

**DEVELOPMENT REVIEW BOARD MEETING  
APRIL 8, 2024  
6:30 PM**

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Public Hearing:

1. **Resolution No. 432 - Planning Director's Referral of a Continuation of Non-Conforming Use Determination:** The Planning Director has referred Case File AR23-0031 to the Development Review Board for determination regarding the continuation of an existing Non-Conforming Use.

**DEVELOPMENT REVIEW BOARD  
RESOLUTION NO. 432**

**A RESOLUTION DENYING THE PROPOSED OCCUPANT’S (THE HOME DEPOT) PROPOSED USE AT 29400 SW TOWN CENTER LOOP WEST IS A CONTINUATION OF THE EXISTING NON-CONFORMING USE**

WHEREAS, an application for Class II Administrative Review (AR23-0031), together with planning exhibits, has been submitted by Dan Zoldak of Lars Andersen & Associates, Inc. – Applicant, on behalf of David Fry of Lumberjack LP – Owner, in accordance with the procedures set forth in Section 4.008 of the Wilsonville Code; and

WHEREAS, the subject property is located at 29400 SW Town Center Loop West on Tax Lot 220, Section 14D, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon (“the Location”); and

WHEREAS, the Planning Director referred the Class II Administrative Review (AR23-0031) to the Development Review Board as authorized in Section 4.030 of the Wilsonville Development Code; and

WHEREAS, the subject of the Class II Administrative Review is to confirm or deny that the non-conforming use currently located at the Location (the Current Occupant) and the Proposed Occupant’s (The Home Depot) proposed use at the Location constitutes a continuation of non-conforming use; and

WHEREAS, the Planning Staff has prepared the staff report on the above-captioned subject dated April 1, 2024; and

WHEREAS, said planning exhibits and staff report were duly considered by the Development Review Board Panel B at a scheduled meeting conducted on April 8, 2024, at which time exhibits, together with findings and public testimony were entered into the public record; and

WHEREAS, the Development Review Board considered the subject and the recommendations contained in the staff report; and

WHEREAS, interested parties, if any, have had an opportunity to be heard on the subject.

NOW, THEREFORE, BE IT RESOLVED that the Development Review Board of the City of Wilsonville does hereby adopt the staff report attached hereto as Exhibit A1, with findings and recommendations contained therein, denying the Proposed Occupant as a continuation of the existing non-conforming use at the Location.

ADOPTED by the Development Review Board of the City of Wilsonville this 8<sup>th</sup> day of April 2024, and filed with the Planning Administrative Assistant on \_\_\_\_\_. This resolution is final on the 15<sup>th</sup> calendar day after the postmarked date of the written notice of decision per *WC Sec 4.022 (.09)* unless appealed per *WC Sec 4.022 (.02)* or called up for review by the Council in accordance with *WC Sec 4.022 (.03)*.

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Rachelle Barrett, Chair - Panel B  
Wilsonville Development Review Board

Attest:

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Shelley White, Planning Administrative Assistant



Exhibit A1  
Staff Report  
Wilsonville Planning Division  
Planning Director Referral of Case File No. AR23-0031  
29400 SW Town Center Loop West

Development Review Board Panel 'B'  
Quasi-Judicial Public Hearing

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**Date of Hearing:** April 8, 2024  
**Date of Report:** April 1, 2024

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**Application Nos.:** DB24-0003 Planning Director Referral of Case File No. AR23-0031 as Authorized in Section 4.030 of the Wilsonville Development Code

**Request/Summary:** The request before the Development Review Board is to confirm or deny that the non-conforming use currently located at 29400 SW Town Center Loop West (the "Current Occupant") and the "Proposed Occupant's" (The Home Depot) proposed use at the Location constitutes a continuation of non-conforming use.

**Location:** 29400 SW Town Center Loop West (the "Location"). The property is specifically known as Tax Lot 220, Section 14D, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon.

**Owner:** Lumberjack LP (Contact: David Fry)

**Applicant/Authorized Representative:** Lars Andersen & Associates, Inc. (Contact: Dan Zoldak)

**Comprehensive Plan Designation:** Town Center

**Zone Map Classification:** Town Center (TC); Sub-districts: Commercial-Mixed Use (C-MU), Mixed Use (MU), Main Street District (MSD)

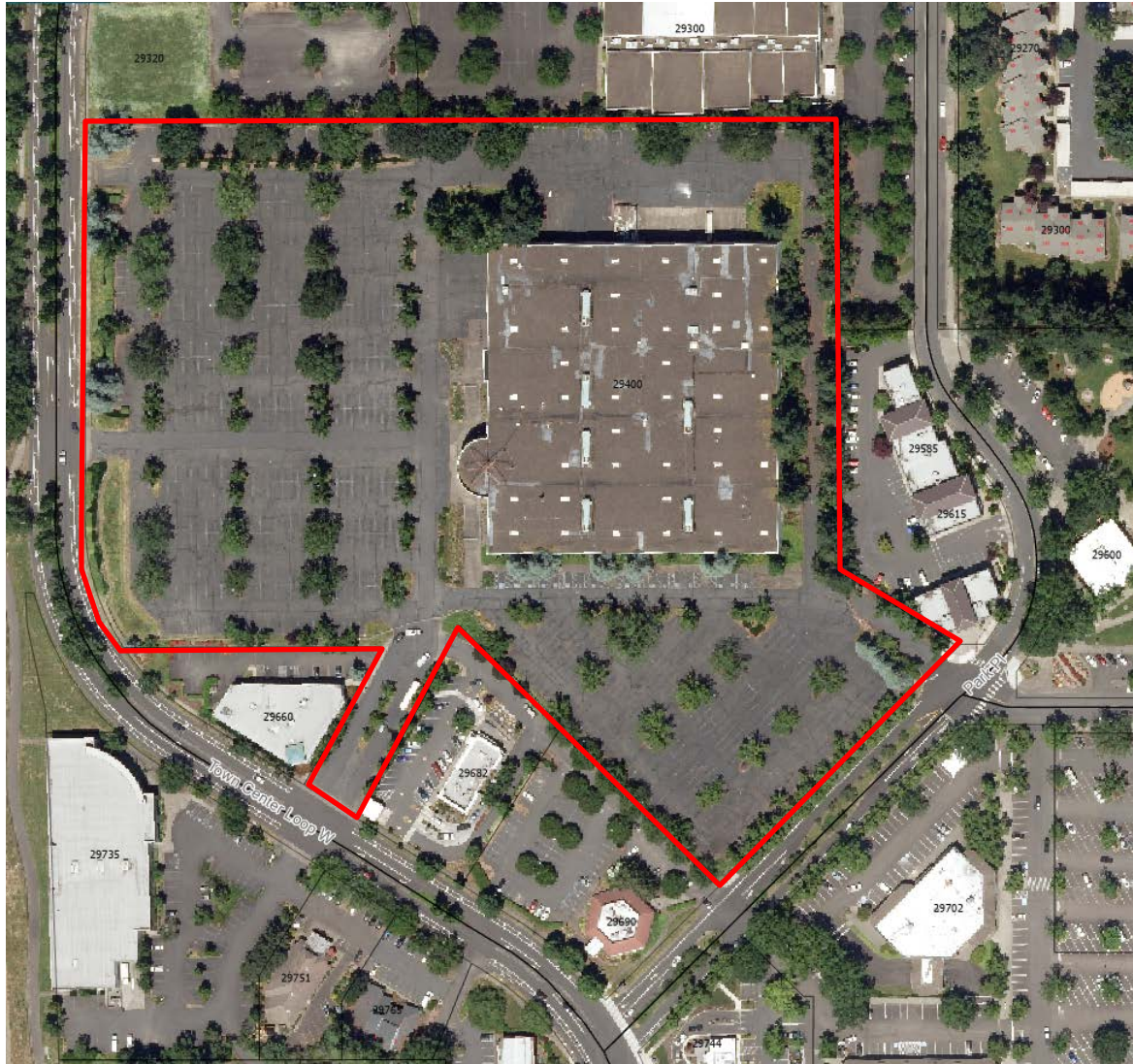
**Staff Reviewers:** Cindy Luxhoj AICP, Associate Planner  
Miranda Bateschell, Planning Director

**Staff Recommendation:** Denial of Continuation of Non-conforming Use by Proposed Occupant

**Applicable Review Criteria:**

<b>Development Code:</b>	
Section 4.001	Definitions
Section 4.008	Application Procedures-In General
Section 4.009	Who May Initiate Application
Section 4.010	How to Apply
Section 4.011	How Applications are Processed
Section 4.014	Burden of Proof
Section 4.030	Jurisdiction and Powers of Planning Director and Community Development Director
Section 4.031	Authority of the Development Review Board
Section 4.034	Application Requirements
Subsections 4.035 (.04) A. and 4.035 (.05)	Complete Submittal Requirement
Section 4.102	Official Zoning Map
Section 4.110	Zones
Section 4.132	Town Center (TC) Zone
Subsection 4.140 (.10) C.	Planned Development Regulations – Adherence to Approved Plans and Modifications Thereof
Section 4.189	Non-Conforming Uses
<b>Other Planning Documents:</b>	
Ordinance No. 55 Town Center Plan Previous Land Use Approvals	

Site Location:



## Existing Development:



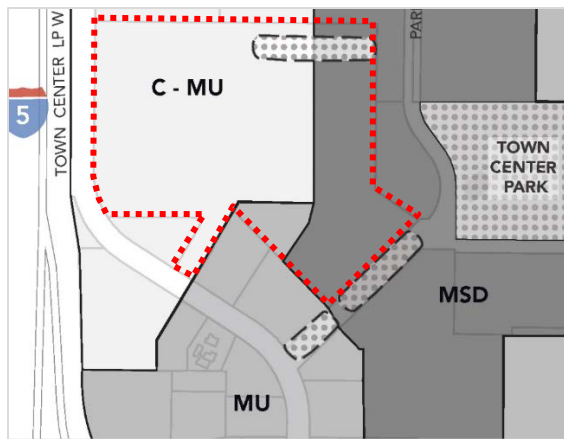
## Procedural Background:

### I. Town Center Zone

In 2019 the City adopted the Town Center Plan (Ordinance No. 835), a long-term, community-driven vision to transform Wilsonville's Town Center into a vibrant, walkable destination that inspires people to come together and socialize, shop, live, and work. As part of this work, a new zoning designation, the Town Center (TC) zone, and associated Development Code Section 4.132 were adopted for the entire Town Center Area to implement the Town Center Plan's recommendations. These standards support the creation of a walkable Town Center and main street, with design standards regulating building placement, building height, parking location, and drive through facilities. The plan and associated Zone Map and Development Code amendments went into effect on June 5, 2019.

After communicating with official representatives of the owner of the Location, Lumberjack LP, several times over the two-year planning process for the Town Center Plan, consistent with noticing requirements of ORS 227.186 and Subsection 4.012 (.02) of the Development Code, the City mailed the owner of the Location, notice of the Zone Map and Development Code amendments on February 7, 2019 (Exhibit A3). Lumberjack LP did not provide any testimony on the record raising objection to the Town Center Plan, Development Code Section 4.132, or the rezoning of the Location from the Planned Development Commercial-Town Center (PDC-TC) zone to the TC zone during the adoption process.

The C-MU sub-district of the TC zone applies to roughly two-thirds of the Location. Permitted uses within this sub-district include retail sales and service of retail products, under a footprint of 30,000 square feet per use, office, personal and professional services, and single-user commercial or retail, such as a grocery store or retail establishment, that may exceed 30,000 square feet if located on more than one (1) story of a multi-story building, provided the footprint of the building does not exceed 30,000 square feet.



The existing structure at the Location has a footprint of 124,215 square feet in a single story (page 174, Exhibit B1) with a partial mezzanine, which exceeds the footprint of 30,000 square feet per retail user and footprint limitation that is allowed in the TC zone. As noted below, the Location also has a structure and site conditions that do not meet the requirements of the TC zone.

## II. Class I Planning Director Determination (ADMN23-0029) and Appeal (DB24-0002)

On October 30, 2023, the City received an application for Class I Review (ADMN23-0029) to confirm the status of the existing non-conforming use and structure at 29400 SW Town Center Loop West (respectively, the “Class I Review Application” and the “Location”). The Location was previously occupied by Fry’s Electronics (the “Current Occupant”), an electronics retail store and has been vacant since 2021. The City deemed the application complete on November 29, 2023 and processed the request as a Class I Planning Director Determination per Subsection 4.030 (.01) A. 7. of the Development Code. On December 28, 2023, the City’s Planning Director issued their Decision on the Class I Review Application that *“Fry’s Electronics, on the subject property at 29400 SW Town Center Loop West, is a legally established Non-Conforming Use in a Non-Conforming Structure with Non-Conforming Site Conditions in the TC zone.”*

The Applicant submitted a notice of appeal of the Planning Director’s Decision on January 10, 2024 (the “First Notice of Appeal”). Specifically, the filed appeal grounds were stated: *“An APPEAL of Planning Director Determination ADMN20-0029 [sic] determining that Fry’s Electronics is a legally established Non-Conforming Use in a Non-Conforming Structure with Non-Conforming Site Conditions at 29400 SW Town Center Loop West”*. Per Code Section 4.022 (.01), a decision of the Planning Director on issuance of any Administrative Decision may be appealed, and such appeals



must be heard by the Development Review Board (DRB) for all quasi-judicial land use matters. The matter at issue before the DRB, on de novo review, was a determination of the appropriateness of the action or interpretation of the requirements of the Code.

A public hearing before the DRB regarding the First Notice of Appeal was held on February 26, 2024. During the public hearing, the Applicant requested that the record be kept open for seven days to allow it to respond to testimony entered into the record. The DRB closed the public hearing and unanimously approved the request to keep the written record open for Resolution No. 429 until March 4, 2024, at 5:00 pm. On March 4, 2024, the Applicant filed a first written submittal, and on March 11, 2024, filed its final arguments to the record. The DRB held a special meeting on March 14, 2024, to consider all evidence timely submitted regarding Case File No. DB24-0002. Following deliberation on the matter, the DRB approved Resolution No. 429 (Exhibit A2) unanimously affirming the Planning Director's Determination of Non-Conformance (ADMN23-0029) dated December 28, 2023, determining that:

1. *There is a legally established non-conforming use at the Location; specifically, that the protected use is "a 159,400 square-foot electronics-related retail store."*
2. *There is a legally established non-conforming structure at the Location.*
3. *There are legally established non-conforming site conditions at the Location.*

The Notice of Decision for Case File No. DB24-0002 was issued on March 15, 2024.

### III. Class II Planning Director Interpretation (AR23-0031)

On December 15, 2023, the City received an application for Class II Review (AR23-0031; the "Class II Review Application"). Specifically, the request is stated as: "A Class II Staff Interpretation to confirm that The Home Depot and Fry's Electronics are both warehouse retail uses" (page 1 of Exhibit B1). Further, the Applicant describes the application (also on page 1 of Exhibit B1) as "an application for a staff interpretation of the Wilsonville Development Code to confirm that The Home Depot store proposed for 29400 Town Center Loop W, Wilsonville, OR 97070 constitutes a warehouse retail use and may operate in the existing structure".<sup>1</sup>

The City deemed the Class II Review Application complete on January 12, 2024. The City is processing the request as a Class II Planning Director Interpretation, which is the subject of the current review, per Subsection 4.030 (.01) B. 3. of the Code. Given the public comment on the Class I Review Application and that there may be interested parties who may want to participate in review of the Class II Review Application, the Planning Director chose to refer the application to the Development Review Board for a public hearing per 4.030(.01)B. The Case File No. is DB24-0003, and the public hearing is scheduled for April 8, 2024.

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<sup>1</sup> Proposed Occupant, in its submission to the City dated March 29, 2024 (Exhibit B2), asks the DRB to recognize a non-conforming use for "commercial retail use," which is different than what is requested in its Application (Exhibit B1).

## Scope of Review:

Proposed Occupant's application asks DRB to confirm Proposed Occupant's desired scope of non-conforming use (Exhibit B1). Proposed Occupant also submitted a letter to the City dated March 29, 2024 regarding "Applicant's Public Comment for AR23-0031" (Exhibit B2). In this letter Proposed Occupant invites DRB to "address" or "remedy" the flaws in DRB Resolution No. 429.

Resolution No. 429 is a City decision, and may be overturned only on appeal. There is currently an appeal pending before City Council. The issues that were resolved in Resolution No. 429 are beyond the scope of this matter. In particular, the Proposed Occupant's request for DRB to recognize a non-conforming use for "warehouse retail use" or "commercial retail use" ignores Resolution No. 429, which established the scope of the recognized non-conforming use, and is beyond the scope of this matter.

Further, Proposed Occupant has waived its right to address the issues that were addressed in Resolution No. 429 through this Class II Review Application proceeding. The City invited Proposed Occupant to withdraw its Class I application, both in writing on November 28, 2023, at the DRB hearing on February 26, 2024, and in the days following the DRB hearing on February 26, 2024 (Exhibit A7). The City offered to void and withdraw the Planning Director's determination in the Class I matter (and have the DRB not issue a decision), and make clear that the issues under review in the Class I proceeding would be addressed in the Class II proceeding. The City's goal in making this offer was to allow the City to address all issues pertinent to both the Class I and Class II proceedings in one combined proceeding. Appellant declined this offer (Exhibit A7).

## Questions Presented:

Within the document titled "Applicant's Narrative and Exhibits" (Exhibit B1) Applicant states that it is requesting confirmation that The Home Depot ("Proposed Occupant") and Fry's Electronics ("Current Occupant") are both "warehouse retail uses." See pages 1, 2, and 7. Applicant also states that it is requesting confirmation that the Proposed Occupant may continue to operate at the Location.

Therefore, this decision must answer the following question:

If Proposed Occupant operates at the Location will this constitute a continuation of the non-conforming use?

The following steps will determine the answer to that question:

Step 1: What is the existing non-conforming-use?

Step 2: What is the proposed use?

Step 3: Is the proposed use a continuation of the current non-conforming use?

Based on the applicable legal standard, that the use at the Location is a legally established non-conforming use in the Town Center (TC) zone. On appeal, in Resolution No. 429 approved on March 14, 2024, the DRB determined as follows:

There is a legally established non-conforming use at the Location; specifically, that the protected use is “a 159,400 square-foot electronics-related retail store.”

The determination made by the DRB in the Notice of Decision for Case File No. DB24-0002 provided the answer to Step 1, must be adhered to, and is the basis of this Class II Review.

The applicable legal standard, relevant facts, and Planning Director’s recommendation on the Class II Review Application responding to this question are discussed in detail in the following section of this staff report.

### **Evidentiary Standard:**

The DRB’s decision in this matter must be supported by substantial evidence in the whole record. ORS 197.835(9)(a)(C). This standard disallows LUBA from overturning a local government decision if a reasonable person could draw the same conclusion as the local government – even if a reasonable person could draw a different conclusion from the same evidence. *See Adler v. City of Portland*, 25 Or LUBA 546, 1993 WL 1473299 at \*6 (1993); *Fraley*, 32 Or LUBA 27, 31-32 (1996), *aff’d*, 145 Or App 484 (1996).

### **Burden of Proof:**

The proponent of a proposed non-conforming use, or expansion or change to a recognized non-conforming use, has the burden of proof. *See ODOT v. City of Mosier*, 36 Or LUBA 666, 671 (1999) (citing *Lane Cnty. v. Bessett*, 46 Or App 319 (1980)); *Sabin*, 20 Or LUBA 23, 30 (1990) (citing *Webber v. Clackamas Cnty.*, 42 Or App 151, *rev den*, 288 Or 81 (1979)).

In this matter, Applicant has the burden of proof, and the DRB’s decision is subject to the “substantial evidence” standard. *River City Disposal and Recycling v. City of Portland*, also a case regarding non-conforming uses, illustrates how these concepts should be applied together. In *River City Disposal and Recycling*, LUBA found that the City hearings officer’s decision satisfied the “substantial evidence” standard. *See* 35 Or LUBA 360 (1998). It was enough that the hearings officer found that evidence presented in an affidavit (aerial photographs) was not persuasive. *Id.* at 367-71. LUBA also clarified that the City of Portland was not obligated to present contrary evidence to counter the applicant’s evidence, and the “substantial evidence” standard was satisfied because the hearings officer found that the applicant failed to satisfy its burden of proof. *Id.*

Because Proposed Occupant has the burden of proof, the City may decide that not enough evidence has been provided by Proposed Occupant to satisfy its burden of proof. The City is not obligated to produce its own evidence to counter Proposed Occupant’s evidence. Further, the City may determine the credibility of evidence in the record; in particular, when conflicting evidence exists, the City may decide that some evidence is credible and persuasive, and other evidence is not.

## Legal Standard Regarding Continuation of Non-conforming Uses:

### 1. WC 4.189 (.01)

A non-conforming use may be continued subject to the requirements of WC 4.189. *See* WC 4.189 (.01). There are no other Code provisions regulating a continuation of a non-conforming use.

### 2. Caselow Regarding Continuation of Non-Conforming Uses

The following sections outline the legal authorities, in Oregon, that govern whether or not a use is deemed a continuation of a non-conforming use.

#### a. Non-Conforming Use Defined

Generally, a non-conforming use is understood to be “one that is contrary to a land use ordinance but that nonetheless is allowed to continue because the use lawfully existed prior to the enactment of the ordinance.” *Morgan v. Jackson Cnty.*, 290 Or App 111, 114 (2018) (citing *Rogue Advocates v. Board of Comm. Of Jackson Cnty.*, 277 Or App 651, 654 (2016), *rev dismissed*, 362 Or 269, 407 (2017)); *see* Subsection 4.001 (196.) of the Development Code (defining a non-conforming use as “a legally established use, which was established prior to the adoption of the zoning use requirements for the site with which it does not conform”).

#### b. Non-Conforming Uses – and Expansion of Non-Conforming Uses – are Disfavored; Local Government has Broad Discretion to Resist Expansion of Non-Conforming Uses

“Nonconforming uses are not favored because, by definition, they detract from the effectiveness of a comprehensive zoning plan. . . . Accordingly, provisions for the continuation of nonconforming uses are strictly construed against continuation of the use, and, conversely, provisions for limiting nonconforming uses are liberally construed to prevent the continuation or expansion of nonconforming uses as much as possible.” *Parks v. Bd. of Cnty. Comm’rs of Tillamook Cnty.*, 11 Or App 177, 196–97 (1972) (internal citation omitted). “[T]he law of nonconforming uses is based on the concept, logical or not, that uses which contravene zoning requirements may be continued only to the extent of the least intensive variations—both in scope and location—that preexisted and have been continued after the adoption of the restrictions.” *Clackamas Cnty. v. Gay*, 133 Or App 131, 135 (1995), *rev den*, 321 Or 137 (1995), *aff’d*, 146 Or App 706 (1997).

#### c. Whether a Proposed Use is a Continuation or Change (of Non-Conforming Use) Depends on the Nature and Extent of the Recognized Non-Conforming Use

It is helpful to think of a proposed use to either be within or beyond the scope of a recognized non-conforming use. A use that is within the scope of a recognized non-conforming use is a “continuation” of use. A use that beyond this scope is a “change” of use. A use that is deemed too expansive to be a “continuation” of use is necessarily a “change” of use – a use must be one or the other. The following cases are helpful in illustrating the line between “continuation” and “change” of use.

The nature and extent of the lawful use in existence at the time the use became nonconforming is the reference point for determining the scope of permissible continued use. *Sabin* at 30 (citing *Polk County v. Martin*, 292 Or 69 (1981)) (emphasis added). The focus of a review of whether or not a use is continuous must focus on the actual *use* of a property during relevant times – a change in the property occupant does not, by itself, cause a legally protectable non-conforming use to be abandoned when the use that the various parties made of the property is recognized to be the same. See *Vanspeybroeck v. Tillamook Cnty. Camden Inns, LLC*, 221 Or App 677 (2008) (LUBA did not err in recognizing a continuous residential use of a property when residency changed from tenant to owner, back to tenant).

A local government that is reviewing a proposed alteration of, change to, or expansion of a recognized non-conforming use should review evidence to determine the current actual use or proposed use (as applicable), and determine whether that use is within or beyond the scope of the recognized non-conforming use. In *Larson v. City of Warrenton*, 29 Or LUBA 86, 1995 WL 1773182 (1995), the City of Warrenton determined that a company had impermissibly expanded its operations beyond activities protected in a prior administrative decision. The prior administrative decision protected the following uses on the subject property: “[s]toring and repairing marine construction equipment and [a] base of operations for [the property owner’s] construction company.” *Id.* at \*1. In 1994, the property’s neighbors complained to the city about these business operations, arguing that the intensity of the use had increased. *Id.* The city evaluated various forms of evidence (testimony that log trucking began in 1993, the fact that the petitioner advertised for truck drivers in 1993, and the fact that the petitioner obtained a state license in 1992 that allowed the hauling of logs). *Id.* at \*2. The city determined that the property owner was impermissibly operating beyond the scope of the non-conforming use recognized in the 1991 administrative decision, and LUBA affirmed this decision. *Id.* As LUBA has stated in another case, “[w]e believe a change in use includes adding a new use to an existing nonconforming use.” *River City Disposal and Recycling* at 373 n. 11.

In this matter, the City may determine that the Proposed Occupant’s proposed use of the Location includes uses that are beyond the scope of the recognized non-conforming use; these uses would only be permissible if the City approved a “change” of non-conforming use. This proceeding is limited to the question of whether certain uses are a “continuation” of use – a potential “change” of non-conforming use is beyond the scope of what may be addressed in this matter.

d. Local Government has Broad Discretion to Draw Distinctions Between Various Uses, and Allow Some Uses to Continue But Disallow Other Uses

A local government has broad discretion to reject an applicant’s characterization of a use, and to draw distinctions between various uses. For example, in *Fraleigh*, the applicant sought recognition of a property use involving the repair of diesel engines and tractor trailer trucks. In the local government decision at issue, the county found that a prior property owner “maintained a use significantly different in nature from the commercial vehicle repair business which the applicant seeks to verify.” *Id.* at 34. This prior property owner engaged in the structural repair of

motorhomes, campers, RVs and camp trailers. *Id.* Testimony from this prior property owner did not mention vehicular engine repair. *Id.* On appeal, LUBA rejected the applicant’s challenge to the county’s finding and decision on this point, stating, “[w]e do not agree with [applicant] that the use was not interrupted because all of the commercial operations on the subject property since [the date more restrictive zoning regulations were applied] share the same essential nature or common nucleus. . . . [The mobile home repair business] had little in common with the present primary use, the repair of diesel engines and tractor trailer trucks.” *Id.* at 35. LUBA went on to note that these two businesses used the yard in different ways – one stored lumber in the yard, and the other stored large trucks in various states of repair. *Id.*

Further, a local government may specifically allow certain uses as non-conforming, but deny others, even when all such activities are related to the same business venture. In the Clackamas County Hearings Officer’s Findings and Decision, docket no. Z1155-91-E/A<sup>2</sup>, the hearings officer determined that there was a protected non-conforming use for “the storage commercial goods in the two structures in question, including the storage of cedar wood fencing materials.” Findings and Decision of the Hearings Officer at 6, Z1155-91-E/A (Feb. 11, 1994). (attached hereto as Exhibit A5). The applicant in this case had also applied for a “change” (i.e., expansion) of this recognized use for an on-site office facility for this warehousing and repackaging business. *Id.* The reasoning and legal standard used by the hearings officer relates to only counties – and not cities, but the important point is that he declined to expand the recognized non-conforming use. *Id.* The Clackamas County Hearings Officer’s decision in docket no. Z1155-91-E/A is an example of a local government deliberately and selectively recognizing some activity to be within the scope of a recognized non-conforming use – and other activity to be beyond this scope of the recognized non-conforming use – even when both activities relate to the same business venture.

## **Relevant Facts, Background, and Considerations:**

### 1. What is the non-conforming use?

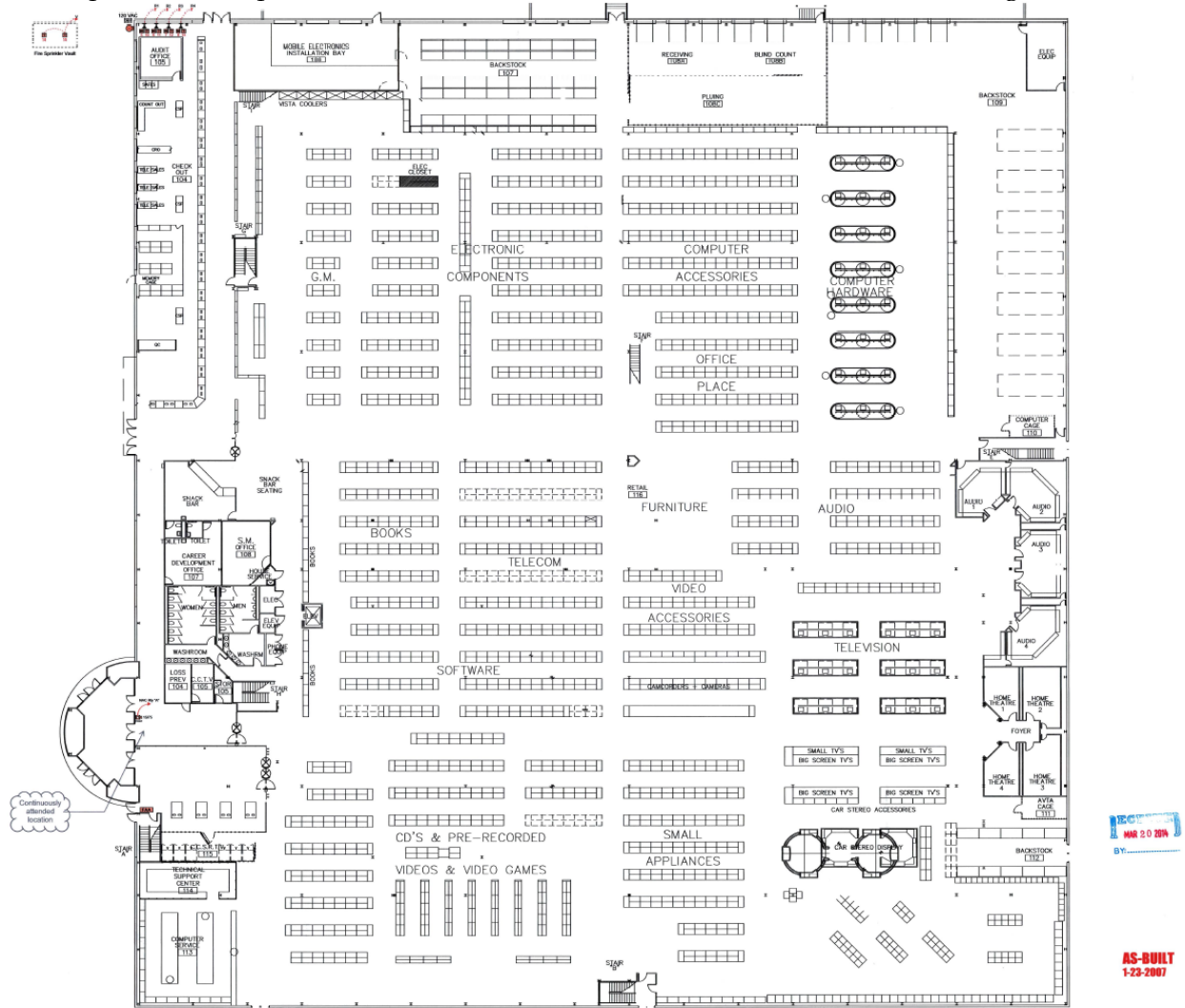
As determined by the DRB Decision in Case File DB24-0002 (Resolution No. 429), there is a legally established non-conforming use at the Location; specifically, that the protected use is “a 159,400 square-foot electronics-related retail store” (referred to as the “Current Occupant” in this staff report).

When the TC zone regulations went into effect on June 5, 2019, the occupant of the Location was Fry’s Electronics. The application (page 3 of Exhibit B1) characterizes the Current Occupant as follows: “*Fry’s was a large electronics warehouse store that retailed software, consumer electronics, household appliances, cosmetics, tools, toys, accessories, magazines, technical books, snack foods, electronic components, and computer hardware. Fry’s also had in-store computer repair and custom computer building services, and offered technical support to customers.*”

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<sup>2</sup> This Hearings Officer Decision is the remanded determination by Clackamas County following *Hendgen v. Clack. Cty.*, 115 Or App 117 (1992). *See also* 24 Or LUBA 355 (1992) (LUBA decision remanding the matter to Clackamas County following previously cited Court of Appeals opinion).

An as-built floor plan submitted by the Current Occupant to the City’s Building Division in 2014 (Exhibit A4) illustrates the store’s layout and product selection. The floor plan illustrates the sales area of computers, televisions, audio equipment, CDs and videos, computer software and hardware, small appliances and other related office and electronic components. A small snack bar and technical support and service areas were also included in the floor plan. Inventory storage components of the Current Occupant, identified as backstock, were located separate from the retail space. All components of this use were located in the interior of the building.



Fry’s Electronics As-Built, submitted in 2014. Source: City of Wilsonville Building Division

The following images, posted to the Wilsonville Fry’s Electronics Yelp page in 2019, illustrate store layout and product selection at the time the TC zone regulations went into effect.



Fry's Electronics Retail Space. Source: Yelp – Fry's Electronics, Photos (June 9, 2019), [https://www.yelp.com/biz\\_photos/frys-electronics-wilsonville](https://www.yelp.com/biz_photos/frys-electronics-wilsonville), (last visited March 20, 2024).



Fry's Electronics Retail Space. Source: Yelp – Fry's Electronics, Photos (June 9, 2019), [https://www.yelp.com/biz\\_photos/frys-electronics-wilsonville](https://www.yelp.com/biz_photos/frys-electronics-wilsonville), (last visited March 20, 2024).





Fry's Electronics Retail Space. Source: Yelp – Fry's Electronics, Photos (November 21, 2019), [https://www.yelp.com/biz\\_photos/frys-electronics-wilsonville](https://www.yelp.com/biz_photos/frys-electronics-wilsonville), (last visited March 20, 2024).



Fry's Electronics Retail Space. Source: Yelp – Fry's Electronics, Photos (November 21, 2019), [https://www.yelp.com/biz\\_photos/frys-electronics-wilsonville](https://www.yelp.com/biz_photos/frys-electronics-wilsonville), (last visited March 20, 2024).



Fry's Electronics Retail Space. Source: Yelp – Fry's Electronics, Photos (November 21, 2019), [https://www.yelp.com/biz\\_photos/frys-electronics-wilsonville](https://www.yelp.com/biz_photos/frys-electronics-wilsonville), (last visited March 20, 2024).



Fry's Electronics Backstock Area. Source: Yelp – Fry's Electronics, Photos (October 26, 2019), [https://www.yelp.com/biz\\_photos/frys-electronics-wilsonville](https://www.yelp.com/biz_photos/frys-electronics-wilsonville), (last visited March 27, 2024).

These images are generally consistent with the 2014 floor plan, illustrating that items available for sale at the Current Occupant were consistent with an electronics-related retail use, including computers, monitors, small electronics, and related accessories. Taken together, this information confirms that the store was operating in the same manner as what is shown on the 2014 floor plan at the time the TC zone regulations went into effect.

Based on the 2014 floor plan, the City concludes that the Current Occupant sold the following goods: Electronic components, computer accessories, computer hardware, computer software, office goods, telecom equipment, video accessories, audio equipment, televisions, small appliances, CD's, videos, and video games. This is consistent with the DRB Decision in Case File DB24-0002 (Resolution No. 429), that the legally established non-conforming use at the Location is "a 159,400 square-foot electronics-related retail store" (referred to as the "Current Occupant" in this staff report).

## 2. What is the proposed use?

The application (pages 5-6 of Exhibit B1) characterizes the Proposed Occupant at the Location as follows: *"The Home Depot, Inc. ("HD") intends to operate a store within the existing structure that was previously occupied by Fry's, and therefore seeks confirmation from the City that a warehouse retail store can continue operating at the property... HD operates home improvement warehouse stores that retail tools, construction products, appliances, and services, including transportation and equipment rentals. HD's Home Services division also offers technical expertise for home improvement projects, and both onsite and offsite install, repair, and remodel services. Although the vast majority of HD customers are private individuals, contractors and other professionals account for close to half of HD's annual sales."*<sup>4</sup>

While the Applicant's materials do not provide detail on how all of these activities would occur at the Location, an examination of other area Home Depot locations reveals that components of the activities, including the garden center and transportation and equipment rentals, occur on the exterior of the building. See discussion responding to the question, Is the proposed use a continuation of the current non-conforming use?, under 3. below, for additional characterization of the Proposed Occupant's activities at the Location.



Home Depot – Tigard, OR (Source: Google Maps – 3/25/2024)



Home Depot – Tigard, OR (Source: Google Maps – 3/25/2024)



Home Depot – Sherwood, OR (Source: Google Maps – 3/25/2024)



Home Depot – Sherwood, OR (Source: Google Maps – 3/25/2024)



Home Depot – Sherwood, OR (Source: Google Maps – 3/25/2024)

3. Is the proposed use a continuation of the current non-conforming use?

For a use to be deemed a continuation of a legally established non-conforming use, it must have the same nature and extent as the recognized non-conforming use. See *Sabin v. Clackamas Cnty.* In this matter, the reference point is the nature and extent of the Location as of June 5, 2019, as determined by the DRB in Case File DB24-0002 (Resolution No. 429).

The City is entitled to draw distinctions between uses. In *Fraley*, Deschutes County drew a distinction between the repair of motorhomes, campers, RV's and camp trailers, and storage of lumber, on one hand, and the repair of diesel engines and tractor trailer trucks, on the other hand. The County took the position that not all motor vehicle repair activities are the same. In this matter the City may draw distinctions between the uses carried out by Fry's Electronics and Applicant, just as the County did in *Fraley*.

Further, once the City draws distinctions between uses, it is entitled to determine that certain uses are beyond the scope of a recognized non-conforming use when there is no evidence of them at the relevant time – and therefore determine that there is no “continuation” with respect to those uses – just as the County did in *Hendgen*. Just as LUBA stated in *River City Disposal and Recycling v. City of Portland*, a new or additional use is a change of use rather than a continuation of use.

Based on the application materials provided by the Proposed Occupant, and an examination of how the Proposed Occupant operates locally, the City has concluded the following:

- Applicant acknowledges that the Proposed Occupant operates “home improvement warehouse stores” (page 5 of Exhibit B1).
- Applicant acknowledges that contractors and other professionals, not private individuals, account for close to half of the Proposed Occupant’s annual sales (page 6 of Exhibit B1).
- Applicant acknowledges that the Current Occupant and Proposed Occupant “carry different products” (page 6 of Exhibit B1) and includes a list of products and services provided by the Proposed Occupant, such as “tools, construction products, appliances, and services, including transportation and equipment rentals”, and “both onsite and offsite install, repair, and remodel services” (page 5 of Exhibit B1), that are not

electronics-related or included in the products and services provided by the Current Occupant.

- Applicant shows on the site plan included in its application materials activities that occur outside the structure at the Location, such as the proposed lumber pad at the back of the structure (see page 174 of Exhibit B1), or describes activities that are likely to occur outside, such as transportation and equipment rentals (see page 5 of Exhibit B1).
- Thus, Proposed Occupant is not an electronics-related retail store and contains products and activities that are different than those provided by the Current Occupant.
- Applicant has not presented any evidence to prove that Proposed Occupant's activities existed at the Location as of June 5, 2019.

In other words, the Proposed Occupant's proposed use of the Location, as described above, goes beyond a mere continuation of the non-conforming use of the Location that was recognized by the DRB. Proposed Occupant may engage in these uses at the Location only if it obtains a recognition of change of use, which is beyond the scope of what may be addressed in this matter.

### **Conclusory Findings:**

1. Proposed Occupant's operation at the Location would not be a mere continuation of the non-conforming use previously approved by the City. Therefore, Staff recommends the DRB deny the Proposed Occupant as a continuation of non-conforming use of the Location. Staff recommendation is based on the following considerations:
  - a. The 1991 Decision and the zoning regulations in effect when the 1991 Decision was granted are irrelevant to this decision.
  - b. Proposed Occupant describes itself as a "home improvement warehouse store" (page 5 of Exhibit B1). This is not the same as an "electronics-related retail store," which is the legally established non-conforming use at the Location. Proposed Occupant's characterization of the non-conforming use approved by the City as "warehouse retail use" is incorrect and is not persuasive.
  - c. Proposed Occupant admits that its proposed use of the Location would include the sale of tools and construction products, the rental of transportation and equipment, technical expertise for home improvement projects, and both onsite and offsite installation, repair, and remodeling services (pages 5-6 of Exhibit B1). Some of Proposed Occupant's customers include contractors and professionals. These uses extend beyond the scope of the Current Occupant's actual use of the Location as of June 5, 2019.

### **Additional Discussion Regarding Proposed Occupant's Reliance on 1991 Decision; Planning Director's Interpretation of Ordinance No. 55:**

Proposed Occupant's argument appears to rely heavily on the original land use approval in this matter, what they refer to as the "1991 Decision." Proposed Occupant states on page 6 of Exhibit B1 that it would be a use of the Location that falls within the approved 1991 Decision, and based

on its own characterization of its proposed use of the Location, it would have been allowed to operate at the Location under zoning regulations that were in effect in 1991. Proposed Occupant's understanding of the scope of the original land use approvals for the Location is incomplete.

As explained above, the only relevant point of reference when determining the scope of a non-conforming use is the nature and extent of the use of the subject property at the time the use became nonconforming. *Sabin* at 30 (emphasis added). It is clear from relevant Oregon cases that local governments, when determining the scope of a non-conforming use, consider evidence such as testimony from the property owner or neighbors. See *Larson* (considered evidence included testimony that log trucking began in 1993, the fact that the petitioner advertised for truck drivers in 1993, and the fact that the petitioner obtained a state license in 1992 that allowed the hauling of logs); *Fraley* (considered evidence included tax records, affidavits and interviews of previous site occupants, and photographic evidence); *Crook v. Curry County*, 38 Or LUBA 677 (2000) (considered evidence included photogrammetric evidence, testimony from site visitors, the age of certain building materials, and the fact that the county's assessor's office had no record of a structure on the subject site). Not one of the local jurisdictions in the many cases reviewed by the City in this matter considered either (1) what would have been allowed under a property's original zoning, or even (2) what was written in the subject property's original land use approvals when evaluating an application for recognition of a non-conforming use. Further, LUBA does not consider these factors when reviewing local jurisdictions' decisions regarding non-conforming uses. Applicant also has not cited any cases where original land use approvals served as the basis for determining a legally non-conforming use.

In summary, neither the 1991 Decision, nor the zoning regulations that were in effect in 1991, are relevant in this matter. However, for the sake of responding to Applicant's argument only, the City addresses the 1991 Decision.

Much of Wilsonville's development, including at the Location, was approved using a Planned Development review process. Planned Development generally consists of four phases of project approval – Rezoning, Stage I—Preliminary Plan, Stage II—Final Plan, and Site Design Review. Some of these phases may be combined during the land use review process, but generally the approvals move from the conceptual stage through to detailed architectural, landscape and site plan review in stages. Based upon the zoning designation of a location, Stage I plans establish “bubble diagram” level uses for development, and Stage II plans indicate the specific types and locations of all proposed uses enabling analysis of impacts of those uses for the purpose of traffic and other infrastructure impacts and concurrency evaluation.

In 1991, Capital Realty Corporation submitted an application for approval of a Stage I Master Plan Modification and Phase II Stage II Site Development Plan for the Wilsonville Town Center Master Plan area (File No. 91PC43). The application was submitted on behalf of a retail business with the anonymous name “Project Thunder”. The retail business desired to develop 14.75 acres (Phase II of the Wilsonville Town Center Master Plan) for “a 159,400 square foot electronics-related retail store”. The proposed Project Thunder Stage II Site Development Plans necessitated the requested application by Capital Realty Corporation to modify and resubmit the Stage I



Wilsonville Town Center Master Plan to reflect the expanded master plan area, reclassify overlay zones associated with Ordinance No. 55 (adopted February 9, 1976, and incorporated into the Planned Development Commercial (PDC) zone), redesign the phasing sequence, and establish approximately 5.4 acres for open space.

Specifically with regard to the Location, action in 91PC43 adjusted the Phase II area and changed the land use classification of the site to Central Commercial (CC) replacing the previous classifications of Motor Home (MH), Office Professional (OP), Service Commercial (SC), and Residential (R). As the CC use designation is the basis of the Stage I approval, approved uses for the Location were those identified as CC in the Stage I Wilsonville Town Center Master Plan as defined by Ordinance No. 55.

Description of the proposed development, Project Thunder, in the application is “a 159,400 square foot electronics-related retail store” or a “commercial retail store,” and there is no reference to “warehouse retail” use or “commercial retail center.” There is also no reference to “warehouse retail” or “commercial retail center” in the Ordinance No. 55 land use categories, also referred to as overlay zones, or in the Stage I Master Plan. While the Applicant asserts that “warehouse retail” or “commercial retail center” is the approved use and that the Current Occupant and the Proposed Occupant are the same, Project Thunder was never approved as such. The Planning Commission had the authority to make changes to the application of approved overlays consistent with Ordinance No. 55. This was done via a land use application and action, and is what was done in 91PC43 to classify the site as Central Commercial.

The Stage II Plan evaluates, among other development requirements, minimum parking space needs, which were evaluated for the Location as the sum of individual uses within the development. In the case of Project Thunder, the primary use was evaluated along with accessory components of that use, which included service, office, restaurant, and storage. Evaluation of these components of use for the purpose of determining minimum parking requirements did not change the overall Stage I Master Plan for this Location, which was Central Commercial.

Project Thunder, a commercial retail store (electronics store), was considered consistent with the CC use category when it was approved in 1991. While electronics store was not a use listed specifically in CC, modification to the Stage I Master Plan for the development was approved by the Planning Commission under the authority granted to them in Ordinance No. 55. Conversely, uses more closely associated with the Proposed Occupant were not listed in the CC use category but included in other land use categories, as follows:

- Under the Service Commercial (SC) category - Building materials, retail outlet only, and Cabinet or carpenter shop
- Under the Food and Sundries (FS) category - Hardware store

It is a well-established rule of statutory interpretation that one must not insert language that has been omitted – or omit language that has been inserted. *See* ORS 174.010.

Hypothetically speaking, before a tenant like the Proposed Occupant could have engaged in uses listed in the SC and FS categories at the Location, prior to the 2019 Town Center rezone, a Stage I Master Plan modification for the Location, approved by the Planning Commission, would have been required. Therefore, the argument that Proposed Occupant should be deemed a continuation of use of the Location not only ignores applicable case law, but also ignores the zoning in place at the time of the original land use approval as well as the scope of the land use approval itself.

In summary, neither the 1991 Decision, nor the zoning regulations that were in effect in 1991, are relevant in this matter. Applicant has not cited any legal authorities that say otherwise. Therefore, Proposed Occupant's reliance on the 1991 Decision is inappropriate and misleading. Further, to the extent that the DRB considers Proposed Occupant's argument, it should be cautious: Proposed Occupant has an incomplete understanding of the scope of the 1991 Decision, and what uses would have been allowed at the Location under the City's zoning regulations.

### **Additional Discussion Regarding Points Beyond the Scope of this Class II Review Application**

Applicant, in both Exhibit B1 and Exhibit B2, invites DRB to revisit points that were addressed in the DRB approved Resolution No. 429 (Exhibit A2). As a reminder, the determinations made by the DRB in Resolution No. 429 must be adhered to and are the basis of this Class II Review. This Class II Review process is not an opportunity for Proposed Occupant to relitigate these determinations. However, to fully inform the DRB and respond to Proposed Occupant's written materials, the City explains below why Proposed Occupant's arguments are baseless.

#### **Proposed Occupant's Unsubstantiated Retail Warehouse Use Characterization**

Proposed Occupant characterizes the Location as an "electronics warehouse store" and "warehouse retail use" in the application materials. The City rejects this characterization for the following reasons:

- Applicant has not provided any evidence to support its characterization of the Location as of June 5, 2019.
- The 2014 floor plan and 2019 *Yelp* images confirm that the Current Occupant sold electronics, and do not support the assertion that this was a warehouse store.
- As illustrated in the 2019 *Yelp* images of Current Occupant, there was no warehouse shelving present except in the portions of the building designated as "backstock." Additionally, nothing in the images indicates that merchandise was being stocked and sold at a high volume or in bulk to the public. Furthermore, the above descriptions generally do not discuss the type of retail use or user; rather, they focus on the manner in which a retail product is displayed and sold.
- The City's Development Code does not define "warehouse retail use" or "warehouse store," nor do these terms appear in any prior land use approvals for the Location.
- Likewise, there is not a clear, commonly accepted term for "warehouse retail" or "warehouse store."

- *Cambridge Dictionary* defines “warehouse store” as “a large store that sells large quantities of products at low prices to the public.”
- *Wikipedia* defines “warehouse store” as “a food and grocery retailer that operates stores geared toward offering deeper discounted prices than a traditional supermarket. These stores offer a no-frills experience and warehouse shelving stocked well with merchandise intended to move at higher volumes.”
- *SPC Retail* defines “warehouse retail” in the following manner: “Warehouse retailers, such as Costco or Sam’s Club, are food and product retailers that offer large quantities of items at attractive discounts. These stores create a no-frills experience and instead focus on moving products in higher volumes.”
- The *Institute of Transportation Engineers (ITE) Trip Generation Manual, 11<sup>th</sup> Edition*, which assesses trip generation rates specific to different categories of uses, including retail uses, does not specify “warehouse store” or “warehouse retail” as a specific type of retail use.

But as stated above, the scope of the non-conforming use recognized at the Location as of June 5, 2019 was stated in Resolution No. 429, and is beyond the scope of this Class II Review Application.

*Hendgen* Clarified: There is no “Common Nucleus” Test

Proposed Occupant attempts to use the Court of Appeals’ opinion in *Hendgen v. Clackamas County*, 115 Or App 117 (1992), to argue that “the common nucleus in activities for both [Proposed Occupant] and [Current Occupant] is commercial retail use” (pages 4-5 of Exhibit B2). This reflects a gross misreading of the Court of Appeals’ opinion in *Hendgen*.

After the Court of Appeals issued the opinion referenced above (115 Or App 117 ), but before the county could address the issues that were remanded, the appellant in *Hendgen* again appealed to the Court of Appeals, arguing that it was error to remand this case to the county for further proceedings because – in its reading of the Court of Appeals’ opinion – the Court of Appeals held that storage was a valid non-conforming use. *See Hendgen v. Clackamas Cnty.*, 119 Or App 55, 57 (1993). The Court of Appeals wrote:

“[Appellants] are mistaken in their understanding of what we held. We concluded that the legal *test* that the county and LUBA applied in determining whether a nonconforming use existed was too restrictive; we did not-and could not-resolve the factual question of whether the nonconforming use does exist. . . . Like us, LUBA cannot make that factual determination; it may only review the county's findings.” *Id.* at 57-58.

Under the Court of Appeals’ opinion, the City of Wilsonville is the only party that may determine whether a non-conforming use exists, and the scope of that use. Further, the Court of Appeals’ opinion cannot properly be read to announce a “common nucleus” test that binds local governments when they determine whether a non-conforming use exists, its scope. Finally, it is

important to note that *Hendgen* was based in part on an interpretation of Clackamas County's code, and using a statute that applies to only counties and not cities. Therefore, it is irrelevant to these proceedings that Clackamas County recognized a non-conforming use in *Hendgen*.

But as stated above, the scope of the non-conforming use recognized at the Location as of June 5, 2019 was stated in Resolution No. 429, and is beyond the scope of this Class II Review Application.

The City and Proposed Occupant Agree That the Identity of the Party that Engaged in the Use is Irrelevant

Proposed Occupant cites *Vanspeybroeck v. Tillamook Cnty. Camden Inns, LLC*, 221 Or App 677 (2008), to argue that a change in characteristic of a tenant – whether owner or renter – does not result in the abandonment of a non-conforming use (page 4 of Exhibit B2). The City agrees that the identity of the party that engaged in the use is irrelevant to this matter.

The City's position in this matter, which is stated in Resolution No. 429, and which is beyond the scope of this Class II Review Application, was based on an examination of the use of the subject property at the time the more restrictive zoning regulation became effective.

### **Neighborhood and Public Comments:**

No public comments were received during the public comment period for this application. However, the applicant submitted additional information related to their application, which is included as Exhibit B2 of this staff report.

### **Master Exhibit List:**

The following exhibits are hereby entered into the public record as confirmation of consideration of the application as submitted. The exhibit list includes exhibits for Case File No. AR23-0031 (referred by the Planning Director to the DRB as Case File No. DB24-0003).

#### Planning Staff Materials

- A1. Staff report and Findings (this document)
- A2. Development Review Board Resolution No. 429
- A3. Town Center Plan Adoption Notice
- A4. Fry's Electronics As-Built, submitted in 2014 (Source: City of Wilsonville Building Division)
- A5. Decision of the Hearings Officer, Z1155-91-E/A (Feb. 11, 1994)
- A6. Ordinance No. 55
- A7. Email Correspondence with Applicant regarding DRB Resolution No. 429, dated February 28, 2024
- A8. Staff's Presentation Slides for Public Hearing (to be presented at Public Hearing)

Materials from Applicant

- B1. Applicant’s Materials – Available Under Separate Cover**  
Signed Application Form  
Applicant’s Narrative and Exhibits Documents
- B2. Applicant’s Additional Submittal dated March 29, 2024 – Available Under Separate Cover**

**Procedural Statements and Background Information:**

- 1. The statutory 120-day time limit applies to this application. The City received the application on December 15, 2023, and deemed it complete on January 12, 2024. The City must render a final decision for the request, including any appeals, by May 11, 2024.
- 2. Surrounding land uses are as follows:

<b>Compass Direction</b>	<b>Zone:</b>	<b>Existing Use:</b>
North:	TC	Commercial
East:	TC	Commercial
South:	TC	Commercial
West:	Not zoned	Interstate 5 Right-of-Way

- 3. Land use actions regarding the Location:
  - 91PC43 Modified Stage I Master Plan, Phase II Stage II Site Development Plans, Amending Condition of Approval 8 of 90PC5
  - 91DR29 Site Design (Architectural, Landscaping) and Signage
  - 92DR21 Revise Condition of Approval 15 of 91DR29 regarding placement of containerized dumpsters
  - 01AR01 Minor Architectural Revisions
  - AR09-0053 Zoning Verification
  - ADMN23-0029 Class I Review of Use and Structure Conformance Status (per Section 4.030 (.01) A. 7. of Wilsonville Development Code)
  - DB24-0002 Appeal of Administrative Decision ADMN23-0029 (currently in process)
- 4. The Applicant has complied with Sections 4.008 through 4.035 pertaining to review procedures and submittal requirements. The required public notices have been sent and all proper notification procedures have been satisfied.

## Findings:

NOTE: Pursuant to Section 4.014 the burden of proving that the necessary findings of fact can be made for approval of any land use or development application rests with the Applicant in the case.

### General Information

#### Application Procedures - In General

Section 4.008

The application is being processed in accordance with the applicable general procedures of this Section.

#### Initiating Application

Section 4.009

The Class II Review Application has the signatures of David Fry of Lumberjack LP, owner, and Dan Zoldak of Lars Andersen & Associates, Inc., Applicant and authorized representative, has the owner's permission to submit the application on their behalf.

#### Pre-Application Conference

Subsection 4.010 (.02)

A pre-application conference (PA22-0004) for the subject property was held on March 24, 2022.

#### Lien Payment before Approval

Subsection 4.011 (.02) B.

No applicable liens exist for the subject property. The application can thus move forward.

#### General Submission Requirements

Subsections 4.035 (.04) A. and 4.035 (.05)

The Applicant has provided all of the applicable general submission requirements contained in this subsection.

#### Zoning - Generally

Section 4.110

The subject property is located in the Town Center (TC) zone, in three (3) TC sub-districts: Commercial-Mixed Use (C-MU), Main Street District (MSD), and Mixed Use (MU). Applicable zoning district and general development regulations, as appropriate, have been applied in accordance with this Section, as discussed in more detail in the Findings in this staff report.

## Request A: Class II Review Request (AR23-0031)

### Planned Development Regulations

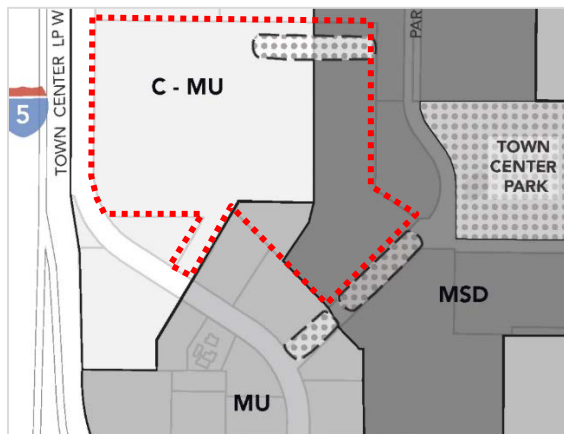
Adherence to Approved Plan and Modification Thereof  
Subsections 4.140 (.10) C. and 4.030 (.01) B. 3.

- A1.** Per Subsection 4.140 (.10) C., when the zoning of land within a planned development area changes subsequent to the planned development approval, development that is consistent with the approved plans (in this case, the Stage I Master Plan approval, which applies the CC designation) is considered legal non-conforming subject to the standards of Sections 4.189 through 4.192. The zoning changed with adoption of the Town Center Plan, effective June 5, 2019, and subsequent to the approval of Case File 91PC43. Thus, development that is consistent with the approved plan, but not complying with current zoning standards (Current Occupant), shall be considered legal non-conforming and subject to the standards of Sections 4.189 thru 4.192. The Proposed Occupant is not consistent with the established non-conforming use and, therefore, is not a continuation of non-conforming use as noted in Section 4.189 (.01).

### Town Center (TC) Zone

Purpose of Town Center Zone  
Subsection 4.132 (.01)

- A2.** The TC Zone in which the Location is located is divided into four sub-districts that contain recommendations for building form and use to achieve the vision set forth in the Town Center Plan. The Location is located in three (3) TC sub-districts, as shown in the map below: Commercial-Mixed Use (C-MU), Main Street District (MSD), and Mixed Use (MU). There are two (2) proposed open space areas within or adjacent to the property. All adjacent property is also zoned TC.



## Allowed Uses in TC Zone

Subsection 4.132 (.02) F.

- A3.** With regard to use, per Subsection 4.132 (.02) F., “retail sales and service of retail products, under a footprint of 30,000 square feet per use” is an outright allowed use in the TC zone. Although the Current Occupant at the Location is a retail store and, thus, consistent with allowed use in the TC zone, its footprint of 124,215 square feet exceeds the 30,000 square feet per use limitation of the TC zone.

## Permitted and Prohibited Uses in Specific Sub-districts in TC Zone

Subsection 4.132 (.03) A. 1.

- A4.** Per Subsection 4.132 (.03) A. 1., single-user commercial or retail (e.g. grocery store or retail establishment) that exceeds 30,000 square feet if located on more than one story of a multi-story building is an additional permitted use allowed in the C-MU sub-district. The Current Occupant at the Location does not meet this additional permitted use standard due to its large format footprint of 124,215 square feet square feet in a single story, exceeding the maximum footprint of 30,000 square feet.

## Other Development Standards

### Non-Conforming Uses in General

Subsection 4.001 (196.) and Section 4.189

- A5.** A Non-Conforming Use is defined as “a legally established use, which was established prior to the adoption of the zoning use requirements for the site with which it does not conform” (Subsection 4.001 (196.)). The Current Occupant at the Location has a footprint of 124,215 square feet in a single story with a partial mezzanine, which exceeds the footprint of 30,000 square feet per retail user and footprint limitation that is allowed in the TC Zone. The Current Occupant is a legally established non-conforming use in the TC zone.

### Non-Conforming Uses – Continuation of Use

Subsection 4.189 (.01) A.

- A6.** Per Subsection 4.189 (.01) A. of the Code, “A non-conforming use may be continued subject to the requirements of this Section”. Therefore, if another “159,400 square-foot electronics-related retail store” were to occupy the Location, this would be considered a continuation of non-conforming use at the Location. Conversely, were any other use than the protected use to occupy the Location, this would not be considered a continuation of non-conforming use. As demonstrated elsewhere in this staff report, the Proposed Occupant is not the same use as the Current Occupant at the Location. Therefore, operation of the proposed occupant at the Location is not a continuation of non-conforming use.



Non-Conforming Uses – Change of Use  
Subsection 4.189 (.02) A.

- A7.** Per Subsection 4.189 (.02) A. of the Code, “A non-conforming use may not be changed unless the change or replacement is to a use that is determined by the Planning Director to be no less conforming to the regulations for the zone district in which the use is located than the existing use.” This determination is outside the scope of review of the current application.

Non-Conforming Uses – Abandoned Use  
Subsection 4.189 (.03)

- A8.** Per Subsection 4.189 (.03) of the Code, “If a non-conforming use is abandoned for a period of 18 consecutive months, the use shall not be re-established without fully complying with the use requirements of the zone. Mere vacancy of a site or building while it is being marketed or other plans for its use are being readied, does not constitute abandonment. In order to be considered abandoned, a site must not be receiving City utilities and must not actively be marketed for rent, lease, or sale.” The Location has not been abandoned, as the owner has continued to pay utilities and market the site.

Non-Conforming Uses – Damage or Destruction  
Subsection 4.189 (.04)

- A9.** Per Subsection 4.189 (.04) of the Code, “When a structure that is a non-conforming use or a building containing a non-conforming use is damaged by any cause, exceeding 75 percent of its replacement cost, as determined by the Building Official, the structure shall not be re-established unless the owners of that structure promptly and diligently pursue its repair or replacement. If all required building permits have not been received within 18 months of the damage or destruction, the non-conforming use shall not be re-established without meeting all of the requirements of Chapter 4.” The Location has not been damaged or destroyed.

Non-Conforming Uses – Enlargements and Moving  
Subsection 4.189 (.05)

- A10.** Per Subsection 4.189 (.05) of the Code, “A non-conforming use, may be permitted to enlarge up to 20 percent in floor area on approval of a conditional use permit by the Development Review Board.” The Current Occupant/protected non-conforming use is not seeking this, and determination is outside the scope of review of the current application.

Non-Conforming Uses – Repairs  
Subsection 4.189 (.06)

- A11.** Per Subsection 4.189 (.06) of the Code, “Normal maintenance of a structure containing a non-conforming use is permitted provided that any exterior additions meet the requirements of this Section.” Current Occupant may maintain and repair the structure as needed to operate its non-conforming use and is not relevant to the scope of review of the current application.

**DEVELOPMENT REVIEW BOARD  
RESOLUTION NO. 429**

**A RESOLUTION AFFIRMING THE PLANNING DIRECTOR'S DETERMINATION OF NON-CONFORMANCE IN CASE FILE ADMN23-0029 AND DENYING THE APPLICANT'S APPEAL DB24-0002.**

WHEREAS, an application for Class 1 Administrative Review (ADMN23-0029), together with planning exhibits, has been submitted by Dan Zoldak of Lars Andersen & Associates, Inc. – Applicant, on behalf of David Fry of Lumberjack LP – Owner, in accordance with the procedures set forth in Section 4.008 of the Wilsonville Code; and

WHEREAS, the subject property is located at 29400 SW Town Center Loop West on Tax Lot 220, Section 14D, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon (“the Location”); and

WHEREAS, the subject of the Class 1 Administrative Review was a Planning Director’s Determination of non-conformance per Subsection 4.030 (.01) A. 7. of the Wilsonville Development Code; and

WHEREAS, the City issued the Planning Director’s Determination, on the above-captioned subject, that Fry’s Electronics is a legally established Non-Conforming Use in a Non-Conforming Structure with Non-Conforming Site Conditions in the Town Center (TC) zone, dated December 28, 2023; and

WHEREAS, within the prescribed appeal period, the Administrative Decision was appealed by Dan Zoldak of Lars Andersen & Associates, Inc. – Appellant/Applicant, dated January 10, 2024; and

WHEREAS, specifically, the filed appeal grounds were stated: “An APPEAL of Planning Director Determination ADMN20-0029 [sic] determining that Fry’s Electronics is a legally established Non-Conforming Use in a Non-Conforming Structure with Non-Conforming Site Conditions at 29400 SW Town Center Loop West”; and

WHEREAS, per Code Section 4.022 (.01), a decision by the Planning Director on issuance of an Administrative Decision may be appealed, and such appeals shall be heard by the Development Review Board for all quasi-judicial land use matters; and

WHEREAS, the matter at issue will be a determination of the appropriateness of the action or interpretation of the requirements of the Code; and

WHEREAS, the Planning Staff mailed the Notice of Public Hearing for the Appeal on February 6, 2024, in advance of the Public Hearing; and

WHEREAS, the Planning Staff has prepared the staff report on the above-captioned subject dated February 15, 2024, for consideration by the Development Review Board in hearing the appeal; and

WHEREAS, said planning exhibits and staff report were duly considered by the Development Review Board Panel B at a scheduled meeting conducted on February 26, 2024, at which time exhibits, together with findings and public testimony were entered into the public record; and

**RESOLUTION NO. 429**

**PAGE 1 OF 2**



WHEREAS, interested parties, if any, have had an opportunity to be heard on the subject; and

WHEREAS, during the February 26, 2024 public hearing, the Applicant requested that the record be kept open for seven days to allow it to respond to testimony entered into the record; and

WHEREAS, the Development Review Board Panel B closed the public hearing and unanimously approved the request to keep the record open for Resolution No. 429 until March 4, 2024 at 5:00 pm; and

WHEREAS, on March 4, 2024, the Applicant filed a first written submittal, which has been marked as Exhibit B2, forwarded by Planning Staff to the Development Review Board on March 7, 2024; and

WHEREAS, on March 11, 2024, the Applicant filed a final arguments submittal, which has been marked as Exhibit B3, forwarded by Planning Staff to the Development Review Board on March 12, 2024; and

WHEREAS, on March 14, 2024, commencing at 4:30 pm, the Development Review Board Panel B held a special meeting to consider all evidence timely submitted to, and not rejected by, the Development Review Board regarding Case File No. DB24-0002; and

WHEREAS, the Development Review Board considered all evidence placed before, and not rejected by, the Development Review Board on the record for Resolution No. 429, and, thereafter, deliberated.

NOW, THEREFORE, BE IT RESOLVED that the Development Review Board of the City of Wilsonville does hereby affirm the Planning Director's Determination of Non-Conformance (ADMN23-0029) dated December 28, 2023, attached hereto, with findings and recommendations contained therein, determining that:


1. There is a legally established non-conforming use at the Location; specifically, that the protected use is "a 159,400 square-foot electronics-related retail store."
2. There is a legally established non-conforming structure at the Location.
3. There are legally established non-conforming site conditions at the Location.

ADOPTED by the Development Review Board of the City of Wilsonville this 14<sup>th</sup> day of March 2024, and filed with the Planning Administrative Assistant on 3/14/24. This resolution is final on the 15<sup>th</sup> calendar day after the postmarked date of the written notice of decision per WC Sec 4.022 (.09) unless appealed per WC Sec 4.022 (.02) or called up for review by the Council in accordance with WC Sec 4.022 (.03).



Rachelle Barrett, Chair - Panel B  
Wilsonville Development Review Board

Attest:

  
Mandi Simmons, Planning Administrative Assistant

**NOTICE OF LEGISLATIVE PUBLIC HEARING  
BEFORE THE PLANNING COMMISSION:  
TOWN CENTER PLAN  
LP19-0003**



**This is to notify you that the City of Wilsonville has proposed Land Use Regulations that may affect the permissible uses of your property and other properties.**

*(This notice required by ORS 227.186)*

**Planning Commission:**

On **Wednesday, March 13, 2019, beginning at 6:00 p.m.**, the Wilsonville Planning Commission will hold a public hearing. The Planning Commission will consider whether to recommend adoption of the Wilsonville Town Center Plan and associated Comprehensive Plan, Zoning Map, and Development Code amendments to the City Council. No additional mailed notice will be sent to you unless you either:

- Submit testimony or sign in at the Planning Commission hearing, or
- Submit a request, in writing or by telephone, to the Planning Division.

**City Council:**

The Wilsonville City Council is scheduled to hold a public hearing on the proposal on **April 15, 2019 at 7:00 p.m.** after which it may make the final decision.

The hearings will take place at **Wilsonville City Hall, 29799 SW Town Center Loop East, Wilsonville, Oregon.** A complete copy of the relevant file information, including the staff report, findings, and recommendations, will be available for viewing seven days prior to each public hearing at Wilsonville City Hall and at the Wilsonville Public Library.

**Summary of Proposal:**

Adoption of the Wilsonville Town Center Plan and related amendments to the text of the Wilsonville Comprehensive Plan, the City's Zoning Map (from PDC-TC to TC), and the Wilsonville Development Code - amending text in section 4.155 (parking), deleting section 4.131.05 (PDC-TC Zone), and adding section 4.132 (Town Center Zone).

**How to Comment:** Oral or written testimony may be presented at the public hearing. Written comment on the proposal to be submitted into the public hearing record is welcome prior to the public hearings. To have your written comments or testimony distributed to the Planning Commission before the meeting, it must be received by 2 pm on **March 12, 2019.**

Direct such written comments or testimony to:

**Miranda Bateschell, Planning Manager**  
29799 SW Town Center Loop East, Wilsonville, Oregon, 97070;  
[bateschell@ci.wilsonville.or.us](mailto:bateschell@ci.wilsonville.or.us), 503-570-1581

Copies of the full draft plan is available starting one week before the hearing, March 6, 2019, from the Wilsonville Planning Department at the above address and **at the project website:** <https://www.ci.wilsonville.or.us/planning/page/town-center->

***Note:** Assistive Listening Devices (ALD) are available for persons with impaired hearing and can be scheduled for this meeting. The City will also endeavor to provide qualified sign language interpreters and/or bilingual interpreters, without cost, if requested at least 48 hours prior to the meeting. To obtain such services, please call Tami Bergeron, Planning Administrative Assistant at (503) 682-4960.*

Date of Planning Commission Meeting: **March 13, 2019**

Date Notice was posted: **February 6, 2019**



**AFFIDAVIT OF MAILING AND POSTING NOTICE OF  
PUBLIC HEARING IN THE CITY OF WILSONVILLE**

STATE OF OREGON )

COUNTIES OF CLACKAMAS )  
AND WASHINGTON )

CITY OF WILSONVILLE )

**I, Tami Bergeron, do hereby certify that I am Administrative Assistant for the City of Wilsonville, Counties of Clackamas and Washington, State of Oregon, that the attached copy of Notice of Public Hearing is a true copy of the original notice; that on February 7, 2019, I did cause to be mailed copies of such notice of said public hearing in the exact form hereto attached to the following property owners:**

MAILED TO: See Attached List of affected agencies and property owners within 250'

EMAILED TO: interested parties

**Also notice was posted at the following locations:**

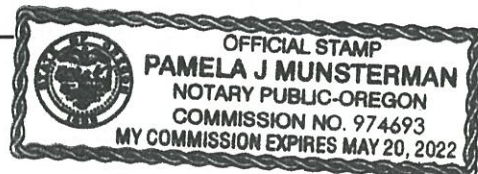
- City Hall, 29799 SW Town Center Loop, East, Wilsonville OR 97070
- Wilsonville Community Center, 7965 SW Wilsonville Road, Wilsonville, OR 97070
- Library, 8200 SW Wilsonville Road, Wilsonville OR 97070
- City of Wilsonville Web Site
- Wilsonville Spokesman Journal

Witness my hand this 7<sup>th</sup> day of February 2019

  
Tami Bergeron, Administrative Assistant

Acknowledged before me this 7<sup>th</sup> day of February 2019

  
\_\_\_\_\_  
NOTARY PUBLIC STATE OF OREGON



**NOTICE OF LEGISLATIVE PUBLIC HEARING  
BEFORE THE PLANNING COMMISSION:  
TOWN CENTER PLAN  
LP19-0003**



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**Miranda Bateschell, Planning Manager**  
29799 SW Town Center Loop East, Wilsonville, Oregon, 97070;  
[bateschell@ci.wilsonville.or.us](mailto:bateschell@ci.wilsonville.or.us), (503) 570-1576

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*Note: Assistive Listening Devices (ALD) are available for persons with impaired hearing and can be scheduled for this meeting. The City will also endeavor to provide qualified sign language interpreters and/or bilingual interpreters, without cost, if requested at least 48 hours prior to the meeting. To obtain such services, please call Tami Bergeron, Planning Administrative Assistant at (503) 682-4960.*

Date of Planning Commission Meeting: **March 13, 2019**

Date Notice was posted: **February 6, 2019**

TOWN CENTER PLAN PC HEARING 250' PROPERTY OWNERS

TLID	RNO	OWNERSORT	OWNER1	OWNERADDR	OWNERCITY	STATE	OWNERZIP	SITESTRNO	SITEADDR	SITECITY	SITEZIP
31W14D 00230	5015369	29100	TOWN CENTER LLC	29100 SW TOWN CENTER LOOP W STE 14	WILSONVILLE	OR	97070	29100	29100 SW TOWN CENTER LOOP W STE 14	WILSONVILLE	97070
31W14D 00211	811875	29991	WILSONVILLE LLC	412 NW COUCH ST STE 201	PORTLAND	OR	97209	29991	29991 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W14D 00406	811937	8755	SW CITIZENS LLC	819 SE MORRISON STE 110	PORTLAND	OR	97214	8755	8755 SW CITIZEN WILSONVILLE	WILSONVILLE	97070
31W14D 00700	811991	8900	CITIZENS LLC	28521 SW 45TH DR	WILSONVILLE	OR	97070	8900	8900 SW CITIZEN WILSONVILLE	WILSONVILLE	97070
31W13C000600	808959	AUFEN	AUFENTHIE TIMOTHY A & RENEE E	29040 SW TOWN CENTER LOOP E	WILSONVILLE	OR	97070	29040	29040 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W13C001200	1324123	BOWLI	BOWLING BLDG LLC	24495 BUTTEVILLE RD NE	AURORA	OR	97002	7965	7965 SW TENNIS WILSONVILLE	WILSONVILLE	97070
31W13C00200	809021	CHRIS	CHRISTIE RYAN & ERIKA MARKEL	19600 S MOLALLA AVE	OREGON CITY	OR	97045	29353	29353 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W13C001300	806346	CLTY	CITY OF WILSONVILLE URBAN RL	7940 SW RACQUET CT	WILSONVILLE	OR	97070	29291	29291 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W13C003000	1548551	CLARK	CLACKAMAS COMMUNITY COLLEGE DIST.	31460 SW ISLE WAY LN	WEST LINN	OR	97068	7940	7940 SW RACQU WILSONVILLE	WILSONVILLE	97070
31W13C000300	809085	CLARK	CLARK TERRANCE A TRUSTEE	5232 SW BUDDINGTON ST	PORTLAND	OR	97219	7920	7920 SW COURT WILSONVILLE	WILSONVILLE	97070
31W13C000400	808932	CONOV	CONOVER SHEA RUE TRUSTEE	PO BOX 214	WOODBURN	OR	97071	29222	29222 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W13C000600	1487625	CORNW	CORNWELL FAM LTD PRTNRSHP	50 E NORTH TEMPLE ST 22 FLR	SALT LAKE CITY	UT	84150	29350	29350 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W13C000200	1450165	CORP	CORP PRES BSHIP CH JESUS CHRIST LDS	15545 NE ELLERS RD	AURORA	OR	97002	29781	29781 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W14D 00205	811839	D35 L	D35 LLC	8855 SW CITIZENS DR	HOOVER	AL	35226	29680	29680 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W14D 00411	1646963	DUNN	DUNN DORIS MARIORY ROSE TRUSTEE	901 NE GUSAN ST	PORTLAND	OR	97232	29020	29020 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W14D 00400	811900	EK LA	EK LANDS OREGON LLC	3707 JAMES HILL CIR	WILSONVILLE	OR	97070	8855	8855 SW CITIZEN WILSONVILLE	WILSONVILLE	97070
31W13C000700	806220	ELLIO	ELLIOTT & ASSOCIATES	7925 SW COURTSIDE WAY	WILSONVILLE	OR	97070	7925	7925 SW COURT WILSONVILLE	WILSONVILLE	97070
31W13C000200	808923	FLECK	FLECK CHRISTOPHER & JUJANA R	7960 SW RACQUET CT	WILSONVILLE	OR	97070	7960	7960 SW RACQU WILSONVILLE	WILSONVILLE	97070
31W13C002000	809101	FLOOD	FLOOD MICHAEL E & JOANNE	18187 SIENA DR	LAKE OSWEGO	OR	97034	29702	29702 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W13C000500	1450600	FRY D	FRY DOUGLAS A & CINDY J	7300 SW CHILDS RD #B	TIGARD	OR	97223	29345	29345 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W13C001200	806266	GEM C	GEM CAPITAL INVESTMENTS LLC	14108 KNAUS RD	LAKE OSWEGO	OR	97034	29950	29950 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W14D 00206	811848	GEVUR	GEVURTZ BRAD	1943 SE 6TH AVE	PORTLAND	OR	97214	8275	8275 SW WILSONVILLE	WILSONVILLE	97070
31W13C000600	5021907	GOODW	GOODWILL IND OF THE COLUMBIA WILLAMETTE	7975 SW TENNIS CT	WILSONVILLE	OR	97070	7975	7975 SW TENNIS WILSONVILLE	WILSONVILLE	97070
31W14D 00207	811857	GREEN	GRAY WILLIAM	8655 SW CITIZENS DR STE 201	WILSONVILLE	OR	97070	8655	8655 SW CITIZEN WILSONVILLE	WILSONVILLE	97070
31W14D 00407	811948	JANRO	GREENTREE PROFESSIONAL LLC	3102 SW RIVERFRONT TER	WILSONVILLE	OR	97070	8655	8655 SW CITIZEN WILSONVILLE	WILSONVILLE	97070
31W13C000800	819109	JAVG	JANROW PROPERTIES LLC	30045 SW PARKWAY AVE	WILSONVILLE	OR	97070	30045	30045 SW PARK WILSONVILLE	WILSONVILLE	97070
31W13C000100	808914	JONES	JAVG INVESTMENTS LLC	7923 SW COURTSIDE WAY	WILSONVILLE	OR	97070	7923	7923 SW COURT WILSONVILLE	WILSONVILLE	97070
31W13C000100	806937	KAISE	JONES LYN TERESA	500 NE MULTNOMAH AVE #100	PORTLAND	OR	97232	0	NO SITUS WILSONVILLE	WILSONVILLE	97070
31W14D 00228	5015367	KC EV	KAISER FOUNDATION HOSPITALS	29174 SW TOWN CENTER LOOP W STE 20	WILSONVILLE	OR	97070	29174	29174 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W14D 00220	818949	LUBE	KC EVEREST PROPERTIES LLC	7430 SOUTH CREEK RD STE 200	SANDY	UT	84093	8815	8815 SW MAIN SWILSONVILLE	WILSONVILLE	97070
31W14D 00010	1507257	LUMBE	LUBE MGMT CORP	600 E BROKAW RD	SAN JOSE	CA	95112	29400	29400 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W13C002100	809110	MILLE	LUMBERJACK LP	7945 SW RACQUET CT	WILSONVILLE	OR	97070	7945	7945 SW RACQU WILSONVILLE	WILSONVILLE	97070
31W14D 00302	1595090	NILI	MILLER MICHAEL A & LINDA D	PO BOX 3120	AGOURA HILLS	CA	91376	29660	29660 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W14D 00409	811964	OREGO	NILI SHAWN S & DORNA	29751 SW TOWN CENTER LOOP W	WILSONVILLE	OR	97070	29751	29751 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W13C001100	809012	OWENS	OREGON ASSN OF NURSRYMN INC	8075 SW SPRUCE ST	TIGARD	OR	97223	7960	7960 SW TENNIS WILSONVILLE	WILSONVILLE	97070
31W14D 00221	1606532	PARK	OWENS RICHARD W & SUSAN L	1780 SW ADVANCE RD	WEST LINN	OR	97068	29585	29585 SW PARK WILSONVILLE	WILSONVILLE	97070
31W14D 90001	8121277	PLUMJ	PARK PAVILION LLC	13829 N BUCCANEER WAY	SUN CITY	AZ	85351	29765	29765 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W14D 00223	1697667	REGAL	PLUMLEE WILBUR D & CAROLINE R FOLEY	101 E BLOUNT AVE	KNOXVILLE	TN	37920	29300	29300 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W13C0001900	809094	REHDE	REGAL CINEMAS INC	7970 SW RACQUET CT	WILSONVILLE	OR	97070	8229	8229 SW WILSONVILLE	WILSONVILLE	97070
31W13C000400	806300	RETAI	REHDER STEVEN C & SHAWNNA L	PO BOX 130839	CARLSBAD	CA	92013	8750	8750 SW CITIZEN WILSONVILLE	WILSONVILLE	97070
31W14D 00500	811973	ROBER	RETAIL OPPORTUNITY INVESTMENTS CORP	8187 NW 93RD ST	TERREBONNE	OR	97708	29175	29175 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W14D 00104	811802	SFP-F	ROBERG JEFF W & ANN E	PO BOX 5350	BEND	OR	97700	0	NO SITUS WILSONVILLE	WILSONVILLE	97070
31W13C000500	806284	SHEFR	SFP-F LLC	29200 SW TOWN CENTER LOOP NW	WILSONVILLE	OR	97070	29111	29111 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W14D 00100	811777	SMITH	SHEFRIN DAVID K TRUSTEE	8811 HUFF ST NE	SALEM	OR	97303	29029	29029 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W13C000900	806211	SOLI	SMITH-HALL INDUSTRIES INC	3660 SE 122ND AVE	PORTLAND	OR	97236	29190	29190 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W13C000501	5022121	STORA	SOLI PROPERTIES LLC	20255 SW AVERY CT	TUALATIN	OR	97062	7959	7959 SW COURT WILSONVILLE	WILSONVILLE	97070
31W13C000700	808978	SUNKL	STORAGE PLACE WILSONVILLE LLC	28996 SW CASCADE LOOP	WILSONVILLE	OR	97070	29330	29330 SW PARK WILSONVILLE	WILSONVILLE	97070
31W13C001000	1404313	TOWNC	SUNKLE BRENT A & JUDITH M	10500 NE 8TH ST STE 301	WILSONVILLE	OR	97070	29333	29333 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W14D 00229	5015368	US BA	TOWNCENTER PARK-PORTLAND LLC	2800 E LAKE ST	BELLEVUE	WA	98004	8639	8639 SW MAIN SWILSONVILLE	WILSONVILLE	97070
31W13C001100	806248	US PA	US BANK CORP RE	850 CHERRY AVE FSC551	SAN BRUNO	CA	94066	29028	29028 SW TOWN WILSONVILLE	WILSONVILLE	97070
31W13C000100	5003162	VILLA	US POSTAL SERVICE	30050 SW TOWN CENTER LOOP W STE 20	WILSONVILLE	OR	97070	8639	8639 SW MAIN SWILSONVILLE	WILSONVILLE	97070
31W13C000800	1465701	WASHI	VILLAGE COMMERCIAL LLC	425 PIKE ST	SEATTLE	WA	98101	8840	8840 SW CITIZEN WILSONVILLE	WILSONVILLE	97070
31W14D 00600	811982	WEAKL	WASHINGTON FEDERAL SAVINGS	PO BOX 368	WILSONVILLE	OR	97070				
31W14D 00600	811982	WEAKL	WEAKLEY FAMILY LLC								

31W14D 00209	811866 WEATH	WEATHERLY PROPERTIES LLC	PO BOX 179	NEWBERG	97132	8656 8656 SW CITZER WILSONVIL	97070
31W13CD01000	809003 WIKE	WIKE JENNIFER	7930 SW TENNIS CT	WILSONVILLE	97070	7950 7930 SW TENNIS WILSONVIL	97070
31W13CD02200	809129 WILLI	WILLIAMS ALYSSA N & NICHOLAS R	7913 SW RACQUET CT	WILSONVILLE	97070	7913 7913 SW RACQU WILSONVIL	97070
31W14D 00227	5015366 WILSO	WILSONVILLE INVESTMENT PROPERTIES INC.	11086 SE OAK ST	MILWAUKIE	97267	0 NO 31JUS WILSONVIL	97070
31W14D 00107	1349801 WSW L	WSW LLC	29025 SW TOWN CENTER LOOP W	WILSONVILLE	97070	29025 29025 SW TOWN WILSONVIL	97070



**Affected State or Federal Agencies, Local Governments or Special Districts**

updated 9/19/17/2017  
 (refer to Shelley's similar label-based document to affected agencies updated 5.6.2018.docx updates: ..\DLCD\Mail Labels for

Name	Company	Address	City	State	Zip	COMMENTS
James Clark	BPA, Realty Department	2715 Tepper Lane	Kcizer	OR	97303	*updated 3/24/2016
City Planner	Chamber of Commerce	8565 SW Salish Lane	Wilsonville	OR	97070	
Planning Director	City of Canby	PO BOX 930	Canby	OR	97013	updated 1/29/2018
Aquilia Hurd-Ravich	City of Sherwood	22560 SW Pine Street	Sherwood	OR	97140	
Mike McCallister	City of Tualatin	18880 SW Martinazzi Avenue	Tualatin	OR	97062	
Diane Taniguchi-Dennis	Clackamas Co. Transportation & Development	150 Beaver Creek Road	Oregon City	OR	97045	*updated 3/28/2016
Bobbi Burton	Clean Water Services	2550 SW Hillsboro Hwy.	Hillsboro	OR	97123	
Doug Young	Columbia Cable of Oregon	14200 SW Brigadoon Ct.	Beaverton	OR	97005	
John Lilly	Community Coordinator, Facilities Division	2575 Center Street, NE	Salem	OR	97310	
Justin Wood, Assoc. Dir. of Gov. & Builder Rel.	Department of Corrections	2575 Center Street NE	Salem	OR	97310	*updated 3/28/2016
Jon Kloor, Gov. & Political Rel. Coord.	Department of State Lands	775 Summer Street, NE	Salem	OR	97301-1279	
Paulette Copperstone	Home Builders Associations	15555 SW Bangy Road, Suite 301	Lake Oswego	OR	97035	
Brian Harper	Home Builders Associations	15555 SW Bangy Road, Suite 301	Lake Oswego	OR	97035	
Anthony Buczek	Home Builders Associations	15555 SW Bangy Road, Suite 301	Lake Oswego	OR	97035	
Nina Carlson	Home Builders Associations	15555 SW Bangy Road, Suite 301	Lake Oswego	OR	97035	
Attn: Development Review	Home Builders Associations	15555 SW Bangy Road, Suite 301	Lake Oswego	OR	97035	
Distric Manager	Metro	600 NE Grand Avenue	Portland	OR	97233	9/22/2017 P Copperstone requested she is point of contact for Metro
Gail Curtis	Metro	600 NE Grand Avenue	Portland	OR	97233	
Seth Bramley	Metro	600 NE Grand Avenue	Portland	OR	97233	
	NW Natural Gas	220 NW 2 <sup>nd</sup> Avenue	Portland	OR	97209	updated 1/9/2018
	ODOT Region 1	123 NW Flanders Street	Portland	OR	97209	Updated 01/2018 all others to be deleted
	<del>ODOT Region 2A</del>	<del>9200 SE Lawnfield Road</del>	<del>Clackamas</del>	<del>OR</del>	<del>97045</del>	<del>cancel-mailing</del>
	<del>ODOT Region 1</del>	<del>123 NW Flanders Street</del>	<del>Portland</del>	<del>OR</del>	<del>97209</del>	<del>cancel-mailing</del>
	<del>ODOT Region 1</del>	<del>123 NW Flanders Street</del>	<del>Portland</del>	<del>OR</del>	<del>97209</del>	<del>cancel-mailing</del>

Oregon Dept of Environ Quality	700 NE Multnomah Street, Suite 600	Portland	OR	97232	updated 1/2018	
Bill Ferber, Region Manager	Oregon Water Resources Department	725 Summer Street, NE, Suite A	Salem	OR		97301
Brian Buswell	Portland General Electric	9480 SW Boeckman Road	Wilsonville	OR		97070
	Sherwood School Dist Admin Office	23295 SW Miami Street	Sherwood	OR		97140
Ben Baldwin	Tri-Met Project Planning Dept	4012 SE 17th Avenue	Portland	OR		97202
	Tualatin Valley Fire and Rescue	29875 SW Kinsman Road	Wilsonville	OR		97070
	Tualatin Valley Fire and Rescue	8445 SW Elligsen Road	Wilsonville	OR		97070
	Tualatin Valley Water District	1850 SW 170 <sup>th</sup> Ave.	Beaverton	OR		97005-4211
Frank Lonergan	United Disposal Services	10295 SW Ridder Road	Wilsonville	OR		97070
Andy Baek	Wash. County Long Range Planning	155 N. First Avenue	Hillsboro	OR		97124
Dr. Kathy Ludwig	West Linn/Wilsonville School District 3JT	22210 SW Stafford Rd.	Tualatin	OR		97062
Tim Woodley	West Linn/Wilsonville School District 3JT	22210 SW Stafford Rd.	Tualatin	OR		97062

Sep-17

## **Bergeron, Tami**

---

**From:** DLCDC Plan Amendments <plan.amendments@state.or.us>  
**Sent:** Wednesday, February 6, 2019 4:56 PM  
**To:** Bergeron, Tami  
**Subject:** Confirmation of PAPA Online submittal to DLCDC

### **Wilsonville**

Your notice of a revised proposal for a change to a comprehensive plan or land use regulation has been received by the Oregon Department of Land Conservation and Development.

Local File #: LP19-0003

DLCDC File #: [002-19](#)

Original Proposal Received: 2/6/2019

Date of Revision: 2/6/2019

First Evidentiary Hearing: 3/13/2019

Final Hearing Date: 5/6/2019

Submitted by: [bergeron@ci.wilsonville.or.us](mailto:bergeron@ci.wilsonville.or.us)

If you have any questions about this notice, please reply or send an email to [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

# Pamplin Media Group

## -Ad Proof-

This is the proof of your ad, scheduled to run on the dates indicated below. Please proofread carefully, and if changes are needed, please contact Charlotte Allsop prior to deadline at (971) 204-7706 or [callsop@pamplinmedia.com](mailto:callsop@pamplinmedia.com).

<p><b>Date:</b> 02/07/19 <b>Account #:</b> 108863 <b>Reference #:</b> <b>Company Name:</b> WILSONVILLE, CITY OF <b>Contact:</b> <b>Address:</b> 29799 SW TOWN CENTER LOOP E WILSONVILLE  <b>Telephone:</b> (503) 570-1502 <b>Fax:</b> (503) 682-1015</p>	<p><b>Ad ID:</b> 93093 <b>Start:</b> 02/20/19 <b>Stop:</b> 02/20/19  <b>Total Cost:</b> \$167.95 <b>Ad Size:</b> 9.708 <b>Column Width:</b> 1 <b>Column Height:</b> 9.708 <b># of Inserts:</b> 1 <b>Ad Class:</b> 1202 <b>Phone #:</b> (971) 204-7706 <b>Email:</b> <a href="mailto:callsop@pamplinmedia.com">callsop@pamplinmedia.com</a></p>
<p><b>Run Dates:</b> Wilsonville Spokesman 02/20/19</p>	

**NOTICE OF LEGISLATIVE PUBLIC HEARING  
BEFORE THE PLANNING COMMISSION:  
TOWN CENTER PLAN  
LP19-0003**

**Planning Commission:**

On **Wednesday, March 13, 2019, beginning at 6:00 p.m.**, the Wilsonville Planning Commission will hold a public hearing regarding the **Town Center Plan (Case File LP19-0003)**. The Planning Commission will consider whether to recommend adoption of the Wilsonville Town Center Plan and associated Comprehensive Plan, Zoning Map, and Development Code amendments to the City Council. No additional mailed notice will be sent to you unless you either:

- Submit testimony or sign in at the Planning Commission hearing, or
- Submit a request, in writing or by telephone, to the Planning Division.

**City Council:**

The Wilsonville City Council is scheduled to hold a first-reading public hearing on the proposal on **April 15, 2019 at 7:00 p.m.** after which it may make the final decision.

The hearings will take place at **Wilsonville City Hall, 29799 SW Town Center Loop East, Wilsonville, Oregon**. A complete copy of the relevant file information, including the staff report, findings, and recommendations, will be available for viewing seven days prior to each public hearing at Wilsonville City Hall and at the Wilsonville Public Library.

**Oregon state law ORS 227.186.** The City has not determined how or if this particular proposal will reduce or otherwise impact either the value or use of properties within Wilsonville. Any changes to permitted land uses may reduce or increase property values, depending on various factors. A written notice has been mailed to potentially impacted property owners, as required by Oregon law.

**Summary of Proposal: LP19-0003 Town Center Plan**

Adoption of the Wilsonville Town Center Plan and related amendments to the text of the Wilsonville Comprehensive Plan, the City's Zoning Map (from PDC-TC to TC), and the Wilsonville Development Code - amending text in section 4.155 (parking), deleting section 4.131.05 (PDC-TC Zone), and adding section 4.132 (Town Center Zone).

**How to Comment**

Oral or written testimony may be presented at the public hearing. Written comment on the proposal to be submitted into the public hearing record is welcome prior to the public hearings. To have your written comments or testimony distributed to the Planning Commission before the meeting, it must be received by **2 pm on March 12, 2019**. Direct such written comments or testimony to:

**Miranda Bateschell, Planning Manager**  
29799 SW Town Center Loop East, Wilsonville,  
Oregon, 97070;  
[bateschell@ci.wilsonville.or.us](mailto:bateschell@ci.wilsonville.or.us), (503) 682-4960

Copies of the full draft plan is available 7 days prior to the hearing: at the Wilsonville Planning Division, at the above address, and on at the meeting web page: [www.ci.wilsonville.or.us](http://www.ci.wilsonville.or.us)

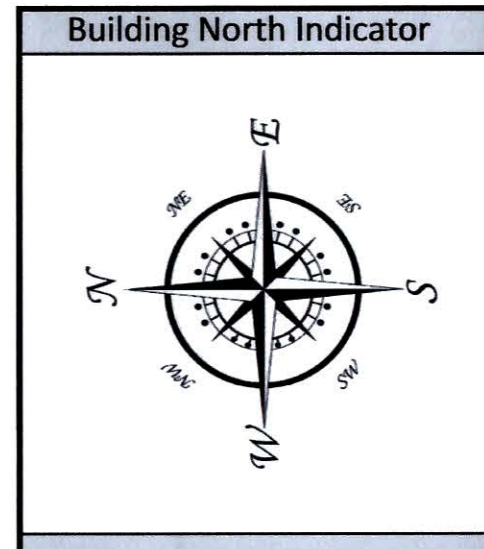
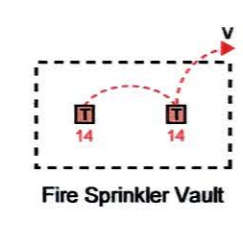
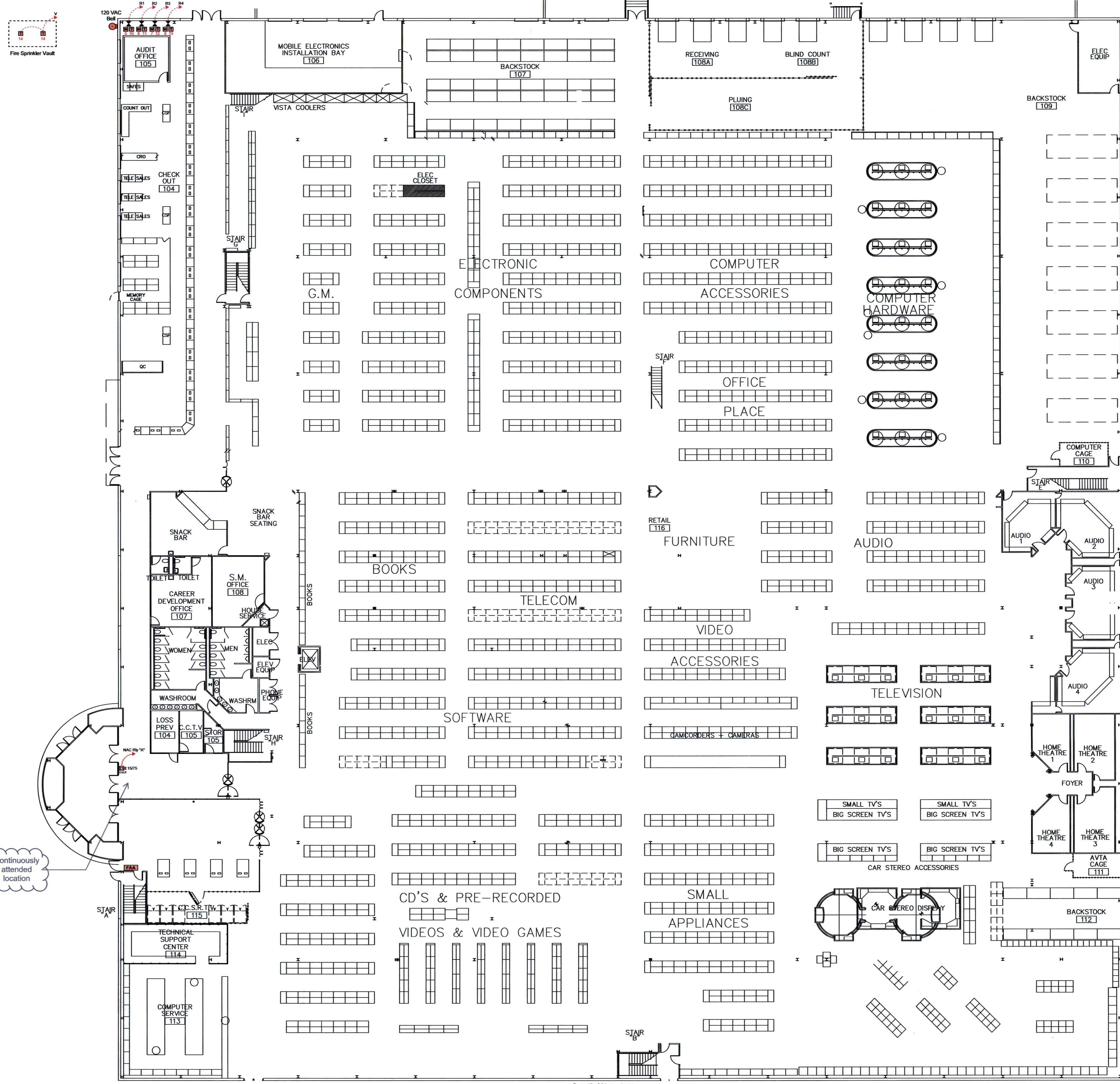
*Note: Assistive Listening Devices (ALD) are available for persons with impaired hearing and can be scheduled for this meeting. The City will also endeavor to provide qualified sign language interpreters and/or bilingual interpreters, without cost, if requested at least 48 hours prior to the meeting. To obtain such services, please call Tami Bergeron, Planning Administrative Assistant at (503) 682-4960.*

Publish Feb. 20, 2019.

WS93093

Fire Alarm Legend		
Symbol	Device	Count
	Fire Alarm Control Panel	
	NAC Power Supply	
	Point Expander Module	
	Fire Alarm Annunciator	
<b>Initiating Devices (# = point)</b>		
	Waterflow Switch	
	Valve Tamper Switch	
	Fire Pull Station	
	Smoke Detector	
	Heat Detector	
<b>NAC Devices (# = candel)</b>		
	Horn/Strobe - wall mount	
	Strobe - wall mount	
	Horn/Strobe - ceiling	
	Strobe - ceiling	
	Sprinkler Bell (120 VAC)	
<b>Auxiliary Outputs</b>		
	Relay 1 -	
	Relay 2 -	

Fire Cable Legend	
Symbol	Cable
	SLC / IDC circuits for initiating devices All cables are FPLR 18 awg 4 conductor
	NAC circuits for horns/strobes All cables are FPLR 14 awg 2 conductor unless specified otherwise on drawing
	Control circuits for auxiliary devices like maglocks and door holders. All cables are FPLR 18 awg 4 conductor
	(4) hash marks indicate feed & return (two conductors out and two back)



Signing Supervisor:  
Lance Sundberg  
OR Lic # 1711LEA  
WA Lic # SUNDBL'061KS  
NICET # 136160

Design/Engineering:  
**LancePacific**  
17402 NW Reindeer Dr  
Portland, OR 97229  
Lance Sundberg  
503-701-8447  
LancePacific@gmail.com

Contractor:  
**STANLEY Security Solutions**  
15495 SW Sequoia Parkway #100  
Portland, OR 97224  
503-968-3300  
877-899-0001  
Portland Office  
Monitoring

Fire Alarm System  
1st Floor  
**Fry's Electronics**  
28400 SW Town Center Loop  
Wilsonville, OR 97070  
Store Manager: Michael Anton  
503-570-6000

RECEIVED  
MAR 20 2014  
BY: .....

**AS-BUILT**  
1-23-2007

City of Wilsonville  
Exhibit A4 DB24-0003

Date: 3/13/2014  
Sheet:  
**FA-1**  
Scale: 1/16" = 1'  
Revision: 1.0

RICHARD F. CRIST  
Land Use Hearings Officer  
18734 Upper Midhill Drive  
West Linn, Oregon 97068  
(503) 636-9256

FINDINGS AND DECISION OF THE HEARINGS OFFICER

File No.: Z1155-91-E/A (Remand)

Applicant: Hans and Shauna Hengden, 15243 NE Countryside Drive,  
Aurora, OR 97002

Appellant: Hans and Shauna Hengden

Proposal: Appeal of a Planning Division staff denial of a proposed change of use for an alleged nonconforming use. The applicant requests use of two existing structures for the storage and sale of cedar fencing materials.

Planning Division Recommendation: Denial

Staff Representative: Gary Naylor

Public Hearing on Remand: A public hearing was held at the Clackamas County Department of Transportation and Development (DTD), 902 Abernethy Road, Oregon City, Oregon on August 11, 1993, at which time testimony and other evidence was received, the record was left open for the receipt of additional written information through August 25, 1993, and the matter was continued for decision until September 8, 1993 at 9:00 a.m., at which time the matter was further continued for decision until September 15, 1993 at 9:00 a.m., at which time an oral decision was announced recognizing the existence of a protected nonconforming use for the storage of commercial goods in the two structures in question, but denying the request to alter that protected nonconforming use as requested.

Speaking in Support of Request on Remand :

1. John Shonkwiler, Attorney at Law, 5750 SW Carman Drive, Lake Oswego, OR 97035
2. Orland Ogden, 4035 SE 82nd Avenue, Portland, OR 97266
3. Robert Draper, P.O. Box 153, Aurora, OR 97002

Community Planning Organization Response: The Aurora-Butteville-Barlow CPO was timely notified of this proceeding, but did not respond.

Speaking in Opposition to Request on Remand:

1. Tom Rastetter, Attorney at Law, 294 Warner Milne Road, Oregon City, OR 97045
2. Ed Stritzke, 14850 NE Countryside Drive, Aurora, OR 97002
3. Ron Endicott, P.O. Box 772, Tualatin, OR 97062
4. Scott Megy, 15241 NE Countryside Drive, Aurora, OR 97002



FINDINGS:A. Subject Property:

1. Legal Description: Tax Lot 100, Section 36, T3S, R1W, W.M., Clackamas County, Oregon
2. Location: At the east end of Countryside Drive, Wilsonville area.
3. Zone: GAD, General Agricultural District
4. Comprehensive Plan Designation: Agriculture

B. Background: On October 8, 1991 the Planning Division staff issued its administrative decision denying this application on the basis that there was not a protected nonconforming use for commercial warehousing, and that the requested change of that alleged nonconforming use from the storage of landscaping products and some wood materials to the requested storage and sale of cedar fencing material was not permitted, and in any event, the requested change in use did not satisfy the approval criteria under ZOO 1206.06. The applicant appealed this administrative decision to the Hearings Officer.

A public hearing was held on the appeal on December 4, 1991, resulting in Findings and Decision of the Hearings Officer being entered on February 7, 1992 denying the application based on the Hearings Officer's determination that there is no protected nonconforming use for a warehousing business. (Exhibit #1R). The Findings and Decision of the Hearings Officer, dated February 7, 1992, is incorporated herein in its entirety by this reference.

The applicant appealed the Findings and Decision of the Hearings Officer to LUBA. On May 21, 1992, LUBA affirmed the County's decision that a nonconforming use for warehousing had not been established, and that any nonconforming use that had been established in the two structures was discontinued for more than 12 consecutive months and therefore lost pursuant to ZOO 1206.02. (Exhibit #2R).

LUBA's decision was appealed to the Court of Appeals of the State of Oregon. The Court of Appeals determined that, to the extent that simple storage of commercial goods was a part of any nonconforming use established on the subject property, and to the extent that such storage continued after other business operations ceased, the cessation of other on-site business activities does not constitute an abandonment of the storage use. The Court of Appeals reversed and remanded LUBA's decision. (Exhibit #3R).

On reconsideration, LUBA remanded the County's decision to determine whether a storage use of the two structures was an existing use that became a separately recognizable nonconforming use on the date of restrictive zoning, and, if so, was that nonconforming use discontinued for more than 12 months and thereby lost. (Exhibit #4R). This decision by LUBA was appealed by the



applicant to the Court of Appeals, which affirmed LUBA. (Exhibit #5R).

C. Land Use Ordinance Considerations:

1. The subject property was first zoned RA-1 on December 14, 1967. On June 18, 1979, the subject property was legislatively rezoned GAD, and has remained so zoned to this date. December 14, 1967 is the date of restrictive zoning.

2. As previously found by the Hearings Officer, and supported by substantial evidence in this record, on December 14, 1967 the property was owned by Orland and Joan Ogden. The two structures in question were utilized as part of various commercial activities, including the storage of commercial goods in conjunction with those commercial ventures.

Al Troutman purchased the property in 1969. Mr. Troutman changed the nature of the use(s) on the subject property. Between 1969 and August 31, 1989, Mr. Troutman and other operators utilized the two structures for a pellet feed business and a soil amendment business. During the period of time from 1969 through August 1, 1989, the two structures, at least in part, were utilized for the storage of raw and finished materials for these businesses.

On August 31, 1989, foreclosure proceedings were filed, Mr. Troutman filed bankruptcy proceedings, and the Trustee in Bankruptcy took possession of the property. No business activities were conducted on the property after August 31, 1989 until at least December, 1990, when the current owners, the Hengden's, entered into an agreement with J. B. Enterprises for the operation of the currently existing business for the storage and sale of cedar fencing materials. Storage of raw and/or finished materials continued in at least portions of the two structures after August 31, 1989 and until J. B. Enterprises took possession of the property in December 1991.

No zoning permits or approvals were ever obtained for the above described uses.

With regard to the above finding that the storage of raw and/or finished materials continued without interruption in at least portion of the two structures, the Hearings acknowledges that there is conflicting evidence on this issue in this record. Substantial evidence was presented to the effect that between 1973 and 1983 the larger building, Building #1, was used for the storage of onions or other agricultural products. The Hearings Officer believes that such storage of onions did occur, but that the better evidence is that there continued to be at least some storage of commercial goods in that structure during that period of time. The law does not require that a nonconforming use be lost because the level of intensity of the nonconforming use is reduced for a period of time.

3. Based on the above facts, and in consideration of the standard of review set forth by the Court of Appeals, the Hearings

Officer concludes as follows: that as of the date of restrictive zoning, a nonconforming use was established on the property which included the storage of commercial goods; that pursuant to ORS 215.130(5) and ZOO 1206.01 the established nonconforming use for the storage of commercial goods in the two structures may be continued though not in conformance with existing zoning regulations; that the nonconforming use for the storage of commercial goods has not been lost through discontinuance for more than 12 consecutive months or abandonment, as provided in ORS 215.130(7) or ZOO 1206.02; and, that there is a protected nonconforming use for the use of the two structures for the storage of commercial goods, including cedar wood fencing materials.

4. As previously found by the Hearings Officer, and affirmed on appeal by LUBA, any nonconforming use for the conduct of business activities on the subject property beyond the storage of commercial goods was discontinued for more than 12 consecutive months, at least from August 31, 1989 through September 1, 1990, and the protected status of any such use was lost as a result of discontinuance or abandonment, pursuant to ORS 215.130(7) and ZOO 1206.02.

5. The protected nonconforming use does not include the contemporaneous use of the two structures for office activities in conjunction with the storage of commercial goods or retail activities.

6. The proposed use includes office facilities and repackaging activity in conjunction with the storage of cedar wood fencing materials. Because of the above conclusions, it is necessary that the Hearings Officer consider the applicant's request for an alteration of the protected nonconforming use to permit the office facilities and repackaging activities.

7. ORS 215.130(5) and 215.130(8) grants limited authority to the County to allow changes to protected nonconforming uses. Specifically, if authorized by the County's zoning ordinances, a change may be approved which reasonably continues the protected nonconforming use, and where the change will result in no greater adverse impact to the neighborhood.

ZOO 1206.06(B) incorporates the language of ORS 215.130(5) and 215.130(8), and provides that a change in use may be approved where the proposed use will have no greater adverse impact on the neighborhood than the existing use, and is reasonably necessary to continue the use.

Findings addressing these approval standards will be discussed below.

8. The applicant must establish that the proposed use will have no greater adverse impact on the neighborhood than the existing use.

As a preliminary matter, the applicant points out that the

Hearings Officer found in his Findings and Decision of the Hearings Officer of February 7, 1992, that the proposed use would have no greater adverse impact on the neighborhood than the various commercial uses occurring on the subject property since the date of restrictive zoning. (See Exhibit #1R, Finding B(3)). The applicant argues that this finding was not appealed and constitutes the law of the case as to this question. The Hearings Officer believes that the previous finding is not the law of the case, as it did not consider the comparative impacts resulting from a comparison of the proposed use to that use which has now been determined to constitute the protected existing use. The previous finding compared the proposed use to the various commercial activities occurring on the property from 1967 on. The actual protected use, which is only the storage of commercial goods within two structures on the property, has different impacts than the former larger scale commercial endeavors on this property.

As to the merits, the only identified adverse impact is the noise and traffic impacts associated with the trucks and vehicles delivering and removing the cedar wood fencing materials, and of employees of the office facility and occasional customers. Although the area of review, the neighborhood, is not internally defined within the ZOO, the Hearings Officer concludes that those it includes those properties along and in the immediate vicinity of Countryside Drive. This area should include those properties and uses which are affected by the noise and traffic. Again, the protected, or existing use, involves merely the storage of commercial goods within the two structures. That use has necessarily involved the delivery and removal of those commercial goods over the years. The level of such traffic has varied greatly, depending on the nature of the commercial activity on the property at any given time. This record establishes that the proposed use involves approximately two trucks per day for the delivery and removal of the cedar fencing materials, as well as two to four forklifts and loaders within the structures. There are also two to three employees involved with the use. It cannot be said that the use of two trucks per day on Countryside Drive for delivery and removal of the stored goods results in adverse impacts in this neighborhood greater than those impacts previously associated with the protected use. There were more trucks and truck trips delivering and removing commercial goods at the time of restrictive zoning. The number of employees was greater at the time of restrictive zoning. Forklift and loader use is comparable to that which existed at the time of restrictive zoning. In summary, this record establishes that the adverse impact on this neighborhood from the proposed use will not be greater than that associated with the protected use.

This criterion is satisfied.

9. The applicant must establish that the proposed change in use is reasonably necessary to continue the use.

Again, the protected use is the mere storage of commercial goods. The proposed change of use includes, in addition to the

storage of cedar wood fencing materials, the maintenance of office facilities for this warehousing business and the repackaging of the material for delivery. The real question is whether it is reasonably necessary to establish office facilities in order to continue the storage activity within the two structures. The applicant has argued that economic considerations require that the entire business use be located on the subject property, because of the commercial lease expense. That argument is not persuasive. The two structures could continue to be used for the storage of commercial goods in association with a business activity operated from off the subject property. There is no reason established by this record that office facilities must be located on the property in order to continue the storage use.

This criterion is not satisfied.

**DECISION:** The applicant has established that there is a protected nonconforming use for the storage of commercial goods in the two structures in question, including the storage of cedar wood fencing materials. The applicant's request to change that protested use by establishing office facilities in addition to the storage of materials is denied.

Dated and Filed this 11th day of February, 1994.

  
\_\_\_\_\_  
Richard F. Crist  
Hearings Officer

CERTIFICATE OF MAILING

I hereby certify that I did this day mail a true copy of the Findings and Decision of the Hearings Officer in File No. Z1155-91-E/A (Remand), postage prepaid, to the following persons at the address shown:

Hans Hendgen  
Shauna Hendgen  
15243 NE Countryside Drive  
Aurora, OR 97002

John Shonkwiler  
Attorney at Law  
5750 SW Carman Drive  
Lake Oswego, OR 97035

Orland Ogden  
4035 SE 82nd Avenue  
Portland, OR 97266

Robert Draper  
P.O. Box 153  
Aurora, OR 97002

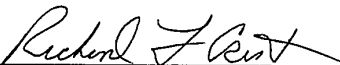
Tom Rastetter  
Attorney at Law  
294 Warner Milne Road  
Oregon City, OR 97045

Ed Stritzke  
14850 NE Countryside Road  
Aurora, OR 97002

Ron Endicott  
P.O. Box 772  
Tualatin, OR 97062

Scott Megy  
15241 NE Countryside Drive  
Aurora, OR 97002

Dated this 11th day of February, 1994.

  
Richard F. Crist  
Hearings Officer

AFFIDAVIT OF POSTING ORDINANCE NO. 55

STATE OF OREGON            )  
                                  )  
Counties of Clackamas    )  
and Washington            )  
                                  )  
City of Wilsonville        )

I, the undersigned, City Recorder of the City of Wilsonville, State of Oregon, being first duly sworn on oath depose and say:

On Monday the 9th day of February, 1976, I caused to be posted copies of the attached Ordinance No. 55, an ordinance amending and supplementing Article V of Ordinance No. 23, "Wilsonville, Oregon, Zoning Ordinance", to add thereto Section 5.035 establishing the "City Center District" to enable reclassification of lands in conformance with the Wilsonville General Comprehensive Plan; defining permitted, accessory and conditional uses; reclassifying lands within the said district to conform to the General Comprehensive Plan; fixing an effective date; and declaring an emergency, in the following three (3) public and conspicuous places of the City, to wit:

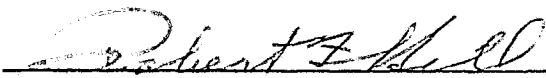
- 1) Lowries Food Market
- 2) Wilsonville Post Office
- 3) Kopper Kitchen

The notices remained posted for more than five (5) consecutive days prior to the time for final reading and passage of the Ordinance on the 17th day of February, 1976.

Dated at Wilsonville, State of Oregon, this 9th day of February, 1976

  
DEANNA THOM - City Recorder

Subscribed and sworn to before me this 9th day of February, 1976

  
NOTARY PUBLIC for OREGON

My Commission expires: 11-11-78

ORDINANCE NO. 55

AN ORDINANCE AMENDING AND SUPPLEMENTING ARTICLE V OF ORDINANCE NO. 23, "WILSONVILLE, OREGON, ZONING ORDINANCE", TO ADD THERETO SECTION 5.035 ESTABLISHING THE "CITY CENTER DISTRICT" TO ENABLE RECLASSIFICATION OF LANDS IN CONFORMANCE WITH THE WILSONVILLE GENERAL COMPREHENSIVE PLAN; DEFINING PERMITTED, ACCESSORY AND CONDITIONAL USES; RECLASSIFYING LANDS WITHIN THE SAID DISTRICT TO CONFORM TO THE GENERAL COMPREHENSIVE PLAN; FIXING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

Section 1: The City Council finds that the General Comprehensive Plan of the City, as amended at a meeting of the City Council on September 25, 1972, designates certain areas for City Center purposes, and the Council further finds that after public hearing on June 28, 1973, the Planning Commission unanimously recommended to the Council City Center Commercial Zoning designation for ten (10) parcels of land in the Northeast quadrant of the intersection of I-5 and Wilsonville Road, and the Council further finds that after public hearing on July 23, 1973, the Council by Resolution approved and adopted the recommendation of the Planning Commission.

Section 2: The Council further finds that an Ordinance conforming the zone and use designation of said lands to the Comprehensive Plan has not heretofore been adopted and that pursuant to ORS 197.175(2) (b) and decisions of the Court of Appeals and Supreme Court of Oregon, it is required that the City enact zoning ordinances to implement the Comprehensive Plan and to bring the authorized land uses into conformity with the Comprehensive Plan.

Section 3: The City Council finds that the City of Wilsonville Zoning Ordinance No. 23 does not now include provisions for a "City Center" Zone District, and it is necessary, therefore, that the text and map of the City of Wilsonville Zoning Ordinance be amended and supplemented to give effect to the Comprehensive Plan.

Section 4: The Zoning Ordinance No. 23, commonly referred to as the City of Wilsonville Zoning Ordinance, adopted by the Council on the 1st day of June, 1971, as heretofore amended, be and the same is hereby amended and supplemented to add to Article V thereof a new Section reading as follows:

"Section 5.035. CC CITY CENTER DISTRICT:

1. PURPOSE:

- A. The purpose of this zone is to permit and encourage a City Center District, adhering to planned commercial and planned development concepts, including provision for commercial services, sales of goods and wares, business and professional offices, department stores, shopping centers and other customer-oriented uses to meet the needs of the Wilsonville community as well as to meet the general shopping and service needs on an area wide basis, together with such multiple family residential facilities, open space, recreational and park areas, and public use facilities as may be approved as part of the City Center District compatible with the Comprehensive Plan of the City.

2. PRINCIPAL USES PERMITTED (As part of the City Center District):
- A. As part of planned development, all principal uses permitted outright in C-1 limited commercial district.
  - B. As part of planned development, all principal uses permitted in C-2 commercial district.
  - C. Planned commercial uses, shopping center development, including department stores and shopping centers.
  - D. Banking and investment services.
  - E. Public facilities complex, Governmental offices and facilities, hospitals, health centers and office complex for the furnishing of professional services, including but not restricted to medical, legal, architectural and engineering.
  - F. Planned multiple dwelling facilities, including motels, apartments and condominiums as may be approved by the Planning Commission.
  - H. Such other and further uses as may be approved by the Planning Commission compatible with the Comprehensive Plan.

3. RECOMMENDED USES: (As shown for the areas on the attached Zoning Diagram Exhibit "A")

CENTRAL COMMERCIAL (CC)

Typical Recommended Uses:

Department Stores  
 Florist Shop  
 Interior Decorating Shop  
 Retail Stores  
 Banks, Loan companies, other financial institutions  
 Bird store, pet shop or taxidermist  
 Blueprinting, photostating, other reproduction process  
 Business machines, retail sales & service  
 Cleaning and pressing establishments  
 Commercial schools, such as business colleges, music conservatories, trade schools  
 Custom tailoring, dressmaking or millinery shop  
 Film Exchange  
 Furniture Store  
 Gunsmith or Locksmith  
 Household Machines, retail sales and service  
 Photographer  
 Radio or Television studio  
 Watch and clock repair shop

Other uses similar in character of predominantly retail or service establishments dealing directly with ultimate customers.



SERVICE COMMERCIAL (SC)

Typical Recommended Uses:

Building materials, retail outlet only  
Cabinet or carpenter shop  
Feed store, retail only  
Fuels, solid, retail outlet only  
Furniture store  
Upholstering shop  
Automobile Service Station  
Bicycle, Motorcycle, trailer - (other than house and truck trailers) retail sales and service, rental  
Garage, parking or repair  
New automobiles and trucks, if not more than 1½ tons capacity, retail sales and service  
Tire sales and service  
Self-service car wash  
Building contractors and related subcontractors

FOOD AND SUNDRIES (FS)

Typical Recommended Uses:

Bakery, retail  
Barber shop  
Beauty parlor  
Bookstores  
Clothes Cleaning Pick-Up Agencies  
Clothes Pressing establishment  
Confectionary  
Custom dressmaking  
Delicatessen  
Drug store  
Dry goods store  
Florist shop  
Grocers, fruit or vegetable store  
Hardware store  
Meat market  
Notions or Variety Store  
Shoe repair shop

Other uses in character of neighborhood food and services.

FAST FOOD SERVICE (FF)

Typical Recommended Uses:

Free-standing fast food take-out type restaurant, with the uses being limited to that type of food service establishment catering to a take-out trade.

OFFICE PROFESSIONAL (OP)

Typical Recommended Uses:

Accountants  
Architects  
Artists  
Attorneys  
Authors and writers

Dentists  
Designers  
Engineers  
Investment Counselors  
Landscape Architects  
Management Consultants  
Ministers  
Physicians & Surgeons  
Psychiatrists

OFFICES FOR GENERAL USE (OG)

Typical Recommended Uses:

Title Insurance  
General Insurance  
Secretarial Services  
Collection Agency  
Rental Agency

HIGH DENSITY APARTMENTS (APT)

Typical Recommended Uses:

Apartment, condominium townhouse, or any other multiple density housing use at 25 units per acre.

4. ACCESSORY USES PERMITTED:

- A. Any accessory use and structure not otherwise prohibited customarily accessory and incidental to any permitted principal use.
- B. Temporary buildings and uses incidental to the development of principal facilities, such temporary structures to be removed upon completion of the work or abandonment of the project.

5. CONDITIONAL USES PERMITTED:

- A. Any use compatible with the principal uses hereunder permitted which may be approved by the Planning Commission pursuant to Article VIII, Section 8.01 of the Wilsonville, Oregon Zoning Ordinance.

6. PROCEDURES, REGULATIONS AND RESTRICTIONS:

- A. The procedures, regulations and restrictions applicable to the City Center District shall conform to those set forth in Article XIII of Zoning Ordinance No. 23 as the Planning Commission may deem necessary to achieve the purposes of the zone.

7. CITY CENTER DISTRICT DESCRIBED:

- A. Pursuant to ORS 197.175(2) (b) and appellate court decisions of the State of Oregon, all those certain lands in the East Half (E-1/2) of Section 14 and the West Half (W-1/2) of Section 13, Township 3 South, Range 1 West, Willamette Meridian, Clackamas County, Oregon, more particularly described on

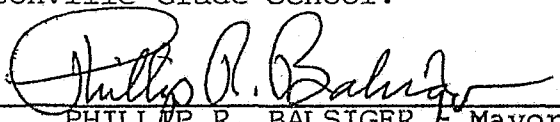
Exhibit "B" headed Description, and by this reference made a part hereof, are hereby reclassified to City Center Zone (CC) to conform to the Comprehensive Plan of the City of Wilsonville. The zone boundaries are shown on the attached "Control Map" also identified as Exhibit "C." "

The Planning Commission shall first approve all uses of property in the CITY CENTER DISTRICT, and in doing so, shall follow as closely as possible the recommended uses and types of use as specified in this Section 4 (3) and for each of the various areas in the District as shown on the attached Zoning Diagram which is marked Exhibit "A" for identification purposes and expressly made a part of this Ordinance. Any change of a recommended use or similar type of recommended use or of an approved use from one area to another in the CITY CENTER DISTRICT shall first be passed upon by the Planning Commission.

Section 5: Amendment to Zoning Map. The Zoning Map of the City of Wilsonville dated June 1, 1971, and adopted as a part of the City Zoning Ordinance No. 23 adopted on the same date, shall be and the same is hereby amended and changed so that the zone boundaries of this newly created City Center Zone (CC) shall include all of the lands as described in the attached Exhibit "B," and appropriate changes are to be made on and to said Zoning Map.

Section 6: Effective Date. Inasmuch as it is necessary for the peace, health and safety of the people of the City of Wilsonville, and to comply with statutory directives to thereby maintain the legislative integrity of the City's Comprehensive Plan and Zoning Ordinances, an emergency is hereby declared to exist, and this Ordinance shall be effective immediately upon its final reading and passage by the Council.

Passed on first reading of the Wilsonville City Council at a regular meeting of the Council on the 19th day of January, 1976, ordered posted as provided by the Wilsonville City Charter; and to come up for final reading and action of the Wilsonville City Council at a regular meeting thereof to be held on Tuesday, the 17th day of February, at the hour of 7:30 p.m. at the Wilsonville Grade School.

  
PHILLIP R. BALSIGER Mayor

ATTEST:

  
DEANNA J. THOM - City Recorder

Passes on final reading of the Wilsonville City Council at a regular meeting thereof held on this 17th day of February, 1976, by the following vote; Yeas 4. Nays 1.

  
PHILLIP R. BALSIGER Mayor

ATTEST:

  
DEANNA J. THOM - City Recorder

EXHIBIT "B"  
WILSONVILLE CITY CENTER DISTRICT  
Description

All those certain lands lying in the Southwest Quarter of Section 13 and in the Southeast Quarter of Section 14, Township 3 South, Range 1 West, Willamette Meridian, Clackamas County, Oregon, bounded and described as follows:

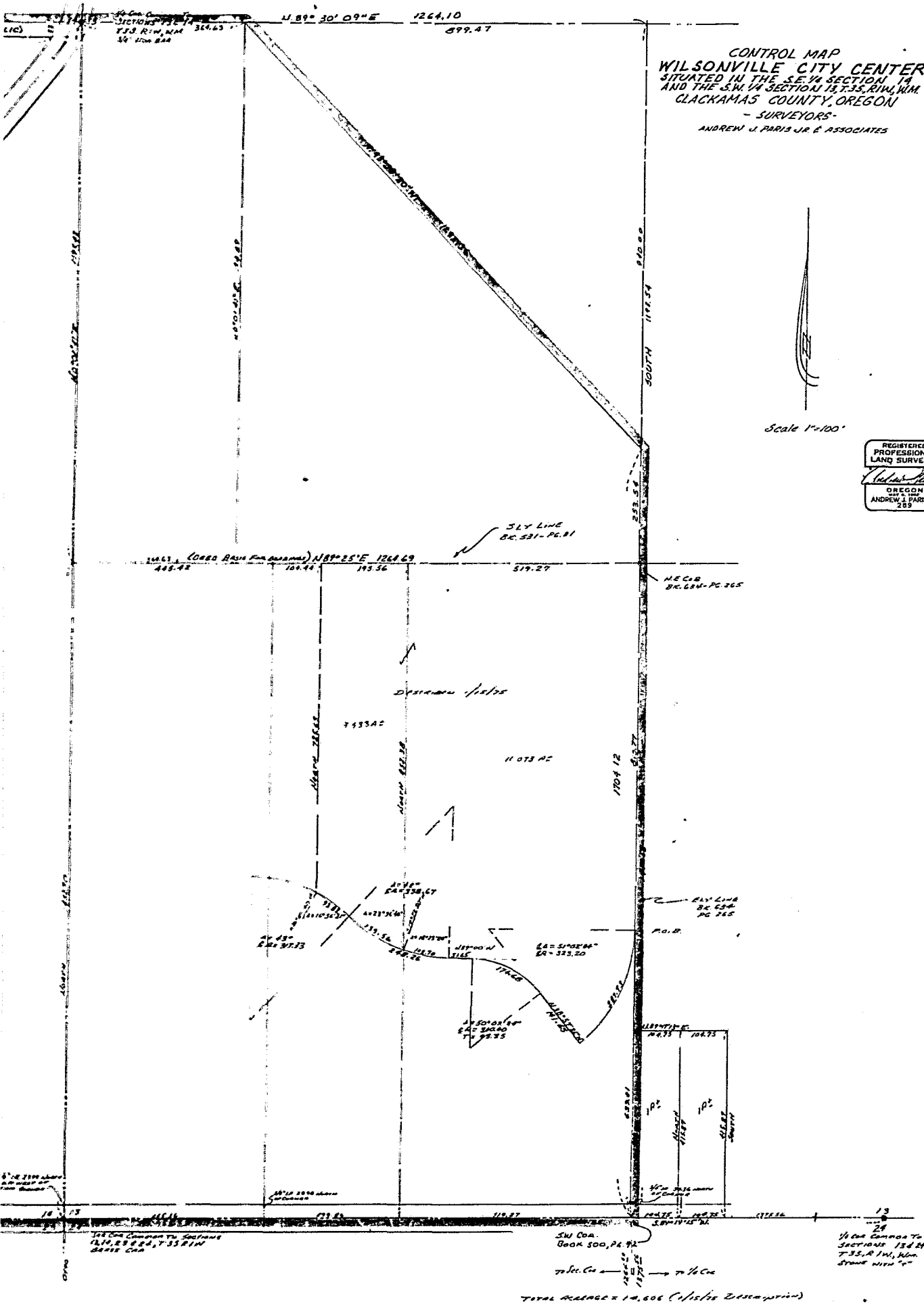
Bounded on the West by the East line of Highway I-5;

Bounded on the South by the South lines of Sections 13 and 14, Township 3 South, Range 1 West, Willamette Meridian;

Bounded on the East by the East line of that certain tract contracted to be conveyed by Melvin F. Stangel to Jack E. Wright, et al by instrument dated July 18, 1974 and recorded as Document No. 74-21707, Deed Records of Clackamas County, Oregon, and the said East line extended North 1200 feet from the northeast corner of said Stangel tract to a point of intersection with the North line of the Southwest Quarter of Section 13, Township 3 South, Range 1 West, Willamette Meridian;

Bounded on the North by the North line of the Southeast Quarter of Section 14 and the North line of the Southwest Quarter of Section 13, Township 3 South, Range 1 West, Willamette Meridian, said line extending from the East boundary of Highway I-5 easterly 2400 feet, more or less, to the point of intersection with the East line of the lands hereby described.





CONTROL MAP  
 WILSONVILLE CITY CENTER  
 SITUATED IN THE S.E. 1/4 SECTION 19  
 AND THE S.W. 1/4 SECTION 18, T.35, R.14, W.14  
 CLACKAMAS COUNTY, OREGON  
 - SURVEYORS -  
 ANDREW J. PARIS JR. & ASSOCIATES



Scale 1"=100'

REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR  
 ANDREW J. PARIS JR.  
 209

TOTAL ACRES = 14.606 (1/15/78 Description)

REGISTERED  
 PROFESSIONAL  
 LAND SURVEYOR  
 ANDREW J. PARIS JR.  
 209

**From:** [Amanda Guile-Hinman](#)  
**To:** [Katzaroff, Kenneth](#)  
**Cc:** [Stephanie Davidson](#); [Ordon-Bakalian, Keenan](#)  
**Subject:** RE: Home Depot/Wilsonville - Follow up on last night's DRB hearing [IMAN-PDX.FID4320120]  
**Date:** Wednesday, February 28, 2024 10:39:05 AM  
**Attachments:** [image001.png](#)

---

Hi Ken,

The City disagrees with your client's position regarding the use, based on City Code and Oregon law. The withdrawal option was discussed during the hearing with your client expressing that it could talk with the City during this 7-day period about withdrawal. Based on your email, I understand that your client is not interested in doing so.

Thanks,

**Amanda Guile-Hinman**

*City Attorney*  
City of Wilsonville

503.570.1509

[guile@ci.wilsonville.or.us](mailto:guile@ci.wilsonville.or.us)

[www.ci.wilsonville.or.us](http://www.ci.wilsonville.or.us)



29799 SW Town Center Loop East, Wilsonville, OR 97070

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---

**From:** Katzaroff, Kenneth <KKatzaroff@SCHWABE.com>  
**Sent:** Wednesday, February 28, 2024 10:06 AM  
**To:** Amanda Guile-Hinman <guile@ci.wilsonville.or.us>  
**Cc:** Stephanie Davidson <s davidson@ci.wilsonville.or.us>; Ordon-Bakalian, Keenan <KOrdon-Bakalian@schwabe.com>  
**Subject:** Re: Home Depot/Wilsonville - Follow up on last night's DRB hearing [IMAN-PDX.FID4320120]

**[This email originated outside of the City of Wilsonville]**

---



Happy to chat but I believe we already stated we are not interested in a withdrawal.

I'm happy to collaborate on what a proper class 1 decision could look like and be supported by the city and my client. Unclear why this requires us to withdraw or why that is seemingly the only option the city is willing to entertain.

Thanks,

Ken

Sent from my iPhone

On Feb 28, 2024, at 9:30 AM, Amanda Guile-Hinman <[guile@ci.wilsonville.or.us](mailto:guile@ci.wilsonville.or.us)> wrote:

Hi Ken,

What we are proposing with the withdrawal is that there will be no Class I decision – the DRB would accept the withdrawal and modify the Class I decision to state that there is no Class I decision. Thus, there is no need to reline the original.

A phone call may be best to clarify the withdrawal if the applicant is interested in doing so.

Thanks,

Amanda Guile-Hinman  
City Attorney  
City of Wilsonville

503.570.1509

[guile@ci.wilsonville.or.us](mailto:guile@ci.wilsonville.or.us)<<mailto:guile@ci.wilsonville.or.us>>

[www.ci.wilsonville.or.us](http://www.ci.wilsonville.or.us)<<http://www.ci.wilsonville.or.us/>>

<image001.png>

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From: Kataroff, Kenneth <[KKataroff@SCHWABE.com](mailto:KKataroff@SCHWABE.com)>

Sent: Wednesday, February 28, 2024 8:59 AM

To: Stephanie Davidson <[sdavidson@ci.wilsonville.or.us](mailto:sdavidson@ci.wilsonville.or.us)>; Ordon-Bakalian, Keenan <[KOrdon-Bakalian@schwabe.com](mailto:KOrdon-Bakalian@schwabe.com)>

Cc: Amanda Guile-Hinman <[guile@ci.wilsonville.or.us](mailto:guile@ci.wilsonville.or.us)>

Subject: RE: Home Depot/Wilsonville - Follow up on last night's DRB hearing [IMAN-PDX.FID4320120]



[This email originated outside of the City of Wilsonville]

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Stephanie –

Please send us a word version of the original Class 1 decision. I believe we will want to provide redlines to this if we are look at a settlement proposal.

Additionally, please be aware that as the applicant we are entitled to final legal argument under ORS 197.797(6)(e). We are not waiving that right at this time.

Ken

Kenneth Katzaroff<<https://www.schwabe.com/professional/kenneth-katzaroff/>>

<image002.png>

Shareholder

D: (206) 405-1985<<tel:206-405-1985>>

[kkatzaroff@schwabe.com](mailto:kkatzaroff@schwabe.com)<<mailto:kkatzaroff@schwabe.com>>

<<https://www.schwabe.com/>>

<image003.png>

From: Stephanie Davidson

<[sdavidson@ci.wilsonville.or.us](mailto:sdavidson@ci.wilsonville.or.us)<<mailto:sdavidson@ci.wilsonville.or.us>>>

Sent: Tuesday, February 27, 2024 12:20 PM

To: Katzaroff, Kenneth

<[KKatzaroff@SCHWABE.com](mailto:KKatzaroff@SCHWABE.com)<<mailto:KKatzaroff@SCHWABE.com>>>; Ordon-Bakalian,

Keenan <[KOrdon-Bakalian@schwabe.com](mailto:KOrdon-Bakalian@schwabe.com)<<mailto:KOrdon-Bakalian@schwabe.com>>>

Cc: Amanda Guile-Hinman <[guile@ci.wilsonville.or.us](mailto:guile@ci.wilsonville.or.us)<<mailto:guile@ci.wilsonville.or.us>>>

Subject: Home Depot/Wilsonville - Follow up on last night's DRB hearing

Ken and Keenan,

Good afternoon – we want to check in with you to follow up on last night’s DRB hearing. I’m resending the materials that Amanda sent to you, Ken, last Friday at 4:05pm. I believe Keenan and Amanda discussed exploring a withdrawal of the Class I application last night. We are open to considering proposed revisions to the attached Resolution no. 429. Keenan said last night that your client feels compelled to pursue an appeal of the Planning Director’s letter decision on the Class I application because it addresses scope and extent of the non-conforming use; We are hoping that item number three under “NOW, THEREFORE, BE IT RESOLVED...” regarding the modification of the Planning Director’s letter decision addresses that concern. But like I said – we are open to a conversation about this. If the applicant’s concern is regarding preserving argument about how the current use is classified, we can add language to the withdrawal form signed by both parties that the Class II review will encompass the following questions and that Applicant preserves its right to challenge the City’s determinations as to the following questions: (1) what is the non-conforming use; (2) what is the proposed use; and (3) is the proposed use a continuation of use? Since determination of continuation of use requires an understanding of current and proposed uses, all three questions are relevant to the Class II review. Last night a DRB member asked about

the distinction between the Class I process and Class II process, and staff believe that the conversation will be less awkward if the DRB is able to handle all aspects of this application through the Class II process, rather than handling some parts of it through the Class I process, and having to reject evidence from the record that relates to the Class II process.

Just to confirm what was done last night: The public hearing was closed, but the record will remain open until March 4, 2024 at 5:00pm PT pursuant to ORS 197.797(6)(c). We will confirm the date of the DRB's reconvened meeting as soon as we can.

I look forward to your feedback.

Stephanie

Stephanie Davidson  
Assistant City Attorney  
City of Wilsonville

503.570.1561

[sdavidson@ci.wilsonville.or.us](mailto:sdavidson@ci.wilsonville.or.us)<mailto:sdavidson@ci.wilsonville.or.us>

[www.ci.wilsonville.or.us](http://www.ci.wilsonville.or.us)<http://www.ci.wilsonville.or.us/>

<image001.png>

29799 SW Town Center Loop East, Wilsonville, OR 97070

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# Referral of Administrative Review

## AR23-0031

### DRB Case File No. DB24-0003

Development Review Board Meeting

April 8, 2024

Presented by:

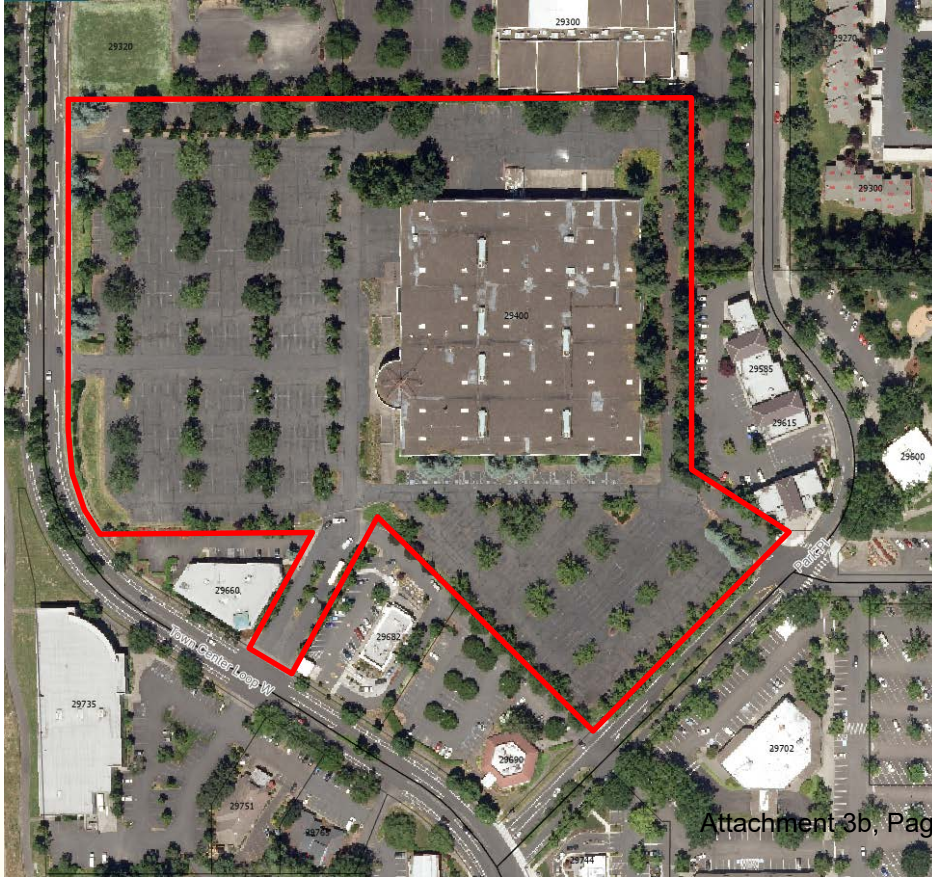
Cindy Luxhoj AICP, Associate Planner





WILSONVILLE  
OREGON

# Location



## Existing Development



# Background

## October 30, 2023

- Class I Review Application (ADMN23-0029) Submitted

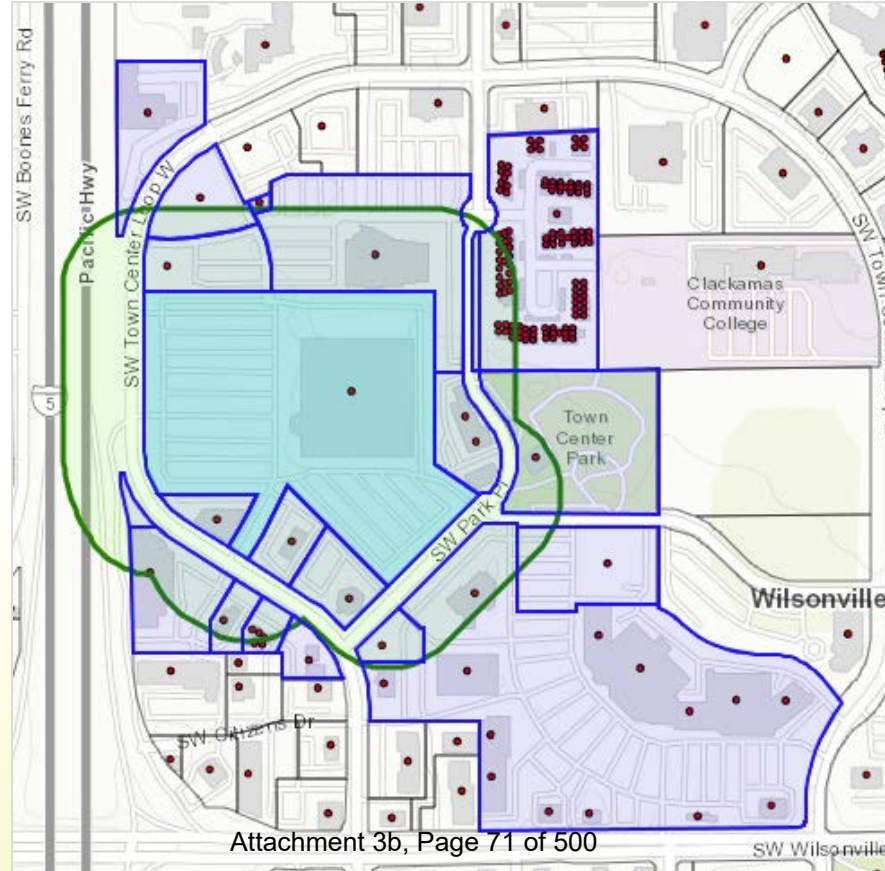
## December 28, 2023

- Planning Director Decision Issued
- January 10, 2024: Notice of Appeal Filed

## March 15, 2024

- DRB Notice of Decision (DB24-0002, Resolution No. 429) Issued
- March 27, 2024: Notice of Appeal Filed

# Noticing





# Current Application – DB24-0003

- Request for staff interpretation:
  - “to confirm that The Home Depot and Fry’s Electronics are both warehouse retail uses”
  - “to confirm that The Home Depot store proposed for 29400 Town Center Loop West... constitutes a warehouse retail use and may operate in the existing structure”
- Planning Director referred AR23-0031 to DRB





# Beyond Scope of Class II Review

- Applicant's request to "address" or "remedy" the flaws in DRB Resolution No. 429 on the Class I Review
- Consideration of any future development of the Location



# Questions Presented

- If the Proposed Occupant operates at the Location will this constitute a continuation of the non-conforming use?
- Steps to determine answer:
  - Step 1: What is the existing non-conforming use?
  - Step 2: What is the proposed use?
  - Step 3: Is the proposed use a continuation of the current non-conforming use?



# Legal Standard

- Wilsonville Code 4.189 (.01)
- Case Law – Key Points:
  - Non-conforming uses and expansion thereof are disfavored
  - Local government has broad discretion to resist expansion of non-conforming uses
  - Whether a proposed use in a continuation or change (of non-conforming use) depends on nature and extent of recognized non-conforming use
  - Local government has broad discretion to draw distinctions between various uses, and allow some uses to continue but disallow other uses



# Step 1:

- What is the existing non-conforming use?
  - There is a legally established non-conforming use at the Location; specifically, that the protected use is “a 159,400 square-foot electronics-related retail store.



## Step 2:

- What is the proposed use?
  - Proposed Occupant is not an electronics-related retail store and contains products and activities that are different than those provided by the Current Occupant



## Step 3:

- Is the proposed use a continuation of the current non-conforming use?
  - Proposed Occupant's proposed use of the Location goes beyond a mere continuation of the non-conforming use of the Location that was recognized by the Development Review Board.
  - Proposed Occupant may engage in these uses at the Location only if it obtains a recognition of change of use, which is beyond the scope of what may be addressed in the matter currently before the DRB.



# Conclusory Findings and Recommendation

- Proposed Occupant's operation at the Location would not be a mere continuation of the non-conforming use previously approved by the City.
- Staff recommends the DRB **deny** the Proposed Occupant as a continuation of non-conforming use of the Location.



# Rationale for Recommendation

- 1991 Decision and zoning regulations in effect in 1991 are irrelevant to the decision
- Proposed Occupant's characterization of the non-conforming use approved by the City as "warehouse retail use" is incorrect and is not persuasive.
- Proposed Occupant's proposed use of the Location extends beyond the scope of the Current Occupant's actual use of the Location as of June 5, 2019





# Additional Discussion

- Proposed Occupant's reliance on 1991 Decision
- Planning Director's Interpretation of Ordinance No. 55
  - Neither the 1991 Decision nor the zoning regulations in effect in 1991 are relevant



# Questions?



29799 SW Town Center Loop E, Wilsonville, OR 97070  
Phone: 503.682.4960 Fax: 503.682.7025  
Web: www.ci.wilsonville.or.us

### Planning Division Development Permit Application

Final action on development application or zone change is required within 120 days per ORS 227.175 or as otherwise required by state or federal law for specific application types.

A pre application conference may be required.

The City will not accept applications for wireless communication facilities or similar facilities without a completed copy of a Wireless Facility Review Worksheet.

The City will not schedule incomplete applications for public hearing or send administrative public notice until all of the required materials are submitted.

**Applicant:**

Name: Dan Zoldak  
Company: Lars Andersen & Associates, Inc.  
Mailing Address: 4694 W Jacquelyn Avenue  
City, State, Zip: Fresno, CA 93722  
Phone: 559.276.0850 Fax: \_\_\_\_\_  
E-mail: dzoldak@larsandersen.com

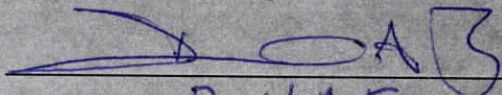
**Authorized Representative:**

Name: Dan Zoldak  
Company: Lars Andersen & Associates, Inc.  
Mailing Address: 4694 W Jacquelyn Avenue  
City, State, Zip: Fresno, CA 93722  
Phone: 559.276.0850 Fax: \_\_\_\_\_  
E-mail: dzoldak@larsandersen.com

**Property Owner:**

Name: David A. Fry  
Company: Lumberjack LP  
Mailing Address: 600 E Brokaw RD  
City, State, Zip: San Jose, CA 95112  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
E-mail: dave@rdjdevelopment.com

**Property Owner's Signature:**

  
Printed Name: David A. Fry Date: 9/19/2023

**Applicant's Signature:** (If different from Property Owner)

Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

**Site Location and Description:**

Project Address if Available: 29400 Town Center Loop W Wilsonville, OR 97070 Suite/Unit \_\_\_\_\_  
Project Location: 29400 Town Center Loop W Wilsonville, OR 97070  
Tax Map #(s): 01507257 Tax Lot #(s): \_\_\_\_\_ County:  Washington  Clackamas

**Request:**

Applicant proposes a Home Improvement store within the footprint of the existing structure. Need non conforming use confirmation (NCU) for TI Permit

**Project Type: Class I**  **Class II**  **Class III** 

Residential  Commercial  Industrial  Other: \_\_\_\_\_

**Application Type(s):**

- |  |   |  |   |
|--|---|--|---|
| <input type="checkbox"/> Annexation                  | <input type="checkbox"/> Appeal                     | <input type="checkbox"/> Comp Plan Map Amend | <input type="checkbox"/> Parks Plan Review            |
| <input type="checkbox"/> Final Plat                  | <input type="checkbox"/> Major Partition            | <input type="checkbox"/> Minor Partition     | <input type="checkbox"/> Request to Modify Conditions |
| <input type="checkbox"/> Plan Amendment              | <input type="checkbox"/> Planned Development        | <input type="checkbox"/> Preliminary Plat    | <input type="checkbox"/> Site Design Review           |
| <input type="checkbox"/> Request for Special Meeting | <input type="checkbox"/> Request for Time Extension | <input type="checkbox"/> Signs               | <input type="checkbox"/> Stage II Final Plan          |
| <input type="checkbox"/> SROZ/SRIR Review            | <input type="checkbox"/> Staff Interpretation       | <input type="checkbox"/> Stage I Master Plan | <input type="checkbox"/> Variance                     |
| <input type="checkbox"/> Type C Tree Removal Plan    | <input type="checkbox"/> Tree Permit (B or C)       | <input type="checkbox"/> Temporary Use       | <input checked="" type="checkbox"/> Other (describe)  |
| <input type="checkbox"/> Villebois SAP               | <input type="checkbox"/> Villebois PDP              | <input type="checkbox"/> Villebois FDP       | <small>Non conforming use application (NCU)</small>   |
| <input type="checkbox"/> Zone Map Amendment          | <input type="checkbox"/> Waiver(s)                  | <input type="checkbox"/> Conditional Use     |   |





PROPERTY OWNER  
ACKNOWLEDGEMENT FORM

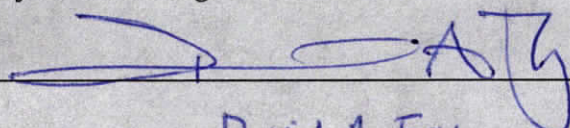
By signing below, I certify that I am the property owner for the application in question and that the applicant, Lars Andersen & Associates, Inc., has my permission to submit this application for the property located at:

Site Address: 29400 Town Center Loop W, Wilsonville, OR 97070

Tax Lot(s): 01507257 Section: \_\_\_\_\_

I understand the application will not be deemed complete without this documentation. I understand that submittal of this application does not entitle the applicant to engage in the work applied for until such an application is approved, the plan approval is issued, and the specified appeal period has passed. I also understand that all work must be performed in compliance with all applicable state, federal, and local laws, ordinances and regulations.

Property Owner's Signature:



Printed Name: David A. Fry Date: 9/18/2023

Property Owner Contact Information:

Company (if applicable): Lumberjack LP

Mailing Address: 600 E. Brokaw Rd.

City, State, Zip: San Jose, CA 95112

Phone: \_\_\_\_\_ E-mail: dave@rdjdevelopment.com

**BEFORE THE PLANNING DIRECTOR FOR THE CITY OF WILSONVILLE**

In the Matter of an application for a staff interpretation of the Wilsonville Development Code to confirm that The Home Depot store proposed for 29400 Town Center Loop W, Wilsonville, OR 97070 constitutes a warehouse retail use and may operate in the existing structure

APPLICANT’S NARRATIVE AND EXHIBITS DEMONSTRATING COMPLIANCE WITH THE RELEVANT APPROVAL CRITERIA

**SUBJECT PROPERTY:** 29400 Town Center Loop W.  
Wilsonville, OR 97070  
TL ID: 31W14D 00220

**APPLICANT:** Lars Andersen & Associates, Inc.  
4694 W. Jacquelyn Ave.,  
Fresno, CA 93722  
Attn: Dan Zoldak  
Phone: 559-276-0850  
E-Mail: dzoldak@larsandersen.com

**APPLICANT REPRESENTATIVE:** J. Kenneth Katzaroff  
Keenan Ordon-Bakalian  
Schwabe, Williamson & Wyatt, P.C.  
1211 SW 5th Avenue, Suite 1900  
Portland, Oregon 97204  
Phone: 206-405-1985  
E-Mail: KKatzaroff@SCHWABE.com  
E-Mail: Kordon-bakalian@schwabe.com

**PROPERTY OWNER:** Lumberjack LP  
600 E Brokaw Rd.  
San Jose, CA 95112

**REQUEST:** A Class II Staff Interpretation to confirm that The Home Depot and Fry’s Electronics are both warehouse retail uses.

**I. APPLICABLE STANDARDS AND CRITERIA**

The applicant has identified the following code provisions that the City of Wilsonville (hereinafter, the “City”) may apply to its review of this application:

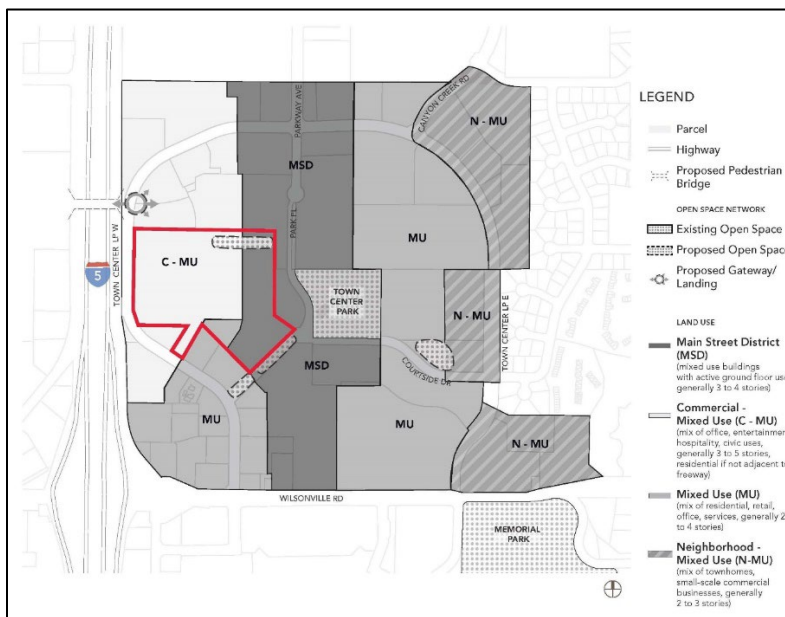
Title 4 – the Wilsonville Development Code (“WDC”)

Section 4.000-4.035 – Administration  
 Section 4.001 – Definitions  
 Section 4.030 – Jurisdiction and Powers of Planning Director and Community Development Director  
 Section 4.132 – Town Center Zone  
 Section 4.189-4.192 – Non-Conforming Uses, Structures, Site Conditions, and Lots

## II. INTRODUCTION AND BACKGROUND

Lars Andersen & Associates, Inc. (the “**applicant**”) is seeking a Class II Staff Interpretation to confirm that The Home Depot and Fry’s Electronics are both warehouse retail uses. This application is submitted in conjunction with the applicant’s application for a Class I review (the “**NCU Application**”)<sup>1</sup> to confirm the status of the existing non-conforming office, warehouse, manufacturing, service and retail use (the “**subject use**”) at 29400 SW Town Center Loop W, Wilsonville, OR 97070<sup>2</sup> (the “**property**”).

On November 28, 2023, the City of Wilsonville (the “**City**”) interpreted the applicant’s NCU Application to include a request for the City to determine that Fry’s Electronics and The Home Depot both constitute warehouse retail uses. City of Wilsonville E-mail (Nov. 28, 2023) (attached hereto as **Exhibit A**). As such, the City has asked the applicant to apply for a Class II Staff Interpretation review pursuant to WDC 4.030.01(B)(3). Therefore, the applicant is seeking the subject Staff Interpretation for the 15.01-acre property, located within the City. The property is zoned Planned Development Commercial – Town Center (“**TC**”) and designated with three Town Center Sub-Districts – Commercial-Mixed Use (“**C-MU**”), Mixed Use (“**MU**”), and Main Street District (“**MSD**”).



<sup>1</sup> Case File No. ADMN23-0029.

<sup>2</sup> TL 31W14D 00220.

As pictured below, the property is located in a relatively flat, developed commercial area within the City's Town Center District. There is an existing structure at the property that was operated as a Fry's Electronics ("Fry's") from 1991 to 2021.



In 1991 the City approved a Modification to the Stage I Wilsonville Town Center Master Plan and Stage II Phase II Site Development Plan (the "**1991 Decision**") to allow the development of a 159,400 square foot ("**SF**") retail, office, warehouse, manufacturing, and service store at the property. *See attached, Exhibit B.* The property was zoned Planned Development Commercial ("**PDC**") and designated commercial in the City's Comprehensive Plan when the City approved the subject use of the property. *Id.*, at 14. Subsequent to the City's land use approval, Fry's began operating a retail, office, warehouse, manufacturing, and service store at the property.

Fry's was a large electronics warehouse store that retailed software, consumer electronics, household appliances, cosmetics, tools, toys, accessories, magazines, technical books, snack foods, electronic components, and computer hardware. Fry's also had in-store computer repair and custom computer building services, and offered technical support to customers. The Fry's model was unique for electronics retail outlets of the time, in that Fry's was an electronics warehouse that offered customers a variety of retail, manufacturing and service offerings that exceeded the offerings of Fry's competitors. Because Fry's stocked a wide range of electronics products, they were popular with electronics and computer hobbyists, as well as IT professionals and contractors.



Image Credit: Alamy, <https://www.alamy.com/las-vegas-sep-7-2020-interior-view-of-the-frys-electronics-image375519870.html?imageid=595679EA-E5D6-4FAA-8BDE-4437A0B5DF19&p=283543&pn=1&searchId=9fd62e6ba47e6193d28e3b42e316bc4e&searchty pe=0> (last accessed Oct. 20, 2023).





Image Credit: PC Magazine, <https://www.pcmag.com/opinions/to-all-the-frys-i-loved-before-an-elegy-for-the-best-electronics-chain> (last accessed Oct. 20, 2023).

In February 2021, Fry's suddenly went out of business, closing all 31 stores across the United States including the Wilsonville Fry's that was operating at the property.<sup>3</sup> Since the closure of the Fry's in 2021, the owner of the property has been actively marketing the site and making other plans for its use. The owner has also continued to make utility payments for city services. *See attached, Exhibit C.*

The Home Depot, Inc. ("HD") intends to operate a store within the existing structure that was previously occupied by Fry's, and therefore seeks confirmation from the City that a warehouse retail store can continue operating at the property. *See attached, Exhibit D.* HD operates home improvement warehouse stores that retail tools, construction products, appliances, and services, including transportation and equipment rentals. HD's Home Services division also offers technical expertise for home improvement projects, and both onsite and offsite install, repair, and

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<sup>3</sup> *Fry's Electronics suddenly went out of business*, CNN, <https://www.cnn.com/2021/02/24/business/frys-electronics-closure/index.html> (last accessed Oct. 9, 2023); *Fry's Electronics closes, leaving Wilsonville store barren*, Portland Tribune, [https://www.portlandtribune.com/news/frys-electronics-closes-leaving-wilsonville-store-barren/article\\_cde50d46-de09-5ce3-a647-9f54ce7d4bb1.html](https://www.portlandtribune.com/news/frys-electronics-closes-leaving-wilsonville-store-barren/article_cde50d46-de09-5ce3-a647-9f54ce7d4bb1.html) (last accessed Oct. 9, 2023).

remodel services. Although the vast majority of HD customers are private individuals, contractors and other professionals account for close to half of HD's annual sales.<sup>4</sup>

### III. APPROVAL CRITERIA

#### *WDC 4.030.01 – Authority of Planning Director*

- B. *A Class II application shall be processed as an administrative action, with or without a public hearing, shall require public notice, and shall be subject to appeal or call-up, as noted below. Pursuant to Class II procedures set forth in Section 4.035, the Director shall approve, approve with conditions, deny, or refer the application to the Development Review Board for a hearing:*
- (B)(3) *Written interpretations of the text or maps of this Code, the Comprehensive Plan or sub-elements of the Comprehensive Plan, subject to appeal as provided in Section 4.022. The Planning Director may review and interpret the provisions and standards of Chapter 4 (Planning) of the Wilsonville Code upon receiving the required filing fee along with a specific written request. The Director shall publish and mail notice to affected parties and shall inform the Planning Commission and City Attorney prior to making a final written decision. The Director's letter and notice of decision shall be provided to the applicant, the Planning Commission, the City Council, and City Attorney and the notice shall clearly state that the decision may be appealed in accordance with Section 4.022 (Appeal Procedures). A log of such interpretations shall be kept in the office of the Planning Department for public review.*

**RESPONSE:** This is an application for a Staff Interpretation to confirm that Fry's Electronics and The Home Depot both constitute warehouse retail uses. Preliminarily, the applicant notes that WDC 4.001 does not define "warehouse retail" use. However, as set forth above, Fry's and HD stores are retail, office, warehouse, manufacturing, and service uses allowed at the subject property pursuant to the 1991 Decision and the property's historic PDC zoning. Both Fry's and HD stores are [were] organized warehouse-style, stock a large range of supplies available for retail, cater to retail consumers and professionals, and offer onsite services and technical support. As such, the applicant asserts that both Fry's and HD are warehouse-style retailers that fall within the subject use approved in the 1991 Decision.

Although Fry's and HD stores carry different products, the principal purpose and use for both stores is the retail sale of products displayed and stored in a warehouse format. The fact that Fry's retailed computer and electronics goods and HD retails home improvement and trade goods is not relevant for determining whether Fry's and HD constitute "warehouse-retailer" uses allowed under the 1991 Decision. Rather, the City must determine whether the *underlying use* for the proposed HD is consistent with the 1991 Decision, which approved the Fry's at the

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<sup>4</sup> *Home Depot CEO Says Contractor Spend Remains Strongest Business Line, PYMNTS, <https://www.pymnts.com/earnings/2023/home-depot-ceo-says-contractor-spend-remains-strongest-business-line/> (last accessed Oct. 25, 2023).*

property. Because the 1991 Decision approved retail, office, warehouse, manufacturing, and service uses at the property – which encompasses the character and scope of use for both Fry’s and HD – the applicant requests that the Planning Director make a written determination that HD is a warehouse retail use that can continue operating at the property.

Moreover, the difference in impacts or character of the Fry’s and HD retail use is the same: selling hammers, lightbulbs, power tools and home improvement appliances are not appreciably different than sales of televisions, computers, server equipment and the same home improvement appliances that are retailed in both warehouse stores. In short, the character of retail sales is the same – as are the impacts of operating the store. There is no plausible interpretation that can distinguish the retail offerings of the two warehouse stores.

This request for a Staff Interpretation will be accompanied by the required filing fee. This application meets the requirements for initiating review by the Planning Director pursuant to this criterion.

#### **IV. CONCLUSION**

For the reasons stated above, the Planning Director can find that all applicable criteria are met and approve the subject application for a written determination confirming that HD is a warehouse retail use that can continue operating at the property.

Enclosed with this application are the following exhibits:

- A. November 28, 2023 E-mail
- B. 1991 Decision
- C. Proof of Utility Payments
- D. Concept Plan

**From:** [Luxhoj, Cindy](#)  
**To:** [Dan Zoldak](#)  
**Cc:** [dave@rdjdevelopment.com](mailto:dave@rdjdevelopment.com); [Bateschell, Miranda](#); [Rybold, Kim](#); [Pauly, Daniel](#)  
**Subject:** ADMN23-0029 Class 1 Review Request for 29400 SW Town Center Loop  
**Date:** Tuesday, November 28, 2023 1:52:15 PM  
**Attachments:** [image001.png](#)

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Mr. Zoldak,

This email is in regards to the application you submitted on October 30, 2023, requesting a Class 1 Review for the property located at 29400 SW Town Center Loop West, Case File No. ADMN23-0029.

In your application, you state that you are requesting a Class 1 review to confirm the status of the existing non-conforming use at the above location. If this is your intent, then the City is prepared to deem your application complete tomorrow, which is the last day within the 30-day completeness review period. We would then process the application as a Class 1 review per Section 4.030 (.01) A. 7. of the Development Code unless you indicate differently – see options listed below.

You also state, however, that The Home Depot, Inc., intends to operate a store within the existing structure that was previously occupied by Fry's and, therefore, seeks confirmation from the City that a warehouse retail store can continue operating at the property. You go on to assert that the two stores are interchangeable with respect to use as warehouse retailers and indicate that you are requesting confirmation from the City that this is, indeed, the case. This second request is for written interpretation of the Development Code and requires Class 2 review per Section 4.030 (.01) B. 3.. As such, this determination will not be part of the Class 1 review or decision.

Below are a few options we have identified for proceeding with your application:

- Staff proceeds with the Class 1 review and issues a determination of non-conforming use at the subject site.
- You submit a request to withdraw the Class 1 review application and apply for a Class 2 review.
- Staff proceeds with the Class 1 review and, in addition, you apply for a Class 2 review requesting written interpretation.

If you choose to apply for a Class 2 review, you would select "Class 2 Review Master Plan" as the application in the City's online portal and specify "Staff Interpretation (with public notice)" as the request within your application. For convenience, [here is a link to the application portal](#). The fee for this application is \$2,027, and we would invoice you when the application is submitted to the portal.

Please let us know how you prefer to proceed. If you do not submit a request to withdraw the Class 1 by **Friday December 8**, staff will proceed with the Class 1 review and decision.

Thank you,

**Cindy Luxhoj AICP**  
*Associate Planner*  
City of Wilsonville

503.570.1572

[luxhoj@ci.wilsonville.or.us](mailto:luxhoj@ci.wilsonville.or.us)

[www.ci.wilsonville.or.us](http://www.ci.wilsonville.or.us)

[Facebook.com/CityofWilsonville](https://www.facebook.com/CityofWilsonville)



29799 SW Town Center Loop East, Wilsonville, OR 97070

*Disclosure Notice: Messages to and from this e-mail address may be subject to the Oregon Public Records Law.*

Unique Serial Number: (assigned by dbase) 4808

Department: Planning

Case No: 91PC43

File Creation Date:

Request: Modified Stage I Master Plan and Stage II Phase II site development plans, reconsideration of Condition of Approval #8 of 90PC15

Action: Approved with conditions

Project Expiration Date:

Property Description: TL 500, 600, 601, 604

Sec. 13

County: C

TL 101, 200, 201, 300, 405

Sec. 14D

County: C

Location: Wilsonville Town Center

Street Address:

Project Name(s): Project Thunder

Applicant: Capital Realty Corporation

Retention Schedule: Permanent

Location of Microfilm: City Hall Vault

Hard Copies of drawings/plans available? Yes

Physical copy of file retained? No

See also Case Files: 89PC50, 90PC15, 90PC15EX, 91DR29, 92DR21

Other name(s) on file:

MAP

SW 10/5/06

Initial/Date

City of  
**WILSONVILLE**  
In OREGON

30000 SW Town Center Loop E • PO Box 220  
Wilsonville, OR 97070  
(503) 682-1011

## NOTICE OF DECISION

Project Name: PROJECT THUNDER File No: 91PC43

Applicant / Owner: Capital Realty Corp.

Proposed Action: Modified Stage I Master Plan, Phase II Stage II Site  
Development Plans and Amending Condition of Approval 8 of Resolution 90PC5

Property Description:

Map No: 13 & 14D Tax Lot No: 101, 102, 200, 201 Site Size: \_\_\_\_\_

Address: \_\_\_\_\_

Location: Wilsonville Town Center - east of Town Center Loop West and northwest  
of shopping center

On December 9, 1991, at the meeting of the Planning Commission  
the following decision was made on the above-referenced Proposed Development Action:

Approval  Approval with Conditions  Denied

This decision has been finalized in written form and placed on file in the City records at the Wilsonville City Hall this 16th day of December, 1991, and is available for public inspection. The date of filing is the date of the decision. Any appeal(s) must be filed with the Planning Department by 5:00 p.m. on December 30, 1991.

Written decision is attached

Written decision is on file and available for inspection and/or copying.

This action, if approved, will expire on December 9, 1993 unless development commences prior to the expiration date.

For further information, please contact the Wilsonville Planning Department at City Hall, Community Development, or phone 682-4960.

**FILED** 12-16-91

PLANNING COMMISSION  
RESOLUTION NO. 91PC43

A RESOLUTION ADOPTING FINDINGS AND CONDITIONS OF APPROVAL FOR A MODIFIED STAGE I MASTER PLAN, PHASE II STAGE II SITE DEVELOPMENT PLANS AND AMENDING CONDITION OF APPROVAL 8 OF RESOLUTION 90PC5 - CAPITAL REALTY CORP., APPLICANT. THE PROPERTY IS IDENTIFIED AS WILSONVILLE TOWN CENTER AND IS LOCATED ON TAX LOTS 101, 102, 200, 201, 300 AND 500, T3S-R1W, SECTIONS 13 AND 14D, CLACKAMAS COUNTY, OREGON

WHEREAS, an application, together with planning exhibits for the above-captioned development, has been submitted in accordance with the procedures set forth in Sections 4.008(4) and 4.139(1), (2) and (3) of the Wilsonville Code, and .

WHEREAS, the Planning staff has prepared a report on the above-captioned subject which is attached hereto as Exhibit A, and

WHEREAS, said planning exhibits and staff report were duly considered by the Planning Commission at a regularly scheduled meeting conducted on December 9, 1991, at which time all exhibits, together with findings and public testimony, were entered into the public record, and


WHEREAS, the Commission has duly considered the subject and the recommendations contained in the staff report, and

WHEREAS, all interested parties have been afforded an opportunity to be heard on the subject.

NOW, THEREFORE, BE IT RESOLVED that the Wilsonville Planning Commission does hereby adopt the staff report attached hereto as Exhibit A, along with the findings, recommendations and Conditions of Approval contained therein. The Wilsonville Planning Director is hereby authorized to issue a Stage I Master Plan and Stage II Site Development Permit for Phase II and a Revised Condition of Approval 8 -Resolution 90PC5 once the prescribed appeal period has expired.

ADOPTED by the Planning Commission of the City of Wilsonville at a regular meeting thereof this 9th day of December, 1991, and filed with the Planning Secretary this same day.

Attest:

  
\_\_\_\_\_  
Judge Emison, Planning Secretary

  
\_\_\_\_\_  
Chairman, Planning Commission



And to provide an additional finding of fact that says that the traffic signal at the intersection of Town Center Loop West and Wilsonville Road is in process and should be in place by July of 1992, which it appears will alleviate some of the traffic congestion, but the Planning Commission still has significant concerns regarding the traffic at the intersection of Wilsonville Road and Parkway Avenue. (That's a finding of fact and not a Condition of Approval.)

**STAGE I MASTER SITE PLAN AND  
PHASE II STAGE II SITE DEVELOPMENT  
CONDITIONS OF APPROVAL**

1. This approves the subject Stage I Master Plan and Stage II Site Development of Phase II Project Thunder store. Developers shall submit separate applications for Stage II development review and separate applications for Site Design Review for each pad and development phase proposed in the Master Plan.
2. Automotive service stations/centers and automotive wash centers shall not be permitted within the Wilsonville Town Center Master Plan.
3. The owner shall waive right of remonstrance against any local improvement district that may be formed to provide public improvements to serve the subject site.
4. All survey monuments on the subject site shall be protected. If destroyed by the proposed site construction, the applicant shall retain a professional land surveyor to replace the monuments and file a copy of the record survey with the City.
5. The developer shall retain an engineer to provide a detailed drainage analysis of the subject property and prepare a 24" x 36" sheet identifying contributing drainage areas to be included with the final design plans.
6. Storm sewer system shall be designed to pass a 25-year frequency storm. Engineer shall provide detailed drainage computations. Applicant's design engineer shall provide runoff protection to downstream property owners. The design may require a detailed erosion control plan.
7. The developer shall coordinate with the City Engineer in preparing grading plans and in the design and location of all public utilities.
8. The developer shall conform with all requirements of the Tualatin Valley Fire District.

9. The developer shall submit to the Design Review Board a pedestrian sidewalk plan showing connections along the access drives through Phase II to the open space. Construct a five-foot wide concrete sidewalk, off-set five feet from the curb along the entire frontage of Town Center Loop West with Phase II and the adjoining pads. Connect all public sidewalks to the on-site sidewalk system. All sidewalks shall be constructed prior to occupancy of Project Thunder.

10. This approval amends Condition No. 16 of Resolution 89PC50 and Condition No. 8 of Resolution 90PC15 to state as follows:

The applicant shall dedicate 5.1 acres for a public park before issuance of the Certificate of Occupancy for Phase II unless the applicant and the City Council reach an agreement for a later date. The City and the applicant will work toward resolving the access and timing issues of the public park dedication up to including the time of the Certificate of Occupancy.

11. That an association of owners or tenants shall be established which shall adopt such Articles of Incorporation, By-Laws or other appropriate agreement, and shall adopt and impose such Declaration of Covenants and Restrictions on such common areas (landscaped areas) that are acceptable to the Planning Director. Said association shall be formed and continued for the purpose for maintenance. Such an association may undertake other functions. It shall be created in such a manner that tenants or owners of property shall automatically be members and shall be subject to assessments levied to maintain said common areas for the purposes intended. The period of existence of such association shall be not less than twenty years and it shall continue thereafter until other arrangements are made subject to City approval. This condition of approval does not apply to the open space proposed to be dedicated to the City.

12. All final plans shall be submitted on a 24" x 36" format. A title page will be required with a space left in the lower right-hand corner for an 8-1/2" x 11" information sheet to be provided by the City and to be affixed to the final as-built plans before acceptance. The applicant shall provide 3 mil mylar as-builts to the City which must be submitted and approved by the City before the final punch list inspection will be performed by the City.

13. Final utility design shall meet the following general format:

- A. Sanitary sewer shall be aligned on the north and west side of all street centerlines.
- B. Storm sewer shall be aligned on the south and east side of all street centerlines.
- C. Water line shall be aligned on the south and east side of all street centerlines.
- D. Minimum centerline finish grade shall be no less than 1% and the maximum centerline finish grade shall be no more than 12% for local streets. Minimum centerline finish grade shall be no more than 8% for any street above local street in classification and shall be constructed of concrete.
- E. The top of the curb shall equal centerline finish grade unless offset crown design or curb return transition.

- F. Composite utility plan shall be part of the final plan set.
  - G. Detailed grading plan shall be part of the final plan set.
  - H. Utilities not in the street area shall provide maintenance access acceptable to the City, and shall be centered in a 15-foot easement to be conveyed to the City of Wilsonville.
  - I. Final design of the public utilities shall be approved at the time of the City's issuance of a Public Works Construction Permit.
  - J. All on-and-off-site utilities shall comply with the State of Oregon and the City of Wilsonville requirements and Codes.
  - K. All cul-de-sacs shall have a minimum 45-foot radius to the face of the curb to allow for adequate turning radius.
  - L. All public streets shall meet design requirements for sight distance - horizontal, vertical and intersectional.
  - M. Final design plans shall identify locations for street lighting, gas service, power lines, telephone lines, cable television, street trees and mailbox clusters.
14. All survey monuments on the subject site shall be protected. If destroyed by the proposed site construction, the applicant shall retain a professional land surveyor to replace the monuments and file a copy of the record survey with the City.
  15. All power and telephone utilities shall be installed underground.
  16. Provide the Planning Director crossover reciprocal easements to adjacent properties for ingress and egress of traffic to cross over drives and private roads.
  17. The developer shall designate and construct City of Wilsonville Rapid Area Transport transit stops. Coordinate with Tom Barthel, the City Administrative Analyst, on the number and locations of the transit stops.
  18. The minimum parking space dimensions shall be 9' x 18' with 25-foot travel lanes.
  19. That Phase II be developed in such a manner that traffic generated by the development can be accommodated safely and without congestion in excess of level service D defined in the Highway Capacity Manual published by the National Highway Research Board on access drives at Town Center Loop West and at the intersection of Town Center Loop West with Wilsonville Road.
  20. The Phase II Stage II development shall take access at the prescribed access locations approved in Local Improvement District No. 5 along Town Center Loop West, except for the proposed access drive shown to be relocated at the southwest boundary of Phase II and is subject to the approval of the City Attorney and agreement being reached regarding lining up of the access drives on Town Center Loop West and the property across the street. The City Attorney is going to review the agreements to make sure that we end up with a full intersection on Town Center Loop West and the access drive to Project Thunder unless the property owner and the City Council reach another agreement.

21. At the time the Design Review Board specifically reviews the applicant's plans regarding the east wall of the large structure in Phase II, the applicant shall insure its compatibility with the proposed park. DRB shall also look at the pathway and sidewalk circulation plan.
22. That all construction workers park on site and not within public streets.
23. Prior to site grading, the developer shall coordinate with the Oregon Division of State Lands to investigate the existing storm water detention pond for possible wetlands.
24. The applicant shall coordinate with the City Engineer to consider on-site detention in its submittal to the City. The applicant shall coordinate with the Engineering Department all storm drainage plans with some consideration toward whether or not on-site detention is feasible and meets the engineering standards of the City.

Chairman Mike Williams moved to accept the staff report with the following amendments:

Revise Condition of Approval Number 10 to provide that instead of at the time building permits are issued at the Phase II Stage II site development, to provide that at the time the Certificate of Occupancy is issued the applicant/property owner shall dedicate 5.1 acres. And to provide another sentence at the end, that the City and the applicant will work toward resolving the access and timing issues of the public park dedication up to including the time of the Certificate of Occupancy.

Provide an additional condition of approval that at the time that the Design Review Board specifically reviews the applicants plans, regarding the east wall of the large structure on Phase II, to insure its compatibility with the proposed park. And to also have the DRB look at the pathway and sidewalk circulation plan. And an additional condition of approval that the applicant consider on-site detention in its submittal to the city. That the applicant coordinate with the engineering department the storm drainage plans with some consideration toward whether or not an on-site detention is feasible and meets the engineering standards of the city. And to provide an additional finding of fact that says that the traffic signal at the intersection of Town Center Loop West and Wilsonville Road is in process and should be in place by July of 1992, which it appears will alleviate some of the traffic congestion but the Planning Commission still has significant concerns regarding the traffic at the intersection of Wilsonville Road and Parkway Avenue. (That's a finding of fact and not a Condition of Approval.)

An additional Condition of approval is subject to the approval of the City Attorney and agreement being reached regarding lining up of the access drives on Town Center Loop West and the property across the street. The City Attorney is going to review the agreements to make sure that we end up with a full intersection on Town Center Loop West and the access drive to the Project Thunder.

(Mike Kohlhoff - Add the phrase, "unless the project owner and the city council reach other agreement")

Condition 10 will read that dedication of 5.1 acres for a public park will be required before issuance of the Certificate of Occupancy unless the applicant and the City Council reach an agreement for a later date.

Motion was seconded by Lew Hendershott and carried 4-2.

**PLANNING DEPARTMENT  
STAFF REPORT**

**DATE: December 9, 1991**

**TO: Planning Commission**

**PREPARED BY: Blaise Edmonds**

**REQUEST: 91PC43 Modification to Stage I Site Master Plan, reconsider Condition of Approval 8 of Resolution 90PC15; Stage II Phase II Site Development review for a 159,400 square foot retail commercial building - Project Thunder - Capital Realty Corp., applicant.**

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**SUMMARY**

Capital Realty Corporation is representing a retail business with the anonymous name "Project Thunder". The Project Thunder people desire to develop 14.75 acres (Phase II of Wilsonville Town Center) for a 159,400 square foot electronics-related retail store.

The proposed Project Thunder Stage II Site Development Plans has caused Capital Realty Corp. to modify and re-submit the Stage I Wilsonville Town Center Master Plan to reflect an expanded master plan area, reclassify overlay zones associated with Ordinance 55, redesignate the phasing sequence and to establish approximately 5.4 acres for open space.

Capital Realty Corp. is also seeking reconsideration of Condition 8 of Planning Commission Resolution 90PC15 which imposed certain design and development requirements for the development of the 5.4 acre open space.

All Comprehensive Plan and Zoning Code requirements that apply to this Stage I review are satisfied or can be met. Parking issues, building height and setback, final design, utility placement, and other site specific development requirements are further considered in this application for Stage II Phase II site development of Thunder Project, a 159,400 square foot retail commercial building. The applicant has also submitted conceptual plans showing Project Thunder's architecture, landscaping and a signage program. The Design Review Board is the City's review authority of the project's architecture, landscaping and signage program.

The applicant's traffic report demonstrates that the location, design and uses are such that traffic generated by Project Thunder can be accommodated safely and without congestion in excess of level service D defined in the Highway Capacity Manual at the access drives to Town Center Loop West and at the intersection of Town Center Loop with Parkway Avenue and the intersection with Town Center Loop West with Wilsonville Road. It may also be determined that the location and design of the access drives may be refined to reflect conclusionary findings of the traffic analysis report and of the City Engineering Department. The proposed findings do not take into account traffic impact on the intersection of Wilsonville Road with Parkway Avenue and the Wilsonville interchange from the proposed Phase II development. With respect to the previous statement, the Planning Commission did not analyze traffic congestion levels on the aforementioned intersection in the review of Phase I Wilsonville Town Center. Furthermore, Subsection 4.139(4)(b)WC does not ask the applicant to accommodate traffic safely and without congestion in excess of level service "D" at the Wilsonville Interchange.

Project Thunder can be adequately served by existing or immediately planned public facilities and services.

**RECOMMENDATION:** Approve the modified Stage I Wilsonville Town Center Master Plan and Stage II Phase II Site Development Plans with Conditions of Approval attached herein. This recommendation acknowledges the conceptual configuration of a 5.1 acre open space as proposed by the developer.

**FINDINGS: PDC & PDI**

The following findings are hereby adopted by the PLANNING COMMISSION and entered into the public record in consideration of the application as submitted in conformance with the City's Comprehensive Plan and Zoning Regulations. "PROJECT THUNDER"

NA = NOT APPLICABLE  
DRB = DESIGN REVIEW BOARD

	Code Std.	Proposed	Code Compliance		Additional Findings
			Yes	No	
<b>A. Land Use</b>					
Zoning	<u>PDC</u>	<u>PDC</u>	<input checked="" type="radio"/>	<input type="radio"/>	<u>1 to 7</u>
Comprehensive Plan Designation	<u>COMMERCIAL TOWN CENTER</u>		<input checked="" type="radio"/>	<input type="radio"/>	<u>1 to 7</u> <u>32 to 36</u>
<b>B. Land and Building Improvements</b>					
<b>1. Lot Size</b>					
a. Total site area (acreage)	<u>NOT SPECIFIED</u>	<u>652,687 SF</u>	<input checked="" type="radio"/>	<input type="radio"/>	<u>        </u>
b. Lot sizes (subdivision)	<u>NA</u>		<input type="radio"/>	<input type="radio"/>	<u>NA</u>
Acreage lot size	<u>NA</u>		<input type="radio"/>	<input type="radio"/>	<u>NA</u>
<b>2. Lot Coverage</b>					
a. All buildings	<u>NOT SPECIFIED</u>	<u>24% 159,400 SF</u>	<input checked="" type="radio"/>	<input type="radio"/>	<u>        </u>
b. Parking/paved	<u>↓</u>	<u>61% 395,242 SF</u>	<input checked="" type="radio"/>	<input type="radio"/>	<u>        </u>
<b>c. Landscaping</b>					
1. total size area (%)	<u>MINIMUM 15%</u>	<u>15% 98,045 SF</u>	<input type="radio"/>	<input type="radio"/>	<u>DRB</u>
2. parking area (%)	<u>10%</u>	<u>-</u>	<input type="radio"/>	<input type="radio"/>	<u>↓</u>
3. screening/buffering	<u>REQ'D</u>	<u>-</u>	<input type="radio"/>	<input checked="" type="radio"/>	<u>42,43</u>
4. irrigation system	<u>↓</u>	<u>-</u>	<input type="radio"/>	<input type="radio"/>	<u>DRB</u>
<b>3. Building Setbacks</b>					
Front / <u>TOWN CENTER LOAD WEST</u>	<u>0'</u>	<u>445'</u>	<input checked="" type="radio"/>	<input type="radio"/>	<u>        </u>
Right side / <u>NORTH</u>	<u>0'</u>	<u>160'</u>	<input checked="" type="radio"/>	<input type="radio"/>	<u>        </u>
Left side / <u>SOUTH</u>	<u>0'</u>	<u>85'</u>	<input checked="" type="radio"/>	<input type="radio"/>	<u>        </u>
Rear side / <u>EAST</u>	<u>0'</u>	<u>70'</u>	<input checked="" type="radio"/>	<input type="radio"/>	<u>        </u>



	Code Std.	Proposed	Code Compliance		Additional Findings
			Yes	No	
4. Building Use					
a. Office	sq. ft.	9,117 SF	<input checked="" type="radio"/>	<input type="radio"/>	
b. Warehouse	sq. ft.	39,330 SF	<input checked="" type="radio"/>	<input type="radio"/>	
c. Manufacturing/SERVICE	sq. ft.	17,276 SF	<input checked="" type="radio"/>	<input type="radio"/>	
d. Other/DETAIL	sq. ft.	63,914 SF	<input checked="" type="radio"/>	<input type="radio"/>	
5. Building Specifications					
a. Building Height	35'	-	<input checked="" type="radio"/>	<input type="radio"/>	44
b. (Sun Exposure Plane)	NA		<input type="radio"/>	<input type="radio"/>	NA.
c. Gross Floor area of Building	NO LIMIT	150,400 SF	<input checked="" type="radio"/>	<input type="radio"/>	
6. Number of Off-Street Parking					
a. Standard 9' X 18'	472	850	<input checked="" type="radio"/>	<input type="radio"/>	48
b. Compact 8 1/2' X 17' (30% 10 allowed)	OPTIONAL	NOT SHOWN	<input checked="" type="radio"/>	<input type="radio"/>	
c. Handicapped 12' X 18' (1 to 50 required)	11	16	<input checked="" type="radio"/>	<input type="radio"/>	UBC TABLE 31-A
Total	483	872	<input checked="" type="radio"/>	<input type="radio"/>	46 to 48
d. Truck load berths	2	26	<input checked="" type="radio"/>	<input type="radio"/>	
7. Access/Egress					
a. Direct access to street	-	3	<input type="radio"/>	<input checked="" type="radio"/>	17, 18
b. Access provided by easement	NA		<input type="radio"/>	<input type="radio"/>	NA
c. Rail Access	NA		<input type="radio"/>	<input type="radio"/>	NA.
8. Open Space Slope Protection					
a. Existing vegetation protected	NA		<input type="radio"/>	<input type="radio"/>	NA
b. Slopes over 20% to 30% impervious coverage	NA		<input type="radio"/>	<input type="radio"/>	NA
c. River and stream corridors protected	NA		<input type="radio"/>	<input type="radio"/>	NA
d. Adequate erosion control provided			<input checked="" type="radio"/>	<input type="radio"/>	EXHIBIT G4
e. Within greenway	NA		<input type="radio"/>	<input type="radio"/>	NA

	Code Std.	Proposed	Code Compliance		Additional Findings
			Yes	No	

C. Other Planning Considerations

- |  |              |              |                       |                       |                           |
|--|--------------|--------------|-----------------------|-----------------------|---------------------------|
| 1. Outside storage area provided/<br>screening   | <u>  -  </u> | <u>  -  </u> | <input type="radio"/> | <input type="radio"/> | <u>DRB</u>                |
| 2. Adequate screenage of mechanical<br>equipment | <u>  -  </u> | <u>  -  </u> | <input type="radio"/> | <input type="radio"/> | <u>DRB</u>                |
| 3. Safety/crime prevention                       |              |              |                       |                       |                           |
| a. Location of addressing                        | <u>  -  </u> | <u>  -  </u> | <input type="radio"/> | <input type="radio"/> | <u>DRB</u><br>↓<br>↓<br>↓ |
| b. Natural surveillance                          | <u>  -  </u> | <u>  -  </u> | <input type="radio"/> | <input type="radio"/> |                           |
| c. Type of exterior lighting                     | <u>  -  </u> | <u>  -  </u> | <input type="radio"/> | <input type="radio"/> |                           |

D. Bike Paths, Pedestrian Trails, & Equestrian Trails

- |  |              |                     |                       |                                  |               |
|--|--------------|---------------------|-----------------------|----------------------------------|---------------|
| 1. Pathway Standards   |              |                     |                       |                                  |               |
| a. Pathways are provided consistent<br>with pathway master plan and design<br>standards (Section 4.168 W.C.) | <u>REQ'd</u> | <u>HOT<br/>SHOW</u> | <input type="radio"/> | <input checked="" type="radio"/> | <u>281031</u> |

E. Previous Approval actions and applicable conditions or approvals

- |                 |            |           |          |             |                      |
|-----------------|------------|-----------|----------|-------------|----------------------|
| 1. City Council | <u>Yes</u> | <u>No</u> | File No. | See finding | <u>DRB 55</u>        |
| 2. DRB          | <u>Yes</u> | <u>No</u> | File No. | See finding | <u>40215 Agre 50</u> |
| 3. P.C.         | <u>Yes</u> | <u>No</u> | File No. | See finding | <u>          </u>    |
| 4. Other        | <u>Yes</u> | <u>No</u> | File No. | See finding | <u>          </u>    |

Inter-agency review comments  
 Yes No See Exhibit No.           

Inter-agency review comments (Written Only)

- |                     |            |           |                 |                   |
|---------------------|------------|-----------|-----------------|-------------------|
| City Engineer       | <u>Yes</u> | <u>No</u> | See Exhibit No. | <u>  D  </u>      |
| Parks & Recreat.    | <u>Yes</u> | <u>No</u> | See Exhibit No. | <u>          </u> |
| Traffic Safety      | <u>Yes</u> | <u>No</u> | See Exhibit No. | <u>          </u> |
| Building Dept.      | <u>Yes</u> | <u>No</u> | See Exhibit No. | <u>  E  </u>      |
| Tualatin Fire Dept. | <u>Yes</u> | <u>No</u> | See Exhibit No. | <u>          </u> |
| Sheriff             | <u>Yes</u> | <u>No</u> | See Exhibit No. | <u>          </u> |

**MODIFIED STAGE I MASTER PLAN AND  
STAGE II PHASE II SITE DEVELOPMENT PLANS  
AND RECONSIDERATION OF  
CONDITION OF APPROVAL 8 OF 90PC15  
PLANNING COMMISSION FINDINGS**

**Property Owner:** Capitol Realty Corporation  
**Project:** Project Thunder  
**Developer:** Project Thunder  
**Architects:** Stage I Master Plan revision - JKS Architects  
 Stage II Phase II - Design Forum Architects  
**Traffic Engineer:** Kittelson & Associates, Inc.

**Property Description:**

The subject master plan area comprises 59.79 acres for retail commercial/office development more specifically described as Tax Lots 500, 600, 601 and 604 of Section 13 and Tax Lots 101, 200, 201, 300 and 405 of Section 14D, T3S-R1W, Clackamas County, Wilsonville Oregon. Approximately 114 acres comprise the Town Center Master Plan as recognized in Ordinance No. 55. Wilsonville Town Center, the name of Capital Realty Corporation's commercial retail development, has the same name of a retail district identified in Ordinance No. 55. For clarification, the applicant's Stage I Master Plan will be identified as the Wilsonville Town Center and the City's Master Plan of the district will be identified as Ordinance No. 55.

For years the interior area of Town Center Loop was in agricultural use with farm exemption tax status. It wasn't until the last eight years that the area experienced rapid residential and commercial growth with the development of Park Center Apartments, Town Center Mercantile, Wilsonville Market Place, Phase I Wilsonville Town Center, Clackamas Community College and various office and retail developments. It is apparent that the remaining undeveloped property has become very desirable as reflected by this application for a 159,400 square foot commercial retail store. Capital Realty forecasted commercial growth trends in Town Center and have subsequently purchased additional property to accommodate their plans to develop the Wilsonville Town Center Master Plan. Thus, the overall master plan area will increase from 53.39 acres to 59.79 acres. This adjustment will also create a new development phase in the overall Master Plan. With respect to Project Thunder, the relatively level site is easily accessible to Town Center Loop, Parkway Court and Wilsonville Road. The proposed Project Thunder site is also highly visible to I-5 and Town Center Loop West.

**LAND USE**

**Project Data  
Stage I - 89PC50**

1. Building Area

Phase I	24.08 acres	170,900 square feet
Phase II	6.52 acres	61,000 square feet
Phase III	<u>22.79 acres</u>	179,000 square feet
Total	53.39 acres	

Building Area

Phase I	207,130 square feet
Open Space	5.62 acres

**Project Data  
Stage I Modification:**

2. Phase I 22.96 acres (Existing Wilsonville Town Center commercial dev.)  
Phase II 14.75 acres (Proposed Project Thunder)  
Phase III 22.08 acres (Undeveloped property)  
Total 59.79 acres

Building Area

Phase I	207, 130 sq.ft.
Phase II	159, 400 sq.ft.

3. The Master Plan amendment also seeks to amend the current overlay zones in Ordinance No. 55 to reflect modifications proposed in Stage I Wilsonville Town Center. Essentially, the amendments would replace the Motor Hotel (MH), Office Professional (OP), Service Commercial (SC) and Residential (R) use designations with Central Commercial (CC).

**Plan Designation and Zoning**

4. The subject site is designated "Commercial" on the Comprehensive Plan map and zoned "Planned Development Commercial" (PDC) on the zoning map. The site is also situated within an area identified as Town Center Master Plan area (Ordinance No. 254). Ordinance No. 254 identifies the property in the following overlay zones; Service Commercial (SC), Office Professional (OP), Central Commercial (CC), Motor Hotel (MH), Residential (R) and within an area designated for a Lake or Open Space.

5. Within the Comprehensive Plan, a number of goal and policy statements address the commercial planning designation and development review which apply to the subject property. The applicable criteria for Stage I Master Plan review is found in Section 4.139(2) of the Wilsonville Code. Recommended uses for development within the Town Center Master Plan are embodied in Chapter 4 of the Wilsonville Code. In brief, the combined review criteria are the following:

The Most Applicable Comprehensive Plan Goals, Policies and Objectives

Goal 1.1	Citizen Involvement Goal
Objective 3.1	Public Facilities Availability
Policy 3.3.1	Street System Master Plan
Policy 3.3.1(b)	Street System Master Plan
Policy 3.3.1(c)	Street System Master Plan
Policy 3.3.2(a)	Arterial and Collector Streets
Policy 3.3.5(b)	Private Owner Responsibility to Build Streets
Policy 3.3.8(a)	Transportation Impact Analysis
Policy 3.3.8(c)	Traffic Trip Reduction
Policy 3.3.8(d)	Consolidation of Vehicle Trips
Policy 3.3.8(e)	Mass Transit
Policy 3.3.14	Major Street Improvements Required
Policy 3.3.3	Street Standard and Dedication
Policy 3.3.11	Bikeways and Pathways
Policy 3.3.12	Pathway Construction
Policy 3.8.3	Open Space
Policy 4.2.3	Site Plan Information Requirements
Policy 4.2.5	Development Coincide with Public Facilities

Applicable Zoning Ordinance Provisions

Section 4.123	This Section provides the requirements of the PDC zone which are governed by Section 4.130 to 4.140.
Section 4.138(4)	Stage I Master Plan compliance
Section 4.139(4)	Criteria for approval of a planned development including subsections a, b and c

Town Center Master Plan

Ordinance Nos. 55 and 254.

**Goal 1.1 - Citizen Involvement**

6. The Planning Commission will be conducting the Stage I Master Plan as a public hearing and all notification requirements have been met.

## CONCLUSIONARY FINDING

7. The proposed uses, both separately and as a whole, are consistent with the Comprehensive Plan and can be made consistent with Ordinance No. 55.

## PUBLIC FACILITIES

### Objective 3.1

8. The City Engineering Department has provided detailed comments regarding public facilities improvements required to serve the site. These findings and recommendations are listed on Exhibit D.

### Sanitary Sewer

9. Three sanitary sewer lines serve the site. An eight-inch line is located on the west side of the site which extends south through Citizens Drive to a trunkline in Wilsonville Road. A 15-inch line is located in the center of the site and a 10-inch line traverses the site originating from the Courtside Estates subdivision. This line was relocated to accommodate Phase I development. Approximately 1,500 linear feet of a sanitary sewer line was constructed along the northerly right-of-way of Wilsonville Road. This finding is also applicable to Stage II site development.

### Storm Drainage

10. The subject site is located within two storm drainage basins. Phase I site grading recontoured the site Master Plan to divert storm water to a piped system in the easterly basin that out falls to an existing 48-inch pipe on the southeast corner of Phase I site. This diversion helps relieve the westerly storm basin from the storm drainage system that out falls to constricted culvert under I-5. Phase II development will remove the existing storm detention pond located on the west side of the site and be replaced with storm pipes to connect with the improved Phase I storm system. The City requires detailed storm drainage plans designed to pass a 25-year storm frequency. The detention pond has not been investigated with the Oregon Division of State Lands for wetlands status.

### Water

11. Existing 12-inch waterlines located in Wilsonville Road and Town Center Loop East and West have adequate flow to serve full buildout of the site. This finding is also applicable to Stage II site development.

### Police

12. Police protection is provided to the City by the Clackamas County Sheriff's Department. This department has a headquarters in Wilsonville City Hall which is near the subject property.

## Fire/Emergency

13. The Tualatin Valley Consolidated Fire and Rescue District provides fire protection to this site. The City is served by two fire stations strategically located in the City that can provide adequate fire protection services to the proposed development.

## CONCLUSIONARY FINDING

14. That the location, design and uses are such that the retail commercial center will be adequately served by existing or immediately planned facilities and services.

## STREETS and TRAFFIC

### Policy 3.3.1(a) - Street System Master Plan

15. The Street System Master Plan identifies design standards and conceptual locations for arterials and major collectors. Wilsonville Road and Town Center Loop are classified as major arterial streets. The Master Street System and Functional Classification Map does not identify or classify any internal streets within the Town Center Loop. In the case of the proposed retail development, private drives will be constructed and connected to an internal drive/road system. This finding is also applicable to Phase II Stage II site development.
16. The design standards for Wilsonville Road show an approximate 94-foot right-of-way with a median planter island. The standards for the Town Center Loop show a 72-foot right-of-way with a median planter island. This finding is also applicable to Stage II site development.
17. The proposed development will construct driveway connections within Town Center Loop, but not in the same alignments as shown on the pictorial map representing the Town Center Master Plan. This finding is also applicable to Stage II site development.
18. Though the proposed access drive located near the northwest corner of the site is shown at a location supported by the Town Center Master Plan, this access is situated along a radius of Town Center Loop West that may position it in an unsafe location for egress and ingress.

### Policy 3.3.2(a) - Dedication of Arterial and Collector Streets and Control or Consolidation of Access Drives.

19. The dedication of additional right-of-way and half-street improvements along Wilsonville Road and Town Center Loop East were accomplished in Phase I Stage II site development. This finding is also applicable to Stage II site development.
20. The Wilsonville Town Center Master Plan shows ten access drives at arterials. The full access drive shown near the northwest corner of Phase III at Town Center Loop West should be analyzed for safe vision clearance.

21. The proposed access drive to Project Thunder, shown at the southwest corner of the site, does not align with the location of the existing curb cut approved to the site in Local Improvement District No. 5. This access drive would further create a staggered intersection with access drives constructed on the opposite side of Town Center Loop West. This access drive also deviates from the access drive shown on the Town Center Master Plan approved in 89PC50. The Planning Commission cannot change the locations of access drives approved in LID No. 5 without first obtaining approval from the City Council. This finding is also applicable to Stage II site Development.
22. It appears from the re-submitted Stage I Master Plan that access is not proposed at Parkway Court which would have encouraged through traffic from Wilsonville Road and Town Center Loop to the Parkway Court.

### Policy 3.3.3

23. Policy 3.3.3 requires the City to establish minimum street standards and dedication of adequate right-of-way prior to actual site development. It further provides that if proposed development exceeds minimum service capacity, then appropriate improvements shall be required prior to occupancy of the completed development. With respect to Project Thunder, the arterials servicing the site, Town Center Loop West and Wilsonville Road are already constructed to the Public Works standards. Phase I of Wilsonville Town Center is required to install a traffic signal to comply with minimum service capacity levels.
24. Section 4.139(4) stipulates that a Planned Development Permit may be granted by the Planning Commission only if it is found that the development conforms to subsections 4.139(4)(a),(b) and (c) and Sections 4.130 to 4.140. Section 4.139(4)(b) states:

"That the location, design, size and uses are such that traffic generated by the development can be accommodated safely and without congestion in excess of level service D defined in the Highway Capacity Manual published by the National Highway Research Board on existing or immediately planned arterial or collector streets and will, in the case of commercial or industrial developments, avoid traversing local streets."
25. The applicant has provided an updated transportation analysis prepared by Kittelson & Associates, Inc. for Project Thunder. Wayne Kittelson's updated report is labeled Exhibit G-7. The report recommends that a traffic signal be installed at the intersection of Town Center Loop West with Wilsonville Road at the time of occupancy of Phase II. However, Capital Realty was conditioned in Phase I Stage II development (Resolution 90PC15) to install the subject traffic signal as determined by the City Engineering Department. This requires that the State of Oregon Department of Transportation warrant the signal. This finding is also applicable to Stage II site development.
  - All of the intersections within the study area, with the exception of Wilsonville Road/Parkway Avenue, are currently operating within acceptable level of service limits.



- Under projected 1991 total traffic conditions and with the addition of site-generated Phase I traffic, the minor street left-turn movements at the Town Center Loop West/Wilsonville Road intersection are projected to experience an "E" Level of Service. While a traffic signal would improve the level of service for the 45 vehicles making this movement, it would also cause an overall increase in intersection delay and is not considered appropriate in view of the surrounding street system, the traffic circulation patterns and the projected operational characteristics of this intersection.
- By 1995, the projected background traffic volume conditions, without Phases II and III, will warrant the installation of a traffic signal at the intersections of Wilsonville Road/Town Center Loop West and Wilsonville Road/Town Center Loop East. It is therefore recommended that traffic operations at both the Town Center Loop intersections with Wilsonville Road be monitored on a regular basis. Traffic signals should be installed only when one or more MUTCD signal warrants are met and the operational and/or safety characteristics dictate a need for a traffic signal.
- The number of access drives included in the Site Plan will be adequate to serve the proposed retail development. These access drives will disperse the site-generated traffic sufficiently to minimize the overall effect of the retail center on the capacity and quality of service provided by the adjacent arterial street system. At the same time, they are sufficiently separated from each other and from adjacent intersections to avoid significant operational, stacking and safety problems.
- By 1995, the projected background traffic volume will, by itself, exceed the existing capacity of Wilsonville Road in the vicinity of the Wilsonville Road/I-5 interchange. The proposed ODOT improvement project at the interchange would add sufficient capacity to accommodate both the 1995 background traffic, as well as the additional traffic from Phases II and III of the proposed development.

Kittleson and Associates has also provided additional findings and recommendations found in their letter of October 16, 1991, labeled Exhibit G, which are as follows:

- The key unsignalized intersections within the study area are currently operating at an acceptable LOS during weekday evening peak hour conditions.
- Upon completion of the development, the site driveways and key off-site intersections, with the exception of Wilsonville/Town Center Loop West, will operate within acceptable level of service limits during the evening peak-hour time period.

- A traffic signal is warranted to accommodate projected 1992 traffic volumes at the Wilsonville Road/Town Center Loop West intersection. It is therefore recommended that a traffic signal be installed at this location upon completion of the proposed development.

**Policies 3.3.8(a)-(e)**

26. These policies address traffic impacts and congestion.

As noted in the previous findings responding to Policy 3.3.3, the applicant has provided a detailed traffic analysis that responds to Policies 3.3.8(a)-(e) and Section 4.139(4) of the Wilsonville Code.

**CONCLUSIONARY FINDING**

27. The applicant's traffic report demonstrates that the location, design and uses are such that traffic generated by Project Thunder can be accommodated safely and without congestion in excess of level service D defined in the Highway Capacity Manual at the access drives to Town Center Loop West, and at the intersection of Town Center Loop with Parkway Avenue and the intersection with Town Center Loop West with Wilsonville Road. It may also be determined that the location and design of the access drives may be refined to reflect conclusionary findings of the traffic analysis report and of the City Engineering Department. These findings do not take into account traffic impact on the intersection of Wilsonville Road with Parkway Avenue and the Wilsonville interchange from the proposed Phase II development. With respect to the previous statement, the Planning Commission did not analyze traffic congestion levels on the aforementioned intersection in the review of Phase I Wilsonville Town Center. Furthermore, Subsection 4.139(4)(b)WC does not ask the applicant to accommodate traffic safely and without congestion in excess of level service "D" at the Wilsonville Interchange.

**TRANSIT FEATURES, SIDEWALKS AND BIKEWAYS**

28. Specific transit features such as transit stop locations and right-of-way fixtures for transit uses should be provided in the Stage II Site Development Plan. These findings are also applicable to Stage II site development.

**Policies 3.3.11, 3.3.12, 3.3.13 and 3.3.13(b)**

29. These policies addresses pathways and bikeways. Written comments received by Myers/Kroker (the architectural firm responsible for master planning Town Center) in case file 90PC15, have the following observations concerning pedestrian pathways:

"There will need to be a landscape design study of the public right-of-way system defining the nature of plant materials, berm forms, ground cover, public walk systems and street light systems. Design definition of pedestrian overpasses would be developed within the recommended 'Design Review Parameter Study'."

30. The modified Stage I Master Plan shows a bikeway through Phase I to extend through Phase III and connect with the future park. A shoulder-side bikeway is required on the Comprehensive Plan to occur on the south side of Wilsonville Road.
31. The Phase II Stage II submittal plans do not indicate sidewalks along Town Center Loop West as required by Ordinance No. 55 and by Section 4.168 and Subsection 4.167(1)(b) of the Wilsonville Code. Regarding Project Thunder, a five-foot wide concrete sidewalk is required along Town Center Loop West to be off-set five feet from the curb. In order to provide for safe pedestrian access around and on the Phase II site, pedestrian walkways should be extended from Town Center Loop West via the central access drives up to Project Thunder's storefront. It also appears that the applicant has not considered pedestrian sidewalks to link the site with the future park and adjoining businesses.

### OPEN SPACE

#### Policy 3.8.3

32. This policy addresses open space. The proposal, as presented, will have a major impact on the location, size and configuration of the area designated by Ordinance No. 55 shown as lake or open space. Approximately 8.5 acres of lake or open space is conceptually shown on the Town Center Master Plan. The open space depicted on the modified Town Center Master Plan or Ordinance No. 55 does not have the same configuration as shown for the Primary Open Space area depicted on the Comprehensive Plan Map.
33. The modified Stage I Master Plan shows 5.1 acres in open space to be reconfigured to satisfy Capital Realty's site development program, and hopefully, for the City's benefit to develop the property as a public park. The application does not propose a specific open space plan with uses, nor is the applicant proposing a development schedule. In this regard, the Planning Commission had previously conditioned the applicant in Resolution 90PC15 to perform the following:

#### Condition No. 8:

"At Phase II Stage II site development, which shall be the next phase presented, applicant shall submit to the Planning Commission and the Design Review Board a detailed open space plan and development schedule for the development of the 5.4 acre open space shown on the Stage I Master Plan."

With respect to the above issues, the applicant is requesting the Planning Commission to reconsider Condition No. 8 as follows:

- "1. Develop a design for the conceptual Wilsonville Town Center open space that allows for the participation of the appropriate City staff and commissions.
2. To formulate a development plan and time frame consistent with the development of Phases II and III of the balance of the Wilsonville Town Center property, and

3. Determine Capital Realty's financial obligation and any credits related thereto."
34. Ordinance No. 55 depicts an open space or lake with a centralized location in Town Center with surrounding development to be oriented and related with it. One can compare this relationship to be similar with the concept of a public square of a small European city or even with an Early American town square. Those kind of public spaces create a sense of place and encourage a community gathering place within an urban context. It also creates a city center environment that involves the pedestrian in its function and design that is not found in retail strip developments designed around automobiles.
35. The proposal, as presented, shows approximately 5.1 acres in open space. The City will require that the open space be dedicated for development of a City park. At issue is the proposed configuration of the open space. In this regard, the proposed open space has a spacial composition that positively responds to the open space concept in Ordinance No. 55. The proposed Master Plan is an assembly of properties that make up a reasonable configuration for future park development. Conversely, the surrounding development plan represents an augmentation of the more traditional strip retail commercial center showing buildings oriented to major collectors and arterials together with large storefront parking areas. Truck delivery activities are then generally found on the sides or at the rear of the stores which attract outside storage of palettes, boxes etc. The applicant has modified the original submittal drawings designed to lessen the impact of Project Thunder's building mass on the proposed open space. Buffering can be accomplished by reducing the mass of Project Thunder with siting a smaller intervening building between Project Thunder and the open space. The revised plan also re-positioned potential building sites to open up the view of the open space to Town Center Loop West.
36. The proposed 5.1 acre open space, combined with approximately 3 acres in open space created for Town Center Park Apartments and Clackamas Community College, will provide a generous area for a future public park.

**Policy 4.2.3 and Section 4.139(2)(a) and (b)**

37. This policy and zoning section identify the information which must be included in the Site Plan. The information set forth has been submitted in compliance with the Comprehensive Plan and Zoning Ordinance. Landscape and Architectural Plans will be reviewed by the Design Review Board.

**Policy 4.2.5**

38. This policy requires that development coincide with the provision of public streets, water, sanitary sewer and storm drainage facilities. Such facilities are currently available at the site. Sewer and water are located within the abutting roads. Storm drainage is provided at the eastern portion of the site. The extension of these services will be coordinated with site construction and facilities and will be designed to meet City public works standards.

## Sections 4.130 to 4.140

39. The proposed use is authorized by, and consistent with, the Comprehensive Plan and the official City Zoning Map. The proposed commercial/office uses are permitted in overlay zones as part of the Town Center Master Plan. An approval of this Master Plan, however, will amend overlay zones of Ordinance No. 55.
40. Ordinance No. 55 is a conceptual plan intended to list recommended uses prescribed by commercial overlay zones. The Ordinance further allows the Planning Commission flexibility to change the plan to reflect changes of community needs, shopping habits, transportation and in social economic needs. Such is the case in this application with proposed changes in building orientation, driveway location, reclassified uses and reconfigured open space.
41. Condition No. 2 of the Stage I Master Plan approval requires separate Stage II land development applications for review of each pad. Therefore, the buildings proposed on the pads are not part of this application.

### BUFFERING and SCREENING

42. Section 4.163 of the Wilsonville Code requires:
  - A. All outdoor storage and garbage collection areas shall be screened from off-site view with fencing and/or landscaping.
  - B. Activity areas on commercial and industrial sites shall be buffered and screened from adjacent residential areas. Multi-family developments shall be screened and buffered from single-family areas.
43. The Site Plan illustrates an area between the truck loading area and proposed open space. This site arrangement orients the massive and mundane backside of Project Thunder to Parkway Court and the proposed open space. The impact can be lessened, as proposed in Finding No. 35, together with innovative design utilizing landscaping, screenage, murals etc.

### BUILDING HEIGHT

44. Definition no. 12 of Chapter 4 of the Wilsonville Code (Building of Structural Height) is defined by the following:

"The term 'height of building' shall be deemed to mean the perpendicular distance from the average elevation of the adjoining ground to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the middle height gable between the eaves and ridge of a pitch or hip roof. If a building is divided into units by means of masonry division walls, each unit shall be considered separately in calculation for height of building."

45. In order to distinguish Project Thunder to the public, the applicant proposes to construct a dome and flag pole atop the main entrance of the store. Section 4.172(1) exempts domes and flag poles from the height limits of the PDC zone. However, the flag pole can only fly the United States and the State of Oregon flags. Just for general information, the top of the dome is shown approximately 55 feet above grade level. The top of the flag pole is approximately 81 feet above grade level.

**PARKING ANALYSIS**

46. Section 4.150WC:

"Commercial:

Commercial retail, 1,501 square feet or more	1 space/200 sq.ft. @ 63,914 sq. ft. of floor area
Service or repair shops	1 space/200 sq.ft. @ 17,276 sq. ft. of floor area
Eating or drinking establishments	1 space/200 sq.ft. @ 6,096 sq. ft. of floor area
Storage warehouse, wholesale establishment, rail or trucking freight terminal	1 space/2,000 sq.ft. @ 39,336 sq.ft. of floor area up to 40,000 sq.ft.; 1 space/4,000 sq. ft. thereafter
Office	1 space/250 sq.ft. @ 9,117 sq.ft.

These calculations do not include employee lunch rooms, restrooms, HVAC rooms, cat walks, etc.

**Building Area - Phase II**

**Minimum Parking Required:**

Project Thunder approximate floor areas:

Retail Commercial	$63,914 / 200 = 320$ spaces
Service	$17,276 / 200 = 86$ spaces
Office	$9,117 / 250 = 36$ spaces
Restaurant	$6,096 / 200 = 31$ spaces
<u>Storage</u>	<u><math>39,336 / 4000 = 10</math> spaces</u>

Minimum parking : **483 spaces**

47. Though the proposed off-street parking count shows 16 handicapped and 856 standard parking spaces for a total of 872 parking spaces, the proposed parking is almost twice the minimum requirement of the Code. This figure does not include parking for the future pads. Those parking areas will not be constructed until each pad is developed.

48. The parking plan specifies dimensions for a typical standard parking space at 9' x 18' with 25'-0" drive aisles. The Zoning Code has a minimum 9' x 18' standard parking space dimension. Compact parking spaces are not proposed and are optional by the Zoning Code.

And to provide an additional finding of fact that says that the traffic signal at the intersection of Town Center Loop West and Wilsonville Road is in process and should be in place by July of 1992, which it appears will alleviate some of the traffic congestion, but the Planning Commission still has significant concerns regarding the traffic at the intersection of Wilsonville Road and Parkway Avenue. (That's a finding of fact and not a Condition of Approval.)

**STAGE I MASTER SITE PLAN AND  
PHASE II STAGE II SITE DEVELOPMENT  
CONDITIONS OF APPROVAL**

1. This approves the subject Stage I Master Plan and Stage II Site Development of Phase II Project Thunder store. Developers shall submit separate applications for Stage II development review and separate applications for Site Design Review for each pad and development phase proposed in the Master Plan.
2. Automotive service stations/centers and automotive wash centers shall not be permitted within the Wilsonville Town Center Master Plan.
3. The owner shall waive right of remonstrance against any local improvement district that may be formed to provide public improvements to serve the subject site.
4. All survey monuments on the subject site shall be protected. If destroyed by the proposed site construction, the applicant shall retain a professional land surveyor to replace the monuments and file a copy of the record survey with the City.
5. The developer shall retain an engineer to provide a detailed drainage analysis of the subject property and prepare a 24" x 36" sheet identifying contributing drainage areas to be included with the final design plans.
6. Storm sewer system shall be designed to pass a 25-year frequency storm. Engineer shall provide detailed drainage computations. Applicant's design engineer shall provide runoff protection to downstream property owners. The design may require a detailed erosion control plan.
7. The developer shall coordinate with the City Engineer in preparing grading plans and in the design and location of all public utilities.
8. The developer shall conform with all requirements of the Tualatin Valley Fire District.



9. The developer shall submit to the Design Review Board a pedestrian sidewalk plan showing connections along the access drives through Phase II to the open space. Construct a five-foot wide concrete sidewalk, off-set five feet from the curb along the entire frontage of Town Center Loop West with Phase II and the adjoining pads. Connect all public sidewalks to the on-site sidewalk system. All sidewalks shall be constructed prior to occupancy of Project Thunder.
10. This approval amends Condition No. 16 of Resolution 89PC50 and Condition No. 8 of Resolution 90PC15 to state as follows:

The applicant shall dedicate 5.1 acres for a public park before issuance of the Certificate of Occupancy for Phase II unless the applicant and the City Council reach an agreement for a later date. The City and the applicant will work toward resolving the access and timing issues of the public park dedication up to including the time of the Certificate of Occupancy.
11. That an association of owners or tenants shall be established which shall adopt such Articles of Incorporation, By-Laws or other appropriate agreement, and shall adopt and impose such Declaration of Covenants and Restrictions on such common areas (landscaped areas) that are acceptable to the Planning Director. Said association shall be formed and continued for the purpose for maintenance. Such an association may undertake other functions. It shall be created in such a manner that tenants or owners of property shall automatically be members and shall be subject to assessments levied to maintain said common areas for the purposes intended. The period of existence of such association shall be not less than twenty years and it shall continue thereafter until other arrangements are made subject to City approval. This condition of approval does not apply to the open space proposed to be dedicated to the City.
12. All final plans shall be submitted on a 24" x 36" format. A title page will be required with a space left in the lower right-hand corner for an 8-1/2" x 11" information sheet to be provided by the City and to be affixed to the final as-built plans before acceptance. The applicant shall provide 3 mil mylar as-builts to the City which must be submitted and approved by the City before the final punch list inspection will be performed by the City.
13. Final utility design shall meet the following general format:
  - A. Sanitary sewer shall be aligned on the north and west side of all street centerlines.
  - B. Storm sewer shall be aligned on the south and east side of all street centerlines.
  - C. Water line shall be aligned on the south and east side of all street centerlines.
  - D. Minimum centerline finish grade shall be no less than 1% and the maximum centerline finish grade shall be no more than 12% for local streets. Minimum centerline finish grade shall be no more than 8% for any street above local street in classification and shall be constructed of concrete.
  - E. The top of the curb shall equal centerline finish grade unless offset crown design or curb return transition.

- F. Composite utility plan shall be part of the final plan set.
  - G. Detailed grading plan shall be part of the final plan set.
  - H. Utilities not in the street area shall provide maintenance access acceptable to the City, and shall be centered in a 15-foot easement to be conveyed to the City of Wilsonville.
  - I. Final design of the public utilities shall be approved at the time of the City's issuance of a Public Works Construction Permit.
  - J. All on-and-off-site utilities shall comply with the State of Oregon and the City of Wilsonville requirements and Codes.
  - K. All cul-de-sacs shall have a minimum 45-foot radius to the face of the curb to allow for adequate turning radius.
  - L. All public streets shall meet design requirements for sight distance - horizontal, vertical and intersectional.
  - M. Final design plans shall identify locations for street lighting, gas service, power lines, telephone lines, cable television, street trees and mailbox clusters.
14. All survey monuments on the subject site shall be protected. If destroyed by the proposed site construction, the applicant shall retain a professional land surveyor to replace the monuments and file a copy of the record survey with the City.
  15. All power and telephone utilities shall be installed underground.
  16. Provide the Planning Director crossover reciprocal easements to adjacent properties for ingress and egress of traffic to cross over drives and private roads.
  17. The developer shall designate and construct City of Wilsonville Rapid Area Transport transit stops. Coordinate with Tom Barthel, the City Administrative Analyst, on the number and locations of the transit stops.
  18. The minimum parking space dimensions shall be 9' x 18' with 25-foot travel lanes.
  19. That Phase II be developed in such a manner that traffic generated by the development can be accommodated safely and without congestion in excess of level service D defined in the Highway Capacity Manual published by the National Highway Research Board on access drives at Town Center Loop West and at the intersection of Town Center Loop West with Wilsonville Road.
  20. The Phase II Stage II development shall take access at the prescribed access locations approved in Local Improvement District No. 5 along Town Center Loop West, except for the proposed access drive shown to be relocated at the southwest boundary of Phase II and is subject to the approval of the City Attorney and agreement being reached regarding lining up of the access drives on Town Center Loop West and the property across the street. The City Attorney is going to review the agreements to make sure that we end up with a full intersection on Town Center Loop West and the access drive to Project Thunder unless the property owner and the City Council reach another agreement.

21. At the time the Design Review Board specifically reviews the applicant's plans regarding the east wall of the large structure in Phase II, the applicant shall insure its compatibility with the proposed park. DRB shall also look at the pathway and sidewalk circulation plan.
22. That all construction workers park on site and not within public streets.
23. Prior to site grading, the developer shall coordinate with the Oregon Division of State Lands to investigate the existing storm water detention pond for possible wetlands.
24. The applicant shall coordinate with the City Engineer to consider on-site detention in its submittal to the City. The applicant shall coordinate with the Engineering Department all storm drainage plans with some consideration toward whether or not on-site detention is feasible and meets the engineering standards of the City.

## EXHIBITS

The following Exhibits are hereby entered into the public record by the Planning Commission as confirmation of its consideration of the application as submitted.

- A. Findings and Conditions of Approval
- B. City of Wilsonville Comprehensive Plan
- C. Chapter 4 of the Wilsonville Code
- D. City Engineering Department Report
- E. City Building Official's Report
- F. Town Center Master Plan
- G. Applicant's submittal documents:
  - 1. Revised Stage I Master Plan and Master Utilities Plan
  - 2. Phase II Site Plan
  - 3. Phase II Exterior Elevations
  - 4. Phase II Grading Plan and Erosion Control Plan
  - 5. Phase II Utilities Plan
  - 6. Phase II Preliminary Landscape Plan
  - 7. Traffic Report by Wayne Kittelson and addendum letter
  - 8. Request for Modification of Condition No. 8 of 90PC15
  - 9. Stage I Master Plan Re-submittal
  - 10. Phase II Stage II narrative
  - 11. Alternative Open Space Concept
- H. Original Stage I Master Plan - 89PC50.
- I. Ordinance no. 55

91PC43

City of

**WILSONVILLE**  
in OREGON



30000 SW Town Center Loop E  
Wilsonville, Oregon 97070  
(503) 682-1011  
(503) 682-1015 Fax  
(503) 682-0843 TDD

August 16, 1999

Gary M. Graumann  
Lumberjack, L.P.  
PO Box 7458  
Menlo Park, California 94026

Re: 29400 SW Town Center Loop

Dear Mr. Graumann:

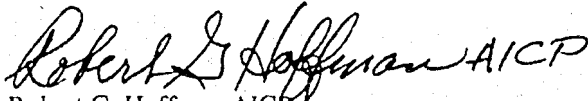
Mr. Lashbrook, Wilsonville Planning Director, has asked me to answer your request for a zoning compliance letter. You will find the information you requested as follows:

1. Zoning Classification Code:  
Planned Development Commercial (PDC) (Town Center)
  
2. Property Owner's Name and Lender's Name  
Lumberjack, L.P. (owner)  
PO Box 7458  
Menlo Park, CA 94026  
  
GE Capital Business Asset Funding Corp.  
10900 NE 4<sup>th</sup> St., Suite 500  
Bellevue WA 98004
  
3. Address of the Property:  
29400 SW Town Center Loop, Wilsonville, Oregon
  
4. Type of Permitted Use:  
Commercial (Planned Development)
  
5. Expiration Dated Copy of Conditions or Restrictions of Use:  
Case File 91PC43 approved 12/9/91  
Case File 91DR29 approved 1/27/92  
Case File 92DR21 motion revising condition



I have researched our records and find that in receiving final occupancy the city found that the development had complied with all plan proposals and conditions of approval. However, the project is now almost seven years old and is beginning to show some wear and deferred maintenance. About a year ago, Mr. Blaise Edmonds wrote you about broken curbs and destroyed landscaping where vehicles have driven over the curb. This is at a major entrance area (Southwest entry drive, between the rug dealer and McDonalds.) This problem area still requires attention.

Sincerely,

  
Robert G. Hoffman AICP  
Manager of Current Planning

Attachment: Decision and Conditions of Approval  
98PC43  
91DR29

RGH:sh

BOB

LUMBERJACK, L.P.  
P.O. BOX 7458  
MENLO PARK, CALIFORNIA 94026  
(650)813-9100 FAX(650)813-9190

August 5, 1999

Mr. Stephan Lashbrook  
Planning Director  
CITY OF WILSONVILLE  
30000 SW Town Center Loop E  
Wilsonville, OR 97070

Dear Mr. Lashbrook:


Thank you very much for returning my call with respect to revisions to the Development Codes. I look forward to reviewing the changes and will provide any comments that I may have.

We also discussed the following outline that my lender has requested that I obtain from the city. I have provided the information for items 2) and 3). If you could have someone on your staff complete the rest of the requirements requested by the lender it would be greatly appreciated.

I would like to receive a compliance letter from your office within the next 10 days. Should you have any questions please feel free to call me at the number listed above.

Once again, thank you for your attention to this matter.

Sincerely,

  
Gary M. Graumann

ZONING COMPLIANCE LETTER REQUIREMENTS

This item should be obtained from the City Planner's, County Clerk's, or Zoning Department's office and should contain the following information:

1) Zoning Classification Code *Planning Development Commercial (PDC)*  
*(Town Center)*

2) Property Owner's Name and Lender's Name

3) Address of the Property

4) Type of Permitted Use. *Commercial (Planned Development)*

5) Expiration Dated Copy of Conditions or Restrictions of Use.

*91PC43 - Appr. 12-9-91*  
*91DR29 - Appr 1-27-92*  
*92DR21 - Appr 6-22-92*

2) *Lumberjack, L.P. (owner)*

*P.O. Box 7458*

*MENLO PARK, CA 94026*

*GE Capital Business Asset Funding Corp.*

*10900 NE 4th St., Suite 500*

*Bellevue, wa 98004*

3) *29400 SW TOWN CENTER LOOP*

*WILSONVILLE, OR.*



*Incredible Universe 93 91PL43*

# Aetna's local presence shrinks after loss of key large clients

Continued from page 1

er away from the Portland market.

Despite a strong national presence, Aetna's local client base has eroded as

market is already dominated by strong HMO players that have left little room for carriers like Aetna.

Stone said the downsizing was planned a national restructuring effort, and not nply because of the lost clients in Portland. Many who watch insurance activities nationally agree. The change reflects nular strategies by nationwide carriers. tna wants to consolidate offices, re ce overhead and gain efficiencies in : increasingly competitive health insurance market.

'It is definitely consistent with the nd that we've seen in this industry," id Post. Improvements in electronic tims handling and standardization ross offices have made such changes ssible and even advantageous, he said, gain efficiencies.

'Insurance in general has become more d more of a commodity market," said iss Poll, an insurance analyst with the icago Corp., a Chicago-based invest- ent bank that tracks insurance compa- nies. "Insurance companies, especially the big guys, have a big expense burden. They tend to be big and clumsy."

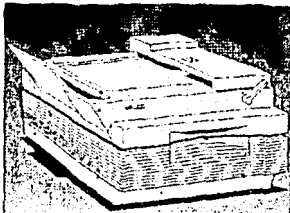
In Aetna's case, said Poll, the national carrier's life and health business has been its strongest asset. Hartford, Conn.-based Aetna is the third-largest U.S.-based property and casualty insurer, according to Value Line's December 1993 investment survey. Aetna, a public company traded on the New York Stock Exchange, also has been subject to large market fluctuations.

Aetna "peaked" on Nov. 1, 1993, with a per-share price of \$60.75, said Poll. The stock closed at \$47.75 per share on Oct. 18.

Aetna Health Plans reported \$4.5 million in insurance premiums in Oregon during 1993, down from \$12.7 million in premiums it wrote in 1991, according to reports filed with the state. It covers an estimated 40,000 enrollees.

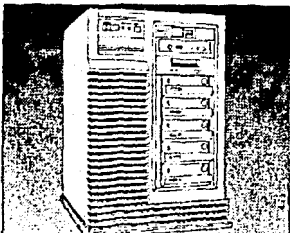
Aetna handles about 4.9 million Medicare claims representing some \$250 million annually out of the Portland office.

# comes to working, DI onnected!



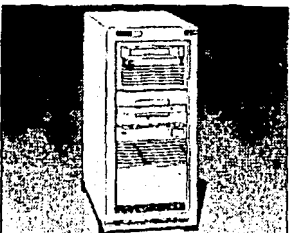
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*Blaise*  
*Pam*  
*Sally*

## Incredible Universe building sold, leased

Tandy Corp. has sold off its Incredible Universe building in Wilsonville and leased back the facility from the new owner.

Tandy sold the 166,495-square-foot retail property to Pier Set Inc., a Delaware corporation, for \$13.5 million, according to a Clackamas County sale deed.

Pier Set is a subsidiary of London-based NatWest bank, said Bill Bousquette, chief financial officer of Fort Worth, Texas-based Tandy.

Tandy also sold three other Incredible Universe buildings to the bank. The four properties sold for about \$60 million, Bousquette said.

Selling off store facilities to outside investors is common among large retailers. "We have no interest in tying up our capital in real estate," Bousquette said.



# Trust JBL&K

File  
9.1pc 43

City of Wilsonville  
Community Development Department  
30000 S.W. Town Center Loop East  
Wilsonville, Oregon 97070  
(503) 682-4960  
Fax 682-7025

FAX COVER SHEET

DATE: 11-29-93  
TO: Mark Whitlow FAX: 721-3666  
FROM: Mike Kisheloff / Wayne Lorenson  
SUBJECT: Project Thunder

NUMBER OF PAGES IN THIS TRANSMITTAL (INCLUDING COVER SHEET) 20

COMMENTS: \_\_\_\_\_  
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City of  
**WILSONVILLE**  
in OREGON

September 29, 1993

30000 SW Town Center Loop E  
Wilsonville, Oregon 97070  
FAX (503) 682-1015  
(503) 682-1011

Mr. Bryan L. Spain, CSM  
Assistant Director State/Local Taxation  
Tandy Tax Service  
Tandy Corporation  
P.O. Box 1643  
Fort Worth TX 76101

91PC 43

Re: Systems Development Credit - Wilsonville Incredible Universe

Dear Mr. Spain:

The purpose of this letter is to formally close action on an appeal of the discretionary decision concerning the amount of the street systems development charge for the Incredible Universe. Prior to his departure from Tandy Tax Service, Mr. Bryan L. Spain, CSM, had formally appealed the discretionary decision.

On December 7, 1992, I provided an interim response in which we provided a comparison of a number of different calculations of the street systems development charge and in all cases they came very close to the amount that was charged based on the number of employees. Subsequently, on March 2, 1992, I extended the time for submission of any additional data concerning the street systems development charge to April 15, 1993.

Later telephone conversations indicated that you were not going to submit any additional data. Based on the information that has been received, your appeal of the discretionary decision has not been favorably considered. I would like to inform you that we will be using most of the systems development charge for streets that you paid to install an asphalt overlay on Town Center Loop West to increase the structural strength of the road. This should significantly delay deterioration of the street.

I apologize for the delay in providing a formal response; however, other higher priority projects have interfered with a more timely response. Your understanding is appreciated.

Sincerely,

*Eldon R. Johansen*  
Eldon R. Johansen  
Community Development Director

pc: Arlene Loble, City Manager  
Mike Kohlhoff, City Attorney  
Tom Jowaiszas, Finance Director  
Wayne Sorensen, Planning Director  
Mike Stone, City Engineer  
Martin Brown, Building Official



City of  
**WILSONVILLE**  
in OREGON

30000 SW Town Center Loop E  
Wilsonville, Oregon 97070  
FAX (503) 682-1015  
(503) 682-1011

Info —  
Pam ✓  
Blaise ✓  
Sally ✓  
file ✓ 910643

December 4, 1992

Mr. Wayne Kittelson  
Kittelson & Associates, Inc.  
610 SW Alder, Suite 700  
Portland OR 97205

Re: Incredible Universe Traffic Issues

Dear Mr. Kittelson:

You provided me with a copy of your letter dated October 27, 1992, to Mr. Wayne Sorensen, Planning Director, concerning the above subject. I appreciate receiving a copy of your letter since it provides an excellent background from the consultant and the developer's perspective.

Your letter addresses several transportation topics which are of current interest to staff and council. Your letter included a copy to Councilor Carter and copies have also been provided to the Mayor and other Councilors to ensure that they all have the same background concerning this topic.

Your letter indicated that you are troubled by several comments in the October 22 issue of the Oregonian, entitled "Traffic Count Zooms at Electronic Store". I also am troubled by several of the statements in your letter of October 27, 1992, and would like to explain my concerns with your letter. Prior to explaining my concerns, I will review the overall traffic information that was provided to the Planning Commission prior to its decision. The Transportation Impact Analysis for the Wilsonville Town Center, dated April, 1990, was submitted to the Planning Commission as background for approval of the Master Plans for Phase I, Phase II and Phase III of the Wilsonville Town Center. Subsequently, the letter dated October 16, 1991, subject Traffic Analysis for Wilsonville Town Center - Phase II was submitted to the Planning Commission prior to approval of the plan for Project Thunder, which subsequently was changed in name to the Incredible Universe. When Project Thunder was approved, the Traffic Impact Analysis Report for the Wilsonville Town Center, dated April, 1990, was not provided to the Planning Commission at the time of the hearing.

Specific sections of your letter which are troublesome to me as well as comments on these sections are as follows:

Mr. Wayne Kittelson  
Re: Incredible Universe Traffic Issues  
December 4, 1992 - Page 2

"Contrary to Mr. Johansen's statements in the article, our engineers did investigate the intersection of I-5 and Wilsonville Road as part of this study. As early as 1990, in fact, they predicted the capacity deficiencies that were just recently experienced. At the time that this original traffic impact analysis report was submitted, (April 1990), our engineers pointed out to city staff that the intersections of I-5 and Wilsonville Road were already operating near capacity under weekday peak-hour conditions, and would continue to operate at or above capacity until planned (but as yet unfunded) interchange improvements are made by ODOT. The following excerpt from the original traffic impact analysis report confirms this observation:

'As shown in Table 9, all of the intersections within the study area, with the exception of the I-5 northbound and southbound intersection, are anticipated to operate at an acceptable level of service [under projected 1995 peak-hour conditions]. The projected demand at both of the I-5 ramp intersections will result in an over-capacity condition.'

The April 1990 Traffic Impact Analysis for Wilsonville Town Center has several tables which give the existing and predicted level of services for the southbound and northbound I-5/Wilsonville Road interchanges. Table 5 on Page 16 gives an existing level of service for both intersections of "B". Table 8 indicates level of service "C" for both intersections for the 1991 total traffic level of service results. These levels of service do not support your statement that the intersections were already operating near peak capacity.

The Project Thunder update, which was included in your October 16, 1991 letter concerning traffic analysis for Wilsonville Town Center Phase II, could be read as you state, "that this update included the I-5 northbound and southbound intersections with Wilsonville Road". If I read it that way, then I concur that the significant findings and recommendations of the October 16, 1991 report state: "Upon completion of the development, the site driveways and key off-site intersections, with the exception of Wilsonville Road/Town Center Loop West will operate within acceptable level of service limits during the evening peak-hour time period." This would be contrary to your dire predictions of intersection failure.

On the other hand, I have looked at the October 16, 1991 letter and have found no specific updates for the traffic analysis for Wilsonville Town Center Phase II concerning the I-5 intersections with Wilsonville Road. It was this lack of any data concerning the I-5 northbound and southbound intersections with Wilsonville Road that led me to conclude that the traffic impact analysis for the Incredible Universe did not include information on the I-5 intersections with Wilsonville Road. If I had read the October 16, 1991 report to accept at face value the statement that "the key off-site intersections, with the exception of Wilsonville Road/Town Center Loop West will operate within acceptable level of service limits during the evening peak-hour time period", then I would have concluded that you covered the interchange; however, I would have also felt that your coverage was inaccurate.

"Initial planning for the Incredible Universe Store began in late 1991 and was completed in 1992. It is important to note that throughout the planning and traffic impact analysis effort, the Incredible Universe store was known as Project Thunder. City staff will recall that, because the Tandy Corporation wanted to keep the details of the development secret, no specific description of Project Thunder was given; our

engineers knew only that it was to be a retail development. By their own choice, city staff elected to allow the Tandy Corporation to keep the details of Project Thunder a secret. Such a decision is entirely at the discretion of city staff and the developer, and without knowing the details of the discussions we cannot question the prudence of this decision. However, at least one effect of this decision should have been obvious even at the time that city staff made this decision; for the purposes of the traffic analysis, our engineers had no additional basis for any more refined assumptions regarding the type of planned retail development other than those used in the original 1990 analysis. In other words, we had no basis on which to forecast the special event nature of Project Thunder, which has to date been the primary cause of the interchange-related congestion."

The April 1990 Traffic Impact Analysis includes three pages to describe the site-generated traffic volume and also a special study by Kittelson & Associates, Inc. to better define the probable breakdown of site-generated vehicle trips among the category of drop-in trips, diverted trips and new trips. There is nothing in the April 1990 report or the October 16, 1991 update to forewarn staff, the Planning Commission or Council that there could be unusual special event nature retail activities which could have a different impact on traffic volumes than is predicted by the transportation impact analysis and the October 16, 1991 update for Wilsonville Town Center Phase II. This lack of information concerning a potential problem area leaves the city staff responsible for prediction of traffic problems which should be left to traffic experts. I also would think that a plan for a commercial building with 160,000 square feet of floor space in a city with less than 10,000 residents would at least cause a question in the mind of the traffic engineer concerning drop-ins of 40%.

"Even if we had known about the actual retail activity likely to be associated with Project Thunder, it is doubtful that much more could have been done at the traffic impact analysis level. This is not to say that very little was done: in fact, we identified a number of major roadway improvement needs, and Capital Realty expended nearly \$650,000 in capital improvements to the city's transportation system in order to mitigate the traffic impacts we identified. Further, the Incredible Universe store contributed \$250,000 in system development charges for transportation-related improvements. The October 22 newspaper article seems to confirm the effectiveness of these investments; it points out that the congestion on Grand Opening Day was caused by the failure of the Wilsonville Road/I-5 interchange. All other intersections and road segments in the area functioned in an acceptable manner, because they were designed and upgraded by Capital Realty to meet the anticipated travel demand needs."

The newspaper article states in reference to the I-5 and Wilsonville Road interchange "It was that intersection that clogged up at the Incredible Universe opening, September 17, 1992, and caused traffic to back up for miles in both directions." The expenditures by Capital Realty did nothing to improve the intersection of Wilsonville Road and Parkway, and the improvements proved inadequate to handle the traffic at the intersection of Wilsonville Road and Town Center Loop West. The city had county sheriff's deputies available and Tandy Corporation had private security guards. These individuals directed traffic at the Town Center Loop West and Wilsonville Road intersection as well as at the intersection of Wilsonville Road and Parkway during much of the Grand Opening weekend so that traffic was able to get through these intersections. By no stretch of anyone's imagination could the expenditures and improvements by Capital Realty be

Mr. Wayne Kittelso...  
Re: Incredible Universe Traffic Issues  
December 4, 1992 - Page 4

considered to be adequate to allow the traffic to freely flow through these intersections at level of service D or better.

**"Had we known of the special event nature of the project during its first few weeks, then it would have been both logical and relatively simple to develop a traffic control plan to minimize vehicle disruption and delay. But it should also be recognized that the Grand Opening effects of a new store, which can extend for three to six months beyond the initial store opening, are only temporary and eventually dissipate. Our traffic impact analyses are based on the long-term equilibrium conditions that develop after the Grand Opening effects have dissipated. This is a reasonable and standard principle of traffic engineering."**

Upon reflection, this comment contains a good suggestion in that the city should require a traffic control plan to minimize vehicle disruption and delay during the initial opening of a new store of significant size. We will incorporate this in to our plans review efforts and into our recommended conditions of development for future stores with a major traffic impact.

**"In summary, then, the traffic congestion problem that was reported upon in the October 22 newspaper article stemmed from a previously identified capacity deficiency at the I-5/Wilsonville Road interchange. This capacity deficiency has been known to city staff since early 1990 at least."**

Your October 16, 1991 letter deleted the concerns for the I-5/Wilsonville Road interchange in the third subparagraph under the significant findings and recommendations which reads as follows:

**"Upon completion of the development, the site driveways and key off-site intersections, with the exception of Wilsonville Road/Town Center Loop West will operate within acceptable level of service limits during the evening peak-hour time period."**

Based on my reading of a level of service "C" for 1991, and this particular paragraph, I had assumed that we, initially, on the opening of the Incredible Universe would not have any major problems with the I-5 and Wilsonville Road interchange and would not anticipate problems until later. In summary on this particular item, it appears that your April 1990 report did indicate that by 1995 there would be problems; however, the October 16, 1991 report alleviated the concern for these problems.

**"Since that time and through all subsequent development reviews, city staff, planning official, and policy makers have had three options available to them:**

- a) **Require that the capacity deficiency be mitigated as part of any development proposal in which additional traffic is projected to travel on Wilsonville Road in the vicinity of I-5;**
- b) **Place a moratorium on all new development proposals that add traffic volume to Wilsonville Road in the vicinity of I-5 until after the ODOT interchange improvement project is completed (viz., on or after 1996);**  
or

Mr. Wayne Kittelson  
Re: Incredible Universe Traffic Issues  
December 4, 1992 - Page 5

- c) **Accept the fact that the interchange's operating characteristics will be considered unacceptable very soon, and will continue to get worse through the time that the ODOT improvement project is completed.**

**The City of Wilsonville has, in its review and approval of new development projects extending beyond Project Thunder, consciously adopted option c). The effects of the Incredible Universe store during its Grand Opening were the first physical confirmation of this decision."**

It may well be a viable option to consider your suggestion of placing a moratorium on all new development proposals that add traffic volume to Wilsonville Road in the vicinity of I-5; however, staff feels that it would be premature to present this option to Council at this time. In addition with the October 16, 1991 letter from your organization, subject: Traffic Analysis for Wilsonville Town Center Phase II, including the following significant finding and recommendation:

"Upon completion of the development, the site driveways and key off-site intersections, with the exception of Wilsonville Road/Town Center Loop West, will operate within acceptable level of service limits during the evening peak-hour time period."

The record does not reflect a conscious adoption of option c). It reflects that intersections will operate within an acceptable level of service limits.

"We value our reputation for honest, objective, and technically valid analysis very highly, and so it is important to us that this matter be resolved to everyone's satisfaction."

In the comments which staff made at the council meeting, and also in subsequent responses to questions from newspaper reporters, we were careful not to be judgmental concerning particular consulting firms and kept from placing blame on any of the consultants which were involved. I have reread the article which you quoted and still feel that we adhered to the above and avoided incorrectly placing blame.

"If you believe it would be appropriate, we would be happy to meet with you personally at a time and location convenient to you in order to further discuss this matter."

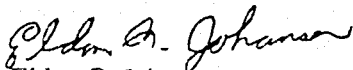
Your letter very eloquently describes your position with regard to the impact of the Incredible Universe on traffic. I have come to a somewhat different conclusion from reading the applicable reports. Although I would be very happy to meet with you to discuss this issue, it appears that this may be one subject in which we probably will continue to have different opinions which may never be fully resolved. If you do desire



Mr. Wayne Kittels  
Re: Incredible Universe Traffic Issues  
December 4, 1992 - Page 6

to meet with myself or other members of the Community Development staff on this subject, please contact the undersigned.

Sincerely,



Eldon R. Johansen  
Community Development Director

erj:mld

pc: Kim Beach, Capital Realty  
Mayor & City Council  
Transportation Advisory Commission  
Arlene Loble, City Manager  
Mike Kohlhoff, City Attorney  
Mike Stone, City Engineer  
Wayne Sorensen, Planning Director  
Steve Starner, Public Works Director



**KITTELSON & ASSOCIATES, INC.**  
**TRANSPORTATION PLANNING/TRAFFIC ENGINEERING**

610 S.W. ALDER, SUITE 700 • PORTLAND, OR 97205 • (503) 228-5230 • FAX (503) 273-8169

STAFF  
Pam ✓  
Blaise ✓  
Sally ✓

Project file  
9/1/92

OCT 29 1992

October 27, 1992

Project No.: P10.00

Mr. Wayne Sorensen  
Planning Director  
City of Wilsonville  
P.O. Box 220  
Wilsonville, Oregon 97070

SUBJECT: Incredible Universe Traffic Issues

Dear Wayne,

I read with some concern an article in the October 22 issue of *The Oregonian* titled, "Traffic Count Zooms at Electronic Store". I am enclosing a copy of the article for your information in case you missed it.

I was troubled by several comments in the article which seemed to suggest that, in the eyes of some high-level City officials, our traffic analysis had misled City officials:

"The traffic analysis prepared by Capital Realty and the Incredible Universe's traffic consultants, Kittelson and Associates, has greatly underestimated the traffic impacts", said Arlene Loble, city manager.

The Incredible Universe study analyzed traffic flows through the adjoining intersection, at Town Center Loop West and Wilsonville Road. But it did not reach to the next intersection to the west, at Wilsonville Road and Interstate 5...If the study were being done today, the city would insist that engineers look at one more intersection down the road, [Eldon Johansen] said.

[Eldon Johansen] said three things went wrong with the Incredible Universe traffic study. First, the predictions were made as if the city's Transportation Plan was already in place, but many roads are yet to be built. Second, the study assumed that 40 percent of the flow into the Incredible Universe would be "drop-in" traffic...Finally, the traffic study did not account for the success of the store's marketing effort.

Mr. Wayne Sorensen  
October 27, 1992  
Page 2

I would like to take this opportunity to clarify the analytic process we followed and the directions we received. Hopefully, this clarification will allow you, Ms. Loble, Mr. Johansen, and other City staff to more confidently and accurately respond should this issue arise again.

The transportation impact analysis that we performed for Capital Realty was begun in 1990 and completed in 1991. The site development plans called for construction of a shopping center containing 450,000 gross square feet of floor area. Given this information, the trip generation rates that we used were entirely appropriate, as was the estimate that 40 percent of the site-generated trips would be drop-in traffic. This is evidenced by the fact that the first phase of the shopping center development, which has already been completed, operates very close to the estimates that we provided.

Contrary to Mr. Johansen's statements in the article, our engineers did investigate the intersections of I-5 and Wilsonville Road as part of this study. As early as 1990, in fact, they predicted the capacity deficiencies that were just recently experienced. At the time that this original traffic impact analysis report was submitted (April 1990), our engineers pointed out to City staff that the intersections of I-5 and Wilsonville Road were already operating near capacity under weekday peak hour conditions, and would continue to operate at or above capacity until planned (but as yet unfunded) interchange improvements are made by ODOT. The following excerpt from the original traffic impact analysis report confirms this observation:

"As shown in Table 9, all of the intersections within the study area, with the exception of the I-5 northbound and southbound intersections, are anticipated to operate at an acceptable level of service [under projected 1995 peak hour conditions]. The projected demand at both of the I-5 ramp intersections will result in an over-capacity condition."

The current best estimate, by the way, is that these improvements will not be completed before 1996. Further, it should be noted that, even at this early date, City staff did not rely solely upon the findings of Kittelson & Associates, who were retained by the applicant. Instead, the City retained its own independent traffic engineering consultant to review the traffic impact analysis report and to critique the analysis assumptions, methodology, and findings. This independent traffic engineering consultant performed the requested review and confirmed every essential element of the report, including the projected capacity deficiency at the I-5/Wilsonville interchange area.

Mr. Wayne Sorensen  
October 27, 1992  
Page 3

In personal discussions, City staff were informed of this finding of a future capacity deficiency, and were asked to interpret the City's requirement that a level of service equal to or better than "D" be provided at all intersections. City staff informed our engineers that, because the I-5/Wilsonville Road intersections are actually controlled by ODOT and, further, because ODOT has already established plans to improve the interchange and increase the capacity of these intersections, the finding of a capacity deficiency at the interchange would not be considered a fatal flaw. This conclusion by City staff is confirmed by the fact that the project was ultimately recommended for approval, even with the report's recognition of capacity deficiencies on Wilsonville Road near I-5 as noted above. It should also be pointed out that City staff's position was not unique to this project, but has also been recently applied to projects in the vicinity of the Stafford Road interchange.

On this basis, the transportation impact analysis was completed, all other on-site and off-site traffic-related deficiencies were identified, considerable mitigation projects were undertaken, and the necessary approvals were obtained.

Initial planning for the Incredible Universe store began in late 1991, and was completed in 1992. It is important to note that, throughout the planning and traffic impact analysis effort, the Incredible Universe store was known as Project Thunder. City staff will recall that, because the Tandy Corporation wanted to keep the details of the development secret, no specific description of Project Thunder was given; our engineers knew only that it was to be a retail development. By their own choice, City staff elected to allow the Tandy Corporation to keep the details of Project Thunder a secret. Such a decision is entirely at the discretion of City staff and the developer, and without knowing the details of the discussions we cannot question the prudence of this decision. However, at least one effect of this decision should have been obvious even at the time that City staff made this decision: for the purposes of the traffic analysis, our engineers had no additional basis for any more refined assumptions regarding the type of planned retail development other than those used in the original 1990 analysis. In other words, we had no basis on which to forecast the special event nature of Project Thunder, which has to date been the primary cause of the interchange-related congestion.

Even if we had known about the actual retail activity likely to be associated with Project Thunder, it is doubtful that much more could have been done at the traffic impact analysis level. This is not to say that very little was done: in fact, we identified a number of major roadway improvement needs, and Capital Realty expended nearly \$650,000 in capital improvements to the City's transportation system in order to mitigate the traffic impacts we

Mr. Wayne Sorensen  
October 27, 1992  
Page 4

identified. Further, the Incredible Universe store contributed \$250,000 in System Development charges for transportation-related improvements. The October 22 newspaper article seems to confirm the effectiveness of these investments: it points out that the congestion on Grand Opening Day was caused by the failure of the Wilsonville Road/I-5 interchange. All other intersections and road segments in the area functioned in an acceptable manner, because they were designed and upgraded by Capital Realty to meet the anticipated travel demand needs.

Had we known of the special event nature of the project during its first few weeks, then it would have been both logical and relatively simple to develop a traffic control plan to minimize vehicle disruption and delay. But it should also be recognized that the Grand Opening effects of a new store, which can extend for three to six months beyond the initial store opening, are only temporary and eventually dissipate. Our traffic impact analyses are based on the long-term equilibrium conditions that develop after the Grand Opening effects have dissipated. This is a reasonable and standard principle of traffic engineering.

In summary, then, the traffic congestion problem that was reported upon in the October 22 newspaper article stemmed from a previously identified capacity deficiency at the I-5/Wilsonville Road interchange. This capacity deficiency has been known to City staff since early 1990 at least. Since that time and through all subsequent development reviews, City staff, planning officials, and policy makers have had three options available to them:

- a) Require that the capacity deficiency be mitigated as part of any development proposal in which additional traffic is projected to travel on Wilsonville Road in the vicinity of I-5;
- b) Place a moratorium on all new development proposals that add traffic volume to Wilsonville Road in the vicinity of I-5 until after the ODOT interchange improvement project is completed (viz., on or after 1996); or
- c) Accept the fact that the interchange's operating characteristics will be considered unacceptable very soon, and will continue to get worse through the time that the ODOT improvement project is completed.

The City of Wilsonville has, in its review and approval of new development projects extending beyond Project Thunder, consciously adopted option c). The effects of the Incredible Universe store during its Grand Opening were the first physical confirmation of this decision. These

Mr. Wayne Sorensen  
October 27, 1992  
Page 5

effects were temporary in that they will most likely die away after the Christmas season and as the store's novelty begins to fade. Additionally, these effects were exaggerated by the special event nature of the Grand Opening, which did not give patrons a chance to adjust their arrival time or choice of route. Therefore, it is unlikely that the City will again experience extended periods of mile-plus queues caused by the failure of the I-5/Wilsonville Road interchange. Even so, City staff and policy makers should recognize that less visible daily failures of the interchange are already programmed to occur: several already-approved residential and commercial projects have not yet been completed, and the combined future traffic effects of these projects virtually assure periods of peak-hour failure of the interchange during most typical weekdays. Thus, the City no longer has control over *whether* peak hour congestion and failures will occur at the interchange (they will), although future land use decisions can still affect the *duration* of these failures.

We have no quarrel with the prudence of the City's conscious decision to adopt option c) above. We are, however, disappointed that the City would suggest to the public, through articles such as the one published on October 22, that the congestion was not anticipated and that the fault for this lies with the traffic impact analysis process.

If you have any questions, please call me. We value our reputation for honest, objective, and technically valid analyses very highly, and so it is important to us that this matter be resolved to everyone's satisfaction. If you believe it would be appropriate, we would be happy to meet with you personally at a time and location convenient to you in order to further discuss this matter.

Sincerely,



Wayne K. Kittelson, P.E.  
Principal

cc: Arlene Loble  
Eldon Johansen  
Greg Carter  
Kim Beach

**CITY OF WILSONVILLE**  
 P.O. Box 220  
 30000 S.W. Town Center Loop East  
 WILSONVILLE, OREGON 97070

**LETTER OF TRANSMITTAL**

(503) 682-1011

TO \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

DATE 10/3/92	JOB NO.
ATTENTION Arlene Lohle	
RE Trane, Inc. Universal	
Copy of Notice of Decision, and attachment	
File copy of Transportation Impact Analysis prepared by Kittelson & Assoc	

WE ARE SENDING YOU  Attached  Under separate cover via \_\_\_\_\_ the following items:

- Shop drawings     Prints     Plans     Samples     Specifications  
 Copy of letter     Change order     \_\_\_\_\_

COPIES	DATE	NO.	DESCRIPTION

THESE ARE TRANSMITTED as checked below:

- For approval     Approved as submitted     Resubmit \_\_\_\_\_ copies for approval  
 For your use     Approved as noted     Submit \_\_\_\_\_ copies for distribution  
 As requested     Returned for corrections     Return \_\_\_\_\_ corrected prints  
 For review and comment     \_\_\_\_\_  
 FOR BIDS DUE \_\_\_\_\_ 19 \_\_\_\_\_     PRINTS RETURNED AFTER LOAN TO US

REMARKS \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

COPY TO \_\_\_\_\_

Attachment 3b, Page 142 of 500 Wayne Cores, Exhibit B

*Wilsonville*



**City of  
WILSONVILLE**  
in OREGON

3000 SW Town Center Loop E  
Wilsonville, Oregon 97070  
FAX (503) 682-1015  
(503) 682-1011

May 28, 1992

Mr. Rich Hollander  
Vice President  
Tandy Name Brands  
P.O. Box 1643  
Fort Worth, TX 76101

Ms. Kim Beach  
Capital Realty  
101 S.W. Main St. Ste. 905  
Portland, OR 97204

Re: Tandy Name Brands dba Project Thunder

Dear Mr. Hollander & Ms. Beach:

The purpose of this letter is to summarize the current status of ongoing actions which must be completed prior to opening the facilities which were previously known as Project Thunder and currently known as the Incredible Universe. An additional purpose is to solicit your continuing assistance in resolving the remaining points of difference so that when the construction is completed, there will be no outstanding actions which would preclude issuance of the Certificate of Occupancy.

Primary items of concern are as follows:

Street Systems Development Charge

On March 2, 1992, Council adopted Resolution No. 902 authorizing deferral of the Systems Development Charges for streets from time of issuance of building permit to time of issuance of occupancy permit for Tandy Name Brand Retail Group. Resolution No. 902 contained an estimate for the Street Systems Development Charges in the amount of approximately \$370,880.00. This was based on a total of 160 employees at the site. On March 6, 1992, Mr. Brian L. Spain, Assistant Tax Manager, for Tandy Tax Service, forwarded a check in the amount of \$124,592.15 for the Street Systems Development charge. I am concerned that use of peak hour employees is irrelevant to peak hour traffic generation and will correspond directly with Mr. Spain to resolve differences.



Mr. Rich Hollander & Ms. Kim Beach  
May 28, 1992

Page 2

Traffic Signal - Town Center Loop West and Wilsonville Road

One of the conditions that was placed on this development was that the signal at the intersection of Wilsonville Road and Town Center Loop West must be installed prior to the occupancy of the Project Thunder site. Plans have recently been received at the Community Development Department for a second review.

Kim Beach, Capital Realty, is pushing to insure that the signal is in place prior to occupancy of the Project Thunder site.

Detention Facility

The Project Thunder site was conditioned to be designed for the 25 year storm. Detailed calculations indicate detention could be deferred until development of the property just north of the Project Thunder site. The condition would appear not to allow staff to administratively transfer the detention requirement to another property. Staff is again working with Capitol Realty to insure that this is resolved.

Construction as Included in the Public Works Permit

The City requires that the Punch List for Public Works items be completed prior to issuance of a Temporary Occupancy Permit.

Maintenance Bond

The City will require a 10% Maintenance Bond for twelve months following acceptance of the work included in the Public Works Permit.

Repair of Town Center Loop West Road

The City has contacted S.D. Deacon, General Contractor, concerning the street repairs to Town Center Loop West Road. Mr. Art L. Bush, Project Manager, has informed the City that S.D. Deacon Corporation will not be held responsible for any road repairs or replacement to existing condition of either north or southbound lanes of Town Center Loop West Road at the conclusion of this project. The contractor has removed the curb along the east side of Town Center Loop West and the asphalt has substantially failed wherever the curb has been removed. The City has no intention of accepting the project until such time as damages caused by the contractor are repaired.

Modification of Median - Town Center Loop West

We have received construction plans for modification of the median. We will be submitting those plans to Council for approval. It appears that this work is necessary prior to having adequate access to parking.

Mr. Rich Hollander & Ms. Kim Beach  
May 28, 1992

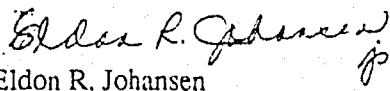
Page 3

Abandonment of Right-of-Way

The City has received documentation requesting abandonment of right-of-way that was part of the former Parkway Avenue. This is being processed to insure abandonment by August 1, 1992.

As you no doubt realize, I did not begin work in Wilsonville until April 6, 1992, after this project was well under way. My concern is that if we do not keep our attentions focused on resolving all outstanding issues, we will reach a point where the building will have been completed and you will have hired employees to open the facility and will be unable to issue a Certificate of Occupancy because of failure to resolve the above items. Your continued assistance and cooperation will be appreciated.

Sincerely,

  
Eldon R. Johansen  
Community Development Director

ej/js

pc: Arlene Loble, City Manager  
Michael Kohlhoff, City Attorney  
Steve Starner, Public Works Director  
Martin Brown, Building Official  
Wayne Sorensen, Planning Director

# W&H PACIFIC

8405 S.W. Nimbus Ave.  
P.O. Box 80040  
Portland, OR 97280

(503) 626-0455  
Fax (503) 526-0775

- Planning
- Surveying
- Engineering
- Landscape Architecture
- Environmental Services

To: ELDON JOHANSEN  
CITY OF WILSONVILLE

Date: 5-7-92

Project Number: 755-0202

Project Name: THUNDER

Regarding: TEMP. DETENTION AREA

**PLEASE NOTIFY US IMMEDIATELY  
AT (503) 626-0455 IF THERE ARE ANY  
PROBLEMS RECEIVING THIS  
TRANSMISSION**

We Are Sending:

- Attached
- Facsimile
- 3 Number Of Pages Including Cover
- X 682-7025

These Are Transmitted:

- For Your Info/File
- As Requested
- For Review And Comment

Copied To:

KUM BEACH w/o ENCL  
FAK 223-0200

Copies	Description
1	ADD'L Storm CACCS.

*margo 5/19*  
*Orig to Elson*  
*Thunder file*  
*Copy to Wayne*  
*myself*  
*Eden*

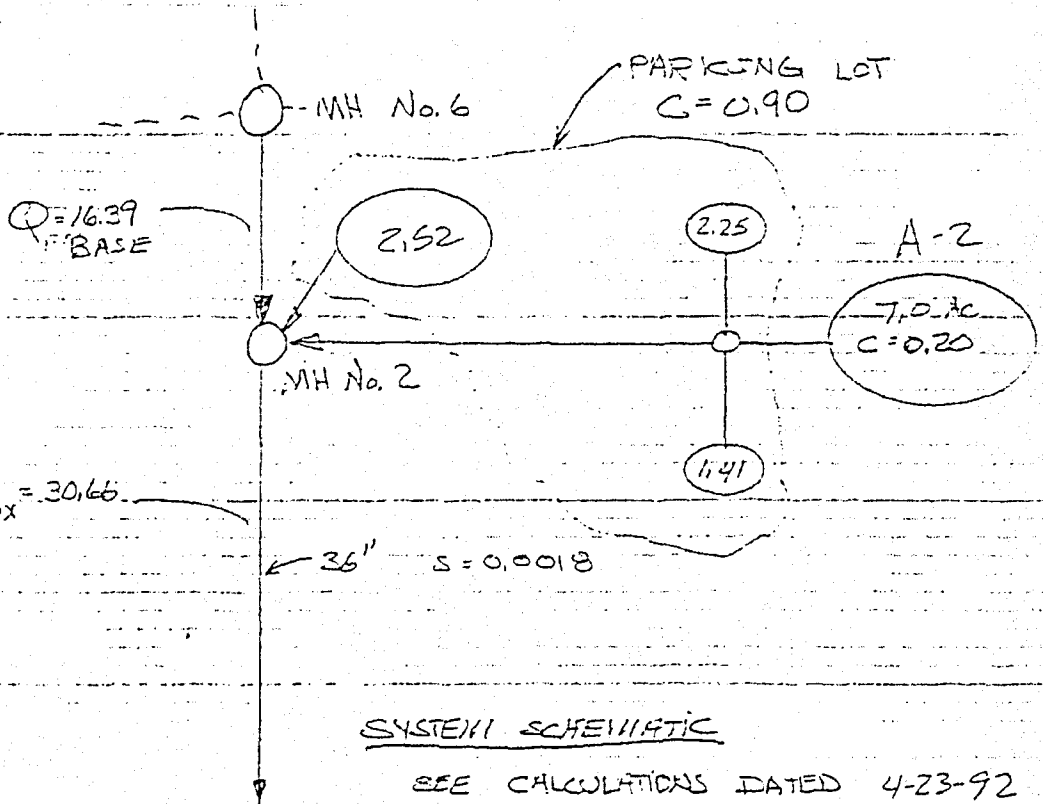
Comments

ELSON,  
Jimi LEHMANET HAS PREPARED ADD'L STORM RUNOFF  
CACCS WHICH SHOW THAT A TEMPORARY DETENTION AREA WILL  
NOT BE REQUIRED UNTIL PHASE III AREA DEVELOPS. PLEASE  
REVIEW & COMMENT - CONTACT JIM DIRECTLY IF YOU  
HAVE QUESTIONS.

Signed

*Jack Martin*

DETENTION REQUIREMENTS FOR A-2 IN MN UNDEVELOPED CONDITION.



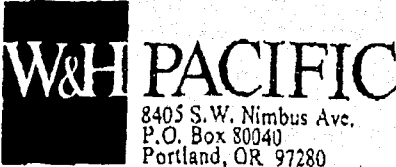
ASSUME WORST CASE SCENARIO

- 1.) FLOW FROM MH. No. 6 TO MH No. 2 IS MAXIMUM DUE TO UPSTREAM STORAGE,  $Q_{BASE} = 16.39$  CFS
- 2.) ASSUME GRASSED AREA FOR A-2 WITH  $C = 0.20$
- 3.) ASSUME 500 FEET OVERLAND TRAVEL FROM A-2

1st 200 FEET = 20 MINUTES  
 REMAINING 300' = 4 MINUTES. (SLOPE = 1%)  
 (IN CHANNEL)

$t_c = 24$  MINUTES

Creative Solutions ... Superior Service



(503) 626-0455 Fax (503) 526-0775

- Planning
- Engineering
- Surveying
- Landscape Architecture
- Environmental Services

To: ELDON JOHANSEN  
CITY OF WILSONVILLE

Date: 5-7-92

Project Number: 755-0202

Project Name: THUNDER

Regarding: TEMP. DETENTION AREA

PLEASE NOTIFY US IMMEDIATELY AT (503) 626-0455 IF THERE ARE ANY PROBLEMS RECEIVING THIS TRANSMISSION

We Are Sending:

- Attached
- Facsimile
- 3 Number Of Pages Including Cover
- 682-7025

These Are Transmitted:

- For Your Info/File
- As Requested
- For Review And Comment
- 

Copied To:

KIM BEACH W/ ENCL  
FAX 223-0200

Copies	Description
1	ADD'L Storm Cages.

Comments

ELDON,

Jim LENHART HAS PREPARED ADD'L STORM RUNOFF  
CAVES WHICH SHOW THAT A TEMPORARY DETENTION AREA WILL  
NOT BE REQUIRED UNTIL PHASE III AREA DEVELOPS. PLEASE  
REVIEW & COMMENT - CONTACT JIM DIRECTLY IF YOU  
HAVE QUESTIONS.  
PARKING DETENTION IS POSSIBLE IN PH III OR EITHER PROPERTY NORTH  
OF TANDY.

Eric Hansen

$$i_{25} @ 24 \text{ MINUTES} = 1.6 \text{ in/hour.}$$

$$Q_{PEAK} = i \sum CA_i = (0.2)(7.0 \text{ AC})(1.6) = 2.24$$

$$(0.9)(6.18)(1.6) = 11.33$$

$$\underline{\underline{13.57 \text{ CFS.}}}$$

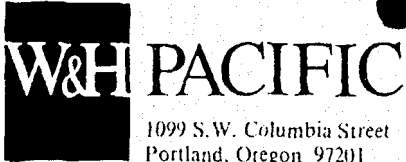
$$Q_{ALLOWABLE \text{ IN PIPE}} = Q_{MAX} - Q_{BASE} = 30.66 - 16.39$$

$$Q_{ALLOWABLE} = \underline{\underline{14.27 \text{ CFS.}}}$$

SINCE  $Q_{PEAK} (13.57) < Q_{ALLOWABLE}$

NO DETENTION IS REQUIRED

NOTE! THIS CALCULATION IS FOR UNDEVELOPED  
 CONDITIONS ONLY.



1099 S.W. Columbia Street  
Portland, Oregon 97201

(503) 227-0455  
Fax (503) 274-4607

- Planning
- Surveying
- Environmental Services
- Engineering
- Landscape Architecture

To: William L. Parks  
DIVISION OF STATE LANDS  
1100 STATE STREET  
SALEM, OR 97310

Date: 12-16-91  
 Project Number: 4-755-0202  
 Project Name: PROJECT THUNDER  
 Regarding: \_\_\_\_\_

PLEASE NOTIFY US IMMEDIATELY  
 AT (503) 227-0455 IF THERE ARE ANY  
 PROBLEMS RECEIVING THIS  
 TRANSMISSION

We Are Sending:

- Attached
- Facsimile
- Number Of Pages Including Cover
- 

These Are Transmitted:

- For Your Info/File
- As Requested
- For Review And Comment

Copied To:

Copies	Description
1	VICINITY MAP 8 1/2 x 11
1	SITE MAP 11 x 17

*X NO Jurisdiction 10 YR 3/4*  
*NO Hydrology - Area Detrit*  
*by Flowing*

Comments

*Bill,*

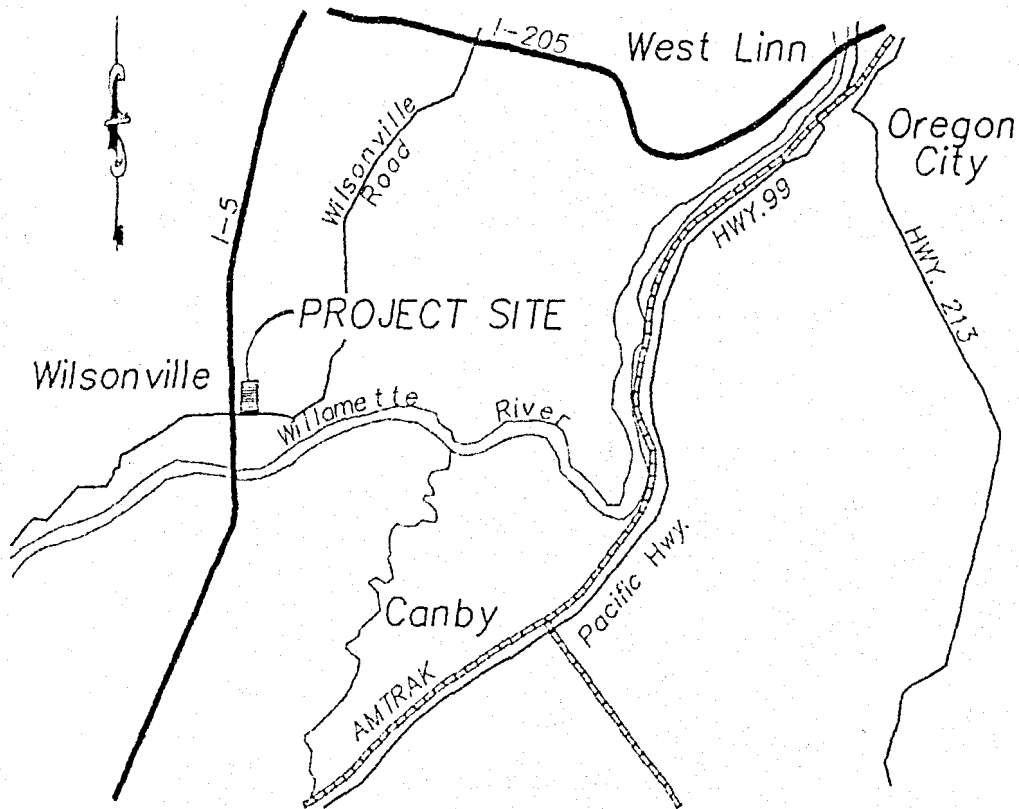
*Please make a determination whether or not  
 the existing detention pond is a "wetland" as  
 defined by DSL.*

*I prefer a response as soon as possible, but no  
 later than January 3, 1992. If this presents a  
 problem, please call me at your earliest.*

Signed

*thanks,*

*Rick Martin*



## VICINITY MAP

NTS

- EXIT I-5 NORTH @ WILSONVILLE RD
- TURN LEFT @ TOWN CENTER LOOP RD WEST  
(PORTLANDIA PIZZA ON CORNER)
- SITE IS ± 1/4 MILE NORTH OR RIGHT.







December 30, 1991

Mr. Mike Kohlhoff  
City Attorney  
City of Wilsonville  
30000 S.W. Town Ctr. Loop E.  
Wilsonville, OR 97070

Please submit the following language for approval by the City Council at the January 6, 1992 regularly scheduled meeting, to clarify Condition #10 of Resolution 91PC43:

The 5.1 acre public park dedication will be required the earlier of the issuance of a building permit for Phase III or May 31, 1994. The City and the applicant will work toward resolving the related access issues prior to the land dedication. The applicant will be involved in the Town Center park development planning in an advisory capacity but will not be required to make any financial outlay for the park planning process or its actual development.

For your information I have also enclosed a master site plan, color coded by original ownership. If you have any questions or require additional information please contact me. Thank you in advance for your prompt attention to this matter as we need to resolve this issue by January 7, 1992 to proceed with our contract with Thunder.

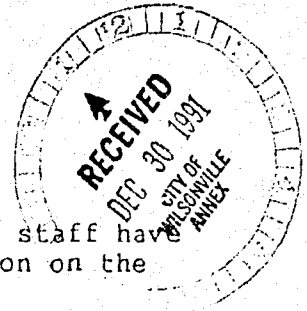
Very truly yours,

A handwritten signature in cursive script that reads "Kim Beach".

Kimberly J. Beach  
Vice President

cc. Ms. Arlene Loble (with enclosure)  
✓ Mr. Wayne Sorenson (with enclosure)

DIVISION OF STATE LANDS  
Environmental Planning and Permits  
775 Summer Street, NE  
Salem, OR 97310  
503/378-3805



WETLAND DETERMINATION REPORT

At the request of the landowner or agent, Division staff has conducted an offsite or onsite wetland determination on the property described below.

COUNTY Clac CITY \_\_\_\_\_  
LOCATION Exit I-5 @ W. Wilsonville TR left @ Centerloop R west 1/4 mile  
T 35 R 1W S 23 TAX LOT(S) \_\_\_\_\_  
OWNER/AGENT: Rick Martin W & H Pacific  
ADDRESS: 1099 S.W. Columbia St. Portland, OR  
DATE OF ONSITE INVESTIGATION: 12-19-91

There are no jurisdictional wetlands or waterways on the property. Therefore, no removal-fill permit is required.  
Notes: No Hydrology present - soil 10YR 3/4

There are wetlands and/or waterways on the property. Those areas are subject to the State Removal-Fill Law. A permit is required for 50 cubic yards or more of fill, removal, or alteration of substrate.  
Notes: \_\_\_\_\_

A wetland delineation will be needed to locate and stake the wetland/non-wetland boundary. A list of consultants can be obtained from the Division.  
Notes: \_\_\_\_\_

A removal-fill permit will be required for \_\_\_\_\_

No removal-fill permit will be required for \_\_\_\_\_ because/if \_\_\_\_\_

A permit may be required by the Army Corps of Engineers (326-6995)

Comments: \_\_\_\_\_

Determination by: William Parks Date: 12-23-91

Response Copy To:  
 Owner/Applicant  Enclosures: Request of Site Plan Map  
 City of Wilsonville Planning Department  
 \_\_\_\_\_, Corps of Engineers  
 DSL file copy  
 Reading file copy - TO LORNA no Turs.

City of  
**WILSONVILLE**  
in OREGON

December 30, 1991

30000 SW Town Center Loop E • ~~PO Box 226~~  
Wilsonville, OR 97070  
(503) 682-1011

Mr. Jim Faulkner  
Design Forum Architects  
3484 Far Hills Avenue  
Dayton, OH 45429

Dear Jim:

I appreciated you, Rich Hollander and Jared Chaney taking the time to meet with Blaise and me regarding Project Thunder. I hope that we will be able to find an acceptable compromise in the design of the Incredible Universe project.

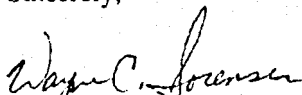
Enclosed is a copy of my notes which generally outline the basic issues we discussed at the December 23rd meeting. I am also enclosing material to provide additional insight into our planning process for the Town Center:

1. A copy of the legal opinion prepared by Michael Kohlhoff, City Attorney, that was furnished to the Wilsonville Design Review Board during the hearings on the Les Schwab Tire Center which will also be located in Town Center;
2. Variance criteria contained in our City Code which must be fully met before the DRB can approve a variance request.

I want to assure you that the City will do everything we can to accommodate your schedule, but I want to be sure you understand the legal limitations to fast tracking the review process.

Once again, it was a pleasure to meet with you. I appreciate your cooperation in finding an acceptable design alternative that will do justice to the Town Center, including the future Town Center Park, and still meet your client's needs. If you have any questions, please feel free to contact either Blaise or me at (503) 682-4960.

Sincerely,

  
Wayne C. Sorensen  
Planning Director

wcs:dp  
Enclosure

TO: Honorable Mayor and City Council

FROM: Arlene Loble  
City Manager

RE: City Manager's Business

DATE: December 12, 1991

SUBJECT: PROJECT THUNDER DEDICATION OF PARK LAND

Project Thunder, which is Phase II of the Town Center development, was approved by the Planning Commission and now goes before the Design Review Board. I have attached a copy of their proposed design and their request for variances from the sign code. I bring it to your attention because it seems so entirely inconsistent with what has been previously approved in Town Center and the architectural proposal was not before Planning Commission for review. They have not seen the design proposals that dealt solely with the land use issues.

There are a couple conditions of approval that need to be brought to Council's attention. One of the conditions of approval requires the dedication of a 5.4 acre public park. The dedication would be required at the time occupancy permits are issued unless the City Council and the applicant agree to a later date. The value of the property to be dedicated is at least \$1,000,000, and the developers would like to be involved in the planning for park development but because of the value of the land are not willing to pay for any of the associated development costs. It is my understanding that at Phase I approval one of the conditions included not only the land dedication but financial responsibility for development of the park. That condition has now been removed because of the cost of the park land.

Leaving aside for the moment the inappropriateness of the design of the project, you can see from the attached exhibit that shows the location of the open space and the proposed building pads. This \$1,000,000 park is really located in the backyard of the proposed development. Because of the type of business which is some sort of high tech retail, the rear of the building, which faces the park, doesn't even include any windows - just a large expansive blank wall. To help offset that, a smaller building to be developed at a future Phase III has been placed on the property in such a way that it could front into the city park. The development that has already occurred in Phase I, the shopping center, also faces its least attractive areas into the proposed park site. If the open space actually is worth \$1,000,000, it will take at least that, in terms of the City's financial commitment, to improve the park. To put that kind of money into something that is really more of an after thought than a planned part of the development seems to me to be a big mistake. This is a

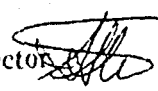
good example of something coming to Council's attention so late in the planning process that you have not had any meaningful input and yet now the City will be asked to make a substantial financial commitment. If the land is to be dedicated the developers justifiably want to know that the property will be developed in the future. What should be a wonderful design feature is really just an after thought. I don't know what, if anything, can be done at this stage, but I wanted to bring it to your attention as we will need to begin negotiations over the actual dedication of the property. Do you want a park in this location under these circumstances?

Another condition of approval that I would like to bring to your attention deals with the handling of storm drainage. Once again, this looks like we could be creating future problems because we have not had an engineer on staff and the project has probably not received the level of review from an engineering perspective that is necessary. So, the Planning Commission has added a requirement that storm sewer plans need to be coordinated with the City Engineer with a possibility of exploring the feasibility of onsite retention. As proposed by the developer, they would be eliminating the existing detention area and paving it over for additional parking. I don't know how this impact as a wetland but the staff report also brings that issue to your attention. Since the detailed engineering won't be done until or unless the plan is approved, we won't know until we get further into it how the developer's engineer plans to handle storm drainage. It is possible that they will actually need to relocate water and sewer lines that have been installed in Phase I in order to accommodate the proposed storm drainage plans for Phase II. Again, this is an area where we truly need the assistance of a City Engineer.

City of  
**WILSONVILLE**  
in OREGON

30000 SW Town Center Loop E • PO Box 220  
Wilsonville, OR 97070  
(503) 682-1011

MEMORANDUM

TO: Wayne Sorensen, Planning Director  
FROM: Steve Starner, Community Development Director   
DATE: December 9, 1991  
RE: Project Thunder

In keeping with our usual land use process, the engineers associated with the development team for this project have submitted detailed studies to quantify the impacts of traffic volume and storm sewer capacities. Although their conclusions demonstrate compliance with Wilsonville's development criteria, I am concerned about some of the practical issues raised in the staff report.

A. Traffic - Wilsonville Road/Parkway Avenue intersection

The Wilsonville Code does not require Project Thunder to demonstrate compliance with level of service "D" at the above-referenced intersection. However, for any motorist currently using the intersection during peak hours, it is obvious vehicle congestion is reducing existing traffic management functions to an unacceptable quality. Especially for motorists attempting to enter Wilsonville Road from Parkway Avenue, the City is exploring the following:

1. Increasing the visibility of the "Do Not Block Intersection" signage.
2. Placing a pavement stop bar on Wilsonville Road which corresponds with the intersection signage.
3. Controlling ingress and egress to Parkway Avenue north of Wilsonville Road.
4. Investigate the installation of an intersection traffic signal which would operate in sequence with the interchange traffic controls.
5. Investigate the construction elements involved with a new roadway joining Parkway Avenue and Town Center Loop West.

Ultimately, traffic congestion adjacent to the Wilsonville interchange (from Town Center Loop West to Kinsman Road) will only be relieved when ODOT completes the construction of the expanded interchange design.

B. Storm Sewer - Memorial Park

As I understand it, Project Thunder storm drainage will flow into the I-5 storm sewer system. At peak flows, excess water will be diverted into the Phase I (Thriftway/Payless development) storm sewer which flows past the Library and into Memorial Park. In order to accommodate the anti-cipated flows, the following park storm drainage improvements are underway:

November - December, 1991	Surge basin, stilling basin and water quality swale design
January - February, 1992	Complete design
March	Construction bidding
April	Award construction contract
May	Begin construction
September	Complete construction

The estimated cost of this project is \$124,420 and is scheduled to be funded in conjunction with Memorial Park improvements. Approximately 52 per cent of the total project cost may be recovered from a payback when the Teufel and Boozier properties develop.

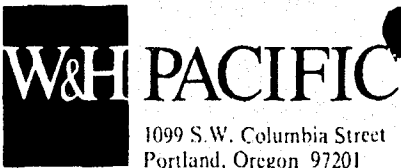
Also, the City will soon be undertaking a City-wide storm sewer Master Plan study in order to identify and plan for infrastructure needs. Under the current storm sewer SDC program, Project Thunder will generate approximately \$16,640 to be applied directly against the cost of the new Storm Sewer Master Plan.

I hope this information is helpful.

ss:jme







1099 S.W. Columbia Street  
Portland, Oregon 97201

(503) 227-0455  
Fax (503) 274-4607

- Planning
- Surveying
- Environmental Services
- Engineering
- Landscape Architecture

To: Blaise Edmonds  
City of Wilsonville Annex  
30470 SW Parkway  
Wilsonville, OR

Date: Dec. 2, 1991  
Project Number: 467-0301  
Project Name: Wilsonville Town Center  
Regarding: Open Space Alternative  
Concept Plan

**PLEASE NOTIFY US IMMEDIATELY  
AT (503) 227-0455 IF THERE ARE ANY  
PROBLEMS RECEIVING THIS  
TRANSMISSION**

We Are Sending:

These Are Transmitted:

Copied To:

Attached

For Your Info/File

KIM BEACH

Facsimile

As Requested

LOGAN CRAVEN

Number Of Pages Including Cover

For Review And Comment

Copies	Description
10	FOLDED FULL SIZE REVERSED MASTER PLAN (SHT. #1)
1	PMT (8 1/2" x 11") OF ABOVE
1	ORIGINAL (8 1/2" x 11"): ALTERNATIVE OPEN SPACE CONCEPT.

Comments

Blaise:

Please enclose the attached materials w/in your  
staff report.

s. again for all your help !!!

1 Jones

November 26, 1991

Mr. Blaise Edmonds  
Associate Planner  
City of Wilsonville  
8445 SW Elligsen Road  
Wilsonville, Oregon 97070

**RE: PROJECT THUNDER  
DESIGN REVIEW SUBMITTAL  
JOB NO. 4-755-0102**

Dear Blaise:

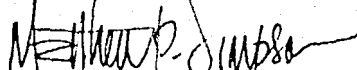
Thank you again for taking time this morning to discuss Project Thunder. As per our discussion, the following items were discussed and agreed upon:

1. Approval of Drawing Scales:
  - A. Design Review Submittal at 50 scale.
  - B. Construction Document Submittal at 30 scale.
2. Approval to omit irrigation design for Design Review Submittal. Notes will be provided.
3. Design Review Submittal will be 50 scale landscape plan showing tree, plant and lawn layout. Plant lists and details will be provided as per City of Wilsonville's Design Review Criteria.
4. W&H Pacific will have 100% complete construction documents by December 27, 1991. We will submit to the City a set of complete drawings for additional information. These drawings will include complete landscape and irrigation plans and can be included for the January 27, 1992 Design Review meeting.

If you have any questions or comments, please give me a call.

Sincerely,

W&H PACIFIC



Matthew P. Simpson, A.S.L.A.  
Project Landscape Architect

MPS/kal

STORAGE  
 6208  
 9600  
 22,892  
 420  
 210  
39,330

SERVICE  
 4700  
 900  
 1020  
 640  
 1932  
 5016  
 2040  
 1008  
17,276

RETAIL  
 47,874  
 2,240  
 5,880  
 7,920  
63,914

RENT  
 572  
 1024  
 4500  
6096

OFFICE  
 1856  
 200  
 50  
 5,294  
 280  
 912  
 240  
 149  
 120  
9,117

EXHIBIT "A"



City of  
**WILSONVILLE**  
in OREGON

30000 SW Town Center Loop E • PO Box 220  
Wilsonville, OR 97070  
(503) 682-1011

ADMINISTRATION DEPARTMENT  
MEMORANDUM

DATE: OCTOBER 9, 1990  
TO: DESIGN REVIEW BOARD  
THROUGH: WAYNE SORENSEN, PLANNING DIRECTOR  
FROM: MICHAEL E. KOHLHOFF, CITY ATTORNEY  
SUBJECT: REQUESTED OPINION FOR LES SCHWAB TIRE CENTER

INTRODUCTION

At the City of Wilsonville's Design Review Board meeting of September 24, 1990, applicant, Les Schwab Tire Centers (Les Schwab), filed three legal objections to the planning staff's recommendations for revisions to the Les Schwab site plan applications as conditions of approval: violation of U.S. Constitution and Oregon Constitution free speech rights, lack of authority, and arbitrariness. The Design Review Board has requested my review of these objections, which are discussed below. The application was continued for decision only until the next regularly scheduled meeting in October.

The recommended revisions were to proposed material and color to the exterior of the tire center building. The site plan submitted by Les Schwab called for the building to be constructed of concrete block, with a metal roof and metal mansard. The proposed exterior colors of the building were red and white. The revisions recommend the use of red-colored brick instead of the red painted block on the south, east and west elevations, with the north elevation to be painted white. Also, the metal roof trim and mansard were recommended to be repainted with an earth tone color.

BACKGROUND

The City of Wilsonville was incorporated in 1969. Pursuant to state statute it adopted and had acknowledgment by the state its city-wide Comprehensive Land Use Plan and implementing Zoning Ordinance in 1982. As a newly developing city it has placed its emphasis on planning in the form of "planned development" for commercial, industrial and residential uses. In the area of commercial development, the City's Zoning Code provides:

"4.136 (1) (c). Planned Development Commercial shall be planned in the form of centers or complexes as follows:

- a. The Town Center
- b. Service Centers
- c. Office complexes.
- d. Commercial recreation.
- e. Neighborhood commercial."

The Town Center was zoned and master planned. The Wilsonville Town Center Plan drawing was placed into the Zoning Code at 4.136 (1) (c) (12). The Town Center Plan drawing conceptually locates functional use areas of central commercial, service commercial (includes tire sales and service), food and sundries, fast foods service, office professional, offices for general use, and high density apartments. The zoning text provides for permitted and accessory uses within each of the designated functional use areas.

The purpose of this zone is stated under 4.136 (1) (c) (12) (a).

"Purpose: (i) The purpose of this zoning is to permit and encourage a City Center, adhering to planned commercial and planned development concepts, including provision for commercial services, sales of goods and wares, business and professional offices, department stores, shopping centers and other customer-oriented uses to meet the needs of the Wilsonville community as well as to meet the general shopping and service needs of an area-wide basis, together with such multiple family residential facilities, open space, recreational and park areas, and public uses facilities as may be approved as part of the City Center compatible with the Comprehensive Plan of the City."

The location of the Les Schwab property application is in the northwest corner of the Town Center commercial area adjacent to Interstate 5. The Town Center is planned as the City's focal center. The property's location is a major viewing point of the City's focal center and identity. Development has occurred in the area with appropriate uses, high quality materials and design, which has provided the city center with uniform and harmonious developments with an aesthetically pleasing visual environment. This development has been and is overseen by the City's Planning Commission and its Design Review Board, pursuant to the city's zoning code.

The Les Schwab application has duly gone through the Planning Commission Planned Development Approval process and is located appropriately in the service commercial area of Town Center Master Plan. Its use approval adheres to the planned commercial/planned development concepts for Town Center. It comes before the Design Review Board for site development approval.

#### LEGAL REVIEW

"Comprehensive planning is clearly recognized as a proper exercise of municipal police power, often seen as a safeguarding of property values on a broad public basis. The conservation of property values is a very common consideration in comprehensive zoning, ordinarily required by state zoning acts, incorporated in ordinances and sustained by the courts (footnote omitted). Likewise, regulations as to the height and mode of construction

of buildings have been sustained on the ground of the 'safety, comfort and convenience of the people and for the benefit of property owners generally'" (footnote omitted). McQuillan Mun. Corp., § 24.14 (3rd. Ed.)

As also stated in McQuillan Mun. Corp., § 24.10:

"It is well said that the police power is based chiefly on the Latin maxims, *salus populi suprema est lex* - the welfare of the people is the first law (footnote omitted) and *sic utere tuo ut alienum non laedas* - so use your property as not to injure the rights of another (footnote omitted). As stated by the United States Supreme Court, the police power has its foundation in the maxim of all well-ordered society which requires everyone to use his own property so as not to injure the equal enjoyment of others having equal rights of property". (Slaughter House Cases, 16 Wall 36, 21 L. Ed. 394).

However, the power of municipal government in this respect is not unlimited. It is limited by federal and state constitutional guarantees.

Applicant raises issues pertaining to federal and state constitutional rights to free speech, arguing that the proposed color revisions invade its rights to advertise as it chooses. Applicant also raises due process issues which prohibit the unreasonable, arbitrary use of such powers claiming the Design Review Board does not have the authority to limit materials and colors (unreasonable) and is without standards and criteria (arbitrary) to do so.

As previously stated, public necessity and protection of the public welfare forms the basis for the exercise of police power; that every person ought to so use his or her property so as to not injure one's neighbors. The unavoidable consequence of the need to exercise the police power in this regard results in the restriction on the use of property. It should also be noted that the police power is of a dynamic nature. McQuillan Mun. Corp., § 24.08 (3rd ed.) states, "Like equity jurisprudence, the police power has a dynamic or progressive capacity to be applied to new subjects or to be exercised by new or revised measures as economic and social changes require."

Wilsonville adopted its zoning code as an exercise of its police power. The presence of its Design Review Board is an example of the progressive capacity which was brought about by the public necessity and modern day quality of life concerns. Wilsonville as part of its general zoning regulations provides in 4.151 General regulations - signs for signage regulation.

The public necessity to regulate signage in terms of time, place and manner so that the signage chosen is not abusive of the rights of others is clearly recognized. See cases cited in McQuillan Mun. Corp., § 24.384 (footnotes 1-10). Within these general regulations, 4.151 (3) applies to commercial use within the Wilsonville Town Center as follows:

"(a) The Wilsonville Town Center, as designated in the Wilsonville Code, Section 4.136 et seq., is well suited for the institution of a coordinated signing program because of its geographic unity, focal location, and the fact that it is in the early stage of development. The purpose of Section 4.151(3) of this chapter is to provide the Town Center with a program of coordinated signing which is both functional and aesthetic, and to provide a method of administration which will insure continuity and enforcement. In this manner, the framework will be provided for a comprehensive balanced system of street graphics which provide a clear and pleasant communication between people and their environment..."

"In regulating the use of street graphics and building signage, the following design criteria shall be applied in conjunction with the provisions of this Code: That street graphics and building signage be:

1. Appropriate to the type of activity to which they pertain.
2. Expressive of the identity of the individual proprietors and the Wilsonville Town Center as a whole.
3. Legible in the circumstances in which they are seen.
4. Functional as they relate to other graphics and signage."

Wilsonville Code 4.001 (70) defines "sign" as "\*\*\*painting...or other device that is designed, used or intended for advertising purposes, or to inform or to attract the attention of the public, and includes where applicable...display surfaces and all components of the sign\*\*\*".

Wilsonville Code 4.151 (3) (b) (2) provides the following definition: "Building Graphics. Signs that are not located within the first 15 feet of a property line that abut a public right-of-way. Building graphics are signs that include building-mounted and roof-mounted signs."

Wilsonville Code 4.151 (3) (d) (3) a. provides for Building Graphics Signage: "The total square foot of all signs except the single address sign and the street graphics sign shall not exceed the width of the building occupied by the use advertised. The width of a building is to be measured as the longest dimension of the width or depth of the building."

Wilsonville Code 4.151 (3) (c) (2) a. provides authority of the Design Review Board "...to administer and enforce all the provisions in Section 4.151(3) as they affect the design function and appearance of the sign."

Therefore, assuming that the applicant painted color schemes are as it proposes "an important element of the company's advertising" that "aid instant customer recognition", then the painted color scheme is a sign under Wilsonville Code 4.001 (70) whose display surface is violative of the size limitations for building graphics under 4.151 (3) (d) 3.a.

The specific criteria of size rationally limits a building by virtue of the amount and color it's painted from becoming a massive, garish sign incompatible with its neighbors. This is a reasonable time, place and manner prohibition to prevent an abusive medium, and is context neutral. The thrust of Art. 1, Section 8 of the Oregon Constitution is that free speech is not to be restricted unless it becomes abusive. See Ackerly v. Multnomah County, 72 Or. App. 617, 696 P2d 1140 (1985). The maxims involved in the police power cited above to not injure the property of others are found in the design criteria also cited that building signage not only be appropriate to the type of activity to which they pertain, but also be expressive of the identity of the individual proprietors and the Wilsonville Town Center as a whole. There is an obvious need to protect the aesthetic nature and character of other properties and the identity of the Town Center. There is no less need to preserve the property values of peaceful and harmonious use from loud and offensive noise than from loud and massive signage. Each is equally abusive.

As referenced above, comprehensive planning is widely recognized as a legitimate exercise of police power to preserve property values. Because of geographic unity, focal location and its early stage of development there is a rational basis to provide for a



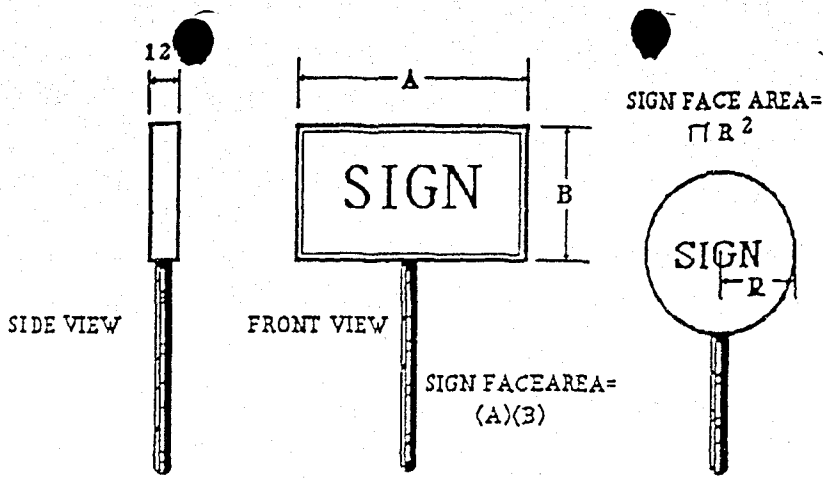
coordinated signage program which is both functional and aesthetic and to provide a method of administration through a Design Review Board for Town Center development. Clearly, this is in keeping with the multiple and often interrelated purposes set forth in 4.440 of the City's Code for Design Review Board. General criteria and standards are set forth to review site development in section 4.421, including color and material and as it relates to advertising medium that they "shall not detract from the design of proposed buildings and structures and the surrounding properties." Aesthetic sensibilities are also recognized as a sole ground and a proper subject for support of zoning regulation. See Oregon Citv v. Hartke, 240 Or 35, 400 Ord. 255.(1965); Naegele Outdoor Advertising v. City of Wavnesville, 833 F.2d 43 (CA4 1987); Don's Porta Signs Inc. v. City of Clearwater, 829 F2d 1051 (CA11 1987).

The dynamic nature of police power is clearly seen in the contemporary, community trends to view aesthetic considerations as valid subjects for the exercise of police power. The very exercise of police power is based upon need. Modern, contemporary society has recognized that advertising in the commercial setting has historically been poorly constructed, grossly disproportionate in size or height, aesthetically disharmonious, located in manners detrimental to traffic safety, and has even obscured the rights of others to be seen, creating a need to establish reasonable time, place and manner restrictions.

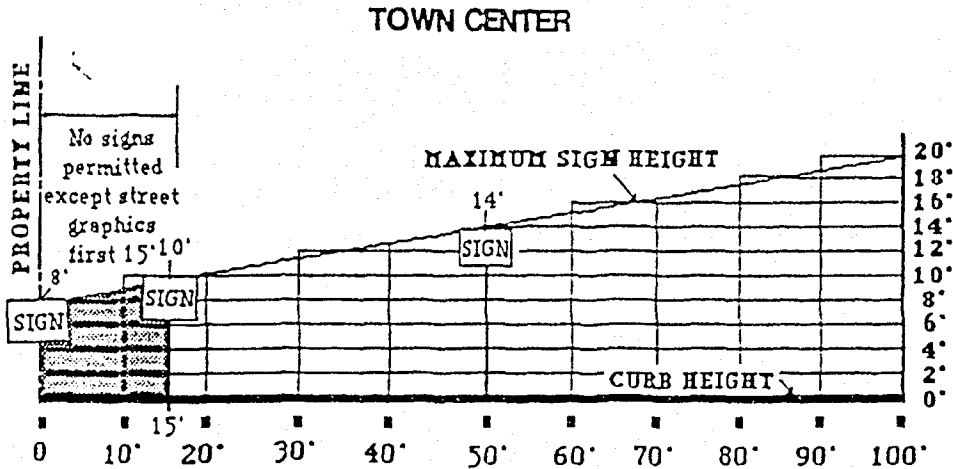
On the other hand, such necessity has not risen to the same level of need to regulate the use of homes as signs. The business entrepreneurs who are willing to advertise their commercial product by virtue of using gross advertising structures in commercial areas have not historically turned their private homes into such uses. In short, the need to protect other homeowners from the detrimental effects of having the color schemes of homes turned into speech of a loud and abusive nature has not presented a public need to regulate. (Often, developers have instituted self regulation through homeowners associations in residential subdivisions). Thus, single family dwelling units are exempt from initial Design Review Board development approval. They are not exempt if and when the use involves signage. There are specific regulations which the Design Review Board has authority to govern addressing normal and typical signage within a residential use area, namely residential name plates, 4.151 (1)(a), bulletin boards, 4.151 (1)(b); real estate signs advertising individual lots, 4.151 (1)(c); subdivision signage, 4.151 (1)(d) and home occupation signage, 4.151 (1)(d). Nor is the applicant's comparison of industrial Planned Developments with the commercial developments a justification for not distinguishing the differences in the nature of uses. What may be appropriate to locate and identify industrial users and be harmonious with other surrounding industrial properties may, in fact, not be compatible with commercial uses. That basic recognition between different uses is what allows for zoning districts in the first instance.

Therefore, I am of the opinion that the recommended revisions submitted by staff are reasonable time, place and manner restrictions, to prevent the use of a building as a grossly, large sign offensive to aesthetic sensibilities, coupled with the use of materials which are not harmonious with existing properties and the focal nature of Town Center to the detriment of the property of others. The regulations provide authority in the Design Review Board to act and neither as set forth or applied, are they arbitrary.

mek:pjm



SIGN FACE MEASUREMENT



The maximum height of a sign is measured from a point 8 feet above the curb at the property line, to a point 20 feet in height or 4 feet above the roof, whichever is less.

MAXIMUM SIGN HEIGHT

EaE1aE1a  
 abcdefghijklmnopqrstuvwxyz  
 ABCDEFGHIJKLMNOPQRST  
 UVWXYZ  
 123456780&?!\$(.,,.)^^><

FIG. 2

CHAPTER 4, ZONING CODE  
 TOWN CENTER SIGNAGE CODE

City of Wilsonville

COMMUNITY DEVELOPMENT DEPARTMENT

Memorandum

November 7, 1991

TO: Blaise Edmonds, Planning  
FROM: *MB* Martin Brown, Building Official  
SUBJECT: DEVELOPMENT REVIEW TEAM

The following is a list of concerns for the proposed Project Thunder and the proposed Liberty Organization office/warehouse. Actual working drawings may expose additional code concerns.

THUNDER PROJECT

1. Provide a fire hydrant within 250 feet in hose-lay fashion of all exterior walls.

LIBERTY ORGANIZATION OFFICE/WAREHOUSE

1. Provide a fire hydrant within 250 feet in hose-lay fashion of all exterior walls.
2. Proposed building shall comply with the A.D.A.

/sf

EXHIBIT E

DEFECTS IN

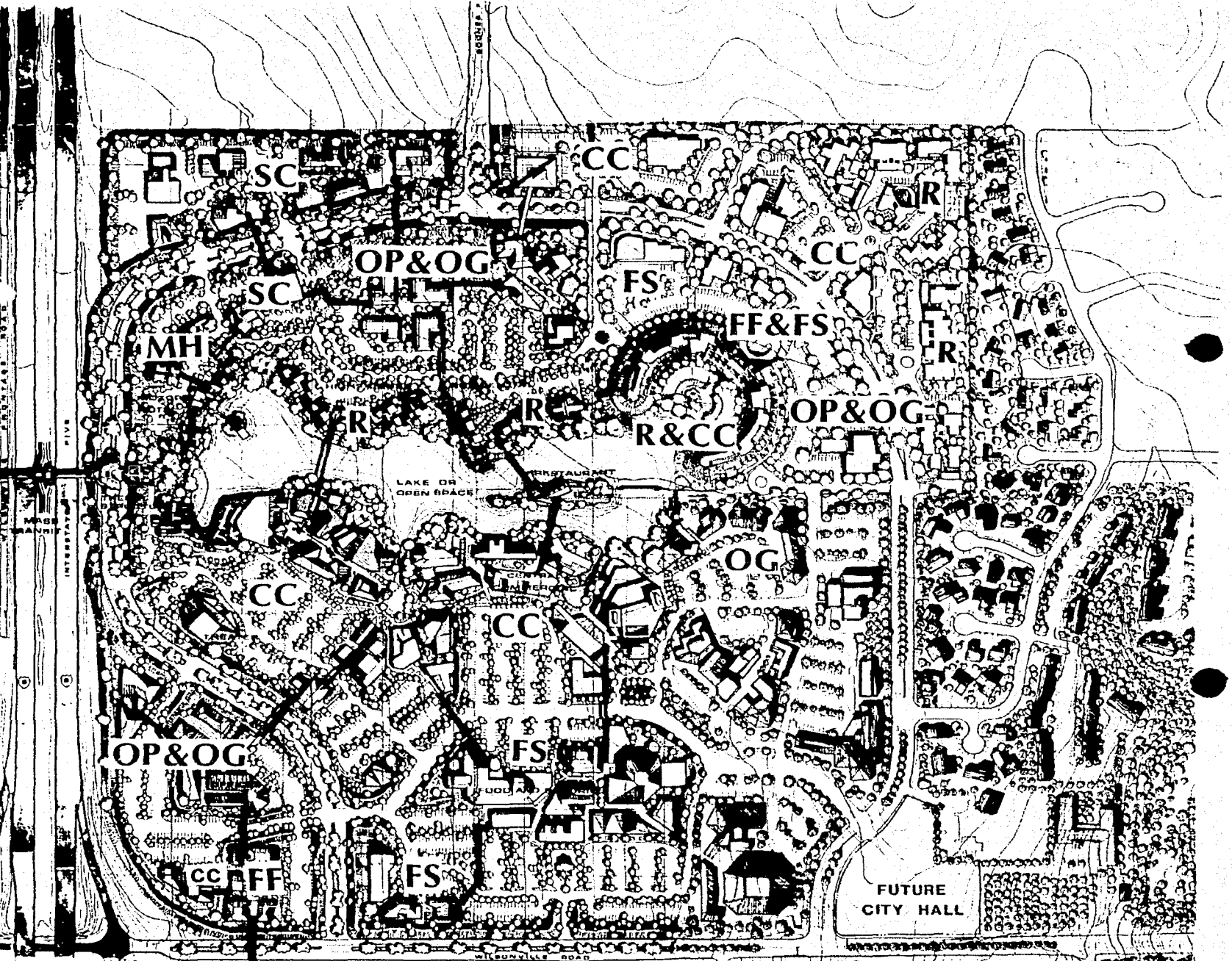
ORIGINAL

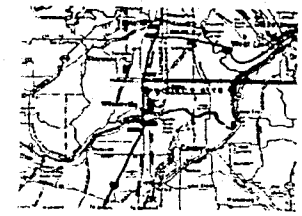
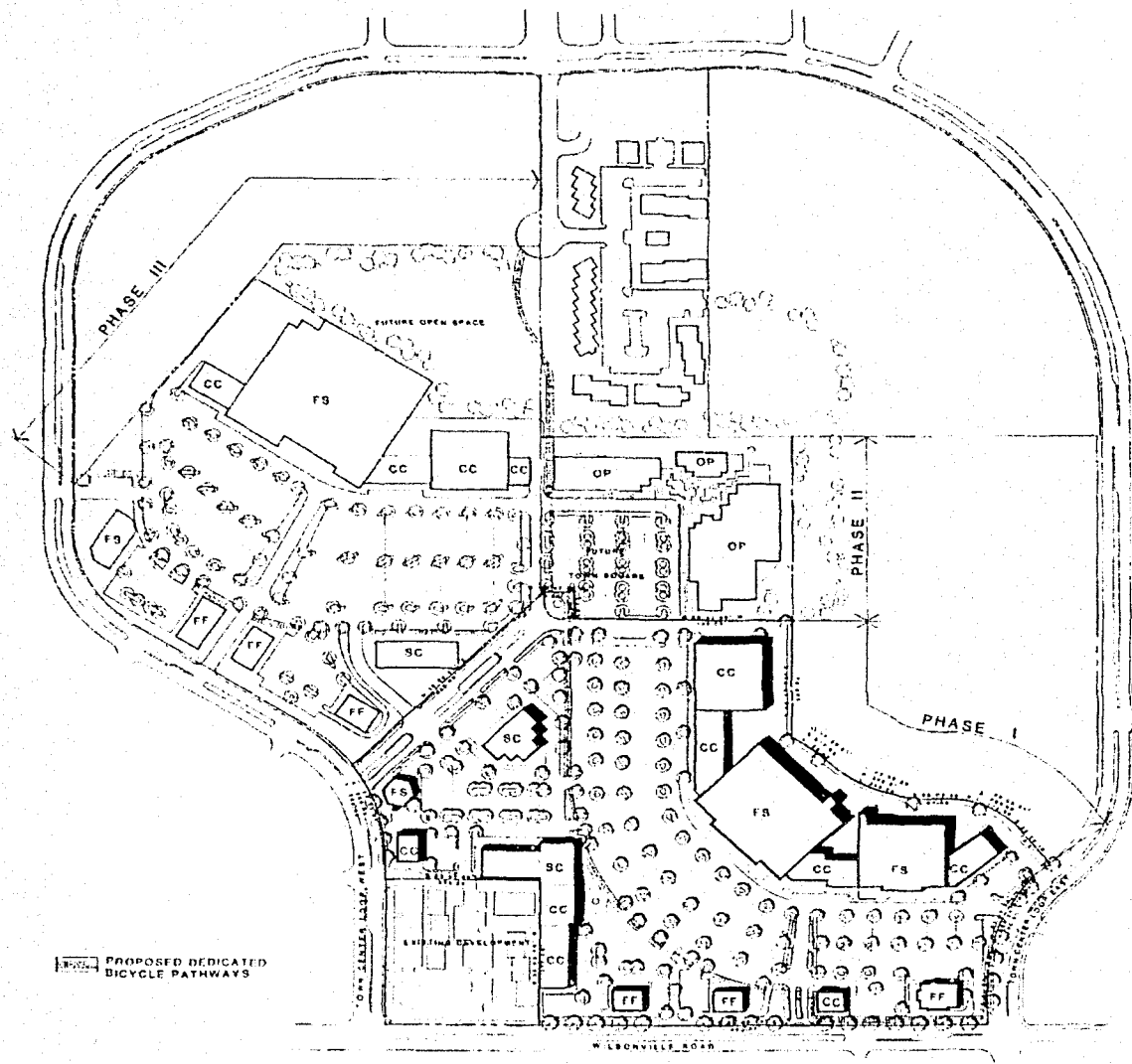
DOCUMENT

# LEGEND

- CC** Central Commercial
- SC** Service Commercial
- FS** Food and Sundries
- FF** Fast Food Service
- OP** Office Professional
- OG** Offices for General Use
- R** High Density Residential
- MH** Motor Hotel

EXHIBIT  
F





VICINITY MAP

ACREAGE	
PHASE I	22.17 ACRES
PHASE II	5.41 ACRES
PHASE III	22.02 ACRES
<b>TOTAL</b>	<b>50.60 ACRES</b>

**PHASE ONE ZONING DESCRIPTION**

A parcel of land situated in the southeast corner of Section 13, Township 36 North, Range 12 East, Meridian 12 West, in the City of Wilsonville, Oregon, is hereby designated as Phase One of the Wilsonville Marketplace. The parcel is bounded on the north by the Wilsonville Road, on the east by the Oak Street, on the south by the Wilsonville Road, and on the west by the Wilsonville Road. The parcel is approximately 22.17 acres in area. The parcel is currently zoned as R-10 Single-Family Residential. The proposed Phase One development consists of a mix of commercial, office, and service center uses. The development is intended to be a high-quality, walkable, and transit-oriented community. The development is intended to be a high-quality, walkable, and transit-oriented community. The development is intended to be a high-quality, walkable, and transit-oriented community.

MASTER PLAN: PHASE I, II, & III  
1" = 100'

EXHIBIT H

**JKS**  
JKS Architects PC  
1000 N. Oak Street, Suite 100, Portland, Oregon 97228  
503.251.1200

WILSONVILLE MARKETPLACE

1



**KITTELSON & ASSOCIATES, INC.**  
**TRANSPORTATION PLANNING/TRAFFIC ENGINEERING**

610 SW ALDER, SUITE 700 • PORTLAND, OREGON 97205 • (503) 228-5230 • FAX (503) 273-8169

October 16, 1991

Ms. Kim Beach  
Capital Realty Corporation  
101 SW Main, Suite 1500  
Portland, OR 97204

RE: Traffic Analysis for Wilsonville Town Center Phase II

Dear Ms. Beach:

The purpose of this letter is to discuss the results of an update to the April 1990 Traffic Impact Analysis we conducted for the Wilsonville Town Center relative to the current phase II development proposal. Some of the specific issues that this letter addresses include:

- the level of development proposed in the current phase II submittal,
- the level of development analyzed in the April 1990 Traffic Impact Analysis,
- an update of current conditions within the vicinity of the site
- an assessment of projected conditions upon completion of the current development proposal
- an assessment of the need for a traffic signal at the Wilsonville Road/Town Center Loop West intersection upon completion of the proposed development

Based on the results of both the previous and updated analysis, the proposed development can occur while still maintaining acceptable levels of traffic operations and safety at site driveways and nearby key intersections. The significant findings and recommendations are as follows:

- The key unsignalized intersections within the study area are currently operating at an acceptable LOS during weekday evening peak hour conditions.

EXHIBIT  
G.7

- Upon completion of the development, the site driveways and key off-site intersections, with the exception of Wilsonville Road/Town Center Loop West, will operate within acceptable level of service limits during the evening peak hour time period.
- A traffic signal is warranted to accommodate projected 1992 traffic volumes at the Wilsonville Road/Town Center Loop West intersection. It is therefore recommended that a traffic signal be installed at this location upon completion of the proposed development.

### ***Current Phase II Development Plans***

The current phase II development plans call for the construction of a retail facility consisting of approximately 159,000 gross square feet of floor area. This development level (and substantially more) has already been accounted for in the previous traffic impact analysis. The traffic impact analysis conducted in April 1990 considered a Phase I development level of approximately 211,000 gross square feet of floor area, and a combined Phase II and III development level of approximately 451,000 gross square feet of retail space and 40,000 gross square feet of commercial office space. Therefore, the original traffic impact analysis, which evaluated conditions through the year 1995 is considered to be more than adequate in terms of its assessment of traffic impacts of the proposed development for the four year horizon. Included with this letter are 10 copies of the April 1990 Traffic Impact Analysis.

### ***Update of Existing Conditions***

Within the last week, Kittelson & Associates, Inc. obtained weekday p.m. peak hour turning movement counts at the intersections of Wilsonville Road/Town Center Loop West, and Wilsonville Road/Town Center Loop East. The results of those counts revealed that compared to the counts conducted in conjunction with the April 1990 study, traffic volumes have increased by approximately 70 percent on Wilsonville Road, by approximately 80 percent on Town Center Loop East, and have remained essentially the same on Town Center Loop West. The growth in traffic on Wilsonville Road and Town Center Loop East is due primarily to the substantial amount of residential development that has occurred within the vicinity of the site (particularly to the east of Town Center Loop East) within the past year, as well as to the development associated with Phase I of the Wilsonville Town Center.



The reason traffic volumes have remained basically the same on Town Center Loop West is likely due to the fact that the majority site-generated traffic associated with Phase I of the Wilsonville Town Center, as well as some of the site-generated traffic from the retail/office development located in the southwest corner of Town Center Loop are using the Wilsonville Town Center access drives on Wilsonville Road and Town Center Loop East. Another contributing factor may be that traffic volumes within the Wilsonville area have re-distributed somewhat since 1990. Table 1 displays a comparison of the 1990 and the current 1991 volumes.

Intersection	Approach	1990 Volume (Veh/Hr)	1991 Volume (Veh/Hr)
Wilsonville Rd./ Town Center Loop W.	Westbound	165	410
	Eastbound	530	785
	Southbound	295	270
Wilsonville Rd./ Town Center Loop E.	Westbound	155	300
	Eastbound	280	435
	Southbound	80	145

Based on the results of the recent p.m. peak hour traffic counts, Level of Service analyses were conducted at each of the intersections following the analytical techniques described in the *1985 Highway Capacity Manual*. Table 2 displays the results of that analysis. As indicated in the table, both intersections are currently operating at Level of Service "D" or better, which is considered acceptable by standards.

***Projected 1992 Conditions***

The current site plan indicates that three access driveways on Town Center Loop West will serve the proposed retail development, consisting of a main access drive, a secondary access drive, and a service drive on the north end of the development which will be limited to right-turns only. This access scheme is consistent with what was assumed in the 1990 Traffic Impact Analysis, with the exception of the north service drive. In the previous analysis, the two primary access drives were projected to operate at Level of Service "D" or better through the year 1995. Given that traffic volumes will be substantially lower in 1992 than the projected 1995 levels, all three driveways serving

TABLE 2 PM PEAK HOUR LOS EXISTING TRAFFIC VOLUMES			
Intersection	Time Period	UNSIGNALIZED	
		Reserve Capacity	LOS
Wilsonville Rd/ Town Center Loop W.	PM	113	D
Wilsonville Rd/ Town Center Loop E.	PM	299	C

the development are anticipated to operate at Level of Service "D" or better upon completion development.

Estimates of site-generated traffic for the Phase II development proposal were added to the existing traffic volumes at the intersections of Wilsonville Road/Town Center Loop W. and Wilsonville Road/Town Center Loop E. Based on that assignment, additional analyses were conducted to assess the level of service at these two intersections upon completion of the development. Table 3 displays the results of that analysis. As shown in the table, the intersection of Wilsonville Road/Town Center Loop West is anticipated to experience an "F" Level of Service, which is considered unacceptable by City standards. An examination of signal warrants contained in the *Manual on Uniform Traffic Control Devices* indicates that at least two warrants for a traffic signal will be met under projected 1992 conditions.

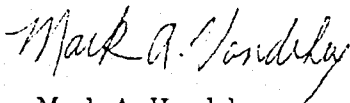
Based on these results, and given that background traffic volumes on Wilsonville Road are likely to continue to increase somewhat, it is recommended that a traffic signal be installed at the Wilsonville Road/Town Center Loop West intersection coinciding with the completion of the current Phase II development proposal. Based on this recommendation officials at Capital Realty Corporation have retained Kittelson & Associates, Inc. to begin the preliminary design of a traffic signal at the Wilsonville Road/Town Center Loop West intersection.

Ms. Kim Beach  
October 16, 1991  
Page 5

Intersection	Time Period	UNSIGNALIZED	
		Reserve Capacity	LOS
Wilsonville Rd/ Town Center Loop W.	PM	-29	F
Wilsonville Rd/ Town Center Loop E.	PM	113	D

I trust that this letter adequately addresses City staff's traffic related concerns with respect to this development proposal. If in the meantime you have any questions or comments please do not hesitate to contact me.

Sincerely,



Mark A. Vandehey  
Associate

October 18, 1991

Wayne Sorenson  
Planning Director, Wilsonville  
City Hall  
P. O. Box 270  
Wilsonville, OR 92070

Dear Mr. Sorenson:

**Re: Request for Modification of Condition of Approval No. 90PC15**

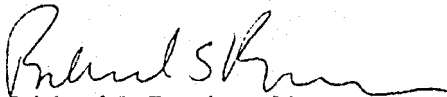
On behalf of the Owner, Capital Realty Corp., we request a reconsideration of Condition No. 8 of Planning Commission Resolution No. 90PC15 to provide the opportunity for Capital Realty to work with the City to accomplish the following:

1. Develop a design for the conceptual Wilsonville Town Center open space that allows for the participation of the appropriate City staff and commissions,
2. To formulate a development plan and time frame consistent with the development of Phase II and III of the balance of the Wilsonville Town Center property, and
3. Determine Capital Realty's financial obligation and any credits related thereto.

Concurrently submitted to you are Stage I Master Plan Re-submittal and Stage II, Phase II of the Center. We feel that they have a bearing on this condition and warrant review.

Thank you for your consideration, if you have any questions, please call.

Very truly yours,



Richard S. Brooks, AIA  
Project Manager

bc

C:\BCRSB\WTC-1017.PM

**JKS Architects PC**  
1620 S.W. Taylor Street, Suite 200  
Portland, Oregon 97205  
503-227-5616 • 800-292-5400 • FAX 503-227-3590

EXHIBIT G-8

Stage I Master Plan Re-submittal  
Wilsonville Town Center—Wilsonville, Oregon

1. Nature of Application:

This is a re-submittal for Stage I Master Plan approval for a proposed retail development of 59.79 acres, to be located adjacent to, and north of Wilsonville Road spanning from the southeast portion of Town Center Loop East, the inner portion of Town Center Loop West, north to the intersection of the Loop West and Parkway in that area previously designated as The Wilsonville Town Centre.

The Applicant:

Seeks to develop the site as a community shopping center. The center, at full build out would consist of approximately five larger retail commercial anchor stores, infill retail commercial space and pads located independently from the central retail complex for commercial retail development.

The proposed development includes a total building area of approximately 500,000 square feet constructed in three phases.

Phase I

The existing development of Phase I will include retail commercial space of approximately 207,130 square feet oriented primarily to Wilsonville Road. The Phase I Center consists of three anchor tenants, including major grocery and drugstore tenants, with infill commercial retail shop space and several pads at the periphery for retail uses. Parking for Phase I is 1,063 spaces at a ratio in excess of five spaces per 1,000 square feet of gross leasable area. The third anchor and several of the pads are as yet un-built.

The initial development provides two full-turning accesses along Town Center Loop; one at the eastern end of the development near Wilsonville Road, and the other off Town Center Loop West, which is a heavily landscaped entry boulevard, that in later phases will become the central identified main entry to the fully built-out center. Further, a secondary full turn access is proposed at Town Center Loop West and the Northern boundary of the existing retail center; and finally in Phase I, a right-in-right-out access at mid-site on Wilsonville Road, which is temporarily a full access entry until development to the south of Wilsonville Road completes construction of the final road design.

EXHIBIT 69

1. Nature of Application: (cont'd)

Phase II:

The proposed Phase II development is one retail user of approximately 159,400 square feet located on 14.75 acres primarily fronting Loop Road West. Phase II is to be built and developed by a separate owner other than Capital Realty Corp. Capital Realty, however, maintains its right of review for compliance with the concept and intent of the Town Center retail development. Approximately 872 parking spaces are provided (see Stage II Submittal attached).

Phase III:

The proposed development of Phase III includes retail commercial space of approximately 143,568 square feet completing the connection to Phases I and II. The Phase III development would consist of one large retail anchor tenant, retail pad tenants, and a two-story professional office building oriented at the end of the main entrance boulevard.

The parking development for Phase III, approximately 980 spaces, brings the total parking count to 2,915 spaces, serving the proposed 510,000 square feet of gross building area.

2. Property Description:

The property is located north of Wilsonville Road, east of Interstate 5, and west of City Hall. The property is located on the following parcels:

Parcel 1: 19.73 acres

Tax Lots 600 and 601, Section 13, Township 3 south, Range 1 west, Willamette meridian, situated in the City of Wilsonville, County of Clackamas, State of Oregon.

Parcel 2: 4.37 acres

Tax Lot 500, Section 13, Township 3, south, Range 1 west, Willamette meridian, situated in the City of Wilsonville, County of Clackamas, State of Oregon.

2. Description (cont'd)

Parcel 3: 25.96 acres

Tax Lots 200, 300, and 405, Clackamas County Map 3-1W-14D and ownership interests in a triangle of land approximately 6,381 square feet on the west of Tax Lot 200.

Parcel 4: 9.73 acres

Tax Lots 101, 201, and 102 Clackamas County Map 3-1W-14D

3. Plan Designation and Zoning:

The subject site is designated commercial on the comprehensive plan map and zoned Planned Development Commercial on the zoning map. The site, being situated within the Wilsonville Town Center master Plan map, has underlying use designations indicating CC Central Commercial, FS Food and Sundries, OP Office Professional, FF Fast Food Restaurant, R high density residential, and open space.

The intent of our proposal is to accomplish the mix of other desired and designated uses within the boundaries of our development. We feel our plan as submitted is consistent with the comprehensive plan goals and with the Town Center Master Plan.

October 18, 1991

Wayne Sorenson  
Planning Director, Wilsonville  
City Hall  
P. O. Box 270  
Wilsonville, OR 92070

Dear Mr. Sorenson:

**Re: Stage I Re-submittal Master Plan Approval Wilsonville Town Center  
Stage II, Phase II Submittal**

On behalf of Capital Realty Corp., and the owners of properties so designated as comprising the development area, we are re-submitting this application for a Stage I Master Plan Approval for a 59.79 acre commercial center and Stage II approval for the Phase II 14.75 acre site.

As you may be well aware, Phase I of this plan has been completed in part. The economics of the region and the country have impacted the nature of the project as originally planned. This re-submittal represents those pressures, and at the same time expands the size of the project while maintaining the original intent of mixed uses as outlined in the Wilsonville City Center Plan.

Capital Realty has the opportunity to bring to the Town Center project a major, innovative retail anchor which will comprise all of Phase II. This parcel will be sold to a separate user for which application for Stage II, Phase II is attached. Their progress and subsequent design submittals will be reviewed and monitored by Capital Realty.

The addition of this anchor, at this time will serve as a catalyst for the completion of Phase I buildings as well as increase the desirability of Phase III tenants. This, in effect, will improve the success of the entire City Center Plan to the benefit of Wilsonville as a whole.

JKS Architects PC  
1620 S.W. Taylor Street, Suite 200  
Portland, Oregon 97205  
503-227-5616 • 800-292-5400 • FAX 503-227-3590

EXHIBIT  
6-90

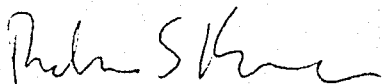


Wilsonville Town Center  
Stage I Re-submittal  
October 18, 1991

Page 2

We are always available to answer questions to aid you in your analysis of this re-submission and its compliance with the current conditions of approval. This project represents a long-term commitment on the part of Capital Realty in the development of a strong, successful center for Wilsonville which will serve the needs of all its citizens. Thank you for your's and the City Staff's time, energy and cooperation towards the realization of this project.

Sincerely,



Richard S. Brooks, AIA  
Project Manager

bc

# Alternative Open Space Concept

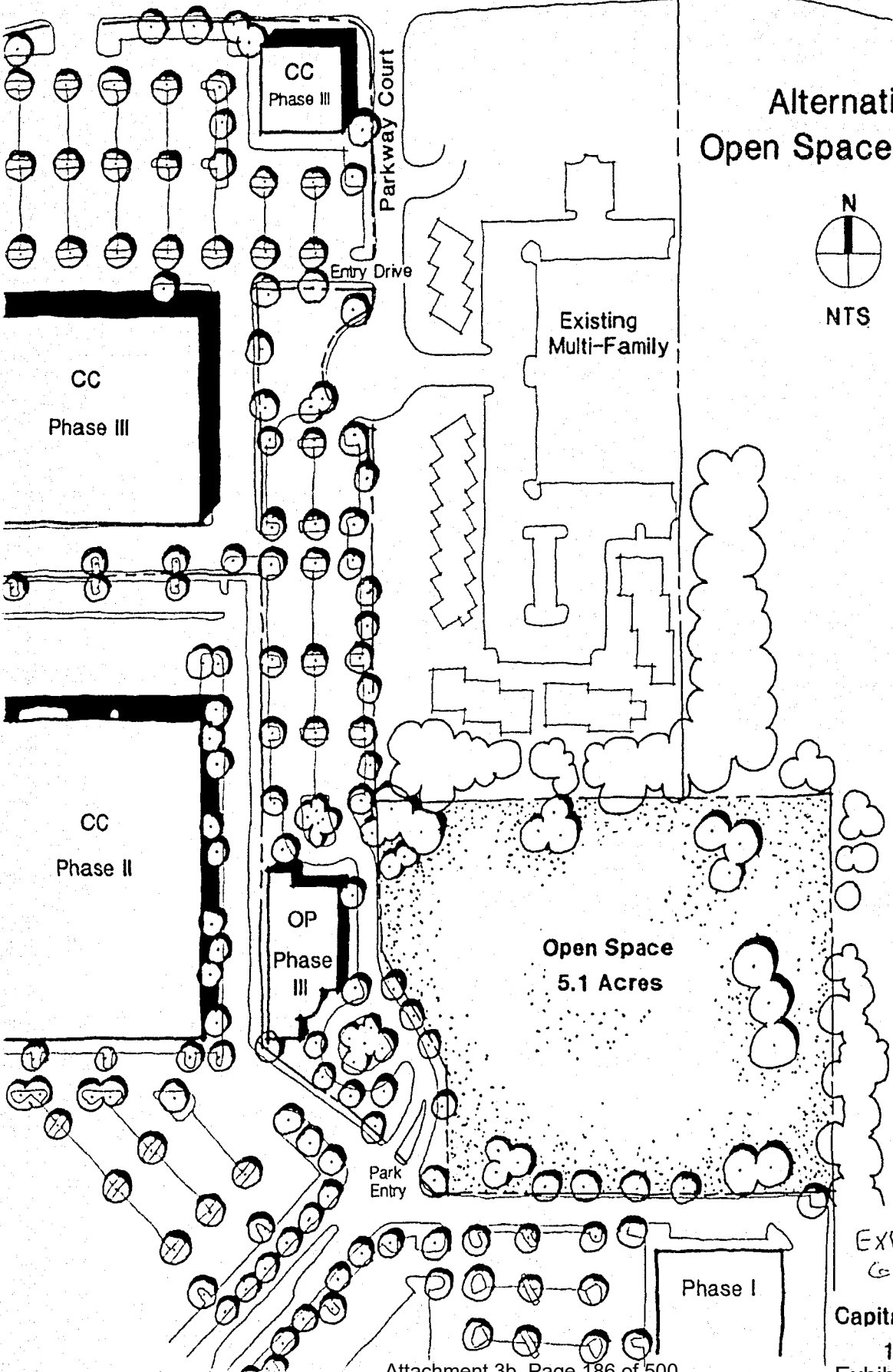
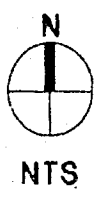


EXHIBIT  
G-11

Capital Realty Corp.

11/26/91

Exhibit B

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AS REVISED  
1/7/92

**DesignForum**  
ARCHITECTS

# DesignForum

ARCHITECTS

## PROJECT THUNDER

Wilsonville, Oregon

Design Review Board

January 27, 1992 Meeting

1R

### REVISED GENERAL COMMENTARY:

Project Thunder is a single story building with mezzanine, 166,495 GSF retail sales building, with accessory storage areas. Project Thunder is a new concept in merchandising with this location selected for the pilot program.

Enclosed is data that we believe supports the design concepts expressed, outlines the project exterior signage program; building architecture, materials and colors. The project exterior lighting program, the project landscaping and site improvements information is shown on the revised drawings included with this additional submittal.

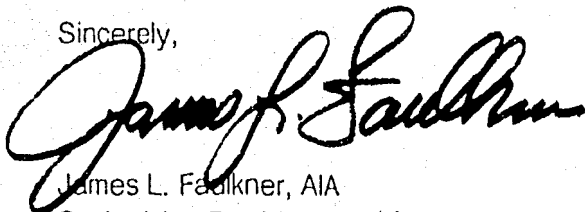
As per phone conversations with Blaise Edmonds, Associate Planner, the materials and colors sample board will be presented at the evening of the actual meeting. It will not be forgotten. We will provide a sample board of wall elements, as requested, as soon as we receive material samples from the manufacturers involved.

Enclosed within this booklet are color photocopies of the revised color scheme, two views, plus the proposed parking lot light standards with the directory signage of aisle indicators. Also enclosed is a new drawing titled "View Corridor Concept." Submitted separately are revised drawings DRBC1, DRBC2, DRB1, DRB2, DRB3, and DRBL1.

We believe we meet all known City of Wilsonville ordinances in regards to architecture, landscaping and site improvements. There are no signage variances required. We do request a deviation from the Phase I signage program as explained following. Since our reconsideration of the signage program has eliminated all variances we request reimbursement of the variance fees previously paid.

We request the Design Review Boards consideration of Project Thunder, as resubmitted.

Sincerely,



James L. Faulkner, AIA  
Senior Vice President, Architecture

JLF:dr

# DesignForum

ARCHITECTS

## PROJECT THUNDER

Wilsonville, Oregon

Design Review Board

January 27, 1992 Meeting

2R

### MATERIALS/COLORS DIALOGUE:

The general concept of the project design aesthetic is to create a vibrant and lively shopping environment, having this a "fun place to be". This concept is visualized to the shopper by the dynamic main facade of the building by three means: building form, materials selected and colors used.

The basic building background material is an "Exterior Insulation and Finish System", common name used Dryvit. While proprietary, we will use this term in this discussion. The Dryvit will be in a field color of light beige (neutral) with dark green color Dryvit used as a horizontal accent band on the North and West elevations. Dark green will also be used at the curved wall element of the primary building entry and exit points on the West elevation. The Dryvit will be on all sides of the building, scored in the patterns indicated on the elevations. Use of the dark green color relates this project to the Phase I buildings.

To compliment the Dryvit field, and to help to reduce the scale of this building, a horizontal band of metal siding, in a light bronze color with 50% reflectivity is expressed on the West, North and South elevations. This metal siding is a vertical pattern with vertical "grooves" 6" o.c. On the East elevation, the color and position of the metal siding is simulated by use of Dryvit accent band.

To accent and provide visitor orientation to the entry area, an open "dome" of steel framing, painted red, is mounted on the roof. Coupled with the curved element wall, this designates the building entry area. At grade the curved element concept is carried forward with curved concrete curbs, radial lined concrete walkways and flagpoles/bollards in a circular centerline aligning with the curved wall element at entry. The flagpoles are 25'-0" high, natural aluminum color, and will fly solid color flags or nylon banners. The non-illuminated bollards are 42" high, 10" diameter pipe painted light beige. Bollards around entry points will be internally lighted, and be painted red.

To further designate entry points, clear glass in natural aluminum storefront framing is located adjacent to the curved element entry area, and also occurs at the building service entrance and other secondary entrance points.

The overhead doors will be solid, insulating units without windows, painted light beige. Other secondary doors will be hollow metal painted to match adjacent wall color. Miscellaneous site items such as handrails will be painted black.

# DesignForum

ARCHITECTS

## PROJECT THUNDER

Wilsonville, Oregon

Design Review Board

January 27, 1992 Meeting

3R

The following are our calculations of area for the Project Thunder Signage Program:

### Wall Graphics:

Single face, backlit signs:

Store Name Sign*	1 Each at 224 SF	=	224 SF
Fascia Sign: "Service":	1 Each at 12 SF	=	12 SF
Fascia Sign: "Customer Pickup":	1 Each at 28.5 SF	=	28.5 SF
Fascia Sign: "Car Stereo Installation":	1 Each at 40.5 SF	=	40.5 SF

TOTAL WALL GRAPHICS AREA 305 SF

\* This sign of channelume construction with individual letters for the word "UNIVERSE"; the word "INCREDIBLE" is in script neon.

There are miscellaneous directional signs on site, i.e. stop signs, that are under 2' x 2' in size, single face, non-illuminated and pole mounted. These include the Parking Lot Aisle Indicator Signs: 12 each at 8 SF = 96 SF. These are shown on sheet DRBC1, but are not included in signage area calculations.

# DesignForum

ARCHITECTS

**PROJECT THUNDER**  
**Wilsonville, Oregon**  
**Design Review Board**  
**January 27, 1992 Meeting**

4R

We request the consideration of the Design Review Board for a deviation from the Phase I, Wilsonville Town Center Signage program, as follows:

- Deviation #1 from Phase I signage program for sign construction method

### **Deviation #1 from Phase I signage program for Wilsonville Town Center**

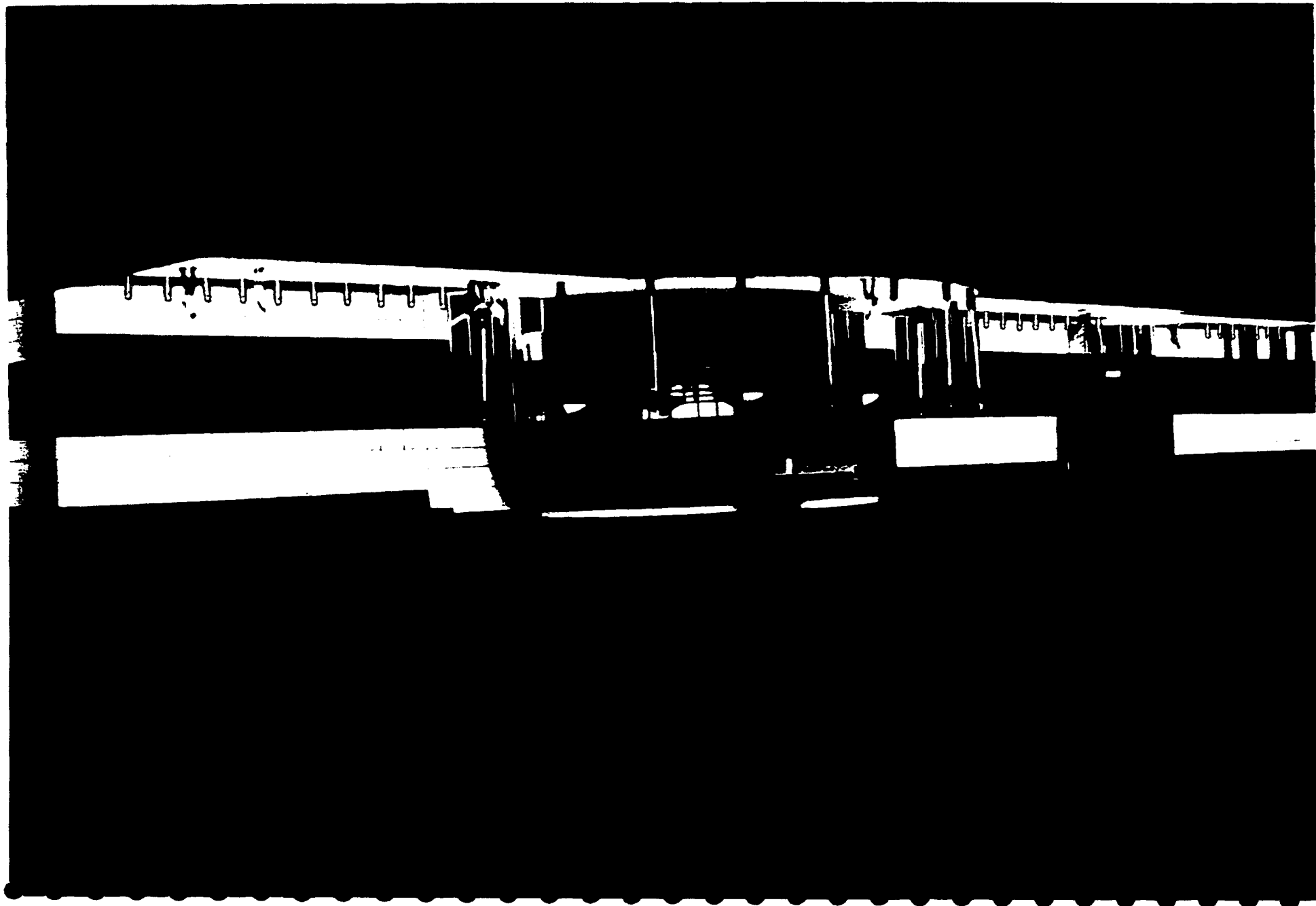
We request this deviation from the approved program for the purpose of changing the method of construction for the 3 fascia signs (aggregate area approximate 81 SF) to be consistent with our design idiom. We feel our approach of a fascia panel type sign, back lit, cutout individual letters, appearing to be in a larger horizontal band to be of more benefit to this architectural design. Individual channel construction is not an appropriate usage in this application.

DEFECTS IN

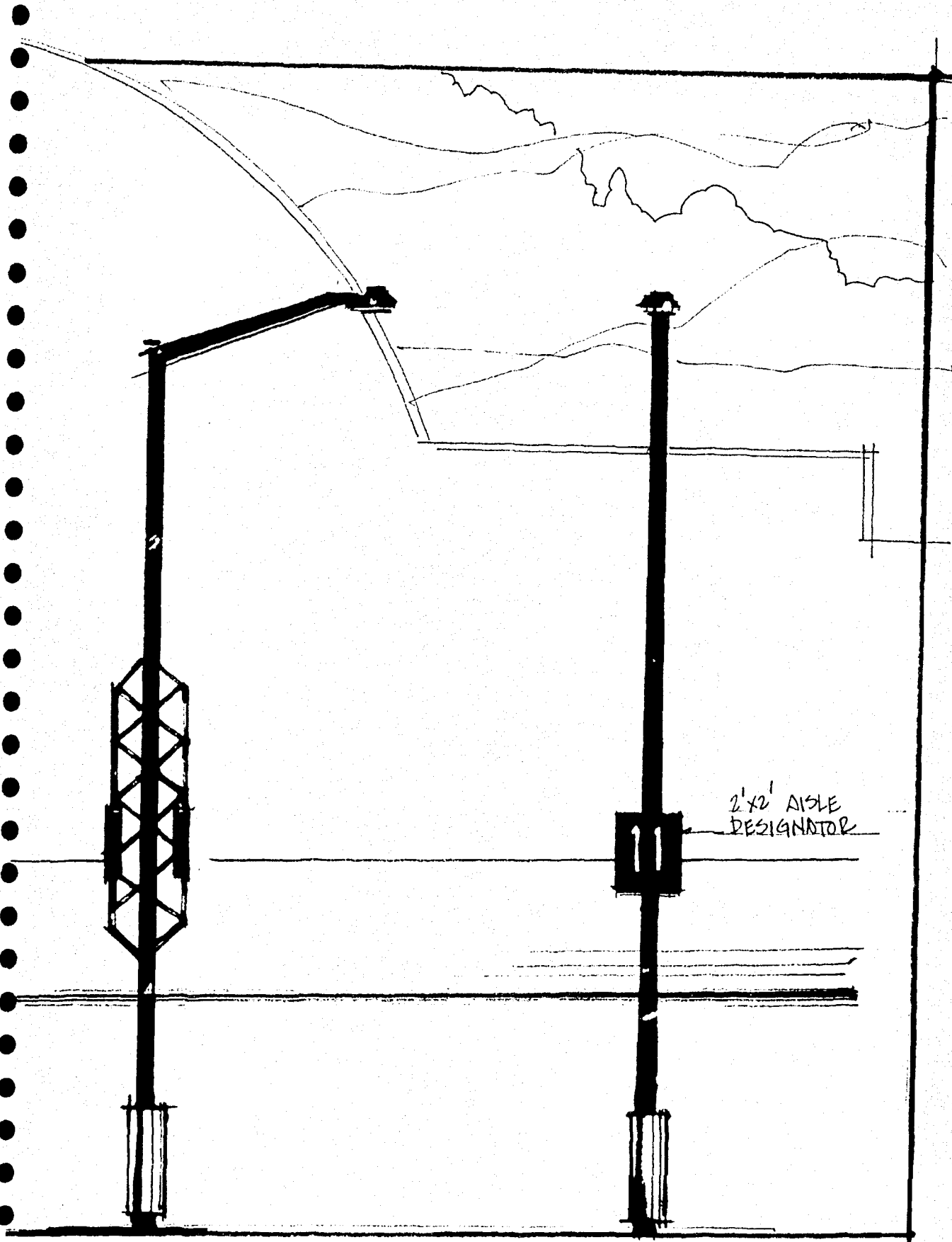
ORIGINAL

DOCUMENT



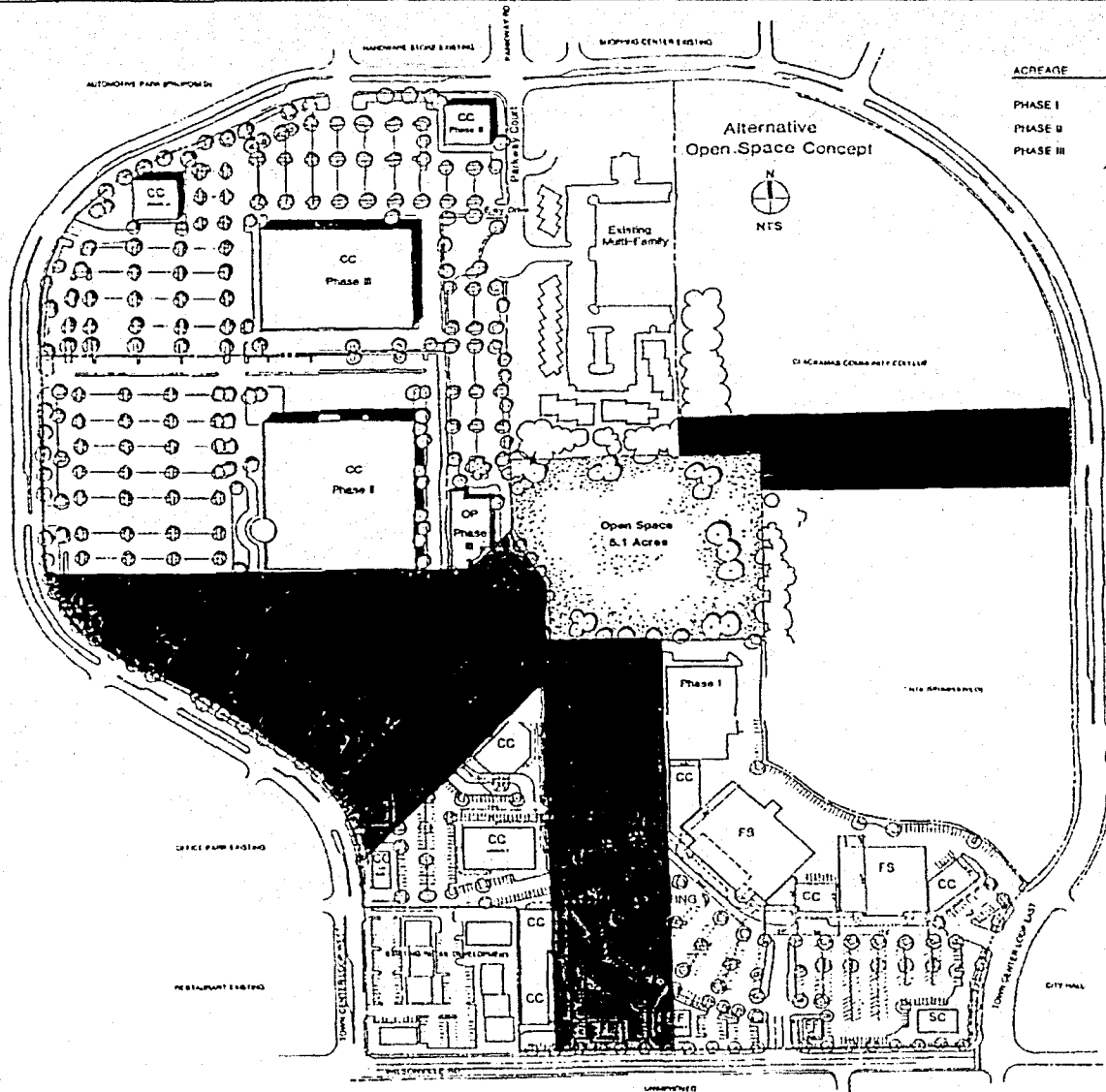




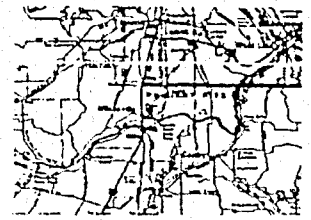


PROJECT THUNDER  
Wilsonville, Oregon  
Design Review Board  
January 27, 1992 Meeting

**DesignForum**  
ARCHITECTS



ACREAGE	
PHASE I	22.96 ACRES
PHASE II	14.75 ACRES
PHASE III	22.08 ACRES
<b>TOTAL</b>	<b>59.79 ACRES</b>



VICINITY MAP

THE CITY OF WILSONVILLE HAS REVIEWED THE SITE MASTER PLAN FOR PHASES I, II, AND III OF THE WILSONVILLE TOWN CENTER PROJECT AND HAS DETERMINED THAT THE PROJECT IS IN ACCORDANCE WITH THE CITY'S ZONING ORDINANCES AND THE CITY'S GENERAL PLAN. THE CITY HAS ISSUED A PERMIT TO DEVELOP FOR THE PROJECT.

PHASE I AND PHASE III OF THE WILSONVILLE TOWN CENTER PROJECT ARE BEING DEVELOPED AT THE SAME TIME. PHASE II WILL BE DEVELOPED AT A LATER DATE. THE PROJECT WILL PROVIDE A MIXED-USE DEVELOPMENT WITH OFFICE, RETAIL, AND RESIDENTIAL USES. THE PROJECT WILL ALSO PROVIDE OPEN SPACE AND PARKING.

SITE MASTER PLAN: PHASE I, II, & III  
**VIEW CORRIDOR CONCEPT**

1-6-92

**JKS**  
**JKS Architects PC**  
 425 SW 3rd Street, Suite 202 • Portland, Oregon 97204  
 Tel: 503.227.4444 • Fax: 503.227.4444

**WILSONVILLE TOWN CENTER**  
 WILSONVILLE, OREGON

DATE	1-6-92
BY	JKS
APP'D	JKS
SCALE	AS SHOWN

## LETTER OF TRANSMITTAL

From: William F. Bergman, AIA  
Design Forum  
3484 Far Hills Avenue  
Dayton, OH 45429

To: Mr. Blaise Edmonds  
Associate Planner  
City of Wilsonville  
8445 S.W. Elligsen Road  
Wilsonville, OR 97070

We are sending you:

- |                                 |  |   |   |                                   |
|---------------------------------|--|---|---|-----------------------------------|
| <input type="checkbox"/> Prints | <input type="checkbox"/> Estimates     | <input type="checkbox"/> Copy of letter   | <input type="checkbox"/> Photography    | <input type="checkbox"/> Keylines |
| <input type="checkbox"/> Plans  | <input type="checkbox"/> Shop Drawings | <input type="checkbox"/> Samples          | <input type="checkbox"/> Specifications | <input type="checkbox"/> Layouts  |
|                                 |  | <input type="checkbox"/> Comps Prototypes |   |                                   |

COPIES    DATE OR NO.

DESCRIPTION

COPIES	DATE OR NO.	DESCRIPTION
2	10/28/91	Preliminary Prints of First Floor and Mezzanine Floor Plans

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> For your use | <input type="checkbox"/> Approved & noted            | <input type="checkbox"/> Return _____ corrected prints   |
| <input type="checkbox"/> For approval            | <input type="checkbox"/> Construction approval       | <input type="checkbox"/> Submit _____ copies for _____   |
| <input checked="" type="checkbox"/> As requested | <input type="checkbox"/> Returned for corrections    | <input type="checkbox"/> Resubmit _____ copies for _____ |
| <input type="checkbox"/> For review & comment    | <input type="checkbox"/> Returned after loaned to us | <input type="checkbox"/> For bids due _____              |
| <input type="checkbox"/> _____                   |  |  |

Remarks: \_\_\_\_\_  
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Signed: William F. Bergman  
 William F. Bergman, AIA  
 Project Architect

Date: 10/28/91

**MEMORANDUM**

**TO: Development Review Team**

**DATE: October 21, 1991**

**FROM: Blaise Edmonds, Associate Planner, City of Wilsonville.**

Please review the enclosed Site Development Plans for the following projects:

1. Thunder project (retail anchor store).
2. Office and warehouse, Liberty Organization, applicant.
3. Comprehensive plan amendment, Mr. Marvin Wagner, applicant.

Your review should focus on the technical aspects required for development. In addition, please comment on any other issue that may affect approval as proposed.

Please submit written comments or requirements to the Planning staff by Nov 15, 1991, so that my review can be more complete.

MEMORANDUM

TO: Blaze Edmonds, Associate Planner  
City of Wilsonville

FROM: Rick Martin, P.E.  
W&H Pacific

DATE: October 18, 1991

RE: Phase Two Development - Storm Drainage  
Wilsonville Town Center

The Phase Two development will require the existing drainage detention pond be filled due to construction of required parking areas. It should be noted that drainage calculations completed for Phase One development took into account that the detention pond will be eliminated with future development in the proposed Phase Two area.

Final Phase Two development design will provide connections to the existing storm drain system currently terminating at the pond. Refer to the Phase Two Utility Plan submitted with this application.

*Blaise -*  
*I understand*  
*W & H says 150 cfs*  
*for Town Center to go into*  
*48" culvert - is there*  
*more from other properties -*  
*if so how does that affect*  
*park drainage - if you*  
*know & if not I'd be probably*  
*need to make sure all*  
*info is available - before*  
*abandoning on site retention -*  
*could be a plus as a water*  
*feature for Town Center*  
*Mike,*  
*cc. Steve Stamer*

PLEASE MAIL  
TO  
LESLIE  
DO NOT  
WAYNE  
SAID THAT  
YOU HAVE  
HLS  
ADVISORY

MEMORANDUM

TO: Development Review Team

DATE:

FROM: Blaise Edmonds, Associate Planner, City

B

Please review the enclosed Site Development Plans for the following projects:

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- 2. ~~Office and warehouse, Liberty Organization, applicant.~~
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**MEMORANDUM**

**TO:** Blaze Edmonds, Associate Planner  
City of Wilsonville

**FROM:** Rick Martin, P.E.  
W&H Pacific

**DATE:** October 18, 1991

**RE:** Phase Two Development - Storm Drainage  
Wilsonville Town Center

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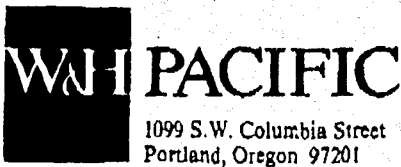


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Final Phase Two development design will provide connections to the existing storm drain system currently terminating at the pond. Refer to the Phase Two Utility Plan submitted with this application.



Creative Solutions ... Superior Service



1099 S.W. Columbia Street  
Portland, Oregon 97201

(503) 227-0455  
Fax (503) 274-4607

• Planning • Surveying  
• Engineering • Landscape Architecture

• Environmental Services

To: Blaise Edmunds Date: 10/16/91  
Pam Edmunds  
City of Wilsonville, Annex Project Number: 407-0301  
30000 SW TOWN CENTRAL LOOP EAST Project Name: PROJECT THUNDER  
Wilsonville, OR, 97070 Regarding:

PLEASE NOTIFY US IMMEDIATELY  
AT (503) 227-0455 IF THERE ARE ANY  
PROBLEMS RECEIVING THIS  
TRANSMISSION

We Are Sending:

- Attached
- Facsimile 682-7025
- 3 Number Of Pages Including Cover
- 

These Are Transmitted:

- For Your Info/File
- As Requested
- For Review And Comment
- 

Copied To:

Copies	Description
1 ea	Minutes of 10/14/91 Meeting

Comments

Blaise & Pam

We'll see you tomorrow w/ 13 FOLDED sets of drawings ...

Please call if you have any questions during the review/application acceptance. This submittal date & scheduling of hearings is vitally important ... Thanks

Signed

Tan Stines

## MEMORANDUM

October 15, 1991

**TO:** Kim Beach, Capital Realty Corp.  
Bill Bergman, Design Form Architects  
All in Attendance

**FROM:** Tom Jones

**RE:** MINUTES OF MEETING WITH THE CITY OF WILSONVILLE  
OCTOBER 14, 1991, 4:00 P.M. TO 5:05 P.M.  
PROJECT THUNDER  
4-467-0301; 4-755-0101

**ATTENDEES:** Tom Jones, W&H Pacific  
Rick Martin, W&H Pacific  
Pat Marquis, W&H Pacific  
Logan Cravens, JKS Architects  
Blaise Edmonds, City Planner  
Pam Emmons, Planning Assistant

---

The following was discussed regarding the project in preparation for the Friday, October 18th submittal.

### STAGE ONE SUBMITTAL

1. The site plan prepared by JKS should show:
  - a. Revised project phasing
  - b. Open space area as previously shown as a condition of approval from initial submittal.
  - c. Specific "Town Center" land use designations must be shown for the northerly portion of the site not previously included and for any changed designations from the original submittal for Phases II and III.
2. Submit ten (10) copies of the original Traffic Report and provide an Executive Summary outlining any revisions to the initial projections and provide a summary that addresses the level of service "D" or better at surrounding intersections. Review the Parkway/Loop Road intersection.
3. Show existing adjacent land uses (i.e., vacant or improved) and the names of key surrounding developments for the Planning Commission orientation. Show only existing improvements not proposed.
4. Capital Realty must provide an updated list of addresses and property owners within 250 feet from the project.





October 15, 1991  
Page 2

5. Capital Realty must submit the Certification of Assessments and Liens form with the application. This is to determine if the tax lots included owe money to the City. Contact Atta Curser for clarification.
6. All property owners must sign the application.
7. Application fees:
  - a. Stage One Submittal: \$500.00
  - b. Stage Two Submittal: \$250.00 plus \$25 per acre (Project Thunder is 14.98 acres)
  - c. Application fee for Friday: (\$500 + \$250 + \$375 = \$1,125)
  - d. Design Review: \$250 plus a fee for the master signage plan review.

#### STAGE TWO SUBMITTAL

1. Design of site signs are not required to be submitted until Design Review submittal of December 6th.
2. Landscape design needs to show planting areas, significant trees and plaza areas. Plant list is optional.
3. Grading calculations and storm drainage calculations are not required for Friday's submittal according to Blaise. Grading plan should show existing contours and general grading concept.
4. Utilities design should be kept schematic. Graphically illustrate the utility alignments that will require easement vacations and relocation.
5. Architectural elevations can be conceptual in detail. Planning Commission is only concerned with general massing and quality of appearance. Materials and color board to be submitted at Design Review.
6. If waivers to the City development standards are anticipated, be specific with your request and how it would be consistent with other surrounding project development standards.

#### GENERAL COMMENT

The two issues that will be of the most interest to the Planning Commission will be traffic and the implementation of the open space. We should develop a clear strategy to present to the Commission prior to the December 9th hearing addressing these two issues.

The meeting notes represent comments that have been paraphrased as accurately as possible. The notes will be held as an accurate and true account as to intent unless notice to the contrary is set forth within 10 days of the date above.





# DesignForum

## ARCHITECTS

**Project Thunder**  
**Wilsonville, Oregon**  
**Project No. 91702.03**  
**Pre-Application Conference**  
**October 8, 1991**

In Attendance:

Pam Emmons	City of Wilsonville, Associate Planner	WSV 503-682-4960
Martin Brown	City of Wilsonville, Building Official	WSV 503-682-4960
Steven Starner	City of Wilsonville, Community Development Dir.	WSV 503-682-4960
Jim Long	City of Wilsonville, Design & Survey Technician	WSV 503-682-4960
Doug Seely	Real Estate Investment and Sales	REI 503-655-7631
Jim Parsons	Grubb & Ellis	GEI 503-241-1155
Jim Faulkner	Design Forum Architects	DFA 800-835-4401

Item No.	Action	Item
1.10	CAP/WHP	Storm drainage is an issue. Calculations and 25 year storm design for Phase II master plan must be submitted with application by October 18, 1991 deadline. The connection for metered release to interstate highway from existing retention pond and the retention pond itself will be eliminated. According to Wayne Bauer of Wilsey & Ham Pacific, Civil Engineers for Phase I development of the site, the new storm sewer system was designed to accommodate this. The city would like to see calculations supporting this.
1.2	CAP/KAI	According to the city, a traffic light at Wilsonville Road and Town Center Loop West is now warranted. The north intersection at Town Center Loop East and West at Parkway Avenue needs to be addressed in traffic study.
1.3	DFA	The currently approved master plan calls for "Food and Sundries" (FS) and "Central Commercial" (CC). These zoned uses are compatible with the desired development of Project Thunder. No rezoning is necessary, however, currently approved uses will have to be redistributed on the site.

# DesignForum

ARCHITECTS

Project Thunder  
Wilsonville, Oregon  
Project No. 91702.03  
Pre-Application Conference  
October 8, 1991

- 1.4 ALL The Stage I and Stage II planning review applications will be made simultaneously on October 8, 1991, and be reviewed simultaneously at the Planning Commission on December 9, 1991.
- 1.5 GEI Hearing notification list for all property owners of record within 250 foot of any point on property (not including street widths) must be presented with October 18, 1991 submittal. Notification does not have to cross interstate highway. The city will send the notices. Jim Parsons will obtain list from assessors office or from a title company.
- 1.6 DFA The signage theme from Phase I should be carried through Phase II. Sign issues are handled by the Design Review Board. Setback issues are handled by the Planning Commission.
- 1.7 DFA/WHP The building is designed utilizing the "unlimited area" provision of the code. A sixty (60) foot minimum distance from all property lines and an approved automatic sprinkler system throughout will be provided to accommodate this provision.
- 1.8 TNB There is a ten (10) day appeal period following design review approval. Normal procedure is such that no work should be commenced during the appeal period. Due to the tight schedule for this project and the need to utilize every available good weather period for site excavation, an option for work during the appeal period was discussed. A "hold harmless" agreement from owner in favor of the City of Wilsonville, enabling work to start immediately after design review approval during the appeal period at the sole risk of the owner has been used in the past to facilitate an early start.

# DesignForum

ARCHITECTS

Project Thunder  
Wilsonville, Oregon  
Project No. 91702.03  
Pre-Application Conference  
October 8, 1991

- 1.9 WHP For any construction to begin, fire hydrants must be installed to within 250 feet of any point of the exterior wall of the building. Work should begin immediately to obtain Public Works approval and have installation complete by scheduled start of construction, February 1, 1992.
- 1.10 ALL The required completion date of construction necessitates a start date for construction of February 1, 1992. For this to happen, working drawings and specifications would have to be accomplished prior to design review hearing date of January 27, 1992. To minimize risk of changes to completed documents, a partial permit (foundation permit) can be applied for at a cost of \$250.00. This would allow work to begin while balance of documents are being prepared. The review time for foundation and underground utilities permit is approximately three weeks, so documents should be submitted by January 10, 1992 for a February 1, 1992 start of construction.
- 1.11 DFA The zoning height limitation for any point of the building is 35'-0". Design Forum will check with Blaise Edmonds regarding height of dome feature with center pole.
- 1.12 DFA Elevations and material, color and finish boards must be submitted with Design Review Board application by December 6, 1991 deadline for hearing date of January 27, 1992.



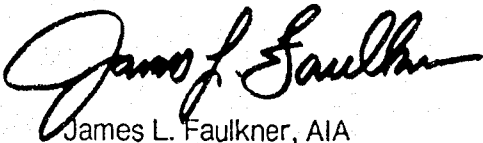
# DesignForum

ARCHITECTS

Project Thunder  
Wilsonville, Oregon  
Project No. 91702.03  
Pre-Application Conference  
October 8, 1991

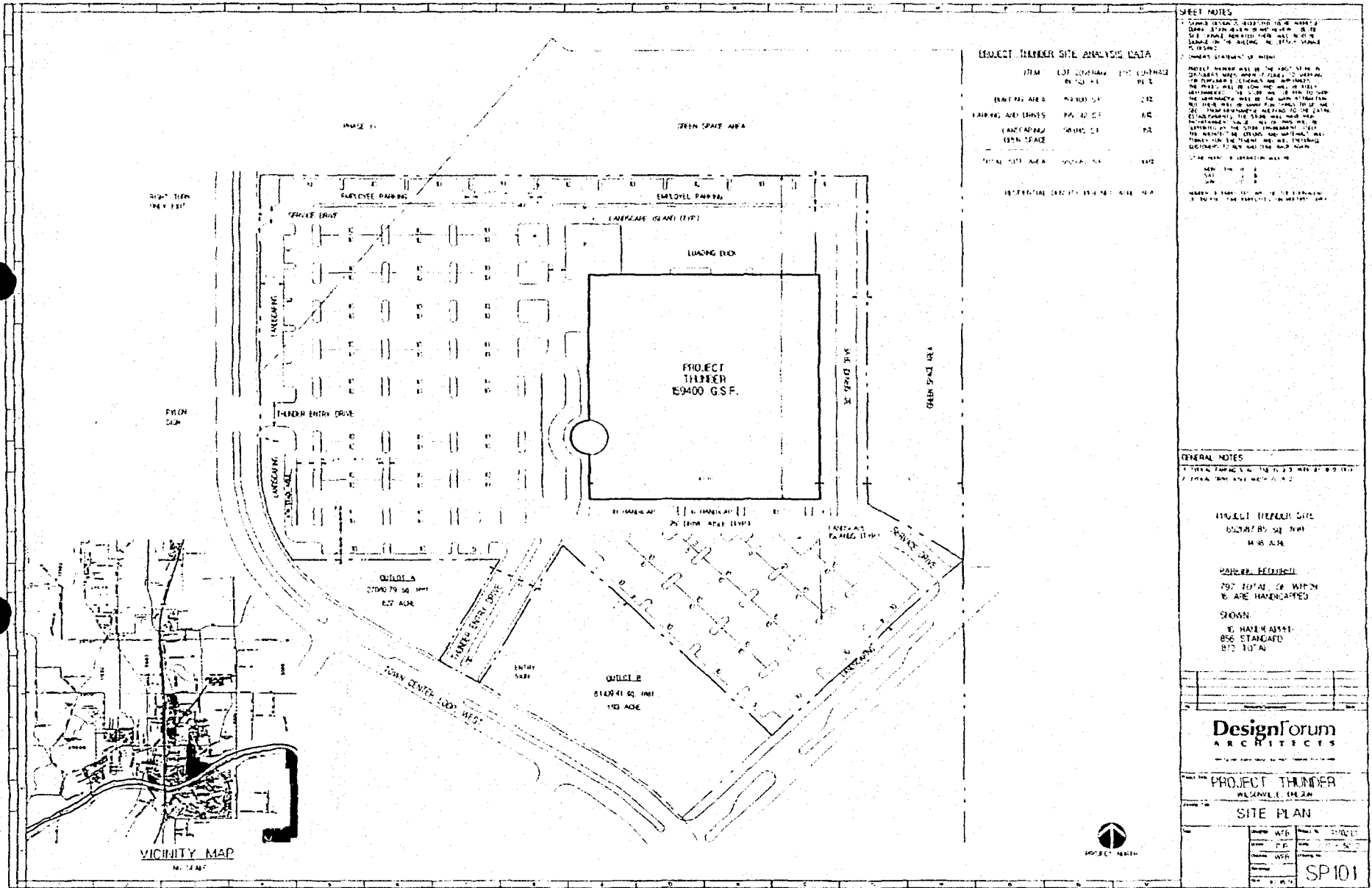
The meeting notes represent comments that have been paraphrased as accurately as possible. The notes will be held as an accurate and true account as to intent unless notice to the contrary is set forth within 10 days of the date above.

Respectfully submitted,

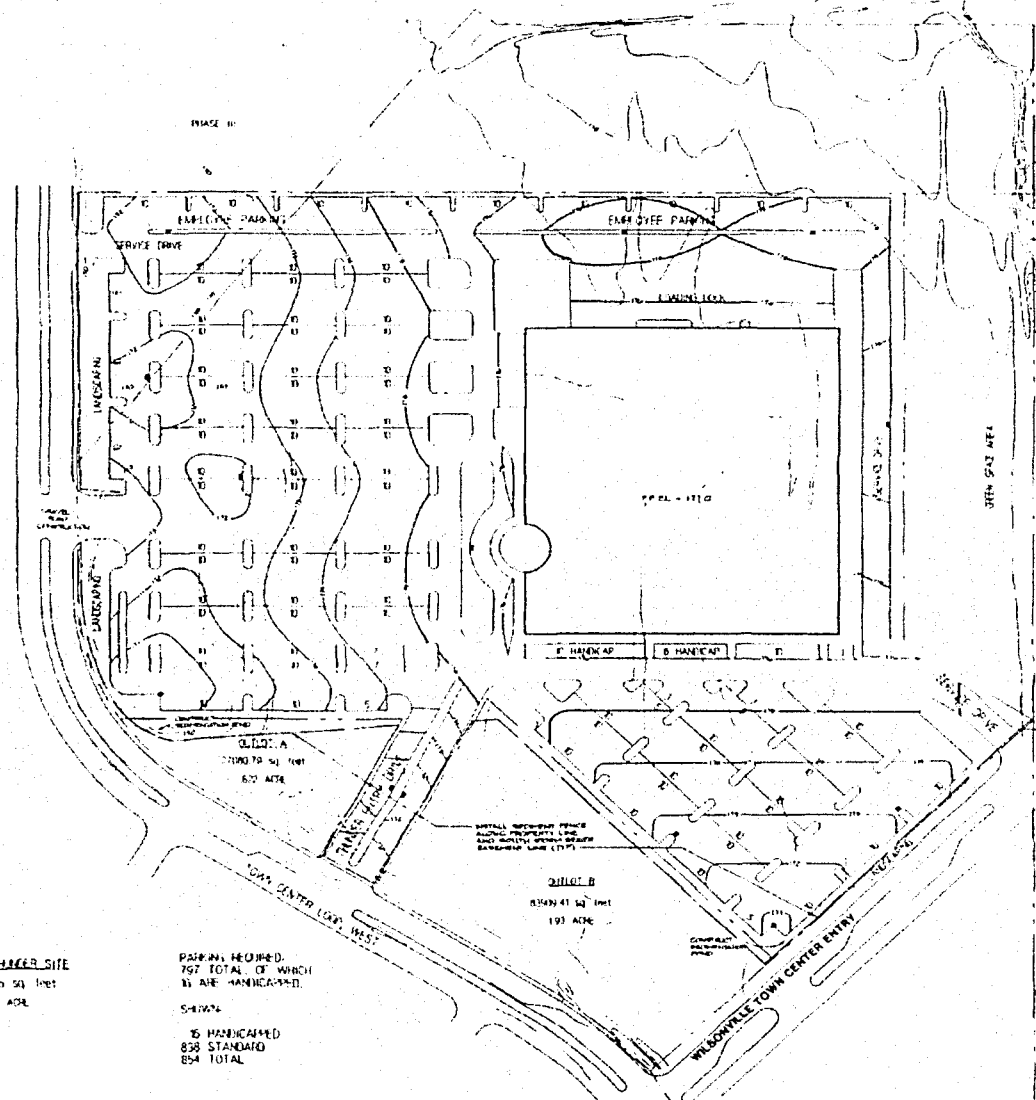


James L. Faulkner, AIA  
Vice President, Architecture

cc: All in Attendance  
Rich Hollander, Tandy Name Brand (TNB)  
Blaise Edmonds, City of Wilsonville, Associate Planner (WSV)  
Kimberly Beach, Capital Realty Corporation (CAP)  
Tom Jones, Wilsy & Ham Pacific (WHP)  
Wayne Kittelson, Kittelson & Associates, Inc. (KAI)  
D. Lee Carpenter, Design Forum  
Bruce Dybvad, Design Forum  
Marla Halley, Design Forum  
Bill Bergman, Design Forum Architects







PROJECT THUNDER SITE  
 100000 SQ FT  
 2.30 ACRES

PARKING REQUIRED:  
 767 TOTAL OF WHICH  
 15 ARE HANDICAPPED.  
 548764  
 15 HANDICAPPED  
 838 STANDARD  
 854 TOTAL

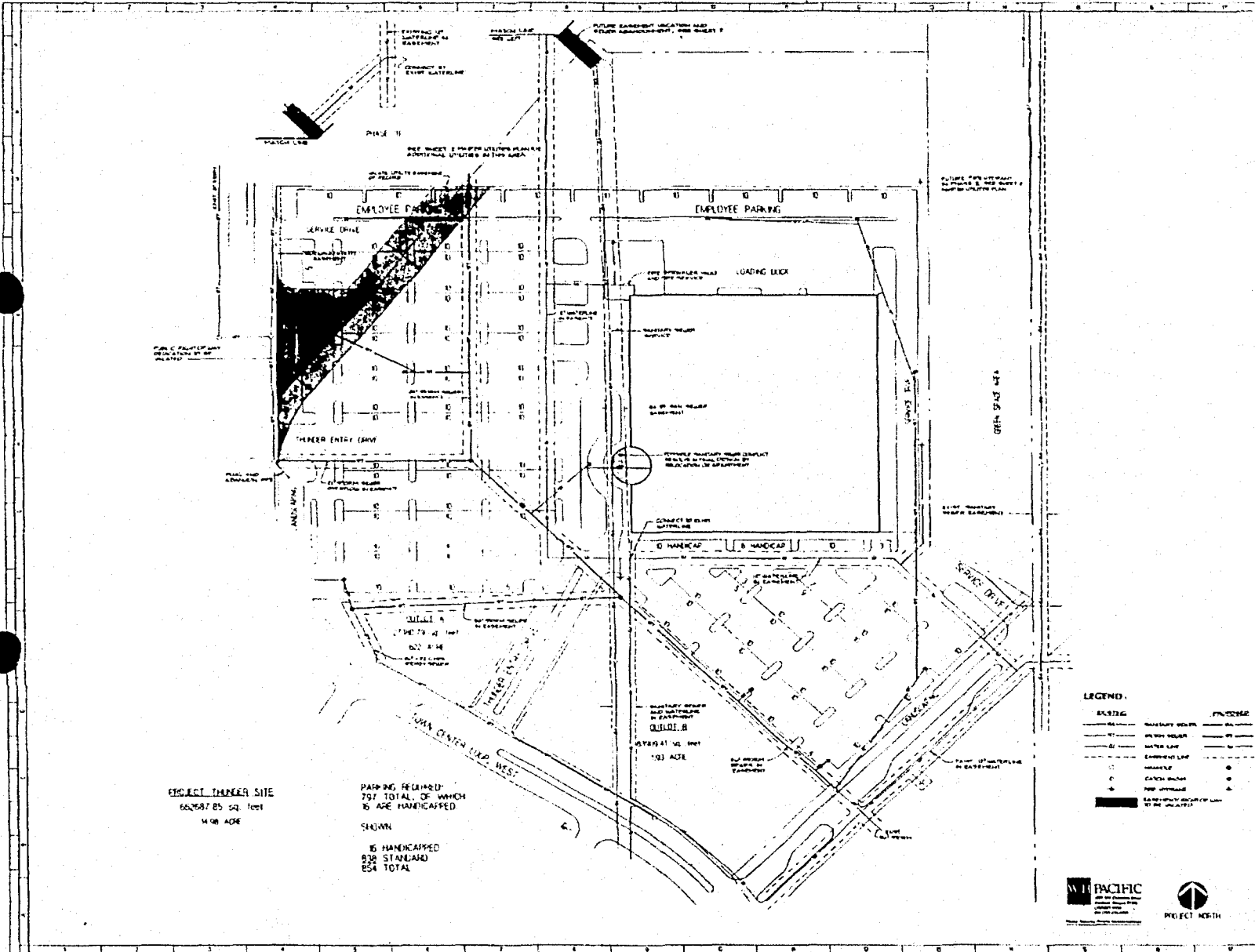
- NOTES
- 1) RECALCULATION OF ALL SQUARE FEETAGES, LENGTHS, WIDTHS, AND PERIMETERS SHOWN ON THIS PLAN SHALL BE THE RESPONSIBILITY OF THE CLIENT. THE ARCHITECT SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THE CLIENT'S INFORMATION OR CALCULATIONS.
  - 2) WHEREAS THE ACCESS DRIVE SHALL BE FINISHED AND SHALL BE THE CLIENT'S RESPONSIBILITY, THE ARCHITECT SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THE CLIENT'S INFORMATION OR CALCULATIONS.

- LEGEND
- EXISTING CURBLINE
  - PROPOSED CURBLINE
  - IMPROVED CURBLINE
  - PROPOSED PAVEMENT
  - METALL MESH FENCE

**DesignForum ARCHITECTS**

PROJECT THUNDER  
 WILSONVILLE, OREGON  
**PHASE II GRADING/EROSION CONTROL PLAN**

DATE	NOV 14 2014
SCALE	1" = 50'-0"
PROJECT	PROJECT THUNDER
SHEET NO.	C 103



PROJECT THUNDER SITE  
 66,267.85 sq. feet  
 140' AOE

PARKING REQUIRED:  
 757 TOTAL, OF WHICH  
 16 ARE HANDICAPPED  
 SHOWN  
 16 HANDICAPPED  
 830 STANDARD  
 854 TOTAL

**LEGEND**

SYMBOL	DESCRIPTION
(Symbol)	MASS GRADE
(Symbol)	WALKWAY
(Symbol)	WATER LINE
(Symbol)	SEWER LINE
(Symbol)	EMERGENCY LINE
(Symbol)	UTILITY
(Symbol)	EXISTING BUILDING
(Symbol)	NEW UTILITY
(Symbol)	EXISTING UTILITY
(Symbol)	NEW UTILITY

**SHEET NOTES**

**GENERAL NOTES**

Key Plan


**DesignForum**  
 ARCHITECTS

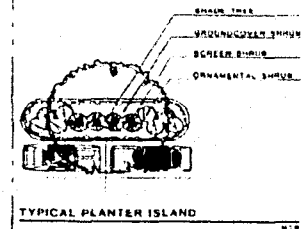
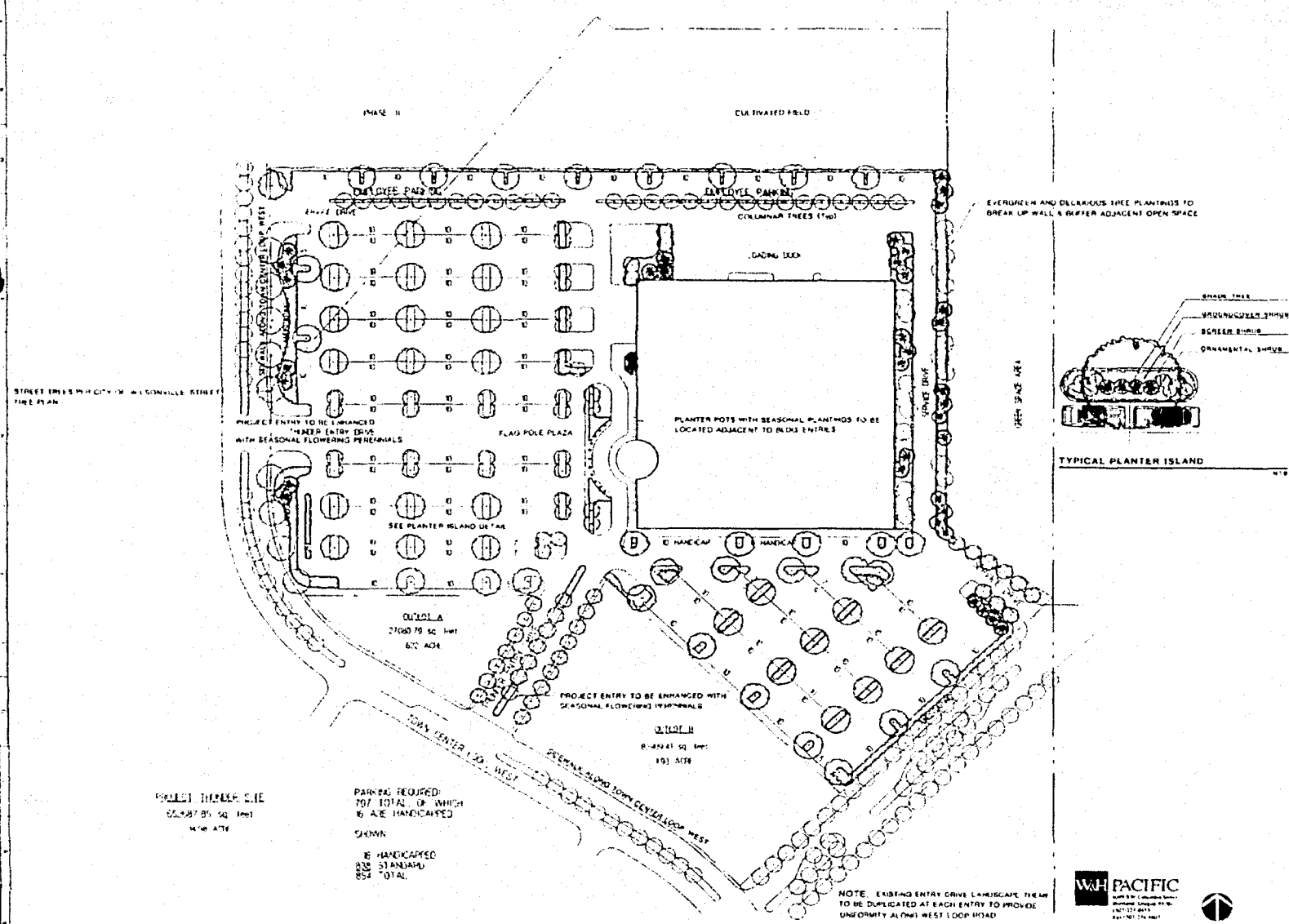
**PROJECT THUNDER**  
 WILSONVILLE, OREGON

**PHASE II UTILITIES PLAN**




C 104

- LEGEND**
- SHADE TREES
  - FLOWERING TREES
  - EVERGREEN CONIFER TREES
  - ORNAMENTAL LANDSCAPE SHRUBS & GROUNDCOVER
  - LAWN
  - EXISTING STREET TREES



GENERAL NOTES  
 \* AUTOMATIC IRRIGATION SYSTEM WILL BE PROVIDED

PROJECT NUMBER: 05-287 05 54 1001  
 1/16/07

PARKING REQUIRED:  
 707 TOTAL OF WHICH  
 76 ARE HANDICAPPED  
 SHOWN  
 8 HANDICAPPED  
 238 STANDARD  
 854 TOTAL

NOTE: EXISTING ENTRY DRIVE LANDSCAPE THEM TO BE DUPLICATED AT EACH ENTRY TO PROVIDE UNIFORMITY ALONG WEST LOOP ROAD



**DesignForum**  
 ARCHITECTS

PROJECT: THUNDER  
 WASHINGTON, DC 200

PHASE II LANDSCAPE PLAN

DATE	1/16/07
BY	...
CHECKED	...
DATE	...
BY	...
CHECKED	...
DATE	...

L 105

ASSIGNMENT

FOR VALUABLE CONSIDERATION, receipt and sufficiency of which are hereby acknowledged, SFS INVESTMENT CORP., an Oregon corporation (Assignor), hereby assigns, transfers and conveys to CAPITAL REALTY CORP., an Oregon corporation (Assignee), all of Assignor's right, title and interest in each option agreement, offer and other document described in Exhibit A attached hereto, the real property described in any such option agreement or offer, and all rights which Assignor now has or may hereafter acquire with respect thereto.

February 1, 1990,

SFS INVESTMENT CORP.

By

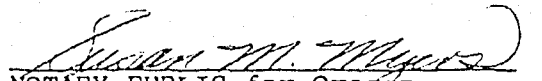


\_\_\_\_\_  
President

STATE OF OREGON            )  
  ) ss.  
County of Multnomah    )

On this 1st day of February, 1990, before me personally appeared Steven F. Stiles who, being duly sworn, did say that he is the president of SFS INVESTMENT CORP., an Oregon corporation, and acknowledged that the foregoing instrument was executed on behalf of the corporation by authority of its board of directors as its voluntary act and deed.

Before me:

  
NOTARY PUBLIC for Oregon  
My Commission Expires 10/31/92

AGREEMENT AND OPTION

Three (3)

THIS AGREEMENT AND OPTION is between E. JEAN YOUNG, SHERILYNN J. YOUNG, DAVID S. YOUNG, MARLENE A. YOUNG, also known as Marlene A. Young Rifai, the Estate of Harold J. Laswell, Deceased, and FRED A. ANDERSON, hereinafter collectively referred to as Grantors, and SFS INVESTMENT CORP., an Oregon corporation, hereinafter referred to as Grantee.

RECITALS

A. The owners of Parcel I, i.e. tax lot 600 & 601, MAP 3-1W-13D, are E. Jean Young, Sherilyn J. Young, David S. Young, Marlene A. Young, also known as Marlene A. Young Rifai, and Jack L. Lozo.

B. The owner of Parcel II, i.e. tax lot 500, MAP 3-1W-13D is Jack L. Lozo.

C. Grantee has options to purchase Parcel I and II by documents respectively dated August 17, 1989 and August 23, 1989; said options are valid through December 21, 1989.

D. Grantor's offer to option Parcel III is contingent upon Grantee's obtaining extensions of the options to purchase Parcel I and II.

E. Grantors own Parcel III, i.e. Tax Lot 200, 300 & 400, Clackamas County MAP 3-1W-14D and ownership interests in a triangle of land approximately 6391 square feet on the west of Tax Lot 200, described in Exhibit A. Parcel III shall refer to the



be made in full upon closing and a statutory warrenty deed provided at that time.

3.4 Notice of Intent to Close must be given at least 15 days before closing. In any event notice of intent to close must be received by October 2, 1990 or the terms of this Option shall be Null and Void.

With notice of intent to close, Grantee shall specify which Phases are to be purchased in closing and changes, if any, in the boundaries of the Phases referencing the survey, to be completed as specified below, the written legal descriptions and acreage/footage specifications.

~~tion.~~ The Option to purchase Phase 2 in its entirety or square foot shall terminate on July 16, 1990 or at closing of sale of any portion of Parcel III unless Grantees pay to Grantors \$50,000 for an extension of the Option for one year. Payment for such extension is nonrefundable and not applicable to the purchase price.

If the above extension of Option is purchased, Grantee may purchase further extension of the Option providing that any sale must close on or before November 2, 1992, at the purchase price of \_\_\_\_\_ plus an additional \$50,000, nonrefundable and not applicable

In event of such extensions, notice of intent to close shall be provided not less than 15 days before closing, and closing shall occur not more than 30 days thereafter. A Statutory

property. Grantee may, at its expense, make such grading plans, architectural and land planning studies and services, traffic engineering studies, economic and commercial benefit studies, and other surveys, services and studies which it deems reasonably necessary for its development of the Option Property.

9. Land Use Applications. Grantors agree to cooperate fully with Grantee in making all applications which Grantee deems necessary for Grantee's use and development of the Option Property, including but not limited to site plan approval, partition and other land use determinations which relate to Grantee's use and development of the property.

Grantors authorize Grantee to execute any such application in Grantor's name and as Grantors' representative. Grantee shall pay all expenses relating to any such application. Grantors shall bear no expense associated herewith.

10. Land use changes such as but not limited to size and location of Open Space and roads shall be presented to Grantors prior to formal application to the City of Wilsonville. Grantors shall retain the right of review during the planning process with the City,

Grantee may not agree to any request to increase the Open Space requirements on any Phase of any Parcel.

11. Real Property Taxes. The Option Property has been specifically assessed as Farm Use Land. Therefore, portions of the annual taxes are deferred until the Option Property becomes disqualified for that purpose. If Grantee exercises the Option as

preliminary agreements. This Option may not be changed except in writing, executed by both parties.

IN WITNESS WHEREOF, the parties have executed this Option this 31 day of October, 1989.

E. Jean Young  
E. JEAN YOUNG

SFS INVESTMENT CORP.

11-8-89

Sherilyn J. Young  
SHERILYNN J. YOUNG

By [Signature]  
SFS President  
Steven F. Styles

David S. Young  
DAVID S. YOUNG

SFS INVESTMENT CORP.

Marlene A. Young  
by [Signature], attorney in fact  
MARLENE A. YOUNG

By [Signature]  
SFS OFFICER

ESTATE OF HAROLD J. LASWELL  
DECEASED

GRANTEES

By Emma D. Laswell  
Emma D. Laswell  
Personal Representative

By Eugene L. Doffler  
Eugene L. Doffler  
Personal Representative

Fred A. Anderson  
FRED A. ANDERSON

GRANTORS

ST IES PROPERTIES LTD.  
by [Signature]

EXHIBIT A

I

Wilsonville Property

Option dated November 16, 1989 granted by Jack L. Lozo for property generally known as Tax Lot 500, Map 3-1W-13, Clackamas County, Oregon.

Agreement and Option dated October 31, 1989 from E. Jean Young, Sherilynn J. Young, David S. Young, Marlene A. Young, Estate of Harold J. Laswell, Deceased, and Fred A. Anderson for property generally known as Tax Lots 200, 300 and 405, Map 3-1W-14D, Clackamas County, Oregon, together with a triangular parcel containing approximately 6,381 square feet on the westerly side of Tax Lot 200.

Option dated November 15, 1989 from E. Jean Young, Sherilynn J. Young, David S. Young, Marlene A. Young, Jack L. Lozo, and Anne S. Lozo, Trustee for Claude F. Smith Trust, for property generally known as Tax Lots 600 and 601, Map 3-1W-13, Clackamas County, Oregon.

Attached hereto is a plot map showing the general location of the three parcels.

II

Gresham Property

Earnest Money Agreement dated August 1, 1989, amended by Memorandum of Agreement dated September 20, 1989, with Leonard P. Holfman and Kenneth G. Holfman, Trustees of the Olive H. Holfman 1979 Trust dated May 7, 1979, for the purchase of a tract of land in the Robert P. Wilmot DLC and being Sections 19 and 30, Township 1 North, Range 3 East of the Willamette Meridian, Multnomah County, Oregon (Tax Lot #32), containing approximately 21.3 acres on the north side of N. E. Sandy Boulevard west of Northeast 181st Avenue.

III

Salem Property

Offer dated November 1, 1989, accepted by Anita Hager Conley, Trustee, on November 29, 1989, for a parcel containing approximately 9.38 acres in the southwest quarter of Section 31, Township 7 South, Range 2 West, known as Tax Lot 200, Salem, Marion County, Oregon.

AGREEMENT AND OPTION

PARCEL II

THIS AGREEMENT AND OPTION is between JACK L. LOZO, hereinafter referred to as Grantors, and SFS INVESTMENT CORP., an Oregon corporation, hereinafter referred to as Grantee.

RECITALS

A. The owners of Parcel I, i.e. tax lot 600 & 601, MAP 3-1W-13, are E. JEAN YOUNG, SHERILYN J. YOUNG, DAVID S. YOUNG, MARLENE A. YOUNG, also known as MARLENE A. YOUNG RIFAI, JACK L. LOZO, and the CLAUDE F. SMITH TRUST, ANN S. LOZO Trustee.

B. The owner of Parcel III, i.e. tax lot 200, 300 & 405, Clackamas County MAP 3-1W-14B and a triangle of land approximately 6,391 square feet on the west of tax lot 200 are E. JEAN YOUNG, SHERILYNN J. YOUNG, DAVID S. YOUNG, MARLENE A. YOUNG, also known as MARLENE A. YOUNG RIFAI, the estate of HAROLD J. LASWELL, Deceased, and FRED A. ANDERSON.

C. Grantors own Parcel II, i.e. Tax Lot 500, MAP 3-1W-13. Parcel II shall also be referred to as the Option property.

D. Grantee has options to purchase Parcel I & II by documents dated August 17, 1969 and August 23, 1969, said options are valid through December 31, 1989.

E. Grantors' offer to option Parcel II is contingent upon Grantee's obtaining an extension of the option to purchase Parcel

3.4 Notice of Intent to Close must be given at least 15 days before closing. In any event notice of intent to close must be received by October 2, 1990 or the terms of this Option shall be Null and Void.

With notice of intent to close, Grantee shall specify which Phases are to be purchased in closing and changes, if any, in the boundaries of the Phases referencing the survey, to be completed as specified below, the written legal descriptions and acreage/footage specifications.

4. Extension. The Option to purchase Phase 1b and 2 in its entirety per square foot shall terminate on July 16, 1990 or at closing of sale of any portion of Parcel II unless Grantee pays to Grantors \$5,000 for an extension of the Option to purchase Phase 1b property, and ~~pays to Grantor an additional \$5,000 for an extension of the Option to purchase Phase 2 property if owned by Grantors.~~ Payment for such extension shall be for one year, is nonrefundable and not applicable to the purchase price. (F) 2. X. Z.

If the above extension of Option is purchased, Grantee may purchase further extension of the Option providing that any sale must close on or before November 2, 1990 at the purchase price of payment on an additional \$5,000, s, nonrefundable and not applicable

In event of such extensions, notice of intent to close shall be provided not less than 15 days before closing, and closing shall occur not more than 30 days thereafter. A Statutory

authority to grant the Option and to sell their interest in the Option Property in accordance herewith.

7. Reciprocal Easements: Grantors and Grantee agree that each will enter into reciprocal easements with the owners of Parcels I and III as agreed upon by the parties.

8. Right of Entry. Grantee may, at its risk and expense during the term of the Option, enter upon the Option Property at any time to make engineering tests, soil tests and for any other lawful purpose in pursuit of the purchase and development of said property. Grantee may, at its expense, make such grading plans, architectural and land planning studies and services, traffic engineering studies, economic and commercial benefit studies, and other surveys, services and studies which it deems reasonably necessary for its development of the Option Property.

9. Land Use Applications. Grantors agree to cooperate fully with Grantee in making all applications which Grantee deems necessary for Grantee's use and development of the Option Property, including but not limited to site plan approval, partition and other land use determinations which relate to Grantee's use and development of the property.

~~Grantors authorize Grantee to execute any such application in Grantors' name and as Grantors' representative.~~ Grantee shall pay all expenses relating to any such application. Grantors shall bear no expense associated herewith.

10. Land use changes such as but not limited to size and location of Open Space and roads shall be presented to Grantors

the entire agreement among the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions and preliminary agreements. This Agreement and Option may not be changed except in writing, executed by both parties.

IN WITNESS WHEREOF, the parties have executed this Option this 14 day of November, 1989.

*Jack L. Lozo*  
JACK L. LOZO

SFS INVESTMENT CORP.

*ANN S. LOZO*, Trustee for  
CLAUDE F. SMITH TRUST *2.2.2.*  
*SF*

By

*Steven F. Stiles*  
SFS President  
Steven F. Stiles

GRANTORS

SFS INVESTMENT CORP.

By

*[Signature]*  
SFS Officer

GRANTEES



PROJECT THUNDER LEGAL DESCRIPTION

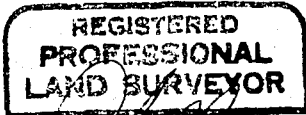
A parcel of land situated in the southeast quarter of Section 14 in Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon. Said parcel of land being more particularly described as follows:

**COMMENCING** at the southeast corner of Section 14, Township 3 South, Range 1 West, Willamette Meridian, Clackamas County, Oregon; thence North  $00^{\circ}03'01''$  East along the section line between Sections 13 and 14 a distance of 1,077.07 feet to the most westerly northwest corner of Parcel 1 of Partition Plat No. 1991-164 recorded in Fee 91-48507 of the Clackamas County Plat Records and the **TRUE POINT OF BEGINNING**; thence leaving said section line and tracing the following courses and distances: South  $45^{\circ}03'00''$  West 400.00 feet; thence North  $44^{\circ}57'00''$  West 435.01 feet to a point of non-tangent curvature; thence tracing the arc of a 2,000.00 foot radius curve to the right (the radial center of which bears North  $65^{\circ}07'50''$  West) through a central angle of  $07^{\circ}23'12''$  an arc distance of 257.84 feet (the long chord bears South  $28^{\circ}33'46''$  West 257.66 feet) to the northeasterly right-of-way line of Town Center Loop Road West (a 72.00 foot-wide public road right-of-way); thence tracing said northeasterly road right-of-way line North  $57^{\circ}44'38''$  West 72.00 feet to a point of radial intersection with a 1,928.00 foot radius curve; thence leaving said northeasterly right-of-way line and tracing the arc of a 1,928.00 foot radius curve to the left through a central angle of  $05^{\circ}32'12''$  an arc distance of 186.31 feet (the long chord bears North  $29^{\circ}29'16''$  East 186.23 feet); thence South  $89^{\circ}52'55''$  West 304.91 feet to a point of non-tangent curvature on the said northeasterly right-of-way line of Town Center Loop Road West; thence tracing said right-of-way line along a 268.16 foot radius curve to the right (the radial center bears North  $56^{\circ}01'43''$  East) through a central angle of  $33^{\circ}55'55''$  an arc distance of 158.81 feet (the long chord bears North  $17^{\circ}00'19''$  West 156.50 feet) to a point of tangency; thence continuing along said right-of-way line North  $00^{\circ}02'22''$  West 151.37 feet to the southeasterly line of that certain tract as deeded to the City of Wilsonville, Oregon in deed recorded November 12, 1986 in recorder's fee 86-44957; thence tracing said southeasterly line and continuing on the southeasterly line of that certain tract deeded to the City of Wilsonville in deed recorded November 12, 1986 in recorder's fee 86-44959 North  $38^{\circ}37'19''$  East 215.39 feet to the northerly line of said tract per fee 86-44959; thence tracing said northerly line South  $89^{\circ}58'19''$  West 104.56 feet to a point of curvature; thence tracing a 30.00 foot radius curve to the right through a central angle of  $89^{\circ}59'19''$  an arc distance of 47.12 feet (the long chord bears North  $45^{\circ}02'02''$  West 42.42 feet) to a point of tangency on the easterly right-of-way line of said Town Center Loop Road West; thence leaving said northerly property line and tracing said right-of-way line North  $00^{\circ}02'22''$  West 121.76 feet; thence leaving said right-of-way line and tracing the following

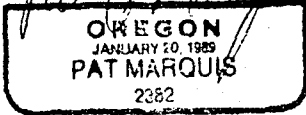
courses and distances: North 89°52'55" East 894.39 feet to a line being parallel with and 140.00 feet westerly of the said section line common to sections 13 and 14; thence tracing said parallel line South 00°03'01" West 528.73 feet; thence South 56°23'33" East 168.00 feet to the **TRUE POINT OF BEGINNING**. Said parcel contains 642,427 square feet or 14.75 acres more or less.

755-0101

10/16/91



*Pat Marquis*



Jim Parsons  
Jim Faulkner  
Doug Seely

~~Phase~~  
Stage I, II, III → Cap. Realty will submit

Phase II →

Cap. Realty Δ master plan modification  
Site plan I, II

Lindy - Transfer 170<sup>+</sup> <sup>thou</sup> footprint  
Electronics +

Driveway / TC (E) + (W)

Driveway → Open Space

Submit Stage I + II Simultaneously

Blaise  
What else?

\* Gave Stage I + II + application x 2  
250' radius map owners

Topo - 1' intervals - (map has readings)

~~Blaise 52' top down~~  
Phase

CITY

100-120 DWELING UNITS.

- DOUG SEELY TALKED TO BOB DANT -
- ABOUT DENSITY TRANSFER TO BRIDGE CREEK,
- P.O.S.

- CONTOUR SURVEY - 720' 0

[ TREE SURVEY  
 > 6" CALIBER ]

MAJOR DRAINAGEWAY.

STAKE THE PROPERTY - SITE VISIT TO VERIFY  
 P.O.S. LINE - AMBIGUITY - GO TO P.C. TO C.C.  
 FOR INTERPRETATION.

---

CALC. VALUE ~~120~~

**CITY of WILSONVILLE  
PLANNING COMMISSION  
SITE MASTER PLAN (STAGE I)  
GENERAL SUBMISSION REQUIREMENTS**

1. Completed application form, with appropriate fee, signed by property owner.
2. Set forth the professional coordinator and professional design team.
3. State whether the development will include mixed land uses, and if so, what uses and in what proportions and locations.
4. The application shall include conceptual and quantitatively accurate representation of the entire development sufficient to judge the scope, size and impact of the development on the community; and, in addition, shall be accommodated by the following information:

13 FOLDED copies of Site Master Plan dimensioned at a scale of 1" = 20 ft. ( or as determined by the Planning Director ) showing the following:

- a. Vicinity map.
  - b. The entire lot as described by the legal description.
  - c. Location and size if all public facilities, utilities and easements.
  - d. Location and dimension of site improvements such as roads, buildings, driveways, parking, loading and landscaping.
  - e. All adjacent rights-of-way and improvements.
  - f. Any surrounding development, i.e., existing buildings, property lines, driveways, etc.
  - g. Development phasing. A stage development schedule demonstrating that the developer intends to commence construction within (1) One year after the approval of the development plan, and will proceed diligently to completion.
  - h. Topographic information at one-foot intervals up to 5% slope; two-foot intervals, 6% - 12%; five-foot intervals, 12% - 20%; ten-foot intervals, 20% and above.
5. One copy of Site Plan reduced to 8-1/2" x 11". This must be a legible photo-mechanical transfer (PMT).
  6. Site Analysis Data.

<u>Item</u>	<u>Lot Coverage in sq. ft.</u>	<u>Lot Coverage in %</u>
Building area	458,771 sq. ft.	.18 %
Parking and Drives	1,394,390 sq. ft.	.53 %
Landscaping/Open Space	751,291.4 sq. ft.	.29 %
Residential density per net acreage.	_____	
<b>TOTAL SITE AREA</b>	<b>2,604,452.4 sq. ft.</b> <b>59.79 ACRES</b>	<b>100 %</b>

*Planning Department 682-4960*

**INCOMPLETE SUBMITTALS WILL NOT BE SCHEDULED FOR A PUBLIC MEETING !**

# Traffic count zooms at electronic store

■ Wilsonville's projections for vehicle flow at the Incredible Universe fall woefully short

By JOHN M. GRUND

Correspondent, The Oregonian

WILSONVILLE — When it comes to predicting how much traffic a new development will bring, Wilsonville officials always have gone by the book.

But going by the book has not worked for some recently opened projects — in particular the Incredible Universe electronics store. In some cases, traffic is already at levels predicted for 2010.

Now city officials are looking at ways to refine the city's traffic projections.

Eldon Johansen, community development director, told the City Council early this month that traffic on Town Center Loop West near the new electronics store is averaging 1,227 vehicles an hour northbound at 2 p.m. That's 550 more vehicles per hour than anticipated in projections for 1995, he said.

"As far as the traffic counts go, we've had a real eye-opener on our traffic projections. We're already up past (the year) 2010 on some of our traffic projections," Johansen said.

"The traffic analysis prepared by Capital Realty and the Incredible Universe's traffic consultants, Kittelson and Associates, has greatly underestimated the traffic impacts," said Arlene Loble, city manager.

The city has changed its procedure for getting traffic analysis done on proposed developments. This fall, it switched from having a developer hire a traffic engineering firm to requiring applicants to pay for a study by D.K.S. Associates, the firm chosen by the city to handle all of its traffic analysis.

Planning Director Wayne Sorensen said the move should not be interpreted as a criticism of the firms that have done studies in the past. All of them, in fact, bid on the city contract, he said.

"I think we feel better now (that) the traffic engineer is working for the city," he said. "When the applicant hires the engineer, they're working for the client, and the city's not the client."

Johansen said the city also would expand the scope of some studies.

The Incredible Universe study analyzed traffic flows through the adjoining intersection, at Town Center Loop West and Wilsonville Road. But it did not reach to the next intersection to the west, at Wilsonville Road and Interstate 5.

It was that intersection that clogged up at the Incredible Universe opening Sept. 17 and caused traffic to back up for miles in both directions.

If the study were being done today, the city would insist that engineers look at one more intersection down the road, Johansen said.

City Councilor Greg Carter asked if the traffic effects of some recent developments meant that the city should consider a moratorium on some new construction.

"I'm not willing to say that yet," Johansen said.

He said three things went wrong with the Incredible Universe traffic study. First, the predictions were made as if the city's Transportation Plan was already in place, but many roads are yet to be built.

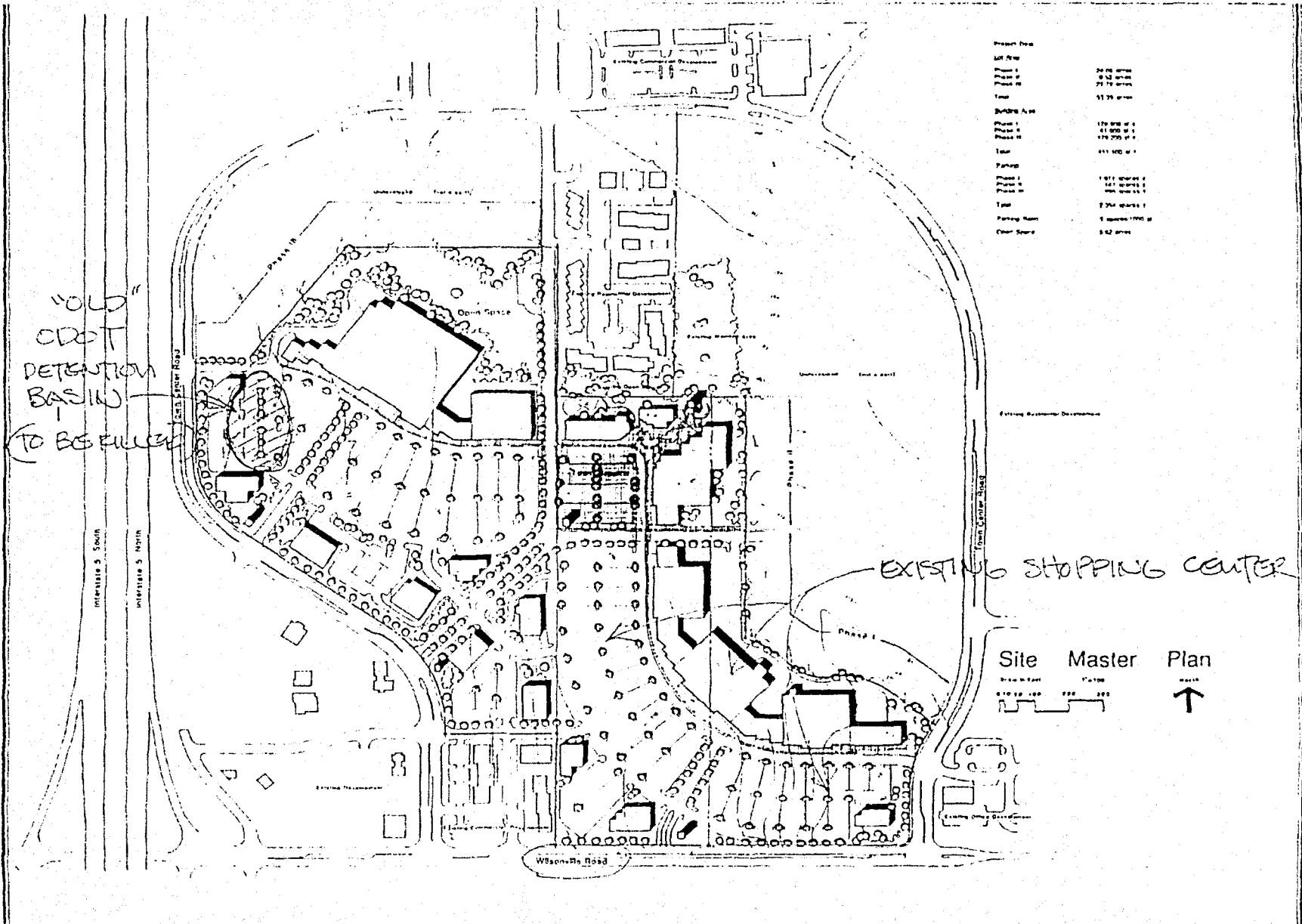
Second, the study assumed that 40 percent of the flow into the Incredible Universe would be "drop-in" traffic — that is, traffic already on the streets for other reasons. But the store has become a regional draw, and "drop-in" traffic is a tiny percentage of traffic it attracts. Finally, the traffic study did not account for the success of the store's marketing effort.

"At a minimum, we need to be broadening the assumptions on which decisions are made," Loble said. "We've recognized that the traffic situation is beyond anything anticipated in the rational decision-making model."

Sorensen, however, later said there are no plans to tinker with the engineering manual — he called it "the bible" — that predicts how many new trips will be generated by a particular use.

Sorensen would not hazard a guess about whether any of the changes will mean that developments will have a tougher time getting planning approval in Wilsonville. But he said that at least one major development was turned down as long as two years ago because it would have brought too much traffic to an overburdened street.

cc: Bill, JAVLS



Phase I	170,000 sq ft
Phase II	170,000 sq ft
Total	340,000 sq ft
Lot Area	1,100,000 sq ft
Lot Coverage	30.9%
Impervious Area	105,000 sq ft
Impervious Coverage	9.5%
Open Space	1,000,000 sq ft
Open Space Coverage	90.5%
Planting Area	1,000,000 sq ft
Planting Coverage	90.5%
Planting Density	100 plants/acre
Planting Species	100% native
Planting Cost	\$100,000
Planting Maintenance	\$10,000/yr
Planting Replacement	\$10,000/yr
Planting Total	\$120,000/yr
Planting Density	100 plants/acre
Planting Species	100% native
Planting Cost	\$100,000
Planting Maintenance	\$10,000/yr
Planting Replacement	\$10,000/yr
Planting Total	\$120,000/yr

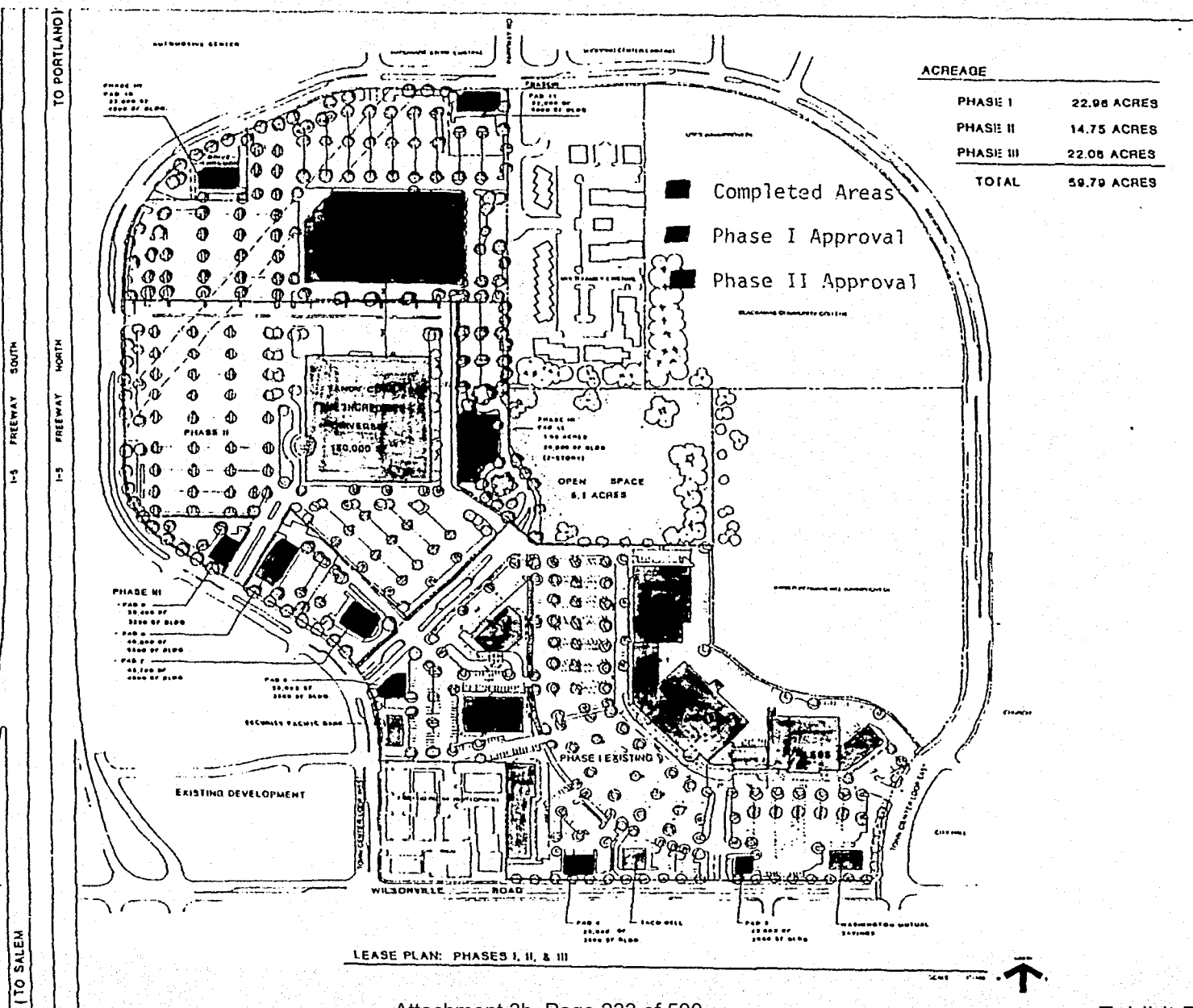
JKS Architects PC  
1000 NE Oregon Street, Suite 200  
Wilsonville, OR 97150  
503.399.1234

Wilsonville Town Centre

P1







ACREAGE	
PHASE I	22.98 ACRES
PHASE II	14.75 ACRES
PHASE III	22.05 ACRES
<b>TOTAL</b>	<b>59.79 ACRES</b>

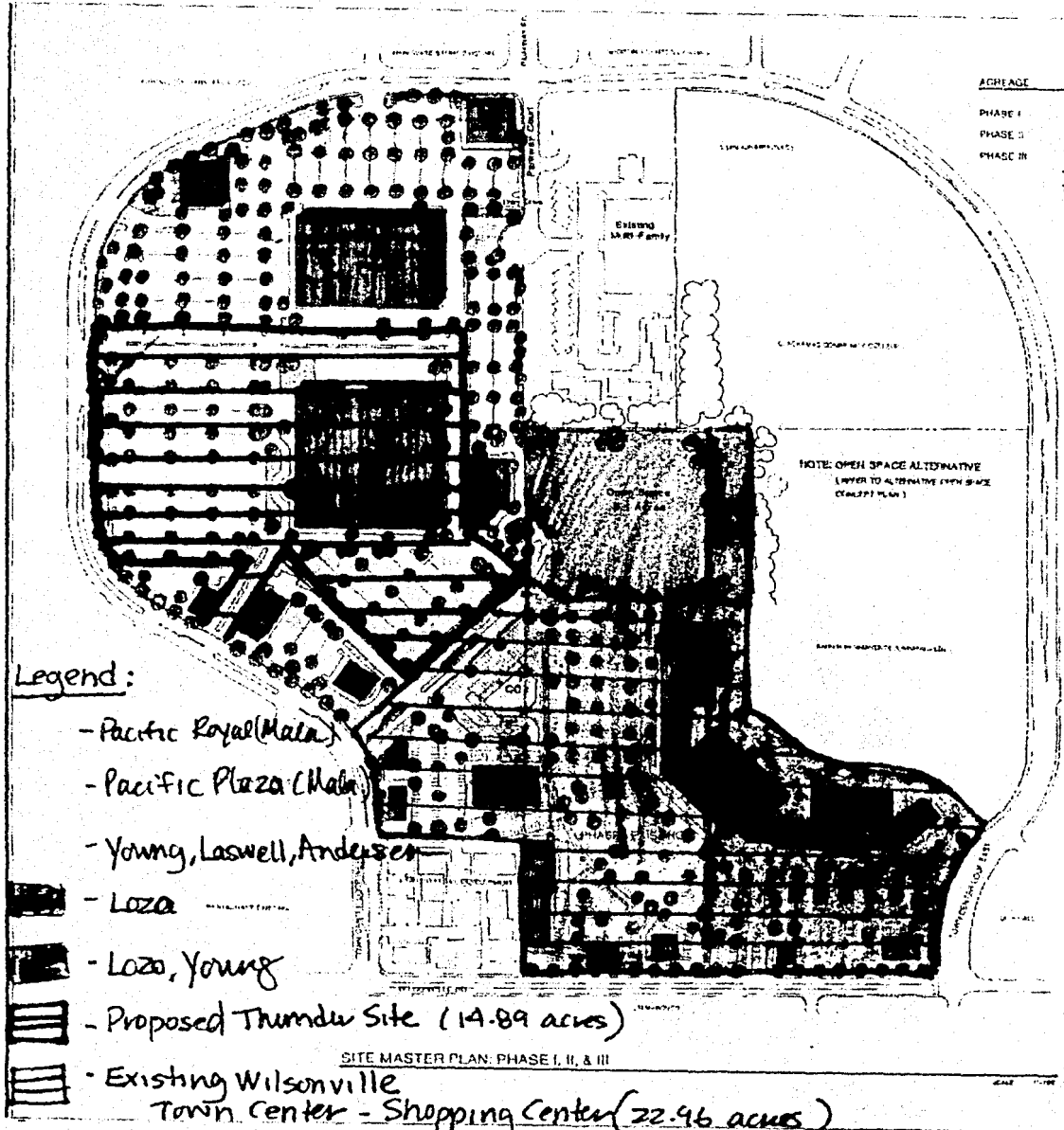
- Completed Areas
- ▨ Phase I Approval
- ▤ Phase II Approval

LEASE PLAN: PHASES I, II, & III

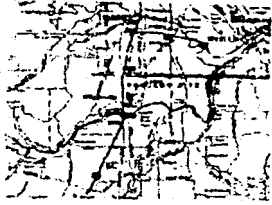
JKS Architects PC  
 433 W. Taylor Street, Suite 200 • Portland, Oregon 97204  
 503.251.1111 • Fax: 503.251.1112

WILSONVILLE TOWN CENTER  
 WILSONVILLE, OREGON

1" = 100'	1" = 200'	1" = 300'	1" = 400'	1" = 500'
1" = 100'	1" = 200'	1" = 300'	1" = 400'	1" = 500'



ACREAGE	
PHASE I	22.96 ACRES
PHASE II	14.75 ACRES
PHASE III	22.58 ACRES
<b>TOTAL</b>	<b>60.29 ACRES</b>



VICINITY MAP

**NOTES**

1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITIONS OF THE INTERNATIONAL PLUMBING CODE (IPC).

2. ALL UTILITIES SHALL BE DEPTH TESTED AND RECORDED PRIOR TO CONSTRUCTION.

3. ALL EXISTING UTILITIES SHALL BE MAINTAINED AND PROTECTED THROUGHOUT CONSTRUCTION.

4. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITIONS OF THE INTERNATIONAL PLUMBING CODE (IPC).

5. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITIONS OF THE INTERNATIONAL PLUMBING CODE (IPC).

6. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITIONS OF THE INTERNATIONAL PLUMBING CODE (IPC).

7. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITIONS OF THE INTERNATIONAL PLUMBING CODE (IPC).

8. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITIONS OF THE INTERNATIONAL PLUMBING CODE (IPC).

9. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITIONS OF THE INTERNATIONAL PLUMBING CODE (IPC).

10. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITIONS OF THE INTERNATIONAL PLUMBING CODE (IPC).

**Legend:**

- Pacific Royal (Mala)
- Pacific Plaza (Mala)
- Young, Laswell, Andersen
- Loza
- Loza, Young
- Proposed Thunder Site (14.89 acres)
- Existing Wilsonville Town Center - Shopping Center (22.96 acres)

SITE MASTER PLAN: PHASE I, II, & III

JKS Architects PC  
 22 SW 3RD AVE, SUITE 200, WILSONVILLE, OREGON 97154  
 503.535.1111

WILSONVILLE TOWN CENTER  
 WILSONVILLE, OREGON

DEFECTS IN

ORIGINAL

DOCUMENT





**EXHIBIT F**

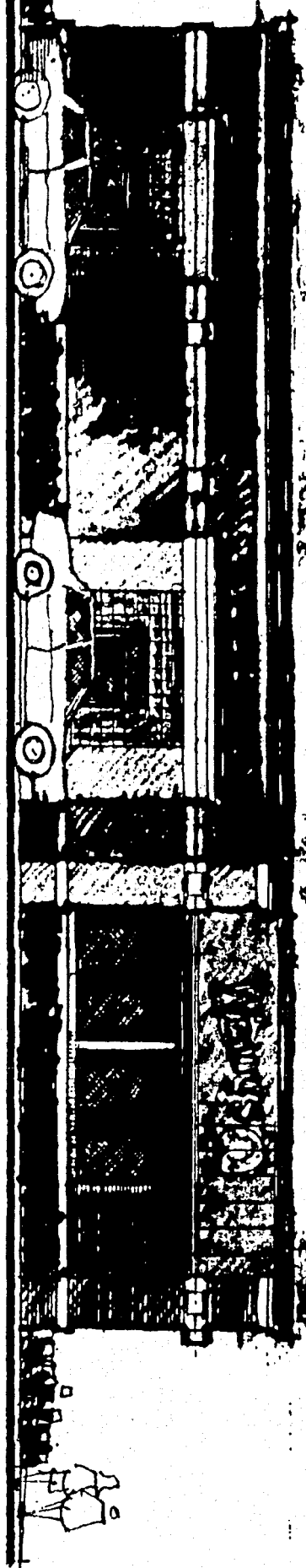
1/8" = 1'-0"

**NORTH ELEVATION**



1/8" = 1'-0"

**SOUTH ELEVATION**

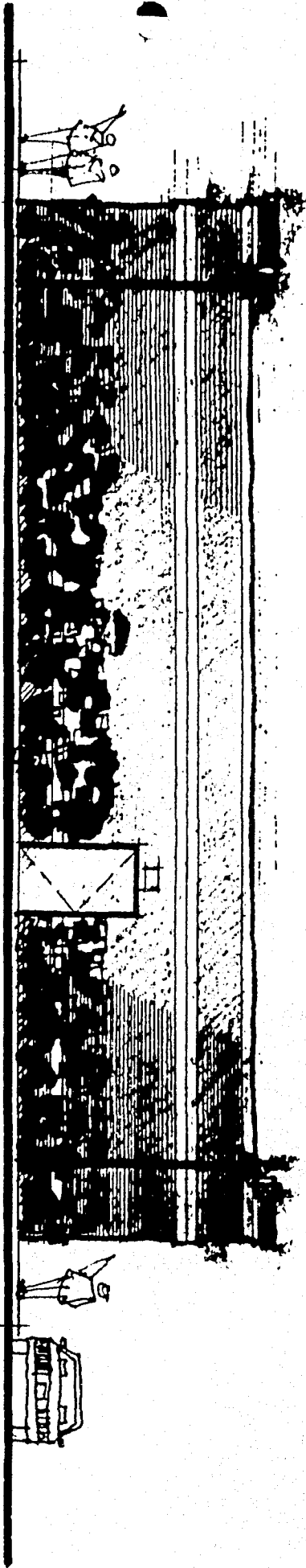


DRAWING NO: <b>1</b>	PROJECT NAME: <b>Wendy's Restaurant</b>	DATE: <b>2/5/93</b>
	DRAWING TITLE: <b>Elevations</b>	REVISION:



1/8" = 1'-0"

WEST ELEVATION



1/8" = 1'-0"

EAST ELEVATION



<b>2</b>	DRAWING NO:	PROJECT NAME:	DATE:
		Wendy's Restaurant	2/5/93
		DRAWING TITLE:	REVISION:
		Elevations	



*Handwritten initials or signature.*

# CITY OF WILSONVILLE

# PLANNING DEPARTMENT SITE DEVELOPMENT APPLICATION AND PERMIT

3445 S.W. Elsworth Road  
P.O. Box 220 Wilsonville, OR 97150-0220  
503-662-3445

File No. 91 PC 43 1/4 Sec.  
Final Action on application or other change is required within 120 days in accordance with provisions of ORS 227.175  
A pre-application conference normally is required prior to submission of an application. Please contact the Planning Department at (503) 662-3445 for an appointment.

Pie-App. No. Day Yr

### APPLICANT - COMPLETE

Owner's Name CAPITAL REALTY CORP Contact Person Kim Beach  
Address 101 S.W. MAIN SUITE 1500 Address \_\_\_\_\_  
Portland OR 97204  
Phone 223-1200 Phone SAME

Owner's Signature Kimberly Beach, Vice President Capital Realty Corp  
Plaza Royal Office Center, Representative 500 SW 13  
Property Description: 1 3 Map 13 & 14-D Tax. c. 115 200,201, 101  
102, 300  
Request: STAGE I MASTER PLAN REVISION  
STAGE II PHASE II WILSONVILLE Town Center  
SITE PLAN - MOBILITY CONDITION #8 OF 90PC15

Please attach a plat plan (scale: 1"=40') and any other documents to this application. Please review the Planning Department submittal requirements to ensure that your application is complete.

### - OFFICE USE ONLY -

Complete Application Accepted: Date 10/18/91 Public Hearing Date 12/19/91

Staff Signature Brian Edwards

Class I  Class II  Class III

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> PLAN AMENDMENT                 | <input type="checkbox"/> MAJOR PARTITION                                   | <input type="checkbox"/> DESIGN REVIEW  |
| <input type="checkbox"/> ZONE CHANGE                    | <input type="checkbox"/> MINOR PARTITION                                   | <input type="checkbox"/> TEXT AMENDMENT |
| <input type="checkbox"/> PRELIMINARY PLAT               | <input type="checkbox"/> CONDITIONAL USE                                   | <input type="checkbox"/> SIGN REVIEW    |
| <input type="checkbox"/> FINAL PLAT                     | <input type="checkbox"/> VARIANCE  | <input type="checkbox"/> TEMPORARY USE  |
| <input checked="" type="checkbox"/> PLANNED DEVELOPMENT | <input checked="" type="checkbox"/> OTHER RECONSIDERED CONDITION OF 90PC15 |   |

### SITE FINDINGS

- Zoning: PC 1 Town Centers, Building Area \_\_\_\_\_
- Area of lot: SEE FILE
- Building or Sign Height: TOWN CENTERS LOOK WEST  
(Max) \_\_\_\_\_
- Zoning Code Minimum Set-backs:  
Front \_\_\_\_\_  
Side \_\_\_\_\_  
Rear \_\_\_\_\_
- Access to Property \_\_\_\_\_
- Other: \_\_\_\_\_

Approved  Denied  Approved with Conditions (See attached)

Conditions of Development:

Approval of this Development Permit is submitted as based on information submitted by the applicant or called into view. Any change of plans or incorrect information submitted may result in revocation of permit. This decision may be appealed in accordance with the provisions of the Wilsonville Code and ORS 227.180.

Fee Amount Paid \$1315.00 Check No. SEE # Cash 1205 Fee \$500.00 Fee I  
1206 Fee \$825.00  
1207 Fee \$250.00 Date: \_\_\_\_\_

Permit Approval: Planner's Signature \_\_\_\_\_

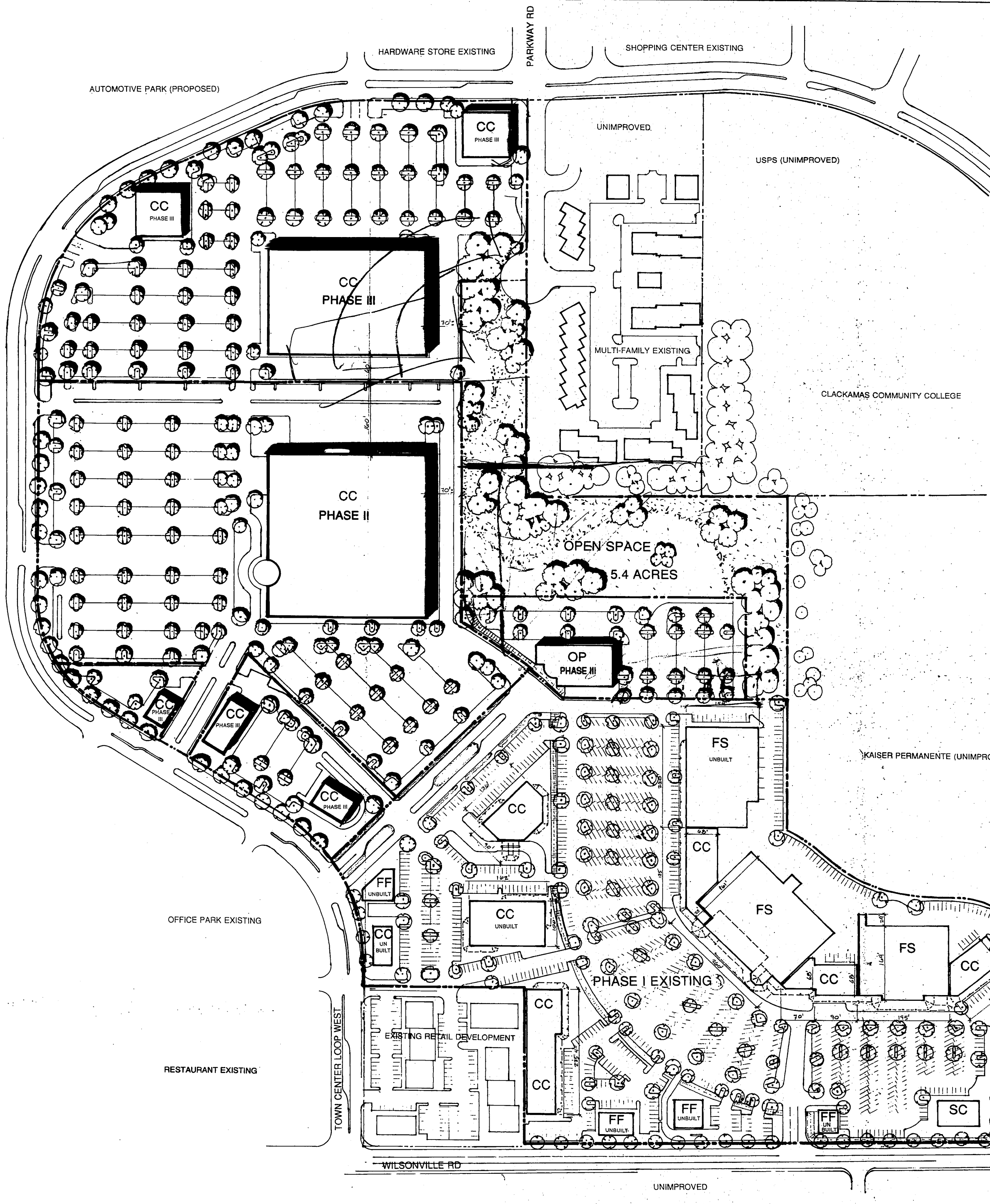
City Council or Planning Commission Approval  Yes  No

Order: Resolution \_\_\_\_\_

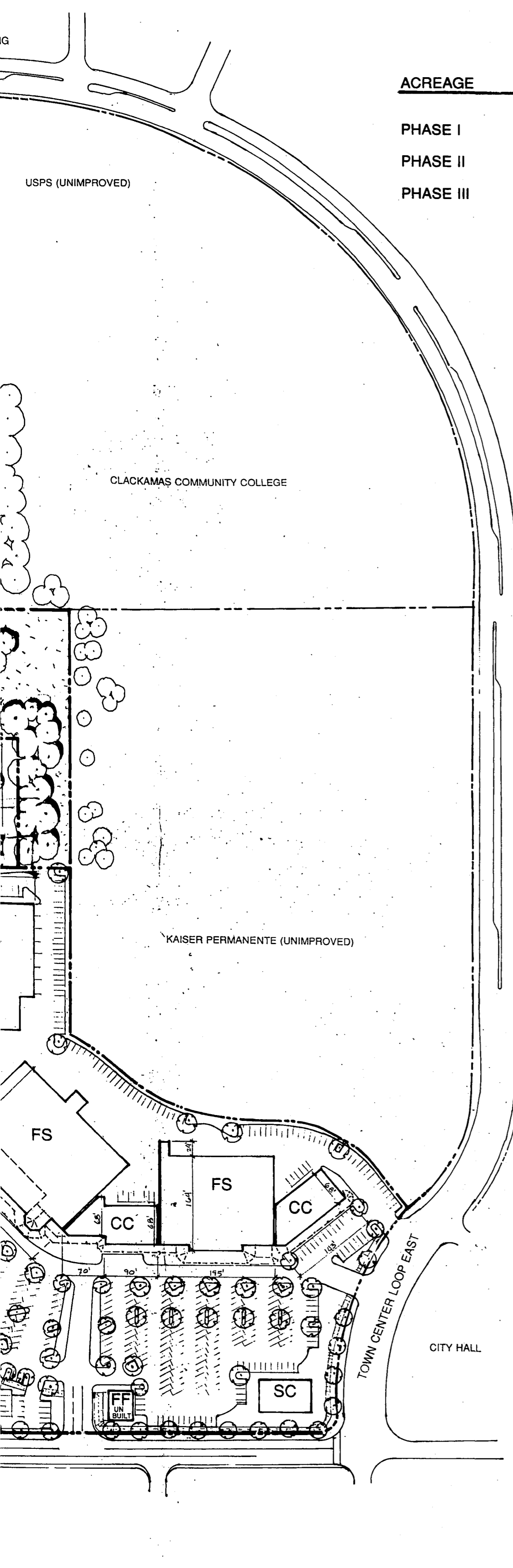
Attachment 3b, Page 240 of 500 Exhibit B





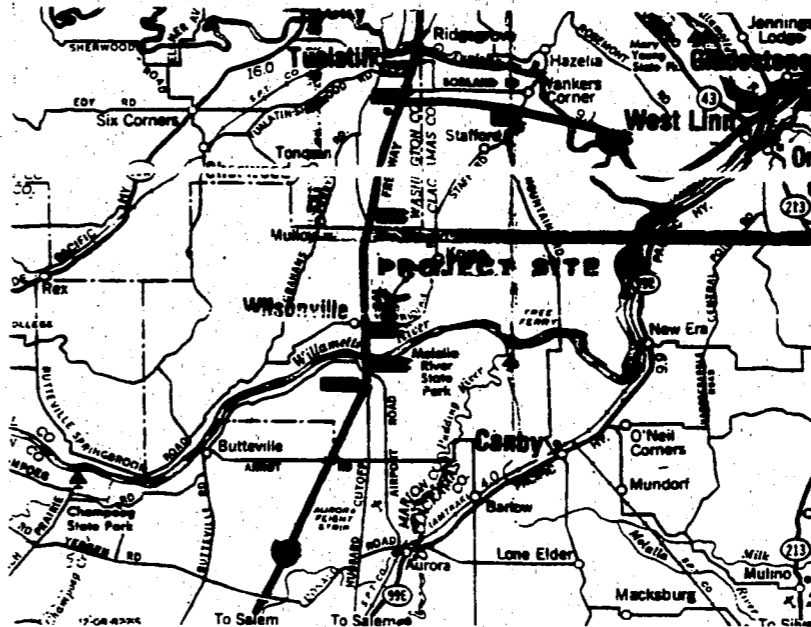


**SITE MASTER PLAN: PHASE I, II, & III**



**ACREAGE**

PHASE I	22.96 ACRES
PHASE II	14.75 ACRES
PHASE III	22.08 ACRES
<b>TOTAL</b>	<b>59.79 ACRES</b>



**VICINITY MAP**

467-0102  
5/6/91

**PHASE ONE LEGAL DESCRIPTION**

A parcel of land situated in the southwest quarter of Section 13 and the southeast quarter of Section 14 in Township 3 South, Range 1 West, Willamette Meridian, Clackamas County, Oregon. Said parcel of land being more particularly described as follows:

**COMMENCING** at the southwest corner of Section 13, Township 3 South, Range 1 West, Willamette Meridian, Clackamas County, Oregon; thence North 00°03'21" East along the section line between Sections 13 and 14 a distance of 44.00 feet to the **POINT OF BEGINNING**; thence continuing North 02°03'00" East along said section line a distance of 339.50 feet; thence South 89°55'30" West a distance of 338.63 feet to the easterly right-of-way line of Town Center Loop Road West; thence North 00°00'22" East along said easterly right-of-way line a distance of 46.55 feet to a point of curvature; thence 247.91 feet along the arc of a 250.34 foot radius curve to the left through a central angle of 37°15'11" and whose chord bears North 15°39'27" West a distance of 243.55 feet to a point on a curve; thence North 45°03'00" East a distance of 554.11 feet; thence South 89°57'00" East a distance of 66.14 feet; thence South 00°03'00" West a distance of 63.00 feet; thence South 89°57'00" East a distance of 479.78 feet; thence South 00°03'01" West a distance of 285.58 feet to the intersection with a non-tangent curve; thence 33.82 feet along the arc of a 317.35 foot radius curve to the right through a central angle of 16°55'21" and whose chord bears South 55°30'50" East a distance of 93.45 feet to a point of reverse curvature; thence 348.26 feet along the arc of a 338.67 foot radius curve to the left through a central angle of 42°03'30" and whose chord bears South 89°02'43" East a distance of 242.74 feet to a point of tangency; thence South 89°02'49" East a distance of 51.65 feet to a point of curvature; thence 14.68 feet along the arc of a 200.00 foot radius curve to the right through a central angle of 5°27'30" and whose chord bears South 89°01'32" East a distance of 159.15 feet to a point of tangency; thence South 29°00'15" East a distance of 87.50 feet to a point on a non-tangent curve; thence 325.11 feet along the arc of a 200.00 foot radius curve to the left through a central angle of 18°14'18" and whose chord bears South 29°40'08" West a distance of 331.74 feet to a point of tangency; thence South 00°03'01" West a distance of 88.17 feet to a point of curvature; thence 48.14 feet along the arc of a 30.00 foot radius curve to the right through a central angle of 89°16'20" and whose chord bears South 89°42'00" West a distance of 48.17 feet to a point of tangency; thence South 22°22'25" West a distance of 375.41 feet to the **POINT OF BEGINNING**. Said parcel of land contains 22.96 acres, more or less.

**PHASE II AND III LEGAL DESCRIPTION**

A parcel of land situated in the southwest quarter of Section 13 and the southeast quarter of Section 14 in Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon. Said parcel of land being more particularly described as follows:

**COMMENCING** at the southwest corner of Section 13, Township 3 South, Range 1 West, Willamette Meridian, Clackamas County, Oregon; thence North 00°03'01" East along the section line between Sections 13 and 14 a distance of 1,077.07 feet to the most westerly northwest corner of Parcel of Partition Plat No. 1991-164 recorded in Fee 91-48507 of the Clackamas County Plat Records and the **TRUE POINT OF BEGINNING**; thence leaving said section line South 45°03'00" West 589.42 feet to point of non-tangent curvature on the northeasterly right-of-way line of Town Center Loop Road West (a 75.00 foot-wide public road right-of-way); thence tracing said northeasterly road right-of-way line along the following courses and distances: tracing the arc of a 350.84 foot radius curve to the left through a central angle of 20°25'22" an arc distance of 135.64 feet (the long chord bears North 47°11'56" West 134.32 feet) to a point of tangency; thence North 57°44'38" West 463.50 feet to a point of curvature; thence tracing the arc of a 258.16 foot radius curve to the right through a central angle of 57°27'16" an arc distance of 270.07 feet (the long chord bears North 28°53'30" West 258.80 feet) to a point of tangency; thence North 00°02'22" West 151.37 feet to the southeasterly line of that certain tract as deeded to the City of Wilsonville, Oregon in deed recorded November 12, 1986 in recorder's fee 86-44957; thence tracing said southeasterly line and continuing on the southeasterly line of that certain tract as deeded to the City of Wilsonville in deed recorded November 12, 1986 in recorder's fee 86-44959 North 38°37'13" East 215.39 feet to the northerly line of said tract per fee 84-4353; thence tracing said northerly line South 89°58'19" West 104.56 feet to a point of curvature; thence tracing a 30.00 foot radius curve to the right through a central angle of 89°58'19" an arc distance of 47.12 feet (the long chord bears North 45°02'02" West 42.42 feet) to a point of tangency on the easterly right-of-way line of said Town Center Loop Road West; thence leaving said northerly property line and tracing the easterly and southeasterly right-of-way lines of said Town Center Loop Road West along the following courses and distances: North 00°02'22" West 230.31 feet to a point of curvature; thence tracing the arc of a 200.00 foot radius curve to the right through a central angle of 84°13'44" an arc distance of 258.91 feet (the long chord bears North 32°24'30" East 244.25 feet) to a point of tangency; thence North 89°57'00" East 285.04 feet to a point of curvature; thence tracing the arc of a 414.00 foot radius curve to the right through a central angle of 24°58'03" an arc distance of 150.41 feet (the long chord bears North 70°22'24" East 178.36 feet) to a point of tangency; thence North 89°43'25" East 300.93 feet to a point of curvature for a right-of-way return to Parkway Avenue; thence leaving said southerly right-of-way line of Town Center Loop Road West and tracing the arc of a 20.00 foot radius curve to the right through a central angle of 90°13'35" an arc distance of 31.49 feet (the long chord bears South 45°03'47" East 28.34 feet) to the westerly right-of-way line of said Parkway Avenue (31.00 feet from center line); thence tracing said right-of-way line through the following courses and distances: South 00°03'01" West 311.17 feet to a point of curvature for the return to the cul-de-sac for said Parkway Avenue; thence tracing the arc of a 20.00 foot radius curve to the right through a central angle of 47°09'23" an arc distance of 15.46 feet (the long chord bears South 23°27'42" West 15.90 feet); to a point of reverse curvature; thence tracing the arc of a 55.00 foot radius curve to the left through a central angle of 87°55'01" an arc distance of 84.46 feet (the long chord bears South 03°12'53" West 76.40 feet); thence leaving said Parkway Avenue right-of-way line North 89°52'55" East 41.62 feet to the east line of section 14, Township 3 South, Range 1 West, of the Willamette Meridian in the State of Oregon; thence tracing said east line of section 14 South 00°03'01" West 446.55 feet to the northerly line of Parcel 1 of said Partition Plat No. 1991-164; thence tracing said northerly line and continuing along the northerly line of Parcel 2 of said Partition Plat No. 1991-164 North 89°25'52" East 549.20 feet to the northeast corner of said Parcel 2; thence tracing the easterly line of said Parcel 2 South 00°03'01" West 440.61 feet to the southeast corner of said Parcel 2; thence tracing the southerly line of said Parcel 2 and continuing along the southerly line of said Parcel 3 North 89°57'00" West 479.78 feet to an angle point in said southerly line; thence tracing the westerly portion of said southerly line of Parcel 3 the following courses and distances: North 00°03'01" East 63.00 feet; thence North 89°57'00" West 66.14 feet; thence South 45°03'00" West 4.59 feet to the **TRUE POINT OF BEGINNING**.

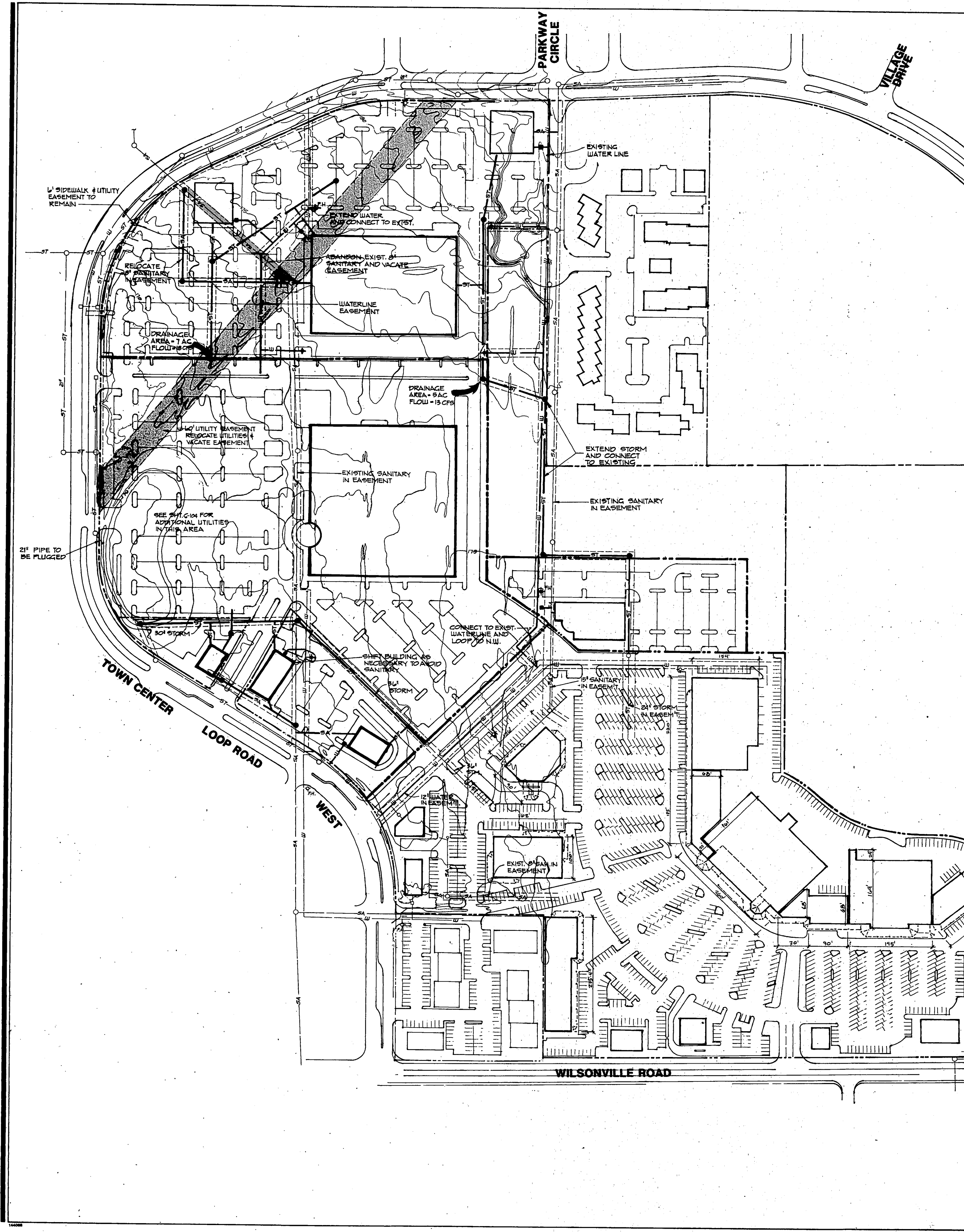
Containing 1,604,349 square feet or 36.83 acres more or less.

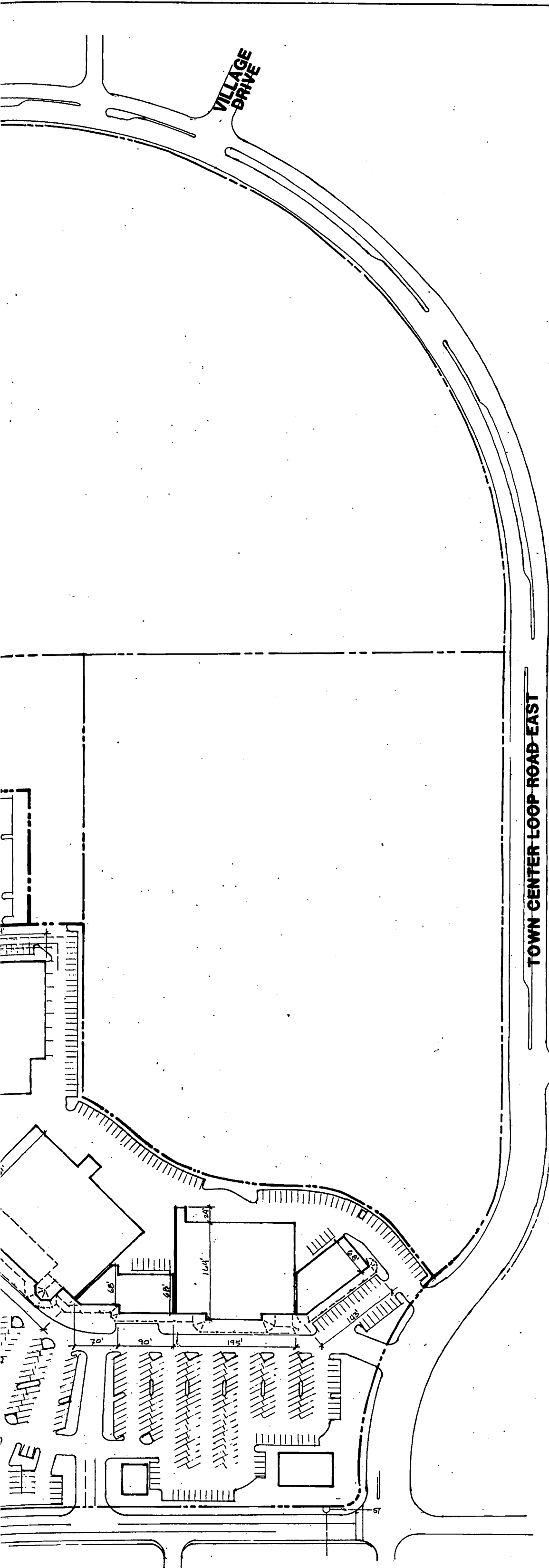
467-0301  
10/16/91

**JKS Architects PC**  
1620 S.W. Taylor Street • Suite 200 • Portland, Oregon 97205  
503-227-5616 • FAX 503-227-3590

**WILSONVILLE TOWN CENTER**  
WILSONVILLE, OREGON

Revisions	
KJD Drawn By	RBB Checked By
8963	10/18/91
Job No.	Date
SITE MASTER PLAN	
Sheet Title	
Sheet No.	
<b>1</b>	
of	





COURTSIDE DRIVE

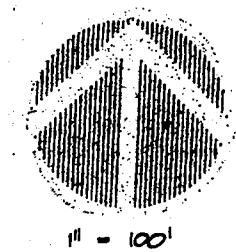
TOWN CENTER LOOP ROAD EAST

VILLAGE DRIVE

**NOTE**  
 PROPOSED UTILITIES WILL CONNECT TO UTILITY STUBS CONSTRUCTED WITH PHASE I PROJECT.

**LEGEND**

EXISTING		PROPOSED
— SA —	SANITARY SEWER	— SA —
— ST —	STORM SEWER	— ST —
— W —	WATER LINE	— W —
- - - -	EASEMENT LINE	- - - -
○	MANHOLE	●
□	CATCH BASIN	●
⊕	FIRE HYDRANT	⊕
▨	EASEMENT TO BE VACATED	



**JKS Architects PC**  
 1620 S.W. Taylor Street • Suite 200 • Portland, Oregon 97205  
 503-227-5616 • FAX 503-227-3590

**WILL PACIFIC**  
 1099 S.W. Columbia Street  
 Portland, Oregon 97201  
 Fax (503) 224-4407  
 Planning • Lighting • Surveying • Landscape Architecture

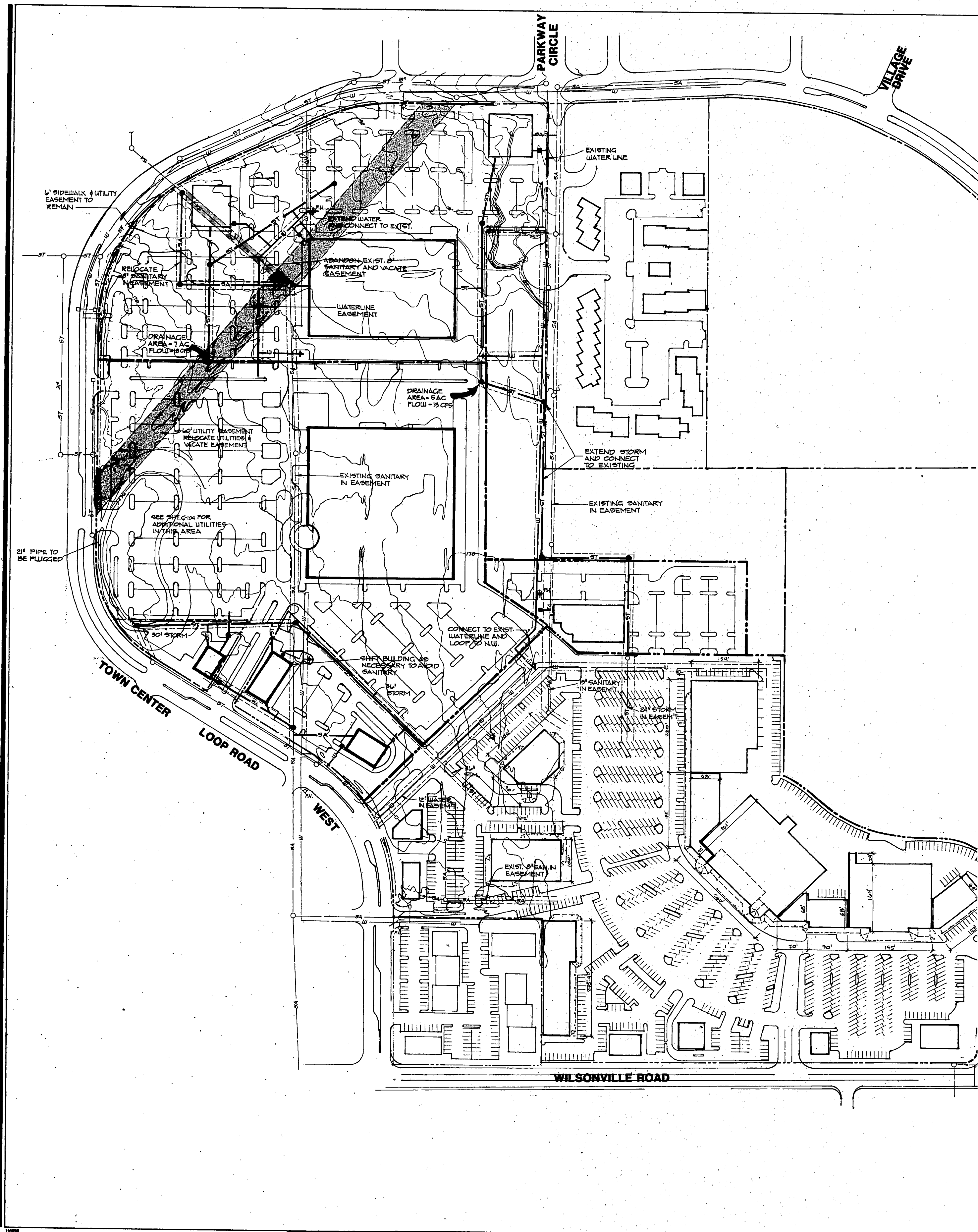
**WILSONVILLE TOWN CENTER**  
 Wilsonville, Oregon

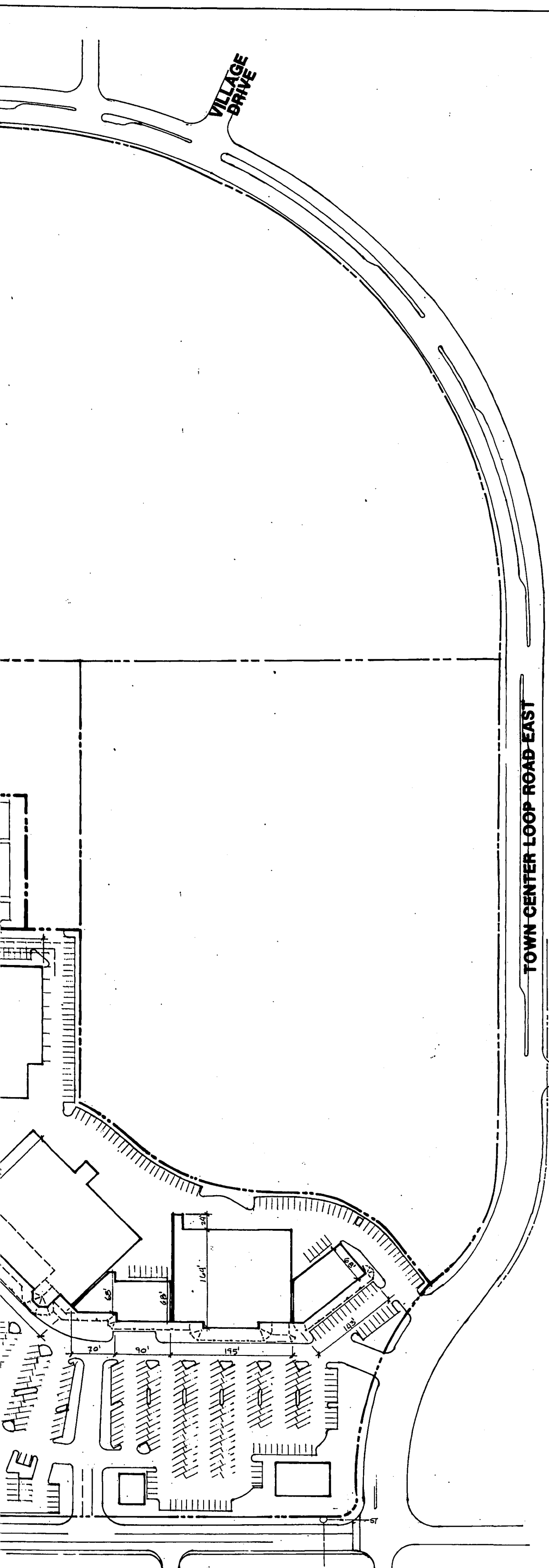
Revisions

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Drawn By \_\_\_\_\_ Checked By \_\_\_\_\_  
 Job No. 4-467-0301 Date 10-18-11  
**MASTER UTILITIES PLAN**  
 Sheet Title

Sheet No.  
**2**  
 of





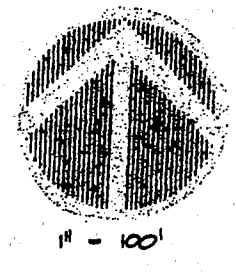
COURTSIDE DRIVE

TOWN CENTER LOOP ROAD EAST

VILLAGE DRIVE

**NOTE**  
 PROPOSED UTILITIES WILL CONNECT TO UTILITY STUBS CONSTRUCTED WITH PHASE I PROJECT.

EXISTING		PROPOSED	
— SA —	SANITARY SEWER	— SA —	SANITARY SEWER
— ST —	STORM SEWER	— ST —	STORM SEWER
— W —	WATER LINE	— W —	WATER LINE
---	EASEMENT LINE	---	EASEMENT LINE
○	MANHOLE	●	MANHOLE
□	CATCH BASIN	■	CATCH BASIN
+	FIRE HYDRANT	+	FIRE HYDRANT
▨	EASEMENT TO BE VACATED		



1" = 100'

APPROVED *[Signature]*  
*[Signature]*

**JKS Architects PC**  
 1620 S.W. Taylor Street • Suite 200 • Portland, Oregon 97205  
 503-227-5616 • FAX 503-227-3590

**WILL PACIFIC**  
 1000 S.W. Columbia Street  
 Portland, Oregon 97201  
 (503) 327-0435  
 Fax (503) 274-4607  
 Planning • Engineering • Surveying • Landscape Architecture

**WILSONVILLE TOWN CENTER**  
 Wilsonville, Oregon

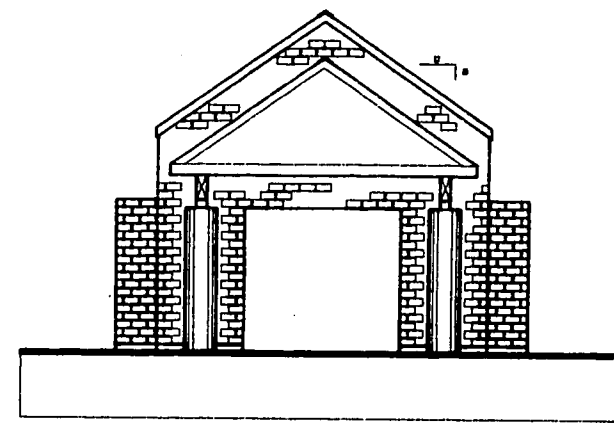
Revisions

Drawn By \_\_\_\_\_ Checked By \_\_\_\_\_  
 Job No. 4-467-0301 Date 10-18-91  
**MASTER UTILITIES PLAN**  
 Sheet Title

Sheet No.  
**2**

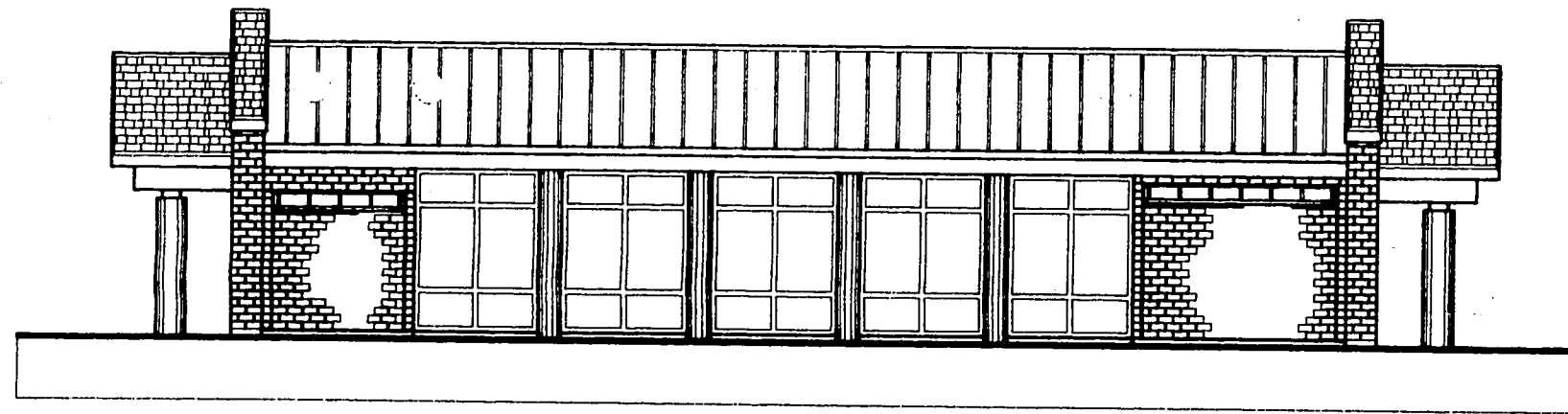
**WILSONVILLE TOWN CENTER  
PROPOSED CAR WASH**

WILSONVILLE, OREGON



**END ELEVATION**

1/8" = 1'-0"

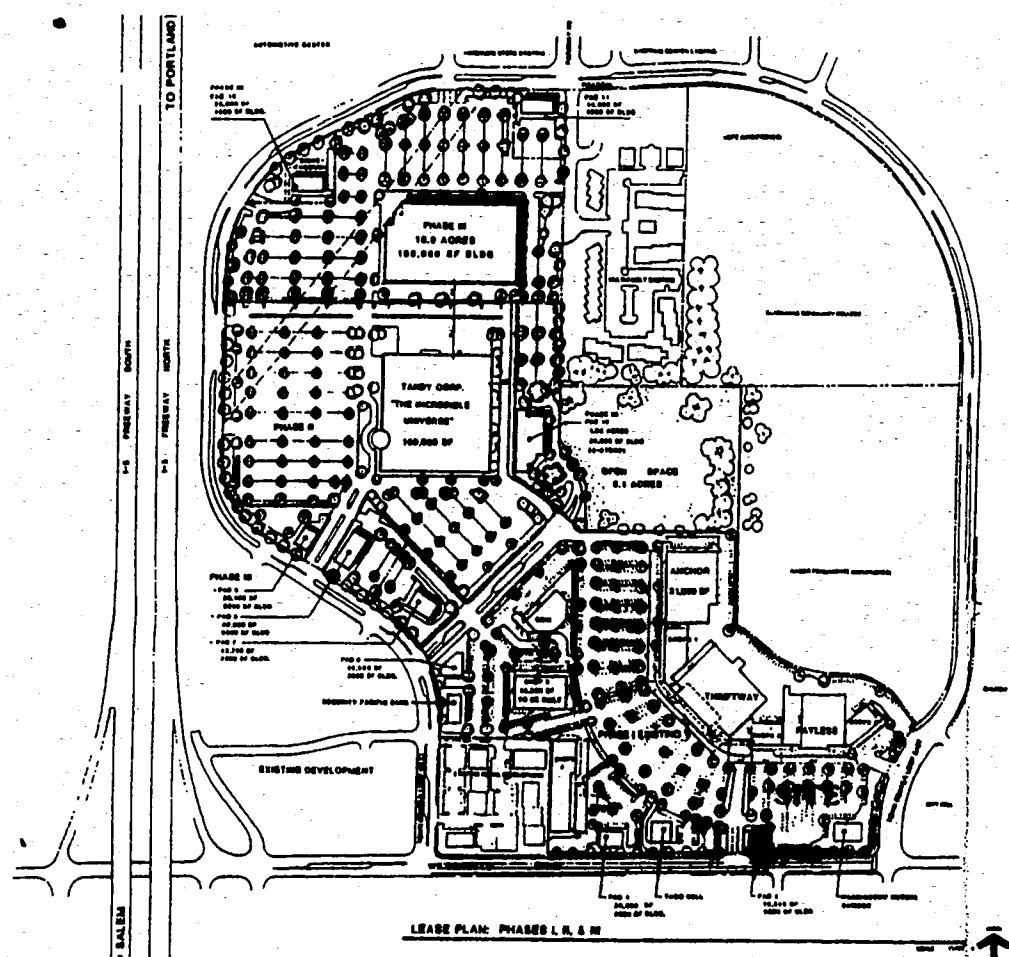


**FRONT ELEVATION**

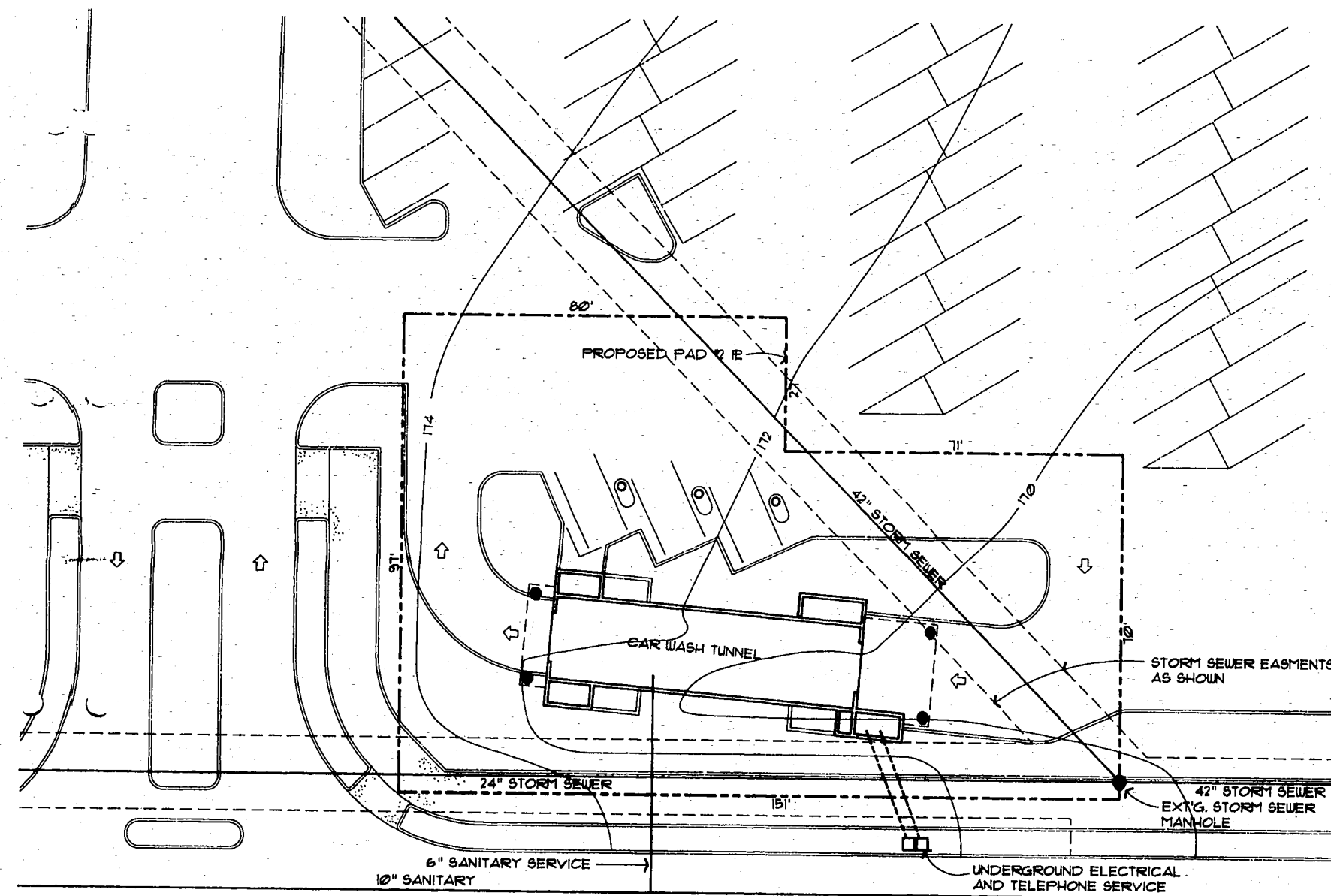
1/8" = 1'-0"

**SITE DATA**

	LOT COVERAGE IN SQ. FT.	LOT COVERAGE IN %
BUILDING AREA	1,500	12%
PARKING & DRIVES	8,293	65%
LANDSCAPING/OPEN SPACE	2,937	23%
TOTAL SITE AREA	12,730	100%



**VICINITY MAP**



WILSONVILLE RD.



**PRELIMINARY SITE PLAN**

1" = 20'

CLIENT:  
**DENNIS THOMPSON**

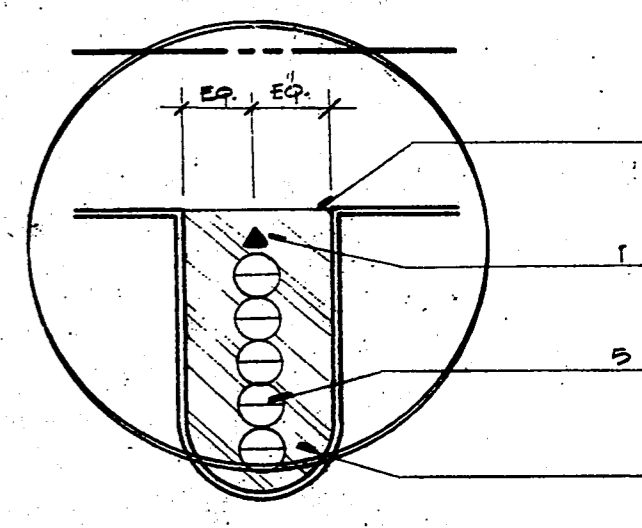
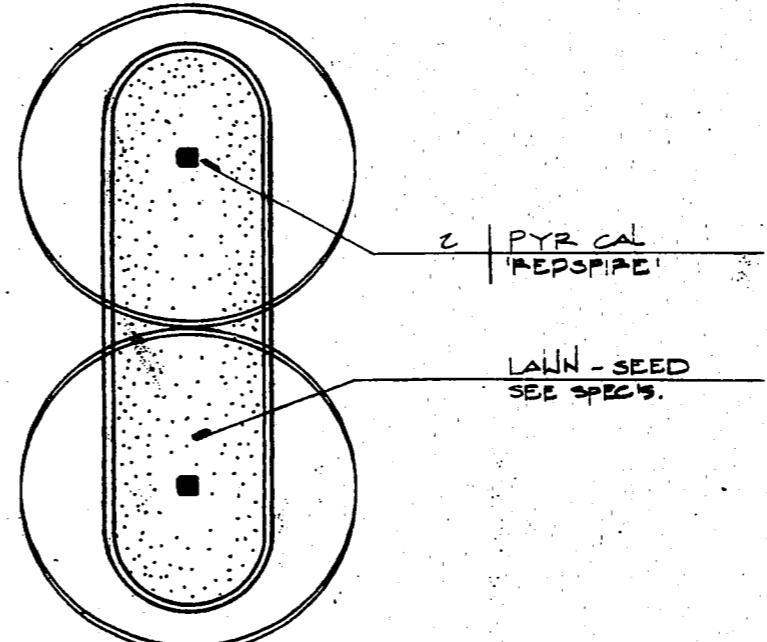
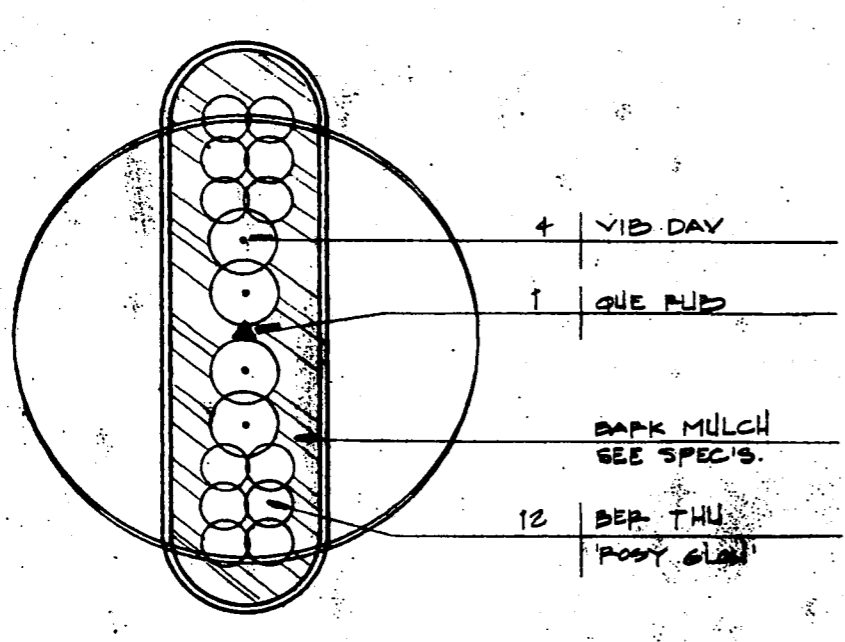
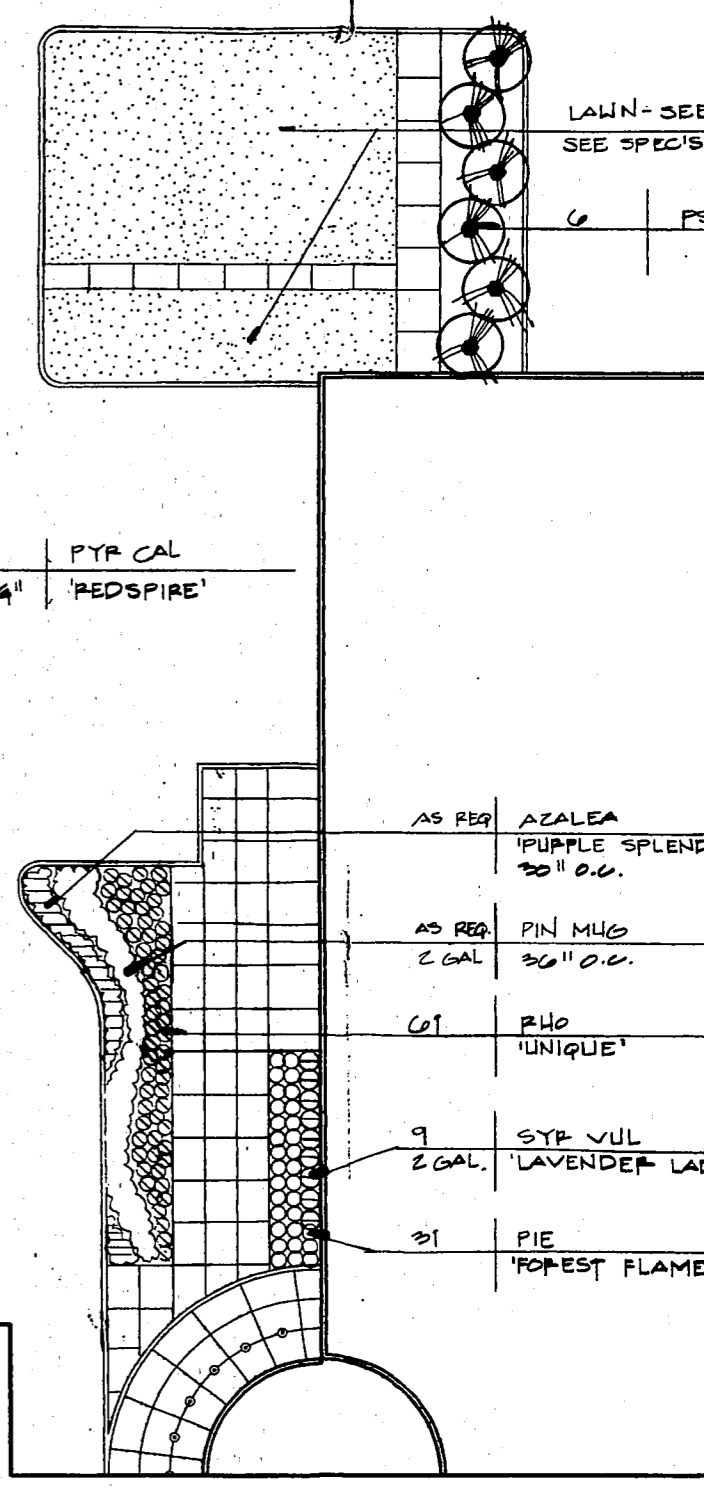
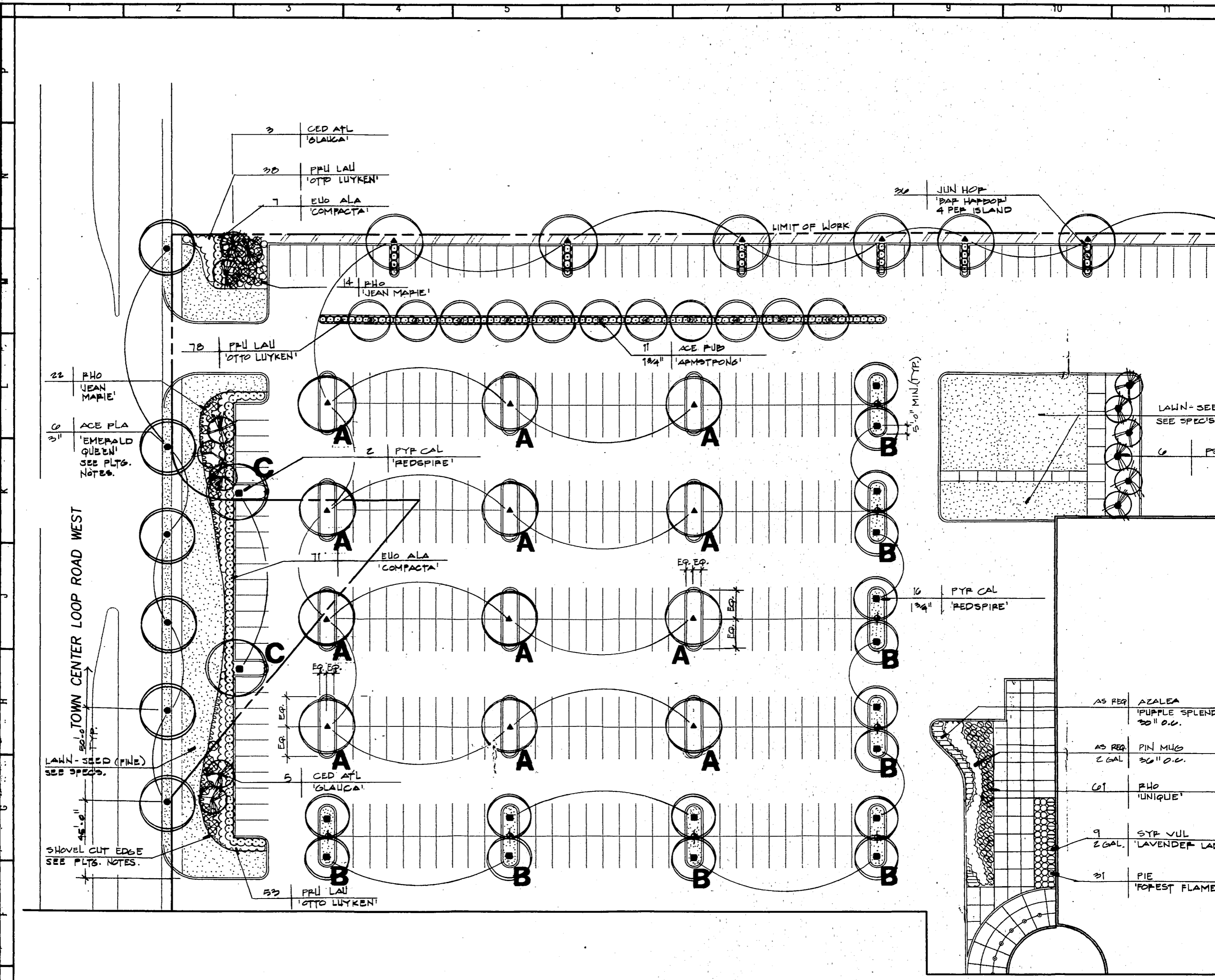
REVISIONS:

Date: 11-20-92  
Scale: AS SHOWN  
Drawn by: SET  
Checked by: JDA  
Job No.: 2023  
Drawing No.: 2023TTL



PER W.S. 1, 2, 3, 4, 13, 18, 88, 88, 88, 88

PROJECT NO. 4-755-0329  
CADD FILE: 07/25/2017.DWG



**A** PLANTING ISLAND 'A' DETAIL

**B** PLANTING ISLAND 'B' DETAIL

**C** PLANTING ISLAND 'C' DETAIL

**SHEET NOTES**

**PLANTING GENERAL NOTES:**

CONTRACTOR SHALL VERIFY LOCATIONS OF ALL UTILITIES IN PLANTING AREAS PRIOR TO PLANTING. CONTRACTOR SHALL CONTACT THE FOLLOWING AGENCIES 48 HOURS PRIOR TO BEGINNING EXCAVATION WORK FOR UTILITY LOCATION INFORMATION:

- TELEPHONE: 503 246 6699
- GAS: 503 246 6699
- ELECTRIC: 503 246 6699
- SEWER: 503 682 4960 ATTN: MARTIN BROWN
- WATER: 503 682 4960 ATTN: MARTIN BROWN

LIGHT STANDARDS ARE SHOWN FOR REFERENCE ONLY. REFER TO DRAWING NUMBER DRBC2 FOR ADDITIONAL LIGHTING INFORMATION.

PLANTING IN PARKING LOT ISLANDS AS SHOWN IN ENLARGEMENTS ON SHEET L-1.0.

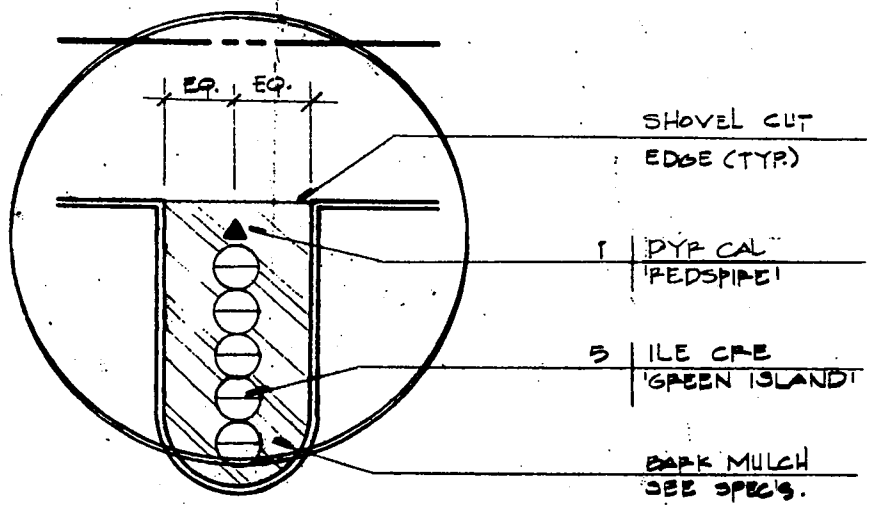
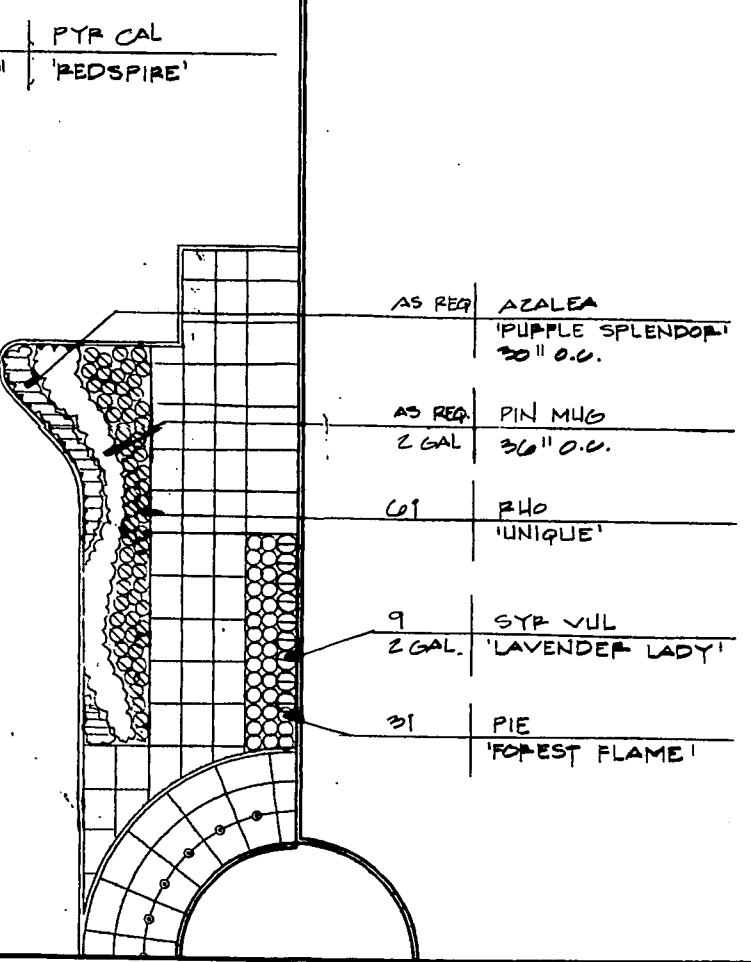
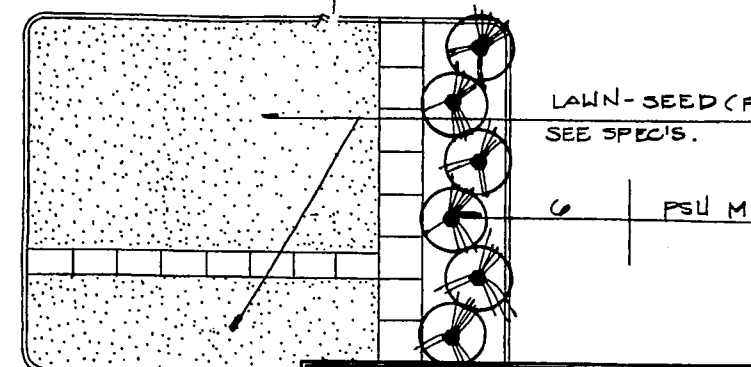
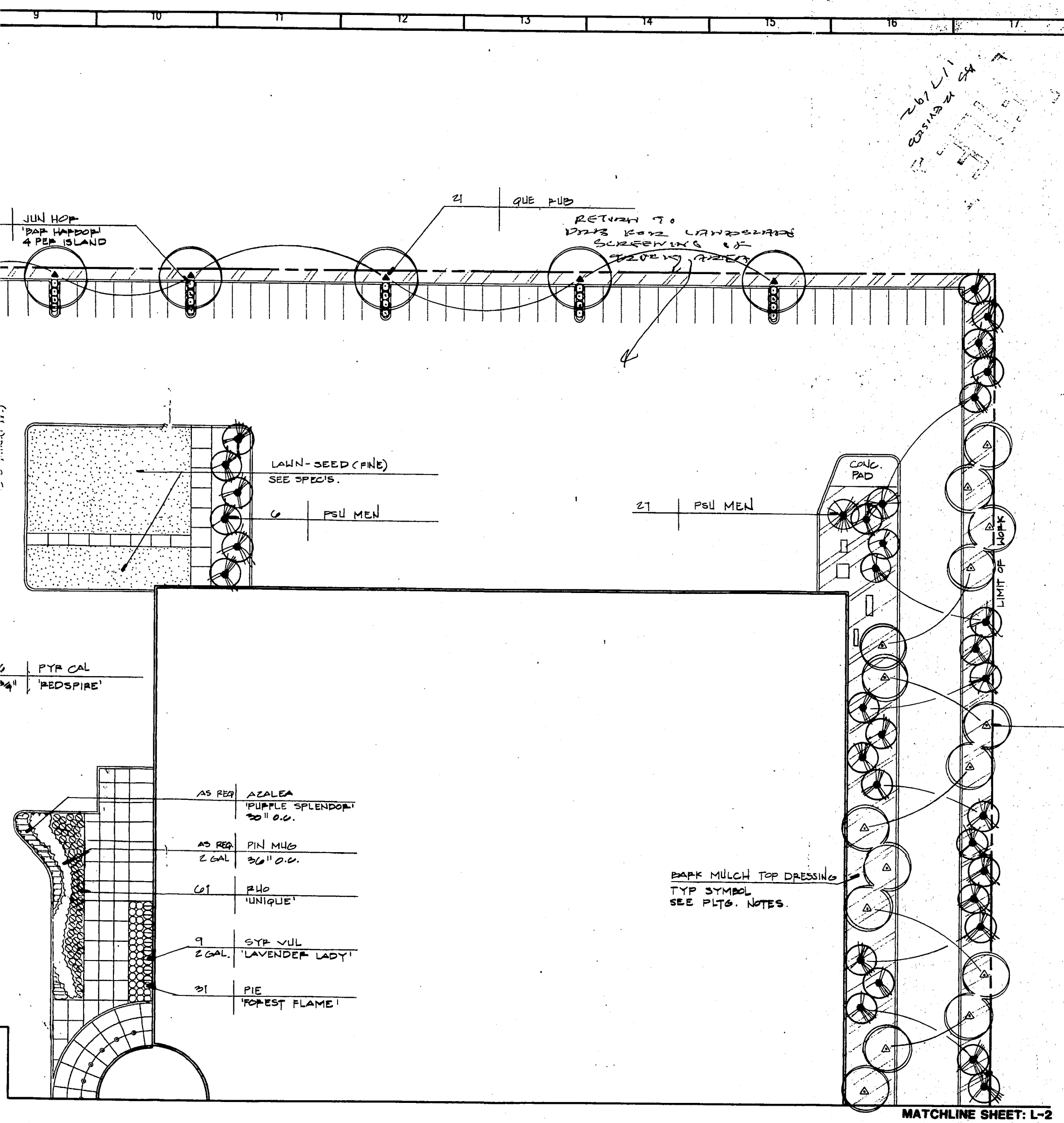
ALL SHRUB AND GROUNDCOVER PLANTING AREAS TO RECEIVE MINIMUM 2" DEPTH OF BARK MULCH. SEE SPECIFICATIONS 02950.

REFER TO CIVIL'S FOR FINISH GRADES IN PLANTING AREAS.

STREET TREES ON TOWN CENTER LOOP ROAD WEST SHALL BE PLANTED PER CITY OF WILSONVILLE STANDARD PLAN. IF NONE EXISTS, INSTALL PER DETAIL 1, L-2.0.

ALL LAWN EDGES AT SHRUB PLANTING AREAS SHALL BE SHOVEL CUT. CONTRACTOR SHALL MAINTAIN ALL SHOVEL CUT EDGES IN A SMOOTH AND EVEN CONDITION UNTIL FINAL ACCEPTANCE.

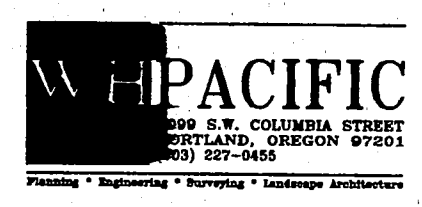
CONTRACTOR SHALL SUPPLY AND INSTALL ANNUAL COLOR, 4" POT SIZE AT 10" O.C. COLOR MATERIALS TO BE SELECTED BY CONTRACTOR AND APPROVED BY OWNER'S REPRESENTATIVE PRIOR TO PLANTING. ANNUAL COLOR MATERIAL SHALL BE IN SEASON (FULL BLOOM) AT TIME OF INSTALLATION.



**PLANTING ISLAND 'C' DETAIL**

**NOT FOR CONSTRUCTION**

PRINTED  
JAN 06 1992  
W & H PACIFIC



No.	Revisions/Submissions	Date

**DesignForum ARCHITECTS**

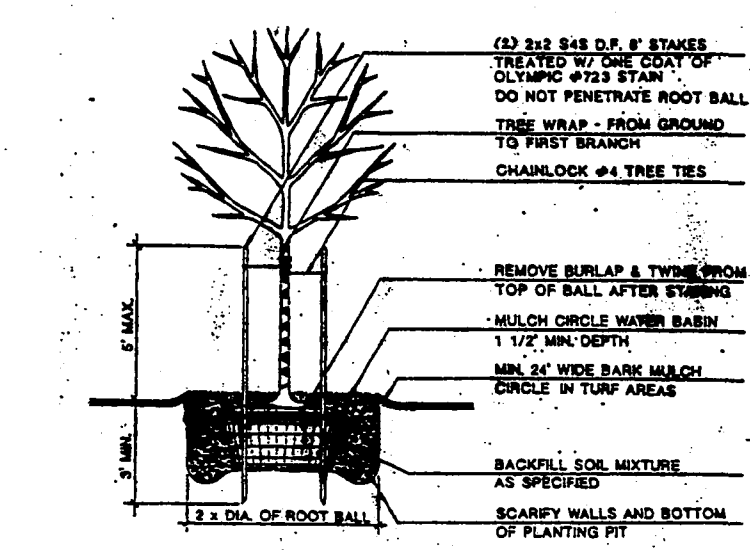
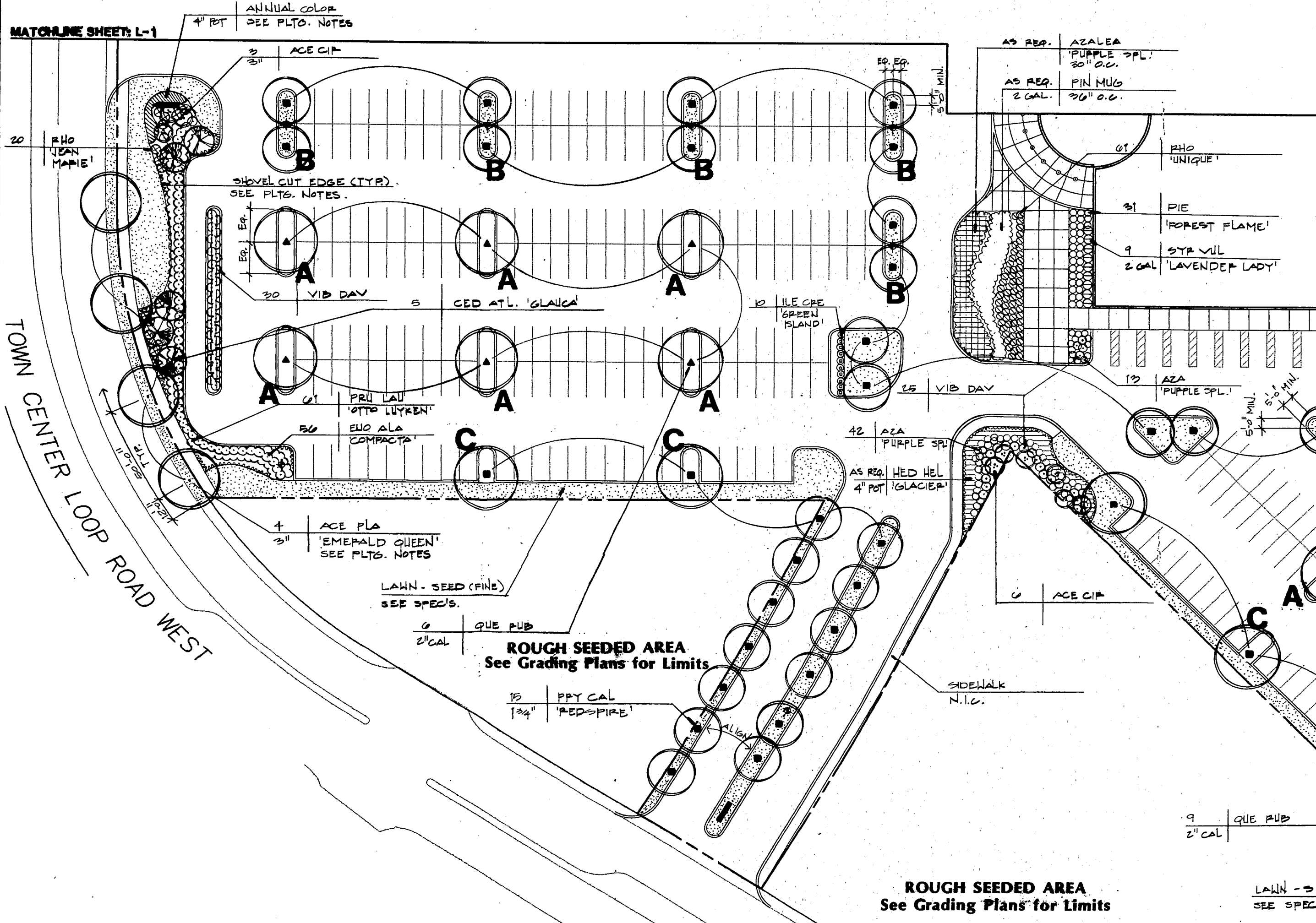
3484 For Hills Avenue, Dayton, Ohio 45428 Telephone: (513) 288-4400

Project Title: **PROJECT THUNDER**  
WILSONVILLE, OREGON

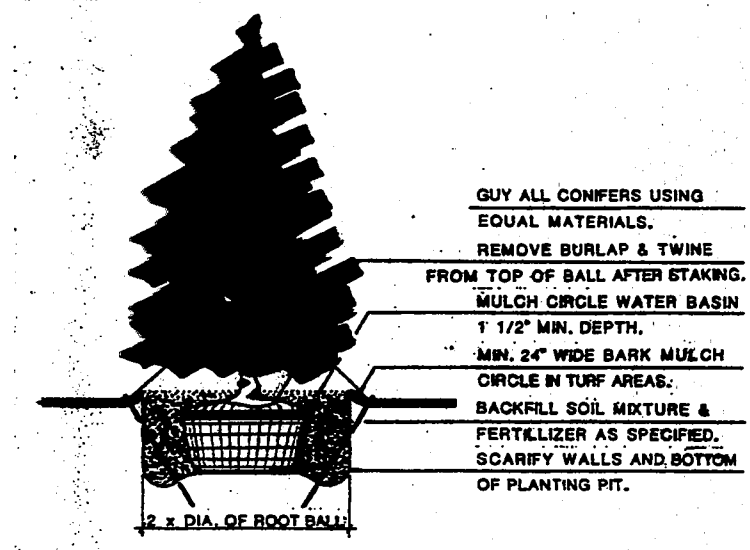
Drawing Title: **LANDSCAPE PLAN**

Seal REGISTERED 2011 Matthew P. Simpson MATTHEW P. SIMPSON OREGON LANDSCAPE ARCHITECT	Designed MDS MPS	Project No. 4-755-0202
	Drawn MDS	Scale 1" = 30'-0"
	Checked MPS	Drawing No. L1.0
	Reviewed MH	Date 12-27-91
© 1991 DESIGN FORUM ARCHITECTS		

PEN. WIS. 1.2 3.4 1.3 1.8 8.8 8.8 8.8 8.8



**1 TREE PLANTING DETAIL** N.T.S.



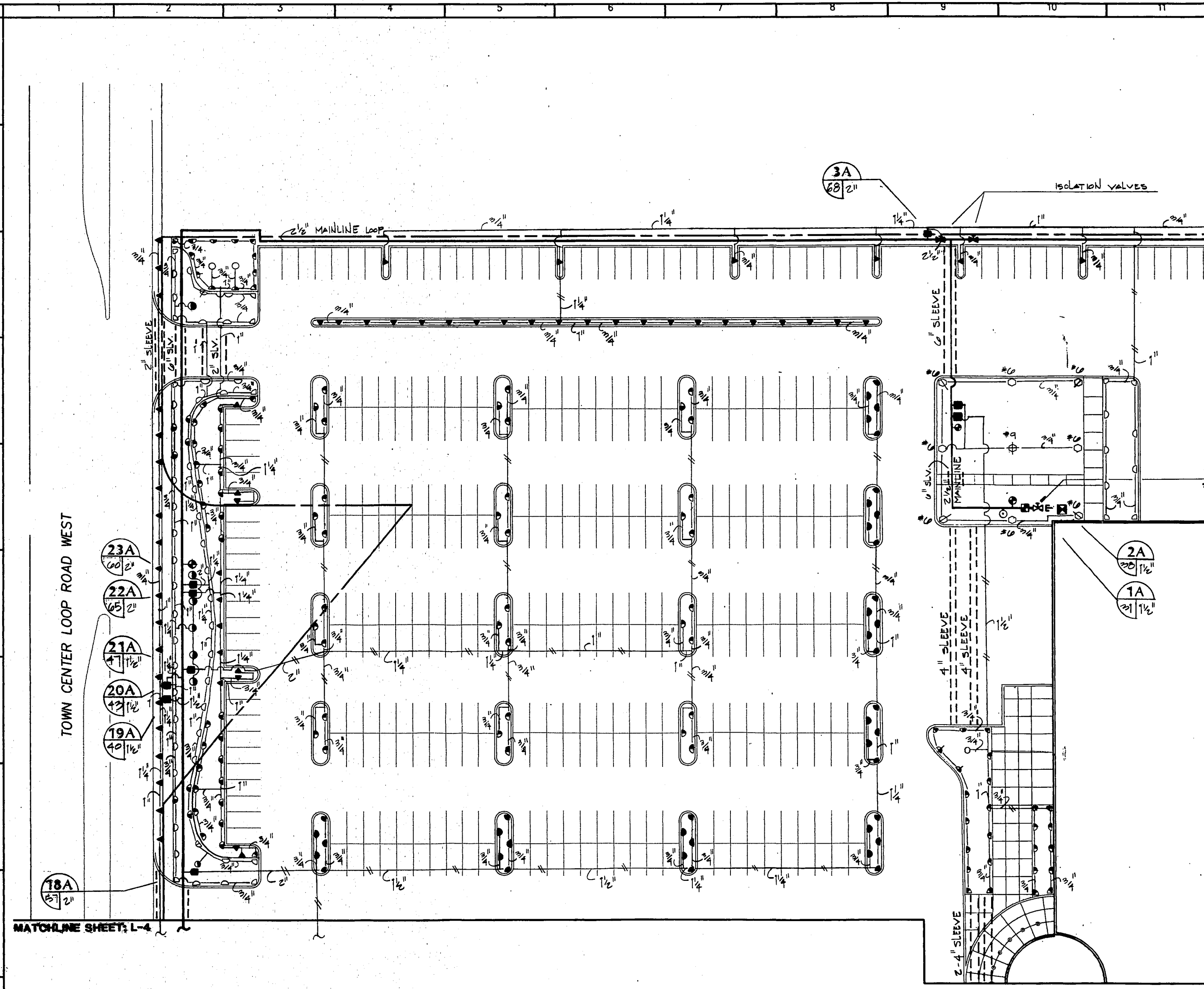
**2 CONIFER PLANTING DETAIL** N.T.S.

**PLANT LEGEND**

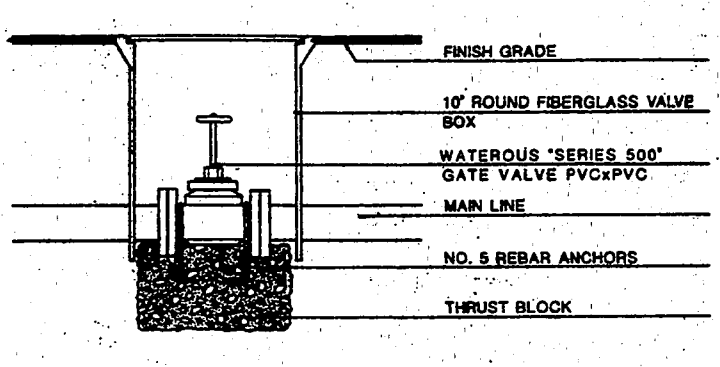
QTY	CODE	BOTANICAL NAME	COMMON NAME	SIZE
<b>TREES</b>				
9	Ace Cir	Acer circinatum	Vine Maple	7'-8'
10	Ace pla	Acer platanoides 'Emerald Queen'	Emerald Queen Maple	3" Cal.
11	Ace rub	Acer rubrum 'Armstrong'	Armstrong Columnar Maple	1-3/4" Cal.
12	Ced atl	Cedrus atlantica 'Glaucia'	Blue Atlas Cedar	8'-10'
13	Pyr cal	Pyrus calleryana 'Chanticleer'	Chanticleer Pear	1-3/4" Cal.
14	Pse men	Pseudotsuga menziesii	Douglas Fir	8'-10'
15	Que rub	Quercus rubra	Red Oak	2" Cal.
16	Pyr cal	Pyrus calleryana 'Redspire'	Redspire Pear	1-3/4" Cal.
<b>SHRUBS</b>				
210	Aza	Azalea 'Purple Splendor'	Purple Splendor Azalea	12-15"
12	Ber thu	Berberis thunbergii 'Rosy Glow'	Rosy Glow Japanese Barberry	2 Gal.
184	Euo ala	Euonymus alata 'Compacta'	Compact Winged Euonymus	12-15"
35	I le cre	Ilex crenata 'Green Island'	Japanese Holly	2 Gal.
63	Pie	Pieris 'Forest Flame'	Forest Flame Pieris	12-15"
133	Pin mug	Pinus mugo	Dwarf Mugo Pine	2 Gal.
140	Pru lau	Prunus laurocerasus 'Otto Luyken'	Otto Luyken Laurel	12-15"
36	Rho	Rhododendron 'Jesse Marie'	Rhododendron	12-15"
112	Rho	Rhododendron 'Unique'	Rhododendron	12-15"
18	Syr vil	Syringa vulgaris 'Lavender Lady'	Lavender Lilac	2 Gal.
33	Vib dav	Viburnum davidii	David Viburnum	12-15"
<b>GROUND COVER</b>				
2,230	Hed hel	Hedera helix 'Glacier'	Glacier Ivy	4" Pots
66	Jun hor	Juniperus horizontalis 'Bar Harbor'	Bar Harbor Juniper	1 Gal.
216	Annual	Annual Color	Annual Color	4" Pots

PER WIS. 1233413188888888

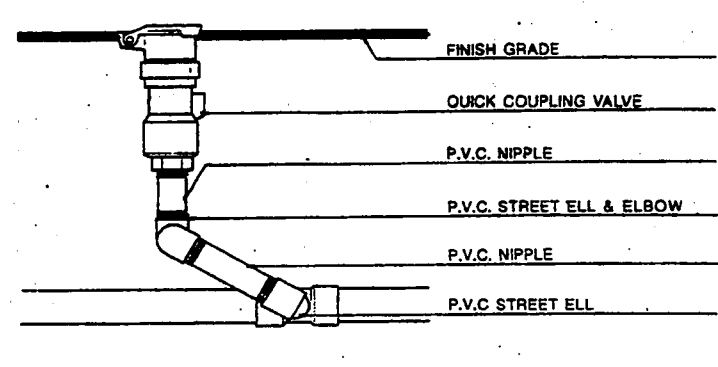
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CADD FILE: 075802.DWG



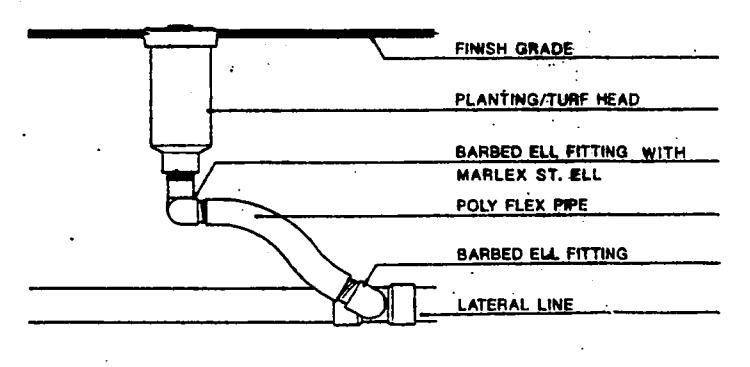
MATCHLINE SHEET: L-4



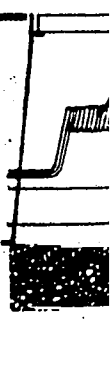
MAINLINE GATE VALVE



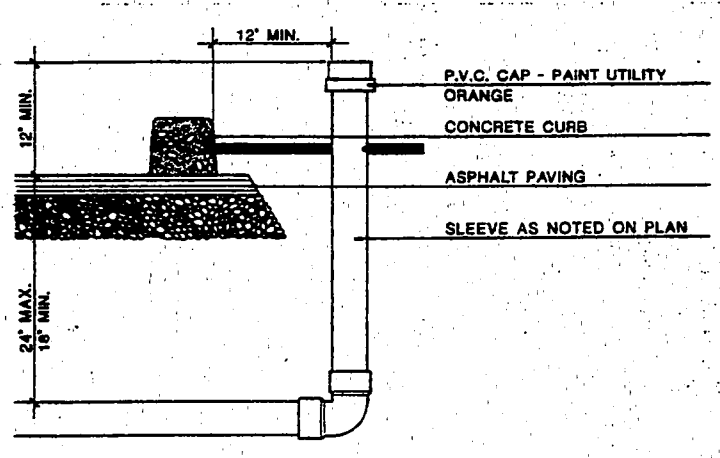
QUICK COUPLING VALVE DETAIL



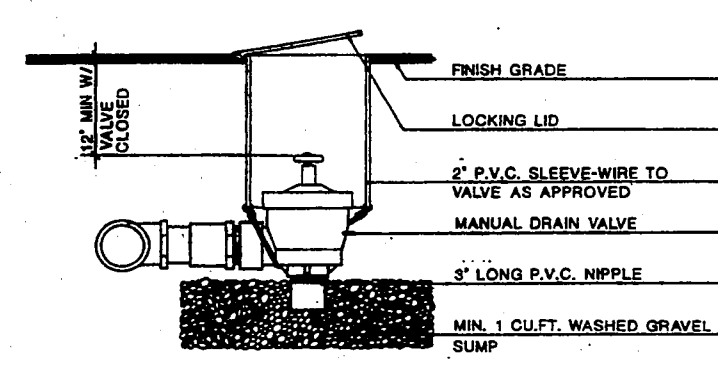
POLY FLEX RISER DETAIL



CONTROL VALVE DETAIL

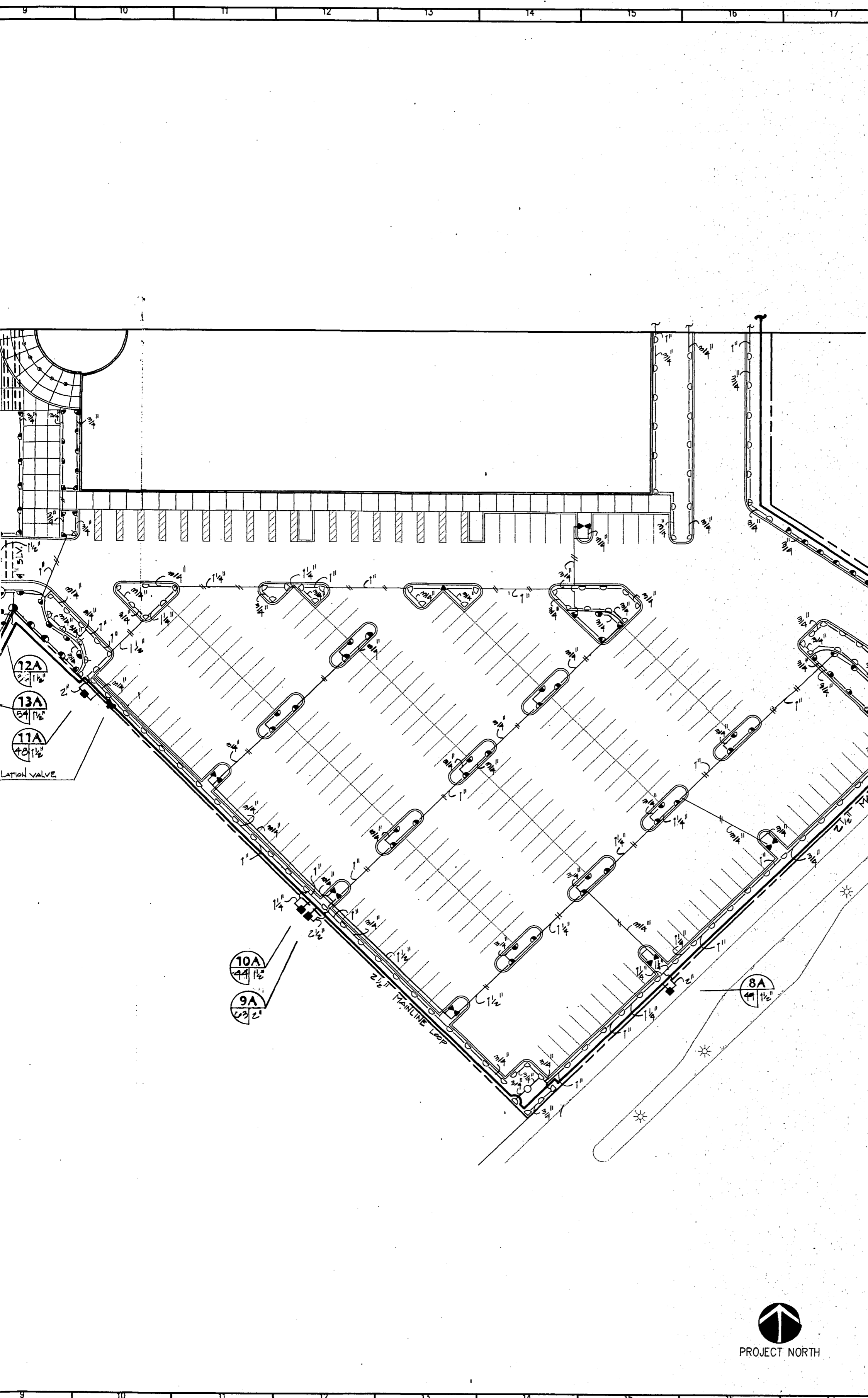


SLEEVING DETAIL



MANUAL DRAIN VALVE DETAIL





SHEET NOTES

**WH PACIFIC**  
 699 S.W. COLUMBIA STREET  
 PORTLAND, OREGON 97201  
 (503) 237-0405  
 Planning • Engineering • Surveying • Landscape Architecture

No.	Revisions/Submissions	Date

**DesignForum**  
 ARCHITECTS

3484 For Hills Avenue, Dayton, Ohio 45429 Telephone: (513) 298-4400

Project Title **PROJECT THUNDER**  
 WILSONVILLE, OREGON

Drawing Title **IRRIGATION PLAN**

Seal <b>REGISTERED</b>  MATTHEW P. SIMPSON <b>OREGON</b> LANDSCAPE ARCHITECT	Designed <b>MDS MPS</b>	Project No. 4-755-0202
	Drawn <b>MDS</b>	Scale 1" = 30'-0"
	Checked <b>MPS</b>	Drawing No. <b>L4.0</b>
	Reviewed <b>MH</b>	Date 12-27-91 c 1991 DESIGN FORUM ARCHITECTS





**CITY OF WILSONVILLE**  
**29799 SW TOWN CENTER LP E**  
**WILSONVILLE OR 97070**  
**Billing Inquiries: (503) 570-1610**

### Balance Summary

Last Payment Date	8/15/2023
Payments	\$4,553.00
Previous Balance	\$4,553.00
Current Charges	\$4,553.00
Adjustments	\$0.00
Amount Due	\$4,553.00
<i>Projected penalty for late payments</i>	<i>\$34.16</i>

### Billing Details

Service Address: 29400 SW TOWN CENTER LOOP W  
*(Base fees are calculated on a monthly cycle)*

<b>Water Commercial</b>	<b>\$46.43</b>
<b>Irrigation</b>	<b>\$25.68</b>
<b>Sewer Commercial</b>	<b>\$201.25</b>
<b>Stormwater Commercial</b>	<b>\$2,118.20</b>
<b>Street Light Cobra Head</b>	<b>\$2.08</b>
<b>Road Maintenance Commerical</b>	<b>\$2,159.36</b>
<b>Total Current Charges</b>	<b>\$4,553.00</b>

### Account Information

Customer Number	1202894206524
Bill Number	91999
Bill Date	9/8/2023
Due Date	9/30/2023
Amount Due	\$4,553.00

### Messages

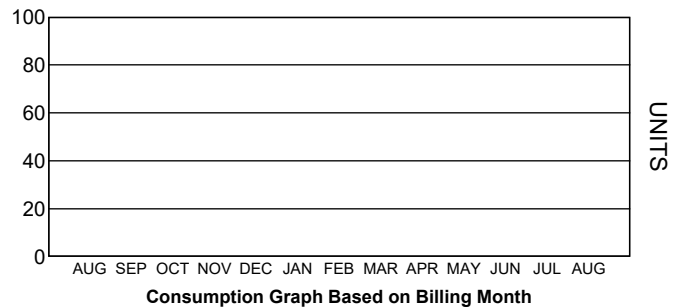
As the fall season approaches, please don't rake or blow leaves into the street. Help yourself and the community by keeping storm drains clear of debris.

### Meter Information

	Size	Meter #	Read Dates	Prior	Current	Usage
Water	3	04567906	7/31-8/31	1255	1255	0
Irrigation	1.5	64955200	7/31-8/31	3959	3959	0

Total Usage: 0

1 Unit = 100 Cubic Feet or 748 gallons



RETURN THIS PORTION WITH PAYMENT. MAKE CHECK PAYABLE TO: CITY OF WILSONVILLE.



CITY OF WILSONVILLE  
 29799 SW TOWN CENTER LP E  
 WILSONVILLE OR 97070

BILL NUMBER 91999  
 CUSTOMER NUMBER 1202894206524  
 SERVICE ADDRESS 29400 SW TOWN CENTER LOOP W

**TOTAL DUE: \$4,553.00**

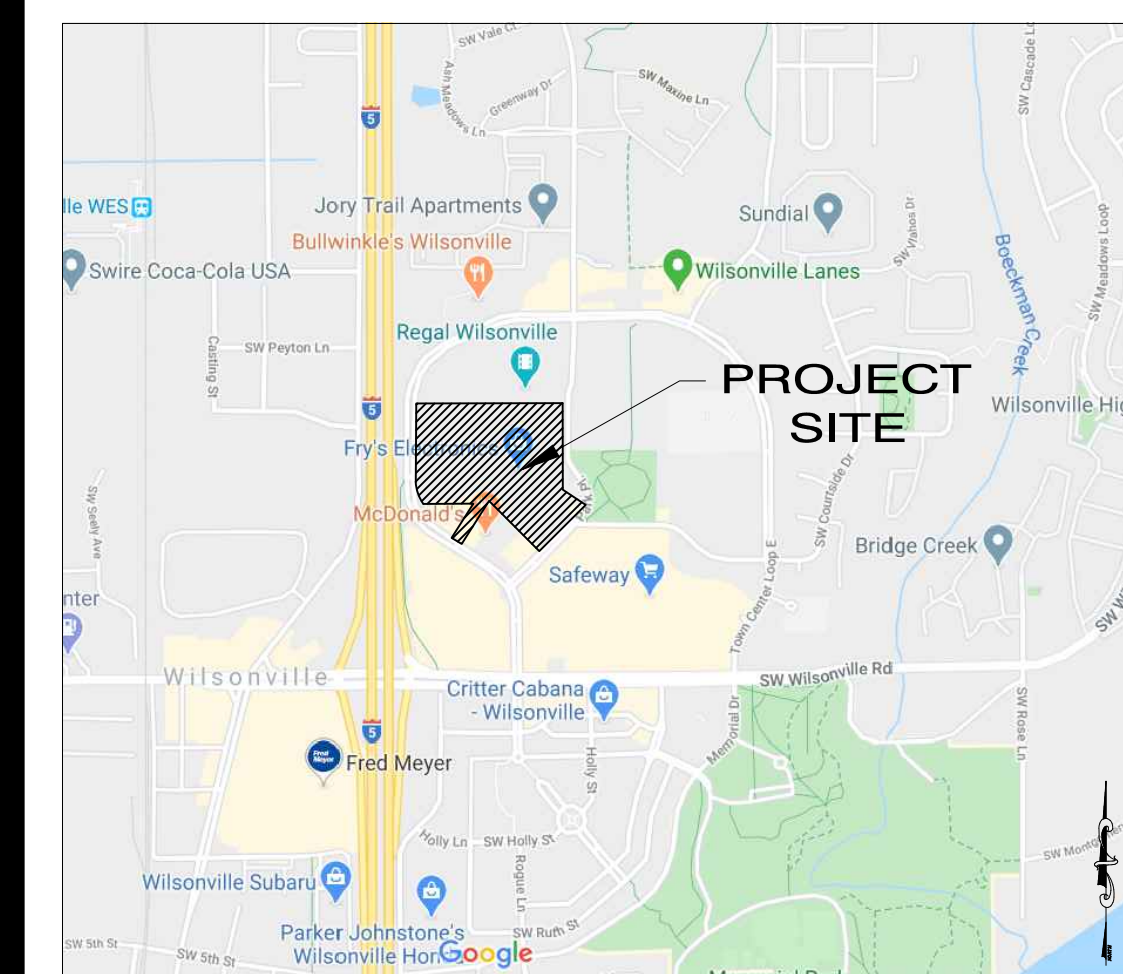
Payment Enclosed \$

2584 1 MB 0.561 7/83 002699 0001:0001

LUMBERJACK, LP  
 C/O TAW L.P.  
 PO BOX 612530  
 SAN JOSE CA 95161-2530



CITY OF WILSONVILLE  
 PO BOX 5310  
 PORTLAND OR 97228-5310



LOCATION MAP (NTS)

SITE AREA		
THE HOME DEPOT PARCEL	15.01 AC	653,836 SF
BUILDING AREA		
THE HOME DEPOT		124,215 SF
MEZZANINE		0 SF
SUBTOTAL		124,215 SF
TOTAL BUILDING AREA		124,215 SF

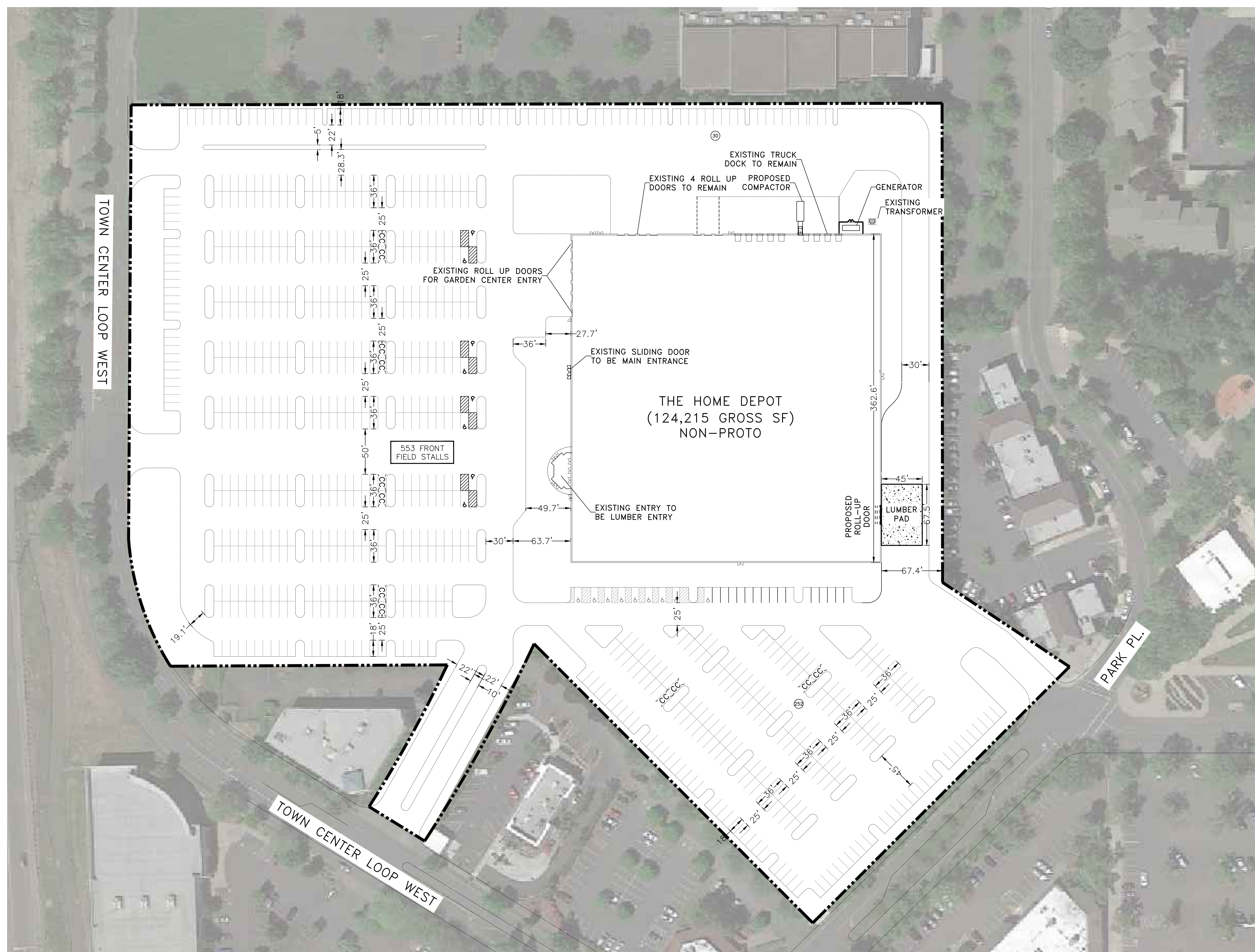
PARKING REQUIRED		
THE HOME DEPOT	4.1 / 1,000 SF	509 STALLS
TOTAL PARKING REQUIRED		509 STALLS

PARKING PROVIDED		
FRONT FIELD		553 STALLS
SIDE FIELD / REAR		282 STALLS
TOTAL PARKING PROVIDED		839 STALLS

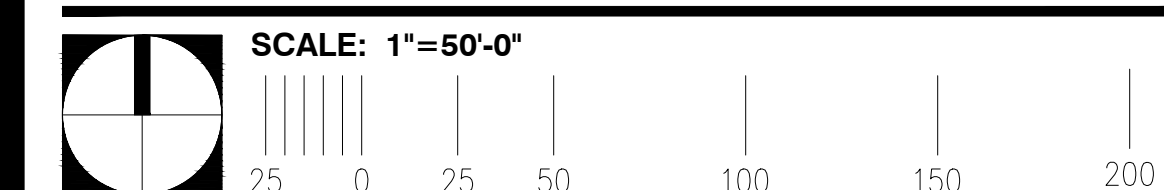
INCLUDED IN PARKING PROVIDED		
ACCESSIBLE STALLS (17 REQ. @ 2%)		17 STALLS

NOT INCLUDED IN PARKING PROVIDED		
CART CORRALS		10 STALLS
ACCESSORY PARKING NOT INCLUDED		10 STALLS
TOTAL THD PARKING PROVIDED		839 STALLS

ZONING CLASSIFICATION		
JURISDICTION		CITY OF WILSONVILLE
ZONING CLASSIFICATION		PLANNED DEVELOPMENT
		COMMERCIAL TOWN CENTER (PDC-TC)
THD USE PERMITTED BY RIGHT		YES



NOTES  
 1. PLAN BOUNDARY IS BASED OFF AVAILABLE APN MAPS; AN ALTA SHOULD BE COMPLETED FOR ACCURACY.



**OR - SITE PLAN 10**

**THE HOME DEPOT**  
**THE HOME DEPOT WILSONVILLE, OR**  
 29400 TOWN CENTER LOOP W  
 WILSONVILLE, OR 97070

DRAWING ISSUE DATE 10.19.2023  
 HD SITE SELECTION NUMBER SS-02804.2001



March 29, 2024

**Keenan Ordon-Bakalian**  
Admitted in Oregon and  
Washington  
D: 503-796-2470  
kordon-bakalian@schwabe.com

Development Review Board Panel B  
City of Wilsonville  
c/o Cindy Luxhoj, Associate Planner  
29799 Town Center Loop E  
Wilsonville, OR 97070

**J. Kenneth Katzaroff**  
Admitted in Oregon and  
Washington  
D: 206-405-1985  
kkatzaroff@schwabe.com

RE: *Applicant's Public Comment for AR23-0031*

Dear Members of the Development Review Board:

This office represents The Home Depot, Inc. ("**Home Depot**" or the "**Applicant**"). Home Depot is seeking a Class II Interpretation to confirm that The Home Depot and Fry's Electronics are both commercial retail uses (the "Application"), and that Home Depot is allowed to operate as a lawfully established commercial retail nonconforming use at 29400 SW Town Center Loop W, Wilsonville, OR 97070 (the "**subject property**"). This Class II Application was submitted in conjunction with Home Depot's application for a Class I review<sup>1</sup> to confirm the status of the commercial retail nonconforming use at the subject property. This letter constitutes Home Depot's written comment submitted prior to the April 8, 2024 public hearing for the Class II Application and it addresses the procedural history surrounding Home Depot's applications, as well as several themes to be considered by the Development Review Board ("**DRB**") during the upcoming public hearing.

The Applicant requests that this comment be entered into the record for the Application, provided to the DRB and considered by City of Wilsonville ("**City**") staff in the preparation for the staff report for this matter.

## **I. BACKGROUND**

As the DRB is aware, the Applicant intends to operate a Home Depot within the existing structure at the subject property. To this end, the Applicant sought a Class I director's determination that the commercial retail use that was established as a result of the 1991 development approval (Case File Nos. 91PC43 and 91DR29, hereinafter the "**1991 Decision**" and attached hereto as **Exhibit A**) remained a lawfully established nonconforming use at the subject property. Upon receipt of the Applicant's Class I application, the City attempted to bifurcate Applicant's request to confirm the legality of a nonconforming use at the subject property from Applicant's request for a determination to establish the scope of use at the property. *See attached* ADMN23-0029, Enclosure (**Exhibit B**). The City required the Applicant

---

<sup>1</sup> Case File No. ADMN23-0029.

to submit two applications – a Class I application to confirm the legality of the nonconforming use, and a Class II application to establish the *actual* nature and scope of the nonconforming use at the subject property. The Applicant’s Class II application was submitted to the City on December 15, 2023. On March 19, 2024, the Applicant’s Class II request was referred to the DRB for a public hearing rather than a decision being rendered by the Planning Director. *See* AR23-0031; DB24-0003.

Concurrent with the City’s processing of Home Depot’s Class II application, the City also issued a Director’s Determination for Home Depot’s Class I application,<sup>2</sup> finding that “Fry’s Electronics, on the subject property at 29400 SW Town Center Loop West, is a legally established Non-Conforming Use.” *See* ADMN23-0029. Home Depot appealed the Director’s Determination to the DRB,<sup>3</sup> who affirmed – but also modified – Planning Director Determination ADMN23-0029 and denied the Applicant’s Appeal. *See attached*, DRB Resolution No. 429 (**Exhibit C**). On March 27, 2024, Home Depot filed a Notice of Appeal of the DRB’s Decision. *See attached*, **Exhibit D**.

Home Depot has regularly and consistently requested that the City meet to discuss its proposal and how Home Depot might partner with the City to realize the City’s goals in its Town Center Plan. The City has denied these requests for a meaningful meeting. We again request such an opportunity so that the City and Home Depot can have reasonable negotiations regarding the use of the property and so that Home Depot might provide investment to achieve the City’s goals.

## II. ANALYSIS

### A. The lawfully established nonconforming use at the subject property is the commercial retail use approved in the 1991 Decision.

The 1991 Decision is the controlling authority for determining the nature and extent of the nonconforming commercial retail use at the property because the 1991 Decision lawfully established the nonconforming use in the first instance. "The purpose of a local government proceeding to determine the existence of a nonconforming use is to determine what use existed on the date restrictive regulations were applied." *Nehoda v. Coos Cnty.*, 29 Or LUBA 251, 1995 WL 1773153, at \*5 (1995). A nonconforming use is understood to be “one that is contrary to a land use ordinance but that nonetheless is allowed to continue because the use lawfully existed prior to the enactment of the ordinance.” *Morgan v. Jackson Cnty.*, 290 Or App 111, 114 (2018) (citing *Rogue Advocates v. Board of Comm. Of Jackson Cnty.*, 277 Or App 651, 654 (2016), *rev. dismissed*, 362 Or 269, 407 (2017)); *see* WDC 4.001.196 (defining a nonconforming use as “a legally established use, which was established prior to the adoption of the zoning use requirements for the site with which it does not conform”).

---

<sup>2</sup> The Planning Director issued their Director’s Determination on December 28, 2023. *See* ADMN23-0029.

<sup>3</sup> APPL24-0001.

The commercial retail use at subject property is a lawfully established nonconforming use pursuant to WDC 4.001.196 and *Morgan v. Jackson Cnty.*, 290 Or App 111 (2018). As explained in the Applicant’s Class I application materials and throughout the appeal proceeding before the DRB in Case Nos. DB24-0002/APPL24-0001, the City approved a commercial retail use at the subject property on December 9, 1991 with the adoption of the 1991 Decision. Exhibit A, at 3.<sup>4</sup> Specifically, the 1991 Decision approved a 159,400 retail commercial building and associated commercial retail activities on the 14.75 acre subject property. Exhibit A, at 9. At the time, the subject property’s Planned Development Commercial (“PDC”) zoning allowed commercial retail uses of the nature and extent that was approved by the 1991 Decision. Exhibit A, at 9.

The commercial retail use approved by the 1991 Decision was rendered nonconforming on June 5, 2019, when the City adopted its Town Center Plan and rezoned the property Town Center (“TC”). This is because the property’s present TC zoning prohibits commercial retail uses that exceed 30,000 square feet, unless the commercial retail use is located on more than one story of a multi-story building, and the 1991 Decision approved a 159,400 retail commercial building. WDC 4.132.03(A)(1); Exhibit A, at 9. Although the City’s application of the TC zone to the property rendered the ongoing commercial retail use nonconforming, the commercial retail use approved in the 1991 Decision is allowed to continue pursuant to WDC 4.001.196 and *Morgan v. Jackson Cnty.*, 290 Or App 111 (2018).

The DRB’s determination within DRB Resolution No. 429 that the nonconforming use allowed to continue at the subject property is “a 159,400 square-foot electronics-related retail store” is contrary to the express language of the 1991 Decision, which is the controlling substantial evidence for the City’s nonconforming use analysis *in this case*. Furthermore, the Applicant has reviewed the zoning code in place at the time of the 1991 Decision, and nothing within the zoning code further classified uses or limited commercial retail uses to specific subsets, such as an electronic store or commercial hardware store. The Applicant is also not aware of any state law that makes such a distinction; nor has the City pointed to any state law or code provision applicable at the time. Finally, in regard to the proceedings related to Home Depot’s Class I application, the Planning Director and DRB abjectly failed to so much as even *address* the 1991 Decision as it relates to the lawfully established commercial retail nonconforming use at the subject property.

DRB Resolution No. 429’s determination that the nonconforming use at the subject property is “a 159,400 square-foot electronics-related retail store” also violates a key tenet of Oregon nonconforming use law, and cannot be applied to the DRB’s review of this Class II Application. Determining the nature and extent of a nonconforming use does not depend on the identity of the entity performing the use, but rather on the nature and extent of the nonconforming activities themselves. *ODOT v. City of Mosier*, 36 Or LUBA 666, 678 (1999). In

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<sup>4</sup> The Planning Commission’s adopting resolution includes findings of fact and conditions of approval, and incorporates all application materials, staff reports, and associated planning exhibits.

making the use determination within DRB Resolution No. 429, the DRB were misled by the fact that Fry's Electronics previously operated at the subject property.

The identity of the party that engaged in the use under review is *not relevant* to an inquiry as to the nature and extent of the nonconforming activities themselves. *City of Mosier*, 36 Or LUBA, at 678. As demonstrated by the 1991 Decision's findings and conditions of approval – as well as the application materials in the record for that decision – the *nature and extent of the use* approved within the 1991 Decision is a commercial retail use, not a “Fry's Electronics” or “a 159,400 square-foot electronics-related retail store.” The 1991 Decision is the controlling substantial evidence for determining the nature and extent of the legally established nonconforming use at the subject property, and the 1991 Decision approved a commercial retail use.

The Class II Application currently before the DRB represents an opportunity for the DRB to remedy the flaws of its prior decision in DRB Resolution No. 429 and comply with the City's development code and Oregon law. As such, the Applicant respectfully requests that the DRB approve Home Depot's Class II Application and find that Home Depot is allowed to operate at the subject property under the property's lawfully established commercial retail nonconforming use rights.

#### **B. Home Depot and Fry's Electronics are both commercial retail uses.**

Home Depot proposes to continue the same use that Fry's Electronics was employing the subject property for – commercial retail. WDC 4.001.344 defines “use” as “the purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied.” The “purpose” of the use at the subject property as approved in the 1991 Decision was commercial retail, including the construction and occupancy of the existing structure at the property. As set forth in the 1991 Decision, the existing structure at the property was approved for office, warehouse, manufacturing, service, and retail use. Exhibit A, at 12. Therefore, the commercial retail purpose of the existing structure and subject property will continue through any change in the characteristic of the owner of the property, i.e., whether it is Home Depot or Fry's that operates at the property.

This position is consistent with Oregon's nonconforming use caselaw. In *Vanspeybroeck v. Tillamook County Camden Inns, LLC*, 221 Or App 677 (2008) petitioners challenged a decision of the Tillamook Board of County Commissioners (“Board”) that approved alterations to a second floor residence through a minor nonconforming use review. Petitioners argued that the nonconforming use had been abandoned due to a change in the type of occupancy from an owner-occupied unit to non-owner occupied unit. *Id.* at 684. The court examined the definition of “use” in the Tillamook County Land Use Ordinance, which is defined as the “purpose...for which a unit of land is developed, occupied or maintained” and concluded that “the single-family residential purpose of the second-floor occupancy continued through any change in the characteristic of the occupant as owner or renter, and the nonconforming use was not abandoned or discontinued by that change.” *Id.* at 686.

Similarly, in *Hendgen v. Clackamas County*, 15 Or App 117 (1992), the court considered whether a proposed business warehouse, which would store produce of an off-site business, was

a continuation of a nonconforming use that used the same buildings to store supplies and inventory with a business located on the same property. The court concluded that the “common nucleus of both activities *is* storage.” *Id.* at 120 (emphasis in original). The court went on to state that “LUBA regarded the nature of the businesses that employed the structures to be the decisive inquiry. We think that the more relevant question is whether there is a common use that the various operations share.” *Id.* at 121.

Here, the common nucleus in activities for both Home Depot and Fry’s Electronics *is commercial retail use*. Just like in *Vanspeybroeck* and *Hendgen*, both Fry’s and Home Depot purpose and intent for operating the subject property is the same – commercial retail use. As explained in more detail within Home Depot’s application materials, although Fry’s and Home Depot stores retail different products, the principal purpose and use for both stores is the retail sale of products displayed and stored in a warehouse format. The fact that Fry’s retailed computer and electronics goods and Home Depot retails home improvement and trade goods is not relevant for determining whether Fry’s and Home Depot are commercial retail uses allowed under the 1991 Decision.

The Applicant requests that the DRB find that Home Depot and Fry’s are commercial retail uses that fall within the ambit of the commercial retail use approved by the 1991 Decision.

**C. Home Depot is allowed to operate at the subject property under the property’s lawfully established commercial retail nonconforming use rights.**

The Applicant proposes to operate a Home Depot at the subject property, which is a commercial retail use consistent with the historic use of the property (by Fry’s), as well as the commercial retail use approved in the 1991 Decision. The City has previously found that the subject property possess lawfully established nonconforming use rights, notwithstanding the dispute between Home Depot and the City regarding the nature and extent of these rights. *See* ADMN23-0029; DRB Resolution No. 429. As is clear, Home Depot intends to operate under the subject property’s lawfully established nonconforming use rights and has thus requested that the City determine the nature and extent of these rights. The Applicant requests that the DRB find that Home Depot’s proposed operations are consistent with the nature and extent of the lawfully established commercial retail nonconforming use at the subject property.

Moreover, the Applicant’s proposed operations do not constitute an expansion of the lawfully established commercial retail use, because Home Depot’s operations are less impactful than Fry’s Electronics historic commercial retail activities at the property. This conclusion is supported by an analysis from Lars Anderson & Associates that details the potential development impacts of Home Depot, in relation to Fry’s Electronics (attached hereto as **Exhibit E**). Within this submittal, the Applicant also encloses a Trip Generation Memorandum for Home Depot’s use of the subject property, prepared by Transportation Engineering Northwest (“TENW”) (attached hereto as **Exhibit F**). TENW’s memo demonstrates that Home Depot’s use of the subject property will result in less average daily trips than the trips previously generated by Fry’s Electronics.

Home Depot's proposed commercial retail use is allowed under Oregon law and the City's own development code, and is not an expansion of the historic commercial retail use that was approved by the 1991 Decision.

### III. CONCLUSION

This Application presents an opportunity for the DRB to address the flaws within its prior decision, DRB Resolution No. 429. Although the prospect of a Home Depot operating at the subject property may be inconsistent with the DRB's vision for the subject property, Home Depot is nonetheless allowed to operate as a matter of law. The DRB has an obligation to weigh the facts and evidence in the record and make an unbiased and impartial decision in accordance with relevant provisions of the City's development code and Oregon law. To do otherwise will expose the City to significant liability, and the prospect of an appeal to the Oregon Land Use Board of Appeals ("LUBA").

As such, the Applicant respectfully requests that the DRB uphold the 1991 Decision as the controlling authority for determining the nature and extent of the subject property's nonconforming use rights, and find that the lawfully established nonconforming use at the property is a commercial retail use. Furthermore, the Applicant requests that the DRB find that the common nucleus of activities between Home Depot and Fry's Electronics is commercial retail, and that Home Depot is therefore allowed to operate under the property's lawfully established commercial retail nonconforming use rights.

Home Depot appreciates the DRB's consideration of this letter, and we look forward to discussing this project in more detail at the April 8th public hearing.

Sincerely,

SCHWABE, WILLIAMSON & WYATT, P.C.



J. Kenneth Katzaroff  
Keenan Ordon-Bakalian

JKKA/KOB:jmhi  
Enclosures

Unique Serial Number: (assigned by dbase) 4808

Department: Planning

Case No: 91PC43

File Creation Date:

Request: Modified Stage I Master Plan and Stage II Phase II site development plans, reconsideration of Condition of Approval #8 of 90PC15

Action: Approved with conditions

Project Expiration Date:

Property Description: TL 500, 600, 601, 604

Sec. 13

County: C

TL 101, 200, 201, 300, 405

Sec. 14D

County: C

Location: Wilsonville Town Center

Street Address:

Project Name(s): Project Thunder

Applicant: Capital Realty Corporation

Retention Schedule: Permanent

Location of Microfilm: City Hall Vault

Hard Copies of drawings/plans available? Yes

Physical copy of file retained? No

See also Case Files: 89PC50, 90PC15, 90PC15EX, 91DR29, 92DR21

Other name(s) on file:

MAP

SW 10/5/06

Initial/Date

City of  
**WILSONVILLE**  
In OREGON

30000 SW Town Center Loop E • PO Box 220  
Wilsonville, OR 97070  
(503) 682-1011

## NOTICE OF DECISION

Project Name: PROJECT THUNDER File No: 91PC43

Applicant / Owner: Capital Realty Corp.

Proposed Action: Modified Stage I Master Plan, Phase II Stage II Site  
Development Plans and Amending Condition of Approval 8 of Resolution 90PC5

Property Description:

Map No: 13 & 14D Tax Lot No: 101, 102, 200, 201 Site Size: \_\_\_\_\_

Address: \_\_\_\_\_

Location: Wilsonville Town Center - east of Town Center Loop West and northwest  
of shopping center

On December 9, 1991, at the meeting of the Planning Commission  
the following decision was made on the above-referenced Proposed Development Action:

Approval  Approval with Conditions  Denied

This decision has been finalized in written form and placed on file in the City records at the Wilsonville City Hall this 16th day of December, 1991, and is available for public inspection. The date of filing is the date of the decision. Any appeal(s) must be filed with the Planning Department by 5:00 p.m. on December 30, 1991.

Written decision is attached

Written decision is on file and available for inspection and/or copying.

This action, if approved, will expire on December 9, 1993 unless development commences prior to the expiration date.

For further information, please contact the Wilsonville Planning Department at City Hall, Community Development, or phone 682-4960.

**FILED** 12-16-91

Exhibit A 2 2



PLANNING COMMISSION  
RESOLUTION NO. 91PC43

A RESOLUTION ADOPTING FINDINGS AND CONDITIONS OF APPROVAL FOR A MODIFIED STAGE I MASTER PLAN, PHASE II STAGE II SITE DEVELOPMENT PLANS AND AMENDING CONDITION OF APPROVAL 8 OF RESOLUTION 90PC5 - CAPITAL REALTY CORP., APPLICANT. THE PROPERTY IS IDENTIFIED AS WILSONVILLE TOWN CENTER AND IS LOCATED ON TAX LOTS 101, 102, 200, 201, 300 AND 500, T3S-R1W, SECTIONS 13 AND 14D, CLACKAMAS COUNTY, OREGON

WHEREAS, an application, together with planning exhibits for the above-captioned development, has been submitted in accordance with the procedures set forth in Sections 4.008(4) and 4.139(1), (2) and (3) of the Wilsonville Code, and .

WHEREAS, the Planning staff has prepared a report on the above-captioned subject which is attached hereto as Exhibit A, and

WHEREAS, said planning exhibits and staff report were duly considered by the Planning Commission at a regularly scheduled meeting conducted on December 9, 1991, at which time all exhibits, together with findings and public testimony, were entered into the public record, and


WHEREAS, the Commission has duly considered the subject and the recommendations contained in the staff report, and

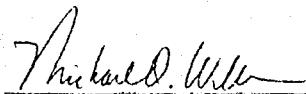
WHEREAS, all interested parties have been afforded an opportunity to be heard on the subject.

NOW, THEREFORE, BE IT RESOLVED that the Wilsonville Planning Commission does hereby adopt the staff report attached hereto as Exhibit A, along with the findings, recommendations and Conditions of Approval contained therein. The Wilsonville Planning Director is hereby authorized to issue a Stage I Master Plan and Stage II Site Development Permit for Phase II and a Revised Condition of Approval 8 -Resolution 90PC5 once the prescribed appeal period has expired.

ADOPTED by the Planning Commission of the City of Wilsonville at a regular meeting thereof this 9th day of December, 1991, and filed with the Planning Secretary this same day.

Attest:

  
\_\_\_\_\_  
Judge Emison, Planning Secretary

  
\_\_\_\_\_  
Chairman, Planning Commission

And to provide an additional finding of fact that says that the traffic signal at the intersection of Town Center Loop West and Wilsonville Road is in process and should be in place by July of 1992, which it appears will alleviate some of the traffic congestion, but the Planning Commission still has significant concerns regarding the traffic at the intersection of Wilsonville Road and Parkway Avenue. (That's a finding of fact and not a Condition of Approval.)

**STAGE I MASTER SITE PLAN AND  
PHASE II STAGE II SITE DEVELOPMENT  
CONDITIONS OF APPROVAL**

1. This approves the subject Stage I Master Plan and Stage II Site Development of Phase II Project Thunder store. Developers shall submit separate applications for Stage II development review and separate applications for Site Design Review for each pad and development phase proposed in the Master Plan.
2. Automotive service stations/centers and automotive wash centers shall not be permitted within the Wilsonville Town Center Master Plan.
3. The owner shall waive right of remonstrance against any local improvement district that may be formed to provide public improvements to serve the subject site.
4. All survey monuments on the subject site shall be protected. If destroyed by the proposed site construction, the applicant shall retain a professional land surveyor to replace the monuments and file a copy of the record survey with the City.
5. The developer shall retain an engineer to provide a detailed drainage analysis of the subject property and prepare a 24" x 36" sheet identifying contributing drainage areas to be included with the final design plans.
6. Storm sewer system shall be designed to pass a 25-year frequency storm. Engineer shall provide detailed drainage computations. Applicant's design engineer shall provide runoff protection to downstream property owners. The design may require a detailed erosion control plan.
7. The developer shall coordinate with the City Engineer in preparing grading plans and in the design and location of all public utilities.
8. The developer shall conform with all requirements of the Tualatin Valley Fire District.

9. The developer shall submit to the Design Review Board a pedestrian sidewalk plan showing connections along the access drives through Phase II to the open space. Construct a five-foot wide concrete sidewalk, off-set five feet from the curb along the entire frontage of Town Center Loop West with Phase II and the adjoining pads. Connect all public sidewalks to the on-site sidewalk system. All sidewalks shall be constructed prior to occupancy of Project Thunder.

10. This approval amends Condition No. 16 of Resolution 89PC50 and Condition No. 8 of Resolution 90PC15 to state as follows:

The applicant shall dedicate 5.1 acres for a public park before issuance of the Certificate of Occupancy for Phase II unless the applicant and the City Council reach an agreement for a later date. The City and the applicant will work toward resolving the access and timing issues of the public park dedication up to including the time of the Certificate of Occupancy.

11. That an association of owners or tenants shall be established which shall adopt such Articles of Incorporation, By-Laws or other appropriate agreement, and shall adopt and impose such Declaration of Covenants and Restrictions on such common areas (landscaped areas) that are acceptable to the Planning Director. Said association shall be formed and continued for the purpose for maintenance. Such an association may undertake other functions. It shall be created in such a manner that tenants or owners of property shall automatically be members and shall be subject to assessments levied to maintain said common areas for the purposes intended. The period of existence of such association shall be not less than twenty years and it shall continue thereafter until other arrangements are made subject to City approval. This condition of approval does not apply to the open space proposed to be dedicated to the City.

12. All final plans shall be submitted on a 24" x 36" format. A title page will be required with a space left in the lower right-hand corner for an 8-1/2" x 11" information sheet to be provided by the City and to be affixed to the final as-built plans before acceptance. The applicant shall provide 3 mil mylar as-builts to the City which must be submitted and approved by the City before the final punch list inspection will be performed by the City.

13. Final utility design shall meet the following general format:

- A. Sanitary sewer shall be aligned on the north and west side of all street centerlines.
- B. Storm sewer shall be aligned on the south and east side of all street centerlines.
- C. Water line shall be aligned on the south and east side of all street centerlines.
- D. Minimum centerline finish grade shall be no less than 1% and the maximum centerline finish grade shall be no more than 12% for local streets. Minimum centerline finish grade shall be no more than 8% for any street above local street in classification and shall be constructed of concrete.
- E. The top of the curb shall equal centerline finish grade unless offset crown design or curb return transition.

- F. Composite utility plan shall be part of the final plan set.
  - G. Detailed grading plan shall be part of the final plan set.
  - H. Utilities not in the street area shall provide maintenance access acceptable to the City, and shall be centered in a 15-foot easement to be conveyed to the City of Wilsonville.
  - I. Final design of the public utilities shall be approved at the time of the City's issuance of a Public Works Construction Permit.
  - J. All on-and-off-site utilities shall comply with the State of Oregon and the City of Wilsonville requirements and Codes.
  - K. All cul-de-sacs shall have a minimum 45-foot radius to the face of the curb to allow for adequate turning radius.
  - L. All public streets shall meet design requirements for sight distance - horizontal, vertical and intersectional.
  - M. Final design plans shall identify locations for street lighting, gas service, power lines, telephone lines, cable television, street trees and mailbox clusters.
14. All survey monuments on the subject site shall be protected. If destroyed by the proposed site construction, the applicant shall retain a professional land surveyor to replace the monuments and file a copy of the record survey with the City.
  15. All power and telephone utilities shall be installed underground.
  16. Provide the Planning Director crossover reciprocal easements to adjacent properties for ingress and egress of traffic to cross over drives and private roads.
  17. The developer shall designate and construct City of Wilsonville Rapid Area Transport transit stops. Coordinate with Tom Barthel, the City Administrative Analyst, on the number and locations of the transit stops.
  18. The minimum parking space dimensions shall be 9' x 18' with 25-foot travel lanes.
  19. That Phase II be developed in such a manner that traffic generated by the development can be accommodated safely and without congestion in excess of level service D defined in the Highway Capacity Manual published by the National Highway Research Board on access drives at Town Center Loop West and at the intersection of Town Center Loop West with Wilsonville Road.
  20. The Phase II Stage II development shall take access at the prescribed access locations approved in Local Improvement District No. 5 along Town Center Loop West, except for the proposed access drive shown to be relocated at the southwest boundary of Phase II and is subject to the approval of the City Attorney and agreement being reached regarding lining up of the access drives on Town Center Loop West and the property across the street. The City Attorney is going to review the agreements to make sure that we end up with a full intersection on Town Center Loop West and the access drive to Project Thunder unless the property owner and the City Council reach another agreement.

21. At the time the Design Review Board specifically reviews the applicant's plans regarding the east wall of the large structure in Phase II, the applicant shall insure its compatibility with the proposed park. DRB shall also look at the pathway and sidewalk circulation plan.
22. That all construction workers park on site and not within public streets.
23. Prior to site grading, the developer shall coordinate with the Oregon Division of State Lands to investigate the existing storm water detention pond for possible wetlands.
24. The applicant shall coordinate with the City Engineer to consider on-site detention in its submittal to the City. The applicant shall coordinate with the Engineering Department all storm drainage plans with some consideration toward whether or not on-site detention is feasible and meets the engineering standards of the City.

Chairman Mike Williams moved to accept the staff report with the following amendments:

Revise Condition of Approval Number 10 to provide that instead of at the time building permits are issued at the Phase II Stage II site development, to provide that at the time the Certificate of Occupancy is issued the applicant/property owner shall dedicate 5.1 acres. And to provide another sentence at the end, that the City and the applicant will work toward resolving the access and timing issues of the public park dedication up to including the time of the Certificate of Occupancy.

Provide an additional condition of approval that at the time that the Design Review Board specifically reviews the applicants plans, regarding the east wall of the large structure on Phase II, to insure its compatibility with the proposed park. And to also have the DRB look at the pathway and sidewalk circulation plan. And an additional condition of approval that the applicant consider on-site detention in its submittal to the city. That the applicant coordinate with the engineering department the storm drainage plans with some consideration toward whether or not an on-site detention is feasible and meets the engineering standards of the city. And to provide an additional finding of fact that says that the traffic signal at the intersection of Town Center Loop West and Wilsonville Road is in process and should be in place by July of 1992, which it appears will alleviate some of the traffic congestion but the Planning Commission still has significant concerns regarding the traffic at the intersection of Wilsonville Road and Parkway Avenue. (That's a finding of fact and not a Condition of Approval.)

An additional Condition of approval is subject to the approval of the City Attorney and agreement being reached regarding lining up of the access drives on Town Center Loop West and the property across the street. The City Attorney is going to review the agreements to make sure that we end up with a full intersection on Town Center Loop West and the access drive to the Project Thunder.

(Mike Kohlhoff - Add the phrase, "unless the project owner and the city council reach other agreement")

Condition 10 will read that dedication of 5.1 acres for a public park will be required before issuance of the Certificate of Occupancy unless the applicant and the City Council reach an agreement for a later date.

Motion was seconded by Lew Hendershott and carried 4-2.

**PLANNING DEPARTMENT  
STAFF REPORT**

**DATE: December 9, 1991**

**TO: Planning Commission**

**PREPARED BY: Blaise Edmonds**

**REQUEST: 91PC43 Modification to Stage I Site Master Plan, reconsider Condition of Approval 8 of Resolution 90PC15; Stage II Phase II Site Development review for a 159,400 square foot retail commercial building - Project Thunder - Capital Realty Corp., applicant.**

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**SUMMARY**

Capital Realty Corporation is representing a retail business with the anonymous name "Project Thunder". The Project Thunder people desire to develop 14.75 acres (Phase II of Wilsonville Town Center) for a 159,400 square foot electronics-related retail store.

The proposed Project Thunder Stage II Site Development Plans has caused Capital Realty Corp. to modify and re-submit the Stage I Wilsonville Town Center Master Plan to reflect an expanded master plan area, reclassify overlay zones associated with Ordinance 55, redesignate the phasing sequence and to establish approximately 5.4 acres for open space.

Capital Realty Corp. is also seeking reconsideration of Condition 8 of Planning Commission Resolution 90PC15 which imposed certain design and development requirements for the development of the 5.4 acre open space.

All Comprehensive Plan and Zoning Code requirements that apply to this Stage I review are satisfied or can be met. Parking issues, building height and setback, final design, utility placement, and other site specific development requirements are further considered in this application for Stage II Phase II site development of Thunder Project, a 159,400 square foot retail commercial building. The applicant has also submitted conceptual plans showing Project Thunder's architecture, landscaping and a signage program. The Design Review Board is the City's review authority of the project's architecture, landscaping and signage program.

The applicant's traffic report demonstrates that the location, design and uses are such that traffic generated by Project Thunder can be accommodated safely and without congestion in excess of level service D defined in the Highway Capacity Manual at the access drives to Town Center Loop West and at the intersection of Town Center Loop with Parkway Avenue and the intersection with Town Center Loop West with Wilsonville Road. It may also be determined that the location and design of the access drives may be refined to reflect conclusionary findings of the traffic analysis report and of the City Engineering Department. The proposed findings do not take into account traffic impact on the intersection of Wilsonville Road with Parkway Avenue and the Wilsonville interchange from the proposed Phase II development. With respect to the previous statement, the Planning Commission did not analyze traffic congestion levels on the aforementioned intersection in the review of Phase I Wilsonville Town Center. Furthermore, Subsection 4.139(4)(b)WC does not ask the applicant to accommodate traffic safely and without congestion in excess of level service "D" at the Wilsonville Interchange.

Project Thunder can be adequately served by existing or immediately planned public facilities and services.

**RECOMMENDATION:** Approve the modified Stage I Wilsonville Town Center Master Plan and Stage II Phase II Site Development Plans with Conditions of Approval attached herein. This recommendation acknowledges the conceptual configuration of a 5.1 acre open space as proposed by the developer.



**FINDINGS: PDC & PDI**

The following findings are hereby adopted by the PLANNING COMMISSION and entered into the public record in consideration of the application as submitted in conformance with the City's Comprehensive Plan and Zoning Regulations. "PROJECT THUNDER"

NA = NOT APPLICABLE  
DRB = DESIGN REVIEW BOARD

	Code Std.	Proposed	Code Compliance		Additional Findings
			Yes	No	
<b>A. Land Use</b>					
Zoning	<u>PDC</u>	<u>PDC</u>	<input checked="" type="radio"/>	<input type="radio"/>	<u>1 to 7</u>
Comprehensive Plan Designation	<u>COMMERCIAL TOWN CENTER</u>		<input checked="" type="radio"/>	<input type="radio"/>	<u>1 to 7</u> <u>32 to 36</u>
<b>B. Land and Building Improvements</b>					
<b>1. Lot Size</b>					
a. Total site area (acreage)	<u>NOT SPECIFIED</u>	<u>652,687 SF</u>	<input checked="" type="radio"/>	<input type="radio"/>	_____
b. Lot sizes (subdivision)	<u>NA</u>		<input type="radio"/>	<input type="radio"/>	<u>NA</u>
Acreage lot size	<u>NA</u>		<input type="radio"/>	<input type="radio"/>	<u>NA</u>
<b>2. Lot Coverage</b>					
a. All buildings	<u>NOT SPECIFIED</u>	<u>24% 159,400 SF</u>	<input checked="" type="radio"/>	<input type="radio"/>	_____
b. Parking/paved	<u>↓</u>	<u>61% 395,242 SF</u>	<input checked="" type="radio"/>	<input type="radio"/>	_____
<b>c. Landscaping</b>					
1. total size area (%)	<u>MINIMUM 15%</u>	<u>15% 98,045 SF</u>	<input type="radio"/>	<input type="radio"/>	<u>DRB</u>
2. parking area (%)	<u>10%</u>	<u>-</u>	<input type="radio"/>	<input type="radio"/>	<u>↓</u>
3. screening/buffering	<u>REQ'D</u>	<u>-</u>	<input type="radio"/>	<input checked="" type="radio"/>	<u>42,43</u>
4. irrigation system	<u>↓</u>	<u>-</u>	<input type="radio"/>	<input type="radio"/>	<u>DRB</u>
<b>3. Building Setbacks</b>					
Front / <u>TOWN CENTER LOAD WEST</u>	<u>0'</u>	<u>445'</u>	<input checked="" type="radio"/>	<input type="radio"/>	_____
Right side / <u>NORTH</u>	<u>0'</u>	<u>160'</u>	<input checked="" type="radio"/>	<input type="radio"/>	_____
Left side / <u>SOUTH</u>	<u>0'</u>	<u>85'</u>	<input checked="" type="radio"/>	<input type="radio"/>	_____
Rear side / <u>EAST</u>	<u>0'</u>	<u>70'</u>	<input checked="" type="radio"/>	<input type="radio"/>	_____

	Code Std.	Proposed	Code Compliance		Additional Findings
			Yes	No	
4. Building Use					
a. Office	sq. ft.	9,117 SF	<input checked="" type="radio"/>	<input type="radio"/>	
b. Warehouse	sq. ft.	39,330 SF	<input checked="" type="radio"/>	<input type="radio"/>	
c. Manufacturing/SERVICE	sq. ft.	17,276 SF	<input checked="" type="radio"/>	<input type="radio"/>	
d. Other/DETAIL	sq. ft.	63,914 SF	<input checked="" type="radio"/>	<input type="radio"/>	
5. Building Specifications					
a. Building Height	35'	-	<input checked="" type="radio"/>	<input type="radio"/>	44
b. (Sun Exposure Plane)	NA		<input type="radio"/>	<input type="radio"/>	NA.
c. Gross Floor area of Building	NO LIMIT	150,400 SF	<input checked="" type="radio"/>	<input type="radio"/>	
6. Number of Off-Street Parking					
a. Standard 9' X 18'	472	850	<input checked="" type="radio"/>	<input type="radio"/>	48
b. Compact 8 1/2' X 17' (30% 10 allowed)	OPTIONAL	NOT SHOWN	<input checked="" type="radio"/>	<input type="radio"/>	
c. Handicapped 12' X 18' (1 to 50 required)	11	16	<input checked="" type="radio"/>	<input type="radio"/>	UBC TABLE 31-A
Total	483	872	<input checked="" type="radio"/>	<input type="radio"/>	46 to 48
d. Truck load berths	2	26	<input checked="" type="radio"/>	<input type="radio"/>	
7. Access/Egress					
a. Direct access to street	-	3	<input type="radio"/>	<input checked="" type="radio"/>	17, 18
b. Access provided by easement	NA		<input type="radio"/>	<input type="radio"/>	NA
c. Rail Access	NA		<input type="radio"/>	<input type="radio"/>	NA.
8. Open Space Slope Protection					
a. Existing vegetation protected	NA		<input type="radio"/>	<input type="radio"/>	NA
b. Slopes over 20% to 30% impervious coverage	NA		<input type="radio"/>	<input type="radio"/>	NA
c. River and stream corridors protected	NA		<input type="radio"/>	<input type="radio"/>	NA
d. Adequate erosion control provided			<input checked="" type="radio"/>	<input type="radio"/>	EXHIBIT G4
e. Within greenway	NA		<input type="radio"/>	<input type="radio"/>	NA

	Code Std.	Proposed	Code Compliance		Additional Findings
			Yes	No	
<b>C. <u>Other Planning Considerations</u></b>					
1. Outside storage area provided/ screening	<u>-</u>	<u>-</u>	<input type="radio"/>	<input type="radio"/>	<u>DRB</u>
2. Adequate screenage of mechanical equipment	<u>-</u>	<u>-</u>	<input type="radio"/>	<input type="radio"/>	<u>DRB</u>
3. Safety/crime prevention					
a. Location of addressing	<u>-</u>	<u>-</u>	<input type="radio"/>	<input type="radio"/>	<u>DRB</u>
b. Natural surveillance	<u>-</u>	<u>-</u>	<input type="radio"/>	<input type="radio"/>	
c. Type of exterior lighting	<u>-</u>	<u>-</u>	<input type="radio"/>	<input type="radio"/>	

<b>D. <u>Bike Paths, Pedestrian Trails, &amp; Equestrian Trails</u></b>					
1. Pathway Standards					
a. Pathways are provided consistent with pathway master plan and design standards (Section 4.168 W.C.)	<u>REQ'd</u>	<u>HOT SHOW</u>	<input type="radio"/>	<input checked="" type="radio"/>	<u>281031</u>

<b>E. <u>Previous Approval actions and applicable conditions or approvals</u></b>					
1. City Council	<u>Yes</u>	<u>No</u>	File No.	See finding	<u>DRB 55</u>
2. DRB	<u>Yes</u>	<u>No</u>	File No.	See finding	<u>90215 Agre 50</u>
3. P.C.	<u>Yes</u>	<u>No</u>	File No.	See finding	<u>          </u>
4. Other	<u>Yes</u>	<u>No</u>	File No.	See finding	<u>          </u>
Inter-agency review comments					
Yes	<u>No</u>	See Exhibit No.			<u>          </u>
Inter-agency review comments (Written Only)					
City Engineer	<u>Yes</u>	<u>No</u>	See Exhibit No.		<u>          </u>
Parks & Recreat.	<u>Yes</u>	<u>No</u>	See Exhibit No.		<u>          </u>
Traffic Safety	<u>Yes</u>	<u>No</u>	See Exhibit No.		<u>          </u>
Building Dept.	<u>Yes</u>	<u>No</u>	See Exhibit No.		<u>          </u>
Tualatin Fire Dept.	<u>Yes</u>	<u>No</u>	See Exhibit No.		<u>          </u>
Sheriff	<u>Yes</u>	<u>No</u>	See Exhibit No.		<u>          </u>

**MODIFIED STAGE I MASTER PLAN AND  
STAGE II PHASE II SITE DEVELOPMENT PLANS  
AND RECONSIDERATION OF  
CONDITION OF APPROVAL 8 OF 90PC15  
PLANNING COMMISSION FINDINGS**

**Property Owner:** Capitol Realty Corporation  
**Project:** Project Thunder  
**Developer:** Project Thunder  
**Architects:** Stage I Master Plan revision - JKS Architects  
 Stage II Phase II - Design Forum Architects  
**Traffic Engineer:** Kittelson & Associates, Inc.

**Property Description:**

The subject master plan area comprises 59.79 acres for retail commercial/office development more specifically described as Tax Lots 500, 600, 601 and 604 of Section 13 and Tax Lots 101, 200, 201, 300 and 405 of Section 14D, T3S-R1W, Clackamas County, Wilsonville Oregon. Approximately 114 acres comprise the Town Center Master Plan as recognized in Ordinance No. 55. Wilsonville Town Center, the name of Capital Realty Corporation's commercial retail development, has the same name of a retail district identified in Ordinance No. 55. For clarification, the applicant's Stage I Master Plan will be identified as the Wilsonville Town Center and the City's Master Plan of the district will be identified as Ordinance No. 55.

For years the interior area of Town Center Loop was in agricultural use with farm exemption tax status. It wasn't until the last eight years that the area experienced rapid residential and commercial growth with the development of Park Center Apartments, Town Center Mercantile, Wilsonville Market Place, Phase I Wilsonville Town Center, Clackamas Community College and various office and retail developments. It is apparent that the remaining undeveloped property has become very desirable as reflected by this application for a 159,400 square foot commercial retail store. Capital Realty forecasted commercial growth trends in Town Center and have subsequently purchased additional property to accommodate their plans to develop the Wilsonville Town Center Master Plan. Thus, the overall master plan area will increase from 53.39 acres to 59.79 acres. This adjustment will also create a new development phase in the overall Master Plan. With respect to Project Thunder, the relatively level site is easily accessible to Town Center Loop, Parkway Court and Wilsonville Road. The proposed Project Thunder site is also highly visible to I-5 and Town Center Loop West.

## LAND USE

### Project Data Stage I - 89PC50

#### 1. Building Area

Phase I	24.08 acres	170,900 square feet
Phase II	6.52 acres	61,000 square feet
Phase III	<u>22.79 acres</u>	179,000 square feet
Total	53.39 acres	

#### Building Area

Phase I	207,130 square feet
Open Space	5.62 acres

### Project Data Stage I Modification:

2. Phase I	22.96 acres (Existing Wilsonville Town Center commercial dev.)
Phase II	14.75 acres (Proposed Project Thunder)
<u>Phase III</u>	<u>22.08 acres (Undeveloped property)</u>
Total	59.79 acres

#### Building Area

Phase I	207,130 sq.ft.
Phase II	159,400 sq.ft.

3. The Master Plan amendment also seeks to amend the current overlay zones in Ordinance No. 55 to reflect modifications proposed in Stage I Wilsonville Town Center. Essentially, the amendments would replace the Motor Hotel (MH), Office Professional (OP), Service Commercial (SC) and Residential (R) use designations with Central Commercial (CC).

### Plan Designation and Zoning

4. The subject site is designated "Commercial" on the Comprehensive Plan map and zoned "Planned Development Commercial" (PDC) on the zoning map. The site is also situated within an area identified as Town Center Master Plan area (Ordinance No. 254). Ordinance No. 254 identifies the property in the following overlay zones; Service Commercial (SC), Office Professional (OP), Central Commercial (CC), Motor Hotel (MH), Residential (R) and within an area designated for a Lake or Open Space.

5. Within the Comprehensive Plan, a number of goal and policy statements address the commercial planning designation and development review which apply to the subject property. The applicable criteria for Stage I Master Plan review is found in Section 4.139(2) of the Wilsonville Code. Recommended uses for development within the Town Center Master Plan are embodied in Chapter 4 of the Wilsonville Code. In brief, the combined review criteria are the following:

The Most Applicable Comprehensive Plan Goals, Policies and Objectives

Goal 1.1	Citizen Involvement Goal
Objective 3.1	Public Facilities Availability
Policy 3.3.1	Street System Master Plan
Policy 3.3.1(b)	Street System Master Plan
Policy 3.3.1(c)	Street System Master Plan
Policy 3.3.2(a)	Arterial and Collector Streets
Policy 3.3.5(b)	Private Owner Responsibility to Build Streets
Policy 3.3.8(a)	Transportation Impact Analysis
Policy 3.3.8(c)	Traffic Trip Reduction
Policy 3.3.8(d)	Consolidation of Vehicle Trips
Policy 3.3.8(e)	Mass Transit
Policy 3.3.14	Major Street Improvements Required
Policy 3.3.3	Street Standard and Dedication
Policy 3.3.11	Bikeways and Pathways
Policy 3.3.12	Pathway Construction
Policy 3.8.3	Open Space
Policy 4.2.3	Site Plan Information Requirements
Policy 4.2.5	Development Coincide with Public Facilities

Applicable Zoning Ordinance Provisions

Section 4.123	This Section provides the requirements of the PDC zone which are governed by Section 4.130 to 4.140.
Section 4.138(4)	Stage I Master Plan compliance
Section 4.139(4)	Criteria for approval of a planned development including subsections a, b and c

Town Center Master Plan

Ordinance Nos. 55 and 254.

**Goal 1.1 - Citizen Involvement**

6. The Planning Commission will be conducting the Stage I Master Plan as a public hearing and all notification requirements have been met.

## CONCLUSIONARY FINDING

7. The proposed uses, both separately and as a whole, are consistent with the Comprehensive Plan and can be made consistent with Ordinance No. 55.

## PUBLIC FACILITIES

### Objective 3.1

8. The City Engineering Department has provided detailed comments regarding public facilities improvements required to serve the site. These findings and recommendations are listed on Exhibit D.

### Sanitary Sewer

9. Three sanitary sewer lines serve the site. An eight-inch line is located on the west side of the site which extends south through Citizens Drive to a trunkline in Wilsonville Road. A 15-inch line is located in the center of the site and a 10-inch line traverses the site originating from the Courtside Estates subdivision. This line was relocated to accommodate Phase I development. Approximately 1,500 linear feet of a sanitary sewer line was constructed along the northerly right-of-way of Wilsonville Road. This finding is also applicable to Stage II site development.

### Storm Drainage

10. The subject site is located within two storm drainage basins. Phase I site grading recontoured the site Master Plan to divert storm water to a piped system in the easterly basin that out falls to an existing 48-inch pipe on the southeast corner of Phase I site. This diversion helps relieve the westerly storm basin from the storm drainage system that out falls to constricted culvert under I-5. Phase II development will remove the existing storm detention pond located on the west side of the site and be replaced with storm pipes to connect with the improved Phase I storm system. The City requires detailed storm drainage plans designed to pass a 25-year storm frequency. The detention pond has not been investigated with the Oregon Division of State Lands for wetlands status.

### Water

11. Existing 12-inch waterlines located in Wilsonville Road and Town Center Loop East and West have adequate flow to serve full buildout of the site. This finding is also applicable to Stage II site development.

### Police

12. Police protection is provided to the City by the Clackamas County Sheriff's Department. This department has a headquarters in Wilsonville City Hall which is near the subject property.

## Fire/Emergency

13. The Tualatin Valley Consolidated Fire and Rescue District provides fire protection to this site. The City is served by two fire stations strategically located in the City that can provide adequate fire protection services to the proposed development.

## CONCLUSIONARY FINDING

14. That the location, design and uses are such that the retail commercial center will be adequately served by existing or immediately planned facilities and services.

## STREETS and TRAFFIC

### Policy 3.3.1(a) - Street System Master Plan

15. The Street System Master Plan identifies design standards and conceptual locations for arterials and major collectors. Wilsonville Road and Town Center Loop are classified as major arterial streets. The Master Street System and Functional Classification Map does not identify or classify any internal streets within the Town Center Loop. In the case of the proposed retail development, private drives will be constructed and connected to an internal drive/road system. This finding is also applicable to Phase II Stage II site development.
16. The design standards for Wilsonville Road show an approximate 94-foot right-of-way with a median planter island. The standards for the Town Center Loop show a 72-foot right-of-way with a median planter island. This finding is also applicable to Stage II site development.
17. The proposed development will construct driveway connections within Town Center Loop, but not in the same alignments as shown on the pictorial map representing the Town Center Master Plan. This finding is also applicable to Stage II site development.
18. Though the proposed access drive located near the northwest corner of the site is shown at a location supported by the Town Center Master Plan, this access is situated along a radius of Town Center Loop West that may position it in an unsafe location for egress and ingress.

### Policy 3.3.2(a) - Dedication of Arterial and Collector Streets and Control or Consolidation of Access Drives.

19. The dedication of additional right-of-way and half-street improvements along Wilsonville Road and Town Center Loop East were accomplished in Phase I Stage II site development. This finding is also applicable to Stage II site development.
20. The Wilsonville Town Center Master Plan shows ten access drives at arterials. The full access drive shown near the northwest corner of Phase III at Town Center Loop West should be analyzed for safe vision clearance.



21. The proposed access drive to Project Thunder, shown at the southwest corner of the site, does not align with the location of the existing curb cut approved to the site in Local Improvement District No. 5. This access drive would further create a staggered intersection with access drives constructed on the opposite side of Town Center Loop West. This access drive also deviates from the access drive shown on the Town Center Master Plan approved in 89PC50. The Planning Commission cannot change the locations of access drives approved in LID No. 5 without first obtaining approval from the City Council. This finding is also applicable to Stage II site Development.
22. It appears from the re-submitted Stage I Master Plan that access is not proposed at Parkway Court which would have encouraged through traffic from Wilsonville Road and Town Center Loop to the Parkway Court.

### Policy 3.3.3

23. Policy 3.3.3 requires the City to establish minimum street standards and dedication of adequate right-of-way prior to actual site development. It further provides that if proposed development exceeds minimum service capacity, then appropriate improvements shall be required prior to occupancy of the completed development. With respect to Project Thunder, the arterials servicing the site, Town Center Loop West and Wilsonville Road are already constructed to the Public Works standards. Phase I of Wilsonville Town Center is required to install a traffic signal to comply with minimum service capacity levels.
24. Section 4.139(4) stipulates that a Planned Development Permit may be granted by the Planning Commission only if it is found that the development conforms to subsections 4.139(4)(a),(b) and (c) and Sections 4.130 to 4.140. Section 4.139(4)(b) states:

"That the location, design, size and uses are such that traffic generated by the development can be accommodated safely and without congestion in excess of level service D defined in the Highway Capacity Manual published by the National Highway Research Board on existing or immediately planned arterial or collector streets and will, in the case of commercial or industrial developments, avoid traversing local streets."
25. The applicant has provided an updated transportation analysis prepared by Kittelson & Associates, Inc. for Project Thunder. Wayne Kittelson's updated report is labeled Exhibit G-7. The report recommends that a traffic signal be installed at the intersection of Town Center Loop West with Wilsonville Road at the time of occupancy of Phase II. However, Capital Realty was conditioned in Phase I Stage II development (Resolution 90PC15) to install the subject traffic signal as determined by the City Engineering Department. This requires that the State of Oregon Department of Transportation warrant the signal. This finding is also applicable to Stage II site development.
  - All of the intersections within the study area, with the exception of Wilsonville Road/Parkway Avenue, are currently operating within acceptable level of service limits.

- Under projected 1991 total traffic conditions and with the addition of site-generated Phase I traffic, the minor street left-turn movements at the Town Center Loop West/Wilsonville Road intersection are projected to experience an "E" Level of Service. While a traffic signal would improve the level of service for the 45 vehicles making this movement, it would also cause an overall increase in intersection delay and is not considered appropriate in view of the surrounding street system, the traffic circulation patterns and the projected operational characteristics of this intersection.
- By 1995, the projected background traffic volume conditions, without Phases II and III, will warrant the installation of a traffic signal at the intersections of Wilsonville Road/Town Center Loop West and Wilsonville Road/Town Center Loop East. It is therefore recommended that traffic operations at both the Town Center Loop intersections with Wilsonville Road be monitored on a regular basis. Traffic signals should be installed only when one or more MUTCD signal warrants are met and the operational and/or safety characteristics dictate a need for a traffic signal.
- The number of access drives included in the Site Plan will be adequate to serve the proposed retail development. These access drives will disperse the site-generated traffic sufficiently to minimize the overall effect of the retail center on the capacity and quality of service provided by the adjacent arterial street system. At the same time, they are sufficiently separated from each other and from adjacent intersections to avoid significant operational, stacking and safety problems.
- By 1995, the projected background traffic volume will, by itself, exceed the existing capacity of Wilsonville Road in the vicinity of the Wilsonville Road/I-5 interchange. The proposed ODOT improvement project at the interchange would add sufficient capacity to accommodate both the 1995 background traffic, as well as the additional traffic from Phases II and III of the proposed development.

Kittleson and Associates has also provided additional findings and recommendations found in their letter of October 16, 1991, labeled Exhibit G, which are as follows:

- The key unsignalized intersections within the study area are currently operating at an acceptable LOS during weekday evening peak hour conditions.
- Upon completion of the development, the site driveways and key off-site intersections, with the exception of Wilsonville/Town Center Loop West, will operate within acceptable level of service limits during the evening peak-hour time period.

- A traffic signal is warranted to accommodate projected 1992 traffic volumes at the Wilsonville Road/Town Center Loop West intersection. It is therefore recommended that a traffic signal be installed at this location upon completion of the proposed development.

**Policies 3.3.8(a)-(e)**

26. These policies address traffic impacts and congestion.

As noted in the previous findings responding to Policy 3.3.3, the applicant has provided a detailed traffic analysis that responds to Policies 3.3.8(a)-(e) and Section 4.139(4) of the Wilsonville Code.

**CONCLUSIONARY FINDING**

27. The applicant's traffic report demonstrates that the location, design and uses are such that traffic generated by Project Thunder can be accommodated safely and without congestion in excess of level service D defined in the Highway Capacity Manual at the access drives to Town Center Loop West, and at the intersection of Town Center Loop with Parkway Avenue and the intersection with Town Center Loop West with Wilsonville Road. It may also be determined that the location and design of the access drives may be refined to reflect conclusionary findings of the traffic analysis report and of the City Engineering Department. These findings do not take into account traffic impact on the intersection of Wilsonville Road with Parkway Avenue and the Wilsonville interchange from the proposed Phase II development. With respect to the previous statement, the Planning Commission did not analyze traffic congestion levels on the aforementioned intersection in the review of Phase I Wilsonville Town Center. Furthermore, Subsection 4.139(4)(b)WC does not ask the applicant to accommodate traffic safely and without congestion in excess of level service "D" at the Wilsonville Interchange.

**TRANSIT FEATURES, SIDEWALKS AND BIKEWAYS**

28. Specific transit features such as transit stop locations and right-of-way fixtures for transit uses should be provided in the Stage II Site Development Plan. These findings are also applicable to Stage II site development.

**Policies 3.3.11, 3.3.12, 3.3.13 and 3.3.13(b)**

29. These policies addresses pathways and bikeways. Written comments received by Myers/Kroker (the architectural firm responsible for master planning Town Center) in case file 90PC15, have the following observations concerning pedestrian pathways:

"There will need to be a landscape design study of the public right-of-way system defining the nature of plant materials, berm forms, ground cover, public walk systems and street light systems. Design definition of pedestrian overpasses would be developed within the recommended 'Design Review Parameter Study'."

30. The modified Stage I Master Plan shows a bikeway through Phase I to extend through Phase III and connect with the future park. A shoulder-side bikeway is required on the Comprehensive Plan to occur on the south side of Wilsonville Road.
31. The Phase II Stage II submittal plans do not indicate sidewalks along Town Center Loop West as required by Ordinance No. 55 and by Section 4.168 and Subsection 4.167(1)(b) of the Wilsonville Code. Regarding Project Thunder, a five-foot wide concrete sidewalk is required along Town Center Loop West to be off-set five feet from the curb. In order to provide for safe pedestrian access around and on the Phase II site, pedestrian walkways should be extended from Town Center Loop West via the central access drives up to Project Thunder's storefront. It also appears that the applicant has not considered pedestrian sidewalks to link the site with the future park and adjoining businesses.

### OPEN SPACE

#### Policy 3.8.3

32. This policy addresses open space. The proposal, as presented, will have a major impact on the location, size and configuration of the area designated by Ordinance No. 55 shown as lake or open space. Approximately 8.5 acres of lake or open space is conceptually shown on the Town Center Master Plan. The open space depicted on the modified Town Center Master Plan or Ordinance No. 55 does not have the same configuration as shown for the Primary Open Space area depicted on the Comprehensive Plan Map.
33. The modified Stage I Master Plan shows 5.1 acres in open space to be reconfigured to satisfy Capital Realty's site development program, and hopefully, for the City's benefit to develop the property as a public park. The application does not propose a specific open space plan with uses, nor is the applicant proposing a development schedule. In this regard, the Planning Commission had previously conditioned the applicant in Resolution 90PC15 to perform the following:

#### Condition No. 8:

"At Phase II Stage II site development, which shall be the next phase presented, applicant shall submit to the Planning Commission and the Design Review Board a detailed open space plan and development schedule for the development of the 5.4 acre open space shown on the Stage I Master Plan."

With respect to the above issues, the applicant is requesting the Planning Commission to reconsider Condition No. 8 as follows:

1. Develop a design for the conceptual Wilsonville Town Center open space that allows for the participation of the appropriate City staff and commissions.
2. To formulate a development plan and time frame consistent with the development of Phases II and III of the balance of the Wilsonville Town Center property, and

3. Determine Capital Realty's financial obligation and any credits related thereto."
34. Ordinance No. 55 depicts an open space or lake with a centralized location in Town Center with surrounding development to be oriented and related with it. One can compare this relationship to be similar with the concept of a public square of a small European city or even with an Early American town square. Those kind of public spaces create a sense of place and encourage a community gathering place within an urban context. It also creates a city center environment that involves the pedestrian in its function and design that is not found in retail strip developments designed around automobiles.
35. The proposal, as presented, shows approximately 5.1 acres in open space. The City will require that the open space be dedicated for development of a City park. At issue is the proposed configuration of the open space. In this regard, the proposed open space has a spacial composition that positively responds to the open space concept in Ordinance No. 55. The proposed Master Plan is an assembly of properties that make up a reasonable configuration for future park development. Conversely, the surrounding development plan represents an augmentation of the more traditional strip retail commercial center showing buildings oriented to major collectors and arterials together with large storefront parking areas. Truck delivery activities are then generally found on the sides or at the rear of the stores which attract outside storage of palettes, boxes etc. The applicant has modified the original submittal drawings designed to lessen the impact of Project Thunder's building mass on the proposed open space. Buffering can be accomplished by reducing the mass of Project Thunder with siting a smaller intervening building between Project Thunder and the open space. The revised plan also re-positioned potential building sites to open up the view of the open space to Town Center Loop West.
36. The proposed 5.1 acre open space, combined with approximately 3 acres in open space created for Town Center Park Apartments and Clackamas Community College, will provide a generous area for a future public park.

**Policy 4.2.3 and Section 4.139(2)(a) and (b)**

37. This policy and zoning section identify the information which must be included in the Site Plan. The information set forth has been submitted in compliance with the Comprehensive Plan and Zoning Ordinance. Landscape and Architectural Plans will be reviewed by the Design Review Board.

**Policy 4.2.5**

38. This policy requires that development coincide with the provision of public streets, water, sanitary sewer and storm drainage facilities. Such facilities are currently available at the site. Sewer and water are located within the abutting roads. Storm drainage is provided at the eastern portion of the site. The extension of these services will be coordinated with site construction and facilities and will be designed to meet City public works standards.

## Sections 4.130 to 4.140

39. The proposed use is authorized by, and consistent with, the Comprehensive Plan and the official City Zoning Map. The proposed commercial/office uses are permitted in overlay zones as part of the Town Center Master Plan. An approval of this Master Plan, however, will amend overlay zones of Ordinance No. 55.
40. Ordinance No. 55 is a conceptual plan intended to list recommended uses prescribed by commercial overlay zones. The Ordinance further allows the Planning Commission flexibility to change the plan to reflect changes of community needs, shopping habits, transportation and in social economic needs. Such is the case in this application with proposed changes in building orientation, driveway location, reclassified uses and reconfigured open space.
41. Condition No. 2 of the Stage I Master Plan approval requires separate Stage II land development applications for review of each pad. Therefore, the buildings proposed on the pads are not part of this application.

### BUFFERING and SCREENING

42. Section 4.163 of the Wilsonville Code requires:
  - A. All outdoor storage and garbage collection areas shall be screened from off-site view with fencing and/or landscaping.
  - B. Activity areas on commercial and industrial sites shall be buffered and screened from adjacent residential areas. Multi-family developments shall be screened and buffered from single-family areas.
43. The Site Plan illustrates an area between the truck loading area and proposed open space. This site arrangement orients the massive and mundane backside of Project Thunder to Parkway Court and the proposed open space. The impact can be lessened, as proposed in Finding No. 35, together with innovative design utilizing landscaping, screenage, murals etc.

### BUILDING HEIGHT

44. Definition no. 12 of Chapter 4 of the Wilsonville Code (Building of Structural Height) is defined by the following:

"The term 'height of building' shall be deemed to mean the perpendicular distance from the average elevation of the adjoining ground to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the middle height gable between the eaves and ridge of a pitch or hip roof. If a building is divided into units by means of masonry division walls, each unit shall be considered separately in calculation for height of building."

45. In order to distinguish Project Thunder to the public, the applicant proposes to construct a dome and flag pole atop the main entrance of the store. Section 4.172(1) exempts domes and flag poles from the height limits of the PDC zone. However, the flag pole can only fly the United States and the State of Oregon flags. Just for general information, the top of the dome is shown approximately 55 feet above grade level. The top of the flag pole is approximately 81 feet above grade level.

**PARKING ANALYSIS**

46. Section 4.150WC:

"Commercial:

Commercial retail, 1,501 square feet or more	1 space/200 sq.ft. @ 63,914 sq. ft. of floor area
Service or repair shops	1 space/200 sq.ft. @ 17,276 sq. ft. of floor area
Eating or drinking establishments	1 space/200 sq.ft. @ 6,096 sq. ft. of floor area
Storage warehouse, wholesale establishment, rail or trucking freight terminal	1 space/2,000 sq.ft. @ 39,336 sq.ft. of floor area up to 40,000 sq.ft.; 1 space/4,000 sq. ft. thereafter
Office	1 space/250 sq.ft. @ 9,117 sq.ft.

These calculations do not include employee lunch rooms, restrooms, HVAC rooms, cat walks, etc.

**Building Area - Phase II**

**Minimum Parking Required:**

Project Thunder approximate floor areas:

Retail Commercial	$63,914 / 200 = 320$ spaces
Service	$17,276 / 200 = 86$ spaces
Office	$9,117 / 250 = 36$ spaces
Restaurant	$6,096 / 200 = 31$ spaces
<u>Storage</u>	<u><math>39,336 / 4000 = 10</math> spaces</u>

Minimum parking : **483 spaces**

47. Though the proposed off-street parking count shows 16 handicapped and 856 standard parking spaces for a total of 872 parking spaces, the proposed parking is almost twice the minimum requirement of the Code. This figure does not include parking for the future pads. Those parking areas will not be constructed until each pad is developed.

48. The parking plan specifies dimensions for a typical standard parking space at 9' x 18' with 25'-0" drive aisles. The Zoning Code has a minimum 9' x 18' standard parking space dimension. Compact parking spaces are not proposed and are optional by the Zoning Code.



And to provide an additional finding of fact that says that the traffic signal at the intersection of Town Center Loop West and Wilsonville Road is in process and should be in place by July of 1992, which it appears will alleviate some of the traffic congestion, but the Planning Commission still has significant concerns regarding the traffic at the intersection of Wilsonville Road and Parkway Avenue. (That's a finding of fact and not a Condition of Approval.)

**STAGE I MASTER SITE PLAN AND  
PHASE II STAGE II SITE DEVELOPMENT  
CONDITIONS OF APPROVAL**

1. This approves the subject Stage I Master Plan and Stage II Site Development of Phase II Project Thunder store. Developers shall submit separate applications for Stage II development review and separate applications for Site Design Review for each pad and development phase proposed in the Master Plan.
2. Automotive service stations/centers and automotive wash centers shall not be permitted within the Wilsonville Town Center Master Plan.
3. The owner shall waive right of remonstrance against any local improvement district that may be formed to provide public improvements to serve the subject site.
4. All survey monuments on the subject site shall be protected. If destroyed by the proposed site construction, the applicant shall retain a professional land surveyor to replace the monuments and file a copy of the record survey with the City.
5. The developer shall retain an engineer to provide a detailed drainage analysis of the subject property and prepare a 24" x 36" sheet identifying contributing drainage areas to be included with the final design plans.
6. Storm sewer system shall be designed to pass a 25-year frequency storm. Engineer shall provide detailed drainage computations. Applicant's design engineer shall provide runoff protection to downstream property owners. The design may require a detailed erosion control plan.
7. The developer shall coordinate with the City Engineer in preparing grading plans and in the design and location of all public utilities.
8. The developer shall conform with all requirements of the Tualatin Valley Fire District.

9. The developer shall submit to the Design Review Board a pedestrian sidewalk plan showing connections along the access drives through Phase II to the open space. Construct a five-foot wide concrete sidewalk, off-set five feet from the curb along the entire frontage of Town Center Loop West with Phase II and the adjoining pads. Connect all public sidewalks to the on-site sidewalk system. All sidewalks shall be constructed prior to occupancy of Project Thunder.
10. This approval amends Condition No. 16 of Resolution 89PC50 and Condition No. 8 of Resolution 90PC15 to state as follows:  
  
The applicant shall dedicate 5.1 acres for a public park before issuance of the Certificate of Occupancy for Phase II unless the applicant and the City Council reach an agreement for a later date. The City and the applicant will work toward resolving the access and timing issues of the public park dedication up to including the time of the Certificate of Occupancy.
11. That an association of owners or tenants shall be established which shall adopt such Articles of Incorporation, By-Laws or other appropriate agreement, and shall adopt and impose such Declaration of Covenants and Restrictions on such common areas (landscaped areas) that are acceptable to the Planning Director. Said association shall be formed and continued for the purpose for maintenance. Such an association may undertake other functions. It shall be created in such a manner that tenants or owners of property shall automatically be members and shall be subject to assessments levied to maintain said common areas for the purposes intended. The period of existence of such association shall be not less than twenty years and it shall continue thereafter until other arrangements are made subject to City approval. This condition of approval does not apply to the open space proposed to be dedicated to the City.
12. All final plans shall be submitted on a 24" x 36" format. A title page will be required with a space left in the lower right-hand corner for an 8-1/2" x 11" information sheet to be provided by the City and to be affixed to the final as-built plans before acceptance. The applicant shall provide 3 mil mylar as-builts to the City which must be submitted and approved by the City before the final punch list inspection will be performed by the City.
13. Final utility design shall meet the following general format:
  - A. Sanitary sewer shall be aligned on the north and west side of all street centerlines.
  - B. Storm sewer shall be aligned on the south and east side of all street centerlines.
  - C. Water line shall be aligned on the south and east side of all street centerlines.
  - D. Minimum centerline finish grade shall be no less than 1% and the maximum centerline finish grade shall be no more than 12% for local streets. Minimum centerline finish grade shall be no more than 8% for any street above local street in classification and shall be constructed of concrete.
  - E. The top of the curb shall equal centerline finish grade unless offset crown design or curb return transition.

- F. Composite utility plan shall be part of the final plan set.
  - G. Detailed grading plan shall be part of the final plan set.
  - H. Utilities not in the street area shall provide maintenance access acceptable to the City, and shall be centered in a 15-foot easement to be conveyed to the City of Wilsonville.
  - I. Final design of the public utilities shall be approved at the time of the City's issuance of a Public Works Construction Permit.
  - J. All on-and-off-site utilities shall comply with the State of Oregon and the City of Wilsonville requirements and Codes.
  - K. All cul-de-sacs shall have a minimum 45-foot radius to the face of the curb to allow for adequate turning radius.
  - L. All public streets shall meet design requirements for sight distance - horizontal, vertical and intersectional.
  - M. Final design plans shall identify locations for street lighting, gas service, power lines, telephone lines, cable television, street trees and mailbox clusters.
14. All survey monuments on the subject site shall be protected. If destroyed by the proposed site construction, the applicant shall retain a professional land surveyor to replace the monuments and file a copy of the record survey with the City.
  15. All power and telephone utilities shall be installed underground.
  16. Provide the Planning Director crossover reciprocal easements to adjacent properties for ingress and egress of traffic to cross over drives and private roads.
  17. The developer shall designate and construct City of Wilsonville Rapid Area Transport transit stops. Coordinate with Tom Barthel, the City Administrative Analyst, on the number and locations of the transit stops.
  18. The minimum parking space dimensions shall be 9' x 18' with 25-foot travel lanes.
  19. That Phase II be developed in such a manner that traffic generated by the development can be accommodated safely and without congestion in excess of level service D defined in the Highway Capacity Manual published by the National Highway Research Board on access drives at Town Center Loop West and at the intersection of Town Center Loop West with Wilsonville Road.
  20. The Phase II Stage II development shall take access at the prescribed access locations approved in Local Improvement District No. 5 along Town Center Loop West, except for the proposed access drive shown to be relocated at the southwest boundary of Phase II and is subject to the approval of the City Attorney and agreement being reached regarding lining up of the access drives on Town Center Loop West and the property across the street. The City Attorney is going to review the agreements to make sure that we end up with a full intersection on Town Center Loop West and the access drive to Project Thunder unless the property owner and the City Council reach another agreement.

21. At the time the Design Review Board specifically reviews the applicant's plans regarding the east wall of the large structure in Phase II, the applicant shall insure its compatibility with the proposed park. DRB shall also look at the pathway and sidewalk circulation plan.
22. That all construction workers park on site and not within public streets.
23. Prior to site grading, the developer shall coordinate with the Oregon Division of State Lands to investigate the existing storm water detention pond for possible wetlands.
24. The applicant shall coordinate with the City Engineer to consider on-site detention in its submittal to the City. The applicant shall coordinate with the Engineering Department all storm drainage plans with some consideration toward whether or not on-site detention is feasible and meets the engineering standards of the City.

## EXHIBITS

The following Exhibits are hereby entered into the public record by the Planning Commission as confirmation of its consideration of the application as submitted.

- A. Findings and Conditions of Approval
- B. City of Wilsonville Comprehensive Plan
- C. Chapter 4 of the Wilsonville Code
- D. City Engineering Department Report
- E. City Building Official's Report
- F. Town Center Master Plan
- G. Applicant's submittal documents:
  - 1. Revised Stage I Master Plan and Master Utilities Plan
  - 2. Phase II Site Plan
  - 3. Phase II Exterior Elevations
  - 4. Phase II Grading Plan and Erosion Control Plan
  - 5. Phase II Utilities Plan
  - 6. Phase II Preliminary Landscape Plan
  - 7. Traffic Report by Wayne Kittelson and addendum letter
  - 8. Request for Modification of Condition No. 8 of 90PC15
  - 9. Stage I Master Plan Re-submittal
  - 10. Phase II Stage II narrative
  - 11. Alternative Open Space Concept
- H. Original Stage I Master Plan - 89PC50.
- I. Ordinance no. 55

91PC43

City of

**WILSONVILLE**  
in OREGON



30000 SW Town Center Loop E  
Wilsonville, Oregon 97070  
(503) 682-1011  
(503) 682-1015 Fax  
(503) 682-0843 TDD

August 16, 1999

Gary M. Graumann  
Lumberjack, L.P.  
PO Box 7458  
Menlo Park, California 94026

Re: 29400 SW Town Center Loop

Dear Mr. Graumann:

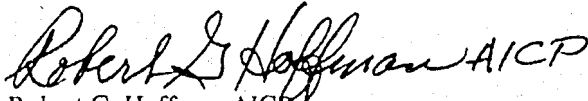
Mr. Lashbrook, Wilsonville Planning Director, has asked me to answer your request for a zoning compliance letter. You will find the information you requested as follows:

1. Zoning Classification Code:  
Planned Development Commercial (PDC) (Town Center)
  
2. Property Owner's Name and Lender's Name  
Lumberjack, L.P. (owner)  
PO Box 7458  
Menlo Park, CA 94026  
  
GE Capital Business Asset Funding Corp.  
10900 NE 4<sup>th</sup> St., Suite 500  
Bellevue WA 98004
  
3. Address of the Property:  
29400 SW Town Center Loop, Wilsonville, Oregon
  
4. Type of Permitted Use:  
Commercial (Planned Development)
  
5. Expiration Dated Copy of Conditions or Restrictions of Use:  
Case File 91PC43 approved 12/9/91  
Case File 91DR29 approved 1/27/92  
Case File 92DR21 motion revising condition



I have researched our records and find that in receiving final occupancy the city found that the development had complied with all plan proposals and conditions of approval. However, the project is now almost seven years old and is beginning to show some wear and deferred maintenance. About a year ago, Mr. Blaise Edmonds wrote you about broken curbs and destroyed landscaping where vehicles have driven over the curb. This is at a major entrance area (Southwest entry drive, between the rug dealer and McDonalds.) This problem area still requires attention.

Sincerely,

  
Robert G. Hoffman AICP  
Manager of Current Planning

Attachment: Decision and Conditions of Approval  
98PC43  
91DR29

RGH:sh

BOB

LUMBERJACK, L.P.  
P.O. BOX 7458  
MENLO PARK, CALIFORNIA 94026  
(650)813-9100 FAX(650)813-9190

August 5, 1999

Mr. Stephan Lashbrook  
Planning Director  
CITY OF WILSONVILLE  
30000 SW Town Center Loop E  
Wilsonville, OR 97070

Dear Mr. Lashbrook:


Thank you very much for returning my call with respect to revisions to the Development Codes. I look forward to reviewing the changes and will provide any comments that I may have.

We also discussed the following outline that my lender has requested that I obtain from the city. I have provided the information for items 2) and 3). If you could have someone on your staff complete the rest of the requirements requested by the lender it would be greatly appreciated.

I would like to receive a compliance letter from your office within the next 10 days. Should you have any questions please feel free to call me at the number listed above.

Once again, thank you for your attention to this matter.

Sincerely,

  
Gary M. Graumann



ZONING COMPLIANCE LETTER REQUIREMENTS

This item should be obtained from the City Planner's, County Clerk's, or Zoning Department's office and should contain the following information:

1) Zoning Classification Code *Planning Development Commercial (PDC)*  
*(Town Center)*

2) Property Owner's Name and Lender's Name

3) Address of the Property

4) Type of Permitted Use. *Commercial (Planned Development)*

5) Expiration Dated Copy of Conditions or Restrictions of Use.

*91PC43 - Appr. 12-9-91*  
*91DR29 - Appr 1-27-92*  
*92DR21 - Appr 6-22-92*

2) *Lumberjack, L.P. (owner)*

*P.O. Box 7458*

*MENLO PARK, CA 94026*

*GE Capital Business Asset Funding Corp.*

*10900 NE 4th St., Suite 500*

*Bellevue, wa 98004*

3) *29400 SW TOWN CENTER LOOP*

*WILSONVILLE, OR.*

*Incredible Universe 93 91PL43*

# Aetna's local presence shrinks after loss of key large clients

Continued from page 1

er away from the Portland market.

Despite a strong national presence, Aetna's local client base has eroded as

market is already dominated by strong HMO players that have left little room for carriers like Aetna.

Stone said the downsizing was planned a national restructuring effort, and not nply because of the lost clients in Portland. Many who watch insurance activities nationally agree. The change reflects nular strategies by nationwide carriers. tna wants to consolidate offices, re ce overhead and gain efficiencies in : increasingly competitive health insurance market.

'It is definitely consistent with the nd that we've seen in this industry,' id Post. Improvements in electronic tims handling and standardization ross offices have made such changes ssible and even advantageous, he said, gain efficiencies.

'Insurance in general has become more d more of a commodity market,' said iss Poll, an insurance analyst with the icago Corp., a Chicago-based invest- ent bank that tracks insurance compa- nies. "Insurance companies, especially the big guys, have a big expense burden. They tend to be big and clumsy."

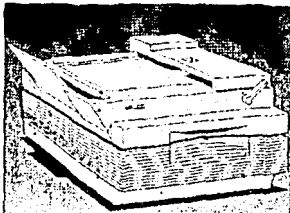
In Aetna's case, said Poll, the national carrier's life and health business has been its strongest asset. Hartford, Conn.-based Aetna is the third-largest U.S.-based property and casualty insurer, according to Value Line's December 1993 investment survey. Aetna, a public company traded on the New York Stock Exchange, also has been subject to large market fluctuations.

Aetna "peaked" on Nov. 1, 1993, with a per-share price of \$60.75, said Poll. The stock closed at \$47.75 per share on Oct. 18.

Aetna Health Plans reported \$4.5 million in insurance premiums in Oregon during 1993, down from \$12.7 million in premiums it wrote in 1991, according to reports filed with the state. It covers an estimated 40,000 enrollees.

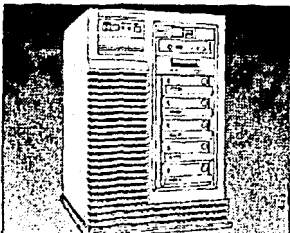
Aetna handles about 4.9 million Medicare claims representing some \$250 million annually out of the Portland office.

# comes to working, DI onnected!



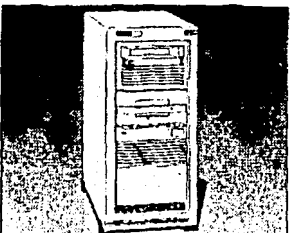
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*Blaise*  
*Pam*  
*Sally*

## Incredible Universe building sold, leased

Tandy Corp. has sold off its Incredible Universe building in Wilsonville and leased back the facility from the new owner.

Tandy sold the 166,495-square-foot retail property to Pier Set Inc., a Delaware corporation, for \$13.5 million, according to a Clackamas County sale deed.

Pier Set is a subsidiary of London-based NatWest bank, said Bill Bousquette, chief financial officer of Fort Worth, Texas-based Tandy.

Tandy also sold three other Incredible Universe buildings to the bank. The four properties sold for about \$60 million, Bousquette said.

Selling off store facilities to outside investors is common among large retailers. "We have no interest in tying up our capital in real estate," Bousquette said.



# Trust JBL&K

File  
9.1pc 43

City of Wilsonville  
Community Development Department  
30000 S.W. Town Center Loop East  
Wilsonville, Oregon 97070  
(503) 682-4960  
Fax 682-7025

FAX COVER SHEET

DATE: 11-29-93  
TO: Mark Whitlow FAX: 721-3666  
FROM: Mike Kisheloff / Wayne Lorenson  
SUBJECT: Project Thunder

NUMBER OF PAGES IN THIS TRANSMITTAL (INCLUDING COVER SHEET) 20

COMMENTS: \_\_\_\_\_  
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City of  
**WILSONVILLE**  
in OREGON

September 29, 1993

30000 SW Town Center Loop E  
Wilsonville, Oregon 97070  
FAX (503) 682-1015  
(503) 682-1011

Mr. Bryan L. Spain, CSM  
Assistant Director State/Local Taxation  
Tandy Tax Service  
Tandy Corporation  
P.O. Box 1643  
Fort Worth TX 76101

91PC 43

Re: Systems Development Credit - Wilsonville Incredible Universe

Dear Mr. Spain:

The purpose of this letter is to formally close action on an appeal of the discretionary decision concerning the amount of the street systems development charge for the Incredible Universe. Prior to his departure from Tandy Tax Service, Mr. Bryan L. Spain, CSM, had formally appealed the discretionary decision.

On December 7, 1992, I provided an interim response in which we provided a comparison of a number of different calculations of the street systems development charge and in all cases they came very close to the amount that was charged based on the number of employees. Subsequently, on March 2, 1992, I extended the time for submission of any additional data concerning the street systems development charge to April 15, 1993.

Later telephone conversations indicated that you were not going to submit any additional data. Based on the information that has been received, your appeal of the discretionary decision has not been favorably considered. I would like to inform you that we will be using most of the systems development charge for streets that you paid to install an asphalt overlay on Town Center Loop West to increase the structural strength of the road. This should significantly delay deterioration of the street.

I apologize for the delay in providing a formal response; however, other higher priority projects have interfered with a more timely response. Your understanding is appreciated.

Sincerely,

*Eldon R. Johansen*  
Eldon R. Johansen  
Community Development Director

pc: Arlene Loble, City Manager  
Mike Kohlhoff, City Attorney  
Tom Jowaiszas, Finance Director  
Wayne Sorensen, Planning Director  
Mike Stone, City Engineer  
Martin Brown, Building Official



City of  
**WILSONVILLE**  
in OREGON

30000 SW Town Center Loop E  
Wilsonville, Oregon 97070  
FAX (503) 682-1015  
(503) 682-1011

Info —  
Pam ✓  
Blaise ✓  
Sally ✓  
file ✓ 910643

December 4, 1992

Mr. Wayne Kittelson  
Kittelson & Associates, Inc.  
610 SW Alder, Suite 700  
Portland OR 97205

Re: Incredible Universe Traffic Issues

Dear Mr. Kittelson:

You provided me with a copy of your letter dated October 27, 1992, to Mr. Wayne Sorensen, Planning Director, concerning the above subject. I appreciate receiving a copy of your letter since it provides an excellent background from the consultant and the developer's perspective.

Your letter addresses several transportation topics which are of current interest to staff and council. Your letter included a copy to Councilor Carter and copies have also been provided to the Mayor and other Councilors to ensure that they all have the same background concerning this topic.

Your letter indicated that you are troubled by several comments in the October 22 issue of the Oregonian, entitled "Traffic Count Zooms at Electronic Store". I also am troubled by several of the statements in your letter of October 27, 1992, and would like to explain my concerns with your letter. Prior to explaining my concerns, I will review the overall traffic information that was provided to the Planning Commission prior to its decision. The Transportation Impact Analysis for the Wilsonville Town Center, dated April, 1990, was submitted to the Planning Commission as background for approval of the Master Plans for Phase I, Phase II and Phase III of the Wilsonville Town Center. Subsequently, the letter dated October 16, 1991, subject Traffic Analysis for Wilsonville Town Center - Phase II was submitted to the Planning Commission prior to approval of the plan for Project Thunder, which subsequently was changed in name to the Incredible Universe. When Project Thunder was approved, the Traffic Impact Analysis Report for the Wilsonville Town Center, dated April, 1990, was not provided to the Planning Commission at the time of the hearing.

Specific sections of your letter which are troublesome to me as well as comments on these sections are as follows:

Mr. Wayne Kittelson  
Re: Incredible Universe Traffic Issues  
December 4, 1992 - Page 2

"Contrary to Mr. Johansen's statements in the article, our engineers did investigate the intersection of I-5 and Wilsonville Road as part of this study. As early as 1990, in fact, they predicted the capacity deficiencies that were just recently experienced. At the time that this original traffic impact analysis report was submitted, (April 1990), our engineers pointed out to city staff that the intersections of I-5 and Wilsonville Road were already operating near capacity under weekday peak-hour conditions, and would continue to operate at or above capacity until planned (but as yet unfunded) interchange improvements are made by ODOT. The following excerpt from the original traffic impact analysis report confirms this observation:

'As shown in Table 9, all of the intersections within the study area, with the exception of the I-5 northbound and southbound intersection, are anticipated to operate at an acceptable level of service [under projected 1995 peak-hour conditions]. The projected demand at both of the I-5 ramp intersections will result in an over-capacity condition.'

The April 1990 Traffic Impact Analysis for Wilsonville Town Center has several tables which give the existing and predicted level of services for the southbound and northbound I-5/Wilsonville Road interchanges. Table 5 on Page 16 gives an existing level of service for both intersections of "B". Table 8 indicates level of service "C" for both intersections for the 1991 total traffic level of service results. These levels of service do not support your statement that the intersections were already operating near peak capacity.

The Project Thunder update, which was included in your October 16, 1991 letter concerning traffic analysis for Wilsonville Town Center Phase II, could be read as you state, "that this update included the I-5 northbound and southbound intersections with Wilsonville Road". If I read it that way, then I concur that the significant findings and recommendations of the October 16, 1991 report state: "Upon completion of the development, the site driveways and key off-site intersections, with the exception of Wilsonville Road/Town Center Loop West will operate within acceptable level of service limits during the evening peak-hour time period." This would be contrary to your dire predictions of intersection failure.

On the other hand, I have looked at the October 16, 1991 letter and have found no specific updates for the traffic analysis for Wilsonville Town Center Phase II concerning the I-5 intersections with Wilsonville Road. It was this lack of any data concerning the I-5 northbound and southbound intersections with Wilsonville Road that led me to conclude that the traffic impact analysis for the Incredible Universe did not include information on the I-5 intersections with Wilsonville Road. If I had read the October 16, 1991 report to accept at face value the statement that "the key off-site intersections, with the exception of Wilsonville Road/Town Center Loop West will operate within acceptable level of service limits during the evening peak-hour time period", then I would have concluded that you covered the interchange; however, I would have also felt that your coverage was inaccurate.

"Initial planning for the Incredible Universe Store began in late 1991 and was completed in 1992. It is important to note that throughout the planning and traffic impact analysis effort, the Incredible Universe store was known as Project Thunder. City staff will recall that, because the Tandy Corporation wanted to keep the details of the development secret, no specific description of Project Thunder was given; our

engineers knew only that it was to be a retail development. By their own choice, city staff elected to allow the Tandy Corporation to keep the details of Project Thunder a secret. Such a decision is entirely at the discretion of city staff and the developer, and without knowing the details of the discussions we cannot question the prudence of this decision. However, at least one effect of this decision should have been obvious even at the time that city staff made this decision; for the purposes of the traffic analysis, our engineers had no additional basis for any more refined assumptions regarding the type of planned retail development other than those used in the original 1990 analysis. In other words, we had no basis on which to forecast the special event nature of Project Thunder, which has to date been the primary cause of the interchange-related congestion."

The April 1990 Traffic Impact Analysis includes three pages to describe the site-generated traffic volume and also a special study by Kittelson & Associates, Inc. to better define the probable breakdown of site-generated vehicle trips among the category of drop-in trips, diverted trips and new trips. There is nothing in the April 1990 report or the October 16, 1991 update to forewarn staff, the Planning Commission or Council that there could be unusual special event nature retail activities which could have a different impact on traffic volumes than is predicted by the transportation impact analysis and the October 16, 1991 update for Wilsonville Town Center Phase II. This lack of information concerning a potential problem area leaves the city staff responsible for prediction of traffic problems which should be left to traffic experts. I also would think that a plan for a commercial building with 160,000 square feet of floor space in a city with less than 10,000 residents would at least cause a question in the mind of the traffic engineer concerning drop-ins of 40%.

"Even if we had known about the actual retail activity likely to be associated with Project Thunder, it is doubtful that much more could have been done at the traffic impact analysis level. This is not to say that very little was done: in fact, we identified a number of major roadway improvement needs, and Capital Realty expended nearly \$650,000 in capital improvements to the city's transportation system in order to mitigate the traffic impacts we identified. Further, the Incredible Universe store contributed \$250,000 in system development charges for transportation-related improvements. The October 22 newspaper article seems to confirm the effectiveness of these investments; it points out that the congestion on Grand Opening Day was caused by the failure of the Wilsonville Road/I-5 interchange. All other intersections and road segments in the area functioned in an acceptable manner, because they were designed and upgraded by Capital Realty to meet the anticipated travel demand needs."

The newspaper article states in reference to the I-5 and Wilsonville Road interchange "It was that intersection that clogged up at the Incredible Universe opening, September 17, 1992, and caused traffic to back up for miles in both directions." The expenditures by Capital Realty did nothing to improve the intersection of Wilsonville Road and Parkway, and the improvements proved inadequate to handle the traffic at the intersection of Wilsonville Road and Town Center Loop West. The city had county sheriff's deputies available and Tandy Corporation had private security guards. These individuals directed traffic at the Town Center Loop West and Wilsonville Road intersection as well as at the intersection of Wilsonville Road and Parkway during much of the Grand Opening weekend so that traffic was able to get through these intersections. By no stretch of anyone's imagination could the expenditures and improvements by Capital Realty be

Mr. Wayne Kittelso...  
Re: Incredible Universe Traffic Issues  
December 4, 1992 - Page 4

considered to be adequate to allow the traffic to freely flow through these intersections at level of service D or better.

**"Had we known of the special event nature of the project during its first few weeks, then it would have been both logical and relatively simple to develop a traffic control plan to minimize vehicle disruption and delay. But it should also be recognized that the Grand Opening effects of a new store, which can extend for three to six months beyond the initial store opening, are only temporary and eventually dissipate. Our traffic impact analyses are based on the long-term equilibrium conditions that develop after the Grand Opening effects have dissipated. This is a reasonable and standard principle of traffic engineering."**

Upon reflection, this comment contains a good suggestion in that the city should require a traffic control plan to minimize vehicle disruption and delay during the initial opening of a new store of significant size. We will incorporate this in to our plans review efforts and into our recommended conditions of development for future stores with a major traffic impact.

**"In summary, then, the traffic congestion problem that was reported upon in the October 22 newspaper article stemmed from a previously identified capacity deficiency at the I-5/Wilsonville Road interchange. This capacity deficiency has been known to city staff since early 1990 at least."**

Your October 16, 1991 letter deleted the concerns for the I-5/Wilsonville Road interchange in the third subparagraph under the significant findings and recommendations which reads as follows:

**"Upon completion of the development, the site driveways and key off-site intersections, with the exception of Wilsonville Road/Town Center Loop West will operate within acceptable level of service limits during the evening peak-hour time period."**

Based on my reading of a level of service "C" for 1991, and this particular paragraph, I had assumed that we, initially, on the opening of the Incredible Universe would not have any major problems with the I-5 and Wilsonville Road interchange and would not anticipate problems until later. In summary on this particular item, it appears that your April 1990 report did indicate that by 1995 there would be problems; however, the October 16, 1991 report alleviated the concern for these problems.

**"Since that time and through all subsequent development reviews, city staff, planning official, and policy makers have had three options available to them:**

- a) **Require that the capacity deficiency be mitigated as part of any development proposal in which additional traffic is projected to travel on Wilsonville Road in the vicinity of I-5;**
- b) **Place a moratorium on all new development proposals that add traffic volume to Wilsonville Road in the vicinity of I-5 until after the ODOT interchange improvement project is completed (viz., on or after 1996);**  
or



Mr. Wayne Kittelson  
Re: Incredible Universe Traffic Issues  
December 4, 1992 - Page 5

- c) **Accept the fact that the interchange's operating characteristics will be considered unacceptable very soon, and will continue to get worse through the time that the ODOT improvement project is completed.**

**The City of Wilsonville has, in its review and approval of new development projects extending beyond Project Thunder, consciously adopted option c). The effects of the Incredible Universe store during its Grand Opening were the first physical confirmation of this decision."**

It may well be a viable option to consider your suggestion of placing a moratorium on all new development proposals that add traffic volume to Wilsonville Road in the vicinity of I-5; however, staff feels that it would be premature to present this option to Council at this time. In addition with the October 16, 1991 letter from your organization, subject: Traffic Analysis for Wilsonville Town Center Phase II, including the following significant finding and recommendation:

"Upon completion of the development, the site driveways and key off-site intersections, with the exception of Wilsonville Road/Town Center Loop West, will operate within acceptable level of service limits during the evening peak-hour time period."

The record does not reflect a conscious adoption of option c). It reflects that intersections will operate within an acceptable level of service limits.

"We value our reputation for honest, objective, and technically valid analysis very highly, and so it is important to us that this matter be resolved to everyone's satisfaction."

In the comments which staff made at the council meeting, and also in subsequent responses to questions from newspaper reporters, we were careful not to be judgmental concerning particular consulting firms and kept from placing blame on any of the consultants which were involved. I have reread the article which you quoted and still feel that we adhered to the above and avoided incorrectly placing blame.

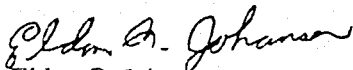
"If you believe it would be appropriate, we would be happy to meet with you personally at a time and location convenient to you in order to further discuss this matter."

Your letter very eloquently describes your position with regard to the impact of the Incredible Universe on traffic. I have come to a somewhat different conclusion from reading the applicable reports. Although I would be very happy to meet with you to discuss this issue, it appears that this may be one subject in which we probably will continue to have different opinions which may never be fully resolved. If you do desire

Mr. Wayne Kittels  
Re: Incredible Universe Traffic Issues  
December 4, 1992 - Page 6

to meet with myself or other members of the Community Development staff on this subject, please contact the undersigned.

Sincerely,



Eldon R. Johansen  
Community Development Director

erj:mld

pc: Kim Beach, Capital Realty  
Mayor & City Council  
Transportation Advisory Commission  
Arlene Loble, City Manager  
Mike Kohlhoff, City Attorney  
Mike Stone, City Engineer  
Wayne Sorensen, Planning Director  
Steve Starner, Public Works Director



**KITTELSON & ASSOCIATES, INC.**  
**TRANSPORTATION PLANNING/TRAFFIC ENGINEERING**

610 S.W. ALDER, SUITE 700 • PORTLAND, OR 97205 • (503) 228-5230 • FAX (503) 273-8169

STAFF  
Pam ✓  
Blaise ✓  
Sally ✓

Project file  
9/1/92

OCT 29 1992

October 27, 1992

Project No.: P10.00

Mr. Wayne Sorensen  
Planning Director  
City of Wilsonville  
P.O. Box 220  
Wilsonville, Oregon 97070

SUBJECT: Incredible Universe Traffic Issues

Dear Wayne,

I read with some concern an article in the October 22 issue of *The Oregonian* titled, "Traffic Count Zooms at Electronic Store". I am enclosing a copy of the article for your information in case you missed it.

I was troubled by several comments in the article which seemed to suggest that, in the eyes of some high-level City officials, our traffic analysis had misled City officials:

"The traffic analysis prepared by Capital Realty and the Incredible Universe's traffic consultants, Kittelson and Associates, has greatly underestimated the traffic impacts", said Arlene Loble, city manager.

The Incredible Universe study analyzed traffic flows through the adjoining intersection, at Town Center Loop West and Wilsonville Road. But it did not reach to the next intersection to the west, at Wilsonville Road and Interstate 5...If the study were being done today, the city would insist that engineers look at one more intersection down the road, [Eldon Johansen] said.

[Eldon Johansen] said three things went wrong with the Incredible Universe traffic study. First, the predictions were made as if the city's Transportation Plan was already in place, but many roads are yet to be built. Second, the study assumed that 40 percent of the flow into the Incredible Universe would be "drop-in" traffic...Finally, the traffic study did not account for the success of the store's marketing effort.

Mr. Wayne Sorensen  
October 27, 1992  
Page 2

I would like to take this opportunity to clarify the analytic process we followed and the directions we received. Hopefully, this clarification will allow you, Ms. Loble, Mr. Johansen, and other City staff to more confidently and accurately respond should this issue arise again.

The transportation impact analysis that we performed for Capital Realty was begun in 1990 and completed in 1991. The site development plans called for construction of a shopping center containing 450,000 gross square feet of floor area. Given this information, the trip generation rates that we used were entirely appropriate, as was the estimate that 40 percent of the site-generated trips would be drop-in traffic. This is evidenced by the fact that the first phase of the shopping center development, which has already been completed, operates very close to the estimates that we provided.

Contrary to Mr. Johansen's statements in the article, our engineers did investigate the intersections of I-5 and Wilsonville Road as part of this study. As early as 1990, in fact, they predicted the capacity deficiencies that were just recently experienced. At the time that this original traffic impact analysis report was submitted (April 1990), our engineers pointed out to City staff that the intersections of I-5 and Wilsonville Road were already operating near capacity under weekday peak hour conditions, and would continue to operate at or above capacity until planned (but as yet unfunded) interchange improvements are made by ODOT. The following excerpt from the original traffic impact analysis report confirms this observation:

"As shown in Table 9, all of the intersections within the study area, with the exception of the I-5 northbound and southbound intersections, are anticipated to operate at an acceptable level of service [under projected 1995 peak hour conditions]. The projected demand at both of the I-5 ramp intersections will result in an over-capacity condition."

The current best estimate, by the way, is that these improvements will not be completed before 1996. Further, it should be noted that, even at this early date, City staff did not rely solely upon the findings of Kittelson & Associates, who were retained by the applicant. Instead, the City retained its own independent traffic engineering consultant to review the traffic impact analysis report and to critique the analysis assumptions, methodology, and findings. This independent traffic engineering consultant performed the requested review and confirmed every essential element of the report, including the projected capacity deficiency at the I-5/Wilsonville interchange area.

Mr. Wayne Sorensen  
October 27, 1992  
Page 3

In personal discussions, City staff were informed of this finding of a future capacity deficiency, and were asked to interpret the City's requirement that a level of service equal to or better than "D" be provided at all intersections. City staff informed our engineers that, because the I-5/Wilsonville Road intersections are actually controlled by ODOT and, further, because ODOT has already established plans to improve the interchange and increase the capacity of these intersections, the finding of a capacity deficiency at the interchange would not be considered a fatal flaw. This conclusion by City staff is confirmed by the fact that the project was ultimately recommended for approval, even with the report's recognition of capacity deficiencies on Wilsonville Road near I-5 as noted above. It should also be pointed out that City staff's position was not unique to this project, but has also been recently applied to projects in the vicinity of the Stafford Road interchange.

On this basis, the transportation impact analysis was completed, all other on-site and off-site traffic-related deficiencies were identified, considerable mitigation projects were undertaken, and the necessary approvals were obtained.

Initial planning for the Incredible Universe store began in late 1991, and was completed in 1992. It is important to note that, throughout the planning and traffic impact analysis effort, the Incredible Universe store was known as Project Thunder. City staff will recall that, because the Tandy Corporation wanted to keep the details of the development secret, no specific description of Project Thunder was given; our engineers knew only that it was to be a retail development. By their own choice, City staff elected to allow the Tandy Corporation to keep the details of Project Thunder a secret. Such a decision is entirely at the discretion of City staff and the developer, and without knowing the details of the discussions we cannot question the prudence of this decision. However, at least one effect of this decision should have been obvious even at the time that City staff made this decision: for the purposes of the traffic analysis, our engineers had no additional basis for any more refined assumptions regarding the type of planned retail development other than those used in the original 1990 analysis. In other words, we had no basis on which to forecast the special event nature of Project Thunder, which has to date been the primary cause of the interchange-related congestion.

Even if we had known about the actual retail activity likely to be associated with Project Thunder, it is doubtful that much more could have been done at the traffic impact analysis level. This is not to say that very little was done: in fact, we identified a number of major roadway improvement needs, and Capital Realty expended nearly \$650,000 in capital improvements to the City's transportation system in order to mitigate the traffic impacts we

Mr. Wayne Sorensen  
October 27, 1992  
Page 4

identified. Further, the Incredible Universe store contributed \$250,000 in System Development charges for transportation-related improvements. The October 22 newspaper article seems to confirm the effectiveness of these investments: it points out that the congestion on Grand Opening Day was caused by the failure of the Wilsonville Road/I-5 interchange. All other intersections and road segments in the area functioned in an acceptable manner, because they were designed and upgraded by Capital Realty to meet the anticipated travel demand needs.

Had we known of the special event nature of the project during its first few weeks, then it would have been both logical and relatively simple to develop a traffic control plan to minimize vehicle disruption and delay. But it should also be recognized that the Grand Opening effects of a new store, which can extend for three to six months beyond the initial store opening, are only temporary and eventually dissipate. Our traffic impact analyses are based on the long-term equilibrium conditions that develop after the Grand Opening effects have dissipated. This is a reasonable and standard principle of traffic engineering.

In summary, then, the traffic congestion problem that was reported upon in the October 22 newspaper article stemmed from a previously identified capacity deficiency at the I-5/Wilsonville Road interchange. This capacity deficiency has been known to City staff since early 1990 at least. Since that time and through all subsequent development reviews, City staff, planning officials, and policy makers have had three options available to them:

- a) Require that the capacity deficiency be mitigated as part of any development proposal in which additional traffic is projected to travel on Wilsonville Road in the vicinity of I-5;
- b) Place a moratorium on all new development proposals that add traffic volume to Wilsonville Road in the vicinity of I-5 until after the ODOT interchange improvement project is completed (viz., on or after 1996); or
- c) Accept the fact that the interchange's operating characteristics will be considered unacceptable very soon, and will continue to get worse through the time that the ODOT improvement project is completed.

The City of Wilsonville has, in its review and approval of new development projects extending beyond Project Thunder, consciously adopted option c). The effects of the Incredible Universe store during its Grand Opening were the first physical confirmation of this decision. These

Mr. Wayne Sorensen  
October 27, 1992  
Page 5

effects were temporary in that they will most likely die away after the Christmas season and as the store's novelty begins to fade. Additionally, these effects were exaggerated by the special event nature of the Grand Opening, which did not give patrons a chance to adjust their arrival time or choice of route. Therefore, it is unlikely that the City will again experience extended periods of mile-plus queues caused by the failure of the I-5/Wilsonville Road interchange. Even so, City staff and policy makers should recognize that less visible daily failures of the interchange are already programmed to occur: several already-approved residential and commercial projects have not yet been completed, and the combined future traffic effects of these projects virtually assure periods of peak-hour failure of the interchange during most typical weekdays. Thus, the City no longer has control over *whether* peak hour congestion and failures will occur at the interchange (they will), although future land use decisions can still affect the *duration* of these failures.

We have no quarrel with the prudence of the City's conscious decision to adopt option c) above. We are, however, disappointed that the City would suggest to the public, through articles such as the one published on October 22, that the congestion was not anticipated and that the fault for this lies with the traffic impact analysis process.

If you have any questions, please call me. We value our reputation for honest, objective, and technically valid analyses very highly, and so it is important to us that this matter be resolved to everyone's satisfaction. If you believe it would be appropriate, we would be happy to meet with you personally at a time and location convenient to you in order to further discuss this matter.

Sincerely,



Wayne K. Kittelson, P.E.  
Principal

cc: Arlene Loble  
Eldon Johansen  
Greg Carter  
Kim Beach

**CITY OF WILSONVILLE**  
 P.O. Box 220  
 30000 S.W. Town Center Loop East  
 WILSONVILLE, OREGON 97070

**LETTER OF TRANSMITTAL**

(503) 682-1011

TO \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

DATE 10/3/92	JOB NO.
ATTENTION Arlene Lohle	
RE Trane-Idle University	
Copy of Notice of Decision, and attachment	
File copy of Transportation Impact Analysis prepared by Kittelson & Assoc	

WE ARE SENDING YOU  Attached  Under separate cover via \_\_\_\_\_ the following items:

- Shop drawings     Prints     Plans     Samples     Specifications  
 Copy of letter     Change order     \_\_\_\_\_

COPIES	DATE	NO.	DESCRIPTION

THESE ARE TRANSMITTED as checked below:

- For approval     Approved as submitted     Resubmit \_\_\_\_\_ copies for approval  
 For your use     Approved as noted     Submit \_\_\_\_\_ copies for distribution  
 As requested     Returned for corrections     Return \_\_\_\_\_ corrected prints  
 For review and comment     \_\_\_\_\_  
 FOR BIDS DUE \_\_\_\_\_ 19 \_\_\_\_\_     PRINTS RETURNED AFTER LOAN TO US

REMARKS \_\_\_\_\_  
 \_\_\_\_\_  
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 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

COPY TO \_\_\_\_\_

Attachment 3b, Page 312 of 500 Wayne Cores, Exhibit A



*Wilson*



City of  
**WILSONVILLE**  
in OREGON

3000 SW Town Center Loop E  
Wilsonville, Oregon 97070  
FAX (503) 682-1015  
(503) 682-1011

May 28, 1992

Mr. Rich Hollander  
Vice President  
Tandy Name Brands  
P.O. Box 1643  
Fort Worth, TX 76101

Ms. Kim Beach  
Capital Realty  
101 S.W. Main St. Ste. 905  
Portland, OR 97204

Re: Tandy Name Brands dba Project Thunder

Dear Mr. Hollander & Ms. Beach:

The purpose of this letter is to summarize the current status of ongoing actions which must be completed prior to opening the facilities which were previously known as Project Thunder and currently known as the Incredible Universe. An additional purpose is to solicit your continuing assistance in resolving the remaining points of difference so that when the construction is completed, there will be no outstanding actions which would preclude issuance of the Certificate of Occupancy.

Primary items of concern are as follows:

Street Systems Development Charge

On March 2, 1992, Council adopted Resolution No. 902 authorizing deferral of the Systems Development Charges for streets from time of issuance of building permit to time of issuance of occupancy permit for Tandy Name Brand Retail Group. Resolution No. 902 contained an estimate for the Street Systems Development Charges in the amount of approximately \$370,880.00. This was based on a total of 160 employees at the site. On March 6, 1992, Mr. Brian L. Spain, Assistant Tax Manager, for Tandy Tax Service, forwarded a check in the amount of \$124,592.15 for the Street Systems Development charge. I am concerned that use of peak hour employees is irrelevant to peak hour traffic generation and will correspond directly with Mr. Spain to resolve differences.

Mr. Rich Hollander & Ms. Kim Beach  
May 28, 1992

Page 2

Traffic Signal - Town Center Loop West and Wilsonville Road

One of the conditions that was placed on this development was that the signal at the intersection of Wilsonville Road and Town Center Loop West must be installed prior to the occupancy of the Project Thunder site. Plans have recently been received at the Community Development Department for a second review.

Kim Beach, Capital Realty, is pushing to insure that the signal is in place prior to occupancy of the Project Thunder site.

Detention Facility

The Project Thunder site was conditioned to be designed for the 25 year storm. Detailed calculations indicate detention could be deferred until development of the property just north of the Project Thunder site. The condition would appear not to allow staff to administratively transfer the detention requirement to another property. Staff is again working with Capitol Realty to insure that this is resolved.

Construction as Included in the Public Works Permit

The City requires that the Punch List for Public Works items be completed prior to issuance of a Temporary Occupancy Permit.

Maintenance Bond

The City will require a 10% Maintenance Bond for twelve months following acceptance of the work included in the Public Works Permit.

Repair of Town Center Loop West Road

The City has contacted S.D. Deacon, General Contractor, concerning the street repairs to Town Center Loop West Road. Mr. Art L. Bush, Project Manager, has informed the City that S.D. Deacon Corporation will not be held responsible for any road repairs or replacement to existing condition of either north or southbound lanes of Town Center Loop West Road at the conclusion of this project. The contractor has removed the curb along the east side of Town Center Loop West and the asphalt has substantially failed wherever the curb has been removed. The City has no intention of accepting the project until such time as damages caused by the contractor are repaired.

Modification of Median - Town Center Loop West

We have received construction plans for modification of the median. We will be submitting those plans to Council for approval. It appears that this work is necessary prior to having adequate access to parking.

Mr. Rich Hollander & Ms. Kim Beach  
May 28, 1992

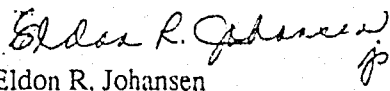
Page 3

Abandonment of Right-of-Way

The City has received documentation requesting abandonment of right-of-way that was part of the former Parkway Avenue. This is being processed to insure abandonment by August 1, 1992.

As you no doubt realize, I did not begin work in Wilsonville until April 6, 1992, after this project was well under way. My concern is that if we do not keep our attentions focused on resolving all outstanding issues, we will reach a point where the building will have been completed and you will have hired employees to open the facility and will be unable to issue a Certificate of Occupancy because of failure to resolve the above items. Your continued assistance and cooperation will be appreciated.

Sincerely,

  
Eldon R. Johansen  
Community Development Director

ej/js

pc: Arlene Loble, City Manager  
Michael Kohlhoff, City Attorney  
Steve Starner, Public Works Director  
Martin Brown, Building Official  
Wayne Sorensen, Planning Director

# W&H PACIFIC

8405 S.W. Nimbus Ave.  
P.O. Box 80040  
Portland, OR 97280

(503) 626-0455  
Fax (503) 526-0775

- Planning
- Surveying
- Engineering
- Landscape Architecture
- Environmental Services

To: ELDON JOHANSEN  
CITY OF WILSONVILLE

Date: 5-7-92

Project Number: 755-0202

Project Name: THUNDER

Regarding: TEMP. DETENTION AREA

**PLEASE NOTIFY US IMMEDIATELY AT (503) 626-0455 IF THERE ARE ANY PROBLEMS RECEIVING THIS TRANSMISSION**

We Are Sending:

- Attached
- Facsimile
- 3 Number Of Pages Including Cover
- X 682-7025

These Are Transmitted:

- For Your Info/File
- As Requested
- For Review And Comment

Copied To:

KUM BEACH w/o ENCL  
FAK 223-0200

Copies	Description
1	ADD'L Storm CACCS.

*margo 5/19*  
*Orig to Elson*  
*Thunder file*  
*Copy to Wayne myself*  
*Elson*

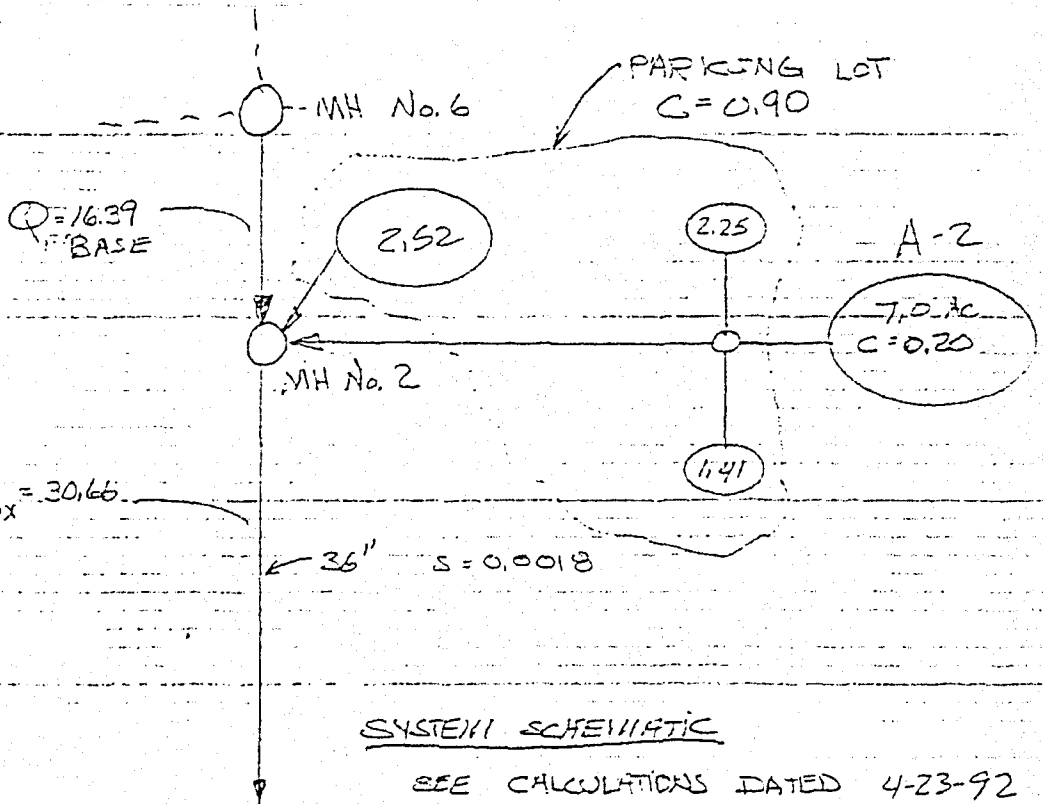
Comments

ELSON,  
JIM LEWART HAS PREPARED ADD'L STORM RUNOFF  
CACCS WHICH SHOW THAT A TEMPORARY DETENTION AREA WILL  
NOT BE REQUIRED UNTIL PHASE III AREA DEVELOPS. PLEASE  
REVIEW & COMMENT - CONTACT JIM DIRECTLY IF YOU  
HAVE QUESTIONS.

Signed

*Jack Martin*

DETENTION REQUIREMENTS FOR A-2 IN MN UNDEVELOPED CONDITION.



ASSUME WORST CASE SCENARIO

- 1.) FLOW FROM MH. No 6 TO MH No 2 IS MAXIMUM DUE TO UPSTREAM STORAGE,  $Q_{BASE} = 16.39$  CFS
- 2.) ASSUME GRASSED AREA FOR A-2 WITH  $C = 0.20$
- 3.) ASSUME 500 FEET OVERLAND TRAVEL FROM A-2

15' 200 FEET = 20 MINUTES  
 REMAINING 250' = 4 MINUTES. (SLOPE = 1%)  
 (IN CHANNEL)

$t_c = 24$  MINUTES

Creative Solutions ... Superior Service



**W&H PACIFIC**

8405 S.W. Nimbus Ave.  
P.O. Box 80040  
Portland, OR 97280

(503) 626-0455  
Fax (503) 526-0775

- Planning
- Engineering
- Surveying
- Landscape Architecture
- Environmental Services

To: ELDON JOHANSEN  
CITY OF WILSONVILLE

Date: 5-7-92  
 Project Number: 755-0202  
 Project Name: THUNDER  
 Regarding: TEMP. DETENTION AREA

PLEASE NOTIFY US IMMEDIATELY  
 AT (503) 626-0455 IF THERE ARE ANY  
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We Are Sending:

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- 682-7025

These Are Transmitted:

- For Your Info/File
- As Requested
- For Review And Comment
- 

Copied To:

KIM BEACH W/ ENCL  
FAX 223-0200

Copies	Description
1	ADD'L Storm Cages.

Comments

ELDON,

Jim LENHART HAS PREPARED ADD'L STORM RUNOFF  
CAVES WHICH SHOW THAT A TEMPORARY DETENTION AREA WILL  
NOT BE REQUIRED UNTIL PHASE III AREA DEVELOPS. PLEASE  
REVIEW & COMMENT - CONTACT JIM DIRECTLY IF YOU  
HAVE QUESTIONS.  
PARKING DETENTION IS POSSIBLE IN PH III OR EITHER PROPERTY NORTH  
OF TANDY.

Eric Hansen

$$i_{25} @ 24 \text{ MINUTES} = 1.6 \text{ in/hour.}$$

$$Q_{PEAK} = i \sum CA_i = (0.2)(7.0 \text{ AC})(1.6) = 2.24$$

$$(0.9)(6.18)(1.6) = 11.33$$

$$\underline{\underline{13.57 \text{ CFS.}}}$$

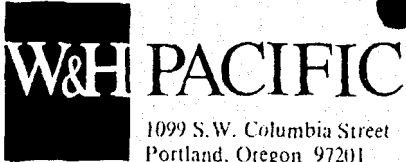
$$Q_{ALLOWABLE \text{ IN PIPE}} = Q_{MAX} - Q_{BASE} = 30.66 - 16.39$$

$$Q_{ALLOWABLE} = \underline{\underline{14.27 \text{ CFS.}}}$$

SINCE  $Q_{PEAK} (13.57) < Q_{ALLOWABLE}$

NO DETENTION IS REQUIRED

NOTE! THIS CALCULATION IS FOR UNDEVELOPED  
 CONDITIONS ONLY.



1099 S.W. Columbia Street  
Portland, Oregon 97201

(503) 227-0455  
Fax (503) 274-4607

- Planning
- Surveying
- Environmental Services
- Engineering
- Landscape Architecture

To: William L. Parks  
DIVISION OF STATE LANDS  
1100 STATE STREET  
SALEM, OR 97310

Date: 12-16-91  
 Project Number: 4-755-0202  
 Project Name: PROJECT THUNDER  
 Regarding: \_\_\_\_\_

PLEASE NOTIFY US IMMEDIATELY  
 AT (503) 227-0455 IF THERE ARE ANY  
 PROBLEMS RECEIVING THIS  
 TRANSMISSION

We Are Sending:

- Attached
- Facsimile
- Number Of Pages Including Cover
- 

These Are Transmitted:

- For Your Info/File
- As Requested
- For Review And Comment

Copied To:

Copies	Description
1	VICINITY MAP 8 1/2 x 11
1	SITE MAP 11 x 17

*X NO Jurisdiction 10 YR 3/4  
 A/C Hydrology - Ann Detrit  
 by Flowing*

Comments

*Bill,*

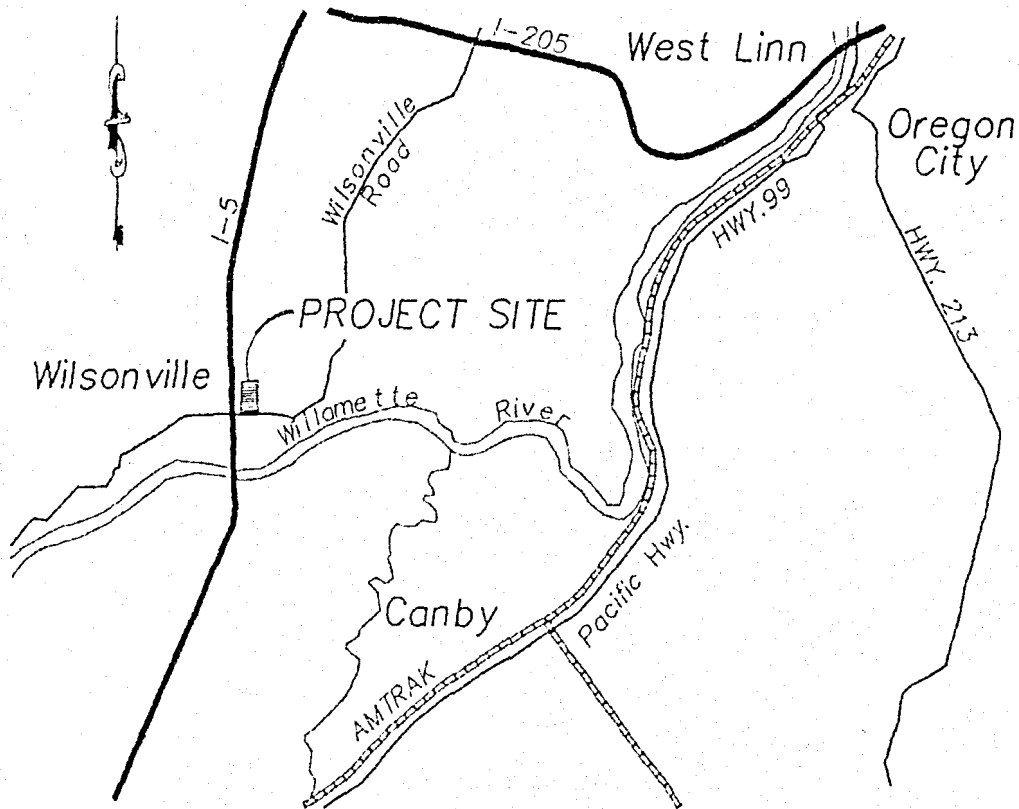
*Please make a determination whether or not  
 the existing detention pond is a "wetland" as  
 defined by DSL.*

*I prefer a response as soon as possible, but no  
 later than January 3, 1992. If this presents a  
 problem, please call me at your earliest.*

Signed

*thanks, Rick Martin*





## VICINITY MAP

NTS

- EXIT I-5 NORTH @ WILSONVILLE RD
- TURN LEFT @ TOWN CENTER LOOP RD WEST  
(PORTLANDIA PIZZA ON CORNER)
- SITE IS ± 1/4 MILE NORTH OR RIGHT.





December 30, 1991

Mr. Mike Kohlhoff  
City Attorney  
City of Wilsonville  
30000 S.W. Town Ctr. Loop E.  
Wilsonville, OR 97070

Please submit the following language for approval by the City Council at the January 6, 1992 regularly scheduled meeting, to clarify Condition #10 of Resolution 91PC43:

The 5.1 acre public park dedication will be required the earlier of the issuance of a building permit for Phase III or May 31, 1994. The City and the applicant will work toward resolving the related access issues prior to the land dedication. The applicant will be involved in the Town Center park development planning in an advisory capacity but will not be required to make any financial outlay for the park planning process or its actual development.

For your information I have also enclosed a master site plan, color coded by original ownership. If you have any questions or require additional information please contact me. Thank you in advance for your prompt attention to this matter as we need to resolve this issue by January 7, 1992 to proceed with our contract with Thunder.

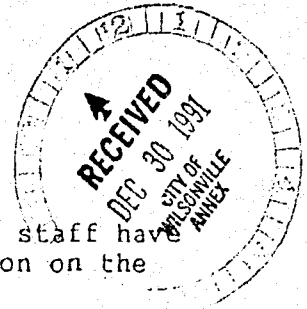
Very truly yours,

A handwritten signature in black ink that reads "Kim Beach". The signature is fluid and cursive.

Kimberly J. Beach  
Vice President

cc. Ms. Arlene Loble (with enclosure)  
✓ Mr. Wayne Sorenson (with enclosure)

DIVISION OF STATE LANDS  
 Environmental Planning and Permits  
 775 Summer Street, NE  
 Salem, OR 97310  
 503/378-3805



WETLAND DETERMINATION REPORT

At the request of the landowner or agent, Division staff has conducted an offsite or onsite wetland determination on the property described below.

COUNTY Clac CITY \_\_\_\_\_  
 LOCATION Exit I-5 @ W. Wilsonville TR left @ Centerloop R west 1/4 mile  
 T 35 R 1W S 23 TAX LOT(S) \_\_\_\_\_  
 OWNER/AGENT: Rick Martin W & H Pacific  
 ADDRESS: 1099 S.W. Columbia St. Portland, OR  
 DATE OF ONSITE INVESTIGATION: 12-19-91

There are no jurisdictional wetlands or waterways on the property. Therefore, no removal-fill permit is required.  
 Notes: No Hydrology present - soil 10YR 3/4

There are wetlands and/or waterways on the property. Those areas are subject to the State Removal-Fill Law. A permit is required for 50 cubic yards or more of fill, removal, or alteration of substrate.  
 Notes: \_\_\_\_\_

A wetland delineation will be needed to locate and stake the wetland/non-wetland boundary. A list of consultants can be obtained from the Division.  
 Notes: \_\_\_\_\_

A removal-fill permit will be required for \_\_\_\_\_

No removal-fill permit will be required for \_\_\_\_\_ because/if \_\_\_\_\_

A permit may be required by the Army Corps of Engineers (326-6995)

Comments: \_\_\_\_\_

Determination by: William Parks Date: 12-23-91

Response Copy To:  
 Owner/Applicant  Enclosures: Request of Site Plan Map  
 City of Wilsonville Planning Department  
 \_\_\_\_\_, Corps of Engineers  
 DSL file copy  
 Reading file copy - TO LORNA no Turs.

City of  
**WILSONVILLE**  
in OREGON

December 30, 1991

30000 SW Town Center Loop E • ~~PO Box 226~~  
Wilsonville, OR 97070  
(503) 682-1011

Mr. Jim Faulkner  
Design Forum Architects  
3484 Far Hills Avenue  
Dayton, OH 45429

Dear Jim:

I appreciated you, Rich Hollander and Jared Chaney taking the time to meet with Blaise and me regarding Project Thunder. I hope that we will be able to find an acceptable compromise in the design of the Incredible Universe project.

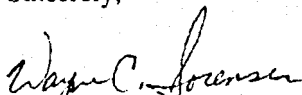
Enclosed is a copy of my notes which generally outline the basic issues we discussed at the December 23rd meeting. I am also enclosing material to provide additional insight into our planning process for the Town Center:

1. A copy of the legal opinion prepared by Michael Kohlhoff, City Attorney, that was furnished to the Wilsonville Design Review Board during the hearings on the Les Schwab Tire Center which will also be located in Town Center;
2. Variance criteria contained in our City Code which must be fully met before the DRB can approve a variance request.

I want to assure you that the City will do everything we can to accommodate your schedule, but I want to be sure you understand the legal limitations to fast tracking the review process.

Once again, it was a pleasure to meet with you. I appreciate your cooperation in finding an acceptable design alternative that will do justice to the Town Center, including the future Town Center Park, and still meet your client's needs. If you have any questions, please feel free to contact either Blaise or me at (503) 682-4960.

Sincerely,

  
Wayne C. Sorensen  
Planning Director

wcs:dp  
Enclosure

TO: Honorable Mayor and City Council

FROM: Arlene Loble  
City Manager

RE: City Manager's Business

DATE: December 12, 1991

SUBJECT: PROJECT THUNDER DEDICATION OF PARK LAND

Project Thunder, which is Phase II of the Town Center development, was approved by the Planning Commission and now goes before the Design Review Board. I have attached a copy of their proposed design and their request for variances from the sign code. I bring it to your attention because it seems so entirely inconsistent with what has been previously approved in Town Center and the architectural proposal was not before Planning Commission for review. They have not seen the design proposals that dealt solely with the land use issues.

There are a couple conditions of approval that need to be brought to Council's attention. One of the conditions of approval requires the dedication of a 5.4 acre public park. The dedication would be required at the time occupancy permits are issued unless the City Council and the applicant agree to a later date. The value of the property to be dedicated is at least \$1,000,000, and the developers would like to be involved in the planning for park development but because of the value of the land are not willing to pay for any of the associated development costs. It is my understanding that at Phase I approval one of the conditions included not only the land dedication but financial responsibility for development of the park. That condition has now been removed because of the cost of the park land.

Leaving aside for the moment the inappropriateness of the design of the project, you can see from the attached exhibit that shows the location of the open space and the proposed building pads. This \$1,000,000 park is really located in the backyard of the proposed development. Because of the type of business which is some sort of high tech retail, the rear of the building, which faces the park, doesn't even include any windows - just a large expansive blank wall. To help offset that, a smaller building to be developed at a future Phase III has been placed on the property in such a way that it could front into the city park. The development that has already occurred in Phase I, the shopping center, also faces its least attractive areas into the proposed park site. If the open space actually is worth \$1,000,000, it will take at least that, in terms of the City's financial commitment, to improve the park. To put that kind of money into something that is really more of an after thought than a planned part of the development seems to me to be a big mistake. This is a

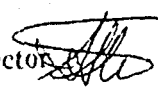
good example of something coming to Council's attention so late in the planning process that you have not had any meaningful input and yet now the City will be asked to make a substantial financial commitment. If the land is to be dedicated the developers justifiably want to know that the property will be developed in the future. What should be a wonderful design feature is really just an after thought. I don't know what, if anything, can be done at this stage, but I wanted to bring it to your attention as we will need to begin negotiations over the actual dedication of the property. Do you want a park in this location under these circumstances?

Another condition of approval that I would like to bring to your attention deals with the handling of storm drainage. Once again, this looks like we could be creating future problems because we have not had an engineer on staff and the project has probably not received the level of review from an engineering perspective that is necessary. So, the Planning Commission has added a requirement that storm sewer plans need to be coordinated with the City Engineer with a possibility of exploring the feasibility of onsite retention. As proposed by the developer, they would be eliminating the existing detention area and paving it over for additional parking. I don't know how this impact as a wetland but the staff report also brings that issue to your attention. Since the detailed engineering won't be done until or unless the plan is approved, we won't know until we get further into it how the developer's engineer plans to handle storm drainage. It is possible that they will actually need to relocate water and sewer lines that have been installed in Phase I in order to accommodate the proposed storm drainage plans for Phase II. Again, this is an area where we truly need the assistance of a City Engineer.

City of  
**WILSONVILLE**  
in OREGON

30000 SW Town Center Loop E • PO Box 220  
Wilsonville, OR 97070  
(503) 682-1011

MEMORANDUM

TO: Wayne Sorensen, Planning Director  
FROM: Steve Starnier, Community Development Director   
DATE: December 9, 1991  
RE: Project Thunder

In keeping with our usual land use process, the engineers associated with the development team for this project have submitted detailed studies to quantify the impacts of traffic volume and storm sewer capacities. Although their conclusions demonstrate compliance with Wilsonville's development criteria, I am concerned about some of the practical issues raised in the staff report.

A. Traffic - Wilsonville Road/Parkway Avenue intersection

The Wilsonville Code does not require Project Thunder to demonstrate compliance with level of service "D" at the above-referenced intersection. However, for any motorist currently using the intersection during peak hours, it is obvious vehicle congestion is reducing existing traffic management functions to an unacceptable quality. Especially for motorists attempting to enter Wilsonville Road from Parkway Avenue, the City is exploring the following:

1. Increasing the visibility of the "Do Not Block Intersection" signage.
2. Placing a pavement stop bar on Wilsonville Road which corresponds with the intersection signage.
3. Controlling ingress and egress to Parkway Avenue north of Wilsonville Road.
4. Investigate the installation of an intersection traffic signal which would operate in sequence with the interchange traffic controls.
5. Investigate the construction elements involved with a new roadway joining Parkway Avenue and Town Center Loop West.



Ultimately, traffic congestion adjacent to the Wilsonville interchange (from Town Center Loop West to Kinsman Road) will only be relieved when ODOT completes the construction of the expanded interchange design.

B. Storm Sewer - Memorial Park

As I understand it, Project Thunder storm drainage will flow into the I-5 storm sewer system. At peak flows, excess water will be diverted into the Phase I (Thriftway/Payless development) storm sewer which flows past the Library and into Memorial Park. In order to accommodate the anti-cipated flows, the following park storm drainage improvements are underway:

November - December, 1991	Surge basin, stilling basin and water quality swale design
January - February, 1992	Complete design
March	Construction bidding
April	Award construction contract
May	Begin construction
September	Complete construction

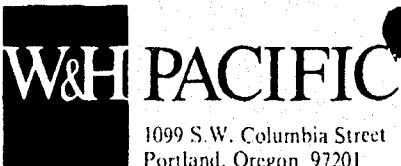
The estimated cost of this project is \$124,420 and is scheduled to be funded in conjunction with Memorial Park improvements. Approximately 52 per cent of the total project cost may be recovered from a payback when the Teufel and Boozier properties develop.

Also, the City will soon be undertaking a City-wide storm sewer Master Plan study in order to identify and plan for infrastructure needs. Under the current storm sewer SDC program, Project Thunder will generate approximately \$16,640 to be applied directly against the cost of the new Storm Sewer Master Plan.

I hope this information is helpful.

ss:jme





1099 S.W. Columbia Street  
Portland, Oregon 97201

(503) 227-0455  
Fax (503) 274-4607

- Planning
- Surveying
- Environmental Services
- Engineering
- Landscape Architecture

To: Blaise Edmonds  
City of Wilsonville Annex  
30470 SW Parkway  
Wilsonville, OR

Date: Dec. 2, 1991  
 Project Number: 467-0301  
 Project Name: Wilsonville Town Center  
 Regarding: Open Space Alternative  
Concept Plan

PLEASE NOTIFY US IMMEDIATELY  
 AT (503) 227-0455 IF THERE ARE ANY  
 PROBLEMS RECEIVING THIS  
 TRANSMISSION

We Are Sending:

- Attached
- Facsimile
- Number Of Pages Including Cover

These Are Transmitted:

- For Your Info/File
- As Requested
- For Review And Comment

Copied To:

KIM BEACH  
LOGAN CRAVEN

Copies	Description
10	FOLDED FULL SIZE REVERSED MASTER PLAN (SHT. #1)
1	PMT (8 1/2" x 11") OF ABOVE
1	ORIGINAL (8 1/2" x 11"): ALTERNATIVE OPEN SPACE CONCEPT.

Comments

Blaise:  
 Please enclose the attached materials w/in your  
 staff report.  
 s. again for all your help !!!

1 Jones

November 26, 1991

Mr. Blaise Edmonds  
Associate Planner  
City of Wilsonville  
8445 SW Elligsen Road  
Wilsonville, Oregon 97070

**RE: PROJECT THUNDER  
DESIGN REVIEW SUBMITTAL  
JOB NO. 4-755-0102**

Dear Blaise:

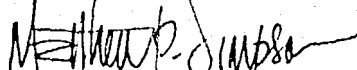
Thank you again for taking time this morning to discuss Project Thunder. As per our discussion, the following items were discussed and agreed upon:

1. Approval of Drawing Scales:
  - A. Design Review Submittal at 50 scale.
  - B. Construction Document Submittal at 30 scale.
2. Approval to omit irrigation design for Design Review Submittal. Notes will be provided.
3. Design Review Submittal will be 50 scale landscape plan showing tree, plant and lawn layout. Plant lists and details will be provided as per City of Wilsonville's Design Review Criteria.
4. W&H Pacific will have 100% complete construction documents by December 27, 1991. We will submit to the City a set of complete drawings for additional information. These drawings will include complete landscape and irrigation plans and can be included for the January 27, 1992 Design Review meeting.

If you have any questions or comments, please give me a call.

Sincerely,

W&H PACIFIC



Matthew P. Simpson, A.S.L.A.  
Project Landscape Architect

MPS/kal

STORAGE  
 6208  
 9600  
 22,892  
 428  
218  
39,338

SERVICE  
 4700  
 900  
 1020  
 640  
 1932  
 5016  
 2048  
1008  
17,278

RETAIL  
 47,874  
 2,240  
 5,888  
7,920  
63,914

RENT  
 572  
 1824  
4500  
6996

OFFICE  
 1856  
 200  
 50  
 5,294  
 288  
 912  
 240  
 149  
128  
9,117

EXHIBIT "A"



City of  
**WILSONVILLE**  
in OREGON

30000 SW Town Center Loop E • PO Box 220  
Wilsonville, OR 97070  
(503) 682-1011

ADMINISTRATION DEPARTMENT  
MEMORANDUM

DATE: OCTOBER 9, 1990  
TO: DESIGN REVIEW BOARD  
THROUGH: WAYNE SORENSEN, PLANNING DIRECTOR  
FROM: MICHAEL E. KOHLHOFF, CITY ATTORNEY  
SUBJECT: REQUESTED OPINION FOR LES SCHWAB TIRE CENTER

INTRODUCTION

At the City of Wilsonville's Design Review Board meeting of September 24, 1990, applicant, Les Schwab Tire Centers (Les Schwab), filed three legal objections to the planning staff's recommendations for revisions to the Les Schwab site plan applications as conditions of approval: violation of U.S. Constitution and Oregon Constitution free speech rights, lack of authority, and arbitrariness. The Design Review Board has requested my review of these objections, which are discussed below. The application was continued for decision only until the next regularly scheduled meeting in October.

The recommended revisions were to proposed material and color to the exterior of the tire center building. The site plan submitted by Les Schwab called for the building to be constructed of concrete block, with a metal roof and metal mansard. The proposed exterior colors of the building were red and white. The revisions recommend the use of red-colored brick instead of the red painted block on the south, east and west elevations, with the north elevation to be painted white. Also, the metal roof trim and mansard were recommended to be repainted with an earth tone color.

BACKGROUND

The City of Wilsonville was incorporated in 1969. Pursuant to state statute it adopted and had acknowledgment by the state its city-wide Comprehensive Land Use Plan and implementing Zoning Ordinance in 1982. As a newly developing city it has placed its emphasis on planning in the form of "planned development" for commercial, industrial and residential uses. In the area of commercial development, the City's Zoning Code provides:

"4.136 (1) (c). Planned Development Commercial shall be planned in the form of centers or complexes as follows:

- a. The Town Center
- b. Service Centers
- c. Office complexes.
- d. Commercial recreation.
- e. Neighborhood commercial."

The Town Center was zoned and master planned. The Wilsonville Town Center Plan drawing was placed into the Zoning Code at 4.136 (1) (c) (12). The Town Center Plan drawing conceptually locates functional use areas of central commercial, service commercial (includes tire sales and service), food and sundries, fast foods service, office professional, offices for general use, and high density apartments. The zoning text provides for permitted and accessory uses within each of the designated functional use areas.

The purpose of this zone is stated under 4.136 (1) (c) (12) (a).

"Purpose: (i) The purpose of this zoning is to permit and encourage a City Center, adhering to planned commercial and planned development concepts, including provision for commercial services, sales of goods and wares, business and professional offices, department stores, shopping centers and other customer-oriented uses to meet the needs of the Wilsonville community as well as to meet the general shopping and service needs of an area-wide basis, together with such multiple family residential facilities, open space, recreational and park areas, and public uses facilities as may be approved as part of the City Center compatible with the Comprehensive Plan of the City."

The location of the Les Schwab property application is in the northwest corner of the Town Center commercial area adjacent to Interstate 5. The Town Center is planned as the City's focal center. The property's location is a major viewing point of the City's focal center and identity. Development has occurred in the area with appropriate uses, high quality materials and design, which has provided the city center with uniform and harmonious developments with an aesthetically pleasing visual environment. This development has been and is overseen by the City's Planning Commission and its Design Review Board, pursuant to the city's zoning code.

The Les Schwab application has duly gone through the Planning Commission Planned Development Approval process and is located appropriately in the service commercial area of Town Center Master Plan. Its use approval adheres to the planned commercial/planned development concepts for Town Center. It comes before the Design Review Board for site development approval.

#### LEGAL REVIEW

"Comprehensive planning is clearly recognized as a proper exercise of municipal police power, often seen as a safeguarding of property values on a broad public basis. The conservation of property values is a very common consideration in comprehensive zoning, ordinarily required by state zoning acts, incorporated in ordinances and sustained by the courts (footnote omitted). Likewise, regulations as to the height and mode of construction

of buildings have been sustained on the ground of the 'safety, comfort and convenience of the people and for the benefit of property owners generally'" (footnote omitted). McQuillan Mun. Corp., § 24.14 (3rd. Ed.)

As also stated in McQuillan Mun. Corp., § 24.10:

"It is well said that the police power is based chiefly on the Latin maxims, *salus populi suprema est lex* - the welfare of the people is the first law (footnote omitted) and *sic utere tuo ut alienum non laedas* - so use your property as not to injure the rights of another (footnote omitted). As stated by the United States Supreme Court, the police power 'has its foundation in the maxim of all well-ordered society which requires everyone to use his own property so as not to injure the equal enjoyment of others having equal rights of property'". (Slaughter House Cases, 16 Wall 36, 21 L. Ed. 394).

However, the power of municipal government in this respect is not unlimited. It is limited by federal and state constitutional guarantees.

Applicant raises issues pertaining to federal and state constitutional rights to free speech, arguing that the proposed color revisions invade its rights to advertise as it chooses. Applicant also raises due process issues which prohibit the unreasonable, arbitrary use of such powers claiming the Design Review Board does not have the authority to limit materials and colors (unreasonable) and is without standards and criteria (arbitrary) to do so.

As previously stated, public necessity and protection of the public welfare forms the basis for the exercise of police power; that every person ought to so use his or her property so as to not injure one's neighbors. The unavoidable consequence of the need to exercise the police power in this regard results in the restriction on the use of property. It should also be noted that the police power is of a dynamic nature. McQuillan Mun. Corp., § 24.08 (3rd ed.) states, "Like equity jurisprudence, the police power has a dynamic or progressive capacity to be applied to new subjects or to be exercised by new or revised measures as economic and social changes require."

Wilsonville adopted its zoning code as an exercise of its police power. The presence of its Design Review Board is an example of the progressive capacity which was brought about by the public necessity and modern day quality of life concerns. Wilsonville as part of its general zoning regulations provides in 4.151 General regulations - signs for signage regulation.

The public necessity to regulate signage in terms of time, place and manner so that the signage chosen is not abusive of the rights of others is clearly recognized. See cases cited in McQuillan Mun. Corp., § 24.384 (footnotes 1-10). Within these general regulations, 4.151 (3) applies to commercial use within the Wilsonville Town Center as follows:

"(a) The Wilsonville Town Center, as designated in the Wilsonville Code, Section 4.136 et seq., is well suited for the institution of a coordinated signing program because of its geographic unity, focal location, and the fact that it is in the early stage of development. The purpose of Section 4.151(3) of this chapter is to provide the Town Center with a program of coordinated signing which is both functional and aesthetic, and to provide a method of administration which will insure continuity and enforcement. In this manner, the framework will be provided for a comprehensive balanced system of street graphics which provide a clear and pleasant communication between people and their environment..."



"In regulating the use of street graphics and building signage, the following design criteria shall be applied in conjunction with the provisions of this Code: That street graphics and building signage be:

1. Appropriate to the type of activity to which they pertain.
2. Expressive of the identity of the individual proprietors and the Wilsonville Town Center as a whole.
3. Legible in the circumstances in which they are seen.
4. Functional as they relate to other graphics and signage."

Wilsonville Code 4.001 (70) defines "sign" as "\*\*\*painting...or other device that is designed, used or intended for advertising purposes, or to inform or to attract the attention of the public, and includes where applicable...display surfaces and all components of the sign\*\*\*".

Wilsonville Code 4.151 (3) (b) (2) provides the following definition: "Building Graphics. Signs that are not located within the first 15 feet of a property line that abut a public right-of-way. Building graphics are signs that include building-mounted and roof-mounted signs."

Wilsonville Code 4.151 (3) (d) (3) a. provides for Building Graphics Signage: "The total square foot of all signs except the single address sign and the street graphics sign shall not exceed the width of the building occupied by the use advertised. The width of a building is to be measured as the longest dimension of the width or depth of the building."

Wilsonville Code 4.151 (3) (c) (2) a. provides authority of the Design Review Board "...to administer and enforce all the provisions in Section 4.151(3) as they affect the design function and appearance of the sign."

Therefore, assuming that the applicant painted color schemes are as it proposes "an important element of the company's advertising" that "aid instant customer recognition", then the painted color scheme is a sign under Wilsonville Code 4.001 (70) whose display surface is violative of the size limitations for building graphics under 4.151 (3) (d) 3.a.

The specific criteria of size rationally limits a building by virtue of the amount and color it's painted from becoming a massive, garish sign incompatible with its neighbors. This is a reasonable time, place and manner prohibition to prevent an abusive medium, and is context neutral. The thrust of Art. 1, Section 8 of the Oregon Constitution is that free speech is not to be restricted unless it becomes abusive. See Ackerly v. Multnomah County, 72 Or. App. 617, 696 P2d 1140 (1985). The maxims involved in the police power cited above to not injure the property of others are found in the design criteria also cited that building signage not only be appropriate to the type of activity to which they pertain, but also be expressive of the identity of the individual proprietors and the Wilsonville Town Center as a whole. There is an obvious need to protect the aesthetic nature and character of other properties and the identity of the Town Center. There is no less need to preserve the property values of peaceful and harmonious use from loud and offensive noise than from loud and massive signage. Each is equally abusive.

As referenced above, comprehensive planning is widely recognized as a legitimate exercise of police power to preserve property values. Because of geographic unity, focal location and its early stage of development there is a rational basis to provide for a

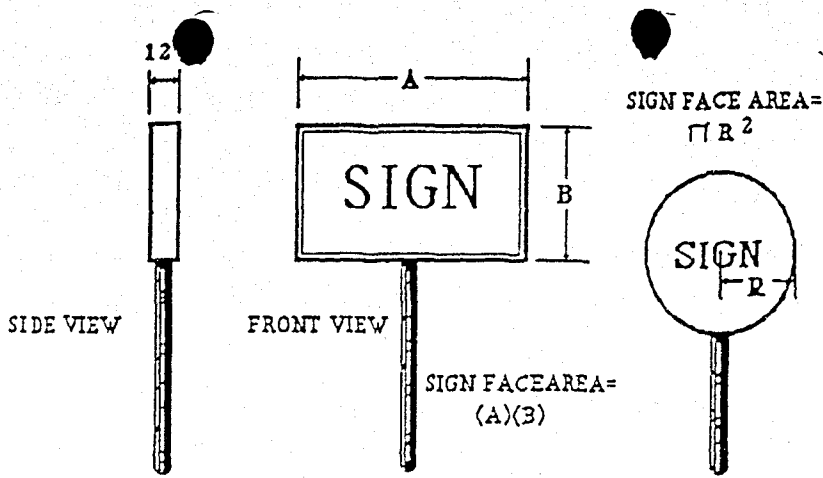
coordinated signage program which is both functional and aesthetic and to provide a method of administration through a Design Review Board for Town Center development. Clearly, this is in keeping with the multiple and often interrelated purposes set forth in 4.440 of the City's Code for Design Review Board. General criteria and standards are set forth to review site development in section 4.421, including color and material and as it relates to advertising medium that they "shall not detract from the design of proposed buildings and structures and the surrounding properties." Aesthetic sensibilities are also recognized as a sole ground and a proper subject for support of zoning regulation. See Oregon Citv v. Hartke, 240 Or 35, 400 Ord. 255.(1965); Naegele Outdoor Advertising v. City of Wavnesville, 833 F.2d 43 (CA4 1987); Don's Porta Signs Inc. v. City of Clearwater, 829 F2d 1051 (CA11 1987).

The dynamic nature of police power is clearly seen in the contemporary, community trends to view aesthetic considerations as valid subjects for the exercise of police power. The very exercise of police power is based upon need. Modern, contemporary society has recognized that advertising in the commercial setting has historically been poorly constructed, grossly disproportionate in size or height, aesthetically disharmonious, located in manners detrimental to traffic safety, and has even obscured the rights of others to be seen, creating a need to establish reasonable time, place and manner restrictions.

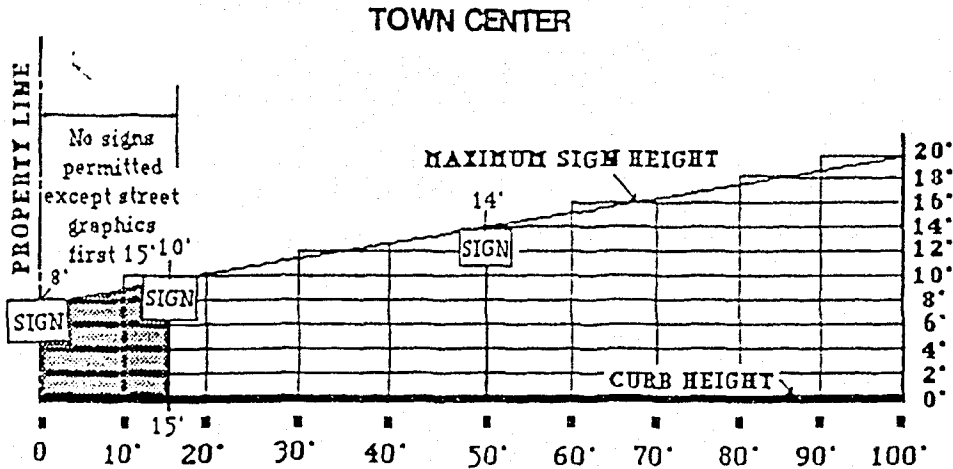
On the other hand, such necessity has not risen to the same level of need to regulate the use of homes as signs. The business entrepreneurs who are willing to advertise their commercial product by virtue of using gross advertising structures in commercial areas have not historically turned their private homes into such uses. In short, the need to protect other homeowners from the detrimental effects of having the color schemes of homes turned into speech of a loud and abusive nature has not presented a public need to regulate. (Often, developers have instituted self regulation through homeowners associations in residential subdivisions). Thus, single family dwelling units are exempt from initial Design Review Board development approval. They are not exempt if and when the use involves signage. There are specific regulations which the Design Review Board has authority to govern addressing normal and typical signage within a residential use area, namely residential name plates, 4.151 (1)(a), bulletin boards, 4.151 (1)(b); real estate signs advertising individual lots, 4.151 (1)(c); subdivision signage, 4.151 (1)(d) and home occupation signage, 4.151 (1)(d). Nor is the applicant's comparison of industrial Planned Developments with the commercial developments a justification for not distinguishing the differences in the nature of uses. What may be appropriate to locate and identify industrial users and be harmonious with other surrounding industrial properties may, in fact, not be compatible with commercial uses. That basic recognition between different uses is what allows for zoning districts in the first instance.

Therefore, I am of the opinion that the recommended revisions submitted by staff are reasonable time, place and manner restrictions, to prevent the use of a building as a grossly, large sign offensive to aesthetic sensibilities, coupled with the use of materials which are not harmonious with existing properties and the focal nature of Town Center to the detriment of the property of others. The regulations provide authority in the Design Review Board to act and neither as set forth or applied, are they arbitrary.

mek:pjm



SIGN FACE MEASUREMENT



The maximum height of a sign is measured from a point 8 feet above the curb at the property line, to a point 20 feet in height or 4 feet above the roof, whichever is less.

MAXIMUM SIGN HEIGHT

EaE1aE1a  
 abcdefghijklmnopqrstuvwxyz  
 ABCDEFGHIJKLMNOPQRST  
 UVWXYZ  
 123456780&?!\$(.,.)^^><

FIG. 2

CHAPTER 4, ZONING CODE  
 TOWN CENTER SIGNAGE CODE

City of Wilsonville

COMMUNITY DEVELOPMENT DEPARTMENT

Memorandum

November 7, 1991

TO: Blaise Edmonds, Planning  
FROM: *MB* Martin Brown, Building Official  
SUBJECT: DEVELOPMENT REVIEW TEAM

The following is a list of concerns for the proposed Project Thunder and the proposed Liberty Organization office/warehouse. Actual working drawings may expose additional code concerns.

THUNDER PROJECT

1. Provide a fire hydrant within 250 feet in hose-lay fashion of all exterior walls.

LIBERTY ORGANIZATION OFFICE/WAREHOUSE

1. Provide a fire hydrant within 250 feet in hose-lay fashion of all exterior walls.
2. Proposed building shall comply with the A.D.A.

/sf

EXHIBIT E

DEFECTS IN

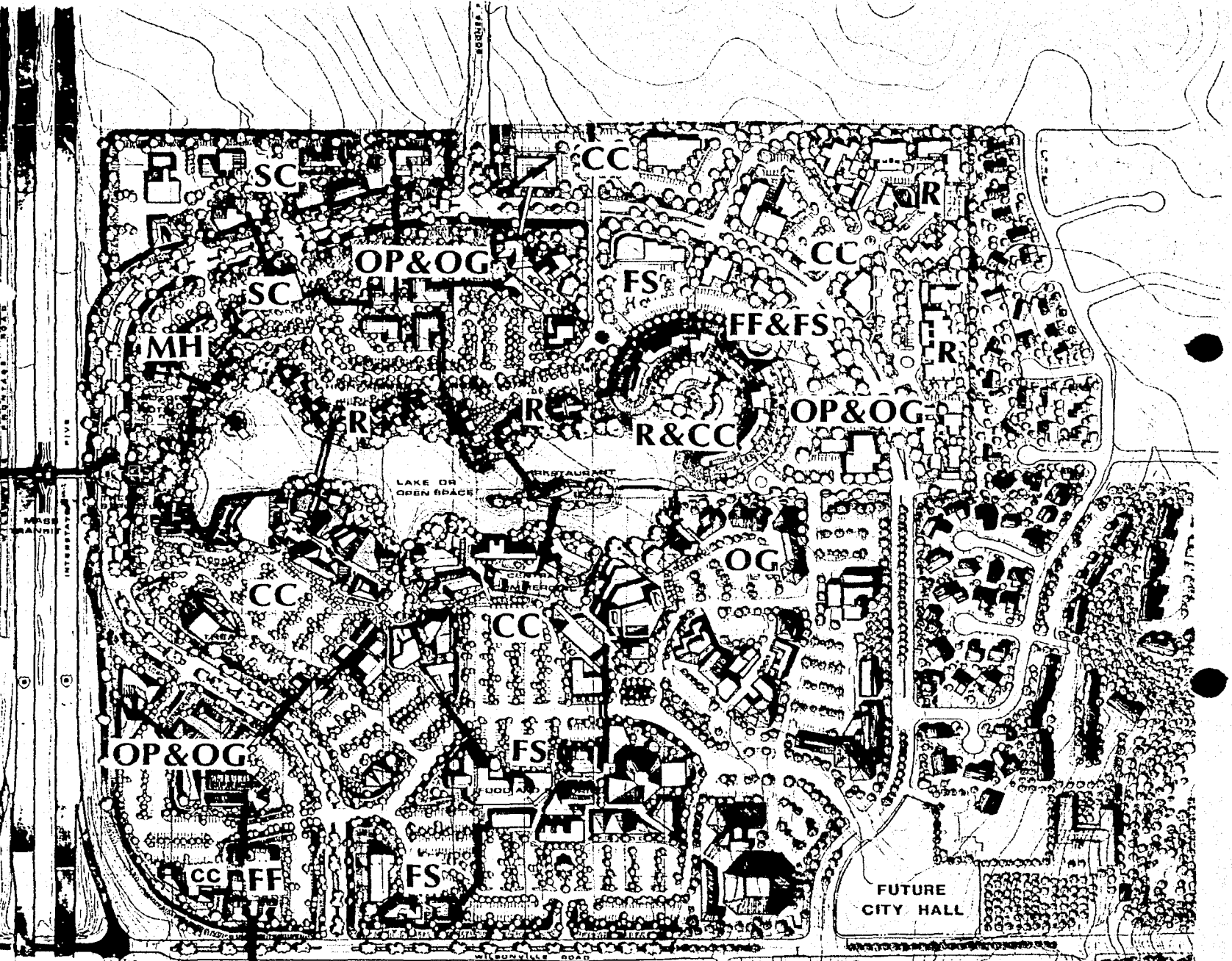
ORIGINAL

DOCUMENT

# LEGEND

- CC** Central Commercial
- SC** Service Commercial
- FS** Food and Sundries
- FF** Fast Food Service
- OP** Office Professional
- OG** Offices for General Use
- R** High Density Residential
- MH** Motor Hotel

EXHIBIT  
F







**KITTELSON & ASSOCIATES, INC.**  
**TRANSPORTATION PLANNING/TRAFFIC ENGINEERING**

610 SW ALDER, SUITE 700 • PORTLAND, OREGON 97205 • (503) 228-5230 • FAX (503) 273-8169

October 16, 1991

Ms. Kim Beach  
Capital Realty Corporation  
101 SW Main, Suite 1500  
Portland, OR 97204

RE: Traffic Analysis for Wilsonville Town Center Phase II

Dear Ms. Beach:

The purpose of this letter is to discuss the results of an update to the April 1990 Traffic Impact Analysis we conducted for the Wilsonville Town Center relative to the current phase II development proposal. Some of the specific issues that this letter addresses include:

- the level of development proposed in the current phase II submittal,
- the level of development analyzed in the April 1990 Traffic Impact Analysis,
- an update of current conditions within the vicinity of the site
- an assessment of projected conditions upon completion of the current development proposal
- an assessment of the need for a traffic signal at the Wilsonville Road/Town Center Loop West intersection upon completion of the proposed development

Based on the results of both the previous and updated analysis, the proposed development can occur while still maintaining acceptable levels of traffic operations and safety at site driveways and nearby key intersections. The significant findings and recommendations are as follows:

- The key unsignalized intersections within the study area are currently operating at an acceptable LOS during weekday evening peak hour conditions.

EXHIBIT  
G.7



- Upon completion of the development, the site driveways and key off-site intersections, with the exception of Wilsonville Road/Town Center Loop West, will operate within acceptable level of service limits during the evening peak hour time period.
- A traffic signal is warranted to accommodate projected 1992 traffic volumes at the Wilsonville Road/Town Center Loop West intersection. It is therefore recommended that a traffic signal be installed at this location upon completion of the proposed development.

### ***Current Phase II Development Plans***

The current phase II development plans call for the construction of a retail facility consisting of approximately 159,000 gross square feet of floor area. This development level (and substantially more) has already been accounted for in the previous traffic impact analysis. The traffic impact analysis conducted in April 1990 considered a Phase I development level of approximately 211,000 gross square feet of floor area, and a combined Phase II and III development level of approximately 451,000 gross square feet of retail space and 40,000 gross square feet of commercial office space. Therefore, the original traffic impact analysis, which evaluated conditions through the year 1995 is considered to be more than adequate in terms of its assessment of traffic impacts of the proposed development for the four year horizon. Included with this letter are 10 copies of the April 1990 Traffic Impact Analysis.

### ***Update of Existing Conditions***

Within the last week, Kittelson & Associates, Inc. obtained weekday p.m. peak hour turning movement counts at the intersections of Wilsonville Road/Town Center Loop West, and Wilsonville Road/Town Center Loop East. The results of those counts revealed that compared to the counts conducted in conjunction with the April 1990 study, traffic volumes have increased by approximately 70 percent on Wilsonville Road, by approximately 80 percent on Town Center Loop East, and have remained essentially the same on Town Center Loop West. The growth in traffic on Wilsonville Road and Town Center Loop East is due primarily to the substantial amount of residential development that has occurred within the vicinity of the site (particularly to the east of Town Center Loop East) within the past year, as well as to the development associated with Phase I of the Wilsonville Town Center.

The reason traffic volumes have remained basically the same on Town Center Loop West is likely due to the fact that the majority site-generated traffic associated with Phase I of the Wilsonville Town Center, as well as some of the site-generated traffic from the retail/office development located in the southwest corner of Town Center Loop are using the Wilsonville Town Center access drives on Wilsonville Road and Town Center Loop East. Another contributing factor may be that traffic volumes within the Wilsonville area have re-distributed somewhat since 1990. Table 1 displays a comparison of the 1990 and the current 1991 volumes.

Intersection	Approach	1990 Volume (Veh/Hr)	1991 Volume (Veh/Hr)
Wilsonville Rd./ Town Center Loop W.	Westbound	165	410
	Eastbound	530	785
	Southbound	295	270
Wilsonville Rd./ Town Center Loop E.	Westbound	155	300
	Eastbound	280	435
	Southbound	80	145

Based on the results of the recent p.m. peak hour traffic counts, Level of Service analyses were conducted at each of the intersections following the analytical techniques described in the *1985 Highway Capacity Manual*. Table 2 displays the results of that analysis. As indicated in the table, both intersections are currently operating at Level of Service "D" or better, which is considered acceptable by standards.

***Projected 1992 Conditions***

The current site plan indicates that three access driveways on Town Center Loop West will serve the proposed retail development, consisting of a main access drive, a secondary access drive, and a service drive on the north end of the development which will be limited to right-turns only. This access scheme is consistent with what was assumed in the 1990 Traffic Impact Analysis, with the exception of the north service drive. In the previous analysis, the two primary access drives were projected to operate at Level of Service "D" or better through the year 1995. Given that traffic volumes will be substantially lower in 1992 than the projected 1995 levels, all three driveways serving

TABLE 2 PM PEAK HOUR LOS EXISTING TRAFFIC VOLUMES			
Intersection	Time Period	UNSIGNALIZED	
		Reserve Capacity	LOS
Wilsonville Rd/ Town Center Loop W.	PM	113	D
Wilsonville Rd/ Town Center Loop E.	PM	299	C

the development are anticipated to operate at Level of Service "D" or better upon completion development.

Estimates of site-generated traffic for the Phase II development proposal were added to the existing traffic volumes at the intersections of Wilsonville Road/Town Center Loop W. and Wilsonville Road/Town Center Loop E. Based on that assignment, additional analyses were conducted to assess the level of service at these two intersections upon completion of the development. Table 3 displays the results of that analysis. As shown in the table, the intersection of Wilsonville Road/Town Center Loop West is anticipated to experience an "F" Level of Service, which is considered unacceptable by City standards. An examination of signal warrants contained in the *Manual on Uniform Traffic Control Devices* indicates that at least two warrants for a traffic signal will be met under projected 1992 conditions.

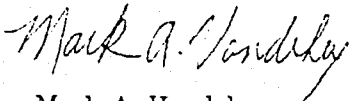
Based on these results, and given that background traffic volumes on Wilsonville Road are likely to continue to increase somewhat, it is recommended that a traffic signal be installed at the Wilsonville Road/Town Center Loop West intersection coinciding with the completion of the current Phase II development proposal. Based on this recommendation officials at Capital Realty Corporation have retained Kittelson & Associates, Inc. to begin the preliminary design of a traffic signal at the Wilsonville Road/Town Center Loop West intersection.

Ms. Kim Beach  
October 16, 1991  
Page 5

Intersection	Time Period	UNSIGNALIZED	
		Reserve Capacity	LOS
Wilsonville Rd/ Town Center Loop W.	PM	-29	F
Wilsonville Rd/ Town Center Loop E.	PM	113	D

I trust that this letter adequately addresses City staff's traffic related concerns with respect to this development proposal. If in the meantime you have any questions or comments please do not hesitate to contact me.

Sincerely,



Mark A. Vandehey  
Associate

October 18, 1991

Wayne Sorenson  
Planning Director, Wilsonville  
City Hall  
P. O. Box 270  
Wilsonville, OR 92070

Dear Mr. Sorenson:

**Re: Request for Modification of Condition of Approval No. 90PC15**

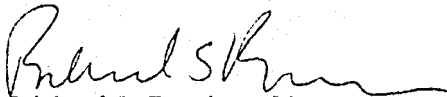
On behalf of the Owner, Capital Realty Corp., we request a reconsideration of Condition No. 8 of Planning Commission Resolution No. 90PC15 to provide the opportunity for Capital Realty to work with the City to accomplish the following:

1. Develop a design for the conceptual Wilsonville Town Center open space that allows for the participation of the appropriate City staff and commissions,
2. To formulate a development plan and time frame consistent with the development of Phase II and III of the balance of the Wilsonville Town Center property, and
3. Determine Capital Realty's financial obligation and any credits related thereto.

Concurrently submitted to you are Stage I Master Plan Re-submittal and Stage II, Phase II of the Center. We feel that they have a bearing on this condition and warrant review.

Thank you for your consideration, if you have any questions, please call.

Very truly yours,



Richard S. Brooks, AIA  
Project Manager

bc

C:\BCRSB\WTC-1017.PM

**JKS Architects PC**  
1620 S.W. Taylor Street, Suite 200  
Portland, Oregon 97205  
503-227-5616 • 800-292-5400 • FAX 503-227-3590

EXHIBIT G-8

Stage I Master Plan Re-submittal  
Wilsonville Town Center—Wilsonville, Oregon

1. Nature of Application:

This is a re-submittal for Stage I Master Plan approval for a proposed retail development of 59.79 acres, to be located adjacent to, and north of Wilsonville Road spanning from the southeast portion of Town Center Loop East, the inner portion of Town Center Loop West, north to the intersection of the Loop West and Parkway in that area previously designated as The Wilsonville Town Centre.

The Applicant:

Seeks to develop the site as a community shopping center. The center, at full build out would consist of approximately five larger retail commercial anchor stores, infill retail commercial space and pads located independently from the central retail complex for commercial retail development.

The proposed development includes a total building area of approximately 500,000 square feet constructed in three phases.

Phase I

The existing development of Phase I will include retail commercial space of approximately 207,130 square feet oriented primarily to Wilsonville Road. The Phase I Center consists of three anchor tenants, including major grocery and drugstore tenants, with infill commercial retail shop space and several pads at the periphery for retail uses. Parking for Phase I is 1,063 spaces at a ratio in excess of five spaces per 1,000 square feet of gross leasable area. The third anchor and several of the pads are as yet un-built.

The initial development provides two full-turning accesses along Town Center Loop; one at the eastern end of the development near Wilsonville Road, and the other off Town Center Loop West, which is a heavily landscaped entry boulevard, that in later phases will become the central identified main entry to the fully built-out center. Further, a secondary full turn access is proposed at Town Center Loop West and the Northern boundary of the existing retail center; and finally in Phase I, a right-in-right-out access at mid-site on Wilsonville Road, which is temporarily a full access entry until development to the south of Wilsonville Road completes construction of the final road design.

EXHIBIT 69

1. Nature of Application: (cont'd)

Phase II:

The proposed Phase II development is one retail user of approximately 159,400 square feet located on 14.75 acres primarily fronting Loop Road West. Phase II is to be built and developed by a separate owner other than Capital Realty Corp. Capital Realty, however, maintains its right of review for compliance with the concept and intent of the Town Center retail development. Approximately 872 parking spaces are provided (see Stage II Submittal attached).

Phase III:

The proposed development of Phase III includes retail commercial space of approximately 143,568 square feet completing the connection to Phases I and II. The Phase III development would consist of one large retail anchor tenant, retail pad tenants, and a two-story professional office building oriented at the end of the main entrance boulevard.

The parking development for Phase III, approximately 980 spaces, brings the total parking count to 2,915 spaces, serving the proposed 510,000 square feet of gross building area.

2. Property Description:

The property is located north of Wilsonville Road, east of Interstate 5, and west of City Hall. The property is located on the following parcels:

Parcel 1: 19.73 acres

Tax Lots 600 and 601, Section 13, Township 3 south, Range 1 west, Willamette meridian, situated in the City of Wilsonville, County of Clackamas, State of Oregon.

Parcel 2: 4.37 acres

Tax Lot 500, Section 13, Township 3, south, Range 1 west, Willamette meridian, situated in the City of Wilsonville, County of Clackamas, State of Oregon.

2. Description (cont'd)

Parcel 3: 25.96 acres

Tax Lots 200, 300, and 405, Clackamas County Map 3-1W-14D and ownership interests in a triangle of land approximately 6,381 square feet on the west of Tax Lot 200.

Parcel 4: 9.73 acres

Tax Lots 101, 201, and 102 Clackamas County Map 3-1W-14D

3. Plan Designation and Zoning:

The subject site is designated commercial on the comprehensive plan map and zoned Planned Development Commercial on the zoning map. The site, being situated within the Wilsonville Town Center master Plan map, has underlying use designations indicating CC Central Commercial, FS Food and Sundries, OP Office Professional, FF Fast Food Restaurant, R high density residential, and open space.

The intent of our proposal is to accomplish the mix of other desired and designated uses within the boundaries of our development. We feel our plan as submitted is consistent with the comprehensive plan goals and with the Town Center Master Plan.



October 18, 1991

Wayne Sorenson  
Planning Director, Wilsonville  
City Hall  
P. O. Box 270  
Wilsonville, OR 92070

Dear Mr. Sorenson:

**Re: Stage I Re-submittal Master Plan Approval Wilsonville Town Center  
Stage II, Phase II Submittal**

On behalf of Capital Realty Corp., and the owners of properties so designated as comprising the development area, we are re-submitting this application for a Stage I Master Plan Approval for a 59.79 acre commercial center and Stage II approval for the Phase II 14.75 acre site.

As you may be well aware, Phase I of this plan has been completed in part. The economics of the region and the country have impacted the nature of the project as originally planned. This re-submittal represents those pressures, and at the same time expands the size of the project while maintaining the original intent of mixed uses as outlined in the Wilsonville City Center Plan.

Capital Realty has the opportunity to bring to the Town Center project a major, innovative retail anchor which will comprise all of Phase II. This parcel will be sold to a separate user for which application for Stage II, Phase II is attached. Their progress and subsequent design submittals will be reviewed and monitored by Capital Realty.

The addition of this anchor, at this time will serve as a catalyst for the completion of Phase I buildings as well as increase the desirability of Phase III tenants. This, in effect, will improve the success of the entire City Center Plan to the benefit of Wilsonville as a whole.

JKS Architects PC  
1620 S.W. Taylor Street, Suite 200  
Portland, Oregon 97205  
503-227-5616 • 800-292-5400 • FAX 503-227-3590

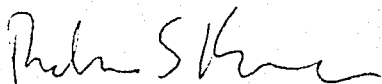
EXHIBIT  
6-90

Wilsonville Town Center  
Stage I Re-submittal  
October 18, 1991

Page 2

We are always available to answer questions to aid you in your analysis of this re-submission and its compliance with the current conditions of approval. This project represents a long-term commitment on the part of Capital Realty in the development of a strong, successful center for Wilsonville which will serve the needs of all its citizens. Thank you for your's and the City Staff's time, energy and cooperation towards the realization of this project.

Sincerely,



Richard S. Brooks, AIA  
Project Manager

bc

# Alternative Open Space Concept

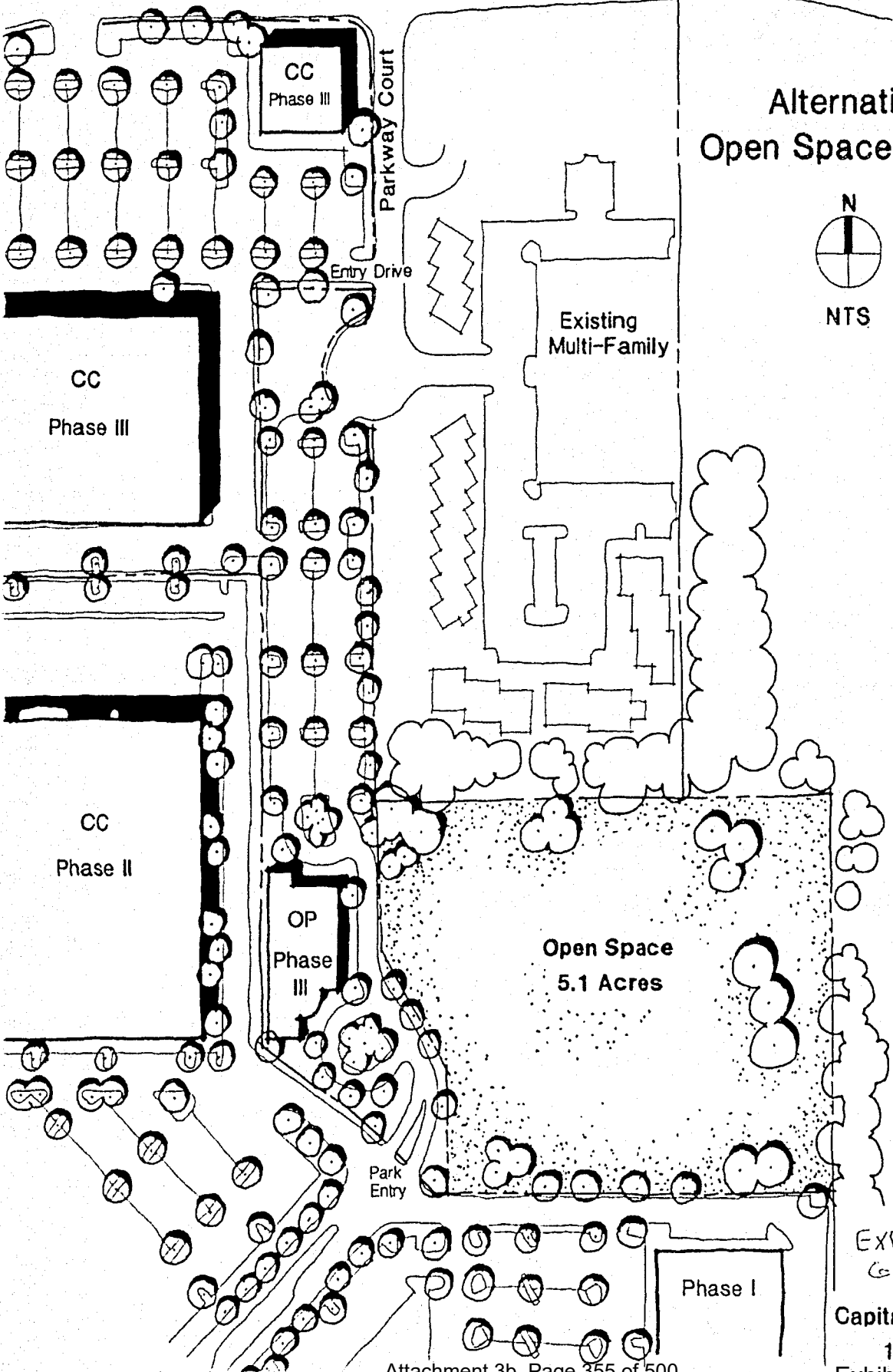
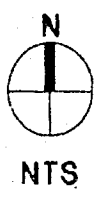


EXHIBIT  
G-11

Capital Realty Corp.

11/26/91

Exhibit A

---

AS REVISED  
1/7/92

**DesignForum**  
ARCHITECTS

# DesignForum

ARCHITECTS

PROJECT THUNDER  
Wilsonville, Oregon  
Design Review Board  
January 27, 1992 Meeting

1R

**REVISED GENERAL COMMENTARY:**

Project Thunder is a single story building with mezzanine, 166,495 GSF retail sales building, with accessory storage areas. Project Thunder is a new concept in merchandising with this location selected for the pilot program.

Enclosed is data that we believe supports the design concepts expressed, outlines the project exterior signage program; building architecture, materials and colors. The project exterior lighting program, the project landscaping and site improvements information is shown on the revised drawings included with this additional submittal.

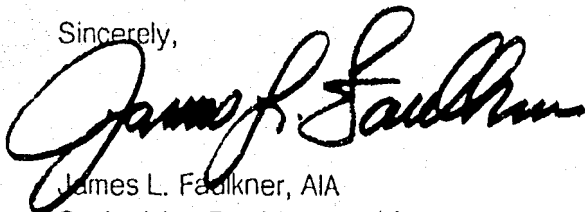
As per phone conversations with Blaise Edmonds, Associate Planner, the materials and colors sample board will be presented at the evening of the actual meeting. It will not be forgotten. We will provide a sample board of wall elements, as requested, as soon as we receive material samples from the manufacturers involved.

Enclosed within this booklet are color photocopies of the revised color scheme, two views, plus the proposed parking lot light standards with the directory signage of aisle indicators. Also enclosed is a new drawing titled "View Corridor Concept." Submitted separately are revised drawings DRBC1, DRBC2, DRB1, DRB2, DRB3, and DRBL1.

We believe we meet all known City of Wilsonville ordinances in regards to architecture, landscaping and site improvements. There are no signage variances required. We do request a deviation from the Phase I signage program as explained following. Since our reconsideration of the signage program has eliminated all variances we request reimbursement of the variance fees previously paid.

We request the Design Review Boards consideration of Project Thunder, as resubmitted.

Sincerely,



James L. Faulkner, AIA  
Senior Vice President, Architecture

JLF:dr

# DesignForum

ARCHITECTS

## PROJECT THUNDER

Wilsonville, Oregon

Design Review Board

January 27, 1992 Meeting

2R

### MATERIALS/COLORS DIALOGUE:

The general concept of the project design aesthetic is to create a vibrant and lively shopping environment, having this a "fun place to be". This concept is visualized to the shopper by the dynamic main facade of the building by three means: building form, materials selected and colors used.

The basic building background material is an "Exterior Insulation and Finish System", common name used Dryvit. While proprietary, we will use this term in this discussion. The Dryvit will be in a field color of light beige (neutral) with dark green color Dryvit used as a horizontal accent band on the North and West elevations. Dark green will also be used at the curved wall element of the primary building entry and exit points on the West elevation. The Dryvit will be on all sides of the building, scored in the patterns indicated on the elevations. Use of the dark green color relates this project to the Phase I buildings.

To compliment the Dryvit field, and to help to reduce the scale of this building, a horizontal band of metal siding, in a light bronze color with 50% reflectivity is expressed on the West, North and South elevations. This metal siding is a vertical pattern with vertical "grooves" 6" o.c. On the East elevation, the color and position of the metal siding is simulated by use of Dryvit accent band.

To accent and provide visitor orientation to the entry area, an open "dome" of steel framing, painted red, is mounted on the roof. Coupled with the curved element wall, this designates the building entry area. At grade the curved element concept is carried forward with curved concrete curbs, radial lined concrete walkways and flagpoles/bollards in a circular centerline aligning with the curved wall element at entry. The flagpoles are 25'-0" high, natural aluminum color, and will fly solid color flags or nylon banners. The non-illuminated bollards are 42" high, 10" diameter pipe painted light beige. Bollards around entry points will be internally lighted, and be painted red.

To further designate entry points, clear glass in natural aluminum storefront framing is located adjacent to the curved element entry area, and also occurs at the building service entrance and other secondary entrance points.

The overhead doors will be solid, insulating units without windows, painted light beige. Other secondary doors will be hollow metal painted to match adjacent wall color. Miscellaneous site items such as handrails will be painted black.

# DesignForum

ARCHITECTS

## PROJECT THUNDER

Wilsonville, Oregon

Design Review Board

January 27, 1992 Meeting

3R

The following are our calculations of area for the Project Thunder Signage Program:

### Wall Graphics:

Single face, backlit signs:

Store Name Sign*	1 Each at 224 SF	=	224 SF
Fascia Sign: "Service":	1 Each at 12 SF	=	12 SF
Fascia Sign: "Customer Pickup":	1 Each at 28.5 SF	=	28.5 SF
Fascia Sign: "Car Stereo Installation":	1 Each at 40.5 SF	=	40.5 SF

TOTAL WALL GRAPHICS AREA 305 SF

\* This sign of channelume construction with individual letters for the word "UNIVERSE"; the word "INCREDIBLE" is in script neon.

There are miscellaneous directional signs on site, i.e. stop signs, that are under 2' x 2' in size, single face, non-illuminated and pole mounted. These include the Parking Lot Aisle Indicator Signs: 12 each at 8 SF = 96 SF. These are shown on sheet DRBC1, but are not included in signage area calculations.

# DesignForum

ARCHITECTS

**PROJECT THUNDER**  
**Wilsonville, Oregon**  
**Design Review Board**  
**January 27, 1992 Meeting**

4R

We request the consideration of the Design Review Board for a deviation from the Phase I, Wilsonville Town Center Signage program, as follows:

- Deviation #1 from Phase I signage program for sign construction method

### **Deviation #1 from Phase I signage program for Wilsonville Town Center**

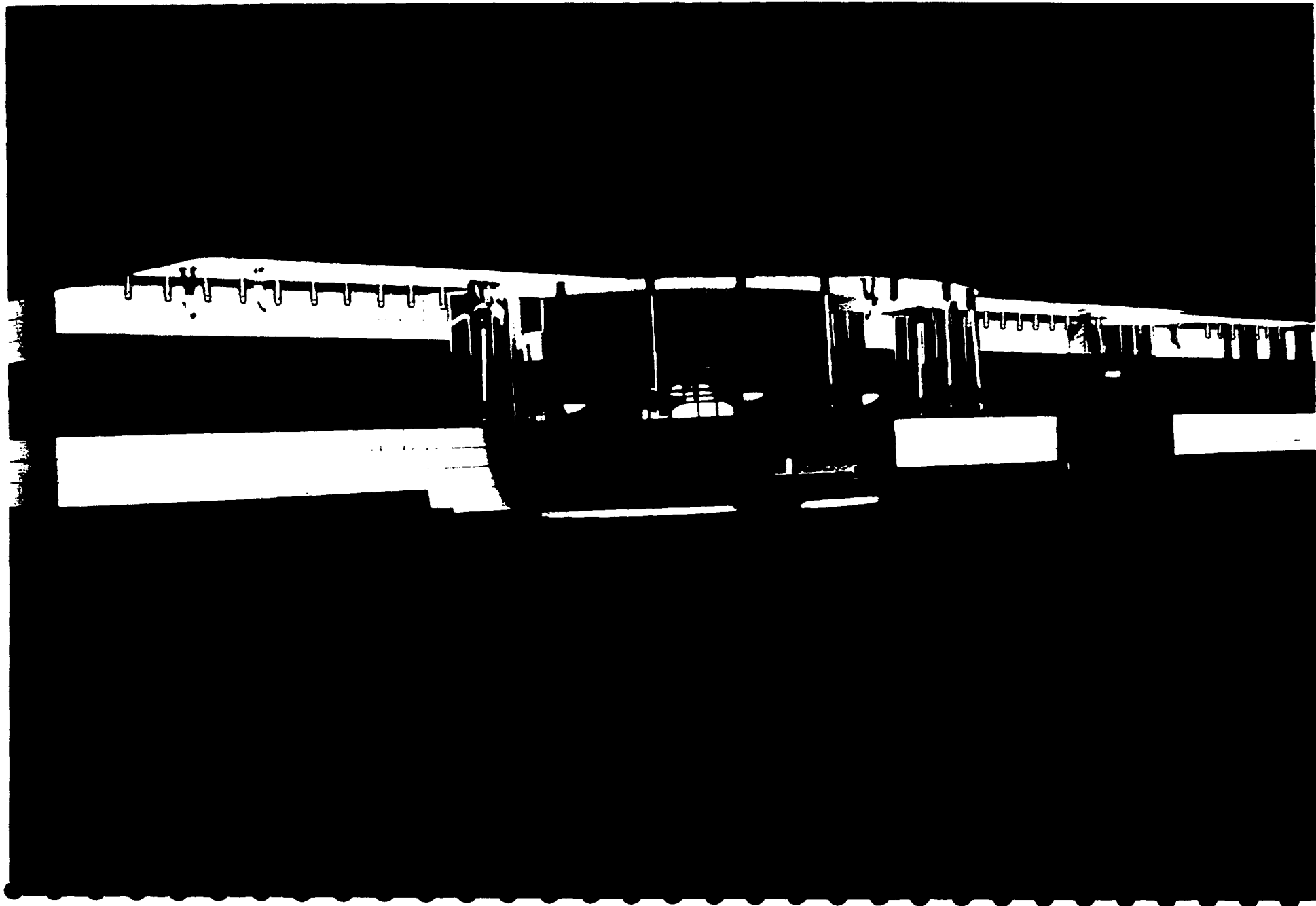
We request this deviation from the approved program for the purpose of changing the method of construction for the 3 fascia signs (aggregate area approximate 81 SF) to be consistent with our design idiom. We feel our approach of a fascia panel type sign, back lit, cutout individual letters, appearing to be in a larger horizontal band to be of more benefit to this architectural design. Individual channel construction is not an appropriate usage in this application.



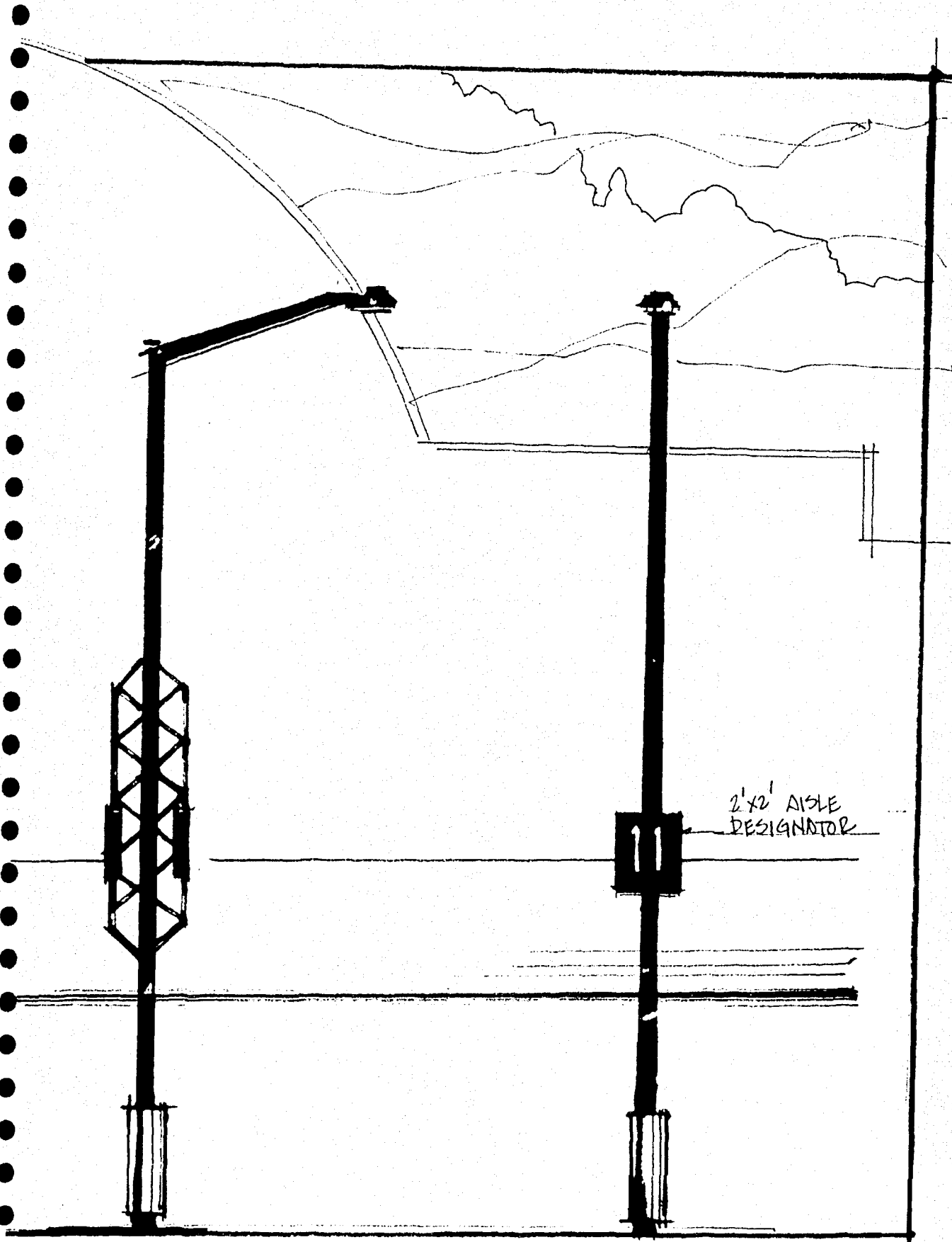
DEFECTS IN

ORIGINAL

DOCUMENT

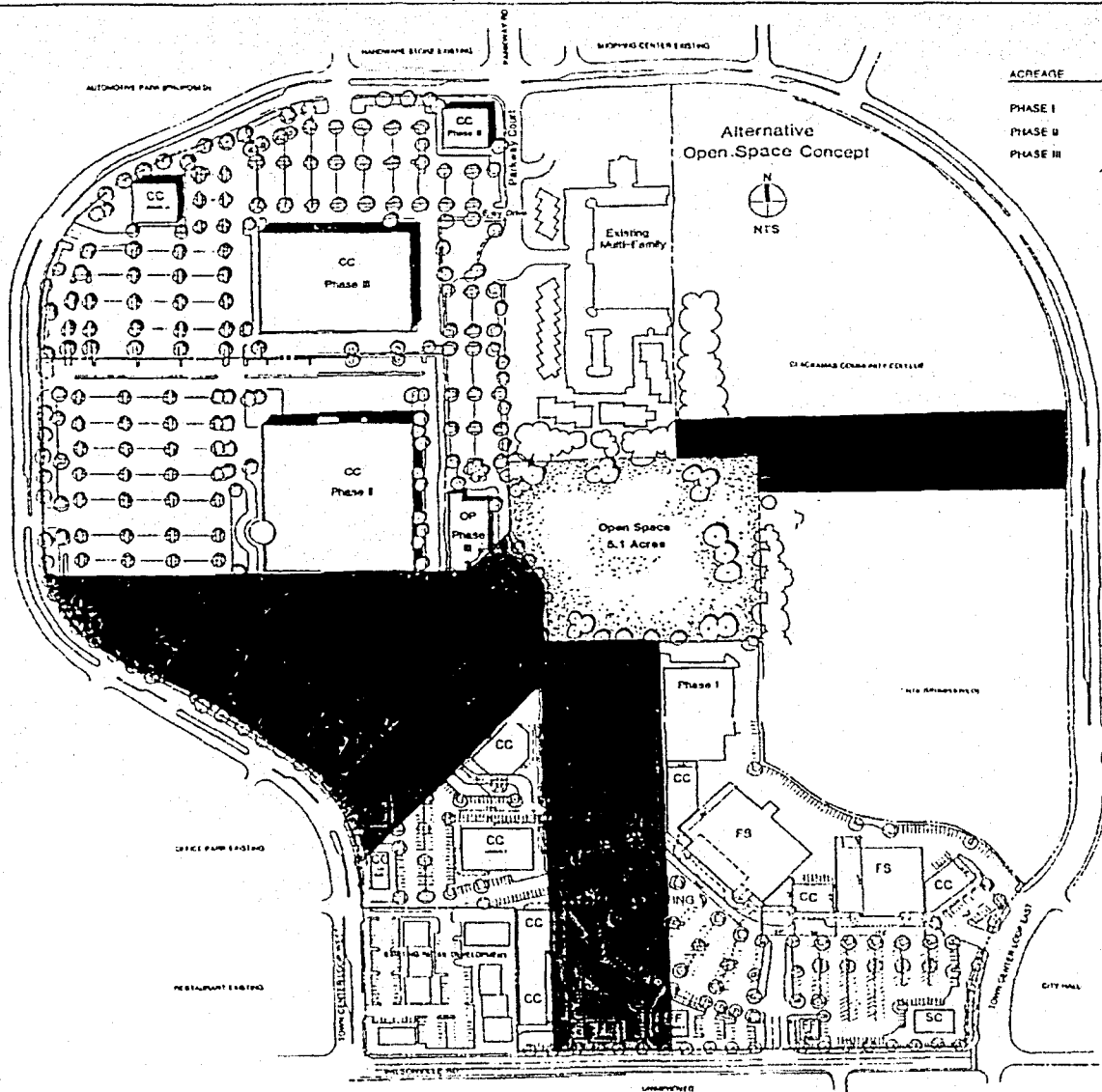




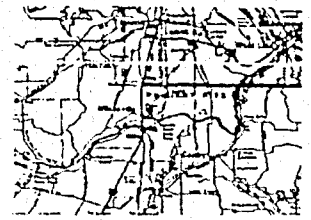


PROJECT THUNDER  
Wilsonville, Oregon  
Design Review Board  
January 27, 1992 Meeting

**DesignForum**  
ARCHITECTS



ACREAGE	
PHASE I	22.96 ACRES
PHASE II	14.75 ACRES
PHASE III	22.08 ACRES
<b>TOTAL</b>	<b>59.79 ACRES</b>



VICINITY MAP

**NOTES**

1. THIS PLAN IS A PRELIMINARY DESIGN AND IS SUBJECT TO CHANGE WITHOUT NOTICE.

2. THE DESIGNER HAS CONDUCTED VISUAL ANALYSES OF THE PROPOSED DEVELOPMENT AND HAS IDENTIFIED VIEW CORRIDORS THAT SHOULD BE MAINTAINED OR ENHANCED TO PRESERVE THE VISUAL QUALITY OF THE AREA.

3. THE VIEW CORRIDORS SHOWN ON THIS PLAN ARE INTENDED TO PROVIDE UNOBSTRUCTED VIEWS OF THE OPEN SPACE AND LANDSCAPE FEATURES.

4. THE DESIGNER HAS CONDUCTED VISUAL ANALYSES OF THE PROPOSED DEVELOPMENT AND HAS IDENTIFIED VIEW CORRIDORS THAT SHOULD BE MAINTAINED OR ENHANCED TO PRESERVE THE VISUAL QUALITY OF THE AREA.

5. THE VIEW CORRIDORS SHOWN ON THIS PLAN ARE INTENDED TO PROVIDE UNOBSTRUCTED VIEWS OF THE OPEN SPACE AND LANDSCAPE FEATURES.

**PHASE I AND III DEVELOPMENT**

PHASE I AND III DEVELOPMENT IS PROPOSED TO BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF WILSONVILLE ZONING ORDINANCES AND THE CITY OF WILSONVILLE PLANNING AND ZONING COMMISSION'S RECOMMENDATIONS. THE DEVELOPMENT IS INTENDED TO PROVIDE A MIXED-USE COMMUNITY CENTER THAT WILL INCLUDE OFFICE, RETAIL, AND RESIDENTIAL USES.

THE DEVELOPMENT IS PROPOSED TO BE CONSTRUCTED IN ACCORDANCE WITH THE CITY OF WILSONVILLE ZONING ORDINANCES AND THE CITY OF WILSONVILLE PLANNING AND ZONING COMMISSION'S RECOMMENDATIONS. THE DEVELOPMENT IS INTENDED TO PROVIDE A MIXED-USE COMMUNITY CENTER THAT WILL INCLUDE OFFICE, RETAIL, AND RESIDENTIAL USES.

SITE MASTER PLAN: PHASE I, II, & III  
**VIEW CORRIDOR CONCEPT**

1-6-92

**JKS Architects PC**  
 425 SW 3rd Street, Suite 202 • Portland, Oregon 97204  
 503.277.4444 • www.jksarchitects.com

**WILSONVILLE TOWN CENTER**  
 WILSONVILLE, OREGON

DATE: 1-6-92  
 DRAWN BY: JKS  
 CHECKED BY: JKS

SCALE: AS SHOWN  
 SHEET NO. 1

1

## LETTER OF TRANSMITTAL

From: William F. Bergman, AIA  
Design Forum  
3484 Far Hills Avenue  
Dayton, OH 45429

To: Mr. Blaise Edmonds  
Associate Planner  
City of Wilsonville  
8445 S.W. Elligsen Road  
Wilsonville, OR 97070

We are sending you:

- |                                 |  |   |   |                                   |
|---------------------------------|--|---|---|-----------------------------------|
| <input type="checkbox"/> Prints | <input type="checkbox"/> Estimates     | <input type="checkbox"/> Copy of letter   | <input type="checkbox"/> Photography    | <input type="checkbox"/> Keylines |
| <input type="checkbox"/> Plans  | <input type="checkbox"/> Shop Drawings | <input type="checkbox"/> Samples          | <input type="checkbox"/> Specifications | <input type="checkbox"/> Layouts  |
|                                 |  | <input type="checkbox"/> Comps Prototypes |   |                                   |

COPIES    DATE OR NO.

DESCRIPTION

COPIES	DATE OR NO.	DESCRIPTION
2	10/28/91	Preliminary Prints of First Floor and Mezzanine Floor Plans

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> For your use | <input type="checkbox"/> Approved & noted            | <input type="checkbox"/> Return _____ corrected prints   |
| <input type="checkbox"/> For approval            | <input type="checkbox"/> Construction approval       | <input type="checkbox"/> Submit _____ copies for _____   |
| <input checked="" type="checkbox"/> As requested | <input type="checkbox"/> Returned for corrections    | <input type="checkbox"/> Resubmit _____ copies for _____ |
| <input type="checkbox"/> For review & comment    | <input type="checkbox"/> Returned after loaned to us | <input type="checkbox"/> For bids due _____              |
| <input type="checkbox"/> _____                   |  |  |

Remarks: \_\_\_\_\_  
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Signed: William F. Bergman  
 William F. Bergman, AIA  
 Project Architect

Date: 10/28/91

**MEMORANDUM**

**TO: Development Review Team**

**DATE: October 21, 1991**

**FROM: Blaise Edmonds, Associate Planner, City of Wilsonville.**

Please review the enclosed Site Development Plans for the following projects:

1. Thunder project (retail anchor store).
2. Office and warehouse, Liberty Organization, applicant.
3. Comprehensive plan amendment, Mr. Marvin Wagner, applicant.

Your review should focus on the technical aspects required for development. In addition, please comment on any other issue that may affect approval as proposed.

Please submit written comments or requirements to the Planning staff by Nov 15, 1991, so that my review can be more complete.

MEMORANDUM

TO: Blaze Edmonds, Associate Planner  
City of Wilsonville

FROM: Rick Martin, P.E.  
W&H Pacific

DATE: October 18, 1991

RE: Phase Two Development - Storm Drainage  
Wilsonville Town Center

The Phase Two development will require the existing drainage detention pond be filled due to construction of required parking areas. It should be noted that drainage calculations completed for Phase One development took into account that the detention pond will be eliminated with future development in the proposed Phase Two area.

Final Phase Two development design will provide connections to the existing storm drain system currently terminating at the pond. Refer to the Phase Two Utility Plan submitted with this application.

Blaise -  
I understand  
W & H says 150 cfs  
for Town Center to go into  
48" culvert - is there  
more from other properties -  
if so how does that affect  
park drainage - if you  
know & if not I'd be probably  
need to make sure all  
info is available - before  
abandoning on site retention -  
could be a plus as a water  
feature for Town Center  
Mike,  
cc. Steve Stamer



PLEASE MAIL  
TO  
LESLIE  
DOT  
WAYNE  
SAID THAT  
YOU HAVE  
HLS  
ADVISORY

MEMORANDUM

TO: Development Review Team

DATE:

FROM: Blaise Edmonds, Associate Planner, City

B

Please review the enclosed Site Development Plans for the following projects:

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- 2. ~~Office and warehouse, Liberty Organization, applicant.~~
- 3. ~~Comprehensive plan amendment, Mr. Marvin Wagner, applicant.~~

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**MEMORANDUM**

**TO:** Blaze Edmonds, Associate Planner  
City of Wilsonville

**FROM:** Rick Martin, P.E.  
W&H Pacific

**DATE:** October 18, 1991

**RE:** Phase Two Development - Storm Drainage  
Wilsonville Town Center

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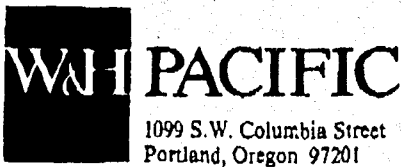


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Final Phase Two development design will provide connections to the existing storm drain system currently terminating at the pond. Refer to the Phase Two Utility Plan submitted with this application.



Creative Solutions ... Superior Service



1099 S.W. Columbia Street  
Portland, Oregon 97201

(503) 227-0455  
Fax (503) 274-4607

• Planning • Surveying  
• Engineering • Landscape Architecture

• Environmental Services

To: Blaise Edmunds Date: 10/16/91  
Pam Edmunds  
City of Wilsonville, Annex Project Number: 407-0301  
30000 SW TOWN CENTER LOOP EAST Project Name: PROJECT THUNDER  
Wilsonville, OR, 97070 Regarding:

PLEASE NOTIFY US IMMEDIATELY  
AT (503) 227-0455 IF THERE ARE ANY  
PROBLEMS RECEIVING THIS  
TRANSMISSION

We Are Sending:

- Attached
- Facsimile 682-7025
- 3 Number Of Pages Including Cover
- 

These Are Transmitted:

- For Your Info/File
- As Requested
- For Review And Comment
- 

Copied To:

Copies	Description
1 ea	Minutes of 10/14/91 Meeting

Comments

Blaise & Pam

We'll see you tomorrow w/ 13 FOLDED sets of drawings ...

Please call if you have any questions during the review/application acceptance. This submittal date & scheduling of hearings is vitally important ...  
Thanks

Signed

Tan Stines

## MEMORANDUM

October 15, 1991

**TO:** Kim Beach, Capital Realty Corp.  
Bill Bergman, Design Form Architects  
All in Attendance

**FROM:** Tom Jones

**RE:** MINUTES OF MEETING WITH THE CITY OF WILSONVILLE  
OCTOBER 14, 1991, 4:00 P.M. TO 5:05 P.M.  
PROJECT THUNDER  
4-467-0301; 4-755-0101

**ATTENDEES:** Tom Jones, W&H Pacific  
Rick Martin, W&H Pacific  
Pat Marquis, W&H Pacific  
Logan Cravens, JKS Architects  
Blaise Edmonds, City Planner  
Pam Emmons, Planning Assistant

---

The following was discussed regarding the project in preparation for the Friday, October 18th submittal.

### STAGE ONE SUBMITTAL

1. The site plan prepared by JKS should show:
  - a. Revised project phasing
  - b. Open space area as previously shown as a condition of approval from initial submittal.
  - c. Specific "Town Center" land use designations must be shown for the northerly portion of the site not previously included and for any changed designations from the original submittal for Phases II and III.
2. Submit ten (10) copies of the original Traffic Report and provide an Executive Summary outlining any revisions to the initial projections and provide a summary that addresses the level of service "D" or better at surrounding intersections. Review the Parkway/Loop Road intersection.
3. Show existing adjacent land uses (i.e., vacant or improved) and the names of key surrounding developments for the Planning Commission orientation. Show only existing improvements not proposed.
4. Capital Realty must provide an updated list of addresses and property owners within 250 feet from the project.





October 15, 1991  
Page 2

5. Capital Realty must submit the Certification of Assessments and Liens form with the application. This is to determine if the tax lots included owe money to the City. Contact Atta Curser for clarification.
6. All property owners must sign the application.
7. Application fees:
  - a. Stage One Submittal: \$500.00
  - b. Stage Two Submittal: \$250.00 plus \$25 per acre (Project Thunder is 14.98 acres)
  - c. Application fee for Friday: (\$500 + \$250 + \$375 = \$1,125)
  - d. Design Review: \$250 plus a fee for the master signage plan review.

#### STAGE TWO SUBMITTAL

1. Design of site signs are not required to be submitted until Design Review submittal of December 6th.
2. Landscape design needs to show planting areas, significant trees and plaza areas. Plant list is optional.
3. Grading calculations and storm drainage calculations are not required for Friday's submittal according to Blaise. Grading plan should show existing contours and general grading concept.
4. Utilities design should be kept schematic. Graphically illustrate the utility alignments that will require easement vacations and relocation.
5. Architectural elevations can be conceptual in detail. Planning Commission is only concerned with general massing and quality of appearance. Materials and color board to be submitted at Design Review.
6. If waivers to the City development standards are anticipated, be specific with your request and how it would be consistent with other surrounding project development standards.

#### GENERAL COMMENT

The two issues that will be of the most interest to the Planning Commission will be traffic and the implementation of the open space. We should develop a clear strategy to present to the Commission prior to the December 9th hearing addressing these two issues.

The meeting notes represent comments that have been paraphrased as accurately as possible. The notes will be held as an accurate and true account as to intent unless notice to the contrary is set forth within 10 days of the date above.





1099 S.W. Columbia Street  
Portland, Oregon 97201

Creative Solutions ... Superior Service

(503) 227-0455  
Fax (503) 274-4607

- Planning
- Engineering

- Surveying
- Landscape Architecture

- Environmental Services

**FAXED**  
10/17/91

To: Blaise Edmonds Date: 10/16/91  
Pam Emmons Project Number: 467-0301  
City of Wilsonville, Annex Project Name: PROJECT THUNDER  
30000 SW TOWN CENTER LOOP EXT. Regarding:  
WILSONVILLE, OR. 97070

PLEASE NOTIFY US IMMEDIATELY  
AT (503) 227-0455 IF THERE ARE ANY  
PROBLEMS RECEIVING THIS  
TRANSMISSION

We Are Sending:

- Attached
- Facsimile 682-7025
- 3 Number Of Pages Including Cover

These Are Transmitted:

- For Your Info/File
- As Requested
- For Review And Comment

Copied To: \_\_\_\_\_

Copies	Description
1es.	Minutes of 10/14/91 Meeting

Comments

Blaise & Pam

We'll see you tomorrow w/ 13 FOLDED sets of drawings ...

Please call if you have any questions during the review/application acceptance. This submittal date & scheduling of hearings is vitally important ... Thanks

Signed

Jan Jones

# DesignForum

ARCHITECTS

**Project Thunder**  
**Wilsonville, Oregon**  
**Project No. 91702.03**  
**Pre-Application Conference**  
**October 8, 1991**

In Attendance:

Pam Emmons	City of Wilsonville, Associate Planner	WSV 503-682-4960
Martin Brown	City of Wilsonville, Building Official	WSV 503-682-4960
Steven Starner	City of Wilsonville, Community Development Dir.	WSV 503-682-4960
Jim Long	City of Wilsonville, Design & Survey Technician	WSV 503-682-4960
Doug Seely	Real Estate Investment and Sales	REI 503-655-7631
Jim Parsons	Grubb & Ellis	GEI 503-241-1155
Jim Faulkner	Design Forum Architects	DFA 800-835-4401

Item No.	Action	Item
1.10	CAP/WHP	Storm drainage is an issue. Calculations and 25 year storm design for Phase II master plan must be submitted with application by October 18, 1991 deadline. The connection for metered release to interstate highway from existing retention pond and the retention pond itself will be eliminated. According to Wayne Bauer of Wilsey & Ham Pacific, Civil Engineers for Phase I development of the site, the new storm sewer system was designed to accommodate this. The city would like to see calculations supporting this.
1.2	CAP/KAI	According to the city, a traffic light at Wilsonville Road and Town Center Loop West is now warranted. The north intersection at Town Center Loop East and West at Parkway Avenue needs to be addressed in traffic study.
1.3	DFA	The currently approved master plan calls for "Food and Sundries" (FS) and "Central Commercial" (CC). These zoned uses are compatible with the desired development of Project Thunder. No rezoning is necessary, however, currently approved uses will have to be redistributed on the site.

# DesignForum

ARCHITECTS

Project Thunder  
Wilsonville, Oregon  
Project No. 91702.03  
Pre-Application Conference  
October 8, 1991

- 1.4 ALL The Stage I and Stage II planning review applications will be made simultaneously on October 8, 1991, and be reviewed simultaneously at the Planning Commission on December 9, 1991.
- 1.5 GEI Hearing notification list for all property owners of record within 250 foot of any point on property (not including street widths) must be presented with October 18, 1991 submittal. Notification does not have to cross interstate highway. The city will send the notices. Jim Parsons will obtain list from assessors office or from a title company.
- 1.6 DFA The signage theme from Phase I should be carried through Phase II. Sign issues are handled by the Design Review Board. Setback issues are handled by the Planning Commission.
- 1.7 DFA/WHP The building is designed utilizing the "unlimited area" provision of the code. A sixty (60) foot minimum distance from all property lines and an approved automatic sprinkler system throughout will be provided to accommodate this provision.
- 1.8 TNB There is a ten (10) day appeal period following design review approval. Normal procedure is such that no work should be commenced during the appeal period. Due to the tight schedule for this project and the need to utilize every available good weather period for site excavation, an option for work during the appeal period was discussed. A "hold harmless" agreement from owner in favor of the City of Wilsonville, enabling work to start immediately after design review approval during the appeal period at the sole risk of the owner has been used in the past to facilitate an early start.



# DesignForum

ARCHITECTS

Project Thunder  
Wilsonville, Oregon  
Project No. 91702.03  
Pre-Application Conference  
October 8, 1991

- 1.9 WHP For any construction to begin, fire hydrants must be installed to within 250 feet of any point of the exterior wall of the building. Work should begin immediately to obtain Public Works approval and have installation complete by scheduled start of construction, February 1, 1992.
- 1.10 ALL The required completion date of construction necessitates a start date for construction of February 1, 1992. For this to happen, working drawings and specifications would have to be accomplished prior to design review hearing date of January 27, 1992. To minimize risk of changes to completed documents, a partial permit (foundation permit) can be applied for at a cost of \$250.00. This would allow work to begin while balance of documents are being prepared. The review time for foundation and underground utilities permit is approximately three weeks, so documents should be submitted by January 10, 1992 for a February 1, 1992 start of construction.
- 1.11 DFA The zoning height limitation for any point of the building is 35'-0". Design Forum will check with Blaise Edmonds regarding height of dome feature with center pole.
- 1.12 DFA Elevations and material, color and finish boards must be submitted with Design Review Board application by December 6, 1991 deadline for hearing date of January 27, 1992.

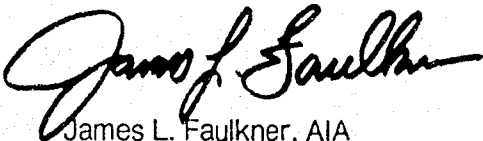
# DesignForum

ARCHITECTS

Project Thunder  
Wilsonville, Oregon  
Project No. 91702.03  
Pre-Application Conference  
October 8, 1991

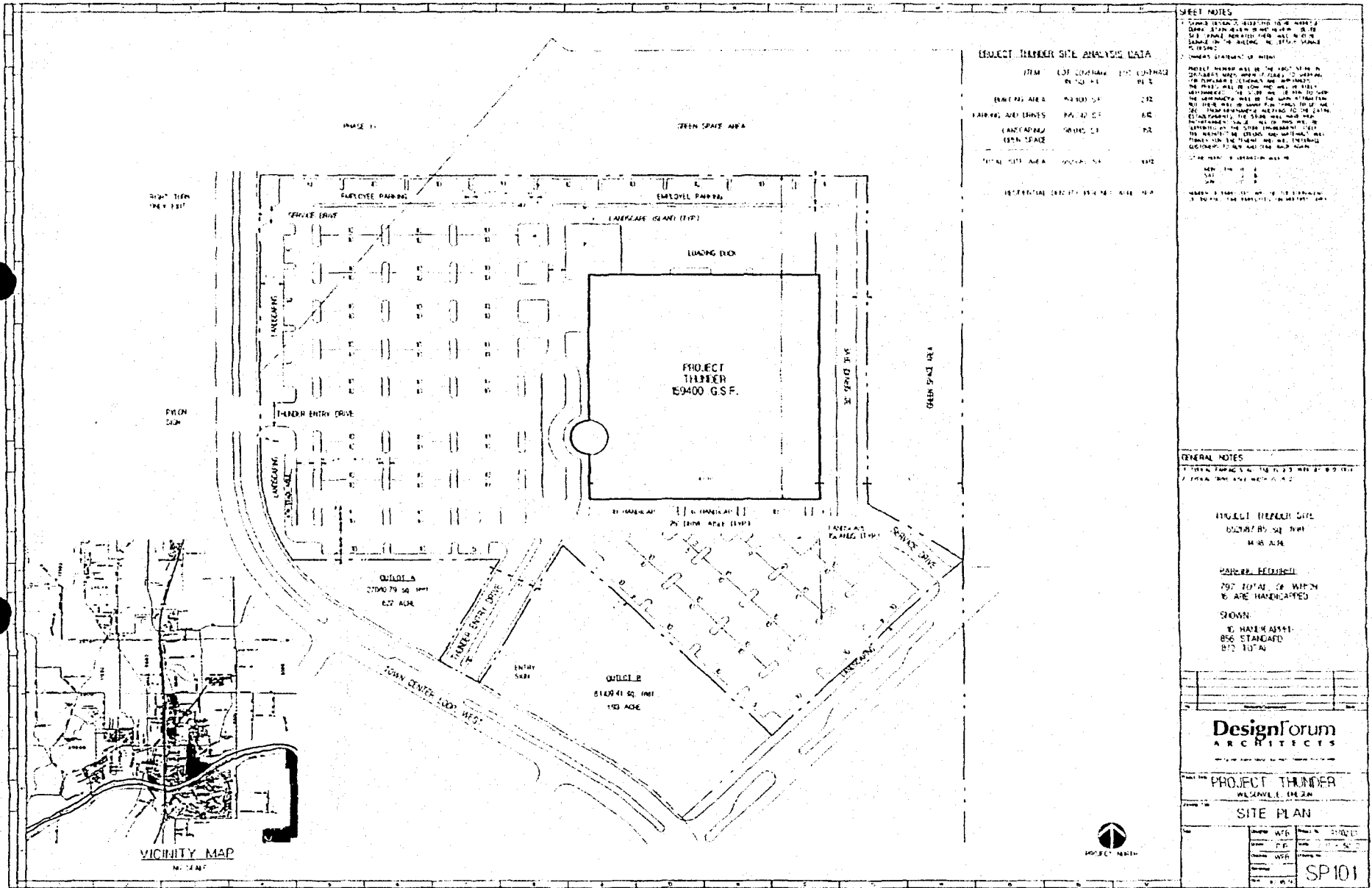
The meeting notes represent comments that have been paraphrased as accurately as possible. The notes will be held as an accurate and true account as to intent unless notice to the contrary is set forth within 10 days of the date above.

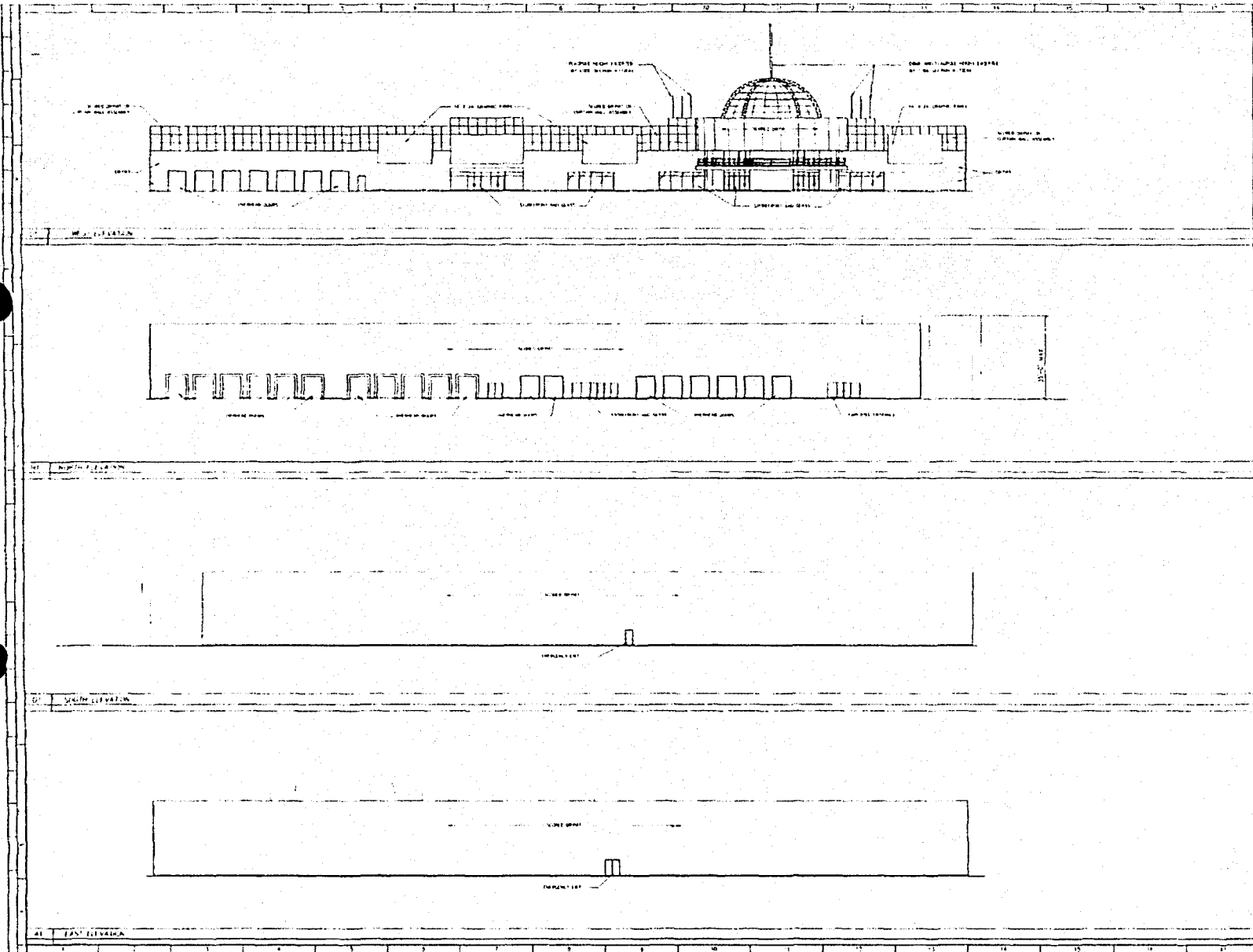
Respectfully submitted,



James L. Faulkner, AIA  
Vice President, Architecture

cc: All in Attendance  
Rich Hollander, Tandy Name Brand (TNB)  
Blaise Edmonds, City of Wilsonville, Associate Planner (WSV)  
Kimberly Beach, Capital Realty Corporation (CAP)  
Tom Jones, Wilsy & Ham Pacific (WHP)  
Wayne Kittelson, Kittelson & Associates, Inc. (KAI)  
D. Lee Carpenter, Design Forum  
Bruce Dybvad, Design Forum  
Marla Halley, Design Forum  
Bill Bergman, Design Forum Architects





SHEET 0125

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EXTERIOR ELEVATIONS

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PROJECT THUNDER  
WESLEYVILLE, MICHIGAN

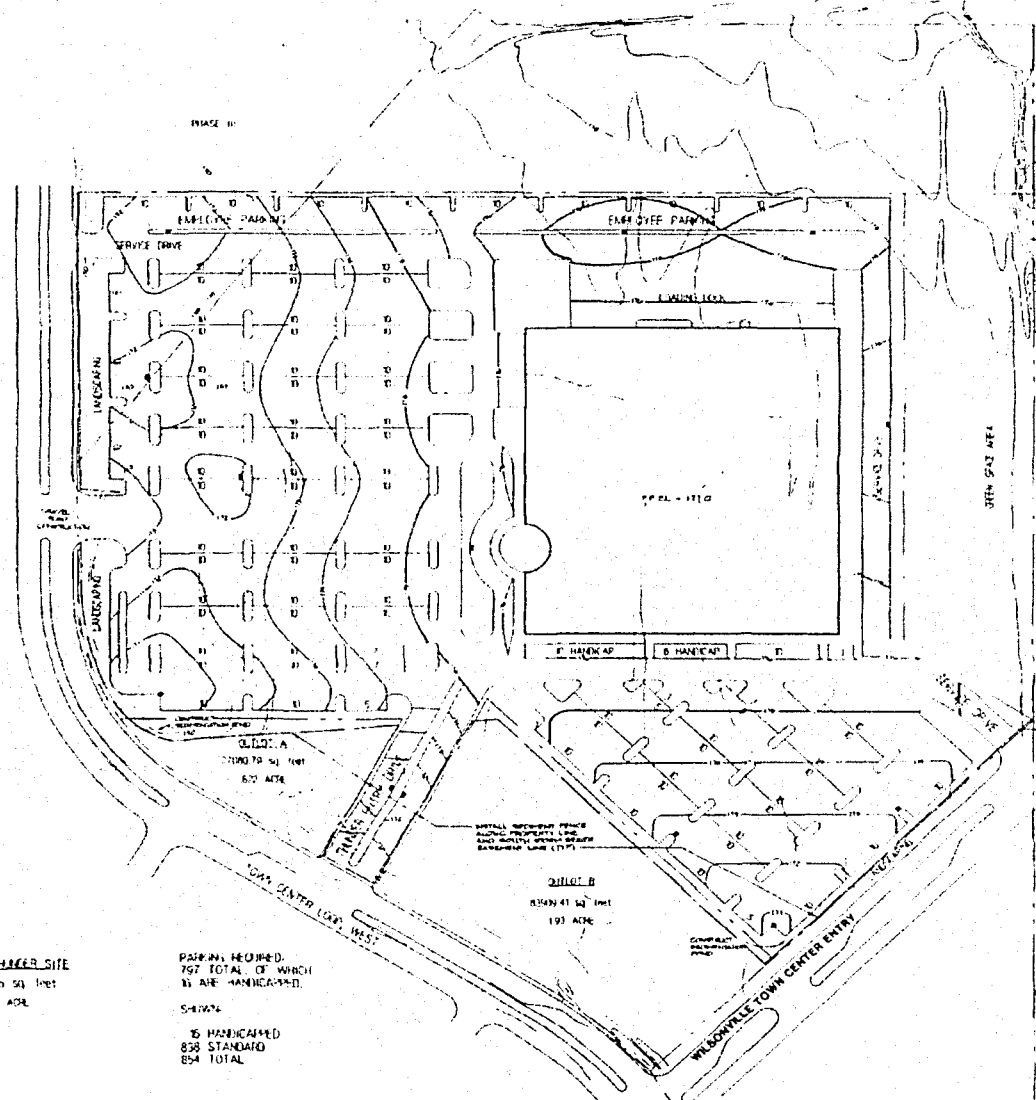
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EXTERIOR ELEVATIONS

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<small>Author</small> WFB	<small>Project No.</small> 97-022-14
<small>Drawn</small> WFB	<small>Date</small> 1/10/07
<small>Checked</small> WFB	<small>Scale</small>
<small>Plot</small> 1/18/07	<small>Sheet No.</small>

SP102



- NOTES
- 1) RECALCULATION OF ALL SQUARE FEETAGES, LENGTHS, WIDTHS, AND PERCENTS, THEREBY ESTABLISHING THE PERCENTAGE OF GRADING TO BE SUBMITTED TO THE COUNTY DEPARTMENT OF LAND USE AND PLANNING FOR REVIEW.
  - 2) WHEREAS THE ACCESS DRIVE SHALL BE FINISHED AND SHALL BE IN THE CARE OF THE COUNTY DEPARTMENT OF LAND USE AND PLANNING, THE COUNTY DEPARTMENT OF LAND USE AND PLANNING SHALL BE RESPONSIBLE FOR THE DESIGN OF THE DRIVE.

- LEGEND
- EXISTING CONTOUR
  - FINISH CONTOUR
  - HATCHED CROSS SECTION
  - FINISH PLANT ELEVATION
  - HATCHED FENCE

PROJECT THUNDER SITE  
 142000 sq ft  
 3.26 ACRES

PARKING REQUIRED:  
 767 TOTAL OF WHICH  
 15 ARE HANDICAPPED.  
 548764  
 15 HANDICAPPED  
 838 STANDARD  
 854 TOTAL

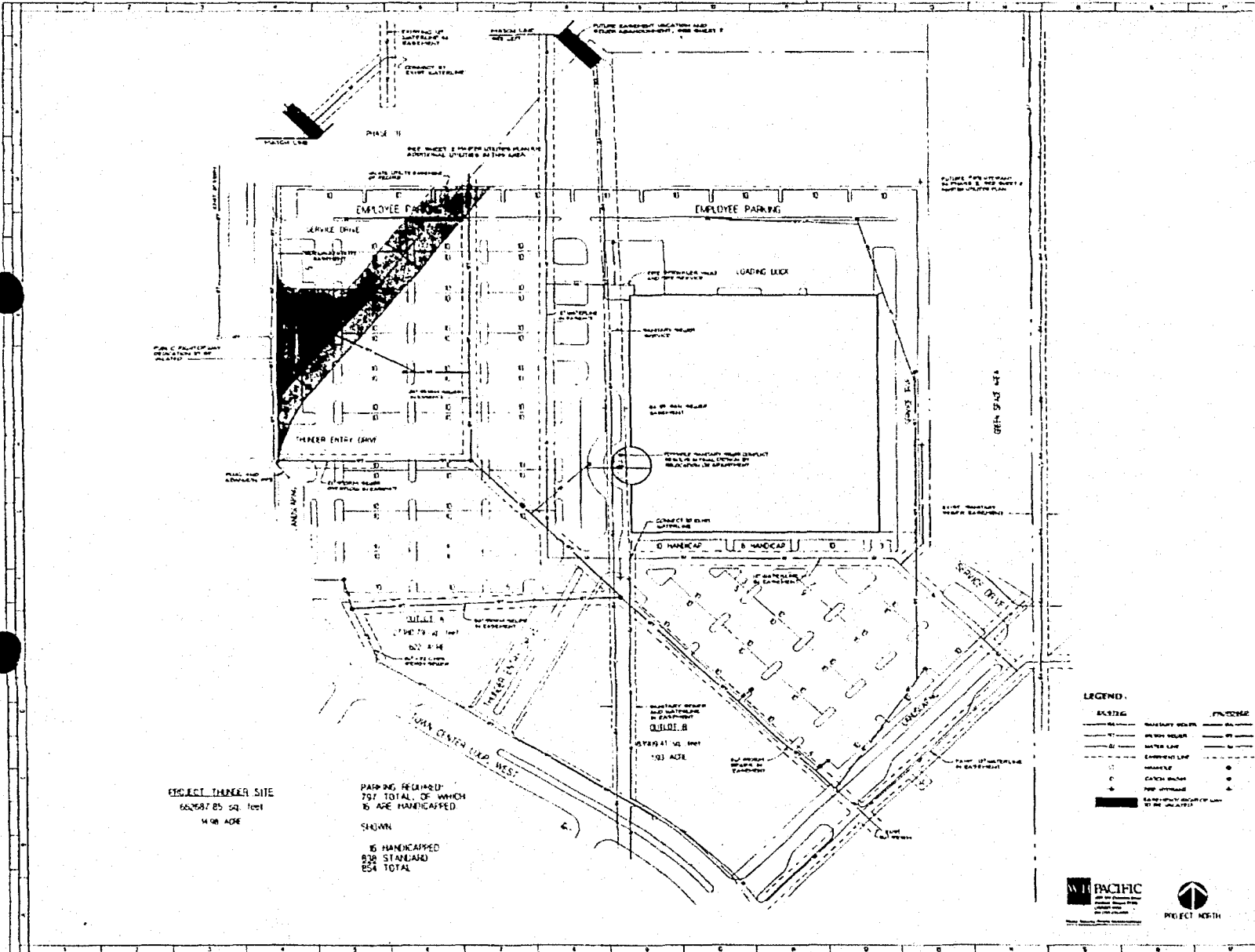
**DesignForum ARCHITECTS**

PROJECT THUNDER  
 WILSONVILLE, OREGON  
 PHASE II GRADING/EROSION CONTROL PLAN

**PACIFIC**

**PROJECT NORTH**

DATE	NOV 14 2007
SCALE	1" = 50'-0"
<b>C 103</b>	



PROJECT THUNDER SITE  
 66,267.85 sq. feet  
 1408 ADE

PARKING REQUIRED:  
 757 TOTAL, OF WHICH  
 16 ARE HANDICAPPED  
 SHOWN  
 16 HANDICAPPED  
 830 STANDARD  
 854 TOTAL

**LEGEND**

SYMBOL	DESCRIPTION
(Symbol)	MASS GRADE
(Symbol)	CONCRETE
(Symbol)	ASPHALT
(Symbol)	GRAVEL
(Symbol)	PAVEMENT
(Symbol)	EMMENT LINE
(Symbol)	WALKWAY
(Symbol)	CONCRETE
(Symbol)	PAVEMENT
(Symbol)	PAVEMENT
(Symbol)	PAVEMENT

**SHEET NOTES**

GENERAL NOTES

Key Plan

**DesignForum ARCHITECTS**

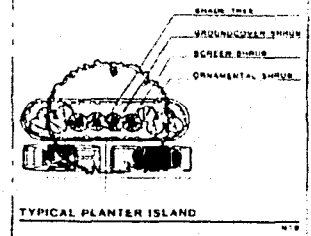
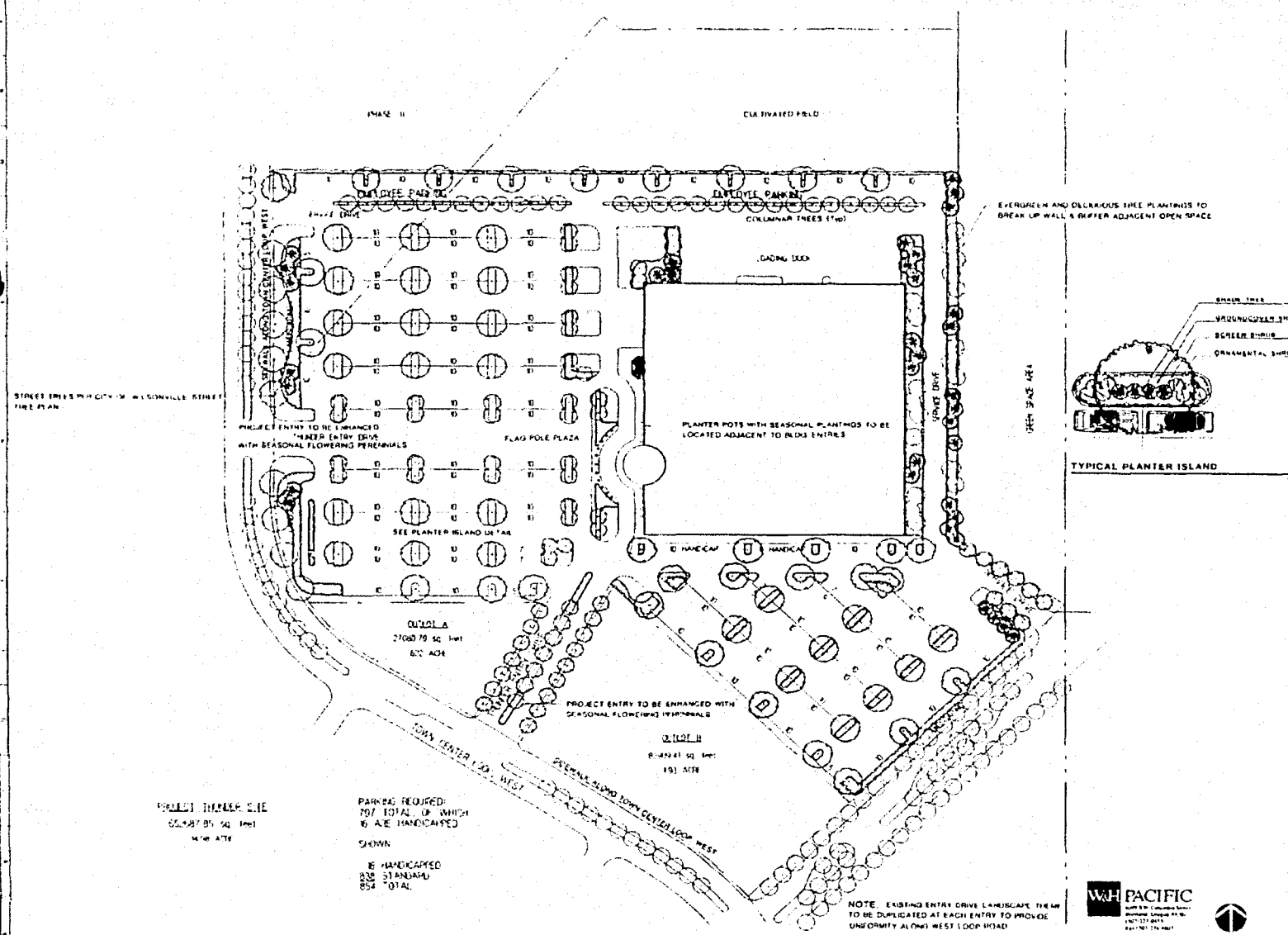
PROJECT THUNDER  
 WILSONVILLE, OREGON

**PHASE II UTILITIES PLAN**

DATE	10/15/11
SCALE	1" = 50'
DRAWN BY	W.A.B.
CHECKED BY	W.A.B.
DATE	10/15/11

**C 104**

- LEGEND**
- SHADE TREES
  - FLOWERING TREES
  - EVERGREEN CONIFER TREES
  - ORNAMENTAL LANDSCAPP SHRUBS & GROUNDCOVER
  - LAWN
  - EXISTING STREET TREES



GENERAL NOTES  
 \* AUTOMATIC IRRIGATION SYSTEM WILL BE PROVIDED

PROJECT NUMBER: 05-287 05 54 1001  
 1/16/07

PARKING REQUIRED:  
 707 TOTAL OF WHICH  
 16 ARE HANDICAPPED  
 SHOWN  
 16 HANDICAPPED  
 630 STANDARD  
 854 TOTAL

NOTE: EXISTING ENTRY DRIVE LANDSCAPE THEM TO BE DUPLICATED AT EACH ENTRY TO PROVIDE UNIFORMITY ALONG WEST LOOP ROAD



**DesignForum**  
 ARCHITECTS

PROJECT: THUNDER  
 WASHINGTON, DC 200

**PHASE II LANDSCAPE PLAN**

DATE	1/16/07
BY	...
CHECKED	...
DATE	...
SCALE	...
PROJECT NO.	...
SHEET NO.	L 105


ASSIGNMENT

FOR VALUABLE CONSIDERATION, receipt and sufficiency of which are hereby acknowledged, SFS INVESTMENT CORP., an Oregon corporation (Assignor), hereby assigns, transfers and conveys to CAPITAL REALTY CORP., an Oregon corporation (Assignee), all of Assignor's right, title and interest in each option agreement, offer and other document described in Exhibit A attached hereto, the real property described in any such option agreement or offer, and all rights which Assignor now has or may hereafter acquire with respect thereto.

February 1, 1990,

SFS INVESTMENT CORP.

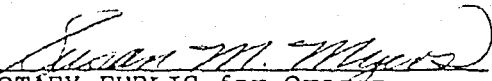
By

  
\_\_\_\_\_  
President

STATE OF OREGON            )  
  ) ss.  
County of Multnomah    )

On this 1st day of February, 1990, before me personally appeared Steven F. Stiles who, being duly sworn, did say that he is the president of SFS INVESTMENT CORP., an Oregon corporation, and acknowledged that the foregoing instrument was executed on behalf of the corporation by authority of its board of directors as its voluntary act and deed.

Before me:

  
\_\_\_\_\_  
NOTARY PUBLIC for Oregon  
My Commission Expires 10/31/92



AGREEMENT AND OPTION

1  
1989 (1)

THIS AGREEMENT AND OPTION is between E. JEAN YOUNG, SHERILYNN J. YOUNG, DAVID S. YOUNG, MARLENE A. YOUNG, also known as Marlene A. Young Rifai, the Estate of Harold J. Laswell, Deceased, and FRED A. ANDERSON, hereinafter collectively referred to as Grantors, and SFS INVESTMENT CORP., an Oregon corporation, hereinafter referred to as Grantee.

RECITALS

A. The owners of Parcel I, i.e. tax lot 600 & 601, MAP 3-1W-13D, are E. Jean Young, Sherilyn J. Young, David S. Young, Marlene A. Young, also known as Marlene A. Young Rifai, and Jack L. Lozo.

B. The owner of Parcel II, i.e. tax lot 500, MAP 3-1W-13D is Jack L. Lozo.

C. Grantee has options to purchase Parcel I and II by documents respectively dated August 17, 1989 and August 23, 1989; said options are valid through December 21, 1989.

D. Grantor's offer to option Parcel III is contingent upon Grantee's obtaining extensions of the options to purchase Parcel I and II.

E. Grantors own Parcel III, i.e. Tax Lot 200, 300 & 400, Clackamas County MAP 3-1W-14D and ownership interests in a triangle of land approximately 6391 square feet on the west of Tax Lot 200, described in Exhibit A. Parcel III shall refer to the

be made in full upon closing and a statutory warrenty deed provided at that time.

3.4 Notice of Intent to Close must be given at least 15 days before closing. In any event notice of intent to close must be received by October 2, 1990 or the terms of this Option shall be Null and Void.

With notice of intent to close, Grantee shall specify which Phases are to be purchased in closing and changes, if any, in the boundaries of the Phases referencing the survey, to be completed as specified below, the written legal descriptions and acreage/footage specifications.

~~tion.~~ The Option to purchase Phase 2 in its entire square foot shall terminate on July 16, 1990 or at closing of sale of any portion of Parcel III unless Grantees pay to Grantors \$50,000 for an extension of the Option for one year. Payment for such extension is nonrefundable and not applicable to the purchase price.

If the above extension of Option is purchased, Grantee may purchase further extension of the Option providing that any sale must close on or before November 2, 1992, at the purchase price of \_\_\_\_\_ plus an additional \$50,000, nonrefundable and not applicable

In event of such extensions, notice of intent to close shall be provided not less than 15 days before closing, and closing shall occur not more than 30 days thereafter. A Statutory

property. Grantee may, at its expense, make such grading plans, architectural and land planning studies and services, traffic engineering studies, economic and commercial benefit studies, and other surveys, services and studies which it deems reasonably necessary for its development of the Option Property.

9. Land Use Applications. Grantors agree to cooperate fully with Grantee in making all applications which Grantee deems necessary for Grantee's use and development of the Option Property, including but not limited to site plan approval, partition and other land use determinations which relate to Grantee's use and development of the property.

Grantors authorize Grantee to execute any such application in Grantor's name and as Grantors' representative. Grantee shall pay all expenses relating to any such application. Grantors shall bear no expense associated herewith.

10. Land use changes such as but not limited to size and location of Open Space and roads shall be presented to Grantors prior to formal application to the City of Wilsonville. Grantors shall retain the right of review during the planning process with the City,

Grantee may not agree to any request to increase the Open Space requirements on any Phase of any Parcel.

11. Real Property Taxes. The Option Property has been specifically assessed as Farm Use Land. Therefore, portions of the annual taxes are deferred until the Option Property becomes disqualified for that purpose. If Grantee exercises the Option as

preliminary agreements. This Option may not be changed except in writing, executed by both parties.

IN WITNESS WHEREOF, the parties have executed this Option this 31 day of October, 1989.

E. Jean Young  
E. JEAN YOUNG

SFS INVESTMENT CORP.

11-8-89

Sherilyn J. Young  
SHERILYNN J. YOUNG

By [Signature]  
SFS President  
Steven F. Styles

David S. Young  
DAVID S. YOUNG  
Marlene A. Young  
by [Signature], attorney in fact  
MARLENE A. YOUNG

SFS INVESTMENT CORP.  
By [Signature]  
SFS OFFICER

ESTATE OF HAROLD J. LASWELL  
DECEASED

GRANTEES

By Emma D. Laswell  
Emma D. Laswell  
Personal Representative

By Eugene L. Doffler  
Eugene L. Doffler  
Personal Representative

Fred A. Anderson  
FRED A. ANDERSON

GRANTORS

ST IES PROPERTIES LTD.  
by [Signature]

EXHIBIT A

I

Wilsonville Property

Option dated November 16, 1989 granted by Jack L. Lozo for property generally known as Tax Lot 500, Map 3-1W-13, Clackamas County, Oregon.

Agreement and Option dated October 31, 1989 from E. Jean Young, Sherilynn J. Young, David S. Young, Marlene A. Young, Estate of Harold J. Laswell, Deceased, and Fred A. Anderson for property generally known as Tax Lots 200, 300 and 405, Map 3-1W-14D, Clackamas County, Oregon, together with a triangular parcel containing approximately 6,381 square feet on the westerly side of Tax Lot 200.

Option dated November 15, 1989 from E. Jean Young, Sherilynn J. Young, David S. Young, Marlene A. Young, Jack L. Lozo, and Anne S. Lozo, Trustee for Claude F. Smith Trust, for property generally known as Tax Lots 600 and 601, Map 3-1W-13, Clackamas County, Oregon.

Attached hereto is a plot map showing the general location of the three parcels.

II

Gresham Property

Earnest Money Agreement dated August 1, 1989, amended by Memorandum of Agreement dated September 20, 1989, with Leonard P. Holfman and Kenneth G. Holfman, Trustees of the Olive H. Holfman 1979 Trust dated May 7, 1979, for the purchase of a tract of land in the Robert P. Wilmot DLC and being Sections 19 and 30, Township 1 North, Range 3 East of the Willamette Meridian, Multnomah County, Oregon (Tax Lot #32), containing approximately 21.3 acres on the north side of N. E. Sandy Boulevard west of Northeast 181st Avenue.

III

Salem Property

Offer dated November 1, 1989, accepted by Anita Hager Conley, Trustee, on November 29, 1989, for a parcel containing approximately 9.38 acres in the southwest quarter of Section 31, Township 7 South, Range 2 West, known as Tax Lot 200, Salem, Marion County, Oregon.

AGREEMENT AND OPTION

PARCEL II

THIS AGREEMENT AND OPTION is between JACK L. LOZO, hereinafter referred to as Grantors, and SFS INVESTMENT CORP., an Oregon corporation, hereinafter referred to as Grantee.

RECITALS

A. The owners of Parcel I, i.e. tax lot 600 & 601, MAP 3-1W-13, are E. JEAN YOUNG, SHERILYN J. YOUNG, DAVID S. YOUNG, MARLENE A. YOUNG, also known as MARLENE A. YOUNG RIFAI, JACK L. LOZO, and the CLAUDE F. SMITH TRUST, ANN S. LOZO Trustee.

B. The owner of Parcel III, i.e. tax lot 200, 300 & 405, Clackamas County MAP 3-1W-14B and a triangle of land approximately 6,391 square feet on the west of tax lot 200 are E. JEAN YOUNG, SHERILYNN J. YOUNG, DAVID S. YOUNG, MARLENE A. YOUNG, also known as MARLENE A. YOUNG RIFAI, the estate of HAROLD J. LASWELL, Deceased, and FRED A. ANDERSON.

C. Grantors own Parcel II, i.e. Tax Lot 500, MAP 3-1W-13. Parcel II shall also be referred to as the Option property.

D. Grantee has options to purchase Parcel I & II by documents dated August 17, 1969 and August 23, 1969, said options are valid through December 31, 1989.

E. Grantors' offer to option Parcel II is contingent upon Grantee's obtaining an extension of the option to purchase Parcel

3.4 Notice of Intent to Close must be given at least 15 days before closing. In any event notice of intent to close must be received by October 2, 1990 or the terms of this Option shall be Null and Void.

With notice of intent to close, Grantee shall specify which Phases are to be purchased in closing and changes, if any, in the boundaries of the Phases referencing the survey, to be completed as specified below, the written legal descriptions and acreage/footage specifications.

4. Extension. The Option to purchase Phase 1b and 2 in its entirety per square foot shall terminate on July 16, 1990 or at closing of sale of any portion of Parcel II unless Grantee pays to Grantors \$5,000 for an extension of the Option to purchase Phase 1b property, and ~~pays to Grantor an additional \$5,000 for an extension of the Option to purchase Phase 2 property if owned by Grantors.~~ Payment for such extension shall be for one year, is nonrefundable and not applicable to the purchase price. (F) 2. X. Z.

If the above extension of Option is purchased, Grantee may purchase further extension of the Option providing that any sale must close on or before November 2, 1990 at the purchase price of payment on an additional \$5,000, s, nonrefundable and not applicable

In event of such extensions, notice of intent to close shall be provided not less than 15 days before closing, and closing shall occur not more than 30 days thereafter. A Statutory

authority to grant the Option and to sell their interest in the Option Property in accordance herewith.

7. Reciprocal Easements: Grantors and Grantee agree that each will enter into reciprocal easements with the owners of Parcels I and III as agreed upon by the parties.

8. Right of Entry. Grantee may, at its risk and expense during the term of the Option, enter upon the Option Property at any time to make engineering tests, soil tests and for any other lawful purpose in pursuit of the purchase and development of said property. Grantee may, at its expense, make such grading plans, architectural and land planning studies and services, traffic engineering studies, economic and commercial benefit studies, and other surveys, services and studies which it deems reasonably necessary for its development of the Option Property.

9. Land Use Applications. Grantors agree to cooperate fully with Grantee in making all applications which Grantee deems necessary for Grantee's use and development of the Option Property, including but not limited to site plan approval, partition and other land use determinations which relate to Grantee's use and development of the property.

~~Grantors authorize Grantee to execute any such application in Grantors' name and as Grantors' representative.~~ Grantee shall pay all expenses relating to any such application. Grantors shall bear no expense associated herewith.

10. Land use changes such as but not limited to size and location of Open Space and roads shall be presented to Grantors



the entire agreement among the parties with respect to the subject matter hereof, superseding all negotiations, prior discussions and preliminary agreements. This Agreement and Option may not be changed except in writing, executed by both parties.

IN WITNESS WHEREOF, the parties have executed this Option this 14 day of November, 1989.

*Jack L. Lozo*  
JACK L. LOZO

SFS INVESTMENT CORP.

*ANN S. LOZO*, Trustee for  
CLAUDE F. SMITH TRUST *2.2.2.*  
*SF*

By

*Steven F. Stiles*  
SFS President  
Steven F. Stiles

GRANTORS

SFS INVESTMENT CORP.

By

*[Signature]*  
SFS Officer

GRANTEES

PROJECT THUNDER LEGAL DESCRIPTION

A parcel of land situated in the southeast quarter of Section 14 in Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon. Said parcel of land being more particularly described as follows:

**COMMENCING** at the southeast corner of Section 14, Township 3 South, Range 1 West, Willamette Meridian, Clackamas County, Oregon; thence North 00°03'01" East along the section line between Sections 13 and 14 a distance of 1,077.07 feet to the most westerly northwest corner of Parcel 1 of Partition Plat No. 1991-164 recorded in Fee 91-48507 of the Clackamas County Plat Records and the **TRUE POINT OF BEGINNING**; thence leaving said section line and tracing the following courses and distances: South 45°03'00" West 400.00 feet; thence North 44°57'00" West 435.01 feet to a point of non-tangent curvature; thence tracing the arc of a 2,000.00 foot radius curve to the right (the radial center of which bears North 65°07'50" West) through a central angle of 07°23'12" an arc distance of 257.84 feet (the long chord bears South 28°33'46" West 257.66 feet) to the northeasterly right-of-way line of Town Center Loop Road West (a 72.00 foot-wide public road right-of-way); thence tracing said northeasterly road right-of-way line North 57°44'38" West 72.00 feet to a point of radial intersection with a 1,928.00 foot radius curve; thence leaving said northeasterly right-of-way line and tracing the arc of a 1,928.00 foot radius curve to the left through a central angle of 05°32'12" an arc distance of 186.31 feet (the long chord bears North 29°29'16" East 186.23 feet); thence South 89°52'55" West 304.91 feet to a point of non-tangent curvature on the said northeasterly right-of-way line of Town Center Loop Road West; thence tracing said right-of-way line along a 268.16 foot radius curve to the right (the radial center bears North 56°01'43" East) through a central angle of 33°55'55" an arc distance of 158.81 feet (the long chord bears North 17°00'19" West 156.50 feet) to a point of tangency; thence continuing along said right-of-way line North 00°02'22" West 151.37 feet to the southeasterly line of that certain tract as deeded to the City of Wilsonville, Oregon in deed recorded November 12, 1986 in recorder's fee 86-44957; thence tracing said southeasterly line and continuing on the southeasterly line of that certain tract deeded to the City of Wilsonville in deed recorded November 12, 1986 in recorder's fee 86-44959 North 38°37'19" East 215.39 feet to the northerly line of said tract per fee 86-44959; thence tracing said northerly line South 89°58'19" West 104.56 feet to a point of curvature; thence tracing a 30.00 foot radius curve to the right through a central angle of 89°59'19" an arc distance of 47.12 feet (the long chord bears North 45°02'02" West 42.42 feet) to a point of tangency on the easterly right-of-way line of said Town Center Loop Road West; thence leaving said northerly property line and tracing said right-of-way line North 00°02'22" West 121.76 feet; thence leaving said right-of way line and tracing the following

courses and distances: North 89°52'55" East 894.39 feet to a line being parallel with and 140.00 feet westerly of the said section line common to sections 13 and 14; thence tracing said parallel line South 00°03'01" West 528.73 feet; thence South 56°23'33" East 168.00 feet to the **TRUE POINT OF BEGINNING**. Said parcel contains 642,427 square feet or 14.75 acres more or less.

755-0101  
10/16/91

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Pat Marquis*  
OREGON  
JANUARY 20, 1989  
PAT MARQUIS  
2382

Jim Parsons  
Jim Faulkner  
Doug Seely

~~Phase~~  
Stage I, II, III → Cap. Realty will submit

Phase II →

Cap. Realty Δ master plan modification  
Site plan I, II

Lindy - Transfer 170<sup>+</sup> <sup>thou</sup> footprint  
Electronics +

Driveway / TC (E) + (W)

Driveway → Open Space

Submit Stage I + II Simultaneously

Blaise  
What else?

\* Gave Stage I + II + application x 2  
250' radius map owners

Topo - 1' intervals - (map has readings)

~~Blaise 52' top down~~  
Phase

CITY

100-120 DWELING UNITS.

- DOUG SEELY TALKED TO BOB DANT -
- ABOUT DENSITY TRANSFER TO BRIDGE CREEK,
- P.O.S.

- CONTOUR SURVEY - 720' 0

[ TREE SURVEY  
 > 6" CALIBER ]

MAJOR DRAINAGEWAY.

STAKE THE PROPERTY - SITE VISIT TO VERIFY  
 P.O.S. LINE - AMBIGUITY - GO TO P.C. TO C.C.  
 FOR INTERPRETATION.

---

CALC. VALUE ~~120~~

**CITY of WILSONVILLE  
PLANNING COMMISSION  
SITE MASTER PLAN (STAGE I)  
GENERAL SUBMISSION REQUIREMENTS**

1. Completed application form, with appropriate fee, signed by property owner.
2. Set forth the professional coordinator and professional design team.
3. State whether the development will include mixed land uses, and if so, what uses and in what proportions and locations.
4. The application shall include conceptual and quantitatively accurate representation of the entire development sufficient to judge the scope, size and impact of the development on the community; and, in addition, shall be accommodated by the following information:

13 FOLDED copies of Site Master Plan dimensioned at a scale of 1" = 20 ft. ( or as determined by the Planning Director) showing the following:

- a. Vicinity map.
  - b. The entire lot as described by the legal description.
  - c. Location and size of all public facilities, utilities and easements.
  - d. Location and dimension of site improvements such as roads, buildings, driveways, parking, loading and landscaping.
  - e. All adjacent rights-of-way and improvements.
  - f. Any surrounding development, i.e., existing buildings, property lines, driveways, etc.
  - g. Development phasing. A stage development schedule demonstrating that the developer intends to commence construction within (1) One year after the approval of the development plan, and will proceed diligently to completion.
  - h. Topographic information at one-foot intervals up to 5% slope; two-foot intervals, 6% - 12%; five-foot intervals, 12% - 20%; ten-foot intervals, 20% and above.
5. One copy of Site Plan reduced to 8-1/2" x 11". This must be a legible photo-mechanical transfer (PMT).
  6. Site Analysis Data.

<u>Item</u>	<u>Lot Coverage in sq. ft.</u>	<u>Lot Coverage in %</u>
Building area	458,771 sq. ft.	.18 %
Parking and Drives	1,394,390 sq. ft.	.53 %
Landscaping/Open Space	751,291.4 sq. ft.	.29 %
Residential density per net acreage.		
TOTAL SITE AREA	2,604,452.4 sq. ft. 59.79 ACRES	100 %

*Planning Department 682-4960*

**INCOMPLETE SUBMITTALS WILL NOT BE SCHEDULED FOR A PUBLIC MEETING !**

# Traffic count zooms at electronic store

■ Wilsonville's projections for vehicle flow at the Incredible Universe fall woefully short

By JOHN M. GRUND

Correspondent, The Oregonian

WILSONVILLE — When it comes to predicting how much traffic a new development will bring, Wilsonville officials always have gone by the book.

But going by the book has not worked for some recently opened projects — in particular the Incredible Universe electronics store. In some cases, traffic is already at levels predicted for 2010.

Now city officials are looking at ways to refine the city's traffic projections.

Eldon Johansen, community development director, told the City Council early this month that traffic on Town Center Loop West near the new electronics store is averaging 1,227 vehicles an hour northbound at 2 p.m. That's 550 more vehicles per hour than anticipated in projections for 1995, he said.

"As far as the traffic counts go, we've had a real eye-opener on our traffic projections. We're already up past (the year) 2010 on some of our traffic projections," Johansen said.

"The traffic analysis prepared by Capital Realty and the Incredible Universe's traffic consultants, Kittelson and Associates, has greatly underestimated the traffic impacts," said Arlene Loble, city manager.

The city has changed its procedure for getting traffic analysis done on proposed developments. This fall, it switched from having a developer hire a traffic engineering firm to requiring applicants to pay for a study by D.K.S. Associates, the firm chosen by the city to handle all of its traffic analysis.

Planning Director Wayne Sorensen said the move should not be interpreted as a criticism of the firms that have done studies in the past. All of them, in fact, bid on the city contract, he said.

"I think we feel better now (that) the traffic engineer is working for the city," he said. "When the applicant hires the engineer, they're working for the client, and the city's not the client."

Johansen said the city also would expand the scope of some studies.

The Incredible Universe study analyzed traffic flows through the adjoining intersection, at Town Center Loop West and Wilsonville Road. But it did not reach to the next intersection to the west, at Wilsonville Road and Interstate 5.

It was that intersection that clogged up at the Incredible Universe opening Sept. 17 and caused traffic to back up for miles in both directions.

If the study were being done today, the city would insist that engineers look at one more intersection down the road, Johansen said.

City Councilor Greg Carter asked if the traffic effects of some recent developments meant that the city should consider a moratorium on some new construction.

"I'm not willing to say that yet," Johansen said.

He said three things went wrong with the Incredible Universe traffic study. First, the predictions were made as if the city's Transportation Plan was already in place, but many roads are yet to be built.

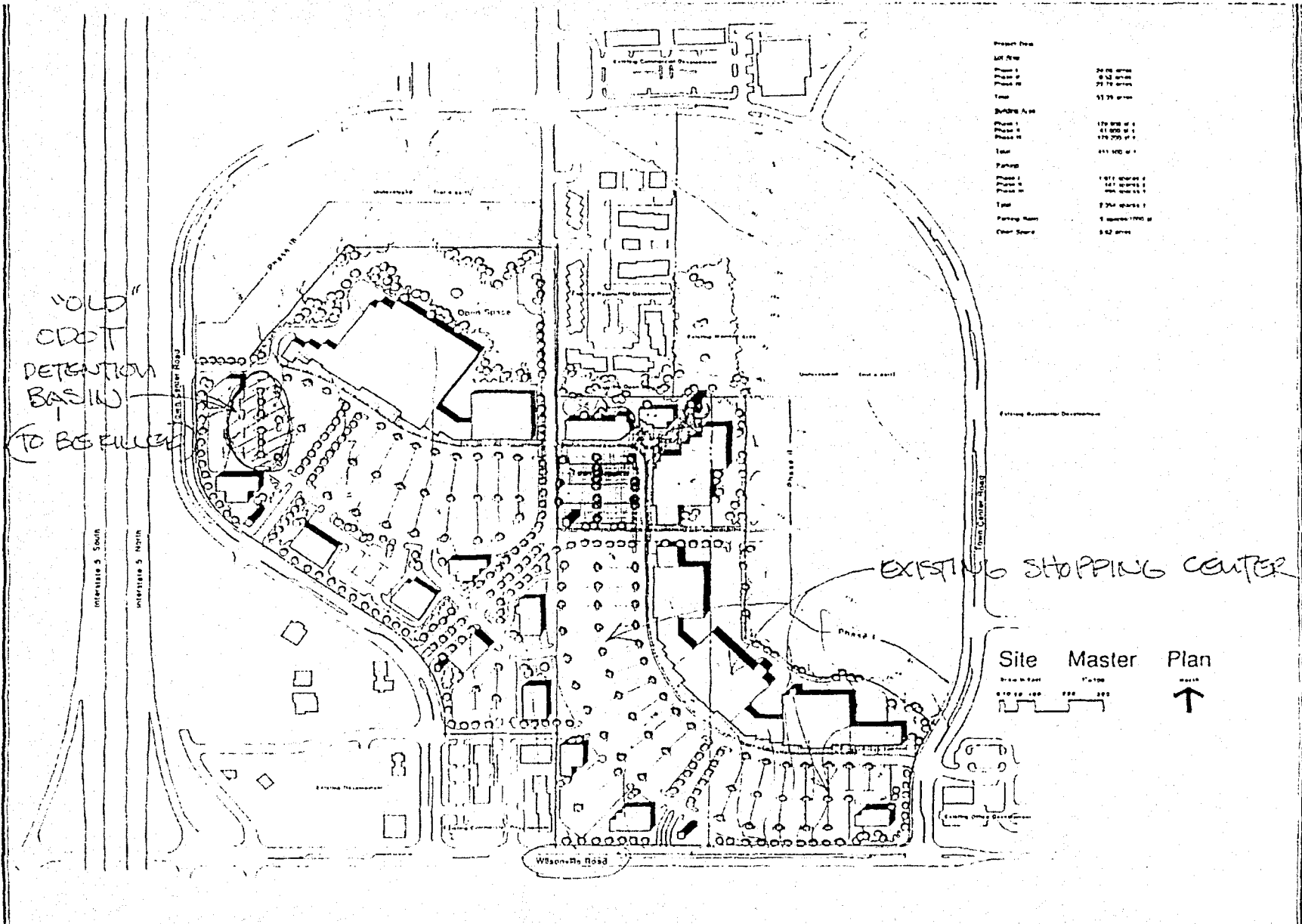
Second, the study assumed that 40 percent of the flow into the Incredible Universe would be "drop-in" traffic — that is, traffic already on the streets for other reasons. But the store has become a regional draw, and "drop-in" traffic is a tiny percentage of traffic it attracts. Finally, the traffic study did not account for the success of the store's marketing effort.

"At a minimum, we need to be broadening the assumptions on which decisions are made," Loble said. "We've recognized that the traffic situation is beyond anything anticipated in the rational decision-making model."

Sorensen, however, later said there are no plans to tinker with the engineering manual — he called it "the bible" — that predicts how many new trips will be generated by a particular use.

Sorensen would not hazard a guess about whether any of the changes will mean that developments will have a tougher time getting planning approval in Wilsonville. But he said that at least one major development was turned down as long as two years ago because it would have brought too much traffic to an overburdened street.

cc: Bill, JAVLS



Phase I	170,000 sq ft
Phase II	170,000 sq ft
Total	340,000 sq ft
Lot Area	1,100,000 sq ft
Lot Coverage	30.9%
Impervious Area	105,000 sq ft
Impervious Ratio	30.9%
Phase I	170,000 sq ft
Phase II	170,000 sq ft
Total	340,000 sq ft
Lot Area	1,100,000 sq ft
Lot Coverage	30.9%
Impervious Area	105,000 sq ft
Impervious Ratio	30.9%

Site Master Plan

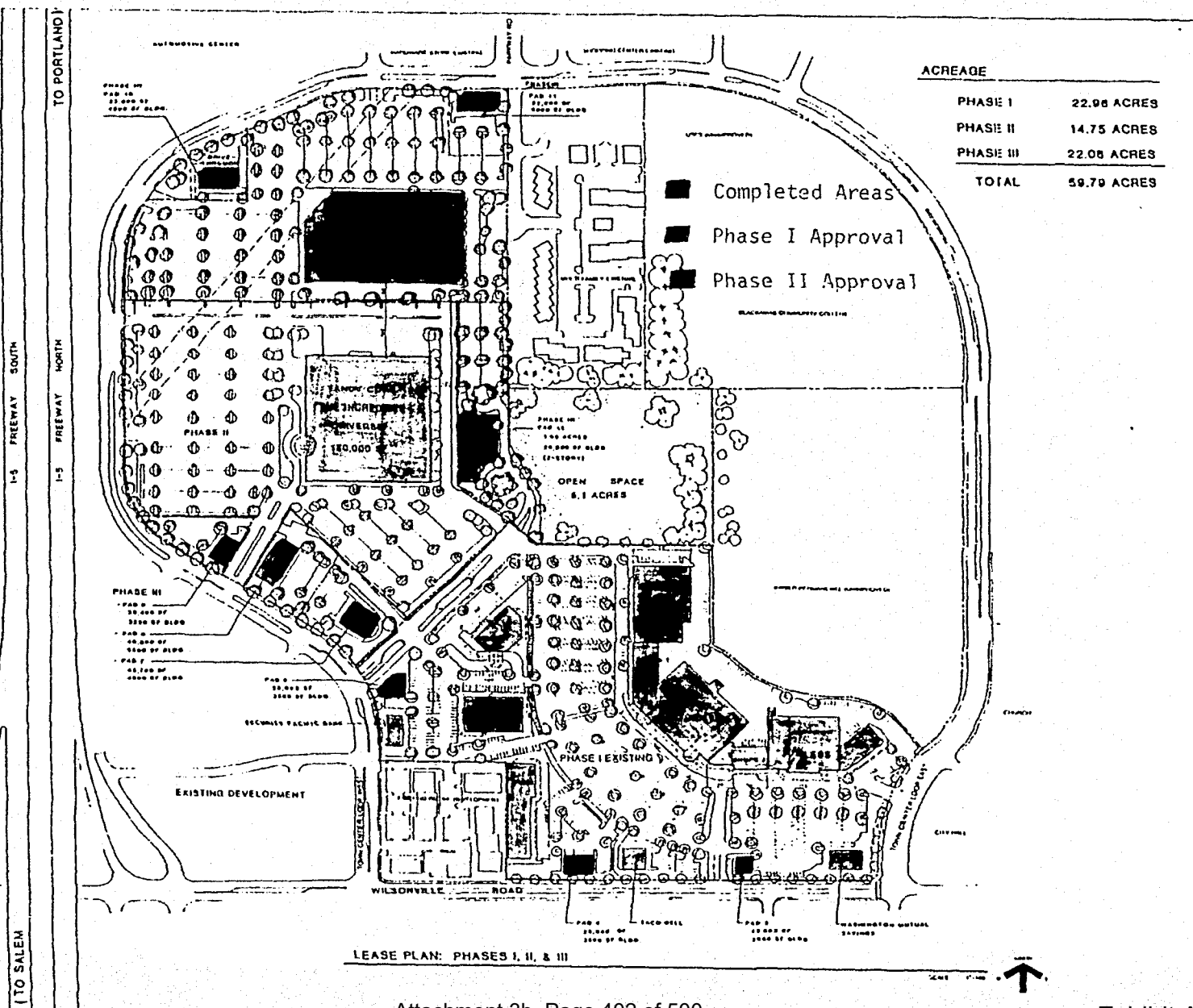
JKS Architects PC

Wilsonville Town Centre

P1







ACREAGE	
PHASE I	22.98 ACRES
PHASE II	14.75 ACRES
PHASE III	22.05 ACRES
<b>TOTAL</b>	<b>59.79 ACRES</b>

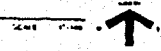
- Completed Areas
- Phase I Approval
- Phase II Approval

LEASE PLAN: PHASES I, II, & III

JKS Architects PC  
 433 W. Taylor Street, Suite 200 • Portland, Oregon 97204  
 503.255.1111 • Fax: 503.255.1112

WILSONVILLE TOWN CENTER  
 WILSONVILLE, OREGON

1" = 100'	1" = 200'
1" = 300'	1" = 400'
1" = 500'	1" = 600'
1" = 700'	1" = 800'
1" = 900'	1" = 1000'





DEFECTS IN

ORIGINAL

DOCUMENT





**EXHIBIT F**

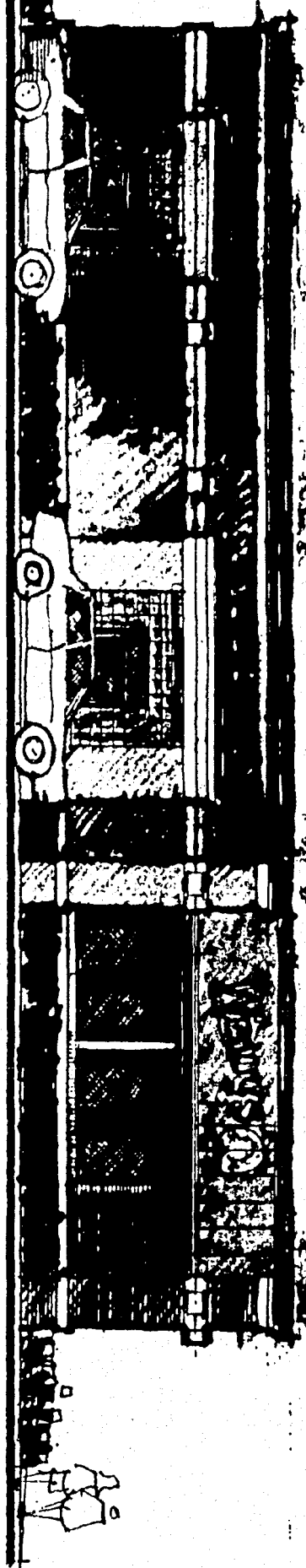
1/8" = 1'-0"

**NORTH ELEVATION**



1/8" = 1'-0"

**SOUTH ELEVATION**

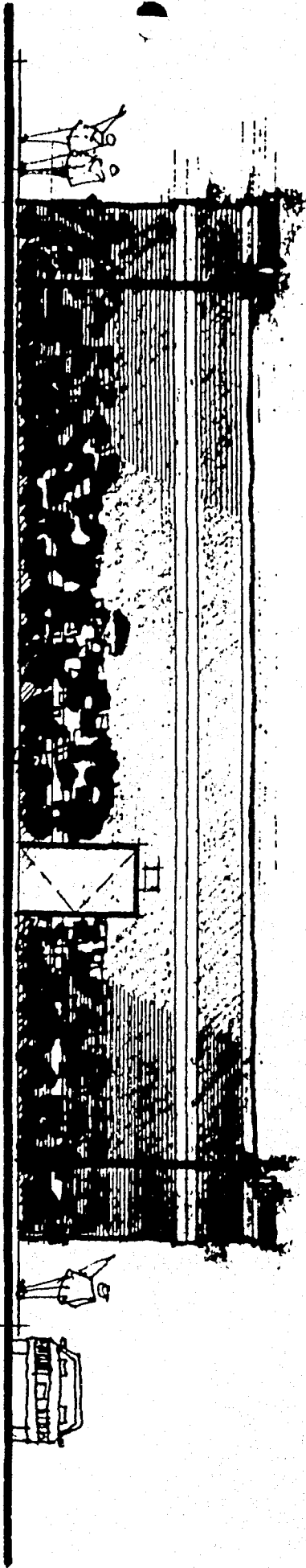


DRAWING NO: <b>1</b>	PROJECT NAME: <b>Wendy's Restaurant</b>	DATE: <b>2/5/93</b>
	DRAWING TITLE: <b>Elevations</b>	REVISION:



1/8" = 1'-0"

WEST ELEVATION



1/8" = 1'-0"

EAST ELEVATION



<b>2</b>	DRAWING NO:	PROJECT NAME:	DATE:
		Wendy's Restaurant	2/5/93
		DRAWING TITLE:	REVISION:
		Elevations	



*Handwritten initials or signature*



# CITY OF WILSONVILLE

# PLANNING DEPARTMENT SITE DEVELOPMENT APPLICATION AND PERMIT

3445 S.W. Elsworth Road  
P.O. Box 220 Wilsonville, OR 97150-0220  
503-662-3445

File No. 91 PC 43 1/4 Sec.  
Final action on application or other change is required within 120 days in accordance with provisions of ORS 227.175  
A pre-application conference normally is required prior to submission of an application. Please contact the Planning Department at (503) 662-3445 for an appointment.

Ple-App. No. Day Yr

### APPLICANT - COMPLETE

Owner's Name CAPITAL REALTY CORP Contact Person Kim Beach  
Address 101 S.W. MAIN SUITE 1500 Address \_\_\_\_\_  
Portland OR 97204  
Phone 223-1200 Phone SAME

Owner's Signature Kimberly Beach, Vice President Capital Realty Corp  
Plaza Royal Office Center, Representative 500 SW 13  
Property Description: 1 3 Map 13 & 14-D Tax. c. 200, 201, 101  
102, 300  
Request: STAGE I MASTER PLAN REVISION  
STAGE II PHASE II WILSONVILLE Town Center  
SITE PLAN - MOBILE CONDITION #8 OF 90PC15

Please attach a plat plan (scale: 1"=40') and any other documents to this application. Please review the Planning Department submittal requirements to ensure that your application is complete.

### - OFFICE USE ONLY -

Complete Application Accepted: Date 10/18/91 Public Hearing Date 12/19/91

Staff Signature Brian Edwards

Class I  Class II  Class III

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> PLAN AMENDMENT                 | <input type="checkbox"/> MAJOR PARTITION                                      | <input type="checkbox"/> DESIGN REVIEW  |
| <input type="checkbox"/> ZONE CHANGE                    | <input type="checkbox"/> MINOR PARTITION                                      | <input type="checkbox"/> TEXT AMENDMENT |
| <input type="checkbox"/> PRELIMINARY PLAT               | <input type="checkbox"/> CONDITIONAL USE                                      | <input type="checkbox"/> SIGN REVIEW    |
| <input type="checkbox"/> FINAL PLAT                     | <input type="checkbox"/> VARIANCE   | <input type="checkbox"/> TEMPORARY USE  |
| <input checked="" type="checkbox"/> PLANNED DEVELOPMENT | <input checked="" type="checkbox"/> OTHER RECONSIDERED CONDITION #8 OF 90PC15 |   |

### SITE FINDINGS

- Zoning: PC 1 Town Centers, Building Area \_\_\_\_\_
- Area of lot: SEE FILE
- Building or Sign Height: TOWN CENTER LOOP WEST  
(Max) \_\_\_\_\_
- Zoning Code Minimum Set-backs:  
Front \_\_\_\_\_  
Side \_\_\_\_\_  
Rear \_\_\_\_\_
- Access to Property \_\_\_\_\_
- Other: \_\_\_\_\_

Approved  Denied  Approved with Conditions (See attached)

Conditions of Development:

Approval of this Development Permit is submitted on the basis of information submitted by the applicant or called into view. Any change of plans or incorrect information submitted may result in revocation of approval. This decision may be appealed in accordance with the provisions of the Wilsonville Code and ORS 227.180.

Fee Amount Paid \$1315.00 Check No. SEE # Cash 1206 Fee \$500.00 Fee - I  
1206 Fee \$825.00  
1207 Fee \$250.00 - cash

Permit Approval: Planner's Signature \_\_\_\_\_

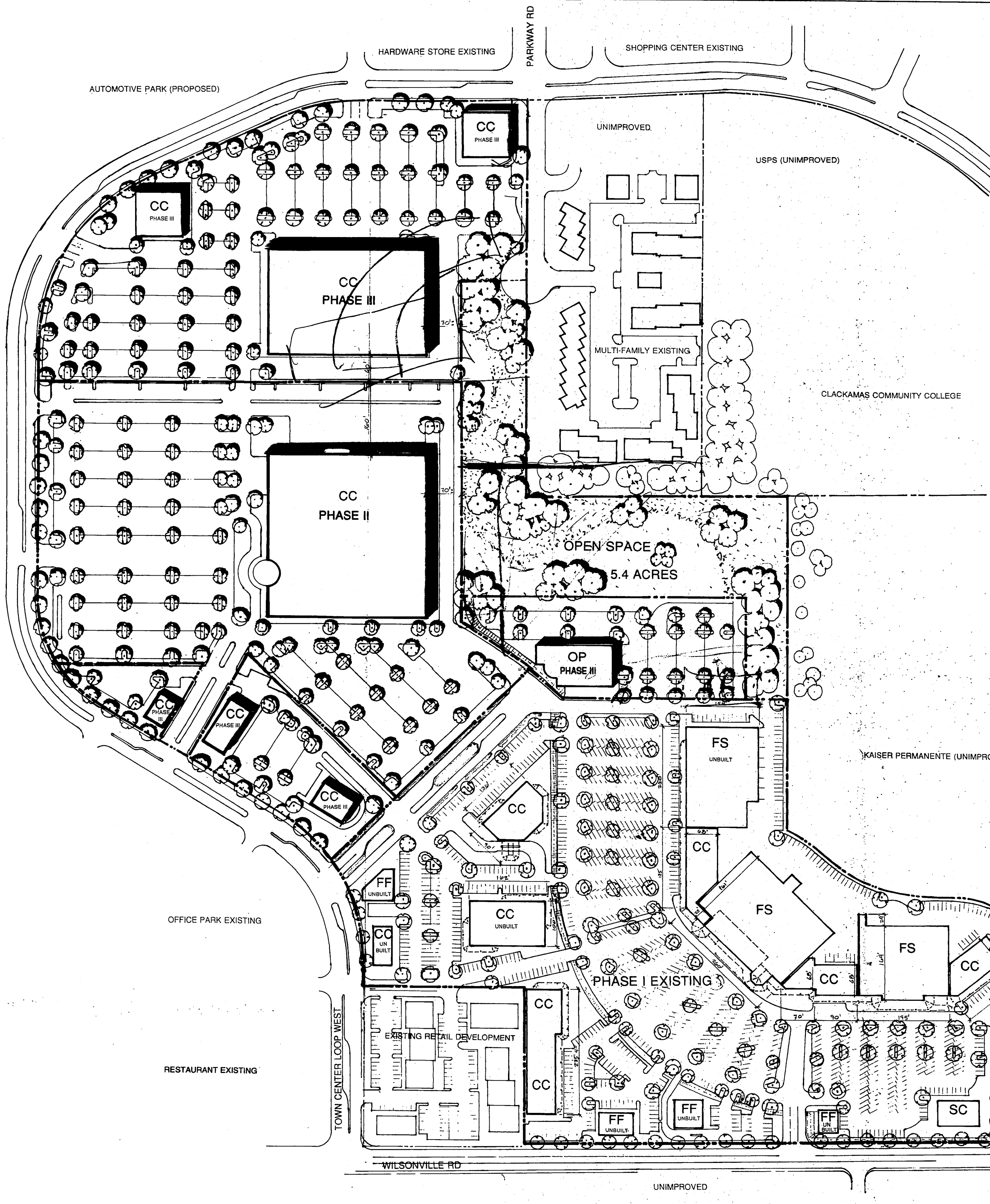
City Council or Planning Commission Approval  Yes  No

Order: Resolution \_\_\_\_\_

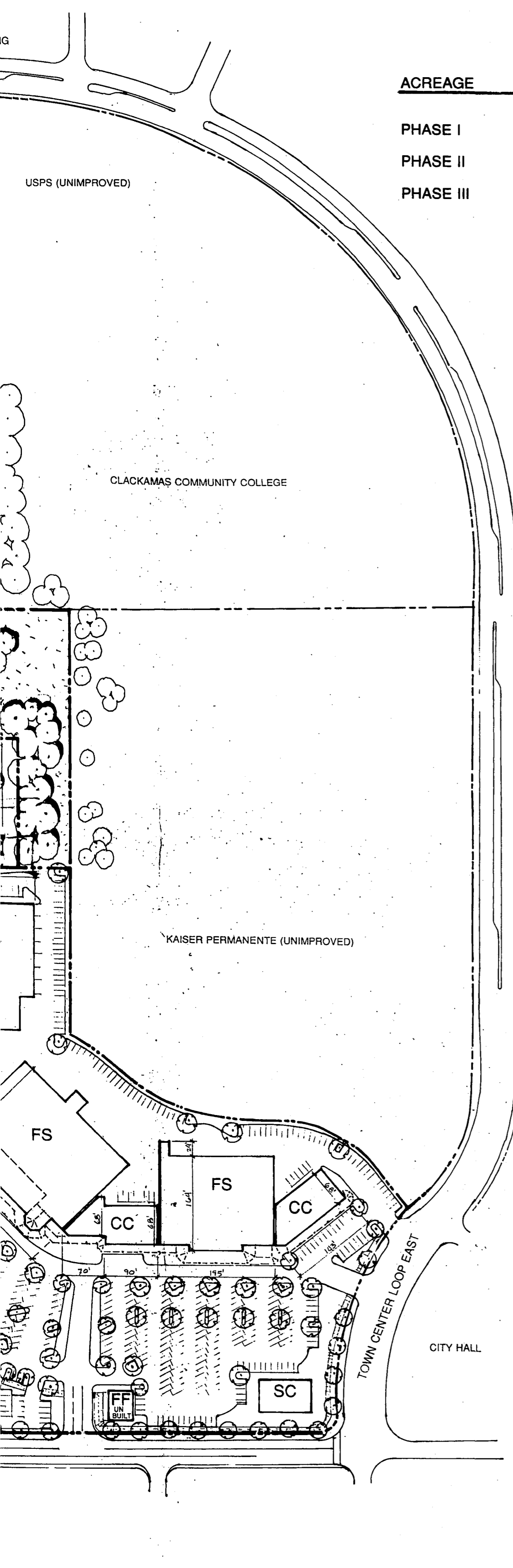
Attachment 3b, Page 409 of 500 Exhibit A

Write - Applicant's Name \_\_\_\_\_ County - File \_\_\_\_\_ Book - Fee \_\_\_\_\_ Condition - Applicant's Name of \_\_\_\_\_



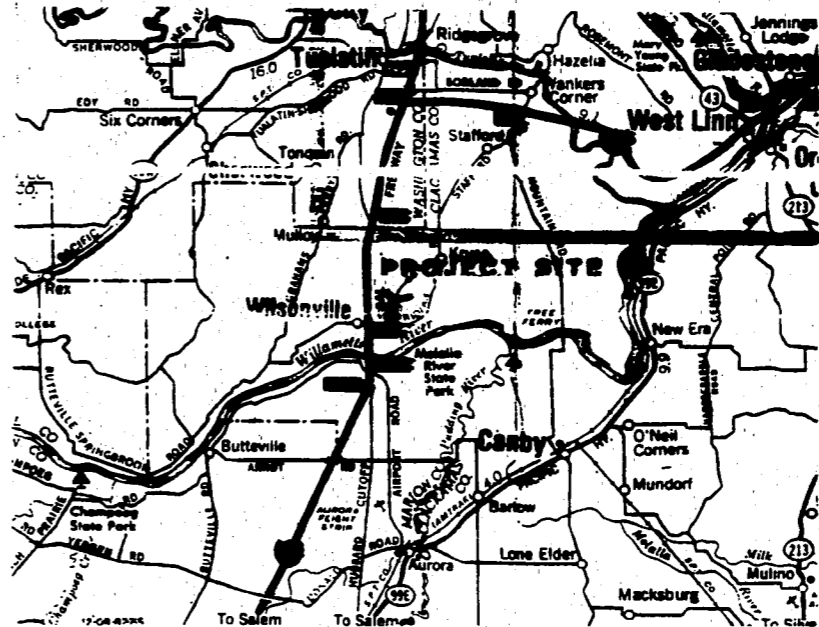


**SITE MASTER PLAN: PHASE I, II, & III**



**ACREAGE**

PHASE I	22.96 ACRES
PHASE II	14.75 ACRES
PHASE III	22.08 ACRES
<b>TOTAL</b>	<b>59.79 ACRES</b>



**VICINITY MAP**

467-0102  
5/6/91

**PHASE ONE LEGAL DESCRIPTION**

A parcel of land situated in the southwest quarter of Section 13 and the southeast quarter of Section 14 in Township 3 South, Range 1 West, Willamette Meridian, Clackamas County, Oregon. Said parcel of land being more particularly described as follows:

**COMMENCING** at the southwest corner of Section 13, Township 3 South, Range 1 West, Willamette Meridian, Clackamas County, Oregon; thence North 00°03'21" East along the section line between Sections 13 and 14 a distance of 44.00 feet to the **POINT OF BEGINNING**; thence continuing North 02°03'00" East along said section line a distance of 339.50 feet; thence South 89°55'30" West a distance of 338.63 feet to the easterly right-of-way line of Town Center Loop Road West; thence North 00°00'22" East along said easterly right-of-way line a distance of 46.55 feet to a point of curvature; thence 247.91 feet along the arc of a 250.34 foot radius curve to the left through a central angle of 37°15'11" and whose chord bears North 15°39'27" West a distance of 243.55 feet to a point on a curve; thence North 45°03'00" East a distance of 554.21 feet; thence South 89°57'00" East a distance of 66.14 feet; thence South 00°03'00" West a distance of 63.00 feet; thence South 89°57'00" East a distance of 479.78 feet; thence South 00°03'01" West a distance of 285.58 feet to the intersection with a non-tangent curve; thence 33.82 feet along the arc of a 317.35 foot radius curve to the right through a central angle of 16°59'21" and whose chord bears South 55°30'50" East a distance of 93.45 feet to a point of reverse curvature; thence 348.26 feet along the arc of a 338.67 foot radius curve to the left through a central angle of 42°03'30" and whose chord bears South 89°02'49" East a distance of 242.74 feet to a point of tangency; thence South 89°02'49" East a distance of 51.65 feet to a point of curvature; thence 14.68 feet along the arc of a 200.00 foot radius curve to the right through a central angle of 5°27'30" and whose chord bears South 89°01'32" East a distance of 159.15 feet to a point of tangency; thence South 29°00'15" East a distance of 97.50 feet to a point on a non-tangent curve; thence 325.41 feet along the arc of a 325.41 foot radius curve to the left through a central angle of 18°14'18" and whose chord bears South 29°40'08" West a distance of 331.74 feet to a point of tangency; thence South 00°03'01" West a distance of 88.17 feet to a point of curvature; thence 48.14 feet along the arc of a 30.00 foot radius curve to the right through a central angle of 89°16'20" and whose chord bears South 89°16'20" West a distance of 48.17 feet to a point of tangency; thence South 22°22'25" West a distance of 97.50 feet to the **POINT OF BEGINNING**. Said parcel of land contains 22.96 acres, more or less.

**PHASE II AND III LEGAL DESCRIPTION**

A parcel of land situated in the southwest quarter of Section 13 and the southeast quarter of Section 14 in Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon. Said parcel of land being more particularly described as follows:

**COMMENCING** at the southwest corner of Section 13, Township 3 South, Range 1 West, Willamette Meridian, Clackamas County, Oregon; thence North 00°03'01" East along the section line between Sections 13 and 14 a distance of 4,077.07 feet to the most westerly northwest corner of Parcel of Partition Plat No. 1991-164 recorded in Fee 91-48507 of the Clackamas County Plat Records and the **TRUE POINT OF BEGINNING**; thence leaving said section line South 45°03'00" West 589.42 feet to point of non-tangent curvature on the northeasterly right-of-way line of Center Loop Road West (a 75.00 foot-wide public road right-of-way); thence tracing said northeasterly road right-of-way line along the following courses and distances: tracing the arc of a 350.84 foot radius curve to the left the radial center of which bears South 52°40'44" West) through a central angle of 20°25'22" an arc distance of 135.64 feet (the long chord bears North 47°11'56" West 134.32 feet) to a point of tangency; thence North 57°44'38" West 463.50 feet to a point of curvature; thence tracing the arc of a 258.16 foot radius curve to the right through a central angle of 57°27'16" an arc distance of 270.07 feet (the long chord bears North 28°53'30" West 258.80 feet) to a point of tangency; thence North 00°02'22" West 151.37 feet to the southeasterly line of that certain tract as deeded to the City of Wilsonville, Oregon in deed recorded November 12, 1986 in recorder's fee 86-44957; thence tracing said southeasterly line and continuing on the southeasterly line of that certain tract as deeded to the City of Wilsonville in deed recorded November 12, 1986 in recorder's fee 86-44959 North 38°37'13" East 215.39 feet to the northerly line of said tract per fee 86-44957; thence tracing said northerly line South 89°58'19" West 104.56 feet to a point of curvature; thence tracing a 30.00 foot radius curve to the right through a central angle of 89°58'19" an arc distance of 47.12 feet (the long chord bears North 45°02'02" West 42.42 feet) to a point of tangency on the easterly right-of-way line of said Town Center Loop Road West; thence leaving said northerly property line and tracing the easterly arc curvilinearly along the following courses and distances: North 00°02'22" West 230.31 feet to a point of curvature; thence tracing the arc of a 230.31 foot radius curve to the right through a central angle of 84°13'44" an arc distance of 458.91 feet (the long chord bears North 32°24'30" East 444.25 feet) to a point of tangency; thence North 89°57'00" East 285.58 feet to a point of curvature; thence tracing the arc of a 414.00 foot radius curve to the right through a central angle of 24°58'03" an arc distance of 150.41 feet (the long chord bears North 70°22'24" East 178.36 feet) to a point of tangency; thence North 89°43'25" East 300.93 feet to a point of curvature for a right-of-way return to Parkway Avenue; thence leaving said southerly right-of-way line of Town Center Loop Road West and tracing the arc of a 20.00 foot radius curve to the right through a central angle of 90°13'35" an arc distance of 31.49 feet (the long chord bears South 45°03'47" East 28.34 feet) to the westerly right-of-way line of said Parkway Avenue (31.00 feet from center line); thence tracing said right-of-way line through the following courses and distances: South 00°03'01" West 311.17 feet to a point of curvature for the return to the cul-de-sac for said Parkway Avenue; thence tracing the arc of a 20.00 foot radius curve to the right through a central angle of 47°09'23" an arc distance of 15.46 feet (the long chord bears South 23°27'42" West 15.90 feet); to a point of reverse curvature; thence tracing the arc of a 55.00 foot radius curve to the left through a central angle of 87°59'01" an arc distance of 84.46 feet (the long chord bears South 03°12'53" West 76.40 feet); thence leaving said Parkway Avenue right-of-way line North 89°52'55" East 41.62 feet to the east line of section 14, Township 3 South, Range 1 West, of the Willamette Meridian in the State of Oregon; thence tracing said east line of section 14 South 00°03'01" West 446.55 feet to the northerly line of Parcel 1 of said Partition Plat No. 1991-164; thence tracing said northerly line and continuing along the northerly line of Parcel 2 of said Partition Plat No. 1991-164 North 89°28'52" East 849.20 feet to the northeast corner of said Parcel 2; thence tracing the easterly line of said Parcel 2 South 00°03'01" West 440.61 feet to the southeast corner of said Parcel 2; thence tracing the southerly line of said Parcel 2 and continuing along the southerly line of said Parcel 3 North 89°57'00" West 479.78 feet to an angle point in said southerly line; thence tracing the westerly portion of said southerly line of Parcel 3 the following courses and distances: North 00°03'01" East 63.00 feet; thence North 89°57'00" West 66.14 feet; thence South 45°03'00" West 4.59 feet to the **TRUE POINT OF BEGINNING**.

Containing 1,604,249 square feet or 36.83 acres more or less.

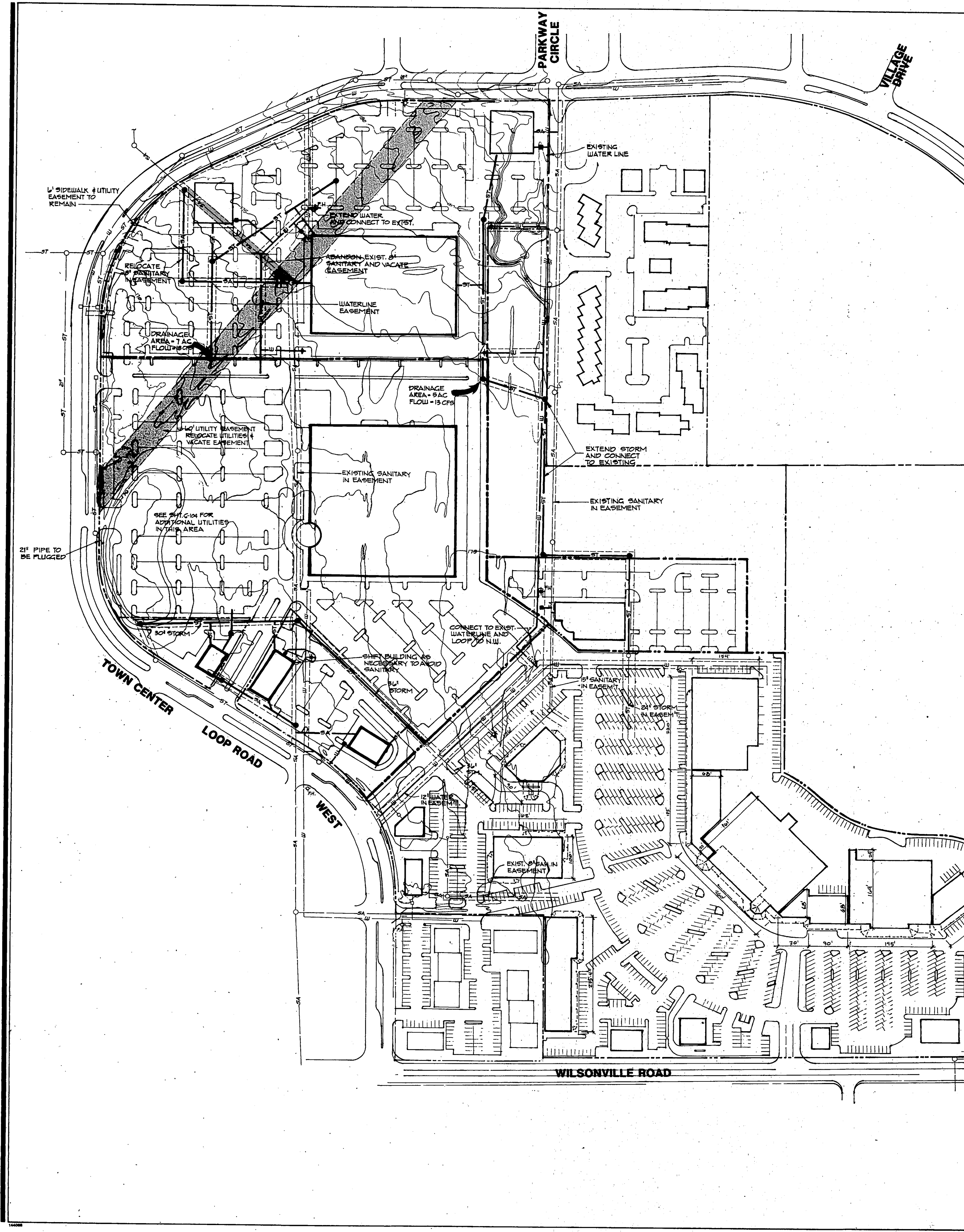
467-0301  
10/16/91

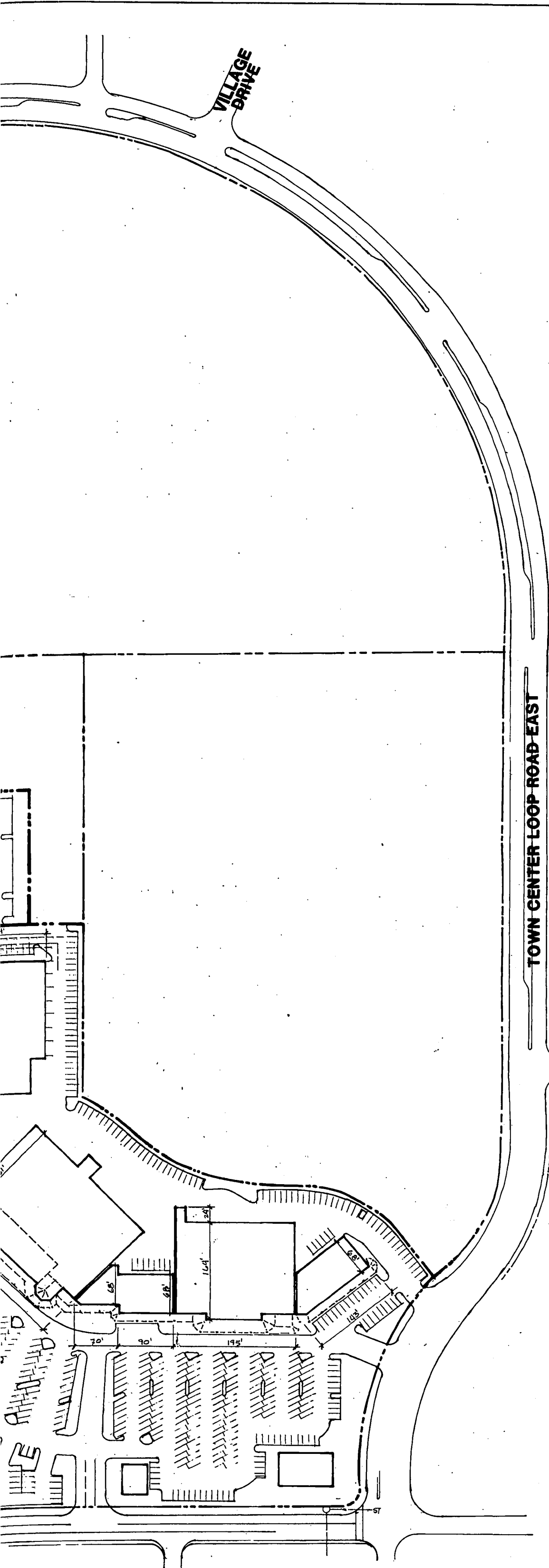
**JKS Architects PC**  
1620 S.W. Taylor Street • Suite 200 • Portland, Oregon 97205  
503-227-5616 • FAX 503-227-3590

**WILSONVILLE TOWN CENTER**  
WILSONVILLE, OREGON

Revisions	
KJD	RSB
Drawn By	Checked By
8963	10/18/91
Job No.	Date
SITE MASTER PLAN	
Sheet Title	
Sheet No.	

**1**





COURTSIDE DRIVE

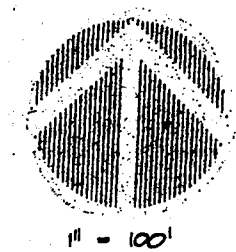
TOWN CENTER LOOP ROAD EAST

VILLAGE DRIVE

**NOTE**  
 PROPOSED UTILITIES WILL CONNECT TO UTILITY STUBS CONSTRUCTED WITH PHASE I PROJECT.

**LEGEND**

EXISTING		PROPOSED
— SA —	SANITARY SEWER	— SA —
— ST —	STORM SEWER	— ST —
— W —	WATER LINE	— W —
- - - -	EASEMENT LINE	- - - -
○	MANHOLE	●
□	CATCH BASIN	●
⊕	FIRE HYDRANT	⊕
▨	EASEMENT TO BE VACATED	



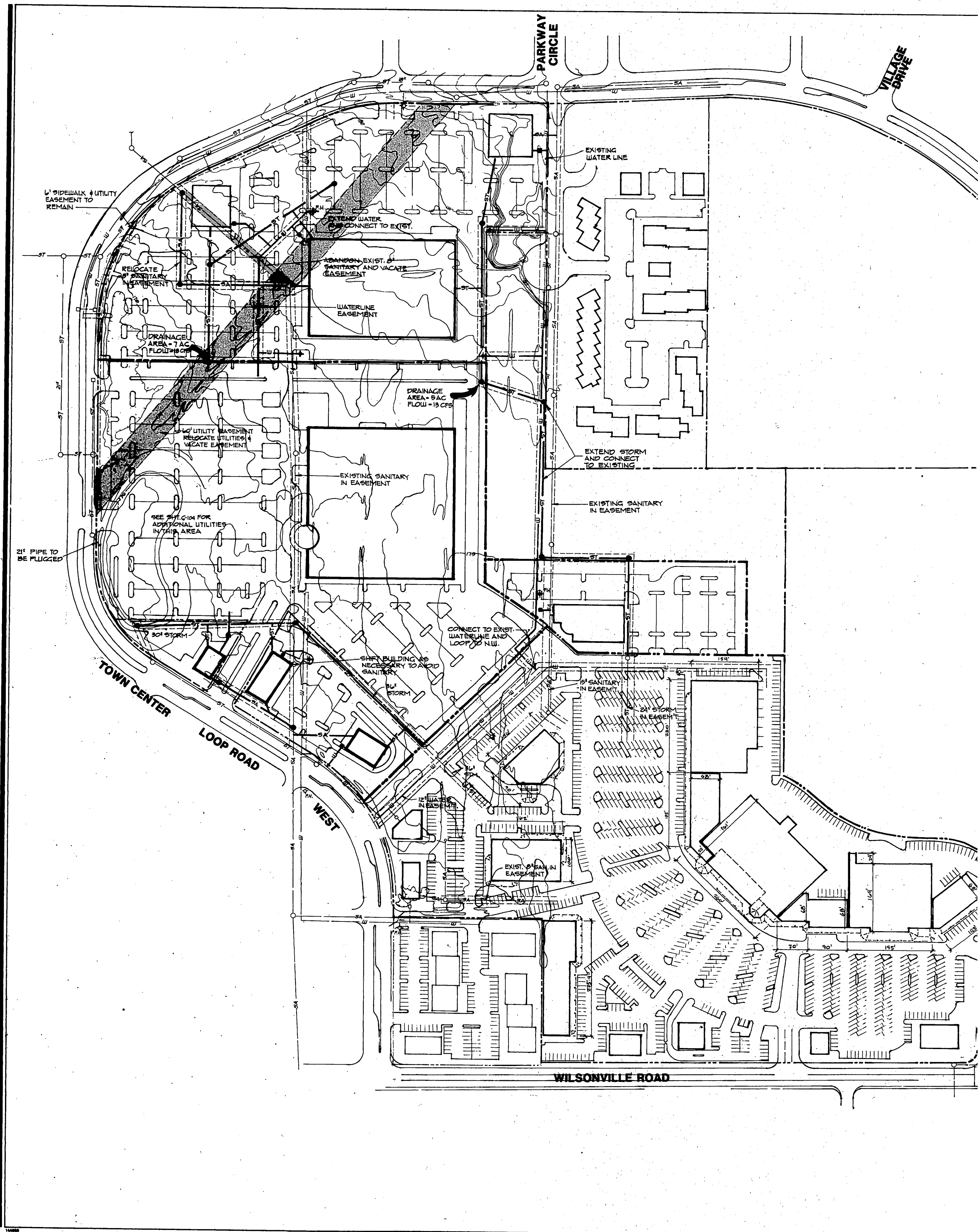
**JKS Architects PC**  
 1620 S.W. Taylor Street • Suite 200 • Portland, Oregon 97205  
 503-227-5616 • FAX 503-227-3590

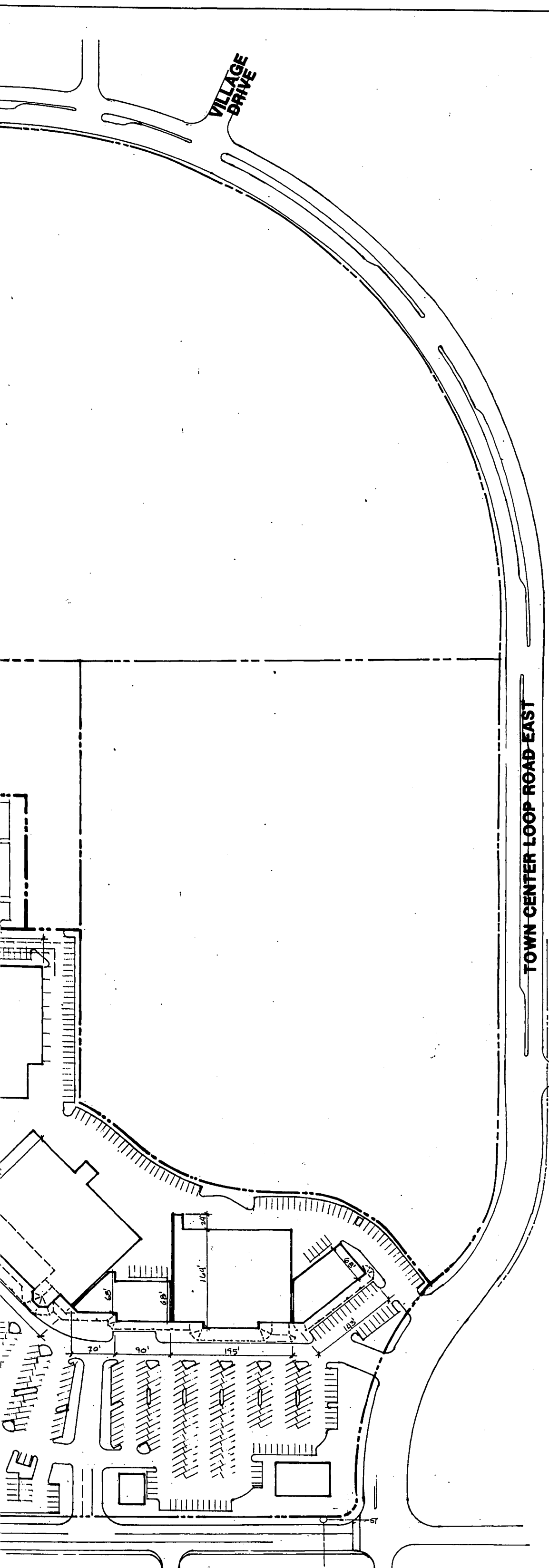
**WILLIAMS PACIFIC**  
 1099 S.W. Columbia Street  
 Portland, Oregon 97201  
 Fax (503) 224-4407  
 Planning • Lighting • Surveying • Landscape Architecture

**WILSONVILLE TOWN CENTER**  
 Wilsonville, Oregon

Drawn By \_\_\_\_\_ Checked By \_\_\_\_\_  
 Job No. 4-467-0301 Date 10-18-11  
**MASTER UTILITIES PLAN**  
 Sheet Title

Sheet No.  
**2**





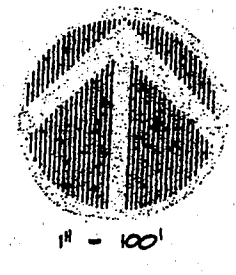
COURTSIDE DRIVE

TOWN CENTER LOOP ROAD EAST

VILLAGE DRIVE

**NOTE**  
 PROPOSED UTILITIES WILL CONNECT TO UTILITY STUBS CONSTRUCTED WITH PHASE I PROJECT.

EXISTING		PROPOSED	
— SA —	SANITARY SEWER	— SA —	SANITARY SEWER
— ST —	STORM SEWER	— ST —	STORM SEWER
— W —	WATER LINE	— W —	WATER LINE
---	EASEMENT LINE	---	EASEMENT LINE
○	MANHOLE	●	MANHOLE
□	CATCH BASIN	■	CATCH BASIN
+	FIRE HYDRANT	+	FIRE HYDRANT
▨	EASEMENT TO BE VACATED		



1" = 100'

APPROVED *[Signature]*  
*[Signature]*

**JKS Architects PC**  
 1620 S.W. Taylor Street • Suite 200 • Portland, Oregon 97205  
 503-227-5616 • FAX 503-227-3590

**WILL PACIFIC**  
 1620 S.W. Taylor Street  
 Portland, Oregon 97205  
 (503) 227-0435  
 Fax (503) 274-4607  
 Planning • Engineering • Surveying • Landscape Architecture

**WILSONVILLE TOWN CENTER**  
 Wilsonville, Oregon

Revisions

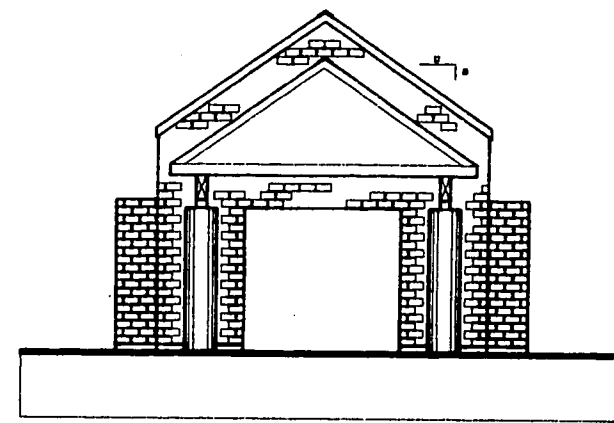
Drawn By \_\_\_\_\_ Checked By \_\_\_\_\_  
 Job No. 4-467-0301 Date 10-18-91  
**MASTER UTILITIES PLAN**  
 Sheet Title

Sheet No.  
**2**



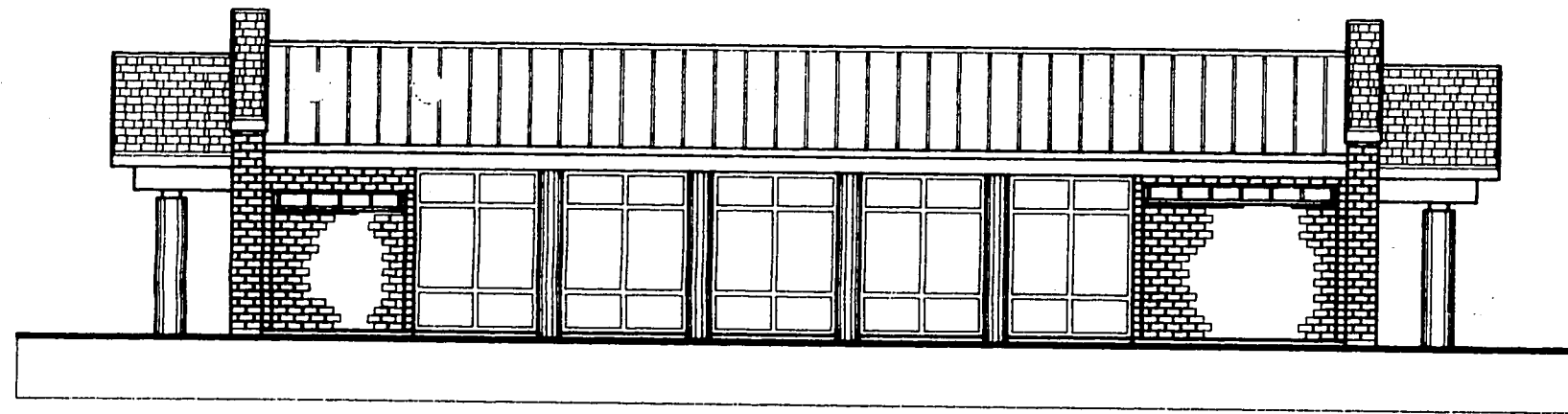
**WILSONVILLE TOWN CENTER  
PROPOSED CAR WASH**

WILSONVILLE, OREGON



**END ELEVATION**

1/8" = 1'-0"

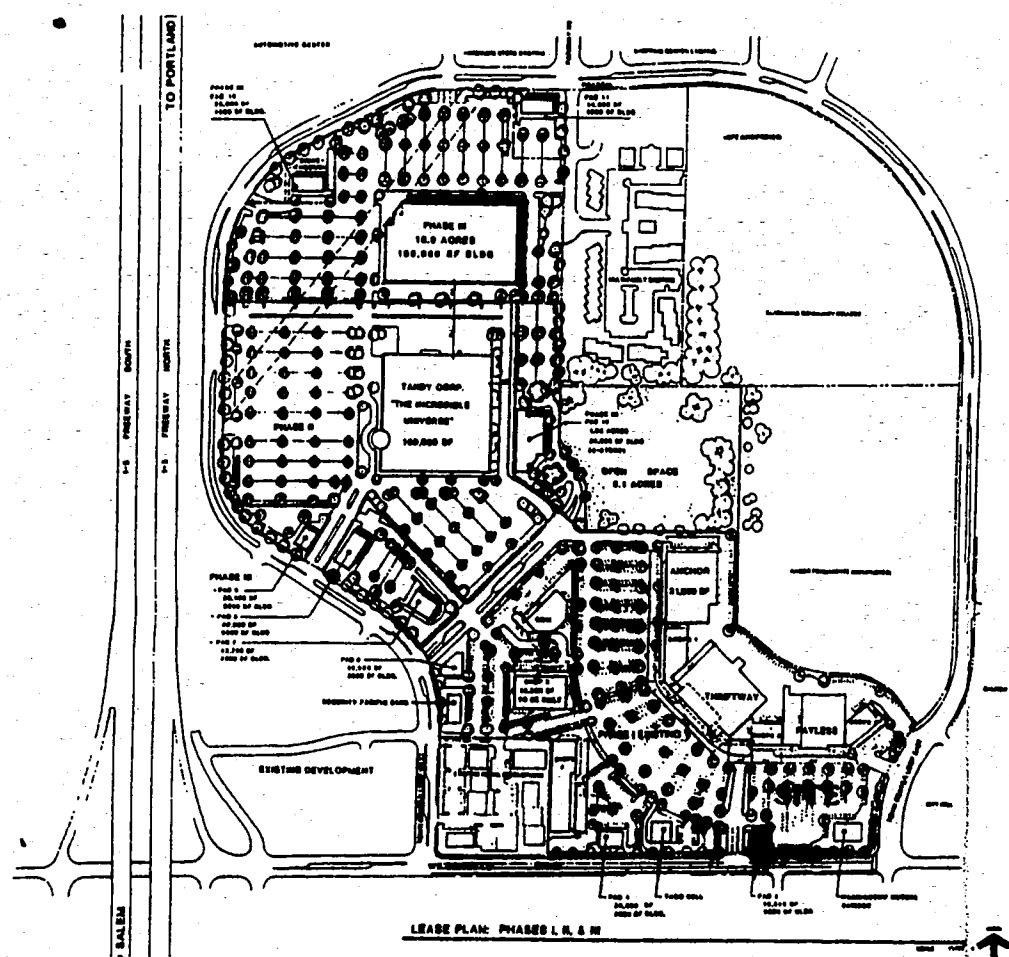


**FRONT ELEVATION**

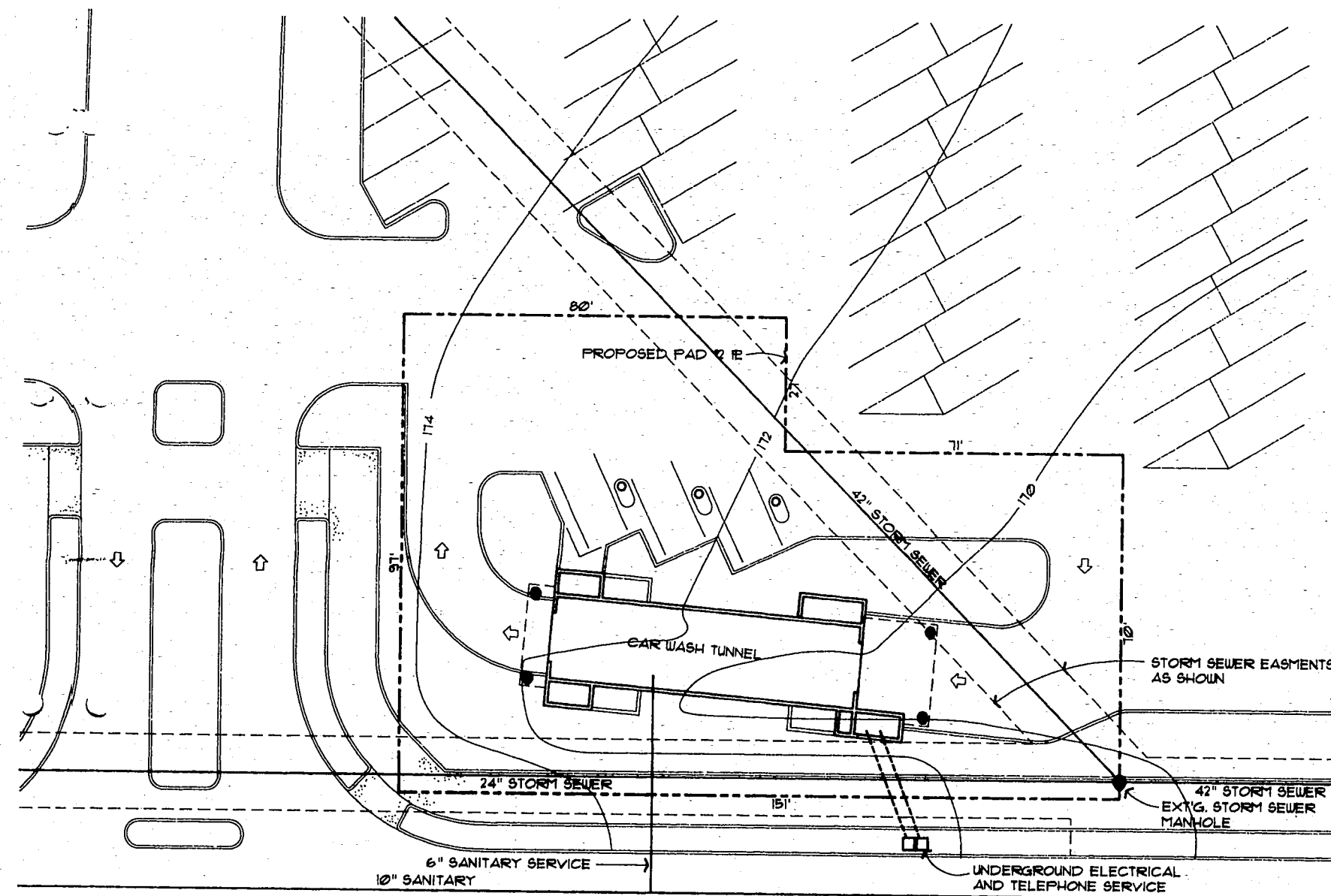
1/8" = 1'-0"

**SITE DATA**

	LOT COVERAGE IN SQ. FT.	LOT COVERAGE IN %
BUILDING AREA	15,000	12%
PARKING & DRIVES	8,293	65%
LANDSCAPING/OPEN SPACE	2,937	23%
TOTAL SITE AREA	12,730	100%



**VICINITY MAP**



WILSONVILLE RD.

NORTH



**PRELIMINARY SITE PLAN**

1" = 20'

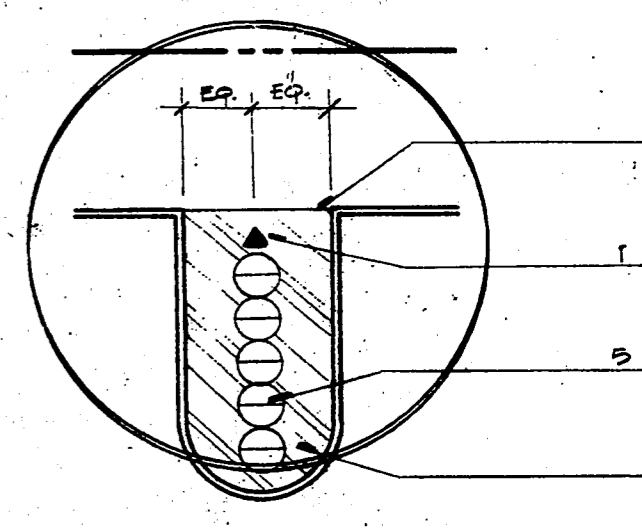
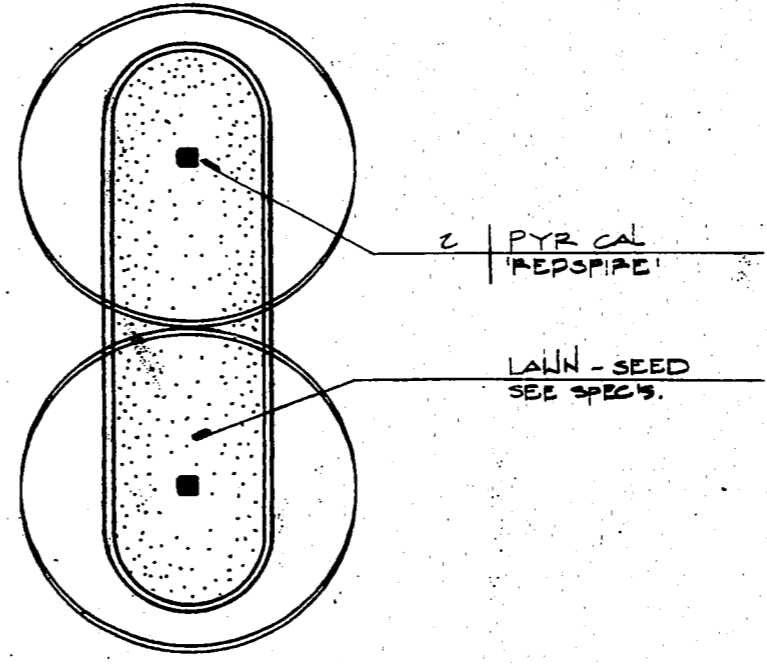
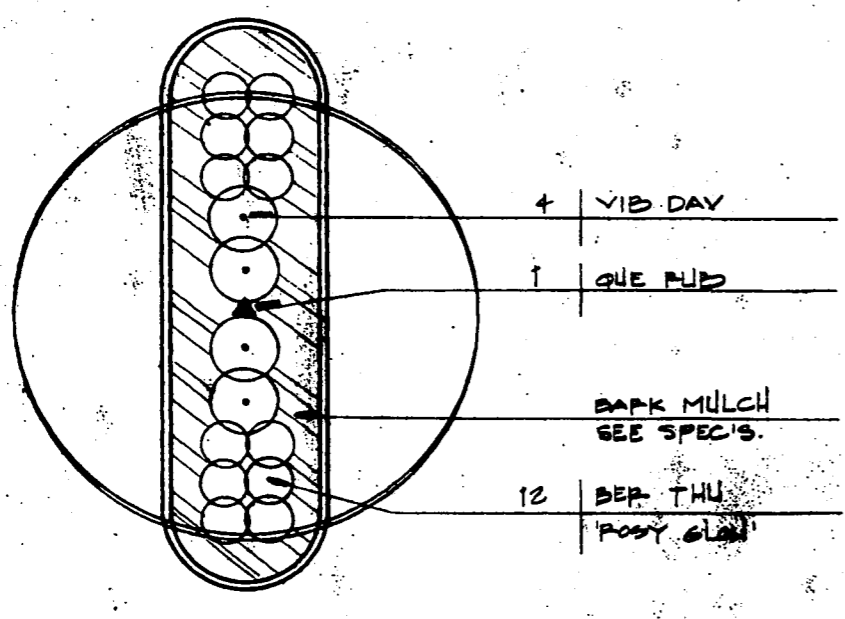
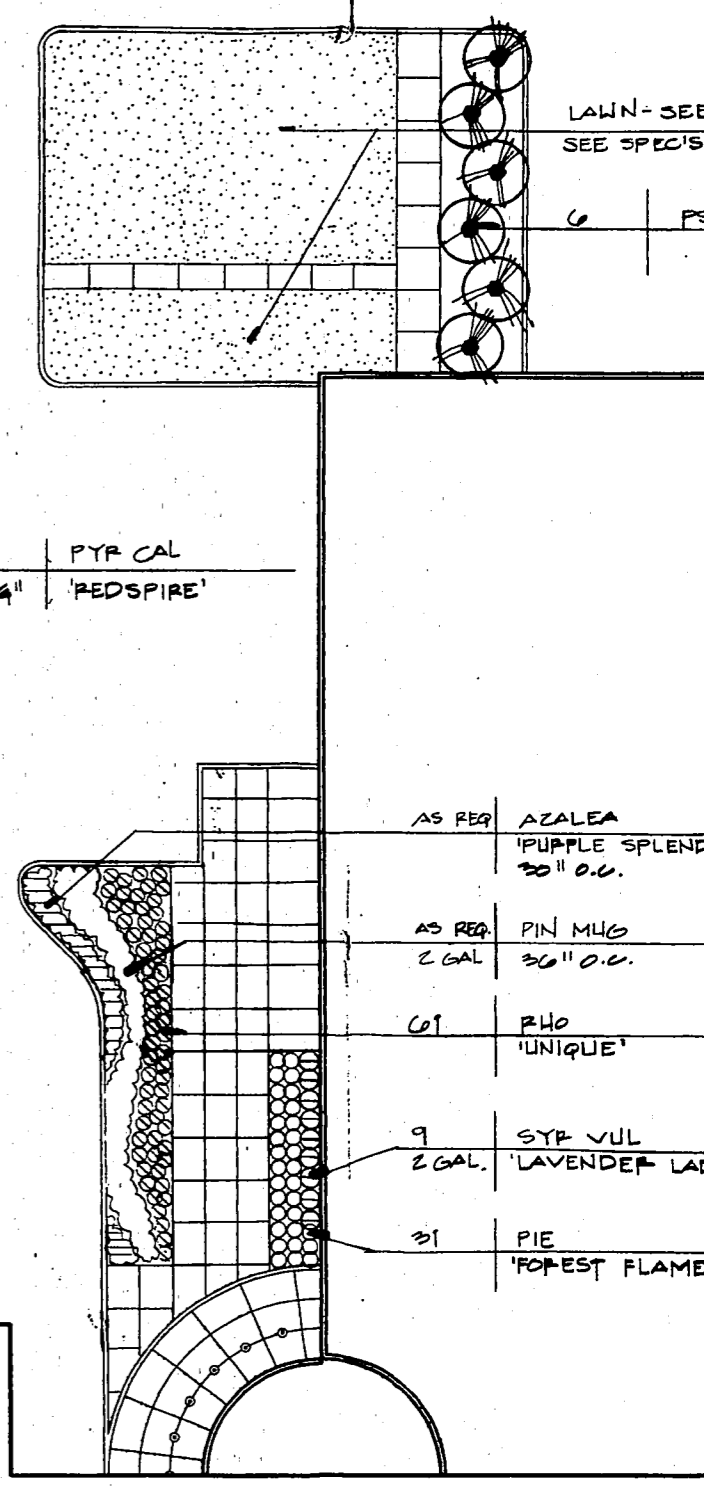
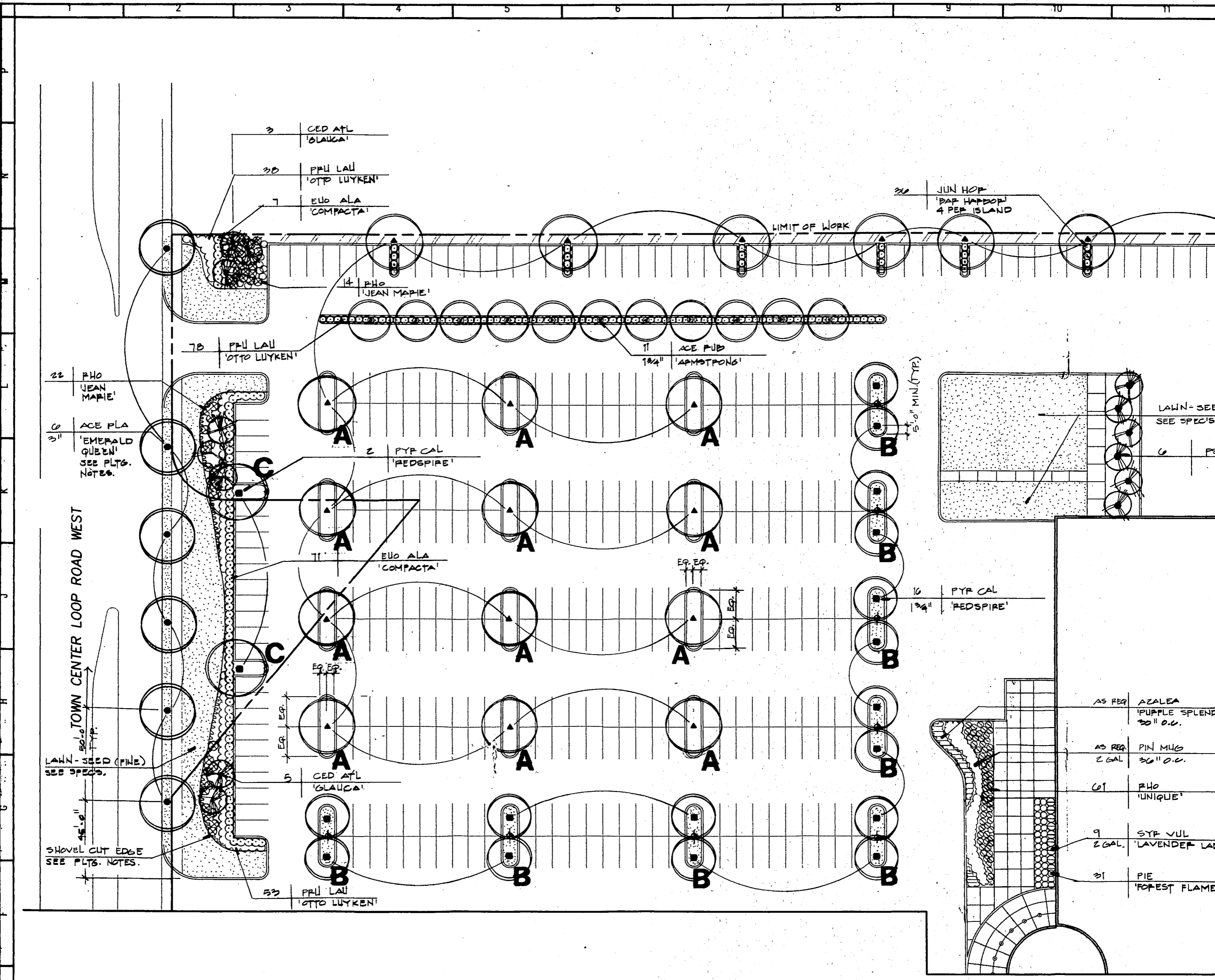
CLIENT:  
**DENNIS THOMPSON**

REVISIONS:

Date: 11-20-92  
Scale: AS SHOWN  
Drawn by: SET  
Checked by: JDA  
Job No.: 2023  
Drawing No.: 2023TITL

PER WS. 1, 2, 3, 4, 13, 18, 88, 88, 88, 88

PROJECT NO. 4-755-0327  
CADD FILE: 07/25/2017



**A** PLANTING ISLAND 'A' DETAIL

**B** PLANTING ISLAND 'B' DETAIL

**C** PLANTING ISLAND 'C' DETAIL

**SHEET NOTES**

**PLANTING GENERAL NOTES:**

CONTRACTOR SHALL VERIFY LOCATIONS OF ALL UTILITIES IN PLANTING AREAS PRIOR TO PLANTING. CONTRACTOR SHALL CONTACT THE FOLLOWING AGENCIES 48 HOURS PRIOR TO BEGINNING EXCAVATION WORK FOR UTILITY LOCATION INFORMATION:

- TELEPHONE: 503 246 6699
- GAS: 503 246 6699
- ELECTRIC: 503 246 6699
- SEWER: 503 682 4960 ATTN: MARTIN BROWN
- WATER: 503 682 4960 ATTN: MARTIN BROWN

LIGHT STANDARDS ARE SHOWN FOR REFERENCE ONLY. REFER TO DRAWING NUMBER DRBC2 FOR ADDITIONAL LIGHTING INFORMATION.

PLANTING IN PARKING LOT ISLANDS AS SHOWN IN ENLARGEMENTS ON SHEET L-1.0.

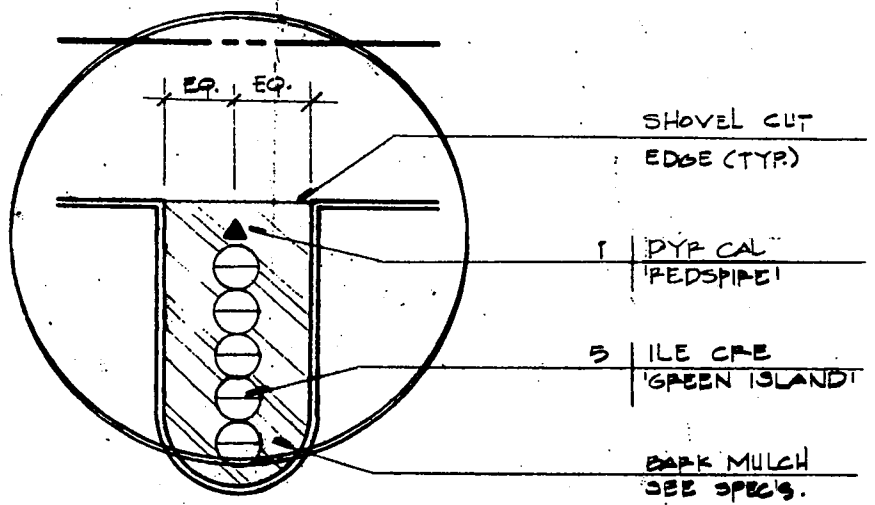
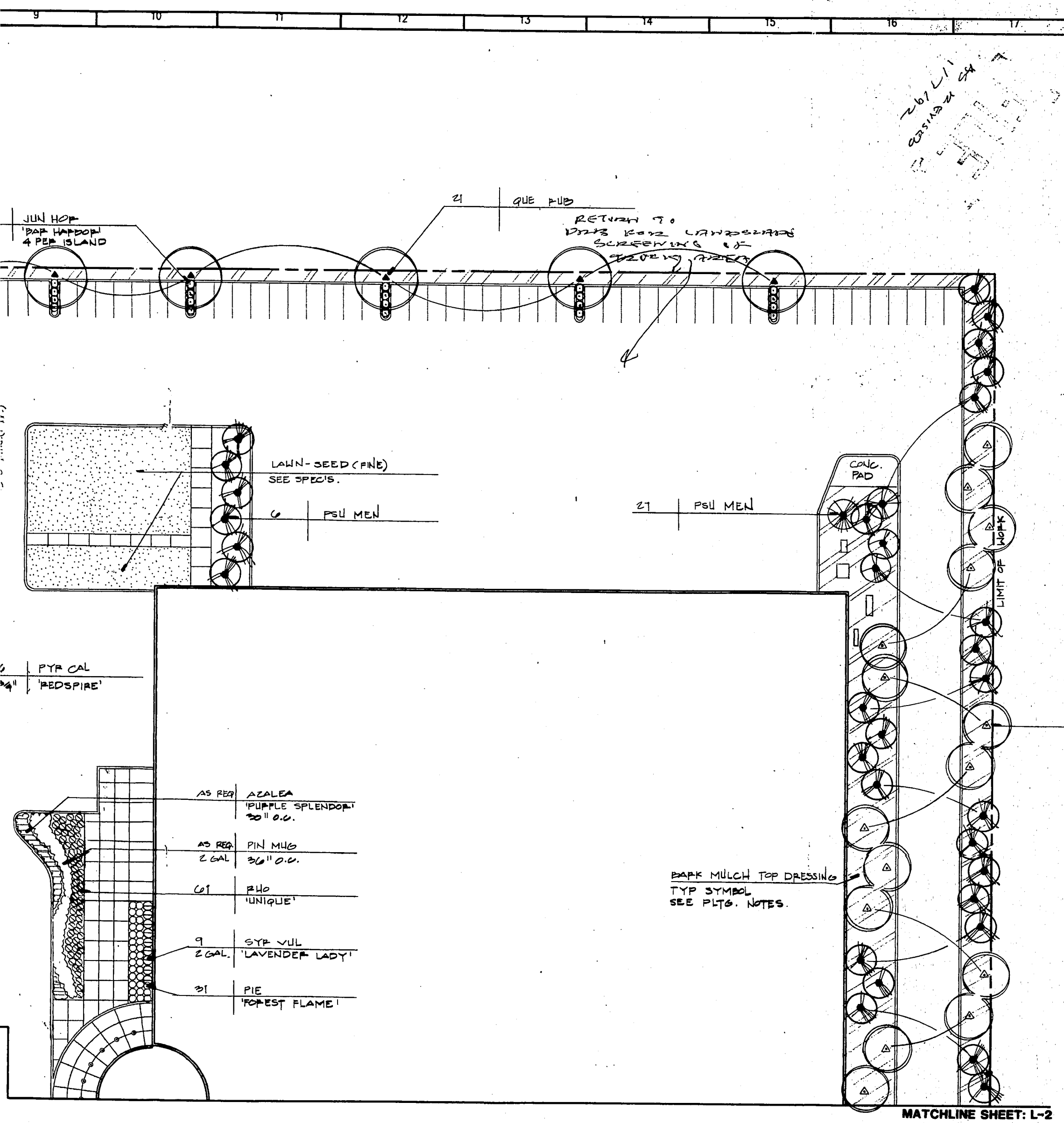
ALL SHRUB AND GROUNDCOVER PLANTING AREAS TO RECEIVE MINIMUM 2" DEPTH OF BARK MULCH. SEE SPECIFICATIONS 02950.

REFER TO CIVIL'S FOR FINISH GRADES IN PLANTING AREAS.

STREET TREES ON TOWN CENTER LOOP ROAD WEST SHALL BE PLANTED PER CITY OF WILSONVILLE STANDARD PLAN. IF NONE EXISTS, INSTALL PER DETAIL 1, L-2.0.

ALL LAWN EDGES AT SHRUB PLANTING AREAS SHALL BE SHOVEL CUT. CONTRACTOR SHALL MAINTAIN ALL SHOVEL CUT EDGES IN A SMOOTH AND EVEN CONDITION UNTIL FINAL ACCEPTANCE.

CONTRACTOR SHALL SUPPLY AND INSTALL ANNUAL COLOR, 4" POT SIZE AT 10" O.C. COLOR MATERIALS TO BE SELECTED BY CONTRACTOR AND APPROVED BY OWNER'S REPRESENTATIVE PRIOR TO PLANTING. ANNUAL COLOR MATERIAL SHALL BE IN SEASON (FULL BLOOM) AT TIME OF INSTALLATION.



No.	Revisions/Submissions	Date

**DesignForum ARCHITECTS**

3484 For Hills Avenue, Dayton, Ohio 45428 Telephone: (513) 288-4400

Project Title: **PROJECT THUNDER**  
WILSONVILLE, OREGON

Drawing Title: **LANDSCAPE PLAN**

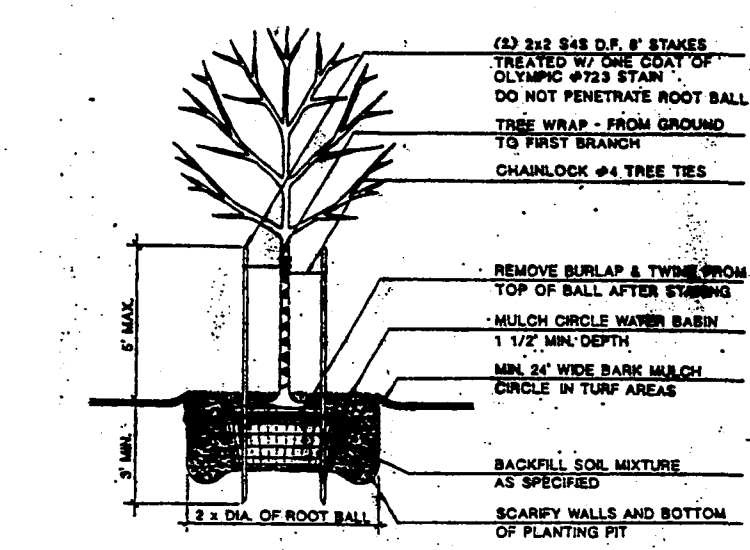
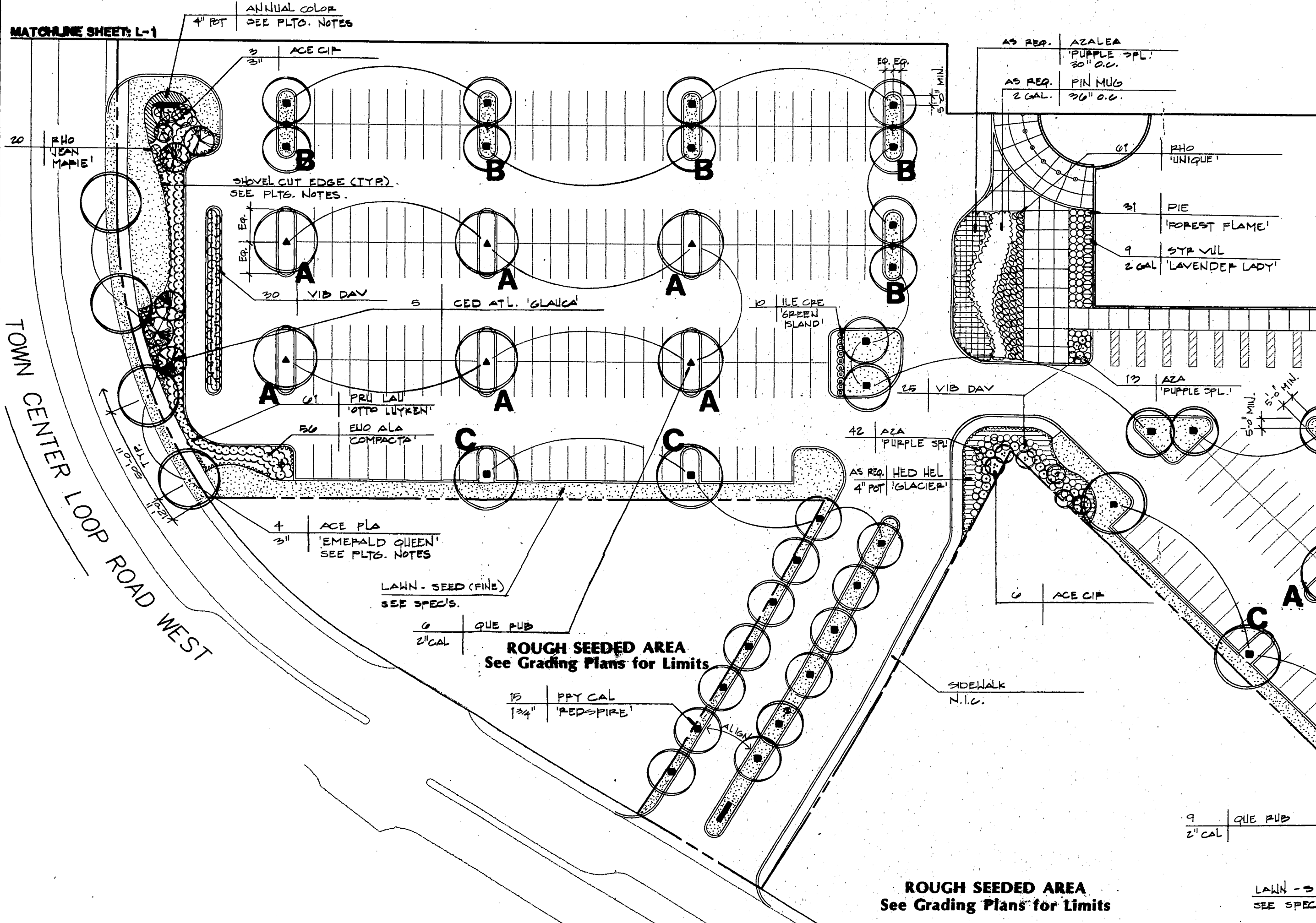
Seal REGISTERED 2011 Matthew P. Simpson MATTHEW P. SIMPSON OREGON LANDSCAPE ARCHITECT	Designed <b>MDS MPS</b>	Project No. 4-755-0202
	Drawn <b>MDS</b>	Scale 1" = 30'-0"
	Checked <b>MPS</b>	Drawing No. <b>L1.0</b>
	Reviewed <b>MH</b>	Date 12-27-91

**NOT FOR CONSTRUCTION**

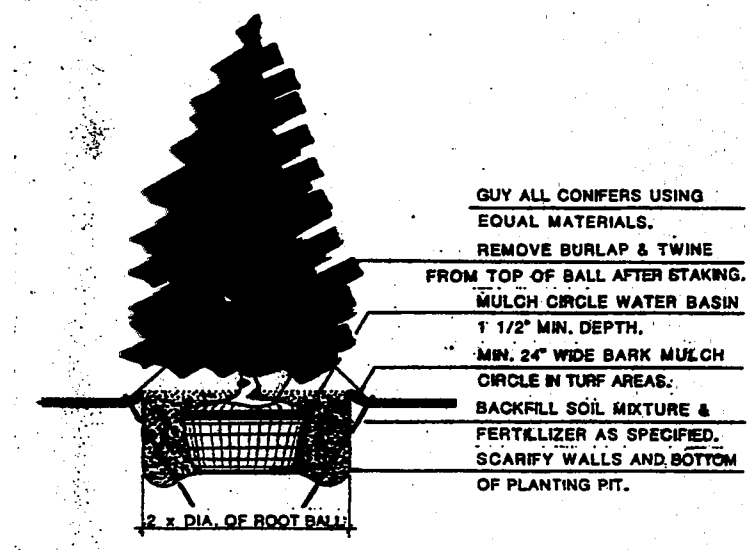
PRINTED  
JAN 06 1992  
W & H PACIFIC



PROJECT NO. 4-755-0202  
 CAD FILE 07PES02.DWG



**1 TREE PLANTING DETAIL**  
 N.T.S.



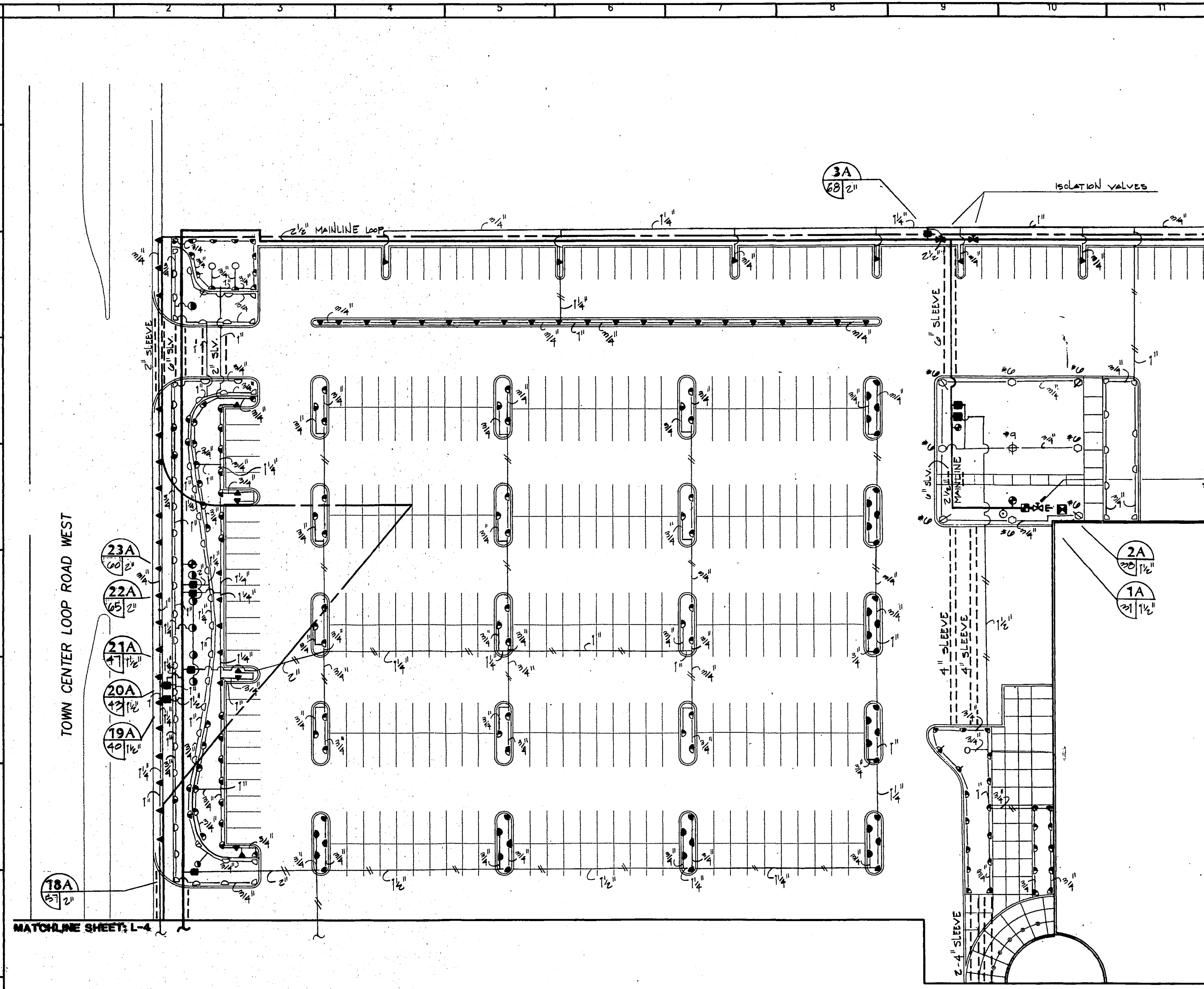
**2 CONIFER PLANTING DETAIL**  
 N.T.S.

**PLANT LEGEND**

QTY	CODE	BOTANICAL NAME	COMMON NAME	SIZE
<b>TREES</b>				
9	Ace Cir	Acer circinatum	Vine Maple	7'-8'
10	Ace pla	Acer platanoides 'Emerald Queen'	Emerald Queen Maple	3" Cal.
11	Ace rub	Acer rubrum 'Armstrong'	Armstrong Columnar Maple	1-3/4" Cal.
12	Ced atl	Cedrus atlantica 'Glaucia'	Blue Atlas Cedar	8'-10'
13	Pyr cal	Pyrus calleryana 'Chanticleer'	Chanticleer Pear	1-3/4" Cal.
14	Pse men	Pseudotsuga menziesii	Douglas Fir	8'-10'
15	Que rub	Quercus rubra	Red Oak	2" Cal.
16	Pyr cal	Pyrus calleryana 'Redspire'	Redspire Pear	1-3/4" Cal.
<b>SHRUBS</b>				
210	Aza	Azalea 'Purple Splendor'	Purple Splendor Azalea	12-15"
12	Ber thu	Berberis thunbergii 'Rosy Glow'	Rosy Glow Japanese Barberry	2 Gal.
184	Euo ala	Euonymus alata 'Compacta'	Compact Winged Euonymus	12-15"
35	I le cre	Ilex crenata 'Green Island'	Japanese Holly	2 Gal.
63	Pie	Pieris 'Forest Flame'	Forest Flame Pieris	12-15"
133	Pin mug	Pinus mugo	Dwarf Mugo Pine	2 Gal.
140	Pru lau	Prunus laurocerasus 'Otto Luyken'	Otto Luyken Laurel	12-15"
36	Rho	Rhododendron 'Ines Marie'	Rhododendron	12-15"
112	Rho	Rhododendron 'Unique'	Rhododendron	12-15"
18	Syr vul	Syringa vulgaris 'Lavender Lady'	Lavender Lilac	2 Gal.
33	Vib dav	Viburnum davidii	David Viburnum	12-15"
<b>GROUND COVER</b>				
2,230	Hed hel	Hedera helix 'Glacier'	Glacier Ivy	4" Pots
66	Jun hor	Juniperus horizontalis 'Bar Harbor'	Bar Harbor Juniper	1 Gal.
216	Annual Color		Annual Color	4" Pots

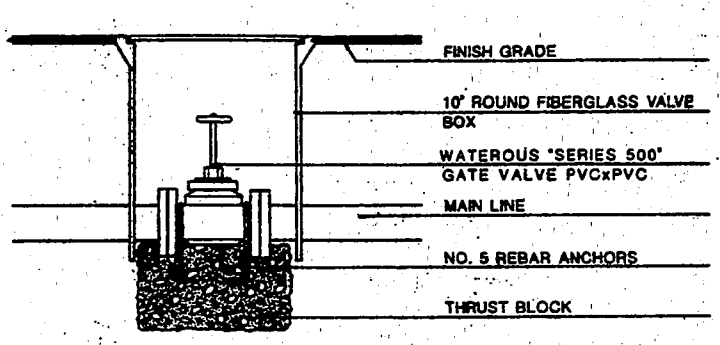
PER WIS. 1233413188888888

PROJECT NO. 7-15E-0002  
CADD FILE: 07580000

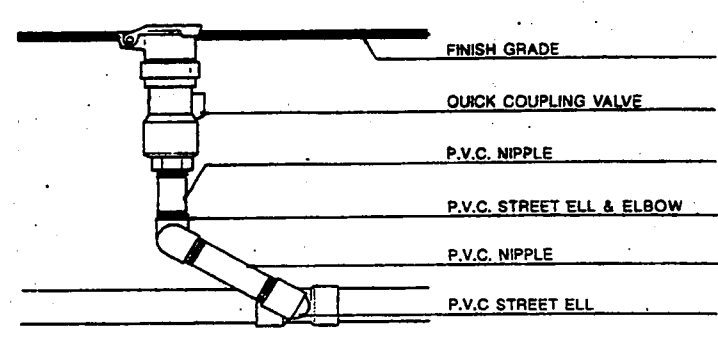


TOWN CENTER LOOP ROAD WEST

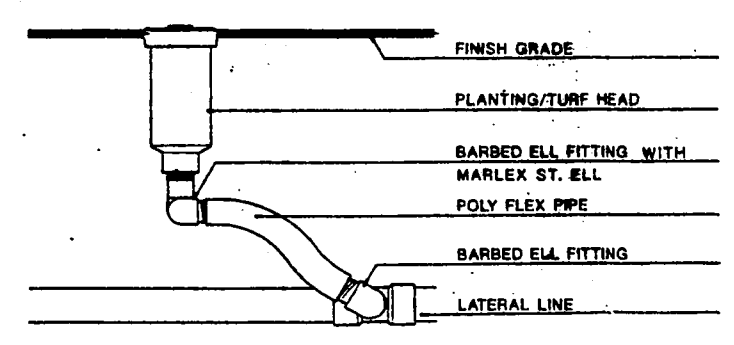
MATCHLINE SHEET: L-4



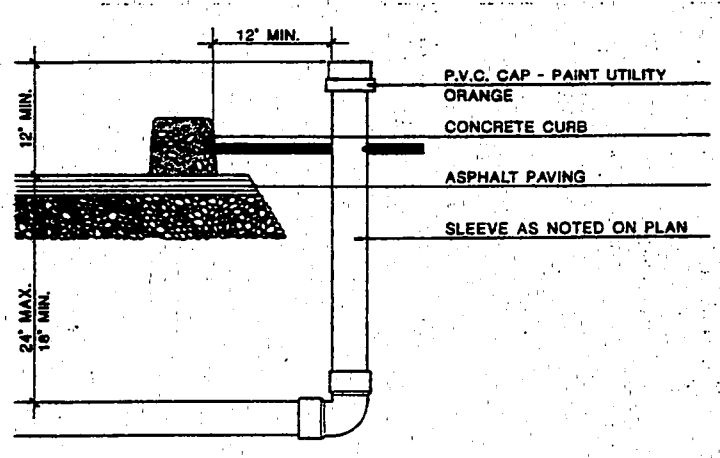
MAINLINE GATE VALVE



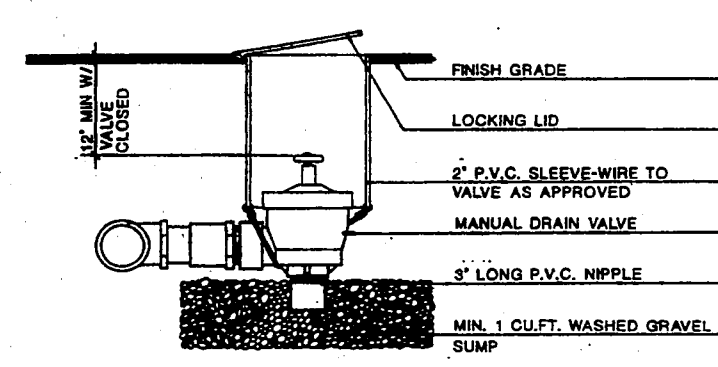
QUICK COUPLING VALVE DETAIL



POLY FLEX RISER DETAIL

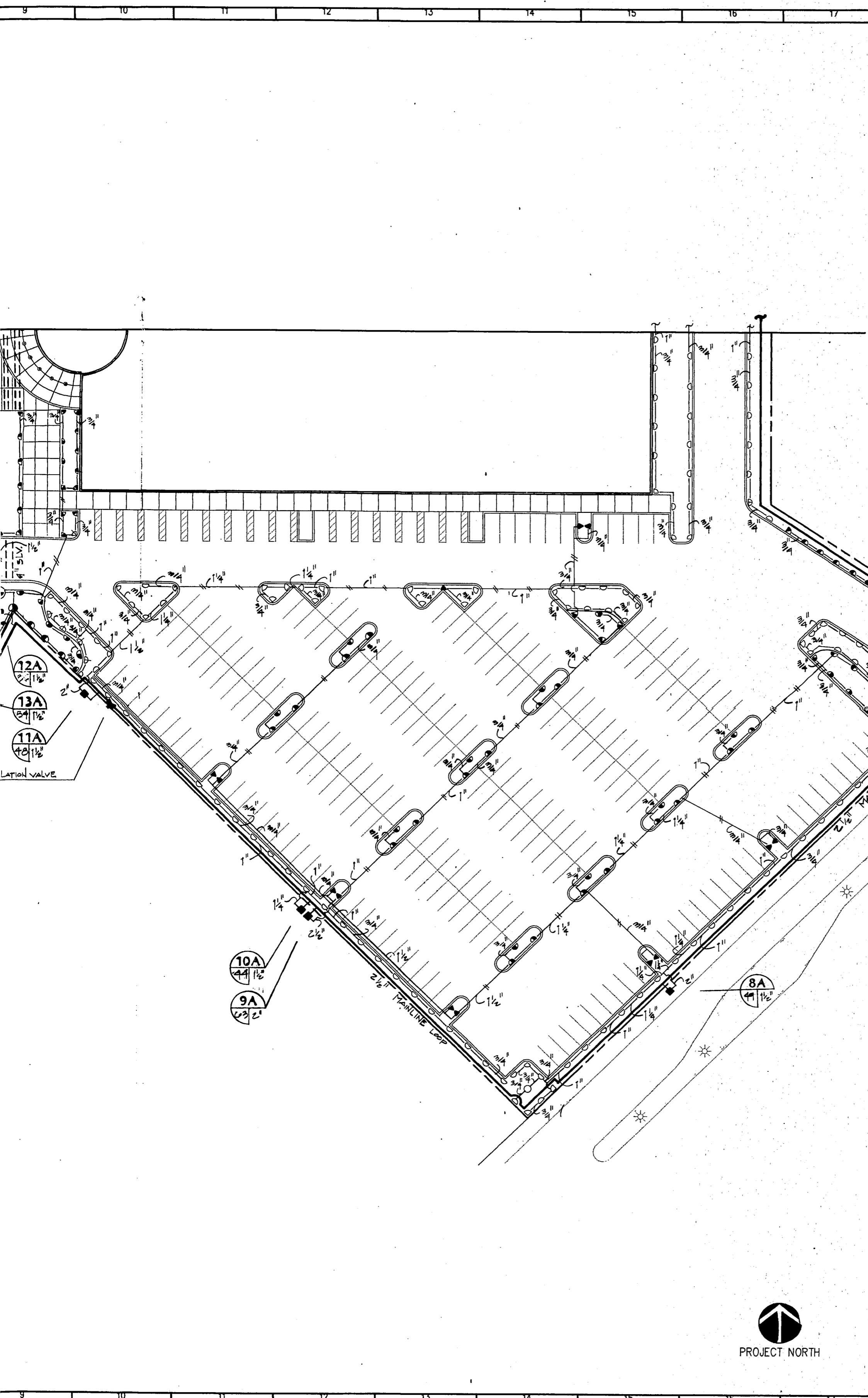


SLEEVING DETAIL



MANUAL DRAIN VALVE DETAIL





SHEET NOTES

**WH PACIFIC**  
 699 S.W. COLUMBIA STREET  
 PORTLAND, OREGON 97201  
 (503) 237-0405  
 Planning • Engineering • Surveying • Landscape Architecture

No.	Revisions/Submissions	Date

**DesignForum**  
 ARCHITECTS

3484 For Hills Avenue, Dayton, Ohio 45429 Telephone: (513) 298-4400

Project Title **PROJECT THUNDER**  
 WILSONVILLE, OREGON

Drawing Title **IRRIGATION PLAN**



Seal <b>REGISTERED</b>  MATTHEW P. SIMPSON OREGON LANDSCAPE ARCHITECT	Designed <b>MDS MPS</b>	Project No. 4-755-0202
	Drawn <b>MDS</b>	Scale 1" = 30'-0"
	Checked <b>MPS</b>	Drawing No. <b>L4.0</b>
	Reviewed <b>MH</b>	Date 12-27-91 c 1991 DESIGN FORUM ARCHITECTS



December 28, 2023

Dan Zoldak  
Lars Anderson & Associates, Inc.  
4694 W Jacquelyn Avenue  
Fresno, CA 93722

Application No.: ADMN23-0029 Class 1 Review Request  
Request: Class 1 Review of Use and Structure Conformance Status (per Section 4.030 (.01) A. 7. of Wilsonville Development Code)  
Location/Legal: 29400 SW Town Center Loop West. Tax Lot 220, Section 14D, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon.  
Status: Notice of Planning Director Determination

Dear Mr. Zoldak:

The City received your application on October 30, 2023, for Class 1 Review to confirm the status of the existing use and structure at 29400 SW Town Center Loop West. On November 28, 2023, City staff contacted you by email providing options for proceeding with your application and requesting that you notify staff of your preference by December 8, 2023 (see attached enclosure).

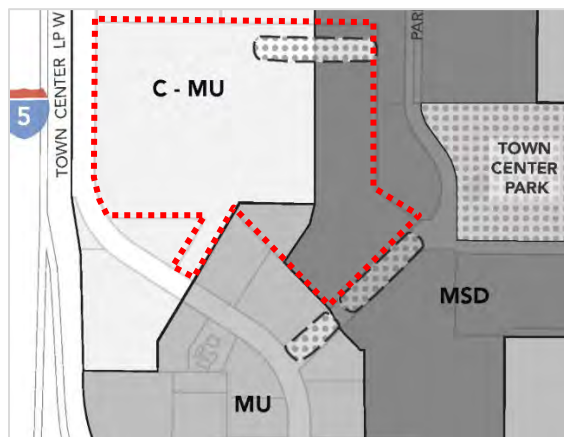
On November 29, 2023, staff conducted a completeness review within the statutorily allowed 30-day review period and found the Class 1 Review application to be complete. In the absence of a withdrawal of the Class 1 Review application, City staff has proceeded with the Class 1 Review of the existing use, structure, and site conditions at the above location per Section 4.030 (.01) A. 7. of the Development Code.

Here are some additional data points regarding the subject property:

Tax lot ID:	31W14D00220
Record No.:	01507257
County:	Clackamas
2008 100 Year Floodplain:	No
City Limits:	Yes
SROZ (Significant Resource Overlay Zone):	No
UGB (Urban Growth Boundary):	Yes



1. The most relevant previous Planning approvals for the property include:
  - 91PC43 Modified Stage I Master Plan, Phase II Stage II Site Development Plans, Amending Condition of Approval 8 of 90PC5
  - 91DR29 Site Design (Architectural, Landscaping) and Signage
  - 01AR01 Minor Architectural Revisions
  - 92DR21 Revise Condition of Approval 15 of 91DR29 regarding placement of containerized dumpsters
  - AR09-0053 Zoning Verification
2. The current Comprehensive Plan designation for the subject property is Town Center. The property is not located in an Area of Special Concern.
3. The current zoning classification, including any applicable overlay districts, for the subject property is Town Center (TC; adopted by Ordinance No. 835, June 5, 2019). The property is located in three (3) TC sub-districts: Commercial-Mixed Use (C-MU), Mixed Use (MU), and Main Street District (MSD). There are two (2) proposed open space areas within or adjacent to the property. The adjacent property zoning designation is TC on all sides.



4. The current use of the property is Fry's Electronics, a large format (159,400 square feet), electronics retail store, which has been vacant since 2021.
5. The original approval for development of the subject property in 1991 (Case File Nos. 91PC43 and 91DR29) characterized the use as "a retail business with the anonymous name "Project Thunder" "a 159,400 square foot electronics-related retail store". Zoning was Planned Development Commercial (PDC) with the property located in a functional use area under the Town Center Master Plan of Central Commercial (CC). Typical recommended uses in CC included department stores, retail stores, business machines retail sales and service, and similar retail or service establishments. Except for the purpose of determining minimum parking requirements for the site, which disaggregated the building square footage into such uses as retail commercial, service, office, restaurant, and storage, the primary use of the site was considered commercial retail or retail store.
6. According to the zoning ordinances and regulations for the TC zone, the current use of, structures on, and site conditions of, the subject property are legally established Non-Conforming (see Wilsonville Code Sections 4.132, 4.189, 4.190, and 4.191.) The following is a non-exhaustive list of the applicable ordinances and regulations:

- With respect to use, per Subsection 4.132 (.02) F., “retail sales and service of retail products, under a footprint of 30,000 square feet per use” is an outright allowed use in the TC zone. Further, per Subsection 4.132 (.03) A. 1., use-related regulations for the sub-districts Commercial-Mixed Use (C-MU) and Main Street District (MSD), under additional permitted uses state that “single-user commercial or retail (e.g. grocery store or retail establishment) may exceed 30,000 square feet if located on more than one story of a multi-story building”. The existing use on the subject property, per the original approval as described above, is a large format (159,400 square feet), single-story with partial mezzanine, single-user electronics retail store that exceeds a footprint of 30,000 square feet. Therefore, the use is a legally established Non-Conforming Use in the TC zone.
  - With respect to structures, per Subsection 4.132 (.06), the purpose and intent of the design and development standards of the TC zone is, in part, “to provide high quality design in new development and redevelopment that promotes a sense of community identity and implements the Wilsonville Town Center Vision”, and “provide sustainable development through the adaptive reuse of existing buildings”. All developments must follow the design and development standards unless a waiver is granted by the Development Review Board per Subsection 4.132 (.06) D. The existing building as it currently exists on the subject property does not conform to many of the design and development standards in Subsection 4.132 (.06), such as building placement and frontage requirements, location of parking in relation to the building, building setbacks, height and number of stories, façade design, and architectural materials and treatments. A waiver to these standards has not been applied for, nor has a waiver been granted, for the existing structure. Therefore, the structure is a legally established Non-Conforming Structure in the TC zone.
  - With respect to site conditions, per Subsection 4.132 (.04) A., “all development will be consistent with the Street Network and Multi-modal Network”. The purpose of the network plans (Figures 2 and 3) is to support creation of a highly connected and walkable Town Center where there are options for travel. Several proposed streets, a multi-use path, and bicycle facilities are shown within or immediately adjacent to the subject property. Per Subsection 4.132 (.05) A., “all development will be consistent with the Open Space Network, shown in Figure 4”. A proposed open space is shown in the northeast corner and along the southeast boundary of the subject property. Other site improvement standards of the TC zone address such features as walkway connection to building entrances, parking location, landscape design, and plaza areas. Existing site conditions do not comply with the applicable standards. Therefore, the existing site conditions are legally established Non-Conforming Site Conditions in the TC zone.
7. There are not any variances, special permits/exceptions, ordinances, or conditions that apply to the subject property. See case files cited above for Conditions of Approval.

Based on the application materials, prior land use approvals, existing site conditions, and the applicable zoning ordinances and regulations, it is the determination of the Planning Director that Fry’s Electronics, on the subject property at 29400 SW Town Center Loop West, is a legally established Non-Conforming Use in a Non-Conforming Structure with Non-Conforming Site Conditions in the

TC zone. The complete record for this application is available on the City's online portal under Case File No. ADMN23-0029.

In your application on October 30, 2023, requesting Class 1 Review to confirm the status of the existing use and structure at the subject site, you also stated that The Home Depot, Inc., intends to operate a store within the existing structure that was previously occupied by Fry's. You, therefore, sought confirmation from the City that a warehouse retail store can continue operating at the property. You went on to assert that the two stores are interchangeable with respect to use as warehouse retailers and indicated that you were requesting confirmation from the City that this is, indeed, the case. That second request is for written interpretation of the Development Code and requires Class 2 Review per Section 4.030 (.01) B. 3. In response to the options for proceeding with your application that staff provided to you via email on November 28, 2023, you submitted, on December 15, 2023, an application for Class 2 Review (Case File No. AR23-0031); that application is currently in the 30-day completeness review period, which expires on January 14, 2024. Therefore, nothing in this Class 1 decision shall be construed to provide a determination one way or another with regard to the interpretation requested in the subsequent Class 2 Review (re: Home Depot, Inc.).

This information was provided on December 28, 2023, by the undersigned, on behalf of the City of Wilsonville, per request and as a public service. The undersigned certifies that the above information contained herein is believed to be accurate and is based upon, or relates to, the information supplied by the requestor. The Zoning Authority assumes no liability for errors and omissions. All information was obtained from public records, which may be inspected during regular business hours.

If you have any questions, please contact me at 503-682-4960, or at [bateschell@ci.wilsonville.or.us](mailto:bateschell@ci.wilsonville.or.us).

Sincerely,



Miranda Bateschell  
Planning Director  
City of Wilsonville

cc via email: David Fry, Lumberjack LP, [dave@rdjdevelopment.com](mailto:dave@rdjdevelopment.com)

Enclosure: City Staff Email Correspondence to Applicant, dated November 28, 2023

**From:** [Luxhoj, Cindy](mailto:Luxhoj.Cindy)  
**To:** [dzoldak@larsandersen.com](mailto:dzoldak@larsandersen.com)  
**Cc:** [dave@rdjdevelopment.com](mailto:dave@rdjdevelopment.com); [Bateschell, Miranda](mailto:Bateschell.Miranda); [Rybold, Kim](mailto:Rybold.Kim); [Daniel Pauly \(pauly@ci.wilsonville.or.us\)](mailto:Daniel.Pauly@ci.wilsonville.or.us)  
**Bcc:** [Luxhoj, Cindy](mailto:Luxhoj.Cindy)  
**Subject:** ADMN23-0029 Class 1 Review Request for 29400 SW Town Center Loop  
**Date:** Tuesday, November 28, 2023 1:51:00 PM  
**Attachments:** [image001.png](#)

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Mr. Zoldak,

This email is in regards to the application you submitted on October 30, 2023, requesting a Class 1 Review for the property located at 29400 SW Town Center Loop West, Case File No. ADMN23-0029.

In your application, you state that you are requesting a Class 1 review to confirm the status of the existing non-conforming use at the above location. If this is your intent, then the City is prepared to deem your application complete tomorrow, which is the last day within the 30-day completeness review period. We would then process the application as a Class 1 review per Section 4.030 (.01) A. 7. of the Development Code unless you indicate differently – see options listed below.

You also state, however, that The Home Depot, Inc., intends to operate a store within the existing structure that was previously occupied by Fry's and, therefore, seeks confirmation from the City that a warehouse retail store can continue operating at the property. You go on to assert that the two stores are interchangeable with respect to use as warehouse retailers and indicate that you are requesting confirmation from the City that this is, indeed, the case. This second request is for written interpretation of the Development Code and requires Class 2 review per Section 4.030 (.01) B. 3.. As such, this determination will not be part of the Class 1 review or decision.

Below are a few options we have identified for proceeding with your application:

- Staffs proceeds with the Class 1 review and issues a determination of non-conforming use at the subject site.
- You submit a request to withdraw the Class 1 review application and apply for a Class 2 review.
- Staff proceeds with the Class 1 review and, in addition, you apply for a Class 2 review requesting written interpretation.

If you choose to apply for a Class 2 review, you would select "Class 2 Review Master Plan" as the application in the City's online portal and specify "Staff Interpretation (with public notice)" as the request within your application. For convenience, [here is a link to the application portal](#). The fee for this application is \$2,027, and we would invoice you when the application is submitted to the portal.

Please let us know how you prefer to proceed. If you do not submit a request to withdraw the Class 1 by **Friday December 8**, staff will proceed with the Class 1 review and decision.

Thank you,

**Cindy Luxhoj AICP**  
*Associate Planner*

City of Wilsonville

503.570.1572

[luxhoj@ci.wilsonville.or.us](mailto:luxhoj@ci.wilsonville.or.us)

[www.ci.wilsonville.or.us](http://www.ci.wilsonville.or.us)

[Facebook.com/CityofWilsonville](https://www.facebook.com/CityofWilsonville)



29799 SW Town Center Loop East, Wilsonville, OR 97070

*Disclosure Notice: Messages to and from this e-mail address may be subject to the Oregon Public Records Law.*



VIA: Certified Mail, Return Receipt Requested

March 15, 2024

Dan Zoldak  
Lars Andersen & Associates, Inc.  
4694 W Jacquelyn Avenue  
Fresno, CA 93722

Re: Determination of Non-Conformance  
29400 SW Town Center Loop West

Case File: DB24-0002 Appeal of Administrative Decision  
- Appeal (APPL24-0001)

The Development Review Board's Decision and Resolution No. 429 are attached, affirming the Planning Director Determination in Case File ADMN23-0029 and denying the Appeal in Case File DB24-0002.

Thank you.

Mandi Simmons  
Planning Administrative Assistant

CC: David Fry, Lumberjack LP

CC via e-mail: Kenneth Katzaroff, [KKatzaroff@schwabe.com](mailto:KKatzaroff@schwabe.com)  
Keenan Ordon-Bakalian, [Kordon-bakalian@schwabe.com](mailto:Kordon-bakalian@schwabe.com)  
Barry Simmons, [barry\\_simmons@homedepot.com](mailto:barry_simmons@homedepot.com)  
Patrick Donaldson, [pfdforbes@aol.com](mailto:pfdforbes@aol.com)

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CITY OF WILSONVILLE • COMMUNITY DEVELOPMENT DEPT.

Phone 503-682-4960  
Fax 503-682-7025

29799 SW Town Center Loop East  
Wilsonville, OR 97070

[www.ci.wilsonville.or.us](http://www.ci.wilsonville.or.us)  
[info@ci.wilsonville.or.us](mailto:info@ci.wilsonville.or.us)

March 15, 2024

**DEVELOPMENT REVIEW BOARD PANEL B**

**NOTICE OF DECISION**

**Application Nos.:** DB24-0002 Appeal of Administrative Decision  
- Appeal (APPL24-0001)

**Appellant/Applicant:** Lars Andersen & Associates, Inc. (Contact: Dan Zoldak)

**Request:** Appeal of Administrative Decision

**Case File Appealed:** ADMN23-0029 Class 1 Review Request

**Decision Appealed:** Planning Director Determination of Non-Conformance

**Owner:** Lumberjack LP (Contact: David Fry)

**Location:** 29400 SW Town Center Loop West. The property is specifically known as Tax Lot 220, Section 14D, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon.

On March 15, 2024, at the meeting of the Development Review Board the following action was granted on the above-referenced subject:

**The Development Review Board affirmed the Planning Director Determination in Case File ADMN23-0029, and denied the Appeal in Case File DB24-0002.**

Any appeals by anyone who has participated in this hearing, orally or in writing, must be filed with the City Recorder within fourteen (14) calendar days of the mailing of the Notice of Decision. *WC Sec. 4.022 (.02).*

This decision has been finalized in written form and placed on file in the City records at Wilsonville City Hall this **15<sup>th</sup> day of March 2024** and is available for public inspection. This decision shall become effective on the fifteenth (15<sup>th</sup>) calendar day after the postmarked date of the written Notice of Decision, unless appealed or called up for review by the Council in accordance with this Section. *WC Sec. 4.022 (.09).*

Written decision is attached

For further information, please contact the Wilsonville Planning Division at Wilsonville City Hall, 29799 SW Town Center Loop E, Wilsonville Oregon 97070 or phone 503-682-4960.

Attachments: DRB Resolution No. 429

**DEVELOPMENT REVIEW BOARD  
RESOLUTION NO. 429**

**A RESOLUTION AFFIRMING THE PLANNING DIRECTOR'S DETERMINATION OF NON-CONFORMANCE IN CASE FILE ADMN23-0029 AND DENYING THE APPLICANT'S APPEAL DB24-0002.**

WHEREAS, an application for Class 1 Administrative Review (ADMN23-0029), together with planning exhibits, has been submitted by Dan Zoldak of Lars Andersen & Associates, Inc. – Applicant, on behalf of David Fry of Lumberjack LP – Owner, in accordance with the procedures set forth in Section 4.008 of the Wilsonville Code; and

WHEREAS, the subject property is located at 29400 SW Town Center Loop West on Tax Lot 220, Section 14D, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon (“the Location”); and

WHEREAS, the subject of the Class 1 Administrative Review was a Planning Director’s Determination of non-conformance per Subsection 4.030 (.01) A. 7. of the Wilsonville Development Code; and

WHEREAS, the City issued the Planning Director’s Determination, on the above-captioned subject, that Fry’s Electronics is a legally established Non-Conforming Use in a Non-Conforming Structure with Non-Conforming Site Conditions in the Town Center (TC) zone, dated December 28, 2023; and

WHEREAS, within the prescribed appeal period, the Administrative Decision was appealed by Dan Zoldak of Lars Andersen & Associates, Inc. – Appellant/Applicant, dated January 10, 2024; and

WHEREAS, specifically, the filed appeal grounds were stated: “An APPEAL of Planning Director Determination ADMN20-0029 [sic] determining that Fry’s Electronics is a legally established Non-Conforming Use in a Non-Conforming Structure with Non-Conforming Site Conditions at 29400 SW Town Center Loop West”; and

WHEREAS, per Code Section 4.022 (.01), a decision by the Planning Director on issuance of an Administrative Decision may be appealed, and such appeals shall be heard by the Development Review Board for all quasi-judicial land use matters; and

WHEREAS, the matter at issue will be a determination of the appropriateness of the action or interpretation of the requirements of the Code; and

WHEREAS, the Planning Staff mailed the Notice of Public Hearing for the Appeal on February 6, 2024, in advance of the Public Hearing; and

WHEREAS, the Planning Staff has prepared the staff report on the above-captioned subject dated February 15, 2024, for consideration by the Development Review Board in hearing the appeal; and

WHEREAS, said planning exhibits and staff report were duly considered by the Development Review Board Panel B at a scheduled meeting conducted on February 26, 2024, at which time exhibits, together with findings and public testimony were entered into the public record; and



WHEREAS, interested parties, if any, have had an opportunity to be heard on the subject; and

WHEREAS, during the February 26, 2024 public hearing, the Applicant requested that the record be kept open for seven days to allow it to respond to testimony entered into the record; and

WHEREAS, the Development Review Board Panel B closed the public hearing and unanimously approved the request to keep the record open for Resolution No. 429 until March 4, 2024 at 5:00 pm; and

WHEREAS, on March 4, 2024, the Applicant filed a first written submittal, which has been marked as Exhibit B2, forwarded by Planning Staff to the Development Review Board on March 7, 2024; and

WHEREAS, on March 11, 2024, the Applicant filed a final arguments submittal, which has been marked as Exhibit B3, forwarded by Planning Staff to the Development Review Board on March 12, 2024; and

WHEREAS, on March 14, 2024, commencing at 4:30 pm, the Development Review Board Panel B held a special meeting to consider all evidence timely submitted to, and not rejected by, the Development Review Board regarding Case File No. DB24-0002; and

WHEREAS, the Development Review Board considered all evidence placed before, and not rejected by, the Development Review Board on the record for Resolution No. 429, and, thereafter, deliberated.

NOW, THEREFORE, BE IT RESOLVED that the Development Review Board of the City of Wilsonville does hereby affirm the Planning Director's Determination of Non-Conformance (ADMN23-0029) dated December 28, 2023, attached hereto, with findings and recommendations contained therein, determining that:

1. There is a legally established non-conforming use at the Location; specifically, that the protected use is "a 159,400 square-foot electronics-related retail store."
2. There is a legally established non-conforming structure at the Location.
3. There are legally established non-conforming site conditions at the Location.

ADOPTED by the Development Review Board of the City of Wilsonville this 14<sup>th</sup> day of March 2024, and filed with the Planning Administrative Assistant on 3/14/24. This resolution is final on the 15<sup>th</sup> calendar day after the postmarked date of the written notice of decision per WC Sec 4.022 (.09) unless appealed per WC Sec 4.022 (.02) or called up for review by the Council in accordance with WC Sec 4.022 (.03).



Rachelle Barrett, Chair - Panel B  
Wilsonville Development Review Board

Attest:


  
Mandi Simmons, Planning Administrative Assistant



Exhibit A1  
Staff Report  
Wilsonville Planning Division  
Appeal of Administrative Decision  
29400 SW Town Center Loop West

Development Review Board Panel 'B'  
Quasi-Judicial Public Hearing  
Amended and Adopted March 14, 2024  
Added language ***bold italics underline***  
Removed language ~~struck through~~

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<b>Hearing Date:</b>	February 26, 2024
<b><i>Special Meeting Date:</i></b>	<b><i><u>March 14, 2024</u></i></b>
<b>Date of Report:</b>	February 15, 2024

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<b>Application Nos.:</b>	DB24-0002 Appeal of Administrative Decision - Appeal (APPL24-0001)
<b>Appellant/Applicant:</b>	Lars Andersen & Associates, Inc. (Contact: Dan Zoldak)
<b>Request:</b>	Appeal of Administrative Decision
<b>Case File Appealed:</b>	ADMN23-0029 Class 1 Review Request
<b>Decision Appealed:</b>	Planning Director Determination of Non-Conformance
<b>Owner:</b>	Lumberjack LP (Contact: David Fry)
<b>Location:</b>	29400 SW Town Center Loop West. The property is specifically known as Tax Lot 220, Section 14D, Township 3 South, Range 1 West, Willamette Meridian, City of Wilsonville, Clackamas County, Oregon.
<b>Comprehensive Plan Designation:</b>	Town Center
<b>Zone Map Classification:</b>	Town Center (TC); Sub-districts: Commercial-Mixed Use (C-MU), Mixed Use (MU), Main Street District (MSD)
<b>Staff Reviewers:</b>	Cindy Luxhoj AICP, Associate Planner Miranda Bateschell, Planning Director
<b>Staff Recommendation:</b>	<b><u>Affirm</u></b> the Planning Director Determination of Non-Conformance (ADMN23-0029).

**Applicable Review Criteria:**

<b>DB24-0002 Appeal of Administrative Decision</b>	
<b><u>Development Code:</u></b>	
Section 4.022	Appeal and Call-up Procedures
<b>ADMN23-0029 Class 1 Review Request</b>	
<b><u>Development Code:</u></b>	
Section 4.001	Definitions
Section 4.008	Application Procedures-In General
Section 4.009	Who May Initiate Application
Section 4.010	How to Apply
Section 4.011	How Applications are Processed
Section 4.014	Burden of Proof
Section 4.030	Jurisdiction and Powers of Planning Director and Community Development Director
Section 4.031	Authority of the Development Review Board
Section 4.034	Application Requirements
Subsection 4.035 (.05)	Complete Submittal Requirement
Section 4.102	Official Zoning Map
Section 4.110	Zones
Section 4.132	Town Center (TC) Zone
Section 4.189	Non-Conforming Uses
Section 4.190	Non-Conforming Structures
Section 4.191	Non-Conforming Site Conditions
<b><u>Other Planning Documents:</u></b>	
Previous Land Use Approvals	

Site Location:



## Existing Development:



## Procedural Background:

On October 30, 2023, the City received an application for Class 1 Review (ADMN23-0029) to confirm the status of the existing use and structure at 29400 SW Town Center Loop West (respectively, the “Class 1 Review Application” and the “Location”). The Location was previously occupied by Fry’s Electronics, an electronics retail store and has been vacant since 2021. In their submittal, the Applicant requested a Class 1 Review to confirm the status of the existing non-conforming use at the Location.

On November 28, 2023, City staff contacted the applicant by email providing options for processing the application and requesting that they notify staff of their preference by December 8, 2023 (Exhibit A3). Applicant did not contact the City to withdraw the Class 1 Review Application, so the City deemed the application complete on November 29, 2023 and processed the request as a Class 1 Planning Director Determination per Subsection 4.030 (.01) A. 7. of the Development Code. On December 28, 2023, the City’s Planning Director issued a Notice of Planning Director Determination, which provided the Planning Director’s decision on the Class 1 Review Application that Fry’s Electronics located on the subject property is a legally established Non-Conforming Use in a Non-Conforming Structure with Non-Conforming Site Conditions in the Town Center (TC) zone (Exhibit A4) (the “Planning Director’s Decision”).

The Appellant submitted a notice of appeal of the Planning Director’s Decision on January 10, 2024 (the “Notice of Appeal”).

The City is currently processing a separate but related Class 2 Review application per Subsection 4.030 (.01) B. 3, which was filed by the Applicant on December 15, 2023 (AR23-0031) (the “Class 2 Review Application”).

**Scope of Review:**

This appeal is a *de novo* review of the Class 1 Review Application under Subsection 4.022 (.01) of the Wilsonville Development Code. “De novo,” is Latin for “from the beginning;” the Development Review Board must review the Class 1 Review Application as if the action had not been previously heard and as if no decision had been rendered by the Planning Director. The Development Review Board should base its decision on the testimony, evidence and other material submitted by Applicant to the City in the Class 1 Review Application, as stated in Subsection 4.022 (.07) B. of the Wilsonville Development Code. Further, it shall, by order, affirm, reverse, or modify, in whole or part, a decision that is under review; in this proceeding the decision under review is the Planning Director’s Decision. Subsection 4.022 (.08) A. of the Wilsonville Development Code.

For the purpose of applying the applicable 120-day time limit, a final decision on the Class 1 Application, including any appeals, must be rendered by March 28, 2024.

The Class 2 Review Application, and any issues that are subject to the Class 2 Review – such as the scope of what non-conforming use may be continued – are beyond the scope of this appeal proceeding.

**Questions Presented:**

On the cover page of the Class 1 Review Application, Applicant requests “non conforming use confirmation.” See Exhibit B1. Reviewing this document with the portion of the Class 1 Review Application titled, “Applicant’s Narrative and Exhibits Demonstrating Compliance with the Relevant Approval Criteria,” City staff believe that Applicant requests an answer to the following questions:

1. Is the Location a non-conforming use?
2. Does the Location contain a non-conforming structure?
3. Does the Location contain non-conforming site conditions?

Considering that this is a *de novo* review of the Class 1 Review Application, the Development Review Board should address all three questions listed above. However, the Notice of Appeal does not challenge the Planning Director’s Decision on the second and third questions listed above. Accordingly, City staff believe that there is no disagreement between the Applicant and the City with respect to these points. The main point of disagreement between the Applicant and the City is the Planning Director’s Decision regarding the first question listed above.

This staff report addresses each question in order, outlining the legal standard that applies to the question, then highlighting facts that staff believe are relevant to the question, and finally, quoting the determination of the question as stated in the Planning Director’s Decision.

## **Non-Conforming Use Inquiry:**

### 1. Applicable Legal Standard

Before a use can be deemed “non-conforming” it must be impermissible under a current land use ordinance. Generally, a non-conforming use is understood to be “one that is contrary to a land use ordinance but that nonetheless is allowed to continue because the use lawfully existed prior to the enactment of the ordinance.” *Morgan v. Jackson Cnty.*, 290 Or App 111, 114, (2018) (citing *Rogue Advocates v. Board of Comm. Of Jackson Cnty.*, 277 Or App 651, 654 (2016), *rev. dismissed*, 362 Or 269, 407 (2017)); *see* Subsection 4.001 (196.) of the Development Code (defining a non-conforming use as “a legally established use, which was established prior to the adoption of the zoning use requirements for the site with which it does not conform”). As is outlined in greater detail below, the Location’s existing use would not be permitted by the City due to the Town Center Plan, which was adopted effective June 5, 2019.

“Nonconforming uses are not favored because, by definition, they detract from the effectiveness of a comprehensive zoning plan. . . . Accordingly, provisions for the continuation of nonconforming uses are strictly construed against continuation of the use, and, conversely, provisions for limiting nonconforming uses are liberally construed to prevent the continuation or expansion of nonconforming uses as much as possible.” *Parks v. Bd. of Cnty. Comm’rs of Tillamook Cnty.*, 11 Or App 177, 196–97 (1972) (internal citation omitted).

Once a use is determined to be impermissible under a current land use ordinance, the question becomes: may the use continue because it is legally protectable as “non-conforming”? “The purpose of a local government proceeding to determine the existence of a nonconforming use is to determine what use existed on the date restrictive regulations were applied.” *Nehoda v. Coos Cnty.*, 29 Or LUBA 251, 1995 WL 1773153, at \*5 (1995).

Appellant has the burden of establishing that a non-conforming use exists by substantial evidence in the whole record. ORS 197.835(9)(a)(C); *see also* Subsection 4.014 of the Development Code (stating that the burden of proof is on the Appellant in an appeal); *ODOT v. City of Mosier*, 36 Or LUBA 666, 671 (1999) (citing *Lane Cnty. v. Bessett*, 46 Or App 319 (1980)); *Sabin v. Clackamas Cnty.*, 20 Or LUBA 23, 30 (1990) (citing *Webber v. Clackamas Cnty.*, 42 Or App 151, *rev. den.*, 288 Or 81 (1979)). In other words, the Development Review Board must be sure that its decision – in favor of or against the Applicant’s position – is supported by substantial evidence.

The only portion of the City’s code that is relevant to this inquiry is Subsection 4.189(.01)A., which states that “[a] non-conforming use may be continued subject to the requirements of this Section.” The balance of this code Subsection is irrelevant to the questions before the Development Review Board.

The identity of the party that engaged in the use is irrelevant to this inquiry. *See City of Mosier* at 678 (stating that focus of the inquiry is the nonconforming activities themselves, not whether the entity performing the activity is a landowner, permittee, or licensee). In other words, it is not relevant that the party that engaged in the use at issue was Fry’s Electronics – rather than Applicant.

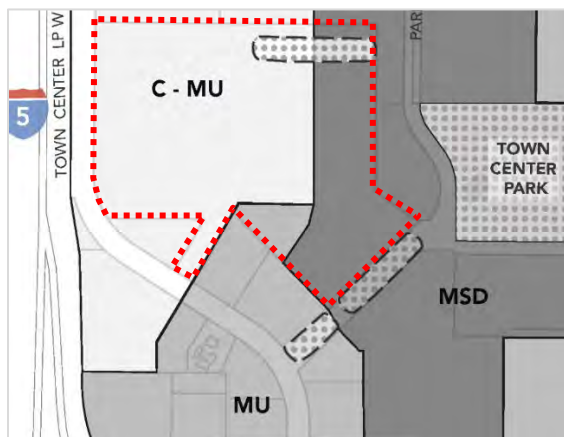
To summarize the legal standard articulated above, the Development Review Board should answer the following questions:

- A. Is the current use of the Location impermissible under a current land use ordinance?
- B. If the answer to the first question is “yes,” what was the actual use of the Location as of the date the ordinance became effective (i.e., June 5, 2019)?

2. Relevant Facts

- A. Is the current use of the Location impermissible under a current land use ordinance?

The Location is currently in the TC Zone, and more specifically, the following three (3) TC sub-districts, as shown in the map below: Commercial-Mixed Use (C-MU), Main Street District (MSD), and Mixed Use (MU).



The C-MU sub-district applies to roughly two-thirds of the Location. Permitted uses within this sub-district include retail sales and service of retail products, under a footprint of 30,000 square feet per use, office, personal and professional services, and single-user commercial or retail, such as a grocery store or retail establishment, that may exceed 30,000 square feet if located on more than one (1) story of a multi-story building, provided the footprint of the building does not exceed 30,000 square feet.

The existing structure at the Location has a footprint of 124,215 square feet in a single story with a partial mezzanine, which exceeds the footprint of 30,000 square feet per retail user and footprint limitation that is allowed in the TC Zone.



Applicant appears to concede that use of the Location is impermissible under the City's current Code provisions. *See* Exhibit B1, pages 4-5 and page 15 (referring to the use of the Location as non-conforming).

B. What was the actual use of the Location as of the date the ordinance became effective (i.e., June 5, 2019)?

As of June 5, 2019, the actual use of the Location was a Fry's Electronics store, an electronics retail store with a total interior square-footage of 159,400 square feet and a footprint of 124,215 square feet.

To the extent that the Development Review Board finds it is relevant to this review, the original approval for development of the subject property in 1991 (Case File Nos. 91PC43 and 91DR29) characterized the use as "a retail business with the anonymous name "Project Thunder" "a 159,400 square foot electronics-related retail store." *See* Exhibit B1, page 31.

3. Planning Director's Decision

The Planning Director's Decision addressed this question as follows (see page 3 of Exhibit A4):

"[T]he use is a legally established Non-Conforming Use in the TC zone."

**Non-Conforming Structure Inquiry:**

The Notice of Appeal does not challenge the Planning Director's Decision on this point. Accordingly, City staff believe that there is no disagreement between the Applicant and the City with respect to these point. City staff are providing a complete analysis for the Development Review Board because this is a *de novo* appeal.

1. Applicable Legal Standard

Appellant has the burden of establishing that a non-conforming structure exists by substantial evidence in the whole record. ORS 197.835(9)(a)(C); *see also* Subsection 4.014 of the Development Code (stating that the burden of proof is on the Appellant in an appeal). In other words, the Development Review Board must be sure that its decision – in favor of or against the Applicant's position – is supported by substantial evidence.

Subsection 4.001 (195.) defines a Non-Conforming Structure as "a legally established building or other structure that does not conform with the height, setback, area, lot coverage, or other standards for structures of the zone in which it is located." The definition further states that "a structure may be rendered non-conforming through a change in zoning requirements[.]" Subsection 4.190 (.01) further states that "[a] non-conforming structure that is in use may continue to be used." The balance of this code Subsection is irrelevant to the questions before the Development Review Board.

To summarize the legal standard articulated above, the Development Review Board should answer the following questions:

- A. Is the Location's structure impermissible under a current land use ordinance?
- B. If the answer to the first question is "yes," was the structure legally established and may it continue to be used?

2. Relevant Facts

- A. Is the Location's structure impermissible under a current land use ordinance?

The structure as it currently exists does not conform to many of the design and development standards in Subsection 4.132 (.06), such as building placement and frontage requirements, location of parking in relation to the building, building setbacks, height and number of stories, façade design, and architectural materials and treatments. A waiver to these standards for the existing structure has not been applied for, nor has a waiver been granted.

- B. Was the structure legally established and may it continue to be used?

The Planning Director has conceded that the structure was legally established and complied with the applicable ordinances and standards when it was approved in 1991, and therefore may continue to be used in its current state.

3. Planning Director's Decision

The Planning Director's Decision addressed this question as follows (see page 3 of Exhibit A4):

"[T]he structure is a legally established Non-Conforming Structure in the TC zone."

**Non-Conforming Site Condition Inquiry:**

The Notice of Appeal does not challenge the Planning Director's Decision on this point. Accordingly, City staff believe that there is no disagreement between the Applicant and the City with respect to these point. City staff are providing a complete analysis for the Development Review Board because this is a *de novo* appeal.

1. Applicable Legal Standard

Appellant has the burden of establishing that non-conforming site conditions exists by substantial evidence in the whole record. ORS 197.835(9)(a)(C); *see also* Subsection 4.014 of the Development Code (stating that the burden of proof is on the Appellant in an appeal). In other words, the Development Review Board must be sure that its decision – in favor of or against the Applicant's position – is supported by substantial evidence.

Non-Conforming Site Conditions are defined in Subsection 4.001 (194.) as "a legally established site that does not conform with the landscaping, parking or other site development standards of

the zone in which it is located.” The definition further states that “a site may be rendered non-conforming to development standards through a change in zoning requirements[.]” Subsection 4.191 (.01) further states that “[a] property with non-conforming site conditions that is in use may continue to be used.” The balance of this code Subsection is irrelevant to the questions before the Development Review Board.

To summarize the legal standard articulated above, the Development Review Board should answer the following questions:

- A. Are the Location’s site conditions impermissible under a current land use ordinance?
- B. If the answer to the first question is “yes,” were the site conditions legally established, and may the Location continue to be used?

## 2. Relevant Facts

- A. Are the Location’s site conditions impermissible under a current land use ordinance?

The existing site conditions do not comply with at least two City code sections:

- Subsection 4.132 (.04) A. requires that “all development [in the TC zone] will be consistent with the Street Network and Multi-modal Network”. Existing site conditions do not conform with this requirement as they do not include the proposed streets, a multi-use path, and bicycle facilities shown in the Network within or immediately adjacent to the subject property.
- Subsection 4.132 (.05) A. requires that “all development will be consistent with the Open Space Network, shown in Figure 4”. The existing site conditions do not include the proposed open spaces shown in the northeast corner and along the southeast boundary of the subject property and, therefore, are non-conforming with this requirement.

Other site improvement standards of the TC zone address such features as walkway connection to building entrances, parking location, landscape design, and plaza areas.

Existing site conditions do not comply with these applicable standards.

- B. Were the site conditions legally established, and may the Location continue to be used?

The Planning Director has conceded that the site conditions at the Location were legally established and complied with the applicable ordinances and standards when it was approved in 1991, and therefore the Location may continue to be used.

### 3. Planning Director's Decision

The Planning Director's Decision addressed this question as follows (see page 3 of Exhibit A4):

"[T]he existing site conditions are legally established Non-Conforming Site Conditions in the TC zone."

#### **Neighborhood and Public Comments:**

No public comments were received during the public comment period for the appeal.

#### **Conclusion:**

Staff recommends that the Development Review Board **affirm** the Planning Director Determination of Non-Conformance (ADMN23-0029) determining that:

1. There is a legally established non-conforming use at the Location; specifically, that the protected use is "a 159,400 square-foot electronics-related retail store."
2. There is a legally established non-conforming structure at the Location.
3. There are legally established non-conforming site conditions at the Location.

## Master Exhibit List:

Entry of the following exhibits into the public record by the Development Review Board confirms its consideration of the application as submitted. The list below includes exhibits for Planning Case File No. DB24-0002 and reflects the electronic record posted on the City's website and retained as part of the City's permanent electronic record. Any inconsistencies between printed or other electronic versions of the same exhibits are inadvertent and the version on the City's website and retained as part of the City's permanent electronic record shall be controlling for all purposes.

### Planning Staff Materials

- A1. Staff report and Findings (this document)
- A2. Staff's Presentation Slides for Public Hearing (to be presented at Public Hearing)
- A3. Staff Email Correspondence with Applicant regarding ADMN23-0029, Dated November 28, 2023
- A4. ADMN23-0029 Class 1 Planning Director Determination of Non-Conformance, Issued December 28, 2023

### Materials from Applicant

- B1. **Applicant's Materials** – *Available Under Separate Cover*  
Signed Application Form  
Applicant's Notice of Appeal
- B2. *Applicant's First Open Record Submittal Dated March 4, 2024*
- B3. *Applicant's Final Arguments Dated March 11, 2024*

### Public Comments

- C1. *Homebuilding Association of Greater Portland Comment Dated February 26, 2024*

## Findings:

NOTE: Pursuant to Section 4.014 the burden of proving that the necessary findings of fact can be made for approval of any land use or development application rests with the applicant in the case.

### General Information

#### Application Procedures - In General

Section 4.008

The application is being processed in accordance with the applicable general procedures of this Section.

#### Initiating Application

Section 4.009

The application for Class 1 Review (ADMN23-0029) has the signatures of David Fry of Lumberjack LP, owner, and Dan Zoldak of Lars Andersen & Associates, Inc., applicant and authorized representative.

#### Pre-Application Conference

Subsection 4.010 (.02)

A pre-application conference (PA22-0004) for the subject property was held on March 24, 2022.

#### Lien Payment before Approval

Subsection 4.011 (.02) B.

No applicable liens exist for the subject property. The application can thus move forward.

#### General Submission Requirements

Subsections 4.035 (.04) A. and 4.035 (.05)

The applicant has provided all of the applicable general submission requirements contained in this subsection. The following documents/testimony within Exhibit B1 are hereby deemed rejected and are excluded from the record as being beyond the scope of this Class I Review and/or not relevant to the Class I Review:

- Page 6 of 184: 3rd Paragraph – entire paragraph (parking calculations are irrelevant)
- Pages 18-19 of 184: Photographs (not Wilsonville, irrelevant)
- Page 19 of 184: 2nd Paragraph – 1st, 2nd, and 3rd sentences (continuing on page 20) (relates to Class II)
- Page 20 of 184: 1st Full paragraph – entire paragraph (relates to Class II)
- Page 20 of 184: Response to WDC 4.189.02 Change of Use – 2nd sentence (relates to Class II)
- Page 21 of 184: Response to WDC 4.190.05 Non-Conforming Structures – entire paragraph (relates to Class II)

- Page 184 of 184: Proposed site plan for Home Depot – entire page (irrelevant, relates to Class II)

**Zoning - Generally**

Section 4.110

The subject property is located in the Town Center (TC) zone, in three (3) TC sub-districts: Commercial-Mixed Use (C-MU), Main Street District (MSD), and Mixed Use (MU). There are two (2) proposed open space areas within or adjacent to the property. Applicable zoning district and general development regulations, as appropriate, have been applied in accordance with this Section, as discussed in more detail in the Findings in this staff report.

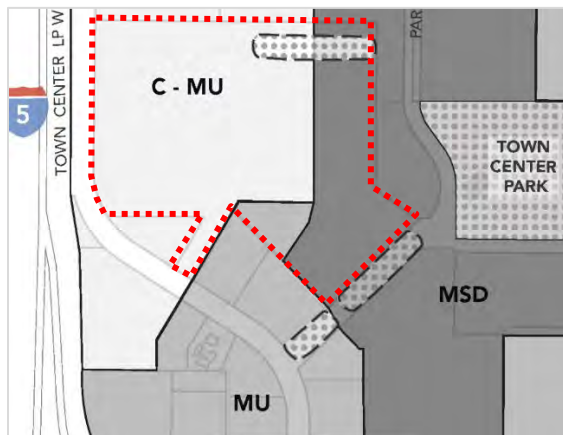
**Request: ADMN23-0029 Class 1 Review Request**

**Town Center (TC) Zone**

**Purpose of Town Center Zone**

Subsection 4.132 (.01)

- A1.** The TC Zone in which the subject property is located is divided into four sub-districts that contain recommendations for building form and use to achieve the vision set forth in the Town Center Plan. The subject property is located in three (3) TC sub-districts, as shown in the map below: Commercial-Mixed Use (C-MU), Main Street District (MSD), and Mixed Use (MU). There are two (2) proposed open space areas within or adjacent to the property. All adjacent property is also zoned TC.



**Allowed Uses in TC Zone**

Subsection 4.132 (.02) F.

- A2.** With regard to use, per Subsection 4.132 (.02) F., “retail sales and service of retail products, under a footprint of 30,000 square feet per use” is an outright allowed use in the TC zone. Although the existing use on the subject property is a retail store and, thus, consistent with allowed use in the TC zone, its footprint of 124,215 square feet exceeds the 30,000 square feet per use limitation of the TC zone.

Permitted and Prohibited Uses in Specific Sub-districts in TC Zone  
Subsection 4.132 (.03) A. 1.

- A3.** Per Subsection 4.132 (.03) A. 1., single-user commercial or retail (e.g. grocery store or retail establishment) that exceeds 30,000 square feet if located on more than one story of a multi-story building is an additional permitted use allowed in the C-MU sub-district. The current use on the subject property does not meet this additional permitted use standard due to its large format footprint of 124,215 square feet square feet in a single story, exceeding the maximum footprint of 30,000 square feet.

Consistency with Street Network and Multi-modal Network  
Subsection 4.132 (.04) A.

- A4.** With regard to site conditions, per Subsection 4.132 (.04) A., “all development [in the TC zone] will be consistent with the Street Network and Multi-modal Network”. The purpose of the network plans (Figures 2 and 3) is to support creation of a highly connected and walkable Town Center where there are options for travel. Several proposed streets, a multi-use path, and bicycle facilities are shown within or immediately adjacent to the subject property. Site conditions as they currently exist on the subject property do not comply with these applicable standards.

Consistency with Open Space Network  
Subsection 4.132 (.05) A.

- A5.** Per Subsection 4.132 (.05) A., “all development [in the TC zone] will be consistent with the Open Space Network, shown in Figure 4”. Proposed open spaces are shown in the northeast corner and along the southeast boundary of the subject property; however, these are not included in the existing development. Therefore, existing site conditions do not comply with these applicable standards

Consistency with Design and Development Standards of TC Zone  
Subsection 4.132 (.06)

- A6.** With regard to structures and site design, per Subsection 4.132 (.06), all developments must follow the design and development standards unless a waiver is granted by the Development Review Board per Subsection 4.132 (.06) D. The existing building, as it currently exists on the subject property, does not conform to many of the design and development standards in Subsection 4.132 (.06), such as building placement and frontage requirements, building setbacks, height and number of stories, façade design, and architectural materials and treatments. A waiver to these standards for the existing structure has not been applied for, nor has a waiver been granted. Therefore, the existing structure does not comply with these applicable standards.



## Other Development Standards

### Non-Conforming Uses

Subsection 4.001 (196.) and 4.189

- A7. A Non-Conforming Use is defined as “a legally established use, which was established prior to the adoption of the zoning use requirements for the site with which it does not conform” (Subsection 4.001 (196.)). As noted elsewhere in this report, the existing use at the Location has a footprint of 124,215 square feet in a single story with a partial mezzanine, which exceeds the footprint of 30,000 square feet per retail user and footprint limitation that is allowed in the TC Zone. The use is a legally established Non-Conforming Use in the TC zone.

### Non-Conforming Structures

Subsection 4.001 (195.) and Section 4.190

- A8. Subsection 4.001 (195.) defines a Non-Conforming Structure as “a legally established building or other structure that does not conform with the height, setback, area, lot coverage, or other standards for structures of the zone in which it is located”. The definition further states that “a structure may be rendered non-conforming through a change in zoning requirements or through the acquisition of some portion of the property by a public agency.” As noted elsewhere in this report, the structure as it currently exists does not conform to many of the design and development standards in Subsection 4.132 (.06), such as building placement and frontage requirements, location of parking in relation to the building, building setbacks, height and number of stories, façade design, and architectural materials and treatments. The structure is a legally established Non-Conforming Structure in the TC zone.

### Non-Conforming Site Conditions

Subsection 4.001 (194.) and Section 4.191

- A9. Non-Conforming Site Conditions are defined in Subsection 4.001 (194.) as “a legally established site that does not conform with the landscaping, parking or other site development standards of the zone in which it is located”. The definition further states that “a site may be rendered non-conforming to development standards through a change in zoning requirements or through the acquisition of some portion of the property by a public agency.” As noted elsewhere in this report, existing site conditions do not conform TC zone requirements including planned streets, a multi-use path, bicycle facilities, open spaces, parking location, landscape design, and plaza areas. The existing site conditions are legally established Non-Conforming Site Conditions in the TC zone.

VIA E-MAIL

BEFORE THE WILSONVILLE CITY COUNCIL

An APPEAL of the Development Review Board's Decision and Resolution No. 429 Affirming and modifying the Planning Director Determination in Case File ADMN23-0029 and denying the Appeal in Case File DB24-0002.

APPLICANT'S NOTICE OF APPEAL

This is a notice of appeal to the Wilsonville City Council ("**City Council**") for Development Review Board ("**DRB**") Decision and Resolution No. 429 (the "**Decision**") affirming – but also modifying – Planning Director Determination ADMN23-0029 and denying the Applicant's Appeal of ADMN23-0029 at 29400 SW Town Center Loop West (the "**subject property**"). *See attached*, Case File Nos. DB24-0002/APPL24-0001 ("**Exhibit A**"). This Appeal is timely submitted, in writing, prior to the March 29, 2024 deadline. *See* Wilsonville Development Code ("**WDC**") 4.022.09.

**1. STANDING AND PROCEDURAL BACKGROUND**

Kenneth Katzaroff and Keenan Ordon-Bakalian are legal counsel for the Applicant, and as such, are the Applicant's authorized agents. As the project proponent, the Applicant prepared and filed the Class I application upon which the Planning Director's Determination was issued. *See attached, Exhibit B.*<sup>1</sup> On January 10, 2024, the Applicant timely appealed the Planning Director's Determination. Exhibit A, at 3. On February 26, 2024, DRB Panel B held a public hearing to consider the Applicant's appeal of the Planning Director's Decision. *Id.*, at 3-4. On March 14, 2024, the DRB deliberated to the Decision that is subject to this Appeal. Exhibit A. The City of Wilsonville (the "**City**") issued its Notice of Decision on March 15, 2024. *Id.*

As the applicant for the Class I application upon which the Decision is based on – and the appellant for DB24-0002/APPL24-0001 – the Applicant has standing to file this appeal.

**2. FILING REQUIREMENTS**

**A. Name and Address of Appellant.**

Lars Andersen & Associates, Inc.  
c/o Kenneth Katzaroff & Keenan Ordon-Bakalian  
1211 SW 5th Ave., Suite 1900  
Portland, OR 97204  
[KKatzaroff@SCHWABE.com](mailto:KKatzaroff@SCHWABE.com)  
[Kordon-bakalian@schwabe.com](mailto:Kordon-bakalian@schwabe.com)

<sup>1</sup> The Planning Director Determination for ADMN23-0029.

## **B. Reference to the Subject Development and Case Number.**

The decision being appealed is DRB Decision and Resolution No. 429 finding that “there is a legally established non-conforming use at the Location; specifically, that the protected use is ‘a 159,400 square-foot electronics-related retail store.’” Exhibit A, at 4. The Decision also modifies the Planning Director’s Determination that “Fry’s Electronics, on the subject property at 29400 SW Town Center Loop West, is a legally established Non-Conforming Use.” Exhibit B, at 3. In short, the Decision has replaced the Planning Director’s finding that the lawfully established non-conforming use is a “Fry’s Electronics” with the finding that the lawfully established non-conforming use is “a 159,400 square-foot electronics-related retail store.” Exhibit A, at 4 (emphasis added). Both the Decision and the Planning Director’s Determination are in error, as they are unsupported by the City’s past decisions or applicable law.

Moreover, the Applicant also specifically challenges several actions taken by the DRB during the March 14, 2024 deliberation where the Decision was adopted:

1. The DRB’s motion to reject and exclude from the record portions of the documents and testimony that the Applicant has submitted and offered in support of both the Class I application, as well as the Applicant’s appeal of the Planning Director’s Determination (APPL24-0001); and
2. The DRB’s motion to adopt the Staff Report for APPL24-0001 as part of the Decision.

## **C. Statement of the Basis for Appeal.**

The Applicant hereby files this appeal to challenge the Decision’s ultimate finding that the legally established non-conforming use at the subject property is “a 159,400 square-foot electronics-related retail store” (Exhibit A, at 4), as well as the aforementioned motions made by the DRB during the March 14 deliberation to reject and exclude from the record portions of the Applicant’s submittals and testimony, as well as the DRB’s adoption of the Staff Report for APPL24-0001. *See supra*, Section 2(B). The Applicant objects to the DRB’s efforts to reject and exclude any of the Applicant’s evidence and testimony from the record for APPL24-0001 and hereby re-incorporates by reference all evidence and argument made within the Applicant’s Class I Application Packet, March 4, 2024 Open Record Submittal and the Applicant’s Final Legal Argument, submitted March 11, 2024. **Exhibit C.**

### **i. Background.**

The Applicant intends to operate a Home Depot within the existing structure at the subject property. To this end, the Applicant sought a Class I director’s determination that the commercial retail use that was established as a result of the 1991 development approval (Case File Nos. 91PC43 and 91DR29, hereinafter the “**1991 Decision**” and attached hereto as **Exhibit D**) remained a lawfully established non-conforming use at the subject property. Upon receipt of the Applicant’s Class I application, the City attempted to bifurcate Applicant’s request to

confirm the legality of a non-conforming use at the subject property from Applicant's request for a determination to establish the scope of use at the property. Exhibit B, Enclosure.<sup>2</sup>

The City required the Applicant to submit two applications – a Class I application to confirm the legality of the non-conforming use, and a Class II application to establish the *actual* nature and scope of use at the subject property. The Applicant's Class II application was submitted to the City on December 15, 2023. On March 19, 2024, the Applicant's Class II request was referred to the DRB for a public hearing rather than a decision being rendered by the Planning Director. *See* AR23-0031; DB24-0003.

Although the Applicant's Class II application remains under review, it is the Applicant's belief – based on the findings contained within the City's Decision for the Class I application – that the City has prejudged Applicant's Class II application for a use determination. Specifically, within the Decision subject to this appeal, the DRB determined that the lawfully established non-conforming use at the subject property is “a 159,400 square-foot electronics-related retail store.” Exhibit A, at 4. The Planning Director similarly found that the lawfully established non-conforming use at the subject property is a “Fry's Electronics.” Exhibit B, at 3. Therefore, the City has already determined the nature and scope of the non-conforming use at the subject property – something the City initially said it could only do within the Class II application. Exhibit B, Enclosure.

**ii. The Decision erred in finding that the lawfully established non-conforming use at the subject property is “a 159,400 square-foot electronics-related retail store.”**

The lawfully established non-conforming use at the subject property is neither a “Fry's Electronics” nor “a 159,400 square-foot electronics-related retail store” as the Decision found. Instead, the lawfully established non-conforming use at the subject property is a *commercial retail use*. The 1991 Decision is the controlling authority for determining the nature and extent of the non-conforming commercial retail use at the property because the 1991 Decision lawfully established the non-conforming use in the first instance. “The purpose of a local government proceeding to determine the existence of a nonconforming use is to determine what use existed on the date restrictive regulations were applied.” *Nehoda v. Coos Cnty.*, 29 Or LUBA 251, 1995 WL 1773153, at \*5 (1995). A non-conforming use is understood to be “one that is contrary to a land use ordinance but that nonetheless is allowed to continue because the use lawfully existed

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<sup>2</sup> “You also state, however, that The Home Depot, Inc., intends to operate a store within the existing structure that was previously occupied by Fry's and, therefore, seeks confirmation from the City that a warehouse retail store can continue operating at the property. You go on to assert that the two stores are interchangeable with respect to use as warehouse retailers and indicate that you are requesting confirmation from the City that this is, indeed, the case. This second request is for written interpretation of the Development Code and requires Class 2 review per Section 4.030 (.01) B. 3.. As such, this determination will not be part of the Class 1 review or decision.” Exhibit B, Enclosure, at 1.

prior to the enactment of the ordinance.” *Morgan v. Jackson Cnty.*, 290 Or App 111, 114 (2018) (citing *Rogue Advocates v. Board of Comm. Of Jackson Cnty.*, 277 Or App 651, 654 (2016), *rev. dismissed*, 362 Or 269, 407 (2017)); see WDC 4.001.196 (defining a non-conforming use as “a legally established use, which was established prior to the adoption of the zoning use requirements for the site with which it does not conform”).

The commercial retail use at subject property is a lawfully established non-conforming use pursuant to WDC 4.001.196 and *Morgan v. Jackson Cnty.*, 290 Or App 111 (2018). As explained in the Applicant’s Class I application materials and throughout the appeal proceeding before the DRB, the City approved a commercial retail use at the subject property on December 9, 1991 with the adoption of Planning Commission Resolution No. 91PC43 (the 1991 Decision). Exhibit D, at 3.<sup>3</sup> Specifically, the 1991 Decision approved a 159,400 retail commercial building and associated commercial retail activities on the 14.75 acre subject property. Exhibit D, at 9. At the time, the subject property’s Planned Development Commercial (“PDC”) zoning allowed commercial retail uses of the nature and extent that was approved by the 1991 Decision. Exhibit D, at 9.

The commercial retail use approved by the 1991 Decision was rendered non-conforming on June 5, 2019, when the City adopted its Town Center Plan and rezoned the property Town Center (“TC”). This is because the property’s present TC zoning prohibits commercial retail uses that exceed 30,000 square feet, unless the commercial retail use is located on more than one story of a multi-story building, and the 1991 Decision approved a 159,400 retail commercial building. WDC 4.132.03(A)(1); Exhibit D, at 9. Although the City’s application of the TC zone to the property rendered the ongoing commercial retail use non-conforming, the commercial retail use approved in the 1991 Decision is allowed to continue pursuant to WDC 4.001.196 and *Morgan v. Jackson Cnty.*, 290 Or App 111 (2018).

The DRB’s determination that the non-conforming use allowed to continue at the subject property is “a 159,400 square-foot electronics-related retail store” is contrary to the express language of the 1991 Decision, which is the controlling substantial evidence for the City’s non-conforming use analysis. Furthermore, the Applicant has reviewed the zoning code in place at the time of the 1991 Decision, and nothing within the zoning code further classified uses or limited commercial retail uses to specific subsets, such as an electronic store or commercial hardware store. The Applicant is also not aware of any state law that makes such a distinction; nor has the City pointed to any state law or code provision applicable at the time. Finally, the both the Planning Director and DRB have abjectly failed to so much as even *address* the 1991 Decision as it relates to the lawfully established commercial retail nonconforming use at the subject property.

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<sup>3</sup> The Planning Commission’s adopting resolution includes findings of fact and conditions of approval, and incorporates all application materials, staff reports, and associated planning exhibits.

As such, the Decision must be reversed or modified to reject the limitation of the use approved by the 1991 Decision to “a 159,400 square-foot electronics-related retail store.” *See* Exhibit A, at 4.

**iii. The Decision effects a taking on the Applicant.**

As explained in the Applicant’s submittals before the DRB and within the record for this Appeal, both the Planning Director’s Determination and the Decision effect a compensable regulatory “taking” under Article I, section 18, of the Oregon Constitution, and the Fifth and Fourteenth Amendments to the United States Constitution. The Decision’s overly-restrictive “use” determination is unsupported by the City’s own code and Oregon law. If left to stand, the Decision will deny the Applicant (or any other party) any economic use of the lawfully established non-conforming use at the property.

The City Council must reverse or modify the Decision’s finding that the lawfully established non-conforming use at the subject property is “a 159,400 square-foot electronics-related retail store.”

**iv. The DRB’s rejection and exclusion of portions of the Applicant’s written and oral testimony from the record was improper and violates ORS 197.797(9).**

The Applicant also appeals the DRB’s attempt to exclude from the record certain documents and testimony submitted by the Applicant as part of its Class I application. *See* Exhibit A, at 17 (Staff Report for APPL24-0001, Exhibit A1, at 13); *see also*, Development Review Board Panel B – Special Meeting Verbatim Minutes Excerpt (**Exhibit E**).

At the March 14, 2024 deliberation for APPL24-0001, DRB Board Member Alice Galloway made the following motion, which was adopted by the DRB:

“Madam Chair, I would like to make the following additional finding. The following evidence submitted is not relevant to the DRB appeal of ADMN23-0029:

Any oral testimony or written material regarding the 1991 Planning Department approvals, including Slides Nos. 3 and 5 of Applicant’s PowerPoint presentation, because this information is not relevant to a determination of the actual use of the subject property at the time the more restrictive land use regulation was enacted in July 2019.

B. Any oral testimony or written material regarding “The Home Depot” or any potential future user or continuation of use or a change of use for the subject property because this information is not relevant to a determination of the actual use of the subject property at the time the more restrictive land use regulation was enacted in July 2019.

I move to reject from the record the following evidence, anywhere in the record it appears:

1. Oral testimony or written evidence that refers to “The Home Depot” or any potential future user or continuation of use or a change of use for the subject property, including the image of Home Depot on Slide No. 1 of Applicant’s PowerPoint presentation and Slide Nos. 9 through 17 of the Applicant’s PowerPoint presentation and including the materials attached as Exhibits A and B to Applicant’s written materials submitted on March 4th, 2024.
2. The documents and the testimony submitted by the Applicant that pertain to the Class 2 application under review as outlined in Pages 13 and 14 of the Staff report, anywhere in the record that they appear.
3. Any material from the 1991 Planning Department approvals related to calculation of parking requirements, including Slide No. 4 of the Applicant’s PowerPoint presentation.”

Exhibit E, at 2.

Critically, Board Member Galloway’s motion *is not contained in the written decision for APPL24-0001*. Therefore, the Applicant does not believe that the DRB actually rejected any of the Applicant’s argument and evidence aside from those documents and testimony explicitly listed on Pages 13 and 14 of the Staff Report that was incorporated within the Decision. *See* Exhibit A, at 17-18.

Regardless, the documents and testimony submitted by the Applicant as part of its application are within the record before the DRB on appeal. The documents and testimony that the DRB moved to exclude constitute “argument” and “evidence” as defined in ORS 197.797(9):

- (a) “Argument” means assertions and analysis regarding the satisfaction or violation of legal standards or policy believed relevant by the proponent to a decision. “Argument” does not include facts.
- (b) “Evidence” means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision. [Formerly 197.763]

The DRB cannot exclude certain documents and testimony within the Applicant’s Class I application because the documents and testimony that the DRB excluded are “argument” and “evidence” that the Applicant believed – and continues to believe – to be relevant to the satisfaction of the applicable approval criteria for the subject application, as well as the Applicant’s appeals of both the Planning Director Determination and the Decision currently on appeal. ORS 197.797(9). In addition, the City’s attempt to omit certain documents and testimony that were submitted by the Applicant as part of its Class I application runs afoul ORS 197.797(4)(a)’s requirement that “[a]documents or evidence relied upon by the applicant shall be submitted to the local government and be made available to the public.” ORS 197.797 prohibits

the DRB from excluding portions of the Applicant's Class I application materials from the record. Therefore, the Applicant reincorporates all argument and evidence submitted in support of its Class I application. *See attached*, Exhibit C.

Furthermore, the Applicant must respectfully object to the DRB's premature motion to exclude certain documents and testimony from the record that were offered by the Appellant during the February 26, 2024 public hearing. The Applicant takes the position that all of the argument and evidence that the Applicant offered during the February 26 hearing was relevant to the DRB's decision on the appeal, and must be held within the record pursuant to ORS 197.797(9).

### **3. REQUESTED RELIEF**

The Applicant requests that the City Council impose the relief requested by the Applicant in the above argument. Specifically, the Applicant respectfully requests that the City Council find that the lawfully established non-conforming use at the subject property is the use approved in the 1991 Decision, a 159,400 square foot ("SF") retail, office, warehouse, manufacturing, and service store (a commercial retail use); not a 159,400 square-foot electronics-related retail store and to not provide additional restriction as to the type of commercial retail because no such limitation existed in the 1991 zoning code or the 1991 Decision itself.

The Applicant reserves the right to submit additional written testimony prior to the public hearing date that will be set for this Appeal, as well as within any open record period.





**LARS ANDERSEN & ASSOCIATES, INC.**

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**SCOTT A. MOMMER, PE, QSD**  
PRESIDENT

**DANIEL J. ZOLDAK, PE, PLS**  
CASp, LEED AP, QSD/P  
VICE PRESIDENT

March 4, 2024

Development Review Board Panel B

City of Wilsonville

c/o Cindy Luxhoj, Associate Planner

luxhoj@ci.wilsonville.or.us

29799 Town Center Loop E

Wilsonville, OR 97070

Re: Home Depot, Wilsonville, OR – ADMN23-0029 (DB24-0002/APPL24-0001)

The purpose of this letter is to provide an overview of the reduced scale of development impacts that will be associated with Home Depot's proposed operations at 29400 Town Center Loop W. Wilsonville, OR 97070 (the "subject property").

Consistent with Planning Commission Resolution No. 91PC43 (the "1991 Decision"), Home Depot intends to operate at the subject property. Operations will include reoccupying the existing commercial retail building on the property. The structure currently has an existing 166,494 SF associated with it. Of this existing square footage, Home Depot intends to demolish portions of the existing mezzanine which will result in a reduced commercial square foot for a total proposed square footage of 129,069 square foot.

Home Depot operates stores across the United States, and typical operations require approximately 400 parking stalls. There are currently 838 parking stalls at the subject property. In the future, should other development be interested in developing on the property, Home Depot will be able to reduce the current count by over 400 stalls allowing for this future development while still retaining sufficient parking capacity for Home Depot operations.

Finally, as detailed in the Transportation Northwest ("TENW") Trip Generation Memorandum that is submitted under separate cover, Home Depot's operations at the subject property will result in a reduction of average daily trips to and from the property, as well as a potential reduction in peak hour trips.

Should you have any questions or comments, please feel free to contact me at (559) 276-2790 Ext. 117

Sincerely,  
LARS ANDERSEN & ASSOCIATES, INC.

Daniel J. Zoldak PE, PLS, CASp, LEED AP, QSD/P  
Vice President

## MEMORANDUM

**DATE:** March 4, 2024

**TO:** City of Wilsonville

**FROM:** Amy Wasserman / Chris Forster, P.E.  
TENW

**SUBJECT:** Trip Generation Memorandum  
Home Depot Wilsonville  
TENW Project No. 2023-264

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This memorandum summarizes the preliminary traffic information for the proposed Home Depot Wilsonville project located at 29400 Town Center Loop West in Wilsonville, Oregon. This memo includes a project description and project trip generation estimate. Upon your review of this information, we would like to confirm if any additional traffic analysis is required for this project.

### Project Description

The proposed Home Depot Wilsonville project is located at 29400 Town Center Loop West in Wilsonville, Oregon as illustrated in the **Attachment A** site vicinity map. The proposed project would consist of up to 129,100 square feet (SF) of building area for a home improvement superstore. The Home Depot will replace an existing building consisting of 166,495 SF that was previously occupied by an electronics superstore (Fry's). Buildout and occupancy of the Home Depot project is expected in 2025.

Vehicular access to the site is proposed to remain the same as existing with one (1) full access driveway on Park Place, and three (3) access driveways on Town Center Loop West; two (2) of which are full access and one of which is right-in right-out only. A preliminary site plan is shown in **Attachment B**.

### Trip Generation

Trip generation estimates for the proposed project were based on methodology documented in the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, 11<sup>th</sup> Edition for Code 862 (Home Improvement Superstore) and Code 863 (Electronic Superstore). Adjustments to the trip generation estimates were made to account for pass-by trips.

Pass-by trips are trips that are made by vehicles that are already on the adjacent streets and make intermediate stops at commercial uses on route to a primary destination (i.e., on the way from work to home). Pass-by trips were based on studies included in the appendices of the ITE *Trip Generation Manual*, 11<sup>th</sup> Edition, 2021.

The resulting net new weekday daily, AM peak hour, and PM peak hour trip generation for the proposed Home Depot project is summarized in **Table 1**. The detailed trip generation estimates are included in **Attachment C**.

**Table 1**  
**Project Trip Generation Summary**

Weekday Time Period	Net New Trips Generated		
	In	Out	Total
Daily	-900	-800	-1,799
AM Peak Hour	22	34	56
PM Peak Hour	-129	-124	-253

## Next Steps

Upon your review of this information, we would like to confirm if any additional traffic analysis is required for this project.

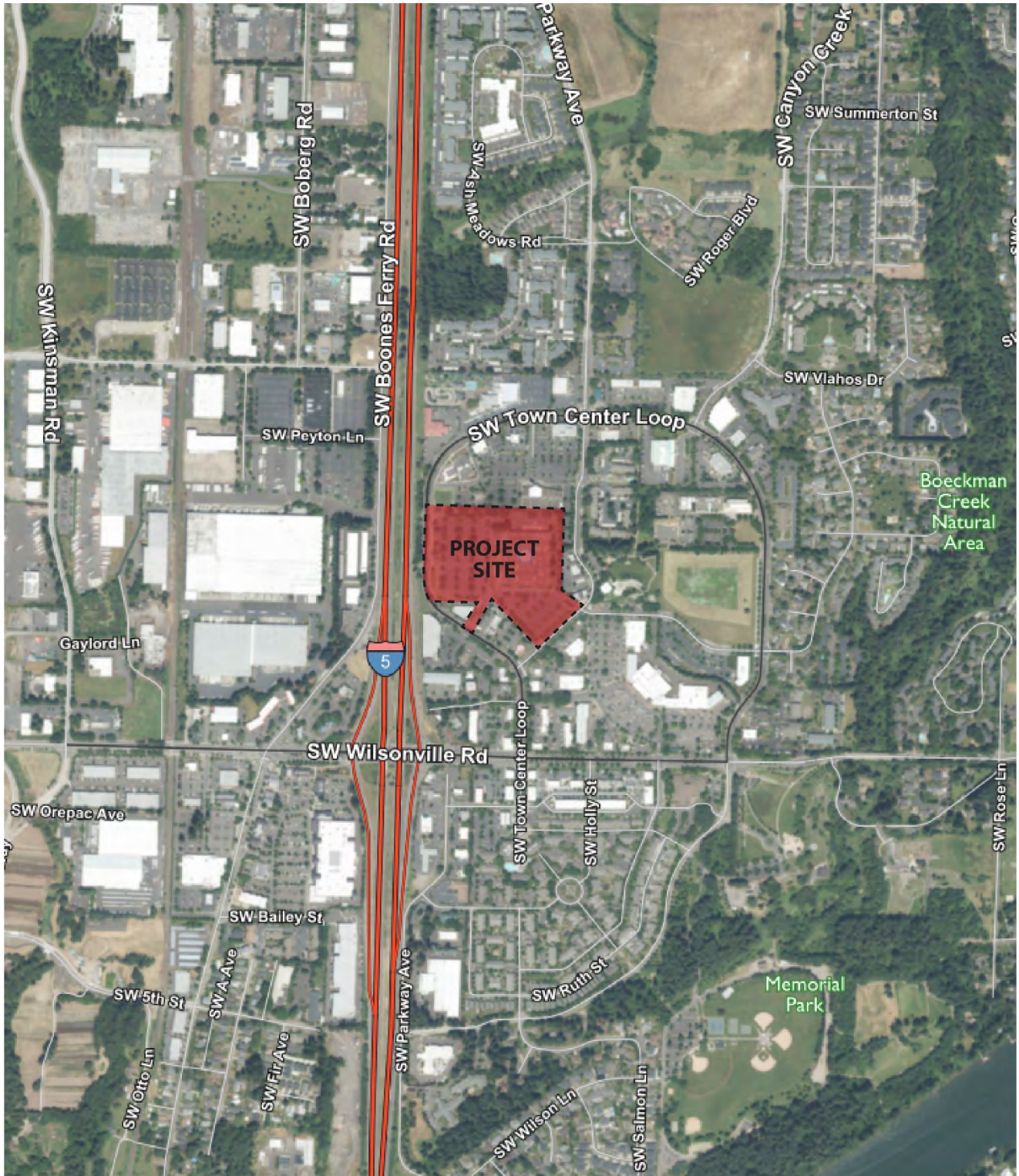
If you have any questions regarding the information presented in this memo, please contact me at (425) 466-7072 or [amy@tenw.com](mailto:amy@tenw.com).

cc: Dan Zoldak, Lars Andersen & Associates

Attachments: A. Project Site Vicinity  
B. Preliminary Site Plan  
C. Trip Generation Calculations

## ATTACHMENT A

### Project Site Vicinity

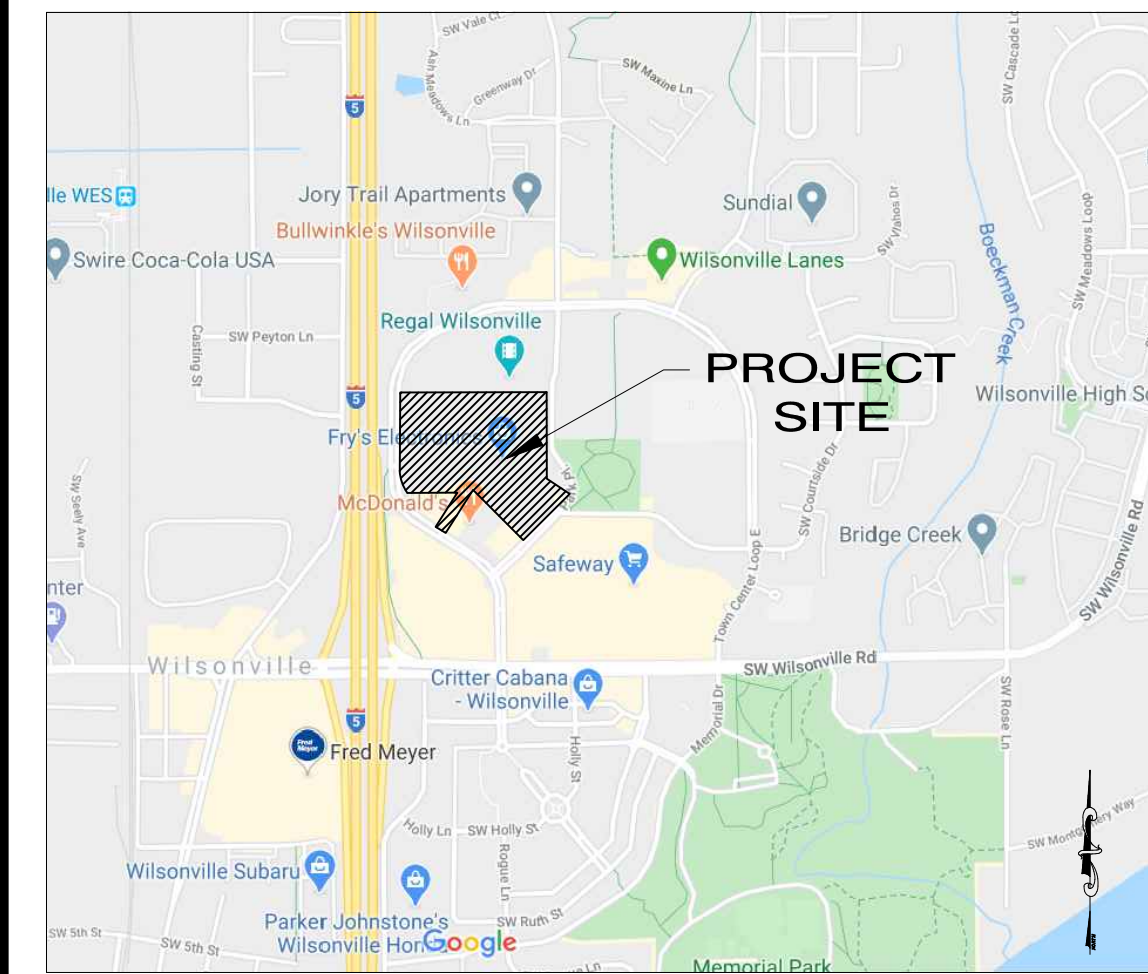


**Attachment A:** Project Site Vicinity



## ATTACHMENT B

### Site Plan



LOCATION MAP (NTS)

SITE AREA		
THE HOME DEPOT PARCEL	15.01 AC	653,836 SF

BUILDING AREA		
THE HOME DEPOT		125,176 SF
MEZZANINE		3,893 SF
SUBTOTAL		129,069 SF
TOTAL BUILDING AREA		129,069 SF

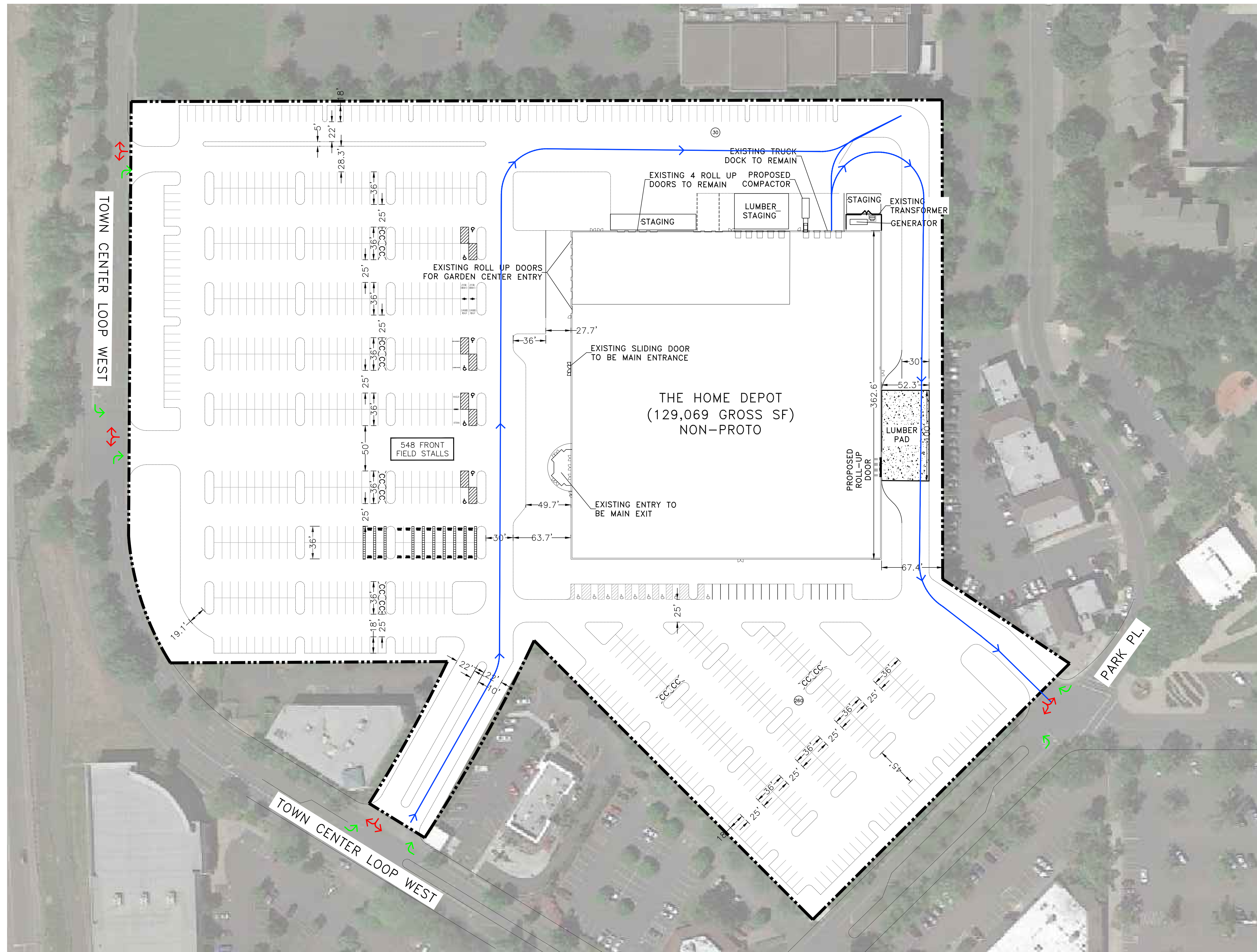
PARKING REQUIRED		
THE HOME DEPOT	4.1 / 1,000 SF	529 STALLS
TOTAL PARKING REQUIRED		529 STALLS

PARKING PROVIDED		
FRONT FIELD		548 STALLS
SIDE FIELD / REAR		290 STALLS
TOTAL PARKING PROVIDED		838 STALLS

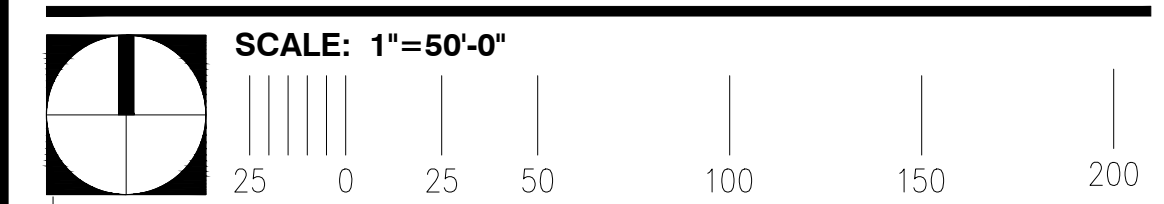
INCLUDED IN PARKING PROVIDED		
ACCESSIBLE STALLS (17 REQ. @ 2%)		17 STALLS

NOT INCLUDED IN PARKING PROVIDED		
CART CORRALS		12 STALLS
ACCESSORY PARKING NOT INCLUDED		12 STALLS
TOTAL THD PARKING PROVIDED		838 STALLS

ZONING CLASSIFICATION		
JURISDICTION		CITY OF WILSONVILLE
ZONING CLASSIFICATION		PLANNED DEVELOPMENT
		COMMERCIAL TOWN CENTER (PDC-TC)
THD USE PERMITTED BY RIGHT		YES



NOTES  
 1. PLAN BOUNDARY IS BASED OFF AVAILABLE APN MAPS; AN ALTA SHOULD BE COMPLETED FOR ACCURACY.



**OR - SITE PLAN 10**

**THE HOME DEPOT**  
**THE HOME DEPOT WILSONVILLE, OR**  
 29400 TOWN CENTER LOOP W  
 WILSONVILLE, OR 97070

DRAWING ISSUE DATE 03.04.2024  
 HD SITE SELECTION NUMBER SS-02804.2001

## ATTACHMENT C

### Trip Generation Calculations



**Home Depot Wilsonville  
Weekday Daily Trip Generation Summary**

	Units <sup>1</sup>	ITE LUC <sup>2</sup>	Directional Distribution <sup>2</sup>		Trip Rate or Equation <sup>2</sup>	Trips Generated		
			In	Out		In	Out	Total
<b>WEEKDAY DAILY</b>								
<b><u>Proposed:</u></b>								
Home Improvement Superstore	129,100 SF	862	50%	50%	30.74	1,985	1,984	3,969
<i>Passby Trips</i> <sup>3</sup>	42%					-834	-833	-1,667
					Subtotal (less passby) =	1,151	1,151	2,302
<b><u>Less Existing:</u></b>								
Electronics Superstore	166,495 SF	863	50%	50%	41.05	3,418	3,417	6,835
<i>Passby Trips</i> <sup>3</sup>	40%					-1,367	-1,367	-2,734
					Subtotal (less passby) =	2,051	2,050	4,101
<b>Net New Daily Trips =</b>						<b>-900</b>	<b>-899</b>	<b>-1,799</b>

Notes:

<sup>1</sup> SF = Square Feet.

<sup>2</sup> Institute of Transportation Engineers, Trip Generation Manual, 11th Edition.

<sup>3</sup> Passby percent based on Institute of Transportation Engineers, Trip Generation Manual, 11th Edition. The pass-by rate was assumed to be equal to the PM peak hour rate for LUC 862 and 863.

**Home Depot Wilsonville  
Weekday AM Peak Hour Trip Generation Summary**

	Units <sup>1</sup>	ITE LUC <sup>2</sup>	Directional Distribution <sup>2</sup>		Trip Rate or Equation <sup>2</sup>	Trips Generated		
			In	Out		In	Out	Total
<b>WEEKDAY AM PEAK HOUR</b>								
<b><u>Proposed:</u></b>								
Home Improvement Superstore	129,100 SF	862	57%	43%	1.51	111	84	195
<i>Passby Trips</i> <sup>3</sup>	42%					-47	-35	-82
					Subtotal (less passby) =	64	49	113
<b><u>Less Existing:</u></b>								
Electronics Superstore	166,495 SF	863	73%	27%	0.34	42	15	57
<i>Passby Trips</i> <sup>3</sup>	0%					0	0	0
					Subtotal (less passby) =	42	15	57
<b>Net New AM Peak Hour Trips =</b>						<b>22</b>	<b>34</b>	<b>56</b>

Notes:

<sup>1</sup> SF = Square Feet.

<sup>2</sup> Institute of Transportation Engineers, Trip Generation Manual, 11th Edition.

<sup>3</sup> Passby percent based on Institute of Transportation Engineers, Trip Generation Manual, 11th Edition. The pass-by rate was assumed to be equal to the PM peak hour rate for LUC 862 and was assumed to be 0% for LUC 863.

**Home Depot Wilsonville  
Weekday PM Peak Hour Trip Generation Summary**

	Units <sup>1</sup>	ITE LUC <sup>2</sup>	Directional Distribution <sup>2</sup>		Trip Rate or Equation <sup>2</sup>	Trips Generated		
			In	Out		In	Out	Total
<b>WEEKDAY PM PEAK HOUR</b>								
<b><u>Proposed:</u></b>								
Home Improvement Superstore	129,100 SF	862	49%	51%	2.29	145	151	296
<i>Passby Trips</i> <sup>3</sup>	42%					-61	-63	-124
					Subtotal (less passby) =	84	88	172
<b><u>Less Existing:</u></b>								
Electronics Superstore	166,495 SF	863	50%	50%	4.25	354	354	708
<i>Passby Trips</i> <sup>3</sup>	40%					-141	-142	-283
					Subtotal (less passby) =	213	212	425
<b>Net New PM Peak Hour Trips =</b>						<b>-129</b>	<b>-124</b>	<b>-253</b>

Notes:

<sup>1</sup> SF = Square Feet.

<sup>2</sup> Institute of Transportation Engineers, Trip Generation Manual, 11th Edition.

<sup>3</sup> Passby percent based on Institute of Transportation Engineers, Trip Generation Manual, 11th Edition.

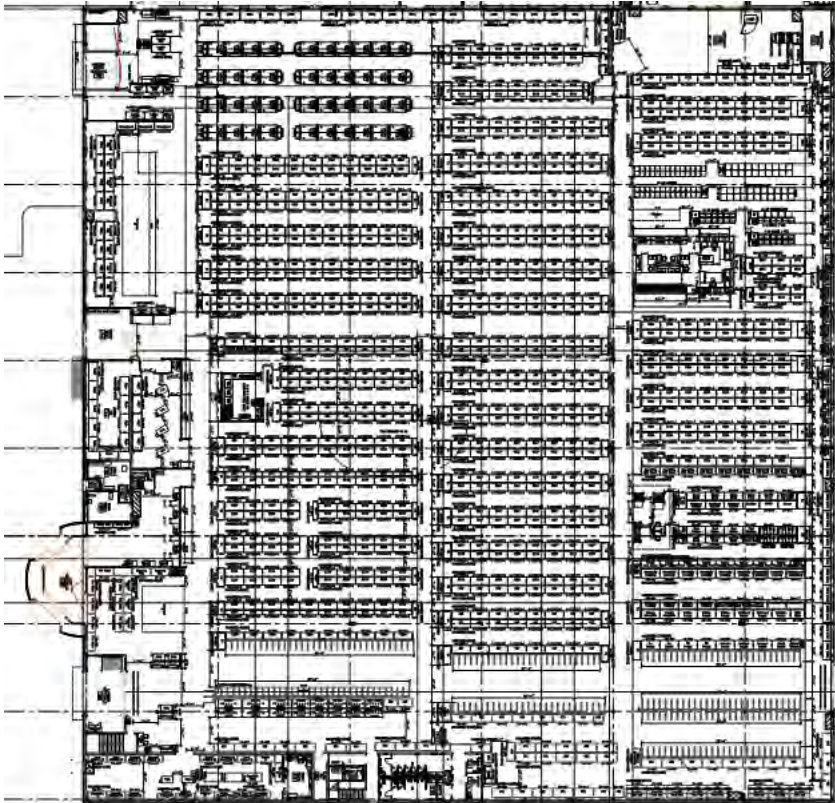
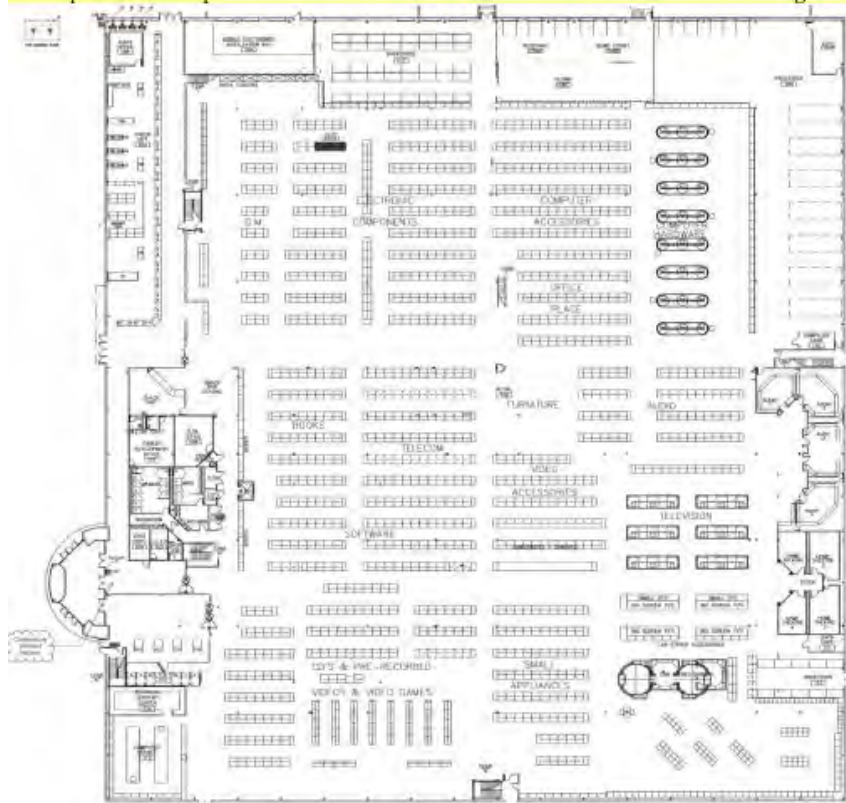


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# Resolution No. 432-Continuation of Non-Conforming Use



# Continuation of Use - Commercial Retail



Left: Previous Commercial Retail As-Built, 2014. Source: City of Wilsonville Building Division  
Right: Proposed Future Commercial Retail Interior Fixture Plan, 2024. Non-prototype Attachment 3 of Page 46 of 500.



# Continuation of Use – Commercial Retail

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## Less Traffic Impacts

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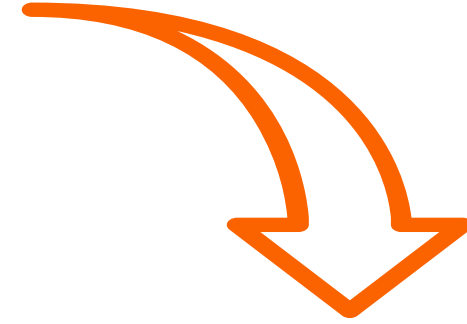
- Existing Commercial Retail generated 4,101 trips daily
- Future Commercial Retail Use will generate 2,302 trips daily
- **Future Commercial Retail will have a reduction of 1,799 daily trips**



## Less Parking Impacts

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- Existing Commercial Retail Use provided 839 stalls
- Future Commercial Retail Use requires 400 stalls



## Opportunity to redevelop 5+ acres

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- The future Commercial Retail Use's reduced parking demand will result in approximately 5 acres of area to redevelop.



# Continuation of Use - Commercial Retail



Left: Previous Occupant in Commercial Retail Space. Source: Yelp – Fry's Electronics, Photos (9/23/2017), [https://www.yelp.com/biz\\_photos/frys-electronics-wilsonville](https://www.yelp.com/biz_photos/frys-electronics-wilsonville), (visited 4/3/2024)  
Right: Proposed Occupant in Commercial Retail Space. Typical Store.



# Continuation of Use - Commercial Retail



Left: Previous Occupant in Commercial Retail Space. Source: Yelp – Fry's Electronics, Photos (11/21/2019), [https://www.yelp.com/biz\\_photos/frys-electronics-Wilsonville](https://www.yelp.com/biz_photos/frys-electronics-Wilsonville), (visited 4/3/2024)  
Right: Proposed Occupant in Commercial Retail Space. Typical Store.





# Continuation of Use - Commercial Retail



Left: Previous Occupant in Commercial Retail Space. Source: Foursquare – Fry's Electronics, Photos (6/12/2017), <https://foursquare.com/v/frys-electronics> (visited 4/6/2024)  
Right: Proposed Occupant in Commercial Retail Space. Typical Store.



# Continuation of Use - Commercial Retail

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Left: Previous Occupant in Commercial Retail Space. Source: Foursquare – Fry's Electronics, Photos (3/9/2013), <https://foursquare.com/v/frys-electronics> (visited 4/6/2024)  
Right: Proposed Occupant in Commercial Retail Space. Typical Store.



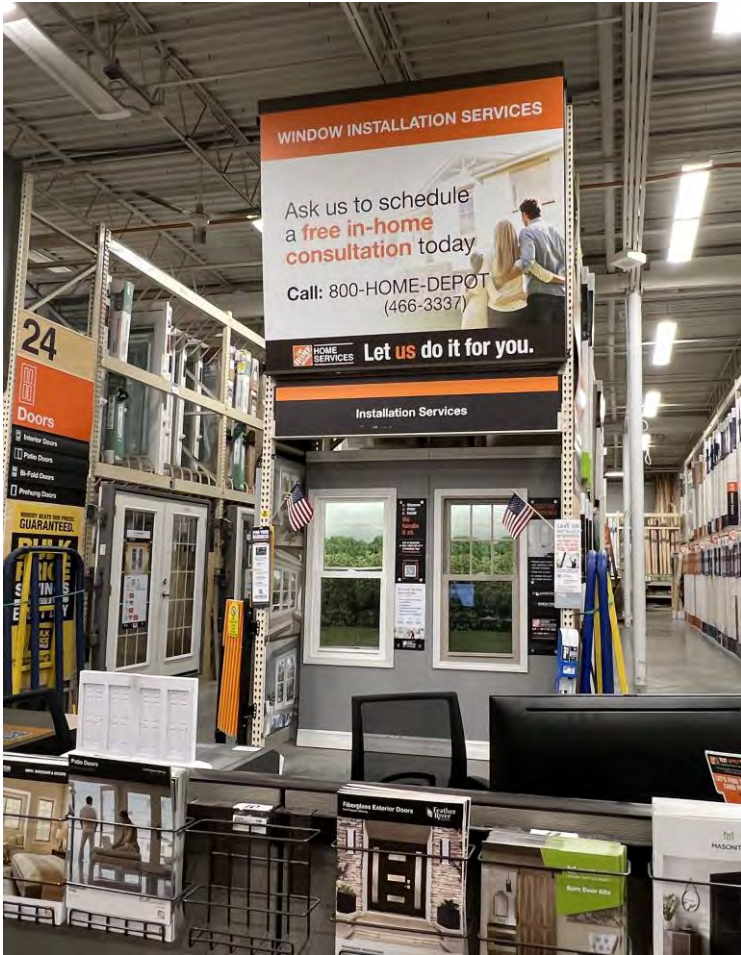
# Continuation of Use - Commercial Retail



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Right: Proposed Occupant in Commercial Retail Space. Typical Store.



# Continuation of Use - Commercial Retail



Left: Previous Occupant in Commercial Retail Space. Source: Yelp – Fry's Electronics, Photos (10/28/2018), [https://www.yelp.com/biz\\_photos/frys-electronics-Wilsonville](https://www.yelp.com/biz_photos/frys-electronics-Wilsonville), (visited 4/3/2024)  
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# Continuation of Use - Commercial Retail



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# Continuation of Use - Commercial Retail

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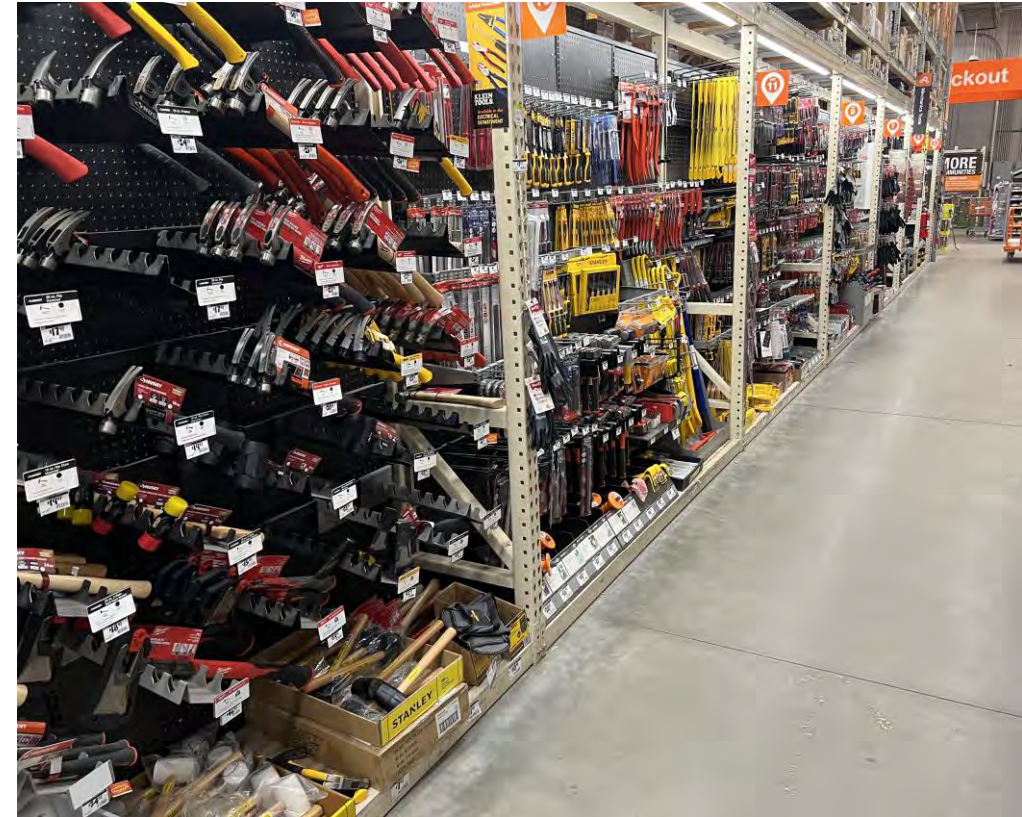


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# Continuation of Use - Commercial Retail

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# Continuation of Use - Commercial Retail

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Right: Proposed Occupant in Commercial Retail Space. Typical Store.





# Continuation of Use - Commercial Retail



Left: Previous Occupant in Commercial Retail Space. Source: Foursquare – Fry's Electronics, Photos (12/24/2016), <https://foursquare.com/v/frys-electronics> (visited 4/6/2024)  
Right: Proposed Occupant in Commercial Retail Space. Typical Store.



# Continuation of Use - Commercial Retail

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# Continuation of Use - Commercial Retail



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# Continuation of Use - Commercial Retail



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Right: Proposed Occupant in Commercial Retail Space. Typical Store.



# Continuation of Use – Commercial Retail

## Consumer Products Offered

## Previous Retail Use

## Proposed Retail Use

- Appliances
- Tools
- Measurement Equipment
- Technical Expertise
- Service
- Delivery Options
- Ancillary Sales (Snacks, etc.)
- Marketed to Professionals



# Continuation of Use – Commercial Retail

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- Planned as a non-prototypical Home Depot store
  
- Home Depot plans to occupy existing structure
  - Sustainable reuse of the existing building
  - Exterior modifications primarily maintenance-related
  - No exterior garden center
  - Lumber pad is an operational area for safe receiving / unloading for heavier merchandise, **NOT** for exterior storage
  
- Home Depot has **NOT** applied for:
  - Sidewalk sales
  - Outdoor seasonal sales
  - Exterior shed displays
  - Exterior rental equipment staging
  
- Home Depot direct-to-customer delivery capability reduces pro volume through stores



# Town Center Plan



**TOWN CENTER FUTURE SCENARIO  
PHASE 1 (INFILL)**

**FIGURE 3.6**



# Proposed Development



**The Home Depot - Wilsonville Town Center**  
29400 Town Center Loop W  
Wilsonville, Oregon





# Proposed Development



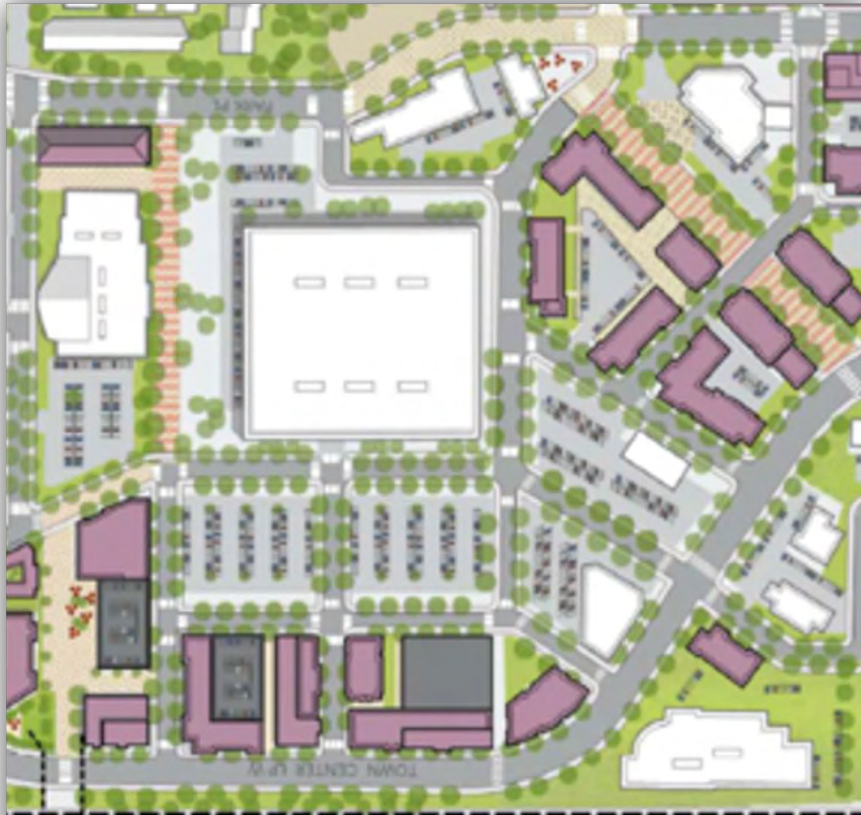
The Home Depot - Wilsonville Town Center  
29400 Town Center Loop W  
Wilsonville, Oregon



copyright wdpatterns HDP85048 02.22.24



# Alignment With Plan



Left: Inset from Figure 3.6, Town Center Future Scenario Phase 1 (Infill), City of Wilsonville Town Center Plan  
Right: Proposed Occupant rendering of existing structure with multi-family housing units

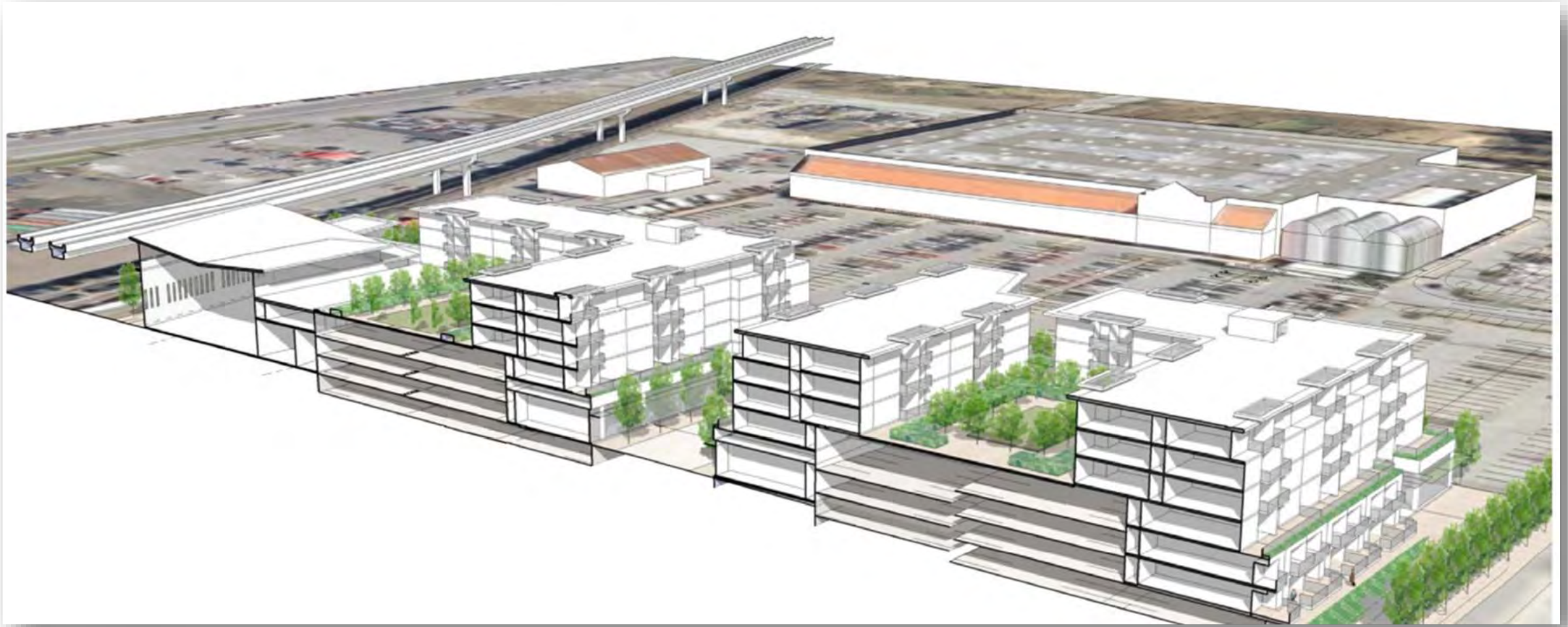


# Lynnwood, Washington

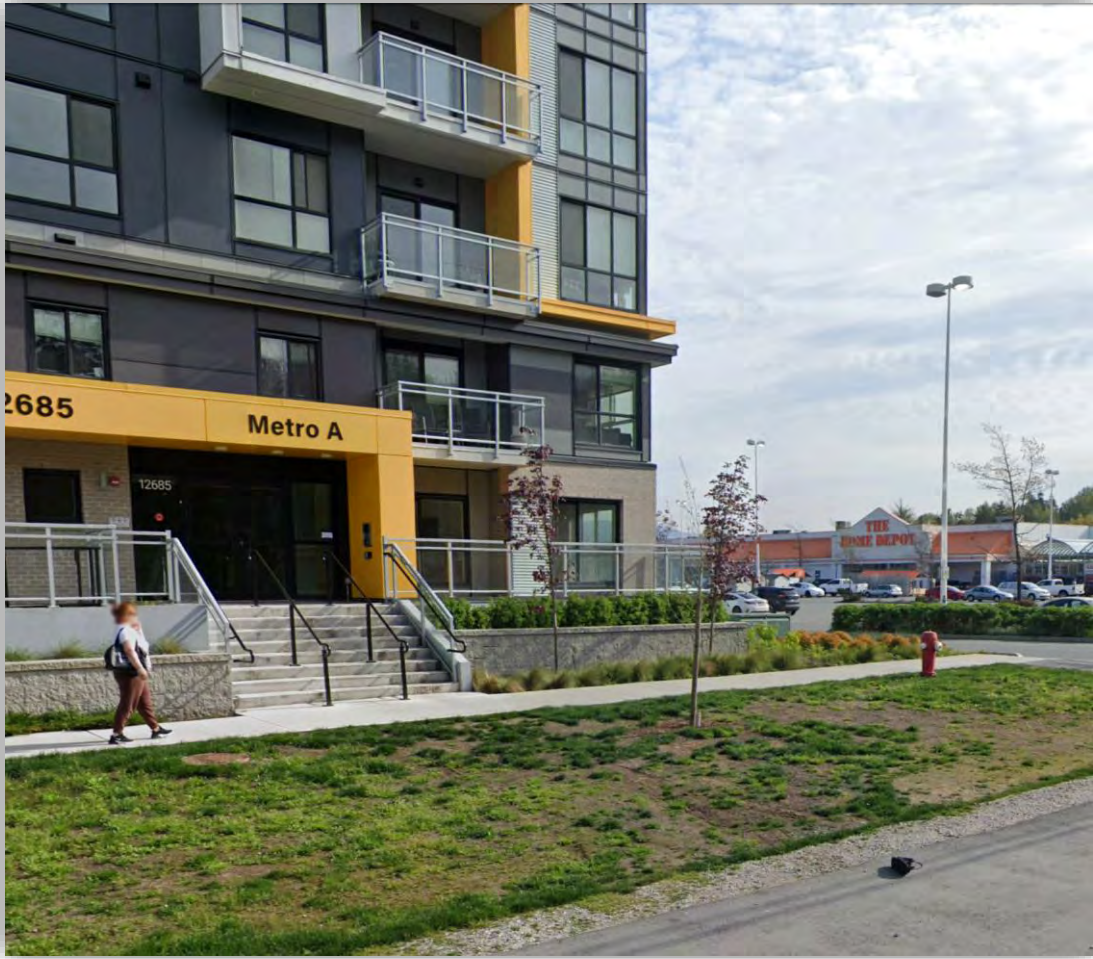


# N. Surrey, Canada

---



# N. Surrey, Canada



# ESG Highlights

2023 The Home Depot ESG Report  
www.ecoactions.homedepot.com

## The Home Depot

### Focus On Our People



More than **90%** of our U.S. store leaders started as hourly associates

Achieved our goal to invest >1 million hours per year over five years in training and development to help our front-line associates grow their careers



Approximately **36%** of our U.S. new hires were women and **58%** were ethnically/racially diverse

Named to Forbes' 2022 List of Best American Companies for Veterans

### Operate Sustainably

We reduced our Scope 1 and 2 carbon emissions by approximately **92,000 metric tons**, equivalent to taking more than **20,000 cars** off the road for a year

We decreased electricity consumption **>52%** in our U.S. stores since 2010



We set science-based targets to **reduce our emissions** across Scopes 1, 2 & 3 (category 11) by the end of 2030

We redesigned **350+ private-brand packages** to reduce size and materials. This helped us eliminate **>81M square feet** of PVC film – enough to cover Central Park twice

We set a goal that **85%** of our U.S. & Canadian sales in push mowers and handheld outdoor lawn equipment will be battery powered by the end of 2028

### Strengthen Our Communities



The Home Depot Foundation granted **\$82 million** in total during 2022

As of the end of 2022, The Home Depot Foundation had contributed more than **\$450 million** towards veteran causes since 2011

Since 2009, our **Retool Your School** grant program has helped fund over **180+ projects** benefiting 70% of HBCUs

In 2022, we drove **~\$3.4 billion** of spend with diverse suppliers

Since 2011, Team Depot has volunteered **1.4+ million service hours** to veteran causes



# Sustainability

2023 The Home Depot ESG Report  
[www.ecoactions.homedepot.com](http://www.ecoactions.homedepot.com)

- Responsible Sourcing
- Sustainable Packaging
- Responsible Waste Management
- Water / Energy Saving Products
- Responsible Chemistry (from cleaning to gardening)

**2022 BY THE NUMBERS**

**>7.3 million** cubic feet  
of EPS foam was removed from our private-label packaging — equal to >4,700 Boeing 737s

---

**>81 million** square feet  
of PVC film was eliminated — enough to cover Central Park twice

---

**~940 thousand** pounds  
of damaged product avoided landfills due to private-branded packaging projects aimed at creating packaging to better protect products

---

**>40 million** packaging units  
were rightsized from projects covering 350+ private-brand SKUs.

 <p>Identifies products that use safer chemical ingredients without sacrificing performance</p>	 <p>Identifies products that meet emissions standards for helping reduce indoor air pollution and risk of chemical exposure</p>	 <p>Leaping Bunny label certifies no animal testing in manufacturing</p>
 <p>Certifies manufacturer's commitment to improving what products are made of and how they're made</p>	 <p>Assures a USDA-verified amount of renewable biological ingredients</p>	 <p>Suite of eco-labels that certifies environmental stewardship, social responsibility and quality</p>



**© DID YOU KNOW**

The Home Depot U.S. was recognized as the 2022 ENERGY STAR Retail Partner of the Year for Sustained Excellence for the second year in a row.



# Economic Impact

## Oregon



### OUR ECONOMIC IMPACT: OREGON

Our Core Values guide everything we do at The Home Depot, like working to grow the state's economy.

#### \$3.2B TOTAL IMPACT

Our **entrepreneurial spirit** drives the economy via:

- Job creation in stores, distribution centers and offices
- Vendor purchases and partner offerings
- **\$348.8M** direct contribution to GDP
- **\$285M** in total tax impact

#### 35.6K JOBS SUPPORTED

Taking care of our people means:

- Investing in the safety, well-being and development of our **5.7K** associates
- Promoting **65K** associates, nationwide
- Each THD job supports **4+** additional jobs across the US



#### \$2.3B ENABLED IMPACT

...created by THD Home Services and the Pros that rely on our best-in-class interconnected retail offerings and **excellent customer service**

- **33.2K** projects provided to local Pros via THD Home Services



#### 3.5M+ SQUARE FEET

...across **30+** brick-and-mortar stores, warehouses and/or offices help us **build strong relationships** within the community

- **27** stores

#### 90+ LOCAL SUPPLIERS

We foster shared success and **create shareholder value** for both THD and our vendor partners – we do so by cultivating a supplier base that includes small and diverse businesses like local manufacturers and plant nurseries

#### 28K VOLUNTEER HOURS

We **give back** to our communities and those who served our country through Team Depot service projects and THD Foundation initiatives

- Supported **210+** non-profits
- Contributed **\$1.7M** to veterans' causes



All numbers are rounded approximations and reflect FY2022 data unless otherwise indicated. Calculated impact figures were determined using PwC's IMPLAN modeling system. HD Supply included in all calculations except Pro project count and Supplier count. Total tax impact is cumulative from 2011 through FY2022.





**From:** [Garet Prior](#)  
**To:** [Cindy Luxhoj](#); [Planning](#)  
**Cc:** [Mayor Julie Fitzgerald](#); [Councilor Kristin Akervall](#); [Councilor Katie Dunwell](#); [Councilor Joann Linville](#); [Councilor Caroline Berry](#); [Bryan Cosgrove](#); [Kim Veliz](#); [Chris Neamtzu](#); [Amanda Guile-Hinman](#)  
**Subject:** Support staff's recommendation on Home Depot case (File No. AR23-0031)  
**Date:** Friday, April 5, 2024 5:19:45 PM

---

[This email originated outside of the City of Wilsonville]

---

Dear members of the Development Review Board (DRB) and City Council,

I'm writing today in **strong support of the staff's recommendation to deny the Home Depot request** to be considered a non-conforming use at the former Fry's site. The staff's analysis is incredibly thorough (my selection of their recommendation is below) and clearly identifies how this determination was made.

Additionally, this vehicle-heavy retail use in our downtown will run counter to our future plans of a walkable, mixed-use downtown. I fear that if this is to move forward it will be a decades-long setback to our Town Center plan. I've worked on single-use commercial conversations to mix-use developments in downtowns, and developing large parcels like this is an essential key to the puzzle.

I may not be able to make the April 8 hearing of the DRB Panel B to provide comment ([notice](#)), but I wanted to send this along beforehand.

The staff recommendation is based on the following considerations:

1. The 1991 Decision and the zoning regulations in effect when the 1991 Decision was granted are irrelevant to this decision.
2. The Proposed Occupant describes itself as a "home improvement warehouse store" (page 5 of Exhibit B1). This is not the same as an "electronics-related retail store," which is the legally established non-conforming use at the Location.
3. The Proposed Occupant's characterization of the non-conforming use approved by the City as "warehouse retail use" is incorrect and is not persuasive.
4. The Proposed Occupant admits that its proposed use of the Location would include the sale of tools and construction products, the rental of transportation and equipment, technical expertise for home improvement projects, and both onsite and offsite installation, repair, and remodeling services (pages 5-6 of Exhibit B1).
5. Some of the Proposed Occupant's customers include contractors and professionals. These uses extend beyond the scope of the Current Occupant's actual use of the Location as of June 5, 2019.



Please reach out if you would like to discuss.

Thank you,

--

**Garet Prior**

29078 SW Charlotte Ln, Wilsonville, OR 97070

[A Garet in Wilsonville](#)

**From:** [City of Wilsonville](#)  
**To:** [Shelley White](#)  
**Subject:** Form submission from: DRB Speaker Card  
**Date:** Monday, April 8, 2024 1:53:07 PM

---

Submitted on Monday, April 8, 2024 - 1:52pm

Submitted values are:

First Name: Kristin  
Last Name: Roche  
Business Name (only if testifying as the authorized representative of a business):  
Your Residential Address: 29030 SW Town Center Loop E #202-231  
City: Wilsonville  
State: OR  
Zip code: 97070  
Phone: 503-473-5542  
Mailing Address: Same as above  
Email Address: kristin.roche@gmail.com

Participate

How do you plan to participate in the meeting? Remote via Zoom

Provide Screen Name or Telephone Number: unable to attend but please read testimony

Public Hearing Item

What is the Public Hearing Item (Resolution/Case File Number/Description) you would like to address?

Please read my testimony as I will be unable to attend. Resolution 432 as a nearly 30 year Wilsonville resident I am writing to express my deep disappointment with yet another city appointed group of committee members and their group-think mentality. The DRB does not represent the diverse perspectives of the community in which you are appointed by our group-think City Council. When a review of resolutions like this one pass unanimously you are not doing our community justice. If you attended the Town Center Plan meeting with Charbonneau residents and Mayor Fitzgerald and city staff last week you would clearly see there is significant push-back and the Town Center plan is being force-fed down our community's throats. When will you start listening to members of your community and not the select few that agree with you.

I would remind DRB committee members to review the US Supreme Court case Dolan versus City of Tigard on land-use decisions.

Please mark the appropriate box below. Opponent

Would you like to receive a copy of the decision for this project? No

The results of this submission may be viewed at:

<https://www.ci.wilsonville.or.us/node/122621/submission/62035>



**From:** [Dave Wortman](#)  
**To:** [Planning](#)  
**Subject:** Home Depot  
**Date:** Monday, April 8, 2024 5:24:05 PM

---

[This email originated outside of the City of Wilsonville]

City planning staff,

I am opposed to Home Depot locating in the Town Center. This runs completely counter to the city's Town Center Master Plan. What's more, Oregon is in a housing crisis and the city has Climate Friendly and Equitable Communities obligations that both strongly point to this being a mixed use development.

Wilsonville has enough chain big boxes. What we really need is a vibrant, walkable city center.

Respectfully,

David Wortman  
Wilsonville

Sent from my iPad

