

DATE: July 1, 2005

TO: John Szerlag, City Manager

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

SUBJECT: AGENDA ITEM – FINAL SITE CONDOMINIUM REVIEW (REVISED) – Hidden Forest Site Condominium, south side of Wattles, east of Livernois, section 22 – R-1C.

RECOMMENDATION

On May 16, 2005 City Council granted preliminary approval of the proposed site condominium.

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 Forest Site Condominium.

BACKGROUND

The applicant received Preliminary Site Condominium Approval from City Council for a 34-unit site condominium on April 19, 2004, and completed the engineering design. However, the applicant purchased the 0.82-acre parcel on the east side of the Wattles Road entry drive and proposes to incorporate the property into the site condominium and develop three additional units on the property. On May 16, 2005, City Council granted Preliminary Approval to the revised site condominium. The applicant has completed the engineering design for a 37-unit site condominium and seeks Final Site Condominium Approval from City Council for the revised design and approval of the Contract for Municipal Improvements.

GENERAL INFORMATION

Name of Owner / Applicant:

Gary Abitheira.

Location of subject property:

The property is located on the south side of Wattles, east of Livernois in section 22.

Size of subject parcel:

The parcel is approximately 17.79 acres in area.

Current use of subject property:

The property is presently vacant.

Proposed Use of subject property:

The applicant proposes a 37-unit site condominium.

Current use of adjacent parcels:

North: Single family residential and vacant.

South: McColloch Drain (City of Troy) and Wattles Elementary School.

East: Single family residential.

West: Single family residential and McColloch Drain (City of Troy).

Current zoning classification:

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

Zoning classification of adjacent parcels:

North: R-1C One Family Residential.

South: R-1C One Family Residential.

East: R-1C One Family Residential.

West: R-1C 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: 10,500 square feet (reduced to 9,450 square feet using lot averaging).

Lot Width: 85 feet (reduced to 76.5 feet using lot averaging).

Height: 2 stories or 25 feet.

Setbacks: Front: 30 feet.
Side (least one): 10 feet.
Side (total two): 20 feet.
Rear: 40 feet.
Minimum Floor Area: 1,200 square feet.

Maximum Lot Coverage: 30 %.

The applicant meets the area and bulk requirements of the R-1C district.

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 southeast 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 a drain located on the property. A Wetland Evaluation was conducted on the parcel by Brooks Williamson and Associates, Inc. on November 24, 2003. The report indicates there are 3 State-regulated wetlands on the parcel. One of these wetlands is located in the northwest corner of the parcel, the other two are located in the southern portion of the parcel. In addition there is floodway 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 a two-way entry drive on Wattles Road.

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

Topographic Conditions: The property is relatively flat, with elevations ranging from 666 feet above sea level to 671 feet above sea level. The Topographic Survey indicates the existing flood plain elevation is 668.3 feet above sea level.

Streets: The streets are proposed to be 28-feet wide and are to be located within a 60-foot right-of-way.

Sidewalks: The applicant is proposing to install 5-foot wide sidewalks along both sides of the drive, including the cul-de-sacs. In addition the applicant is proposing an emergency vehicle access (EVA) connection to Troywood, and an 8-foot wide concrete pedestrian access path connection to the existing path, in the southeast corner of the property. This will provide a non-motorized connection between the neighborhood and both Troywood and Wattles Elementary School.

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 May 16, 2005.
5. Contract for Installation of Municipal Services.

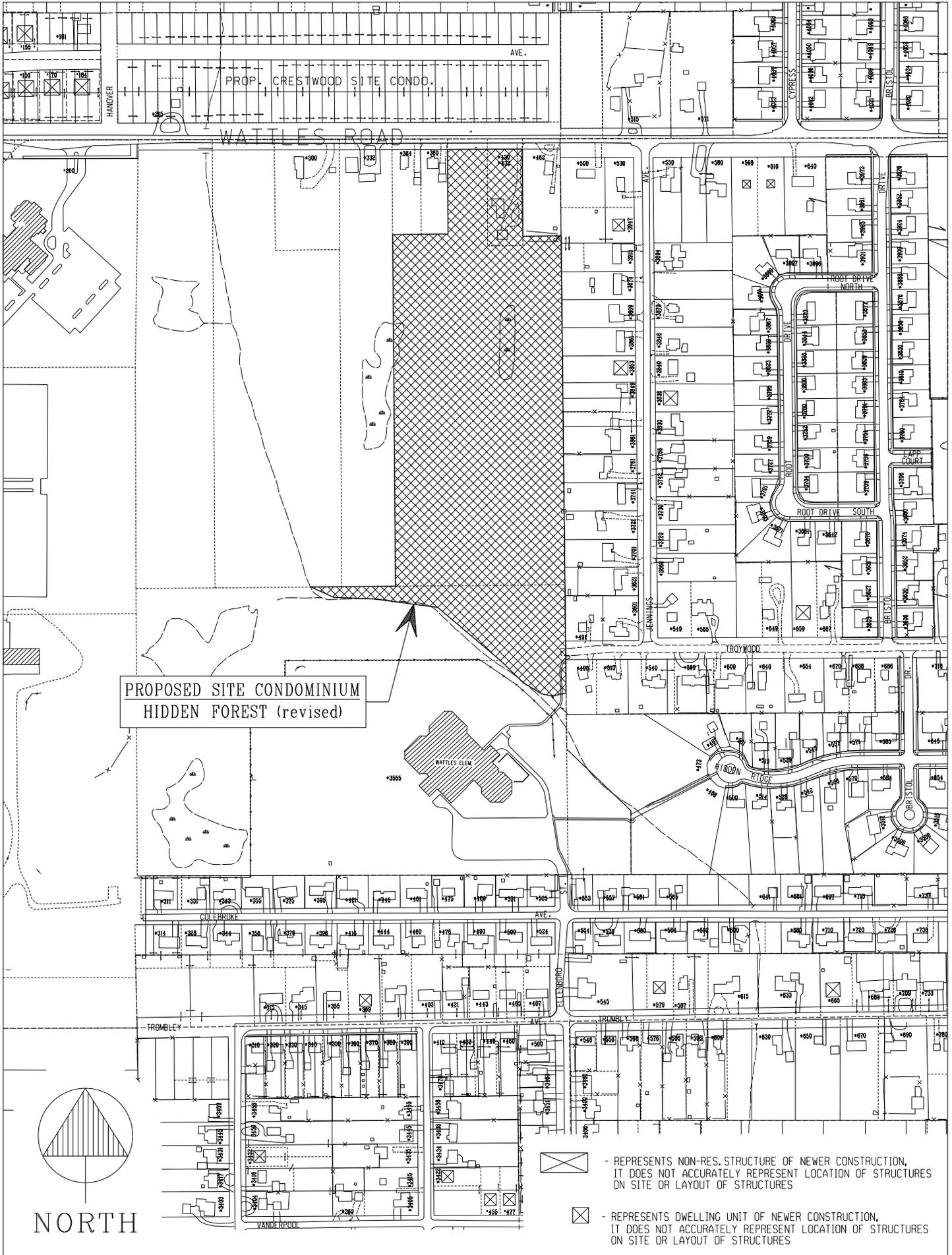
cc: Applicant
File/Hidden Forest Site Condominium

Prepared by RBS/MFM

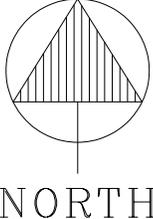
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Final Approval 07 11 05.doc

CITY OF TROY





PROPOSED SITE CONDOMINIUM
HIDDEN FOREST (revised)



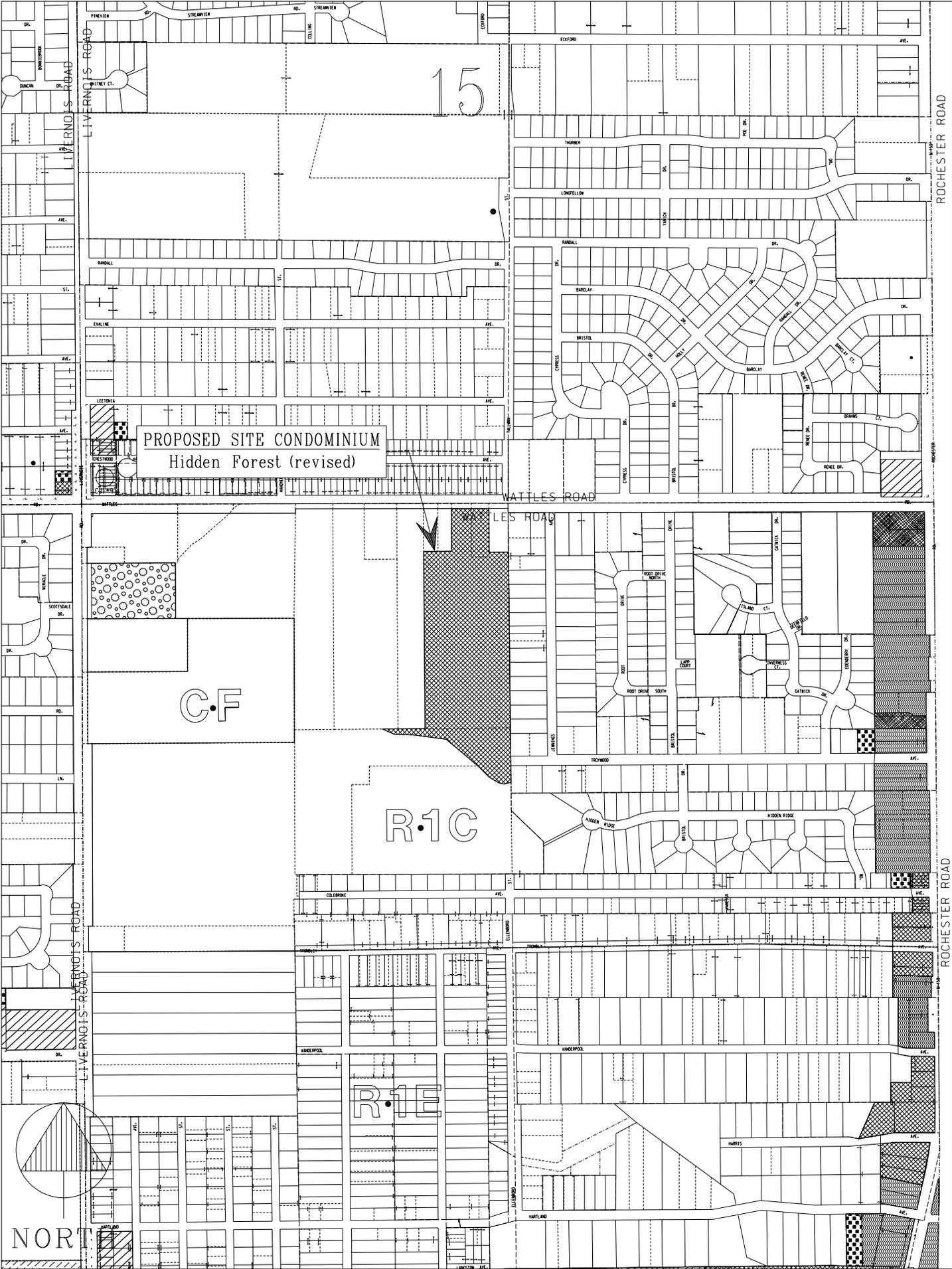
NORTH



- 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



PROPOSED SITE CONDOMINIUM
Hidden Forest (revised)

15

C.F.

R1C

R1E

NORTH

ROCHESTER ROAD

ROCHESTER ROAD

SITE PLAN REVIEW
PROPOSED HIDDEN FOREST
SITE CONDOMINIUM (REVISED)
S SIDE OF WATTLES, W OF JENNINGS
SEC. 22 (37 UNITS/LOTS)

SITE PLAN REVIEW
HIDDEN FOREST SITE
CONDOMINIUM (REVISED)



0 100 200 400 600 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 subdividing 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.

**F-3 Preliminary Site Condominium Review (Revised) – Hidden Forest Site
Condominium, South Side of Wattles, East of Livernois, Section 22 – R-1C**

Resolution #2005-05-254
Moved by Stine
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 Forest Site Condominium, as recommended for approval by City Management and the Planning Commission, located on the south side of Wattles, east of Livernois, including 37 home sites, within the R-1C Zoning District, being 17.79 acres in size, is hereby **APPROVED**.

Yes: All-6
No: None
Absent: Beltramini

July 1, 2005

TO: John Szerlag, City Manager

FROM: Brian Murphy, Assistant City Manager/Services
Steven Vandette, City Engineer

SUBJECT: Agenda Item - Private Agreement for Hidden Forest Site Condominiums
Project No. 04.908.3

The Engineering Department has reviewed and approved plans for this project, which includes sanitary sewer, storm sewer, detention, water main, sidewalks, soil erosion and paving.

The Owner has provided a letter of credit for escrow and cash fees in the amount of the estimated cost of public improvements, as required.

Approval is recommended.

CC: Tonni Bartholomew, City Clerk (Original Agreement)
James Nash, Financial Services Director
Carol Anderson, Director of Parks and Recreation
Mark Miller, Planning Director
Nino Licari, City Assessor
Timothy Richnak, Director of Public Works
William Jawlik, Inspector Supervisor.
GFA Development

Prepared by: G. Scott Finlay, P.E.
Civil Engineer

Enclosed Private Agreement, Detailed Summary, Sketch and Suggested Resolution

Approval of Contract for the Installation of Municipal Improvements (Private Agreement) for Hidden Forest Site Condominiums, Project No. 04.908.3

RESOLVED, that the *Contract for the Installation of Municipal Improvements* (Private Agreement) between the City of Troy and GFA Development Company is hereby approved for the installation of sanitary sewer, storm sewer, detention, water main, soil erosion, sidewalks, landscaping and paving on the site and in the adjacent right of way, and the Mayor and City Clerk are authorized to execute the documents, a copy of which shall be attached to the original Minutes of this meeting.

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

PROJECT NO. 04.908.3

PROJECT LOCATION:

NW 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, 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 \$ 800,388.00. This amount will be transmitted to the City Clerk for installation of said improvements in the form of (check one):

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

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 \$132,731.00 cash fee per the attached **Detailed Summary of Required Escrow Deposits Cash Deposits and Cash Fees.**

CONTRACT FOR INSTALLATION OF MUNICIPAL IMPROVEMENTS
(PRIVATE AGREEMENT)

PROJECT NO. 04.908.3

PROJECT LOCATION:

NW 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 \$933,119.00 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. 04.908.3

PROJECT LOCATION:

NW 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:

[Handwritten Signature]

Gary Abitheira

Please Print or Type

Louise E. Schilling, Mayor

Please Print or Type

Tonni Bartholomew, City Clerk

STATE OF MICHIGAN, COUNTY OF OAKLAND

On this 28th day of June, A.D. 2005, before me personally appeared Gary Abitheira 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.

Laurel Nottage

NOTARY PUBLIC, Oakland County, Michigan

Acting in Oakland County

My commission expires: 10-12-11

Detailed Summary of Required Escrow Deposits, Cash Fees & Deposits
Hidden Forest Site Condominium
34 Units - Section 22

ESCROW DEPOSITS:

Sanitary Sewers	\$133,337
Water Mains	\$110,215
Storm Sewers	\$90,530
Rear Yard Drains	\$50,203
Pavement - CONCRETE	\$280,490
Grading	\$25,000
Detention Basin	\$20,000
Soil Erosion Control Measures	\$2,393
Monuments and Lot Corner Irons	\$1,690
Deceleration and/or Passing Lane - MAJOR ROAD	\$45,000
Sidewalks - ON SITE	\$11,850
Sidewalks - OFF SITE	\$2,280
Street Light	\$7,000
Deposit for the Repair of Damage to Existing Public Streets Used for Access	\$20,400
TOTAL ESCROW DEPOSITS (REFUNDABLE):	\$800,388

CASH FEES (NON-REFUNDABLE):

Water Main Testing and Chlorination	\$1,088
Street Name and Traffic Signs	\$1,426
Maintenance of Detention Basin (20 year)	\$22,800
Soil Erosion and Sedimentation Control Permits	\$1,400
Testing Services	\$12,006
Engineering Review and Inspection	\$53,946
TOTAL CASH FEES (NON-REFUNDABLE):	\$92,666

CASH DEPOSITS (REFUNDABLE):

Street Island Improvements	\$3,519
Sidewalk Closures	\$1,620
Walkway and Split Rail Fence	\$5,500
Deposit for Maintenance & Cleaning of Ex. Public Streets Used for Access	\$6,800
Landscape Deposit	\$14,959
Protection & Clean-up of Wetlands & Sturgis Drain	\$5,000
Punchlist & Restoration Deposit	\$6,186
TOTAL CASH DEPOSITS (REFUNDABLE):	\$40,065

Engineer: Hennessey Engineering
Developer: GFA Development

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TEMPORARY TIRMS AROUND AND PARALLEL TO BE REMOVED UPON COMPLETION OF PAVING BY CITY OF TROY

20-22-251-001

