

CITY OF NEWBERG
AGREEMENT WITH KITTELSON & ASSOCIATES, INC.
TO PROVIDE CONSULTING SERVICES
TO THE CITY OF NEWBERG

THIS AGREEMENT is entered into this 29th day of April, 2004 by and between the City of Newberg, a municipal corporation of the State of Oregon, hereinafter called **City**, and

Kittelson & Associates, Inc.
610 SW Alder, Suite 700
Portland, OR 97205
503-228-5230 503-273-8169

hereinafter called **Consultant**.

RECITALS:

1. **City** has need for the services of a **Consultant** with particular training, ability, knowledge, expertise and experience possessed by **Consultant**.
2. **City** has chosen the **Consultant** using the competitive quote method to provide services related to the traffic report analysis for a planning design review project (DR-187-04).

NOW, THEREFORE, in consideration of mutual promises, covenants and agreements of the parties, it is agreed as follows.

1. **Effective Date and Duration:** This Agreement shall become effective on the date that this Agreement has been signed by every party hereto.

Unless, terminated or extended, this Agreement shall expire when the **City** accepts **Consultant's** completed performance or no later than May 12, 2004, whichever date occurs first. This fact notwithstanding, the services of **Consultant** shall be authorized and paid on a phase-by-phase basis as described in Exhibit "A".

Expiration shall not extinguish or prejudice **City's** right to enforce this Agreement with respect to any breach of a **Consultant** warranty or any fault or defect in **Consultant's** performance that has not been cured.

2. **Termination:** This Agreement may be terminated at any time by mutual, written consent of the parties. The **City** may, at its sole discretion terminate this Agreement in whole or part upon a 30-day written notice to **Consultant**. The **City** may terminate immediately upon notice to the **Consultant** that the **City** does not have funding, appropriations, or other necessary expenditure authority to pay for **Consultant's** work. The **City** may terminate Agreement at any time for material breach. This Agreement may be terminated by either party at the end of a project phase as defined in Exhibit "A" or at any

time upon a 30-day written notice.

3. **Scope of Work:** The **Consultant** agrees to provide the services provided in the Scope of Work which is Exhibit "A" and attached hereto and incorporated by this reference. The **Consultant** represents and warrants to the **City** that the **Consultant** can perform the work outlined in the Scope of Work for the fee proposal amount.

4. **Compensation:** The **Consultant** agrees to perform the work for a not-to-exceed fee as indicated in their professional fee proposal obtained in the Scope of Work. The not-to-exceed figure is as follows:

\$3,650.00

The **Consultant** shall not exceed the fee for any task included in the fee proposal amount. If the **Consultant** foresees that the fee is going to exceed the not-to-exceed figure because the task has changed or is outside the scope, the **Consultant** shall notify the **City** in writing of the circumstances with an estimated amount that the fee is to be exceeded. The **Consultant** shall obtain written permission from the **City** before exceeding the not-to-exceed fee amount. If the **Consultant** does work that exceeds the maximum fee amount prior to obtaining the written permission, the **Consultant** waives any right to

collect that fee amount.

5. Additional Work Not Shown within the Scope of Work: If City requests or requires work to be done not within the Scope of Work of this project, the **Consultant** shall notify the **City** of such work, provide an estimated fee amount, and obtain written instructions to proceed with work in the form of an Agreement amendment prior to proceeding with work and incurring any costs on behalf of the **City**. If **Consultant** proceeds with work prior to obtaining permission and/or Agreement amendment, the **Consultant** waives any right to collect fees for work performed.

6. Agreement Documents: This Agreement consists of the following documents which are listed in descending order of preference: This Agreement with attached Exhibits, the proposal of the **Consultant** (if one was submitted), the Request for Proposal (if one was used), and the owner/engineer's traffic report (Lancaster Engineering). Work is under the sole control of **Consultant**, however, the work contemplated herein must meet the approval of the **City** and shall be subject to **City's** general right of inspection and supervision to secure the satisfactory performance thereof.

7. Benefits: **Consultant** will not be eligible for any federal social security, state workers compensation, unemployment insurance, or public employees' retirement system benefits from the Agreement payment except as a self-employed individual.

8. Federal Employment Status: In the event any payment made pursuant to this Agreement is to be charged against federal funds, **Consultant** certifies that he or she is not currently employed by the federal government and the amount charged does not exceed his or her normal charge for the type of services provided.

9. Consultant's Warranties: The work to be performed by **Consultant** includes services generally performed by **Consultant** in his/her usual line of business. The work performed by the **Consultant** under this Agreement shall be performed in a good and businesses-like manner in accordance with the highest professional standards. The **Consultant** shall, at all times, during the term of this Agreement, be qualified, be professionally competent, and duly licensed to perform the work.

10. Indemnity: **Consultant** shall defend, indemnify and hold harmless **City** from and against all liability or loss and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever resulting from, arising out of, or relating to the activities of the **Consultant**, or its officers, employees, subcontractors, or agents under this Agreement.

11. Independent Contractor: **Consultant** is not currently employed by the **City**. The parties to this

Agreement intend that the **Consultant** perform all work as an Independent Contractor. No agent, employee, or servant of **Consultant** shall be or shall be deemed to be the employee, agent or servant of **City**. **City** is interested only in the results obtained under this Agreement; the manner and means of conducting the work are under the sole control of **Consultant**, however, the work contemplated herein must meet the approval of the **City** and shall be subject to **City's** general right of inspection and supervision to secure the satisfactory performance thereof.

12. Taxes: **Consultant** will be responsible for any federal or state taxes applicable to payments received under this Agreement. **City** will report the total of all payments to **Consultant**, including any expenses, in accordance with the Federal Internal Revenue Service and the State of Oregon Department of Revenue regulations.

13. Insurance:

a) **Consultant**, its Subconsultants, 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; or by signing this Agreement, **Consultant** represents that he or she is a sole proprietor and is exempt from the laws requiring workers' compensation coverage.

b) **Consultant** will, at all times, carry a Commercial General Liability insurance policy for at least \$1,000,000.00 combined single limits per occurrence for Bodily Injury, Property Damage, and Personal Injury. If the policy is written on the new occurrence form then the aggregate limit shall be \$2,000,000.00. The **City**, its agents, employees and officials all while acting within their official capacity as such, shall be named as an additional insured on the insurance specified in this paragraph.

c) **Consultant** will, at all times, carry a Professional Liability/Errors and Omission type policy with limits of at least \$500,000.00. If this policy is a "claims made" type policy, the policy type and company shall be approved by the **City** Manager prior to commencement of any work under this Agreement.

d) **Consultant** shall furnish the **City** with Certificates of Insurance upon execution of Agreement. Such Certificates of Insurance evidencing any policies required by this Agreement shall be delivered to the **City** prior to the commencement of any work. A 30-day notice of cancellation clause shall be included in said certificate. The **City** has the right to reject any certificate for unacceptable coverage and/or companies.

14. Assignment: The parties hereto each bind themselves, their partners, successors, assigns and legal representatives of such other party in respect to all terms of this Agreement. Neither party shall assign the Agreement as a whole without written consent of the

other.

15. **Ownership of Work Product:** All original documents prepared by **Consultant** in performance of this Agreement, including but not limited to original maps, plans, drawing and specifications are the property of **City** unless otherwise agreed in writing. Quality reproducible records copies of final work product, including digital files of text and drawings shall be provided to **City** at the conclusion or termination of this Contract. **City** shall indemnify and hold harmless **Consultant** and **Consultant's** independent professional associates or **Subconsultants** from all claims, damages, losses and expenses including attorney's fees arising out of the City's use of any instruments of professional service for purposes outside the scope of this Contract.

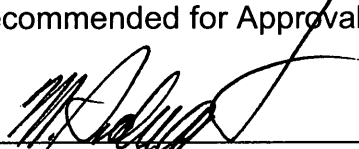
16. **Entire Agreement:** This Agreement constitutes the entire Agreement between the parties and supersedes all prior agreements, written and oral, courses of dealing, or other understanding between the parties. No modification of this Agreement shall be binding unless in writing and signed by both parties.

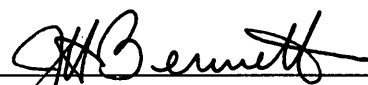
17. **Notification:** All correspondence and notices related to this Agreement shall be directed to the project manager for the party to whom the correspondence or notice is intended. If directed to the **City**: City of Newberg, P.O. Box 970, Newberg, Oregon 97132, Attn: Bob Knorr, Project Manager. If directed to the **Consultant**: Attn: Dan Seeman at the address listed above. Each party shall be responsible for notifying the other of any changes in project manager designation.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first above mentioned.

CONSULTANT
By: 
Name: Daniel A. Seeman
Title: Principal Planner
Date: 4/29/04

Division Approval: 

Recommended for Approval By:

Michael Soderquist, P.E., P.L.S., DEE
Community Development Director

CITY OF NEWBERG
By: 
Name: James H. Bennett
Title: City Manager
Date: 5/6/04

Approved as to form:

Terrence D. Mahr
City Attorney

**EXHIBIT A
SCOPE OF WORK**

	FEE
TASK 1	
Review owner engineer's traffic study (Lancaster) and list deficiencies	\$ 750
TASK 2	
Check the numbers; review the restaurant size and perform a cuing analysis	\$ 750
TASK 3	
Provide the City with recommendations for use in a staff report	\$1,500
TASK 4	
Site Visit	\$ 650



February 14, 2003

Del Eurick
4661 15th Avenue N
Keizer, OR 97303

Dear Mr. Eurick:

We have completed our analysis regarding potential access to your property in the southwest corner of the intersection of Highway 99W and Springbrook Road in Newberg, Oregon. The purpose of this report is to examine short and long-term access scenarios for the site given the plans of the City of Newberg for the surrounding roadway network. This letter and the attached appendix materials serve as a report of our analysis and findings.

Location Description

The subject property is approximately 1.48 acres in size and is located in the southwest quadrant of the intersection of Highway 99W and Springbrook Road. The majority of the site frontage is along Springbrook Road, and no access is proposed to Highway 99W. The site is currently vacant.

Highway 99W is under the jurisdiction of the Oregon Department of Transportation (ODOT) and is classified as a Statewide Highway. Springbrook Road is under the jurisdiction of the City of Newberg and is classified as a Collector roadway. The intersection of Highway 99W and Springbrook Road is controlled by a recently improved, eight-phase traffic signal.

The existing Fred Meyer shopping center to the east of the site currently has a full-movement driveway to Springbrook Road opposite the site frontage. The City of Newberg has plans for the future extension of Hayes Street across Springbrook Road and into the neighboring Springbrook Oaks area south of Fred Meyer. When Hayes Street is completed east of Springbrook Road, it is the City's intention to limit the existing Fred Meyer access to right-turn in and right-turn out movements only by means of a raised median extending from Highway 99W to Hayes Street. Additional access would then be provided to Fred Meyer via Hayes Street, which is planned to have a signalized intersection with Springbrook Road. Potential access to the subject site following the Fred Meyer access restriction is discussed in detail later in this report.



Del Eurick
February 14, 2003
Page 2 of 5

A vicinity map showing the site location and the present and future surrounding roadway network is included in the technical appendix to this report. A schematic drawing showing the configuration of the intersection of Highway 99W and Springbrook Road, the existing Fred Meyer access, and the existing morning and evening peak hour traffic volumes is also included. The traffic volumes shown are from traffic counts conducted in June of 2001. The peak hours were from approximately 7:00 to 8:00 AM and from 4:40 to 5:40 PM.

Potential Development

It is our understanding that there is no specific development plan currently in place for the site, but that several potential buyers have shown interest in the property. Furthermore, potential buyers are concerned that adequate access will not be available for a commercial development, given the City's plans for access restrictions on Springbrook Road. However, a national restaurant chain has shown considerable interest, so for the purposes of this report and the examination of the site access, it is assumed that the site would be developed as a restaurant.

To estimate the trip generation of a potential restaurant on the site, trip rates from the manual *Trip Generation* were examined. Data from land-use code 832, *High-Turnover (Sit-Down) Restaurant* were used. The trip rates are based on the gross floor area. It was further assumed that the potential restaurant would be 6,000 square feet in size, since this is the average sample size in the manual. Based on these development assumptions, a total of 56 trips would be generated during the morning peak hour and 65 trips would be generated during the evening peak hour. A weekday total of 782 trips is expected. It should be noted that the morning peak hour results assume that the restaurant would be open for breakfast. If this were not the case, clearly the trip generation would be much lower during the morning peak.

It is expected that a portion of the site trips to a restaurant on the subject site would be pass-by trips, or trips that are already passing the site on Highway 99W, but would stop to patronize the development. However, since the focus of this study is primarily Springbrook Road south of the highway, all pass-by trips will appear at the site access as new traffic. Therefore, a pass-by trip reduction was not made. A summary of the trip generation calculations is shown on the following page. Detailed trip generation calculations are included in the technical appendix.



Del Eurick
February 14, 2003
Page 3 of 5

TRIP GENERATION SUMMARY

	Entering <u>Trips</u>	Exiting <u>Trips</u>	Total <u>Trips</u>
<i>6,000 sq ft Restaurant*</i>			
AM Peak Hour	28	28	56
PM Peak Hour	35	30	65
Weekday	391	391	782

* Land-use code 832, *High-Turnover (Sit-Down) Restaurant*

The peak hour site trips from the table above were distributed through the site access and the intersection of Highway 99W and Springbrook Road based on the location of surrounding residential and employment areas that would be likely trip originations. The assumed trip distribution patterns as well as the assignment of the site trips is shown in the appendix to this report.

Short-Term Site Access

Detailed field observations were made during the evening peak hour on Springbrook Road in the vicinity of the site. In particular, northbound traffic queuing from the intersection of Highway 99W was observed. There is approximately 190 feet of striped vehicle storage in the northbound left-turn, through, and right-turn lanes on Springbrook Road. For the majority of the signal cycles, this storage was observed to be adequate. During a few cycles the left-turn or through traffic queues slightly exceeded the striped storage, although an additional 100 feet of unstriped storage is available between the Fred Meyer access and the end of the lane striping. This is shown schematically in the intersection diagrams in the technical appendix. Right-turn queuing was minimal and did not exceed the striped storage. In no instance did any of the queues extend to or beyond the Fred Meyer access.

Normally, common practice would be to locate the site access as far away from the nearest major intersection as possible, or in this case, near the southern property line. However, this would result in an offset intersection with the Fred Meyer access. Given the relatively high volume of traffic using the Fred Meyer access, the potential for conflicts between



Del Eurick
February 14, 2003
Page 4 of 5

the two offset full-movement driveways would be considerable. For this reason, it is recommended that if the property develops while the Fred Meyer access remains in its current configuration, an interim access be taken directly opposite the Fred Meyer driveway.

Long-Term Site Access

Conditions were re-examined with Hayes Street constructed east of Springbrook Road and the Fred Meyer driveway restricted to right-in, right-out movements only. These conditions were analyzed to determine if a full-movement access to the subject site could be maintained. As you know, this is very important to the commercial value and development potential of the property. With no other opportunities for access, development of the site would be severely limited with a right-in, right-out driveway for its only access.

It is expected that in the future, access to Hayes Street will be available through development of the adjacent properties to the south. However, the owners of these properties do not appear motivated to develop, and the timing of development, and therefore alternative access to the subject property, lies solely with other parties.

If the access to the site were located near the southern property line, there would be sufficient separation from the Fred Meyer driveway to restrict the Fred Meyer access to right-in, right-out by means of a raised median, but retain a full movement driveway to the subject site. The configuration of the access and median is shown in the appendix. This access location would allow (1) continued restriction of the Fred Meyer driveway, and (2) maximum separation from Highway 99W. However, as recommended above, a short-term access should be located directly opposite the Fred Meyer driveway. It is possible that this shifting of access could be accommodated by designing the parking area of the site with a parking aisle that stubs to Springbrook Road in the location of the future access, while interim access is taken opposite Fred Meyer.

To examine the operation of this long-term access, a capacity analysis was conducted. Given the uncertainty of the timing of alternative access south to Hayes Street, it was assumed that the property line access to Springbrook Road would still be the sole access location through 2010. Also, forecast 2010 evening peak hour traffic volumes on this portion of Springbrook Road are available from the traffic impact study prepared for the planned regional medical center to the east on Highway 99W. The traffic impact study, *Providence Newberg Hospital Master Plan*, was conducted by Lancaster Engineering in November 2001.

Using the 2010 traffic volumes on Springbrook Road and the trip generation results for the assumed restaurant use, the access would operate at level of service C during the evening



Del Eurick
February 14, 2003
Page 5 of 5

peak hour. It is expected that favorable operation could be maintained due to platooning of traffic on Springbrook Road from the signal at Highway 99W and the planned signal at Hayes Street. Based on the 2010 analysis in the referenced traffic impact study, northbound traffic queues from the intersection at Highway 99W would not extend to the site access.

Summary

For the purposes of this report, it was assumed that subject site would be developed with a 6,000 square-foot restaurant. Based on the trip generation of this land use and the existing traffic on the Fred Meyer access to the east, it is recommended that an interim access be taken directly opposite the Fred Meyer driveway. In the future, when Hayes Street is constructed east of Springbrook Road and access to Fred Meyer is revised, it is recommended that the site access be relocated to the southern property line.

Locating the site access at the southern property would allow: (1) restriction of the current Fred Meyer access to right-in, and right-out movements only while still maintaining a full movement access to the subject site, and (2) maximizing the separation of the access from Highway 99W. Complications with moving the access to the southern property line may be minimized by planning the layout of the parking area accordingly.

It is expected that a full-movement access to Springbrook Road would operate at a favorable level of service, even through 2010. Operation of the access will likely benefit from the traffic signal at Highway 99W and the planned signal at Hayes Street, due to the platooning effect on Springbrook Road traffic.

If you have any questions regarding the analysis or any of the recommendations in this report, please feel free to call.

Yours truly,

Todd E. Mobley, PE
Senior Transportation Engineer

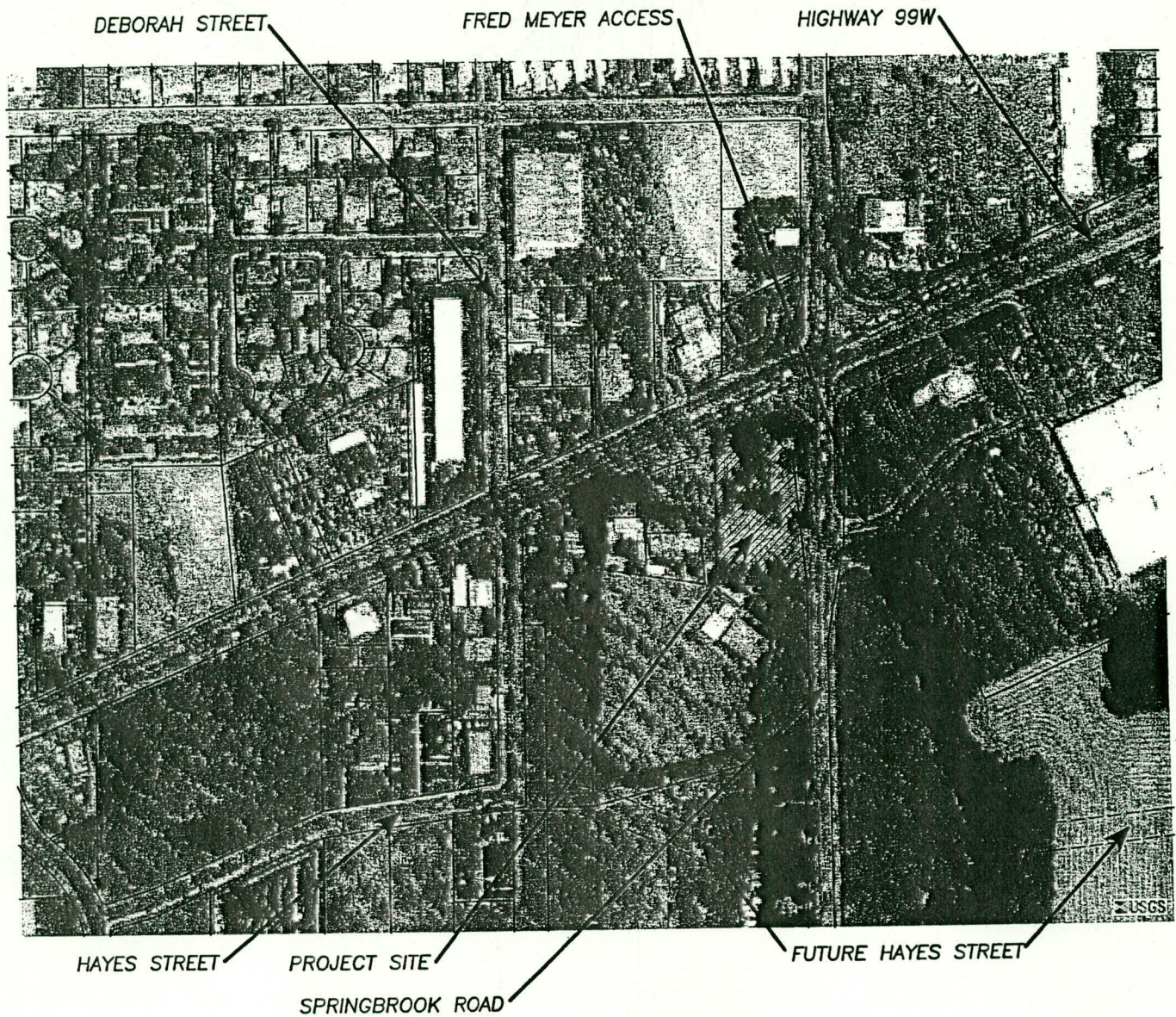
attachment: Technical Appendix



EXPIRES: 12/31/2004



TECHNICAL APPENDIX



NOTE:

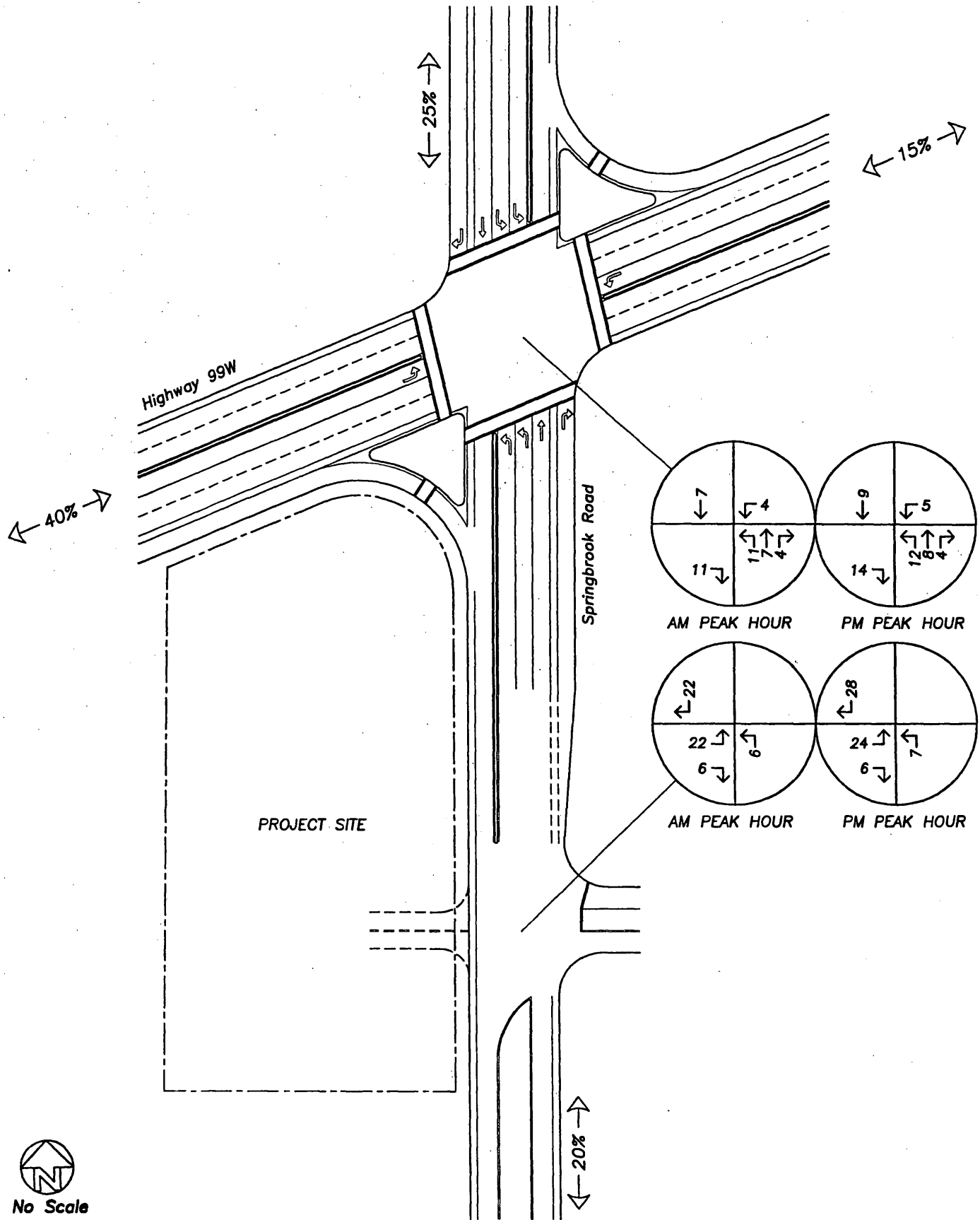
Tax lot and right of way lines are approximate and are shown only for schematic purposes.



No Scale

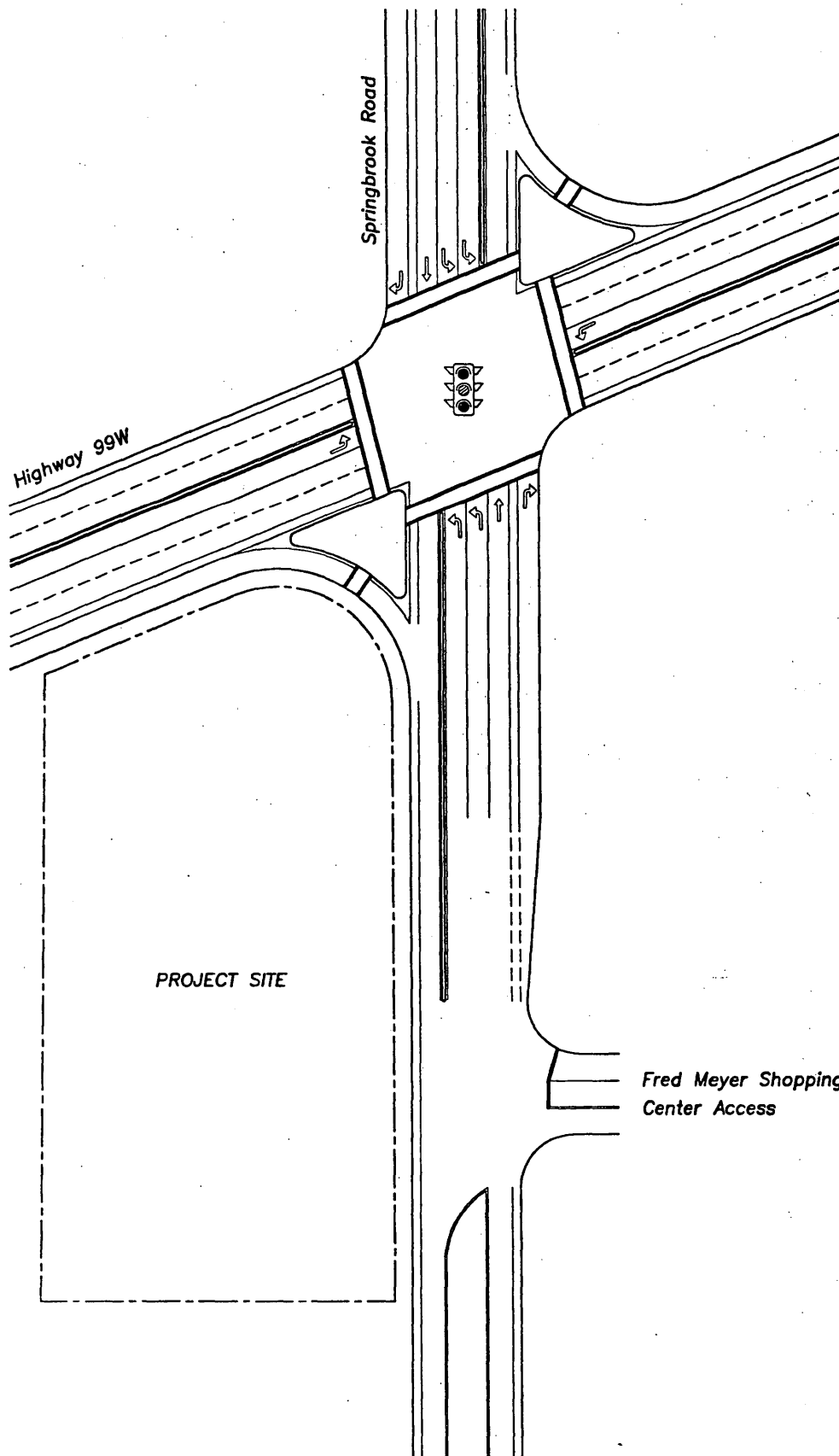


VICINITY MAP
Existing & Planned Street Network



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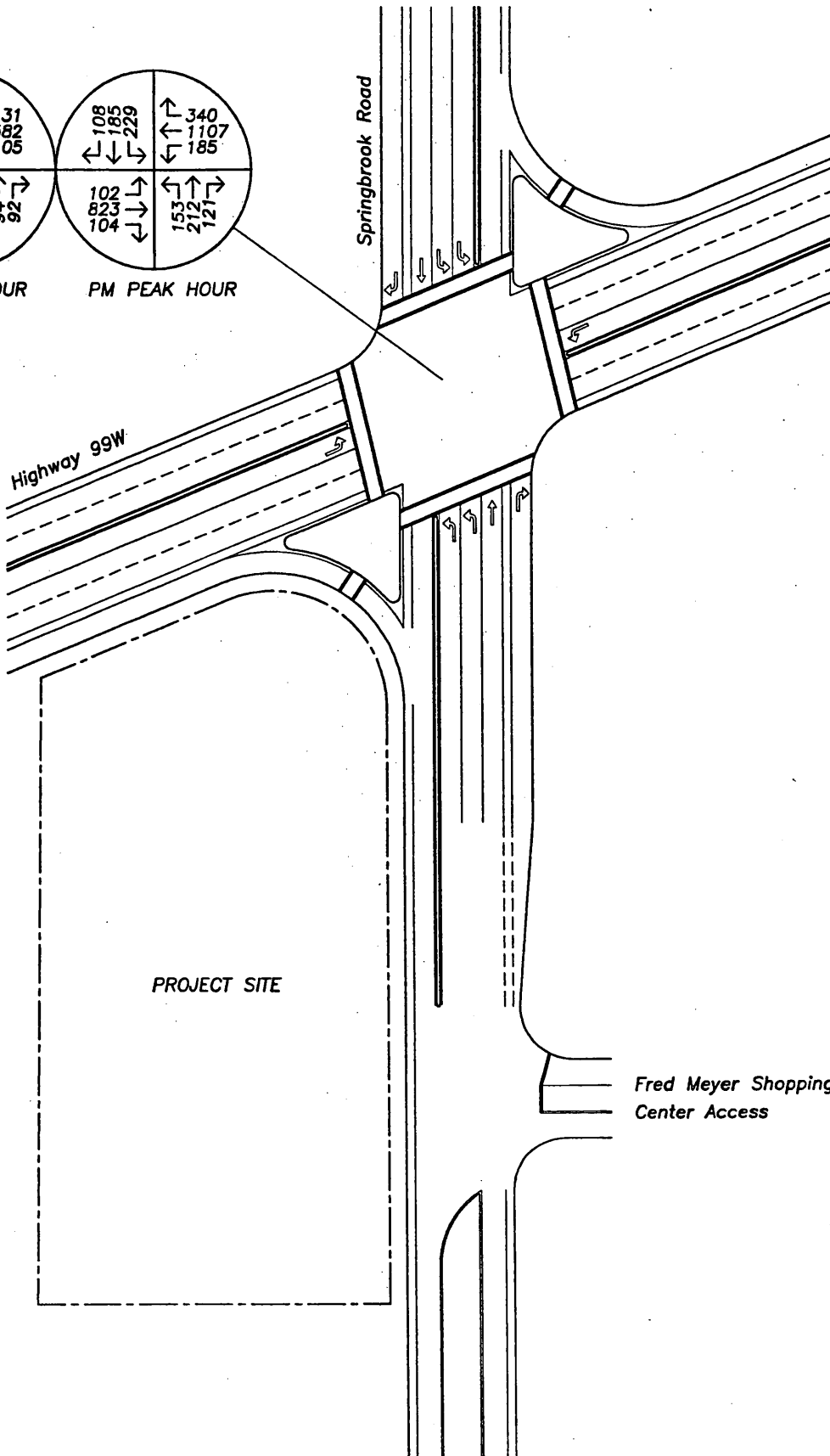
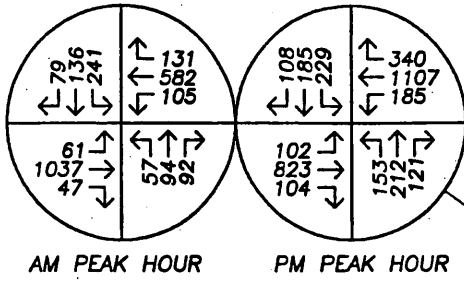
TRAFFIC VOLUMES Site Trip Distribution & Assignment AM & PM Peak Hours



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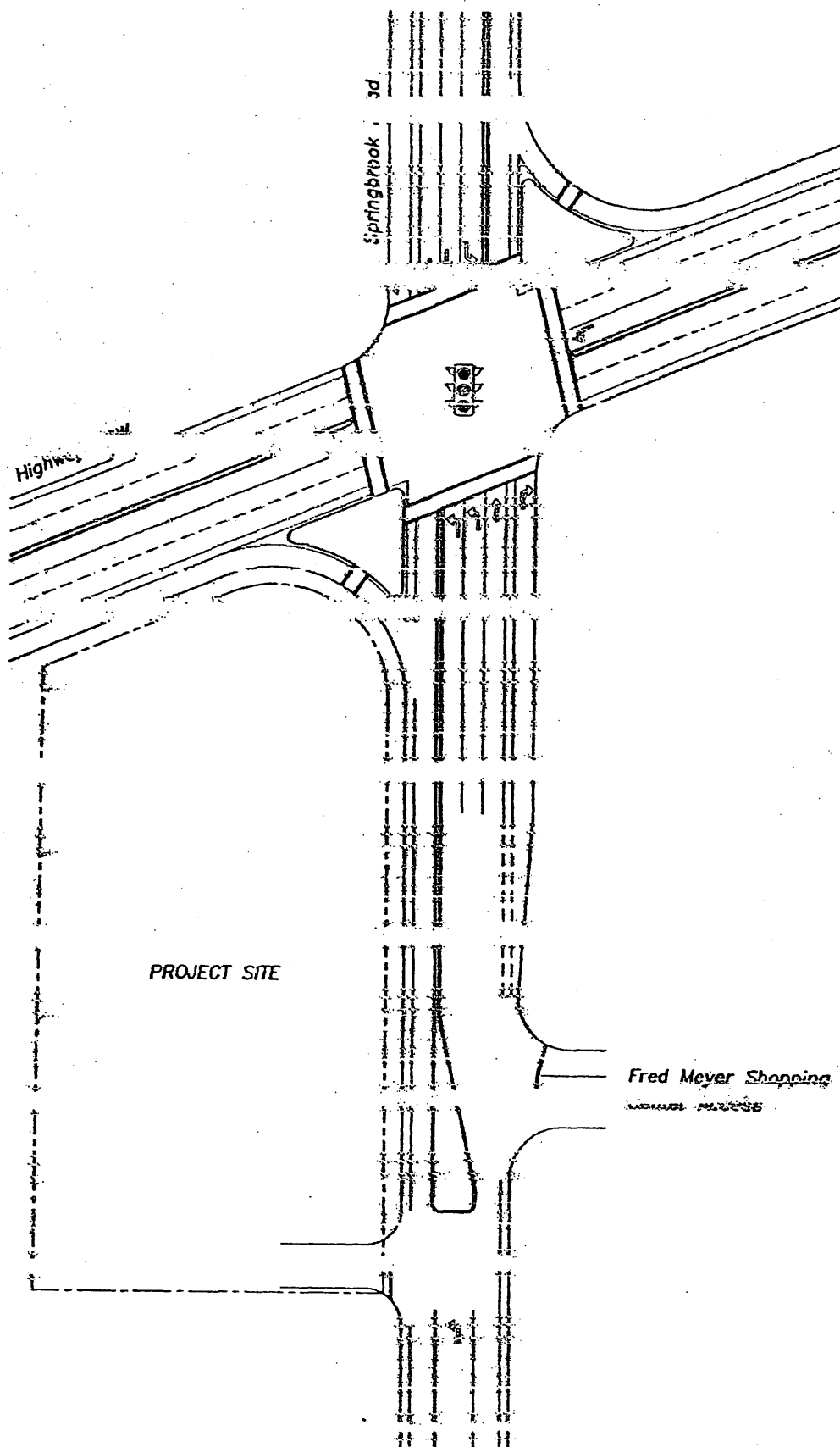
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ROADWAY & INTERSECTION CONFIGURATIONS



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TRAFFIC VOLUMES Existing Conditions AM & PM Peak Hours



No. 1000

Potential Access Configuration with
Additional Fred Meyer Access on Hayes Street



TRIP GENERATION CALCULATIONS

Land Use: High-Turnover (Sit-Down) Restaurant
Land Use Code: 832
Variable: 1,000 Sq. Feet Gross Floor Area
Variable Value: 6.0

AM PEAK HOUR

Trip Rate: 9.27

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	28	28	56

PM PEAK HOUR

Trip Rate: 10.86

	Enter	Exit	Total
Directional Distribution	54%	46%	
Trip Ends	35	30	65

WEEKDAY

Trip Rate: 130.34

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	391	391	782

PM PEAK HOUR OF GENERATOR

Trip Rate: 19.38

	Enter	Exit	Total
Directional Distribution	55%	45%	
Trip Ends	64	52	116

TWO-WAY STOP CONTROL SUMMARY

General Information		Site Information	
Analyst	TEM	Intersection	Springbrook/Site Access
Agency/Co.	Lancaster	Jurisdiction	Newberg
Date Performed	1/23/03	Analysis Year	2005
Analysis Time Period	PM Peak		
Project Description Eurick Parcel			
East/West Street: Site Access		North/South Street: Springbrook	
Intersection Orientation: North-South		Study Period (hrs): 0.25	

Vehicle Volumes and Adjustments						
Major Street	Northbound			Southbound		
Movement	1	2	3	4	5	6
	L	T	R	L	T	R
Volume	7	531	0	0	495	28
Peak-Hour Factor, PHF	0.90	0.90	0.90	0.90	0.90	0.90
Hourly Flow Rate, HFR	7	590	0	0	550	31
Percent Heavy Vehicles	0	--	--	0	--	--
Median Type	Undivided					
RT Channelized			0			0
Lanes	1	1	0	0	1	0
Configuration	L	T				TR
Upstream Signal		0			0	
Minor Street	Westbound			Eastbound		
Movement	7	8	9	10	11	12
	L	T	R	L	T	R
Volume	0	0	0	24	0	6
Peak-Hour Factor, PHF	0.90	0.90	0.90	0.90	0.90	0.90
Hourly Flow Rate, HFR	0	0	0	26	0	6
Percent Heavy Vehicles	0	0	0	0	0	0
Percent Grade (%)	0			0		
Flared Approach		N			N	
Storage		0			0	
RT Channelized			0			0
Lanes	0	0	0	0	0	0
Configuration					LR	

Delay, Queue Length, and Level of Service								
Approach	NB	SB	Westbound			Eastbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration	L						LR	
v (vph)	7						32	
C (m) (vph)	1003						240	
v/c	0.01						0.13	
95% queue length	0.02						0.45	
Control Delay	8.6						22.3	
LOS	A						C	
Approach Delay	--	--				22.3		
Approach LOS	--	--				C		

TWO-WAY STOP CONTROL SUMMARY

General Information		Site Information	
Analyst	TEM	Intersection	Springbrook/Site Access
Agency/Co.	Lancaster	Jurisdiction	Newberg
Date Performed	1/23/03	Analysis Year	2010
Analysis Time Period	PM Peak		
Project Description Eurick Parcel			
East/West Street: Site Access		North/South Street: Springbrook	
Intersection Orientation: North-South		Study Period (hrs): 0.25	

Vehicle Volumes and Adjustments

Major Street	Northbound			Southbound		
Movement	1	2	3	4	5	6
	L	T	R	L	T	R
Volume	7	545	0	0	524	28
Peak-Hour Factor, PHF	0.90	0.90	0.90	0.90	0.90	0.90
Hourly Flow Rate, HFR	7	605	0	0	582	31
Percent Heavy Vehicles	0	—	—	0	—	—
Median Type	Undivided					
RT Channelized			0			0
Lanes	1	1	0	0	1	0
Configuration	L	T				TR
Upstream Signal		0			0	
Minor Street	Westbound			Eastbound		
Movement	7	8	9	10	11	12
	L	T	R	L	T	R
Volume	0	0	0	24	0	6
Peak-Hour Factor, PHF	0.90	0.90	0.90	0.90	0.90	0.90
Hourly Flow Rate, HFR	0	0	0	26	0	6
Percent Heavy Vehicles	0	0	0	0	0	0
Percent Grade (%)	0			0		
Flared Approach		N			N	
Storage		0			0	
RT Channelized			0			0
Lanes	0	0	0	0	0	0
Configuration					LR	

Delay, Queue Length, and Level of Service

Approach	NB	SB	Westbound			Eastbound		
Movement	1	4	7	8	9	10	11	12
Lane Configuration	L						LR	
v (vph)	7						32	
C (m) (vph)	976						227	
v/c	0.01						0.14	
95% queue length	0.02						0.48	
Control Delay	8.7						23.4	
LOS	A						C	
Approach Delay	--	--				23.4		
Approach LOS	--	--				C		

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