



Doc#: 0428118172
Eugene "Gene" Moore Fee: \$40.00
Cook County Recorder of Deeds
Date: 10/07/2004 03:28 PM Pg: 1 of 9

PREPARED BY AND
WHEN RECORDED RETURN TO:

Ann Colussi Dee
Duke Realty Corporation
4225 Naperville Rd., Suite 150
Lisle, Illinois 60532



Space above this line for recorder's use only

DECLARATION OF EASEMENTS

THIS DECLARATION OF EASEMENTS (this "Declaration") is made ^{as of} this 29th day of September, 2004, by DUKE REALTY LIMITED PARTNERSHIP, an Indiana limited partnership ("Owner").

RECITALS:

WHEREAS, Owner is the current owner of that certain real property and improvements thereon located in Northlake, Cook County, Illinois, and more particularly known as Lots 1, 2 and 3 of Northlake Two Subdivision (the "Development"), pursuant to the plat thereof recorded September 28, 2004, Document No. 0427244049, in the Cook County Recorder of Deeds records (the "Plat"), a reduced copy of which Plat is attached hereto as Exhibit A and incorporated herein by this reference; and

WHEREAS, the Development consists of three tracts (each such tract being referred to herein as a "Lot", and two or more of said tracts being referred to herein, collectively, as "Lots"), including (i) the tract labeled "Lot 1" on the Plat (herein, "Lot 1"), (ii) the tract labeled "Lot 2" on the Plat (herein, "Lot 2"), and (iii) the tract labeled "Lot 3" on the Plat (herein, "Lot 3");

WHEREAS, the Plat serves to create certain joint and reciprocal easements within the Development, including a shared detention pond (the "Detention Pond"), cross access, and shared storm sewer and public utility facilities; and

WHEREAS, Owner desires to establish the maintenance obligations of the owner of a Lot with respect to such joint and reciprocal easements.

NOW THEREFORE, Owner hereby creates, establishes, and declares, for the benefit of Owner and the successors-in-title to Owner, as well as the tenants of the Lots, and their invitees, customers, agents, employees, licensees and guests, the following:

g:\real estate\chicago industrial\land sales\northlake-lot 2\declaration of easements-v3.doc

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Order # 109754 185 JZ
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1. Joint Driveway Easement.

a. Ratification of Easement.

(i) Owner does hereby confirm the grant and establishment pursuant to the Plat, for the benefit of and as an appurtenance to the Development, the right, title and privilege of a perpetual, non-exclusive easement over and across such paving and related improvements as may now or hereafter be located or relocated within the Development (herein, the "Joint Driveway Easement") as a means of vehicular (including truck traffic) and pedestrian ingress and egress to and from Lots 1, 2 and 3 and the adjacent public right-of-way known as Northwest Avenue. The "Joint Driveway Easement Area" is depicted with hatching on Exhibit B-1 attached hereto and incorporated herein by this reference.

(ii) No improvements shall be constructed within the Joint Driveway Easement Area that would impede the use and enjoyment of the easements established pursuant to this Section 1(a). Furthermore, there shall be no parking within the Joint Driveway Easement Area.

b. Maintenance Obligations/Costs. Until such time as a certificate of occupancy is issued with respect to any vertical structures or buildings on Lot 2 or Lot 3, the owner of Lot 1 shall keep and maintain the Joint Driveway Easement Area in accordance with this subsection (b) at its sole cost and expense. Thereafter the improvements to the Joint Driveway Easement Area (including, without limitation, all paving, curbs, gutters and related facilities) shall continued to be kept and maintained by the owner of Lot 1 (i) in good condition and repair (and replaced as necessary), and (ii) in compliance with all applicable laws, rules, regulations, ordinances, and this Declaration; however, upon the issuance of a certificate of occupancy with respect to any vertical structures or buildings on Lot 2 or Lot 3, such owner shall reimburse the Lot 1 owner (within thirty (30) days following the such owner's receipt of an invoice therefor) for its Prorata Share (hereinafter defined) of all actual costs and expenses incurred by the Lot 1 owner to keep and maintain the Joint Driveway Easement Area in accordance with this subparagraph 1(b). For purposes of this Declaration, an owner's "Prorata Share" shall be calculated as a fraction, using the acreage of each Lot as the numerator and the aggregate acreage of the Development as the denominator.

c. Damage to Joint Driveway Easement Area. Notwithstanding the provisions of subparagraph 1(b) above, in the event the owner of a Lot (or its tenants, subtenants, employees, agents, customers or invitees) damages the Joint Driveway Easement Area (including any improvements thereto) by its own negligence or willful act or through any non-customary use, such owner shall be responsible for repairing said damage at its sole cost and expense. All such repairs shall be promptly commenced and diligently completed within thirty (30) days of receipt of written demand therefor, unless a longer period of time is reasonably required for completion due to no fault of the repairing party.

2. Storm Drainage Easement.

a. Ratification of Easement. Owner hereby confirms the establishment pursuant to the Plat of a perpetual, non-exclusive drainage easement over each Lot, for the benefit of and as an

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appurtenance to the Development (herein, the "Joint Drainage Easement"), over and through the drainage lines and related facilities now or hereafter be installed or relocated within the Development as necessary for surface drainage into said drainage lines and related facilities (provided that storm water drainage is not unreasonably interrupted thereby). The "Drainage Easement Areas" are depicted with hatching on Exhibit B-2 attached hereto and incorporated herein by this reference and include the Detention Pond. Notwithstanding anything to the contrary contained herein, the owner of any Lot may install or construct parking, driveways, curbing, landscaping and other paved or landscaped areas over, across or upon the Drainage Easement Areas, provided such installation or construction (as well as the use of the Drainage Easement Areas) does not adversely affect storm drainage discharge from any portion of the Development.

b. Maintenance Obligations/Costs. The owner of Lot 1 shall at all times be responsible for the maintenance and repair of the Detention Pond and for obtaining insurance for the Detention Pond. Additionally, until such time as a certificate of occupancy is issued with respect to any vertical structures or buildings on Lot 2 or Lot 3, the owner of Lot 1 shall keep and maintain the drainage lines and related facilities within the Drainage Easement Areas in accordance with this subsection (b) at its sole cost and expense. Upon the issuance of a certificate of occupancy with respect to any vertical structures or buildings on Lot 2 or Lot 3, the Lot 2 owner and the Lot 3 owner (as applicable) shall reimburse the Lot 1 owner (within thirty (30) days following the such owner's receipt of an invoice therefor) for its Prorata Share of all actual costs and expenses incurred by the Lot 1 owner to keep, maintain and insure the Detention Pond in accordance with this subparagraph 2(b). Furthermore, upon the issuance of a certificate of occupancy with respect to any vertical structures or buildings on Lot 2 or Lot 3, the owner of each Lot shall, at such owner's sole cost and expense, thereafter keep the drainage lines and related facilities located on such owner's Lot (i) in good condition and repair (and replaced as necessary) at such owner's sole cost and expense, and (ii) in compliance with all applicable laws, rules, regulations and ordinances.

Notwithstanding the foregoing, the owner of any Lot may perform any emergency repairs necessary to the Drainage Easement Areas to prevent damage or loss of service to its property or to prevent imminent injury to persons or property.

c. Damage to Drainage Facilities. Notwithstanding the provisions of subparagraph 2(b) above, in the event the owner of a Lot (or its tenants, subtenants, employees, agents, customers or invitees) damages the drainage lines and/or related facilities located on another Lot by its own negligence or willful act or through any non-customary use, such owner shall be responsible for repairing said damage at its sole cost and expense. In addition, in the event the construction of improvements upon Lot 2 and/or Lot 3 causes an undue increase in silt accumulation in the Detention Pond, any cost or expense incurred in removal of silt from the Detention Pond shall be paid for by the party responsible for creating the silt, and, if repaired by the owner of Lot 1, shall be reimbursed in accordance with the invoicing procedure set forth in subparagraph 2(b) above.

3. Covenants Running With the Land. The rights, agreements, duties, obligations and easements set forth in this Declaration shall run with the land, and shall be binding upon and benefit the owners of each

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Lot and every portion thereof in perpetuity, and their successors, assigns and legal representatives. Any transferee of any portion of the Development shall automatically be deemed, by acceptance of the title to said property, to have assumed all obligations of this Declaration relating thereto to the extent of its interest in said property and the transferor shall upon the completion of such transfer be relieved of all further liability under this Declaration except liability with respect to matters that may have arisen during its period of ownership of the property so conveyed that remain unsatisfied to the extent of its proceeds from the transfer or remaining interest in the property, if any.

4. **Modifications.** This Declaration may be amended only by a written instrument executed by the following: (i) Owner or its successors and assigns, and (iii) the holders of all mortgages on the Development or any portion thereof.

5. **Relocation.** The owner of a Lot shall have the right to relocate that portion of the Joint Driveway Easement or the Joint Drainage Easement located within such owner's Lot, provided so long as such relocation will not result in any interruption of or interference with ingress and egress and/or storm drainage service within the rest of the Development, or otherwise materially or adversely affect the Development. In the event of any such relocation, this Declaration shall be amended to reflect such relocation.

6. **Notices.** Any notice sent pursuant to this Declaration shall be in writing and sent by personal delivery, overnight mail or delivery service, or United States certified or registered mail, return receipt requested, with adequate postage prepaid. Notices given by personal delivery or by overnight mail or delivery service shall be deemed effective upon delivery. Notice given by United States certified or registered mail, return receipt requested shall be effective upon being so deposited, but the time period in which a response to any notice must be given or any action taken with respect thereto shall commence to run from the date of receipt of the notice as evidenced by the return receipt. Rejection or other refusal by the addressee to accept or the inability of the United States Postal Service to deliver because of a changed address of which no notice was given shall be deemed to be the receipt of the notice sent.

Any notice sent to Owner shall be delivered to the following address:

Duke Realty Limited Partnership
c/o Duke Realty Corporation
4225 Naperville Road, Suite 150,
Lisle, Illinois 60532

With copy to:

Duke Realty Corporation
4225 Naperville Road, Suite 150,
Lisle, Illinois 60532
Attn: Legal Dept. - Chicago Market Attorney

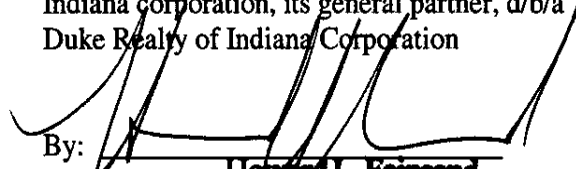
7. **Governing Law.** The laws of the State of Illinois shall govern this Declaration. Any provisions of this Declaration that shall prove to be invalid, void or illegal, shall in no way affect, impair or invalidate any other provisions hereof.

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IN WITNESS WHEREOF, Owner has executed this Declaration as of the date first set forth above.

DUKE REALTY LIMITED PARTNERSHIP,
an Indiana limited partnership

By: DUKE REALTY CORPORATION, an
Indiana corporation, its general partner, d/b/a
Duke Realty of Indiana Corporation



Name: **Howard L. Feinsand**
Title: **Executive Vice President
and General Counsel**

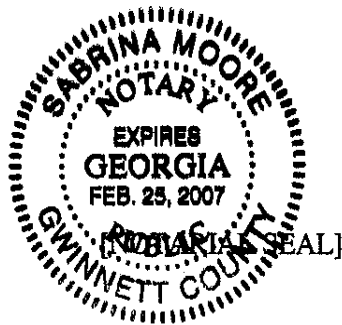
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NOTARY ACKNOWLEDGEMENT

STATE OF Georgia)
) ss:
COUNTY OF Gwinnett)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Howard Feinsand, whose name as EVP & General Counsel of Duke Realty Corporation d/b/a Duke Realty of Indiana Corporation, the general partner of Duke Realty Limited Partnership, an Indiana limited partnership, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that being informed of the contents of the said instrument, he, as such EVP & General Counsel and with full authority, executed the same voluntarily for and as the act of such corporation and limited partnership.

Given under my hand and seal this the 24th day of September, 2004.



Sabrina Moore
Notary Public

Sabrina Moore, Notary Public, Gwinnett County, Georgia
My commission expires February 25, 2007

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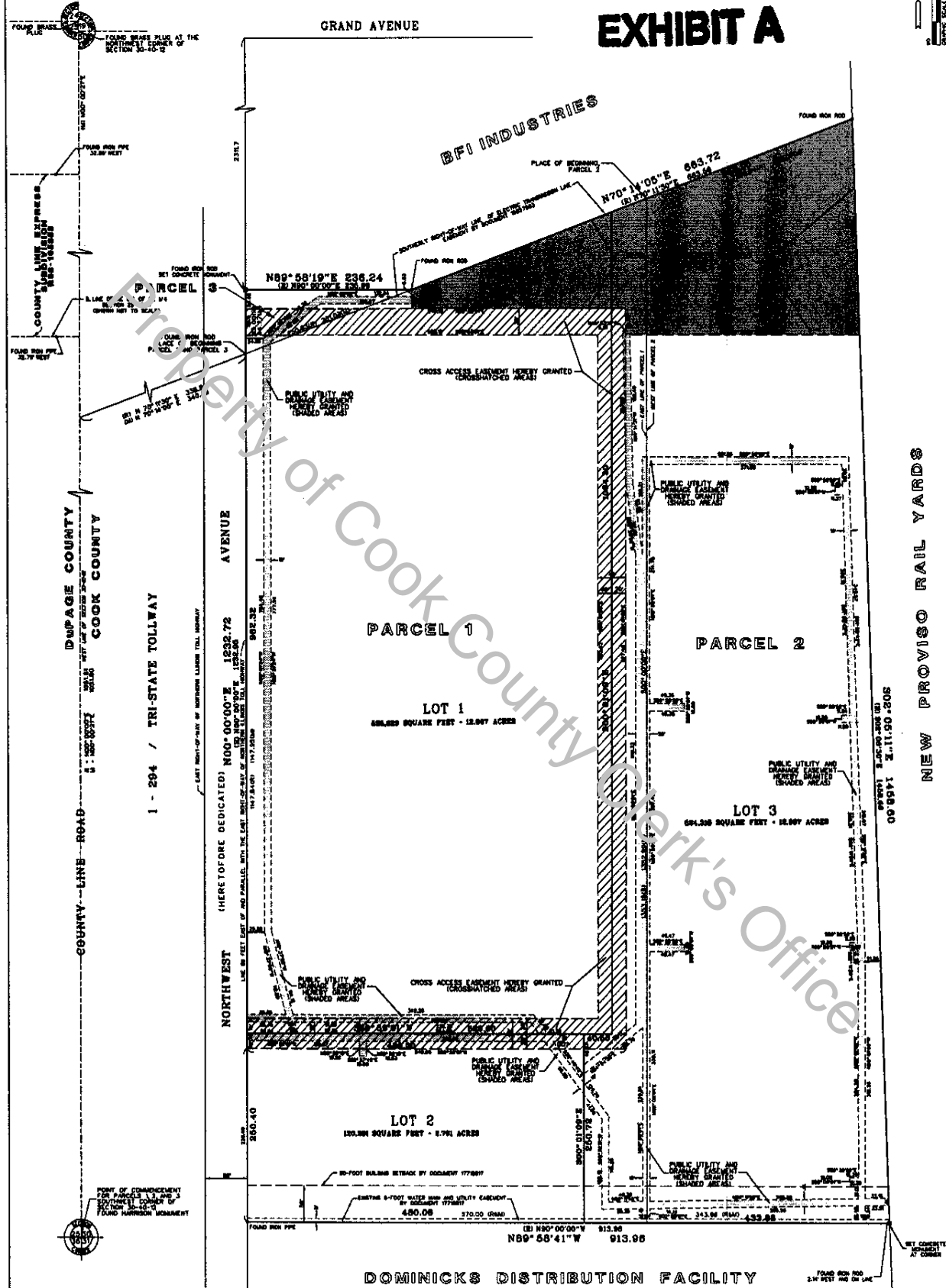
DUKE REALTY CORPORATION NORTHLAKE TWO SUBDIVISION

A SUBDIVISION OF PART OF SECTIONS 30 AND 31, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N. 12-30-300-003



EXHIBIT A



DOMINICKS DISTRIBUTION FACILITY

TOTAL LAND AREA - 1,170,225 SQ FT - 26.864 ACRES

No.	Date	Description	By
1	12-20-04	PER REVIEW	DUKE REALTY CORPORATION
2	1-13-04	PER REVIEW	DUKE REALTY CORPORATION
3	4-4-04	ADD UTILITY EASEMENTS	WEBSTER, McGRATH & HALBERG LTD.
4	8-24-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
5	11-24-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
6	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
7	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
8	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
9	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
10	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
11	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
12	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
13	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
14	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
15	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
16	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
17	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
18	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
19	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
20	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
21	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
22	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
23	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
24	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
25	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
26	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
27	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
28	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
29	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
30	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
31	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
32	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
33	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
34	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
35	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
36	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
37	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
38	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
39	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.
40	1-13-04	PER REVIEW	WEBSTER, McGRATH & HALBERG LTD.

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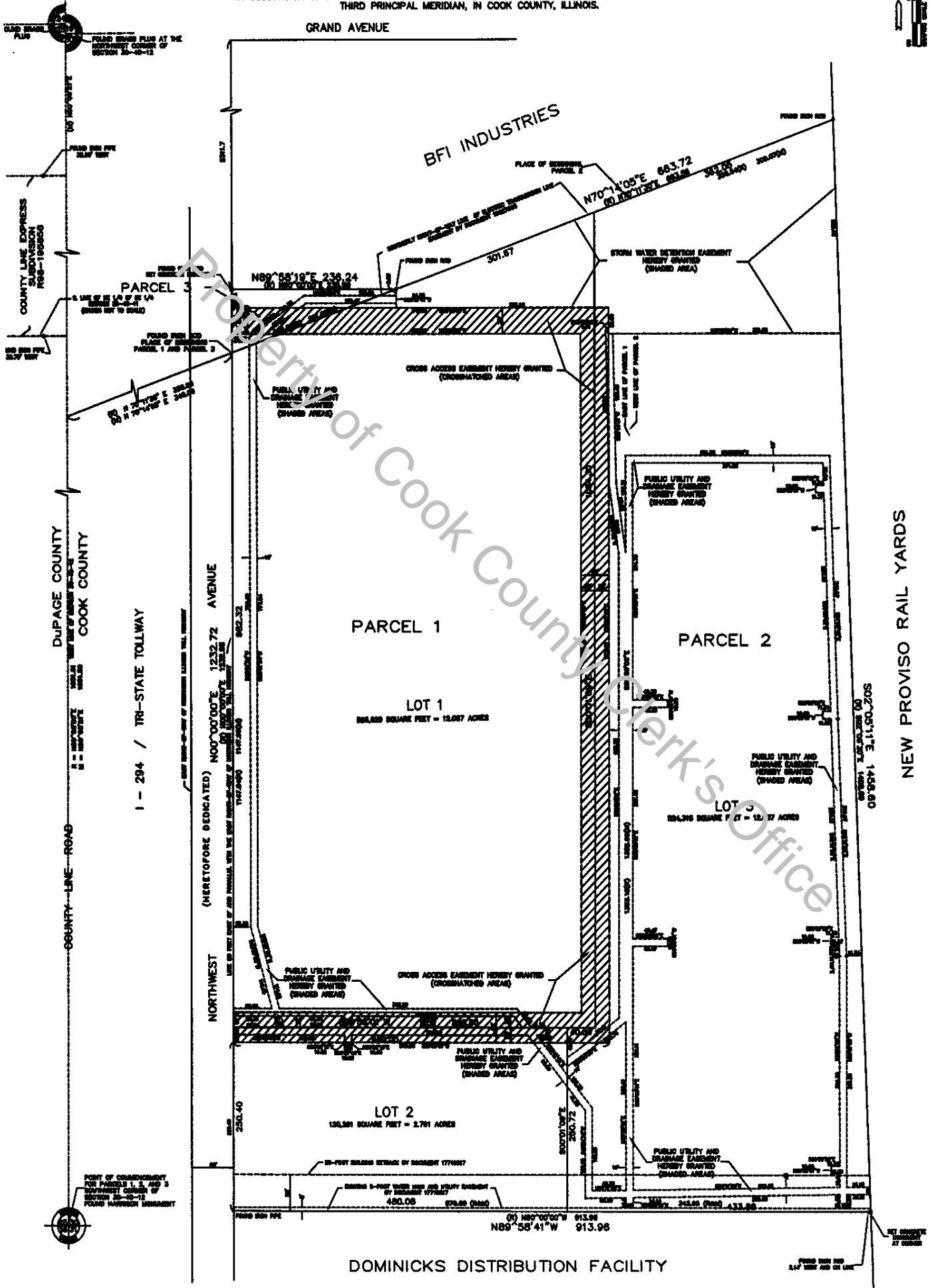
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P.I.N. 12-30-300-003

EXHIBIT B-1

DUKE REALTY CORPORATION
 NORTHLAKE TWO SUBDIVISION
 A SUBDIVISION OF PART OF SECTIONS 30 AND 31, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE
 THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

GRAND AVENUE



NEW PROVISIO RAIL YARDS

DOMINICKS DISTRIBUTION FACILITY

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EXHIBIT B-2

P.L.N. 12-30-300-003

DUKE REALTY CORPORATION NORTHLAKE TWO SUBDIVISION

A SUBDIVISION OF PART OF SECTIONS 30 AND 31, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE
THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

GRAND AVENUE

BFI INDUSTRIES

NEW PROVISIO RAIL YARDS

PARCEL 1

PARCEL 2

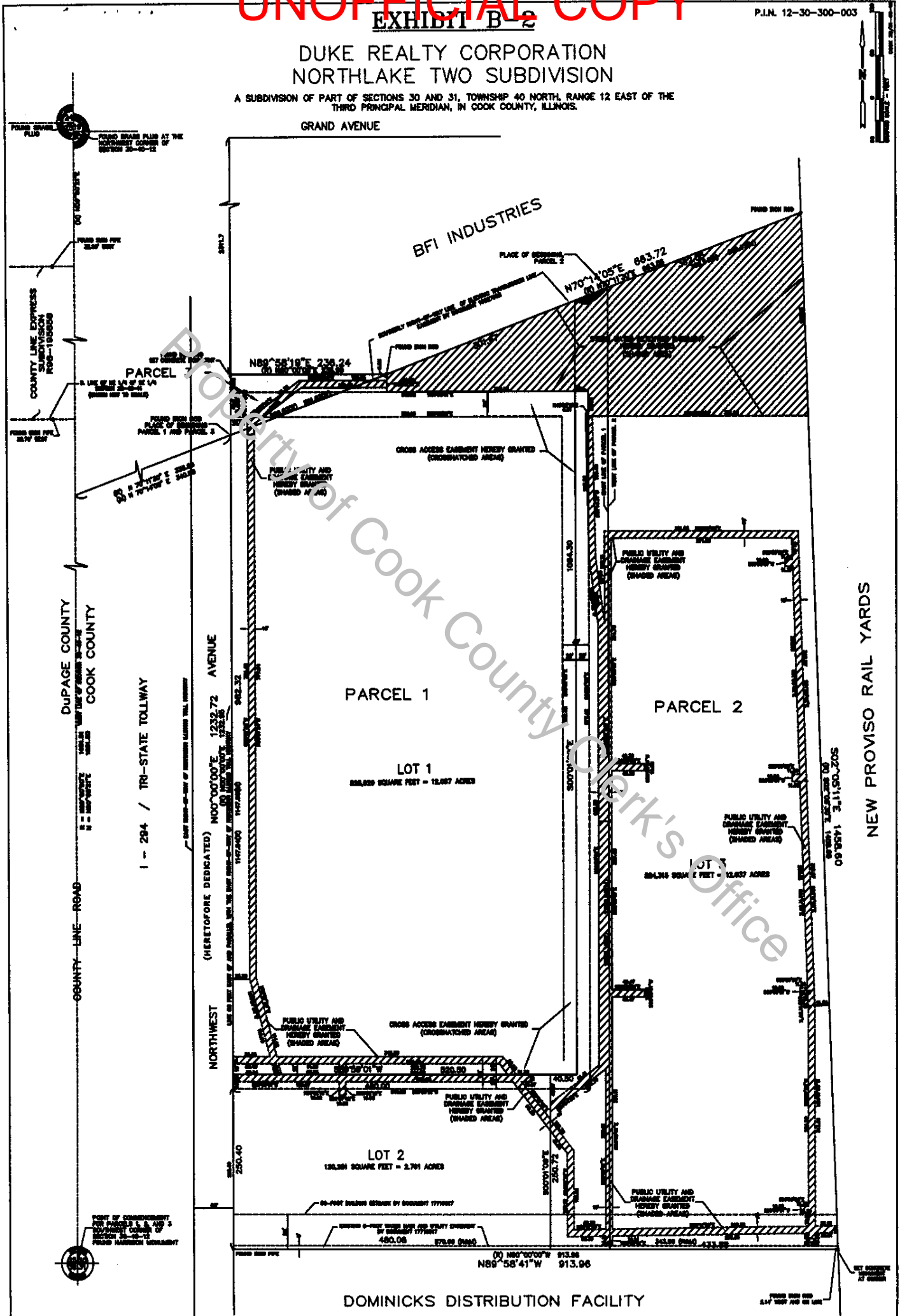
LOT 1

LOT 2

126,000 SQUARE FEET = 2.701 ACRES

126,000 SQUARE FEET = 2.701 ACRES

DOMINICKS DISTRIBUTION FACILITY



Property of Cook County Clerk's Office

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LEGAL DESCRIPTION:

Lots 1, 2 and 3 in Duke Realty Corporation Northlake Two Subdivision, a Subdivision of part of Sections 30 and 31, Township 40 North, Range 12 East of the Third Principal Meridian, according to the plat thereof recorded September 28, 2004 as document 0427244049, in Cook County, Illinois.

TAX NO.: 12-30-300-003

STREET ADDRESS: 601 Northwest Ave., Northlake, IL

Property of Cook County Clerk's Office

First American Title

Order # _____