STATE OF ILLINOIS COUNTY OF DUPAGE CITY OF NAPERVILLE

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PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION FOR <u>A SIGN VARIANCE</u>

THE UNDERSIGNED Petitioner, Gerald Realty Holdings, LLC, a Delaware limited liability company (hereinafter the "Petitioner") respectfully petitions the City of Naperville (the "City") to: (i) grant a sign variance from Section 6-16-5:2.2 of the City's Municipal Code (the "Sign Code") to permit the installation of a replacement NISSAN dealership identification sign located near the easterly boundary line of the property on Ogden Avenue, commonly known as Gerald Nissan of Naperville, which is legally described on **Exhibit A** (the "Property"); and (ii) grant such other variances, departures or deviations as may be necessary to permit the installation of the sign as depicted on the sign plan and elevations attached herewith as **Exhibit B**.

In support of this Petition, the Petitioner represents to the City as follows:

1. The Petitioner and Owner of the Property is Gerald Realty Holdings, LLC, a Delaware limited liability company;

2. The Property consists of approximately eight and sixty-one hundredths (8.61) acres located at 1575 W. Ogden Avenue;

3. The Property is currently used as a new and pre-owned Nissan automobile dealership;

4. The easterly boundary of the Property along Ogden Avenue currently features a red and silver double-sided, twenty-five feet (25') in height and nine feet, nine inch (9'- 9") in width, "NISSAN" LED illuminated pylon sign with a sign area of two hundred forty-seven and a half

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(247.6) square feet ("Existing Pylon Sign") attached herewith as Exhibit B-1;

5. In accordance with the Nissan Dealer Identity Program, Nissan Corporation has updated its logo and image branding, requiring all franchise operators to update their dealership branding, which requires modifications to the existing signage plan at the Property, including the Existing Pylon Sign;

6. In accordance with the NISSAN Dealer Identity Program, the Existing Pylon Sign will be replaced (among other signs) with a new, red and metallic silver double-sided, twenty-five feet (25') in height and seven feet, nine and three-eighth inches (7'- 9 3/8") in width, "NISSAN" LED illuminated pylon sign with a sign area (Nissan logo square) of sixty-eight and 93/100 (68.93) square feet and maximum pylon signage of approximately one hundred ninety-six and 25/100 (196.25) square feet, to be placed in the same location as the Existing Pylon Sign ("New Pylon Sign");

7. The Property is zoned B3 within the City of Naperville's General Commercial District classification;

- 8. The surrounding uses are:
 - a. North: City of Naperville Zoning "B3": Mercedes-Benz of Naperville automobile dealership;
 - b. East: City of Naperville Zoning "B3" Mixed use retail center anchored by Hertz Car Rental Naperville;
 - c. South: City of Naperville Zoning "B3": Woody Buick GMC automobile dealership; and
 - d. West: City of Naperville Zoning "B3": Vacant parking lot owned by Petitioner.
- 9. Code Section 6-16-5:2.2 regulates signs on properties being used for commercial

purposes, regardless of zoning; and,

10. Petitioner requests variances from Code Section 6-16-5:2.2 for approval to allow the installation of the above-mentioned New Pylon Sign and associated landscaping in connection with the Nissan Dealer Identity Program and a two (2) phase improvement project at the Property involving an investment of approximately Six Million and No/100 Dollars (\$6,000,000.00). Petitioner's request meets the requirements for a zoning variance under the Naperville Municipal Code and is appropriate based on the following:

<u>A VARIANCE FROM SIGN CODE SECTION 6-16-5:2.2 TO PERMIT A PYLON</u> <u>GROUND SIGN WITH A SIGN AREA OF 68.93 SQUARE FEET</u> <u>AND A HEIGHT OF 25 FEET</u>

a. The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan; and

The variance is in harmony with the general purpose and intent of this Title and the adopted comprehensive master plan. A stated purpose of the Sign Code is to "advance the economy of the City by recognizing the need for adequate site identification through promoting the reasonable and objective display of signage, and to encourage effective communication between signs and the public." Petitioner seeks to properly identify its automobile dealership with a sign of the same height, but smaller in width and better-quality in accordance with the NISSAN Dealer Identity Program with an updated logo familiar to the public in accordance with the purpose of the Sign Code. The installation of the New Pylon Sign concurrently improves the image of the Property to make it more aesthetically pleasing, will be consistent with the updated logo/building signage and updated look of the dealership building, as well as the properties in the surrounding area, which are predominately occupied by automobile dealerships with signs reflecting their current logos.

b. Strict enforcement of this Title would result in practical difficulties or impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district; and

Strict enforcement of the Sign Code would result in practical difficulties and impose exceptional hardships due to special and unusual conditions which are not generally found on other properties in the same zoning district. Other auto dealerships surrounding the Property have had to undergo branding updates with the example of the Gerald Kia dealership re-branding at 1661 Aurora Ave. The Petitioner represents a nationally recognized automotive brand that requires a certain scale of signage for brand consistency and recognition. In the event that the City strictly enforces the Sign Code, Petitioner will be left with the Existing Pylon Sign with the outdated NISSAN logo, which will not match the signage and branding update to be undertaken by Petitioner at the Property, creating an unusual condition, lacking continuity, aesthetics and create a significant advertising disadvantage compared to surrounding dealerships along Aurora Avenue and Ogden Avenue. Furthermore, stand-alone automobile dealership signage of the approximate same height is located on the property immediately adjacent to the Property along Ogden Avenue (1585 W. Ogden Avenue) as depicted on **Exhibit C** attached hereto.

The Property operates in an area with heavy traffic and congested roads, where drivers need ample warning to safely navigate to the entrance. Additionally, several other automobile dealerships are located within this area, along with competitive landscape of other businesses and buildings. A shorter free-standing sign than what the Existing Pylon Sign currently provides in height would not provide the visibility necessary within this visually heavy area, therefore, potentially causing traffic incidents and potentially deterring customers.

c. The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.

The essential character of the neighborhood will be enhanced and preserved by further investment into the Property. The proposed New Pylon Sign is approximately twenty-five feet (25') in height and seven feet, nine and three-eighth inches (7'- 9 3/8") in width, a sign area of sixty-eight and 93/100 (68.93) square feet, and maximum pylon signage of approximately one hundred ninety-six and 25/100 (196.25) square feet, and will not create a detriment to adjacent properties because it is smaller than the Existing Pylon Sign. Additionally, the New Pylon Sign is similar in height to the GMC car dealership sign to the south of the Property, as mentioned above. Petitioner's intent is to improve the appearance of the Property by replacement of the Existing Pylon Sign with the New Pylon Sign and associated landscaping, which also allows for additional investment in the City and will further improve the City's real estate and sales tax revenues.

WHEREFORE, by reason of the foregoing, the undersigned Petitioner requests the City Council and Plan Commission take the necessary steps to: (i) grant the sign variances from Section 6-16-5:2.2 of the Sign Code to permit the installation of above-mentioned sign located on the property at the northwest corner of Aurora Avenue and Ogden Avenue, and commonly known as Gerald NISSAN of Naperville, which is legally described on **Exhibit A**; and (ii) grant such other variances, departures or deviations as may be necessary to permit the installation of the New Pylon Sign as depicted on the signage plans and elevations attached as **Exhibit B**.

RESPECTFULLY SUBMITTED this 22nd day of April, 2024.

PETITIONER: Gerald Realty Holdings, LLC, a Delaware limited liability company

Zachary W. Blair By:

Zachary W. Blair Attorney for Petitioner

EXHIBIT A LEGAL DESCRIPTION

PARCEL 1:

LOT 3 IN CENTERPOINT BUSINESS PARK, BEING A SUBDIVISION IN THE NORTHEAST 1/4 OF SECTION 22, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 10, 2003 AS DOCUMENT R2003-092726, IN DUPAGE COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY THE PLAT OF CENTERPOINT BUSINESS PARK, AFORESAID, FOR INGRESS AND EGRESS OVER AND ACROSS THE PORTIONS OF LOT 15 AS MARKED AND IDENTIFIED AS INGRESS AND EGRESS EASEMENT.

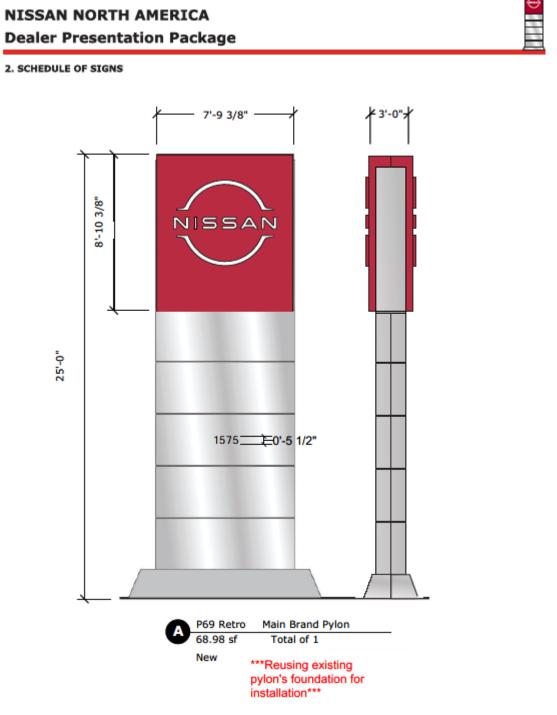
PARCEL 3:

THE NORTH ¹/₂ OF LOT 2 OF CARPENTER'S ASSESSMENT PLAT OF PART OF THE EAST ¹/₂ OF THE EAST ¹/₂ OF THE NORTHEAST ¹/₄ OF SECTION 22, TOWNSHIP 38 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEROF RECORDED MARCH 22, 1946 AS DOCUMENT 494064, EXCEPT THAT PART OF OGDEN AVENUE TAKEN FOR RIGHT-OF-WAY, IN DUPAGE COUNTY, ILLINOIS

Property address: 1575 W. Ogden Avenue, Naperville, Illinois 60540

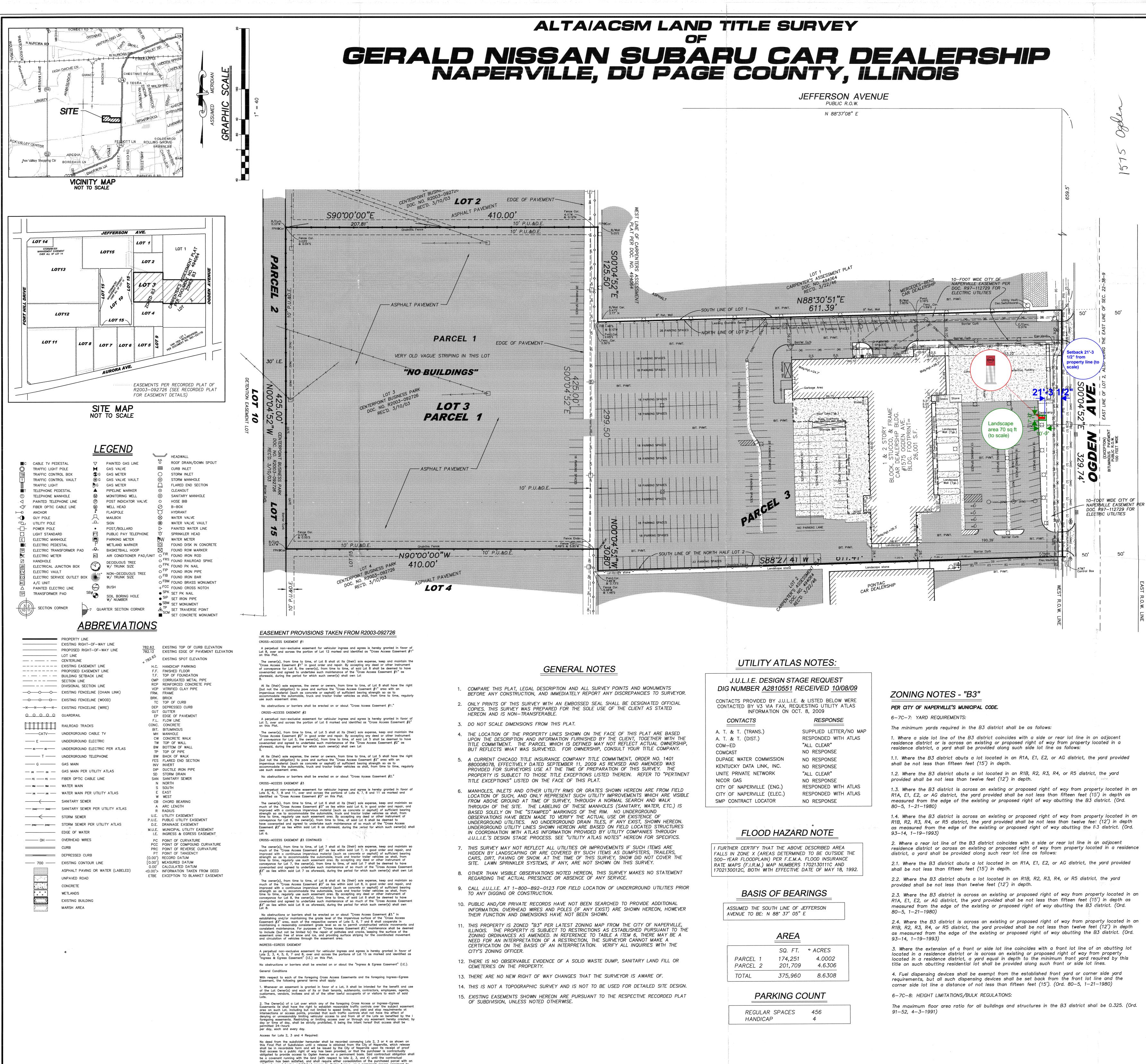
PIN: 07-22-200-027

EXHIBIT B SIGN PLANS AND ELEVATION FOR NEW PYLON SIGN



Page 5

EXHIBIT B (CONT.) SEE ATTACHED ALTA SURVEY



adjacent parcel having established access to Ogden Avenue, or a permanent access easement to Ogden Avenue as set forth herein, either of which shall occur within six (6) months of closing. Except as provided in the CenterPoint Business Park Letter of Development Requirements, Attachment 1 to City of Naperville Ordinance 03-50 passed on February 18, 2003 approving this Final Plat of ubdivision, no permit shall be issued for any such lot until consolidation has occurred or a permanent access easement has been provided. This requirement shall be a covenant running with

the land (with respect to said Lots 2, 3 and 4) until this requirement has been satisfied for a

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I.) MAP NUMBERS 1702130111C AND
WITH EFFECTIVE DATE OF MAY 18, 1992.

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LEGAL DESCRIPTION PARCEL 1:	09159/02027 No:	VP01.1	questo
9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MARCH 10, 2003 AS DOCUMENT R2003—092726, IN DU PAGE COUNTY, ILLINOIS.	Project No:	Group No: VI	SHEET NO.
PARCEL 2: EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY THE PLAT OF CENTERPOINT BUSINESS PARK, AFORESAID, FOR INGRESS AND EGRESS OVER AND ACROSS THE PORTIONS OF LOT 15 AS MARKED AND IDENTIFIED AS INGRESS AND EGRESS EASEMENT. PARCEL 3: THE NORTH 1/2 OF LOT 2 OF CARPENTER'S ASSESSMENT PLAT OF PART OF THE EAST 1/2 OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF PART OF THE EAST 1/2 OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF	SURVEY	DEALERSHIP	PROJECT MANAGER: CWB SCALE: 1" = 50'
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AA 34 COVENANTS AND RESTRICTIONS (BUT OMITTING ANY SUCH COVENANT OR RESTRICTION BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILIAL STATUS OR NATIONAL ORIGIN UNLESS AND ONLY TO THE EXTENT THAT SAID COVENANT (A) IS EXEMPT UNDER CHAPTER 42, SECTION 3607 OF THE UNITED STATES CODE OR (B) RELATES TO HANDICAP BUT DOES NOT DISCRIMINATE AGAINST HANDICAPPED PERSONS), RELATING IN PART TO	SM LAN	188AN SUB/	10-28-09 DF 10-27-09 CH
ASSOCIATION, ASSESSMENTS AND LIEN THEREFOR, CONTAINED IN THE DOCUMENT RECORDED MARCH 18, 2003 AS DOCUMENT NO. R2003–105103 WHICH DOES NOT CONTAIN A REVERSIONARY OR FORFEITURE CLAUSE. AFFECTS PROPERTY & CENTERPOINT BUSINESS PARK LOTS (SEE SUBPLAT) AC 35 RIGHTS, IF ANY, OF PUBLIC AND QUASI–PUBLIC UTILITIES IN THE LAND AS EVIDENCED BY THE POWER POLES, OVERHEAD WIRES AND STORM SEWERS SHOWN ON PLAT OF SURVEY PREPARED BY V3 CONSULTANTS, DATED JANUARY 27, 2003 AND UPDATED APRIL 30, 2003, PROJECT NO. 02027. AFFECTS PROPERTY; PLOTTED HEREON	ALTAIAC	GERALD N	DRAFTING COMPLETED: FIELD WORK COMPLETED:
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FOLLOWS: 20 FEET ALONG THE NORTH LINE OF LOT 15 IN PARCEL 2 AFFECTS PROPERTY; PLOTTED HEREON (SEE SITE MAP & RECORDED PLAT) AG 39 THE PLAT OF CENTERPOINT BUSINESS PARK, AFORESAID, INCLUDES A CERTIFICATION BY THE SURVEYOR THAT THE LAND IS LOCATED WITHIN ZONE X, AREAS DETERMINED TO BE OUTSIDE THE 500-YEAR FLOODPLAIN AS IDENTIFIED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. AFFECTS PROPERTY; NOTED HEREON			
 AH 40 (A) TERMS, PROVISIONS, AND CONDITIONS RELATING TO THE EASEMENT DESCRIBED AS PARCEL 2 CONTAINED IN THE INSTRUMENT CREATING SAID EASEMENT. AFFECTS PROPERTY; NOTED HEREON (SEE ALSO RECORD SUBPLAT) (B) RIGHTS OF THE ADJOINING OWNER OR OWNERS TO THE CONCURRENT USE OF SAID EASEMENT. AFFECTS PROPERTY; NOTED HEREON (SEE SUBPLAT) AI 41 NOTE CONTAINED ON THE PLAT OF CENTERPOINT BUSINESS PARK, AFORESAID, AS FOLLOWS: 	REVISIONS		
OWNERS OF THE LOTS DRAINING INTO THE STORMWATER FACILITIES ON LOTS 9, 10 AND 14 WILL PAY THEIR PROPORATIONATE SHARE OF THE MAINTENANCE COST. AFFECTS PROPERTY:NOTED HEREON (SEE SUBPLAT) AL 44 EASEMENT IN FAVOR OF CITY OF NAPERVILLE, AND TROJUCTION SUCCESSORS AND ASSIGNS, TO INSTALL, OPERATE AND MAINTAIN ALL EQUIPMENT NECESSARY FOR THE PURPOSE OF SERVING THE LAND AND OTHER PROPERTY, TOGETHER WITH THE RIGHT OF ACCESS TO SAID EQUIPMENT, AND THE PROVISIONS RELATING THERETO CONTAINED IN THE GRANT RECORDED/FILED AS DOCUMENT NO. R97–112729, AFFECTING THE LAND. AFFECTS PROPERTY; PLOTTED HEREON	DESCRIPTION	т. 2 тил д	
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STATE OF ILLINOIS) STATE OF ILLINOIS) SS SOUNTY OF DUPAGE) HEREBY CERTIFY TO COMERICA BANK, A TEXAS BANKING ASSOCIATION (LENDER); CHICAGO TITLE INSURANCE COMPANY (TITLE COMPANY), AND NEIL D. GERALD, AS RUSTEE OF THE NEIL D. GERALD REVOCABLE TRUST DATED FEBRUARY 29, 1988, AS RUSTEE OF THE NEIL D. GERALD REVOCABLE TRUST DATED FEBRUARY 29, 1988, AS MUENDED AND RESTATED THAT THE SURVEY PREPARED BY ME ENTITLED "GERALD NISSAN SUBARU CAR DEALERSHIP" WAS ACTUALLY MADE UPON THE GROUND AND THAT IT AND HE INFORMATION, COURSES, AND DISTANCES SHOWN THEREON ARE CORRECT, THAT	PREPARED FOR:	FOLEY & LARDNER LLP 321 NORTH CLARK – STE 2800	CHICAGO, ILLINOIS 60610 312.832.4577
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CHARLES W. BARTOSZ ULINOIS PROFESSIONAL LAND SURVEYOR NO. 35–3188 MY LICENSE EXPIRES ON NOVEMBER 30, 2010. V3 COMPANIES OF ILLINOIS, LTD. PROFESSIONAL DESIGN FIRM NO. 184000902 THIS DESIGN FIRM NUMBER EXPIRES APRIL 30, 2011.			

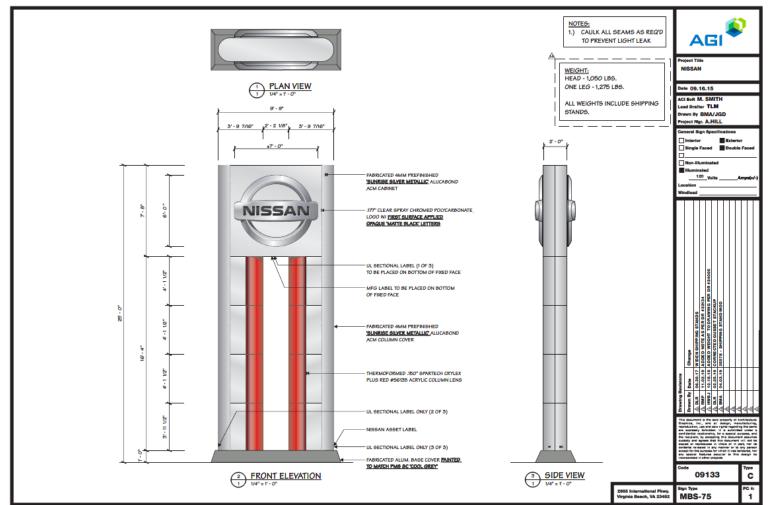




EXHIBIT C DEPICTION OF THE SIMILARLY SIZED DEALERSHIP SIGN TO THE SOUTH

