

RESOLUTION NO. 883

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE MINI STORAGE PROJECT DEVELOPMENT AGREEMENT EXTENDING THE TIME FRAME FOR REQUIRED COMPLETION OF BOONES FERRY ROAD IMPROVEMENTS FROM DECEMBER 31, 1991 TO DECEMBER 31, 1992 AND REAFFIRMING THAT OCCUPANCY PERMITS FOR PHASE I SHALL NOT BE ISSUED UNTIL THE CONDITIONED ROADWAY IMPROVEMENTS HAVE BEEN COMPLETED AND ROAD RIGHT-OF-WAY DEDICATION IS ACCEPTED BY THE CITY.

WHEREAS, the City of Wilsonville has previously entered into a Development Agreement with L & M Investments in connection with a mini-storage facility on Boones Ferry Road, a copy of which is marked Exhibit "A" attached hereto and incorporated by reference herein; and

WHEREAS, a previous extension was granted by the City Council on June 17, 1991 until December 31, 1991 for completion; and

WHEREAS, L & M Investments has constructed the mini storage facility but has been unable to complete the Boones Ferry Road Improvements; and


WHEREAS, the City is desirous of having the improvements completed by L & M Investment or its successors in interest and is contemporaneously seeking a time extension until December 31, 1992 to keep available \$25,000 of Oregon Department of Transportation Special Cities Allotment Fund grant for this project.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

1) The Mayor is authorized to enter into the necessary amendatory agreement to effect an extension of the required contract completion of Boones Ferry Road Improvements until December 31, 1992 with L & M Partners or its successor in interest.

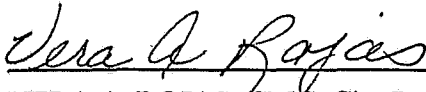
2) This extension authorization is not intended to modify or amend the provisions that completion of the improvements with right-of-way dedication shall occur prior to occupancy of Phase I.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 2nd day of December, 1991 and filed with the Wilsonville City Recorder this date.



GERALD A. KRUMMEL, Mayor

ATTEST:



VERA A. ROJAS, CMC, City Recorder

SUMMARY of Votes:

Mayor Krummel AYE

Councilor Carter AYE

Councilor Chandler AYE

Councilor Lehan AYE

Councilor Van Eck AYE

EXHIBIT "A"

L. M. INVESTMENTS - WILSONVILLE MINI-STORAGE
DEVELOPMENT AGREEMENT

THIS AGREEMENT is made this 7TH day of MAY, 1990,
by and between L. M. Investments and the City of Wilsonville, hereinafter referred to as
"the City".

WHEREAS, L. M. Investments has received approval from the City, with
conditions, for the development of 4.09 acres, on Tax Lot No. 1700 and 1800, as set forth
in 89PC27; and

WHEREAS, 89PC27 requires that L. M. Investments design and construct the
radius and centerline curve of Boones Ferry Road; and

WHEREAS, L. M. Investments intends to develop the property in two phases as
indicated by the master site plan attached as Exhibit "A"; and

WHEREAS, the parties desire to resolve the apportionment of development costs
between them.

NOW, THEREFORE, IT IS AGREED BETWEEN THE PARTIES AS
FOLLOWS:

1. In order to serve the land development proposed by L. M. Investments and
approved in 89PC27, the parties acknowledge that the substantial public improvement of
Boones Ferry Road, which is an arterial road, is necessary. The parties acknowledge that
the financing of such an improvement needs to be fairly proportioned given the limited
resources. Therefore, L. M. Investments agrees it will, at its expense, provide road
improvements to the City, Oregon Department of Transportation (ODOT) and 89PC27

NOV-28-91 10E 14:30 WILSONVILLE TOWN

specifications for Boones Ferry Road adjacent to the L. M. Investment property generally located by attached Exhibit "B" and conceptually described by the alignment plan attached as Exhibit "C". The cost of construction is estimated to be \$187,660. L. M. Investment shall be entirely responsible for the cost of improvements to the identified section of road and the improvements shall be completed in their entirety, to the approval of the City Engineer and ODOT, before July 1, 1991, and prior to occupancy of Phase I. L. M. Investments agrees that it will dedicate the necessary road right-of-way to complete the curve realignment.

2. In return, for the construction and dedication of the aforementioned improvements pertaining to that portion of Boones Ferry Road, the City agrees that it will give L. M. Investments financial assistance in the following forms:

A. ODOT Special City Allotment (SCA) grant.

WHEREAS, the City has entered into a Special City Allotment Agreement with ODOT for the Boones Ferry Road improvements (Resolution No. 754), the City agrees to contribute \$25,000 from SCA funds to L. M. Investments upon satisfactory and timely (July 1, 1991) completion of the improvements.

B. WHEREAS, the Wilsonville Mini-Storage project, representing Phase I of the master site plan, has obtained a building permit and paid \$5,000 in system development fees, the City agrees to refund \$5,000 to L. M. Investments upon satisfactory and timely (July 1, 1991) completion of the Boones Ferry Road improvements.

C. Systems Development Fees - Phase II

The City further agrees that it will give L. M. Investment a systems development fee credit for an amount not to exceed \$5,074 upon obtaining a valid building permit for Phase II of the site plan within 10 years. The parties acknowledge that the average systems development fee generated per acre in a PDI zone is \$2,772.50 and it is the intention of the parties that this agreement is contemplated as a present agreement, and,

therefore, present values be used and only currently adopted city systems development fees be imposed.

3. The subject road improvements shall be maintained by L. M. Investments for the benefit of the City until all such improvements have been approved and accepted by the City and ODOT and applicable warranty periods have expired.

4. L. M. Investments agrees to insure and indemnify the City and ODOT for any and all claims for injury an/or property damage arising out of the design, construction and installation of the public improvements set forth in this agreement, excepting any injuries or property damage arising from the negligence of the City, ODOT, or its employees and agents.

5. L. M. Investments agrees to pay all taxes, fees, unemployment and workers compensation benefits or other like kind of penalties, fines or payment requirements required of it by any other governmental agency, arbitration, or court of law and to fully and completely indemnify and hold the City and ODOT harmless thereon which may arise out of the design, construction or installation by L. M. Investments of any public improvement set forth in this agreement.

6. L. M. Investments agrees that all subcontractors, agents, employees, labor and materialmen shall at all times be fully paid in accordance with the applicable laws of the State. L. M. Investments agrees that no wage claim or construction lien shall be allowed against any public improvement set forth in this agreement. L. M. Investments agrees to indemnify and to hold the City and ODOT harmless thereon in any event. The above is not intended to prevent L. M. Investments' use of reasonable efforts to defend from any such claim or lien, provided same is in good faith and not merely for the purpose of delay.

7. The parties agree to execute any further documents that are reasonable and customarily required in the provision of such City of Wilsonville public improvements for the execution and fulfillment of this agreement.

8. In the event any legal proceeding and/or appeal is necessary to enforce the provisions of this agreement, the prevailing party shall be entitled to reasonable attorney fees and costs.

9. In the event of a dispute, the parties agree the presiding judge of Clackamas County may either hear this matter, or at his/her discretion, appoint a Clackamas County Circuit Court Judge to hear any such dispute. In either event, the parties, due to the complexity of the issues and the special nature of contract law and public improvements, waive any right to a jury trial. In the event such waiver cannot be enforced under law, the parties agree to have this matter arbitrated under the rules of the American Arbitration Association, or by any other arbitrator mutually agreed upon by the parties hereto, and judgement upon the award rendered may be entered in any court having jurisdiction thereof.

10. THIS AGREEMENT shall be binding upon the parties, their heirs, legal representatives, successors and assigns; provided, however, this agreement cannot be assigned by L.M. Investments to any other person, corporate or individual, without the express written consent of the City of Wilsonville, which shall be determined upon due considerations of prudent fiscal management, ability to perform the necessary construction requirements of the construction of the public improvements to be constructed or completed, and the ability to provide reasonable and necessary quality assurances in regard to the public improvements to be constructed or completed.

WHEREAS, the undersigned have been duly authorized to enter into this agreement on behalf of their respective corporations, this 7TH day of MAY, 1990.

L. M. Investments City of Wilsonville

BY: *[Signature]*

(Title): *partner*

BY: *[Signature]*

JOHN M. LUDLOW, Mayor

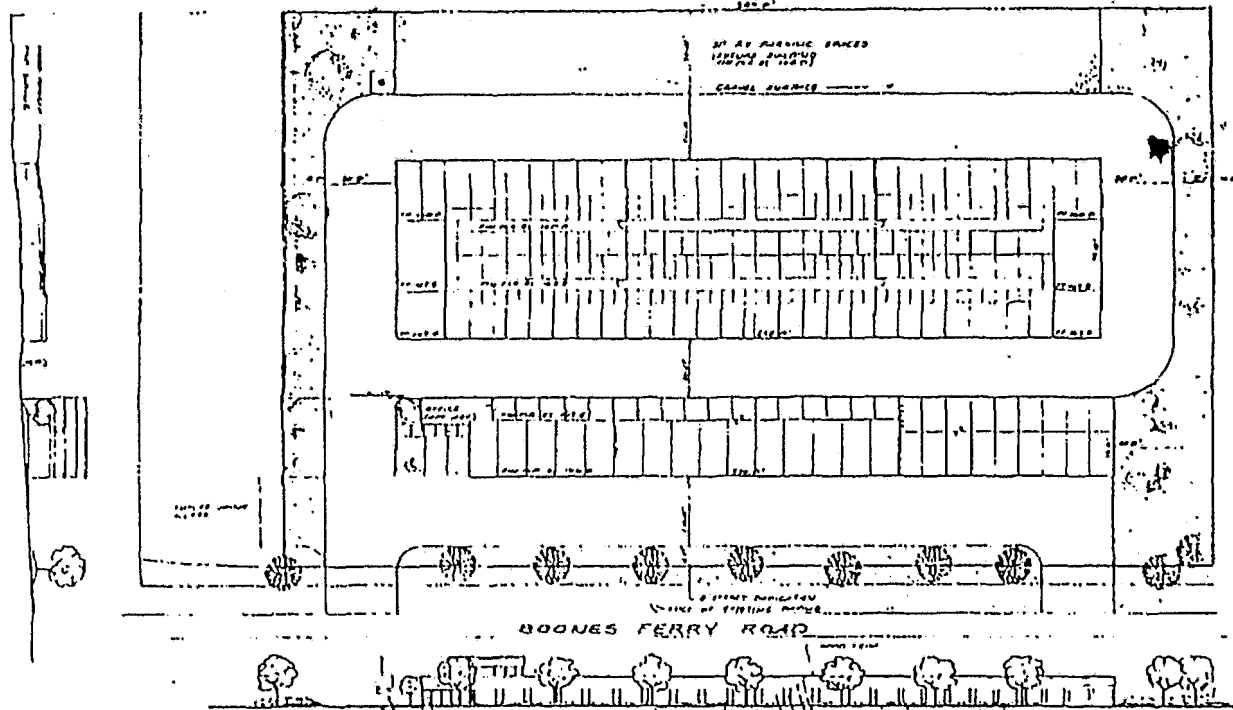
ATTEST:

[Signature]

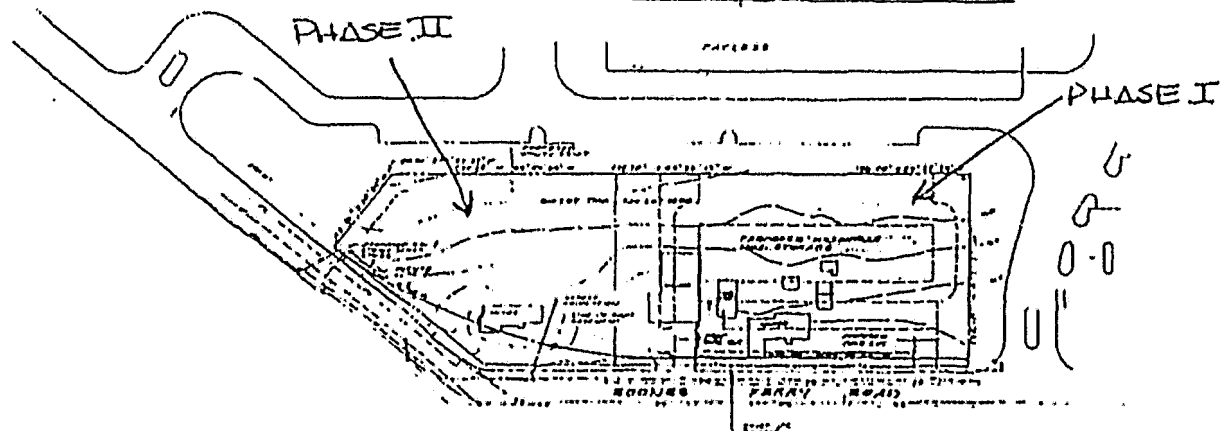
VERA A. ROJAS, City Recorder

EXHIBIT "A"

SOUTH SITE SECTION/ELEVATION



EAST SITE ELEVATION



SITE PLAN

PROJECT SUMMARY

Location: Wilsonville, Oregon
 Client: Wilsonville, Oregon
 Project: Mini-Storage Facility
 Phase: Preliminary Site Plan
 Date: 10/15/00

CODE REVIEW

Wilsonville, Oregon
 Planning Department
 10/15/00

BUILDING SUMMARY

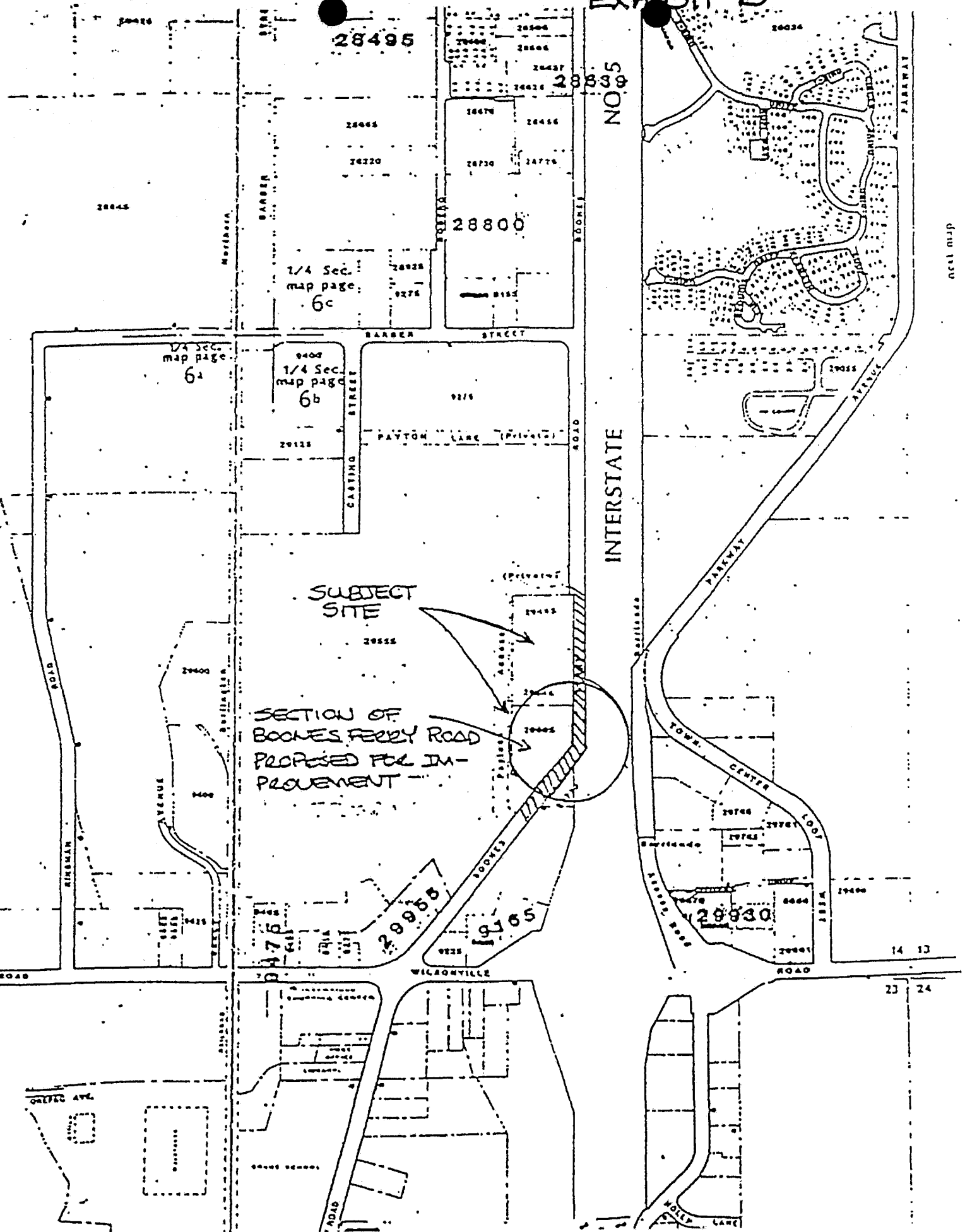
Item	Quantity	Unit	Notes
Storage Units	100	sq ft	
Office Space	500	sq ft	
Reception Area	100	sq ft	
Restrooms	2	units	
Driveway	100	sq ft	
Landscaping	100	sq ft	
Site Work	100	sq ft	
Total	1700	sq ft	

VAN DOUGEN / DOUGHERTY
 ARCHITECTS / PLANNERS

WILSONVILLE MINI-STORAGE
 WILSONVILLE, OREGON

PRELIMINARY SITE PLAN

EXHIBIT B



28495

28800

NO. 85

1/4 Sec. map page 6a

1/4 Sec. map page 6c

1/4 Sec. map page 6b

SUBJECT SITE

SECTION OF BOONES FERRY ROAD PROPOSED FOR IMPROVEMENT

INTERSTATE

28930

28955

19105

14 13

23 24

next map

L M INVESTMENTS

TO: Steve Starnes
City of Wilsonville.

Via FAX

11/12/91

FROM: Mike Flury

RE: Mini Storage - Barnes Ferry Rd.

Steve - This memo will serve as a request of the City of Wilsonville to itemize what additional work needs to be done at the subject in order to obtain a certificate of occupancy.

My estimation of these items include: 1) off site work 2) fire extinguishers 3) permanent electrical hookup 4) parking area striping and 5) landscaping.

We are very close to finalizing the sale of the property that will provide the necessary funds for completion, and the purchaser has requested this information. Thank you
Mike Flury

MIKE FLURY:

6229 S.W. HOOD ST.

PORTLAND, OR 97201

(503) 246-5054

FAX (503) 246-4875

City of
WILSONVILLE
in OREGON

30000 SW Town Center Loop E • PO Box 220
Wilsonville, OR 97070
(503) 682-1011

October 30, 1991

Michael K. Shultz
Department of Transportation
Highway Division
Transportation Building
Salem OR 97310

Re: City of Wilsonville - SCA Boones Ferry Road

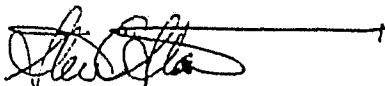
Dear Mr. Shultz:

The completion date for the above referenced project was initially established as July 1, 1991. Subsequently, you had indicated that the allotment funds would be available until December 31, 1991. Accordingly, on that basis, the City extended its development agreement deadline with Mike Flury, L M Investments, who has been conditioned through the local land use process to construct the Boones Ferry Road improvements.

SCA Agreement General Provisions Condition No. 5, allows for SCA agreement timeframe extensions. Mr. Flury has recently indicated that with an agreement extension to April 1, 1992, he will be able to complete the improvements to Boones Ferry Road, weather permitting. Given Oregon weather and desiring to have a quality infrastructure improvement, I would like to request that the Wilsonville SCA be extended to July 1, 1992, with the understanding that no further extensions will be tolerated. Currently, Mr. Flury has completed a \$500,000 mini-storage site improvement which the City will not allow him to occupy or operate until the Boones Ferry Road improvement has been completed.

Thank you for your consideration of this matter.

Sincerely,



Steven E. Stamer
Community Development Director

ses:mld

pc: Mike Flury
L M Investments
5621 SW Hood St
Portland OR 97201

Community Development Correspondence

SS/dist 10/31
CWA attach dit

(503) 246-5054

FAX (503) 246-4875

M INVESTMENTS

L M INVESTMENTS

City of Wilsonville

10/1/91

5621

6229 S.W. HOOD ST.
PORTLAND, OR 97201

MIKE FLURY

FROM: Mike Flury

RE: \$25,200 grant - ODOT Special allotment fund (Borne Ferry Rd)

Steve - As discussed this date, Mike Schultz of ODOT advises he can give an extension beyond 12/31/91, since "this is a 1990 project which will not be 2 years old until Dec. 30th - therefore he can and will grant an extension" - with your formal request.

The funds needed to complete the road will either be raised or not be raised by a year end deadline. Starting construction the first week of January, the project is estimated to take 25 working days to complete, weather permitting. We should ask for a 3 month extension, if possible.

will keep in touch.

Thank you, Mike Flury.

MIKE FLURY:

6229 S.W. HOOD ST.

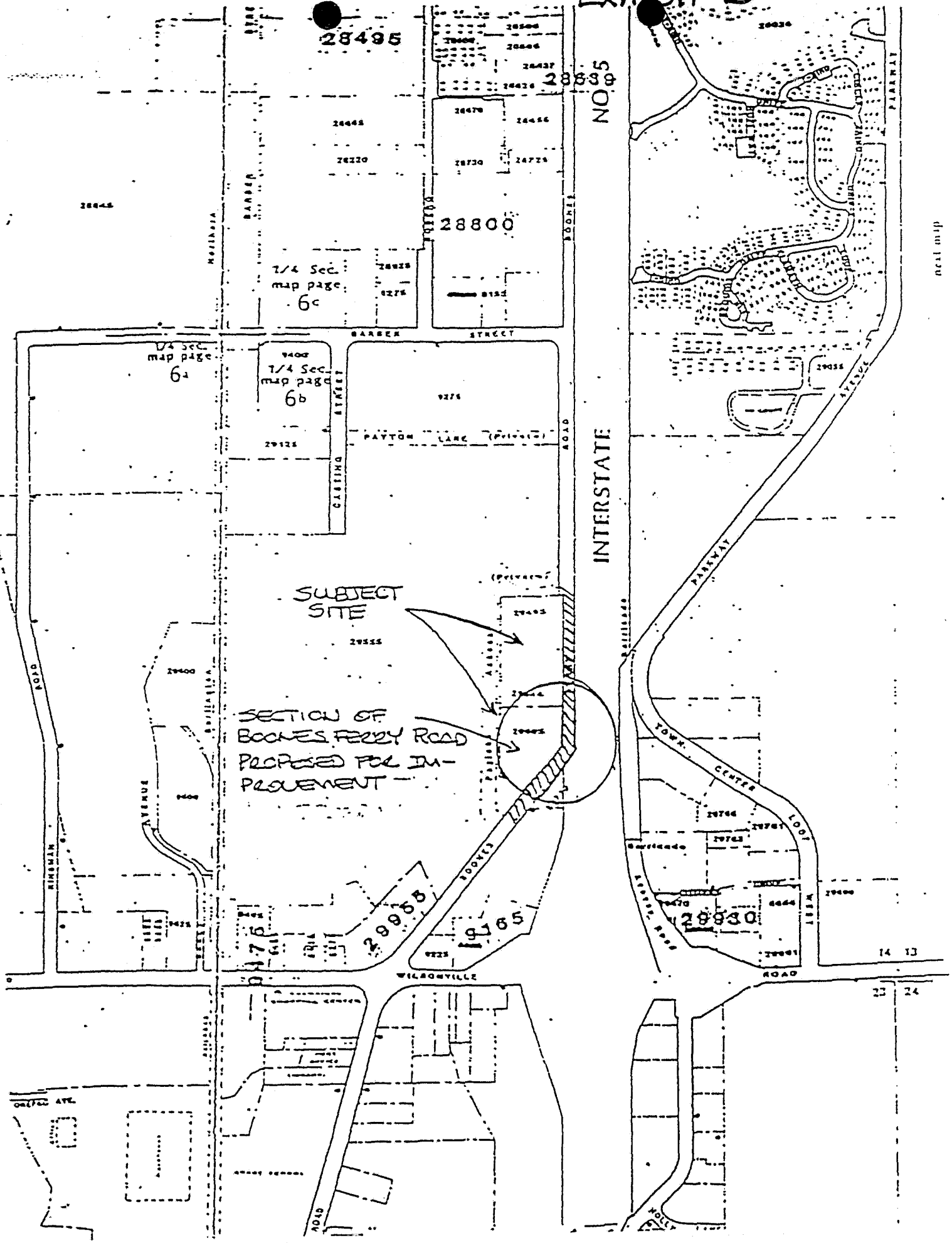
PORTLAND, OR 97201

(503) 246-5054

FAX (503) 246-4875

5621

EXHIBIT B



neat map

NOV-26-91 TUE
11-23-91 07:54 AM

9:12 WILSONVILLE ANNEX
TO 6827025

6827025

P.02
P03

INVESTMENT DEVELOPMENT CORPORATION

400 EAST PINE STREET
SUITE 225
SEATTLE, WA 98122

(206) 322-8180

FAX # (206) 322-8389

November 22, 1991

Mike Flury
LM Investments
5621 SW Hood Street
Portland, OR 97201

RE: Wilsonville Mini

Dear Mike,

As requested, this letter, along with the signed letter agreement should give the City of Wilsonville the picture that we do intend to purchase the subject property, but they should be aware that in order for the \$225,000 to cover remaining costs, it is important that the \$30,000 grant be included in the equation.

We have closed on two of your mini properties so far this year, we have the money raised and intend to close this deal.

Sincerely,



Lee R. Norris

October 3, 1991

To: Lee Norris, and or Assign

From: Mike Flury, L.M. Investments

RE: Wilsonville Purchase and Sale Agreement

Dear Lee,

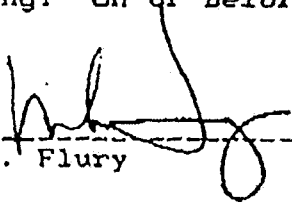
Outlined below are the basic terms that we (L.M. Investments) agree to sell the Wilsonville Storage facility to yourself, and or assign.

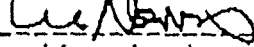
A. Purchase Price: \$1,075,000 cash at close, of which \$850,000. to pay off First Interstate Bank, the balance of the funds to be escrowed to pay for the following items:

- 1) Sellers closing costs including ALTA extended coverage.
- 2) Sellers property taxes prorated to closing date.
- 3) Offsite costs- Boones Ferry Road improvements.
- 4) Onsite costs, which include landscaping, fire extinguishers, striping of parking areas and signage.

The balance of funds remaining in escrow after completion and payment of these items, to be paid to ourselves.

B. Closing: On or before 12/31/91.

Seller: 
Michael J. Flury

Purchaser: 
Lee Norris and/or Assigns

Lynn B. Miller

Marguerite R. Miller

Via Fax
3 pages

L M INVESTMENTS

TO: Steve Stamer - City of Wilsonville

11/25/91

FROM: Mike Flury

RE: Time Extension - SCA Grant - Barnes F. Rd.

Steve -

As requested — the Millers have signed the letter agreement separately, which Morris has a copy.

Closing has to occur on or before 12/31/91, and road construction will commence immediately after closing.

Your assistance is appreciated.

Mike Flury

H. Proclamation - Establishing July 4 as "Thanks" and "Welcome Home Day" for the troops in Desert Storm

Mr. Kohlhoff read the proclamation in its entirety.

Mayor Krummel moved to adopt the proclamation. Councilor Van Eck seconded the motion which carried 4-0.

V. COMMUNICATIONS

A. Oral

1. Jeff Johnson - Tualatin Valley Fire and Rescue - Fire Department Update

This was discussed at the beginning of the meeting.

B. Written

1. Letter Regarding Ash/Parkway Project

Mr. Kohlhoff stated he had met with Mr. Ash and Mr. Blackmore earlier in the evening and they will be meeting to try to resolve this issue.

VI. CONSENT AGENDA

A. Minutes of May 6 and May 20, 1991

B. Time Extension Request - LM Investments - Mini-Storage Development Agreement

C. Approval of Acknowledgement of Easement Agreement

Councilor Carter moved to accept the Consent Agenda as presented. Councilor Lehan seconded the motion which carried 4-0.

VII. CONTINUING BUSINESS

B. Planning Report Regarding Public Hearing Notice

Mr. Kohlhoff gave the staff report on this issue as per the memorandum of June 6, 1991.

VIII. NEW BUSINESS

A. Request to Receive Bids for Clearing Underbrush from Tranquil Nature Park

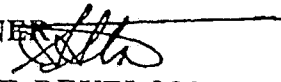
Deb Bleser, Park & Recreation Director, gave the staff report on this item and submitted photographs showing the underbrush in the park. The Park & Recreation Board had met and offered some suggestions to resolve the problem. Start clearing some of the underbrush to make things more visible.

Councilor Lehan pointed out, having lived next to this area for a number of years, she has noticed increased activity since the fence was installed. When the fence was installed, the best monitors of the park were lost. Suggested the fence be removed. Also, suggested the removal of the underbrush be done selectively. Councilor Lehan pointed out

City of
WILSONVILLE
In OREGON

30000 SW Town Center Loop E • PO Box 220
Wilsonville, OR 97070
(503) 682-1011

COMMUNITY DEVELOPMENT DEPARTMENT
MEMORANDUM

DATE: JUNE 13, 1991
TO: HONORABLE MAYOR & CITY COUNCILORS
FROM: STEVE STARNER 
RE: MINI-STORAGE DEVELOPMENT AGREEMENT -
EXTENSION

As approved, the financing available to the principals of the Wilsonville Mini-Storage project, through the attached development agreement, will expire July 1, 1991. It is my understanding that private financing for the off-site public improvements will soon be forthcoming. However, the City Council must formally acknowledge an extension of the agreement time frame in order for the project to move forward.

It is my recommendation that a time frame extension of the Mini-Storage Development Agreement be granted and a new deadline be established as December 31, 1991.

ss/js

Attachment

cc: Project file

Oregon

DEPARTMENT OF
TRANSPORTATION

Highway Division
Region 1

FILE CODE:

June 6, 1991

Steve Starner, Community Development Director
City of Wilsonville
PO Box 220
Wilsonville, OR 97070

Subject: Wilsonville SCA--Boones Ferry Road

Dear Mr. Starner:

This note is to confirm our June 6, 1991 conversation regarding the 1990 Boones Ferry Road special city allotment project the City of Wilsonville has.


When I contacted Mike Shultz with the question of an extension of your project he told me that each project from the time of approval (Jan.1, 1990 in this case) has two years to be completed (Dec. 31, 1991). If at that time the project is still not complete then the City needs to send a letter to:

Michael Shultz, Local Programs
C/O Program Section
307 Transportation Building
Salem, OR 97310

Please include in the letter the explanation of delays, projected timeframe for completion, etc. and send a copy of the letter to this office. Mike will then send a form to be processed with the necessary extension approval.

If you have any further questions please feel free to contact me at 653-3220.

Sincerely,



Michele Thom
Federal Aid Technician

cc: Mike Shultz
File



9002 SE McLoughlin
Milwaukie, OR 97222
(503) 653-3090
FAX 653-3267