

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL WORKSHOP
JUNE 26, 2007 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Final Planned Development with Variation from Code and Final Plat of Subdivision for Butterfield Square Subdivision	✓Resolution ✓Ordinance Motion Discussion Only	Tom Dabareiner, AICP 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.

RECOMMENDATION

Approval on the July 3, 2007 active agenda.

UPDATE & RECOMMENDATION

At the February 13, 2007 Workshop meeting, the Council expressed concerns regarding approval of the proposed subdivision and planned development without any information on future plans for the vacant John M. Smith Homemakers Furniture Store building located at 1013 Butterfield Road. The petitioner has since been looking for a potential buyer and user of the vacant building.

The petitioner is working with Rossi Home Furnishings and Real Estate company to purchase and relocate their furniture showroom warehouse and real estate office in the vacant John M. Smith Homemakers Furniture building. The preliminary plans indicate only interior and façade renovation of the building. The petitioner is not proposing any changes to the site. The majority of the building will be a furniture showroom, similar to the previous John M. Smith Homemakers Furniture Store. The second story of the existing building will be renovated to accommodate the proposed Rossi Real Estate offices which will also utilize the existing separate entrance door on the east side of the building. Please note the preliminary plans and renderings for the building renovation have been included in this packet.

The sale of the property is awaiting the Council's approval of the final plat of Butterfield Square Subdivision and Final Planned Development creation with a variation from code for shared parking facilities.

Staff believes the proposed user is consistent with the Village's direction and recommends approval of the project on the July 3, 2007 agenda.

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 the 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; 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	
		Lot 1	Lot 2
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 an off-site parking facility. The petitioner is requesting approval of the shared parking agreement between Lot 1, Lot 2 and the 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
Total	468	469

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

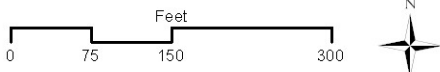
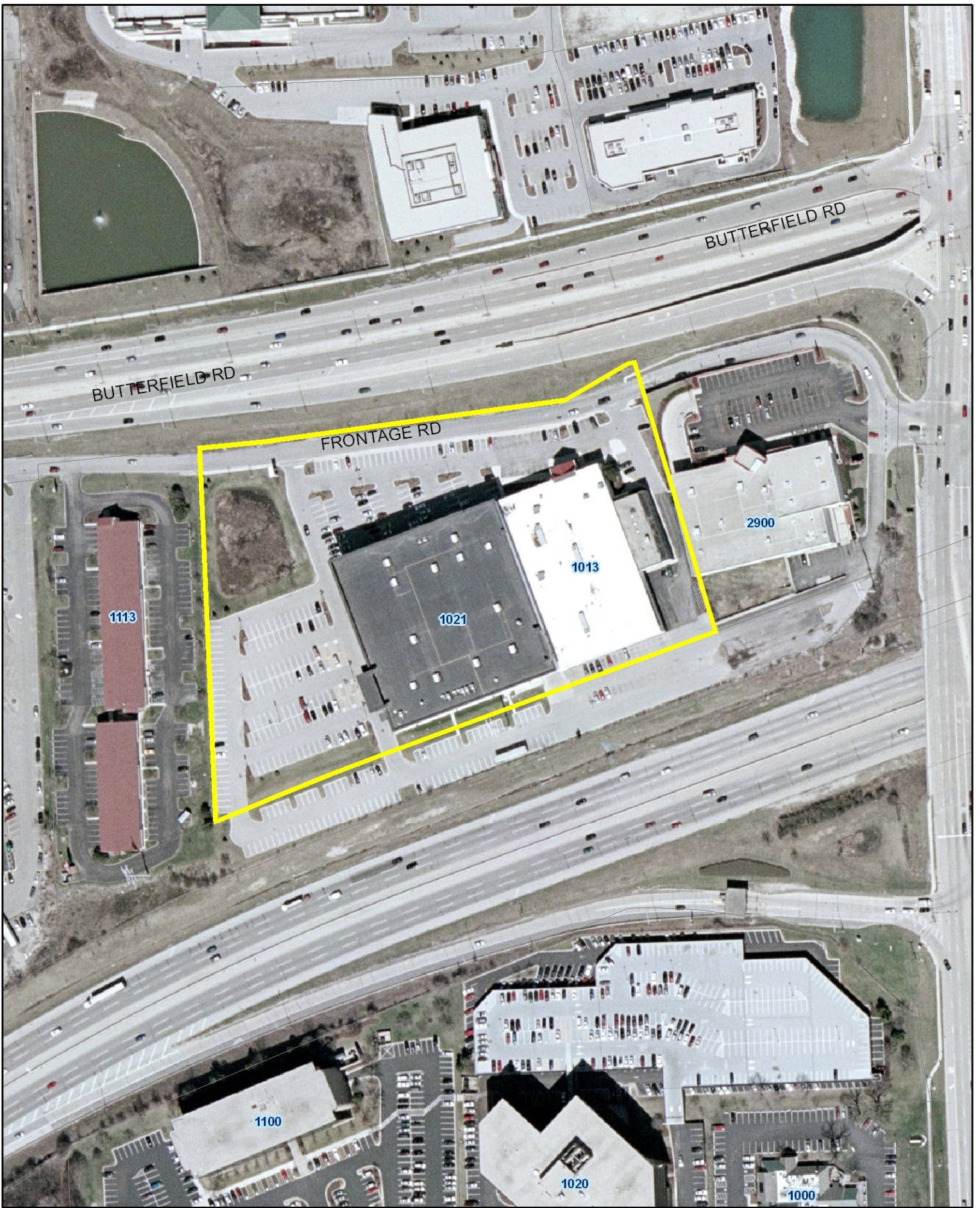
Plans for 1013 Butterfield Square building

Resolution

Ordinance

Staff Report, with attachments, dated January 8, 2007

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



1013-1021 Butterfield Road

SECOND FLOOR PLAN
 SCALE: 1/8" = 1'-0"

ROSSI FURNITURE

Revisions:

Date:
 May 09, 2007

Project Number:

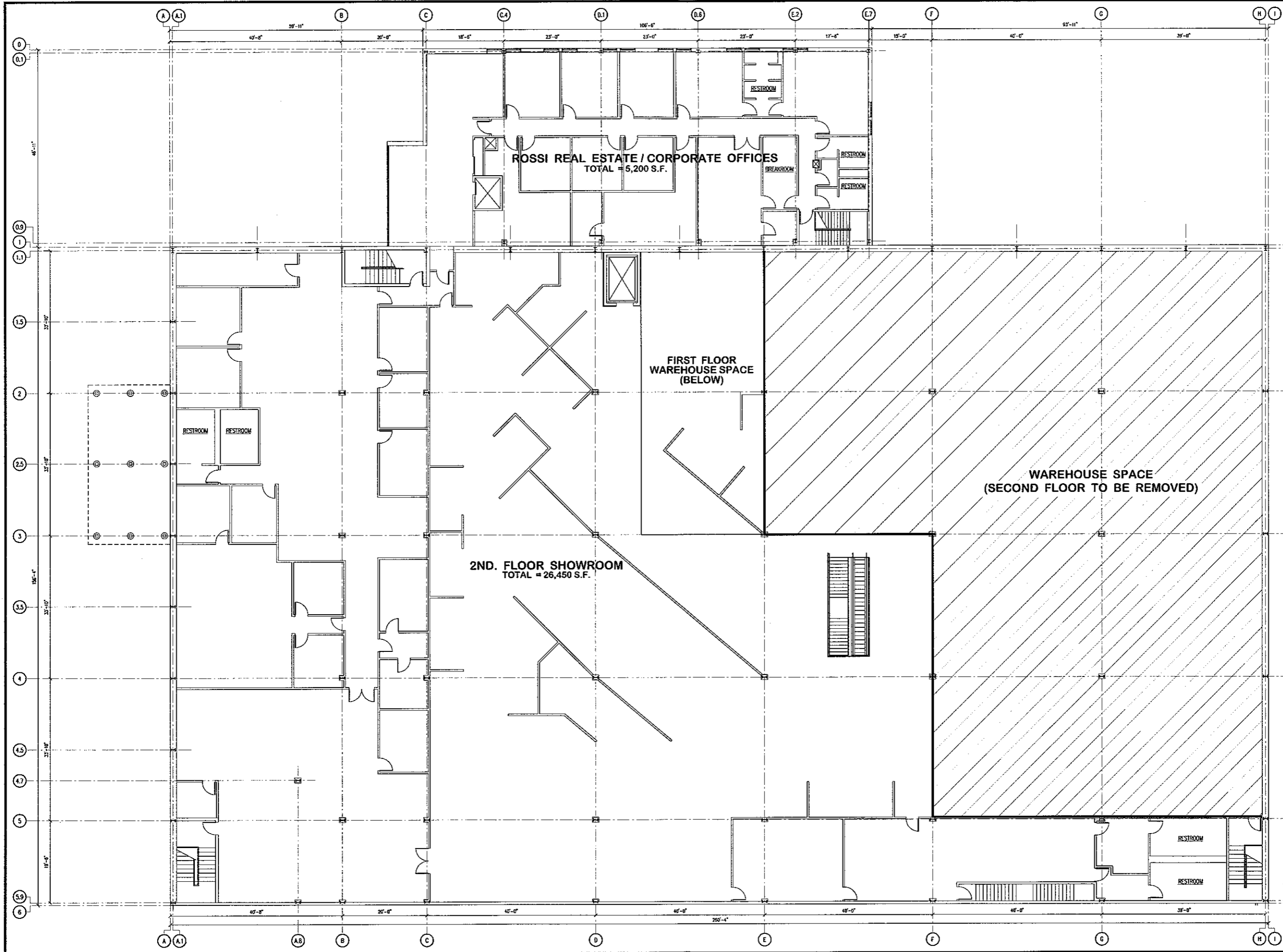
Drawing Issued For:

- Preliminary
- Permit
- Bidding
- Construction
- As-Built

Drawing Number

A2

of Drawings



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.

Mayor

Passed:

Attest: _____
Village Clerk

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING
ORDINANCE OF THE VILLAGE OF DOWNERS GROVE, ILLINOIS
TO DESIGNATE BUTTERFIELD SQUARE AS
FINAL PLANNED DEVELOPMENT NUMBER 44 WITH A VARIATION**

WHEREAS, the Owners of the property at 1013 & 1021 Butterfield Road, Downers Grove, IL (PIN 06-29-302-006); (hereinafter referred to as the "Property" and legally described below) have requested that such real estate be designated as a Planned Development to be known as Butterfield Square Planned Development Number 44 pursuant to the provisions of the Comprehensive Zoning Ordinance of the Village of Downers Grove, as set forth in Chapter 28 of the Downers Grove Municipal Code (hereinafter referred to as the "Zoning Ordinance"); and

WHEREAS, the Owners have also filed a written petition with the Village conforming to the requirements of the Comprehensive Zoning Ordinance and requesting approval of Butterfield Square Final Planned Development site plans consisting of two existing commercial buildings as provided under the Comprehensive Zoning Ordinance; and,

WHEREAS, the Property is zoned "*B-3, General Services and Highway District*" under the Downers Grove Zoning Ordinance; and,

WHEREAS, the Plan Commission of the Village of Downers Grove has given the required public notice and has conducted a public hearing respecting a final plan for the Downers Grove Butterfield Square Planned Development Number 44 on the Property in accordance with the laws of the State of Illinois and the ordinances of the Village of Downers Grove and has reported its findings and recommendations to the Village Council of the Village of Downers Grove pursuant to the provisions of the Zoning Ordinance; and,

WHEREAS, the Plan Commission recommended that the Property be designated as a Planned Development, with approval of the Butterfield Square planned development plans as the documents submitted are consistent with the requirements of the Comprehensive Zoning Ordinance and the character of the planned development; and

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Downers Grove, in DuPage County, Illinois, as follows:

SECTION 1. That the provisions of the preamble are incorporated into this ordinance.

SECTION 2. The following documents are attached hereto and incorporated herein by reference as a part of this ordinance and are hereafter collectively referred to as the "Butterfield Square Final Development Plans", all of which are attached hereto as Group Exhibit A and are incorporated by reference:

1. The planned development 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.

SECTION 3. That the Village Council hereby finds as follows:

1. That Planned Development Number 44 meets the requirements of the Comprehensive Zoning Ordinance as follows:
 - a. 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.
 - b. 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.
 - c. That the planned development is specifically listed as a special use in the district in which it is to be located.
 - d. 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.
 - e. 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.
 - f. 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.
 - g. That adequate utilities, access roads, drainage, and other necessary facilities have been or will be provided for the planned development.
 - h. 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.
 - i. That the planned development shall in all other respects conform to the applicable regulations of the zoning district in which it is located.
2. That the proposed Development conforms with the requirements of the Comprehensive Zoning Ordinance.

SECTION 4. The Zoning Ordinance is hereby amended by adding to the Zoning Map the boundaries of the following described real estate and by designating said real estate as a Planned

Development under the title and style "Butterfield Square Planned Development Number 44" to be stated on the face of said map within the boundaries of the real estate hereinafter described, to wit:

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)

SECTION 5. The Butterfield Square Final Planned Development Plans be and are hereby approved to permit a Planned Development, subject to the conditions and restrictions contained therein, and subject to the following:

- a. The planned development shall be constructed, maintained and operated in conformance with the Butterfield Square Final Planned Development Plans as well as such covenants, conditions and restrictions as may be approved by the Village Council.
- b. The Village shall have the right to review and approve the bylaws, and any changes thereto, to ensure compliance with this Ordinance and applicable laws.
- c. Except as provided herein, the Butterfield Square Final Planned Development Number 44 shall be in conformance with all applicable laws of the Village.

SECTION 6. A request for variation from Chapter 28, Section 1401; *Control of off-site parking facilities*, is hereby granted to allow approval of a unrestricted access shared parking lot agreement for a parking facility on land other than on the zoning lot for which the structure or use served by the parking facility is located.

SECTION 7. The Butterfield Square Development Plans as well as all covenants, conditions and restrictions heretofore or hereafter filed in connection with the Butterfield Square Planned Development Number 44 shall be deemed to be contractual undertakings and shall be binding upon the applicants therefore, the owners of the land covered by the Butterfield Square Planned Development Number 44, and their successors and assigns, and shall limit and control the construction, location, use and operation of all land in the Butterfield Square Planned Development Number 44 , and improvements and structures to be located thereon.

SECTION 8. That all ordinances or resolutions, or parts thereof, in conflict with the provisions of this ordinance be and are hereby repealed.

SECTION 9. That this ordinance shall be in full force and effect from and after its passage and publication in the manner provided by law.

Mayor

Passed:

Published:

Attest: _____
Village Clerk



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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.

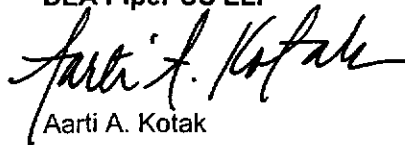
In support of the requested subdivision, review of the shared parking and final planned development approval, we are enclosing the following evidence to demonstrate compliance with the conditions for approval:

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

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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

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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.

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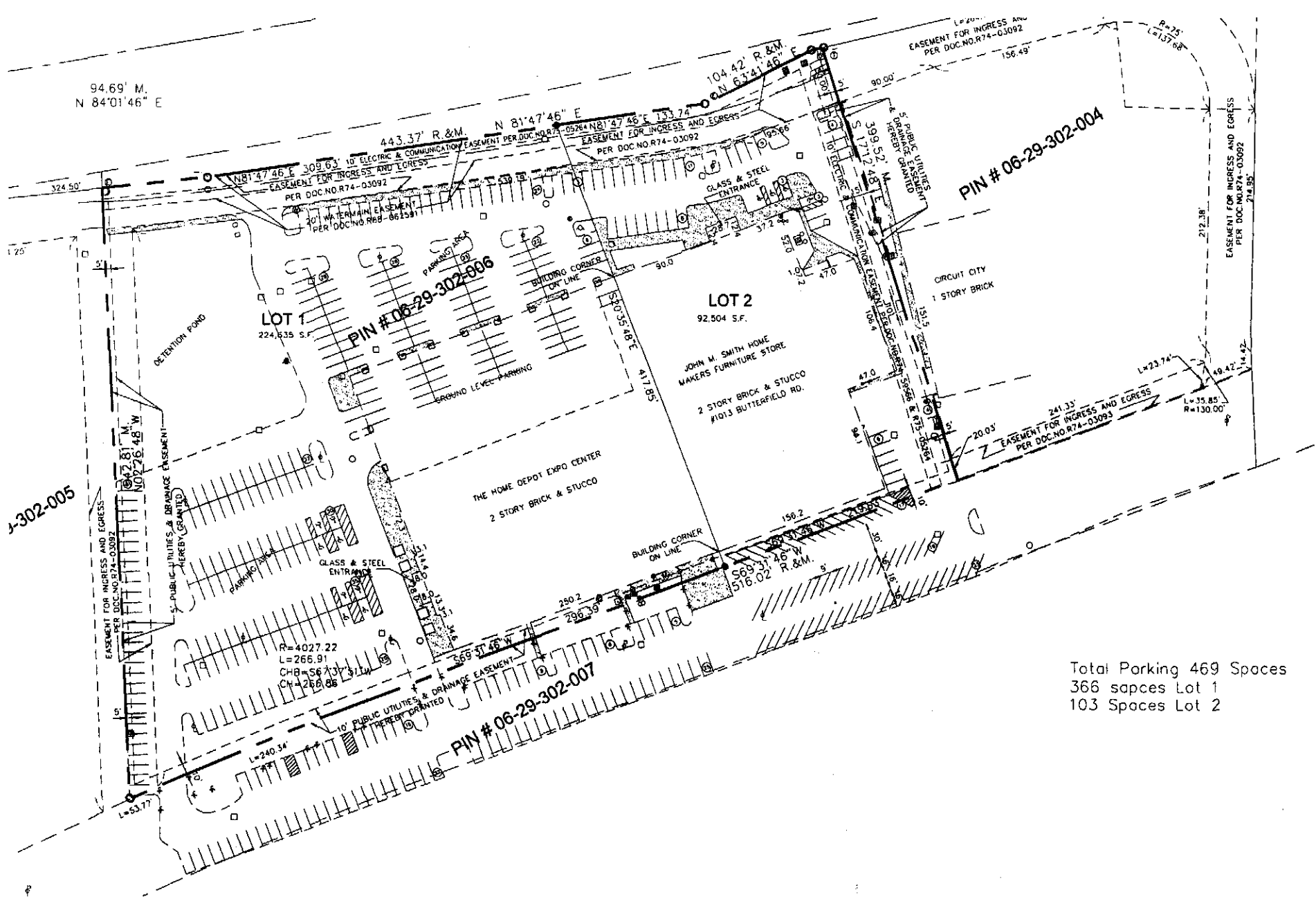
EXHIBIT B

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;

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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

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

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

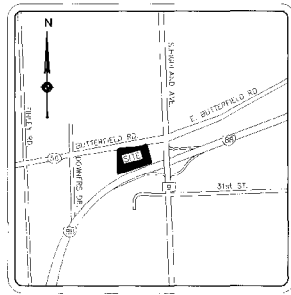
PIN # 06-29-302-007

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

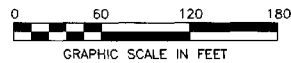
FINAL PLAT OF BUTTERFIELD SQUARE SUBDIVISION

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
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:
COMMENCE 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. 081963, 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 86.87 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. 064-28042, 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 257.20 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 R.O.W. LINE OF BUTTERFIELD ROAD; THENCE NORTHEASTERLY ALONG THE SAID ORIGINAL SOUTH R.O.W. LINE OF BUTTERFIELD ROAD, A DISTANCE OF 99.20 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 R.O.W. 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 R.O.W. 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 NORTHEASTERLY ALONG SAID SOUTH R.O.W. 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)

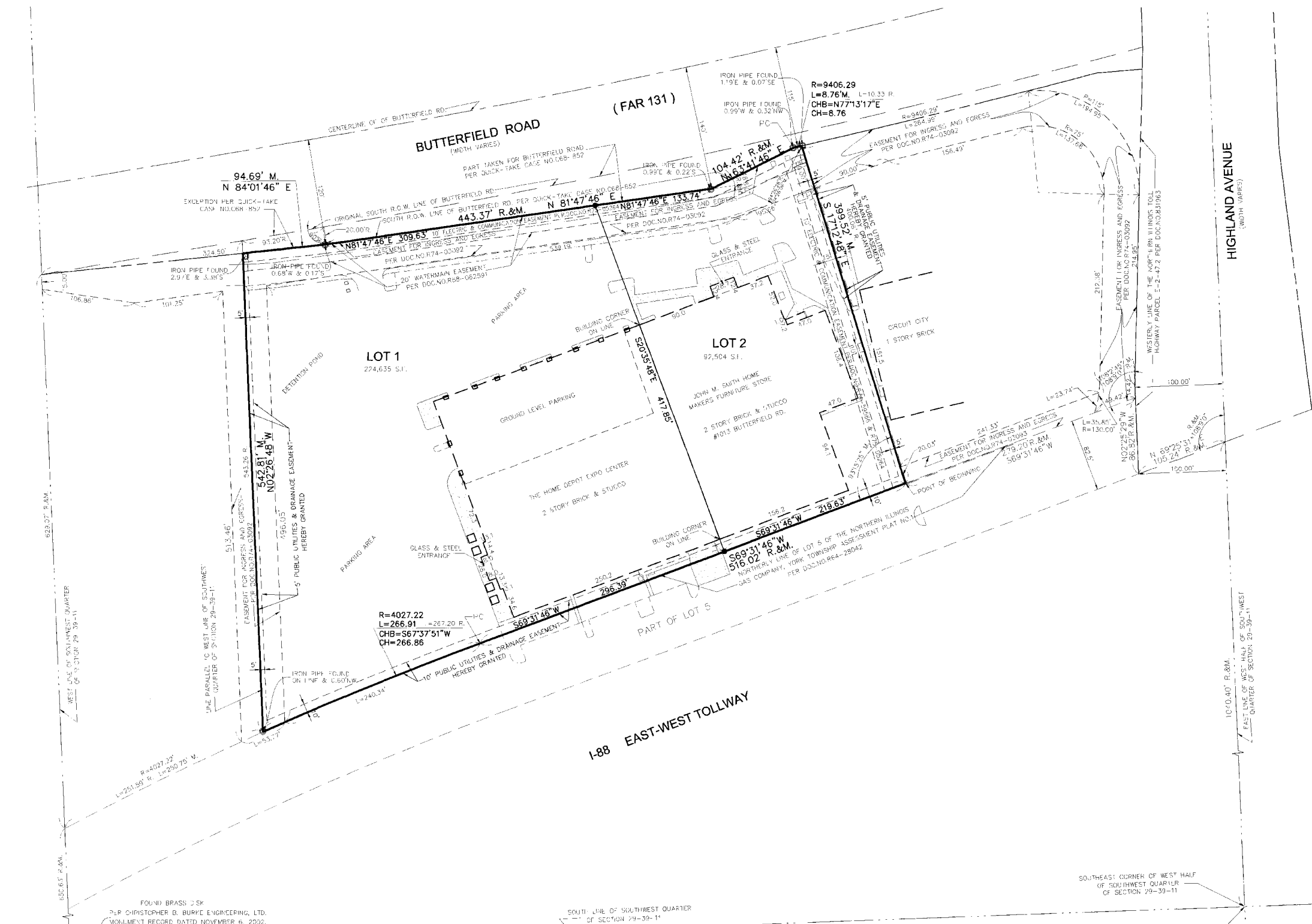
LEGEND:

- 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 B. BURKE ENGINEERING, LTD.
MONUMENT RECORD DATED NOVEMBER 6, 2002.

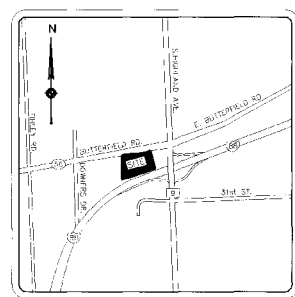
DATE	REVISION

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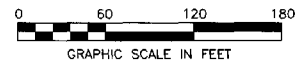
FINAL PLAT OF BUTTERFIELD SQUARE SUBDIVISION

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:
COMMENCE 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 1/4 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 86.87 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 1/4 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 943.26 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:

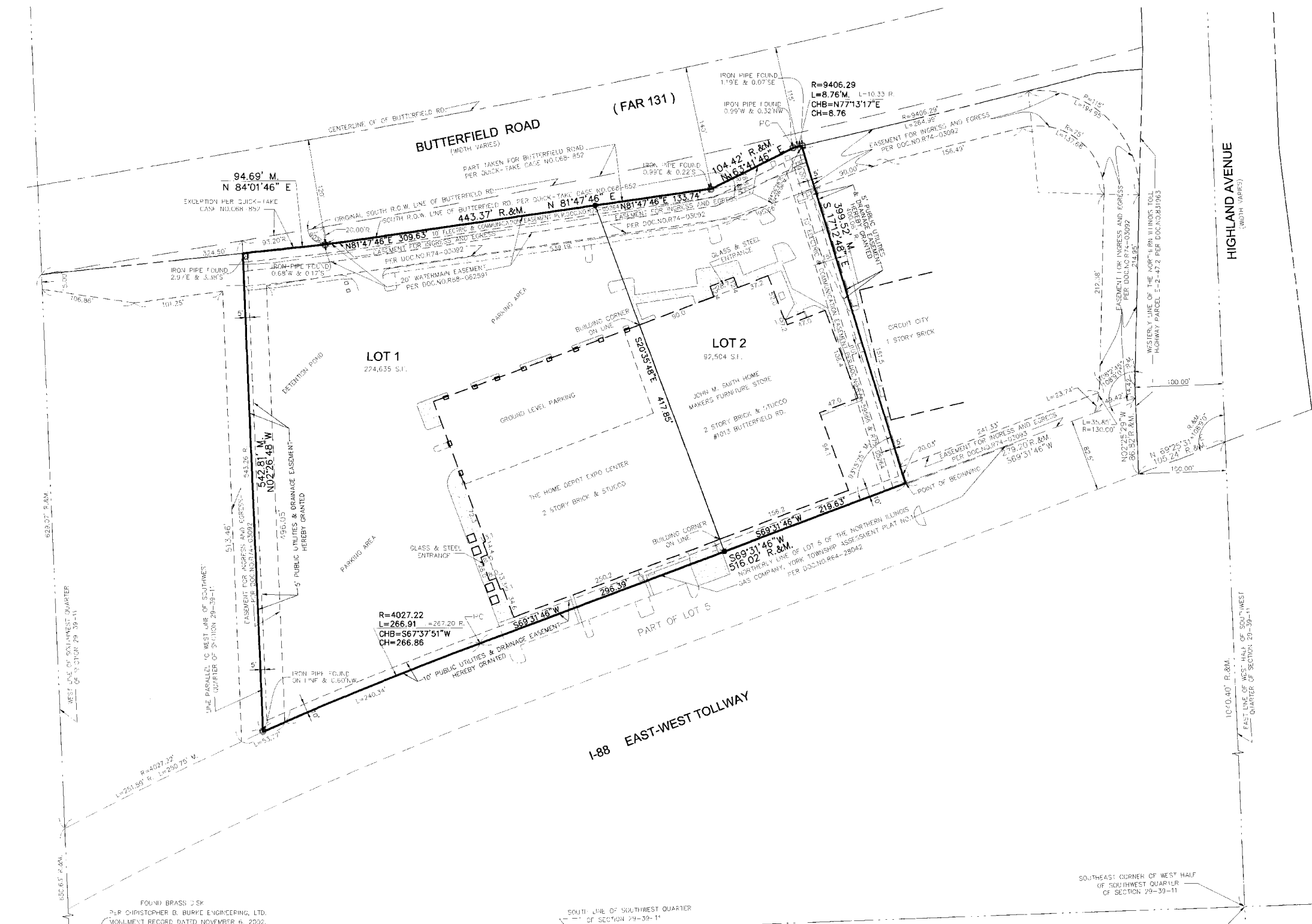
LOT 1	224,635 S.F. OR 5.157 ACRES (MORE OR LESS)
LOT 2	92,504 S.F. OR 2.124 ACRES (MORE OR LESS)
TOTAL AREA:	317,139 S.F. OR 7.281 ACRES (MORE OR LESS)

LEGEND:

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DATE	REVISION
10/31/06	PER VILLAGE'S REQUIREMENTS

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