

DANE COUNTY
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DOCUMENT #
3677132

03/25/2003 06:00:06PM

Trans. Fee:
Exempt #:

Rec. Fee: 79.00
Pages: 35

Document No.

THE CENTER FOR INDUSTRY & COMMERCE
DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS
for The Center for Industry & Commerce
Madison, WI

March 2003

002955

Return to:
The Center for Industry & Commerce
C/o Jeff Lee
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Madison, WI 53707-7700

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Parcel Number

THE CENTER FOR INDUSTRY & COMMERCE
DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS

THIS DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS (hereafter "Declaration") is made this 25th day of March, 2003, by The Center for Industry & Commerce L.L.C. (hereafter "Declarant") in its capacity as owner of the real estate described in Exhibit A attached hereto and incorporated herein by reference.

WITNESSETH:

WHEREAS, the Declarant is the owner in fee, or the contract purchaser from the City of Madison (hereafter "City"), of the lands described in Exhibit A; and

WHEREAS; the Declarant intends to develop or cause the development of the real estate described in Exhibit A as a planned business park for the purposes and pursuant to the provisions set forth in this Declaration.

NOW, THEREFORE; the Declarant hereby declares that the real estate described in Exhibit A is and shall be held, improved, developed, transferred, sold, conveyed, dedicated, leased, subleased, and otherwise utilized and occupied subject to and in compliance with the terms and provisions of this Declaration.

35
79

I. DEFINITIONS

The following definitions shall apply within this Declaration:

Applicant: A person, entity, Owner, or representative of an Owner (such as a developer or architect) who formally submits plans and specifications for land and building development, within the Project limits, to the Board in order for the Board to review and approve, conditionally approve, or disapprove the submission.

Association: The association of Owners described in Article VIII. Initially the Association shall be The Center for Industry & Commerce Owners Association, Inc.

Avigation Easement: An Easement Granted to Dane County August 16, 1996, and recorded: September 9, 1996 as Document #2794376, which requires owner to keep the airspace above the surface of the ground clear from any kind or nature of obstruction beyond certain heights.

Board: The Design Review Board established under Article IV.

City: The City of Madison, Wisconsin.

Declarant: The Center for Industry & Commerce L.L.C. and its successors and assigns.

Declaration: This Declaration of Covenants, Conditions, and Restrictions for the Project, as it may from time to time be amended or supplemented.

Design Professional: All architects or engineers licensed to practice in the State of Wisconsin, or an individual in the allied professions, such as planning, urban design, landscape architecture, or the like.

Development Site: A Lot or combination of Lots on which improvements are proposed.

Drainage Areas: All stormwater detention basins, retention basins, drainage swales, infiltration areas, detention ponds and other stormwater drainage facilities located upon any Development Site, including, without limitation, the Storm Water Drainage Easement Property and the property subject to the Swale Easements, as those terms are defined in that certain Declaration of Easements executed by the City of Madison and recorded as Document No. 3671349 in Dane County, Wisconsin.

Improvements: Includes, but is not limited to, buildings, outbuildings, roads, driveways, parking areas, fences, screening walls and barriers, retaining walls, stairs, docks, water lines, sewers, electrical and gas distribution facilities, hedges, windbreaks, plantings, planted trees and shrubs, poles, signs, loading areas, and all other structures, installations, and landscaping of every type and kind, whether above or below the land surface.

Lot: A platted lot that is contained within the Project.

Master Site Plan: An overall site plan that incorporates and illustrates multiple phases of development at varying time periods, typically for a larger property or multiple parcels or Lots, and that includes the entire property owned by the Owner.

Mortgagee: A mortgagee under a mortgage, or a vendor under a land contract.

Occupant: A lessee or licensee of an Owner, any other person or entity other than an Owner in lawful possession of a lot with the permission of the Owner.

Owner: Any person or entity that is the record owner of fee simple title to any Lot, excluding any entity or person who holds such interests as security for the payment of an obligation, but including land contract purchasers and any Mortgagee in actual possession of a Lot.

Perimeter Landscape Plan: Attached as Exhibit B, the plan depicts specific landscaping requirements placed on Lots along The Project's perimeter.

Plans: Documents that discuss and illustrate the intended development scheme; drawings, diagrams, scaled-map, a detailed formulation of a program of action, designs for improvements, buildings, or development site.

The Project: Shall mean all of the real property now or hereafter made subject to this Declaration.

Record: To file a document with the Office of the Register of Deeds, Dane County, Wisconsin.

Sign: Any structure, device, or contrivance, electric or nonelectric, upon or within which any poster, bill, bulletin, printing, lettering, painting, device or other advertising of any kind whatsoever is used, placed, posted, tacked, nailed, pasted or otherwise fastened or affixed.

Street: Any public street, highway, road, roadway or thoroughfare within or adjacent to the map, or record of survey, whether designated thereon as street, boulevard, place, drive, road, court, terrace, way, lane, circle, or otherwise.

Violation: An act or omission that results in a violation of any term of this Declaration.

Visible from Neighboring Properties: With respect to any object on a Lot, the condition that results when such object would be visible to a person six (6) feet tall, standing on any part of any adjacent property at an elevation no higher than the elevation of the base of the object being viewed.

Voting Rights: One (1) vote per acre of Development Site area held by any Owner. In determining the number of votes to which an Owner is entitled, fractional parts of an acre shall be equal to fractional parts of one vote.

II. PROPERTY SUBJECT TO THIS DECLARATION

This Declaration shall apply to the real property, known as The Center for Industry & Commerce, located in the City of Madison, Dane County, Wisconsin, described in the attached Exhibit A. (The Center for Industry & Commerce is hereafter referred to as the "Project".)

III. STATEMENT OF PURPOSE

This Declaration is made with the intention of promoting an integrated land use plan with quality architectural designs, developed through the use of quality and consistent building materials, signage and landscaping, to ensure a pleasant and attractive physical environment within the Project that will preserve the economic and environmental attraction of locating within the Project, and protect and enhance the value of properties within the Project.

The Declarant envisions creating a mixed-use type of business community that encourages efficient use of land at higher densities within the Project to encourage appreciation of the value of the properties and maximize efficient use of public and private infrastructure. The architecture is expected to be contemporary in nature and of enduring attractiveness. This Declaration is made to promote the proper use, development, and maintenance of the Project to ensure that:

- A. The Project is developed in a planned, logical, consistent manner.
- B. The Project will be a continuing asset to the Madison community and a catalyst for future business development.
- C. The Project will set a basic minimum standard of architectural design and quality.
- D. Owners and Occupants of the Improvements within the Project are protected against adjacent developments within the Project that are

incompatible and would lower the quality of the property within the Project.

- E. The Project is developed with a sense of quality appropriate for a mixed-use industrial and business park.
- F. The Project will promote density and efficient use of the land and avoid sprawl.

IV. **DESIGN REVIEW BOARD**

A. Creation.

Upon recording of this Declaration there shall be created a Design Review Board that shall be responsible for the careful orderly and expeditious review of all proposed improvements to property subject to this Declaration.

B. Functions.

1. **General.** The Board shall assist and cooperate with Owners, Design Professionals, and Applicants to assure the orderly and quality development of the Project and has the right to enforce compliance with this Declaration.
2. **Administration of Design Review Process.** The Board shall administer the plan submission process described in Article V below.
3. The Board shall review only for compliance with this Declaration. The Owner shall be responsible for compliance with all local, state and federal building codes and relevant laws.
4. The Board shall have the power to make the final decision on issues involving interpretation, clarification and application of the covenants, conditions and restrictions herein contained.

C. Board Structure.

1. **Initial Structure.** The Board shall consist of three (3) members who will be appointed initially as follows:
 - a. A representative appointed by the Declarant,
 - b. A Design Professional appointed by the Declarant, and

- c. A member appointed by the City of Madison, to be appointed by the City's Director of Planning & Development, or by his/her designee.
2. Ultimate Structure. When one hundred percent (100%) of the land area within the Project, as the same may be expanded under Article II, above is owned by land owners other than the Declarant or the City of Madison, the composition of the Board will change to:
- a. A member elected by Owners holding a majority of the Voting Rights in the Project, and
 - b. A Design Professional elected by the Owners holding a majority of the Voting Rights in the Project, and
 - c. A member appointed by the City of Madison.

D. Term

Each member of the Board appointed by Declarant shall serve at Declarant's pleasure. All others shall serve for two-year terms. The term for one of the seats shall begin on January 1 of odd-numbered years and continue through the second following December 31. The term for the other two seats shall begin on January 1 of even-numbered years and continue through the second following December 31. Any individual appointed as a member by the City of Madison shall be limited to serving a maximum of two terms unless an extension is authorized, in writing, by the Declarant. No compensation is required to be paid by the Board or the Declarant to the Board members, but the Board may compensate members at its pleasure including compensating the Design Professional while simultaneously not compensating the other members. Where any Board member is serving by appointment rather than by election, the party with the power to appoint such Board member may appoint a temporary substitute, alternate, and replacement members to serve in the case of the regular Board member's absence, conflict of interest, or death.

E. Organization and Notice of Meetings

The Chair of the Board shall be the member appointed by the Declarant, and the Chair shall schedule and preside over the Board meetings. Once the Declarant no longer has the power to appoint a member, the Chair shall be selected by majority vote of the Board. The Board's meetings are not open to the public. The Board will choose a secretary who will keep the minutes of the meetings. The Board may adopt bylaws governing the structure, manner of business, and meeting times and places of the Board. The Board shall notify, in writing, all the Board members at least ten (10)

days in advance of Board meetings. The attendance of two Board members (or alternates appointed under D., above) shall constitute a quorum. The Board may create and adopt more specific guidelines to assist Applicants in drafting plans and specifications, including signage, parking lot lighting, irrigation, awning details, and other design and planning details.

F. Voting Structure

A simple majority vote, defined as two (2) out the total of three (3) possible votes, shall constitute a decision by the Board. Designated Board member alternates may vote in place of the original members if so authorized by the party appointing the same under D., above. The Board shall also have the right to act by written consent of two (2) members without a meeting, and such action shall also constitute a decision by the Board.

V. PLAN SUBMISSION PROCESS

A. General.

1. No landscaping or Improvement may be placed, erected, or altered on any Development Site (including alterations of color) without prior written approval from the Board.
2. All applications for plan approval shall be accompanied by a fee reasonably estimated by the Board to be sufficient to cover the Board's costs of review.
3. Each successive stage of the plan submission process must comply with the conditions of approval given in any previous stage or stages, and must be coordinated with any separate approvals required by public agencies. In case of any conflict between public approvals and approvals given under this Article V, the more restrictive approval will govern; however, it is the responsibility of the Applicant to identify these conflicts in writing to the Board.
4. Each Applicant is required to follow the plan submission and approval process set forth in this Article V. The Applicant is responsible for initiating requests and providing all documents and plans necessary to complete the plan submission process in an orderly and reasonable time frame. If an Applicant changes any plan in any respect after the plan has been approved by the Board, the Applicant must resubmit the plans as changed to the Board for

re-review. If, however, the Board conditionally approves any plans, the Applicant may incorporate the Board's conditions into the successive plans and need not return the originally approved plans to the Board for re-review so long as the Board will have the opportunity to review compliance with the Board's conditions at the next stage of plan review.

5. If alterations to existing improvements are proposed and are minor in nature, the Applicant may submit less than the normally required information, plans and specifications and may obtain full approval in one or two reviews rather than the normal three (3) steps as described in Section V.D., below.
6. Nothing in this Declaration shall prevent an applicant from resubmitting plans and specifications that were previously disapproved or modifying such plans and specifications and making them a new application for review, so long as a new fee is paid.

B. Guide to the Review Process

1. The review process shall involve three (3) steps:
 - a. Preliminary Concept Plan Review
 - b. Site Plan Review
 - c. Final Construction Plan Review
2. All plans shall include:
 - a. Name of the development.
 - b. Name, address and telephone number of the Applicant.
 - c. Name of Developer.
 - d. Name, address and telephone number of the Owner.
 - e. Date of preparation and of any revision.
 - f. Scale and north arrow.
 - g. Legal description.
 - h. Vicinity map.

- i. Building height plans that are dictated by the Avigation Easement recorded in the Dane County Register of Deeds, Form No. 2794376.
 - j. Infiltration plans that adhere to the Regional Planning Commission's infiltration requirements such that Individual Projects developed within The Center for Industry & Commerce shall have a plan that includes provisions to maximize infiltration of storm water, and at a minimum infiltrate all rooftop runoff and provide infiltration trenches for parking areas to accommodate a 1-year storm.
3. **Master Site Plan.** Submission of a Master Site Plan is required only when ultimate site development is planned in stages. When such staged development is planned, the Applicant shall submit a Master Site Plan as part of the Preliminary Concept Plan Review. For the second and future stages of the development, the Applicant may omit the Preliminary Concept Plan Review and proceed directly to the Site Plan Review, assuming the Master Site Plan had received full approval of the Board. All plans shall be prepared by registered or licensed Wisconsin Architects, Engineers and/or Landscape Architects.

C. Basis for Approval

All plan submissions shall be reviewed and approved, conditionally approved or disapproved by the Board in the sole judgment and discretion of the Board after applying the standard guidelines herein contained. Failure of the Board to review and take action on any plan submissions submitted to the Board at any stage in the design review process within thirty (30) days of receipt of the documents and fees shall be deemed disapproval.

D. The Review Process

1. Preliminary Concept Plan Review

The Applicant shall submit such plans, three (3) full size plans and three (3) reduced plans (11"x17"), and specifications, as the Board may, from time to time, require, which may include, but are not limited to the following:

- a. Type and use of improvements, number of building floors, approximate floor plates, footprint, and total square footage.
- b. Generalized vehicular and pedestrian circulation, including connections to public rights-of-way.
- c. Design relationship to adjacent properties, streets, and existing vegetation.
- d. Description of site amenities.

The Preliminary Concept Plan must be reviewed and approved by the Board before the Applicant submits plans for Site Plan Review.

2. Site Plan Review

The Applicant shall submit such plans and specifications as the Board may, from time to time, require, which may include, but are not limited to, the following:

- a. Site Plans:
 1. Site survey, including existing topography, easements and utilities and information regarding required yards and setback.
 2. Building location and footprint.
 3. Building setbacks.
 4. Circulation, including pedestrian and vehicular.
 5. Lighting.
 6. Proposed future grades and drainage.
 7. Proposed storm water infiltration measures.
 8. Utility locations, including telephone, electricity, gas, sewer, water, storm sewer systems and water quality and quantity management.
 9. Parking layout and number of spaces, and number of employees.

10. Service area for truck shipping and receiving including method of screening.
 11. Trash and recycling dumpsters, including screening.
 12. Signage, including major development identification, circulation, traffic, temporary construction, and financing signage, and temporary "For Lease" signs.
 13. Site amenities, including walking trail easement if appropriate.
- b. Building Plans:
1. Floor plates.
 2. Elevations from at least four compass directions.
 3. Perspective color rendering of all four building elevations.
 4. Building materials, including use, colors and samples.
 5. Roof lines.
 6. Exterior portions of Mechanical (HVAC) system and necessary screening for it.
- c. Landscape Plans:
1. Color conceptual landscape plan indicating plant material, location, quantity, species and initial size.
 2. Catalogue cuts, sketches, or color photographs of site furniture and lighting.

The Site Plan must be reviewed and approved by the Board before the Applicant submits plans for Final Construction Plan Review.

3. Final Construction Plan Review

The Applicant shall submit such plans and specifications as the Board may, from time to time, require, which may include, but are not limited to the following:

- a. Site Plans
 1. Engineering and construction plans, specifications, and grading plans for the site, parking areas, signage and landscaping.
 2. Erosion control plans during construction.
 3. Automatic irrigation plans, if any.
 4. Employee guest and required handicap parking.
 5. Storm water infiltration plan and storm water management plan including required oil and grease interceptor plans.
 6. Construction plans, specifications and elevations for the Improvements as required for engineering and construction for all aspects of the development, (interior plans excluded).
 7. The Board may require the Applicant to submit renderings that will illustrate the design and development concept of the project, if deemed necessary.

E. Construction Deadlines.

If the Applicant does not obtain building permits from the City of Madison for improvements approved by the Board within eighteen (18) months of Board approval, then the approval automatically lapses and the Applicant must successfully complete the design review process set forth in Section V.D., above prior to commencement of construction. Failure to complete construction of improvements approved by the Board within thirty (30) months of building permit issuance for said improvements also results in automatic lapse of the approval and the Applicant must successfully complete the design review process set forth in Section V.C., above prior to commencement of construction. Furthermore, all landscaping to be installed pursuant to the landscape plan approved by the Board shall be installed during the same or first growing season that occurs after the substantial completion of the Improvements.

F. Certificate of Completion and Compliance

Each Applicant, upon completion of any Improvements, may request from the Board a written request for a Certificate of Completion and Compliance. Upon receipt of such a request, the Board shall complete an inspection of the Improvements to determine compliance with the approvals previously granted by the Board. If the Improvements are completed to the satisfaction of the Board, the Board shall furnish to the Owner a certificate in recordable form certifying the Improvements as being completed to the satisfaction of the Board. If the Board is not satisfied that the Improvements have been completed in accordance with previous approvals granted by the Board, the Board shall furnish to the Applicant a written description of any noncompliance.

VI. DEVELOPMENT STANDARDS

The following standards are imposed on the property subject to this Declaration:

A. Consolidation or Subdivision of Existing Platted Lots

Consolidation or subdivision of existing platted lots requires the approval of the Board, but is expected given the plat design.

B. Area, Bulk Coverage, Setbacks, and Heights

1. Area. Development Sites shall not be less than one-half (1/2) acre at a minimum.
2. Bulk Coverage. Properties are encouraged to develop at a floor area ratio of more than 0.25.

Note: These setbacks shall be applied to the Development Site, and not to individual Lots.

3. The following minimum building setbacks shall apply:

10 feet in all areas, except along U.S. Highway 51, which is depicted on the final Center for Industry & Commerce Plat.

Note: These setbacks shall be applied to the Development Site, and not to individual Lots.

4. The heights of all buildings shall conform with the Avigation Easement. In addition, the Avigation Easement shall be complied with during construction.

C. Buildings and Materials

In keeping with the purpose of this Declaration, the use of building materials shall be regulated as follows:

1. The following materials may be used for the exterior building walls:
 - a. Brick.
 - b. Stone.
 - c. Glass.
 - d. Combination architectural glass and metal panels (curtain wall systems). Standing seam metal siding on façade facing public street prohibited.
 - e. Architectural precast panels (concrete or synthetic products as parts of curtain wall systems), if colored and detail architecturally.
 - f. Cast-in-place, tilt-up, or structural concrete with integral coloring or texturing, if colored and detailed architecturally.
 - g. Decorative concrete masonry units (“split face” blocks).
 - h. Metal, copper, or brass as an accent or roofing material only.
 - i. Glass block.
 - j. At the discretion of the Board, other materials not listed here.
2. The following materials are strictly prohibited:
 - a. Metal siding and metal panels covering a significant portion of the building façade (metal building type construction is prohibited).
 - b. Exposed, uncolored, untextured concrete and smooth face concrete block.

c. Stucco, EIFS, Dryvit, or the like, except as an accent.

D. Off-Street Parking

1. **Number of Parking Spaces.** On street parking is prohibited through out the entire Project. All Development Sites shall have no less than one parking space per employee during any shift, less an estimate of employees that do not drive. Truck shipping and receiving areas will not satisfy the parking requirement. All Development Sites shall provide bicycle parking in a safe and convenient location at ratio of one bike parking space per 20 car parking spaces. All bike racks shall be securely anchored to the ground or building to prevent them from moving.
2. **Joint Parking.** Joint parking areas serving multiple Development Sites may be permitted as approved by the Board. While on-street parking is prohibited, reducing the size of paved areas in the Project is a goal of the Board.
3. **Required Surfaces.** All parking areas shall be surfaced with asphalt, concrete or the equivalent. Parking surfaces shall be complete within nine (9) months of occupancy. All parking lot area striping shall be white in color.
4. **Separation from Roadways.** Parking areas shall be separated from adjacent roadways by a combination of raised walkways, berms and planting areas. All parking areas shall be appropriately screened from adjacent use and public right-of-way by a combination of structural and vegetative elements, to limit visibility from streets and Highway 51. At a minimum, all corners, edges, and islands of parking lots and access drives shall be bordered with raised curbs, except for connections to pedestrian and bicycle facilities.
5. **Lighting.** Parking area lighting shall conform to site lighting standards using metal halide or color-corrected high-pressure sodium fixtures. All lighting shall conform to M.G.O. Outdoor lighting.
6. **Long-term Parking.** Parking areas shall not be used for external storage, vehicular storage or for long-term parking. If an Applicant requires long-term outdoor storage for vehicles, trucks or equipment, such area shall be appropriately screened so as to not be visible from adjacent properties or streets.

7. On-Street Parking Prohibited. On-street parking is prohibited.

E. Retaining Wall Structures

1. **Building Materials.** All earth retaining wall structures shall be cast-in-place concrete, stone, boulders, or modular masonry, and consistent with site and building design.
2. **Easement Reserved for Benefit of Neighbors.** Declarant reserves over each Development Site within the Project a temporary construction easement for the purpose of allowing the Owner of any neighboring Development Site within the Project to construct retaining walls, if necessary, on such neighboring Development Site. Any Owner using any such easement shall be required to restore the area within the easement to its preexisting state, including replacement of landscaping, if necessary.

F. Easement for Pedestrian Path Reserved

Declarant reserves, for the benefit of all lands located within the Project, a ten (10) foot wide easement across the rear yard of each Development Site for the purpose of providing a free-flowing pedestrian walking path from one Development Site to the next, such that a pedestrian path around the entire perimeter of the of The Center for Industry & Commerce Plat may be created. The precise location of such path on any given Development Site shall be determined by mutual agreement between the Board and Applicant. The Owner may be required to build said pedestrian path at such Owner's cost at the time of construction of the Owner's other site improvements. If the path has not yet been constructed on neighboring Development Sites, the Board may grant a temporary postponement for construction of the path. The Board reserves the right, however, to later require construction of the pedestrian path.

G. Truck Shipping and Receiving Areas

1. **Location.** The Owner shall satisfy truck shipping and receiving needs within the side or rear yards. Trucking shipping and receiving areas ("trucking areas") shall not be allowed along the principal façade of a structure, nor facing public streets (except in the case of a corner lot). Plant material, berming, or constructed walls using the same materials used on adjacent buildings, or a combination thereof, is encouraged to screen trucking areas from adjacent use and public rights-of-way. Trucking areas shall have on-site area for maneuvering and shall be physically separated from any adjacent parking area. All trucking areas must be

surfaced with asphalt, concrete or the equivalent with appropriate sub-base.

2. Minimum size requirements. There shall be minimum on-site trucking areas as follows: one loading space shall be provided for buildings over 25,000 square feet of non-office use area; an additional space shall be provided for area exceeding 25,000 square feet but less than 50,000 square feet; one additional loading space shall be provided for each incremental 50,000 square feet over 50,000 square feet. A loading space shall be defined as either a dock or at-grade garage door. An exemption may be granted if the building's sole use is office, hotel, or retail.
3. Lighting shall be metal halide or color-corrected high-pressure sodium. Loading dock areas may have higher intensity illumination. Light sources shall not be visible; cutoff fixtures shall be used.
4. Long-term Parking Prohibited. Trucking areas shall not be used for external storage, vehicular storage or for long-term parking.

H. Refuse Storage and Loading Areas

Garbage, refuse, and recycling containers shall be concealed and contained within the buildings or shall be located outside the building within the side yards and be consistent with setback limitations within structures constructed for that purpose. Refuse collection areas shall not be permitted along any frontage road and, if not contained within a building, shall be located toward the rear of the site and screened using plant material or similar materials as the primary structure and adjacent buildings, and shall be approved by the Board. Rubbish shall not be incinerated on-site except with the written approval of the Board. External storage use must comply with all standards throughout the Project. All external storage areas must be screened (100% opacity) from public right-of-ways.

I. Utility and Mechanical Equipment

All utility equipment, mechanical equipment, satellite dishes, and antennas shall be located where such equipment will not be Visible from Neighboring Properties or detract from the overall attractiveness of the Project. Utilities shall be underground. All utility or mechanical equipment mounted on the ground shall be screened with material compatible with its immediate landscaped surroundings. Free hanging wires or utility fixtures hung on poles or similar overhead structures are prohibited, with the exception of free standing, pole mounted, wireless

lighting, which is permitted, provided that such light poles shall not be wooden. Satellite dishes shall be located only with the approval of the Board so as to not detract from the building's architectural quality.

J. Exterior Lighting

The Applicant shall obtain the Board's approval of all exterior lighting plans. All site lighting fixtures shall be shielded or use freestanding, cut-off type, white light type fixtures. All lighting shall be soft, nonglare and nonflashing in design and nature, and shall not be seen from public right-of-ways or from adjacent lots, (i.e. no unscreened wall-pack units). Attractive building façade illumination shall be permitted. Neon lighting and lighting with moving parts are prohibited. The Board shall adopt a standard fixture and standard pole height for lighting Development Sites. Security lighting may be used in loading or servicing areas and must conform to the general standards for site lighting. Security lighting intensity may exceed that of parking and exterior accent areas with the approval of the Board.

K. Landscape Planting

The following minimum conditions shall be compiled with, but in no event shall the conditions of the Avigation Easement be violated. In addition, the use of native plant and tree species is recommended:

1. **Ground Cover.** Any portion of the site not used for Improvements, parking, pavements, or other hard surfaces must be landscaped with canopy and understory trees, shrubs, vines, groundcovers, and/or grass. Parking lot islands may be covered with a non-green material, such as stones, only if trees or shrubs are included. Pavement of parking lot islands is prohibited. All undeveloped property shall have one hundred percent (100%) vegetative coverage to prevent erosion and siltation onto adjacent properties.
2. **Existing Trees.** Approval must be obtained from the Board before any living trees of four (4) inch caliper or larger are removed. Said trees shall be relocated on site or to another lot within the plat if possible. Approval of the plans does not constitute approval to remove trees unless said trees have been specifically identified on the plan as proposed for removal.
3. **Tree Planting Requirement.** Landscaping for each site shall include approved shade trees, or shade tree equivalents at the ratio of not less than one tree per forty (40) feet, or fractional part thereof, of the total length of the perimeter lot lines that define the Development Site. (For example, if an Owner combines two Lots

for one project, the perimeter shall be defined as the outer perimeter of the two combined Lots, ignoring the interior lot line between the two Lots.) For purposes of this standard, approved shade trees are deciduous trees of at least three (3) inches in caliper including any of the following:

- a. Ash -seedless varieties.
- b. Basswood species -Tilia. (American Basswood, Tilia Americana, is prohibited.)
- c. Hackberry.
- d. Maple (except ginalla, silver, and Norway maple).
- e. Oak.
- f. Honeylocust, thornless.
- g. Ginkgo.
- h. Others approved by the Board.

Shade tree equivalents may be substituted for required shade trees. A shade tree equivalent may be one coniferous tree or two ornamental trees of at least eight (8) feet in height or 1.5 inches minimum caliper. The following coniferous trees may be utilized to fulfill the requirement:

- a. Fir.
 - b. Pine.
 - c. Spruce.
 - d. Others approved by the Board.
4. Perimeter Landscaping. In order to provide for a richly landscaped perimeter to The Project a specific Perimeter Landscape Plan has been created and is attached hereto as Exhibit B. All owners of Lots affected by the Perimeter Landscape Plan shall be required to include the elements of said plan in their landscape plan submitted to the Board.

L. Irrigation

Automatic underground irrigation systems are encouraged, but not required, for all turf and landscaped areas, and if employed, may only be activated between the hours of 5:00 p.m. and 8:00 a.m.

M. Signage

1. **General Standards.** The Applicant shall obtain the Board's approval of all signage plans, including both temporary and permanent signage of any kind or nature, including any proposed changes to existing signage before such signage is posted or erected on a Development Site. It is the intent of the Board to provide appropriate signage of a consistent and tasteful nature. Signage shall be shown on site plans in detail. All applications for signage review by the Board shall include complete plans and specifications describing the design including, but not limited to, all sizes, materials, typeface, graphic symbols, logos, colors, and illumination proposed. Placement shall be based on best position for viewing and best visual relationship to the site and structure. Signage regulated by the Board includes, but is not limited to, both temporary and permanent signs of the following types:
 - a. **Temporary Signs:**
 1. Signs for the purpose of describing a construction project.
 2. Signs for advertising the sale or rental of a building site or building.
 - b. **Permanent Signs:**
 1. Informational or directional signs, including vehicular control signs.
 2. Corporate (building) identification signs.
 3. Multi-tenant (building) identification signs.
2. **Specific Signage Guidelines.**
 - a. **Maximum Number of Building Identification Signs.** Not more than three (3) permanent building identification signs are allowed for each Development Site. A maximum of two may be ground mounted and one or two may be

building-mounted. Development Sites with more than one street frontage shall be allowed one additional sign.

- b. **Maximum Number of Temporary Signs.** Temporary signs for any activity are limited to three signs per Development Site and each shall not exceed 128 square feet in area. Temporary signs shall be removed immediately at the conclusion of the activity described on said sign.
- c. **Purposes of Temporary Signage.** Only temporary signage of the type described in Section V.M.1.a., above may be used. All other temporary signage (including, without limitation, signage identifying providers of financing, construction, or real estate services), is prohibited except with the written approval of the Board. This prohibition shall not apply to Declarant or entities under common control with Declarant prior to the time the Project is fully developed.
- d. **Maintenance.** All signs shall be maintained by the property owner and kept in good repair at all times. The Board (or its directed representative) shall have the right to remove approved signage in disrepair as well as remove signage that was not approved by the Board and the Applicant shall be invoiced for the cost of said repair or removal. Damaged signs may be replaced with exact replicas of the original signs without additional review by the Board.
- e. **Requirements for Permanent Signage.** All permanent signage is subject to the following requirements:
 - 1. The principal identification sign for a building may be illuminated, either internally or externally, although backlighted/internal lighting is preferred.
 - 2. The design shall be coordinated with the building's architecture.
 - 3. Informational and directional signs for Development Sites shall use messages or symbols to inform, direct, or control the movement of pedestrians and vehicles.
 - 4. Informational and directional signs shall be provided in the least number necessary to convey their intended purpose.

5. The Board will maintain specific standards on the informational and directional signage, number required, and the size of signs.
 6. Each driveway access shall have one "Stop" sign mounted on a 2" x 2" aluminum post. ("U-channel" posts are prohibited in the Project.)
 7. An identification sign shall be erected at the primary entrance to each Development Site. This sign shall be a monument-type structure not more than six feet higher than typical surrounding finished grade. This sign shall be sited to preserve a "vision triangle" for vehicles entering and leaving the Development Site.
 8. The Board shall establish a monument sign standard for the Project.
 9. Permanent signs shall identify the company occupying the Development Site only, and shall not advertise products or services available from said company.
 10. Permanent signs may include company graphics or logo and the building's street address.
 11. Pole-mounted pylon signs and panel-type signs are prohibited.
 12. The horizontal base of the permanent signs must be affixed directly to the ground or to a concrete base in the ground.
 13. Each single-occupant building shall be permitted up to two signs affixed to the building. Said sign shall be comprised of individual characters each independently affixed to the building or attached to a raceway. Single panel signs are prohibited.
- f. Signage for Multi-Tenant Development Sites.
1. Subject to approval by the Board, a uniform signage package may be developed for multi-tenant developments located within the Project. The

uniform signage package shall include a signage system for identifying individual tenants that is fully integrated into the architectural design and materials of the multi-tenant building.

2. Multi-tenant buildings are allowed one sign affixed to the building per tenant.
3. Service areas, doors and docks may additionally include single- line signs with letters not to exceed six (6) inches in height, designating the name of the tenant being serviced.

g. **Project Signage.** In addition to the above signage, the Declarant shall develop:

1. a ground-mounted, monumental sign identifying the overall plat name and located within the Project and adjacent to U.S. Highway 51 and
2. ground-mounted Project signs at each major entrance to the Project.

N. **Fences.** Fences are prohibited within the Project, unless the Board grants a variance under one of the following conditions:

1. The Applicant demonstrates a legitimate security and safety requirement that requires fencing and no other solution is available.
2. Screening requirements can be met only through the use of fencing, such as for refuse containers or to screen truck parking areas. Chain-link fencing with or without plastic strips shall be prohibited.
3. During construction for safety and security.

If the Board permits fencing under either of these conditions, the design of the fencing, including, but not limited to, height, length, materials, finish, and design shall be subject to Board review and approval.

O. **Temporary Structures**

Temporary buildings, construction trailers, or structures shall be permitted on the construction site only during the actual construction time period

and shall be removed immediately after the completion of construction, unless a variance is granted by the Board.

P. Maintenance and Repair

1. **Maintenance Required.** Each Owner shall be responsible for maintaining its Improvements and grounds in such a manner that promotes a safe, clean, and attractive environment for employees, visitors, and adjacent property owners. Improvements shall be maintained reasonably close to their original appearance. Owners shall also be responsible for upkeep of common areas on their property, including any public easements for pedestrians, such as pedestrian paths, exercise paths, etc. and the adjoining areas within the public right-of-ways, and shall be responsible for maintenance of any pedestrian paths that the Owner is required to construct. Recommended standards for horticultural care of trees, shrubs, and turf shall be adhered to, so as to ensure healthy plant material, including regular watering, fertilizing and pruning schedules.
2. **Trash removal.** Regular maintenance is required to prevent the accumulation of debris. Removal of trash and rubbish from the site shall be timely and periodic.
3. **Maintenance During Construction.** Construction sites shall be kept free of rubbish, scrap and construction materials. Trailers and the like shall be kept in a neat and orderly manner. Construction site erosion shall be in conformance with the law.
4. **Maintenance of Undeveloped Sites.** Undeveloped land on a site shall be landscaped for temporary or holding use with turf maintained in a manner compatible with the provisions of these design and development standards, once ownership is conveyed by the Declarant.
5. **Maintenance of Drainage Areas.** The Association shall maintain all aspects of The Center for Industry & Commerce's Drainage Areas. Such maintenance shall follow the guidelines included in the Declaration of Easements executed by the City of Madison and recorded as document No. 3671349 in Dane County, Wisconsin.

VII. PERFORMANCE REGULATIONS

All of the following uses in the Project shall comply with the following regulations as well as be in compliance with appropriate Wisconsin statutes and chapters of the Wisconsin administrative code.

A. Noise

At no point in the Project shall the sound level outside of a building of any individual operation exceed the limits shown in the following table without the express written approval of the Board:

Maximum Sound level/dB

75 dB

At all times

Where any individual operation is adjacent to a residential, conservancy, wetland, PCD, PUD or Mobile Home Zoning District.

65 dB

Measured at the lot line at all times

B. Air Contaminants

No smoke, soot, fly ash, dust, cinders, dirt, noxious or obnoxious acids, fumes, vapors, odors, toxic or radioactive substance, waste or particulate, solid, liquid or gaseous matter shall be introduced into the outdoor atmosphere alone or in any combination, in such quantities and of such duration that they would interfere with the safe and comfortable enjoyment of life or property or any use permitted in this Project.

C. Liquid and Solid Waste

No wastes shall be discharged into a storm water or roadside ditch or drainage area except clear and non-polluted water.

D. Electrical Emission

There shall be no electrical emission beyond the property line which would adversely affect any other use.

E. Glare and Heat

There shall be no reflection or radiation, directly or indirectly, of glare or heat beyond the boundary of any property line under any conditions, if it would adversely affect or annoy any other user within the Project.

F. Vibration

There shall be no operation or activity which would cause ground-transmitted vibrations in excess of the limits set forth below, beyond the boundary of this Project under any conditions nor beyond the property line if it would adversely affect any other use within the Project.

Frequency/Hz	Max. Displacement/inches
0-10	0.0008
10-20	0.0005
20-30	0.0002
30-40	0.0002
40+	0.0001

VIII. OWNERS' ASSOCIATION.A. Membership.

Every Owner in fee simple of each Lot shall automatically be deemed to be a member of the Association. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot. Members shall be entitled to one (1) vote for every square foot of Lot area owned. When more than one person holds any interest in any Lot, then all such persons shall be members of the Association. The votes for such Lot shall be exercised as they among themselves determine, but in no event shall more votes be cast with respect to any Lot than the number of votes assigned to such Lot under this Section.

B. Board of Directors.

The affairs of the Association shall be governed by a Board of Directors consisting of three persons. Declarant shall be entitled to appoint all of the directors until such time as Declarant shall cease to own any interest in the Project. Within one hundred eighty (180) days of the date that Declarant cease to own any interest in the Project, the Association shall hold a meeting, and the members shall elect all three directors.

C. Obligations of the Association.

The Association shall be responsible for the exclusive management, maintenance, and control of the Drainage Areas, and all improvements thereon, and shall keep the same in good, clean, attractive and sanitary condition, order and repair, and may, at its option, assume maintenance, construction, repair, replacement and control of any areas that are for the common benefit of the Project (including, without limitation, the easement described in Section VI.F., any other easements serving or for the benefit of

the Project, any perimeter landscaping, any monument signage, and any other features for the benefit of the Project). The Association shall be governed in accordance with the Association's articles and bylaws or other governing documents. If no Association exists, then all functions of the Association shall be carried out by Declarant, so long as Declarant holds title to any interest in any of the Lots. If no Association exists at any time after Declarant ceases to hold title to any of the Lots, then the functions of the Association shall be carried out by the Owners of not less than 51% of the square footage of the Lots.

D. Damage or Destruction.

In the event any portion of the Drainage Areas is damaged or destroyed by the owner of any Lot, or any of its guests, tenants, licensees or agents, such Owner does hereby authorize the Association to repair said damaged area; the Association shall repair said damaged area in a good workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association. The amount necessary for such repairs shall become a special assessment upon the Lot of said Owner.

E. General Annual Charge.

All Lots shall be subject to general annual charges, which may be determined and assessed annually by the Association, for the purpose of defraying costs and expenses of the Association in carrying out its stated purposes and functions and for maintaining and improving the Drainage Areas and any other common areas. The general charge shall be sufficient to raise an amount which, in the reasonable judgment of the Association, may be required for the ensuing calendar year (including interest costs) and for establishing reasonable reserves for future repairs and replacements. Such charges shall be paid annually to the Association on or before March 1 of each year. All assessments shall be levied among all Lots and in accordance with the proportion that the square footage of each Lot bears to the total square footage of all Lots. All Lots shall also be subject to special assessments to defray the costs incurred by the Association under Article VIII, Section D, or to cure any other defaults under this Declaration by, or to exercise any remedies under this Declaration against, any Owner. Special assessments may be levied directly against the Lot on which the damage or destruction described in Article VIII, Section D or violation, has occurred.

F. Collection.

The right to collect or enforce the collection of charges is hereby exclusively delegated to the Association. The Owner of a Lot, or any portion thereof, shall be personally obligated to pay such charges which were assessed or

accrued upon the land owned during the period of ownership. All charges which are unpaid when due shall from such date become and remain a lien upon the Lot until paid, with interest thereon from the due date of eighteen percent (18%) per annum until paid in full. The Association shall have the sole right to bring any and all actions and proceedings for the collection of the charges and the enforcements of liens therefor. Any liens securing unpaid charges arising by virtue of this Declaration shall be subject and subordinate to the lien of any first-lien mortgage whether the mortgage is executed or recorded prior to or after the creation of such liens. Nothing herein contained shall prevent or impede the collection of lawful charges, taxes or similar charges by the City. The Association may commence an action against any Owner personally obligated to pay the charges or to foreclose the lien for such charge against any Lot. Any such foreclosure action may be brought, at the Association's election, either in the same manner as an action to foreclose a real estate mortgage, as a proceeding to enforce a lien under Section 779.70, *Wisconsin Statutes*, or as a proceeding to enforce a condominium lien under Chapter 703, *Wisconsin Statutes*. The Association shall, upon the written request of an owner or purchaser of any Lot, issue a Certificate of Status of Lien. If an attorney is retained to enforce any such delinquent charge, attorneys' fees, title charges and court costs and other costs incurred shall be added to and become a part of such charge.

IX. ENFORCEMENT

In case of any violation of any provision of this Declaration that continues for a period of thirty (30) days following delivery of notice to the Owner of the Development Site on which the violation is alleged to be occurring, then Declarant (so long as it holds any interest in any land in the Project), the Association, the City of Madison, the Board and any other Owner shall have the right, by proceedings at law or in equity against any person or persons violating or attempting to violate any provision of the Declaration, either to restrain or cure the violation or to recover damages, or both. Nothing herein shall be deemed to limit the rights of the City of Madison to enforce any zoning codes, ordinances, regulations or other requirements which may be identical or similar to the requirements of this Declaration. Furthermore, the Board, Association and the Declarant shall each have the right to correct the violation itself and recover reimbursement by the party who has been in violation of the Declaration for all costs incurred, including but not limited to the costs of correction, legal fees, Board members' time, costs of enforcement and all other costs whether direct or indirect. In case any legal action is brought to enforce this Declaration, and such action proceeds to final, unappealed judgment, then the losing party shall reimburse the prevailing party for the prevailing party's legal fees.

X. ADDITIONAL PROVISIONS**A. Duration, Modification, and Termination**

This Declaration may be amended by a written recorded instrument executed by a majority of the Board (and Declarant, so long as Declarant continues to hold any interest in the Project). Unless amended as provided herein, this Declaration shall run with the land and shall be binding upon all persons claiming an interest in a Development Site for a period of thirty (30) years from the date this Declaration is initially recorded. After the expiration of the initial term of this Declaration, this Declaration (as presently written or as so amended) shall be automatically extended for successive periods of ten (10) years. Declarant shall have the unilateral right, exercisable by executing and recording a document exercising such right, to subject additional lands to this Declaration, in which case the additional lands shall be part of the Project.

B. Variances

The Board may grant a variance from any of the prescribed criteria herein, from time to time where such variances will assist in carrying out the intent and spirit of this Declaration. A variance, once granted, does not set a precedent, and is given with the intention of keeping the overall welfare of the Project in mind and following the spirit of the Declaration. Approval of any variance request requires a unanimous affirmative vote by the Board.

C. Acceptance of Conditions

The Declarant and each Owner, present and future, by virtue of acquiring property within the Project, consents to all provisions contained within this Declaration and agrees to abide by them as long as they run with the land.

D. Waiver of Prosecution

Neither the Board, the Declarant, nor any member, employee, or agent of either shall be liable to any Owner, Occupant, Applicant or other party submitting plans for approval or to any other party by reason of mistake in judgment, negligence, or misfeasance arising out of or in connection with the approval, conditional approval, disapproval, or failure to approve any such plans or for any other action in connection with its or their duties hereunder. Likewise, any Applicant submitting such plans, and any Owner or any Occupant, agrees not to bring any action or suit to recover any damages against the Board or Declarant or any member, employee, or agent of said Board or Declarant for any act or omission in administering

the provisions of this Declaration. Each Owner or Occupant by virtue of occupying land within the Project agrees not to bring any action or suit against the Board or Declarant.

E. Invalidation

If one or more provisions of this Declaration is ruled invalid by judgment or court order, the remaining provisions shall not be affected and shall remain in full force.

F. Assignment of Rights of Declarant.

All rights of the Declarant may be assigned by written recorded instrument to any other person or other entity at any time. Following such assignment, the assignee shall be the "Declarant" for all purposes under this Declaration.

G. Notices

Any notices or other communications to the Board required by this Declaration shall be given via registered or certified mail, to the Board at the following address:

The Center for Industry & Commerce
P.O. Box 7700
Madison, Wisconsin 53707-7700

or such other address as may be designated in a document recorded by Board with the Dane County Register of Deeds. Notices to any Owner shall be given to the Owner either at the address of the Development Site owned by such Owner or at the address listed in the records of the City of Madison assessor as the address to which property tax bills for the Development Site are to be sent. All notices shall be deemed given three days after the same have been sent, via registered or certified mail, to the party.

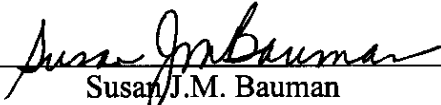
H. Successors and Assigns.

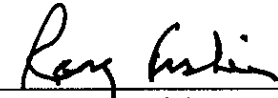
This Declaration shall benefit, and be binding upon, Declarant and all Owners and their respective successors and assigns as owners of any lands within the Project, and shall run with the land.

CONSENT

The undersigned, being the owner of the fee interest in all or a portion of the property described in Exhibit A, consents to the terms of this Declaration and agrees that its interest in said property shall be subject to the terms thereof.

CITY OF MADISON, WISCONSIN
A municipal corporation

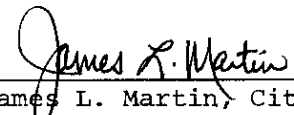
By: 
Susan J.M. Bauman
Mayor

By: 
Roy Fisher
City Clerk

COUNTERSIGNED:

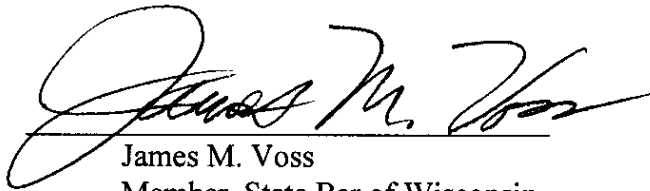

Dean Brassler, City Comptroller

APPROVED AS TO FORM:


James L. Martin, City Attorney

AUTHENTICATION

Signatures of Susan J.M. Bauman and Ray Fisher, Mayor and City Clerk, respectively, of the City of Madison, authenticated this 25th day of MARCH, 2003.



James M. Voss
Member, State Bar of Wisconsin

This document was drafted by,
and should be returned to:

Jesse S. Ishikawa
Reinhart Boerner Van Deuren S.C.
22 East Mifflin street
P.O. Box 2018
Madison, WI 53701-2018
(608)229-2200

EXHIBIT A

Legal Description

002988

Lands located in part of the NW ¼, NE ¼, SE ¼ and SW ¼ of the NW ¼, part of the NW ¼ and SW ¼ of the NE ¼ and part of the NE ¼ of the SW ¼, all in Section 16, T8N, R10E, in the City of Madison, Dane County, Wisconsin, more fully described as follows:

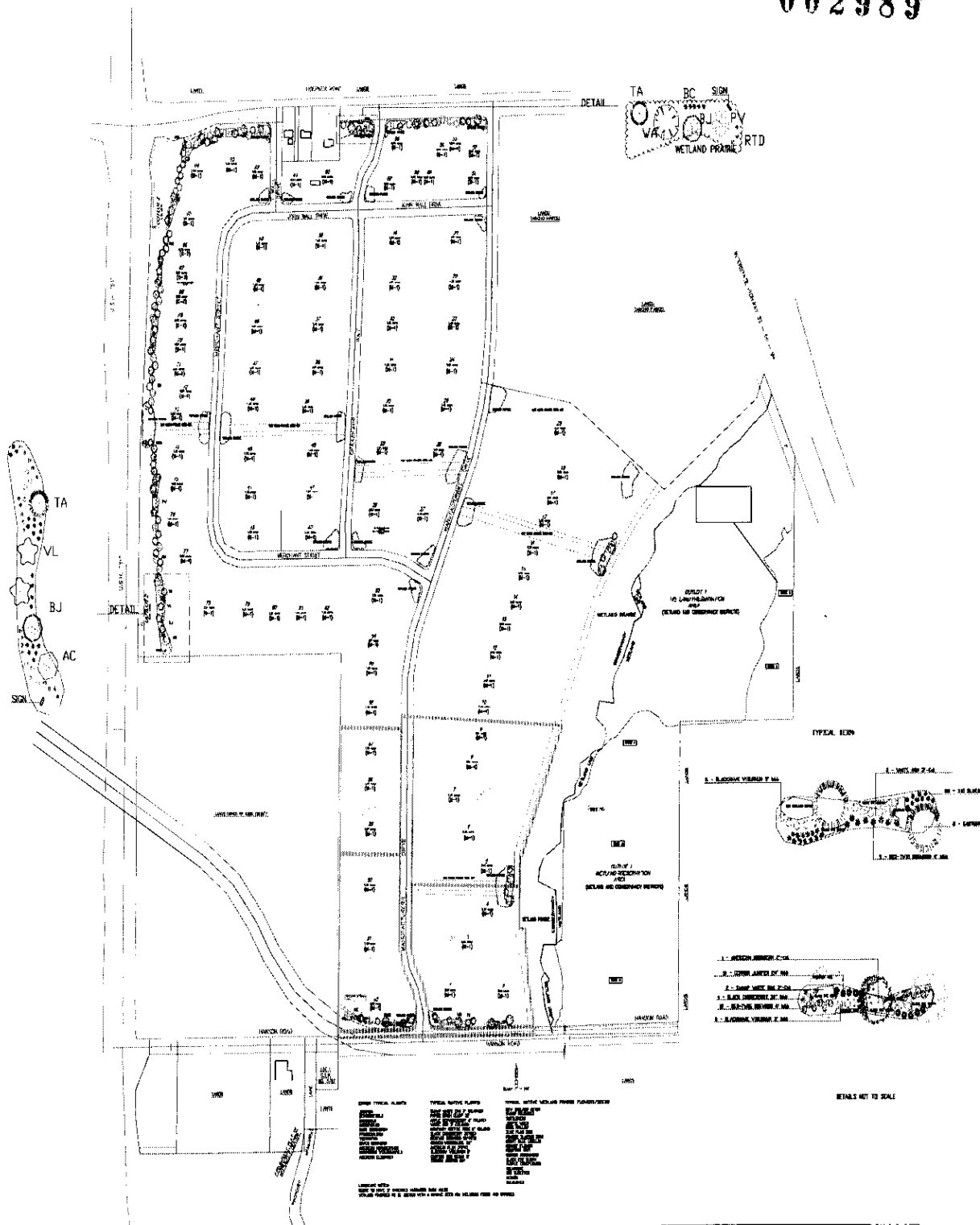
Commencing at the Northwest Corner of said Section 16; thence N89°04'44"E, along the North line of the said NW ¼, 199.66 feet; thence S00°55'16"E, 110.13 feet; thence N87°24'59"E, along the South line of Hoepker Road, 54.05 feet; thence S70°58'58"E, along the said South line, 52.04 feet; thence N78°23'56"E, along the said South line, 42.23 feet to the point of beginning; thence continuing N78°23'56"E, along the said South line, 73.84 feet; thence N72°11'20"E, along the said South line, 147.32 feet; thence N 89°04'44" E, along the said South line, 389.52 feet; thence S01°10'21"W, 165.84 feet; thence N89°32'56"E, 340.07 feet; thence N01°10'12"E, 168.63 feet; thence N89°04'44"E, along the said South line of Hoepker Road, 840.75 feet; thence 40.14 feet along the arc of a curve to the right having a radius of 25.00 feet, a central angle of 91°59'44" and a long chord bearing S44°55'24"E, 35.97 feet to the point of tangency thereof; thence S01°04'28"W, 880.27 feet; thence 198.71 feet along the arc of a curve to the right having a radius of 1134.00 feet, a central angle of 10°02'24" and a long chord bearing S06°05'40"W, 198.46 feet to the point of tangency thereof; thence S11°06'52"W, 23.48 feet; thence S 78°53'08" E, 66.00 feet; thence S 80°31'47" E, 468.82 feet; thence S 55°27'15" E, 650.77 feet; thence S44°23'14"W, 194.05 feet; thence S38°49'06"W, 209.04 feet; thence S33°38'41"W, 168.69 feet; thence S23°23'29"W, 1238.11 feet; thence S00°48'45"W, 274.34 feet; thence S81°42'54"E, 34.89 feet; thence S03°55'11"E, 192.23 feet; thence S08°41'29"E, 256.51 feet; thence S89°39'51"W, along the south line of the said NE ¼ of the SW ¼, 1153.02 feet; thence N00°51'23"E, along the West line of the said NE ¼ of the SW ¼, 1319.64 feet; thence N01°01'53"E, along the West line of the said SE ¼ of the NW ¼, 305.74 feet; thence S89°40'34"W, 1067.86 feet; thence N04°20'43"W, 505.51 feet; thence N01°16'48"E, 155.11 feet; thence N04°03'19"W, 410.61 feet; thence N04°09'37"E, 301.18 feet; thence N08°12'22"E, 303.85 feet; thence N16°43'06"E, 441.77 feet; thence N04°10'27"E, 97.64 feet to the point of beginning.

Containing 7,040,067 square feet or 161.6177 acres, more or less.

Parcel numbers: 0810-163-0198-9 and 0810-162-0198-1

Perimeter Landscape Plan

002989



NOTE: Please be advised that the document grantor(s) hereby direct viewers to ignore the printed text material on this exhibit. Only the spatial relationships of the illustrations on the plan are being presented for your information.

Signed by grantor(s) or grantor's(s) agent: Heidi J. Fischer Date: 3/25/2003 (USE BLACK INK ONLY)

Name of grantor(s) or grantor's(s) agent printed: HEIDI J. FISCHER (USE BLACK INK ONLY)