

**Board of Township Trustees
Liberty Township
Delaware County, Ohio
August 5, 2019**

The Board of Township Trustees (the "Board") of Liberty Township, Delaware County, Ohio, met at a regular meeting on the 5th day of August, 2019, at 7:00 p.m. at the Liberty Township Hall, 7761 Liberty Road, Powell, Ohio 43065, with the following members present:

Reneghan, M

Gempertine, M

Dichhorn, S.

Reneghan, M introduced and moved the adoption of the following Resolution:

RESOLUTION NO. 19-0805-03

**A RESOLUTION ADOPTING AND APPROVING DEVELOPMENT AGREEMENTS AND
AUTHORIZING THEIR EXECUTION**

WHEREAS, Hyatts Steitz Farm, LLC owns and controls approximately 189 +/- acres of land located in Liberty Township, west of Sawmill Parkway and North of Home Road; and

WHEREAS, Edward C. Pearl, Donna H. Peterson, R. David Pearl, Jean Branncazio-Pearl, Annette P. Lockwood, Douglas Lockwood, R&S Pearl Family, LLC (collectively, the "Pearls,") own and control approximately 92.2 +/- acres of land located in Liberty Township, west of Sawmill Parkway, east of Steitz Road, between Hyatts Road and Home Road (together with the above-mentioned property owned and controlled by Hyatts Steitz Farm LLC, known as the "Property"); and

WHEREAS, Schottenstein Real Estate Group, LLC ("SREG") desires to develop the Property and/or construct or cause to be constructed private improvements on a portion of the Property; and

WHEREAS, the Board has determined that it is in the best interest of the Township to enter into development agreements with SREG and Hyatts Steitz Farm, LLC, and with SREG and the Pearls, respectively, in the forms now on file with Liberty Township (the "Development Agreements") in order to accomplish the goals and objectives of the parties.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TOWNSHIP TRUSTEES
OF LIBERTY TOWNSHIP, DELAWARE COUNTY, OHIO THAT:**

Section 1. The Board of Trustees hereby adopts and approves the two Development Agreements now on file with this Board and each Trustee is hereby authorized to execute and deliver the Development Agreements for and on behalf of Board, together with such changes that are not materially adverse to the interest of the Township, are consistent with this Resolution, and are approved by the Board members signing the Agreement. The execution and delivery of each Development Agreement by any two or more Board members shall be conclusive evidence that they approved any changes in the respective Development Agreement, and any such changes are not materially adverse to the interests of Liberty

Township.

Section 2. The members of this Board, the Township Fiscal Officer, the Township Administrator, and such other appropriate officers of the Township as may be designated and authorized by the Board from time to time, are authorized and directed to execute and deliver such other documents and instruments necessary or desirable to effectuate the purposes of each of the Development Agreements.

Section 3. It is found and determined that all formal actions of this Board concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Board, and that all deliberations of the Board and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 4. This Resolution shall take effect immediately upon its adoption.

Gemperline seconded the motion, and the roll was called on the question of its adoption. The vote was as follows:

yes Melanie Leneghan

yes

yes Michael Gemperline

yes

yes Shyra Eichhorn

yes

Adopted: Aug. 5, 2019

ATTEST:

Nancy Denutte
Nancy Denutte, Fiscal Officer

BOARD OF TOWNSHIP TRUSTEES
LIBERTY TOWNSHIP
DELAWARE COUNTY, OHIO

Melanie Leneghan
Melanie Leneghan, Trustee

Michael Gemperline
Michael Gemperline, Trustee

Shyra Eichhorn
Shyra Eichhorn, Trustee

DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") is made and entered into this 5th day of August, 2019, by and between Edward C. Pearl, Donna H. Peterson, R. David Pearl, Jean Branncazio-Pearl, Annette P. Lockwood, Douglas Lockwood, R&S Pearl Family, LLC (hereinafter the "Landowner," or cumulatively "Landowners"), the Schottenstein Real Estate Group LLC, an Ohio limited liability company ("Developer") and Liberty Township, an Ohio township organized and existing under the laws of the State of Ohio ("Township").

RECITALS:

WHEREAS, Landowners own and control approximately 92.2 +/- acres of land located west of Sawmill Parkway, east of Steitz Road, generally between Hyatts and Home Roads (which land is depicted on Exhibit A and referred to herein as the "Property"); and,

WHEREAS, the Township has adopted a comprehensive master planned development that included the Property, in the form of a Planned Overlay District ("POD") the map of which POD is depicted on Exhibit B attached hereto for the benefit of the Township; and

WHEREAS, the Landowners believe the Property will benefit from the comprehensive planning and zoning/development; and

WHEREAS, the Landowners engaged the Developer to assist with the planning and thereafter to execute the planned efforts; and

WHEREAS, the Township owns real property along Sawmill Parkway, adjacent to the Property and the POD ("Township Land"); and

WHEREAS, the POD includes a planned collector roadway (the "POD Road") as an integral component of the POD to address traffic access and circulation, which POD Road is

planned for future connection to Sawmill Parkway through the Township Land, depicted on Exhibit C attached hereto, and for which location and final design specifications are subject only to final engineering and final approvals from the Delaware County Engineer; and

WHEREAS, the Township seeks to provide necessary future right of way easement(s) across the Township Land to ensure that the Property and entire POD are developed with access to Sawmill Parkway and all public utilities are extended, such that each sub-area of the POD will have access to the POD Road and adequate public utilities, as generally depicted with two options for future access on Exhibit C attached hereto; and

WHEREAS, the Township has approved another development with direct access to Sawmill Parkway, which access will provide greater distributions of traffic for the larger south east quadrant / region of Hyatts Road and Sawmill Parkway, as generally depicted on Exhibit D; and

WHEREAS, in furtherance of the regional distribution of traffic including the POD traffic, the Township desires to make and affirm a commitment to provide future necessary public roadway connections and facilitate the extension of public utilities with easements thereto; and

WHEREAS, the Township desires to effectuate public roadway connections and access in the region and to connect the Property, POD and POD Road to these access points for that purpose.

NOW THEREFORE, in consideration of the mutual promises and benefits contained herein, the adequacy and sufficiency of which is hereby acknowledged and agreed, the Landowners, the Developer and Township hereby agree as follows:

1. **Recitals.** The above recitals are incorporated by reference herein.

2. POD Road Acknowledgement and Planning. The Township acknowledges and agrees that the POD includes the Property and the POD Road, as shown on Exhibits A, B and C, respectively attached hereto. The Township acknowledges and agrees that the POD Road is an integral and necessary component of the POD and the development of Landowners' Property. The POD Road is a material term of the POD and this Agreement.

The Township further acknowledges and agrees that the POD shall have future roadway access connections to Steitz Road, through sub areas B, C and F, details of which are subject to final engineering and approval by the Delaware County Engineer. Access to Steitz Road via sub area A of the POD is intended for emergency access only and is also subject to final engineering and approval by the Delaware County Engineer.

In addition to POD Road planning, the Township and Developer agree to work in good faith to explore and consider economic development tools that may be appropriate and agreeable to both parties. The Township acknowledges and agrees to provide any consent or approvals as may be needed for Developer to form a new community authority or other private entity for purposes of financing improvements or otherwise to establish assessment(s) within the POD.

3. Township Land. The Township agrees to provide to the Developer, all land, access and easements necessary to establish and extend the POD Road and public utilities as may be necessary, within, over and across the Township Land, at the two optional locations where the Township Land is adjacent to the POD through to Sawmill Parkway, as the two optional locations are generally shown and depicted on Exhibit C, attached hereto. The Township agrees that it shall provide the land and/or easement in sufficient width and length as needed to extend the POD Road, per County specifications, which road is planned as a landscaped boulevard, and

which right of way shall be not less than 100 feet in width. This land and/or easement from the Township for the POD Road and any easements necessary for public utility requirements shall be at no cost to the Developer, and in turn the Developer agrees to construct the planned POD Road and public utility(s) connections at no cost to the Township. The Township also agrees to permit the installation of fencing along the Sawmill Parkway frontage of the Township Land, of the same type, style and size that is approved by the Township for the POD development, as upon final development plan approval. In addition to the above easements for POD Road and utility improvements (possible future location of same), the Township agrees to grant general utility easements within the Township Land and to grant easements which allow for the installation of entry signage / features, storm water management including but not limited to detention/retention ponds, and landscaping elements upon and within the Township Land, at no additional cost to Developer. Final location with description of any such easements to be determined by final engineering. Developer agrees to reimburse the Township for reasonable and necessary costs, including reasonable attorneys' fees if applicable, associated with final execution of these easements.

4. **Road, Public Utility and TIF Construction Approvals.** The Township agrees to approve plans for and permit such portions or area of Township Land for POD Road construction, not less than 100 feet wide, as planned for in Section 3 above, for construction to be performed by the Developer. Exhibit C may be updated to reflect, and the Township acknowledges that, such updates may include final design and location of the POD Road, and easements / rights of way as needed for the POD Road or any areas for utility construction. Final location and design are subject only to final engineering and approval by the Delaware County Engineer. The Township acknowledges and agrees that the Developer may construct The POD

Road at any time, in phases or sections, or all at one time, depending on market conditions and subject only to final engineering and approval by the Delaware County Engineer.

In addition to POD Road construction, the Developer may dedicate the parkland areas to the Township, in POD 18(B), Sub area F, and Trustees agree to accept such parkland dedication and the responsibility and costs of maintenance thereof. The Township acknowledges and agrees that the parkland area will require storm water basins for retention and detention including storm water management from other POD sub areas, as required by sound engineering practices. The Township acknowledges and agrees that in furtherance of establishing the POD Road and other public improvements, the Township shall approve a seventy five percent (75%), ten year (10) tax incentive financing district ('TIF' or 'TIF District'), with terms agreeable to the Developer, upon the Property, the purpose of which will be to fund public improvements including but not limited to the public improvements listed on Exhibit E attached hereto.

5. Timing. The Township agrees to provide the access, permits and any easements necessary for extension of the POD Road and public utilities as may be necessary within, over and across the Township Land, upon request of the Developer at such time as Township approval is needed to obtain any final engineering and construction approvals for the POD Road or any portion of the public road(s) thereof.

6. POD Road Construction. The POD Road and public utilities as may be required shall be constructed by the Developer, and thereafter extended to each sub area no later than at the time of development for each sub area, to create direct access/contiguity for the Property and each POD sub area to the POD Road and to Sawmill Parkway. Planning and the general location of the POD Road shall be provided by the Developer and Landowner(s) of each sub area upon request for each sub area Final Development Plan as provided for in the POD POD or at the time

of platting in the event the POD Road is constructed ahead of final development plan for any sub area. With the exception of the Township Land described above in Sections 3 and 4, which Township Land shall be provided at the request of the Developer, all land, right of way, easements or other basic requirements for construction of the POD Road and through the POD shall be provided by the Landowner of each sub area.

7. North Sawmill Parkway Access and Regional Traffic Planning

The Township seeks effective traffic distributions and public roadway access for the regional area including the POD, to maximize effective traffic flow. The Township has approved a development north of the POD which development included a traffic analysis approved by the Delaware County Engineer that provided for a median cut along Sawmill Parkway to accommodate a future signalized intersection at a location generally depicted on Exhibit D attached hereto (the "North Sawmill Parkway Access"). The Township acknowledges and agrees that the North Sawmill Parkway Access is an integral and necessary component and a material term of this Agreement, and as such, the Township agrees to provide a connection between the POD Road and Sawmill Parkway at the North Sawmill Parkway Access. If necessary, and upon request of the Developer, the Township agrees to pursue the quick take procedures for the appropriation of lands needed to make for public roadway improvements not less than 100 feet in width, and public utility extensions as may be required, and the process of same, pursuant to Ohio law to obtain such land or easements necessary for such public roadway connection. The Township agrees that it shall acquire land or easements in sufficient form, width and length as needed to construct a landscaped boulevard, and which public road right of way shall be not less than 100 feet in width as generally shown and depicted on Exhibit D attached hereto, plus public utilities as may be required. The Developer agrees to reimburse the Township for the actual

costs of land acquisition, as negotiated or as otherwise finally determined by a court of competent jurisdiction. Developer further agrees to reimburse the Township for the reasonable and necessary costs of appropriation and required related actions, including court costs and reasonable attorneys' fees, if applicable.

8. Miscellaneous.

(i) **Compliance Statement**. Nothing in this Agreement shall exempt the parties hereto from any zoning requirements, or Final Development Plan approval as required by the POD.

(ii) **Trustee Action**. The obligations of and agreements by the Township contained herein shall be effective and enforceable upon, and subject to, the passage of a resolution which authorizes this Agreement. By passage of Resolution _____ on _____, the Township Trustees authorized the execution of this Agreement.

(iii) **Permits**. Developer will obtain all necessary permits from all levels of government to allow Developer to build and develop the POD Road through the POD.

(iv) **Authority**. All Parties represent that they are duly authorized to sign this Agreement.

(v.) **Primary Authority, Cancellation or Termination**. This Agreement, specifically Sections 1 through 7 above, intentionally refer only to the Developer for commitments and obligations related to this Agreement for the POD Road construction, payments and other obligations as specifically set forth herein. In fact, the Landowner(s) and Developer have separate private contractual arrangements, such that all authority with regard to the decision making, and the sole discretion of same, for subject matters set forth in this Agreement, are vested within the absolute and sole discretion of the Developer, while the

Developer remains in contract with the Landowners, or as upon purchase upon Landowners' properties ('Primary Authority'). The right of the Landowners to assert any rights set forth herein is expressly secondary and subordinate to the Primary Authority of the Developer for purposes of this Agreement (ie., Landowners cannot independently terminate this Agreement or determine to exercise rights hereunder while in Contract with the Developer). Similarly, there shall be no development costs or obligations for the Landowner while the Developer remains in contract with the Landowner and has Primary Authority as herein defined. In the event the Developer is no longer in contract with the Landowner, the Landowner shall be substituted for the Developer with all rights, title and interest to the benefits and obligations of this Agreement. Only upon such occurrence and at such time shall the Landowner have decision making authority. At that time, the Landowner shall communicate in writing to the Township its desire to assume the responsibility for any development costs that would be incurred under this Agreement. The mere assumption of Primary Authority by the Landowner shall not be construed to relieve the Landowner of its commitment for non annexation.

The Landowners and Developer are relying on the commitments of Township herein to provide roadway connections both through the Township Land and through adjacent lands to the North Sawmill Parkway access location. The Landowner and Developer are also specifically relying on the commitments made herein by the Township to establish the seventy five percent (75%), ten year (10) tax incentive financing district ('TIF' or 'TIF District') upon the Property as set forth in Section 4 above, with terms agreeable to the Developer, and to establish a TIF Financing Agreement acceptable to Developer. In exchange for the roadway connections, the TIF, TIF District and TIF Financing Agreement, all legally effective, these connections and all other

mutual commitments as set forth herein, Developer and Landowner agrees not to annex the Property into a municipality. Failure on the part of the Township to provide such public access or public utility easements at the times and in the manner as set forth herein, or failure of the Township to establish an effective TIF, TIF District for the Property, and TIF Financing Agreement, all as acceptable to Developer, shall be considered a material breach of this Agreement, which breach, in addition to other rights and remedies set forth herein, shall fully and permanently relieve the Landowner(s) and Developer of the obligations and commitments against annexation of this Section 8(v). Further, in the event that the Township, its boards or commissions as may apply, act in a manner adjudged by a court of competent jurisdiction to be unconstitutional, illegal, arbitrary, capricious, unreasonable, or unsupported by a preponderance of substantial, reliable, and probative evidence for any decision or order, related to the Property or the POD final development plan process, or any approval or permit required by the Township for construction or development, without regard to finality of the legal decision or its appealability, Landowner and Developer shall be completely and permanently relieved of all obligations and commitments, respecting the Landowners Property and otherwise for all Property within the POD, against annexation as set forth herein above. If the Developer or Landowner annex any portion of the Property without a prior material breach by the Township as provided for herein above, or without written approval from the Township - which approval may be withheld in the sole and absolute discretion of the Township, then the Township shall be fully and permanently relieved of its obligations and commitments to provide roadway connections, land and/or easements, TIF creation or reimbursements as required herein or in the TIF Financing Agreement.

In addition to the aforementioned, this Agreement may be cancelled or otherwise terminated by mutual written agreement of the Township and the Developer or Landowner(s), with Primary Authority at the time of the termination. The mere assumption of Primary Authority by the Landowner shall not be construed to relieve the Landowner of its commitment for non-annexation. The Parties mutually agree to provide notice to the other Parties in the event of a breach of any provision of this Agreement, of which the other Parties may become aware. In that case, the breaching Party shall have thirty (30) days from the date of notice, or as long as the Parties may agree to otherwise in writing, as an opportunity to cure any breach of this Agreement. In the event such default or breach is of such nature that it cannot be cured or remedied within said thirty (30) day period, then in such event the defaulting Party shall upon written notice from any non-defaulting Party commence its actions to cure or remedy said breach within said thirty (30) day period, and proceed diligently thereafter to cure or remedy said breach. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved non-defaulting Party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the defaulting Party.

(vi) **Assignment of Agreement.** The Landowners may assign this Agreement, or any part thereof or any duty, obligation, privilege or right granted under this Agreement. Prior to Closing, Developer may assign this agreement to any Developer related entity. At or following Closing, Developer may freely assign its rights or obligation of this Agreement, in whole or in parts, or phases, in the sole discretion of Developer. SREG or Landowner(s), as applicable, shall

deliver written notice of any assignment to the Township within a reasonable amount of time after the assignment is made, and shall identify the assignee and provide the assignee's name, address, contact person, telephone number and email address.

(vii) **Relative Rights**. The rights and obligations of the parties hereunder shall be subject to the terms and conditions hereof, and will inure to the benefit of, and be binding on, the respective heirs, successors and assigns. There are no third-party beneficiaries created by this Agreement.

(viii) **Entire Agreement Merger Clause: Statement of Incorporation**. It is agreed that the Agreement merges all oral negotiations, representations, discussions and understandings between the Parties, their legal counsel, agents or representatives. This Agreement contains the entire Agreement of the Parties with respect to its subject matter. All documents related to this Agreement and/or attached hereto as exhibits or addendums shall be incorporated into this Agreement by reference as if fully set out at length herein.

(ix) **Severability**. If any clause, sentence, paragraph or part of this Agreement shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Agreement to the extent that the Parties' rights and expectations, and specifically the material terms and POD Road commitments or public roadway connections, and public utility extensions, can still be given full meaningful effect for both Parties.

(x) **Modifications or Amendment of Agreement.** No modifications, amendments, alterations or additions shall be made to this Agreement except in a writing signed by all Parties hereto.

(xi) **Executed Counterparts.** This Agreement is only effective upon signature by all parties, and further, this Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same agreement. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.

(xii) **Captions and Defined Terms.** The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement. Use of the terms Property and POD shall be read consistent so as to give full effect and benefit to all of the Property owned by Landowner, whether in whole or in parts, or as may apply in phases, as the Property comprises the POD.

(xiii) **Effective Date.** This Agreement shall be effective when signed by all the Parties hereto.

(xiv) **Time.** Time shall be of the essence in doing and performing all things to be done under the terms of this Agreement.

[signatures on next page]

AGREED:

LANDOWNERS

Edward C. Pearl,

Edward C. Pearl

Date: 8-1-19

Donna H. Peterson,

Donna H Peterson

Date: _____

R. David Pearl,

Date: _____

Jean Branncazio-Pearl,

Printed: _____

Date: _____

Annette P. Lockwood,

Date: _____

Douglas Lockwood,

Date: _____

AGREED:

LANDOWNERS

Edward C. Pearl,

Date: _____

Donna H. Peterson,

Date: _____

R. David Pearl,

R. David Pearl

Date: _____

Jean Branncazio-Pearl,

Brancazio-Pearl

Jean Brancazio-Pearl

Printed: JEAN BRANCAZIO-PEARL

Date: _____

Annette P. Lockwood,

Date: _____

Douglas Lockwood,

Date: _____

AGREED:

LANDOWNERS

Edward C. Pearl,

Date: _____

Donna H. Peterson,

Date: _____

R. David Pearl,

Date: _____

Jean Branncazio-Pearl,

Printed: _____

Date: _____

Annette P. Lockwood,

Annette P. Lockwood

Date: _____

Douglas Lockwood,

Douglas Lockwood

Date: _____

R&S Pearl Family, LLC

By: Edward C. Pearl

Printed: Edward C. Pearl, Authorized Representative

Date: 8-1-19

Developer

Schottenstein Real Estate Group LLC

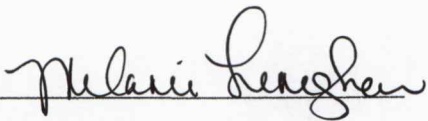
By: Donald J. Hunter, Esq. Senior Vice-President

Printed: Donald J. Hunter

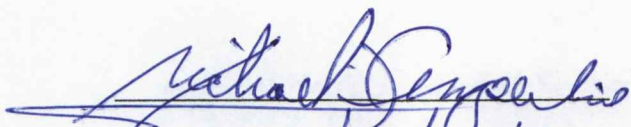
Dated: August 5, 2019

Liberty Township Trustees

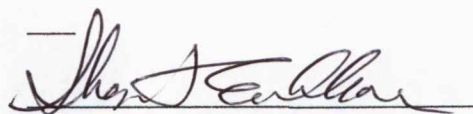
Melanie Leneghan


Date: 8.5.19

Michael Gemperline


Date: 8/5/2019

Shyra Eichhorn


Date: 8/5/2019

EXHIBITS

- A. Landowner(s) Property
- B. Map of POD area
- C. POD Road and Township Property – two optional access points
- D. North Sawmill Parkway Access
- E. Public Improvements

PARCEL EXHIBIT LOTS C, E, D, 22, 26 AND 27, QUARTER TOWNSHIP 2, TOWNSHIP 3, RANGE 19 UNITED STATES MILITARY LANDS

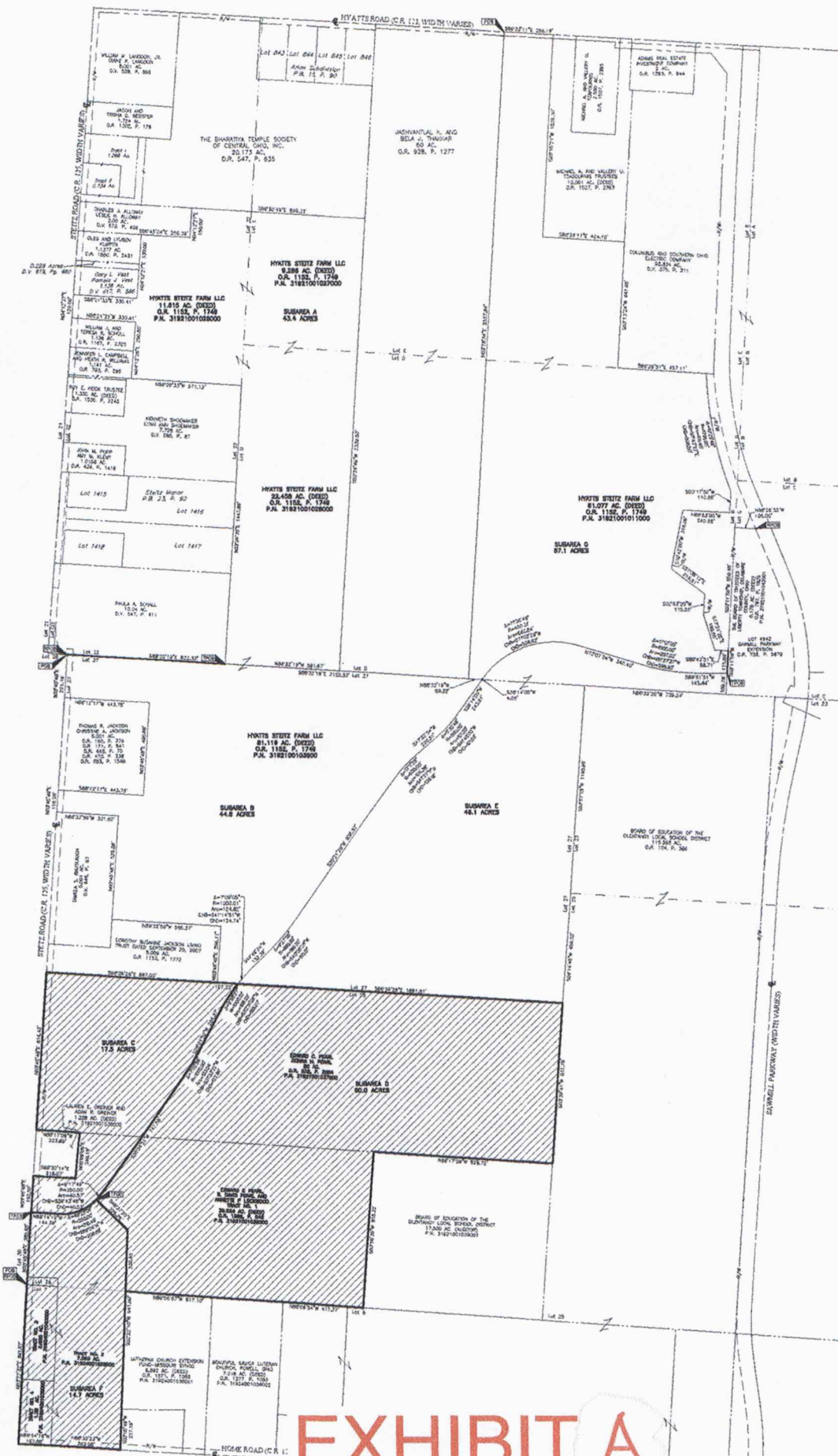


EXHIBIT A

NOTE
 This exhibit is based on existing record information and not on an actual field survey.



EMIT Date: February 22, 2019 Scale: 1" = 200' File No: 2018-0905 Sheet: 1 of 1 REV: 0005	
NAME ADDRESS CITY STATE ZIP	NAME ADDRESS CITY STATE ZIP

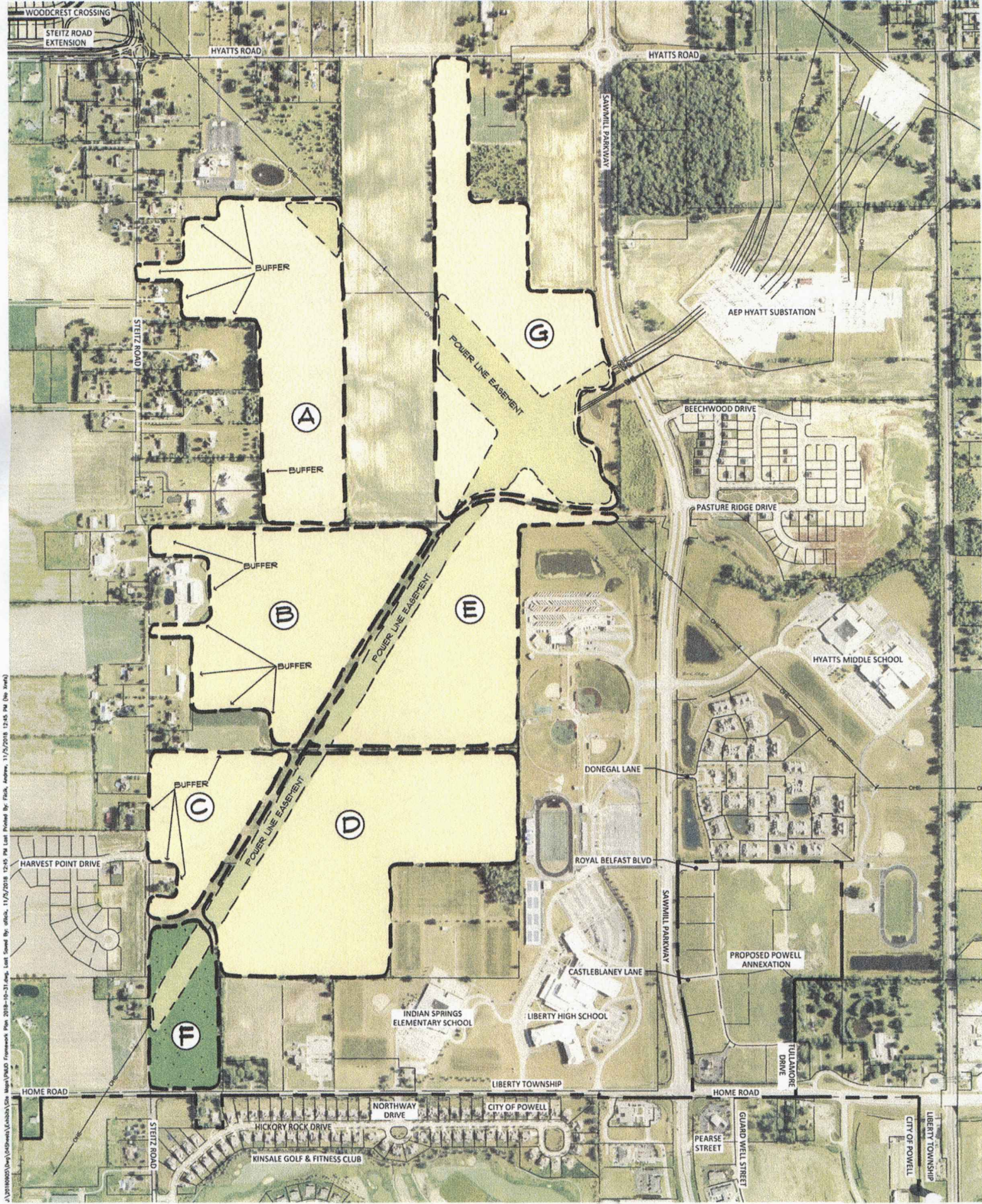
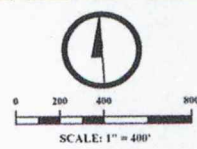


EXHIBIT B

NOVEMBER 5, 2018
REVISED: DECEMBER 5, 2018
TAMMADON 0010



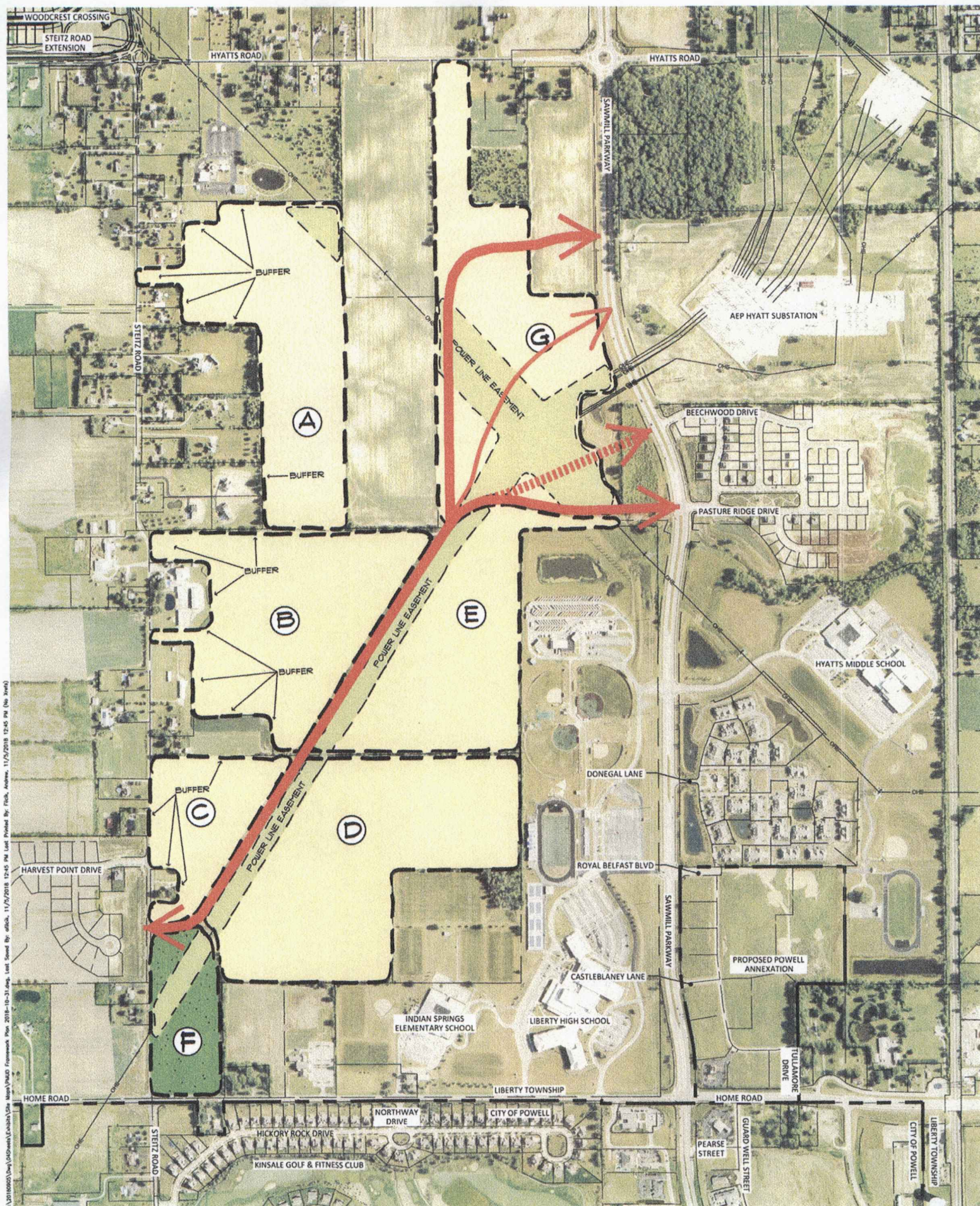


EXHIBIT C

NOVEMBER 5, 2018
REVISED: DECEMBER 5, 2018
EXPIRATION: 2020

0 200 400 800

SCALE: 1" = 400'

EXHIBIT E

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements include, but are not limited to, any of the following improvements that will directly benefit the Parcels and all their related "costs" (as that term is defined in Section 4 of this Agreement):

- Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto.
- The "Primary Road" consisting of public roadway system for circulation and connectivity purposes which will connect the Project to Sawmill Parkway, Hyatts Road, and Steitz Road; as depicted on the Primary Road Map, such Primary Road to include Segments 1, 2, 3 and 4. The Primary Road Map is incorporated herein to Exhibit B. As depicted on the Primary Roadway Map, Segment 1 is expected to include the construction of approximately 5800 linear foot boulevard roadway, roundabout(s), 20 foot lanes, a 12 foot median and an 80 foot public right of way (subject to modification). In addition, the construction of the Primary Road is expected to include, but not be limited to, curbs and gutters, sidewalks/multi-use paths, storm sewers, sanitary sewers, watermain and appurtenances, gas facilities, electric facilities, communication facilities, lighting, stormwater management facilities, landscaping, street trees, signage, artwork, sculptures and/or other streetscape improvements, and traffic signalization. The specifications, design and final configuration of the Primary Road are subject to change and modification in whole, or in part.
- Signage, artwork, sculpture and other related items that enhance, compliment and beautify the Parcels and the Public Infrastructure Improvements located in the public right-of-way or within public easements.
- Construction, reconstruction, extension, opening, improving, widening, grading, draining or curbing of walking and/or multipurpose paths that connect the Parcels to any public school facility, including improvements on the Parcels and any public school property.
- Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto.
- Construction, reconstruction or installation of gas, electric and communication service facilities (including any underground lines or other facilities), and all appurtenances thereto.

- Construction, reconstruction and installation of stormwater and flood remediation projects and facilities, including such projects and facilities on private property when determined to be necessary for public health, safety and welfare.
- Continued and ongoing maintenance, paving, repaving, striping, grading and related work on roads, highways, streets, water and sewer lines constructed as part of the Public Infrastructure Improvements.
- Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, including, but not limited to streetscape improvements in conjunction with and along the roadway improvements described above.
- Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing Public Infrastructure Improvements or (b) in aid of industry, commerce, distribution or research, including, but not limited to, the acquisition of the Township Land and any acquisition of land in connection with the Township's taking title to any Public Infrastructure Improvements.
- Any other public infrastructure improvements, pursuant only to a written request by the Company, constructed or maintained by or on behalf of the Township that are determined by the Board of Township Trustees to directly benefit the Parcels.

Notwithstanding anything to the contrary in this Agreement or the TIF Resolution, the Public Infrastructure Improvements may include, but are not limited to, (i) cash payments to the School District for the School District's construction of Public Infrastructure Improvements made to School District facilities, and (ii) payments made to other governmental entities for the construction of Public Infrastructure Improvements within Delaware County as allowed under law. In addition, the Company may assign a portion of future Service Payments to another governmental entity or private entity to reimburse that entity for Costs incurred by that entity for Public Infrastructure Improvements.

DEVELOPMENT AGREEMENT

This Development Agreement ("Agreement") is made and entered into this 5th day of August, 2019, by and between Hyatts Steitz Farm LLC (hereinafter the "Landowner," or cumulatively "Landowners"), the Schottenstein Real Estate Group LLC, an Ohio limited liability company ("Developer") and Liberty Township, an Ohio township organized and existing under the laws of the State of Ohio ("Township").

RECITALS:

WHEREAS, the Landowner owns and control approximately 189 +/- acres of land located west of Sawmill Parkway and North of Home Road, which land is depicted on Exhibit A and referred to herein as the "Property" and/or generally as the "POD" as hereinafter defined; and,

WHEREAS, the Township adopted a comprehensive master planned development that included the Property, in the form of a Planned Overlay District ("POD") the map of which POD is depicted on Exhibit B attached hereto for the benefit of the Township; and

WHEREAS, the Landowner believes the Property will benefit from the comprehensive planning and zoning/development; and

WHEREAS, the Landowner engaged the Developer to assist with the planning and thereafter to execute the planned efforts; and

WHEREAS, the Township owns real property along Sawmill Parkway, adjacent to the Property and the POD ("Township Land"); and

WHEREAS, the POD includes a planned collector roadway (the "POD Road") as an integral component of the POD to address traffic access and circulation, which POD Road is planned for future connection to Sawmill Parkway through the Township Land, depicted on Exhibit C attached

hereto, and for which location and final design specifications are subject only to final engineering and final approvals from the Delaware County Engineer; and

WHEREAS, the Township seeks to provide necessary future right of way easement(s) across the Township Land to ensure that the Property and entire POD are developed with access to Sawmill Parkway and all public utilities are extended, such that each sub-area of the POD will have access to the POD Road and adequate public utilities, as generally depicted with two options for future access on Exhibit C attached hereto; and

WHEREAS, the Township has approved another development with direct access to Sawmill Parkway, which access will provide greater distributions of traffic for the larger south east quadrant / region of Hyatts Road and Sawmill Parkway, as generally depicted on Exhibit D; and

WHEREAS, in furtherance of the regional distribution of traffic including the POD traffic, the Township desires to make and affirm a commitment to provide future necessary public roadway connections and facilitate the extension of public utilities with easements thereto; and

WHEREAS, the Township desires to effectuate public roadway connections and access in the region and to connect the Property, POD and POD Road to these access points for that purpose.

NOW THEREFORE, in consideration of the mutual promises and benefits contained herein, the adequacy and sufficiency of which is hereby acknowledged and agreed, the Landowner, the Developer and Township hereby agree as follows:

1. **Recitals.** The above recitals are incorporated by reference herein.
2. **POD Road Acknowledgement and Planning.** The Township acknowledges and agrees that the POD includes the Property and the POD Road, as shown on Exhibits A, B and C, respectively attached hereto. The Township acknowledges and agrees that the POD Road is an

integral and necessary component of the POD and the development of Landowner's Property. The POD Road is a material term of the POD and this Agreement.

The Township further acknowledges and agrees that the POD shall have future roadway access connections to Steitz Road, through sub areas B, C and F, details of which are subject to final engineering and approval by the Delaware County Engineer. Access to Steitz Road via sub area A of the POD is intended for emergency access only and is also subject to final engineering and approval by the Delaware County Engineer.

In addition to POD Road planning, the Township and Developer agree to work in good faith to explore and consider economic development tools that may be appropriate and agreeable to both parties. The Township acknowledges and agrees to provide any consent or approvals as may be needed for Developer to form a new community authority or other private entity for purposes of financing improvements or otherwise to establish assessment(s) within the POD.

3. Township Land. The Township agrees to provide to the Developer, all land, access and easements necessary to establish and extend the POD Road and public utilities as may be necessary, within, over and across the Township Land, at the two optional locations where the Township Land is adjacent to the POD through to Sawmill Parkway, as the two optional locations are generally shown and depicted on Exhibit C, attached hereto. The Township agrees that it shall provide the land/or easement in sufficient width and length as needed to extend the POD Road, which road is planned as a landscaped boulevard, and which right of way shall be not less than 100 feet in width. This land/easement from the Township for the POD Road, and any easements necessary for public utility requirements shall be at no cost to the Developer, and in turn the Developer agrees to construct the planned public POD Road, and public utility(s)

connections at no cost to the Township. The Township also agrees to permit the installation of fencing along the Sawmill Parkway frontage of the Township Land, of the same type, style and size that is approved by the Township for the POD development, as upon final development plan approval. In addition to the above easements for POD Road and utility improvements (possible future location of same), the Township agrees to grant general utility easements within the Township Land and to grant easements which allow for the installation of entry signage / features, storm water management including but not limited to detention/retention ponds, and landscaping elements upon and within the Township Land, at no additional cost to Developer. Final location with description of any such easements to be determined by final engineering. Developer agrees to reimburse the Township for reasonable and necessary costs, including reasonable attorneys' fees if applicable, associated with final execution of these easements.

4. **Road, Utility Construction and TIF Approvals.** The Township agrees to approve plans for and permit such portions or area of Township Land for POD Road construction, not less than 100 feet wide, as planned for in Section 3 above, for all construction to be performed by the Developer. Exhibit C may be updated to reflect, and the Township acknowledges that such updates may include final design and location of the POD Road, and easements / rights of way as needed for the POD Road or any areas for utility construction. Final location and design are subject only to final engineering and approval by the Delaware County Engineer. The Township acknowledges and agrees that the Developer may construct the POD Road at any time, in phases or sections, or all at one time, depending on market conditions and subject only to final engineering and approval by the Delaware County Engineer.

In addition to POD Road construction, the Developer may dedicate the parkland areas to the Township, in POD 18(B), Sub area F, and Trustees agree to accept such parkland dedication and the responsibility and costs of maintenance thereof. The Township acknowledges and agrees that the parkland area will require storm water basins for retention and detention including storm water management from other POD sub areas, as required by sound engineering practices.

The Township acknowledges and agrees that in furtherance of establishing the POD Road and other public improvements, the Township shall approve a seventy five percent (75%), ten year (10) tax incentive financing district ('TIF' or 'TIF District'), with terms agreeable to the Developer, upon the Property, the purpose of which will be to fund public improvements including but not limited to the public improvements listed on Exhibit E attached hereto.

5. Timing. The Township agrees to provide the access, permits and any easements necessary for extension of the POD Road and public utilities as may be necessary within, over and across the Township Land, upon request of the Developer at such time as Township approval is needed to obtain any final engineering and construction approvals for the POD Road or any portion of the public road(s) thereof.

6. POD Road Construction. The POD Road and public utilities as may be required shall be constructed by the Developer, and extended to each sub area no later than at the time of development for each sub area, to create direct access/contiguity for the Property and each POD sub area to the POD Road and to Sawmill Parkway. Planning and the general location of the POD Road shall be provided by the Developer and Landowner of each sub area upon request for each sub area Final Development Plan as provided for in the POD or at the time of platting in the event the POD Road is constructed ahead of final development plan for any sub area. With the exception of the Township Land described above in Sections 3 and 4, which Township Land shall be

provided at the request of the Developer, all land, right of way, easements or other basic requirements for construction of the POD Road and through the POD shall be provided by the Landowner of each sub area.

7. North Sawmill Parkway Access and Regional Traffic Planning

The Township seeks effective traffic distributions and public roadway access for the regional area including the POD, to maximize effective traffic flow. The Township has approved a development north of the POD which development included a traffic analysis approved by the Delaware County Engineer that provided for a median cut along Sawmill Parkway to accommodate a future signalized intersection at a location generally depicted on Exhibit D attached hereto (the "North Sawmill Parkway Access"). The Township acknowledges and agrees that the North Sawmill Parkway Access is an integral and necessary component and a material term of this Agreement, and as such, the Township agrees to provide a connection between the POD Road and Sawmill Parkway at the North Sawmill Parkway Access. If necessary, and upon request of the Developer, the Township agrees to pursue the quick take procedures for the appropriation of lands needed to make for public roadway improvements not less than 100 feet in width, and public utility extensions as may be required, and the process of same, pursuant to Ohio law to obtain such land or easements necessary for such public roadway connection. The Township agrees that it shall acquire land or easements in sufficient form, width and length as needed to construct a landscaped boulevard, and which public road right of way shall be not less than 100 feet in width as generally shown and depicted on Exhibit D attached hereto, plus public utilities as may be required. The Developer agrees to reimburse the Township for the actual costs of land acquisition, as negotiated or as otherwise finally determined by a court of competent jurisdiction. Developer further agrees to reimburse the Township for the reasonable and necessary

costs of appropriation and related actions, including court costs and reasonable attorneys' fees, if applicable.

8. Miscellaneous.

(i) **Compliance Statement.** Nothing in this Agreement shall exempt the parties hereto from any zoning requirements, or Final Development Plan approval as required by the POD.

(ii) **Trustee Action.** The obligations of and agreements by the Township contained herein shall be effective and enforceable upon, and subject to, the passage of a resolution which authorizes this Agreement. By passage of Resolution _____ on _____, the Township Trustees authorized the execution of this Agreement.

(iii) **Permits.** Developer will obtain all necessary permits from all levels of government to allow Developer to build and develop the POD Road through the POD.

(iv) **Authority.** All Parties represent that they are duly authorized to sign this Agreement.

(v.) **Primary Authority, Cancellation or Termination.** This Agreement, specifically Sections 1 through 7 above, intentionally refer only to the Developer for commitments and obligations related to this Agreement for the POD Road construction, payments and other obligations as specifically set forth herein. In fact, the Landowner and Developer have separate private contractual arrangements, such that all authority with regard to the decision making, and the sole discretion of same, for subject matters set forth in this Agreement, are vested within the absolute and sole discretion of the Developer while the Developer remains in contract with the Landowner, or as upon purchase upon Landowner's properties ('Primary Authority'). The right of the Landowner to assert any rights set forth herein is expressly secondary and subordinate to the Primary Authority of the Developer for purposes of this Agreement (ie., Landowner cannot

independently terminate this Agreement or determine to exercise rights hereunder while in Contract with the Developer). Similarly, there shall be no development costs or obligations for the Landowner while the Developer remains in contract with the Landowner and has Primary Authority as herein defined. In the event the Developer is no longer in contract with the Landowner, the Landowner shall be substituted for the Developer with all rights, title and interest to the benefits and obligations of this Agreement. Only upon such occurrence and at such time shall the Landowner have decision making authority. At that time, the Landowner shall communicate in writing to the Township its desire to assume the responsibility for any future development costs that would be incurred under this Agreement. The mere assumption of Primary Authority by the Landowner shall not be construed to relieve the Landowner of its commitment for non annexation.

The Landowner and Developer are relying on the commitments of Township made herein to provide roadway connections both through the Township Land and through adjacent lands to the North Sawmill Parkway access location. The Landowner and Developer are also specifically relying on the commitments made herein by the Township to establish the seventy five percent (75%), ten year (10) tax incentive financing district ('TIF' or 'TIF District') upon the Property as set forth in Section 4 above, with terms agreeable to the Developer, and to establish a TIF Financing Agreement acceptable to Developer. In exchange for the roadway connections, the TIF, TIF District and TIF Financing Agreement, all legally effective, and all other mutual commitments set forth herein, Developer and Landowner agrees not to annex the Property into a municipality. Failure on the part of the Township to provide such public access or public utility easements at the times and in the manner as set forth herein, or failure of the Township to establish an effective TIF, TIF District for the Property, and TIF Financing Agreement, all as

acceptable to Developer, shall be considered a material breach of this Agreement, which breach, in addition to other rights and remedies set forth herein, shall fully and permanently relieve the Landowner and Developer of the obligations and commitments against annexation of this Section 8(v). Further, in the event that the Township, its boards or commissions as may apply, act in a manner adjudged by a court of competent jurisdiction to be unconstitutional, illegal, arbitrary, capricious, unreasonable, or unsupported by a preponderance of substantial, reliable, and probative evidence for any decision or order, related to the Property, the POD final development plan process or any approval or permit required by the Township for construction or development, without regard to finality of the legal decision or its appealability, Landowner and Developer shall be completely and permanently relieved of all obligations and commitments, respecting the Property and otherwise for all Property within the POD, against annexation as set forth herein above. If the Developer or Landowner annex any portion of the Property without a prior material breach by the Township as provided for herein above, or without written approval from the Township - which approval may be withheld in the sole and absolute discretion of the Township, then the Township shall be fully and permanently relieved of its obligations and commitments to provide roadway connections, land and/or easements, TIF creation or reimbursements as required herein or in the TIF Financing Agreement.

(a) In addition to the aforementioned, this Agreement may be cancelled or otherwise terminated by mutual written agreement of the Township and the Developer or Landowner, with Primary Authority at the time of the termination. The mere assumption of Primary Authority by the Landowner as permitted by this Section 8(v) above, shall not be construed to relieve the

Landowner of its commitment for non-annexation. The Parties mutually agree to provide notice to the other Parties in the event of a breach of any provision of this Agreement, of which the other Party may become aware. In that case, the breaching Party shall have thirty (30) days from the date of notice, or as long as the Parties may otherwise agree to in writing, as an opportunity to cure any perceived, prospective or actual breach of this Agreement. In the event such default or breach is of such nature that it cannot be cured or remedied within said thirty (30) day period, then in such event the defaulting Party shall upon written notice from any non-defaulting Party commence its actions to cure or remedy said breach within said thirty (30) day period, and proceed diligently thereafter to cure or remedy said breach. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved non-defaulting Party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to, proceedings to compel specific performance by the defaulting Party.

(vi) **Assignment of Agreement.** The Landowner may assign this Agreement, or any part thereof or any duty, obligation, privilege or right granted under this Agreement. Prior to Closing, Developer may assign this agreement to any Developer related entity. At or following Closing, Developer may freely assign its rights or obligation of this Agreement, in whole or in parts, or phases, in the sole discretion of Developer. SREG or Landowner(s), as applicable, shall deliver written notice of any assignment to the Township within a reasonable amount of time

after the assignment is made, and shall identify the assignee and provide the assignee's name, address, contact person, telephone number and email address.

(vii) **Relative Rights.** The rights and obligations of the parties hereunder shall be subject to the terms and conditions hereof, and will inure to the benefit of, and be binding on, the respective heirs, successors and assigns. There are no third-party beneficiaries created by this Agreement.

(viii) **Entire Agreement Merger Clause; Statement of Incorporation.** It is agreed that the Agreement merges all oral negotiations, representations, discussions and understandings between the Parties, their legal counsel, agents or representatives. This Agreement contains the entire Agreement of the Parties with respect to its subject matter. All documents related to this Agreement and/or attached hereto as exhibits or addendums shall be incorporated into this Agreement by reference as if fully set out at length herein.

(ix) **Severability.** If any clause, sentence, paragraph or part of this Agreement shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Agreement to the extent that the Parties' rights and expectations, and specifically the material terms and POD Road commitments, or public roadway connections and public utility extensions, can still be given full meaningful effect for both Parties.

(x) **Modifications or Amendment of Agreement.** No modifications, amendments, alterations or additions shall be made to this Agreement except in a writing signed by all Parties hereto.

(xi) **Executed Counterparts.** This Agreement is only effective upon signature by all parties, and further, this Agreement may be executed in several counterparts, each of which

shall be regarded as an original and all of which shall constitute but one and the same agreement. It shall not be necessary in proving this Agreement to produce or account for more than one of those counterparts.

(xii) **Captions and Defined Terms.** The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement. Use of the terms Property and POD shall be read consistent so as to give full effect and benefit to all of the Property owned by Landowner, whether in whole or in parts, or as may apply in phases, as the Property comprises the POD.

(xiii) **Effective Date.** This Agreement shall be effective when signed by all the Parties hereto.

(xiv) **Time.** Time shall be of the essence in doing and performing all things to be done under the terms of this Agreement.

[signatures on next page]

AGREED:

LANDOWNER

Hyatts Steitz Farm LLC

By: Dorothy Susanne Jackson, manager

Printed: Dorothy Susanne Jackson, manager

Date: Aug 2, 2019

Developer

Schottenstein Real Estate Group LLC

By: Donald J. Hunter, Jr. Senior Vice President

Printed: Donald J. Hunter

Dated: August 5, 2019

Liberty Township Trustees

Melanie Leneghan

Melanie Leneghan
Date: 8.5.19

Michael Gemperline

Michael Gemperline
Date: 8/5/2019

Shyra Eichhorn

Shyra Eichhorn
Date: 8/5/2019

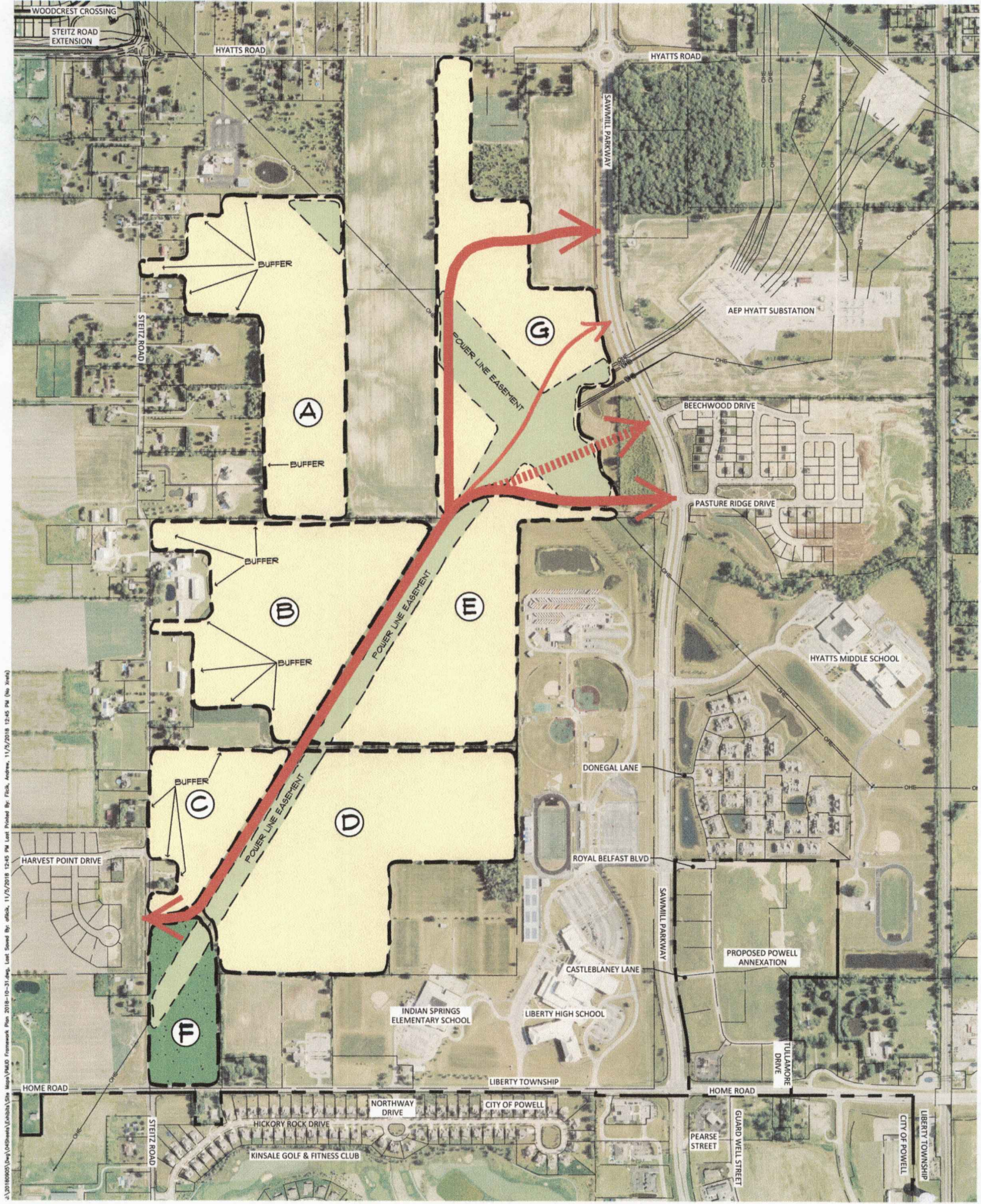
EXHIBITS

- A. Landowner Property Map
- B. Map of POD area
- C. POD Road and Township Property – two optional access points
- D. North Sawmill Parkway Access
- E. Public Improvements

TOWNSHIP OF LIBERTY, COUNTY OF DELAWARE, STATE OF OHIO



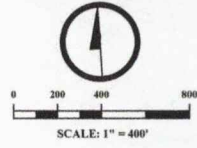
EXHIBIT A

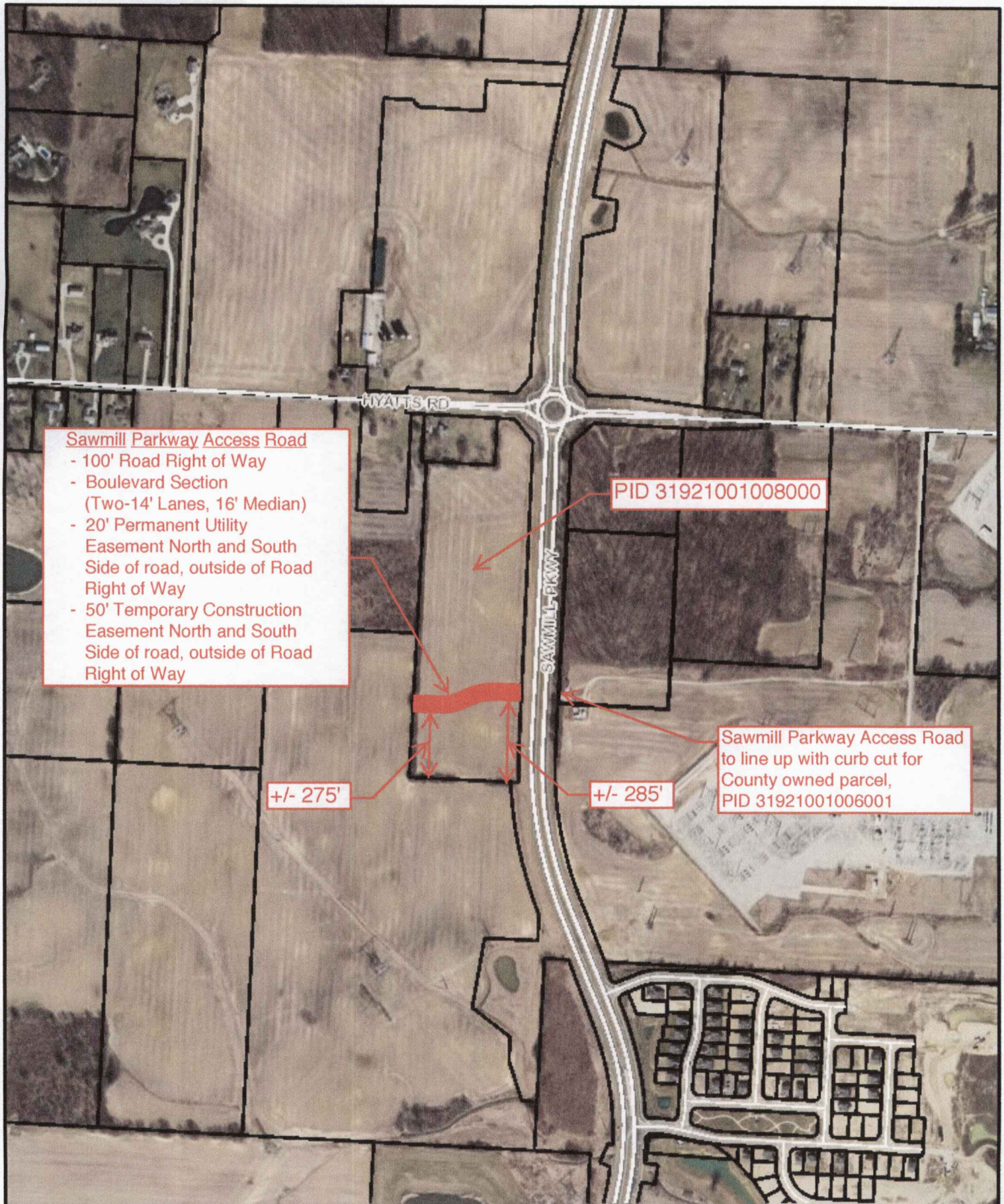


\\20180905\\img\\20180905\\Liberty\\Site Map\\P\\040 Framework Plan 2018-10-31.dwg, Last Saved By: Flah, Andrew, 11/5/2018 12:45 PM (No Xrefs)

EXHIBIT C

NOVEMBER 5, 2018
REVISED: DECEMBER 5, 2018
TAX MAP 05-0-2018





Delaware County Auditor
George Kaltsa

Information contained
Delaware County
or completeness. The map par
Flood Plain Informatic
Please repor

EXHIBIT D

within Delaware County.
imited to its accuracy
d as a "legal description" of a parcel.
partment (740-833-2201).
delaware.oh.us.



EXHIBIT E

PUBLIC INFRASTRUCTURE IMPROVEMENTS

The Public Infrastructure Improvements include, but are not limited to, any of the following improvements that will directly benefit the Parcels and all their related "costs" (as that term is defined in Section 4 of this Agreement):

- Construction, reconstruction, extension, opening, improving, widening, grading, draining, curbing or changing of the lines and traffic patterns of, highways, streets, intersections, bridges (both roadway and pedestrian), sidewalks, bikeways, medians and viaducts accessible to and serving the public, and providing signage (including traffic signage and informational/promotional signage), lighting systems, signalization, and traffic controls, and all other appurtenances thereto.
- The "Primary Road" consisting of public roadway system for circulation and connectivity purposes which will connect the Project to Sawmill Parkway, Hyatts Road, and Steitz Road; as depicted on the Primary Road Map, such Primary Road to include Segments 1, 2, 3 and 4. The Primary Road Map is incorporated herein to Exhibit B. As depicted on the Primary Roadway Map, Segment 1 is expected to include the construction of approximately 5800 linear foot boulevard roadway, roundabout(s), 20 foot lanes, a 12 foot median and an 80 foot public right of way (subject to modification). In addition, the construction of the Primary Road is expected to include, but not be limited to, curbs and gutters, sidewalks/multi-use paths, storm sewers, sanitary sewers, watermain and appurtenances, gas facilities, electric facilities, communication facilities, lighting, stormwater management facilities, landscaping, street trees, signage, artwork, sculptures and/or other streetscape improvements, and traffic signalization. The specifications, design and final configuration of the Primary Road are subject to change and modification in whole, or in part.
- Signage, artwork, sculpture and other related items that enhance, compliment and beautify the Parcels and the Public Infrastructure Improvements located in the public right-of-way or within public easements.
- Construction, reconstruction, extension, opening, improving, widening, grading, draining or curbing of walking and/or multipurpose paths that connect the Parcels to any public school facility, including improvements on the Parcels and any public school property.
- Construction, reconstruction or installation of public utility improvements (including any underground municipally owned utilities), storm and sanitary sewers (including necessary site grading therefore), water and fire protection systems, and all appurtenances thereto.
- Construction, reconstruction or installation of gas, electric and communication service facilities (including any underground lines or other facilities), and all appurtenances thereto.

- Construction, reconstruction and installation of stormwater and flood remediation projects and facilities, including such projects and facilities on private property when determined to be necessary for public health, safety and welfare.
- Continued and ongoing maintenance, paving, repaving, striping, grading and related work on roads, highways, streets, water and sewer lines constructed as part of the Public Infrastructure Improvements.
- Construction or installation of streetscape and landscape improvements including trees, tree grates, signage, curbs, sidewalks, scenic fencing, street and sidewalk lighting, trash receptacles, benches, newspaper racks, burial of overhead utility lines and related improvements, together with all appurtenances thereto, including, but not limited to streetscape improvements in conjunction with and along the roadway improvements described above.
- Acquisition of real estate or interests in real estate (including easements) (a) necessary to accomplish any of the foregoing Public Infrastructure Improvements or (b) in aid of industry, commerce, distribution or research, including, but not limited to, the acquisition of the Township Land and any acquisition of land in connection with the Township's taking title to any Public Infrastructure Improvements.
- Any other public infrastructure improvements, pursuant only to a written request by the Company, constructed or maintained by or on behalf of the Township that are determined by the Board of Township Trustees to directly benefit the Parcels.

Notwithstanding anything to the contrary in this Agreement or the TIF Resolution, the Public Infrastructure Improvements may include, but are not limited to, (i) cash payments to the School District for the School District's construction of Public Infrastructure Improvements made to School District facilities, and (ii) payments made to other governmental entities for the construction of Public Infrastructure Improvements within Delaware County as allowed under law. In addition, the Company may assign a portion of future Service Payments to another governmental entity or private entity to reimburse that entity for Costs incurred by that entity for Public Infrastructure Improvements.