



**STATE OF MICHIGAN
IN THE WASHTENAW COUNTY CIRCUIT COURT**

PETERS BUILDING CO., a Michigan
Corporation, and ROBERT WEBER,
an individual,,

Plaintiffs,

v

THE CITY OF ANN ARBOR,

Defendant.

Case No. 18-822-NZ
Hon. Carol Kuhnke

Joseph W. Phillips (P34063)
Conlin, McKenney & Philbrick, P.C.
Attorneys for Plaintiffs
340 S. Main Street, Suite 400
Ann Arbor, MI 48104-2131
(734) 761-9000
phillips@cmplaw.com

Stephen K. Postema (P38871)
Matthew P. Thomas (P75418)
OFFICE OF THE CITY ATTORNEY ✓
Attorneys for Defendant City of Ann Arbor
301 E. Huron St., P.O. Box 8647
Phone: (734) 794-6170
Ann Arbor, MI 48107-8647
spostema@a2gov.org
mthomas@a2gov.org

CONSENT JUDGMENT

At a session of said Court held in the City of
Ann Arbor, County of Washtenaw, State of Michigan, on;

1/6/2020

PRESENT: HONORABLE CAROL KUHNKE
Circuit Court Judge

Upon the stipulation and consent of the Parties, by and through their respective attorneys,
the Court finds:

Time Submitted for Recording
Date 1/10 2020 Time 12:44pm
Lawrence Kestenbaum
Washtenaw County Clerk/Register

A. Plaintiff, Robert Weber, an individual, is the owner of approximately 7.7 acres of real property located at 2857 Packard, City of Ann Arbor, County of Washtenaw, State of Michigan (the "Property") which is more specifically described in the attached **Exhibit A**, which is incorporated into this Consent Judgment.

B. Plaintiff, Peters Building Co., a Michigan Corporation ("Peters Building"), has entered into a purchase agreement with Mr. Weber to purchase the Property.

C. Defendant, City of Ann Arbor, is a Michigan municipality located in Washtenaw County as established by the laws of the State of Michigan ("City"), with its governing body being the City Council.

D. The City has adopted a zoning ordinance known as the Unified Development Code ("UDC") which has been amended from time to time. Pursuant to the UDC, the Property is zoned R1E with Conditions.

E. In June 2016, Peters Building with the consent of Mr. Weber, submitted an application to the City for site plan approval of a residential development on the Property ("2857 Packard Road Site Plan").

F. On or about November 21, 2017, City Council denied approval of the 2857 Packard Road Site Plan, as amended by Peters Building through the City approval process.

G. On or about August 2, 2018 Peters Building and Mr. Weber (collectively, "Petitioner") filed a lawsuit against the City challenging the City's denial of the 2857 Packard Site Plan ("Litigation").

H. On or about February 22, 2019, the Parties agreed to a Stipulated Order for Stay of Proceedings so that Petitioner could submit an alternative development plan for the Property consisting of a PUD (Planned Unit Development) zoning and site plan (collectively "2857

Packard PUD”) for City consideration that would allow the same number of dwelling units on the Property as the 2857 Packard Road Site Plan, while protecting more of the natural features on the Property.

I. On or about October 7, 2019 the City denied approval of the 2857 Packard PUD.

J. After significant deliberation, Petitioner and the City now desire to settle and resolve the Litigation in accordance with the terms and conditions of this Consent Judgment without any admission of liability, fault, or wrongdoing and to provide for development, construction and use of the Property as provided in this Consent Judgment.

K. The Parties agree that the provisions of this Consent Judgment are contractual promises made by each of them and are binding on the Parties.

NOW THEREFORE, this Consent Judgment is presented to the Court pursuant to the stipulation and consent of the Parties, and the above findings which are incorporated into the Consent Judgment, and the Court having determined that the Consent Judgment is reasonable and just, and the Court being otherwise fully advised in the premises:

IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:

1. Site Plan Approval. This Consent Judgment shall be deemed to constitute the City’s final approval of the site plan for development of this Property. The approved development shall be referred to as the Revised 2857 Packard Site Plan, and shall consist of the 2857 Packard Road PUD Site Plan as submitted to the City by Midwestern Consulting on behalf of Peters Building and dated April 25, 2019, with latest revision of August 20, 2019, consisting of sheets 1 through 28, attached as **Exhibit B** and incorporated herein. The development, and construction permitted by the Site Plan as authorized by this Consent Judgment (the “Project”) consists of the following:

(a) 51 residential homes as follows: 25 single-single family residential lots, and 26 attached residential units in four buildings.

(b) A private roadway and sidewalk providing access to the homes from Packard Road.

(c) 54% Open space, with preservation of natural features, including the preservation of 62 Woodland Trees and 13 Landmark Trees.

(d) Such other improvements and structures as depicted and described in the Revised 2857 Packard Site Plan.

(e) Development and construction of the Project shall comply with the requirements, attached as **Exhibit C** and incorporated herein and into the 2857 Packard Site Plan, in addition to all other applicable requirements of the UDC, Ann Arbor City Code, and City of Ann Arbor Public Services Standard Specifications.

2. Zoning. The Property is currently zoned R1E with Conditions, and the use of this property shall be deemed to be lawfully conforming under the R1E with Conditions zoning.

3. Development Agreement. Upon entry of this Consent Judgment, Peters Building and the City shall execute a development agreement pertaining to the development and construction of the Project (“Development Agreement”) in the form and substance attached as **Exhibit D**. The Development Agreement shall be binding on both the City and Petitioner and their respective grantees, successors, assigns, vendees, and trustees and shall run with the land. The Development Agreement shall be recorded by the City with the Washtenaw County Register of Deeds.

4. Preservation of Site Conditions. Petitioner shall not remove any natural feature, inclusive of woodlands, and landmark and woodland trees, at any time that is inconsistent with the Revised 2857 Packard Site Plan. Furthermore, Petitioner agrees not to remove any natural

features from the Property until immediately prior to the time of grading and site preparation for construction for the Property.

5. Evaluation of House. Petitioner shall not begin demolition, removal, or salvage of the existing house on the Property prior to April 1, 2020, or when a grading permit is issued to commence construction of the Project, whichever is later, in order to provide the City (or a third party designated by the City Administrator) with time to explore options to move the house and preserve it at another location. Developer agrees to cooperate with the City, to allow reasonable access and entry to the house as long as the City provides notice of at least three business days, and to negotiate in good faith with the City regarding logistics of moving the house. City acknowledges that moving the existing house will be at its own expense. Developer acknowledges that City is not under any obligation to move the house.

6. Mutual Release from Liability. Peters Building and Mr. Weber for themselves and their respective officers, owners, members, partners, shareholders, directors, trustees and employees, independent contractors, attorneys, consultants successors and assigns and the City for itself, its employees, elected officials, boards, commissions, independent contractors, trustees, employees, consultants and attorneys, mutually release and forever discharge each other of and from any and all claims, demands, actions, causes of action, suits, debts, judgments, attorney fees, under any federal, state or other statutes, regulations, executions, damages and rights of whatever nature in law, equity or otherwise, which now exist or which may subsequently accrue by reason of any acts arising out of or related to this Litigation and the subsequent submittal and City consideration of the 2857 Packard PUD, existing as of the date of this Consent Judgment, whether known or unknown on that date. All claims asserted or which could have been asserted in this Litigation and in regards to the 2857 Packard PUD, are hereby

dismissed with prejudice. This mutual release shall not bar claims and actions to enforce this Consent Judgment which are fully preserved.

7. Amendment of Terms. The terms of this Consent Judgment may not be amended except by mutual consent of the Parties or their respective successors, heirs or assigns and a stipulation entered with the Court. No waiver of any provision of this Consent Judgment shall be valid unless in writing and signed by the party against whom the waiver is charged.

8. Minor Site Plan Modifications. Notwithstanding the foregoing, Petitioner may apply to the City Planning Manager or administrative designee for administrative amendments, including extension, to the Revised 2857 Packard Site Plan in accordance with Chapter 55, Section 5.29.6.(B)(3) of Ann Arbor City Code as long as the administrative amendment does not alter the terms and requirements of this Consent Judgment and the Revised 2857 Packard Site Plan.

9. Clerical Errors. Any clerical errors or mistakes in document or exhibit descriptions contained in this Consent Judgment may be corrected by the Parties, and all Parties agree to cooperate in making such corrections in order to effectuate the intent and purpose of this Consent Judgment. Petitioner also agrees to submit a corrected version of the Revised 2857 Packard Site Plan, with corrected titles and references to this Consent Judgment prior to the issuance of any permits for development of the Project.

10. Good Faith. The parties and their respective successors and assigns shall treat each other in good faith and shall not take any action which is contrary to or interferes with the spirit of this Consent Judgment, or fail to take any action which is necessary or consistent with the spirit and intent of this Consent Judgment.

11. Conflicting Provisions. To the extent the terms of this Consent Judgment conflict with the UDC or Ann Arbor City Code and the terms and conditions of the Development Agreement, the terms of the Consent Judgment shall apply and govern the Parties.

12. Authority and Full Understanding. The Parties to this Appeal represent to this Court that they have fully read the Consent Judgment, have discussed it with their respective legal counsel and fully understand the terms and conditions thereof. Each person signing the Consent Judgment hereby represents and warrant that they are a duly authorized representative and agent of the respective Party, and that they have full authority to bind the Party to the covenants, warranties, representations and obligations of this Consent Judgment.

13. Execution of Consent Judgment. This Consent Judgment may be executed by the Parties in counterparts, and pages containing the original signatures shall be attached to the Consent Judgment filed with the Court, photocopies and scanned signatures of the Parties hereto, shall be deemed duplicate signatures.

14. Binding Effect. This Consent Judgment is deemed to have been mutually drafted by the Parties and is binding upon and shall inure to the benefit of the Parties hereto, their respective heirs, personal representatives, successors, grantees, trustees, departments, commissions, employees, successors in interest and/or assigns without limiting the generality thereto.

15. Recordation. This Consent Judgment shall be recorded by the City in the office of the Register of Deeds of Washtenaw County and shall be deemed a covenant running with the land. A true copy of the recorded Consent Judgment shall be provided by the City to Weber and Peters Building.

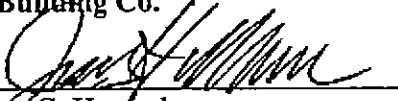
16. Continuing Jurisdiction. This Court retains continuing jurisdiction to assure and enforce compliance with the terms of this Consent Judgment and the Development Agreement.

In the event of a proceeding to enforce the Consent Judgment, the prevailing Party may seek to recover costs and reasonable attorney fees in addition to such other applicable relief including injunctive relief and specific performance.

**THIS CONSENT JUDGMENT RESOLVES ALL PENDING CLAIMS
AND CLOSES THIS CASE**

Approved:

Peters Building Co.

By: 
James G. Haeussler
Its: President

Dated: 12/13/2019

By: 
Robert Weber

And By Its Attorneys:

Conlin, McKenney & Philbrick, P.C.

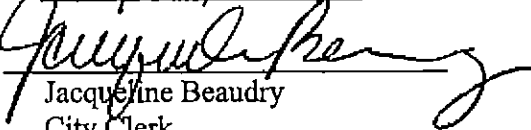
By: 
Joseph W. Phillips (P34063)
340 S. Main Street, Suite 400
Ann Arbor, MI 48104-2131
(734) 761-9000

/s/ Carol Kulanke 1/6/2020
Hon. Carol Kulanke, Circuit Court Judge



By: 
Christopher Taylor
Its: Mayor

Dated: 12/20/2019

By: 
Jacqueline Beaudry
Its: City Clerk

Dated: 12/20/19

Office of the City Attorney

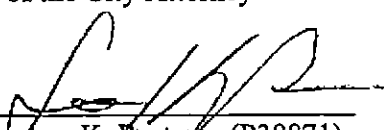
By: 
Stephen K. Posterna (P38871)
301 E. Huron Street, P.O. Box 8647
Ann Arbor, Michigan 48108
(734) 794-6170

EXHIBIT A
PROPERTY DESCRIPTION

2857 Packard Road:

Commencing at the South 1/4 post of Section 3, T3S, R6E, Pittsfield Township, Washtenaw County, Michigan; thence North 89°47'30" East, 594 feet in the South line of said Section for a Place of Beginning; thence North 00°51'30" East, 853.56 feet; thence North 89°56'30" East, 407.13 feet; thence South 00°56' West to the South line of the Section; thence West along said South Section line to Place of Beginning.

Being more particularly described as the following:

Commencing at the S 1/4 corner of Section 3, T3S, R6E, Pittsfield Township, Washtenaw County, Michigan; thence N89°47'30"E 593.60 feet (recorded 594 feet) along the South line of said Section 3 to the Point of Beginning; thence N00°51'30"E 853.56 feet along the East line of Lots 1-9 of "Green Lea" Subdivision as recorded in Liber 11 of Plats, Page 42, Washtenaw County Records; thence N89°56'30"E 407.13 feet along the South line of Lots 11-14 of said "Green Lea" Subdivision; thence S00°56'00"W 324.52 feet along the West line of Lots 29-33 of "Kensington Farms" Subdivision, as recorded in Liber 12 of Plats, Pages 49 and 50, Washtenaw County Records; thence continuing S00°56'00"W 528.00 feet; thence S89°47'30"W 406.03 feet (recorded West) along said South line of Section 3 to the Point of Beginning. Being a part of the SE 1/4 of Section 3, T3S, R6E, Pittsfield Township, Washtenaw County, Michigan, and containing 7.96 acres, more or less.

In the City of Ann Arbor, Washtenaw County, Michigan.

**EXHIBIT B
SITE PLAN**

SITE AREA CALCULATION

EXISTING SITE AREA (SQ.FT.)	24,472 SF / 2,820 SQ. YD.
EXISTING SITE AREA (AC)	= 0.56 AC
PROPOSED SITE AREA (SQ.FT.)	24,472 SF / 2,820 SQ. YD.
PROPOSED SITE AREA (AC)	= 0.56 AC

DENSITY CALCULATION

PLANT UNITS / SITE AREA = DENSITY	PLANT UNITS PER AC
24,472 SF / 2,820 SQ. YD.	7.96 PL
24,472 SF / 2,820 SQ. YD.	7.96 PL

[illegible]

GENERAL NOTES

1. THE OWNER OF A SECTION 408 OF THE CITY CODE, "ALL REVENUES ARE TO BE KEPT AND WITHHELD IN GOOD TRUST BY THE CITY OF LOS ANGELES, AND THE SAME SHALL BE PAID OVER TO THE BOARD OF SUPERVISORS OF THE CITY OF LOS ANGELES FOR THE USE OF THE CITY OF LOS ANGELES, AND THE SAME SHALL BE KEPT AND WITHHELD IN GOOD TRUST BY THE BOARD OF SUPERVISORS OF THE CITY OF LOS ANGELES."
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PAYMENT OF ALL TAXES AND FEES IN CONNECTION WITH THE CONTRACT, INCLUDING BUT NOT LIMITED TO THE PAYMENT OF THE CITY OF LOS ANGELES, AND THE SAME SHALL BE KEPT AND WITHHELD IN GOOD TRUST BY THE BOARD OF SUPERVISORS OF THE CITY OF LOS ANGELES.
3. THE OWNER OF ANY STANDARD DETAILS DOES NOT RELY ON THE CONTRACTOR FOR THE PAYMENT OF THE CITY OF LOS ANGELES, AND THE SAME SHALL BE KEPT AND WITHHELD IN GOOD TRUST BY THE BOARD OF SUPERVISORS OF THE CITY OF LOS ANGELES.

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THE PROPOSED DEVELOPMENT DOES NOT HAVE ANY OF THE ADVERSE PLACEMENT REQUIREMENTS ON THE OFF-STREET PARKING OR LOADING/UNLOADING. THE PROPOSED DESIGN IS FOR THE MAIN-FAMILY RESIDENTIAL LOT. THE PROPOSED LOT WILL BE USED FOR THE PROPOSED ONE- AND TWO-FAMILY RESIDENTIAL UNITS. THE PROPOSED LOT WILL BE USED FOR THE PROPOSED ONE- AND TWO-FAMILY RESIDENTIAL UNITS. THE PROPOSED LOT WILL BE USED FOR THE PROPOSED ONE- AND TWO-FAMILY RESIDENTIAL UNITS.

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- IMPROVING THE QUALITY OF HOUSING
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1. COMPARISON CHART - SEE SITE DATA ON COVER SHEET
2. EXISTING AND PROPOSED TOPOGRAPHY - SEE THE GRADING PLAN
3. CIRCULATION AND LOCATION OF IMPROVEMENTS - SEE SITE LAYOUT PLAN
4. VERTICAL SECTION THROUGH THE SITE - SEE SITE CROSS-SECTION
5. PROPOSED CIRCULATION PATTERNS - SEE SITE LAYOUT PLAN
6. PROPOSED LOT LINES AND UTILITIES - SEE SITE LAYOUT PLAN
7. NATURAL PLANNING IMPACT ANALYSIS - SEE THE RESOURCE PLAN AND SEE LIST

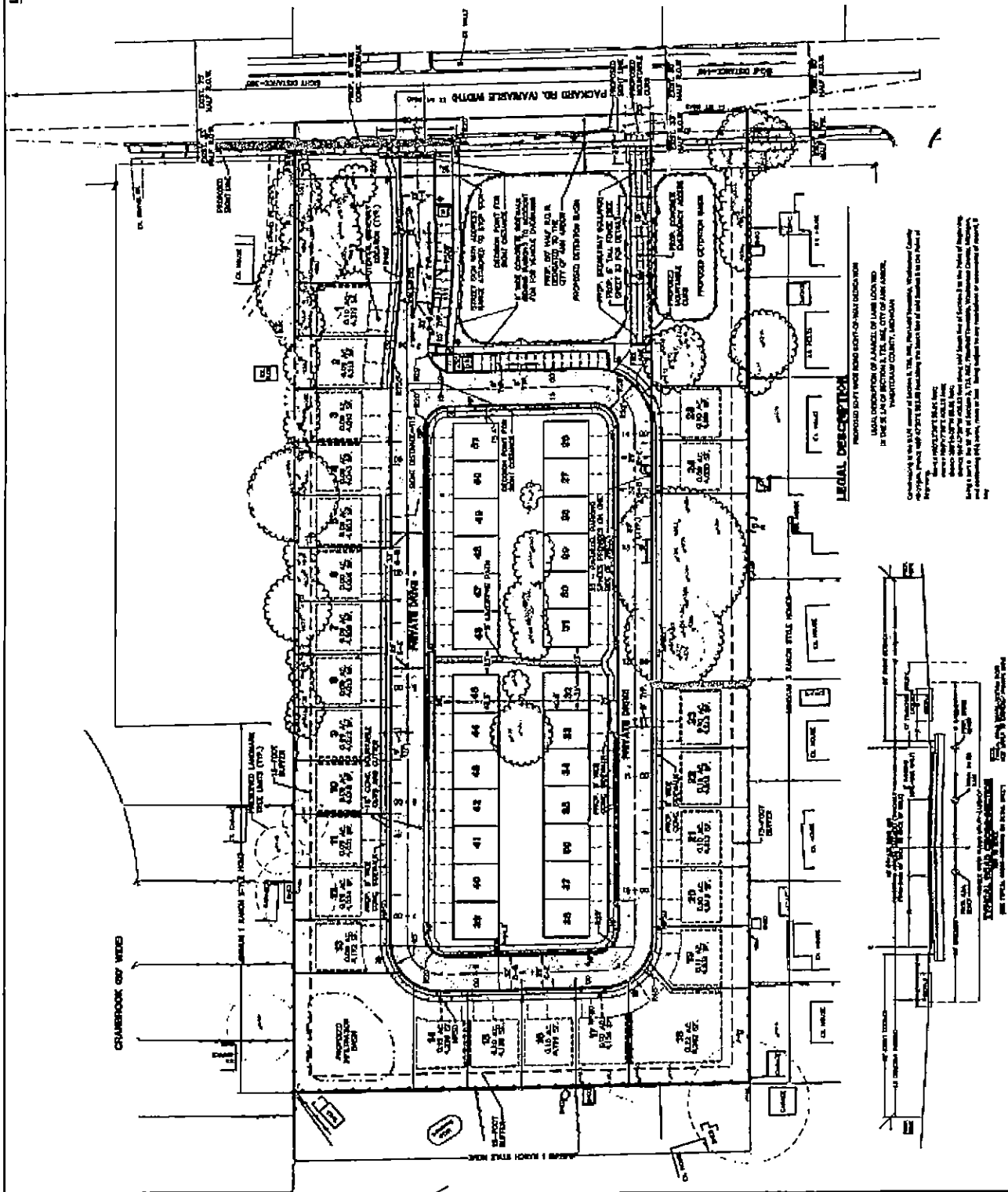
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JAMES WORKSHEET
Student
Page 6



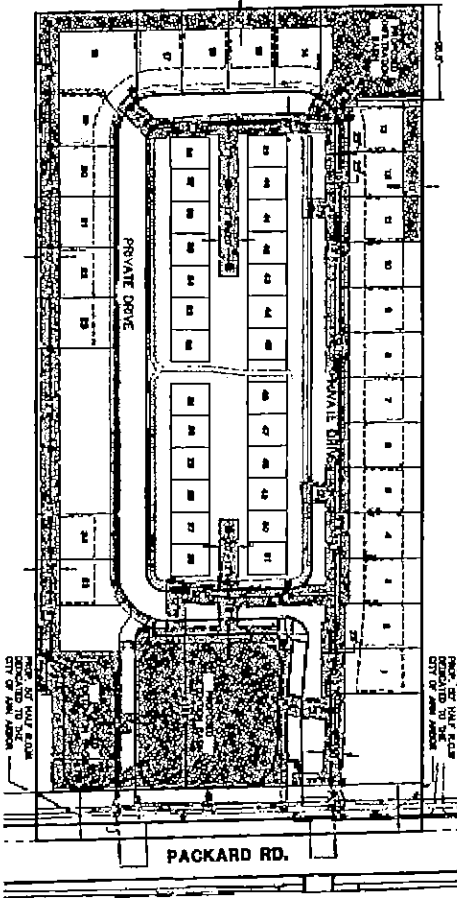
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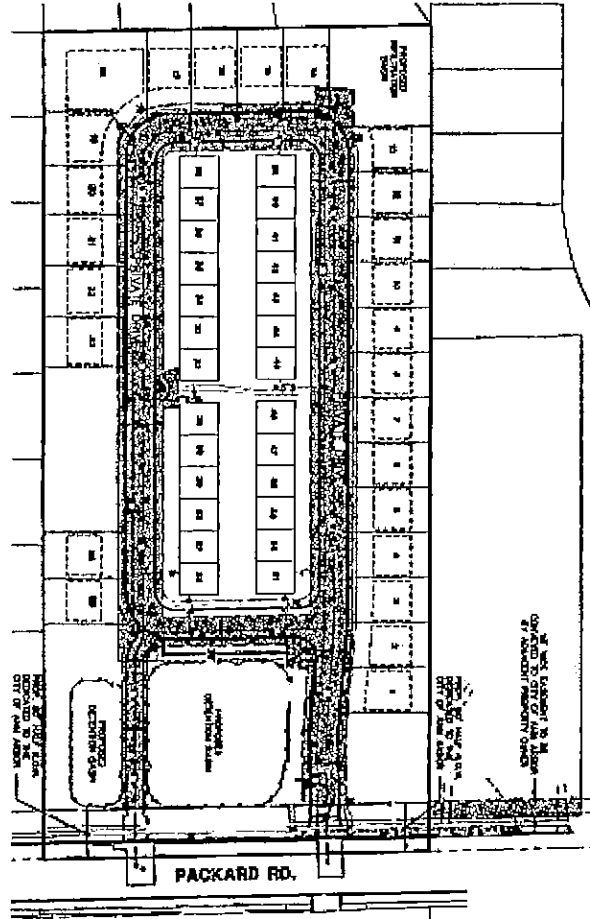


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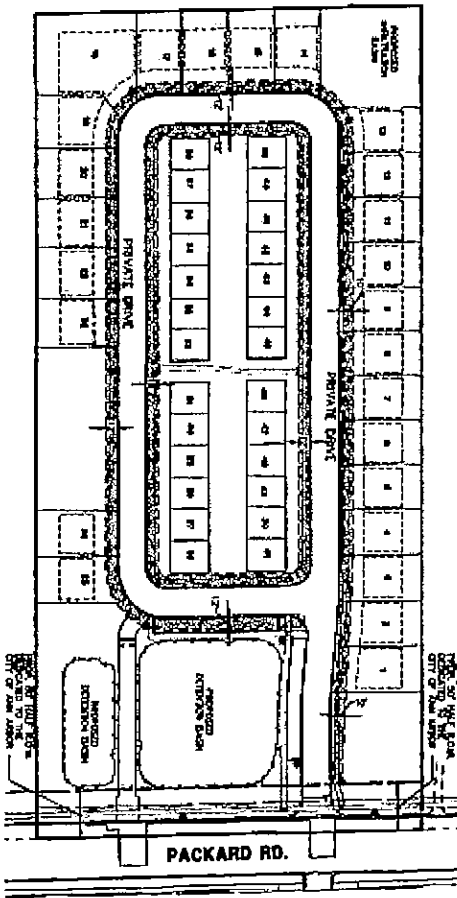
PROPOSED WICRO DRAINAGE EASEMENT



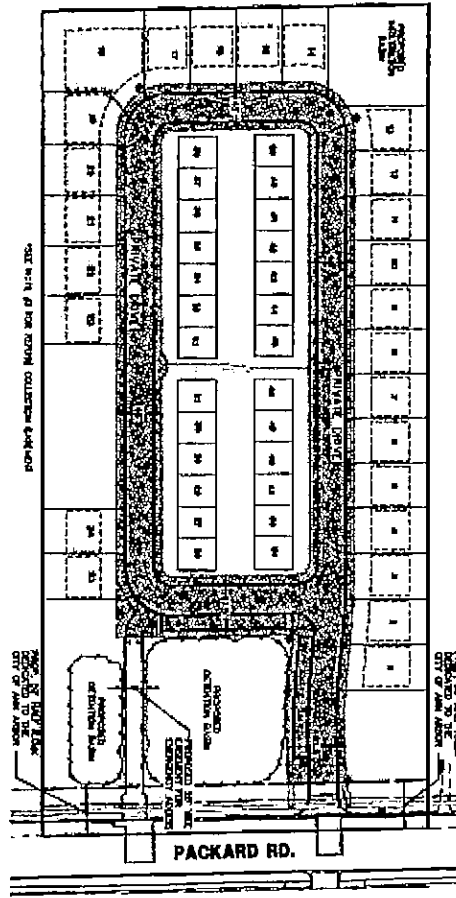
PROPOSED CITY OF ANN ARBOR PUBLIC UTILITY EASEMENT



PROPOSED FRANCHISE UTILITY EASEMENT



PROPOSED PRIVATE ROAD & PEDESTRIAN ACCESS EASEMENT



- NOTES**
1. ALL PROPOSED EASEMENTS ARE SHOWN AND LOCATED IN FAVOR OF THE SURROUNDING COUNTY WITH RESPECT TO THE CITY OF ANN ARBOR.
 2. NO PART OF THE PROPOSED EASEMENTS MAY BE USED FOR ANY OTHER PURPOSE THAN THAT FOR WHICH THEY WERE DESIGNED.
 3. A DRAINAGE EASEMENT OF THE PROPOSED PRIVATE ROAD & PEDESTRIAN ACCESS EASEMENT SHALL BE PROVIDED TO THE CITY OF ANN ARBOR SPECIFICALLY FOR THE PURPOSES OF ROAD COLLECTION.

JOB NO. 16070

DATE 4/26/19
SHEET 12 OF 27

12

2857 PACKARD ROAD
PLANNED UNIT DEVELOPMENT
EASEMENT PLAN

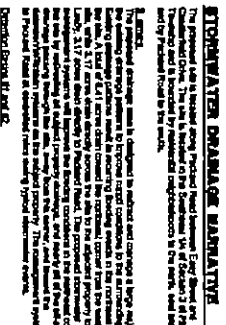
CLIENT
PETER BUILDING COMPANY
172 S. INDEPENDENCE DRIVE
ST. LOUIS, MO 63102
JOE HOFFMEIER
724-629-4200



MIDWESTERN CONSULTING
310 Plaza Drive, Suite 200, St. Louis, MO 63102
724-629-4200
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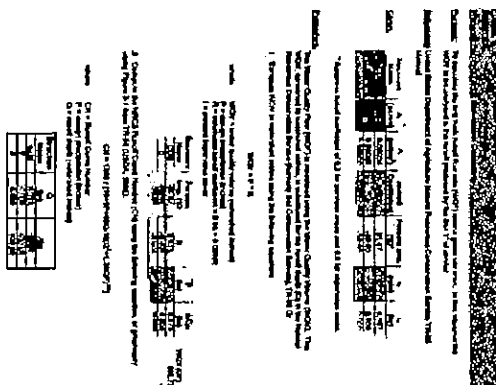
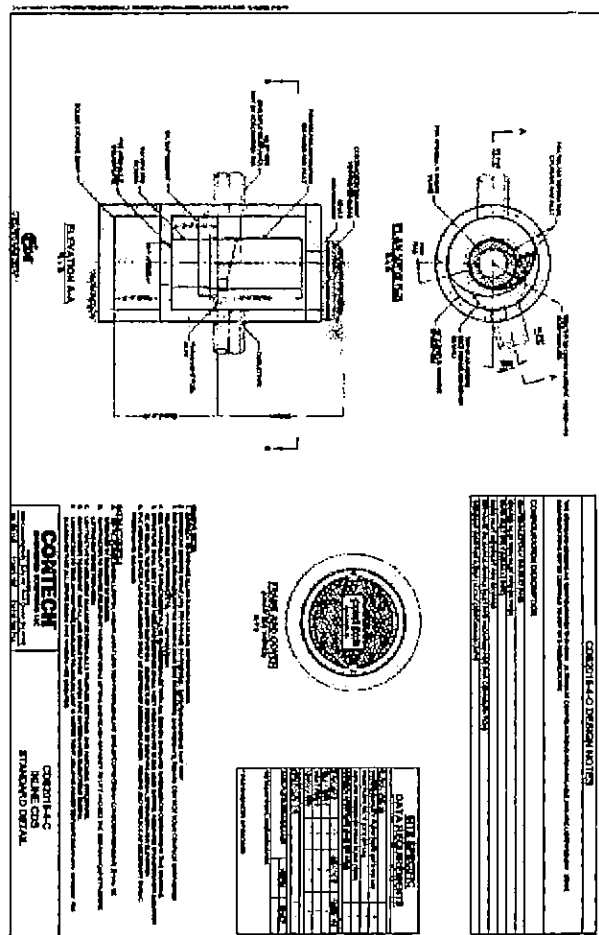
Midwestern Consulting, Inc. 2019-2020 Standard Specifications for Stormwater Management, 1st Edition, 1st Edition

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CONTECH
BASED ON THE NATIONAL STANDARD SPECIFICATIONS
FOR HIGHWAY BRIDGES, 10TH EDITION, 2010 EDITION
AS AMENDED, 10TH EDITION, 2010 EDITION
FOR STRUCTURE
CONTECH
10TH EDITION, 2010 EDITION

Item	Quantity	Unit	Material	Notes
1.00	1.00	sq. ft.	Concrete	1.00
2.00	1.00	sq. ft.	Concrete	1.00
3.00	1.00	sq. ft.	Concrete	1.00
4.00	1.00	sq. ft.	Concrete	1.00
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98.00	1.00	sq. ft.	Concrete	1.00
99.00	1.00	sq. ft.	Concrete	1.00
100.00	1.00	sq. ft.	Concrete	1.00

NOTE
1. CONCRETE SHALL BE
DESIGNED FOR A MINIMUM
STRENGTH OF 4,000 PSI.



JOB NO. 16070

REVISED

DATE: 1/10/20
SHEET NO. OF 17
CONTECH

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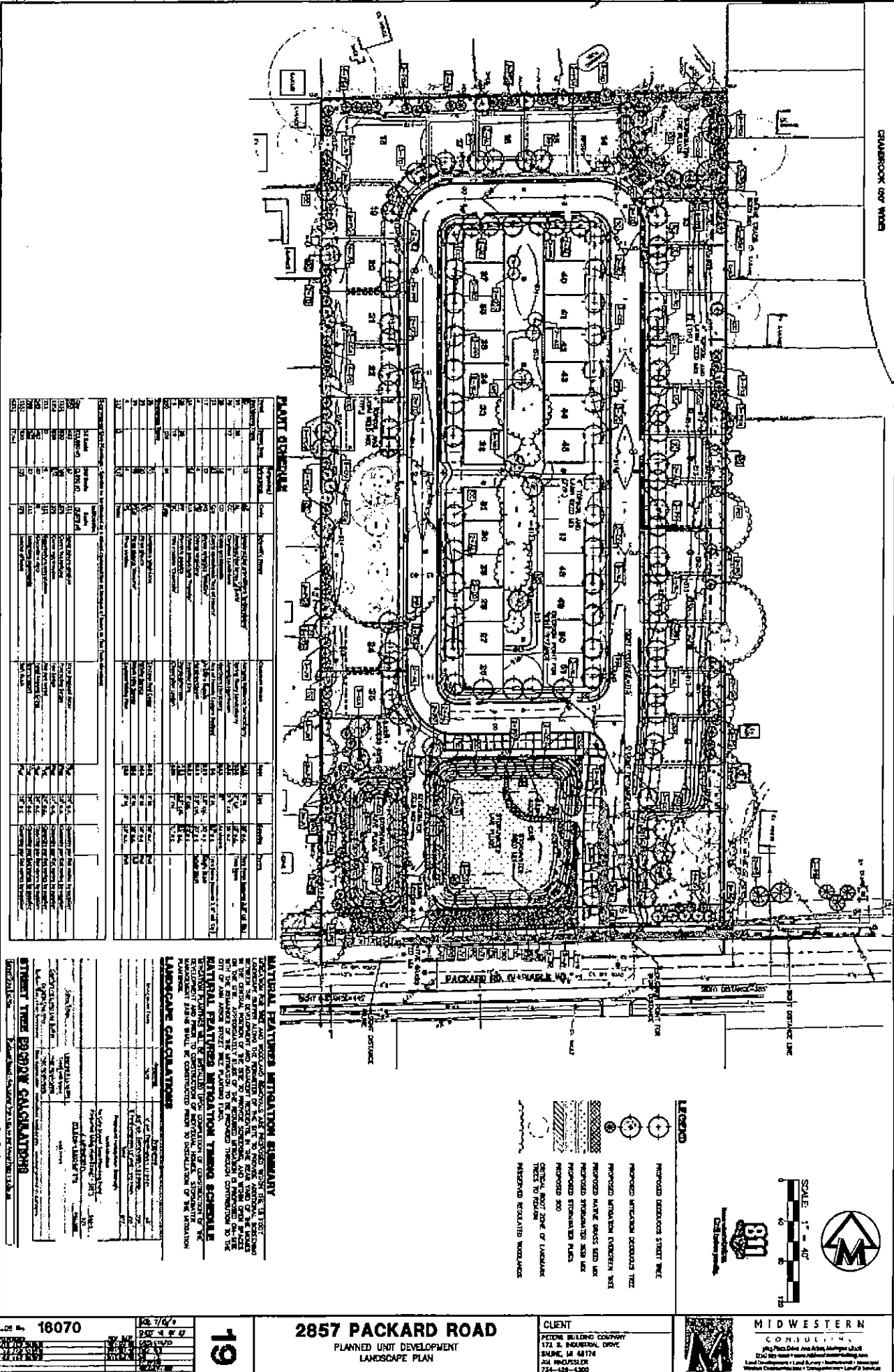
2857 PACKARD ROAD
PLANNED UNIT DEVELOPMENT
STORMWATER PRETREATMENT DETAIL AND NOTES

CLIENT
PERRY BUILDING COMPANY
172 S. INDUSTRIAL DRIVE
SPRING, IL 60178
JAN. HANSEN
734-429-4300



MIDWESTERN CONSULTING
2857 Packard Road, Suite 100, Springfield, IL 60178
734-429-4300
Land Development • Land Survey • Engineering • Construction Management • Environmental Services

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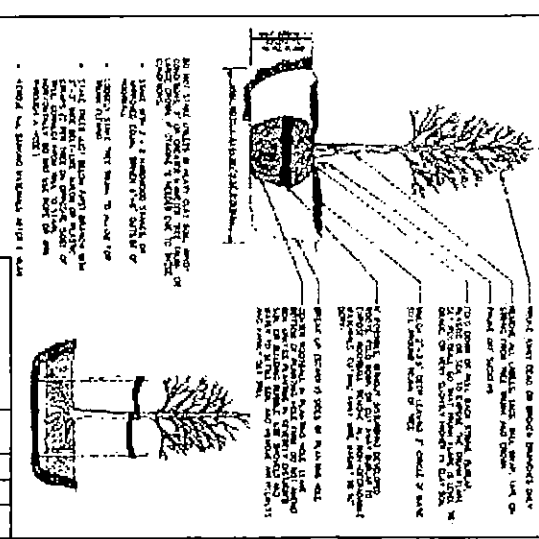
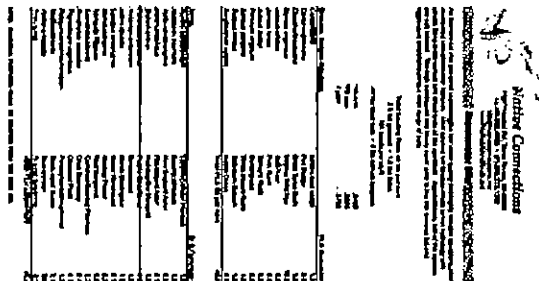
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DATE RECEIVED _____
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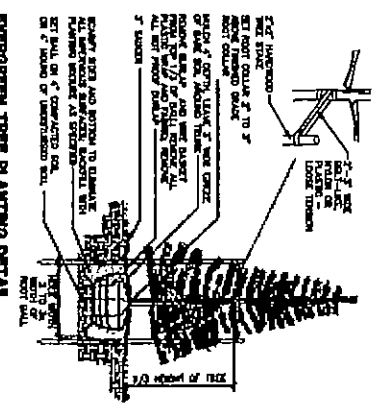


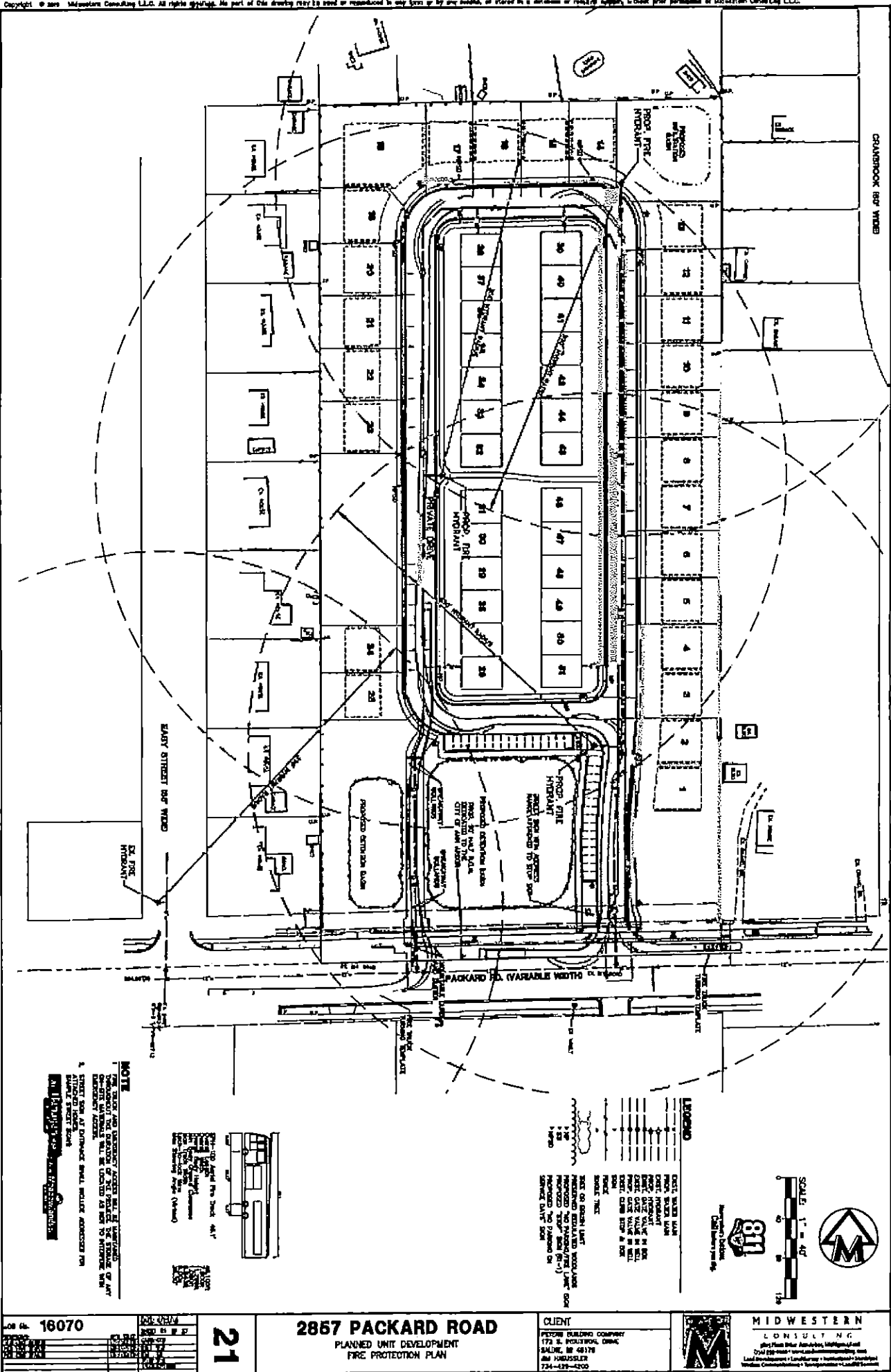
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NOT TO SCALE

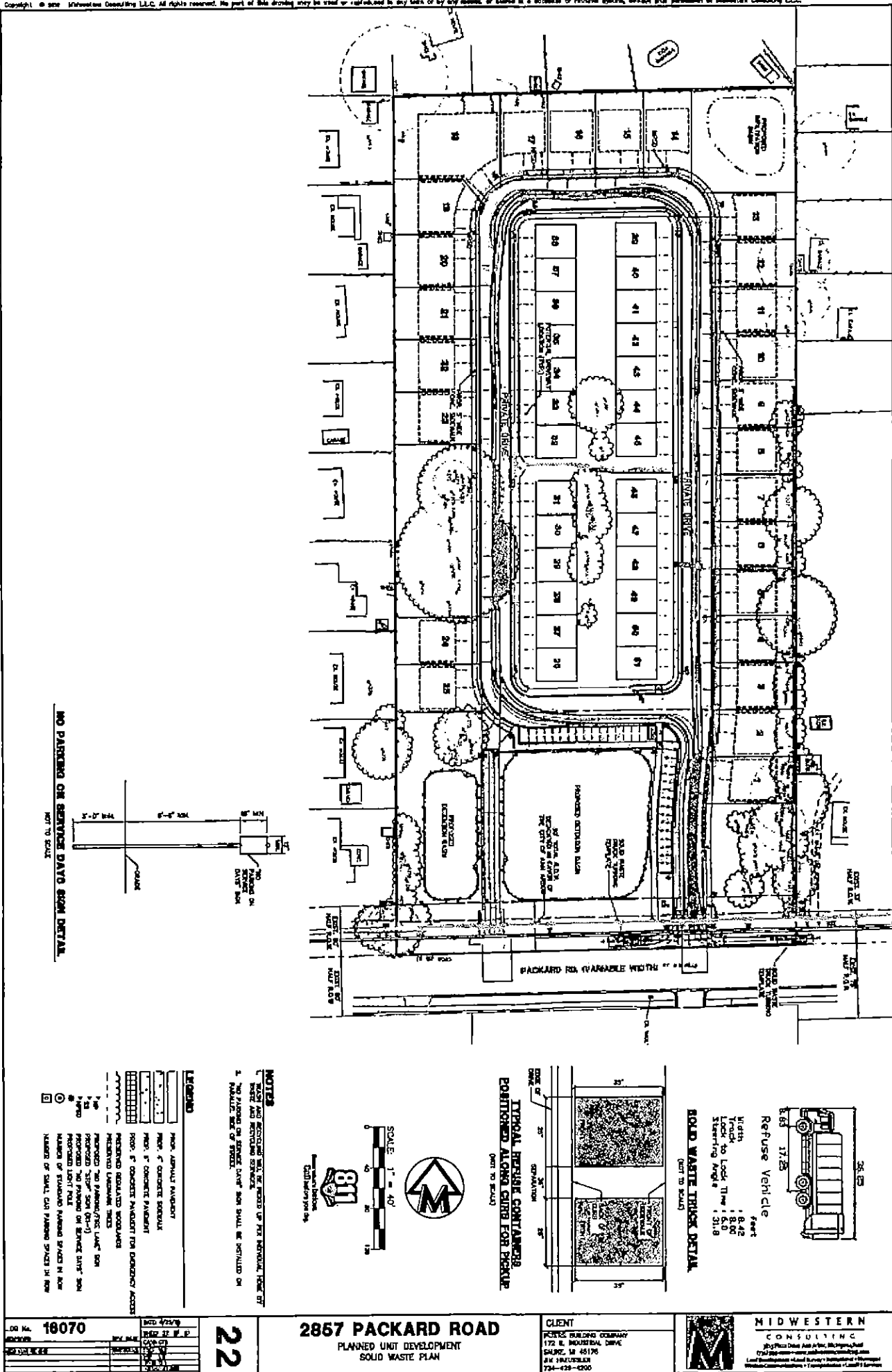


EVERYONE IN THE PLANNING BELT
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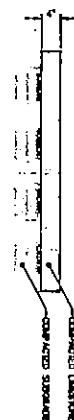
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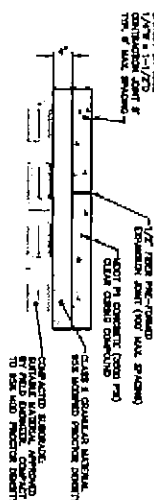
LANDSCAPE PATH

NOT TO SCALE



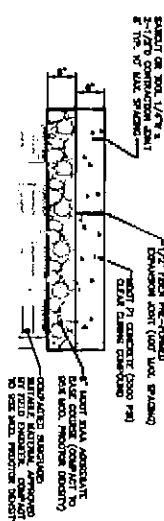
4" CONCRETE SIDEWALK DETAIL

NOT TO SCALE



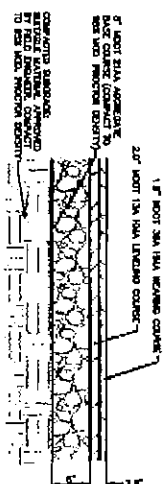
6" CONCRETE PAVEMENT DETAIL

NOT TO SCALE



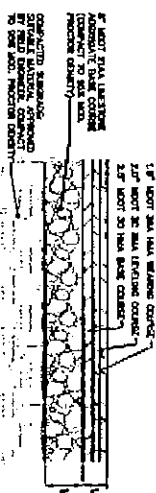
PRIVATE ROAD PAVEMENT SECTION

NOT TO SCALE



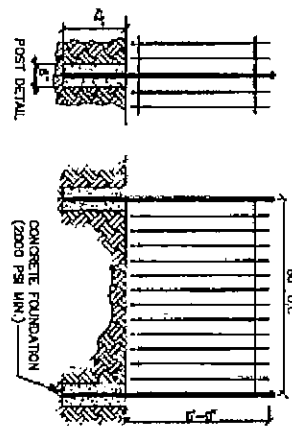
BACKFILL ROAD PAVEMENT SECTION

NOT TO SCALE



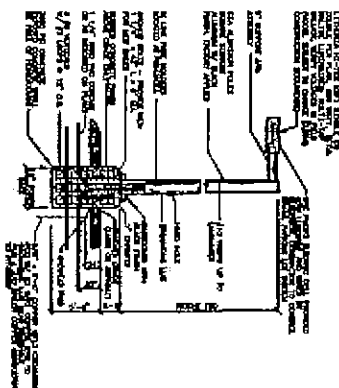
DETENTION BASIN FENCE DETAIL

NOT TO SCALE



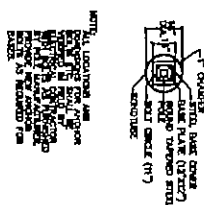
TYPICAL LIGHT POLE DETAIL

NOT TO SCALE



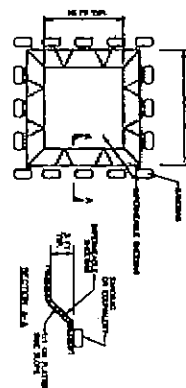
LIGHT POLE ATTACHMENT DETAIL

NOT TO SCALE



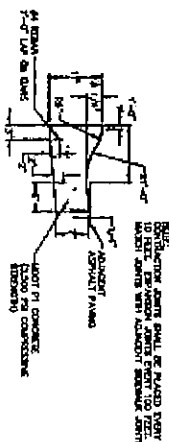
EXCAVATED CONCRETE WARPCUT STRUCTURE

NO SCALE



24" WIDE REINFORCED CURB & GUTTER

NOT TO SCALE



JOB No. 16070

DATE 4/20/16

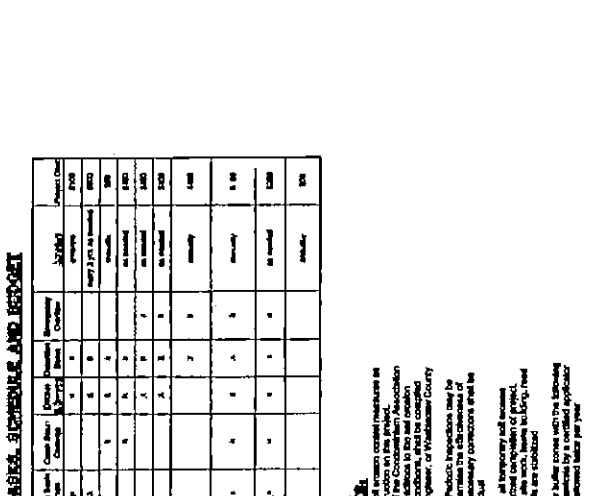
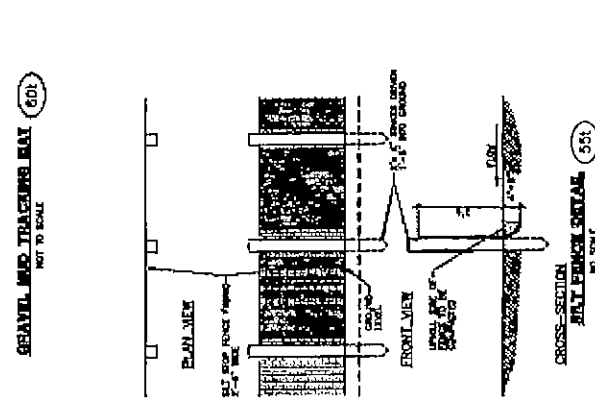
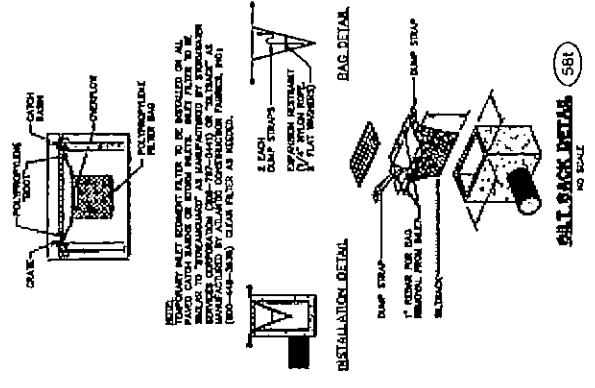
23

2857 PACKARD ROAD
PLANNED UNIT DEVELOPMENT
MISCELLANEOUS DETAILS AND NOTES

CLIENT
PETERSON BUILDING COMPANY
172 S. INDUSTRIAL DRIVE
SARASOTA, FL 34236
JIM HOUTZELER
734-449-0800



MIDWESTERN
CONSULTING LLC
3611 Main & Drive Ave. S.W., Tallahassee, FL 32309
(904) 293-0000 - www.midwesternconsulting.com
Land Development • Land Survey • Engineering • Municipal
Water • Construction • Transportation • Landfill Services

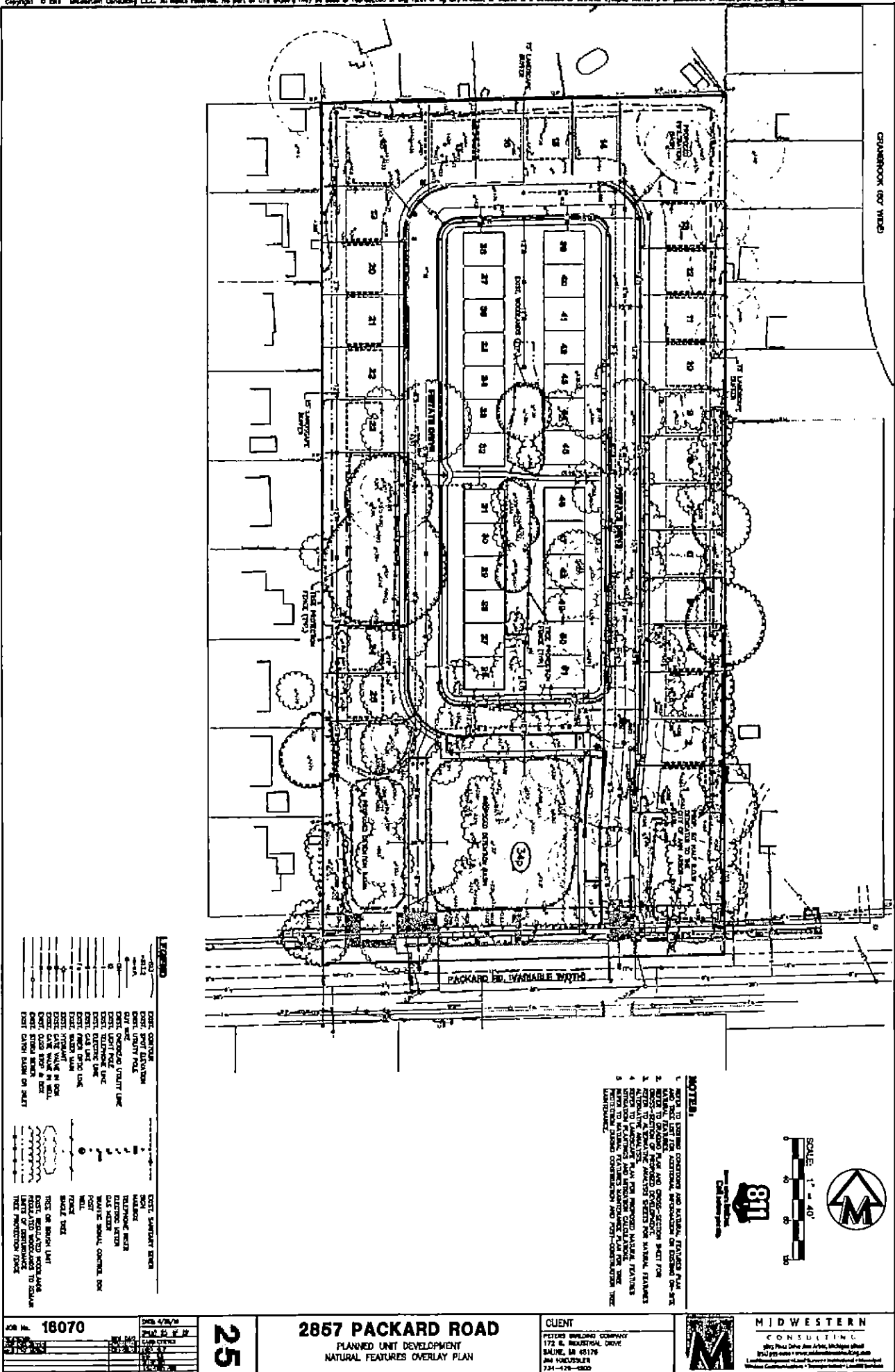
[illegible]

STORMWATER MANAGEMENT SYSTEM MAINTENANCE HOTEL

The Contractor shall implement and maintain the soil and sediment control measures to prevent erosion and sedimentation during construction. The following construction activities shall be the responsibility of the Contractor to prevent the maintenance. Any modifications or additional measures shall be approved by the Engineer. The Contractor shall submit a plan of erosion and sediment control measures to be implemented as directed by the Engineer prior to construction.

1. Daily log sheets shall be made by the Contractor. Project personnel shall be responsible for the completion of the log sheets and verification against measures. Any modifications or additional measures shall be approved by the Engineer prior to construction.
2. The Contractor shall use responsible personnel for implementing the erosion control measures and removal of sediment from adjacent areas. The Contractor shall submit a plan of erosion control measures to be implemented as directed by the Engineer prior to construction.
3. The Contractor shall use responsible personnel for implementing the erosion control measures and removal of sediment from adjacent areas. The Contractor shall submit a plan of erosion control measures to be implemented as directed by the Engineer prior to construction.
4. No exemptions are allowed if storm water discharge is bulked or stored in a pond, tank, or other structure. The Contractor shall implement the erosion control measures as directed by the Engineer prior to construction.

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Midwestern Consulting, Inc. 172 S. Industrial Drive, Suite 100, Des Moines, IA 50319
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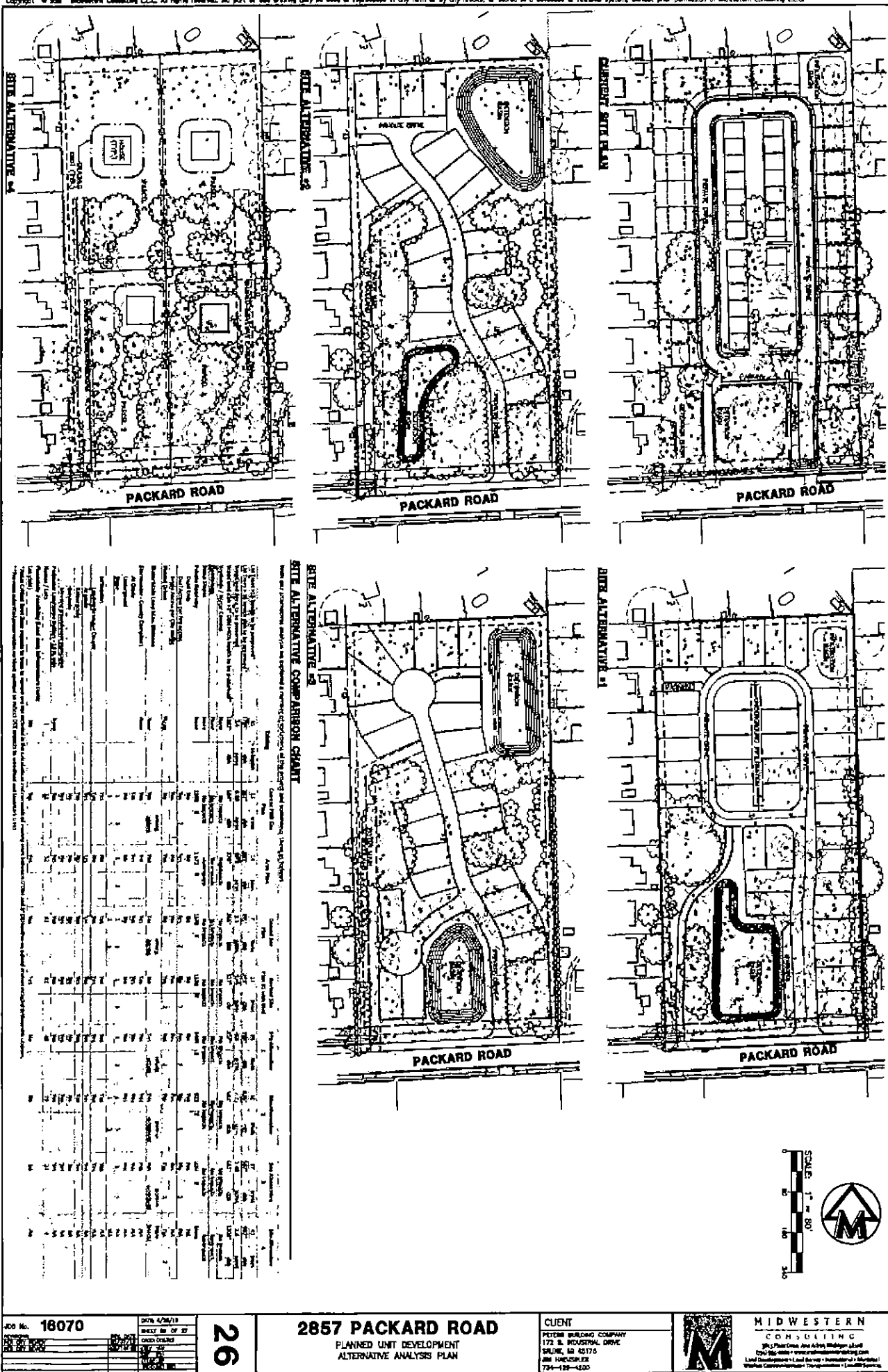






EXHIBIT C

ADDITIONAL SITE PLAN REQUIREMENTS

- A. Permitted Principal Uses of the Property shall be:
1. Single family residential units
 2. Multiple-family residential building with single family dwelling units. Side by side attached units with fire related assemblies
 3. Additional uses as identified in the R1E zoning district.
- B. Permitted Accessory Uses shall be:
1. Uses as identified in the R1E zoning district.
- C. Setbacks: Minimum setbacks are:
1. Single family residential lots:
 - i. Front: 20 foot minimum
 1. Front lot line located at face of curb on private street
 - ii. Side: 3ft per side minimum, 6 ft total minimum
 - iii. Rear: 20 foot minimum
 2. Attached multiple family units:
 - i. Front: 26 foot minimum from face of curb
 - ii. Side: 14ft minimum from face of curb
 - iii. Building separation:
 1. 23 foot minimum side to side
 2. 40 foot minimum rear to rear – decks/patios permitted within 40 foot setback
- D. Density:
1. 7 dwelling units per acre
 2. Maximum of 51 dwelling units
- E. Lot Size:
1. Minimum lot size of 4,000sf
 2. Minimum lot width: 34 ft
- F. Landscaping, Screening, and Buffers:
1. Site perimeter - 15' landscape buffer along the East, North, and South property lines
 2. A City-approved landmark tree maintenance/management plan and invasive species control plan must be implemented for 5 years after completion of construction. An annual monitoring report detailing activities completed, upcoming activities, condition of resource/status of programs and challenges must be submitted to Planning & Development. This requirement shall be part of the Development Agreement and Master Deed.
 3. Natural Features maintenance and invasive species control: A maintenance and invasive species control plan as specified on Page 28 of the Revised 2857 Packard

Site Plan Development Natural Features Maintenance Plan, for the areas indicated, shall be incorporated into the development and perpetuated as part of the master deed and bylaws through the homeowners association.

G. Architectural Design:

1. Building Height: 30 foot, 2 story maximum
2. Floor area: Maximum of 2,000sf floor area. Basement to be excluded in the floor area calculations.
3. Home type: Four distinct model homes (two 2-story, one 1.5-story, and one 1-story) and the same model shall not be built next to each other. A minimum of five 1-story ranch style houses shall be around the perimeter of the development.
4. Finishing: Dwelling units will have varying exterior colors with no two adjacent facing the street being the same color.
5. Garages: Attached garages shall not project further than 12 feet out from the front of each house or 6 feet from the porch.
6. Basements: Basements are permitted to have up to an 8-foot ceiling however, the basement is prohibited to be finished into habitable space.

EXHIBIT D
DEVELOPMENT AGREEMENT

REVISED 2857 PACKARD DEVELOPMENT AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2019, ("Agreement") 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 Peters Building Company, a Michigan corporation, with principal address at 172 S. Industrial Drive, P.O. Box 577, Saline, MI 48176, hereinafter called the DEVELOPER, witnesses that:

WHEREAS, the DEVELOPER owns certain land in the City of Ann Arbor, described in paragraph T-4 below (the "Property") and site planned as the Revised 2857 Packard Site Plan (the "Project"), located at 2857 Packard Road, and

WHEREAS, the DEVELOPER has caused certain land in the City of Ann Arbor, described below to be surveyed, mapped and site planned as the Revised 2857 Packard Site Plan, and desires site plan for City Council approval and development agreement approval thereof, and

WHEREAS, on _____, City Council approved the Revised 2857 Packard Site Plan ("Site Plan") and Agreement pursuant to a Consent Judgment entered by the Washtenaw County Circuit Court in Case No. 18-822-NZ on _____, 2019, and

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

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

THE DEVELOPER HEREBY AGREES:

(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, public and private storm water management systems, public streets, 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 DEVELOPER fails to construct the Improvements, the CITY may send notice via first class mail to the DEVELOPER 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 DEVELOPER, if the DEVELOPER does not complete the work within the time set forth in the notice. Every owner of a portion of the property, including co-owners of condominium units, shall pay a pro-rata share of the cost of the work. That portion of the cost of the work attributable to each condominium unit shall be a lien on that property and may be collected as a single tax parcel assessment as provided in Chapter 13 of the Ann Arbor City Code.

(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 DEVELOPER'S engineer inspects.

(P-4) To grant easements to the CITY for public utilities and public right-of-way as shown on the approved site plan and construction drawings, subject to City Council approval. DEVELOPER shall submit legal descriptions and survey drawings for the easements prior to the request for and issuance of building permits, and the easements shall be granted to the CITY in a form reasonably acceptable to the CITY Attorney. The easements must be accepted by City Council prior to the request for and issuance of any temporary or final certificate of occupancy, although the easements may be accepted at a later time as determined by the CITY Public Services Area.

(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, and sanitary sewers, 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 on private streets shall be completed prior to the issuance of any certificate of occupancy on the site.

(P-7) To be included in a future special assessment district, along with other benefiting property, for the construction of additional Improvements to Packard Road, such as street widening, storm sewers, curb and gutter, sidewalks, bike paths, street lights, and the planting of trees along Packard Road, frontage when such Improvements are determined by the CITY to be necessary. A provision shall be included in the master deed for the project stating that if the CITY undertakes to establish a special assessment district to improve *Packard Road*, each unit shall be assessed its pro rata share of the cost of Improvements allocable to the Property.

(P-8) To have conveyed to the CITY an easement for the off-site 8" sanitary sewer that fronts the parcel at 2873 Packard Road, or to provide an alternative connection to the City sanitary sewer system as approved by the City Public Services Area. The easements must be accepted by City Council prior to the request for and issuance of any temporary or final certificate of occupancy, although the easements may be accepted at a later time as determined by the CITY Public Services Area.

(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 DEVELOPER, 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/or street trees shown on the site plan as trees to be saved shall be maintained by the DEVELOPER or condominium unit owner in good condition for a minimum of three years after acceptance of the public Improvements by the CITY or granting of Certificate of Occupancy or final approval of the lot or unit. Existing woodland, landmark, 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 or final approval of the lot or unit, shall be replaced by the DEVELOPER as provided by Ann Arbor City Code.

(P-12) For the benefit of the residents of the DEVELOPER'S development, to make a park contribution of \$31,875 to the CITY Parks and Recreation Services Unit prior to the issuance of certificates of occupancy for Improvements to Buhr Park or Cobblestone Farms.

(P-13) The planting of mitigation trees in the public ROW, the maintenance, care and replanting are the responsibility of the DEVELOPER. All mitigation trees must be in thriving condition and if any die they must be replaced the following growing season in perpetuity as a continuing obligation of the Site Plan. This shall be included in the master deed for the Property.

(P-14) To contribute \$54,200 to the City's Street Tree Fund in lieu of planting mitigation trees on site prior to the issuance of permits.

(P-15) To complete an archaeological study for the site, as required by CITY ordinance or regulations, which is acceptable to the CITY prior to issuance of a grading permit and to follow the recommendations of the report.

(P-16) To create an association composed of all owners of 2857 Packard Road condominium, hereinafter called the "Association", in which membership shall be required by covenants and restrictions recorded as part of the master deed. The association shall be responsible for and shall execute the appropriate documents insuring perpetual maintenance and ownership of the landscape materials, exterior lighting, seating structures, driveways, on-site storm water management system, mitigation trees, and all other common elements.

(P-17) To construct, repair and/or adequately maintain on-site storm water management system. If the DEVELOPER fails to construct, repair and/or maintain the private storm water management system, the CITY may send notice via first class mail to the DEVELOPER 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 DEVELOPER if the DEVELOPER does not complete the work within the time set forth in the notice.

(P-18) After construction of the private on-site storm water management system, to maintain it until non-developer co-owners elect one or more directors to the Association's board of directors. Thereafter, by provision in the master deed, the Association shall own and maintain the storm water management system. Any proposed changes to the system must be approved by the City of Ann Arbor Systems Planning and Planning and Development Services Units. If the DEVELOPER or Association, as appropriate, fails to maintain any portion of the system, the CITY may send notice via first class mail to the DEVELOPER, or Association, at the address listed above, requiring it to commence and complete the maintenance 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 DEVELOPER or Association if the DEVELOPER or Association does not complete the work, as appropriate, within the time set forth in the notice. If the CITY completes the work, and the costs remain unpaid by the Association for 60 days after notice via first class mail, the CITY may bill each condominium unit for the pro rata share of the total cost, or assess the pro rata share of those costs to each condominium unit as a single tax parcel assessment as provided in Chapter 13 of Ann Arbor City Code. Provisions for maintenance and responsibility for the storm water management system, as well as the pro rata share of each condominium unit shall be included by the DEVELOPER in the master deed.

(P-19) 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 upon request.

(P-20) To prepare and submit to the Planning and Development Services Unit one copy of the Master Deed, along with the required review fee, prior to issuance of building permits.

(P-21) 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, DEVELOPER 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-22) 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-23) Developer shall not begin demolition, removal, or salvage of the existing house on the Property prior to April 1, 2020, or when a grading permit is issued to commence construction of the Project, whichever is later, in order to provide the City (or a third party designated by the City Administrator) with time to explore options to move the house and preserve it at another location. Developer agrees to cooperate with the City, to allow reasonable access and entry to the house as long as the City provides notice of at least three business days, and to negotiate in good faith with the City regarding logistics of moving the house. City acknowledges that moving the existing house will be at its own expense.

(P-24) No unit in 2857 Packard may be divided such that an additional building parcel is created.

(P-25) DEVELOPER 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 signing

below on behalf of DEVELOPER has legal authority and capacity to enter into this agreement for DEVELOPER.

(P-26) 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 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 DEVELOPER complies with the approved site plan and/or the terms and conditions of the approved Agreement. The DEVELOPER 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-27) In addition to any other remedy set forth in this Agreement or in law or equity, if DEVELOPER 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-28) 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.

(P-29) To complete the Natural Features Maintenance Plan as shown on Sheet 28 of the site plan, and include continuing compliance with the Natural Features Maintenance Plan in the Master Deed.

THE CITY HEREBY AGREES:

(C-1) In consideration of the above undertakings, to approve the Revised 2857 Packard Site Plan.

(C-2) To use the park contribution described above for Improvements to Buhr Park or Cobblestone Farms.

(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.

(C-5) Other items as needed.

GENERAL TERMS

Both the DEVELOPER 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 DEVELOPER, 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:

City of Ann Arbor, Washtenaw County, Michigan

Commencing at the South 1/4 post of Section 3, T3S, R6E, Pittsfield Township, Washtenaw County, Michigan; thence North 89°47'30" East, 594 feet in the South line of said Section for a Place of Beginning; thence North 00°51'30" East, 853.56 feet; thence North 89°56'30" East, 407.13 feet; thence South 00°56' West to the South line of the Section; thence West along said South Section line to Place of Beginning.

Being more particularly described as the following:

Commencing at the S 1/4 corner of Section 3, T3S, R6E, Pittsfield Township, Washtenaw County, Michigan; thence N89°47'30"E 593.60 feet (recorded 594 feet) along the South line of said Section 3 to the Point of Beginning; thence N00°51'30"E 853.56 feet along the East line of Lots 1-9 of "Green Lea" Subdivision as recorded in Liber 11 of Plats, Page 42, Washtenaw County Records; thence N89°56'30"E 407.13 feet along the South line of Lots 11-14 of said "Green Lea" Subdivision; thence S00°56'00"W 324.52 feet along the West line of Lots 29-33 of "Kensington Farms" Subdivision, as recorded in Liber 12 of Plats, Pages 49 and 50, Washtenaw County Records; thence continuing S00°56'00"W 528.00 feet; thence S89°47'30"W 406.03 feet (recorded West) along said South line of Section 3 to the Point of Beginning. Being a part of the SE 1/4 of Section 3, T3S, R6E, Pittsfield Township, Washtenaw County, Michigan, and containing 7.96 acres, more or less.

Parcel ID No.: 09-12-03-404-054

(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 DEVELOPER, 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 DEVELOPER in writing that the DEVELOPER has satisfactorily corrected the item(s) the DEVELOPER 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 provided that in the event of any conflict between this Agreement and the Ann Arbor City Code, the Consent Judgment shall control and bind the City and Developer. The parties submit to the jurisdiction and venue of the Circuit Court for Washtenaw County, State of Michigan as provided in the Consent Judgment. The parties stipulate that the venues referenced in this Agreement are convenient and waive any claim of non-convenience.

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

By: _____
Christopher Taylor, Mayor

By: _____
Jacqueline Beaudry, City Clerk

Approved as to Substance:

Howard S. Lazarus, City Administrator

Approved as to Form:

Stephen K. Postema, City Attorney

PETERS BUILDING COMPANY
172 S. Industrial Drive, P.O. Box 577
Saline, MI 48176

By: _____
Name, Title

STATE OF MICHIGAN)
) ss:
County of Washtenaw)

The foregoing instrument was acknowledged before me this _____ day of _____, 201____
by Christopher Taylor, Mayor, and Jacqueline Beaudry, 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 _____)
County of _____) ss:
_____)

The foregoing instrument was acknowledged before me this _____ day of _____, 201____
by _____, _____ of Peters Building Company, a
_____, on behalf of the _____.

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

DRAFTED BY AND AFTER RECORDING RETURN TO:
Ann Arbor Planning Department
ATTN: Brett Lenart
Post Office Box 8647
Ann Arbor, Michigan 48107
(734) 794-6265



WASHTENAW COUNTY CLERK
REGISTER AS AN EXACT COPY
OF THE RECORD AT
ANN ARBOR MICHIGAN
VALID ONLY WITH EMBOSSED SEAL

JAN 10 2020

CERTIFIED BY

Lauren Kesteven