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Re: Lots 1 and 2
Hillsborough Replat 11 (Eleven)

DECLARATION

This is a Declaration and Agreement dated as of July 11, 1994, between Maple Joint Venture, a Nebraska General Partnership ("MJV") and Maple Joint Venture II, a Nebraska General Partnership ("MJV II").

PRELIMINARY STATEMENT

MJV is the record owner of Lot 2 of Hillsborough Replat 11 (Eleven), a subdivision in Douglas County, Nebraska as surveyed, platted and recorded, being a replat of Lot 12, Hillsborough Replat I, a subdivision in Douglas County, Nebraska, as surveyed, platted and recorded ("Lot 12"). MJV II is the record owner of Lot 1 of Hillsborough Replat 11 (Eleven), a subdivision in Douglas County, Nebraska, as surveyed, platted and recorded, being a replat of Lot 12, Hillsborough Replat I, a subdivision in Douglas County, Nebraska, as surveyed, platted and recorded.

MJV and MJV II desire to establish certain covenants, restrictions, building areas and common areas, and provide easements for parking, and pedestrian and vehicular ingress, egress, passage and traffic for the purpose of ensuring that such Lots 1 and 2 are developed and utilized as a single integrated shopping center.

TERMS AND CONDITIONS

In consideration of the foregoing Preliminary Statement, which by this reference is repeated and incorporated in this portion of this Declarant in its entirety, and other consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties to this Declaration hereby establish and agree upon the following easements, covenants, and restrictions.

1. Definitions. The terms in this Section 1 shall have the following meanings:

1.1 Building Area. The term "Building Area" means and includes that area of the Shopping Center as depicted on Exhibit A attached to this Declaration upon which a building, buildings, or other structures may be constructed or erected. Canopies may encroach from a Building Area over the Common Areas provided such canopies do not interfere with the use of the Common Areas.

1.2 Common Areas. The term "Common Areas" shall mean and include all parts of the Shopping Center which are devoted primarily for parking, approaches, exits, entrances, sidewalks, exterior landscaping, incidental and interior roadways, service roads, loading areas (excluding loading docks) and other similar areas or exterior areas not used as a "Building Area".

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GEORGE J. BUGLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

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1.3 Owner. The term "Owner" shall mean any individual, partnership, joint venture, corporation, trust, unincorporated association, governmental agency or other business entity now or hereafter holding of record an ownership interest in fee in a portion or all of a Parcel.

1.4 Parcel. The term "Parcel" shall mean or refer to any of the following platted lots: Lots 1 and 2 of Hillsborough Replat II (Eleven), a subdivision in Douglas County, Nebraska, as surveyed, platted and recorded. The term "Parcels" shall mean both of the platted lots identified in this subsection 1.4. From time to time reference to one or more of such Parcels will be made in this Declaration by its or their platted lot number.

1.5 Permittees. The term "Permittees" shall mean (i) the respective Owners of each Parcel comprising the Shopping Center and its respective successors, assigns, heirs, and personal representatives, (ii) such Owners' agents, customers, invitees, licensees, employees, servants, and contractors, (iii) such Owners' tenants and subtenants and their respective customers, invitees, employees, servants, licensees, contractors, and agents, and (iv) such Owners' land contract purchasers, mortgagees and beneficiaries under deeds of trust.

1.6 Shopping Center. The term "Shopping Center" shall mean both of the Parcels as a group.

2. Grant of Easements. The Declarant hereby grants to the Permittees the following easements:

2.1 Pedestrian Easements. Nonexclusive easements for the purpose of pedestrian traffic between each Parcel and: (i) each other Parcel; (ii) the public streets now or hereafter abutting or located on any portion of the Shopping Center; (iii) 135th Drive as depicted on the plat annexed as Exhibit A to this Declaration including, if any, future enlargements of such 135th Drive; and (iv) the public walkways now and hereafter abutting or located on any portion of the Shopping Center; limited however, to those portions of each Parcel and 135th Drive which are improved by the Owner thereof from time to time for pedestrian walkways and made available for general use, as such portions may be altered, relocated, or eliminated from time to time by each such Owner.

2.2 Vehicular and Access Easements. Nonexclusive easements for the purpose of vehicular traffic and access between each Parcel and: (i) each other Parcel; (ii) the public streets now and hereafter abutting or located on any portion of the Shopping Center; and (iii) 135th Drive as depicted on the plat annexed as Exhibit A to this Declaration (including, if any, future enlargements of such 135th Drive which are expressly permitted) ("135th Drive") limited however, (a) to those portions of the Parcels depicted on Exhibit A annexed to this Declaration as 135th Drive (including, if any, future enlargements of such 135th Drive), roadways, drives, entrances and exits, and service areas, and (b)

such other portions of the Parcels which are improved by the Owner thereof from time to time for vehicular accessways and made available for general use.

Notwithstanding the foregoing, (a) the Owner of Lot 1 shall not materially alter or eliminate the location of 135th Drive situated within Lot 1 and (b) the Owner of Lot 2 shall not materially alter or eliminate the drive situated between Lots 8 and 9 of Hillsborough Replat I (One), a subdivision in Douglas County, Nebraska, as surveyed, platted and recorded and depicted on Exhibit A annexed to this Declaration providing access to 132nd Street, and (c) the Owners of Lots 1 and 2 shall not materially alter or eliminate the interior drive within Lots 1 and 2 and cross-hatched on Exhibit A annexed to this Declaration. Provided however, nothing in this Declaration shall preclude the Owners of Lots 1 and 2 from enlarging such roadways, drives, entrances and exits or changing the contour or slope of any or all of such roadways, drives, entrances or exits or from installing directional curbing or traffic directional devices, signs or signals therein, or from installing speed bumps therein, or from installing green or planted areas or landscaped islands therein, or from otherwise modifying such drives to accommodate increased or reduced traffic, or to enhance traffic flow or to enhance or ensure pedestrian or vehicular safety.

2.3 Parking Easements. Nonexclusive easements over, in, and upon those public parking areas depicted on the plat annexed as Exhibit A to this Declaration for the parking of motor vehicles. No Owner of either Lot 1 or Lot 2 shall reduce the quantity of parking below a ratio of 6 to 1 nor shall the direction (as it exists on the date hereof) of the parking stalls be changed without the written consent of the Owners of the Parcels. Nothing herein shall preclude the Owner of a Parcel from enlarging, reconfiguring or eliminating parking spaces within such Parcel provided the requirements of this Section 2.3 are satisfied.

2.4 Existing Easements. The Owners of the Parcels affirm the easements created by that certain ECR Declaration recorded in Book 1051 Page 602 of the Miscellaneous Records of the Register of Deeds of Douglas County, Nebraska (the "ECR Declaration") which expressly benefit Lot 12 which has been replatted into Lots 1 and 2. It is the intent and agreement of the Parties to this Declaration that all such easements which expressly benefit and bind Lot 12 extend to, benefit and bind the Parcels as though the Parcels had been in existence at the execution and delivery of the ECR Declaration. To that end, the easements contained in the ECR Declaration expressly benefitting and binding Lot 12 are incorporated in this Declaration in their entirety and shall be deemed to benefit and bind Lot 1 and Lot 2. In addition, all maintenance obligations with respect to easement areas, common areas, sewer and utilities as contained in the ECR Declaration are hereby affirmed and shall apply to the Parcels.

2.5 Encroachments. Nonexclusive easements under and over an area directly adjoining the property line between the Parcels for incidental encroachments which exist on the date hereof, if any, for footings for the support of foundations or for overhangs or for roof projections which exist on the date hereof, if any, together with the right of reasonable access over such Parcels for the purpose of repairing, replacing, and maintaining such footings, overhangs or roof projections.

3. Use of Building Areas. Buildings in the Shopping Center shall be used for commercial purposes of the type normally found in a retail shopping center including, without limitation, grocery supermarkets, drug stores, department stores, discount department stores, financial institutions, service shops, restaurants, and retail stores. No part of the Shopping Center shall be used for any of the following purposes: (a) bingo or other game room, pool hall, teen club, theater, or gambling or live entertainment enterprise of any kind, (b) warehouse operation or manufacturing or assembling operation, (c) storage (except incidental to the primary commercial use), (d) central laundry facility, (e) facility in which fire sales, bankruptcy sales (unless pursuant to Court Order), or auction sales are conducted, (f) facility for the sale, leasing, display or repair of any automobiles, trucks, trailers, or recreational vehicles, (g) bowling alley, (h) skating rink, (i) mortuary, (j) establishment selling or exhibiting pornographic materials, (k) flea market, (l) health spa, (m) physical therapy facility, (n) massage parlor, (o) tanning parlor, (p) bar or tavern, (q) ballroom, dance hall, or discotheque, and (r) facility for instruction. Nothing in this Section 3 shall preclude the sale or dispensation of wine, beer, and/or liquor in connection with the operation of a deli, restaurant, or cafe. In addition to the foregoing, the Owners of the Parcels may by recordation in the office of the Register of Deeds of Douglas County, Nebraska establish such other use restrictions and covenants as they shall mutually determine.

4. Buildings and Site Improvements. Except as otherwise specifically provided herein, or as otherwise expressly agreed upon by the Owners of Lot 1 and 2, the Lots shall be developed under the following standards.

4.1 Design and Construction. The Buildings Areas shall be designed so that the exterior elevations of buildings constructed on any such Lot shall be architecturally and aesthetically compatible. The design and construction of any building or expansion thereof constructed on any of such Lots shall be of high quality. No building constructed within either of the Lots shall have a metal exterior.

4.2 No building shall exceed forty (40) feet in height, as measured from finished grade.

4.3 No rooftop sign shall be erected on any building constructed within such Lots.

4.4 Only one freestanding pylon sign may be erected on each of such Lots and may advertise only the name and logo of the businesses conducted thereon; such identification signs shall remain in substantially the same locations in which they exist on the date of this Declaration and shall not exceed the height of the Shopping Center pylon signs existing on the date hereof. Notwithstanding the foregoing, there may be erected monument type entrance-exit and directional signs to facilitate the free flow of traffic.

4.5 Landscaping shall not materially obstruct (either through original planting or through untrimmed growth) the view of the buildings constructed on the Shopping Center. All trees shall be of an ornamental, low-growing type.

4.6 In the event either Parcel abuts 132nd Street or West Maple Road, the portion of such Right-of-way which adjoins such Lot and which has not been improved by the appropriate governmental body as a street or highway shall be seeded, fertilized, and mowed by such abutting Lot Owner and maintained in the same condition as the grass areas within such Lot.

4.7 All areas of the Lots which house refuse dumpsters or garbage containers must be situated in the rear of any buildings and shall be kept in a sanitary condition and free of litter and debris.

4.8 The Owners of the Parcels may establish by recordation in the office of the Register of Deeds of Douglas County, Nebraska such other design and construction restrictions and such other covenants affecting the use and appearance of the Parcels as they shall mutually determine.

5. Release from Liability. Any person acquiring fee or leasehold title to any Parcel shall be bound by this Declaration only as to the Parcel or portion of the Parcel acquired by such person. In addition, such person shall be bound by this Declaration only during the period for which such person is the fee or leasehold owner of such Parcel or portion thereof and shall be responsible for all obligations and liabilities which accrue during such period. Although persons may be released under this Section 5, the easements, covenants, and restrictions in this Declaration shall continue to be benefits to and servitudes upon such Parcel or Parcels, running with the land.

6. Breach. In the event of the breach or threatened breach of this Declaration, either of the Owners of the Parcels shall be entitled to institute proceedings for full and adequate relief from the consequences of such breach or threatened breach. The unsuccessful party in any action shall indemnify the prevailing party from all reasonable attorney's fees and other reasonable costs and expenses incurred by the prevailing party in connection with such proceedings.

No breach or threatened breach of this Declaration will entitle any Owner of any of the Parcels to cancel, rescind or otherwise terminate this Declaration.

7. Legal Effect. Each of the easements and rights created by this Declaration are appurtenant to the Parcel to which they relate and may not be transferred, assigned or encumbered except as an appurtenance to such Parcel. For the purpose of each such easement and right, the Benefited Tract will constitute the dominant estate and the Burdened Tract will constitute the servient estate. Each easement or covenant contained in this Declaration: (a) is made for the direct, mutual and reciprocal benefit of each other Parcel now or hereafter constituting a part of the Shopping Center; (b) creates mutual equitable servitudes on each Parcel in favor of each other Parcel; (c) constitutes a covenant running with the land; (d) binds every Owner now having or hereafter acquiring an interest in any Parcel; and (e) will inure to the benefit of each Owner and each Owner's successors, assigns, mortgagees and beneficiaries under deeds of trust.

8. No Dedication. Nothing contained in this Declaration will be deemed to constitute a gift, grant, or dedication of any portion of a Parcel to the general public or for any public purpose whatsoever, it being the intention of the Parties to this Declaration that this Declaration will be strictly limited, in accordance with the terms hereof, to the private use of the Permittees of each Parcel to whom easements have been granted in this Declaration. Except as otherwise specifically provided herein, this Declaration is intended to benefit the Owners and their respective successors, assigns, mortgagees and beneficiaries under deeds of trust, and is not intended to constitute any person or entity which are not Permittees of Parcels to whom easements or other rights have been granted in this Declaration a third party beneficiary hereunder or to give any such person or entity any rights hereunder.

9. Duration; Amendment; Termination. Unless otherwise modified or terminated as permitted in this Declaration, the easements, rights, obligations, covenants and restrictions contained in this Declaration shall continue in perpetuity.

This Declaration and any provision herein contained may be terminated, extended, modified or amended as to the Shopping Center or any Parcel only with the express written consent of all of the Owners of the Parcels. No amendment, modification, extension or termination of this Declaration will be effective against any mortgagee or beneficiary under a deed of trust subsequent to such mortgagee's or beneficiary's acquiring title to a portion or all of a Parcel by foreclosure or deed in lieu of foreclosure, unless such mortgagee or beneficiary has so consented in writing. No tenant, subtenant, licensee or other person having only a possessory interest in a Parcel is required to join in the execution of or

consent to any amendment, modification or termination of the Declaration.

10. Default; Remedies. In addition to the remedies provided in Section 6 of this Declaration, the provisions of this Declaration may be enforced as follows:

10.1 Self Help. In the event any Owner fails to perform any of the provisions of this Declaration (the "Defaulting Owner"), the non-defaulting Owner will have the right, without being obligated to do so, to enter upon the Parcel and improvements of such defaulting Owner and perform the obligations of the defaulting Owner hereunder; provided, however, that written notice of such intention, specifying the nature of the alleged default and the actions to be performed, has been given to the defaulting Owner not less than thirty (30) days prior to the commencement of such action or without notice if such default is of an emergency nature. During such thirty (30) day period, the defaulting Owner will have the right to perform or commence performance of action appropriate to remedy such default, and provided such action is diligently carried to completion, the right of the non-defaulting Owner to perform such obligation of the defaulting Owner will terminate without prejudice to correct future defaults. If the non-defaulting Owner elects to perform the action to have been performed by a defaulting Owner, on completion of such action, or from time to time, if the action is of continuing nature, an itemized statement of the reasonable cost thereof will be submitted to the defaulting Owner and the amount thereof will be immediately due and payable by the defaulting Owner which amount will bear interest at the rate of sixteen percent (16%) per annum from the date such costs are incurred to the date reimbursement is made by the defaulting Owner; such amount, including interest shall be a lien on the Parcel of the defaulting Owner until paid.

10.2 Force Majeur. If performance of any action by any Owner is prevented or delayed by act of God, war, labor disputes or other cause beyond the reasonable control of such Owner, the time for the performance of such action will be extended for the period that such action is delayed or prevented by such cause.

10.3 Notice of Default. An Owner will not be in default under this Declaration unless the Owner has received written notice specifying the nature of such default and has failed to cure or commence appropriate action to cure such default within the times herein provided. The legal propriety of the assertion of such default shall be subject to judicial interpretation.

11. No Termination. No breach of this Declaration will entitle any Owner to cancel, rescind or otherwise terminate this Declaration. The foregoing limitation will not affect, in any manner, any other right or remedy which any Owner might have by reason of any breach of this Declaration.

12. Miscellaneous:

12.1 Approvals. Except as otherwise specifically provided in this Declaration, when approval by any Owner is required hereunder, such approval will not be unreasonably withheld or delayed. Unless provision is made for a specific period of time, the period of time in which approval will be granted will be thirty (30) days, and if an Owner neither approves nor disapproves a proposed action within that period, the Owner will be deemed to have given approval. If an Owner disapproves of any action proposed by another Owner hereunder, such disapproval shall set forth in writing the specific reasons for such disapproval.

12.2 Notices. All notices, statements, demands, approvals and other communications given pursuant to this Declaration will be in writing and will be delivered in person, by certified or registered mail, postage prepaid or by recognized courier service to the Owners at the addresses on file with the office of the Douglas County Assessor for delivery of ad valorem tax statements relating to their respective Parcels. All such notices which are mailed shall be deemed delivered on the third day after postmark unless delivered sooner.

12.3 Waiver of Default. No waiver of any default by any Owner will be implied from the failure by any other Owner to take any action in respect of such default. No express waiver of any default will affect any default or extend any period of time for performance other than as specified in such express waiver. One or more waivers of any default in the performance of any provision of this Declaration will not be deemed a waiver of any subsequent default in the performance of the same provision or any other provision. The consent to or approval of any act or request by any Owner will not be deemed to waive or render unnecessary the consent to or approval of any subsequent similar act or request. The rights and remedies provided by this Declaration are cumulative and no right or remedy will be exclusive of any other, or of any other right or remedy at law or in equity which any Owner might otherwise have by virtue of a default under this Declaration; and the exercise of any right or remedy by any Owner will not impair such Owner's standing to exercise any other right or remedy.

12.4 No Partnership. Nothing contained in this Declaration and no action by the Owner of any Parcel will be deemed or construed by any Owner or by any third person to create the relationship of principal and agent, or a partnership, or a joint venture, or any association between or among any of the Owners of any of the Parcels.

12.5 Severability. If any provision of this Declaration is, to any extent, declared by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Declaration (or the application of such provision to persons or circumstances other than those in respect of which the determination of invalidity or unenforceability was made) will not be affected thereby and each

provision of this Declaration will be valid and enforceable to the fullest extent permitted by law.

12.6 Governing Law. This Declaration will be construed in accordance with the laws of the State of Nebraska.

12.7 Captions. The captions of the paragraphs of this Declaration are for convenience only and are not intended to affect the interpretation or construction of the provisions herein contained.

12.8 Time. Except as otherwise provided in this Declaration, time is of the essence.

12.9 Estoppel Certificates. The Owners of the Parcels shall, from time to time upon not less than twenty (20) days written notice from any other Owner, execute and deliver to such other Owner a certificate in recordable form stating that this Declaration is unmodified and in full force and effect or if modified, indicating the modifications, and stating whether or not, to the best of its knowledge, any Owner is in default under the Declaration and if so, specifying such default.


12.10 Notice of Default to Mortgagee. Any Owner serving notice of default under this Declaration shall provide written notice of such default in the manner permitted in this Declaration to any holder of any mortgage or beneficiary under any deed of trust covering the Parcel of the Owner allegedly in default provided such holder or mortgagee shall have provided the Owner responsible for serving such notice of default a written notice informing it of the existence of such mortgage or deed of trust and the address to which notices of default are to be sent.

12.11 Binding Effect. The provisions of this Declaration will be binding on the Owners and their respective successors, assigns, heirs, personal representatives, mortgagees, and beneficiaries under deeds of trust to the extent herein provided.

Dated as of July 11, 1994


MAPLE JOINT VENTURE II, a
Nebraska General Partnership

By: Venture-50, Inc., a
Nebraska Corporation

By  Partner
Jeffrey M. Keating
Vice President

MAPLE JOINT VENTURE, a
Nebraska General Partnership

By: Venture-50, Inc., a
Nebraska Corporation

By  Partner
Jeffrey M. Keating
Vice President

By: Lerner Maple Partnership,
a Nebraska General Partnership

By: Lerner Maple Partnership,
a Nebraska General Partnership

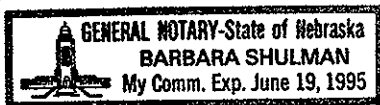
[Handwritten Signature]
Partner
By Jay R. Lerner, Partner

[Handwritten Signature]
Partner
By Jay R. Lerner, Partner

ACKNOWLEDGMENTS

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

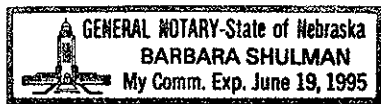
The foregoing instrument was acknowledged before me this 11th day of July 1994, by Jeffrey M. Keating, Vice President of Venture-50, Inc., a Nebraska Corporation, Partner of Maple Joint Venture, a Nebraska General Partnership, on behalf of such Partnership.



[Handwritten Signature: Barbara Shulman]
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

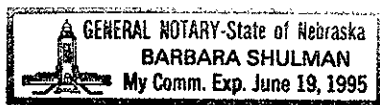
The foregoing instrument was acknowledged before me this 11th day of July 1994, by Jay R. Lerner, Partner of Lerner Maple Partnership, a Nebraska General Partnership, Partner of Maple Joint Venture, a Nebraska General Partnership, on behalf of such Partnership.



[Handwritten Signature: Barbara Shulman]
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

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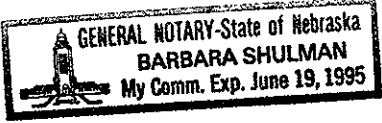


[Handwritten Signature: Barbara Shulman]
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

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Barbara Shulman
Notary Public



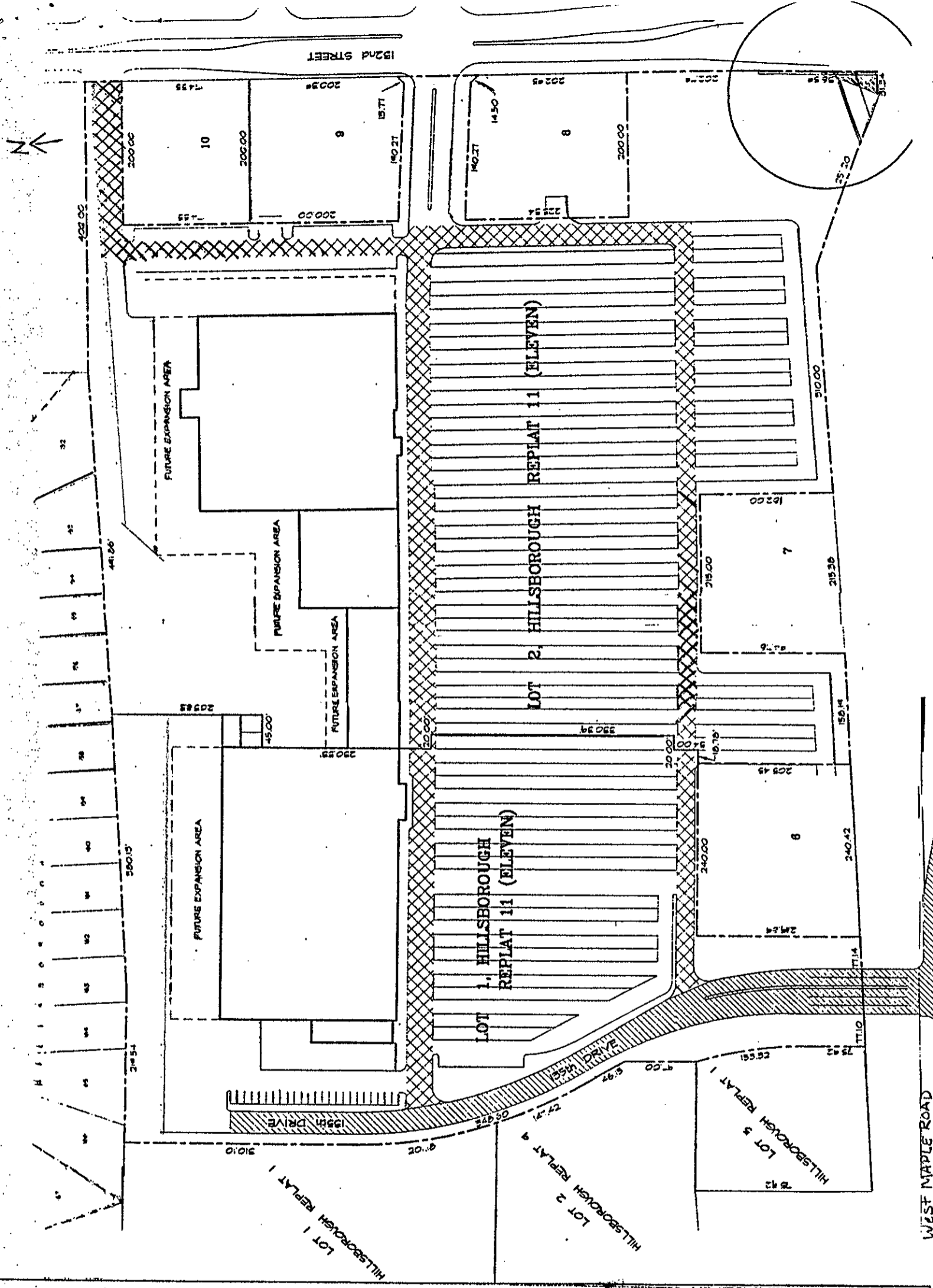


EXHIBIT A