

TOWN OF ADDISON, TEXAS

ORDINANCE NO. 007-034

AN ORDINANCE OF THE TOWN OF ADDISON, TEXAS AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE TOWN, THE SAME BEING APPENDIX-A ZONING OF THE TOWN'S CODE OF ORDINANCES, BY CHANGING THE ZONING CLASSIFICATION ON AN APPROXIMATELY 99.176 ACRE TRACT OF LAND LOCATED IN THE BROOKHAVEN CLUB AREA OF THE TOWN (AN AREA BEING BOUNDED ON THE NORTH BY SPRING VALLEY ROAD, ON THE EAST BY THE CITY OF FARMERS BRANCH, ON THE SOUTH BY BROOKHAVEN COMMUNITY COLLEGE AND THE CITY OF FARMERS BRANCH, AND ON THE WEST BY MARSH LANE (AND AS MORE PARTICULARLY DESCRIBED IN EXHIBIT A ATTACHED HERETO)) FROM (I) "A" APARTMENT DISTRICT (AS TO EIGHT (8) TRACTS OF LAND LOCATED WITHIN THE SAID 99.176 ACRE TRACT OF LAND AND CONTAINING APPROXIMATELY 87.7486 ACRES OF LAND) AND (II) PLANNED DEVELOPMENT DISTRICT (PD-CC, AS SET FORTH IN ORDINANCE NO. 828 OF THE TOWN) (AS TO ONE (1) TRACT OF LAND LOCATED WITHIN THE SAID 99.176 ACRE TRACT OF LAND AND CONTAINING APPROXIMATELY 9.4274 ACRES OF LAND) TO PD PLANNED DEVELOPMENT DISTRICT NO. 007-034 FOR RESIDENTIAL, RETAIL, AND OFFICE USES WITHIN A PEDESTRIAN ORIENTED VILLAGE; PROVIDING FOR AND ESTABLISHING USE REGULATION AND DEVELOPMENT CONDITIONS FOR THIS PLANNED DEVELOPMENT DISTRICT; CORRECTING THE OFFICIAL ZONING MAP; PROVIDING A PENALTY NOT TO EXCEED TWO THOUSAND AND NO/100 (\$2,000.00) FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING A SAVING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a tract of land located within the Town of Addison, Texas (the "City"), comprising a portion of the City generally known as the Brookhaven Club area and containing approximately 99.176 acres of land (the "Property") (which Property is generally bounded on the north by Spring Valley Road, on the east by the City of Farmers Branch, on the south by Brookhaven Community College and the City of Farmers Branch, and on the west by Marsh Lane, and is further described by metes and bounds in Exhibit A attached hereto and incorporated herein), is in part zoned "A" Apartment District (as to eight (8) tracts of land comprising a portion of the Property and containing approximately 87.7486 acres of land) and in part zoned PD Planned Development District (PD-CC, as set forth in Ordinance No. 828 of the City, as to one (1) tract of land comprising a portion of the Property and containing approximately 9.4274 acres of land); and

WHEREAS, the owner of the Property filed an application with the Planning and Zoning Commission of the City requesting a change in zoning of the Property to PD Planned Development and an amendment to the official Zoning Map of the City in accordance with City's comprehensive Zoning Ordinance, the same being Appendix A-Zoning of the City's Code of Ordinances (the "Zoning Ordinance") and proposes to build a mixed use development in phases on the Property under a unified plan consisting of retail, restaurant, residential and office uses within a pedestrian-oriented village setting; and

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with the State law and the ordinances of the City, have given the required notices and have held the required public hearings regarding the rezoning of the Property as hereinafter described; and

WHEREAS, after public notices were given in compliance with State law and public hearings were conducted, and after considering the information submitted at the said public hearings and all other relevant information and materials, the Planning and Zoning Commission of the City recommended to the City Council the rezoning of the Property as set forth in this Ordinance; and

WHEREAS, after due deliberations and consideration of the recommendation of the Planning and Zoning Commission and the information and other materials received at the public hearing conducted by the City Council, the City Council has concluded that the adoption of this Ordinance is in the best interests of the City and of the public health, safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

Section 1. Incorporation of Premises. The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

Section 2. Amendment. The Comprehensive Zoning Ordinance of the Town of Addison, Texas, the same being Appendix A – Zoning of the Code of Ordinances of the City (the "Zoning Ordinance"), is hereby amended by changing the zoning on the Property (as described in Exhibit A attached hereto and incorporated herein) from (i) "A" Apartment District, as to eight (8) tracts of land comprising a portion of the Property and containing approximately 89.7486 acres of land, and (ii) from PD Planned Development District (PD-CC, as set forth in Ordinance No. 828 of the City), as to one (1) tract of land comprising a portion of the Property and containing approximately 9.4274 acres of land, to PD Planned Development District No. 007-034, in accordance with the requirements of this Ordinance (including all exhibits referenced herein, each of which is incorporated herein for all purposes), all applicable parts of the City's Zoning Ordinance, and all other applicable ordinances, rules and regulations of the City.

Section 3. Development. The Property shall be developed, occupied, and used only in accordance with the terms and conditions of this Ordinance and all exhibits attached hereto (all of which are incorporated herein and made a part hereof for all purposes), including, without limitation, the Planned Development Conditions and Standards, Brookhaven Village attached hereto as Exhibit "B" and incorporated herein for all purposes (and including all of the exhibits

attached to the said Planned Development Conditions and Standards), the Concept Plan attached hereto as Exhibit “C” and incorporated herein and made a part hereof for all purposes, the Street Standards attached hereto as Exhibit “D” and incorporated herein and made a part hereof for all purposes, Street Lighting and Street Furnishings attached hereto as Exhibit “E” and incorporated herein and made a part hereof for all purposes, and the Sustainability Guideline for Brookhaven Development attached hereto as Exhibit “E” and incorporated herein and made a part hereof for all purposes, with the City’s Zoning Ordinance (and as the same may be hereafter amended or superseded), and with all other applicable ordinances, standards, rules and regulations of the City (and as the same may be hereafter amended or superseded).

Prior to development, occupancy, or use of any portion of the Property, a development plan must be submitted to and approved by the City in accordance with and as set forth in Article XV (Planned Development District) of the Zoning Ordinance and other applicable provisions. For purposes of the development of the Property and in connection with the issuance of a permit for such development, each phase of development of the Property, and each portion of the development of the Property as reflected in a development plan for that portion, constitutes a separate and distinct project for which a permit may be required.

Section 4. Building Permits, Certificates of Occupancy. No building permit or certificate of occupancy for any use on or in the Property shall be issued until there has been full compliance with this Ordinance and all other ordinances, rules, and regulations of the City.

Section 5. Zoning map. The official Zoning Map of the City shall be modified to reflect the zoning change herein made.

Section 6. Purpose. The amendment to zoning herein made has been made in accordance with the comprehensive plan of the City for the purpose of promoting the health, safety and welfare of the community, and with consideration of the reasonable suitability for the particular use and with a view of conserving the value of the buildings and encouraging the most appropriate use of land within the community.

Section 7. No Other Amendment; Savings. Except for the amendment and change made herein, the PD Ordinance is not otherwise amended hereby, and all other provisions thereof shall remain in full force and effect. This Ordinance shall be cumulative of all other ordinances of the City and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance.

Section 8. Penalty. It shall be unlawful for any person to violate any provision of this Ordinance, and any person violating or failing to comply with any provision hereof shall be fined, upon conviction, in an amount not more than Two Thousand Dollars (\$2,000.00), and a separate offense shall be deemed committed each day during or on which a violation occurs or continues.

Section 9. Severability. The sections, paragraphs, sentences, phrases, clauses and words of this Ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this Ordinance or application thereof to any person or circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of

the remaining portions of this Ordinance, and the City Council hereby declares that it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 10. Effective date. This Ordinance shall become effective from and after its date of approval and passage and after publication as provided by law.

PASSED AND APPROVED by the City Council of the Town of Addison, Texas this 9th day of October, 2007.



Joe Chow, Mayor

ATTEST:

By: 

Mario Cantzares, City Secretary

APPROVED AS TO FORM:

By: 

John Hill, City Attorney

Published:
11/30/2007

PROPERTY DESCRIPTION
PARCEL 1

BEING a tract of land situated in the Noah Good Survey, Abstract No. 520, being all of The Pier Addition, an Addition in the City of Addison, Texas according to the Plat thereof recorded in Volume 77233, Page 143 and all of Springhaven Apartments Addition, an Addition in the City of Addison, Texas according to the Plat thereof recorded in Volume 78015, Page 1834, both in Map Records, Dallas County, Texas and being all of those certain tracts of land conveyed by Special Warranty Deed to DCO Glenwood Apartments LP, recorded in Instrument No. 20070159781, DCO Springhaven LP, recorded in Instrument No. 20070153048, DCO Garden Oaks LP, recorded in Instrument No. 20070096223, DCO Clipper Pointe LP, recorded in Instrument No. 20070170325, DCO Talisker LP, recorded in Instrument No. 20070159777, DCO Greenbrook Apartments LP, recorded in Instrument No. 20070159785 and DCO Brooks Apartments LP, recorded in Instrument No. 20070086354, all in Official Public Records, Dallas County, Texas (collectively called "DCO tract") and being more particularly described as follows:

BEGINNING at a point for corner at the intersection of the Northwesterly ROW line of Brookhaven Club Drive with the East ROW line of Marsh Lane, said point being at the Southwest corner of said DCO tract;

THENCE: North 00 degrees 01 minutes 21 seconds East, along the East ROW line of Marsh Lane and an West line of said DCO tract, a distance of 784.46 feet to a point for corner at the Southwest corner of Brookhaven Village Shopping Center Addition, recorded in Volume 86225, Page 4769, Plat Records, Dallas County, Texas;

THENCE: along the common line of said Brookhaven Village Shopping Center Addition and said DCO tract, the following bearings and distances:

South 89 degrees 43 minutes 05 seconds East, a distance of 43.02 feet to a point for corner at the Southeast corner of said Brookhaven Village Shopping Center;

North 00 degrees 02 minutes 13 seconds East, a distance of 751.46 feet to a point for corner;

South 89 degrees 50 minutes 01 seconds East, a distance of 369.27 feet to a point for corner;

North 00 degrees 19 minutes 19 seconds East, a distance of 708.69 feet to a point for corner in the South ROW line of Spring Valley Road, said point being at the Northwest corner of said DCO tract and the Northeast corner of said Brookhaven Village Shopping Center Addition;

THENCE: South 89 degrees 43 minutes 35 seconds East, along the South ROW line of Spring Valley Road and the North line of said DCO tract, a distance of 1204.72 feet to a point at the beginning of a curve to the right, having a central angle of 22 degrees 55 minutes 19 seconds, a radius of 223.50 feet and a chord bearing South 78 degrees 15 minutes 58 seconds East, a distance of. 88.82 feet;

THENCE: Southeasterly, along said curve to the right, an arc distance of 89.41 feet to the end of said curve, in the West line of a tract of land conveyed to Crimson Tide Management by Warranty Deed recorded in Volume 98060, Page 3378, Deed Records, Dallas County, Texas, said point also being at the Northernmost Northeast corner of said DCO tract;

THENCE: South 00 degrees 16 minutes 37 seconds West, along the common line of said DCO tract and said Crimson Tide Management tract, a distance of 177.93 feet to a point for corner at the Southwest corner of said Crimson Tide Management tract;

THENCE: South 67 degrees 10 minutes 18 seconds East, along said common line, a distance of 77.19 feet to a point for corner in the Northwesterly ROW line of Brookhaven Club Drive, said point also being at the Southeast corner of said Crimson Tide Management tract;

THENCE: along the Northwesterly ROW line of Brookhaven Club Drive and the Southeasterly line of said DCO tract, the following bearings and distances:

South 26 degrees 18 minutes 00 seconds West, a distance of 862.02 feet to a point at the beginning of a curve to the right, having a central angle of 59 degrees 28 minutes 36 seconds, a radius of 334.00 feet and a chord bearing South 56 degrees 02 minutes 17 seconds West, a distance of 331.36 feet;

Southwesterly, along said curve to the right, an arc distance of 346.71 feet to a point at the end of said curve and the beginning of a curve to the left, having a central angle of 44 degrees 34 minutes 25 seconds, a radius of 434.00 feet and a chord bearing South 63 degrees 29 minutes 23 seconds West, a distance of 329.18 feet;

Southwesterly, along said curve to the left, an arc distance of 337.63 feet to a point at the end of said curve;

South 41 degrees 12 minutes 11 seconds West, a distance of 885.67 feet to a point at the beginning of a curve to the right, having a central angle of 49 degrees 00 minutes 01 seconds, a radius of 700.00 feet and a chord bearing South 65 degrees 42 minutes 12 seconds West, a distance of 580.57 feet;

Southwesterly, along said curve to the right, an arc distance of 598.65 feet to a point at the end of said curve;

North 89 degrees 47 minutes 48 seconds West, a distance of 103.11 feet to the PLACE OF BEGINNING and containing 54.017 acres of land.

PROPERTY DESCRIPTION
PARCEL 2

BEING a tract of land situated in the Noah Good Survey, Abstract No. 520, being all of Millcreek Apartments, an Addition in the City of Addison, Texas according to the Plat thereof recorded in Volume 76235, Page 2247, Map Records, Dallas County, Texas and being all of that certain tract of land conveyed to DCO Brookhaven LP by Special Warranty Deed recorded in Instrument No. 200600407616, Official Public Records, Dallas County, Texas and all of that certain tract of land conveyed to DCO Greenhaven LP by Special Warranty Deed recorded in Instrument No. 200600335782, Official Public Records, Dallas County, Texas (collectively called "DCO tract") and being more particularly described as follows:

BEGINNING at a point for corner in the Southeasterly ROW line of Brookhaven Club Drive, said point being at the Northwest corner of said DCO tract and the Southernmost Southwest corner of a tract of land conveyed to The Lemmons Co. by Special Warranty Deed recorded in Volume 2002212, Page 5261, Deed Records, Dallas County, Texas;

THENCE: South 89 degrees 35 minutes 11 seconds East, along the common line of said DCO tract and said The Lemmons Co. tract, a distance of 50.05 feet to a point for corner;

THENCE: North 26 degrees 33 minutes 34 seconds East, along said common line, a distance of 58.13 feet to a point for corner;

THENCE: South 89 degrees 42 minutes 26 seconds East, continuing along said common line, a distance of 301.45 feet to a point for corner in the West line of Lot 1, Block A, The Villas at Parkside, Phase I, recorded in Volume 95174, Page 4325, Map Records, Dallas County, Texas, said point also being at the Northeast corner of said DCO tract and the Southeast corner of said The Lemmons Co. tract;

THENCE: South 00 degrees 07 minutes 24 seconds East, along the common line of said DCO tract and said Lot 1, Block A, The Villas of Parkside, Phase I, a distance of 1818.92 feet to a point for corner in the West line of Lot 1, Block A, Exxon Mobil Addition, recorded in Volume 2001198, Page 30, Map Records, Dallas County, Texas, said point also being at the Northeast corner of Brookhaven College Replat, recorded in Volume 86105, Page 2676, Map Records, Dallas County, Texas;

THENCE: North 89 degrees 50 minutes 23 seconds West, along the common line of said DCO tract and said Brookhaven College Replat, a distance of 1211.36 feet to an angle point at the Northeast corner of Wooded Creek Estates, recorded in Volume 78111, Page 553, Map Records, Dallas County, Texas;

THENCE: North 89 degrees 46 minutes 21 seconds West, along the common line of said DCO tract and said Wooded Creek Estates, a distance of 349.43 feet to a point for corner at the Southwest corner of said DCO tract and the Southeast corner of Brooktown Towne House, recorded in Volume 72019, Page 1320, Condominium Records, Dallas County, Texas;

THENCE: North, along the common line of said DCO tract and said Brooktown Towne House, a distance of 318.93 feet to an angle point;

THENCE: North 48 degrees 47 minutes 49 seconds West, along said common line, a distance of 142.08 feet to a point for corner in the Southeasterly ROW line of Brookhaven Club Drive, said point also being at the Southernmost Northwest corner of said DCO tract and the Northeast corner of said Brooktown Towne House;

THENCE: along the Southeasterly ROW line of Brookhaven Club Drive and the Northwesterly line of said DCO tract, the following bearings and distances:

North 41 degrees 12 minutes 11 seconds East, a distance of 729.50 feet to a point at the beginning of a curve to the right, having a central angle of 44 degrees 34 minutes 25 seconds, a radius of 334.00 feet and a chord bearing North 63 degrees 29 minutes 23 seconds East, a distance of 253.33 feet;

Northeasterly, along said curve to the right, an arc distance of 259.84 feet to a point at the end of said curve and the beginning of a curve to the left, having a central angle of 59 degrees 28 minutes 36 seconds, a radius of 434.00 feet and a chord bearing North 56 degrees 02 minutes 17 seconds East, a distance of 430.56 feet;

Northeasterly, along said curve to the left, an arc distance of 450.52 feet to a point at the end of said curve;

North 26 degrees 18 minutes 00 seconds East, a distance of 500.90 feet to the PLACE OF BEGINNING and containing 45.159 acres of land.

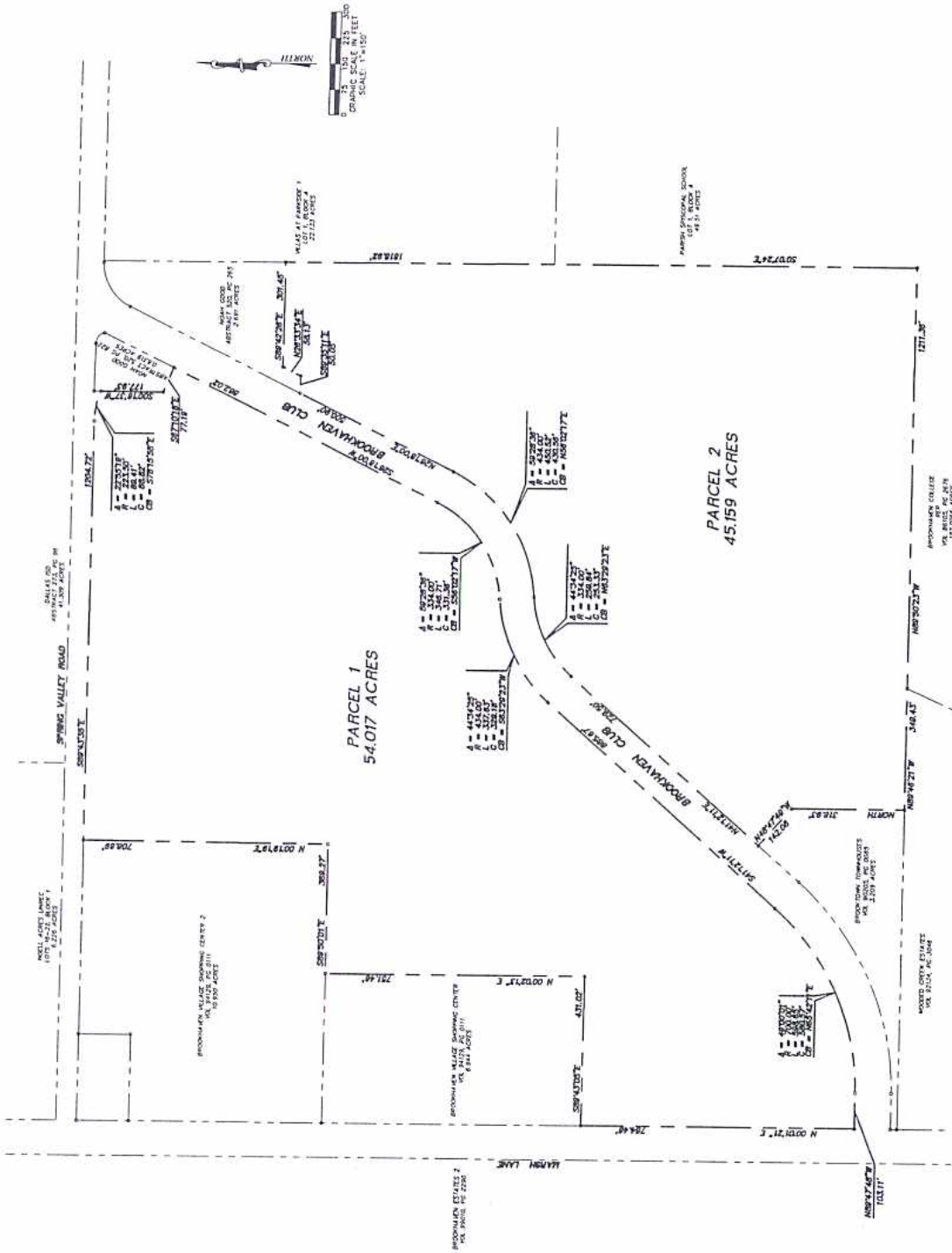


EXHIBIT B
PLANNED DEVELOPMENT CONDITIONS AND STANDARDS

1. **Purpose.** The purpose of this Planned Development District No. 007-034 (the “PD District,” “planned development district,” or “district”) is to create a mixed use environment under a unified plan consisting of retail, restaurant, residential and office uses within a pedestrian-oriented village setting, to be developed in accordance with all of the standards, terms and conditions of this Ordinance No. 007-034 (the “Ordinance”). These Planned Development Conditions, Brookhaven Village are incorporated into and made a part of the Ordinance for all purposes. Development, occupancy, and use of the Property and any portion thereof shall comply with development conditions set forth herein, with the Ordinance, with all applicable provisions of the Zoning Ordinance of the Town of Addison, Texas (the “City”) (the same being Appendix A – Zoning of the Code of Ordinances of the City, and as it may be amended or superseded (the “Zoning Ordinance”)), and with all other applicable ordinances, laws, rules, regulations, standards, and codes of the City and any other governmental entity or agency having jurisdiction over the Property or applicable portion thereof.

2. **Definitions, Interpretations.** Unless otherwise stated, the definitions and interpretations in the Zoning Ordinance apply to this Ordinance and the development conditions set forth herein.

3. **Concept Plan.** Development and use of the Property which is the subject of this Ordinance (which Property is described by metes and bounds and a survey of which is attached to this Ordinance as Exhibit “A”) (the “Property”) must substantially comply with the concept plan attached to the Ordinance as Exhibit “C” and incorporated into and made a part of this Ordinance for all purposes (the “Concept Plan”).

4. **Development Plan.**

- a. **Plan Required.** Prior to and as a condition of the issuance of a building or any other permit for (i) any development, or (ii) the construction, erection, alteration, extension, placement or locating of any building, structure, or improvement whatsoever, within the Property or any portion thereof, a development plan for the same must be approved by the Planning and Zoning Commission and by the City Council in accordance with Article XV, Section 5 of the Zoning Ordinance. A development plan (whether submitted for the entire Property or for a portion thereof) must comply with the Conceptual Plan, the standards, terms and conditions of this Ordinance, the Zoning Ordinance, and all other applicable ordinances, laws, rules, regulations, codes and standards of the City and any other governmental entity or agency having jurisdiction over the Property or applicable portion thereof. Development, occupancy, and use of the Property or portion thereof which is covered by or the subject of a development plan must comply in all respects with the development plan. Upon approval of a development plan by the City Council, the same shall be incorporated into and made a part of this Ordinance for all purposes.

5. Uses.

- a. Authorized Uses; Prohibited Uses. Only those uses identified herein as permitted uses, special uses, or accessory uses are authorized uses (subject to the terms, conditions and provisions of this Ordinance) within the Property. All other uses are expressly prohibited.
- b. Permitted Uses. The following uses of land are authorized as permitted uses within the Property. Uses are further classified according to general categories of land uses. To the extent expressly authorized by these PD District regulations, a general use category (e.g., “retail”) may be identified on the Concept Plan or, except for residential uses, on a development plan. Upon approval of the Concept Plan or a development plan which includes a general use category, any use appearing or classified under such general use category in the use list set forth below, is authorized in accordance with the Concept Plan or development plan, as the case may be, any conditions attached thereto, and all other provisions of this Ordinance, the Zoning Ordinance, and any other ordinance, law, rule, regulation, code, and standard applicable thereto:

1. *Residential.* Residential uses within the Property are limited to the following:

Townhouse
Condominium
Multifamily

2. *Retail.* Retail uses within the Property are limited to the following (all uses listed below are for retail use only (whether or not so specified), and are subject to the General Conditions set forth in subsection e. of this Section 5):

Antique shop
Aquarium
Art gallery
ATM facilities
Bakery, retail sales only
Bank
Barber and beauty shop
Bicycle sales and service
Book or stationery store
Business support services
Camera shop
Candy, cigars and tobaccos, retail sales only

Caterer and wedding service (office only)
Cleaning, dyeing and laundry pick-up station for receiving and delivery of articles to be cleaned, dyed and laundered, but no actual cleaning, dying, or laundering work is to be done on the premises
Coffee shop (no seating on premises)
Convenience store
Cosmetic and beauty supplies
Dance studios
Department store
Donut and pastry shop, no seating on premises
Drug store, retail sales only
Electrical goods and fixtures for consumer use
Electronics store
Film developing and printing
Financial services
Fix-it shops, bicycle repair, saw filing and lawn mower sharpening, retail sales only
Florist, retail sales only
Furniture sales, repairs and upholstery
Gallery, for the display and sale of artworks
Grocery store, retail sales only
Hardware, sporting goods, toys, paints, wallpaper, clothing, retail sales only
Health club, private and public
Household and office furniture, furnishings and appliances, retail sales or rental only
Jewelry, optical goods, photographic supplies, retail sales only
Laundromat, equipped with automatic washing machines of the type customarily found in a home and where the customers may personally supervise the washing and handling of their laundry
Magazine store
Meat market, retail sales only
Medical and dental clinics
Movie DVD and VHS rental and sales
Optician and optical store
Pet and pet supplies
Photographer or artist studio
Pizza delivery shop, no seating on premises
Piano and musical instruments
Plumbing shop, without warehouse facilities (to include storage for ordinary repairs, but not storage for materials for contracting work)
Printing and copy shop, retail sales only

Professional offices for architect, attorney, engineer and real estate
Public garage, parking, no repairs
Retail Store
Seamstress, dressmaker, or tailor
Shoe repair shop, retail sales only
Sporting goods, toy & hobby store
Studio for the display and sale of glass, china, art objects, cloth and draperies
Studios, dance, music, drama, martial arts
Tailors
Telephone stores
Title companies
Travel services
Wearing apparel, including clothing, shoes, hats, millinery and accessories

3. *Office.* (Defined under article XXX of the Zoning Ordinance)
 4. *Home office.* For the purposes of this PD District, “home office” means and includes office uses that are performed in a residential dwelling unit or in an office attached to a residential dwelling unit, that do not involve any structural change to the building or premises in which the use is conducted. A home office use, which is located on the ground floor of a building may include the employment of not more than three employees, including the person who is the primary resident of the residential dwelling unit where the home office use is conducted . A home office use which is located on any floor of a building other than the ground floor may not include the employment of any employee other than a person who is a primary resident of the residential dwelling unit where the home office use is conducted.
 5. *Civic.* (Defined under article XXX of the Zoning Ordinance)
 6. *Mixed use (with residential).* (Defined under article XXX of the Zoning Ordinance)
 7. *Mixed use (with nonresidential).* (Defined under article XXX of the Zoning Ordinance)
- c. Special Uses. A use listed below in this subsection may be permitted within the Property provided the same is first authorized by the approval of a special use permit in accordance with and subject to Article XX, Special Uses, of the City's Zoning Ordinance (and as the same may be modified or superseded):

1. Hotel.
 2. Cleaning, dyeing and laundry pick-up station, with cleaning, dyeing and/or laundry work done on the premises.
 3. Library, for loan of books and other materials typically performed by a public library.
 4. Public safety facilities.
 5. Restaurant.
 6. Retirement home.
 7. Sale of alcohol for on-premises consumption.
 8. Transit facilities.
- d. Accessory Uses. The following are permitted as accessory uses within the Property:
1. Community, social, hobby, or laundry facilities, for use by occupants of a residential development within the Property which are customary to residential developments.
 2. Recreation space and facilities.
 3. Parking and parking structures.
 4. Other uses customarily incidental and subordinate to permitted uses and any special uses.
- e. General Conditions. Development, occupancy, and use of the Property shall comply with the following conditions, as applicable:
1. *Retail use.* A retail use may be operated or conducted only in accordance with the following:
 - (a) Except as provided in subsection (b) below (regarding kiosks), a retail use is permitted only in connection with and as a part of a “mixed use (with residential),” as the same is defined in Article XXX of the Zoning Ordinance.
 - (b) Notwithstanding subsection (a) above (regarding a mixed use (with residential)), a retail use may be provided or conducted from and within a portable kiosk. For purposes hereof, “kiosk” means a small, free-standing one-story building or structure having a maximum floor area of 500 square feet which is portable in nature, is not permanent, and can be easily and readily moved from location to location. If a portable kiosk is to be occupied, it shall have a minimum floor area of 25 square feet. A portable kiosk for the purpose of providing or conducting a retail use is permitted anywhere within the Property.

- (c) Except as the same may be provided or conducted from a portable kiosk, free-standing retail is prohibited. For purposes hereof, “free-standing retail” means the use or occupancy of a free-standing building for a retail use.

6. **Development Standards.**

- a. For purposes of determining parking and open space compliance, the entire Property shall be considered as one lot. For example, retail parking in one phase of development, such as parking in a parking structure, may be applied to the required parking in another phase of retail development. Notwithstanding the consideration of the entire Property as one lot for parking and open space compliance purposes, parking for each development or phase of a development within the Property must be sufficient (and satisfy all of the standards set forth herein) for the development or phase thereof.
- b. Development, occupancy, and use of the Property shall comply with the development standards set forth in the following Table A:

TABLE A: DEVELOPMENT STANDARDS	
<p><u>Street Build-to Line</u></p> <p>All primary buildings, structures, walls, fences, and other improvements shall be constructed, located, placed, and erected along and contiguous to the applicable build-to line; provided, however, that not more than 30 percent of any street frontage may vary from the build-to line, except in that portion of the Property identified on the Concept Plan as “Subarea 1” not more than 50 percent of any street frontage may vary from the build-to line. The build-to line shall be measured from the closest right-of-way line of the adjacent street.</p>	<p><i>Street build-to lines within the Property are as follows (streets are as shown or identified on the Concept Plan):</i></p> <ul style="list-style-type: none"> • 9 feet along A streets (as shown on the attached Exhibit “C” to this Ordinance No. 007-034) • No less than 6 feet, no more than 9 feet along B streets (as shown on the attached Exhibit “C” to this Ordinance No. 007-034) • No less than 6 feet, no more than 9 feet along all C streets (as shown on the attached Exhibit “C” to this Ordinance No. 007-034) • 4 feet along all D streets (as shown on the attached Exhibit “C” to this Ordinance No. 007-034) • No less than 6 feet, no more than 9 feet along all E streets (as shown on the attached Exhibit “C” to this Ordinance No. 007-034)

<u>Side Yard Setback</u>	None, except as required by the City's Fire Code (and as the same may be amended or superseded from time to time)	
<u>Rear Yard Setback</u>	None, except as required by the City's Fire Code (and as the same may be amended or superseded from time to time)	
<u>Maximum height of building</u>	No maximum height; except the portion of any building or other structure which is located within 100 feet of the property line of a lot or other parcel of land which is zoned for single family or apartment use or which is otherwise used or occupied for a residential use shall not exceed 60 feet in height. All heights are subject to FAA approval.	
<u>Minimum lot area</u>	No minimum lot area	
<u>Minimum lot width</u>	No minimum lot width	
<u>Minimum lot depth</u>	No minimum lot depth	
<u>Minimum area per Residential dwelling unit</u>	Efficiency	450 sq. ft.
	One- Bedroom	600 sq. ft.
	Two-Bedroom	850 sq. ft.
	Three-Bedroom	1,000 sq. ft.
	Townhouse	1,600 sq. ft.
	Office uses	500,000 sq. ft.
<u>Maximum nonresidential square footage</u>	Retail, restaurant and personal service uses	500,000 sq. ft.
<u>Maximum lot coverage</u>	95%	

c. Miscellaneous development standards:

1. Lot coverage:

- (a) The area of a porch or arcade fronting a public street is not included in the calculation of lot coverage.
- (b) The area of an above-grade parking structure is included in the calculations of lot coverage.

2. Height: Architectural features including, but not limited to, turrets, spires and towers may exceed maximum height of building provided that any such structure is no more than 15 feet higher than the maximum permitted height and has a floorplate which is ten percent, or less, of the ground floor area of the building of which it is a part.
3. Setbacks:
 - (a) *Overhangs and fireplaces.* The minimum setback requirements shall apply in all cases, except that fireplaces, eaves, bays, balconies and fireproof stairways may extend up to a maximum of five feet into the required setbacks.
 - (b) *Patios.* Patios may be constructed within the required setback zones.

7. **Open Space.**

- a. Two acres for every 1,000 residents shall be dedicated for public open space use by the project applicant up to the point that dedication has been provided for 2,250 residents. After sufficient open space has been dedicated to meet the requirement for 2,250 residents, 1 1/2 acres of open space for each 1,000 residents shall be dedicated for public use by the project applicant. For purposes of this section, the number of residents expected to reside in the Property (or applicable portion thereof) shall be determined by estimating the number of dwelling units authorized for a proposed project, multiplied by a factor of 1.5 persons per dwelling unit.
- b. Land proposed to be dedicated as public open space shall be clearly shown on the Concept Plan and final development plan submittals.
- c. Land to be dedicated for public open space shall be approved initially by the planning and zoning commission and thereafter shall be submitted to the city council for consideration of acceptance of the proposed dedication. No dedication shall be deemed approved without express action of the city council in the form of a written "acceptance of dedication." Failure of the city council to execute an acceptance of dedication shall be deemed to be a refusal of the proposed dedication.
- d. In its approval of any development plan, the Town may impose such conditions as deemed necessary to assure that the intent and purpose of this section is satisfied.

8. **Parking.**

- a. *Generally.* Off-street parking must be provided for the appropriate building use classification according to the following ratios:
 1. *General retail.* (1/250 s.f.) One space per each 250 square feet of gross floor area.
 2. *Furniture store.* (1/1,000 s.f.) One space per each 1,000 square feet of gross floor area.
 3. *Medical or dental clinics.* (1/200 s.f.) One space per each 200 square feet of gross floor area.
 4. *Bank or savings and loans.* (1/300 s.f.) One space per each 300 square feet of gross floor area.
 5. *Office.* (1/300 s.f.) One space per each 300 square feet of gross floor area.
An office building or group of buildings, which shall total 50,000 square feet or more: (1/300 s.f.). One space per 300 square feet of gross leaseable area.
 6. *Health club or studio for dance, music, drama, health and reducing.* (1/100 s.f.) One space per each 100 square feet of gross floor area.
 7. *Residential.* One space/bedroom to a maximum of two spaces/unit.
 8. *Hotel.* One space/hotel room plus one parking space per every 300 square feet of gross floor area of conference/banquet facilities.
 9. *Civic.* To be determined by parking demand analysis study for proposed use and approved by the town's director of development services.
 10. *Mixed use.* Number of spaces resulting from application of ratios provided above for respective uses in the development.
- b. *Shared parking.* Uses may join in establishing shared parking areas if it can be demonstrated that the parking for two or more specific uses occurs at alternating time periods. Required parking shall be determined based on parking demand for the peak parking period as determined by a parking analysis study approved by the town's director of development services.
- c. *Below-grade parking.* Off-street below-grade parking is permitted to the lot lines, but must be designed to allow planting of landscape.
- d. *Parking garages.* Parking garage ramps shall not be expressed on the facades of parking structures fronting, or visible from public streets. Steel parking garages and steel guard cables on the garage facades are prohibited. The maximum length of an exposed parking structure along a street is 200 feet.
- e. *Bicycle parking.* Bicycle parking shall be provided for all multi-family and commercial uses.

9. **Streets.** All streets and blocks in the Property shall conform to the provisions of this section.

Office of the City Secretary

Ordinance 007-034

EXHIBIT B

- a. *Street standards.* Standards for streets within the Property shall be as set forth in Exhibit “D,” which is attached to this Ordinance, No. 007-034 and made a part hereof by reference. The Town’s Master Thoroughfare Plan is amended to conform to Exhibit “D” for streets within this planned development district.
- b. *Street type and pattern.* The location of streets on the master thoroughfare plan is approximate. Precise location of streets shall be determined in conjunction with the approved Concept Plan and the approval of development plans.
- c. *Block length.* The length of a block shall not be less than 200 feet, nor more than 750 feet.

10. **Exterior Appearance.**

a. *Materials:*

- 1. At least 80 percent of the exterior cladding of all exterior walls fronting or visible from public streets (including above grade parking structures) shall be masonry construction. For purposes of this planned development district, “masonry construction” includes, but is not limited to brick, stone, cultured stone, glazing and plate glass, and split face concrete masonry units. An applicant, however may submit a design for construction of parking structures that employs alternative construction materials for exterior cladding with an application for a development plan. The alternative may be approved by the city upon determination that such construction will result in an appearance that is compatible with surrounding buildings and the overall character of the district.
- 2. At least 60 percent of exterior cladding of all walls not fronting on, or not visible from, public ways (including above grade parking structures) may be constructed of noncombustible materials including exterior stucco and fibrous cementitious material (e.g. hardi-material) construction.
- 3. The exterior cladding (excluding glass) of all buildings, (including above grade parking structures) shall be composed of not more than three materials (excluding roofs).
- 4. The following materials are prohibited as primary cladding materials:
 - Aluminum siding or cladding
 - Wood roof shingles
 - Unfinished concrete block (architecturally finished concrete block is permitted as a cladding material).

5. The following materials are prohibited as primary roofing materials:

Wood roof shingle
Composite shingles with less than a 50-year life

6. Balcony and patio railings and fences shall be constructed of wrought iron or metal. Wood fences and railings and chain-link fencing are prohibited.

b. *Windows:*

1. Where a retail use occupies the first floor, at least 70 percent of the first floor exterior wall facing a thoroughfare, street, boulevard or parking plaza shall be transparent glazing.
2. The exterior wall surface of all buildings above the first floor shall not be more than 50 percent glass.
3. Glass is to be clear or tinted, not reflective.

c. *Walls.* Walls attached to buildings shall be developed as architectural extensions of the building, constructed of the same material and in the same style.

d. *Color.* The dominant color of all buildings (including above-grade parking structures) shall be muted shades of color. Black and stark white shall not be used except as accent color. There are no restrictions on accent colors which comprise less than 1.0% of the building face, except that fluorescent colors are prohibited.

11. **Landscape.** Landscaping within the Property shall comply with the provisions in this section and with the standards contained in Article XXI, landscaping regulations of the Zoning Ordinance. Where conflicts exist between this section and the landscaping regulations, requirements in this section shall control.

a. **Streetscape Zone.** In the district, all streetscape elements, including street trees, lighting and other furnishings must be provided in the right-of-way, exclusive of driveways and access ways at points of ingress and egress to and from each lot.

1. Street Trees – Street trees shall be provided in accordance with the following:
 - (a) Each street (except treeless mews streets) shall have street trees planted at uniform spacing, commencing no closer than 40 feet from the face of curb of intersecting streets.

- (b) Typically, street trees shall be planted as shown on Exhibit “D”.
 - (c) Street trees shall be large shade species having a minimum of four (4) caliper inches, selected in accordance with the Town’s landscape regulations.
2. Street Lighting – Street lighting shall be provided in accordance with the following :
- (a) Each street shall have street lamps uniformly spaced between trees as shown on Exhibit “D(b)On A and B streets (as shown on the attached Exhibit “D”), locate street lamps at intervals no greater than 200 feet.
 - (c) Street lamps shall be selected in accordance with Exhibit “E”, attached to this Ordinance No. 007-034 showing acceptable selections.
3. Street Furnishings – Street furnishings shall be provided in accordance with the following:
- (a) Street furnishings shall include, but not be limited to, benches, trash receptacles, and bicycle racks.
 - (b) Street furnishings shall be located at the discretion of the developer, subject to the approval of the town’s Director of Parks and Recreation.
 - (c) Street furnishings shall be selected in accordance with Exhibit “E”, attached to this Ordinance No. 007-034, showing acceptable selections.
4. Landscaping for Non-residential ground floor frontages. Non-Residential ground floor frontages may pave the area between the building face and sidewalk.
5. Landscaping for Residential ground floor frontages. Residential ground floor frontages shall be required to landscape the entire area between the edge of sidewalk and the primary building façade, excluding access to sidewalks, stairs, stoops, porches and patios. This area must be irrigated, and may be landscaped with ground cover, low shrubs, and ornamental trees.
- b. Private Open Space. Private open space, which is owned and maintained by the developer, shall be landscaped and irrigated. The landscaping plan for the private

open space shall be approved by the Town as a part of the development plan approval for each development.

- c. Parking Lot Screening. Screening must be provided for all surface parking lots within the Property from all adjacent streets. The screening must extend along the entire street frontage of each surface parking lot, exclusive of (i) driveways and access ways at points of ingress and egress to and from the site, and (ii) visibility triangles. Screening shall be provided in accordance with the standards contained in Article XXI, Landscaping Regulations.

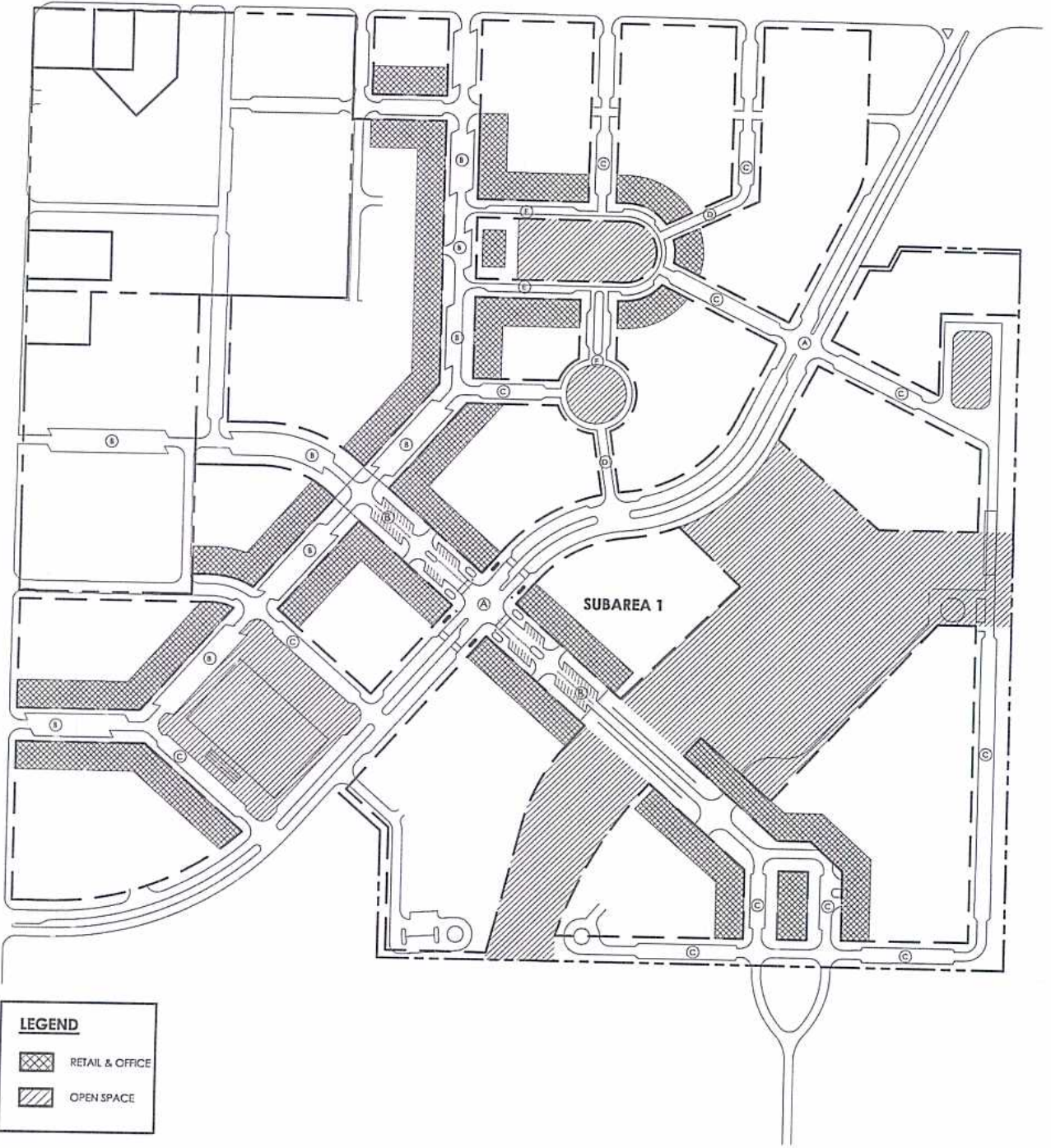
12. **Sustainability.**

All land contained within this Planned Development District shall be developed, and all buildings within this Planned Development District shall be constructed with the goal of providing a sustainable neighborhood. All developments shall conform to the requirements of the Brookhaven Neighborhood Sustainability Program, which is attached as Exhibit "F", attached to this Ordinance No. 007-034, and incorporated herein for all purposes.



13. **Screening:**

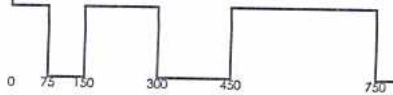
- a. Mechanical equipment shall be screened from view from all public roadways and located to minimize noise intrusion off each lot. The required screening must be composed of the same exterior materials as the buildings on the lot, or through the use of masonry walls, ornamental fence (80 percent opaque), evergreen landscape material, or combination thereof.
- b. Loading, service, and trash storage areas shall be screened from all public roadways. Refuse containers must be placed on a designed, reinforced concrete pad, including drive approach. The required screening must be composed of the same exterior materials as the buildings on the lot, or through the use of masonry walls, ornamental fence (80 percent opaque), evergreen landscape material, or combination thereof.
- c. All roof-mounted mechanical elements must be screened from view from the public right-of-way and neighboring properties. Screening must be architecturally compatible with the building design.

14. **Flexible Standards.** It is intended that all of the standards set forth in Sections 5-13 herein shall be flexible in order to encourage development within the Property. The planning and zoning commission and the city council may approve waivers to any standards set forth herein as part of the development plan provided any such waiver does not authorize a use not authorized in this planned development district, and does increase the allowable intensity or density of any land use.



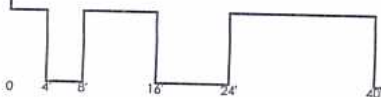
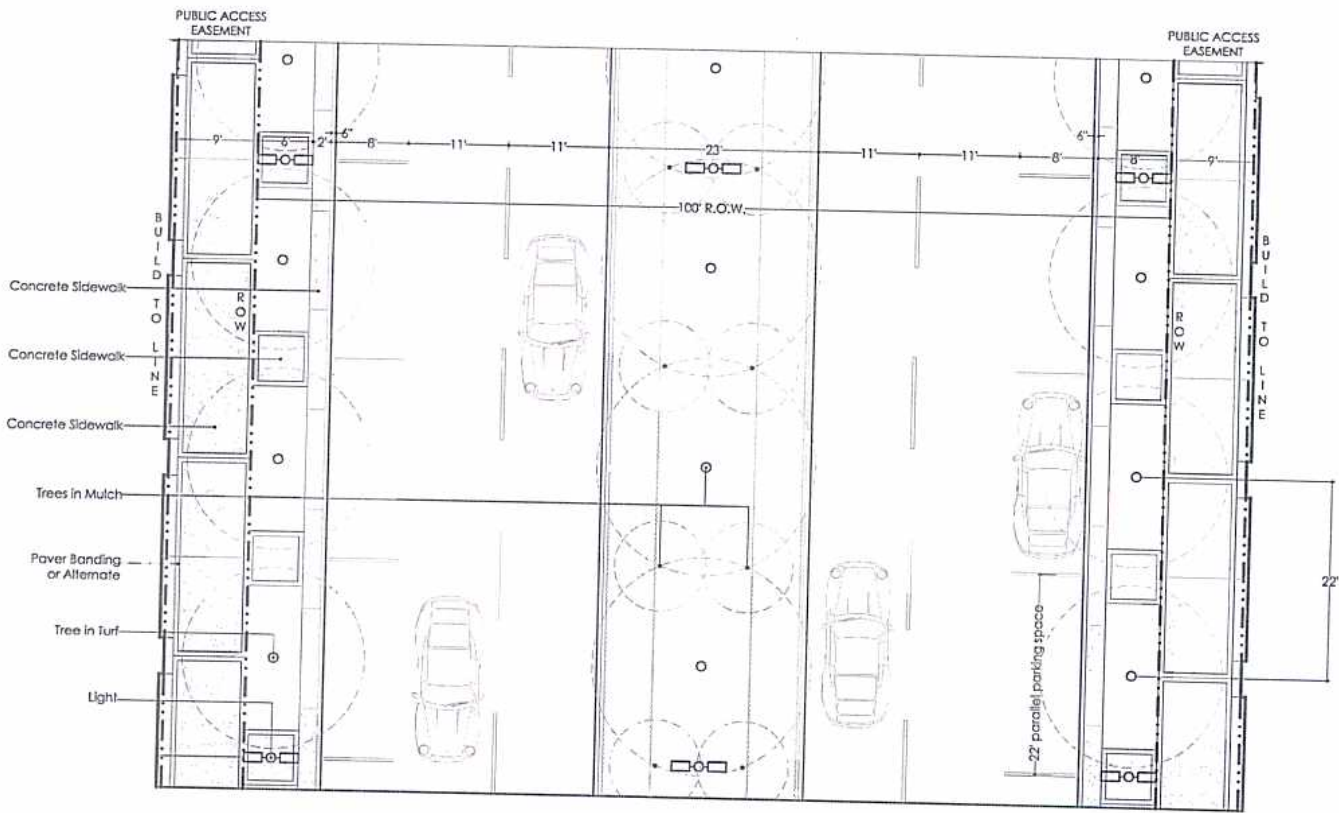
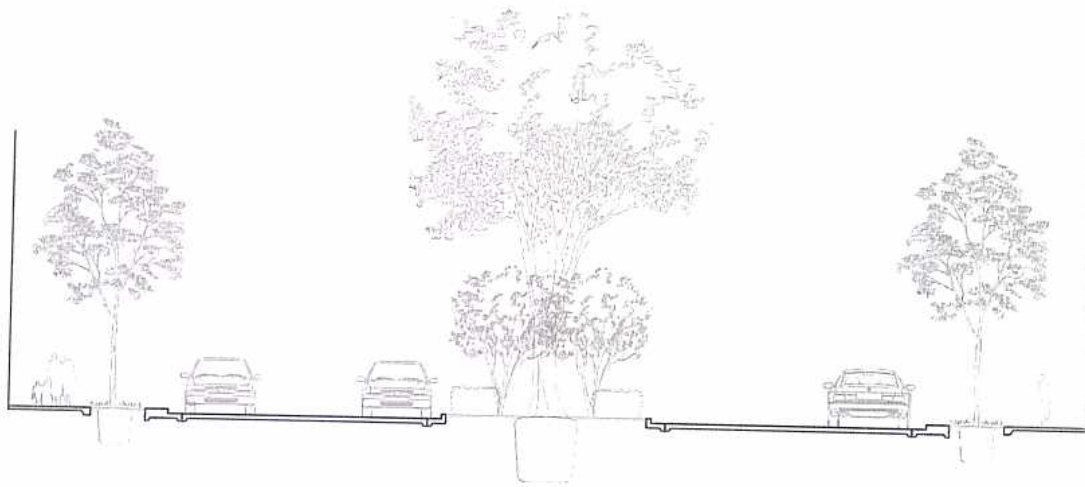
LEGEND

-  RETAIL & OFFICE
-  OPEN SPACE



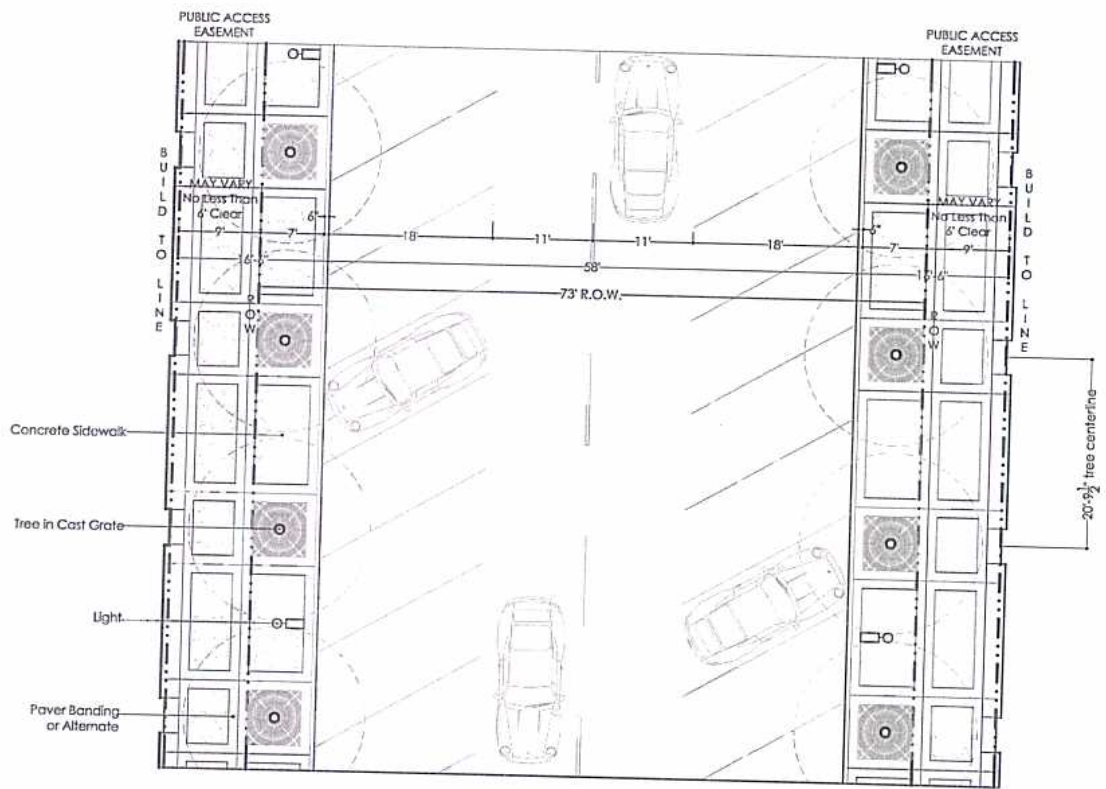
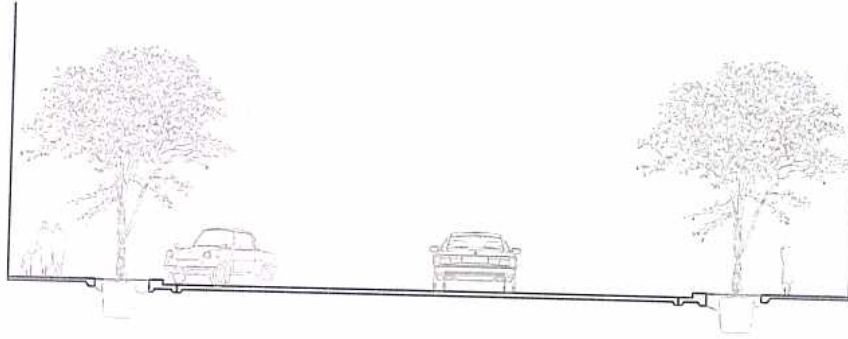
B R O O K H A V E N
EXHIBIT C - CONCEPT PLAN





A - RESIDENTIAL BOULEVARD - 100' R.O.W.
EXHIBIT D - STREET STANDARDS

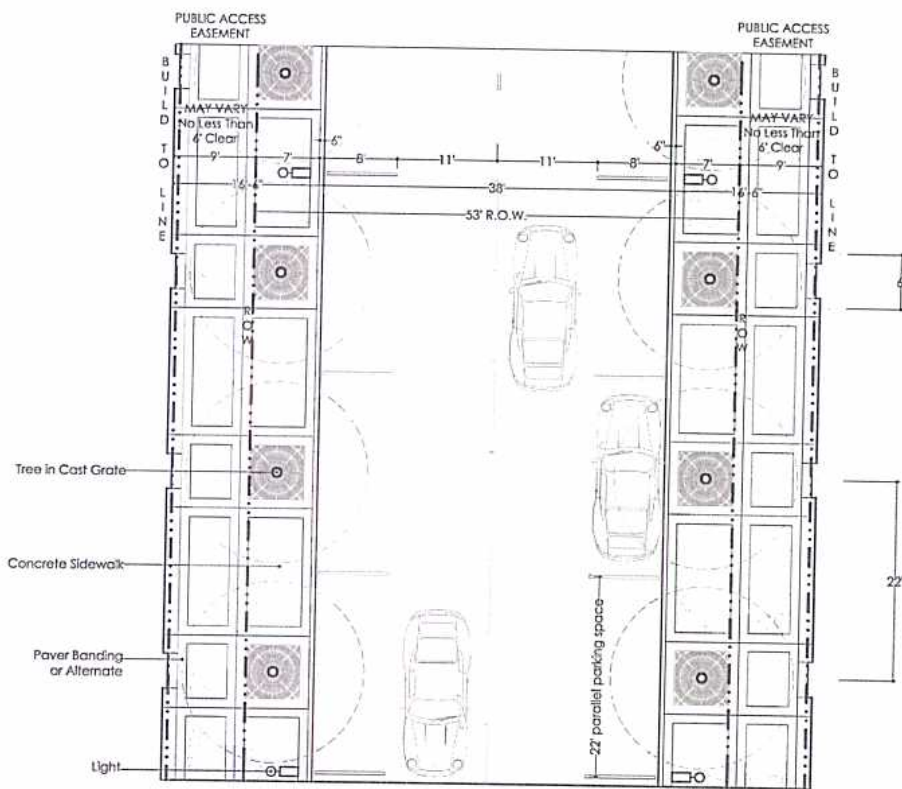
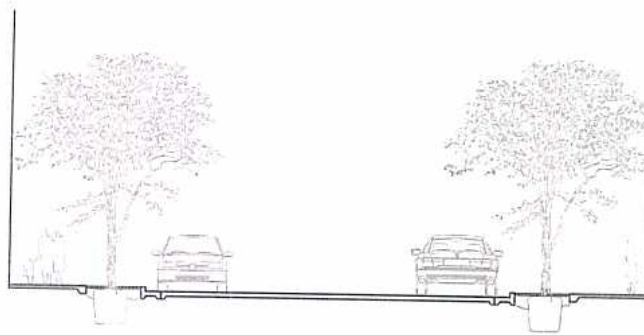




B - RETAIL STREET - 73' R.O.W.
EXHIBIT D - STREET STANDARDS

0 4 8 12 24 40

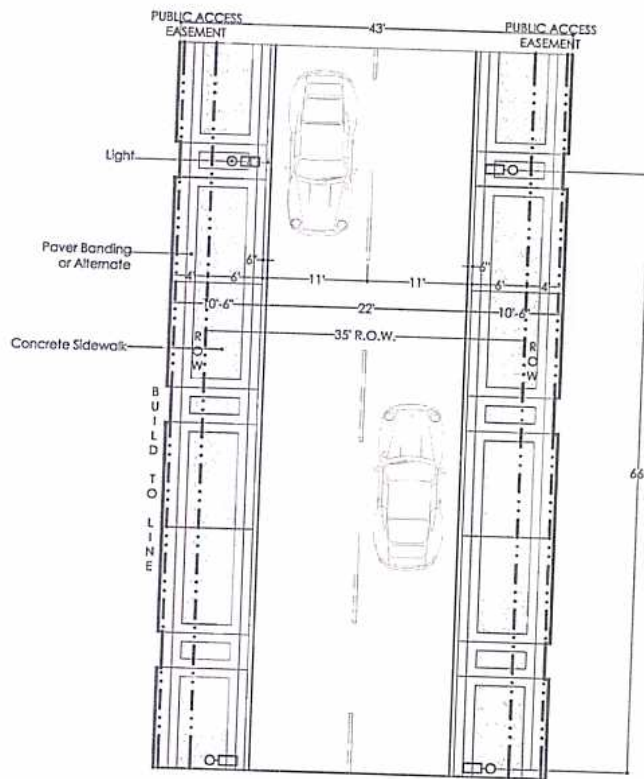
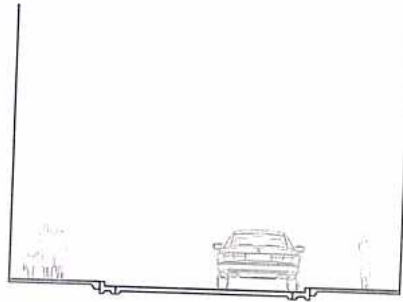




C - RESIDENTIAL STREET - 53' R.O.W.

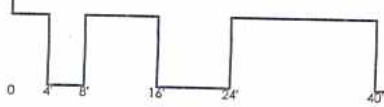
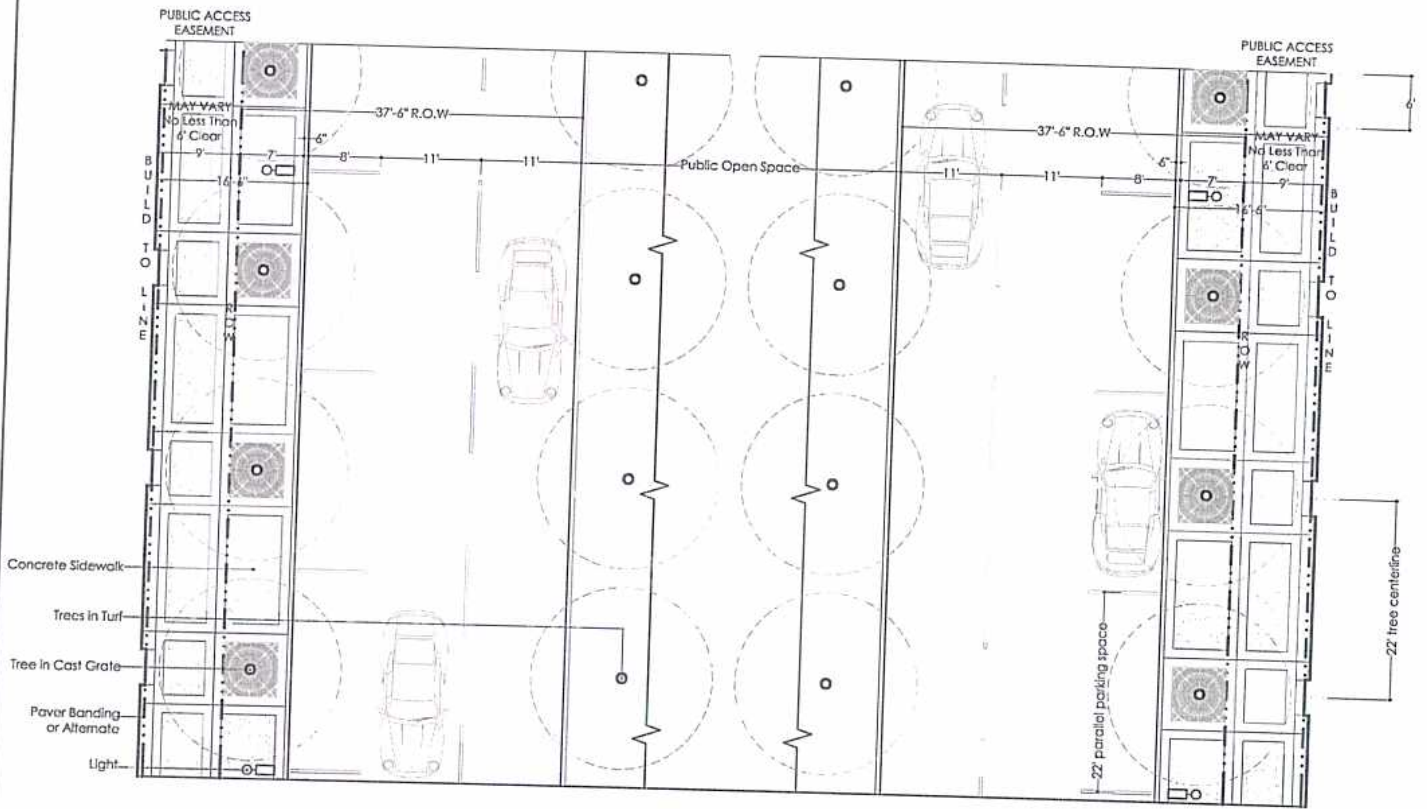
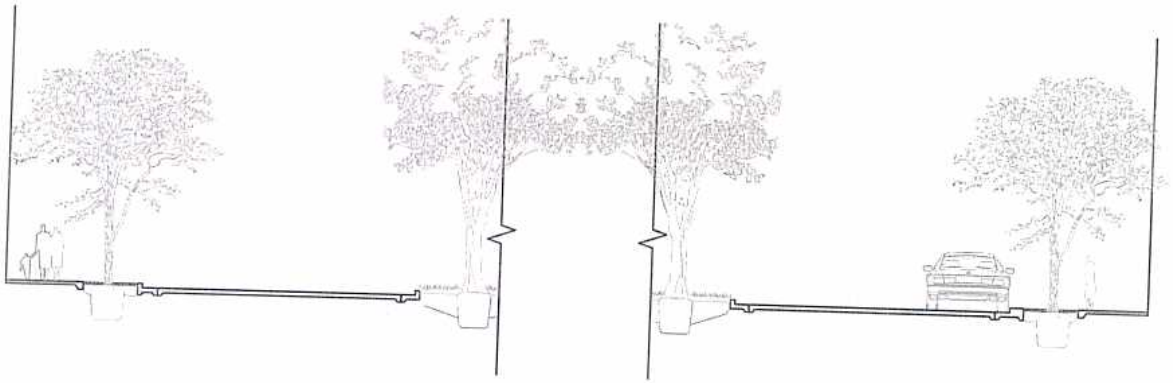
EXHIBIT D - STREET STANDARDS





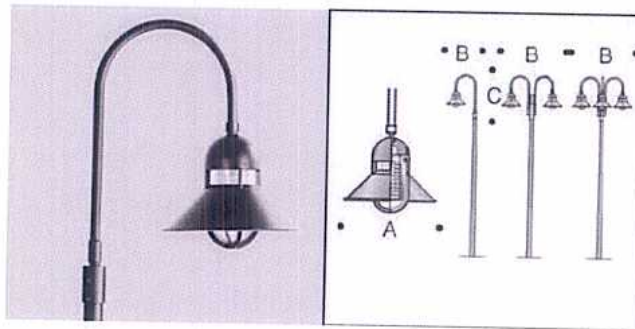
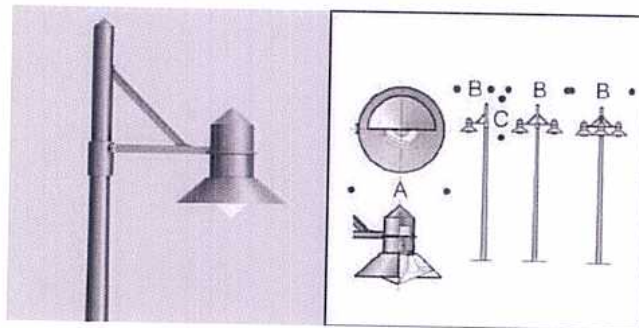
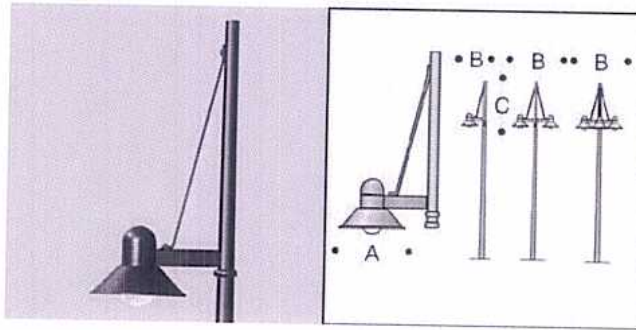
D - MEWS STREET - 35' R.O.W.
EXHIBIT D - STREET STANDARDS

0 4 8 16 24 40



E - PARKWAY - VARIABLE WIDTH OPEN SPACE
 EXHIBIT D - STREET STANDARDS





Bega: Street Lights

STREET LIGHTING

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS

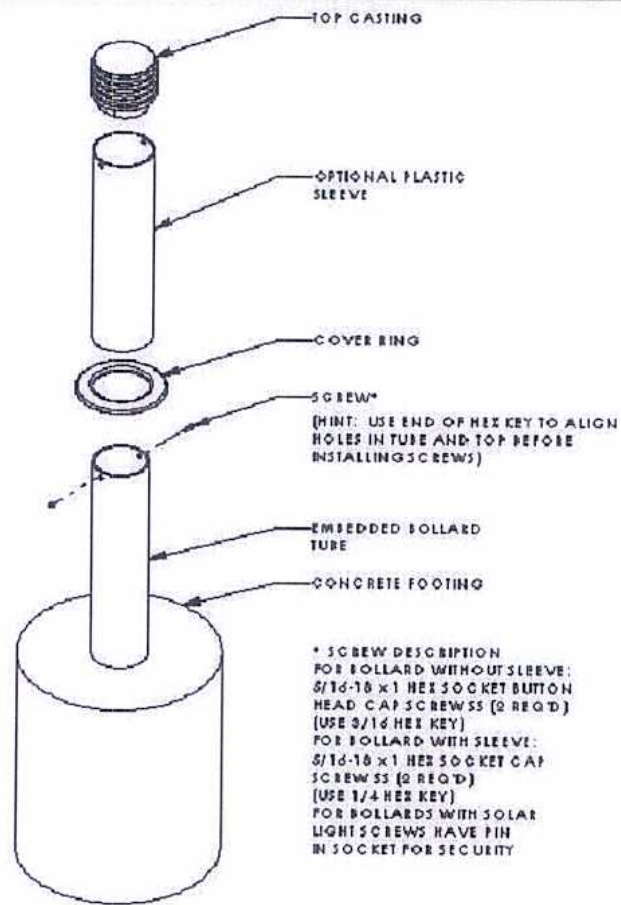
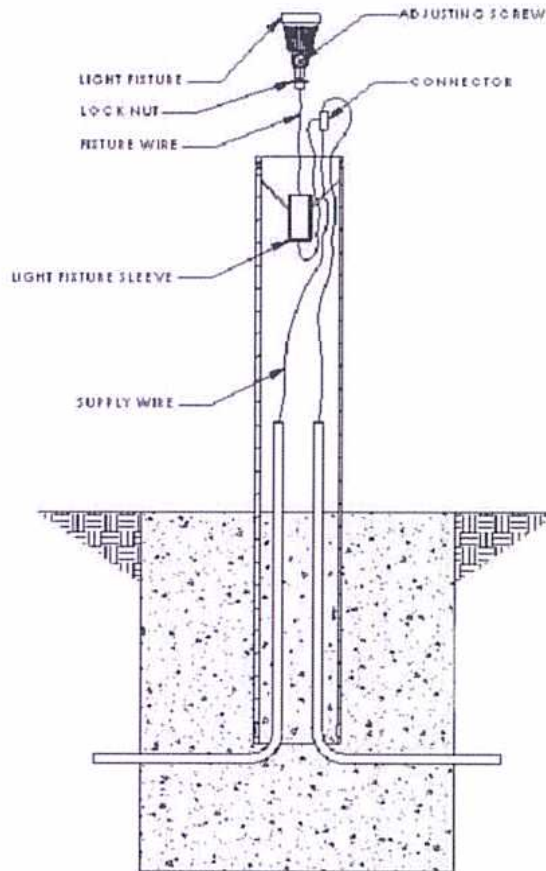
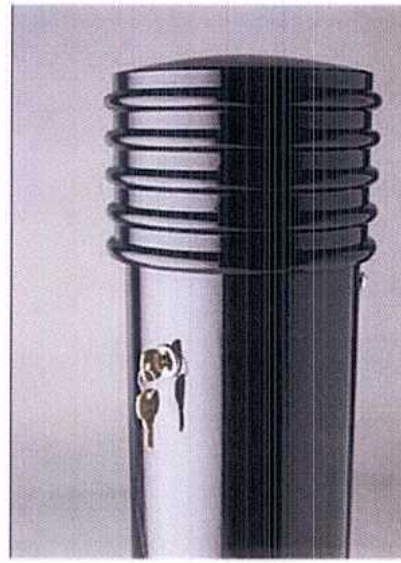


FIGURE 1
EMBEDDED BOLLARD ASSEMBLY

Landscape Forms: Annapolis Bollard

BOLLARD

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS

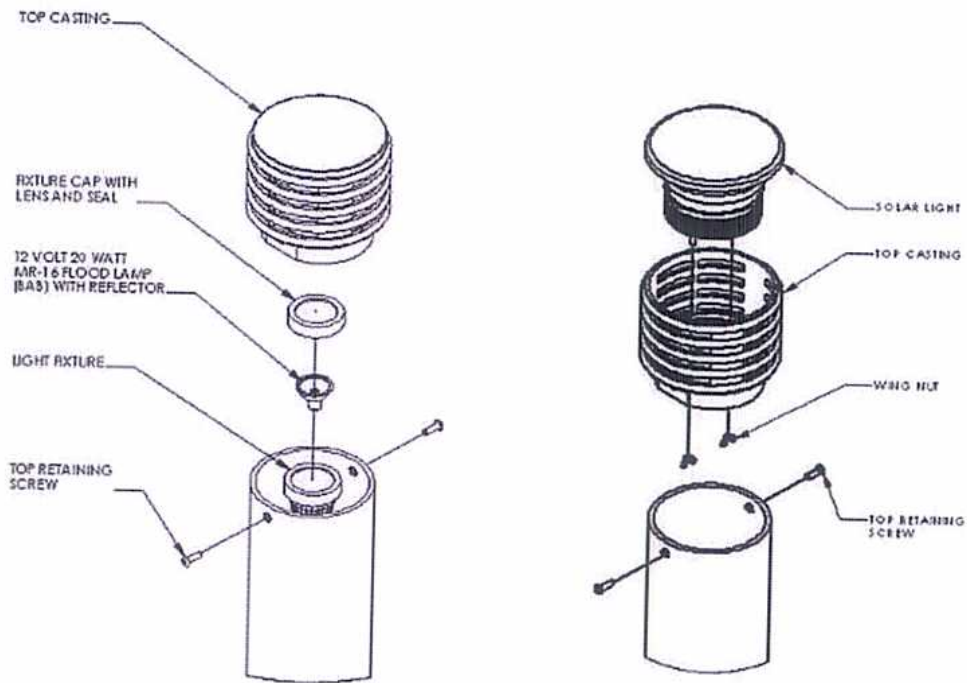


Landscape Forms: Annapolis Lighted Bollard

BOLLARD

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS





Landscape Forms: Annapolis Solar Lighted Bollard

BOLLARD

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS





Landscape Forms: 35: Sit Bench

BENCH

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS

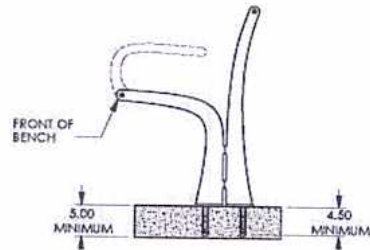
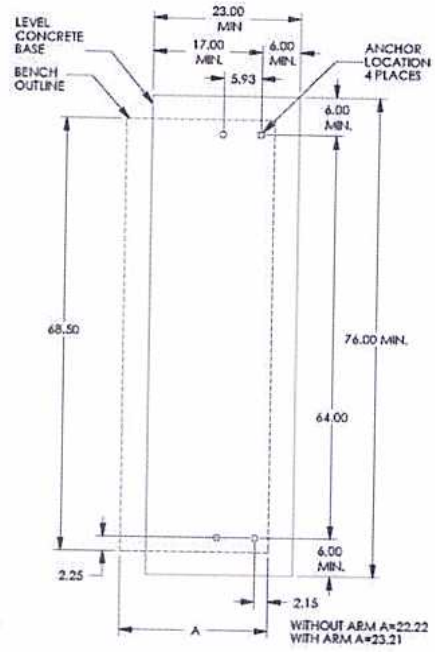
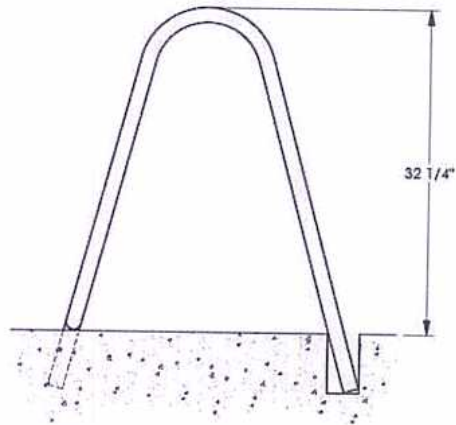
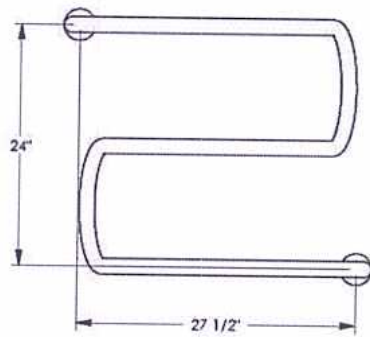
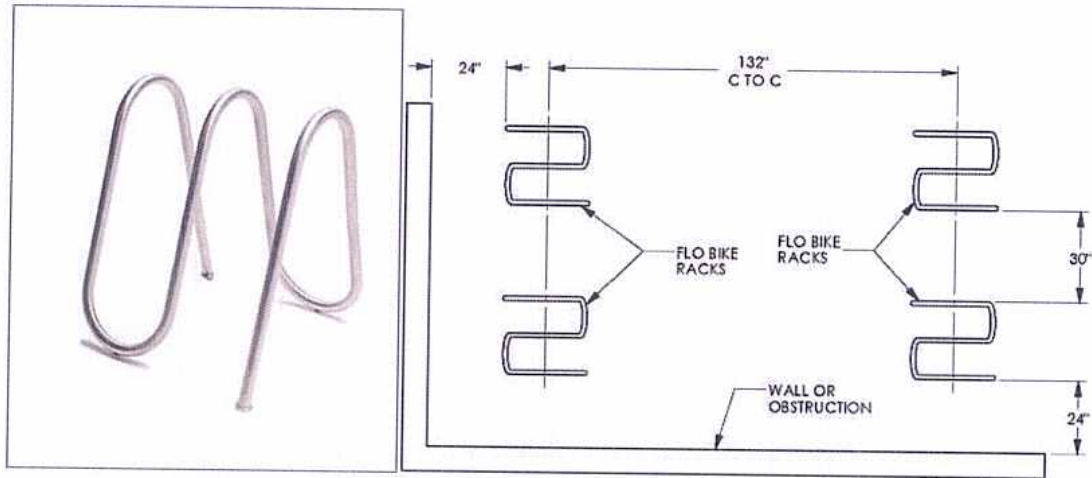


FIGURE 2
STAY BACKED BENCH
SURFACE MOUNT ANCHOR LOCATIONS
DIMENSIONS IN INCHES

Landscape Forms: 35: Stay Bench

BENCH

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS

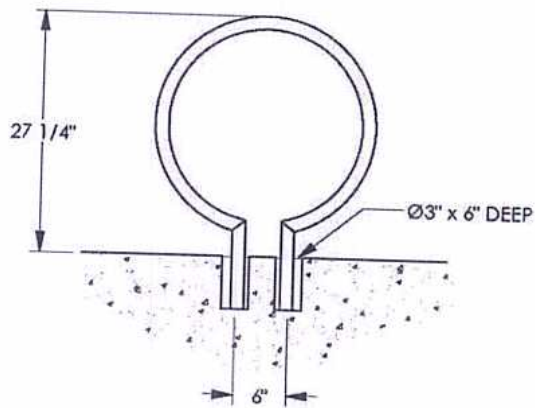
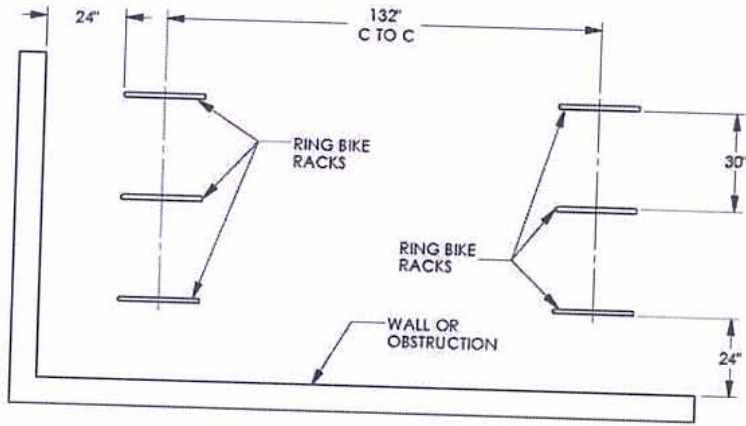


Landscape Forms: Flo2 Bike Rack

BIKE RACK

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS

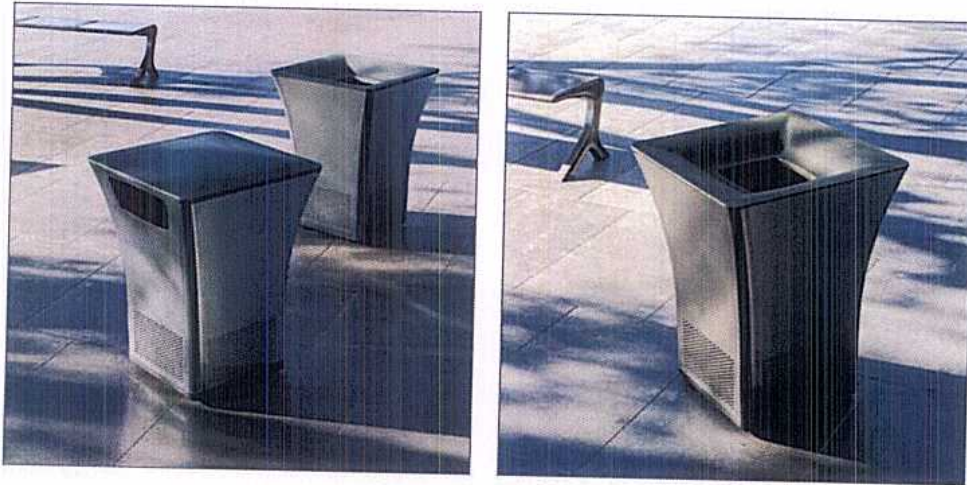




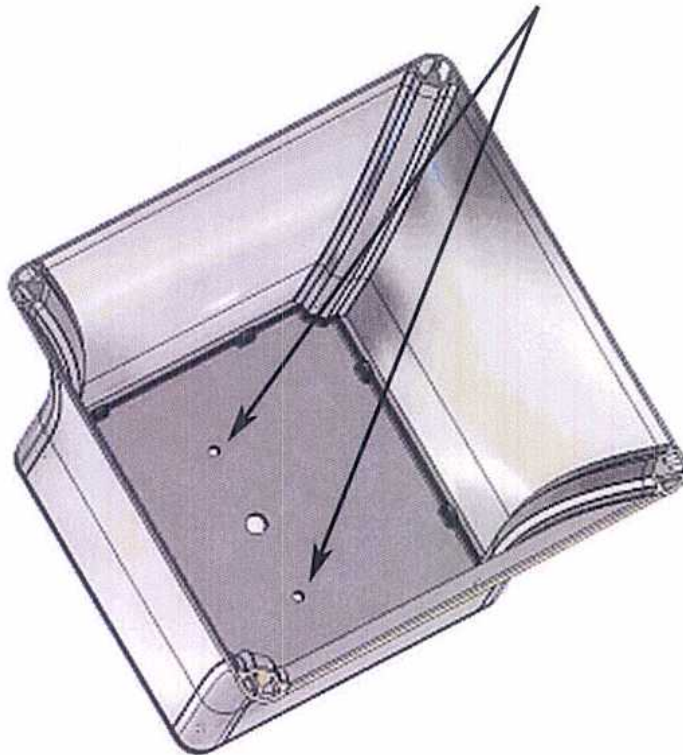
Landscape Forms: Ring Bike Rack

BIKE RACK

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS



Holes for Surface Mounting

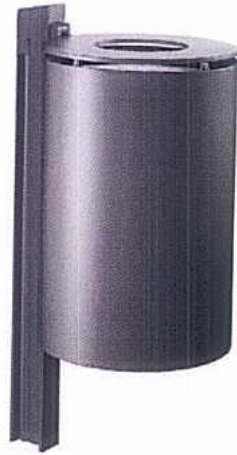


Landscape Forms: 35: Pitch Litter Receptacle

LITTER RECEPTACLE

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS





Hess: Punto Litter Receptacle

LITTER RECEPTACLE

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS



Most Dependable Fountains: Model 493SS, 325

DRINKING FOUNTAIN

EXHIBIT E - STREET LIGHTING AND STREET FURNISHINGS



Sustainability Guidelines for Development Projects, Town of Addison

Category	General Description	Specific Metric/Details
Site		
	Include appropriate native plants that need minimal additional irrigation and pest control	Ensure that at least X% of the non-building footprint should consist of native or adaptive vegetation.
	Reduce run-off pollution from conversion of site and construction	Create and execute a plan during the design to control erosion and sedimentation.
	Minimize erosion and sedimentation	Create and implement a plan that uses vegetation, grading, and stabilization techniques to prevent erosion and reduce runoff.
Materials & Waste		
	Install insulation levels recommended by ENERGY STAR for their cost-effectiveness	Find climate and placement specific recommendations available at: http://www.realread.com/prst/pageview/browse.cgi?book=1931862664
	Establish facilities to enable recycling of waste generated by occupants -- paper, glass, plastics, metals, and cardboard, etc.	Ensure that building design contains adequate space and means (e.g., chutes) for recycling collection areas.
	Use ENERGY STAR-qualified roof insulation	N/A
	Divert construction debris from disposal in landfills and incinerators	Salvage materials for reuse in construction, and send additional materials to recycling facilities or charitable organizations (e.g., Habitat for Humanity).
	Use wood certified as "sustainable" where new lumber is required	Specify any natural, new wood components and products used be certified by the Forest Stewardship Council.
Energy		
	Perform fundamental commissioning of buildings' energy system	Verify that all the energy systems in the building are installed, calibrated, and performing to the owner's requirements before occupancy.

Brookhaven Sustainability Considerations

Category	General Description	Specific Metric/Details
	Utilize daylighting wherever possible	Incorporate daylighting considerations into building orientation, window and skylight placement, and strategic shading into building design.
	Build energy efficient building envelope	Comply with Sections (5.4, 6.4, 7.4, 8.4, 9.4, and 10.4) of ASHRAE 90.1-2004 standard.
	Install ENERGY STAR windows, doors, and skylights	Specify that windows, doors, and skylights be ENERGY STAR qualified where
	Use ENERGY STAR qualified sealing and ensure building is properly sealed	Specify ENERGY STAR qualified sealing.
	Choose ENERGY STAR qualified fixtures and bulbs (e.g., compact fluorescent lights) in all common areas and units	Specify lighting that has attained ENERGY STAR certification.
	Install lighting controls (motion sensors, daylight sensors, dimmers, and/or timers) in public areas and residential units	N/A
	Buy ENERGY STAR qualified refrigerators/freezers	Specify ENERGY STAR qualified refrigerator/freezers.
	ENERGY STAR Qualified Exit Signs	Specify ENERGY STAR qualified exit signs.
	Install ENERGY STAR qualified ceiling fans	Specify ENERGY STAR qualified ceiling fans.
Water		
	Minimize use of potable water for irrigation	Reduce potable water use in irrigation.
	Install automatic rain shut-off mechanism on irrigation systems	Program all irrigation systems on property to shut off when raining.
	Install high-efficiency toilets	Specify toilets that use no more than 1.1 gal/flush
	Install ultra-efficient sinks/aerators	Specify sinks/aerators that use no more than 1.8 gal/min
	Install ultra-efficient, low-flow showerheads	Specify showerheads that use no more than 1.8 gal/min
	Buy and install ENERGY STAR qualified washing machines	Specify ENERGY STAR qualified washing machines.
	Buy and install ENERGY STAR qualified dishwashers	Specify ENERGY STAR qualified dishwashers.

Brookhaven Sustainability Considerations

Category	General Description	Specific Metric/Details
	Where solar water heaters are not installed, use high-efficiency water heaters or boilers	Specify storage gas water heaters with energy factor of at least 62%. If a boiler is used, ensure it has Annual Fuel Utilization Efficiency of at least 85%.
Indoor Air Quality		
	Minimize exposure of occupants, indoor surfaces, and ventilation systems to tobacco smoke	Prohibit smoking inside common areas; locate exterior smoking areas at least 25 ft away from entries/air intakes/windows.
	Install bathroom and kitchen exhaust fans and fan controls	Install exhaust fan operated by sensor, auto humidistat control, or timer in every unit. Minimum intermittent rate of 100 CFM or continuous rate of 25 CFM (kitchen); intermittent 50 or continuous 20 (bathroom).
	Use low emitting (low-VOC) carpets	Comply with LEED guidelines for these materials which are based on the Carpet and Rug Institutes' Green Label Plus program.
	Use low-emitting (low-VOC) paints	Comply with LEED guidelines for these materials which are based on grams of VOC/liter (e.g. 50g/L for flat paints).
	Monitor ventilation systems' ability to maintain adequate IAQ	Install CO2 monitoring devices, outdoor air flow monitoring, and other monitoring systems that provide feedback on ventilation system performance.
	Install CO detectors	Install CO detectors in each unit, mechanical equipment areas, and all common spaces.