

PLANNED CONTRACT # 93-09
Tedford Redevelopment

THIS IS A PLANNED DEVELOPMENT CONTRACT, ENTERED INTO BETWEEN **CLYDE AND MARCIANNE MOLLER**, (HEREINAFTER "DEVELOPER") AND THE **CITY OF BELLINGHAM** (HEREINAFTER "CITY") IN CONJUNCTION WITH DEVELOPER'S APPLICATION FOR SITE PLAN APPROVAL.

WITNESSETH:

WHATCOM COUNTY
BELLINGHAM, WA
04/28/94 2:23 PM
REQUEST OF: /COB
Shirley Forslof, AUDITOR
BY: TRR, DEPUTY
\$14.00 CONTR

WHEREAS, Developers are the owners of record of 2.15 acres at 3302 Northwest Avenue and have made application for a planned commercial contract; and

WHEREAS, The City has reviewed the application pursuant to procedures of Bellingham Municipal Code 20.38.040, and the Planning and Community Development Department has issued a Determination of Nonsignificant Environmental Impact under the State Environmental Policy Act;

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NOW THEREFORE, in recognition of the foregoing, the Developer enters into this Agreement with the City and agrees to adhere to the following terms and conditions:

Section 1 -- Legal Description: The land use restrictions incorporated herein, and the approved site plan, Exhibit "A" attached hereto, shall apply to subsequent development of the property legally described in Exhibit "B".

Section 2 -- Permitted Uses: Permitted uses shall be those specified in Bellingham Municipal Code 20.38.050 C2.

Section 3 -- Density: There shall be no more than 8 residential units.

Section 4 -- Height: Height restrictions shall be those specified in Bellingham Municipal Code Chapter 20.38.050 C4. No structure shall exceed thirty five feet (35') under height definition #1.

Section 5 -- Yards: There shall be a twenty foot structural setback from the northeast property line (adjacent to the Bellingham Golf and Country Club).

Section 6 -- Usable Space: Usable space shall be provided in an amount equal to that required for a proposal of the same number of residential units under Bellingham Municipal Code Chapter 20.32.040 F.

Section 7 -- Parking: Parking and loading regulations shall be those specified in Bellingham Municipal Code 20.38.050(C)(6) as amended. The parking located on the south side of the existing North Side Restaurant is required parking for the restaurant. The documentation of a parking easement is provided in the legal description, as specified in Exhibit "B".

Section 8 -- Landscaping: Landscaping regulations shall be those specified in Bellingham Municipal Code 20.12.030 for similar uses. A screen shall be installed between any residential use and any non-residential use. This screen shall be installed prior to the residential uses receive a certificate of final occupancy. The screen shall be installed at the expense of the commercial uses on-site.

Prior to land clearing, this site contained many mature conifers, reaching heights in excess of thirty feet (30'), giving this site a unique character for commercial development. Redevelopment of this site requires replacement of the trees (conifers) to maintain a similar character for the site. Mature conifers are consistent with the patterns of vegetation along Northwest Avenue.

A landscape plan shall be required with each building permit submitted for this site. The landscaping plan shall be approved by the Planning and Community Development

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City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
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Director. The landscaping plan shall provide location, species, and size of proposed landscaping. The species shall be consistent with the previous character, specifically conifers, which reach a minimum of thirty feet (30') in height at maturity.

The residential portion of the site shall provide at least one conifer per unit. There shall be at least one conifer required for every ten open parking spaces for the other uses.

The size of all required trees at the time of installation shall be a minimum of ten feet (10') in height, measured from root ball to top of tree, and no less than two and one half inches (2 1/2") measured one foot above grade. The trees shall be installed around the perimeter of each site.

Section 9 -- Signage: Signage regulations shall be as follows:

- A. All signage must be an integral coordinated part of a sign design plan for the entire complex.
- B. Roof signs are prohibited. Vol: 386 Page: 624
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- C. All signs shall be flush against the side of the building except as provided below.
- D. One free standing sign not higher than twenty-five feet (25') shall be permitted at the main entrance. The driveway at the north end of the site shall be defined as the main entrance. Said sign may be lighted, but the message shall be limited to the name of the complex and its occupants. Sign area on any one face shall not exceed two hundred seventy-five (275) square feet.

Section 10 -- Streets, Utilities and Access: The following street design and access standards shall be met:

- A. Curb Cuts: Curb cut locations and width shall be limited as shown on Exhibit "A".
 - 1. A curb cut shall be installed at the most northern end of the property. This curb cut shall be limited to 30 feet in width.
 - 2. The curb cut located in the intersection of Maplewood Avenue and Northwest Avenue shall be limited to right turn in and right turn out. The curb cut shall be constructed with a "pork chop" per Public Works improvement standards.

3. In the event the intersection of West Maplewood and Northwest Avenue is signalized, the property owner shall be required to participate in converting the curb cut to a signalized leg of the intersection and the right in and right out restrictions will be removed.

- B. Pedestrian Access: A pedestrian walkway shall be provided from Lot 2, as specified on Exhibit A, to Northwest Avenue.
- C. Transportation Impact Fees: Transportation Impact Fees shall be levied upon developments at the time of building permit issuance or if no building permit is required Transportation Impact Fees will be collected upon approval of the development by the Department of Public Works.

Section 11 -- Drainage: A Storm Water Plan must be submitted to the Public Works Department that includes an analysis of the downstream impacts as related to quantity, a temporary erosion and sedimentation control plan and a permanent water quality facility to treat site runoff prior to discharge. Plans and calculations are to be submitted to and approved by the Public Works Department prior to building permit issuance. Calculations and designs shall be per the City of Bellingham Improvement Standards and the Department of Ecology Stormwater Technical Manual. All erosion and sedimentation measures are to be installed at the beginning of construction and are to be maintained throughout the project. The permanent water quality facility shall be inspected and approved by the Public Works Department prior to Final Occupancy.

Section 12-- Fire Department Requirements: The development shall meet all applicable fire flow and fire code standards as adopted by the City of Bellingham and shall be subject to the approval of the Fire Marshall.

Section 13 -- Building Permit Requirements: Prior to the issuance of a Building Permit, plans in conformance with the restrictions of this agreement and Exhibit "A" attached hereto, as well as any other applicable City code, shall be submitted and approved.

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Section 14 -- Occupancy: Prior to the issuance of any Certificate of Occupancy, all terms and requirements of this agreement shall be met.

Section 15 -- Amendment: This agreement shall become effective immediately upon signature. Modifications to this agreement and the attached exhibits shall be reviewed and considered in the same manner as a request for plan approval, with the exception that minor changes to the site plan attached as Exhibit "A" that do not violate the specific terms and requirements of this agreement or other applicable codes may be approved by the Planning and Community Development Department.

Section 16 -- Subsequent Changes in Land Use Ordinance: All references to the Bellingham Municipal Code are intended to adopt sections of the code as of the date of the agreement and as subsequently amended.

Section 17 -- Requirements Binding on Successors: The covenants, agreements restrictions and requirements contained herein shall run with the land and be binding upon all subsequent owners, successors, and assigns of Developers. This contract expires in five (5) years from the date of the signature of the Mayor of Bellingham unless construction or establishment of the use has begun on any parcel as described in Section 1 of this document.

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EXHIBIT A

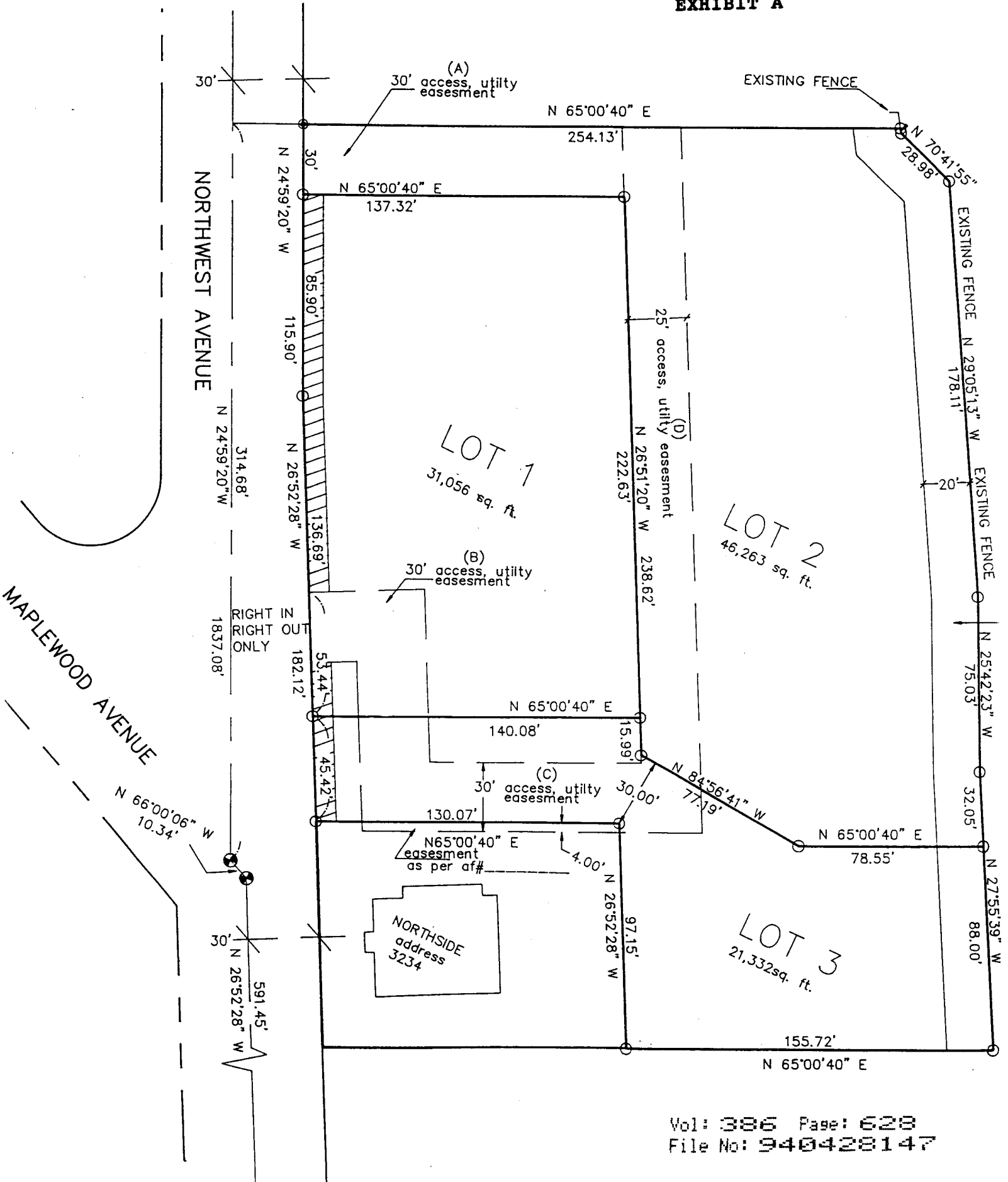


EXHIBIT B

LEGAL DESCRIPTION

Lots 1-3, M & R Short Plat, and

THE SOUTHWESTERLY 130 FEET OF EACH OF THE TWO FOLLOWING DESCRIBED TRACTS:

THE FOLLOWING DESCRIBED TRACTS OF LAND LOCATED IN SECTION 13, TOWNSHIP 38 NORTH, RANGE 2 EAST OF W.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 2433.17 FEET SOUTH AND 1465.75 FEET EAST OF THE POINT OF INTERSECTION OF THE SOUTH LINE OF MCLEOD ROAD AND NORTHEASTERLY LINE OF NORTHWEST DIAGONAL ROAD; THENCE SOUTH $26^{\circ}35'$ EAST 25 FEET; THENCE SOUTH $63^{\circ}25'$ WEST 238.2 FEET; THENCE NORTHWESTERLY ALONG NORTHEASTERLY LINE OF NORTHWEST DIAGONAL ROAD 25 FEET; THENCE NORTH $63^{\circ}25'$ EAST 239 FEET TO THE POINT OF BEGINNING, IN THIS DESCRIPTION THE LINES OF MCLEOD ROAD ARE ASSUMED TO BE EAST AND WEST, AND NORTH AND SOUTH EXACTLY AT RIGHT ANGLES TO SAID ROAD LINES, ALSO BEGINNING AT A POINT 2520 FEET SOUTH AND 1509.2 FEET EAST OF THE POINT OF INTERSECTION OF THE SOUTH LINE OF MCLEOD ROAD AND THE NORTHEASTERLY LINE OF NORTHWEST DIAGONAL ROAD IN SECTION 13, TOWNSHIP 38 NORTH, RANGE 2 EAST OF W.M.; THENCE NORTH $26^{\circ}35'$ WEST 72.1 FEET; THENCE SOUTH $63^{\circ}25'$ WEST 238 FEET, MORE OR LESS TO THE NORTHEASTERLY LINE OF NORTHWEST DIAGONAL ROAD; THENCE SOUTHEASTERLY ALONG SAID ROAD LINE 73 FEET, MORE OR LESS; THENCE NORTH $63^{\circ}16'$ EAST 236.43 FEET TO THE POINT OF BEGINNING. IN THIS DESCRIPTION THE LINES OF THE MCLEOD ROAD ARE ASSUMED TO BE EAST AND WEST, AND NORTH AND SOUTH EXACTLY AT RIGHT ANGLES TO SAID ROAD LINES.

SITUATE IN COUNTY OF WHATCOM, STATE OF WASHINGTON

TOGETHER WITH AN EASEMENT FOR PARKING CARS, 40 FEET IN WIDTH, ALONG THE SOUTHERLY SIDE OF THE FOLLOWING DESCRIBED PROPERTY, AND EXTENDING 75 FEET NORTHEASTERLY FROM THE NORTHWEST DIAGONAL ROAD:

A TRACT OF LAND IN THE SOUTH HALF OF SECTION 13, TOWNSHIP 38 NORTH, RANGE 2 EAST OF W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 2343.74 FEET SOUTH AND 1421 FEET EAST OF THE POINT OF INTERSECTION OF THE SOUTH LINE OF THE MCLEOD ROAD AND THE NORTHEASTERLY LINE OF THE NORTHWEST DIAGONAL ROAD; THENCE SOUTH $28^{\circ}35'$ EAST 100 FEET; THENCE SOUTH $63^{\circ}25'$ WEST 238.2 FEET TO THE NORTHEASTERLY LINE OF THE NORTHWEST DIAGONAL ROAD THENCE NORTHWESTERLY ALONG SAID ROAD LINE 100 FEET; THENCE NORTH $63^{\circ}25'$ EAST 240.8 FEET TO THE POINT OF BEGINNING. IN THIS DESCRIPTION THE LINES OF THE MCLEOD ROAD ARE ASSUMED TO THE EAST AND WEST, AND NORTH AND SOUTH EXACTLY AT RIGHT ANGLES TO SAID ROAD LINES.

SITUATE IN COUNTY OF WHATCOM, STATE OF WASHINGTON