

CBL:

152-B-1

FOLDER NAME:

PB Memo

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7-20-04 ~~MEMO~~ - Cond. Rezoning

PROJECT:

Morrill's Crossing

ADDRESS:

33 Allen Avenue

Memorandum
Department of Planning and Development
Planning Division



To: Chair Delogu and Members of the Portland Planning Board
From: Sarah Hopkins, Development Review Services Manager
Date: July 15, 2004
Re: Planning Board Workshop July 20, 2004
Packard Proposed Conditional Rezoning

Packard Development is returning to the Planning Board to present its updated traffic study and to discuss any outstanding issues related to the revised conditional rezoning document or its attachments.

Attached to this memo, are comments from Tom Errico, PE, regarding the traffic study. Mr. Errico will be available at the workshop to discuss his comments and answer any questions of the Planning Board.

Attachments

1. Memo from Tom Errico dated July 15, 2004
2. Correspondence from Neighbors
3. Redlined Conditional Rezoning Document

Submission Notebook

Attachment 1

From: "Tom Errico" <terrico@wilbursmith.com>
To: "Jennifer Dorr" <JMY@portlandmaine.gov>
Date: 7/15/2004 11:36:43 AM
Subject: Fw: Packard -- Morrill's Corner

Jennifer--

Sarah asked that I send you my comments for the Planning Board packet. Please call me if you have any questions.

Tom

----- Original Message -----

From: Tom Errico
To: Sarah Hopkins
Cc: Alex Jaegerman ; Katherine Earley ; Rob Nagi
Sent: Thursday, July 15, 2004 11:09 AM
Subject: Packard -- Morrill's Corner

Sarah--

The following summarizes my comments as it relates to a review of the June 18, 2004 Traffic Impact and Access Study and supporting material prepared by Vanasse Hangen Brustlin, Inc.

- 1.. A detailed improvement plan has been provided for Forest Avenue from Allen's Corner to Bell Street. A similar plan should be provided along Allen Avenue from Forest Avenue to a point east of the project site drive where roadway changes end. I would also ask that the Forest Avenue plan illustrate how the four-lane section will match with the existing two-lane section south of Bell Street.
- 2.. The applicant should conduct and present a traffic simulation of the Morrill's Corner area.
- 3.. Access management issues adjacent to the Allen Avenue/Site Drive intersection need resolution. It is suggested that Paul White Tile driveways be reconfigured to align opposite the site driveway and be controlled by the proposed traffic signal. Additionally, the driveway to the apartment complex easterly of the site should be closed.
- 4.. Minor street impacts will continue to be a concern. Accordingly, the applicant will need to address this issue in sufficient detail. I do not agree that increased delay will not result on minor street approaches. Some increased delay would be expected due to increases in main line traffic. I would suggest that delay values for side street movements be presented before and after project construction.
- 5.. Access to the abutting neighborhood should be provided such that local traffic can directly access the proposed development without having to turn onto Allen Avenue. This connection will provide the benefit of access to the proposed traffic signal, thus providing neighbors the opportunity to utilize those benefits during peak traffic time periods when left-turns from side streets is difficult.
- 6.. Traffic volumes that were recently collected occurred at a time when Allen's Corner construction was active and may have influenced traffic volume distribution. The applicant will need to address this issue.
- 7.. The proposed project will need to satisfy requirements contained in the Maine Department of Transportation Rules and Regulations Pertaining To Traffic Movement Permits through the City's Delegated Review Agreement. Specifically, the Rules note: "Unreasonable congestion. Level of Service D, as determined from a capacity analysis, is considered the minimum level of service needed to provide safe and convenient traffic movement. Where a road, intersection, or any approach lane to the specific intersection or intersection being evaluated in the vicinity of the proposed development is determined to operate at LOS E or LOS F in the horizon year, the proposed development is considered to result in unreasonable congestion, unless: Improvements will be made to raise the level of service of the road or intersection to D or above. There are several intersections in the study area that the capacity analysis contained in the Traffic Technical Appendix indicate have movements at Level of Service 'E' or worse.
- 8.. The lane assignment at the proposed site drive should be revised. The westbound Allen Avenue approach should consist of an exclusive left-turn lane and one through lane. The eastbound Allen Avenue approach should consist of one or two through lanes and one right-turn lane. Additionally, the eastbound

lane merge should be lengthened for a distance of at least twelve times the green time at the intersection (engineering approximation). A revised level of service analysis should be performed to ensure that this lane arrangement would operate reasonably.

9.. The applicant should consider the provision of a crosswalk across Forest Avenue from the McDonald's Restaurant to the channelization island separating flow to Allen Avenue eastbound.

10.. The vehicle crash history should be updated to account for data available from MaineDOT for the most recent three-year period (2001 to 2003). This was recently published and I would ask that a qualitative review be performed relative to High Crash Locations.

11.. Although I have not reviewed all vehicle queue estimates at Morrill's Corner, I am concerned about queuing problems. For example, left-turn queues on Forest Avenue between Allen Avenue and Warren Avenue will not be accommodated within the storage bays provided and may spillover into through lanes contributing to traffic problems. Information should be provided that summarizes the 95% queue estimate versus lane storage.

l.. The evaluation of the Forest Avenue/Ocean Avenue intersection needs to be performed in coordination with the Forest Avenue/Woodford Street and Forest Avenue/Read Street intersections. All three intersections need to be evaluated together.

m.. The intersection of Forest Avenue and Bell Street should be evaluated assuming traffic signalization and roadway conditions as depicted on the conceptual improvement plan.

n.. Trip Generation for the proposed project was based upon data contained in the 6th Edition of the Trip Generation Manual, Institute of Transportation Engineers. Data from the available 7th Edition should be used.

o.. The study notes that improvements will include "Upgrade existing traffic signal equipment and coordinate the three signalized intersections within the Morrill's Corner area". These intersections are coordinated and specific details on what is to be incorporated should be noted.

p.. Specific details on the recommended improvements to pedestrian facilities (sidewalks, crosswalks, etc.) should be provided.

q.. When comparing traffic volumes from the various iterations of traffic reports prepared for this project, volumes have increased and decreased for some locations. An explanation should be provided.

r.. I have not completed my review of the parking study and will provide comments as soon as possible.

Please call me if you have any questions.

Thomas A. Errico, P.E.
Senior Transportation Engineer
Wilbur Smith Associates
59 Middle Street
Portland, Maine 04101
(207) 871-1785
(207) 871-5825 fax

CC: "Sarah Hopkins " <SH@ci.portland.me.us>

From: <Debkeen2@cs.com>
To: Portland.CityHall(SH)
Date: Mon, Jul 12, 2004 11:55 AM
Subject: For the Board

Dear Sarah,

It is my understanding at this point that Packard will NOT be doing a recount of the bad /inaccurate numbers on Allen Avenue before JULY 20th meeting. The counts for the Allen Avenue Leg were done while construction was being done on Allen's Corner. Making the projected number 400 cars LESS per hour (out of 1600 total) than prior reports and even lower than 2001 numbers, . so I'm not quibbling here we're talking significantly wrong! It is my understanding that they will proceed with a traffic simulation none the less.. The numbers are WRONG so therefore the simulation will be wrong and not based upon any reality. related to this project. Computer programers have a saying garbage in garbage out wrong data in wrong data out. It will be a waste of everyone's valuable time AS WELL As Packard's money. Why do a traffic simulation at this time, when the counts need to be redone? .

I would like to suggest that consideration of the traffic issue therefore be postponed until that recount is done. I would suggest that instead the topic of discussion should be stormwater-- that has not yet been reviewed and has not been slated for review at any time during this part of the process. It too is a key issue that received NO review the last time around. It is my understanding that there would be this traffic workshop(July 20th) and the next meeting would be the public hearing(August 20th?) and decision making meeting. It appears that that schedule would now need to be adjusted. I understand you are off on vacation, but still coordinating this as point person and due to return for the hearing. Sorry to do this to you on your well deserved and needed time off. I understand you might not be in a position to deal with this right now.

Attachment 2
p1 of 11

From: <Debkeen2@cs.com>
To: Portland.CityHall(SH)
Date: Sun, Jun 27, 2004 12:32 AM
Subject: (no subject)

Dear Sarah,

After reviewing Packard's latest Traffic Study and talking to Tom Errico. I would like to ask that the impact on more unsignalized intersections be included for study/ review.(pg 31 of the June 18th report).VHB choose 3 unsignalized intersection to review-- one is at the furthest corner of the study area -Ocean and Walton. The other 2, Forest and Bell and Forest and Morrill Streets only look at the impact on one of the three major legs into Morrille's Corner. Both Bell and Morrill Street primarily serve commercial properties and have alternative paths out of those streets .And both Morrill and Bell Streets will be mitigated BY MDOT, should they at some point in the future, approve a road widening and signal at Bell Street. NOT so for the residential side streets off of Forest and Allen (West?) of the site.

As you may know, all but one, of residential side streets off of Forest Ave between Riverside Street and Morille's Corner, dead end.... which means there is only one way in and one way out. The same is true for most of the residential streets off of Allen Ave between Morrill's Corner and Washington. Why is that important? Car accidents and the safety of residents that live in those neighborhoods..

In preparation for the discussion on traffic I requested and received the most recent accident data summary available for the area from MDOT . I requested data for Allen Ave from Morrill's Corner to Washington, Forest Ave from Walton to Hicks, and Stevens Ave from Pleasant to Morrill's Corner.

According to MDOT, there were 433 car accidents in the study area from January 2001 until December 31, 2003, 3/4 (296) of them were rear end collisions, 9 were head on collisions and 106 were intersection movements. 319 of them happened in dry weather, 306 happened on a clear day, 317 happened during daylight hours. The highest incidence of accidents was between 11am and 12pm(noon time) and between 3-4 pm(pre commuter or post school hours).and occurred on a Thursday or Friday. Almost 60% of the accidents, 245, happened at unsignalized intersections or legs.

Of the 888 drivers involved, 433 were found to have " no improper driving", 187 were driver inattention and 64 were following too close. Of those 888 drivers, 864 were found to be normal --meaning unimpaired by drugs, alcohol, fatigue or other factors. (one was actually found to be "asleep"). 369 were between 30-50 years old, 227 were under 30, 202 were over 50.

Based upon this data, my conclusion is that most accidents are rear end accidents while residents in the area are stoped on major roadways to turn left into their deadend streets to go home after work. The primary culprit --- heavy traffic on major road ways.Inattention caused by frustration and commuters eager to get home. It's not the signalized intersections but the unsignalized ones and those legs which cause the major safety concern for residents in the area.

Linda Lincoln has eloquently and clearly explained the dangers that only an accident victim of the area can explain and fully understand. Residents travelling safely and waiting to turn into their side street should not be further victimized by the increase in traffic that this project will bring. Packard's mitigation is not out of concern for our safety and in fact the traffic this will bring to the area will further endanger that. Their mitigation is to speed and facilitate access to their site. That mitigation is limited to near the site without regard to the consequences of that mitigation and their project beyond the site as two lanes suddenly merge to become one.

2/11

I too was a victim of living in the area, which is why I and many of my neighbors were actively involved in the discussion on the MDOT widening between Warren Avenue and Morrill's Corner. Over 50 people attended the public hearing on it.

One of our concerns was what happens at the light at Warren and Forest when those two lanes merge into one? I was already a victim of that. I waited on Forest Ave to turn left onto Avalon, coming home from a workshop in town. The two lanes of traffic race each other to merge, sometimes they miss and accidents result. There were 31 accident from Warren Avenue to Hicks Street(the next street past Avalon)The first victims are those turning left into Princeton Ridge(used to be Forest Ridge) next are those turning onto Avalon, and then onto Hicks. On the other side of the street are those trying to turn into Princeton Pines (used to be Deering Pines) ad Wall Street. It's the unsignalized intersections that residents in the area worry about. That's where the accidents are happening!! According to the MDOT accident report, twice as many accidents are happening at the unsignalized intersection and legs , than are happening at the signalized intersections..

In their assessment of the unsignalized intersection of Forest and Morrill Street , VHB says: "The proposed project is not anticipated to create any additional demand (traffic) on Morrill Street and, therefore, no additional delay for the vehicles on this approach." UH DUH...It's the additional traffic that will be created by this project on Forest Ave, Allen Ave, and Stevens that will increase the delay on Morrill Street, Avalon, Plymouth, etc (and more importantly endanger our SAFETY trying to get home)

So all that is to say I would like more unsignalized intersection included for review. I would suggest those that have a critical rate factor above 1.0, all of which are closer to the site than is the intersection of Walton and Ocean. They would be Avalon and Forest, Eleanor and Forest, Allen and Plymouth ,and Allen and Abbott. None of the intersections or legs on Stevens Ave reach a CRF. I would suggest that's an indicator of what happens when we institute and implement traffic calming measures, on major arterials thru residential area- like Stevens Avenue.---safety is increased and ensured!! The result will be the opposite for the residential neighborhoods on Allen Ave and Forest Ave, as added lanes will further divide our neighborhoods, endangering both drivers and walkers alike.

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Sunday, June 27, 2004

E-mail this story to a friend

If they build them, will you shop?

By EDWARD D. MURPHY, Portland Press Herald
Writer

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Also on this page:
COMING ATTRACTIONS

With the Maine Mall in South Portland, scores of outlet stores in Freeport and Kittery and major shopping areas in the state's largest cities, Maine would seem pretty well covered with shopping opportunities. But that's not the way Packard Development sees it.

"The Maine market is grossly underserved," said Leonard Rudofsky, the president of Packard. "People like to shop and the Maine market is very limited. If you don't go to the Maine Mall, where do you go?"

The Newton, Mass., company is prepared to answer that question by peppering the state with what the industry calls "lifestyle" centers - outdoor shopping areas anchored by one or two large stores and filled in with a half-dozen or more smaller, specialty shops. Maine Crossing in South Portland, developed by Packard, is a prime example of a lifestyle center, with a Target and a large Old Navy store as anchors, plus a number of smaller shoe, clothing, baby and craft shops.

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COMING ATTRACTIONS

PACKARD DEVELOPMENT is leading a wave of retail construction in south and central Maine. Packard's projects, most of which will be completed in 2005 and 2006, are:

- Maine Crossing, Running Hill Road, South Portland: 274,000 square feet. Anchors: Target and Old Navy. Opened in 2002.

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Late last year, Packard unveiled its plans for 2004 and 2005 - major projects in Portland, Augusta and Biddeford and significant renovations of existing shopping centers in Portland and Bangor. In all, more than 1.6 million square feet of shopping space has been created, will be added or is scheduled to be renovated, easily exceeding all the space inside the Maine Mall.

This development comes at a time when national and regional retail superpowers are pushing into Maine for the first time: Target, the discount store chain, has opened a store in South Portland. Lowe's, the nation's leading building-supply company, has announced plans to open stores in Augusta, Biddeford and Portland and is expected to add more in the coming months. Stop & Shop, the biggest supermarket company in New England, is planning stores in Kennebunk and Portland as its first step in building a grocery network in Maine. Kohl's also plans to open its first department stores in the state.

"The whole country by and large is over-retailed and has been over-retailed for some time, yet some of the big chains continue to expand," said Gary Wright, a retail consultant based in Denver. "You're seeing some of these big chains go into areas where they haven't been before."

LOCAL BUSINESS SQUEEZE

Despite Rudofsky's assertion that Mainers don't have enough shopping choices,

- The Shops at Biddeford Crossing, Route 111 and I-95, Biddeford: 460,000 square feet. Anchors: Lowe's and an undisclosed tenant.
- Augusta Crossing, Western Avenue, Augusta, I-95 at exit 109: 450,000 square feet. Anchors: Lowe's and an undisclosed tenant.
- Morrill's Crossing, Forest and Allen avenues, Portland: 150,000 square feet. Anchor: Stop & Shop. City reviewing project.
- Pine Tree Center, Brighton Avenue., Portland: 175,000 square feet. Anchor: Lowe's.
- Former Wal-Mart site, Springer Drive and Hogan Road, Bangor: 180,000 square feet. Anchor to be announced.

Source: Packard Development

Each day, we ask MaineToday.com readers for their reactions to events in the news:



Retail development

Southern Maine is undergoing a building boom in the retail sector, with chains like Stop & Shop and Lowe's making the move into Maine. But some question whether there are enough shoppers in Maine to justify this space and concerns are being raised about urban sprawl. Do you think Maine needs additional retail space?

- Yes
- No
- Don't know
- Don't care

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This survey is not scientific. The results are a snapshot of what readers who choose to take the poll are thinking. It is designed to allow readers to interact with the news of the day, and is not intended to be used for reference purposes.

See the results of past questions from



5/11

Maine retail experts and some store owners fear that the influx of stores on their way will squeeze locally-owned businesses out of the market and leave the state vulnerable if the economy sours or retailing whims change.

the past seven days and find out about how the poll works, check [Previous Days' Questions](#).

[To top of story](#)

And there's also concern about whether the positive influences of the new retailers, such as jobs and increased property taxes, make up for the negatives, including the contribution to sprawl and the drain on downtowns as the business hubs of communities.

The interest in Maine among retailers is a bit of a puzzle. The state is large geographically, but it's also thinly populated with few large urban areas. Maine's population is growing slowly, and residents remain near the bottom third of the states in per capita income.

The explanation for retailers' renewed interest in Maine, in the face of those drawbacks, appears to be this: Maine represents something of a last frontier for large-scale retail development.

"You really do not have the influx of shopping centers and malls that other parts of the nation do," said Jane Bergmann, the former editor of *Stores*, the magazine of the National Retail Federation, and now a business consultant. "Northern New England is one of the last parts of the country to feel the impact of this. Apparently, you're about about to get some of that impact."

Northern New England is "kind of the last horizon for the bigger box retailers," agreed Don Siebert, the Northeast representative for Gary Wright's consulting company.

Maine remained on the horizon for retail developers far longer than most of the country, and the first wave of national chain expansion in the 1980s left Maine largely untouched. Wal-Mart, Home Depot, Sam's Club and the like didn't arrive in large numbers until a decade ago, years after they dotted the landscape in most other parts of the country.

Another wave of expansion is building, Wright said, now that the economy is picking up again. More jobs and higher incomes mean more money to spend at the large stores, which capture market share through low prices, heavy advertising, convenient locations and sheer size.

Rudofsky said the arrival of Lowe's, a big box hardware retailer, and Kohl's, a general merchandiser, are part of a wave of new stores that are replacing the likes of Ames and Bradlee's and the struggling Kmart.

"They're no longer in existence and now what you've seen is a changeover toward some of the more diversified stores, such as the Wal-Marts and the Target stores," he said. "They're replacing a lot of the stores that are no longer in business."

6/4

There is room for some expansion of retailing in the state, said Mark Malone of Malone Commercial Brokers. The area off Maine Turnpike exit 10 in Falmouth, where a large Hannaford grocery store now sits among several smaller stores, and the North Deering area of Portland are places where more stores could probably be accommodated fairly easily.

'ONLY SO MANY DOLLARS'

But Malone is worried about the scope of the expansion envisioned elsewhere in southern and central Maine.

"People are going to stop going to the other areas" when the large new projects are built, he said. "Ultimately, there's only so many retail dollars in the market. Someone will get hurt."

There are already signs of the splintered consumer dollar in South Portland, one of the state's most heavily developed communities, host to the Maine Mall and other big retail projects, including Clark's Pond and Maine Crossing.

For years, the Maine Mall served as the center of the shopping universe in southern Maine. Then Mallside, just a stone's throw away in South Portland, attracted a few shoppers. Clark's Pond chipped at it some more. And Maine Crossing, with a popular Target store, picked up some more when it opened three years ago.

Now, Biddeford and Augusta boast large - and still growing - shopping centers, hastening the fragmenting of the retail geography of the region. Undoubtedly, the retail pie has gotten bigger, but it is also being sliced into more pieces, Malone said.

"I think some of the stores in South Portland are going to start to feel the pinch, particularly the larger stores in South Portland that are not in prime locations," he said, noting that the old Service Merchandise store a short distance from the mall has been empty since the chain shut down more than two years ago.

SATURATION POINT NEAR?

Malone said he sees the impact particularly when a vacancy occurs in small, more neighborhood-oriented shopping centers. Stores there can't compete against the draw of the bigger centers, he said, and those small storefronts are hard to fill.

"That tells me that saturation point is almost there," he said.

Quite simply, Malone believes, "it's not my belief that those sales will go up proportionately to the retail space."

But Rudofsky said the interest of retailers in locating in Maine isn't abating.

Packard Development works with some of the largest retail chains

7/11

in the country. As they move into southern New England, he said, they start looking north for further expansion possibilities.

At that point, they contact Rudofsky's company, which studies markets and recommends locations based on consumer demand, traffic patterns, available land and a myriad of demographic and economic indicators, such as "pull factor" - the capacity for a community to draw in dollars from those who live in neighboring towns.

In those studies, cities such as Augusta emerge as hot retailing markets. In Augusta's case, pluses include its excellent connections to I-95 and the willingness of Mainers who live in rural areas outside the capital city to drive there to shop, Rudofsky said.

After gathering the data, Rudofsky's development company sits down with representatives of the retailers to go over the options and pick locations. Then Packard signs another anchor store before moving ahead with the proposal.

Smaller stores are signed up at the same time, although a few come on board later, during the construction phase or even after, he said. The anchors are the key to a successful development.

Rudofsky said the big retailers shun malls these days because the lifestyle centers give them more visibility, greater flexibility on design and store layouts and lower costs.

"The days of the regional malls are over from what we can see," he said. "People are destination-oriented and when they want to go to Target, they go to Target. If they want to go to Old Navy, they go to Old Navy. They don't want to walk through a maze. People's shopping habits have changed."

The habits may have changed, but Les Bray, who runs the Maine-based consulting firm Main Street Insights, worries that basic economic factors haven't.

"They've got to get their business from somebody else who is already out there operating," Bray said of the new stores.

Wal-Mart, in particular, "is clearly starting to have some impact on their competitors when they open up a 'superstore,' " which includes a full grocery section, Bray said. "They are pulling people in and taking away from the food stores."

WELL-OFF AREAS PREFERRED

Bray said he worries that some of the chains may "cherry-pick" some of the more well-off communities in the state, leaving rural areas with only a few general merchandise stores and less competition.

"When you move out (of the larger cities), you lose the ability to buy the goods," Bray said, and the lack of competition may leave

those residents with bigger bills.

8/11

Critics of some of the big chains say their strategy is to knock off competitors with low prices, leaving them free to raise prices once they become the only game in town.

Siebert, the retail consultant, said they can achieve that through sheer numbers. Chain stores rarely move into a state with just one or two locations and see how sales go. Their strategy is to hit most of the major population centers at one time.

Part of the reason is that retailers set up regional distribution centers and moving goods around is more efficient if they're going to several stores rather than just one or two in a state. But more important is marketing efficiency, Siebert said.

Chains can run ads and send out flyers for specials and sales that are taking place at all the stores. All they have to do is list all the locations at the bottom of the ad or back of the flyer, and the cost of marketing per store is driven way down.

For that reason, "when they come into an area they like to saturate it in stores," Siebert said.

PROFITS GO OUT OF STATE

Jack Cashman, the state's commissioner of economic and community development, said the coming influx of major retailers worries him. Although the chains can enhance economic activity in a town, he said, the profits are sent to the out-of-state headquarters rather than being spent in the community.

And the stores provide jobs, he said, but many of them are part-time with few if any benefits, such as health insurance or pensions.

But in many ways, trying to slow the flow of the retailers into Maine would be like trying to hold back the tide, he said.

"It seems to be something you really can't stop. They keep prices down through mass volume and make it very difficult to compete," he said.

Cashman noted that his father ran a restaurant in Old Town until 1978 and he would have found it hard to survive with all the chain restaurants that have moved into towns big and small throughout the state.

"It used to be you went to the local merchant and the money stayed in town," he said. "Those were good days and I kind of miss them."

Staff Writer Edward D. Murphy can be contacted at 791-6465 or at:

emurphy@pressherald.com

9/11

From: "Tamiko Davies" <daviet@mmc.org>
To: <podonnel@maine.rr.com>, <SH@portlandmaine.gov>
Date: Mon, Jun 28, 2004 11:43 AM
Subject: stop the madness at morrill's corner: Please give a copy to the planning board members

Dear Mr. Gorham

As you know, Packard Development wants to bring a huge high-impact supermarket to Morrill's Corner. The impact is too much for the area to sustain. First it will mean 8000-11000 car trips per day. Just to remind you, Morrill's corner is already the busiest intersection in the state of Maine. I understand the area will be developed at some point and I am not against this since it will provide tax revenue. However, I urge you to consider a development which is in more harmony with the existing neighborhood. First, we do not need another supermarket. There are several within 1-2 miles. If the supermarket is not successful, who would then lease a space that large? Second, let's imagine more of a community shopping center with locally owned business. We do not need the profits to exit the state. Lastly, Packard having housing right next to a huge building does not make a lot of sense. What type of quality of life would the owners enjoy with bright lights, traffic, and pavement all around.

Thank you for your consideration
Sincerely, Tamiko Davies

10/11

From: "LINDA LINCOLN" <linda013049@verizon.net>
To: "Sarah Hopkins" <sh@portlandmaine.gov>
Date: Mon, Jun 21, 2004 11:39 AM
Subject: Re:PACKARD DEV. 06/21

Hi Sarah and parties involved:

I will not be able to attend the planning board meeting tomorrow night, however I do want to e-mail my feelings on the Packard Development.

I want to say that over a year ago and perhaps longer I had heard about the proposed Packard Development Plans. I was under the impression that it was a done deal and I never took an active role in opposing it. I remember thinking how hard it is to turn left out of Plymouth St. and how hard it was going to be when this Packard Development happened. I remember thinking about the accident I was in a few years ago when I was stopped on Allen Avenue waiting to turn left onto Plymouth St. We were hit from behind because the driver in the vehicle that hit us was not paying attention. He admitted that he was looking at something near the sidewalk. I thought about the other accidents that have happened in the same spot and I wondered how long before a fatal accident.

When I had heard about the Oak Ridge Development I knew I had to do something and as you know I started a petition. Well one thing has led to another and by leading to another I have been getting information on the Packard Development and finding out that it was not a done deal. I have been asked to help with a petition opposing the sale of publicly owned land to Packard Development and the granting of a contract zone to Packard Development for their proposed development at Morrill's Corner. I only started this the other day but in one day I was able to get 10 signatures. I hope to talk to more people this week and get more signatures before turning it over to the person that asked me to help.

Morrill's corner has been a traffic nightmare for some time. The improvement of the road and the monitors have helped some. I do worry about the possibility of accidents in the following example: I am stopped at the red arrow at Morrill's corner waiting to turn left onto Allen Ave. As I wait, vehicles heading North on Forest Avenue come very close to my vehicle and in one case almost took my side mirror. This has happened to a few other people I know. It seems to me that the lanes on one side of the light (work in side) do not match up very well with the other side (sub way side). I am not sure if I am explaining this very well so please call me if you want a better explanation.

I know I am talking about a lot of things in this letter, however I really want the planning board to see how much of an impact on traffic the Packard Dev. will have. Morrill's corner will go back to an even bigger nightmare then before and people trying to turn left from either side of Allen Ave at peak times will become very frustrated. Extra traffic lights will not help the situation it will only make matters worse. I have not had the time to go to Public Safety and get reports on the accidents between Morrill's Corner and Allen Ave. in the past year or so, but I would guess that most have been due to driver inattention and or frustration causing driver inattention.

One quick thing on the road improvement at Allen Ave. and Washington Ave. I find that vehicles turning from Washington Ave. onto Allen Ave. do not have much room in the one Lane near former Burger King. I wonder what the winter will be like when vehicles turn into that Lane when it is slippery. I have seen vehicles slide in past winters but they have had more room to correct the slide. in my opinion i don't see much room for error on the turn. I also think you will see a problem with two lanes turning left from Allen Ave onto Washington Ave. The turn seems to put vehicles in both lanes very close together. Well, enough of that for now but I think you will be hearing more about it. The more vehicles in that area will be more reason to be concerned. If Packard Dev. gets approved the Allen Ave. and Washington Ave. area will have quite a bit more traffic and traffic problems and or accidents.

We should not forget about Pedestrian Safety. People walking, running, crossing the street and riding bikes. I would really hate to see a fatal accident be it with two vehicles involved and or a vehicle and a pedestrian before somebody takes our concerns seriously.

12/11

I see several people walking up my street, (Plymouth St), that have crossed over from Northfield Green. They tell me that Plymouth St. is a nice walk for them. They leave their place at Northfield Green, cross over Allen Ave and walk up Plymouth St. I have talked to several people and they just love that walk. I worry for the safety of these people crossing the street now, let alone if traffic was to increase. The sign in the walkway for pedestrian is for the most part just a sign. I have seen people trying to cross and people in vehicles not even slow down to let them cross.

I could continue on, but I believe the councilors and planning board people do take our concerns very seriously and will look at them very hard before making any decisions on selling land or granting a zone change.

I would also like to say that I am all for Development of Shopping Malls, etc. but in an area that is right for them. I miss Ames and Bradless and K-Mart etc. but I feel they were in correct areas. Morrill's Corner has enough Businesses and traffic. We do not need more.

thank you

Linda Lincoln
Plymouth St.
Portland, me

CONDITIONAL ZONE AGREEMENT

PACKARD DEVELOPMENT, LLC

AGREEMENT made this ___ day of _____, 2004 by **PACKARD DEVELOPMENT, LLC** a Delaware limited liability company with a mailing address of One Wells Avenue, Newton, Massachusetts 02159, and its successors and assigns (hereinafter "**PACKARD**").

W I T N E S S E T H

WHEREAS, PACKARD seeks to develop property located at and in the vicinity of 33 Allen Avenue in the City of Portland and identified on the City of Portland on the Assessor's maps at Map 435, Block G, Lots 10-12, 21, 22, and 26; Map 151A, Block A, Lots 12 and 13; Map 152, Block C, Lots 2 and 5; and Map 435, Block D, Lots 15, 16, 17 and 18 (hereinafter referred to as the "**PROPERTY**") (See **Exhibit A**); and

WHEREAS, PACKARD proposes to develop the **PROPERTY** as a mixed use development, including residential units, a community shopping center with a grocery store, other retail uses, restaurants, offices, and a boxing club/ gym facility; and

WHEREAS, the PROPERTY is currently located in three different zoning districts, R-5, B-2 and I-L; and

WHEREAS, The purpose of this contract rezoning is to provide for a mixed use development, including a community shopping center, residential units, offices and a boxing and fitness facility; and

WHEREAS, substantial public improvements will be required to support any redevelopment of the PROPERTY, including but not limited to traffic improvements in the Morrills Corner area; and

WHEREAS, PACKARD has developed a traffic improvement plan, which plan has been reviewed by the **CITY**; and

WHEREAS, the Planning Board of the City of Portland, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Code §§ 14-60 to 14-62, and after notice and hearing and due deliberation thereon, recommended the rezoning of the PROPERTY, subject, however, to certain conditions; and

WHEREAS, the CITY by and through its City Council has determined that said rezoning would be and is pursuant to and consistent with the **CITY'S** comprehensive land use plan and will establish uses that are consistent with the uses in the original zones and the surrounding areas; and

WHEREAS, the **CITY** has determined that the proposed development will be designed and operated so that it will prevent undue adverse environmental impacts, substantial diminution of the value or utility of neighboring structures, or significant hazards to the health or safety of neighboring residents by controlling noise levels, emissions, traffic, lighting, odors, and any other potential negative impacts of the proposal through the design and implementation of significant public traffic improvements, stormwater drainage improvements, landscaping and buffering; and

WHEREAS, the **CITY** has determined that because of the unusual nature and unique location of the proposed development and the need for significant public improvements it is necessary and appropriate to have imposed the following conditions and restrictions in order to ensure that the rezoning is consistent with the **CITY'S** comprehensive land use plan; and

WHEREAS, on _____, 2004, the **CITY** authorized amendment to its Zoning Map based upon the terms and conditions contained within this Agreement, which terms and conditions become part of the **CITY'S** zoning requirements; and

NOW, THEREFORE, in consideration of the rezoning, **PACKARD** covenants and agrees as follows:

1. Effective thirty days from the affirmative vote of the City Council, by Council Order No. _____, the City amends the Zoning Map of the City of Portland, dated December 2000, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by § 14-49 of the Portland City Code, by adopting the map change amendment for the **PROPERTY** shown herein. This conditional rezoning shall become null and void and the **PROPERTY** shall revert to the existing R-5, B-2 and I-L zones in the event that **PACKARD** fails to record deeds transferring title ownership or long-term leases from White Chapel, LLC; Paul G. and Jonathan White; the City of Portland, except as otherwise provided in Section 6.G of this Agreement; James E. Darling, Jr.; Madeline F. and Jack Adams; and Allen Avenue Plaza, LLC to **PACKARD** within one year from the date of the Council vote. This one-year period shall be extended if:

- a. **PACKARD** has applied for all required approvals but has not received all required approvals within the one-year period;
- b. Any required approval, including the approval of the conditional rezoning, has been appealed; or
- c. Any other event beyond the control of **PACKARD** has occurred which will delay the closing on some or all of the parcels and **PACKARD** has notified the **CITY** of such event and the projected time period for resolution of the event. In the event that **PACKARD** receives all required approvals within the one-year period but does not have sufficient time to hold all required closings within the one-year period, it shall notify the

CONDITIONAL ZONE AGREEMENT

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WHEREAS, the CITY by and through its City Council has determined that said rezoning would be and is pursuant to and consistent with the **CITY'S** comprehensive land use plan and will establish uses that are consistent with the uses in the original zones and the surrounding areas; and

WHEREAS, the **CITY** has determined that the proposed development will be designed and operated so that it will prevent undue adverse environmental impacts, substantial diminution of the value or utility of neighboring structures, or significant hazards to the health or safety of neighboring residents by controlling noise levels, emissions, traffic, lighting, odors, and any other potential negative impacts of the proposal through the design and implementation of significant public traffic improvements, stormwater drainage improvements, landscaping and buffering; and

WHEREAS, the **CITY** has determined that because of the unusual nature and unique location of the proposed development and the need for significant public improvements it is necessary and appropriate to have imposed the following conditions and restrictions in order to ensure that the rezoning is consistent with the **CITY'S** comprehensive land use plan; and

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- a. **PACKARD** has applied for all required approvals but has not received all required approvals within the one-year period;
- b. Any required approval, including the approval of the conditional rezoning, has been appealed; or
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City of the time required to hold all closings and the one-year period shall be extended under the terms of this subsection.

INSERT ZONING MAP

2. The **PROPERTY** shall be developed substantially in accordance with the Site Plan shown on Exhibit B (including the layout of the buildings, pedestrian and vehicular circulation plan, open space, drainage, and landscaping) and the architectural renderings shown on Exhibit G, provided, however, that each Phase, whether classified as a major or minor development, shall be subject to site plan review by the Planning Board, and if applicable, subdivision review by the Planning Board. Any site plan review applications shall fully comply with the Site Plan attached as Exhibit B, and the architectural renderings shown on Exhibit G, and the application requirements contained in article V (site plan) of the Land Use Code. The Planning Board may permit minor deviations from the Site Plan, as long as the deviations are consistent with the purposes of this Agreement. The structure labeled "Existing Boxing/Proposed Expansion" in the northeasterly corner of Exhibit B shall be built with architecture similar to and compatible with that in Exhibit G for the other structures associated with this project.

3. The **CITY** shall not issue **PACKARD** any building permits for the project until **PACKARD** has 1) acquired the **PROPERTY** in accordance with the requirements of Section 1 of this Agreement and 2) has received all necessary federal, state and **CITY** permits.

4. *Permitted Uses.* **PACKARD** shall be authorized to establish and maintain the following uses on the **PROPERTY**:

- a. Retail establishments, business services and personal services, all as defined by Portland City Code § 14-47.
- b. Professional and business offices occupying no more than 25,000 square feet.
- c. Day care facilities and adult day care facilities.
- d. Exercise and fitness centers, and health clubs, including but not limited to a boxing and fitness facility. Any boxing facility shall comply with the following restrictions:
 1. During site plan review of the boxing club facility, the Planning Board shall develop a condition of approval that limits the total number of events with ticket sales or attendance numbers in excess of 300 being limited to a certain number of times per year; and
 2. **PACKARD** shall notify the **CITY'S** parking division 2 weeks in advance of such event; and

3. **PACKARD** shall provide a parking management plan to handle the requirements for parking at said events as part of the site plan review for the boxing facility, which parking management plan may include provisions for off site parking and shuttle bus transportation to the **PROPERTY**.

e. Dwellings, as specified herein:

- There shall be no fewer than ten (10) apartments (which may be combined live/work spaces) located in the building delineated on the Site Plan as “Proposed Mixed Use: Office/Prof. Service/ Retail/ Residential and “Proposed Retail”). The same shall be built in Phase I of the project. These units shall serve as the replacement units for housing units to be displaced by construction of Phase I of the development in accordance with the requirements of the City’s Preservation and Replacement of Housing Units Ordinance, § 14-483 et seq. Replacement units shall be available for occupancy before a certificate of occupancy may be issued for the new construction on the original site.
- There shall be no fewer than 18 or more than 24 townhouses located adjacent to Princeton Street and shown on Exhibit E as Phase II. No temporary or permanent certificate of occupancy shall be granted for the grocery store building until all municipal approvals have been obtained for the Phase II townhouse development and a building permit has been issued for the first townhouse units. Building permits for at least 18 townhouses shall be obtained within 2 years of the commencement of construction of Phase II.
- **PACKARD** may also construct up to 24 additional units in the area designated on Exhibit B, as “Area Reserved for Potential Residential Development” subject to prior subdivision and site plan review. In the event that **PACKARD** elects to construct these additional units, they must comply with the setback requirements established for the B-2 zoning district. Prior to construction of residential units, this area may be utilized for temporary overflow parking for the boxing facility.

f. Accessory uses, including, but not limited to, public trails, parking facilities and structures, utility services, stormwater management systems, community meeting center, and site amenities.

The uses listed in this subparagraph f shall be functionally related, physically oriented, and complementary to the principal uses of the site.

5. The uses on the **PROPERTY** will be within multiple buildings, which may be constructed in phases as specifically set forth on Exhibit E. All sections of Phase

I and Phase II are required to be developed. Phase II shall be constructed in accordance with the schedule requirements set forth in Paragraph 4. Phase III is not required to be developed.

The following improvements must be constructed during Phase I: no fewer than 10 housing units in compliance with Portland City Code § 14-483 et seq., off-site traffic improvements as shown on Exhibit C, the portions of the trail network shown on Exhibit B and included in Phase I of the Plan plus the temporary loop completion shown on Exhibit B (except for that area labeled “Proposed Pedestrian Way in Princeton Street Right of Way” which shall be constructed as part of Phase II). No final certificate of occupancy at this site will be issued for any purpose, unless and until such improvements are completed.

If the **PROPERTY** is constructed in Phases, in addition to the requirements contained in the Portland City Code, **PACKARD** nonetheless will be required at the outset to post a performance guarantee to cover all of the following improvements regardless of the Phase:

- Landscaping for approved portions of the plan
- Traffic improvements as shown on Exhibit C
- Trail amenities
- Stormwater system

6. *Development Standards.* All site plans in conformance with Exhibit B and Exhibit G (architectural renderings) may be approved by the Planning Board only if, in addition to the dimensional requirements of paragraph 9 and the applicable provisions of article IV (subdivisions) and article V (site plan), the development meets the following additional development standards:

a. *Landscaping:* Development proposals shall include a landscape program that is consistent with the landscaping plan shown on Exhibit B. All land areas not covered by structures, parking areas, bus facilities or circulation facilities shall be landscaped and maintained. In order to soften the visual impact of large expanses of pavement in parking lots, vegetation shall be planted or retained in islands or planting strips as shown on Exhibit B. Development proposals shall include appropriate fencing and/or berming and planting treatment of a dense and continuous nature in order to buffer parking lot visibility from adjacent properties.

b. *Vehicular access.* Vehicular access to the Phase I retail and office portion of the site shall be from the signalized access as shown on Exhibit B and shall be coordinated with other off-site traffic improvements as shown on Exhibit C. A gated emergency access shall be provided at the terminus of Morrill Street as shown on Exhibit B. Vehicular access to ~~the residential uses on the site~~ Phase II shall be as shown on Exhibit B, with the location of the access to the Area Reserved for Potential Residential Development to be established during site plan and subdivision review of such

development.

c. *Signs:* Development proposals shall identify all proposed signage. Building signage shall be designed in proportion and character with the building facades. A pylon sign including tenant signage shall be in accordance with Exhibit D and the location shall be located as depicted on Exhibit B. All signs shall be constructed of permanent materials and shall be coordinated with the building and landscaping design through the use of appropriate materials and finishes. Signage for the development shall meet the standards established in Section 14-369 for multi-tenant lots in the B-2 zoning district, except as otherwise approved pursuant to Section 14-526(a)(23).

d. *Traffic improvements:* **PACKARD** shall be responsible for the design and installation of the off-site traffic improvements shown on Exhibit C, which improvements shall be made at **PACKARD'S** sole expense, following review and approval by the **CITY**. Such traffic improvements shall include, but not be limited to roadway widening, resignalization, bike lanes, bus stops, esplanades with street trees, and sidewalks.

e. *Open space improvements:* In addition to the trail and other open space amenities delineated on Exhibit B, **PACKARD** shall be responsible for improving the parcel currently owned by the **CITY** and located in the vicinity of Cambridge Street (Tax Map 151A-A-13). **PACKARD** shall be responsible for the remediation of the site and for grading a level surface, installation of loam and seed or sod, creation of appropriate drainage and installation of irrigation equipment appropriate to create a multi-purpose field, provided that the cost of acquisition and remediation of the site does not exceed \$355,000.00, the fair market value of the site after rezoning and cleanup of the site. **PACKARD** shall also be responsible for providing those funds necessary to purchase the playground and similar equipment necessary to improve the multi-purpose field to similar condition as the **CITY'S** Fox Street multipurpose field as it exists as of June 8, 2004. **PACKARD** shall work with the **CITY'S** Department of Parks and Recreation in determining the design and construction standards for the multipurpose field. In the event that ownership of this parcel will remain with the **CITY** or will be reconveyed to the **CITY** after the completion of improvements **PACKARD** shall be granted or shall retain an easement for its stormwater facilities, which shall be located and incorporated on this site in a manner as to allow the construction and use of the multi-purpose field. The open space in this area shall remain accessible to the users of the **PROPERTY**, as well as the general public, by use of the walking trails and any other available access.

If the cost of acquisition and remediation of the City-owned parcel (Tax Map 151A-A-13) exceeds \$355,000.00, then the Area Reserved for Potential Residential Development shall be utilized as recreation open space and shall be improved to serve as a multi-purpose field in similar condition as the CITY'S Fox Street multipurpose field as it exists as of June 8, 2004.

PACKARD shall deed to the **CITY** a public recreational easement on and over the "Recreation/Open Space" area, the "Proposed Walking Trail," the sidewalk traversing the site, as well as the "Proposed Pedestrian Way in Princeton Street Right of Way" as

delineated on Exhibit B. **PACKARD** shall be responsible for installing the portions of the “Proposed Walking Trail” located in Phase I and a temporary trail portion to complete the loop trail shown on Exhibit B as part of Phase I of the development. **PACKARD** shall grant a temporary public recreational easement to the **CITY** for any temporary portion of the loop trail constructed during Phase I. Such temporary easement shall remain in effect until the **CITY** accepts the final trail location. **PACKARD** shall also be responsible for construction of the multi-purpose field as set forth above.

7. *Phasing:* **PACKARD** shall be authorized to develop the **PROPERTY** in multiple phases. These phases shall occur in accordance with the phasing plan attached hereto as Exhibit E. As specified in paragraphs 4 and 5, all sections of Phase I and Phase II are required to be developed. Phase III is not required to be developed.

8. *CSO contribution:* **PACKARD** shall be required to contribute up to \$100,000.00 to the **CITY’S** Fall Brook Combined Sewer Overflow project.

9. *Dimensional Requirements.* The dimensional standards established in Section 14-185 for the B-2 zoning district, as further modified by this Agreement or by Exhibit B, shall apply to the **PROPERTY** as a whole, and not additionally to individual lots (if any) within the **PROPERTY**. For purposes of front yard setbacks, the front yard for each office or retail building developed on the **PROPERTY** shall have as the front yard the area between the building and Allen Avenue. The potential lot divisions for residential development and areas to be subject to long-term ground leases are delineated on Exhibit F. These locations may be changed as part of the subdivision review process. Amendments to these locations, once approved, may occur after Planning Board review and approval of the proposed amendments.

10. **PACKARD**, and its successors and assigns shall maintain the **PROPERTY** and the perimeter of the **PROPERTY** in order to ensure litter and other garbage is not spread/ blown to adjacent properties/neighborhood. **PACKARD** shall provide to the **CITY** a Maintenance Agreement which, in the event **PACKARD** or its successor fails to maintain the **PROPERTY**, would give the **CITY** the right to enter the property for purposes of cleaning up litter and debris, and charge **PACKARD** for its costs. The Property Maintenance Agreement shall include a retrieval program for shopping carts that have been removed from the **PROPERTY**.

The provisions of this Agreement, including the permitted uses listed in paragraph 2, are intended to replace the uses and requirements of the existing R-5 and I-L zones and to limit and supplement the requirements of the existing B-2 zone as set forth in this Agreement, except that the conditional uses included within Portland City Code § 14-483 are specifically excluded..

The above stated restrictions, provisions, and conditions, including all Exhibits to this Agreement, are an essential part of the rezoning, shall run with the **PROPERTY**, shall bind and benefit **PACKARD**, any entity affiliated with **PACKARD** that takes title to the **PROPERTY**, their successors and assigns, and any party in possession or

occupancy of said **PROPERTY** or any part thereof, and shall inure to the benefit of and be enforceable by the **CITY**, by and through its duly authorized representatives. **PACKARD** shall record a copy of this Agreement in the Cumberland County Registry of Deeds, along with a reference to the Book and Page locations of the deeds for the **PROPERTY**.

If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such determination shall not affect the validity of the remaining portions hereof.

Except as expressly modified herein, the development, use, and occupancy of the subject premises shall be governed by and comply with the provisions of the Land Use Code of the City of Portland and any applicable amendments thereto or replacement thereof.

In the case of any issue related to the **PROPERTY** which is governed by this section, neither **PACKARD** nor its successors or assigns may seek relief which might otherwise be available to them from Portland's Board of Appeals by means of a variance, practical difficulty variance, interpretation appeal, miscellaneous appeal or any other relief which the Board would have jurisdiction to grant. Nothing herein, however, shall bar the issuance of stop work orders.

This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law (including 30-A M.R.S.A. § 4452) and City Ordinance. Following any determination of a zoning violation by the Court, the Zoning Administrator, or the Portland Zoning Board of Appeals, the City Council, after recommendation of the Planning Board, may amend, modify or rescind its conditional rezoning of the site.

WITNESS:

PACKARD DEVELOPMENT, LLC

By _____

Its: _____

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

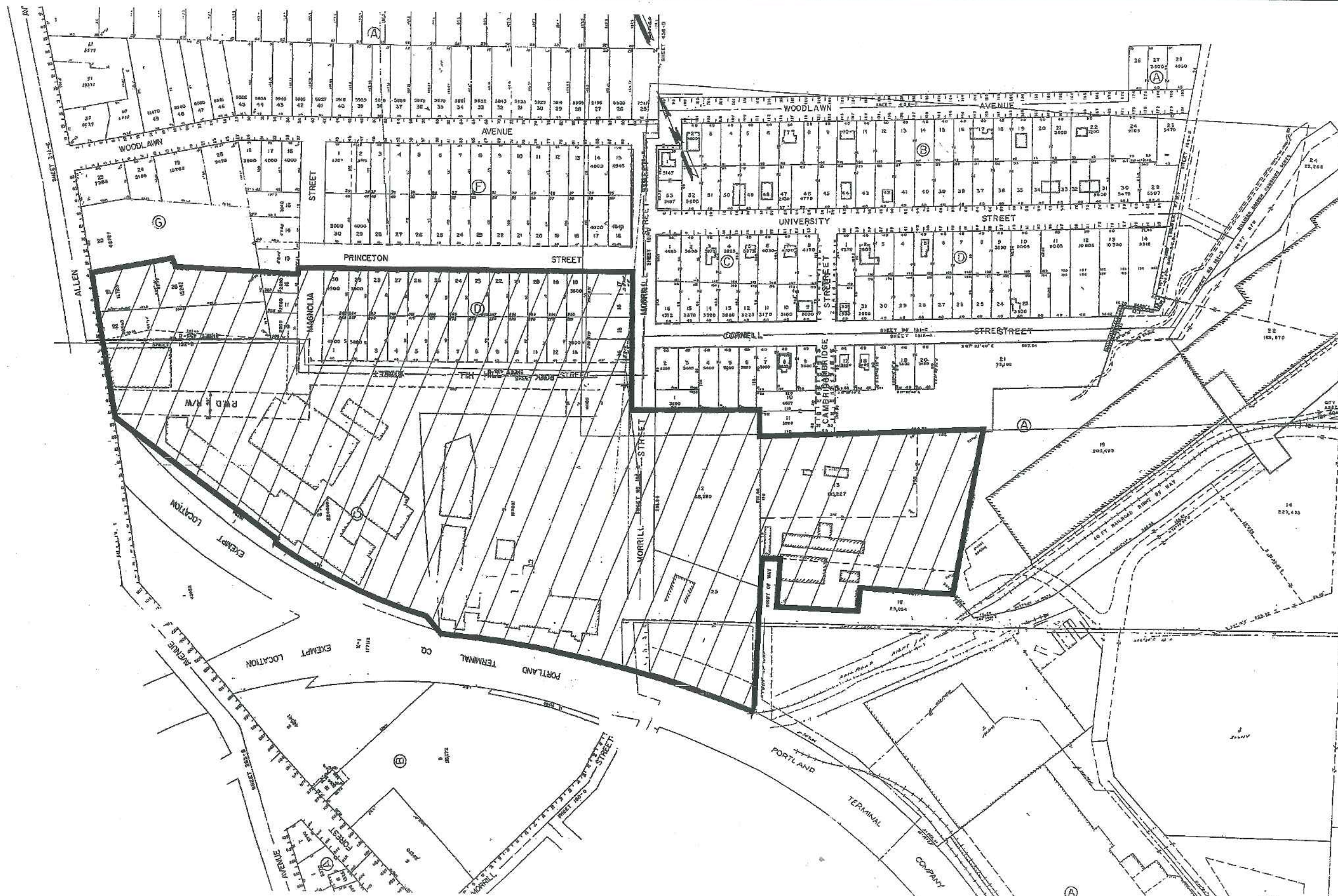
_____, 2004

Personally appeared before me the above-named _____, in his/her capacity as _____, and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of Packard Development, LLC.

Notary Public/Attorney at Law

Morrill's Crossing Portland, Maine

Exhibit A Tax Map

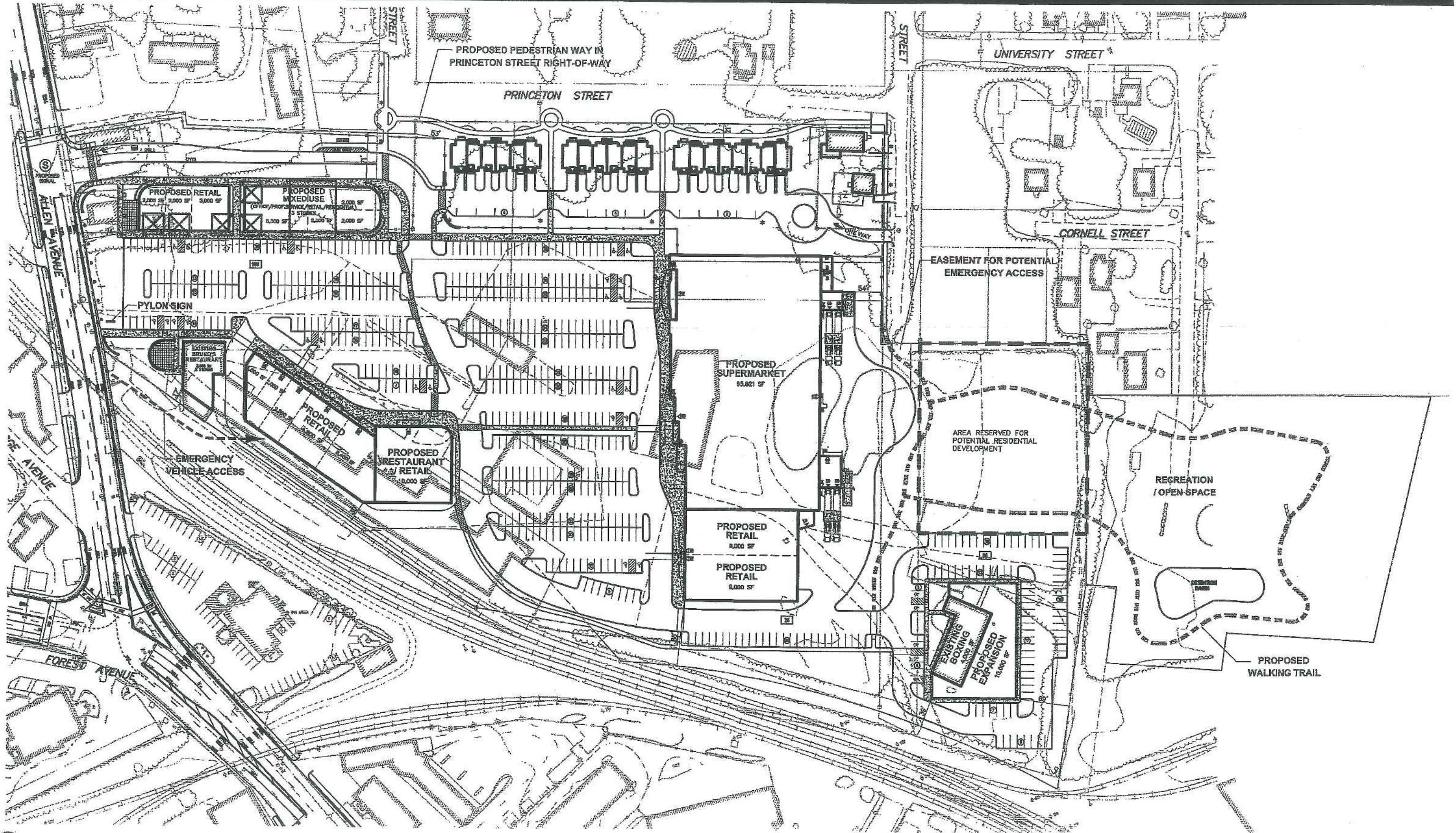


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Morrill's Crossing Portland, Maine

PACKARD
ENVIRONMENT

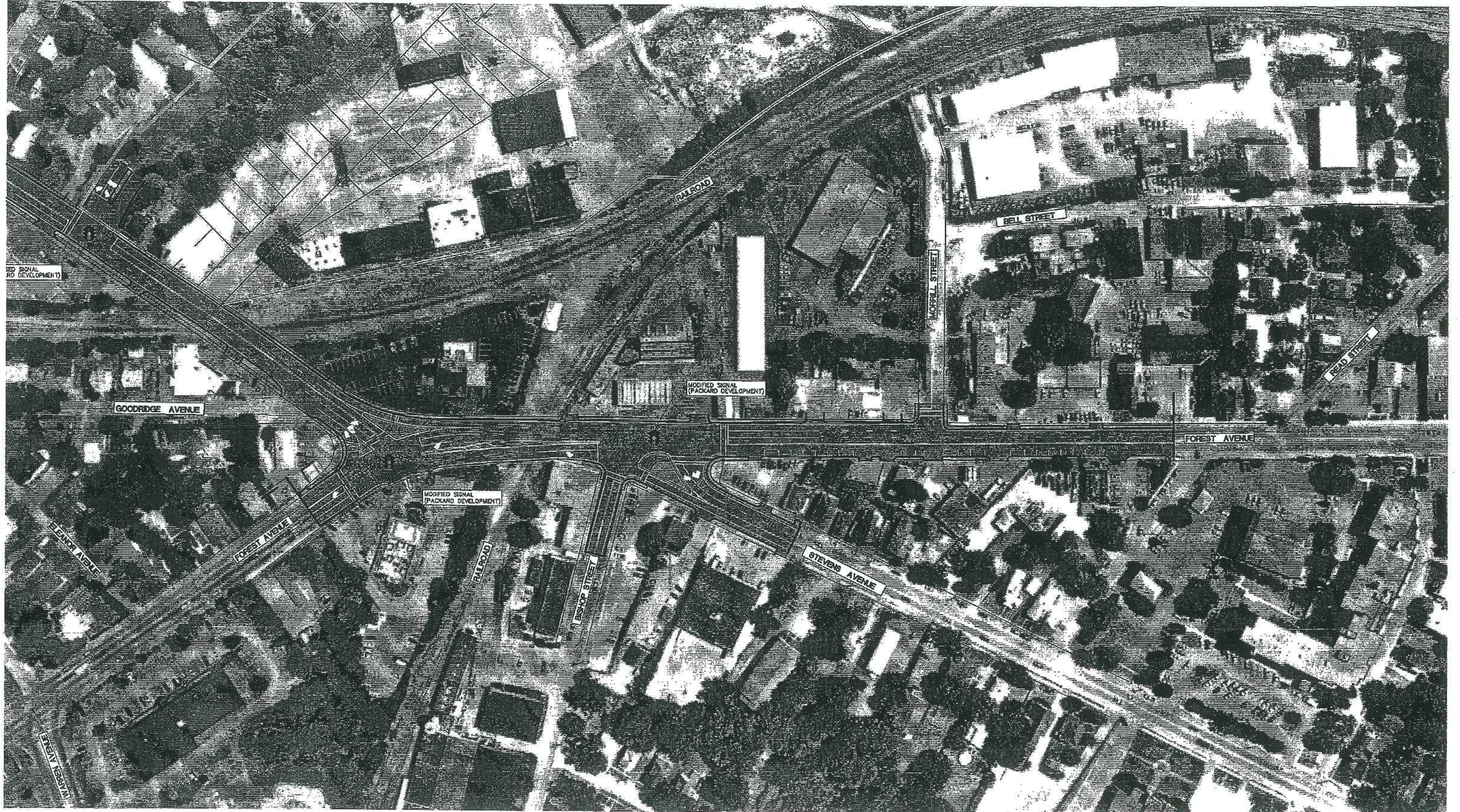
Exhibit B Site Plan Exhibit



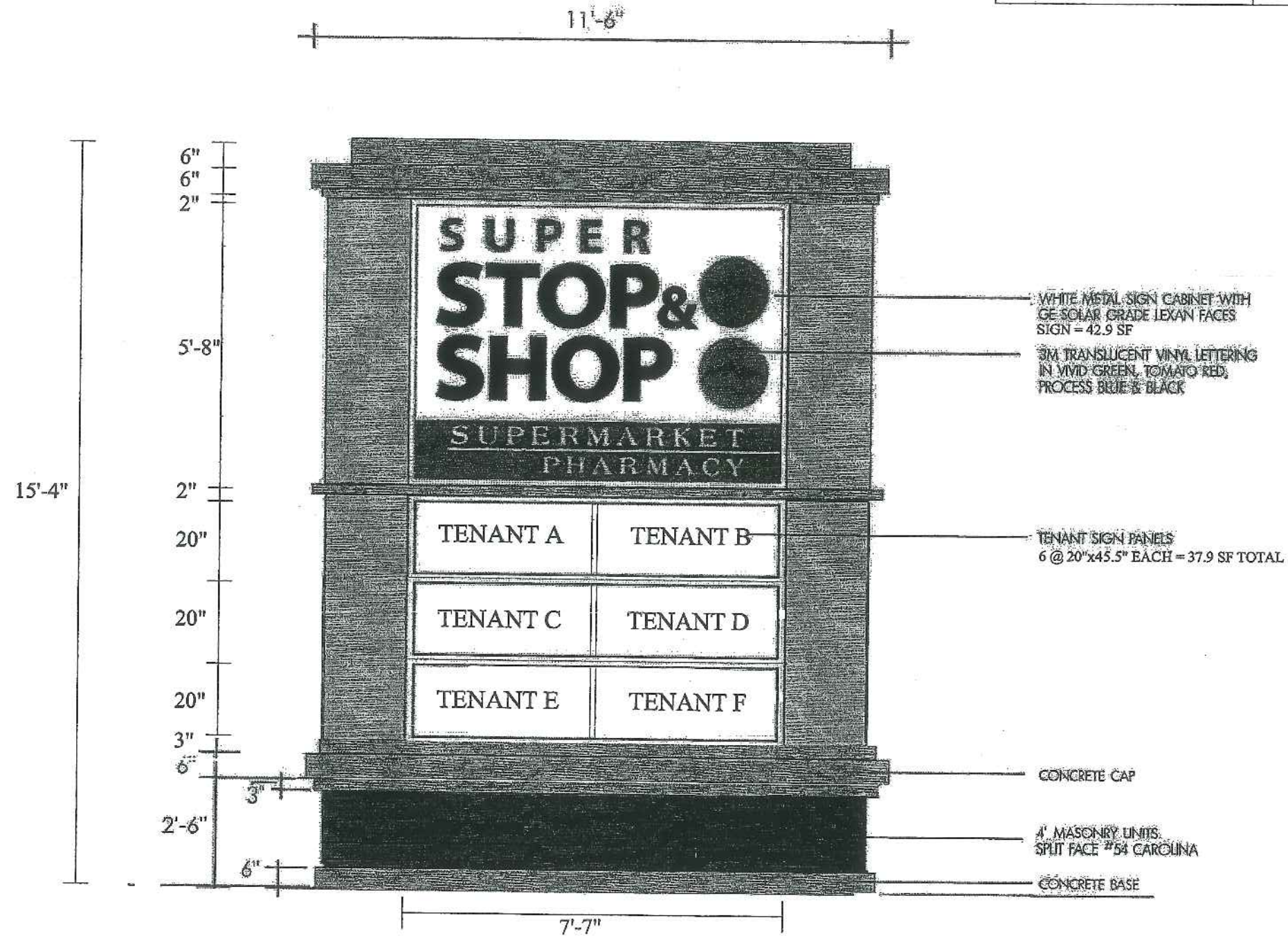
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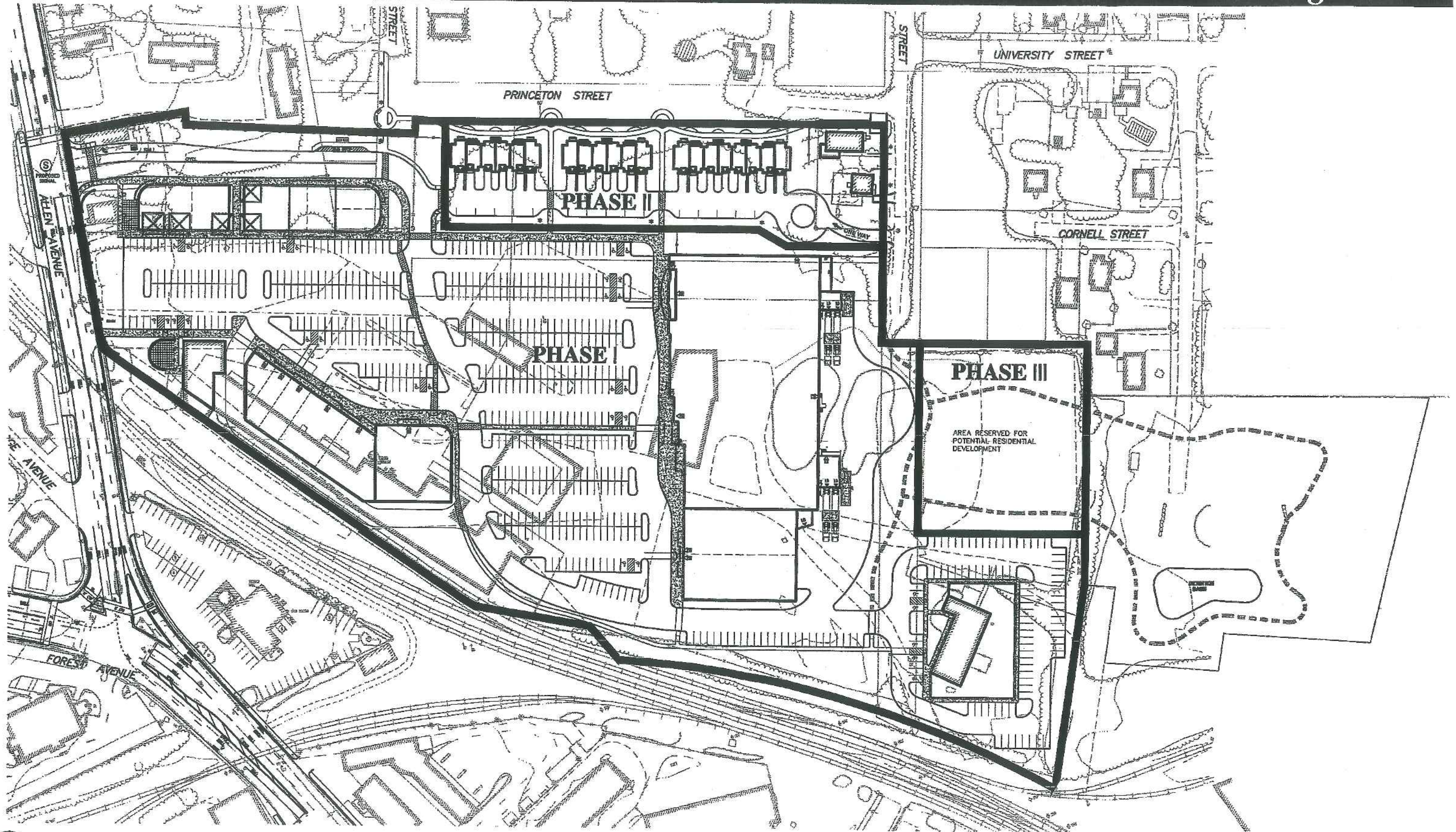
PACKARD
DEVELOPMENT

Exhibit C Off-Site Improvements



SIGN SUMMARY	
STOP & SHOP SIGN	42.9 SF
TENANT SIGN PANELS	37.9 SF
TOTAL SIGN AREA	80.8 SF





P

PACKARD
DEVELOPMENT

Morrill's Crossing

Portland, Maine

Exhibit F Subdivision Concept

