

95-00930

Proof	<u> </u>
D.E.	<u> </u>
Verif.	<u> </u>
Filmed	<u> </u>
Checked	<u> </u>
Fee \$	<u>1300</u>

1.1695

RECIPROCAL EASEMENT AGREEMENT

This Reciprocal Easement Agreement ("Agreement") is made as of this 18 day of January, 1995, by and between Menard, Inc., a Wisconsin corporation ("Menard"), Charles W. Pratt and Dolores Barraclough, Trustees of the Willard H. Pratt Trust ("Trust"), and Dial Realty-Bellevue, L.L.C., a Nebraska limited liability company ("Dial") and Dial Realty Development Corp., a Nebraska Corporation ("Development").

WHEREAS, Menard is the owner of the parcel of land containing approximately 499,890 square feet, more or less, and which is more particularly described as Lot Three (3) Cornhusker Center, a subdivision located in Sarpy County, Nebraska according to the recorded plat thereof, which parcel is hereinafter referred to as the "Menard Parcel"; and

WHEREAS, Trust is the owner of the parcel of land containing 331,724 square feet, more or less, and which is more particularly described as Lots One (1) approximately (269,322 square feet) and Two (2) (177,030 square feet) Cornhusker Center, a subdivision located in Sarpy County, Nebraska according to the recorded plat thereof which parcels are hereinafter referred to as the "Trust Parcel"; and

WHEREAS, the Trust is the owner of an unplatted tract of land containing approximately twenty-seven (27) acres, and 1,176,120 square feet, more or less, located contiguous to Lot Four (4) and being the unplatted portion of Tax Lot 4F which tract shall hereinafter be referred to as ("Unplatted Tract") and which is generally depicted as the cross-hatched area on Exhibit "A" attached hereto;

WHEREAS, Dial is the owner of the parcel of land containing 354,645 square feet, more or less, and which is more particularly described as Lot Four (4) (192,133) and Outlot A (162,512 square feet) Cornhusker Center, a subdivision located in Sarpy County, Nebraska, according to the recorded plat thereof, which parcel is hereinafter referred to as "Dial Parcel"; and

WHEREAS, in order to provide for the orderly development of the Menard Parcel, the Trust Parcel, Dial Parcel and the Unplatted Tract (herein collectively referred to as "Parcels"), the parties desire to grant certain easements and establish certain right, duties, obligations and responsibilities of each party with respect to the construction, operation and maintenance of the parcels of each party.

WHEREAS, Development and Trust previously entered into an option agreement, as amended ("Option") where Trust granted to

95-00930A

WHEREAS, Development has assigned the Option to Dial.

NOW, THEREFORE, the parties, in consideration of their respective undertakings, for themselves and their respective successors and assigns, hereby covenant and agree, each with the other as follows:

ARTICLE ONE
PERMITS AND APPROVALS

1.01. Each Party shall obtain, at its sole cost and expense, all necessary governmental approvals, authorizations, permits and the like to permit the construction of any improvements on their respective parcel. In no event shall the Trust, the Unplatted Tract or the Trust Parcel incur any cost or expense associated with obtaining any approvals, authorizations, permits and the like relating to the construction of improvements on the Dial Parcel or the Menard Parcel. In no event shall the Trust, the Unplatted Tract or the Trust Parcel incur any cost or expense associated with obtaining any easements over, under or across the Trust Parcel or the Unplatted Tract for the benefit of the Menard Parcel or the Dial Parcel or the performance of any site development work performed by Dial on the Trust Parcel or the Unplatted Parcel, said costs shall be the responsibility of Dial. The parties agree to cooperate and support each other, so far as reasonably possible, in obtaining such permits and approvals.

ARTICLE TWO
INDEMNIFICATION

2.01. Each party hereby agrees to indemnify and hold the other and the other's Parcel, as the case may be, harmless from any and all loss, cost, damages and expense arising out of any liens or claims for work or labor done or to be done or for materials furnished or to be furnished with respect to construction performed by such party pursuant to this Agreement, provided, however, Dial and Development shall be jointly and severally liable for all liens or claims involving either one of them.

In the event any claim, action or lien is filed against a party hereto in connection with another party's construction, the first said party shall furnish to the other party or parties a copy of any and all papers served or delivered to it in connection therewith and the other party shall defend such claim or action, and, in the case of a lien filed against the Parcel of the first party in connection therewith, the other party shall cause such lien to be removed there from by bonding or otherwise within 30 days after receiving notice from the first party of such lien.

95

95-009306

1.1695

lien to be removed there from by bonding or otherwise within 30 days after receiving notice from the first party of such lien.

ARTICLE THREE
GRANT OF LICENSES AND EASEMENTS

3.01. Temporary License to Perform Construction. Each party hereby grants for the benefit of the other parties and their engineers, architects, contractors, subcontractors, materialmen and others engaged in constructing the buildings, parking areas and related improvements upon their Parcel a temporary license to use portions of an adjacent Parcel's parking area and the access and circulation roads thereon in order to (i) provide access for personnel, equipment and supplies to said Parcel and (ii) permit construction and integration of the improvements constructed from time to time thereon with the parking areas and circulation and access roads on said Parcel. Provided however in no event shall the temporary license permit the use of another's Parcel as a construction staging area. The licenses granted pursuant to this Section 3.01 shall terminate when the construction for which each such license is granted has been completed, and each party reserves the right to reasonably restrict the time during which and the area upon which such licenses may be exercised in order to limit interference with the use of said Parcel. Each party as applicable shall repair or restore any improvements located on the another party's Parcel, or destruction of crops growing or planted on the Parcel, which is damaged as a result of the exercise of the license herein granted.

3.02. Access Easements.

(a) Each party hereby grants to the other party for the benefit of the other Parcels, a perpetual nonexclusive right, privilege and easement to use, for pedestrian and vehicular traffic only, the access and circulation roads on a Parcel in order to provide ingress to and egress. The foregoing easement is for the use of each party and their officers, employees, agents, customers, business visitors, business guests, licensees and invitees.

3.03. Utility Easements.

The parties shall cooperate in the granting of any additional appropriate and proper easements for the installation, repair and replacement of storm water drains, storm water pipe, sewers, utilities and other proper services necessary for the orderly development and operation of the Parcels. No such lines, sewers, utilities or services of one party shall be installed within the building areas on the other Party's Parcel. Except as contained on the Plat of Cornhusker Center all easements and improvements related thereto shall be located in an area within 25

75-00930 C

1.1695

feet of the property line of a Parcel. Notwithstanding the immediately preceding sentence, with respect to the western boundary line of the Menard Parcel said easements and improvements related thereto shall be located in an area within 20 feet of said west boundary line of the Menard Parcel.

ARTICLE FOUR
PARKING RATIO

4.01. Except as otherwise provided in Article Six, Trust and Dial agree that at all times there shall be independently maintained on each legal lot of the Trust Parcel and Dial Parcel parking area sufficient to accommodate not fewer than five (5) car spaces for each one thousand (1,000) square feet of ground floor building area located thereon.

ARTICLE FIVE
CONSTRUCTION AND MAINTENANCE OF DETENTION CELL

5.01. The parties agree that until such time as an alternative method is secured for the disposal of excess storm water run off from the Trust Parcel, the Dial Parcel, the Menard Parcel and the Unplatted Tract, Outlot A shall be used solely as a storm water detention area ("Detention Cell"). In connection therewith, but subject to the limitations hereinafter contained, Dial does hereby grant for the benefit of the Trust Parcel, the Dial Parcel, the Menard Parcel and the Unplatted Tract a temporary non-exclusive right, privilege and easement to drain the storm water runoff from said Parcels and the improvements which may from time to time be located thereon directly into the Detention Cell. The parties acknowledge that as of the date hereof it is anticipated that only the Menard Parcel, and Lots One (1) and Two (2) of the Trust Parcel will drain into the Detention Cell and that only a portion (yet to be determined) of Lot Four (4) and a portion (yet to be determined) of the Unplatted Tract will drain into the Detention Cell. The parties hereto agree that Dial at its sole cost and expense shall construct the Detention Cell in accordance with the standards of the City of Bellevue. Dial shall be solely responsible for the maintenance of the Detention Cell and agrees to maintain the Detention Cell in accordance with any requirements of the City of Bellevue. All costs of maintenance of the Detention Cell shall be allocated solely among Lots One (1), Two (2) and Three (3) based upon a land to land basis. Notwithstanding the immediately preceding sentence, from and after the "Development" (hereinafter defined) of Lot Four (4) or the Unplatted Tract and the "Certification" (hereinafter defined) the costs of maintenance of the Detention Cell shall be allocated on a land to land basis among Lots One (1), Two (2) and Three (3) and those portions of Lot Four (4) and the Unplatted Tract which have been certified ("Certification") by a Nebraska registered engineer as draining

95-00930D

1.1695

into the Detention Cell. For purposes hereof, the term "Developed" or "Development" shall mean the commencement of construction of a permanent structure. Dial shall be entitled to seek reimbursement for the costs of maintaining the Detention Cell from the parties responsible for payment hereunder by submitting an invoice to each such party together with copies of paid invoices and a breakdown of each such party's allowable share. ("Request for Reimbursement") Each such party shall have a period of thirty (30) days from receipt of the Request for Reimbursement to pay its portion to Dial, the failure of which shall entitle Dial to seek any legal remedy available to it to collect such unpaid amount, including without limitation filing a lien pursuant to the provisions of the Nebraska Construction Lien Act. Notwithstanding anything to the contrary contained herein, the Trust shall not be responsible for any costs of maintenance of the Detention Cell and the Trust Parcel and the Unplatted Tract shall not be subject to any liens until such time that Lot One (1), Lot Two (2) or the Unplatted Tract is Developed by the Trust, or its assigns at which time each Parcel so Developed shall be allocated on a land to land basis, the costs of maintenance along with the other Parcels draining into the Detention Cell.

ARTICLE SIX
USAGE

6.01. The parties hereby agree to prohibit the use of part or all of Lot One (1) of the Trust Parcel from the operation of a theater. A theater may be located on Lot Two (2) of the Trust Parcel provided that the parking ratio to be maintained thereon shall be no less than one (1) car space for every two (2) theater seats.

ARTICLE SEVEN
MISCELLANEOUS

7.01. No Joint Venture. Nothing contained in this Agreement shall be construed to make the parties hereto, or their successors and assigns, partners or joining ventures or to render any of said parties liable for the debts or obligations of the other, except as in this Agreement expressly provided.

7.02. Waiver. No delay or omission by either of the parties, or their successors and assigns, to exercise any right or power accruing upon any non-compliance or failure of performance by the other party under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties, or its successors or assigns, of any of the covenants, conditions or agreements hereof to be performed by the other shall not be construed to be a waiver of any

1.1695

95-00930E

succeeding breach thereof for of any other covenant, condition or agreement contained herein.

7.03. Headings. The section and any subsection headings herein are for convenience and reference only and in no way define or limit the scope and content of this Agreement or in any way affect its provisions.

7.04. Partial Invalidity. If any provisions or portions thereof of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such provision, or portion thereof, to any other persons or circumstances shall be valid and enforceable to the fullest extent permitted by law.

7.05. Agreements to be in Writing. No agreement shall be effective to add to, change, modify, waive or discharge this Agreement, in whole or in part, unless such agreement is in writing and signed by the party to be bound.

7.06. Effective Date; Term; Covenants Running with the Land. All of the covenants, conditions and restrictions set forth in this Agreement to be performed or observed by either party are intended to be and shall be construed as covenants running with the land, and shall be binding upon, inure to the benefit of and be enforceable by the parties and all subsequent owners of their respective parcels or any part thereof.

7.07. Unavoidable Delays. Notwithstanding anything contained in this Agreement, each party shall be excused from performing any obligation under this Agreement, or any delay in the performance of any obligation under this Agreement shall be excused if and so long as the performance of the obligation is prevented, delayed or otherwise hindered by acts of God, fire, earthquake, flood, explosion, actions of the elements, war, riots, mob violence, inability to procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, actions of labor unions, condemnation, court orders, laws or orders of governmental or military authorities or any other cause, whether similar or dissimilar to the foregoing, not within the control of such party.

7.08. Estoppel Certificates. Upon request of either party hereto, the other party shall execute and deliver, from time to time, a certificate confirming, if such then be the fact, that this Agreement then continues in full force and effect and unmodified (or, if modified, stating the modifications), and that the certifying party knows of no existing defaults by the other party, or if such default is known, specifying the same.

1.1695

95-00930F

7.09. Notices. Any notice, request, demand, approval or consent given or required to be given under this Agreement, shall be in writing and shall be deemed as having been given when mailed by United States registered or certified mail, postage prepaid, to the other party at the addresses stated below or at the last changed address given by the party to be notified as hereinafter specified:

To Menard: Menard, Inc.
4777 Menard Drive
Eau Claire, WI 54703
ATTN: Vice President
Real Estate

To Trust: Dolores Barraclough
10217 O'Hern Street
Omaha, NE 68127

Charles W. Pratt
26166 Bridle Wood Drive
Laguna Hills, CA 92653

To Dial or
Dial Development: Dial Realty - Bellevue
11506 Nicholas Street
Suite 200
Omaha, NE 68154
Attn: Rick North

For any subsequent owners of any portion of the Menard Parcel, the Trust Parcel, the Dial Parcel or the Unplatted Tract, the address for notice shall be the address to which the real estate tax statements are sent.

7.10. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective assigns and shall run with the land.

7.11 Relocation. Any easement and the improvements thereon may be relocated by the owner of the parcel on which the easement and the improvements are located at the owner's expense, provided substantially similar rights are given by such relocation.

7.12 Dial and Development. Dial and Development shall be jointly and severally liable for all obligations herein to Trust.

7.13 Counterparts. This Agreement may be executed simultaneously in two or more counterparts each of which shall be deemed an original, but all of which taken together shall constitute one and the same document.

95-009306

1.1695

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed the day and year first above written.

"MENARD"

MENARD, INC., a Wisconsin corporation

By: M. B. [Signature]
Its: [Signature]

"DIAL"

DIAL REALTY - BELLEVUE, L.L.C., a Nebraska limited liability company

By: [Signature]
Its: MENARD

"DEVELOPMENT"

Dial Realty Development Corp.

By: [Signature]
Its: VICE-PRESIDENT

"TRUST"

By: Charles W. Pratt, Trustee for the Willard H. Pratt Trust

By: Dolores Barraclough, Trustee for the Willard H. Pratt Trust

95-00930 H

1.1695

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed the day and year first above written.

"MENARD"

MENARD, INC., a Wisconsin corporation

By: _____
Its: _____

"DIAL"

DIAL REALTY - BELLEVUE, L.L.C., a Nebraska limited liability company

By: _____
Its: _____

"DEVELOPMENT"

Dial Realty Development Corp.

By: _____
Its: _____

"TRUST"

By: *Charles W. Pratt*
Charles W. Pratt, Trustee for the Willard H. Pratt Trust

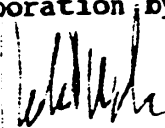
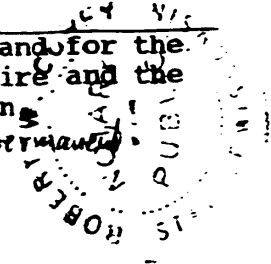
By: *Dolores Barraclough*
Dolores Barraclough, Trustee for the Willard H. Pratt Trust

95-00930I

1.1695

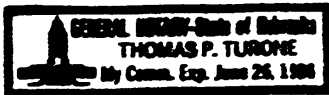
STATE OF WISCONSIN)
) ss.
COUNTY OF EAU CLAIRE)

On this 17th day of January, 1995, before me a Notary Public within and for said County and State, personally appeared Marv Prochaska, to me personally known, who being by me duly sworn, did say that he is the Vice-President of said Menard, Inc., executing the within and foregoing instruments, that the seal affixed thereto is the seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and that the said Marv Prochaska as such officer acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by him voluntarily executed.


Notary Public in and for the
County of Eau Claire and the
State of Wisconsin.
My Commission: 6 permanently


STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 14th day of January, 1995, before me a Notary Public within and for said County and State, personally appeared Rick L. North, to me personally known, who being by me duly sworn, did say that he is a member of said Dial Realty - Bellevue, L.L.C.; that said instrument was signed on behalf of said limited liability company by authority of all it's members; and that the said member acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company by it and by him voluntarily executed.




Notary Public

95-00930 J

1.1695

STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, 199__, before me a Notary Public within and for said County and State, personally appeared Charles W. Pratt, to me personally known, who being by me duly sworn, did say that he is the Trustee of the Willard H. Pratt Trust and executed the within and foregoing instruments as Trustee of the Willard H. Pratt Trust, and that the said Charles W. Pratt acknowledged the execution of said instrument to be his voluntary act and deed.

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this ____ day of _____, 199__, before me a Notary Public within and for said County and State, personally appeared _____, to me personally known, who being by me duly sworn, did say that he is the _____ of said Dial Realty Development Corp., executing the within and foregoing instruments, that the seal affixed thereto is the seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and that the said _____ as such officer acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by him voluntarily executed.

Notary Public

STATE OF Nebr)
) ss.
COUNTY OF Douglas)

On this 20th day of January, 1995, before me a Notary Public within and for said County and State, personally appeared Dolores Barraclough, to me personally known, who being by me duly sworn, did say that she is the Trustee of the Willard H. Pratt Trust and executed the within and foregoing instruments as Trustee of the Willard H. Pratt Trust, and that the said Dolores Barraclough acknowledged the execution of said instrument to be her voluntary act and deed.

Debra A. Carroll
Notary Public

GENERAL NOTARY State of Nebraska
DEBRA A. CARROLL
My Comm. Exp. July 4, 1998

1.1695

95-00930K

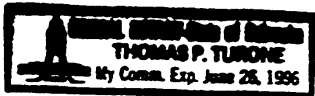
STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, 199__, before me a Notary Public within and for said County and State, personally appeared Charles W. Pratt, to me personally known, who being by me duly sworn, did say that he is the Trustee of the Willard H. Pratt Trust and executed the within and foregoing instruments as Trustee of the Willard H. Pratt Trust, and that the said Charles W. Pratt acknowledged the execution of said instrument to be his voluntary act and deed.

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 19th day of January, 1995, before me a Notary Public within and for said County and State, personally appeared RICK L. NORTH, to me personally known, who being by me duly sworn, did say that he is the Vice President of said Dial Realty Development Corp., executing the within and foregoing instruments, that the seal affixed thereto is the seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors; and that the said PRESIDENT as such officer acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by him voluntarily executed.



Thomas P. Turone
Notary Public

STATE OF _____)
) ss.
COUNTY OF _____)

On this ____ day of _____, 199__, before me a Notary Public within and for said County and State, personally appeared Dolores Barraclough, to me personally known, who being by me duly sworn, did say that she is the Trustee of the Willard H. Pratt Trust and executed the within and foregoing instruments as Trustee of the Willard H. Pratt Trust, and that the said Dolores Barraclough acknowledged the execution of said instrument to be her voluntary act and deed.

Notary Public

TROIA DIAL BELLEVUE RECHASE CLN

ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF _____

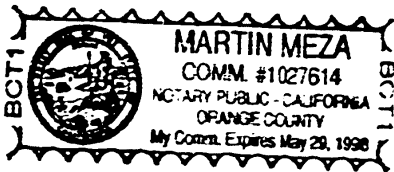
95-00930L

On _____ before me, _____ notary public,
personally appeared _____

personally known to me
-or-
proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they
executed the same in his/her/their authorized capacity(ies),
and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s)
acted, executed the instrument.

Witness my hand and official seal.



Official Notary Seal

Signature of Notary

Martin Meza

OPTIONAL

CAPACITY CLAIMED BY SIGNER

- INDIVIDUAL
- CORPORATE OFFICERS
Title(s): _____
- PARTNER(S) LIMITED
 GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER: _____

DESCRIPTION OF ATTACHED DOCUMENT

Title Or Type Of Document: _____

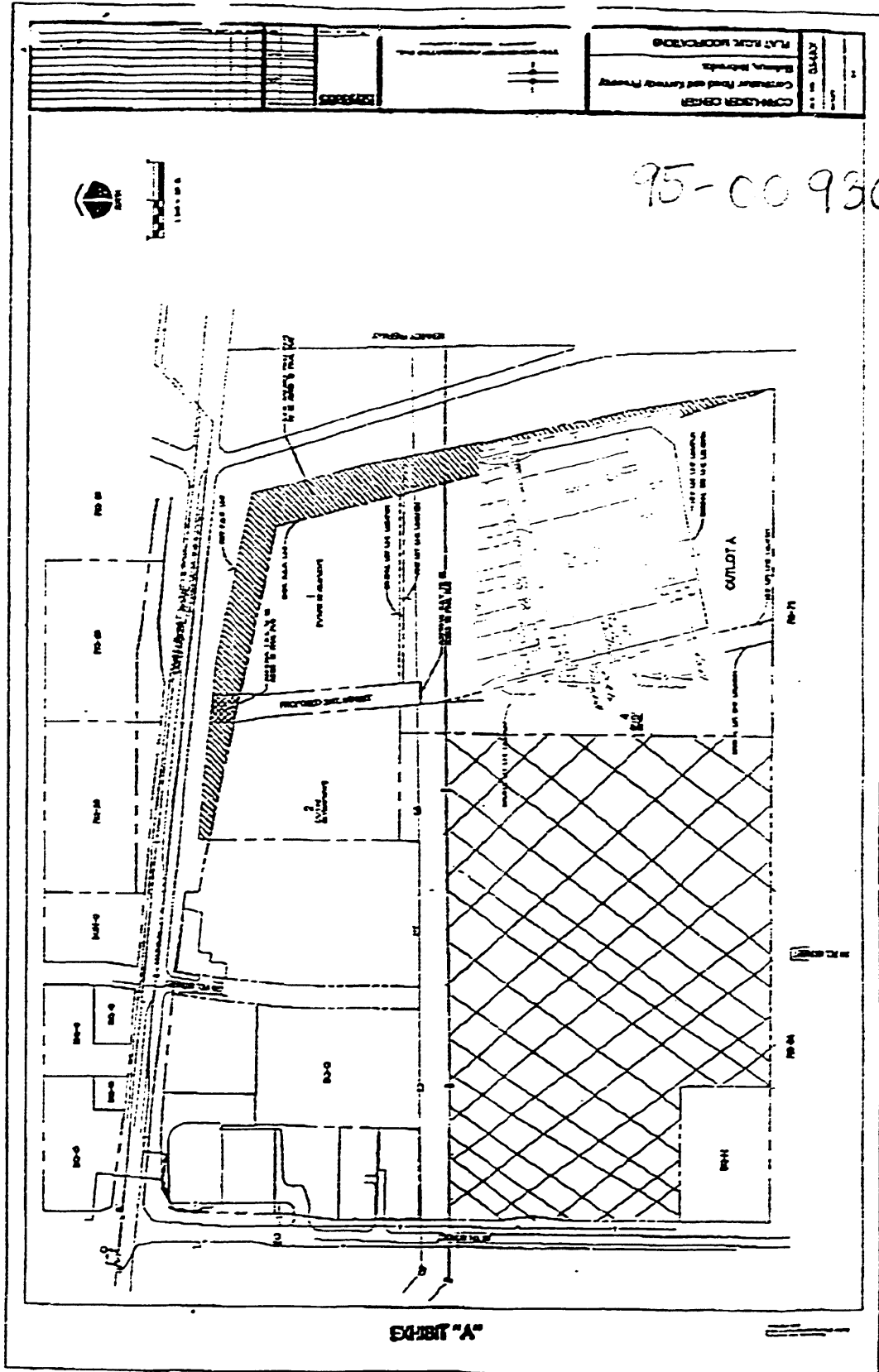
Number Of Pages: _____

Date Of Document: _____

Signer(s) Other Than Named Above: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES): _____

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED



95-00930M

COMPLIANCE CHECK	
CONFORMANCE ROAD AND SERVICE PROPERTY	
STREETS, SIDEWALKS	
FLAT ROOF ROOFING	



SHEET "A"