

DATE: August 31, 2005

TO: John Szerlag, City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Douglas J. Smith, Real Estate and Development Director
Steve Vandette, City Engineer
Mark F. Miller, Planning Director

SUBJECT: AGENDA ITEM – FINAL SITE CONDOMINIUM REVIEW – Hidden Creek Site Condominium, east side of Ellenboro, South side of Vanderpool, Section 22 – R-1E

RECOMMENDATION

On July 7, 2003 City Council granted preliminary approval of the proposed 15-unit site condominium. The petitioner reduced the number of units to 13, making them slightly larger and more marketable.

The Engineering Department granted approval of the engineering plans based upon the City's Development Standards; therefore, the development will not cause or exacerbate drainage problems on contiguous properties, due to surface run-off from the proposed development. In addition, the petitioner executed a contract for installation of municipal improvements and provided the required escrow deposits and cash fees. The proposed site condominium complies with all applicable ordinance requirements. City Management recommends approval of the Final Plan for Hidden Creek Site Condominium.

GENERAL INFORMATION

Name of Owner / Applicant:
Gary Abitheira.

Location of subject property:
The property is located on the south side of Vanderpool and the east side of Ellenboro, between Hartland and Trombley, in Section 22.

Size of subject parcel:
The parcel is approximately 7.97 acres in area.

Description of proposed development, including number and density of units:
The applicant is proposing a 13-unit site condominium on 7.97 acres, which represents a density of 1.63 units per acre.

Current use of subject property:

A single family residential structure currently sits on the property, just south of Vanderpool.

Current use of adjacent parcels:

North: Single family residential.
South: Single family residential.
East: Single family residential.
West: Single family residential.

Current zoning classification:

The property is currently zoned R-1E One Family Residential.

Zoning classification of adjacent parcels:

North: R-1E One Family Residential.
South: R-1E One Family Residential.
East: R-1E One Family Residential.
West: R-1E One Family Residential.

Future Land Use Designation:

The property is designated on the Future Land Use Plan as Low Density Residential.

ANALYSIS

Compliance with area and bulk requirements:

Lot Area: 7,500 square feet.

Lot Width: 60 feet.

Height: 2 stories or 25 feet.

Setbacks: Front: 25 feet.
Side (least one): 5 feet.
Side (total two): 15 feet.
Rear: 35 feet.

Minimum Floor Area: 1,000 square feet.

Maximum Lot Coverage: 30 %.

The applicant meets the area and bulk requirements.

Off-street parking and loading requirements:

The applicant will be required to provide 2 off-street parking spaces per unit.

Environmental provisions, including Tree Preservation Plan:
A Tree Preservation Plan was submitted as part of the application.

Stormwater detention

The applicant is proposing to provide on-site detention in the northwest corner of the development. The detention pond will have a 1 on 6 slope and will be unfenced, and dedicated to the City.

Natural features and floodplains:

The Natural Features Map indicates that there are wetlands, woodlands and two drains located on the property. A Wetland Evaluation was conducted on the parcel by HRC at the request of the City of Troy. The report indicates there are no wetlands on the parcel. In addition there is floodway confined within the banks of the two drains and 100-year floodplain located on the subject property.

Subdivision Control Ordinance, Article IV Design Standards

Blocks: Access to the site condominium will be provided by Vanderpool and Ellenboro, both paved public streets.

Lots: All units meet the minimum area and bulk requirements of the Zoning Ordinance.

Easements: The applicant proposes a 12-foot wide easement for public utilities and a 20 foot wide easement for sanitary sewer.

Topographic Conditions: The applicant provided a Topographic Survey of the property.

Streets: Access to units 1 through 11 will be provided by Mirage Drive, a 28 foot wide paved road located within a 60-foot wide right of way. Access to units 12 and 13 will be from Ellenboro.

Sidewalks: The applicant is proposing to install 5-foot wide sidewalks along both sides of Mirage Drive.

Utilities: The parcel is served by public water and sewer.

Attachments:

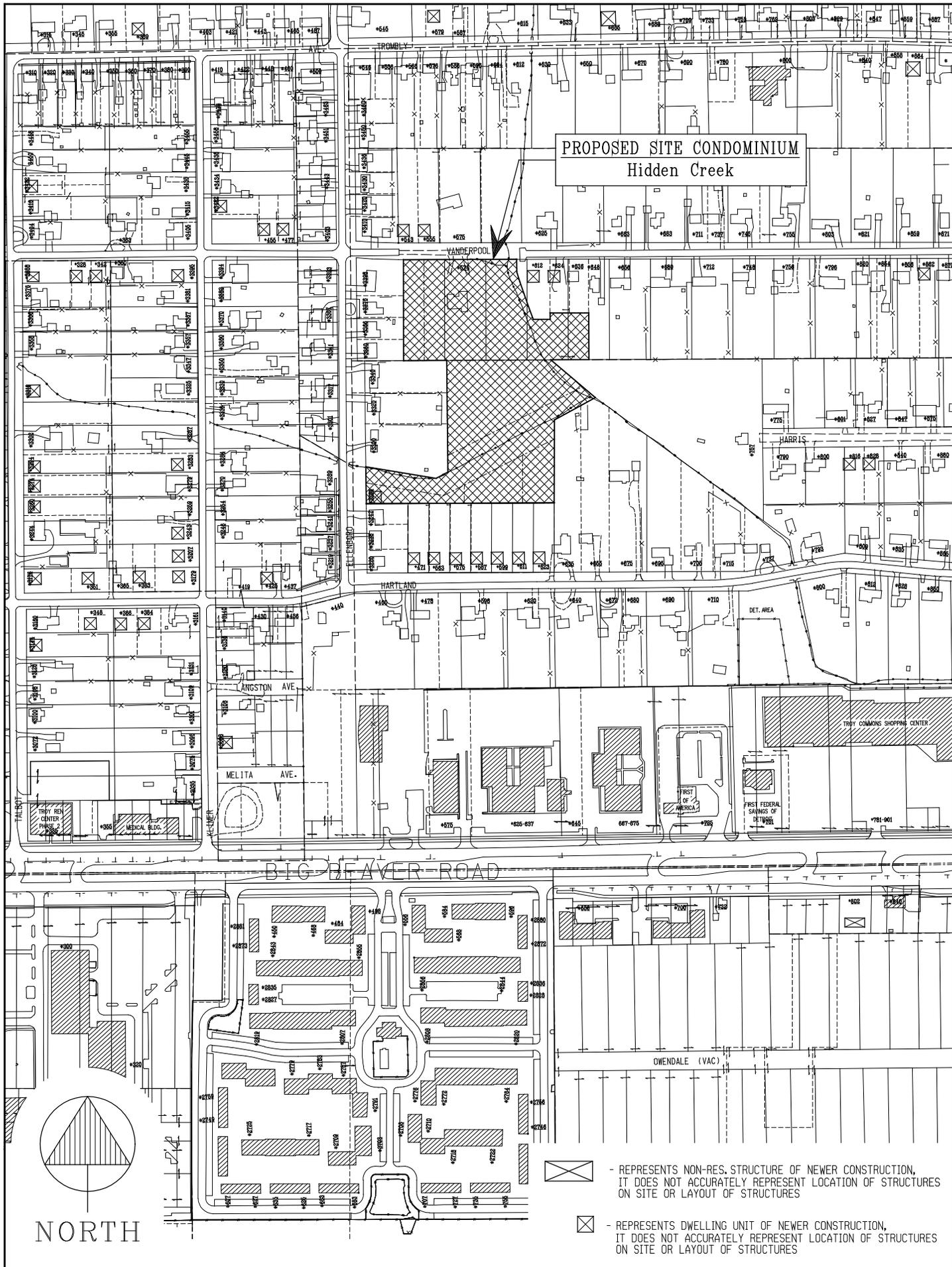
1. Maps
2. Unplatted Residential Development Levels of Approval
3. Comparison Between Site Condominiums and Plats
4. City Council Minutes from July 7, 2003
5. Contract for Installation of Municipal Services

PREPARED BY RBS/MFM

cc: Applicant
File/Hidden Creek Site Condominium

CITY OF TROY

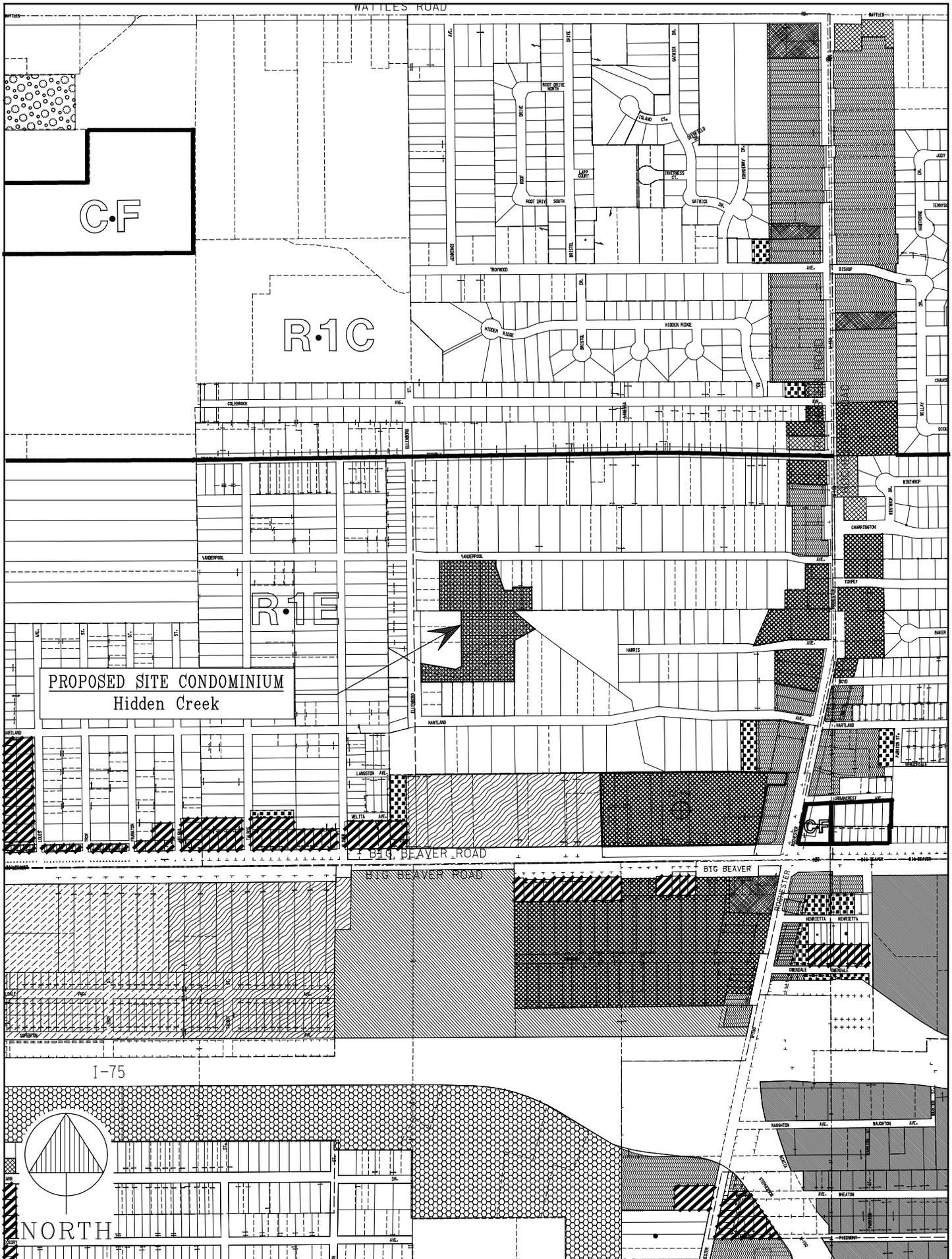




PROPOSED SITE CONDOMINIUM
Hidden Creek

NORTH

-  - REPRESENTS NON-RES. STRUCTURE OF NEWER CONSTRUCTION, IT DOES NOT ACCURATELY REPRESENT LOCATION OF STRUCTURES ON SITE OR LAYOUT OF STRUCTURES
-  - REPRESENTS DWELLING UNIT OF NEWER CONSTRUCTION, IT DOES NOT ACCURATELY REPRESENT LOCATION OF STRUCTURES ON SITE OR LAYOUT OF STRUCTURES



SITE PLAN REVIEW
HIDDEN CREEK SITE CONDOMINIUM
E SIDE ELLENBORO, S SIDE VANDERPOOL
SEC. 22 (R-1E, 14 LOTS)



SITE PLAN REVIEW
HIDDEN CREEK SITE CONDO.

0 50 100 200 300 400 Feet

UNPLATTED RESIDENTIAL DEVELOPMENT LEVELS OF APPROVAL

Preliminary Plan Approval

A sign is placed on the property informing the public of the proposed development.

Adjacent property owners are notified by mail

Public meeting held by **Planning Commission** for review and recommendation to City Council
City Council reviews and approvals plan

The following items are addressed at Preliminary Plan Approval:

- Street Pattern, including potential stub streets for future development
- Potential development pattern for adjacent properties
- Fully dimensioned residential parcel layout, including proposed building configurations
 - Number of lots
 - Building setbacks
 - Lot dimensions
 - Locations of easements
- Preliminary sanitary sewer, storm sewer, and water main layout
- Environmental Impact Statement (if required)
- Location(s) of wetlands on the property

Final Plan Approval

Notice sign is posted on site

City Council review and approval of:

- Final Plan
- Contract for Installation of Municipal Improvements (Private Agreement)

The following items are addressed at Final Plan Approval:

- Fully dimensioned plans of the total property proposed for development, prepared by registered Civil Engineer or Land Surveyor
- Corners of all proposed residential parcels and other points as necessary to determine that the potential parcels and building configurations will conform with ordinance requirements
- Warranty Deeds and Easement documents, in recordable form for all ROW. and easements which are to be conveyed to the public
- Construction plans for all utilities and street improvements, prepared in accordance with City Engineering Design Standards:
 - Sanitary and Storm sewer
 - Water mains
 - Detention / Retention basins
 - Grading and rear yard drainage
 - Paving and widening lanes
 - Sidewalk and driveway approaches
- Approval from other government agencies involved with the development
- Verification of wetlands and M.D.E.Q. permit if necessary
- Financial guarantees to insure the construction of required improvements and the placement of proper property and parcel monuments and markers shall be furnished by the petitioner prior to submittal of the Final Plan to the City Council for review and approval
- Floor Plans and Elevations of the proposed residential units

COMPARISON BETWEEN SITE CONDOMINIUMS AND PLATS

The site condominium is a form of development that closely resembles the more traditional form of land subdivision known as a “subdivision” or a “plat”. Although both types of development have the same basic characteristics, site condominiums are a newer form of development and are not, therefore, as familiar to homebuyers and neighbors as the more customary plats. An important concept related to any type of condominium development is that condominiums are a form of OWNERSHIP, not a type of physical development.

The following summary is intended to compare and contrast the two types of development.

1. **Comparisons between site condominiums and plats.**
 - a. **Statutory Basis** – Site condominium subdivisions first became possible under the Michigan Condominium Act, which was adopted by the Michigan Legislature in 1978. Plats are created under the Michigan Land Division Act, formerly the Michigan Subdivision Control Act of 1967.
 - b. **Nature and Extent of Property Ownership** – An individual homesite building in a platted subdivision is called a “lot”. In a site condominium, each separate building site or homesite is referred to by the Condominium Act as a “unit”. Each unit is surrounded by “limited common area”, which is defined as common elements reserved in the master deed for the exclusive use of less than all of the co-owners”. The remaining area in the site condominium is “general common area”, defined as the common elements reserved in the master deed for the use of all of the co-owners. The nature and extent of ownership of a platted lot and a condominium unit, with the associated limited common area, are essentially equivalent from both a practical and legal standpoint.
 - c. **Compliance with Zoning Ordinance** – Both site condominiums and subdivisions are required to comply with the minimum requirements of the City of Troy Zoning Ordinance for area and bulk, including minimum lot size, lot width, setbacks and building height. Essentially, site condominiums and subdivisions in Troy must “look” similar.
 - d. **Creation/Legal Document** – A site condominium is established by recording in the records of the county in which the land is located a master deed, bylaws and condominium subdivision plan (“plan”). A platted subdivision is created by the recording of a subdivision plat (“plat”), usually coupled with a declaration of easements, covenants, conditions and restrictions. The plan depicts the condominium units and limited and general common areas, while the plat defines the lots. Both have

substantially the same geometrical appearance and characteristics. The master deed and bylaws on the one hand and the declaration on the other have essentially the same functions with respect to the site condominium or platted subdivision, namely, establishment of: (i) building and use restrictions; (ii) rights of homeowners to use common areas; (iii) financial obligations of owners; and, (iv) procedures for operation of the subdivision.

- e. **Home Maintenance and Real Estate Taxes** – Each unit and lot, as respectively depicted on a condominium plan or subdivision plat, together with any home located thereon, are required to be individually maintained by the owner. Likewise, separate real estate taxes are assessed on each condominium unit or platted lot and paid individually by each homeowner.
- f. **Roads and Utilities** – In most plats, roads are dedicated to the public and maintained by the county road commission or the municipality in which the subdivision is located. Site condominium roads can be either public or private. Sanitary sewer and water supply are public in both. Storm water detention can vary between public and private dedication in both platted and condominium subdivisions.
- g. **Common Areas** – In a site condominium, general common areas, such as open space, entrance areas and storm drainage system, are owned by condominium unit owners in common as an incident of ownership of each unit. In a platted subdivision, legal title to common areas is owned by a homeowners association. In both forms of development, a homeowners association administers the common areas for the benefit of all homeowners equally.
- h. **Homeowners Association** – It is important in both types of development to incorporate a homeowners association comprised of all lot owners or unit owners, as the case may be, to maintain common areas, enforce restrictions and regulations, collect assessments and otherwise administer the common affairs of the development. Because the Condominium Act confers special enforcement powers upon homeowner associations, which are not characteristic of platted subdivision associations, it is generally thought that the condominium form is superior from the standpoint of enforcing rules and regulations of the private community.
- i. **Financial Obligations of Homeowners** – In both types of development, the homeowners association is given the power to assess property owners to pay for maintenance of all common areas and other expenses of administration. Failure to pay give rise to a lien on the defaulting owner's homesite thus providing financial security that the common areas will be properly maintained for the benefit of all homeowners.

- j. **Public Relations** – The same types of public health, safety and welfare regulations apply to both forms of development. Procedurally, the methods of applying for and obtaining plat or condominium plan approval are similar at the municipal level.
- k. **Unique Characteristics of Condominium Unit Purchase** – The Condominium Act provides special benefits for site condominium unit purchasers: (i) a 9-day period after signing a purchase agreement within which a purchaser may withdraw without penalty; and (ii) a requirement that all condominium documents, supplemented by an explanatory disclosure statement, be furnished to all purchasers at the time of entry into a purchase agreement. There are no similar benefits to purchasers provided under the Land Division Act.
- l. **Local and State Review** – Both development types require City Council approval, following a recommendation by the Planning Commission. Unlike subdivisions, site condominiums do not require the review and approval of the Michigan Department of Consumer and Industry Services. For this reason it can sometimes take a substantially shorter period of time to obtain necessary public approvals of site condominiums than platted subdivisions.

2. Reason for choosing one form versus another.

Developers and municipalities often prefer the site condominium approach because of better control of market timing. It should be emphasized that the site condominium choice never sacrifices any public protections that would otherwise be present in the case of a platted subdivision under similar circumstances.

3. Conclusion.

The platted subdivision approach and the newer site condominium technique are two different statutory methods of reaching essentially the same practical and legal result of dividing real estate into separate residential building sites. Both methods are required to meet substantially the same public health, safety and welfare requirements. The site condominium is sometimes chosen over the platted subdivisions because of perceived benefits to purchasers, homeowners, and developers.

Yes: All-6
 No: None
 Absent: Stine

F-8 Preliminary Site Condominium Review – Hidden Creek Site Condominium, East Side of Ellenboro, South Side of Vanderpool, Section 22 – 1E

Resolution #2003-07-350
 Moved by Beltramini
 Seconded by Eisenbacher

RESOLVED, that the Preliminary Plan as submitted under Section 34.30.00 of the Zoning Ordinance (Unplatted One-Family Residential Development) for the development of a One-Family Residential Site Condominium known as Hidden Creek Site Condominium and as recommended for approval by City Management and the Planning Commission, located east of Ellenboro, south of Vanderpool, including 15 home sites, within the R-1E zoning district, being 7.97 acres in size, is hereby **APPROVED**.

Yes: All-6
 No: None
 Absent: Stine

RECESS 9:09 PM – 9:31 PM

G-9 Memorandum – Re: Skatepark Opening
 Noted and Filed

COUNCIL COMMENTS

B. Civic Center Property Task Force Establishment to Identify and Prioritize Public Site Plan Elements - Proposed by Council Member Robin Beltramini

Resolution #2003-07-
 Moved by Beltramini
 Seconded by Pryor

BE IT RESOLVED, That a Civic Center Priority Task Force is hereby **ESTABLISHED** whose membership consists of one member from each of the following committees: Board of Zoning Appeals, Downtown Development Authority, Parks and Recreation Advisory Board, Planning Commission, Traffic Committee, Historical Commission, Advisory Committee for Persons with Disabilities, Advisory Committee for Senior Citizens, and the Troy Youth Council; and

BE IT FURTHER RESOLVED, That the main objective of this task force is to **IDENTIFY AND PRIORITIZE** public site plan elements minus the following areas:

1. Existing usage.
2. Acreage set aside for voters to determine the City has the authority to sell.

**CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)**

PROJECT NO. **03.909.3**

PROJECT LOCATION:

SW ¼ Sec 22

RESOLUTION NO.

DATE OF COUNCIL APPROVAL:

KNOW ALL MEN BY THESE PRESENT; That the City of Troy, a Michigan Municipal Corporation of the County of Oakland, State of Michigan, hereinafter referred to as "City" and **GFA Development** whose address is **178 Larchwood, Troy, MI 48083** and whose telephone number is **586-726-6700** hereinafter referred to as "Owners".

WITNESSETH, FIRST: That the City agrees to allow the installation of **Sanitary sewer, storm sewer, water main, detention, landscaping, paving, sidewalks and soil erosion** in accordance with plans prepared by **Hennessey Engineers**, whose address is **2674 W. Jefferson Ave, Suite 200, Trenton, MI 48183** and whose telephone number is **734-692-3300** and approved prior to construction by the City specifications of the City shall be complied with for this construction.

SECOND: That the Owners agree to contribute the approximate contract price of **\$ 233,304.00**. This amount will be transmitted to the City Clerk for installation of said improvements in the form of (check one):

Cash	<input type="checkbox"/>
Certificate of Deposit	<input type="checkbox"/>
Irrevocable Bank Letter of Credit	<input type="checkbox"/>
Check	<input type="checkbox"/>
Performance Bond & 10% Cash	<input type="checkbox"/>

Said funds shall be placed on deposit with the City upon the execution of this contract and shall be disbursed to the owner by the City only upon presentation of duly executed waivers of lien and sworn statements satisfactory to the City, and after final inspection and approval by the Engineering Department for the City. In addition, the owners agree to deposit and contribute **\$48,695.00** cash fee per the attached **Detailed Summary of Required Escrow Deposits Cash Deposits and Cash Fees.**

**CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)**

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PROJECT LOCATION:

SW ¼ Sec 22

RESOLUTION NO.

DATE OF COUNCIL APPROVAL:

THIRD: The owners may contract for construction of said improvement or may have the City advertise for bids. In the even the Owners select their own contractor, such contractor shall be subject to prior written approval by the City and completed contract documents shall be submitted to the City.

Owners agree to arrange for a pre-construction meeting with the City Engineer and the contractor prior to start of work. All municipal improvements must be completely staked in the field under the direct supervision of a registered civil engineer or registered land surveyor, according to the approved plans.

FOURTH: Owners hereby acknowledge the benefit to their property conferred by the construction of the aforementioned and agree and consent to pay the total sum of **\$281,999.00** for the construction of said public utilities in lieu of the establishments of any special district by the City. Further, owners acknowledge that the benefit to their property conferred by the improvement is equal to, or in excess of, the aforementioned amount.

FIFTH: Owners agree that if, for any reason, the total cost of completion of such improvement shall exceed the sum deposited with the City in accordance with Paragraph SECOND hereof, that Owners will immediately remit such additional amount to the City upon request and City will disburse such additional amount in accordance with Paragraph SECOND hereof. In the event the total cost of completion shall be less than the sum deposited with City in accordance with Paragraph SECOND hereof, City will reimburse to the Owners the excess funds remaining after disbursement of funds.

SIXTH: Owners agree to indemnify and save harmless City, their agents and employees, from and against all loss or expense (including costs and attorneys' fees) by reason of liability imposed by law upon the City, its agents and employees for damages because of bodily injury, including death, at any time resulting therefrom sustained by any person or persons or on account of damage to property, including work, provided such injury to persons or damage to property is due or claimed to be due to negligence of the Owner, his contractor, or subcontractors, employees or agents, Owner further agrees to obtain and convey to the City all necessary easements for such public utilities as required by the City Engineer.

**CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)**

PROJECT NO. 03.909.3

PROJECT LOCATION:

SW ¼ Sec 22

RESOLUTION NO.

DATE OF COUNCIL APPROVAL:

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed in duplicate on this _____ day of _____, 20_____.

OWNERS

CITY OF TROY

By:

By:

Please Print or Type

Louise E. Schilling, Mayor

Please Print or Type

Tonni Bartholomew, City Clerk

STATE OF MICHIGAN, COUNTY OF OAKLAND

On this _____ day of _____, A.D.20_____, before me personally appeared _____ known by me to be the same person(s) who executed this instrument and who acknowledged this to be his/her/their free act and deed.

NOTARY PUBLIC, Oakland County, Michigan

My commission expires: _____

Detailed Summary of Required Escrow Deposits or Performance Bond, Cash Fees & Deposits
Hidden Creek Site Condominiums
12 Units - Section 22

ESCROW DEPOSITS:

Sanitary Sewers	\$50,320
Water Mains	\$18,665
Storm Sewers	\$44,215
Rear Yard Drains	\$18,575
Pavement - CONCRETE	\$64,750
Grading	\$10,000
Detention Basin	\$5,000
Soil Erosion Control Measures	\$6,884
Monuments and Lot Corner Irons	\$815
Temporary Access Road	\$1,000
Sidewalks - ON SITE	\$1,080
Sidewalks - OFF SITE	\$4,800
Street Light	\$0
Deposit for the Repair of Damage to Existing Public Streets Used for Access	\$7,200
TOTAL ESCROW DEPOSITS (REFUNDABLE):	\$233,304

CASH FEES (NON-REFUNDABLE):

Water Main Testing and Chlorination	\$650
Street Name and Traffic Signs	\$509
Maintenance of Detention Basin (20 year)	\$6,600
Soil Erosion and Sedimentation Control Permits	\$583
Testing Services	\$3,500
Engineering Review and Inspection	\$17,474
TOTAL CASH FEES (NON-REFUNDABLE):	\$29,316

CASH DEPOSITS (REFUNDABLE):

Sidewalk Closures	\$324
Deposit for Maintenance & Cleaning of Ex. Public Streets Used for Access	\$2,400
Landscape Deposit	\$8,434
Punchlist & Restoration Deposit	\$8,221
TOTAL CASH DEPOSITS (REFUNDABLE):	\$19,379