

ORDINANCE NO. 883-07-05-15

AN ORDINANCE OF THE CITY OF PFLUGERVILLE, TEXAS AMENDING ORDINANCE NO. 874-07-04-10 OF THE CITY OF PFLUGERVILLE, TEXAS AS AMENDED, BY CHANGING THE ZONING DESIGNATION FROM LIGHT INDUSTRIAL (LI) AND GENERAL BUSINESS-1 (GB-1) TO AN ALTERNATIVE LAND USE REGULATION DISTRICT ("ALUR") ON APPROXIMATELY 70 ACRES OF LAND LOCATED WITHIN THE L.C. CUNNINGHAM SURVEY NO. 63 AS SITUATED IN TRAVIS COUNTY, TEXAS AT TO BE KNOWN AS THE WELLS POINT ALUR.

WHEREAS, **HW CARMEN INVESTMENT, LP**, a Texas limited partnership and **HW OTELLO INVESTMENT, LP**, a Texas limited partnership (collectively, the "Owner"), the owners of approximately 70 acres of land located at or near the intersection of Wells Branch Parkway and Heatherwilde Boulevard, and in the City of Pflugerville, more fully described and shown on "Exhibit A", attached and incorporated herein for all purposes (the "Land"), have applied to the City of Pflugerville for the creation of an Alternative Land Use Regulation District ("ALUR") on the Land in accordance with Section 157.500(D) of the Code of Ordinances of the City of Pflugerville, Texas; and

WHEREAS, the Parks and Recreation Commission has held a public hearing and has recommended approval of the parkland dedication arrangement more particularly described in Section 3.04(H) of the Development Code attached hereto; and

WHEREAS, the Planning and Zoning Commission of the City has held a public hearing on the application and has recommended approval of the development plan for the ALUR; and

WHEREAS, the City Council has conducted a public hearing on the application and has considered the recommendation of the Planning and Zoning Commission regarding the proposed development plan for the ALUR; and

WHEREAS the City Council has determined that the creation of the proposed ALUR would create a superior community environment through unified planning and building operations; provide facilities needed by the community, protect the natural beauty of the landscape; encourage the preservation and more efficient use of open space; and offer an opportunity for greater flexibility and more creative and imaginative design for the development of the City; and

WHEREAS, the City Council has further determined that the proposed ALUR should be created, subject to the terms and conditions of this ordinance;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS:

Section 1. Creation of Wells Point ALUR. An Alternate Land Use Regulation District or ALUR is hereby created on the Land, to be known as the "WELLS POINT ALUR". The Wells Point ALUR will be developed, improved, used and occupied in accordance with the terms of this ordinance and the attached exhibits.

Section 2. Development Code. The development code for the WELLS POINT ALUR

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attached as Exhibit "B" ("Development Code") is hereby approved for the Land and will be incorporated into and considered a part of this ordinance. All development within the ALUR must conform to the limitations and conditions set forth in the Development Code and this ordinance.

Section 3. Applicable Rules, Regulations and Ordinances. Except as otherwise specifically provided in this ordinance and the attached exhibits, all ordinances and regulations contained in the Code of Ordinances of the City of Pflugerville in effect on the date hereof will apply to the Land.

Section 4. Exhibits. The following exhibits are copies of original documents on file with the City of Pflugerville and are incorporated in this ordinance in their entirety as though set forth fully in the text of this ordinance:

<u>Exhibit "A"</u>	Depiction and Legal Description of Land
<u>Exhibit "B"</u>	ALUR Development Code
<u>Exhibit "B-1"</u>	Approximate location of Tract One on which additional uses are prohibited
<u>Exhibit "B-2"</u>	Approximate location of 8-acres on which Residential Uses are prohibited
<u>Exhibit "C"</u>	Approximate location of Commercial Node
<u>Exhibit "D"</u>	18 Acre Tract
<u>Exhibit "E"</u>	Tract One Buffer Strip
<u>Exhibit "F"</u>	Depiction of Residential Exterior Finish
<u>Exhibit "G"</u>	Design Features
<u>Exhibit "H"</u>	Parking Area
<u>Exhibit "I"</u>	Drainage Area

Section 5. Effective Date. This ordinance will become effective upon the date of its passage by the City Council. Such date shall be referred to herein as the "Effective Date".

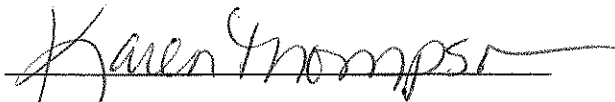
APPROVED THIS 15th DAY OF May, 2007

THE CITY OF PFLUGERVILLE, TEXAS

By: 

CATHERINE T. CALLEN, MAYOR

ATTEST:



KAREN THOMPSON, CITY SECRETARY

43.60 Acre  
Zoning Change

EXHIBIT A  
Page 1 of 6

May 16, 2006

BEING A 43.60 ACRE TRACT OF LAND OUT OF THE L.C. CUNNINGHAM SURVEY NUMBER 63, AS SITUATED IN TRAVIS COUNTY, TEXAS, SAME BEING THE CALLED 25.765 ACRE TRACT, AS CONVEYED TO NEW WELLS POINT PARTNERS, LTD., AND DESCRIBED AS EXHIBIT "A-2", TRACT ONE IN DOCUMENT NUMBERS 1999046434 AND 1999046435 BOTH OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, AND THE REMAINING PORTION OF THE CALLED 46.9486 ACRE TRACT OF LAND AS CONVEYED TO NEW WELLS POINT PARTNERS, LTD., AND DESCRIBED AS EXHIBIT "A-1", TRACT ONE IN DOCUMENT NUMBERS 1999046434 AND 1999046435 BOTH OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 43.60 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;

**BEGINNING** at a nail found, being on the East line of a called 8.996 acre tract of land as conveyed to New Finley Company in Volume 10048, Page 845 of the Real Property Records of Travis County, Texas, same being a point in the current West r-o-w of Heatherwilde Boulevard, same being the most southerly of the aforementioned 25.765 acre tract, for the most southerly corner, and the **PLACE OF BEGINNING** hereof;

**THENCE**, N 15° 45' 53" W, along the East line of the aforementioned New Finley tract, same being the West line of the aforementioned 25.765 acre tract, for a distance of 817.95 feet, to a 1/2" rebar found, said point being the most northerly corner of the said New Finley tract, same being a point in the East line of a called 44.15 acre tract of land as conveyed to Finley Company, in Volume 10941, Page 221 of the Real Property Records of Travis County, Texas, same being the southwest corner of the said 25.765 acre tract, and the southwest corner hereof;

**THENCE**, N 29° 05' 52" E, along the common line between the aforementioned 44.15 acre Finley tract, and the 25.765 acre tract, for a distance of 356.03 feet, to a nail found in a fence post, said point being the northeast corner of the said 44.15 acre tract, same being the southeast corner of Lot 1, Block F, of Springhill Village, as recorded in Volume 7, Page 42 of the Plat Records of Travis County, Texas, for an angle point hereof;

**THENCE**, N 29° 22' 20" E along the East line of the aforementioned Block F, Springhill Village, same being the West line of the aforementioned 25.765 acre tract, passing at a distance of 630.26 feet, to a 1/2" rebar set, said point being in the southwesterly terminus of Patrick Place, same being the southwest corner of the aforementioned 46.9486 acre tract, same being the most northerly corner of the said 25.765 acre tract, and continuing along the East line of Block E, of the said Subdivision, same being the West line of the said 46.9486 acre tract, for a total distance of 1,520.88 feet, to a 1/2" rebar found, said point being in the East line of Lot 6, Block E, of the said Subdivision, same being the southwest corner of a called 17.1 acre tract of land as described in an Exchange Deed in

Document Number 2000130609 of the Official Public Records of Travis County, Texas, for the most northerly corner hereof;

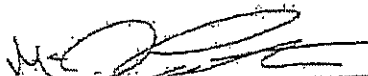
THENCE, S 60° 32' 03" E, through the interior of the aforementioned 46.9486 acre tract, same being the South line of the aforementioned 17.1 acre tract of land, for a distance of 871.98 feet, to a 1/2" rebar set, said point being in the aforementioned West r-o-w of Heatherwilde Boulevard, same being the most southerly corner of the said 17.1 acre tract, same being the northeast corner hereof (and from which point a capped 1/2" rebar found at the northeast corner of the said 17.1 acre tract bears, N 29° 30' 38" E, at a distance of 852.62 feet);

THENCE, S 29° 30' 38" W, along the current West r-o-w of the aforementioned Heatherwilde Boulevard, same being the East line of the aforementioned 46.9486 acre tract, passing a 1/2" rebar set at the southeast corner of said 46.9486 acre tract, same being the northeast corner of the aforementioned 25.765 acre tract, at a distance of 893.97 feet, and continuing along the common line between the said 25.765 acre tract, and the current aforementioned r-o-w, for a total distance of 1,756.78 feet to a 1/2" rebar set at a point of curvature to the right, said curve having a radius of 955.00 feet, for a point of curvature hereof;

THENCE, With said curve to the right a distance of 620.09 feet, said curve having a chord bearing S 48° 06' 39" W, at a distance of 609.25 feet, to a nail found, said point being a point of tangency in the aforementioned 25.765 acre tract, for a point of tangency hereof;

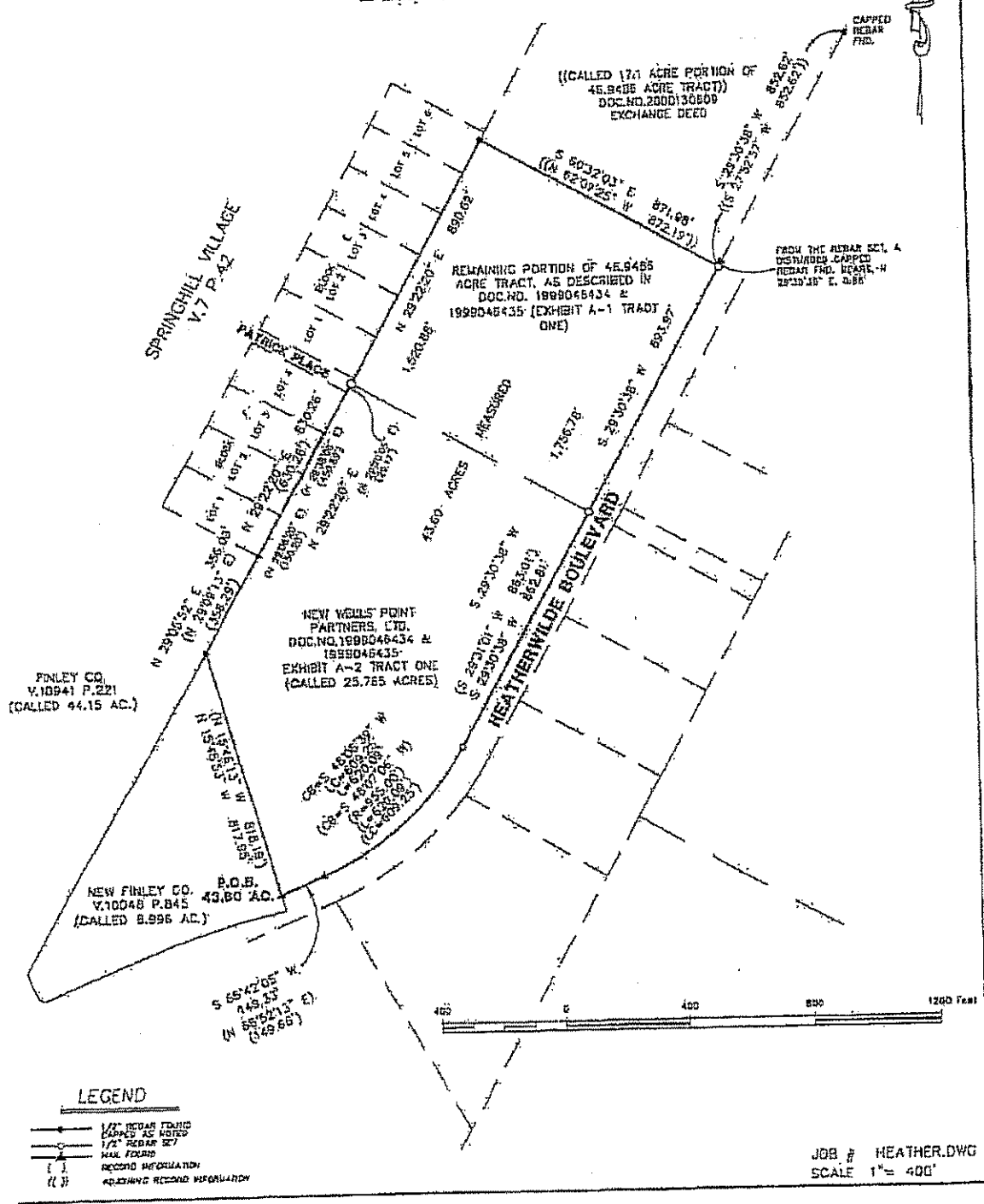
THENCE, S 66° 42' 05" W, along the East line of the aforementioned 25.765 acre tract, same being along the aforementioned current West r-o-w, for a distance of 149.33 feet, to the PLACE OF BEGINNING hereof and containing 43.60 acres of land, more or less.

THIS METES AND BOUNDS DESCRIPTION IS TO BE USED WITH THE ATTACHED PLAT.

  
MICHAEL LANCASTER RPLS 5529  
Dewey H. Burris & Associates, Inc.  
1404 W. North Loop Blvd.  
Austin, Texas 78756  
HEATHER\_43.6\_AC

# SKETCH TO ACCOMPANY A METES AND BOUNDS DESCRIPTION

EXHIBIT A  
Page 3 of 6



**LEGEND**

—●—	1/4" REBAR (SEE NOTES)
—○—	1/2" REBAR (SEE)
—▲—	MAX. ELEVATION
( )	RECORD INFORMATION
( ( ) )	APPLICABLE RECORD INFORMATION

JOB # HEATHER.DWG  
SCALE 1" = 400'

25.86 Acre  
Zoning Change

E. WEST     A      
Page 4 of 6

May 16, 2006

BEING A 25.86 ACRE TRACT OF LAND OUT OF THE L.C. CUNNINGHAM SURVEY NUMBER 63, AS SITUATED IN TRAVIS COUNTY, TEXAS, SAME BEING A PORTION OF THE CALLED 91.1530 ACRE TRACT OF LAND, AS CONVEYED TO NEW WELLS POINT PARTNERS, LTD., AND DESCRIBED AS EXHIBIT "A-2", TRACT TWO IN DOCUMENT NUMBERS 1999046434 AND 1999046435 BOTH OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS, SAID 25.86 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;

BEGINNING at a 1/2" rebar found, being the southeasterly terminus point of the current r-o-w of Wells Branch Parkway, same being an ell corner of the aforementioned 91.1530 acre tract, for a point in the West line and the PLACE OF BEGINNING hereof;

THENCE, N 23° 11' 06" W, along the East line of the aforementioned Wells Branch Parkway, for a distance of 174.95 feet, to a 1/2" rebar found, said point being at the point of intersection of the said Wells Branch Parkway, and the South line of the current r-o-w of Heatherwilde Boulevard, same being at a point of curvature to the right, said curve having a radius of 25.00 feet, for a point of curvature hereof;

THENCE, With said curve to the right a distance of 39.49 feet, said curve having a chord bearing N 21° 07' 20" E, at a distance of 35.51 feet, to a 1/2" rebar set, said point being at a point of tangency in the current South r-o-w of the aforementioned Heatherwilde Boulevard, for a point of tangency hereof;

THENCE, N 66° 43' 40" E, along the aforementioned current South r-o-w line of Heatherwilde Boulevard, same being the North line of the aforementioned 91.1530 acre tract of land, for a distance of 949.29 feet, to a 1/2" rebar set, said point being the northwest corner of a called 10.51 acre Drainage Easement, as conveyed to the City of Pflugerville in Volume 12175, Page 87 of the Real Property Records of Travis County, Texas, for the most northerly corner hereof;

THENCE, S 29° 27' 33" E, through the interior of the aforementioned 91.1530 acre tract, same being the West line of the aforementioned Drainage Easement, for a distance of 853.08 feet, to a 1/2" rebar found, said point being in the common line between the said 91.1530 acre tract, and a tract of land as conveyed to Village @ Northtown, Ltd. (hereinafter the "Northtown" tract) in Document Number 2000156544 of the Official Public Records of Travis County, Texas, for the northeast corner hereof;

THENCE, along the aforementioned common line between the Northtown tract, and the 91.1530 acre tract, the following two (2) courses;

1.) S 29° 19' 29" W, for a distance of 309.50 feet, to a 1/2" rebar found, for an angle point hereof;

2.) S 29° 25' 44" W, for a distance of 559.78 feet, to a 1/2" rebar set, for the most southerly corner hereof;

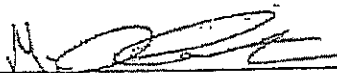
THENCE, through the interior of the aforementioned 91.1530 acre tract, and along the East line of the proposed extension of Wells Branch Parkway, the following three courses;

1.) N 60° 38' 51" W, for a distance of 117.09 feet, to a 1/2" rebar set, said point being at a point of curvature to the right, said curve having a radius of 1,480.00 feet, for a point of curvature hereof;

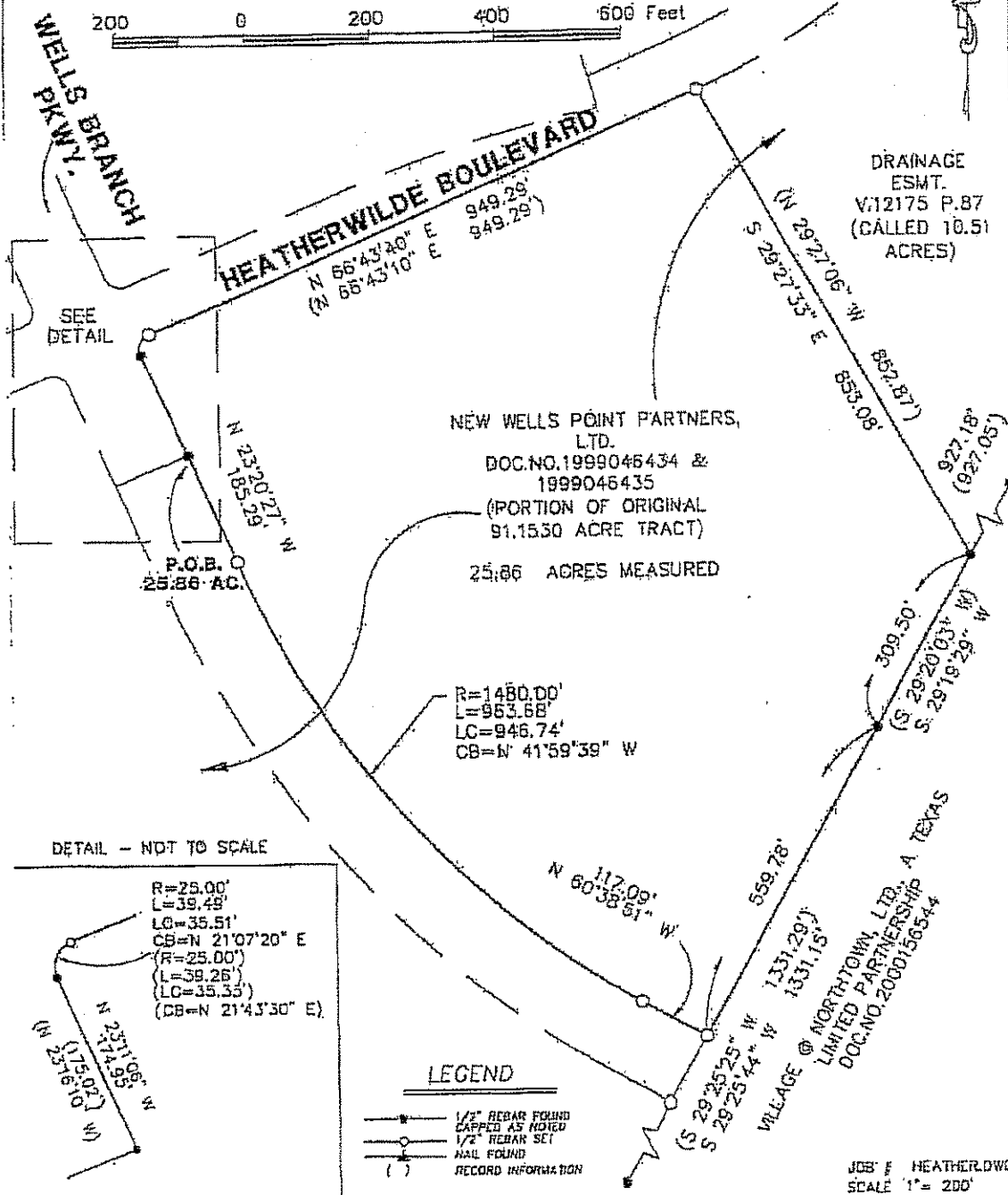
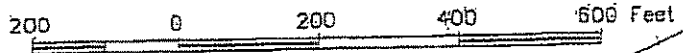
2.) With said curve to the right a distance of 963.68 feet, said curve having a chord bearing N 41° 59' 39" W, at a distance of 946.74 feet, to a 1/2" rebar set, said point being at a point of tangency in the East line of the proposed extension of Wells Branch Parkway, for a point of tangency hereof;

3.) N 23° 20' 27" W, for a distance of 185.29 feet, to the PLACE OF BEGINNING hereof and containing 25.86 acres of land, more or less.

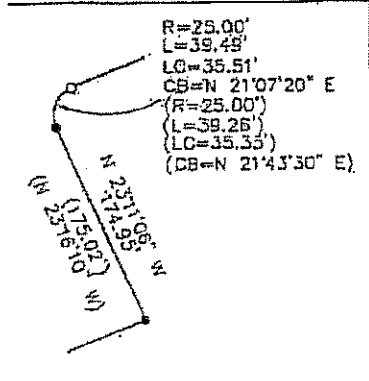
THIS METES AND BOUNDS DESCRIPTION IS TO BE USED WITH THE ATTACHED PLAT.

 5/16/06  
MICHAEL LANCASTER RPLS 5529  
Dewey H. Burris & Associates, Inc.  
1404 W. North Loop Blvd.  
Austin, Texas 78756  
FEATHER\_25.86\_AC

SKETCH TO ACCOMPANY A METES AND BOUNDS DESCRIPTION



DETAIL - NOT TO SCALE



LEGEND

- 1/2" REBAR FOUND CAPPED AS NOTED
- 1/2" REBAR SET
- NAIL FOUND
- ( ) RECORD INFORMATION

JOB # HEATHER.DWG  
SCALE 1" = 200'



WELLS POINT

DEVELOPMENT CODE

EXHIBIT B



# WELLS POINT

## DEVELOPMENT CODE

### ARTICLE I GENERAL PROVISIONS

#### 1.01 PURPOSE AND INTENT.

A. Purpose. This Development Code is adopted to:

1. Protect, preserve, improve, and provide for public health, safety, and general welfare of the present and future citizens of the City, the Owner, and future residents of Wells Point, and
2. Establish a framework of zoning guidelines and criteria which support the development of Wells Point.

B. Intent. The requirements of this Development Code are intended and shall apply to the property, consisting of approximately 70 acres of land located within the City of Pflugerville, Texas (the "Property").

C. Amendments. The City and Owner acknowledge that changes to this Development Code may be necessary to resolve traffic issues and to enhance the Open Space for WELLS POINT ALUR.

1. Minor Changes and Revisions. Minor changes, revisions, and modifications to, and variances from, this Development Code that do not substantially increase the overall density of development in Wells Point may be approved administratively by the City Manager if the City Manager determines in his sole and absolute discretion to be a minor change, revision, modification or variance.

2. Major Changes and Revisions. Major changes, amendments, and/or revisions of this Development Code must be approved in accordance with the City's procedures for amendments to the ALUR process.

#### 1.02 DEFINITIONS.

A. In this Development Code, the word "shall" and "must" will be deemed mandatory or directory, in accordance with the intent and context of its use, and the word "may" will be deemed permissive. The word "including" will also mean "including without limitation" and "including, but not limited to".

B. In this Development Code, the following terms shall have the meaning indicated:

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**ALUR:** Alternative Land Use Regulations, a custom zoning district in the City of Pflugerville, this is the WELLS POINT ALUR.

**Amenity Center:** A private building and associated Lot owned or maintained by a private Developer, Home Owners Association, or other private enterprise for recreational or community purposes. Each Amenity Center shall contain (i) a swimming pool and a clubhouse/gathering hall and (ii) a minimum of two (2) additional recreational activities. Examples of recreational activities/amenities may include, but not be limited to the following: pet park, media room, business center, children's play area (consisting of no less than 3 play structures), fitness center, pedestrian trails, park, picnic pavilion, rock climbing wall, tennis court and sports court.

**Apartment:** A room, or suite of rooms, in an apartment house arranged, designed, or occupied as the residence by a single family, individual, or group of individuals.

**Attached Housing:** A residential building or series of buildings that share a common wall or walls with another residential building or buildings, and examples include townhouses, and Apartment buildings.

**Base District:** The Code based zoning district for a given Tract which is used to determine the uses allowed on, and site regulations applicable to, the Tract in question (e.g. for a Tract with a Base District of "GB" the uses allowed in, and the site regulations applicable to, the "GB" district pursuant to the Code apply to that Tract), except as otherwise provided in the ALUR.

**City:** is the City of Pflugerville, Texas.

**Code:** Shall mean Title XV of the Pflugerville, Texas Ordinances, specifically including the Chapter 150 Building Regulations, Chapter 151 Flood Damage Prevention, Chapter 152 Impact Fees, Chapter 153 Planning, Chapter 154 Signs (as such regulations may be amended from time to time) and Chapter 155 Site Development, Chapter 156 Subdivision Code and Chapter 157 the Zoning Code as such regulations exist on the Effective Date.

**Commercial Uses:** Permitted uses consistent with either GB or LI of the existing City Zoning Code.

**Condominium:** A single building or complex of buildings in which dwelling units of property, are owned by individuals and common parts of the property, such as the grounds and building structure, are owned jointly by the unit owners and/or an owner's association that is independent from or a subassociation of a Homeowners Association or a Property Owners Association. Condominiums may be either attached or detached housing.

**Conversion Date:** The date which is four (4) years after the Effective Date.

**Detached Housing:** A single family residential building and where dwellings are not attached.

**Developer:** Collectively, NW Carmen Investment, LP, a Texas limited partnership and NW Otello Investment, LP, a Texas limited partnership or their successors or assigns.

**Development Code:** The set of regulations for the WELLS POINT ALUR contained herein, which represents a set of measurable standards that are to be enforced by the City of Pflugerville, Texas.

**Drainage Area:** The area generally shown on Exhibit I attached hereto. The size and exact location of the Drainage Area may be adjusted based on the Developer's ability to channelize and/or redirect existing water flows, subject to complying with the City's engineering standards.

**Home Owners Association:** An organization made up of the home owners of an area, which is responsible for the maintenance of common areas and amenities not conveyed to the City, and which shall have the authority to make and collect assessments sufficient to operate and maintain common areas. A Home Owners Association shall have the right to enforce deed restrictions.

**For Lease Units:** Residential Unit's which are initially designated by Owner, Developer, or a builder as unit's in which the ownership entity desires to retain and offer for lease to the public at large.

**For Sale Units:** Residential Unit's which are initially designated by Owner, Developer, or a builder as being on the market for sale.

**Office Use:** Buildings primarily used for the conduct of business, such as administration, financial services, clerical services and consultation with clients and associates.

**Project:** is the Wells Point ALUR project consisting of all the Property.

**Property:** The Real property and all improvements thereon consisting of approximately 70 acres of land located within the City of Pflugerville, Texas (the "Property").

**Residential Units:** A room or group of rooms forming a habitable dwelling. Each individual habitable dwelling regardless of size (e.g., one, two or three bedroom apartment units) shall be deemed as only one "Residential Unit".

**Residential Uses:** Apartment house, Attached Housing, Dwelling-multiple family, Dwelling-single family detached (condominium), Dwelling-single family attached Townhouse and Convalescent home.

**Retail Uses:** Establishments primarily engaged in the sale or rental of goods and merchandise to the general public. Typical uses include department stores, grocery stores, drug stores, restaurants, beauty and barber shops, tailors, shoe repair shops, and dry cleaning pick-up station services.

**Townhouse:** Attached Housing that has Dwelling Units erected in a row as a single building on adjoining lots.

**Tract:** Either Tract One or Tract Two.

**Tract One:** Approximately 44 acres located on the west side of Heatherwilde Blvd as more particularly described on Exhibit "A".

**Tract Two:** Approximately 26 acres located at the northwest corner of Wells Branch Parkway and Heatherwilde Blvd as more particularly described on Exhibit "A".

## ARTICLE II ZONING REGULATIONS

### 2.01 BASE DISTRICTS AND USES.

A. General Regulations. Tract One and Tract Two shall be developed in accordance with this WELLS POINT ALUR, all matters not specifically addressed in this ALUR shall be regulated by applicable sections of the Code. If a conflict should arise as between this ALUR and the Code, this Development Code shall supersede the specific conflicting provisions of the Code.

#### B. Tract One

1. Tract One shall have a Base District of LI. In addition to all present allowable uses in LI, the Residential Uses shall also be permitted on Tract One and the Commercial Uses allowed on Tract Two shall be permitted uses in the Commercial Node (hereinafter defined).

2. Notwithstanding the permitted uses in the LI Base District, the following uses otherwise available in the LI district shall not be allowed on Tract One:

Agriculture implement sales & service	Livestock Auction
Agriculture and ranching	Machine shop and Metal Products
Artificial Limb manufacturer	Manufactured Housing Sales
Auction sales, except livestock	Manufacturing-plastic products
Auditorium	Newspaper Plant
Automobile Sales/Rentals	Open Storage
Automobile Repair Shop	Police Station
Bedding manufacturer	Pumping plant, public
Beverage bottling and distribution	Radio – t.v. tower
Blacksmith shop	Reservoir, city water supply
Boat Sales, Repair, Storage	Stable-Commercial
Book binding	Stable-Private
Box manufacturing	Stock Yard-Noncommercial
Broom manufacturing	Storage & Sales of Autos, Trailers, Farm
Bus Depot	Substation-public utility
Carting, express hauling	Tire Recapping
Car Wash	Implements & Equipment
Cemetery	Water tank surface, subsurface- public
Club, not Bar/Tavern	Welding Shop
Confectionery, wholesale	
Cotton Gin	
Creamery, Wholesale	
Fertilizer sales, retail & wholesale	
Fire Station	
Food processing and dehydrating	
Frozen food locker	
Grain elevator	
Hatchery	
Ice Manufacturer, wholesale	

3. In addition to the prohibited uses listed in preceding paragraph, the following uses shall not be allowed on the portion of Tract One shown crosshatched on Exhibit "B-1" attached hereto:

Service station, fuel  
Wholesale distribution

4. Notwithstanding the foregoing, for any portion of Tract One developed with Residential Uses, applicable site development regulations shall be based on the "RM-2" Code zoning district (except that Townhouse use shall also be a permitted use), except as otherwise expressly provided in this ALUR.

### C. Tract Two

1. Tract Two shall have a Base District of GB. In addition to all present allowable uses in GB, the Residential Uses shall also be permitted on all of Tract Two except for that certain approximately eight (8) acres of land located at the corner of Heatherwilde Blvd and Wells Branch Parkway and shown crosshatched on Exhibit "B-2" attached hereto (the "8 Acre Tract").

2. Notwithstanding the permitted uses in the GB Base District, the following uses otherwise available in the GB district shall not be allowed on Tract Two:

Agriculture implement sales and service	Agriculture and ranching
Auction Sales, except livestock	Boat sales, repair, storage
Auditorium	Bar/tavern
Blacksmith Shop	Bed and Breakfast
Book Binding	Bus Depot
Car Wash	Cemetery
Confectionary, wholesale	Dance Hall
Exhibition Ground	Fertilizer sales, retail & wholesale
Frozen food locker	Golf course-driving range
Manufactured housing sales	Mortuary
Pawn Shop	Pumping plant, public
Reservoir, city water supply	Substation-public utility
Truck garden	

3. Notwithstanding the foregoing, for any portion of Tract Two developed with Residential Uses, applicable site development regulations shall be based on the "RM-2" Code zoning district (except that Townhouse use shall also be a permitted use), except as otherwise expressly provided in this ALUR.

## 2.02 RESIDENTIAL DENSITY LIMITS

A. *Residential Units*: A maximum of Six Hundred (600) Residential Units (as either For Sale or For Lease Units) will be constructed in the WELLS POINT ALUR. For purposes of this Section 2.02 "Residential Units" shall not be deemed to include any units within a

Convalescent Home or similar type structure.

B. *For Lease Units*: A maximum of Two Hundred and Seventy-Five (275) Residential Units will be constructed as For Lease Units in the WELLS POINT ALUR.

### 2.03 COMMERCIAL/RETAIL REQUIREMENT

A. On a minimum of four (4) acres of Tract One ("Commercial Node"), only development for Retail Use and/or Office Use (save and except the uses provided for in Section 2.01(C)(2) above) shall be allowed; provided however that a minimum of 15,000 square feet of buildings devoted for Retail Use and/or Office Use shall be constructed within the Commercial Node. The approximate location of the Commercial Node is shown crosshatched on Exhibit C attached hereto, however, the location may be adjusted so long as the Commercial Node fronts Heatherwilde Boulevard.

B. Only development for Retail Uses shall be allowed on 8 Acre Tract.

### 2.04 PHASING OF PROJECT

A. If Residential Units are constructed on Tract One, build out shall occur from North to South.

B. Developer shall construct building shell(s) for at least 15,000 square feet of building(s) devoted for Retail Use and/or Office Use in the Commercial Node concurrently with the construction of any Residential Units on Tract One.

C. Prior to the Conversion Date, only development for Commercial Uses shall be allowed on the cross-hatched portion of Tract Two, as shown on Exhibit D attached hereto (the "18 Acre Tract").

D. So long as Developer has commenced construction of at least 10,000 square feet of building(s) devoted for Retail Uses on Tract Two, Developer shall be allowed to construct Residential Units on the 18 Acre Tract at any time after the Conversion Date.

E. For purposes of Section 2.04 "Commercial Uses" shall not be deemed to include a Convalescent Home or similar use.

## ARTICLE III DEVELOPMENT STANDARDS

3.01 General. In addition to the applicable Code provisions, the provisions of this Section 3.01 shall be applicable to any development within the Project.

A. Dual Uses on Tract One. If any portion of Tract One is developed for Residential Uses, the remainder of Tract One located to the north of the Drainage Area shall be restricted to Residential Uses, Retail Uses and/or Office Use.

B. Buffer Strip. If buildings located adjacent to the western boundary line of Tract



One exceed two (2) stories in height, the twenty-five (25') foot wide area located along the western boundary line of Tract One and shown crosshatched on Exhibit E attached hereto ("Buffer Strip") shall be required to be a vegetative buffer strip. Except for improvements relating to fencing, utility service and additional landscaping, no development shall be permitted in the Buffer Strip. For the purposes of this ALUR, the phrase "utility service" shall mean underground water and wastewater pipes, electrical lines, gas lines and any other underground or surface public utility lines, improvements and facilities and sprinkler, drip or other irrigation systems. Notwithstanding the foregoing, a retaining wall or other slope stabilization structure in connection with a detention pond may be located in the Buffer Strip.

C. Connectivity. Developer agrees to use commercially reasonable efforts to design the Project in a way that will promote connectivity between the different types of uses contained within the Project.

D. Street Connectivity. If Tract One, save and except the Commercial Node, is developed for Residential Uses, non-motorized access from Patrick Place to the Commercial Node shall be provided in lieu of the requirements set forth in Section 155.202(c)(2) of the Code.

E. Trash Storage: All enclosures must be constructed of permanent materials (concrete, masonry, split face block, wood, etc.), which are compatible with the building it serves.

**3.02 Exterior Finish of Buildings Constructed For Commercial Uses**. In addition to Section 155.303 of the Code which requires 100% masonry on the outside wall areas, Developer hereby agrees that at least 25% of the "masonry" on buildings constructed for Commercial Uses will consist of brick or stone.

**3.03 Exterior Finish of Apartments**. In addition to Section 155.303 of the Code which requires 100% masonry on the outside wall areas, Developer hereby agrees that at least (i) 75% of the "masonry" on the outside wall area of the first story of Apartments shall consist of brick or stone such as is generally depicted on Exhibit "F" attached hereto or (ii) at least 50% of the "masonry" on Apartments will consist of brick or stone.

**3.04 Fencing and Gating**.

A. Fencing: Fencing of Apartments and buildings constructed for Commercial Uses may be constructed in any yard and along any property line for the purpose of screening or security. When fencing is constructed it shall meet the following standards:

1. *Street Yard Fencing*. Fencing in street yards shall be constructed of wrought iron or similar material, masonry, composite or woodcrete. All posts shall be set in concrete to ensure a sturdy and durable fence. Street yard fence materials shall wrap around and extend a minimum of fifty feet (50') along side property lines.

2. *Other Yards*: Fencing in yards other than street yards shall be constructed of wood, woodcrete, masonry, composite or wrought iron. All fence posts shall be either masonry or rust resistant steel, treated wood, vinyl or similar material set in concrete. The finished side of all perimeter fencing shall face the outside of the development.

B. Gating: Apartments within the Project shall be designed as gated communities with all entrances and exits gated. The gating features shall be constructed with stone, rock, brick, decorative metal fence, or some combination thereof.

**3.05 Residential.** The provisions of this Section 3.05 shall be applicable to Residential Uses within the Project in addition to the requirements set forth in Chapter 155 of the Code.

- A. Exterior Finish. In addition to Section 155.304 of the Code which requires masonry, on at least 75% of the outside wall area of the first story, Developer hereby agrees that at least 25% of the "masonry" on the outside wall area of the first story of any Residential Unit shall consist of brick or stone, such as is generally depicted on Exhibit "F" attached hereto.
- B. Roofing Materials: In areas visible to the public, roofing materials for Lease Units shall consist of standing metal seam, slate, tile, concrete products, forty (40) year architectural shingles, or such other similar quality material. Roofing materials for Sale Units shall consist of standing metal seam, slate, tile, concrete products, twenty (20) year composite shingles, or such other similar quality material.
- C. Building Height Variation: Buildings located within seventy-five (75) feet of Heatherwilde Boulevard shall be one story, two story or three story / two story split buildings.
- D. Building Elevations: Building design shall incorporate some design features that have a residential appearance and that will minimize the appearance of building mass and bulk. Building facades shall include offsets and setbacks and roof elements (including pitched roofs) to enhance such residential appearance.
- E. Special Design Features: All buildings, other than garages, shall contain a minimum four (4) of the following design features, which shall be chosen by the Owner. The design features are as defined in Identifying American Architecture, by John Blumenson, 2nd Edition, Copyright 1981, W.W. Norton & Co., N.Y.

Bow window.

Bay window.

Arched window.

Gable window.

Oval or round windows.

Shutters (must be proportional to window size).

Arched entry, balcony or breezeway entrance.

Stone or brick accent wall.

Decorative stone or brick band.

Decorative tile.

Veranda, terrace, porch or balcony.

Projected wall or dormer.

Variation of roof lines on the building.

Decorative caps on chimneys.

Depictions of the foregoing design features are generally show on Exhibit "G" attached hereto.

- F. Parking: No less than thirty percent (30%) of the required total number of parking spaces for Condominiums and Apartments shall be housed within covered parking such as garages or carports.
- G. Required Amenities. The WELLS POINT ALUR shall have at least one Amenity Center on each Tract developed for Residential Uses or Apartments. Said development or construction costs shall be borne by the Developer. All maintenance costs shall be the responsibility of the Homeowners Association or a Property Owners Association that own and or use the Amenity Center.
- a. The Developer shall use commercially reasonable efforts to employ adequate security for the WELLS POINT ALUR in an effort to retain the high quality and professional standards for the Project.
  - b. No government subsidized housing shall be permitted within the Wells Point ALUR.
  - c. A mandatory Homeowners Association or on-site management company shall be created for the ownership's administration and maintenance of the Residential Uses of the ALUR.

H. Park Land.

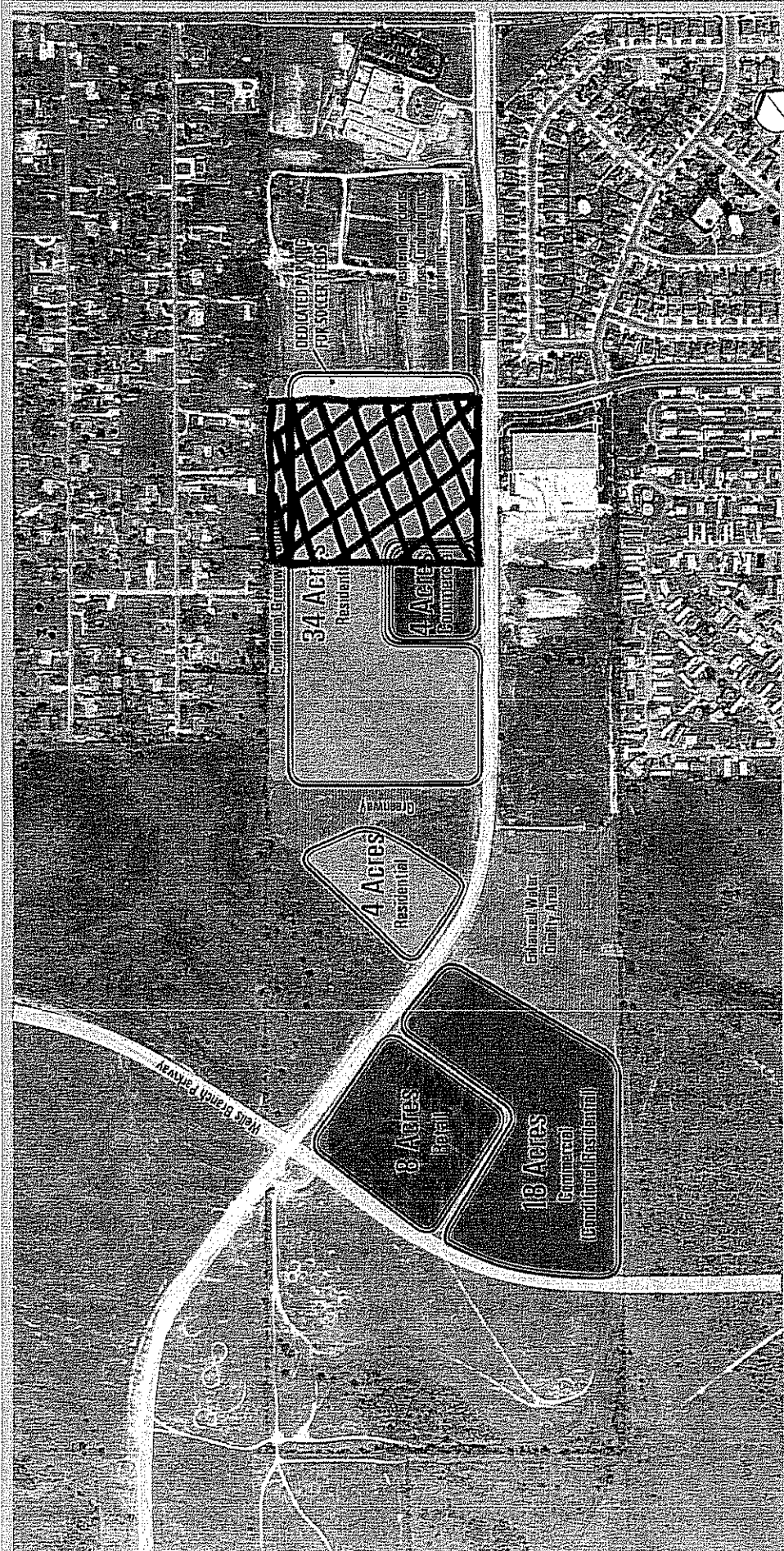
1. Within ninety (90) days after the Effective Date, Developer shall dedicate to the City a portion of Tract One located adjacent to the soccer fields which is more particularly described and shown on Exhibit H attached hereto ("Parking Area").
2. Developer shall erect a parking area of at least eighty (80) head-in parking spaces in accordance with the schematic plan and design standards ("Parking Standards") more particularly described on Exhibit H attached hereto.
3. The Developer shall cause the Parking Area to be constructed as a parking lot in compliance with the Parking Standards within three (3) years after the Effective Date ("Parking Area Construction Deadline"); provided, however Developer will make good faith efforts to construct the Parking Area prior to the Parking Area Construction Deadline if construction can be accommodated in conjunction with development of Tract One.
4. Developers' satisfaction of the requirements set forth in paragraphs (1) and (2) above shall satisfy the Park Land requirement set forth in Section 156.425 of the Code for the entire Project.
5. Upon Developers' satisfaction of the requirements set forth in paragraph (2) above, the City shall accept such improvements for maintenance.

6. The City hereby grants to Developer (or its successor, assign or designee) a non-exclusive temporary construction and access easement over, through, under and across the Parking Area and such other portions of the land owned by the City that adjoins the Parking Area as may be necessary or appropriate to enable Developer to perform the work within the Parking Area described herein. Developer shall indemnify and hold harmless the City, from and against any and all loss, damages and expenses (including reasonable attorney's fees) and liability resulting from injury to persons or property arising out of Developer's work performed in the Parking Area.
7. The City hereby waives any and all application, permit, inspection and other fees that Developer would otherwise be required to pay in conjunction with the work described in this subsection (H).

[Remainder of Page Intentionally Left Blank]

**Exhibit B-1**

Area of Tract One with additional prohibited uses.



SCALE: 1" = 400' ±

**ALUR Land-Use Plan**

**Wells Point Mixed Use Development**

Sterius Development

Disclaimer: The ALUR Land Use Plan reflects a general projection of land uses to be representative of the mixture of land uses, their locations and their approximate intensities. The lot and building configurations are conceptual.

02/19/2007

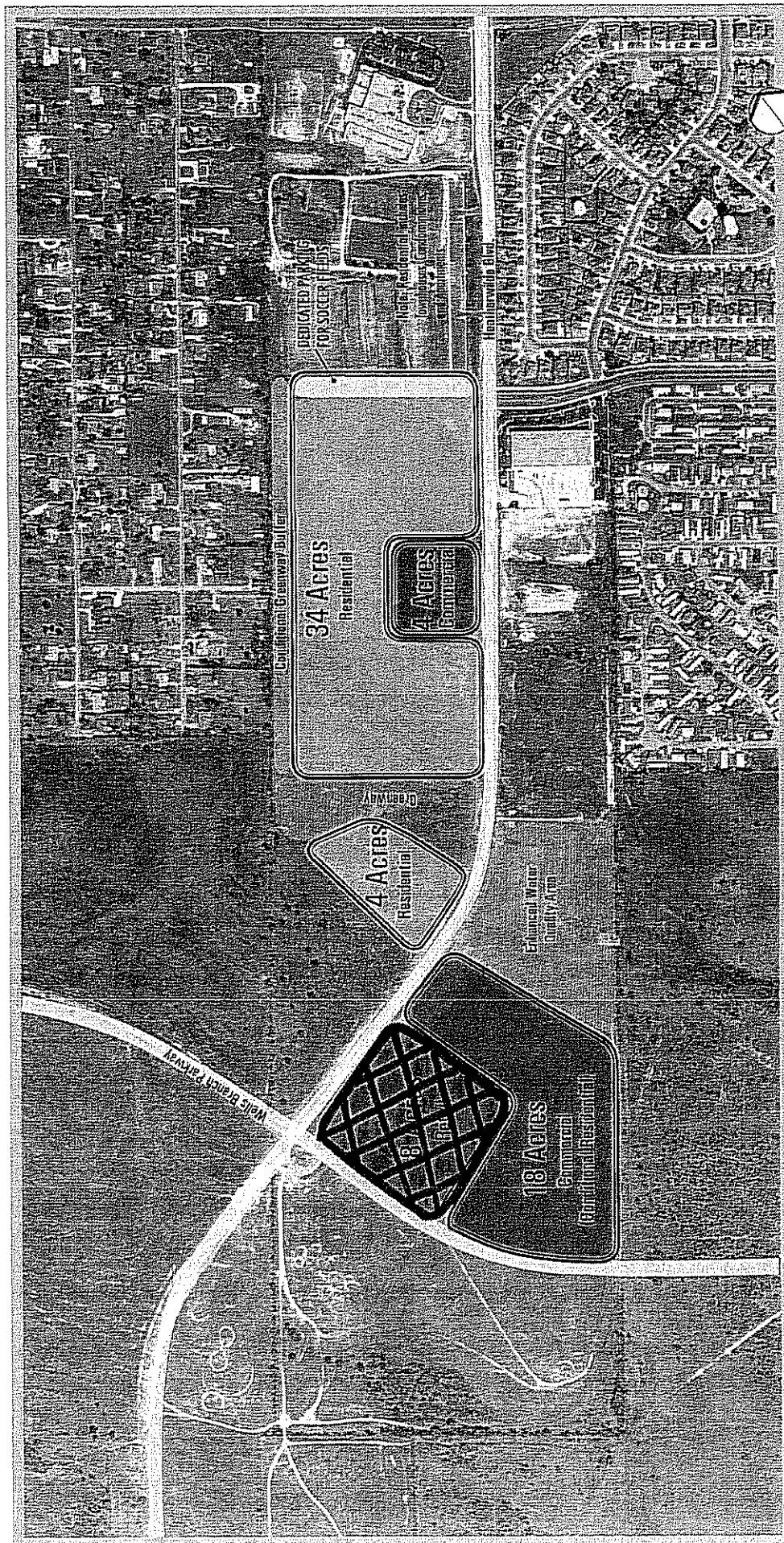


EXHIBIT **B-1**

**Exhibit B-2**

8-Acre Tract





SCALE: 1" = 400'-0"

**ALUR Land-Use Plan**

Wells Point Mixed Use Development

Spertus Development

Disclaimer: The ALUR Land Use Plan reflects a general projection of land uses to be representative of the nature of land uses, their forms and their operational intensities. The lot and building configurations are conceptual.

02/19/2007

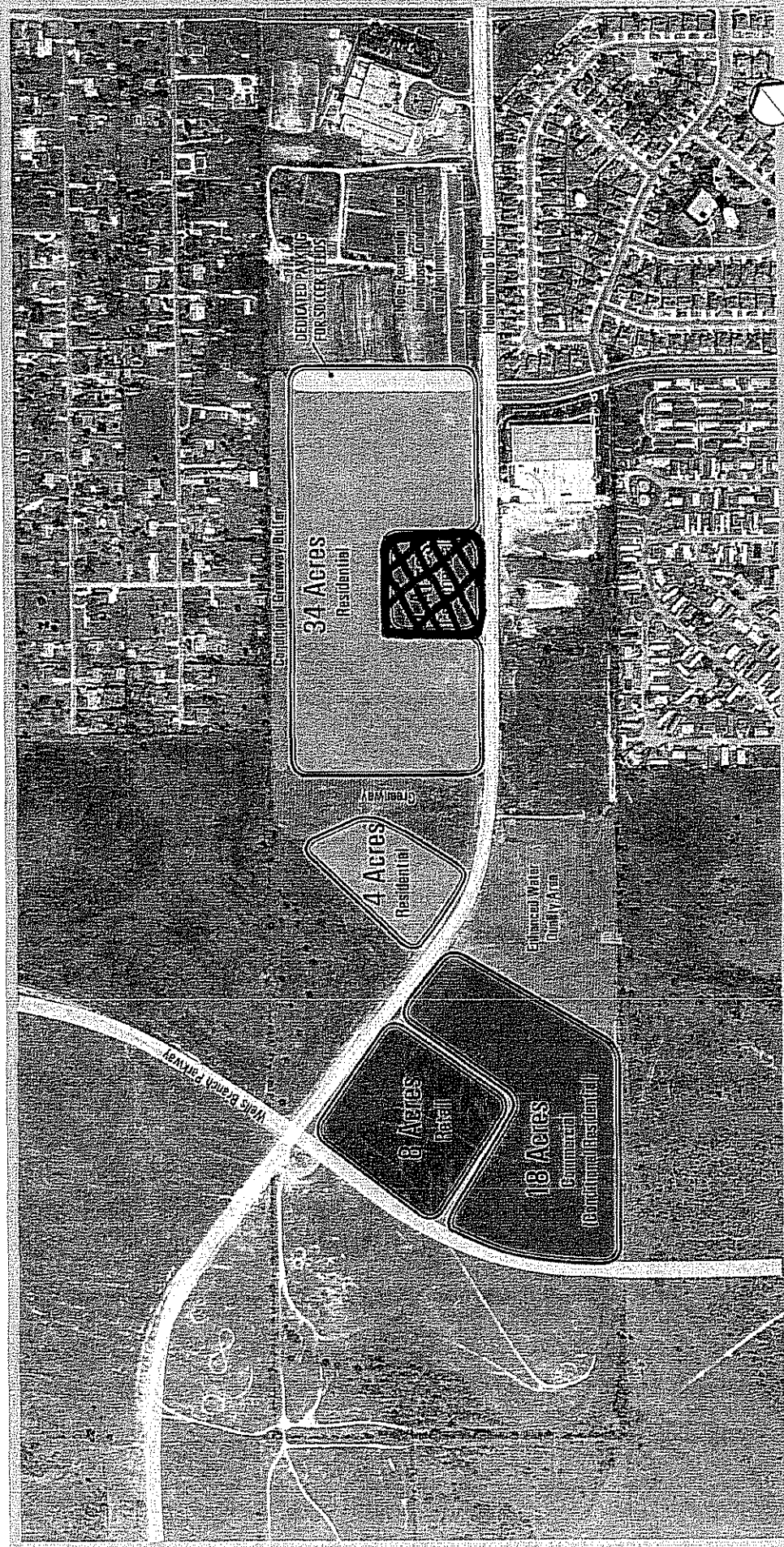


EXHIBIT **B-2**



Exhibit C

Commercial Node



SCALE: 1" = 400'-0"



**ALUR Land-Use Plan**

Wells Point Mixed Use Development

Spertus Development

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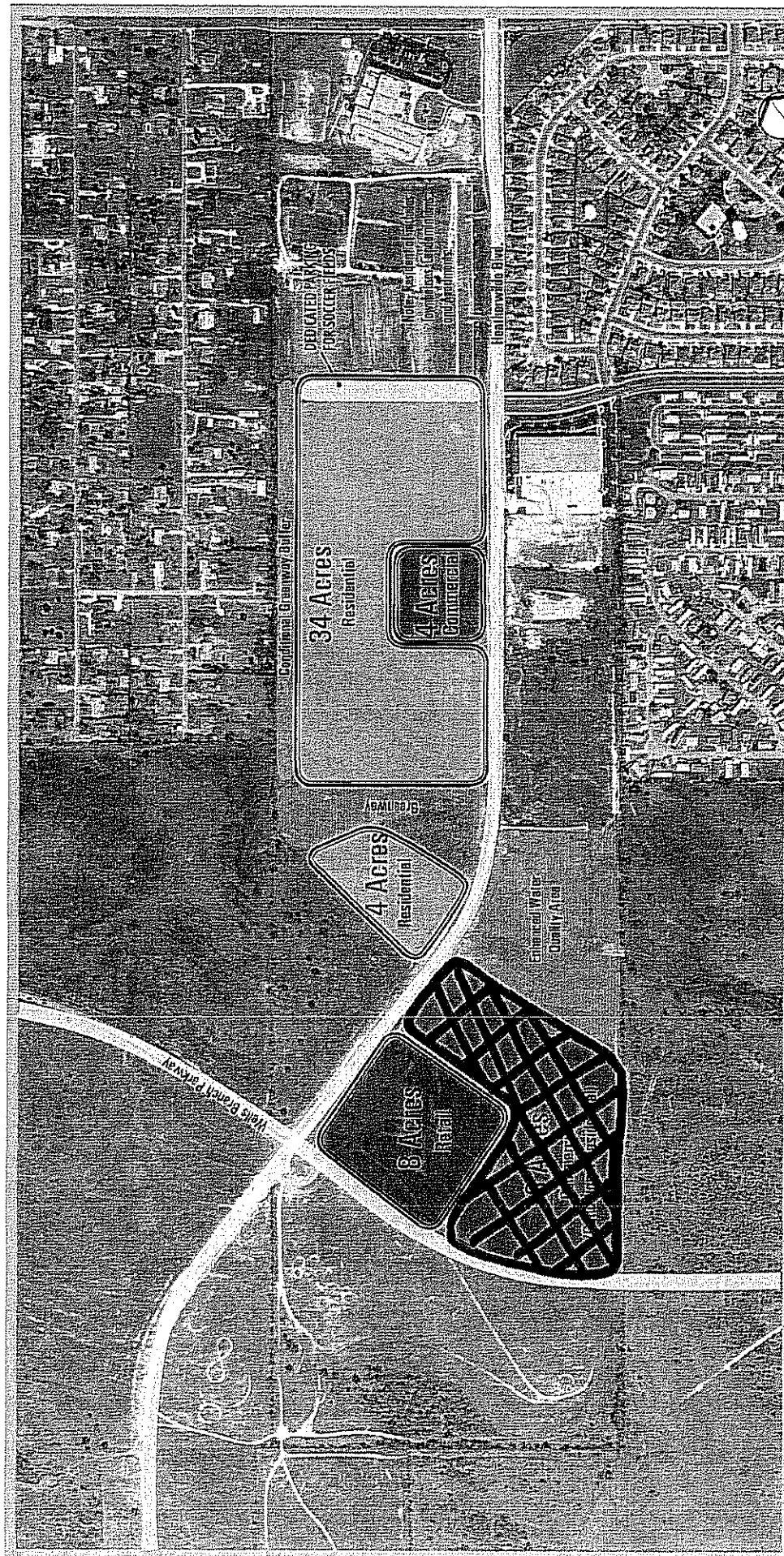
02.19.2007



EXHIBIT **C**

Exhibit D

18-Acre Tract



SCALE = 100'-0"  
 0 100 200 300 400 500 600 700 800 900 1000

Wells Point Mixed Use Development  
 Sperius Development

**ALUR Land-Use Plan**

Sperius Development

Disclaimer: This ALUR Land Use Plan reflects a general projection of land use to be representative of the mixers of land uses, their locations and their approximate intensities. The lot and building configurations are conceptual.

12.12.2007

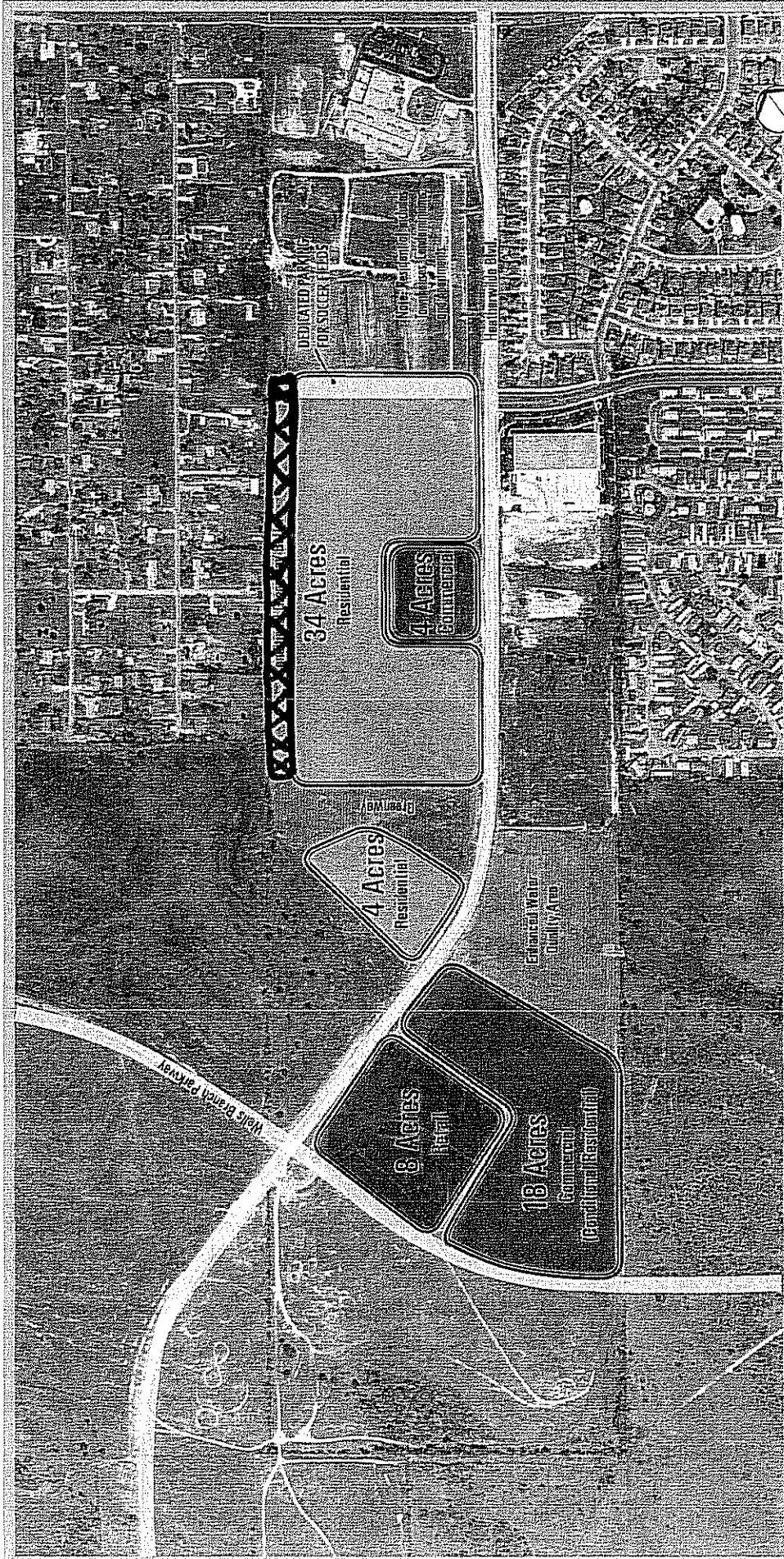


EXHIBIT   D

Exhibit E

Tract One  
Buffer Strip





SCALE: 1" = 400'-0"  
 1" 100' 200' 300' 400'

**ALUR Land-Use Plan**

Wells Point Mixed Use Development

Snertus Development

Disclaimer: The ALUR Land Use Plan reflects a general projection of land use to be representative of the nature of land uses, their locations and their approximate densities. The lot and building configurations are conceptual.

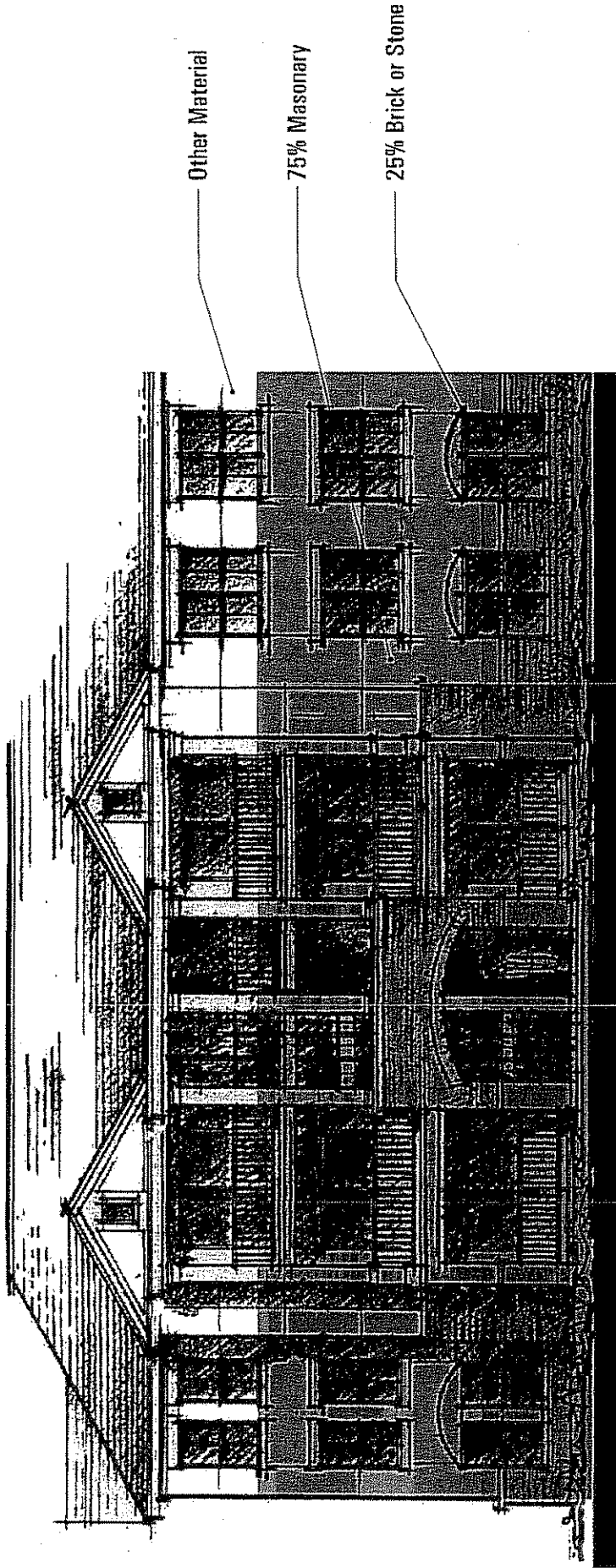
02.19.2007



EXHIBIT     E

**Exhibit F**

Depiction of Residential  
Exterior Finish



3 Story Multi-Family

CONCEPTUAL USE OF MASONRY IN FACADES

New Wells Point Mixed Use Development

Spertus Development

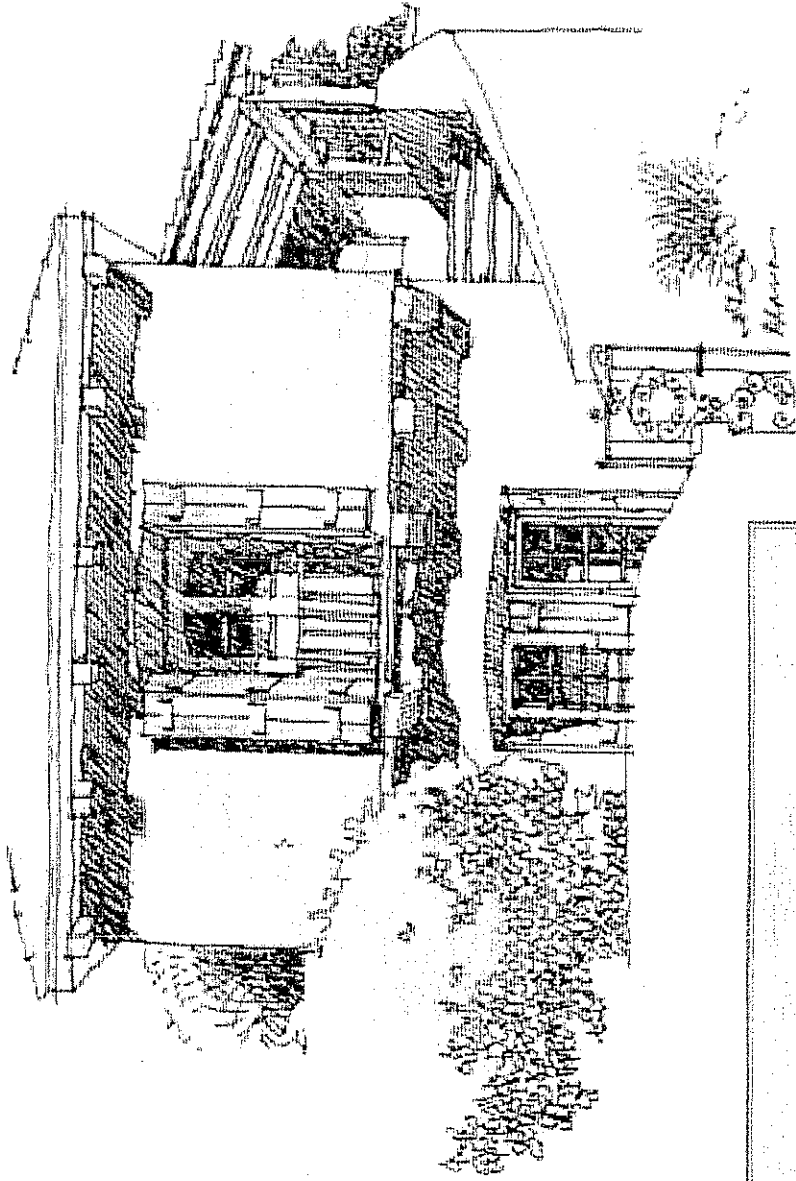


03.14.2007



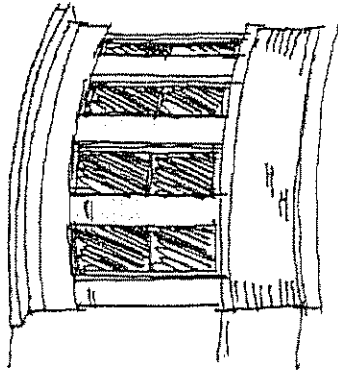
**Exhibit G**

Design Features

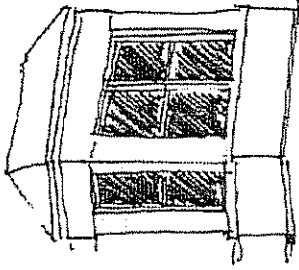


# NEW WELLS POINT

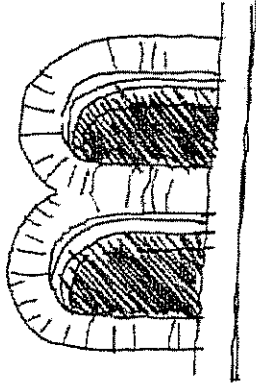
*architectural guidelines*



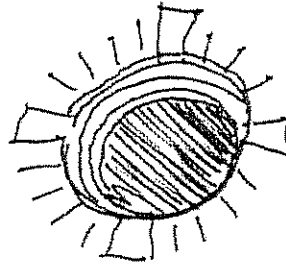
Bow Window



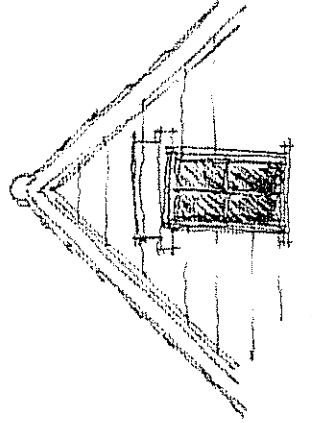
Bay Window



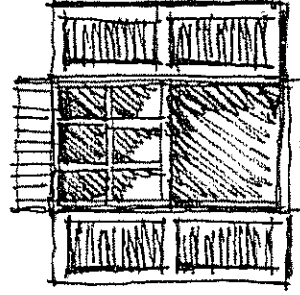
Arched Window



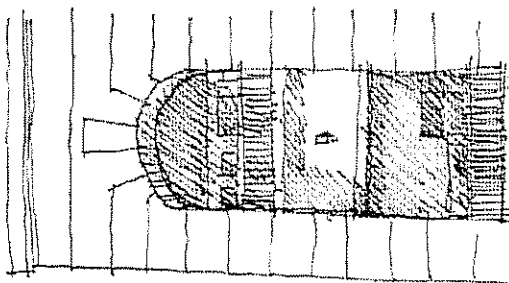
Oval or Round Window



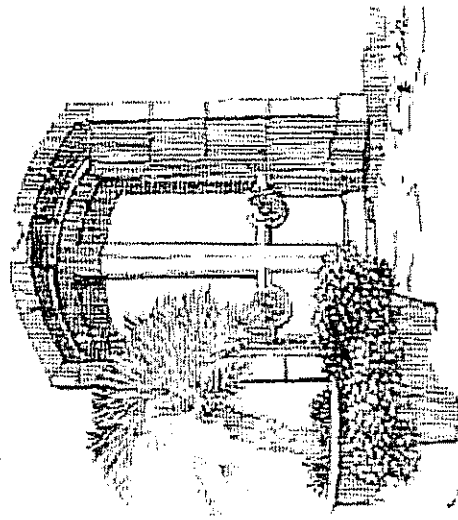
Gabled Window



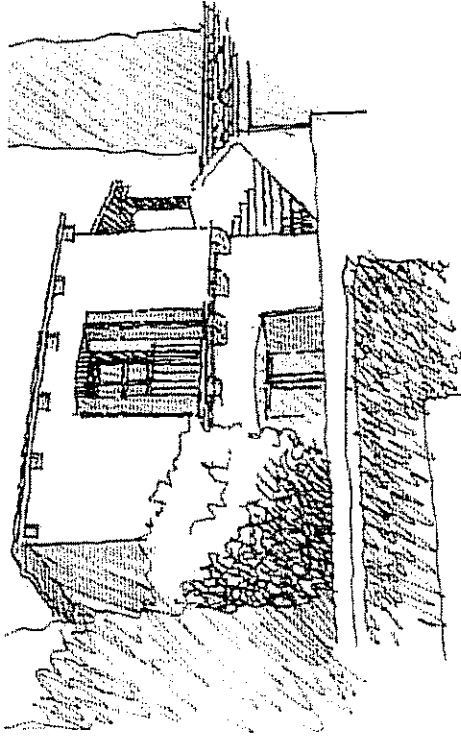
Shutters  
(must be proportional to window size)



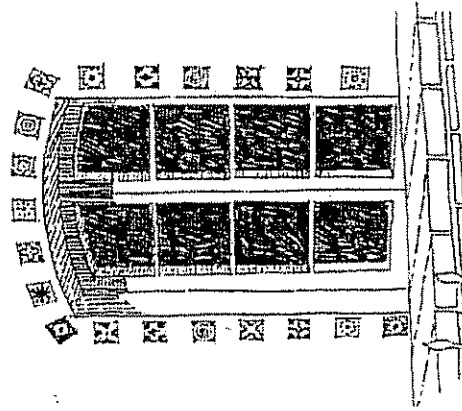
Arched, Balcony, or Breezeway Entry



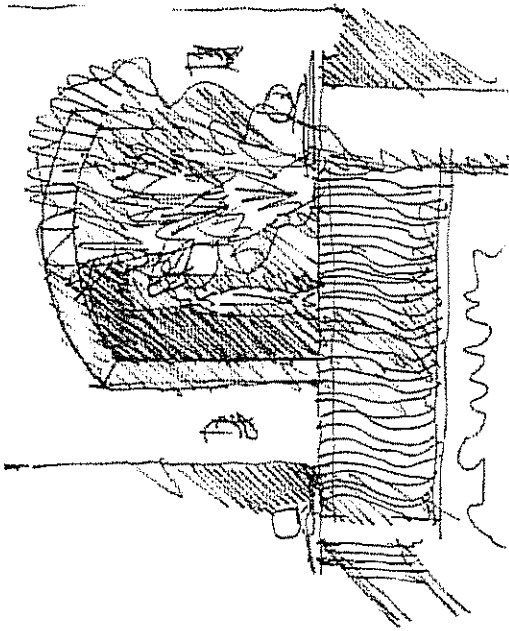
Decorative stone or brick band



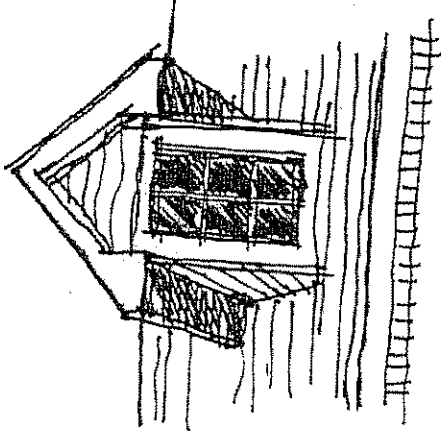
Stone or Brick Accent Wall



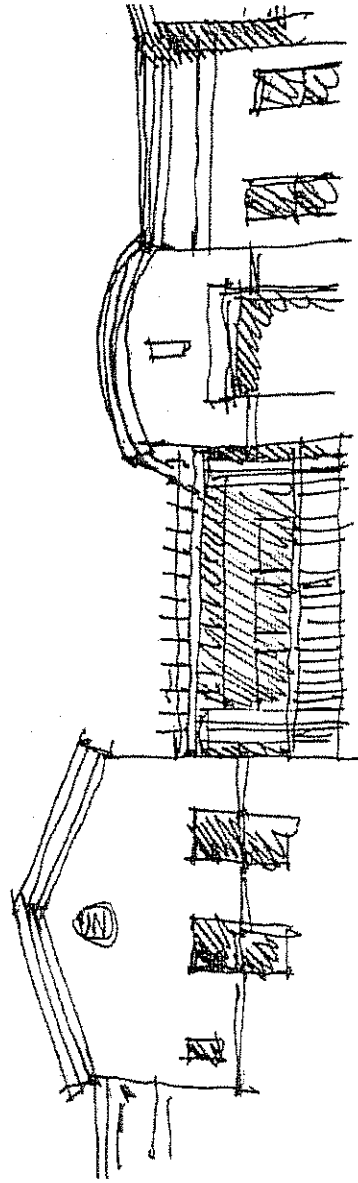
Decorative Tile



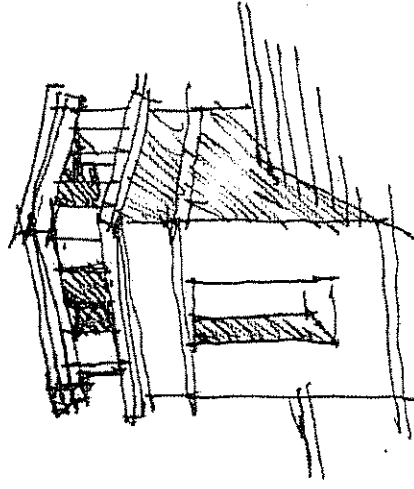
Veranda, Terrace, Porch, or Balcony



Projected Wall or Dormer



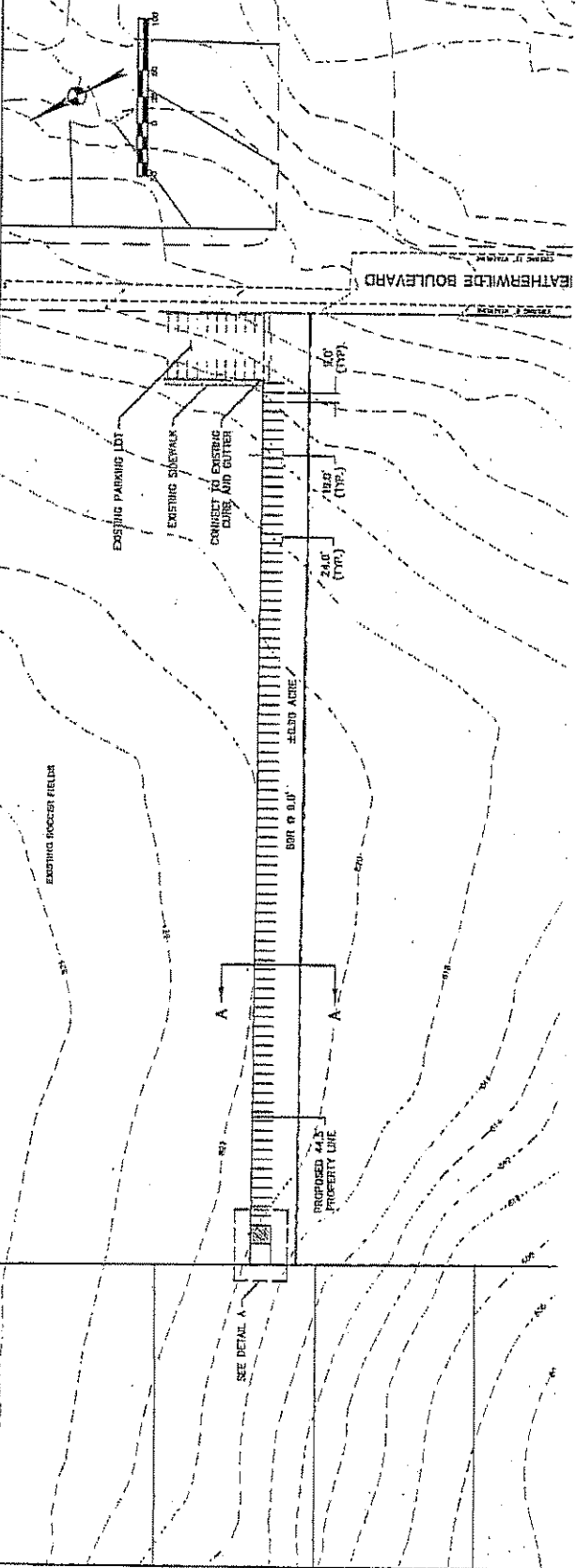
Variation of roof lines on building



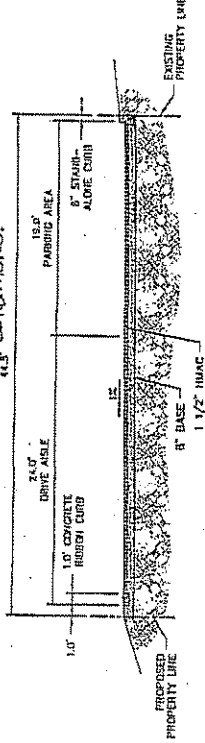
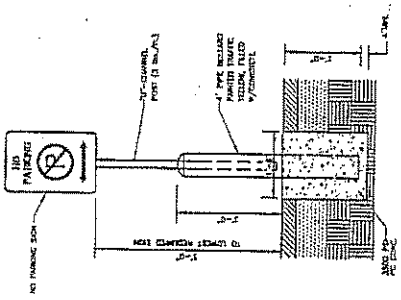
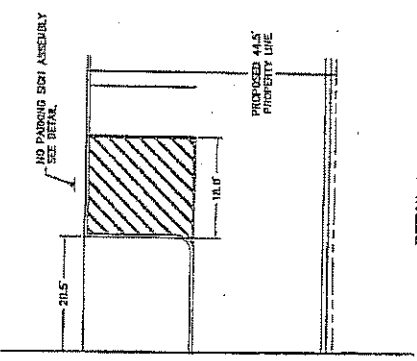
Decorative Caps on Chimneys

Exhibit H

Parking Area/Standards



\* MAXIMUM Parking Spaces to be provided: 92.  
 \* Note: Subject to modification based on anticipated site conditions.



SECTION A-A  
 SCALE: 1"=10'

DETAIL A  
 SCALE: 1"=20'

NO PARKING SIGN ASSEMBLY  
 11.1.1.1

NO PARKING SIGN  
 11.1.1.1

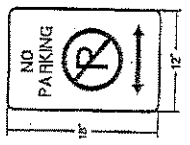
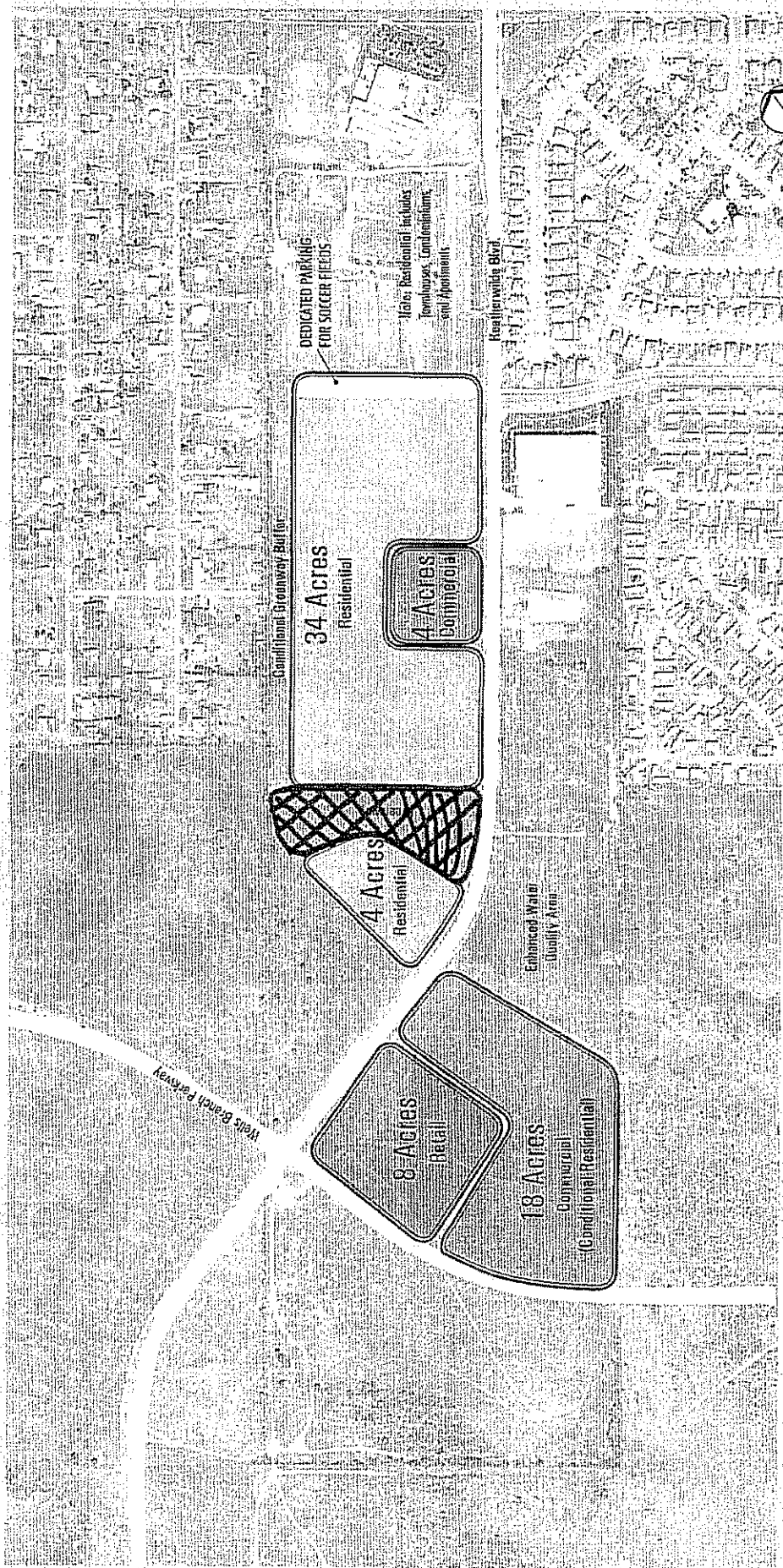


Exhibit I

Drainage Area





SCALE: 1" = 400' FT

EXHIBIT I

Wells Point Mixed Use Development

ALUR Land-Use Plan

Specrus Development

Disclaimer: The ALUR Land Use Plan reflects a general prediction of land uses to be representative of the nature of land uses, their locations and their approximate intensities. The local building configurations are conceptual.

02.19.2007

