
Sstafa3@gmail.com***

Mr. Sam Stafa  
550 Stephenson Hwy.  
Suite 440  
Troy, Michigan 48083

**Re: Notice of Termination of Purchase Agreement between Sam Stafa as Purchaser ("Purchaser") and Kamal H. Shouhayib and Choice Development Corporation (collectively, "Seller"), dated November 12, 2019 ("Original Agreement"), as amended by a First Amendment to Agreement of Sale dated March 6, 2020 ("First Amendment") and a Second Amendment to Agreement of Sale dated July 30, 2020 (the "Second Amendment") (the Original Agreement, as so amended is referred to as the "Agreement")**

Dear Mr. Stafa:

I am writing to you as attorney and authorized representative of Seller. As you are aware, under the Second Amendment, Purchaser was unconditionally required to close the acquisition of the property described in the Agreement by September 30, 2020. Purchaser had the option of extending the Outside Closing Date (as defined in the Agreement) by notifying the Seller in writing, on or before September 26, 2020 of Purchaser's intention of extending the Outside Closing Date to November 8, 2020 and paying Seller an extension fee of \$10,000. Purchaser failed to exercise the option to extend the Outside Closing Date and failed to close on September 30, 2020. Accordingly, as a consequence of Purchaser's default, the Agreement is terminated and pursuant to the Agreement (a) all deposits made by Purchaser are unconditionally forfeited, (b) all of Purchaser's due diligence materials are the property of Seller and (c) Seller has the right to become the applicant under Purchaser's application for site plan approval with the City of Troy. Seller

Mr. Sam Stafa  
November 3, 2020  
Page Two

will notify the City of Troy that Purchaser no longer has rights in the subject property and to remove your application from the Planning Commission agenda. Please turnover all due diligence materials to Seller within five (5) days of the date hereof.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Dennis M. Gannan', written over a light background.

Dennis M. Gannan

DMG/jd

cc: Henry Sandweiss, Esq. (via email – [hsandweiss@yaho.com](mailto:hsandweiss@yaho.com))

Mr. Kamal H. Shouhayib (via email – [kshouhayib@aol.com](mailto:kshouhayib@aol.com))

Mr. Omar Shouhayib (via email – [omarshouhayib@gmail.com](mailto:omarshouhayib@gmail.com))

### **THIRD AMENDMENT TO AGREEMENT OF SALE**

THIS THIRD AMENDMENT TO AGREEMENT OF SALE ("Third Amendment") is entered into as of the 30th day of November, 2020 (the "Effective Date"), by and between SAM STAFSA, on behalf of an entity to be formed ("Purchaser"), and CHOICE DEVELOPMENT CORPORATION, a Michigan corporation, and KAMAL H. SHOUHAYIB, individually (collectively "Seller").

#### **Recitals**

A. On November 12, 2019, Purchaser and Seller entered into a Purchase Agreement (the "Original Agreement"), relating to the purchase and sale of real property located in the City of Troy, Michigan, as more particularly described in the Original Agreement (the "Property").

B. The Original Agreement required Purchaser to complete the sale on or before February 1, 2020 (the "Original Closing Date"). The First Amendment to Agreement of Sale dated March 6, 2020 ("First Amendment"), among other things, extended the closing to a date not later than May 20, 2020 (the "Outside Closing Date").

C. On July 30, 2020, Purchaser and Seller entered into a Second Amendment to Agreement of Purchase and Sale which among other things extended the Outside Closing Date to September 30, 2020, and provided for additional extensions upon Buyer's satisfaction of certain conditions. The conditions for additional extensions were not satisfied, and Seller issued a Notice of Termination of the Original Agreement, as amended. The Original Agreement, as modified by the First Amendment and Second Amendment is collectively referred to as the "Agreement".

D. Purchaser is engaged in an effort to obtain City Approval for Purchaser's Proposed Development. Purchaser has advised Seller that Purchaser's Proposed Development was rejected by a vote of the City of Troy Planning Commission on November 4, 2020. Purchaser believes that Purchaser's Proposed Development satisfied applicable Troy zoning requirement and should have been approved by the Planning Commission. Purchaser has requested an extension of the Outside Closing Date for the sole purpose of appealing the decision of the Planning Commission to the Troy Board of Zoning Appeals ("ZBA").

E. Seller is willing further to extend the Outside Closing Date, but only on the terms set forth in this Third Amendment.

F. Defined terms with initial capitalization used herein have the meanings assigned in the Agreement, except as modified by this Third Amendment.

#### **Agreement**

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller hereby agree as follows:

1. The Agreement is hereby reinstated and modified as stated in this Third Amendment. Simultaneously with the signing of this Third Amendment, Purchaser shall pay Seller Fifteen Thousand Dollars (\$15,000) as an Extension Fee. The Extension Fee shall not be refundable, except by reason of Seller's uncured material default, and shall not be applied against the purchase price.

2. Purchaser and Seller hereby agree that the Outside Closing Date shall be extended to the earlier of February 28, 2021, or ten (10) days after Purchaser obtains City Approval. Purchaser acknowledges and agrees that, except as provided in Paragraph 8 of this Third Amendment, Seller is under no obligation to extend the Outside Closing Date beyond February 28, 2021.

3. Purchaser acknowledges and agrees that all deposits heretofore paid by Purchaser have been irrevocably forfeited except by reason of Seller's uncured material default. Nevertheless, if closing occurs, the deposits shall be applied to the purchase price at closing. If the closing fails to occur on or before February 28, 2021 (except as a result of an uncured material default by Seller) and Outside Closing Date is not extended pursuant to Paragraph 8 hereof, Seller may by written notice to Purchaser, immediately terminate the Agreement, as amended. If Purchaser fails to close on or before the Outside Closing Date, as the same may be extended, then unencumbered marketable title to the Site Plan and all of Purchaser's due diligence materials including engineering studies, architectural drawings, surveys, environmental reports, wetlands, traffic and soils studies shall be deemed immediately and unconditionally assigned and sold to Seller and this Third Amendment shall be deemed an assignment and bill of sale as to such assigned and sold due diligence materials. Seller shall be added as a co-applicant with respect to obtaining City Approval for Purchaser's Proposed Development but unless the Agreement is terminated as a result of Purchaser's failure to close by the Outside Closing Date, as the same may be extended, Purchaser, at Purchaser's sole expense, shall be solely responsible for obtaining City Approval.

4. Purchaser acknowledges and agrees that (i) Seller has performed all of Seller's obligations under the Agreement through the date hereof, (ii) Purchaser has satisfied or waived any conditions precedent to Closing set forth in the Agreement including, without limitation, all title, survey, environmental and governmental approval matters, and (iii) the only condition to Purchaser's obligation to close is the passage of time. Seller's only remaining obligation shall be to convey the Property to Purchaser.

5. Purchaser and Seller acknowledge that the Covid-19 pandemic and the associated closings of business and government offices have imposed unexpected losses and risks upon the public generally. Purchaser and Seller agree that the First, Second and now this Third Amendment to the Original Agreement were intended to allocate such losses and risks between Purchaser and Seller in a fair and reasonable manner. Purchaser and Seller agree that such allocations were fair and reasonable. Purchaser commenced a lawsuit entitled Safet Stafa v. Choice Development Corporation, et al., Oakland County Circuit Court Case No. 2020-184539-CB (the "Lawsuit"), in which Purchaser sought equitable relief in the form of an extension of time to Close this transaction and other relief. Upon the signing of this Third Amendment by both parties, the Lawsuit will by stipulation be dismissed with prejudice and

without costs. If the Court permits, the stipulated dismissal order shall provide that the Court will retain jurisdiction to enforce the terms of this Third Amendment. Purchaser covenants that if Purchaser is unable or unwilling to Close this transaction by the Outside Closing Date in strict conformity with the Agreement as amended hereby for any reason (excepting an uncured material default by Seller in the performance of Seller's express obligations under the Agreement as amended hereby), Purchaser will not institute any lawsuit to compel the refund of Purchaser's deposits or to seek additional extensions of the Outside Closing Date. Purchaser agrees to indemnify, defend and hold Seller harmless from all loss and expense, including attorney fees which Seller may incur by reason of Purchaser's breach of the foregoing covenant.

6. All other terms, provisions and conditions of the Agreement, as amended by this Third Amendment, shall continue to remain in full force and effect. In the event of any conflict or inconsistency between the terms of the Agreement and this Third Amendment, the terms of this Third Amendment shall control.

7. Purchaser shall, at Purchaser's sole expense, exercise Purchaser's best efforts to obtain the ZBA's reversal of the Planning Commission rejection of Purchaser's Proposed Development ("ZBA Approval") as soon as possible; provided, however, that ZBA Approval is not a condition to Purchaser's obligations under the Agreement as modified hereby. Purchaser shall file an application for relief to the ZBA not later than December 11, 2020, and shall proceed diligently thereafter using Purchaser's best efforts to obtain a decision by the ZBA as quickly as practicable. Purchaser shall provide Seller with copies of all communications with the City of Troy (including a copy of Purchaser's application for ZBA Approval and a schedule for obtaining ZBA Approval. Notwithstanding anything contained herein to the contrary, if (a) the ZBA denies Purchaser's appeal or otherwise refuses to consider Purchaser's appeal ("ZBA Denial") or the ZBA approves Purchaser's Proposed Development ("ZBA Approval"), then the Outside Closing Date shall be the first business day which is ten (10) days from the ZBA Denial or ZBA Approval. The decision of the ZBA whether a ZBA Denial or a ZBA Approval is sometimes referred to herein as a "ZBA Decision".

8. Purchaser agrees that the Outside Closing Date is fair and reasonable and that Purchaser's obligation is to close and pay the purchase price in accordance with the Agreement, as amended, or permit termination notwithstanding whether the ZBA Decision is delayed by reason of no meetings being held, by reason of a tabling of Purchaser's application or by reason of any other delay. Purchaser's obligations are not subject to force majeure or any other event that might excuse performance. The foregoing is agreed to be fair and reasonable in light of the history of this transaction and represents a conscious allocation of risk between the parties.

9. As long as Purchaser is not in default under the Agreement as hereby amended, and no ZBA Decision has occurred, then Purchaser shall have the right to extend the Outside Closing Date as follows:

(a) If Purchaser delivers written notice to Seller, on or before February 28, 2021, of Purchaser's election to extend the Outside Closing Date and delivers an additional Extension Fee of Fifteen Thousand Dollars (\$15,000) to Seller (in immediately available funds),

then the Outside Closing Date shall be extended to the earlier of March 31, 2021, or ten (10) days after the date a ZBA Decision has occurred.

(b) If Purchaser has timely exercised Purchaser's option to extend to March 31, 2021, and if Purchaser delivers written notice to Seller, on or before March 31, 2021, of Purchaser's election to further extend the Outside Closing Date and delivers an additional Extension Fee of Fifteen Thousand Dollars (\$15,000) to Seller (in immediately available funds), then the Outside Closing Date shall be extended to the earlier of April 30, 2021, or ten (10) days after the date a ZBA Decision has occurred.

(c) Any Extension Fees shall be non-refundable, shall be paid directly to Seller by federal wire transfer and shall not be applicable against the purchase price. Seller shall be under no obligation to further extend the Outside Closing Date.

10. Purchaser shall not exercise any remedy for default by Seller unless Purchaser has first notified Seller of the claimed default in reasonable detail and Seller has not cured such default within ten (10) business days after receipt of such notice.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto execute this Third Amendment as of the Effective Date.

**PURCHASER:**

\_\_\_\_\_  
Sam Stafa, on behalf of an entity to  
be formed

**SELLER:**

Choice Development Corporation, a  
Michigan corporation

By: \_\_\_\_\_  
Kamal H. Shouhayib, President

\_\_\_\_\_  
Kamal H. Shouhayib, Individually

## **EXHIBIT K**

### **ZBA Application**





CITY OF TROY | PLANNING DEPT. | 500 WEST BIG BEAVER | TROY, MI 48084 | 248-524-3364

## Zoning Board of Appeals Application

planning@troymi.gov | Fee \$150.00

THE ZONING BOARD OF APPEALS MEETS THE **THIRD TUESDAY OF EACH MONTH AT 7:30 P.M. AT CITY HALL**. PLEASE FILE A COMPLETE DIGITAL APPLICATION AND FEE AT LEAST **29 DAYS BEFORE** THE MEETING DATE. PRE APPLICATION MEETING WITH PLANNING DEPARTMENT REQUIRED BEFORE FILING APPLICATION.

1. ADDRESS OF THE SUBJECT PROPERTY: 4115 Crooks Road, 4095 Crooks Road, and a sliver of land, plus or minus 10,000 square feet contiguous thereto

2. PROPERTY TAX IDENTIFICATION NUMBER(S): 2017476013, 2017476014, 2017476055

3. ZONING ORDINANCE SECTIONS RELATED TO THE REQUEST: Sections 5.06 and 8.06

4. HAVE THERE BEEN ANY PREVIOUS APPEALS INVOLVING THIS PROPERTY? If yes, provide date(s) and particulars: n/a

5. APPLICANT:

NAME Safet "Sam" Stafa

COMPANY Tollbrook North LLC

ADDRESS 550 Stephenson Hwy Suite 440

CITY Troy

STATE MI

ZIP 48083

PHONE 248-906-5400

E-MAIL arbanstafa@gmail.com

AFFILIATION TO THE PROPERTY OWNER: Purchase Agreement



CITY OF TROY | PLANNING DEPT. | 500 WEST BIG BEAVER | TROY, MI 48064 | 248-524-3364

## Zoning Board of Appeals Application

6. PROPERTY OWNER:

NAME Kamal Shouhayib

COMPANY Choice Development

ADDRESS 2265 Livernois Suite 500

CITY Troy

STATE MI

ZIP 48083

TELEPHONE 248-362-4150

E-MAIL oshouhayib@choiceproperties.com

The undersigned hereby declares under penalty of perjury that the contents of this application are true to the best of my (our) knowledge, information and belief.

The applicant accepts all responsibility for all of the measurements and dimensions contained within this application, attachments and/or plans, and the applicant releases the City of Troy and its employees, officers, and consultants from any responsibility or liability with respect thereto.

I, Tollbrook North LLC (APPLICANT) HEREBY DEPOSE AND SAY THAT ALL THE ABOVE STATEMENTS CONTAINED IN THE INFORMATION SUBMITTED ARE TRUE AND CORRECT AND GIVE PERMISSION FOR THE BOARD MEMBERS AND CITY STAFF TO ENTER THE PROPERTY TO ASCERTAIN PRESENT CONDITIONS.

APPLICANT SIGNATURE

DATE 12/10/2020

PRINT NAME: Safet "Sam" Stafa, Tollbrook North LLC (Its Member)

PROPERTY OWNER SIGNATURE

DATE 12-11-2020

PRINT NAME: Choice Development - Kamal Shouhayib

Failure of the applicant or their authorized representative to appear before the Board as scheduled shall be cause for denial or dismissal of the case with no refund of fees. The applicant will be notified of the time and date of the hearing by mail. If the person appearing before the Board is not the applicant or property owner, signed permission must be presented to the Board.

Approved variances are good for a one year period.



## Zoning Board of Appeals Application

### STATEMENT OF PRACTICAL DIFFICULTY

In order for a variance to be granted, a practical difficulty, as determined by the Board, must be present. On a separate sheet, please clearly identify and explain the practical difficulty justifying the variance request. The practical difficulty must be clearly related to as many of the 5 standards below as possible:

- a) Exceptional characteristics of property for which the variance is sought make compliance with dimensional requirements substantially more difficult than would be the case for the great majority of properties in the same zoning district. Characteristics of property which shall be considered include exceptional narrowness, shallowness, smallness, irregular shape, topography, vegetation and other similar characteristics.
- b) The characteristics which make compliance with dimensional requirements difficult must be related to the premises for which the variance is sought, not some other location.
- c) The characteristics which make compliance with the dimensional requirements shall not be of a personal nature.
- d) The characteristics which make compliance with dimensional requirements difficult must not have been created by the current or a previous owner.
- e) The proposed variance will not be harmful or alter the essential character of the area in which the property is located, will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property value within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the City.



CITY OF TROY | PLANNING DEPT. | 500 WEST BIG BEAVER | TROY, MI 48064 | 248-524-3364

## Zoning Board of Appeals Application

### ZONING BOARD OF APPEALS APPLICATION CHECKLIST

Please provide the following in digital format. You may e-mail them to [planning@troymi.gov](mailto:planning@troymi.gov) or submit them on media such as a CD or jump drive:

- ✓ Completed application
- ✓ Statement of practical difficulty see page 3
- ✓ Plot plan or survey showing property lines, existing and proposed buildings, their dimensions and locations (height, length, width, as applicable)
- ✓ Setbacks from property lines
- ✓ Elevation drawings
- ✓ Photos as necessary to accurately describe the request, including existing and proposed property conditions
- ✓ Any other information that explains the request
- ✓ Incomplete applications cannot be accepted

**EXHIBIT L**

**Minutes of ZBA Meeting of 01/19/2021**

On January 19, 2021 at 7:31 p.m., via remote meeting using the GoTo Meeting platform, Chairman Clark called the Zoning Board of Appeals meeting to order.

1. ROLL CALL

Present:

Glenn Clark  
Aaron Green  
Mahendra Kenkre  
David Eisenbacher  
James McCauley  
Michael Bossenbroek  
Orestis Kaltsounis

Also Present:

Paul Evans, Zoning and Compliance Specialist  
Allan Motzny, Assistant City Attorney  
Jackie Ferencz, Administrative Assistant, Planning Department  
Bob Laux, Information Technology  
Julie DuFrane, Assistant City Attorney

2. REVISED PROCEDURE- read by Vice Chair Bossenbroek

3. MODIFICATION OF ZONING BOARD OF APPEALS RULES OF PROCEDURE

Moved by McCauley  
Seconded by Green

RESOLVED, to approve resolution modifying Rules of Procedure to allow electronic meetings.

Yes: All

MOTION PASSED

4. APPROVAL OF MINUTES – December 15, 2020

Moved by Green  
Seconded by Eisenbacher  
RESOLVED, to approve the December 15, 2020 meeting minutes.

Yes: All

MOTION PASSED

5. APPROVAL OF AGENDA – No changes

6. HEARING OF CASES:

- A. VARIANCE REQUEST, 4928 PARK MANOR, NEETU SHARMA & AMBUJ MATHUR: A variance to allow a partially covered deck 10 feet from the rear property line where the development approval requires the deck to be no less than 25 feet from the rear property line.

Moved by Green  
Second by McCauley

RESOLVED, to deny petitioner's request.

Yes: Green  
Kenkre  
Kaltsounis  
Bossenbroek  
McCauley  
Clark

No: Eisenbacher

MOTION PASSED

Chair Clark called recess at 9:04pm  
Meeting resumed at 9:10pm

- B. VARIANCE REQUEST, 4095-4115 CROOKS AND PROPERTY ADJACENT, SAFET "SAM" STAF: Tollbrook North, LLC ("Developer") appeals the November 10, 2020 decision of the City of Troy's Planning Commission ("PC") to deny the Preliminary Site Plan ("PSP") for its Crooks Road Townhomes project to the City's Zoning Board of Appeals ("ZBA"). The Developer requests that the ZBA reverse the PC's decision and grant PSP approval.

Moved by Eisenbacher  
Second by Bossenbroek

RESOLVED: That the ZBA finds that the decision by the Planning commission was arbitrary and capricious and the ZBA modifies the Planning Commission resolution to set it aside and the ZBA sends this Site Plan back to the Planning Commission to provide a more thorough and detailed resolution.

Member McCauley CALLS THE QUESTION

Yes: Kenkre  
Eisenbacher  
McCauley  
Green  
Bossenbroek  
Clark

No: Kaltsounis

Vote on proposed resolution

Yes: Eisenbacher  
Clark  
Bossenbroek

No: Kaltsounis  
Green  
McCauley  
Kenkre

MOTION Fails

Moved by Green  
Second by McCauley

RESOLVED That the ZBA affirm the Planning Commission's decision on this matter.

Member Bossenbroek CALLS THE QUESTION

Yes: Bossenbroek  
Kenkre  
McCauley  
Kaltsounis

No: Clark  
Eisenbacher  
Green

Vote on proposed resolution

Yes: Green  
Kenkre  
McCauley  
Kaltsounis

No: Bossenbroek  
Eisenbacher  
Clark

MOTION Passes

7. COMMUNICATIONS: None

8. MISCELLANEOUS BUSINESS: Mr. Evans advised the Board that staff is working on a future ZBA training.

9. PUBLIC COMMENT: None

10. ADJOURNMENT: The Zoning Board of Appeals meeting ADJOURNED at 11:42pm.



Respectfully submitted,



Glenn Clark, Chairman



Paul Evans, Zoning and Compliance Specialist

G:\ZONING BOARD OF APPEALS\Minutes\2021\Final\2021 01 19 ZBA Minutes FINAL.doc

This case has been designated as an eFiling case, for more information please visit  
[www.oakgov.com/efiling](http://www.oakgov.com/efiling).

STATE OF MICHIGAN

OAKLAND COUNTY CIRCUIT COURT

SAFET "Sam" STAFA,  
Plaintiff,

2021-189046-AW  
JUDGE JEFFERY S. MATIS

V

THE CITY OF TROY,  
Defendant.

## EXHIBITS M THROUGH Q

**VERIFIED COMPLAINT FOR DECLARATORY RELIEF, WRIT OF  
MANDAMUS AND EX PARTE MOTION TO SHOW CAUSE WHY SITE  
PLAN APPROVAL SHOULD NOT BE GRANTED PURSUANT TO MCR  
3.305(C)**

**EXHIBIT M**

**Fourth Amendment to Agreement of Sale**

## **FOURTH AMENDMENT TO AGREEMENT OF SALE**

**THIS FOURTH AMENDMENT TO AGREEMENT OF SALE ("Fourth Amendment")** is entered into as of the 4th day of June, 2021 (the "Effective Date"), by and between SAM STAFSA ("Purchaser"), and CHOICE DEVELOPMENT CORPORATION, a Michigan corporation, and KAMAL E. SHOUBAYIB, individually (collectively "Seller").

### **Recitals**

A. On November 12, 2019, Purchaser and Seller entered into a Purchase Agreement (the "Original Agreement"), relating to the purchase and sale of real property located in the City of Troy, Michigan, as more particularly described in the Original Agreement (the "Property").

B. The Original Agreement required Purchaser to complete the sale on or before February 1, 2020 (the "Original Closing Date"). The First Amendment to Agreement of Sale dated March 6, 2020 ("First Amendment"), among other things, extended the closing to a date not later than May 20, 2020 (the "Outside Closing Date").

C. On July 30, 2020, Purchaser and Seller entered into a Second Amendment to Agreement of Purchase and Sale which among other things extended the Outside Closing Date to September 30, 2020, and provided for additional extensions upon Buyer's satisfaction of certain conditions. The conditions for additional extensions were not satisfied, and Seller issued a Notice of Termination of the Original Agreement, as amended.

D. On November 20, 2020, Purchaser and Seller entered into a Third Amendment to Agreement of Purchase and Sale which among other things extended the Outside Closing Date to February 28, 2021. The Original Agreement, as modified by the First Amendment, Second Amendment and Third Amendment is collectively referred to as the "Agreement".

E. Purchaser is engaged in an effort to obtain approval from the City of Troy, Michigan (the "City"), for a 74-unit residential condominium project which is more particularly described in Purchaser's site plan which was rejected by the City of Troy Board of Zoning Appeals on January 19th, 2021 (the "Final Site Plan"). The condominium development described in the Final Site Plan is hereafter referred to as "Purchaser's Amended Development". Purchaser has requested an extension of the Outside Closing Date for the sole purpose of obtaining a writ of mandamus or other non-monetary judicial order or other judicial relief from the Oakland County Circuit Court (the "Court"), requiring the City to approve Purchaser's Proposed Amended Development ("Judicial Relief").

F. Purchaser represents to Seller that Purchaser has exhausted all administrative remedies and that Purchaser's only available remedy to develop the Property in accordance with Purchaser's Proposed Amended Development is to obtain Judicial Relief. Purchaser represents to Seller that Purchaser's Amended Development satisfies applicable City zoning requirements and should have been approved by the City. Seller is willing further to extend the Outside

Closing Date in order to allow Purchaser to obtain Judicial Relief, but only on the terms set forth in this Fourth Amendment.

G. Defined terms with initial capitalization used herein have the meanings assigned in the Agreement, except as modified by this Fourth Amendment.

### Agreement

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and Seller hereby agree as follows:

1. The Agreement, to the extent terminated by the terms of the Third Amendment, is hereby reinstated and modified as stated in this Fourth Amendment. Simultaneously with the signing of this Fourth Amendment, Purchaser shall pay Seller Twenty-Five Thousand Dollars (\$25,000) as an extension and reinstatement fee (the "New Extension Fee"). The New Extension Fee shall not be refundable, except by reason of Seller's uncured material default, but shall not be applied against the Purchase Price if a Closing occurs.

2. Purchaser and Seller hereby agree that the Outside Closing Date shall be extended to the earlier of (a) June 1, 2022, (b) twenty (20) days after Purchaser obtains Judicial Relief or (c) twenty (20) days following the occurrence of an Acceleration Event (as hereinafter described) (the "New Outside Closing Date"). Purchaser acknowledges and agrees that Seller is under no legal or equitable obligation to further extend the New Outside Closing Date.

3. Purchaser acknowledges and agrees that all deposits and extensions heretofore paid by Purchaser have been irrevocably forfeited. Nevertheless, if Closing occurs and as long as Purchaser is not in default under the Agreement as modified by this Fourth Amendment, Purchaser shall be entitled to a credit against the Purchase Price of \$175,000.00 in consideration of the deposits previously made and forfeited including the New Extension Fee. If the closing fails to occur on or before the New Outside Closing Date (except as a result of an uncured material default by Seller) or if Purchaser is in default under the Agreement, as hereby amended, Seller may by written notice to Purchaser, immediately terminate the Agreement, as amended. Purchaser acknowledges and agrees that pursuant to the Third Amendment, the Site Plan and all of Purchaser's due diligence materials including engineering studies, architectural drawings, surveys, environmental reports, wetlands, traffic and soils studies (collectively, the Due Diligence Materials") were unconditionally assigned and sold to Seller. Notwithstanding the foregoing, as long as Purchaser is not in default under the Agreement, as hereby amended, Purchaser shall have a license to use the Due Diligence Materials and if a Closing occurs, the Due Diligence Materials shall be deemed reassigned to Purchaser.

4. Purchaser acknowledges and agrees that (i) Seller has performed all of Seller's obligations under the Agreement through the date hereof, (ii) Purchaser has satisfied or waived any conditions precedent to Closing set forth in the Agreement including, without limitation, all title, survey, environmental and governmental approval matters, and (iii) the only

condition to Purchaser's obligation to close is the passage of time. Seller's only remaining obligation shall be to convey the Property to Purchaser at closing.

5. Purchaser covenants that if Purchaser is unable or unwilling to Close this transaction by the New Outside Closing Date in strict conformity with the Agreement as amended hereby for any reason (excepting an uncured material default by Seller in the performance of Seller's express obligations under the Agreement as amended hereby), Purchaser will not institute any lawsuit to compel the refund of Purchaser's deposits or to seek additional extensions of the New Outside Closing Date. Purchaser agrees to indemnify, defend and hold Seller harmless from all loss and expense, including attorneys' fees which Seller may incur by reason of Purchaser's breach of the foregoing covenant.

6. All other terms, provisions and conditions of the Agreement, as amended by this Fourth Amendment, shall continue to remain in full force and effect. In the event of any conflict or inconsistency between the terms of the Agreement and this Fourth Amendment, the terms of this Fourth Amendment shall control.

7. Purchaser shall, at Purchaser's sole expense, exercise Purchaser's best efforts to obtain Judicial Relief as soon as possible; provided, however, that Judicial Relief is not a condition to Purchaser's obligations under the Agreement as modified hereby. Purchaser shall file a complaint for Judicial Relief (the "Complaint"), within twenty-one (21) days of the Effective Date and shall proceed diligently thereafter using Purchaser's best efforts to obtain Judicial Relief as quickly as practicable. Purchaser shall provide Seller with a copy of the Complaint at least three (3) business days prior to filing with the Court. Purchaser shall immediately provide Seller with copies of all communications with the City relating to Purchaser's Proposed Amended Development and all pleadings and other filings with the Court. Purchaser shall also provide Seller with prior written notice of all Court hearings relating to the Complaint and Seller or its counsel shall be given an opportunity to attend such hearings. Notwithstanding anything contained herein to the contrary, if (a) the Court denies Judicial Relief in whole or substantial part or otherwise dismisses the Complaint or (b) Purchaser otherwise obtains approval from the City of Purchaser's Proposed Amended Development through non-judicial means ("City Approval") (each an "Acceleration Event"), then the Closing shall be the first business day which is twenty (20) days from the Acceleration Event but not later than the New Outside Closing Date.

8. Purchaser agrees that the New Outside Closing Date is fair and reasonable and that Purchaser's obligation is to close and pay the purchase price in accordance with the Agreement, as hereby amended, or permit termination notwithstanding of the Agreement whether Purchaser fails to obtain Judicial Relief or City Approval prior to the New Outside Closing Date is reasonable and has been specifically bargained for and agreed to by the parties. Purchaser's obligations are not subject to force majeure or any other event that might excuse performance. The foregoing is agreed to be fair and reasonable in light of the history of this transaction and represents a conscious allocation of risk between the parties.

9. If Purchaser obtains Judicial Relief or City Approval, then Purchaser and Seller shall close the purchase of the Property on or before the New Extended Closing

Date, then due to the unique circumstances involved in this transaction, Seller may in addition to any other right or remedy available to Seller under the Agreement or under law, seek specific performance of Purchaser's obligations under the Agreement as hereby amended and Purchaser shall be responsible for all costs of enforcing specific performance by Seller including reasonable attorneys' fees, expert witness fees and court costs. Purchaser has knowingly and willingly agreed to the remedy of specific performance after first having consulted with Purchaser's counsel.

10. Purchaser shall not assign this Agreement prior to Closing. Notwithstanding the foregoing, Purchaser may with the prior written consent of Seller, which consent shall not be unreasonably withheld, assign the Agreement as modified hereby, subject to the following conditions: (a) the assignee is a Michigan limited liability company, which at all times shall be majority owned and controlled by Sam Stafa; (b) Purchaser is not then in default under the Agreement, as hereby amended; (c) the assignment will not delay obtaining Judicial Relief or the Closing; and (d) at least 10 days prior to the date of such assignment, Purchaser shall provide Seller with the name of the members of the assignee entity. Notwithstanding the foregoing, any such assignment shall not relieve Purchaser, individually of his obligations under the Agreement as hereby amended.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto execute this Fourth Amendment as of the  
Effective Date:

**PURCHASER:**

Sept 1984 "Sam"  
Sam Stafa, individually

**SELLER:**

Choice Development Corporation, a  
Michigan corporation

By:

[Signature]  
Kamal H. Shouhayib, President

[Signature]  
Kamal H. Shouhayib, Individually



**EXHIBIT N**

**Minutes of PC Meeting of 04/28/2020**

Chair Krent called the remotely-conducted Regular meeting of the Troy City Planning Commission to order at 7:00 p.m. on April 28, 2020. Chair Krent introduced the procedure to be followed for a remote meeting.

1. ROLL CALL

Present:

Ollie Apahidean  
Karen Crusse  
Carlton M. Faison  
Michael W. Hutson  
Tom Krent  
David Lambert  
Marianna Perakis  
Sadek Rahman  
John J. Tagle

Also Present:

R. Brent Savidant, Community Development Director  
Ben Carlisle, Carlisle Wortman Associates  
Julie Quinlan Dufrane, Assistant City Attorney  
Jackie Ferencz, Planning Department Administrative Assistant  
Kathy L. Czarnecki, Recording Secretary

2. SUSPENSION OF PLANNING COMMISSION BYLAWS

**Resolution # PC-2020-04-016**

Moved by: Krent

Support by: Lambert

WHEREAS, On March 16, 2020, the Troy City Council declared an emergency under Troy's City Charter and State Law, specifically the Emergency Management Act, MCL 30.401, (Resolution 2020-03-048) which allowed for, among other matters, the cancellation of meetings when necessary, and,

WHEREAS, On April 13, 2020, the Troy City Council extended its declared emergency under Troy's City Charter and State Law, specifically the Emergency Management Act, MCL 30.401, (Resolution 2020-04-055) which allowed for, among other matters, moving forward remotely and virtually with necessary meetings such as Planning Commission meetings, and,

WHEREAS, Governor Gretchen Whitmer issued Executive Order 2020-48 (EO 2020-48) on April 14, 2020 which temporarily suspends strict compliance with physical-place and physical-presence requirements of the Open Meetings Act in order to allow electronic meetings.

**THEREFORE, BE IT RESOLVED**, That as allowed by Planning Commission Rules of Procedure Article IV, Section 6, the Troy Planning Commission hereby **ALLOWS** all Troy Planning Commission Members to electronically participate in any Planning Commission meeting during the pendency of the declared State of Emergency. However, consistent with State of Michigan Executive Directive 2020-02 and Executive Order 2020-48, Planning Commission Members shall not use email, texting, instant messaging, or any other internet communication during the meeting.

**RESOLVED**, As allowed by Planning Commission By-laws and Rules of Procedure Article X, the Troy Planning Commission hereby **AMENDS** the By-laws and Rules of Procedure for the duration of the declared state of emergency to modify the Order of the Agenda, as set forth in Article V, Section 3, to consolidate the Public Comment sections of the meeting.

**RESOLVED**, As allowed by Planning Commission By-laws and Rules of Procedure Article X, the Troy Planning Commission hereby **AMENDS** the By-laws and Planning Commission Rules of Procedure for the duration of the declared emergency to provide for two methods of receiving Public Comment for virtual meetings. During this time, public comments can be submitted for the Planning Commission meeting by sending an email to: [planning@troymi.gov](mailto:planning@troymi.gov). Emails received prior to 4:00 pm on the day of the Planning Commission meeting, will be read at the meeting and made part of the public record. Public comments can also be submitted by calling the following phone number and leaving a voicemail message: (248) 524-1305. Recorded voicemail messages received prior to 4:00 pm on the day of the Planning Commission meeting will be played at the meeting, in compliance with the Rules of Procedure. For emails and recorded messages received after the deadline, reasonable efforts will be made to read emails and play recorded messages during the meeting.

Yes: All present (9)

**MOTION CARRIED**

3. APPROVAL OF AGENDA

**Resolution # PC-2020-04-017**

Moved by: Tagle

Support by: Perakis

**RESOLVED**, To approve the Agenda as prepared.

Yes: All present (9)

**MOTION CARRIED**

4. APPROVAL OF MINUTES

**Resolution # PC-2020-04-018**

Moved by: Perakis

Support by: Lambert

**RESOLVED**, To approve the minutes of the February 25, 2020 Regular meeting as submitted.

Yes: Apahidean, Crusse, Hutson, Krent, Lambert, Perakis, Rahman, Tagle  
Abstain: Faison

**MOTION CARRIED**

5. PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA – For Items Submitted via Email or Telephone Message

Ms. Ferencz reported no email or telephone messages were received.

**PRELIMINARY SITE PLAN APPROVALS**

6. PRELIMINARY SITE PLAN REVIEW (File Number SP JPLN2019-0038) – Proposed Timbercrest Drive Extension, South of East Wattles, West of Dequindre (88-20-24-201-015), Zoned R-1C (One Family Residential) District

Mr. Carlisle reviewed the Preliminary Site Plan application for Timbercrest Drive Extension. He said the proposed request is permitted by right. Mr. Carlisle addressed the site layout, access of existing single family home and proposed two new homes, landscaping, floor plans and elevations. Mr. Carlisle said the application meets all requirements of the Zoning Ordinance and recommended the Planning Commission grant Preliminary Site Plan approval.

Carol Thurber of Nowak & Fraus Engineers was present to represent the property owner Bismack Designs.

There was discussion on:

- Existing house; to remain as-is.
- Potential future extension of Timbercrest; no plans to extend, property to the south not under petitioner ownership.
- Stormwater management; studies conducted, capacity to tie-in to existing detention basin.
- Elevations; typical representation of homes built by petitioner, review by Building Department.

Ms. Ferencz reported there were no comments on the application received by email or voicemail.

**Resolution # PC-2020-04-019**

Moved by: Faison

Support by: Rahman

**RESOLVED**, That Preliminary Site Condominium Approval, pursuant to Article 8 and Section 10.02 of the Zoning Ordinance, as requested for Timbercrest Drive Extension, 3 units/lots, South of East Wattles, West of Dequindre, Section 24, Currently Zoned R-1C (One Family Residential) District, be granted.

Yes: All present (9)

**MOTION CARRIED**

At 7:21 p.m., Chair Krent was remotely unconnected, at which time the meeting paused. Chair Krent remotely connected to the meeting at 7:24 p.m. Also at this time, it appeared Mr. Hutson was remotely connected audibly (intermittently) but not visibly.

7. PRELIMINARY SITE PLAN REVIEW (File Number SP JPLN2020-0004) – Proposed Square Lake Court Phase II, South of Square Lake, West of Dequindre (88-20-12-200-027), Zoned NN (Neighborhood Node “N”) District

Mr. Carlisle reviewed the Preliminary Site Plan application for Square Lake Court Phase II, noting that Phase I was considered and granted approval by the Planning Commission on January 14, 2020. He said the petitioner acquired the parcel to the south and is proposing 48 units. Mr. Carlisle said approval of Phase I was subject to a cross access easement to the south parcel. He noted the petitioner might combine both phases into one project which would terminate the need for a cross access easement and two homeowner associations.

Mr. Carlisle addressed site access one of which is shared with a retail site on Dequindre, rear-accessed garages, cluster of buildings, building height, floor plans and elevations. He identified site plan concerns relating to removal of two guest parking spaces, landscaping to break up long rows of guest parking and sidewalk connections.

Mr. Carlisle recommended that the Planning Commission grant Preliminary Site Plan approval with the conditions as identified in his report dated April 6, 2020.

Present were property owner Erion Nikolla and James Butler of Professional Engineering Associates (PEA).

Mr. Nikolla said if Phase 2 is granted approval, his intent is to merge both phases of the project dependent on construction target dates.

There was discussion on:

- Combining Phase 1 and Phase 2 as one project.
- Guest parking; number of spaces, landscaping to break up rows.
- Cross access easement; recorded agreement with retail for Phase 1. If phases are combined to one project, cross access easement is mute and no longer a Phase 1 requirement.

Ms. Ferencz reported there were no comments on the application received by email or voicemail.

**Resolution # PC-2020-04-020**

Moved by: Lambert

Support by: Faison

**RESOLVED**, That Preliminary Site Plan Approval, pursuant to Article 8 of the Zoning Ordinance, as requested for the proposed Square Lake Court Townhomes, 48 units, located South of Square Lake, West of Dequindre (PIN 88-20-12-200-025), Section 12, Zoned NN (Neighborhood Node "N"), be granted, subject to the following:

1. Remove the two (2) spaces that are termination of the access drive off Dequindre.
2. Provide necessary easement to Dequindre.
3. Increase all sidewalks to five (5) feet in width.
4. Provide continuous sidewalk around the perimeter of the site (connect the walk between Buildings H and J, Buildings K and L, and add a walk along easterly edge of site.
5. Add direction connection between Buildings J and K, G and F, D and E, and A and B to Square Lake.
6. Break up the two (2) long rows of parking with landscape peninsula and tree.

Yes: Apahidean, Crusse, Faison, Hutson, Krent, Lambert, Perakis, Rahman, Tagle

Note: Mr. Hutson remotely connected audibly but not visibly.

**MOTION CARRIED**

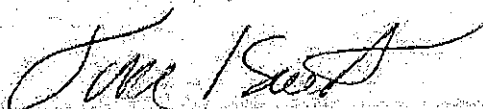
**OTHER ITEMS**

8. **PLANNING COMMISSION COMMENT**

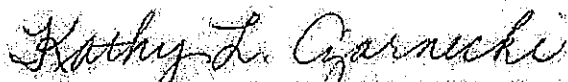
There were general Planning Commission comments. An all around thanks was given to the Information Technology and Cable departments for their technical assistance to conduct the remote meeting.

The remotely-conducted Regular meeting of the Planning Commission adjourned at 7:43 p.m.

Respectfully submitted,



Tom Krent, Chair



Kathy L. Czarniecki, Recording Secretary

## **EXHIBIT O**

**CWA Review dated 04/06/2020 – SLC Project**



**Carlisle | Wortman**  
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

Date: April 6, 2020

## **Preliminary Site Plan Review For City of Troy, Michigan**

**Applicant:** Eureka Builders  
**Project Name:** Square Lake Court  
**Plan Date:** February 6, 2020  
**Location:** South side of E. Square Lake, west of Dequindre  
**Zoning:** NN, Neighborhood Node  
**Action Requested:** Preliminary Site Plan Approval

### **SITE DESCRIPTION**

The subject site is located on the south side of E. Square Lake, west of Dequindre. The 3.0-acre site is Phase 2 of the recently approved Square Lake Court development. Phase 1 was approved on January 14 and included 14 units on 0.87 acres. The Planning Commission approval for Phase 1 included cross-access and guest parking. Phase 2 is immediately south of Phase 1 and incorporates those conditions of Phase 2.

Phase 2 includes a total of 48 units in 4 and 6-unit buildings, with the same architecture as approved as part of Phase 1. If approved, it is assumed that Phase 1 and Phase 2 will be combined into one project. Combining into one project will eliminate the need for cross-access easements and two separate homeowners' associations. Applicant should confirm if Phase 1 and Phase 2 will be combined into one project.

The property is zoned NN, Neighborhood Node residential and the proposed site condominium use is permitted by-right. The site will be accessed by one point on E. Square Lake, through Phase 1, and one point on Dequindre, through the existing shopping center. All forty-eight (48) units are served with parking in rear-accessed garages.





Size of Subject Property:

The parcel is 3.0 acres

Proposed Uses of Subject Parcel:

Forty-eight (48) attached townhomes

Current Use of Subject Property:

The subject property is currently unimproved and vacant.

Current Zoning:

The property is currently zoned NN, Neighborhood Node District

Surrounding Property Details:

Direction	Zoning	Use
North	NN, Neighborhood	Vacant
South	R1-C, Single-Family	Church
East	NN, Neighborhood Node	Neighborhood Commercial
West	R1-C, Single Family	Single Family Residential

**NATURAL FEATURES**

- Topography:** A topographic survey has been provided on sheet C-1.0 and shows that the site has a generally flat landscape.
- Wetlands:** There are no wetlands on site.
- Floodplain:** There are no floodplains onsite.
- Woodlands:** The applicant has identified a total of 20 woodland trees on the site, all of which will be removed.

Replacement Details		
Protected Tree	Inches Removed	Replacement Required
Landmark	0 inches	0 inches
Woodland	203 inches	102 inches
Preservation/Mitigation	Inches Preserved	Credit
Landmark	0 inches	0 inches
Woodland	0 inches	0 inches
Protected Replacement Required	102 Inches	
Preservation Credit	0 Inches	
<b>Total</b>	<b>102 inches</b>	
<b>Total Tree Mitigation</b>	102 inches = Forty-one 2.5 inch trees or thirty-four 3 inch trees.	

**Items to be addressed:** None.

**BUILDING ARRANGEMENT**

The site configuration consists of forty-eight (48) townhomes in eleven (11) building clusters. Building clusters include four (4) and six (6) units. All townhomes are served with garages. We find the proposed configuration suitable for the type and size of the development proposed.

**Items to be addressed:** None.

### AREA, WIDTH, HEIGHT, SETBACKS

Table 5.03.B.3, Building Form C of Section 5.03, Standards Applicable to All Districts of the Zoning Ordinance establishes the dimensional requirements for the NN, Neighborhood Node District. The requirements and proposed dimensions are shown in the following table.

	Required	Provided	Compliance
Side (east)	N/A, building may be placed up to property line	16 feet	Complies
Rear (west)	30-foot minimum setback	35 feet	Complies
Rear (south)	30-foot minimum setback	35 feet	Complies
Building Height	Maximum 4 stories, 55 feet, Minimum 2 stories	3 stories, 34'-10"	Complies
Lot Coverage (Building)	30%	21%	Complies
Minimum Open Space	20%	37%	Complies
Parking Location	Cannot be located in front yard	Within garages	Complies

**Items to be addressed:** None.

### PARKING

Section 13.06.G of the Zoning Ordinance requires:

	Required	Provided
Residential: 2 spaces per unit	48 Units = 96 spaces	96 garage spaces + 24 guest spaces = 120 spaces
Barrier Free	0	0
Bicycle Parking	0	0
Loading	0	0
<b>Total</b>	<b>96 spaces</b>	<b>96 spaces within garages and 24 guest spaces</b>

For Phase 2 the applicant is providing 2-car garages for a total of 96. In addition, the applicant is providing 24 guest spaces. Traffic Engineering has requested the applicant remove the two (2) spaces that are termination of the access drive off Dequindre. It is not desirable to have vehicles maneuvering into/out of parking spaces in this area.

For Phase 1 and Phase 2 there are a total of 38 guest spaces for the combined 54 units of Phase 1 and 2. Even with the loss of two (2) spaces, guest parking is sufficient.

**Items to be Addressed:** Remove the two (2) spaces that are termination of the access drive off Dequindre.

#### SITE ACCESS AND CIRCULATION

The site will be served with two access points. Point 1 is via a vehicular connection to Phase 1, which has a direct connection to E. Square Lake Road. A secondary point of access is through the existing stripmall on Dequindre. A cross-access easement will be required for access to Dequindre.

The fire department has reviewed the application and finds access and circulation sufficient. However, improved internal pedestrian circulation should be provided:

1. Sidewalks should be five (5) feet in width;
2. Provide continuous sidewalk around the perimeter of the site (connect the walk between Buildings H and J, Buildings K and L, and add a walk along easterly edge of site; and
3. Add direction connection between Buildings J and K, G and F, D, and E, and A and B to Square Lake.

**Items to be addressed:** 1). Provide necessary easement to Dequindre. 2. Sidewalks should be five (5) feet in width; 3). Provide continuous sidewalk around the perimeter of the site (connect the walk between Buildings H and J, Buildings K and L, and add a walk along easterly edge of site; and 4). Add direction connection between Buildings J and K, G and F, D, and E, and A and B to Square Lake.

#### LANDSCAPING

A landscaping plan has been provided on sheet L-1.0 and are supplemented by tree protection and planting details on sheet L-1.1. The following table discusses the development's compliance with the landscape requirements set forth in Section 13.02.

	Required:	Provided:	Compliance:
<u>Landscape buffering (east property line)</u>	1 large evergreen every 10 feet or 1 narrow evergreen every 3 feet. $330 / 10 = 33$ trees	33 evergreen screening trees	Complies
<u>Landscape buffering (south property line)</u>	Not Applicable	Existing Wall	Complies
<u>Landscape buffering (west property line)</u>	Not Applicable	Deciduous Trees	Complies
<u>Parking Lot Trees</u>	1 per 8 spaces = 38 spaces / 8 = 5 trees	5 trees but located on perimeter of parking spaces	Complies with Planning Commission approval.
<u>Site landscaping:</u> A minimum of twenty percent (20%) of the site area shall be comprised of landscape material. Up to twenty-five percent (25%) of the required	20%	30%	Complies

landscape area may be brick, stone, pavers, or other public plaza elements, but shall not include any parking area or required sidewalks.			
<u>Mitigation:</u>	Applicant is providing the required 34 replacement trees on site.		

Though the applicant complies with the number of parking lot trees, there are two (2) long rows with parking, one on Phase 1 and the other as part of Phase 2, that should be broken up with landscape peninsula and tree.

**Transformer / Trash Enclosure:**

The applicant has not indicated a central trash enclosure. It is assumed that each unit will have trash bins in the garage to be rolled out for trash pickup.

**Items to be Addressed:** Break up the two (2) long rows of parking with landscape peninsula and tree.

**PHOTOMETRICS**

A photometric plan has been provided. All photometrics and fixture meet ordinance requirements.

**Items to be Addressed:** None.

**FLOOR PLAN AND ELEVATIONS**

Floor plans and elevations have been provided. The primary material for the elevations are hardi board siding and a brick material.

The applicant has provided a bird eye view but they should provide additional 3D models to review the site in context. In addition, the applicant should bring a material samples to the meeting.

**Items to be Addressed:** 1). Provide additional 3D models to review the site in context; and 2). Bring physical material samples to the meeting.

**DESIGN STANDARDS and SITE PLAN REVIEW STANDARDS**

The Neighborhood Node design standards as well as Site Plan review standards provide the Planning Commission with direction when reviewing the proposed site plan and design features of this development.

Section 5.06.E. outlines Design Standards:

1. Building Orientation and Entrance
2. Ground Story Activation
3. Transitional Features
4. Site Access, Parking, and Loading

Please see Section 5.06.E for standard details.

We find that the design standards have been met. The applicant is providing a hardi board and brick product with architectural details on all elevations.

Section 8.06 outlines Site Plan Review Design Standards.

1. *Development shall ensure compatibility to existing commercial districts and provide a transition between land uses.*
2. *Development shall incorporate the recognized best architectural building design practices.*
3. *Enhance the character, environment and safety for pedestrians and motorists.*

Please see Section 8.06 for standard details

The applicant is providing a medium density multiple family residential project. As far as site layout, access, and circulation the site plan meets the site plan review standards.

**RECOMMENDATION**

Applicant should confirm if Phase 1 and Phase 2 will be combined into one project, and provide additional 3D models to review the site in context; and bring physical material samples to the meeting.

We recommend that the Planning Commission grant preliminary site plan approval with the following conditions:

1. *Remove the two (2) spaces that are termination of the access drive off Dequindre.*
2. *Provide necessary easement to Dequindre.*
3. *Increase all sidewalks to five (5) feet in width.*
4. *Provide continuous sidewalk around the perimeter of the site (connect the walk between Buildings H and J, Buildings K and L, and add a walk along easterly edge of site.*
5. *Add direction connection between Buildings J and K, G and F, D, and E, and A and B to Square Lake.*
6. *Break up the two (2) long rows of parking with landscape peninsula and tree.*
7. *Make any additional architecture changes based on Planning Commission input.*

Sincerely,



**CARLISLE/WORTMAN ASSOC., INC.**  
**Benjamin R. Carlisle, LEED AP, AICP**

**EXHIBIT P**

**CWA Conditional Re-Zoning, Site Plan Review  
of Long Lake Square dated 01/24/2019**



**Carlisle | Wortman**  
ASSOCIATES, INC.

117 NORTH FIRST STREET SUITE 70 ANN ARBOR, MI 48104 734.662.2200 734.662.1935 FAX

Date: November 29, 2018  
January 24, 2019

**Conditional Rezoning, Site Plan Review  
and Special Use Approval (Building Form)  
For  
City of Troy, Michigan**

<b>Applicant:</b>	Robertson Brothers
<b>Project Name:</b>	Long Lake Square
<b>Location:</b>	Southside of Long Lake Road, west of Livernois
<b>Plan Date:</b>	January 18, 2019
<b>Current Zoning:</b>	R1-B, One Family Residential
<b>Requested Zoning:</b>	NN, Neighborhood Node
<b>Action Requested:</b>	Conditional Rezoning, Preliminary Site Plan Approval, and Special Use (building form) Approval

**BACKGROUND**

The applicant is seeking a conditional rezoning, site plan approval, and special use (building form) approval to develop a twenty-seven (27) unit site condominium development. The 1.88-acre site is currently two (2) separate parcels, zoned R1-B. All units will be accessed off one curb cut on Long Lake Road.

This is the same site that was proposed for a self-storage facility and small retail building. The self-storage facility and small retail building was recommended for approval by the Planning Commission but was denied by the City Council.

The applicant is seeking the following approvals:

- Conditionally rezone the parcels to Node M, NN, Neighborhood node, Site Type A. A condition of approval is the site plan.

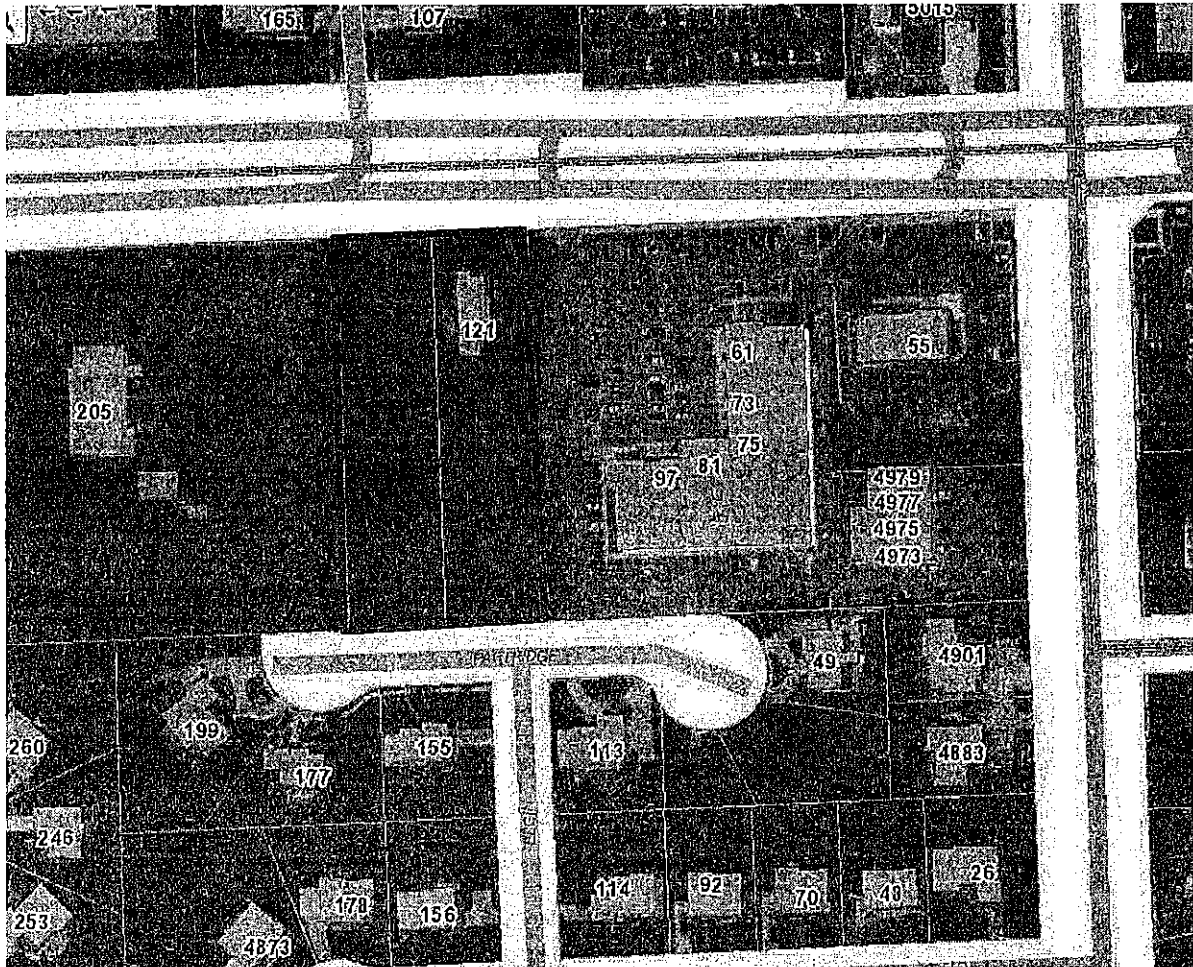


Long Lake Square  
January 24, 2019

- Preliminary Site Plan
- Special Use for Building Form C. Building Form C, attached residential, requires a Special Use in this neighborhood node.

Location of Subject Property:

Southside of Long Lake Road, west of Livernois



Size of Subject Property:

The total development is 1.88 acres in area.

Current Use of Subject Property:

The subject site is currently improved with one (1) single-family home.

Current Zoning:

R1-B, One Family Residential

**Surrounding Zoning and Uses:**

A table summarizing zoning and uses of the adjacent properties is as follows:

Direction	Zoning	Use
North	RT One Family Attached	Medium Density Residential
South	R-1B	Single Family Residential
East	Neighborhood Node M	General Business
West	R-1B	Single Family Residential, Community Facilities

**MASTER PLAN**

The site is located within the area designated as Neighborhood Node in the Master Plan. Neighborhood Nodes are the concentrated commercial and mixed-use centers situated at major intersections of Troy thoroughfares that serve as the retail centers intended to serve the adjacent neighborhoods.

The Neighborhood Nodes are centered on major road intersections where commercial and office development occurs. The Neighborhood Nodes are destinations that draw people, and visually distinguished from the balance of corridor strips through greater density and scale. The nodes provide uses and spaces that attract and welcome neighborhood residents.

Nodes should be generally confined to a 1,000-foot radius from a major intersection. Variation in building height will often be used to separate the node from the surrounding area but will not be so extreme as to visually overpower abutting neighborhoods.

For Neighborhood Node M specifically: *M should remain, predominantly commercial, catering to local needs and regional traffic, new development and redevelopment should be mostly commercial and should serve to further enhance this successful commercial area. Opportunities for integrated residential or office development should be considered only when clearly secondary to commercial development.*

As noted, this is the same site that was proposed for a self-storage facility and small retail building. The self-storage facility and small retail building was recommended for approval by the Planning Commission but was denied by the City Council.

While the Master Plan for this specific node notes a desire for development and redevelopment as commercial, in public hearing discussions, a number of neighbors expressed that if developed, it should be developed as residential.

#### **PREVIOUS PLANNING COMMISSION REVIEW**

The item was last considered by the Planning Commission on December 11, 2018. Please see our November 29, 2018 memo to see a detailed review. At the Planning Commission meeting based on our review and public comments, the Planning Commission discussed:

- Height, density, site arrangement, architectural design.
- Compatibility with existing neighborhood.
- Transitional use as relates to Master Plan.
- Lack of site amenities.
- Snow removal.
- Connectivity between development and existing single family residential.

The item was postponed to allow the applicant to address identified issues, specifically proposed height, overall site arrangement, and lack of open space.

#### **CHANGES SINCE LAST REVIEW**

Since the last review, the applicant has made the following changes to the plan:

- Reduced the proposed number of units from 30 to 27
- Reconfigured site by shifting townhomes that were perpendicular to parallel to the western property line
- Removed driveway along the southern property line
- Increased rear yard building setback
- Preserved wetland and provide open space in southwest corner of site
- Added community gathering space
- Reduced proposed height to 30-feet
- Provided a complete tree survey
- Added two additional guest parking spaces

We find that the applicant's revised plans address the concerns raised in our previous review and Planning Commission comments including reducing height, reconfiguring site, and adding project open space and amenities.

## PROPOSED DEVELOPMENT VS. BY-RIGHT

The applicant is seeking to rezone from R-1B, One Family Residential to NN, Neighborhood Node in order to develop a denser, more urban style of development.

The stated intent of the NN, Neighborhood Node is as follows:

### SECTION 5.06 NEIGHBORHOOD NODE DISTRICT

*The Neighborhood Nodes (NN) District is derived from the 2008 City of Troy Master Plan, which specifically identifies 21 specific intersections that play a critical role in the daily function, image, quality of life, and continued viability of the City. These nodes vary widely in character, but share common characteristics.*

*Neighborhood Nodes are meant to serve as the core of the "economic neighborhoods" of Troy identified in the Master Plan. Economic neighborhoods are destinations created as "go to" places that take on a social role, serving both as a place to meet basic needs of the community and as 21st century village centers, which can include integrated residential development.*

*The Neighborhood Nodes should draw people and should be visually distinguished from the surrounding area because of their greater intensity, density and design. Design techniques such as the variation of building height shall be encouraged by these regulations to help separate the Node from the surrounding area. Such variations, however, will respect the adjacent neighborhoods and will not be so extreme as to visually overpower transitional or residential areas.*

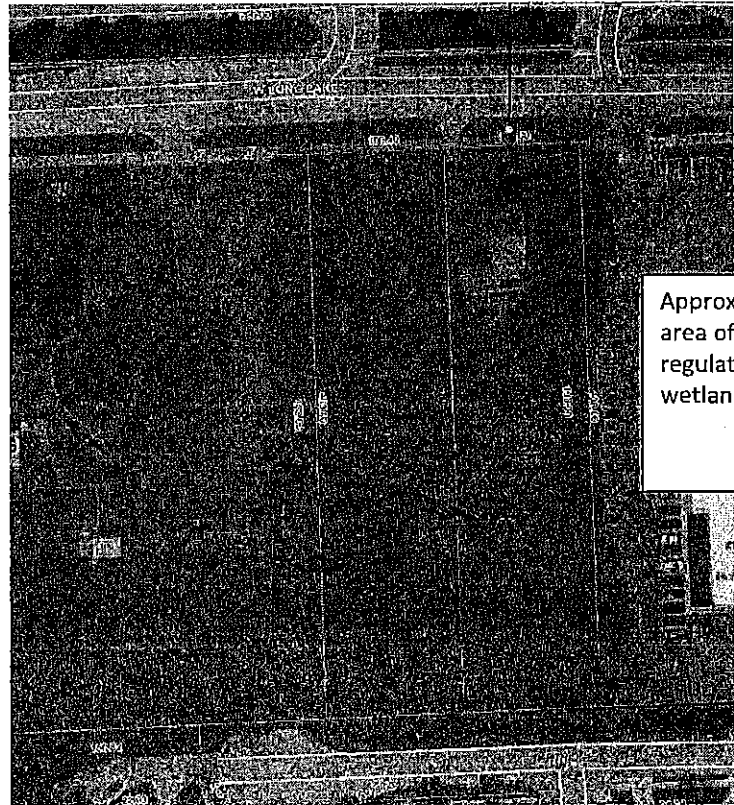
The table below outlines the development differences of the proposed plan versus what could be done by-right under the current zoning:

	By-Right R-1B Zoning	Proposed by applicant if rezoned to NN Zoning
Density	15,000 sq/ft per unit (2.9 units an acre).	1.88 acres / 27 units = 14.36 units an acre
Height	2.5 stories or 30 feet	2.5 stories, 30 feet
Setbacks	Front: 40 feet Sides: 10 feet Rear: 45 feet	Front: 30 feet Sides: 15 feet Rear: 45 feet

## NATURAL FEATURES

### Wetland

The site includes two non-regulated wetlands. Wetland A is approximately 10,000 sq/ft and Wetland B is approximately 1,000 sq/ft. the applicant proposes to preserve a significant portion of Wetland A. Wetland B will be removed. Much of Wetland A will be maintained.



### Tree Mitigation

The site has significant tree cover. However, most of the trees are identified as invasive and non-regulated such as American Elm, Silver Maple, and Cottonwood. The applicant has identified a total of three (3) landmark trees and they propose to remove all three (3).

Replacement Details		
Protected Tree	Inches Removed	Replacement Required
Landmark	61 inches	61 inches
Woodland	41 inches	41 inches
Preservation/Mitigation	Inches Preserved	Credit
Landmark	0 inches	0 inches
Woodland	0 inches	0 inches
Protected Replacement Required	102 Inches	
Preservation Credit	0 Inches	
<b>Total</b>	<b>102 inches</b>	

<b>Total Tree Mitigation</b>	Requires 102 inches = 41 trees at 2.5-inch caliper

The required trees are provided on site.

**Items to be Addressed:** None

#### **SITE ARRANGEMENT**

The development is arranged to accommodate twenty-seven (27) attached residential units. As required the buildings are placed at the Long Lake build-to-line in order to create a unified streetwall and better screen the parking and circulation areas.

**Items to be Addressed:** None

#### **AREA, WIDTH, HEIGHT, SETBACKS**

##### Required and Provided Dimensions:

Table 5.03.B.3 establishes the requirements for Building Form C. The requirements and the proposed dimensions are as follows:

	<u>Required / Allowed:</u>	<u>Provided:</u>	<u>Compliance:</u>
Front build-to-line	10 feet	30 feet	Planning Commission may grant a setback up to 30-feet
Rear	30 feet	45 feet	Complies
Side	0-feet	15 feet	Complies
Maximum Height	4 stories, 55 feet	30 feet	Complies
Maximum Lot Area Covered by Buildings	30%	Unknown %	Complies

The development meets all Building Form C dimensional requirements.

**Items to be Addressed:** None

#### **SITE ACCESS AND CIRCULATION**

All units are accessed off a new private driveway off Long Lake Road. Vehicular circulation and access have been reviewed and approved by the Engineering Department and Fire Department. The applicant has added internal walks along the western side of the eastern most buildings.

**Items to be Addressed:** None

## PARKING

Section 13.06.G of the Zoning Ordinance requires:

Residential	Required	Provided
2 Spaces per unit	2 spaces x 27 units= 54 spaces	27 spaces in 2 car garages and 14 guest spaces = 68 spaces

The applicant has provided the necessary parking.

*Items to be Addressed: None*

## LANDSCAPING

Site condominium and subdivision landscaping are regulated by Section 13.02.F.2.

	Required	Provided	Compliance
Long Lake Screening	One evergreen tree for every 30 lineal feet. 200 feet = 7 trees	9 trees on Long Lake	Compliant
Partridge Drive screening	One evergreen tree for every 30 lineal feet. 200 feet = 7 trees	19 (4 existing and 15 new)	Complaint
Site landscaping:	15% = 12,283 sq/ft	26,000 sq/ft (33%)	Compliant

### Transformer / Trash Enclosure:

The applicant has indicated that each unit will have trash bins in the garage and roll out for trash pickup.

*Items to be Addressed: None*

## STORMWATER DETENTION

The applicant is proposing an unground stormwater detention within the parking lot.

*Items to be Addressed: None.*

## ELEVATIONS

The applicant has submitted elevations, floor plans and color renderings. A list of exterior materials is included in the application.

The applicant has provided a site perspective from Long Lake to better visualize the proposed development in context of the surrounding areas.

**Items to be Addressed:** *Submit elevations*

#### **TRAFFIC STUDY**

The applicant has submitted a traffic study which was reviewed by the City's traffic consultant, OHM. IN their review OHM recommends approval of the rezoning traffic study.

OHM notes that *the traffic study shows that the proposed 30-unit multi-family development will generate slightly more traffic than would be expected if the site were to remain R-1B zoning. During the PM peak hour ("evening rush hour"), it is expected the conditional rezoning would result in an additional 14 trips compared to the existing zoning.*

**Items to be addressed:** *None*

#### **PHOTOMETRICS**

The applicant is proposing building lights. The fixtures and photometrics meet all ordinance requirements.

**Items to be Addressed:** *None*

#### **DESIGN STANDARDS**

The Neighborhood Node design standards provide the Planning Commission with direction when reviewing the proposed design features of this development:

##### Building Orientation and Entrance

- a. *Primary Entrance: The primary building entrance shall be clearly identifiable and useable and located in the front façade parallel to the street.*

##### ***The entrance is indefinable and useable form Long Lake Road***

- b. *Recessed Doorways. Where the building entrance is located on or within five (5) feet of a lot line, doorways shall be recessed into the face of the building.*
- c. *Residential Dwellings. Entrances for all residential dwellings shall be clearly defined by at least one (1) of the following:*
  - i. *Projecting or recessed entrance. A recessed entrance is required if the building entrance is located on or within five (5) feet of the lot line.*
  - ii. *Stoop or enclosed or covered porch.*
  - iii. *Transom and/or side light window panels framing the door opening.*
  - iv. *Architectural trim or unique color treatments framing the door opening*

***Residential entrances use a covered porch and architectural trim to identify the entrance.***



Ground Story Activation

- a. *The first floor of any front façade facing a right-of-way shall be no less than fifty (50) percent windows and doors, and the minimum transparency for facades facing a side street, side yard, or parking area shall be no less than 30 percent of the façade. Transparency alternatives are permitted up to 80% of the 50% total along the front of buildings, and up to 100% of the sides of buildings. The minimum transparency requirement shall apply to all sides of a building that abut an open space, including a side yard, or public right-of-way. Transparency requirements shall not apply to sides which abut an alley.*

***The applicant should provide the transparency calculation on the elevations.***

Transitional Features

- a. *Transitional features are architectural elements, site features, or alterations to building massing that are used to provide a transition between higher intensity uses and low- or moderate-density residential areas. These features assist in mitigating potential conflicts between those uses. Transitional features are intended to be used in combination with landscape buffers or large setbacks.*

***The applicant proposes to use a creative site layout, provision of open space and site amenities, landscaping, and architectural features on the building to serve as a transition between the single-family residential to the south and commercial to the east and Long Lake Road to the north.***

Site Access and Parking

- a. *Required Parking. Off-street parking shall be provided in accordance with the standards set forth in Article 13, Site Design Standards.*

*Location.*

- I. *When parking is located in a side yard (behind the front building line) but fronts on the required building line, no more than fifty (50) percent of the total site's linear feet along the required building line or one hundred (100) feet, whichever is less, shall be occupied by parking.*
- II. *For a corner lot, shall be no more than fifty (50) percent of the site's cumulative linear feet along the required building lines or one hundred (100) feet, whichever is less, shall be occupied by parking. The building shall be located in the corner of the lot adjacent to the intersection.*
- III. *For a double frontage lot or a lot that has frontage on three (3) streets, the cumulative total of all frontages occupied by parking shall be no more than sixty-five (65) percent of the total site's linear feet along a required building line or one hundred and twenty-five (125) feet, whichever is less.*
- IV. *Where off-street parking is visible from a street, it should be screened in accordance with the standards set forth in Section 13.02.C.*

***The applicant is providing the required parking.***

## **STANDARDS**

There are three sets of standards that the Planning Commission is to consider when reviewing the application: 1). Conditional Rezoning; 2). Special Use for Building-Form C; and 3). Form-Based District Design Standards.

### **Conditional Rezoning:**

Conditional rezoning standards are set forth in Section 16.04.C.3:

- a. *The conditions, proposed development, and/or proposed use of the land are designed or proposed for public health, safety, and welfare purposes.*
- b. *The conditions, proposed development and/or proposed use are not in material conflict with the Master Plan, or, if there is material conflict with the Master Plan, such conflict is due to one of the following:*
  1. *A change in City policy since the Master Plan was adopted.*
  2. *A change in conditions since the Master Plan was adopted.*
  3. *An error in the Master Plan.*
- c. *The conditions, proposed development and/or proposed use are in accordance with all terms and provisions of the zoning district to which the land is to be rezoned, except as otherwise allowed in the Conditional Rezoning Agreement.*
- d. *Public services and facilities affected by a proposed development will be capable of accommodating service and facility loads caused by use of the development.*
- e. *The conditions, proposed development and/or proposed use shall insure compatibility with adjacent uses of land.*

### **Special Use:**

Section 9.03 states that before approving any requests for Special Use Approval, the Planning Commission shall consider:

1. *Compatibility with Adjacent Uses. The Special Use shall be designed and constructed in a manner harmonious with the character of adjacent property and the surrounding area. In determining whether a Special Use will be harmonious and not create a significant detrimental impact, as compared to the impacts of permitted uses.*
2. *Compatibility with the Master Plan. The proposed Special Use shall be compatible and in accordance with the goals and objectives of the City of Troy Master Plan and any associated sub-area and corridor plans.*
3. *Traffic Impact. The proposed Special Use shall be located and designed in a manner which will minimize the impact of traffic, taking into consideration: pedestrian access and safety; vehicle trip generation (i.e. volumes); types of traffic, access location, and design, circulation and parking design; street and bridge capacity and, traffic operations at nearby intersections and access points. Efforts shall be made to ensure that multiple transportation modes are safely and effectively accommodated in an effort to provide alternate modes of access and alleviate vehicular traffic congestion.*

4. *Impact on Public Services. The proposed Special Use shall be adequately served by essential public facilities and services, such as: streets, pedestrian or bicycle facilities, police and fire protection, drainage systems, refuse disposal, water and sewage facilities, and schools. Such services shall be provided and accommodated without an unreasonable public burden.*
5. *Compliance with Zoning Ordinance Standards. The proposed Special Use shall be designed, constructed, operated and maintained to meet the stated intent of the zoning districts and shall comply with all applicable ordinance standards.*

We find that the application has meet the required standards for the following reasons:

1. The use of the site for residential is not contrary to the Master Plan and was an expressed use publicly by adjacent neighbors.
2. The applicant proposes to use a creative site layout, provision of open space and site amenities, landscaping, and architectural features on the building to serve as a transition between the single-family residential to the south and commercial to the east and Long Lake Road to the north.
3. The site can be served by public services.
4. The proposed condition of the site plan insures compatibility to adjacent uses of land and provides guarantee of the future use of the site.
5. The proposed development shall have minimum impacts on traffic.

#### **SUMMARY OF FINDINGS**

We find that the applicant's revised plans address the concerns raised in our previous review and Planning Commission comments including reducing height, reconfiguring site, and adding project open space and amenities. As such we find that the required standards have been met.

We recommend that the Planning Commission recommend rezoning, special use, and preliminary site plan approval.



CARLISLE/WORTMAN ASSOC., INC.

Benjamin R. Carlisle, LEED AP, AICP

## **EXHIBIT Q**

### **Section 5.06 of the Zoning Ordinance**

**SECTION 5.06****NEIGHBORHOOD NODES DISTRICT**

- A. Intent. The Neighborhood Nodes (NN) District is derived from the 2008 City of Troy Master Plan, which specifically identifies 21 specific intersections that play a critical role in the daily function, image, quality of life, and continued viability of the City. These nodes vary widely in character, but share common characteristics.

Neighborhood Nodes are meant to serve as the core of the "economic neighborhoods" of Troy identified in the Master Plan. Economic neighborhoods are destinations created as "go to" places that take on a social role, serving both as a place to meet basic needs of the community and as 21st century village centers, which can include integrated residential development.

The Neighborhood Nodes should draw people, and should be visually distinguished from the surrounding area because of their greater intensity, density and design. Design techniques such as the variation of building height shall be encouraged by these regulations to help separate the Node from the surrounding area. Such variations, however, will respect the adjacent neighborhoods and will not be so extreme as to visually overpower transitional or residential areas.

The success of the Neighborhood Nodes will play a critical role in the protection and cultivation of a high quality of life in Troy.

B. Regulating Plan.

1. The regulating plan, as set forth in Figure 5.06.1, identifies allowable uses and permissible development within the District based on location.
2. The regulating plan is based on two (2) factors: Site Type and Street Type. Site Types, as described in Section 5.06.B.3, are determined by lot size, location, and relationship to neighboring sites. Street Types, as set forth in Section 5.06.B.4, recognize that street patterns within the City of Troy are established. Streets range from primary corridors which carry a large volume of traffic to local streets which convey lower volumes of neighborhood traffic.
3. Site Types. The regulating plan includes two (2) different site types, described as follows:
  - a. Site Type NN:A (high intensity, predominantly commercial, regionally visible) – These sites are predominantly located directly on major arterial roads, have larger acreage than their Site Type NN:B counterparts, and have established driveways, cross access, and larger square footage existing buildings with commercial uses. The NN:A category is meant to accommodate the most ambitious redevelopment within the Nodes, as they typically have the prime

location and the size to allow for the most creative solutions for mixed use and node-specific development as outlined in the Master Plan.

While the established and intended character of each Node is distinct, the NN:A sites remain more similar to one another than do the NN:B sites, which are far more diverse in terms of use, acreage, and existing buildings. While the NN:B sites are intended primarily to provide a transition between the Node and the adjacent residential areas, the NN:A sites are intended to house the destination retail, service, and employment uses that are central to the economic neighborhoods outlined by the Master Plan. These NN:A sites may also often incorporate higher-density residential development on upper floors when possible, to incubate a compact, walkable environment at the Node and to diversity the City's housing base.

- b. Site Type NN:B (transitional smaller scale, employment based, mixed use)  
– Site Type NN:B consolidates the smaller, diverse sites at and around Nodes throughout the City. They are located both in support of NN:A sites as transitional areas between more intense Nodes and the adjacent neighborhoods, and on their own, covering an entire Node, for those Nodes identified in the Master Plan as less intense, smaller scale Nodes with a direct connection to a residential area.

While not always present between NN:A sites and residential neighborhoods, when possible or preferable based on the parcel arrangement and existing circumstances, the NN:B category allows the Node to develop in a tiered manner, with more intense developments and uses permitted within the core of the Node, and less intense projects providing a buffer for the residential area.

NN:B sites may contain a variety of uses, including residential at grade, in a higher-density arrangement, but may also include small scale retail and service or office uses. A strong focus on transitional landscaping and a suitable connection to the neighboring residential areas is of critical concern for the NN:B sites, as they will often serve as the primary zone through which residents in a social neighborhood, as identified in the Master Plan, engage the Node, which serves as the core of the economic neighborhood.

4. Street Types. The regulating plan includes two (2) different Street Types, described as follows:

- a. Street Type NN:A (Arterials) – Category NN:A is meant for the main north-south and east-west roads that intersect at each of the twenty-one (21) neighborhood nodes. These roads are characterized by high traffic volumes and few individual residential curb cuts. They accommodate the majority of the regional traffic through Troy, connect Troy with its adjacent communities, and serve as the primary framework for circulating throughout the City.

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The intersections of these arterial roads present opportunities to cultivate highly visible, highly used areas that connect the various elements of the City, and bridge the gap between the residential portions of Troy with the major corridors, commercial areas, employment centers, and adjacent communities of Troy.

These roads will evolve over time to form "complete streets" which continue to accommodate regional traffic, but also cater to the emerging neighborhood nodes at their intersections. These roads and intersections will have well-defined crosswalks, and will make use of a series of features intended to protect pedestrians by establishing equity between pedestrians and motorists through effective design. Raised walks of high-quality materials, signage, landscaping, and pedestrian respite islands are several options that may be found within Category NN:A.

Arterial Roads will also be characterized by strong landscaping designed to mitigate the negative impacts of high traffic volumes from adjacent residential areas which provide a unique and memorable visual character for the roadway.

- b. Street Type NN:B (Local/Collector) – Category NN:B roads are those roads tying together smaller areas and connecting various parts of individual developments within the Nodes. Either as public or private streets, NN:B streets will have a more varied and localized character than larger roads, depending on their context within predominantly office, retail, or residential areas.

They act as the connection between the Node and adjacent neighborhoods. Very few examples of streets identified as NN:B streets exist in Troy, but they can also be developed as part of a larger project in the NN District, which may require new streets to be created to adequately and successfully implement the project. It is likely that any new road in the NN District will be a Category NN:B road.

Category NN:B roads will be very welcoming of non-motorized users and will have defined pedestrian rest areas and other amenities whenever possible. Their scale will be similar to that of a main road within a conventional subdivision or industrial park, and their width will be determined primarily on their purpose. A Category NN:B road within an industrial area may be required to be wider than one in a residential area, although their purpose is similar.

Category NN:B roads will have a much higher frequency of curb cuts than Category NN:A roads, and will often provide direct rear or side yard access to retail centers, office complexes, or high density residential projects.

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Sufficient width should be retained on either side of the roadway whenever possible to allow for on-street parking to ensure that a variety of local parking options exist to directly serve the Nodes without requiring significant surface lots on private property.

C. Authorized Use Groups. Authorized use groups, as set forth in Section 5.03.A and in Table 5.06.C-1, are applied to the site types and street types in Neighborhood Nodes District in Table 5.06.C-1.

D. Authorized Building Forms. Authorized building forms, as set forth in Section 5.03.B and Table 5.06.C-2, is applied to the site types and street types in the Neighborhood Nodes District in Table 5.06.C-2.

E. Design Standards. In addition to standards set forth in this Ordinance, all proposed development shall comply with the standards set forth herein.

1. Building Orientation and Entrance.

- a. Primary Entrance. The primary building entrance shall be clearly identifiable and useable and located in the front façade parallel to the street.
- b. Recessed Doorways. Where the building entrance is located on or within five (5) feet of a lot line, doorways shall be recessed into the face of the building to provide a sense of entrance and to add variety to the streetscape. The entrance recess shall not be less than the width of the door(s) when opened outward.
- c. Residential Dwellings. Entrances for all residential dwellings shall be clearly defined by at least one (1) of the following:
  - i. Projecting or recessed entrance. A recessed entrance is required if the building entrance is located on or within five (5) feet of the lot line.
  - ii. Stoop or enclosed or covered porch.
  - iii. Transom and/or side light window panels framing the door opening.
  - iv. Architectural trim or unique color treatments framing the door opening.

2. Ground Story Activation.

a. Transparency.

- i. The first floors of all buildings shall be designed to encourage and complement pedestrian-scale activity and crime prevention techniques. It is intended that this be accomplished principally by the use of windows



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and doors arranged so that active uses within the building are visible from or accessible to the street, and parking areas are visible to occupants of the building. The first floor of any front façade facing a right-of-way shall be no less than fifty (50) percent windows and doors, and the minimum transparency for facades facing a side street, side yard, or parking area shall be no less than 30 percent of the façade. The Planning Commission may waive this requirement for projects requiring site plan approval when an existing building with unique or historic attributes that help define the character of the node, as determined by the Planning Commission, is being reused.

- ii. The minimum transparency requirement shall apply to all sides of a building that abut an open space, including a side yard, or public right-of-way. Transparency requirements shall not apply to sides which abut an alley.
  - iii. Windows for building sides shall be concentrated toward the front edge of the building, in locations most visible from an urban open space or public right-of-way.
- b. Transparency Alternatives. The following alternatives may be used singularly or in combination. If used in combination, they may count toward no more than eighty (80) percent of the transparency requirement set forth in Section 5.04 E-4. The wall design alternative may count toward one hundred (100) percent of the side street transparency requirement, provided the entirety of the length and height of the wall is considered.
- i. Wall Design. Wall designs that provide visual interest and pedestrian scale may count toward no more than fifty (50) percent of primary street and fifty (50) percent of side street transparency requirements. Wall designs must provide a minimum of three (3) of the following elements, occurring at intervals no greater than twenty-five (25) feet horizontally and ten (10) feet vertically:
    - (a) Expression of structural system and infill panels through change in plane not less than three (3) inches.
    - (b) System of horizontal and vertical scaling elements such as: belt course, string courses, cornice, pilasters.
    - (c) System of horizontal and vertical reveals not less than one (1) inch in width/depth.
    - (d) Variations in material module, pattern, and/or color.
    - (e) System of integrated architectural ornamentation.

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(f) Green screen or planter walls.

(g) Translucent, fritted, patterned, or colored glazing.

- ii. Outdoor Dining/Seating. Outdoor dining/seating located between the building and the primary street zone lot line may count toward no more than sixty (60) percent of the transparency requirement. Outdoor dining/seating located between the building and side street zone lot line may count toward no more than eighty (80) percent of the transparency requirement.
- iii. Permanent Art. Non-commercial art or graphic design of sufficient scale and orientation to be perceived from the public right-of-way and rendered in materials or media appropriate to an exterior, urban environment and permanently integrated into the building wall may count toward no more than forty (40) percent of the transparency requirement.

### 3. Transitional Features.

- a. Transitional features are architectural elements, site features, or alterations to building massing that are used to provide a transition between higher intensity uses and low- or moderate-density residential areas. These features assist in mitigating potential conflicts between those uses. Transitional features are intended to be used in combination with landscape buffers or large setbacks.
- b. Intensity. A continuum of use intensity, where moderate intensity uses are sited between high-intensity uses and low-intensity uses, shall be developed for multi-building developments. An example would be an office use between commercial and residential uses.
- c. Height and Mass. Building height and mass in the form of building step-backs, recess lines or other techniques shall be graduated so that structures with higher intensity uses are comparable in scale with adjacent structures of lower-intensity uses.
- d. Orientation. Primary building facades shall be placed away from the residential use.
- e. Architectural Features. Similarly sized and patterned architectural features such as windows, doors, arcades, pilasters, cornices, wall offsets, building materials, and other building articulations included on the lower-intensity use shall be incorporated in the transitional features.

### 4. Site Access, Parking, and Loading.

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- a. Required Parking. Off-street parking shall be provided for a principal use, erected, altered, or expanded after the effective date of this Ordinance in accordance with the standards set forth in Article 13, Site Design Standards.

The form-based districts are intended to encourage pedestrian- and transit-friendly design and compact mixed-use developments. Applicants are encouraged to consider the provisions for shared parking set forth in Section 13.06.E, and flexibility in application set forth in Section 13.06.F.

- b. Location.

- i. When parking is located in a side yard (behind the front building line) but fronts on the required building line, no more than fifty (50) percent of the total site's linear feet along the required building line or one hundred (100) feet, whichever is less, shall be occupied by parking.
- ii. For a corner lot, shall be no more than fifty (50) percent of the site's cumulative linear feet along the required building lines or one hundred (100) feet, whichever is less, shall be occupied by parking. The building shall be located in the corner of the lot adjacent to the intersection.
- iii. For a double frontage lot or a lot that has frontage on three (3) streets, the cumulative total of all frontages occupied by parking shall be no more than sixty-five (65) percent of the total site's linear feet along a required building line or one hundred and twenty-five (125) feet, whichever is less.
- iv. Where off-street parking is visible from a street, it should be screened in accordance with the standards set forth in Section 13.02.C.

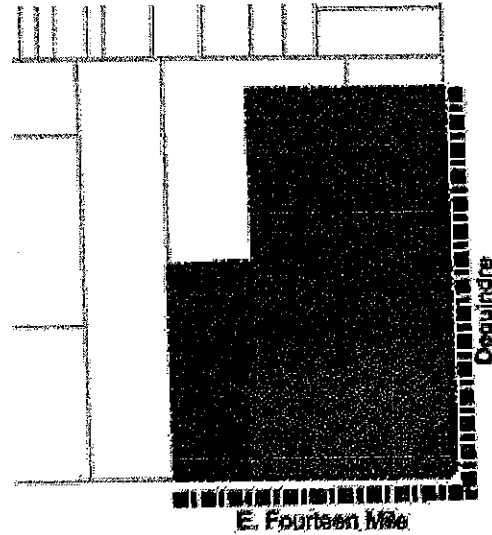
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**Map 5.06.1: Neighborhood Node District Regulating Plan**

**Legend**



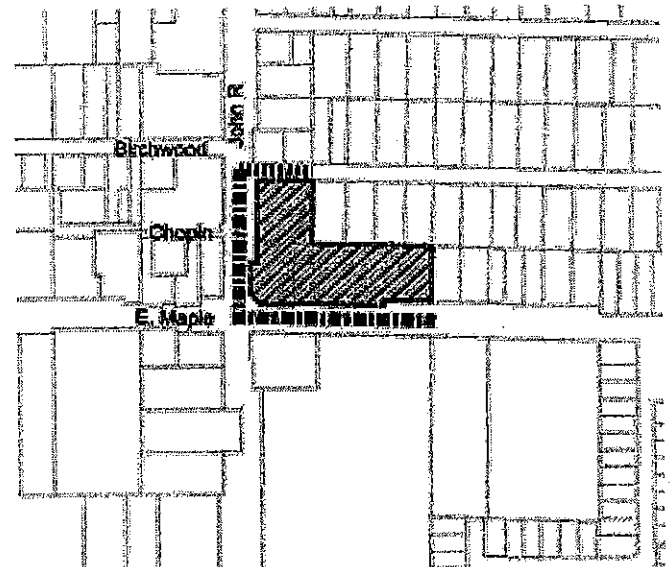
**Node A**



**Node B**

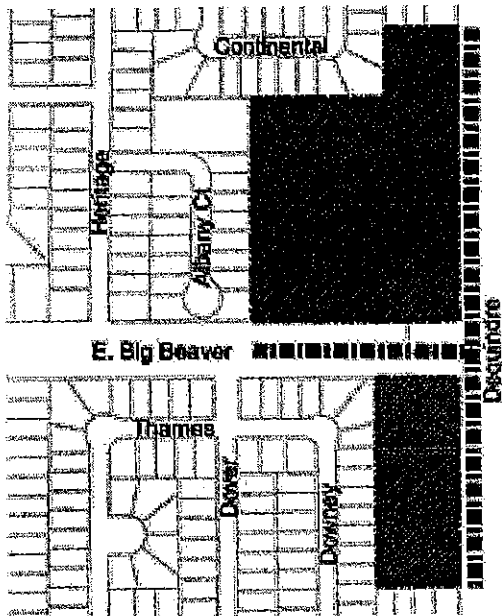


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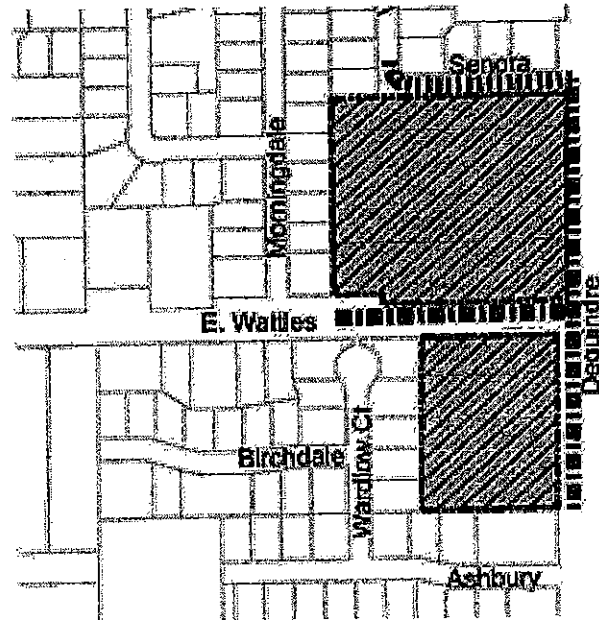


**Map 5.06.1: Neighborhood Node District Regulating Plan (Continued)**

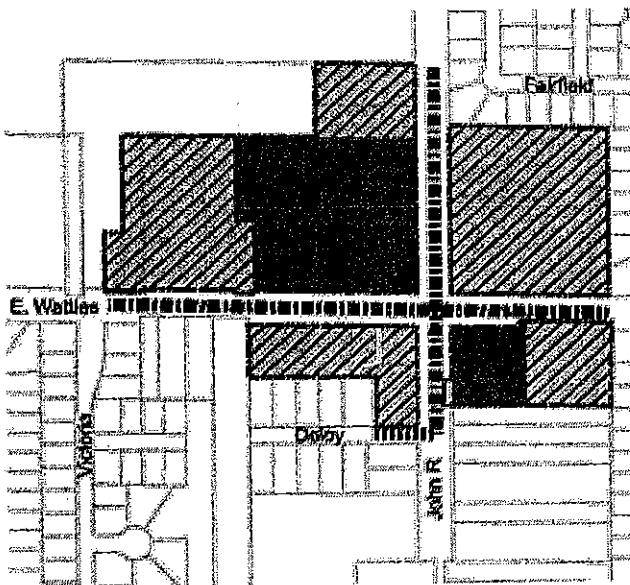
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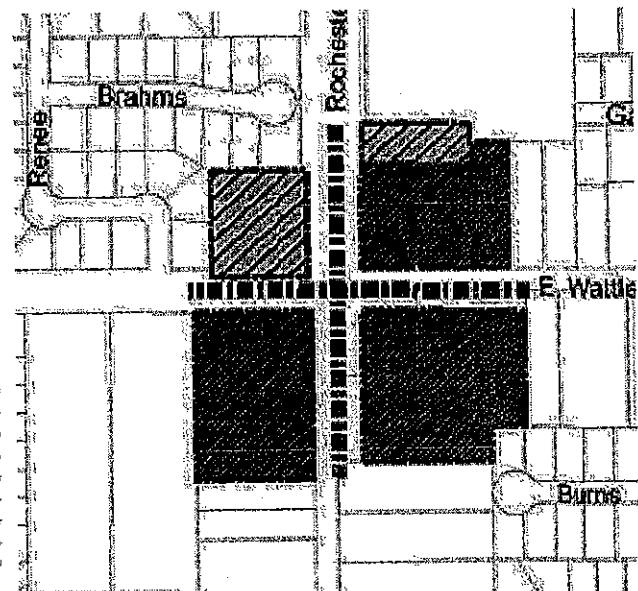
### Node E



### Node F



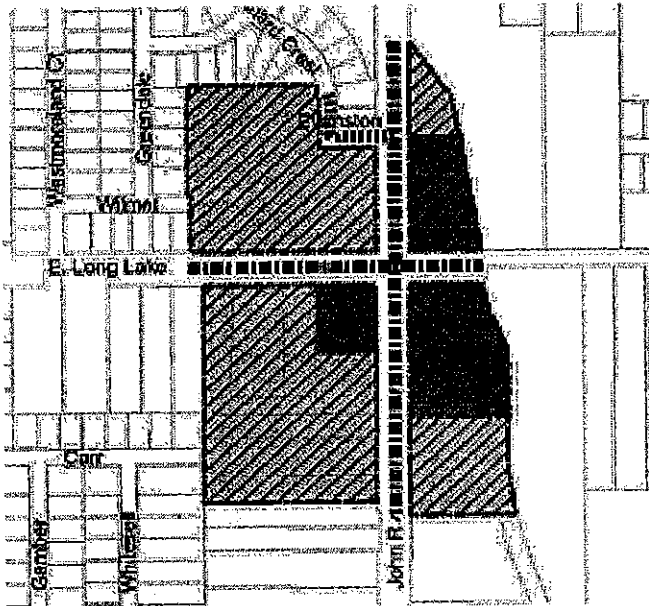
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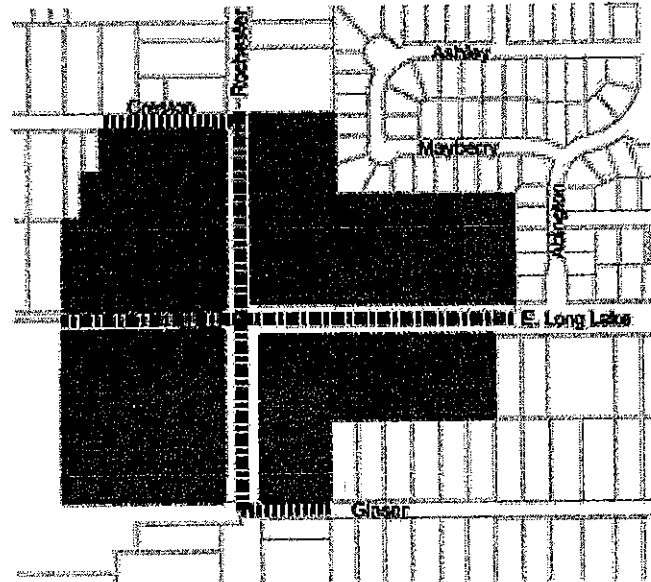


**Map 5.06.1: Neighborhood Node District Regulating Plan (Continued)**

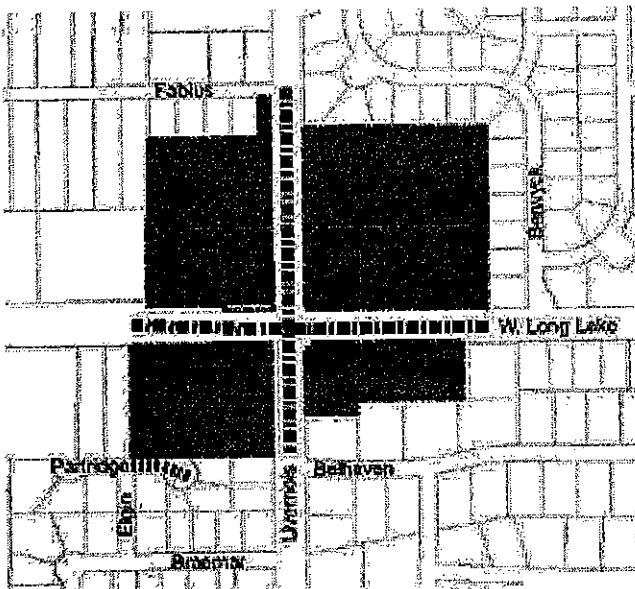
### Node K



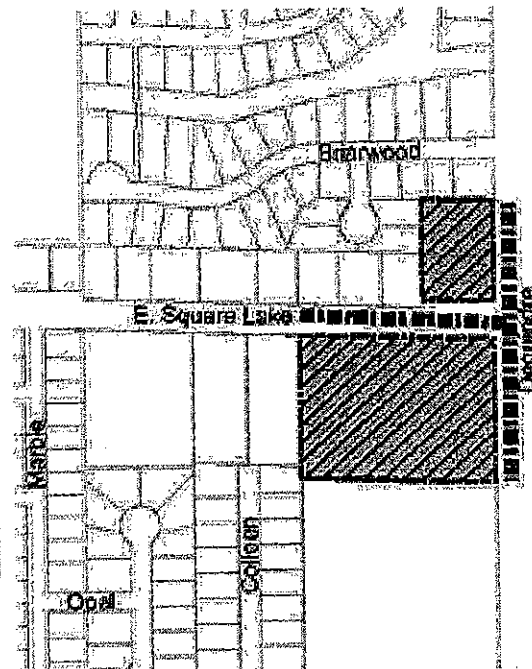
### Node L



### Node M



### Node N



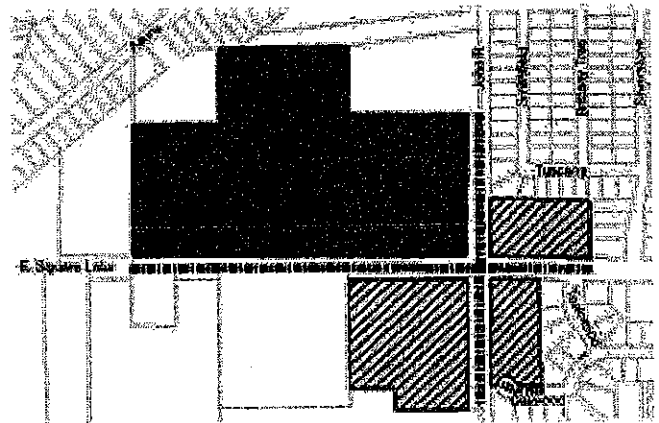


**Map 5.06.1: Neighborhood Node District Regulating Plan (Continued)**

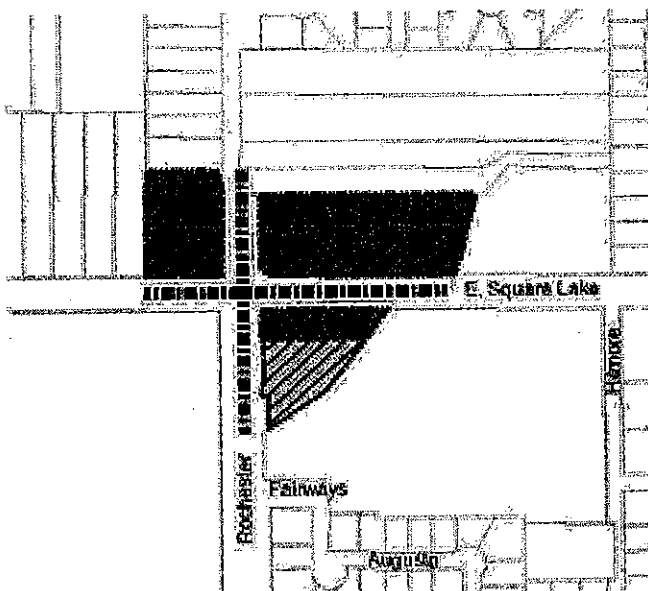
**Legend**



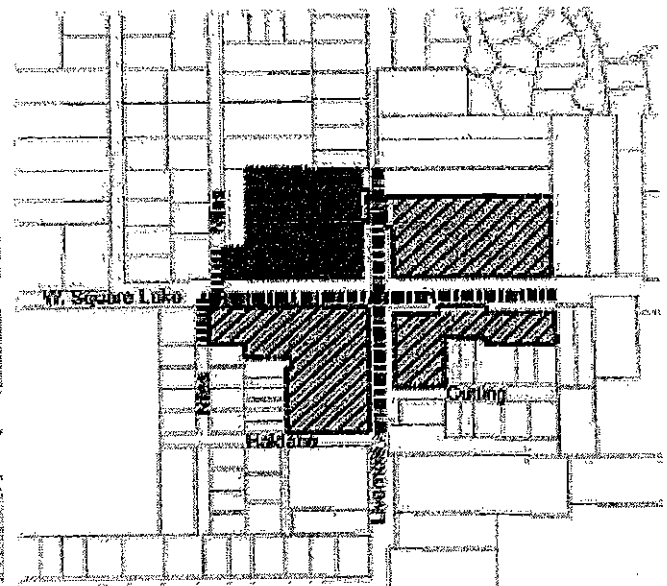
**Node O**



**Node P**



**Node Q**

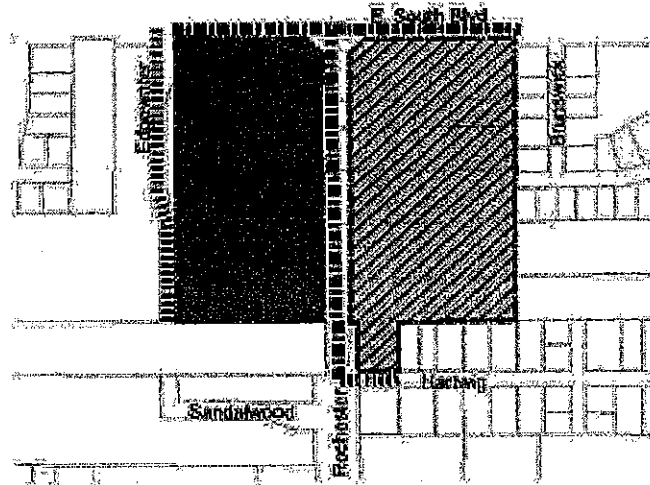


**Map 5.06.1: Neighborhood Node District Regulating Plan (Continued)**

**Node R**



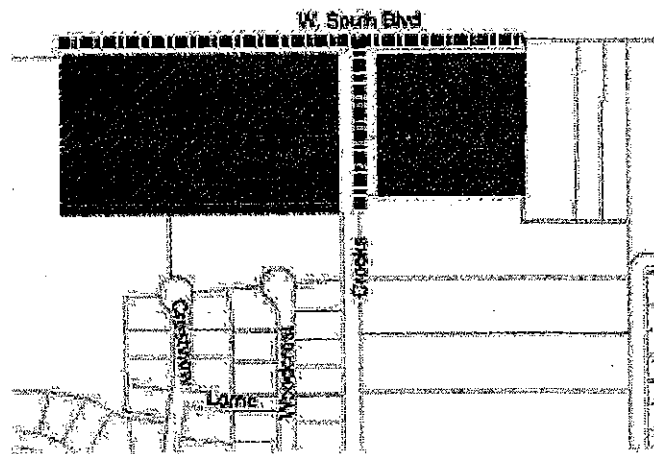
**Node S**



**Node T**



**Node U**



Authority and  
Administration

Development  
Regulations

Processes and  
Procedures

Supplemental Design  
Regulations

Nonconformity,  
Repeals/Amendments

[BACK](#)
[FORWARD](#)

## Article 5 Form-Based Districts

	Form-Based District 1	Form-Based District 2	Form-Based District 3	Form-Based District 4
1 Residential	NP	NP	NP	NP
2* Residential/Lodging	P <sup>1</sup>	P <sup>1</sup>	P	P
3 Office/Institution	P	P	P	P
4 Auto/Transportation	S	S	NP	NP
5 Retail/Entertainment/ Service	P	P	P	P
6 Misc. Commercial	S	S	NP	NP
7 Industrial	NP	NP	NP	NP

<sup>1</sup> Permitted on upper floors only.

P - Permitted Use Groups  
S - Special Use Approval Groups  
NP - Prohibited Use Groups  
\* Lodging uses are permitted subject to Special Use Approval

	Form-Based District 1	Form-Based District 2	Form-Based District 3	Form-Based District 4
A: Small, single-purpose, out buildings	P	P	P	P
B: Small, multi-tenant commercial with mixed use	P	P	P	P
C: Attached residential or live/work	S	S	P	P
D: Multi-story mixed use, medium density	P	P	S	S
E: Large format com- mercial	P	S	NP	NP
F: Large format mixed- use	P	S	NP	NP

P - Permitted Building Form  
S - Special Approval Building Form  
NP - Prohibited Building Form