



CITY COUNCIL ACTION REPORT

September 25, 2008

TO: Phillip L. Nelson, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Economic Development Services
Mark F. Miller, Planning Director

SUBJECT: Final Site Condominium Approval – Crestwood Site Condominium, Phase 2, 4 Units/Lots proposed on 2.3512 acres, North side of Wattles, East of Livernois, Section 15, Zoned R-1C

Background:

- The Planning Commission recommended Preliminary Site Condominium Approval of the development at the October 9, 2007 Regular meeting.
- The applicant proposes a 4-unit site condominium developed under the provisions of Section 34.30.00 Unplatted One-Family Residential Development.
- The petitioner is proposing to develop Phase 2 of the 23-unit Crestwood Site Condominium, by extending Tanner Drive and adding 4 units. Phase 1 received Final Approval in 2004.
- 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 Crestwood Site Condominium, Phase 2.

Financial Considerations:

- There are no financial considerations for this item.

Legal Considerations:

- City Council has the authority to act on this application.

Policy Considerations:

- The application is consistent with the following “Outcome Statement” as established at the July 1, 2008 Special City Council meeting:
 - II. Troy adds value to properties through maintenance or upgrades of infrastructure and quality of life venues.

Options:

- City Council can approve or deny the Final Site Condominium application.

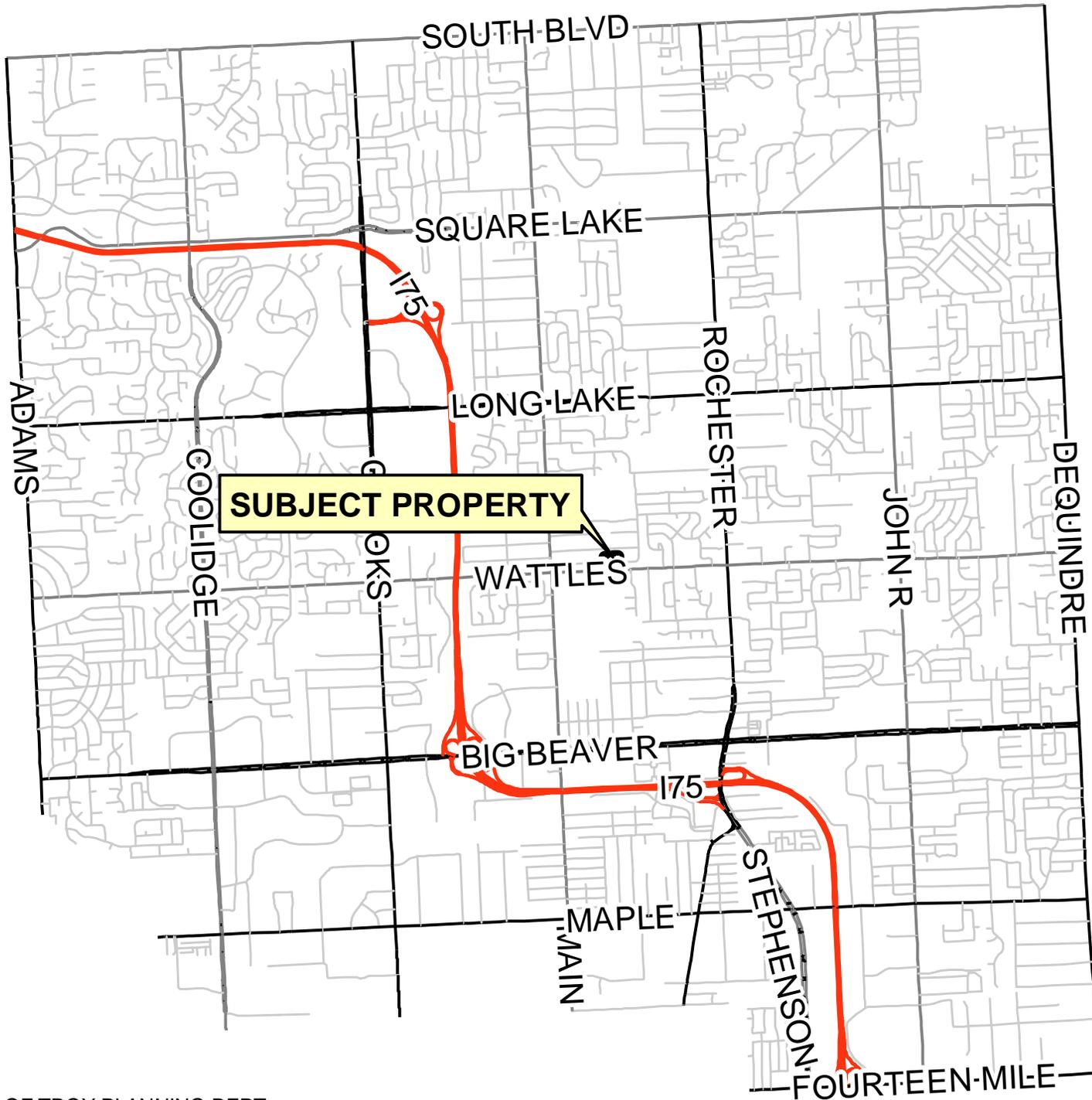
Attachments:

1. Maps.
2. Minutes from the November 19, 2007 City Council Regular meeting.
3. Minutes from the September 22, 2008 City Council Regular meeting (draft).
4. Contract for Installation of Municipal Services.
5. Unplatted Residential Development Levels of Approval.
6. Comparison between Site Condominiums and Plats.

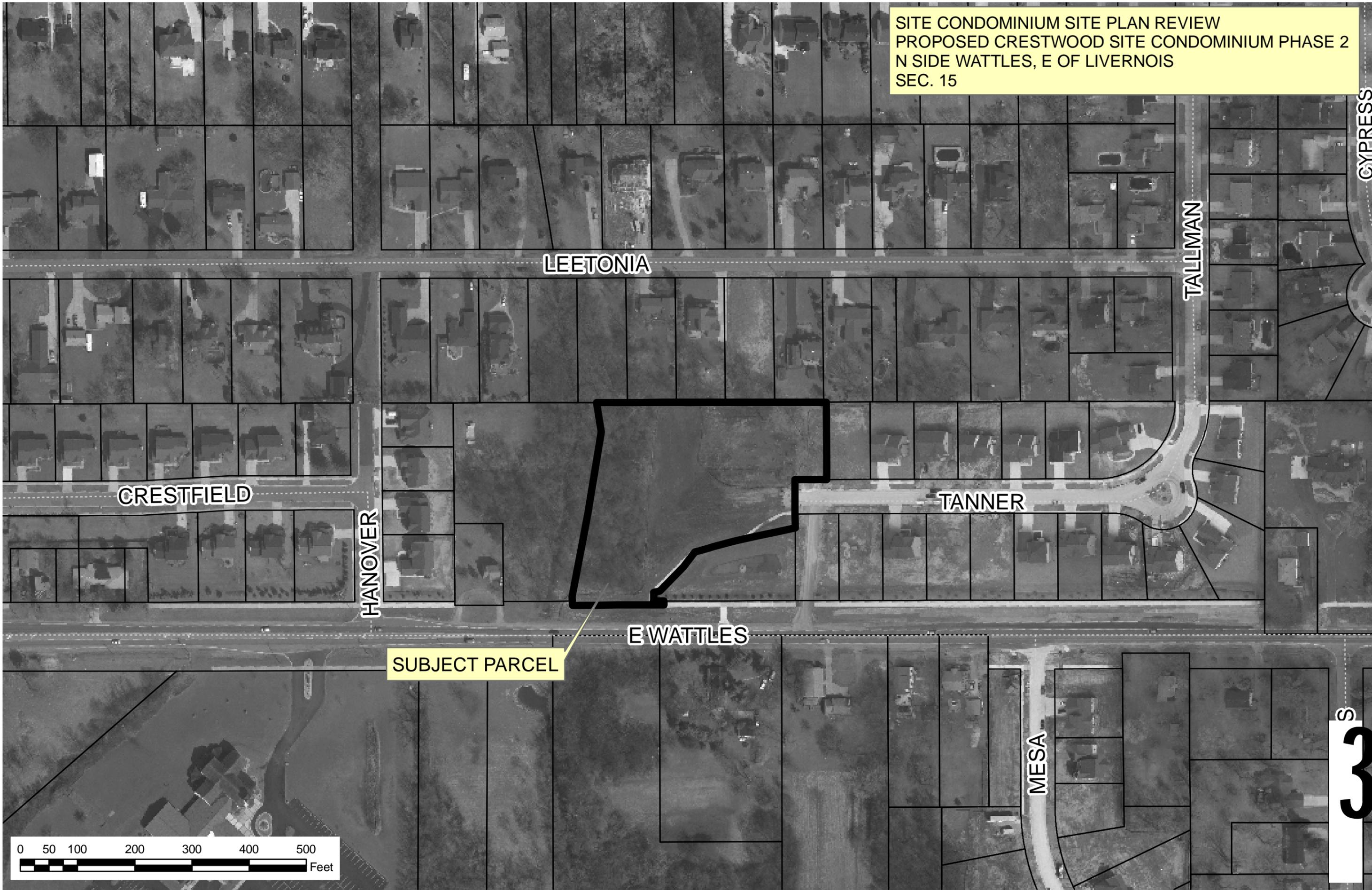
Prepared by RBS/MFM

cc: Applicant
File /Crestwood Site Condo

CITY OF TROY



SITE CONDOMINIUM SITE PLAN REVIEW
PROPOSED CRESTWOOD SITE CONDOMINIUM PHASE 2
N SIDE WATTLES, E OF LIVERNOIS
SEC. 15



LEETONIA

CRESTFIELD

HANOVER

TANNER

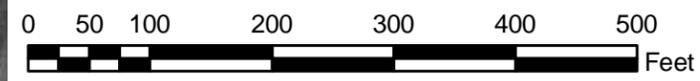
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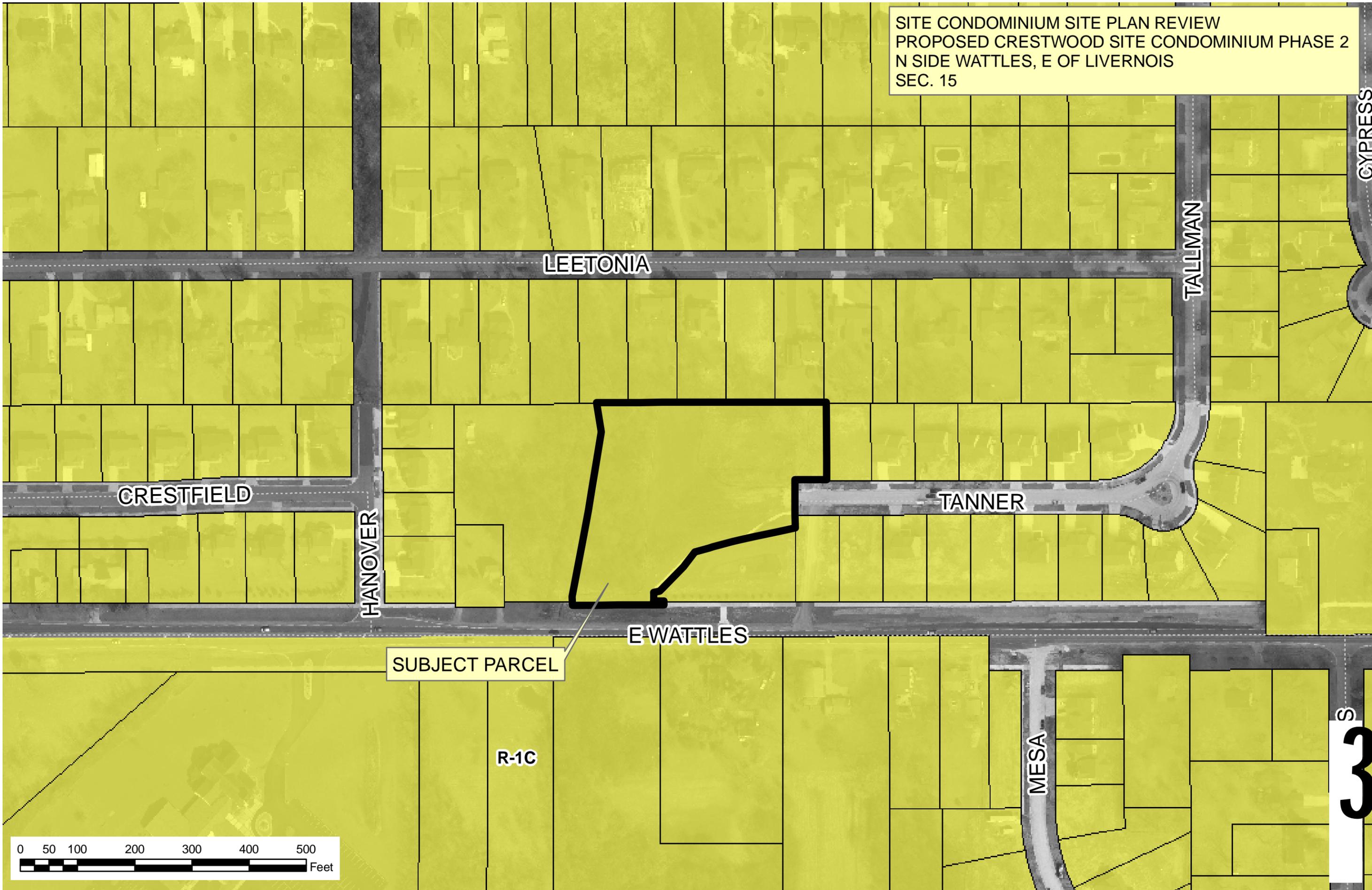
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SUBJECT PARCEL



SITE CONDOMINIUM SITE PLAN REVIEW
PROPOSED CRESTWOOD SITE CONDOMINIUM PHASE 2
N SIDE WATTLES, E OF LIVERNOIS
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SUBJECT PARCEL

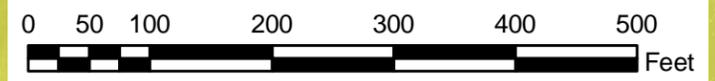
R-1C

TANNER

TALLMAN

MESA

CYPRESS



As bond counsel: Dickinson Wright PLLC
Bloomfield Hills, Michigan

22. CONFLICTING RESOLUTIONS.

All resolutions and parts of resolutions insofar as they may be in conflict herewith are hereby rescinded.

BE IT FINALLY RESOLVED, That Troy City Council hereby **APPROVES** this resolution **AUTHORIZING** the issuance of not to exceed \$4,000,000 in general obligation unlimited tax refunding bonds, Series 2007.

Yes: All-6
No: None
Absent: Fleming

E-4 Preliminary Site Condominium Approval – Crestwood Site Condominium, Phase 2, 4 Units/Lots Proposed on 2.3512 Acres, North Side of Wattles, East of Livernois, Section 15, Zoned R-1C

Resolution #2007-11-328
Moved by Beltramini
Seconded by Howrylak

RESOLVED, That Troy City Council hereby **APPROVES** the preliminary site condominium 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 Crestwood Site Condominium Phase 2, located on the north side of Wattles, east of Livernois, in Section 15, including 4 home sites, within the R-1C zoning district, being 2.3512 acres in size.

Yes: All-6
No: None
Absent: Fleming

E-1 Appointments to Boards and Committees: a) Mayoral Appointments: No action taken. b) City Council Appointments: No action taken.

E-3 Appointment of Master of Ceremonies and Official Host – Annual Appreciation Banquets

Resolution #2007-11-329
Moved by Broomfield
Seconded by Eisenbacher

RESOLVED, That Council Member Howrylak **WILL ACT** as Master of Ceremonies and Official Host for the Annual 2008 Boards & Committees Appreciation Banquet (March 1, 2008) and work with the Community Affairs Department; and

RESOLVED, That the Massage Facility License, which was previously adopted by the Troy City Council on September 8, 2008, and is attached and incorporated, be identified as Chapter 98-A.

F-14 Private Agreement for Crestwood Phase II Site Condominiums – Project No. 07.940.3

Resolution #2008-09-305-F-14

RESOLVED, That Troy City Council hereby **APPROVES** the Contract for the Installation of Municipal Improvements (Private Agreement) between the City of Troy and R.W.T. Building L.L.C., for the installation of sanitary sewer, water main, storm sewer, detention, paving, sidewalks, landscaping and soil erosion on the site and in the adjacent right of way, and **AUTHORIZES** the Mayor and City Clerk to execute the document, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

F-15 Application for Transfer of Class C License to Pizzapapalis of Troy, LLC

(a) New License

Resolution #2008-09-305-F-15a

RESOLVED, That Troy City Council hereby **CONSIDERS** for **APPROVAL** the request from Pizzapapalis of Troy, Inc. to transfer ownership of the 2008 Class C licensed business, located in escrow at 1551 Wide Track, Pontiac, MI 48342, Oakland County, from Oscar Johnson; transfer (Governmental Unit) (MCL 436.1531(1) to 300 John R Suite A, Troy, MI, 48083, Oakland County; cancel existing Outdoor Service (1 area) and requests a new Outdoor Service (1 area); and

BE IT FURTHER RESOLVED, That it is the consensus of this legislative body that the application **BE RECOMMENDED** for issuance.

(b) Agreement

Resolution #2008-09-305-F-15b

WHEREAS, The Troy City Council deems it necessary to enter agreements with applicants for liquor licenses for the purpose of providing civil remedies to the City of Troy in the event licensees fail to adhere to Troy Codes and Ordinances;

THEREFORE, BE IT RESOLVED, That Troy City Council hereby **APPROVES** an agreement with Pizzapapalis of Troy, Inc. to transfer ownership of the 2008 Class C licensed business, located in escrow at 1551 Wide Track, Pontiac, MI 48342, Oakland County, from Oscar Johnson; transfer (Governmental Unit) (MCL 436.1531(1) to 300 John R Suite A, Troy, MI, 48083, Oakland County; cancel existing Outdoor Service (1 area) and requests a new Outdoor Service (1 area); and **AUTHORIZES** the Mayor and City Clerk to execute the document, a copy of which shall be **ATTACHED** to the original Minutes of this meeting.

City Of Troy

Contract for Installation of Municipal Improvements (Private Agreement)

Project No.: **07.940.3**

Project Location: **SW 1/4 Section 15**

Resolution No: _____

Date of Council Approval: _____

This Contract, made and entered into this ___ day of _____, 20__ by and between the City of Troy, a Michigan Municipal Corporation of the County of Oakland, Michigan, hereinafter referred to as "City" and **R.W.T. Building L.L.C.** whose address is **4535 Homesite, Orion, MI 48359** and whose telephone number is **248-521-2086** hereinafter referred to as "Owners", provides as follows:

FIRST: That the City agrees to permit the installation of **Sanitary Sewer, Water Main, Storm Sewer, Detention, Road Paving, Sidewalks, Landscaping and Soil Erosion Controls** in accordance with plans prepared by **Nowak & Fraus** whose address is **46777 Woodward Ave., Pontiac, MI 48099** and whose telephone number is **248-332-7931** and approved prior to construction by the City in accordance with City of Troy specifications.

SECOND: That the Owners agree to provide the following securities to the City prior to the start of construction, in accordance with the Detailed Summary of Required Deposits & Fees (attached hereto and incorporated herein):

Refundable escrow deposit equal to the estimated construction cost of \$ **91,510.00**. This amount will be deposited with the City in the form of (check one):

- Cash
- Certificate of Deposit & 10% Cash
- Irrevocable Bank Letter of Credit & 10% Cash
- Check
- Performance Bond & 10% Cash

Refundable cash deposit in the amount of \$ **50,109.00**. This amount will be deposited with the City in the form of (check one):

- Cash
- Check

Non-refundable cash fees in the amount of \$ **12,494.00**. This amount will be paid to the City in the form of (check one):

- Cash
- Check

Said refundable escrow deposits shall be disbursed to the Owners after approval by the City. The City reserves the right to retain a minimum of ten (10) percent for each escrowed item until the entire site/development has received final inspection and final approval by all City departments. Refundable cash deposits shall be held until final approval has been issued. Disbursements shall be made by the City within a reasonable time, after request for refund of deposits is made by the Owners.

City Of Troy

Contract for Installation of Municipal Improvements (Private Agreement)

THIRD: The owners shall contract for construction of said improvement with a qualified contractor. Owners, or their agents, and contractor(s) agree to arrange for a pre-construction meeting with the City Engineer 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, in accordance with the approved plans. Revisions to approved plans required by unexpected or unknown conflicts in the field shall be made as directed by the City.

FOURTH: Owners agree that if, for any reason, the total cost of completion of such improvements shall exceed the sums detailed in Paragraph SECOND hereof, that Owners will immediately, upon notification by the City, remit such additional amounts in accordance with Paragraph SECOND hereof. In the event the total cost of completion shall be less than the sums as detailed in Paragraph SECOND hereof, City will refund to the Owners the excess funds remaining after disbursement of funds.

FIFTH: 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 and/or right-of-way for such public utilities as required by the City Engineer.

City Of Troy

Contract for Installation of Municipal Improvements (Private Agreement)

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 Deposits & Fees
Crestwood Site Condominium - Phase II, Project No.07.940.3
4 Units - Section 15

ESCROW DEPOSITS or PERFORMANCE BOND:

Sanitary Sewers	<u>\$11,390</u>
Water Mains	<u>\$9,120</u>
Rear Yard Drains	<u>\$7,070</u>
Pavement - CONCRETE	<u>\$25,725</u>
Grading	<u>\$25,000</u>
Detention Basin	<u>Existing</u>
Monuments and Lot Corner Irons	<u>\$455</u>
Sidewalks - ON SITE	<u>\$6,750</u>
Deposit for the Repair of Damage to Existing Public Streets Used for Access	<u>\$6,000</u>

TOTAL ESCROW DEPOSITS or PERFORMANCE BOND (REFUNDABLE): \$91,510
(Circle One)

CASH FEES (NON-REFUNDABLE):

Water Main Testing and Chlorination (PA2)	<u>\$650</u>
Street Name and Traffic Signs (SUB 4)	<u>\$159</u>
Soil Erosion and Sedimentation Control Permits (SUB 10)	<u>\$2,900</u>
Testing Services (SUB 11)	<u>\$1,373</u>
Engineering Review and Inspection (PA 1)	<u>\$7,412</u>

(PA 3) TOTAL CASH FEES (NON-REFUNDABLE): \$12,494

CASH DEPOSITS (REFUNDABLE):

Vegetated Bio-Swale	<u>\$34,800</u>
Deposit for Maintenance & Cleaning of Ex. Public Streets Used for Access	<u>\$2,000</u>
Landscape Deposit	<u>\$2,023</u>
Punchlist & Restoration Deposit	<u>\$10,786</u>
Deposit for Repair, Replacement or Maintenance of SESC	<u>\$500</u>

(PA 3) TOTAL CASH DEPOSITS (REFUNDABLE): \$50,109

Stormwater detention for this development will be provided by:
Existing Public Pond Constructed with Phase I

Engineer: Nowak & Fraus
Developer: RWT Bdlg. LLC

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.

Crestwood Site Condominium
Phase 2 Site and Paving Plan
is included with Council's agenda packets
and available for viewing at the
City Clerk's Office and the Troy Public Library