

REQUIRED RESPONSE TO STANDARDS EXHIBITS

Provide responses to corresponding exhibits on separate sheet (see Page 5 *Proposed Development* for required exhibit submittals). Except as otherwise described, responses to the applicable exhibits are required per the Naperville Municipal Code.

The Naperville Municipal Code requires a petitioner who is seeking approval of various entitlements to respond to a set of standards that demonstrate both the need and appropriateness of the request. Your response to the standards is forwarded to the Planning and Zoning Commission and City Council for consideration as required, along with a report prepared by staff, when reviewing your request. It is important to provide thorough responses to each of the standards listed below.

To assist in better understanding the intent of each standard, see Exhibit 7 for helpful information to consider when preparing your responses.

EXHIBIT 1: Section 6-3-8:2: Standards for Granting or Amending a Conditional Use

1. The establishment, maintenance or operation of the conditional use will not be detrimental to, or endanger the public health, safety and general welfare;

Refer to attached PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION FOR A ZONING AMENDMENT APPROVAL WITH CONDITIONAL USE

2. The conditional use will not be injurious to the use and enjoyment of other property in the immediate area for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;

Refer to attached PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION FOR A ZONING AMENDMENT APPROVAL WITH CONDITIONAL USE

3. The establishment of the conditional use will not impede the normal and orderly development and improvement of the adjacent property for uses permitted in the district; and

Refer to attached PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION FOR A ZONING AMENDMENT APPROVAL WITH CONDITIONAL USE

4. The establishment of the conditional use is not in conflict with the adopted comprehensive master plan.

Refer to attached PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION FOR A ZONING AMENDMENT APPROVAL WITH CONDITIONAL USE

EXHIBIT 2: Section 6-4-7:1: Standards for Granting or Amending a Planned Unit Development

1. The design of the planned unit development presents an innovative and creative approach to the development of land and living environments.
2. The planned unit development meets the requirements and standards of the planned unit development regulations.
3. The physical design of the planned unit development efficiently utilizes the land and adequately provides for transportation and public facilities while preserving the natural features of the site.

4. Open space, outdoor common area, and recreational facilities are provided.
5. The modifications in design standards from the subdivision control regulations and the waivers in bulk regulations from the zoning regulations fulfill the intent of those regulations.
6. The planned unit development is compatible with the adjacent properties and nearby land uses.
7. The planned unit development fulfills the objectives of the comprehensive plan and planning policies of the city.

EXHIBIT 3: Section 7-1-8 of the Illinois Municipal Code (65 ILCS 5/7-1-8)

1. This Petition for Development Approval shall include a petition for annexation signed by all property owner(s) of record for all land included with the annexation request.
2. Are there residents (i.e., property owners or tenants) on the subject property?
 - a. Yes, there are residents (i.e., property owners or tenants) on the subject property.
 - Complete the written petition signed by all property owner(s) of record as described above.
 - The written petition shall also include signatures from at least 51% of the electors (i.e., persons registered to vote) residing on the subject property.
 - b. No, there are no residents (i.e., property owners or tenants) on the subject property.
 - Complete the written petition signed by the property owner(s) of record as described above.
 - The petition shall state that no electors (i.e., persons registered to vote) reside on the subject property.

EXHIBIT 4: Section 6-3-7:1: Standards for Granting a Map Amendment (Rezoning)

1. The amendment promotes the public health, safety, comfort, convenience and general welfare and complies with the policies and official land use plan and other official plans of the City; and

Refer to attached PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION FOR A ZONING AMENDMENT APPROVAL WITH CONDITIONAL USE
2. The trend of development in the area of the subject property is consistent with the requested amendment; and

Refer to attached PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION FOR A ZONING AMENDMENT APPROVAL WITH CONDITIONAL USE
3. The requested zoning classification permits uses which are more suitable than the uses permitted under the existing zoning classification; and

Refer to attached PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION FOR A ZONING AMENDMENT APPROVAL WITH CONDITIONAL USE

4. The subject property has not been utilized under the existing zoning classification for a substantial period of time; and

Refer to attached PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION FOR A ZONING AMENDMENT APPROVAL WITH CONDITIONAL USE

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

Refer to attached PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION FOR A ZONING AMENDMENT APPROVAL WITH CONDITIONAL USE

EXHIBIT 5: Section 5-10-7: Standards for Granting a Landscape Variance

1. Strict enforcement of this chapter would result in practical difficulties or impose exceptional hardships; and
2. The principal reason for the variance is other than an increased income or revenue from the property; and
3. The variance, if granted, will not alter the essential character of the neighborhood, will not be a substantial detriment to adjacent property, and will not increase congestion or traffic hazards in the public streets, or otherwise impair the public health, safety, comfort, and general welfare.

EXHIBIT 6: Section 6-4-3:12.1: Standards for Approving a PUD Deviation

1. Whether the requested deviation would undermine the intent and purpose of the underlying zoning district; and
2. Whether the requested deviation would be a detriment to the provision of municipal services and infrastructure; and
3. Whether the requested deviation would contribute a planned unit development which offers a superior level of design, amenity enhancement, or environmental benefit; or would enhance community vitality through the inclusion of attainable or barrier free housing.

EXHIBIT 7: Section 6-3-6:2: Standards for Granting a Zoning Variance

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

Explanation: The Zoning Code seeks to improve and protect the public health, safety, comfort, convenience, and general welfare of the people by establishing a uniform set of rules applicable to each zoning district. A variance is a request to deviate from the standard rules. In this response, you should provide an explanation as to how the overall intent of the zoning code (see Purpose and Intent of the Zoning Code) and the comprehensive master plan (see City's website) will still be maintained if the specific variance you are requesting is granted.

No variances required, none requested

2. 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

Explanation: Explain how your property is different from others that are zoned and used in a similar manner (i.e., other residential lots) and how these differences make it difficult to comply with the standard code requirements. For example, the location of a mature tree on your property may make it difficult to build an addition onto your home in a location that complies with required setbacks. As a result, you may be seeking a variance to locate a portion of the addition within the required setback in order to preserve the tree. In this case, the tree presents a special condition and unusual hardship for your property that makes compliance with the code difficult. Per the code, hardships should not be self-imposed (i.e., "I would simply like a bigger addition than permitted") and should not be financially based (i.e., "It will be too costly to build in compliance with the Code").

No variances required, none requested

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

Explanation: Provide details as to how the requested variance, if granted, will not significantly impact the surrounding properties and neighborhood. Questions to ask yourself when preparing this response may include: Will the variance result in an improvement that is out of character or inconsistent with surrounding properties? Will abutting properties be impacted by the variance I am requesting? If so, what considerations/alterations/conditions have been made to protect the adjacent properties from the proposed improvement? Are other properties in the immediate area improved in a similar manner?

No variances required, none requested

EXHIBIT 8: Section 7-1-8-.2.3: Standards for Granting a Subdivision Deviation

1. The Petitioner has shown that strict adherence to the provisions of this Title would cause unnecessary hardship due to conditions which are unique to the site and not caused by the Owner or Petitioner; and
2. The requested Subdivision Deviation is not contrary to the intent and purpose of the provisions of this Title.

EXHIBIT 9: Section 6-15-6:3: Standards for Granting a Conditional Use for Renewable Energy Systems

1. The City Council shall determine that the Petition has met all of the general requirements of this Chapter, except those for which a variance has been specifically granted or sought; and

2. The proposed energy system shall further the intent of this Chapter and provide renewable energy to the property on which it is proposed; and
3. The proposed renewable energy system is located in such a manner as to minimize intrusions on adjacent residential uses through siting on the lot, selection of appropriate equipment, and other applicable means; and
4. The proposed renewable energy system complies with the service rules and policies of City of Naperville's Department of Public Utilities – Electric as may be amended from time to time; and
5. The establishment of the proposed renewable energy system will not prevent the normal and orderly use, development or improvement of the adjacent property for uses permitted in the district.

Notes regarding existing covenants on this property:

Attached to this document is the original covenants document for Butera from 1972 & 1976 and below is a list of the covenants that will remain in place:

- Section 2(d) pertaining to a minimum of .7 acres along Pembroke Road being devoted to permanent open space and bermed to a height of 6' with landscaping.
- Section 2(e) pertaining to the stockade fence on the north boundary of the Naperville Park District property and along the portion of the northerly side of the property abutting the East boundary of the Park District property.
- Section 2(f) – no entrance or exit to be permitted off of Pembroke Road.

**PETITION TO THE NAPERVILLE CITY COUNCIL AND PLAN COMMISSION FOR A ZONING
AMENDMENT APPROVAL WITH CONDITIONAL USE**

THE UNDERSIGNED Petitioner, Heinen's, Inc., an Illinois corporation (hereinafter the "Petitioner") respectfully petitions the City of Naperville (the "City") to: (i) grant a map amendment (rezoning) pursuant to Section 6-3-7:1 of the City's Municipal Code (the "Code") to zone the Property (defined below) to OCI for the property located at 1244 E. Chicago Avenue, Naperville, Illinois, which is legally described on Exhibit A (the "Property") and (ii) grant a conditional use in the OCI zoning district for a general retail use to operate on the Property pursuant to Section 6-7F-3 of the Code.

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

1. The Petitioner is Heinen's, Inc., an Illinois corporation, which is the owner and operator of four grocery stores in the Chicago area and sixteen stores in the Cleveland area and is the owner the Property;
2. The Property consists of approximately seven and three hundredths (7.30) acres located at 1244 E. Chicago Avenue, Naperville, Illinois;
3. The Property is zoned B1 within the City of Naperville's Neighborhood Convenience Shopping Center district classification;
4. The surrounding uses are:
 - a. North: DuPage County – Zoning "R-4 Single Family" in unincorporated DuPage County: Naperville Country Club;
 - b. East: City of Naperville – Zoning "OCI": McAlister's Deli restaurant;
 - c. South: City of Naperville – Zoning "R3": Multi-Family units and Pembroke Park; and
 - d. West: City of Naperville – Zoning "R1A": Single-Family residences.
5. Code Section 6-3-7:1 regulates a map amendment (rezoning), and Petitioner seeks a rezoning of the Property to the OCI Office, Commercial and Institutional zoning designation and in association with the zoning amendment, termination of the existing covenants associated with this property.
6. Code Section 6-7F-3 regulates conditional uses within the OCI zoning district and Petitioner seeks a conditional use within the OCI zoning district to permit the operation of a general retail use (Heinen's Grocery Store) on the Property.

Petitioner's requests meet the requirements for entitlements under the Naperville Municipal Code and is appropriate based on the following:

EXHIBIT 1: Section 6-3-8:2: Standards for Granting or Amending a Conditional Use for a General Retail Use

- a. The establishment, maintenance or operation of the conditional use will not be detrimental to, or endanger the public health, safety and general welfare;

The establishment, maintenance or operation of the conditional grocery store use will not be detrimental to, or endanger the public health, safety, and general welfare. Granting the conditional grocery store use for the Property will promote the public health, safety, and general welfare because the Property will be redeveloped and occupied by an operating business, which will not only create jobs but also increase the City's sales and real estate tax base. Furthermore, the Property will be occupied by a new and thriving grocery store that will serve the surrounding neighborhood as it replaces a grocery store that recently closed on the same site. Additionally, without the grant of the conditional use for a general retail establishment, the B1 zoning designation conditioned by the Zoning Restrictions reduces the size of the proposed grocery store, thus compromising the validity of the entire project. Granting the OCI zoning designation with the grocery store conditional use will not be detrimental to, or endanger public health and safety, but will permit the development of an additional and unique grocery store offering in this neighborhood.

- b. The conditional use will not be injurious to the use and enjoyment of other property in the immediate area for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;

The conditional use will not be injurious to the use and enjoyment of other property in the immediate area for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood. The conditional grocery store use will not be detrimental to adjacent property because such redevelopment will improve the aesthetics of the neighborhood and increase adjacent property values due to the significant investment the Petitioner intends to make in the Property. Furthermore, this area of Naperville does not have easy access to a grocery store and Heinen's will fill that need. The OCI District is specifically intended as a "transitional zone" between intensive business areas and residential neighborhoods, so the district standards specifically contemplate residential adjacency and accommodate for appropriate uses and bulk regulations.

- c. The establishment of the conditional use will not impede the normal and orderly development and improvement of the adjacent property for uses permitted in the district; and

The establishment of the conditional use will not impede the normal and orderly development and improvement of the adjacent properties. The Property was developed under the B-1 zoning for intensive commercial uses in the early to mid-1970's. The general pattern of development in this area of the City requires significant commercial uses along the arterial corridors of Chicago Avenue and Olesen Drive. The Property, being located close to the corner of this corridor, requires a transitional use that serves the neighborhood while not being a "big box" combined grocery store / retail establishment. Because of its very nature and size, the proposed Heinen's Grocery Store is considered small enough to serve the adjacent residential properties while providing a wide selection of goods.

- d. The establishment of the conditional use is not in conflict with the adopted comprehensive master plan.

The establishment of the conditional use is not in conflict with the adopted comprehensive master plan. Petitioner is seeking to develop the Property for the use and operation of a Heinen's Grocery Store, which is consistent with the City's Land Use Master Plan dated March 1, 2022. The Master Plan designates the use of this property as a neighborhood center within which shopping areas that primarily serve residents in the immediate vicinity would exist. This would be fulfilled by the grocery store.

EXHIBIT 4: Section 6-3-7:1: Standards for Granting a Map Amendment (Rezoning) from B1 to OCI

- a. The amendment promotes the public health, safety, comfort, convenience and general welfare and complies with the policies and official land use plan and other official plans of the City; and

The amendment promotes public health, safety, comfort, convenience, and general welfare and complies with the policies and official land use plan and other official plans of the City. The Property is currently zoned B1, subject to the Zoning Restrictions. The B1 zoning and associated Zoning Restrictions place unusual constraints on the Property and are generally inconsistent with the City's current zoning ordinance and standards. The proposed rezoning to the OCI zoning designation with the conditional use requested above will align the zoning of the Property with the City's current policy and zoning expectations. As such, the proposed zoning promotes public health, safety, comfort, convenience, and general welfare. The proposed zoning will facilitate significant reinvestment in the Property for the improvement or redevelopment thereof. Additionally, pursuant to the City's Land Use Master Plan dated March 1, 2022, the existing use of the Property is for commercial retail/service/entertainment. The future land use plan

designates the Property as a neighborhood center which is consistent with the rezoning request for the proposed OCI zoning designation for the Property. It should also be noted that the character of this area of the City is now substantially different from when the Property was rezoned to B1 and the Zoning Restrictions were imposed in the 1970's. Today, there is no fundamental purpose served by the extremely restrictive nature of the Zoning Restrictions.

- b. The trend of development in the area of the subject property is consistent with the requested amendment; and

The trend of development around the subject property is consistent with the requested amendment. The historical trend of development in this area of the City has been neighborhood uses consistent with the OCI zoning designation. Neighborhood Centers consist of a variety of land uses that contribute to their role as a local focal point and hub of activity. Examples of primary uses within Neighborhood Centers are restaurants and cafés, coffee shops, small grocery stores, banks, convenience stores, dry cleaners, salons, or fitness centers. Supporting uses in Neighborhood Centers include institutional or office-based uses, such as schools, community facilities, small offices, or medical clinics. Residential uses in the form of mixed-use, multi-unit, or townhomes, can exist in these areas where housing will complement the primary function of the Neighborhood Center. The former use of the Property was small shops and a grocery store and the proposed use is for a Heinen's Grocery Store, which is consistent with the historical trend of development in the area.

- c. The requested zoning classification permits uses which are more suitable than the uses permitted under the existing zoning classification; and

The requested OCI zoning classification permits uses which are more suitable than the uses permitted under the existing zoning classification, which is further restricted by the Zoning Restrictions. The Zoning Restrictions improperly restrict uses which are permissible under the B1 and OCI zoning designation and to correct this issue, the City should grant the amended zoning classification to the OCI zoning designation. This situation is clearly unique and the Zoning Restrictions would not be imposed or enacted under the current zoning regulations and processes. As such, the requested zoning change to the OCI zoning designation for the Property permits uses which are more flexible and parallel with modern Neighborhood Centers.

- d. The subject property has not been utilized under the existing zoning classification for a substantial period of time; and

The subject Property has been utilized under the existing B1 zoning classification for a substantial period, however, there were numerous vacancies recently that have caused the shopping center to fall into disrepair. As stated previously, Petitioner is requesting the rezoning from B1 to the OCI designation to construct a 45,000 s.f. state-of-the-art grocery store that will continue the sale of food in this area of town. Should the zoning amendment not be granted, there will be a lack of convenient access to food for this neighborhood. The proposed zoning will remove barriers to investment associated with the Historic Ordinances and help reinvigorate the Property.

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

The amendment, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property. To the contrary, the zoning designation to OCI will allow for the redevelopment of the Property for the operation of a unique grocery store experience from a company that is expanding its footprint the Chicago suburbs. The redevelopment of the Property to a grocery store will positively

impact the character of the neighborhood by improving the corner of Chicago Avenue and Olesen Drive from a rundown and tired strip center to a thriving grocery store full of fresh foods and ample selections, attracting the attention of the neighbors and increasing the City's tax base by providing additional jobs, sales and real estate taxes. The redevelopment of the Property will not be detrimental to adjacent property because such redevelopment will improve the aesthetics of the neighborhood and increase adjacent property values due to the significant investment the Petitioner intends to make in the Property in connection with its redevelopment plans. Furthermore, a substantial increase in traffic to the Property is unlikely, as the proposed grocery store use is like the closed Butera, which primarily serve residents in the local neighborhood. Also, the number of tenants on this property will be reduced to one.

MODIFICATION TO THE PROTECTIVE COVENANTS
OF OWNERS IN CONNECTION WITH
SECTION 4, ORDINANCE NO. 75-52
AMENDING THE ZONING ORDINANCE OF THE
CITY OF NAPERVILLE RECORDED AS R72-72321

1177-16982

The undersigned, being first duly sworn states that they are the Mayor and City Clerk for the City of Naperville, Illinois, and pursuant to Ordinance No. 76-137 of the City of Naperville, attached hereto as Exhibit "B", amending Ordinance No. 72-52 attached hereto as Exhibit "C", the City of Naperville does hereby agree to the modification as set forth below of the covenants contained in the declaration set forth in Document No. R72-72321, attached hereto as Exhibit "D":

1. That the uses permitted on the property described in Exhibit "A", attached hereto and made a part hereof shall be limited to the uses set forth in Subsections 6 and 7 of Section 3.4 of the Zoning Ordinance of Naperville, Ordinance A-139, permitting banks and business and professional offices on the subject property.

CITY OF NAPERVILLE

By: [Signature]
Mayor

ATTEST:

By: Mary C. Givler
City Clerk

MAR 11 1977

Subscribed and SWORN to before me
this 11th day of February, 1977.

[Signature]
Notary Public

877-16982

RECORDED
DU PAGE COUNTY
1977 MAR 11 PM 3:15

[Signature]

72-72321

1992-221 28861

That part of the South half of Section 17, Township 38 North, Range 10, East of the Third Principal Meridian, described as follows: Commencing at a point on the center line of Chicago Avenue formerly (Naperville-Chicago Road) (Maple Road) as now monumented and occupied, said point being 640.35 feet (as measured along said center line) Northeasterly of the most Northerly corner of Pembroke Greens Unit One, being a Subdivision in the aforesaid South half of Section 17, said most Northerly corner being at the point of intersection of the center line of Chicago Avenue formerly (Naperville-Chicago Road) (Maple Road) and the Easterly line of the aforesaid Pembroke Greens Unit One Subdivision; thence North 74 degrees 29 minutes 10 seconds East, along said center line of Chicago Avenue 253.535 feet to the point of intersection with the center line of Olsen's Lane as now platted and recorded; thence South 6 degrees 18 minutes 00 seconds West, along said center line of Olsen's Lane, 338.87 feet; thence North 83 degrees 42 minutes 00 seconds West, along a line drawn perpendicularly to the aforesaid center line of Olsen's Lane, 159.36 feet; thence North 15 degrees 30 minutes 50 seconds West, along a line drawn perpendicularly to the aforesaid center line of Chicago Avenue 205.39 feet to the point of intersection with a line drawn South 6 degrees 36 minutes 53 seconds West through the hereinabove designated point of beginning; thence North 6 degrees 36 minutes 53 seconds East, along the last described line, 53.976 feet to said point of beginning all in DuPage County, Illinois.

EXHIBIT "A"

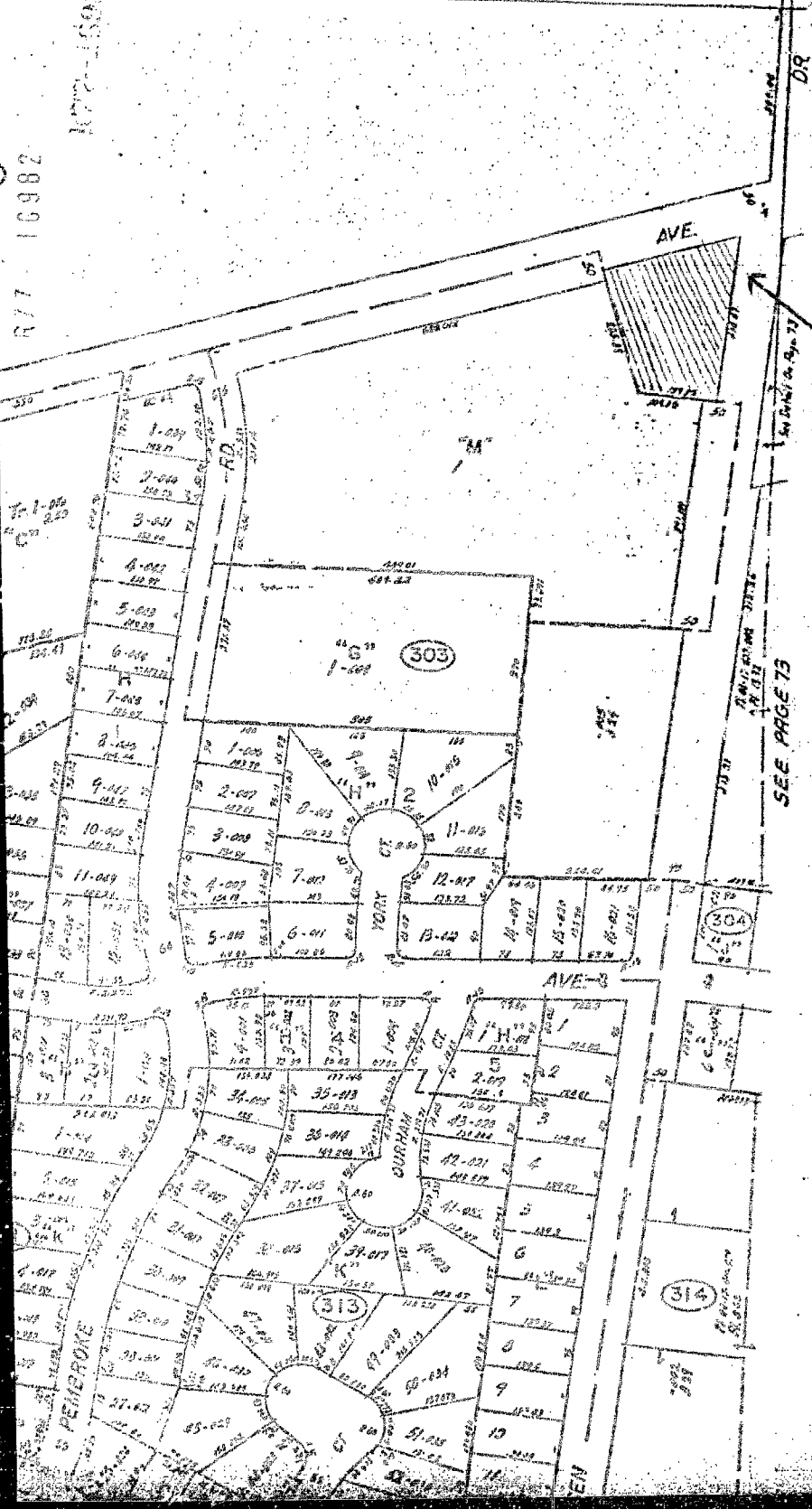
EXHIBIT "A"
 ORDINANCE NO. 76-137
 ZONING PLAT

Southwest 1/4, Section 17
 Township 38 N, Range 10E

PAGE 73

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- 1. SINGLE-FAMILY RESIDENTIAL
- 2. TWO-FAMILY RESIDENTIAL
- 3. THREE-FAMILY RESIDENTIAL
- 4. FOUR-FAMILY RESIDENTIAL
- 5. FIVE-FAMILY RESIDENTIAL
- 6. SIX-FAMILY RESIDENTIAL
- 7. SEVEN-FAMILY RESIDENTIAL
- 8. EIGHT-FAMILY RESIDENTIAL
- 9. NINE-FAMILY RESIDENTIAL
- 10. TEN-FAMILY RESIDENTIAL
- 11. COMMERCIAL
- 12. INDUSTRIAL
- 13. OFFICE
- 14. PROFESSIONAL
- 15. PUBLIC USE
- 16. SCHOOL
- 17. CHURCH
- 18. PARK
- 19. RECREATION
- 20. CULTURAL
- 21. HISTORIC PRESERVATION
- 22. AGRICULTURE
- 23. FORESTRY
- 24. MINING
- 25. QUARRYING
- 26. UTILITIES
- 27. TRANSPORTATION
- 28. AIRPORT
- 29. MARINA
- 30. PORT
- 31. WAREHOUSE
- 32. DISTRIBUTION CENTER
- 33. MANUFACTURING
- 34. RESEARCH AND DEVELOPMENT
- 35. HIGH-TECH
- 36. LABORATORY
- 37. TESTING
- 38. CALIBRATION
- 39. METROLOGY

Hereby zoned B-1 restricted

SEE PAGE 73

Ray F. Regel

AMENDING THE ZONING ORDINANCE
OF THE CITY OF NAPERVILLE

772-72321

WHEREAS, a Petition has been filed with the Council of the City of Naperville by the Contract Purchaser of the property hereinafter described, requesting that said property be rezoned from R-3 District (Multiple Family Residence) to B-1 District (Retail Business) under the provisions of Ordinance No. A-139 of the City of Naperville, as amended, being the Zoning Ordinance of said City; and

WHEREAS, a public hearing has been held upon said Petition in all respects, in manner and form, and upon public notice, in compliance with the requirements of the Statutes of the State of Illinois, and the provisions of said Ordinance; and

WHEREAS, the Council of the City of Naperville is of the opinion that the prayer of the Petition should be granted to the extent as hereinafter set forth and that the use classification described in the Petition should be classified as hereinafter set forth, subject to the restrictions, limitations, regulations and conditions hereinafter set forth and imposed under the Home Rule powers of the City of Naperville.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPERVILLE AS FOLLOWS:

SECTION 1. That under the provisions of Ordinance No. A-139 of the City of Naperville, as amended, being the Zoning Ordinance of said City, the use classification of the following described property, to-wit:

THAT PART OF THE SOUTH HALF OF SECTION 17, TOWNSHIP 38 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT OF INTERSECTION OF THE CENTER LINE OF CHICAGO AVENUE (MAPLE ROAD) (NAPERVILLE-CHICAGO ROAD) AS NOW MONUMENTED AND OCCUPIED WITH THE CENTER LINE OF OLESEN'S DRIVE FORMERLY OLSEN'S LAKE AS NOW PLATTED, RECORDED AND MONUMENTED; THENCE SOUTH 74 DEGREES 29 MINUTES 10 SECONDS WEST 893.88 FEET ALONG SAID CENTER LINE OF CHICAGO AVENUE, TO THE MOST NORTHERLY CORNER OF PEMBROKE GREENS UNIT ONE SUBDIVISION, BEING A SUBDIVISION IN THE AFORESAID SOUTH HALF OF SAID SECTION 17, SAID MOST NORTHERLY CORNER BEING AT THE POINT OF INTERSECTION OF THE AFORESAID CENTER LINE OF CHICAGO AVENUE AND THE EASTERLY LINE OF THE AFORESAID PEMBROKE GREENS UNIT ONE SUBDIVISION; THENCE SOUTH 15 DEGREES 30 MINUTES 50 SECONDS EAST ALONG THE EASTERLY LINE OF THE AFORESAID PEMBROKE GREENS UNIT ONE SUBDIVISION 50.00 FEET; THENCE CONTINUING ALONG THE AFORESAID EASTERLY LINE OF PEMBROKE GREENS UNIT ONE SUBDIVISION 224.15 FEET, BEING THE EASTERLY LINE OF PEMBROKE ROAD AND THE ARC OF A CIRCLE OF 533.00 FEET RADIUS, CONVEX EASTERLY AND WHOSE CHORD BEARS SOUTH 3 DEGREES 35 MINUTES 45 SECONDS EAST; THENCE CONTINUING ALONG THE AFORESAID EASTERLY LINE OF PEMBROKE ROAD SOUTH 8 DEGREES 26 MINUTES 53 SECONDS WEST 105.653 FEET TO THE POINT OF INTERSECTION WITH A LINE DRAWN 270.00 FEET (AS MEASURED ALONG THE NORTHERLY EXTENSION OF THE EASTERLY LINE OF LOTS 10, 11 AND 12 IN BLOCK 2 IN THE AFORESAID PEMBROKE GREENS UNIT ONE SUBDIVISION) NORTHERLY OF AND PARALLEL WITH THE NORTHERLY LINE OF LOTS 1, 8, 9 AND 10 IN SAID BLOCK 2; THENCE SOUTH 87 DEGREES 53 MINUTES 34 SECONDS EAST, ALONG SAID PARALLEL LINE, 489.01 FEET TO THE POINT OF INTERSECTION WITH THE AFORESAID NORTHERLY EXTENSION OF THE EASTERLY LINE OF THE AFORESAID LOTS 10, 11 AND 12; THENCE SOUTH 5 DEGREES 04 MINUTES 13 SECONDS WEST, ALONG SAID NORTHERLY EXTENSION 79.891 FEET TO A POINT 190.109 FEET (AS MEASURED ALONG SAID NORTHERLY EXTENSION) NORTH OF THE NORTHEAST CORNER OF THE AFORESAID LOT 10; THENCE SOUTH 87 DEGREES 58 MINUTES 34 SECONDS EAST, ALONG A LINE PARALLEL WITH THE NORTH LINE OF THE AFORESAID LOTS 1, 8, 9 AND 10, A DISTANCE OF 268.485 FEET TO THE AFORESAID CENTER LINE OF OLESEN'S DRIVE (OLSEN'S LAKE); THENCE NORTH 6 DEGREES 18 MINUTES 00 SECONDS EAST 726.251 FEET, ALONG SAID CENTER LINE, TO THE PLACE OF BEGINNING, ALL IN DU PAGE COUNTY, ILLINOIS.

RETURN TO:

City Clerk
175 W. Jackson Ave.
Naperville, Ill.

A delineation of the property described in this instrument appears in PLAT BOOK NO. 117 PAGE 89

16982 16983 16984 16985 16986 16987 16988 16989 16990 16991 16992 16993 16994 16995 16996 16997 16998 16999 17000

being the property as shown on the Zoning Plat hereto attached and by this reference made a part hereof as Exhibit "A," be, and the same hereby is rezoned from R-3 District (Multiple Family Residence) to B-1 District (Retail Business), subject, however, to the restriction that said property be devoted only to the uses requested by Petitioner as set forth under Section 3.4 of said Ordinance as the following numbered uses with the restrictive modifications shown therein as requested and agreed to by Petitioner:

3. Stores and shops for retail sale of foods, drinks (including the sale of alcoholic beverages for consumption on the premises in connection with one restaurant, i.e., a Class "B" license and including one package liquor facility, i.e., a Class "A" license) drugs, dry goods, wearing apparel, hardware, ice, furniture, home and office furnishings, equipment and supplies, but not involving any retail business use specifically listed under C-1 Districts.

4. Restaurants, excluding refreshment stands and drive-in "franchise type" restaurants.

7. Business and professional offices.

10. Automobile service station, tire shop, battery station, but excluding parking lots and outdoor storage racks for tires, batteries and other service station related items; one only and to be of current style and located on the corner of Chicago Avenue and Olesen's Drive on a site of approximately 200' by 200' exclusive of road dedications.

14. Laundry, cleaning and dyeing shops, employing not more than ten (10) persons within the shop, excluding on-premises laundry or laundromat facilities if property is allowed to tap into existing 8" collector sewer on Chicago Avenue.

17. Private schools giving music, dancing, trade or vocational instructions.

19. Studios, barber and beauty shops, dressmaking, millinery, shoe repair and tailor shops and similar personal service shops.

The above uses shall include any use or activity customarily incidental or accessory thereto.

SECTION 2. That the following regulations, as requested and agreed to by Petitioner shall apply to said property described and classified as B-1 District (Retail Business), to-wit:

(a) The total amount of retail business "floor area" as defined in section 5.6.1 D2 of said Ordinance shall not exceed approximately 69,000 square feet exclusive of the square footage occupied by the one service station which shall be in addition to said approximate amount of square feet.

(b) The total retail business parking requirements shall not exceed sufficient square footage for 5.5 cars per 1,000 square feet of "floor area" as referred to above. All parking and loading square footages and design standards shall be reviewed and approved by the City Engineer who shall not unreasonably withhold his approval.

(c) The total pervious, landscaped area shall be approximately 25% of the net commercial site.

(d) A minimum of .7 acres of the property along Pembroke Road shall be devoted to permanent open space and shall be bermed to a height of six feet on top of which shall be planted young hedges or young trees of sufficient density to provide additional screening when mature. Said berm and plantings shall be reviewed and approved by the City Director of Community Development who shall not unreasonably withhold his approval.

(e) As soon as practicable after the beginning of the development of the entire shopping center, exclusive of the service station if it should be developed first, the owners shall construct and permanently maintain a six-foot stockade fence on the property along the North boundary of the Naperville Park District property and along that portion of the northerly side of the property, abutting the East boundary of the Park District property, used for commercial purposes.

(f) No entrance or exit shall be permitted off Pembroke Road unless appropriate government officials prohibit such on Chicago Avenue and Olesen's Drive.

(g) Immediately after the effective date of this Ordinance and upon demand by the City, the owners shall dedicate, if not heretofore dedicated, sufficient property to enlarge Chicago Avenue to a 100-foot right of way and sufficient property to enlarge Olesen's Drive to a maximum 100-foot right of way, subject to final determination of needed street width by the City. The owners shall also, upon development, bond their commitment to pay for 30% of the cost of improving Chicago Avenue and 50% of the cost of improving Olesen's Drive, as determined by the City Engineer, with such bonded funds to be expended at the time and in the manner approved by the City Engineer. The term "upon development" for these purposes means upon the beginning of construction of the first store of the shopping center exclusive of the service station; however, upon the beginning of construction of the service station, the appropriate bonding for improvement to Chicago Avenue and Olesen's Drive shall be made with respect to the service station frontage should a service station be developed first.

(h) Upon the beginning of construction of the first building on the property, the owners shall advance, interest-free, water tap-on fees for the entire development to help the City alleviate its water pressure problem in the area of the property; provided, however, that other developers in the area have advanced similar sums to help alleviate said problem and that the City is ready to act immediately to alleviate said problem.

(i) No building permit of any type shall be issued until a Preliminary Plat and Final Plat have been submitted to the Plan Commission and approved by the City Council. Said Plats may be presented in no more than two stages: one for the service station and one for the shopping center itself regardless of whether or not the shopping center may consist of only one building.

(j) All signs to be erected on the property shall conform to City sign ordinances now in effect or hereafter adopted by the City.

(k) The development of said property shall generally conform to the Proposed Site Plan prepared by Sidney H. Morris and Associates, No. SK-7-8B dated July 8, 1972, with latest revision date of July 21, 1972, attached hereto and incorporated herein. Provided, however, that it is agreed that said Plan is schematic in nature and final details, in general conformance therewith, shall be submitted by the owner to the Plan Commission in accordance with SECTION 2(i) hereof, for recommendation to the City Council which shall, upon further recommendation by the City staff, exercise its right of approval or disapproval as provided by statute in such cases made and provided.

877-16982
83

SECTION 3. That the Zoning Map of the City of Naperville being a part of said Ordinance No. A-139, be, and the same is hereby amended in accordance with the use classification of the lands as set forth in Section 1 of this Ordinance, as shown on the Zoning Plat hereto attached as Exhibit "A," and shall be designated as Ordinance No. 72-53 of the Ordinances of the City of Naperville, and which Plat is hereby made a part of this Ordinance and which Plat shall be dated and filed by the City Clerk of the City of Naperville in his office.

SECTION 4. That this Ordinance shall be in full force and effect from and after its passage, approval, publication and recording as provided by Law and upon the filing and recording by the owners of an Affidavit and Declaration of Restrictive and Protection Covenants consenting to the covenants and restrictions contained in this Ordinance and binding said property as covenants and restrictions running with the land and binding upon the development of the land itself irrespective of any future owner, which Ordinance shall be known as Ordinance No. 72-52 of the City of Naperville.

PASSED this 11th day of September, 1972.

AYES: Councilmen Bean, Else, Holty and Rubin

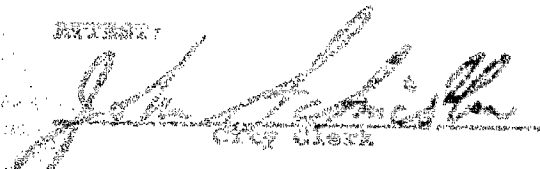
NAYS: Mayor Small

ABSENT: None

APPROVED this 2ND day of November, 1972.



Mayor



City Clerk



Recorded

Recorded No.

To Naperville
ZONING
ORDINANCE
72-52
per
Section 4
thereof.

The undersigned, being first duly sworn, state that they are the owners and contract purchasers of the real property legally described in the City of Naperville Ordinance No. 72-52 attached hereto and made a part hereof, and hereby consent to and establish the use restrictions and restrictive and protective covenants as covenants running with the land and forever binding upon the real property described in said Ordinance, said covenants being for the benefit and burden of the owners, their successors and assigns, for the benefit and burden of neighboring properties and their owners and assigns; and for the benefit and burden of the City of Naperville.

R77-16987

1972-10-19

Dated October 19, 1972

LASALLE NATIONAL BANK, not individually, but as Trustee under Trust No. 39094, dated February 1969 (The Contract Seller)

LASALLE NATIONAL BANK, not individually, but as Trustee under Trust No. 41303, dated September 22, 1970 (The Contract Purchaser)

[Signature]
VICE PRESIDENT

[Signature]
VICE PRESIDENT

[Signature]
Assistant Secretary

[Signature]
Assistant Secretary

STATE OF ILLINOIS)
COUNTY OF) ss

I, Maurice Shannon, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY, that [Signature] VICE PRESIDENT and [Signature] ASSISTANT SECRETARY of the LASALLE NATIONAL BANK who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such VICE PRESIDENT and ASSISTANT SECRETARY, appeared before me this day in person, and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act of the said LASALLE NATIONAL BANK for the uses and purposes therein set forth, and caused the corporate seal of said Company to be thereto attached.

GIVEN under my hand and Notarial Seal, this 19th day of Oct, 1972.

Maurice Shannon
Notary Public

My Commission Expires January 13, 1975

[Signature]
FRANK H. KIEPACKI, owner of 100% of the beneficial interest in said Trust No. 41303 (The Contract Purchaser)

STATE OF ILLINOIS)
COUNTY OF) ss

CONFERRED AND SWORN TO before me this 16th day of Oct, 1972.

[Signature]
Notary Public

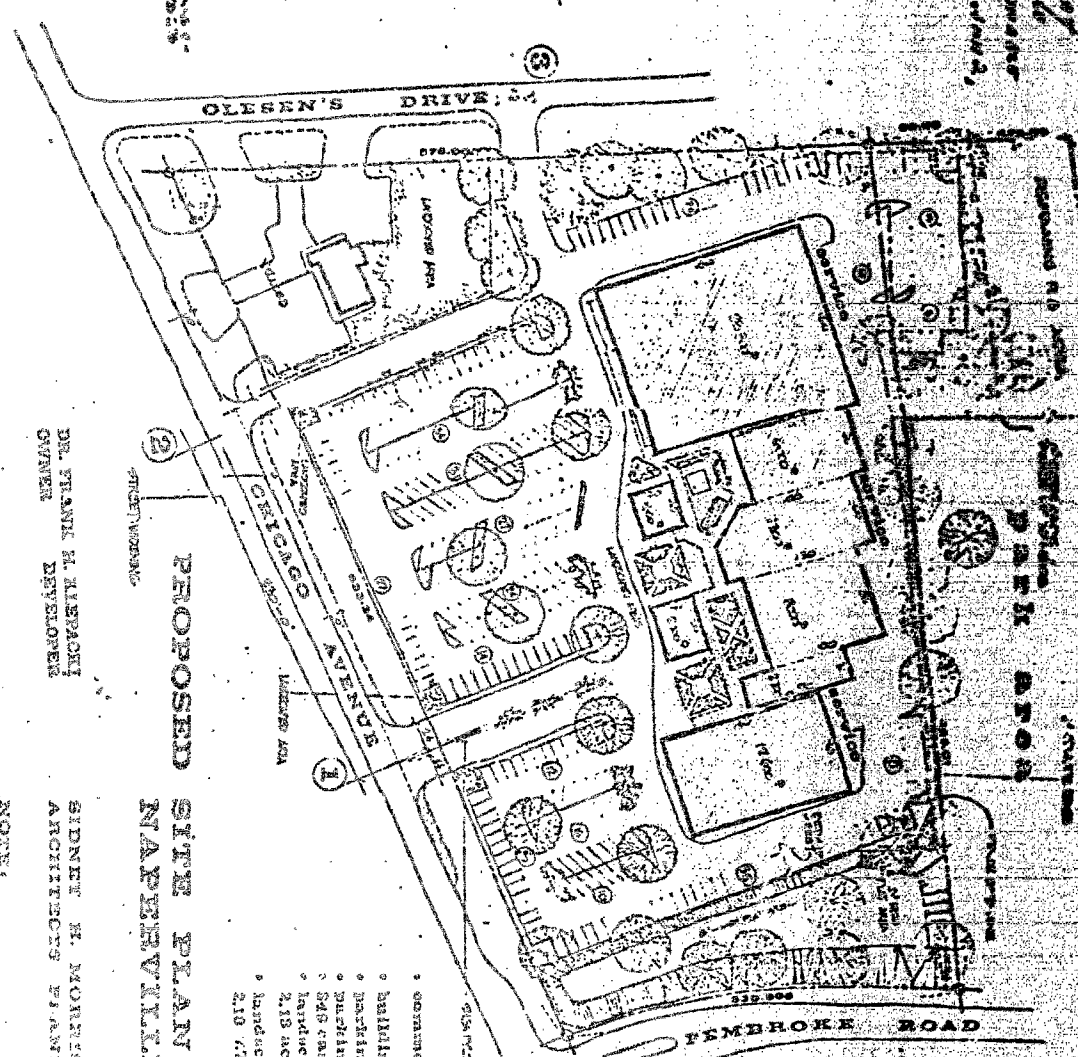
R77-16902

NEVER REFERRED TO AND MADE A PART OF DOCUMENT
DATED October 19, 1972 UNDER TRUST NO. 39094 and 41303

This instrument is executed by LaSalle National Bank, not personally but solely as Trustee, as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such Trustee. All the terms, provisions, stipulations, covenants and conditions to be performed by LaSalle National Bank are undertaken by it solely as Trustee, as aforesaid, and not individually and all statements herein made are made on information and belief and are to be construed accordingly, and no personal liability shall be asserted or be enforceable against LaSalle National Bank by reason of any of the terms, provisions, stipulations, covenants and/or statements contained in this instrument.

1177-26982

~~Final Plans~~
~~Final Plans~~
 1/24/57
 P. (S)



DR. FRANK H. ALPACCI
 OWNER
 DEVELOPER

**PROPOSED SITE PLAN
 NAPERVILLE**

SIDNEY H. MORRIS & ASSOCIATES
 ARCHITECTS & ENGINEERS

NOTE:
 ALL DIMENSIONS ARE GROSS
 EXCEPT FROM NATIONAL SURVEY
 SOURCE: ILL. SURVEY AND RECORDS
 COUNTY OF COOK

- commercial property area 776 square feet (AREA 2)
- building area 68,000 sq. ft. (AREA 1)
- parking area 133,000 sq. ft.
- parking stalls 51 cars, 1000 C.V.A.
- 548 car spaces
- landscaped area 2.13 acres
- landscaped ratio 2.13 / 758,282 sq. ft.



PREPARED BY
 50 100
 SCALE 1" = 50'

SIN. 2. 8. 53
 50 100
 200 400
 800 1600

N 77° 15' 00" E