

CITY OF KETTERING, OHIO

AN ORDINANCE

By: Mrs. Schrimpf and Mr. Spolrich

No. 4118-09

**TO AMEND THE SPECIFIC DEVELOPMENT GUIDELINES FOR ECONOMIC DEVELOPMENT OVERLAY DISTRICT NO. 14 (THE WOODMAN/DOROTHY BUSINESS CENTER)**

WHEREAS, an application has been submitted to amend the specific development guidelines of Economic Development Overlay District No. 14, also known as the Woodman/Dorothy Business Center, so as to principally allow vehicle fuel sales as a permitted use in Zone B of said EDO District; and

WHEREAS, after publication and issuance of notice as required by the zoning regulations of this City, the Planning Commission conducted a public hearing on said application; and

WHEREAS, subsequent to the public hearing and after consideration of the application and other relevant information, the Planning Commission voted to recommend the approval of the application as provided for in this Ordinance;

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, State of Ohio, that:

Section 1. This Council hereby determines that all requirements and standards necessary for amendment and/or modification of the provisions of this Economic Development Overlay District have been satisfied. This Council further finds that the amendments to the provision of this Economic Development Overlay District, as expressed in this Ordinance, are in accord with sound planning and zoning practices and are consistent with this City's adopted plans, goals, policies and the intent of the Kettering Zoning Code. Additionally, this Council finds the amendments to this Economic Development Overlay District satisfy the public health, safety and welfare requirements underlying the Kettering Zoning Code.

Section 2. The provisions of Section "E" (Specific Development Guidelines) of Economic Development Overlay District No. 14 shall be and hereby are amended as set forth in Sections 3 through and including Section 15 of this Ordinance.

Section 3. The current words and numbers of Section E.1 (Introduction) of Section E of the Specific Development Guidelines shall be deleted and fully repealed, and replaced with the following words and numbers:

"This Economic Development Overlay District No. 14 was adopted by the City of Kettering in 1996 (Ord. No. 3728-96). The property is currently developed for a variety of industrial, business and retail uses."

Section 4. The current words and numbers of Item "A" of Subsection "B" (Woodman/Dorothy Commercial, Permitted Uses) of Subsection "E.3" (Permitted Uses) of the Specific Development Guidelines shall be deleted and fully repealed, and replaced with the following words and numbers:

"A. Supermarkets and ancillary services therein, such as mini markets/carry-outs, floral shops, cafes, drug stores, financial services, photo labs, vehicle fuel sales, and other similar uses such as a drive-through facility as part of the principle structure."

Section 5. The current words and numbers of Subsection "B" of Section "E.4" (Conditions for Permitted Uses) of the Specific Development Guidelines shall be deleted and fully repealed, and replaced with the following words and numbers:

"B. No user in Woodman/Dorothy Business Center Zone A, B or C shall conduct any of its business in a manner which is conducted outside of the building in which it is located other than permitted signage, sale of vehicle fuel and related products (related products sales use to be approved by the Kettering Planning Commission) and accessory to a supermarket, delivery systems or the sale of seasonal merchandise as may occur from time to time within the Woodman/Dorothy Business Center Zones A and B."

Section 6. The current maximum sign face area as stated in the first two sentences of Item "A" of Subsection "C" (Woodman/Dorothy – Zone B) of Section E.5 (Signage) of the Specific Development Guidelines shall be changed from fifty square feet (50 sq. ft.) to a maximum of sixty sq. ft. (60 sq. ft.) per sign face.

Section 7. The current words and numbers of Subitem "4" of Item "B" of Subsection "C" (Woodman/Dorothy – Zone B) of Section "E.5" of the Specific Development Guidelines shall be deleted and fully repealed, and replaced with the following words and numbers:

"4. Four (4) fascia signs mounted on the fuel center canopy and one (1) building identification sign mounted on the fuel center kiosk, not to exceed the sizes as illustrated on the Fuel Center Elevation plan dated February 2, 2009 and attached hereto as Exhibit "H."

Section 8. A new last sentence shall be added to the current end of Item "B" of Subsection "C" (Woodman/Dorothy – Zone B) of Section "E.5" of the Specific Development Guidelines. This new added sentence shall read as follows:

"Fuel Center signage colors shall be as illustrated on the Fuel Center Elevation plan dated February 2, 2009 and attached hereto as Exhibit "H."

Section 9. A new sentence shall be added at the end of Subsection "B" (Zone B [Kroger]) of Buffer Yard Requirements of Section "E.6" (Buffer Yards, Landscaping and Screening) of the Specific Development Guidelines. The new sentence shall read as follows:

"Landscaping for the fuel center shall be as depicted on the Landscape Plan attached hereto as Exhibit "I."

Section 10. The current words and numbers of the second sentence of the item labeled "Landscape Plans" under the category labeled "Landscape Guidelines" under Section E.6 (Bufferyards, Landscaping and Screening) of the Specific Development Guidelines shall be deleted and fully repealed, and replaced with the following words and numbers:

"Zone 'B' landscape plan and specifications are part of the Economic Overlay District Application (attached Exhibit "C" and Exhibit "I" or their equivalent as determined by the Kettering Zoning Administrator)."

Section 11. A new sentence shall be added at the end of the current text under Item "Zone B" of Section E.8 (Site Lighting) of the Specific Development Guidelines. The new sentence shall read as follows:

"Lighting for the fuel center shall comply with the Lighting Plan dated March 2, 2009 and attached hereto as Exhibit "J" or an equivalent plan as determined by the Kettering Zoning Administrator.

Section 12. A new sentence shall be added at the end of the current text under Subitem "B" (Zone "B") of the Item labeled "Objectives" of Section E.10 (Architectural

Standards) of the Specific Development Guidelines. The new sentence shall read as follows:

"The fuel center design shall be consistent with the Fuel Center Elevation plans dated February 2, 2009 and attached hereto as Exhibit "H"."

Section 13. The current words and numbers of Item "C" (Zone "B" of Subsection "1" of Section "F.4" (Set Backs) of the Specific Development Guidelines shall be deleted and fully repealed, and replaced with the following words and numbers:

"C. Zone B: No building shall be permitted within one hundred ten feet (110') nor any parking within forty feet (40 ft.) of Woodman Drive, except that the setback for a fuel center canopy shall be permitted within seventy feet (70') of the Woodman Drive right-of-way line and the minimum setback for the fuel center kiosk building shall be sixty feet (60 ft.) from the same right-of-way line."

Section 14. The current labeled exhibits attached to the provisions for Economic Development Overlay District No. 14 shall be modified by adding the following exhibits listed below and attached hereto.

"Exhibit "H" – Fuel Center Elevation Plans (Exterior Elevations and Signage – Kroger Fuel Center). See below Section XX of this Ordinance.

Exhibit "I" – Landscape Plan (Amended Site and Landscape Plan, Kroger Proposed Fuel Center).

Exhibit "J" – Photometric Lighting Plan (Photometric Lighting Plan Kroger Fuel Center).

Exhibit "K" – Modified Existing Freestanding Signs."

Section 15. Immediately following the word "sales" in the new language adopted by Section 4 of this Ordinance, a footnote number "1" ["sales <sup>(1)</sup>"] shall be added, and either at the bottom of the page where the same word "sales" and the new footnote appear, or at the end of the Specific Development Guidelines for Economic Development Overlay District No. 14, the footnote "1" shall be placed along with the following footnote explanation as indicated below.

"Footnote (1): Any Fuel Center use, sales of vehicle fuel use and/or any use that includes outdoor sales of merchandise or other items related to vehicle fuel and such use is in or on any portion of Zone "B" of the area of Economic Development District No. 14 shall not be conducted or allowed unless require: (i.) the traffic control measures proposed by the Zoning Administrator in Zoning Case 884-09 shall be implemented and satisfactorily maintained as determined by the Zoning Administrator; (ii.) the size, location and appearance of any outdoor display of merchandise by or directly associated with any fuel center use shall be approved, in advance, by the Kettering Planning Commission; and (iii.) any modification to the two existing ground-mounted, monument signs depicted on and in Exhibit "M", attached hereto, shall be approved, in advance, by the Kettering Planning Commission."

Section 16. The Applicant requesting the amendments and modifications to the Specific Development Guidelines of Economic Development Overlay District No. 14, the principal subject of this Ordinance, shall cause to be modified above referenced Exhibit "H" (see above Section 14) to reflect all canopy pillars to consist entirely of brick. Such modification shall be made to the satisfaction of the Zoning Administrator. Upon the modification to Exhibit "H" to the satisfaction of the Zoning Administrator, this Council authorizes and directs the Kettering Zoning Administrator to remove the then current Exhibit "H" and replace it with the new, modified Exhibit "H" that is satisfactory to the Zoning Administrator. In the event the Applicant fails, prior to April 15, 2009, to modify Exhibit "H" to the satisfaction of the Zoning Administrator, then the provisions of

Sections 3 through and including Section 15 of this Ordinance shall no longer be deemed approved by this Council and these same Ordinance sections shall further be deemed null and void for all purposes.

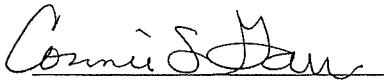
Section 17. This ordinance shall take full force and effect from and after the earliest period provided by law.

Passed by Council this 14th day of April 2009.

  
DONALD E. PATTERSON, Mayor.

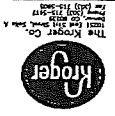
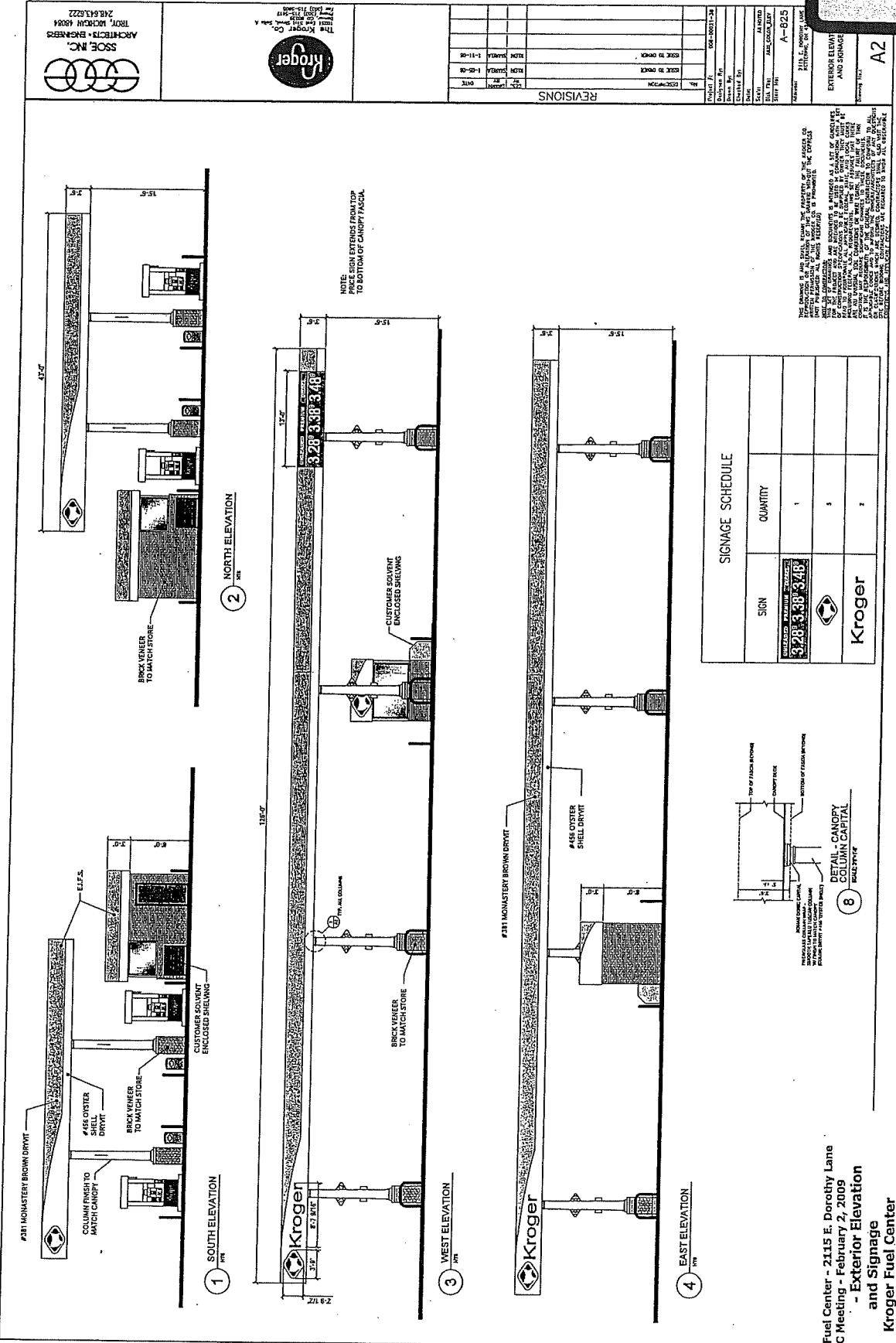
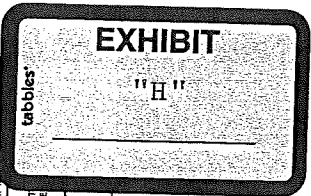
ATTEST:

CERTIFICATE OF APPROVAL

  
CONNIE S. GAW,  
Clerk of Council.

  
DAVID L. EUBANK,  
Law Director.

(Requested by: Planning and Development Department)



REVISIONS

NO.	DATE	DESCRIPTION
1-1	1-1-08	ISSUE FOR PERMITS
1-2	1-1-08	ISSUE FOR PERMITS
1-3	1-1-08	ISSUE FOR PERMITS
1-4	1-1-08	ISSUE FOR PERMITS

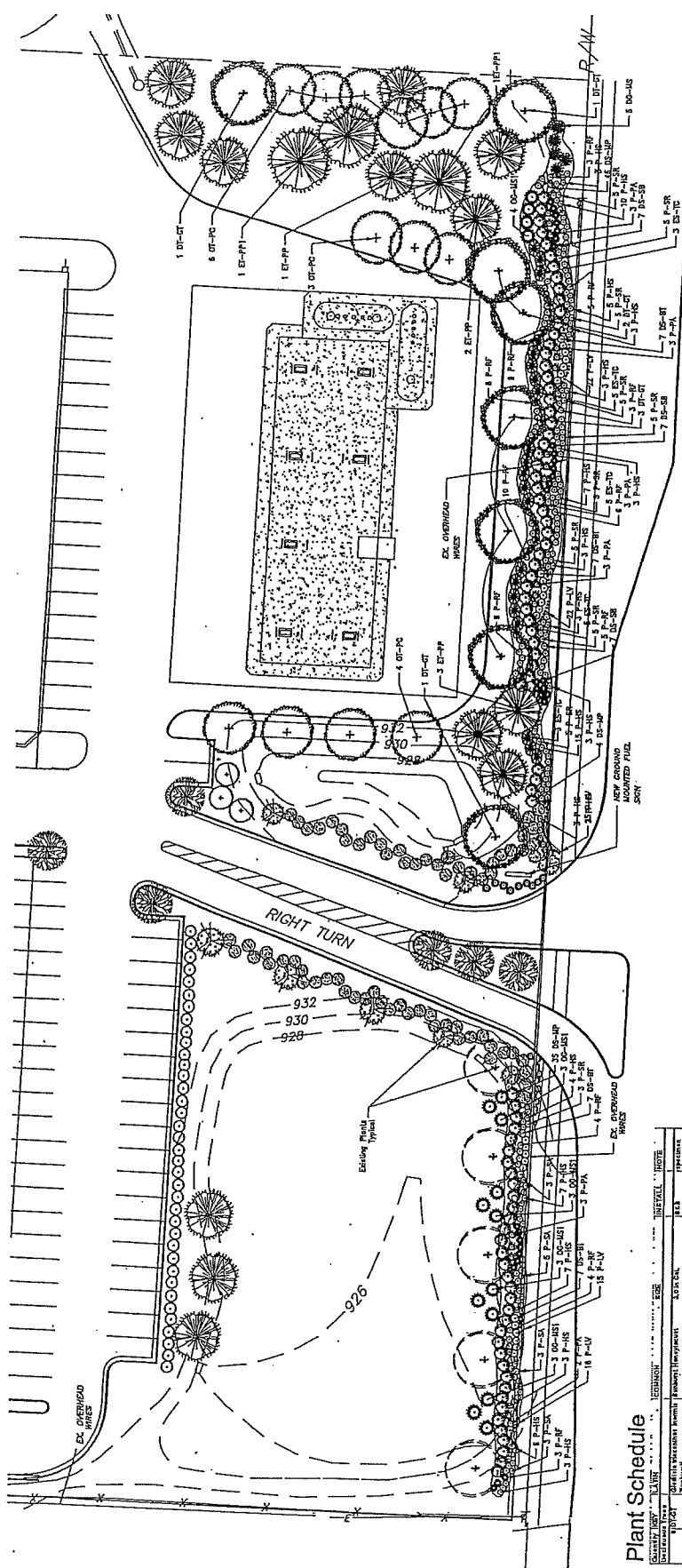
PROJECT NO. 08-000101-04  
 SHEET NO. 2 OF 2  
 DATE: 1-1-08  
 DRAWN BY: J. W. WILSON  
 CHECKED BY: J. W. WILSON  
 SCALE: AS SHOWN  
 PROJECT: 2115 E. DOROTHY LANE  
 SIGNAGE SCHEDULE

THIS DRAWING IS THE PROPERTY OF THE ARCHITECT OR ENGINEER AND IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ARCHITECT OR ENGINEER. THE ARCHITECT OR ENGINEER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED HEREON AND SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS. THE ARCHITECT OR ENGINEER SHALL NOT BE RESPONSIBLE FOR ANY CONSTRUCTION DEFECTS OR FOR ANY DAMAGE TO PERSONS OR PROPERTY ARISING FROM THE USE OF THIS DRAWING. THE ARCHITECT OR ENGINEER SHALL NOT BE RESPONSIBLE FOR ANY DELAYS OR INTERFERENCE WITH THE PROGRESS OF THE PROJECT. THE ARCHITECT OR ENGINEER SHALL NOT BE RESPONSIBLE FOR ANY COSTS INCURRED BY THE OWNER AS A RESULT OF ANY CHANGES TO THIS DRAWING. THE ARCHITECT OR ENGINEER SHALL NOT BE RESPONSIBLE FOR ANY CLAIMS OR LITIGATION ARISING FROM THE USE OF THIS DRAWING. THE ARCHITECT OR ENGINEER SHALL NOT BE RESPONSIBLE FOR ANY OTHER MATTERS NOT EXPRESSLY PROVIDED FOR IN THIS AGREEMENT.

Kroger Fuel Center - 2115 E. Dorothy Lane  
 PC Meeting - February 2, 2009  
 - Exterior Elevation  
 and Signage  
 Kroger Fuel Center



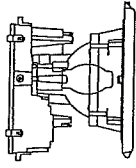
Kroger Fuel Center - 2115 E. Dorothy Lane  
Presented at PC Meeting - March 2, 2009  
- REVISED Site and  
Landscape Plan - Kroger 825-A Kettering  
Proposed Fuel Center



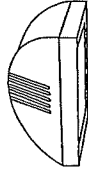
Plant Schedule

PLANT	QUANTITY	SIZE	NOTE
1 01-01	1	10' GAL	WATER
2 01-01	2	10' GAL	WATER
3 01-01	3	10' GAL	WATER
4 01-01	4	10' GAL	WATER
5 01-01	5	10' GAL	WATER
6 01-01	6	10' GAL	WATER
7 01-01	7	10' GAL	WATER
8 01-01	8	10' GAL	WATER
9 01-01	9	10' GAL	WATER
10 01-01	10	10' GAL	WATER
11 01-01	11	10' GAL	WATER
12 01-01	12	10' GAL	WATER
13 01-01	13	10' GAL	WATER
14 01-01	14	10' GAL	WATER
15 01-01	15	10' GAL	WATER
16 01-01	16	10' GAL	WATER
17 01-01	17	10' GAL	WATER
18 01-01	18	10' GAL	WATER
19 01-01	19	10' GAL	WATER
20 01-01	20	10' GAL	WATER
21 01-01	21	10' GAL	WATER
22 01-01	22	10' GAL	WATER
23 01-01	23	10' GAL	WATER
24 01-01	24	10' GAL	WATER
25 01-01	25	10' GAL	WATER
26 01-01	26	10' GAL	WATER
27 01-01	27	10' GAL	WATER
28 01-01	28	10' GAL	WATER
29 01-01	29	10' GAL	WATER
30 01-01	30	10' GAL	WATER
31 01-01	31	10' GAL	WATER
32 01-01	32	10' GAL	WATER
33 01-01	33	10' GAL	WATER
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35 01-01	35	10' GAL	WATER
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37 01-01	37	10' GAL	WATER
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46 01-01	46	10' GAL	WATER
47 01-01	47	10' GAL	WATER
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49 01-01	49	10' GAL	WATER
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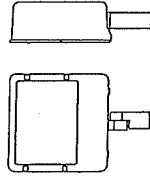
EXHIBIT  
1  
tables



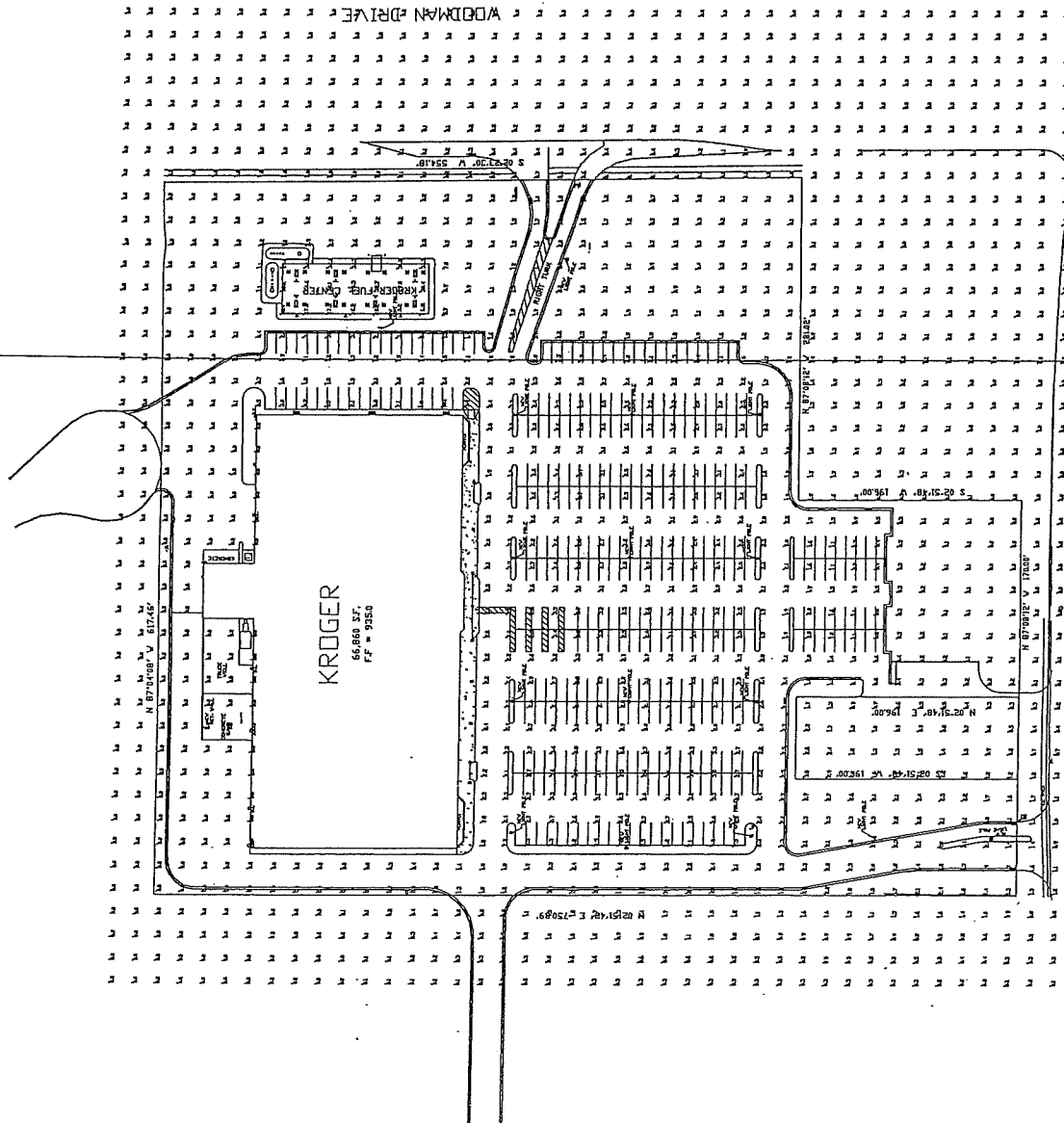
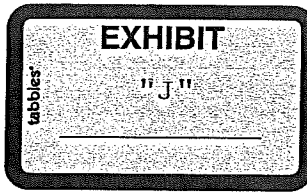
ENCORE TOP ACCESS  
FLAT LENS



CHALLENGER  
WALL SCONCE



OF2 SERIES



Matched footcandle levels at grade.

Calculation Scenario	ENCLOSURE	AVG	Max	Min	Max	Min
LEVEL PARKING	FC	151	237	24	N/A	N/A
TRUCK PARKING	FC	151	237	24	N/A	N/A
CONC	FC	211	232	24	24	213

Calculation Scenario	LEVEL PARKING	TRUCK PARKING	CONC	AVG	Max	Min
ENCLOSURE	FC	FC	FC	151	237	24
AVG	151	151	151	151	237	24
Max	237	237	237	237	237	237
Min	24	24	24	24	24	24

Total Project Value  
\$10,000,000

Kroger Fuel Center - 2415 E. Dorothy Lane  
Presented at PC Meeting - March 2, 2009

Photometric Lighting Plan  
Kroger Fuel Center

DOROTHY LANE

All dimensions and locations are based on the most recent survey data available. Footcandle levels are calculated from laboratory data. All dimensions are in feet and inches.

# DOUBLE FACED ILLUM. FUEL MONUMENT

**49.60 sq.ft.** = (.8333 x 3.5833) + (1.00 x 9.3333) + (.3333 x 8.8333) + (1.00 x 9.3333) + (2.5 x 10.00) 1. Calculated as the combination of sign areas.

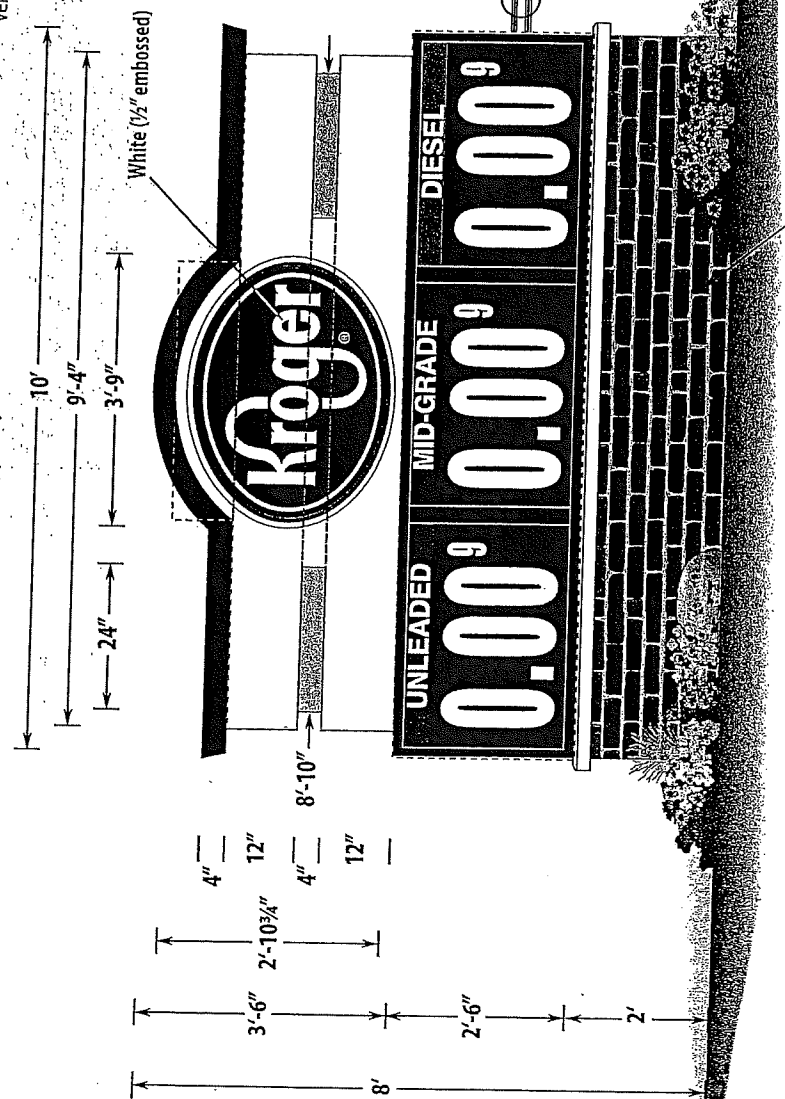
- ROOF**
  - 1/2" alum. painted MP 24510 Deep Green.
- 'KROGER' OVAL**
  - 1/2" retainer painted MP 25833 Bone White.
  - 1/7" thick White polycarbonate pan faces with first surface 3M #3630-33 Red and 3M #3630-157 Sultan Blue trans. vinyls; White areas to be cut-out/White polycarbonate show-thru.
- REVEALS**
  - 1/2" alum. painted MP 25829 Taos Sand Beige.

- CABINET**
  - 1/2" alum. over angle painted MP 25833 Bone White.
  - Cabinet interior painted Reflective White.
  - Internal high output fluorescent tube illum.
  - Internal alum. "divider" panel to shield sign cavity from electric running up the side of the steel.
- SKYLINE™ PRICE CABINET**
  - 2'-6" x 10'-0" x 12" per unit/side.
  - Furnished by Kroger®.
  - Alum. filler end panels (size TBD) provided and painted Black by Victory.

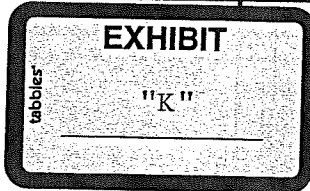
- STEEL SUPPORT**
  - Field verification for reuse of existing steel.
  - Subject to change based on existing.
  - Subject to engineer's sealed drawing(s).
- FOUNDATION**
  - Field verification for reuse of existing concrete.
  - Subject to engineer's sealed drawing(s).
- MASONRY**
  - Existing brick pedestal and cap to be field verified for overall sizes.

- FINISHES**
  - Matthews® acrylic polyurethane.
- ELECTRICAL**
  - U.L. listed and labeled.
  - Weatherproof disconnect box/switch(es) by others.
  - 3/4" PVC through foundation by Victory.
  - Final connection by Victory only if in place and to code at time of installation.

**\*Note: 120 volt**



Kroger Fuel Center - 2115 E. Dorothy Lane  
 PC Meeting - February 2, 2009  
 - Double Faced Illuminated  
 Fuel Monument Sign  
 Kroger Store and Fuel Center



\*Existing brick pedestal and cap to be field verified for overall sizes.

**Victory SignAssociates**  
 Design & Planning

3160 East Kemper Road Suite B  
 Cincinnati, OH 45241 • 513.772.4500

CLIENT: Kroger #825  
 LOC: 2115 E. Dorothy Lane, Kettering, OH  
 DRAWING NO: K-3.1390

DATE: 11/19/08  
 SCALE: 3/8" = 1'-0"  
 BY: Brian Marco  
 REP: Vince Klusty

APPROVED BY: LANDLORD APPROVAL  
 \*After zoning approval, manufacturing methods may be subject to change.  
 \*Colors may not be exact as shown because of printer limitations. Refer to actual material color charts for true color representation.

All designs and specifications are the sole copyrighted property of Victory Sign Associates, Inc. Any unauthorized use, copying, or reproduction is a violation of Federal Copyright law and will be subject to prosecution.



CITY OF KETTERING, OHIO

AN ORDINANCE

By: Mr. Wasky and Mr. Duke

No. 3727-96

TO APPROVE AN ECONOMIC DEVELOPMENT OVERLAY FOR 4.23 ACRES OF EXISTING BUSINESS PROPERTIES ALONG THE NORTH SIDE OF EAST DOROTHY LANE TO BE KNOWN AS THE WOODMAN/DOROTHY BUSINESS CENTER, ZONE C; TO REVISE THE ZONING MAP ACCORDINGLY; AND TO REENACT CODIFIED ORDINANCE 1135.02 TO INCORPORATE THE REVISED MAP AS PART OF THE ZONING CODE. (ZONING CASE 638).

WHEREAS, public hearings were held before the planning commission of the City of Kettering, Ohio, on July 8, July 29, and August 5, 1996, on an application by the zoning administrator to consider an Economic Development Overlay District (known as Overlay District #14) on 4.23 acres of existing business properties along the north side of East Dorothy Lane, to be known as the Woodman/Dorothy Business Center, Zone C; and

WHEREAS, after due publication and issuance of notice as required by the zoning code prior to said public hearings, a vote was taken by the planning commission on August 5, 1996; and

WHEREAS, on the 27th day of August, 1996, the city council held a public hearing with evidence presented by the planning department, along with the 2-1 vote of the Planning Commission to support the application, as modified by conditions in the planning commission motion which failed to produce the three affirmative votes necessary for a planning commission recommendation that the rezoning application be granted, and all parties were afforded the opportunity to present evidence in support of their respective positions;

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, State of Ohio, that:

Section 1. The council deems it to be for the public necessity, convenience, general welfare and good zoning practice to approve an Economic Development Overlay District for 4.23 acres of land located along the north side of East Dorothy Lane, as described on Exhibit Z attached to and made a part of this ordinance, the terms and conditions of that overlay district being described in the motion of the planning commission, plus such changes as are set forth in a memorandum from city staff to the city manager, dated August 27, 1996, both that motion and memorandum being incorporated hereby by reference.

Section 2. The zoning map of the City of Kettering, Ohio, is hereby revised to show this rezoning, and section 1135.02 of the codified ordinances which adopts the zoning map by reference is hereby reenacted, effective as of that revision of the zoning map, so as to include that map revision in the zoning code.

Section 3. This ordinance shall take full force and effect from and after the earliest period provided by law.

Passed by Council this 10<sup>th</sup> day of September , 1996.

ATTEST:

RICHARD P. HARTMANN,  
Mayor.

VIRGINIA J. SCHULKE, CMC  
Clerk of Council

CERTIFICATE OF APPROVAL

JAMES R. GOULD,  
Law Director.

(Requested by Planning Commission)

## EXHIBIT Z

Situated in the City of Kettering, County of Montgomery and State of Ohio and being the following parcels of land:

1. being part of a tract formerly owned by Conrail Corporation and identified by the following parcel numbers on the Montgomery County Auditor's tax map: Book 34, Page 6, parcel 12
2. as described in a deed to T. B. L. D. Corporation recorded at Deed Microfiche 92-484E04
3. as described in a deed to Murphy/Connor Development Corporation recorded at Deed Microfiche 90-251A06, A04
4. as described in deed to Jack C. and Judy O. Roberts recorded at Deed Microfiche 94-154D12
5. as described in deed to Pamela Schneuermann, et al. recorded at Deed Microfiche 90-105A01
6. as described in deed to Shidler/West Finance Partners I, a Delaware Limited Partnership recorded at Deed Microfiche 93-0355A03.
7. as described in deed to Throckmorton Brothers, Inc. recorded at Deed Microfiche 84-0229C07



## AN ORDINANCE

By: Mrs. Smith and Mr. Wasky

No. 3728-96

**TO APPROVE AN ECONOMIC DEVELOPMENT OVERLAY FOR 43.97 ACRES OF VACANT LAND ALONG WOODMAN DRIVE AND EAST DOROTHY LANE TO BE KNOWN AS THE WOODMAN/DOROTHY BUSINESS CENTER, ZONES A AND B, TO REVISE THE ZONING MAP ACCORDINGLY; AND TO REENACT CODIFIED ORDINANCE 1135.02 TO INCORPORATE THE REVISED MAP AS PART OF THE ZONING CODE. (ZONING CASE 638).**

WHEREAS, public hearings were held before the planning commission of the City of Kettering, Ohio, on July 8, July 29, and August 5, 1996, on an application by R. G. Properties to consider an Economic Development Overlay District (known as Overlay District #14) on 43.97 acres of vacant land along Woodman Drive and East Dorothy Lane, to be known as the Woodman/Dorothy Business Center, Zones A and B; and

WHEREAS, after due publication and issuance of notice as required by the zoning code prior to said public hearings, a vote was taken by the planning commission on August 5, 1996. This resulted in a 2-1 vote of the Planning Commission to support the application, as modified by conditions in the planning commission motion, a vote which failed to produce the three affirmative votes necessary for a planning commission recommendation that the rezoning application be granted; and

WHEREAS, on the 27th day of August, 1996, the city council held a public hearing with evidence presented by the planning department, and all parties were afforded the opportunity to present evidence in support of their respective positions; and

WHEREAS, on September 10, 1996, the city council made a second reading of the prepared rezoning ordinance to approved an economic development overlay district for the 43.97 acres of land, but both the applicant and the city staff requested certain amendments as set forth in a staff memorandum dated September 10, 1996. Those amendments were accepted by motion of the city council; and since they made substantive changes in the pending rezoning ordinance, the amended ordinance was required by Section 4-5 of the Charter to be republished and to be presented at another public hearing; and

WHEREAS, that republication has been made and this amended rezoning ordinance, which has been revised to include the September 10, 1996, staff memorandum, together with a September 20, 1996 memorandum and a clarification memorandum is now to be presented for public hearing before the city council on September 24, 1996; and

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, State of Ohio, that:

Section 1. The council deems it to be for the public necessity, convenience, general welfare and good zoning practice to approve an Economic Development Overlay District for 43.97 acres of land located along Woodman Drive and East Dorothy Lane, as described on Exhibit A attached to and made a part of this ordinance, the terms and conditions of that overlay district being described in the motion of the planning commission, plus such changes as are set forth in memoranda from city staff to the city manager, dated August 27, 1996 and September 10 and 20, 1996, plus the one-page clarification memorandum presented to council this evening, both that motion and those memoranda being incorporated hereby by reference.

Section 2. The zoning map of the City of Kettering, Ohio, is hereby revised to show this rezoning, and section 1135.02 of the codified ordinances which adopts the zoning map by reference is hereby reenacted, effective as of that revision of the zoning map, so as to include that map revision in the zoning code.

Section 3. This ordinance shall take full force and effect from and after the earliest period provided by law.

Passed by Council this 24th day of September , 1996.

ATTEST:

RICHARD P. HARTMANN,  
Mayor.

VIRGINIA J. SCHULKE, CMC  
Clerk of Council

CERTIFICATE OF APPROVAL

JAMES R. GOULD,  
Law Director.

(Requested by Planning Commission)

Economic Development  
Overlay District #14

# **Zone A and Zone B**

## EXECUTIVE SUMMARY

RG Properties, Inc., an Ohio based Corporation, requests the City of Kettering to adopt an Economic Development Overlay for a parcel of vacant land located near the northwest corner of the intersection of Woodman Drive and Dorothy Lane. Identified on the site plan attached as Exhibit "A", the properties are presently zoned "Industrial". RG Properties, Inc. has entered into contracts with the primary existing property owners, General Motors Worldwide Real Estate and the Conrail Corporation, to purchase the property subject to approval of the Economic Development Overlay. Two out parcels that front on Dorothy Lane along the southern property boundary are also included in this application.

Creation of the overlay district will focus on a continuation of the desired intent to retain the industrial character of the surrounding area that is dominated by the presence of The Delphi Chassis Division that occupies over 147 acres of land directly to the north of the subject parcel of this application. The objective of the overlay plan is to retain the industrial nature and the future economic benefits received from the investment in new facilities that will provide new jobs and additional tax base. The challenging aspect of the development is that the parcel is a very significant vacant piece of ground that has adjacent neighbors on three of the four boundaries that are not industrial in nature. Three of the four corners of this major intersection are retail businesses that will substantially benefit from the development of this site.

The land adjacent to the southern property boundary is characterized by mature and abandoned free standing commercial and retail sites. Further south of this area is situated an older vintage shopping center that bears some sign of instability. Along the north side of Dorothy lane, a blighting influence is present that requires an economic revitalization to enhance the continued viability of this area.

Abandoned rail lines no longer required by General Motors form the western boundary of the property. Beyond the rail lines is Delco Park, a recreational park facility donated to the city of Kettering by General Motors in 1995.

Adjacent to the eastern property boundary is Woodman Drive, a highly traveled thoroughfare with substantial daily traffic volume. Single family residential homes are located beyond the eastern edge of Woodman Drive.

The overlay application is made with a development plan established to integrate

the four use groups that are contiguous to the property. Accepting that the boundaries contain heavy industrial, blighted retail, a recreational park, and a major arterial street back dropped with residential homes, a design scheme has been established for the development that is based on the following objectives:

- ▶ The industrial base must remain the essential component of the development while understanding that a proper combination of uses is needed to bolster the economy of the area. Allowing only industrial users could conceivably continue the blighting that has started on the commercial sites. Transitional uses, sufficiently dynamic to spur the redevelopment of these deteriorating commercial parcels, and enhancing the economic vitality of the retail shopping along Dorothy Lane, are required.
- ▶ Revitalization of the blighted retail and commercial area requires a significant major attraction that will encourage community residents to patronize the adjacent existing businesses for goods and services. The additional customers that will now come to this area will improve conditions for the existing retailers. Left undeveloped, the existing occupants will gradually erode and move to more attractive sites which have more modern and competitive offerings for the consumer.
- ▶ The aesthetic appeal of the completed overlay district must provide a harmonious blending of the converging (but divergent) adjacent properties while insuring an economic atmosphere that encourages new businesses to locate here and provide jobs for the future. Covenants and restrictions must be established that are not so restrictive as to discourage occupancy, yet strong enough to insure mutually beneficial protection in a long term investment.
- ▶ When completed, the overlay district will provide a composite of commerce generating facilities that are a substantial upgrade from the straight industrial classification that has been the underlying zoning for the vacant parcel. Combining the various uses with well defined

architectural controls and specific development standards will allow for the evolution of a business park that will be significantly more pleasing and beneficial to the community than an industrial park.

### APPLICATION FOR ECONOMIC DEVELOPMENT OVERLAY

RG Properties, Inc. (Applicant) hereby requests the City of Kettering to adopt an Economic Development Overlay for the property described below to be known generally as the Woodman / Dorothy Business Center Overlay District. This application is made pursuant to section 1163 of the Kettering Codified Ordinances.

The site plan identified as Exhibit A is to be approved by the Planning Commission as the Preliminary Plat for Zones A, *and* B.

#### SECTION A. DESCRIPTION OF PROPERTY

The property is approximately 34 acres and is located to the west of Woodman Drive and to the north of Dorothy Lane in Kettering, Montgomery County, Ohio. The property is outlined on the attached site plan identified as Exhibit "A". The property consists of four parcels that are further described by legal descriptions attached as Exhibit "B". The individual parcels are shown below:

<u>Parcel</u>	<u>Owner</u>	<u>Size</u>
GM Surplus Property	General Motors Corp.	30.775 acres
Conrail Abandoned Tracks	Conrail Corporation	2.9 acres
Veterinary Center	Kulasa and Schulze Investments	.539 acres
Chinese Restaurant	Ken Y Kiang & Paula P. Kiang	.76 acres

#### SECTION B. OWNERSHIP

The major properties covered by this application are owned by General Motors and Conrail Corporation. Both parcels are surplus to the continuing operations of the existing owners. The two outlot parcels on Dorothy Lane effected by this application are owned by Kulasa and Schulze Investments and Ken Y. Kiang and Paula P. Kiang.



**SECTION C. JUSTIFICATION FOR ECONOMIC DEVELOPMENT OVERLAY**

The principal property subject to this application for an Economic Development Overlay is vacant undeveloped land. Specific to Section 1163.04 "CRITERIA FOR APPROVAL OF AN OVERLAY" of the City of Kettering Zoning Code, areas to which an economic overlay may be applied shall be in one or more of the following categories:

- B. Areas that have site constraints imposed by topography, soils, adjoining land use difficulties, traffic impact or lot configurations that make development difficult.***

This site has four different use groups at each of the property boundaries that makes development difficult, mandating a cooperative effort between the City and the applicant.

- C. Areas where blighting influences are identified, blighting influence being any current use of land which if allowed to remain unmodified will foreseeably evolve into a blight or will encourage blight to arise in neighboring land areas.***

The southern property boundary has adjoining properties (primarily existing commercial and retail users) that have been abandoned, ignored, or not properly maintained. This application includes provisions to improve a portion of these properties and will encourage redevelopment and upgrading of the other surrounding parcels.

- D. Areas that are strategically located to encourage economic development of a neighborhood or of the City, by reason of size, relationship to other properties, relationship to thoroughfares or other transportation routes, and foreseeable impacts that they will probably have upon the overall economic health of the City of Kettering.***

This application combines the absolute necessity for economic revitalization to the existing commercial area, structuring a compatible blending of the different use groups and spurring

the opportunity for economic development through capital investment and job creation on a very significant parcel of vacant ground. This opportunity is largely afforded by the property's proximity to two major important thoroughfares. These two thoroughfares make the commercial and office uses in zones A and B more appropriate than having all industrial zoning in the heavily travelled area. Woodman Drive and Dorothy Lane each account for considerable vehicular traffic within the community. When completed, the new roadway created by this Overlay District will alleviate some of the traffic burden now experienced at the intersection of Woodman Drive and Dorothy Lane.

#### **SECTION D. CONFLICT WITH OTHER PROVISIONS**

The provisions of this application, when adopted by ordinance, shall prevail over those of other chapters of the Planning and Zoning Code of the City of Kettering ("Code") where the provisions of this chapter are inconsistent. Where this application is silent on a matter governed by the Code, the Code provision shall govern the matter. The meaning of words in this application and in any action by the City regarding the Woodman / Dorothy Business Center Overlay District shall be determined first by definitions contained in this application and corresponding exhibits, second by definitions in the Code where no definition exists in the application, and lastly by a dictionary or common usage where undefined in the application or Code.

#### **SECTION E. SPECIFIC DEVELOPMENT GUIDELINES**

##### **E.1 Introduction**

The principal property covered by this application is zoned industrial. The outlot parcels for the Chinese restaurant and the veterinary clinic are zoned for business.

##### **E.2 Intent**

It is the intent of this Overlay District to permit the orderly development of the Woodman / Dorothy Business Center. A blending of industrial, commercial and professional users, this Business Center will bolster the vitality and continuation of the existing businesses in the area while promoting a desirable area for new businesses to relocate or expand. The Business

Center will include three essential components

**A. Woodman / Dorothy Industrial/ Office (Subsequently referred to as Zone A)**

Positioned between the heavy industrial Delphi Chassis complex and the commercial areas fronting on Dorothy Lane will be up to eighteen building lots for light industrial/office businesses to locate.

**B. Woodman / Dorothy Commercial (Subsequently referred to as Zone B)**

Located in the Southeast portion of the property will be a controlled commercial development which will initially be a full service supermarket and drug store operation that will provide the impetus to revitalize the important existing retail and commercial services bordering the southern portion of the business district. An attractive, modern and efficient destination oriented shopping operation planned by The Kroger Co. will encourage community residents to shop in this area and will enhance the continued viability of the area to surrounding businesses.

In summary, Woodman / Dorothy Business Center will provide a new place for residents to work and obtain those goods and services that are needed by most families. A successful marriage between needed revitalization and new capital investment will occur.

**E.3 Permitted Uses**

**A. Woodman / Dorothy Industrial, Permitted Uses**

The following uses shall be permitted within the Zone A area of the Woodman / Dorothy Business Center Overlay district.

- A. Manufacturing, Research, Assembly associated with light industry
- B. Construction Trades and Contractor Offices and Shops
- C. Industrial Craft Shops
- D. Printing, Publishing, Lithography and Binding Establishments

- E. Warehouse and Distribution Centers, (excluding self storage facilities). Minimum user will occupy 2,000 square feet
- F. Wholesaling, requiring the on premises warehousing of products that will require bulk storage in a minimum of fifty percent of the interior floor area and whose normal operations shall not interfere with the industrial operations by attracting so much consumer or commercial traffic to create significant adverse impact upon industrial operations. The maximum retail sales space shall not exceed 25% of the building on the lot.
- G. Animal Hospitals, Veterinary Clinics, Kennels (inside building only), and Animal Grooming facilities in accordance with Section 1167.03 of the City of Kettering Zoning Code
- H. Offices that primarily supply services to Industrial and Commercial Businesses.
- I. Offices of business, professional, public, civic, religious, charitable, labor union, and all other forms of administrative activities, excluding aspects of those activities which are conducted in storerooms, sales premises or anything other than offices.
- J. Studios for Artists.
- K. Sales, service, and repair of professional, scientific and other technical services in a strict office environment
- L. Adult and Child Day Care Centers subject to the provisions of 1151.08 of the City of Kettering Zoning Code. Day Care Centers will be limited to Lots 13, 14, 15, 16, 17, 18 as shown on plan (attached as Exhibit A).
- M. Medical and Dental Care Offices and Clinics
- N. Educational Training Centers without outdoor activities
- O. Dining Room Restaurant, excluding Cafeteria, buffet, drive-in and fast-food restaurants only permitted if accessory to an office use and shall not exceed twenty-five (25%) percent of the structure in which it is

located. This would not preclude a business from providing a lunchroom or cafeteria for their employees.

- P. Financial Establishments, Banks and Savings and loan, Credit Unions
- Q. U.S. Postal Service Mailboxes or drop boxes by similar private carriers such as UPS or Federal Express accessory to any principal permitted use
- R. Any other uses of a similar nature or intensity may be approved by the City Zoning Administrator if determined to be within the intent of the Woodman/Dorothy Business Center Overlay District Zone A classification. The use must also be determined as not detrimental to the quality of life in the surrounding area or the economic health of this Overlay District or the City.

**B. Woodman / Dorothy Commercial, Permitted Uses**

The following uses shall be permitted with the Zone B area of the Woodman/Dorothy Business Center Overlay District.

- A. Supermarkets and ancillary services therein, such as mini markets/carryouts, floral shops, cafes, drug stores, financial services, photo labs and other similar uses such as drive-thru facility as part of the principal structure
- B. General Merchandise Stores and Drug Stores
- C. Business, Professional and Administrative Offices
- D. Medical Offices and Clinics
- E. Commercial Schools and Studios
- F. Financial Establishments, Banks and Savings and Loan Associations, and Credit Unions and accessory automatic teller machines.
- G. Nurseries and Garden Supply stores accessory to permitted use. Fencing and/or roofing must be designed to compliment the principal

structure. In addition, outdoor sales are permitted under front canopy or in other locations as approved by the Zoning Administrator.

- H. Cafeteria, Buffet and Dining Room Restaurant
- I. Specialty Retail Commercial Establishments and Boutiques
- J. Personal Services
- K. Auto parts and accessory sales (products only to be sold inside of the building with no repairs conducted on the premises)
- L. Fast-food Restaurants
- M. Adult and Child Day care centers, subject to the provisions of 1151.08 of the City of Kettering Zoning Code
- N. Public Offices and Buildings
- O. Office supply and copy centers or similar business services
- P. Fraternal and social organizations
- Q. Taverns, bars, and restaurants
- R. Animal hospitals, veterinary clinics, kennels (inside building only) and animal grooming facilities in accordance with Section 1167.03 of the City of Kettering Zoning Code.
- S. Pet stores
- T. Hardware and paint supply stores
  
- U. Zone B permitted uses will be only as listed in the Overlay District. If Zone B is not initially developed and used for a grocery superstore of approximately 66,860 s.f., the permitted uses for Zone B will revert to the permitted uses for Zone A and any development of and use on the site must meet the development requirements and the permitted use section of Zone A and a revised site development plan and signage plan must be approved by the Planning Commission. Zone A uses, in addition to or in substitution for Zone B uses, will also be permitted in the event Zone B is initially developed and used for a grocery superstore of approximately 66,860 square feet as shown on Exhibit

A and that grocery use is subsequently discontinued. A revised site development plan and signage plan must be approved by the Planning Commission.

Any other use of a similar nature may be approved by the city zoning administrator if determined to be within the intent of the Woodman/Dorothy Business Center Overlay Zone B classification. The other uses must be determined as not detrimental to the quality of life in the surrounding area or the economic health of the Overlay District or the city.

#### **E.4 Conditions for Permitted Uses**

- A. In accordance with the City Ordinance requirements, no use shall be permitted to create unreasonably objectionable noise, fumes, smoke or vibration outside its' building. No use shall be permitted to violate other environmental regulations of the City or performance standards set out in the City Environmental Standards Manual requirements.
- B. No user in Woodman / Dorothy Business Center Zone A, B or C shall conduct any of its' business in a manner which is conducted outside of the building in which it is located other than permitted signage, delivery systems, or the sale of seasonal merchandise as may occur from time to time within the Woodman/Dorothy Zones A and B .

#### **E.5 SIGNAGE**

##### **A. Woodman / Dorothy - Zone A**

**All** Office and Industrial lots will be permitted the following signage:

- A. One ground mounted sign to identify the business or businesses located on the lot for each frontage abutting or visible from a public or

private street. In no case shall any lot have more than two (2) free standing signs. The sign may be a single or double sided sign provided that the total copy area of any one side does not exceed twenty-four (24) square feet. The maximum sign height shall be five feet (5'0") above existing grade at the base of the sign and the sign structure must be located a minimum of ten feet (10'0") off the public right of way (or curb in the instance of Woodman Center Court).

- B. One wall mounted sign for each occupant of the building with a maximum total sign area not to exceed a maximum wall mounted sign area of thirty-two (32) square feet (or eight (8) square feet per tenant in multi-tenant building, whichever is greater).

Wall signs must not extend above the eave line or the parapet on any structure. Wall signs must blend with the overall architectural statement of the building structure. Wall signs may be wall, window or canopy mounted. No flashing signs of any type will be permitted.

- C. Temporary Signs (other than real estate signs) will be restricted to a maximum of sixteen (16) square feet, and will be erected for no more than seven consecutive days and not more than four (4) times per year.

- D. Lots 1, 4, 5 and 6 shall be permitted to have a ground mounted sign on both the portion of their lot abutting Woodman Drive and the portion of their lot abutting the proposed Woodman Center Court . Ground mounted signs on Woodman Drive will be a maximum of four (4) feet in height and twenty-four (24) square feet. All ground mounted signs along Woodman Drive will have the same orientation and will be in accordance with the criteria noted in Section E.5.A.A. In addition, the buildings on these lots, 1, 4, 5, 6 shall be permitted one (1) wall sign following the design criteria listed below. Lots 4, 5 and 6 are to have uniform signs at Woodman (i.e., all ground signs to have matching sign design and all wall signs to have matching sign



design), conforming to E.5.A.B. which face the proposed Woodman Center Court.

**C. Woodman / Dorothy - Zone B**

- A. One Ground Mounted Sign not exceeding ten (10) feet in height nor exceeding an area of fifty (50) square feet for each sign face shall be permitted in the vicinity of the main ingress/egress point along Dorothy Lane. One ground sign not exceeding ten (10) feet in height and fifty (50) square feet for each sign face shall be permitted in the vicinity of the main ingress/egress point along Woodman Drive. The owner/tenant of Zone B shall submit the design and placement of the signs to the Zoning Administrator for review and approval. The signs shall not cause visibility hazards for motorists or pedestrians. . Both signs shall be identical in terms of color, material and sign style.
  
- B. The building in Zone B shall be permitted to have the following building signage:
  - 1. One (1) building identification sign (fronting Dorothy Lane) not to exceed three hundred (300) square feet.
  - 2. One (1) building identification sign (fronting Dorothy Lane not to exceed one hundred (100) square feet.
  - 3. One (1) building identification sign (fronting Woodman Drive) not to exceed one hundred (100) square feet.

All building mounted signage shall be white individual letters plus one additional limited accent color.

**D. Woodman/Dorothy - Business Center Identification Signs**

Monument signs, designed to identify the entire Woodman/Dorothy Business

Center, will be located at each of the two main entrances to the development. Located at each of the signalized entry points, (one on Woodman Drive and one on Dorothy Lane) the purpose of the monument signs is to identify Woodman/Dorothy Business Center to the public. The signs are not intended to provide identification for any business or attraction that is located within the Business Center. This signage will have a maximum size of thirty-two (32) square feet per intersection. The design and location of these signs shall be submitted to the Zoning Administrator for approval.

#### **E.6 BUFFER YARDS, LANDSCAPING AND SCREENING**

Location of Bufferyards. Bufferyards shall be located on the side and rear lot lines. Bufferyards shall not extend into any portion of the street right of way. No improvements will be located within Buffer yards, except for storm water detention which shall be allowed in Buffer yards.

Vacant Lots. When a use is the first to develop on two adjacent vacant parcels, this first use shall design and install fifty (50%) percent of the bufferyard which is required below.

Bufferyard Requirements. Side and Rear Lot Areas.

#### **A. Zone A**

**A1. Abutting Zone B.** Each Buffer yard to be five (5) feet in width . Bufferyard to be planted in grass as a minimum. The additional landscaping installed by Zone B owner is adequate to buffer these uses from one another.

**A2. Side and Rear Yard Abutting Same Zone A.** Each Buffer yard to be at least seven feet-six (7' 6") inches feet in width and contain at least

four (4) trees with at least one from Group A and the balance from Group B per 100 lineal feet of Buffer yard. These plantings are the total requirement of the two combined adjacent seven feet-six (7' 6") inch Buffer yards. The first lot owner to develop will install fifty (50%) percent of the plantings with the subsequent adjacent property owner installing the balance of the required plantings at the time of construction.

**A3. Lots Abutting Woodman Drive.** The landscaping on the lots abutting Woodman Drive include 3 Group A trees and 3 Group B trees per one hundred (100) lineal feet of buffer zone. The trees shall match the species and landscape design as that shown on Exhibit C for the Zone B Parcel along Woodman Drive on a three-foot high berm in the bufferyard. Developer to install twelve (12) trees of the berm plantings at lots 4, 5 and 6 at the time of initial business park street construction. These trees to be dispersed along the length of the berm at lots 4, 5 and 6. The balance of the plantings for all lots abutting Woodman Drive to be installed at the time of building construction by the lot owners of lots 1, 4, 5, 6 and Zone B.

**B. Zone B ( Kroger ):** The specifications for side and rear lot bufferyards, plant materials, landscaping guidelines and screening for Zone B are not covered or included in this Section E.6 and instead are depicted on the landscape plan attached as Exhibit C.

### **Plant Material**

#### **A. Trees**

1. Group A trees shall be deciduous trees that must be a minimum of ten (10) feet overall height or a minimum

caliper of at least two (2) inches at the time of planting. These include trees that have an average mature crown spread and height of greater than twenty-five (25) feet and have trunks which can be maintained with over five (5) feet of clear wood in areas which have visibility requirements, except at driveways and intersections where an eight (8) foot clear wood height is required.

- a. As an alternative to planting individual trees with an average mature crown spread or height of greater than twenty-five (25) feet, a grouping of the trees may be substituted so as to create the equivalent of a greater than twenty-five (25) foot crown spread and height.
  - b. In the case of special conditions which would not allow sufficient room for the mature crown spread required (i.e., building wall adjoining a bufferyard), an accepted cultivar of upright species may be substituted.
2. Group B trees shall be deciduous trees that must be a minimum of eight (8) feet overall height or a minimum caliper of a least one and one-half (1 ½) inches at the time of planting. These include trees that have an average mature crown spread and height of less than twenty-five (25) feet and have trunks which can be maintained with over five (5) feet of clear wood in areas which have visibility requirements, except at

driveways and intersections where such trees shall not be allowed.

**B. Shrubs**

1. Shrubs shall be at least twenty-four (24) inches average height and spread at the time of planting and, shall be measured from the top of the root ball to the top of the plant. Where required for screening, shrubs shall form a continuous, year-round solid visual screen within five (5) years after planting.

**C. Ground Cover Grass and Mulch.**

1. BUFFER YARDS must be landscaped by grass and/or other ground cover subject to the requirements set forth below. Vegetative ground cover shall be planted so as to present a finished appearance and seventy-five percent (75%) coverage after one (1) complete growing season. Nonvegetative ground cover may consist of rocks, pebbles, wood chips, or similar materials, which may be installed in an organized fashion to provide one hundred percent (100%) coverage in all areas in which it is applied. These non-vegetative ground covers shall be arranged in homogenous patterns which must be separated from turf areas on neighboring properties with metal, wood, plastic, or concrete curbing or large stones.

Grass of the fascias (Gramineak) or Bluegrass (Pouceae) family shall be planted, and may be sodded or seeded, except in swales or other areas subject to erosion, where solid sod, erosion-reducing

net, or suitable mulch shall be used. Nurse-grass seed shall be sown for immediate protection until complete coverage is otherwise achieved. Grass sod shall be clean and free of weed and noxious pests or diseases.

### **Landscape Guidelines.**

**Street Planting.** There shall be one tree planted each Fifty (50) feet along all new public street frontages (not including Woodman or Dorothy Lane). The tree shall be planted by each lot owner halfway between the curb and the property line at the time buildings are constructed on the lots. The street trees shall be either Skyline Honey Locust, Greenspire Linden or Red Maple.

**Parking Lot Landscape Requirements.** For each fourteen (14) parking spaces, there shall be a minimum of at least one Group A tree planted within the parking lot. If a parking lot is in front of the building, it must be separated from the building by a continuous five (5) foot wide landscape strip, and there must be a continuous hedge between the parking lot and public right-of-way, or curb in the instance of Woodman Center Court, of a minimum height of three (3) feet and a maximum height of five (5) feet.

**Interior Property Planting.** Each lot must have at least the following:

- (i) For every fifteen (15) feet of building frontage, one shrub of a minimum height of three (3) feet and a maximum height of five (5) feet;

- (ii) Twenty-five percent (25%) of the building frontage must be landscaped with foundation shrubbery.

**Landscape Plans** - Landscape plans for lots in Zone A will be submitted to the Zoning Administrator for review and approval based on conformance with regulations contained in this overlay document. Zone B landscape plan and specifications are part of the Economic Overlay District Application (attached Exhibit C). Storm water detention will be permitted to occupy bufferyards if the detention area does not eliminate or damage required bufferyard plantings.

### **Screening**

**Fences and Walls.** Fences and walls shall be no closer to a street than building setback requirements. If required for safety and security purposes, chain-link fences parallel to a public or private street, will be permitted but no closer to that street than the building wall on that lot which is farthest from that street. Chain-link fences for corner lots will be permitted in locations only depicted on Exhibit G. Any fence closer to any street than the rear building wall shall be ornamental (not wood) or use a material matching the finish walls of the respective building. Any fence installed on Lots 4, 5 and 6 shall be ornamental (not wood) and match one another in design from lot to lot.

**Refuse Collection Areas.** All outdoor refuse containers shall be visually screened within a durable enclosure and constructed with the same materials as the building unless located in a service area. The height of the screen shall be

equal to or greater than the height of the refuse container. No refuse collection areas shall be permitted within the building setback from any street. For corner lots, both street frontages shall be considered front yards. If the enclosure for a refuse collection area is not located within a service area, the enclosure must be landscaped around its perimeter to form a continuous row of vegetation at least four (4) feet high.

**Screening of Service and Storage Areas.** Dumpsters and trash containers, storage areas for materials and equipment, storage areas for damaged vehicles, and storage areas for construction equipment, must be screened by a continuous planting, hedge, fence, wall, or earthen mound to enclosed the service or storage area on all sides, unless such area must be entered by vehicles, in which case one side may remain open. This requirement may be waived if said service or storage area is located in such a manner so as not to be visible from a street or adjacent property.

The average height of the screen shall be one (1) foot higher than the equipment, material or vehicles to be screened. If more than one type of equipment, material or vehicle is grouped together in a screening shall be based on the tallest item to be screened.

Whenever screening material is placed around any trash disposal unit or waste collection unit a curb shall be provided at least one (1) foot from the screening material and shall be designed to prevent possible damage to the screening when



the container is moved or emptied.

For purposes of screening, earthen mounds are physical barriers which block or screen a view, similar to a hedge, fence, or wall, and are constructed with plant material to prevent erosion.

## **E.7 Circulation/Parking/Loading.**

### **Curb Cuts**

**Zone A.** Curb cut locations to be determined per City of Kettering Environmental Standards Manual contained in the zoning code. No curb cuts shall be permitted directly on to Woodman Drive. In addition, Lots 15, 16, 17 and 18 will be permitted a curb cut on the private drive ( as referred to on the site plan on Exhibit A ).

**Zone B** Curbcuts to be as shown on the Site Plan (Exhibit A). The final design of the access drives onto Woodman Drive and East Dorothy Lane shall conform to that as shown on Exhibit "A" and shall be designed and submitted to the City of Kettering. The Developer shall cooperate with the City in coordinating access to the Dorothy Lane access drive for the property owners east and west of the drive (O'Ney's and Kentucky Fried Chicken).

### **Parking.**

**Location.** Required off-street parking shall be provided on the site of the use served.

**Minimum Sizes.** Parking spaces shall conform to the Environmental Standards Manual of the City of Kettering Zoning Code.

Minimum Spaces.

- A. **Zone B.** The Minimum number of Parking spaces shall be equal to Five and One-Half (5.5) spaces for each One Thousand (1,000) square feet of building area or as shown on site plan referred to as Exhibit A whichever is less.
  
- B. **ZONE A.** The minimum number of parking spaces shall be determined in accordance with the primary use of the lot in accordance with Chapter 1173 of the Planning and Zoning Code of the City of Kettering, Ohio.

**E.8 Site Lighting**

**Parking Lot Lighting** - Site lighting fixture data to be submitted to ensure cut-off type fixtures are used. Further, all lights within the development shall be metal halide or equivalent. No sodium vapor lights shall be permitted.

**Zone B:** Parking Lot lighting shall be provided to an average illumination level not to exceed three (3) foot candles. No light spilling onto adjacent residential property will be permitted. Maximum pole height is forty (40') feet. The light source, the bulb of the light fixtures, shall be shielded from the view of the residential properties on the east side of Woodman Drive. The Lighting Plan meeting the requirements is attached as Exhibit "E" and is part of the Economic Overlay District application.

**Zone A.** The parking lot illumination level shall maintain an average illumination level not to exceed two (2) foot candles. Maximum pole height for each lot shown on Exhibit A shall not exceed twenty-five (25)

feet. Lighting plans shall be submitted to the Zoning Administrator for review and approval for any locations where site lighting is proposed, which is taller than 25 feet within Zone A.

## **E.9 Utilities**

**Sewer/Water Service.** All buildings and occupants shall be served by public water and sanitary systems and shall comply with the requirements of the Health and Fire regulations of the City of Kettering.

**Storm Water Drainage.** All lots (except Lots 1, 15, 16, 17 and 18) within the Woodman Dorothy Business Park are to provide storm water detention on each individual lot based on requirements stated in the City of Kettering Zoning Ordinance. Lots 1, 15, 16, 17 and 18 may use a common detention pond per the City of Kettering Zoning Ordinance. Any detention basin within this overlay shall create a natural-looking land form to the reasonable satisfaction of the City of Kettering.

## **E.10 Architectural Standards**

### **Intent**

Three different uses will exist in the Park. The architectural intent is to create standards which, while different to allow for each use, will result in buildings which will be compatible throughout the Park. It is our intent to create an overall high quality development with general continuity of appearance. Buildings will be solid statements of corporate headquarter-type facilities becoming showplaces for each owner without vying for attention.

### **Objectives**

The objective is to seize the opportunity to upgrade the architectural style of the buildings within the Park over that which would be present were a facility designed for the heavy industrial use called for in the present zoning on this land.

**A. Zone A - Light Industrial/Office Buildings:**

The exterior walls of all buildings on Lots 1, 4, 5, and 6 will be brick. The exterior walls on all other Zone A lots will consist of face brick, stone, and/or curtain wall. Plaster accents will also be permitted. Other masonry finishes (exclusive of eight-inch by sixteen-inch flat surface concrete block) such as scored, or split-faced, shall be permitted so long as such scored or split-faced block are installed and constructed in general compliance with the pictures attached as Exhibit F, it being the intent that the buildings pictured thereon represent the minimum quality desired for this Zone A property. Should a larger building be designed, the option is also permitted to design a pre-cast concrete building, subject to the approval of the Zoning Administrator.

**B. Zone B:**

The principal building in Zone B shall be of a high quality construction and appearance in keeping with building construction in first-class commercial centers situated within the Dayton Metropolitan Area. Attention shall be given to the use of building design and architectural elements as well as landscaping treatment which function to provide visual breaks along the front elevation and minimize the appearance of a massive storefront. The architectural standards for the grocery superstore in Zone B require that the south, east, west, and the eastern portion of the north face from the dock, but not including the dock, to the east end of the building, shall be finished in brick. The remaining north face shall be plain, common concrete-block, painted to match the brick. All parapet walls shall be level for the grocery superstore in Zone B. Pursuant to the foregoing sentences, the elevations attached as Exhibit D are approved initially for the principal building in Zone B.

**C. Roof Top Screening:**

Zone A: All roof mounted mechanical equipment shall be screened from

view from the public or private streets and residential property by either appropriate location on the roof, parapet wall(s) or screening. Consideration will be given to the view plane from public streets and residential property.

Screening shall be attractive in appearance and match or compliment the architecture of the building to which they belong.

**Zone B:** The rooftop mechanical units on the grocery superstore structure shall be screened from view from any public right-of-ways and residential areas with no less than eighty (80) percent of each independent rooftop unit screened. The screening shall be by either appropriate location on the roof, use of parapet walls, or screening devices. The remaining twenty (20) percent, which is visible, shall be painted with a color to match the building.

## **SECTION F. DEVELOPMENT STANDARDS**

### **F.1 Commercial Site Planning Guidelines**

The site plan attached to this Application covering the development of the Woodman/Dorothy Business Center Zone B (see Exhibit A) is representative of the planned orientation and relationship of building areas, parking areas, drive aisles, points of ingress and egress, building delivery areas and service drives, storm water detention areas, and pervious surface areas. The actual Development Plan for the Zone B component shall be in conformance with the Site Plan (Exhibit A).

Refinements may be made to the actual building location, parking and drive aisle alignments, parking areas, and the location and configuration of storm water detention areas based upon final engineering considerations underlying the development of the Zone B component, subject to the designated commercial restrictions.

### **F.2 Building Coverage**

#### **A. Zone A:**

The maximum site coverage by buildings and accessory buildings shall not exceed forty percent (40%) of the gross lot area.

**B. Zone B:**

The principal building of Zone B shall not exceed that as shown on Site Plan attached as Exhibit A , not including outside sales area

**F.3 Building Height**

**A. Zone A:**

No building or structure higher than forty (40) feet above finished floor. Except that no building on lot 15 or 16 to be higher than thirty-nine (39) feet. No building on lots 17 or 18 to be higher than twenty-two (22) feet.

**C. Zone B:**

No building to be higher than forty (40) feet above finish floor.

**F.4 Set Backs**

**1. Street Setback from Woodman Drive**

**A. Zone A:**

No building will be permitted within one hundred (100) feet nor any parking within forty (40) feet of Woodman Drive.

**C. Zone B:**

No building shall be permitted within one hundred ten (110) feet nor any parking within forty (40) feet of Woodman Drive.

**2. Street Setback for Woodman Center Drive**

**A. Zone A.** No building shall be built within thirty-five (35) feet of Woodman Center Drive.

3. **Street Setback for Woodman Center Court.**

**Zone A.** No building shall be permitted within twenty-five (25) feet of the curb line (as contrasted with the right-of-way) of Woodman Center Court.

4. **Street Setback for Private Drives .**

**Zone B.** No building shall be permitted within twenty (20') feet of the curbing along the private drive west of Zone B as shown on Exhibit A.

5. **Side Property Line Setback**

A. **Zone A.** No building is permitted within ten (10) feet of the property line. The Zoning Administrator of the City of Kettering may vary this requirement in situations where a building is designed to extend across a property line, such as in a condominium - type development, where no side yard setback is required. In such situations, the building must be designed to be one consistent architecture and must meet all building code requirements for structures built upon or across property lines.

C. **Zone B.** No building is permitted within thirty (30) feet of the north and west property lines.

D. **Combining of Lots.** Exhibit A is approved as the preliminary plat for the parcels of land contained within this Overlay District. The Planning Commission for the City of Kettering will be permitted to approve combining or reconfiguring of lots within the same use classification

allowing the removal of the common property lines (and associated setback requirements) from the site plan.

- E. **Minimum Lot Size.** The minimum lot size within Zone A shall be one-half (½) acre.

6. **Rear Property Line Setback**

- A. **Zone A.** No building will be permitted within thirty (30) feet of the rear property line except for those lots adjacent to Woodman Drive.
- B. **Zone B.** No building will be permitted within thirty (30) feet of the north or west property lines.

**SECTION G. APPLICATION AND REVIEW PROCESS**

Application and review of any development within the Economic Overlay shall be based upon the process outlined in the City of Kettering Zoning Code.



Economic Development  
Overlay District #14

**Zone C**

# **Zone C**

## **APPLICATION FOR AN ECONMIC DEVELOPMENT OVERLAY**

The Planning Commission of Kettering hereby requests the City of Kettering to adopt an Economic Development Overlay for the property described below to be known as the Woodman/Dorothy Business Center Overlay District. This application is made pursuant to section 1163 of the Kettering Codified Ordinances.

### **SECTION A**

### **DESCRIPTION OF PROPERTY**

The properties total approximately 4.24 acres located on the north side of East Dorothy Lane just west of Woodman Drive in Kettering, Montgomery County, Ohio. The properties are shown on Exhibit "A". The properties consist of seven parcels. The individual parcels are shown below:

<u>Parcel</u>	<u>Owner</u>	<u>Size</u>
Throckmorton's	Throckmorton Bros. Inc.	0.545 acres
Rex	Trinet Essential Facilities	0.748 acres
KFC	KFC National Management Co.	0.319 acres
O'Neys	Jack and Judy Roberts	0.705 acres
Quig's and Dentist's Office	Murphy Connor Development Co.	0.266 acres and 0.950 acres
<del>Former Hot n Now</del>	<del>Taco Bell Corp.</del>	<del>0.705 acres</del>

*Now part of Zone D of EDO #14, Ordinance #3796-98*

### **SECTION B**

### **OWNERSHIP**

The additional properties covered by this application are owned by Throckmorton Bros. Inc. (Throckmorton's), Trinet Essential Facilities (Rex), KFC National Management Co. (KFC), Jack and Judy Roberts (O'Neys), Taco Bell Corp. (Hot-n-Now) and Murphy Connor Development Co. (Quig's and Dentist's Office).

## SECTION E

## SPECIFIC DEVELOPMENT GUIDELINES

### E.2

#### C. Woodman / Dorothy Commercial, Zone C (Dorothy Lane Frontage)

The commercial area on the north side of Dorothy Lane is in need of revitalization, the land as been underutilized or abandoned by owners, therefore having a negative impact on the surrounding area. The retail establishments across Dorothy Lane, Lazarus Kettering Shopping Center and the Woodlane Shopping Center remain strong but are affected by the blighting influences on the north side of Dorothy Lane.

The proposed economic development overlay could with the right mix of uses provide the uplift that is needed to rejuvenate the area and preserve the residential area to the east. To comprehensively address this area would be most beneficial to the city. Therefore, the Planning Commission's desire to include the properties along Dorothy Lane as well as the vacant land to the north is an excellent way to begin to address the revitalization of the area.

**C. Zone C - Woodman/Dorothy Commercial, Dorothy Lane frontage, Permitted Uses**

The following uses shall be permitted within the Zone C area of the Woodman/Dorothy Business Center Overlay District.

- A. Drug Stores
- B. Business, Professional and Administrative Offices
- C. Medical Offices and Clinics
- D. Commercial Schools and Studios
- E. Financial Establishments, Banks and Savings and Loan Associations, and Credit Unions and accessory automatic teller machines
- F. Nurseries and Garden Supply stores accessory to a permitted use, only connected to the principal structure. Fencing and/or roofing must be designed to compliment and match the principal structure.
- G. Cafeteria, Buffet and Dining Room Restaurant
- H. Specialty Retail Commercial Establishments, such as Jeweler stores, clothing store, book stores, video and music stores
- I. Personal Services
- J. Auto parts and accessory sales (products only to be sold inside of the building with no repairs conducted on the premises)
- K. Fast-food Restaurants
- L. Adult and Child Day care centers, subject to the provisions of 1151.08 of the City of Kettering Zoning Code
- M. Public Offices and Buildings
- N. Office supply and copy centers or similar business services
- O. Fraternal and social organizations
- P. Taverns, bars, and restaurants
- Q. Animal hospitals and clinics
- R. Pet stores
- S. Hardware and paint supply stores

Any other use of a similar nature may be approved by the city zoning administrator if determined to be within the intent of the Woodman/Dorothy Business Center Overlay Zone C classification. The other uses must be determined as not detrimental to the quality of life in the surrounding area or the economic health of the Overlay District or the city.

## **E.5 SIGNAGE**

### **C. Woodman / Dorothy - Zone C**

All establishments shall meet the requirements of the City of Kettering Sign Chapter of the Zoning Code. Properties that are redeveloped must replace signage in total conformance to the City of Kettering Zoning Code, Sign Chapter.

## **E.6 BUFFERYARDS, LANDSCAPING AND SCREEING**

### **Bufferyard Requirements**

### **C. Woodman / Dorothy - Zone C**

All businesses shall meet the requirements of the City of Kettering Bufferyard and Landscaping Chapter of the Zoning Code.

All mechanical equipment and service areas shall be screened in accordance with the City of Kettering Zoning Code.

## **E.7 Circulation / Parking / Loading**

### **Curb Cuts**

#### **Zone C**

To minimize the number of curb cuts for each business on Dorothy Lane, curb cuts onto Dorothy Lane should be coordinated to develop a comprehensive circulation pattern. The KFC and O'Neys should work with Kroger and RG properties to develop a circulation system which will allow all three to access Dorothy Lane from the proposed drive. All other properties shall conform to the requirements for curb cuts in the City of Kettering Zoning Code.

### **Parking**

#### **Zone C**

Each business shall meet the parking requirements of the City of Kettering Zoning Code.

## **E.8 Site Lighting**

### **Zone C**

Any exterior lighting shall conform to the standards as in the Environmental Standards Manual of the City of Kettering Zoning Code.

## **E.10 Architectural Standards**

### **C. Zone C**

As a result of the location of the businesses along Dorothy Lane adjacent to the planned development of the area to the north, all buildings and structures, when remodeled or constructed anew, must be designed to be attractive from all sides. The exterior materials for all buildings and structures shall be face brick, stone, stone or brick veneer, curtain wall, or plaster/stucco on all sides of such buildings or structures. Any building or structure remodeled or constructed anew in Zone C shall blend and be harmonious with, in terms of color, material and architectural detailing, to the existing building located in Zone B of this Overlay District, where the Kroger store is now located.

## **SECTION F DEVELOPMENT STANDARDS**

### **Zone C**

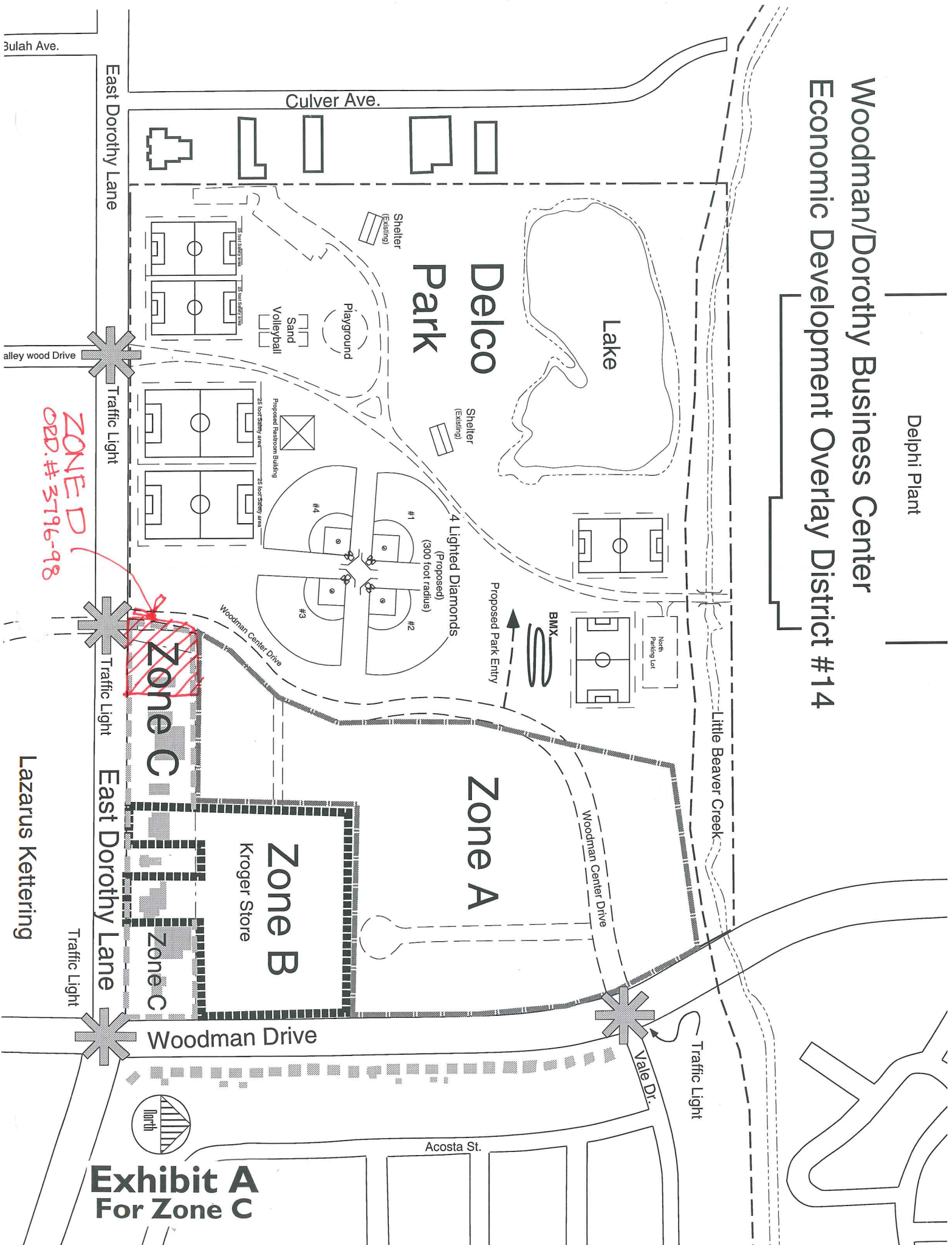
All buildings along Dorothy Lane must have the following setbacks from the street as prescribed in the Business District in the City of Kettering Zoning Code.

### **UTILITIES WITHIN ZONE C**

Any properties that are redeveloped or undergoing major remodeling must place all utility services underground. Any new exterior utility wiring needed, short of major remodeling and/or redevelopment, must be placed underground.

# Woodman/Dorothy Business Center

## Economic Development Overlay District #14



**ZONE D**  
OPD.# 3796-98

**Exhibit A**  
**For Zone C**

Bulah Ave.

Culver Ave.

East Dorothy Lane

alley wood Drive

Traffic Light

Traffic Light

East Dorothy Lane

Traffic Light

Woodman Drive

Vale Dr.

Traffic Light

Acosta St.

Lazarus Kettering



Economic Development  
Overlay District #14

**Zone D**



CITY OF KETTERING, OHIO

AN ORDINANCE

By: Mr. Thompson and Mr. Wasky

No. 3796-98

TO AMEND ECONOMIC DEVELOPMENT OVERLAY DISTRICT NO. 14 SO AS  
TO CREATE AN APPROXIMATE ONE ACRE NEW ZONE D (ZONING CASE 666)

WHEREAS, public hearings were held before the Planning Commission of the City of Kettering, Ohio on September 21, 1998 and October 5, 1998 on an application by Krispy Kreme Doughnut Corporation to consider amending Economic Development Overlay District No. 14 so as to create a new Zone "D" comprised of approximately one (1) acre; and

WHEREAS, after due publication and issuance of notice as required by the Zoning Code prior to said public hearing on October 5, 1998, the Planning Commission, by a vote of 4 - 0, voted in favor of recommending the amendment to Overlay District No. 14; and

WHEREAS, on the 27th day of October 1998, this City Council conducted the first reading of this Ordinance; and

WHEREAS, on November 10, 1998, this City Council conducted a second reading of this Ordinance and a public hearing on the proposed amendment to Overlay District No. 14; such public hearing including evidence presented by the Planning and Development Department; and all parties present were given the opportunity to present evidence and testimony in support of their respective positions on this same matter;

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, State of Ohio, that:

Section 1. This Council deems it to be in the best interest and for the public necessity, convenience, general welfare and good zoning practice to approve an amendment to Economic Development Overlay District No. 14 so that a new Zone D within said Overlay District is created and the real property included within and the development guidelines, permitted uses, development standards, conditions for permitted uses, provisions for signage, bufferyards, landscaping screening, curb cuts, parking, site lighting, architectural standards, utilities of such new Zone D shall be the same as included in Exhibit 1, attached hereto and incorporated herein.

Section 2. The area included in Zone C of Economic Development Overlay District No. 14 shall be, and hereby is, amended to exclude the land area of newly created Zone D.

Section 3. Except as modified herein, the provisions of Economic Development Overlay District No. 14, as approved by Ordinance No. 3728-96 and as subsequently amended, shall be in full force and effect.

Section 4. The official documents of Economic Development Overlay District No. 14 and all other appropriate official zoning records and documents of this City shall be amended to reflect the modifications made to Overlay District No. 14 by this Ordinance.

Section 5. This Ordinance shall be effective from and after the earliest period allowed by law.

Passed by Council this 10th day of November 1998.

ATTEST:

MARILOU W. SMITH,  
Mayor.

VIRGINIA J. SCHULKE, CMC  
Clerk of Council.

CERTIFICATE OF APPROVAL

DAVID L. EUBANK,  
LAW DIRECTOR.

(Requested by: Law Department)

**EXHIBIT 1**

(12 PAGES INCLUDING THIS PAGE)

# Zone D

## Economic Development Overlay District #14

### SECTION A

### DESCRIPTION OF PROPERTY

This area is part of Zone C of the Woodman/Dorothy Overlay District #14 and shall be removed from Zone C and a new Zone D shall be created. The properties total approximately 0.9872 acres located on the northeast corner of East Dorothy Lane and Woodman Center Drive in Kettering, Montgomery County, Ohio. The properties are shown on Exhibit "A". The properties consist of two (2) parcels. The individual parcels are shown below:

<u>Parcel</u>	<u>Owner</u>	<u>Size</u>
Lot #19 of Woodman/Dorothy Business Center Plat	Randall L. and Glen C. Gunlock/ Woodman Center Associates LP	0.2822 acres
Former Hot-n-Now, As further described in attached Exhibit A	Randall L. and Glen C. Gunlock/ Woodman Center Associates LP	0.705 acres

### SECTION B

### OWNERSHIP

The properties covered by this application are owned by Randall L. and Glen C. Gunlock/Woodman Center Associates LP.

SECTION C

SPECIFIC DEVELOPMENT GUIDELINES

C.1 Woodman / Dorothy Commercial, Zone D

**Criteria for Approval of an Economic Development Overlay District, C.O. 1163.04**

This site has constraints imposed by adjoining land use difficulties, traffic impact or lot configurations that make development difficult; and the site is strategically located to encourage economic development of a neighborhood or of the City, by reason of size, relationship to other properties, relationship to thoroughfares or other transportation routes, and foreseeable impacts that they will probably have upon the overall economic health of the City of Kettering.

C.2 Zone D - Woodman/Dorothy Commercial, Permitted Uses

The following uses shall be permitted within the Zone D area of the Woodman/Dorothy Business Center Overlay District.

- A. Specialty Food Store which bakes and/or manufactures food products such as donuts, bagels, bread, cakes, biscuits, muffins, rolls, pretzels, or similar bakery products; all such products to be consumed on-site or sold to the consumer for carry-out provided, however, up to fifty percent (50%) of the products baked or manufactured onsite may be delivered to other retail locations for retail sale or consumption.
- B. Drug Stores
- C. Business, Professional and Administrative Offices
- D. Medical Offices and Clinics
- E. Commercial Schools and Studios

*Zone D*

*Woodman / Dorothy Overlay District*

*NE corner of E. Dorothy Lane and Woodman Center Drive*

- F. Financial Establishments, Banks and Savings and Loan Associations, and Credit Unions and accessory automatic teller machines
- G. Nurseries and Garden Supply stores accessory to a permitted use, only connected to the principal structure. Fencing and/or roofing must be designed to compliment and match the principal structure.
- H. Cafeteria, Buffet and Dining Room Restaurant
- I. Specialty Retail Commercial Establishments, such as Jeweler stores, clothing store. book stores, video and music stores
- J. Personal Services
- K. Auto parts and accessory sales (products only to be sold inside of the building with no repairs conducted on the premises)
- L. Fast-food Restaurants
- M. Adult and Child Day care centers, subject to the provisions of 1151.08 of the City of Kettering Zoning Code
- N. Public Offices and Buildings
- O. Office supply and copy centers or similar business services
- P. Fraternal and social organizations
- Q. Taverns, bars, and restaurants
- R. Animal hospitals and clinics
- S. Pet stores
- T. Hardware and paint supply stores

### **C.3 Conditions for Permitted Uses**

- A. In accordance with the City Ordinance requirements, no use shall be permitted to create unreasonably objectionable noise, fumes, smoke or vibration outside of its' building. No use shall be permitted to violate other environmental regulations of the City or performance standards set out in the City Environmental Standards Manual requirements.

- B. Except for permitted signage or delivery systems, no use in Woodman/Dorothy Business Center Zone D shall conduct any of its' business in a manner which is conducted outside of the building in which it is located.
- C. As applicable, all requirements of Chapter 1167, Business, Commercial and Industrial Standards and Conditions shall be adhered to.

#### **C.4 Signage**

##### **Woodman / Dorothy - Zone D**

All signage shall meet the requirements of the Business District Requirements in the City of Kettering Sign Chapter of the Zoning Code, Chapter 1171.

#### **C.5 Bufferyards, Landscaping and Screening**

##### **Woodman / Dorothy - Zone D**

The requirements of the City of Kettering Bufferyard, Landscaping and Screening Chapter of the Zoning Code shall be met.

All mechanical equipment shall be screened, with a material matching the principal building, so that it is not visible from five feet above grade level at any location on or off the site.

Areas for parking of delivery vehicles, dumpsters and service areas shall be screened with a solid brick masonry wall which shall match the principal building.

## C.6 Circulation / Parking / Loading

### Curb Cuts

#### Zone D

A right-in/right-out only access drive will be permitted onto Dorothy Lane from Zone D provided that it can be no closer than twenty-five (25) feet and no more than eighty (80) feet from the east property line of Zone D. This access drive will only be permitted if the design and construction drawings are approved by the Public Service Department and the City Engineer of the city of Kettering. If this access drive is not approved, due to traffic safety concerns, then the drive onto Woodman Center Drive shall be designed to accommodate all vehicles using this site.

### Parking

#### Zone D

1. Specialty Food Store requires one (1) parking space per ninety (90) square feet of gross floor area. If a drive-thru is to be part of the operation, automobile waiting space for eight (8) vehicles for each drive-thru window shall be provided on the property, with such automobile waiting space to be located behind the point where the order is placed. Any vehicle storage areas shall meet the Bufferyard, landscaping and screening chapter and the Environmental Standards Manual of the city of Kettering Zoning Code.
2. Except for the above, all other permitted uses shall meet the parking requirements contained in the City of Kettering Zoning Code.

3. Parking spaces for delivery vehicles shall not be included in the calculation of parking spaces to meet the minimum parking requirements.

### C.7 Site Lighting

#### Zone D

Parking lot lighting fixtures shall not exceed twenty (20) feet in height and shall use a cut-off type light source with a average permitted illumination of two (2) foot candles. All exterior lights shall be metal halide or equivalent. No sodium vapor lights shall be permitted.

### C.8 Architectural Standards

#### Zone D

A Specialty Food Store in Zone D shall meet the following:

As a result of the prominent location of this zone and the need to coordinate the architectural styles and materials the principal building material shall be face brick. All buildings and structures must be designed to be attractive from all sides. All buildings or structures in this zone shall be compatible architecturally, in terms of color, material and architectural detailing, to the existing Kroger store located in Zone B of this Overlay District.

All buildings and structures used for any other permitted use in Zone D shall meet the then current architectural standards set forth in Zone C of this Economic Development Overlay District #14.

## SECTION D                      DEVELOPMENT STANDARDS

### *Zone D*

*Woodman / Dorothy Overlay District  
NE corner of E. Dorothy Lane and Woodman Center Drive*



## Zone D

- A. All buildings along Dorothy Lane must have setbacks from the street as prescribed in the Business District in the City of Kettering Zoning Code.
  
- B. Both parcels, as indicated in Section A of this document, shall be combined to form one lot. The procedure for combining these two parcels shall be finalized prior to issuance of a building permit for any portion of Zone D.

## UTILITIES WITHIN ZONE D

All utility services shall be placed underground.

## APPROVAL OF DEVELOPMENT PLAN

All proposed development or redevelopment for Zone D shall follow the procedures for approval of a Final Development Plan as contained in Chapter 1153 of the city of Kettering Zoning Code.

**EXHIBIT A**

12

JOY A. CLARK  
RECORDER

18 98 APR 17 PM 3:25

2 MONTGOMERY CO. CHIL  
RECORDED

23

0007962

**LIMITED WARRANTY DEED**

TBLD CORP., a California corporation ("Grantor"), *N64-34-6-16, 34*  
for valuable consideration paid, grant(s), with limited warranty covenants an  
undivided 90% interest to Randall L. Gunlock, married, and an undivided 10%  
interest to Glenn C. Gunlock, married, as tenants in common whose mailing  
address is: c/o R. G. Properties, 8163 Old Yankee Road, Suite B, Dayton, OH  
45459 the following REAL PROPERTY: Situated in the County of Montgomery,  
in the State of Ohio and in the City of Kettering: 2001 E. Dorothy Lane, Kettering,  
OH and being more particularly described in the attached Exhibit A.

CITY OF KETTERING  
PLNG. & DEV. DEPT.

2006T-5 PM 2:20

REGISTERED  
98 APR 17 PM 3:55  
A. J. WAGNER  
AUDITOR

Exceptions from Conveyance and Warranty:

Grantor, its successors and assigns, hereby agrees that no portion of the  
Property shall be operated as a food outlet selling not more than 20% of gross  
sales for prepared Mexican food items, including, but not limited to, tacos,  
burritos, Mexican pizza and Mexican chicken. This non-competition clause shall  
remain in effect for a period of twenty (20) years from the date of recordation of  
this deed.

A. J. WAGNER  
COUNTY AUDITOR  
MONTGOMERY COUNTY DAYTON, OH  
RECEIVED AND CORRECTLY RECORDED  
ALL APPLICABLE FEES PAID  
BY *[Signature]* DATE *4/17/98*

Use No 9073

DEED 98-0246 089

Prior Instrument Reference: 92-0484E04 of the Deed of Records of Montgomery County, Ohio.

Witness their hand(s) this 17<sup>th</sup> day of Feb 1998.

Signed and acknowledged in the presence of

TBLO CORP,  
a California corporation

Bridgette Couch  
Witness Bridgette Couch

BY [Signature]  
Bryce Shirley  
Attorney-in-Fact

[Signature]  
Witness Angie Richmond

STATE OF CALIFORNIA, ORANGE COUNTY, ss:

The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of February 1998 by Bryce Shirley, as  
(2) Attorney-in-fact of the TBLO CORP. a  
California corporation, on behalf of the corporation.

[Signature]  
Notary Public



REVIEWED BY: X.C.  
DATE: 2-17-98

This instrument was prepared by 17801 Van Kamm Dr. Irvine, CA 92614

Unit No 3073 DEED 98-0246 C18

ORIGINAL IN POOR CONDITION

EXHIBIT "A"

NG 34-6-16,36

SITUATE IN THE CITY OF KETTERING, COUNTY OF MONTGOMERY, STATE OF OHIO AND BEING IN SECTION 24, TOWN 2, RANGE 5 M.R.S. AND BEING DESCRIBED MORE PARTICULARLY AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT NUMBER 19 OF THE WOODMAN/DOROTHY BUSINESS CENTER AS RECORDED IN PLAT BOOK 168 PAGES 48 & 48A IN THE PLAT RECORDS OF SAID COUNTY SAID POINT ALSO LYING ON THE SOUTH LINE OF LOT 18 OF SAID PLAT; THENCE WITH THE SOUTH LINE OF SAID LOT 18 SOUTH 87° 08' 12" EAST, 133.30 FEET TO AN IRON PIN FOUND; THENCE LEAVING THE SOUTH LINE OF SAID LOT 18 SOUTH 02° 55' 12" WEST, 196.00 FEET TO AN IRON PIN FOUND ON THE NORTH RIGHT-OF-WAY LINE OF DOROTHY LANE ROAD; THENCE WITH THE NORTH RIGHT-OF-WAY LINE OF DOROTHY LANE ROAD NORTH 87° 08' 12" WEST 180.47 FEET TO THE SOUTHEAST CORNER OF SAID LOT 19; THENCE WITH THE EAST LINE OF SAID LOT 19 NORTH 16° 27' 00" EAST 201.64 FEET TO THE TRUE POINT OF BEGINNING CONTAINING 0.7059 ACRES MORE OR LESS SUBJECT HOWEVER TO ALL LEGAL HIGHWAYS, EASEMENTS AND RESTRICTIONS OF RECORD.

Being the same property conveyed to Grantor through that certain Limited Warranty Deed dated June 11, 1992, recorded # 93-0485 E04"

DEED

98-8246

C11

ORIGINAL IN POST OFFICE

GM

107 2

Legal Description Continued  
Case Number 7222DC

Situated in Section 24, Town 2, Range 6, MRS, City of Kettering, County of Montgomery, State of Ohio and being all of the lands of General Motors Corporation, a Delaware Corporation, as recorded in Microfiche No. 88-0458 C02, all of the lands of General Motors corporation, a Delaware Corporation, as recorded in Deed Book 1490, Page 193, and part of the lands of General Motors Corporation, a Delaware Corporation as recorded in Deed Book 1491, Page 98, all in the Montgomery County Deed Records and being further described as follows:

Commencing, for reference, at the southeast corner of said Section 24; Thence, with the east line of said section, North 2°23'30" East 256.00 feet to a point; Thence, leaving the east line of said section, North 87°08'12" West 60.00 feet to the southeast corner of that land conveyed to General Motors Corporation, a Delaware Corporation, by deed and recorded in Microfiche No. 88-458 C02 of the deed records of said county, being on the west right-of-way line of Woodman Drive and the True Point of Beginning.

Thence, leaving said right-of-way with the south line of said General Motors Corporation land and its extension being the north lines of those lands conveyed to:

- Shidler/West Finance Partners I (Limited Partnership), a Delaware Limited partnership as recorded in microfiche No. 93-0355 A03;
- Andrew W. & Jeh Lai as recorded in Microfiche No. 85-086 E01;
- Pamela Schneuermann, Et Al as recorded in Microfiche No. 90-105 A01;
- Kulasa & Schulze Investments as recorded in Microfiche No. 92-245 C05;
- Jack C. & Judy O. Roberts as recorded in Microfiche No. 94-154 D12;
- Murphy/Connor Dev. Co. as recorded in Microfiche No. 90-251 A06, A04;
- TBLD Corp. as recorded in Microfiche No. 92-484 E04; all in the said County deed records, North 87°08'12" West 1095.51 feet to the northwest corner of said TBLD Corp. land being a point in the east line of that land as conveyed to Consolidated Rail Corporation by deed recorded in Microfiche No. 77-560 A01 of the deed records of Montgomery County, Ohio, and the southwest corner of that land conveyed to the General Motors Corporation, a Delaware Corporation, by deed as recorded in Deed Book 1490, Page 193 of the deed records of Montgomery County, Ohio;

Thence, with the west line of said General Motors Corporation land and its extension, being also a west line of that land as conveyed to General Motors Corporation, a Delaware Corporation by deed recorded in Deed Book 1491, Page 98 of the deed records of said county, and the east line of said Consolidated Rail Corporation land, North 16°27'00" East 1028.90 feet to a point; Thence, with said General Motors Corporation land, and the east line of said Consolidated Rail Corporation land, on a curve to the left with a radius of 5762.65 feet, internal angle of 5°07'17" (long chord bearing North 13°53'21" East, 514.93 feet) along the arc for 515.10 feet to a point;

Thence, leaving the east line of said General Motors Corporation land, and the east line of said Consolidated Rail Corporation land, on a new division line, South 86°29'50" East 585.17 feet to a point of tangency on the west

6 1/2  
2 1/2

Legal Description Continued  
Case Number 7222DC

right-of-way line of Woodman Drive;

Thence, with the west right-of-way line of Woodman Drive, on the following two (2) courses;

On a curve to the right with a radius of 955.97 feet, internal angle of 33°23'50" (long chord bearing South 14°18'25" East 549.37 feet) along the arc for 557.23 feet to a point;

South 02°23'30" West 974.14 feet to the True Point of Beginning containing 30.7750 acres, more or less.

Kulasa  
1042Legal Description Continued  
Case Number DC6694

Situate in the City of Kettering, County of Montgomery, State of Ohio and in Section 24, Town 2, Range 6 MRS, and being 100 feet taken by parallel lines off the west side of the premises bounded and described as follows: Beginning at a point in the south line of section 24, said beginning point being in the center line of the Dorothy Lane, and 341.0 distant eastwardly from the southeast corner of the 1.84 acre tract conveyed to John Brooks, etal, as described in Deed Book 1051, Page 566 of the Montgomery County Records; thence south 86 deg. east with the center line of said Road, for a distance of 341.0 feet to a point; thence North 4 deg. east, for a distance of 256.0 feet to a point; thence South 86 deg. west for a distance of 341.0 feet to a point; thence south 4 degrees west for a distance of 256.0 feet to the place of beginning, containing 2.0 acres more or less.

## EXCEPTING THEREFROM THE FOLLOWING:

Located in Section 24, Town 2, Range 6, M.R.S., City of Kettering, County of Montgomery, State of Ohio, described as follows: Beginning at a point on the south line of said Section 24 and the centerline of Dorothy Lane, said point being located four hundred seventy-two and 00/100 (472.00) feet west of the northeast corner of Dorothy Lane dedication as recorded in Book 65, Page 32 in the Plat Records of Montgomery County, Ohio; thence North one degree three minutes forty seconds (1 deg. 03' 40") West a distance of forty-one and 00/100 (41.00) feet; thence North eighty-nine degrees twenty-eight minutes ten seconds (89 deg. 28' 10") East a distance of one hundred and 00/100 (100.00) feet; thence South one degree three minutes forty seconds (1 deg. 03' 40") East a distance of forty-one and 00/100 (41.00) feet to the south line of said Section 24 and the centerline of said Dorothy Lane; thence with the south line of said Section 24 and the centerline of Dorothy Lane; South eighty-nine degrees twenty-eight minutes ten seconds (89 deg. 28' 10") West a distance of one hundred and 00/100 (100.00) feet to the point of beginning, containing no and 0941/10000 (0.0941) acres more or less, of which an area of no and 0402/10000 (0.0402) acres lies within the existing right-of-way of Dorothy Lane and an area of no and 0539/10000 (0.0539) acres lies outside of said right-of-way.

## ALSO EXCEPTING THEREFROM THE FOLLOWING:

Located in Section 24, Town 2, Range 6, M.R.S., City of Kettering, County of Montgomery, State of Ohio, described as follows:

Beginning at the Northwest corner of a 0.0941 acre tract of land conveyed to the City of Kettering, Ohio by deed shown of record in Deed Book No. 2253, Page No. 70, in the deed records of Montgomery County, Ohio, said point being also in the South line of a tract of land owned by Lewis B. Randall and shown of record in Deed Book No. 1887, Page No. 298, of the Deed Records of Montgomery County, Ohio;

Thence with the north line of said City of Kettering land N. 89 deg. 28' 10" E. a distance of 100.00 feet to the Northeast corner of the said City of Kettering land;

Thence with the east line of the said Randall land N. 1 deg. 03' 40" W. a

kielana  
2 of 2

Legal Description Continued  
Case Number DC6694

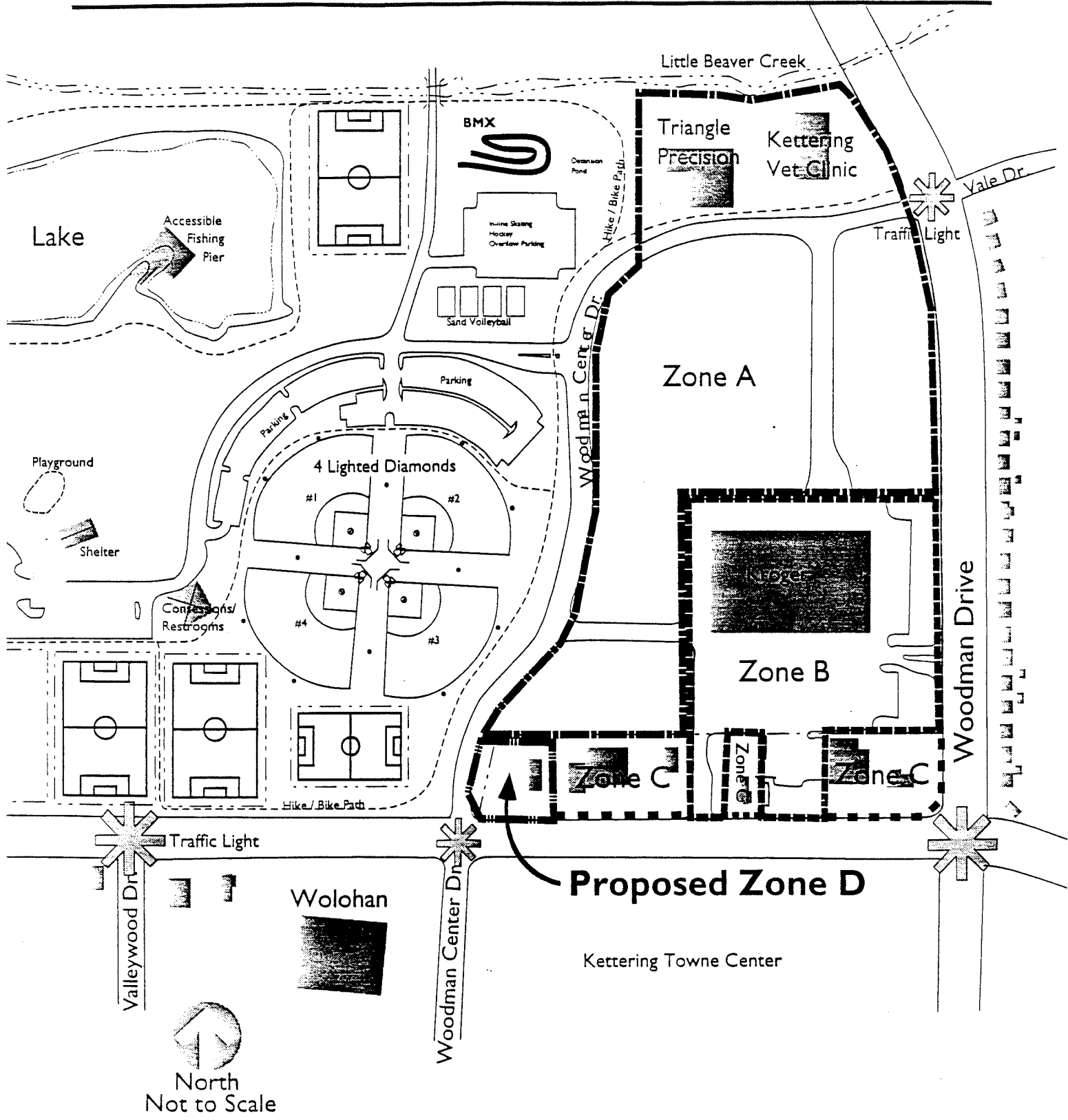
distance of 19.0 feet to a point;

Thence S. 89 deg. 28' 10" W. a distance of 100.00 feet to a point in the West line of said Randall land;

Thence with said West line S. 1 deg. 03' 40" E. a distance of 19.0 feet to the point of beginning containing 0.0436 acre more or less.



Woodman/Dorothy Business Center  
Economic Development Overlay District #14  
Zoning Case #666





**Van Atta**  
**Engineering Inc.**  
*Landplanning*  
*& Surveying*

September 20, 1996/ revised  
 Page 1 of 2

*Conrail*  
*1 of 4*

DESCRIPTION  
CONRAIL PROPERTY  
2.9080 ACRES

Situated in Section 24, Town 2, Range 6, MRS, City of Kettering, County of Montgomery, State of Ohio and being part of the lands of Consolidated Rail Corporation, as recorded in Microfiche #77-560A01 of the Montgomery County Deed Records and being further described as follows:

Commencing, for reference, at the southeast corner of said Section 24; Thence, with the east line of said section, North 2°23'30" East 256.00 feet to a point; Thence, leaving the east line of said section, crossing the west right-of-way of Woodman Drive and along the south line of that land as conveyed to:

- General Motors Corporation as recorded in Microfiche # 88-458C02
- General Motors Corporation as recorded in Deed Book 1491, Page 98

Being also the north lines of those lands conveyed to:

- Shidler/West Finance Partners I (Limited Partnership), a Delaware Limited Partnership as recorded in Microfiche #93-0355A03;
- Ken Y. & Paula P. Kiang as recorded in MF. #94-0744 B03;
- Pamela Schneuermann, Et Al as recorded in Microfiche #90-105A01;
- Kulasa & Schulze Investments as recorded in Microfiche #92-245C05;
- Jack C. & Judy O. Roberts as recorded in Microfiche #94-154D12;
- Murphy/Connor Development Company as recorded in Microfiche #90-251A06, A04;
- TBLD Corporation as recorded in Microfiche #92-484E04;

All in the said County deed records, North 87°08'12" West, 1155.51 feet to the northwest corner of said TBLD Corporation land, being a point in the east line of said Consolidated Rail Corporation land and the southwest corner of that land conveyed to the General Motors Corporation, a Delaware Corporation, by deed as recorded in Deed Book 1490, Page 193 of the Montgomery County deed records, and the True Point of Beginning for the lands herein described;

Thence, with the west line of said TBLD Corporation land and the east line of said Consolidated Rail Corporation land, South 16°27'00" West 263.11 feet to a point in the centerline of East Dorothy Lane;

Kiang  
10/1

LAWYERS TITLE INSURANCE CORPORATION

**Exhibit B**

DC6695

N64-34-6-79

Situated in the County of Montgomery in the State of Ohio and in the City of Kettering and being Located in Section 24, Town 2, Range 6 M.R.S., and being a part of that certain tract of land conveyed to D.H. Loudin by deed and recorded on Microfiche Record 80-170 D04 on the deed records of said county being more particularly described as follows: Beginning at an iron pin set at the point of intersection of the east line of said Loudin tract with the present north right-of-way line of Dorothy Lane, thence South  $86^{\circ}-00'-00''$  West, with the present north right-of-way line of Dorothy Lane, a distance of 170.00 feet to an iron pin, thence North  $04^{\circ}-03'-18''$  West, with a new division line, a distance of 196.13 feet to an iron pin in the north line of said Loudin tract, thence North  $86^{\circ}-02'-43''$  East with the north line of Loudin tract, a distance of 170.00 feet to an iron pin at the northeast corner thereof, thence South  $04^{\circ}-03'-18''$  East, with the east line of said Loudin tract, a distance of 196.00 feet to the place of beginning. Containing 33,330.79 square feet of land more or less.

DC6695