

**VILLAGE OF DOWNERS GROVE  
REPORT FOR THE VILLAGE COUNCIL MEETING  
FEBRUARY 20, 2007 AGENDA**

<b>SUBJECT:</b>	<b>TYPE:</b>	<b>SUBMITTED BY:</b>
Final Plat of Subdivision for Butterfield Square Subdivision	<input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Motion <input type="checkbox"/> Discussion Only	Don Scheidler Interim Community Development Director

**SYNOPSIS**

A resolution for a final plat of subdivision, and an ordinance for the final planned development with a variation from code for shared parking facilities have been prepared for the Butterfield Square Subdivision located at 1013-1021 Butterfield Road.

**FISCAL IMPACT**

N/A.

**UPDATE AND RECOMMENDATION**

Due to weather, the Village Council did not discuss this item as a part of the February, 13, 2007, Council Workshop meeting. Public comments were heard on February 13, 2007.

Therefore, it is recommended that the Village Council approve a single motion at the start of the February 20, 2007, Village Council meeting to waive the traditional one-week waiting period to allow for action on appropriate items.

Subject to approval of the motion to waive the traditional one-week waiting period, staff recommends Council discuss this item and proceed with approval, provided there is consensus for support of this item.

**BACKGROUND**

The property is located on the south side of Butterfield Road approximately 390 feet west of Highland Avenue. The property is zoned B-3 General Services and Highway Business and is surrounded by commercial uses on the east, west, and north, and the I-88 tollway on the south.

The site is improved with two attached buildings; a two-story Home Expo Design Center and a vacant two-story commercial building (former John M. Smith Homemakers furniture store). The petitioner is requesting a creation of a new planned development and a subdivision of the existing property into two lots; Lot 1 would contain the Home Expo Design Center, and Lot 2 would contain the existing vacant building. Creation of the new planned development will allow the Village control over the shared parking agreement, and will preserve the property's full compliance with the Zoning Ordinance. The development is summarized in the table below:

Zoning Requirements	Required	Butterfield Square Subdivision Planned Development	
		Lot1	Lot2
Classification	N/A	B-3 General Services and Highway Business	B-3 General Services and Highway Business
Lot Size	N/A	224,635 sq. ft. (5.15 acres)	92,504 sq. ft. (2.12 acres)
Existing Building	N/A	97,209 sq. ft.	91,304 sq. ft.
FAR	.75	.59	
Open Space	15%	48,160 sq. ft. (15 .18%)	

The petitioner is requesting a variation from the Zoning Ordinance's off-street parking requirements to allow for shared parking facilities. The petitioner is currently leasing the NICOR gas property located immediately to the south of the subject property and utilizing it as off-site parking facility. The petitioner is requesting approval of the shared parking agreement between Lot 1, Lot 2 and Nicor Gas Lot. The agreement will create an unrestricted access easement to the subsequent owners of newly created Lot 1 and Lot 2 for parking use, maintenance and repair of the parking lots. The parking requirements are summarized below:

Off-Street Parking Requirements	Required	Provided
Lot 1 - Home EXPO Design Center - 97,209 sq. ft. 1 space per 600 square feet	163	279
Lot 2 - vacant commercial - 91,304 sq. ft. 1 space per 300 square feet	305	44
NICOR Gas Lot	N/A	146
<b>Total</b>	<b>468</b>	<b>469</b>

The Plan Commission held a public hearing on January 8, 2007 to discuss this petition. No public comments were received at the hearing. The Commission recommended approval of the petition with a vote of 6:1. Commissioner Beggs voted against the approval of the petition stating concerns regarding the lack of specific information about the future use and tenants of the vacant building and their specific parking requirements. Staff concurs with the Commission's recommendation.

#### **ATTACHMENTS**

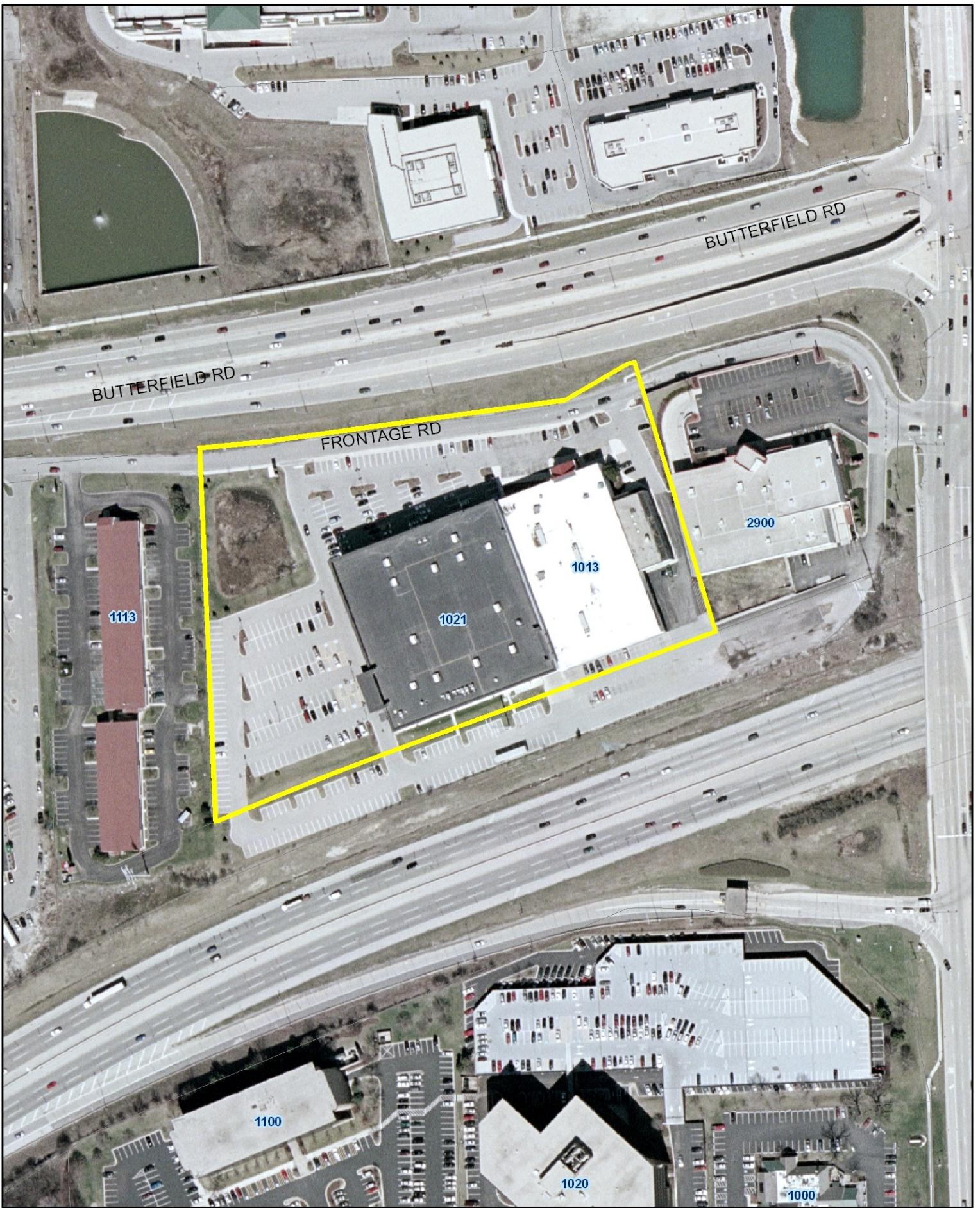
Aerial Map

Resolution

Ordinance

Staff Report, with attachments, dated January 8, 2007

Draft Minutes of Plan Commission Public Hearing dated January 8, 2007



BUTTERFIELD RD

BUTTERFIELD RD

FRONTAGE RD

1113

1013

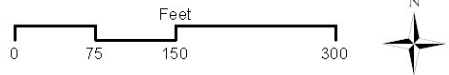
1021

2900

1100

1020

1000



**1013-1021 Butterfield Road**

**VILLAGE OF DOWNERS GROVE**  
**COUNCIL ACTION SUMMARY**

**INITIATED:** \_\_\_\_\_ Applicant \_\_\_\_\_ **DATE:** February 20, 2006 \_\_\_\_\_

**RECOMMENDATION FROM:** \_\_\_\_\_ Plan Commission \_\_\_\_\_ **FILE REF:** PC-02-07 \_\_\_\_\_

**NATURE OF ACTION:**

**STEPS NEEDED TO IMPLEMENT ACTION:**

RESOLUTION

Motion to adopt "A RESOLUTION APPROVING THE FINAL PLAT OF SUBDIVISION FOR THE BUTTERFIELD SQUARE SUBDIVISION", as presented.

**SUMMARY OF ITEM:**

At their meeting of January 8, 2007, the Plan Commission recommended approval of the Final Plat of subdivision for the Butterfield Square Subdivision.

**RECORD OF ACTION TAKEN:**

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**RESOLUTION \_\_\_\_\_**

**A RESOLUTION APPROVING THE FINAL PLAT OF SUBDIVISION FOR THE BUTTERFIELD SQUARE SUBDIVISION**

WHEREAS, application has been made pursuant to the provisions of Chapter 20 of the Downers Grove Municipal Code for Final Plat of Subdivision approval for the Butterfield Square Subdivision, located on the South side of Butterfield Road approximately 390 feet West of Highland Avenue, Downers Grove, Illinois, legally described as follows:

That part of the West Half of the Southwest Quarter of Section 29, Township 39 North, Range 11, East of the Third Principal Meridian, described as follows:

Commencing at the Southeast corner of the West Half of the Southwest Quarter of Section 29; thence northerly along the East line of the West Half of the Southwest Quarter of said Section 29, a distance of 1040.40 feet; thence southwesterly at an angle of 108 degrees 09 minutes 00 seconds to the left of the last described course extended, a distance of 105.24 feet; thence northerly along the westerly line of the Northern Illinois Toll Highway parcel E-2-47.2 according to Document No. 831963, being 100.00 feet westerly from and parallel to the East line of the West Half of the Southwest Quarter of said Section 29, a distance of 86.82 feet; thence southwesterly at an angle of 108 degrees 09 minutes 00 seconds to the left of the last described course extended, along the northerly line of Lot 5 of the Northern Illinois Gas Company, York Township Assessment Plat No. 1, according to Document No. R64-28042, a distance of 279.20 feet for a point of beginning; thence continuing southwesterly along said northerly line of Lot 5, a distance of 516.02 feet to a point on a curve; thence continuing southwesterly along said northerly line of Lot 5, being a curve to the left and having a radius of 4027.22 feet, a distance of 267.20 feet to a point on a curve; thence northerly along a line parallel to the West line of said Section 29, a distance of 543.26 feet to a point on the original South right of way line of Butterfield Road; thence northeasterly along the said original South right of way line of Butterfield Road, a distance of 93.20 feet; thence South at right angles thereto a distance of 20 feet to a point 120 feet South of the center line of Butterfield Road; thence northeasterly along South right of way line of Butterfield Road as established in Parcel 0001 of Quick-Take Case Number C68-852 at an angle of 2 degrees 18 minutes to the left of the last described course extended, a distance of 443.37 feet to a point 140 feet South of the center line of Butterfield Road; thence continuing northeasterly along said South right of way line of Butterfield Road at an angle of 18 degrees 06 minutes to the left of the last described course extended, a distance of 104.42 feet to a point on a curve, thence continuing northeasterly along said South right of way line of Butterfield Road, being a curve concentric with and 115 feet South of the center line of Butterfield Road and having a radius of 9406.2 feet, a distance of 10.33 feet; thence southeasterly along a line at an interior angle of 94 degrees 26 minutes 29 seconds with the chord of the last described curve, a distance of 400.06 feet to the point of beginning, (excepting that part taken for Butterfield Road in Quick-Take Case Number C68-852), in DuPage County, Illinois

Commonly known as 1013 & 1021 Butterfield Road, Downers Grove, IL (PIN 06-29-302-006)

WHEREAS, notice has been given and hearing held on January 8, 2007 regarding this plat application pursuant to the requirements of the Downers Grove Municipal Code; and,

WHEREAS, the Plan Commission has recommended approval of the Final Plat of Subdivision for the Butterfield Square Subdivision as requested, subject to certain conditions.

NOW, THEREFORE, BE IT RESOLVED by the Village Council of the Village of Downers Grove that the Final Plat of Subdivision for the Butterfield Square Subdivision, be and is hereby approved subject to the

following conditions:

1. The subdivision shall substantially conform to the plans prepared by Woolpert, Inc. dated August 8, 2006, last revised October 31, 2006, attached hereto as Group Exhibit A, except as such plans may be modified to conform to Village Codes and Ordinances and the following terms and conditions:
  - a. Prior to the issuance of construction permits, the petitioner shall record the signed plat and return three (3) copies to the Community Development Department.
  - b. The petitioner shall submit a copy of the final executed Agreement granting access and parking easements to each Lot and providing for the maintenance and expense required of and remedies

BE IT FURTHER RESOLVED, that the Mayor and Village Clerk are authorized to sign the final plat.

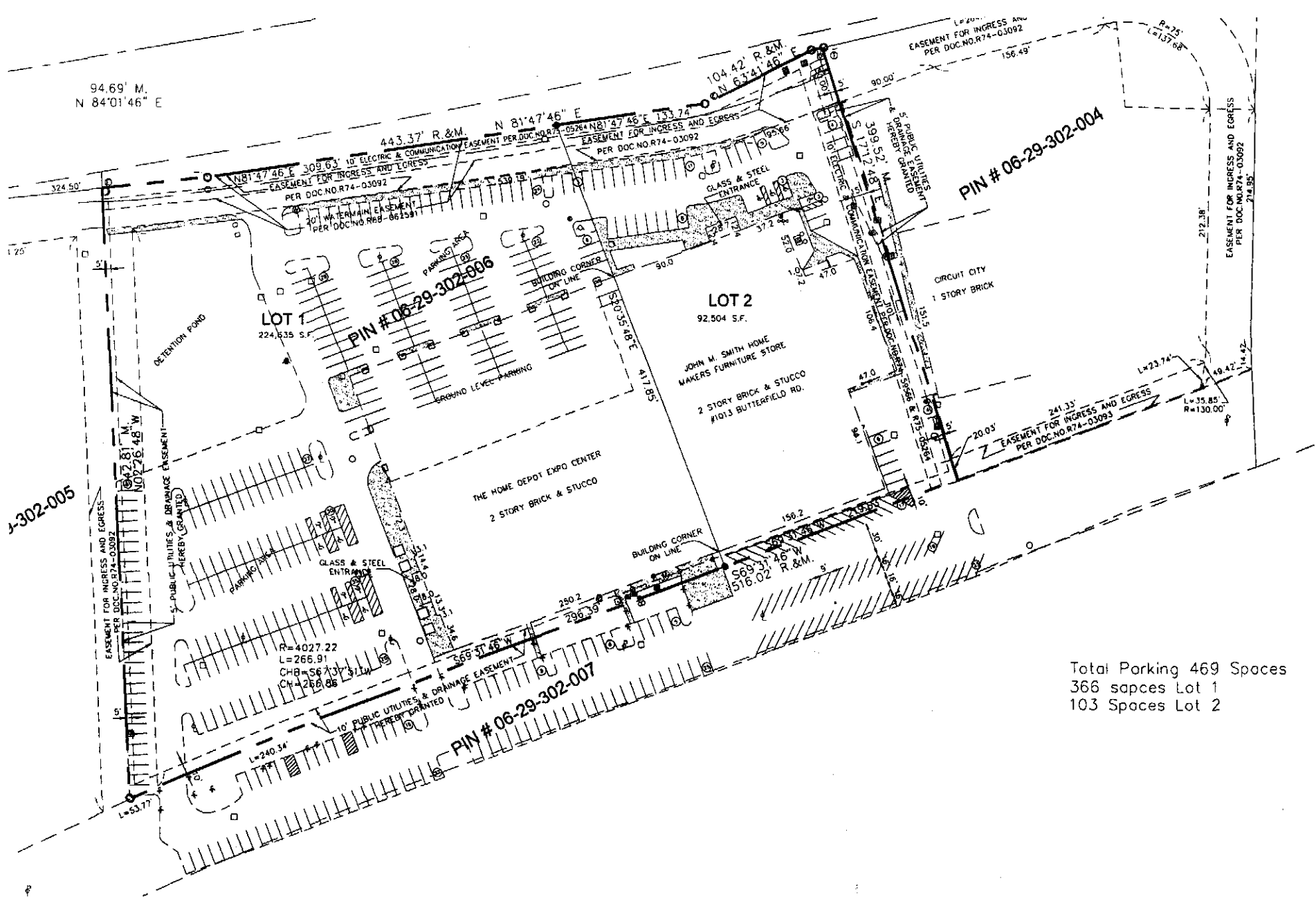
BE IT FURTHER RESOLVED, that this resolution shall be in full force and effect from and after its adoption in the manner provided by law.

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Mayor

Passed:

Attest: \_\_\_\_\_  
Village Clerk



94.69' M.  
N 84°01'46" E

PIN # 06-29-302-004

LOT 1  
224,635 S.F.

LOT 2  
92,504 S.F.

JOHN M. SMITH HOME  
MAKERS FURNITURE STORE  
2 STORY BRICK & STUCCO  
11013 BUTTERFIELD RD.

THE HOME DEPOT EXPO CENTER  
2 STORY BRICK & STUCCO

CIRCUIT CITY  
1 STORY BRICK

3-302-005

R=4027.22  
L=266.91  
CH=567.37  
C=268.86

PIN # 06-29-302-007

Total Parking 469 Spaces  
366 spaces Lot 1  
103 Spaces Lot 2

FINAL PLAT OF BUTTERFIELD SQUARE SUBDIVISION

A PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

WOOLPERT, INC. 1815 South Meyers Road, Suite 120 Oakbrook Terrace, IL 60181 PH: 630.424.9080 FAX: 630.495.3731

OWNER'S CERTIFICATE

STATE OF ILLINOIS ) COUNTY OF DU PAGE ) S.S.

THIS IS TO CERTIFY THAT THE UNDERSIGNED IS(AM) THE OWNER(S) OF THE LAND DESCRIBED HEREON, AND HAS(HAVE) CAUSED THE SAME TO BE SURVEYED AND PLATTED AS SHOWN BY THE PLAT FOR THE USES AND PURPOSES AS INDICATED HEREIN, AND DOES(DO) HEREBY ACKNOWLEDGE AND ADOPT THE SAME UNDER THE STYLE AND TITLE HEREON INDICATED.

ALSO, THIS IS TO CERTIFY THAT THE PROPERTY BEING SUBDIVIDED AFORESAID, AND TO THE BEST OF OWNER'S KNOWLEDGE AND BELIEF, SAID SUBDIVISION LIES ENTIRELY WITHIN THE LIMITS OF SCHOOL DISTRICT(S) \_\_\_\_\_

DATED AT \_\_\_\_\_ ILLINOIS, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 20\_\_\_\_

OWNER \_\_\_\_\_

NOTARY CERTIFICATE

STATE OF ILLINOIS ) COUNTY OF DU PAGE ) S.S.

I HEREBY CERTIFY THAT PERSON(S) WHOSE NAME(S) IS(ARE) SUBSCRIBED TO THE FOREGOING CERTIFICATE IS(ARE) KNOWN TO ME AS SUCH OWNER(S) GIVEN UNDER MY HAND AND NOTARIAL SEAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_\_\_

NOTARY PUBLIC

MY COMMISSION EXPIRES ON \_\_\_\_\_

MORTGAGEE'S CERTIFICATE

STATE OF ILLINOIS ) COUNTY OF DU PAGE ) S.S.

THIS IS TO CERTIFY THAT I HEREBY CONSENT TO RECORDING OF THE PLAT AS TITLED HEREON SHOWN.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_

BY: \_\_\_\_\_

NOTARY CERTIFICATE

STATE OF ILLINOIS ) COUNTY OF DU PAGE ) S.S.

I, A NOTARY PUBLIC IN AND FOR THE COUNTY AND STATE AFORESAID, DO HEREBY CERTIFY THAT \_\_\_\_\_ AND \_\_\_\_\_ (S) PERSONALLY KNOWN TO ME TO BE THE SAME PERSON(S), WHOSE NAME(S) IS(ARE) SUBSCRIBED TO THE FOREGOING INSTRUMENT, AS OWNER(S), APPEARED BEFORE ME THIS DAY IN PERSON AND ACKNOWLEDGED THAT THEY (HE/SHE) SIGNED AND DELIVERED THE SAID INSTRUMENT AS THEIR (HIS/HER) OWN FREE AND VOLUNTARY ACT, FOR THE USES AND PURPOSES HEREIN SET FORTH.

GIVEN UNDER MY HAND AND NOTARIAL SEAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_\_\_

NOTARY PUBLIC

MY COMMISSION EXPIRES ON \_\_\_\_\_

DUPAGE COUNTY CLERK'S CERTIFICATE

STATE OF ILLINOIS ) COUNTY OF DU PAGE ) S.S.

DO HEREBY CERTIFY THAT THERE ARE NO DELINQUENT GENERAL TAXES, NO UNPAID CURRENT TAXES, NO UNPAID FORFEITED TAXES, AND NO REDEMPTIBLE TAX SALES AGAINST ANY OF THE LOTS INCLUDED IN THE ANNEXED PLAT.

FURTHER CERTIFY THAT I HAVE RECEIVED ALL STATUTORY FEES IN CONNECTION WITH THE ANNEXED PLAT.

GIVEN UNDER MY HAND AND SEAL OF THE COUNTY CLERK AT WHEATON, ILLINOIS, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 20\_\_\_\_

COUNTY CLERK \_\_\_\_\_

VILLAGE COUNCIL CERTIFICATE

STATE OF ILLINOIS ) COUNTY OF DU PAGE ) S.S.

APPROVED AND ACCEPTED BY THE COUNCIL OF THE VILLAGE OF DOWNERS GROVE, DUPAGE COUNTY, ILLINOIS, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_\_\_

MAYOR \_\_\_\_\_ VILLAGE CLERK \_\_\_\_\_

VILLAGE COLLECTOR CERTIFICATE

STATE OF ILLINOIS ) COUNTY OF DU PAGE ) S.S.

I, \_\_\_\_\_ COLLECTOR FOR THE VILLAGE OF DOWNERS GROVE, DUPAGE COUNTY, ILLINOIS, DO HEREBY CERTIFY THAT THERE ARE NO DELINQUENT OR UNPAID CURRENT OR FORFEITED SPECIAL ASSESSMENTS OR ANY DEFERRED INSTALLMENTS THEREOF THAT HAVE BEEN APPORTIONED AGAINST THE TRACT OF LAND INCLUDED IN THE PLAT.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_\_\_

VILLAGE COLLECTOR \_\_\_\_\_

DOWNERS GROVE SANITARY DISTRICT CERTIFICATE

STATE OF ILLINOIS ) COUNTY OF DU PAGE ) S.S.

I, \_\_\_\_\_ COLLECTOR FOR THE VILLAGE OF DOWNERS GROVE SANITARY DISTRICT, DO HEREBY CERTIFY THAT THERE ARE NO DELINQUENT OR UNPAID CURRENT OR FORFEITED SPECIAL ASSESSMENTS OR ANY DEFERRED INSTALLMENTS THEREOF THAT HAVE BEEN APPORTIONED AGAINST THE TRACT OF LAND INCLUDED IN THE PLAT.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_\_\_

DISTRICT OFFICER \_\_\_\_\_

PLAN COMMISSION CERTIFICATE

STATE OF ILLINOIS ) COUNTY OF DU PAGE ) S.S.

APPROVED AND ACCEPTED BY THE PLAN COMMISSION OF THE VILLAGE OF DOWNERS GROVE, DUPAGE COUNTY, ILLINOIS, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_\_\_

CHAIRMAN \_\_\_\_\_

DUPAGE COUNTY RECORDER'S CERTIFICATE

STATE OF ILLINOIS ) COUNTY OF DU PAGE ) S.S.

THIS INSTRUMENT \_\_\_\_\_ WAS FILED FOR RECORD IN THE RECORDER'S OFFICE OF DUPAGE COUNTY, ILLINOIS ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 20\_\_\_\_ AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M. AND WAS RECORDED IN BOOK \_\_\_\_\_ OF PLAT'S ON PAGE \_\_\_\_\_

RECORDER OF DEEDS \_\_\_\_\_

PUBLIC UTILITY AND DRAINAGE EASEMENT PROVISIONS

EASEMENTS ARE HEREBY RESERVED FOR AND GRANTED TO THE VILLAGE OF DOWNERS GROVE, ILLINOIS AND TO THOSE PUBLIC UTILITY COMPANIES OPERATING UNDER FRANCHISE FROM THE VILLAGE OF DOWNERS GROVE, INCLUDING BUT NOT LIMITED TO, ILLINOIS BELL TELEPHONE COMPANY DBA SBC ILLINOIS, NORTHERN ILLINOIS GAS COMPANY AND THEIR SUCCESSORS AND ASSIGNS, OVER ALL OF THE AREAS MARKED "PUBLIC UTILITIES & DRAINAGE EASEMENTS" OR (P.U. & D.E.) ON THE PLAT FOR THE PERPETUAL RIGHT, PRIVILEGE AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, CONSTRUCT, INSPECT, MAINTAIN AND OPERATE VARIOUS UTILITY TRANSMISSIONS AND DISTRIBUTION SYSTEMS, COMMUNITY ANTENNA TELEVISION SYSTEMS AND INCLUDING STORM AND/OR SANITARY SEWERS, TOGETHER WITH ANY AND ALL NECESSARY MANHOLES, CATCH BASINS, CONNECTIONS, APPLIANCES AND OTHER STRUCTURES AND APPURTENANCES AS MAY BE DEEMED NECESSARY BY SAID VILLAGE, OVER, UPON, ALONG, UNDER AND THROUGH SAID INDICATED EASEMENTS, TOGETHER WITH RIGHT OF ACCESS ACROSS THE PROPERTY FOR NECESSARY MEN AND EQUIPMENT TO DO ANY OF THE ABOVE WORK. THE RIGHT IS ALSO GRANTED TO CUT DOWN, TRIM OR REMOVE ANY TREES, SHRUBS OR OTHER PLANTS ON THE EASEMENTS THAT INTERFERE WITH THE OPERATION OF THE SEWERS OR OTHER UTILITIES. NO PERMANENT BUILDINGS SHALL BE PLACED ON SAID EASEMENTS, BUT SAME MAY BE USED FOR GARAGES, SHEDS, SANITARY AND OTHER PURPOSES THAT DO NOT TRIVIA OR LATER INTERFERE WITH THE AFORESAID USES OR RIGHTS. WHERE AN EASEMENT IS USED BOTH FOR SEWERS AND OTHER UTILITIES, THE OTHER UTILITY INSTALLATION SHALL BE SUBJECT TO THE ORDINANCES OF THE VILLAGE OF DOWNERS GROVE.

EASEMENTS ARE HEREBY RESERVED AND GRANTED TO THE VILLAGE OF DOWNERS GROVE AND OTHER GOVERNMENTAL AUTHORITIES HAVING JURISDICTION OF THE LAND SURVEYED HEREBY, OVER THE ENTIRE EASEMENT AREA FOR UTILITIES, EGRESS AND THE PERFORMANCE OF MUNICIPAL AND OTHER GOVERNMENTAL SERVICES, INCLUDING WATER, STORM AND SANITARY SEWER SERVICE AND MAINTENANCE.

EASEMENT PROVISIONS

A NON-EXCLUSIVE EASEMENT FOR SERVING THE SUBDIVISION AND OTHER PROPERTY WITH ELECTRIC AND COMMUNICATIONS SERVICE IS HEREBY RESERVED FOR AND GRANTED TO COMMONWEALTH EDISON COMPANY AND SBC ILLINOIS AND ILLINOIS BELL TELEPHONE COMPANY, GRANTEEES.

THEIR RESPECTIVE LICENSEES, SUCCESSORS AND ASSIGNS, JOINTLY AND SEVERALLY, TO CONSTRUCT, OPERATE, REPAIR, MAINTAIN, MODIFY, RECONSTRUCT, REPLACE, SUPPLEMENT, RELOCATE AND REMOVE, FROM TIME TO TIME, POLES, GUYS, ANCHORS, WIRES, CABLES, CONDUITS, MANHOLES, TRANSFORMERS, PEDESTALS, EQUIPMENT CABINETS OR OTHER FACILITIES USED IN CONNECTION WITH OVERHEAD AND UNDERGROUND TRANSMISSION AND DISTRIBUTION OF ELECTRICITY, COMMUNICATIONS, SIGNALS AND SIGNALS IN, OVER, UNDER, ACROSS, ALONG AND UPON THE SURFACE OF THE PROPERTY SHOWN WITHIN THE EASEMENT OR DOTTED LINES (OR SIMILAR DESIGNATION) ON THE PLAT AND MARKED "EASEMENT", "UTILITY EASEMENT", "PUBLIC UTILITY EASEMENT", "P.U.E." (OR SIMILAR DESIGNATION), THE PROPERTY DESIGNATED IN THE DECLARATION OF CONDOMINIUM AND/OR ON THIS PLAT AS "COMMON ELEMENTS", AND THE PROPERTY DESIGNATED ON THE PLAT FOR STREETS AND ALLEYS, WHETHER PUBLIC OR PRIVATE, TOGETHER WITH THE RIGHT TO INSTALL NECESSARY SERVICE CONNECTIONS OVER OR UNDER THE SURFACE OF EACH LOT AND COMMON AREA OR AREAS TO SERVE IMPROVEMENTS THEREIN, OR ON ADJACENT LOTS, AND COMMON AREA OR AREAS, THE RIGHT TO CUT, TRIM OR REMOVE TREES, BUSHES, ROOTS AND SPRINGS AND TO CLEAR OBSTRUCTIONS FROM THE SURFACE AND SUBSURFACE AS MAY BE REASONABLY REQUIRED INCIDENT TO THE RIGHTS HEREIN GIVEN, AND THE RIGHT TO ENTER UPON THE SUBDIVIDED PROPERTY FOR ALL SUCH PURPOSES. OBSTRUCTIONS SHALL NOT BE PLACED OVER GRASSES FACILITIES OR IN, UPON OR OVER THE PROPERTY WITHIN THE DOTTED LINES (OR SIMILAR DESIGNATION) MARKED "EASEMENT", "UTILITY EASEMENT", "PUBLIC UTILITY EASEMENT", "P.U.E." (OR SIMILAR DESIGNATION) WITHIN THE PRIOR WRITTEN CONSENT OF GRANTEEES. AFTER INSTALLATION OF ANY SUCH FACILITIES, THE GRADE OF THE SUBDIVIDED PROPERTY SHALL NOT BE ALTERED IN A MANNER SO AS TO INTERFERE WITH THE PROPER OPERATION AND MAINTENANCE THEREOF.

THE TERM "COMMON ELEMENTS" SHALL HAVE THE MEANING SET FORTH FOR SUCH TERM IN THE "CONDOMINIUM PROPERTY ACT", CHAPTER 765, L.C.S. 605/2, AS AMENDED FROM TIME TO TIME.

THE TERM "COMMON AREA OR AREAS" IS DEFINED AS A LOT, PARCEL, OR AREA OF REAL PROPERTY, THE BENEFICIAL USE AND ENJOYMENT OF WHICH IS RESERVED IN WHOLE OR AS AN APPLICABLE PORTION TO THE SIMILARLY OWNED LOTS, PARCELS OR AREAS WITHIN THE PLANNED DEVELOPMENT, EVEN THOUGH SUCH BE OTHERWISE DESIGNATED ON THE PLAT BY TERMS SUCH AS "OUTLOTS", "COMMON ELEMENTS", "OPEN SPACES", "OPEN AREA", "COMMON GROUND", "PARKING" AND "COMMON AREA" THE TERMS "COMMON AREA OR AREAS" AND "COMMON ELEMENTS" INCLUDE REAL PROPERTY SURFACED WITH INTERIOR DRIVEWAYS AND WALKWAYS, BUT EXCLUDES REAL PROPERTY PHYSICALLY OCCUPIED BY A BUILDING, SERVICE BUSINESS DISTRICT OR STRUCTURES SUCH AS A POOL, RECREATION POOL OR MECHANICAL EQUIPMENT.

RELOCATION OF FACILITIES WILL BE DONE BY GRANTEEES AT COST OF GRANTEEES/OWNER UPON WRITTEN REQUEST. OBLIGATION WITH RESPECT TO SURFACE RESTORATION, INCLUDING BUT NOT LIMITED TO THE RESTORATION, REPAIR OR REPLACEMENT OF PAVEMENT, CURB, CUTTERS, TREES, LAWN OR SHALLOWS, PROVIDED, HOWEVER, THAT SAID COSTS SHALL BE INCURRED FOLLOWING SURFACE MAINTENANCE WORK, TO BACKFILL AND MOUND ALL TRENCH CHANNELS SO AS TO RETAIN SURFACE DRAINAGE, TO FILL WITH ANY ASPHALT OR CONCRETE SURFACE, TO REMOVE ALL EXCESS DEBRIS AND SPILL, AND TO LEAVE THE MAINTENANCE AREA IN A GENERALLY CLEAN AND WORKMANLIKE CONDITION.

SURVEYOR'S CERTIFICATE:

STATE OF ILLINOIS ) COUNTY OF DU PAGE ) S.S.

I, STEPHEN R. KREGER, ILLINOIS PROFESSIONAL LAND SURVEYOR NUMBER 35-002985, DO HEREBY CERTIFY THAT AT THE REQUEST OF THE OWNER THEREOF, I HAVE SURVEYED AND SUBDIVIDED THE FOLLOWING DESCRIBED PROPERTY:

THAT PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS COMMENCING AT THE SOUTHEAST CORNER OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 29; THENCE NORTHERLY ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 1046.40 FEET; THENCE SOUTHWESTERLY AT AN ANGLE OF 108 DEGREES 09 MINUTES 00 SECONDS TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 105.24 FEET; THENCE NORTHERLY ALONG THE WESTERLY LINE OF THE NORTHERN ILLINOIS TOLL HIGHWAY PARALLEL TO THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 86.82 FEET; THENCE SOUTHWESTERLY AT AN ANGLE OF 108 DEGREES 09 MINUTES 00 SECONDS TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED ALONG THE NORTHERLY LINE OF LOT 5 OF THE NORTHERN ILLINOIS GAS COMPANY, YORK TOWNSHIP ASSESSMENT PLAT NO. 1, ACCORDING TO DOCUMENT NO. 64-28042, A DISTANCE OF 279.20 FEET TO A POINT OF BEGINNING; THENCE CONTINUING SOUTHWESTERLY ALONG SAID NORTHERLY LINE OF LOT 5, A DISTANCE OF 516.02 FEET TO A POINT ON A CURVE, THENCE CONTINUING SOUTHWESTERLY ALONG SAID NORTHERLY LINE OF LOT 5, BEING A CURVE TO THE LEFT AND HAVING A RADIUS OF 432.72 FEET AT A DISTANCE OF 267.20 FEET TO A POINT ON A CURVE, THENCE NORTHERLY ALONG A LINE PARALLEL TO THE WEST LINE OF SAID SECTION 29, A DISTANCE OF 543.26 FEET TO A POINT ON THE ORIGINAL SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD; THENCE NORTHEASTERLY ALONG THE SAID ORIGINAL SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD AS ESTABLISHED IN PARCEL 0001 OF QUICK-TAKE CASE NUMBER CRR-852 AT AN ANGLE OF 2 DEGREES 16 MINUTES TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 443.37 FEET TO A POINT 140 FEET SOUTH OF THE CENTER LINE OF BUTTERFIELD ROAD; THENCE NORTHEASTERLY ALONG SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD AS ESTABLISHED IN PARCEL 0001 OF QUICK-TAKE CASE NUMBER CRR-852 AT AN ANGLE OF 2 DEGREES 16 MINUTES TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 104.42 FEET TO A POINT ON A CURVE, THENCE CONTINUING NORTHEASTERLY ALONG SAID SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD, BEING A CURVE CONCENTRIC WITH AND 115 FEET SOUTH OF THE CENTER LINE OF BUTTERFIELD ROAD AND HAVING A RADIUS OF 946.2 FEET, A DISTANCE OF 10.33 FEET; THENCE SOUTHEASTERLY ALONG A LINE AT AN ANGLE OF 2 DEGREES 28 MINUTES 29 SECONDS WITH THE CHORD OF THE JUST DESCRIBED CURVE, A DISTANCE OF 400.06 FEET TO THE POINT OF BEGINNING, EXCEPTING THAT PART TAKEN FOR BUTTERFIELD ROAD IN QUICK-TAKE CASE NUMBER CRR-852, IN DUPAGE COUNTY, ILLINOIS.

SUBDIVIDED PROPERTY CONTAINS 7.281 ACRES, MORE OR LESS, AND ALL DISTANCES ARE SHOWN IN FEET AND DECIMAL PARTS THEREOF.

36" DIAMETER BY 24" LONG IRON PIPES WILL BE SET AT ALL SUBDIVISION CORNERS, LOT CORNERS, POINTS OF CURVATURE AND POINTS OF TANGENCY IN COMPLIANCE WITH ILLINOIS STATUTES AND APPLICABLE ORDINANCES EXCEPT AS NOTED.

I FURTHER CERTIFY THAT THE PLAT HEREON DRAWN IS A CORRECT REPRESENTATION OF SAID SURVEY AND SUBDIVISION WHICH WAS PREPARED IN ACCORDANCE WITH PROVISIONS OF APPLICABLE ORDINANCES OF THE VILLAGE OF DOWNERS GROVE, ILLINOIS, TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT THE MONUMENTATION SHOWN ON THE FACE OF THIS PLAT HAS BEEN FOUND OR WILL BE PLACED IN THE GROUND AS INDICATED HEREON, AFTER THE COMPLETION OF THE CONSTRUCTION OF THE IMPROVEMENTS OR WITHIN 30 MONTHS AFTER RECEPTION OF THIS PLAT, WHICHEVER SHALL OCCUR FIRST.

I FURTHER CERTIFY THAT THE PROPERTY DESCRIBED AND SHOWN ON THIS PLAT HEREON DRAWN IS WITHIN THE CORPORATE LIMITS OF THE VILLAGE OF DOWNERS GROVE WHICH HAS ADOPTED A COMPREHENSIVE PLAN AND IS EXERCISING THE SPECIAL HOME AUTHORITY PROVIDED BY SECTION 12 OF ARTICLE 11 OF THE ILLINOIS MUNICIPAL CODE. THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.

I FURTHER CERTIFY THAT ACCORDING TO THE DUPAGE REGULATORY ILLUSTRATED MAP NUMBER 1704300070, PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY AND WITH AN EFFECTIVE DATE OF OCTOBER 19, 2005, THIS SITE APPEARS TO BE LOCATED IN ZONE "X" - AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH GRADUAL AREAS LESS THAN 1 SQUARE MILE; AREAS PROTECTED BY LEVELS FROM THE 1% ANNUAL CHANCE FLOOD; AREAS OF 0.2% ANNUAL CHANCE FLOOD - (NO SHADING); TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE SURVEYOR UTILIZED THE ABOVE REFERENCED MAP FOR HIS DETERMINATION. FURTHERMORE, THE SURVEYOR DOES NOT CERTIFY THAT RELEVANT FLOODPLAIN INFORMATION HAS NOT BEEN PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY OR SOME OTHER SOURCE.

GIVEN UNDER MY HAND AND SEAL, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_ A.D.

WOOLPERT, INC. STEPHEN R. KREGER ILLINOIS PROFESSIONAL LAND SURVEYOR #35-002985 STATE OF ILLINOIS LICENSE EXPIRES NOVEMBER 30, 2009

WOOLPERT, INC. ILLINOIS PROFESSIONAL DESIGN FIRM REGISTRATION NUMBER 084-001393

THIS PLAT HAS BEEN SUBMITTED FOR RECORDING BY AND RETURN TO: NAME: ADDRESS:



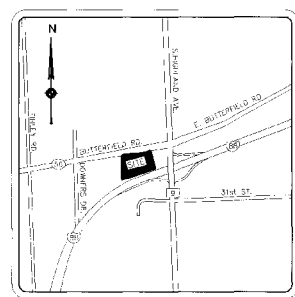
Table with 2 columns: DATE, REVISION. PER VILLAGE'S REQUIREMENTS

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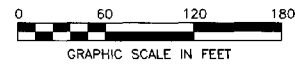
# FINAL PLAT OF BUTTERFIELD SQUARE SUBDIVISION

A PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF  
SECTION 29, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD  
PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

**WOOLPERT, INC.**  
1815 South Meyers Road,  
Suite 120  
Oakbrook Terrace, IL 60181  
PH: 630.424.9080  
FAX: 630.495.3731



**SITE MAP**  
NOT TO SCALE



**LEGAL DESCRIPTION:**

THAT PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:  
COMMENCING AT THE SOUTHWEST CORNER OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 29; THENCE NORTHERLY ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 1040.40 FEET; THENCE SOUTHWESTERLY AT AN ANGLE OF 108 DEGREES 09 MINUTES 00 SECONDS TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDING A DISTANCE OF 100.24 FEET; THENCE NORTHERLY ALONG THE WESTERLY LINE OF THE NORTHERN 1/2 OF SAID 1/4 SECTION PARCEL E-2-47.2 ACCORDING TO DOCUMENT NO. 831963, ZERO'S 100.00 FEET WESTERLY FROM AND PARALLEL TO THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 86.67 FEET; THENCE SOUTHWESTERLY AT AN ANGLE OF 108 DEGREES 09 MINUTES 00 SECONDS TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDING ALONG THE NORTHERLY LINE OF SAID 1/2 SECTION PARCEL E-2-47.2 (COMMON YORK TOWNSHIP ASSESSMENT PLAT NO. 1), ACCORDING TO DOCUMENT NO. 864-28042, A DISTANCE OF 219.20 FEET; OR A POINT OF BEGINNING; THENCE CONTINUING SOUTHWESTERLY ALONG SAID NORTHERLY LINE OF LOT 5, BEING A CURVE TO THE LEFT AND HAVING A RADIUS OF 427.27 FEET, A DISTANCE OF 272.20 FEET TO A POINT ON A CURVE; THENCE NORTHERLY ALONG A LINE PARALLEL TO THE WEST LINE OF SAID SECTION 29, A DISTANCE OF 943.26 FEET TO A POINT ON THE ORIGINAL SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD; THENCE NORTHEASTERLY ALONG SAID SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD, BEING A CURVE CONCENTRIC WITH AND 115 FEET SOUTH OF THE CENTERLINE OF BUTTERFIELD ROAD AND HAVING A RADIUS OF 940.2 FEET, A DISTANCE OF 403.35 FEET; THENCE SOUTHEASTERLY ALONG A LINE AT AN INTERIOR ANGLE OF 94 DEGREES 28 MINUTES 29 SECONDS WITH THE CENTER OF THE LAST DESCRIBED CURVE, A DISTANCE OF 400.06 FEET TO THE POINT OF BEGINNING, (EXCEPTING THEREFROM PART TAKEN FOR BUTTERFIELD ROAD IN QUICK TAKE CASE NUMBER 068-852, IN DUPAGE COUNTY, ILLINOIS.

**AREA SCHEDULE:**

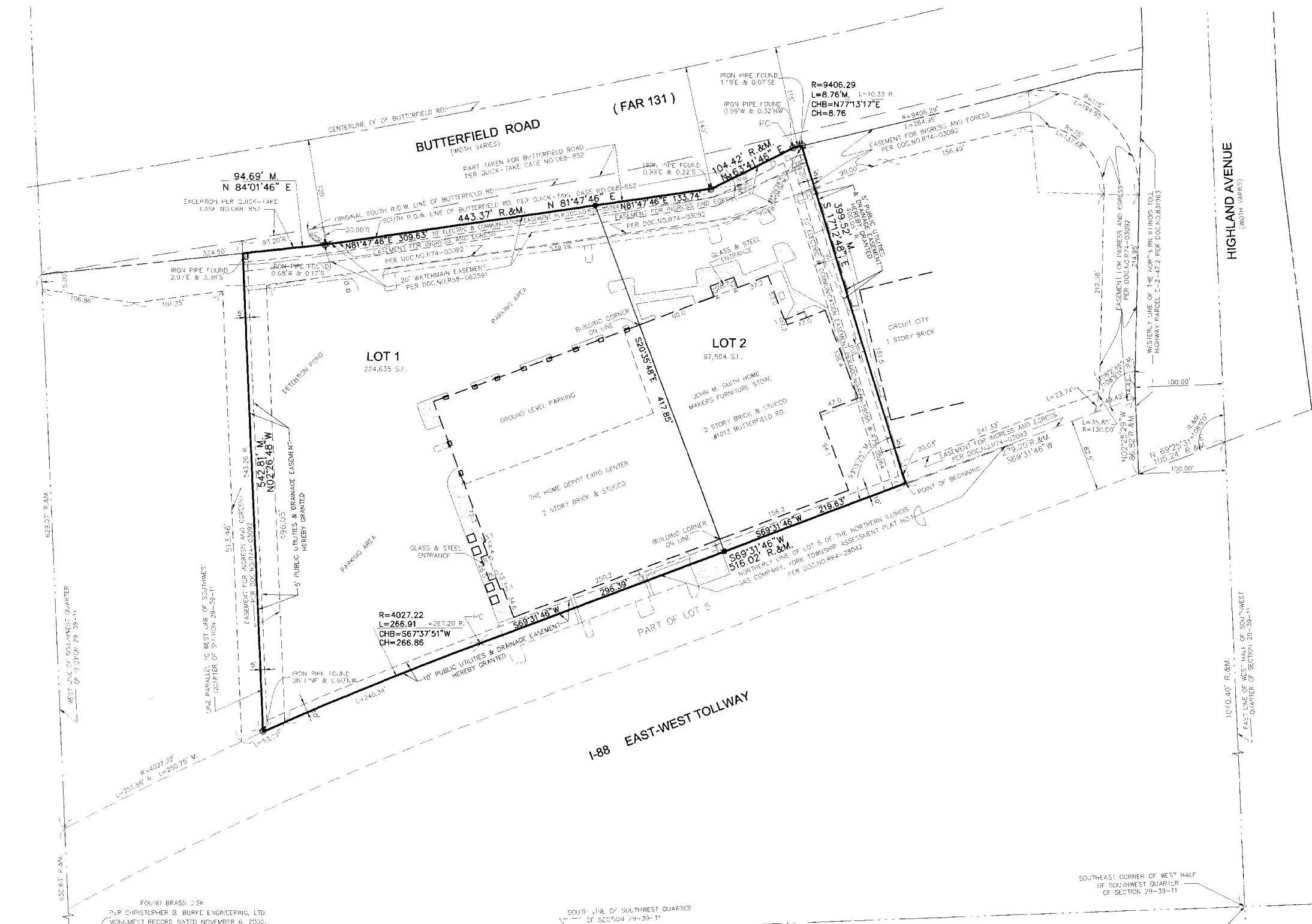
LOT 1	224,635 S.F. OR 5.157 ACRES (MORE OR LESS)
LOT 2	92,504 S.F. OR 2.124 ACRES (MORE OR LESS)
<b>TOTAL AREA:</b>	<b>317,139 S.F. OR 7.281 ACRES (MORE OR LESS)</b>

**LEGEND:**

- SET P.V. SPIKE IN ASPHALT
- FOUND BRASS PLUG
- FOUND IRON PIPE
- ⊕ FOUND CHISELED CROSS

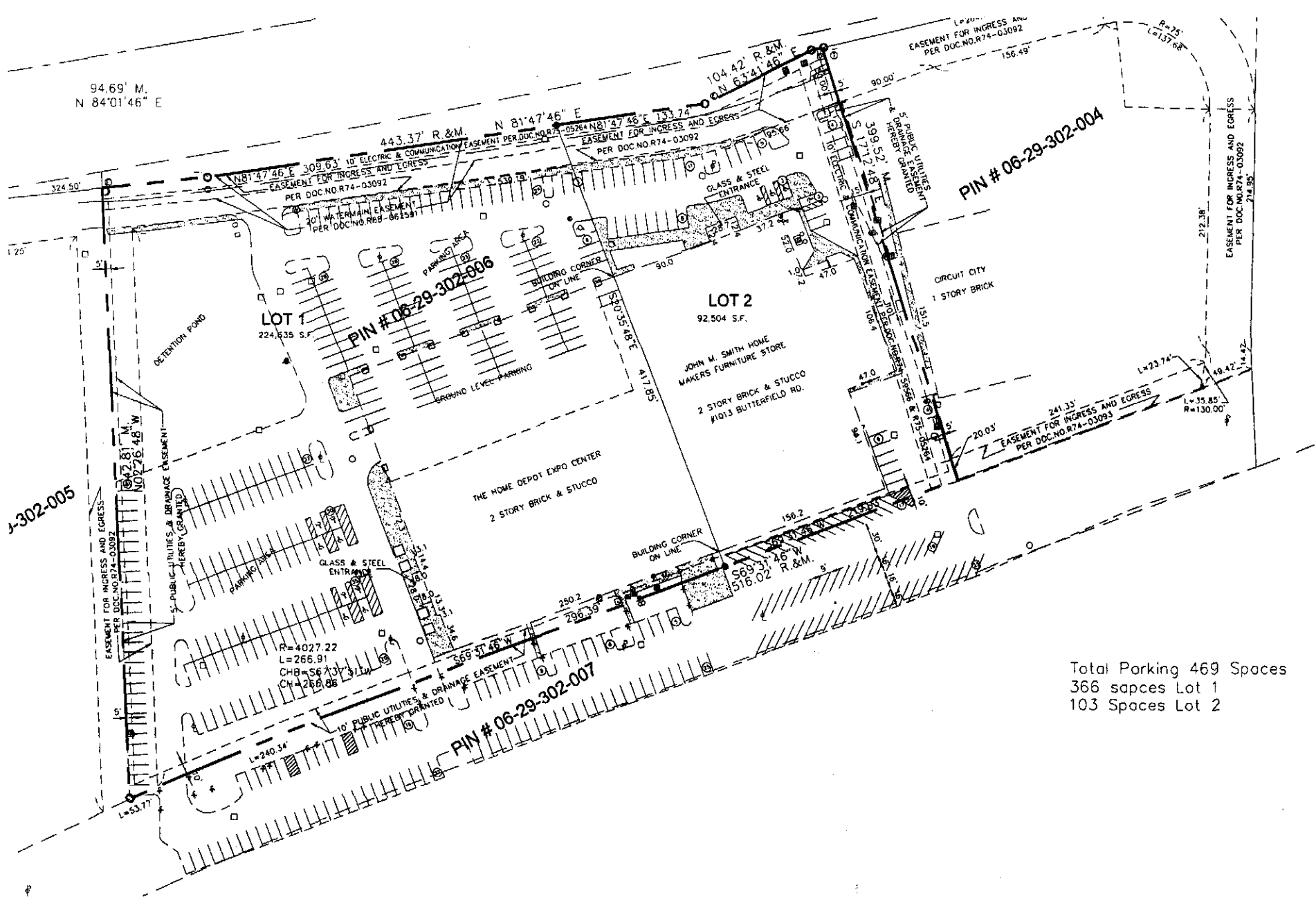
"M" DESIGNATES MEASURED DIMENSION/BEARING  
"R" DESIGNATES RECORD DIMENSION/BEARING

**GENERAL NOTES:**  
1. ALL DIMENSIONS SHOWN IN FEET AND DECIMAL PARTS THEREOF.  
2. ALL DIMENSIONS MEASURED BEARING SHOWN HEREON IS ILLINOIS STATE PLANNED COORDINATE EAST ZONE (NAD 83).  
3. NO DIMENSIONS SHALL BE ASSUMED BY SCALE MEASUREMENT HEREON.



DATE	REVISION

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94.69' M.  
N 84°01'46" E

PIN # 06-29-302-004

LOT 1  
224,635 S.F.

LOT 2  
92,504 S.F.

JOHN M. SMITH HOME  
MAKERS FURNITURE STORE  
2 STORY BRICK & STUCCO  
11013 BUTTERFIELD RD.

THE HOME DEPOT EXPO CENTER  
2 STORY BRICK & STUCCO

CIRCUIT CITY  
1 STORY BRICK

J-302-005

R=4027.22  
L=266.91  
CH=567.37  
C=268.86

PIN # 06-29-302-007

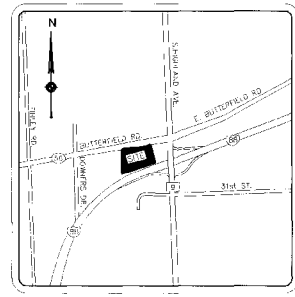
Total Parking 469 Spaces  
366 spaces Lot 1  
103 Spaces Lot 2



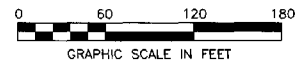
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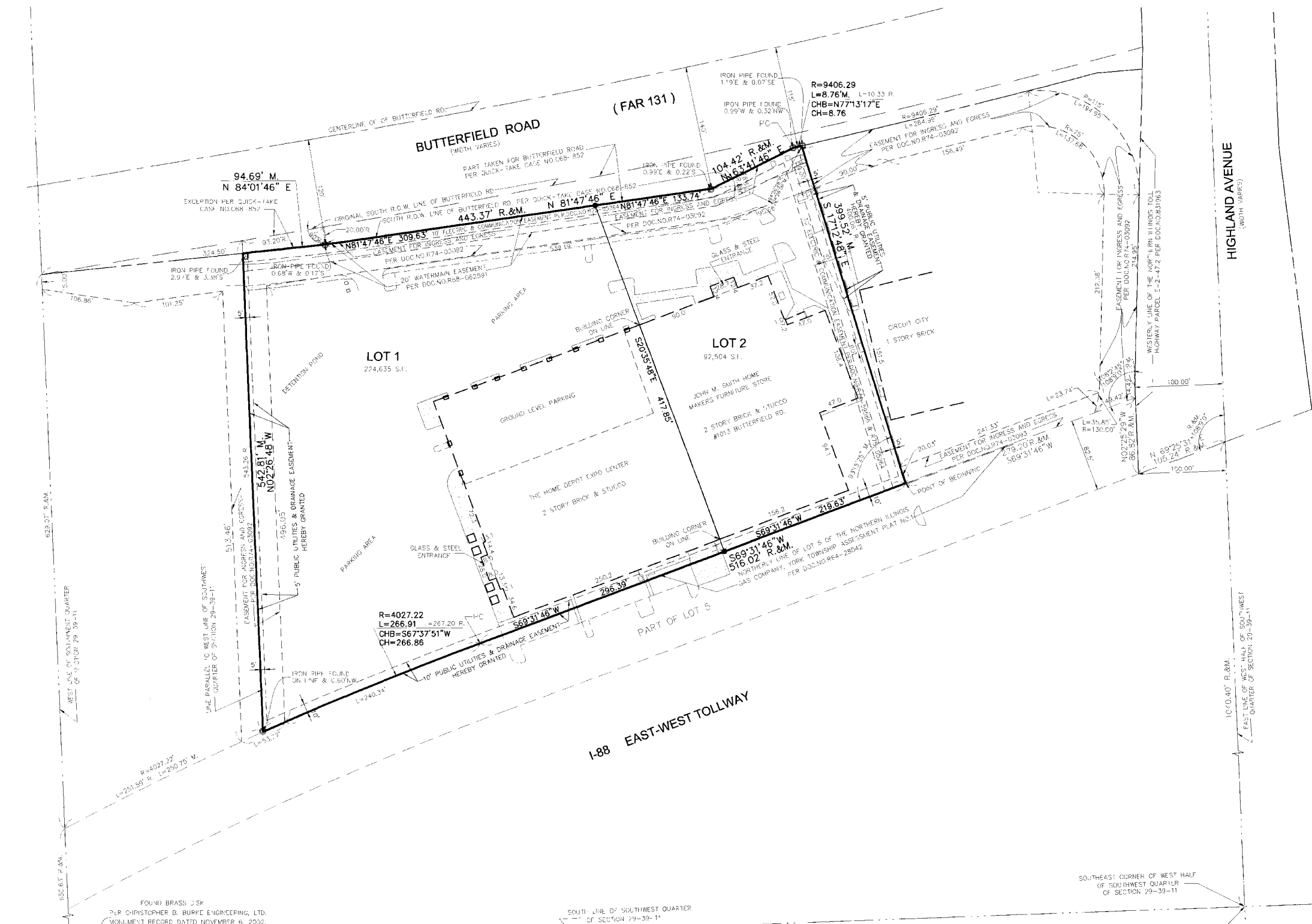
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DATE	REVISION

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# Village of Downers Grove

## STAFF REPORT

**TO:** Plan Commission **HEARING DATE:** January 8, 2007

**FROM:** Department of Planning & Community Development **PREPARED BY:** Damir Latinovic  
Planner

### TITLE

**PC 02-07; Butterfield Square Subdivision (1013-1021 Butterfield Road);** The petitioner is requesting approval of the final plan development with variations from Code and the final plat of subdivision of an existing lot into two lots for a property located at 1013 & 1021 Butterfield Road.

**Application/Notice:** The application has been filed in conformance with applicable procedural and public notice requirements.

### GENERAL INFORMATION

**OWNER/APPLICANT:** DLA Piper US LLP  
on behalf of Kimco Select Chicago 695, LLC  
203 N. LaSalle Street, #1900  
Chicago, IL 60601

### PROPERTY INFORMATION

**EXISTING ZONING:** B-3 General Services and Highway Business  
**EXISTING LAND USE:** Commercial and Vacant  
**PROPERTY SIZE:** Approximately 7.28 acres.  
**PINs:** 06-29-302-006

### SURROUNDING ZONING AND LAND USES:

	ZONING	FUTURE LAND USE
<b>NORTH:</b>	Commercial (Village of Lombard)	N/A
<b>SOUTH:</b>	I-88 Tollway	N/A
<b>EAST:</b>	B-3 General Services and Highway Business	Commercial
<b>WEST:</b>	B-3 General Services and Highway Business	Commercial

### ANALYSIS

## **SUBMITTALS**

This report is based on the following documents, which are on file with the Department of Planning & Community Development:

1. Application/Petition for Public Hearing
2. Project Summary/Narrative Letter
3. Proof of Ownership
4. Plat of Survey
5. Final Plat of Subdivision
6. Declaration of Access and Parking Easements and Covenants

## **DESCRIPTION**

The property, zoned B-3 General Services and Highway Business, is located on the south side of Butterfield Road approximately 390 feet west of Highland Avenue and is commonly known as 1013 & 1021 Butterfield Road. The 7.28 acre site is improved with two attached buildings; a two-story Home EXPO Design Center with 97,209 square feet of floor area and a vacant two-story commercial building (former John M. Smith Homemakers furniture store) with 91,304 square feet of floor area. The petitioner is requesting creation of a new planned development and a subdivision of the existing property into two lots. The 224,635 square foot Lot 1 would contain the Home Expo Design Center, and the 92,504 square foot Lot 2 would contain the existing vacant building. The petitioner is not proposing any changes to the existing site plan.

The petitioner is also requesting a variation from the Zoning Ordinance's off-street parking requirements. The petitioner is currently leasing the 65,720 square feet parcel owned by Northern Illinois Gas Company (NICOR), south of the subject property and using it for parking to satisfy the off-street parking requirements. In order to satisfy the parking requirements for the two proposed lots, the petitioner is requesting approval of the shared parking agreement between Lot 1 and Lot 2. The agreement will create an unrestricted access easement to the subsequent owners of newly created Lot 1 and Lot 2 for parking use, maintenance and repair of the parking lots.

The proposed subdivision will comply with the Village's Subdivision Ordinance. The petitioner is subdividing the existing property in order to simplify the sale of individual buildings on the site. Specifically, the building at 1013 Butterfield Road (former John M. Smith Homemakers furniture store) is for sale.

## **COMPLIANCE WITH THE FUTURE LAND USE PLAN**

The Future Land Use Plan designates the entire property as Commercial. The proposed subdivision will not change the existing use and as such is consistent with the Future Land Use Plan and other Planning documents of the Village.

## **COMPLIANCE WITH THE ZONING ORDINANCE**

The property is zoned B-3 General Services and Highway Business. The proposed planned development will conform to all lot and bulk regulations associated with the B-3 Zoning District. Creation of the new planned development will allow the zoning requirements; i.e., open space and FAR, to be calculated for the overall planned development and not for each parcel individually. This will preserve the property's full compliance with the Zoning Ordinance.

The required building setbacks are observed on each parcel individually. The proposed subdivision will result in two structures with a common wall located directly on the proposed shared property line which separates the two lots. There is no required side yard setback in the B-3 zoning district. As such, the two structures will comply with the zoning requirement for the side yard setback. Both structures will maintain the same distance from the front and rear property lines.

In order to satisfy the off-street parking requirement, the petitioner is currently leasing the NICOR gas property located immediately to the south of the subject property and utilizing it as off-site parking facility. The NICOR gas

property adjacent to the I-88 tollway was created as a utility easement. As such, no structure can be built on the property. The petitioner intends to assign the NICOR lease to the future owners of the newly created lots. With 146 parking spaces on the NICOR gas lot, 279 parking spaces on the proposed Lot 1 and 44 parking spaces on the proposed Lot 2, there are a total of 469 existing parking spaces (Table 1). This meets the 468 parking space requirement for the existing 97,209 square foot Home EXPO Design Center on Lot 1 and the 91,304 square foot commercial building on Lot 2. The *Declaration of Access and Parking Easements and Covenant* submitted for staff review meets the Village requirements for the off-site parking facility agreements.

<b>Off-Street Parking Requirements</b>	<b>Required</b>	<b>Provided</b>
Lot 1 - Home EXPO Design Center - 97,209 sq. ft. 1 per 600 square feet	163	279
Lot 2 - vacant - 91,304 sq. ft. 1 per 300 square feet	305	44
NICOR Gas Lot	N/A	146
<b>Total</b>	<b>468</b>	<b>469</b>

Table 1: Off-street Parking Space Requirement

Per Section 28.1401 of the Zoning Ordinance, the shared off-site parking facilities associated with the uses on Lot 1 and Lot 2 of the proposed Butterfield Square planned development require the approval of the Plan Commission prior to the execution of the final plat of subdivision and any future building permits.

#### **COMPLIANCE WITH THE SIGN ORDINANCE**

*This section is not applicable to this petition.*

#### **COMPLIANCE WITH THE OGDEN AVENUE MASTER PLAN**

*This section is not applicable to this petition.*

#### **COMPLIANCE WITH THE SUBDIVISION ORDINANCE**

The two proposed lots meet the lot dimension requirements for the size and area. Each proposed lot will preserve the existing frontage with access to both Frontage Road and to the NICOR lot. No public improvements will be required. The proposed development conforms to all aspects of the Subdivision Ordinance. As such, no exceptions from the Subdivision Ordinance are needed.

#### **ENGINEERING/PUBLIC IMPROVEMENTS**

The petitioner is not proposing any changes to the existing site. Staff has reviewed the site plan for the proposed subdivision and has stated that the two proposed lots satisfy the public utility easement requirements. The existing site plan conforms to all current Village requirements. Any future changes to the existing site or buildings will require full staff review and compliance with the Village code.

#### **PUBLIC SAFETY REQUIREMENTS**

The Fire Prevention Division of the Fire Department has reviewed the proposed plans and has provided no additional comments. The existing site plan meets all Village requirements for fire access and safety. Any future renovation of the site or the existing buildings will have to comply with current Village regulations for fire prevention and life safety.

#### **NEIGHBORHOOD COMMENT**

At this time the staff has not received any comments from the neighboring businesses or residents.

#### **FINDINGS OF FACT**

The standards for approval for a planned development and a variation from the Zoning Ordinance are listed below. The petitioner has addressed the standards for approval in the attached project summary letter. The staff believes the proposed final planned development with a variation from Code for an off-site shared parking facility meets the standards for approval, and the proposed subdivision complies with all requirements

of the Subdivision Ordinance. Additionally, staff believes the proposed plan development and subdivision will be compatible with the surrounding area and will not have an adverse impact on the existing uses or the trend of development in the area.

***28.1607 Standards for Approval of Planned Developments***

*The Plan Commission may recommend a planned development designation, plan or amendment based upon the following findings:*

- (1) The extent to which the planned development meets the standards of this Article.*
- (2) The extent to which the planned development departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to, the density, dimension, area, bulk, and use, and the reasons why such departures are deemed to be in the public interest.*
- (3) The method by which the proposed plan makes adequate provision for public services, provides adequate control over vehicular traffic, provides for and protects designated common open space, and furthers the amenities of light and air, recreation and visual enjoyment.*
- (4) Conformity with the planning objectives of the Village.*

*The Village Council may authorize a planned development designation, plan or amendment with findings such as, but not limited to, the following:*

- (1) That the planned development at the particular location requested is necessary or desirable to provide a service or a facility which is in the interest of public convenience and will contribute to the general welfare of the neighborhood or community.*
- (2) That the planned development will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, or general welfare of persons residing or working in the vicinity or injurious to property values or improvements in the vicinity.*
- (3) That the planned development is specifically listed as a special use in the district in which it is to be located.*
- (4) That the location and size of the planned development, the nature and intensity of the operation involved in or conducted in connection with said planned development, the size of the subject property in relation to the intensity of uses proposed, and the location of the site with respect to streets giving access to it, shall be such that it will be in harmony with the appropriate, orderly development of the district in which it is located.*
- (5) That the planned development will not be injurious to the use and enjoyment of other property in the immediate vicinity of the subject property for the purposes already permitted in such zoning district, nor substantially diminish and impair other property valuations within the neighborhood.*
- (6) That the nature, location, and size of the structures involved with the establishment of the planned development will not impede, substantially hinder, or discourage the development and use of adjacent land and structures in accord with the zoning district in which it is located.*
- (7) That adequate utilities, access roads, drainage, and other necessary facilities have been or will be provided for the planned development.*
- (8) That parking areas shall be of adequate size for that particular planned development, which areas shall be properly located and suitably screened from adjoining residential uses.*
- (9) That the planned development shall in all other respects conform to the applicable regulations of the*

*zoning district in which it is located.*

**28.1803 Standards for Granting a Variation:**

*A variation shall be permitted only if the Board finds that it is in harmony with the general provisions and interests of this Zoning Ordinance and that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the provisions of this Zoning Ordinance. In its consideration of the standards of practical difficulties or particular hardship, the Board shall require evidence that:*

*(1) The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located.*

*(2) The plight of the owner is due to unique circumstances.*

*(3) The variation, if granted, will not alter the essential character of the locality.*

*(4) That the particular physical surroundings, shape, or topographical conditions of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.*

*(5) That the conditions upon which the requested variation is based would not be applicable, generally, to other property within the same zoning classification.*

*(6) That the alleged difficulty or hardship has not resulted from the actions of the owner.*

*(7) That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets, or increase the danger of fires, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.*

*(8) That the proposed variation will not alter the land use characteristics of the district.*

*(9) That the granting of the variation requested will not confer on the owner any special privilege that is denied by this Zoning Ordinance to other lands or structures in the same district.*

## **RECOMMENDATIONS**

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Based on the submitted petition and the testimony presented, the staff believes the proposal complies with the Subdivision Ordinance and the standards outlined above and recommends Plan Commission recommend approval of the final planned development with variation from Code and final plat of subdivision associated with PC-02-07 subject to the following conditions:

1. The subdivision shall substantially conform to the plans prepared by Woolpert, Inc. dated August 8, 2006, last revised October 31, 2006, except as such plans may be changed to conform to Village and/or County Codes and Ordinances.
2. Prior to Village Council consideration, the petitioner shall submit a Mylar copy of the Plat of Subdivision for signature. Prior to the issuance of construction permits, the petitioner shall record the signed plat and return three (3) copies to the Community Development Department.
3. The petitioner shall submit a copy of the final executed Agreement granting access and parking easements to each Lot and providing for the maintenance and expense required of and remedies

afforded to each Lot owner. Any changes to the draft Declaration of Access and Parking Easements and Covenants may require staff review and approval.

Staff Report Approved By:

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Don Rosenthal  
Community Development Director

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**DLA Piper US LLP**  
203 North LaSalle Street, Suite 1900  
Chicago, Illinois 60601-1263  
www.dlapiper.com

Aarti A. Kotak  
aarti.kotak@dlapiper.com  
T 312.368.3447  
F 312.236.7516

December 20, 2006  
*VIA OVERNIGHT MAIL*

Damir Latinovic  
Village of Downers Grove  
Department of Planning and Community Development  
801 Burlington Avenue  
Downers Grove, IL 60515

**Re: Application for Subdivision, Shared Parking Review and a Final Planned Development at 1013, 1021 Butterfield Road**

Dear Damir:

Enclosed for your review is an application for the subdivision of, shared parking review and final planned development approval for the property located at 1013 and 1021 Butterfield Road (the "**Property**") on behalf of our client, Kimco Select Chicago 695, L.L.C. (the "**Applicant**"). The subject property is currently improved with two buildings, a 2 story Home EXPO Design Center with 97,209 square feet of floor area on a 5.157 acre lot and a vacant 2-story building with 91,304 square feet of floor area on a 2.124 acre lot.

The Applicant is requesting a subdivision of the existing lot into two lots: Lot 1 would contain the Home EXPO Design Center and Lot 2 would contain the vacant building. As 469 parking spaces will be provided and shared between Lot 1 and Lot 2 (366 on Lot 1 and 103 on Lot 2), the applicant desires review per Article XIV, Section 28-1401 of the Zoning Ordinance (the "**Ordinance**") of the Village of Downers Grove to allow for the required parking facilities for Lot 2 to be provided on Lot 1 of the requested subdivision. As evidence of the shared parking arrangement, enclosed is a draft Declaration of Access and Parking Easements and Covenants (the "**Declaration**") to be executed by the Applicant, granting access and parking easements to each Lot and providing for the maintenance and expense required of and remedies afforded to each Lot owner.

The Applicant is also requesting final planned development approval for the Property, which allows for the continued conformance of the Property to the open space and floor area ratio requirements of the Ordinance. This planned development meets the standards of the Ordinance, conforms with the planning objectives of the Village of Downers Grove and only departs from the zoning and subdivision regulations as to the shared parking for which a variation is being sought. This planned development also makes adequate provision for public services and control over vehicular traffic through the enclosed Declaration. Lastly, this planned development also provides for and protects approximately 48,160 square feet of common open space on the Property and furthers the amenities of light and air, recreation and visual enjoyment.

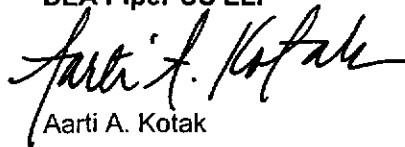
In support of the requested subdivision, review of the shared parking and final planned development approval, we are enclosing the following evidence to demonstrate compliance with the conditions for approval:

1. Petition for Plan Commission (three original copies), including a check to the Village of Downers Grove for the final plat of subdivision and the shared parking review as a variation in the amount of \$1150.00 as well as a check for \$1150.00 for the final planned development (filing fees);
2. Proof of Ownership;
3. This Project Summary/Narrative Letter;
4. Certification of Public Notice Information and List of Surrounding Property Owners;
5. Final Subdivision Plat (eight original full-size copies and one 11x17 copy);
6. A Detailed Site Plan indicating the parking dimensions (eight copies); and
7. A draft Declaration of Access and Parking Easements and Covenants.

Thank you for your attention to this matter. Please call me with any questions.

Very truly yours,

DLA Piper US LLP

A handwritten signature in black ink, appearing to read 'Aarti A. Kotak'.

Aarti A. Kotak

Enclosures

Cc: Rob Nadler (via electronic mail without enclosures)  
Scott Tucker (via e-mail)  
Rich Klawiter (via e-mail)

**DECLARATION OF ACCESS AND PARKING  
EASEMENTS AND COVENANTS**

**BUTTERFIELD SQUARE, DOWNERS GROVE, ILLINOIS**

**THIS DECLARATION OF ACCESS AND PARKING EASEMENTS AND COVENANTS** (this "**Declaration**") is made as of this \_\_\_\_ day of \_\_\_\_\_, 2006, by **KIMCO SELECT CHICAGO 695, L.L.C.**, a Delaware limited liability company ("**Developer**").

WITNESSETH:

**WHEREAS**, Developer is the fee owner of certain real property located in Downers Grove, Illinois, which property is legally described on Exhibit A attached hereto and made a part hereof (the "**Property**"), is commonly known as Butterfield Square (the "**Shopping Center**"), and is generally shown on the Site Plan attached hereto as Exhibit B and made a part hereof (the "**Site Plan**"); and

**WHEREAS**, in connection with the continuing development of the Shopping Center, and as shown on the Site Plan attached hereto, Developer will create two lots on the Property, one which is currently improved with a 97,209 square feet Home Expo Design Center and is identified on the Site Plan as "**Home Expo Lot**" and the other which is currently improved with a vacant 91,304 square foot building and identified on the Site Plan as "**Vacant Lot**," (the Home Expo Lot and the Vacant Lot shall be known, individually, as a "**Lot**" and, collectively, as the "**Lots**") both Lots which Developer intends to lease, sell, transfer and/or convey to the ultimate users and occupants thereof; and

**WHEREAS**, Developer is a party to that certain lease between Northern Illinois Gas Company and Developer dated December 2, 1999 (the "**NICOR Lease**"), which NICOR Lease pertains to an approximately 65,720 square foot parcel of land immediately south of the Property (the "**NICOR Premises**"), as depicted on the Site Plan;

**WHEREAS**, Developer intends to assign the NICOR Lease upon the sale of the Lots to the owners of said Lots; and

**WHEREAS**, prior to the transfer of the Lots, Developer desires to create certain easements appurtenant to the Property to provide for access to, and parking for, the Shopping Center and to provide for the use, maintenance and repair thereof for any and all subsequent owners of the Property, which shall inure to the benefit of, and pass with, said Property and shall apply to and bind successors in interest in the Property or any portion thereof (including both Lots) and any owner thereof.

**NOW, THEREFORE**, Developer hereby declares that any interest in the Property is and shall be held, conveyed and occupied subject to the covenants, easements, charges, liens and restrictions hereinafter set forth.

## A. EASEMENTS

Each owner of a Lot (an "Owner") hereby grants and conveys to the other Owner, for the benefit of the other Owner and their respective Lot, the following easements in, to, over, and across the other Owner's Lot:

1. Access Easements. Each Lot and Owner shall have nonexclusive easements for vehicular (including service vehicles) and pedestrian ingress and egress, and access and the right of access between the public streets adjacent to the Shopping Center and each Owner's Lot in, to, over and across those portions of the Lots that are used for the parking of motor vehicles, including (without limitation) incidental and interior roadways, pedestrian stairways, sidewalks, walkways, curbs and landscaping within or adjacent to areas used for parking of motor vehicles (the "Parking Area"), together with that portion of Frontage Road that is located within each Owner's Lot (the "Frontage Road Area") as well as all improvements to the Parking Area which at any time are erected thereon. The Parking Area shall include the NICOR Premises but shall not include truck and/or loading dock areas or the concrete aprons or ramps leading to any building located on either Lot.
2. Parking Easements. Each Lot shall have nonexclusive easements in, on, over and under the parking areas of each other Owner's Lot (as the same may from time to time be constructed and maintained for such use) for the parking of vehicles; provided that the employees of any Owner shall not be permitted to park on the other Owner's Lot. The easements created under this subparagraph shall be for the benefit of the Lots and may be used and enjoyed by any Owner and tenants of the Lots and the Owners' and tenants' respective employees, agents, customers, business visitors, guests, licensees and invitees ("Benefited Parties"). The Benefited Parties shall be entitled (subject to the charges provided for in this Declaration) to the non-exclusive use, on a first-come, first-serve basis, of the undesignated, unreserved parking stalls located within the Property.
3. Unimpeded Access Between Lots. Each Owner covenants that at all times free access between each Lot and the remainder of the Shopping Center will not be impeded and will be maintained. Except as specifically depicted on the Site Plan or as may be approved in writing by the other Owner, no fence, division, partition, rail, or obstruction of any type or kind shall ever be placed, kept, permitted, or maintained between the legal lots comprising the Shopping Center or between any subsequent division thereof or upon or along any of the common property lines of any portion thereof, except as may be required at any time and from time to time in connection with the construction, maintenance, and repair of the Parking Area or the Frontage Road Area.
4. Unauthorized Use and Closure of Parking Area. Each Owner hereby reserves the right to eject or cause the ejection from the Parking Area on its Lot of any person or

persons not authorized, empowered or privileged to use the Parking Area pursuant to this Declaration. Each Owner also reserves the right to close off the Parking Area on its Lot for such reasonable period or periods of time as may be legally necessary to prevent the acquisition of prescriptive rights by anyone; provided, however, that prior to closing off any portion of the Parking Area, such Owner shall give written notice to the other Owner of its intention to do so, and shall coordinate such closing with the other Owner so that no unreasonable interference with the operation of the Shopping Center nor any violation of the Village of Downers Grove Zoning Ordinance shall occur.

## **B. MAINTENANCE AND EXPENSES**

1. **Maintenance of Parking Area and Frontage Road Area.** Each Owner shall be responsible for the operation, replacement, maintenance and repair of the Parking Area and Frontage Road Area located within such Owner's Lot.
2. **Expenses of Parking Area and Frontage Road Area.** Each Owner shall be liable for all costs and expenses associated with the operation, maintenance, repair and replacement of the Parking Area and the Frontage Road Area located within such Owner's Lot.
3. **Maintenance and Expenses of NICOR Premises.** Each Owner shall be responsible for all costs and expenses associated with the operation, maintenance, repair and replacement for such portion of the NICOR Premises located within such Owner's Lot.

## **C. REMEDIES**

In the event that an Owner fails to maintain, repair or replace the Parking Area or the Frontage Road Area located within such Owner's Lot, or shall otherwise fail to perform, or cure its violation of, any of such Owner's covenant, agreement or obligation hereunder within twenty (20) days of written notice to Owner, the other Owner shall have the right, at any time thereafter, to cure such default for the account of the defaulting Owner, and the defaulting Owner shall reimburse the other Owner upon invoice for any amount paid and any reasonable expense or reasonable contractual liability so incurred. Amounts owed to either Owner to the other under this Section shall bear interest from the date incurred to the date paid at the annual prime rate charged by J.P. Morgan Chase Bank, N.A. (or its successors) plus two percent (2%) (the "Interest Rate") not to exceed the maximum rated interest permitted under applicable law (the "Maximum Legal Rate"). Notwithstanding the foregoing, in the event of emergencies, or where necessary to prevent injury to persons or damage to property, either Owner may cure a default by the other before the expiration of the cure period, but after giving such written or oral notice to the other Owner as is practical under the circumstances.

## **D. EFFECT OF THIS DECLARATION**

Each and all of the conditions, covenants, restrictions, reservations, easements and provisions contained in this Declaration (1) are made for the direct and mutual benefit of each Owner's Lot and the balance of the Property and constitute covenants running with the land; (2) shall bind each and every Owner to the extent that such Owner's Lot is affected or bound by any of the covenants, conditions, reservations, easements, provisions or restrictions contained herein and (3) shall inure to the benefit of each Owner and their respective successors and assigns.

**E. DURATION OF RESTRICTIONS**

Each of the conditions, covenants, restrictions, reservations, easements and provisions herein contained shall continue and be binding upon each Owner and upon its successors and assigns and upon each of them, and all parties and persons claiming under each Owner for a term of 99 years, unless an instrument has been recorded terminating or amending this Declaration, in whole or in part, as provided hereunder.

**F. RECORDATION**

The foregoing transfers and assignments shall be recorded in the Office of the Recorder of Deeds for DuPage County, Illinois.

**G. MISCELLANEOUS**

1. **Partial Invalidity.** Invalidation of any portion of this Declaration by judgment or court order shall in no way affect any of the other portions, all of which shall remain in full force and effect.
2. **Interpretation.** This Declaration shall be interpreted for the mutual benefit and protection of each of the Owners, occupants and tenants of the Property and in furtherance of the basic goals of this Declaration.
3. **Captions.** The captions and organizational numbers and letters appearing in this Declaration are inserted only as a matter of convenience and neither in any way define, limit, construe or describe the scope or intent of this Declaration nor in any way modify or affect this Declaration.
4. **Governing Law.** This Declaration and the rights of each of the Owners hereunder shall be governed by the laws of the State of Illinois.
5. **Amendments.** This Declaration may not be amended without the consent of the Owners of both Lots.

**H. NOTICES.**

Any notice required or permitted to be given by any provision of this Agreement shall be deemed to have been sufficiently given or served for all purposes if sent by registered or certified mail (return receipt requested), postage and charges prepaid, or by Federal Express or other reputable overnight delivery service requiring a signature upon receipt, or by facsimile

transmission (with copy, including the transmission sheet indicating successful transmission of the notice by facsimile machine, to follow by regular mail) addressed as follows:

To Developer:           Kimco Select Chicago, 695, L.L.C.  
                                  c/o Kimco Realty Corporation  
                                  3333 New Hyde Park Road  
                                  P.O. Box 5020  
                                  New Hyde Park, New York 11042

With a copy to:         DLA Piper US LLP  
                                  203 North LaSalle Street, Suite 1900  
                                  Chicago, IL 60601  
                                  Attn: Richard F. Klawiter

To other Owners:       Last known address as shown on the records of the Developer

Any such notice shall be deemed to be given on the first date on which it is received, or receipt thereof is refused, by Owners or Developer, as applicable. Copies of notices provided to counsel are for accommodation purposes only and shall not constitute proper notice under this Agreement.

**I.    RELEASE.**

If an Owner shall sell, transfer or assign its entire Lot or its interest therein, it shall, except as provided otherwise in this Declaration, be released from its unaccrued obligations hereunder from and after the date of such sale, transfer or assignment. It shall be a condition precedent to the release and discharge of any grantor or assignor Owner that the following conditions are satisfied: (a) such grantor or assignor shall give notice to the other Owner of any such sale, transfer, conveyance or assignment promptly following the filing for record of the instrument effecting the same; and (b) the transferee shall execute and deliver to the other Owner a written statement in a form suitable for recording in the appropriate County Recorder's office in which: (i) the name and address of the transferee shall be disclosed; and (ii) the transferee shall acknowledge its obligation hereunder and agree to be bound by this Declaration and perform all obligations hereunder in accordance with the provisions of this Declaration. Failure to deliver any such written statement shall not affect the running of any covenants herein with the land, nor shall such failure negate, modify or otherwise affect the liability of any transferee pursuant to the provisions of this Declaration, but such failure shall constitute a default by the transferee hereunder.

**IN WITNESS WHEREOF**, Developer has caused this Declaration to be executed as of the day and year first above written.

**KIMCO SELECT CHICAGO 695, L.L.C.**,  
a Delaware limited liability company

By: **KIMCO SELECT CHICAGO L.L.C.**, a Delaware limited liability company,  
its Manager

By: **KIMCO SELECT INVESTMENTS**, a New York general partnership, its  
Manager

By: **THE DAVID SAMBER COMPANY, L.L.C.**, a New York limited  
liability company, its General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

THIS DOCUMENT PREPARED  
BY AND AFTER RECORDING  
SHOULD BE RETURNED TO:  
Richard F. Klawiter, Esq.  
DLA Piper US LLP  
203 North LaSalle Street  
Suite 1900  
Chicago, Illinois 60601

STATE OF \_\_\_\_\_ )  
                                  ) SS  
COUNTY OF \_\_\_\_\_ )

I, the undersigned, a Notary Public in and for said County in the State aforesaid, do certify that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of Kimco Select Chicago L.L.C., a Delaware limited liability company, and managing member of Kimco Select Chicago 695, L.L.C., a Delaware limited liability company, whose name is signed to the document above, appeared before me this day in person and acknowledged that he signed and delivered such document as his free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

Notary Public

My Commission expires: \_\_\_\_\_

EXHIBIT A  
TO  
DECLARATION OF EASEMENTS

Legal Description of Property

EXHIBIT B  
TO  
DECLARATION OF EASEMENTS

Site Plan of the Shopping Center

Downers Grove, Illinois

EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

THAT PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, AS DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 29; THENCE NORTHERLY ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 1040.40 FEET; THENCE SOUTHWESTERLY AT AN ANGLE OF 108 DEGREES 09 MINUTES 00 SECONDS TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 105.24 FEET; THENCE NORTHERLY ALONG THE WESTERLY LINE OF THE NORTHERN ILLINOIS TOLL HIGHWAY PARCEL E-2-47.2 ACCORDING TO DOCUMENT NO. 831963, BEING 100.00 FEET WESTERLY FROM AND PARALLEL TO THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 86.82 FEET; THENCE SOUTHWESTERLY AT AN ANGLE OF 108 DEGREES 09 MINUTES 00 SECONDS TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED, ALONG THE NORTHERLY LINE OF LOT 5 OF THE NORTHERN ILLINOIS GAS COMPANY, YORK TOWNSHIP ASSESSMENT PLAT NO. 1, ACCORDING TO DOCUMENT NO. R64-28042, A DISTANCE OF 279.20 FEET FOR A POINT OF BEGINNING; THENCE CONTINUING SOUTHWESTERLY ALONG SAID NORTHERLY LINE OF LOT 5, A DISTANCE OF 516.02 FEET TO A POINT ON A CURVE; THENCE CONTINUING SOUTHWESTERLY ALONG SAID NORTHERLY LINE OF LOT 5, BEING A CURVE TO THE LEFT AND HAVING A RADIUS OF 4027.22 FEET, A DISTANCE OF 267.20 FEET TO A POINT ON A CURVE; THENCE NORTHERLY ALONG A LINE PARALLEL TO THE WEST LINE OF SAID SECTION 29, A DISTANCE OF 543.26 FEET TO A POINT ON THE ORIGINAL SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD; THENCE NORTHEASTERLY ALONG THE SAID ORIGINAL SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD, A DISTANCE OF 93.20 FEET; THENCE SOUTH AT RIGHT ANGLES THERETO A DISTANCE OF 20 FEET TO A POINT 120 FEET SOUTH OF THE CENTER LINE OF BUTTERFIELD ROAD; THENCE NORTHEASTERLY ALONG SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD AS ESTABLISHED IN PARCEL 0001 OF QUICK-TAKE CASE NUMBER C68-852 AT AN ANGLE OF 2 DEGREES 18 MINUTES TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 443.37 FEET TO A POINT 140 FEET SOUTH OF THE CENTER LINE OF BUTTERFIELD ROAD; THENCE CONTINUING NORTHEASTERLY ALONG SAID SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD AT AN ANGLE OF 18 DEGREES 06 MINUTES TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 104.42 FEET TO A POINT ON A CURVE, THENCE CONTINUING NORTHEASTERLY ALONG SAID SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD, BEING A CURVE

R98-005914

CONCENTRIC WITH AND 115 FEET SOUTH OF THE CENTER LINE OF BUTTERFIELD ROAD AND HAVING A RADIUS OF 9406.2 FEET, A DISTANCE OF 10.33 FEET; THENCE SOUTHEASTERLY ALONG A LINE AT AN INTERIOR ANGLE OF 94 DEGREES 26 MINUTES 29 SECONDS WITH THE CHORD OF THE LAST DESCRIBED CURVE, A DISTANCE OF 400.06 FEET TO THE POINT OF BEGINNING, (EXCEPTING THAT PART TAKEN FOR BUTTERFIELD ROAD IN QUICK-TAKE CASE NUMBER C68-852) IN DUPAGE COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR INGRESS AND EGRESS AS CREATED BY DECLARATION OF EASEMENT DATED JUNE 18, 1973 AND RECORDED JANUARY 21, 1974 AS DOCUMENT R74-03092, OVER AND UPON THE FOLLOWING DESCRIBED LAND:

THAT PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 29; THENCE NORTHERLY ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 1040.40 FEET; THENCE SOUTHWESTERLY AT AN ANGLE OF 108 DEGREES 09 MINUTES 00 SECONDS TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 105.24 FEET; THENCE NORTHERLY ALONG THE WESTERLY LINE OF THE NORTHERN ILLINOIS TOLL HIGHWAY PARCEL E-2-47.2 ACCORDING TO DOCUMENT NO. 831963, BEING 100.0 FEET WESTERLY FROM AND PARALLEL TO THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 86.82 FEET FOR A POINT OF BEGINNING; THENCE CONTINUING NORTHERLY ALONG SAID WESTERLY LINE OF PARCEL E-2-47.2, A DISTANCE OF 14.42 FEET; THENCE NORTHEASTERLY ALONG SAID WESTERLY LINE OF PARCEL E-2-47.2 AT AN ANGLE OF 3 DEGREES 45 MINUTES TO THE RIGHT OF THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 214.95 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG A CURVE TO THE LEFT, HAVING A RADIUS OF 115.00 FEET, A DISTANCE OF 194.95 FEET TO A POINT OF REVERSE CURVATURE ON THE SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD (FEDERAL AID ROUTE 131); THENCE SOUTHWESTERLY ALONG THE SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD ACCORDING TO THE DESCRIPTION IN QUICK-TAKE CASE NO. C68-852 (PARCEL NO. 0018, FEDERAL AID ROUTE 131, SECTION 56R), BEING A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 9406.29 FEET, A DISTANCE OF 264.99 FEET; THENCE SOUTHEASTERLY AT A CLOCKWISE ANGLE OF 86 DEGREES 23 MINUTES 49 SECONDS FROM THE CHORD OF THE LAST DESCRIBED CURVE, A DISTANCE OF 50.00 FEET; THENCE NORTHEASTERLY AT AN ANGLE OF 92 DEGREES 58 MINUTES 00 SECONDS TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 90.00 FEET; THENCE NORTHEASTERLY AT AN ANGLE OF 6 DEGREES 19 MINUTES 28 SECONDS TO THE RIGHT OF THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 156.49 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 75.00 FEET, A DISTANCE OF

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137.68 FEET TO A POINT OF TANGENCY; THENCE SOUTHWESTERLY ALONG A LINE TANGENT TO THE LAST DESCRIBED CURVE AND PARALLEL TO THE WESTERLY LINE OF SAID NORTHERN ILLINOIS TOLL HIGHWAY PARCEL E-2-47.2, A DISTANCE OF 212.38 FEET TO A POINT OF CURVATURE; THENCE SOUTHWESTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 130.00 FEET, A DISTANCE OF 35.85 FEET TO A POINT ON THE NORTHERLY LINE OF LOT 5 OF THE NORTHERN ILLINOIS GAS COMPANY, YORK TOWNSHIP ASSESSMENT PLAT NO. 1 ACCORDING TO DOCUMENT NO. R64-28042; THENCE NORTHEASTERLY ALONG SAID NORTHERLY LINE OF LOT 5, A DISTANCE OF 49.42 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 3:

EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR INGRESS AND EGRESS AS CREATED BY DECLARATION OF EASEMENT DATED JUNE 18, 1973 AND RECORDED JANUARY 21, 1974 AS DOCUMENT R74-03092, OVER AND UPON THE FOLLOWING DESCRIBED LAND:

THAT PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 29; THENCE NORTHERLY ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 1040.40 FEET; THENCE SOUTHWESTERLY AT AN ANGLE OF 108 DEGREES 09 MINUTES 00 SECONDS TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 105.24 FEET; THENCE NORTHERLY ALONG THE WESTERLY LINE OF THE NORTHERN ILLINOIS TOLL HIGHWAY PARCEL E-2-47.2 ACCORDING TO DOCUMENT NO. 831963, BEING 100.00 FEET WESTERLY FROM AND PARALLEL TO THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 86.82 FEET; THENCE SOUTHWESTERLY AT AN ANGLE OF 108 DEGREES 09 MINUTES 00 SECONDS TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED, ALONG THE NORTHERLY LINE OF LOT 5 OF THE NORTHERN ILLINOIS GAS COMPANY, YORK TOWNSHIP ASSESSMENT PLAT NO. 1, ACCORDING TO DOCUMENT NO. R64-28042, A DISTANCE OF 795.22 FEET TO A POINT ON A CURVE; THENCE CONTINUING SOUTHWESTERLY ALONG SAID NORTHERLY LINE OF LOT 5, BEING A CURVE TO THE LEFT AND HAVING A RADIUS OF 4027.22 FEET, A DISTANCE OF 240.34 FEET TO A POINT ON THE CURVE FOR A POINT OF BEGINNING; THENCE CONTINUING SOUTHWESTERLY ALONG SAID NORTHERLY LINE OF LOT 5, A DISTANCE OF 53.77 FEET TO A POINT ON THE CURVE; THENCE NORTHERLY ALONG A LINE PARALLEL TO THE WEST LINE OF SAID SECTION 29, A DISTANCE OF 513.46 FEET; THENCE SOUTHWESTERLY ALONG A LINE AT A CLOCKWISE ANGLE OF 84 DEGREES 56 MINUTES 47 SECONDS FROM THE LAST DESCRIBED COURSE, A DISTANCE OF 101.25 FEET; THENCE NORTHWESTERLY AT AN ANGLE OF 15 DEGREES 41 MINUTES 05 SECONDS TO THE RIGHT OF THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 106.86 FEET TO A POINT ON THE WEST LINE OF SAID SECTION 29, THENCE NORTHERLY ALONG THE WEST LINE OF SAID SECTION 29,

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A DISTANCE OF 15.00 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD (FEDERAL AID ROUTE 131) BEING 100 FEET SOUTH OF THE CENTER LINE OF BUTTERFIELD ROAD; THENCE NORTHEASTERLY ALONG THE SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD ACCORDING TO THE DESCRIBED IN QUICK-TAKE CASE NO. C68-852 (PARCEL NO. 0001, FEDERAL AID ROUTE 131, SECTION 56R) A DISTANCE OF 324.50 FEET TO A POINT 120 FEET SOUTH OF THE CENTER LINE OF BUTTERFIELD ROAD; THENCE CONTINUING NORTHEASTERLY ALONG SAID SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD AT AN ANGLE OF 2 DEGREES 18 MINUTES TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 443.37 FEET TO A POINT 140 FEET SOUTH OF THE CENTER LINE OF BUTTERFIELD ROAD; THENCE CONTINUING NORTHEASTERLY ALONG SAID SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD AT AN ANGLE OF 18 DEGREES 06 MINUTES TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED A DISTANCE OF 104.42 FEET TO A POINT ON A CURVE; THENCE CONTINUING NORTHEASTERLY ALONG SAID SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD, BEING A CURVE CONCENTRIC WITH AND 115 FEET SOUTH OF THE CENTER LINE OF BUTTERFIELD ROAD AND HAVING A RADIUS OF 9406.29 FEET, A DISTANCE OF 10.33 FEET, THENCE SOUTHEASTERLY ALONG A LINE AT A COUNTERCLOCKWISE ANGLE OF 94 DEGREES 26 MINUTES 29 SECONDS FROM THE CHORD OF THE LAST DESCRIBED CURVE, A DISTANCE OF 50.00 FEET; THENCE SOUTHWESTERLY AT AN ANGLE OF 87 DEGREES 02 MINUTES 00 SECONDS TO THE RIGHT OF THE LAST DESCRIBED COURSE EXTENDED A DISTANCE OF 95.66 FEET; THENCE SOUTHWESTERLY AT AN ANGLE OF 11 DEGREES 59 MINUTES 17 SECONDS TO THE RIGHT OF THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 539.19 FEET; THENCE SOUTHERLY ALONG A LINE PARALLEL TO THE WEST LINE OF SAID SECTION 29, A DISTANCE OF 496.05 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 4:

EASEMENT FOR THE BENEFIT OF PARCEL 1 FOR INGRESS AND EGRESS AS CREATED BY EASEMENT AGREEMENT DATED SEPTEMBER 04, 1973 AND RECORDED JANUARY 21, 1974 AS DOCUMENT R74-03093, OVER AND UPON THE FOLLOWING DESCRIBED LAND:

THAT PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHEAST CORNER OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 29; THENCE NORTHERLY ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 1040.40 FEET; THENCE SOUTHWESTERLY AT AN ANGLE OF 108 DEGREES 09 MINUTES 00 SECONDS TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 105.24 FEET; THENCE NORTHERLY ALONG THE WESTERLY LINE OF THE NORTHERN ILLINOIS TOLL HIGHWAY PARCEL E-2-47.2 ACCORDING TO DOCUMENT NO. 831963, BEING 100.00 FEET WESTERLY FROM AND PARALLEL TO THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID

R98-005914

SECTION 29, A DISTANCE OF 86.82 FEET; THENCE SOUTHWESTERLY AT AN ANGLE OF 108 DEGREES 09 MINUTES 00 SECONDS TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDED, ALONG THE NORTHERLY LINE OF LOT 5 OF THE NORTHERN ILLINOIS GAS COMPANY, YORK TOWNSHIP ASSESSMENT PLAT NO. 1 ACCORDING TO DOCUMENT NO. R64-28042, A DISTANCE OF 49.42 FEET FOR A POINT OF BEGINNING; THENCE CONTINUING SOUTHWESTERLY ALONG SAID NORTHERLY LINE OF LOT 5, A DISTANCE OF 229.78 FEET; THENCE NORTHWESTERLY AT AN ANGLE OF 93 DEGREES 21 MINUTES 40 SECONDS TO THE RIGHT OF THE LAST DESCRIBED COURSE EXTENDED, A DISTANCE OF 20.03 FEET; THENCE NORTHEASTERLY ALONG A LINE PARALLEL TO SAID NORTHERLY LINE OF LOT 5, A DISTANCE OF 241.33 FEET TO A POINT ON A CURVE; THENCE SOUTHWESTERLY ALONG A CURVE BEING CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 130.00 FEET, A DISTANCE OF 23.74 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS.

R98-005914

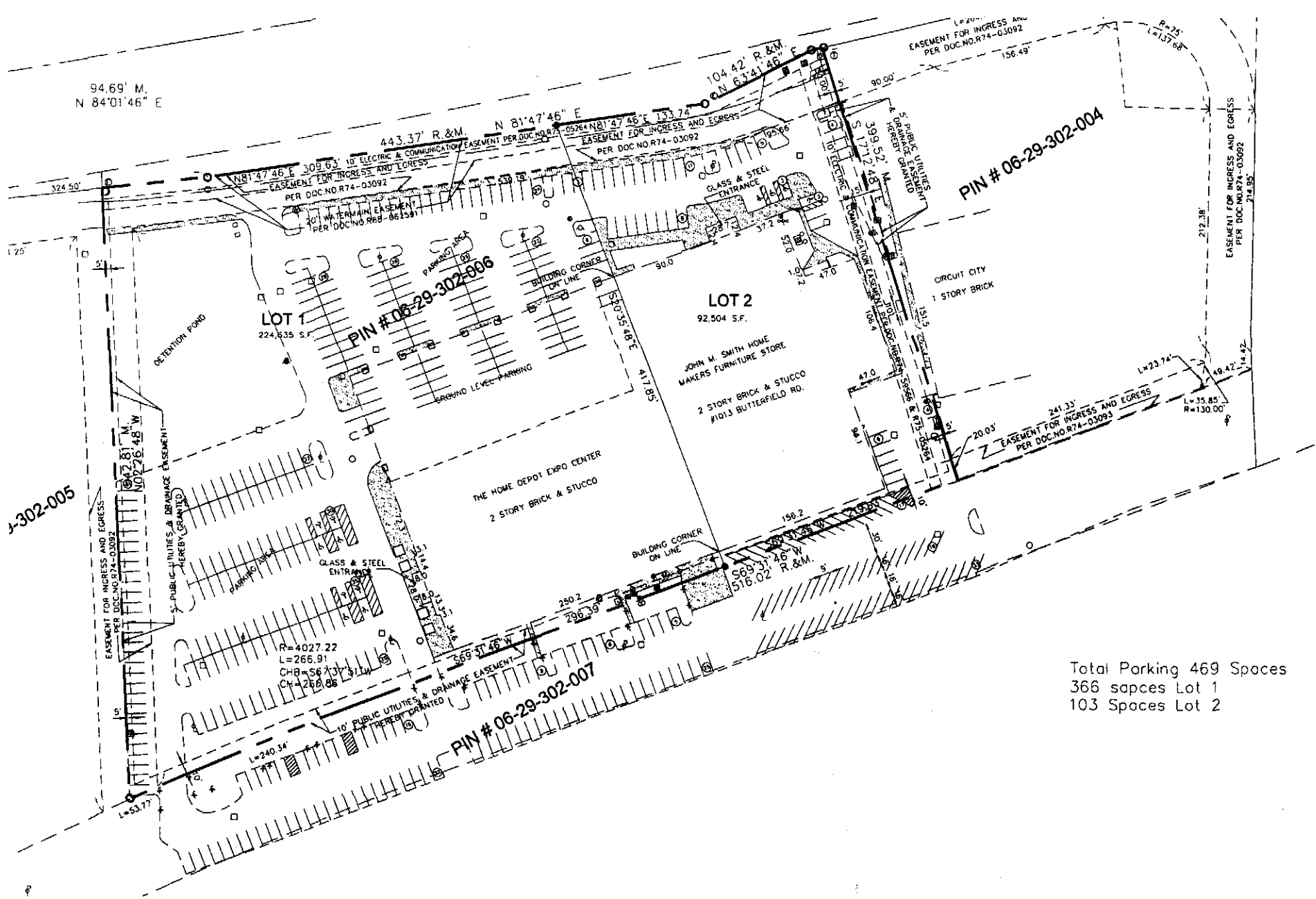
EXHIBIT B

SUBJECT ONLY TO THE FOLLOWING:

1. General Real Estate Taxes not yet due and payable;
2. Order recorded January 2, 1969 as Document No. R69-00087 by the State of Illinois, Department of Public Works and Buildings, Division of Highways, establishing Federal Aid Route 131 as a freeway and providing that access between said freeway and abutting lands is to be permitted only at entrances provided for the purpose under permits from said Department;
3. Terms, provisions and conditions contained in Joint Declaration of Easement made by and between LaSalle National Bank, as Trustee under Trust Number 41932 and LaSalle National Bank, as Trustee under Trust Number 42032, dated June 18, 1973 and recorded January 21, 1974 as Document No. R74-3092;
4. Easement in favor of Commonwealth Edison Company and Illinois Bell Telephone Company, and/or their successors in interest, for pole lines, conduits and maintenance purposes granted by Document No. R74-59566, recorded on November 2, 1974, and the terms and conditions thereof (affects the West 10 feet of the East 25 feet of Parcel 1);
5. Easement in favor of Commonwealth Edison Company and Illinois Bell Telephone Company, and/or their successors in interest, for pole lines, conduits and maintenance purposes granted by Document No. R75-05264, recorded on February 4, 1975, and the terms and conditions thereof (affects the Northerly 10 feet and the Westerly 10 feet of the East 25 feet of Parcel 1);
6. DuPage Water Commission Easement Agreement as established by grant from John M. Smyth Company, an Illinois corporation, to DuPage Water Commission, its successors and assigns, recorded as Document No. R88-062591, and the terms and conditions thereof (affects the North 20 feet of Parcel 1);
7. Terms, conditions and provisions of ordinance entitled "Ordinance Establishing Charges and Rates for the Use and Service of the Sewage System of the Downers Grove Sanitary District, DuPage County, Illinois", recorded August 21, 1975, as Document No. R75-43755;

R98 005914

8. Information and disclosures contained in Environmental Disclosure Document for the Transfer of Real Property, recorded July 28, 1994, as Document No. R94-161017;
9. Terms, conditions and provisions of document entitled Declaration of Easement dated June 18, 1973 and recorded January 21, 1974, as Document No. R74-03092, creating an easement for ingress and egress for the benefit of Parcel 1, together with the rights of the adjoining owners in and to the concurrent use of said easement;
10. Terms, conditions and provisions of document entitled Easement Agreement dated September 4, 1973 and recorded January 21, 1974, as Document No. R74-03093, creating an easement for ingress and egress for the benefit of Parcel 1, together with the rights of the adjoining owners in and to the concurrent use of said easement; and
11. Any other facts disclosed, or which would be disclosed, on a survey of the real property.



94.69' M.  
N 84°01'46" E

EASEMENT FOR INGRESS AND EGRESS  
PER DOC. NO. R74-03092  
156.49'

PIN # 06-29-302-004

EASEMENT FOR INGRESS AND EGRESS  
PER DOC. NO. R74-03092  
218.95'

LOT 1  
224,635 S.F.

PIN # 06-29-302-006

LOT 2  
92,504 S.F.

JOHN M. SMITH HOME  
MAKERS FURNITURE STORE  
2 STORY BRICK & STUCCO  
11013 BUTTERFIELD RD.

THE HOME DEPOT EXPO CENTER  
2 STORY BRICK & STUCCO

CIRCUIT CITY  
1 STORY BRICK

3-302-005

R=4027.22  
L=266.91  
CH=567.37  
C=268.06

PIN # 06-29-302-007

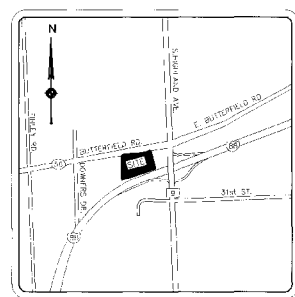
Total Parking 469 Spaces  
366 spaces Lot 1  
103 Spaces Lot 2



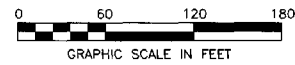
# FINAL PLAT OF BUTTERFIELD SQUARE SUBDIVISION

A PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF  
SECTION 29, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD  
PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

**WOOLPERT, INC.**  
1815 South Meyers Road,  
Suite 120  
Oakbrook Terrace, IL 60181  
PH: 630.424.9080  
FAX: 630.495.3731



**SITE MAP**  
NOT TO SCALE



**LEGAL DESCRIPTION:**

THAT PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 29, TOWNSHIP 39 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:  
COMMENCING AT THE SOUTHWEST CORNER OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 29; THENCE NORTHERLY ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 1040.40 FEET; THENCE SOUTHWESTERLY AT AN ANGLE OF 108 DEGREES 09 MINUTES 00 SECONDS TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDING A DISTANCE OF 100.24 FEET; THENCE NORTHERLY ALONG THE WESTERLY LINE OF THE NORTHERN 1/2 OF SAID 1/4 SECTION PARCEL E-2-47.2 ACCORDING TO DOCUMENT NO. 831963, 2003, 100.00 FEET WESTERLY FROM AND PARALLEL TO THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 29, A DISTANCE OF 86.67 FEET; THENCE SOUTHWESTERLY AT AN ANGLE OF 108 DEGREES 09 MINUTES 00 SECONDS TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDING ALONG THE NORTHERLY LINE OF SAID 1/2 SECTION PARCEL E-2-47.2 (COMMON YORK TOWNSHIP ASSESSMENT PLAT NO. 1), ACCORDING TO DOCUMENT NO. 864-28042, A DISTANCE OF 279.20 FEET; OR A POINT OF BEGINNING; THENCE CONTINUING SOUTHWESTERLY ALONG SAID NORTHERLY LINE OF LOT 5, BEING A CURVE TO THE LEFT AND HAVING A RADIUS OF 427.27 FEET, A DISTANCE OF 272.20 FEET TO A POINT ON A CURVE; THENCE NORTHERLY ALONG A LINE PARALLEL TO THE WEST LINE OF SAID SECTION 29, A DISTANCE OF 343.26 FEET TO A POINT ON THE ORIGINAL SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD; THENCE NORTHEASTERLY ALONG THE SAID ORIGINAL SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD, A DISTANCE OF 93.20 FEET; THENCE SOUTH AT RIGHT ANGLES THERE TO A DISTANCE OF 20 FEET TO A POINT 120 FEET SOUTH OF THE CENTER LINE OF BUTTERFIELD ROAD; THENCE NORTHEASTERLY ALONG SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD AS ESTABLISHED IN PARCEL 0001 OF QUICK-TAKE CASE NUMBER 068-852 AT AN ANGLE OF 7 DEGREES 18 MINUTES TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDING A DISTANCE OF 443.37 FEET TO A POINT 140 FEET SOUTH OF THE CENTER LINE OF BUTTERFIELD ROAD; THENCE CONTINUING NORTHEASTERLY ALONG SAID SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD AT AN ANGLE OF 18 DEGREES 05 MINUTES TO THE LEFT OF THE LAST DESCRIBED COURSE EXTENDING A DISTANCE OF 104.42 FEET TO A POINT ON A CURVE; THENCE CONTINUING NORTHEASTERLY ALONG SAID SOUTH RIGHT OF WAY LINE OF BUTTERFIELD ROAD, BEING A CURVE CONCENTRIC WITH AND 115 FEET SOUTH OF THE CENTER LINE OF BUTTERFIELD ROAD AND HAVING A RADIUS OF 940.2 FEET, A DISTANCE OF 0.33 FEET; THENCE SOUTHEASTERLY ALONG A LINE AT AN INTERIOR ANGLE OF 94 DEGREES 28 MINUTES 29 SECONDS WITH THE CENTER OF THE LAST DESCRIBED CURVE, A DISTANCE OF 400.06 FEET TO THE POINT OF BEGINNING, (EXCEPTING THEREFROM PART TAKEN FOR BUTTERFIELD ROAD IN QUICK TAKE CASE NUMBER 068-852, IN DUPAGE COUNTY, ILLINOIS.

**AREA SCHEDULE:**

LOT 1	224,635 S.F. OR 5.157 ACRES (MORE OR LESS)
LOT 2	92,504 S.F. OR 2.124 ACRES (MORE OR LESS)
TOTAL AREA:	317,139 S.F. OR 7.281 ACRES (MORE OR LESS)

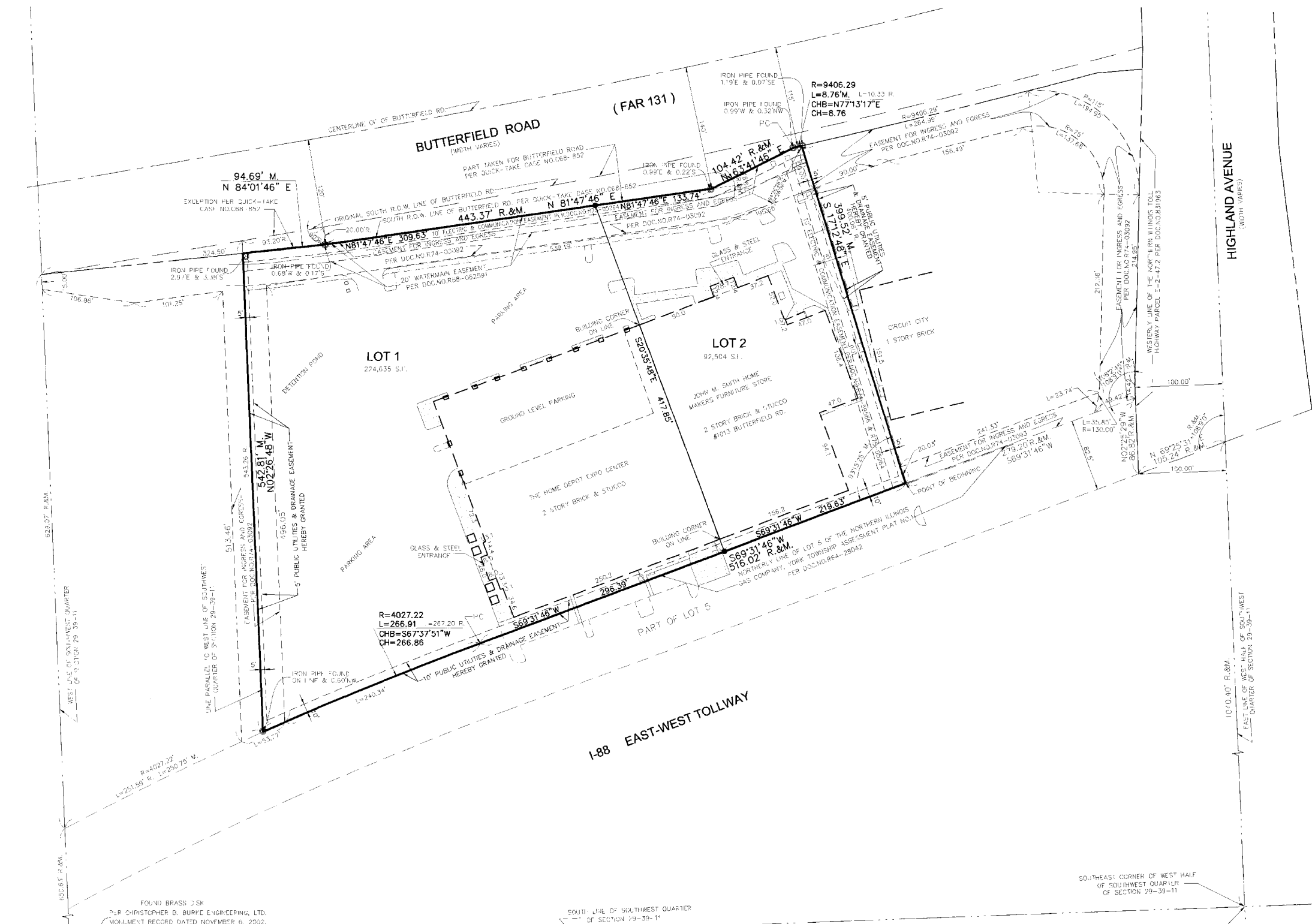
**LEGEND:**

- SET P.V. SPIKE IN ASPHALT
- FOUND BRASS PLUG
- FOUND IRON PIPE
- ⊕ FOUND CHISELED CROSS

"M" DESIGNATES MEASURED DIMENSION/BEARING  
"R" DESIGNATES RECORD DIMENSION/BEARING

**GENERAL NOTES:**

1. ALL DIMENSIONS SHOWN IN FEET AND DECIMAL PARTS THEREOF.
2. ALL DIMENSIONS MEASURED BEARING SHOWN HEREON IS ILLINOIS STATE PLANNED COORDINATE EAST ZONE (NAD 83).
3. NO DIMENSIONS SHALL BE ASSUMED BY SCALE MEASUREMENT HEREON.



FOUND BRASS PLUG  
FOR CHRISTOPHER D. BURKE ENGINEERING, LTD.  
MONUMENT RECORD DATED NOVEMBER 6, 2022.

DATE	REVISION

C:\SVV\Projects\Kincoc\65828 - Downers Grove\dwg\Subplot\65828 - Subplot\_Prelim\y33.cwg; Plotted: Oct 31, 2008 - 12:58pm

**FILE NO. PC-02-07** A petition seeking 1) Final Planned Development Approval With Variations from Code – P.D. #45 Butterfield Square; 2) Final Plat of Subdivision for property located on the South side of Butterfield Road, approximately 390 feet West of Highland Avenue, commonly known as 1013 & 1021 Butterfield Road, Downers Grove, IL (PIN 06-29-302-006); DLA Piper US LLP, Petitioner; Kimco Select 695, L.L.C., Owner

Chairman Jirik swore in those individuals who would be speaking on File No. PC-02-07.

Mr. Damir Latinovic, Village Planner, explained the property is zoned B-3 General Services and Highway Business and located on the south side of Butterfield Road approximately 390 feet west of Highland Avenue. The 7.28-acre site contained two attached buildings; a two-story Home EXPO Design Center with 97,209 square feet of floor area and a vacant two-story commercial building (formerly John M. Smith Homemakers furniture store) with 91,304 square feet of floor area. The petitioner was requesting the creation of a new Planned Development and a subdivision of the existing property into two lots. The 224,635 square foot Lot 1 would contain the Home Expo Design Center and the 92,504 square foot Lot 2 would contain the existing vacant building. The petitioner was not proposing any changes to the existing site plan and was requesting approval of a Final Planned Unit Development and approval of final plat of subdivision,

The petitioner was also requesting a variation from the Zoning Ordinance's off-street parking requirements to utilize shared parking. The petitioner is currently leasing the 65,720 square feet parcel owned by Northern Illinois Gas Company (NICOR), and using it for parking. In order to satisfy the parking requirements for the two proposed lots, the petitioner is requesting approval of the shared parking agreement between Lot 1 and Lot 2. The agreement will create an unrestricted access easement to the subsequent owners of newly created Lot 1 and Lot 2 for parking use, maintenance and repair of the parking lots.

The main purpose of the subdivision is to allow the sale of Lot 2. The proposed subdivision complies with the Village's land use policies. The proposed Planned Development will conform to all lot and bulk regulations associated with the B-3 Zoning District. Creation of the new Planned Development will allow the zoning requirements; i.e., open space and floor area ratio, to be calculated for the overall Planned Development and not for each parcel individually. Without the Planned Development, the structure on Lot 2 would become non-conforming because it would not meet the open space requirement or the FAR. The required building setbacks are calculated on each parcel individually. The proposed subdivision will result in two structures with a common wall located directly on the proposed shared property line that separates the two lots. There is no required side yard setback in the B-3 zoning district. The two structures will comply with the zoning requirement for the side yard setback. Both structures will maintain the same distance from the front and rear property lines.

The parking requirements were reviewed in more detail. With the new proposal, there is a need for more off-street parking, which is why the petitioner is currently leasing the

NICOR gas property located immediately to the south of the subject property. Total parking on the lots is 469 parking spaces with a requirement of 468 spaces.

The petitioner is not proposing any physical changes to the existing site. Staff reviewed the site plan for the proposed subdivision and final planned development and stated that the two proposed lots satisfy the public utility easement requirements. The existing site plan conforms to all current Village requirements. Any future changes to the existing site or buildings will require full staff review and compliance with Village Codes. The Fire Prevention Division of the Fire Department has reviewed the proposed plans and has provided no additional comments. The existing site plan meets all Village requirements for fire access and safety. Any future renovation of the site or buildings will have to comply with current Village regulations for fire prevention and life safety.

Per staff, no comments were received from the neighboring businesses or residents. Staff believes the proposed plan development and subdivision will be compatible with the surrounding area and will not have an adverse impact on the existing uses or the trend of development in the area. Staff recommended approval of the petition.

Discussion followed on the parking requirements of Lot 2 if it was used as retail, noting the requirement would be one space per 300 square feet. Mr. Latinovic did not know what future plans were being considered for Lot 2 but explained any changes made to the Planned Development would have to come before the Plan Commission and Village Council for review and for an amendment. Parking would be re-reviewed at that time.

On behalf of the petitioner, Ms. Aarti Kotak, DLA Piper, US, LLC, 203 N. LaSalle Street, Chicago, Illinois, addressed the Commission and reviewed the petition again. Ms. Kotak explained there has been limited interest among purchasers who wanted to purchase the space and not lease it. Ms. Kotak asked that the application that addresses the Planned Development standards be included as part of the record. As to shared parking, Lot 1 includes 279 spaces, Lot 2 includes 44, and the NICOR lot includes 146 spaces. Currently, the applicant was the landlord who handled the maintenance and expense of the parking area minus the NICOR premises. With the declaration, the maintenance and expenses would be split between the two owners based on area.

Questions followed that if the petition was approved, the NICOR lot would have to be used based on the various uses, unless a furniture store use came in. Discussion followed by Mr. Beggs on whether the Commissioners were attempting to change the Ordinance so that when a vacant lot is up for sale the Commissioners were going to agree to the most restrictive parking lot in order to facilitate the sale of the lot. He expressed his concerns stating there was no connection to an existing use. Mr. O'Brien clarified the petition was a variance to use a shared parking lot, not to reduce the number of parking space, and the petitioner chose to use the more restrictive parking calculation.

Chairman Jirik opened up the meeting to public participation. No public comments followed. Chairman Jirik closed the public participation portion.

**MRS. RABATAH MADE A MOTION THAT THE PLAN COMMISSION RECOMMEND APPROVAL OF THE FINAL PLANNED DEVELOPMENT WITH VARIATION FROM CODE AND FINAL PLAT OF SUBDIVISION ASSOCIATED WITH PC-02-07 SUBJECT TO THE FOLLOWING CONDITIONS:**

- 1. THE SUBDIVISION SHALL SUBSTANTIALLY CONFORM TO THE PLANS PREPARED BY WOOLPERT, INC. DATED AUGUST 8, 2006, LAST REVISED OCTOBER 31, 2006, EXCEPT AS SUCH PLANS MAY BE CHANGED TO CONFORM TO VILLAGE AND/OR COUNTY CODES AND ORDINANCES;**
- 2. PRIOR TO VILLAGE COUNCIL CONSIDERATION, THE PETITIONER SHALL SUBMIT A MYLAR COPY OF THE PLAT OF SUBDIVISION FOR SIGNATURE. PRIOR TO THE ISSUANCE OF CONSTRUCTION PERMITS, THE PETITIONER SHALL RECORD THE SIGNED PLAT AND RETURN THREE (3) COPIES TO THE COMMUNITY DEVELOPMENT DEPARTMENT; AND**
- 3. THE PETITIONER SHALL SUBMIT A COPY OF THE FINAL EXECUTED AGREEMENT GRANTING ACCESS AND PARKING EASEMENTS TO EACH LOT AND PROVIDING FOR THE MAINTENANCE AND EXPENSE REQUIRED OF AND REMEDIES AFFORDED TO EACH LOT OWNER. ANY CHANGES TO THE DRAFT DECLARATION OF ACCESS AND PARKING EASEMENTS AND COVENANTS MAY REQUIRE STAFF REVIEW AND APPROVAL.**

**SECONDED BY MR. QUIRK.**

**ROLL CALL:**

**AYE: MRS. RABATAH, MR. QUIRK, MR. COZZO, MR. MATEJCZYK, MR. WEBSTER, CHAIRMAN JIRIK**

**NAY: MR. BEGGS**

**MOTION PASSED: VOTE: 6-1**

Mr. Beggs stated he voted nay based on his earlier comments. He wanted to see what the parking requirements were in connection with a specific proposed use.