

TO: Mayor and Council

- FROM: Sumedh Bahl, Community Services Area Administrator Jim Baird, Interim Police Chief Craig Hupy, Public Services Area Administrator Matt Kulhanek, Fleet and Facilities Manager Cresson Slotten, Systems Planning Manager Robyn Wilkerson, Human Resources Director
- CC: Steven D. Powers, City Administrator
- SUBJECT: Council Agenda Responses

DATE: 10/19/15

$\underline{C-1}$ – An Ordinance to Amend Section 10:148 of Chapter 126, Traffic (Pedestrian Crosswalks), Title X, of the Code of the City of Ann Arbor

Question: Please explain the implications of this amendment regarding enforceability. Will it impact AAPD ability to issue citations? Is it the responsibility of the driver stopping for a pedestrian to exercise judgment that there isn't someone following too closely, or is it the duty of the driver to stop regardless. (Councilmember Westphal)

Response: Ann Arbor Police Department will still have the ability to issue citations. Adding this line would have the potential to reduce the number of incidents that are a violation. It would require some judgment that stopping can be done safely. It would not be the duty of the driver to stop if they cannot do so safely.

Question: Does the Police Department anticipate any issues with enforcement should the proposed changes to the crosswalk ordinance pass? (Councilmember Grand)

Response: No.

<u>C-2</u> - An Ordinance to Amend Chapter 55 (Zoning), Zoning of 69 Acres from TWP (Township District) to R4A (Multiple-Family Dwelling District), Nixon Farm North Zoning, 3381 Nixon Road (CPC Recommendation: Approval – 7 Yeas and 0 Nays) (Ordinance No. ORD-15-15)

<u>C-3</u> – An Ordinance to Amend Chapter 55 (Zoning), Zoning of 41 Acres from TWP (Township District to R4A (Multiple-Family Dwelling District), Nixon Farm South Zoning, 2999 Nixon Road (CPC Recommendation: Approval – 7 Yeas and 0 Nays) (Ordinance No. ORD-15-16)

Question: Toll Brothers told some neighborhood representatives that they would collect all the concerns from the neighborhoods. They also said they would compile and provide this information to the City. Has this been done? If so, could you please provide that information? (Councilmember Kailasapathy)

<u>Response</u>: Staff referred this and a similar question below, to the developer. They responded:

"We have met with the Foxfire, Foxridge, Ashford, Orchard and Bromley Communities and have extended an invitation out to Arbor Hills and Chapel Hill Communities.

The meetings were mostly focused on the traffic and intersection issues. Other notable topics were:

- 1) Nixon corridor traffic study (if we supported it).
- 2) Average sales prices of each product.
- 3) Density.
- 4) How will the HOA be managed and how the common area will be maintained.
- 5) What happens if the City doesn't build the intersection?
- 6) What is the impact of the water run-off?
- 7) What will the lighting plan entail within the community?
- 8) Can anything be done with the street view on Nixon Road (townhomes)?
- 9) Can there be a more dense buffer between Fox Ridge and Nixon South?

We have responded to all of these questions during the various meetings and have also made some significant contributions (intersection funding) and changes (Nixon South at Nixon Road- sidewalk and street elevation/open space changes)."

Question: The Nixon North zoning that went to Planning commission stated that 16 acres of wooded land was going to be dedicated as park land. The conditional zoning statement says nothing about the park land dedication. Why? Should this then be going back to Planning commission as this is a substantial change in the plans? (Councilmember Kailasapathy)

Response: At the time the Planning Commission considered the Nixon Farm North zoning and site plan petitions, the parkland discussion focused on fulfilling the recommendations set forth in the Parks, Recreation and Open Space Plan. Since then, the discussion has expanded to include an application to the Land Acquisition

Committee for approximately 10 acres in addition to a donation of 5.9 acres of land. This is not a substantial change in plans that must be referred back to the Planning Commission.

Question: The conditional offer states that the developer will donate around a million dollars towards the construction of the roundabout. When would this be paid – at the beginning, end? Or on a particular time? Shouldn't this be enumerated in the conditional offer. (Councilmember Kailasapathy)

Response: No. The zoning provides general conditions that will be tied to the zoning of the land. Specific details on payment and procedure are detailed in the Traffic Mitigation Agreement for each site which will be approved along with the site plan. The Traffic Mitigation Agreement provides that payment will be deposited within five days of approval of the site plan and will be final upon the developer closing on the property.

Question: The City would have to find the additional million dollars to complete the roundabout. Which fund are we planning to utilize for this purpose? Is it part of our CIP? How can we make sure that this money is earmarked for this project? (Councilmember Kailasapathy)

Response: The City's funding for any portion of this project will be from the Street Millage Fund. This funding source for this project is included in the FY2016-2021 Capital Improvements Plan (CIP) for FY18. Adjustments are being made to the CIP for FY16 and FY17 in advance of the presentation of the FY17 Capital Budget to Council in the spring of 2016; any modifications needed for this project will be incorporated as able prior to presentation to the City Planning Commission.

Question: The conditional offer states that the site plan cannot be changed and the intersection has to adjust to the site plan. What if the corridor study comes up with a recommendation that requires changes in the site plan? At that point what steps would we have to take in order to get the site plans changed? Do we even have that option under a conditional offer zoning agreement? (Councilmember Kailasapathy)

Response: The developer was provided with an electronic copy of the conceptual sketch of the roundabout design. The developer prepared a site plan to accommodate this intersection design. The corridor study will not reevaluate the intersection with Nixon Road and Dhu Varren Road for design alternatives. The corridor study will evaluate the need for design elements such as center left turn lanes that the traffic impact study recommended at the drive approaches on Nixon Road. The site plan currently provides sufficient right-of-way along the Nixon Road corridor to implement recommendations (such as widening) that may come out of the corridor study.

Question: Conditional offer states that the developer will give easement for the construction of the intersection. Who is going to be the owner of that part of the street? It is my understanding that when one conveys an easement they are still the owners of the property. So would that part of the intersection be privately owned by the Toll Brothers or eventually the condominium association? (Councilmember Kailasapathy)

Response: The land will continue to be owned in fee by the developer or condominium association. The City will be granted an easement that gives the City all necessary rights to build, operate and maintain the intersection. The granting of a roadway easement is the typical legal instrument utilized by the City for this type of improvement.

Question: The developer is providing easement for wetland mitigation and utilities. Does the City have a rough idea as to how much these will cost and have funding allocated for these purposes? (Councilmember Kailasapathy)

<u>Response</u>: Estimates for this work are included in the conceptual cost estimates in the Opus study.

Question: Several residents have pointed out that when there is heavy rain fall Dhu Varren gets flooded and water stands on the streets for a few days. Is this going to be addressed along with the Nixon Farms development? Is so should it not be part of the conditional offer? If not, do we have the funds to address this issue? (Councilmember Kailasapathy)

<u>Response</u>: The detailed design of the Dhu Varren/Nixon/Green Road intersection improvements will address drainage at this location.

Question: Toll Brothers site plan assumes that the Opus study results will be adopted. But as the conditional offer itself acknowledges it is a conceptual study. Without the actual engineering drawings of the roundabout how can we agree to a site plan that may have to be changed once the actual engineering drawings are completed for the roundabout (that is assuming that the corridor study does not recommend another solution for the Nixon-Dhu Varren intersection). (Councilmember Kailasapathy)

Response: The Opus study established the operational requirements of the roundabout, and this has been selected as the preferred alternative for the intersection. Detailed engineering design of the roundabout will not affect the site plan, as the site plan has been designed with ample right-of-way for the proposed intersection design. The corridor study will be performed with the assumption that a roundabout will be constructed at the intersection.

Question: The State Enabling Act allows for conditional zoning. But we do not have ordinances for conditional zoning. So how to we go about enforcing them? (Councilmember Kailasapathy)

Response: There is no legal requirement that the City enact an ordinance to allow conditional zoning. The State Zoning Enabling Act allows for the City to accept conditions offered by a developer as part of a zoning or rezoning. The City can adopt restrictions and procedures if desired. Even without specific restrictions and procedures, we will enforce the zoning regulations and conditions the same as any other zoning violation.

Question: The Consent of owner section states the following: "For avoidance of doubt, the Co-Owners, while authorizing the Developer to commit to and fulfill the obligations and conditions contained in the Statement of Conditions, do not by this authorization and consent commit or obligate themselves to fulfill any of the obligations and conditions stated in Section 3 of the Statement of Conditions (including, without limitation, the commitment to make the payment prescribed in Section 3(ii) of the Statement of Conditions) and the Co-Owners acknowledge that if the Developer does not fulfill the obligations and conditions stated in Section 3 of the Property will revert as provided in Section 4 of the Statement of Conditions." Who will be liable for any potential liabilities in the event that Toll Brothers cannot fulfill their obligations? (Councilmember Kailasapathy)

<u>Response</u>: See response provided above. In the section from the Consent excerpted above, the owner is confirming that they do not have any intention of constructing the site plan, or committing to any payments, if the developer does not do so.

Question: Do the pedestrian walkways and sidewalks fall under the City, or the developer and future condo association with this conditional zoning agreement? (Councilmember Kailasapathy)

Response: The sidewalks within the Dhu Varren and Nixon Road rights-of-way will fall under the requirements of City Code for sidewalks. The pedestrian walkways and sidewalks within the development site will be the full responsibility of the property owner(s).

Question: Is the developer the appropriate party to make an offer of conditions under MCL 125.3405? (Councilmember Eaton)

Response: The developer has been given the general authority to zone and site plan the property by the property owner. Since the statue specifically asks for the conditions to be made by the owner, the City is requiring that the owner sign a Consent to specify that the owner agrees and consents that the conditions are part of the zoning and that the conditions will run with the land. That Consent is on page 6 of the Conditional Zoning Statement of Conditions for each site.

Question: If the conditions are approved, do they bind both the developer and the land owner? (Councilmember Eaton)

<u>Response</u>: Yes, both are bound by the conditions, but the owner of the property has made it clear that she will not pursue the site plan absent the developer, and therefore, will not be obligated to pay the contribution for the intersection.

Question: What recourse would the City have if the City accepts the developer's conditional zoning offer but subsequently withdraws from the project? For example, if the City accepts the developer's offer to contribute to the cost of the traffic circle but thereafter fails to build the development and fails to contribute to the traffic circle, could the City seek payment from the property owner? (Councilmember Eaton)

Response: No. The conditions contained in the conditional zoning are general, but specific details of when payments will be made are contained in the Traffic Mitigation Agreement, which will be considered as part of the site plan. In this Agreement, Toll Brothers has agreed to deposit into escrow the full amount of the intersection contribution within five days of approval of the site plan. The payment would be final when the developer closes on the property on or before April 30, 2016. If the developer does not close then the conditional zoning would remain in place, but the City could not seek payment from the property owner as the payment is only to be made as a condition of completing the site plan. The recourse of the City would be to rezone the property.

Question: In requesting postponement until tonight's meeting, the developer indicated they would be setting up meetings with neighborhood associations. Can you please provide a status update on those meetings – notes/minutes on discussion items/neighborhood input for any meetings that have been held, and the times/locations for meetings scheduled? (Councilmember Lumm)

<u>Response</u>: Staff referred this to the developer. Their response to the related question above from Councilmember Kailasapathy outlines the various meetings already held. In addition, they state:

"We have, as indicated above, met with Fox Ridge and Fox Fire since our last City Council Meeting. The other meetings were prior to our last meeting. We have extended an invitation to meet with the Arbor Hills community as well as Chapel Hill and are still waiting for a response. A notable meeting request that has gone unanswered is to Mr. James D'Amour of the Sierra Club-Huron Valley Group in response to his comments during our annexation council meeting."

Question: In requesting postponement, the developer also indicated there may be changes to the site plan proposal. Can you please provide the latest site plan proposal and what changes have been made? (Councilmember Lumm)

<u>Response</u>: Yes. See attached. The Nixon Farm South site plan has been revised so that the building placement provides increased variety. No other changes have been made.

Question: In the conditional zoning documents, section 3 ii references the \$1,025,460 Toll Brothers contribution to the cost of the reconfiguration of the intersection. Is Toll Brothers still requesting that that amount be reduced for any contribution from Woodbury Club Apartments or other developers? Is the contribution amount from Woodbury Club still proposed at \$200K? (Councilmember Lumm)

<u>Response</u>: The Nixon Farm Traffic Mitigation Agreement (which will be considered along with the site plans) requires that the City credit and pay any amount back to the developer that the City receives from additional private contributions for the intersection

improvements, such as from Woodbury Club. The Woodbury Club developer still proposes to contribute \$200,000 for the construction of the intersection.

Question: Have we discussed with Nixon Farms or Woodbury Club a contribution to the cost of a Nixon Corridor Traffic Study (should Council approve going forward with that \$200K study tonight)? (Councilmember Lumm)

Response: No. Both developers have provided the traffic study required by the City's Land Development Regulations.

Question: The conditional zoning statement of conditions included in our packet indicates that it was revised 10/16/15. In comparing the two, it appears that all of the key conditions are the same, but I may have missed something. Can you please identify what the substantive changes are in the revised version? (Councilmember Lumm)

<u>Response</u>: All of the key conditions are the same. The revisions to each Conditional Zoning Statement of Conditions include the following:

- The Whereas clause in Paragraph D (Page 1) was corrected to indicate that the Planning Commission recommended approval of the zoning.
- Paragraph 4 (Page 3) was revised to further clarify that City Council may take action to rezone the property to another district if the conditions are not satisfied.
- The Consent of Owner section was added (page 6) to verify that the property owner has specifically authorized, consented to, and agreed to the conditions being incorporated into the zoning.
- Exhibit B showing the conceptual plan for reconfiguration of the intersection has been attached, and it has been clarified that Exhibit C will only include select pages from the approved site plan.

<u>DC – 3</u> – Resolution to Establish Speed Limits no Greater than 25 mph throughout Near-Downtown Residential Neighborhoods

Question: The City Administrator sent a memo on August 17th that identified questions regarding the specific implementation of this resolution. Is there now clarification/recommended direction on those open items? (Councilmember Lumm)

Response: No.

Question: In a memo from last summer, staff indicated the following: "Staff is prepared to provide further analysis, including estimating the cost of implementing the 25 mph policy directive, once City Council provides direction on the policy objectives of the resolution." Have policy objectives been communicated? If not, how does staff recommend proceeding on this important issue? (Councilmember Westphal)

Response: There has not been further communication regarding policy objectives, including the questions asked in the August 17 memo (attached to Legistar file) to City Council. Once policy objectives are established by City Council, a program can be designed, including estimated implementation costs.

Question: What would the process look like if speed limits were changed during road maintenance? What type of projects would trigger this change? What constitutes a "documented safety hazard"? (Councilmember Grand)

<u>Response</u>: The question posed above are examples of why staff, in the August 17th memo, was seeking clarification of objectives and concerns before undertaking the design and costing of the effort.

<u>Question</u>: What roads would be impacted by the proposed changes? (Councilmember Grand)

<u>Response</u>: The question posed above is an example of why staff, in the August 17th memo, was seeking clarification of objectives and concerns before undertaking the design and costing of the effort.

Question: What would be involved (staff time, financial resources) if the City Administrator were to, "determine if changes should be made in the city's road design guidelines to improve pedestrian safety"? (Councilmember Grand)

<u>Response</u>: The question posed above is an example of why staff, in the August 17th memo, was seeking clarification of objectives and concerns before undertaking the design and costing of the effort.

<u>DC-4</u> – Resolution to Direct the Ann Arbor Planning Commission to Review and Make Recommendations Regarding the Adoption of a Floodplain Management Overlay Ordinance

Question: The staff memo was helpful in understanding the background and what next steps would entail. The timeline indicated in the report is November 2015 through March 2017, but what is not clear is whether the impacts of reprioritizing workload apply with that timeline or only if that timeline is accelerated. Can you please clarify? (Councilmember Lumm)

<u>Response</u>: There will be impacts with the timeline presented. Staff that would work on the floodplain ordinance will also have roles in other efforts such as the Allen's Creek Greenway, Planning initiatives, ongoing development reviews and drainage issues. If this effort currently goes forward, there will be times when delays result in projects due to limited staff resources.

Question: In terms of insurance discounts, the report seems to say that city staff will restart the FEMA CRS application process and it will take 18 months to 2 years to complete. The report also says that it's expected the CRS score would be an 8 (10% discount on insurance) and with an ordinance, the score would be a 7 (15% discount) or 6 (20% discount). Am I reading that correctly, and am I correct in assuming there is no discount for residents right now? (Councilmember Lumm)

Response: That is correct.

<u>DC-5</u> – Resolution to Proceed with the Nixon Road Corridor Traffic Study and Amend the FY16 Budget (\$200,000.00) (8 Votes Required)

Question: If Nixon is #3 on the CIP under Other Transportation, what is #1 and #2? Where does the Ellsworth Road Corridor Transportation Study fall relative to Nixon?

Response: No. 1 is the State Street Corridor Study which is already funded and currently underway. No. 2 is the Seventh Street Transportation (Miller to Stadium); portions of that project are already completed and the balance are included in the CIP for FY18 pending further design consideration. The Ellsworth Road Corridor Study ranked No. 5.

<u>DC-7</u> – Resolution to Approve Amendment No. 2 with Ultimate Software Group, Inc. Contract and Appropriate Funds (\$127,464.00) from Information Technology Fund Fund Balance to Amend the FY2016 IT Operating Budget to Fund the Continued Use of the Current Human Resource and Payroll Services Software (8 Votes Required)

Question: The resolution indicates that pricing for the five year extension is guaranteed, but how does that annual cost compare with what we have been paying for the software? (Councilmember Lumm)

<u>Response</u>: The guaranteed pricing represents 3.6% increase in Year 1 over existing pricing, but includes some additional product functionality, such as a testing environment and direct data connections to our benefit vendors. Years 2 & 3 increase at 3% per year and years 4 & 5 will have no increase.

Question: Have we paid NuView anything and can we recover those payments (if any) as well as the costs related to staff time wasted in trying to implement their system? (Councilmember Lumm)

<u>Response</u>: We have already paid NuView for the purchase of the software licenses and the implementation services. The City Attorney's office is exploring all legal remedies.

<u>DS-4</u> – Resolution to Accept and Allocate Michigan Supreme Court State Court Administrative Office Mental Health Court Grant Award and Approve Grant Contract (\$282,000.00)(8 Votes Required)

<u>DS-5</u> – Resolution to Accept and Allocate Michigan Supreme Court State Court Administrative Office Drug Court Grant Award and approve Grant Contract (\$142,000.00) (8 Votes Required)

Question: Can you please provide detail on the specific expenditures these two grants will fund. (On Sept. 8, you provided helpful budget and expenditure details on the Veterans Court grant we approved then and that same type of information would be great here.) (Councilmember Lumm)

Response: Please see the attached PDF files to view the current budget drafts for Mental Health Court and Drug Court (Sobriety Court). The court's finalized budgets are not due to the Michigan Supreme Court State Court Administrative Office for these grant awards until October 30, 2015. Additional changes may be made to the budgets between now and October 30th.

<u>DS-6</u> – Resolution to Approve a Contract with Phoenix Contractors, Inc. for ITB No. 4406 – Council Chambers Renovations Project Phase 2 (\$117,700.00)

Question: Could we please have the plans for the renovation attached to the resolution? (Councilmember Briere)

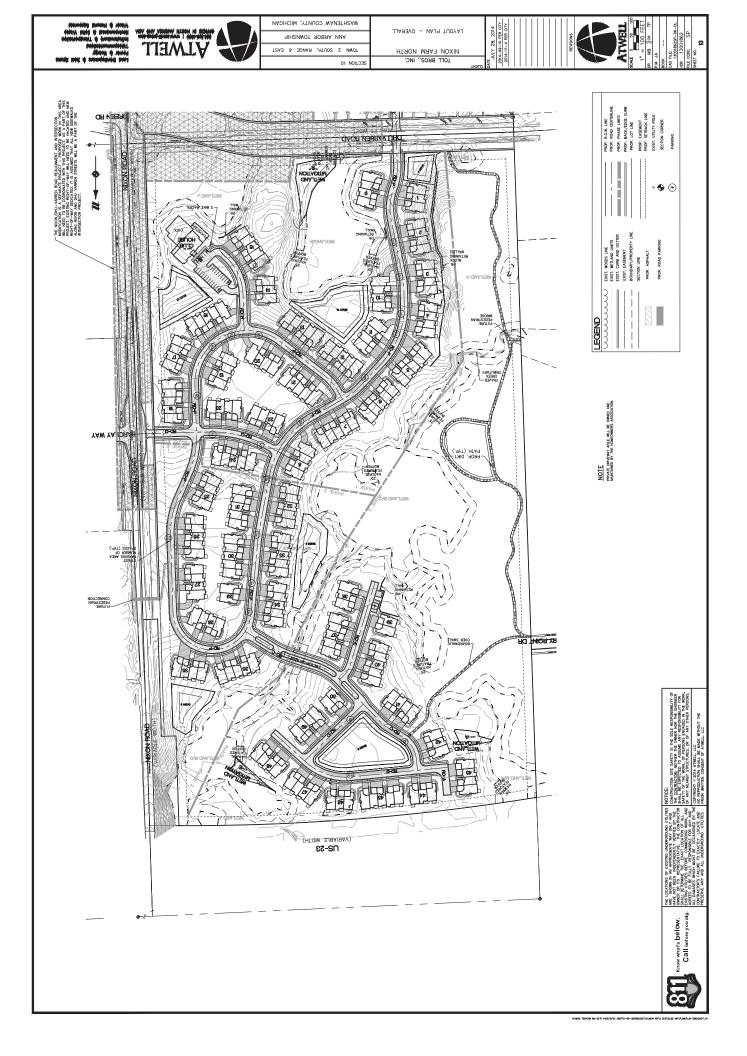
Response: The plans are now attached.

Question: In the memo, lower-than-budget costs in the Environmental Controls project is referenced as the source of funding for the higher-than-budget costs of \$34K on this Council Chamber renovation project. What was the budget and actual for the Controls project? Also, technically, doesn't an underrun in one project flow to fund balance, so to use it on another project requires taking it from fund balance (8 votes required)? (Councilmember Lumm)

Response: The budget for the Environmental Controls project is \$90,000 and is included in the approved FY 2016 General Capital Fund. Work proposed under this project was able to be completed at the end of FY 2015 using General Fund, Facilities Budget, operating funds. This work cost approximately \$57,000. Since the Chambers Renovation Project is also a General Fund capital project and DS-6 notifies Council of the change in intended purpose of the funds, the funds can be repurposed without re-appropriation.

Question: What is the current projection for the total cost of this project (contracts and contingencies)? Is it \$174K – the original \$140K in the capital budget plus the \$34K referenced in the cover memo? (Councilmember Lumm)

<u>Response</u>: The revised proposed budget for the project would be \$180,000. This would include the original \$140,000, the additional contract cost of \$34,000 and an additional \$6,000 to cover increased contingency based on the higher contract costs and anticipated wage rates.



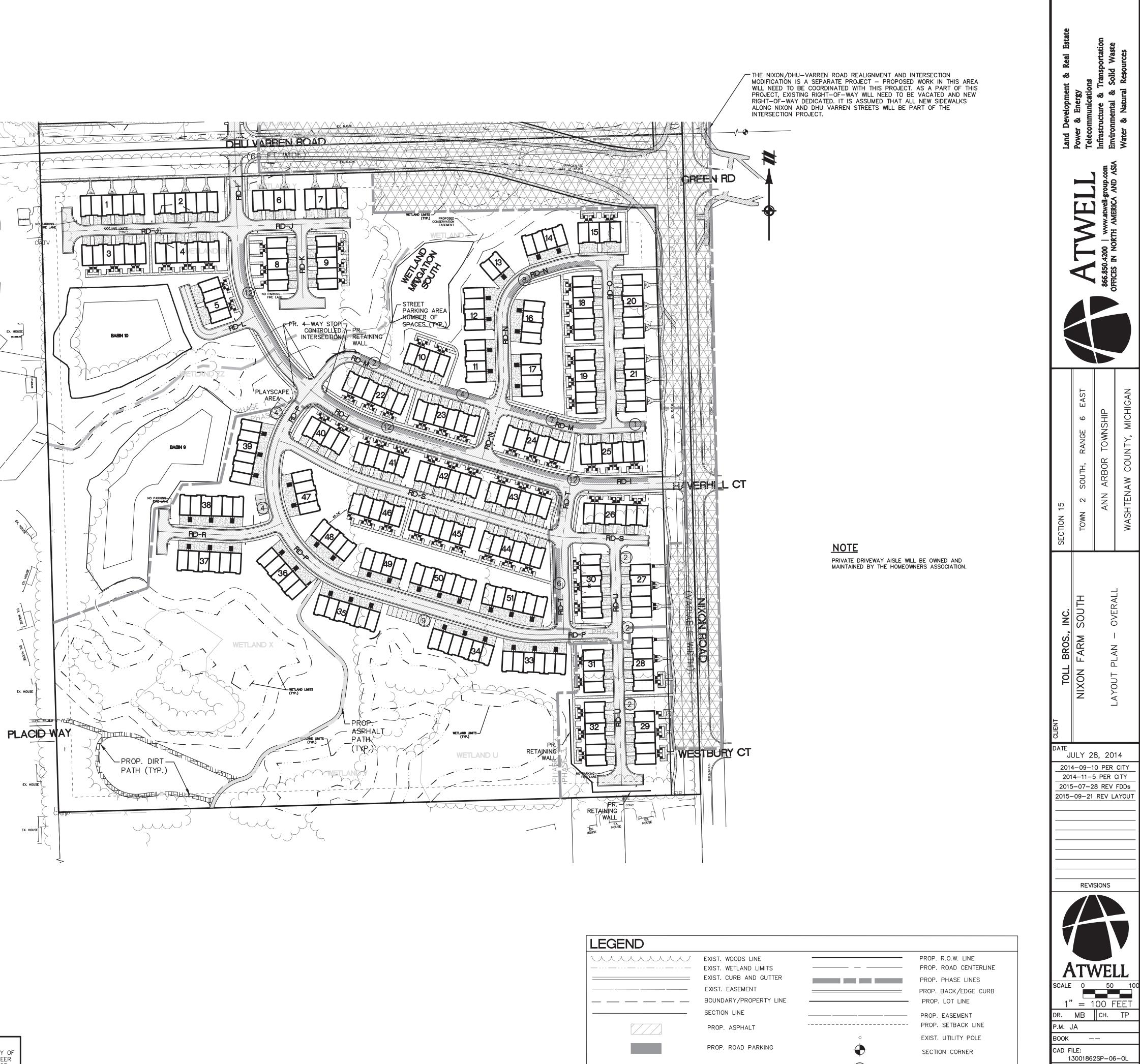


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PARKING

JOB 13001862

FILE CODE: SP

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SHEET NO.

Program: Michigan Mental Health Court Grant Program (MMHCGP) Grant FY: 2016

ITEM	COMPUTATION	<u>TOTAL</u>	
Court Coordinator	1560 hours x \$28	\$	43,680.00
Coordinator Benefits	\$43,680.00 x 7.65%	\$	3,341.52
Probation Agent	1560 hours x \$32	\$	49,920.00
Probation Agent Benefits	\$49,920.00 x 7.65%	\$	3,818.88
Home of new Vision	Approx. 20 Clinical Intake Assessments x \$150 = \$3,000; Approx. 10 participants (30 day stay) Substance Use Treatment - Residential Services x \$115/day = \$34,500; Approx. 30 Individual Therapy Sessions x \$100 = \$3,000; Approx. 20 Medication Reviews x \$40 = \$800; Approx. 25 Group Sessions x \$40 = \$1,000; Approx. 200 Hours of Case Management x \$40 = \$8,000; Approx. 8 participants (60 day stay) Recovery Residence or "Transitional Housing" x \$520/month = \$8,320	\$	58,620.00
Dawn Farm	Approx. 1 participant (90 day stay) Subtance Abuse Treatment - Residential Services x \$120/day = \$10,800; Approx. 3 participants (60 days) 3/4 Housing or "Traditional Housing" x \$525/month = \$3,150	\$	13,950.00

Program: Michigan Drug Court Grant Program (MDCGP) Grant FY: 2016

<u>ITEM</u>	<u>COMPUTATION</u>	<u>TOTAL</u>	
Dawn Farm	Approx. 4 participants (30 day stay) Outreach/Detox Beds x \$120/day = \$14,400; Approx. 5 participants (90 day stay) Residential Treatment x \$120/day = \$54,000; Approx. 8 participants (60 days) Transitional Housing x \$510/month = \$8,160; Approx. 40 EMDR Therapy Sessions x \$150 = \$6,000; Approx. 30 Assessments x \$120 = \$3,600; Approx. 95 Individual Therapy Sessions x \$60 = \$5,700; Approx. 400 Recovery Support Specialist Hours x \$30/hour = \$12,000	\$	103,860.00
Community Support & Treatment Services	960 Skills Training & Development Sessions x $\$5 = \$4,800$; Approx. 2 Nursing Services x $\$34 = \68 ; Approx. 49 Medication Reviews x $\$151.20 =$ \$7408.80; Approx. 2 Nursing Assessments/Clinical Services x $\$128.10$ = \$256.20; Approx 25 (30 minute) Individual Therapy Sessions x $\$50 =$ \$1,250; Approx 35 (45 minute) Individual Therapy Sessions x $\$100 =$ \$3,500; Approx 25 (60 minute) Individual Therapy Sessions x $\$150 =$ \$3,750; Approx. 12 Psychiatric Evaluations x $\$250 = \$3,000$; Approx. 15 Client Care Services x $\$100 = \$1,500$; Approx. 752 Targeted Case Management units (15 minutes) x \$11.28/unit = \$8,482.56; Approx. 5 BPS Assessments x $\$130 = \650	\$	34,665.56
Community Corrections	258 Drug Tests x \$10	\$	2,580.00
Training	3 MADCP Conference Registrations x \$295	\$	885.00
	TOTAL	\$	141,990.56