

## LETTER OF INTENT

THIS LETTER OF INTENT (“LOI”) is dated as of ~~June~~ <sup>July 12</sup>, 2019 (“LOI Effective Date”), and entered into by and between the TOWN OF GROTON, CONNECTICUT, a Connecticut municipal corporation with its Town Hall located at 45 Fort Hill Road, Groton, CT 06340 (“TOWN”) and THAYERMAHAN, INC., a Delaware corporation with a business address of 120B Leonard Drive, Groton, CT 06340 or its permitted assignee defined as set forth in section 7.8 hereof (“THAYERMAHAN”), hereinafter collectively referred to as the “Parties”.

### RECITALS:

A. THAYERMAHAN has submitted a proposal (the “Proposal”) for the Groton Heights School Redevelopment Project as part of a public procurement process (RFP 18-49), advertised by the TOWN on June 28, 2018, to include the redevelopment of the land and the existing vacant school building (historic designation) thereon currently owned by the TOWN and commonly referred to as 244 Monument Street, Groton, Connecticut (the “Property”), referred to herein as the “Project”.

B. The Town desires to accept THAYERMAHAN’s Proposal for the Project and to potentially designate it as the “Preferred Developer” for the Project, but wishes to further engage THAYERMAHAN in negotiation regarding its Proposal and the Project as permitted by said RFP, as more particularly set forth in this LOI.

C. This LOI is not a contract and is non-binding on any party, but is instead simply intended as an expression of each Party’s mutual desire to further explore a potential transaction between them and to attempt to negotiate a definitive agreement or agreements pertaining to the Project and the purchase and sale of the Property, upon the following anticipated terms and conditions:

NOW, THEREFORE, the parties wish to explore the possibility of a transaction upon the following terms and conditions.

1. PROJECT. THAYERMAHAN proposes to redevelop the Property in accordance with its Proposal. For the purpose of providing low cost financing for the Project, THAYERMAHAN has obtained a commitment from MUNICIPAL DEVELOPMENT FOUNDATION MDF GROTON 1, LLC, an Arizona nonprofit corporation with an address of 2777 E. Camelback Road, Suite 375, Phoenix, AZ 85016 (“MDF”) to finance the Project on behalf of THAYERMAHAN.

In order to finance and develop the Project, the Parties propose that the TOWN sell to THAYERMAHAN or its permitted assignee, and that THAYERMAHAN or its permitted assignee, purchase the Property for its Fair Market Value, in an amount not to exceed the

sum of Two Hundred Fifty-Five Thousand, Two Hundred Dollars (\$255,200), subject to: (i) the terms and conditions of this LOI; (ii) the TOWN obtaining and/or complying with all necessary municipal and statutory approvals and requirements to the TOWN'S satisfaction (in the Town's sole discretion); and (iii) the Parties entering into mutually acceptable, binding and definitive agreement(s) governing the Project and the purchase and sale of the Property to be negotiated by the Parties. In the event that the Property is purchased by a permitted assignee of THAYERMAHAN, a lease (as defined in section 2.10 herein) will be required pursuant to which THAYERMAHAN or an affiliate thereof will exclusively use the Property and the improvements for the purposes set forth in the Proposal.

2. Any definitive agreement between the Parties would require THAYERMAHAN and/or its permitted assignee, at its and/or their sole cost and expense, to use commercially reasonable efforts to:

2.1. Work collaboratively with the TOWN and other local and regional jurisdictions to redevelop the Property pursuant to an anticipated schedule described in the definitive purchase agreement (the "Schedule"), including the land and the Groton Heights School Building thereon, for uses in accordance with the Proposal, creating new jobs and an economic catalyst for the continued growth of the area.

2.2. Preserve and restore the exterior of the historical school building on the Property, retaining the architectural detail of the front entry, and creating a new main entry on the back side of such building.

2.3. Locate the loading docks and truck delivery access in site or at the side of the buildings to minimize vehicular truck traffic within the existing neighboring residential areas.

2.4. Expeditiously, and pursuant to the Schedule, conduct its due diligence of existing site conditions, apply for and obtain required permitting, zoning, building and other approvals.

2.5. Assist in community outreach associated with the Project.

2.6. Prepare and pursue available grant, loans and other financial assistance necessary or desired for the Project if required above-and-beyond the financing provided by MDF.

2.7. Timely complete the Project in a manner that minimizes disruptions to adjoining properties.

2.8. Provide staffing resources as necessary to assist all Parties in the approval of schematic design and construction drawings to meet the Schedule.

2.9. Approve the pre-development budget and preliminary pro forma prior to execution of a Design-Build Agreement.

- 2.10. Purchase of the Property by THAYERMAHAN and/or its permitted assignee for purposes of the Project. If the Property is purchased by a permitted assignee of THAYERMAHAN rather than THAYERMAHAN itself, THAYERMAHAN shall, execute a triple net lease which shall be subject to the TOWN's and THAYERMAHAN's review in all respects, and contain other reasonable conditions required to obtain financing for the Project. The Town shall have the right to approve the Lease only to confirm that Thayer Mahan or its subsidiary have the right to carry out the Project on the Property on a long term basis consistent with the spirit and intent of the Proposal, but shall not have the right to approve the economic terms of the lease itself. The TOWN reserves the right to require a title reverter clause in any deed in the event THAYERMAHAN or its permitted assignee fails to perform the Project after acquisition of title to the Property. The title reverter clause would be extinguished after THAYER MAHAN receives all requisite Project approvals and a building permit for construction of the Project.
- 2.11. Maintain the facilities consistent with at least current industry standards.
- 2.12. THAYER MAHAN or an affiliate, subsidiary or permitted assignee thereof shall be exempt from any local hiring goals or apprenticeship requirements which may otherwise be imposed by the TOWN, if any.
3. Any definitive agreement negotiated between the Parties would envision the TOWN agreeing to use commercially reasonable efforts to:
- 3.1. Assist in the advancement of the Project by timely performing all obligations of the Town within any agreement to be negotiated between the parties, including but not limited timely conveyance of the property to THAYERMAHAN and/or its permitted assignee under any such agreement, and by supporting and/or attempting to facilitate the approval and building/site permitting/inspection process. The Parties acknowledge and agree that permits and approvals outside the Town's jurisdiction may be required for the Project and the Town has no control over such process.
- 3.2. Facilitate the exchange of real property, illustrated on Exhibit B, to facilitate a more seamless development and to enhance the view corridor along Monument Street and take appropriate actions to consummate such land swap with Bill Memorial Library as proposed in BML letter of 3 July 2018 included in the Proposal (the "**Land Swap**") as a separate tax parcel. THAYERMAHAN acknowledges that the TOWN does not own the adjacent property located at 240 Monument Street and makes no guarantee the adjacent owner will engage in such exchange and/or the terms and conditions of any such exchange.
- 3.3. Support THAYERMAHAN's application for Historic Tax Credits and other funding sources and grants for the Project.
- 3.4. Make available to THAYERMAHAN the funds obtained by the TOWN from the State Department of Economic and Community Development ("DECD") for remediation work on the former Groton Heights School Property in an LOI up to \$150,000 solely for use in compliance with said DECD requirements. These funds are to be used to prevent continued deterioration and mold, and the abatement of

asbestos, lead based paint and microbial materials. The funds cannot be used for roof and/or boiler repair.

- 3.5. Approve and implement the proposed infrastructure assistance funding up to \$100,000, as necessary to reduce the overall cost of redevelopment – to be reimbursed based on value once infrastructure improvements are completed in connection with the Project.
- 3.6. Support THAYERMAHAN's applications for grants, loans and other financial assistance necessary to support the Project.
- 3.7. Take appropriate actions to abandon that portion of the "paper" street referred to as "Library Street" located on the Property as identified in the Proposal, unless the parties mutually agree that a different approach towards said paper street is more appropriate.
- 3.8. Take appropriate actions to assist THAYERMAHAN in the infrastructure improvements relating to the Project as outlined in the Proposal.
- 3.9. Negotiate easements needed from the TOWN for completion of the Project.

Nothing in this Section 3 shall be construed as obligating the TOWN to provide any funding or financial assistance to THAYERMAHAN, including but not limited to fixed tax assessment agreements, abatements or any other tax incentives from the TOWN, unless approved by the Town in its sole discretion pursuant to applicable law. Moreover, any facilitation, support, actions or approvals required of the TOWN under this section 3 shall be cost neutral to the Town, and shall further be subject to the Town first receiving and/or complying with all requisite municipal and statutory approvals and requirements to the TOWN's satisfaction (in its sole discretion). Further, the parties acknowledge and agree that nothing in this section 3 shall be construed to usurp, limit, supersede or override any decision making authority or discretion of any TOWN council, commission, department, agency, official, officer or employee. Any such support and assistance shall be cost neutral to the TOWN.

#### 4. EXCLUSIVITY PERIOD

- 4.1. Following the execution of this LOI, the TOWN will not offer, negotiate or enter into discussions with any other party with regard to the sale, lease and/or development of the Property or Project until the LOI Termination Date.
- 4.2. Access to Information. Immediately upon execution of this LOI by all Parties below and until the LOI Termination Date, the MDF and THAYERMAHAN and their respective advisors shall have full access during normal business hours to inspect all documents pertaining to the Property and within the TOWN's control, including all reports including environmental, engineering, structural, mechanical, traffic, soils, drainage, foundation and roof reports and all other studies, notices or information pertaining to the condition or status of the Property (the "**Materials**"). THAYERMAHAN and its permitted assigns acknowledge and agree that any Materials provided to them by the TOWN is simply for their convenience, and the TOWN makes no representations or warranties of any kind or nature whatsoever,

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express or implied, about such information or documentation and THAYERMAHAN and its permitted assigns shall rely exclusively on their own due diligence with regard to the Property and not on any Materials furnished by the TOWN. Any definitive purchase and sale agreement with confirm that the Property is being conveyed in its "AS IS, WITH ALL FAULTS" condition.

## 5.CONDITIONS PRECEDENT

5.1.The obligations of THAYERMAHAN set forth in any definitive agreement will be subject to satisfaction or written waiver of the following condition(s) (the "**Condition(s) Precedent**"):

- a) review and approval of the Materials;
- b) completion of satisfactory due diligence searches and examinations;
- c) approval of the Board of Directors of THAYERMAHAN being obtained;
- d) satisfactory review and approval of the zoning for the Property and receipt of approval of any necessary town, city or state departmental approvals needed for the development of Project as outlined in the Proposal for THAYERMAHAN's intended use and development of the Property, and
- e) satisfaction of the TOWN's undertakings set forth in Article 3.

5.2 The obligations of the TOWN set forth in any definitive agreement to be negotiated will be subject to satisfaction or written waiver of the following condition(s) precedent: the TOWN's receipt and/or compliance with all requisite municipal and statutory approvals and requirements to the Town's satisfaction (in its sole discretion) to perform any and all obligations required of the TOWN as contemplated in any definitive agreements negotiated between the Parties.

## 6. TERMINATION

6.1.This LOI shall terminate upon the earliest of the following events to occur: (a) date on which a definitive agreement between the parties is negotiated and executed governing development and purchase and sale of the Property specifying that this LOI shall terminate; (b) upon written notice from either party to the other confirming that it is no longer interested in negotiating a definitive agreement with the other party; and/or (c) upon 150 days expiring after execution of this LOI without such a definitive agreement being negotiated unless such time period is extended by mutual written agreement of the parties.

## 7. GENERAL PROVISIONS

7.1. Conduct of Business; Maintenance of Property. While this LOI remains in effect, the TOWN will operate, maintain and insure the Property in the normal and

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usual course and will keep THAYERMAHAN fully informed with respect to all material circumstances, including pending or actual litigation, notices received, or damage which may arise concerning the Property.

- 7.2. Notices. Except as otherwise expressly provided herein, notices may be delivered either by telecopy, private messenger service (including overnight courier) or by mail addressed as provided below. Any notice or document required or permitted hereunder shall be in writing and shall be deemed to be given on the date received; provided, however, that (i) all notices and documents mailed in the United States Mail, postage prepaid, registered or certified mail, return receipt requested, addressed to the respective address show below, shall be deemed to have been received three (3) business days after mailing. Each address shall for all purposes be as set forth below unless otherwise changed by notice to the other parties as provided herein:

TO TOWN: TOWN OF GROTON  
134 Groton Long Point Road  
Groton, Connecticut 06340  
Attn: Paige Bronk, AICP  
Telephone: (860) 448-4095  
Facsimile: (860) 448-4094

TO THAYERMAHAN: THAYERMAHAN, INC  
120B Leonard Drive  
Groton, Connecticut 06340  
Attn: Richard J. Hine  
Email: rhine@thayermahan.com

- 7.3. Nonliability of TOWN, THAYERMAHAN and Officials and Employees. No council, commission, agency, department, officer, official, employee, agent or representative of TOWN shall be personally liable to THAYERMAHAN or any successor in interest or permitted assignee thereof, in the event of any default or breach by TOWN for any amount which may become due to THAYERMAHAN or any successor in interest or permitted assignee thereof, or on any obligation incurred under the terms of this LOI. No officer, official, employee, agent, member or representative of THAYERMAHAN shall be personally liable to TOWN or any successor in interest, in the event of any default or breach by THAYERMAHAN or any successor in interest or permitted assignee thereof, for any amount which may become due to TOWN or any successor in interest, or on any obligation incurred under the terms of this LOI.
- 7.4. Statement of Intent. The parties hereto acknowledge that this LOI is a non-binding statement of intent only and does not obligate any party to consummate the purchase or sale of the Property and/or performance of the Project contemplated herein. This LOI is not intended to be construed as a contract and/or a contractual offer or acceptance or a legally enforceable obligation but merely summarizes the mutual

understandings of the parties with respect to the matters contained herein. It shall be strictly understood and agreed that no party shall be liable to the other on account of this LOI or the proposed Project or as a result of any written or oral representations or negotiations, drafts, comments or correspondence between the parties or their respective agents or representatives on any legal or equitable theory (including, without limitation, part performance, promissory estoppel or undue enrichment). The Parties recognize that any transaction between them will require further documentation and approvals, including but not limited to the Town's receipt and/or satisfaction of all requisite municipal and statutory approvals and requirements and the preparation and approval of a mutually agreeable, definitive and binding purchase and sale agreement between the Parties.

7.5. Counterparts; Exhibits. This LOI may be executed in multiple counterparts and three (3) duplicate originals, each of which is deemed to be an original. This LOI includes the following exhibits:

Exhibit A	Location of the Groton Heights School Site
Exhibit B	Location of exchange parcels
Exhibit C	Conceptual Plan of Development

7.6. Executed in Connecticut. This LOI shall be taken and deemed to have been fully made and executed by the parties hereto in the State of Connecticut for all purposes and intents. This LOI, all agreements and all transactions contemplated hereby shall be governed by, construed and enforced in accordance with the laws of the State of Connecticut, without giving effect to its conflict of laws provisions.

7.7. Force Majeure. For the purposes of any of the provisions of this LOI, neither TOWN nor THAYERMAHAN shall be considered in breach of or in default of its obligations hereunder in the event of any delay in the performance of such obligations due to causes beyond the control of, and without the fault or negligence of, such party, including without limitation acts of God, acts of the public enemy, acts of war or terrorism, acts of the federal government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, severe or inclement weather, shortages in labor, supplies or materials, or delays due to such causes (with such events or circumstances being referred to herein as "**Force Majeure Events**"); it being the purpose and intent of this Section 7.7 that in the event of the occurrence of any such delay, the time or times for performance of the obligations of the party suffering such delay hereunder shall be extended for the period of the delay.

7.8. Assignment. Any definitive agreement entered into between the Parties shall restrict THAYERMAHAN'S ability to assign its rights thereunder without the written consent of the TOWN. If requested by THAYERMAHAN, the TOWN will not unreasonably withhold its consent to THAYERMAHAN's proposed assignment of rights under any such definitive agreement, in whole or in part, to an affiliate and/or wholly owned subsidiary of THAYERMAHAN and/or to MDF (all considered a "permitted assignee" hereunder) so long as such assignee assumes all obligations of THAYERMAHAN with regard to such assigned right. In addition, THAYERMAHAN shall not assign its right to purchase or own title to the Property

to be acquired pursuant to any such definitive agreement to any assignee which would cause the Property to be tax exempt by virtue of such assignee's ownership thereof.

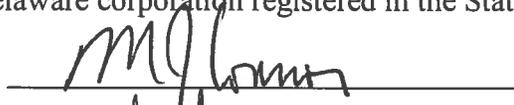
***Signature Page Follows***

IN WITNESS WHEREOF, the parties have caused their respective duly authorized representatives to execute this LOI on their behalf as of the LOI Effective Date.

**TOWN OF GROTON, CONNECTICUT**, a body corporate and politic, and a municipal corporation of the State of Connecticut

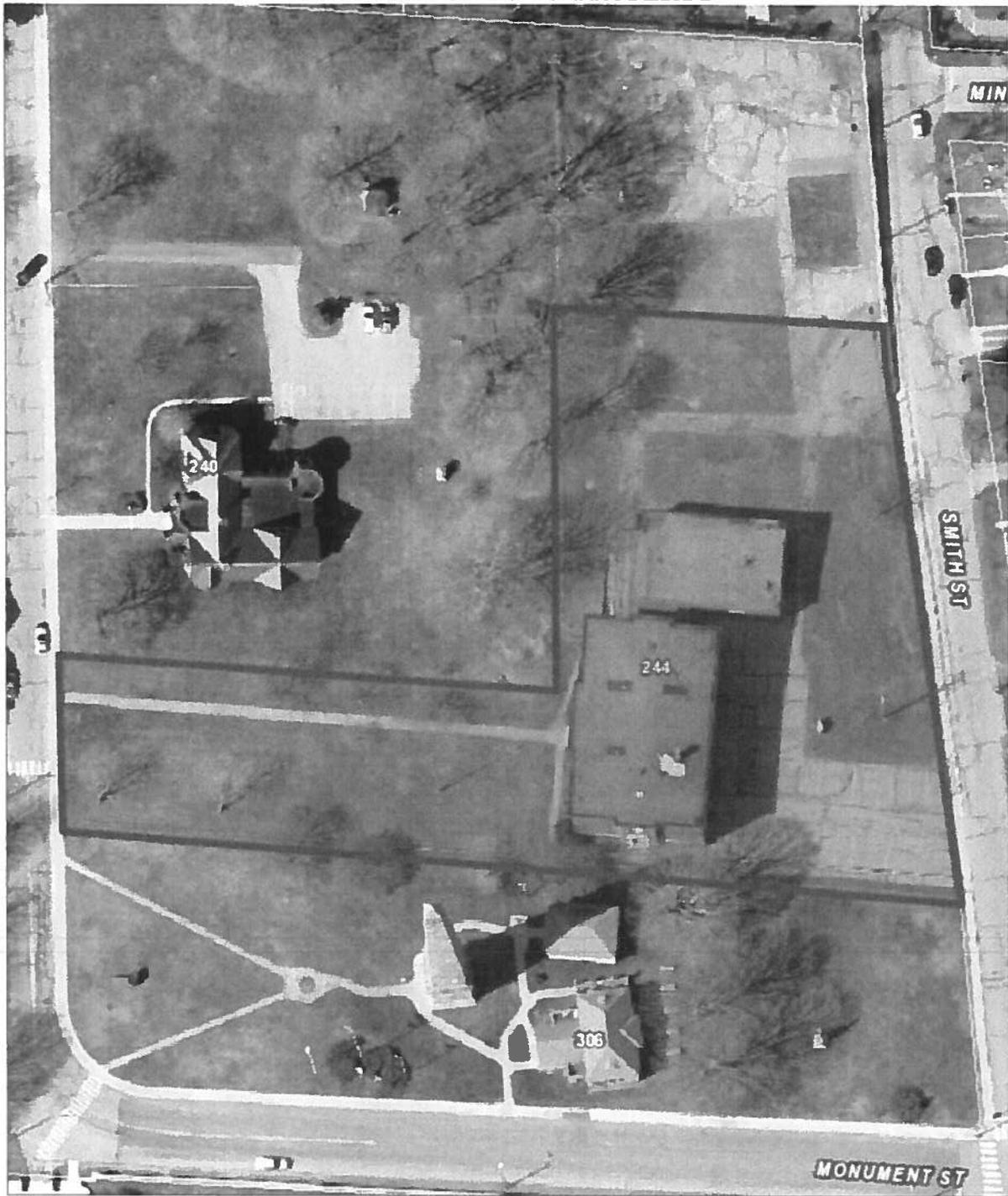
By:   
John Burt  
Its: Town Manager

**THAYERMAHAN, INC.**,  
a Delaware corporation registered in the State of Connecticut

By:   
Its: President + CEO

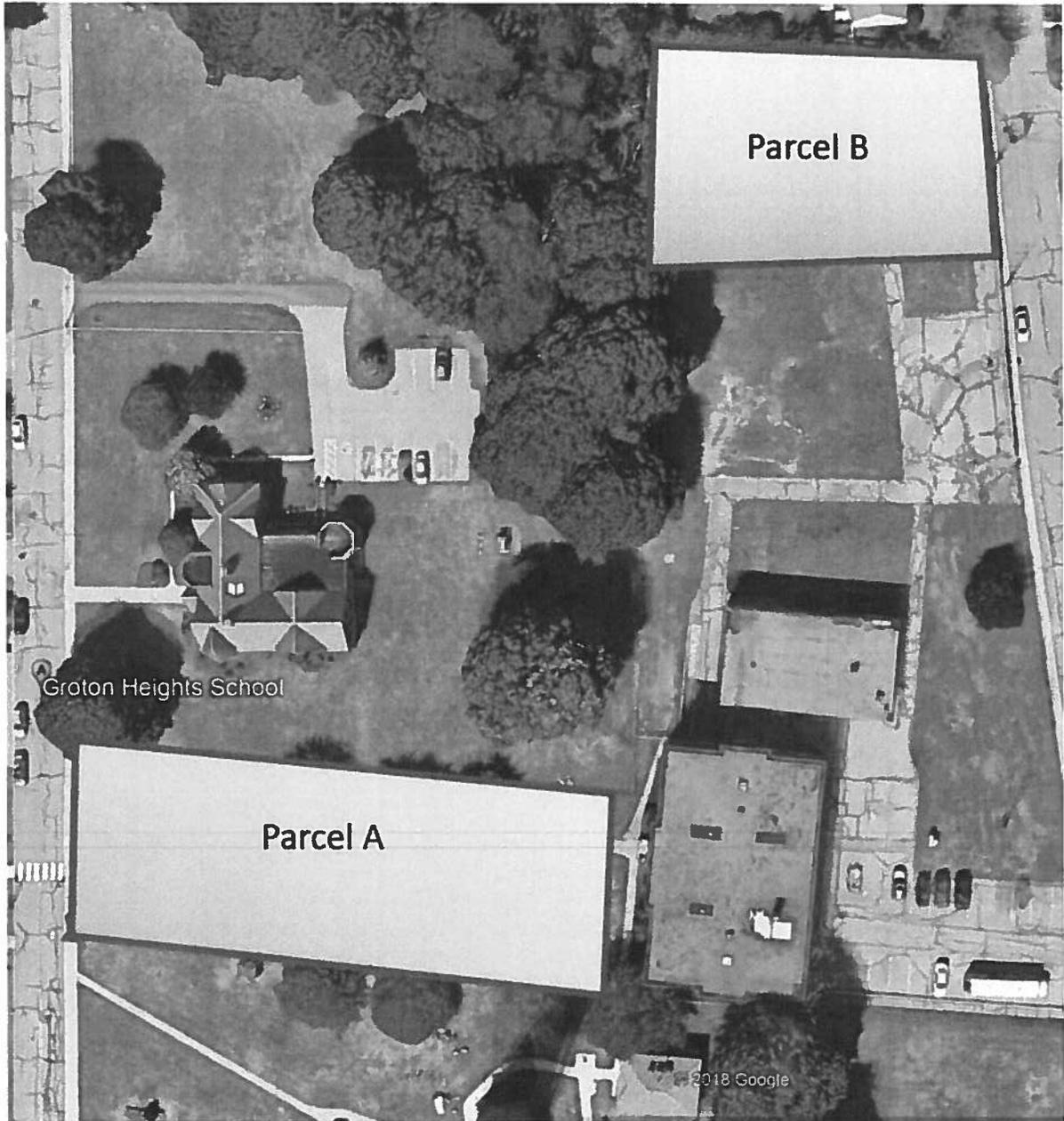
**EXHIBIT A**

**LOCATION OF TOWN PROPERTY**



**EXHIBIT B**

**EXCHANGE PARCELS  
Parcel A for Parcel B**



# EXHIBIT C

## PROPOSED DEVELOPMENT

