MEMORANDUM 10/19/2009

The revised Staff Report is intended to clarify that the applicable stormwater and erosion control ordinance that would apply to any development on the proposed Lot 2 is the applicable sections of CCC 40.385, under which this application is vested. This memorandum does not extend the appeal period for PLD2009-00025 (HomeofGodChurchSP), which expires on October 21, 2009.

Revised TYPE II DEVELOPMENT & ENVIRONMENTAL REVIEW, STAFF REPORT & DECISION

Form DS1401

Project Name:	**HOME OF GOD CHURCH SHORT PLAT**
Case Number:	**PLD2009-00025, SEPA2009-00045**
Location:	Northeast corner of NE 18th Street and NE 164th Avenue
Request:	The applicant proposes to short plat approximately 5.74 acres (250,034 square feet) into 2 lots: Lot 1 will be approximately 3.40 acres (147,898 square feet), and Lot 2 will be approximately 2.34 acres (102,136 square feet) in area. The property is zoned Mixed Use (MX).
Applicant:	BAMA Design Attn: Mildred White 107 SE Washington Street, Suite 465 Portland, OR 97214 (503) 380-2852, E-mail: Mildred@Bamadesign.com
Contact Person:	(Same as Applicant)
Property Owner:	Home of God Christian Church Attn: Alex Lobov P. O. Box 97328 Vancouver, WA 98687 (503) 969-2533, E-mail: alobov@msn.com

DECISION

Approve; subject to Conditions

Team Leader's Initials: ATG **Date Issued:** **October 7, 2009**

County Review Staff:

	Name	Phone Ext.	E-mail Address
Team Leader:	Travis Goddard	4180	Travis.goddard@clark.wa.gov
Planner:	Michael Uduk	4385	Michael.uduk@clark.wa.gov
Engineer Supervisor: (Trans. & Stormwater):	Sue Stepan, P.E.	4102	Sue.stepan@clark.wa.gov
Engineer (Trans. & Stormwater):	David Bottamini, P. E.	4881	David.bottamini@clark.wa.gov
Engineering Supervisor: (Trans. Concurrency):	Steve Schulte, P. E.	4017	Steve.schulte@clark.wa.gov
Engineer (Trans. Concurrency):	David Jardin	4354	David.jardin@clark.wa.gov
Fire Marshal Office	Tom Scott	3323	Tom.scott@clark.wa.gov

Comp Plan Designation: Mixed Use (MU)

Parcel Number(s): Lot 62 (164364-480, Stein Estates Phase 3, J-548), located in the SE ¼ of Section 24, Township 2 North, Range 2 East of the Willamette Meridian.

Applicable Laws:

Clark County Code Chapter 40.350 (Transportation), 40.350.020 (Transportation Concurrency), 40.385 (Storm Water Drainage and Erosion Control), 15.12 (Fire Code), 40.540.030 (Short Plat), 40.370.010 (D) (Public Sewer Connection), 40.370.020 (D) (Water Connection), 40.610 (Impact Fees), 40.230.020 (Mixed Use Districts, MX), 40.570.080 (SEPA), 40.570.080 (C) (3) (k) (Historic & Cultural Preservation), 40.500 (Procedure), RCW 58.17 (State Platting Laws)

Neighborhood Association/Contact:

None identified; a courtesy notice was sent to:
Neighborhood Association Council of Clark County (NACCC)
Art Stubbs, Vice Chair
6804 NE 86 Court
Vancouver WA 98662
Phone #: (360) 891-5685, E-mail: sixsplus8@aol.com

Time Limits:

The application was determined to be fully complete on July 21, 2009. Therefore, the County Code requirement for issuing a decision within 78 days lapses on October 7, 2009. The State requirement for issuing a decision within 120 calendar days, lapses on November 18, 2009.

Vesting:

An application is reviewed against the subdivision, zoning, transportation, stormwater and other land development codes in effect at the time a fully complete application for preliminary approval is submitted. If a pre-application conference is required, the application shall earlier contingently vest on the date the fully complete pre-application is filed. Contingent vesting requires that a fully complete application for substantially the same proposal is filed within 180 calendar days of the date the county issues its pre-application conference report.

A pre-application conference on this matter was waived. There are no disputes regarding vesting in this matter.

Public Notice:

Notice of application and SEPA determination of non-significance was mailed to the applicant and property owners within 300 feet of the site on August 4, 2009.

Note: There is no neighborhood association in the area; but a courtesy notice was sent Neighborhood Association Council of Clark County (NACCC).

Public Comments:

None

Project Overview

The applicant is requesting a preliminary plat approval to short plat approximately 5.74 acres into 2 lots; the easterly Lot 1 will be approximately 3.40 acres (or 147,898 square feet) in area and the westerly Lot 2 will be approximately 2.34 acres (or 102,136 square feet) in area. The easterly parcel, Lot 1, will be developed as the Home of God Christian Church consistent with the conditions of approval in PSR2008-00049 (Home of God Christian Church) of January 27, 2008; and, the westerly parcel, Lot 2, will be vacant because no development is proposed with the short plat request.

The approximately 5.74 acre site is located at the northeast corner of NE 18th Street and NE 164th Avenue and situated between NE 167th Avenue to the east and NE 18th Way (a Private Road) to the north. The property is zoned Mixed Use (MX). The MX zoning district provides for several uses outright, conditionally or by review and approval. Table 1 shows the comprehensive plan designation, zoning, and current land use on the site and on the abutting properties:

Table 1: Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use
Site	Mixed Use (MU)	Mixed Use (MX)	A vacant, flat parcel that slopes easterly. The property has been graded as part of the Stein Estates development.
North	MU	MX	Stein Estates townhouses development.
East	Urban Low (UL)	Single-family Residential (R1-5)	BPA power line easement and residential housing development.
South	Light Industrial (ML)	Light Industrial (ML)	NE 18th Street; vacant and wooded Clark/Vancouver Parks property. Site for a future public park development.
West	COM	CC[1]	NE 164th Avenue, retail business.

The USDA Soil Conservation Service, Soil Survey of Clark County, Washington, 1972, classifies the soils at this site as those of Lauren gravelly loam (LgB) and Lauren very gravelly loam (LIB) on slopes ranging from zero to 8 percent. Maps from Clark County's GIS Mapping System indicate that the site does not contain any critical/sensitive areas.

The property is located within the City of Vancouver's urban growth area (UGA). It is situated in an area served by Fire Protection District 5, Evergreen School District, Evergreen Traffic Impact Fees District, and Parks Improvement District 5. The City of Vancouver provides public water and public sewer services in the area.

Staff Analysis

Staff first analyzed the proposal in light of the 16 topics from the Environmental Checklist (see list below). The purpose of this analysis was to identify any potential adverse environmental impacts that may occur without the benefit of protection found within existing ordinances.

1. Earth
2. Air
3. Water
4. Plants
5. Animals
6. Energy and Natural Resources
7. Environmental Health
8. Land and Shoreline Use
9. Housing
10. Aesthetics
11. Light and Glare
12. Recreation
13. Historic and Cultural Preservation
14. Transportation
15. Public Services
16. Utilities

[1] The property to the west has been annexed by the City of Vancouver.

Staff then reviewed the proposal for compliance with applicable code criteria and standards in order to determine whether all potential impacts will be mitigated by the requirements of the code.

Staff's analysis also reflects review of agency and public comments received during the comment period, and knowledge gained through a site visit.

Major Issues:

Only the major issues, errors in the development proposal, and/or justification for any conditions of approval are discussed below. Staff finds that all other aspects of this proposed development comply with the applicable code requirements, and, therefore, are not discussed below.

LAND USE:

Finding 1

CCC 40.540.030 (Purpose) provides the general purpose statement for a short plat review, while CCC 40.530.040 (B) (C) & (D) provide the applicable short plat application submittal requirements and approval criteria. Subsection B specifically requires a pre-application conference, which, in this case was waived because staff had reviewed various development proposals on the site, and a new pre-application conference would have not provided new information that was not already known (or available). Subsection C provides information regarding submittal requirements necessary for a short plat review, and Subsection D provides instructions regarding the approval criteria consistent with the standards discussed in CCC 40.540.040 (D).

Staff finds that the applicant has submitted all the items listed in the submittal package to comply with the minimum standard in the code. Staff also finds that approving the proposed short plat is in the public interest, because the plat, when completed and developed, will provide short term construction employment opportunities to construction workers, and long term employment opportunities to the residents of Clark County. This finding does not require a condition of approval.

Lot Dimensional Standards in the MX District:

Finding 2

Both CCC 40.230.020 (Mixed Use Districts, MX) and Appendix A (Mixed Use Design Standards) do not provide a minimum lot area in the MX zone. The MX district provides for mixed use development, which provides a mix of uses including commercial retail, office and service uses and a variety of residential housing stock. Staff finds and concludes that the proposed short plat could comply with the applicable sections of the code because:

1. The short plat will create 2 lots from the approximately 5.74 acre parcel. Lot 1 will be approximately 3.40 acres and Lot 2 will be approximately 2.34 acres in area. There is an already approved site plan for a church building to be constructed on Lot 1. The applicant is in the process of completing the final site review for the church

building on Lot 1. Lot 2, however, will be vacant until a use is proposed and review through the site plan review process.

2. The county's land use hearings examiner granted a conditional use permit and site plan approval to construct a 36,000 square foot church building on the 5.74 acre site in 2006. (See CUP2006-00001, SPR2006-00063 and SEP2006-00007, (Home of God Christian Church file for details)). Since the initial approval, the applicant has rethought the development by reducing the size of the church building from 36,000 square feet to 17,000 square feet due to the changing economic conditions. The conditional use approval is valid for 5 year; but, the applicant had to apply for a new site plan review because the development had been revised substantially to constitute a new proposal. (See PSR2008-00049 file for detail). Since the new building will occupy slightly more than half of the 5.74 acre property, the applicant has chosen to short plat the acreage.

3. The short plat is not accompanied by a development proposal or a site plan review request. While the proposed Lot 1 has already been approved for a church building to be sited, Lot 2 has no development proposal. When a development is proposed for Lot 2, that development shall be required to comply with applicable development standards in the MX code including those standards outlined in Appendix A of the Clark County Code, transportation and circulation, transportation concurrency, stormwater and erosion control, fire safety, and buildings code sections. Therefore, this review, while approving the short plat request to create two lots from the approximately 5.74 acres, does not approve any development project (or use) to be sited on the proposed Lot 2.

   A note will be placed on the final plat stating that:
   "A development proposal on Lot 2 shall be subject to site plan review approval including review consistent with the mixed use design standards, Appendix A of the Clark County Code, the transportation, transportation concurrency, stormwater and erosion control, impact fees, fire protection and safety and other applicable laws that may impact the development." (See Condition D-2a)

Conclusion (Land Use):
Staff finds that the proposed preliminary plat can comply with the applicable sections of Clark County Code, subject to the conditions of approval identified in this report.

ARCHAEOLOGY:
(See Condition D-2b)

TRANSPORTATION:
Finding 1:
Development Engineering Staff has reviewed the short plat application indicating that development proposal and site plan review request for Lot 2 shall comply with the applicable sections of CCC 40.350 (Transportation and Circulation Ordinance). (See Condition A-1)

Conclusion (Transportation):
Staff concludes that the proposed preliminary plan meets the applicable Transportation approval criteria; and recommends **approval** of this project subject to the conditions of approval.

TRANSPORTATION CONCURRENCY:
Finding 1:
Traffic impact fees will be calculated and imposed prior to the development of Lot 2.

STORMWATER:
Finding 1:
Development Engineering Staff has reviewed the short plat application indicating that development proposal and site plan review request for Lot 2 shall comply with the applicable sections of CCC 40.485 (Stormwater and Erosion Control Ordinance). (See Condition A-2)

Conclusion (Stormwater):
Staff concludes that the proposed preliminary stormwater plan is feasible. Therefore, the requirements of the preliminary plan review criteria are satisfied.

FIRE PROTECTION:
To be reviewed during site plan review and building construction on Lot 2.

IMPACT FEES:
Finding 1
Commercial developments are exempt from park and school impact fees. This development will have traffic impacts in the area; and, therefore, it will be assessed traffic impact fees for Evergreen Traffic Impact Fees District during site plan review for a specific project.

SEPA DETERMINATION

As lead agency under the State Environmental Policy Act (SEPA) Rules [Chapter 197-11, Washington Administrative Code (WAC)], Clark County must determine if there are possible significant adverse environmental impacts associated with this proposal. The options include the following:

- **DS = Determination of Significance** (The impacts cannot be mitigated through conditions of approval and, therefore, require the preparation of an Environmental Impact Statement (EIS);

- **MDNS = Mitigated Determination of Non-Significance** (The impacts can be addressed through conditions of approval); or,

- **DNS = Determination of Non-Significance** (The impacts can be addressed by applying the County Code).

The likely SEPA determination of Non-Significance (DNS) in the Notice of Development Review Application issued on August 4, 2009, is hereby final.

SEPA APPEAL PROCESS:

An **appeal** of this SEPA determination and any required mitigation must be filed with the Department of Community Development within fourteen (14) calendar days from the date of this notice. The SEPA appeal fee is **$1,493.00**.

A **procedural appeal** is an appeal of the determination (i.e., determination of significance, determination of non-significance, or mitigated determination of non-significance). A **substantive appeal** is an appeal of the conditions required to mitigate for probable significant issues not adequately addressed by existing County Code or other law.

Both the **procedural and substantive appeals** must be filed within fourteen (14) calendar days of this determination. Such appeals will be considered in the scheduled public hearing and decided by the Hearing Examiner in a subsequent written decision.

SEPA Appeals must be in writing and contain the following information:

1. The case number designated by the County and the name of the applicant;

2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 40.510.030(H) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;

3. A brief statement describing why the SEPA determination is in error.

The decision of the Hearing Examiner on any SEPA procedural appeal can not be appealed to the Board of County Commissioners, but must pursue judicial review.

Staff Contact Person: Michael Uduk, (360) 397-2375, ext. 4385
Travis Goddard, (360) 397-2375, ext. 4180

Responsible Official: Michael V. Butts, Development Services Manager

DECISION

Based upon the proposed plan (identified as Exhibit 1), and the findings and conclusions stated above, the Development Services Manager hereby **Approves** this request; subject to the understanding that the applicant is required to adhere to all applicable codes and laws, and is subject to the following conditions of approval:

CONDITIONS OF APPROVAL

A Final Construction Review for Land Division
Review & Approval Authority: Development Engineering

Prior to construction, a Final Construction Plan shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

A-1 Transportation:
Any proposed development on Lot 2 shall comply with the applicable sections of CCC 40.350 (Transportation and Circulation Ordinance). (See Transportation Finding 1)

A-2 Erosion Control Plan:
Any proposed development on Lot 2 shall comply with the applicable sections of CCC 40.385 (Stormwater and Erosion Control Ordinance). (See Stormwater Finding 1)

A-3 Excavation and Grading:
Excavation / grading shall be performed in compliance with CCC Chapter 14.07.

B Prior to Construction of Development
Review & Approval Authority: Development Inspection

Prior to construction, the following conditions shall be met:

B-1 Water & Sewer Connection:
To be reviewed and imposed during site plan review.

B-2 Erosion Control:
Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists. (Standard Condition)

B-3 Erosion Control:
Erosion control facilities shall not be removed without County approval. (Standard Condition)

C Provisional Acceptance of Development
Review & Approval Authority: Development Inspection

Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction plans and the following conditions of approval:

C-1 None

D Final Plat Review & Recording
Review & Approval Authority: Development Engineering

Prior to final plat approval and recording, the following conditions shall be met:

D-1 Developer Covenant:
A "Developer Covenant to Clark County" shall be submitted for recording to include the following:

a. Critical Aquifer Recharge Areas:
"The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."

b. Erosion Control:
"Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."

c. Impact Fees:
(To be calculated and imposed with a development proposal.)

D-2 Plat Notes:
The following notes shall be placed on the final plat:

a. Land Use: "A development proposal on Lot 2 shall be subject to site plan review approval including review consistent with the mixed use design standards, Appendix A of the Clark County Code, the transportation, transportation concurrency, stormwater and erosion control, impact fees, fire protection and safety and other applicable laws that may impact the development." (See Land Use Finding 2.3)

b. Archaeological: "If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

D-3 Fire Protection - Fire Marshal's Requirements:

a. The Fire Marshal's review will be completed during site plan review for Lot 2.

E Building Permits
Review & Approval Authority: Customer Service

Prior to issuance of a building permit, the following conditions shall be met:

E-1 Impact Fees:

To be calculated and imposed with a project site plan review.

F Occupancy Permits
Review & Approval Authority: Building

Prior to issuance of an occupancy permit, the following conditions shall be met:

F-1 Not Applicable

G Development Review Timelines & Advisory Information
Review & Approval Authority: None - Advisory to Applicant

G-1 Land Division:

Within 5 years of preliminary plan approval, a Fully Complete application for Final Plat review shall be submitted.

G-2 Department of Ecology Permit for Construction Stormwater:

A permit from the Department of Ecology (DOE) is required If:

- The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; **AND**
- There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the one acre threshold. This applies even if the applicant is responsible for only a small portion [less than one acre] of the larger project planned over time. **The applicant shall Contact the DOE for further information**.

G-3 Building Elevation Approvals:
Approval of building elevations submitted for preliminary plan review does not ensure compliance with other requirements (e.g., building setbacks) under other construction codes. Compliance with other construction codes is the responsibility of the applicant at the time of building permit issuance.

H	**Post Development Requirements** **Review & Approval Authority: As specified below**

H-1 None

Note: The Development Services Manager reserves the right to provide additional comment and findings of fact regarding this decision, if appealed.

Decision Appeal Process:

An **appeal** of any aspect of this decision may be appealed to the County Hearing Examiner only by a party of record. A "Party of Record" includes the applicant and those individuals who submitted written testimony to the Development Service Manager within the designated comment period.

The appeal shall be filed with the Department of Community Development, Permit Services Center, 1300 Franklin Street, Vancouver, Washington, 98668, within fourteen (14) calendar days from the date the notice of final land use decision is mailed to parties of record. This decision was mailed on October 7, 2009. Therefore any appeal must be received in this office by 4:30 PM, October 21, 2009.

Appeal Deadline

4:30 PM, October 21, 2009

Any appeal of the final land use decisions shall be in writing and contain the following:

- Case number designated by the County;
- Name of the applicant;
- Name of each petitioner;
- Signature of each petitioner or his or her duly authorized representative;
- A statement showing the following:
  - That each petitioner is entitled to file the appeal as an interested party in accordance with CCC 40.510.030(H);
  - The specific aspect(s) of the decision being appealed;
  - The reasons why each aspect is in error as a matter of fact or law;
  - The evidence relied on to prove the error; and,
- The appeal fee of **$5,240.00** (includes Development Engineering Fees of $414.00.)

The fee shall be refunded if the appeal is withdrawn in writing by the petitioner at least 15 calendar days before the public meeting to consider the appeal.

Attachments:

- Exhibit A: Copy of Proposed Preliminary Plan

A copy of the approved preliminary plan, SEPA Checklist and Clark County Code are available for review at:

Public Service Center
Department of Community Development
1300 Franklin Street
P.O. Box 9810
Vancouver, WA. 98666-9810
Phone: (360) 397-2375; Fax: (360) 397-2011

A copy of the Clark County Code is also available on our Web Page at:
Web Page at: http://www.clark.wa.gov

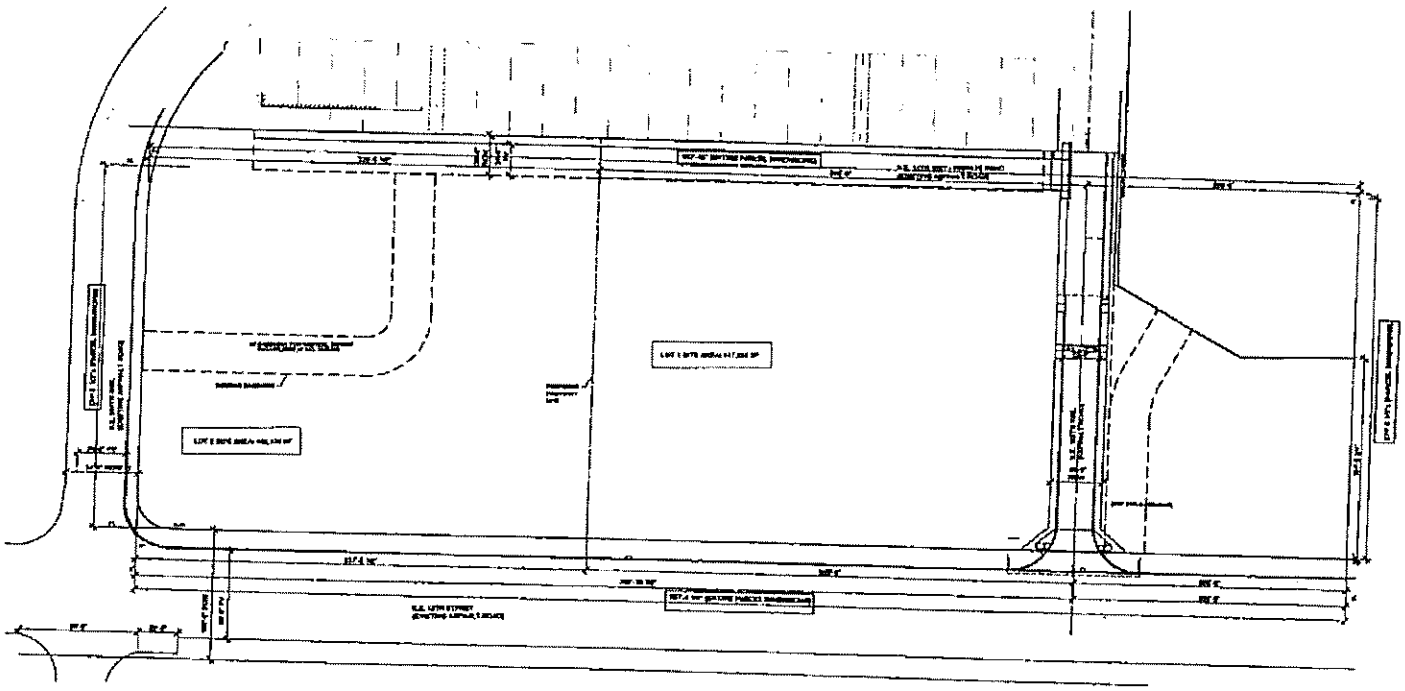
Final Decision Attachment

For Employee Use Only -This is not part of the decision, but rather an attachment for processing purposes only.

Final Plans Required with Construction Plans	YES	NO
Final Landscape Plan:		x
-On-site landscape plan		
-Right-of-way landscape plan*		x
Final Wetland Plan		x
Final Habitat Plan		x

*Final right-of-way landscape plan required for projects fronting on arterial and collector streets.

Note: If final plan submittals are required, list each plan under Case Notes in Permit Plan for future reference.

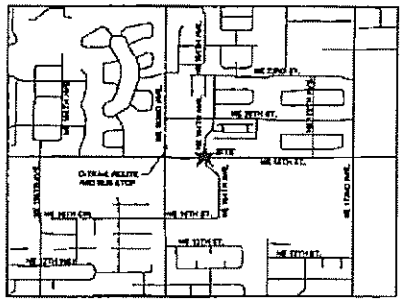


MASTER SITE PLAN

PROPERTY INFORMATION

LEGEND

CONTACT INFORMATION



VICINITY MAP

BAMA DESIGN

Home of God Christian Church Short Plat

SD1.0

EXHIBIT 1