

PLANNING AND DEVELOPMENT SERVICES STAFF REPORT

For Planning Commission Meeting of October 21, 2014

**SUBJECT: Woodbury Club Apartments Annexation, Zoning, Planned Project Site Plan, and Wetland Use Permit
(Southeast Corner of Nixon Road and M-14)
Project No. A13-004, Z13-013, and SP13-030**

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve Woodbury Club Apartments Annexation, R4A Zoning, Planned Project Site Plan, and Development Agreement.

PROPOSED CITY PLANNING COMMISSION MOTION

The Ann Arbor City Planning Commission hereby recommends that the Mayor and City Council approve the Woodbury Club Apartments Wetland Use Permit to allow filling and mitigation of 2,550 square feet of wetland and on-site mitigation.

STAFF RECOMMENDATION

Staff recommends **approval** of the annexation because the property is within the City's water and sewer service area.

Staff recommends the proposed R4A zoning be **approved** because it is consistent with the recommendation of the Master Plan: Land Use Element and the adjacent zoning south of the site, and is compatible with surrounding land uses.

Staff recommends **approval** of the site plan because it complies with all applicable, local, state, and federal ordinances, standards and regulations; it will not cause a public or private nuisance; and it will not have a detrimental effect on public health, safety or welfare and the development would limit the disturbance of natural features to the minimum necessary to allow a reasonable use of the land.

LOCATION

This site is located at the southeast corner of Nixon Road and M-14 in the Traver Creek and Fleming Creek watersheds.

DESCRIPTION OF PETITION

General Information – This 54-acre site is comprised of two tax parcels. The eastern two-thirds of the site consists primarily of natural features such as a large wetland and woodlands. The western third of the site consists primarily of farm fields and wetlands. The petitioners have

requested annexation from Ann Arbor Township to the City of Ann Arbor in order to connect to and extend public utilities, such as water, sanitary sewer and storm sewers.

The petitioner is proposing to construct a 282 unit apartment community in four 3-story apartment buildings with a clubhouse and a pool. Two access drives are provided to Nixon Road. Parking will be provided in surface parking lots and single-story garages throughout the site. Two large surface detention ponds are proposed to handle storm water. A small portion of the wetland on the south side of the site will be filled; mitigation will take place on-site adjacent to another wetland on the north side of the site. The southernmost apartment building is proposed to be approximately 85 feet from the nearest building at Barclay Park. The project is proposed to be constructed in one phase. The total project cost is estimated to be approximately \$27,500,000.

Natural Features – A total of 193 trees are proposed to be removed, including 12 landmark trees. Most trees proposed to be removed are between 9-15 inches in diameter. The largest tree proposed to be removed is a 24-inch Cottonwood. A total of 242 replacement trees of 2.5 inch caliper will be provided. A total of 395 new trees will be planted as part of this development project.

Additionally, a total of 2,550 square feet of wetland is proposed to be filled on the south side of the site to accommodate an edge of a parking lot at the southeast corner of Building #1. This wetland loss will be mitigated with 6,729 square feet of replacement wetland north of Building #3. The developer has received a wetland permit from the State of Michigan.

Building Height – The petitioner is proposing three-story buildings with hipped roofs that would be a total of 39.29 feet in height. Chapter 55 (Zoning) sets a maximum of 35 feet in height in the R4A district. The petitioner is seeking planned project approval to allow the clustering of units to preserve open space. The project proposes that 86.2% of the site remain in the form of open space.

Parking – The project proposes to provide 564 vehicle parking spaces of which 11 are barrier free; 564 spaces are required. Bioswales are provided throughout the parking areas. A total of 58 bicycle parking spaces are proposed (50% Class A; 50% Class C; 57 bicycle parking spaces are required. The bicycle parking spaces are scattered throughout the site.

Traffic – A traffic impact study was conducted by Midwestern Consulting, Inc. The study found that traffic added from the proposed development to the Nixon/Dhu Varren/Green intersection would further increase the congestion at this intersection. The report concluded that if the intersection is realigned, an acceptable level of service can be achieved for both the existing and forecasted traffic, including the proposed development. The developer has agreed to make a contribution to the reconstruction of the intersection.

Solid Waste – Solid waste is proposed to be handled in a trash and recycling enclosure on the north side of the site. It will include a trash compactor and an area for recyclables. It will be screened with a masonry wall.

Storm Water Detention – Storm water is primarily handled by two large detention ponds on the east side of the development project. Rain garden/bio-retention areas throughout the parking lot also provide stormwater capture.

Park Dedication and Possible Park Acquisitions – The petitioner has agreed to dedicate 6.29 acres east of the developed portion of the site as parkland. Most of the parkland includes the western portion of the large wetland on the east side of the site. In addition, the petitioner has offered to sell the the 25.67 acre parcel on the east side of the site to the City for additional parkland. The City’s Park and Recreation Services staff is in the process of working with the developer on the proposed acquisition of the parcel as parkland. If the acquisition is successful, the developer will need to ensure that the minimum open space requirement of 65% is maintained for the western (built) parcel. This may include transferring some of the open space from the eastern parcel to land proposed for park dedication on the western parcel.

Non-motorized Access – A public sidewalk is proposed along Nixon Road to the point of the northern driveway. Pedestrians will be able to access the proposed public open space located on the east side of the site through a 50 foot wide public access easement that will connect the north entrance on Nixon Road to the proposed public parkland located east of the built portion of the site. The easement is shown on the site plan.

Building Materials – The petitioner proposes a combination of brick, engineered siding, wood siding, and vinyl trim. The petitioner provided color renderings of the building elevations (attached).

Citizen Participation – The petitioner held a Citizen Participation meeting on June 25, 2013 at the Traverwood Branch Library prior to submitting the site plan. A total of 444 post cards were mailed to adjoining residents. Twenty-eight individuals attended the meeting. The main items of discussion included: traffic issues (particularly the Nixon/Dhu Varren/Green intersection), sidewalks, stormwater, and possible new parkland. The Citizen Participation report is attached.

Development Agreement – A development agreement has been drafted to address the parkland and access easement dedication, Nixon Road ROW dedication (27 feet or 0.19 acres), required footing drain disconnections, and contribution to reconstruction of the Nixon/Dhu Varren/Green intersection.

SURROUNDING LAND USES AND ZONING

	LAND USE	ZONING
NORTH	Freeway	Freeway, Township
EAST	Single Family	PUD (Planned Unit Development)
SOUTH	Multiple Family	R4A (Multiple Family Dwelling)
WEST	Vacant	TWP (Township)

COMPARISON CHART

	EXISTING – TOTAL SITE	PROPOSED – TOTAL SITE	PROPOSED – DEVELOPMENT SITE	REQUIRED	
Zoning	TWP (Township)	R4A (Multiple Family)	R4A (Multiple Family)	R4A (Multiple Family)	
Gross Lot Area	53.61 acres	53.61 acres	27.71 acres	0.5 acres (21,780 sq/ft)	
Minimum Lot Area per Dwelling Unit/Units per Acre	Vacant	4,316 sf/unit (5.26 du/ac)	8,199 sf/unit (10.17 du/ac)	4,300 sf/unit MIN 10 units/acre MAX	
Minimum Usable Open Space in Percent of Lot Area	Vacant	86.2%	73.9%	65% MIN	
Active Open Space	Vacant	93,050 sq/ft	93,050 sq/ft	84,600 sq/ft MIN	
Setbacks	Front (Nixon Rd)	Vacant	19.78 ft	19.78 ft	15 ft MIN 40ft MAX
	Front (M-14)	Vacant	128 ft	128 ft	15 ft MIN
	Side (South)	Vacant	50.07 ft	50.07 ft	49.57 ft MIN (includes additional setback for height and length of building)
	Rear (East)	Vacant	1,679 ft	348 ft	30 ft MIN
Height	Vacant	39.29 ft*	39.29 ft	35 ft MAX	
Parking - Automobiles	Vacant	564 spaces	564 spaces	564 spaces MIN	
Parking – Bicycles	Vacant	30 spaces – Class A 28 spaces – Class C	30 spaces – Class A 28 spaces – Class C	29 spaces – Class A MIN 28 spaces – Class C MIN	

* Requires Planned Project Approval.

HISTORY

Farming began on the site in the 1860's by Nathan Nixon, around the same time he married Ellen McIntyre. Nathan and Ellen had ten children, one of them being Lewis Nixon, father of the current owner, Betty Nixon Spurway. Mrs. Spurway's recently deceased brother Don Nixon was an active participant in Northeast Area planning efforts.

PLANNING BACKGROUND

The 2009 Master Plan: Land Use Element provides the following site-specific recommendation:

Site 4 - This 54-acre site is bounded by M-14 to the north, Nixon Road to the west, townhomes to the south and single-family homes to the east. A large wetland system exists on the eastern and central portion of the site. Wooded areas exist east of the wetland area. The western portion of the site consists primarily of farm fields and small wetlands.

Residential uses are recommended at a gross density (minus right-of-way) of 4 to 10 dwelling units per acre. A variety of housing types would be appropriate, including single-family detached homes, duplexes, attached townhouses, multiple-family (stacked units) and assisted living facilities. Future development should incorporate community design techniques (described in Chapter 5) that support the goals and objectives of this Plan.

Although the previous Northeast Area Plan recommended office and research uses for this site, residential uses are now considered appropriate. Without direct freeway access at Nixon Road, office and research uses would result in greater peak period traffic impacts when compared to residential uses. Furthermore, residential uses on this site will improve the jobs/housing balance in the Northeast Area, as a significant amount of office and research uses continue to develop and expand along Plymouth and Green Roads.

Development should generally be concentrated on the west side of the site and away from the large wetland system and the woodland area that contains small, scattered wetlands located east of the wetland system. The wetland and areas east of the wetland are appropriate for recreational uses. The small area south of the large wetland is appropriate for limited residential development, which should be accessed through the Barclay Park site to avoid impacting the wetland. A pedestrian path should be provided around the large wetland and link to Oakwoods Nature Area to the southeast. A public pedestrian connection also should be provided from the large wetland to Nixon Road as described in the 2006-2011 Parks & Recreation Open Space Plan.

A public sidewalk along Nixon Road will be required as part of any development proposal. Additional public right-of-way may be requested along Nixon Road to accommodate this public sidewalk.

Landscaping should be provided along Nixon Road to preserve the green edge along the road. Landscaping also should be provided along M-14 to screen future residents from the freeway and maintain a greenbelt image from the freeway and along the south side where units from Barclay Park front the site.

Sites 2, 3, and 4 have interconnected natural systems, are adjacent to one another and have land use recommendations that will likely result in neighborhoods being created. The sites should therefore be planned in a manner that considers the interrelationship of natural systems, transportation systems and land use patterns.

The Non-Motorized Transportation Plan recommends bicycle lanes and sidewalks on both sides of Nixon Road. The Plan also shows a pedestrian connection between Arbor Hills and Foxfire through this site and the Nixon Farms North site, north of the wetland.

PLANNED PROJECT MODIFICATION

Planned project approval is requested to increase the height of the building from the 35 foot maximum in the R4A zoning district to 39.29 feet. (Petitioner statements are in plain type)

Modification Request

The petitioner is requesting permission to construct four 39.29 foot tall buildings which exceed the height limitation of the R4A zoning district by 4.29 feet.

Based upon compliance with the following standards, the Planning Commission may recommend approval, and City Council may approve modifications of the area, height and placement regulations of the Zoning Chapter in the form of a planned project site plan:

- 1. The lot(s) included in the planned project must meet the minimum gross lot size requirement of the zoning district in which they are located.**

The lot meets the minimum lot size requirement.

The proposed modifications of zoning requirements must provide one or more of the following:

- a) Usable open space in excess of the minimum requirement for the zoning district.**

The project provides open space (86.2%) in excess of the required (65%) open space. The taller buildings allow a more compact design which reduces natural features impacts.

- b) Building or parking setback(s) in excess of the minimum requirement for the zoning district.**

The petitioner is providing setbacks in excess of the minimum requirement on the north side (151.2' provided; 49.57' required) and the east side (626' provided; 30' required)

- c) Preservation of natural features that exceeds ordinance requirements, especially for those existing features prioritized in the land development regulations as being of highest and mid-level concern.**

The proposed project preserves most of the existing wetland and the petitioner has agreed to dedicate portions of the wetland as City Parkland.

d) Preservation of historical or architectural features.

NA

e) Solar orientation or energy conserving design.

NA

f) An arrangement of buildings which provides a public benefit, such as transit access, pedestrian orientation, or a reduced need for infrastructure or impervious surface.

NA

g) Affordable housing for lower income households.

N/A

h) Permanent open spaces of 20 percent or more in any low-density residential district.

N/A

2. The planned project shall be designed in such a manner that traffic to and from the site will not be hazardous to adjacent properties.

Traffic will not be hazardous to adjacent properties.

3. The proposed modifications shall be consistent with the proper development and use of adjacent land and buildings.

The adjacent development to the south (Barclay Park) was approved as planned project with similar site conditions.

4. Required off-street parking and landscaping must be provided in accordance with the provisions of Chapters 59 and 62.

Off-street parking and landscaping are in accordance with the provisions of Chapters 59 and 62.

5. The standards of density, allowable floor area and required usable open space for the zoning district(s) in which the project is located must be met.

The standards have been met. The project proposes 5.26 dwelling units per acre; code allows up to 10 dwelling units per acre.

6. There shall be no uses within the proposed project which are not permitted uses in the zoning district(s) in which the proposed project is to be located.

The proposed multi-family use is permitted in the R4A zoning district.

SERVICE UNIT COMMENTS

Traffic - The City has hired an engineering firm to conduct a traffic study and recommend a conceptual design to reconstruct the Dhu Varren/Nixon/Green intersection. Toll Brothers Homes (developer of Nixon Farms North and South) has indicated its willingness to reconstruct the intersection as part of their development project. Since traffic from Woodbury Club Apartments impacts the intersection, the developer has been asked to contribute a proportional share of the cost of reconstructing the intersection. The Woodbury Club Apartments developer has expressed a willingness to contribute to the cost of reconstructing the intersection.

The City will enter into an agreement with the developers of Woodbury Club, Nixon Farms North and South, and NorthSky on Pontiac Trail to ensure that the intersection is reconstructed properly and that all three development companies contribute their proportional share toward the intersection reconstruction project. The Woodbury Club Apartments developer understands that no certificates of occupancy will be issued until the intersection improvements have been constructed to the City's satisfaction.

Planning – In 1984, the City of Ann Arbor and the Charter Township of Ann Arbor agreed the border between the two jurisdictions would generally be U.S. 23 and M-14. All Township land lying west U.S. 23 and south of M-14, as well as a specific area north of M-14 between Maple and Newport Roads, would be annexed to the City as property owners requested connection to City utilities. The subject site is within the agreement area.

Staff requested that the petitioner provide public access through the site to accommodate a regional non-motorized pathway system. The path would allow pedestrians from Woodbury Club Apartments and nearby neighborhoods to walk through a series of park properties and development projects to other parts of the community. The goal is to create new walking opportunities and allow pedestrians the ability to walk through large areas in the northeast area of town.

Prepared by Jeff Kahan
Reviewed by Wendy Rampson
10/17/14

Attachments: Citizen Participation Report
Draft Development Agreement
Parcel and Zoning Map
Aerial Photo
Site Plan
Parkland Dedication and Access Easement
Elevations

c: Petitioner: BRE Nixon Rd. Associates, LLC
255 Brown Street, Suite 101
Birmingham, MI 48009

Petitioner's Agents: Scott Betzoldt
Midwestern Consulting, LLC
3815 Plaza Drive
Ann Arbor, MI 48108

City Attorney's Office
Systems Planning
Project Management
Project Nos. A13-004, Z13-013; SP13-030

CITIZEN PARTISIPATION MEETING

Woodbury Apartments Site Plan

Date of meeting: June 25, 2013

Number of cards mailed: 444

Date cards mailed: June 10, 2013

Number of cards returned: 29

Location/time of CPM: Traverwood Branch, AA Public Library

Number of citizen attendees: 28

Meeting summary:

The meeting was started at 7:00 pm. Scott Betzoldt (SB) from Midwestern Consulting introduced the project team that consisted of himself, Jon Podolsky-Bleznak Real Estate, Adam Bleznak-Bleznak Real Estate and Steve Piot-Bleznak Real Estate. SB gave a brief introduction and history of Bleznak Real Estate and summarized their property holdings including ?? in Ann Arbor.

SB then talked briefly about the location of the project and the history of the site. He stated that in 1940 the property was used for grazing and crop production. As the central wetland grew over the years farming continued only on the western half.

SB explained that the property was currently still in Ann Arbor Township and would need to be annexed, zoned and the site plan for the project approved by the AA PC and CC,

SB then gave a presentation about the details of the project including the number of buildings, unit breakdown, parking spaces and total development acreage.

SB stated that he understood that traffic issues were likely the most common concern that neighbors will have and he summarized several statistical and projected data facts:

- Nixon Road currently has 7600 average daily trips.
- This project would add 1200 ADT – 900 in the 1st phase.
- Peak hour trips on Nixon are 750 trips
- This project would add about 80 trips.

SB then added that he understood that the Dhu Varren/Nixon intersection is already slow and congested at peak hours.

Sabra Breire introduced herself and relayed the message that the city is aware of the problems associated with this intersection and they would like to construct a round-about at this location. However, this intersection lacks the necessary ROW to construct a round-about and until that ROW is acquired no improvements can be made.

SB closed the presentation and opened the floor to questions.

Questions:

Q: Is the developer required to pay impact fees to the City?

SB: Not exactly. Impact fees proper are illegal in Michigan. The developer may be required to pay a proportional share of some mitigation costs associated with upgrading the intersection, for instance.

Q: Can a light be installed to help the intersection.

SB: I don't believe that the geometry of the intersection is favorable for a stop light.

Q: do you know if there is any plans to install an interchange at Nixon/M-14?

SB: No. MDOT has repeatedly stated that it is too close to the splits in M-14 and US-23 to be safe.

Q: one of the biggest issues is we have two schools in the area and we have no contiguous sidewalk down Nixon Road.

SB: we will be installing sidewalk across our frontage but I can't speak about elsewhere.

Q: The AATA bus stop at the corner of Dhu Varren makes things worse because they drop 20 people off and then those people go off in every direction across the intersection causing more delays.

Q: Where does the stormwater from this project go to.

SB: it leave the site to the north then hooks back around onto the site then goes under Nixon Road and flows to the southwest eventually into Traver Creek.

Q: so it doesn't go into the Cities storm sewer system?

SB: No

Q: Will this project be incorporated into the Cities storm water model.

SB: I don't know. It is not a part of the Cities system.

Q: Will there be any connection to other developments.

SB: No, there is no feasible location.

Q: How do the buildings relate geographically to Arbor Hills?

SB showed a drawing that illustrated the large distance from these apartments to Arbor Hills.

Q: How far will your buildings be from Barclay Park?

SB: the closest building will be about 50 feet north of the property line.

Q: A resident stated that the addition of the new buildings will actually help to shelter Barclay from the freeway noise.

Q: Are there any plans to expand the Oakwood Preserve park?

SB: There has been only some loose discussion with the City but nothing definitive.

Q: Where will the project get its water source from.

SB: The project will tie into a watermain stub from Barclay Park and also extend a watermain in Nixon Road up to the site.

Q: When do you plan on starting the project?

SB: If all goes well we would like to begin construction in the spring of 2014.

Q: How long will the approval process take.

SB: If all goes well it should take about 8 months.

Q: What will the impact on the schools be?

SB: There will undoubtedly be some school age children living here but apartments tend to include more young professionals or empty-nesters.

Q: A resident expressed hopes that there would not be un-desireables living in the complex,

Q: Who is doing the traffic study?

SB: The company that I work for is performing the traffic study.

Q: A resident stated that the city recently reduced Green Road down to one lane in each direction – didn't they know that this and other properties would be developed.

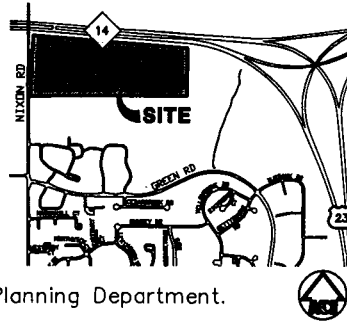
SB: I am sure they did and it must have worked with their traffic model.

Q: A resident stated that with all due respect to Sabra, he didn't think that the City did take into account any future development.

The meeting broke up into various small groups asking questions of the engineer and petitioner. SB thanked the attendees for coming and the meeting ended at approximately 7:50pm

**Nixon Road Apartments
Neighborhood Meeting**

Postcards are being sent to all residents and property owners living within 1,000 feet of the project site giving notice that a petition development proposal will be submitted to the City of Ann Arbor on or before 7/29/13. This is an opportunity to review and comment on the plans. The petitioner will consider your comments with regard to any plan revisions, in finalizing the plans and will forward all comments to the City Planning Department.



Project Location: the site is located on the southeast corner of Nixon Road and M-14.

Neighborhood Meeting Date, Location and Time: Tuesday 6/25/13, Traverwood Branch Library, from 7:00 PM to 8:00 PM. Accommodations may be arranged through the contact noted below.

Description: Bleznak Real Estate intends to develop approximately 15 acres of a 53 acres parcel into 294 upscale apartment units contained in five buildings that will occur in two phases. The project requires that the property be annexed from Ann Arbor Township and brought into the City of Ann Arbor. The property will be zoned R4A.

Questions or comments: Please contact Scott Betzoldt at Midwestern Consulting prior to 7/22/13, at Nixonroadapt@midwesternconsulting.com, or (734) 995-0200.



**MIDWESTERN
CONSULTING**
3815 Plaza Drive
Ann Arbor, MI 48108

Engineering

Civil

Transportation

Environmental

Surveying

Planning

Landscape architecture

GIS / MIS

C held at Traverwood Branch Library
 CITIZENS PARTICIPATION MEETING
 Scott Betzoldt on behalf of owner
 PLEASE SIGN IN

6/25/12 @ 7PM
 Community Room
 BRE N-xan Road W

NAME

ADDRESS

1. Frank Commiskey 2647 Antietam Ct. AA 48105
2. Betty n Spruway
3. Bill Knapp
4. Ryan Stanton 301 E. Liberty
5. Ramesh Ganatra MATERIALS TESTING CO. (MTC).
6. Jonathan L Podolsky BRE 1245 ASTON AVE, 48104
7. Stephanie Podolsky
8. Carole Stephan 3203 Dunwoodie Rd.
9. Ignacy Justyna 3227 Dunwoodie Rd AA 48105
10. Jessie L Osborne 2805 Windwood Dr Apt C AA 48105
11. Ricarda W. Osborne " " " " "
12. Collin Ross 3409 Strand Ct, Apt A-6A 48105
13. CATHY BAKER 2761 Barclay Way 48105
14. Clark Charnetski 2646 Traver Blvd 48105
15. STEVEN S. TURNER 3355 ELSINORE COURT 48105
16. Bill Holmes 3468 Ashburnham Ct. 48105
17. Elaine Kennedy 3131 Dunwoodie Rd; A2 48105
18. Xumen Liu 2823 Barclay Way, AA 48105
19. Steve Anderson 3115 Kolben PK Circle, A2, 48105
20. Daniel White 2750 Windwood Dr #127 A2 48105
21. Lanell White 2750 Windwood Dr #137 A2 48105
22. Sabra Briere 1418 Broadway 48105
23. Gabe + Barb Cheren 3255 DUNWOODIE 48105

WOODBURY CLUB DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 20___, by and between the City of Ann Arbor, a Michigan municipal corporation, with principal address at 301 East Huron Street, Ann Arbor, Michigan 48107, hereinafter called the CITY; and BRE Nixon Road Associates, LLC, a Michigan limited liability company, with principal address at 255 E. Brown Street, Suite 101, Birmingham, Michigan, 48009, hereinafter called the PROPRIETOR, witnesses that:

WHEREAS, the PROPRIETOR owns certain land in the City of Ann Arbor, described below and site planned as Woodbury Club Apartments, and

WHEREAS, the PROPRIETOR has caused certain land in the City of Ann Arbor, described below to be surveyed, mapped and site planned as Woodbury Club Apartments, and desires site plan and development agreement approval thereof, and

WHEREAS, the PROPRIETOR desires to build or use certain improvements with and without the necessity of special assessments by the CITY, and

WHEREAS, the CITY desires to insure that all of the improvements required by pertinent CITY ordinances and regulations be properly made, and that the PROPRIETOR will install these improvements prior to any permits being issued.

THE PROPRIETOR(S) HEREBY AGREE(S):

(P-1) To prepare and submit to the CITY for approval plans and specifications ("the Plans") prepared by a registered professional engineer for construction of public water and sanitary sewer mains, private storm water management systems, public sidewalks and streetlights ("the Improvements") provided that no work on said Improvements shall be commenced until the Plans have been approved by the City Administrator or designee, and until such other relevant information to CITY service areas as shall be reasonably required has been provided.

(P-2) To construct all Improvements set forth in Paragraph P-1 of this Agreement in accordance with the approved Plans and to repair all defects in the improvements that occur within one year from the date of acceptance of the Improvements by the CITY, commencing on the latest date of the acceptance of any Improvements by the CITY. If the PROPRIETOR fails to construct the Improvements, the CITY may send notice via first class mail to the PROPRIETOR at the address listed above requiring it to commence and complete the Improvements in the notice within the time set forth in the notice. The CITY may cause the work

to be completed at the expense of the PROPRIETOR, if the PROPRIETOR does not complete the work within the time set forth in the notice.

(P-3) To furnish, within 30 days of completion, an engineer's certificate that the construction of the public improvements set forth in Paragraph P-1 above have been completed in accordance with the specifications of the CITY in accordance with the approved plans. The engineer's certificate will cover only those items the PROPRIETOR'S engineer inspects.

(P-4) Prior to the issuance of building permits, to deposit with a mutually acceptable escrow agent fully executed documents in a form acceptable to the CITY, which will convey, upon delivery to the CITY, easements for the construction and maintenance of public utilities. The escrow agreement shall provide for delivery of the documents to the CITY solely upon the condition that the CITY has accepted the public Improvement to be conveyed by the easement.

(P-5) To provide, prior to the issuance of building permits, a signing plan to the Fire Department and install all street name signs according to CITY specifications and to provide and install such temporary warning signs during the construction period as are appropriate to protect the health, safety and welfare of the public.

(P-6) To install all water mains, storm sewers, sanitary sewers, through the first course of asphalt, pursuant to CITY approved plans and specifications, necessary to connect the site with existing CITY systems adjacent to the site prior to the issuance of any building permits. The final course of asphalt paving shall be completed prior to the issuance of the final certificate of occupancy for the first completed residential building.

(P-7) To be included in a future special assessment district, along with other benefiting property, for the construction of additional improvements to Nixon Road, such as street widening, storm sewers, curb and gutter, sidewalks, bike paths, street lights, and the planting of trees along Nixon Road, frontage when such improvements are determined by the CITY to be necessary.

(P-8) To convey to the CITY, prior to the issuance of any permits and subject to acceptance by the Ann Arbor City Council, an access easement of 50 feet in width from Nixon Road to the proposed park dedication on the east side of the site, as shown on the approved site plan.

(P-9) To indemnify, defend and hold the CITY harmless from any claims, losses, liabilities, damages or expenses (including reasonable attorney fees) suffered or incurred by the CITY based upon or resulting from any acts or omissions of the PROPRIETOR, its employees, agents, subcontractors, invitees, or licensees in the design, construction, maintenance or repair of any of the Improvements required under this Agreement and the approved site plan.

(P-10) To cause to be maintained General Liability Insurance and Property Damage Insurance in the minimum amount of \$1,000,000 per occurrence and naming the CITY as additional insured to protect and indemnify the CITY against any claims for damage due to public use of the public improvement(s) in the development prior to final written acceptance of the public improvement(s) by the CITY. Evidence of such insurance shall be produced prior to any construction of improvement and a copy filed with the City Clerk's Office and shall remain in full force and effect during construction of the public improvement(s) and until notice of acceptance by the CITY of the Improvements.

(P-11) Existing woodland, landmark, and street trees shown on the site plan as trees to be saved shall be maintained by the PROPRIETOR in good condition for a minimum of three years after acceptance of the public improvements by the CITY or granting of Certificate of Occupancy for the final unit. Existing woodland, landmark, or street trees that are determined by the CITY to be dead, dying or severely damaged due to construction activity within three years after acceptance of the public improvements or granting of Certificate of Occupancy for the final unit, shall be replaced by the PROPRIETOR as provided by Chapter 57 of the Ann Arbor City Code.

(P-12) To convey to the CITY, within 90 days from the date of this agreement listed above, subject to acceptance by the Ann Arbor City Council, approximately 6.29 acres of land for a public park, as shown on an approved site plan. The PROPRIETOR shall record the deed and its conveyance to the CITY as public parkland. A park identification sign shall be provided per CITY specifications before issuance of any certificate of occupancy.

(P-13) To deposit, prior to any building permits being issued, a street tree planting escrow account with the Parks and Recreation Services Unit in the form of a check payable to the City of Ann Arbor. The escrow amount shall be based on the CITY policy in effect at that time and is to include all on-site public streets. The City Administrator may authorize the PROPRIETOR to install the street trees if planted in accordance with CITY standards and specifications. If the street trees are found to be acceptable by the CITY, the escrow amount will be returned to the PROPRIETOR one year after the date of acceptance by the CITY.

(P-14) To construct, repair and/or adequately maintain on-site storm water management system. If the PROPRIETOR fails to construct, repair and/or maintain the private storm water management system, the CITY may send notice via first class mail to the PROPRIETOR at the address listed above, requiring it to commence and complete the items stated in the notice within the time set forth in the notice. The CITY may cause the work to be completed at the expense of the PROPRIETOR if the PROPRIETOR does not complete the work within the time set forth in the notice.

(P-15) After construction of the private on-site storm water management system, to commission an annual inspection of the system by a registered professional engineer evaluating its operation and stating required maintenance or repairs, and to provide a written copy of this evaluation to the CITY Public Services Area.

(P-16) Prior to the issuance of any permits, to submit to the CITY's Systems Planning Unit for review and approval a Wetland Monitoring Plan, to implement the plan concurrently with construction of the site improvements, and to submit an annual report regarding implementation of the Wetland Monitoring Plan recommendations to the CITY following issuance of certificates of occupancy.

(P-17) That traffic mitigation measures for the Nixon/Dhu Varren/Green intersection will be beneficial to the PROPRIETOR'S property and, therefore, to enter into an agreement with the CITY prior to the issuance of building permits to reimburse the CITY for the proportional cost of improvements to the Nixon/Dhu Varren/Green intersection to mitigate the additional traffic generated by the PROPRIETOR's project. Notwithstanding this contribution, the PROPRIETOR understands that the CITY will issue no certificates of occupancy until after the reconstruction of this intersection is substantially complete.

(P-18) To design, construct, repair and maintain this development in accordance with the provisions of Chapter 119 (Noise Control) to ensure that any noise emanating from said development will not impact nearby residents or businesses. In addition, PROPRIETOR shall review existing noise sources surrounding said development and incorporate necessary design and construction techniques to ensure that future tenants will not be exposed to noise sources in violation of Chapter 119.

(P-19) To include the elevation drawings, as submitted to City Council, as part of the approved site plan and to construct all buildings consistent with said elevation drawings. If the PROPRIETOR proposes any substantive changes to the approved building elevations, setbacks, aesthetics, or materials, that those changes be brought back to the City Council for consideration. The PROPRIETOR is required to submit signed and sealed drawings to staff reflecting the elevations, setbacks, aesthetics, materials and site plan approved by City Council.

(P-20) To remove all discarded building materials and rubbish from the development at least once each month during construction of the development improvements, and within one month after completion or abandonment of construction.

(P-21) Prior to application for and issuance of certificates of occupancy, to disconnect 72 footing drains, which is based upon the uses currently existing on the Property and those currently contemplated by the Site Plan in accordance with the Guidelines for Completion of Footing Drain Disconnections, Table A, and adopted by City Council, August 18, 2003 and revised November 30, 2005 (the "Guidelines"), or to provide an alternative method of mitigation that results in an equivalent amount of sanitary flow removal in accordance with the Guidelines. In the event the actual intensity of uses contemplated by the Site Plan are either increased or decreased, City and PROPRIETOR agree to adjust the number of footing drains to be disconnected, or the amount of alternative mitigation to be provided, in accordance with the Guidelines. PROPRIETOR may be allowed to obtain partial certificates of occupancy for the development prior to the completion of all of the required footing drain disconnects on a prorated basis at the Discretion of the CITY Public Services Area.

(P-22) Prior to the issuance of any permit, to dedicate 27 feet of right-of-way to the CITY for Nixon Road as shown on the approved site plan.

(P-23) PROPRIETOR is the sole title holder in fee simple of the land described below except for any mortgage, easements and deed restrictions of record and that the person(s) signing below on behalf of PROPRIETOR has legal authority and capacity to enter into this Agreement for PROPRIETOR.

(P-24) Failure to construct, repair and/or maintain the site pursuant to the approved site plan and/or failure to comply with any of this approved development agreement's terms and conditions shall constitute a material breach of the Agreement and the CITY shall have all remedies in law and/or in equity necessary to ensure that the PROPRIETOR complies with the approved site plan and/or the terms and conditions of the approved Agreement. The PROPRIETOR shall be responsible for all costs and expenses including reasonable attorney fees incurred by the CITY in enforcing the terms and conditions of the approved site plan and/or Agreement.

(P-25) In addition to any other remedy set forth in this Agreement or in law or equity, if PROPRIETOR fails to make a timely or full payments to the CITY as set forth elsewhere in the Agreement to the CITY in the agreed upon manner, any unpaid amount(s) shall become a lien,

as provided under Ann Arbor City Code and recorded with the Washtenaw County Register of Deeds, against the land described below and may be placed on the CITY tax roll as a single lot assessment, or if the development is converted to condominium ownership, every owner of a portion of the property shall pay a pro-rata share of the amount of the payments attributable to each condominium unit. If the unpaid amount(s), in whole or in part, has been recorded as a lien on the CITY'S tax roll and with the Washtenaw County Register of Deeds, upon payment of the amount in full along with any penalties and interest, the CITY, upon request, will execute an instrument in recordable form acknowledging full satisfaction of this condition.

(P-26) To pay for the cost of recording this Agreement with the Washtenaw County Register of Deeds, and to pay for the cost of recording all documents granting easements to the CITY.

THE CITY HEREBY AGREES:

(C-1) In consideration of the above undertakings, to approve the Woodbury Club Apartments Site Plan.

(C-2) To use the PROPRIETOR'S contribution for traffic mitigation measures to make improvements at the Nixon/Dhu Varren/Green intersection, as stated in P-17 above.

(C-3) To provide timely and reasonable CITY inspections as may be required during construction.

(C-4) To record this Agreement with the Washtenaw County Register of Deeds.

GENERAL TERMS

Both the PROPRIETOR and the CITY agree as follows:

(T-1) This Agreement is not intended to create a contractual right for third parties.

(T-2) This Agreement and any of its terms, conditions, or provisions cannot be modified, amended, or waived unless in writing and unless executed by both parties to this Agreement. Any representations or statements, whether oral or in writing, not contained in this Agreement shall not be binding on either party.

(T-3) This Agreement and any of its terms or conditions shall not be assigned or transferred to any other individual or entity unless prior approval of the CITY is received. Such approval shall not be withheld unreasonably.

(T-4) The obligations and conditions on the PROPRIETOR, as set forth above in this Agreement and in the approved site plan, shall be binding on any successors and assigns in ownership of the following described parcel:

LEGAL DESCRIPTION OF TWO PARCELS OF LAND LOCATED IN THE NE 1/4 OF THE SE 1/4 OF SECTION 10, T2S, R6E, AND IN THE NW 1/4 OF THE SW 1/4 OF SECTION 11, T2S, R6E, ANN ARBOR TOWNSHIP, WASHTENAW COUNTY, MICHIGAN

PARCEL 1:

OLD SID: I09-010-019-00 AA 10-8A NE 1/4 OF SE 1/4 SOUTH OF SOUTH LN OF HWY US 23 ROW EXCEPT THE W 50 FT OF S 450 FT OF N 1000 FT, ALSO EXC THE W 75 FT OF N 550 FT SEC 10 T2S R6E 27.99 AC

PARCEL 2:

AA 11-6A-1 (003) 7/88 THE NW 1/4 OF THE SW 1/4 LYING SOUTH OF SOUTH ROW LINE HWY US-23 PT OF SW 1/4 SEC 11, T2S-R6E 25.65 AC

Being Subject to:

1. State Trunkline Highway US-23 is a Limited Access Highway as disclosed by instrument recorded in Liber 948, page 184.
2. Any rights, title interest or claim thereof to that portion of the land taken, used or granted for streets, roads or highways.

(T-5) In addition to any other remedy in law or in equity failure to comply with all of the above paragraphs on the part of the PROPRIETOR, or any part of the approved site plan, in part or in whole, shall give the CITY adequate basis and cause to issue a stop work order for any previously-issued building permits and shall be an adequate basis and cause for the CITY to deny the issuance of any building permits, certificates of occupancy, or any other permits unless and until the CITY has notified the PROPRIETOR in writing that the PROPRIETOR has satisfactorily corrected the item(s) the PROPRIETOR has failed to perform.

(T-6) This Agreement shall be interpreted, enforced and governed under the laws of the State of Michigan and Ann Arbor City Code.

CITY OF ANN ARBOR, MICHIGAN
301 East Huron Street
Ann Arbor, Michigan 48107

By: _____
John Hieftje, Mayor

By: _____
Jacqueline Beaudry, City Clerk

Approved as to Substance:

Steven D. Powers, City Administrator

Approved as to Form:

Stephen K. Postema, City Attorney

By: _____
Name, Title

STATE OF MICHIGAN)
) ss:
County of Washtenaw)

The foregoing instrument was acknowledged before me this _____ day of _____, 2014 by John Hieftje, Mayor and Jacqueline Beaudry, City Clerk of the City of Ann Arbor, a Michigan municipal corporation, on behalf of the corporation.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
My Commission Expires: _____
Acting in the County of Washtenaw

STATE OF MICHIGAN)
) ss:
County of Washtenaw)

The foregoing instrument was acknowledged before me this _____ day of _____, 2014 by _____ of BRE Nixon Road Associates, LLC, a Michigan limited liability company, on behalf of the company.

NOTARY PUBLIC
County of Washtenaw, State of Michigan
My Commission Expires: _____
Acting in the County of Washtenaw

DRAFTED BY AND AFTER RECORDING RETURN TO:

Ann Arbor Planning & Development Services

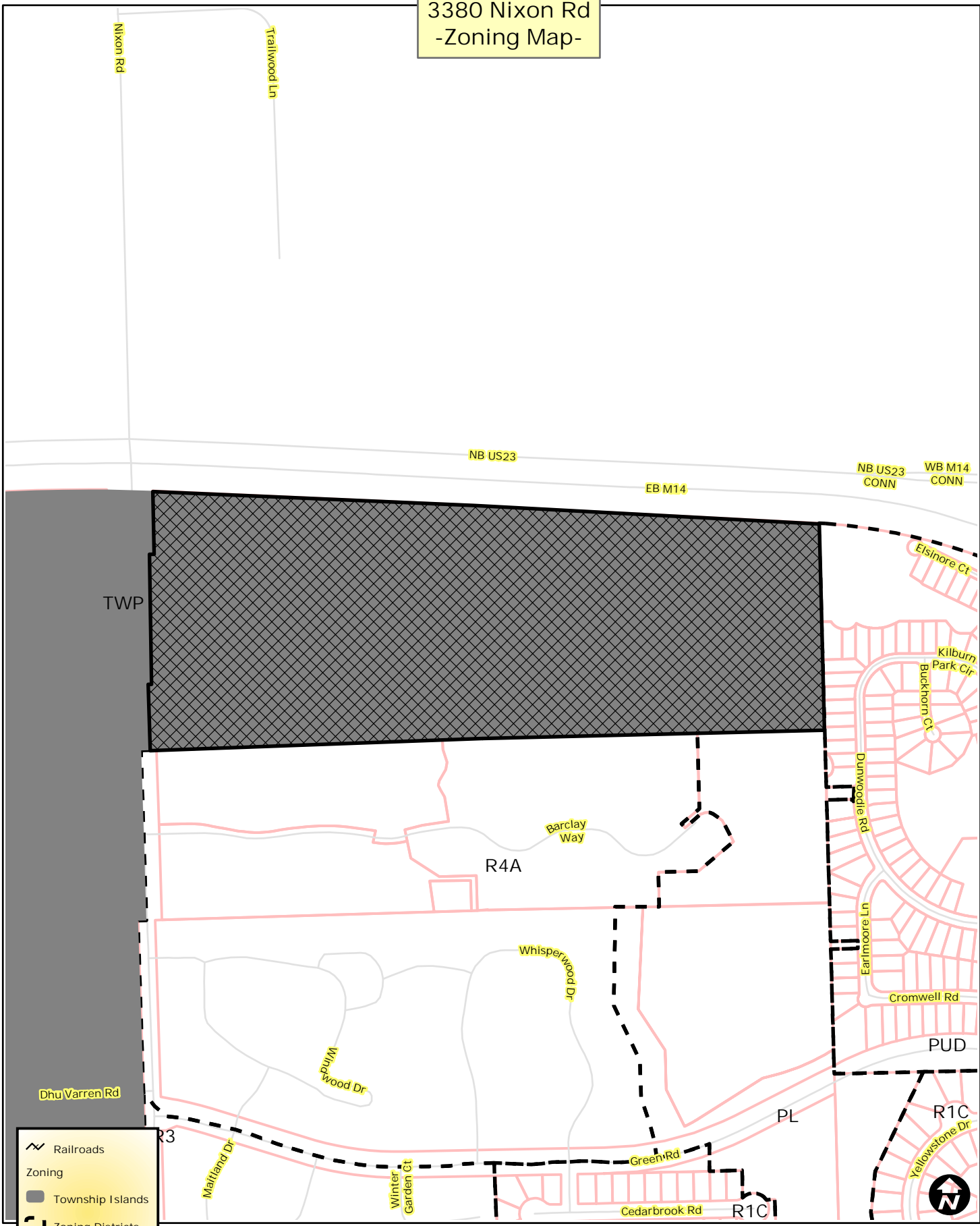
ATTN: Wendy Rampson

Post Office Box 8647

Ann Arbor, Michigan 48107

(734) 794-6265

3380 Nixon Rd -Zoning Map-

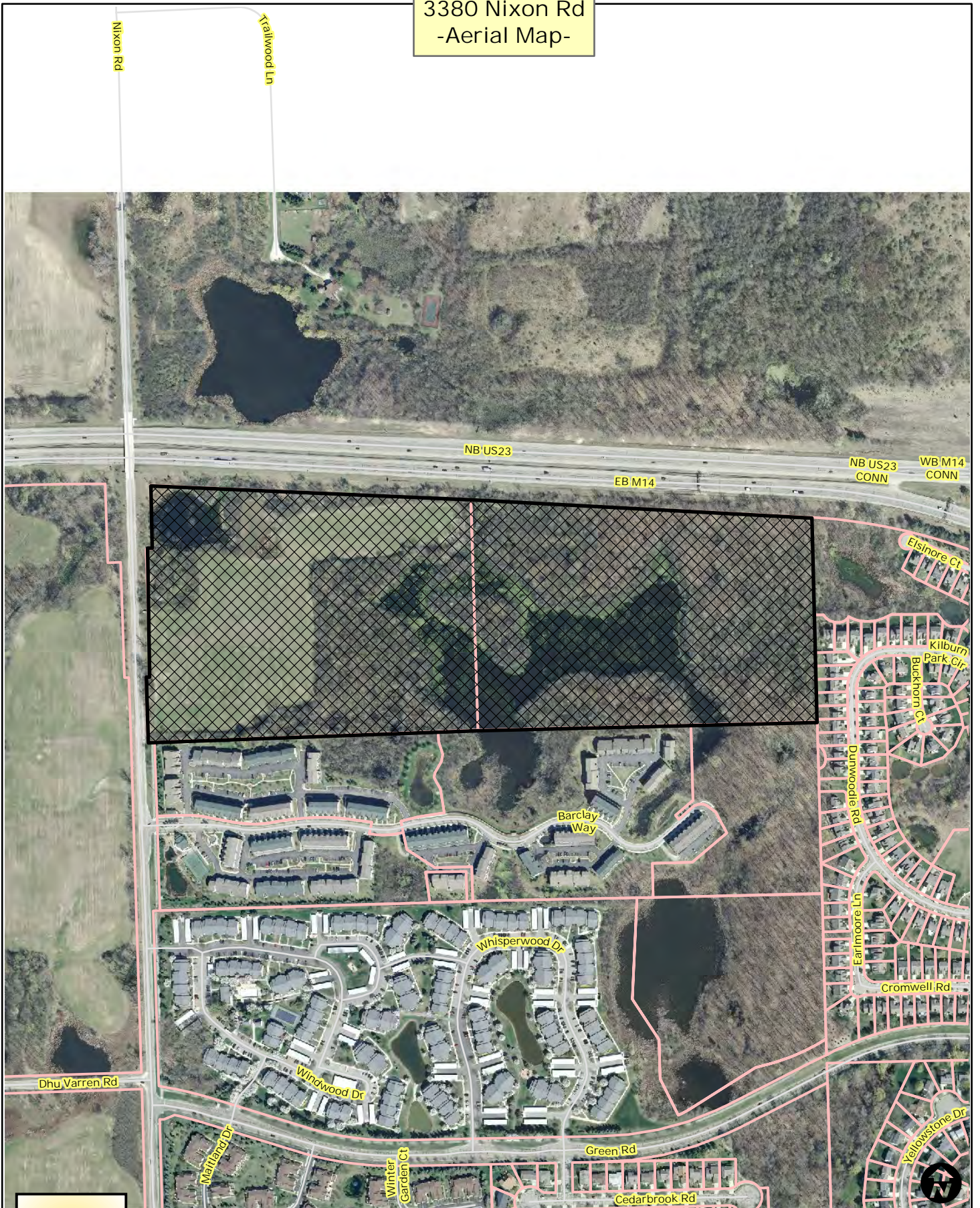





- Railroads
- Zoning**
- Township Islands
- Zoning Districts
- Parcels
- Huron River



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 Map Created: 10/2/2014

3380 Nixon Rd
-Aerial Map-



-  Railroads
-  Parcels
-  Huron River



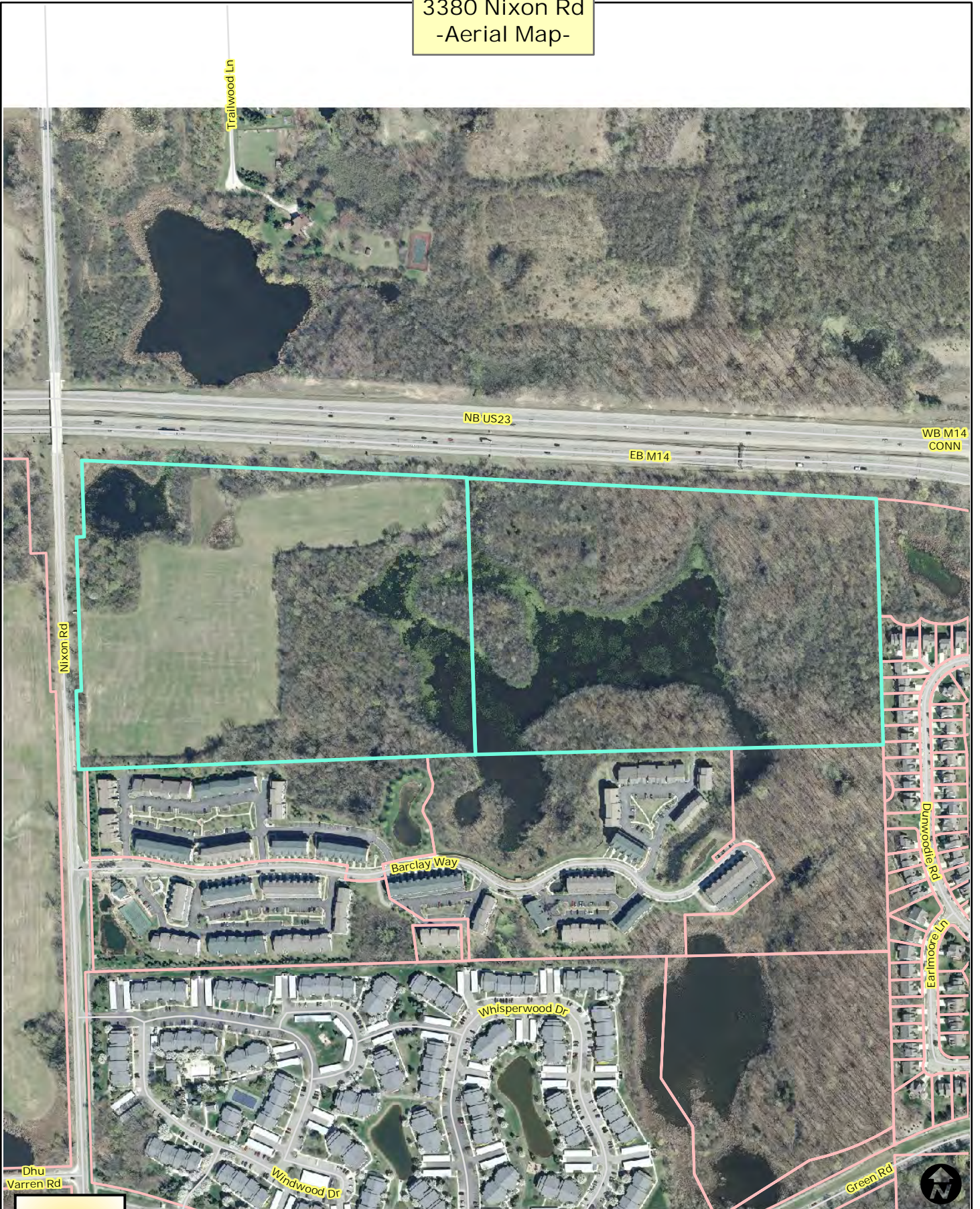
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Map Created: 10/2/2014

3380 Nixon Rd
-Aerial Map-



-  Railroads
-  Parcels
-  Huron River



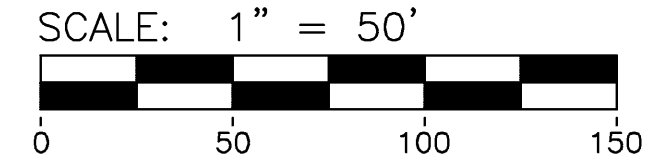
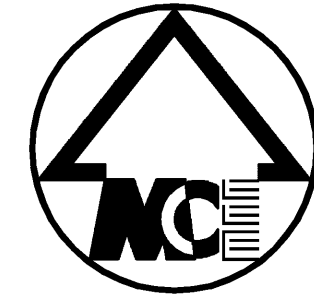
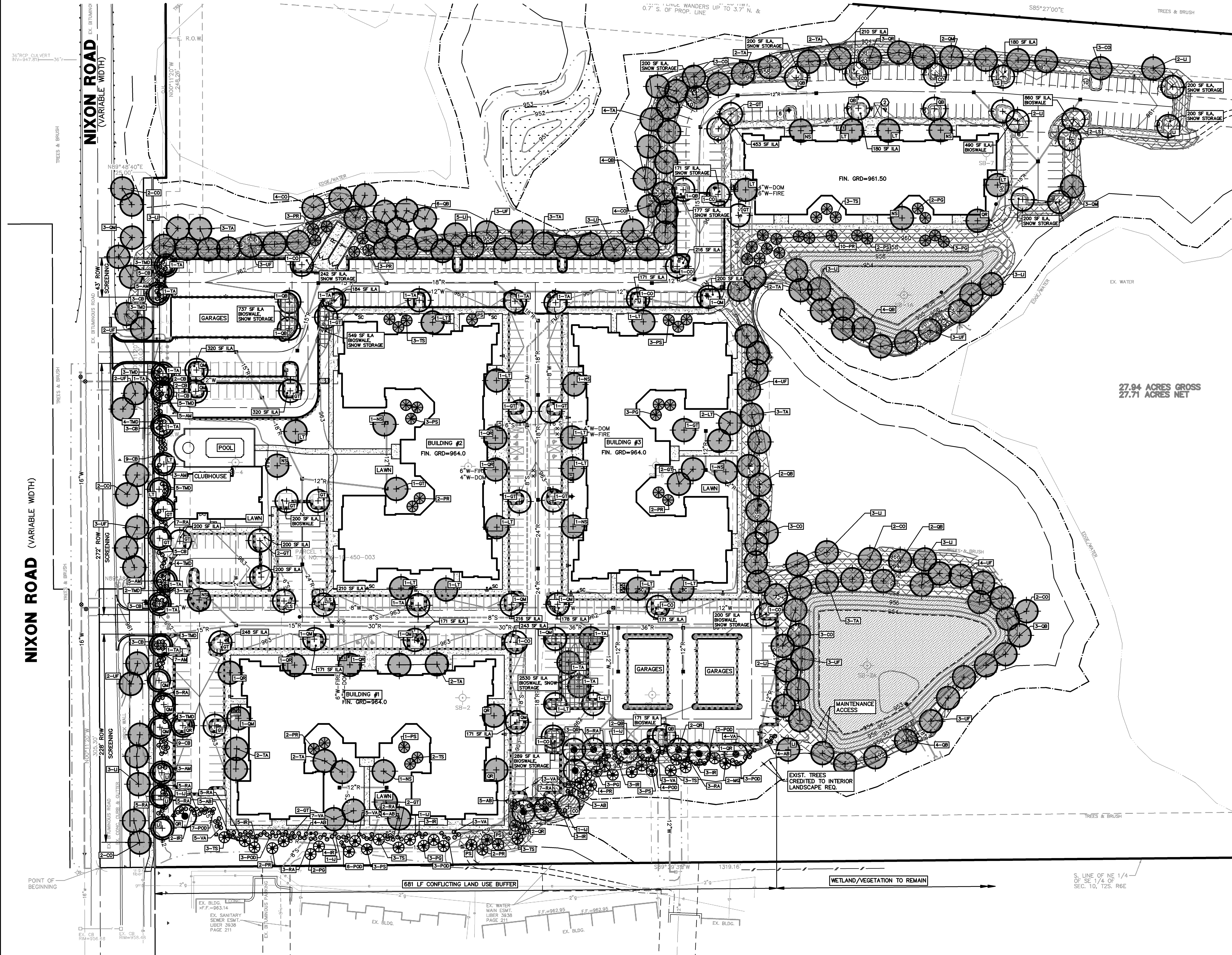
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 Map Created: 10/2/2014



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NIXON ROAD (VARIABLE WIDTH)

NIXON ROAD (VARIABLE WIDTH)



- LEGEND**
- 838 EXIST. CONTOUR
 - 838 PROP. CONTOUR
 - 36.60' x 3.56' EXIST. SPOT ELEVATION
 - 36.60' PROP. SPOT ELEVATION
 - U.P. EXIST. UTILITY POLE
 - GUY WIRE
 - ELEC. TRANSFORMER
 - OH EXIST. OVERHEAD UTILITY LINE
 - LP PROP. LIGHT POLE
 - T EXIST. TELEPHONE LINE
 - E EXIST. ELECTRIC LINE
 - G EXIST. GAS LINE
 - W EXIST. WATER MAIN
 - W PROP. WATER MAIN
 - W EXIST. HYDRANT
 - W PROP. HYDRANT
 - W EXIST. GATE VALVE IN BOX
 - W PROP. GATE VALVE IN BOX
 - W EXIST. GATE VALVE IN WELL
 - W PROP. GATE VALVE IN WELL
 - R EXIST. STORM SEWER
 - R PROP. STORM SEWER
 - S EXIST. CATCH BASIN OR INLET
 - S PROP. CATCH BASIN OR INLET
 - S END SECTION
 - S EXIST. SANITARY SEWER
 - S PROP. SANITARY SEWER
 - S 1/4 OF DITCH
 - S SIGN
 - M MAILBOX
 - T TELEPHONE RISER
 - F FENCE
 - S SINGLE TREE
 - L LANDMARK TREE
 - TREE OR BRUSH LIMIT
 - SC SECTION CORNER
 - IF FOUND IRON PIPE
 - F FOUND MONUMENT
 - CP CONTROL PT.
 - V VEHICULAR USE AREA

- LANDSCAPE LEGEND**
- (+ in circle) PROPOSED CANOPY TREE
 - (* in circle) PROPOSED EVERGREEN TREE
 - (o in circle) PROPOSED DECIDUOUS SHRUBS
 - (o in circle) PROPOSED EVERGREEN SHRUBS
 - (+ in circle) PROPOSED CANOPY TREE (INTERIOR VUA)
 - (+ in circle) PROPOSED CANOPY TREE (RIGHT-OF-WAY SCREEN)
 - (+ in circle) PROPOSED CANOPY TREE (CONFLICTING LAND USE BUFFER)
 - (* in circle) PROPOSED EVERGREEN TREE (CONFLICTING LAND USE BUFFER)
 - (+ in circle) PROPOSED CANOPY TREE (LANDMARK/WOODLAND REPLACEMENT)
 - (* in circle) PROPOSED EVERGREEN TREE (LANDMARK/WOODLAND REPLACEMENT)
 - (hatched box) FIRST FLUSH BASIN/DETENTION POND/WETLAND SEED MIX
 - (cross-hatched box) MDOT STANDARD SPECIFICATION SEED MIX THM
 - (grid box) BIOSWALE AREA

27.94 ACRES GROSS
27.71 ACRES NET

The underground utilities shown have been located from field survey information and existing records. The surveyor makes no guarantees that the underground utilities shown comprise all such utilities in the area, either in service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated. Although the surveyor does certify that they are located as accurately as possible from the information available.

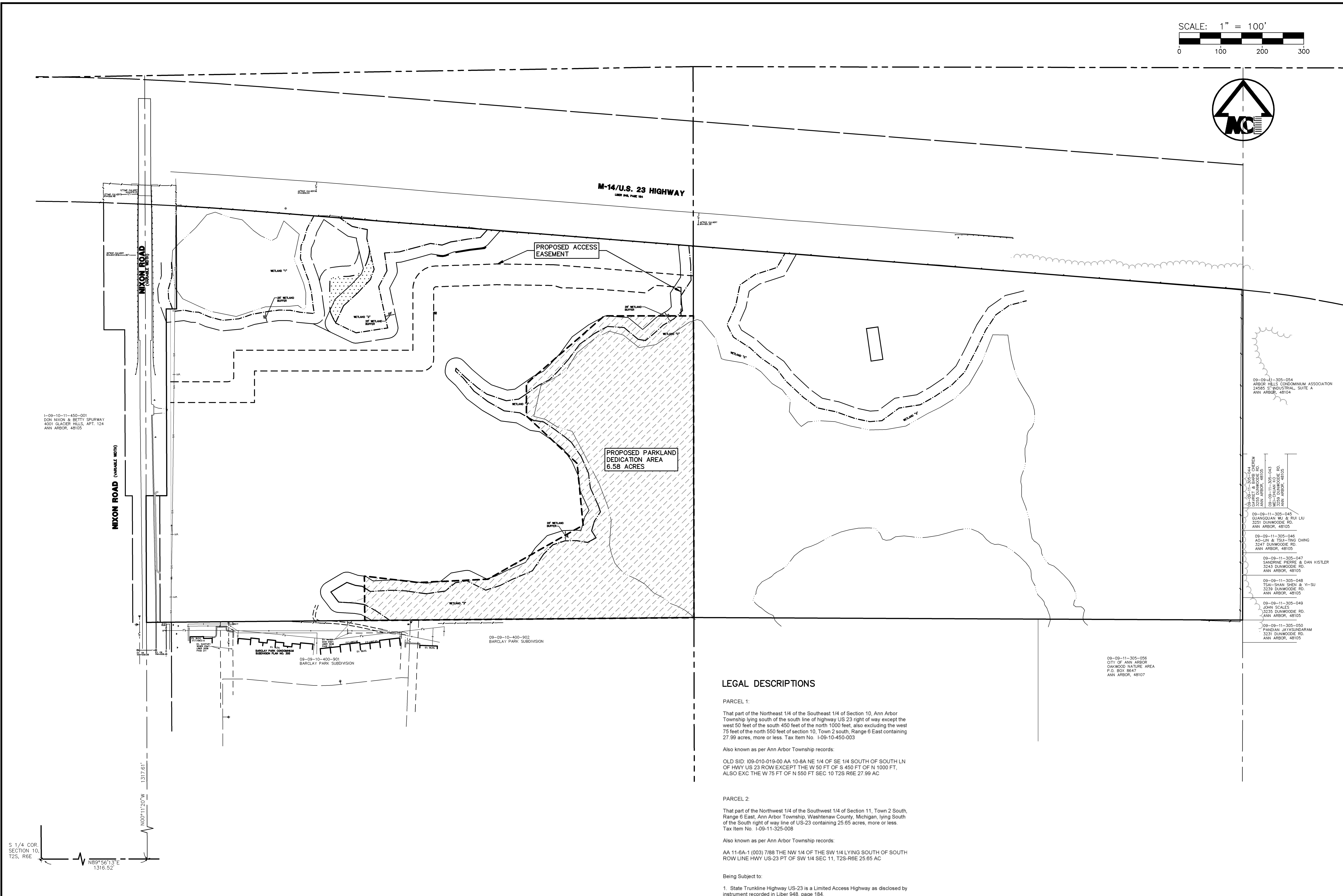
MIDWESTERN CONSULTING
Civil, Environmental and Transportation Engineers
Planners, Surveyors
Landscape Architects

3815 Plaza Drive
Ann Arbor, Michigan 48108
Phone: 734.995.0200
Fax: 734.995.0599

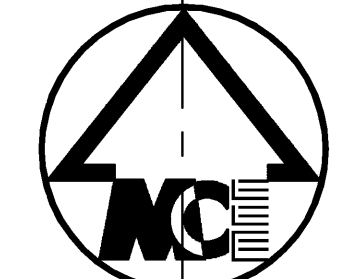
WOODBURY CLUB
SITE PLAN
LANDSCAPE PLAN (SOUTH)

CLIENT: BRE NIXON RD. ASSOC. LLC
255 BROWN ST., SUITE 101
BIRMINGHAM, MI 48009
JON PODOLSKY
(248) 645-1111

JOB No.	12088
DATE:	07-24-13
SHEET	OF
REV. DATE	07-06-14
DESIGNED BY	WJW
ENGINEER	JCA
DATE	07-06-14
TECH	SWB
DATE	07-06-14
TECH	SWB
DATE	07-06-14
TECH	SWB



SCALE: 1" = 100'



MIDWESTERN CONSULTING
 Civil, Environmental and Transportation Engineers
 Planners, Surveyors
 Landscape Architects
 3815 Plaza Drive
 Ann Arbor, Michigan 48108
 Phone: 734.995.0200
 Fax: 734.995.0599

CLIENT
 BRE NIXON RD. ASSOC. LLC
 255 BROWN ST., SUITE 101
 BIRMINGHAM, MI 48009
 JON PODOLSKY
 (248) 645-1111

WOODBURY CLUB
 SITE PLAN
 PARKLAND DEDICATION

JOB No.	12088	DATE: 07-24-13
REVISIONS:		SHEET OF
PER REVIEW COMMENTS	07-06-14	CADD:
PER REVIEW COMMENTS	08-30-14	ENG: JCA
PER REVIEW COMMENTS	09-08-14	TECH: SWB
PER REVIEW COMMENTS		SITE\120880A1
		PPF

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LEGAL DESCRIPTIONS

PARCEL 1:
 That part of the Northeast 1/4 of the Southeast 1/4 of Section 10, Ann Arbor Township lying south of the south line of highway US 23 right of way except the west 50 feet of the south 450 feet of the north 1000 feet, also excluding the west 75 feet of the north 550 feet of section 10, Town 2 south, Range 6 East containing 27.99 acres, more or less. Tax Item No. 1-09-10-450-003
 Also known as per Ann Arbor Township records:
 OLD SID: 09-010-019-00 AA 10-8A NE 1/4 OF SE 1/4 SOUTH OF SOUTH LN OF HWY US 23 ROW EXCEPT THE W 50 FT OF S 450 FT OF N 1000 FT, ALSO EXC THE W 75 FT OF N 550 FT SEC 10 T2S R6E 27.99 AC

PARCEL 2:
 That part of the Northwest 1/4 of the Southwest 1/4 of Section 11, Town 2 South, Range 6 East, Ann Arbor Township, Washtenaw County, Michigan, lying South of the South right of way line of US-23 containing 25.65 acres, more or less. Tax Item No. 1-09-11-325-008
 Also known as per Ann Arbor Township records:
 AA 11-6A-1 (003) 7/88 THE NW 1/4 OF THE SW 1/4 LYING SOUTH OF SOUTH ROW LINE HWY US-23 PT OF SW 1/4 SEC 11, T2S-R6E 25.65 AC

Being Subject to:

- State Trunkline Highway US-23 is a Limited Access Highway as disclosed by instrument recorded in Liber 948, page 184.
- Any rights, title interest or claim thereof to that portion of the land taken, used or granted for streets, roads or highways.

- 09-09-11-305-054
ARBOR HILLS CONDOMINIUM ASSOCIATION
24585 S INDUSTRIAL SUITE A
ANN ARBOR, 48104
- 09-09-11-305-045
GUANGSHAN WU & RUI LIU
3251 DUNWOODIE RD.
ANN ARBOR, 48105
- 09-09-11-305-046
AO-LIN & TSAI-TING CHING
3247 DUNWOODIE RD.
ANN ARBOR, 48105
- 09-09-11-305-047
SANDRINE PIERRE & DAN KISTLER
3243 DUNWOODIE RD.
ANN ARBOR, 48105
- 09-09-11-305-048
TSAI-SHAN SHEN & YI-SU
3239 DUNWOODIE RD.
ANN ARBOR, 48105
- 09-09-11-305-049
JOHN SCALES
3235 DUNWOODIE RD.
ANN ARBOR, 48105
- 09-09-11-305-050
PANDIAN, JAYASUNDARAM
3231 DUNWOODIE RD.
ANN ARBOR, 48105
- 09-09-11-305-056
CITY OF ANN ARBOR
SHAWDOE HATRIE AREA
P.O. BOX 8647
ANN ARBOR, 48107



REAR ELEVATION



FRONT ELEVATION



A-413

NIXON ROAD SITE
 BLEZNAK REAL ESTATE INVESTMENT GROUP
 2013 07.10 ANN ARBOR, MICHIGAN HPA# 13274

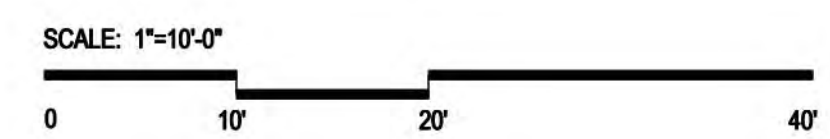


HUMPHREYS & PARTNERS ARCHITECTS L.P.
 5339 Alpha Road, Suite 300 Dallas, TX 75240 (972) 701-9636 (972) 701-9639
 www.humphreys.com marketing@humphreys.com
 DALLAS IRVINE NEW ORLEANS ORLANDO UAE INDIA BRAZIL

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SIDE ELEVATION
 OTHER SIDE ELEVATION (MIRRORRED)

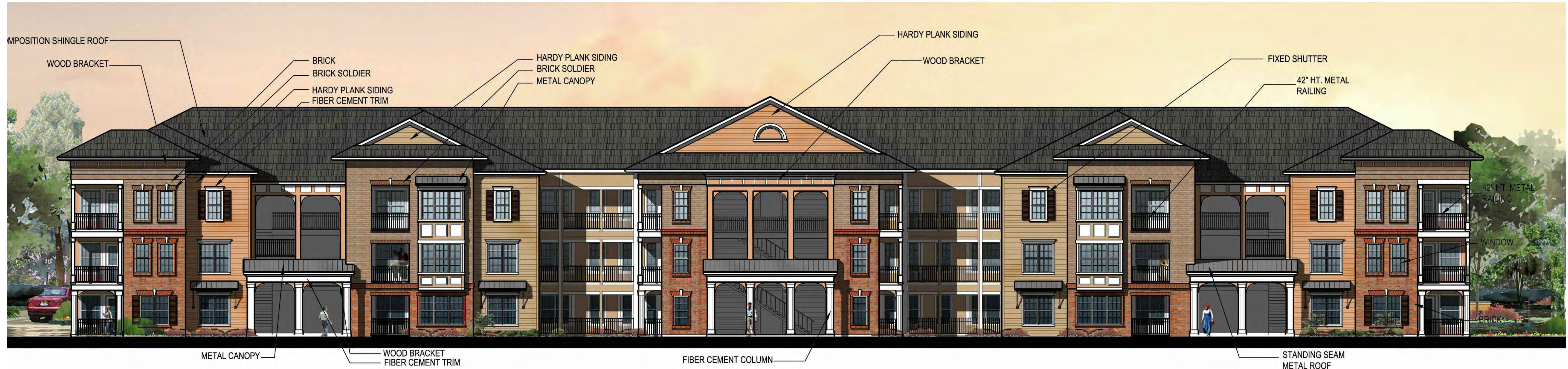


NIXON ROAD SITE
BLEZNAK REAL ESTATE INVESTMENT GROUP
 2013 07.10 ANN ARBOR, MICHIGAN HPA# 13274



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CHARACTER IMAGERY

NIXON ROAD SITE

BLEZNAK REAL ESTATE INVESTMENT GROUP

6/20/2013

ANN ARBOR, MICHIGAN

HPA#13274



HUMPHREYS & PARTNERS ARCHITECTS L.P.

5339 Alpha Road, Suite 300 Dallas, TX 75240 (972) 701-9636 (972) 701-9639

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DALLAS NEW ORLEANS ORLANDO IRVINE CHARLOTTE NORTHWEST PHOENIX CHENNAI DUBAI

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