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05/08/1996 09:21:34
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ALLEN COUNTY, IN

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DEED 3.00
Total 108.00

RECIPROCAL EASEMENT AGREEMENT

BETWEEN

SV Ventures, an Indiana general partnership

AND

MacKids, Incorporated, an Indiana corporation

1960035981 Page 1

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07/01/1996 14:59:24
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~~MAY 8 1996~~

~~RECORDER OF ALLEN COUNTY~~

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RECORDER OF ALLEN COUNTY

Prepared by: J. Patrick Cashir, Attorney

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RECIPROCAL EASEMENT AGREEMENT

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RECIPROCAL EASEMENT AGREEMENT

THIS AGREEMENT is made and entered into as of the 17th day of May, 1986, between SV Ventures, an Indiana general partnership ("Scott's"), and MacKids, Incorporated, an Indiana corporation ("MacKids").

RECITALS:

- A. Scott's is the owner of a certain tract of land described in Exhibit A attached hereto and identified as the "Scott's Tract" on Exhibit X (the "Site Plan") attached hereto and made a part hereof.
- B. MacKids is the owner of a certain tract of land described in Exhibit B attached hereto and identified as the "MacKids Tract" on the Site Plan and by this reference made a part hereof.
- C. The Scott's Tract and the MacKids Tract (collectively the "Shopping Center") are contiguous and adjacent as shown on the Site Plan.
- D. The signatories hereto intend to develop and operate their respective Tracts in conjunction with each other as integral parts of a retail shopping complex and in order to effectuate the common use and operation thereof they desire to enter into certain covenants and agreements as a part of a general plan, and to grant to each other certain reciprocal easements, in, to, over, and across their respective Tracts.

Scott's and MacKids agree as follows:

1. DEFINITIONS

- 1.1 Building Area. "Building Area" shall mean the limited areas of the Shopping Center within which buildings (which for the purpose of this document shall include any appurtenant canopies, supports, loading docks, truck ramps and other outward extensions, as well as attached trash compactors and utility transformers) and Outside Sales Areas (hereinafter defined) may be constructed, placed or located.
- 1.2 Common Area. "Common Area" shall mean all areas within the exterior boundaries of the Shopping Center, exclusive of (a) buildings and (b) any Outside Sales Area.
- 1.3 Floor Area. "Floor Area" shall mean the actual number of square feet of space contained on each floor within a building, including any mezzanine or basement space used either for retail sales or services purposes or for the storage of merchandise, as measured from the exterior faces of the exterior walls or store front and/or the center line of any common walls; provided, however, that the following areas shall not be included in such calculations: Outside Sales Areas, supporting mezzanine office space, and any space used for building utilities or mechanical equipment. The Parties agree that at the present time the total respective floor area of any buildings on each Party's Tract are 56,360 square feet with respect to Scott's and 34,540 square feet with respect to MacKids.

During any period of rebuilding, repairing, replacement or reconstruction of a building, the Floor Area of that building shall be deemed to be the same as existed immediately prior to that period. Upon completion of such rebuilding, repairing, replacement or reconstruction, the Party upon whose Tract such building is located, shall cause a new determination of Floor Area for such building to be made and such determination shall be sent to any Party requesting the same. The appropriate Party shall direct its architect to make a determination of the total Floor Area of any building on such Party's Tract within 120 days of the completion of such rebuilding, repairing, replacement or reconstruction. Within a reasonable time thereafter, such parties shall certify to all other parties the Floor Area then applicable to such building.

- 1.4 Occupant. "Occupant" shall mean any Person from time to time entitled to the use and occupancy of any portion of a building in the Shopping Center under an ownership right or any lease, sublease, license, concession, or other similar agreement.
- 1.5 Outside Sales Area. "Outside Sales Area" shall mean an area immediately adjacent to a building which is used exclusively by an Occupant of such building for sales and/or storage purpose and which is enclosed by a fence or other security barrier. The number of square feet contained within an Outside Sales Area may not exceed 20% of the Floor Area attributable to the Occupant using the Outside Sales Area.
- 1.6 Party. "Party" shall mean each signatory hereto and, after compliance with the notice requirements set forth below, their respective successors and assigns who become owners of any portion of the Shopping Center. Until the notice requirement is complied with, the transferring Party shall (for the purpose of this Agreement only) be the transferee's agent. Each Party shall be liable for the performance of all covenants, obligations and undertakings herein set forth with respect to the portion of the Shopping Center owned by it which accrue during the period of such ownership, and such liability shall continue with respect to any portion transferred until the notice requirement set forth below is complied with, at which time the transferring Party's personal liability for future obligation shall terminate. The transferee Party shall automatically become liable for all obligations, performance requirements and amounts which arise subsequent to compliance with the notice requirement. A Party transferring all or any portion of its interest in the Shopping Center shall give notice to all other Parties of such transfer and shall include therein at least the following information: (a) the name and address of the transferee; and (b) a copy of the legal description of the portion of the Shopping Center transferred. Nothing contained herein to the contrary shall affect the existence, priority, validity or enforceability of any lien permitted hereunder which is placed upon the transferred portion of the Shopping Center prior to receipt of the notice.
- 1.7 Person. "Person" shall mean any individual, partnership, firm, association, corporation, trust, or any other form of business or government entity.
- 1.8 Permittee. "Permittee" shall mean all Occupants and the officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, subtenants, and concessionaires of Occupants insofar as their activities relate to the intended use of the Shopping Center. Among others, Persons engaging in any of the following activities on the Common Area will not be considered to be Permittees:

1.8.1 Exhibiting any placard, signs or notice.

1.8.2 Distributing any circular, handbill, placard, or booklet.

1.8.3 Soliciting memberships or contributions.

1.8.4 Parading, picketing, or demonstrating.

1.8.5 Failing to follow regulations relating to the use of the Shopping Center.

1.9 Tract. "Tract" shall mean that portion of the Shopping Center owned by a Party.

2. EASEMENTS

2.1 Ingress and Egress. During the term of this Agreement as set forth in Section 7.1 each Party hereby grants and conveys to each other Party for its use and for the use of its Permittees, in common with others entitled to use the same, a non-exclusive easement for the passage and parking of vehicles over and across the parking and driveway areas of the grantor's Tract as the same may from time to time be constructed and maintained for such use and for the passage and accommodation of pedestrians over and across the parking, driveways and sidewalk areas of the grantor's Tract as the same may from time to time be constructed and maintained for such use. Such easement rights shall be subject to the following reservations as well as other provisions contained in this Agreement:

2.1.1 Except for situations specifically provided for in this Section 2.1, no fence or other barrier which would unreasonably prevent or obstruct the passage of pedestrian or vehicular travel for the purposes herein permitted shall be erected or permitted within or across the aforesaid easement areas; provided, however, that the foregoing provision shall not prohibit the installation of convenience facilities (such as mailboxes, public telephones, benches or public transportation shelters), of landscaping, berms or planters, nor of limited curbing and other forms of traffic controls.

2.1.2 In connection with any construction, reconstruction, repair or maintenance on its Tract, each Party reserves the right to create a staging and/or storage area in the Common Area on its Tract at such location as will not unreasonably interfere with access between such Tract and other areas of the Shopping Center.

2.1.3 No Party shall make changes to the Improved Common Area on its Tract without the approval of MacKids and Scott's, except that each Party hereby reserves the right, from time to time without obtaining the consent or approval of any other Party, to make at its own expense any insignificant change, modification or alteration in its portion of the Common Area, provided that all of the following conditions are met:

2.1.3.1 The accessibility of such Common Area for pedestrian and vehicular traffic (as it relates to the remainder of the Shopping Center), is not unreasonably restricted or hindered.

- 2.1.3.1 There shall be maintained at all times within such Common Area, a sufficient number of vehicular parking spaces to meet the parking requirements set forth in subsection 3.2.5, and all parking stalls and rows and vehicular traffic lanes shall remain generally as shown on the Site Plan.
- 2.1.3.1 No governmental rule, ordinance or regulation shall be violated as a result of such action, and such action shall not result in any other Party being in violation of any governmental rule, ordinance or regulation.
- 2.1.3.2 No change shall be made in the access points between the Common Area and the public streets; provided, however that additional access points may be created with the approval of Scott's and MacKids, such approval not to be unreasonably withheld.
- 2.1.3.3 At least 30 days prior to making any such change, modification or alteration, the Party desiring to do such work shall deliver to each other Party copies of the plans therefor.
- 2.1.4 Each Party further reserves the right to close off its portion of the Common Area for such reasonable period of time as may be legally necessary, in the opinion of such Party's counsel, to prevent the acquisition of prescriptive rights by anyone; provided however, that prior to closing off any portion of the Common Area, as herein provided, such Party shall give written notice to each other Party of its intention to do so, and shall attempt to coordinate such closing with each other Party so that no unreasonable interference in the passage of pedestrians or vehicles shall occur.
- 2.1.5 Each Party reserves the right at any time and from time to time to exclude and restrain any Person who is not a Permittee from using its Common Area.
- 2.1.6 Notwithstanding the termination date of this Agreement, the Parties hereby agree to grant perpetual ingress and egress easements as shown on the Survey, which is attached hereto as Exhibit D. Such easements shall be separately recorded or shall be included in an appropriate conveyance document. Each Party agrees to sign the necessary documents to finalize the easements.

2.2 Utilities.

- 2.2.1 Each Party hereby grants and conveys to each other Party non-exclusive perpetual easements in, to, over, under, along and across those portions of the Common Area (exclusive of any portion located within a Building Area) located on the grantor's Tract necessary for the installation, operation, flow, passage, use, maintenance, connection, repair, relocation, and removal of lines or systems for utilities serving the grantee's tract, including but not limited to, sanitary sewers, storm drains, water (fire and domestic), gas, electrical, telephone and communication lines. Except with respect to pad mounted electrical transformers at the rear of a building or as may be necessary during periods of construction,.

repair, or temporary service, all utilities shall be underground unless required to be above ground by the utility providing such service. Before exercising the right granted herein, the grantee shall first provide the grantor with a written statement describing the need for such easement, a survey and proposed final working drawings and specifications for construction of the proposed utility line, and an architect's or engineer's report that contains all information that the grantor may reasonably request in connection with the proposed utility line and other work to be performed in connection therewith, shall identify the proposed location of the utility, and shall furnish a certificate of insurance showing that its contractor has obtained the minimum insurance coverage required by subsection 5.4.3. Any Party installing utilities pursuant to the provisions of this subsection shall pay all costs and expenses with respect thereto and shall cause all work in connection therewith (including general clean-up and proper surface and/or subsurface restoration) to be completed as quickly as possible and in a manner so as to minimize interference with the use of the Common Area. If any or the Parties elect to install common utilities, all costs and expenses thereof may be set forth in a separate agreement between those cooperating Parties.

2.2.2 The present location and width of any utility shall be identified on an as-built survey showing the location of each utility. To the extent not already done so by virtue of a prior grant or pursuant to the terms of Section 2.2.1 above, the parties will indicate on the Survey their approval of the identified easement areas and their agreement that each Party's respective common area shall be burdened by the easements so identified. The grantor shall have the right at any time to relocate a utility line upon 30 days' prior written notice, provided that such relocation: (a) shall not interfere with or diminish the utility services to the grantee; (b) shall not reduce or unreasonably impair the usefulness or function of such utility; (c) shall be performed without cost or expense to grantee; (d) shall be completed using materials and design standards which equal or exceed those originally used; and (e) shall have been approved by the utility company and the appropriate governmental or quasi-governmental agencies having jurisdiction thereover. Any relocation easement areas shall be no larger than whatever is necessary to reasonably satisfy the utility company as to a public utility or five feet on each side of the centerline as to a private line.

Documentation of the relocated easement area shall be the grantor's expense and shall be accomplished as soon as possible. Grantee shall have a right to require an as-built survey of such relocated utility be delivered to it at grantor's expense.

2.3 Construction, Maintenance and Reconstruction.

2.3.1 In order to accommodate any footings, foundations, columns or walls which may be constructed or reconstructed immediately adjacent to a common boundary line and which may overlap that common boundary line, each Party grants to each other Party a non-exclusive easement in, to, over, under, and across that portion of its Tract adjacent to such common boundary line in space not theretofore

occupied by any then existing structure for the construction, maintenance and replacement of footings to a maximum distance of five feet (5') onto the grantor's Tract and for the construction, replacement and maintenance of foundations, columns, or walls to a maximum distance of six inches (6") onto the grantor's Tract. The grant of easement shall include the reasonable right of access necessary to exercise and enjoy such grant. The easement shall continue in effect for the term of this Agreement and thereafter for so long as the building utilizing the easement area exists (including a reasonable period to permit reconstruction or replacement of such building if the same shall be destroyed, damaged, or demolished) and shall include the reasonable right of access necessary to exercise and enjoy such grant.

2.3.2 Prior to utilizing the easement right set forth in subsection 2.3.1, the grantee Party shall advise the grantor Party of its intention to use the same, shall provide plans and specifications and proposed construction techniques for the improvements to be located within the easement area, and shall give the grantor Party an opportunity to commence any construction activities which such Party contemplates undertaking at approximately the same time to the end that each Party involved shall be able to utilize subterranean construction techniques which will permit the placement above ground of a building on each Tract immediately adjacent to the common boundary line. If a common subterranean construction element is used by the Parties, it is specifically understood that each shall assume and pay its reasonable share of the cost and expense of the initial construction and, so long as both Parties are benefiting therefrom, subsequent maintenance thereof. In the event any building utilizing a common subterranean element is destroyed and not replaced or is removed, the common subterranean construction element shall be left in place for the benefit of any building utilizing the same located on the adjoining Tract.

2.4 Restriction. No Party shall grant any easement for a purpose set forth in this Article for the benefit of any property not within the Shopping Center; provided however, that the foregoing shall not prohibit the granting or dedicating of utility easements by a Party on its Tract to governmental or quasi-governmental authorities or to public utilities.

3. CONSTRUCTION

3.1 General Requirements.

3.1.1 Each Party agrees that all construction activities performed by it within the Shopping Center shall be performed in compliance with all laws, rules, regulations, orders, and ordinances of the city, county, state, and federal governments, or any department or agency thereof, affecting improvements constructed within the Shopping Center.

3.1.2 Each Party further agrees that its construction activities shall not do any of the following:

3.1.2.1 Cause any unreasonable increase in the cost of constructing

improvements upon another Party's Tract.

- 3.1.2.1 Unreasonably interfere with construction work being performed on any other part of the Shopping Center.
- 3.1.2.1 Unreasonably interfere with the use, occupancy or enjoyment of any part of the remainder of the Shopping Center by any other Party or its Permittees.
- 3.1.2.1 Cause any other Party to be in violation of any law, rule, regulation, order or ordinance applicable to its Tract of the city, county, state, federal government, or any department or agency thereof.
- 3.1.3 Each Party agrees to defend, indemnify and hold harmless each other Party from all claims, actions, proceedings and costs incurred in connection therewith (including reasonable attorneys' fees and costs of suit) resulting from any accident, injury or loss or damage whatsoever occurring to any Person or to the property of any Person arising out of or resulting from the performance of any construction activities performed or authorized by such indemnifying Party.
- 3.1.4 Prior to constructing, reconstructing, remodeling, or enlarging a building or changing the Common Area on its Tract, a Party shall give MacKids and Scott's at least 30 days' prior notice of the proposed location of any staging and storage area. All storage of materials and the parking of construction vehicles, including vehicles of workers shall occur only on the constructing Party's Tract, and all laborers, suppliers, contractors and others connected with such construction activities shall use only the access points located upon the constructing Party's Tract. If substantial work is to be performed, the constructing Party shall, at the request of either MacKids or Scott's, fence off the staging and storage area. Upon completion of such work, the constructing Party shall restore the affected Common Area to a condition at least equal to that existing prior to commencement of such work.
- 3.1.5 Each Party hereby grants and conveys to each other Party and to its respective contractors, materialmen and laborers a temporary license for access and passage over and across the Common Area of the grantor's Tract as shall be reasonably necessary for the grantee to construct and/or maintain improvements upon the grantee's Tract; provided, however, that such license shall be in effect only during periods when actual construction and/or maintenance is being performed and provided further that the use of such license shall not be exercised so as to unreasonably interfere with the use and operation of the Common Area by others. Prior to exercising the rights granted herein, the grantee shall first provide the grantor with a written statement describing the need for such license, and shall furnish a certificate of insurance showing that its contractor has obtained the minimum insurance coverage required by subsection 5.4.3 hereof. Any Party availing itself of the temporary license shall promptly pay all costs and expenses associated with such work, shall diligently complete such work as quickly as possible, and shall promptly clean the area and restore the affected

portion of the Common Area to a condition which is equal to or better than the condition which existed prior to the commencement of such work. Notwithstanding the foregoing, in the event a dispute exists between the contractors, laborers, suppliers and/or others connected with construction activities, each Party shall have the right to prohibit the contractors, laborers, suppliers and/or others working for another Party from using the Common Area on its Tract.

3.2 Common Area. Upon each Party's election to rebuild, repair, replace or reconstruct a building upon its Tract, to the extent substantial improvements are made to the common area of such Party's tract, each Party shall cause the Common Area on its Tract to be improved in a good and workmanlike manner and in accordance with good engineering standards; provided, however, the following minimum general design standards shall be complied with:

3.2.1 [INTENTIONALLY OMITTED]

3.2.2 [INTENTIONALLY OMITTED]

3.2.3 All sidewalks shall be concrete or other material approved by MacKids and Scott's. The paved portions of the Common Area shall be paved in accordance with a paving recommendation obtained from a reputable soils consultant approved by MacKids and Scott's.

3.2.4 Utility plans and details shall be approved by MacKids and Scott's.

3.2.5 The parking area on each Tract shall contain sufficient ground level, standard automobile size, parking spaces in order to comply with all of the following minimum requirements:

3.2.5.1 Five parking spaces for each 1,000 square feet of Floor Area located on the Scott's Tract, and five parking spaces for each 1,000 square feet of Floor Area located on the MacKids Tract.

3.2.5.2 With respect to each Tract, if a business use contains a drive-up unit (such as remote banking teller or food ordering/dispensing facility), then there shall also be created space for stacking not less than five automobiles for each drive-up unit.

3.2.5.3 With respect to each Tract, (a) for each single restaurant which has less than 5,000 square feet of Floor Area, then five additional parking spaces for each one thousand (1,000) square feet of Floor Area devoted to such use; and (b) for each single restaurant which has 5,000 square feet of Floor Area or more, then ten additional parking spaces for each 1,000 square feet of Floor Area devoted to such use. Provided, however, if a restaurant is operated incidentally to a business operation (incidental operation shall mean occupying less than ten percent of the Occupant's Floor Area), then the Floor Area attributable to such restaurant shall be

excluded from the application of this subsection.

The foregoing requirements as well as all governmental regulations, ordinances and similar orders relating to parking shall be satisfied throughout the term of this Agreement and without reliance on the parking spaces that may be available on another Tract. In the event of a condemnation of part of a Tract or sale or transfer in lieu thereof that reduces the number of usable parking spaces below that which is required herein, the Party whose Tract is so affected shall use its best efforts (including using proceeds from the condemnation award or settlement) to restore and/or substitute parking spaces in order to comply with the parking requirements set forth above. If such compliance is not possible, such Party shall not be deemed in default hereunder, but shall not be permitted to expand the amount of Floor Area located upon its Tract. If such Floor Area is thereafter reduced, then it may not subsequently be increased unless the parking requirement is satisfied.

3.2.6 During the term of this Agreement, no Party shall alter the grade elevations on any portion of its Tract from those now established if such alteration would increase the flow of surface water onto another Party's Tract, affect ingress and egress, or otherwise adversely affect another Party's Tract.

3.3 Building Improvement.

3.3.1 The Parties hereby agree that all buildings and any Outside Sales Areas may be located only within the Building Areas designated on the Site Plan.

3.3.2 In order to produce an architecturally compatible Shopping Center, MacKids and Scott's agree that any additions, exterior remodeling or reconstruction of existing improvements shall be performed only in accordance with approved plans for such work as provided herein. The Party proposing such work shall submit to MacKids and Scott's detailed plans ("Plans") as required by Exhibit C attached hereto and made a part hereof. MacKids and Scott's, respectively, shall either approve, disapprove, or make recommendations for change in the Plans within 30 days of the receipt thereof. Failure to approve, disapprove, or make recommendations for change within said 30 day period shall constitute an approval of the Plans as submitted.

Any disapproval or recommendation for change shall specify with particularity the reason therefor. Upon submission of any disapproval or recommendation for change, the submitting Party, MacKids and Scott's shall mutually consult to establish approved Plans for the proposed work. Scott's and MacKids shall not arbitrarily or unreasonably withhold approval of the Plans or recommend changes in the Plans which otherwise conform with the requirements hereof. In addition, MacKids and Scott's shall not withhold approval of exterior remodeling or exterior reconstruction which does not either substantially enlarge an existing structure, or substantially change an existing structure. In no event shall MacKids or Scott's require any other Party to utilize design standards superior to those utilized by the requiring Party in the construction of improvements on its Tract. Approval of

Plans by MacKids and Scott's shall not constitute assumption of responsibility for the accuracy, sufficiency, or propriety thereof, nor shall such approval constitute a representation or warranty that the Plans comply with applicable laws. Notwithstanding anything contained herein, MacKids acknowledges that it is familiar with the Scott's Foods store and agrees that Scott's shall not be obligated to submit Plans with respect to such type of building.

- 3.3.3** MacKids and Scott's hereby specifically consent to the placement of buildings along the common boundary line between the Scott's Tract and the MacKids Tract, and each agrees to support any request by the other for a side-yard or setback variance if the same is required in order to accommodate such construction.
- 3.3.4** MacKids acknowledges that Scott's intends to construct an addition on the Scott's Tract a grocery store of a type which is generally classified under applicable building code regulation as an "unlimited area" building. (By way of explanation, but not limitation, such building classification is designated II-N, III-N, or V-N under the Uniform Building Code). So long as Scott's plans to construct a building addition of such classification, or so long as a building of such classification exists on the Scott's Tract (including any restoration or reconstruction thereof), MacKids agrees that any building to be placed or constructed on the MacKids Tract that is (a) located within 60 feet of the Building Area on the Scott's Tract or (b) located within 60 feet of any building referenced in (a) above shall comply with the requirements of said classification, including the installation of an approved sprinkler system for fire protection. In order to confirm the existence of a 60 foot yard or clear area around the Scott's building and the buildings, if any, which are included within (a) and (b) above, it may be necessary to place of record an instrument establishing the same. Each Party agrees to join in the execution of such instrument in a form satisfactory to such Parties. In addition to the requirements set forth above, no building located on the MacKids Tract shall be placed or constructed in a manner which will itself preclude the construction of a building of such classification on the Scott's Tract.
- 3.3.5** If a portion of any Building Area is at one point in time paved and used as Common Area, such portion may be subsequently used for building purposes provided that all parking requirements and other provisions relating to such Tract are also complied with. Likewise, such building may be subsequently razed, and until replaced, the area shall thereafter be deemed part of the Common Area, and shall be improved to the same standards as the other Common Area, either as automobile parking and drive area or as landscaped area.
- 3.3.6** No building or other structure (exclusive of any free standing sign referred to in subsection 5.3 hereof), including mechanical equipment, parapet walls, and other objects or appurtenances, shall exceed the following height restrictions:
- 3.3.6.1** On the Scott's Tract limited to the height of the present building and improvements.

3.3.6.2 On the MacKids Tract limited to the height of the present building and improvements.

The height of any building shall be measured perpendicular from the finish grade of the Building Area.

4. MAINTENANCE AND REPAIR

4.1 Utilities.

4.1.1 Each Party shall repair and maintain in first-class condition all utility facilities, lines, and systems located on its Tract that serve only its Tract unless the same are maintained by a public or quasi-public utility or authority.

4.1.2 The grantee of a utility easement referred to in subsection 2.2.1 (exclusive of an easement in which common utility lines and systems are located, which facilities shall be maintained as part of the Common Area), shall maintain and repair at its cost any facilities installed pursuant to such grant which exclusively serve such grantee's Tract unless the same are granted or dedicated to and accepted by a utility or a governmental agency acceptable to the grantor which agrees to maintain and replace the same. Any maintenance and repair of non-dedicated utilities located on another Party's Tract shall be performed only after two weeks' notice to the grantor (except in an emergency the work may be initiated with reasonable notice) and shall be done after normal business hours whenever possible and shall otherwise be performed in such a manner as to cause as little disturbance in the use of the grantor's Tract as is practicable under the circumstances. Any Party performing or causing to be performed maintenance or repair work agrees to promptly pay all costs and expenses associated therewith to diligently complete such work as quickly as possible and to promptly clean the area and restore the affected portion of the Common Area to a condition equal to or better than the condition which existed prior to the commencement of such work.

4.2 Common Area.

4.2.1 MacKids shall maintain all Common Area, or cause it to be maintained, in good order, condition and repair. MacKids shall have the right, from time to time, to select another person or persons to maintain the Common Area, provided that MacKids shall remain responsible at all times for the maintenance of the Common Area, except in the circumstances provided in subsections 4.2.4 or 4.2.7. If MacKids selects another person to maintain the Common Area, such person shall be a recognized professional commercial property management company, and MacKids shall notify Scott's at least 30 days in advance of the commencement of maintenance by such person. MacKids may hire companies affiliated with it to perform the maintenance, repair and operation of the Common Area, but only if the rates charged by such companies are competitive with those of other companies furnishing similar service in the metropolitan area where the Shopping Center is located, it being agreed that this provision regarding affiliated

companies shall be construed strictly against MacKids.

4.2.2 The minimum standard of maintenance for the improved Common Area shall be comparable to the standard of maintenance followed in other first-class retail developments of comparable size in the Fort Wayne, Indiana metropolitan area, and in any event in compliance with all applicable governmental laws, rules, regulations, orders and ordinances, and the provisions of this Agreement. All Common Area improvements shall be repaired or replaced with materials at least equal to the quality of the materials being repaired or replaced so as to maintain the architectural and aesthetic harmony and integrity of the Shopping Center as a whole. The maintenance and repair obligation in any event shall include but not be limited to the following:

- 4.2.2.1 Drive and parking areas. Maintaining all paved surfaces and curbs in a smooth and evenly covered condition which maintenance work shall include, without limitation, cleaning, sweeping, restriping, repairing and resurfacing. (For the purpose of this subsection 4.2.2.1, an overlay of the drive and parking area shall be considered a repair or maintenance item).
- 4.2.2.2 Debris and refuse. Periodic removal of all papers, debris, filth, refuse, ice and snow, including sweeping to the extent necessary to keep the Common Area in a first-class, clean and orderly condition. All sweeping shall be at appropriate intervals during such times as shall not interfere with the conduct of business or use of the Common Area by persons intending to conduct business with Occupants of the Shopping Center. Notwithstanding the above, each Occupant shall be responsible for removal and the cost of such removal of debris and trash resulting from the operation of each Occupant's possession of space within the Shopping Center.
- 4.2.2.3 Sign and markers. Placing, keeping in repair, replacing and repainting any appropriate directional signs or markers, including any handicapped parking signs.
- 4.2.2.4 Lighting. Operating, keeping in repair, cleaning and replacing when necessary such Common Area lighting facilities as may be reasonably required, including all lighting necessary or appropriate for Common Area security.
- 4.2.2.5 Landscaped area. Cleaning and maintaining all landscaped areas, including landscaping and planters adjacent to exterior walls of buildings, repairing automatic sprinkler systems or water lines in the Common Area, weeding, pruning, fertilizing and replacing shrubs and other landscaping as necessary; provided, however, that if any Occupant requires or installs "special" landscaping (i.e., beyond the landscaping requirements of the remainder of the Shopping Center) the maintenance and cost of such special landscaping shall be borne solely by such Occupant without cost or expense to the other parties and shall not be included in Common

Area maintenance costs.

4.2.2.6 Utilities. Maintaining, cleaning, and repairing any and all common storm drains, utility lines, sewers and other utility systems and services located in the Common Area which are necessary for the operation of the Common Area, and the maintenance and replacement of the trunk line (defined as any line with more than one user) portion of utility lines serving the Building Areas.

4.2.2.7 Obstructions. Keeping Common Area free from obstructions not required or permitted hereunder; specifically (but without limitation) keeping Common Area free from any obstructions caused by sale or display of merchandise outside the exterior walls of buildings, except in areas within the Shopping Center specifically designated on the Site Plan for such purposes, or except as permitted under the provisions of this Agreement.

4.2.2.8 Sidewalks. Cleaning (including washing and/or steam cleaning), maintenance and repair of all sidewalks, including those adjacent and contiguous to buildings located within the Shopping Center. Sidewalks shall be cleaned at appropriate intervals during such time as shall not interfere with the conduct of business or use of the Common Area by persons intending to conduct business with the Occupants of the Shopping Center.

4.2.2.9 Security personnel. Providing of professional security personnel within the Common Area.

4.2.2.10 Traffic. On-site supervision of traffic at entrances and exits to the Shopping Center as conditions reasonably require in order to maintain orderly and proper traffic flow and ingress and egress.

Notwithstanding anything to the contrary, each Party shall maintain at its sole cost in a clean, sightly and sanitary condition the truck loading, dock, and/or ramp areas. Scott's shall maintain its own refuse or dumpster areas adjacent to its building.

4.2.3 MacKids shall expend only such funds as are reasonably necessary for the operation, maintenance and insurance of the Common Area and shall promptly pay such costs ("Common Area Maintenance Costs") when incurred. For the purpose of this Agreement, Common Area Maintenance Costs shall not include any of the following:

4.2.3.1 Late charges or fees.

4.2.3.1 Costs to clean up or repair the Common Area resulting from construction, maintenance or replacement of buildings.

4.2.3.1 Real property taxes and assessments.

4.2.3.1 MacKids' profit, administrative and overhead costs, such as rent, legal, supplies, utilities and wages or salaries paid to management or supervisory personnel, it being further agreed that if a person is involved with other than Common Area operational and maintenance matters at the Shopping Center, then MacKids shall allocate such person's time to properly reflect his varied duties.

4.2.3.2 Entertainment, transportation, meals and lodging of anyone.

4.2.3.3 Maintenance or repair of separate utility lines and systems designed for use by one (1) user or of lateral utility lines designed for use by one (1) user and extending from or to common lines.

In lieu of MacKids' profit, administrative and overhead costs, MacKids shall be permitted to charge as provided in subsection 4.2.5 an amount ("Administration Fee") computed by multiplying the Common Area Maintenance Costs (exclusive of insurance premiums, the mark-up portion of fees paid to third parties who perform the Common Area operation and maintenance on MacKids' behalf, and utility charges except for the electrical and water and storm drainage expenses of the common area) by ten percent.

4.2.4 MacKids shall, at least 90 days prior to the beginning of each calendar year, submit to Scott's an estimated budget ("Budget") for the projected Common Area Maintenance Costs and the Administration Fee for operating and maintaining the Common Area of the Shopping Center for the ensuing calendar year. The Budget shall identify separate cost estimates for at least the following categories:

4.2.4.1 Sweeping and cleaning of the parking, drive and sidewalk areas; including removal of snow and ice where appropriate.

4.2.4.2 Lighting standards and other exterior light sources repair and bulb, ballasts and lens replacements.

4.2.4.3 Repair and maintenance of sidewalks.

4.2.4.4 Repair and maintenance of drive and parking areas.

4.2.4.5 Repair and maintenance of landscaping, including all irrigation costs.

4.2.4.6 Repair and maintenance of common utility lines and systems.

4.2.4.7 Trash removal from the common areas.

4.2.4.8 Premium for public liability insurance.

4.2.4.9 Security, if any.

4.2.4.10 Rental or purchase of equipment.

4.2.4.11 Supplies.

4.2.4.12 Depreciation or trade-in allowance applicable to items purchased for Common Area purpose.

4.2.4.13 Maintenance personnel.

4.2.4.14 Utilities costs for common areas.

If an item of repair or maintenance is to be accomplished in phases over a period of calendar years, such as resurfacing of the drive and/or parking areas, then the Budget shall separately identify the cost attributable to such year (including the area of the Common Area affected), and shall note the anticipated cost and timing (indicating the area of the Common Area affected) of such phased work during succeeding calendar years.

Scott's, within 30 days after receipt of the Budget, shall either approve or disapprove of the same. If Scott's fails to approve, it shall set forth in reasonable detail its grounds for disapproval, and thereupon Scott's and MacKids shall consult with each other to establish a final approved Budget. If a Budget is not approved by December 1st, MacKids shall have the option to (a) terminate the joint maintenance of the Common Area by written notice to Scott's prior to December 10th at which time MacKids shall maintain and operate the MacKids Tract and Scott's shall maintain and operate the Scott's Tract, commencing on January 1st, or (b) MacKids can continue to operate and maintain the Common Area for the next calendar year based upon the approved Budget and for any portion not approved Scott's shall pay the lesser of the monthly payment established for the prior years with an increase equal to the percentage increase in the cost of living as determined by the Consumer Price Index for All Urban Consumers, U.S. City Average, from the previous year or the monthly payment set forth in the disputed Budget. MacKids shall use its best efforts to operate and maintain the Common Area of the Shopping Center in accordance with the approved Budget; provided however, MacKids shall have the right to make emergency repairs to the Common Area to prevent injury or damage to person or property whether or not theretofore approved by Scott's, it being understood that MacKids shall nevertheless advise Scott's of such emergency condition as soon as reasonably possible, including the action taken and the cost thereof.

- 4.2.5** Scott's share of the Common Area Maintenance Costs and the Administration Fee shall be a sum equal to the percentage of land located on the Scott's Tract as compared to the land located on the balance of the Shopping Center. MacKids shall cause the balance to be paid. Scott's shall pay to MacKids its share, in installments equal to one-twelfth of the approved Budget amount, on the first day of each calendar month, commencing with the month following the month that MacKids is obligated to commence its maintenance of the Common Area. Within 45 days after the end of each calendar year, MacKids shall provide Scott's with a certified statement together with supporting material upon specific requests as to the actual Common Area Maintenance Costs paid by it for the operation and

maintenance of such Common Area together with an accounting of the Administration Fee. If the amount paid by Scott's for such calendar year shall have exceeded its share, MacKids shall refund the excess to Scott's at the time such certified statement is delivered, or if the amount paid by Scott's for such calendar year is less than its share, Scott's shall pay the balance of its share to MacKids within 30 days after receipt of such certified statement.

Within two years after receipt of any such certified statement Scott's shall have the right to audit MacKids' books and records pertaining to the operation and maintenance of the Common Area for the calendar year covered by such statement. In the event that such audit shall disclose any error in the determination of the costs of operating and maintaining such Common Area or in calculating any Party's share thereof, an appropriate adjustment shall be made forthwith. The cost of any such audit shall be assumed by Scott's unless Scott's shall be entitled to a refund in excess of three percent of the amount calculated by MacKids as its share of such costs for such calendar year, in which case MacKids shall pay the cost of such audit.

- 4.2.6 MacKids agrees to defend, indemnify and hold Scott's harmless from and against any mechanic's, materialmen's and/or laborers' liens, and all costs, expenses and liabilities in connection therewith, including reasonable attorney's fees arising out of the maintenance by MacKids of the Common Area pursuant to the provisions of this Section 4.2, and in the event that the Scott's Tract shall become subject to any such lien, MacKids shall upon request promptly cause such lien to be released and discharged of record, either by paying the indebtedness which gave rise to such lien or by posting such bond or other security as shall be required by law to obtain such release and discharge. In the alternative, MacKids shall place in escrow a sum of money equal to the amount in dispute until the matter is resolved.
- 4.2.7 If MacKids does not perform any snow plowing required under this Section 4.2 within two hours after being given oral notice by Scott's that such snow plowing is needed, Scott's may perform such snow plowing itself and charge MacKids for the expenses of doing so.
- 4.2.8 In the event Scott's determines that MacKids' performance under this Section 4.2 is inadequate, Scott's shall give notice of such fact to MacKids and if MacKids does not present to Scott's reasonable evidence within 15 days of the receipt of such notice, either that the problem has been remedied or that it will be remedied, Scott's shall have the right, but not the obligation, to assume control of the maintenance of the common area on Scott's Tract. Notwithstanding the above, in the event Scott's gives MacKids notice of any inadequacy more than three times in any one year period. Scott's shall have the right, upon not less than 90 days' written notice given to MacKids, to take over and assume the maintenance of the Common Area upon the Scott's Tract, provided that such notice shall be effective only as of the last day of a calendar quarter. If Scott's assumes the maintenance of the Common Area upon its Tract, it agrees that following the effective date of

such assumption, it will perform all of the functions previously performed by MacKids respecting the Common Area upon its Tract, including those specified in subsection 4.2.1 and pay all costs and expenses incurred in connection with the maintenance of the Common Area on its Tract, and MacKids thereafter shall continue to maintain the balance of the Common Area in accordance with the standards of subsection 4.2.1.

Notwithstanding any such withdrawal of the Scott's Tract from the joint maintenance of the Common Area pursuant to subsection 4.2.4 or subsection 4.2.8, Scott's may elect to continue to participate with the other Parties in public liability insurance policies and/or security programs covering the Common Area; in such case, Scott's shall pay a portion of the costs of such insurance and/or security program to MacKids, which portion shall be equivalent to its share of costs as specified in subsection 4.2.5. Notwithstanding any such withdrawal, each Party shall pay a portion of the costs of maintenance and repair of any common utility facilities or of any previously approved phased work, which portion shall be equivalent to its share of costs as specified in subsection 4.2.5.

- 4.2.9 In the event any of the Common Area is damaged or destroyed by any cause other than normal wear and tear, whether insured or uninsured, during the term of this Agreement, the Party upon whose Tract such Common Area is located shall repair or restore such Common Area at its sole cost and expense with all due diligence; provided, however, that no Party shall be required to expend more than \$250,000 (which amount shall be increased on the fifth anniversary of this Agreement and each five year period thereafter by \$50,000) in excess of insurance proceeds which may be available for such repair or restoration. Except to the extent limited by subsection 5.4.2, in the event such damage or destruction of Common Area is caused in whole or in part by another Party or third Person, the Party obligated to make such repair or restoration reserves and retains the right to proceed against such other Party or third Person for indemnity, contribution or damages.

4.3 Building Improvements and Outside Sales Area.

- 4.3.1 Each Party covenants and agrees to maintain and keep the building improvements and Outside Sales Area, if any, located on its Tract in first-class condition and state of repair, in compliance with all governmental laws, rules, regulations, orders, and ordinances exercising jurisdiction thereover, and in compliance with the provisions of this Agreement. Each Party further agrees to store all trash and garbage in adequate containers, to locate such containers so that they are not readily visible from the parking area, and to arrange for regular removal of such trash or garbage.
- 4.3.2 In the event any of the building improvements are damaged by fire or other casualty (whether insured or not), the Party upon whose Tract such building improvements are located immediately shall remove the debris resulting from such event and provide a slightly barrier and within a reasonable time thereafter shall either (a) repair or restore the building improvements so damaged, such

repair or restoration to be performed in accordance with all provisions of this Agreement, or (b) erect other building improvements in such location, provided all provisions of this Agreement are complied with, or (c) demolish the damaged portion of such building improvements and restore the area to an attractive condition in which event the area shall be Common Area until a replacement building is erected. Such Party shall have the option to choose which of the foregoing alternatives to perform, but such Party shall be obligated to perform one of such alternatives. Such Party shall give notice to each other Party within 90 days from the date of such casualty of which alternative it elects.

5. OPERATION OF THE SHOPPING CENTER

5.1 Uses.

- 5.1.1 No part of the Shopping Center shall be used for other than retail sales or services, or commercial purposes. Retail service uses shall mean financial institutions, real estate and stock brokerage offices, travel or insurance agencies and similar uses providing services directly to the public for retail fees.**
- 5.1.2 The following uses shall not be permitted in the Shopping Center:**
 - 5.1.2.1 Any use which emits an obnoxious odor, noise, or sound which can be heard or smelled outside of any building in the Shopping Center; provided, however, that this prohibition shall not prohibit a paging system within a building.**
 - 5.1.2.2 Any operation primarily used as a warehouse operation and any assembling, manufacturing, distilling, refining, smelting, agricultural, or mining operation.**
 - 5.1.2.3 [INTENTIONALLY OMITTED]**
 - 5.1.2.4 Any mobile home park, trailer court, labor camp, junkyard, or stockyard (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction, or maintenance).**
 - 5.1.2.5 Any dumping, disposing, incineration, or reduction of garbage (exclusive of garbage compactors located in the rear of any building).**
 - 5.1.2.6 [INTENTIONALLY OMITTED]**
 - 5.1.2.7 Any automobile, truck, trailer, or recreational-vehicle sales, leasing, display or repair.**
 - 5.1.2.8 [INTENTIONALLY OMITTED]**
 - 5.1.2.9 Any living quarters, sleeping apartments, or lodging rooms.**

5.1.2.10 Any veterinary hospital or animal raising facilities (except that this provision shall not prohibit pet shops).

5.1.2.11 Any mortuary.

5.1.2.12 Any establishment that derives a substantial portion of its revenue from the sale, rental, or exhibition of books, periodicals, films, videotapes, or other materials that are obscene or pornographic.

5.1.2.13 [INTENTIONALLY OMITTED]

5.1.2.14 [INTENTIONALLY OMITTED]

5.1.2.15 Any unlawful or illegal purpose.

5.1.2.16 Any use that is a public or private nuisance.

5.1.3 As long as the Scott's Tract is used for a supermarket or grocery store, the MacKids Tract shall not be used for a supermarket or grocery store.

5.1.4 The name "Scott's" shall not be used to identify the Shopping Center or any business or trade conducted on the MacKids Tract.

5.1.5 [INTENTIONALLY OMITTED]

5.1.6 No Permittee shall be charged for the right to use the Common Area.

5.1.7 Each Party shall use its best efforts to cause the employees of the Occupants of its Tract to park their vehicles only on such Tract.

5.2 Lighting.

5.2.1 Each Party hereby covenants and agrees to keep its Tract fully illuminated each day from dusk to at least 10:30 p.m., and further agrees to keep any exterior building security lights and internal access roadway lights on from dusk until dawn.

5.2.2 It is recognized that business establishments within the Shopping Center may be open for business at different hours, and that the owner or principal owner Occupant of one Tract upon which a business establishment is open later may wish to have the Common Area lights on another Tract continue to burn beyond the required period. Accordingly, the owner or principal Occupant of such Tract ("Registered Owner") shall have the right, at any time to require the owner or principal Occupant of the other Tract ("Requested Owner") to keep its Common Area lights on until a later hour as stipulated by the Requesting Owner, provided that the Requesting Owner notifies the Requested Owner of such request not less than 15 days in advance. The Requesting Owner shall state the period during which it wishes the lights to be kept on to a later hour and shall pay to the Requested Owner a prepayment deposit as follows:

5.2.2.1 If the period is less than 30 days, then the deposit shall be 110% of the reasonable cost (as estimated by the Requested Owner) of electrical power for such later hours to be incurred by the Requested Owner.

5.2.2.2 If the period is greater than or equal to 30 days, then the deposit shall be 110% of the reasonable cost (as estimated by the Requested Owner), of electrical power during the first 30 days of the period for such later hours to be incurred by the Requested Owner. If the period is greater than 30 days, then the Requesting Owner shall renew such prepayment deposit at the end of each 30 day period.

The Requesting Owner agrees to pay 110% of the cost to the Requested Owner of electrical power to provide such extra-hours illumination. If the Requested Owner is of the opinion that the deposits made by the Requested Owner do not cover 110% of such costs, the Parties shall attempt to agree to the cost of such electrical power and if they cannot do so, then the amount the Requesting Owner is obligated to pay shall be determined from the power costs as estimated by the electrical utility company furnishing such power, or if the utility fails to do so, by a reputable engineer. Upon the failure of a Requesting Owner to pay the aforesaid amount or renew a deposit as required hereby, the Requested Owner shall have the right to discontinue such additional lighting and to exercise other remedies herein provided. Any such request for additional lighting may be withdrawn or terminated at any time by written notice from the Requesting Owner, and a new request or requests for changed hours may be made from time to time.

5.2.3 As an alternative to the process of lighting another's Tract as set forth in subsection 5.2.2, a party ("Constructing Party") may install, with the consent of the other Party ("Consenting Party"), a secondary wiring system, from the Constructing Party's Tract to the light standards on the Consenting Party's Tract, which would permit a portion of all of the lighting on the Consenting Party's Tract to be operated contemporaneously with the lighting on the Constructing Party's Tract. All costs and expenses associated with the installation, maintenance, replacement, and operation of such secondary wiring, including the cost of energy to light any portion of the Consenting Party's Tract, shall be assumed and promptly paid by the Constructing Party. The Constructing Party shall submit to the Consenting Party appropriate plans and specifications for the installation of such secondary wiring systems. The Consenting Party shall have 30 days to approve or disapprove of such submission, such approval not to be unreasonably withheld. If the Consenting Party does not disapprove of the submission within the 30 day period, approval shall be deemed given; if disapproval is given, the Constructing Party shall revise the submission to accommodate the reasonable objections of the Consenting Party and then may resubmit such plans and specifications to the Consenting Party for its approval.

5.2.4 The lighting system on the Scott's Tract shall be wired into controls in the Scott's Store and controlled by Scott's. Resulting electrical power costs shall be paid for by Scott's and Scott's will have no obligation to pay for a share of lighting for

other parking areas.

5.3 Signs. Except for existing signs which shall be grandfathered in as exceptions to this Section 5.3, no exterior identification signs shall be allowed within the Shopping Center except as set forth in this Section 5.3.

5.3.1 No freestanding sign shall be permitted within the Shopping Center unless constructed in areas designated on each Site Plan, and only one such sign may be located in each designated area. Any freestanding sign shall name Scott's if Scott's so chooses and may be used to identify the Shopping Center name and/or one Occupant of the MacKids tract. The designation of a freestanding sign location on a Tract shall in no way obligate the benefiting Party to construct such freestanding sign. However, if such a freestanding sign is constructed, the benefiting Party shall be responsible for the sign's operation and maintenance on a first-class basis. MacKids and Scott's shall have the right to approve the design and size of all freestanding signs; provided, however, that MacKids hereby approves the use by Scott's of its standard prototype identification sign as the same exists from time to time.

Notwithstanding anything above to the contrary, each Party shall be permitted to place within the Common Area located on its Tract directional signs or informational signs such as "Handicapped Parking," the temporary display of leasing information and the temporary erection of one sign identifying each contractor working on a construction job.

5.3.2 Any Occupant occupying less than 25,000 square feet of Floor Area may not have more than one identification sign placed on the exterior of the building it occupies; provided, however, that if any such Occupant is located at the corner of a building, then such Occupant may have an identification sign on each side of such corner. Any Occupant occupying at least 25,000 square feet of Floor Area may have more than one identification sign placed on the exterior of the building it occupies. No exterior identification sign attached to a building shall be of any of the following types:

5.3.2.1 Placed on canopy roofs extending above the building roof, placed on penthouse walls, or placed so as to project above the parapet, canopy, or top of the wall upon which it is mounted.

5.3.2.2 Placed at any angle to the building, provided, however, the foregoing shall not apply to any sign located under a sidewalk canopy if such sign is at least eight feet above the sidewalk.

5.3.2.3 Painted on the surface of any building.

5.3.3 Neither exterior identification signs attached to buildings nor freestanding signs shall be of any of the following types:

5.3.3.1 Flashing, moving or audible signs.

5.3.3.2 Signs employing exposed raceways, exposed neon tubes, exposed ballast boxes, or exposed transformers

5.3.3.3 Paper or cardboard signs, temporary signs (exclusive of contractor signs), stickers or decals; provided, however, the foregoing shall not prohibit the placement at the entrance of each Occupant's space a small sticker or decal, indicating hours of business, emergency telephone numbers, and other similar bits of information.

5.4 Insurance.

5.4.1 Each Party (as to its Tract) shall maintain or cause to be maintained in full force and effect Commercial General Liability Insurance in the amount of \$1,000,000 per occurrence, \$2,000,000 aggregate for bodily or personal injury or death and for property damage, and umbrella liability in the amount of \$5,000,000. Such insurance shall include all of the following provisions:

5.4.1.1 A provision that the policy may not be canceled or materially reduced in amount or coverage without at least 30 days prior written notice by the insurer to each insured and any additional insureds.

5.4.1.2 A provision naming the other Parties as additional insureds.

5.4.1.3 A provision for severability of interests.

5.4.1.4 A provision that an act or omission of one of the insureds or additional insureds which would void or otherwise reduce coverage, shall not reduce or void the coverage as to the other additional insureds of the insured, respectively.

5.4.1.5 A provision for contractual liability coverage with respect to the indemnity obligation set forth below.

Each Party ("Indemnitor") covenants and agrees to indemnify, defend and hold harmless the other Party ("Indemnitee") from and against all claims, costs, expenses and liability (including reasonable attorney's fees and cost of suit incurred in connection with all claims) including any action or proceedings brought thereon, arising from or as a result of the injury to or death of any Person, or damage to the property of any Person which shall occur on the Tract owned by each Indemnitor, except for claims caused by the negligence or willful act or omission of such Indemnitee, its licensees, concessionaires, agents, servants, or employees, or the agents, servants, or employees of any licensee or concessionaire thereof.

5.4.2 Prior to commencing any construction activities within the Shopping Center, each Party shall obtain or require its contractor to obtain and thereafter maintain so long as such construction activity is occurring, at least the minimum insurance coverages set forth below:

5.4.2.1 Workers' Compensation - statutory limits.

5.4.2.2 Employers Liability - \$500,000.

5.4.2.3 Commercial General and Commercial Auto Liability in the amount of \$1,000,000 per occurrence, \$2,000,000 aggregate, including:
(a) Products/Completed Operations Coverage on an occurrence basis, and (b) "XCU" Hazard Endorsement, if applicable.

5.4.2.4 Umbrella liability in the amount of \$5,000,000.

5.4.2.5 Contractor's Protective Liability Insurance covering the contractor and owner(s) in the same amounts as set forth in subsection 5.4.2.3.

If the construction activity involves the use of another Party's Tract, then the owner of such Tract shall be an additional named insured and such insurance shall provide that the same shall not be canceled without at least 30 days prior written notice to the named insureds. If such insurance is canceled or expires then the constructing Party shall immediately stop all work on or use of another Party's Tract until either the required insurance is reinstated or replacement insurance obtained.

5.4.3 Effective upon the commencement of construction of improvements, the constructing Party will carry or cause to be carried, property insurance on a Standard Comprehensive Replacement Cost Form with a face amount equal to 100% of the replacement value (exclusive of the cost of excavation, foundations, and footings) of the buildings and improvements, with a standard co-insurance endorsement of not more than 90%.

Each Party (the "Releasing Party") hereby releases and waives for itself and on behalf of its insurer, any other Party (the "Released Party") from any liability for any loss or damage to all property of such Releasing Party located upon any portion of the Shopping Center, which loss or damage is of the type generally covered by property insurance provided under the Comprehensive Replacement Cost Form, irrespective either of any negligence on the part of the Released Party which may have contributed to or caused such loss, or of the amount of such insurance required or actually carried. Each Party agrees to use its best efforts to obtain, if needed, appropriate endorsements to its policies of insurance with respect to the foregoing release; provided, however, that failure to obtain such endorsements shall not affect the release hereinabove given. Each Party ("Indemnitor") covenants and agrees to indemnify, defend and hold harmless each other Party ("Indemnitee") from and against all claims asserted by or through any Permittees of the Indemnitor's Tract for any loss or damage to the property of such Permittee located upon the respective Indemnitor's Tract, which loss or damage is of the type generally covered by fire insurance provided under the Comprehensive Replacement Cost Form irrespective of any negligence on the part of the Indemnitee which may have contributed to or caused such loss.

5.4.4 All insurance required by this Section 5.4 shall be procured from companies licensed in the state where the Shopping Center is located and shall be rated by Best's Insurance Reports not less than A-, class VIII, the limits of such policies shall be reviewed by the Parties and approved as to sufficiency at least every five years. The insurance may be carried under (a) an individual policy covering this location, (b) a blanket policy or policies which includes other liabilities, properties and location of such party, (c) a plan of self-insurance, provided that the party so self-insuring has and maintains \$75,000,000 or more of net current assets as evidenced by such party's annual report that is audited by an independent certified public accountant, or (d) a combination of any of the foregoing insurance programs. To the extent any deductible is permitted or allowed as a part of any insurance policy carried by a Party in compliance with this Section 5.4, such Party shall be deemed to be covering the amount thereof under an informal plan of self-insurance; provided, however, that in no event shall any deductible exceed \$50,000.00 unless such Party qualifies for self-insurance pursuant to (c) above. Each Party agrees to furnish to any Party requesting the same, a certificate(s) of insurance evidencing that the insurance required to be carried by such requested Party is in full force and effect.

6.5 Taxes and Assessments. Each Party shall pay, or cause to be paid prior to delinquency, all taxes and assessments with respect to its Tract, the buildings, and improvements located thereon and any personal property owned or leased by such Party in the Shopping Center, provided that if the taxes or assessments or any part thereof may be paid in installments, the Party may pay each such installment as and when the same becomes due and payable. Nothing contained in this Section 5.5 shall prevent any Party from contesting at its cost and expense any such taxes and assessments with respect to its Tract in any manner such Party elects, so long as such contest is maintained with reasonable diligence and in good faith. At the time as such contest is concluded (allowing for appeal to the highest appellate court), the contesting Party shall promptly pay all such taxes and assessments determined to be owing, together with all interest, penalties and costs thereon.

5.6 Liens. In the event any mechanic's lien is filed against the Tract of one Party as a result of services performed or materials furnished for the use of another Party, the Party permitting or causing such lien to be so filed agrees to cause such lien to be discharged prior to entry of final judgment (after all appeals) for the foreclosure of such lien and further agrees to indemnify, defend, and hold harmless the other Party and its Tract against liability, loss, damage, costs or expenses (including reasonable attorneys' fees and cost of suit) on account of such claim of lien. Upon request of the Party whose Tract is subject to such lien, the Party permitting or causing such lien to be filed agrees to promptly cause such lien to be released and discharged of record, either by paying the indebtedness which gave rise to such lien or by posting bond or other security as shall be required by law to obtain such release and discharge. Nothing herein shall prevent a Party permitting or causing such lien from contesting the validity thereof in any manner such Party chooses so long as such contest is pursued with reasonable diligence. In the event such contest is determined adversely (allowing for appeal to the highest appellate court), such Party shall promptly pay in full the required amount,

together with any interest, penalties, costs, or other charges necessary to release such lien.

6. MISCELLANEOUS

6.1 Default.

6.1.1 If any Party fails to comply with any provision herein ("Defaulting Party"), then any other Party ("Non-Defaulting Party") may upon 45 days' prior written notice to the Defaulting Party, proceed to cure the default (and shall have a license to do so) by the payment of money or performance of some other action for the account of the Defaulting Party. The foregoing right to cure shall not be exercised if within the 45 day notice period (a) the Defaulting Party cures the default, or (b) if the default is curable, but cannot reasonably be cured within that time period, the Defaulting Party begins to cure such default within such time period and diligently pursues such action to completion. The 45 day notice period shall not be required if, using reasonable judgment, the Non-Defaulting Party deems that an emergency exists which requires immediate attention. In the event of such an emergency, the Non-Defaulting Party shall give whatever notice to the Defaulting Party as is reasonable under the circumstances. Defaulting Party hereby grants to the Non-Defaulting Party a nonexclusive easement over, across and under any and all parts of the Real Property owned or leased by the Defaulting Party for all purposes reasonably necessary to enable the Non-Defaulting Party (or its agents, contractors or subcontractors) to perform any of the terms, provisions, covenants or conditions of this Agreement that the Defaulting Party is obligated to perform but has failed to perform after notice and the opportunity to cure pursuant to this Section 6.1.

6.1.2 Within 10 days of written demand (including providing copies of invoices reflecting costs) the Defaulting Party shall reimburse the Non-Defaulting Party for any sum reasonably expended by the Non-Defaulting Party to cure the default, together with interest thereon. The Non-Defaulting Party shall have a lien upon the Defaulting Party's right, title, and interest in and to any portion of the Real Property to secure payment of all amounts due to the Non-Defaulting Party hereunder. The Non-Defaulting Party shall have the right, but not the obligation, to record its lien, but at all times its lien pursuant to this subsection 6.1.2 shall be subject and subordinate to (a) the lien of any mortgage or deed of trust held by any institutional lender or any extension, renewal, modification or refinancing thereof, in an amount now or hereafter placed on the Defaulting Party's interest in any portion of the Real Property; (b) the leasehold estate created by any lease of all or any part of the Real Property owned by the Defaulting Party; (c) any other lien of record against the Defaulting Party's property as of the date that the Non-Defaulting Party's lien is recorded. The Defaulting Party shall execute such instruments and documents as the Non-Defaulting Party may reasonably request to permit the recordation of such lien. The Defaulting Party hereby irrevocably designates the Non-Defaulting Party as the Defaulting Party's attorney-in-fact for the purpose of recording its lien pursuant to this subsection 6.1.2. The

Non-Defaulting Party shall have the right to foreclose such lien in the manner provided by law.

- 6.1.3 In the event any Party shall institute any action or proceeding against another Party relating to the provisions of this Agreement, or if any default hereunder, or to collect any amounts owing hereunder, or if an arbitration proceeding is commenced by agreement of the Parties to any dispute, the unsuccessful litigant in such action or proceeding shall reimburse the successful litigant therein for costs and expenses incurred by the successful litigant in connection with such action or proceeding and any appeals therefrom, including attorneys' fees and court costs.
- 6.1.4 All remedies are cumulative and shall be deemed additional to any and all other remedies to which any Party may be entitled in law or in equity. Each Party shall also have the right to restrain by Injunction any violation or threatened violation by any other party of any of the terms, covenants, or conditions of this Agreement, or to obtain a decree to compel performance of any such terms, covenants, or conditions, it being agreed that the remedy at law for a breach of any such term, covenant, or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate.
- 6.2 Interest. Wherever and as often as one Party shall not have paid any sum payable hereunder to another Party within five days of the due date, such delinquent Party shall pay interest on such amount from the due date to and including the date such payment is received by the Party entitled thereto, at the lesser of the following: (a) the highest rate permitted by law to be paid on such type of obligation by the Party obligated to make such payment or the Party to whom such payment is due, whichever is less; or (b) three percent per annum in excess of the interest rate from time to time publicly announced by Norwest Bank, Minneapolis National Association ("Norwest"), a national banking association having its main offices in Minneapolis, Minnesota, or its successor, as its reference rate (the "Reference Rate"), even though Norwest, or its successor, may lend funds to its customers at interest rates that are at, above, or below the Reference Rate.
- 6.3 Notices. All notices, demands, statements, and requests (collectively the "notice") required or permitted to be given under this Agreement must be in writing and shall be deemed to have been properly given or served as of the date hereinafter specified: (a) on the date of personal service upon the person to whom the notice is addressed or if such person is not available the date such notice is left at the address of the person to whom it is directed, (b) on the date the notice is postmarked by the United States Post Office, provided it is sent prepaid, registered or certified mail, return receipt requested, and (c) on the date the notice is delivered by a courier service (including Federal Express, Express Mail, Emery, Purolator, or similar operation) to the address of the person to whom it is directed, provided it is sent prepaid, return receipt requested. The address of the signatories to this Agreement is set forth below:

To MacKids: MacKids, Incorporated
410 Regency Park Lane
Noblesville, IN 46060

To Scott's: SV Ventures
Attention: Legal Department
11840 Valley View Road
Eden Prairie, MN 55344

Each Party shall have the right from time to time and at any time, upon at least 10 days' prior written notice thereof in accordance with the provisions hereof, to change its respective address and to specify any other address within the United States of America; provided, however, notwithstanding anything herein contained to the contrary, in order for the notice of address change to be effective it must actually be delivered. Refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice.

6.4 Approval Rights. Unless otherwise herein provided, whenever approval is required, such approval shall not be unreasonably withheld or delayed. Unless provision is made for a specific time period, approval shall be given or withheld within 30 days of the receipt of the request for approval. If a disapproval is not given within the required time period, the requested Party shall be deemed to have given its approval. If a Party shall disapprove, the reasons therefor shall be stated. Except with respect to an approval given by lapse of time, all approvals and disapprovals shall be in writing. The "right to approve" herein reserved by Scott's and MacKids, respectively, shall be assignable by each, but only by MacKids in total to a Party who owns a Tract within the MacKids Tract, and only by Scott's in total to a Party who owns a Tract within the Scott's Tract; each successor assignee may also assign such "right to approve" on the same condition. If the holder of the "right to approve" transfers its entire ownership interest prior to assigning such "right to approve," then the transferee Party shall immediately become vested with such "right to approve."

6.5 Condemnation. In the event any portion of the Shopping Center shall be condemned, the award shall be paid to the Party owning the land or the improvement taken, except that (a) if the taking includes improvements belonging to more than one Party, such as utility lines or signs, the portion of the award allocable thereto shall be used to relocate, replace or restore such jointly owned improvements to a useful condition, and (b) if the taking includes easement rights which are intended to extend beyond the term of the Agreement, the portion of the award allocable to each such easement right shall be paid to the respective grantee thereof. In addition to the foregoing, if a separate claim can be filed for the taking of any other property interest existing pursuant to this Agreement which does not reduce or diminish the amount paid to the Party owning the land or the improvement taken, then the owner of such other property interest shall have the right to seek an award for the taking thereof.

- 6.6 Binding Effect. The terms of this REA and all easements granted hereunder shall constitute covenants running with the land and shall inure to the benefit of and be binding upon the signatories hereto and their respective successors and assigns who become Parties hereunder. This Agreement is not intended to supersede, modify, amend, or otherwise change the provisions of any prior instrument affecting the land burdened hereby.
- 6.7 Singular and Plural. Whenever required by the context of this Agreement, the singular shall include the plural, and vice versa, and the masculine shall include the feminine and neuter genders, and vice versa.
- 6.8 Counterparts and Signature Pages. This Agreement may be executed in several counterparts, each of which shall be deemed an original. The signatures to this Agreement may be executed and notarized on separate pages, and when attached to this Agreement shall constitute one complete document.
- 6.9 Negation of Partnership. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the Parties in their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise. Each Party shall be considered a separate owner, and no Party shall have the right to act as an agent for another Party, unless expressly authorized to do so herein or by separate written instrument signed by the Party to be charged.
- 6.10 Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Shopping Center or of any Tract or portion thereof to the general public, or for any public use or purpose whatsoever. Except as herein specifically provided, no right, privileges or immunities of any Party hereto shall inure to the benefit of any third-party Person, nor shall any third-party Person be deemed to be a beneficiary of any of the provisions contained herein.
- 6.11 Excusable Delays. Whenever performance is required of any Party hereunder, that Party shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing or other labor disputes, unavailability of labor or materials, damage to work in progress by reason of fire or other casualty, or any cause beyond the reasonable control of a Party, then the time for performance as herein specified shall be appropriately extended by the amount of the delay actually so caused. The provisions of this Section 6.11 shall not operate to excuse any Party from the prompt payment of any monies required by this Agreement.
- 6.12 Severability. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any person by judgment or court order shall in no way affect any of the other provisions hereof or the application thereof to any other person and the same shall remain in full force and effect.

6.13 Amendments. This Agreement may be amended by, and only by, a written agreement signed by all of the then current Parties and shall be effective only when recorded in the county and state where the Shopping Center is located. No consent to the amendment of this Agreement shall ever be required of any Occupant or Person other than the Parties, nor shall any Occupant or Person other than the Parties have any right to enforce any of the provisions hereof.

6.14 Captions and Capitalized Terms. The captions preceding the text of sections and subsections are included only for convenience and reference. Captions shall be disregarded in the construction and interpretation of the Agreement. Capitalized terms are also selected only for convenience of reference and do not necessarily have any connection to the meaning that might otherwise be attached to such term in a context outside of this Agreement.

6.15 Minimization of Damages. In all situations arising out of this Agreement, all Parties shall attempt to avoid and minimize the damages resulting from the conduct of any other Party. Each Party hereto shall take all reasonable measures to effectuate the provisions of this Agreement.

6.16 Agreement Shall Continue Notwithstanding Breach. It is expressly agreed that no breach of this Agreement shall (a) entitle any Party to cancel, rescind or, otherwise terminate this Agreement, or (b) defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to any part of the Shopping Center. However, such limitation shall not effect in any manner any other rights or remedies which a Party may have hereunder by reason of any such breach.

6.17 Time. Time is of the essence of this Agreement.

6.18 Non-Waiver. The failure of any Party to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that Party may have hereunder or at law or equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions.

7. TERM

7.1 Term of this Agreement. This Agreement shall be effective as of the date first above written and shall continue in full force and effect until 11:59 p.m. on December 31, 2095 provided, however, that the easements referred to in Article II hereof which are specified as being perpetual or as continuing beyond the term of this Agreement shall continue in force and effect as provided therein. Upon termination of this Agreement, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of the Agreement, except as relates to the easements mentioned above, shall terminate and have no further force or effect; provided, however, that the termination of this Agreement shall not limit or affect any remedy at law or in equity that a Party may have against any other Party with respect to any liability or obligation arising or to be performed under this Agreement prior to the date of such termination.

*No INDIANA GROSS INCOME TAX IS OWED IN CONNECTION WITH THIS
RECIPROCAL EASEMENT AGREEMENT.*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed effective as of the day and year first above written.

MACKIDS, INCORPORATED

SV VENTURES

By: Charles McLochlin
Name Printed: Charles McLochlin
Its: President

By: SUPERVALU Holdings, Inc.,
Its: General Partner

By: Gary D. Scott
Name Printed: GARY D. SCOTT
Its: VICE PRESIDENT

STATE OF INDIANA)
COUNTY OF ALLEN) ss.

On this 4th day of MAY, 1998, before me, a Notary Public in and for said County, personally appeared Charles McLochlin to me personally known, who being by me duly sworn, did say that he/she is President of MackKids, Incorporated, an Indiana corporation, and that the foregoing instrument was signed and sealed on behalf of the said corporation by authority of its Board of Directors, and that the seal affixed to the foregoing instrument is the seal of said corporation, and the said Charles McLochlin acknowledged the execution of the foregoing instrument to be the voluntary act and deed of said corporation by it voluntarily executed.

Candice K. Inskip
Notary Public Candice K. Inskip
Commission Expires 12-9-99
Resident of Allen County, IN

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) ss.

The foregoing instrument was acknowledged before me, a Notary Public in and for said County, this 3rd day of May, 1998, by Gary D. Scott as general partner of SV Venture, an Indiana partnership.

Teresa Ann Smith
Notary Public



EXHIBIT A

A parcel of land located in the Southwest One-Quarter of Section 22, Township 31 North, Range 13 East, Allen County, Indiana, and more particularly described as follows:

COMMENCING at the Southwest corner of the Southwest One-Quarter of Section 22, Township 31 North, Range 13 East, as now established; thence North 0 degree 00 minute East (bearing basis for description) along the West line of said Southwest One-Quarter as now established, a distance of 566.28 feet; thence North 89 degrees 34 minutes East, a distance of 282.29 feet to the point of beginning.

BEGINNING at the above described point; thence North 15 degrees 10 minutes 22 seconds East, a distance of 474.44 feet; thence North 83 degrees 30 minutes East, a distance of 177.15 feet; thence South 74 degrees 49 minutes 38 seconds East, a distance of 145.37 feet; thence South 15 degrees 10 minutes 22 seconds West, a distance of 28.0 feet; thence South 74 degrees 49 minutes 38 seconds East, a distance of 126.85 feet; thence South 15 degrees 10 minutes 22 seconds West, a distance of 295.0 feet; thence South 74 degrees 49 minutes 38 seconds East, a distance of 108.68 feet; thence South 15 degrees 10 minutes 22 seconds West, a distance of 346.20 feet; thence South 89 degrees 34 minutes 00 seconds West, a distance of 140.76 feet; thence on a curve to the right having a radius of 200.0 feet, an arc length of 54.99 feet and being subtended by a chord of 54.82 feet bearing North 82 degrees 33 minutes 25 seconds West; thence North 74 degrees 40 minutes 49 seconds West, a distance of 85.46 feet; thence North 54 degrees 11 minutes 26 seconds West, a distance of 65.54 feet; thence North 44 degrees 24 minutes 49 seconds West, a distance of 63.78 feet; thence North 31 degrees 45 minutes 55 seconds West, a distance of 39.38 feet; thence North 38 degrees 27 minutes 56 seconds West, a distance of 155.32 feet to the point of beginning, containing 7.37 acres of land, more or less.

Most recent deed of record is Doc. #9600 25025 ✓

EXHIBIT B

TRACT I

A part of the Southwest One-quarter of Section 22, Township 31 North, Range 12 East, Allen County, Indiana and more particularly described as follows:

COMMENCING at the Southwest corner of the Southwest One-quarter of Section 22, Township 31 North, Range 12 East; thence North 0 degree 00 minute East along the West line of said Southwest One-quarter, a distance of 250.0 feet; thence North 89 degrees 34 minutes East, a distance of 50.0 feet; thence North 0 degree 00 minute East, a distance of 340.06 feet to the point of beginning. BEGINNING at the above described point; thence North 0 degree 00 minute East, a distance of 536.41 feet; thence North 89 degrees 36 minutes East, a distance of 90.82 feet; thence on a curve to the right having a radius of 151.5 feet, an arc length of 41.26 feet and being subtended by a chord of 41.13 feet bearing South 82 degrees 35 minutes 51 seconds East; thence South 74 degrees 47 minutes 42 seconds East, a distance of 255.72 feet; thence South 29 degrees 39 minutes 18 seconds West, a distance of 7.51 feet; thence South 0 degree 00 minute West, a distance of 20.13 feet; thence North 83 degrees 30 minutes East, a distance of 158.88 feet; thence South 74 degrees 49 minutes 38 seconds East, a distance of 145.37 feet; thence South 15 degrees 10 minutes 22 seconds West, a distance of 28.0 feet; thence South 74 degrees 49 minutes 38 seconds East, a distance of 126.85 feet; thence South 15 degrees 10 minutes 22 seconds West, a distance of 295.0 feet; thence South 74 degrees 49 minutes 38 seconds East, a distance of 108.68 feet; thence South 15 degrees 10 minutes 22 seconds West, a distance of 392.86 feet; thence South 89 degrees 34 minutes West, a distance of 230.49 feet; thence North 49 degrees 09 minutes 49 seconds West, a distance of 154.09 feet; thence North 46 degrees 38 minutes 08 seconds West, a distance of 34.81 feet; thence North 33 degrees 50 minutes 43 seconds West, a distance of 98.77 feet; thence on a curve to the left having a radius of 150.0 feet, an arc length of 51.41 feet and being subtended by a chord of 51.16 feet bearing North 43 degrees 39 minutes 49 seconds West; thence North 53 degrees 28 minutes 55 seconds West, a distance of 92.61 feet; thence on a curve to the left having a radius of 190.0 feet, an arc length of 120.23 feet and being subtended by a chord of 118.23 feet bearing North 71 degrees 36 minutes 35 seconds West; thence North 89 degrees 44 minutes 15 seconds West, a distance of 63.40 feet to the point of beginning, containing 11.63 acres of land, more or less.

EXCEPTING THEREFROM:

TRACT II

A parcel of land located in the Southwest One-Quarter of Section 22, Township 31 North, Range 13 East, Allen County, Indiana, and more particularly described as follows:

COMMENCING at the Southwest corner of the Southwest One-Quarter of Section 22, Township 31 North, Range 13 East, as now established; thence North 0 degree 00 minute East (bearing basis for description) along the West line of said Southwest One-Quarter as now

established, a distance of 566.28 feet; thence North 89 degrees 34 minutes East, a distance of 282.29 feet to the point of beginning.

BEGINNING at the above described point; thence North 15 degrees 10 minutes 22 seconds East, a distance of 474.44 feet; thence North 83 degrees 30 minutes East, a distance of 177.15 feet; thence South 74 degrees 49 minutes 38 seconds East, a distance of 145.37 feet; thence South 15 degrees 10 minutes 22 seconds West, a distance of 28.0 feet; thence South 74 degrees 49 minutes 38 seconds East, a distance of 126.85 feet; thence South 15 degrees 10 minutes 22 seconds West, a distance of 295.0 feet; thence South 74 degrees 49 minutes 38 seconds East, a distance of 108.68 feet; thence South 15 degrees 10 minutes 22 seconds West, a distance of 346.20 feet; thence South 89 degrees 34 minutes 00 seconds West, a distance of 140.76 feet; thence on a curve to the right having a radius of 200.0 feet, an arc length of 54.99 feet and being subtended by a chord of 54.82 feet bearing North 82 degrees 33 minutes 25 seconds West; thence North 74 degrees 40 minutes 49 seconds West, a distance of 85.46 feet; thence North 54 degrees 11 minutes 26 seconds West, a distance of 65.54 feet; thence North 44 degrees 24 minutes 49 seconds West, a distance of 63.78 feet; thence North 31 degrees 45 minutes 55 seconds West, a distance of 39.38 feet; thence North 38 degrees 27 minutes 56 seconds West, a distance of 155.32 feet to the point of beginning, containing 7.37 acres of land, more or less.

PLUS:

That portion of the following described real estate not already included in Tract I above:

TRACT III

Located in the Southwest One-quarter of Section 22, Township 31 North, Range 13 East and described as follows:

COMMENCING at the Southwest corner of the Southwest One-quarter of Section 22, Township 31 North, Range 13 East; thence North 0 degree 00 minute East (bearing basis for description) along the West line of said Southwest One-quarter, a distance of 250.0 feet; thence North 89 degrees 34 minutes East and parallel to the South line of said Southwest One-quarter, a distance of 50.0 feet to the East right-of-way line of Maplecrest Road; thence North 0 degree 00 minute East along said right-of-way line, a distance of 340.06 feet to the point of beginning.

BEGINNING at the above described point; thence continuing North 0 degree 00 minute East along said right-of-way, a distance of 54.0 feet; thence South 89 degrees 44 minutes 15 seconds East, a distance of 62.28 feet; thence on a curve to the right having a radius of 243.0 feet, an arc length of 153.77 feet and being subtended by a chord of 151.21 feet bearing South 71 degrees 36 minutes 35 seconds East; thence South 53 degrees 28 minutes 55 seconds East, a distance of 35.35 feet; thence South 15 degrees 10 minutes 22 seconds West, a distance of 7.25 feet; thence South 38 degrees 27 minutes 56 seconds East, a distance of 155.32 feet; thence South 31 degrees 45 minutes 55 seconds East, a distance of 39.38 feet; thence South 44 degrees 24 minutes 49 seconds East, a distance of 63.78 feet; thence South 54 degrees 11 minutes 26 seconds East, a distance of 65.54 feet; thence South 74 degrees 40 minutes 49 seconds East, a distance of 85.46

feet; thence on a curve to the left having a radius of 200.0 feet, an arc length of 54.99 feet and being subtended by a chord of 54.82 feet bearing South 82 degrees 33 minutes 25 seconds East; thence North 89 degrees 34 minutes East, a distance of 140.76 feet; thence North 15 degrees 10 minutes 22 seconds East, a distance of 12.59 feet; thence on a non-tangent curve to the left having a radius of 88.5 feet, an arc length of 35.05 feet and being subtended by a chord of 34.82 feet bearing North 75 degrees 25 minutes 03 seconds East; thence North 64 degrees 04 minutes 17 seconds East, a distance of 48.49 feet; thence on a curve to the right having a radius of 138.5 feet, an arc length of 61.63 feet and being subtended by a chord of 61.12 feet bearing North 76 degrees 49 minutes 09 seconds East; thence North 89 degrees 34 minutes East, a distance of 264.04 feet; thence South 0 degree 04 minutes 32 seconds East, a distance of 290.0 feet to a point on the North 60 foot right-of-way line of Stellhorn Road; thence South 89 degrees 34 minutes West along said right of-way line, a distance of 60.0 feet; thence North 0 degree 04 minutes 32 seconds West, a distance of 240.0 feet; thence South 89 degrees 34 minutes West, a distance of 203.72 feet; thence on a curve to the left having a radius of 88.5 feet, an arc length of 39.38 feet and being subtended by a chord of 39.06 feet bearing South 76 degrees 49 minutes 09 seconds West; thence South 64 degrees 04 minutes 17 seconds West, a distance of 48.49 feet; thence on a curve to the right having a radius of 138.5 feet, an arc length of 62.68 feet and being subtended by a chord of 62.14 feet bearing South 77 degrees 02 minutes 09 seconds West; thence South 15 degrees 10 minutes 22 seconds West, a distance of 7.30 feet; thence South 89 degrees 34 minutes West, a distance of 230.49 feet; thence North 49 degrees 09 minutes 49 seconds West, a distance of 154.09 feet; thence on a curve to the left having a radius of 6.00 feet, an arc length of 9.06 feet and being subtended by a chord of 8.23 feet bearing South 87 degrees 33 minutes 50 seconds West; thence on a curve to the left having a radius of 152.46 feet, an arc length of 87.58 feet and being subtended by a chord of 86.38 feet bearing South 27 degrees 50 minutes 04 seconds West; thence South 13 degrees 28 minutes 59 seconds West, a distance of 84.16 feet; thence on a curve to the left having a radius of 50.0 feet, an arc length of 12.05 feet and being subtended by a chord of 12.02 feet bearing South 6 degrees 34 minutes 50 seconds West; thence South 0 degree 19 minutes 19 seconds East, a distance of 141.65 feet to a point on the North 40 foot right-of-way line of Stellhorn Road; thence South 89 degrees 34 minutes West along said right-of-way line, a distance of 25.0 feet; thence North 0 degree 19 minutes 19 seconds West, a distance of 142.30 feet; thence on a curve to the right having a radius of 70.0 feet, an arc length of 16.87 feet and being subtended by a chord of 16.83 feet bearing North 6 degrees 34 minutes 50 seconds East; thence North 13 degrees 28 minutes 59 seconds East, a distance of 88.46 feet; thence on a curve to the right having a radius of 175.0 feet, an arc length of 79.70 feet and being subtended by a chord of 79.01 feet bearing North 26 degrees 31 minutes 46 seconds East; thence North 39 degrees 34 minutes 33 seconds East, a distance of 17.34 feet; thence on a curve to the left having a radius of 6.00 feet, an arc length of 7.69 feet and being subtended by a chord of 7.17 feet bearing North 2 degrees 51 minutes 55 seconds East; thence North 33 degrees 50 minutes 43 seconds West, a distance of 98.77 feet; thence on a curve to the left having a radius of 150.0 feet, an arc length of 51.41 feet and subtended by a chord of 51.16 feet bearing North 43 degrees 39 minutes 49 seconds West; thence North 53 degrees 28 minutes 55 seconds West, a distance of 92.61 feet; thence on a curve to the left having a radius of 190.0 feet, an arc length of 120.23 feet and being subtended by a chord of 118.23 feet bearing North 71 degrees 36 minutes 35 seconds West; thence North 89 degrees 44 minutes 15 seconds West, a distance of 63.40 feet to the point of beginning.

ALSO TOGETHER WITH THE FOLLOWING:

COMMENCING at the Southwest corner of the Southwest One-quarter of Section 22, Township 31 North, Range 13 East; thence North 0 degree 00 minute East along the West line of said Southwest One-quarter, a distance of 1126.5 feet; thence North 89 degrees 36 minutes East, a distance of 50.0 feet to the point of beginning.

BEGINNING at the above described point; thence North 89 degrees 36 minutes East, a distance of 90.82 feet; thence on a curve to the right having a radius of 151.5 feet, an arc length of 41.26 feet and being subtended by a chord of 41.13 feet bearing South 82 degrees 35 minutes 51 seconds East; thence South 74 degrees 47 minutes 42 seconds East, a distance of 326.38 feet; thence South 83 degrees 30 minutes West, a distance of 90.70 feet to the Northwest corner of the parcel being conveyed to the SV Ventures, an Indiana general partnership.; thence South 15 degrees 10 minutes 22 seconds West along the West line of the parcel being conveyed to SV Ventures, a distance of 30.0 feet; thence North 39 degrees 06 minutes 13 seconds West, a distance of 51.88 feet; thence North 74 degrees 25 minutes 49 seconds West, a distance of 200.0 feet; thence on a non-tangent curve to the left having a radius of 119.5 feet; an arc length of 32.55 feet and being subtended by a chord of 32.45 feet bearing North 82 degrees 35 minutes 51 seconds West; thence South 89 degrees 36 minutes West, a distance of 91.04 feet to a point on the East 50 foot right-of-way line of Maplecrest Road; thence North 0 degree 00 minute East along said right-of-way line, a distance of 32.0 feet to the point of beginning.

Most recent deeds of record: 85-8311
86-7045
86-16738
86-44331
86-44332
86-49271
91-36010
92-1775
95-21065

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EXHIBIT C

SUBMISSION GUIDELINES

1. During the conceptual design phase, the constructing party shall submit to the other parties the following:
 - 1.1 Site Design Documents to Indicate the Following:
 - Parking configurations and car parking count
 - Typical bay width and stall dimensions
 - Drive widths
 - Setbacks
 - Curb cuts
 - Spot elevations or rough contours
 - Rough landscape scope
 - Lighting pole locations
 - Preliminary utility strategies
 - 1.2 Building Design Single Line Plans to Indicate the Following:
 - Exterior wall configuration
 - Doors and store front extent
 - Canopies and overhangs
 - Probable column locations at exterior and abutting our building on interior
 - 1.3 Exterior Elevation Drawings to Indicate the Following:
 - Opaque wall areas with doors and store fronts
2. After approval has been granted of conceptual design phase submitted in accordance with the guidelines specified in 1 above, the constructing party shall submit final design phase plans to the other parties as follows:
 - 2.1 Site Design Documents Delineating Information Outlined in the Concept Phase with the Following Added Detail:
 - Refined grading plans
 - Selected lighting fixtures and resultant lighting levels in foot candles
 - Landscaping showing generic planting materials and locations
 - Proposed paving section designs and location
 - Utility layouts including hydrants and sizes proposed
 - Proposed details for curbs, site structure, manholes, etc.
 - Proposed site signage designs and locations

2.2 Building Design Plans Delineating Information Outlined in the Concept Phase with the Following Added Detail:

- Exterior wall thicknesses
- Structural columns or bearing wall at building exterior and proposed foundation design at adjoining wall between abutting buildings
- Where common footings are to be shared provide wall or column load information for design of that footing
- Proposed roof plan showing slopes and location of penthouses or other major mechanical equipment
- References of key flashing details of roof to adjoining building

2.3 Exterior Elevation Drawings Delineating Information Outlined in the Concept Phase with the Following Added Detail:

- Proposed building sign standards
- Paint color chips and samples of other materials such as brick or concrete aggregates (glass or aluminum finishes may be annotated on the elevations)
- Proposed large scale details of key section conditions to show exterior design intent
- Major penthouses or rooftop equipment profiles
- Features such as special masonry patterns, bands or special materials and textures
- Rain leaders or scuppers
- Wall sections at various exterior locations including at the demising wall to the adjoining building with key vertical dimensioning

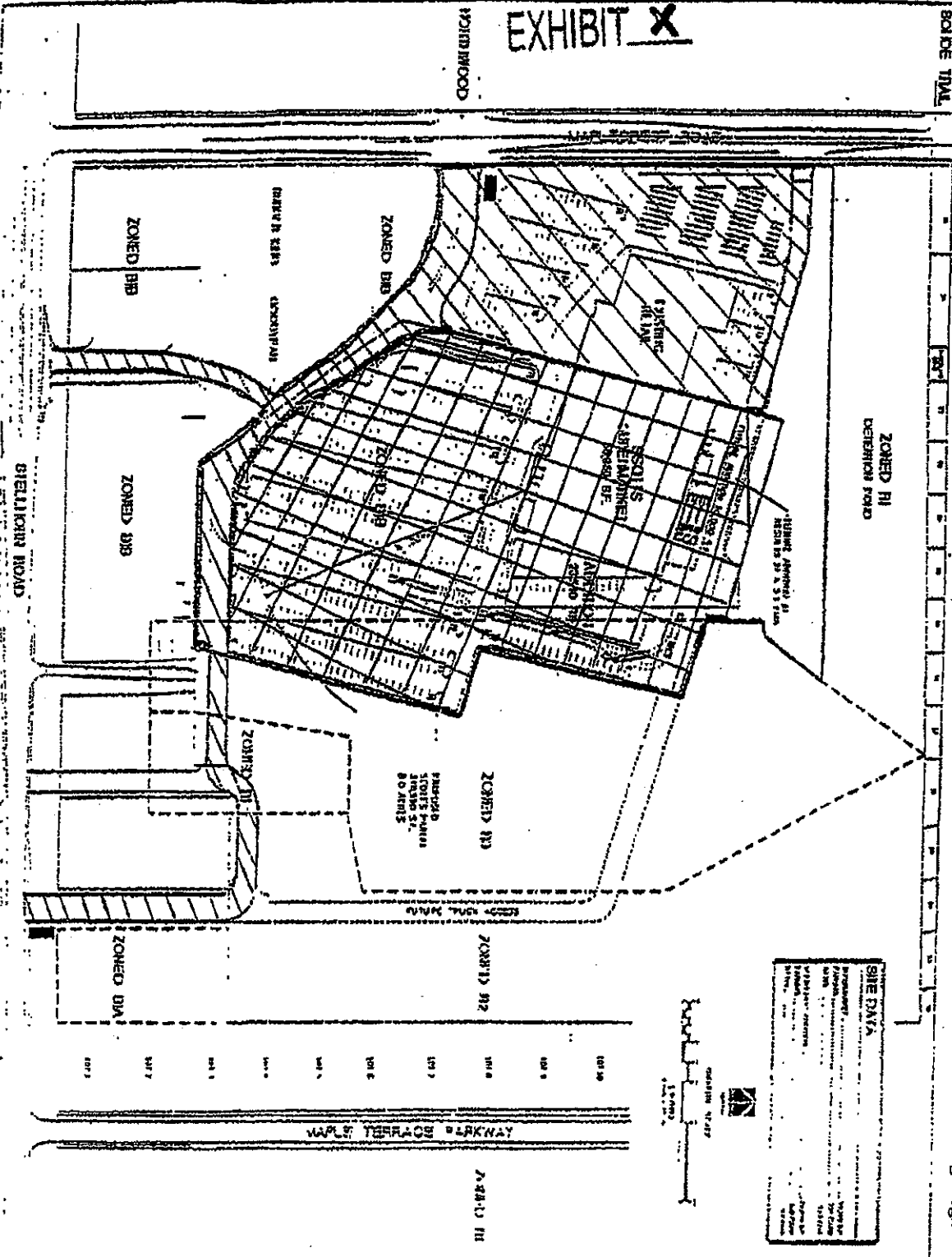
3. If a building is to have a through-the-wall pedestrian access connection to an adjoining building, then the final design phase submission shall also include (to the owner of such adjoining building) the following:

- Plans of the pedestrian mall circulation showing any variations in floor elevations
- Elevations/sections of the proposed mall space showing store front sign bulkheads and key dimensions
- Proposed ceiling design including special features such as variations in height or skylights
- Floor material patterns
- Landscaping and mall seating areas
- Proposed interior sign guidelines
- Paint color chips and samples of other materials such as brick or concrete aggregates (glass or aluminum finishes may be annotated on the plans or elevations)

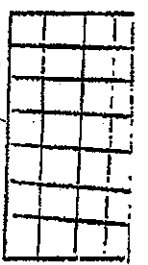
Proposed large scale details of key section conditions to show interior design intent

- 4. The constructing party shall provide the other parties with a complete set of bid documents for the building and/or improvements to be located upon its Tract.**

EXHIBIT X



Macride Tract



Scott's Tract

Free-standing sign

SITE DATA	
Project Name:	SCOTT'S FOODS
Site Address:	10111 WAPLE TERRACE PARKWAY
City:	WAYNE, MI
County:	WAYNE, MI
Parcel ID:	10111000000000000000
Map Sheet:	10111000000000000000
Scale:	1" = 100'
North Arrow:	True North
Prepared By:	DATE
Checked By:	DATE
Approved By:	DATE



SCOTT'S FOODS
10111 WAPLE TERRACE PARKWAY
WAYNE, MI 48091

PRELIMINARY
NOT FOR CONSTRUCTION

DATE: 10/1/2010
SCALE: 1" = 100'

BOHDE TRAIL

35

36

MAPLEWOOD DOWNS SEC. II

NORTH PROPERTY LINE

MACKIDS, INC.
DOC 86-44382

MAPLECREST ROAD

N 00°00'00"

PK MARK
EQUIVALENT
STAKE

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MAPLEWOOD DOWNS SEC.
PLAT BK 29, PG. 121-123

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58

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N 89°36'00" E
923.6' DEED

75' REGULATED DRAIN ESMT
I.G. 36-4-21-33

DRAINAGE EASEMENT
DOC. 181-5023
DOC. 181-5450

DITCH

75' REGULATED DRAIN ESMT
I.G. 36-4-21-33

N 83°30'00"E

PARCEL NOT BLDG IS
OWNED BY MACKIOS

CURB & LIGHT POLE
ESMT

177.15'

S 83°30'00" W
23.8' DEED

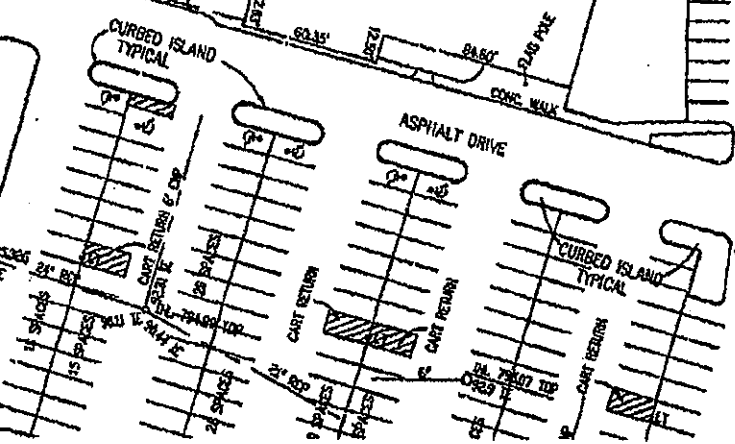
S 74°49'38" E
145.3'

S 15°10'22" W
28.00'

S 74°49'38" E
126.85'

SCOTT'S FOODS

ONE STORY
BLOCK BLDG.
#4522 MAPLECREST ROAD



474.44'
928.94'

N 15°10'22" E

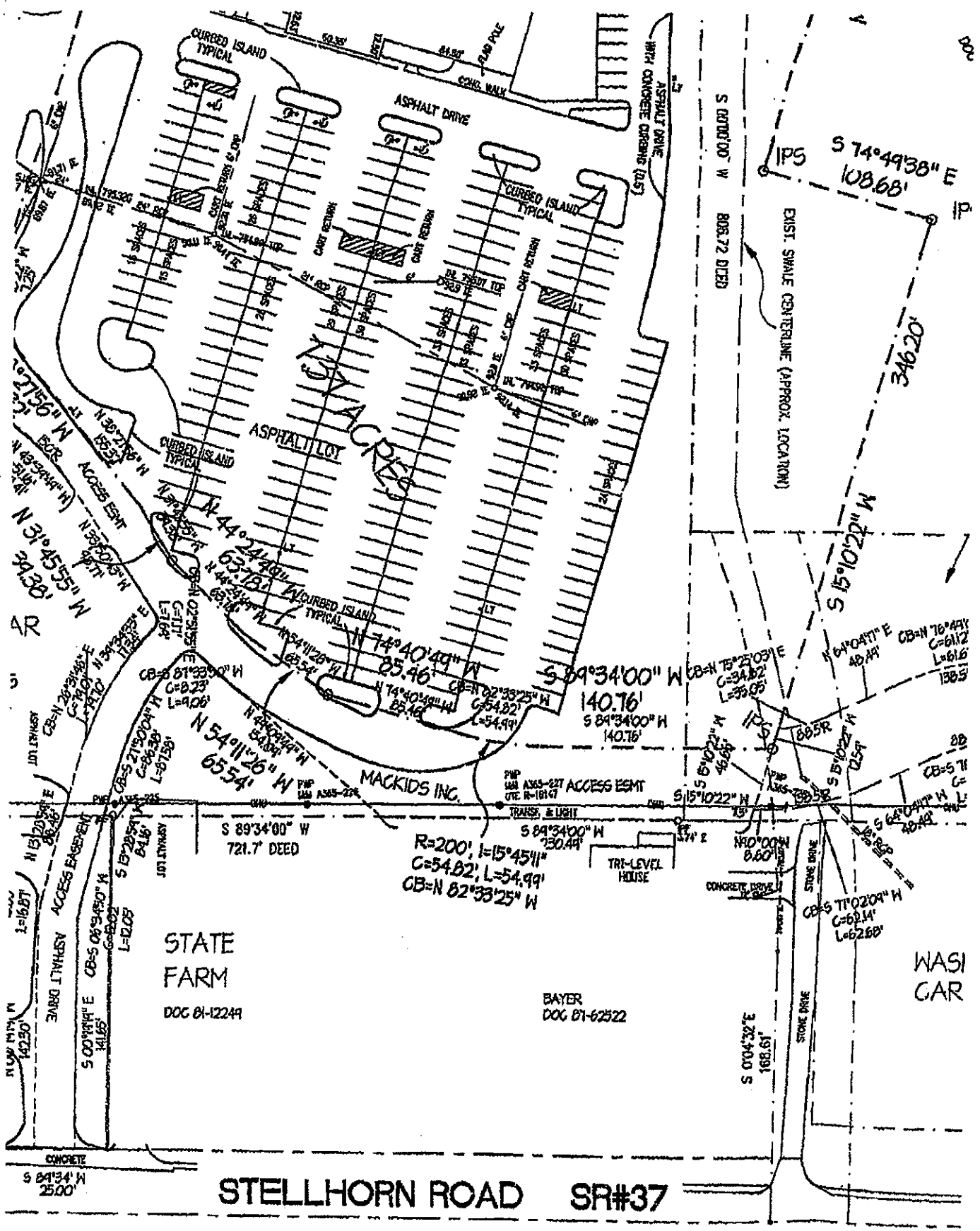
GREASE TRAP

S 00°00'00" W
806.72 DEED

S 15°10'22" W
245.00'

S 74°49'38" E
108.68'

EXST. SWALE CENT



STELLHORN ROAD SR#37

STATE FARM
 DOC 81-12241

BAYER
 DOC 81-62522

WASIGAR

$R=200'$, $I=15^{\circ}45'11''$
 $C=54.82'$, $L=54.99'$
 $CB=N 82^{\circ}33'25'' W$

$S 89^{\circ}34'00'' W$
 $721.7'$ DEED

$S 89^{\circ}34'00'' N$
 $230.41'$

$S 07^{\circ}32' E$
 $188.61'$

$S 89^{\circ}34' N$
 $250.00'$

$S 74^{\circ}49'38'' E$
 $108.68'$

$346.20'$

$S 15^{\circ}10'22'' N$

$S 89^{\circ}34'00'' W$
 $140.76'$
 $S 89^{\circ}34'00'' N$
 $140.76'$

$CB=N 15^{\circ}25'03'' E$
 $C=34.82'$
 $L=54.99'$

$CB=N 78^{\circ}44' E$
 $C=61.12'$
 $L=61.6'$
 $138.5'$

$S 15^{\circ}10'22'' N$
 $46.66'$

$S 15^{\circ}10'22'' N$
 $12.54'$

$CB=S 71^{\circ}02'04'' W$
 $C=62.14'$
 $L=62.68'$

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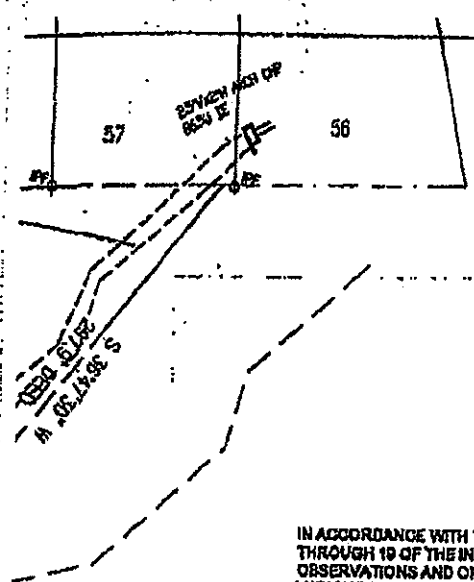
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Survey No. S. 85118

Date: March 11, 1988

SURVEYOR'S REPORT

IN ACCORDANCE WITH TITLE 865, ARTICLE 1, CHAPTER 12, SECTION 4 THROUGH 19 OF THE INDIANA ADMINISTRATIVE CODE, THE FOLLOWING OBSERVATIONS AND OPINIONS ARE SUBMITTED REGARDING THE VARIOUS UNCERTAINTIES IN THE LOCATIONS OF THE LINES AND CORNERS ESTABLISHED ON THIS SURVEY AS A RESULT OF:

- A.) AVAILABILITY AND CONDITION OF REFERENCE MONUMENTS
- B.) OCCUPATION OR POSSESSION LINE
- C.) CLARITY OF RECORD DESCRIPTIONS
- D.) THEORETICAL UNCERTAINTY OF MEASUREMENTS

THE THEORETICAL UNCERTAINTY (DUE TO RANDOM ERRORS IN MEASUREMENT) OF THE CORNERS OF THE SUBJECT TRACT ESTABLISHED THIS SURVEY IS WITHIN THE SPECIFICATIONS FOR A CLASS B SURVEY (0.26 FEET) AS DEFINED IN IAC 865.

This survey was completed by use of title policy # 66001941 dated January 18, 1988 and revised in Amended Commitment dated April 22, 1988. This parcel was surveyed to delineate a tract of land for sell-off of the parent commercial parcel. The boundary line locations were defined by information supplied by the owner. No deed previously exists for this particular parcel.

The parent tract uses the southwest corner of the Southwest One-quarter as a commencing point. This point was found marked by a 1/2" iron pin found near the intersection of Maplecrest and Stelthorn Roads. The south line of the Southwest One-quarter was established by use of a P.K. nail found at the southwest corner of the East One-half of the Southwest One-quarter as found in the plat of the adjoining plat. The West One-quarter of Section 22 was found marked by a 1/2" iron pin found in the pavement.

Since this tract is a new parcel, there is no occupation or possession lines on the boundary. A portion of the Western boundary line measuring 539.88 feet was established as the center of the common wall between the Scott's structure and the adjoiner to the west.

The overall description provided by title work and references in deeds does not contain all of the site. This parcel has been described in many places over time. The exceptions and platted subdivisions adjoining appear to better determine what the overall tract actually contains. The description provided on the title policy only described a small portion of the site.

Based on measurements taken and evidence of corners, it is my opinion that the uncertainty of these corners is 1.0 foot.

Revised May 5, 1988

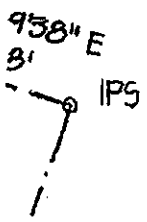
A parcel of land located North, Range 13 East follows:

COMMENCING at the Township 31 North, 10 minute East (bearing One-quarter as now 10 minutes East, a distance

BEGINNING at the seconds East, a distance of 177.15 feet; distance of 145.97 feet; distance of 28.0 feet; of 126.85 feet; thence 295.0 feet; thence South 110 feet; thence South 89 degrees thence on a curve to and being subtended seconds West; thence 85.48 feet; thence North 4 feet; thence North 4 degrees North 33 degrees 27' beginning, containing 7.38

IPS

MACKIDS, INC.
DCC 30-3600



This is to certify to SUPERIOR have surveyed the property requirements for land survey the ground according to the true representation of the Property, the exterior boundaries visible structures and other underground storage tanks for ditches and courses, applicable rights-of-way, and roadways the Property. The survey also easements described in the Insurance Company No. C 800 ingress to and egress from the Maplecrest Road and Stelthorn rights-of-way maintained by the property for drainage, ingress

I further certify that this survey Detail Requirements for ALTA adopted by the AIA/AACSI in

Handwritten notes and stamps on the right margin, including '1200', '1200', and '1200'.

MAPLEWOOD DOWNS SEC. I
PLAT BK 29, PG. 121-123

63 62 61 60 59 58
N 89°35'00" E
923.6' DEED

7 1/2' REGULATED DRAIN ESMT
I.C. 36-4-21-83
DRAINAGE EASEMENT
DOC. 101-3033
DOC. 101-3460

7 1/2' REGULATED DRAIN ESMT
I.C. 36-4-21-83

N 83° 30' 00" E
177.15'

S 83°30'00" W
23.6' DEED

S 74°49'38" E
145.37'

S 15°10'22" W
280.01'

S 74°49'38" E
126.85'

S 15°10'22" W
295.00'

S 74°49'38" E
108.88'

SCOTT'S FOODS

ONE STORY
BLOCK BLDG.

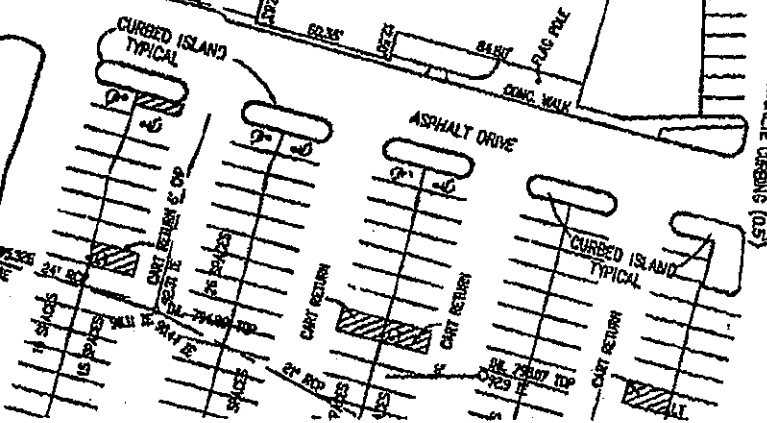
#4522 MAPLECREST ROAD

ELEC. TRANSFORMER
ON CONC. PAD
CONC. PAD
102.00'

CONC. PAD
GAS LINE
& METER
122.58'

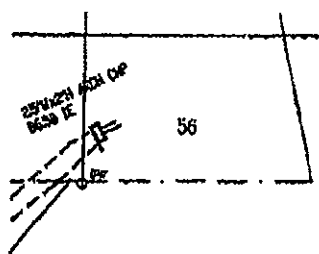
CONC. TRUCK DOCK
RETAINING WALL
2" STEEL
BALLAST

ASPHALT LOT



S 07°00'00" W
806.72' DEED

EMST. SWALE GEN.



DESCRIPTION

A parcel of land located in the Southwest One-quarter North, Range 19 East, Allen County, Indiana and m follows:

COMMENCING at the Southwest corner of the Sou Township 31 North, Range 19 East, as now establis minute East (bearing basis for description) along the One-quarter as now established, a distance of 568.1 minutes East, a distance of 282.29 feet to the point

BEGINNING at the above described point; thence N e seconds East, a distance of 474.44 feet; thence Nor distance of 177.15 feet; thence South 74 degrees 4 distance of 145.37 feet; thence South 15 degrees 1 distance of 26.0 feet; thence South 74 degrees 49 n of 126.85 feet; thence South 15 degrees 10 minutes 295.0 feet; thence South 74 degrees 49 minutes 38 feet; thence South 15 degrees 10 minutes 22 secon thence South 39 degrees 34 minutes 00 seconds W thence on a curve to the right having a radius of 20X and being subtended by a chord of 54.82 feet bear seconds West; thence North 74 degrees 40 minutes 85.46 feet; thence North 54 degrees 11 minutes 28 feet; thence North 44 degrees 24 minutes 40 secon thence North 31 degrees 45 minutes 55 seconds W North 38 degrees 27 minutes 58 seconds West, a d beginning, containing 7.37 acres of land, more or les

Survey No. S. 88116.

Date: March 11, 1988

SURVEYOR'S REPORT

IN ACCORDANCE WITH TITLE 885, ARTICLE 1, CHAPTER 12, SECTION 1 THROUGH 19 OF THE INDIANA ADMINISTRATIVE CODE, THE FOLLOWING OBSERVATIONS AND OPINIONS ARE SUBMITTED REGARDING THE VARIOUS UNCERTAINTIES IN THE LOCATIONS OF THE LINES AND CORNERS ESTABLISHED ON THIS SURVEY AS A RESULT OF:

- A.) AVAILABILITY AND CONDITION OF REFERENCE MONUMENTS
- B.) OCCUPATION OR POSSESSION LINE
- C.) CLARITY OF RECORD DESCRIPTIONS
- D.) THEORETICAL UNCERTAINTY OF MEASUREMENTS

THE THEORETICAL UNCERTAINTY (DUE TO RANDOM ERRORS IN MEASUREMENT) OF THE CORNERS OF THE SUBJECT TRACT ESTABLISHED THIS SURVEY IS WITHIN THE SPECIFICATIONS FOR A CLASS B SURVEY (0.25 FEET) AS DEFINED IN IAC 885.

This survey was completed by use of title policy # 88001941 dated January 18, 1988 and revised in Amended Commitment dated April 22, 1988. This parcel was surveyed to delineate a tract of land for sell-off of the parent commercial parcel. The boundary line locations were defined by information supplied by the owner. No deed previously exists for this particular parcel.

The parent tract uses the southwest corner of the Southwest One-quarter as a commencing point. This point was found marked by a 1/2" Iron pin found near the intersection of Maplecrest and Stallhorn Roads. The south line of the Southwest One-quarter was established by use of a P.K. nail found at the southwest corner of the East One-half of the Southwest One-quarter as found in the plat of the adjoining plat. The West One-quarter of Section 22 was found marked by a 1/2" Iron pin found in the pavement.

Since this tract is a new parcel, there is no occupation or possession lines on the boundary. A portion of the Western boundary line measuring 538.86 feet was established as the center of the common wall between the Scott's structure and the adjoiner to the west.

The overall description provided by title work and references in deeds does not contain all of the site. This parcel has been described in many pieces over time. The exceptions and platted subdivisions adjoining appear to better determine what the overall tract actually contains. The description provided on the title policy only described a small portion of the site.

Based on measurements taken and evidence of corners, it is my opinion that the uncertainty of these corners is 1.0 foot.

Revised May 5, 1988

CERTIFICATION

This is to certify to SUPERVALU INC., and Chicago Title I have surveyed the property described above ("the Proper requirements for land surveyors in the State of Indiana; th the ground according to the field notes shown on this sur vue representation of the Property and correctly shows th Property; the exterior boundaries of the Property, the loca visible structures and other improvements, fences, hedgea underground storage tanks for which there are visible sigr ditches and courses, applicable buildings set back lines a rights-of-way, and roadways thereon and all visible encro the Property. The survey also correctly shows by docum easements described in the commitment for title insuranc Insurance Company No. 88001941, with effective date of ingress to and egress from the Property is provided by p Maplecrest Road and Stallhorn Road; which are paved ar rights-of-way maintained by City of Fort Wayne. The Proj property for drainage, ingress and egress or any other pu.

CHICAGO TITLE INSURANCE CO.

DESCRIPTION

A parcel of land located in the Southwest One-quarter of Section 22, Township 31 North, Range 13 East, Allen County, Indiana and more particularly described as follows:

COMMENCING at the Southwest corner of the Southwest One-quarter of Section 22, Township 31 North, Range 13 East, as now established; thence North 0 degree 00 minute East (bearing basis for description) along the West line of said Southwest One-quarter as now established, a distance of 586.28 feet; thence North 89 degrees 34 minutes East, a distance of 282.29 feet to the point of beginning.

BEGINNING at the above described point; thence North 15 degrees 10 minutes 22 seconds East, a distance of 474.44 feet; thence North 89 degrees 30 minutes East, a distance of 177.15 feet; thence South 74 degrees 49 minutes 38 seconds East, a distance of 145.37 feet; thence South 15 degrees 10 minutes 22 seconds West, a distance of 28.0 feet; thence South 74 degrees 49 minutes 38 seconds East, a distance of 126.85 feet; thence South 15 degrees 10 minutes 22 seconds West, a distance of 295.0 feet; thence South 74 degrees 49 minutes 38 seconds East, a distance of 108.68 feet; thence South 15 degrees 10 minutes 22 seconds West, a distance of 346.20 feet; thence South 39 degrees 34 minutes 00 seconds West, a distance of 140.76 feet; thence on a curve to the right having a radius of 200.0 feet, an arc length of 54.99 feet and being subtended by a chord of 54.82 feet bearing North 82 degrees 33 minutes 25 seconds West; thence North 74 degrees 40 minutes 49 seconds West, a distance of 85.46 feet; thence North 54 degrees 11 minutes 26 seconds West, a distance of 65.54 feet; thence North 44 degrees 24 minutes 49 seconds West, a distance of 83.78 feet; thence North 31 degrees 45 minutes 55 seconds West, a distance of 39.38 feet; thence North 38 degrees 27 minutes 56 seconds West, a distance of 155.32 feet to the point of beginning, containing 7.37 acres of land, more or less.

COIL
CIVIL E



604
FOR

IPF. - Inc
IPS. - 5/1
CC
PF. - P/1
PK. - P/3
D. - D/2
M. - M/2
P. - P/1
MONUMENTS
EXCEPT AS

I hereby ce
my direct s
and belief
requiremen

Dated / /

Valid



CERTIFICATION

This is to certify to SUPERVALU INC., and Chicago Title Insurance Company that I have surveyed the property described above ("the Property") according to the requirements for land surveyors in the State of Indiana; that this survey was made on the ground according to the field notes shown on this survey; and that this survey is a true representation of the Property and correctly shows the size and location of the Property, the exterior boundaries of the Property, the location and the dimensions of all visible structures and other improvements, fences, hedgerows, natural monuments, underground storage tanks for which there are visible signs, utility lines, drainage ditches and courses, applicable buildings set back lines, apparent easements, rights-of-way, and roadways thereon and all visible encroachments, if any, on or from the Property. The survey also correctly shows by document number all recorded easements described in the commitment for title insurance issued by Chicago Title Insurance Company No. C 6001941, with effective date of April 22, 1996. Adequate ingress to and egress from the Property is provided by private easements to Maplecrest Road and Stallhorn Road which are paved and dedicated public


CERTIFICATION

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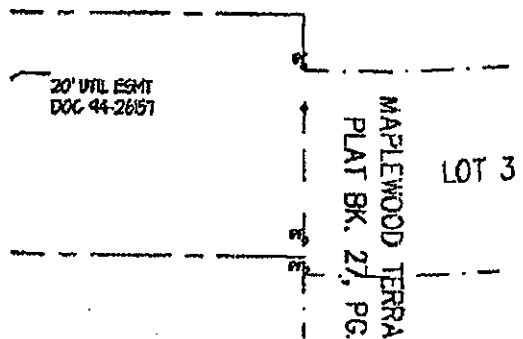
I further certify that this survey is made in accordance with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys" jointly established and as adopted by the ALTA/ACSM in 1992 and meets the accuracy requirements of a Class A Survey as defined therein subject to the following exceptions: This tract of land has not been previously deeded according to this description.

Date: March 11, 1998

Revised: May 6, 1998


Kerry D. Dickmeyer, Registered Land Surveyor
Registration No. S0243
Name: Coil & Dickmeyer, Inc.
Address: 6044 East State Boulevard
Fort Wayne, Indiana 46815
Telephone: (219) 749-0125

The zoning for the above area is currently designated as B1B, per City of Fort Wayne Zoning Ordinance.



BOUNDARY SURVEY

BUYER: SA
SELLER: I

- REVISIONS:
- 1) NEW AC
 - 2) CHANG.
 - 3) ACCES.
 - 4) ACCES.