

NOTICE OF TYPE II DECISION
SITE DEVELOPMENT REVIEW (SDR) 2009-00006
DAVE AND BUSTER'S RESTAURANT
AND INDOOR ENTERTAINMENT FACILITY



120 DAYS = 5/29/2010

SECTION I. APPLICATION SUMMARY

FILE NAME: DAVE AND BUSTER'S RESTAURANT
CASE NO.: Site Development Review (SDR) SDR2009-00006

PROPOSAL: The applicant is requesting Site Development Review approval to improve a portion of the 8.07 acre Washington Square "Fringe" Property to accommodate the proposed 23,000 square foot Dave and Buster's Restaurant/indoor entertainment facility and parking lot improvements.

APPLICANT/ OWNER:	Macerich Company c/o Rick Beason 401 Wilshire Blvd #700 Santa Monica, CA 90401	APPLICANT'S REP.:	Kevin Apperson WHPacific, Inc, 9755 SW Barnes Road, Suite 300 Portland, OR 97225
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LOCATION: Washington Square Too, "Fringe Area"; Washington County Tax Map 1S135BA, Tax Lots 100 and 101.

ZONE: MUC: Mixed-Use Commercial District. The MUC zoning district includes land around the Washington Square Mall and land immediately west of Highway 217. Primary uses permitted include office buildings, retail, and service uses. Also permitted are mixed-use developments and housing at densities of 50 units per acre. Larger buildings are encouraged in this area with parking under, behind or to the sides of buildings.

**APPLICABLE
REVIEW
CRITERIA:** Community Development Code Chapters 18.360, 18.390, 18.520, 18.630, 18.705, 18.725, 18.745, 18.755, 18.760, 18.765, 18.780, 18.790, 18.795 and 18.810.

SECTION II. DECISION

Notice is hereby given that the City of Tigard Community Development Director's designee has **APPROVED** the above request subject to certain conditions of approval. The findings and conclusions on which the decision is based are noted in Section VI.

CONDITIONS OF APPROVAL

THE FOLLOWING CONDITIONS SHALL BE SATISFIED PRIOR TO THE ISSUANCE OF SITE/BUILDING PERMITS:

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the CURRENT PLANNING DIVISION, ATTN: GARY PAGENSTECHER 503-639-4171, EXT 2434. The cover letter shall clearly identify where in the submittal the required information is found:

1. Prior to site work, the applicant shall submit a phasing plan consistent with the phasing standards demonstrating how future development of the site, to the minimum development standards established in Chapter 18.630 or greater, can be achieved at ultimate build out of the site. At minimum, this plan should include the applicable recommended transportation and urban open space elements listed in the Washington Square Regional Center (WSRC) Phase II Implementation Plan, June 29, 2001 and the extension of SW Locust Street as a 4 to 5 lane Planned Collector in the City's Transportation System Plan (TSP).
2. Prior to site work, the applicant shall submit a revised site plan showing the proposed development meets the 85% maximum site coverage and 15% minimum landscape standards in Table 18.520.2.
3. Prior to site work, the applicant shall submit revised plans and details that demonstrate that any mechanical rooftop equipment will be screened from view from adjacent public streets.
4. Prior to site work, the applicant shall submit revised architectural drawings, to scale, demonstrating a minimum of 50% of the ground floor wall area is in windows, display areas or doorway openings.
5. Prior to site work, the applicant shall submit a revised landscape plan showing that the main parking field is fully screened from views from the east, including low lying and vertical shrubbery in addition to the proposed Patmore Green Ash.
6. Prior to site work, the applicant shall submit detailed plans to show that all proposed service facilities such as gas meters and air conditioners are screened from customer parking areas and public streets. The applicant's revised plan will need to identify the material and height of enclosures with respect to the facilities being screened.
7. Prior to site work, the applicant shall submit a revised landscape plan showing additional trees in locations (two in the southeast portion of the parking lot adjacent to the building, and one in the north central portion of the parking lot) where additional trees are required to meet the "1 tree for every 7 parking spaces standard". These additional trees will need to be provided at least 1000 cu. Ft. of soil volume in order to provide for their growth to maturity.
8. Prior to site work, the applicant shall submit a detail of the engineered planting soil for underneath the parking lot islands, prepared by a registered landscape architect, to demonstrate that each island will provide at least 1000 cu. Ft. of growing medium.
9. Prior to site work, the applicant shall submit a revised landscape plan showing a substitute for the proposed Elizabeth Queen Hedge Maple with a more broad spreading tree (over 40' wide canopy at maturity) in order to maximize the canopy effect over the parking lot.
10. Prior to site work, the applicant shall submit a revised site development plan and calculations showing compliance with the minimum bicycle and vehicle parking standards.
11. Prior to site work, the applicant shall submit evidence that they have applied for a DEQ indirect source construction permit, if required by DEQ, or a DEQ verification that none is required.
12. Prior to site work, the applicant shall submit a bike rack detail consistent with the bike parking design requirements.
13. Prior to site work, the applicant shall submit a revised plan showing the required wheel stops per Tigard Development Code (TDC) Chapter 18.765.040.J.

14. Prior to site work, the applicant shall submit a revised site development plan showing how the parking space and aisle dimension standards can be met.
15. Prior to site work, the applicant, in consultation with their project arborist, shall seek to modify the site plan in order to preserve Tree #120. If the tree can be preserved the applicant shall submit a revised tree plan showing the tree as retained. If not, a statement by the Project Arborist shall demonstrate why the tree could not be preserved.
16. Prior to site work, the applicant shall submit a revised Tree Preservation plan that includes the tree protection specifications on pages 3 and 4 of the Project Arborist report dated January 12, 2010. In addition, the Tree Preservation plan shall include an additional note addressing tree preservation after construction (specifically addressing appropriate landscaping around preserved trees), and a signature of approval from the Project Arborist.
17. Prior to site work, the applicant shall submit a tree mitigation plan, signed off/certified by the Project Arborist that it meets the requirements of 18.790.060D and that the species and placement of mitigation trees have been reasonably calculated to provide for their growth to maturity.
18. Prior to site work, the applicant shall submit a cash assurance (letter of credit or cash deposit) for the equivalent value of mitigation required (e.g. 58 caliper inches of proposed mitigation tree planting x \$125/caliper inch). Any trees successfully planted on or off-site, in accordance with an approved Tree Mitigation Plan and TDC 18.790.060.D, will be credited against the assurance two years after all of the trees are planted. After the plan is approved and the trees are planted, the Project Arborist shall submit a letter to the City Arborist to certify that all of the mitigation trees were properly planted per the approved Tree Mitigation Plan in order to set the starting point of the two year tree establishment period. After the two year establishment period, the applicant shall provide a re-inventory of the mitigation trees conducted by a certified arborist in order to document mitigation tree survival, and compliance with the approved Tree Mitigation Plan. The remaining value of caliper inches not successfully mitigated shall be paid as a fee in-lieu of planting from the original cash assurance. Failure to plant and provide documentation of mitigation tree planting by the Project Arborist within 6 months of certificate of occupancy issuance shall result in the forfeiture of the cash assurance to the City's tree fund.
19. The applicant shall allow access by the City Arborist for the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed.
20. If work is required within an established tree protection zone, the Project Arborist shall prepare a proposal detailing the construction techniques to be employed and the likely impacts to the trees. The proposal shall be reviewed and approved by the City Arborist before proposed work can proceed within a tree protection zone. The City Arborist may require changes prior to approval. The Project Arborist shall be on site while work is occurring within the tree protection zone and submit a summary report certifying that the work occurred per the proposal and will not significantly impact the health and/or stability of the trees. This note shall be included on the Tree Protection Plan.
21. The applicant shall have an on-going responsibility to ensure that the Project Arborist has submitted written reports to the City Arborist, at least once every two weeks, as the Project Arborist monitors the construction activities from initial tree protection zone (TPZ) fencing installation through the building construction phases. The reports shall evaluate the condition and location of the tree protection fencing, determine if any changes occurred to the TPZ, and if any part of the Tree Protection Plan has been violated. If the amount of TPZ was reduced, then the Project Arborist shall certify that the construction activities did not adversely impact the overall, long-term health and stability of the tree(s). If the reports are not submitted to the City Arborist at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan are not being followed by the contractor or a sub-contractor, the City can stop work on the project until an inspection can be done by the City Arborist and the Project Arborist. Prior to final inspection, the applicant shall submit a final report by the Project Arborist certifying the health of protected trees and that the street trees were properly planted per the approved street tree plan. Tree protection measures may be removed and final inspection authorized upon review and approval by the City Arborist.

Submit to the Community Development Department (Gus Duenas, 639-4171, ext. 2470) for review and approval:

22. Prior to issuance of a site permit, a Public Facility Improvement (PFI) permit is typically required to cover half-street improvements, sanitary sewer, easement restoration and any other work in the public right-of-way or easement. The PFI also includes any work for on-site detention and on-site water quality treatment. This project does not include any public facility improvements but is required to provide on-site detention and water quality treatment as required by Clean Water Services Design and Construction Standards (Resolution and Order No. 07-20). Final plans and calculations for both facilities shall be submitted as part of the PFI application to the Development Engineer (Gus Duenas) for review and approval prior to issuance of the PFI. These facilities are private but will be inspected by the City for conformance to detention and water quality requirements. In addition, a proposed maintenance plan for these facilities shall be submitted along with the plans and calculations for review and approval.
23. Six (6) sets of detailed plans covering the above two improvements shall be submitted for review to the Development Engineer. NOTE: these plans are in addition to any drawings required by the Building Division and should only include sheets relevant to storm drainage, water quality and detention. PFI permit plans shall conform to City of Tigard Public Improvement Design Standards, which are available at City Hall and the City's web page (www.tigard-or.gov).
24. An erosion control plan shall be provided as part of the PFI permit drawings. The plan shall conform to Clean Water Services Design and Construction Standards (Resolution and Order No. 07-20) Chapter 2.
25. The applicant shall obtain a 1200C permit. Permit application and plans are to be submitted to the Development Engineer for review, approval and transmittal to CWS. No work on-site shall commence until the 1200C and erosion control permits are issued.
26. The PFI permit plan submittal shall include the exact legal name, address and telephone number of the individual or corporate entity who will be designated as the "Permittee", and who will provide the financial assurance for the public improvements. For example, specify if the entity is a corporation, limited partnership, LLC, etc. Also specify the state within which the entity is incorporated and provide the name of the corporate contact person. Failure to provide accurate information to the Development Engineer will delay processing of project documents.
27. Prior to issuance of the site permit, the applicant shall provide a construction vehicle access and parking plan for approval by the City Engineer. The purpose of this plan is for parking and traffic control during the construction phase.
28. The City Engineer may determine the necessity for, and require submittal and approval of, a construction access and parking plan for the building phase. If the City Engineer deems such a plan necessary, the applicant shall provide the plan prior to issuance of building permits.
29. Prior to issuance of the City's PFI permit, the applicant shall obtain approval from the Tualatin Valley Water District for the proposed water connection.
30. Prior to issuance of the site permit, the applicant shall obtain approval from Tualatin Valley Fire & Rescue (TVF&R) for fire protection system and hydrant placement.
31. Prior to issuance of the site permit, the applicant shall pay the applicable addressing fee. (STAFF CONTACT: Bethany Stewart, Public Works Engineering).

**THE FOLLOWING CONDITIONS SHALL BE SATISFIED
PRIOR TO FINAL BUILDING INSPECTION:**

The applicant shall prepare a cover letter and submit it, along with any supporting documents and/or plans that address the following requirements to the CURRENT PLANNING DIVISION, ATTN: GARY PAGENSTECHEER 503-639-4171, EXT 2434. The cover letter shall clearly identify where in the submittal the required information is found:

32. Prior to final building inspection, the applicant shall submit a statement from the project landscape architect that the engineered planting soils have been installed per the approved landscape plan.

33. Prior to final building inspection, the applicant/owner shall record deed restrictions to the effect that any existing tree greater than 6" diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restrictions may be removed or will be considered invalid if all trees preserved in accordance with this decision should either die or be removed as hazardous trees.
34. Prior to final building inspection, the applicant shall contact the Current Planning Division (Gary Pagenstecher) for a site inspection to determine consistency with the approved plan.

Submit to the Development Engineer (Gus Duenas, 639-4171, ext. 2470) for review and approval:

35. Prior to a final building inspection, the applicant shall complete detention and water quality facilities. The applicant's engineer shall submit documentation to the Development Engineer certifying that the water quality treatment facilities are constructed in accordance with Clean Water Services (CWS) standards.
36. Prior to final building inspection, the applicant shall enter into an agreement with the City on City-furnished forms for maintenance of the private water quality on-site. That agreement will be recorded and the City will be periodically monitoring the facility for compliance with the terms of the maintenance agreement.
37. Prior to a final building inspection, the applicant shall provide the City with as-built drawings of the detention and water quality facilities as follows: 1) 3 mil mylar, 2) a disk of the as-builts in "DWG" format, if available; otherwise "DXF" will be acceptable, and 3) the as-built drawings shall be tied to the City's GPS network. The applicant's engineer shall provide the City with an electronic file with points for each structure (manholes, catch basins, water valves, hydrants and other water system features) in the development, and their respective X and Y State Plane Coordinates, referenced to NAD 83 (91).
38. Prior to a final building inspection the applicant's engineer shall submit a final sight distance certification for the driveway connections to Washington Square Drive.

**THIS APPROVAL SHALL BE VALID FOR EIGHTEEN (18)
MONTHS FROM THE EFFECTIVE DATE OF THIS DECISION.**

SECTION III. BACKGROUND INFORMATION

Site History:

The Mall was originally constructed in unincorporated Washington County prior to the area being annexed to the City. Since 1987, a variety of land use activities have been approved including a modification, minor land partition, expansions, and construction of a monopole. In September 1999, the Washington Square Regional Center Plan was adopted which changed the zoning on the site from C-G (General Commercial) to MUC (Mixed-Use Commercial), imposed design guidelines, and created policies for providing capital facilities to support the regional center. SDR2003-00012 approved a 114,760 square foot expansion of retail space to the Washington Square Mall, as well as a 197,930 square foot 2-level parking garage west of the proposed expansion, and a 161,490 square foot 4-level parking garage to the south of the expansion. A Major Modification to this decision (SDR2005-00009) removed a condition of approval which required dedication of right-of-way on Greenburg Road. A Minor Modification of this decision (MMD2009-00033) memorialized the vested trips that were unused when portions of the approved expansion were not built out. The purpose of this Minor Modification decision was to free up trips for application to subsequent development in the Fringe area, such as Dave and Buster's.

Vicinity Information:

The subject site is located at the extreme southern end of the Washington Square Mall complex, within the 8.07-acre "Washington Square Too Fringe" area. The area is bounded by Highway 217 to the south, SW Greenburg Road on the west, and Washington Square Road on the north. The site is designated Mixed Use Commercial (MUC), with the Crescent Grove Cemetery to the north zoned Low Residential (R-4.5), and the Lincoln Center properties east of Greenburg Road zoned Mixed Use Employment-1 (MUE-1).

Site Information and Proposal Description:

The “Washington Square Too Fringe” area is comprised of three parcels fully developed with a US Bank (TL1801), two restaurants, a theater, and a large paved parking field shared by those uses (TLs 100 &101). Except for the bank, the other businesses (theater, TGIF’s, and Cucina Cucina) are currently vacant. The proposed development would replace the existing theater building on Tax Lot 100 with additional parking on Tax Lot 101.

The applicant is requesting Site Development Review approval to improve a portion of the Washington Square Too Fringe Property to accommodate the proposed 23,000 square foot Dave and Buster’s Restaurant/indoor entertainment facility and parking lot improvements.

SECTION IV. COMMENTS FROM PROPERTY OWNERS WITHIN 500 FEET

No letters or comments were received from property owners with 500 feet.

SECTION V. SUMMARY OF APPLICABLE REVIEW CRITERIA

The proposal's consistency with these Code Chapters is reviewed in the following sections:

- A. **Zoning Districts**
 - 18.520 Commercial Zoning Districts
- B. **Specific Development Standards**
 - 18.630 Washington Square Regional Center Design Standards
 - 18.705 Access Egress and Circulation
 - 18.725 Environmental Performance Standards
 - 18.745 Landscaping and Screening
 - 18.755 Mixed Solid Waste and Recyclable Storage
 - 18.765 Off-Street parking and loading requirements
 - 18.780 Signs
 - 18.790 Tree Removal
 - 18.795 Visual Clearance
- C. **Specific Site Development Review Approval Criteria**
 - 18.360
- D. **Street and Utility Improvement Standards**
 - 18.810
- E. **Decision Making Procedures**
 - 18.390 Impact Study

SECTION VI. APPLICABLE DEVELOPMENT CODE STANDARDS

A. ZONING DISTRICTS

Commercial Zoning District: Section 18.520.020

Lists the description of the Commercial Zoning Districts.

The site is located in the MUC: Mixed-Use Commercial zoning district. The applicant proposes to use the site for a restaurant and indoor entertainment facility, uses which are permitted in the MUC zone.

Development Standards:

Development standards in commercial zoning districts are contained in Table 18.520.2 below:

**TABLE 18.520.2
DEVELOPMENT STANDARDS IN COMMERCIAL ZONES**

STANDARD	MUC	Proposed
Minimum Lot Size - Detached unit - Boarding, lodging, rooming house	None -	NA
Minimum Lot Width	None	NA
Minimum Setbacks - Front yard - Side facing street on corner & through lots - Side yard - Side or rear yard abutting more restrictive zoning district - Rear yard - Distance between front of garage & property line abutting a public or private street.	0' min/ 10' max 0' min/ 10' max 0 ft 0 ft 0 ft N/A	370 ft. 340 ft. 15 -115 ft. NA 27 - 32 ft. NA
Minimum Height	2 stories	2 story
Maximum Height	200 ft	50 ft.
Maximum Site Coverage	85%	85% (phased)
Minimum Floor Area Ratio	1.25	1.25 (phased)
Minimum Landscape Requirement	15%	15% (phased)

Within the Washington Square Regional Center, properties zoned MUC are subject to the standards of Chapter 18.630.

The applicant has provided a narrative addressing the applicable standards of Chapter 18.360.

FINDING: The subject 8.07-acre site, Washington Square “Fringe,” is divided among four separate developments. The project site for the proposed Dave and Buster’s is located in the southwest portion adjacent to Hwy 217. Sheet C1.0 identifies this area as “Phase I Redevelopment.” The proposed building is setback from Hwy 217 approximately 27 to 32 feet (rear yard), 15 to 115 feet from the adjacent Sears property to the west (side yard), approximately 340 feet from SW Greenburg Road (side facing street), and approximately 370 feet from the Washington Square Road (front yard). As demonstrated in the table above, the proposed development meets the applicable setback standards except the front and side facing street 10-foot maximum setbacks. Since the subject site is large and the subject development is Phase I of a larger undefined future redevelopment, the setbacks for Dave and Buster’s have reasonably been met to the extent possible.

The applicant states that the maximum building height will be 50 feet. The actual height cannot be confirmed with application submittal materials, but would clearly be less than the 200-foot maximum based on the Architectural Elevations (Sheet A-2.0). The applicant states the building “will be a minimum height of two stories” and that “the exterior façade heights are in line with creating a two-story presence to the building.” It can be estimated that the parapet height of the facades range from 25 to 28 feet, with the towers approximating 48 feet. Architectural features such as faux second-story fenestration and the entry roof line extensions along the north and east facades contribute to the two-story appearance. A 2,260 square foot portion of the building is characterized as a mezzanine on the Architectural Floor Plans (Sheet A-1.0).

The applicant’s narrative provides building coverage estimates for the buildings on the “Fringe” site, stating that coverage will increase from 9.7% to 12.5%. However, “site coverage” includes all impervious areas of a site, including parking lots. The applicant states that a maximum of 85% of the site will be covered and a minimum of 15% landscaped. The application does not contain sufficient information to determine if the coverage standards have been met. The applicant must demonstrate that the proposed development falls within the 85% maximum coverage standard.

The applicant's narrative states that the minimum 1.25 FAR will be met when the site is built out in future phases. The applicant has been conditioned to demonstrate how this standard can be met at build out of the site as part of a phasing plan to meet the Washington Square Regional Standards, as reviewed below.

CONDITION The applicant shall submit a revised site plan showing the proposed development falls within the 85% maximum site coverage and 15% minimum landscape standards in Table 18.520.2.

B. APPLICABLE DEVELOPMENT CODE STANDARDS

Washington Square Regional Center Design Standards (18.630)

Design standards for public street improvements and for new development and renovation projects have been prepared for the Washington Square Regional Center. These design standards address several important guiding principals adopted for the Washington Square Regional Center, including creating a high-quality mixed use area, providing a convenient pedestrian and bikeway system, and utilizing streetscape to create a high quality image for the area.

The proposed development site is located at the rear of an 7.24-acre site (Tax Lots 100 &101). It does not front on any street, but is accessed by a private accessway through the parking field of a typically suburban development. Dave and Buster's, as Phase I of the Fringe area redevelopment, is the first redevelopment of this site under the Washington Square Regional Center Design Standards. By itself, and because of its location, the guiding principles of a high-quality mixed use area, providing a convenient pedestrian and bikeway system, and utilizing streetscape to create a high quality image for the area, are difficult to achieve. To help bridge the gap between the existing suburban development and the mixed use vision of the Regional Center Plan, the applicant has been conditioned to submit a phasing plan consistent with the phasing standards in TDC 18.630.020.C, below.

All new developments, including remodeling and renovation projects resulting in new non single family residential uses are expected to contribute to the character and quality of the area. In addition to meeting the design standards and other development standards required by the Development and Building Codes, developments will be required to dedicate and improve public streets, connect to public facilities such as sanitary sewer, water and storm drainage, and participate in funding future transportation and public improvement projects necessary within the Washington Square Regional Center.

The existing sidewalk along Greenburg Road fronting this property is curb-tight with no planter strip. A development project on this property would typically be required to meet the development code requirements by dedicating sufficient right-of-way to accommodate a 10-foot sidewalk and planter strip, underground the utilities along the frontage, and construct the improvements necessary to meet the code requirements. However, the undergrounding along Greenburg Road is probably best performed as part of a larger redevelopment with the utilities placed underground in conjunction with construction of a planter and wider sidewalk. Undergrounding can be deferred until the redevelopment of the rest of the site occurs and the additional right-of-way is dedicated and made available to accommodate the full improvements required on this street.

The applicant argues that no improvements are required with this project. We concur that no public improvements are required on this project. Analysis of the existing use versus the proposed use does not support dedication of right-of-way or construction of improvements to meet the current code requirements. However, undergrounding of utilities and construction of improvements to meet the code requirements will again be addressed with any further redevelopment of the property. With the applicant's provision of a phasing plan, the timing of these improvements can be addressed. It would not be expected that these improvements would be required prior to expiration of previous trip credits, however, that will depend on the scope, size, and impact of the phasing as established in the conditioned phasing plan.

The following design standards apply to all development located within the Washington Square Regional Center within the MUC, MUE and MUR zones. If a standard found in this section conflicts with another standard in the Development Code, standards in this section shall govern.

18.630.020 Development Standards

A. Compliance Required. All development must comply with:

1. All applicable development standards contained in the underlying zoning district, except where the applicant has obtained variances or adjustments in accordance with Chapters 18.370, and Sub-Sections C through E of this Section;

The applicant has not applied for any variances or adjustments.

2. All other applicable standards and requirements contained in this title.

As reviewed in this decision, the applicant has demonstrated that the applicable development standards will be met with the proposed development, or can be met, as conditioned, through a future phasing plan.

B. Development Standards. Development standards which apply within mixed-use zones in the Washington Square Regional Center are contained in Table 18.520.2.

The applicable development standards are reviewed in Section 18.520 above and have been met to the extent possible under the applicant's planned phased development scenario.

C. Phasing of Development Standards.

Projects may use the Site Development Review process (Chapter 18.360) to develop a site by phasing compliance with the development standards established in this Chapter. Such projects must demonstrate how future development of the site, to the minimum development standards established in this Chapter or greater, can be achieved at ultimate build out of the site. The Planning Director may waive or modify the approval period (Section 18.360.030.C) and phased development time schedule (Section 18.360.030.E.1) for projects approved under this section. If a time period greater than that specified in Section 18.360.030.C is necessary, it must be requested at the time of original application with a detailed time line for completion.

According to the applicant's narrative, since the project only encompasses a portion of the overall subject property, compliance with some of the development standards will require a phased implementation (Sheet C1.0 – Regional Context/Aerial Photo). Specifically, the narrative asserts that phased implementation will allow future development to meet the minimum FAR of 1.25 and placement of buildings along arterial frontages. The applicant states that "through a series of phases commencing with the redevelopment of the western portion of the subject property, the site will comply with all site development standards."

However, beyond these assertions, the applicant does not demonstrate how the future development of the site will meet the minimum development standards or greater at ultimate build out of the site. If the applicant is considering redevelopment of the site in an adhoc fashion as redevelopment opportunities arise for the vacant Cucina Cucina and TGIF sites, then meeting the minimum development standards would be increasingly difficult with each development. Therefore, as a condition of approval, the applicant shall submit a phasing plan consistent with the phasing standards demonstrating how future development of the site, to the minimum development standards established in Chapter 18.630 or greater, can be achieved at ultimate build out of the site. At minimum, this plan should include the applicable recommended transportation and urban open space elements listed in the Washington Square Regional Center Phase II Implementation Plan, June 29, 2001 and the Transportation Chapter of the City's Comprehensive Plan.

The applicant also did not include a detailed time frame for phased completion. As the timing is subject to market forces, it is understandable that any time line would have to be provisional, and in the current market, highly speculative. Therefore, the Dave and Buster's proposal will be subject to the 18-month approval period specified in Section 18.360.030.C.

Section 18.630.040 requires a way for creating continuity and connectivity within the Washington Square Regional Center (WSRC). The primary objective is to create a balanced, connected transportation system that distributes trips within the WSRC on a variety of streets. The connectivity standards may be satisfied by either of two options: Design or Performance Options.

The subject site is bounded on the north by Washington Square Road, a private street, and SW Greenburg Road on the east, an arterial. No new streets are being constructed as part of the proposed redevelopment of the subject property. An approximately 400 foot long accessway services the proposed development site from Washington Square Road. The proposed development will provide for improved pedestrian and bicycle connectivity with sidewalks provided along the accessway (Sheet C3.0 – Preliminary Access and Circulation Plan and Sheet C4.0 – Preliminary Site Development Plan). The proposed Phase I development is consistent with the applicable WSRC standards for connectivity.

Section 18.630.050 specifies the site design standards applicable to developments in the Washington Square Regional Center. All development must meet the following site design standards. If a parcel is one acre or larger a phased development plan may be approved demonstrating how these standards for the overall parcel can be met. Variance to these standards may be granted if the criteria found in Section 18.370.010.C.2, governing criteria for granting a variance, is satisfied.

The applicant's narrative and Sheet C1.0 characterize the Dave and Buster's development as Phase I of a two-phase development. The applicant has not applied for any variances to the site design standards. Therefore, the development must meet the standards or otherwise demonstrate how these standards for the overall parcel can be met.

Building Placement on Major and Minor Arterials. Buildings shall occupy a minimum of 50% of all street frontages along major and minor arterial streets. Buildings shall be located at public street intersections on major and minor arterial streets.

Although the subject property does have frontage along SW Greenburg Road, an arterial street, the project site is interior and located approximately 340 feet west of the right-of-way. The applicant anticipates redevelopment of the easterly portions of the site to meet this standard through future phased development of the abutting portions of the site.

Building setback. The minimum and maximum building setback from public street rights-of-way shall be in accordance with Table 18.520.2.

Table 18.520.2 specifies that the minimum setback is 0 feet and the maximum setback is 10 feet along the frontages of public streets. There is no abutting residential zone. The proposed building is not located adjacent to a public street. Future phases which redevelop the eastern portion of the site will be subject to the minimum and maximum setback design standards.

Front yard setback design. For setbacks greater than 0 feet, landscaping, an arcade, or a hard-surfaced expansion of the pedestrian path must be provided between a structure and a public street or accessway. If a building abuts more than one street, the required improvements shall be provided on all streets. Landscaping shall be developed to an L-1 standard on public streets and an L-2 standard on accessways. Hard-surfaced areas shall be constructed with scored concrete or modular paving materials. Benches and other street furnishings are encouraged. These areas shall contribute to the minimum landscaping requirement per Section 18.520.040.B and Table 18.520.2.

The applicant has proposed a new scored concrete pathway between the proposed building and Washington Square Road, as shown in the applicant's Preliminary Site Development Plan (Sheet C4.0), consistent with this standard. Landscaping to an L-2 standard is required.

Walkway connection to building entrances. A walkway connection is required between a building's entrance and a public street or accessway. This walkway must be at least six feet wide and be paved with scored concrete or modular paving materials. Building entrances at a corner adjacent to a public street intersection are required. These areas shall contribute to the minimum landscaping requirement per Section 18.520.040.B and Table 18.520.2.

According to the applicant's Preliminary Site Development Plan (Sheet C4.0) a six foot scored concrete walkway is proposed between the proposed building and Washington Square Road, consistent with this standard.

Parking location and landscape design. Parking for buildings or phases adjacent to public street rights-of-way must be located to the side or rear of newly constructed buildings. When buildings or phases are adjacent to more than one public street, primary street(s) shall be identified by the City where this requirement applies. In general, streets with higher functional classification will be identified as primary streets unless specific design or access factors favor another street. If located on the side, parking is limited to 50% of the primary street frontage and must be behind a landscaped area constructed to an L-1 landscape standard. The minimum depth of the L-1 landscaped area is five feet or is equal to the building setback, whichever is greater. Interior side and rear yards shall be landscaped to a L-2 landscape standard, except where a side yard abuts a public street, where it shall be landscaped to an L-1 landscape standard.

The proposed building is not located adjacent to a public street. It is, however, adjacent to Hwy 217 on the south. Future phases which redevelop the eastern portion of the site will be subject to the parking location and landscape design standards. The proposal is subject to the L-2 standard. Landscaping is discussed in further detail under Chapter 18.745.

Section 18.630.060 specifies the building design standards to control the vertical elements of new development within the Washington Square Regional Center.

Ground floor windows. All street-facing elevations within the Building Setback (0 to 10 feet) along public streets shall include a minimum of 50% of the ground floor wall area with windows, display areas or doorway openings. The ground floor wall area shall be measured from three feet above grade to nine feet above grade the entire width of the street-facing elevation. The ground floor window requirement shall be met within the ground floor wall area and for glass doorway openings to ground level. Up to 50% of the ground floor window requirement may be met on an adjoining elevation as long as the entire requirement is located at a building corner.

According to the applicant's narrative, the street-facing exterior elevations for the proposed Dave and Buster's restaurant are designed to show a minimum of 50% ground floor wall area articulated with windows, door openings, and display areas. Since Dave and Buster's requires control of all light sources within the Midway, the exterior "storefront" will consist of backlit colored glass and graphics. However, since the architectural elevations (Sheet A-2.0) are not drawn to scale, the applicant shall submit revised architectural drawings, to scale, demonstrating the 50% standard is met.

Building facades. Facades that face a public street shall extend no more than 50 feet without providing at least one of the following features: (1) a variation in building materials; (2) a building off-set of at least 1-foot; (3) a wall area that is entirely separated from other wall areas by a projection, such as an arcade; or (4) by another design features that reflect the building's structural system. No building facade shall extend for more than 300 feet without a pedestrian connection between or through the building.

The proposed building's overall footprint is approximately 160 feet square. The building's east elevation faces SW Greenburg Road, a public street; the north elevation faces Washington Square Road, a private street; the south elevation faces Hwy. 217; the west elevation faces the adjacent Sears property. The east elevation facing Greenburg Road includes walls 67 and 59 feet in length, and the 38-foot long entrance area (Architectural Elevations, Sheet A-2.0). The 59-foot wall shows variation in building materials with the use of back-lit colored and frosted glass. However, the 67-foot long wall is uninterrupted in its length and would benefit from some relief. However, with the approximately 340-foot distance from Greenburg Road and the marginal variation (10 feet) from the standard, the standard is substantially met.

Weather protection. Weather protection for pedestrians, such as awnings, canopies, and arcades, shall be provided at building entrances. Weather protection is encouraged along building frontages abutting a public sidewalk or a hard-surfaced expansion of a sidewalk, and along building frontages between a building entrance and a public street or accessway.

The proposed development includes a drive-through weather protection canopy over the entrance, consistent with this standard.

Building Materials. Plain concrete block, plain concrete, corrugated metal, plywood, sheet press board or vinyl siding may not be used as exterior finish materials. Foundation material may be plain concrete or plain concrete block where the foundation material is not revealed for more than 2 feet.

The proposed building is primarily sheathed in sheet metal, stone, glass, and plaster, consistent with this standard.

Roofs and roof lines. Except in the case of a building entrance feature, roofs shall be designed as an extension of the primary materials used for the building and should respect the building's structural system and architectural style. False fronts and false roofs are not permitted.

The proposed building's roofs are flat with parapet walls covered primarily with sheet metal and plaster, consistent with this standard.

Roof-mounted equipment. All roof-mounted equipment must be screened from view from adjacent public streets. Satellite dishes and other communication equipment must be set back or positioned on a roof so that exposure from adjacent public streets is minimized. Solar heating panels are exempt from this standard.

The applicant's narrative indicates that roof mounted mechanical equipment will be screened "for minimal views by the public." However, the plan set does not contain a roof plan to show the design and location of any roof mounted equipment to demonstrate conformance with this standard. Therefore, the applicant shall submit revised plans and details that demonstrate that any mechanical rooftop equipment will be screened from view from adjacent public streets.

Section 18.630.070 specifies additional requirements as related to signs. In general for commercial developments in the MUC zone, the requirements for signs in commercial zones as described in 18.780.130.C shall be used. Height limits for freestanding signs shall be 10 feet. Wall signs are not permitted to extend above the roofline of the wall on which the sign is located. No height increases will be permitted.

The applicant has not applied for signs at this time. The applicant's narrative states specific signs have not been identified, while their Architectural Elevations (Sheet A-2.0) show logo and lettered signs on the Hwy 217 and entrance elevations of the building. The applicant has indicated that a sign permit will be later applied for under a Type I review.

Section 18.630.090 describes the landscaping and screening requirements applicable within the Washington Square Regional Center. For general landscaping of landscaped and screened areas within parking lots and along local collectors and local streets, planting standards of Chapter 18.745 Landscaping and Screening, shall apply. In addition the L-1 standard applies to setbacks on major and minor arterials, and where parking lots abut public streets. Where the setback is a minimum of 5 feet between the parking lot and a street, trees shall be planted at 3½ inch caliper, at a maximum of 28 feet on center. Shrubs shall be of a variety that will provide a 3-foot high screen and 90% opacity within one year. Groundcover plants must fully cover the remainder of landscape area within two years. For general landscaping of landscaped and screened areas within parking lots, and along local collectors and local streets, planting standards of Chapter 18.745, Landscaping and Screening, shall apply. In addition, trees shall be provided at a minimum 2½ inch caliper, at a maximum spacing of 28 feet. Shrubs shall be of a size and quality to achieve the required landscaping or screening effect within two years.

L-2 standards are applicable. The applicant submitted a landscape plan (Sheet L1.0), which is substantially in conformance with this standard.

FINDING: The Washington Square Regional Center Design Standards have not been fully met. With the following conditions of approval the standards can be met.

CONDITIONS:

- ◆ The applicant shall submit a phasing plan consistent with the phasing standards demonstrating how future development of the site, to the minimum development standards established in Chapter 18.630 or greater, can be achieved at ultimate build out of the site. At minimum, this plan should include the applicable recommended transportation and urban open space elements listed in the Washington Square Regional Center Phase II Implementation Plan, June 29, 2001 and the Transportation Chapter of the City's Comprehensive Plan.

- ◆ The applicant shall submit revised plans and details that demonstrate that any mechanical rooftop equipment will be screened from view from adjacent public streets.
- ◆ The applicant shall submit revised architectural drawings, to scale, demonstrating a minimum of 50% of the ground floor wall area is in windows, display areas or doorway openings.

Access, Egress and Circulation (18.705):

Joint access:

18.705.030.C allows owners of two or more uses, structures, or parcels of land to agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the combined requirements as designated in this title, provided: 1) satisfactory legal evidence shall be presented in the form of deeds, easements, leases or contracts to establish the joint use; and 2) copies of the deeds, easements, leases or contracts are placed on permanent file with the City.

Joint access is not proposed. Therefore, this standard does not apply.

Walkways:

18.705.030.F requires that on-site pedestrian walkways comply with the following standards: Walkways shall extend from the ground floor entrances or from the ground floor landing of stairs, ramps, or elevators of all commercial, institutional, and industrial uses, to the streets which provide the required access and egress. Walkways shall provide convenient connections between buildings in multi-building commercial, institutional, and industrial complexes. Unless impractical, walkways shall be constructed between new and existing developments and neighboring developments;

According to the applicant's Preliminary Site Plan (Sheet C4.0) a six foot scored concrete walkway is proposed between Washington Square Road and the existing building, consistent with this standard.

Wherever required walkways cross vehicle access driveways or parking lots, such crossings shall be designed and located for pedestrian safety. Required walkways shall be physically separated from motor vehicle traffic and parking by either a minimum 6-inch vertical separation (curbed) or a minimum 3-foot horizontal separation, except that pedestrian crossings of traffic aisles are permitted for distances no greater than 36 feet if appropriate landscaping, pavement markings, or contrasting pavement materials are used. Walkways shall be a minimum of four feet in width, exclusive of vehicle overhangs and obstructions such as mailboxes, benches, bicycle racks, and sign posts, and shall be in compliance with ADA standards;

The applicant's Preliminary Site Plan (Sheet C4.0) shows the proposed walkways crossing traffic aisles are less than 36 feet in length and include appropriate pavement markings, consistent with this standard.

Required walkways shall be paved with hard surfaced materials such as concrete, asphalt, stone, brick, etc. Walkways may be required to be lighted and/or signed as needed for safety purposes. Soft-surfaced public use pathways may be provided only if such pathways are provided in addition to required pathways.

The applicant's Preliminary Site Plan (Sheet C4.0) shows the proposed walkways paved with concrete, consistent with this standard.

Access Management:

Section 18.705.030.H.1 states that an access report shall be submitted with all new development proposals which verifies design of driveways and streets are safe by meeting adequate stacking needs, sight distance and deceleration standards as set by ODOT, Washington County, the City and AASHTO.

The preliminary sight distance certification submitted is satisfactory.

A final sight distance certification shall be submitted after construction of the site improvements and prior to a final building inspection. Because there are no driveway modifications proposed, the final sight distance certification should basically be the same as the preliminary submittal.

Section 18.705.030.H.2 states that driveways shall not be permitted to be placed in the influence area of collector or arterial street intersections. Influence area of intersections is that area where queues of traffic commonly form on approach to an intersection. The minimum driveway setback from a collector or arterial street intersection shall be 150 feet, measured from the right-of-way line of the intersecting street to the throat of the proposed driveway. The setback may be greater depending upon the influence area, as determined from City Engineer review of a traffic impact report submitted by the applicant's traffic engineer. In a case where a project has less than 150 feet of street frontage, the applicant must explore any option for shared access with the adjacent parcel. If shared access is not possible or practical, the driveway shall be placed as far from the intersection as possible.

The east driveway closest to Greenburg Road is located more than the minimum 150 feet from the right-of-way (ROW) line of Greenburg Road.

Section 18.705.030.H.3 and 4 states that the minimum spacing of driveways and streets along a collector shall be 200 feet. The minimum spacing of driveways and streets along an arterial shall be 600 feet. The minimum spacing of local streets along a local street shall be 125 feet.

No new streets are proposed.

Minimum Access Requirements for Commercial and Industrial Use:

Section 18.705.030.I provides the minimum access requirements for commercial and industrial uses: Table 18.705.3 indicates that the required access width for developments with 100 or more parking spaces is two 30-foot accesses with 24 feet of pavement. Vehicular access shall be provided to commercial or industrial uses, and shall be located to within 50 feet of the primary ground floor entrances; additional requirements for truck traffic may be placed as conditions of site development review.

The site has two points of access into the parking lot from Washington Square Road that provides a minimum of 30 feet and 24 feet of pavement, consistent with this standard.

FINDING: The proposed development plan meets the applicable access, egress, and circulation requirements.

Environmental performance standards (18.725):

These standards require that federal and state environmental laws, rules and regulations be applied to development within the City of Tigard. Section 18.725.030 (Performance Standards) regulates: Noise, visible emissions, vibration, odors, glare and heat, and insects and rodents:

Noise. For the purposes of noise regulation, the provisions of Sections 7.41.130 through 7.40.210 of the Tigard Municipal Code shall apply.

Visible Emissions. Within the commercial zoning districts and the industrial park (IP) zoning district, there shall be no use, operation or activity which results in a stack or other point-source emission, other than an emission from space heating, or the emission of pure uncombined water (steam) which is visible from a property line. Department of Environmental Quality (DEQ) rules for visible emissions (340-21-015 and 340-28-070) apply.

Vibration. No vibration other than that caused by highway vehicles, trains and aircraft is permitted in any given zoning district which is discernible without instruments at the property line of the use concerned.

Odors. The emissions of odorous gases or other matter in such quantities as to be readily detectable at any point beyond the property line of the use creating the odors is prohibited. DEQ rules for odors (340-028-090) apply.

Glare and heat. No direct or sky reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, which is visible at the lot line shall be permitted, and; 1) there shall be no emission or transmission of heat or heated air which is discernible at the lot line of the source; and 2) these regulations shall not apply to signs or floodlights in parking areas or construction equipment at the time of construction or excavation work otherwise permitted by this title.

Insects and rodents. All materials including wastes shall be stored and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.

FINDING: The applicant's narrative indicates that the above standards will be met. Given the commercial nature of the proposed project, including indoor restaurant and entertainment uses, the environmental performance standards with respect to noise, visible emissions, vibration and odors, glare and heat, and insects and rodents appear to have been met. If any environmental issues materialize, they will be subject to code enforcement.

Landscaping and Screening (18.745):

Section 18.745.030.C, specifies the Installation Requirements. The installation of all landscaping shall be as follows: All landscaping shall be installed according to accepted planting procedures; the plant material shall be of high grade, and shall meet the size and grading standards of the American Standards for Nurberg Stock (ANSI Z-60, 1-1986, and any other future revisions); and landscaping shall be installed in accordance with the provisions of this title.

The accepted planting procedures are the guidelines described in the Tigard Tree Manual. These guidelines follow those set forth by the International Society of Arboriculture (ISA) tree planting guidelines as well as, the standards set forth in the American Institute of Architects' Architectural Graphic Standards, 10th edition. In the Architectural Graphic Standards there are guidelines for selecting and planting trees based on the soil volume and size at maturity. Additionally, there are directions for soil amendments and modifications.

The applicant is proposing to utilize porous paving and engineered planting soils within the parking lot in order to provide for tree growth to maturity and to reduce hydrological impacts. The City Arborist recommends the applicant's landscape architect provide a detail of the engineered planting soil for underneath the parking lot islands to demonstrate that each island will provide at least 1000 cu. Ft. of growing medium. Prior to final inspection, the City shall also require verification from the project landscape architect that the engineered planting soils have been installed per the approved landscape plan.

Section 18.745.030.E, requires protection of existing landscaping. The developer shall provide methods for the protection of existing vegetation to remain during the construction process; and the plants to be saved shall be noted on the landscape plans (e.g., areas not to be disturbed can be fenced, as in snow fencing which can be placed around the individual trees).

Tree protection has been satisfactorily addressed in the applicant's narrative, Appendix N (Arborist's Memorandum), and plan set (Sheet TP1.0).

Street Trees:

Section 18.745.040 states that all development projects fronting on a public street or a private drive more than 100 feet in length shall be required to plant street trees in accordance with Section 18.745.040.C Section 18.745.040.C requires that street trees be spaced between 20 and 40 feet apart depending on the size classification of the tree at maturity (small, medium or large).

Street trees have been provided along the approximately 280 foot long access way (Sheet L1.0), consistent with the species and spacing standards.

Buffering and Screening:

Section 18.745.080 states that no buffer is required between abutting uses that are of a different type when the uses are separated by a street. No buffer is required between a proposed office use and existing office use. Buffering and/or screening are required for dissimilar uses.

No buffering and screening are required for the proposed use in the subject location.

Screening:

Special Provisions:

Section 18.745.050.E requires the screening of parking and loading areas. Landscaped parking areas shall include special design features which effectively screen the parking lot areas from view. Planting materials to be installed should achieve a relative balance between low lying and vertical shrubbery and trees. Trees shall be planted in landscaped islands in all parking areas, and shall be equally distributed on the basis of one (1) tree for each seven (7) parking spaces in order to provide a canopy effect. The minimum dimension on the landscape islands shall be three (3) feet wide and the landscaping shall be protected from vehicular damage by some form of wheel guard or curb.

As shown in the applicant's landscape plan (Sheet L1.0), the proposed parking lot areas have not been fully screened from view. Low lying and vertical shrubbery has not been provided with the Patmore Green Ash trees along the west side of the access way to help screen the main parking field from views from the east.

The applicant has proposed Elizabeth Queen Hedge Maple and Patmore Green Ash for parking lot trees (Sheet L1.0). The City Arborist states that Elizabeth Queen Hedge Maple trees will not provide a significant canopy effect over the parking lot and recommends a more broad spreading tree (over 40' wide canopy at maturity) in order to maximize the canopy effect. Alternative parking lot trees can to be chosen from the City of Tigard Tree List. Parking lot trees are required to be 2½" caliper minimum.

In addition, there are three locations (two in the southeast portion of the parking lot adjacent to the building, and one in the north central portion of the parking lot) where additional trees are required to meet the "1 tree for every 7 parking spaces standard". These additional trees will need to be provided at least 1000 cu. Ft. of soil volume in order to provide for their growth to maturity.

The applicant is proposing to utilize porous paving and engineered planting soils within the parking lot in order to provide for tree growth to maturity. The City Arborist recommends requiring the applicant's landscape architect provide a detail of the engineered planting soil for underneath the parking lot islands to demonstrate that each island will provide at least 1000 cu. Ft. of growing medium. Prior to final inspection, the City should also require verification from the project landscape architect that the engineered planting soils have been installed per the approved landscape plan.

Screening Of Service Facilities.

Except for one-family and two-family dwellings, any refuse container or disposal area and service facilities such as gas meters and air conditioners which would otherwise be visible from a public street, customer or resident parking area, any public facility or any residential area shall be screened from view by placement of a solid wood fence or masonry wall between five and eight feet in height. All refuse materials shall be contained within the screened area;

The applicant's narrative does not address this standard. Therefore, to ensure compliance with this standard the applicant shall submit detailed plans to show that all proposed service facilities such as gas meters and air conditioners are screened from customer parking areas and public streets. The applicant's revised plan will need to identify the material and height of enclosures with respect to the facilities being screened.

Screening Of Refuse Containers.

Except for one- and two-family dwellings, any refuse container or refuse collection area which would be visible from a public street, parking lot, residential or commercial area, or any public facility such as a school or park shall be screened or enclosed from view by placement of a solid wood fence, masonry wall or evergreen hedge. All refuse shall be contained within the screened area.

The applicant has proposed to enclose refuse containers within the southwest tower portion of the building, consistent with this standard.

FINDING: Based on the analysis above, the landscaping and screening standards have not been fully met. If the applicant complies with the conditions listed below, the standards will be met.

CONDITIONS:

- ◆ The applicant shall submit a revised landscape plan showing that the main parking field is fully screened from views from the east, including low lying and vertical shrubbery in addition to the proposed Patmore Green Ash.
- ◆ The applicant shall submit detailed plans to show that all proposed service facilities such as gas meters and air conditioners are screened from customer parking areas and public streets. The applicant's revised plan will need to identify the material and height of enclosures with respect to the facilities being screened.
- ◆ The applicant shall submit a revised landscape plan showing There are three locations (two in the southeast portion of the parking lot adjacent to the building, and one in the north central portion of the parking lot) where additional trees are required to meet the "1 tree for every 7 parking spaces standard". These additional trees will need to be provided at least 1000 cu. Ft. of soil volume in order to provide for their growth to maturity.
- ◆ The applicant shall submit a detail of the engineered planting soil for underneath the parking lot islands, prepared by a registered landscape architect, to demonstrate that each island will provide at least 1000 cu. Ft. of growing medium.
- ◆ The applicant shall submit a revised landscape plan showing a substitute for the proposed Elizabeth Queen Hedge Maple with a more broad spreading tree (over 40' wide canopy at maturity) in order to maximize the canopy effect over the parking lot.
- ◆ Prior to final inspection, the applicant shall submit a statement from the project landscape architect that the engineered planting soils have been installed per the approved landscape plan.

Mixed Solid Waste and Recyclables Storage (18.755):

Chapter 18.755 requires that new construction incorporates functional and adequate space for on-site storage and efficient collection of mixed solid waste and source separated Recyclables prior to pick-up and removal by haulers.

The applicant must choose one (1) of the following four (4) methods to demonstrate compliance: Minimum Standard, Waste Assessment, Comprehensive Recycling Plan, or Franchised Hauler Review and Sign-Off. The applicant will have to submit evidence or a plan which indicates compliance with this section. Regardless of which method chosen, the applicant will have to submit a written sign-off from the franchise hauler regarding the facility location and compatibility.

FINDING: The applicant has chosen the Comprehensive Recycling Plan method for compliance with these standards. The applicant's architectural plans (Sheets A1.0 and A2.0) shows that recycling and refuse containers will be located inside the building tower at the southwest corner of the building, consistent with the applicable Mixed Solid Waste and Recyclables Storage standards.

Off-Street Parking and Loading (18.765):

Location of vehicle parking:

Off-street parking spaces for single-family and duplex dwellings and single-family attached dwellings shall be located on the same lot with the dwellings. Off-street parking lots for uses not listed above shall be located not further than 200 feet from the building or use that they are required to serve, measured in a straight line from the building with the following exceptions: a) commercial and industrial uses which require more than 40 parking spaces may provide for the spaces in excess of the required first 40 spaces up to a distance of 300 feet from the primary site; The 40 parking spaces which remain on the primary site must be available for users in the following order of priority: 1) Disabled-accessible spaces; 2) Short-term spaces; 3) Long-term preferential carpool and vanpool spaces; 4) Long-term spaces.

The proposed parking spaces associated with this project as shown in the Preliminary Site Development plan (Sheet C-4.0) are located north and adjacent to the existing building on the subject property, consistent with this standard.

Joint Parking:

Owners of two or more uses, structures or parcels of land may agree to utilize jointly the same parking and loading spaces when the peak hours of operation do not overlap, subject to the following: 1) The size of the joint parking facility shall be at least as large as the number of vehicle parking spaces required by the larger(est) use per Section 18.765.070; 2) Satisfactory legal evidence shall be presented to the Director in the form of deeds, leases or contracts to establish the joint use; 3) If a joint use arrangement is subsequently terminated, or if the uses change, the requirements of this title thereafter apply to each separately.

Joint parking is not proposed.

Parking in mixed-use projects:

In mixed-use projects, the required minimum vehicle parking shall be determined using the following formula: 1. Primary use, i.e., that with the largest proportion of total floor area within the development, at 100% of the minimum vehicle parking required for that use in Section 18.765.060; 2) Secondary use, i.e., that with the second largest percentage of total floor area within the development, at 90% of the vehicle parking required for that use in Section 18.765.060; 3) Subsequent use or uses, at 80% of the vehicle parking required for that use(s) in Section 18.765.060; 4) The maximum parking allowance shall be 150% of the total minimum parking as calculated in D.1.-3. above.

The proposed Dave and Buster's restaurant is a mixed use development including restaurant and indoor entertainment. According to the "D&B Land Use Breakout" exhibit provided by the applicant's transportation consultant, and the Architectural plans (Sheet A-1.0) the Arcade is 13,446 square feet; the balance of the space in restaurant (including office/mezzanine) is 12,658 square feet. Therefore, the arcade will be counted a 100% and the restaurant will be counted at 90% of the minimum vehicle parking requirement for the use.

Disabled-Accessible Parking:

All parking areas shall be provided with the required number of parking spaces for disabled persons as specified by the State of Oregon Uniform Building Code and federal standards. Such parking spaces shall be sized, signed and marked as required by these regulations.

The applicant's Preliminary Site Plan (Sheet C-4.0) shows six (6) proposed ADA spaces. According to the Oregon Structural Specialty Code, one accessible space per 25 parking spaces is required. A parking lot with 232 spaces would require six ADA spaces. Final determination of the number of required ADA spaces will be made by the building official during the review of the building permit application. As shown, the site plan appears to be in compliance with the ADA requirements.

DEQ indirect source construction permit:

All parking lots containing 250 spaces or parking structures containing two or more levels shall require review by the Oregon Department of Environmental Quality (DEQ) to: 1. Acquire an Indirect Source Construction Permit; or 2. Investigate the feasibility of installing oil and grease separators

The proposal includes 226 parking spaces and is required to have 232 spaces and is therefore not subject to the DEQ review requirement. However, the project is part of a parking field that includes over 250 spaces. Therefore, if required by DEQ, the applicant shall submit evidence that they have applied for a DEQ indirect source construction permit or provide verification from DEQ that such permit is not necessary.

Access Drives:

With regard to access to public streets from off-street parking: access drives from the street to off-street parking or loading areas shall be designed and constructed to facilitate the flow of traffic and provide maximum safety for pedestrian and vehicular traffic on the site; the number and size of access drives shall be in accordance with the requirements of Chapter, 18.705, Access, Egress and Circulation; access drives shall be clearly and permanently marked and defined through use of rails,

fences, walls or other barriers or markers on frontage not occupied by service drives; access drives shall have a minimum vision clearance in accordance with Chapter 18.795, Visual Clearance; access drives shall be improved with an asphalt or concrete surface; and excluding single-family and duplex residences, except as provided by Subsection 18.810.030.P, groups of two or more parking spaces shall be served by a service drive so that no backing movements or other maneuvering within a street or other public right-of-way will be required.

The existing access drives have been addressed previously in this decision, are not proposed to be significantly modified, and are consistent with the Access and Egress and Visual Clearance standards.

Parking Lot Striping:

Except for single-family and duplex residences, any area intended to be used to meet the off-street parking requirements as contained in this Chapter shall have all parking spaces clearly marked; and all interior drives and access aisles shall be clearly marked and signed to show direction of flow and maintain vehicular and pedestrian safety.

The Preliminary Access and Circulation plan submitted (Sheet C-3.0) shows the parking spaces and direction of flow clearly marked, consistent with this standard.

Wheel Stops:

Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop at least four inches high located three feet back from the front of the parking stall. The front three feet of the parking stall may be concrete, asphalt or low lying landscape material that does not exceed the height of the wheel stop. This area cannot be calculated to meet landscaping or sidewalk requirements.

The applicant's Preliminary Site Plan (Sheet C-4.0) shows 30 compact parking spaces on the west perimeter without wheel stops, eight spaces adjacent to the building with wheel stops and 18 spaces on the east perimeter without wheel stops. Therefore, the proposal is not consistent with this standard. The applicant shall submit a revised plan showing the required wheel stops per this standard.

Space and Aisle Dimensions:

Section 18.765.040.N states that: "except as modified for angled parking in Figures 18.765.1 and 18.765.2 the minimum dimensions for parking spaces are: 8.5 feet x 18.5 feet for a standard space and 7.5 feet x 16.5 feet for a compact space"; aisles accommodating two direction traffic, or allowing access from both ends, shall be 24 feet in width. No more than 50% of the required spaces may be compact spaces.

The applicant's Preliminary Site plan (Sheet C-4.0) does not show dimensions of the proposed parking spaces and aisles. Therefore, the applicant shall submit a revised site development plan showing how the parking space and aisle dimension standards can be met.

Bicycle Parking Location and Access:

Section 18.765.050 states bicycle parking areas shall be provided at locations within 50 feet of primary entrances to structures; bicycle parking areas shall not be located within parking aisles, landscape areas or pedestrian ways; outdoor bicycle parking shall be visible from on-site buildings and/or the street. When the bicycle parking area is not visible from the street, directional signs shall be used to located the parking area; and bicycle parking may be located inside a building on a floor which has an outdoor entrance open for use and floor location which does not require the bicyclist to use stairs to gain access to the space. Exceptions may be made to the latter requirement for parking on upper stories within a multi-story residential building.

The applicant's Preliminary Site Plan (Sheet C4.0) shows that the locational standards are met.

Bicycle Parking Design Requirements:

Section 18.765.050.C. The following design requirements apply to the installation of bicycle racks: The racks required for required bicycle parking spaces shall ensure that bicycles may be securely locked to them without undue inconvenience. Provision of bicycle lockers for long-term (employee) parking is encouraged but not required; bicycle racks must be securely anchored to the ground, wall or other structure; bicycle parking spaces shall be at least 2½ feet by six feet long, and, when covered, with a vertical clearance of seven feet. An access aisle of at least five feet

wide shall be provided and maintained beside or between each row of bicycle parking; each required bicycle parking space must be accessible without moving another bicycle; required bicycle parking spaces may not be rented or leased except where required motor vehicle parking is rented or leased. At-cost or deposit fees for bicycle parking are exempt from this requirement; and areas set aside for required bicycle parking must be clearly reserved for bicycle parking only. Outdoor bicycle parking facilities shall be surfaced with a hard surfaced material, i.e., pavers, asphalt, concrete or similar material. This surface must be designed to remain well drained.

The applicant has not provided a detail of the bike rack to be used. Therefore, the applicant shall submit a bike rack detail consistent with the bike parking design requirements.

Minimum Bicycle Parking Requirements:

The total number of required bicycle parking spaces for each use is specified in Table 18.765.2 in Section 18.765.070.H. In no case shall there be less than two bicycle parking spaces.

According to Table 18.765.2 of the Tigard Development Code, the minimum bicycle-parking requirement for Indoor Entertainment is 0.5/1,000 square feet, and for Eating and Drinking Establishments is 1.0/1,000 square feet. Based on 13,446 square feet for the proposed Indoor Entertainment use ($0.5 \times 13.4 = 6.7$) and 12,658 square feet for the proposed Eating and Drinking Establishment ($1.0 \times 12.6 = 12.6 \times .90 = 11.34$) 19 bicycle parking spaces are required ($6.7 + 11.34 = 18.04$). The applicant's narrative and Preliminary Site plan (Sheet C-4.0) proposes eighteen spaces. Therefore, this standard has not been met.

Minimum Off-Street Parking:

Section 18.765.070.H states that the minimum and maximum parking shall be as required in Table 18.765.2.

According to Table 18.765.2 of the Tigard Development Code, the minimum parking for Indoor Entertainment is 4.3/1,000 square feet, and for Eating and Drinking Establishments is 15.3/1,000 square feet. Based on 13,446 square feet for the proposed Indoor Entertainment use ($4.3 \times 13.4 = 57.6$) and 12,658 square feet for the proposed Eating and Drinking Establishment ($15.3 \times 12.6 = 192.7 \times .90 = 173.5$) 232 parking spaces are required ($57.6 + 173.5 = 231.1$). The proposed development includes 226 spaces. Therefore, this standard has not been met.

Off-Street Loading Spaces:

Commercial, industrial and institutional buildings or structures to be built or altered which receive and distribute material or merchandise by truck shall provide and maintain off-street loading and maneuvering space as follows: A minimum of one loading space is required for buildings with 10,000 gross square feet or more; A minimum of two loading spaces for buildings with 40,000 gross square feet or more.

The proposed building is approximately 23,000 square feet; therefore, the applicant is required to provide one loading space. The applicant's Preliminary Site Plan (Sheet C4.0) shows one loading area on the west side of the building, consistent with this standard.

FINDING: Based on the analysis above, the off-street parking and loading standards have not been fully satisfied; however, if the applicant complies with the conditions listed below, the standards will be met.

CONDITIONS:

- ◆ The applicant shall submit a revised site development plan and calculations showing compliance with the minimum bicycle and vehicle parking standards.
- ◆ The applicant shall submit evidence that they have applied for a DEQ indirect source construction permit, if required by DEQ, or provide verification from DEQ that such permit is not necessary.
- ◆ The applicant shall submit a bike rack detail consistent with the bike parking design requirements.
- ◆ The applicant shall submit a revised plan showing the required wheel stops per TDC18.765.040.J.

- ◆ The applicant shall submit a revised site development plan showing how the parking space and aisle dimension standards can be met.

Signs (18.780):

Chapter 18.780.130.D lists the type of allowable signs and sign area permitted in the MUC Zoning District.

FINDING: The applicant has not applied for signs at this time. The applicant's narrative states specific signs have not been identified, while their Architectural Elevations (Sheet A-2.0) show logo and lettered signs on the Hwy 217 and entrance elevations of the building. The applicant has indicated that a sign permit will be applied for later under a Type I review.

Tree Removal (18.790):

Section 18.790.030 requires that a tree plan for the planting, removal and protection of trees prepared by a certified arborist shall be provided with a site development review application. The tree plan shall include identification of all existing trees, identification of a program to save existing trees or mitigate tree removal over 12 inches in caliper, which trees are to be removed, protection program defining standards and methods that will be used by the applicant to protect trees during and after construction.

A tree plan has been provided by the applicant including identification of the location, size and species of all existing trees and identification of all trees which are proposed to be removed. However, the plan does not contain mitigation or protection elements.

Based on the arborist report, 3 of 8 trees over 12 inches diameter are to be preserved for a retention percentage of 38%. According to the mitigation standards, two-thirds of the total inches removed (87 inches removed x 2/3 = 58 inches) require mitigation. The applicant has not yet provided a mitigation proposal. The mitigation proposal is required to be signed off by the Project Arborist prior to City approval.

The tree protection specifications on pages 3 and 4 of the Project Arborist report dated January 12, 2010 need to be included on the tree preservation plan (sheet TP1.0). In addition, the tree preservation plan needs to include an additional note addressing tree preservation after construction (specifically addressing appropriate landscaping around preserved trees), and a signature of approval from the Project Arborist. Conditions of approval will ensure that the tree protection program is implemented during and after construction.

Any tree preserved or retained in accordance with this section may thereafter be removed only for the reasons set out in a tree plan, in accordance with Section 18.790.030, or as a condition of approval for a conditional use, and shall not be subject to removal under any other section of this chapter. The property owner shall record a deed restriction as a condition of approval of any development permit affected by this section to the effect that such tree may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restriction may be removed or will be considered invalid if a tree preserved in accordance with this section should either die or be removed as a hazardous tree. The form of this deed restriction shall be subject to approval by the Director.

A condition of approval will ensure this requirement is met.

FINDING: Not all of the applicable Tree Removal standards have been met. Provided the applicant meets the following conditions of approval, the standards can be met.

CONDITIONS:

- ◆ Prior to site work, the applicant shall submit a revised Tree Preservation plan that includes the tree protection specifications on pages 3 and 4 of the Project Arborist report dated January 12, 2010. In addition, the Tree Preservation plan shall include an additional note addressing tree preservation after construction (specifically addressing appropriate landscaping around preserved trees), and a signature of approval from the Project Arborist.

- ◆ The applicant shall allow access by the City Arborist for the purpose of monitoring and inspection of the tree protection to verify that the tree protection measures are performing adequately. Failure to follow the plan, or maintain tree protection fencing in the designated locations shall be grounds for immediate suspension of work on the site until remediation measures and/or civil citations can be processed.
- ◆ If work is required within an established tree protection zone, the Project Arborist shall prepare a proposal detailing the construction techniques to be employed and the likely impacts to the trees. The proposal shall be reviewed and approved by the City Arborist before proposed work can proceed within a tree protection zone. The City Arborist may require changes prior to approval. The Project Arborist shall be on site while work is occurring within the tree protection zone and submit a summary report certifying that the work occurred per the proposal and will not significantly impact the health and/or stability of the trees. This note shall be included on the Tree Protection Plan.
- ◆ The applicant shall have an on-going responsibility to ensure that the Project Arborist has submitted written reports to the City Arborist, at least once every two weeks, as the Project Arborist monitors the construction activities from initial tree protection zone (TPZ) fencing installation through the building construction phases. The reports shall evaluate the condition and location of the tree protection fencing, determine if any changes occurred to the TPZ, and if any part of the Tree Protection Plan has been violated. If the amount of TPZ was reduced, then the Project Arborist shall certify that the construction activities did not adversely impact the overall, long-term health and stability of the tree(s). If the reports are not submitted to the City Arborist at the scheduled intervals, and if it appears the TPZ's or the Tree Protection Plan are not being followed by the contractor or a sub-contractor, the City can stop work on the project until an inspection can be done by the City Arborist and the Project Arborist. Prior to final inspection, the applicant shall submit a final report by the Project Arborist certifying the health of protected trees and that the street trees were properly planted per the approved street tree plan. Tree protection measures may be removed and final inspection authorized upon review and approval by the City Arborist.
- ◆ Prior to issuance of any Certificates of Occupancy, the applicant/owner shall record deed restrictions to the effect that any existing tree greater than 6" diameter may be removed only if the tree dies or is hazardous according to a certified arborist. The deed restrictions may be removed or will be considered invalid if all trees preserved in accordance with this decision should either die or be removed as hazardous trees.
- ◆ Prior to site work, the applicant shall submit a tree mitigation plan, signed off/certified by the Project Arborist that it meets the requirements of 18.790.060D and that the species and placement of mitigation trees have been reasonably calculated to provide for their growth to maturity.
- ◆ Prior to site work, the applicant shall submit a cash assurance (letter of credit or cash deposit) for the equivalent value of mitigation required (e.g. 58 caliper inches of proposed mitigation tree planting x \$125/caliper inch). Any trees successfully planted on or off-site, in accordance with an approved Tree Mitigation Plan and TDC 18.790.060.D, will be credited against the assurance two years after all of the trees are planted. After the plan is approved and the trees are planted, the Project Arborist shall submit a letter to the City Arborist to certify that all of the mitigation trees were properly planted per the approved Tree Mitigation Plan in order to set the starting point of the two year tree establishment period. After the two year establishment period, the applicant shall provide a re-inventory of the mitigation trees conducted by a certified arborist in order to document mitigation tree survival, and compliance with the approved Tree Mitigation Plan. The remaining value of caliper inches not successfully mitigated shall be paid as a fee in-lieu of planting from the original cash assurance. Failure to plant and provide documentation of mitigation tree planting by the Project Arborist within 6 months of certificate of occupancy issuance shall result in the forfeiture of the cash assurance to the City's tree fund.

Visual Clearance Areas (18.795):

Chapter 18.795 requires that a clear vision area shall be maintained on the corners of all property adjacent to intersecting right-of-ways or the intersection of a public street and a private driveway. A clear vision area shall contain no vehicle, hedge, planting, fence, wall structure, or temporary or permanent obstruction exceeding three (3) feet in height. The code provides that obstructions that may be located in this area shall be visually clear between three (3) and eight (8) feet in height (8) (trees may be placed within this area provided that all branches below eight (8) feet are removed). A visual clearance area is the triangular area formed by measuring a 30-foot distance along the street right-of-way and the driveway, and then connecting these two (2), 30-foot distance points with a straight line.

FINDING: The applicant has indicated in the narrative, site plan (Sheet C4.0), and Site Distance Evaluation (Exhibit L) that a clear vision area between 3 and 8 feet in height and sight distance will be maintained at the vehicular access of the property, consistent with the vision clearance standards.

C. SPECIFIC SITE DEVELOPMENT REVIEW APPROVAL STANDARDS

18.360.030

Phased development.

The Director shall approve a time schedule for developing a site in phases over a period of time of one year, but in no case shall the total time period for all phases be greater than three years without reapplying for site development review.

The criteria for approving a phased site development review proposal is that all of the following are satisfied: a) The public facilities are constructed in conjunction with or prior to each phase; b) The development and occupancy of any phase is not dependent on the use of temporary public facilities. A temporary public facility is any facility not constructed to the applicable City or district standard; c) The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as part of the approved development proposal; and d) The Director's decision may be appealed as provided by Section 18.390.040.G. No notice need be given of the Director's decision.

The Director may waive or modify the approval period for projects within the Washington Square Regional Center in accordance with Section 18.630.020.C.

The project is proposed to be developed in phases commencing with the redevelopment of the west side of the subject property. The easterly portion of the property will be redeveloped as future tenants are identified (Sheet C1.0 – Regional Context/Aerial Photo). See findings for phasing in Section 18.630.020.C above.

Section 18.360.090(A)(2) through 18.360.090(A)(15) provides additional Site Development Review approval standards not necessarily covered by the provisions of the previously listed sections. These additional standards are addressed immediately below with the following exceptions:

The proposal contains no elements related to the provisions of the following and are, therefore, found to be inapplicable as approval standards:

18.360.090.3 (Multi Family Exterior Elevations); 18.360.090.5 (Privacy and Noise: Multi-family or Group Living Uses); 18.360.090.6 (Private Outdoor Areas: Multi-family Use); 18.360.090.7 (Shared Outdoor Recreation Areas: Multi-family Use); 18.360.090.8 (100-year floodplain); and 18.360.090.9 (Demarcation of Spaces).

The following sections were discussed previously in this decision and, therefore, will not be addressed in this section:

18.360.090.4 (Buffering, Screening and Compatibility Between Adjoining Uses; 18.360.090.13 (Parking); 18.360.090.14 (Landscaping); 18.360.090.15 (Drainage); and 18.360.090.14 (Provision for the Disabled).

Relationship to the Natural and Physical Environment:

Buildings shall be: located to preserve existing trees, topography and natural drainage where possible based upon existing site conditions; located in areas not subject to ground slumping or sliding; located to provide adequate distance between adjoining buildings for adequate light, air circulation, and fire-fighting; and oriented with consideration for sun and wind. Trees shall be preserved to the extent possible.

Innovative methods and techniques to reduce impacts to site hydrology and fish and wildlife habitat shall be considered based on surface water drainage patterns, identified per Section 18.810.100A.3. and the City of Tigard "Significant Habitat Areas Map." Methods and techniques for consideration may include, but are not limited to the following:

- (1) Water quality facilities (for infiltration, retention, detention and/or treatment)
- (2) Pervious pavement
- (3) Soil amendment
- (4) Roof runoff controls
- (5) Fencing to guide animals toward safe passageways
- (6) Re-directed outdoor lighting to reduce spill-off into habitat areas
- (7) Preservation of existing vegetative and canopy cover

According to the applicant's narrative, placing the building along the southern edge of the site presented the least impacts to the site and allowed for the greatest amount of flexibility for future redevelopment. The building itself has been located on the subject property to mirror the location of the existing theater building pad, thus minimizing any new impacts to the site. By utilizing the existing pad area for future development, the siting of the building protects existing drainage ways; provides adequate distance between the adjoining building for light, air circulation, and fire prevention; maximizes visibility and maintains proper orientation for sun and wind.

A percentage of the existing trees being removed are dead or are in poor condition (Appendix N – Arborist Report). The applicant's narrative states "recognizing the site's physical constraints and design program, the existing trees within the project boundary are being preserved to the maximum extent possible. However, tree #120 is in a prominent location (adjacent to 217), native, and associated with other trees to be preserved. The City Arborist recommends that the applicant work with their Project Arborist to modify the site plan in order to preserve this high value tree and meet the above approval criteria.

The project has also incorporated innovative surface water drainage methods and techniques in order to reduce the impacts to the site hydrology. These include water quality facilities and porous paving around the parking lot tree diamonds (Sheet 6.0 – Preliminary Composite Utility Plan). The later also provide for additional soil volumes necessary for healthy tree growth.

The City Arborist recommends requiring the applicant's landscape architect provide a detail of the engineered planting soil for underneath the parking lot islands to demonstrate that each island will provide at least 1000 cu. Ft. of growing medium. In addition, prior to final inspection, the City should also require verification from the project landscape architect that the engineered planting soils have been installed per the approved landscape plan.

Crime Prevention and Safety:

- A. Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants;
- B. Interior laundry and service areas shall be located in a way that they can be observed by others;
- C. Mail boxes shall be located in lighted areas having vehicular or pedestrian traffic;
- D. The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime; and
- E. Light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps and abrupt grade changes. Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet, which is sufficient to illuminate a person.

According to the applicant's narrative, crime prevention is and will continue to be an ongoing concern for the entire Washington Square Mall. While the Mall has its own security staff, it relies heavily on exterior lighting to assist in the safety of its patrons. All proposed exterior lighting fixtures will provide appropriate lighting levels and be placed at heights that provide for safe illumination in and around traffic areas and areas vulnerable to crime. The building design has incorporated features to insure crime prevention and safety (Sheet A2.0 – Architectural Elevations and Sheet LT-01 Photometric Plan). Therefore, this criterion has been met.

Public Transit:

Provisions within the plan shall be included for providing for transit if the development proposal is adjacent to an existing or proposed transit route; the requirements for transit facilities shall be based on: the location of other transit facilities in the area; and the size and type of the proposal. The following facilities may be required after City and Tri-Met review: bus stop shelters; turnouts for buses; and connecting paths to the shelters.

Washington Square Mall accommodates a transit center within one half mile of the proposed development. There is TriMet bus service on SW Greenburg Road with bus stops within approximately 700 feet of the subject site by Lines #76 and #78. TriMet was notified of the subject proposal, but did not provide comment. Public transit in proximity to the site is currently adequate.

FINDING: Based on the analysis above, not all of the applicable specific site development review standards have been met. Provided the applicant meets the following conditions of approval, the standards can be met.

CONDITIONS:

- ♦ Prior to site work, the applicant, in consultation with their Project Arborist, shall seek to modify the site plan in order to preserve Tree #120. If the tree can be preserved the applicant shall submit a revised tree plan showing the tree as retained. If not, a statement by the Project Arborist shall demonstrate why the tree could not be preserved.
- ♦ Prior to site work, the applicant shall submit a design detail, provided by the applicant's landscape architect, of the engineered planting soil for underneath the parking lot islands to demonstrate that each island will provide at least 1000 cu. Ft. of growing medium.
- ♦ Prior to final inspection, the applicant shall submit verification from the project landscape architect that the engineered planting soils have been installed per the approved landscape plan.

D. STREET AND UTILITY IMPROVEMENTS STANDARDS

Chapter 18.810 provides construction standards for the implementation of public and private facilities and utilities such as streets, sewers, and drainage. The applicable standards are addressed below:

Streets:

Improvements:

Section 18.810.030.A.1 states that streets within a development and streets adjacent shall be improved in accordance with the TDC standards.

Section 18.810.030.A.2 states that any new street or additional street width planned as a portion of an existing street shall be dedicated and improved in accordance with the TDC.

Minimum Rights-of-Way and Street Widths: Section 18.810.030E and Figure 18.810.1 require a 7-lane arterial to have right-of-way varying from 124 feet to 128 feet. Other improvements required include sidewalks, bike lanes, underground utilities, street lighting, storm drainage, planter strips and street trees.

The existing sidewalk along Greenburg Road fronting this property is curb-tight with no planter strip. A development project on this property would typically be required to meet the development code requirements by dedicating sufficient right-of-way to accommodate a 10-foot sidewalk and planter strip, underground the utilities along the frontage, and construct the improvements necessary to meet the code requirements. However, the undergrounding along Greenburg Road is probably best performed as part of a larger redevelopment with the utilities placed underground in conjunction with construction of a planter and wider sidewalk. Undergrounding can be deferred until the redevelopment of the rest of the site occurs and the additional right-of-way is dedicated and made available to accommodate the full improvements required on this street.

The applicant argues that no improvements are required with this project. We concur that no public improvements are required on this project. Analysis of the existing use versus the proposed use does not support dedication of right-of-way or construction of improvements to meet the current code requirements. However, undergrounding of utilities and construction of improvements to meet the code requirements will again be addressed with any further redevelopment of the property. Improvements will depend on the scope, size, impact and location of phasing as well as the accounting of trip credits from previous approvals.

Street Alignment and Connections:

Section 18.810.030.H.1 states that full street connections with spacing of no more than 530 feet between connections is required except where prevented by barriers such as topography, railroads, freeways, pre-existing developments, lease provisions, easements, covenants or other restrictions existing prior to May 1, 1995 which preclude street connections. A full street connection may also be exempted due to a regulated water feature if regulations would not permit construction.

Section 18.810.030.H.2 states that all local, neighborhood routes and collector streets which abut a development site shall be extended within the site to provide through circulation when not precluded by environmental or topographical constraints, existing development patterns or strict adherence to other standards in this code. A street connection or extension is precluded when it is not possible to redesign, or reconfigure the street pattern to provide required extensions. Land is considered topographically constrained if the slope is greater than 15% for a distance of 250 feet or more. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the constraint precludes some reasonable street connection.

Washington Square provides for an internal private street system. Pre-existing development somewhat inhibits full-street connection without a longer range Master Plan. The proposed development does not require extension of streets as the accessway from Washington Square Road will adequately serve the development. However, as a phased plan, future street alignment and connections with respect to SW Locust and Washington Square Road will be key to the redevelopment potential of the Washington Square Too and Fringe areas. Earlier in this decision, the applicant has been conditioned to provide a phased development plan consistent with the Washington Square Development Standards. Street alignments and connections should be a part of that plan.

Cul-de-sacs: 18.810.030.L states that a cul-de-sac shall be no more than 200 feet long, shall not provide access to greater than 20 dwelling units, and shall only be used when environmental or topographical constraints, existing development pattern, or strict adherence to other standards in this code preclude street extension and through circulation:

- ♦ All cul-de-sacs shall terminate with a turnaround. Use of turnaround configurations other than circular, shall be approved by the City Engineer; and
- ♦ The length of the cul-de-sac shall be measured from the centerline intersection point of the two streets to the radius point of the bulb, and
- ♦ If a cul-de-sac is more than 300 feet long, a lighted direct pathway to an adjacent street may be required to be provided and dedicated to the City.

No cul-de-sacs are proposed.

Grades and Curves: Section 18.810.030.N states that grades shall not exceed ten percent on arterials, 12% on collector streets, or 12% on any other street (except that local or residential access streets may have segments with grades up to 15% for distances of no greater than 250 feet). Centerline radii of curves shall be as determined by the City Engineer.

No street extensions are proposed.

Access to Arterials and Major Collectors: Section 18.810.030.Q states that where a development abuts or is traversed by an existing or proposed arterial or major collector street, the development design shall provide adequate protection for residential properties and shall separate residential access and through traffic, or if separation is not feasible, the design shall minimize the traffic conflicts. The design shall include any of the following:

- ◆ A parallel access street along the arterial or major collector;
- ◆ Lots of suitable depth abutting the arterial or major collector to provide adequate buffering with frontage along another street;
- ◆ Screen planting at the rear or side property line to be contained in a non-access reservation along the arterial or major collector; or
- ◆ Other treatment suitable to meet the objectives of this subsection;
- ◆ If a lot has access to two streets with different classifications, primary access should be from the lower classification street.

There is no direct access to Greenburg Road from the site. Access is via two driveways on Washington Square Drive, a private street.

Private Streets: Section 18.810.030.T states that design standards for private streets shall be established by the City Engineer. The City shall require legal assurances for the continued maintenance of private streets, such as a recorded maintenance agreement. Private streets serving more than six dwelling units are permitted only within planned developments, mobile home parks, and multi-family residential developments.

No new private streets are proposed.

Block Designs - Section 18.810.040.A states that the length, width and shape of blocks shall be designed with due regard to providing adequate building sites for the use contemplated, consideration of needs for convenient access, circulation, control and safety of street traffic and recognition of limitations and opportunities of topography.

Block Sizes: Section 18.810.040.B.1 states that the perimeter of blocks formed by streets shall not exceed 1,800 feet measured along the right-of-way line except:

- ◆ Where street location is precluded by natural topography, wetlands or other bodies of water or, pre-existing development or;
- ◆ For blocks adjacent to arterial streets, limited access highways, major collectors or railroads.
- ◆ For non-residential blocks in which internal public circulation provides equivalent access.

The subject property is located within a block with a perimeter measuring approximately 2.2 miles. Block size is limited by Hwy. 217, a limited access highway. However, future redevelopment of the greater Washington Square Mall site should incorporate the street system roughly laid out in the Washington Square Regional Center Plan, including extensions of SW Locust through the site from east to west and Washington Square Road south abutting and through the subject site.

Section 18.810.040.B.2 also states that bicycle and pedestrian connections on public easements or right-of-ways shall be provided when full street connection is not possible. Spacing between connections shall be no more than 330 feet, except where precluded by environmental or topographical constraints, existing development patterns, or strict adherence to other standards in the code.

No new streets are proposed. However, pedestrian improvements are proposed (Sheet C3.0) from the proposed site to the Washington Square Road frontage, consistent with this standard.

Sidewalks: Section 18.810.070.A requires that sidewalks be constructed to meet City design standards and be located on both sides of arterial, collector and local residential streets. Private streets and industrial streets shall have sidewalks on at least one side.

The property on which the new development is proposed does have frontage on Greenburg Road and is subject to the requirements of the development code for construction of improvements along Greenburg Road. The development code requires a 10-foot sidewalk and 5-foot planter strip exclusive of curb along the Greenburg Road frontage. While the analysis for this particular project may not support the construction of those improvements, any further redevelopment will have to address the frontage improvements and undergrounding of utilities as required by the development code.

Sanitary Sewers:

Sewers Required: Section 18.810.090.A requires that sanitary sewer be installed to serve each new development and to connect developments to existing mains in accordance with the provisions set forth in Design and Construction Standards for Sanitary and Surface Water Management (as adopted by the Unified Sewerage Agency in 1996 and including any future revisions or amendments) and the adopted policies of the comprehensive plan.

Over-sizing: Section 18.810.090.C states that proposed sewer systems shall include consideration of additional development within the area as projected by the Comprehensive Plan.

Sanitary sewer service is available on site. There is no requirement for any off-site sewer work.

Storm Drainage:

General Provisions: Section 18.810.100.A states requires developers to make adequate provisions for storm water and flood water runoff.

The applicant will construct facilities that address detention and water quality requirements for the development proposed.

Accommodation of Upstream Drainage: Section 18.810.100.C states that a culvert or other drainage facility shall be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the development. The City Engineer shall approve the necessary size of the facility, based on the provisions of Design and Construction Standards for Sanitary and Surface Water Management (as adopted by the Unified Sewerage Agency in 2000 and including any future revisions or amendments).

The applicant will construct facilities that address detention and water quality requirements for the development proposed.

Effect on Downstream Drainage: Section 18.810.100.D states that where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the Director and Engineer shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in accordance with the Design and Construction Standards for Sanitary and Surface Water Management (as adopted by the Unified Sewerage agency in 2000 and including any future revisions or amendments).

In 1997, Clean Water Services (CWS) completed a basin study of Fanno Creek and adopted the Fanno Creek Watershed Management Plan. Section V of that plan includes a recommendation that local governments institute a stormwater detention/effective impervious area reduction program resulting in no net increase in storm peak flows up to the 25-year event. The City will require that all new developments resulting in an increase of impervious surfaces provide on-site detention facilities, unless the development is located adjacent to Fanno Creek. For those developments adjacent to Fanno Creek, the storm water runoff will be permitted to discharge without detention.

Detention is required and included on this project.

Bikeways and Pedestrian Pathways:

Bikeway Extension: Section 18.810.110.A states that developments adjoining proposed bikeways identified on the City's adopted pedestrian/bikeway plan shall include provisions for the future extension of such bikeways through the dedication of easements or right-of-way.

No bikeways, bike lanes, or pedestrian pathways are required as part of this project.

Utilities:

Section 18.810.120 states that all utility lines, but not limited to those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric lines operating at 50,000 volts or above, and:

- ♦ The developer shall make all necessary arrangements with the serving utility to provide the underground services;
- ♦ The City reserves the right to approve location of all surface mounted facilities;
- ♦ All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and
- ♦ Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

Exception to Under-Grounding Requirement: Section 18.810.120.C states that a developer shall pay a fee in-lieu of under-grounding costs when the development is proposed to take place on a street where existing utilities which are not underground will serve the development and the approval authority determines that the cost and technical difficulty of under-grounding the utilities outweighs the benefit of under-grounding in conjunction with the development. The determination shall be on a case-by-case basis. The most common, but not the only, such situation is a short frontage development for which under-grounding would result in the placement of additional poles, rather than the removal of above-ground utilities facilities. An applicant for a development which is served by utilities which are not underground and which are located across a public right-of-way from the applicant's property shall pay a fee in-lieu of under-grounding.

There are existing overhead utility lines along the frontage of Greenburg Road. Undergrounding of utilities is required. However, the undergrounding along Greenburg Road appears complicated and is probably best performed as part of a larger redevelopment of the site. That undergrounding can be deferred until the redevelopment of the rest of the site occurs and the undergrounding can be performed in conjunction with construction of the widened sidewalk and planter strip. There will be no fee-in-lieu payment authorized for undergrounding of utilities because the City does want the utilities placed underground as the Washington Square properties are further developed, or redeveloped.

ADDITIONAL CITY AND/OR AGENCY CONCERNS WITH STREET AND UTILITY IMPROVEMENT STANDARDS:

Traffic Study Findings:

The trip credits for the existing 4-screen theater offset the trips to be generated by the proposed development. As a result, a traffic impact study is not required. The trip credit and trip bank memorandum in Appendix J provides the basis for analysis. The City concurs with the conclusion that a traffic analysis is not required for this project.

Fire and Life Safety:

Tualatin Valley Fire and Rescue (TVF&R) is the service provider for fire and emergency services. Comments from TVF&R need to be incorporated into the project.

Public Water System:

The Tualatin Valley Water District (TVWD) provides water service in this area. The project is required to incorporate TVWD comments into their project.

Storm Water Quality:

The City has agreed to enforce Surface Water Management (SWM) regulations established by Clean Water Services (CWS) Design and Construction Standards (adopted by Resolution and Order No. 00-7) which require the construction of on-site water quality facilities. The facilities shall be designed to remove 65 percent of the phosphorus contained in 100 percent of the storm water runoff generated from newly created impervious surfaces. In addition, a maintenance plan shall be submitted indicating the frequency and method to be used in keeping the facility maintained through the year.

(For Private Facilities)

To ensure compliance with Clean Water Services design and construction standards, the applicant shall employ the design engineer responsible for the design and specifications of the private water quality facility to perform construction and visual observation of the water quality facility for compliance with the design and specifications. These inspections shall be made at significant stages throughout the project and at completion of the construction. Prior to final building inspection, the design engineer shall provide the City of Tigard (Inspection Supervisor) with written confirmation that the water quality facility is in compliance with the design and specifications.

(For privately maintained Stormwater Management Units)

The proposed unit from Stormwater Management is acceptable, provided the property owner agrees to hire the manufacturer (or approved equal) to provide the required maintenance of the unit. Prior to a final building inspection, the applicant shall demonstrate that they have entered into a maintenance agreement with Stormwater Management, or another company that demonstrates they can meet the maintenance requirements of the manufacturer.

This project is required to provide on-site detention and water quality treatment. The project plans includes facilities to address both. Calculations have been submitted to support the facilities incorporated in the project plans. With the construction of these facilities, these requirements are met.

Grading and Erosion Control:

CWS Design and Construction Standards also regulate erosion control to reduce the amount of sediment and other pollutants reaching the public storm and surface water system resulting from development, construction, grading, excavating, clearing, and any other activity which accelerates erosion. Per CWS regulations, the applicant is required to submit an erosion control plan for City review and approval prior to issuance of City permits.

The Federal Clean Water Act requires that a National Pollutant Discharge Elimination System (NPDES) erosion control permit be issued for any development that will disturb one or more acre of land. Since this site is over five acres, the developer will be required to obtain an NPDES permit from the City prior to construction. This permit will be issued along with the site and/or building permit.

(Grading plan for subdivisions)

A final grading plan shall be submitted showing the existing and proposed contours. The plan shall detail the provisions for surface drainage of all lots, and show that they will be graded to insure that surface drainage is directed to the street or a public storm drainage system approved by the Engineering Department. For situations where the back portions of lots drain away from a street and toward adjacent lots, appropriate private storm drainage lines shall be provided to sufficiently contain and convey runoff from each lot.

The applicant will also be required to provide a geotechnical report, per Appendix Chapter 33 of the UBC, for the proposed grading slope construction. The recommendations of the report will need to be incorporated into the final grading plan and a final construction supervision report must be filed with the Engineering Department prior to issuance of building permits.

The design engineer shall also indicate, on the grading plan, which lots will have natural slopes between 10% and 20%, as well as lots that will have natural slopes in excess of 20%. This information will be necessary in determining if special grading inspections and/or permits will be necessary when the lots develop.

Because the project will be disturbing over 1 acre of area, a 1200C permit is required. In addition, an erosion control plan is required as part of the project submittals prior to issuance of any City permits on the project. This includes submittal of an erosion control plan for demolition of the existing building, unless it is incorporated as part of an erosion control plan for the entire project.

Site Permit Required:

The applicant is required to obtain a Site Permit from the Building Division to cover all on-site private utility installations (water, sewer, storm, etc.) and driveway construction.

Address Assignments:

The City of Tigard is responsible for assigning addresses for parcels within the City of Tigard. An addressing fee in the amount of \$50.00 per address shall be assessed. This fee shall be paid to the City prior to site permit.

For multi-tenant buildings, one address number is assigned to the building and then all tenant spaces are given suite numbers. The City is responsible for assigning the main address and suite numbers. This information is needed so that building permits for tenant improvements can be adequately tracked in the City's permit tracking system. Based upon the information provided by the applicant, this building will be a multi-tenant building. Prior to issuance of the site permit, the applicant shall provide a suite layout map so suite numbers can be assigned. The addressing fee will then be calculated based upon the number of suites that must be addressed. In multi-level structures, ground level suites shall have numbers preceded by a "1", second level suites shall have numbers preceded by a "2", etc.

The proposed development will be issued a new address after the existing theater is demolished and land use approval is granted for the new development. The addressing fee will be paid at that time.

E. IMPACT STUDY

Section 18.360.090 states, "The Director shall make a finding with respect to each of the following criteria when approving, approving with conditions or denying an application:"

Section 18.390.040 states that the applicant shall provide an impact study to quantify the effect of development on public facilities and services. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standard, and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users.

In situations where the Community Development Code requires the dedication of real property interests, the applicant shall either specifically concur with a requirement for public right-of-way dedication, or provide evidence that supports that the real property dedication is not roughly proportional to the projected impacts of the development. Section 18.390.040 states that when a condition of approval requires the transfer to the public of an interest in real property, the approval authority shall adopt findings which support the conclusion that the interest in real property to be transferred is roughly proportional to the impact the proposed development will have on the public.

The existing sidewalk along Greenburg Road fronting this property is curb-tight with no planter strip. A development project on this property would typically be required to meet the development code requirements by dedicating sufficient right-of-way to accommodate a 10-foot sidewalk and planter strip, underground the utilities along the frontage, and construct the improvements necessary to meet the code requirements. However, the undergrounding along Greenburg Road is probably best performed as part of a larger redevelopment with the utilities placed underground in conjunction with construction of a planter and wider sidewalk. Based on trip credits from existing development, impacts have already been addressed. Undergrounding can be deferred until the redevelopment of the rest of the site occurs and the additional right-of-way is dedicated and made available to accommodate the full improvements required on this street.

The applicant argues that no improvements are required with this project. We concur that no public improvements are required on this project. Analysis of the existing use versus the proposed use does not support dedication of right-of-way or construction of improvements to meet the current code requirements. However, undergrounding of utilities and construction of improvements to meet the code requirements will again be addressed with any further redevelopment of the property.

The applicant's narrative includes an impact study (Appendix M) addressing the project's impacts on transportation, drainage system, parks system, water quantity and quality, and the sewer system, consistent with this standard.

ROUGH PROPORTIONALITY ANALYSIS

The site has approximately 500 feet of frontage along Greenburg Road. The Washington County Transportation Development Tax (TDT – effective July 1, 2009) is a mitigation measure that is required at the time of development. TDT rates change on July 1st of each year and the actual amount of a TDT charge is determined and becomes payable as of the date of building permit issue. Accordingly, the figures below are estimates as of the date of this approval based upon the rates in effect at this time.

Based on Washington County figures, TDTs for the proposed development are expected to recapture the following percentages of the traffic impact on the Collector and Arterial Street system: 15.9% of a new High Turn Restaurant; 1.1% of an Arcade; and 12.3% of General Office. The existing multiplex theater can be credited at 13.0%. The City's analysis (February 4, 2010 Memo to the file from Albert Shields) shows there is no incremental increase in peak hour trips and no TDT due at this time. Even though no TDT is due, the unmitigated impact of this project is estimated to be \$328,994 as shown in the following calculation:

Mitigation Value Assessment:

Full Impact (sum of TDT for three proposed uses)	\$1,734,304
Less the existing theater credit	-1,405,310
Estimate of net unmitigated impact	\$328,994

FINDING: The proposed development is Phase I of the redevelopment of the Washington Square Too Fringe property. The above analysis shows that even if no TDTs are owed at this time due to the credit accrued to the impacts of the existing development, there remains unmitigated impact on the transportation system. Construction of improvements to meet the code requirements will again be addressed with any further redevelopment of the property.

SECTION VII. OTHER STAFF COMMENTS

The City of Tigard Police Department was notified of the proposal and has no objections to it.

The City of Tigard Arborist has reviewed the proposal and his comments have been incorporated into the findings under Chapters 18.745 and 18.790.

The City of Tigard Development Review Engineer has reviewed the proposal and his comments have been incorporated into the findings under Chapters 18.705 and 18.810.

The City of Tigard Public Works Department did not comment on the subject proposal.

SECTION VIII. AGENCY COMMENTS

Clean Water Services commented in a Sensitive Area Pre-Screening Site Assessment (09-002233) that the project will not significantly impact the existing or potentially sensitive areas found near the site.

Washington County Department of Land Use & Transportation was notified of the subject proposal but did not provide comments within the comment period. However, Naomi Vogel, Associate Planner with the Current Planning Services Division notified the City that the County will need more time to review the project and submit comments to the file and the applicant.

The Oregon Department of Transportation (ODOT) did not comment on the subject proposal.

Tualatin Valley Fire and Rescue (TVF&R) did not comment on the subject proposal.

NW Natural attached a figure to their comment sheet that shows existing gas services on the project property. NW Natural has no objections to the development of the property.

Verizon commented that they will work with the developers on removing and replacing telco facilities on the subject site.

SECTION IX. PROCEDURE AND APPEAL INFORMATION

Notice:

Notice was posted at City Hall and mailed to:

- The applicant and owners
- Owner of record within the required distance
- Affected government agencies

Final Decision:

THIS DECISION IS FINAL ON FEBRUARY 24, 2010 AND BECOMES EFFECTIVE ON MARCH 11, 2010 UNLESS AN APPEAL IS FILED.

Appeal:

The decision of the Director (Type II Procedure) or Review Authority (Type II Administrative Appeal or Type III Procedure) is final for purposes of appeal on the date that it is mailed. Any party with standing as provided in Section 18.390.040.G.1. may appeal this decision in accordance with Section 18.390.040.G.2. of the Tigard Community Development Code which provides that a written appeal together with the required fee shall be filed with the Director within ten (10) business days of the date the notice of the decision was mailed. The appeal fee schedule and forms are available from the Planning Division of Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon 97223.

Unless the applicant is the appellant, the hearing on an appeal from the Director's Decision shall be confined to the specific issues identified in the written comments submitted by the parties during the comment period. Additional evidence concerning issues properly raised in the Notice of Appeal may be submitted by any party during the appeal hearing, subject to any additional rules of procedure that may be adopted from time to time by the appellate body.

THE DEADLINE FOR FILING AN APPEAL IS AT 5:00 PM ON MARCH 10, 2010.

Questions:

If you have any questions, please call the City of Tigard Planning Division, Tigard City Hall, 13125 SW Hall Boulevard, Tigard, Oregon at (503) 639-4171.



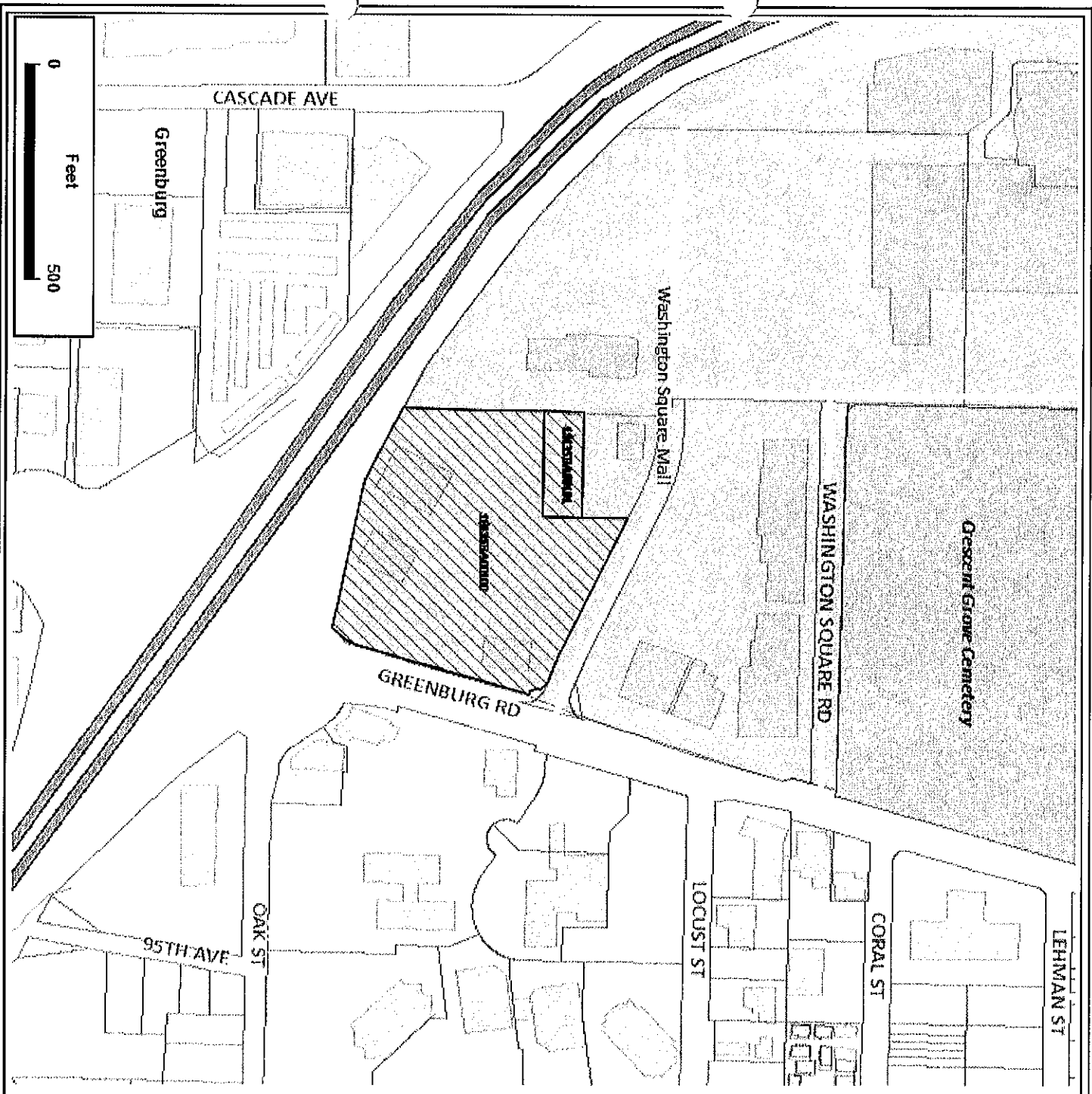
PREPARED BY: Gary Pagestecher
Associate Planner

February 23, 2010
DATE



APPROVED BY: Richard H. Bewersdorff
Planning Manager

February 23, 2010
DATE

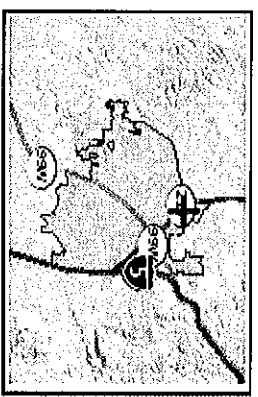


VICINITY MAP

SDR2009-00006

DAVE AND BUSTERS RESTAURANT

Subject Site



Information on this map is for general location only and should be verified with the Development Services Division.

Scale 1:4,000 - 1 in = 333 ft

Map printed at 04:53 PM on 01-Feb-10

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