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NO. 68463-9-I

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

FRIENDS OF NORTH KELSEY,

Appellant,

v.

CITY OF MONROE; PACLAND; and NORTH KELSEY, LLC,

Respondents,

and

DIANE and EDWARD ELLIOTT,

Third Party Respondents,

and

WAL-MART STORES, INC.,

Intervenor-Respondent.

BRIEF OF INTERVENOR-RESPONDENT
WAL-MART STORES, INC.

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FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2012 JUL 31 AM 11:51

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I. INTRODUCTION

At issue in this appeal is the Monroe City Council's approval of a Wal-Mart retail store—in particular, whether the proposed Wal-Mart store is consistent with a City of Monroe planning document called the North Kelsey Development Plan. The Plan contains broad goals, statements of intent, and design guidelines that apply to development in the area where the new Wal-Mart store is proposed. It gives the City considerable flexibility and discretion in determining whether a development is consistent with its guidelines. In this case, after extensive public review and input, the City Council exercised its discretion appropriately, issuing detailed findings of fact and conclusions of law in support of its determination that the proposed Wal-Mart store complies with all applicable provisions of the Plan.

Appellant Friends of North Kelsey (“FNK”) now asks this Court to override the City Council's discretionary application of its own code as well as its judgment that the project complies with the Plan's goals and design guidelines. The Court should decline to do so for the following reasons:

First, FNK's claims of noncompliance are based on the erroneous assumption that a large retail use like the proposed Wal-Mart store is inherently inconsistent with the Plan. After conceding that the proposed

use is consistent with the Plan, FNK asserts a litany of claims about how a large-scale retail store like Wal-Mart's proposal stands in "stark contrast" and is "utterly at odds" with the Plan. The problem with these claims is that the Plan allows and even encourages large-scale retail stores, "*including 'big-box' retail stores,*" in the area where the Wal-Mart store is proposed, and the very characteristics that FNK objects to—i.e., the large building and associated parking areas—are the very characteristics that make a store a "big-box retail store." Thus, contrary to the claims made by FNK, a big-box retail store like the proposed Wal-Mart store can, and in this case does, comply with the North Kelsey Development Plan.

Second, FNK erroneously assumes that, even if a big-box retail store can comply with the Plan, in this case the City Council approved a Wal-Mart store that is "formulaic" and "typical" without making any concessions to the Plan's goals, objectives and design guidelines. Nothing could be further from the truth. Beginning with pre-application considerations about how to design and configure the store on the site to best meet Plan goals and design guidelines, through the substantial project design changes made in response to public review and input, and culminating in additional City-Council conditions imposed on the store design to ensure compliance with the Plan, the development review

process has resulted in a Wal-Mart store design that is unique among Wal-Mart stores anywhere in the country.

Third, FNK’s claims are based on the erroneous assumption that this Court can substitute its judgment for that of the City Council on how best to apply the Plan goals and design guidelines to this particular proposal, a judgment that is subject to the clearly erroneous standard of review under the Land Use Petition Act. While FNK’s arguments reveal its subjective disagreement with the City Council’s findings of compliance with various goals and design guidelines in the Plan—according to FNK, “the issues presented are inherently visual”—such arguments are not sufficient for FNK to meet its burden of demonstrating clear error. Under this standard of review, the Court cannot substitute its judgment for that of the City Council even if it would have reached a different conclusion regarding how best to apply the Plan goals and guidelines to the proposed Wal-Mart store. But this is exactly what FNK invites this Court to do. The Court should decline this invitation and uphold the City Council’s decision.

II. ISSUES PRESENTED

1. Whether FNK has met its burden of affirmatively demonstrating that the City Council’s determination that Wal-Mart’s proposal is consistent with the North Kelsey Development Plan is an erroneous interpretation of the law, a clearly erroneous application of the law, or not supported by substantial evidence.

2. Whether FNK has met its burden of affirmatively demonstrating clear error in the City Council's determination that Wal-Mart's proposal qualifies as a "planned action" under the State Environmental Policy Act.

III. STATEMENT OF THE CASE

Intervenor Wal-Mart Stores, Inc. ("Wal-Mart") incorporates by reference the Statement of the Case in the Brief of Respondent City of Monroe and submits the following additional facts relevant to this appeal.

A. **The North Kelsey Development Plan Allows and Even Encourages Large Retail Uses Like the Proposed Wal-Mart Store**

At issue in this appeal is the City Council's approval of a Binding Site Plan, Grading Permit, and Development Agreement for development of a Wal-Mart retail store of approximately 151,179 square feet with associated seasonal and outdoor garden centers of approximately 13,000 square feet on part of a 24-acre property in the City of Monroe ("City"). CP 2752-53. The property is located in the Planned Development Area of the North Kelsey Planning Area, which is bisected into north and south areas by North Kelsey Street. CP 2752. The Wal-Mart store will be located in the north area, which is otherwise undeveloped. *Id.* Consistent with the Binding Site Plan, the Wal-Mart store will be located on the central 17-acre lot (Lot 1), with two out-lots for future development, one an approximately six-acre lot in the northernmost portion of the property for undisclosed future uses (Lot 2) and the other an approximately one-

acre site in the southwestern corner of the property intended for future retail or service uses (Lot 3). *Id.* The south area is partially developed with a Lowe's Home Improvement store. CP 2787.

The Planned Development Area, including the property on which the Wal-Mart store will be located, is zoned General Commercial and is subject to the North Kelsey Development Plan ("Plan"). CP 2752-53 (Appendix C, attached hereto). The Plan contains goals and objectives that call for the creation of a "pedestrian-friendly center that serves as a community focus, provides public open space and amenities, and accommodates a broad range of commercial and civic activities." CP 1978, 1964-85. The Plan also includes the North Kelsey Design Guidelines ("Design Guidelines"), which address Site Configuration, Site Planning, Circulation, and Architectural/Building Design. CP 1987-2035 (Appendix C, attached hereto).

One of the commercial uses allowed and even encouraged by the Plan is "big box" retail. CP 1971. According to one City Councilmember, "a large box store was always envisioned as a possibility for North Kelsey." CP 645.

B. The Proposed Wal-Mart Store Was Designed to Meet the Goals and Design Guidelines in the North Kelsey Development Plan.

Even before submitting its project applications on January 5, 2011, Wal-Mart gave careful consideration to the Plan and Design Guidelines in the initial design of its proposal. CP 421. It considered multiple site configuration alternatives and ultimately chose the one that best complied with the Plan and Design Guidelines, one that positioned the building on the east side of the property, facing west, in order to facilitate and provide pedestrian-oriented spaces, connections and amenities. *Id.* The building itself was designed using a variety of architectural techniques to create an overall concept consistent with the architecture and design concepts in the Plan, including façade modulation and articulation, variation in height, materials and color, and a plaza adjacent to the building entrances with such pedestrian amenities as landscaping, seating, and bicycle parking. CP 427.

C. Wal-Mart Proposed Design Changes in Response to Public Comment That Would Make the Proposed Store Unique Among Wal-Mart Stores Nationwide.

In response to citizens' comments at the March 15, 2011 City Council hearing on the proposal, Wal-Mart proposed additional revisions to the conceptual site plan and an alternative store design to ensure compliance with the Plan. CP 2615-16. These design changes "provide[]

for additional pedestrian amenities and landscaping features, as well as numerous enhancements to the structural materials, roof configurations, signage, and other aesthetic and architectural components of the proposed building.” CP 2699. They make the proposed store unique among Wal-Mart stores elsewhere in the country. CP 544, 567-68, 1906.

D. The City Council Imposed Additional Conditions on the Store Design to Ensure Compliance with the Plan and Design Guidelines.

At the March 29, 2011 public hearing on the proposal, the City Council imposed additional conditions to the revised conceptual site plan and store design in approving the Binding Site Plan, Grading Permit, and Development Agreement. CP 2699. These conditions included a : (1) a new pedestrian path from the southeast corner of the project site around the storm detention area to the south parking area; (2) utilization of an off-set crosswalk design for the North Kelsey Street crosswalk incorporated into the existing landscaping median, with additional safety amenities such as lighting or flagging; (3) the addition of a 12-foot mixed-use (bicycle and pedestrian) path from North Kelsey Street to the Garden Center; (4) installation of a 10-foot landscape buffer at the southwest corner of Lot 3 between the corner feature and any future building on Lot 3, and orientation of the garbage-handling operations associated with the future Lot 3 building away from the corner feature; and (5) enhancement of the

plaza area between the two main store entrances with the following amenities: three planters, three tables, six benches, and four hanging baskets. *Id.*

At its April 12, 2011 meeting, the City Council adopted Resolution 2011/009 approving the Development Agreement and the associated Binding Site Plan and Grading Permit applications. CP 2698 (Appendix A, attached hereto). The Resolution incorporated by reference the findings in the Staff Report and Recommendation. CP 2752-2771 (Appendix B, attached hereto). FNK appeals this Resolution.

IV. STANDARD OF REVIEW

A. **The Court's Review of the City Council's Land Use Decision is Deferential Under LUPA, and FNK Bears the Burden of Proof in This Proceeding.**

LUPA governs judicial review of land use decisions. *HJS Dev., Inc. v. Pierce County, Dep't of Planning & Land Servs.*, 148 Wn.2d 451, 467, 61 P.3d 1141 (2003) (en banc). When reviewing a superior court's decision on a land use petition, the appellate court stands in the same position as the superior court.¹ *Lakeside Industries v. Thurston County*,

¹ FNK cites confusing language from *Sylvester v. Pierce County*, a Division II Court of Appeals opinion, claiming that "the appellate court . . . reviews the local jurisdiction's decision *de novo*." See Op. Br. 8 (citing *Sylvester*, 148 Wn. App. 813, 822, 201 P.3d 381 (2009) (stating that "[u]nder LUPA, we stand in the shoes of the superior court and review the hearing examiner's land use decision *de novo* . . .") (emphasis provided)). To clarify, Washington law is clear that this Court reviews the *Superior Court's* decision below *de novo*, but this Court's review of the *local jurisdiction's* land use decision is

119 Wn. App. 886, 893, 83 P.3d 433 (2004). The court reviews the decision of the local jurisdiction’s body or officer with the highest level of authority to make the determination, including those with authority to hear appeals—in this case, the Monroe City Council. RCW 36.70C.020(1); *Citizens to Preserve Pioneer Park LLC v. Mercer Island*, 106 Wn. App. 461, 474, 24 P.3d 1079 (2001).

As a LUPA petitioner, FNK has the burden of showing that one or more of LUPA’s six standards for granting relief has been met.² FNK cites four of these six standards in its appeal:

- (a) The body or officer that made the land use decision engaged in unlawful procedure or failed to follow a prescribed process, unless the error was harmless;
- (b) The land use decision is an erroneous interpretation of the law, after allowing for such deference as is due the construction of a law by a local jurisdiction with expertise;
- (c) The land use decision is not supported by evidence that is substantial when viewed in light of the whole record before the court;

limited to LUPA’s statutory standards of review. *See, e.g., Sylvester*, 148 Wn. App. at 822-23 (applying LUPA’s standards of review directly to local jurisdiction’s decision).

² While FNK’s quotation of RCW 36.70C.130(1) states that “[t]he City’s decision must be reversed” in the circumstances listed in Subsections (a) through (d), *see* Op. Br. at 9, it omits the following language, which places the burden of proof on a petitioner-appellant in a LUPA proceeding: “The court *may* grant relief *only if the party seeking relief has carried the burden* of establishing that one of the standards . . . of this subsection has been met.” *See* RCW 36.70C.130 (emphasis provided).

(d) The land use decision is a clearly
erroneous application of the law to the facts

...

RCW 36.70C.130(1)(a)-(d), *cited in* Op. Br. 9. This provision “reflects clear legislative intention that [courts] give substantial deference to both legal and factual determinations of local jurisdictions with expertise in land use regulations.” *Timberlake Christian Fellowship v. King County*, 114 Wn. App. 174, 180, 61 P.3d 332 (2002).

B. Factual Determinations Are Reviewed for Substantial Evidence, and Unchallenged Findings of Fact Are Verities on Appeal.

Factual determinations are subject to a deferential “substantial evidence” standard, with the court considering all of the evidence and reasonable inferences in the light most favorable to the party who prevailed in the highest forum that exercised fact-finding authority. *Freeburg v. City of Seattle*, 71 Wn. App. 367, 371-72, 859 P.2d 610 (1993). Here, that was the Monroe City Council. Further, any finding of fact that was not specifically challenged is considered a verity on appeal in this proceeding. *See, e.g., City of Medina v. T-Mobile USA, Inc.*, 123 Wn. App. 19, 29, 95 P.3d 377 (2004) (findings of fact were “verities on appeal” due to LUPA petitioner’s failure to challenge them). While FNK includes a one-sentence, blanket assignment of error to all “findings and conclusions adopted by the City Council,” *see* Op. Br. at 3, it does not

seem to assign error to any particular finding of fact in the Council's approval of Wal-Mart's project.

C. LUPA's Standard of Review for Questions of Law Is Deferential.

Issues involving interpretation of law in LUPA's standard (b) are reviewed *de novo* under the error of law standard. *See, e.g., Wenatchee Sportsmen Ass'n v. Chelan County*, 141 Wn.2d 169, 4 P.3d 123 (2000). But despite this general *de novo* standard, a reviewing court must give "great weight" to the City's interpretation of its own zoning laws.³ *Ass'n of Rural Residents v. Kitsap County*, 95 Wn. App. 383, 391, 974 P.2d 863 (1999); *see* RCW 36.70C.130(1)(b) (requiring deference to "the construction of a law by a local jurisdiction with expertise"). LUPA's "*de novo*" standard (b) does not apply to any of FNK's claims, because—despite FNK's claims to the contrary—none of its challenges raise issues of purely legal

³ FNK not only ignores LUPA's express requirement that a court defer to the local jurisdiction's construction of its own laws, it argues for a broader *de novo* standard by citing the Division II Court of Appeals opinion in *Green*. *See* Op. Br. 9 (claiming deference is only appropriate where the controlling regulation is ambiguous) (citing *Green v. State Dept. of Social and Health Svcs.*, 163 Wn. App. 494, 508, 260 P.3d 254 (2011)). But *Green* has no application here, as the portions cited by FNK are the court's interpretation of the *de novo* standard under the Administrative Procedures Act—which, unlike LUPA, contains no requirement that a court defer to the agency's construction in applying the *de novo* standard of review. *See id.* ("Under RCW 34.05.570(3)(d), the APA's "error of law" standard, we may substitute our interpretation of the law for the agency's.") (emphasis provided); *see also* RCW 34.05.570(3)(d) (requiring the court to grant relief for an agency's action where "[t]he agency has erroneously interpreted or applied the law," with no requirement for deference to the agency's interpretation).

interpretation. Rather, FNK's claims relate almost exclusively to the City's application of its own Code, which is reviewed for clear error.

D. The City's Application of Its Code to Wal-Mart's Project Is Reviewed for Clear Error.

FNK's claims generally relate to the City Council's application of the provisions of the Plan and Design Guidelines to the project. Because these challenges involve the City Council's application of the law to the facts, they are reviewed for clear error under LUPA's standard (d). *See Citizens*, 106 Wn. App. at 474. As FNK concedes, "[t]he issue of whether the Wal-Mart proposal is consistent with each specific design guideline is reviewed under the clearly erroneous standard." *See Op. Br.* at 23 note 7. Notably, and of critical importance in this case, "[u]nder the clearly erroneous standard of review, *the court does not substitute its judgment for that of the administrative body* and may find the decision clearly erroneous only when it is left with the definite and firm conviction that a mistake has been committed." *Cougar Mountain Assocs. v. King County*, 111 Wn.2d 742, 747, 765 P.2d 264 (1988) (emphasis provided).

Here, FNK cannot meet its burden of demonstrating clear error, or that the decision should be reversed under any of LUPA's standards. This Court should thus uphold the Superior Court's denial of FNK's appeal.

V. ARGUMENT

A. **FNK Has Failed to Meet Its Burden of Demonstrating Clear Error in the City Council's Determination That the Project Is Consistent with the North Kelsey Development Plan.**

FNK's principal claim is that Wal-Mart's proposal fails to comply with various goals, statements of intent, and Design Guidelines in the Plan. To prevail on this claim, FNK must prove that the City Council's approval of the Wal-Mart store was clearly erroneous. FNK cannot meet this burden.

1. **The Proposed Wal-Mart Store Is Fully Consistent with the Plan's Goals.**

FNK claims that Wal-Mart's project is inconsistent with three of the six goals stated in the Plan. *See* Op. Br. 16-22. These goals are set forth in Chapter 1, Section C of the Plan, and each goal is followed by a list of corresponding objectives. *See* CP 1971-72. As is typical for goals and objectives in land use planning documents, these provisions are broad, subjective policy statements regarding development in the overall Plan area, and do not purport to impose land use controls on any particular project. *See, e.g., Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 128, 580 P.2d 246 (1978) (declarations of policy in law serve as a guide to determining the intended effect of operative provisions) (emphasis provided).

The same is true of the Plan's "concept" drawings, which FNK repeatedly cites in its Opening Brief as "proof" of an alleged failure to comply with the Plan's goals. *See, e.g.*, Op. Br. 16-17 (discussion of Goal 2), 19 (Goal 4), 21 (Goal 5). But the plain language of the Plan confirms that the City Council intended it as a broad, flexible planning document, and that it never intended these concept drawings to strictly control development in the Plan area. For example, the Development Concept included as Chapter 3 of the Plan is, per its terms, intended to translate the planning objectives discussed in the Plan into a set of "physical design principles." *See* CP 1978. And the other graphics FNK relies on in its attempt to bind the City to what is shown in the Plan drawings are clearly labeled as "illustrative," a "development concept," or a "hypothetical development plan"—and they are intended to be just that: illustrations, concepts, and hypothetical development scenarios. *See, e.g.*, CP 1970, 1978, 1981. In fact, the single large structure shown in some of these graphics contradicts FNK's assumption that Wal-Mart's project is inconsistent with these design concepts. *See* CP 1993 (Figures 5 and 6).

And contrary to FNK's reading of the goals as specific, regulatory mandates, nothing in the Plan requires every project to comply with every goal. Nor is any one of these broad goals elevated over others in importance. *See* CP 1971-72. Thus, these Plan provisions should be read

as a whole. *See, e.g., In re Detention of Williams*, 147 Wn.2d 476, 490, 55 P.3d 597 (2002) (en banc). This is critical because FNK’s challenge is based on only three of the six goals—namely, Goals 2, 4, and 5—and FNK ignores the rest. *See id.*

For example, FNK ignores the first goal stated in the Plan, which provides as follows:

Goal 1: Increase the City’s economic vitality.

Objectives: Allow for a variety of commercial uses, including “big-box” retail stores, as long as they are sited and designed to meet other plan objectives; Encourage uses for the north-site that support the City’s tax base.

CP 1971 (emphasis provided). FNK does not contest—nor can it—that Wal-Mart’s project is consistent with this goal’s objectives of “[a]llow[ing] for a variety of commercial uses” such as “‘big-box’ retail stores,” and encouraging uses on the north site (where Wal-Mart’s project is located) “that support the City’s tax base.” *See id.* Nor does FNK contest the project’s consistency with Goal 3, which is intended to “[p]rovide for uses and services that meet the needs of Monroe’s diverse population,” or Goal 6, which is intended to create an area that complements downtown by “[p]rovid[ing] uses and activities that are not and/or cannot be accommodated downtown,” and [e]ncourag[ing] site

design and development character that contrasts rather than copies downtown.” See CP 1971-72.

As Goal 1 of the Plan makes clear, a big-box retail store is an allowable and intended use that can be consistent with the Plan if sited and designed to meet other Plan objectives. See CP 1971; *see, also*. CP 1972 (“Encourage *large-scale retail uses* to provide multiple entries and minimize blank walls....”); CP 1980 (emphasis added) (“Identify a development configuration that allows for small and *large retail businesses....*”); CP 1993 (emphasis added) (“Locate[] and treat[] *large buildings* to reduce their *perceived scale....*”) (emphasis provided). Because Wal-Mart’s project is consistent with this Goal, as well as Goals 3 and 6, even if it were lacking with respect to the others challenged by FNK, it would be appropriate for the City Council to exercise its discretion to weigh, balance, and apply these statements of policy and find the project consistent with these broad policy goals. In any event, FNK is wrong that the project fails to comply with the Plan’s other goals.

a. Goal 2

FNK claims that Wal-Mart’s project conflicts with “Goal 2: Create a focal point as a community gathering spot,” which discusses—in its objectives—the creation of a “plaza open space” for community events. Op. Br. 17; *see* CP 1971. However, this goal does not apply to Wal-

Mart's project, because—as the Council found—the Plan “indicates that the ‘Village Green’ and ‘Focus Plaza’ areas will be located *on the southern site of North Kelsey.*” CP 2758 (Council finding); CP 1994 (Plan depiction of the Focal Plaza off the Wal-Mart site and to the south of North Kelsey Street). FNK concedes that “the ‘Village Green’ and ‘Focal Plaza’ are slated for the site south of North Kelsey,” but then claims the project violates this goal because the Wal-Mart site “plays a key role in furthering this goal.” *See* Op. Br. 17. In support of this claim, FNK then cites to various Design Guidelines (discussed below) as well as the Plan's Development Concept. *See* Op. Br. 16-18. But Goal 2 does not incorporate or reference any of these provisions, and the Development Concept is a wholly separate Plan chapter which shows one hypothetical development scenario. *See* CP 1978-83. Goal 2 simply encourages a “plaza open space” to be located *on another site* in the plan area. *See* CP 1971. FNK concedes as much, as it must. Op. Br. 17.

In any event, the City Council found the project to be consistent with all of the Plan's goals based on “[the] plaza area adjacent to the main entrance that will include specialty paving, public seating, and landscaping” and the corner pedestrian feature on the southwest corner of the site, which will be improved and dedicated to the public. CP 2758-59. The project does, in fact, contain a centrally-located plaza and pedestrian

access area directly in front of the store entrance, which will include planters, tables, benches, hanging baskets and other amenities such as landscaping and decorative elements. CP 2787 (site plan), 2732. This space connects the site to the south of North Kelsey Street through an off-set design crosswalk which will be incorporated into the existing landscaping median, complete with safety amenities, and a 12-foot wide bicycle and pedestrian path from North Kelsey Street to the garden center and storefront areas. *Id.* Additional mixed use paths are provided in other parts of the site, including a path from the southeast corner of the site to the south parking lot around the stormwater detention areas. CP 2732. Thus, even if the Plan required the focus plaza to be located on the Wal-Mart site (which it does not), the project fully complies with Goal 2.

b. Goal 4

FNK next claims that the project does not comply with “Goal 4: Create a strong identity for the development,” which relates to architectural design, project layout and landscaping. *See* Op. Br. 18; CP 1971. FNK claims that the project is not “unique and appropriate for Monroe” as required by Goal 4 because it is not “intimately scaled,” does not create an “informal architectural character,” or a “small town character,” and that it will “dominate the area’s identity with a formulaic, typical superstore Wal-Mart aesthetic.” Op. Br. 18-19. Notably, the only

one of these purported requirements that is actually in Goal 4 is the objective encouraging site and architectural design that is “unique and appropriate for Monroe.” *See* CP 1971. FNK’s other claims relate to the Plan’s Design Guidelines, or the Development Concept, none of which are incorporated or even referenced in Goal 4.

In factual findings that FNK cites but does not challenge, the City Council found that the elevation drawings “emphasize façade modulation, variation in materials, and variation in color, among other desirable architectural design elements.” CP 2759. In finding that the project complies with Goal 4, the City Council also noted the “landscaping along the site’s perimeter, throughout the parking area, and around the stormwater detention area.” *Id.* The City Council also found that “[s]tamped and colored concrete, common to the greater development, define entryways and connections to the site.” *Id.*

FNK attacks this finding on the basis that, in FNK’s opinion, the Council “ignor[ed] the massing and orientation of the building”; and because the project’s design treatments, in FNK’s opinion, “do not create a strong identity for this area.” Op. Br. 20. Again, the relevant portions of Goal 4 encourage creating a “strong identity for the development” through “architectural design that is unique and appropriate for Monroe,” and the Council concluded the project was consistent with this goal. CP 2759.

FNK cannot affirmatively demonstrate clear error in this determination by stating its lay opinion on the project's "identity" or "massing," so its challenge to the project based on Goal 4 must be rejected. In any event, the Council's unchallenged findings relating to this goal are supported by substantial evidence in the record, and support the City Council's conclusion of compliance with Goal 4.

c. Goal 5

FNK claims the project fails to satisfy "Goal 5: Encourage pedestrian-friendly development," which contains a lengthy set of objectives relating to pedestrian-friendly design. *See* CP 1972. FNK assumes the project cannot meet this goal, but ignores Plan provisions stating that "large-scale retail uses" can further this goal by "provid[ing] multiple entries and minimize[ing] blank walls." CP 1972; *see* Op. Br. 20 (omitting this language from FNK's excerpt of most of the text of Goal 5).

FNK cites but fails to challenge Council findings that the project "includes pedestrian connections throughout the site *as well as connections to the southern site.*" CP 2759, and that "[t]he main entrance to the northern site aligns with the southern site to support automobile and pedestrian access," CP 2760 (also noting that "[a]dditional bicycle paths planned for the southern site will provide off-street bicycle access to the northern [*i.e.*, Wal-Mart] site"). In determining that the project was

consistent with Goal 5, the City Council found that “[s]tamped and colored concrete . . . define entryways and connections to the site,” that perimeter landscaping provides screening for parking areas, and that “[t]he site will include paths, sidewalks, and bike racks to accommodate pedestrian and bicycle access,” as well as providing “two pedestrian entries into the development,” and noted the store’s design elements, “informal open spaces” on the site, and the “plaza area adjacent to the main entrance that will include specialty paving, public seating, and landscaping,” as well as the corner pedestrian feature on the site. CP 2759.

But FNK’s claim that this was clear error is supported solely by its own lay opinion that the design and layout of the project “encourages driving . . . and parking to get to the store,” and that the pedestrian amenities are “after thoughts [sic]” and “secondary to the primary car-focused site configuration and plan.” *See* Op. Br. 21. FNK is wrong on the merits—as the evidence in the record (including numerous unchallenged findings of fact) points in only one direction: The City Council correctly determined that the project complies with all of the above goals of the Plan. Because FNK offers no more than its subjective disagreement with the City’s decision, this Court should reject its claim that the project violates the Plan’s goals.

2. The Project Is Fully Consistent with the Plan's Design Guidelines.

FNK claims Wal-Mart's project fails to satisfy the Plan's Design Guidelines, which are set forth in Appendix 1 to the Plan, and include guidance on numerous design topics.⁴ *See generally* CP 1986-2035 (Appendix C). Much like FNK's position on the Plan's goals, FNK advocates for a rigid, prescriptive application of selective Design Guidelines, but the terms of the Guidelines make it clear that they are intended to be a flexible set of planning policies intended to encourage high-quality design through the City's discretionary, case-by-case application. In any event, the Design Guidelines are expressly intended to "[a]ccomodate[] retail development of various size and character" so long as the scale and design quality is appropriate for Monroe's small town character. *See* CP 1989.

The Design Guidelines also include express guidance about how they are to be applied. CP 1991-92. Under these interpretive provisions,

⁴ The parties briefed FNK's challenges to the project's based on other guidelines in FNK's prior appeals of the project—including, for example, the guidelines relating to Circulation, sidewalks and pathways, *see* CP 99-100, 293; building elements and details, CP 103-04, 297; exterior materials, CP 104-05, 298; and the retail use proposed at the site, CP 96, 290. FNK has waived these objections to the project by failing to address them in its Opening Brief, and has waived any other issue not raised in its Opening Brief, as well. *See, e.g., Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 809, 828 P.2d 549, 553 (1992) (en banc) ("An issue raised and argued for the first time in a reply brief is too late to warrant consideration.").

the critical inquiry for City decisionmakers is whether a given project meets the *intent* behind the Guidelines:

The project proponent may submit proposals that he/she feels meet the intent of the Guidelines but not necessarily the specifics of one or more Guidelines. *In this case, the City will determine if the intent of the guideline has been met.*

CP 1991 (emphasis provided). The Plan states that “[t]he City retains full authority to determine whether or not a proposal meets these guidelines,” and reserves the City’s right to decline to apply any particular guideline. CP 1990.

The interpretive provisions establish a three-tier scale “to indicate the relative importance and priority the City places upon the particular guideline,” based on whether the item is presented as something that is “encouraged,” that an applicant “should” do, or that an applicant “must” or “is required” to do. *See* CP 1990-91. Even under the most stringent standard—*i.e.*, where the words “shall,” “must,” or “required” are used—a guideline will not apply if the City finds it is not “applicable or appropriate *in the particular instance*, or [t]he development proposal meets the intent of the Guidelines in some other manner.” CP 1990 (emphasis added).

FNK makes much of the “mandatory ‘should’” guidelines that apply unless the City finds that “[1] The guideline or requirement is not applicable or appropriate in the particular instance, [2] The development proposal meets the intent of the guidelines in some other manner, or [3] There is a compelling reason to the contrary.” *See* CP 1990-91. But even with the requirement of a finding for guidelines containing the word “should,” the City still has discretion to determine whether a particular guideline is appropriate to apply *in each particular instance*, and whether the overall project meets the intent behind the Guidelines.⁵ *See id.* In basing its claims on a few selective guidelines while disregarding the rest, FNK ignores the Plan’s directive that the City Council determine whether the particular project before it meets the *intent* behind the Guidelines *as a whole*. In elevating a few Guidelines above others in support of its claims, FNK again ignores the canon of statutory construction that a law’s provisions “should be read in relation to the other provisions, *and the statute should be construed as a whole*,” as well as the City’s broad discretion in interpreting the Plan’s provisions in a flexible manner. *In re Detention of Williams*, 147 Wn.2d at 490, 55 P.3d 597 (emphasis provided).

⁵ The City may also disregard any guideline that it finds to conflict with the City’s zoning ordinance. *See* CP 1990 (zoning ordinance controls in the case of conflict). This provision would prevent the City from applying the guidelines to require less parking, for example, than the Code-required minimum.

As the City Council properly found, “the design guidelines contained within the North Kelsey Development Plan are intended to be applied flexibly rather than rigidly.” CP 2758. FNK’s claims miss the mark not only because they ignore the role of the Design Guidelines in the City’s project review, but also because FNK asks the Court to override the Council’s discretionary application of its own policies—an application that was correct on the merits and fully supported in record evidence.

a. Site Configuration Guidelines

FNK claims that the project violates the Plan’s Site Configuration Guidelines, which require that a development “be *based on* one or more City-approved binding site plans that *address the following principles*,” and stating that a project must “accomplish[] these goals *to the City’s satisfaction*.” See CP 1992-93 (emphasis provided). Considering this language, FNK must prove that the Council clearly erred in finding that Wal-Mart’s project addressed these principles. See *id.*

Among the principles challenged by FNK is Configuration Principle 3, which provides in relevant part: “Uses north of North Kelsey Street should be configured around a central open space or plaza to create a campus like setting.” *Id.* (emphasis provided). FNK baldly contends that “[o]ne look at the site plan reveals that this guideline has not been met by the proposal,” Op. Br. at 24. Again, FNK cannot satisfy its burden of

demonstrating clear error with its subjective disagreement with the City Council's conclusion of consistency with Configuration Principle 3, which is based on the following factual findings that FNK cites but does not appear to contest.

Findings: The binding site plan, supporting documents, and conceptual site plan include significant landscaping around the site's perimeter and adjacent to North Kelsey, a plaza area adjacent to the main entrance to the retail store, and a corner pedestrian feature. Pathways connect the internal features and public sidewalks on North Kelsey Street and the Galaxy Way corner feature to the future development....

Findings: The binding site plan, supporting documents, and conceptual site plan illustrate that *the northern site is organized around a large anchor retail store with two smaller "out lots" that will provide compatible uses to the proposed anchor consistent with Chapter 3, Concept 8*. The drawings also show that the main entrance to the northern site aligns with the southern site to support automobile and pedestrian access. Internally, the northern site includes pedestrian paths and walkway to and from the retail store....

CP 2763 (emphasis added). These findings are based on substantial evidence, some of which is cited in the findings themselves. *Id.* ("the binding site plan, supporting documents, and conceptual site plan"); *see*

also CP 2624. They also support the City Council's finding of consistency with Configuration Principle 3.

FNK does not appear to suggest otherwise, instead largely ignoring these findings based on the assumption that the City Council "recognized that this design guideline had not been met." Br. App. 25. This assumption is wrong. The reference in the findings to "Chapter 3, Concept 8" is to the development concept in the Plan that new development north of North Kelsey Street is to be organized "around a central open space or according to another spatially unifying concept that connects it to the south lot and creates a campus-like character." CP 1980. The City Council clearly found compliance with Configuration Principle 3. While FNK may not agree, it cannot demonstrate clear error in the City Council's application of this guideline to the project.

In any event, to the extent the project is not consistent with Configuration Principle 3, the City Council also found that this guideline does not apply to the proposed use--a project organized around a large anchor retail store. As the City Council found, "[t]he suggestion of a campus-like setting on the northern portion of the property is a discretionary and not mandatory element of the North Kelsey design guidelines *not applicable to this proposed use.*" CP 1993 (emphasis added). Such a finding is consistent with the interpretative provisions of

the Design Guidelines, which give the City Council discretion not to apply a particular guideline based on a determination that “[t]he guideline . . . is not applicable or appropriate in the particular instance.” See CP 1990-91 (emphasis provided). This is precisely what the City did in finding that the Configuration Principle 3 was “not applicable to the proposed use.” CP 1993.

FNK contends that this finding is not supported by substantial evidence—essentially stating that Configuration Principle 3 is clearly applicable to the Wal-Mart site since it refers specifically to the north site. However, the mere fact that the guideline applies to the area where the Wal-Mart store is proposed to be located does not mean that the City Council does not have the discretion to find that the guideline is not applicable “*in a particular instance.*” CP 1990. It clearly does. *Id.* In this particular instance, where the proposed use is a project organized around a large anchor retail use, the City Council exercised its discretion appropriately and consistent with the plain language of the Plan, and its finding in this regard is supported by substantial evidence. FNK cannot meet its burden of demonstrating clear error in the City Council’s finding of compliance with Configuration Principle 3.

FNK also challenges Site Configuration Principles 4 and 5, essentially finding fault in the City Council findings for not parroting the

language from these guidelines, *see* Op. Br. 28, 30. Principle 4 requires that “[p]arking for the facility should be accessed from [the] loop system and not intrude into the center of the site or detract from the activities or qualities of the development,” and Principle No. 5 “[l]ocates and treats large buildings to reduce their perceived scale to fit with neighboring structures and presents an inviting, human scaled, pedestrian oriented character to the public.” CP 1993. However, the Council’s findings leave no doubt that it concluded the development was consistent with these—and all other—Site Configuration guidelines, *see* CP 2763 (noting pedestrian features in response to the Configuration Principle 4 suggestion that parking not “intrude” into center of site, and noting numerous building design features in response to Principle 5 suggestion to address perceived scale of buildings). And these findings are supported by substantial evidence.⁶

In its *post hoc* attacks on the phrasing of the Council’s findings, FNK demands a level of precision that is impractical, if not unattainable, for any land use decision. In any event, the Council’s findings are adequate to support the approval because they squarely address the issues raised in each guideline and leave no doubt about the basis for the

⁶ The cited language from Configuration Principle 4 by its terms applies to the south site, not the north site. CP 1993. FNK’s attempt to rely on a concept drawing, Figure 5, is equally unavailing, as it does not require the parking configuration shown. *Id.*

Council's decision. *See Citizens Alliance to Protect our Wetlands v. City of Auburn*, 126 Wn.2d 356, 894 P.2d 1300 (1995) (en banc) (rejecting challenge to hearing examiner's findings where examiner's ruling contained "substantial analysis of every issue. Because a reviewing court can determine the basis for her decision, the hearing examiner's findings are sufficient."); *Tugwell v. Kittitas Cnty.*, 90 Wn. App. 1, 14-15, 951 P.2d 272 (1997) (rejecting claim that findings were "so incomplete that they prevent meaningful judicial review" where Board of County Commissioners' findings "impliedly but clearly resolved the issues involved").

Neither FNK's attacks on the language of the Council's findings, nor its subjective disagreement with the Council's conclusion, help satisfy FNK's burden of affirmatively demonstrating clear error in the Council's determination that the project complies with the Design Guidelines.

b. Site Planning Guidelines

FNK claims the project fails to comply with the Plan's Site Planning guidelines, in particular, the guidelines for Public Open Space, Land Uses, Parking Areas, and Street Corners/Highly Visible Locations, *see* CP 1992-1310, repeating its error of applying the text of a few selective "guidelines" as if they were rigid, inflexible development standards. *See* Op. Br. 29-41.

(1) Public Open Space

The Pedestrian-Oriented Space portion of the Design Guidelines include detailed provisions regarding the height of lighting fixtures over the surface, *see* CP 2000 (generally encouraging a height of 10-15 feet); brightness of the lights, *see* CP 2001 (2-foot candles, without “dark spots”), and the amount of seating required in these spaces, *see* CP 2001 (one linear foot of seating area or one individual seat per 60 square feet of plaza area). FNK complains of the lack of “details” on these requirements, or that “there is no evidence in the record to support a conclusion that this guideline has been met.” *See* Op. Br. 31-32.

This claim not only ignores the burden of proof in this proceeding (which is FNK’s) but also disregards the City’s specific finding that, although complete design review for the project (which will review these specific items, among others) would be completed at the building permit stage, Wal-Mart had submitted sufficient documentation of the project’s conceptual lighting details, including those shown on the conceptual site plan and elevation drawings. *See* CP 2768; *see also* CP 2787-89 (site plan and elevation drawings); CP 2731 (proposed location of illuminated bollards in the plaza entry area). In approving the project, the City Council specifically required that the plaza area alone be improved with at least eight benches and three tables, *see id.* (showing proposed locations

for benches in the plaza area), CP 2732 (additional conditions of approval, including the addition of benches and planters), and found that the project provided “attractive pedestrian-oriented spaces, and pedestrian amenities” consistent with this guideline. *See* CP 2751; *see also* CP 2782 (findings in addendum to City’s Staff Report). In any event, these claims should be rejected outright because FNK cannot meet its burden of demonstrating clear error by assuming that the City will not apply its own code requirements at some point in the future.

FNK next claims that Wal-Mart’s proposal violates the “north building site” guidelines, *see* CP 2001, notwithstanding the Council’s conclusion that these requirements were met based on the project’s provision of “interconnected landscaped open spaces along North Kelsey Street,” and “different types of open space [including] landscaping along the site’s perimeter, throughout the parking area, and around the stormwater detention area,” that the store’s “secondary façade faces North Kelsey Street across a landscaped buffer and parking area,” that the north site aligns with the southern site “to support automobile and pedestrian access,” that the proposed retail store on Lot 1 is buffered by “[a] large landscaped open space,” and that the stormwater detention facility “is buffered and heavily landscaped.” *See* CP 2050-51.

FNK's conclusory response to these detailed findings is to simply disagree with them. *See* Op. Br. 33 (“[T]he Wal-Mart site *has not* been organized around an interconnected set of heavily landscaped open spaces, *nor* does the site include an open space that fronts on North Kelsey Street or aligns with the Focal Plaza and Village Green.”) (citing almost verbatim from this guideline, *see* CP 2001, with the addition of “not,” “nor,” etc.). But FNK cannot meet its burden of demonstrating clear error in the City's decision with its subjective disagreement with the Council's findings. And the record evidence showing the landscaping, sidewalks, and the central plaza area—which is located roughly in the middle of the site (between the store's primary façade and the parking lot)—all of which connect to one another and the pedestrian crossing to the south portion of the Plan area—believe FNK's claim that the Council's findings are not supported by substantial evidence and support the Council's finding that the project complies with the Public Open Space guidelines.

(2) **Parking Areas**

FNK next claims that the project violates the Parking Areas guidelines, *see* AR 2007-08, based on its lay opinion that the project's parking lot layout does not minimize negative impacts on the pedestrian environment and visual quality of the project, that “parking is the central focus of the site,” and that the project is not “pedestrian-oriented,” Op. Br.

at 38. Again, FNK wholly ignores the City’s finding that the parking layout is consistent with the Plan, which was based on the four separate driveways into the project with one aligning with the entrance to the southern site, and “pathways through the main parking lot” connecting the main store entrance to Galaxy Way and North Kelsey Street. CP 2765. The City also relied on perimeter landscaping and the internal pedestrian connections in finding the project meets “the plan’s parking strategy for the Plan[a]rea.” CP 2765-66; *see also* CP 2766 (City’s finding that the project will “provide safe and efficient bicycle access within the Plan[a]rea”). FNK claims no expertise in parking lot design, and fails to provide any facts or analysis to back up its bare allegation that the project’s parking layout is inconsistent with the Plan.

FNK complains that the project lacks crosswalks at intervals of less than 150 feet, Op. Br. 37, neglecting to mention that the cited guideline can be met by providing them “along every fourth parking isle,” CP 2008, which the project clearly does with contrasting surface materials clearly shown in the site plan, *see* CP 2787. And even though all pathways in the store’s final design will be over the 4-foot wide minimum, *see* CP 2008, FNK complains of a lack of record evidence to show “the precise width of the pathways,” *see* Op. Br. 37, again ignoring the Council’s findings and record evidence unequivocally demonstrating

compliance with these Design Guidelines, *see, e.g.*, CP 2787 (Site Plan), 2766 (unchallenged City finding that the project “meet[s] the sidewalk and pathway requirements [of the Plan], that all “[p]roposed sidewalks will be ADA compliant” and will be between 5 and 12 feet in width along the mixed-use path between North Kelsey Street and the garden center, and along North Kelsey and Galaxy Way). FNK thus cannot demonstrate clear error in the Council’s determination of compliance, which was clearly based on substantial record evidence.

(3) Street Corners/Highly Visible Locations

The final claims FNK makes on its selective set of Site Planning Guidelines relate to the “Street Corners/Highly Visible Locations” section of the Design Guidelines. *See* CP 2008-10. FNK fails to recognize the fact that this guideline is not only flexible, but entirely optional. *See, e.g.*, CP 2008 (An applicant “may propose other design treatments [if it can] demonstrate successfully that the proposed treatment *meets the intent* of the guidelines.”), *id.* (proposals should include “*at least one* of the design treatments), *id.* at § 1(a) (stating facades “*are encouraged* to include a special element”), CP 2009 § (e) (stating that “method ‘a,’” which references possible building placement “within 15 feet of corner property

line, “is *preferred*” for corners at Location E) (emphasis provided). This alone justifies dismissal of FNK’s claims regarding these guidelines.

In any event, the project complies with these requirements. The City’s findings of fact specifically acknowledged the “Location D” and “Location E” corner guidelines, *see* CP 2009-10, and found that the project site provides “interconnected landscaped open spaces along North Kelsey Street,” and “different types of open space [including] landscaping along the site’s perimeter, throughout the parking area, and around the stormwater detention area,” and that the store’s “secondary façade *faces North Kelsey Street across a landscaped buffer and parking area.*” CP 2763-64 (emphasis provided). Thus, FNK is wrong in claiming that Walmart disregarded the “Location E” provisions and that the proposed building is not oriented toward this location. *See* Op. Br. 40.

In finding the project complies with this particular guideline, the City relied on “the large landscaped area at Location D,” the landscaped area and pedestrian path at “Location E,” and the fact that design review would be required for the further improvements to this location. *See* CP 2765. Thus, FNK’s suggestion that the Council failed to consider the two corners on North Kelsey Street (the other two are located on the south side of the street) is also wrong, *see* Op. Br. 39, because the City considered the design treatments and landscaping discussed in this guideline for both

Lots 1 and 3 of the site plan—which front on these two corners, *see* CP 2787 (Site Plan), 2765 (discussing guideline with respect to Lots 1 and 3).

These substantial evidence findings—which FNK does not appear to challenge—all belie FNK’s claim that the project fails to meet the *intent* behind these guidelines. In fact, FNK’s sole support for this claim is its lay opinion that “[t]he landscaping . . . acts a barrier” and “is meant to hide a parking lot that should not be there in the first place and it cuts off open space and pedestrian flow.” Op. Br. 40. FNK cannot demonstrate clear error in the Council’s decision with such statements of opinion.

c. Architectural / Building Design Guidelines

FNK’s complaints about the project’s compliance with the Architectural/Building Design guidelines essentially boil down to its opinion that a large retail use can never meet the Plan’s Guidelines. But this is wrong because the Plan specifically allows—and encourages—large-scale retail uses, confirming that they can be consistent with the Plan. *See, e.g.*, CP 1971 (Goal 1 of the Plan). FNK’s reading of the Plan’s Design Guidelines to essentially prohibit any large retail store is thus inconsistent with the Plan, as well as the canon of statutory construction requiring that all provisions of an enactment be given effect.

See, e.g., City of Seattle v. Fontanilla, 128 Wn.2d 492, 498, 909 P.2d 1294 (1996).

FNK would also have this Court override the Council's application of its own code based on subjective complaints like the following: "The design of the Wal-Mart building does not address the size of the building massing elements relative to a human body to the degree required by this Plan." *See* Op. Br. 43. The subjective, project-specific nature of this kind of inquiry, and the expertise required to resolve these issues consistent with each City's code, is precisely why the Council's determination is given such a high degree of deference in this proceeding. In any event, under LUPA's limited standard of review, FNK cannot impeach record evidence and the City Council's findings of fact (many of which FNK does not appear to challenge) with its own subjective views about the architectural quality of the project.

FNK first claims that the project violates the Plan's "Architectural Concept" guidelines. *See* CP 2016-17. Op. Br. at 42-43. Again, FNK completely ignores the use of the optional language in these guidelines, as well as the express language requiring only that a project "*address*"—*not include each and every one of*—the enumerated items in this guideline. *See* CP 2016. Thus, even if the project failed to include the enumerated

items, this does not mean that the project fails to comply with the guideline. This alone justifies dismissal of FNK's claim.

In any event, the project did include these items in its design. The decision, though it notes that “[c]omplete building design review will be under a separate permit,” concluded that “[t]he preliminary design concept for the [project] is consistent with the Architectural and Design concept for the Planned Development Area,” based on the City Council’s findings that the project design “emphasize[s] façade modulation, variation in materials, and variation in color, among other desirable architectural design elements and treatments along the primary, secondary, side, and rear facades”; that the project includes “vertical articulation” along all these facades, “including stepping back portions of the façade including distinctive features, and changing materials.” *See* CP 2767.

When the City Council adopted these specific findings, it had been provided with a detailed description of the project’s elements that meet these guidelines from the project architect. *See* CP 2618-652. An independent architect hired by the City—notably, this is the same architect that drafted the Plan’s Design Guidelines—also confirmed the project’s consistency with the Design Guidelines. *See, e.g.*, CP 2111-12.

FNK would now have this Court overturn the professional judgment of these two architects as well as the judgment of the City

Council in favor of FNK's bald assertion that the project does not meet the Plan's subjective "Architectural Concept" guidelines. The only basis FNK states in support of this conclusion is its lay opinion that "[t]he design of the Wal-Mart building "does not address the perceived massing of the building,"⁷ and further complaints about the size, orientation, and layout of the building and parking areas. *See* Op. Br. 43-44. FNK cannot meet its burden of demonstrating clear error in the City Council's application of the guidelines with these complaints.

FNK next claims that the proposal violates the Human/Pedestrian Scale guidelines because the building is not "vertically articulated into sections averaging not more than 50 feet along the façade at regular intervals" as encouraged by the Vertical Articulation guideline. Op. Br. 45; CP 2018. In language FNK failed to excerpt in its brief, *see id.*, the actual guideline states that "[a]rticulation may be accomplished in several ways, *including . . .*: Modulation . . ., significant building elements . . . that visually break of the façade. Building focal points . . . *Changing the roofline. Changing materials. Landscaping. Using other methods acceptable to the City.*" CP 2017 (emphasis provided). Each type of articulation is shown in the elevation drawings of the proposed Wal-Mart

⁷ As discussed ~~noted~~ above, FNK's reliance on the Plan's concept drawings ~~is~~ is inappropriate, as nothing in the Plan suggests these control project design in the plan area. *See* Op. Br. 43-44.

store, and FNK cannot demonstrate that any 50-foot section lacks one or more of the above articulations. *See* CP 2144-45. Thus, FNK’s claim that the project lacks the articulation contemplated in this guideline is without merit.

FNK next claims the project violates the Plan’s “building elements and details,” and “exterior materials” guidelines. *See* CP 2020-22; Op. Br. at 30-31. With respect to the “building elements” guideline, FNK concedes that Wal-Mart has incorporated items on the list of suggested building elements, but offers its lay opinion that these architectural features were not “incorporated . . . in a ‘substantive’ manner,” and that, in FNK’s view, they do not make a “significant contribution to the form and character of the building” as provided by this guideline. *See* Op. Br. at 31. FNK goes on to opine that the architecture of the Wal-Mart store is “identified predominantly by corporate identity features,” under the Supplemental Building Elements guideline set forth, *see* CP 2100, and opines—though it is unclear what guideline this is in reference to—that the “formulaic Wal-Mart structure dilutes the town center’s identity with corporate identity.” Op. Br. at 31. Each of these claims disregards the City Council’s findings of fact relating to the building elements, which, though they note that “[c]omplete building design review will be under a separate permit,” find that the project includes “roofline variations,”

“desirable building elements and details . . . including articulated building elements, weather protection at building entrances . . . decorative building materials,” that the project proposes the use of “durable, high-quality building materials . . . including architectural block, stone, and brick,” and notes the use of “a variety of muted earth-tone colors” in concluding that the project’s architectural elements are consistent with the Plan. *See* CP 2767. In fact, the record reflects that the design of this Wal-Mart is the first of its kind in the country, given its reliance on cultured stone, the use of brick on its front façade, timber usage, and other unique design elements that were added based on the Plan’s design standards. *See, e.g.,* CP 544; *see also* CP 534-36 (project architect’s testimony regarding store design). Thus, FNK’s claim that this is a “formulaic” “big-box” design is wrong.

The consistency of these elements with the Plan were confirmed in great detail by the project architect, *see* CP 2618-52 (Attachment G), and approved by the independent architect that drafted the Design Guidelines, *see, e.g.,* CP 2111-12. Again, this Court should reject FNK’s request that this Court overturn the judgment of these two professionals as well as the judgment of the City Council based on its detailed (and apparently unchallenged) findings of fact supporting the project’s compliance with the Plan, especially where, as here, FNK can point to no

testimony (expert or otherwise), facts, or record evidence, to back up its subjective disagreement with the City's decision.

In its final claim, apparently as an after-thought, FNK states uncertainly that “[t]he record is unclear, but to the extent that Wal-Mart is using concrete blocks, that use shall be limited to 25 percent of the primary building façade,” pursuant to Item S3 of the Supplemental Exterior Materials guidelines, *see* CP 2102, and complains that “[t]here is nothing in the record to demonstrate whether this requirement has been met.” *See* Op. Br. 31. The project complies with this requirement, as shown by the limited use of exposed split-face concrete masonry unit on the project elevation drawings. *See* CP 2144. FNK has failed to meet its burden of demonstrating clear error in this respect, or with respect to any other guideline. For this reason, FNK's claim that the project violates the Plan's Design Guidelines must be rejected.

B. FNK Cannot Meet Its Burden of Demonstrating Clear Error in the City Council's Determination That the Project Qualifies as a "Planned Action" under SEPA.

FNK's claim that the project violates Washington's State Environmental Policy Act ("SEPA") is based wholly on its conclusion that the project approval is inconsistent with the North Kelsey Development Plan. *See* Op. Br. at 48-49. Because FNK's claims about the project's consistency with the Plan fail, so does its SEPA claim.

C. Wal-Mart Is Entitled to Its Costs and Attorneys' Fees Under RCW 4.84.370.

RCW 4.84.370, in pertinent part, provides:

(1) Notwithstanding any other provisions of this chapter, reasonable attorneys' fees and costs shall be awarded to the prevailing party or substantially prevailing party on appeal before the court of appeals or the supreme court of a decision by a county, city, or town to issue, condition, or deny a development permit involving a site-specific rezone, zoning, plat, conditional use, variance, shoreline permit, building permit, site plan, or similar land use approval or decision. The court shall award and determine the amount of reasonable attorneys' fees and costs under this section if: (a) The prevailing party on appeal was the prevailing or substantially prevailing party before the county, city, or town . . .; and (b) The prevailing party on appeal was the prevailing party or substantially prevailing party in all prior judicial proceedings.

Under the statute, a party—in whose favor a municipality's land use decision is rendered—is entitled to attorney fees and costs if such decision is affirmed by at least two courts: the superior court and the Court of Appeals and/or the Supreme Court. *Habitat Watch v. Skagit County*, 155 Wn.2d 397, 413, 120 P.3d 56 (2005). In *Habitat Watch*, the court noted that “parties challenging a land use decision get one opportunity to

do so free of the risk of having to pay other parties' attorney fees and costs if they are unsuccessful." *Id.*

Here, Wal-Mart was a prevailing party before the City and in the prior superior court proceedings. Thus by the terms of the statute, Wal-Mart is entitled to an award of reasonable attorneys' fees under RCW 4.84.370 if the trial court decision is affirmed.

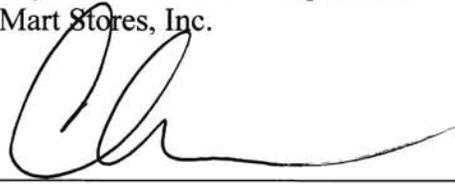
VI. CONCLUSION

For the reasons set forth herein, Wal-Mart respectfully requests that the Court uphold the trial court's order denying FNK's Land Use Petition, uphold the City's approval of Wal-Mart's project, and award attorney's fees and costs against FNK pursuant to RCW 4.84.370.

RESPECTFULLY SUBMITTED this 30th day of July, 2012.

Davis Wright Tremaine LLP
Attorneys for Intervenor-Respondent
Wal-Mart Stores, Inc.

By



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APPENDIX A

Resolution No. 2011/009

RESOLUTION NO. 2011/009

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONROE, WASHINGTON, APPROVING A DEVELOPMENT AGREEMENT WITH NORTH KELSEY LLC PURSUANT TO RCW 36.70B.170 - .200; AUTHORIZING THE MAYOR TO EXECUTE THE DEVELOPMENT AGREEMENT ON BEHALF OF THE CITY; ENTERING SUPPORTIVE FINDINGS AND CONCLUSIONS; AND PROVIDING DIRECTION TO STAFF.

WHEREAS, the Monroe City Council has considered the approval of a proposed Development Agreement with North Kelsey LLC with respect to the use and development of certain real property located in the North Kelsey Planning Area; and

WHEREAS, following a public hearing and upon careful consideration of all testimony and evidence submitted, the Monroe City Council desires to approve the Development Agreement and authorize the Mayor's execution thereof; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF MONROE, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Findings and Conclusions. As its findings and conclusions in support of its approval decision herein, the City Council hereby adopts and incorporates by reference the Staff Report & Recommendation prepared for the March 15, 2011 public hearing, the Addendum to Staff Report & Recommendation prepared for the March 29, 2011 continued public hearing, and the March 29, 2011 Staff memorandum regarding "Staff Responses (Exhibit 20)," collectively appended to the Development Agreement as Exhibit D, together with the findings and conclusions set forth in the Development Agreement itself. Anything contained in the above-referenced staff report, addendum and memorandum that could be construed as a finding is expressly adopted as such. Anything contained in the above-referenced staff report, addendum and memorandum that could be construed as a conclusion is expressly adopted as such. The City Council further enters the following findings and conclusions:

A. Findings

1. In accordance with RCW 36.70B.200, the City Council conducted a duly noticed public hearing regarding the Development Agreement on March 15, 2011. The City Council heard presentations by City staff and the applicant and then accepted oral testimony from the public. The public testimony portion of the hearing was closed on March 15. The hearing was continued to March 29, 2011, and the record was kept open for the public to submit written comment until 5:00 p.m. on March 18, 2011. The hearing was reconvened on March 29, 2011. After rebuttal presentations by City staff and the applicant, the

City Council closed the evidentiary portion of the hearing and entered the deliberative phase.

2. During its rebuttal presentation, the applicant submitted a revised conceptual site plan in response to concerns raised by the public regarding the applicant's original conceptual site plan proposal. The revised conceptual site plan provides for additional pedestrian amenities and landscaping features, as well as numerous enhancements to the structural materials, roof configurations, signage, and other aesthetic and architectural components of the proposed building.

3. At the conclusion of the deliberative phase of the public hearing, the City Council voted 6-1 to approve the Development Agreement inclusive of the revised conceptual site plan. The City Council's approval motion was amended to provide for the following additional conditions:

- Incorporation of a pedestrian path from the northwest corner of North Kelsey Street/Chain Lake Road (the southeast corner of the project site) around the storm detention area to the south parking area.
- Utilization of an off-set crosswalk design for the North Kelsey Street crosswalk incorporated into the existing landscaping median, with additional safety amenities such as lighting or flagging, subject to review and approval by City staff.
- Addition of a 12-foot mixed-use (bicycle and pedestrian) path from North Kelsey Street to the Garden Center.
- Installation of a 10-foot landscape buffer at the southwest corner of Lot 3 between the corner feature and any future building on Lot 3, and orientation of the garbage-handling operations associated with the future Lot 3 building away from the corner feature.
- Enhancement of the plaza area between the two main store entrances with the following amenities: three planters, three tables, eight benches, and four hanging baskets.
- Imposition of a permanent covenant prohibiting a fueling station on Lot 3 of the subject property.

4. The proposed Development Agreement, inclusive of the associated Binding Site Plan application (BSP 2011-01) and Grading Permit application (M2011-0004/1), were reviewed and processed as a Planned Action pursuant to WAC 197-11-164 through WAC 197-11-172 and the March 10, 2004 North Kelsey Sub Area Plan Supplemental Environmental Impact Statement (SEIS). The City Council concurs in the determination of the City's SEPA Responsible Official that the proposal qualifies as a planned action and that the significant

environmental impacts of the proposal, as conditioned, have been adequately addressed by the SEIS.

5. The City Council specifically finds that the anticipated traffic impacts of the proposal are within the scope and levels contemplated by the SEIS and comply with applicable local regulatory standards. Substantial evidence in the administrative record supports this determination, including without limitation the expert testimony of and reports submitted by the applicant's traffic engineer. The administrative record contains no expert testimony or persuasive evidence that contravenes this finding.

6. All external impacts of the development proposal authorized by the Development Agreement, including without limitation transportation, storm water, noise, geotechnical, air quality, land use, truck traffic and visual characteristics impacts, will be adequately mitigated by applicable project conditions, development standards and/or permitting processes.

B. Conclusions

1. The proposed Development Agreement, as conditioned and inclusive of the associated Binding Site Plan application (BSP 2011-01) and Grading Permit application (M2011-0004/1), is consistent with the City's development regulations and satisfies all applicable criteria for approval.

2. Without prejudice to the foregoing, the City Council concludes that the applicant's development proposal, including the revised conceptual site plan submitted by the applicant, as conditioned by the Development Agreement, complies with all applicable provisions of the North Kelsey Development Plan, the North Kelsey Design Guidelines, and the Supplemental Development Agreement Provisions previously adopted by the City. The City Council concludes that the original conceptual site plan submitted by the applicant also complies with the above-referenced standards and that the applicant's revised conceptual site plan further enhances and elevates the proposal's compliance with these standards.

3. The City Council specifically notes that the North Kelsey Design Guidelines were intended to be interpreted and applied with flexibility. Where the term "should" is used in the Design Guidelines as a compliance standard with respect to particular guidelines or requirements, the City Council concludes that the applicant's proposal satisfies these guidelines and requirements. The City Council further concludes that even if the applicant's proposal did not satisfy these guidelines and requirements, application of these guidelines and requirements is either inapplicable or inappropriate in this instance or on this portion of the North Kelsey Planning Area and/or that the applicant's proposal meets the intent of the Design Guidelines in some other manner.

4. The City Council concurs in the manner in which the Development Agreement, inclusive of the associated Binding Site Plan and Grading Permit applications, was reviewed and processed by the City. The City Council

concludes that MMC 17.34.030(C) and MMC 21.50.130, construed in harmony with RCW 36.70B.200, authorize the City Council to act as the final decision-maker for the Development Agreement, Binding Site Plan, and Grading Permit under these circumstances.

Section 2. Approval of Development Agreement. Based upon the preceding findings and conclusions, the City Council APPROVES the proposed Development Agreement with North Kelsey LLC, inclusive of the revised conceptual site plan submitted by the applicant and the associated Binding Site Plan application (BSP 2011-01) and Grading Permit application (M2011-0004/1). The Mayor is authorized to sign the Development Agreement on behalf of the City.

Section 3. Notice of Decision. The Community Development Director is hereby authorized and directed to prepare and issue a Notice of Decision for this approval in accordance with applicable state law and local regulations.

Section 4. Appeal: Reconsideration. The City Council's approval decision is appealable to the Snohomish County Superior Court in accordance with MMC 21.060.030 and Chapter 36.70C RCW. The City Council's decision is also subject to reconsideration pursuant to MMC 21.50.080, which provides as follows:

21.50.080 Reconsideration.

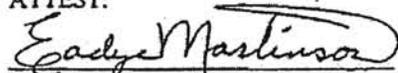
A party to a public hearing or closed record appeal may seek reconsideration only of a recommendation or a decision by the hearing examiner or hearing body by filing a written request for reconsideration with the community development department within ten calendar days following issuance of the written final decision. All motions for reconsideration shall state specific errors of facts or law. Failure to do so will be grounds for nonconsideration. The hearing examiner or hearing body shall consider the request, without any public comment or argument. Reconsideration will be granted only when an obvious legal error has occurred or a material factual issue has been overlooked that would change the previous decision. If a request for reconsideration is accepted, a decision or recommendation is not final until after a decision on the reconsideration request has been issued.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, Washington, at a regular meeting held this 12th day of April, 2011.

CITY OF MONROE, WASHINGTON


Robert B. Zimmerman, Mayor

ATTEST:


Eadye Martinson, Deputy City Clerk

APPROVED AS TO FORM:


Zach Lett, City Attorney
David A. Ellenhorn

APPENDIX B

Staff Report and Recommendation,
Addendum, and Responses

[EXHIBIT D TO DEVELOPMENT AGREEMENT]

**STAFF REPORT & RECOMMENDATION
BINDING SITE PLAN (BSP 2011-01), GRADING PERMIT (M2011-0004/1),
AND NORTH KELSEY CONCEPTUAL MATERIALS**

[NOTE: Exhibits 1a, 2a, 2b, 3, 4a and 4b are omitted as attachments to this report and can otherwise be found as separate attachments to the Development Agreement]

TO: Mayor Zimmerman, and the Monroe City Council
FROM: Brad Feilberg, P.E., Public Works and Community Development Director
Russell E. Wright, MES, Acting SEPA Official
SUBJECT: Staff Report & Recommendation for Binding Site Plan (BSP 2011-01), Grading Permit (M2011-0004/1), and North Kelsey Conceptual Materials

HEARING DATE: March 15, 2011

A. PROJECT DESCRIPTION:

PACLAND, on behalf of North Kelsey, LLC (an affiliate of the Sabey Corporation) and Walmart, submitted an application (Exhibit 1a) for a Binding Site Plan (BSP2011-01) (Exhibit 2a) with supporting documents (Exhibit 2b) and a Grading Permit (M2011-0004/1) (Exhibit 3) to develop approximately 17 acres in the northern site of the North Kelsey subarea. The city has also received a conceptual site plan (Exhibit 4a) and conceptual building elevations (Exhibit 4b) in support of the binding site plan and a development agreement as negotiated between the city of Monroe and North Kelsey LLC. Staff deemed the application complete as of January 05, 2011 (Exhibit 1b). The binding site plan proposes to revise existing property lines for three commercial lots and identifies the location of future phased building sites, parking areas, and stormwater detention. The binding site plan also provides for the dedication of new public rights-of-way and describes the new lot configuration and proposed easements. Finally, the binding site plan includes a proposed site layout for a Walmart retail store of approximately 151,719 square feet with associated seasonal and outdoor garden centers of approximately 13,000 square feet. The remaining lots include an approximate one-acre site intended for future retail or service uses in the southwestern corner of the site (Lot 3) and an approximate six-acre lot in the northern part (Lot 2). The applicant, North Kelsey, LLC has control of the property for purposes of this development proposal pursuant to the terms to that Purchase agreement between the City of Monroe and North Kelsey, LLC dated December 17, 2011.

The supporting documents include site information, preliminary grading and drainage plans, preliminary utility plans, preliminary landscape plans, and preliminary irrigation plans. The city will review the retail store and final supporting documents under separate permit applications.

The grading permit application materials identify proposed grading improvements and include preliminary utility and infrastructure plans to support the binding site plan.

The project is located in the North Kelsey Planned Development Area and is subject to the North Kelsey Development Plan and North Kelsey Design Guidelines adopted by Ordinance No. 015/2003 and amended under Ordinance No. 024/2007. The city has confirmed that the project conforms to the North Kelsey Development Plan and Design Guidelines. The city has

verified that the project is a Planned Action under the Final Supplemental Environmental Impact Statement (FSEIS) for the North Kelsey Planning Area under Ordinance No. 003/2004.

Subsequent to staff's recommendation, the City Council will act on a consolidated application including a development agreement pursuant to RCW 36.70B.170, the binding site plan, grading permit, supporting documents, and a conceptual site plan and conceptual building elevations. The consolidated application materials will establish the development conditions for the northern site of the North Kelsey Planned Development Area including the proposed Walmart retail store.

B. INFORMATION:

OWNER

City of Monroe
806 West Main Street
Monroe, WA 98272

APPLICANT

PACLAND (on behalf of North Kelsey, LLC)
1505 Westlake Ave. North, Suite 305
Seattle, WA 98109

APPLICATION:

Application January 05, 2011 (Exhibit 1a)
Application Complete January 05, 2011 (Exhibit 1b)

LOCATION:

The property address is 19191 North Kelsey Street; the project area is located directly north of North Kelsey Street and east of Galaxy Way (Exhibit 5).

ZONING ON SITE:

General Commercial

COMPREHENSIVE PLAN DESIGNATION:

General Commercial

ZONING OF SURROUNDING PROPERTIES:

East - (PS) - Public Open Space
West - General Commercial / General Industrial
North - (PS) - Public Open Space
South - General Commercial

USES ON SURROUNDING PROPERTIES:

East - public right-of-way for future US-2 bypass / Chain Lake Road
West - commercial and industrial
North - public right-of-way for future US-2 bypass
South - commercial

AIRPORT COMPATIBILITY:

The site is located inside Zone 6A of the Airport Compatibility Overlay.

NOTICE AND PUBLICATION

- The city caused written notification of the Land Use Application to be distributed to all property owners within 500 feet of the project site on January 25, 2011 (Exhibit 6a).
- The city sent written notification to the Monroe Monitor of the Land Use Application on January 18, 2011 for publication on January 25, 2011 (Exhibit 6b).
- The city posted the Notice of the Land Use Application on-site January 28, 2011 (Exhibit 6c).
- The Monroe Monitor published written notification of the Public Hearing for the Development Agreement on February 22, 2011 and March 8, 2011 (Exhibit 6d & 6e).
- The city mailed written notification of the Planned Action and Public Hearing to all property owners within 500 feet of the project site and interested parties on March 8, 2011 (Exhibit 6f).
- The city posted the Notice of Planned Action and Public Hearing on-site March 8, 2011 (Exhibit 6g).

SEPA COMPLIANCE (Chapter 20.04 MMC):

- The applicant prepared a revised environmental checklist, dated and received February 24, 2011 (Exhibit 7).
- In accordance with WAC 197-11-172, the city has verified that the proposed development is a Planned Action and conforms to the Final Supplemental Environmental Impact Statement (FSEIS) prepared for the North Kelsey area under city of Monroe Ordinance 003/2004 (Exhibit 8). As such, the project will implement any applicable conditions or mitigation measures identified in Ordinance No. 003/2004. The FSEIS for North Kelsey has addressed probable significant impacts related to future development.
- No further SEPA review is required.

ENVIRONMENTAL/SITE CONDITIONS:

The majority of the site is generally flat with an approximate grade of two to three percent. There are steep slopes along the northern and eastern boundaries of the site created by previous mining activities on the site. Soils consist primarily of gravelly sandy loam or pit run. The site is located outside of the 100-year flood zone. The northern portion of the site on Lot 2 includes four potential Category IV wetlands (Exhibit 9). Potential wetlands will be set aside in a Native Growth Protection Easement, subject to MMC 20.05.070 – Protection and Mitigation Measures. No priority habitats or species have been observed on-site.

C. FINDINGS AND CONCLUSIONS¹:

1. Compliance with Chapter 17.34 MMC – Binding Site Plans

- Following MMC 17.34.020, the purpose of a Binding Site Plan is to divide land, for sale or lease, into lots or tracts zoned for commercial or industrial uses and allows for

¹ The city developed the Goals Objectives to the North Kelsey Development throughout the planning process for the subarea. The findings and conclusions include paraphrased regulations, development concepts, and review criteria. Within the plan, some of the elements are discretionary and others are mandatory. Specific elements within the Goals and Objectives may be applicable to the northern site, southern site, or both – the findings and conclusion herein primarily consider discretionary and mandatory elements applicable to the northern site and/or the entire subarea.

concurrent or phased development.

Findings: The proposed binding site plan proposes to reconfigure Parcels 1, 2, and 3 (otherwise known as Parcels B, C, and K of the City of Monroe Record of Survey, recording number 200504075335) into three commercial lots and identifies the location of future phased building sites.

Findings: The proponent submitted an application for a Binding Site Plan (BSP2011-01) and a Grading Permit (M2011-0004/1) along with supporting documents. The proponent intends to develop a large retail store on Lot 1. The proponent or successor will likely develop Lots 2 and 3 in future phases.

- Following MMC 17.34.030(A), binding site plans require public notice per MMC 21.50.020 and require a notice of development application and notice of decision as defined in Chapter 21.40 MMC.

Findings: Section B above includes documentation of noticing for the development agreement, binding site plan, grading permit, and planned action.

- Following MMC 17.34.030(B), the Community Development Director will issue written findings that approve, approve with conditions, or deny binding site plans and concurrent development permits when the proposed binding site plan meets all requirements and standards. Under MMC 17.34.030(C), when an applicant seeks a concurrent land use approval for a quasi-judicial or legislative action per MMC 21.50.130, the highest decision-maker will issue written findings that approve, approve with conditions, or deny the preliminary binding site plans and concurrent development permits.

Findings: The Community Development Director will issue written findings in support of the binding site plan, supporting documents, and grading permit. Under a consolidated action, pursuant to MMC 21.50.130, as the highest decision-making body, the Monroe City Council will act on the same, concurrent with its action on a development agreement per RCW 36.70B.170 and a conceptual site plan, and conceptual elevations for the northern site.

- Following MMC 17.34.040(A), binding site plan applications must conform to the submittal, review, and processing standards set forth in Chapter 17.32 MMC (Short Subdivisions).
- *Findings:* As submitted, the form and content of the proposed binding site plan conforms to the applicable standards set forth in Chapter 17.32 MMC (Short Subdivisions), including but not limited to the application requirements, survey requirements, utility information, dedication or right-of-way, lot design, and review and processing criteria.
- Under MMC 17.34.040(B), binding site plans and concurrent building permits or other land use/development permits must comply with applicable municipal code provisions, public works standards, building codes, and performance standards in effect at the time of application, including but not limited to building setbacks, critical areas, easements, landscaping, lighting, lot coverage, parking, stormwater drainage, streets, and utilities. Proposed binding site plans must clearly depict all planned improvements.

Findings: City staff has reviewed the binding site plan for consistency with applicable municipal code provisions, public works standards, building codes, and performance standards and has determined that the Binding Site Plan satisfies all such requirements.

- Under MMC 17.34.040(C), binding site plans are required to undergo environmental review in accordance with Chapter 20.04 MMC – SEPA.

Findings: The applicant submitted an environmental checklist for review as part of the combined application packet (Exhibit 7).

Findings: The city's SEPA official determined that the proposed development of the northern site is a Planned Action and conforms to the Final Supplemental Environmental Impact Statement (FSEIS) prepared for the North Kelsey Planning Area under city of Monroe Ordinance 003/2004 (Exhibit 8). No further SEPA review is required.

- Under MMC 17.34.040(D), aggregate lots within a binding site plan must function internally as a whole and may share common features such as access points, open spaces, parking, stormwater systems, and other proposed improvements.

Findings: Sheet 1 of 5 of the binding site plan (Exhibit 2a) includes Declarations and Dedications that identify the conditions of use, maintenance, and restrictions for the three parcels.

Findings: Sheet 5 of 5 (Exhibit 2a) illustrates common driveways, access points, parking areas, and stormwater area.

Findings: The supporting documents (Exhibit 2b) include site information (coversheet), preliminary site plans (Sheets PC-1.0 and PC-1.1), preliminary grading and drainage plans (Sheets PC-2.0 and PC-2.1), a preliminary utility plan (Sheet PC-3.0), preliminary landscape plans (Sheets PL-1.0 and PL-1.1), and preliminary irrigation plans and details (Sheets PL-2.0, PL-2.1, and PL-3.0).

- Under MMC 17.34.040(E), binding site plans shall clearly identify the conditions of use, maintenance, and restrictions on redevelopment for all shared features by covenant, easement, or other similar mechanism.

Findings: Sheet 1 of 5 (Exhibit 2a) contains Declarations and Dedications that identify the conditions of use, maintenance, and restrictions on redevelopment for all shared features by covenant, easement, or other similar mechanism.

- Under MMC 17.34.040(F), binding site plans shall include the following note: Subsequent development of the site shall be in conformance with the recorded binding site plan. All provisions, conditions, and requirements of the binding site plan shall be legally enforceable on the purchaser or any other person acquiring a lease or other ownership interest of any lot or tract created and/or developed pursuant to the binding site plan.

Findings: Sheet 1 of 5 (Exhibit 2a) contains this note.

- Under MMC 17.34.040(G), a binding site plan defines the location and size of future buildings, setbacks, parking areas, roads, stormwater detention, and other proposed site improvements. Properties subject to a binding site plan may propose phased development for portions of the project, when the proposed phasing will not adversely affect the public health, safety, or welfare.

Findings: As noted in response to Section MMC 17.34.040(D), the applicant has submitted documents that show the location of site elements and features.

Findings: As noted in the project description and elsewhere, the proponent proposes plans to develop a large retail store on Lot 1. The proponent or successor will develop Lots 2 and 3 in future phases. (Exhibits 2a, 2b, 3, and 4a)

Conclusions: Sections MMC 17.34.020 through .040 establish the preliminary approval criteria for binding site plans. As submitted, the binding site plan, supporting documents, and conceptual site plan are consistent with the underlying approval criteria.

2. Compliance with MMC 15.04.070 International Building Code

- The MMC 15.04.070 adopts the International Building Code (IBC), 2009 Edition including Appendix J (Grading) by reference.

Findings: The proponent submitted a grading permit application under MMC 15.04.070 that included a temporary erosion control plan, grading plan, and a geotechnical report.

Findings: Section 6 of the staff report evaluates the grading permit application for consistency with North Kelsey Final Supplemental Environmental Impact Statement.

Findings: The city's SEPA official determined that the proposed development of the northern site is a Planned Action and conforms to the Final Supplemental Environmental Impact Statement (FSEIS) prepared for the North Kelsey Planning Area under city of Monroe Ordinance 003/2004 (Exhibit 8). No further SEPA review is required.

Conclusions: The proposed grading permit application is consistent with the application requirements found in MMC 15.04.070 (Section J of the 2009 International Building Code) and has addressed impacts related to future development under the Planned Action FSEIS for the North Kelsey Planning Area.

3. Compliance with MMC 21.50.130 Consolidation

- Following MMC 21.50.120, when an applicant seeks a concurrent land use approval for a quasi-judicial or legislative action, the highest decision-maker will issue written findings that approve, approve with conditions, or deny land use applications.

Findings: The proponent seeks a consolidated permit review under MMC 17.34.030(C) and MMC 21.50.120.

Findings: The Community Development Director will issue written findings in support of the binding site plan, supporting documents, and grading permit. Under a consolidated action, pursuant to MMC 21.50.130, as the highest decision-making body, the Monroe City Council will act on the same, concurrent with its action on a development agreement per RCW 36.70B.170 and a conceptual site plan, and conceptual elevations for the northern site.

Conclusions: The requested consolidated permit review process meets the intent of MMC 21.50.130 and 17.34.030(C). RCW 36.70B.200 requires that a development agreement be approved by the City's legislative body. The City Council is therefore the highest decision-making body with authority to grant one of the requested land use approvals. In accordance with the

above-referenced code provisions and RCW 36.70B.170-.210, the Community Development Director interprets and harmonizes these provisions in a manner that provides for final City Council approval of the proposed development agreement concurrently with the associated binding site plan and grading permit following a public hearing. The Director acknowledges that the normal review process for the binding site plan and grading permit would not ordinarily involve a pre-decisional public hearing, and that the consolidated review approach potentially allows a greater opportunity for public participation and comment than would otherwise occur. However, the applicant has expressly requested consolidation in this manner and has not objected on this basis.

4. Compliance with the North Kelsey Development Plan

- Preliminary Comments: The Community Development Director notes that the North Kelsey Development Plan contains both mandatory and discretionary elements. Even where particular standards are mandatory, the North Kelsey Development Plan provides that some required elements apply only to specific areas within the larger North Kelsey Planning Area. The development plan also provides flexibility and allows alternative locations within the larger planning area for other plan elements. The Director acknowledges that the design guidelines contained within the North Kelsey Development Plan are intended to be applied flexibly rather than rigidly. The following analysis of the proposed development agreement's compliance with the North Kelsey Development Plan reflects these principles.

- Chapter 1 of the North Kelsey Development Plan contains the following broad Goals and Objectives:

Goal 1. Increase the city's economic vitality.

Objectives: Allow for a variety of commercial use, including "big-box" retail stores, as long as they are sited and designed to meet other plan objectives; encourage uses for the north site that support the City's tax base.

Findings: The proposed binding site plan includes a site layout for a large retail store. The proposed retail store is located toward the eastern edge of Lot 1 adjacent to the toe-of-slope. The proposal also includes two "out lots" for future development. The proposed retail store includes parking and traffic circulation areas, pedestrian connections, stormwater detention, and landscaping. The proposed retail store will generate sales tax revenue in the future. (Exhibits 2a, 2b, 3, and 4a)

Goal 2. Create a community gathering spot.

Objectives: Create a plaza open space to accommodate at least 1,000 people for special community events...

Findings: The Development Plan indicates that the "Village Green" and "Focus Plaza" areas will be located on the southern site of North Kelsey. As part of the binding site plan, the project proponent intends to dedicate a corner pedestrian feature to the city of Monroe for public use. (Exhibits 2a, 2b, 3, and 4a)

Goal 3. Provide uses and services that meet the needs of Monroe's diverse population.

Objectives: Encourage a variety of commercial uses, which serve both local and regional needs...

Findings: *The proposed retail store depicted in the binding site plan will provide a variety of goods and services available to local residents and those in surrounding communities. Chapter 2, Section B concludes, "The Primary Retail Market consists of an estimated 25,000 people for whom Monroe is likely the most convenient place to shop for most goods and services..." The proposed development is likely to draw consumers to Monroe.*

Goal 4. Create a strong development identity.

Objectives: Encourage site and architectural design that is unique and appropriate for Monroe; encourage architectural design that combines traditional and modern elements; emphasize landscaping and greenery throughout the development to create a park-like setting; encourage architectural design that is understated and subtle ...

Findings: *The conceptual elevations (Exhibit 4b) emphasize façade modulation, variation in materials, and variation in color, among other desirable architectural design elements. The supporting documents to the binding site plan (Exhibit 2b) and conceptual site plan (Exhibit 4a) include detailed landscape drawings that show landscaping along the site's perimeter, throughout the parking area, and around the stormwater detention area.*

Goal 5. Encourage pedestrian-friendly development.

Objectives: Provide safe, efficient, and attractive pedestrian connections between uses throughout the development area and to uses surrounding the site... Hide and screen parking areas; incorporate safe bicycle access to and throughout [the] site; encourage large-scale retail uses to provide multiple entries and minimize blank walls; provide pedestrian-oriented plazas and open spaces throughout the development.

Findings: *The binding site plan includes pedestrian connections throughout the site as well as connections to the southern site. Stamped and colored concrete, common to the greater development, define entryways and connections to the site. Perimeter landscaping screens the parking areas along Galaxy Way and North Kelsey Street. The site will include paths, sidewalks, and bike racks to accommodate pedestrian and bicycle access. The conceptual elevations include two pedestrian entries into the development. (Exhibits 2a, 2b, 3, and 4a)*

Findings: *As noted in the findings to Goal 4, the proponent has included a variety of design elements including multiple features along the front and right elevation facades. The binding site plan and supporting documents include informal open spaces between North Kelsey Street and Lot 1 of the proposed development; a plaza area adjacent to the main entrance that will include specialty paving, public seating, and landscaping; and a corner pedestrian feature at Galaxy Way and North Kelsey Street for public use. (Exhibits 2a, 2b, 3, and 4a)*

Goal 6. Create a place that complements the Downtown Commercial corridor.

Objectives: Enhance connections between the site and downtown; provide uses and activities that are not and/or cannot be accommodated downtown; encourage site design and development character that contrasts rather than copies downtown.

Findings: *The proposed use is for a large-scale retail store that is complementary to smaller downtown retail establishments.*

Conclusions: *The proposed binding site plan, supporting documents, and conceptual site plan meet the Goals and Objectives of the North Kelsey Development Plan.*

- Chapter 2 of the North Kelsey Development Plan is a Market Analysis Summary.

Findings: *Section B of the Market Analysis Summary predicts that Monroe will be the Primary Retail Market for 25,000 people including the city and adjacent unincorporated areas for convenience shopping and services. It also predicts that Monroe will be the Secondary Retail Market for an even larger geographic area and population.*

Findings: *Section D concludes based on an analysis of projected population growth, geographic location, income growth, and retail needs, that the city will require an additional 940,000 square feet of retail space by 2020.*

Conclusions: *The proposed binding site plan, supporting documents, and conceptual site plan are consistent with the projected population growth, income growth, and retail needs for the city and surrounding area.*

- Chapter 3 of the North Kelsey Development Plan contains the following Development Concepts:

Concept 1 – Focus development around internally connected open spaces.

Findings: *The binding site plan, supporting documents, and conceptual site plan include significant landscaping around the site's perimeter and adjacent to North Kelsey Street, a plaza area adjacent to the main entrance to the retail store, and a corner pedestrian feature. Pathways connect the internal features and public sidewalks on North Kelsey Street and the Galaxy Way corner feature to the future development. (Exhibits 2a, 2b, and 4a)*

Concept 2 – Unite the development with a series of pedestrian connections to the north, west, Chain Lake Road and Main Street.

Findings: *The binding site plan, supporting documents, and conceptual site plan show pedestrian connections between the proposed development along Galaxy Way to the west, North Kelsey Street to the south, and along the public sidewalk to the east up to Chain Lake Road. The main entrance to the northern site aligns with the southern site to support automobile and pedestrian access. Internally, the northern site shows pedestrian paths and walkways to and from the retail store. (Exhibits 2a, 2b, and 4a)*

Concept 3 – Provide multimodal access around the site by constructing an east/west connector. Provide convenient and safe parking access along perimeter streets. Construct sidewalks and bicycle paths along the site's perimeter and install heavy landscaping.

Findings: *Tjerne Place was constructed with the Lowe's development and US2 / Chain Lake Road intersection improvements. The binding site plan, supporting documents, and conceptual site plan include public sidewalks with landscaping along Galaxy Way and North Kelsey Street. Access to the northern site is off Galaxy Way and North Kelsey Street. Community Transit provides bus service to the planning area. Additional bicycle paths planned for the southern site will provide off-street bicycle access to the northern site.*

Concept 4 – Allow for small and large retail businesses and a community center or similar public facility. Provide adequate service access for large businesses and

minimize their impact on visual qualities and pedestrians.

Findings: The binding site plan, supporting documents, and conceptual site plan provide for the future development of three lots. Lot 1 will include a large-scale retail business, while Lot 3 will include a smaller retail or service use of approximately 2500 square feet. The proponent did not model future development of Lot 2 at this time. The submitted documents identify proposed ingress and egress routes that are consistent with city standards. Proposed service areas for Lot 1 are between the building's east elevation and the toe-of-slope, and behind the parking and stormwater areas. (Exhibits 2a, 2b, and 4a)

Concept 5 – Pedestrian-friendly development that provides amenities, landscaping, and human-scale elements.

Findings: The conceptual elevations emphasize façade modulation, variation in materials, and variation in color, among other desirable architectural design elements. The supporting documents to the binding site plan and conceptual site plan include detailed landscape drawings that show landscaping along the site's perimeter, throughout the parking area, and around the stormwater detention area. The binding site plan, supporting documents, and conceptual site plan also include a plaza area adjacent to the main entrance to the retail store, and a corner pedestrian feature. Internal and external pathways to pedestrian features are proposed. (Exhibits 2a, 2b, 3, and 4a)

Concept 6 – Intimately scaled / informal architecture; ensure that large buildings do not dominate the area's identity.

Findings: The proposed retail store is located toward the eastern edge of Lot 1 adjacent to the toe-of-slope. The conceptual elevations emphasize façade modulation, variation in materials, and variation in color, among other architectural design elements. The supporting documents to the binding site plan and conceptual site plan include detailed landscape drawings that show landscaping along the site's perimeter, throughout the parking area, and around the stormwater detention area. (Exhibits 2a, 2b, 3, and 4a)

Concept 7 – Provide residential uses on upper stories.

Findings: This concept applies to the southern site. The Zoning Code (Chapter 18.10 of the Monroe Municipal Code) does not allow residential uses in the General Commercial zone.

Concept 8 – Organize development on the north parcel around a central open space or another unifying concept that connects it to the south and creates a campus-like character.

Findings: The binding site plan, supporting documents, and conceptual site plan illustrate that the northern site is organized around a large anchor retail store with two smaller "out lots" that will provide compatible uses to the proposed anchor. The drawings also show that the main entrance to the northern site aligns with the southern site to support automobile and pedestrian access. Internally, the northern site includes pedestrian paths and walkways to and from the retail store. (Exhibits 2a, 2b, 3, and 4a)

Findings: The suggestion of a campus-like setting on the northern portion of the property is a discretionary and not mandatory element of the North Kelsey Design Guidelines not applicable to this proposed use.

Conclusions: *The proposed binding site plan, supporting documents, and conceptual site plan meet the North Kelsey Development Plan Development Concept.*

- Chapter 4 of the North Kelsey Development Plan relates to the implementation strategy.

Finding: *The city has taken action to implement the measures described in Chapter 4.*

Conclusions: *As the implementation measures are policy strategies, they do not affect project level applications.*

5. Compliance with the North Kelsey Design Guidelines

- Chapter 1 of the North Kelsey Design Guidelines provides a basic introduction and overview of the application and review process of the planning area design guidelines. It also defines how the city will consider mandatory and encouraged design elements.
- Chapter 2 of the North Kelsey Design Guidelines relates to the site configuration and requires review of a binding site plan with the following elements:

Configuration Principle 1 – Connect individual areas within the Planned Development area with an integrated pedestrian network.

Findings: *The binding site plan, supporting documents, and conceptual site plan show pedestrian connections between the proposed development along Galaxy Way to the west, North Kelsey Street to the south, and along the public sidewalk to the east to Chain Lake Road. The main entrance to the northern site aligns with the southern site to support automobile and pedestrian access. Internally, the northern site shows pedestrian paths and walkways to and from the retail store. (Exhibits 2a, 2b, 3, and 4a)*

Configuration Principle 2 – Focus retail, recreational, and civic uses on the southern site. Uses on the northern site should be compatible and supportive.

Findings: *The binding site plan, supporting documents, and conceptual site plan provide for the future development of three lots on the northern site. Lot 1 includes a large-scale retail store, while Lot 3 includes a smaller retail or service use of approximately 2500 square feet. The proponent did not model future development of Lot 2. (Exhibits 2a, 2b, 3, and 4a)*

Findings: *To date, there is only one business on the southern site: Lowe's Hardware. The proposed retail store on the northern site will carry some overlapping products, but in general is a variety store that stocks groceries, clothing, household items, and other retail goods not available at Lowe's.*

Findings: *Table 2 (Chapter 3, Section C) defines retail uses as acceptable uses on the northern site.*

Configuration Principle 3 – Provide a set of open spaces along the pedestrian network that include a civic plaza, village green and smaller open spaces to enhance the retail environment. Uses on the northern portion should be configured around a central open space or plaza to create a campus-like setting.

Findings: *The Development Plan indicates that the "Village Green" and "Focus Plaza" areas will be located on the southern site of North Kelsey. The suggestion of a campus-like setting on the northern portion of the property is a discretionary and not mandatory element of the North Kelsey Design Guidelines not applicable to this proposed use.*

Findings: The binding site plan, supporting documents, and conceptual site plan include significant landscaping around the site's perimeter and adjacent to North Kelsey Street, a plaza area adjacent to the main entrance to the retail store, and a corner pedestrian feature. Pathways connect the internal features and public sidewalks on North Kelsey Street and the Galaxy Way corner feature to the future development. (Exhibits 2a, 2b, 3, and 4a)

Findings: The binding site plan, supporting documents, and conceptual site plan illustrate that the northern site is organized around a large anchor retail store with two smaller "out lots" that will provide compatible uses to the proposed anchor, consistent with Chapter 3, Concept 8. The drawings also show that the main entrance to the northern site aligns with the southern site to support automobile and pedestrian access. Internally, the northern site includes pedestrian paths and walkways to and from the retail store. (Exhibits 2a, 2b, 3, and 4a)

Configuration Principle 4 – Include a looped road system for traffic circulation that includes North Kelsey Street, Chain Lake Road, and Tjeme Place.

Findings: The binding site plan, supporting documents, and conceptual site plan show pedestrian connections between the proposed development along Galaxy Way to the west, North Kelsey Street to the south, and along the public sidewalk to the east up to Chain Lake Road. The main entrance to the northern site aligns with the southern site to support automobile and pedestrian access. Internally, the northern site shows pedestrian paths and walkways to and from the retail store. (Exhibits 2a, 2b, 3, and 4a)

Configuration Principle 5 – Provide architectural features that comply with Chapter 5 of the Design Guidelines.

Findings: As noted in findings for Chapter 1, Goal 4 and Chapter 3, Goals 5 and 6, the conceptual drawings emphasize façade modulation, variation in materials, and variation in color, among other architectural design elements. The supporting documents to the binding site plan and conceptual site plan include detailed landscape drawings that show landscaping along the site's perimeter, throughout the parking area, and around the stormwater detention area. (Exhibits 2a, 2b, 3, and 4a)

Conclusions: The proposed binding site plan, supporting documents, and conceptual site plan meet the Site Configuration Principles of the North Kelsey Development Guidelines by providing interconnectivity, compatible land uses, public open spaces, and desirable architectural features and site design elements. Even where the proposal does not strictly satisfy the specifics of a particular design guideline, the proposal as a whole complies with the North Kelsey Design Guidelines when the totality of all proposed features are considered.

- Chapter 3 of the North Kelsey Design Guidelines relates to the site planning:

Section A – Public Open Space includes the following statements of Intent for the North Kelsey Development Area: provide a variety of open spaces, provide a focal open space that functions as community gathering space, provide a park-like character within the Planned Development Area, provide an attractive pedestrian environment, and provide outdoor spaces for relaxing, eating, socializing, and recreating.

Findings: The supporting documents to the binding site and conceptual site plan and conceptual elevations include detailed landscape drawings that show different types of open space associated with the retail development of the northern site that includes

landscaping along the site's perimeter, throughout the parking area, and around the stormwater detention area; a plaza area adjacent to the main entrance to the retail store with pedestrian seating, landscaping, and an enhanced "hardscape"; and a corner pedestrian feature at Galaxy Way and North Kelsey Street. (Exhibits 2b, 4a, and 4 b)

Findings: Chapter 3 of the North Kelsey Design Guidelines proposes development of the Focal Plaza, Village Green, and Shopping Corridor, and pedestrian-oriented spaces on the southern site.

Findings: As noted above, the proposed development for the northern site includes pedestrian amenities, pathways, landscaped areas, public seating, lighting, focal points, as well as textured and colored concrete in different areas. (Exhibits 2b, 4a, and 4 b)

Findings: The supporting documents to the binding site and conceptual site plan show interconnected landscaped open spaces along North Kelsey Street. (Exhibits 2b, and 4a)

Findings: The supporting documents to the binding site and conceptual site plan show a pedestrian corner feature and focal open space along North Kelsey Street. A large landscaped open space buffers the proposed retail store on Lot 1 and aligns with the Village Green area across a textured and colored walkway. The sidewalk along North Kelsey Street connects the pedestrian corner features. Design review of the pedestrian corner feature will be under separate review. (Exhibits 2b, 4a, and 4 b)

Findings: The stormwater detention facility at the intersection of North Kelsey Street and Chain Lake Road for the northern site is buffered and heavily landscaped. (Exhibits 2b, 4a, and 4 b)

Conclusions: The proposed development of the northern site provides varied open spaces, attractive pedestrian-oriented spaces, and pedestrian amenities.

Section B – Building orientation includes the following statements of intent for the North Kelsey Development Area: provide an attractive pedestrian environment, enhance the character of the streetscape, enhance the use and safety of open spaces, and provide attractive building facades adjacent to parking lots.

Findings: The primary façade of the proposed retail store on Lot 1 faces west toward the parking area. The secondary façade faces North Kelsey Street across a landscaped buffer and parking area. (Exhibits 2a, 2b, 3, and 4a)

Findings: The conceptual elevations include desirable architectural elements and treatments along the primary, secondary, side, and rear elevations. Complete building design review will be under a separate permit. (Exhibit 4a)

Conclusions: The proposed development and preliminary design concept for Lots 1 and 2 of the northern site are consistent with the plan's goal to provide an attractive pedestrian environment, enhance the streetscape, and to provide attractive building facades adjacent to parking lots.

Section C – Land Uses includes the following statements of intent for the North Kelsey Development Area: to provide a variety of uses that serve the diverse needs and interest of Monroe's residents and residents of the defined market area; to provide for uses that facilitate a pedestrian-friendly environment; and to support an expanded tax-base for the city of Monroe.

Findings: Under Chapter 3, Section C, Table 2 of the North Kelsey Design Guidelines retail use is an acceptable use on the northern site.

Conclusions: The proposed development and preliminary design concept for the northern site are consistent with the plan's allowed uses, as noted in Section C(3) of the staff report. The proposed development is consistent with the projected population growth, income growth, and retail needs for the city and surrounding area, as detailed in the Market Analysis.

Section D – Parking areas include the concepts for the North Kelsey Development Area: to provide convenient parking areas, provide flexibility in parking design, not to diminish pedestrian and visual qualities, maintain the street edge through screening, and minimize impacts of driveways.

Findings: The proposed parking areas as shown in the binding site plan, supporting documents, and conceptual site plan conform to the requirements of Chapter 18.86 MMC. (Exhibits 2a, 2b, 3, and 4a)

Findings: The supporting documents to the binding site plan (Exhibit 2b) indicate that the proponent will construct 687 parking spaces (659 are required for the total retail area of 164,781 including garden centers based on a ratio of 1 space per 250 square feet of gross floor area).

Findings: The proposed parking area includes one main driveway off North Kelsey Street that aligns with the entrance to the southern site and three driveways off Galaxy Way. The applicant proposes to include pathways through the main parking lot in three areas connecting to Galaxy Way to the main entrance and an additional pathway from North Kelsey Street to the main entrance. The perimeter of all parking areas are landscaped (Exhibits 2a, 2b, 3, and 4a)

Conclusions: The proposed development and preliminary design concept for the northern site are consistent with the plan's parking strategy for the Planned Development Area.

Section E – Street Corners/Highly Visible Locations includes the concepts for the North Kelsey Development Area: to enhance the appearance of highly visible locations, to enhance the pedestrian environment, and to establish a design identity for the North Kelsey Planning Area.

Findings: Chapter 3, Section E identifies six highly visible areas and encourages design treatments at these locations. Two highly visible areas about the northern site: Location D and E.

Findings: Lots 1 is adjacent to Location D. Lot 1 includes a large landscaped area at Location D.

Findings: Lots 1 and 3 are adjacent to Location E. Lot 1 includes a landscaped area and pedestrian path at Location E. Lot 3 will include a retail store or restaurant adjacent to Location E. Design review for future development of Lot 3 will be under a separate permit. (Exhibits 2a, 2b, 3, and 4a)

Conclusions: The proposed development and preliminary design concept for the northern site include some desirable design elements encouraged for Highly Visible Locations within the Planned Development Area.

- Chapter 4 of the North Kelsey Design Guidelines relates to the circulation:

Section A relates to the construction of an east-west connector.

Findings: As previously noted, Tjerne Place was constructed as the development's east-west connector with the Lowe's development and US-2 / Chain Lake Rd intersection improvements.

Section B relates to the construction of sidewalks and paths.

Findings: As previously noted, the binding site plan, supporting documents, and conceptual site plan show pedestrian connections between the proposed development along Galaxy Way to the west, North Kelsey Street to the south, and along the public sidewalk to the east up to Chain Lake Road. (Exhibits 2b and 4a)

Findings: Proposed sidewalks will be ADA compliant and include landscaped planting strips. (Exhibits 2b and 4a)

Findings: Proposed sidewalks along North Kelsey Street are eight feet in width, and five feet in width along Galaxy Way. (Exhibits 2a and 2b)

Findings: Pedestrian crosswalks are provided at North Kelsey and Galaxy Way and where the main entrance to the northern site aligns with the southern site (Exhibits 2a, 2b, and 4a).

Findings: The crosswalks on North Kelsey Street, Galaxy Way, and where the main entrance to the northern site aligns with the southern site will be stamped colored concrete to match existing crosswalks in the North Kelsey Planned Development Area. (Exhibit 4a)

Findings: A secondary pathway, adjacent to the northern site's main entrance, from North Kelsey Street to the proposed retail store on Lot 1, will be five feet in width and include street trees. (Exhibits 2b and 4a)

Findings: Internally, the northern site includes pedestrian paths and walkways to and from the retail store, and throughout the main parking area. (Exhibits 2a, 2b, and 4a)

Conclusions: The proposed development plans and preliminary design concept for the northern site meet the sidewalk and pathway requirements for the Planned Development Area.

Section C relates to the bicycle circulation and amenities.

Findings: As previously noted, the binding site plan includes supporting documents, and conceptual site plan shows pedestrian connections throughout the site as well as connections to the southern site. (Exhibits 2a, 2b, 3, and 4a)

Findings: The proposed sidewalk on the northern side of North Kelsey will be eight feet in width and support multimodal use. (Exhibits 2a, 2b, 3, and 4a)

Findings: The site will include paths, sidewalks, and bike racks to accommodate pedestrian and bicycle access. (Exhibits 2a, 2b, 3, 4a, and 4b)

Conclusions: The proposed development plans and preliminary design concept for the northern site provide safe and efficient bicycle access within the Planned Development Area.

- Chapter 5 of the North Kelsey Design Guidelines relates to the architectural and building design:

Section A relates to the architectural concept encouraged for the North Kelsey Planning Area.

Findings: As previously noted, the conceptual site elevations for the northern site emphasize façade modulation, variation in materials, and variation in color, among other desirable architectural design elements and treatments along the primary, secondary, side, and rear facades. Complete building design review will be under a separate permit. (Exhibit 4b)

Section B relates to the architectural scale of buildings encouraged for the North Kelsey Planning Area.

Findings: From the conceptual site elevations, it appears that the proposed building is under the maximum allowed height of 35 feet. Complete building design review will be under a separate permit. (Exhibit 4b)

Findings: The conceptual site elevations show vertical articulation along the primary, secondary, side, and rear facades including stepping back portions of the façade including distinctive features, and changing materials. Complete building design review will be under a separate permit. (Exhibit 4b)

Section C relates to the architectural elements encouraged for the North Kelsey Planning Area.

Findings: The conceptual site elevations show roofline variations along the primary, secondary, side, and rear facades. Complete building design review will be under a separate permit. (Exhibit 4b)

Findings: The conceptual site elevations show desirable building elements and details along the primary, secondary, side, and rear facades including articulated building elements, weather protection at building entrances, and decorative building materials. Complete building design review will be under a separate permit. (Exhibit 4b)

Findings: The conceptual site elevations show durable, high-quality materials along the primary, secondary, side, and rear facades including architectural block, stone, and brick. Complete building design review will be under a separate permit. (Exhibit 4b)

Findings: The conceptual site elevations include a color palette that includes a variety of muted earth-tone colors. The majority of the building proposes to use a darker background color with lighter colors for accent along the primary, secondary, side, and rear facades. Complete building design review will be under a separate permit. (Exhibit 4b)

Findings: Service areas are screened from public view. Complete building design review will be under a separate permit. (Exhibits 2b and 4a)

Conclusions: The preliminary design concept for the northern site is consistent with the Architectural and Design concept for the Planned Development Area.

- Chapter 6 of the North Kelsey Design Guidelines relates to landscape design:

Findings: The proponent submitted preliminary landscape plans as supporting documents to the binding site plan. The conceptual site plan also shows landscaping areas. (Exhibits 2b and 4a)

Findings: As previously noted, the supporting documents to the binding site and conceptual site plan include detailed landscape drawings that show different types of open space associated with the retail development of the northern site that includes landscaping along the site's perimeter, throughout the parking area, and around the stormwater detention area; a plaza area adjacent to the main entrance to the retail store with pedestrian seating, landscaping, and an enhanced "hardscape;" and a corner pedestrian feature at Galaxy Way and North Kelsey Street. (Exhibits 2b and 4a)

Findings: As previously noted, proposed sidewalks and pathways include landscaped planting strips. (Exhibits 2b and 4a)

Findings: As previously noted, landscaped areas screen high-intensity areas including parking areas, the stormwater detention area, and service areas in the northern site. (Exhibits 2b and 4a)

Conclusions: The preliminary design concept for the northern site is generally consistent with the Landscape Design concept for the Planned Development Area. The city will address final design modifications at the time of building permit application.

- Chapter 7 of the North Kelsey Design Guidelines relates to signage and lighting:

Findings: The proponent submitted conceptual sign drawings for Lot 1 on the northern site that include wall signs, secondary signs, and monument signs. Complete design review will be under a separate permit. (Exhibit 4b)

Findings: The monument signs are proposed to be located at the main entrance along North Kelsey Street and between the secondary entrances on Galaxy Way. Complete design review will be under a separate permit. (Exhibits 4a and 4b)

Findings: The secondary signage includes market and pharmacy, home and living, and outdoor living signs along the primary façade. Secondary signage is located above on focal points, centered between architectural elements, and integrated into the building's architecture. Complete design review will be under a separate permit. (Exhibit 4b)

Findings: The conceptual wall sign, located at the main entrance within an architectural focal point, exceeds the allowed square footage by approximately 98 square feet. Complete design review will be under a separate permit. (Exhibit 4b)

Findings: The binding site plan, supporting documents, conceptual site plan, and conceptual elevations include conceptual lighting details. Complete review of lighting standards will be under a separate permit. (Exhibits 2a, 2b, 4a, and 4b)

Conclusions: The preliminary sign and lighting concept for the northern site is generally consistent with the sign and lighting criteria for the Planned Development Area. The city will address final design modifications at the time of sign permit and building permit application.

6. Compliance with the Planned Action – Final Supplemental Environmental Impact Statement.

- The North Kelsey Planning Area and Planned Development Area are subject to a Planned Action as allowed under WAC 197-11-168 and a Final Supplemental Environmental Impact Statement, adopted under Ordinance No. 003/2004. At the time of inception, the Planned Action included approximately 68 acres. The preferred alternative for development is Alternative 1, the full build-out option that envisions

approximately 500,000 square feet of retail use in the Planned Development Area. The Planned Action FSEIS has established the terms of development and mitigation for portions of the Planning Area.

Findings: Following Table 5.1 (Chapter 5 of the FSEIS Volume 1), Earth and Soil Element, development shall conform to adopted code standards – Table 5.1 did not identify any mitigation measures

Findings: The proponent submitted a grading plan (Exhibit 3) and geotechnical report (Exhibit 10) detailing issues related to earth and soil issues for the future development of the northern site.

Findings: Following Table 5.1 (Chapter 5 of the FSEIS Volume 1), Surface Water and Quality Element, development shall provide a stormwater plan – Table 5.1 did not identify any mitigation measures.

Findings: The proponent submitted a Temporary Erosion Control and Sedimentation Plan with the grading plan (Sheets PD1.2 – 1.5 and PD2.0 -2.2 of Exhibit 3), supporting documents (Exhibit 2b), and a preliminary stormwater report (Exhibit 11) related to stormwater issues for the future development of the northern site.

Findings: Following Table 5.1 (Chapter 5 of the FSEIS Volume 1), Land Use Element, developments shall provide a site plan based on the North Kelsey Design guidelines and comply with adopted standards – Table 5.1 did not identify any mitigation measures.

Findings: The proponent submitted a binding site plan, supporting documents, and a conceptual site plan based on the North Kelsey Design Guidelines. The future development on the northern site includes the "North Area" and a portion of the former Monroe Public Works site and encompasses approximately 24 acres, excluding right-of-way dedications. (Exhibits 2a, 2b, 3, and 4a)

Findings: The Hypothetical Use Projections (Chapter 2, Section 2.5) estimate approximately 100,000 square feet of retail use on the northern site and 100,000 square feet of office space on the northern site. The proposed development of the northern site totals approximately 167,000 square feet including the retail store and garden centers on Lot 1 and conceptual development of Lot 2. (Exhibits 2a, 2b, and 4a)

Findings: Following Table 5.1 (Chapter 5 of the FSEIS Volume 1), Transportation Element, developments shall provide a site-specific transportation analysis – Table 5.1 mitigation measures require consistency with the Master Plan, careful design for vehicle access, and frontage improvements.

Findings: Following Table 5.3 (Chapter 5 of the FSEIS Volume 1), defined mitigation measures will occur as development meets defined trip thresholds.

Findings: The FSEIS established Transportation Analysis Zones (TAZ) for portions of the Planning Area. The northern site is included in TAZ 106. The FSEIS (Volume 2, Section 4.1.1) estimates that the northern site will generate 835 total PM peak hour trips.

Findings: The proponent submitted a traffic analysis (Exhibit 12), related to traffic issues for the future development of the northern site. The traffic analysis estimates that the retail development will generate 515 total PM peak hour trips and predicts the level of service at affected intersections will range between Level of Service A to B.

Findings: As previously noted, the binding site plan, supporting documents, and conceptual site plan include proposed traffic improvement, driveway cuts, and right-of-

way improvements. (Exhibits 2a, 2b, 3, and 4a)

Findings: Following Table 5.1 (Chapter 5 of the FSEIS Volume 1), Air Quality Element, developments shall meet local and regional code requirements – Table 5.1 included mitigation measures specific to the operation of Lakeside Industries.

Findings: The proposed binding site plan and future development of the northern site will have commensurate effects on air quality associated with retail development.

Findings: Following Table 5.1 (Chapter 5 of the FSEIS Volume 1), Noise Element, developments shall conform to adopted city noise standards – Table 5.1 did not identify any mitigation measures.

Findings: The proposed binding site plan and future development of the northern site will have commensurate effects on noise associated with retail development.

Findings: Following Table 5.1 (Chapter 5 of the FSEIS Volume 1), Visual Element, developments shall meet city standards – Table 5.1 included mitigation measures specific to the operation of Lakeside Industries.

Findings: The proposed binding site plan and future development of the northern site will have commensurate visual effects associated with retail development. As previously noted, the proposed development of the northern site will be screened by perimeter landscaping and the building is sited to fit into the existing topography.

Findings: Following Table 5.1 (Chapter 5 of the FSEIS Volume 1), General Mitigation Element, developments shall conform to the North Kelsey Design Guidelines and city zoning standards.

Findings: Earlier responses detail consistency with the Design Guidelines and zoning code.

RECOMMENDATION²:

Staff recommends that Monroe City Council **APPROVE** Binding Site Plan (BSP 2011-01), Grading Permit (M2011-0004/1), and the North Kelsey Conceptual Materials through a consolidated review of the Development Agreement with North Kelsey LLC subject to the following conditions.

1. Exhibit 2a is the preliminary binding site plan. Final approval will be administrative following completion of required improvement or acceptance of financial securities. The city may approve minor, non-material changes to the plans at the discretion of the Director or designee.
2. Preliminary approval of the binding site is for a period of two years. The director may grant an extension(s) for up to one additional year.

² In accordance with the applicant's request for consolidated review of the proposed binding site plan and grading permit concurrently with the proposed development agreement, the City Council, as the highest body with decision-making authority with respect to the development agreement, is also authorized to issue a final decision on the binding site plan and grading permit pursuant to MMC 17.34.030(C) and MMC 21.50.130. The Director expressly finds and concludes that the binding site plan and grading permit meet all applicable standards for approval. Staff's action is formatted as a recommendation rather than a final approval only because the City Council possesses final decisional authority under these circumstances.

3. Following final approval of the binding site plan, the applicant shall record the approved binding site plan with the Snohomish County auditor within ninety days.
4. Exhibit 2b includes supporting documents to the binding site plan. The final approval of individual elements will be administrative at the time of future permit application. The city may approve minor, non-material changes to the plans at the discretion of the Director or designee.
5. Exhibit 3 is the grading plan. The city may approve minor, non-material changes to the plans at the discretion of the Director or designee.
6. Exhibit 4a is the conceptual site plan for the northern site. The city may approve minor, non-material changes to the plans at the discretion of the Director or designee.
7. Exhibit 4b includes the conceptual building elevations for Lot 1 of the northern site. Final approval of individual elements will be administrative at the time of future permit application.

Brad Fellberg (Signed original in official file)

Brad Fellberg, P.E.,
Public Works and Community Development Director

Russell E. Wright (Signed original in official file)

Russell E. Wright, MES,
Acting SEPA Official

[EXHIBIT D TO DEVELOPMENT AGREEMENT]

ADDENDUM TO THE STAFF REPORT & RECOMMENDATION
BINDING SITE PLAN (BSP 2011-01), GRADING PERMIT (M2011-0004/1),
AND NORTH KELSEY CONCEPTUAL MATERIALS

[NOTE: Exhibits 1a, 2a, 2b, 3, 4a and 4b are omitted as attachments to this report and can otherwise be found as separate attachments to the Development Agreement]

TO: Mayor Zimmerman, and the Monroe City Council
FROM: Brad Feilberg, P.E., Public Works and Community Development Director
Russell E. Wright, MES, Acting SEPA Official
SUBJECT: Addendum (Exhibit 17) to the Staff Report & Recommendation for Binding Site Plan (BSP 2011-01), Grading Permit (M2011-0004/1), and North Kelsey Conceptual Materials
HEARING DATE: March 16, 2011 (continued to March 29, 2011)

Compliance with the North Kelsey Supplemental Development Agreement Provisions

- The supplemental development agreement provisions "supplement" the adopted guidelines. The proposed supplemental provisions are written in italics. The supplemental provisions relate predominately to the southern site.
- Supplemental Focal Plaza Provisions

Findings: The Supplemental Focal Plaza Provisions provide eight objectives related to the Focal Plaza including water features, public art, enhanced landscaping, public spaces, and public seating.

Findings: Conceptual drawings for the North Kelsey Development Plan and Supplemental Provisions place the Focal Plaza on the southern site (Section A1, North Kelsey Supplemental Development Agreement Provisions).

Conclusion: Supplemental Focal Plaza Provisions do not affect proposed development of the northern site.

- Supplemental Village Green Provisions

Findings: The Supplemental Village Green Provisions provide five objectives related to the Village Green including scale, landscaping, public open spaces, and public art.

Findings: Conceptual drawings for the North Kelsey Development Plan and Supplemental Provisions place the Village Green on the southern site (Section A2, North Kelsey Supplemental Development Agreement Provisions).

Conclusion: Supplemental Village Green Provisions do not affect proposed development of the northern site.

- Supplemental Shopping Corridor Provisions

Findings: The Supplemental Shopping Corridor Provisions provide eight objectives related to the Shopping Corridor including public art, architectural views, dining & public seating, landscaping, public open spaces, and natural light.

Findings: Conceptual drawings for the North Kelsey Development Plan and Supplemental Provisions place the Shopping Corridor on the southern site (Section A3, North Kelsey Supplemental Development Agreement Provisions).

Conclusion: Supplemental Shopping Corridor Provisions do not affect proposed development of the northern site.

- Supplemental Provisions: Public Atrium

Findings: The Supplemental Public Atrium Provisions provide three statements of intent and 13 objectives related to the Public Atrium.

Findings: The intent statements focus on public amenities, such as a covered shopping corridor adjacent to the focal plaza and village green and the use of natural light. The objectives include size, height and visibility considerations; public seating; public dining, public amenities; use of natural light; etc.

Findings: The Supplemental Provisions indicate that a Public Atrium is an alternative to the Shopping Corridor. Therefore, a Public Atrium would be located on the southern site (Section A5, North Kelsey Supplemental Development Agreement Provisions).

Conclusion: Supplemental Public Atrium Provisions do not affect proposed development of the northern site.

- Supplemental Parking Provisions

Findings: The Supplemental Parking Provisions relate to parking areas and require that pedestrian-scale lighting be incorporated along walkways through parking lots; the Supplemental Parking Provisions recommend including weather protection when such walkway connects uses within the site and incorporating design and materials that complement the development's buildings and open spaces in parking lot layout.

Findings: The binding site plan, supporting documents, and conceptual site plan include pedestrian-scale lighting within the parking areas adjacent to defined pathways. Complete review of lighting standards will be under a separate permit. (Exhibits 2a, 2b, 4a, and 4b)

Findings: The binding site plan, supporting documents, and conceptual site plan incorporating design and materials that complement the proposed building and open spaces into the parking lot layout including parking lot landscaping, patterned concrete pathways through the parking areas, and patterned and colored concrete at crosswalks.

Conclusions: The binding site plan, supporting documents, and conceptual site plan for the northern site are consistent with the Supplemental Parking Provisions.

- Supplemental Intent Statement: To encourage architecture that evokes a "Northwest" architectural theme based upon its use of natural local materials and northwest architectural heritage.

Findings: The conceptual site elevations show durable, high-quality materials along the primary, secondary, side, and rear facades including architectural block, stone, and brick. Complete building design review will be under a separate permit. (Exhibit 4b)

Findings: The conceptual site elevations include a color palette that includes a variety of muted earth-tone colors. The majority of the building proposes to use a darker background color with lighter colors for accent along the primary, secondary, side, and rear facades. Complete building design review will be under a separate permit. (Exhibit 4b)

- The Supplemental Architectural Provisions provide three objectives related to building design. The first concept encourages the use of a variety of building materials, colors, finishes, and textures and incorporating and recommending that structures employ exposed timber elements or similar unifying architectural feature approved by the City. The second concept indicates that flashy or unusual design themes that have no history with Monroe or the Pacific Northwest are not acceptable. The Third concept implies that all building facades include a unifying architectural scheme.

Findings: The proposed development on the northern site provides a unifying theme based on a variation of color, textures, and materials along all facades combined with emphasizing decorative architectural elements along the front facade, such as a trellis-like weather protection feature over primary entrances and arched rooflines over main entrances. Complete building design review will be under a separate permit. (Exhibit 4b)

Findings: The proposed conceptual elevations do not include any "flashy" or unusual design elements. Complete building design review will be under a separate permit. (Exhibit 4b)

Conclusions: Even though the conceptual elevations do not employ heavy timber features, as encouraged, it does include a unifying theme based on color, textures, and materials that emphasizes decorative elements along the front façade a trellis-like weather protection feature that simulates timber. The conceptual elevations are not atypical of regional large retail buildings and are generally consistent with the Supplemental Architectural Provisions.

- Supplemental Building Elements and Details Provision include two new design objectives.

Objective S1 requires that all new buildings include at least four desirable façade elements on their primary facades including but not limited to artwork; recessed entries; decorative doors; pergolas, arcades, or bay windows; multiple-paned windows, decorative weather protection feature; landscaped trellises or other decorative elements that incorporate landscaping near the building entry; decorative building materials such as stone, tile, or wood-work.

Findings: The conceptual site elevations show desirable building elements and details along the primary, secondary, side, and rear facades e.g., articulated building elements, projected entrances (equivalent to recessed entries), decorative weather protection at entrances, a landscape feature between the primary entrances, multiple-paned windows, and high-quality, decorative building materials including architectural block, stone, and brick. Complete building design review will be under a separate permit. (Exhibit 4b)

Objective S2 prohibits architecture that is identified predominantly by corporate identity features (e.g., KFC red roofs, McDonald's yellow roof ribs, Rite Aid's diamond windows, etc.)

Findings: The conceptual site elevations are a variant of Walmart's current corporate architectural design plan, but the plan does not emphasize widely identifiable corporate symbols (excluding signage) common to earlier Walmart stores. The proposed design would not prohibit future reuse or significant design modifications by a different occupant. Complete building design review will be under a separate permit. (Exhibit 4b)

Conclusions: The conceptual site plan and elevations for the northern site are generally consistent with the Supplemental Building Elements and Details Provisions.

- Supplemental Exterior Materials Provisions

Findings: The Supplemental Exterior Materials Provisions defines the allowed percentage of metal, stucco, and concrete block on primary and other facades and prohibits using non-durable materials along within three feet of a walkway surface, pavement, or bare ground.

Findings: The conceptual elevations include a mix of high-quality, decorative building materials including architectural block (three varieties), stone, and brick along all facades as well as Trespa Meteon panels (this material is a durable prefinished wall panel) and EIFS exterior wall cladding (this is a material with a stucco-like appearance). Complete building design review will be under a separate permit. (Exhibit 4b)

Conclusion: The conceptual elevations for the northern site are generally consistent with the Supplemental Exterior Materials Provisions.

Brad Feilberg (Signed original in official file)

Brad Feilberg, P.E.,
Public Works and Community Development Director

Russell E. Wright (Signed original in official file)

Russell E. Wright, MES,
Acting SEPA Official

**City of Monroe
Planning & Permitting**

Memo

Agenda Item

PH #1.3

Date 3/29/11

To: Mayor Zimmerman & Monroe City Council
From: Russ Wright, Associate Planner
Brad Feilberg, Public Works Director
Date: March 29, 2011
Re: Staff Responses (Exhibit 20)

SUMMARY

City Council held the first phase of the Public Hearing on March 15, 2011 related to the development agreement between the City of Monroe and North Kelsey LLC, the associated binding site plan, grading permit, and conceptual site plan. During the first phase of the public hearing, Council heard opening statements from staff and the applicant and received public testimony. Council directed staff to keep the record open for additional written public comment until 5:00 pm Friday, March 18, 2011. Subsequently, staff has reviewed the verbal and written public comment related to the consolidated hearing.

A majority of the comments reflect personal opinions related to the proposed retail use on the northern site. These comments are out of the purview of the hearing, as the proposed retail use is an allowed use in MMC 18.10.050 and in the North Kelsey Development Plan (North Kelsey Design Guidelines, Chapter 3, Section C).

Other testimony and written comments reflect concerns related to transportation impacts and the application of design guidelines.

Before providing a response to these concerns, staff would like to discuss briefly the purpose of a planned action environmental impact statement (EIS). Under WAC 197-11-164, a planned action typically refers to a subarea plan or other type of master plan with a development scheme where the jurisdiction conducts environmental review simultaneously with the plan's development. The reason to conduct environmental review at the beginning of the process is to streamline permitting at the project level. The environmental review will provide impact assessments based on different land use alternatives. Planned actions are subject to public review and an appeal period before final adoption. In the case of the North Kelsey Planned Action EIS, the planned action received no challenges before adoption. The adopted Planned EIS ultimately recommends specific mitigation measures to improve utilities, transportation, and other identified deficiencies. What this means in a practical sense is that when an applicant proposes a project under a planned action, the affected jurisdiction will review the project to determine if any portion of the project exceeds adopted service thresholds under the preferred alternative. If the project is consistent with the underlying planned action, no additional environmental review is required and the project is subject to the identified mitigation measures. If a project is not consistent with the planned action and the jurisdiction predicts additional impacts resulting from the project, the jurisdiction will require further environmental review and additional mitigation measures equal with the impact.

As previously discussed in the staff report, city staff has reviewed the potential traffic impacts associated with the proposal. Staff reviewed the Traffic Analysis Summary, prepared by TranspoGroup, against Volumes 1 and 2 of the adopted Environmental Impact Statement (EIS) (Exhibits 13 and 14) and Institute of Transportation Engineers *Trip Generation Manual*. Volume 2 of the EIS includes a detailed Transportation Analysis Report, prepared by Jones and

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Stokes. This report analyzed the assumed traffic growth at four "transportation analysis zones" (TAZ) in relation to 14 likely affected intersections, including major intersections along US-2. TAZ 105, 106, and 72 approximate the boundaries of the North Kelsey Planning Area. TAZ 106 corresponds with the northern site.

- US-2 & Fryland's Blvd.
- US-2 & 179th Ave.
- US-2 & SR-522
- EW Connector & Kelsey Street
- Lenton Place & Kelsey Street
- US-2 & Kelsey Street
- West Main & Kelsey Street
- North Kelsey Street & Chain Lake Road
- EW Connector & Chain Lake Road
- US-2 & Chain Lake Road
- West Main & SR-203 (Lewis Street)
- Oaks Street & Woods Creek Road
- US-2 & Woods Creek Road
- US-2 & West Main Street/Old Owen Road

The primary purpose of the Jones and Stokes traffic report was to estimate the potential impact of weekly PM peak hour trips on the adopted Level of Service at these intersections. PM peak hour trips correlate to the time of day with the highest anticipated traffic volume within a given area. According to the city's *Comprehensive Transportation Plan* (page 4-9), the hour between 5 pm and 6 pm is the most representative peak hour citywide. LOS is a qualitative indicator of traffic flow at intersections typically measured by wait time. LOS designations range from A to F, with "A" representing the best traffic conditions and "F" the worst. Acceptable LOS levels vary by Intersection type. An interlocal agreement between the city of Monroe and the Washington State Department of Transportation establishes the LOS standards for intersections along US-2, SR-522, and SR-203. This agreement requires that existing LOS be maintained after development when the LOS is D or E, and improved when the existing LOS is F.

The findings of importance from the Jones and Stokes traffic report compared to the TranspoGroup traffic summary are the overall trip projection at full build-out for TAZ 106 e.g., the northern site and the project's potential LOS impacts at affected intersections. Table 10 in the Jones and Stokes traffic report estimates 835 combined trips for TAZ 106. The applicant's traffic summary indicates that the proposed retail development on the northern site will generate 515 PM peak hour trips. In review of the applicant's traffic summary, staff verified that the PM peak hour trips for the proposed retail development are below the forecasted capacity for the northern site by 320 projected trips.

In response to citizen comment, the applicant submitted a supplemental traffic memo, along with other materials (Exhibit 19), to provide background information, not included in its summary analysis. The response memo from TranspoGroup directly compares the project to the traffic forecast described in the Jones and Stokes report. It also provides a LOS summary for five affected intersections e.g., US-2/Kelsey Street, US-2/Chain Lake Road, Tjerne Place/Kelsey Street, Kelsey Street/Chain Lake Road, and Tjerne Place/Chain Lake Road based on traffic counts and modeling. The supplemental report found that the current proposal is consistent with the retail land use assumed in the North Kelsey EIS and that the project will meet intersection LOS standards.

As mentioned above, Jones and Stokes traffic report measured the LOS at 14 intersections under three alternatives: a no action alternative, a moderate build-out alternative, and a full build-out alternative, which was the preferred alternative for the proposal. Table 11 of the Jones and Stokes traffic report predicted that seven intersections (e.g., future EW Connector & Kelsey Street, Lenton Place & Kelsey Street, US-2 & Kelsey Street, West Main & Kelsey Street, North Kelsey Street & Chain Lake Road, future EW Connector & Chain Lake Road, and US-2 & Chain Lake Road) would fail at full build-out without improvements. Table 19 of the Jones and Stokes traffic report identified eight improvements to insure that affected intersections meet LOS standards for the North Kelsey Planning Area at build-out. The city has completed six of the eight recommended improvements. Mitigation fees from the pending project will fund the construction of the remaining two projects. The following table is adapted from Table 19 and shows completed projects.

| Traffic Mitigation Projects | | |
|---------------------------------------|--|---------|
| Intersection | | Status |
| Lenton Place & Kelsey Street | Allow only right turns eastbound and westbound and prohibit left turns northbound. | Done |
| West Main & Kelsey Street | Install signal. | Pending |
| US-2 & Kelsey Street | Construct second eastbound left-turn lane. | Done |
| US-2 & Chain Lake Road | Add second southbound left-turn lane. Add eastbound and westbound right-turn lanes. Extend the improvements north of EW connector. | Done |
| North Kelsey Street & Chain Lake Road | Construct single-lane roundabout. | Pending |
| EW Connector (Tjerne Place) | Construct east-west roadway between North Kelsey Street and Chain Lake Road, north of Lenton Place. | Done |
| EW Connector & Chain Lake Road | Prohibition of eastbound left-turns may be needed to maintain LOS during PM peak. | Done |
| EW Connector & Kelsey Street | Install signal. | Done |

In the public testimony, there were comments that suggested that the proposed retail development did not meet the intent of the North Kelsey Development Plan (Exhibit 15) or Supplemental Guidelines (Exhibit 16). As noted in the staff report and addendum to the staff report (Exhibit 17), staff concludes that the proposal generally meets the design guidelines. Staff based its review on a point-by-point analysis of each element of the plan including mandatory and discretionary elements.

Subsequent to a review of the public testimony, staff has had discussions with the applicant's design team and the city's architectural consultant to convey some public comments. The city's architectural consultant Makers provided a summary memo, related to the current proposal, noting general compliance with the design guidelines and development plan (Exhibit 18). Makers also suggested some additional enhancements as the project moves forward. The applicant's design team has indicated a willingness to include some additional enhancements to the conceptual site plan and elevations for council's consideration based on the feedback received (Exhibit 19). Staff has received alternative conceptual drawings from the applicant and letters describing project compliance.

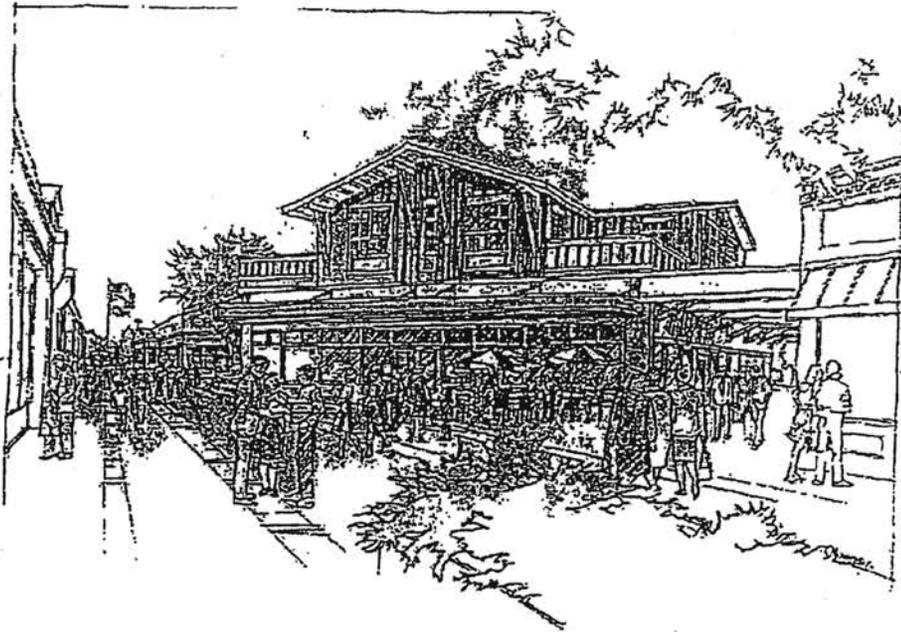
The alternative conceptual materials meet the design guidelines as outlined in the staff report and addendum with additional enhancements to the southern access point to the northern site, additional landscaping along Kelsey Street, additional pedestrian connectivity and features throughout the site. The alternative elevations are also consistent, but project a slightly different development concept.

In closing, staff concludes that the proposed retail development is an allowed land use, meets traffic concurrency requirements under the planned action, and that the proposal meets the North Kelsey Design Guidelines and supplemental provisions.

APPENDIX C

North Kelsey Development Plan and
Supplemental Provisions (Excerpts)

City of Monroe



North Kelsey Development Plan

Adopted by Ordinance 015/2003

Amended by Ordinance 024/2007

Effective 12/02/2007



Exhibit #15

01264

North Kelsey Development Plan

Approved Ord. 015-2003

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CHAPTER 1: Introduction and Purpose

A. Introduction

In April 1925 the City of Monroe entered into a Contract of Sale with the State of Washington to purchase 80 acres of land for \$1,101. The Contract was fulfilled in 1934, with the State of Washington deeding the subject land to the City of Monroe. The City then acquired the north twelve acres in 1974 through a Governor's Deed for mutual benefit between the State of Washington and the City of Monroe.

Over the years, the North Kelsey planning area has been home to the city dump, a racetrack operated by the Sky Valley Racing Association, burial grounds and the Snohomish County Public Works Yard.

In 1958 the City entered into a lease agreement with Charles Beavers for the extraction, processing and distribution of commercial gravel. The city has leased the land for commercial gravel operations to various companies over the years. After Charles Beaver, the Valley Concrete Company attained a lease agreement with the City, which was later taken over by the Joplin Paving Company and eventually shared by Cadman and Lakeside Industries. The city still retains a contract with Landside Industries for the processing and extraction of gravel on a portion of the site.

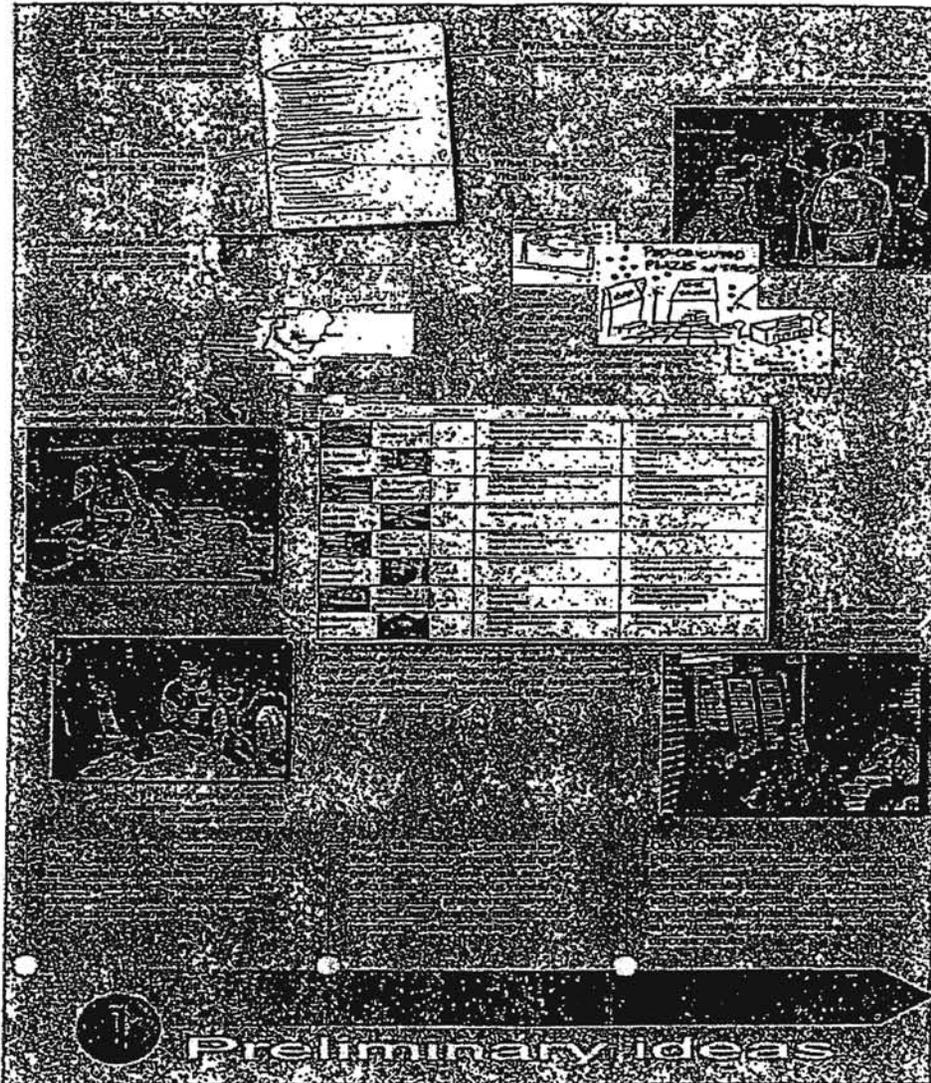
The city hired Lyons & Strutz Associates to complete a long-range feasibility study for the North Kelsey planning area in 1992. The study included three alternatives: the preferred alternative recommended a mix of commercial and heavy and light industrial uses. The preferred alternative also recommended the construction of a boulevard connecting SR-2 with Chain Lake Road; N. Kelsey Street was constructed as a result of this plan. No further action was taken to implement the recommended alternative.

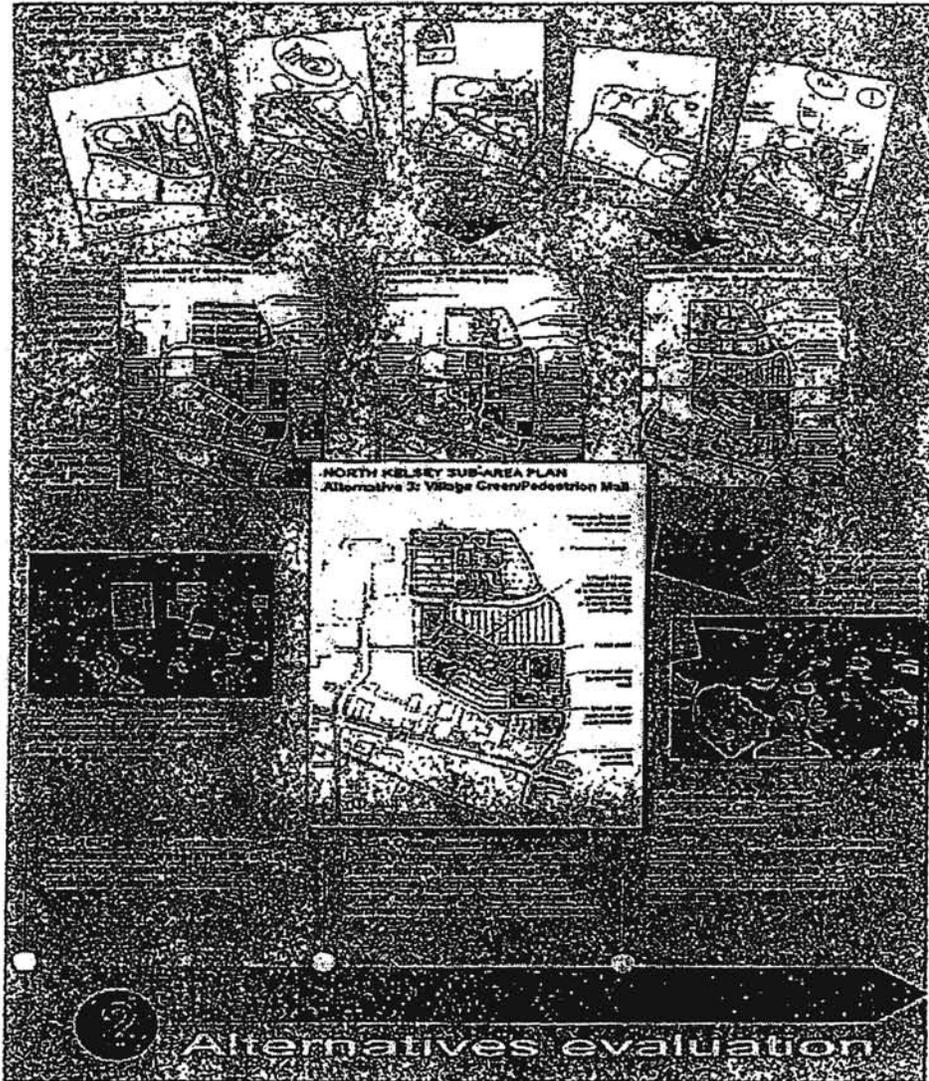
In 2001 the City of Monroe hired Makers Architecture and Urban Design firm to continue the planning process for this area.



Figure 1: Looking west at the North Kelsey planning area across Chain Lake Road.

B. Planning Process





C. Goals and Objectives

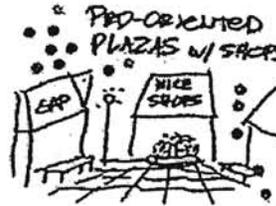
The following goals and objectives for the North Kelsey Development Plan were developed from the public workshop held on October 2, 2001 and refined through the planning process.

Goal 1: Increase the City's economic vitality.

Objectives: Allow for a variety of commercial uses, including "big-box" retail stores, as long as they are sited and designed to meet other plan objectives; Encourage uses for the north-site that support the City's tax base.

Goal 2: Create a focal point as a community gathering spot.

Objectives: Create a plaza open space to accommodate at least 1,000 people for special community events; Design the plaza open space to be adoptable to a variety of events and uses; Design the plaza open space to be safe and welcoming, casual and comfortable; Include a modest water feature within the plaza open space.



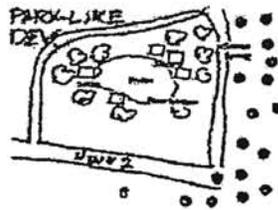
Goal 3: Provide for uses and services that meet the needs of Monroe's diverse population.

Objectives: Encourage a variety of commercial uses which serve both local and regional needs; Encourage the development of a community center to serve local recreational, social, cultural, and/or educational needs; Encourage housing on upper floors, close to uses and amenities; Provide youth-oriented activities and uses; Provide senior-friendly activities and uses;



Goal 4: Create a strong identity for the development.

Objectives: Encourage site and architectural design that is unique and appropriate for Monroe; Encourage architectural design that combines traditional and modern elements; Emphasize landscaping and greenery throughout the development to create a park-like setting;



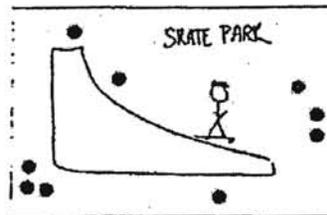
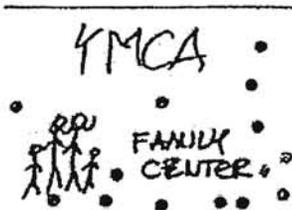
Encourage architectural design that is understated and subtle; Employ local artists, where possible, in the design of public spaces and the streetscape.

**Goal 5:
Encourage pedestrian-friendly development.**

Objectives: Provide safe, efficient, and attractive pedestrian connections between uses throughout the development area and to uses surrounding the site; Encourage small-scale businesses such as cafés and specialty shops; Encourage building design that orients to public open space, pathways, and streets; Develop streets with pedestrian amenities such as wide sidewalks, awnings, street trees and landscaping, and buildings with display windows; Provide separation of vehicles and pedestrians, where possible, along arterials; Hide and screen parking areas; Incorporate safe bicycle access to and throughout site; Encourage large-scale retail uses to provide multiple entries and minimize blank walls; Provide pedestrian-oriented plazas and open spaces throughout the development.

**Goal 6:
Create a place that complements, but does not reproduce the aesthetics of the Downtown Commercial corridor.**

Objectives: Enhance connections between the site and downtown; Provide uses and activities that are not and/or cannot be accommodated downtown; Encourage site design and development character that contrasts rather than copies downtown.



CHAPTER 3: Development Concept

The planning objectives for the North Kelsey Planned Development Area calls for the creation of a pedestrian-friendly center that serves as a community focus, provides public open space and amenities, and accommodates a broad range of commercial and civic activities. The development should build a unique, high-quality identity that complements—but does not duplicate—downtown Main Street. The planning concept outlined in this section translates these objectives into the physical design principles described and illustrated below.

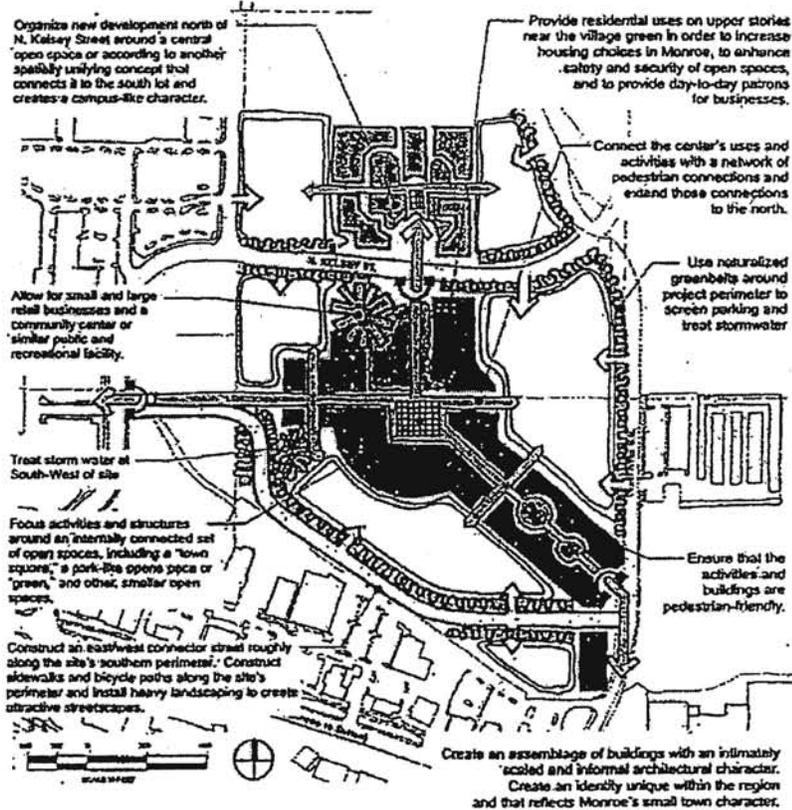


Figure 4: Development concept.

1. Focus activities and structures around an internally connected set of open spaces, including a focal plaza or "town square," a park-like open space or "green," and other smaller open spaces fostering activities associated with businesses or other facilities (such as outdoor dining areas connected to restaurants or a children's play area next to the community center).

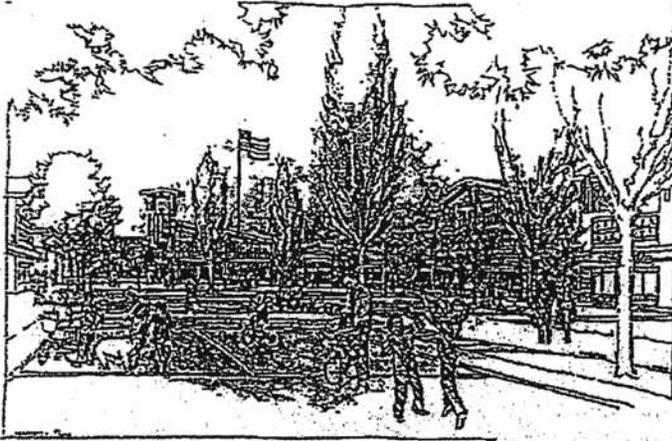
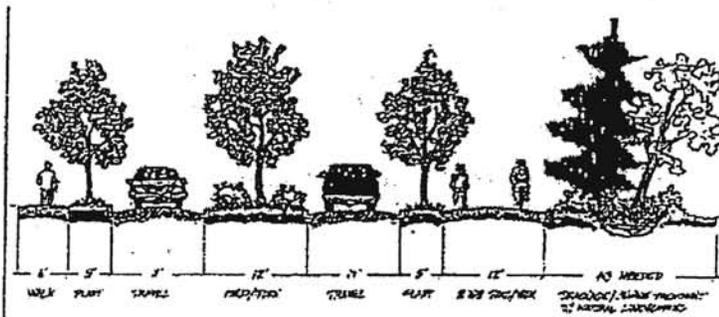


Figure 5: Focus activities around an internally connected set of open spaces.

2. Connect the center's uses and activities with a network of pedestrian connections and extend those connections to the north to the site on the north of North Kelsey Street, to the west toward the Fred Meyer site; to the southeast toward a connection to Main Street, and southward along Chain Lake Road. Provide convenient access from parking to building entries, open spaces, and primary pedestrian connections.
3. Provide vehicular, bicycle, and pedestrian access around the site by constructing an east/west connector street running roughly along the site's southern perimeter. Provide parking access where convenient and safe along perimeter streets. Construct sidewalks and bicycle paths along the site's perimeter and install heavy landscaping to create attractive streetscapes.

Figure 6: Proposed cross-section of the east/west connector road.



4. Identify a development configuration that allows for small and large retail businesses, a community center or similar public and recreational facility, and some upper-story residences. Provide adequate service access for large businesses and minimize their impact on visual qualities and pedestrians.
5. Ensure that the activities and buildings are pedestrian-friendly by providing amenities and landscaping, weather protection, "transparent facades," and human-scaled building elements. Provide main entrances facing primary pedestrian connections or open spaces.

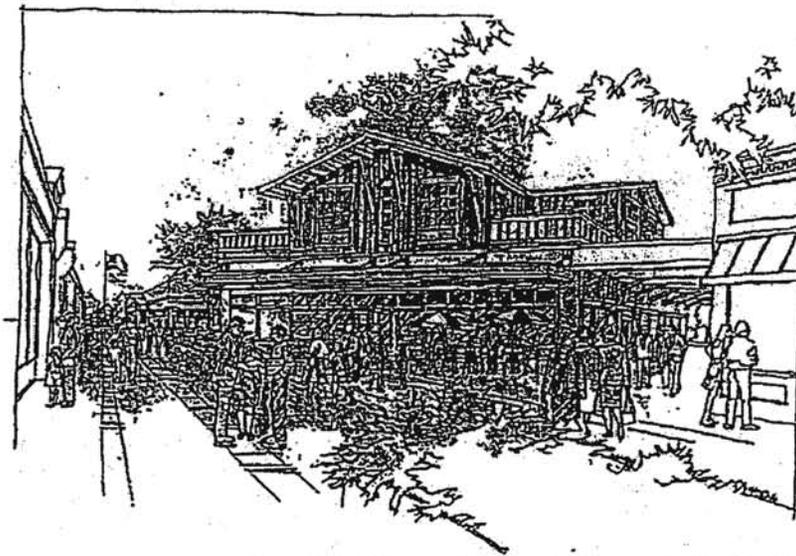


Figure 7: Activities and buildings should be pedestrian friendly.

6. Create an assemblage of buildings with an intimately scaled and informal architectural character. Locate, cluster, and architecturally treat large buildings to ensure that they do not dominate the area's identity. Through the architectural, landscape, open space, and gateway elements, create an identity unique within the region that reflects Monroe's small town character.
7. Provide residential uses on upper stories near the village green in order to increase housing choices in Monroe, to enhance safety and security of open spaces, and to provide day-to-day patrons for businesses.
8. Organize new development north of North Kelsey Street around a central open space or according to another spatially unifying concept that connects it to the south lot and creates a campus-like character.

Figure 4 diagrams these ideas, and Figure 8 below illustrates a hypothetical plan that meets their underlying objectives.

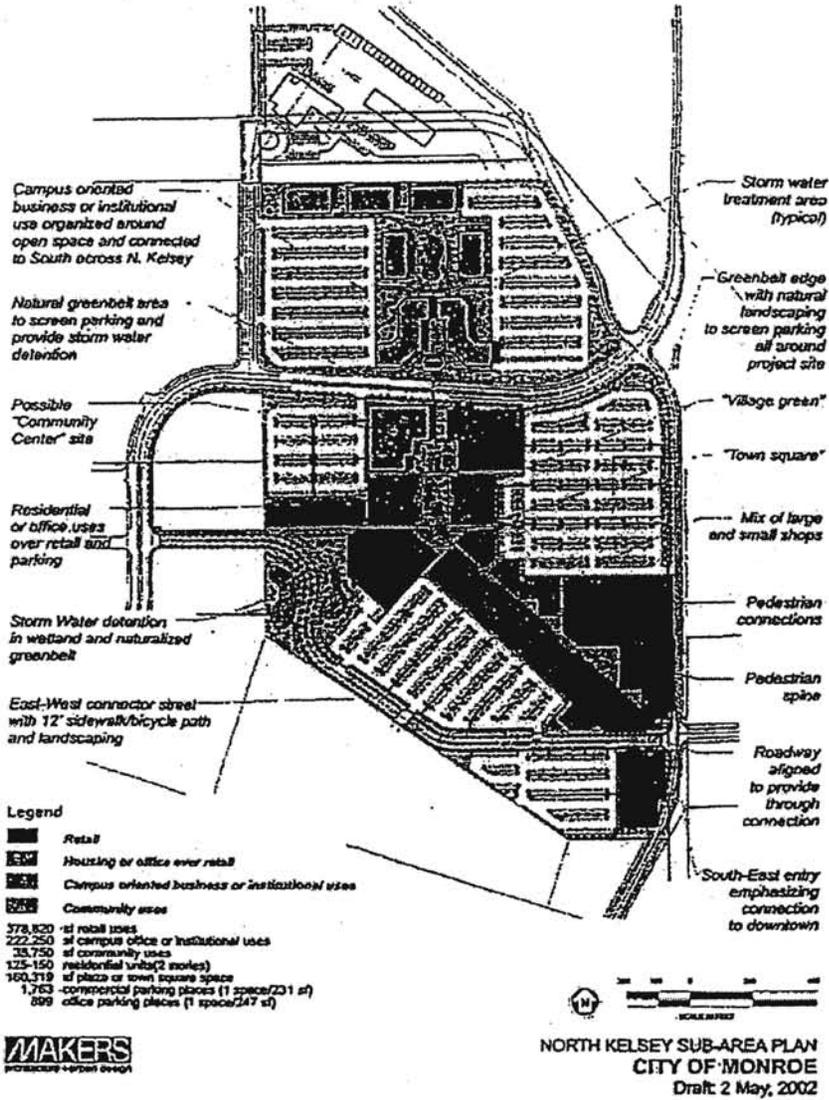


Figure 8: Hypothetical development plan.

The illustrated configuration in many ways reflects a time-tested shopping center model in order to ensure the site's desirability to major retail tenants. However, there are several features that make it a potentially ground-breaking development in the state and responsive to the City's goals. These include:

- Focusing development on a town square and green open space.
- Making pedestrian connections to neighboring areas.
- Including residences on upper stories.
- Creating a small-scale, informal architectural character and minimizing the impacts of large-scale businesses.

These, then, are the elements that will distinguish the development from others in the region, while increasing a sense of community, attracting visitors, and enhancing the viability of other businesses in the downtown. The design guidelines in this report codify these concepts and enable the City to work with potential developers to make sure the principles are achieved.

Relationship to the Surrounding Community

In order to meet the project's goals, the North Kelsey development must reach out to the rest of the downtown, providing pedestrian connections, integrating access with the downtown's larger circulation network and establishing a top quality design character. At the same time the City and other downtown stakeholders should work together to take advantage of the project's benefits and to increase redevelopment and human activity throughout the city center.

Key actions in this effort are:

- Improving local and regional pedestrian and bicycle connections,
- Upgrading the most visible streetscapes,
- Continuing Main Street revitalization efforts, and
- Enhancing businesses between the North Kelsey Site and the Old Main Street Core.

The map diagram on the following page illustrates some preliminary ideas for accomplishing these goals. The noted elements are not necessarily firm recommendations of this plan. They are intended to stimulate thought and to demonstrate that through strategic planning, the North Kelsey development can serve as an integral part of the surrounding downtown.

CHAPTER 4: Implementation Strategy

The following are suggested activities to implement the North Kelsey Development Plan. The first step in adopting the plan and establishing the project schedule and budget should be initiated in the Summer/Fall of 2002. The project schedule and budget will identify the time frame, level of effort, key participants, and resources necessary for the subsequent planning and project implementation steps.

1. Adopt the plan and guidelines and establish a project schedule and budget for future actions.
2. Survey the property to establish accurate property boundaries and right of way limits.
3. Establish policies and criteria for annexation of the County property. This would be a formal indication to the County and subsequent property owners of the City's intent. The policies and criteria should be relatively general to maintain the City's flexibility and authority.
4. Conduct a SEPA analysis and documentation. It may be advisable to conduct a "planned action" EIS that identifies potential impacts of the envisioned development. Such a planned action EIS would analyze impacts such as water run-off and traffic increases in sufficient detail that the project developer would not need to do significant SEPA work if his or her proposal is within the parameters of the plan. This can be a significant advantage to a developer and reinforce the guidelines and regulations that the City adopts. The planned action EIS could also provide project level analysis for the East/West connector road.
5. Market the project to the development community. A brochure or web material could get the word out. The success of this project depends on a high caliber developer.

As part of the marketing and implementation effort, it may be useful to conduct a "Developer's Forum" in which a panel of quality developers and local real estate experts review the draft plan and indicate their reaction to it. This would be a start toward alerting the development community and would get some developer response to the proposals. There may be comments that can be incorporated into the plan and guidelines if this is done before hearings and adoption.

Designating this project as a "sustainable development" project would help to give the project greater visibility and direct it towards community goals. The planning team could recommend a set of "sustainable development" principles that would direct the developer to, for example, incorporate innovative techniques for storm water management, energy conservation, recycled materials and efficient land use.

6. Establish a process for a binding site plan agreement. The City is working on this now.

7. Initiate a downtown plan to address issues on Main Street and SR-2. This would be a useful thing to do in its own right, but the benefit to this project is that it would provide a better setting for the new development.
8. Begin the process of programming a community center or other public facility so that piece of the puzzle is ready when you begin to put together development packages. It is not intended that the community facility necessarily be funded before the initial development, but defining its size and character will enable the City to better incorporate a facility into the development plan.

The community center should be a multi-purpose building that provides for a number of uses, services, and meeting space for local organizations. The site should be large enough to accommodate a 20,000 to 35,000 square foot building and associated parking.

Development proposals that include a community center, or at least reserve land for a community center, and provides for public open spaces shall be given favorable mention.

APPENDIX 1:
Design Guidelines

North Kelsey Design Guidelines

Approved Ord. 008/2003

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CHAPTER 1: Introduction

A. Purpose

The application of these design guidelines will be a critical regulatory tool in implementing the community's design-related goals and objectives for the North Kelsey Planning Area and the North Kelsey Planned Development Area.

B. Intent

These guidelines are directed to creating a development within the North Kelsey planning area that:

- Provides a visible and accessible commercial and civic town focus for the City of Monroe.
- Enhances downtown circulation for pedestrians and vehicles.
- Connects and integrates other downtown activities.
- Features a spectrum of public open spaces and amenities.
- Includes a mix of commercial, civic, recreational and residential activities
- Retains opportunities north of North Kelsey Street for a larger activity in a master-planned setting such as an educational or medical facility or a corporate campus.
- Accommodates retail development of various size and character as long as the development's perceived scale is appropriate for Monroe's small town character and the design quality is of the highest caliber.
- Enhances the town's identity as a regional attraction.

C. Application of Design Guidelines

The design guidelines apply to all new construction in the North Kelsey Planning Area (MAP). The sole exception involves interior remodels. The guidelines are intended to supplement the other standards in the Monroe Municipal Code. Where the guidelines and zoning ordinance standards conflict, the City shall determine which regulation applies.

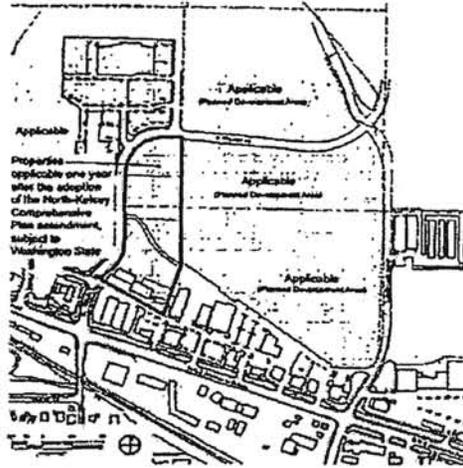


Figure 1: Applicable properties.

All properties that are outside the planned development area, but within the North Kelsey Planning Area are subject to Chapters 5 through 7 of these design guidelines. This includes the privately owned parcels within the outlined area: the guidelines will become effective one year after the adoption of the North Kelsey Comprehensive Plan amendments, subject to Washington State vesting laws.

The specific planned development area is comprised of three properties along Chain Lake Road, currently owned by Snohomish County and the City of Monroe.

D. Interpreting the Design Guidelines

The City retains full authority to determine whether or not a proposal meets these guidelines. Within the guidelines, certain words are used to indicate the relative importance and priority the City places upon the particular guideline. The words "shall," "must," and "is/are required" mean that the development proposal must comply with the guideline unless the City finds that:

- The guideline or requirement is not applicable or appropriate in the particular instance, or
- The development proposal meets the intent of the guidelines in some other manner.

The word "should" means that the development proposal will comply with the guideline unless the City finds that:

- The guideline or requirement is not applicable or appropriate in the particular instance,

- The development proposal meets the intent of the guidelines in some other manner,
or
- There is a compelling reason to the contrary.

The words "is/are encouraged" mean that the action or characteristic is allowed and will usually be viewed as a positive element in the City's review.

The project proponent may submit proposals that he/she feels meet the intent of the guidelines but not necessarily the specifics of one or more guidelines. In this case, the City will determine if the intent of the guideline has been met.

E. Review Process

The following guidelines will be used, along with other City ordinances and regulations, for the City's review of one or more proposed binding site plans and subsequent development proposals on the site.

If more than one binding site plan is submitted (or if the site plan only applies to part of the development area south of North Kelsey Street), then the site plan shall indicate how the proposal will connect to adjacent properties/parcels to be developed later. The means of pedestrian and vehicular circulation, as well as building and entry orientation, must be as approved by the City in accordance with the design guidelines as applied to the entire area of applicability as stated in Chapter 1C of the guidelines.

CHAPTER 2: Site Configuration

The development must be based on one or more City-approved binding site plans that address the following principles. If more than one binding site plan is submitted (or if the site plan only applies to part of the development area south of North Kelsey Street), then the site plan shall indicate how the proposal will connect to adjacent properties/parcels to be developed later. The means of pedestrian and vehicular circulation, as well as building and entry orientation, must be as approved by the City in accordance with the design guidelines as applied to the entire area of applicability as stated in Chapter 1C of the guidelines.

1. Connects the following activities with an integrated pedestrian network:

- To the Southeast: Chain Lake Road sidewalk.
- To the North: future development on City Public Works land north of North Kelsey Street.
- To the West: North Kelsey Street near the entry to the Fred Meyer store.

Gateway features and safe walking connections must be provided at these points.

The City will pursue potential roadway connections directly south to SR-2 in order to provide better access to the site and neighboring properties and to reduce congestion on the highway. If such an access is identified prior to development, an internal pedestrian connection must be provided to the south as well.

2. Creates a focus of retail, recreational and civic uses at the core of the south lot. (See Public Open Space and Land Use guidelines, Chapter 3). Uses North of North Kelsey Street should be compatible and mutually supportive



Figure 2: Key pedestrian connections.

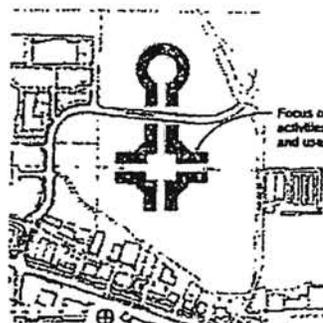


Figure 3: Site Activity focus.

3. Provides a set of open spaces along the pedestrian network that include a civic plaza, a village green and other smaller open spaces to enhance the retail environment. (See Public Open Space guidelines, Chapter 3) Uses north of North Kelsey Street should be configured around a central open space or plaza to create a campus-like setting.

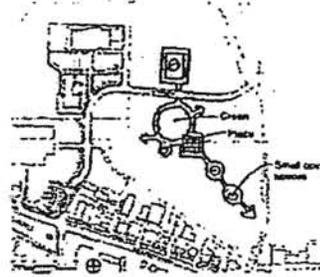


Figure 4: Open space concept.

4. Includes a public road to the south of the lot that, along with North Kelsey Street and Chain Lake Road, creates a loop system around the south parcel. (Note: The City is currently studying the traffic and engineering considerations in the road's alignment and design. The City may find that an alternate alignment is acceptable.) Parking for the facility should be accessed from this loop system and not intrude into the center of the site of detract from the activities or qualities of the development. (See Parking Area guidelines in Chapter 3 and Circulation Guidelines, Chapter 4). Opportunities for sharing access and parking between new uses and the theater complex and public works department should be explored.



Figure 5: Vehicle access and parking concept.

5. Locates and treats large buildings to reduce their perceived scale to fit with neighboring structures and present an inviting, human scaled, pedestrian oriented character to the public. (See Architectural/Building Design guidelines, Chapter 5.)

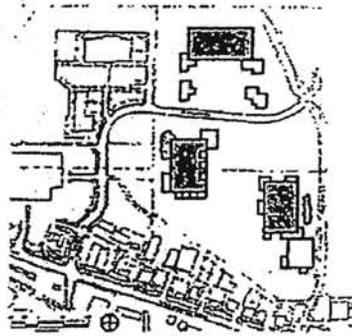


Figure 6: Ways of reducing the scale of large buildings.

The project proponent must demonstrate that the overall site layout and circulation system accomplishes these goals to the City's satisfaction.

CHAPTER 3: Site Planning

A. Public Open Space

Intent:

- To provide a variety of open spaces that attract people to the area;
- To provide a focal open space that functions as a community gathering space;
- To provide a "park-like" character within the Planned Development Area of the North Kelsey Planning Area;
- To provide an attractive pedestrian environment;
- To provide outdoor spaces for relaxing, eating, socializing, and recreating.

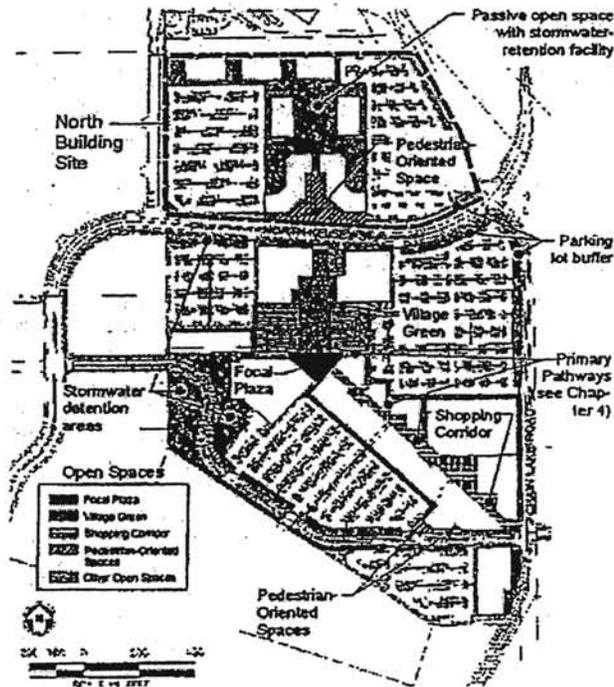


Figure 7: Site development example illustrating the required open spaces.

1. Focal Plaza

Guidelines:

1. Area should be sized between 10,000 and 15,000 square feet (generally large enough for a gathering of at least 1,000 people).
2. The plaza should be able to serve as a center for daily activity – the most significant space and emphasis as the heart of the development.
3. The plaza should include an area or platform that can be utilized as a stage for concerts, celebrations, or other public activities.
4. Paving should be unit-pavers or concrete with special texture, pattern, and/or decorative features.
5. Pedestrian amenities shall be provided such as seating, plants, drinking fountains, artwork, and such focal points as sculpture or water feature.
6. Lighting fixtures should be approximately 10-15 feet above the surface. The overall lighting in the plaza should average at least 2 foot-candles.

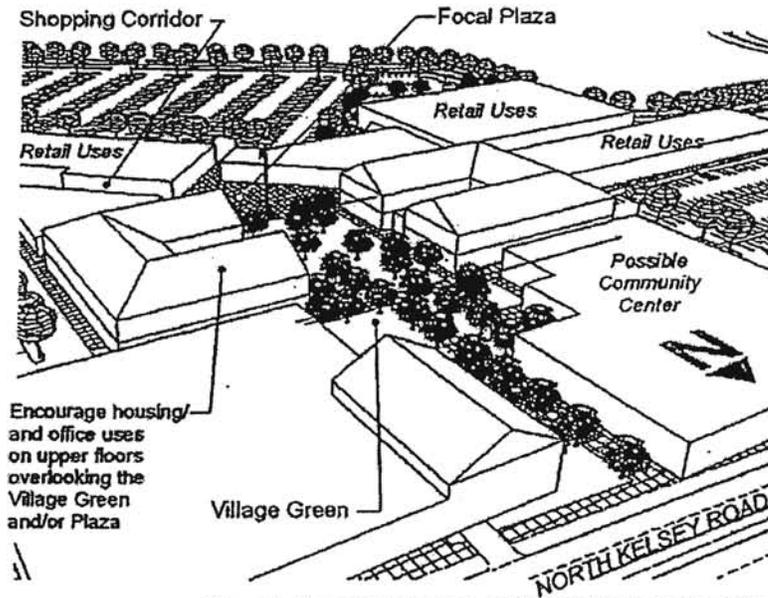


Figure 8: Example Focal Plaza and Village Green configuration.

7. The plaza should be connected to the Village Green towards the north/west, the Shopping Corridor to the east/south, and accessible from parking areas and other uses to the north and south.
8. At least one-half the plaza perimeter should abut buildings with pedestrian-oriented facades. These buildings should be 20 to 35 feet in height. Building at the southern edge of the plaza or structures within the plaza should be limited to one story to avoid excessive shadows. One of the buildings adjacent to the plaza should feature a tall landmark element (30-50 feet in height) such as a tower, prominent flagpole, or other structure.
9. Parking areas must not abut the Focal Plaza area.
10. See Chapter 6 for applicable landscaping guidelines.

2. Village Green

Guidelines:

1. The Village Green should extend north/west from the Focal Plaza; Area should be sized between 40,000 and 80,000 square feet.
2. The Village Green space should feature lawn and other soft landscaped surfaces with concrete or brick walkways traversing it and along it.
3. Landscaping can be formal or informal in style; however, plantings should frame vistas and emphasize views, where applicable.
4. Ground floor uses at the edge of the green space should feature retail, civic/community, recreational, and/or office uses. Pedestrian-oriented facades are required for abutting building facades unless the building and/or park are planned so that the wall without a pedestrian-oriented facade is used for park activity (e.g., brick wall for a performance area backdrop or basketball/ active sports area).
5. Buildings with upper floors containing windows and/or balconies overlooking the Village Green are strongly encouraged. Upper story uses may be residential, community/civic, recreational, commercial, and/or office.
6. Pedestrian amenities shall be provided such as seating, plants, drinking fountains, distinctive paving, artwork, and such focal points as sculpture or water feature.
7. Lighting fixtures should be approximately 10-15 feet above the surface. Pathways should average between 1 and 2 foot-candles of light – with major pathways averaging 4 foot-candles. Hard-surfaced plaza/court areas within the Village Green should average at least 2 foot-candles. Lawn areas should average at least .5 foot-candle.
8. Parking areas must not abut the Village Green unless the City determines that there is a public benefit to such an orientation and the parking is screened from the green. The intent is to surround the green with active storefronts or supporting uses. Exception: Temporary parking that will later be developed may

be adjacent to the Village Green provided they are screened consistent with Type III Landscaping standards (MMC, Section 18.78.030).

9. A pedestrian transition zone of approximately 10 feet is encouraged along the building edge to provide an outdoor area for café seating, display area, and/or landscaping.
10. The plaza should have an articulated edge (buildings and/or landscaping) where feasible to provide visual interest.
11. Provisions may be made for active sports that take up less than ¼ of the Village Green area (such as a volleyball, tennis, or basketball court and/or children's play lot).
12. See Chapter 6 for applicable landscaping guidelines.

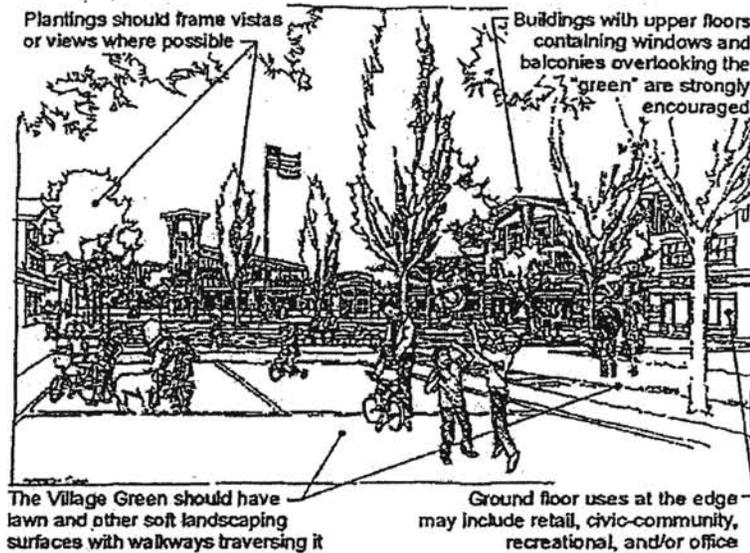


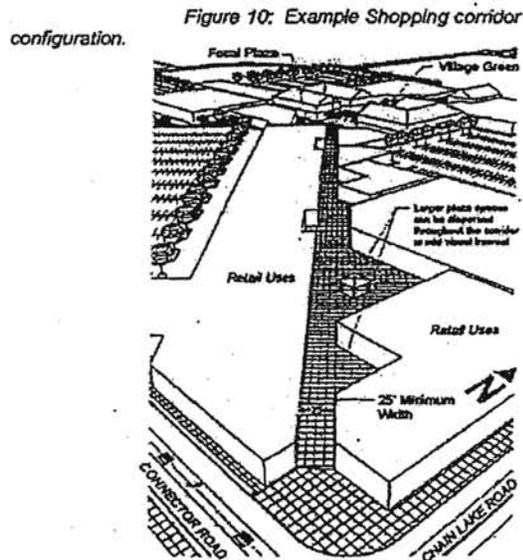
Figure 9: Village Green example.

3. Shopping Corridor

Guidelines:

1. The Shopping Corridor should be a series of connected pedestrian spaces surrounded by retail shops.
2. The corridor should extend from the corner of Chain Lake Road and the east-west connector road to the Focal Plaza.

3. The width of the corridor should be not less than 25 feet in any place and average at least 50 feet counting plaza spaces. Pedestrian-oriented spaces (at least 2,000 square feet) should interrupt the corridor to provide visual interest and activities.
4. Paving should be unit-pavers or concrete with special texture, pattern, and/or decorative features.
5. Pedestrian amenities shall be provided such as seating, plants, drinking fountains, distinctive paving, artwork, and such focal points as sculpture or water feature.
6. Lighting fixtures should be approximately 10-15 feet above the surface and may be building mounted. The overall lighting in the plaza should be at least 2 foot-candles, without "dark spots" that could cause security problems. Ambient light from under canopies or storefronts may be included in the lighting calculations.
7. The plaza should have an articulated edge (buildings, benches, and/or landscaping) where feasible or desirable to provide visual interest and additional seating along the edges of the plaza where people may linger out of the traffic flow.
8. Buildings adjacent to the Shopping Corridor must have pedestrian-oriented facades (see Building Orientation guidelines below).
9. See Chapter 6 for applicable landscaping guidelines.



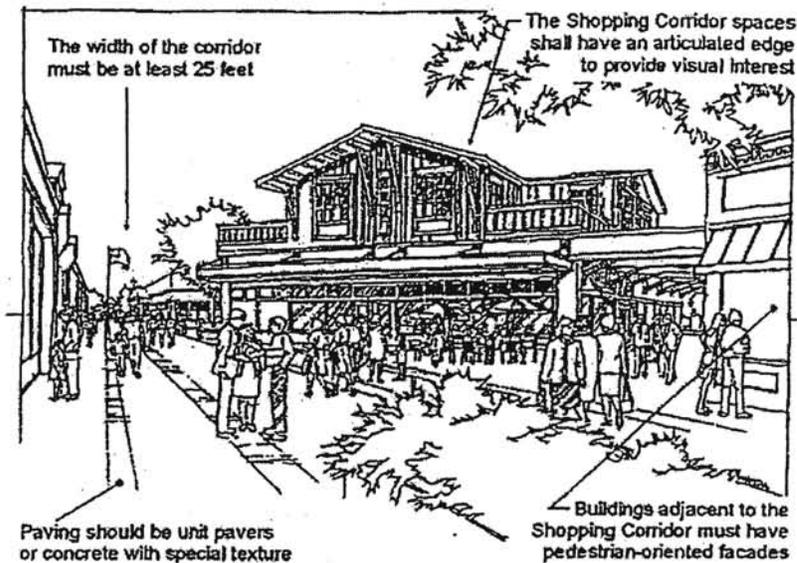


Figure 11: Example shopping corridor design.

4. Pedestrian-Oriented Spaces

Guidelines:

1. Pedestrian-oriented spaces are encouraged along the pedestrian connections and near key building entries. They can be small to large widening of walking space, landscaped areas, areas for outdoor dining, or small play areas.
2. Pedestrian amenities shall be provided such as seating, plants, drinking fountains, distinctive paving, artwork, and such focal points as sculpture or water feature, should be provided.
3. Lighting fixtures should be approximately 10-15 feet above the surface and may be building mounted. The overall lighting in the plaza should be at least 2 foot-candles, without any "dark spots" that could cause security problems. Ambient light from under canopies or storefronts may be included in the lighting calculations.
4. The spaces must have visual and pedestrian access (including barrier-free access) to abutting structures and public streets or pathways.
5. Walking surfaces should be either approved unit pavers or colored and textured concrete.

6. At least one linear foot of seating area (at least 16 inches deep) or one individual seat per 60 square feet of plaza area or open space should be included (seating can include benches, low walls, stairs, or ledges).
7. Landscaping that does not act as a visual barrier is encouraged (also see Plaza/Pedestrian Area Landscaping guidelines, Chapter 7).
8. Buildings abutting pedestrian-oriented space must have pedestrian-oriented facades (see Building Orientation guidelines below).
9. See Chapter 6 for applicable landscaping guidelines.

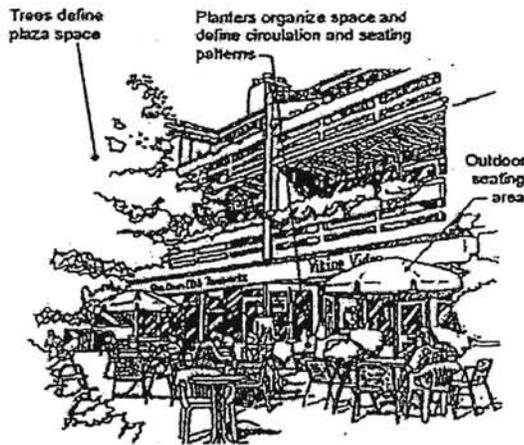


Figure 12: Pedestrian-oriented space.

5. North Building Site

Guidelines:

1. Development of the site north of North Kelsey Street should be organized around an interconnected set of heavily landscaped open spaces.
2. The north site should include a focal open space that fronts on North Kelsey Street and is aligned with the Village Green. This open space must be developed consistent with the Pedestrian-Oriented Spaces guidelines.
3. Integrate stormwater detention facilities into the design of the landscape where possible and appropriate.
4. Landscape the north site open space per Chapter 6 guidelines.

B. Building Orientation

Intent:

- To provide an attractive pedestrian environment.
- To enhance the character of the streetscapes within and surrounding the area.
- To enhance the use and safety of open spaces by encouraging buildings to front onto them.
- To provide attractive building facades adjacent to parking lots.

General:

The Focal Plaza, Village Green, Shopping Corridor, and other Pedestrian-Oriented Spaces serve as the focal points for pedestrian activity in the Planned Development Area. Therefore, buildings and ground floor businesses fronting on the spaces should be oriented towards these spaces. For the purpose of these guidelines, these building facades are termed "Primary Pedestrian Facades." Since these and other buildings also front onto parking lots or streets, buildings and businesses are strongly encouraged to provide secondary building entrances. These are referred to as "Secondary Pedestrian Facades." Due to the design of the site, side and rear walls of new buildings in the planning area will also be visible and therefore must be designed and/or screened to provide an attractive streetscape. These are referred to as "Side or Rear Facades." Locations, guidelines and standards for Primary Pedestrian Facades, Secondary Pedestrian Facades, and Side or Rear Facades are detailed below.

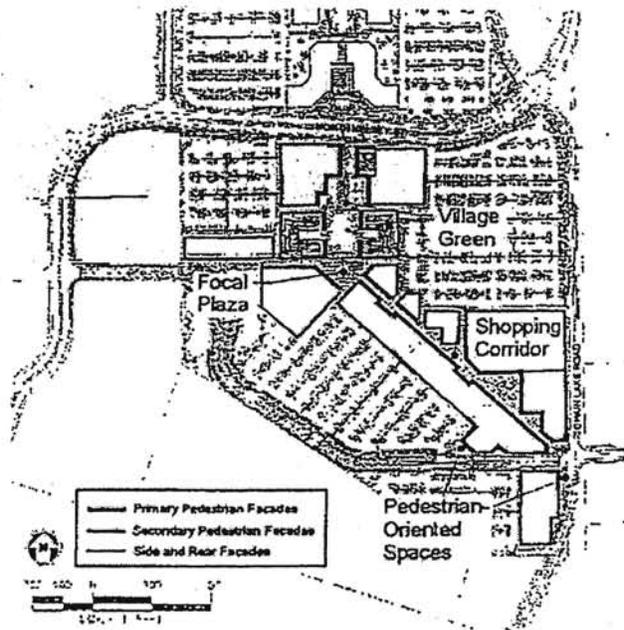


Figure 13: Building orientation

Guidelines

1. Primary Pedestrian Façade:

- a. **Where:** Building facades adjacent to the Shopping Corridor, Focal Plaza, Village Green, and at pedestrian-oriented spaces. (See Figure 13)
- b. **What:** Primary building/business entries must be located here. Weather protection (height, width) along at least 75 percent of the façade width is required. Storefront windows over at least 75 percent of the facades on the ground floor between the height of 2 feet to 8 feet above the ground are required; Multi-story structures with windows or balconies overlooking the plaza/open spaces are encouraged to provide a sense of visual interest and neighborhood security. Pedestrian-oriented lighting and/or decorative façade details (see Building Elements and Details, Chapter 5) should be provided.

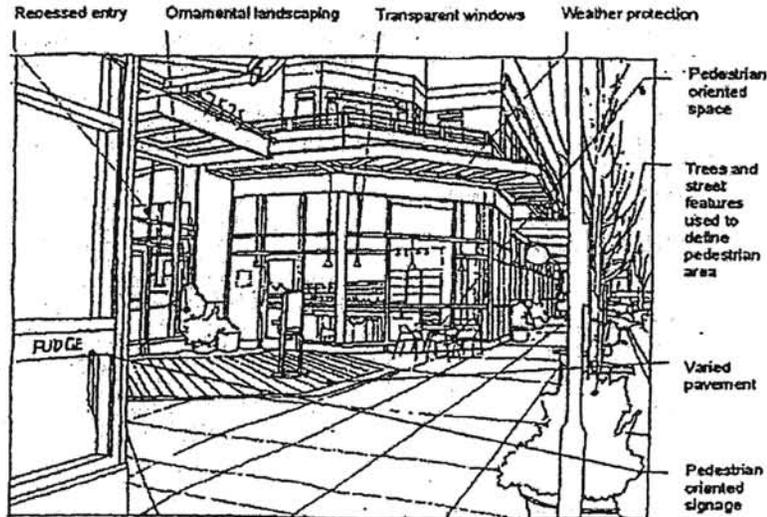


Figure 14: Primary pedestrian entry example.

2. Secondary Pedestrian Façade:

- a. **Where:** Building facades adjacent to parking lots, pedestrian pathways, or streets, as designated by the City. (See Figure 13)
- b. **What:** If the building/business is not adjacent to the Shopping Corridor, Focal Plaza, or Village Green, the primary entrance may be located adjacent to either an adjacent parking lot, pedestrian pathway, or street (subject to City approval). Building/businesses facing either Shopping Corridor, Focal Plaza, or Village Green on one side and parking lot, pedestrian pathway, and/or street on other sides, are strongly encouraged to provide a secondary

building/business entry from either the parking lot, pedestrian pathway, or street (siting subject to City approval).

- c. Weather protection over the building entry and covering at least 50 percent of the overall façade is required (80 percent weather protection coverage is required for facades along interior pedestrian corridors).
- d. Storefront windows over at least 50 percent of the facades on the ground floor between the height of 2 to 8 feet above the ground are required.
- e. Building entries along secondary pedestrian facades should utilize pedestrian-oriented lighting and/or decorative façade details. (See Building Elements and Details, Chapter 5.)
- f. Blank walls must be treated in one or more of the following ways:
 - Planters or trellises with vines.
 - Landscaping that covers 30 percent of wall area within three years of planting.
 - Special materials (e.g., decorative patterned masonry).
 - Display windows.
 - Other treatment approved by the City.

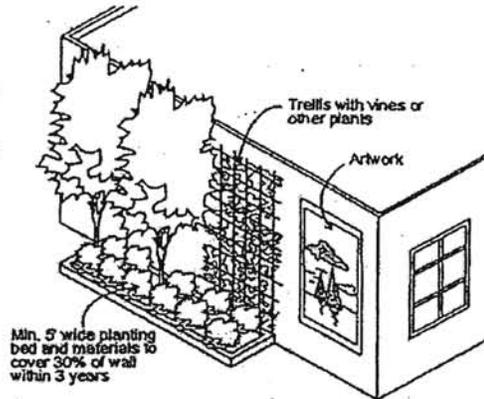


Figure 15: Blank wall treatments.

3. Side And Rear Facades:

- a. Where: Building facades not adjacent the Focal Plaza, Village Green, Shopping Corridor, building/business entries, or highly visible locations. (See Figure 13)
- b. What: While pedestrian building/business entries are not required here, they may be encouraged depending on specific site characteristics. Service elements may be located here (see Building Equipment and Service Area guidelines, Chapter 5). Facades shall be treated in two or more of the following ways:
 - Planters or trellises with vines.
 - Landscaping that covers 30 percent of wall area within three years of planting.
 - Special materials (e.g., decorative patterned masonry).
 - Display windows.
 - Other treatment approved by the City.

- c. Designated side and rear facades located along public streets should be set back at least 20 feet from the sidewalk to accommodate stormwater treatment methods and heavy landscaping.
- d. Visible building façades should be articulated per “Vertical Articulation” guidelines in Chapter 5 under Human/Pedestrian Scale.
- e. Creative use of building materials such as concrete and concrete masonry units is encouraged.

C. Land Uses

Intent:

- To provide a variety of uses that serve the diverse needs and interests of Monroe’s residents and residents within the site’s defined market area.
- To provide for uses that facilitate a pedestrian-friendly environment.
- To provide for uses that support an expanded tax base for the City of Monroe.

Guidelines:

The table below summarizes preferred, acceptable, and prohibited land uses in the planning area’s south site and north site. Guidelines/standards for each of land uses are noted below the table.

Table 2: North Kelsey Planned Development Area Land Use Matrix

| Land Use | South Site | North Site |
|--|-----------------|----------------|
| 1. Retail Trade | Preferred Use | Acceptable Use |
| 2. Commercial Services | Preferred Use | Acceptable Use |
| 3. Office | Acceptable Use | Preferred Use |
| 4. Public, Cultural, and Recreational | Preferred Use | Preferred Use |
| 5. Educational | Acceptable Use* | Preferred Use |
| 6. Residential | Preferred Use | Prohibited Use |
| 7. Industrial, Warehousing, Distribution | Prohibited Use | Acceptable Use |

* Acceptable as part of a mixed-use development.

1. Retail Trade Uses:

Retail uses should be the predominate uses in the south site. This includes both small and large scale uses, as long as they are designed consistent with the plan and guidelines. Smaller scale retail uses are encouraged in the areas surrounding the Focal Plaza and Shopping Plaza Corridor. Retail trade uses may include general merchandise stores, food stores, apparel and accessory stores, home furniture, furnishings, and equipment stores, eating and drinking places, miscellaneous retail, and other retail uses.

2. Commercial Service Uses:

Commercial service uses, including lodging establishments, limited personal services, limited business services, and limited amusement/recreational service uses are encouraged on the southern site and may be acceptable for the northern site.

3. Office Uses:

Office-related uses are acceptable on the southern site as long as they are located above the first floor. Office-related uses, particularly designed as part of a campus, are encouraged in the northern site.

4. Public, Cultural, and Recreational Uses:

Public, cultural, and recreational uses, such as a community center, are encouraged on properties adjacent to the Village Green or Focal Plaza in the southern site. This area shall also include a public restroom. These uses may be acceptable in other areas of the southern site and in the northern site.

5. Educational Facilities:

Educational facilities, including a branch college campus or technical college campus, are acceptable uses for the northern site or as part of a mixed-use project.

6. Residential Uses:

Multi-family residential uses on upper floors near the Focal Plaza and Village Green in the southern site are strongly encouraged.

7. Industrial, Warehousing, and Distribution Uses:

Industrial, warehousing, and distribution uses are permitted by the zoning code.

8. Drive-Through Uses:

Drive-through uses are prohibited.

9. Other Uses:

Other uses may be considered by the City.

D. Parking Areas

Intent:

- To provide convenient parking areas that encourage people to leave their cars and walk throughout the North Kelsey Planning Area.
- To provide more flexibility in the design of the development by relaxing existing City parking standards.
- To provide parking areas that do not diminish pedestrian and visual qualities of the site.
- To maintain the built street edge through effective screening of all parking lots.
- To minimize the impacts of driveways.

Guidelines:

1. Parking areas shall conform to the requirement of MMC, Chapter 18.86 unless otherwise noted in these guidelines. This encompasses dimensional requirements, design, access, loading areas, number of parking spaces, parking area landscaping, and other parking-related requirements.
2. Parking requirements for retail uses shall be relaxed to 1 space per 250 square feet of gross floor area. The City may consider special provisions for joint use of parking when two activities are less likely to occur simultaneously (e.g. office uses and entertainment facilities).

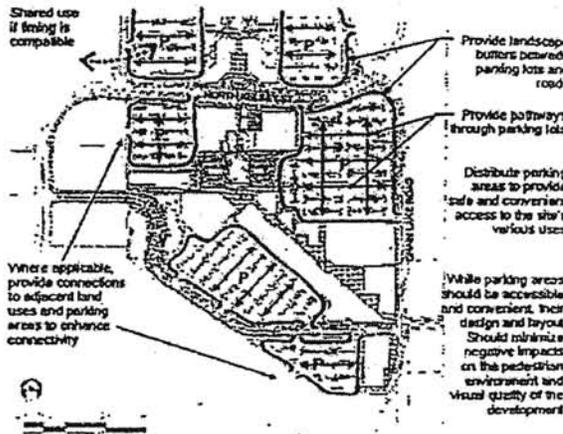


Figure 16: Parking lot layout and design guidelines.

3. The landscaped buffer between the sidewalk and the parking area along Chain Lake Road must be expanded to at least 10 feet in width using either Type II or Type III Landscaping standards (MMC, Section 18.78.030) subject to City approval.

4. Pathways through parking lots should be provided. Pathways and crosswalks should be provided along every fourth parking isle or at intervals of less than 150 feet. Pathways through parking areas should be separated from vehicle parking and travel lanes by use of contrasting surface materials, which may be raised above the level of the vehicular surface. Parking area pathways should be at least 4 feet in width.
5. Structured parking is encouraged provided the building meets the guidelines of Chapter 5.

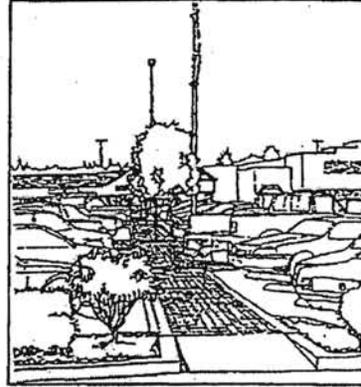


Figure 17: Parking pathway example.

E. Street Corners/Highly Visible Locations

Intent:

- To enhance the appearance of highly visible locations.
- To enhance the pedestrian environment.
- To establish a design identity for the North Kelsey Planning Area.

Guidelines:

The guidelines below highlight desirable design treatments (options noted below) for six specific street corners and/or highly visible locations as noted in the Site Development Concept. All proposals for sites should include at least one of the design treatments described below. **EXCEPTION:** Applicants may propose other design treatments for these sites if they can demonstrate successfully that the proposed treatment meets the intent of the guidelines.

1. Street Corner/Highly Visible Location Design Treatment Methods (also refer to Pedestrian Orientation guidelines, Chapter 3):
 - a. Locate a building towards the street corner (within 15 feet of corner property line). Building facades located here are encouraged to include a special element, such as a raised roofline, towers, or an extended parapet, along the most visible views of the structure.
 - b. Provide a pedestrian walkway and/or plaza space at the corner leading directly to a building entry or shopping plaza space. May be appropriate in conjunction with a Monument Site Entry Sign (see Signage guidelines, Chapter 7).

- c. Install substantial landscaping (at least 200 square feet of ground surface area with trees, shrubs, and or ground cover. May be appropriate in conjunction with a Monument Site Entry Sign (see Signage guidelines, Chapter 7).



Figure 18: Street corner example: This building celebrates its corner location by including a corner entry, pedestrian space, weather protection, parapet, and special signage.

2. Specific Sites:

- a. SR-2/Chain Lake Road (northwest corner): Method "c" is the first preference. High priority site for a Monument Site Entry Sign (see Signage guidelines, Chapter 7).
- b. Chain Lake Road/connector road (both westerly corners): Method "a" or "b" is preferred for the northwest corner; Method "a" is preferred for the southwest corner, with Method "c" as a second preference.
- c. Chain Lake Road (at mid-block entry between North Kelsey Street and Chain Lake Road): Any of the three street corner treatment methods described below are acceptable. Method "c" is the first preference.

- d. Chain Lake Road/North Kelsey Street (both westerly corners): Method "c" is preferred for both the northwest and southwest corners. High priority site for a Monument Site Entry Sign (see Signage guidelines, Chapter 7).
- e. North Kelsey Street (at key pedestrian crossing): Method "a" is preferred for all four corners.
- f. North Kelsey Street/connector road (easterly corners): Method "a" is the preferred treatment of both corners; Methods "b" and "c" are acceptable.

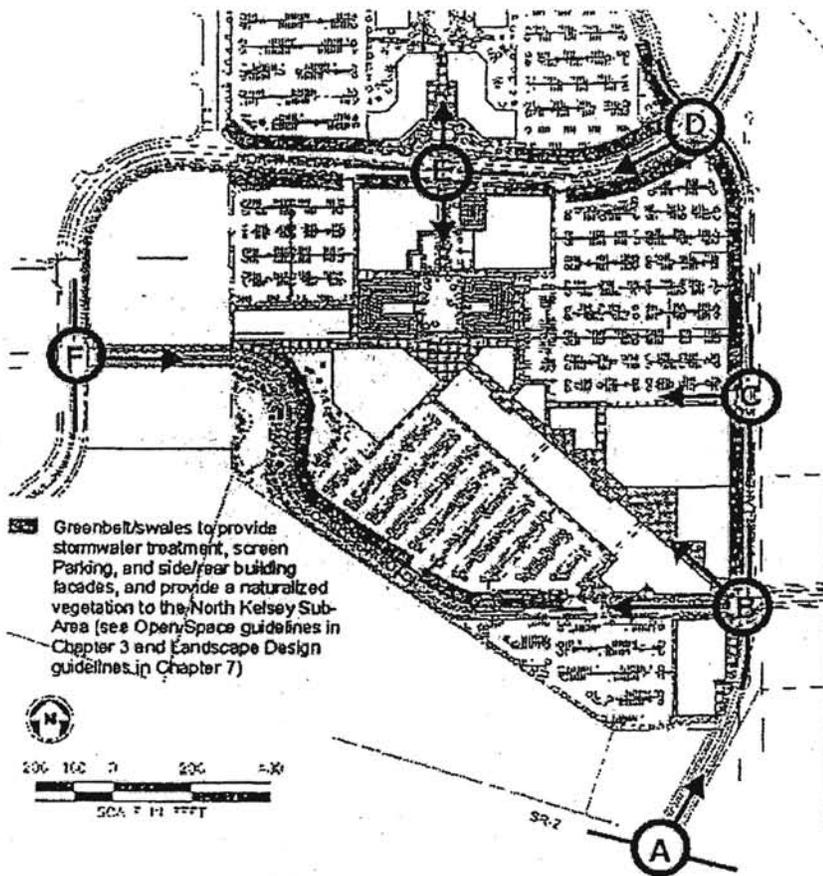


Figure 19: Highly visible locations.

CHAPTER 4: Circulation

A. East-West Connector Road

Intent:

- To provide safe and efficient circulation to, and through, the North Kelsey planning area.
- To enhance access and visibility to North Kelsey planning area uses and amenities.
- To relieve vehicle congestion on SR-2 south of the North Kelsey planning area.
- To provide bicycle and pedestrian access.
- To provide a "green band" around the North Kelsey planned development area and screen parking.

The City has secured a 60-foot right-of-way adjacent to private property on the west side of the site toward North Kelsey Street. Ultimately, this new roadway will connect North Kelsey Street with Chain Lake Road and points east. The guidelines below direct the design of this planned roadway through the North Kelsey planned development area. The exact alignment and configuration of the road is subject to further traffic and engineering analysis. While these guidelines specify an alignment and configuration along the southern project boundary, project proponents may propose an alternate alignment and configuration. The City may allow an alternate alignment and configuration if they meet these guidelines, do not conflict with pedestrian circulation, and otherwise meet the City's Transportation and Public Works criteria. Also note that the southern alignment was favored by project participants for several reasons, including:

1. It minimizes conflict with pedestrian circulation.
2. It does not divide the site.
3. It appears to contribute to stormwater management.
4. It provides for effective through traffic and access to parking.

Guidelines:

1. Alignment: The planned east-west connector road should be aligned consistent with the Site Development Concept; Generally towards the southern end of the site and intersecting with Chain Lake Road approximately 600 feet from the SR-2 intersection and compatible with the planned Woods Creek Road connection. (See Figure 20). (Note: This alignment is subject to further analysis.)

2. **Configuration:** The roadway should include one travel lane in each direction, a landscaped median/center turning lane, landscaped planter strips with street trees, and provisions for both cyclists and pedestrians (see Figure 21 below and Sidewalk and Pathway and Bicycle Circulation and Amenities guidelines on the following pages).

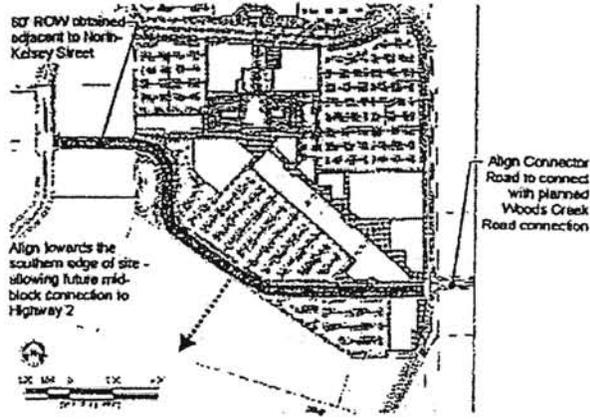


Figure 20: Connector road alignment.

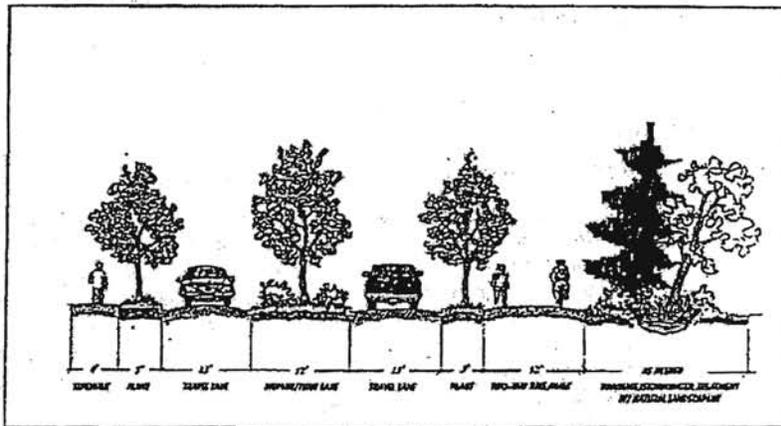


Figure 21: Connector road design cross-section.

3. **Travel Lanes/Center Turn Lane:** The travel lanes and the center turn lane/median should be designed per the City's Engineering Standards and subject to Bicycle Circulation and Amenities guidelines on the following pages.
4. **Landscaped Median:** Where the center turn lane is not necessary for turning movements, a landscaped median should be installed. Landscaping should include canopy-type broadleaf trees placed an average of 25' on center; Evergreen

shrubs no more than 4 feet in height; and Ground cover in accordance with the City of Monroe Landscape Standards (MMC Chapter 18.78).

5. Sidewalk/Trail: A 4-foot sidewalk with a 5-foot planting strip should be provided on the south side of the road and a 12-foot wide bicycle/pedestrian pathway with a 5-foot planting strip on the north side.
6. Landscaped Stormwater Detention Swale: These facilities shall meet stormwater requirements and to be landscaped with dense native trees and shrubs.

For other landscaping standards, see Street Landscaping guidelines, Chapter 6.

B. Sidewalks and Pathways

NOTE: Sidewalks refer to concrete pedestrian routes adjacent to public right-of-ways. Pathways refer to all other pedestrian routes.

Intent:

- To provide a safe environment for pedestrians to move throughout the North Kelsey planning area and separation of pedestrian and vehicular traffic.
- To create a varied and rich environment to encourage people to explore the area on foot.

Guidelines:

1. All public open spaces, walkways, and sidewalks shall meet ADA standards.
2. Sidewalks should be separated from the roadway by planting strips with street trees wherever possible. Planting strips should generally be at least 5 feet in width and include evergreen shrubs no more than 4 feet in height and/or ground cover in accordance with the City of Monroe Landscape Standards (MMC Chapter 18.78), and canopy-type broadleaf trees placed an average of 25 feet on center. **EXCEPTIONS:** Where space is limited, planting strips less than 5 feet in width may be permitted by the City; Street trees placed in tree grates may be more desirable than planting strips in key pedestrian areas.
3. Acceptable sidewalk widths may range from 4 to 12 feet depending on adjacent uses and anticipated pedestrian activity. Refer to Figure 21 for appropriate sidewalk widths on the connector road. Sidewalks along major connector routes such as North Kelsey Street or Chain Lake Road should be at least 8 feet in width to accommodate two couples passing each other.
4. Pedestrian crosswalks shall be provided at all intersections. These shall be indicated with distinctive paving.
5. The addition of texture to the ground plane of key sidewalks and pathways with unit pavers, bricks, tiles, or public artwork is encouraged.

6. Pathways that provide key access to the Focal Plaza, Shopping Corridor, Village Green, or other key sites (see Figure 22) are termed "Primary Pathways." Primary pathway surfaces should be at least 15 feet in width (to accommodate fire apparatus access and groups of people).
7. Other pathways are termed "Secondary Pathways." Secondary Pathways may vary in width according to intended function and expected use (subject to City approval). Where secondary pathways are located within corridors between structures, such corridors should be at least 12 feet in width.
10. Pedestrian amenities, including landscaping and seasonal flowers, benches, lighting, and/or artwork, shall be provided along Primary and Secondary Pathways to create visual interest (see Plaza Landscaping guidelines in Chapter 6).

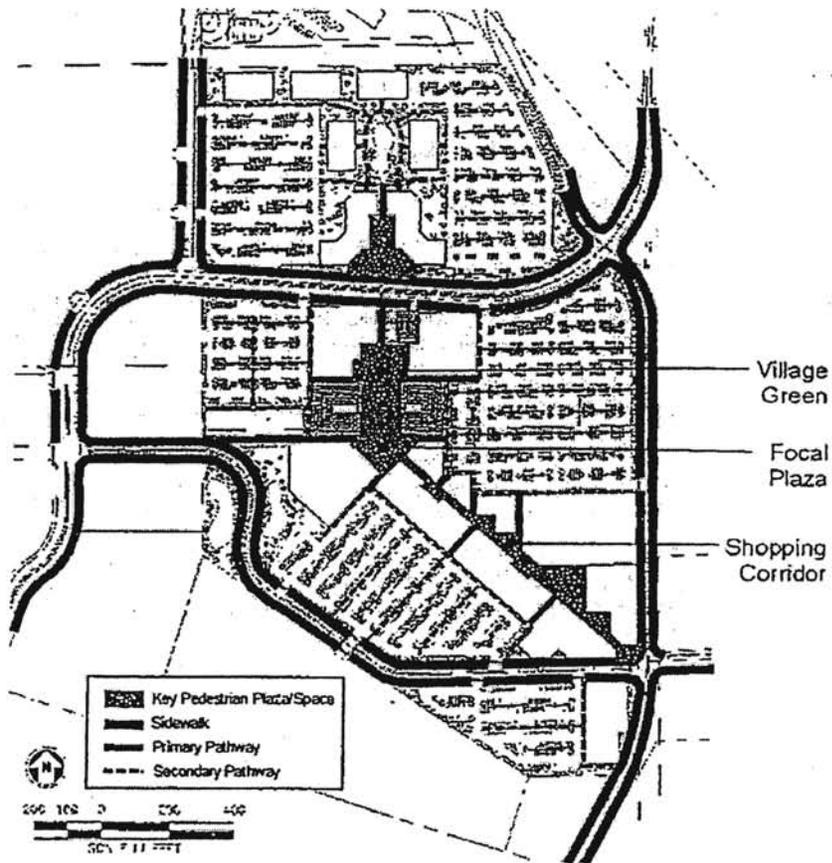


Figure 22: Example pedestrian network for the North Kelsey Planned Development Area.

11. Safe pathways to all uses and buildings and around and through parking areas are required (see Parking Area guidelines, Chapter 3).

C. Bicycle Circulation and Amenities

Intent:

- To provide safe and efficient bicycle access to and within the North Kelsey Planning Area.
- To promote bicycling as an alternative method of transportation.

Guidelines:

1. Safe bicycle access should be provided within each public right-of-way developed within the North Kelsey planning area. The City will consider the following options:
 - a. Bike Lanes. Standard bike lanes are 5 feet in width. This is the preferred option for Chain Lake Road (where there is sufficient right-of-way width) since bicycle lanes would connect with planned bicycle lanes north of the site.
 - b. Wide Curb Lanes. This involves 14-foot travel lanes rather than the standard 11- or 12-foot lanes so cyclists can safely share the road with vehicles. Although such wide curb lanes are often striped, they are not signed or officially designated as bike lanes. With limited space, this is often the most effective way to provide safe bicycle access.
 - c. Multi-Use Pathway. This combines bicycle and pedestrian access on an asphalt pathway separated from the roadway. Ideally, such a multi-purpose pathway should be 12 to 14 feet in width (see Figure 21 for connector road pathway). Where space and use are expected to be limited, an 8-foot wide pathway (with center striping) may be acceptable. Pathway design should ensure adequate site distance.
2. Special care should be exercised on how either of these bicycle facilities transition to existing and planned off-site roadways – particularly Chain Lake Road and North Kelsey Street towards SR-2. Where necessary, provide signage to note safest bicycle access routes.

CHAPTER 5: Architectural/Building Design

A. Architectural Concept

Intent:

- To create, through the architectural, landscape, open space, and gateway elements, an identity unique within the region and that reflects Monroe's small town character.
- To reflect Monroe's vernacular architectural character (excluding the post-War highway strip development).
- To provide a high-quality image with well-designed and detailed buildings, minimization of corporate identity elements (stock buildings and signs), and an emphasis on subtlety and refinement rather than on flashy or trendy design themes.
- To create an assemblage of buildings within the planned development area with an intimately scaled (i.e., the buildings appear to be smaller in size, generally less than 150 feet in length along a façade, even though the building footprint may be larger) and informal architectural character.
- To create a varied, non-homogenous set of buildings within the planned development area that give the sense of natural evolution over time rather than a result of a single, one-step development—and to emphasize the fact that the building elements can naturally evolve and change over time without disrupting a constricting design theme.

Guidelines:

1. The buildings proposed for the North Kelsey planned development area should be based on a comprehensive architectural concept that achieves the intent statements above. Specifically, the design of the specific buildings should address:
 - Pedestrian interest and comfort along the perimeter of open spaces and pedestrian connections.
 - The size of building massing and elements relative a human body.
 - The perceived massing of the building relative to nearby structures, open spaces, and landscape elements.
 - Monroe's architectural and cultural setting.
 - The variety of sequential experiences and design characters within the site.

While the individual design guidelines in this section address some of these issues specifically, the intent of this guideline is to encourage the designers to consider how the various aspects of the design work together. Applicants should be

prepared to demonstrate how the proposed buildings respond to the intent statements. The City will review applicants' proposals and determine whether or not they meet the intent.

B. Human/Pedestrian Scale

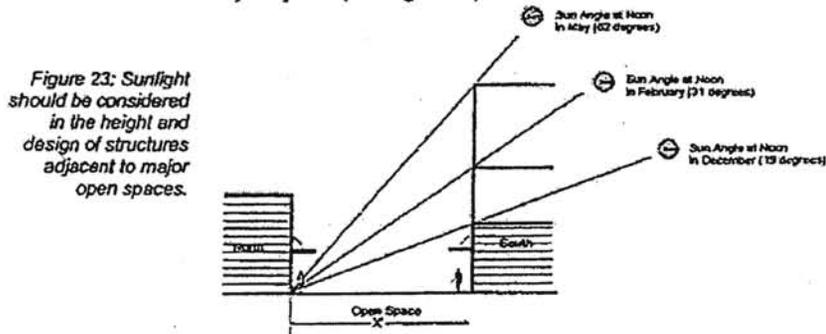
Intent:

- To create an assemblage of buildings with an intimately scaled appearance and informal architectural character.
- To architecturally treat large buildings to ensure that they do not dominate the area's identity.
- To provide interesting and sheltering pedestrian-oriented facades.

Guidelines

1. **Building Height:** Commercial/office buildings should be 1 to 3 stories high, with a maximum height of 35 feet. The City will consider higher building heights if the applicant can demonstrate consistency with overall design guidelines intent. Special features such as towers or clerestories may be taller, if approved by the City.

Sunlight should be considered within the planned development area with regard to the height of buildings adjacent to open spaces such as the Shopping Corridor, Focal Plaza, and Village Green. Generally, buildings on the south side of these open spaces should be sized to allow direct year-round sunlight on south-facing structures (see Figure 23). Specifically, building heights on the south side of the Shopping Corridor, Focal Plaza, and Village Green should not exceed a 1:1 ratio with the width of such open spaces (see Figure 24).



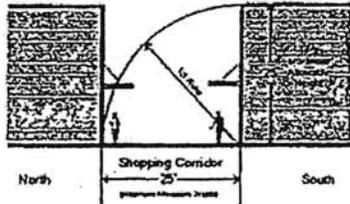


Figure 24: Building heights on the south side of major open spaces, such as the Shopping Corridor, shall not exceed to 1:1 ratio with the width of the open space.

2. **Vertical Articulation:** In order to prevent long stretches of monotonous façade, buildings with visible facades over 100 feet in length as measured parallel to a roadway, parking area, pedestrian connection, or public open space should be vertically articulated into sections averaging not more than 50 feet along the façade at regular intervals. Articulation may be accomplished in several ways, including:

- Modulation—the stepping back or projection of a portion of the façade.
- Including significant building elements such as balconies, porches, canopies, towers, or entry areas that visually break up the façade.
- Building focal points that include, for example, distinctive entry features.
- Changing the roofline.
- Changing materials.
- Landscaping.
- Using other methods acceptable to the City.

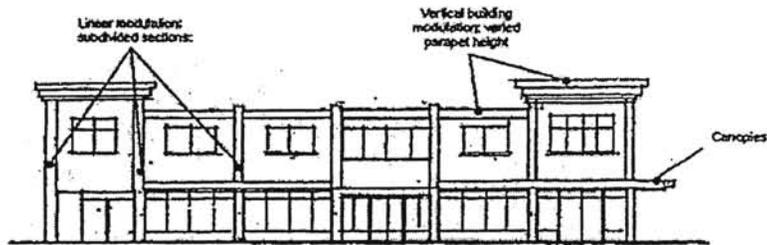


Figure 25: Building articulation: Varied parapet and recessed entries.

C. Architectural Elements

Intent:

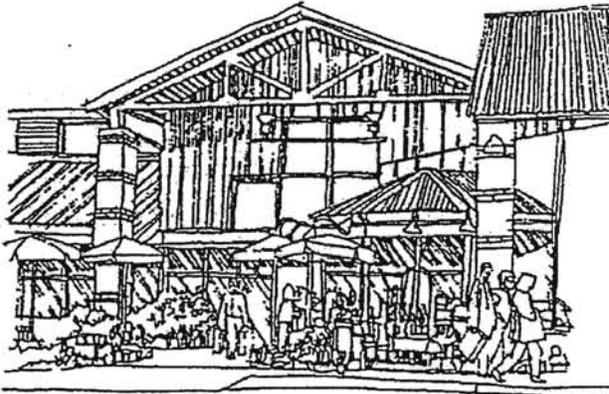
- To create an intimately scaled, pedestrian friendly, and informal architectural character.
- To reflect Monroe's vernacular architectural character (excluding the post-War highway strip development).
- To enhance the quality of both individual buildings and the North Kelsey Planning Area streetscape as a whole.
- To encourage use of quality building materials with a low life cycle cost.
- To create design unity, a sense of place, and community identity.
- To reduce the visibility of unsightly service and utility elements from view while providing efficient service and equipment areas.

1. Roofs

Guidelines:

1. Roof designs should provide scale-reducing elements within the North Kelsey planned development area. It is recommended that buildings have a variety of roof slopes, details, materials, and configurations.
2. All flat roofs shall be architecturally treated or articulated with a parapet wall combined with ornamental molding, entablature, frieze, cornice, or other architectural roofline detail visible from the ground level. Parapets and articulated cornice lines should not appear as applied elements.
3. Roof-mounted mechanical equipment (HVAC) must be screened from view.

Figure 26: The gabled roof over the building entry together with pedestrian-scaled elements and a variety of building materials provides visual interest to this largely square, flat-roofed building.



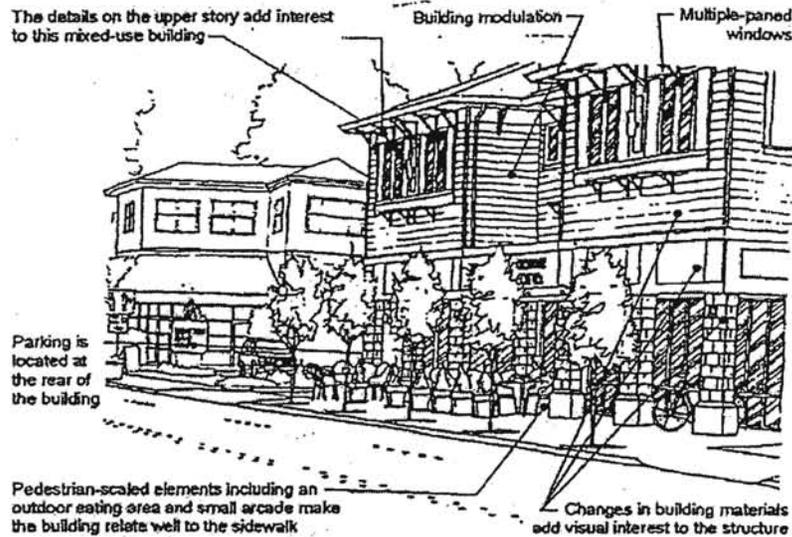


Figure 27: Examples of building details.

2. Building Elements and Details

Guideline:

All building facades shall incorporate a substantive use of building elements, such as those from the list that follows, as approved by the City, to achieve a pedestrian scale. "Substantive" in this case means a significant contribution to the form and character of the building. Note that "decorative" means that the feature exhibits special craftsmanship or distinctive design that adds visual interest and/or unique character. Suggested building elements include:

- Articulated building elements through treatment of windows, doors, entries, and corners with special trim, molding, or glazing.
- Permanent pedestrian weather protection (building canopy).
- Decorative building materials, such as tile and metal work.
- Enhanced or articulated building entrances (recessed or covered).
- Pergolas, arcades, porches, decks, or bay windows.
- Balconies in upper stories.
- Address numbers legible to the public from the street or pathway fronting the property or building.

- Multiple-paned window fenestration (windows with several panes separated by mullions).
- Windows. All windows should either have a vertical orientation (e.g., be longer in the vertical dimension than in the width) or be square in order to qualify as special elements.

3. Exterior Materials

Guidelines:

1. Use durable and high-quality materials. Shiny or highly reflective materials are not allowed. Materials should be those of typical use in the Northwest, including:
 - Bevel or lap siding.
 - Rock, stone, and brick material.
 - Architectural shake-style roofing.
 - Metal roofs with standing seams.
2. If sheet materials, such as composite fiber products or metal siding, are used as a siding material over more than 25 percent of a building's façade, use material with a matted finish in a muted color as specified in Color guidelines below. Include the following elements:
 - Visible window and door trim painted or finished in a complementary color.
 - Corner and edge trim that covers exposed edges of the siding material.
3. If concrete blocks (concrete masonry units or "cinder blocks") are used for walls that are visible from a public street or park, use one or more of the following architectural treatments:
 - Use of textured blocks with surfaces such as split-face or grooved.
 - Use of colored mortar.
 - Use of other masonry types, such as brick, glass block, or tile, in conjunction with concrete blocks.
 - Other treatment methods approved by the City.

The applicant shall provide the City with samples of the material, proposed detail connections and a list of other project examples in the Puget Sound region that have used this application.
4. Do not use the following materials in visible locations unless an exception is granted by the City:
 - Mirrored glass.
 - Corrugated fiberglass.
 - Chain-link fencing (with or without slats).
 - Synthetic materials with reflective surfaces, including galvanized steel and glossy vinyl siding.

- Other treatment methods approved by the City.
5. Paint all vents, gutters, downspouts, flashing, and electrical conduits to match the color of the adjacent surface unless they are being used expressly as a trim or accent element, or if the surface is made of an unpainted material such as brick.
 6. Provide approved address numbers so that they are legible to the public from the street fronting the property.

4. Colors

Guidelines:

1. Submit a color palette.
2. Muted colors are encouraged for the background color of most buildings. A darker background color will allow the effective use of lighter colors for trim – where the highlights will show up better.
3. Bright colors should generally be reserved for accents. Doors or special features may be painted a bright accent color.
4. Bright luminescent or day-glow color are not allowed.

5. Building Equipment and Service Areas

Guidelines:

1. Building service elements and utility equipment should be contained within the building envelope, screened from public view, or on roofs where not visible to the public.
2. All on-site service areas, loading zones, outdoor storage areas (except outdoor retail sales areas under 100 square feet in occupied area), waste storage, disposal facilities, transformer and utility vaults, and similar activities shall be located in an area not visible from a public street, pedestrian connection, or open space. If this is not possible, then the service area, loading zone, storage area, or utility area must be screened from public view. Acceptable screening includes:
 - A masonry or wood enclosure incorporated into a building wall.
 - A solid hedge or other screening as approved by the City.
 (Note: Visible chain link fencing with or without slats is not permitted.)
3. Service or utility areas or enclosures shall not be located in or be visible from public open space, including the Village Green and Focal Plaza.

Definitions

Articulation – Articulation is design emphasis placed on a particular architectural feature by special details, materials, change in building plane (recessed or extended from building surface), contrast in materials, or decorative artwork.

Blank Walls - walls subject to "blank wall" requirements meet the following criteria:

- Any wall or portion of a wall that has a surface area of 400 SF of vertical surface without a window, door, building modulation as defined below or other architectural feature (see figure below for measuring methods).
- Any ground level wall surface or section of a wall over 4' in height at ground level that is longer than 15' as measured horizontally without having a ground level window or door lying wholly or in part within that 15' section (see below).

Campus – may include a multi-structured educational facility or office complex.

Height – refers to vertical distance measured perpendicular to the ground surface.

Human Scale - The perceived size of a building relative to a human being. A building is considered to have "good human scale" if there is an expression of human activity or use that indicates the building's size. For example, traditionally sized doors, windows, and balconies are elements that respond to the size of the human body, so these elements in a building indicate a building's overall size.

Modulation - In the design guidelines, modulation is a stepping back or projecting forward of portions of a building face within specified intervals of building width and depth, as a means of breaking up the apparent bulk of a structure's continuous exterior walls.

Pathways – refer to any pedestrian route other than a *sidewalk*.

Pedestrian-Oriented Façades – are building façades that meet the Primary Pedestrian Façade guidelines in Chapter 3.

Pedestrian-Oriented Spaces - can be small to large widening of walking space, landscaped areas, areas for outdoor dining, or small play areas (see guidelines and requirements for *Pedestrian-Oriented Spaces* in Chapter 3).

Sidewalks - refer to concrete pedestrian routes adjacent to public right-of-ways.

Weather Protection – architectural features such as an awning, marquee, or canopy that protect pedestrians from rain and sunlight.

Exhibit #16

16) North Kelsey Area Supplemental Development Agreement Provisions

01380

CITY OF MONROE
NORTH KELSEY DEVELOPMENT

Supplemental Development Agreement Provisions

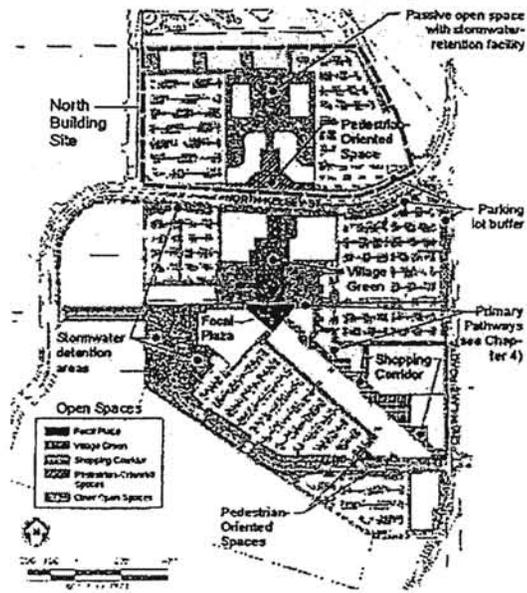
The following is an updated draft of supplemental development agreement provisions that address design goals and issues identified by the City Council at the February 23 and March 16 meetings. Since these provisions are intended to "supplement" the adopted guidelines, we are restating the guidelines that are applicable to the discussion for context. All proposed supplemental provisions are written in *italics*. Consultant notes and rationale comments are listed in CAPS.

A. Public Open Space

Existing Intent:

- To provide a variety of open spaces that attract people to the area;
- To provide a focal open space that functions as a community gathering space;
- To provide a "park-like" character within the Planned Development Area of the North Kelsey Planning Area;
- To provide an attractive pedestrian environment;
- To provide outdoor spaces for relaxing, eating, socializing, and recreating.

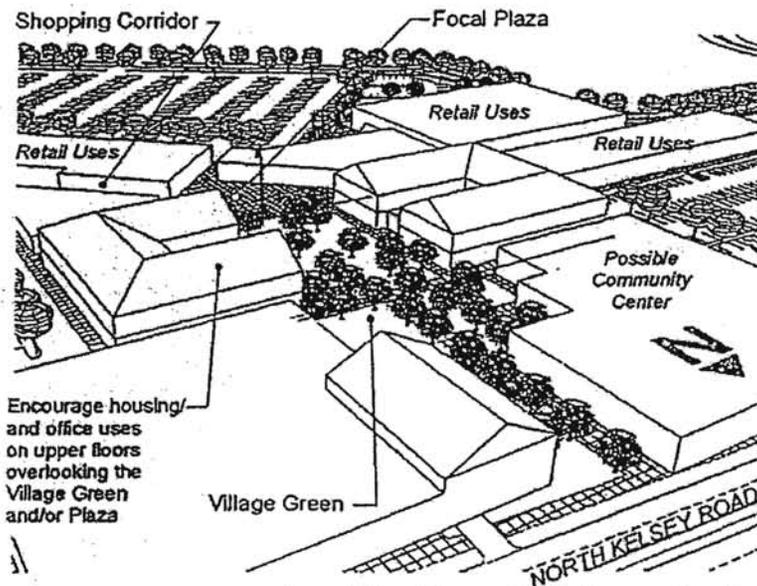
Site development example illustrating the required open spaces.



1. Focal Plaza

Existing Guidelines with Suggested Revisions:

1. Area should be sized between 10,000 and 15,000 square feet (generally large enough for a gathering of at least 1,000 people). SEE ATRIUM OPTION BELOW.
2. The plaza shall serve as the center for daily activity – the most significant space and emphasis as the heart of the development.
3. The plaza shall include an area or platform that can be utilized as a stage for concerts, celebrations, or other public activities.
4. Paving shall be unit-pavers or concrete with special texture, pattern, and/or decorative features.
5. Pedestrian amenities shall be provided such as seating, plants, drinking fountains, artwork, and such focal points as sculpture or water feature.
6. Lighting fixtures shall be approximately 10-15 feet above the surface. The overall lighting in the plaza should average at least 2 foot-candles.



Example Focal Plaza and Village Green configuration.

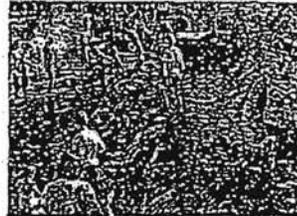
7. The plaza should be connected to the Village Green towards the north/west, the Shopping Corridor to the east/south, and accessible from parking areas and other uses to the north and south.

8. At least one-half the plaza perimeter should abut buildings with pedestrian-oriented facades. These buildings should be 20 to 35 feet in height. Building at the southern edge of the plaza or structures within the plaza should be limited to one story to avoid excessive shadows. One of the buildings adjacent to the plaza should feature a tall landmark element (30-50 feet in height) such as a tower, prominent flagpole, or other structure.
9. Parking areas must not abut the Focal Plaza area.
10. See Chapter 6 for applicable landscaping guidelines.

Supplemental Focal Plaza Provisions

- S1. *Provide a water feature that invites use by children and adds to the character and identity of the space.*
- S2. *Include design elements within the plaza that contribute a human scale, add visual interest, and invite curiosity or exploration.*
- S3. *At least 20 percent of the Focal Plaza must be landscaped. Utilize a variety of landscaped elements and textures to the plaza to soften the edges and add seasonal interest. The 20 percent may include areas covered by tree canopies, potted plants, and planting beds.*
- S4. *Considers locating and configuring the Focal Plaza to take advantage of special mountain and/or architectural views.*
- S5. *Provide seating at the following ratio:*
 - At least one linear foot of seating area (at least 16 inches deep) per 60 square feet of plaza area; or
 - At least one individual seat per 60 square feet of plaza area.

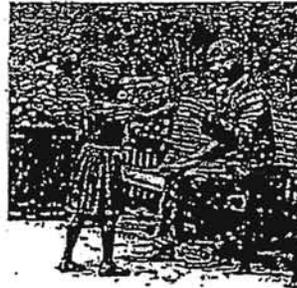
Seating can include benches, low walls, stairs, or ledges.
- S6. *Provide public art that invites exploration and/or curiosity in the Focal Plaza – possibly integrated with the water feature. The public art should be complementary to the design of the plaza and architecture of surrounding buildings and add visual interest and identity to the Focal Plaza.*



Water feature.



The combination of seating areas, use of building materials and design details, public art, landscaping, and adjacent building facades make this an attractive space.



Public art and landscaping features

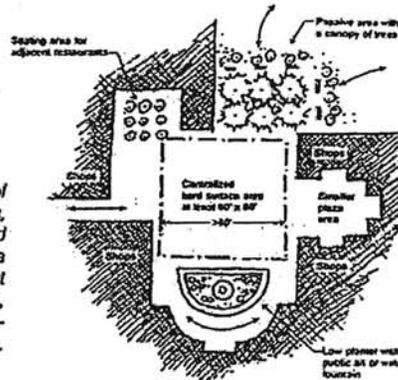
S7. Whereas adopted guidelines call for a spaces between 10,000 to 15,000 square feet, the plaza should be organized into a series of intimate spaces framed by landscaping, architectural or other design features. This must include one open, hard surfaced area sized at least 60 feet by 60 feet that is adaptable to a variety of uses – notably public gatherings and special events.



The Focal Plaza must include an open area at least 60'x 60' usable for special events such as local art shows.

S8. The Focal Plaza must include design elements that encourages interaction with children. This may be accomplished in the design of the required water feature and/or public art components. The photographs on the previous page are examples.

The Focal Plaza may consist of an assemblage of seating, gathering, landscaped, formal, and informal spaces, but must include a central hard surface area at least 60' x 60' for performances, celebrations, fairs, and other events – this illustration is one example.

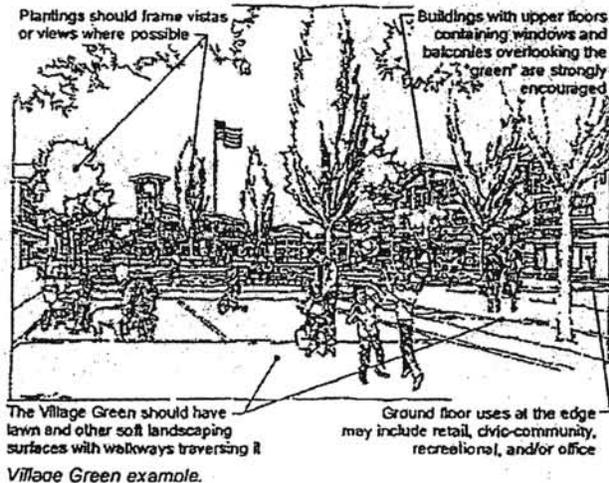


2. Village Green

Existing Guidelines with Suggested Revisions:

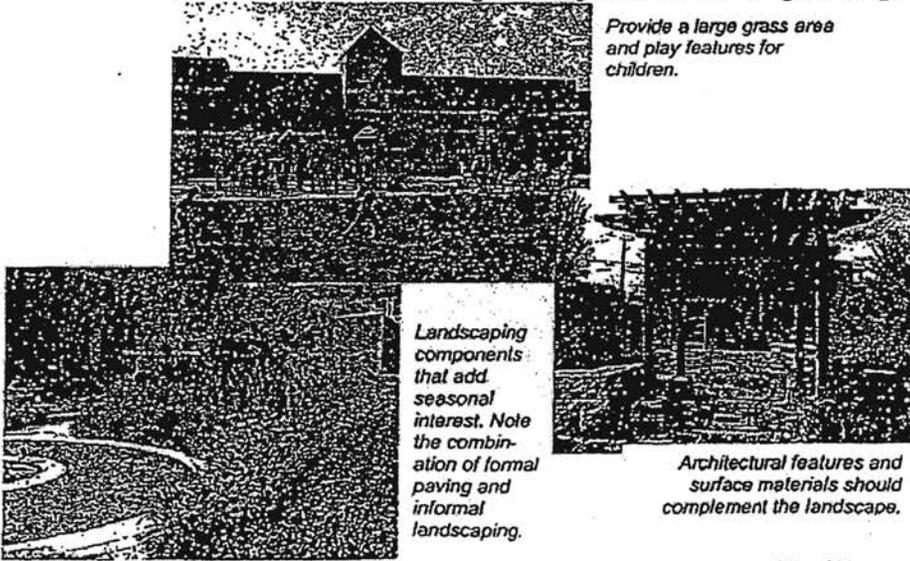
1. The Village Green should extend north/west from the Focal Plaza; Area must be sized between 40,000 and 80,000 square feet.
2. The Village Green space shall feature lawn and other soft landscaped surfaces with concrete or brick walkways traversing it and along it.
3. Landscaping can be formal or informal in style; however, plantings should frame vistas and emphasize views, where applicable.
4. Ground floor uses at the edge of the green space should feature retail, civic/community, recreational, and/or office uses. Pedestrian-oriented facades are required for abutting building facades unless the building and/or park are planned so that the wall without a pedestrian-oriented facade is used for park activity (e.g., brick wall for a performance area backdrop or basketball/ active sports area).

5. Buildings with upper floors containing windows and/or balconies overlooking the Village Green are strongly encouraged. Upper story uses may be residential, community/civic, recreational, commercial, and/or office.
6. Pedestrian amenities shall be provided such as seating, plants, drinking fountains, distinctive paving, artwork, and such focal points as sculpture or water feature.
7. Lighting fixtures shall be approximately 10-15 feet above the surface. Pathways should average between 1 and 2 foot-candles of light – with major pathways averaging 4 foot-candles. Hard-surfaced plaza/court areas within the Village Green should average at least 2 foot-candles. Lawn areas should average at least .5 foot-candle.
8. Parking areas must not abut the Village Green unless the City determines that there is a public benefit to such an orientation and the parking is screened from the green. The intent is to surround the green with active storefronts or supporting uses. Exception: Temporary parking that will later be developed may be adjacent to the Village Green provided they are screened consistent with Type III Landscaping standards (MMC, Section 18.78.030).
9. A pedestrian transition zone of approximately 10 feet is encouraged along the building edge to provide an outdoor area for café seating, display area, and/or landscaping.
10. The plaza should have an articulated edge (buildings and/or landscaping) where feasible to provide visual interest.
11. Provisions may be made for active sports that take up less than ¼ of the Village Green area (such as volleyball, tennis, or basketball court and/or children's play lot).
12. See Chapter 6 for applicable landscaping guidelines.



Supplemental Village Green Provisions

- S1. *Include design elements within the plaza that contribute a human scale, add visual interest, and invite curiosity or exploration.*
- S2. *Between 50 and 75 percent of the Village Green surface area must be vegetated (lawn, trees and shrubs, etc.) unless otherwise approved by the City. This must include a large grass area at least 10,000-15,000 square feet in area. Other landscaped areas should incorporate a variety of landscaped elements to the plaza to soften the edges and add seasonal interest. A combination of garden landscaping and informal natural landscaping schemes are encouraged as long as they do not compromise other standards and guidelines. Utilize materials and design elements in the plaza that emulate natural landscapes of the Northwest without compromising other standards and guidelines.*
- S3. *Informal open space designs are preferred. Informal means a non-symmetrical organization of the space incorporating non-geometric spaces and native or naturalistic landscaping, and natural materials and forms. However, formal designs for some or all of the Village Green will be considered where all other standards and guidelines have been met.*
- S4. *Public art elements that invites exploration and/or curiosity must be included in the Village Green to add character and identity to the space.*
- S5. *The Village Green must include design elements that encourages interaction with children. At least 500 SF of the area must be available for children's play. These areas may be integrated into other activities (E.g.: sculptures that also serve as children's climbing area or a fountain that encourages wading).*



Provide a large grass area and play features for children.

Landscaping components that add seasonal interest. Note the combination of formal paving and informal landscaping.

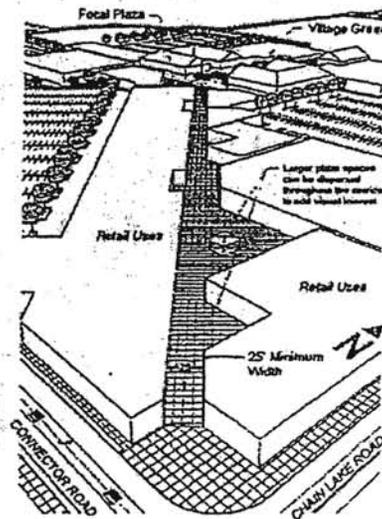
Architectural features and surface materials should complement the landscape.

3. Shopping Corridor

Existing Guidelines with Suggested Revisions:

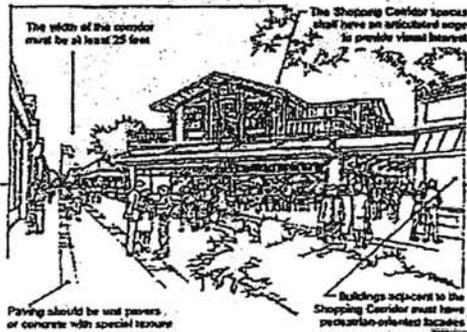
1. The Shopping Corridor shall be a series of connected pedestrian spaces surrounded by retail shops.
2. The corridor should extend from the corner of Chain Lake Road and the east-west connector road to the Focal Plaza.
3. The width of the corridor shall be not less than 25 feet in any place and average at least 50 feet counting plaza spaces. Pedestrian-oriented spaces (at least 2,000 square feet) should interrupt the corridor to provide visual interest and activities.
4. Paving must be unit-pavers or concrete with special texture, pattern, and/or decorative features.
5. Pedestrian amenities shall be provided such as seating, plants, drinking fountains, distinctive paving, artwork, and such focal points as sculpture or water feature.
6. Lighting fixtures must be approximately 10-15 feet above the surface and may be building mounted. The overall lighting in the plaza should be at least 2 foot-candles, without "dark spots" that could cause security problems. Ambient light from under canopies or storefronts may be included in the lighting calculations.
7. The plaza should have an articulated edge (buildings, benches, and/or landscaping) where feasible or desirable to provide visual interest and additional seating along the edges of the plaza where people may linger out of the traffic flow.
8. Buildings adjacent to the Shopping Corridor must have pedestrian-oriented facades.
9. See Chapter 6 for applicable landscaping guidelines.

Example shopping corridor configuration.

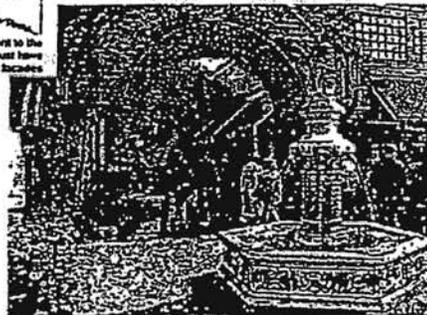


Supplemental Shopping Corridor Provisions

- S1. *Public art components are encouraged throughout the Shopping Corridor, particularly as a focal point for the various plaza spaces within the corridor. The public art components should add visual interest and invite curiosity or exploration.*
- S2. *The Shopping Corridor should include a variety of landscaping components to add texture and seasonal interest.*
- S3. *Consider corridor configurations that take advantage of architectural views.*
- S4. *Up to 25 percent of the area of the Shopping Corridor area may be used by adjacent restaurants or other uses for reserved seating as long as the seating areas allow sufficient space for pedestrian traffic through the corridor.*
- S5. *Public art elements that invites exploration and/or curiosity must be included in the Shopping Corridor to add character and identity to the space(s).*
- S6. *The Shopping Corridor must include design elements that encourages interaction with children.*
- S7. *Podiums that can function as small stages are encouraged in one or more focal points within the Shopping Corridor.*
- S8. *Natural light must be provided.*



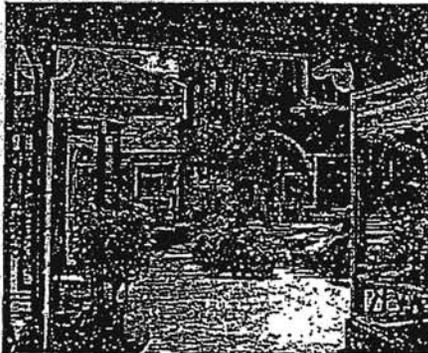
Shopping Corridor examples.



4. Pedestrian-Oriented Spaces

Existing Guidelines:

1. Pedestrian-oriented spaces are encouraged along the pedestrian connections and near key building entries. They can be small to large widening of walking space, landscaped areas, areas for outdoor dining, or small play areas.
2. Pedestrian amenities shall be provided such as seating, plants, drinking fountains, distinctive paving, artwork, and such focal points as sculpture or water feature, should be provided.
3. Lighting fixtures should be approximately 10-15 feet above the surface and may be building mounted. The overall lighting in the plaza should be at least 2 foot-candles, without any "dark spots" that could cause security problems. Ambient light from under canopies or storefronts may be included in the lighting calculations.
4. The spaces must have visual and pedestrian access (including barrier-free access) to abutting structures and public streets or pathways.
5. Walking surfaces should be either approved unit pavers or colored and textured concrete.
6. At least one linear foot of seating area (at least 16 inches deep) or one individual seat per 60 square feet of plaza area or open space should be included (seating can include benches, low walls, stairs, or ledges).
7. Landscaping that does not act as a visual barrier is encouraged (also see Plaza/Pedestrian Area Landscaping guidelines, Chapter 7).
8. Buildings abutting pedestrian-oriented space must have pedestrian-oriented facades.
9. See Chapter 6 for applicable landscaping guidelines.



Pedestrian-oriented space.

5. Supplemental Provisions: Public Atrium

As part of the required open space, there shall be a public atrium or indoor open space subject to the provisions below. The indoor space may be in lieu of required shopping corridor.

Intent

- To provide enclosed, weather protected public spaces that increase and enhance shopping activity while maintaining the continuity of retail activity and visual interest within the focal plaza, shopping corridor, and village green.
- To provide amenities that enhance the user experience.
- To provide a sense of openness and natural light within the space...

Provisions

- S1. Minimum size – 4,000 square feet (for example, 50'x80').
- S2. Minimum horizontal width (without physical obstructions) – 30 feet.
- S3. The entrance(s) of the atrium must be at sidewalk grade. It shall have a minimum clear width of 15' and minimum clear height of 15'. The entrance may be completely open or completely closed with clear transparent doors or glazing.
- S4. Floor level must be no more than 4 feet above or below grade.
- S5. Location of the atrium shall be highly apparent from a public street, Focal Plaza, Shopping Corridor, and/or Village Green and easily accessible and inviting to pedestrians.
- S6. No less than 75 percent of the perimeter shall be occupied by retail uses featuring transparent windows and doors between 2 and 8 feet above the walking surface. All such uses shall have direct access to the atrium.
- S7. Blank walls visible from the atrium are prohibited.
- S8. The atrium must conform to seating standards of Pedestrian-Oriented Spaces above – except that up to 100 percent of the seating can be moveable.



Atrium examples – note skylights, stage, activities, moveable seating, and other amenities.

- S9. The landscaping and furnishings of the shopping atrium should provide amenities for shoppers and add interest and activity to the space while allowing for flexibility in how the space is used, especially for public gatherings and events. Landscaping shall be provided within the principal space of the shopping atrium. Landscaping features shall occupy a minimum of approximately ten percent to a maximum of approximately twenty percent of the total area of the principal space.*
- S10. Seating areas, including ledges, benches, low walls, and moveable seating, must be integrated in the design of an atrium provided they don't impede pedestrian traffic flow.*
- S11. Natural light and visibility: A minimum of 25 percent of the roof area above the principal space shall have skylights.*
- S12. Where the atrium is used as an alternative to some or all of the Shopping Corridor, the atrium design will be subject to the respective design standards and guidelines of those spaces.*
- S13. The atrium must provide spaces and functions other than for restaurant seating. It should be more than just a "food court" in character and function with space available for informal activities and organized events.*

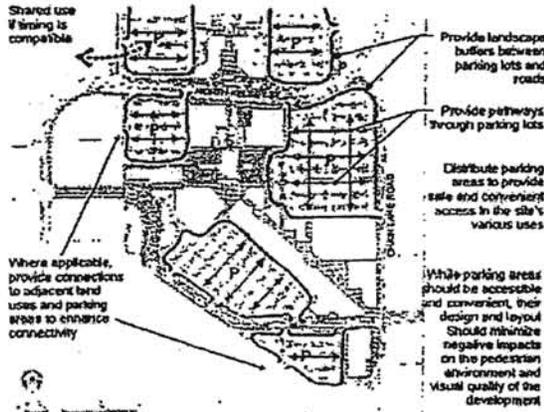
D. Parking Areas

Existing Intent:

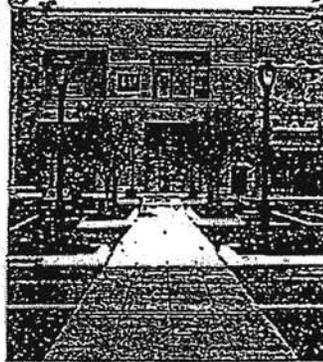
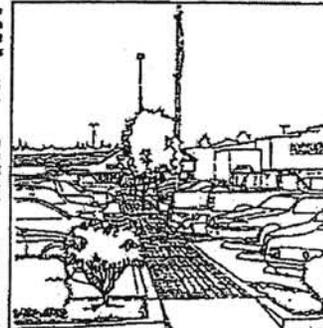
- To provide convenient parking areas that encourage people to leave their cars and walk throughout the North Kelsey Planning Area.
- To provide more flexibility in the design of the development by relaxing existing City parking standards.
- To provide parking areas that do not diminish pedestrian and visual qualities of the site.
- To maintain the built street edge through effective screening of all parking lots.
- To minimize the impacts of driveways.

Existing Guidelines with Suggested Revisions:

1. Parking areas shall conform to the requirement of MMC, Chapter 18.86 unless otherwise noted in these guidelines. This encompasses dimensional requirements, design, access, loading areas, number of parking spaces, parking area landscaping, and other parking-related requirements.
2. Parking requirements for retail uses shall be relaxed to 1 space per 250 square feet of gross floor area. The City may consider special provisions for joint use of parking when two activities are less likely to occur simultaneously (e.g. office uses and entertainment facilities).
3. The landscaped buffer between the sidewalk and the parking area along Chain Lake Road must be expanded to at least 10 feet in width using either Type II or Type III Landscaping standards (MMC, Section 18.78.030) subject to City approval.



Parking lot layout and design guidelines.



Use pedestrian-scaled lighting to define parking lot pathways.

4. Pathways through parking lots should be provided. Pathways and crosswalks should be provided along every fourth parking isle or at intervals of less than 150 feet. Pathways through parking areas should be separated from vehicle parking and travel lanes by use of contrasting surface materials (*brick or unit paving is encouraged*), which may be raised above the level of the vehicular surface. Parking area pathways should be at least 4 feet in width.
5. Structured parking is encouraged provided the building meets the guidelines of Chapter 5.

Supplemental Parking Provisions

- S1. *Pedestrian-scale lighting shall be used to define pedestrian walkways through parking areas. Weather protection features over such walkways are also highly desirable (U-Village example) – particularly when such walkway connects uses within the site.*
- S2. *Parking lot layout, design, and materials should complement the development's buildings and open spaces. This may be accomplished through the use of landscaping, surface materials, lighting, signage, and/or other design elements.*

A. Architectural Concept

Existing Intent:

- To create, through the architectural, landscape, open space, and gateway elements, an identity unique within the region and that reflects Monroe's small town character.
- To reflect Monroe's vernacular architectural character (excluding the post-War highway strip development).
- To provide a high-quality image with well-designed and detailed buildings, minimization of corporate identity elements (stock buildings and signs), and an emphasis on subtlety and refinement rather than on flashy or trendy design themes.
- To create an assemblage of buildings within the planned development area with an intimately scaled (i.e., the buildings appear to be smaller in size, generally less than 150 feet in length along a façade, even though the building footprint may be larger) and informal architectural character.
- To create a varied, non-homogenous set of buildings within the planned development area that give the sense of natural evolution over time rather than a result of a single, one-step development—and to emphasize the fact that the building elements can naturally evolve and change over time without disrupting a constricting design theme.

Supplemental Intent Statement:

- *To encourage architecture that evokes a "Northwest" architectural theme based upon its use of natural local materials and northwest architectural heritage.*

Existing Guidelines:

1. The buildings proposed for the North Kelsey planned development area should be based on a comprehensive architectural concept that achieves the intent statements above. Specifically, the design of the specific buildings should address:
 - Pedestrian interest and comfort along the perimeter of open spaces and pedestrian connections.
 - The size of building massing and elements relative a human body.
 - The perceived massing of the building relative to nearby structures, open spaces, and landscape elements.
 - Monroe's architectural and cultural setting.
 - The variety of sequential experiences and design characters within the site.

While the individual design guidelines in this section address some of these issues specifically, the intent of this guideline is to encourage the designers to consider how the various aspects of the design work together. Applicants should be prepared to demonstrate how the proposed buildings respond to the intent statements. The City will review applicants' proposals and determine whether or not they meet the intent.

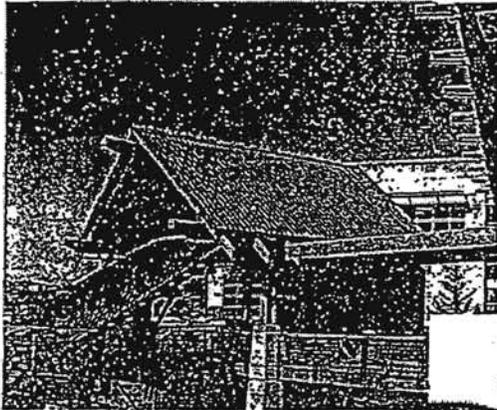
Supplemental Provisions:

- SI. *While a variety of building materials, colors, finishes, and textures are encouraged, all structures should employ exposed timber elements or similar feature approved by the City as a unifying architectural feature of the development. The exposed timber*

elements should be used as a functional element of the structure to the extent possible.

- S2. Flashy or unusual design themes that have no history with Monroe or the Pacific Northwest such as art deco, Southwest or International style, are not acceptable. Log cabins or "eclectic alpine" themes are not acceptable.*
- S3. The concept should address all facades visible by the public (from adjacent properties, public rights-of-way, etc.). Such facades should be treated in a manner that is consistent in form and character with the rest of the building.*

The images below illustrate architecture that utilizes exposed timber elements.



B. Human/Pedestrian Scale

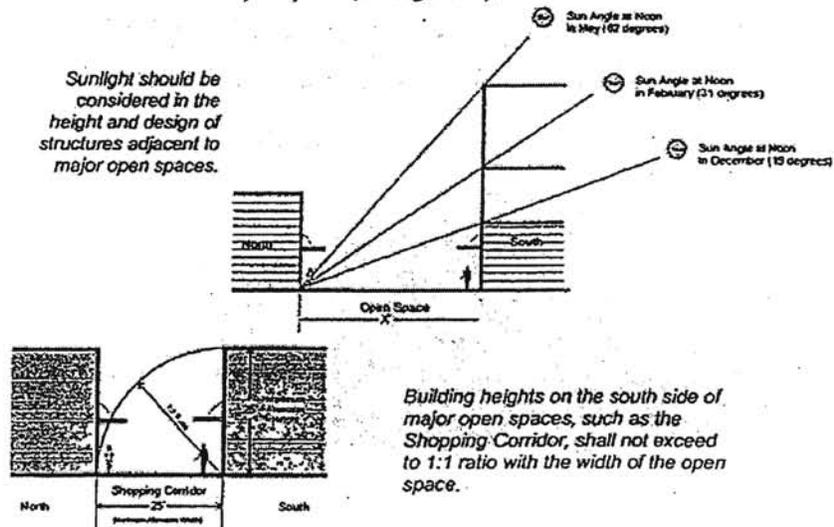
Existing Intent:

- To create an assemblage of buildings with an intimately scaled appearance and informal architectural character.
- To architecturally treat large buildings to ensure that they do not dominate the area's identity.
- To provide interesting and sheltering pedestrian-oriented facades.

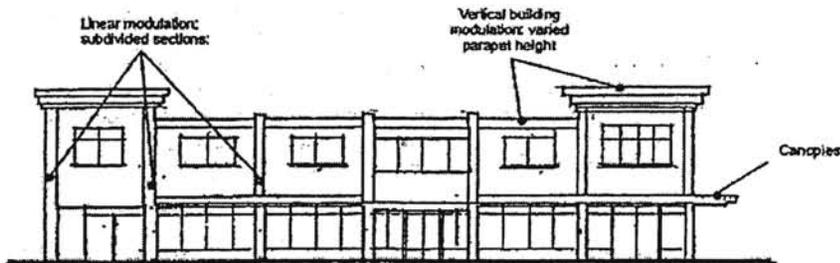
Existing Guidelines

1. **Building Height:** Commercial/office buildings should be 1 to 3 stories high, with a maximum height of 35 feet. The City will consider higher building heights if the applicant can demonstrate consistency with overall design guidelines intent. Special features such as towers or clerestories may be taller, if approved by the City.

Sunlight should be considered within the planned development area with regard to the height of buildings adjacent to open spaces such as the Shopping Corridor, Focal Plaza, and Village Green. Generally, buildings on the south side of these open spaces should be sized to allow direct year-round sunlight on south-facing structures (see Figure 23). Specifically, building heights on the south side of the Shopping Corridor, Focal Plaza, and Village Green should not exceed a 1:1 ratio with the width of such open spaces (see Figure 24).



2. **Vertical Articulation:** In order to prevent long stretches of monotonous façade, buildings with visible facades over 100 feet in length as measured parallel to a roadway, parking area, pedestrian connection, or public open space should be vertically articulated into sections averaging not more than 50 feet along the façade at regular intervals. Articulation may be accomplished in several ways, including:
- Modulation—the stepping back or projection of a portion of the façade.
 - Including significant building elements such as balconies, porches, canopies, towers, or entry areas that visually break up the façade.
 - Building focal points that include, for example, distinctive entry features.
 - Changing the roofline.
 - Changing materials.
 - Landscaping.
 - Using other methods acceptable to the City.



Building articulation: Varied parapet and recessed entries.



This building uses horizontal modulation, roofline modulation, repeating window patterns, changing building materials and details, and a change in building color to maintain a human scale.

C. Architectural Elements

Existing Intent:

- To create an intimately scaled, pedestrian friendly, and informal architectural character.
- To reflect Monroe's vernacular architectural character (excluding the post-War highway strip development).
- To enhance the quality of both individual buildings and the North Kelsey Planning Area streetscape as a whole.
- To encourage use of quality building materials with a low life cycle cost.
- To create design unity, a sense of place, and community identity.
- To reduce the visibility of unsightly service and utility elements from view while providing efficient service and equipment areas.

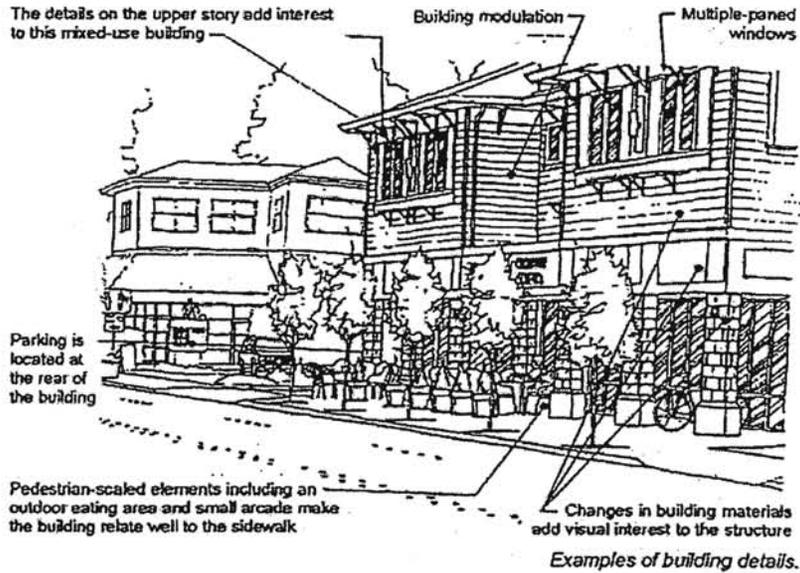
1. Roofs

Existing Guidelines:

1. Roof designs should provide scale-reducing elements within the North Kelsey planned development area. It is recommended that buildings have a variety of roof slopes, details, materials, and configurations.
2. All flat roofs shall be architecturally treated or articulated with a parapet wall combined with ornamental molding, entablature, frieze, cornice, or other architectural roofline detail visible from the ground level. Parapets and articulated cornice lines should not appear as applied elements.
3. Roof-mounted mechanical equipment (HVAC) must be screened from view.

The gabled roof over the building entry together with pedestrian-scaled elements and a variety of building materials provides visual interest to this largely-square, flat-roofed building.





2. Building Elements and Details

Existing Guideline:

All building facades shall incorporate a substantive use of building elements, such as those from the list that follows, as approved by the City, to achieve a pedestrian scale. "Substantive" in this case means a significant contribution to the form and character of the building. Note that "decorative" means that the feature exhibits special craftsmanship or distinctive design that adds visual interest and/or unique character. Suggested building elements include:

- Articulated building elements through treatment of windows, doors, entries, and corners with special trim, molding, or glazing.
- Permanent pedestrian weather protection (building canopy).
- Decorative building materials, such as tile and metal work.
- Enhanced or articulated building entrances (recessed or covered).
- Pergolas, arcades, porches, decks, or bay windows.
- Balconies in upper stories.
- Address numbers legible to the public from the street or pathway fronting the property or building.
- Multiple-paned window fenestration (windows with several panes separated by mullions).
- Windows. All windows should either have a vertical orientation (e.g., be longer in the vertical dimension than in the width) or be square in order to qualify as special elements.

Supplemental Building Elements and Details Provision

S1. All new buildings and individual businesses on the ground floor shall include at least four of the following elements on their primary facades subject to City approval:

- Decorative pedestrian-oriented signage. This may include small signs under marquees or awnings, small hanging or projecting signs, and/or window signage scaled to the pedestrian.
- Artwork incorporated into the building façade or entry area.
- Recessed entry.
- Decorative door.
- Pergolas, arcades, porches, decks, or bay windows.
- Balconies in upper stories.
- Multiple-paned window fenestration (windows with several panes separated by mullions). This includes transom windows that allow additional light into the building.
- Decorative weather protection feature(s) – including translucent awnings or marquees.
- Landscaped trellises or other decorative element that incorporates landscaping near the building entry (element must be integrated into the building and not a simple potted plant).
- Decorative light fixtures.
- Decorative building materials and/or trim work. This could include decorative stone, tile, or wood-work, decorative kick plates, or other methods that meet the Intent statement above.
- Other building elements and details as approved by the City.

S2. Architecture that is identified predominantly by corporate identity features (e.g.: KFC red roofs, McDonald's yellow roof ribs, Rite Aid's diamond windows, etc.) is prohibited. Besides diluting the town center's identity with corporate (and therefore generic) identities these buildings are undesirable because they are not adaptable to other uses when the corporate franchises leave.



These storefronts include details such as pedestrian-oriented signage, decorative use of masonry, landscaping elements, and decorative weather protection features to add interest to the buildings from the sidewalk.

3. Exterior Materials

Existing Guidelines:

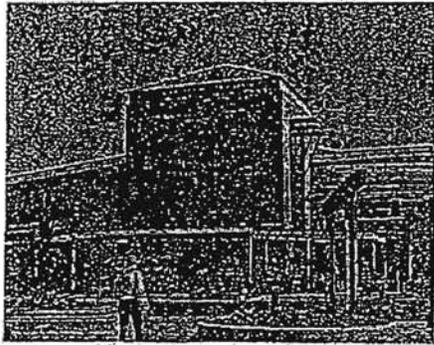
1. Use durable and high-quality materials. Shiny or highly reflective materials are not allowed. Materials should be those of typical use in the Northwest, including:
 - Bevel or lap siding.
 - Rock, stone, and brick material.
 - Architectural shake-style roofing.
 - Metal roofs with standing seams.
2. If sheet materials, such as composite fiber products or metal siding, are used as a siding material over more than 25 percent of a building's façade, use material with a matted finish in a muted color as specified in Color guidelines below. Include the following elements:
 - Visible window and door trim painted or finished in a complementary color.
 - Corner and edge trim that covers exposed edges of the siding material.
3. If concrete blocks (concrete masonry units or "cinder blocks") are used for walls that are visible from a public street or park, use one or more of the following architectural treatments:
 - Use of textured blocks with surfaces such as split-face or grooved.
 - Use of colored mortar.
 - Use of other masonry types, such as brick, glass block, or tile, in conjunction with concrete blocks.
 - Other treatment methods approved by the City.

The applicant shall provide the City with samples of the material, proposed detail connections and a list of other project examples in the Puget Sound region that have used this application.
4. Do not use the following materials in visible locations unless an exception is granted by the City:
 - Mirrored glass.
 - Corrugated fiberglass.
 - Chain-link fencing (with or without slats).
 - Synthetic materials with reflective surfaces, including galvanized steel and glossy vinyl siding.
 - Other treatment methods approved by the City.
5. Paint all vents, gutters, downspouts, flashing, and electrical conduits to match the color of the adjacent surface unless they are being used expressly as a trim or accent element, or if the surface is made of an unpainted material such as brick.
6. Provide approved address numbers so that they are legible to the public from the street fronting the property.

Supplemental Exterior Materials Provisions

- S1. Use of metal siding shall be limited to 25 percent of a structure's primary building façade and 75 percent of other facades visible from a public street, parking area, open space, or walkway.
- S2. Use of stucco or similar surface materials shall be limited to 25 percent of a structure's primary building façade and 50 percent of other facades visible from a public street, parking area, open space, or walkway.
- S3. Use of concrete block shall be limited to 25 percent of a structure's primary building façade and 75 percent of other facades visible from a public street, parking area, open space, or walkway.
- S4. Use of stucco or similar surface materials or wood or metal siding within 3 feet of a walkway surface, pavement, or bare ground is prohibited; stone, masonry, cement, or other durable materials must be used in these vulnerable areas.

The following pictures illustrate desirable ways to use a variety of materials



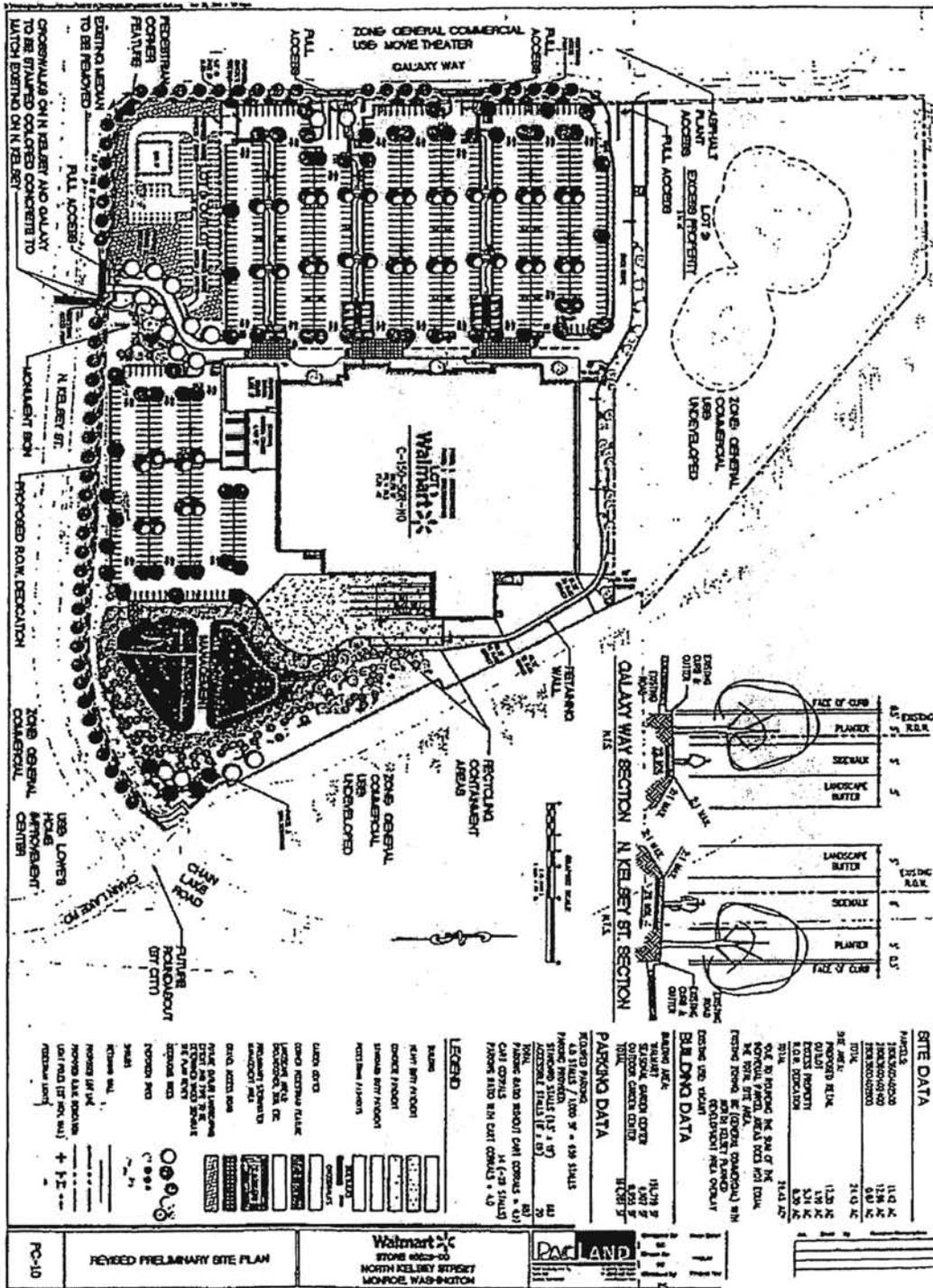
Wood and stucco with metal trim and large windows



Concrete block and stucco with metal awnings and wood trim and cornice.

APPENDIX D

Revised Conceptual Site Plan



RECYCLING CONTAINER AREA
 ZONE: GENERAL COMMERCIAL USES UNDERLINED

LANDSCAPE BUTTER
 ZONE: GENERAL COMMERCIAL USES UNDERLINED

PLANER
 ZONE: GENERAL COMMERCIAL USES UNDERLINED

SEEDBANK
 ZONE: GENERAL COMMERCIAL USES UNDERLINED

LANDSCAPE BUTTER
 ZONE: GENERAL COMMERCIAL USES UNDERLINED

PLANER
 ZONE: GENERAL COMMERCIAL USES UNDERLINED

SEEDBANK
 ZONE: GENERAL COMMERCIAL USES UNDERLINED

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PLANER
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SEEDBANK
 ZONE: GENERAL COMMERCIAL USES UNDERLINED

LANDSCAPE BUTTER
 ZONE: GENERAL COMMERCIAL USES UNDERLINED

PC-10

REVISED PRELIMINARY SITE PLAN

Walmart
 30-0000000000
 NORTH KELSEY STREET
 MONROE, WASH-INGTON

PAC LAND

DATE: 11/27/92
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]

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