

CLARK COUNTY
STAFF REPORT



DEPARTMENT/DIVISION: Department of Public Works/Development Engineering Division

DATE: April 22, 2014

SPECIFIC REQUEST: Consider Adoption of the Developer's Agreement with Fountain Village, LLC, which defines the partnership funding for intersection improvements to be made at the intersection of NE 117th Avenue and NE 99th Street. Also, consider approval of the attached Resolution authorizing the execution of said Development Agreement.

CHECK ONE: _____ Consent X Hearing _____ Chief Administrative Officer

BACKGROUND: The purpose of this Developer's Agreement is to facilitate a joint effort to improve an intersection for the benefit of Clark County and Fountain Village, LLC (The Fountains). This agreement will help minimize costs for both parties and allow The Fountains Subdivision to be able to move forward. Ultimately, given the 2007 North Orchard Urban Holding (UH) Agreement, Clark County became obligated to make intersection improvements to NE 117th Avenue and NE 99th Street. This improvement will increase capacity at the intersection, allowing other land use approvals to occur.

Because Clark County has planned transportation improvements to the west of the subject intersection, it would benefit both parties for Clark County to prepare the design and perform the construction for the entire project and receive financial support for the improvements from The Fountains. Therefore, the developer has requested that the county undertake the project for them. Note that this joint agreement will help facilitate grants necessary for the funding of these improvements.

A Public Hearing will be held at 10:00a.m, on April 22, 2014 in the Commissioners Hearing Room, 6th Floor, 1300 Franklin Street, Vancouver, Washington, to consider approval of the Resolution and Developer Agreement.

COMMUNITY OUTREACH: Staff has had meetings with Fountain Village, LLC. A Notice of Public Hearing was advertised in the Columbian Newspaper on April 7, 2014. No other community outreach has been conducted.

BUDGET AND POLICY IMPLICATIONS: Required county funds for this intersection are included in the recently adopted six- year 2014/2019 Transportation Improvement Program (TIP).

FISCAL IMPACTS: Yes (see Fiscal Impacts Attachment) No

ACTION REQUESTED: It is requested that the Board of County Commissioners consider adoption of the attached Resolution and Developer Agreement with Fountain Village, LLC.

DISTRIBUTION: Please provide a copy of the approved staff report and Resolution indicating the Board's action to Public Works Administration.


Greg Shafer, P.E.
Development Engineering Division Manager

APPROVED: April 29, 2014
CLARK COUNTY, WASHINGTON
BOARD OF COMMISSIONERS


Heath Henderson, P.E.
Interim Director of Public Works/County Engineer

GS/HH/dn
cc: Greg Shafer, Dianna Nutt, PW Records
Attachments: Resolution and Developer Agreement

FISCAL IMPACT ATTACHMENT

Part I: Narrative Explanation

I.A - Explanation of what the request does that has fiscal impact and the assumptions for developing revenue and costing information.

The Fountains development would pay \$300,000.00 in lieu of them constructing the required capital improvements.

Part II: Estimated Revenues

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	Road Fund	Total	Road Fund	Total	Road Fund	Total
1012/Road Fund	300,000	300,000				
Total:	300,000	300,000	0	0	0	0

II.A - Describe the type of revenue (grant, fees, etc.)

The revenue for these improvements are proposed funds by the Developer.

Part III: Estimated Expenditures

III.A - Expenditures summed up

Fund #/Title	FTE's	Current Biennium		Next Biennium		Second Biennium	
		Road Fund	Total	Road Fund	Total	Road Fund	Total
1012 / Road Fund	0		\$0				
Total:		\$0	\$0	\$0	\$0	\$0	\$0

III.B = Expenditure by object category

Fund #/Title	Current Biennium		Next Biennium		Second Biennium	
	Road Fund	Total	Road Fund	Total	Road Fund	Total
Salary/Benefits	\$0	\$0				
Contractual						
Supplies						
Travel						
Other controllables						
Capital Outlays						
Inter-fund Transfers						
Debt Service						
Total:	\$0	\$0	\$0	\$0	\$0	\$0

NOTICE OF PUBLIC HEARING

**The Fountains
Developer Agreement**

The Clark County Board of Commissioners (BOCC) will hold a public hearing on April 22, 2014 at 10:00 a.m. in the Commissioners Hearing Room, 6th floor, 1300 Franklin Street, Vancouver, Washington to consider:

The adoption of a developer agreement between Clark County and Fountain Village, LLC (The Fountains). The purpose of the agreement is for Fountain Village, LLC (The Fountains) to financially contribute, in lieu of construction, to improve the intersection located at NE 117th Avenue and NE 99th Street.

More information concerning this matter may be obtained by contacting Dianna Nutt at the Clark County Department of Public Works, 1300 Franklin, Vancouver, Washington, telephone (360) 397-6118 extension 5790.

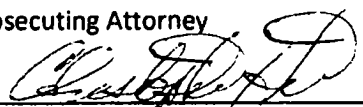
Any person wishing to give testimony in this matter should appear at the time, date and place above stated.

BOARD OF COUNTY COMMISSIONERS



Deputy Clerk of the Board

Approved as to Form Only
ANTHONY F. GOLICK
Prosecuting Attorney

By 
Deputy Prosecuting Attorney

Publish: 4/7/2014

RESOLUTION NO. 2014 - 04-11

A RESOLUTION related to the Developer's Agreement for improvement at intersection NE 117th Ave and NE 99th St ; authorizing the Chair to execute a Developer's Agreement for the development of property approved as, The Fountains.

WHEREAS, the legislature has authorized the execution of Developer's Agreements pursuant to RCW 36.70B.170 to address the particular needs of development and the orderly development; and

WHEREAS, the improvements at the intersection of NE 117th Ave and NE 99th St are necessary to mitigate an identified direct impact of The Fountains subdivision; and

WHEREAS, based on the agreement, Fountain Village, LLC (The Fountains) has agreed to contribute a predetermined share of the estimated engineering and construction costs of a County Transportation project; and

WHEREAS, following the public hearing, the Board authorized execution of the attached Developer's Agreement; now, therefore,

BE IT ORDERED AND RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CLARK COUNTY, STATE OF WASHINGTON, AS FOLLOWS:


Section 1. Authorization to execute development agreements. The Chair of the Board of County Commissioners is hereby authorized to execute the attached Developer's Agreement.

Section 2. Instruction to Clerk. The Clerk to the Board shall: Record a copy of this resolution with the Clark County Auditor; and

Section 3. Effective Date. This resolution shall take effect at midnight on the date of its adoption.

ADOPTED this 29th day of April, 2014

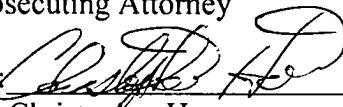
Attest:


Clerk to the Board

BOARD OF CLARK COUNTY
COMMISSIONERS

By: 
Tom Mielke, Chair

Approved as to form only:
CHRIS HORNE
Prosecuting Attorney

By: 

Christopher Horne
Prosecuting Attorney

By: _____
David Madore, Commissioner

~~By: _____~~
~~Steve Stuart, Commissioner~~

Recording requested by:
Clark County Public Works
Development Engineering Division
P.O. Box 9810
Vancouver, WA 98666-9810

Document Title: Developer's Agreement
Reference Number: CRP ____
Grantor: Clark County, Washington
Grantee: Fountain Village, LLC
Legal Description:
Serial #: 200075-000, 200193-000, 100076-000.

DEVELOPER'S AGREEMENT

1. Parties

- (a) County: Clark County, State of Washington
- (b) Developer: Fountain Village, LLC
Address: 13511 SE Rivercrest Drive
Vancouver, WA 98683

2. Required Improvement:

- (a) Subject Development: The Fountains, CUP2006-00003 & PLD2006-00078
Generally located at: 10301 NE 117th Avenue, Vancouver, WA 98686-9600. The property serial number (s) for the subject development is 200075-000, 200193-000, 100076-000.
A copy of the current quarter section map showing the above stated property serial number (s) is attached as "Exhibit A".
- (b) Required Improvement: Whereas, said land use approval requires The Fountains to improve the intersection located at NE 117th Ave and NE 99th Street with a westbound right turn lane and all related features associated with installation of the improvements.

Developer's Agreement
NE 117th Ave and NE 99th Street

3. Recitals incorporated into this Agreement.

- (a) The Required Improvement is necessary to mitigate an identified direct impact of the Subject Development.
- (b) The Required Improvement is a sub-element of a project currently on the newly adopted 2014/2019 Transportation Improvement Plan (TIP), and which is scheduled for completion within 6 years.
- (c) Developer has requested that it be permitted to contribute a proportionate share towards the cost of said larger county road project, in lieu of constructing the Required Improvements.

4. Payments:

a) The Developer will voluntarily contribute the amount of \$300,000 to Clark County within 30 days of issuance of an approved Post Decision Review or new Land Use Review and its associated appeal period. Of the \$300,000 contribution, \$30,000 will be paid within 30 days of the approval of this developer's agreement.

b) In addition, a pre-payment of \$200,000 for the Traffic Impact Fees (TIF) must be paid prior to final plat recording of the first phase of the project or approval of a Final Site Plan. The pre-paid Traffic Impact Fees will be a credit which can be utilized at the building permit stage for each lot. Once the pre-paid amount is exhausted, TIF's would then be collected.

5. Authority. RCW 82.02.020; Clark County Code 40.350.030 B5(C)(1).

6. Binding Effect. This Developer's Agreement shall be recorded against the Property and shall run with the land, subject only to the express conditions or limitations of this Agreement, and shall be binding upon and inure to the benefit of the respective successors and assigns of the parties. Upon assignment of this Development Agreement or the conveyance of the Property, the assignee/grantee shall be deemed to assume all rights, obligations and liabilities set forth in this Agreement as they relate to the Property or the development thereof.

7. Reserve Account. The Developer's payment will be held by the County in a reserve account and may only be utilized to fund the required improvement.


8. Expenditure. The Developer's payment shall be expended to fund the Required Improvement within five (5) years of the date of receipt of funds indicated herein below. The County will maintain records of engineering and construction costs.

9. Refund.

- (a) No refunds will be allowed
- (b) In no event shall the Developer be required to make additional contributions upon execution of this agreement.

Developer's Agreement
NE 117th Ave and NE 99th Street

Executed this ____ day of March, 2014.

<p>Fountain Village, LLC</p>  <p>By: <u>William A. Maitland</u> Title: <u>member</u> Date: <u>3-14-14</u></p>	
<p>CLARK COUNTY, WASHINGTON</p>  <p>By: <u>Tom Mielke</u> Title: <u>BOCC Chair</u> Date: <u>4/29/14</u></p>	<p>CLARK COUNTY, WASHINGTON</p> <p>By: <u>David Madore</u> Title: <u>BOCC</u> Date: _____</p>
<p>CLARK COUNTY, WASHINGTON</p> <p>By: <u>Steve Stuart</u> Title: <u>BOCC</u> Date: _____</p>	<p>APPROVED AS TO FORM ONLY:</p>  <p>Deputy Prosecuting Attorney</p>

Developer's Agreement
NE 117th Ave and NE 99th Street

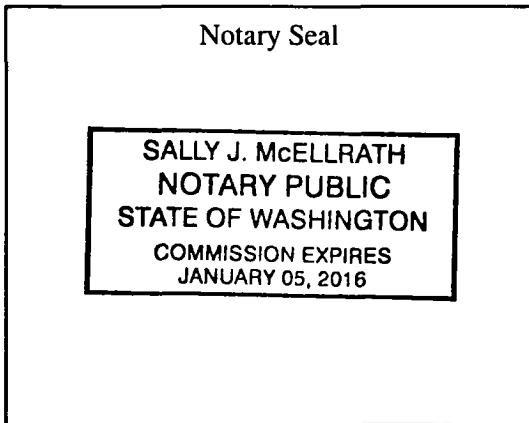
State of Washington)

) ss.

County of Clark)

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

Dated: March 14, 2014



Sally J. McEllrath
Notary Public for Washington

SALLY J. McELLRATH
Name of Notary

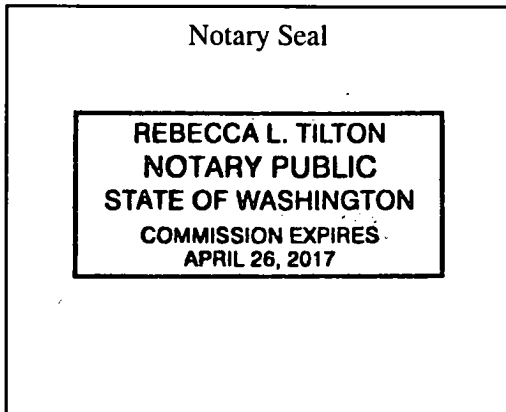
My appointment expires: January 5, 2016

Developer's Agreement
NE 117th Ave and NE 99th Street

State of Washington)
) ss.
County of Clark)

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

Dated: 4/29/14, 2014



Rebecca L. Tilton

Notary Public for Washington

Rebecca L. Tilton

Name of Notary

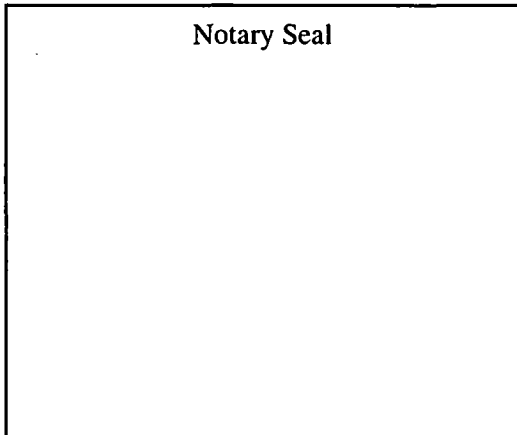
My appointment expires: 4/26/17

Developer's Agreement
NE 117th Ave and NE 99th Street

State of Washington)
) ss.
County of Clark)

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

Dated: _____, 2014



Notary Public for Washington

Name of Notary

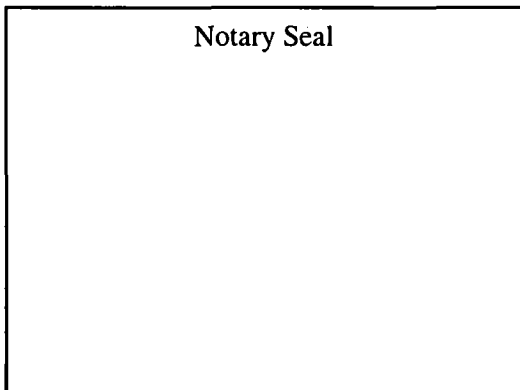
My appointment expires: _____

Developer's Agreement
NE 117th Ave and NE 99th Street

State of Washington)
) ss.
County of Clark)

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

Dated: _____, 2014



Notary Public for Washington

Name of Notary

My appointment expires: _____

Developer's Agreement
NE 117th Ave and NE 99th Street

DISTRIBUTION:

Public Works (original)
Treasurers Office
Developer
Finance (PW 4th^h floor)
File

RECEIPT OF FUNDS

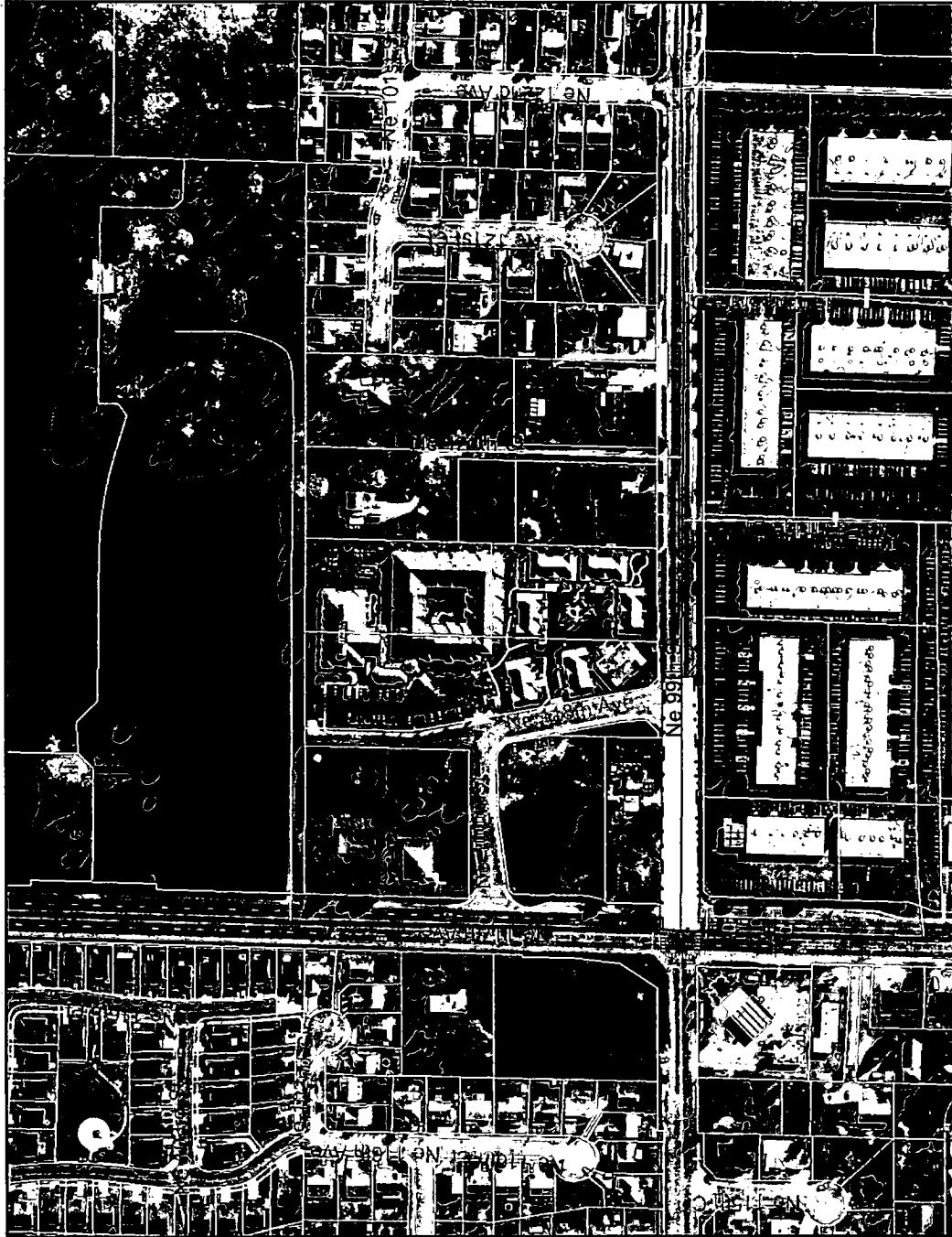
Funds in the amount of \$ _____ were received this _____ date
of _____, 20 _____ from the above named Developer.

By _____

County Cashier

Internet Mapping Framework

Exhibit "A"



0 350 700 1050 ft.

Map center: 1116429, 138493

This map was generated by Clark County's "Maps Online" website. Clark County does not warrant the accuracy, reliability or timeliness of any information on this map, and shall not be held liable for losses caused by using this information.



Legend

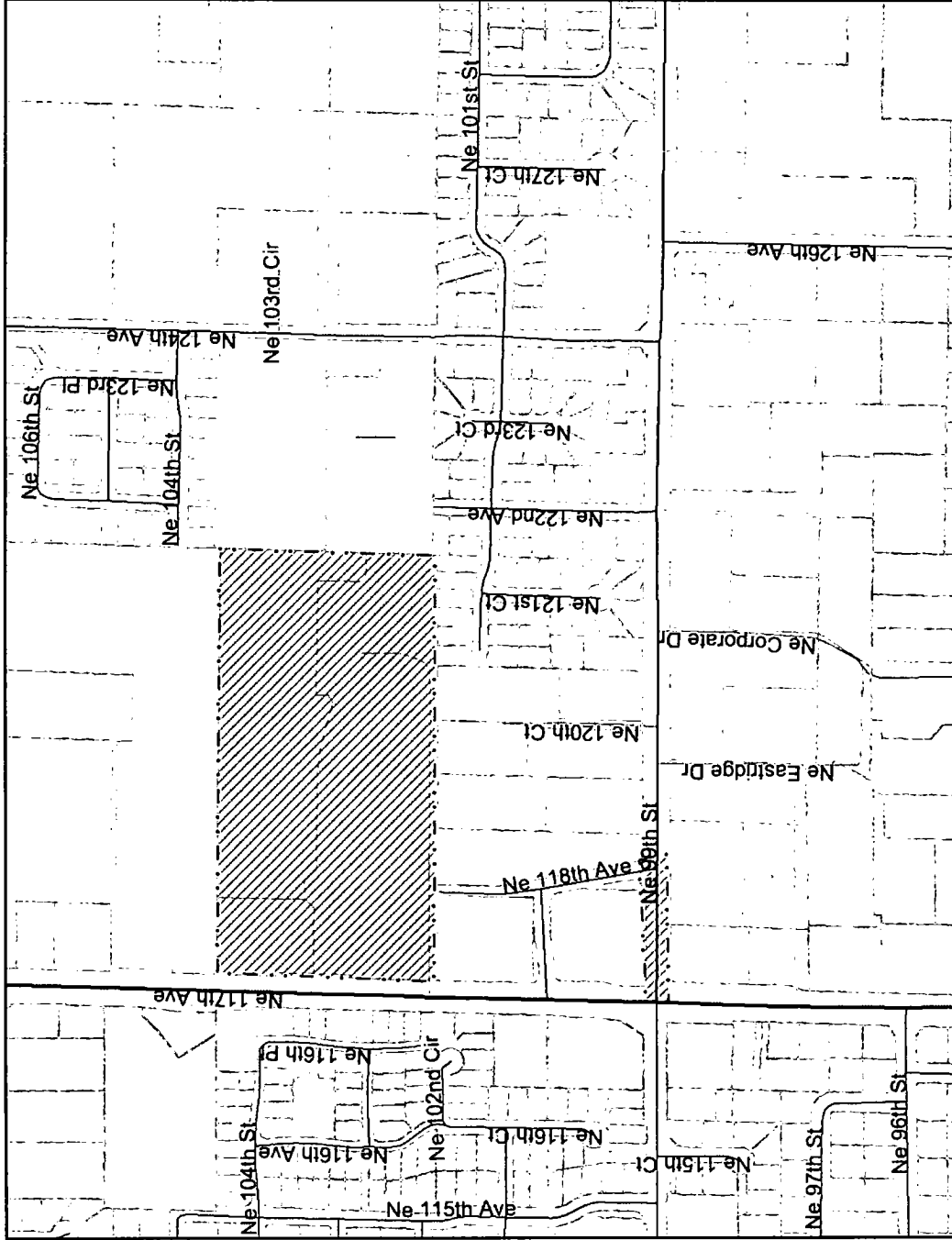
- Parcels
- Roads
- Alley
- Arterial
- DNR
- DNR (Privato Land)
- Driveway
- Interstate
- Interstate Ramp
- Primary Arterial
- Private Roads
- Private Roads w/o Names
- Public Roads
- SR Ramp
- State Route



Scale: 1:3,563

NE 117th/NE 99th St

Ex h, h, T "B"



Map center: 1117036, 138670

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Legend

- Parcels
- ▬ Roads
- ▬ Alley
- ▬ Arterial
- ▬ DNR
- ▬ DNR (Private Land)
- ▬ Driveway
- ▬ Interstate
- ▬ Interstate Ramp
- ▬ Primary Arterial
- ▬ Private Roads
- ▬ Private Roads w/o Names
- ▬ Public Roads
- ▬ SR Ramp
- ▬ State Route
- ▬ Waterbodies
- ▬ City Boundaries
- ▬ Urban Growth Boundaries
- ▬ County Boundary



Scale: 1:6,133

Internet Mapping Framework Exhibit "C"

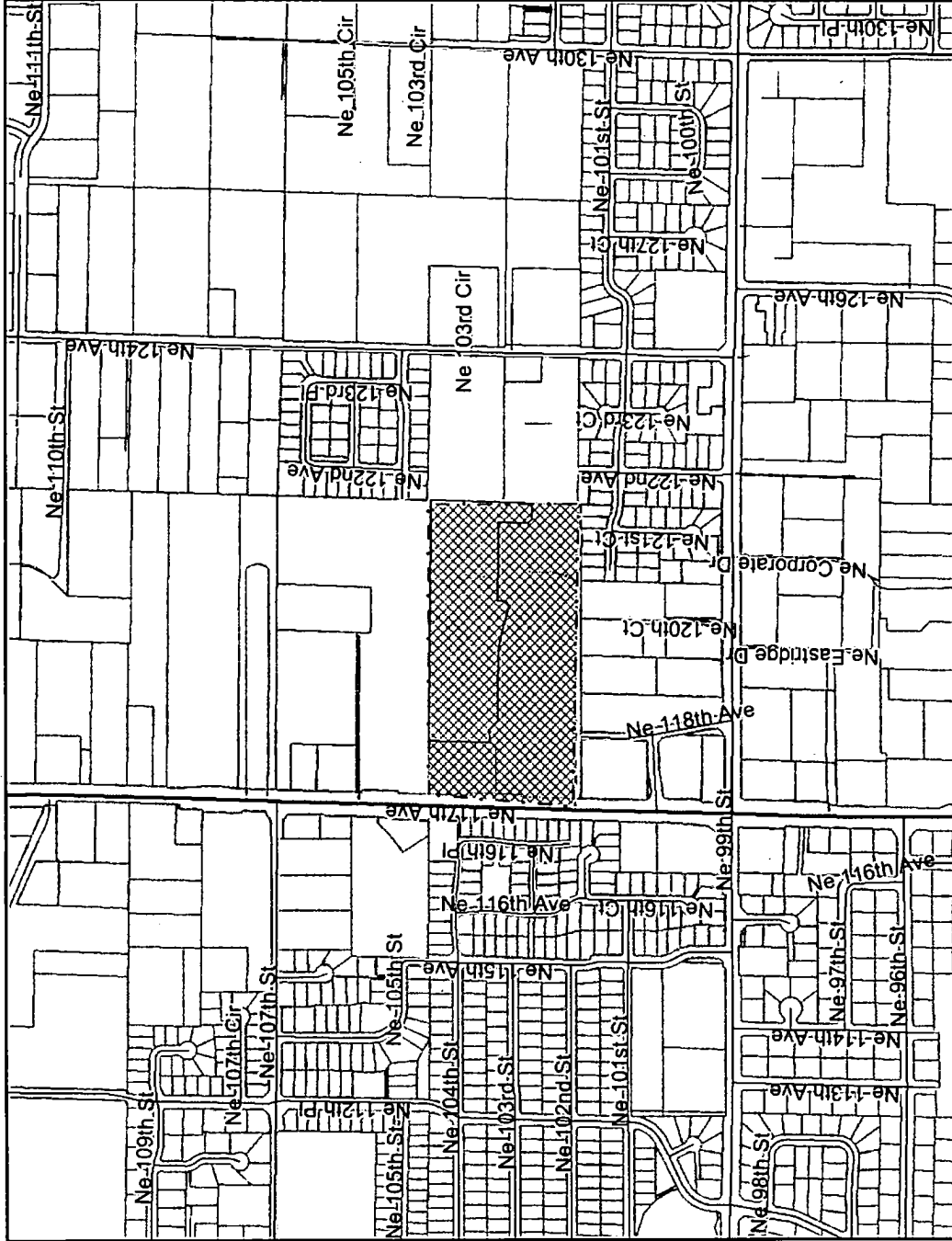


Legend

- Parcels
- Roads
- Alley
- Arterial
- DNR (Private Land)
- Driveway
- Interstate
- Interstate Ramp
- Primary Arterial
- Private Roads
- Private Roads w/o Names
- Public Roads
- SR Ramp
- State Route
- Waterbodies
- Rural Centers
- City Boundaries
- Urban Growth Boundaries
- County Boundary



Scale: 1:8,907



0 850 1700 2550 ft.

Map center: 1116722, 139241

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