



MEMORANDUM

TO: Members of the Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
DATE: November 18, 2009
SUBJECT: Candlewood Amended and Restated Consent Judgment

On October 20, 1981, the City of Troy entered into a consent judgment to settle a lawsuit filed by Candlewood Hotel Company, Inc. and Rosso Development, Inc.. The original consent judgment re-zoned the property from O-S-C (office-service-commercial district) to O-1 (office building district). On July 2, 1997, this consent judgment was amended by the parties to allow for the construction of a three story extended stay hotel and a 47,200 square foot single story office building. Since extended stay hotels were not required by the zoning ordinance to have public meeting rooms, the 1997 amendment required the office building to have a meeting room available for rent to the public.

In preparation for a new occupancy, the successor owner of the office building, Kirts Office Center Associates, LLC., has requested an elimination of the requirement to provide a public meeting room. In order to accomplish this, there needs to be an amendment to the consent judgment. The attached proposed Second Amended and Restated Consent Judgment makes this change, as well as updating the successor owners of the property and making other non-substantive changes. If approved, this document would be recorded with the Oakland County Register of Deeds, and would be controlling for the property.

Kirts Office Center Associates has approved and executed the document. The other successor party in interest is Candlewood Portfolio I, L.L.C., a real estate investment trust, which complicates the approval of a consent judgment. With a real estate investment trust, there are several persons with financial interest in the property. It is not anticipated that any of these persons will oppose the amendment. However, past experience has demonstrated that there are persons in real estate investment trusts with either a minimal financial interest or persons who are unaware that their investment portfolio contains a financial interest in a real estate investment trust. In order to protect their interests, and to minimize inconvenience to the persons with a financial interest in the real estate investment trust, if City Council approves the second amended and restated consent judgment, then it is our intent to file a motion for entry of the amended and restated consent judgment with the Oakland County Circuit Court. This motion would be served on all persons with a financial interest. A consent form would also be sent to each owner in the real estate investment trust for their convenience. If a financially interested person is opposed to the amended consent judgment, then they will have an opportunity to voice these objections prior to the Court's entry of the judgment. By filing a motion for entry of the amended and restated consent judgment, the Court has the ability to enter the second amended and restated consent judgment, even if some of the partial owners in the real estate investment trust have not provided either consent or objection.

Please let me know if you have any questions or concerns about this proposed amendment.

STATE OF MICHIGAN

OAKLAND COUNTY CIRCUIT COURT

CANDLEWOOD HOTEL COMPANY,
INC., a Delaware Corporation, and
ROSSO DEVELOPMENT, INC., a
Michigan Corporation,

Case No. 80-207200 CZ

Hon.

Plaintiffs,

v

CITY OF TROY, a Michigan
municipal corporation,

Defendant.

BUTZEL LONG
By: Carl Rashid, Jr. (P23915)
Danielle J. Hessell (P68667)
Attorneys for Kirts Office Center
Associates, L.L.C.
150 W. Jefferson, Suite 100
Detroit, MI 48226-4430
(313) 225-7000

CITY OF TROY
By: Lori Grigg Bluhm (P46908)
City Attorney, City of Troy
Attorney for Defendant
500 W. Big Beaver Road
Troy, MI 48084
(248) 524-3320

SECOND AMENDED AND RESTATED CONSENT JUDGMENT

At a session of said Court held
In the Courthouse, in the City of
Pontiac, Oakland County, MI,
on: _____

PRESENT: HONORABLE _____
CIRCUIT JUDGE

The PARTIES, CANDLEWOOD PORTFOLIO I, L.L.C., successor in interest to CANDLEWOOD HOTEL COMPANY, INC., AND KIRTS OFFICE CENTER ASSOCIATES, L.L.C., successors in interest to ROSSO DEVELOPMENT INC. (Plaintiffs) and CITY OF TROY (Defendant) agree to the terms and conditions of this SECOND AMENDED AND RESTATED CONSENT JUDGMENT, which is controlling for the real property at the Northeast corner of Kirts Boulevard and Troy Center Drive, as described below.

RECITALS

A. On October 20, 1981, this Court entered a Consent Judgment (“Original Judgment”) affecting certain property (the “Property”) and more particularly described as:

City of Troy, Oakland County, Michigan, Lots 31 (20-28-101-021), 32 (20-28-101-020), 33 (20-28-101-019) and 34 (20-28-101-018) of F. J. Kirts Farms Subdivision, except the South 60 ft taken for Kirts Road.

B. The Plaintiffs for the Original Judgment were Rosso, Messer, Schell Partnership, a Michigan Co-Partnership, which subsequently transferred its interest in the Property to successor Plaintiff, Rosso Development Company, Inc. (Rosso). Rosso entered into an agreement with Candlewood Hotel Company, Inc. for a portion of the Property, and Candlewood Portfolio I, L.L.C. (Candlewood) is successor in interest by merger to Candlewood Hotel Company, Inc., therefore Candlewood is also a successor Plaintiff. Rosso subsequently transferred its interest in the Property to Kirts Office Center Associates, LLC (Kirts), making Kirts a successor Plaintiff.

C. Under the terms of the Original Judgment, the Property was rezoned from the O-S-C zoning classification (Office-Service- Commercial District) to the O-1 zoning classification

(Office Building District). The parties agree that these zoning classifications for the Property are both constitutional and reasonable.

D. Subsequent to the entry of the Original Judgment, the parties negotiated a First Amended and Restated Consent Judgment regarding the Property, which was entered by the Court on July 2, 1997. The First Amended and Restated Consent Judgment allowed Plaintiffs to construct a three story extended stay hotel and a 47,200 square foot single story office building.

E. According to the last sentence of paragraph 5 (a), “The office building to be constructed on the Property shall have a meeting room available for rent to the public.” Plaintiffs have requested the deletion of this requirement, and the City is in agreement.

F. The parties therefore desire to amend the First Amended and Restated Consent Judgment to reflect this agreement, and therefore incorporate this modification into a Second Amended and Restated Consent Judgment.

IT IS ORDERED AND ADJUDGED AS FOLLOWS:

1. This Second Amended and Restated Consent Judgment shall completely replace the First Amended and Restated Consent Judgment, which replaced the Original Judgment. These previous versions of the consent judgment (the Original Judgment and the First Amended and Restated Consent Judgment) are no longer controlling for the Property.

2. The term Plaintiffs in this Second Amended and Restated Consent Judgment refers to KIRTS OFFICE CENTER ASSOCIATES, L.L.C. and CANDLEWOOD PORTFOLIO I, L.L.C., and any subsequent successor in interest.

3. The Recitals, as set forth above in Paragraphs A through F, are incorporated into this Second Amended and Restated Consent Judgment.

4. After the date of this Amended Judgment, the Property may be used, developed, occupied, and divided, subject to the terms of this Second Amended and Restated Consent Judgment.

5. The Property may be used and developed in accordance with the provisions of Article XXIV of Chapter 39 of the City of Troy Ordinances (O-1- Low Rise Office District), a copy of which is attached as Exhibit A, and incorporated by reference. However, an extended stay hotel shall be permitted, as depicted on the Site Plan, Elevation Plan and Floor Plans (a copy of which is attached as Exhibit B).

6. The first two stories of the extended stay hotel, as referenced in paragraph 5, shall have a brick exterior material, and the exterior of the third story of the extended stay shall be EFIS (Exterior Insulation and Finish System).

7. Although the manager for the extended stay hotel (set forth in paragraph 5) may reside on the premises in a manager's suite, there shall be no other permanent residences in the extended stay hotel.

8. All height limitations, building setbacks, interior building configurations, intensity of development and similar matters are controlled by the provisions of the City of Troy Zoning Ordinance (Chapter 39), unless otherwise specifically provided for in this Second Amended and Restated Consent Judgment or as otherwise indicated on the Site Plan or Floor Plans, which are attached as Exhibit B and incorporated by reference. In the event that there is a conflict between the Site Plan or Floor Plans and the text of this Second Amended and Restated Consent Judgment, the Site Plan or Floor Plan shall control. However, minor modifications to the Site Plan or Floor Plans that are not inconsistent with the spirit of this Second Amended and Restated Consent Judgment may be made with the written agreement of the parties to any such

modifications, and amendment of the Second Amended and Restated Consent Judgment shall not be required.

9. Plaintiffs shall adhere to all codes, ordinances and design standards of the City without variances except as otherwise provided in this Second Amended and Restated Consent Judgment.

10. When required by the City of Troy Development standards, Plaintiffs were required to construct deceleration lanes on Kirts Road and Troy Center Drive in connection with the construction of any buildings or structures on the Property.

11. The provisions of this Second Amended and Restated Consent Judgment shall be covenants running with the land, and shall be binding upon and inure to the benefit of the parties, their officers, employees, representatives, heirs, successors and assigns and all others acting under their direction and control.

12. Plaintiffs agree to hold the City of Troy, its officials, employees and agents harmless from any and all claims made, including attorney fees and other costs incurred by the City that arise from this Second Amended and Restated Consent Judgment, the Original Judgment, or the First Amended and Restated Consent Judgment.

13. A certified copy of this Second Amended and Restated Consent Judgment shall be recorded against the Property in the Office of the Register of Deeds for the County of Oakland, Michigan, and the Oakland County Register of Deeds is directed to accept this document for recordation.

14. In order to effectuate the intent of this Second Amended and Restated Consent Judgment and to reconcile any differences of the parties that may arise in connection with the

performance of this Second Amended and Restated Consent Judgment, this Court shall retain jurisdiction of this action.

Circuit Judge

(signatures continued on the following page)

Approved as to form and substance
for entry:

KIRTS OFFICE CENTER ASSOCIATES, L.L.C.,
a Michigan Limited Liability Company,

By: Kirts Development, L.L.C., Managing Member

By: _____

A. Matthew Kiriluk

Its: Managing Member_____

CITY OF TROY

By: _____

Louise E. Schilling, Mayor

By: _____

Tonni L. Bartholomew, City Clerk

Approved as to form:

Danielle J. Hessel (P68667)
Attorney for Kirts Office Center Associates, L.L.C.

Lori Grigg Bluhm (P46908)
City Attorney, City of Troy

Approved as to form and substance
for entry:

KIRTS OFFICE CENTER ASSOCIATES, L.L.C.,
a Michigan Limited Liability Company.

By: ~~Kirts Development, L.L.C.~~ Managing Member

By: A. Matthew Smith, II

is Managing Member

CITY OF TRUY

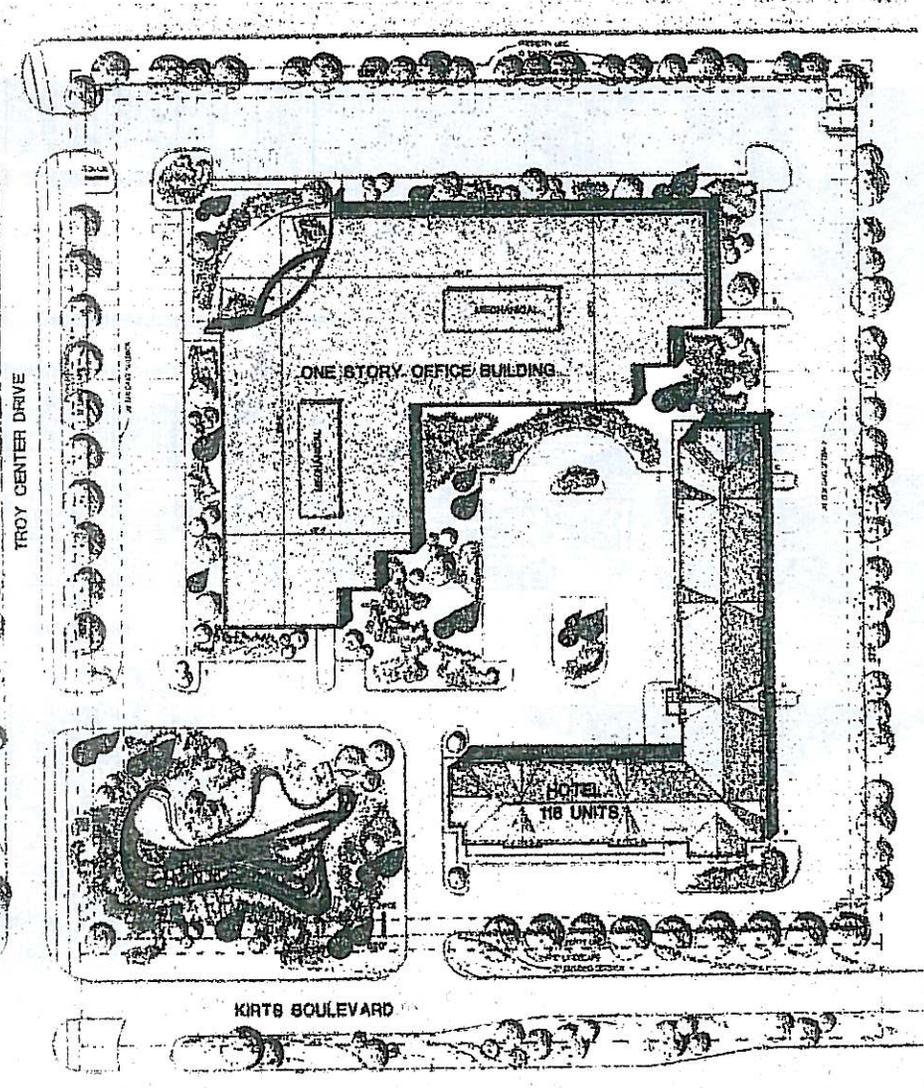
By: Leslie E. Schilling, Mayor

By: Tyoni L. Bartholomew, City Clerk

Approved as to form:

Daniel J. Howell
Daniel J. Howell (Attorney)
Attorney for Kirts Office Center Associates, L.L.C.

Les Grigg (Sharon (PARRON))
City Attorney, City of Tuy



SITE PLAN DATA:

ZONING: O-1 Office District
DENSITY: 15,000 GSF/ Net Acre
SITE AREA: 0.83 Acres (287,500 SF) (no R.O.W. deductions)
HOTEL SITE: 3.0 Acres
OFFICE BUILDING SITE: 3.83 Acres

BUILDING AREA:
ALLOWABLE OFFICE USE AREA: 15,000 GSF/Acre x 3.83 acres = 57,480 GSF
HOTEL: 60,800 SF
NO. OF KEYS - (UNITS):
OFFICE BUILDING: 47,200 GSF or 30,000 NSF

PARKING:
HOTEL: 126 Spaces required, including 6 PHDC spaces
OFFICE BUILDING: 180 spaces required, 200 spaces provided, including 8 PHDC spaces.

LANDSCAPE AREA: Required 10% of site or 0.663 acres

LANDSCAPE AREA PROVIDED: 0.13 Acres

STORM RETENTION: Approximately 32,000 cubic feet
 Permanent water depth 2ft with extra 3 foot overflow
 Pond/area of 141 sq ft
 This area is counted as part of required landscape

MINORU YAMASAKI ASSOCIATES

Architects
 Site Plan
 Designers

CANDY WOOD PARK HOTEL
 AND
 OFFICE BUILDING

SITE PLAN

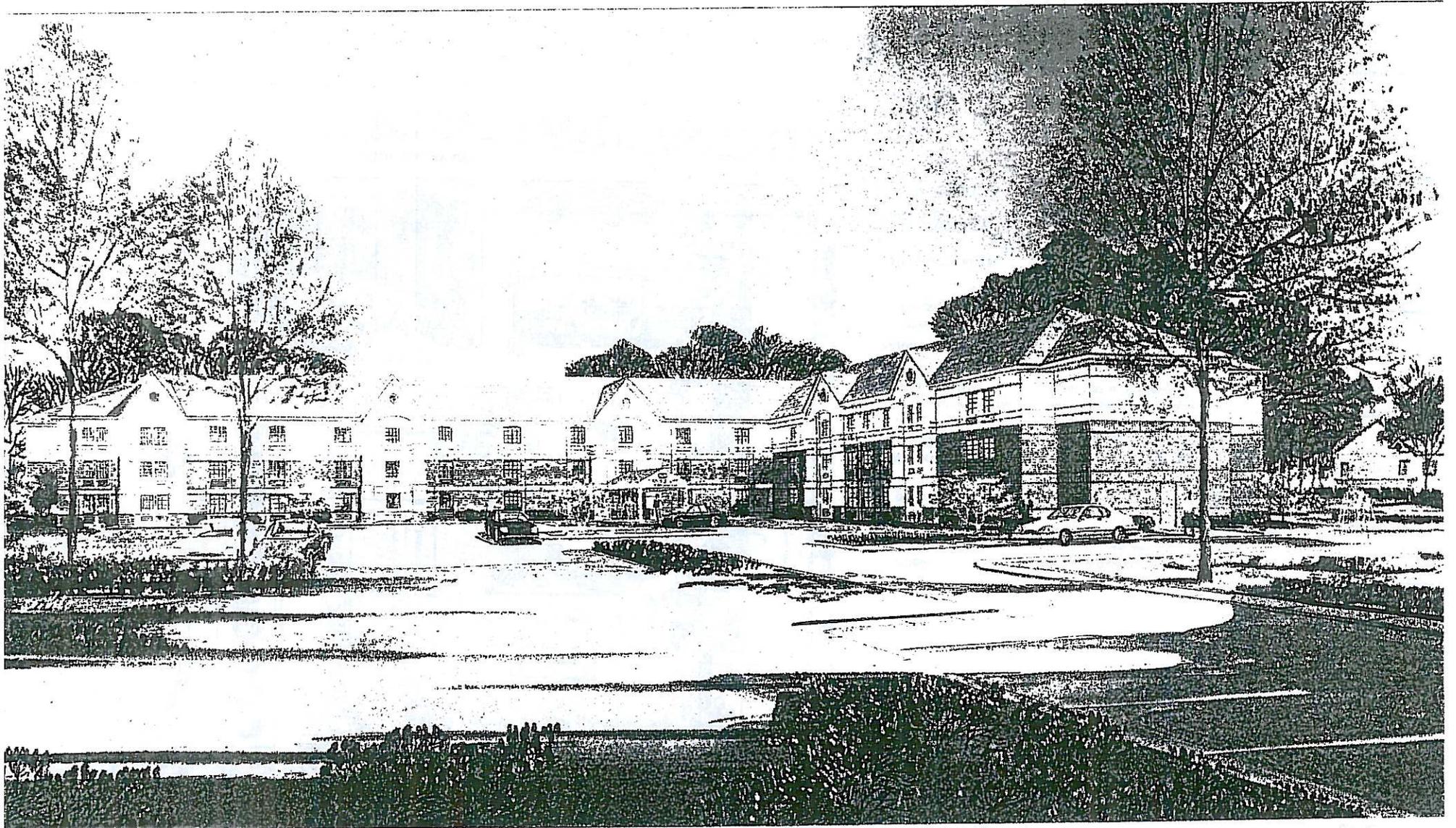
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 UP
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27 JANUARY 2007

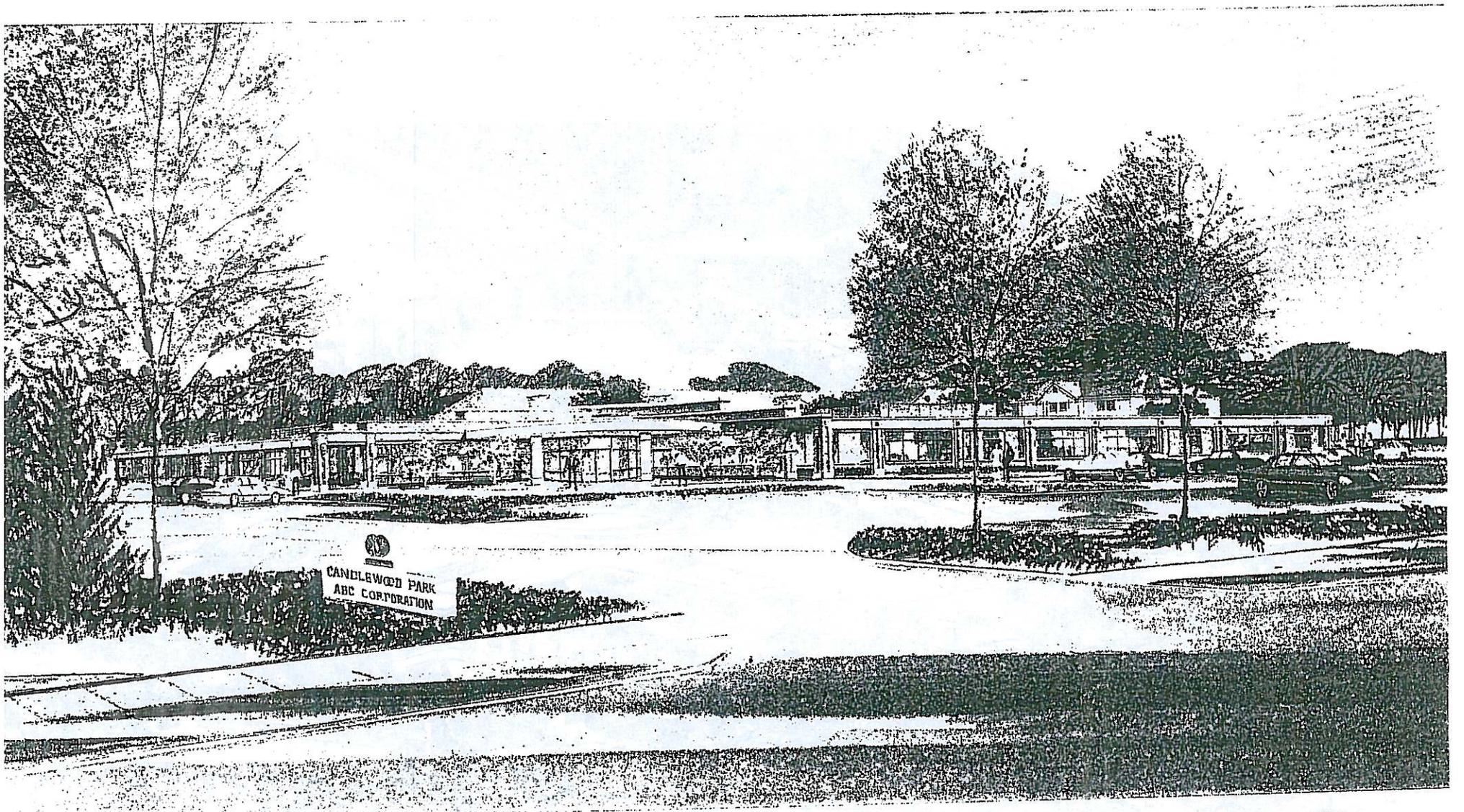
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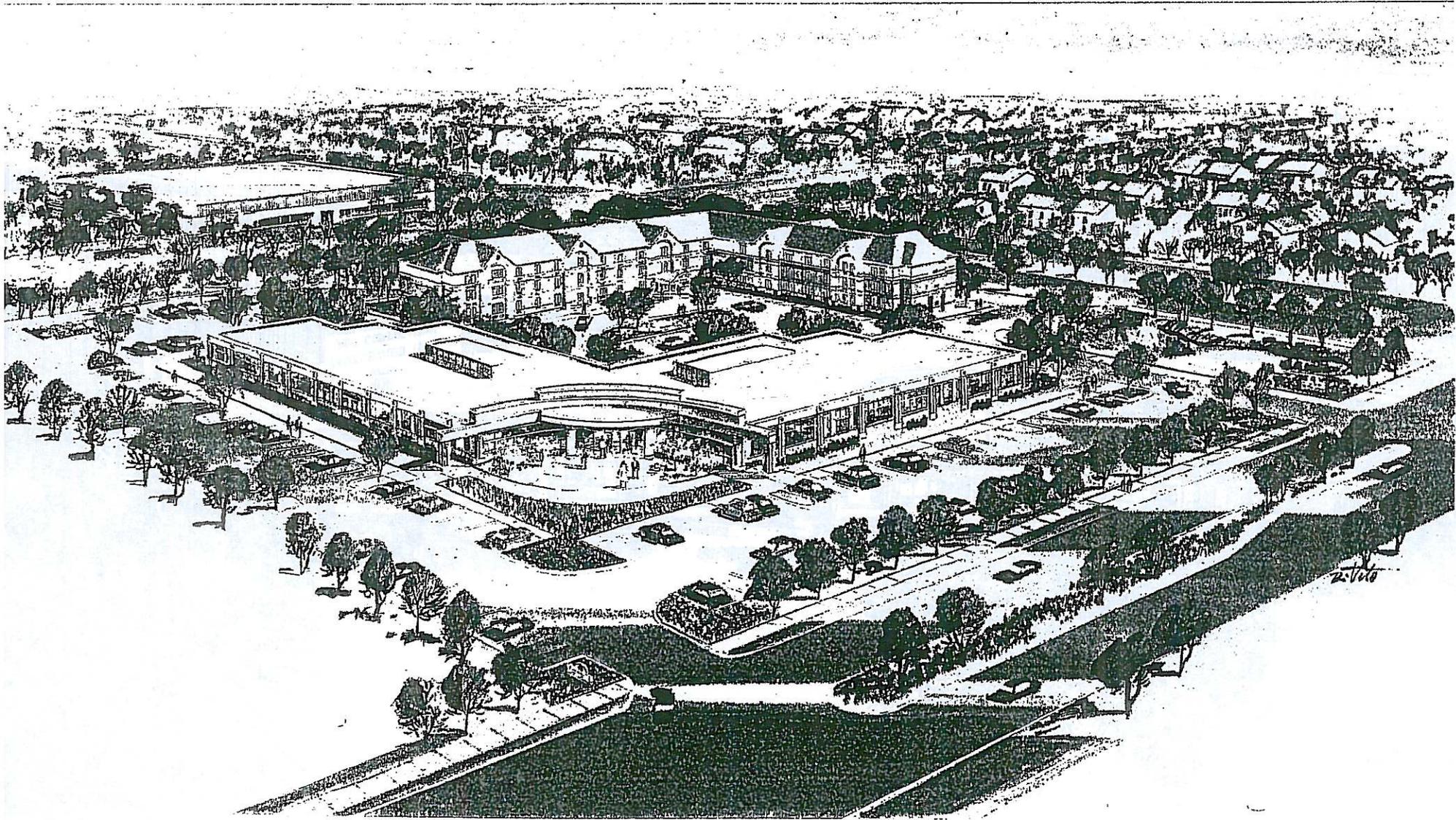
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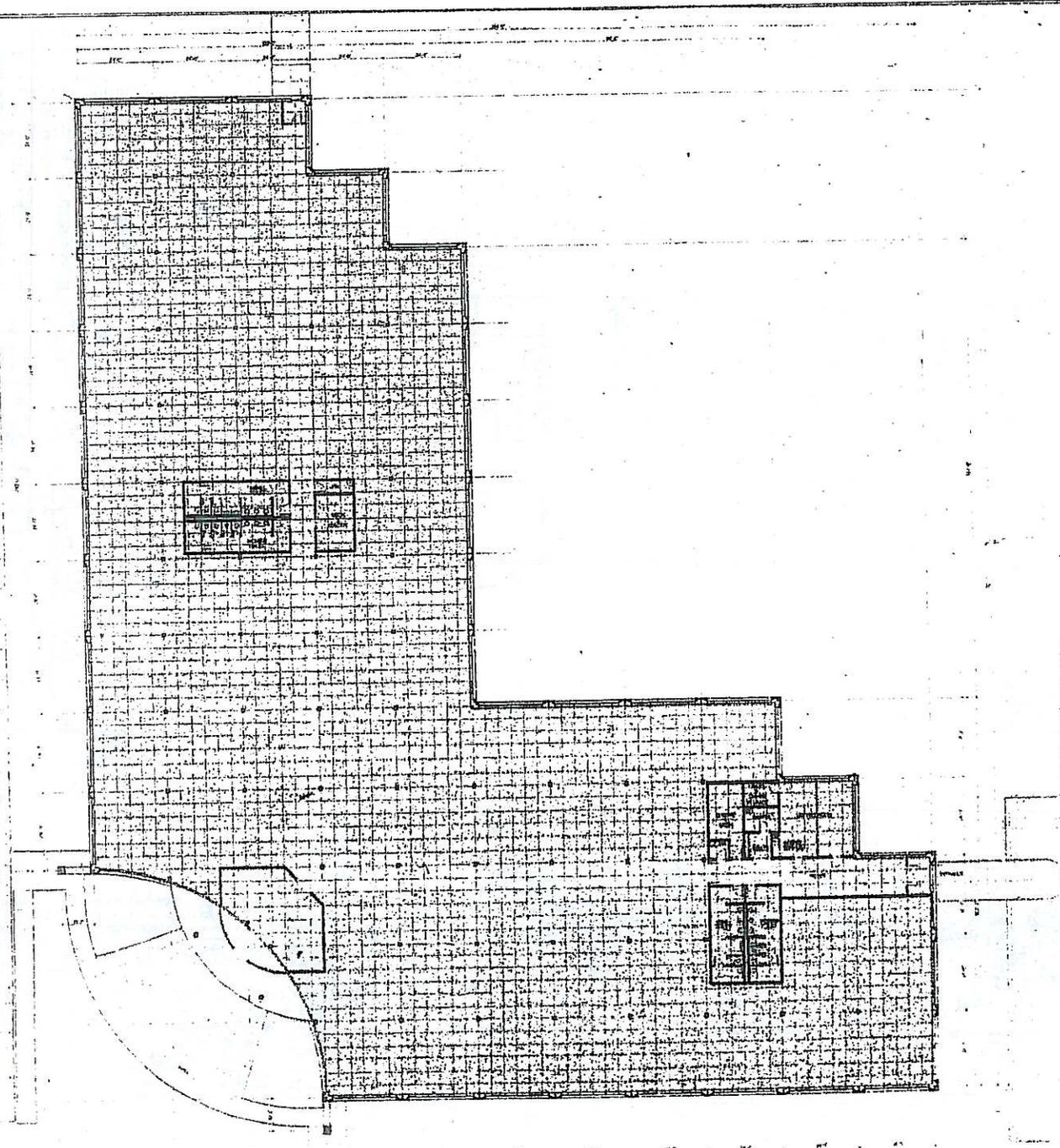
CANDLEWOOD HOTEL




CANDLEWOOD PARK
OFFICE BUILDING



CANDLEWOOD PARK
HOTEL & OFFICE BUILDING



GROSS BUILDING AREA
47,560 SQ
FLOOR FINISH
PLANNING MODULE 4'-0" x 4'-0"

MINORU
YAMASAKI
ASSOCIATES

Architects
Interior
Designers

THIS PLAN IS THE PROPERTY OF MINORU YAMASAKI ASSOCIATES AND IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF MINORU YAMASAKI ASSOCIATES. ANY UNAUTHORIZED REPRODUCTION OR TRANSMISSION OF THIS PLAN IS PROHIBITED AND WILL BE PROSECUTED TO THE FULL EXTENT OF THE LAW.

CANDLEWOOD
PARK HOTEL
AND
OFFICE
BUILDING

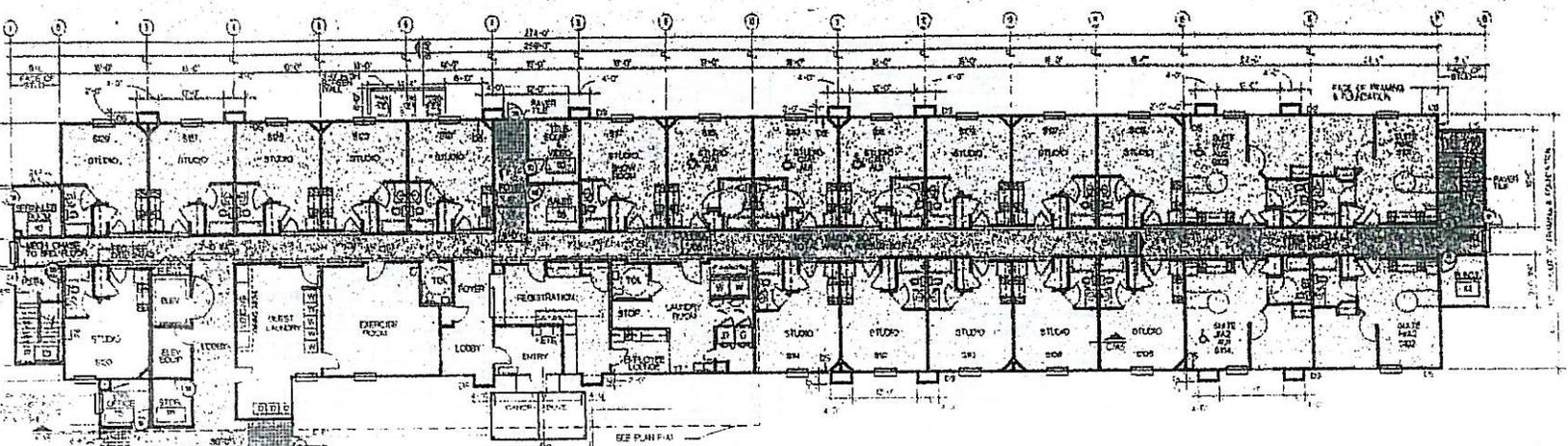
PLAN

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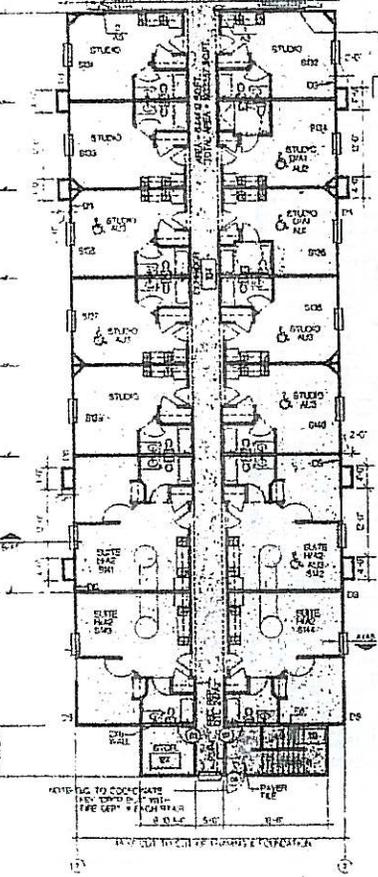
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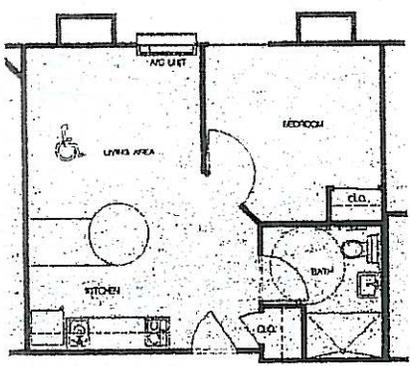
A FIRST FLOOR PLAN
337' x 10'

TOTAL NO. OF STUDIOS & RES. SUITES ON ALL THREE FLOORS - 115
 TOTAL NO. OF STUDIO UNITS - 80
 TOTAL NO. OF SUITE FLOOR UNITS - 35
 TOTAL NO. OF CONNECTING UNITS & PARK - 0
 TOTAL AREA OF ALL THREE FLOORS - 374,000 SQ. FT.

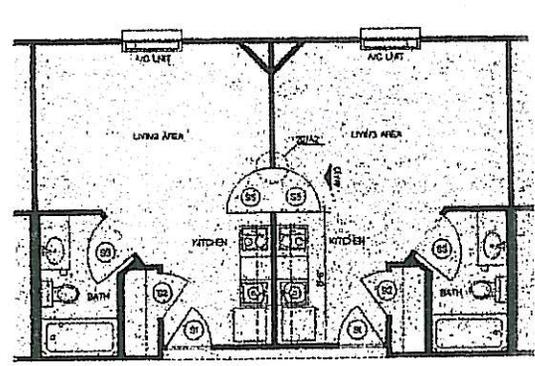


C TYPICAL SUITE FLOOR PLAN
17' x 11'

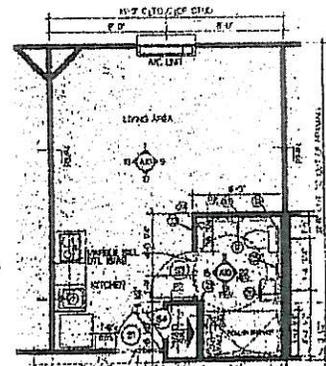
AL-1 GREENWOOD UNIT
 AL-2 ACCESSORY UNIT WITH PRIVATE SUITE
 AL-3 ACCESSORY UNIT



E CONNECTING ROOMS FLOOR PLAN
17' x 11'



D TYPICAL ACCESSIBLE STUDIO PLAN
11' x 11'



LAWRENCE BERKELEY NATIONAL LABORATORY

CANDLEWOOD
Your Studio Hotel

PROTOTYPICAL DRAWINGS

110 UNITS / 3 STORIES

Chapter 39 - Zoning Ordinance

24.00.00 ARTICLE XXIV O-1 OFFICE BUILDING DISTRICT

(Rev. 10-16-06)

24.10.00 INTENT:

The O-1 Office Building Districts are designed to accommodate office uses, office sales uses, and certain basic personal services. These districts are mapped typically in major shopping center locations related to the activity of the larger establishments generating greater volumes of vehicular and pedestrian traffic. The following regulations shall apply in all "O-1" Districts and no building, structure or premises except as otherwise provided in this chapter, shall be erected, altered, or used except for one or more of the following uses:

24.10.01 Persons seeking to rezone property to the Zoning District governed by this Article shall conform to the requirements of Section 03.20.00.

24.20.00 PRINCIPAL USES PERMITTED:

24.20.01 Office Buildings for any of the following occupations: executive, administrative; professional; accounting; writing; clerical stenographic; drafting; and sales, subject to the limitations contained below in Sub-section 24.50.00 Development Standards.

24.20.02 Medical office, including clinics.

24.20.03 Banks, credit unions, savings and loan associations, and similar uses. Such uses may include drive-in facilities only as an accessory use, subject to the provision of back-up or waiting space, apart from required off-street parking areas, at the rate of four (4) car spaces for each service window or pedestal, in addition to the space at the window or pedestal.

24.20.04 Publicly owned buildings, exchanges, and public utility offices.

24.20.05 Medical equipment sales and service.

(10-16-06)

24.20.06 Other uses similar to the above uses.

24.25.00 USES PERMITTED SUBJECT TO SPECIAL CONDITIONS:

The following uses shall be permitted, subject to the conditions hereinafter imposed for each use:

24.25.01 Uses customarily supporting or serving the Principal Uses permitted in this District, such as pharmacies or drug stores, optical services, copy services, office supplies, book stores, art galleries, or restaurants; provided that these uses are within the building housing the Principal Uses which they support, and provided that there is no direct outside entrance for these uses separate from the entrance serving the Principal Uses. Such uses shall, in total, occupy no more than twenty (20) percent of the floor area of the building complex of which they are a part.

(Rev. 07-22-96)

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24.25.02 Data processing and computer centers, including sales support, service and maintenance of electronic data processing equipment. The sales support, service and maintenance functions, shall be accessory or secondary to the Principal Uses permitted in this District, and thus shall not be operated as independent businesses.

(06-03-96)

24.25.03 Technical training uses, when such are accessory or secondary to the Principal Uses permitted in this District, and thus not operated as independent businesses.

Additional parking (in accordance with Section 40.21.32) shall be provided for that floor area devoted to technical training (classrooms) which is in excess of thirty (30) percent of the total area of the Principal Use.

(06-03-96)

24.30.00 USES PERMITTED SUBJECT TO SPECIAL USE APPROVAL:

The following uses may be permitted in O-1 Districts, subject to the conditions hereinafter imposed for each use, and subject further to the review and approval of the use by the Planning Commission, or by the City Council where indicated. Before approving any such uses, the Planning Commission or the City Council where indicated, shall find that:

- A. The land use or activity being proposed shall be of such location, size and character as to be compatible with the orderly development of the Zoning District in which it is situated, and shall not be detrimental to the orderly development or use of adjacent land and Districts.
- B. The land use or activity under consideration is within the capacity limitations of the existing or proposed public services and facilities which serve its location.

(Rev. 01-25-93)

24.30.01 Persons seeking Special Use Approval for specified uses governed by this Article shall conform to the requirements of Section 03.30.00.

24.30.02 Mortuary Establishments subject to the following:

- A. The minimum lot area shall be twenty-five thousand (25,000) square feet and so arranged that adequate assembly area is provided off-street for vehicles to be used in a funeral procession.
- B. The site shall be so located as to have at least one (1) property line abutting a major thoroughfare of not less than one hundred and twenty (120) feet of right-of-way width, either existing or proposed, and all ingress and egress for the site shall be directly onto said major thoroughfare, or a marginal access service drive thereof.
- C. Points of ingress and egress for the site shall be so laid out as to minimize possible conflicts between traffic on adjacent major thoroughfares and funeral processions or visitors entering or leaving the site.

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- D. No building shall be located closer than fifty (50) feet to the outer perimeter (property line) of the District when said property line abuts any residential District.
 - E. A caretaker's residence may be provided within the main building of the mortuary establishment.
 - F. Loading and unloading areas used by ambulance, hearses, or other such service vehicles shall be obscured from all residential view with a wall six (6) feet in height and said wall, plus any other required walls, shall be further subject to the requirements of Article XXXIX, "Environmental Provisions".
- 24.30.03 Private Service Clubs Fraternal Organizations and Lodge Halls, Including Accessory Structures and Uses Customarily Incidental to Such Uses, Racquet and Athletic Clubs, subject to the following:
- A. The minimum lot area shall be three (3) acres. In the case of racquet and athletic clubs, a five (5) acre minimum lot shall be required.
 - B. The site shall have at least one (1) property line abutting a major or secondary thoroughfare.
 - C. All vehicular ingress and egress to the site shall be directly from a major or secondary thoroughfare, except in those instances where the Planning Commission and the City Council find that traffic safety conditions in the area would be improved, while having no adverse effects on adjacent properties, by permitting ingress and egress to streets other than major or secondary thoroughfares.
 - D. The minimum distance of any principal or accessory building from any adjacent residential District boundary line or street right-of-way shall be one hundred (100) feet.
 - E. The Planning Commission and the City Council shall determine that the nature and design of a building intended for racquet and/or athletic club use is fully compatible with buildings in adjacent or typical office areas, particularly as to exterior design and materials.
 - F. Racquet and athletic club facilities shall be permitted only after the further determination by the Planning Commission and the City Council that such are necessary in order to adequately serve the recreation needs of the adjacent area.
- 24.30.04 Utility Sub-Stations, Transformer Stations or Gas Regulator Stations (Without Storage Yards) subject to the following:
(Renumbered: 11-13-06)
- A. The Planning Commission shall determine that operating requirements necessitate the location of such uses within the District in order to serve the immediate vicinity.
 - B. All proposed uses and facilities shall be contained within masonry buildings or structures similar to or compatible with buildings in adjacent or typical office areas.

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- C. Overhead transmission lines and tower structures supporting such lines are expressly prohibited from such sites. All lines serving such sites shall be underground.
- D. In order to maximize the efficiency of the provision of utility services, while also minimizing the impact of such facilities on the total community, collocation, or the provision of more than one utility facility at a single location, may be required by the Planning Commission. In this regard, the applicant may be required to provide information regarding the feasibility of collocation at proposed sites.
 - 1. Applications for the placement of freestanding tower structures and antennas under this Section, which do not involve collocation, shall be considered only in conjunction with a report from an independent qualified and licensed professional engineer, indicating reasons why collocation is physically or technically not feasible.
- E. The setback for a freestanding communications antenna tower structure, from an abutting residentially zoned or used parcel, shall be at least equal to five (5) times the height of the structure. This setback requirement shall not apply to sites on which antenna tower structures were constructed prior to July 1, 1998.
- F. Actions to approve the placement of freestanding tower structures and antennas under this Section shall be conditioned upon submittal, by the applicant, of financial assurances in a form acceptable to the City Manager, in order to assure that the subject facilities will be removed from the site within one (1) year of the date that their use ceases.

(Rev. 10-05-98)

24.30.05 Mechanical or Laboratory Research Involving Testing and Evaluation of Products, or Prototype or Experimental Product or Process Development.

(Renumbered: 11-13-06)

- A. Such research areas may be permitted only in office buildings developed within areas designated for the use of the Office Development Options, in accordance with Sections 36.00.00 and 36.40.00 of this Chapter.
- B. Such research areas shall occupy no more than twenty-five (25) percent of the gross floor area occupied by any individual or corporate office occupant or tenant, and shall be contiguous with the office area of the occupant or tenant.
- C. Such research areas shall be located and designed so as to minimize any negative impact on adjacent office occupants from effects such as noise, dust, vibration and odor.
- D. Such research activities shall not involve vehicles or engines containing fuel.

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- E. Such research activities shall be limited to uses which do not require building construction having a higher fire rating than that required for office uses.

(Rev 05-03-99)

- 24.30.06 Childcare centers, nursery schools, or day nurseries (not including dormitories), subject to the following conditions:

(Renumbered: 11-13-06)

- A. For each child so cared for, there shall be provided and maintained a minimum of one hundred fifty (150) square feet of outdoor play area. Such play area shall have a total minimum area of not less than five thousand (5,000) square feet and shall be fenced or screened from adjoining properties in a manner acceptable to the Planning Commission.
- B. The site layout shall be designated so as to minimize vehicular traffic conflicts both on and adjacent to the site and to provide the highest level of pedestrian/child safety within the site.

(06-07-99)

24.40.00 LOCATION STANDARDS

- 24.40.10 Location Standards: the O-1 (Office Building) District may be applied when the application of such a classification is consistent with the intent of the Master Land Use Planning and policies related thereto, and therefore involves the following types of areas:

- 24.40.11 Areas indicated as low-rise office.

- 24.40.12 Portions of areas designated as community service centers or neighborhood service centers.

- 24.40.13 Areas designated for commercial or other non-residential development, or higher intensity office development, when one or more of the following determinations are made:

- A. When the adjacent area and/or the total community would be more effectively served by the application of O-1 zoning than by the application of a commercial or other non-residential zoning District of a more intense office District.
- B. When development in accordance with O-1 zoning would serve as a transitional element and would thus be more compatible with adjacent properties than would development under commercial or other office classifications.

24.50.00 DEVELOPMENT STANDARDS:

- 24.50.01 No interior display shall be visible from the exterior of the building, and the total area devoted to display, including both the objects displayed and the floor space set aside for persons observing the displayed objects, shall not exceed twenty-five (25) percent of the usable floor area of either the first or second story, or in the basement.

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- 24.50.02 The outdoor storage of goods or materials shall be prohibited.
- 24.50.03 Warehousing or indoor storage of goods or material, beyond that normally incident to the above permitted uses, shall be prohibited.
- 24.50.05 See Section 40.20.00 for parking requirements.
- 24.50.06 The Planning Commission may permit the provision of landscaped area in lieu of and within the area which would otherwise provide for up to twenty (20) percent of the total required parking spaces, subject to the following conditions and findings:
- A.. That the subject office development consists of one or more buildings which together have gross floor area of 50,000 square feet or greater.
 - B. That the proposed landscaped area is arranged and designed so that the subject parking spaces can be installed at a later date if the need arises.
 - C. That the owner agrees to install such parking, up to the minimum required by Section 40.21.01, at the request of the City of Troy.
 - D. That the consequent reduction in off-street parking provided will not impair the functioning of the subject office development or have a negative effect on traffic flow on and/or adjacent to the site.
 - E. That the improvements within the subject landscaped area shall be in accordance with the requirements of Section 39.20.00 of this Chapter.
 - F. That the landscaped area thus provided shall be in addition to that required by other provisions of this Chapter.

(Rev. 06-07-99)

- 24.50.07 The Planning Commission may require the provision of the following kinds of circulation and access facilities, when they determine that such will serve to significantly reduce potential traffic congestion and improve safety conditions both on and adjacent to the subject site, and that the uses to be served by such facilities are compatible and that no interior circulation problems will result:
- A. Joint-access driveways or driveways located so as to provide access to more than one site.
 - B. Cross-access interior drives or drives that will allow vehicles to move from one site to another without re-entering the frontage street.

In instances where the provision of such facilities will require the grant of easements between abutting property owners to assure proper vehicular circulation between properties, such easements over the applicant's property shall be presented in a form acceptable to the City of Troy Legal Department prior to the granting of a building permit, and shall be recorded prior to the granting of any Certificate of Occupancy.

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No construction or grade variation shall be permitted which will restrict the proper operation of such vehicular circulation facilities, and no Certificates of Occupancy shall be issued until the construction of such facilities within the applicant's site is complete.

- 24.50.08 See Section 39.95.00 of the General Provisions for the standards and regulations applicable to construction of buildings and uses in this District when the site falls within a designated Flood Hazard Area.
- 24.60.00 ENVIRONMENTAL STANDARDS:
- 24.60.01 See Article XXXIX, "Environmental Provisions", for requirements pertaining to walls, landscaping, performance standards, and signs.
- 24.60.02 An Environmental Impact Statement, according to the provisions of Article VII of this Chapter, shall be submitted as a part of an application for rezoning or site plan approval, whichever shall first occur, which is intended to enable a development of fifty thousand (50,000) square feet of floor area or greater. This provision is also applicable to multi-state developments whose total building area will ultimately meet or exceed this amount.
- 24.70.00 INTENSITY CONTROL:
- 24.70.01 The intensity of office development within the O-1 (Low-Rise Office) District shall not exceed 15,000 square feet of gross building area per net acre of site area (apart from existing and proposed thoroughfare rights-of-way), not including that portion of the building used for vehicular parking purposes, and basement areas whose functions are limited to mechanical rooms and long term storage. These areas shall not be used for any other purpose. (09-11-00)
- 24.80.00 SITE PLAN REVIEW:
In an O-1 District, all development proposals shall be subject to the review and approval of the site plan by the Planning Commission.
- 24.80.01 Persons seeking Site Plan Approval for the development of property governed by this Article shall conform to the requirements of Section 03.40.00.
- 24.90.00 AREA AND BULK REQUIREMENTS:
See Article XXX, "Schedule of Regulations", limiting the height and bulk of buildings, the minimum size of lot by permitted land use, and providing minimum yard setback requirements.

STATE OF MICHIGAN
OAKLAND COUNTY CIRCUIT COURT

CANDLEWOOD HOTEL COMPANY,
INC., a Delaware Corporation, and
ROSSO DEVELOPMENT, INC., a
Michigan Corporation,

Plaintiffs,

v

Case No. 80-207200 CZ

CITY OF TROY, a Michigan
municipal corporation,

Hon. Jessica R. Cooper

Defendants.

BUTZEL LONG
By: Carl Rashid, Jr. (P23915)
Attorney for Plaintiffs
150 W. Jefferson, #900
Detroit, MI 48226-4430
(313) 225-7026

CITY OF TROY - DEPARTMENT OF LAW
By: Peter A. Letzmann (P16587)
John J. Martin, III (P25888)
Attorneys for Defendant
500 W. Big Beaver Road
Troy, MI 48084
(810) 524-3320

FIRST AMENDED AND RESTATED CONSENT JUDGMENT

At a session of said Court held
in the Courthouse, in the City of
Pontiac, Oakland County, MI,

on: _____ JUL 02 1997

PRESENT: HONORABLE _____ JESSICA R. COOPER CIRCUIT JUDGE
CIRCUIT JUDGE

The facts on which this First Amended and Restated Consent Judgment ("Amended Judgment") is based are as follows:

RECITALS

A. On October 20, 1981, this court entered a Consent Judgment ("Original Judgment") affecting certain property (the "Property") and more particularly described as:

City of Troy, Oakland County, Michigan, Lots 31,
32, 33 and 34 of F. J. Kirts Farms Subdivision

B. The parties to the Original Judgment were Rosso, Messer, Schell Partnership, a Michigan Co-partnership, (collectively , the "Original Plaintiffs"), as plaintiffs, and the City of Troy, a Michigan Municipal Corporation, (the "City"), as defendant.

C. Subsequent to entry of the Original Judgment, the Property was sold to Rosso Development Company, Inc., ("Rosso") and Rosso has entered into an agreement with Candlewood Hotel Company, Inc., ("Candlewood") for development of a portion of the Property. (Rosso and Candlewood are collectively referred to as the "Plaintiffs").

D. Pursuant to this Amended Judgment, Plaintiffs are being substituted for the Original Plaintiffs in this case.

E. The parties desire to amend and restate the Original Judgment with respect to the Property in order to allow the Property to be developed, used and occupied for general offices , and an extended stay hotel all as more particularly described in this Amended Judgment. A site plan (the "Site Plan") for development of the Property

prepared by Yamasaki & Associates, dated March 21, 1997, is represented by the reduced copy attached as Exhibit A. An elevation plan (the "Elevation Plan") for development of the Property prepared by Yamasaki & Associates is represented by the reduced copy attached as Exhibit B.

F. The existing O-1, Low Rise Office District zoning of the Property is constitutional and reasonable.

G. The parties desire to amend and restate the Original Judgment to reflect changes in conditions which have occurred in the 15 years since the entry of the Original Judgment and in order to permit Plaintiffs to develop the Property in accordance with the terms of this Amended Judgment.

IT IS ORDERED AND ADJUGED AS FOLLOWS:

1. Plaintiffs are substituted for the Original Plaintiffs in this case.
2. This Amended Judgment shall replace the Original Judgment and shall constitute the Judgment of the Court in this case. The Original Judgment shall be of no further force or effect.
3. The recitals in paragraphs A through G above are made a part of this Amended Judgment.
4. After the date of this Amended Judgment, the Property may be used, developed, occupied, and divided, subject to the terms of this Amended Judgment.
5. The Property may be used and developed and buildings, structures and improvements constructed thereon for the purposes now set forth and any additional uses and purposes which may be permitted in the future in:

a. Article XXIV, O-1, Low Rise Office District of Chapter 39 of the Troy City Code (a copy of which article is attached as Exhibit C); provided, however, that an extended stay hotel shall be permitted as depicted on the Site Plan, Elevation Plan and Floor Plans (a copy of which is attached as Exhibit D). The exterior materials used on the extended stay hotel shall be brick on the first two stories and efise on the third story. No permanent residence shall be established in the extended stay hotel other than the manager's suite. The office building to be constructed on the Property shall have a meeting room available for rent to the public.

6. All height limitations, building setbacks, interior building configurations, intensity of development and similar matters are controlled by the provisions of the City's Zoning Ordinance, unless otherwise specifically provided in this Amended Judgment or as otherwise indicated on the Site Plan and Floor Plans. In the event there is a conflict between the Site Plan or Floor Plans, and the text of this Amended Judgment, the Site Plan and Floor Plans shall control. However, minor modifications to the Site Plan and Floor Plans not inconsistent with the spirit of this Amended Judgment may be made without the necessity of amending this Amended Judgment so long as the City and Plaintiffs agree to such modifications in writing.

7. Plaintiffs shall adhere to all codes, ordinances, and design standards of the City without variances except as otherwise modified by this Amended Judgment and the Site Plan.

8. Plaintiffs shall construct deceleration lanes on Kirts Road and Troy Center Drive, as may be required by the City of Troy Development Standards, or deposit the

necessary amount in accordance with the City's general engineering requirements in conjunction with any building constructed on the Property.

9. The provisions of this Amended Judgment shall be covenants running with the land, and shall be binding upon and inure to the benefit of the parties, their officers, partners, employees, representatives, heirs, successors and assigns and all others acting under their direction and control.

10. Plaintiffs in this cause of action shall hold harmless the City of Troy, its officials, employees and agents from any and all claims made including attorney fees and other costs incurred by the City arising from this Amended Judgment.

11. A certified copy of this Amended Judgment shall be recorded by Plaintiffs in the Office of the Register of Deeds for the County of Oakland, Michigan with regard to the Property and the Register of Deeds is directed to accept the same for recordation.

12. In order to effectuate the intent of this Amended Judgment and to reconcile any differences of the parties that may arise in connection with the performance of this Amended Judgment, this Court shall retain jurisdiction of this action.

~~JESSICA B. COOPER~~
Circuit ~~Clerk~~ JUDGE

(signatures continued on the following page)

A TRUE COPY
LYNN D. ALLEN
Oakland County Clerk - Register of Deeds
By B. Steba
Deputy

Approved as to form and substance
for entry:

ROSSO DEVELOPMENT COMPANY, INC.

By: John M. Rosso
Its: President 3/18/97

CANDLEWOOD HOTEL COMPANY, INC.

By: Jeffrey J. Hill 3/17/97
Its: Vice President

CITY OF TROY,

By: Jeanne M. Stine
Jeanne M. Stine, Mayor
By: Tamara A. Renshaw
Tamara A. Renshaw, City Clerk