

CITY OF EMERYVILLE



MEMORANDUM

DATE: December 21, 2010

TO: Patrick O’Keeffe, City Manager

FROM: Finance Department

SUBJECT: Resolution of the City Council of the City of Emeryville Approving the Traffic Facilities Impact Fee Program Report for the City of Emeryville through June 30, 2010

BACKGROUND

As required by law, the City is required to review its traffic impact fee on an annual basis. California Government Code Section 66000 *et seq.* (the “Mitigation Fee Act”) requires each local agency to make public a report on developer fees within 180 days of the close of each year. The report is to include fee descriptions collected from developers, the amount of the fee, the beginning and ending balance of the account or fund and the amount of fees collected and the interest earned. The Mitigation Fee Act also requires each local agency to review the report at a public meeting not less than 15 days after the information is made available to the public.

The report relative to the Traffic Facilities Impact Fee Program ending June 30, 2010 (the “Report”) was made available to the public as part of the agenda for the November 16, 2010 regular meeting of the City Council. A copy of the November 16, 2010 Report is Attachment A to this staff report. In accordance with the Mitigation Fee Act, the purpose of this item is to allow for public review and comment on the Report at a public meeting.

TRAFFIC FACILITIES IMPACT FEE PROGRAM REPORT

Attached as Exhibit “A” to the enclosed Resolution (Attachment 3) is a Revenue & Expenditure spreadsheet for the City of Emeryville Traffic Impact Fee Fund for the period ending June 30, 2010.

The Revenue & Expenditure spreadsheet attached as Exhibit “A” to the enclosed Resolution (Attachment 3) shows that since the beginning of FY99 (i.e. July 1, 1998) through the end of FY10 (i.e. June 30, 2010) the City of Emeryville has collected revenues totaling \$5,975,212 and deposited them in the Traffic Impact Fee Fund; \$5,601,842 of traffic impact fees, \$648,567 of interest earnings, and \$275,197 of net reimbursements paid out to private developers for their contribution to specific improvements required as

mitigation for project specific impacts. With these monies, the City has expended \$5,822,088 to complete improvements identified in the Traffic Facilities Impact Fee Program adopted by the City Council pursuant to Resolution No. 98-167.

These improvements are more particularly depicted and described in Figures A-K, Appendix B to the Fee Program, copies of which are attached as Attachment 2 to this staff report. Completed improvements include Figures A (65th Street Traffic Signal), C and D (Shellmound Loop Improvements/Signal Timing/Striping), F (Horton Street Extension) and G (Powell/Hollis Intersection Improvements); partially completed improvements include Figures H (Hollis Street Signal Interconnect) and J (40th Street Signal Interconnect); and appraisal activities were initially commenced on improvements identified in Figure K (40th Street and San Pablo Avenue Widening) and initial design schematics were undertaken for improvements identified in Figure B (Powell Street & I-80 Eastbound off-ramp).

Accordingly, the Traffic Impact Fee Fund has a fund balance of \$153,124 as of June 30, 2010. The improvements identified in Figures B, H, I, J and K of the Fee Study, with a total estimated cost of \$1,411,000, remains to be completed. These cost assumptions, particularly as it relates to costs of right of way acquisition, need to be updated as the study's estimates were presented in 2007. However, the fund does not currently have sufficient funds to complete the remaining improvements.

UPDATE TO TRAFFIC FACILITIES IMPACT FEE PROGRAM

On a separate agenda item, the City Council is being presented with a contract proposal with Fehr & Peers to undertake the study and report necessary to update the Traffic Impact Fee Program. The update will identify the traffic facility impacts of contemplated future development, the need for new public facilities and improvements and the costs of implementing the recommended traffic improvements, with an emphasis to provide facilities for all modes of transportation (pedestrian, bicycle, transit and automobile), as called for by the Emeryville General Plan.

RECOMMENDATION

It is recommended that the City Council approve the attached resolution to accept the Traffic Facilities Impact Fee Program Report through June 30, 2010, as supplemented by the Revenue & Expenditure spreadsheet for the City of Emeryville Traffic Impact Fee Fund for the period ending June 30, 2010 attached as Exhibit "A" to the Resolution.

Submitted by:

Approved by:

Karan Reid
Chief Financial Officer

Delores Turner
Assistant City Manager

**APPROVED AND FORWARDED TO THE
CITY COUNCIL BY:**

Patrick O'Keeffe, City Manager

Attachments:

1. November 16, 2010 Report Re: Traffic Facilities Impact Fee Program ending June 30, 2009 including Figures A-K, Appendix B of City of Emeryville Traffic Mitigation Fee Study dated September 24, 1998, adopted by Resolution No. 98-167.
2. Resolution Approving Traffic Facilities Impact Fee Program Report Through June 30, 2010
3. Exhibit A: City of Emeryville Traffic Impact Fee Fund Revenues & Expenditures through June 30, 2010

RESOLUTION NO. 10-197

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EMERYVILLE
APPROVING THE TRAFFIC FACILITIES IMPACT FEE PROGRAM REPORT
FOR THE CITY OF EMERYVILLE THROUGH JUNE 30, 2010**

WHEREAS, the City Council of the City of Emeryville adopted Ordinance No. 90-8, thereby creating and establishing the authority for imposing and collecting a Traffic Facilities Impact Fee ("Impact Fee") to be deposited in the Traffic Facilities Impact Fee Fund ("Impact Fee Fund"); and

WHEREAS, pursuant to that authority, the City Council adopted Resolution No. 98-167 on October 6, 1998, imposing an Impact Fee on all new development within the City of Emeryville in order to help fund approximately \$11,552,400 worth of traffic facility improvements for eleven (11) different traffic facility improvement projects, as more particularly described in the City of Emeryville Traffic Mitigation Fee Study dated September 24, 1998, attached as Exhibit A to Resolution No. 98-167 (the "Fee Study"); and

WHEREAS, attached hereto as Exhibit A is a Revenue & Expenditure spreadsheet for the City of Emeryville Traffic Impact Fee Fund for the period ending June 30, 2010, which provides the necessary information required by California Government Code Section 66000, et.seq. (the "Traffic Facilities Impact Fee Program Report"); and

WHEREAS, the Traffic Facilities Impact Fee Report was made available to the public at the regular meeting of the City Council of the City of Emeryville held on Tuesday November 16, 2010, and available for public comment at a properly noticed public meeting held on Tuesday, December 21, 2010; now, therefore, be it

RESOLVED, that the City Council of the City of Emeryville hereby finds and determines that there continues to be a reasonable relationship between the need for the traffic facility improvements described in the Fee Study and the impacts from the types of development described in the Fee Study for which the Impact Fee is charged, as well as a reasonable relationship between the use of the Impact Fee for construction of the improvements identified in the Fee Study and the type of development for which the fee is charged, as more particularly described in the Fee Study; and, be it

FURTHER RESOLVED, that the City Council of the City of Emeryville, after considering the public comment, the Traffic Facilities Impact Fee Program Report dated November 16, 2010, as well as the staff report dated December 21, 2010,

does hereby approve the Traffic Facilities Impact Fee Program Report dated November 16, 2010, as supplemented by the Revenue & Expenditure spreadsheet for the City of Emeryville Traffic Impact Fee Fund for the period ending June 30, 2010, attached hereto as Exhibit A.

ADOPTED, by the City Council of the City of Emeryville at a regular meeting held on Tuesday, December 21, 2010 by the following vote:

AYES: (4) Mayor Davis, Vice Mayor West and Council Members Brinkman and Bukowski

NOES: (0) None **ABSENT:** None

EXCUSED: (1) Council Member Atkin **ABSTAINED:** None

ATTEST:



CITY CLERK



MAYOR

APPROVED AS TO FORM:



CITY ATTORNEY



**MEMORANDUM**

DATE: November 16, 2010

TO: Patrick O’Keeffe, City Manager

FROM: Administrative Services Department
Finance Division

SUBJECT: Traffic Mitigation Fee Report – Fiscal Year 2009-2010

Section 66000 *et. seq.* of the California Government Code (the “Mitigation Fee Act”) requires each local agency to make public a report on developer fees within 180 days of the close of each year. The Mitigation Fee Act also requires each local agency to review the report at a public meeting not less than 15 days after the information is made available to the public. The purpose of this item is to comply with this reporting requirement relative to the City of Emeryville Traffic Impact Fee for fiscal year 2009-2010.

Requested Action

No action is requested at this time as this report is required to be available to the public at least 15 days prior to City Council action. The report is provided as an informational item and will be brought back for City Council approval at the December 21, 2010 meeting.

Background

In 1989 the Legislature passed the Mitigation Fee Act which added Section 66000 *et.seq.* to the California Government Code. This legislation added a new chapter on fees imposed on development projects and sets forth a number of requirements that local agencies must follow if they are to exact fees from developers to defray the cost of the construction of public facilities related to development projects.

In 1990 the City of Emeryville adopted Ordinance No. 90-8 to create and establish the authority for imposing and charging a Traffic Facilities Impact Fee (the “Traffic Impact Fee”) to be deposited in the Traffic Facilities Impact Fee Fund (the “TIF Fund”). Thereafter, the City adopted a Traffic Mitigation Fee Study (the “Fee Study”), last amended by Resolution No. 98-167 adopted October 6, 1998, which established the existence of a reasonable relationship between the need for the public facilities and the impacts of the types of development described in the Fee Study for which the Impact Fee is charged and that there is a reasonable relationship between the Traffic Impact Fee’s use and the type of development for which the Traffic Impact Fees are charged.

Discussion

As noted above, the City of Emeryville collects Traffic Impact Fees that are subject to the reporting requirements of the Mitigation Fee Act. Reporting requirements relative to mitigation

fees that the local agency must adhere to are as follows:

1. Create separate capital facilities funds or accounts for each improvement funded with impact fees (Government code Section 66006(a)).

As noted, with Ordinance No. 90-8, the City established the TIF Fund into which Traffic Impact Fees are deposited and accounted for. A spreadsheet detailing TIF Fund revenues and expenditures for the period of July 1, 2005 through June 30, 2010 is attached hereto. It should be further noted that capital improvements identified in the Fee Study are also identified in the City's Five Year Capital Improvement Program and separate project accounts are established by the Finance Department for each such improvement in order to properly account for project costs and funding sources.

2. Remit all interest income earned by the fees to the same fund; interest income must be spent solely on the purpose for which the fee was originally collected (Section 66006(a)).

Again, please refer to the attached spreadsheet detailing TIF Fund activities.

3. Within 180 days after the close of the year, prepare a public report concerning each impact fee fund. *The City of Emeryville only maintains one impact fee for traffic facilities.* Such report must include (i) a brief description of the type of fee in the account, (ii) the amount of the fee, (iii) the fund's beginning and ending balance for the fiscal year, (iv) amount of fees collected and interest earned and deposited into the fund for the fiscal year, (v) a description of each expenditure from the fund for that year, including identification of the improvement being funded and the percentage of the cost of the public improvement that was funded with the fee, (vi) an identification of the date by which construction of a public improvement will commence if the City determines that sufficient funds have been collected to complete financing on any incomplete project, (vii) a description of any interfund transfers or loans, and (viii) identification of any fees to be refunded (Section 66001(2.a)).

(i) As discussed above, the type of fee in the TIF Fund account is for financing traffic facilities that are needed to mitigate the impacts of residential, commercial and industrial development, which fees are established upon issuance of a building permit and collected from such development projects upon issuance of a certificate of occupancy.

(ii) The amount of the Traffic Impact Fee is set forth in greater detail as to particular types of uses in Table 7 of the Fee Study, a copy of which is attached to this report and incorporated herein as if set forth in full. Present exemplars of the Traffic Impact Fee are \$972 per live-work unit; \$819 per single family dwelling unit; \$438 per unit for multi-family dwelling developments; \$3,523 per 1000 square feet of general retail developments that are less than 100,000 square feet; \$1,968 per 1000 square feet of office development that are less than 100,000 square feet; and \$730 per 1000 square feet of light industrial development.

(iii) Again, please refer to the attached spreadsheet detailing TIF Fund activities. The beginning balance on July 1, 2009 was \$2,390,589 and the ending balance on June 30, 2010 was \$153,124.

(iv) Again, please refer to the attached spreadsheet detailing TIF Fund activities under the heading of "REVENUE". The amount of Traffic Impact Fees collected from July 1,

2009 through June 30, 2010 and deposited into the TIF Fund was \$356,400 and the amount of interest earned and deposited into the TIF Fund was \$27,025. There were no reimbursements from private developers for their contribution to specific improvements required as mitigation for project specific impacts between July 1, 2009 and June 30, 2010.

- (v) Again, please refer to the attached spreadsheet detailing TIF Fund activities under the heading of "EXPENDITURES".*
- (vi) While the TIF Fund shows a balance of \$153,124, it does not appear that the TIF Fund has sufficient funds to complete financing on incomplete projects, such as the widening at 40th Street and San Pablo Avenue. Thus, it is premature to identify a date by which construction of this improvement will commence.*
- (vii) There have not been any interfund transfers or loans.*
- (viii) Two separate reimbursements were made during the year, both to Novartis Corporation, for costs advanced beyond their obligations for the Horton Street Extension improvements. The total amount reimbursed was \$2,583,363.*

4. The report is required to be reviewed by the City at a regularly scheduled public meeting not less than 15 days after the report is released to the public (Section 66006(b)(2)).

This report is being released to the public with the agenda for the November 16, 2010 regular meeting of the City Council and is scheduled for approval by the City Council at its regularly scheduled meeting on December 21, 2010.

5. For the 5th fiscal year following the first deposit of Traffic Impact Fees into the TIF Fund, and every five years thereafter, if fees remain unexpended, the local agency must make findings identifying the purpose to which the fee is to be put, demonstrate that there remains a reasonable relationship between the current need for the fees and the purpose for which it is charged, identify all sources and amounts of funding contemplated to complete financing of incomplete improvements, and designate the approximate dates on which the contemplated funding is expected to be deposited into the TIF Fund (Section 66001(d)).

The first deposit of Traffic Impact Fees into the TIF Fund occurred in January 1995. The fifth fiscal year following that first deposit was the fiscal year of 2000/2001 and the next five year cycle is the fiscal year of 2005/2006. Accordingly, the requisite findings outlined above were made by the City Council at the end of the 2005/2006 fiscal year pursuant to Resolution No. 07-10 adopted January 16, 2007. The next five year cycle is the fiscal year 2010/2011. An update to the Traffic Mitigation Fee Study (last amended by Resolution 98-167, adopted October 6, 1998) is underway and expected to be completed in 2011.

6. Refund to current owner of the development project or projects any fees, with accrued interest, for which continued need cannot be demonstrated (Section 66001(e)).

There are no funds in the TIF Fund to be refunded for projects which are no longer needed.

7. A local agency must not co-mingle fees with any other revenue, except for temporary

investment purposes (Section 66006(a)).

No Traffic Impact Fees are co-mingled with any other revenues of the City and are deposited and maintained in a separate fund, designated as the Traffic Facilities Impact Fee Fund.

Fiscal Impact

This report is for information purposes. There is no fiscal impact.

Submitted by:

Approved by:

Karan Reid,
Chief Financial Officer

Delores Turner
Assistant City Manager

**APPROVED AND FORWARDED TO THE
CITY COUNCIL BY:**

Patrick O’Keeffe, City Manager

Attachments:

Traffic Impact Fee Fund Revenues & Expenditure Report – FY05 to FY10

Table 7 of Traffic Mitigation Fee Study adopted October 6, 1998 by Resolution No. 98-167

Appendix B of Traffic Mitigation Fee Study adopted October 6, 1998 by Resolution No. 98-167

EXHIBIT A

**City of Emeryville
Traffic Impact Fee Fund
Revenues & Expenditures
Through June 30, 2010**

	FY05	FY06	FY07	FY08	FY09	FY10	Total FY92-FY10
REVENUE:							
Traffic Impact Fees	202,322	107,372	578,191	216,298	149,311	356,440	5,601,842
Interest	54,684	64,740	74,990	108,459	82,459	27,025	648,567
Reimbursements		(6,581)	689,138	-	(439,673)	(2,583,363)	(275,197)
Total	257,006	165,530	1,342,319	324,757	(207,903)	(2,199,898)	5,975,212

EXPENDITURES:

Powell St & I-80 E Off Ramp (Figure B)							34,959
Update Traffic Fee Study							54,988
Shellmound Loop Improvements (Figure C, D)							1,967,995
Powell/Hollis Intersection Improvements (Figure G)							185,559
Hollis St Interconnect (Figure H)		54,706					73,049
Shellmound Signal Timing (Figure C, D)							142,984
40th Street Signal Design (Figure J)							17,403
40th & SPA Widening (Figure K)							7,965
Shellmound Street Striping (Figure C, D)							8,512
Horton Street Extension (Figure F)							2,047,791
65th Street Traffic Signal (Figure A)	22,737	318,517	679,043				1,225,898
Powell Streetscape Design					17,420	37,567	54,986
Total	22,737	373,223	679,043	-	17,420	37,567	5,822,088
Revenues Over/(Under) Expenditures	234,269	(207,693)	663,276	324,757	(225,323)	(2,237,464)	153,124
Beginning Fund Balance, July 1	1,601,302	1,835,571	1,627,878	2,291,154	2,615,912	2,390,589	-
Ending Fund Balance, June 30	1,835,571	1,627,878	2,291,154	2,615,912	2,390,589	153,124	153,124

(References to Figures A, C, D, F, G, H, J and K above are those figures which are attached as Appendix B to the City of Emeryville Traffic Mitigation Fee Study dated September 24, 1998, adopted by the City Council pursuant to Resolution No. 98-167)

Table 7
Traffic Impact Fee Allocation

Land Use	ITE Land Use	ITE PM Peak Hour Rate	% Primary Trips ⁷	% Diverted & Pass-by Trips ⁷	Proposed Traffic Fee ⁸
Residential (per dwelling unit)					
Single-Family	210	1.01	86%	14%	\$ 819
Multi-Family	230	0.54	86%	14%	\$ 438
Apartment	220	0.62	86%	14%	\$ 503
Office (per 1,000 sq. feet)					
Standard Office					
Less Than 100,000 sq. feet ¹	710	2.71	77%	23%	\$ 1,968
100,000 to 500,000 sq. feet ²	710	1.39	77%	23%	\$ 1,010
Greater Than 500,000 sq. feet ³	710	1.23	77%	23%	\$ 895
Corporate Headquarters Building	714	1.39	77%	23%	\$ 1,010
Medical Office	720	3.66	60%	40%	\$ 2,071
Hospital	610	0.92	73%	27%	\$ 633
Research & Development Center	760	1.08	77%	23%	\$ 784
Retail/Commercial (per 1,000 sq. feet)					
General Retail					
Less Than 100,000 sq. feet ⁴	820	7.95	47%	53%	\$ 3,523
100,000 to 300,000 sq. feet ⁵	820	4.96	47%	53%	\$ 2,199
Greater Than 300,000 sq. feet ⁶	820	3.63	54%	46%	\$ 1,850
Restaurant (per 1,000 sq. feet)					
Quality	831	7.49	51%	49%	\$ 3,603
High Turnover	832	10.86	51%	49%	\$ 5,224
Fast Food	833	26.15	51%	49%	\$ 12,579
Fast Food with Drive-Thru	834	33.48	51%	49%	\$ 16,105
Service Station (per pump)	844	14.56	21%	79%	\$ 2,884
Self-Service Car Wash (per stall)	847	5.79	46%	54%	\$ 2,512
Supermarket	850	11.51	46%	54%	\$ 4,994
Convenience Market	851	53.73	46%	54%	\$ 23,312
Hotel (per room)	310	0.61	58%	42%	\$ 334
Bank	911	42.02	35%	65%	\$ 13,872

Table 7 (Continued)
Traffic Impact Fee Allocation

Land Use	ITE Land Use	ITE PM Peak Hour Rate	% Primary Trips ⁷	% Diverted & Pass-by Trips ⁷	Proposed Traffic Fee ⁸
Manufacturing (per 1,000 sq. feet)					
Light Industry	110	0.98	79%	21%	\$ 730
Manufacturing	140	0.74	79%	21%	\$ 551
Warehousing	150	0.51	79%	21%	\$ 380
Industrial Park	130	0.92	79%	21%	\$ 686
Other (per 1,000 sq. feet)					
Movie Theatre	444	3.8	66%	34%	\$ 2,366
Tennis Court (per court)	491	3.88	46%	54%	\$ 1,683
Health Club	493	4.3	46%	54%	\$ 1,866
Day Care Center	565	13.2	46%	54%	\$ 5,727
Nursing Home	620	0.36	46%	54%	\$ 156
Live Work (per unit)					
Live Work ⁹		1.03	100%		\$ 972

Note: Retail and commercial developments less than 4,999 square feet shall be evaluated on a case-by-case basis in a manner approved by the Planning Director for the City of Emeryville.

1. Based on Average Rate of 50,000 sq. feet
2. Based on Average Rate of 300,000 sq. feet
3. Based on Average Rate of 700,000 sq. feet
4. Based on Average Rate of 50,000 sq. feet
5. Based on Average Rate of 200,000 sq. feet
6. Based on Average Rate of 500,000 sq. feet
7. Source: San Diego Association of Governments, 1996.
8. Based on a unit cost of \$ 943.24 per peak hour trip
9. Based on Emeryville Traffic Impact Fee Analysis Final Report, 1996 prepared by Korve Engineering, Inc.

APPENDIX B
ROADWAY IMPROVEMENT PROJECTS

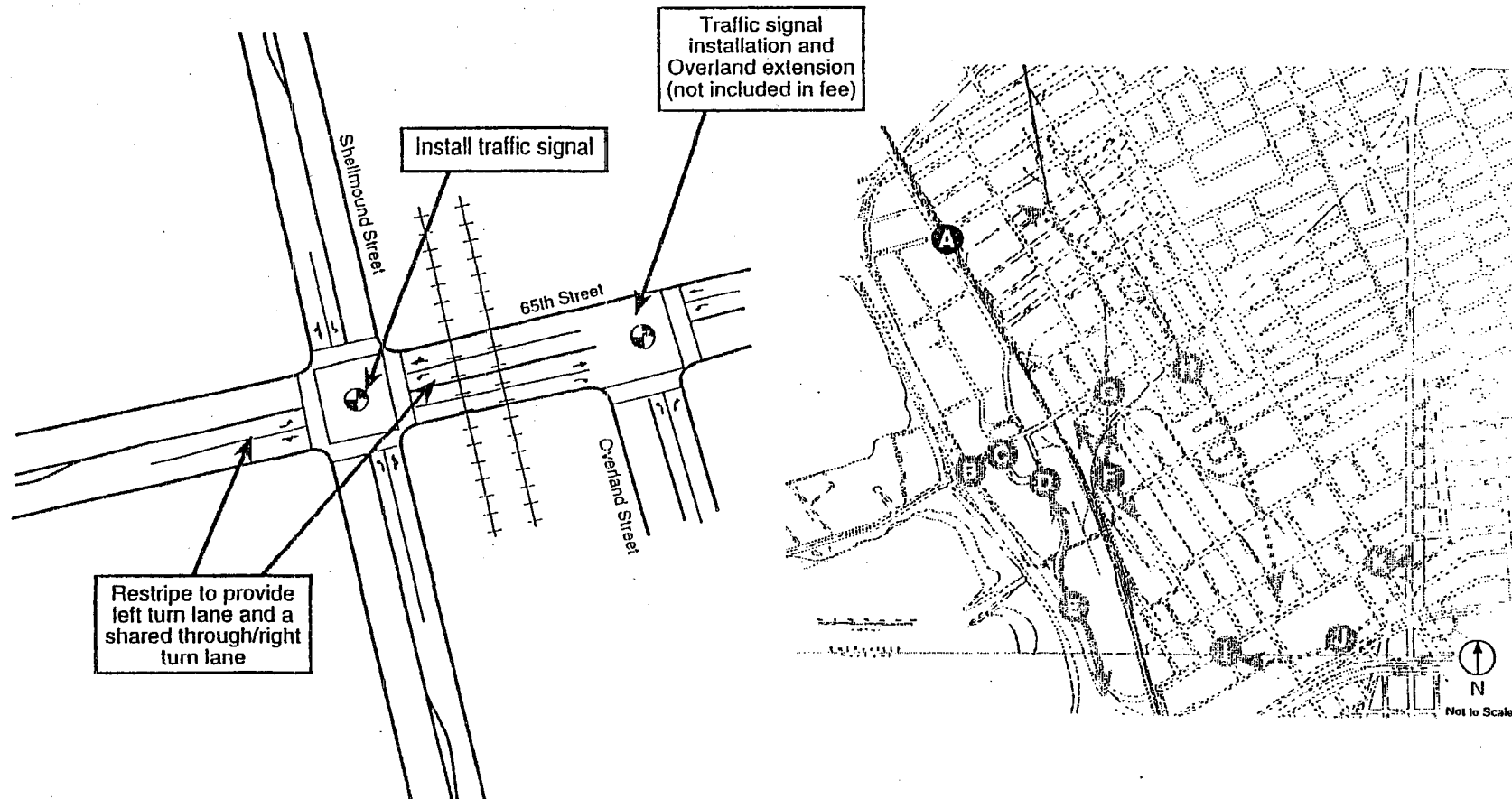


Figure A

65TH STREET AND SHELLMOUND STREET
INTERSECTION MODIFICATIONS



1220-31-02

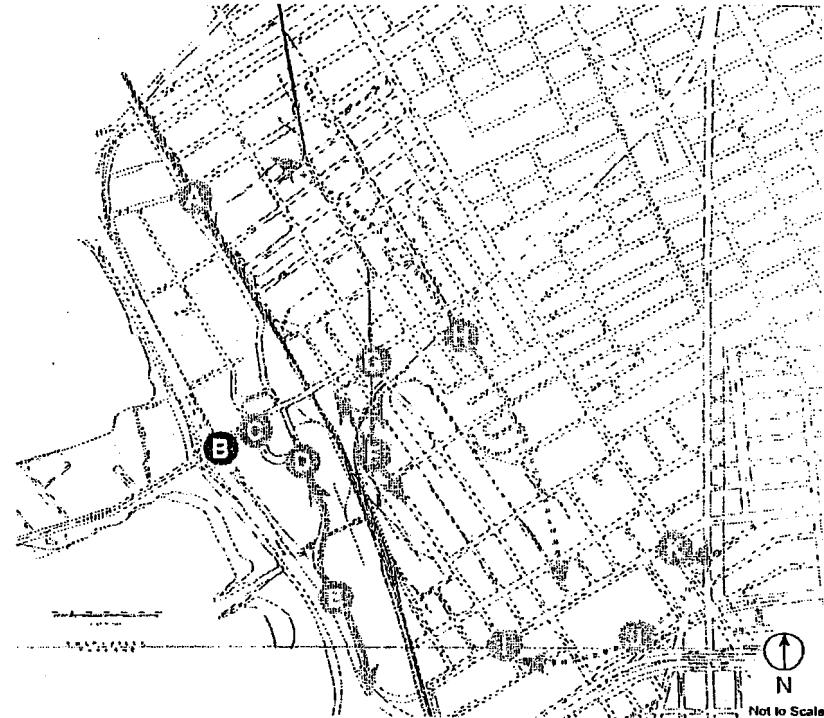
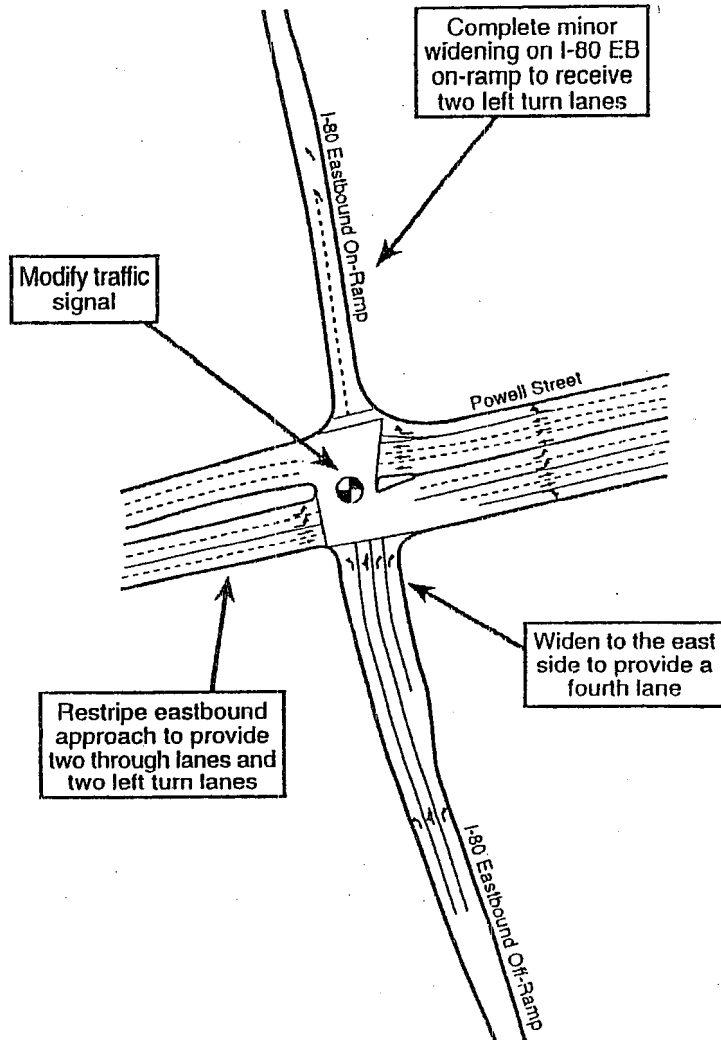


Figure B

**POWELL STREET AND I-80 EASTBOUND OFF-RAMP
INTERSECTION MODIFICATIONS**



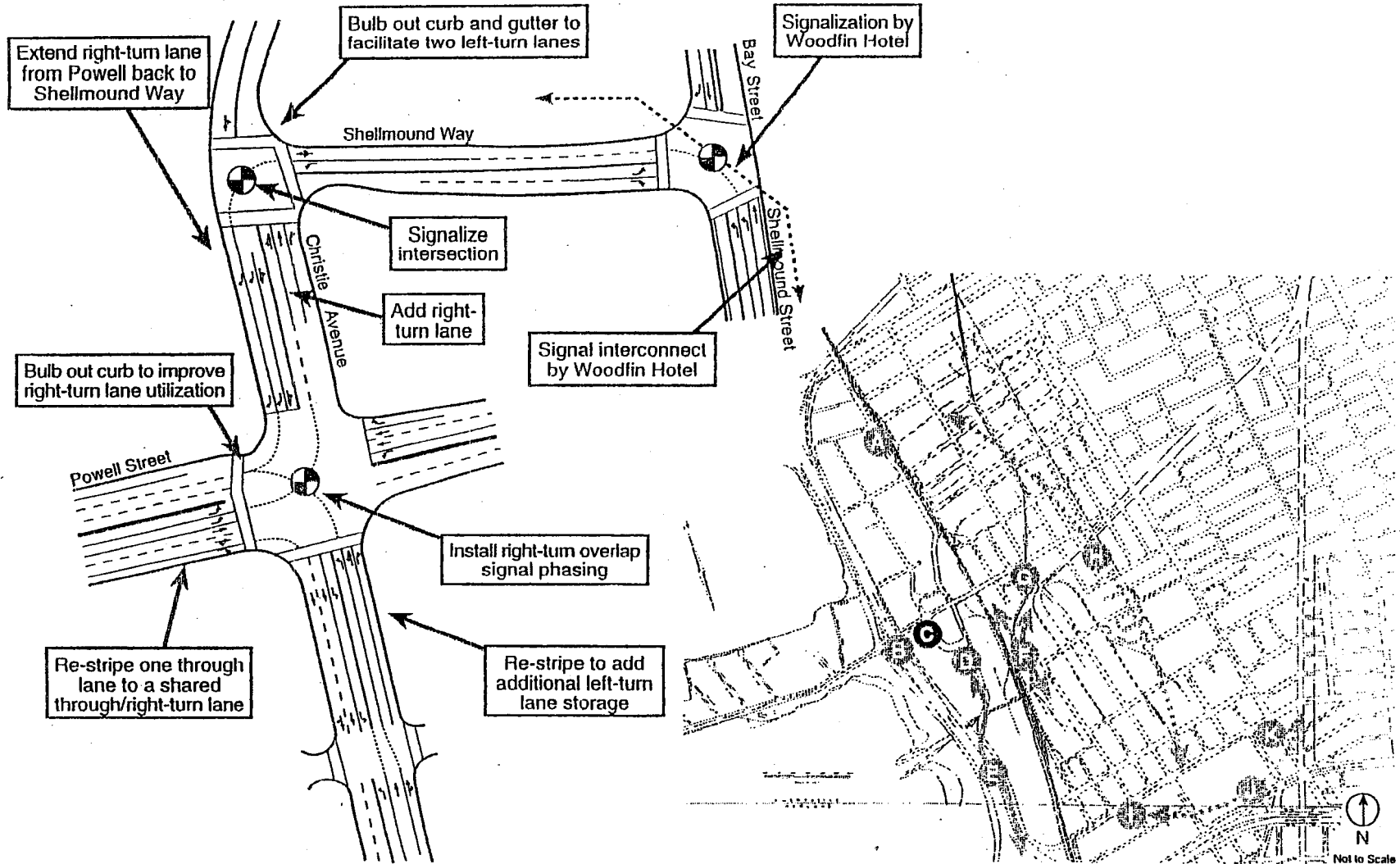


Figure C

1220-24-03

**CHRISTIE AVENUE AND POWELL STREET
INTERSECTION MODIFICATIONS**



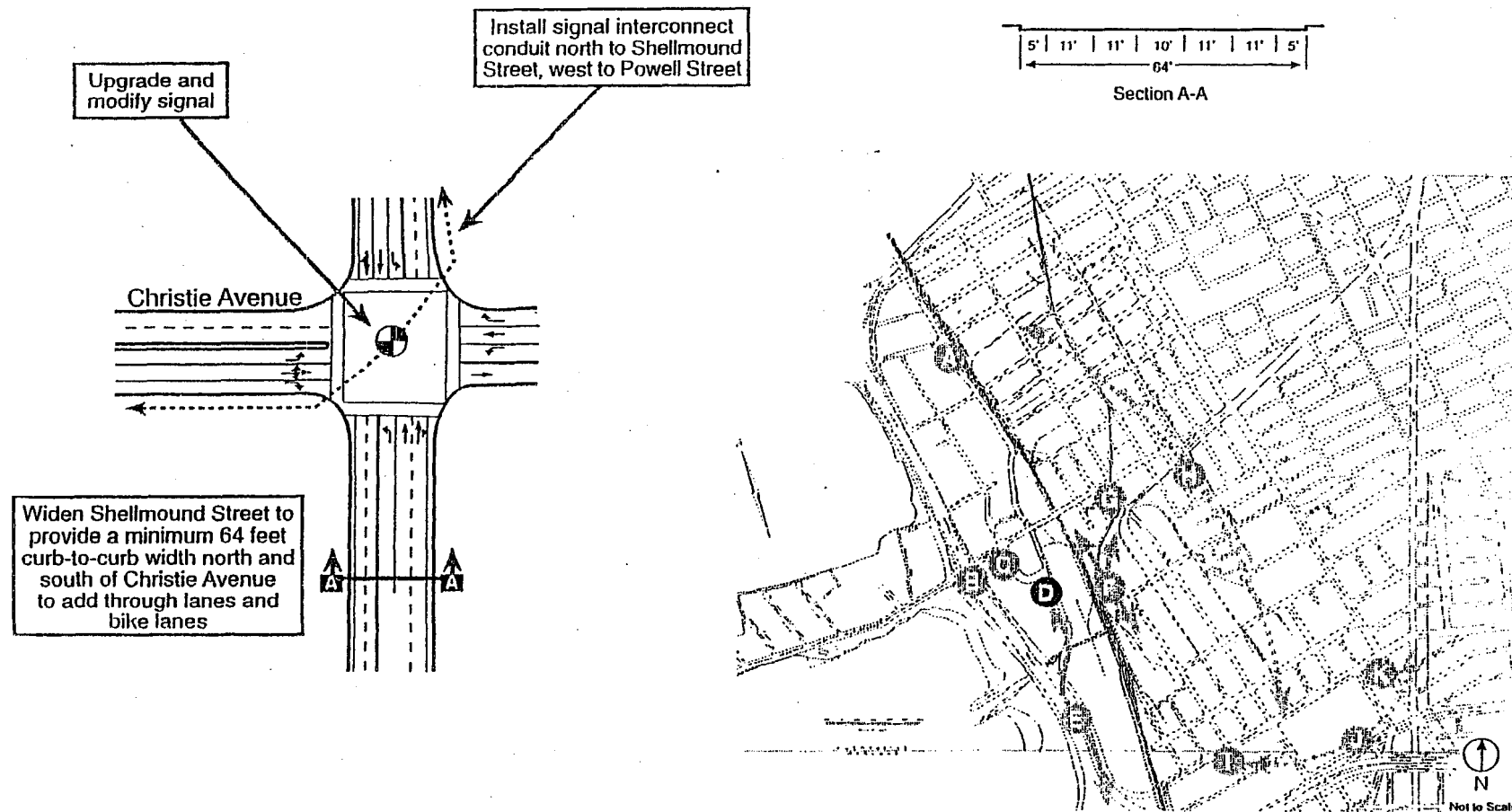


Figure D

1220-23-03

SHELLMOUND STREET AT CHRISTIE AVENUE INTERSECTION MODIFICATIONS



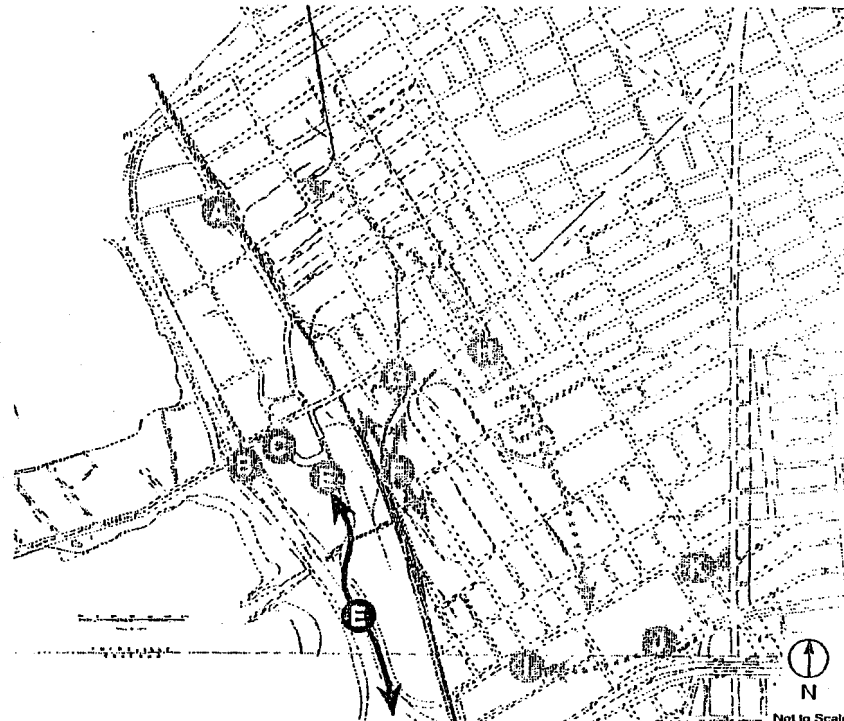
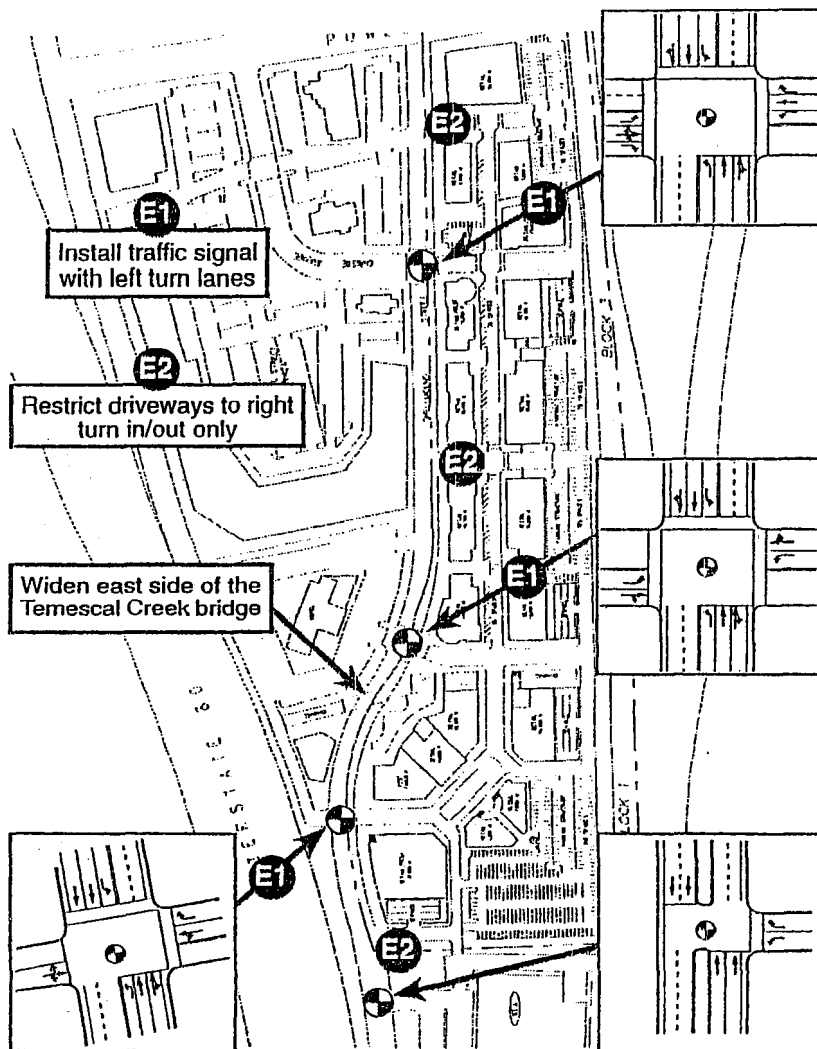


Figure E

1220-25-03

**SHELLMOUND STREET CORRIDOR
INTERSECTION MODIFICATIONS**



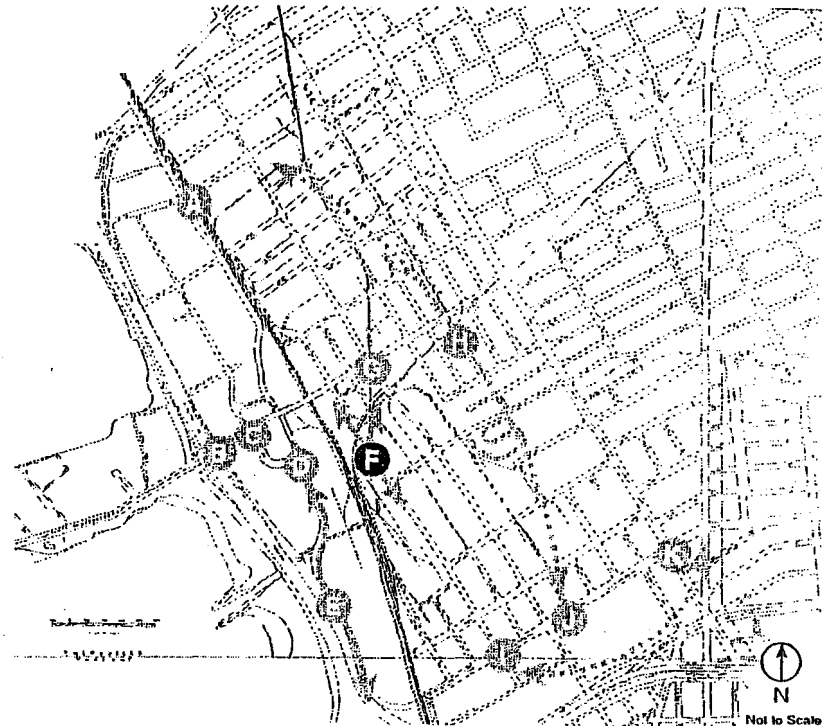
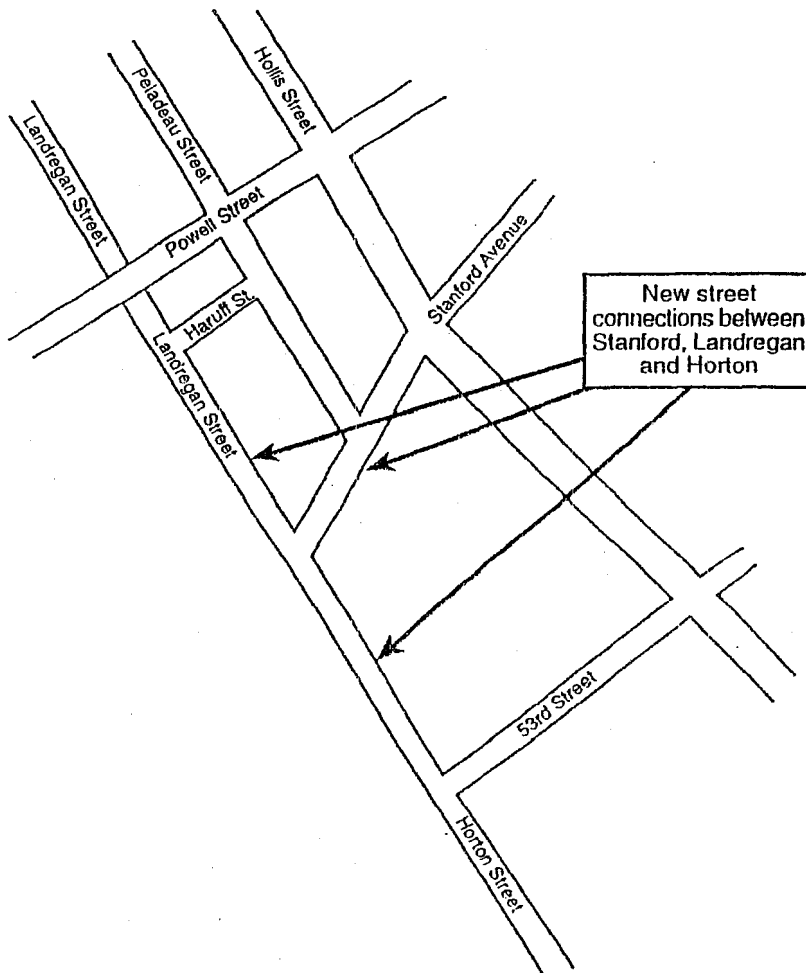
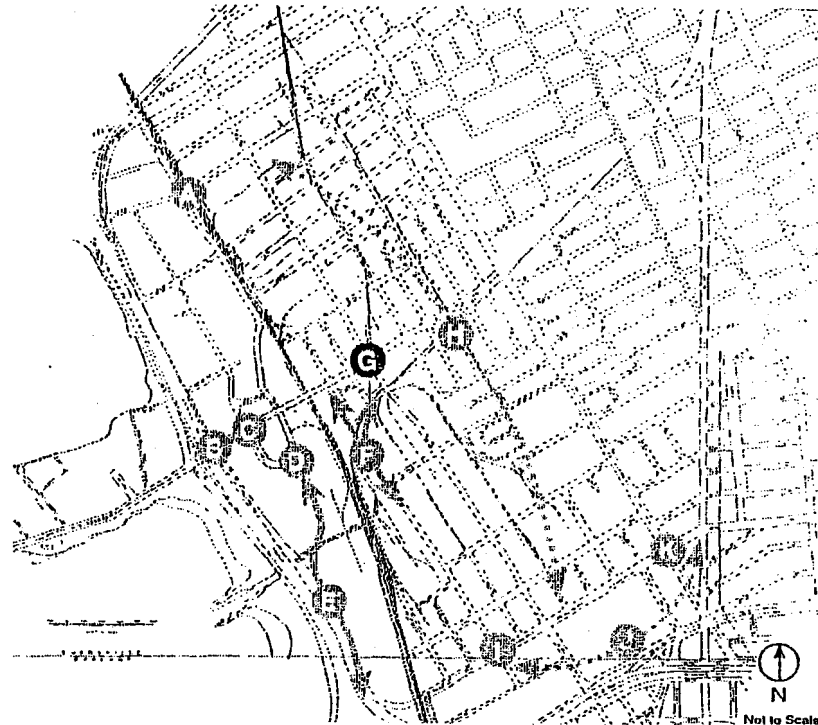
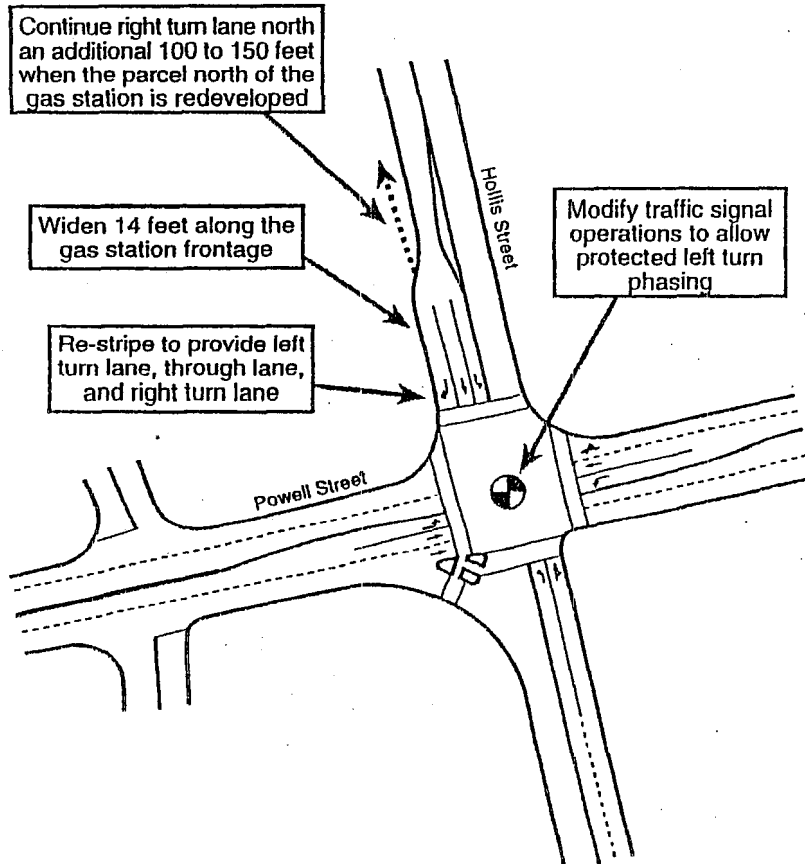


Figure F

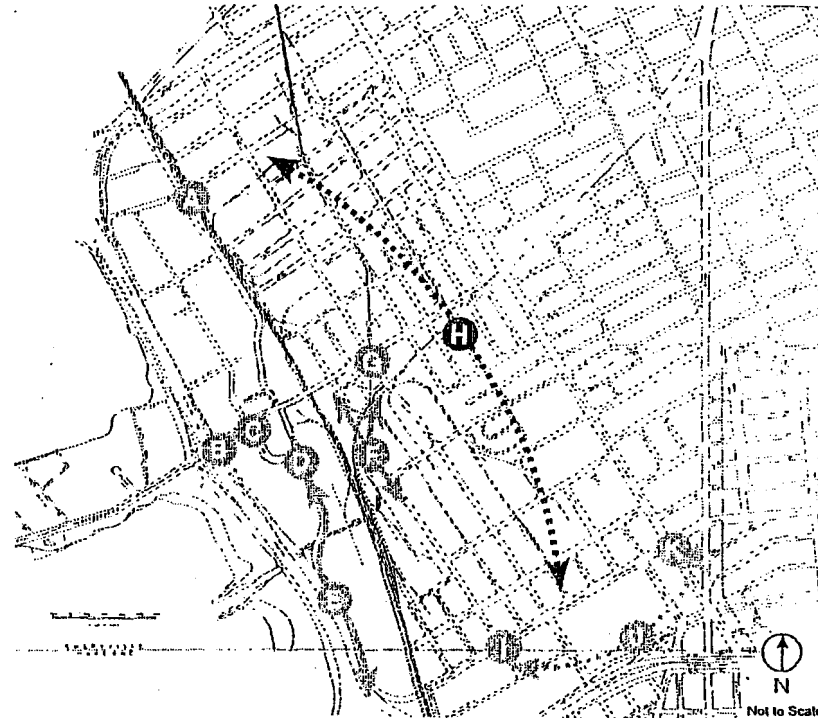
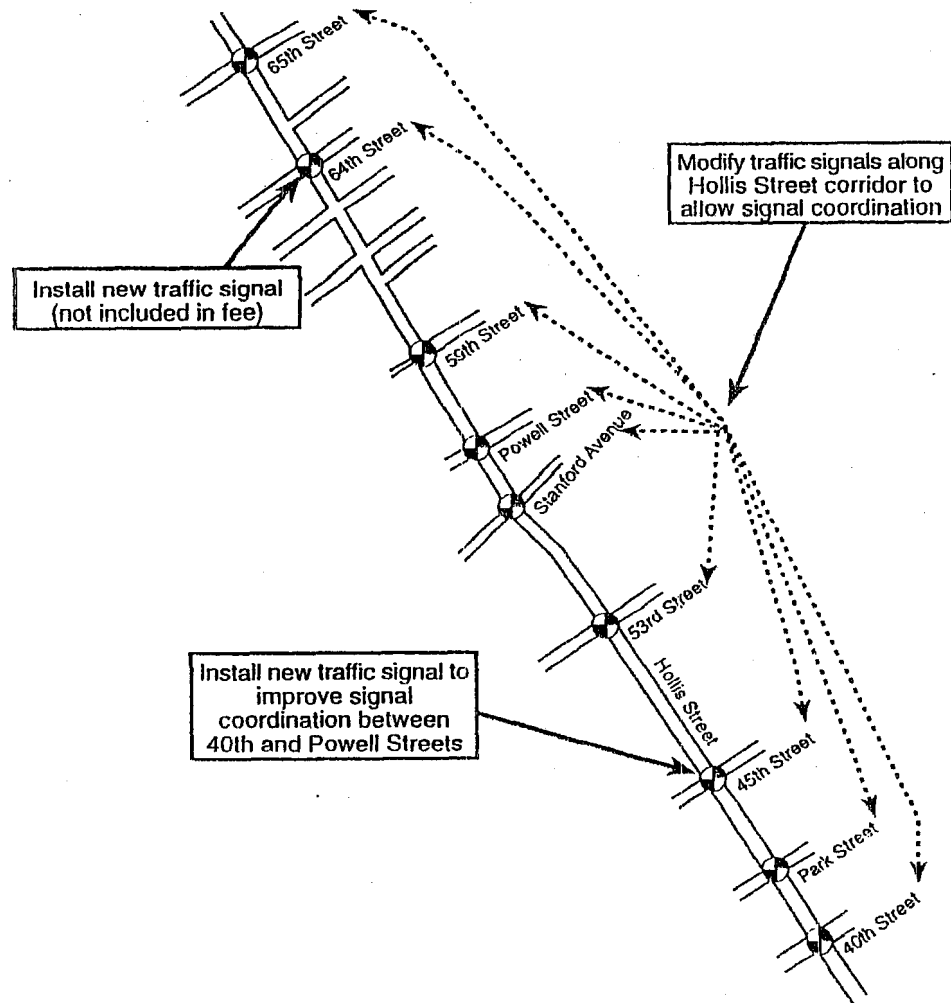
HORTON - LANDREGAN - STANFORD
CONNECTIONS



1220-37-02



<p>Figure G</p> <p>1220-22-03</p>	<p>POWELL STREET AND HOLLIS STREET INTERSECTION MODIFICATIONS</p>	
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<p>Figure H</p> <p>1220.35.02</p>	<p>HOLLIS STREET CORRIDOR SIGNAL INTERCONNECT</p>	
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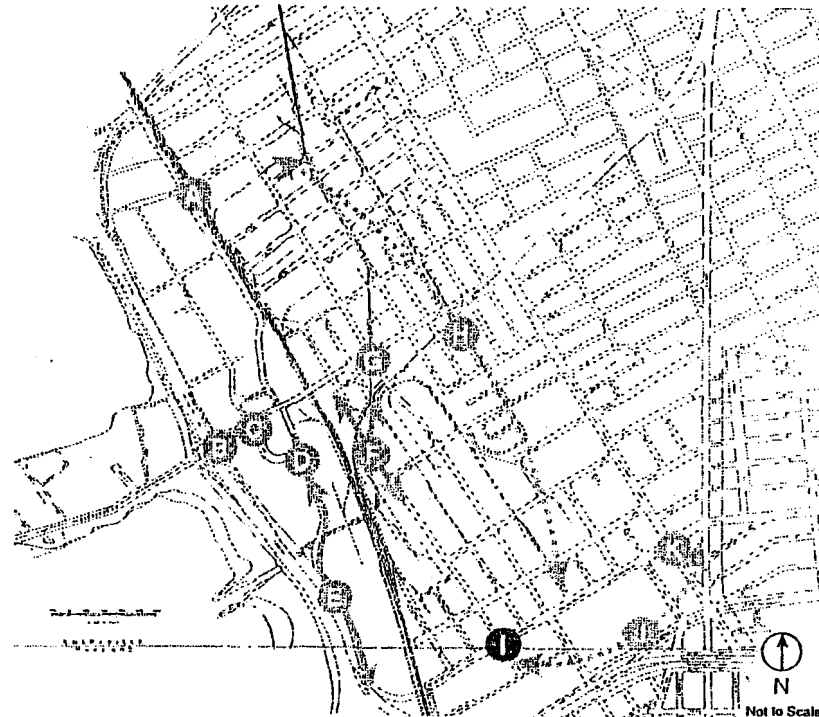
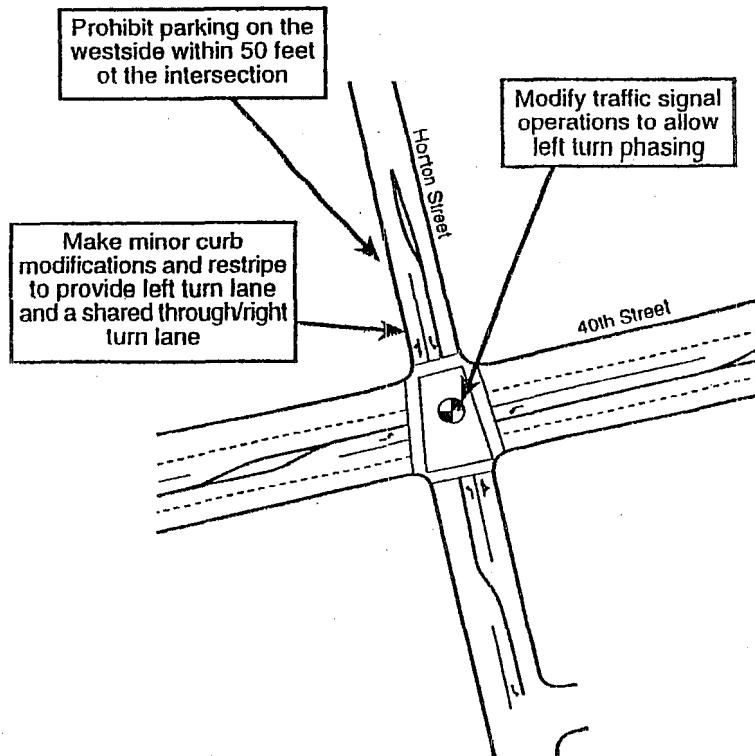


Figure I 1220-34-02	40TH STREET AND HORTON STREET INTERSECTION MODIFICATIONS	
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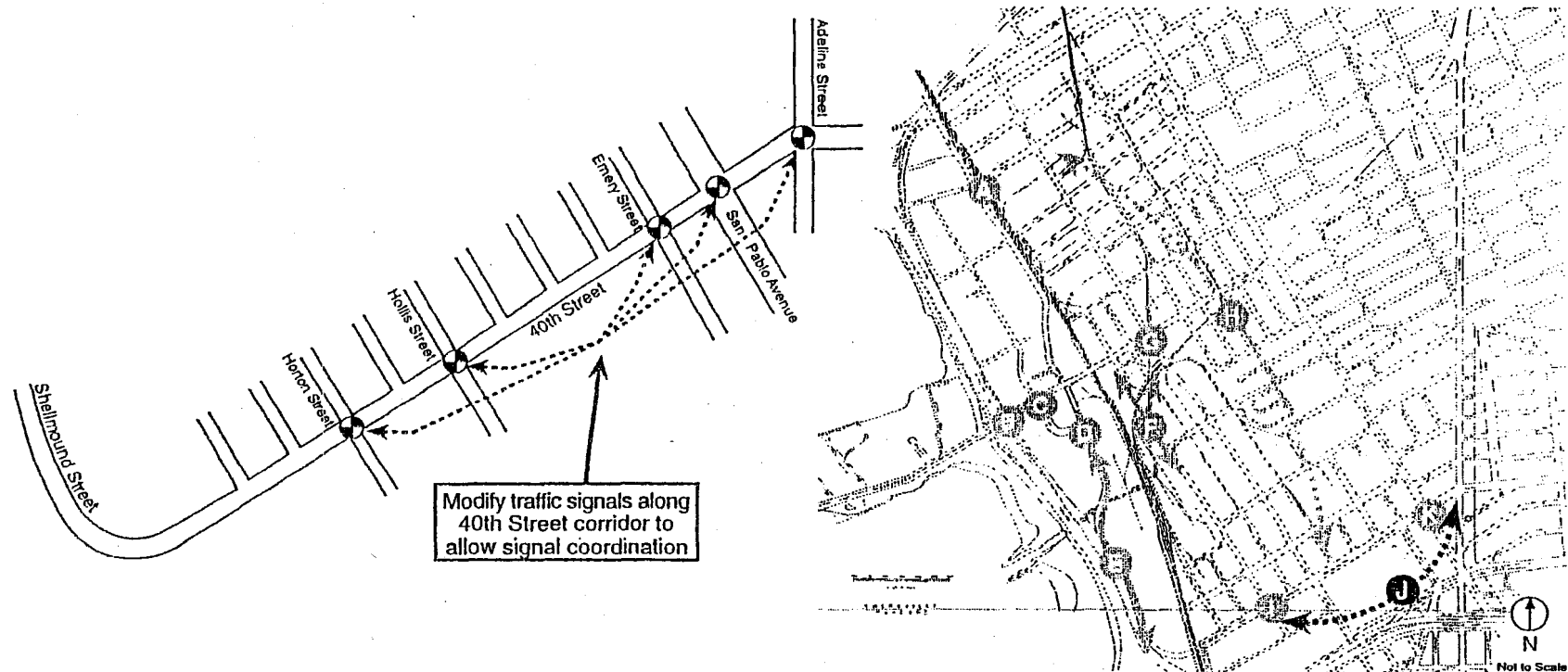


Figure J

1220-33-02

**40TH STREET
SIGNAL COORDINATION**



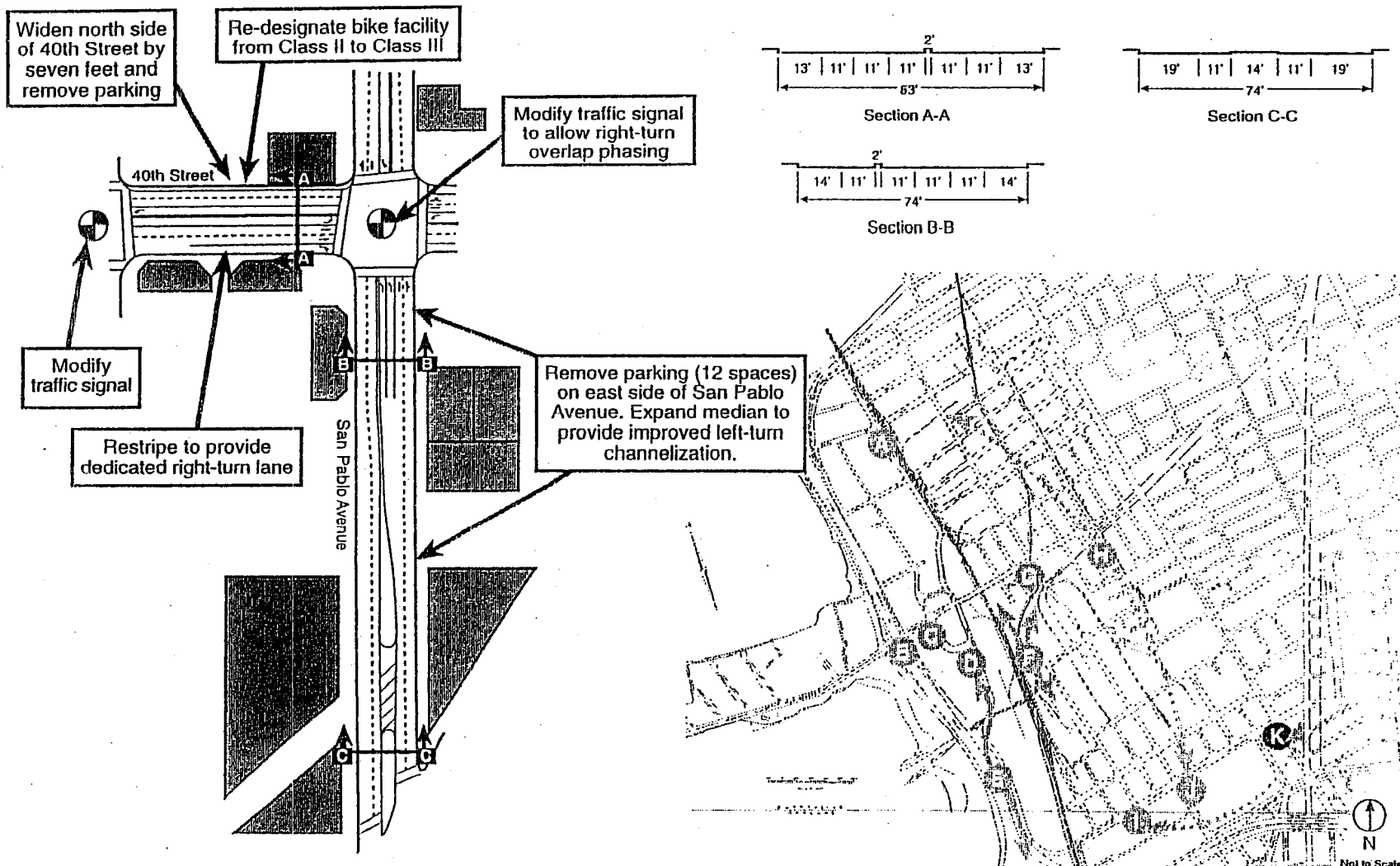


Figure K

1220-28-03

**40TH STREET AND SAN PABLO AVENUE
INTERSECTION MODIFICATIONS**

