



Doc#: 0722260011 Fee: \$94.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 08/10/2007 10:54 AM Pg: 1 of 14

DECLARATION OF EASEMENT

8395-305 J CTI

This Declaration of Easements (this "Declaration") is made and entered into as of this Fourth Day of May, 2007, by 2727 Higgins, LLC, a Delaware Limited Liability Company (the "Declarant"). Principal Life Insurance Company does join in the execution of this Declaration, but only for the purpose set forth in Section 14 hereof.

WITNESSETH

Whereas, Declarant is the owner of title in fee simple of the Combined Parcel; and

Whereas, Declarant has filed the Plat with the Recorder of Cook County, Illinois whereby two new lots have been created, being Lot 1 and Lot 2, both as specified on the Plat; and

Whereas, Lot 1 is improved with Building 1 and Lot 2 is improved with Building 2.

Whereas, the Access Road is shown on Exhibit B attached hereto and made a part hereof and is designated on Exhibit B as the Access Road; and,

Whereas, the East Parking Area is shown on Exhibit B and is designated on Exhibit B as the East Parking Area.

Whereas, the Storm Sewer, is legally described on Exhibit A, is shown on Exhibit B and is designated as the Storm Sewer on Exhibit B; and

Whereas, Lot 1 Access and Parking Area is legally described on Exhibit A, is shown on Exhibit B and is designated as the Lot 1 Access and Parking Area on Exhibit B; and

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Whereas, the Combined Parcel is presently encumbered by the lien of the Principal Mortgage, which Principal Mortgage provides, in pertinent part, that the lien thereof will be partially released from Lot 2 upon the occurrence of certain events and the satisfaction of certain conditions.

Whereas, the Declarant intends that Lot 1 shall be burdened with easements for the benefit of Lot 2 for the use of the Lot 1 Access and Parking Area and for the use of the Storm Sewer, but only upon the occurrence of an Activation Event”.

NOW, THEREFORE, the following declarations, grants, agreements, conditions, covenants and restrictions are hereby made.

1. DEFINITIONS. As used herein, the following terms shall have the following meanings:

The term “Access Road shall mean that certain road or driveway to Touhy Avenue, a public right of way, for the passage of vehicles (including trucks) and for the passage and accommodation of pedestrians, both to serve Lot 2.

The term “Activation Event” shall mean the earlier to occur of: (i) separation of ownership of Lot 1 and Lot 2 or (ii) the release of the lien of the Principal Mortgage from Lot 2.

The term “Amendment” shall have the meaning ascribed to that term in Section 12 hereof.

The term “Curing Party” shall have the meaning ascribed to that term in Section 13 hereof.

The term “Defaulting Party” shall have the meaning ascribed to that term in Section 13 hereof.

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The term “Building 1” shall mean that certain one story building located on Lot 1.

The term “Building 2” shall mean that certain two story building located on Lot 2.

The term “Combined Parcel” shall mean the real estate described in Exhibit A and designated as the Combined Parcel.

The term “East Parking Area” shall mean that certain area for the parking of vehicles on Lot 2.

The term “Lot 1 Access and Parking Area” shall mean that portion of the Access Road and that portion of the East Parking Area which are located on Lot 1, as legally described on Exhibit A and as shown on Exhibit B.

The term “Lot 1 Owner” shall have the meaning ascribed to that term in Section 4 hereof.

The term “Lot 2 Owner” shall have the meaning ascribed to that term in Section 4 hereof.

The term “Owner Party” shall have the meaning ascribed to that term in Section 7 hereof.

The term “Party” shall mean each Lot 1 Owner and each Lot 2 Owner, as the context may require, during the time of such Persons’ ownership of fee title of Lot 1 or Lot 2, as applicable.

The term “Person” means any individual, partnership (whether general or limited), limited liability company, corporation, trust, estate, association, nominee or other entity.

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The term "Plat" shall mean the Plat of Subdivision filed of record with the Recorder of Cook County, Illinois whereby the land area of the Combined Parcel has been subdivided into two (2) new lots of record, being Lot 1 and Lot 2.

The term "Required Party" shall have the meaning ascribed to that term in Section 7 hereof.

The term "Storm Sewer" shall mean that certain storm sewer including storm manholes located on Lot 1, which storm sewer and storm manholes accept storm water from Lot 2.

The term "Principal Mortgage" shall mean that certain Mortgage, Security Agreement and Fixture filing dated November 14, 2006 to Principal Life Insurance Company, as Mortgagee, to secure indebtedness in the amount stated therein, and filed with the Recorder of Cook County, Illinois.

1. DECLARARATION OF EASEMENTS. The Declarant hereby declares, upon the occurrence of an Activation Event, that Lot 1 shall be and is hereby burdened with the following easements (the "Easements") for the benefit of Lot 2 and for the benefit of all Persons having an interest in Lot 2, including all Persons owning fee simple title to Lot 2 and their successors, assigns, tenants, mortgagees, guests and invitees, (i) a perpetual exclusive easement for ingress and egress from and to Touhy Avenue for the passage of vehicles (including trucks) and for the passage and accommodation of pedestrians and the parking of vehicles over and across the Lot 1 Access and Parking Area, and (ii) a perpetual easement for the discharge of storm water over and on to Lot 1 to the Storm Sewer

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2. USE OF EASEMENTS. Use of the Easements is not affected by any present or future uses of Lot 2 or any improvements now or hereafter located thereon, or present or future means of transportation.

3. DIVISION OF DOMINANT TENEMENT. If Lot 2 is hereafter divided into two or more parts by separation of ownership or by lease, all parts shall enjoy the benefit of the Easement hereby created.

4. MAINTENANCE, REPAIR, REPLACEMENT AND IMPROVEMENT OF ACCESS ROAD AND EAST PARKING AREA. The Person owning fee simple title to Lot 2 (the "Lot 2 Owner") shall have the right, but not the obligation, at any time and from time to time, to improve the Access Road and the East Parking Area with concrete or asphalt surfaces, curbs, bumpers and lighting. The Lot 2 Owner shall have the sole responsibility and obligation to maintain, repair and replace all surfaces, curbs, bumpers and lighting on the Access Road and East Parking Area.

5. MAINTENANCE, REPAIR, REPLACEMENT AND IMPROVEMENT OF STORM SEWER. The Person owning fee simple title to Lot 1 (the "Lot 1 Owner") shall have the right, but not the obligation, at any time and from time to time, to improve the pipes manholes and other items which constitute the Storm Sewer. The Lot 1 Owner shall have the sole responsibility and obligation to maintain, repair and replace all the pipes manholes and other items which constitute the Storm Sewer.

6. MAINTENANCE, REPAIR REPLACEMENT AND IMPROVEMENT. All maintenance, repair, replacement and improvement work as specified in Sections 4 and 5 above (the "Work") performed by any Party shall be performed in compliance with each of the following requirements as are applicable thereto:

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(a) All Work shall be performed in a good and workman like manner and in accordance with all laws, statutes, rules, regulations, ordinances or orders of any kind whatsoever having jurisdiction over the Combined Parcel (including but not limited to, zoning and building laws and ordinances, environmental protection laws and regulations, the rules, regulations and orders of any governmental agency and any building or environmental permit).

(b) All Work shall be completed with due diligence, and at the sole cost and expense of the Party obligated hereunder to perform the Work.

7. TEMPORARY LICENSE. It is recognized that from time to time during the term of this Declaration, any Party (the "Required Party") may require a temporary license to use portions of the of the land owned by the other Party ("Owner Party") for the purpose of: (a) performing maintenance upon, and making repairs to the Storm Sewer, Access Road or the East Parking Area, or (b) making alterations, additions and improvements, or replacing the whole or any part of the Storm Sewer, Access Road or the East Parking Area pursuant to this Declaration, and (c) obtaining access, ingress and egress to and from Lot 1 or Lot 2, as applicable, to carry on the Work. Within a reasonable time prior to the commencement of any such Work, the Required Party desiring to undertake the same shall submit to the Owner Party for its approval, a plot plan of Lot 1 or Lot 2, as applicable, on which the Required Party shall designate those portions of Lot 1 or Lot 2, as applicable, with respect to which the Required Party reasonably requires a temporary license in connection with such Work for access, ingress and egress, and the Owner Party shall within ten (10) days thereafter notify the Required Party of approval (which approval shall not be unreasonably withheld) or disapproval of use of the Required Party of the portion of Lot 1 or Lot 2, as applicable. The Required Party shall comply with the applicable requirements of Paragraph 6 hereof, and

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upon cessation of such use shall promptly restore those portions of Lot 1 or Lot 2, as applicable, so used to the condition in which the same were prior to the time of commencement of such use, including the clearing of such area of all dirt, debris, equipment and construction materials. The Required Party shall also restore any portions of Lot 1 or Lot 2, as applicable, which may have been damaged as a result of such Work, promptly upon the occurrence of such damage.

8. RUNNING OF BENEFITS AND BURDENS. All provisions of this Declaration, including the benefits and burdens, run with the land and are binding upon and enure to the benefit of the successors, assigns, tenants, invitees, heirs and personal representatives of the Declarant.

9. TERMINATION OF COVENANT LIABILITY. Whenever a transfer of fee simple title of Lot 1 or Lot 2, as applicable, takes place, liability of the transferor for breach of covenant occurring thereafter automatically terminates.

10. ATTORNEYS' FEES. Any Party may enforce this Declaration by appropriate action; and should it prevail in such litigation, the prevailing Party shall recover, as part of its costs, reasonable attorneys' fees.

11. CONSTRUCTION. The rule of strict construction does not apply to this Declaration. This Declaration shall be given a reasonable construction so that the intention of the Declarant to confer a commercially usable right of enjoyment is carried out.

12. NOTICE. All notices to or demands desired or required to be given under any of the provisions hereof shall be in writing. From and after the separation of ownership of Lot 1 and Lot 2, this Declaration shall be amended (the "Amendment"); such Amendment to

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be recorded with the Recorder of Cook County, Illinois. The Amendment shall provide the address to which any notice or demand from any Party to the other Party shall be sent. From and after the separation of ownership of Lot 1 and Lot 2 any notice or demand from one Party to the other Party shall be deemed to have been duly and sufficiently given when received or refused if sent by United States registered or certified mail in an envelope properly stamped and addressed or if sent by courier service, to such address specified in such Amendment or such other address as any Party may have designated by written notice to the other Party.

13. RIGHT TO CURE. Any Party (the "Curing Party") may, but shall not be obligated to, cure any default by the other Party (the "Defaulting Party") (specifically including, but not by way of limitation, the failure of the Defaulting Party to obtain insurance or make repairs) and whenever a Curing Party so elects, all costs and expenses paid by the Curing Party in curing such default, including without limitation reasonable attorneys' fees, shall be immediately due and payable, together with interest (except in the case of said attorney's fees) at the highest rate then payable in the State Illinois or, in the absence of such a maximum rate, at a rate per annum equal to five per cent (5%) in excess of the announced prime rate, base rate or equivalent rate of interest of LaSalle Bank, NA (as publicly announced by said bank) in effect on the date of such advance, from the date of the advance to the date of repayment.

14. PRINCIPAL JOINDER. Principal does hereby join in the execution hereof to subordinate the lien of the Principal Mortgage to the easements created hereby and the provisions hereof.

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15. INDEMNIFICATION. Upon the occurrence of an Activation Event, each Party will protect, indemnify and save harmless the other Party and the mortgagee of such Party from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including without limitation, reasonable attorneys' fees and expenses) imposed upon or incurred by or asserted against any Party or it's mortgagee by reason of (i) any failure on the part of the indemnifying Party to perform or comply with any of the terms of this Declaration; or (ii) performance of any labor or services or the furnishing of any materials or other property in respect of the land owned by the indemnifying Party or any part thereof, or (iii) the negligence or misconduct of the indemnifying Party. In case any action, suit or proceeding is brought against the indemnified Party or it's mortgagee, the indemnifying Party at it's expense, by counsel approved by indemnified Party, shall resist and defend such action, suit or proceeding, or cause the same to be resisted and defended.

NO FURTHER TEXT ON THIS PAGE AND SIGNATURE PAGES FOLLOW.

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IN WITNESS WHEREOF, the Declarant has executed and acknowledged this Instrument as of May 4, 2007

2727 Higgins, LLC

By: Harold Sudakoff
Harold Sudakoff, its Manager

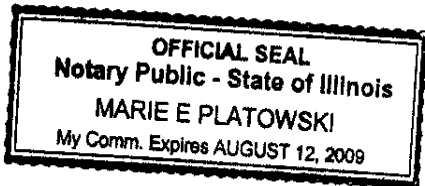
STATE OF ILLINOIS)
COUNTY OF COOK)

The foregoing instrument was acknowledged before me this 7th day of May, 2007, by Harold Sudakoff Manager of 2727 Higgins, LLC, a Delaware Limited Liability Company, on behalf of the 2727 Higgins, LLC.

Marie E. Platowski
NOTARY PUBLIC

(Impress Notarial Seal Here)

My commission expires 8/12/09



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PRINCIPAL LIFE INSURANCE COMPANY, an
Iowa Corporation

By: PRINCIPAL REAL ESTATE INVESTORS,
LLC, a Delaware limited liability company,
its authorized signatory

By Kimberly A. Flander
Name: **Kimberly A. Flander**
Title: **Commercial Mortgage Servicer**

By Carol L. Kraayenbrink
Name: **Carol L. Kraayenbrink**
Title: **Director Closing**

STATE OF IOWA)
)
COUNTY OF POLK)

On this 10th day of May, 2007,
before me, the undersigned, a Notary Public in and for the
said State, personally appeared
Kimberly A. Flander and
Carol L. Kraayenbrink, to me personally known
to be the identical persons whose names are subscribed to
the foregoing instrument, who being by me duly sworn, did

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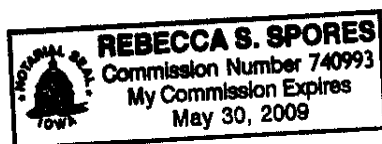
say that they are the Commercial Mortgage Servicer and Director, respectively, of PRINCIPAL REAL ESTATE INVESTORS, LLC, a Delaware limited liability company, authorized signatory of PRINCIPAL LIFE INSURANCE COMPANY, an Iowa corporation, and that the seal affixed to the instrument is the seal of Principal Real Estate Investors, LLC; that the instrument was signed and sealed on behalf of the corporation by Principal Real Estate Investors, LLC, as authorized signatory of Principal Life Insurance Company, by authority of the Board of Directors of Principal Life Insurance Company; and that the aforesaid individuals each acknowledged the execution of the foregoing instrument to be the voluntary act and deed of Principal Real Estate Investors, LLC, as authorized signatories of said corporation, by it and by them voluntarily executed.

Rebecca S. Spores

Notary Public in and for said State

My Commission Expires:

[Affix Notarial Stamp or Seal]



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EXHIBIT A

LOT 1 & LOT 2

THAT PART OF LOT 1 AND LOT 2 IN HIGGINS & TOUHY SUBDIVISION, BEING A SUBDIVISION IN SECTION 26 AND 35, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

STORM SEWER

THAT PART OF LOT 1 AND LOT 2 IN HIGGINS & TOUHY SUBDIVISION, BEING A SUBDIVISION IN SECTION 26 AND 35, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS, BOUNDED AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHWESTERLY CORNER OF SAID LOT 1; THENCE NORTH 41 DEGREES 45 MINUTES 06 SECONDS EAST, 3.58 FEET ALONG THE SOUTH RIGHT OF WAY LINE OF TOUHY AVENUE ALSO BEING THE NORTH LINE OF SAID LOT 1 TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 41 DEGREES 45 MINUTES 06 SECONDS EAST, 7.48 FEET ALONG SAID NORTH LINE OF SAID LOT 1; THENCE SOUTH 42 DEGREES 06 MINUTES 23 SECONDS EAST, 599.78 FEET; THENCE SOUTH 47 DEGREES 08 MINUTES 10 SECONDS WEST, 9.00 FEET; THENCE NORTH 42 DEGREES 06 MINUTES 23 SECONDS WEST, 591.61 FEET; THENCE NORTH 30 DEGREES 19 MINUTES 18 SECONDS WEST, 7.65 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

EAST PARKING AREA

THAT PART OF LOT 1 AND LOT 2 IN HIGGINS & TOUHY SUBDIVISION, BEING A SUBDIVISION IN SECTION 26 AND 35, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHWESTERLY CORNER OF SAID LOT 1, THENCE NORTH 41 DEGREES 45 MINUTES 06 SECONDS EAST, 3.58 FEET ALONG THE SOUTH RIGHT OF WAY LINE OF TOUHY ALSO BEING THE NORTH LINE OF SAID LOT 1; THENCE SOUTH 30 DEGREES 19 MINUTES 18 SECONDS WEST, 7.65 FEET; THENCE SOUTH 42 DEGREES 06 MINUTES 23 SECONDS EAST, 591.61 FEET; THENCE SOUTH 47 DEGREES 08 MINUTES 10 SECONDS WEST, 2.00 FEET TO A POINT ON THE SOUTHEASTERLY CORNER OF LOT 2; THENCE NORTH 42 DEGREES 06 MINUTES 23 SECONDS WEST, 598.96 FEET ALONG THE EASTERLY LINE OF SAID LOT 2 TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

08-26-410-003

08-35-200-028

08-35-200-014

Land Surveying Services, Inc.

19 S. Bothwell St., Suite 210

Palatine, Illinois 60067

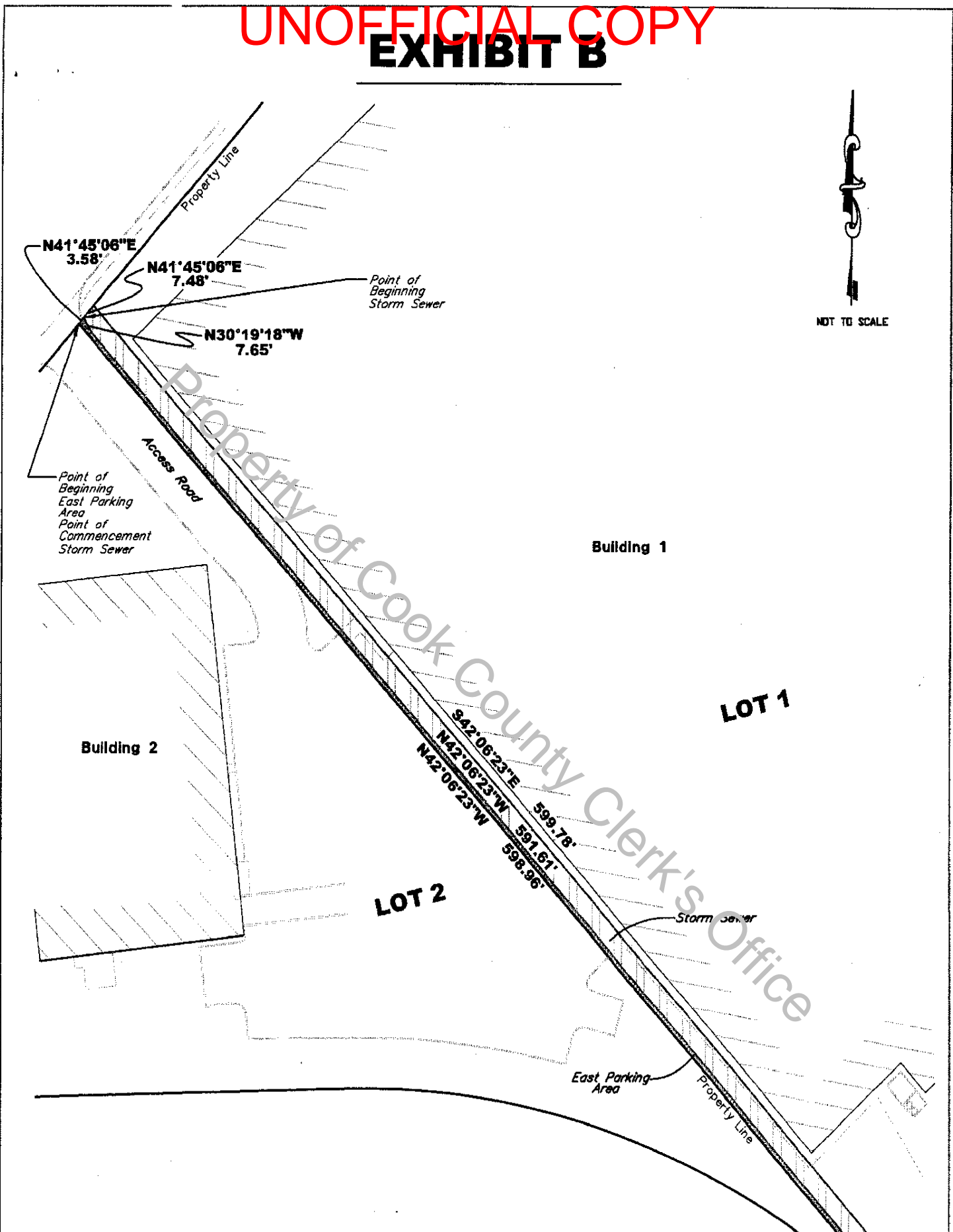
Ph. (847)991-7700 Fax. (847)991-7707

Professional Design Firm License No. 184-003632

Date: 3/12/07	Drawn: cmd	Project: LS061729
Scale: 1"=50'	Check: JK	

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EXHIBIT B



Land Surveying Services, Inc.
 19 S. Bothwell St., Suite 210
 Palestine, Illinois 60067
 Ph. (847)991-7700 Fax. (847)991-7707
 Professional Design Firm License No. 184-003632

Date: 3/12/07	Drawn: cmd	Project: LS061729
Scale: 1"=50'	Check: JK	

LEGEND

	STORM SEWER (9.00')
	EAST PARKING AREA (2.00')

S47°08'10"W 5.25'
 S47°08'10"W 2.00'
 S47°08'10"W 9.00'