



Oregon

John A. Kitzhaber, M.D., Governor

CITY OF NEWBERG
CITY RECORDER INDEX NO. 1649 Department of Transportation
Transportation Building
Salem, OR 97310

(1610)

RECEIVED JUN 16 1998

FILE CODE:

June 15, 1998

City of Newberg
Attention: Duane R. Cole, City Recorder
414 E First St
Newberg OR 97132

Becky -
file in agreement
for
Vault
[Signature]

AGR

Enclosed for your records is a fully executed copy of a Cooperative Improvement Agreement covering the Brutscher Street to Main Street Project.

We have retained a fully executed copy of this agreement for the Department of Transportation's files.

[Signature]
for Fran Neavoll, Agreement Specialist
Construction Contracts Unit
Project Support Section

Enclosure

FN:sl

May 1, 1998

Misc. Contracts & Agreements No. 15876

COOPERATIVE IMPROVEMENT AGREEMENT

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "ODOT"; and the CITY OF NEWBERG, acting by and through its elected officials, hereinafter referred to as "City".

RECITALS

1. Pacific Highway West, also known as Highway 99W and First and Hancock Streets in the couplet section located within City, is a part of the state highway system under the jurisdiction and control of the Oregon Transportation Commission. Elliot Road, Meridian Street and Howard Street are parts of the city street system under the jurisdiction and control of City.
2. Pacific Highway West is designated as a Statewide Access Oregon Highway (AOH) in the 1991 Oregon Highway Plan, and is part of the National Highway System (NHS). The primary purpose of this type of highway is to move traffic safely and efficiently through and between geographic and major economic areas within Oregon, between Oregon and adjacent states, and to and through major metropolitan areas.
3. By the authority granted in ORS 366.770 and 366.775, ODOT may enter into cooperative agreements with the counties and cities for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties
4. By the authority granted in ORS 366.425, ODOT may accept deposits of money or an irrevocable letter of credit from any person, firm, or corporation for the performance of work on any highway within the State. When said money is deposited, ODOT shall proceed with project. Money so deposited shall be disbursed for the purpose for which it was deposited.
5. By the authority granted in ORS 810.210, ODOT is authorized to determine the character or type of traffic control devices to be used, and to place or erect them upon state highways at places where ODOT deems necessary for the safe and expeditious control of traffic. No traffic control devices shall be erected, maintained, or operated upon any state highway by any authority other than ODOT, except with its written approval. Traffic signal work on this project will conform to the current ODOT standards and specifications (metric).

NOW THEREFORE, the premises being in general as stated in the foregoing recitals, it is agreed by and between the parties hereto as follows:

TERMS OF AGREEMENT

1. For the purpose of preserving the function of Pacific Highway West as a Statewide Access Oregon Highway corridor, providing improved access, enhancing traffic flow, increasing safety, and upgrading the facility to approved AASHTO design standards, ODOT and City propose to improve Pacific Highway West from Brutscher Street to Main Street, hereinafter referred to as "project". The location of the project is approximately as shown on the sketch map attached hereto, marked Exhibit A, and by this reference made a part hereof.

Currently this section of highway has no paved shoulders or bike lanes, and the sidewalks are discontinuous and do not meet ADA standards. The Springbrook Street and Villa Road intersections are experiencing congestion problems, and the highway alignment at River Road does not meet ODOT standards, causing turning at grade difficulties for trucks. The pavement condition is poor and the turning movements into the numerous accesses create conflicts with the heavy through traffic. The existing drainage system is inadequate.

The project proposes to upgrade and widen the pavement to create new shoulders and to add a third westbound travel lane from Villa Road to Main Street; construct new sidewalks and close or combine driveways; install a raised non-traversable median from Brutscher Street to Springbrook Street (except as designed for emergency access) and from Villa Road to River Street; realign the section of highway at River Street; interconnect all the traffic signals from Springbrook Street to Main Street; reconstruct the Springbrook Street and Villa Road intersections; and install new traffic signals at Elliot Road, Meridian Street and Howard Street at both Hancock and First Streets.

2. The project will be funded with ODOT funds, except the match for the replacement parking and the on-going signal power costs will be paid by City.
3. This agreement shall become effective upon execution of this agreement by all parties and shall remain in effect for the purpose of ongoing maintenance and power cost responsibilities for the useful life of the facilities constructed as part of the project or until ODOT and City have entered into a new agreement. ODOT and City reserve the right to renegotiate the terms of this agreement in the future if the designation of the highway changes due to the construction of the Newberg Bypass.

CITY OBLIGATIONS

1. City hereby agrees to the protective access measures identified on sketch map Exhibit A. These protective measures include, but are not limited to, installation of raised, non-traversable medians between Brutscher Street and Springbrook Street and between Villa Road and River Street. The medians will limit access to driveways and require right-in and right-out movements only.
2. City shall support and work with ODOT to eliminate driveway accesses from Pacific Highway West when alternative access is developed and will implement the ODOT access management policies for urban (in-City) State Highways of statewide significance.
3. City shall require properties located adjacent to Pacific Highway West to: share driveways when new development or redevelopment occurs; require property owners to allow circulation of motorists, pedestrians and cyclists to adjacent properties without re-entering the State highway; require new development or redevelopment to use city streets for access and, where alternative access is not available, limit new development and redevelopment to one access or shared access to Pacific Highway West; and consult with ODOT's District 3 when determining the location of access to Pacific Highway West. All decisions regarding access to the highway shall be consistent with ODOT's and City's access management policy at the time the decision is made. Permitting of all approach roads to the State highway remains the responsibility of ODOT.
4. City shall consider granting variances regarding the use of joint access and the requirement of inter-parcel circulation to properties located adjacent to Pacific Highway West at the time that redevelopment occurs based on the City's Development Code provisions in effect at that time.
5. City shall assume permanent jurisdiction and all future maintenance of those existing parts of both River Street and Hancock Street that are bypassed by the planned realignment of Pacific Highway West in the vicinity of River Street.
6. City shall pay for the power costs for the new traffic signals at Elliot Road, Meridian Street and Howard Street at both the eastbound and westbound sections of the Pacific Highway West couplet (Hancock and First Streets).

7. City shall, at its own expense, maintain the asphaltic concrete pavement surrounding the vehicle detector loops that are installed in city streets in a manner that provides adequate protection for the detector loops. ODOT retains the responsibility for maintenance and repair of the detector loops.
8. City, by execution of this agreement, does hereby give its consent as required by ORS 373.030(2) to any and all changes of grade within the city limits, if any there be, in connection with or arising out of the project covered by this agreement. ODOT shall make every effort through the design process to match the City grade.
9. City hereby gives ODOT the right to enter onto and occupy City street right-of-way for the purpose of constructing project, provided that ODOT shall repair any damage caused by construction of the project to the City street right-of-way and restore the right-of-way to as good or better condition than it was in prior to the start of the project. Detour and construction traffic will be permitted only on City streets that are deemed capable of supporting heavy trucks without damage and only with prior authorization by City.
10. City, its consultants or subcontractors, if any, and all employers working under this agreement are subject employers under the Oregon Workers Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.
11. City acknowledges and agrees that ODOT, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of City which are directly pertinent to the specific agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of three years after completion of project. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by ODOT.
12. City shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this agreement, including, without limitation, the provisions of ORS 279.312, 279.314, 279.316, 279.320 and 279.555, which hereby are incorporated by reference. Without limiting the generality of the foregoing, City expressly agrees to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990 and ORS 659.425; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

13. City shall, upon receipt of a letter of request from ODOT, pay to ODOT the match required for the federal funds used to pay for the acquisition and construction of replacement parking spaces in the Hancock Street corridor. This work will be a part of the "Brutscher Street-Main Street" contract.

ODOT OBLIGATIONS

1. ODOT shall, at its own expense, conduct the necessary preliminary engineering and design work required to produce final plans, specifications and cost estimates; obtain all required right-of-way; obtain all required permits; perform all construction engineering, including all required materials testing and quality documentation; prepare all bid documents; advertise and award all contracts; pay all contractor costs; and provide project management services and other necessary functions for sole administration of the contract.
2. ODOT shall relocate or reconstruct, or cause to be relocated or reconstructed, all privately or publicly owned utility conduits, lines, poles, mains, pipes, and all other such facilities of every kind and nature, where such relocation or reconstruction is necessary in order to conform the utilities or facilities to the plans for the project. Reimbursement for utility relocation or reconstruction is made pursuant to ODOT policies and procedures and the provisions of 23 CFR 645A (Code of Federal Regulations).
3. ODOT shall, at its own expense, provide and pay for all emergency vehicle preemption devices to be installed on traffic lights as part of this project.
4. ODOT shall, at its own expense, perform all required signal maintenance and repairs on the new signals installed as a part of this project. ODOT retains the responsibility for maintenance and repair of the detector loops.
5. ODOT shall send to City a request for payment of the match required for the federal funds used to acquire and construct the replacement of the off-street parking spaces in the Hancock Street corridor. This replacement parking work will be a part of the "Brutscher Street-Main Street" contract.

GENERAL PROVISIONS

1. ODOT and City agree that a mutual review of the construction plans will be conducted prior to advertisement for construction bid proposals.

2. ODOT and City understand and agree that the safe, efficient function of Pacific Highway West is of paramount importance to both the state transportation system and to City and will discourage direct access to the facility in areas of potential development or redevelopment.
3. ODOT and City agree that no new driveways or public roads will be permitted in locations where the proximity of adjacent pre-existing driveways or streets would violate the current ODOT access spacing standards for this type of facility, as stated in the most recent Oregon Highway Plan, unless an exception to the access spacing standards is granted by the ODOT Region Access Management Coordinator or Access Variance Committee.
4. ODOT and City agree to consider the installation of additional raised, non-traversable medians in the section between Springbrook Street and Villa Road if the accident rate in this section rises above the statewide average for highways of this type or if proposed new development on adjacent properties creates traffic flow or accident hazards.
5. ODOT and City agree that no new signals will be installed at Sitka Street or Deborah Street in the foreseeable future. ODOT and City agree that there is a possibility of installing new signals at First Street and Washington Street and at Hancock Street and Washington Street some time in the future. ODOT and City agree that all signals will be synchronized and timed to provide the best possible progression for traffic on Pacific Highway West.
6. ODOT and City agree to the removal of approximately 55 on-street parking spaces from the north side of Hancock Street and replace with a comparable number of off-street parking spaces in the Hancock Street corridor for public use, free of parking fees. Acquisition and construction of replacement parking is to be paid with federal funds available to ODOT and matched by City funds.
7. This agreement may be terminated by mutual written consent of both parties.

ODOT may terminate this agreement effective upon delivery of written notice to City or at such later date as may be established by ODOT under any of the following conditions.

- a) If City fails to provide services called for by this agreement within the time specified herein or any extension thereof.

- b) If City fails to perform any of the other provisions of this agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from ODOT fails to correct such failures within 10 days or such longer period as ODOT may authorize.
- c) If ODOT fails to receive funding, appropriations, limitations or other expenditure authority at levels sufficient to pay for the work provided in the agreement.
- d) If Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this agreement is prohibited or if ODOT is prohibited from paying for such work from the planned funding source.

Any termination of this agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.

- 8. City may terminate this agreement effective upon delivery of written notice to ODOT, if ODOT fails to perform any of the provisions of this agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from City fails to correct such failures within 10 days or such longer period as City may authorize.
- 9. If City or ODOT fails to maintain facilities in accordance with the terms of this agreement, ODOT or City, at its option, may maintain the facility and bill City or ODOT, seek an injunction to enforce the duties and obligations of this agreement or take any other action allowed by law.
- 10. This agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of either party to enforce any provision of this agreement shall not constitute a waiver by that party of that or any other provision.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

This project was approved by the Oregon Transportation Commission on October 15, 1997 as a part of the 1998-2001 Statewide Transportation Improvement Program (Key Numbers 7022, 5602, and 9270).

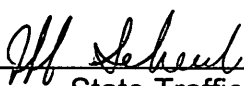
The Oregon Transportation Commission on February 18, 1998, approved Subdelegation Order 2, in which the Director grants authority to region managers to approve and execute agreements for work in the Statewide Transportation Improvement Program.

STATE OF OREGON, by and through
its Department of Transportation

By 
Region Manager

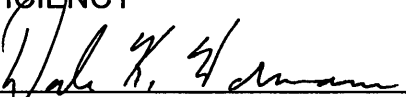
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APPROVAL RECOMMENDED

By 
State Traffic Engineer

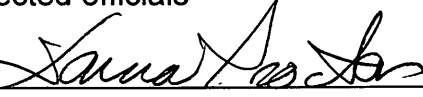
Date 6/11/98

APPROVED AS TO LEGAL
SUFFICIENCY

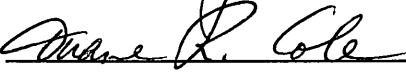
By 
Assistant Attorney General

Date 6/3/98

CITY OF NEWBERG, by and through
its elected officials

By 

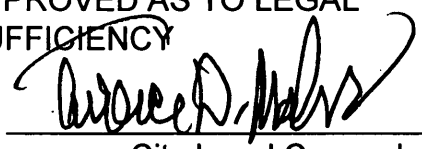
Title Mayor

By 

Title City Manager/Recorder

Date May 19, 1998

APPROVED AS TO LEGAL
SUFFICIENCY

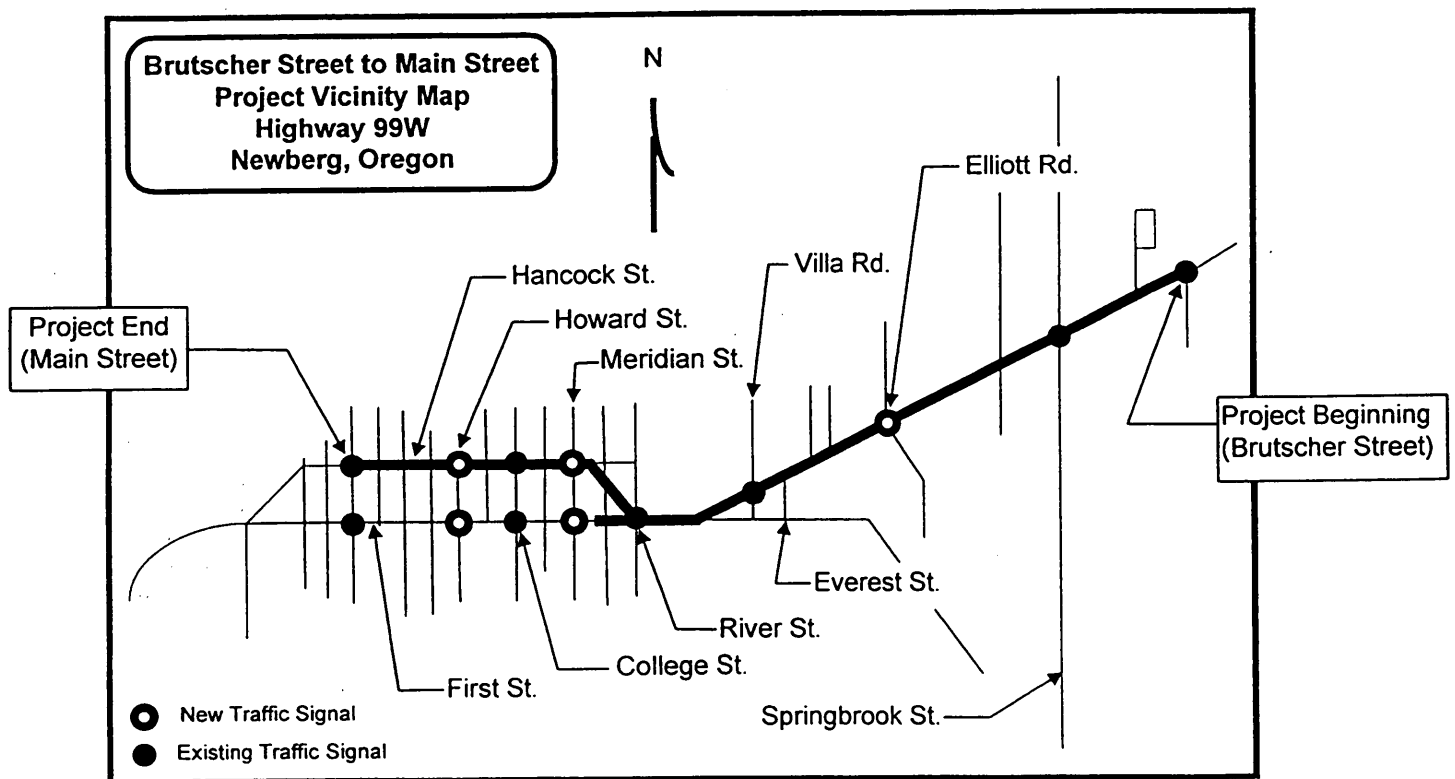
By 
City Legal Counsel

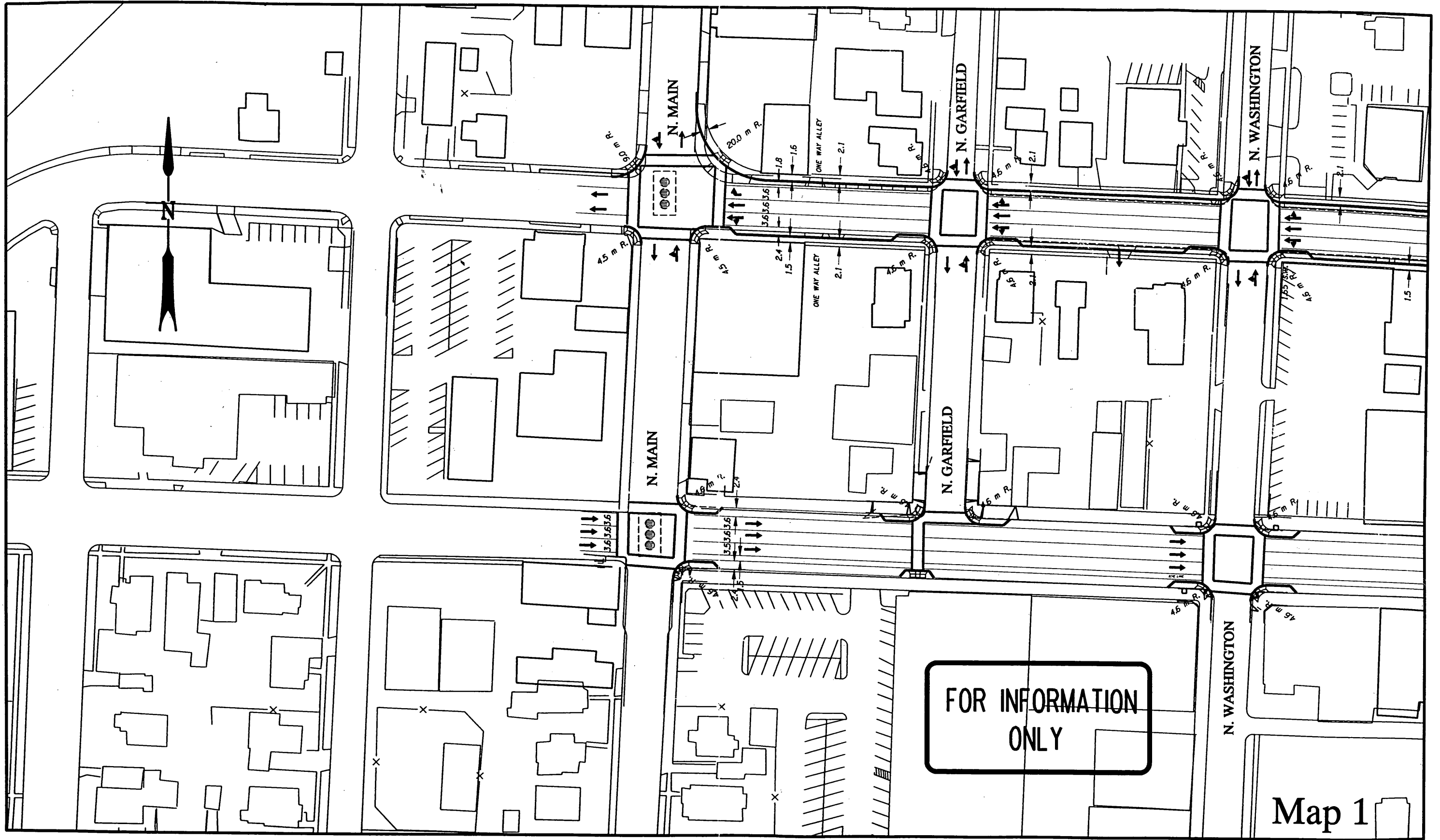
Date May 22, 1998

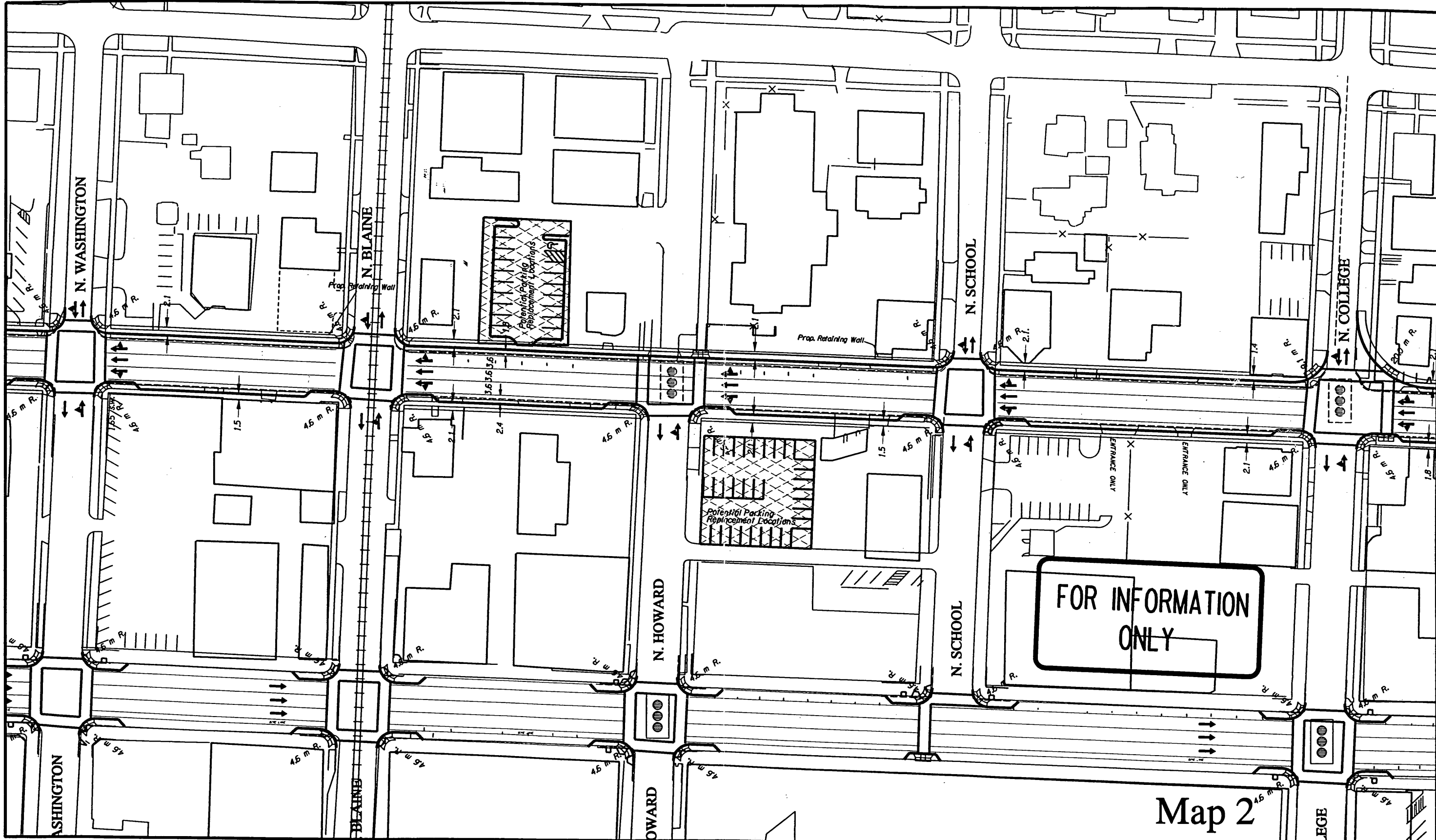
EXHIBIT A

BRUTSCHER STREET TO MAIN STREET

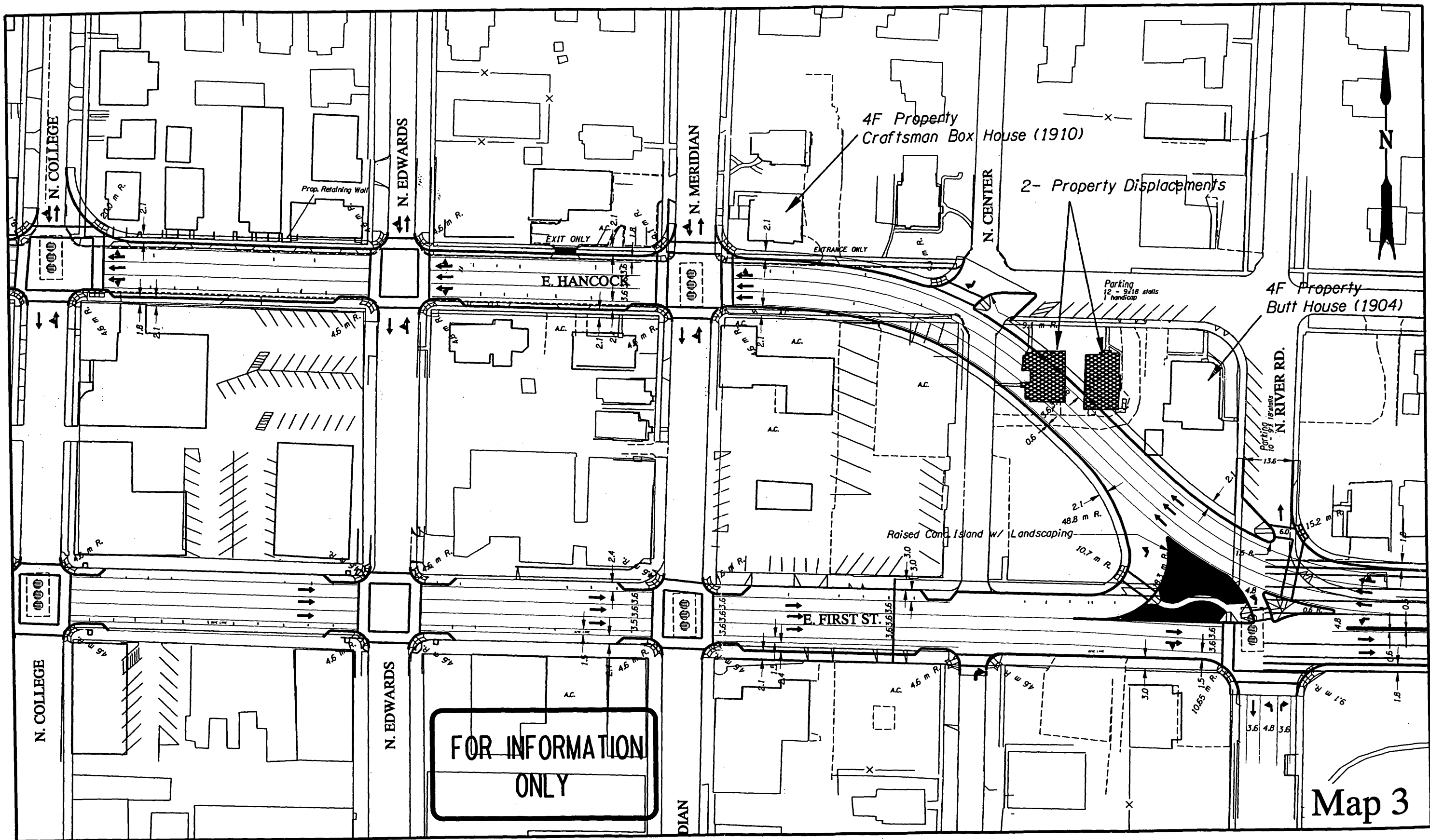
MAY 1998



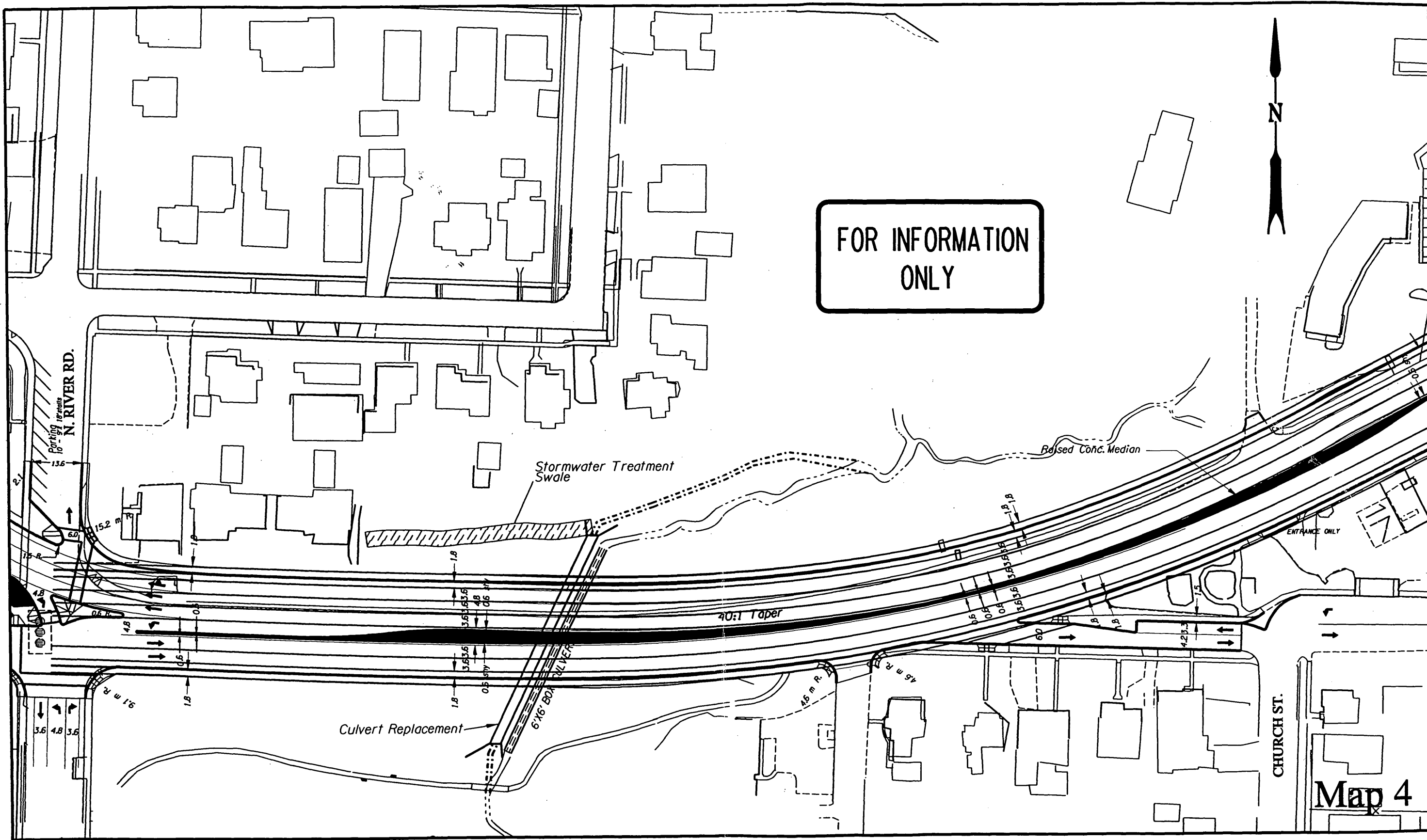


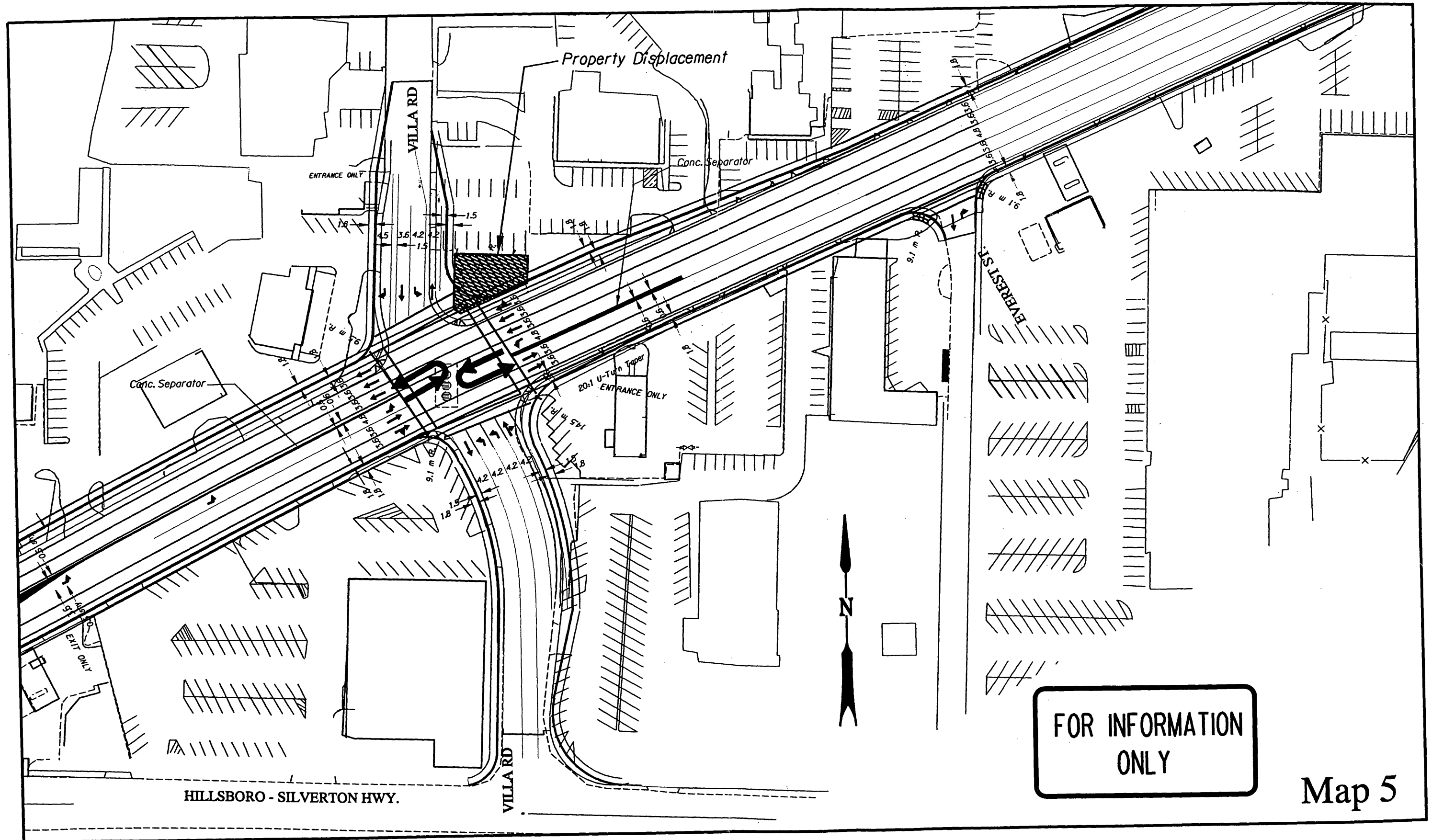


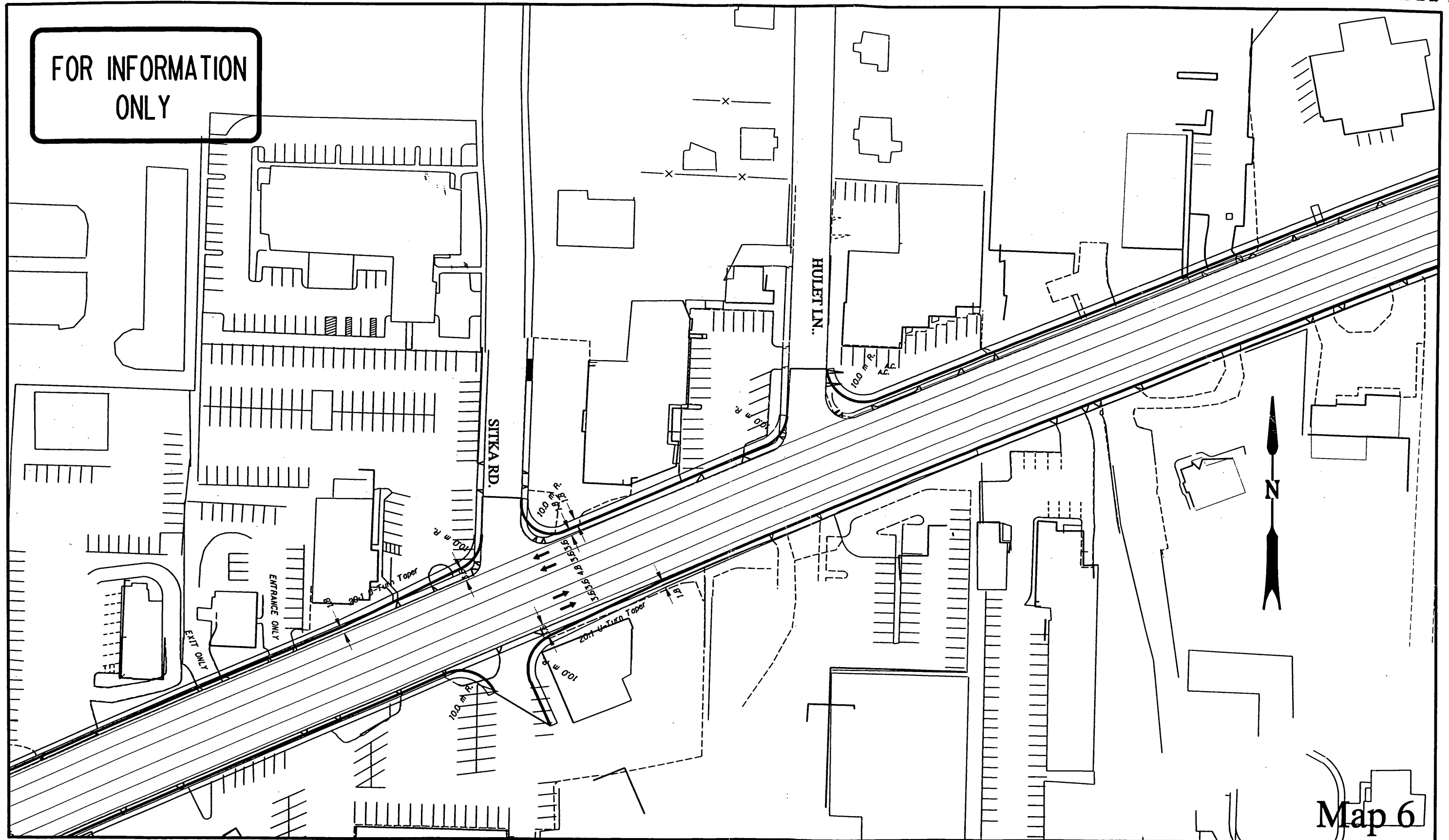
Map 2

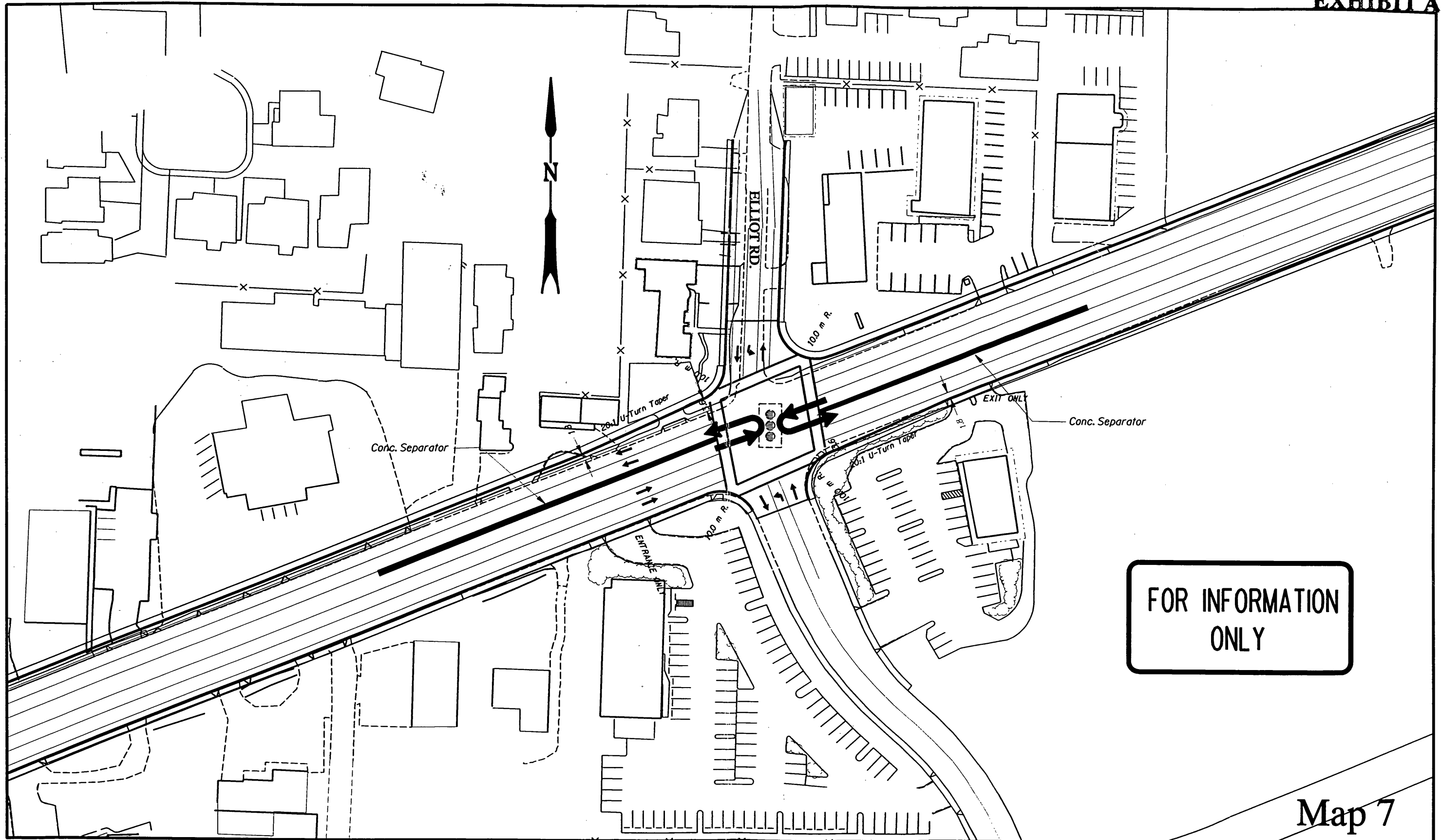


FOR INFORMATION ONLY









FOR INFORMATION
ONLY

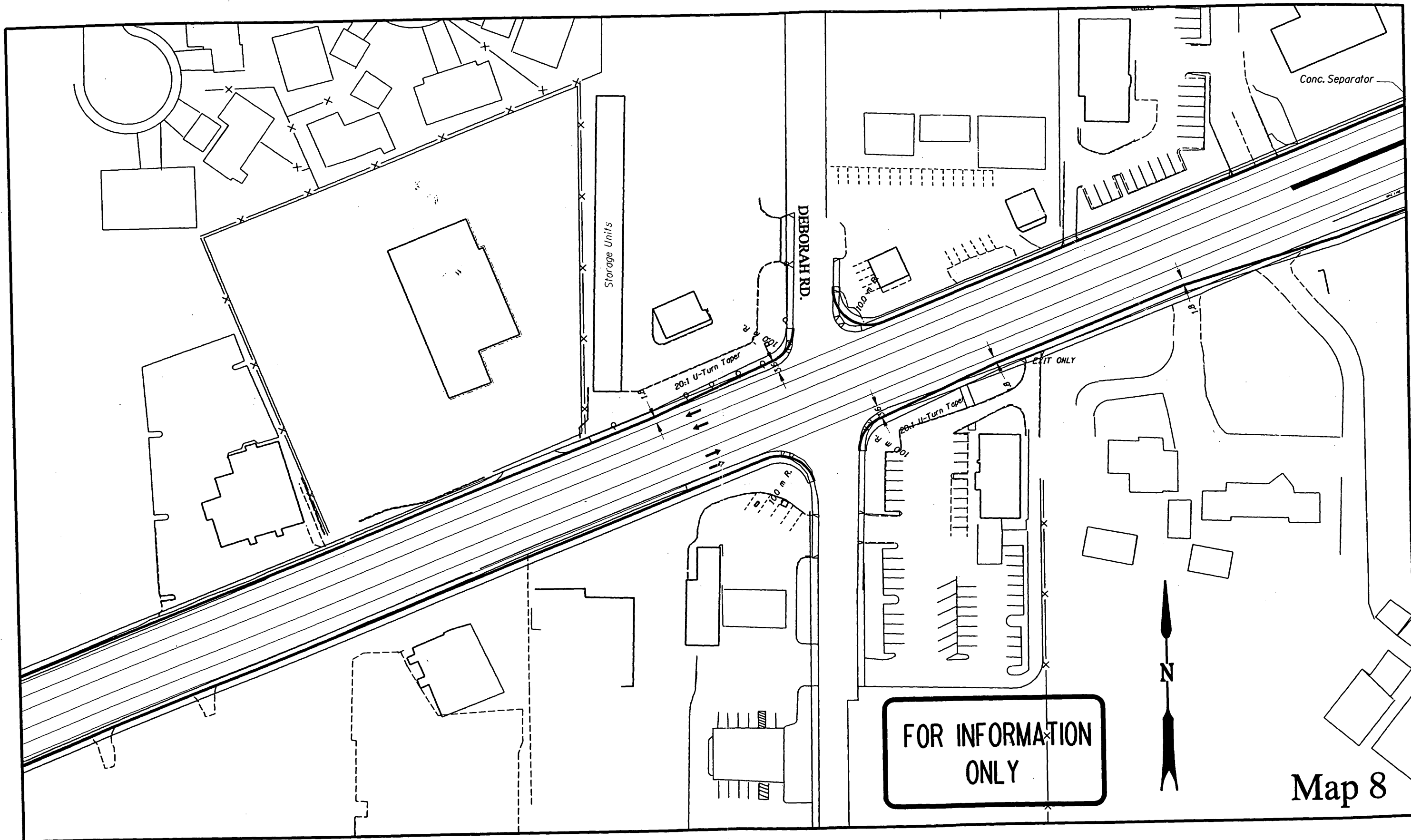
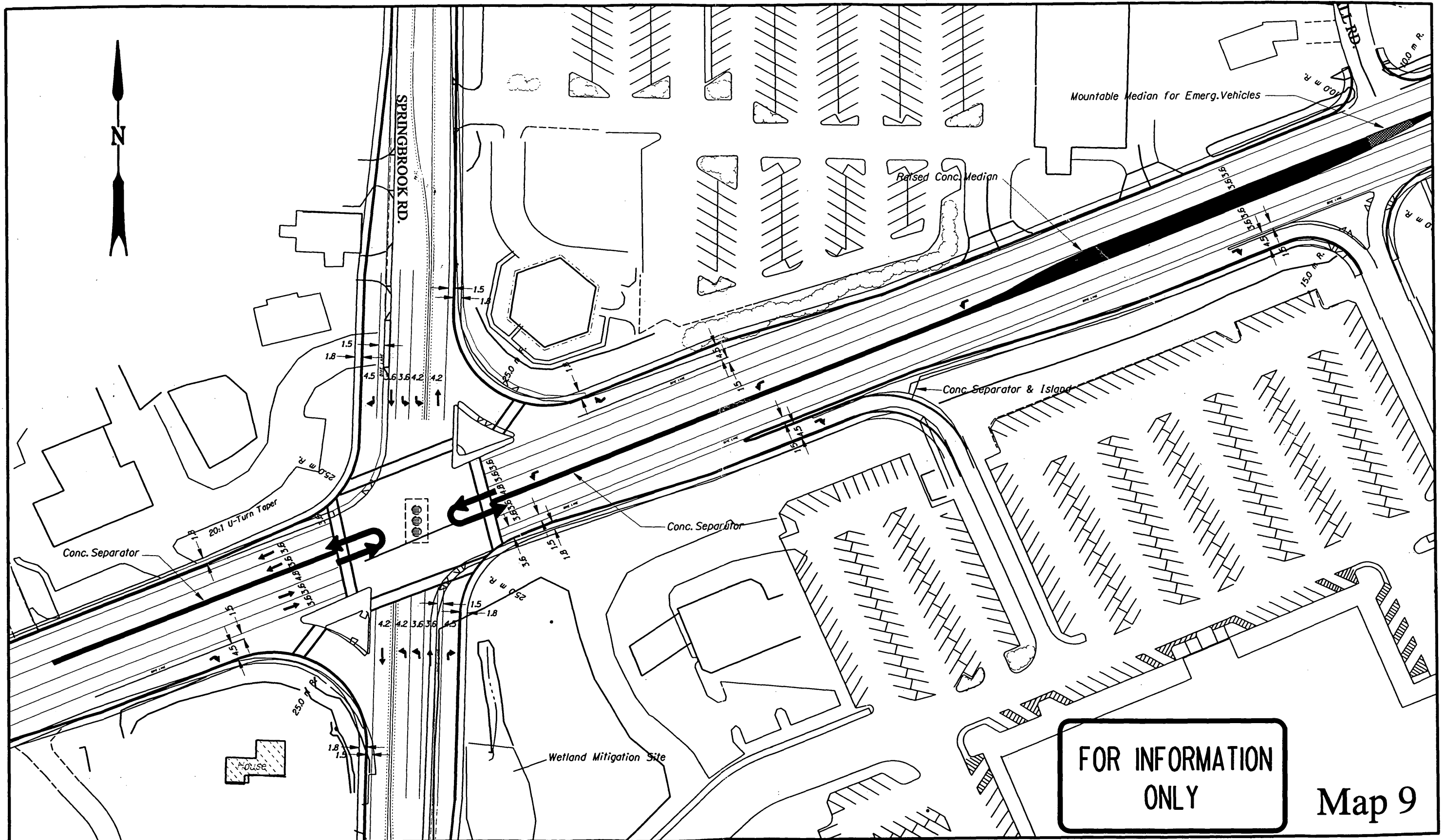


EXHIBIT A



Map 10



FOR INFORMATION
ONLY

SPRINGBROOK RD

Conc. Separator

— Conc. Separator

House

~~Wetland Mitigation Site~~

