

BOARD OF COUNTY COUNCILORS
COUNTY OF CLARK, STATE OF WASHINGTON

Resolution
No. 2018-12-09

A Resolution of the Clark County Council authorizing entry into a Developer Agreement between Clark County and T&S Family Properties, LLC, a Washington limited liability company; GA Tach Properties, LLC, a Washington limited liability company

WHEREAS, RCW 36.70B.170 through .200 authorize the County to enter into Developer Agreements with persons or entities having ownership or control of real property within the County; and

WHEREAS, T&S Family Properties, LLC and GA Tach Properties, LLC ("Owners") own certain real property described in the proposed Development Agreement attached hereto as Exhibit A, which property is located in Clark County, Washington; and

WHEREAS, at the direction of Council, County Staff has worked with the Owners to prepare the proposed Developer Agreement, which details an exchange of valuable consideration;

WHEREAS, the Council considered this matter at a duly advertised public hearing; and

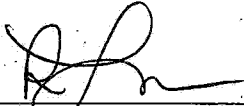
WHEREAS, the Council concluded that approval of the proposed Developer Agreement will further the public welfare; now therefore,

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF CLARK COUNTY COUNCILORS:

1. The Clark County Council approves the proposed Developer Agreement between Clark County, Washington and T&S Family Properties, LLC and GA Tach Properties, attached hereto as Exhibit A.

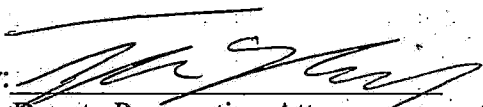
ADOPTED on this 11th day of December, 2018.

Attest:



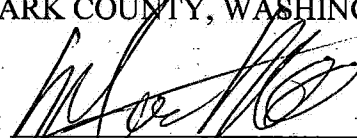
Clerk to the Board

Approved as to form only:
ANTHONY F. GOLIK
Prosecuting Attorney

By: 

Deputy Prosecuting Attorney

BOARD OF COUNTY COUNCIL
CLARK COUNTY, WASHINGTON

By: 

Marc Boldt, Chair

By: _____
Jeanne E. Stewart, Councilor

By: _____
Julie Olson, Councilor

By: _____
John Blom, Councilor

By: _____
Eileen Quiring, Councilor



MAIL TAX STATEMENTS TO:

AFTER RECORDING RETURN TO:

Jordan Ramis PC

Attn: James D. Howsley

1499 S.E. Tech Center Place, Suite 380

Vancouver, WA 98683

This space provided for recorder's use.

RECORDING COVER SHEET

INSTRUMENT TITLE:

FIRST AMENDMENT TO DEVELOPMENT
AGREEMENT

PARTIES:

T&S FAMILY PROPERTIES, LLC, a Washington limited
liability company; GA TACH PROPERTIES, LLC, a
Washington limited liability company

Clark County, a political subdivision of the state of
Washington

ABBREVIATED LEGAL DESC: _____

FULL LEGAL DESC:

See **EXHIBIT A** to This Document

ASSESSOR'S PROPERTY TAX

PARCEL ACCOUNT NUMBER(S): 119536000; 119520000; 199392000; 199393000

REFERENCE NUMBER OF
RELATED DOCUMENTS:

None

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT/^{Dec.} TO DEVELOPMENT AGREEMENT ("Amendment") is entered into this 11th day of ~~November~~, 2018, by and between T&S FAMILY PROPERTIES, LLC, a Washington limited liability company ("T&S"), GA TACH PROPERTIES, LLC, a Washington limited liability company ("GA Tach") (collectively, the "Owner/Developer"), and CLARK COUNTY, a political subdivision of the state of Washington ("County").

RECITALS

A. On June 29, 2017, the Parties entered into the Development Agreement, recorded under Clark County Auditor No. 5418295.

B. During preliminary site plan review for the development subject to the Development Agreement, additional issues were raised, requiring the development to be modified. These modifications have contributed to a delayed beginning date of construction.

C. The Development Agreement contemplates the construction timeline as provided for therein may be modified based on unanticipated events, including permit review timelines and other factors.

D. The Parties agree that the Development Agreement should be amended to modify the beginning date of construction.

NOW, THEREFORE, the Parties agree as follows:

AGREEMENT

1. **Amendment.** The following sections of the Development Agreement are hereby amended and restated in their entirety as follows:

Section 6.1. Owner/Developer has submitted, or will submit, a request for concurrent (aka 60-day) site plan and engineering review by the County within thirty (30) days the date of complete execution of this Development Agreement. Owner/Developer will request that the project introduction meeting be scheduled as soon as possible. With respect to North-South cross circulation, the County agrees that no cross circulation will be required across the subject property in a North-South direction (except for right-of-way along the westerly property line of Parcel 199393-000) as there will be no use of the eastern parcels other than onsite storage. Cross circulation will be considered if any of the eastern parcels owned by T&S/ GaTach (parcel Nos. 119536000, 119520000, 199392000, and 199393000) are further developed or the land use has changed.

Section 6.4. Owner/Developer will submit building permit applications within five (5) days of the County's approval of final PSR and ENG.

Section 6.5. Owner/Developer will start construction on or before July 1, 2019, subject to the foregoing timeline., The timeline shall not be modified except as mutually agreed in a writing executed by all Parties and attached as an addendum to this Agreement, and Owner/Developer need only meet the modified timelines.

All other provisions, terms, and conditions of the Development Agreement shall remain in full force and effect.

2. Counterparts. This Agreement may be executed in counterparts; however all signature pages will be recorded together, and the complete recorded Agreement will constitute the final instrument.

Signatures appear on the following pages.

Section 6.5. Owner/Developer will start construction on or before July 1, 2019, subject to the foregoing timeline., The timeline shall not be modified except as mutually agreed in a writing executed by all Parties and attached as an addendum to this Agreement, and Owner/Developer need only meet the modified timelines.

All other provisions, terms, and conditions of the Development Agreement shall remain in full force and effect.

2. Counterparts. This Agreement may be executed in counterparts; however all signature pages will be recorded together, and the complete recorded Agreement will constitute the final instrument.

Signatures appear on the following pages.



T&S Family Properties, LLC

Tyler DeWitt
By: Tyler DeWitt
Its: member

12-6-18
Date

T&S Family Properties, LLC

Shelly Speyer
By: Shelly Speyer
Its: member

12-6-18
Date

GA Tach Properties LLC

Ty DeWitt
By: Ty DeWitt
Its: member

12-6-18
Date

GA Tach Properties LLC

Shelly Speyer
By: Shelly Speyer
Its: member

12-6-18
Date

CLARK COUNTY COUNCIL
FOR CLARK COUNTY, WASHINGTON

Attest:

[Signature]
Clerk to the Council

[Signature]
By: Marc Boldt, Chair

Approved as to Form Only:
Anthony F. Golik
Prosecuting Attorney

[Signature]
By: Taylor Hallvik
Deputy Prosecuting Attorney

By: _____
Jeanne E. Stewart

By: _____
Julie Olson, D

By: _____
John Blomquist

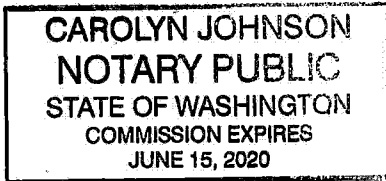
By: _____
Eileen Quiring, District 4




State of Washington)
) ss.
County of Clark)

I certify that I know or have satisfactory evidence that Tyler Dewitt is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the member to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 12/6/, 2018.



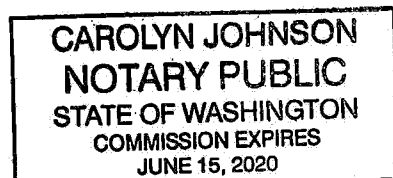
(Seal or stamp)


Signature
My Commission Expires: June 15, 2020


State of Washington)
) ss.
County of Clark)

I certify that I know or have satisfactory evidence that Shelly Speyer as the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the member to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 12/6, 2018.



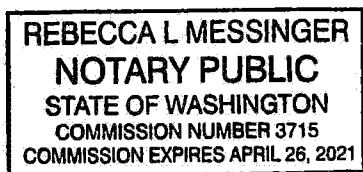
(Seal or stamp)


Signature
My Commission Expires: June 15, 2020

State of Washington)
) ss.
County of)

I certify that I know or have satisfactory evidence that Marc Bodd is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that s/he was authorized to execute the instrument and acknowledged it as the Council Chair of Clark County to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 12-11, 2018.



(Seal or stamp)

Rebecca L. Messinger
Signature
My Commission Expires: 4/26/2021

LEGAL DESCRIPTIONS

PARCEL 1 (119520000):

BEGINNING at the Northeast corner of Lot 2, of St. Johns Homestead Lots in Section 32, Township 3 North, Range 2 East of the Willamette Meridian in Clark County, Washington, as per duly recorded plat thereof in Book A of Plats, Page 47, records of Clark County, Washington, running thence Southerly 40 rods; thence West 20 rods; thence North 40 rods; thence East 20 rods to the point of beginning.

TOGETHER WITH an easement recorded May 24, 1925 in Book 168, Page 429, records of Clark County, Washington.

PARCEL 2 (199392000):

BEGINNING at the Southwest corner of Lot 4, in Section 32, Township 3 North, Range 2 East of the Willamette Meridian, Clark County, Washington, and running thence North along the West line of said Lot 4, 345 feet; thence East to the Westerly boundary of the North Pacific right-of-way; thence Southerly along the Westerly boundary of the Northern Pacific Railway right-of-way to the South line of said Lot 4; thence West along the South line of said Lot 4, 252 feet to the point of beginning.

PARCEL 3 (119536000)

Lot 2 ST. JOHNS HOMESTEAD LOTS, according to the plat thereof, recorded in Volume "A" of plats at page 47, records of Clark County, Washington.

EXCEPT the South 304 feet and the East 331 feet thereof, more or less.

EXCEPT that portion conveyed to Clark County, a Political Subdivision of the State of Washington, by Statutory Warranty Deed recorded March 10, 2006, under Auditors File No. 4136421, records of Clark County, Washington.

ALSO EXCEPT County Roads.

PARCEL 4 (199393000)

BEGINNING at the Northwest corner of Lot 5, in Section 32, Township 3 North, Range 2 East of the Willamette Meridian, Clark County, Washington, and running thence East to the West boundary line of the Northern Pacific Railway; thence South and West along the West boundary line of said right-of-way to a point where said boundary line of said right-of-way intersects the West line of Lot 5; thence North to the point of beginning; the same being all that portion of Lot 5, lying North and West of the Northern Pacific Railway right-of-way.

5418295 AGR

Total Pages: 27 Rec Fee: \$99.00

eRecorded in Clark County, WA 06/30/2017 11:33 AM

CLARK COUNTY TITLE COMPANY

SIMPLIFILE LC E-RECORDING

MAIL TAX STATEMENTS TO:

AFTER RECORDING RETURN TO:

Jordan Ramis PC

Attn: James D. Howsley

1499 S.E. Tech Center Place, Suite 380

Vancouver, WA 98683

This space provided for recorder's use.

RECORDING COVER SHEET

INSTRUMENT TITLE:

DEVELOPMENT AGREEMENT

PARTIES:

T&S FAMILY PROPERTIES, LLC, a Washington limited liability company; GA TACH PROPERTIES, LLC, a Washington limited liability company

Clark County, a Washington municipal corporation

ABBREVIATED LEGAL DESC:

ST JOHNS HD LOTS #5 LOT 2 7.55A
ST JOHNS HD LOTS #2 LOT 2
#22 SEC 32 T3NR2EWM 2.35A
#23 SEC 32 T3NR2EWM 2A

FULL LEGAL DESC:

See EXHIBIT A to This Document

ASSESSOR'S PROPERTY TAX

PARCEL ACCOUNT NUMBER(S): 119536000; 119520000; 199392000; 199393000

REFERENCE NUMBER OF
RELATED DOCUMENTS:

None

DEVELOPMENT AGREEMENT

Effective Date: July 1st 2017

PARTIES:

T&S FAMILY PROPERTIES, LLC, a Washington limited liability company ("T&S") owns APN 119536000 ("Property"), addressed as 10311 NE 72nd Avenue, located on the east side of NE 72nd Avenue, near the intersection of NE 72nd Avenue and NE 104th Street in Clark County, Washington.; and GA TACH PROPERTIES, LLC, a Washington limited liability company ("GA TACH") owns APNs 119520000, 199392000, and 199393000 to the east of APN 119536000 ("Property"), with T&S and GA TACH both collectively referred to as "Owner / Developer," and with all parcels collectively referred to as "Property / Properties / Subject Property." The legal descriptions for the Properties are attached as EXHIBIT A.

Clark County is a political subdivision of the state of Washington ("County"), and is responsible for land use planning and development review for the above parcels pursuant to the Growth Management Act.

Developer and County are collectively referred to as the Parties.

RECITALS:

Whereas, pursuant to RCW 36.70B.170, a development agreement may set forth the development standards and other provisions that will apply to, govern and vest the development, use and mitigation of the development of real property for the duration specified in the agreement, which statute provides:

- (1) A local government may enter into a Development Agreement with a person having ownership or control of real property within its jurisdiction. A development agreement must set forth the development standards and other provisions that will apply to and govern and vest the development, use, and mitigation of the development of the real property for the duration specified in the agreement. A development agreement will be consistent with applicable development regulations adopted by a local government planning under chapter 36.70A RCW;

Whereas, the legislative findings supporting the enactment of this section provide:

The legislature finds that the lack of certainty of the approval of development projects can result in a waste of public and private resources, escalate housing costs for consumers and discourage the commitment to comprehensive planning which would make maximum efficient use of resources at the least economic cost to the public. Assurance to a development project applicant that upon government approval, the project may proceed in accordance with existing policies and regulations, and subject to conditions of approval, all as set forth in a development agreement, will strengthen the public planning process, encourage private, participation and comprehensive planning, and reduce the economic cost of development. Further, the lack of public facilities and services is a serious impediment to development of new housing and commercial uses. Project applicants and local governments may include provisions and agreements whereby applicants are reimbursed over time for financing public facilities. It is the intent of the legislature by RCW 36.70B.170 through 36.70B.210 to allow local governments and owners and developers of real property to enter into development agreements;

Whereas, DeWitt Construction, Inc. ("DeWitt") was founded in 1979, and operates as a local Clark County business that has grown to employ between 48 -- 52 individuals and anticipates additional growth and additional employment opportunities;

Whereas, DeWitt's growth necessitates relocation from its present location at 13909 NE 10th Avenue (near the NE 139th Street / NE 10th Avenue intersection) to the Subject Property (10311 NE 72nd Avenue) owned by Owner/Developer;

Whereas, the Owner/Developer contains members which also have an ownership interest in both limited liability companies and DeWitt which provide a sufficient nexus between the business and Subject Property;

Whereas, the Subject Property will serve as the new base of DeWitt's corporate operations and provide for equipment and construction material storage in a manner and with impacts similar to the existing site, as depicted on the proposed development map attached hereto as **EXHIBIT B**;

Whereas, the development team working on behalf of DeWitt and Owner/Developer has communicated closely with Clark County representatives and relevant committees, including but not limited to the Clark County Road Modification Committee, Clark County Economic Development Council; railroad interests and County Planning, Engineering and Public Works staff to develop a viable framework for transportation and road improvements related to the development of the Subject Property;

Whereas the County has reviewed the proposed development map attached hereto as **EXHIBIT B** and has determined that the proposed development map, is conceptually agreeable, given the limited development proposed by DeWitt and GA Tach Properties, LLC;

Whereas the County raised questions about improvements that would be required to accommodate 13 Axle Trucks, and in response DeWitt had a template set prepared based on 13 Axle Truck dimensions, originally attached as **EXHIBIT D (formerly Exhibit E)**, but the parties agree that only 12 Axle Trucks will access and utilize this site, and therefore only the 12 Axle Truck templates attached as **EXHIBIT C** are relevant to the subject agreement;

Whereas Owner/Developer agrees to implement half-width improvements and standards that exceed existing requirements to mitigate for site development authorized in this Agreement;

Whereas, the County eliminated the fee waiver program, but finds that due to the investment made in preparation for the project proposed on the subject Property, as well as the time expended by the Parties in good faith review, negotiations and project development, the fee waiver shall apply to this project proposed on the subject Property;

Whereas, County and Owner/Developer wish to formalize the timeline, terms and conditions that will apply as review and approval of the proposal conceptually depicted and described in **EXHIBITS B and C** moves forward;

AGREEMENT

NOW, THEREFORE, the Parties agree as follows:

Section 1. Development Agreement. This Development Agreement is a development agreement to be implemented under the authority of and in accordance with RCW 36.70B.170 – 210. It will become a contract between the Parties upon its approval by ordinance or resolution following a public hearing as provided in RCW 36.70B.170. Provisions of the recitals above are incorporated herein as findings and conclusions applicable to the parties.

Section 2. Term of Agreement. This Development Agreement will commence on the effective date and will remain in effect for ten (10) years, unless extended, amended or terminated by mutual written consent of the Parties.

Section 3. Approval of Proposed Development Map. The Parties recognize and agree that the Exhibits showing the development are at present general concepts depicting the development attached hereto as **EXHIBIT B**. In the absence of specific development and engineering detail including all access detail and trip generation, the parties are unable to finalize transportation mitigation conditions and will therefore rely on CCC. 40.350.020 *et seq.*

Section 3.1. EXHIBIT C -- SHEET 1: (12 Axle Template schematics for ingress) is applicable in the context of this Agreement, and depicts a truck footprint traveling north, turning east from the inside northbound lane and utilizing both northbound through lanes, onto NE 104th St. eastbound and entry

into the site driveway and will show adequate stopping and intersection sight distance with no encroachment into the left turn lanes on NE 72nd Avenue and NE 104th St, nor the adjacent sidewalk and associated ramps and is in compliance with applicable laws regarding pilot cars and flaggers.

EXHIBIT C – SHEET 2: (12-Axle Template schematics for egress) Depicts trailer travel to be in compliance with applicable laws regarding pilot cars and flaggers.

Exhibit C-Sheets 3,4, and 5 have been deleted as Owner/Developer has determined that a WB67/WB134 truck/trailer has the same maneuverability as a 12 axle truck/trailer. Owner/Developer is responsible for the maneuverability of its vehicles onsite and is still responsible to ensure its truck and trailers can enter and exit public roads without traveling in the lane of opposing traffic.

EXHIBIT D (formerly Exhibit E) (13 Axle Template schematics) was produced at the County's request for purposes of comparison, but is not applicable in the context of this Agreement as they do not reflect the type of vehicles that will access and utilize the subject site.

Section 3.2. Medians. The parties agree to work in good faith during the application process to address median improvement issues if needed to address public safety concerns, but no explicit requirements regarding medians are imposed in the context of this Agreement and details regarding median development are subject to further negotiation as necessary, PROVIDED that any median improvements will only be required after good faith consideration by the County Engineer of information provided by Developer/Owners.

Section 3.3. Signalization of 104th and 72nd. Based on the level and intensity of development shown, the parties agree to work in good faith during the application process to address signalization of 104th and 72nd if needed to address public safety concerns, but no explicit requirements regarding medians are imposed in the context of this Agreement at this time. Details regarding signalization of 104th and 72nd are subject to further evaluation as necessary.

Section 3.4. Truck access to 104th. Attached hereto as **EXHIBIT C** are templates that depict a truck traveling north on NE 72nd Ave, turning east from the inside northbound through lane and utilizing both northbound lanes, onto NE 104th St and entry into the site driveway and will show adequate stopping and intersection sight distance with no encroachment into the left turn lanes. The Parties agree that 12 Axle vehicles shall be operated in compliance with applicable laws regarding pilot cars and flaggers, if applicable.

The proposed driveway as modeled appears to comply with county codes. To ensure the construction functions as designed, the parties agree that driveway remediation is required if it fails to function as designed. Failure is defined as follows:

- (a) Two (2) documented preventable crashes within two years;
- (b) One (1) documented preventable crash and a backup of traffic onto NE 72nd Ave. due to trucks turning into the site;

- (c) Delay of greater than 2 minutes to move through the intersection due to truck/s turning into and out of the site as measured as the maximum of any vehicles in a queue that experiences delay; or
- (d) Any encroachment onto sidewalk, or ramps.

In the event that the proposed driveway is deemed in failure the parties agree to reevaluate the driveway for safety and will work in good faith to resolve the issue.

Section 3.5. NE 104th St. Construction Standards/Dedication of Right-of-Way. Frontage improvements shall be constructed in compliance with the CCC 40.350 along NE 72nd Avenue and NE 104th Street past the eastern edge of the driveway (including the wings) to a point shown on Exhibit B, Sheet 1 terminating with a barricade. Owner/Developer will dedicate a minimum of half-width Right-of-Way for NE 104th St. from the eastern edge of NE 72nd Avenue Right-of-Way east to the southwest corner of tax parcel 199393-000, thence northerly along the western boundary to the northwest corner of the same tax parcel.

Section 3.6 NE 101st St. Dedication. Owner/Developer will dedicate right-of-way from the southwest corner of APN 119520000 to the western edge of the railroad right-of-way along APN 199392000.

Section 4. Owner/Developer is dedicating right-of-way to satisfy development conditions. Dedicated Right-of-Way that is unbuilt and unopened may be used by any dedicating party until such use is inconsistent with the County's use for road purposes. If the County does not develop either the unconstructed Right-of-Way for NE 104th St. or NE 101st St. within twenty (20) years of this agreement, Owner/Developer may request that the County vacate the property in accordance with the RCW 36.87. The County agrees as required by RCW 36.87.060 that Right-of-way unbuilt after 20 years is not useful as a part of the County road system.

Section 5. Predetermination of Road Modification Requests. Clark County reviews road modifications during the site plan process; however, due to the importance of this determination to this agreement, Clark County has conducted a predetermination, and believes it can approve the road modification requests if the requests and supporting information are the same as those submitted for the predetermination: including

1. Cross-circulation north-south through the subject parcels along the contiguous boundaries of APNs 119520000 and APN199392000 including block length and perimeter standards.
2. Extent to which NE 104th St is constructed based on Proportionality
- 3....Road construction for NE 101st St. due to rough proportionality.

Section 6. Benchmarks / Timeline.

Specific design standards shall include:

Section 6.1. Owner/Developer has submitted, or will submit, a new pre-application packet to the County within thirty (30) days the date of complete execution of this Development Agreement. With respect to North-South cross circulation, the County agrees that no cross circulation will be required across the subject property in a North-South direction (except for right-of-way along the westerly property line of Parcel 199393-000) as there will be no use of the eastern parcels other

than onsite storage. Cross circulation will be considered if any of the eastern parcels owned by T&S/ GaTach (parcel Nos. 119536000, 119520000, 199392000, and 199393000) are further developed or the land use has changed.

Right of way/frontage improvements will be required on the East-West boundaries on the north and south sides of the subject property for future connections/half widths if the eastern (north and south of NE 104th St.) are developed for other than storage.

Section 6.2. Owner/Developer will submit a Site Plan Review (PSR) application to the County within one hundred twenty (120) calendar days from the date Owner/Developer receives the County's pre-application report. Should the pre-application report raise substantive issues or requirements that require clarification or action before the pre-application report is finalized; the one hundred twenty (120) calendar day period shall begin to run at the time that such substantive issues or clarifications are conclusively resolved.

Section 6.3. Owner/Developer will complete final engineering within sixty (60) calendar days from the date Owner/Developer receives the County's final PSR review and determination.

Section 6.4. Owner/Developer will submit building permit applications upon Owner/Developer's receipt of notification from the County that the County is ready for final engineering.

Section 6.5. Owner/Developer anticipates start of construction on or before September 1, 2017, subject to the foregoing timeline, PROVIDED that any aspect of the foregoing timeline and/or the anticipated construction start date may be modified in the event that despite Developer's best efforts, permit review timelines or other factors not in Developer's control require timeline modification. In this event, the timeline shall be modified as mutually agreed in a writing executed by all Parties and attached as an addendum to this Agreement, and Owner/Developer need only meet the modified timelines.

Section 7. Fee Waiver. The County fee waiver program expired December 31st, 2016.

Section 7.1. The County modified the fee waiver program to provide that all non-residential applications submitted after January 1, 2017 will be charged all fees in effect at the time, with the provision that applications for projects eligible under the former fee waiver program will be granted fee waivers for the duration of the project if applications are submitted prior to close of business on Friday, December 30, 2016. On December 29, 2016, the Owner/Developer submitted a pre-application packet to the County, including detailed plans attached hereto and incorporated herein by reference, and a draft of this development agreement as negotiated with County staff throughout 2016. The County finds that due to the investment made in preparation for the project proposed on the subject Property, as well as the time expended by the Parties in good faith review, negotiations and project development, the fee waiver shall apply to this project proposed on the subject Property, PROVIDED that the project meets the timelines detailed in Section 6, above, with such timeline subject to modification in the event that despite Developer's best efforts, permit review timelines or other factors not in Developer's control require timeline modification. Owner/Developer also commits to the industrial uses contemplated by this agreement. In this event, the timeline shall be modified as mutually agreed in a writing executed by all Parties and attached as an addendum to this Agreement, and Owner/Developer need only meet the modified timelines.

Section 7.2 Should the Owner/Developer fail to meet the timelines detailed in Section 6, above, the project may be subject to the fee ordinance in effect at the time of application/submittal, PROVIDED that in the event that despite Developer's best efforts, permit review timelines or other factors not in Developer's control require timeline modification, the timeline shall be modified as mutually agreed in a writing executed by all Parties and attached as an addendum to this Agreement, and Owner/Developer need only meet the modified timelines.

Section 8. Vesting. The project vested for purposes of code and state law at the time of filing a fully complete application subject to the right to tack contingent vesting as authorized under the county code and subject to judicial limitations applied to stormwater regulations..

MISCELLANEOUS PROVISIONS

Recitals. Each of the Recitals contained herein are intended to be, and are incorporated as, covenants between the Parties and will be so construed.

Counterparts. This Agreement may be executed in counterparts; however all signature pages will be recorded together, and the complete recorded Agreement will constitute the final instrument.

Effective Date. This Agreement is effective upon recording, which shall occur within thirty (30) days of County Council approval by Resolution, or the terms herein shall be null and void.

Termination. This Agreement will terminate upon the mutual agreement of the Parties in writing, which will be recorded, or upon expiration of the Term, whichever first occurs.

County's Reserved Authority. Notwithstanding anything in this Agreement to the contrary, the County will have the authority to impose new or different regulations to the extent required by a serious threat to public health and safety as required by RCW 36.70B.170; provided, however that traffic congestion alone is not a serious threat to public health and safety, however, traffic congestion may rise to a level to threaten safety. Responsive county action will only be taken by the county official/s after appropriate public process.

Authorization. The persons executing this Agreement on behalf of County and Developer are authorized to do so and, upon execution by such parties, this Development Agreement will be a valid and binding obligation of such parties in accordance with its terms. The Parties have each obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby.

Run with the Land. This Agreement will run with the land and be binding on the Parties' successors and assigns, and will be recorded with the Clark County Auditor.

Public Hearing. The Clark County Council has approved execution of this Agreement by resolution after a public hearing.

Dispute Resolution. Should a disagreement arise between the Parties, the Parties agree to attempt to resolve the disagreement by first meeting and conferring. If such meeting proves unsuccessful to resolve the dispute, the disagreement may be resolved by a civil action.

Venue. This Agreement will be construed in accordance with the laws of the State of Washington, and venue is in the Clark County Superior Court.

Performance. Failure by any Party at any time to require performance by the other Parties of any of the provisions hereof will not affect the Parties' rights hereunder to enforce the same, nor will any waiver by a Party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this clause.

Severability. If any portion of this Agreement will be invalid or unenforceable to any extent, the validity of the remaining provisions will not be affected thereby. If a material provision of this Agreement is held invalid or unenforceable such that a Party does not receive the benefit of its bargain, then the other Parties will renegotiate in good faith terms and provisions that will effectuate the spirit and intent of the Parties' agreement herein.

Inconsistencies. If any provisions of the Clark County Code and land use regulations are deemed inconsistent with this Agreement, the provisions of this Agreement will prevail; with the exception of the County's reserved authority described above.

Amendments. This Agreement may only be amended by mutual written agreement of the Parties, and all amendments will be recorded in the Clark County deed records.

Survival. Any covenant or condition set forth in this Agreement, the full performance of which is not specifically required prior to the expiration or earlier termination but which by its terms is to survive the termination of this Agreement, will survive the expiration or earlier termination of this Agreement and will remain fully enforceable thereafter.

No Benefit to Third Parties. The Parties are the only parties to this Agreement and are the only parties entitled to enforce its terms, except as otherwise specifically provided in this Agreement. There are no third-party beneficiaries.

Entire Agreement. This Agreement constitutes the entire agreement between the Parties as to the subject matter.

Notices. All notices will be in writing and may be delivered by personal delivery, by overnight courier service, or by deposit in the United States Mail, postage prepaid, as certified mail, return receipt requested, and addressed as follows:

County

Attn. Carolyn Heniges
1300 Franklin, PO Box 9810, Vancouver, WA 98666-9810

Owner/Developer T&S Family Properties, LLC
13909 NE 10th Ave, Vancouver, WA 98685

With a copy to: Jordan Ramis, PC
Attn: James D. Howsley
1499 SE Tech Center Place, Suite 380
Vancouver, WA 98683

Notices will be deemed received by the addressee upon the earlier of actual delivery or refusal of a party to accept delivery thereof. The addresses to which notices are to be delivered may be changed by giving notice of such change in address in accordance with this notice provision.

Non-waiver. Waiver by any Party of strict performance of any provision of this Agreement will not be deemed a waiver of or prejudice a Party's right to require strict performance of the same or any other provision in the future. A claimed waiver must be in writing and signed by the Party granting a waiver. A waiver of one provision of this Agreement will be a waiver of only that provision. A waiver of a provision in one instance will be a waiver only for that instance, unless the waiver explicitly waives that provision for all instances.

Headings, Table of Contents. The section headings are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

Interpretation of Agreement; Status of Parties. This Agreement is the result of arm's-length negotiations between the Parties and will not be construed against any Party by reason of its preparation of this Agreement. Nothing contained in this Agreement will be construed as creating the relationship of principal and agent, partners, joint venturers, or any other similar relationship between the Parties.

Future Assurances. Each of the Parties will promptly execute and deliver such additional documents and will do such acts that are reasonably necessary, in connection with the performance of their respective obligations under this Agreement according to the Schedule so as to carry out the intent of this Agreement.

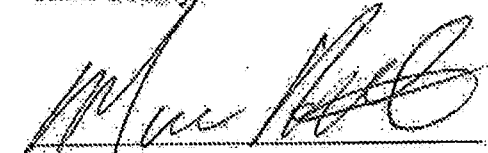
Signatures appear on the following pages.

Sections 3-5 require change to reflect road med agreements that have already been agreed to.???????

T&S Family Properties, LLC

By: _____ Date _____
Its: _____

Clark County


By: _____ Date 6-30-17
Its: Council Chair

State of Washington)
) ss.
County of)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that s/he signed this instrument, on oath stated that s/he was authorized to execute the instrument and acknowledged it as the _____ to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, 2016.

Signature _____
My Commission Expires: _____

(Seal or stamp)

T&S Family Properties, LLC

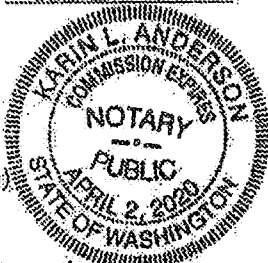
[Signature]
By: Ty DeWitt
Its: member

6/29/17
Date

State of Washington)
) ss.
County of Clark)

I certify that I know or have satisfactory evidence that Ty DeWitt is the person who appeared before me, and said person acknowledged that s/he signed this instrument, on oath stated that s/he was authorized to execute the instrument and acknowledged it as the member to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: June 29, 2017



(Seal or stamp)

[Signature]
Signature
My Commission Expires: April 2, 2020

T&S Family Properties, LLC

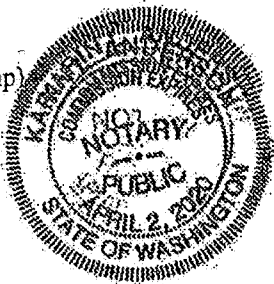
[Signature]
By: Shelly DeWitt Spagard
Its: member

6/29/17
Date

State of Washington)
) ss.
County of Clark)

I certify that I know or have satisfactory evidence that Shelly Spagard is the person who appeared before me, and said person acknowledged that s/he signed this instrument, on oath stated that s/he was authorized to execute the instrument and acknowledged it as the member to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: June 29, 2017



(Seal or stamp)

[Signature]
Signature
My Commission Expires: April 2, 2020

Ga Tach Properties LLC

[Signature]

By: Ty DeWitt
Its: member

6/29/17
Date:

State of Washington)
) ss.
County of Clark)

I certify that I know or have satisfactory evidence that Ty DeWitt is the person who appeared before me, and said person acknowledged that s/he signed this instrument, on oath stated that s/he was authorized to execute the instrument and acknowledged it as the member to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: June 29, 2017



(Seal or stamp)

[Signature]
Signature

My Commission Expires: April 2, 2020

Ga Tach Properties LLC

[Signature]

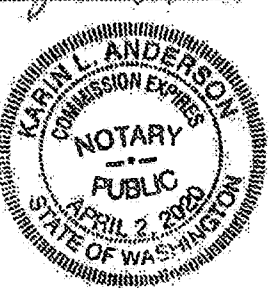
By: Shelly DeWitt
Its: member

6/29/17
Date:

State of Washington)
) ss.
County of Clark)

I certify that I know or have satisfactory evidence that Shelly DeWitt is the person who appeared before me, and said person acknowledged that s/he signed this instrument, on oath stated that s/he was authorized to execute the instrument and acknowledged it as the member to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: June 29, 2017



(Seal or stamp)

[Signature]
Signature

My Commission Expires: April 2, 2020

Ga Tach Properties LLC

By: Craig Speer
Its: Member

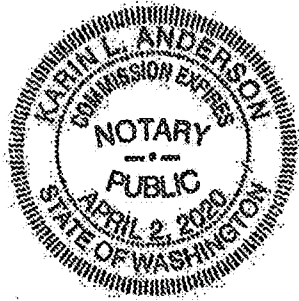
6/29/17
Date

State of Washington)
) ss.
County of Clark)

I certify that I know or have satisfactory evidence that Craig Speer is the person who appeared before me, and said person acknowledged that s/he signed this instrument, on oath stated that s/he was authorized to execute the instrument and acknowledged it as the Member to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: June 29, 2017

(Seal or stamp)



[Signature]
Signature

My Commission Expires: April 2, 2020

EXHIBIT INDEX

EXHIBIT A – LEGAL DESCRIPTION

EXHIBIT B – PROPOSED DEVELOPMENT MAP

EXHIBIT C – 12 AXLE TEMPLATE SCHEMATICS (RELEVANT AND APPLICABLE)

EXHIBIT D – 13 AXLE TEMPLATE SCHEMATICS

EXHIBIT A

Legal Description

LEGAL DESCRIPTIONS

PARCEL 1 (119520000):

BEGINNING at the Northeast corner of Lot 2, of St. Johns Homestead Lots in Section 32, Township 3 North, Range 2 East of the Willamette Meridian in Clark County, Washington, as per duly recorded plat thereof in Book A of Plats, Page 47, records of Clark County, Washington, running thence Southerly 40 rods; thence West 20 rods; thence North 40 rods; thence East 20 rods to the point of beginning.

TOGETHER WITH an easement recorded May 24, 1925 in Book 168, Page 429, records of Clark County, Washington.

PARCEL 2 (199392000):

BEGINNING at the Southwest corner of Lot 4, in Section 32, Township 3 North, Range 2 East of the Willamette Meridian, Clark County, Washington, and running thence North along the West line of said Lot 4, 345 feet; thence East to the Westerly boundary of the North Pacific right-of-way; thence Southerly along the Westerly boundary of the Northern Pacific Railway right-of-way to the South line of said Lot 4; thence West along the South line of said Lot 4, 252 feet to the point of beginning.

PARCEL 3 (119536000)

Lot 2 ST. JOHNS HOMESTEAD LOTS, according to the plat thereof, recorded in Volume "A" of plats at page 47, records of Clark County, Washington.

EXCEPT the South 304 feet and the East 331 feet thereof, more or less.

EXCEPT that portion conveyed to Clark County, a Political Subdivision of the State of Washington, by Statutory Warranty Deed recorded March 10, 2006, under Auditors File No. 4136421, records of Clark County, Washington.

ALSO EXCEPT County Roads.

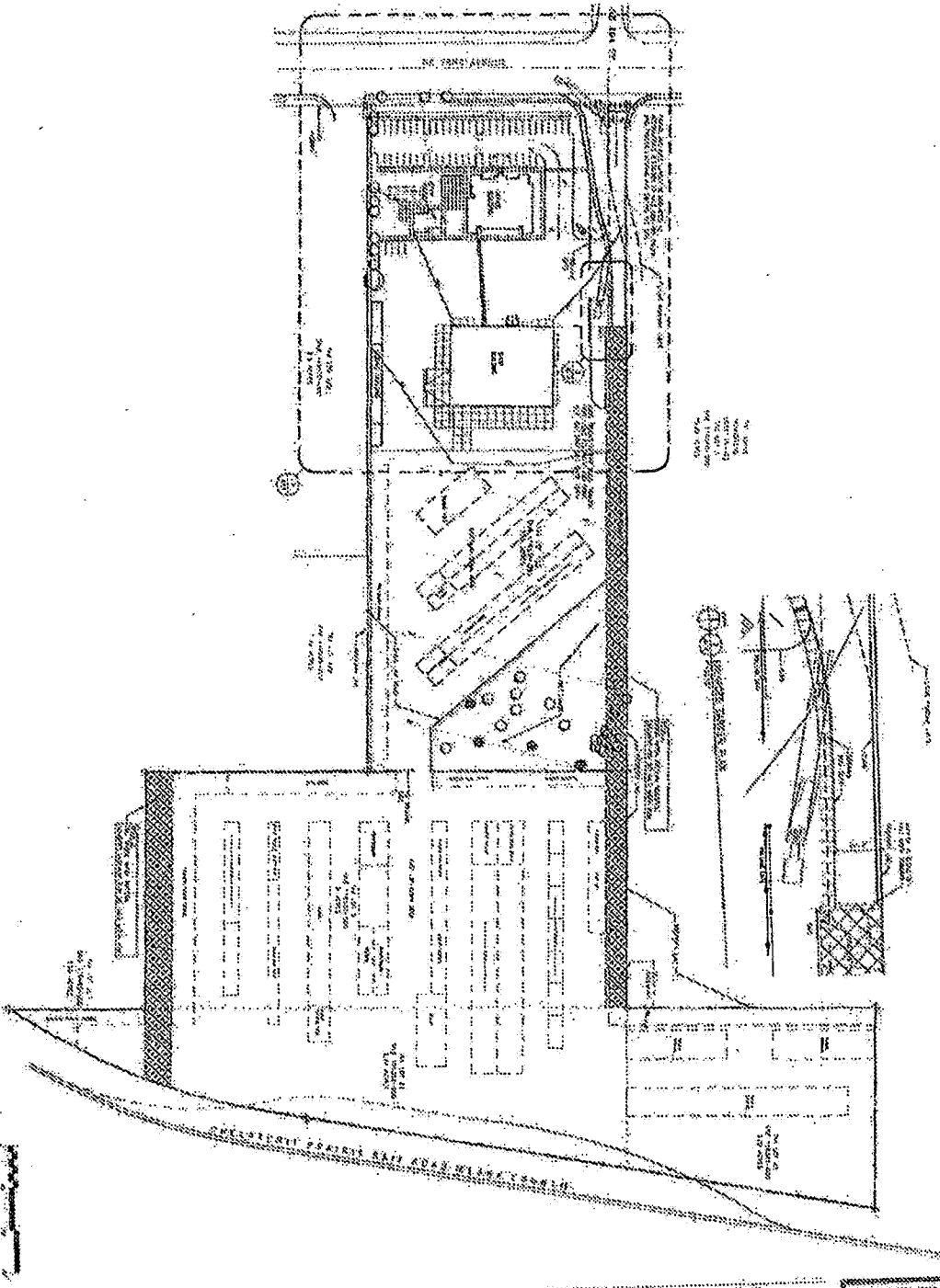
PARCEL 4 (199393000)

BEGINNING at the Northwest corner of Lot 5, in Section 32, Township 3 North, Range 2 East of the Willamette Meridian, Clark County, Washington, and running thence East to the West boundary line of the Northern Pacific Railway; thence South and West along the West boundary line of said right-of-way to a point where said boundary line of said right-of-way intersects the West line of Lot 5; thence North to the point of beginning; the same being all that portion of Lot 5, lying North and West of the Northern Pacific Railway right-of-way.

EXHIBIT B

Proposed Development Map

15001-E



A2.0
 15001-E
 15001-E

DeWitt Construction Inc.
 Proposed Plan For New Facility
 10311 NE 77th Avenue • Vancouver, Washington 98666

MANLEY
 ARCHITECTS

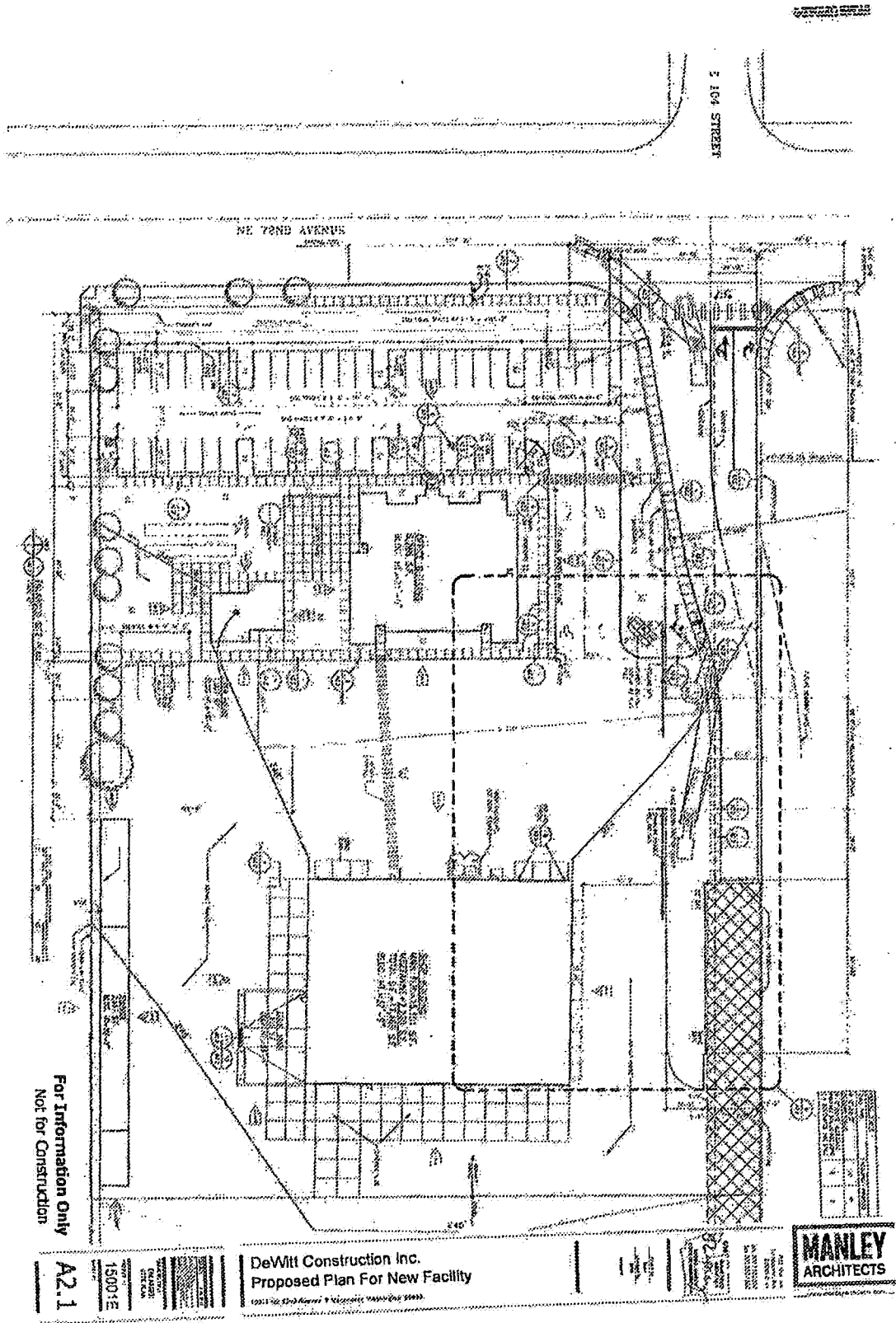
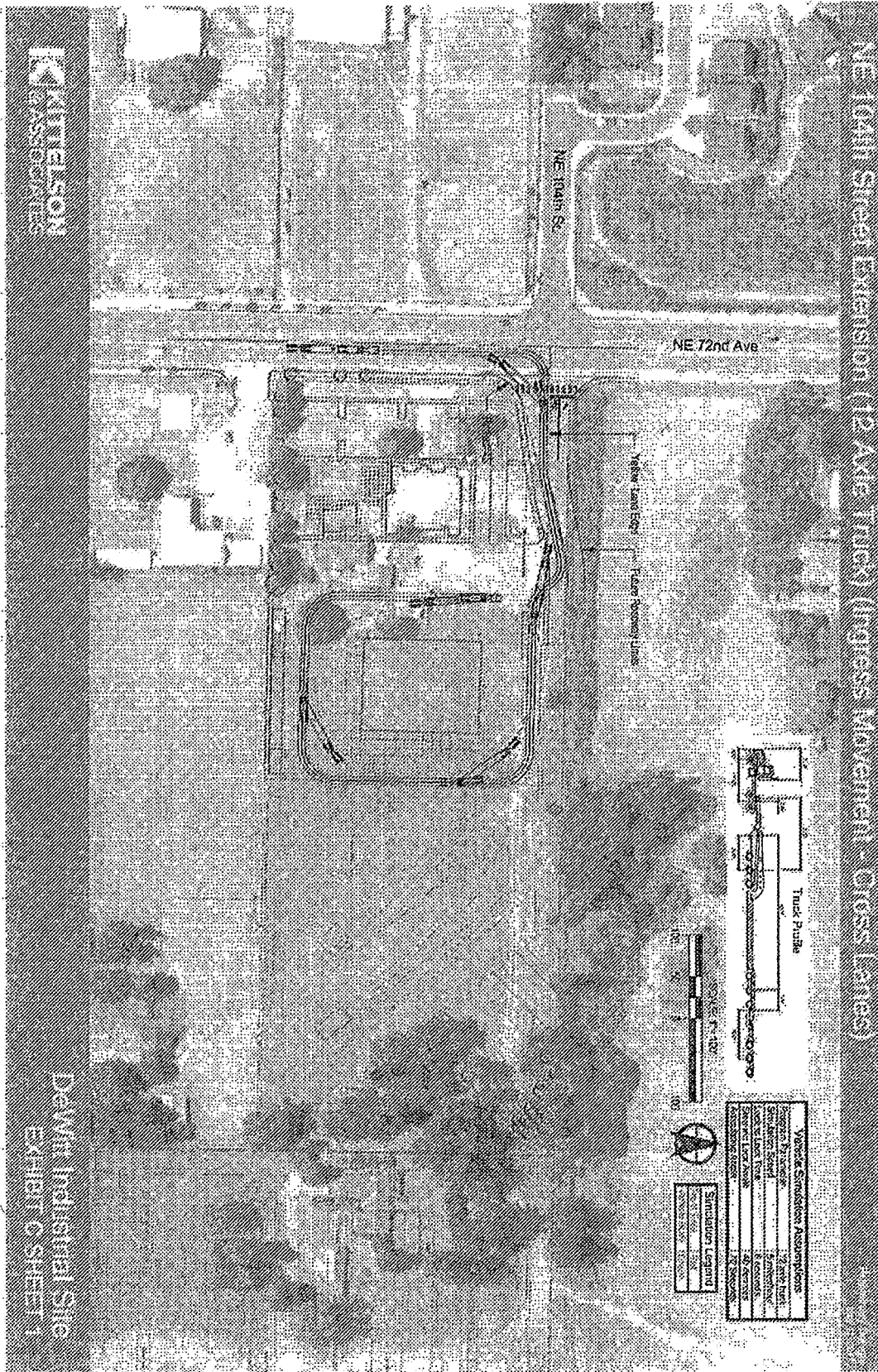


EXHIBIT C

12 AXLE TEMPLATE SCHEMATICS

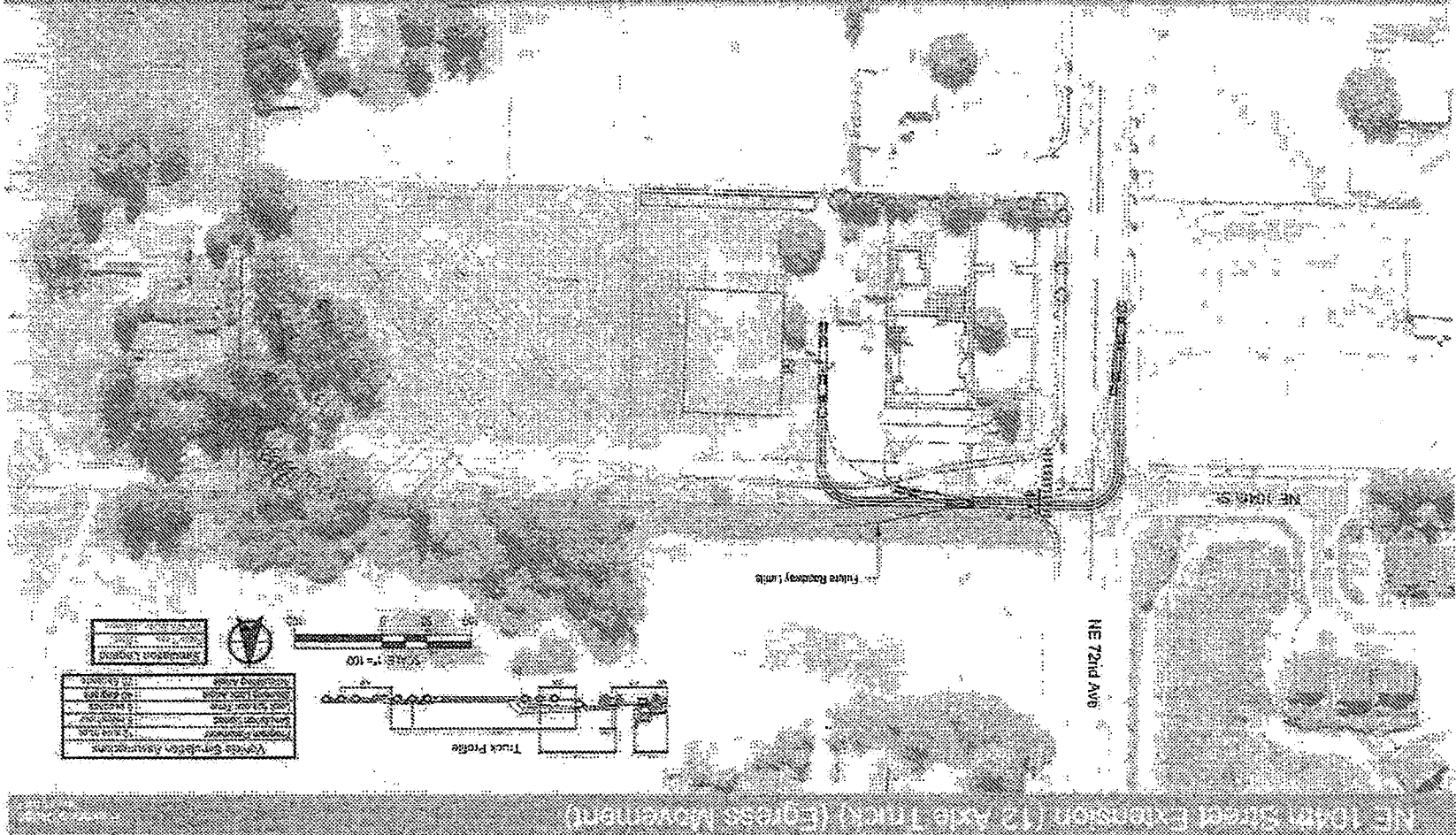


KITTELSON
ASSOCIATES

DuWitt Industrial Site
EXHIBIT C SHEET 1

KITTELSON
ASSOCIATES

Dewitt Industrial Site
EXHIBIT C SHEET 2

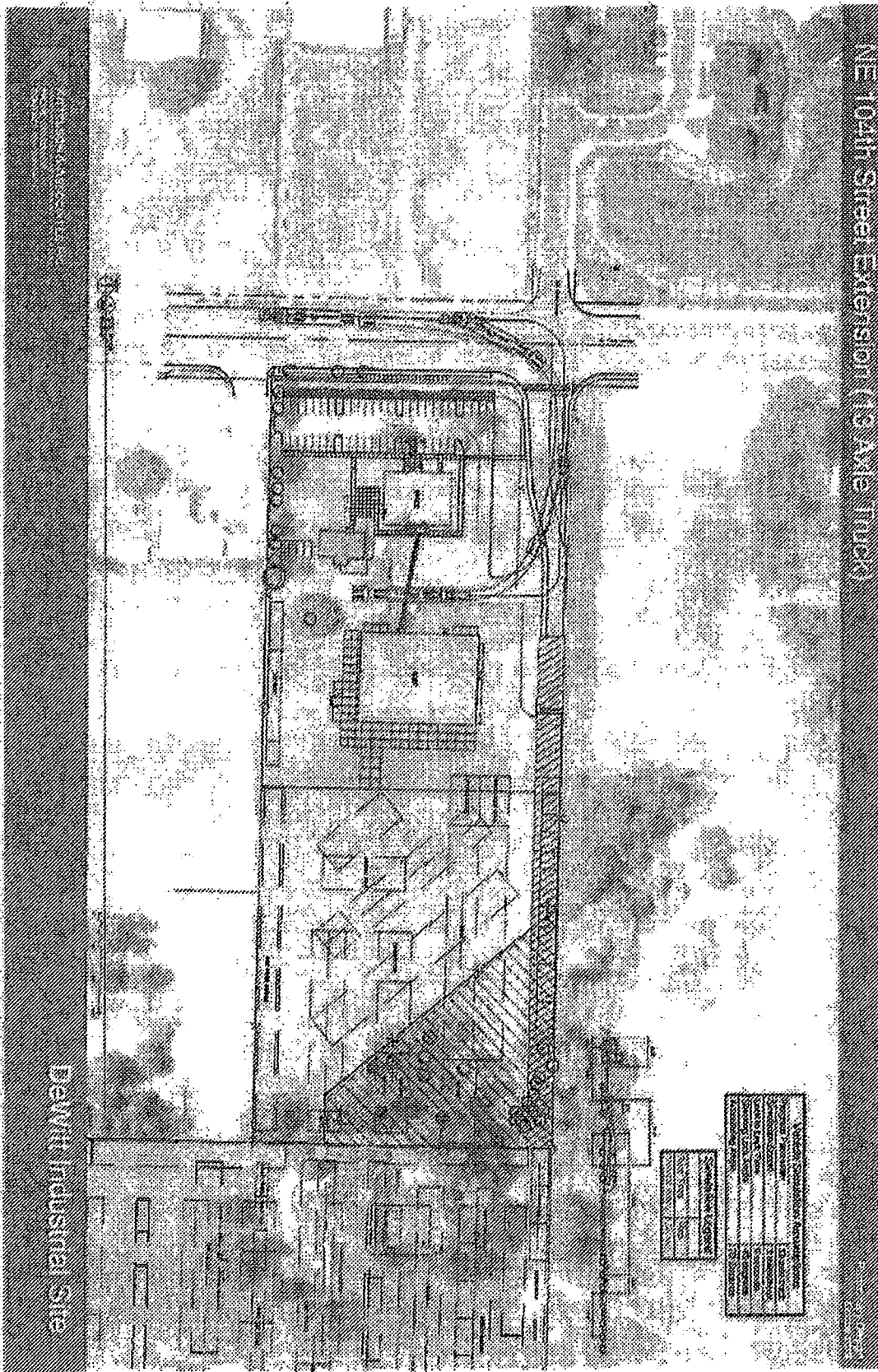


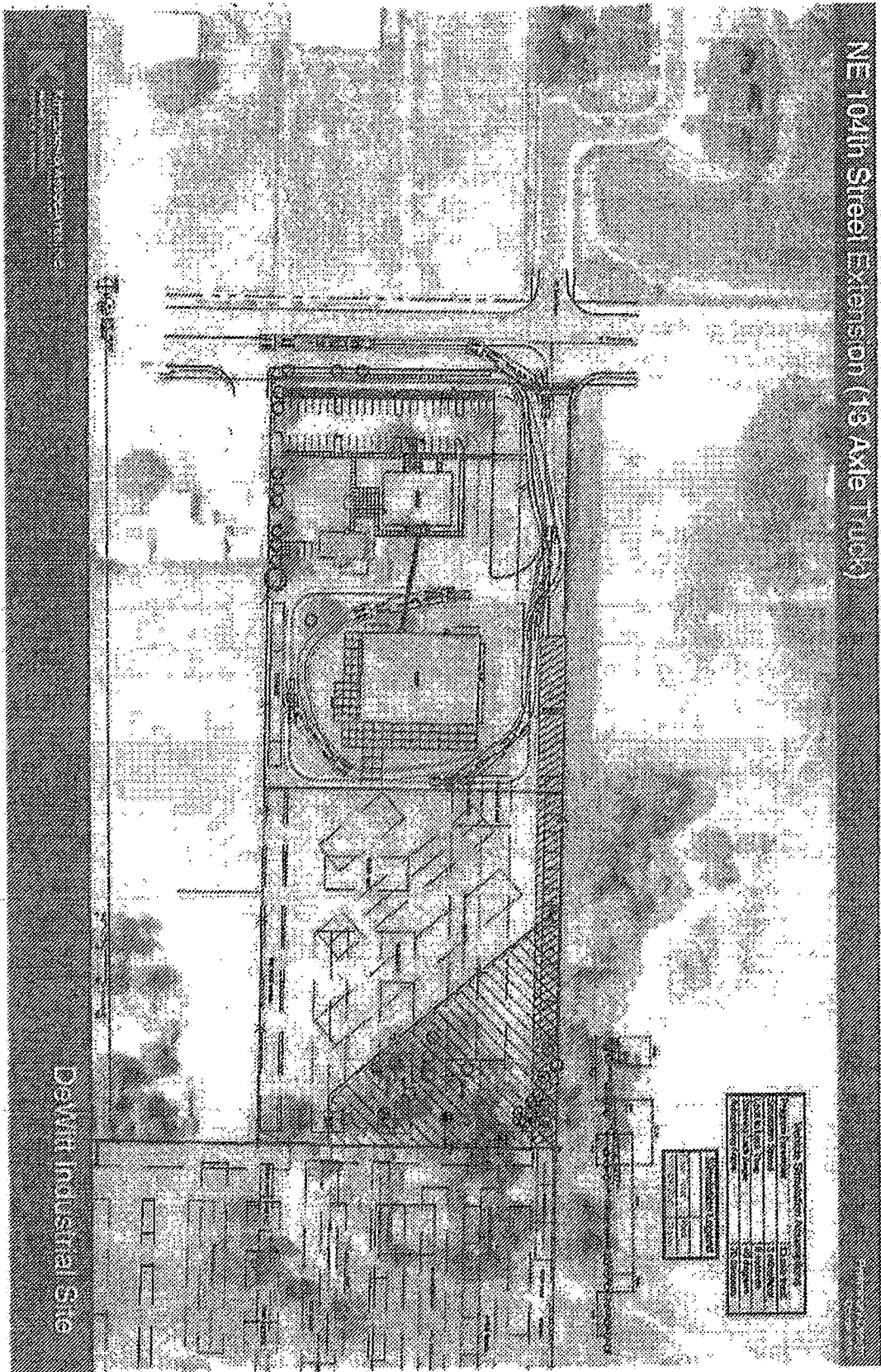
Vehicle Emission Assumptions	
Light Duty Gasoline	0.200 gpm/gal
Light Duty Diesel	0.250 gpm/gal
Medium Duty Gasoline	0.250 gpm/gal
Medium Duty Diesel	0.300 gpm/gal
Heavy Duty Gasoline	0.350 gpm/gal
Heavy Duty Diesel	0.400 gpm/gal

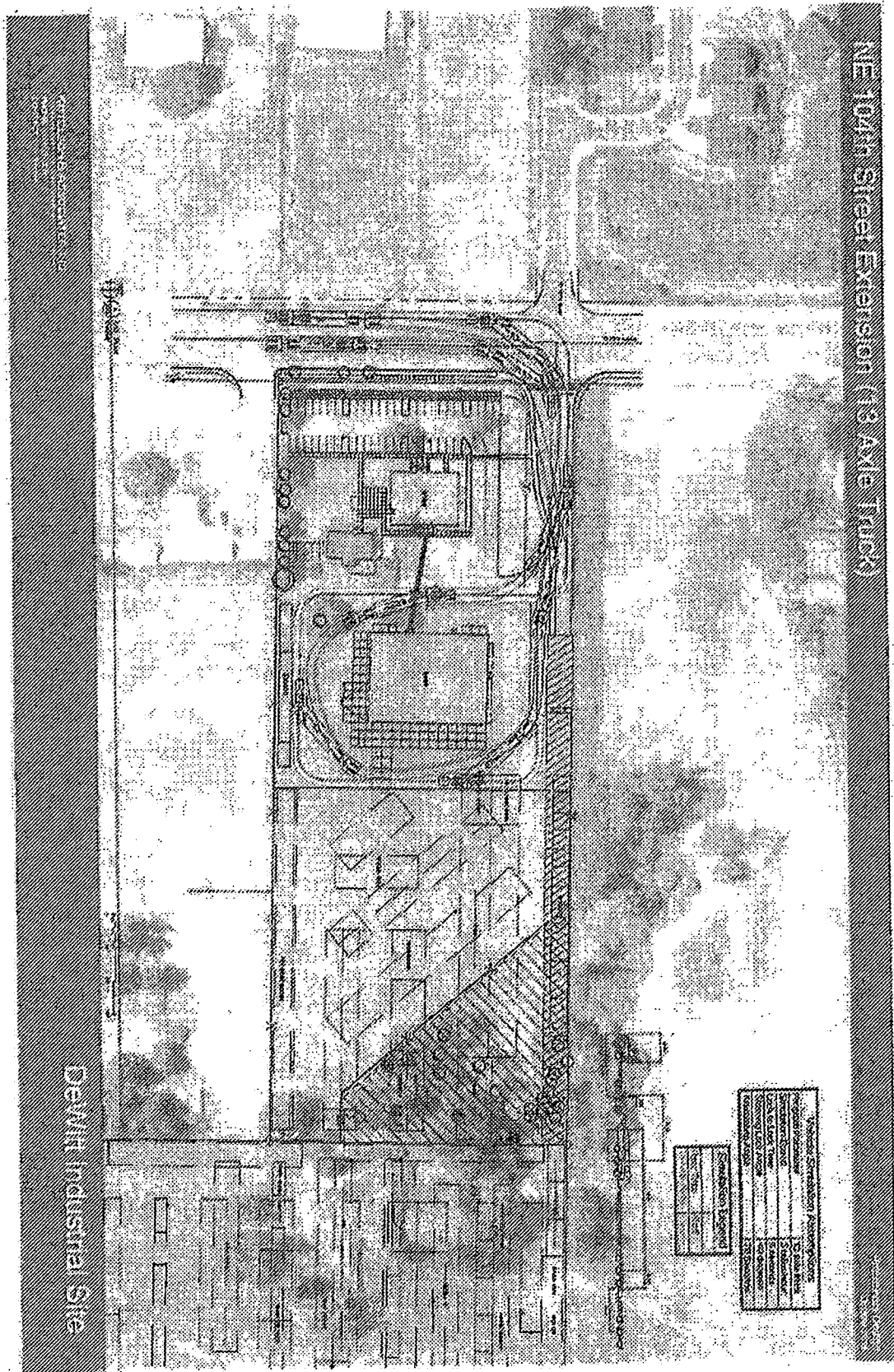
Air Quality Assumptions	
PM ₁₀	0.020 gpm/gal
PM _{2.5}	0.010 gpm/gal
CO	0.001 gpm/gal
NO _x	0.001 gpm/gal
SO _x	0.001 gpm/gal

EXHIBIT D

**13 AXLE TEEMPLATE SCHEMATICS (NOT APPLICABEL; FOR PURPOSES FOR
COMPARISON ONLY)**

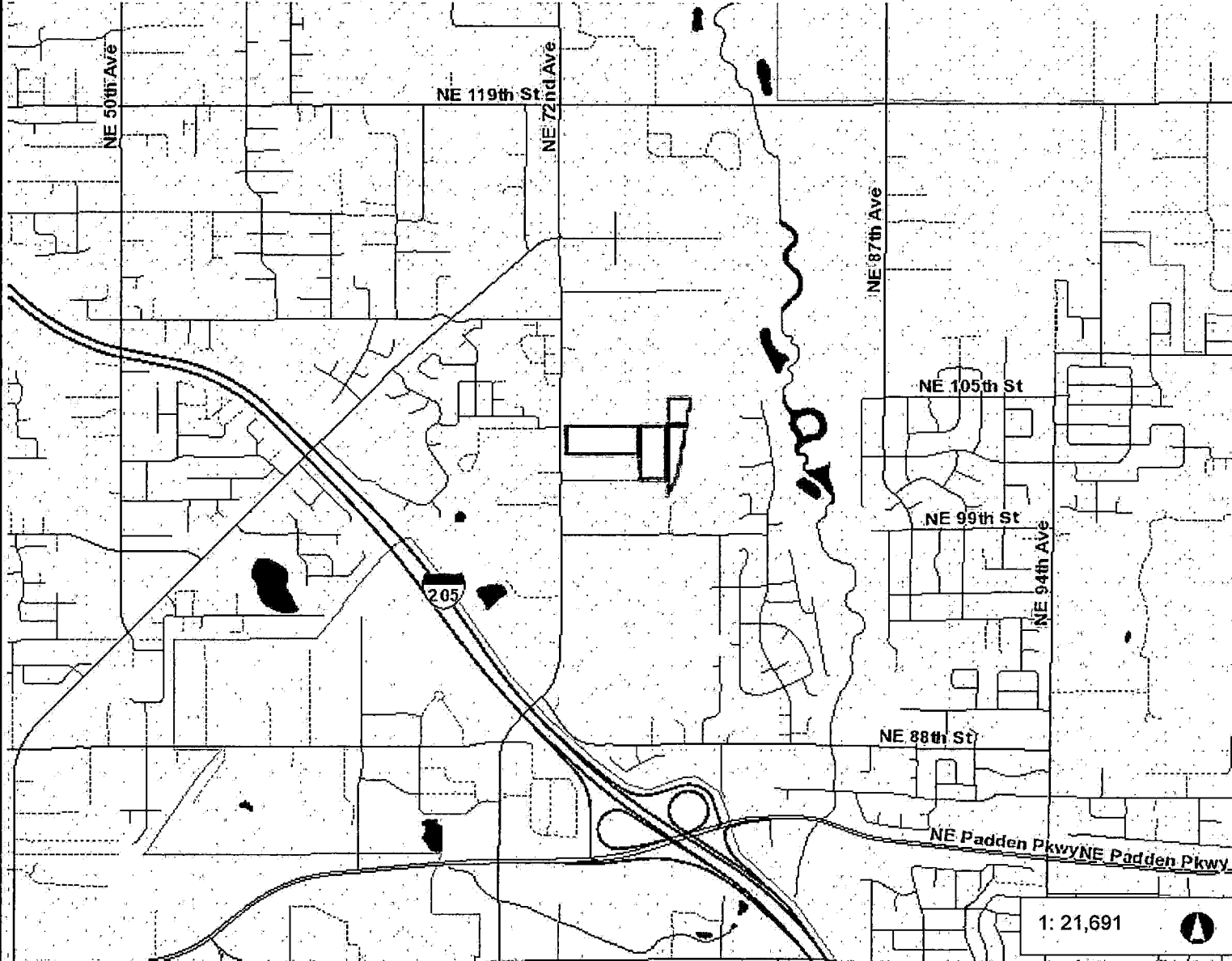
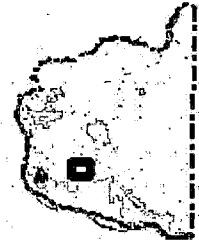








DeWitt Site Location



Legend

- Cities Boundaries
- Urban Growth Boundaries

Notes:

1: 21,691



3,615.1 0 1,807.57 3,615.1 Feet

WGS_1984_Web_Mercator_Auxiliary_Sphere
Clark County, WA. GIS - <http://gis.clark.wa.gov>

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