

# UNOFFICIAL COPY

96729764

- . DEPT-01 RECORDING \$97.00
- . T#0012 TRAN 2117 09/24/96 14:56:00
- . #3657 † CG \*-96-729764
- . COOK COUNTY RECORDER

7628190 DI

Property of Cook County Clerk's Office

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS

*Handwritten signature*

96729764

Document prepared by, and after recording mail to:

Glenn M. Azuma  
222 S. Riverside Plaza  
Chicago, IL 60606

PROPERTY COMMONLY KNOWN AS: 6017 S. WESTERN AVE.  
CHICAGO, IL

BOX 333-CTI

UNOFFICIAL COPY

Property of Cook County Clerk's Office

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS is dated as of September 20, 1996, by and among, American National Can Company, a Delaware Corporation ("American") and Marquette National Bank, as Trustee, under Trust Agreement dated November 22, 1993 and known as Trust No. 13045 and its sole beneficiary, Southwest Development L.L.C. (collectively, "Southwest").

## WITNESSETH:

WHEREAS, Southwest is the legal owner of that certain parcel of real property, containing approximately 70,106 square feet, located on the east side of South Western Avenue, Chicago, Cook County, Illinois, which parcel is legally described on Exhibit A hereto ("Lot 1").

WHEREAS, American is the legal owner of that certain parcel of real property, containing approximately 80,895 square feet, also located on the east side of South Western Avenue, Chicago, Cook County, Illinois, which parcel is immediately adjacent to the south of Lot 1, and legally described on Exhibit B hereto ("Lot 2").

WHEREAS, American is the legal owner of that certain parcel of real property, containing approximately 740,275 square feet located immediately adjacent and to the east of Lots 1 and 2 which parcel is legally described on Exhibit C hereto ("Lot 3").

WHEREAS, Lot 1, Lot 2 and Lot 3 are each hereinafter individually referred to as a "Lot" and are hereinafter collectively referred to as the "Lots."

WHEREAS, the configuration of the Lots is shown on a plat sketch attached hereto as Exhibit D-1.

WHEREAS, the configuration of the Lots and certain designated areas within them are shown on a site plan attached hereto as Exhibit D-2 ("Site Plan").

WHEREAS, American and Southwest desire to subject each Lot to the covenants, conditions, restrictions, reservations and easements contained herein.

NOW THEREFORE, American hereby declares that Lots 2 and 3 is, and shall be held, transferred, sold, conveyed and occupied, subject to the covenants, conditions, restrictions, reservations, and easements hereinafter set forth and Southwest hereby declares that Lots 1 and 2 are, and shall be held, transferred, sold, conveyed and occupied, subject to the covenants, conditions, restrictions, reservations, and easements hereinafter set forth.

1. Declaration.

(a) American, for itself, its successors and assigns, hereby declares that Lots 2 and 3, whether or not referred to in any deed of conveyance of such property or any portion

UNOFFICIAL COPY

Property of Cook County Clerk's Office

thereof, at all times is and shall be held, transferred, sold, conveyed and occupied subject to the covenants and restrictions herein set forth.

(b) American and Southwest, for themselves, and their respective successors and assigns, hereby declare that Lots 1 and 2, whether or not referred to in any deed of conveyance of such properties or any portion thereof, at all times are and shall be held, transferred, sold, conveyed and occupied subject to the covenants and restrictions herein set forth.

(c) The provisions of this Declaration are intended to create mutual equitable servitudes upon each Lot or any portions thereof becoming subject to this Declaration in favor of each and all other such Lots or any portions thereof; to create privity of contract and estate between the grantees of such Lots or any portions thereof, their successors and assigns; and to operate as covenants running with the land for the benefit of each and all such Lots or any portions thereof becoming subject to this Declaration, and the respective owners of the Lots or any portions thereof, present and future (each hereinafter referred to as an "Owner").

## 2. Easements.

### (a) Ingress, Egress and Parking Easements.

(i) American and Southwest hereby declare for the benefit and use of each Owner and its respective tenants, agents, employees, customers, invitees, licensees, successors and assigns, as an appurtenance to the Lot or any portion thereof owned by each such Owner (A) a perpetual, non-exclusive easement for pedestrian and vehicular ingress and egress to and from Lots 1, 2 and 3 from and to South Western Avenue, over and across the "Roadway" as it is identified on the Site Plan and is legally described in Exhibit E hereto; and (B) a temporary, exclusive construction easement to the Owner of Lot 1 or Lot 2 which is exercising its right to construct the Roadway for such period of time as is reasonably necessary to complete such construction in accordance with Section 4(a). American and Southwest also declare for the benefit of the Owners of Lots 1 and 2 and their respective tenants, agents, employees, customers, invitees, licensees, successors and assigns, as an appurtenance to Lots 1 and 2 a perpetual, non-exclusive easement in the Parking Area as defined in Section 2(b) for parking, except the areas designated as the "CAP-1" within Lot 1 and the "CAP-2" within Lot 2, as shown on the Site Plan and which hereafter from time to time may be used for parking.

(ii) Anything to the contrary in this Declaration notwithstanding, the land designated as Controlled Access Property (the "CAP-1") on the attached Site Plan is for the sole and exclusive use of the Owner of Lot 1. Except as provided herein, the Owner of Lot 1 shall have full and complete right to control, regulate and limit access the CAP-1, including the right to prohibit (a) commercial or charitable solicitation, advertising, dissemination of handbills or picketing; or (b) use of the CAP-1, for parking or vehicular traffic by persons other than customers, employees or vendors of the Owner of Lot 1 which also has the right to post the CAP-1 with "no solicitation" signs and/or signs indicating the above-described restrictions, such as "this area designated for Pep

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Boys shoppers only". If the Owner of Lot 1 is required by law to permit picketing or handling on the CAP-1, such activity shall be permitted only in the area marked "Reserved Area -1" which is part of the CAP-1 as shown on the Site Plan.

(iii) Anything to the contrary in this Declaration notwithstanding, the land designated as Controlled Access Property (the "CAP-2") on the attached Site Plan is for the sole and exclusive use of the Owner of Lot 2. Except as provided herein, the Owner of Lot 2 shall have full and complete right to control, regulate and limit access to the CAP-2, including the right to prohibit (a) commercial or charitable solicitation, advertising, dissemination of handbills or picketing; or (b) use of the CAP-2, for parking or vehicular traffic by persons other than customers, employees or vendors of the Owner of Lot 2 which also has the right to post the CAP-2 with "no solicitation" signs and/or signs indicating the above-described restrictions, such as "this area designated for Aldi shoppers only". If the Owner of Lot 2 is required by law to permit picketing or handbills on the CAP-2, such activity shall be permitted only in the area marked "Reserved Area -2" which is part of the CAP-2 as shown on the Site Plan.

(iv) American and Southwest declare for the Owners of Lots 1,2 and 3 and their respective successors and assigns, as an appurtenance to such Lots, a perpetual non-exclusive easement in that part of the Roadway owned by the other Owner for the purpose of performing those responsibilities stated in Section 4(b).

(v) American declares for the benefit of the Owner of Lot 2 and its respective tenants, agents, employees, customers, invitees, licensees, successors and assigns, as an appurtenance to Lot 2, a perpetual non-exclusive easement in the "Lot 2 Easement," as shown on the Site Plan and legally described in Exhibit F hereto for truck and automobile access. Each Owner and its agents, employees, vendors and suppliers shall park on its own Lot.

(b) Parking Laws. Notwithstanding the cross-easements herein declared for parking on Lots 1 and 2, each Owner upon taking title to a Lot shall be deemed to have covenanted and agreed that in applying for development approvals of its Lot, no portion of any Lot owned by any other Owner may be considered in determining if the Lot for which development approvals are sought satisfies all laws, statutes and regulations governing the number, location or size of parking spaces, and each separate Lot shall comply with all parking requirements as fully as though this Declaration did not exist. Without the prior written consent of the other Owners, which consent may be withheld for any reason whatsoever, an Owner shall not apply for or accept any variance, special exception or other relief from the parking requirements imposed by all laws, statutes and resolutions governing the number, location or size of parking spaces, unless and to the extent that the parking requirements contained in the applicable municipal ordinance as of the date hereof change during the period from the date hereof to the date that an Owner applies for a building permit for the first improvements to be built on its Lot, in which case no written consent of any other Owner shall be required. Southwest covenants and agrees that the portion of Lot 1 which is not included in the Lot 1 Building Envelope Area and American covenants and agrees that the portion of Lot 2 which is not

36729764

UNOFFICIAL COPY

Property of Cook County Clerk's Office



included in the Lot 2 Building Envelope Area constitute the "Parking Area." Trucks and trailers shall be parked only in the loading and dock areas of the improvements built upon Lots 1 and 2 within the Lot 1 Building Envelope Area and the Lot 2 Building Envelope Area. Trucks and trailers shall be parked only in the loading and dock areas of improvements built upon Lot 3.

(c) Pylon Sign Easement and Construction. American, as the Owner of Lot 2, hereby declares for the benefit and use of the Owners of Lots 1 and 3 and their respective successors and assigns, as an appurtenance to Lots 1 and 3, a perpetual, exclusive easement on, under and over the portion of Lot 2 as identified on the Site Plan as the "Pylon Parcel" and legally described in Exhibit G hereto, for the purpose of the construction, installation, maintenance, repair and use of a pylon sign the ("Pylon Sign") of the maximum dimensions permitted by the applicable ordinances and regulations of the City of Chicago, and a perpetual, non-exclusive easement over such parts of Lot 2 as may be necessary to construct, install, maintain, repair or use the Pylon Sign. Such easements are subject to the terms and provisions stated in Section 2(e) and Paragraph 5. Southwest, as the Owner of Lot 1 and American, as the Owner of Lot 2 declare and covenant that the Pylon Sign shall be the only pylon sign constructed or maintained on Lots 1 and 2. Signs affixed to building improvements on Lots 1 and 2 shall be permitted.

(d) Underground Utility Easement and Construction. Southwest, as the Owner of Lot 1, hereby declares for the benefit and use of the Owner of Lot 3 and its successors and assigns, as an appurtenance to Lot 3, a perpetual, non-exclusive easement under the portion of Lot 1, as identified on the Site Plan as the "Utility Parcel" and legally described in Exhibit H hereto, for the purpose of installation, maintenance, repair and use of underground utilities or the increase of capacities of such utilities including water, sanitary sewer, storm drainage, gas, telephone and electric and other utility lines. Such easement is subject to the terms and provisions stated in Section 2(e). Southwest shall construct or cause the construction of a domestic/fire water line and sanitary sewer line and a conduit capable of accommodating electrical, telephone and gas service (collectively the "Utilities") in conformity with plans and specifications prepared by Casco Engineering as described in Exhibit I attached hereto. The installation of the Utilities shall commence no later than ninety (90) days following the commencement of the construction of building improvements on Lot 1. The Utilities described in this Section shall be installed and the surface of the Utility Parcel restored prior to the completion of building and parking improvements on Lot 1, or their installation shall not require disturbance of the surface of the Utility Parcel. The Utilities shall be constructed at Southwest's sole cost and expense and shall extend from South Western Avenue, under the Utility Parcel to the western boundary of Lot 3 as it forms the eastern boundary of the Utility Parcel. The Owner of Lot 1 shall pay the cost of the domestic/fire water line and sanitary sewer line required for its use and Southwest shall pay the cost of increased capacities required to serve Lot 3 and the entire cost of the conduit. In the event the Owner of Lot 3 or owners of portions thereof require additional utilities or capacity in the Utilities, they shall have the right to construct such additional capacity at their sole cost and expense within the Utility Parcel subject to Sections 2(e) and 2(g), provided, however, that any such construction which is conducted on the surface of the Utility Parcel shall occur only at such times as the Owner of Lot 1 or any tenant(s), licensee(s) or other legal occupant(s) of Lot 1 or a portion thereof is not conducting its business. Such work shall not interfere with ingress to or

UNOFFICIAL COPY

Property of Cook County Clerk's Office

12/24/2019 10:10:10 AM

egress from Lot 1 and the Roadway and/or South Western Avenue, and all reasonable good faith efforts shall be used in the conduct of such work to minimize inconvenience to the Owner of Lot 1 its tenant(s), licensee(s) or other legal occupant(s) and their respective employees, invitees and licensees. It is acknowledged that the Owner of Lot 1 may conduct its business seven (7) days of each week. This acknowledgment does not constitute an obligation by the Owner of Lot 1 to open or conduct its business except at its own discretion.

(e) Restrictions on Construction. The construction contemplated by Sections 2(c) and 2(d) shall be subject to the following terms and provisions, and for purposes of this Section 2(e) the Pylon Parcel and the Utility Parcel are referred to as the "Burdened Parcel". The Lot(s) using or benefiting from the easements granted pursuant to Section 2(c) and 2(d) are referred to as the "Benefited Lots".

(i) all work (except for emergency repairs and maintenance) shall be performed in such a manner and at such times as will cause a minimum of disruption to the operation of any business on the Burdened Parcel and shall be performed only after reasonable prior written notice thereof is given to the Owner of the Burdened Parcel and shall be performed in accordance with all applicable laws, ordinances and regulations.

(ii) any and all damage to the Burdened Parcel (including improvements thereon) shall be promptly restored by the Owner(s) of the Benefited Lots causing or performing the installation and construction of such underground utilities or the Pylon Sign, and the Burdened Parcel shall be promptly restored to the condition that existed prior to the performance of such work and the cost thereof shall be divided in the same manner as provided in clause (iv) below;

(iii) the Owner of the Burdened Parcel may relocate, at its own expense, following thirty (30) days prior written notice to the other Owners, such underground utilities lines or facilities, within the Burdened Parcel so long as utility service to and storm water drainage from any Benefited Lots is not interrupted in such a manner as would materially adversely affect any business operated on the Benefited Lots;

(iv) the installation and/or construction of the improvements described in Sections 2(c) and 2(d) shall be performed in accordance with sound engineering practices and the standards and requirements of the applicable utility companies;

(v) all private contractors shall be required to comply with the insurance requirements set forth in Section 7 hereof prior to commencing work on a Burdened Parcel; and

(vi) the Owners of the Benefited Lots causing the work to be performed shall not permit the Burdened Parcel to become subject to any mechanics', laborers' or materialmen's liens on account of labor or material furnished to such Owner. The Owner of a Burdened Parcel shall have the right (but not the obligation) to pay any claimed amount of any such lien upon ten (10) days' prior written notice to the Owners of the

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Benefited Lots, unless the Owners of the Benefited Lots promptly contest the validity of the lien and posts the appropriate bond or security, in the manner provided in this paragraph. Any such amount paid by the Owner of a Burdened Parcel shall be immediately reimbursed by the Owner of the Benefited Lot. The Owners of the Benefited Lots shall have the right to contest, in good faith and with reasonable diligence, the validity of any mechanics', laborers' or materialmen's lien imposed or claimed for work or material furnished to such Owners in connection with work of any character performed or claimed to have been performed on the Lots by or at the direction of such Owners; provided, however, that (i) such Owners shall bond-over the lien or furnish to the Owner of the Burdened Parcel such security as may be deemed satisfactory to the Owner of the Burdened Parcel in its sole discretion to assure payment thereof and to prevent any sale foreclosure, or forfeiture of the property by reason of nonpayment thereof, and (ii) on final determination of the lien or claim for lien, the Owners of the Benefited Lots shall immediately pay any judgment rendered, with all proper costs and charges, and shall have the lien released and any judgment satisfied.

(g) Utility Connections. Southwest, as the Owner of Lot 1, hereby declares for the benefit and use of the Owner of Lot 3 and its successors and assigns, as an appurtenance to Lot 3, or any portion thereof, a perpetual, non-exclusive easement under and through the Utility Parcel for the purpose of connecting into the Utilities; provided, however, (i) the Owner of Lot 3 shall not consume domestic/fire water or discharge into the sanitary sewer line to be constructed by Southwest in excess of the capacity limits stated in Section 2(d), except in the event the Owner of Lot 3 desires to increase capacities as permitted in this Section, with such capacities determined by the applicable utility company having jurisdiction over that utility; (ii) the performance of such connection shall not interfere with or adversely affect the operation of any business on Lot 1; (iii) concurrently with making a connection, the Owner of Lot 3 or portion thereof making such connection shall install a meter on the connecting line to separately measure such Owner's volume of usage of the domestic/fire water and sanitary sewer lines and the Owner of Lot 3 shall be responsible for all costs and expenses associated therewith, including without limitation costs and expenses of restoration of the Utility Parcel, provided that no meter shall be installed in the case of storm water and sanitary sewer (unless required by applicable law or regulation); and (iv) such Owner shall comply with the applicable terms and provisions of Section 2(e) above. Each Owner reserves the right to connect directly to any public utility and, in such event shall not be obligated to pay any portion of the cost of any common utility lines for such utility.

3. Land and Use Restrictions.

(a) Automotive Parts and Service Use. American, as the Owner of Lots 2 and 3 hereby covenants and agrees, for so long as Lot 1 is used for the sale of automobile and other motor vehicle accessories, parts and attendant products and/or the performance of mechanical work on automobiles, without the prior written consent of the Owner of Lot 1, which consent may be withheld for any reason whatsoever, no portion of Lot 2 or Lot 3 shall be used by the respective Owner thereof or its tenants, agents, employees, invitees, licensees, successors and assigns for the sale of automobile and other motor vehicle accessories, parts and attendant

UNOFFICIAL COPY

Property of Cook County Clerk's Office

products and/or for the performance of repair, maintenance or mechanical work on motor vehicles; provided, however, with respect to Lot 2, automotive products may be sold from Lot 2 if the same is incidental to the primary business being conducted therefrom and such products are customarily sold from an Aldi food store in the Chicago area (which shall include special purchase and seasonal items such as snow brushes and ice scrapers) and, that with respect to Lot 3, automotive products may be sold from Lot 3 or any portion thereof if the same is "incidental" to the primary business conducted therefrom but in no event shall repair, maintenance or mechanical work on motor vehicles be permitted on Lot 3. For purposes of this Section 3(a), "incidental" shall mean that the sales area utilized for the sale of automotive products shall not exceed ten percent (10%) of the total sales area on the Lot. The use of Lot 1 by its Owner as described in the immediately preceding sentence may be interrupted for a period of one (1) year without terminating this right.

(b) Grocery Store Use. Southwest and American, as the Owners of Lots 1 and 3, covenant and agree that for so long as Lot 2 is used for the operation of a retail food store or grocery store, without the prior written consent of the Owner of Lot 2, which consent may be withheld for any reason whatsoever, no portion of Lot 1 or Lot 3 shall be used by the respective Owner thereof or its tenants, agents, employees, invitees, licensees, successors and assigns, for the operation of a retail food store or grocery store. For purposes of this Section 3(b), "retail food store or grocery store" shall mean the operation of any retail store involving the sale of food products in which the resulting gross sales constitute fifteen percent (15%) or more of such store's business. Restaurants and other businesses providing prepared foods for consumption on the premises or on a take-out basis or selling non-grocery food items such as candy, shall not be considered a "retail food store or grocery store."

(c) Lot 1 Size Limitation. Southwest, as the Owner of Lot 1, covenants and agrees that, without the prior written consent of the other Owners, which consent may be withheld for any reason whatsoever, no buildings may be constructed on Lot 1 (i) having a height in excess of twenty-five (25) feet (a building parapet of twenty-eight (28) feet shall be permitted); or (ii) having a ground floor area or gross building area in excess of 24,000 square feet or (iii) located outside of the "Lot 1 Building Envelope Area" designated on the Site Plan.

(d) Lot 2 Size Limitation. American, as the Owner of Lot 2, covenants and agrees that, without the prior written consent of the other Owners, which consent may be withheld for any reason whatsoever, no buildings may be constructed on Lot 2 (i) having a height in excess of twenty-five (25) feet; or (ii) having a ground floor area or building area in excess of 24,000 square feet; or (iii) located outside of the "Lot 2 Building Envelope Area" designated on the Site Plan.

(e) Parking Lot Configuration. Southwest, as the Owner of Lot 1 and American, as the Owner of Lot 2, covenant and agree that, without the prior written consent of the other Owners, which consent may be withheld for any reason whatsoever, they shall not (i) construct barriers, fences or any other improvements at the property lines of Lot 1 and 2 which interfere with pedestrian or vehicular circulation other than curbing and/or landscaping islands; or (ii) materially change the location, width or design of the Roadway or its curb-cut, or permit the

UNOFFICIAL COPY

Property of Cook County Clerk's Office



construction of any improvements on Lots 1 and 2 in the Parking Area other than parking aisles or spaces and other improvements such as bumper curbs, light standards and landscaping customary to retail parking lots in Chicago, Illinois. American, as the Owner of Lot 3, covenants and agrees that, without the prior written consent of both other Owners, which consent may be withheld for any reason whatsoever, it shall not construct any building improvements on the Lot 3 Parking Area, as shown on the Site Plan, or construct barriers, fences or any other improvements at the property lines of Lot 3 which interfere with pedestrian or vehicular circulation other than curbing and/or landscaping islands. At such time as building improvements are constructed in the "North Parcel" or the North Part of Lot 3 Parking, as shown on the Site Plan, the Owner of that portion of Lot 3 shall construct a parking field in the Lot 3 Parking Area that conforms to the legal requirements for such improvements which is fully integrated into and compatible with the Parking Area designed and constructed in conformity with the requirements of Section 2(b).

(f) Lot 3 Building Improvements and Parking Limitations. With respect to that portion of Lot 3 identified as the "North Parcel" on the Site Plan and that part of the Lot 3 Parking area identified as the "North Part of Lot 3 Parking" on the Site Plan, the Owner of Lot 3 shall only construct or permit to be constructed building improvements thereon in accordance with the following:

- i) No building improvements shall be constructed within the North Parcel in excess of one hundred forty thousand (140,000) square feet of gross leaseable floor area (the "North Parcel Allowance");
- ii) The North Parcel Allowance shall be reduced by the total square footage constructed in the North Part of Lot 3 Parking;
- iii) The western-most face of any building improvements which are constructed in the North Parcel (excluding below grade utilities) shall be 180 feet or more east of the east property line of Lot 1; and
- iv) No building improvements shall be constructed in the North Part of Lot 3 Parking in excess of Twenty-one thousand (21,000) gross leaseable floor square feet and no public entryway or pick-up area shall be built on the west or north side of such improvements.

"Gross leaseable floor area" shall include exterior areas used for the sale of merchandise. The foregoing notwithstanding, the total of all building improvements constructed in Lot 3 shall provide a parking ratio of at least 3.25 automobiles for each One-thousand (1,000) square feet of gross leaseable floor area.

(g) Vehicular Circulation and Drainage. No Owner shall alter the grading of its Lot in such a manner as to adversely affect the reasonable circulation of vehicles and the flow of surface waters between each of the Lots. No Owner shall alter the grading of its Lot so as to materially increase the amount of surface water discharged onto the other Owner's Lots.

(h) No Obligation to Construct. Except for Southwest's obligation to cause the construction of the Roadway in conformity with Section 4(a) and the utilities in conformity with Section 2(d) as specifically provided herein, no Owner shall be obligated to construct any improvements upon its Lot or, if it shall construct improvements upon its Lot, to open for business therefrom or to thereafter remain open for business.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

(i) Landscaping. The Owner of Lots 1 and 2 shall landscape such lots, at its own expense, in accordance with the Landscaping Ordinance of the City of Chicago. Except as provided on the Site Plan, the Owners of Lot 1 and 2 shall not construct any improvements on their respective Lots and in no event shall the Owners of Lots 1 and 2 construct any building improvements within the Parking Area.

#### 4. Construction and Maintenance of Certain Improvements.

(a) Southwest shall cause the construction of the Roadway in accordance with plans and specifications prepared by a licensed civil engineer, at its sole cost and expense within eight (8) months following the recording of this Declaration with the Recorder of Deeds, Cook County Illinois, subject to an extension of thirty (30) days provided the construction of the Roadway is underway and proceeding with diligence in a timely fashion to permit substantial completion before the expiration of that period.

(b) The cost of maintaining, repaving and replacing the Roadway in accordance with plans and specifications prepared by a licensed civil engineer, shall be paid by the Owners in the following percentages: the Owner of Lot 1 shall bear 33.33% of the cost thereof, the Owner of Lot 2 shall bear 33.33% of the cost thereof, and, from and after the date of the completion of construction of commercial building improvements in excess of five hundred (500) square feet on Lot 3, the Owner of Lot 3 shall bear 33.34% of the cost thereof. Until such date, the Owners of Lots 1 and 2 shall divide such cost evenly. In the event that Lot 3 has more than one Owner, the Owners of Lot 3 shall bear their respective share of the ongoing 33.34% Roadway maintenance, repaving and replacement in accordance with their respective gross building areas. The Owner of Lot 1 shall have the responsibility to maintain, repave and replace the Roadway until such date that commercial building improvements in excess of five hundred (500) square feet have been completed on Lot 3. From and after that date, the Owner or Owners of Lot 3 shall have the responsibility to maintain, repave and replace the Roadway. The responsible Owner shall charge the other participating Owners their proportionate share of such cost by a written, itemized statement with appropriate support documentation separately itemized by contractor or vendor. The other Owners shall make their payments within thirty (30) days following receipt of that statement. Notwithstanding the foregoing, any maintenance to the Roadway required as a result of use by any Owner or its tenants, contractors, invitees or licensees other than ordinary vehicular and pedestrian traffic, shall be the sole cost of such Owner. Damage resulting from construction vehicles shall be the sole cost of the Owner for whom such construction is performed. The obligation to maintain, repave and repair the Roadway shall be performed in a manner consistent with the standard of first class shopping centers in Chicago, Illinois.

5. Pylon Sign. Any of the Owners shall have the right to construct the Pylon Sign, within the Pylon Parcel, subject to the following:

(a) The Owner electing to construct the Pylon Sign shall give the other Owners ninety (90) days prior written notice of its intention to construct the Pylon Sign.

96729764

UNOFFICIAL COPY

Property of Cook County Clerk's Office

(b) The other Owners shall have the right, but not the obligation, to participate in the design, construction and cost of operating the Pylon Sign.

(c) In the event an Owner receiving the notice given in Section 5(a) wishes to participate in the creation of a mutually acceptable design, construction and cost of operating the Pylon Sign, it shall give written notice thereof (the "Acceptance Notice") to the Owner giving such notice within thirty (30) days following the notice given in Section 5(a). The Owners which have given the Acceptance Notice and the Owner which gave the notice in Section 5(a) shall use all reasonable efforts to cooperate with one another in the design and construction of the Pylon Sign. In the event all of the Owners have elected to participate in the design and construction of the Pylon Sign, the cost of the design and construction of the Pylon Sign, including all permits and associated landscaping shall be apportioned 50% to the Owner or Owners of Lot 3 with 50% apportioned equally among the Owners of Lots 1 and 2. In the event the Owner of Lot 3 and only one of the Owners of Lots 1 and 2 elects to participate, each of the participating Owners shall pay 50% of such costs. In the event only the Owners of Lots 1 and 2 elect to participate, they shall each pay 50% of such costs. In the event none of the other Owners respond to the notice given in Section 5(a), the Owner giving such notice may proceed at its sole cost and expense in the design, construction and operation of the Pylon Sign. Any Owner which fails to give the Acceptance Notice shall be deemed to have relinquished its rights under this Section 5.

(d) The Pylon Sign shall: i) be two-sided faces constructed of Plexiglas (or materials of comparable quality), internally lighted, with a time-clock, transformers and ballasts; ii) be supported by two poles encased with square or rectangular enamel finished metal covers supported by an appropriate foundation; iii) have sign panels which are not less than twelve and one-half feet (12½ feet) above the natural grade of the Pylon Parcel; iv) provide for not less than four (4) sign double-sided face panels of no less than ninety (90) square feet each per side and set in fabricated metal cabinets with enamel finishes and lexan (or materials of comparable quality) faces; and v) have its electrical service provided from the main electrical panel of the building which is constructed first on Lot 1 or Lot 2.

(e) If they elect to participate pursuant to Section 5(c), the Owner of Lot 1 shall have ownership of the lowest of the two lower sign panels and the Owner of Lot 2 shall have ownership of the highest of the two lower sign panels. In addition to their ownership of their respective panels, the Owners of Lots 1 and 2 shall each have a one-quarter undivided ownership of the Pylon Sign (except the two upper sign panels) and the Owner or Owners of Lot 3, if they have elected to participate pursuant to Section 5(c), shall have ownership of the two upper sign panels and a one-half undivided ownership of the Pylon Sign (except the two lower sign panels). In the event all of the Owners have elected to construct the Pylon Sign, the expense of all utility and operating costs, maintenance, insurance, including applicable deductibles, permits and other costs of owning and operating the Pylon Sign shall be apportioned 50% to the Owner or Owners of Lot 3 with 50% apportioned equally among the Owners of Lots 1 and 2. In the event the Owner of Lot 3 and only one of the Owners of Lots 1 and 2 has so elected, each of the participating Owners shall pay for 50% of all utility operating costs, maintenance, insurance, including applicable deductibles, permits and other normal and customary costs of owning and operating the Pylon Sign. In the event only the Owners of Lots 1 and 2 elect to participate, they shall each pay 50% of such costs. In the event none of the other

UNOFFICIAL COPY

Property of Cook County Clerk's Office

Owners responded to the notice given in Section 5(a), the Owner giving such notice shall pay all costs described in this Section 5(e). In the event any Owner has elected to participate in the construction of the Pylon Sign pursuant to Section 5(c), but does not utilize its panels, it may enter into agreements with the other participating Owners for the use of such panels on such terms as are agreed upon, subject to the terms and conditions of this Declaration. Any Owner which elects not to use or make its panels available to another Owner shall not pay the cost of electricity to its panels, provided that no service is consumed by them. All other costs of maintenance and operation shall be paid in accordance with this Section. The Owners which own and use the Pylon Sign shall pay the Owner of the Lot from which electrical service is provided for the cost of all such service provided to the Pylon Sign on a monthly basis, when billed, based upon that Owner's good faith estimate of consumption and charges. The Owner or Owners of the Pylon Sign may install a submeter within the building from which electrical service is provided, at any time, at their own cost, and all electrical payments shall be based upon the consumption reported by such meter at the then current rates charged to the Owner of the Lot from which electrical service is provided. Provided it is utilizing the Pylon Sign, the Owner or Owners of Lot 3 shall have the responsibility to maintain and repair the Pylon Sign. Otherwise, the Owner of Lot 1 shall have such responsibility. If the Owner of Lot 1 has not participated in the construction of the Pylon Sign, then such responsibility shall be that of the Owner of Lot 2, if it has participated. The responsible Owner shall charge the other participating Owners their proportionate share of such cost by a written, itemized statement with appropriate support documentation separately itemized by contractor or vendor. At its sole cost and expense, the Owner of Lot 2 shall have the right to separately meter and control its sign panel; provided such Owner exercises such right as part of the Acceptance Notice. If the Owner of Lot 2 exercises this right, it shall not be obligated to pay for utility operating costs as provided in this Section 5(e) but shall pay such charges directly to the utility. All other costs sharings described in this Section 5(e) shall continue unaffected.

6. Covenants of the Parties. Each of the Owners covenant and agree that:

(a) Following the construction of building improvements and parking areas on its Lot; it shall maintain its respective Lot (including, without limitation, all buildings and other improvements thereon) and its signage in a first-class manner in a clean and safe condition reasonably free of debris, ice and snow with parking spaces clearly striped, potholes filled, and driveways free of obstruction (except any temporary obstruction required in connection with repairs);

(b) it shall not allow any portion of its respective Lot to be used for any of the uses set forth in Exhibit I hereto; and

(c) it shall comply with the requirements of all public laws, ordinances and regulations from time to time applicable to its Lot and the improvements thereon, and shall make any and all alterations and repairs in, on and about its Lot as may be required by, and shall otherwise observe and comply with, all public laws, ordinances and regulations from time to time applicable to its Lot.

7. Insurance.

(a) Forms of Coverage. Each Owner shall keep in full force and effect at all times a policy of public liability insurance with respect to its Lot and easements appurtenant thereto and shall contain a contractual liability endorsement for liabilities assumed by each Owner under this Declaration. Each policy shall contain limits of public liability on account of bodily

UNOFFICIAL COPY

Property of Cook County Clerk's Office



injuries or death as the result of any one accident or on account of property damage in an amount equal to the greater of (i) Two Million Dollars (\$2,000,000.00), or (ii) the amount of public liability coverage commonly in force with respect to comparable properties in the vicinity.

(b) Insurance Companies. All policies procured hereunder shall be on standard policy forms issued by insurers of recognized responsibility, rated A- or better by Best's Insurance Rating Service, and qualified to do business in Illinois. Each Owner shall deliver to each other Owner a certificate of such insurance and shall hereafter deliver certificates evidencing such insurance not less than ten (10) days prior to the expiration thereof. Such certificates shall provide that the insurance policy described therein may not be canceled or modified except upon not less than ten (10) days' written notice to the other Owners.

(c) Policy Limits. Any insurance required to be carried pursuant to Section 7(a) may be carried under a policy or policies covering other liabilities and locations of the Owner; provided, however, that such policy or policies shall apply to the property required to be insured by this Section 7 in an amount not less than the amount of insurance required to be carried by the Owner with respect thereto. The insurance requirements described in this Section 7 may be satisfied by any plan of self-insurance from time to time maintained by any Owner, on condition that the Owner so self-insuring has and maintains a net worth of One Hundred Million Dollars (\$100,000,000.00) or more, determined in accordance with generally accepted accounting principals, and that any Owner so self-insuring shall furnish to the other Owners, upon request, evidence of the adequacy of its net worth. The annual report of such Owner that is audited by an independent certified public accountant or a letter to such effect signed by an independent certified public accountant, shall be sufficient evidence of its net worth. If any Owner elects to self-insure pursuant to the provisions set forth herein, or thereafter elects to terminate such self-insurance program, it shall give an least ten (10) days' prior written notice thereof to the other Owners. Any Owner which is eligible to self-insure hereunder may increase the deductible under its insurance policies to such level as it may elect.

8. Damage and Destruction. If any of the buildings or common areas now or hereafter constructed on the Lots are damaged or destroyed, provided that the Owner of any of the other Lots is still conducting business thereon or is restoring or intends to restore its buildings thereon, the Owner of the Lot upon which said building or common area is located shall replace said building or common area on its Lot with a building or common area of similar quality or, alternatively, the Owner of said Lot shall level, grade and landscape or pave for parking the area previously occupied by said building or common area.

9. Condemnation. If any portion of the Roadway, or entrances, drives or roadways to or from the Lots shall be acquired for any public or quasi-public use through taking by condemnation, eminent domain or any like proceeding, or purchase in lieu thereof, the Owners shall cooperate with each other and shall use commercially reasonable efforts to restore the remaining portions of the entrances, drives and roadways to provide substitute easements or rights for the same purpose as the acquired easements or rights, including, but not limited to, providing the other Owners with access to South Western Avenue and/or any other then existing roadway. The proceeds of any award which is attributable to the taking of land shall be paid to the Owner

UNOFFICIAL COPY

Property of Cook County Clerk's Office

whose land is the subject of such proceeding, and each Owner shall be responsible for performing any repairs or restoration on its Lot to the extent of the proceeds of the award received by such Owner.

10. Events of Default. Failure by an Owner to perform any provision of this Declaration to be performed by such Owner (the "Defaulting Party") shall constitute a default if the failure to perform is not cured within thirty (30) days after the Defaulting Party receives written notice thereof from any other Owner (a "Non-Defaulting Party") in the event of a non-monetary default and ten (10) days following such notice in the event of a monetary default; provided, however, no cure period shall be applicable in the event of a breach of Paragraph 3 above. If a non-monetary default (other than a breach of Paragraph 3) cannot reasonably be cured within thirty (30) days, the Defaulting Party shall not be in default of this Declaration if the Defaulting Party commences to cure the default within such 30-day period and diligently and in good faith continues to cure the default until completion (but in no event more than one hundred twenty (120) days), provided the same is capable of being cured by the Defaulting Party.

11. Right to Cure Remedies. If a Defaulting Party shall have failed to cure a default after the expiration of the applicable time for cure of a particular default, any Non-Defaulting Party may, at its election, but without obligation therefor, (a) seek specific performance of any obligation of the Defaulting Party; (b) pursue an action for injunctive or declaratory relief; (c) from time to time without releasing the Defaulting Party in whole or in part from the Defaulting Party's obligation to perform any and all covenants, conditions and agreements to be performed by the Defaulting Party hereunder, cure the default at the Defaulting Party's cost and the Defaulting Party hereby grants to each Non-Defaulting Party an easement over and across its Lot for the purpose of curing such defaults; and (d) exercise any other remedy given hereunder or now or hereafter existing at law or in equity or by statute. All such remedies may be exercised alternatively or cumulatively. Any reasonable cost (including, but not limited to reasonable attorneys' fees) incurred by the Non-Defaulting Party in order to cure such a default by the defaulting Party shall be due upon demand from the Defaulting Party.

12. Miscellaneous.

(a) Covenants Running with the Land. This Declaration shall be a covenant running with the land and shall be binding upon and inure to the benefit of each Owner and its respective successors and assigns and shall remain in full force and effect and shall be unaffected by any change in ownership or possession of the Lots, or any portion thereof, or by any change of use, demolition, reconstruction, expansion or other circumstances, except as otherwise provided herein; provided, however, that upon the sale or transfer of all or any portion of any Lot, the seller or transferor shall automatically be deemed to have been released and relieved from all covenants contained herein from and after the date of such conveyance, but only with respect to the property conveyed, and the purchaser or transferee of such property shall automatically be deemed to have assumed such covenants with respect to the property acquired by such purchaser.

(b) Cumulative Remedies. No remedy herein or otherwise conferred upon or reserved hereunder shall be considered exclusive of any other remedy, but the same shall be

UNOFFICIAL COPY

Property of Cook County Clerk's Office

cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute, and every power and remedy given by this Declaration may be exercised, from time to time, as often as occasion therefor may arise or as may be deemed expedient. No delay or omission by an Owner to exercise any right or power arising from any breach by another Owner of any term or condition of this Declaration shall impair any such right or power or shall be construed to be a waiver of such right or remedy or as a waiver, acquiescence in or consent to any further or succeeding breach of the same or any other covenant.

(c) Address for Notice. Any notice required or permitted to be given or served by an Owner hereunder shall be deemed to have been given or delivered, as the case may be, when delivered or seven (7) days after deposit in the United States Post Office, certified or registered mail, return receipt requested, or one day after deposit with a national overnight express mail carrier, such as Federal Express, or by facsimile transmission with receipt confirmed addressed as provided in a notice of address given to all other Owners by such Owner, as follows:

If to American:

American National Can Company  
Mail Suite 24E  
8770 West Bryn Mawr Avenue  
Chicago, Illinois 60631-3504  
Attention: Mr. Wayne P. Wavrek

with copy to:

Jenner and Block  
One IBM Plaza  
Chicago, Illinois 60611  
Attention: Mr. Donald I. Resnick

If to Southwest:

Marquette National Bank  
Trust No. 13045  
6155 South Pulaski Road  
Chicago, Illinois 60629  
Attention: Glenn E. Skinner, Jr.

with copy to:

Southwest Development L.L.C.  
222 South Riverside Plaza  
Suite 1616  
Chicago, Illinois 60606  
Attention: Glenn M. Azuma

UNOFFICIAL COPY

Property of Cook County Clerk's Office

and:

Pep Boys  
3111 West Allegheny Avenue  
Philadelphia, Pennsylvania 19132  
Attention: Ronald M. Neifield

and:

Aldi Inc.  
P.O. Box 1398  
Valparaiso, Indiana 46384  
Attention: Real Estate Director

With copy to :  
Todd A. Leeth  
Hoepfner, Wagner & Evans  
NBE Bank Building  
103 E. Lincolnway  
Valparaiso, Indiana 46384

such addresses may be changed from time to time and at any time by an Owner by serving notices as provided above.

(d) Governing Law. The terms of this Declaration shall be governed by and construed in accordance with the laws of the State of Illinois.

(e) Construction. The necessary grammatical changes required to make the provisions of this Declaration apply in the plural sense where there is more than one Owner, and to either corporations, associations, partnership or individuals, males or females, shall in all instances be assumed as through in each case fully expressed.

(f) Amendment. This Declaration may be modified or altered only by an agreement in writing between the then Owners of all portions of the Lots.

(g) Captions. The headings of the several sections contained herein are for convenience of reference only and do not define, limit or construe the contents of such sections.

(h) Partial Invalidity. If any term or provision of this Declaration shall to any extent be held invalid or unenforceable, the remaining terms and provisions of this Declaration shall not be affected thereby, but each term and provision of this Declaration shall be valid and be enforced to the fullest extent permitted by law.

UNOFFICIAL COPY

Property of Cook County Clerk's Office



(i) Waiver. No waiver of any of the terms or conditions of this Declaration shall be binding or effective unless expressed in writing and signed by the Owner giving such waiver.

(j) Not a Partnership. Nothing herein contained shall be construed as creating a partnership, joint venture or any other relationship between or among any of the Owners.

(k) Facilitation. Each Owner upon taking title to its respective Lot shall be deemed to have agreed to perform such further acts and to execute and deliver such further documents as may be reasonably necessary to carry out the provisions of this Declaration and are consistent therewith.

(l) Attorneys' Fees. If an Owner brings an action to enforce the terms hereof or declare rights hereunder, the prevailing Owner in such action shall be entitled to reasonable attorneys' fees and costs of such action.

(m) Interest. Wherever in this Declaration an Owner is entitled to reimbursement of sums it has expended, such amount shall bear interest from the date that such reimbursement is due until the date of repayment of an annual rate equal to two percent (2%) above the prime rate of interest from time to time announced by The First National Bank of Chicago. Wherever in this Declaration payment is due upon request or demand, or the time for payment is not expressly provided, such payment shall be deemed for purposes of this paragraph to be due ten (10) days after such requests or demand has been made; provided such request or demand is accompanied by documentation of sufficient specificity and content to allow the recipient to determine that the payment requested is proper and correct. For purposes of this Paragraph, payment shall not be delayed because any Owner requests additional time for review of such request.

(n) Force Majeure. The time for performance by any Owner of any term or provision of this Declaration shall be deemed extended by time lost due to delays resulting from weather which creates a situation whereby it is significantly more difficult to construct than in a typical period for prior years in Chicago, Illinois, or by acts of God, strikes, civil riots, floods, unavailability of material or labor, restrictions by governmental authorities and any other causes not within the reasonable control of such Owner.

(o) Mortgages. The covenants and agreements set forth herein shall not be affected by any foreclosure or deed in lieu of foreclosure, and any person or entity, including, but not limited to a mortgagee or beneficiary of a deed of trust, which hereafter acquires title to any portion of the Lots shall be subject to the terms and provisions hereof.

(p) Default Shall Not Permit Termination of Declaration. No default under this Declaration shall entitle any party to cancel or otherwise rescind this Declaration, provided, however, that this limitation shall not affect any other rights or remedies that the parties may have by reason of any default under this Declaration.

UNOFFICIAL COPY

Property of Cook County Clerk's Office

(q) Rights, Privileges, and Easements with Respect to Liens. This Declaration and the rights, privileges and easements of the Owners with respect to each other Owner and all of the Lots shall in all events be superior and senior to any lien placed upon any portion of the Lots, including the lien of any mortgages.

(r) Breach Shall Not Defeat Mortgage. A breach of any of the terms, conditions, covenants, or restrictions of this Declaration shall not defeat or render invalid the lien of any mortgage made in good faith and for value but such term, condition, covenant or restriction shall be binding upon and effective against any person who becomes a party by acquiring title to the Lots or any portion thereof by foreclosure, trustee's sale or otherwise.

(s) Estoppel Certificate. Each Owner hereby covenants that within thirty (30) days after a written request of any other Owner, it shall issue to such other person, or to any mortgagee, or to any prospective purchaser or prospective mortgagee specified by such requesting party, an estoppel certificate stating: (i) whether the party to whom the request has been directed knows of any default under this Declaration, and if there are known defaults specifying the nature thereof; (ii) whether this Declaration has been modified or amended in any way (or if it has, then stating the nature thereof); and (iii) that to the party's knowledge this Declaration as of that date is in full force and effect.

(t) Time of Essence. Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Declaration.

(u) Indemnification. Each Owner (hereinafter, the "Indemnifying Owner") covenants and agrees to indemnify, defend and hold harmless each other Owner (hereinafter, an "Indemnitee") from and against any and all liabilities, claims, judgments, costs and expenses (including, without limitation, reasonable attorney's fees and expenses) incurred by or asserted against an Indemnitee and (i) arising from the Indemnifying Owner's use, possession or management of the Indemnifying Owner's Lot or activities thereon, or (ii) arising out of the use, exercise or enjoyment, by the Indemnifying Owner or any Indemnifying Owner's officers, employees, agents, contractors, visitors, customers, invitees, licensees or tenants, of an easement granted hereunder (unless caused by the negligence or intentional misconduct of an Indemnitee or its officers, employees, agents, contractors, visitors, customers, invitees, licensee or tenants). In case any action or proceeding is brought against the Indemnitee by reason of any such claim, the Indemnifying Owner, upon notice from the Indemnitee and at the Indemnifying Owner's sole cost and expense, covenants to resist or defend such action or proceeding with attorneys reasonably satisfactory to the Indemnitee.

(v) Recording. This Agreement shall be recorded contemporaneously with the conveyance of title to Lot 1 or Lot 2, whichever occurs first.

96729784

UNOFFICIAL COPY

Property of Cook County Clerk's Office

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Declarant has caused this Declaration to be executed as of the day and year first above written.

ATTEST:

American National Can Company

Secretary

By: \_\_\_\_\_

ATTEST:

Marquette National Bank, as  
Trustee under Trust Agreement  
dated November 22, 1993, and known  
as Trust No. 13045

This instrument is executed by the Marquette National Bank, not personally, on behalf of the bank, and no personal liability is incurred by the bank as a result of or on account of the making of this instrument.

Delra Kelly  
Secretary

[Signature]  
Southwest Development L.L.C., its  
sole beneficiary.

By: [Signature]  
James F. Capraro, Manager

By: [Signature]  
Glenn M. Azuma, Manager

96729764

UNOFFICIAL COPY

Property of Cook County Clerk's Office

IN WITNESS WHEREOF, and intending to be legally bound hereby, the Declarant has caused this Declaration to be executed as of the day and year first above written.

ATTEST:

American National Can Company

[Signature]  
Secretary

By: [Signature]  
SR. VICE PRESIDENT

ATTEST:

Marquette National Bank, as  
Trustee under Trust Agreement  
dated November 22, 1993, and known  
as Trust No. 13045

\_\_\_\_\_  
Secretary

By: \_\_\_\_\_

Southwest Development L.L.C., its  
sole beneficiary,

By: \_\_\_\_\_  
James F. Capraro, Manager

By: \_\_\_\_\_  
Glenn M. Azuma, Manager

96729764

UNOFFICIAL COPY

Property of Cook County Clerk's Office





UNOFFICIAL COPY

Property of Cook County Clerk's Office



UNOFFICIAL COPY

Property of Cook County Clerk's Office

List of Exhibits

Exhibit A - Lot 1 - Legal Description

Exhibit B - Lot 2 - Legal Description

Exhibit C - Lot 3 - Legal Description

Exhibit D-1 - Plat Sketch

Exhibit D-2 - Site Plan

Exhibit E - Roadway Description

Exhibit F - Lot 2 Easement Legal Description

Exhibit G - Pylon Parcel Legal Description

Exhibit H - Utility Parcel Legal Description

Exhibit I - Plans and Specifications for the Utilities

Exhibit J - Prohibited Uses

Property of Cook County Clerk's Office

96729764

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

Exhibit A - Lot 1 - Legal Description

THE NORTH HALF OF THE FOLLOWING DESCRIBED PARCEL OF LAND:

THAT PART OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SOUTH WESTERN AVENUE WITH A LINE PARALLEL WITH AND 282.74 FEET NORTH FROM THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 18; THENCE NORTHWARD ALONG SAID EAST LINE OF SOUTH WESTERN AVENUE A DISTANCE OF 557.91 FEET TO AN INTERSECTION WITH A LINE PARALLEL WITH AND 490.91 FEET SOUTH FROM THE NORTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4; THENCE EASTWARD ALONG SAID PARALLEL LINE A DISTANCE OF 280.00 FEET TO AN INTERSECTION WITH A LINE PARALLEL WITH AND 280.00 FEET EAST FROM SAID EAST LINE OF SOUTH WESTERN AVENUE; THENCE SOUTHWARD ALONG SAID PARALLEL LINE A DISTANCE OF 557.54 FEET, TO AN INTERSECTION WITH THE AFOREMENTIONED LINE DRAWN PARALLEL WITH AND 282.74 FEET NORTH FROM THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 18; THENCE WEST ALONG SAID PARALLEL LINE A DISTANCE OF 280.00 FEET TO THE POINT OF BEGINNING; IN COOK COUNTY, ILLINOIS.

REN: 20-18-300-006 and 007

96729764

UNOFFICIAL COPY

Property of Cook County Clerk's Office



# UNOFFICIAL COPY

Exhibit B - Lot 2 - Legal Description

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SOUTH WESTERN AVENUE WITH A LINE THAT IS 282.74 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SOUTHWEST QUARTER; THENCE NORTHERLY, ALONG SAID EAST LINE, TO A POINT ON THE SOUTH LINE OF THE NORTH 769.91 FEET OF SAID SOUTHWEST QUARTER; THENCE EASTERLY, ALONG SAID SOUTH LINE, TO A POINT ON THE EAST LINE OF THE WEST 340.00 FEET OF SAID SOUTHWEST QUARTER; THENCE SOUTHERLY, ALONG SAID EAST LINE, TO A POINT ON AFORESAID LINE THAT IS 282.74 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SOUTHWEST QUARTER; THENCE WESTERLY, ALONG SAID PARALLEL LINE, TO THE POINT OF BEGINNING; ALL IN COOK COUNTY, ILLINOIS.

PIN: 20-18-300-007

96729764

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## Exhibit C - Lot 3 - Legal Description

THAT PART (EXCEPT THE WEST 280.00 FEET OF THE NORTH 279.00 FEET THEREOF) OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, INCLUDING PARTS OF VACATED WEST 61ST STREET, VACATED 62ND WEST STREET, VACATED SOUTH CLAREMONT AVENUE AND VACATED SOUTH OAKLEY AVENUE, AND CERTAIN LOTS AND A VACATED ALLEY IN E. A. CUMMING'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 7, 1892 AS DOCUMENT NUMBER 1729262, AND CERTAIN LOTS OR PARTS THEREOF AND PART OF A VACATED ALLEY IN LEIGHTON'S SUBDIVISION, ACCORDING TO THE PLAT THEREOF RECORDED MAY 16, 1913 AS DOCUMENT NUMBER 5186960, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SOUTH WESTERN AVENUE WITH A LINE PARALLEL WITH AND 282.74 FEET NORTH OF THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SOUTHWEST QUARTER (SAID SOUTH LINE BEING ALSO THE CENTERLINE OF VACATED WEST 61ST STREET); THENCE NORTH 1 DEGREE 35 MINUTES 16 SECONDS WEST ALONG SAID EAST LINE OF SOUTH WESTERN AVENUE, 557.91 FEET TO AN INTERSECTION WITH A LINE PARALLEL WITH AND 490.91 FEET SOUTH OF THE NORTH LINE OF SAID SOUTHWEST QUARTER; THENCE NORTH 88 DEGREES 37 MINUTES 34 SECONDS EAST, ALONG SAID PARALLEL LINE, 770.74 FEET; THENCE SOUTHEASTERLY, ALONG A CURVE CONVEX TO THE NORTHEAST AND HAVING A RADIUS OF 279.00 FEET, AN ARC DISTANCE OF 232.97 FEET TO A POINT ON A LINE PARALLEL WITH AND 632.91 FEET NORTH OF THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SOUTHWEST QUARTER WHICH IS 17.00 FEET WEST OF THE WEST RIGHT OF WAY LINE OF THE BALTIMORE AND OHIO TERMINAL RAILROAD; THENCE NORTH 88 DEGREES 33 MINUTES 4 SECONDS EAST, ALONG SAID PARALLEL LINE, 17.00 FEET TO A POINT ON SAID WEST RIGHT OF WAY LINE; THENCE SOUTH 1 DEGREE 32 MINUTES 26 SECONDS EAST, ALONG SAID WEST RIGHT OF WAY LINE, CROSSING WEST 61ST STREET (HERETOFORE VACATED BY ORDINANCE RECORDED AUGUST 8, 1949 AS DOCUMENT NUMBER 14606992) AND CONTINUING SOUTH 1 DEGREE 32 MINUTES 26 SECONDS EAST, ALONG THE EAST LINE OF LOT 149 IN AFORESAID E.A. CUMMING'S SUBDIVISION, AND CROSSING WEST 62ND STREET (HERETOFORE VACATED BY ORDINANCE RECORDED OCTOBER 4, 1984 AS DOCUMENT NUMBER 27282709) 1331.13 FEET TO THE NORTHEAST CORNER OF LOT A IN THE CONSOLIDATION OF LOTS 174 TO 200, INCLUSIVE, IN SAID E.A. CUMMING'S SUBDIVISION; THENCE SOUTH 88 DEGREES 31 MINUTES WEST, ALONG THE NORTH LINE OF SAID LOT A (BEING ALSO THE SOUTH LINE OF VACATED WEST 62ND STREET), 208.03 FEET TO THE NORTHWEST CORNER THEREOF; THENCE NORTH 1 DEGREE 39 MINUTES 55 SECONDS WEST, CROSSING SAID VACATED WEST 62ND STREET, 66.00 FEET TO THE SOUTHWEST CORNER OF LOT 173 IN SAID E.A. CUMMING'S SUBDIVISION; THENCE SOUTH 88 DEGREES 31 MINUTES WEST, CROSSING SOUTH OAKLEY BOULEVARD (HERETOFORE VACATED BY ORDINANCE RECORDED DECEMBER 21, 1984 AS DOCUMENT NUMBER 2738123 AND BY THE AFOREMENTIONED ORDINANCE RECORDED AS DOCUMENT NUMBER 27282709), 66.00 FEET TO THE SOUTHEAST CORNER OF LOT 117 IN SAID E.A. CUMMING'S SUBDIVISION; THENCE NORTH 1 DEGREE 39

(Continued)

PIN: 20-18-300-006, 007 and 026

96729764

076  
007  
026

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

MINUTES 55 SECONDS WEST, ALONG THE WEST LINE OF SAID VACATED SOUTH OAKLEY BOULEVARD, 299.69 FEET TO THE SOUTHEAST CORNER OF LOT 107 IN SAID E.A. CUMMING'S SUBDIVISION; THENCE SOUTH 88 DEGREES 32 MINUTES 2 SECONDS WEST, ALONG THE SOUTH LINE OF SAID LOT 107 AND THE WESTERLY EXTENSION THEREOF, A DISTANCE OF 132.94 FEET TO AN INTERSECTION WITH THE CENTER LINE OF A NORTH AND SOUTH 16 FOOT WIDE ALLEY (HERETOFORE VACATED BY ORDINANCE RECORDED OCTOBER 4, 1984 AS DOCUMENT NUMBER 27282709); THENCE NORTH 1 DEGREE 39 MINUTES 43 SECONDS WEST, ALONG SAID CENTER LINE, 285.73 FEET TO AN INTERSECTION WITH A LINE DRAWN PARALLEL WITH AND 80.00 FEET SOUTH OF THE NORTH LINE OF VACATED WEST 61ST STREET IN AFORESAID LEIGHTON'S SUBDIVISION; THENCE SOUTH 88 DEGREES 33 MINUTES 4 SECONDS WEST, ALONG SAID PARALLEL LINE, 165.92 FEET TO AN INTERSECTION WITH THE CENTER LINE OF SOUTH CLAREMONT AVENUE (HERETOFORE VACATED BY AFOREMENTIONED DOCUMENT NUMBER 27282709); THENCE NORTH 1 DEGREE 39 MINUTES 31 SECONDS WEST, ALONG SAID CENTER LINE, 4.15 FEET; THENCE NORTHWESTERLY, ALONG A CURVE CONVEX TO THE SOUTHWEST AND HAVING A RADIUS OF 80.00 FEET, AN ARC DISTANCE OF 65.78 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SOUTHWEST QUARTER; THENCE SOUTH 88 DEGREES 33 MINUTES 4 SECONDS WEST, ALONG SAID SOUTH LINE, 6.98 FEET TO AN INTERSECTION WITH THE AFOREMENTIONED LINE PARALLEL WITH AND 250.00 FEET EAST OF THE EAST LINE OF SOUTH WESTERN AVENUE; THENCE NORTH 1 DEGREE 35 MINUTES 16 SECONDS WEST, ALONG SAID PARALLEL LINE, 282.74 FEET TO A POINT ON A LINE PARALLEL WITH AND 282.74 FEET NORTH OF THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SOUTHWEST QUARTER (SAID SOUTH LINE BEING ALSO THE CENTERLINE OF VACATED WEST 61ST STREET); THENCE SOUTH 88 DEGREES 33 MINUTES 04 SECONDS WEST, ALONG SAID PARALLEL LINE, 250.00 FEET TO THE EAST LINE OF SOUTH WESTERN AVENUE AND THE POINT OF BEGINNING; ALL IN COOK COUNTY, ILLINOIS.

EXCEPTING FROM THE FOREGOING THE FOLLOWING:

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SOUTH WESTERN AVENUE WITH A LINE THAT IS 282.74 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SOUTHWEST QUARTER; THENCE NORTHERLY, ALONG SAID EAST LINE, TO A POINT ON THE SOUTH LINE OF THE NORTH 769.91 FEET OF SAID SOUTHWEST QUARTER; THENCE EASTERLY, ALONG SAID SOUTH LINE, TO A POINT ON THE EAST LINE OF THE WEST 340.00 FEET OF SAID SOUTHWEST QUARTER; THENCE SOUTHERLY, ALONG SAID EAST LINE, TO A POINT ON AFORESAID LINE THAT IS 282.74 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SOUTHWEST QUARTER; THENCE WESTERLY, ALONG SAID PARALLEL LINE, TO THE POINT OF BEGINNING; ALL IN COOK COUNTY, ILLINOIS.

PEN: 20-18-300-006, 007 and 026

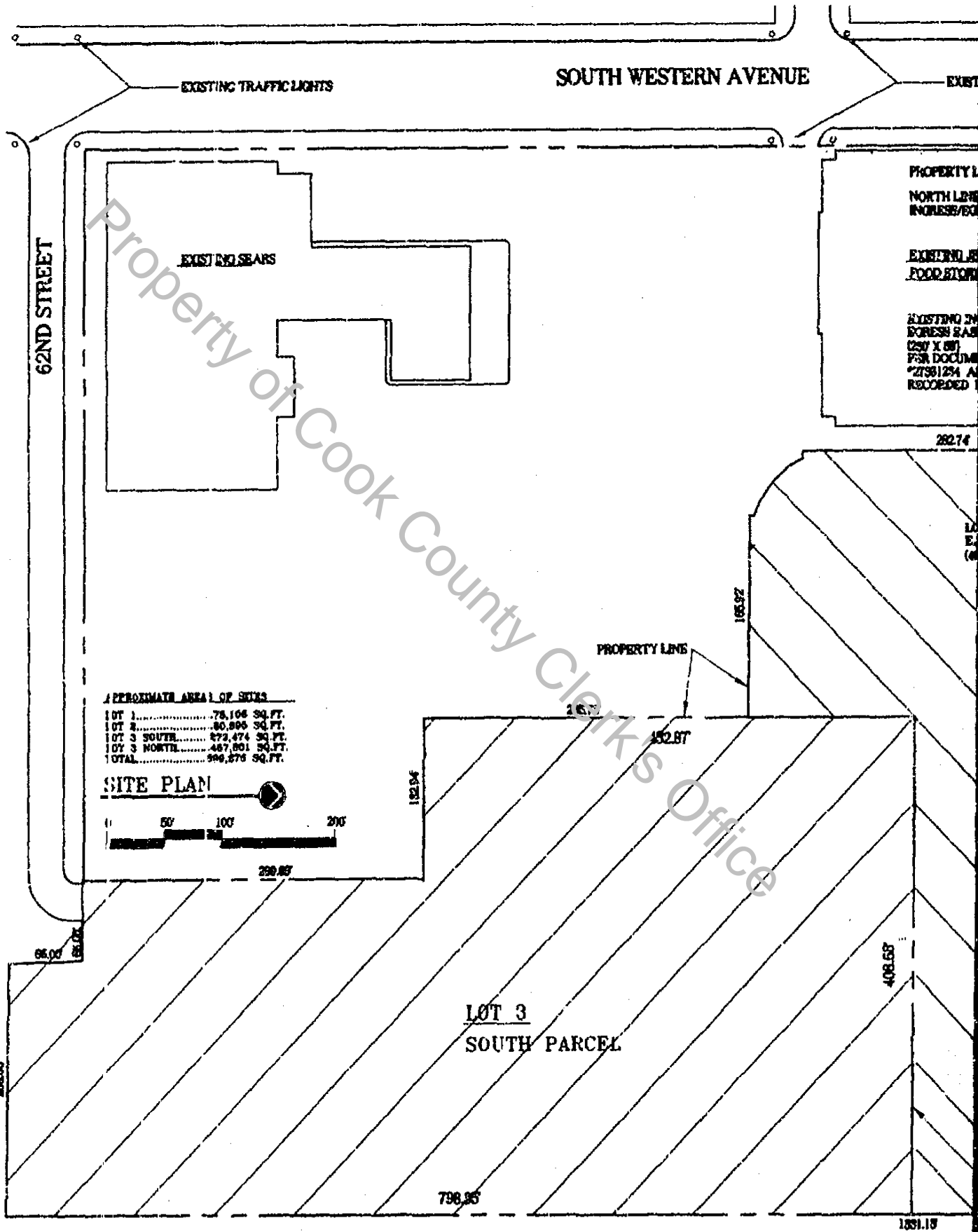
96729764

96729754

UNOFFICIAL COPY

Property of Cook County Clerk's Office

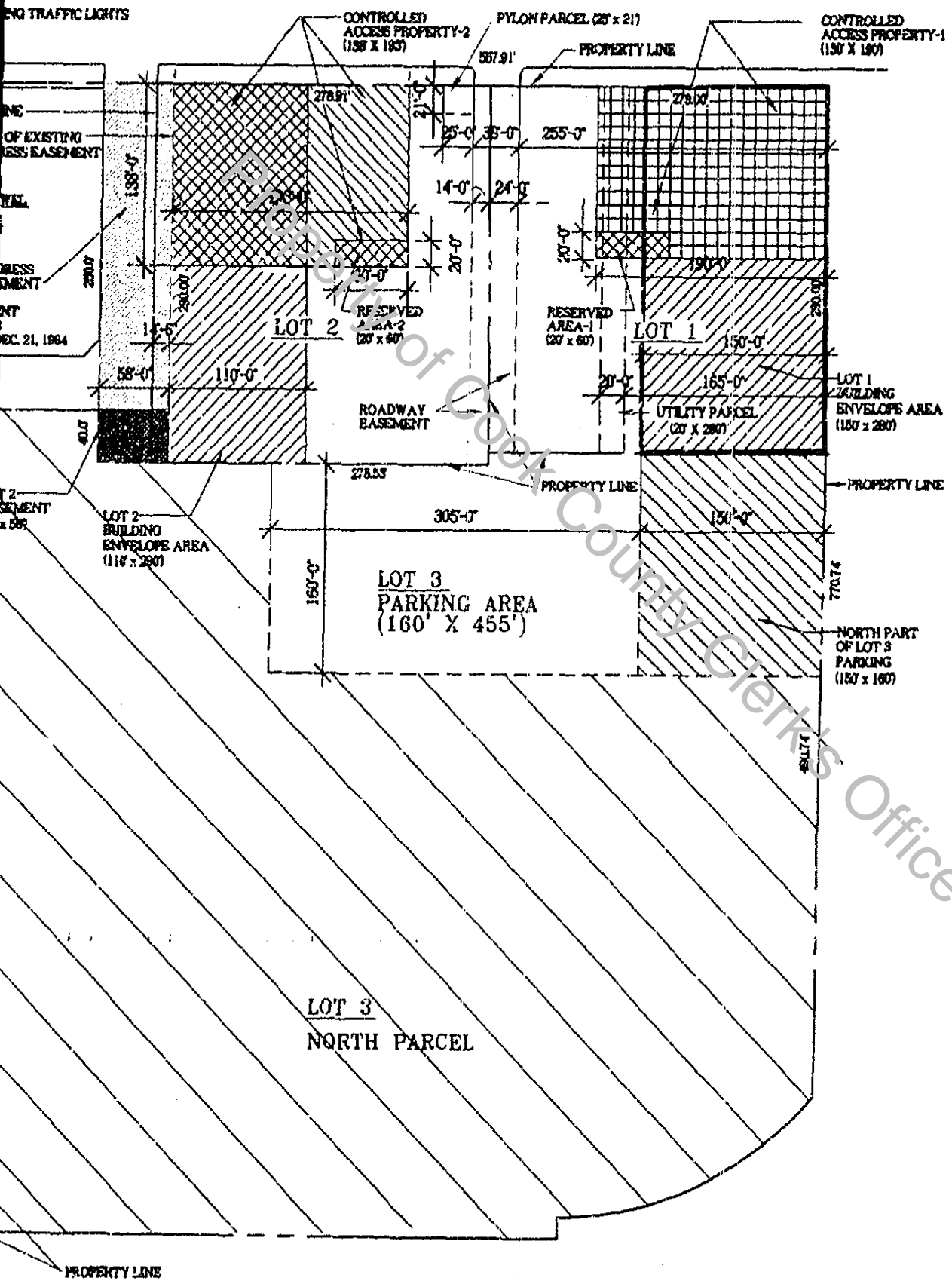
# UNOFFICIAL COPY



96729764

SEPTEMBER 12, 1996

**UNOFFICIAL COPY** Exhibit D-1 - Plat Sketch



96729764



# UNOFFICIAL COPY

Exhibit E - Roadway Description

## NORTH PORTION OF ROADWAY EASEMENT

THE EAST 280.00 FEET OF THE WEST 330.00 FEET OF THE SOUTH 24.00 FEET OF THE NORTH 769.91 FEET OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

## SOUTH PORTION OF ROADWAY EASEMENT

THE EAST 290.00 FEET OF THE WEST 340.00 FEET OF THE SOUTH 14.00 FEET OF THE NORTH 783.91 FEET OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

REV: 20-18-300-006 and 007

19262296

06  
012

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

PROPOSED WALL MOUNTED THEATER SIGNAGE

**AREA OF SITE**

LOT 1.....	78,108 SQ. FT.
LOT 2.....	80,895 SQ. FT.
LOT 3 SOUTH.....	272,474 SQ. FT.
LOT 3 NORTH.....	487,201 SQ. FT.
TOTAL.....	899,278 SQ. FT.

**AREA OF BUILDING**

LOT 1.....	32,270 SQ. FT.
LOT 2.....	19,300 SQ. FT.
LOT 3 SOUTH.....	80,050 SQ. FT.
LOT 3 NORTH.....	100,800 SQ. FT.
TOTAL.....	197,420 SQ. FT.

**FAR**

LOT 1.....	(285)
LOT 2.....	(189)
LOT 3 SOUTH.....	(184)
LOT 3 NORTH.....	(234)
TOTAL.....	(219)

**PARKING**

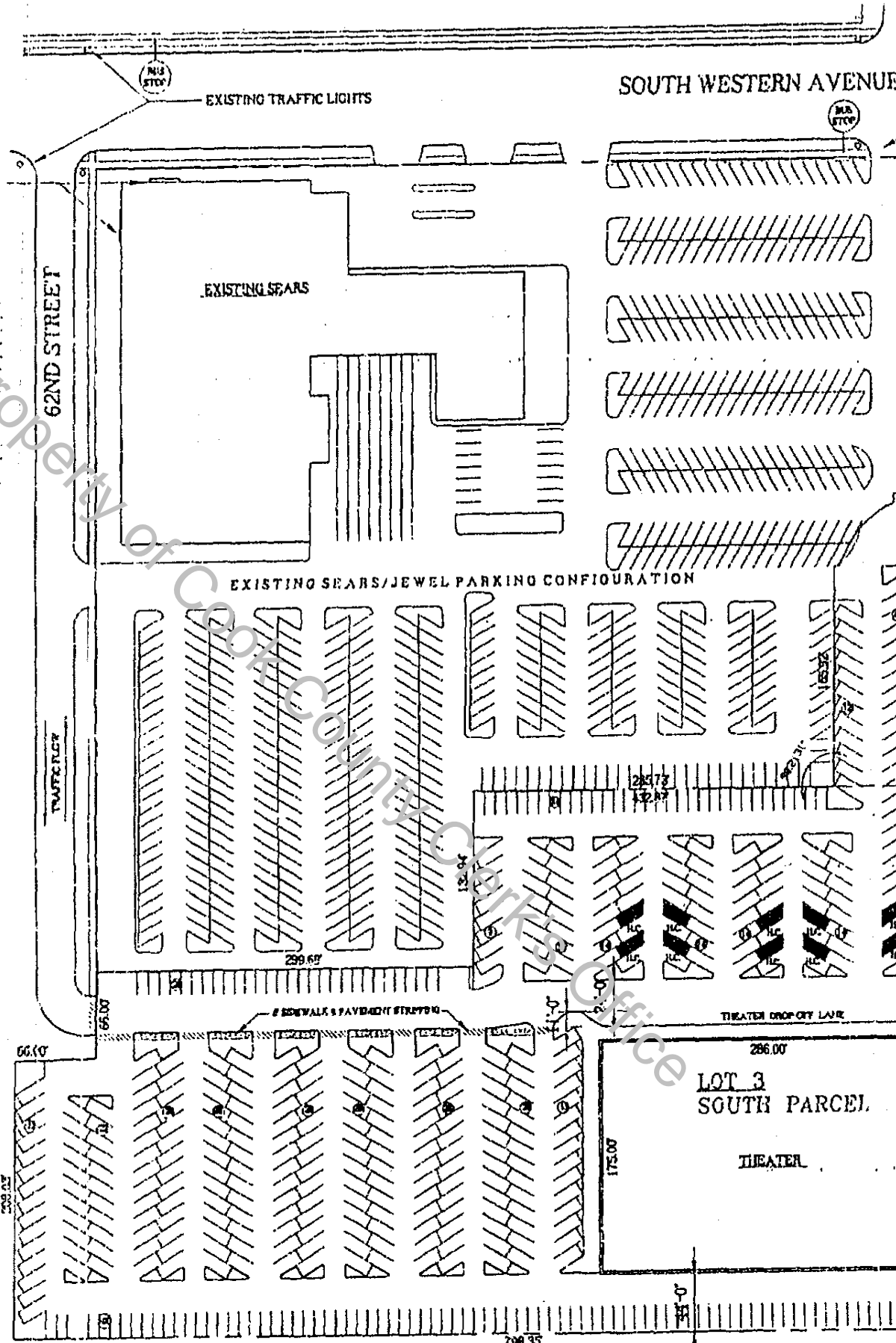
LOT 1.....	104
LOT 2.....	104
LOT 3 SOUTH.....	512
LOT 3 NORTH.....	820
TOTAL.....	1378

**PARKING & SERVICE AREA**

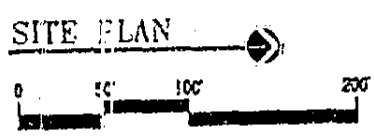
LOT 1.....	35,836 SQ. FT.
LOT 2.....	45,595 SQ. FT.
LOT 3 SOUTH.....	232,424 SQ. FT.
LOT 3 NORTH.....	359,001 SQ. FT.
TOTAL.....	701,856 SQ. FT.

**INTERNAL LANDSCAPE AREA**

LOT 1.....	4,389 SQ. FT.
LOT 2.....	4,672 SQ. FT.
LOT 3 SOUTH.....	11,121 SQ. FT.
LOT 3 NORTH.....	12,900 SQ. FT.
TOTAL.....	38,062 SQ. FT.

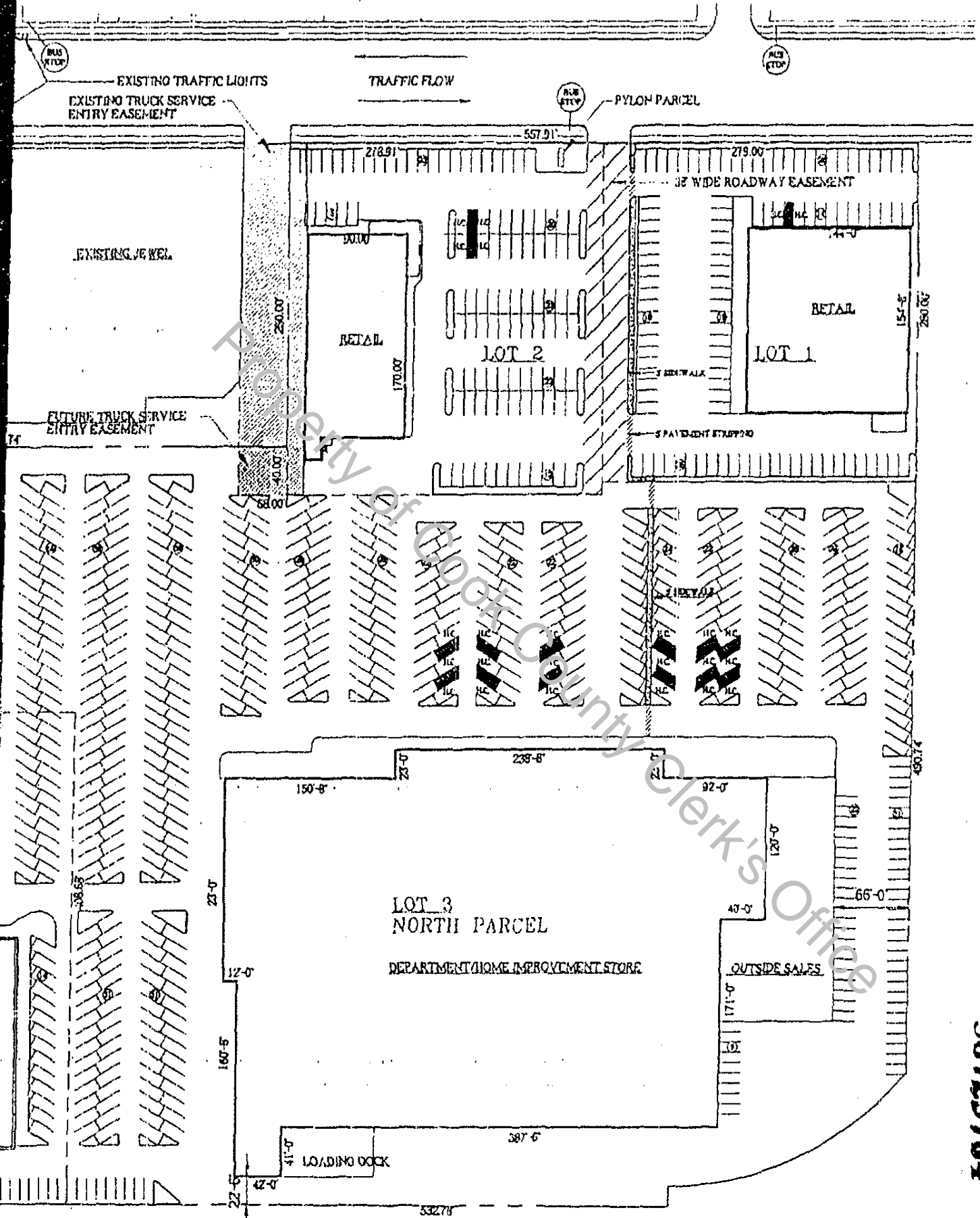


96729764



SITE PLAN - SOUTHWEST SHOPPING CENTER  
CITY OF CHICAGO, ILLINOIS

# UNOFFICIAL COPY Exhibit D-2 - Site Plan



CENTER

AUGUST 31, 1996

96729764

# UNOFFICIAL COPY

## Exhibit F - Lot 2 Easement Legal Description

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE WEST 340.00 FEET OF SAID SOUTHWEST QUARTER WITH A LINE THAT IS 297.24 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SOUTHWEST QUARTER; THENCE WESTERLY, ALONG SAID PARALLEL LINE, 40.00 FEET; THENCE SOUTHERLY, ALONG A LINE PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST QUARTER, 58.00 FEET; THENCE EASTERLY, ALONG A LINE PARALLEL TO THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SOUTHWEST QUARTER, 40.00 FEET TO A POINT ON AFORESAID EAST LINE OF THE WEST 340.00 FEET OF SAID SOUTHWEST QUARTER; THENCE SOUTHERLY, ALONG SAID EAST LINE, 58.00 FEET TO THE POINT OF BEGINNING; ALL IN COOK COUNTY, ILLINOIS.

PIN: 20-18-300-007

96729764

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

Exhibit G - Pylon Parcel Legal Description

THE EAST 21.00 FEET OF THE WEST 71.00 FEET OF THE SOUTH 25.00 FEET OF  
THE NORTH 80.91 FEET OF THE SOUTHWEST QUARTER OF SECTION 18,  
TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN  
COOK COUNTY, ILLINOIS.

PIN: 20-18-300-007

Property of Cook County Clerk's Office

9672976A

007

UNOFFICIAL COPY

Property of Cook County Clerk's Office



# UNOFFICIAL COPY

Exhibit H - Utility Parcel Legal Description

THE EAST 280.00 FEET OF THE WEST 330.00 FEET OF THE SOUTH 20.00 FEET OF  
THE NORTH 676.91 FEET OF THE SOUTHWEST QUARTER OF SECTION 18,  
TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN  
COOK COUNTY, ILLINOIS.

PIN: 20-18-303-006

Property of Cook County Clerk's Office

96729764

006

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT I

### Plans and Specifications for the Utilities

Plans and specifications prepared by Casco Engineering dated and revised 6/27/96 and identified as Sheets 1-7 prepared for Pep Boys, 2610 West North Avenue, Melrose Park, Illinois for the Pep Boys Store located at 60th Street and South Western Avenue, Chicago, Illinois.

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## EXHIBIT J

### PROHIBITED USES

1. Any use which is a public or private nuisance
2. Any use which produces noise or sound that is objectionable due to intermittence, high frequency, shrillness or loudness
3. Any use which produces obnoxious odors
4. Any use which produces noxious, toxic or corrosive fuel or gas
5. Any use which produces dust, dirt or fly ash in excessive quantities
6. Any use which produces fire, explosion or other damaging or dangerous hazard (including the storage, display or sale of explosives or fireworks)
7. Any commercial warehouse; provided, however, a retailer which operates a retail warehouse open to the public or club or membership patrons shall be permitted.
8. Any assembling, manufacturing, industrial, distilling, refining, smelting, agriculture or mining operation
9. A dry cleaning plant
10. Living quarters, sleeping apartment or lodging rooms
11. Any establishment selling or exhibiting pornographic materials
12. A massage parlor, or the business of "adult" materials, including, without limitation, magazines, books, movies, videos, and photographs
13. Any mortuary, funeral home, crematorium, cemetery or similar facility
14. Any lounge, tavern, nightclub, disco, discotheque, dance hall, strip show, restaurant or any business offering live entertainment of any kind
15. Any establishment which sells alcoholic beverages for on-site or off-site consumption, other than in connection with a restaurant, grocery store or pharmacy
16. Pawn shops
17. Any flea market

UNOFFICIAL COPY

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

18. Any casino, gaming hall, off-track betting facility or other gambling operation or facility.
19. Any governmental body or a subdivision or agency of a governmental body; provided, however, an office which does not provide on-site services at that location to the public shall be permitted and a post office also shall be permitted.
20. Any movie theatre, skating rink, bingo parlor, bowling alley, game room, pool or billiard parlor or room, game arcade or amusement center.
21. Any drive through facility. A bank or drugstore with a drive-through facility should not be prohibited use.
22. Any carnival, amusement park or circus.
23. Any gymnasium sport or health club or spa.
24. Any gas stations or car wash
25. Any facility for the sale of new or used motor vehicles, trailers or mobile homes.
26. Any banquet hall or auditorium.
27. Any training or educational facility (including, but not limited to, a beauty school, barber college, reading room, school or other facility catering primarily to students or trainees rather than customers).
28. Bridge, chess or similar club.

THE USES DESCRIBED IN 20 AND 21, ABOVE SHALL BE PERMITTED IN THAT PORTION OF LOT 3 IDENTIFIED AS THE "SOUTH PARCEL" ON THE SITE PLAN. A RESTAURANT SHALL BE PERMITTED NOTWITHSTANDING 14 AND 15, IF IT IS LOCATED IN THE SOUTH PARCEL OF LOT 3 AND HAS A PARKING RATIO OF 10 AUTOMOBILES FOR EACH ONE-THOUSAND (1,000) SQUARE FEET OF GROSS LEASEABLE FLOOR AREA OF SUCH RESTAURANT. A RESTAURANT SHALL BE PERMITTED ON LOTS 1 OR 2 IF IT HAS A PARKING RATIO OF SEVEN AUTOMOBILES OR MORE FOR EACH ONE THOUSAND (1,000) SQUARE FEET OF GROSS LEASEABLE FLOOR AREA OF SUCH RESTAURANT. A DRIVE-THROUGH FACILITY SHALL BE PERMITTED PROVIDED THAT (I) ALL QUEUING AND STACKING LANES FOR SUCH FACILITY ARE FULLY SELF-CONTAINED TO THE LOT ON WHICH THE FACILITY IS CONSTRUCTED; (II) THE USE OF SUCH FACILITY SHALL NOT IMPAIR ACCESS TO OR CIRCULATION ON THE ROADWAY; AND (III) VEHICLES USING SUCH FACILITY SHALL NOT QUEUE OR STACK ON THE ROADWAY. ANY VIOLATION OF THE CONDITIONS DESCRIBED IN (I), (II) AND (III)

UNOFFICIAL COPY

Property of Cook County Clerk's Office



# UNOFFICIAL COPY

ABOVE WHICH CONTINUES FOR THIRTY (30) DAYS FOLLOWING A NOTICE GIVEN TO THE OWNER WHOSE ACTIONS ARE IN VIOLATION OF THOSE SECTIONS SHALL ENTITLE THE COMPLAINING OWNER TO OBTAIN INJUNCTIVE AND OTHER EQUITABLE RELIEF WHICH SHALL INCLUDE, BUT IS NOT LIMITED TO THE TERMINATION OF THE VIOLATING OWNER'S USE OF THE ROADWAY UNTIL SUCH VIOLATION CEASES, EACH OWNER ACKNOWLEDGES THAT THE REMEDY OF TERMINATING THE VIOLATING OWNER'S USE OF THE ROADWAY UNTIL SUCH VIOLATION CEASES IS REASONABLE.

Property of Cook County Clerk's Office

96729764

UNOFFICIAL COPY

Property of Cook County Clerk's Office