



**AGENDA ITEM EXECUTIVE SUMMARY**

**Agenda Item Number: 4a**

**Title:**

Presentation of a Concept Plan for Oliver Hoffmann Resubdivision

**Presenter:**

Russell Colby

**Meeting:** Planning & Development Committee

**Date:** October 12, 2020

Proposed Cost: \$

Budgeted Amount: \$

Not Budgeted:

**Background:**

The subject property, known as the Oliver-Hoffmann Property, is comprised of five parcels totaling 28.54 acres northeast of Charlestowne Mall and south of Foxfield Rd. The property is currently vacant/agriculture.

Joe Segobiano of ST CPR Consulting Inc. is seeking feedback on a Concept Plan to develop single-family homes and townhomes on the property. Details of the proposal are as follows:

- 37 single-family home lots with a range of lot sizes
- 23 attached single family buildings (92 Townhomes)
- Variety of home models.
- Access via previously dedicated collector street with connections to Foxfield Dr. and Smith Rd.
- Stormwater detention area at the northeast corner.

The Land Use Plan adopted as part of the 2013 Comprehensive Plan identifies the subject property as “Corridor/Regional Commercial” (west portion) and “Multi-Family Residential” (east portion). The property is also part of the East Gateway subarea plan.

**Consent Decree**

The property is subject to a 2009 Consent Decree settlement agreement between the City and property owner. The alignment of the collector street and the current lot layout and zoning districts reflect the terms of this agreement. The Concept Plan is being reviewed to determine if the City desires to modify the Consent Decree in order to accommodate the project. The potential process to modify, terminate or replace the Consent Decree has not yet been defined and will require further consideration by the City Attorney and the property owner.

**Plan Commission Review**

Plan Commission reviewed the Concept Plan on 9/22/20. Comments are summarized as follows:

- General support of overall concept and density.
- Provide buffer adjacent to Charlestowne Mall.
- Concerns over prominence of garages on the front of homes.
- Provide more social spaces/open space for residents.
- Determine solutions to utilize the excess portion of Lot 7.
- Proposed alley/shared drive access could be a connection to the Mall property.
- Consider whether the collector street could be realigned to improve the plan.
- Traffic study needs to consider traffic control at the Foxfield Dr. and King Edward/Charter One Ave. intersection.

**Attachments (please list):**

Concept Plan Application, Plans, Correspondence, 2009 Consent Decree

**Recommendation/Suggested Action (briefly explain):**

Provide comments - Staff is recommending the Committee provide comments on the following topics:

- Proposed land use and compatibility with surrounding development
- Site layout and access to adjacent properties
- Proposed building architecture
- Is a PUD appropriate or desirable for the project?
- Is there interest to modify the Consent Decree to accommodate this project?

# Community & Economic Development

Phone: (630) 377-4443



## Staff Report

**TO:** Chair Rita Payleitner  
And Members of the Planning & Development Committee

**FROM:** Rachel Hitzemann, Planner  
Russell Colby, Assistant Director of Community & Economic Development

**RE:** Oliver Hoffman Resubdivision Concept Plan

**DATE:** October 6, 2020

### I. APPLICATION INFORMATION:

**Project Name:** Oliver Hoffman Resubdivision

**Applicant:** Joe Segobiano, STCPR Consulting Inc.

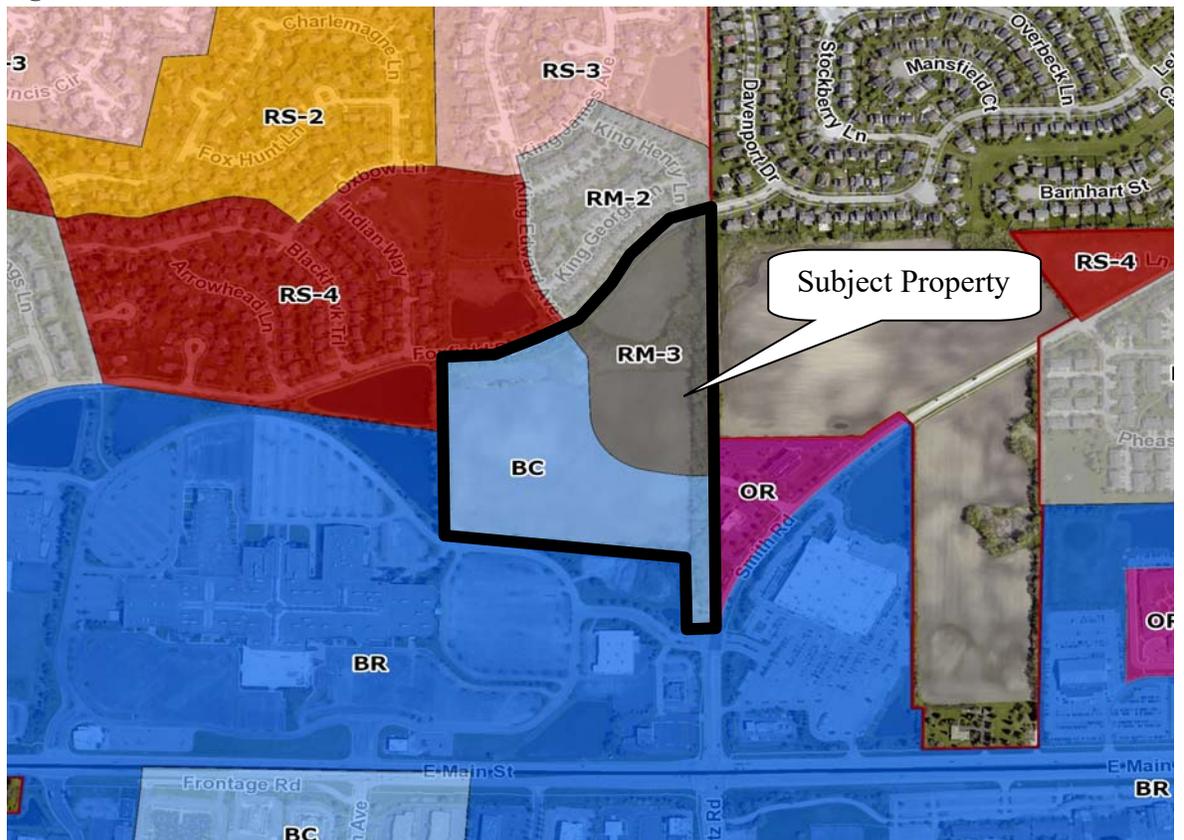
**Purpose:** Obtain feedback on a Concept Plan for residential development

General Information:		
<b>Site Information</b>		
Location	Northeast of Charlestowne Mall of Bricher Rd., South of Foxfield Dr.	
Acres	28.54 acres	
Application:	Concept Plan	
Applicable City Code Sections	Ch. 17.12 – Residential Districts Ch. 17.06 - Design Review Ch. 17.26 – Landscaping & Screening	
<b>Existing Conditions</b>		
Land Use	Vacant/Agriculture	
Zoning	BC- Commercial Business and RM-3- General Residential District	
<b>Zoning Summary</b>		
North	RM-2- Medium Density Multi-Family Residential and RS-4- Suburban Single Family Residential	Multi- Family and Single Family Residential
East	Unincorporated Kane County and OR- Office Research	Vacant Agricultural, Office and Bank
South	BR- Regional Business and Charlestowne Mall PUD	Charlestowne Mall
West	BR- Regional Business, Charlestowne Mall and RS-4	Charlestowne Mall and Single Family Residential
<b>Comprehensive Plan Designation</b>		
Parks/ Open Space, Single Family Attached Residential, Corridor/ Regional Commercial, Multi-Family Residential		

**Aerial**



**Zoning**



## II. OVERVIEW

### A. BACKGROUND

The subject property is a 28.54-acre site located to the Northeast of Charlestowne Mall and to the South of Foxfield Dr. The property is currently a vacant agricultural site that is split into 5 separate lots. The south and west portion of the property is zoned BC and the north and east portion is zoned RM-3.

The property historically had been known as the “Oliver Hoffmann” property, which is the name of the development company that has owned the site since its annexation into the City in 1991.

While the site has remained undeveloped, a number of proposals were presented to the City for consideration over the years.

In order to improve traffic circulation and connectivity to the residential neighborhoods to the north, the City has identified a need for a collector street connection between Smith Road and Foxfield Drive, which would traverse the property. A stub portion of this street (now known as King Edward Ave.) was constructed from Smith Road north to facilitate this connection.

### B. CONSENT DECREE

In 2006, a proposal was submitted for development of a Walmart Supercenter on the property, which would have limited the potential for the planned collector street connection.

In 2007, the City filed a Complaint of Condemnation to acquire through eminent domain a strip of property for completion of the collector street. A settlement was reached between the City and property owner in 2009, resulting in a Consent Decree document.

The Consent Decree defines development parameters that the City and property owner agreed to follow, including a collector street route, subdivision lot layout and zoning classifications. The current lot layout and zoning districts reflect the terms of the Consent Decree.

The Consent Decree further requires that any future development proposal be submitted as a Planned Unit Development (PUD) and the project include construction of the collector street.

### C. PROPOSAL

Joe Segobiano, on behalf of STCPR Consulting Inc. is seeking feedback on a Concept Plan to develop 37 single family detached homes and 92 townhomes.

Details of the proposal are as follows:

- Resubdivide the 5 parcels into single family lots and townhomes.
- Provide 37 single family homes and 92 Townhomes
- Rezone the entire property to RM-2 or RM-3
- Previously platted collector street (shown as Charter One Ave. but to be known as King Edward Ave.) to be constructed along the current 80 ft. right of way.
- A stormwater management facility in the northeast corner of the property.
- Sidewalks provided within the development.

D. CONCEPT PLAN REVIEW PROCESS

The purpose of the Concept Plan review is to enable the applicant to obtain informal input on a concept prior to spending considerable time and expense in the preparation of detailed plans and architectural drawings. The Concept Plan process also serves as a forum for citizens and owners of neighboring property to ask questions and express their concerns and views regarding the potential development. Following the conclusion of the Concept Plan review, the developer can decide whether to formally pursue the project.

This Concept Plan is additionally being reviewed to determine if the City desires to modify the Consent Decree in order to accommodate the project. The potential process to modify, terminate or replace the Consent Decree has not yet been defined and will require further consideration by the City Attorney and the property owner.

III. ANALYSIS

A. COMPREHENSIVE PLAN

The Land Use Plan adopted as part of the 2013 Comprehensive Plan identifies the subject property as “Corridor/ Regional Commercial” (west portion) and “Multi-Family Residential” (east portion).

Corridor/Regional Business land use is described as follows:

*“Areas designated as corridor/regional commercial are intended to accommodate larger shopping centers and developments that serve a more regional function, drawing on customer base that extends beyond City limits. These areas often have a mix of “big box” stores, national retailers, and a “critical mass” of multiple stores and large shared parking areas. Areas designated for corridor/ regional commercial are located primarily in larger consolidated areas along the City’s heavily traveled corridors and intersections. Commercial service uses can also have an appropriate place in corridor/regional commercial areas, but must be compatible with adjacent and nearby retail and commercial shopping areas and be located as to not occupy prime retail locations.” (pg. 39)*

Multi-Family Residential land use is described as follows:

*“Multi-family residential structures contain multiple housing units, are usually stacked vertically and attached horizontally, and typically have common hallways and other amenities. Examples of multi-family residential developments include apartments, condominiums, and senior housing. Most multifamily developments are located in or near areas of intense commercial development with access to goods, services, and the transportation network. Because of market pressures, many single-family residences Downtown have been converted to multi-family. In addition to areas designated MultiFamily Residential, the land use plan also provides for mutlifamily units within the Mixed-Use land use designation.” (p.38)*

Chapter 4 of the Comprehensive Plan provides the following Residential and Mixed-Use land use policies relevant to the proposed development: (p. 43-44):

***Prioritize infill development over annexation and development.*** While the era of substantial residential growth is over in St. Charles, there remain some isolated

*opportunities for residential development on the City’s west side. While most of these opportunities are within unincorporated Kane County, they fall within the City’s 1.5-mile extraterritorial planning jurisdiction defined by State statute. It is recommended that the City carefully consider annexation and growth into these areas while vacant and/or underutilized residential properties exist within the City’s boundaries. When residential development does occur within the City’s growth areas, it should occur in areas immediately adjacent to existing developed areas so as to prevent “leap frog” development and the resulting costs and burdens of unnecessarily extending infrastructure systems in an unwise manner.*

***Locate new multi-family residential developments in appropriate locations within the City and consider the implications of concentrating units in one location or area of the City. In addition to assisting with the community’s goals to provide affordable housing in the community, multi-family housing contributes to residential density which can improve the viability of shopping areas in the community. Recognizing that this Plan is dynamic and not “set in stone”, the City should promote multi-family housing in areas identified in the Land Use and Residential Areas Plans, but consider proposals in other areas provided any significant impact on schools, traffic, and other infrastructure can be mitigated.***

***Ensure residential areas are adequately screened/ buffered from adjacent non-residential uses and activity. The composition of the City’s commercial districts along corridors that transect the City means that there are many areas where commercial uses abut residential properties and neighborhoods. The use of horizontal and vertical buffering and screening, including berms, fencing, and landscaping, should be promoted to protect neighborhoods from abutting commercial or industrial land uses. The City should identify areas where land use conflicts are problematic and explore solutions to mitigate the conflicts, including buffering and screening. Additionally, the City’s landscape ordinance could be revised to require enhanced screening and an amortization schedule to ensure compliance for non-conforming properties within a set time frame.***

## **Chapter 8- Sub Area Plans**

The Subject Property is located within the East Gateway Subarea. Goals and Objectives (p. 102) are listed below:

### ***Subarea Goals***

*The East Gateway subarea represents a unique opportunity for economic development, revitalization and stabilization with for a specific context within the City of St. Charles. The overall vision for the subarea includes the following:*

- *Revitalization of the Subarea’s retail areas that maximizes the locational assets within this area of the City.*
- ***Improved connectivity and circulation within the Subarea providing logical and efficient connections between compatible uses.***
- *Better separation of incompatible land uses to protect residential neighborhoods while at the same time help define the City’s business areas.*
- *Attractive streets and sites to distinguish this Subarea and key corridors from neighboring communities.*
- *A mix of uses that that help diversify the City’s economy and provide places to live, work, and shop.*

### ***Subarea Objectives***

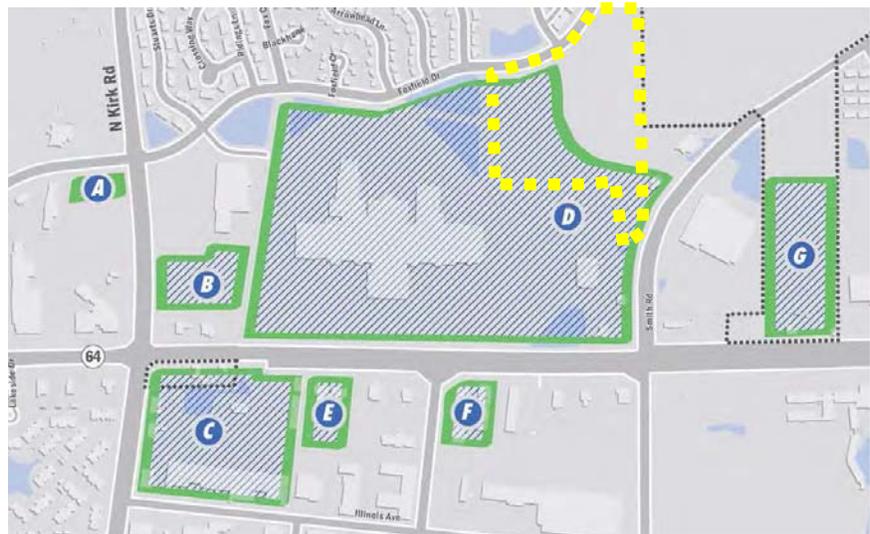
- *Improve the appearance of the Kirk Road and Main Street Corridors to assist in strengthening the community’s identity and appearance through installation of streetscaping, wayfinding and gateway elements.*
- *Use landscaping appropriately to enhance commercial areas, screen unsightly areas, and provide an attractive streetscape and overall setting for the area.*
- **Improve the overall connectivity and mobility within the Subarea through both public streets and internal connection to provide a predictable and navigable environment.**
- **Preserve surrounding neighborhoods through the use of screening, buffering, and better separation from commercial development.**
- *Create market-responsive development parcels that can accommodate projects of an appropriate scale and phasing over time.*
- *Take advantage of proximity to DuPage Airport and Pheasant Run as activity generators.*
- *Reposition the Charlestowne Mall site to foster its renaissance or its redevelopment.*
- **Enhance the character of both existing and new development through site improvements, facade enhancements, consistent signage regulation, and attractive building design and materials**

### **East Gateway Sub Area Plan Catalyst Sites (p. 104)**

A portion of the Subject Property is identified as Catalyst Site “D”.

The Oliver Hoffman Resubdivision Concept Plan site area is shown in the yellow dashed box.

- **Site D:** Constructed in 1991, the Charlestowne Mall has been well maintained and is in good physical



condition, however a lack of a critical mass of retailers and a high volume of vacancy have placed the Charlestowne Mall in jeopardy. Once a shopping destination within the community and surrounding area, most retailers have left the interior of the mall. Von Maur, Classic Cinemas, Carson Pirie Scott and Kohls occupy four of the mall’s five anchor spaces and are complemented by a handful of smaller retailers and services. Internal hall - ways are desolate, parking fields are vast and empty and the Charlestowne Mall needs intervention to reposition the site to improve the mall’s future viability or its full-scale redevelopment.

## Charlestowne Mall Framework Plan (p. 105)

The Charlestowne Mall site represents the single greatest opportunity to redefine the character and function of the East Gateway. This Framework Plan highlights recommendations that could be implemented regardless of the timing or end vision for the repositioning of the mall structure itself. Within this framework, specific repositioning alternatives can be considered as mall tenancy, local market conditions, and other factors play out over time.

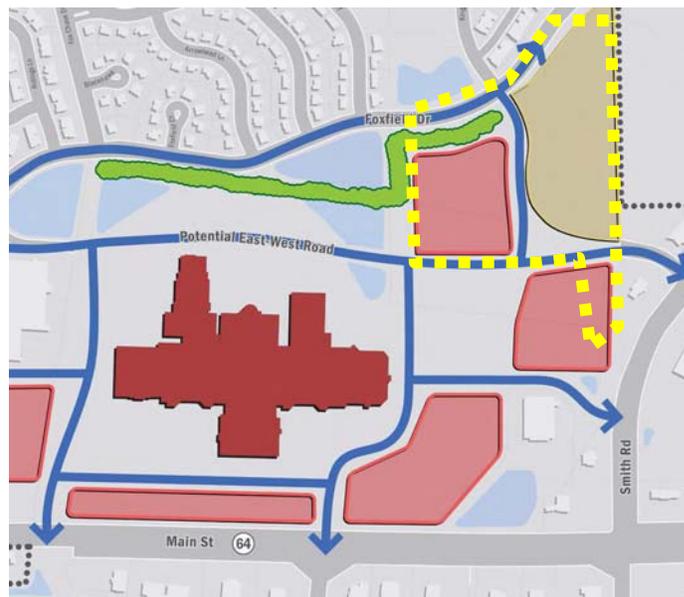
 **Proposed Street or Circulator.** These include public streets and on-site circulators designed to enhance on-site access and mitigate the impacts of traffic on surrounding neighborhoods. The key recommendation is a new street that would run along the north side of the mall property and make Foxfield Drive a residential street.

 **Out Lot Commercial, Retail, and Office Development.** This includes development sites located along Main Street that could capitalize on high visibility and more prominent access point offered by the proposed grid of streets and circulators. This also includes development sites located to the rear of the mall property with less visibility but enhanced access from the proposed grid of streets and circulators.

 **Single Family Attached/Multi-Family Residential.** Attached single family or multi-family development is permitted in this area and would complement existing housing development. It would also increase the number of residents that could support the mall site and other commercial properties in the eastern portion of the City.

 **Natural Buffer/Screening.** Screening and buffering should be provided between commercial and residential uses. This will minimize the impacts of non-residential uses on existing and future neighborhoods.

 **Repositioned Charlestowne Mall.** Within the proposed framework of streets and peripheral uses, the mall structure could be repositioned to be more responsive to contemporary consumer needs. The following page illustrates some proposed alternative approaches.



### B. ZONING REVIEW

The subject property is zoned BR- Regional Business and RM-3- General Residential District. The applicant has proposed rezoning the entire property to RM-3 or RM-2- Medium Density Multi-Family. Staff suggests rezoning the property to RM-2 and creating a PUD to deviate from the required bulk standards where necessary. While RM-3 zoning is similar to RM-2 zoning, RM-3 allows for more intensive multi-family use, which is not being proposed as part of this development. Therefore, staff has concluded that RM-2 would be a more appropriate zoning.

The purpose of the RM-2 District as stated in the Zoning Ordinance is:

*“To accommodate a range of housing densities and a variety of housing types and styles, with a maximum density of approximately ten units per acre.”*

RM-2 zoning is consistent with the adjacent residential neighborhood to the north of the subject property. This subdivision is known as Kingswood.

The applicant is proposing the following bulk standards for the property. The table below compares the RM-2 and RM-3 District requirements with the Concept plan. Zoning deviations that would be required are denoted in ***bold italics***.

	<b>RM-2</b>	<b>RM-3</b>	<b>Concept Plan</b>
<b>Min. Lot Area</b>	SF: 5,000 sf TH: 4,300 sf/du	SF: 5,000 sf TH: 4,300 sf/du	SF: 6,760sf TH:5,473 sf/du
<b>Min. Lot Width</b>	SF: 50 ft. TH: 24 ft/du	SF: 50 ft. TH: 24 ft/du	SF: 52 ft. TH: 30 ft.
<b>Max. Building Coverage</b>	35 %	40%	<b>SF: 37%</b> <b>TH: 39%</b>
<b>Max. Building Height</b>	35 ft or 3 stories, whichever is less	35 ft or 3 stories, whichever is less	SF: 2 stories TH: 3 stories
<b>Min. Front Yard</b>	30 ft., 20ft. when adjoining a local street	30 ft.	<b>20 ft.</b>
<b>Min. Exterior Side Yard</b>	Abutting an arterial or collector street: 30 ft. Abutting local street: 20ft.	30 ft.	Abutting an arterial or collector street: 30 ft. Abutting local street: 20ft.
<b>Min. Interior Side Yard</b>	SF: combined width 14ft, not less than 5 ft each side TH: 10 ft. each side	SF: combined width 14ft, not less than 5 ft each side TH: 10 ft. each side	SF: combined width 14ft, not less than 5 ft each side TH: 10 ft. each side
<b>Min. Rear Yard</b>	25 ft.	30 ft.	25 ft.

C. LANDSCAPING

A landscape plan will be required for any common areas. This includes the detention ponds and surrounding open space.

A landscape buffer is not required for the RM-2 district. However, the property is adjacent to OR Office-Research and BR Regional Business zoning on the southwest and southeast portion of the property. These adjacent properties would have been required to provide a landscape buffer if developed after the residential use.

Consideration should be given to trees or other buffering in the rear of the adjacent lots which will help to provide a minimal buffer between adjacent non-residential uses. Privacy fencing should also be considered for additional screening.

#### D. BUILDING ARCHITECTURE

The applicant has submitted a number of home model designs intended to be offered for the proposed development for the Plan Commission’s information. In RM districts, townhomes will be subjected to Design Review standards, and architectural plan would need to be approved with a PUD. Single family homes are not subjected to Design Review and architectural plans are not required to be approved as part of a single-family PUD.

#### E. SITE ACCESS/STREET IMPROVEMENTS

Access to the site is provided by the construction of a collector street to be known as an extension of “King Edward Ave.” (shown on the plans as Charter One Ave.). The collector street will connect Foxfield Dr. and Smith Rd. This street has already been platted as part of a previous subdivision.

Individual lots and residential units will be accessed from secondary streets within the development. The applicant has requested variances for the following items in regards to these streets:

- Local street width to 31 ft. instead of 33 ft. (Would accommodate parking on one side of the street, instead of both sides of the street)
- A local street right-of-way width of 50 ft. adjacent to the attached single-family units and 60 ft. feet adjacent to the detached single- family units as opposed to the typical 66ft. right-of way required by ordinance.
- Permit a horizontal centerline radius of 100 ft. instead of the typical 200 ft. required for local streets per ordinance.

A ROW of 66 ft. is typically required for single-family subdivisions of this size, however the proposed design may be acceptable with adequate front yard utility easements to accommodate utilities, as needed.

Consideration should be given to future vehicular and/or pedestrian connections to adjacent properties:

- Future connection to the Charlestowne Mall property could be provided at the southwest corner of the site. The 20 ft. “alley” could instead be a stubbed street connection.
- Future connection east to the Petkus property could be provided.

#### F. ENGINEERING REVIEW

Engineering comments on the Concept Plan have been provided to the developer. Items raised will need to be addressed in the Preliminary Plan submittal, should the development move forward.

- Stormwater detention volume will need to be verified at the time of Preliminary Engineering review.
- The wetlands and mitigation measures could impact the layout of streets and lots within the subdivision.
- Long-term maintenance and monitoring of wetlands should be considered and will need to be addressed in future submittals.
- The configuration of Lot 7 is unusual and undesirable to have a large odd shaped parcel under private ownership.
- Off-site sanitary sewer capacity for the project will need to be assessed.

#### G. INCLUSIONARY HOUSING

This development will be subject to the Inclusionary Housing Ordinance, Title 19 of the City Code. A fee worksheet has been submitted indicating the applicant's intent to pay a fee in-lieu of providing 13 affordable units. Based on a fee in-lieu amount of \$39,665.75 per required affordable unit, a total fee in-lieu amount of \$511,688.17 would be due at the time of building permit. The fee is set on an annual basis by the City Council with input from the Housing Commission.

#### H. SCHOOL AND PARK FEE-IN-LIEU CONTRIBUTIONS

The applicant will be required to provide the School and Park Districts with a cash contribution in lieu of physical land per the standards established in the Subdivision Code, Chapter 16.10 "Dedications".

### **IV. FUTURE APPROVAL PROCESS**

If the applicant chooses to move forward with the proposed development at the conclusion of the Concept Plan process, the following zoning/subdivision approvals would be necessary, assuming the project would require a PUD:

1. Map Amendment to rezone the BC property to an RM zoning district, or alternately rezoned the entire site RM-2.
2. Special Use for PUD: To establish a PUD ordinance with unique zoning use and standards to accommodate the project.
3. PUD Preliminary Plan: To approve the physical development of the property, including site, engineering, and landscape plans.
4. Final Plat of Subdivision: To re-plat and divide the property into building lots.

### **V. PLAN COMMISSION REVIEW**

Plan Commission reviewed the Concept Plan on 9/22/20. Comments are summarized as follows:

- General support of overall concept and density.
- Provide buffer adjacent to Charlestowne Mall.
- Concerns over prominence of garages on the front of homes.
- Provide more social spaces/open space for residents.
- Determine solutions to utilize the excess portion of Lot 7.
- Proposed alley/shared drive access could be a connection to the Mall property.
- Consider whether the collector street could be realigned to improve the plan.
- Traffic study to consider traffic control at the Foxfield Dr. and King Edward/Charter One Ave. intersection.

## VI. SUGGESTED ACTION

Review the Concept Plan and provide comments to the applicant. Staff recommends the Commission provide feedback on the following:

- ✓ Proposed land use and compatibility with surrounding development
- ✓ Site layout and access to adjacent properties
- ✓ Proposed Building Design
- ✓ Is a PUD appropriate or desirable for this project? Does the plan adequately advance one or more of the purposes of the PUD procedure:
  1. *To promote a creative approach to site improvements and building design that results in a distinctive, attractive development that has a strong sense of place, yet becomes an integral part of the community.*
  2. *To create places oriented to the pedestrian that promote physical activity and social interaction, including but not limited to walkable neighborhoods, usable open space and recreational facilities for the enjoyment of all.*
  3. *To encourage a harmonious mix of land uses and a variety of housing types and prices.*
  4. *To preserve native vegetation, topographic and geological features, and environmentally sensitive areas.*
  5. *To promote the economical development and efficient use of land, utilities, street improvements, drainage facilities, structures and other facilities.*
  6. *To encourage redevelopment of sites containing obsolete or inappropriate buildings or uses.*
  7. *To encourage a collaborative process among developers, neighboring property owners and residents, governmental bodies and the community*
- ✓ Is there interest to modify the Consent Decree to accommodate this project?

## VI. ATTACHMENTS

- Concept Plan Application; received 8/17/20
- Plans

**CITY OF ST. CHARLES**  
TWO EAST MAIN STREET  
ST. CHARLES, ILLINOIS 60174-1984



COMMUNITY DEVELOPMENT DIVISION

PHONE: (630) 377-4443 EMAIL: cd@stcharlesil.gov

**CONCEPT PLAN APPLICATION**

<b>CITYVIEW</b>	
Project Name:	<u>Oliver-Hoffman Resubdivision</u>
Project Number:	<u>2020-PR-012</u>
Cityview Project Number:	<u>PLCP202000042</u>



*To request review of a Concept Plan for a property, complete this application and submit it with all required attachments to the Planning Division.*

*When the application is complete and has been reviewed by City staff, we will schedule a Plan Commission review, as well as a review by the Planning and Development Committee of the City Council. While these are not formal public hearings, property owners within 250 ft. of the property are invited to attend and offer comments.*

*The information you provide must be complete and accurate. If you have a question please call the Planning Division and we will be happy to assist you.*

<b>1. Property Information:</b>	Location: SOUTH OF FOXFIELD DRIVE AT KING EDWARD AVENUE	
	Parcel Number (s): 09-25-245-002, 09-25-250-003, 09-25-250-004, 09-25-250-005, 09-25-250-006	
	Proposed Project Name:	
<b>2. Applicant Information:</b>	Name: JOE SEGOBIANO	Phone: 312-504-7705
	Address: STCPR CONSULTING INC. 4155 MEADOW VIEW DR ST. CHARLES, IL 60175	Fax:
		Email: jsegobiano@lpsi.com
<b>3. Record Owner Information:</b>	Name: WEST SUBURBAN BANK TR #2580	Phone:
	Address: AMCO PROPERTIES 2863 9TH ST, UNIT 143-373 NAPERVILLE, IL 60564	Fax:
		Email:

**Please check the type of application:**

- PUD Concept Plan:** Proposed Name: \_\_\_\_\_
- Subdivision Concept Plan** Proposed Name: OLIVER-HOFFMAN RESUBDIVISION
- Other Concept Plan** \_\_\_\_\_

**Zoning and Use Information:**

Current zoning of the property: RM-3 & BC

Is the property a designated Landmark or in a Historic District? NO

Current use of the property: VACANT - AGRICULTURE

Proposed zoning of the property: RM-3 PUD? \_\_\_\_\_

Proposed use of the property: DETACHED AND ATTACHED SINGLE-FAMILY RESIDENTIAL

Comprehensive Plan Designation: MULTI-FAMILY RESIDENTIAL & CORRIDOR/REGIONAL COMMERCIAL

**Attachment Checklist**

**REIMBURSEMENT OF FEES AGREEMENT:**

An original, executed Reimbursement of Fees Agreement and deposit of funds in escrow with the City, as provided by Appendix B of the Zoning Ordinance.

**REIMBURSEMENT OF FEES INITIAL DEPOSIT:**

Deposit of funds in escrow with the City. Required deposit is based on review items (number of applications filed) and the size of the site:

Number of Review Items	Under 5 Acres	5-15 Acres	16-75 Acres	Over 75 Acres
1	\$1,000	\$2,000	\$3,000	\$4,000
2 or 3	\$2,000	\$4,000	\$5,000	\$7,000
4 or more	\$3,000	\$5,000	\$7,000	\$10,000

**PROOF OF OWNERSHIP and DISCLOSURE:**

- a) a current title policy report; or
- b) a deed and a current title search.

If the owner is not the applicant, an original letter of authorization from the owner permitting the applicant to act on his/her behalf is required. If the owner or applicant is a Trust, a disclosure of all beneficiaries; if the owner or applicant is a Partnership, a disclosure of all partners; if the owner or applicant is a Corporation, a disclosure of all owners with an interest of at least ten percent (10%).

*NOTE: Private covenants and deed restrictions can limit private property rights with respect to the use of land even though the City's Zoning Ordinance may authorize the use or a less restrictive use. We strongly advise that*

*you perform a title search on the property to determine if there any private covenants containing use restrictions or other deed restrictions. As those private covenants and deed restrictions may conflict with the City's Zoning Ordinance, it is further recommended that you consult with an attorney to obtain an opinion with respect to whether your intended use is compatible with those restrictions.*

- ❑ **LEGAL DESCRIPTION:** For entire subject property, on 8 ½ x 11 inch paper
- ❑ **PLAT OF SURVEY:**  
A current plat of survey for the Subject Realty showing all existing improvements on the property, prepared by a registered Illinois Professional Land Surveyor.
- ❑ **AERIAL PHOTOGRAPH:**  
Aerial photograph of the site and surrounding property at a scale of not less than 1"=400', preferably at the same scale as the concept plan.
- ❑ **PLANS:**  
All required plans shall be drawn on sheets no larger than 24" x 36", unless the Director of Community Development permits a larger size when necessary to show a more comprehensive view of the project. All required plans shall show north arrow and scale, and shall be drawn at the same scale (except that a different scale may be used to show details or specific features). All plans shall include the name of the project, developer or owner of site, person or firm preparing the plan, and the date of plan preparation and all revisions. A pdf document file or files of all plans shall be required with each submittal. The number of paper plans required shall be as determined by the Director of Community Development, based upon the number of copies needed for review.

**Copies of Plans:**

Initial Submittal - Ten (10) full size copies for non-residential projects OR Twelve (12) full size copies for residential projects; Three (3) 11" by 17"; and a PDF electronic file (On a CD-ROM or may be emailed to the Project Manager). For subsequent submittals, please contact the Project Manager to determine how many copies are required.

**Concept Plans shall show:**

1. Existing Features:
  - Name of project, north arrow, scale, date
  - Boundaries of property with approximate dimensions and acreage
  - Existing streets on and adjacent to the tract
  - Natural features including topography, high and low points, wooded areas, wetlands, other vegetative cover, streams, and drainage ways.
  - General utility locations or brief explanation providing information on existing sanitary sewer, storm sewer, water, and other utilities necessary to service the development.
2. Proposed Features:
  - Name of project, north arrow, scale, date
  - Boundaries of property with approximate dimensions and acreage
  - Site plan showing proposed buildings, pedestrian and vehicular circulation, proposed overall land use pattern, open space, parking, and other major features.
  - Architectural elevations showing building design, color and materials (if available)
  - General utility locations or brief explanation providing information on existing sanitary sewer, storm sewer, water, and other utilities necessary to service the development

❑ **SUMMARY OF DEVELOPMENT:**

Written information including:

- List of the proposed types and quantities of land use, number and types of residential units, building coverage, floor area for nonresidential uses and height of proposed buildings, in feet and number of stories.
- Statement of the planning objectives to be achieved and public purposes to be served by the development, including the rationale behind the assumptions and choices of the applicant
- List of anticipated exceptions or departures from zoning and subdivision requirements, if any

❑ **PARK AND SCHOOL LAND/CASH WORKSHEETS**

For residential developments, Park and School land/cash worksheets in accordance with Title 16 of the St. Charles Municipal Code with population projections establishing anticipated population and student yields.

- ❑ **INCLUSIONARY HOUSING SUMMARY:** For residential developments, submit information describing how the development will comply with the requirements of Title 19, "Inclusionary Housing" of the St. Charles Municipal Code.

❑ **LIST OF PROPERTY OWNERS WITHIN 250 FT.**

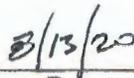
Fill out the attached form or submit on a separate sheet. The form or the list must be signed and notarized.

**I (we) certify that this application and the documents submitted with it are true and correct to the best of my (our) knowledge and belief.**

\_\_\_\_\_  
Record Owner

\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Applicant or Authorized Agent

  
\_\_\_\_\_  
Date

□ **SUMMARY OF DEVELOPMENT:**

Written information including:

- List of the proposed types and quantities of land use, number and types of residential units, building coverage, floor area for nonresidential uses and height of proposed buildings, in feet and number of stories.
- Statement of the planning objectives to be achieved and public purposes to be served by the development, including the rationale behind the assumptions and choices of the applicant
- List of anticipated exceptions or departures from zoning and subdivision requirements, if any

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□ **LIST OF PROPERTY OWNERS WITHIN 250 FT.**

Fill out the attached form or submit on a separate sheet. The form or the list must be signed and notarized.

**I (we) certify that this application and the documents submitted with it are true and correct to the best of my (our) knowledge and belief.**

WEST SUBURBAN BANK

NOT PERSONALLY BUT AS

TRUSTEE U.T. NO. 2580

BY *Christine Lawler*

8/26/2020

Record Owner

TRUST OFFICER

Date

Applicant or Authorized Agent

Date

THIS INSTRUMENT is executed by West Suburban Bank ("WSB") not personally or individually, but solely as trustee as aforesaid in the exercise of the power and authority conferred upon and vested in it as such trustee. All of the statements, warranties, and representations set forth herein are made solely on information and belief without any independent inquiry or investigation by WSB and should be construed accordingly. Notwithstanding any provision to the contrary set forth in this instrument, any recourse against WSB shall be limited to the assets comprising the trust estate and no personal liability shall be asserted or be enforceable against WSB by reason of the terms, promises, agreements, covenants, warranties, representations, indemnifications, or other matters herein set forth, all such personal liability of WSB being expressly waived.

**OWNERSHIP DISCLOSURE FORM  
LAND TRUST**

STATE OF ILLINOIS )  
DUPAGE ) SS.  
KANE COUNTY )

I, CHRISTINE PAWLAK, being first duly sworn on oath depose and say that I am  
Trust Officer of West Suburban Bank, and that the following  
persons are all of the beneficiaries of Land Trust No. 2580:

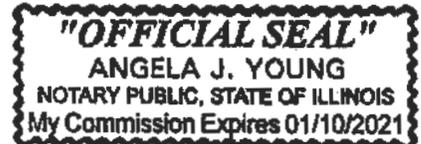
AMCO Properties, LP, an Illinois limited partnership

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

By: Christine Pawlak, Trust Officer

Subscribed and Sworn before me this 26th day of  
August, 2020.

Angela Young  
Notary Public



**WSB WEST SUBURBAN BANK®**  
**Trust Department**

August 26, 2020

Harry Leipsitz, Esq.  
Freeborn Peters  
311 South Wacker Drive  
Suite 300  
Chicago IL 60606

RE: West Suburban Bank Land Trust #2580  
Concept Plan Application  
Ownership Disclosure Form

Dear Mr. Leipsitz:

Per Ada Marie Aman, Amoco Properties, LP's Letter of Direction, enclosed are the signed and notarized above referenced documents.

If I may be of further assistance, please do not hesitate to contact me at 630-652-2225.

Sincerely,

Christine Pawlak  
Trust Officer  
/cp  
Enclosure

8/11/20



## SUMMARY OF DEVELOPMENT

This development is the re-subdivision of the Oliver-Hoffman Subdivision into thirty-seven (37) detached single family lots and twenty-three (23) attached single-family units for a total of 129 dwelling units. The development will include the construction of roadways, utilities, and grading necessary to prepare the site for dwelling construction. The previously platted and dedicated Charter One Avenue will be constructed along the current 80-foot wide right-of-way from its stubbed location on the east side of the property to its intersection with Foxfield Drive and King Edward Drive. A stormwater management facility will be constructed at the northeast corner of the property to meet the stormwater management requirements of the City of St Charles.

The portion of the property located north of Charter One Avenue is currently zoned as RM-3. The portion of the property located south of Charter One Avenue is currently zoned as BC. The applicant is requesting the rezoning of the parcels to RM-2.

Variations from the City of St. Charles Engineering Design and Inspection Policy Manual and the City of St. Charles Zoning Ordinance are being requested for this development. The applicant is requesting a local street width of 31 feet instead of the typical 33 feet width per the ordinance. The applicant is requesting a local right-of-way width of 50 feet adjacent the attached single-family units and 60 feet adjacent the detached single-family units as opposed to the typical 66 feet wide right-of-way required per ordinance. The applicant is also requesting a variance to permit a horizontal centerline radius of 100 feet instead of the typical 200 feet required for local roadways per ordinance.

## **EXHIBIT A – LEGAL DESCRIPTION**

LOTS 1, 2, 3, 4 AND 5 OF THE PLAT OF RESUBDIVISION OF OLIVER-HOFFMAN CHARLESTOWN SUBDIVISION BEING A RESUBDIVISION OF LOTS 1, 2 AND 3 OF THE OLIVER-HOFFMAN CHARLESTOWN DEVELOPMENT A SUBDIVISION OF THAT PART OF THE SOUTHEAST 1/4 OF SECTION 24, TOWNSHIP 40 NORTH, RANGE 8 EAST, AND PART OF THE NORTHEAST 1/4 OF SECTION 25, TOWNSHIP 40 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED JULY 20, 2010 AS DOCUMENT 2010K046244, IN KANE COUNTY, ILLINOIS.

# INCLUSIONARY HOUSING REQUIREMENTS

## Background:

St. Charles Municipal Code Title 19 "Inclusionary Housing", requires developers of new residential developments to provide a proportionate share of affordable housing units within the development, or to pay a fee in-lieu of providing affordable housing units. Developers may also provide a mix of affordable housing units and fee in-lieu.

Affordable housing is defined as housing that has a sales price or rental amount that is within the means of a household with income at or below 80% Area Median Income (AMI) for for-sale units and at or below 60% AMI for rental units, adjusted for household size. See Title 19 for complete definitions.

The maximum price of affordable for-sale units and affordable rental units required by Title 19 shall be no greater than the affordable purchase price and affordable rent established annually by the Illinois Housing Development Authority (IHDA). Contact the Planning Division for the most recent affordable prices from IHDA.

## Development Cost Offsets:

Developments that provide affordable housing units may be eligible for the following:

- Density Bonus equivalent to one bonus unit for each affordable unit constructed, up to 120% of base density.
- Waiver of building permit, demolition, plan review, and sewer/water connection fees for the required affordable units.
- Waiver of School and Park cash contributions (when required in lieu of park and land dedications) for the required affordable units.

## Submission Requirements:

Submit information describing how the residential development will comply with the requirements of Title 19, "Inclusionary Housing". Use the Inclusionary Housing Worksheet to calculate the number of required affordable units to be incorporated within the residential development, or the required fee in-lieu payment.

If the development will include affordable units, submit the following additional information:

- The number of market-rate and affordable for-sale and rental units to be constructed, including type of dwelling, number of bedrooms per unit, proposed pricing, and construction schedule, including anticipated timing of issuance of building permits and occupancy certificates.
- Documentation and plans regarding locations of affordable units and market-rate units, and their exterior appearance, materials, and finishes.

## City Council Determination:

City Council will review the proposal to comply with the requirements of Title 19 "Inclusionary Housing" and will determine whether affordable units, fee in-lieu, or a mix of affordable units and fee in-lieu will be accepted.

# INCLUSIONARY HOUSING WORKSHEET



Name of Development	OLIVER-HOFFMAN RESUBDIVISION
Date Submitted:	_____
Prepared by:	_____

Use this worksheet to determine the affordable unit requirement for the proposed development and to propose how the development will meet the Inclusionary Housing requirements of Title 19.

## Calculate the number of affordable units required:

Unit Count Range	# of Units Proposed in Development		% of Affordable Units Required		# of Affordable Units Required
1 to 15 Units		X	5%	=	
More than 15 Units	129	X	10%	=	12.9

## How will the Inclusionary Housing requirement be met?

- Provide on-site affordable units
- Pay a fee in-lieu of providing affordable units (calculate fee in-lieu below)
- Provide a mixture of affordable units and fee in-lieu
  - # of affordable units to be provided: \_\_\_\_\_
  - Amount of fee in-lieu to be paid (calculate below): \_\_\_\_\_

## Fee In-Lieu Payment Calculation

# of Affordable Units Required	# of Affordable Units Proposed to Pay the Fee-In-Lieu		Fee-In-Lieu Amount Per Unit		Total Fee-In-Lieu Amount
12.9	12.9	X	\$39,665.75	=	\$511,688.17

# SCHOOL LAND/CASH WORKSHEET

City of St. Charles, Illinois

Name of Development  
Date Submitted:  
Prepared by:

OLIVER-HOFFMAN RESUBDIVISION  
\_\_\_\_\_  
\_\_\_\_\_



Total Dwelling Units: 129

A credit for existing residential lots within the proposed subdivision shall be granted. Deduct one (1) unit per existing lot.

Total Dwelling Units w/ Deduction: 129

*\*If the proposed subdivision contains an existing dwelling unit, a credit is available calculated as a reduction of the estimated population for the dwelling. Please request a worksheet from the City.*

## Estimated Student Yield by Grades:

Type of Dwelling	# of dwelling Units (DU)	Elementary (Grades K to 5)	Middle (Grades 6 to 8)	High (Grades 9 to 12)
<b>Detached Single Family</b>				
➤ 3 Bedroom	37	DU x .369 = 13.653	DU x .173 = 6.401	DU x .184 = 6.808
➤ 4 Bedroom		DU x .530 =	DU x .298 =	DU x .360 =
➤ 5 Bedroom		DU x .345 =	DU x .248 =	DU x .300 =
<b>Attached Single Family</b>				
➤ 1 Bedroom		DU x .000 =	DU x .000 =	DU x .000 =
➤ 2 Bedroom		DU x .088 =	DU x .048 =	DU x .038 =
➤ 3 Bedroom	92	DU x .234 = 21.528	DU x .058 = 5.336	DU x .059 = 5.428
➤ 4 Bedroom		DU x .322 =	DU x .154 =	DU x .173 =
<b>Apartments</b>				
➤ Efficiency		DU x .000 =	DU x .000 =	DU x .000 =
➤ 1 Bedroom		DU x .002 =	DU x .001 =	DU x .001 =
➤ 2 Bedroom		DU x .086 =	DU x .042 =	DU x .046 =
➤ 3 Bedroom		DU x .234 =	DU x .123 =	DU x .118 =
<b>Totals</b>	<u>129</u> TDU (with deduction, if applicable)	<u>35.181</u> TE	<u>11.737</u> TM	<u>12.236</u> TH

## School Site Requirements:

Type	# of students	Acres per student	Site Acres
Elementary (TE)	35.181	x .025	= 0.880
Middle (TM)	11.737	x .0389	= 0.457
High (TH)	12.236	x .072	= <u>0.881</u>
<b>Total Site Acres</b>			<u>2.218</u>

## Cash in lieu of requirements:

2.218 (Total Site Acres) x \$240,500 (Fair Market Value per Improved Land) = \$ 533,429

# PARK LAND/CASH WORKSHEET

City of St. Charles, Illinois

Name of Development

OLIVER-HOFFMAN RESUBDIVISION

Date Submitted:

Prepared by:



Total Dwelling Units: 129

A credit for existing residential lots within the proposed subdivision shall be granted. Deduct one (1) unit per existing lot.

Total Dwelling Units w/ Deduction: 129

*\*If the proposed subdivision contains an existing residential dwelling unit, a credit calculated as a reduction of the estimated population for the dwelling is available. Please request a worksheet from the City.*

## Estimated Population Yield:

Type of Dwelling	# Dwelling Units (DU)	Population Generation per Unit	Estimated Population
<b>Detached Single Family</b>			
➤ 3 Bedroom	37	DU x 2.899	= 107.263
➤ 4 Bedroom		DU x 3.764	=
➤ 5 Bedroom		DU x 3.770	=
<b>Attached Single Family</b>			
➤ 1 Bedroom		DU x 1.193	=
➤ 2 Bedroom		DU x 1.990	=
➤ 3 Bedroom	92	DU x 2.392	= 220.064
➤ 4 Bedroom		DU x 3.145	=
<b>Apartments</b>			
➤ Efficiency		DU x 1.294	=
➤ 1 Bedroom		DU x 1.758	=
➤ 2 Bedroom		DU x 1.914	=
➤ 3 Bedroom		DU x 3.053	=
<b>Totals</b>	<u>129</u>		<u>327.327</u>
	Total Dwelling Units (with deduction, if applicable)		Estimated Total Population

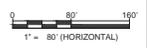
## Park Site Requirements:

Estimated Total Population 327.327 x .010 Acres per capita = 3.273 Acres

## Cash in lieu of requirements:

Total Site Acres 3.273 x \$240,500 (Fair Market Value per Improved Land) = \$ 787,157





5110 WOODCREAK DRIVE  
 DOWNERS GROVE, IL 60515  
 P. 630.598.0007  
 WWW.CAGECIVIL.COM



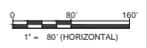
REVISIONS	DATE

OLIVER-HOFFMAN  
 RESUBDIVISION  
 S.W. & SE CORNER OF FOXFIELD DR & KING EDWARD AVE  
 ST. CHARLES, IL

PROJECT NO. 200130  
 ENG. SEK  
 DATE 8/11/2020

SHEET TITLE  
 AERIAL MAP

SHEET NUMBER  
 C1.0  
 1 OF 3



5110 WOODCREEK DRIVE  
 DOWNERS GROVE, IL 60515  
 P. 630.998.0007  
 WWW.CAGECIVIL.COM



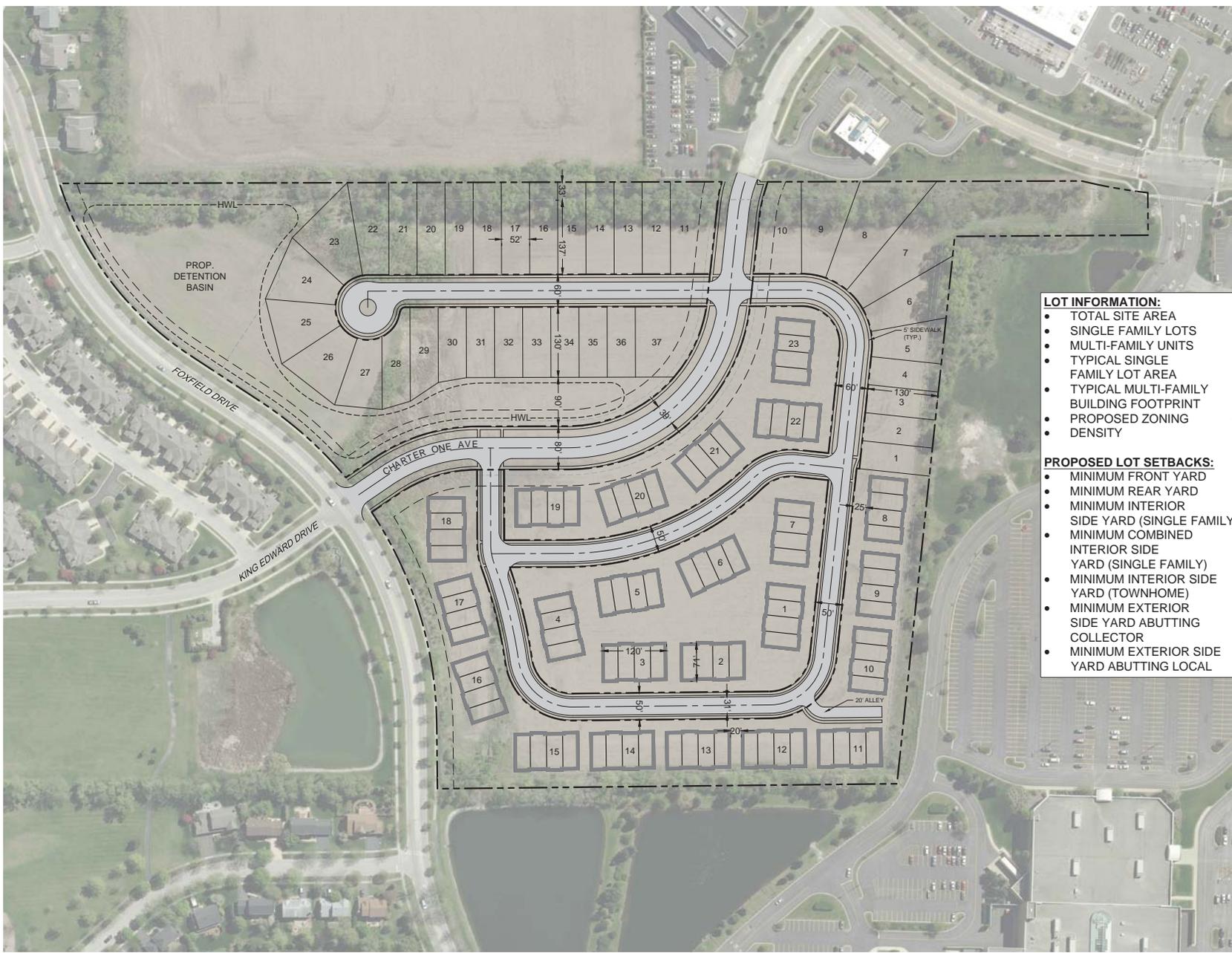
REVISIONS	DATE

LINCOLN PROPERTY COMPANY  
**OLIVER-HOFFMAN**  
**RESUBDIVISION**  
 S.W. & SE CORNER OF FOXFIELD DR & KING EDWARD AVE  
 ST. CHARLES, IL

PROJECT NO. 200130  
 ENG. SEK  
 DATE 8/11/2020

SHEET TITLE  
**EXISTING CONDITIONS PLAN**

SHEET NUMBER  
**C2.0**  
 2 OF 3



**LOT INFORMATION:**

• TOTAL SITE AREA	30.54 AC
• SINGLE FAMILY LOTS	37
• MULTI-FAMILY UNITS	92
• TYPICAL SINGLE FAMILY LOT AREA	6,760 S.F.
• TYPICAL MULTI-FAMILY BUILDING FOOTPRINT	8,520 S.F.
• PROPOSED ZONING	RM-2
• DENSITY	4.22 DU/AC

**PROPOSED LOT SETBACKS:**

• MINIMUM FRONT YARD	20'
• MINIMUM REAR YARD	25'
• MINIMUM INTERIOR SIDE YARD (SINGLE FAMILY)	5'
• MINIMUM COMBINED INTERIOR SIDE YARD (SINGLE FAMILY)	14'
• MINIMUM INTERIOR SIDE YARD (TOWNHOME)	10'
• MINIMUM EXTERIOR SIDE YARD ABUTTING COLLECTOR	30'
• MINIMUM EXTERIOR SIDE YARD ABUTTING LOCAL	20'

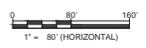
REVISIONS


LINCOLN PROPERTY COMPANY  
**OLIVER-HOFFMAN**  
 RESUBDIVISION  
 S.W. & SE CORNER OF FOXFIELD DR & KING EDWARD AVE  
 ST. CHARLES, IL

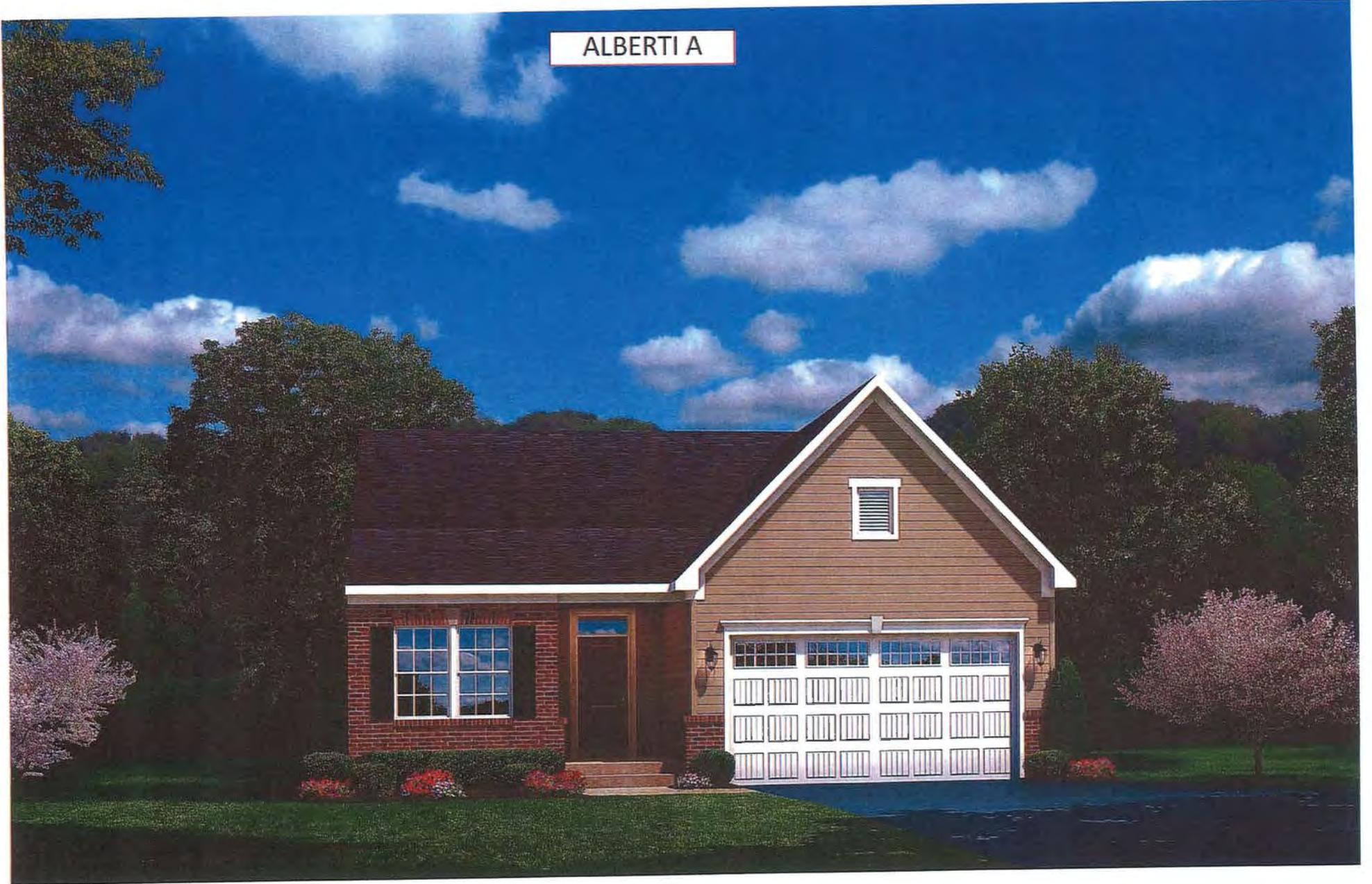
PROJ. NO. 200130  
 ENG. SEK  
 DATE 8/11/2020

SHEET TITLE  
**PROPOSED SITE PLAN**

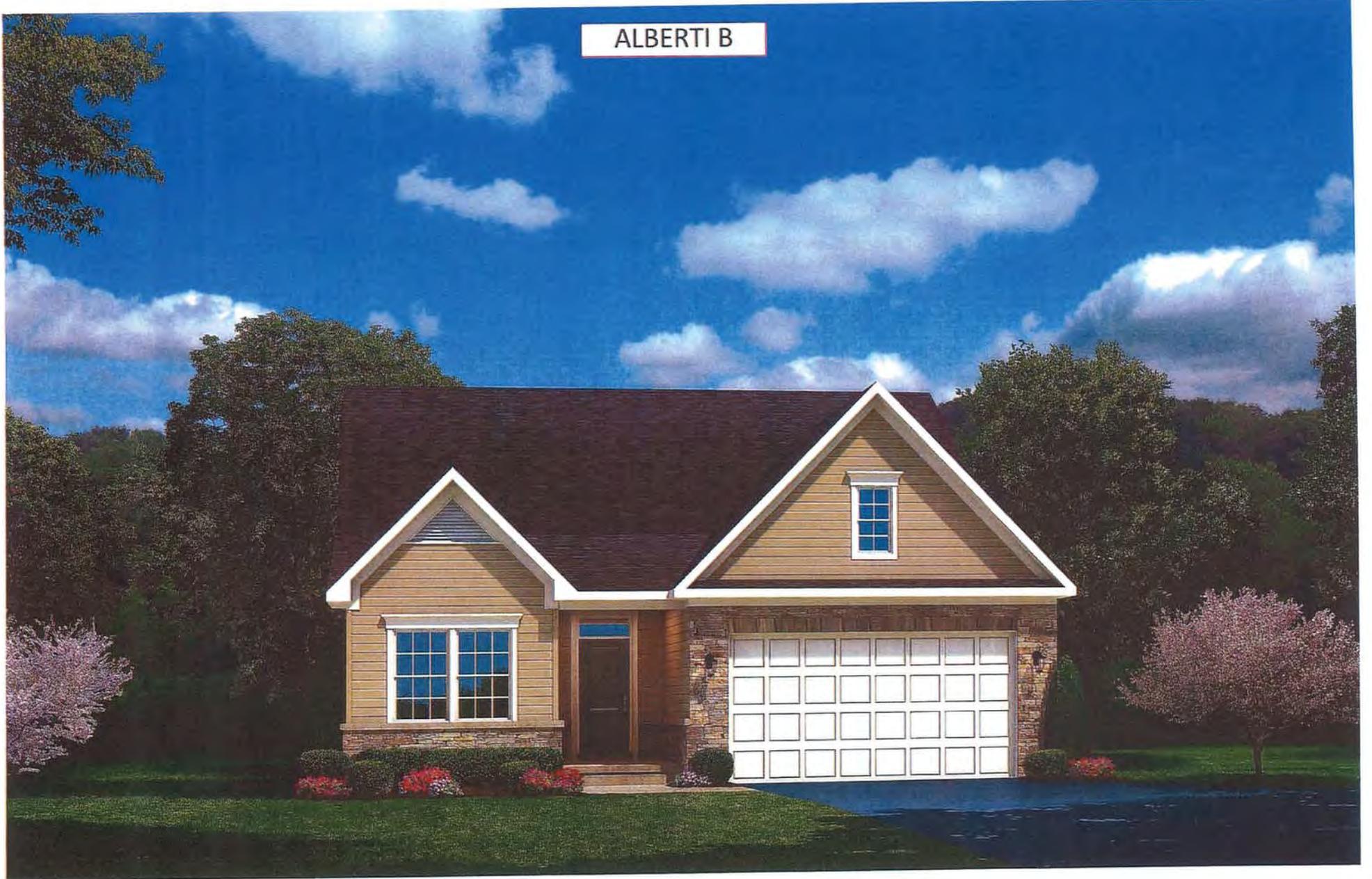
SHEET NUMBER  
**C3.0**



ALBERTI A



ALBERTI B



ALBERTI L



BRAMANTE A  
PARTIAL BRICK



BRAMANTE K



PALLADIO A  
PARTIAL BRICK



PALLADIO K





Fri 9/18/2020 11:08 AM

From: mark sawyer <sawyersam2001@yahoo.com>

Re: Oliver Hoffmann Resubdivision

Dear Mr. Colby,

My name is Mark Sawyer, we live at 3714 King George Lane, St Charles, IL 60174. Thank you, I received your public notice of the upcoming meeting for the subject property. My main concern is the proposed access road, charter one ave, that exits onto Fox Field Drive. I think that would cause a major traffic problem for that intersection and for the portion of Foxfield Drive that continues to Kirk Road. Perhaps a better location could be considered, such as at the southwest corner of the property where there is an alley located and that would access onto the service road going past the Jewel store entrance all the way to Foxfield Drive where there is already an intersection. I can see where that would require a re-positioning of one of the townhome buildings. Something like this would not only be better for us coming out on King Edward Drive to Foxfield, but it would also be better for the future residents of Oliver Hoffman subdivision, because then they also would have less traffic problems getting out to Highway 64 and Kirk Road. Thank you for your attention and consideration to this.

Sincerely, Mark Sawyer 630-327-2485  
Sent from my iPhone

From: Mark Hauser <markhauserinsurance@gmail.com>

Sent: Monday, September 21, 2020 11:59 AM

To: CD <cd@stcharlesil.gov>

Subject: Concept Plan for Oliver Hoffman Property

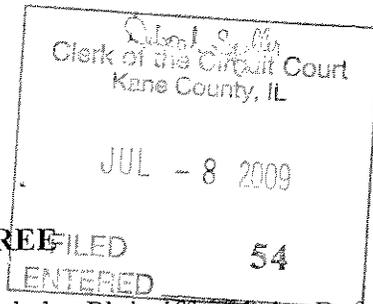
Does the plan include a 4-way stop at the intersection of Charter One Ave/King Edward Drive and Foxfield Dr. ? If not, that should be part of the recommendation. With the number of cars that currently exceed the 25 MPH speed limit on Foxfield Drive (primarily Cornerstone Lakes residents), there are going to be numerous accidents if only the drivers coming off of Charter One or King Edward are required to stop. I would estimate that at least 75% of the vehicles driving down Foxfield Dr (school busses included) are exceeding the posted limit by 10-15 MPH. This is a huge concern!

Mark Hauser

**IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT  
KANE COUNTY, ILLINOIS**

**THE CITY OF ST. CHARLES, an Illinois** )  
**municipal corporation,** )  
) )  
**Plaintiff,** )  
) )  
**vs.** )  
) )  
**WEST SUBURBAN BANK, AS** )  
**TRUSTEE UNDER TRUST** )  
**AGREEMENT DATED APRIL 30, 1981,** )  
**AND KNOWN AS TRUST NO. 2580,** )  
**AND UNKNOWN OWNERS,** )  
) )  
**Defendants.** )

**Case No. 07 ED 07**



**AMENDED CONSENT DECREE**

This cause coming on upon the agreement of the parties, and the Plaintiff and the Defendant having reached agreement on the matters set forth herein, and the Court being fully apprised in the premises,

Upon the agreement of the parties, the Court finds as follows:

1. Subject to the conditions hereinafter stipulated, the City of St. Charles (the "City") will agree to the voluntary dismissal of its Complaint for Condemnation to acquire by eminent domain a parcel of land legally described in the complaint filed by the City in this case (the "Eminent Domain Parcel").
2. The dismissal will be without prejudice.
3. In this litigation, the City sought to acquire the Eminent Domain Parcel for use as a right-of-way for the construction of an extension of Charter-One Drive (the "Charter-One Drive Extension").
4. The Eminent Domain Parcel is located entirely within a larger parcel of land owned by the West Suburban Bank as Trustee (the "Trust" and the "Trust Property").
5. The Trust Property was annexed into the City pursuant to an Annexation Agreement entered into by the City and the First Star Naper Bank, as Trustee and the Oliver-

Hoffmann Corporation, as owners, on or about August 26, 1991, (the “Dunham Club Annexation Agreement”).

6. The West Suburban Bank, as Trustee, is a successor title holder of record to the First Star Naper Bank. Hereinafter, the West Suburban Bank, as Trustee and the Oliver-Hoffmann Corporation shall be collectively referred to as the “Owners”.
7. Pursuant to the Dunham Club Annexation Agreement, the City granted a Special Use as a Planned Unit Development by Ordinance 1991-Z-12 entitled “An Ordinance Granting a Special Use as a Planned Unit Development for the Dunham Club/Charlestowne PUD”, further amended by Ordinance 1992-Z-1 entitled “An Ordinance amending Ordinance 1991-Z-12” (the “Existing Zoning Entitlement”).
8. Attached hereto and incorporated herein as Exhibit “A” is a site plan of the Trust Property (the “Site Plan”) prepared by Taurus Engineering, dated January 26, 2009 consisting of 1 page. As used herein, the terms “Site Plan” or, as hereinafter defined, “Alternative Site Plan” shall refer solely to the documents attached to this Amended Consent Decree and these documents are not, by virtue of the use of these terms as definitions herein, deemed to comply with any requirements of the St. Charles Municipal Code (the “City Code”) which apply to the same or similar terms therein contained.

Based on the agreement of the parties and the findings contained herein, it is hereby ordered, adjudged and decreed as follows:

1. The City’s complaint herein is voluntarily dismissed, said dismissal is without prejudice.
2. In consideration of the City’s voluntary dismissal of this action, the Owners will, within twenty-eight (28) days of the entry of this Amended Consent Decree, file all proper and complete amended applications with the City requesting the initial zoning and subdivision relief to be granted pursuant to this Amended Consent Decree. Such relief shall be limited to classifying the various portions of the Trust Property as follows: Parcels 1 and 2 as depicted upon the Site Plan shall be rezoned and classified into the BC Community Business District and Parcel 3 shall be rezoned and classified RM-3 General Residential District, as hereinafter provided, and subdividing the three Parcels comprising the Trust Property into three zoning lots in accordance with the Site Plan heretofore incorporated herein as Exhibit A. Upon the filing of all proper and complete amended applications, the City will give notice and conduct all lawfully required public hearings necessary to enable the City to grant the relief hereinafter stipulated. Owners agree to pay to the City such fees and costs attendant thereto including, but not limited to, such fees and costs as may be specified in title 17 of the City Code.
  - a. An application to subdivide the Trust Property into three zoning lots as depicted upon the Site Plan and to rezone that portion of the Trust Property identified as Parcel 3 on

the Site Plan heretofore incorporated herein as Exhibit A to the RM-3 General Residential District under the City's Zoning Ordinance (Section 17.12.010 M).

- b. Parcel 3 on the Site Plan consists of approximately 10.66 acres and is legally described on Exhibit "B" attached hereto and incorporated herein. Upon the subdivision of the Trust Property and the granting of the requested zoning referenced in subparagraph 2. a. above, Parcel 3 may be developed with a maximum density of no more than 17 dwelling units per acre plus a Density Bonus of no more than 3.4 units per acre pursuant to the provisions of Section 17.18.060 of the City Code. No structure constructed on Parcel 3 located North or Northwest of the demarcation line depicted on Exhibit A may exceed the height of either: (i) 40 feet (measured per City Code) or (ii) 802 feet above sea level (per City datum), whichever is less. No structure constructed on those portions of Parcel 3 located South or Southeast of the demarcation line depicted on Exhibit A may be constructed to a height greater than 40 feet (measured per City Code) or (ii) 810 feet above sea level (per City datum), whichever is less. No curb cut shall be allowed directly from Lot 3 onto Foxfield Drive. Owners shall develop Parcel 3 only with the uses authorized and permitted under the RM-3 General Residential District. Notwithstanding the granting of the zoning and subdivision entitlements referred to above and in paragraph 2. a., no development of Parcel 3 shall occur prior to the filing by Owners of all proper and complete applications for planned unit development approval in accordance with the City Code, particularly the City's Zoning Ordinance and the granting of planned unit development approval by the City. The City shall not be required to grant planned unit development approval unless the requested planned unit development is compliant with all of the City's requirements related to planned unit development approvals.
  
- c. In addition to the subdivision of the Trust Property in accordance with the Site Plan and the rezoning of Parcel 3 as hereinabove provided in paragraphs 2. a. and b., the Owners shall file applications to rezone those portions of the Trust Property identified as Parcels 1 and 2 on the Site Plan to the BC Community Business District (Section 17.14.010 B). Parcel 1 is legally described on Exhibit "C" which is attached hereto and incorporated herein by reference. Parcel 2 is legally described on Exhibit "D" which is attached hereto and incorporated herein by reference. Parcels 1 and 2 shall constitute two separate zoning lots. Owners shall develop Parcels 1 and 2 only with the uses authorized and permitted under the BC Community Business District (Section 17.14.010 B) except to the extent hereinafter limited by the provisions of paragraphs 3. and 4. of this Agreement. Notwithstanding the granting of the zoning and subdivision entitlements referred to in this paragraph above, no development of Parcel 1 or Parcel 2 shall occur prior to the filing by Owners of all proper and complete applications for planned unit development approval in accordance with the City Code, particularly the City's Zoning Ordinance, and the granting of planned unit development approval by the City. The City shall not be required to grant planned unit development approval unless the requested planned unit development is

compliant with all of the City's requirements related to planned unit development approvals.

In the event the Owners contract to sell Parcel 1 to the adjacent Charlestowne Mall ownership on or before January 1, 2010, the following provisions shall apply. In such event, the ownership of the Charlestowne Mall shall hereinafter be referred to as the "Contract Purchaser". Upon the execution of a contract for the sale of Parcel 1 to the Contract Purchaser, the Owners shall give prompt notice to the City of said contract. If the Contract Purchaser shall make prompt, proper and complete application for the zoning relief hereinafter set forth in this paragraph within six months of the date of the contract or on or before June 30, 2010, whichever date shall first occur, the following provisions of this paragraph shall apply. The Contract Purchasers may file applications for re-subdivision, zoning and other development entitlements requesting that Parcel 1 be incorporated into any existing zoning entitlement applicable to the Charlestowne Mall property. Upon receipt of a proper and complete application and the payment of all fees and costs attendant thereto from the Contract Purchaser, the City shall process such application in accordance with the provisions of the City Code, particularly the City's Subdivision and Zoning Ordinances, and paragraph 10. and 14. of this Amended Consent Decree including the giving of notice and conducting of such hearings as may be required by law and thereafter consider and, if acceptable, approve the resubdivision of the Charlestowne Mall property and adopt an ordinance granting the zoning relief requested therein provided that such requested relief is compliant with the City Code including the City's regulations related to the approval of subdivisions and the granting of zoning and planned unit development approvals and, further, that such relief is, in the judgment of the City, compatible with the zoning classification and planned unit development approval applicable to the existing Charlestowne Mall as of the date of the entry of this Amended Consent Decree. Thereafter, Parcel 1 shall be deemed to have been removed from the provisions of this Amended Consent Decree and Parcels 2 and 3 shall thereafter continue to be subject to the use limitations, terms and other restrictions and conditions set forth in this Amended Consent Decree.

If Parcel 1 is sold to any party other than the owners of the Charlestowne Mall, or if the Contract Purchaser shall acquire Parcel 1 but not request the zoning relief specified in the preceding paragraph within six months of the date of the contract or on or before June 30, 2010, whichever date shall first occur, then the zoning entitlements applicable to Parcel 1 will be those identified in the first paragraph of subparagraph c. and the terms of the immediately preceding paragraph will not apply. Further, if no contract for the sale of Lot 1 to the owners of the Charlestowne Mall is executed on or before January 1, 2010, then the subdivision and zoning entitlements applicable to the Trust Property pursuant to this order shall be as provided for in subparagraph d. below.

- d. Attached hereto and incorporated herein as Exhibit "E" is an alternative site plan (hereinafter, the "Alternate Site Plan"). The Alternate Site Plan has been prepared by Taurus Engineering, dated January 26, 2009 consisting of 1 page. If no contract for the sale of Parcel 1 to the Charlestowne Mall ownership is executed on or before January 1, 2010, or if the Contract Purchaser, as hereinbefore defined, shall fail to make application for the zoning relief provided for in paragraph 2. c. and paragraph 10. of this Amended Consent Decree within six months of the date of the contract or on or before June 30, 2010, whichever date shall first occur, then the Owners shall make prompt and proper application for the re-subdivision of the Trust Property in accordance with the Alternate Site Plan. The Owners shall submit a "Plat of Resubdivision" subdividing the Trust Property into five lots as depicted upon the Alternate Site Plan. Lot 5 (previously Parcel 3 on the Site Plan) will continue to be zoned RM-3 General Residential District and may be developed subject to the provisions of the City's Code subject to the requirements, limitations, terms and conditions of this Amended Consent Decree particularly those set forth in paragraph 2. b. hereof. The Alternate Site Plan and the Plat of Resubdivision provides, and shall provide, that the balance of the Trust Property (Trust Property minus Parcel 3 - Lot 5) is to be re-subdivided into four (4) lots (Lots 1, 2, 3 and 4) which will continue to be zoned BC Community Business District and may be developed subject to the provisions of the City's Code in substantial conformance with Alternate Site Plan subject to the requirements, limitations, terms and conditions of this Amended Consent Decree. The Owners shall, upon the Plat of Re-subdivision, provide legal descriptions for Lots 1, 2, 3 and 4.

Should the balance of the Trust Property be re-subdivided so that Parcels 1 and 2 are subdivided into four (4) lots (Lots 1, 2, 3 and 4) as per the Alternative Site Plan, none of these lots (Lots 1, 2, 3 and 4) may be subdivided into a lot having a gross area greater than five (5) acres or a minimum lot area of less than one (1) acre unless the proposed use for said lot is a retail use which, in the sound discretion of the City, is complementary to the Charlestowne Mall planned unit development, such as an anchor/department store attached to the Mall, an electronics store (i.e. Best Buy), an appliance store, a home furnishings store, or a sit down restaurant.

Notwithstanding any of the foregoing provisions, should the Owners' be required to comply with the requirements of this subparagraph 2. d., no development of Lots 1, 2, 3, 4 or 5 shall occur prior to the filing by Owners of all proper and complete applications for planned unit development approval in accordance with the City Code, particularly the City's Zoning Ordinance, and the granting of planned unit development approval by the City. The City shall not be required to grant planned unit development approval unless the requested planned unit development is compliant with all of the City's requirements related to planned unit development approvals.

3. Owners agree that, notwithstanding the foregoing or anything contained in the City Code to the contrary, and further notwithstanding whether the planned unit development under which the Trust Property is eventually developed is approved incorporating the Site Plan or the Alternate Site Plan, the following uses which are otherwise permitted in the BC Community Business District shall be prohibited on Parcel 2 as depicted upon the Site Plan heretofore incorporated herein as Exhibit A (or on the Lots depicted on the Alternate Site Plan constituting part or all of Parcel 2):

PROHIBITED USES ON Parcel 2:

Outdoor Recreation  
Public Service facility  
School  
Bank  
Car wash  
Currency Exchange  
Gas station  
Heavy Retail and service  
Kennel  
Motor vehicle service and repair  
Motor vehicle sales and leasing  
Outdoor sales (permanent)  
Personal Services Establishments  
Tavern/Bar  
Veterinary Office/Animal Hospital  
Mini Warehouse  
Temporary Motor Vehicle Storage  
Communication Tower  
Utility, Community/Regional  
Transportation Operations Facility  
Places of worship

4. Owners agree that, notwithstanding the foregoing or anything contained in the City Code to the contrary, and further notwithstanding whether the planned unit development under which the Trust Property is eventually developed is approved incorporating the Site Plan or the Alternate Site Plan, the following uses which are otherwise permitted in the BC Community Business District shall be prohibited on Parcel 1 as depicted upon the Site Plan heretofore incorporated herein as Exhibit A (or on the Lots depicted on the Alternate Site Plan constituting part or all of Parcel 1):

PROHIBITED USES ON Parcel 1:

Outdoor Recreation  
Public Service facility  
School  
Car wash

Currency Exchange  
Gas station  
Heavy Retail and service  
Kennel  
Motor vehicle service and repair  
Outdoor sales (permanent)  
Tavern/Bar  
Veterinary Office/Animal Hospital  
Mini Warehouse  
Temporary Motor Vehicle Storage  
Communication Tower  
Utility, Community/Regional  
Transportation Operations Facility  
Places of worship

5. Notwithstanding the foregoing or anything contained in the City Code to the contrary, banks and pharmacies/drug stores and, upon the filing of an application for a special use, drive-thru facilities attendant thereto, will be permitted within Parcel 1 as depicted upon the Site Plan (or on the Lots depicted on the Alternate Site Plan contained within Parcel 1) provided, however, that the Trust must make application for preliminary plan approval under the City's planned unit development regulations (including an application for a special use if drive-thru facilities are to be requested) the approval of which shall be within the City's reasonable discretion including discretion as to the location and brightness of site lighting and traffic circulation for Parcel 1.
6. No curb cut shall be allowed directly from Parcel 2, as depicted upon the Site Plan, (or on the Lots depicted on the Alternate Site Plan constituting part or all of Parcel 2) onto Foxfield Drive.
7. Twenty-four (24) hour operations, including drive-thru uses, shall be prohibited on the Trust Property except for Parcel 1, as depicted upon the Site Plan, (or on the Lots depicted on the Alternate Site Plan contained within Parcel 1) subject to preliminary plan approval as provided for planned unit developments under the City Code.
8. Development of Parcels 1 and 2, as depicted upon the Site Plan, (or on the Lots depicted on the Alternate Site Plan contained within Parcels 1 and 2) shall comply with all bulk regulations of the BC Zoning District (Chapter 17.14 of Zoning Ordinance), except that a 40 foot landscape buffer yard shall be provided along the north property line of Parcel 2. The forty (40) foot buffer line is depicted on both the Site Plan and the Alternate Site Plan. No buildings or parking shall be allowed in such buffer yard.
9. None of the structures constructed on Parcels 1 and 2, as depicted upon the Site Plan (or on the Lots depicted on the Alternate Site Plan contained within Parcels 1 and 2) shall be

constructed to a height greater than either: (i) 40 feet or (ii) 802 feet above sea level, whichever is less.

10. If the Owner and the Contract Purchaser shall enter into a contract for the sale of Parcel 1, as depicted upon the Site Plan and as hereinbefore provided, then in addition to any other provision of this Amended Consent Decree, the provisions of this paragraph 10. shall apply. Should the Contract Purchaser make prompt, proper and complete application to add Parcel 1 to the existing Charlestowne Mall planned unit development and conditioned upon the Contract Purchaser making payment of all fees and costs attendant thereto, the City shall properly notice and cause to be conducted all legally required hearings necessary to permit the existing planned unit development for the Charlestowne Mall to be amended to include Parcel 1. The Contract Purchaser shall request the re-subdivision of the zoning lot comprising the Charlestowne Mall to provide for the inclusion of Parcel 1 within the Charlestowne Mall planned unit development and shall further request zoning relief necessary to permit the development of Parcel 1 in a manner consistent with the planned unit development currently applicable to the existing Charlestowne Mall. After the conduct of all required hearings and the receipt of all required recommendations, should the City's Corporate Authorities determine that the inclusion of Parcel 1 into the existing Charlestowne Mall planned unit development is consistent with the intent and purpose of that planned unit development and that such application is otherwise in compliance with the City Code, the City shall adopt an ordinance amending the existing Charlestowne Mall planned unit development adding Parcel 1 thereto upon such terms and conditions as the City may deem appropriate together with such other actions as may be necessary or appropriate. Any such ordinance adopted prior to the closing of the purchase of Parcel 1 from the Trust to the Contract Purchaser shall provide that the effectiveness of the ordinance shall be contingent upon the closing of said sale and the acquisition of Parcel 1 by the Contract Purchaser. Thereafter, and without regard to the provisions of paragraph 4 of this Amended Consent Decree, the uses permitted upon Parcel 1 shall be the uses provided for in the Charlestowne Mall planned unit development which may include uses such as a "big box" retail store of up to 175,000 square feet. Should Parcel 1 be conveyed to, and be developed as part of, the Charlestowne Mall planned unit development, no access from Parcel 1 to Charter-One Drive shall be permitted. Further, should Parcel 1 be conveyed to, and developed as part of, the Charlestowne Mall planned unit development, Parcel 2, as depicted upon the Site Plan, may be developed with up to a maximum of 75,000 square feet in a manner compliant with the other provisions of this Amended Consent Decree and the City Code. If, for any reason, the sale of Parcel 1 to the Contract Purchaser should not close, the provisions of this paragraph 10. and the second paragraph of subparagraph 2. c. shall not apply, and Owners development rights shall be determined in accordance with the balance of this Amended Consent Decree.
11. No direct or cross access shall be permitted between Parcels 1 and 2, as depicted upon the Site Plan. This prohibition shall apply regardless of whether Parcel 1 is eventually sold to and incorporated in the Charlestowne Mall planned unit development. Nonetheless,

this restriction shall not apply if the Trust Property shall be zoned, subdivided and developed in accordance with the Alternate Site Plan. In this case, cross access and cross access easement agreements may be required by the City to facilitate the location and functioning of a frontage road system to restrict and limit direct access to Charter-One Drive to appropriate intersections.

12. The Owners may request a deviation from the City Code as part of the any required planned unit development application which would allow for the erection of an Off-Premise Identification monument sign. This sign would be for the benefit of Parcels 2 (or on the Lots depicted on the Alternate Site Plan contained within Parcel 2) and Parcel 3 (Lot 5), as depicted upon the Site Plan (or, as the case may be, the Alternate Site Plan) and is to be located on the southeast portion of Parcel 1 where, and as depicted upon, the Site Plan heretofore incorporated herein as Exhibit "A". Such sign shall be requested by Owners and shall be subject to review and approval for conformance with the following standards:

Minimum setback from ROW: 10 feet; and a

Maximum sign area: 64 square feet per face for a double faced monument sign; and a

Maximum height: 14 feet; and

The sign may be externally illuminated only; no lighting on top of signage; illumination shall be designed, located, shielded and directed so as to prevent casting of glare or direct light upon adjacent streets or surrounding properties; and The base of the monument sign shall be decorative masonry or natural stone materials; the sign panel shall be flanked by two symmetrical masonry or stone posts; and

The sign base shall be landscaped in accordance with Section 17.26.100 of the City Code; and

The sign panels shall be of a durable material such as stone, metal or alumilite; and

The signage shall comply with all other applicable provisions of Chapter 17.28 of the City Code.

13. At such time as the City shall grant approval of the initial zoning entitlements and subdivision relief outlined in paragraph 2. and in subparagraphs 2. a., b. and the first paragraph of subparagraph 2. c. and paragraph 12 hereof, the Owners shall cause to be dedicated to the City a highway/road right-of-way for the Charter-One Drive Extension (the "Extension") as depicted upon the Site Plan heretofore incorporated herein as Exhibit "A" (the "Extension Dedication"). The legal description of the proposed Extension Dedication is contained on Exhibit F attached hereto and incorporated herein. The Owners shall cause the Extension Dedication to be made by way of a properly prepared and executed plat of subdivision, at no cost to the City.

- a. The Extension Dedication shall be eighty' (80') feet in width intersecting with the existing right-of-ways for Charter One Avenue and King Edward Drive.
- b. Prior to the issuance of any building permit for the construction of any building or structure within Parcels 1, 2 or 3, as depicted upon the Site Plan (or on the Lots 1, 2, 3, 4 or 5 as depicted on the Alternate Site Plan), the Owners, or their successors and assigns, shall cause to be submitted to the City for its approval appropriate final engineering and construction plans and specifications for the construction of the Extension within the Extension Dedication as depicted upon the Site Plan heretofore incorporated herein as Exhibit "A". Upon the City's approval of the final engineering and construction plans and specifications for the construction of the Extension, the Owners' or, as appropriate, their successors and assigns, shall cause the Extension to be constructed pursuant to such approved plans and specifications. Such construction is to commence with all other required site work for any Parcel or Lot as to which a building permit has been issued and prosecuted diligently until completion and acceptance by the City. If the construction of the Extension is not commenced or prosecuted diligently to completion as herein required, the City may withhold the issuance of occupancy permits and may otherwise bar occupancy and use of the Trust Property. In the event Parcel 1 is conveyed to the Contract Purchaser, Parcel 1 and the Contract Purchaser shall be deemed exempt from this requirement and the obligation of the Owners described in this subparagraph shall then be triggered by an application for a building permit being made with respect any building or structure to be located within Parcels 2 or 3 as depicted upon the Site Plan (or on the Lots depicted on the Alternate Site Plan which constitute any part of Parcels 2 or 3 as depicted on the Site Plan).
- c. If no building permit has been drawn for the construction of any structure within Parcels 1, 2 or 3 as depicted upon the Site Plan, or within Parcels 2 or 3 as depicted upon the Site Plan per subparagraph 13. b. above (or on Lots 1, 2, 3, 4 or 5 as depicted on the Alternate Site Plan, or the Lots depicted on the Alternate Site Plan which constitute any part of Parcels 2 or 3 as depicted on the Site Plan per subparagraph 13. b. above) by January 1, 2024, the Owners, or their successors and assigns, shall cause the Extension to be constructed within nine (9) months of January 1, 2024.
- d. Notwithstanding the preceding subparagraph c., at any time after January 1, 2016, the City may determine that the construction of the Extension is required to serve the traffic management, flow and related needs of the City. Should the City make such a determination, the City shall request that the Owners waive their rights under subparagraph c. above and immediately proceed with the development of all necessary engineering plans and specifications for the construction of the Extension and, upon the approval of said engineering plans and specifications, promptly proceed with the construction of the Extension. Should the owners elect to waive their rights under the preceding subparagraph c., they shall immediately cause all such necessary

engineering plans and specifications to be prepared for review and approval by the City and, once approved, shall let appropriate contracts for the construction of the Extension. The construction of the Extension shall be diligently prosecuted until completion and acceptance by the City. If the City reasonably determines that the Owners are not proceeding diligently with the preparation of the necessary engineering plans and specifications or should the City determine that the construction of the Charter-One Drive Extension is being unreasonably delayed or not prosecuted diligently, the City may serve notice on the Owners and if, in the City's reasonable determination, the Owners do not promptly act to remedy the delay, the City may assume responsibility for the completion of the work necessary to complete the construction of the Extension project. In such event, the City shall have the rights hereinafter provided in the subsequent paragraph.

Upon the City's request that Owners proceed with the Extension project, should the Owners elect not to undertake the project or should the Owners initially elect to undertake the project but fail to diligently prosecute such work to completion, as provided in the preceding subparagraph, the City may assume responsibility for the construction of the project under the following terms and conditions. The City shall cause all necessary and proper engineering for the construction of the Extension to be prepared or completed, as the case may be, and shall then cause contracts to be let for the construction of the Extension in a manner consistent with the approved engineering plans and specifications. The engineering plans and specification shall encompass all facets of the project including, but not by way of limitation, all required signalization and detention. Should additional land be necessary to accommodate detention made necessary by reason of the construction of the Extension, the Owners shall dedicate, free of charge to the City, such additional land as may be necessary in an amount and location reasonably agreeable to the parties. The City shall advance the sums necessary to pay the cost of the engineering and the construction of the Extension. The City may do so from cash reserves on hand or from the proceeds of any bond issue or other public financing as deemed appropriate by the City or from any combination thereof. The Owners, their successors and assigns shall be liable to the City for the repayment of the entire cost of the Extension (engineering and construction) together with interest thereon at the interest rate being paid by the City on any public financing incurred by the City for the funds used to pay the cost of the Extension or at an interest rate equal to the interest rate then being quoted by the Wall Street Journal as the prime rate. Further, the City shall have a lien on the Trust Property to secure the repayment of the sums due the City (including the interest thereon). Said lien may be separately recorded in the chain of title to the Trust Property in which case Owners agree to cooperate to place said lien of record in the office of the Recorder of Deeds of Kane County, Illinois. Further, the parties agree that a memorandum of agreement reflecting this provision shall also be so recorded.

Thereafter, at such time as a building permit may be applied for as to all or any portion of the Trust Property, the entire outstanding balance of the costs of the Extension, together with the interest due thereon, shall become immediately due and payable to the City and the City shall have no obligation to approve or issue any such building permit until the Owners, or their successors or assigns, as the case may be, have fully satisfied this obligation.

- e. The Charter-One Drive Extension shall be constructed as a collector street at no cost to the City. The construction shall be accomplished pursuant to appropriate engineering and construction plans and specifications for the construction of the Charter-One Drive Extension in accordance with the requirements of the City Code and the City's standards for roadway construction as approved by the City.
- f. Storm water detention for the Charter-One Drive Extension shall be provided for on Parcel 3, as depicted upon the Site Plan (or on Lots 5 as depicted on the Alternative Site Plan), in compliance with the City Code and the City's standards for the construction of storm water detention facilities. Detention must be provided at the time of, and as part of, the construction of Charter-One Drive Extension.
- g. Curb cuts onto the Charter-One Drive Extension shall be limited to two four (4) way intersections located so as to provide a safe and adequate distance from adjacent public streets and private driveways. Curb cuts located on the east and west sides of the Charter-One Drive Extension shall be so located so as to form four-way intersections.
- h. Signalization and intersection improvements at the intersection of the existing Charter One Drive and Smith Road shall be constructed pursuant to one or more warrants for a signal being met in accordance with the Manual on Uniform Traffic Control Devices whenever any one or more warrants from the Manual is met. A financial guarantee in the form of a letter of credit shall be provided for these improvements at the time the Owners or, as appropriate, their successors and assigns, build the Charter-One Drive Extension. The nature and extent of these improvements shall be in accordance with Article 13 b. or 13 c. whichever may apply. The financial guarantee shall be maintained until the first to occur of the following: (i) the improvements are accepted by the City or (ii) seven (7) years have passed from the date of the initial guarantee. The signalization shall be coordinated (fiber connection) with the existing signal at the intersection of IL 64 and Smith Road. In the event Parcel 1, as depicted upon the Site Plan, is conveyed to the owners of the Charlestowne Mall planned unit development, Parcel 1 and the owners of Charlestowne Mall shall be deemed exempt from this requirement and the obligation of the Owners described in this subparagraph shall then be exclusively born by the Owners of Parcels 2 or 3, as depicted upon the Site Plan (or the Lots depicted on the Alternative Site Plan which constitute any part of Parcels 2 or 3 as depicted on the Site Plan) or, as appropriate, their successors and assigns.

- i. Additional roadway, signalization, and intersection improvements may be required due to increased traffic resulting from development on the Trust Property consistent with the development entitlements provided for herein. The City may require that, as a condition of processing any application for zoning and/or other development entitlements, that a traffic study be conducted in conjunction with the proposed zoning and/or other development entitlements. The traffic study shall be performed by the City prior to the commencement of the work being undertaken pursuant to subparagraphs 13. b. or 13. c., whichever subparagraph may apply. Additional roadway and signalization improvements consistent with the results and recommendations of the traffic study shall be constructed contemporaneously with the construction of the Charter One Drive Extension. No owner or developer of any parcel of the Trust Property shall be required to make or pay more than its proportionate share of any improvement in accordance with the following formula: projected traffic from Trust Property parcel expected to use improvement / total projected traffic expected to use improvement = proportionate share of Trust Property parcel.
14. Upon proper application as herein specified, the City shall cause proper notice to be given and shall hold all legally required public hearings on the Owners' zoning and subdivision applications and shall, to the extent such applications are consistent with the terms of this Amended Consent Decree, the City Code, ordinances, rules and regulations, approve same by ordinances duly adopted and approved by its Corporate Authorities within one hundred eighty (180) days of the filing of the complete and accurate applications. Should the Owners or, as appropriate, their successors or assigns, cause or request a delay in the processing of the applications or the conduct of any required hearing or meeting, the one hundred eighty (180) day period provided for herein shall be tolled by a number of days equal to the number of days attributable to the delay caused or requested.

Upon the passage and approval of the initial zoning and subdivision entitlements provided for in paragraph 2. and in subparagraphs 2. a., b. and the first paragraph of subparagraph 2. c. and paragraph 12 hereof, the parties will present to the Court and amendment to this Amended Consent Decree confirming that the parties have performed their respective obligations as herein set forth.

Notwithstanding anything to the contrary in this Amended Consent Decree, the City retains the sole and exclusive discretion to grant or deny the initial zoning and subdivision entitlements as set forth in paragraphs 2 and 2.a above, upon proper application and after all due notice and public hearings have been conducted. The City's grant of the initial zoning and subdivision entitlements is a condition precedent to the effectiveness of this Amended Consent Decree and the Owner's obligation to dedicate, construct and pay for the Extension as described in paragraph 13 and its subparagraphs. Any other zoning relief contemplated by this Amended Consent Decree will not be

granted by the City except upon proper application by Owner or Contractor Purchaser as described herein which is consistent with the terms of the Amended Consent Decree, the City Code, and all applicable ordinances, rules and regulations including the issuance of required public notice(s) and public hearing(s).

The ordinances providing for the granting of the zoning entitlements and subdivision applicable to the Trust Property, once approved by the City's Corporate Authorities, shall remain in effect for not less than 20 years, unless modified by the agreement of both the City and the Owners or, as appropriate, the Owners' successors or assigns. Such modifications shall require, in each instance, the filing of proper, accurate and complete applications for zoning or other relief which shall be processed in the same manner and which shall be subject to the same codes, ordinances, rules and regulations as would otherwise apply to other similar applications in the St. Charles' City Code. Should the City elect to grant the requested relief, the City and the Owners or, as appropriate, their successors or assigns, shall cause a further amendment to the Amended Consent Decree to be presented to the court for its approval and, upon such approval, such further Amended Consent Decree shall control the development of the Trust Property or so much of the Trust Property as was properly the subject of the applications requesting the modifications of the development entitlements provided for herein.

In the event that the Owners, or their successors or assigns file proper, accurate and complete applications for the initial zoning, subdivision or other relief as herein contemplated and should the City shall deny the Owners' applications or fail to act on the Owners' applications within one hundred eighty (180) days from the date of the filing of proper, accurate and complete applications, or within such extended period of time as may be attributable to a delay caused or requested by the Owners or, as appropriate, their successors or assigns, as hereinbefore provided, the Owners, or as appropriate, their successors or assigns may petition the court to enforce the terms of this Consent Decree by conducting a hearing as to whether the City's delay or denial of the Owners' applications violates the terms of the Amended Consent Decree.

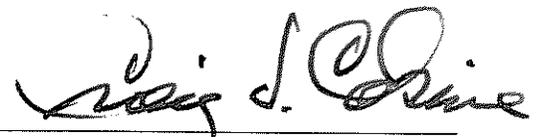
Upon the conclusion of such hearing, should the Court determine that the City's delay or denial violates the terms of this Amended Consent Decree, the sole relief available to the Owners, or as appropriate, their successors or assigns, is to request the Court to vacate this Amended Consent Decree.

In the case of each application for zoning, subdivision or other relief or entitlement filed by Owners pursuant to the provisions of this Consent Decree, and particularly paragraph 14 hereof, the Owners, or as appropriate, their successors or assigns, shall pay to the City all fees and costs attendant thereto as the City may, from time to time provide for the form of relief or entitlement being requested.

15. That each party shall bear its own costs and attorney's fees in this matter.

16. From and after the City's adoption and approval of the initial ordinances or resolutions granting of the zoning entitlements and subdivision relief contemplated herein, the Dunham Club Annexation Agreement and the Existing Zoning Entitlements shall be null, void and of no further force and effect and shall, in each respect, be replaced and governed by the terms of this Amended Consent Decree and the City Code, its ordinances, rules and regulations to the extent not in conflict with this Decree.
17. This Amended Consent Decree shall remain in full force and effect for a period of twenty years and the Court shall retain jurisdiction of this matter to either enter a final order upon performance of the terms of this Amended Consent Decree, or to vacate this Amended Consent Decree as set forth herein.

  
One of the Attorneys for Plaintiff,  
City of St. Charles, IL

  
One of the Attorneys for Defendant,  
West Suburban Bank, as Trustee  
under Trust Agreement Dated April  
30, 1981, and Known as Trust No.  
2580, the Oliver-Hoffmann  
Corporation and Unknown Owners

ENTER:

**JOHN W. COUNTRYMAN**

JUDGE

Dated: JUL 8 2009

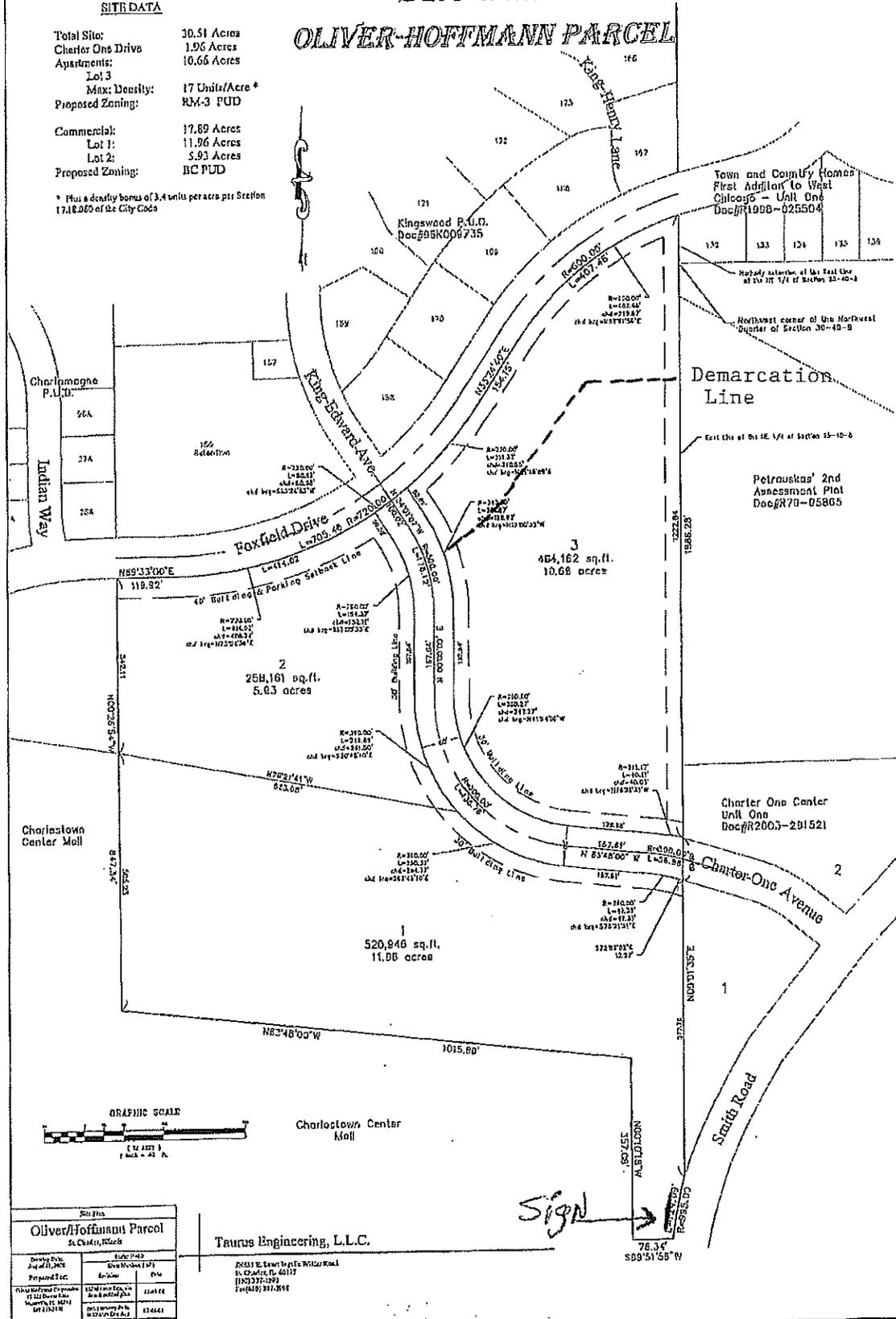
# Exhibit "A" Site Plan

## OLIVER-HOFFMANN PARCEL

### SITE DATA

Total Site: 30.51 Acres  
 Charter One Drive: 1.96 Acres  
 Apartments: 10.66 Acres  
 Lot 3  
 Max. Density: 17 Units/Acre\*  
 Proposed Zoning: RM-3 PUD  
 Commercial: 17.89 Acres  
 Lot 1: 11.06 Acres  
 Lot 2: 5.83 Acres  
 Proposed Zoning: BC PUD

\* Plus a density bonus of 3.4 units per acre per Section 17.18.060 of the City Code



Site Data	
Oliver/Hoffmann Parcel	
S. Chalmers, 15248	
Prepared By:	Taurus Engineering, L.L.C.
Checked By:	Taurus Engineering, L.L.C.
Drawn By:	Taurus Engineering, L.L.C.
Date:	12/15/11
Scale:	AS SHOWN
Project No.:	12001

Taurus Engineering, L.L.C.

2001 E. Rivergate Water Road  
 St. Charles, MO 63019  
 (636) 337-1200  
 Fax: (636) 337-0911

Sign →

EXHIBIT "B"

Parcel 3

That Part of the Southeast Quarter of Section 24, Township 40 North Range 8 East and part of the Northeast Quarter of Section 25, Township 40 North, Range 8 East of the Third Principal Meridian described as follows:

Beginning at the Southwest corner of Lot 2 in Charter One Center Unit One Subdivision, being a subdivision in the Northwest Quarter of Section 30, Township 40 North, Range 9 East of the Third Principal Meridian in DuPage County, Illinois, said point being the northwest corner of the Right of Way of Charter One Avenue as dedicated in said Charter One Center Unit One Subdivision, thence westerly along the arc of curve concave to the south having a radius of 211.17 feet, a chord bearing of North 78°21'31" West and a chord length of 40.05 feet, 40.11 feet; thence North 83°48'00" West 179.88 feet; thence northerly along the arc of curve concave to the northeast having a radius of 260 feet, a chord bearing of North 41°54'00" West and a chord length of 347.27 feet, 380.27 feet; thence North 0°00'00" East 167.64 feet; thence northerly along the arc of a curve concave to the west having a radius of 340 feet, a chord bearing of North 17°00'33" West and a chord length of 198.92 feet, 201.87 feet; thence North 34°01'07" West 62.89 feet to the southerly Right of Way line of Foxfield Drive as dedicated by document 98K079762 in Kane County, Illinois; thence easterly along said southerly Right of Way of Foxfield Drive being the arc of curve concave to the northwest with a curve radius of 720 feet, a chord bearing of North 41°49'09" East and a chord length of 210.56 feet, 211.32 feet; thence North 33°24'40" East along the southerly Right of Way line of said Foxfield Drive, 154.15 feet; thence continuing easterly along said southerly Right of Way line said line being the arc of a curve concave to the south having a radius of 600 feet, a chord bearing of North 52°51'56" East and a chord length of 399.67 feet, 407.46 feet to the Northwest corner of Lot 132 in Town and Country Homes First Addition to West Chicago Unit 1 recorded as document #R1998-025504 in DuPage County, Illinois; thence South 00°01'35" West along the east line of the Northeast Quarter of Section 25, Township 40 North, Range 8 East of the Third Principal Meridian and the northerly extension thereof, 1222.84 feet to the point of beginning, containing therein 10.66 acres more or less all in Kane County, Illinois.

**EXHIBIT "C"**

Parcel 1

That Part of the Northeast Quarter of Section 25, Township 40 North, Range 8 East of the Third Principal Meridian described as follows:

Beginning at the Northwest corner of Lot 1 in Charter One Center Unit One Subdivision, being a subdivision in the Northwest Quarter of Section 30, Township 40 North, Range 9 East of the Third Principal Meridian in DuPage County, Illinois, said point being the southwest corner of the Right of Way of Charter One Avenue as dedicated in said Charter One Center Unit One Subdivision, thence North  $72^{\circ}55'02''$  West 12.27 feet; thence continuing westerly along the arc of curve concave to the south having a radius of 260 feet, a chord bearing of North  $78^{\circ}21'31''$  West and a chord length of 49.31 feet, 49.39 feet; thence North  $83^{\circ}48'00''$  West 167.61 feet; thence northwesterly along the arc of curve concave to the northeast having a radius of 340 feet, a chord bearing of North  $62^{\circ}42'10''$  West and a chord length of 244.77 feet, 250.39 feet; thence North  $79^{\circ}21'41''$  West 683.08 feet; thence South  $00^{\circ}26'54''$  East 505.23 feet; thence South  $83^{\circ}48'00''$  East 1015.80 feet; thence South  $00^{\circ}10'18''$  East 357.08 feet; thence North  $89^{\circ}51'56''$  East 78.34 feet; thence northerly along the arc of a curve concave to the east having a radius of 995 feet, a chord bearing of North  $10^{\circ}13'36''$  East and a chord length of 124.01 feet, 124.09 feet to the east line of the Northeast Quarter of said Section 25; thence North  $00^{\circ}01'35''$  East along said east line 579.76 feet to the point of beginning, containing therein 11.96 more or less acres all in Kane County, Illinois.

EXHIBIT "D"

Parcel 2

That Part of the Northeast Quarter of Section 25, Township 40 North, Range 8 East of the Third Principal Meridian described as follows:

Commencing at the Northwest corner of Lot 1 in Charter One Center Unit One Subdivision, being a subdivision in the Northwest Quarter of Section 30, Township 40 North, Range 9 East of the Third Principal Meridian in DuPage County, Illinois, said point being the southwest corner of the Right of Way of Charter One Avenue as dedicated in said Charter One Center Unit One Subdivision, thence North  $72^{\circ}55'02''$  West 12.27 feet; thence continuing westerly along the arc of curve concave to the south having a radius of 260 feet, a chord bearing of North  $78^{\circ}21'31''$  West and a chord length of 49.31 feet, 49.39 feet; thence North  $83^{\circ}48'00''$  West 167.61 feet; thence northwesterly along the arc of curve concave to the northeast having a radius of 340 feet, a chord bearing of North  $62^{\circ}42'10''$  West and a chord length of 244.77 feet, 250.39 feet to the Point of Beginning; thence North  $79^{\circ}21'41''$  West 683.08 feet; thence North  $00^{\circ}26'54''$  West 342.11 feet to the southerly Right of Way line of Foxfield Drive as dedicated by document 98K079762 in Kane County, Illinois; thence North  $89^{\circ}33'00''$  East along the southerly Right of Way line of said Foxfield Drive, 119.92 feet; thence continuing easterly along said southerly Right of Way line of said Foxfield Drive being the arc of a curve concave to the north having a radius of 720 feet, a chord bearing of North  $73^{\circ}04'36''$  East and a chord length of 408.34 feet, 414.02 feet; thence South  $34^{\circ}01'07''$  East 59.30 feet; thence southerly along the arc of a curve concave to the west having a radius of 260 feet, a chord bearing of South  $17^{\circ}00'33''$  East and a chord length of 152.11 feet, 154.37 feet; thence South  $0^{\circ}00'00''$  West 167.64 feet; thence southeasterly along the arc of curve concave to the northeast having a radius of 340 feet, a chord bearing of South  $20^{\circ}48'10''$  East and a chord length of 241.50 feet, 246.89 feet to the point of beginning, containing therein 5.93 acres more or less all in Kane County, Illinois.

# Exhibit " E "

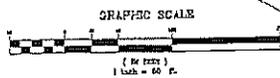
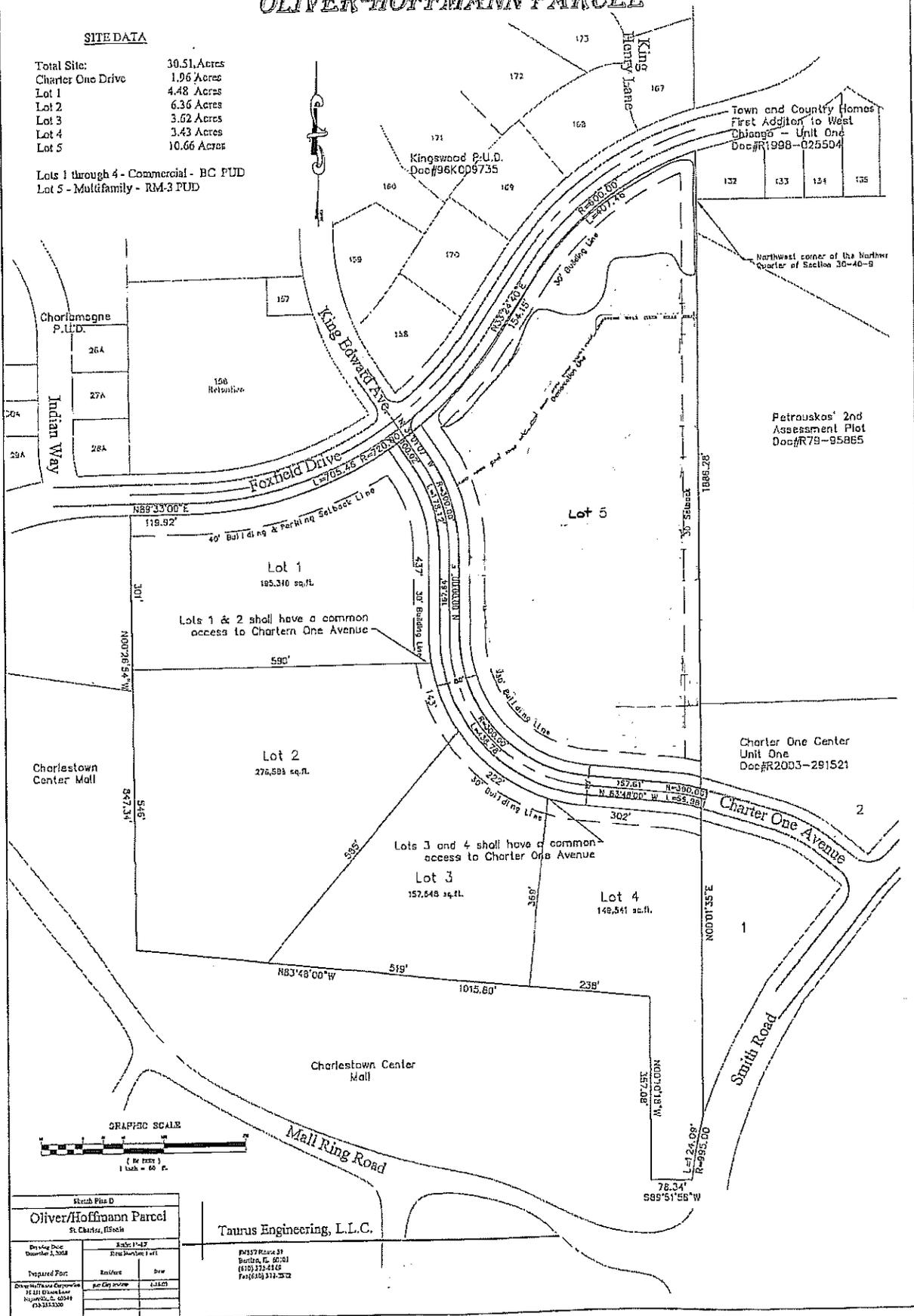
## ALTERNATE SITE PLAN

### OLIVER-HOFFMANN PARCEL

#### SITE DATA

Total Site:	30.51 Acres
Charter One Drive	1.96 Acres
Lot 1	4.48 Acres
Lot 2	6.36 Acres
Lot 3	3.62 Acres
Lot 4	3.43 Acres
Lot 5	10.66 Acres

Lots 1 through 4 - Commercial - BC PUD  
 Lot 5 - Multifamily - RM-3 PUD



Sketch Plan D	
Oliver/Hoffmann Parcel	
St. Charles, Illinois	
Drawing Date	August 1, 2008
Prepared For	Richard J. Drew
Client/Project	Richard J. Drew

Taurus Engineering, L.L.C.

Professional Engineer  
 Richard J. Drew  
 (618) 322-8100  
 Fax: (618) 322-2512

**EXHIBIT "F"**

**CHARTER ONE AVENUE**

That Part of the Northeast Quarter of Section 25, Township 40 North, Range 8 East of the Third Principal Meridian described as follows:

Beginning at the Southwest corner of Lot 2 in Charter One Center Unit One Subdivision, being a subdivision in the Northwest Quarter of Section 30, Township 40 North, Range 9 East of the Third Principal Meridian in DuPage County, Illinois, said point being the northwest corner of the Right of Way of Charter One Avenue as dedicated in said Charter One Center Unit One Subdivision, thence westerly along the arc of curve concave to the south having a radius of 211.17 feet, a chord bearing of North 78°21'31" West and a chord length of 40.05 feet, 40.11 feet; thence North 83°48'00" West 179.88 feet; thence northerly along the arc of curve concave to the northeast having a radius of 260 feet, a chord bearing of North 41°54'00" West and a chord length of 347.27 feet, 380.27 feet; thence North 0°00'00" East 167.64 feet; thence northerly along the arc of a curve concave to the west having a radius of 340 feet, a chord bearing of North 17°00'33" West and a chord length of 198.92 feet, 201.87 feet; thence North 34°01'07" West 62.89 feet to the southerly Right of Way line of Foxfield Drive as dedicated by document 98K079762 in Kane County, Illinois; thence westerly along said southerly Right of Way of Foxfield Drive being the arc of curve concave to the north with a curve radius of 720 feet, a chord bearing of South 53°24'55" West and a chord length of 80.08 feet, 80.12 feet; thence South 34°01'07" East 59.30 feet; thence southerly along the arc of a curve concave to the west having a radius of 260 feet, a chord bearing of South 17°00'33" East and a chord length of 152.11 feet, 154.37 feet; thence South 0°00'00" West 167.64 feet; thence southeasterly along the arc of curve concave to the northeast having a radius of 340 feet, a chord bearing of South 41°54'00" East and a chord length of 454.13 feet, 497.28 feet; thence South 83°48'00" East 167.61 feet; thence easterly along the arc of a curve concave to the south having a radius of 260 feet, a chord bearing of South 78°21'31" East and a chord length of 49.31 feet, 49.39 feet; thence South 72°55'02" East 12.27 feet to the southwest corner of the Right of Way of Charter One Avenue as dedicated in said Charter One Center Unit One Subdivision; thence North 00°01'35" East along the westerly Right of Way line of said Charter One Avenue as dedicated in said Charter One Center Unit One Subdivision, 83.68 feet to the point of beginning, containing therein 1.96 acres more or less all in Kane County, Illinois.