

3/16/92 VACATION OF EASEMENTS
INTERLACHEN HILLS 3RD ADDITION



NAMRON COMPANY

401 Groveland Avenue • Minneapolis, Minnesota 55403 • (612) 874-1102

August 19, 1992

Ms. Candy Fiedler
City of Edina
4801 West 50th Street
Edina, MN 55424

RE: Utility Easement
Interlachen Hills 3rd Addition
Our File No. N9085-00

Dear Ms. Fiedler:

We enclose for your review copies of the recorded documents pertaining to the City of Edina Utility Easement for the above-entitled parcel. Please contact Norm Bjornnes if you have any questions or need further information.

Very truly yours,

NORA C. JACKSON

Nora C. Jackson

NCJ/nj
enclosures

*3/24/92 874-1102
Norm Bjornnes
Said he would
file documents +
give us #'s
(Follow-up)*

TRANSFER ENTERED
DEPT OF PROPERTY TAX & PUB. RECORDS

MAR 31 1992

5894705



HENNEPIN COUNTY MINN.
BY *[Signature]* DEPUTY

City of Edina

RESOLUTION VACATING EASEMENTS FOR PUBLIC PARK LANDS,
PUBLIC OPEN SPACE AND STORM WATER POND AND HOLDING AREA
IN THE CITY OF EDINA, HENNEPIN COUNTY, MINNESOTA

WHEREAS, a resolution of the City Council, adopted the 18th day of February, 1992, fixed a date for a public hearing on a proposed vacation of easements for public park lands, public open space and storm water pond and holding area purposes; and

WHEREAS, two weeks published and posted notice of said hearing was given and the hearing was held on the 16th day of March, 1992, at which time all persons desiring to be heard were given an opportunity to be heard thereon; and
WHEREAS, the Council deems it to be in the best interest of the City and of the public that said easements vacation be made; and

WHEREAS, the Council has considered the extent to which the vacation affects existing easements within the area of the vacation and the extent to which the vacation affects the authority of any person, corporation, or municipality owning or controlling electric, telephone or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under the area of the proposed vacation, to continue maintaining the same, or to enter upon such easement area or portion thereof vacated to maintain, repair, replace, remove, or otherwise attend thereto;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina, Hennepin County, Minnesota that the following described easements for public park lands, public open space and storm water pond and holding area be and are hereby vacated effective as of March 16, 1992:

The dedicated easements for public park lands, public open space and storm water pond and holding area in and to the easterly twenty (20) feet of Outlot A, INTERLACHEN HILLS 3RD ADDITION according to the recorded plat thereof, which lies east of the northerly extension of the west lines of Lots 29 through 35, Block 1, in said INTERLACHEN HILLS 3RD ADDITION, but reserving the easement for utility and drainage purposes in and to such promises granted by the Easement for Public Utilities Purposes, by and between Wallace B. Kenneth and Joan M. Kenneth and the City of Edina, Minnesota, dated May 14, 1984, and recorded as Document No. 4894325 in the office of the County Recorder in and for Hennepin County, Minnesota.

The City Clerk is authorized and directed to cause a notice of completion of proceedings to be prepared, entered in the transfer record of the County Auditor, and filed with the County Recorder, in accordance with Minnesota Statutes, Section 412.851.



City of Edina

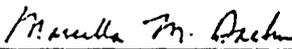
**NOTICE OF COMPLETION OF PROCEEDINGS
ON VACATION OF EASEMENTS FOR PUBLIC PARK LANDS,
PUBLIC OPEN SPACE AND STORM WATER POND AND HOLDING AREA PURPOSES
IN THE CITY OF EDINA, HENNEPIN COUNTY, MINNESOTA**

NOTICE IS HEREBY GIVEN that the City Council of Edina, Hennepin County, Minnesota, on March 16, 1992, adopted a Resolution Vacating Easements for Public Park Lands, Public Open Space and Storm Water Pond and Holding Area Purposes, after public hearing and notice thereof as required by law and after determining it to be in the best interest of the City and of the public that said easements vacation be made, which resolution ordered the vacation of the following described easements for public park lands, public open space and storm water pond and holding area purposes all as platted and of record in the office of the County Recorder in and for Hennepin County, Minnesota:

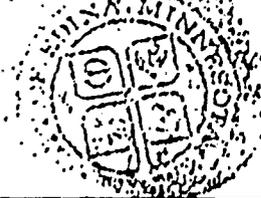
The dedicated easements for public park lands, public open space and storm water pond and holding area in and to the easterly twenty (20) feet of Outlot A, INTERLACHEN HILLS 3RD ADDITION according to the recorded plat thereof, which lies east of the northerly extension of the west lines of Lots 29 through 35, Block 1, in said INTERLACHEN HILLS 3RD ADDITION, but reserving the easement for utility and drainage purposes in and to such premises granted by the Easement for Public Utilities Purposes, by and between Wallace B. Kenneth and Jean M. Kenneth and the City of Edina, Minnesota, dated May 14, 1984, and recorded as Document No. 4894325 in the office of the County Recorder in and for Hennepin County, Minnesota.

The time of completion of proceedings and the effective date of said vacation is March 17, 1992.

BY ORDER OF THE CITY COUNCIL,
CITY OF EDINA.



Marcella M. Daehn
City Clerk



City Hall
4901 WEST 50TH STREET
EDINA, MINNESOTA 55424-1194

(612) 927-8061
FAX (612) 927-3644
TDD (612) 927-5164

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) SS
CITY OF EDINA)

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Resolution is a true and correct copy of the Resolution duly adopted by the Edina City Council at its Regular Meeting of March 16, 1992, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this 23rd day of March, 1992.

Marcella M. Daehn

Marcella M. Daehn
City Clerk



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BY [Signature] DEPUTY
AS DOCUMENT # 5894706
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RECORDED CN
OFFICE OF COUNTY RECORDER
HENNEPIN COUNTY, MINNESOTA

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5894706

COMMERCIAL AND TRAVEL INSURANCE CO. BOX 312

5912291

AGREEMENT

(Use of Utility Easement)

THIS AGREEMENT made and entered into this 24th day of March, 1992, by and between CITY OF EDINA, a Minnesota municipal corporation ("City"), and LINCOLN DRIVE PARTNERS, a Minnesota limited partnership ("Partnership").

WITNESSETH, THAT:

WHEREAS, Partnership is the owner of the property situated in Edina, Hennepin County, Minnesota, described on Exhibit A attached hereto ("Subject Property"); and

WHEREAS, the North 35 feet of the Subject Property ("Easement Area") is subject to a dedicated drainage and utility easement now of record in favor of the City ("Easements"); and

WHEREAS, Partnership has constructed a ventilator shaft ("Ventilator Shaft") under, on and over the Easement Area, and a sketch showing the approximate location of the Ventilator Shaft is attached as Exhibit B hereto; and

WHEREAS, the Ventilator Shaft was located under, on and over the Easement Area without the prior consent of the City and such use of the Easement Area is not allowed without the City's consent; and

WHEREAS, the Partnership has requested agreement of the City to allow the Ventilator Shaft remain under, upon and over the Easement Area; and

WHEREAS, the City is willing to allow the Partnership to so use the Easement Area on the terms and conditions hereinafter set out.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set out, and, as to the Partnership, in consideration of the rights in the Easement Area granted to it by the City, the parties hereto do hereby agree as follows:

1. The City hereby grants to the Partnership the right to maintain and use the Ventilator Shaft under, upon and over the Easement Area as presently situated.

2. The rights hereby granted to the Partnership are, and always shall be, subject to all rights of the City to occupy, use, maintain, construct, reconstruct, repair, and replace any and all of its pipes, lines, utilities, and other facilities now or hereafter on, over, or under the Easement Area ("City Facilities"). The City shall have full access at all times on and over the Easement Area with such personnel and equipment as it deems necessary for the doing of any work it deems necessary to construct, reconstruct, maintain, repair, and replace any or all of the City Facilities ("City Work").

3. The Partnership shall not make any alterations or additions to the Ventilator Shaft which in any fashion increases the size thereof.

4. The Partnership shall use all due care in doing any repair or alteration of the Ventilator Shaft ("Partnership Work") to prevent damage to any of the City Facilities and to prevent interruption of service provided by the City Facilities. The Partnership agrees to report immediately to the City any damage to or interruption of service provided by any of the City Facilities.

5. Any entry by the City upon the Easement Area for the doing of the City Work shall be done in such a manner as to do as little damage as possible to the Ventilator Shaft; however, it is specifically understood and agreed that the City shall not be liable for, and the Partnership hereby waives any claim for, damage or injury to any portion or all of the Ventilator Shaft, and for damages due to loss of business or interruption of business, resulting from or caused by the City Work, and whether or not caused by the negligence of the City, or any of its contractors, subcontractors, employees, agents, or representatives, in doing the City Work. It is also understood and agreed that the City may, if it deems necessary, remove or destroy any or all of the Ventilator Shaft in connection with the doing of any of the City Work, all without liability or obligation to the Partnership, or to any other person having or claiming an interest in all or any of the Ventilator Shaft, for damage to or destruction of any or all of the Ventilator Shaft, or for loss of business or interruption of business caused by such removal, damage, or destruction. The City agrees that so long as the Partnership fully complies with the provisions of this Agreement, the Partnership may repair, replace or rebuild the Ventilator Shaft upon any removal, damage or destruction of the Ventilator Shaft. No such work shall cause the Ventilator Shaft to change its present location or increase from the present size thereof. The Partnership agrees that the repair, replacement or rebuilding of any of the Ventilator Shaft that may be damaged, destroyed, or removed by the City in connection with the City Work shall be done at the sole cost and expense of the Partnership and without cost or expense of any kind to the City.

6. The Partnership agrees that it will indemnify and hold harmless the City from and against any and all loss, cost, damage, and expense, including reasonable attorneys' fees, resulting from or claimed to result from any of the Partnership Work or the location, existence, or use of any of the Ventilator Shaft, including, without limitation, all costs and expenses incurred (i) in repairing any of the City Facilities damaged by the Partnership Work; (ii) as extra cost in doing any of the City Work because of the Ventilator Shaft being located upon or adjacent to the Easement Area, including the cost of removal or destruction of any such Ventilator Shaft, and such cost as the City may incur in attempting to protect any of the Ventilator Shaft from damage in connection with the doing of any of the City Work, (iii) in making any extraordinary excavations or using extraordinary construction methods in attempting to protect the Ventilator Shaft, or (iv) in any relocation of any of the City Facilities if the City determines that any such City Facilities are required to be relocated as a result of the Ventilator Shaft being located upon or adjacent to the Easement Area. If the City determines that any of the City Facilities are required to be relocated as a result of the Ventilator Shaft being located upon or adjacent to the Easement Area, it will give written notice of such determination to the Partnership and the Partnership shall have (90) days after receipt of such written notice to relocate the Ventilator Shaft so that it is no longer under, over or on the Easement Area. If such Ventilator Shaft is not relocated by the end of such ninety (90) day period, the City may then commence the City Work to relocate the City Facilities. The Partnership further agrees to pay any costs and expenses required to

be paid by the Partnership to the City under this Agreement within ten (10) days after receipt of a statement from the City setting forth such costs and expenses, and if not paid within said 10-day period, the amount of such statement shall bear interest at ten (10%) percent per annum from the end of said 10-day period until paid, and the Partnership also agrees to pay all costs of collection, including reasonable attorneys' fees, whether suit be brought or not, and interest at the highest rate then allowed by law, or, if no maximum rate is applicable, then at the rate of twelve (12%) percent per annum on all such costs from the date incurred until paid.

7. If any term, condition, or provision of this Agreement, or the application thereof to any person or circumstance, shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, provision, and condition to persons or circumstances other than those at to whom it shall be held invalid or unenforceable shall not be affected thereby, and this agreement, and all the terms, provisions, and conditions hereof, shall, in all other respects, continue to be effective and to be complied with to the full extent permitted by law.

8. All notices, reports, or demands required or permitted to be given under this Agreement shall be in writing and shall be deemed to be given when delivered personally to any officer of the party to which notice is being given, or when deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the parties at the following addresses:

To City: 4801 West 50th Street
Edina, Minnesota 55424
Attention: City Manager

To Partnership: 401 Groveland Avenue
Minneapolis, Minnesota 55403
Attention: Norman P. Bjornnes, Jr.

Such addresses may be changed by either party upon notice to the other party given as herein provided.

9. In the event that the Partnership fails or refuses to fully comply with all of its obligations under this Agreement, and such failure or refusal continues for a period of thirty (30) days from and after notice thereof is given to the Partnership, then in that event, in addition to any other remedies then available to the City at law or in equity, the City may revoke the rights hereby granted for the use of the Easement Area, and upon such revocation, the Partnership agrees to immediately remove all of the Ventilator Shaft from the Easement Area and to restore the Easement Area to the condition it was in immediately prior to the construction of the Ventilator Shaft.

10. The terms and provisions hereof shall be binding upon the parties hereto, and their respective successors and assigns, and shall run with the title to the Subject Property and Easement Area, and be binding upon all present and future owners of the Subject Property and all present and future holders of the rights of the City under the Easements and this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed the day and year first above written.

CITY OF EDINA, MINNESOTA

By Fedih Skidras
Its Mayor

And K. E. Parkes
Its Manager

LINCOLN DRIVE PARTNERS

By Younan P. Bouras Jr.
Its General Partner

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

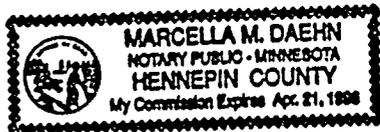
The foregoing instrument was acknowledged before me this 24th day of March, 1992, by Frederick S. Richards and Renneth E. Rosland, the Mayer and Manager respectively, of the City of Edina, Minnesota, a municipal corporation, on behalf of the corporation.



Marcella M. Daehn
Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 24th day of March, 1992, by Norman P. Bjornas Jr., the general partner, of Lincoln Drive Partners, a Minnesota limited partnership, on behalf of the partnership.



Marcella M. Daehn
Notary Public

THIS INSTRUMENT IS EXEMPT FROM STATE DEED TAX.

Drafted by:
DORSEY & WHITNEY
2200 First Bank Place East
Minneapolis, Minnesota 55402

EXHIBIT A

All of Lot 1, Block 2, INTERLACHEN HILLS 3RD ADDITION, according to the recorded plat thereof, being described by rates and bounds as follows:

Beginning at the southwest corner of said Lot 1; thence along the west line thereof North 0 degrees 02 minutes 00 seconds East, assumed basis of bearings, a measured distance of 263.67 feet (263.75 feet record) to the northwest corner of said Lot; thence along the north line thereof South 89 degrees 57 minutes 08 seconds East 418.32 feet measured (South 89 degrees 58 minutes 00 seconds East 418.68 feet, record) to the northeast corner of said Lot; thence along the easterly line of said Lot, and along a nontangential curve, concave easterly and having a radius of 323.28 feet, measured and record, a measured central angle of 48 degrees 23 minutes 30 seconds (48 degrees 24 minutes 18 seconds record) and a measured chord of 265.00 feet bearing South 05 degrees 41 minutes 15 seconds East, a measured arc distance of 273.04 feet (273.11 feet record) to the southeast corner of said Lot 1; thence along the south line thereof North 89 degrees 57 minutes 08 seconds West 444.73 feet, measured (North 89 degrees 58 minutes 00 seconds West 445.02 feet, record) to the southwest corner of said Lot 1 and the point of beginning;

Together with that part of Lot 2, Block 2, INTERLACHEN HILLS 3RD ADDITION, according to the recorded plat thereof, described as follows:

Beginning at the northwest corner of said Lot 2; thence South 0 degrees 02 minutes 00 seconds West, assumed basis of bearings, along the west line of said Lot 2, a distance of 207.17 feet, measured and record; thence South 89 degrees 58 minutes 00 seconds East 355.00 feet, measured and record; thence North 41 degrees 33 minutes 57 seconds East 199.07 feet, measured (North 41 degrees 34 minutes 58 seconds East 199.34 feet, record) to a point in the easterly line of said Lot 2, distant thereon 13.61 feet southeasterly from a point of curve in said easterly line; thence North 40 degrees 13 minutes 01 second West, measured (North 40 degrees 11 minutes 31 seconds West, record) along the easterly line of said Lot 2 a distance of 13.61 feet, measured and record, to the aforementioned point of curve; thence northwesterly a measured distance of 50.31 feet (58.23 feet record) along said easterly line, being a tangential curve, concave to the east, having a radius of 323.28 feet, measured and record, and a measured central angle of 10 degrees 20 minutes 01 second (10 degrees 19 minutes 13 seconds record) to the northeast corner of said Lot 2; thence North 89 degrees 57 minutes 08 seconds West 444.73 feet, measured (North 89 degrees 58 minutes 00 seconds West 445.02 feet, record) along the north line of said Lot 2 to the point of beginning.

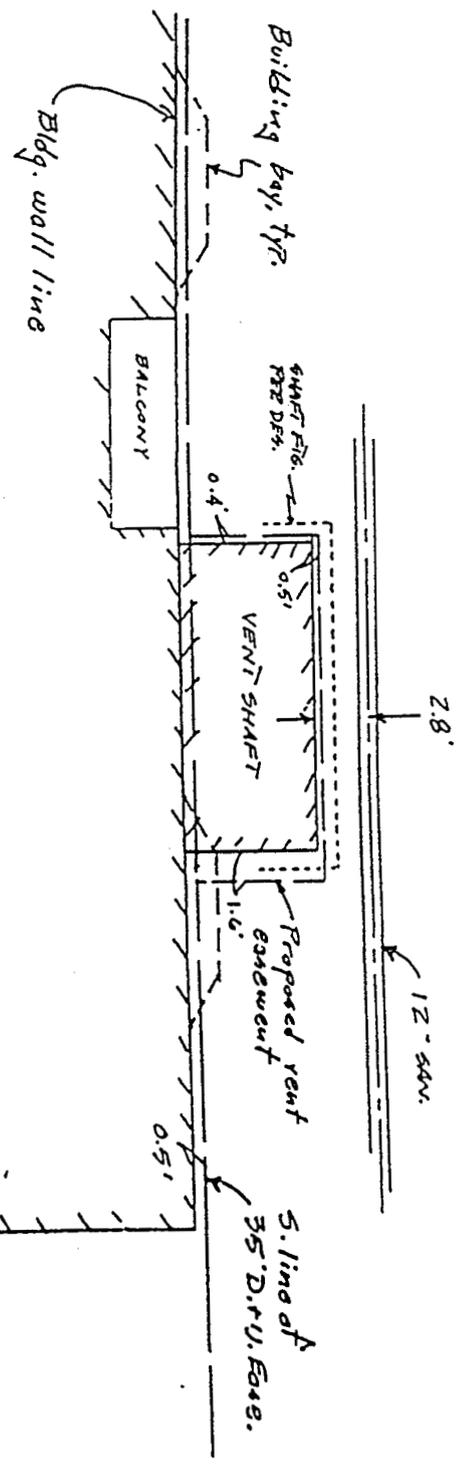
(Hennepin County, Minn.)

EXHIBIT B

LINCOLN APPTS.
Sketch of vent shaft etc.
at NE cor. of Bldg. 1
2-12-92 JVC



1/8" = 1'0"



CONSENT AND SUBORDINATION

The undersigned, being the holder of a mortgage (the "Interest") on the Subject Property as defined in the Agreement to which this Consent and Subordination is attached, the document creating said Interest being dated August 29, 1990, and recorded as Document No. 5698522, in the office of the County Recorder, Hennepin County, Minnesota, does hereby agree and consent to all of the terms and conditions of the Agreement to which this Consent and Subordination is attached, and agrees, from and after the date it becomes the record owner of the Subject Property, to be bound by all of the obligations of, and subject to all of the remedies available against, an owner of the Subject Property in the event it becomes a record owner of the Subject Property (as defined in the Agreement).

THE PENN MUTUAL LIFE
INSURANCE COMPANY

By [Signature]
Its Assistant Vice President

STATE OF Pennsylvania) ss.
COUNTY OF Philadelphia

The foregoing Consent and Subordination was acknowledged before me this 2nd day of April, 1992 by Kevin D. Puskas the AVP and [Signature] the [Signature] of The Penn Mutual Life Ins. Co. a PA Corporation on behalf of the said Corporation.

[Signature]

NOTARIAL SEAL
MAUREEN ANNE CANNING, Notary Public
City of Philadelphia, Phila. County
My Commission Expires July 5, 1993

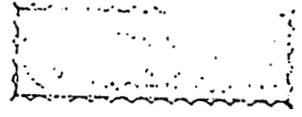
STATE OF CALIFORNIA)
COUNTY OF Orange)

On this 11th day of May, 1992, before me appeared Randy J. Sowell, to me personally known, who being by me duly sworn, did say that he is the Vice President of BIRTCHEER REALTY ADVISORS, a corporation of the State of California, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said Randy J. Sowell acknowledged said instrument to be the free act and deed of said corporation as agent for CONSTRUCTION PENSION REALTY CORPORATION, a District of Columbia business corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

[Signature]
Notary Public

My commission expires
September 29, 1995



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RECORDED
INDEXED

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OFFICE OF COUNTY RECORDER
HENNEPIN COUNTY, MINNESOTA

CERTIFIED FILED AND OR
RECORDED ON

92 MAY 14 AM 11:10

AS DOCUMENT # 5912291

R. Don... CO. RECORDER

A. Millard DEPUTY

REC FEE 15-

COPY FEE 1-

BY 312



TRANSFER ENTERED
DEPT. OF PROPERTY TAX & RECORDS

MAR 31 1992

5894707

HENNEPIN COUNTY CLERK
[Signature]

City of Edina

RESOLUTION VACATING EASEMENT
FOR DRAINAGE AND UTILITY PURPOSES
IN THE CITY OF EDINA, HENNEPIN COUNTY, MINNESOTA

WHEREAS, a resolution of the City Council, adopted the 18th day of February, 1992, fixed a date for a public hearing on a proposed vacation of easement for drainage and utility purposes; and

WHEREAS, two weeks published and posted notice of said hearing was given and the hearing was held on the 16th day of March, 1992, at which time all persons desiring to be heard were given an opportunity to be heard thereon; and

WHEREAS, the Council deems it to be in the best interest of the City and of the public that said easement vacation be made; and

WHEREAS, the Council has considered the extent to which the vacation affects existing easements within the area of the vacation and the extent to which the vacation affects the authority of any person, corporation, or municipality owning or controlling electric, telephone or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under the area of the proposed vacation, to continue maintaining the same, or to enter upon such easement area or portion thereof vacated to maintain, repair, replace, remove, or otherwise attend thereto;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina, Hennepin County, Minnesota that the following described portion of the drainage and utility easement be and is hereby vacated effective as of March 16, 1992:

The dedicated drainage and utility easement in and to that part of the west three hundred sixty-five (365) feet of the south two (2) feet of the north 35 feet of Lot 1, Block 2, INTERLACHEN HILLS 3RD ADDITION, according to the plat thereof of record in Hennepin County, Minnesota, which lies above the surface of a plane at an elevation of 889.7 feet, National Geodetic Vertical Datum of 1929.

The City Clerk is authorized and directed to cause a notice of completion of proceedings to be prepared, entered in the transfer record of the County Auditor, and filed with the County Recorder, in accordance with Minnesota statutes, Section 412.851.

City Hall
480 WEST SOUTH STREET
EDINA, MINNESOTA 55424-1194

(612) 927-8861
FAX 612-927-7611
TDD 612-927-6461



City of Edina

**NOTICE OF COMPLETION OF PROCEEDINGS
ON VACATION OF EASEMENT FOR DRAINAGE AND UTILITY PURPOSES
IN THE CITY OF EDINA, HENNEPIN COUNTY, MINNESOTA**

NOTICE IS HEREBY GIVEN that the City Council of Edina, Hennepin County, Minnesota, on March 16, 1992, adopted a Resolution Vacating Easement for Drainage and Utility Purposes, after public hearing and notice thereof as required by law and after determining it to be in the best interest of the City and of the public that said easement vacation be made, which resolution ordered the vacation of the following described easement for drainage and utility purposes all as platted and of record in the office of the County Recorder in and for Hennepin County, Minnesota:

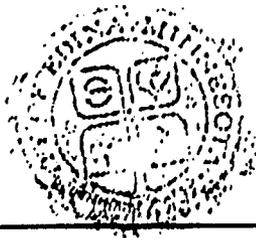
The dedicated drainage and utility easement in and to that part of the west three hundred sixty-five (365) feet of the south two (2) feet of the north 35 feet of Lot 1, Block 2, INTERLACHEN HILLS 3RD ADDITION, according to the plat thereof of record in Hennepin County, Minnesota, which lies above the surface of a plane at an elevation of 889.7 feet, National Geodetic Vertical Datum of 1929.

The time of completion of proceedings and the effective date of said vacation is March 17, 1992.

BY ORDER OF THE CITY COUNCIL,
CITY OF EDINA.

Marcella M. Daehn

Marcella M. Daehn
City Clerk



City Hall
4801 WEST 50TH STREET
EDINA, MINNESOTA 55424-1194

(612) 927-8861
FAX (612) 927-7661
TDD (612) 927-5361

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) SS
CITY OF EDINA)

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Resolution is a true and correct copy of the Resolution duly adopted by the Edina City Council at its Regular Meeting of March 16, 1992, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this 23rd day of March, 1992.

Marcella M. Daehn

Marcella M. Daehn
City Clerk



91
3

5894707

APR 21 1992 11:51 AM

OFFICE OF COUNTY RECORDER
HENNEPIN COUNTY, MINNESOTA

CERTIFIED FILED AND OR
FILED SECTION

92 APR -1 PH 12:51

AS DCOR # 5894707

R. Paulson CO. RECORDER

R. Paulson DEPUTY

AX 312



City of Edina

March 24, 1992

Mr. Norman P. Bjornnes, Jr.
Lincoln Drive Partners
401 Groveland Avenue
Minneapolis, MN 55403

Re: Resolution Vacating Easement for Drainage and Utility Purposes
Resolution Vacating Easements for Public Park Lands, Public Open
Open Space and Storm Water Pond and Holding Area
Agreement - Use of Utility Easement
INTERLACHEN HILLS 3RD ADDITION - The Lincoln Apartments

Dear Mr. Bjornnes:

Enclosed are two certified copies of the resolutions adopted by the Edina City Council on March 16, 1992 and two certified copies of the Notice of Completion with regard to the above referenced easement vacations.

Also enclosed is a signed copy of the Agreement - Use of Utility Easement for the ventilator shaft constructed on the easement area.

It is my understanding that you will have the documents entered into the transfer record of the County Auditor and filed with the County Recorder. Please provide my office with the recording data when this has been accomplished.

Very truly yours,

Marcella M. Daehn
City Clerk

(9) enclosures

cc: Jerry Gilligan
Dorsey & Whitney
w/enclosures

3/4/92 Original signed document
filed in Engineering Dept.
M.D.

AGREEMENT

(Use of Utility Easement)

THIS AGREEMENT made and entered into this 24th day of March, 1992, by and between CITY OF EDINA, a Minnesota municipal corporation ("City"), and LINCOLN DRIVE PARTNERS, a Minnesota limited partnership ("Partnership").

WITNESSETH, THAT:

WHEREAS, Partnership is the owner of the property situated in Edina, Hennepin County, Minnesota, described on Exhibit A attached hereto ("Subject Property"); and

WHEREAS, the North 35 feet of the Subject Property ("Easement Area") is subject to a dedicated drainage and utility easement now of record in favor of the City ("Easements"); and

WHEREAS, Partnership has constructed a ventilator shaft ("Ventilator Shaft") under, on and over the Easement Area, and a sketch showing the approximate location of the Ventilator Shaft is attached as Exhibit B hereto; and

WHEREAS, the Ventilator Shaft was located under, on and over the Easement Area without the prior consent of the City and such use of the Easement Area is not allowed without the City's consent; and

WHEREAS, the Partnership has requested agreement of the City to allow the Ventilator Shaft remain under, upon and over the Easement Area; and

WHEREAS, the City is willing to allow the Partnership to so use the Easement Area on the terms and conditions hereinafter set out.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set out, and, as to the Partnership, in consideration of the rights in the Easement Area granted to it by the City, the parties hereto do hereby agree as follows:

1. The City hereby grants to the Partnership the right to maintain and use the Ventilator Shaft under, upon and over the Easement Area as presently situated.

2. The rights hereby granted to the Partnership are, and always shall be, subject to all rights of the City to occupy, use, maintain, construct, reconstruct, repair, and replace any and all of its pipes, lines, utilities, and other facilities now or hereafter on, over, or under the Easement Area ("City Facilities"). The City shall have full access at all times on and over the Easement Area with such personnel and equipment as it deems necessary for the doing of any work it deems necessary to construct, reconstruct, maintain, repair, and replace any or all of the City Facilities ("City Work").

3. The Partnership shall not make any alterations or additions to the Ventilator Shaft which in any fashion increases the size thereof.

4. The Partnership shall use all due care in doing any repair or alteration of the Ventilator Shaft ("Partnership Work") to prevent damage to any of the City Facilities and to prevent interruption of service provided by the City Facilities. The Partnership agrees to report immediately to the City any damage to or interruption of service provided by any of the City Facilities.

5. Any entry by the City upon the Easement Area for the doing of the City Work shall be done in such a manner as to do as little damage as possible to the Ventilator Shaft; however, it is specifically understood and agreed that the City shall not be liable for, and the Partnership hereby waives any claim for, damage or injury to any portion or all of the Ventilator Shaft, and for damages due to loss of business or interruption of business, resulting from or caused by the City Work, and whether or not caused by the negligence of the City, or any of its contractors, subcontractors, employees, agents, or representatives, in doing the City Work. It is also understood and agreed that the City may, if it deems necessary, remove or destroy any or all of the Ventilator Shaft in connection with the doing of any of the City Work, all without liability or obligation to the Partnership, or to any other person having or claiming an interest in all or any of the Ventilator Shaft, for damage to or destruction of any or all of the Ventilator Shaft, or for loss of business or interruption of business caused by such removal, damage, or destruction. The City agrees that so long as the Partnership fully complies with the provisions of this Agreement, the Partnership may repair, replace or rebuild the Ventilator Shaft upon any removal, damage or destruction of the Ventilator Shaft. No such work shall cause the Ventilator Shaft to change its present location or increase from the present size thereof. The Partnership agrees that the repair, replacement or rebuilding of any of the Ventilator Shaft that may be damaged, destroyed, or removed by the City in connection with the City Work shall be done at the sole cost and expense of the Partnership and without cost or expense of any kind to the City.

6. The Partnership agrees that it will indemnify and hold harmless the City from and against any and all loss, cost, damage, and expense, including reasonable attorneys' fees, resulting from or claimed to result from any of the Partnership Work or the location, existence, or use of any of the Ventilator Shaft, including, without limitation, all costs and expenses incurred (i) in repairing any of the City Facilities damaged by the Partnership Work; (ii) as extra cost in doing any of the City Work because of the Ventilator Shaft being located upon or adjacent to the Easement Area, including the cost of removal or destruction of any such Ventilator Shaft, and such cost as the City may incur in attempting to protect any of the Ventilator Shaft from damage in connection with the doing of any of the City Work, (iii) in making any extraordinary excavations or using extraordinary construction methods in attempting to protect the Ventilator Shaft, or (iv) in any relocation of any of the City Facilities if the City determines that any such City Facilities are required to be relocated as a result of the Ventilator Shaft being located upon or adjacent to the Easement Area. If the City determines that any of the City Facilities are required to be relocated as a result of the Ventilator Shaft being located upon or adjacent to the Easement Area, it will give written notice of such determination to the Partnership and the Partnership shall have (90) days after receipt of such written notice to relocate the Ventilator Shaft so that it is no longer under, over or on the Easement Area. If such Ventilator Shaft is not relocated by the end of such ninety (90) day period, the City may then commence the City Work to relocate the City Facilities. The Partnership further agrees to pay any costs and expenses required to

be paid by the Partnership to the City under this Agreement within ten (10) days after receipt of a statement from the City setting forth such costs and expenses, and if not paid within said 10-day period, the amount of such statement shall bear interest at ten (10%) percent per annum from the end of said 10-day period until paid, and the Partnership also agrees to pay all costs of collection, including reasonable attorneys' fees, whether suit be brought or not, and interest at the highest rate then allowed by law, or, if no maximum rate is applicable, then at the rate of twelve (12%) percent per annum on all such costs from the date incurred until paid.

7. If any term, condition, or provision of this Agreement, or the application thereof to any person or circumstance, shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, provision, and condition to persons or circumstances other than those at to whom it shall be held invalid or unenforceable shall not be affected thereby, and this agreement, and all the terms, provisions, and conditions hereof, shall, in all other respects, continue to be effective and to be complied with to the full extent permitted by law.

8. All notices, reports, or demands required or permitted to be given under this Agreement shall be in writing and shall be deemed to be given when delivered personally to any officer of the party to which notice is being given, or when deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the parties at the following addresses:

To City: 4801 West 50th Street
Edina, Minnesota 55424
Attention: City Manager

To Partnership: 401 Groveland Avenue
Minneapolis, Minnesota 55403
Attention: Norman P. Bjornnes, Jr.

Such addresses may be changed by either party upon notice to the other party given as herein provided.

9. In the event that the Partnership fails or refuses to fully comply with all of its obligations under this Agreement, and such failure or refusal continues for a period of thirty (30) days from and after notice thereof is given to the Partnership, then in that event, in addition to any other remedies then available to the City at law or in equity, the City may revoke the rights hereby granted for the use of the Easement Area, and upon such revocation, the Partnership agrees to immediately remove all of the Ventilator Shaft from the Easement Area and to restore the Easement Area to the condition it was in immediately prior to the construction of the Ventilator Shaft.

10. The terms and provisions hereof shall be binding upon the parties hereto, and their respective successors and assigns, and shall run with the title to the Subject Property and Easement Area, and be binding upon all present and future owners of the Subject Property and all present and future holders of the rights of the City under the Easements and this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed the day and year first above written.

CITY OF EDINA, MINNESOTA

By Felipe S. Nishida
Its Mayor

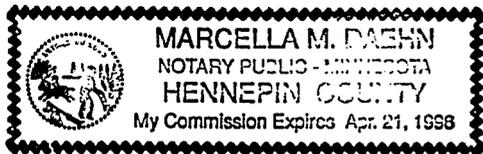
And K. E. Roskelley
Its Manager

LINCOLN DRIVE PARTNERS

By Thomas P. Byrnes Jr.
Its General Partner

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

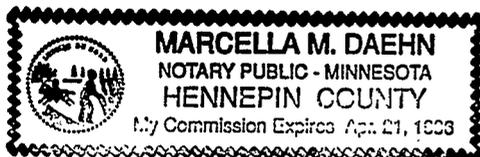
The foregoing instrument was acknowledged before me this 24th day of March, 1992, by Frederick S. Richards and Kenneth E. Rosland, the Mayor and Manager respectively, of the City of Edina, Minnesota, a municipal corporation, on behalf of the corporation.



Marcella M. Daehn
Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 24th day of March, 1992, by Norman P. Bjornnes, Jr., the general partner, of Lincoln Drive Partners, a Minnesota limited partnership, on behalf of the partnership.



Marcella M. Daehn
Notary Public

THIS INSTRUMENT IS EXEMPT FROM STATE DEED TAX.

Drafted by:
DORSEY & WHITNEY
2200 First Bank Place East
Minneapolis, Minnesota 55402

EXHIBIT A

All of Lot 1, Block 2, INTERLACHEN HILLS 3RD ADDITION, according to the recorded plat thereof, being described by metes and bounds as follows:

Beginning at the southwest corner of said Lot 1; thence along the west line thereof North 0 degrees 02 minutes 00 seconds East, assumed basis of bearings, a measured distance of 263.67 feet (263.75 feet record) to the northwest corner of said Lot; thence along the north line thereof South 89 degrees 57 minutes 08 seconds East 418.32 feet measured (South 89 degrees 58 minutes 00 seconds East 418.68 feet, record) to the northeast corner of said Lot; thence along the easterly line of said Lot, and along a nontangential curve, concave easterly and having a radius of 323.28 feet, measured and record, a measured central angle of 48 degrees 23 minutes 30 seconds (48 degrees 24 minutes 18 seconds record) and a measured chord of 265.00 feet bearing South 05 degrees 41 minutes 15 seconds East, a measured arc distance of 273.04 feet (273.11 feet record) to the southeast corner of said Lot 1; thence along the south line thereof North 89 degrees 57 minutes 08 seconds West 444.73 feet, measured (North 89 degrees 58 minutes 00 seconds West 445.02 feet, record) to the southwest corner of said Lot 1 and the point of beginning;

Together with that part of Lot 2, Block 2, INTERLACHEN HILLS 3RD ADDITION, according to the recorded plat thereof, described as follows:

Beginning at the northwest corner of said Lot 2; thence South 0 degrees 02 minutes 00 seconds West, assumed basis of bearings, along the west line of said Lot 2, a distance of 207.17 feet, measured and record; thence South 89 degrees 58 minutes 00 seconds East 355.00 feet, measured and record; thence North 41 degrees 33 minutes 57 seconds East 199.07 feet, measured (North 41 degrees 34 minutes 58 seconds East 199.34 feet, record) to a point in the easterly line of said Lot 2, distant thereon 13.61 feet southeasterly from a point of curve in said easterly line; thence North 40 degrees 13 minutes 01 second West, measured (North 40 degrees 11 minutes 31 seconds West, record) along the easterly line of said Lot 2 a distance of 13.61 feet, measured and record, to the aforementioned point of curve; thence northwesterly a measured distance of 58.31 feet (58.23 feet record) along said easterly line, being a tangential curve, concave to the east, having a radius of 323.28 feet, measured and record, and a measured central angle of 10 degrees 20 minutes 01 second (10 degrees 19 minutes 13 seconds record) to the northeast corner of said Lot 2; thence North 89 degrees 57 minutes 03 seconds West 444.73 feet, measured (North 89 degrees 58 minutes 00 seconds West 445.02 feet, record) along the north line of said Lot 2 to the point of beginning.

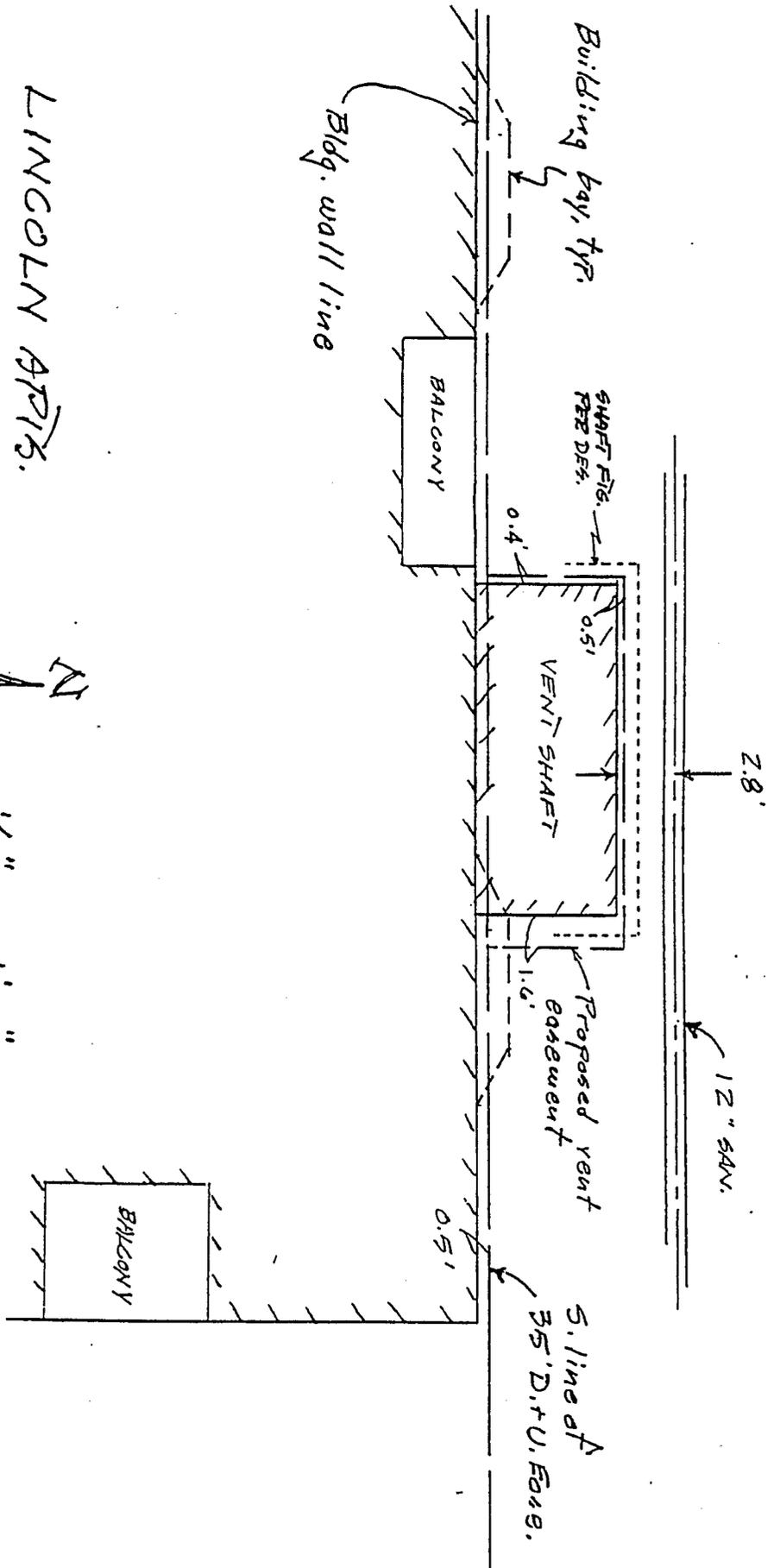
(Hennepin County, MN)

EXHIBIT B

LINCOLN APPTS.
Sketch of vent shaft etc.
at NE cor. of Bldg. 1
2-12-92 JVC



1/8" = 1'0"



(Official Publication)
CITY OF EDINA
4801 W. 50TH STREET
EDINA, MINNESOTA 55424

NOTICE OF PUBLIC HEARING
ON VACATION OF DRAINAGE AND UTILITY EASEMENT, AND EASEMENTS
FOR PUBLIC PARK LANDS, PUBLIC OPEN SPACE AND
STORM WATER POND AND HOLDING AREA
IN THE CITY OF EDINA
HENNEPIN COUNTY, MINNESOTA

NOTICE IS HEREBY GIVEN that the City Council of the City of Edina, Hennepin County, Minnesota, will meet at the Edina City Hall, 4801 West 50th Street on March 16, 1992 at 7:00 P.M., for the purpose of holding a public hearing on the proposed vacation of the following easement for drainage and utility purposes:

The dedicated drainage and utility easement in and to that part of the west three hundred sixty-five (365) feet of the south two (2) feet of the north 35 feet of Lot 1, Block 2, INTERLACHEN HILLS 3RD ADDITION, according to the plat thereof of record in Hennepin County, Minnesota, which lies above the surface of a plane at an elevation of 889.7 feet, National Geodetic Vertical Datum of 1929.

Also on the proposed vacation of the following easements for public park lands, public open space and storm water pond and holding area purposes:

The dedicated easements for public park lands, public open space and storm water pond and holding area in and to the easterly twenty (20) feet of Outlot A, INTERLACHEN HILLS 3RD ADDITION according to the recorded plat thereof, which lies east of the northerly extension of the west lines of Lots 29 through 35, Block 1 in said INTERLACHEN HILLS 3RD ADDITION, but reserving the easement for utility and drainage purposes in and to such premises granted by the Easement for Public Utilities Purposes, by and between Wallace B. Kenneth and Jean M. Kenneth and the City of Edina, Minnesota, dated May 14, 1984, and recorded as Document No. 4894325 in the office of the County Recorder in and for Hennepin County, Minnesota.

All persons who desire to be heard with respect to the question of whether or not the above proposed easement vacations are in the public interest and should be made shall be heard at said time and place. The Council shall consider the extent to which such proposed easement vacations affect existing easements within the area of the proposed vacations and the extent to which the vacations affect the authority of any person, corporation, or municipality owning or controlling electric, telephone, or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under the area of the proposed vacations to continue maintaining the same or to enter upon such easement areas or portion thereof vacated to maintain, repair, replace, remove or otherwise attend thereto, for the purpose of specifying, in

Notice of Public Hearing
Page 2

any such vacation resolutions, the extent to which any or all of any such easements, and such authority to maintain, and to enter upon the area of the proposed vacations, shall continue.

BY ORDER OF THE EDINA CITY COUNCIL
Marcella M. Daehn
City Clerk

Publish in the Edina Sun-Current on February 26 and March 4, 1992.
Send two Affidavits of Publication.



City of Edina

**NOTICE OF COMPLETION OF PROCEEDINGS
ON VACATION OF EASEMENT FOR DRAINAGE AND UTILITY PURPOSES
IN THE CITY OF EDINA, HENNEPIN COUNTY, MINNESOTA**

NOTICE IS HEREBY GIVEN that the City Council of Edina, Hennepin County, Minnesota, on March 16, 1992, adopted a Resolution Vacating Easement for Drainage and Utility Purposes, after public hearing and notice thereof as required by law and after determining it to be in the best interest of the City and of the public that said easement vacation be made, which resolution ordered the vacation of the following described easement for drainage and utility purposes all as platted and of record in the office of the County Recorder in and for Hennepin County, Minnesota:

The dedicated drainage and utility easement in and to that part of the west three hundred sixty-five (365) feet of the south two (2) feet of the north 35 feet of Lot 1, Block 2, INTERLACHEN HILLS 3RD ADDITION, according to the plat thereof of record in Hennepin County, Minnesota, which lies above the surface of a plane at an elevation of 889.7 feet, National Geodetic Vertical Datum of 1929.

The time of completion of proceedings and the effective date of said vacation is March 17, 1992.

BY ORDER OF THE CITY COUNCIL,
CITY OF EDINA.

Marcella M. Daehn

Marcella M. Daehn
City Clerk



City of Edina

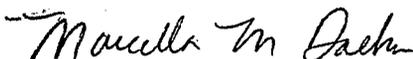
**NOTICE OF COMPLETION OF PROCEEDINGS
ON VACATION OF EASEMENTS FOR PUBLIC PARK LANDS,
PUBLIC OPEN SPACE AND STORM WATER POND AND HOLDING AREA PURPOSES
IN THE CITY OF EDINA, HENNEPIN COUNTY, MINNESOTA**

NOTICE IS HEREBY GIVEN that the City Council of Edina, Hennepin County, Minnesota, on March 16, 1992, adopted a Resolution Vacating Easements for Public Park Lands, Public Open Space and Storm Water Pond and Holding Area Purposes, after public hearing and notice thereof as required by law and after determining it to be in the best interest of the City and of the public that said easements vacation be made, which resolution ordered the vacation of the following described easements for public park lands, public open space and storm water pond and holding area purposes all as platted and of record in the office of the County Recorder in and for Hennepin County, Minnesota:

The dedicated easements for public park lands, public open space and storm water pond and holding area in and to the easterly twenty (20) feet of Outlot A, INTERLACHEN HILLS 3RD ADDITION according to the recorded plat thereof, which lies east of the northerly extension of the west lines of Lots 29 through 35, Block 1, in said INTERLACHEN HILLS 3RD ADDITION, but reserving the easement for utility and drainage purposes in and to such premises granted by the Easement for Public Utilities Purposes, by and between Wallace B. Kenneth and Jean M. Kenneth and the City of Edina, Minnesota, dated May 14, 1984, and recorded as Document No. 4894325 in the office of the County Recorder in and for Hennepin County, Minnesota.

The time of completion of proceedings and the effective date of said vacation is March 17, 1992.

BY ORDER OF THE CITY COUNCIL,
CITY OF EDINA.



Marcella M. Daehn
City Clerk



RESOLUTION VACATING EASEMENT
FOR DRAINAGE AND UTILITY PURPOSES
IN THE CITY OF EDINA, HENNEPIN COUNTY, MINNESOTA

WHEREAS, a resolution of the City Council, adopted the 18th day of February, 1992, fixed a date for a public hearing on a proposed vacation of easement for drainage and utility purposes; and

WHEREAS, two weeks published and posted notice of said hearing was given and the hearing was held on the 16th day of March, 1992, at which time all persons desiring to be heard were given an opportunity to be heard thereon; and

WHEREAS, the Council deems it to be in the best interest of the City and of the public that said easement vacation be made; and

WHEREAS, the Council has considered the extent to which the vacation affects existing easements within the area of the vacation and the extent to which the vacation affects the authority of any person, corporation, or municipality owning or controlling electric, telephone or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under the area of the proposed vacation, to continue maintaining the same, or to enter upon such easement area or portion thereof vacated to maintain, repair, replace, remove, or otherwise attend thereto;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina, Hennepin County, Minnesota that the following described portion of the drainage and utility easement be and is hereby vacated effective as of March 16, 1992:

The dedicated drainage and utility easement in and to that part of the west three hundred sixty-five (365) feet of the south two (2) feet of the north 35 feet of Lot 1, Block 2, INTERLACHEN HILLS 3RD ADDITION, according to the plat thereof of record in Hennepin County, Minnesota, which lies above the surface of a plane at an elevation of 889.7 feet, National Geodetic Vertical Datum of 1929.

The City Clerk is authorized and directed to cause a notice of completion of proceedings to be prepared, entered in the transfer record of the County Auditor, and filed with the County Recorder, in accordance with Minnesota Statutes, Section 412.851.

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) SS
CITY OF EDINA)

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Resolution is a true and correct copy of the Resolution duly adopted by the Edina City Council at its Regular Meeting of March 16, 1992, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this 23rd day of March, 1992.

Marcella M Daehn

Marcella M. Daehn
City Clerk



RESOLUTION VACATING EASEMENTS FOR PUBLIC PARK LANDS,
PUBLIC OPEN SPACE AND STORM WATER POND AND HOLDING AREA
IN THE CITY OF EDINA, HENNEPIN COUNTY, MINNESOTA

WHEREAS, a resolution of the City Council, adopted the 18th day of February, 1992, fixed a date for a public hearing on a proposed vacation of easements for public park lands, public open space and storm water pond and holding area purposes; and

WHEREAS, two weeks published and posted notice of said hearing was given and the hearing was held on the 16th day of March, 1992, at which time all persons desiring to be heard were given an opportunity to be heard thereon; and
WHEREAS, the Council deems it to be in the best interest of the City and of the public that said easements vacation be made; and

WHEREAS, the Council has considered the extent to which the vacation affects existing easements within the area of the vacation and the extent to which the vacation affects the authority of any person, corporation, or municipality owning or controlling electric, telephone or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under the area of the proposed vacation, to continue maintaining the same, or to enter upon such easement area or portion thereof vacated to maintain, repair, replace, remove, or otherwise attend thereto;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina, Hennepin County, Minnesota that the following described easements for public park lands, public open space and storm water pond and holding area be and are hereby vacated effective as of March 16, 1992:

The dedicated easements for public park lands, public open space and storm water pond and holding area in and to the easterly twenty (20) feet of Outlot A, INTERLACHEN HILLS 3RD ADDITION according to the recorded plat thereof, which lies east of the northerly extension of the west lines of Lots 29 through 35, Block 1, in said INTERLACHEN HILLS 3RD ADDITION, but reserving the easement for utility and drainage purposes in and to such premises granted by the Easement for Public Utilities Purposes, by and between Wallace B. Kenneth and Jean M. Kenneth and the City of Edina, Minnesota, dated May 14, 1984, and recorded as Document No. 4894325 in the office of the County Recorder in and for Hennepin County, Minnesota.

The City Clerk is authorized and directed to cause a notice of completion of proceedings to be prepared, entered in the transfer record of the County Auditor, and filed with the County Recorder, in accordance with Minnesota Statutes, Section 412.851.

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) SS
CITY OF EDINA)

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Resolution is a true and correct copy of the Resolution duly adopted by the Edina City Council at its Regular Meeting of March 16, 1992, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this 23rd day of March, 1992.

Marcella M. Daehn

Marcella M. Daehn
City Clerk



City of Edina

**NOTICE OF COMPLETION OF PROCEEDINGS
ON VACATION OF EASEMENTS FOR PUBLIC PARK LANDS,
PUBLIC OPEN SPACE AND STORM WATER POND AND HOLDING AREA PURPOSES
IN THE CITY OF EDINA, HENNEPIN COUNTY, MINNESOTA**

NOTICE IS HEREBY GIVEN that the City Council of Edina, Hennepin County, Minnesota, on March 16, 1992, adopted a Resolution Vacating Easements for Public Park Lands, Public Open Space and Storm Water Pond and Holding Area Purposes, after public hearing and notice thereof as required by law and after determining it to be in the best interest of the City and of the public that said easements vacation be made, which resolution ordered the vacation of the following described easements for public park lands, public open space and storm water pond and holding area purposes all as platted and of record in the office of the County Recorder in and for Hennepin County, Minnesota:

The dedicated easements for public park lands, public open space and storm water pond and holding area in and to the easterly twenty (20) feet of Outlot A, INTERLACHEN HILLS 3RD ADDITION according to the recorded plat thereof, which lies east of the northerly extension of the west lines of Lots 29 through 35, Block 1, in said INTERLACHEN HILLS 3RD ADDITION, but reserving the easement for utility and drainage purposes in and to such premises granted by the Easement for Public Utilities Purposes, by and between Wallace B. Kenneth and Jean M. Kenneth and the City of Edina, Minnesota, dated May 14, 1984, and recorded as Document No. 4894325 in the office of the County Recorder in and for Hennepin County, Minnesota.

The time of completion of proceedings and the effective date of said vacation is March 17, 1992.

BY ORDER OF THE CITY COUNCIL,
CITY OF EDINA.

Marcella M. Daehn
City Clerk



City of Edina

**NOTICE OF COMPLETION OF PROCEEDINGS
ON VACATION OF EASEMENT FOR DRAINAGE AND UTILITY PURPOSES
IN THE CITY OF EDINA, HENNEPIN COUNTY, MINNESOTA**

NOTICE IS HEREBY GIVEN that the City Council of Edina, Hennepin County, Minnesota, on March 16, 1992, adopted a Resolution Vacating Easement for Drainage and Utility Purposes, after public hearing and notice thereof as required by law and after determining it to be in the best interest of the City and of the public that said easement vacation be made, which resolution ordered the vacation of the following described easement for drainage and utility purposes all as platted and of record in the office of the County Recorder in and for Hennepin County, Minnesota:

The dedicated drainage and utility easement in and to that part of the west three hundred sixty-five (365) feet of the south two (2) feet of the north 35 feet of Lot 1, Block 2, INTERLACHEN HILLS 3RD ADDITION, according to the plat thereof of record in Hennepin County, Minnesota, which lies above the surface of a plane at an elevation of 889.7 feet, National Geodetic Vertical Datum of 1929.

The time of completion of proceedings and the effective date of said vacation is March 17, 1992.

BY ORDER OF THE CITY COUNCIL,
CITY OF EDINA.

Marcella M. Daehn

Marcella M. Daehn
City Clerk

**NOTICE OF COMPLETION OF PROCEEDINGS
ON VACATION OF EASEMENT FOR DRAINAGE AND UTILITY PURPOSES
IN THE CITY OF EDINA, HENNEPIN COUNTY, MINNESOTA**

NOTICE IS HEREBY GIVEN that the City Council of Edina, Hennepin County, Minnesota, on March 16, 1992, adopted a Resolution Vacating Easement for Drainage and Utility Purposes, after public hearing and notice thereof as required by law and after determining it to be in the best interest of the City and of the public that said easement vacation be made, which resolution ordered the vacation of the following described easement for drainage and utility purposes all as platted and of record in the office of the County Recorder in and for Hennepin County, Minnesota:

The dedicated drainage and utility easement in and to that part of the west three hundred sixty-five (365) feet of the south two (2) feet of the north 35 feet of Lot 1, Block 2, INTERLACHEN HILLS 3RD ADDITION, according to the plat thereof of record in Hennepin County, Minnesota, which lies above the surface of a plane at an elevation of 889.7 feet, National Geodetic Vertical Datum of 1929.

The time of completion of proceedings and the effective date of said vacation is March 17, 1992.

BY ORDER OF THE CITY COUNCIL,
CITY OF EDINA.

Marcella M. Daehn
City Clerk

**NOTICE OF COMPLETION OF PROCEEDINGS
ON VACATION OF EASEMENTS FOR PUBLIC PARK LANDS,
PUBLIC OPEN SPACE AND STORM WATER POND AND HOLDING AREA PURPOSES
IN THE CITY OF EDINA, HENNEPIN COUNTY, MINNESOTA**

NOTICE IS HEREBY GIVEN that the City Council of Edina, Hennepin County, Minnesota, on March 16, 1992, adopted a Resolution Vacating Easements for Public Park Lands, Public Open Space and Storm Water Pond and Holding Area Purposes, after public hearing and notice thereof as required by law and after determining it to be in the best interest of the City and of the public that said easements vacation be made, which resolution ordered the vacation of the following described easements for public park lands, public open space and storm water pond and holding area purposes all as platted and of record in the office of the County Recorder in and for Hennepin County, Minnesota:

The dedicated easements for public park lands, public open space and storm water pond and holding area in and to the easterly twenty (20) feet of Outlot A, INTERLACHEN HILLS 3RD ADDITION according to the recorded plat thereof, which lies east of the northerly extension of the west lines of Lots 29 through 35, Block 1, in said INTERLACHEN HILLS 3RD ADDITION, but reserving the easement for utility and drainage purposes in and to such premises granted by the Easement for Public Utilities Purposes, by and between Wallace B. Kenneth and Jean M. Kenneth and the City of Edina, Minnesota, dated May 14, 1984, and recorded as Document No. 4894325 in the office of the County Recorder in and for Hennepin County, Minnesota.

The time of completion of proceedings and the effective date of said vacation is March 17, 1992.

BY ORDER OF THE CITY COUNCIL,
CITY OF EDINA.

Marcella M. Daehn
City Clerk

RESOLUTION VACATING EASEMENTS FOR PUBLIC PARK LANDS,
PUBLIC OPEN SPACE AND STORM WATER POND AND HOLDING AREA
IN THE CITY OF EDINA, HENNEPIN COUNTY, MINNESOTA

WHEREAS, a resolution of the City Council, adopted the 18th day of February, 1992, fixed a date for a public hearing on a proposed vacation of easements for public park lands, public open space and storm water pond and holding area purposes; and

WHEREAS, two weeks published and posted notice of said hearing was given and the hearing was held on the 16th day of March, 1992, at which time all persons desiring to be heard were given an opportunity to be heard thereon; and
WHEREAS, the Council deems it to be in the best interest of the City and of the public that said easements vacation be made; and

WHEREAS, the Council has considered the extent to which the vacation affects existing easements within the area of the vacation and the extent to which the vacation affects the authority of any person, corporation, or municipality owning or controlling electric, telephone or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under the area of the proposed vacation, to continue maintaining the same, or to enter upon such easement area or portion thereof vacated to maintain, repair, replace, remove, or otherwise attend thereto;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina, Hennepin County, Minnesota that the following described easements for public park lands, public open space and storm water pond and holding area be and are hereby vacated effective as of March 16, 1992:

The dedicated easements for public park lands, public open space and storm water pond and holding area in and to the easterly twenty (20) feet of Outlot A, INTERLACHEN HILLS 3RD ADDITION according to the recorded plat thereof, which lies east of the northerly extension of the west lines of Lots 29 through 35, Block 1, in said INTERLACHEN HILLS 3RD ADDITION, but reserving the easement for utility and drainage purposes in and to such premises granted by the Easement for Public Utilities Purposes, by and between Wallace B. Kenneth and Jean M. Kenneth and the City of Edina, Minnesota, dated May 14, 1984, and recorded as Document No. 4894325 in the office of the County Recorder in and for Hennepin County, Minnesota.

The City Clerk is authorized and directed to cause a notice of completion of proceedings to be prepared, entered in the transfer record of the County Auditor, and filed with the County Recorder, in accordance with Minnesota Statutes, Section 412.851.

RESOLUTION VACATING EASEMENT
FOR DRAINAGE AND UTILITY PURPOSES
IN THE CITY OF EDINA, HENNEPIN COUNTY, MINNESOTA

WHEREAS, a resolution of the City Council, adopted the 18th day of February, 1992, fixed a date for a public hearing on a proposed vacation of easement for drainage and utility purposes; and

WHEREAS, two weeks published and posted notice of said hearing was given and the hearing was held on the 16th day of March, 1992, at which time all persons desiring to be heard were given an opportunity to be heard thereon; and

WHEREAS, the Council deems it to be in the best interest of the City and of the public that said easement vacation be made; and

WHEREAS, the Council has considered the extent to which the vacation affects existing easements within the area of the vacation and the extent to which the vacation affects the authority of any person, corporation, or municipality owning or controlling electric, telephone or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under the area of the proposed vacation, to continue maintaining the same, or to enter upon such easement area or portion thereof vacated to maintain, repair, replace, remove, or otherwise attend thereto;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina, Hennepin County, Minnesota that the following described portion of the drainage and utility easement be and is hereby vacated effective as of March 16, 1992:

The dedicated drainage and utility easement in and to that part of the west three hundred sixty-five (365) feet of the south two (2) feet of the north 35 feet of Lot 1, Block 2, INTERLACHEN HILLS 3RD ADDITION, according to the plat thereof of record in Hennepin County, Minnesota, which lies above the surface of a plane at an elevation of 889.7 feet, National Geodetic Vertical Datum of 1929.

The City Clerk is authorized and directed to cause a notice of completion of proceedings to be prepared, entered in the transfer record of the County Auditor, and filed with the County Recorder, in accordance with Minnesota Statutes, Section 412.851.



City of Edina, Minnesota
OFFICE OF THE CITY CLERK
 4801 West 50th Street • Edina, Minnesota 55424 • (612) 927-8861

*Notice of
 Completion*

 Vaclenco.

TRANSMITTAL

DATE: 03/29/92

TO: Jerry Gilligan
Dorsey and Whitney

FROM: Marcella Daehn

RE: Resolutions - Easement Vacations and Agreement
Council Minutes of 3/16/92

ITEM(S):	NO.	DESCRIPTION
	<u>1</u>	<u>Portion of draft minutes relating to above</u>

PURPOSE:

- | | | | |
|-------------------------------------|----------------------|--------------------------|---------------------|
| <input type="checkbox"/> | As you requested | <input type="checkbox"/> | Review and return |
| <input type="checkbox"/> | For your information | <input type="checkbox"/> | Reply to sender |
| <input checked="" type="checkbox"/> | For your approval | <input type="checkbox"/> | Other (see remarks) |

REMARKS: 5 pages including cover.
Please review and give me a call.

To _____
Date _____ Time _____ AM PM

WHILE YOU WERE OUT

M _____
of _____

Phone (_____) _____
Area Code Number Extension

TELEPHONED		PLEASE CALL	
CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	

RETURNED YOUR CALL

Message _____
_____ *Message on P. 1120* _____
_____ *Ally* _____
_____ *877-1300* _____

Operator *[Signature]*

D2-23000S



612 546-4371
612 546-5633 FAX

DORSEY & WHITNEY

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

350 PARK AVENUE
NEW YORK, NEW YORK 10022
(212) 415-9200

1330 CONNECTICUT AVENUE, N. W.
WASHINGTON, D. C. 20036
(202) 857-0700

3 GRACECHURCH STREET
LONDON EC3V 0AT, ENGLAND
44-71-929-3334

36, RUE TRONCHET
75009 PARIS, FRANCE
33-1-42-66-59-49

45, RUE DE TRÈVES
B-1040 BRUSSELS, BELGIUM
32-2-238-78-11

2200 FIRST BANK PLACE EAST
MINNEAPOLIS, MINNESOTA 55402-1498
(612) 340-2600

TELEX 29-0605
FAX (612) 340-2868

JEROME P. GILLIGAN
(612) 340-2962

201 FIRST AVENUE, S. W., SUITE 340
ROCHESTER, MINNESOTA 55902
(507) 288-3156

1200 FIRST INTERSTATE CENTER
BILLINGS, MONTANA 59103
(406) 252-3800

201 DAVIDSON BUILDING
GREAT FALLS, MONTANA 59401
(406) 727-3632

127 EAST FRONT STREET
MISSOULA, MONTANA 59802
(406) 721-6025

March 5, 1992

Mr. Norman Bjornnes, Jr.
Mulligan & Bjornnes
401 Groveland Avenue
Minneapolis, Minnesota 55403-3292

Re: The Lincoln Apartments

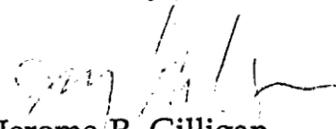
Dear Norm:

Enclosed is a draft of the Agreement relating to the location of the ventilation shaft on the City's easement. Assuming this Agreement is in a form satisfactory to the parties, it will be presented to the City Council for approval at its March 16th meeting when it takes up the vacation of easements.

This Agreement has not as yet been reviewed by Fran Hoffman who may have some additional provisions he would like to add.

Once you have reviewed this Agreement, please call me with your comments.

Yours truly,


Jerome P. Gilligan

JPG:cmn

Enclosure

cc: Fran Hoffman

AGREEMENT

(Use of Utility Easement)

THIS AGREEMENT made and entered into this ____ day of _____, 1992, by and between CITY OF EDINA, a Minnesota municipal corporation ("City"), and LINCOLN DRIVE PARTNERS, a Minnesota limited partnership ("Partnership").

WITNESSETH, THAT:

WHEREAS, Partnership is the owner of the property situated in Edina, Hennepin County, Minnesota, described on Exhibit A attached hereto ("Subject Property"); and

WHEREAS, the North 35 feet of the Subject Property ("Easement Area") is subject to a dedicated drainage and utility easement now of record in favor of the City ("Easements"); and

WHEREAS, Partnership has constructed a ventilator shaft ("Ventilator Shaft") under, on and over the Easement Area, and a sketch showing the approximate location of the Ventilator Shaft is attached as Exhibit B hereto; and

WHEREAS, the Ventilator Shaft was located under, on and over the Easement Area without the prior consent of the City and such use of the Easement Area is not allowed without the City's consent; and

WHEREAS, the Partnership has requested agreement of the City to allow the Ventilator Shaft remain under, upon and over the Easement Area; and

WHEREAS, the City is willing to allow the Partnership to so use the Easement Area on the terms and conditions hereinafter set out.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set out, and, as to the Partnership, in consideration of the rights in the Easement Area granted to it by the City, the parties hereto do hereby agree as follows:

1. The City hereby grants to the Partnership the right to maintain and use the Ventilator Shaft under, upon and over the Easement Area as presently situated.

2. The rights hereby granted to the Partnership are, and always shall be, subject to all rights of the City to occupy, use, maintain, construct, reconstruct, repair, and replace any and all of its pipes, lines, utilities, and other facilities now or hereafter on, over, or under the Easement Area ("City Facilities"). The City shall have full access at all times on and over the Easement Area with such personnel and equipment as it deems necessary for the doing of any work it deems necessary to construct, reconstruct, maintain, repair, and replace any or all of the City Facilities ("City Work").

3. The Partnership shall not make any alterations or additions to the Ventilator Shaft which in any fashion increases the size thereof.

4. The Partnership shall use all due care in doing any repair or alteration of the Ventilator Shaft ("Partnership Work") to prevent damage to any of the City Facilities and to prevent interruption of service provided by the City Facilities. The Partnership agrees to report immediately to the City any damage to or interruption of service provided by any of the City Facilities.

5. Any entry by the City upon the Easement Area for the doing of the City Work shall be done in such a manner as to do as little damage as possible to the Ventilator Shaft; however, it is specifically understood and agreed that the City shall not be liable for, and the Partnership hereby waives any claim for, damage or injury to any portion or all of the Ventilator Shaft, and for damages due to loss of business or interruption of business, resulting from or caused by the City Work, and whether or not caused by the negligence of the City, or any of its contractors, subcontractors, employees, agents, or representatives, in doing the City Work. It is also understood and agreed that the City may, if it deems necessary, remove or destroy any or all of the Ventilator Shaft in connection with the doing of any of the City Work, all without liability or obligation to the Partnership, or to any other person having or claiming an interest in all or any of the Ventilator Shaft, for damage to or destruction of any or all of the Ventilator Shaft, or for loss of business or interruption of business caused by such removal, damage, or destruction. The Partnership agrees that the repair or replacement of any of the Ventilator Shaft that may be damaged, destroyed, or removed by the City in connection with the City Work shall be done at the sole cost and expense of the Partnership and without cost or expense of any kind to the City.

6. The Partnership agrees that it will indemnify and hold harmless the City from and against any and all loss, cost, damage, and expense, including reasonable attorneys' fees, resulting from or claimed to result from any of the Partnership Work or the location, existence, or use of any of the Ventilator Shaft,

including, without limitation, all costs and expenses incurred (i) in repairing any of the City Facilities damaged by the Partnership Work; (ii) as extra cost in doing any of the City Work because of the Ventilator Shaft being located upon or adjacent to the Easement Area, including the cost of removal or destruction of any such Ventilator Shaft, and such cost as the City may incur in attempting to protect any of the Ventilator Shaft from damage in connection with the doing of any of the City Work, and (iii) in making any extraordinary excavations or using extraordinary construction methods in attempting to protect the Ventilator Shaft. The Partnership further agrees to pay such costs and expenses within ten (10) days after receipt of a statement from the City setting forth such extra cost, and if not paid within said 10-day period, the amount of such statement shall bear interest at ten (10%) percent per annum from the end of said 10-day period until paid, and the Partnership also agrees to pay all costs of collection, including reasonable attorneys' fees, whether suit be brought or not, and interest at the highest rate then allowed by law, or, if no maximum rate is applicable, then at the rate of twelve (12%) percent per annum on all such costs from the date incurred until paid.

7. If any term, condition, or provision of this agreement, or the application thereof to any person or circumstance, shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, provision, and condition to persons or circumstances other than those at to whom it shall be held invalid or unenforceable shall not be affected thereby, and this agreement, and all the terms, provisions, and conditions hereof, shall, in all other

respects, continue to be effective and to be complied with to the full extent permitted by law.

8. All notices, reports, or demands required or permitted to be given under this Agreement shall be in writing and shall be deemed to be given when delivered personally to any officer of the party to which notice is being given, or when deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the parties at the following addresses:

To City: 4801 West 50th Street
Edina, Minnesota 55424
Attention: City Manager

To Partnership: _____

Such addresses may be changed by either party upon notice to the other party given as herein provided.

9. In the event that the Partnership fails or refuses to fully comply with all of its obligations under this Agreement, and such failure or refusal continues for a period of thirty (30) days from and after notice thereof is given to the Partnership, then in that event, in addition to any other remedies then available to the City at law or in equity, the City may revoke the rights hereby granted for the use of the Easement Area, and upon such revocation, the Partnership agrees to immediately remove all of the Ventilator Shaft from the Easement Area and to restore the

Easement Area to the condition it was in immediately prior to the construction of the Ventilator Shaft.

10. The terms and provisions hereof shall be binding upon the parties hereto, and their respective successors and assigns, and shall run with the title to the Subject Property and Easement Area, and be binding upon all present and future owners of the Subject Property and all present and future holders of the rights of the City under the Easements and this agreement.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed the day and year first above written.

CITY OF EDINA, MINNESOTA

By _____
Its Mayor

And _____
Its Manager

LINCOLN DRIVE PARTNERS

By _____
Its _____

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 1992, by _____ and _____, the _____ and _____ respectively, of the City of Edina, Minnesota, a municipal corporation, on behalf of the corporation.

Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 1992, by _____, the general partner, of Lincoln Drive Partners, a Minnesota limited partnership, on behalf of the partnership.

Notary Public

THIS INSTRUMENT IS EXEMPT FROM STATE DEED TAX.

Drafted by:
DORSEY & WHITNEY
2200 First Bank Place East
Minneapolis, Minnesota 55402

CONSENT AND SUBORDINATION

The undersigned, being the holder of a _____ (the "Interest") on the Subject Property as defined in the Agreement to which this Consent and Subordination is attached, the document creating said Interest being dated _____, and recorded as Document No. _____, in the office of the _____, Hennepin County, Minnesota, does hereby agree and consent to all of the terms and conditions of the Agreement to which this Consent and Subordination is attached, and agrees to be bound by all of the obligations of, and subject to all of the remedies available against, an owner of the Subject Property in the event it becomes a record owner of the Subject Property (as defined in the Agreement).

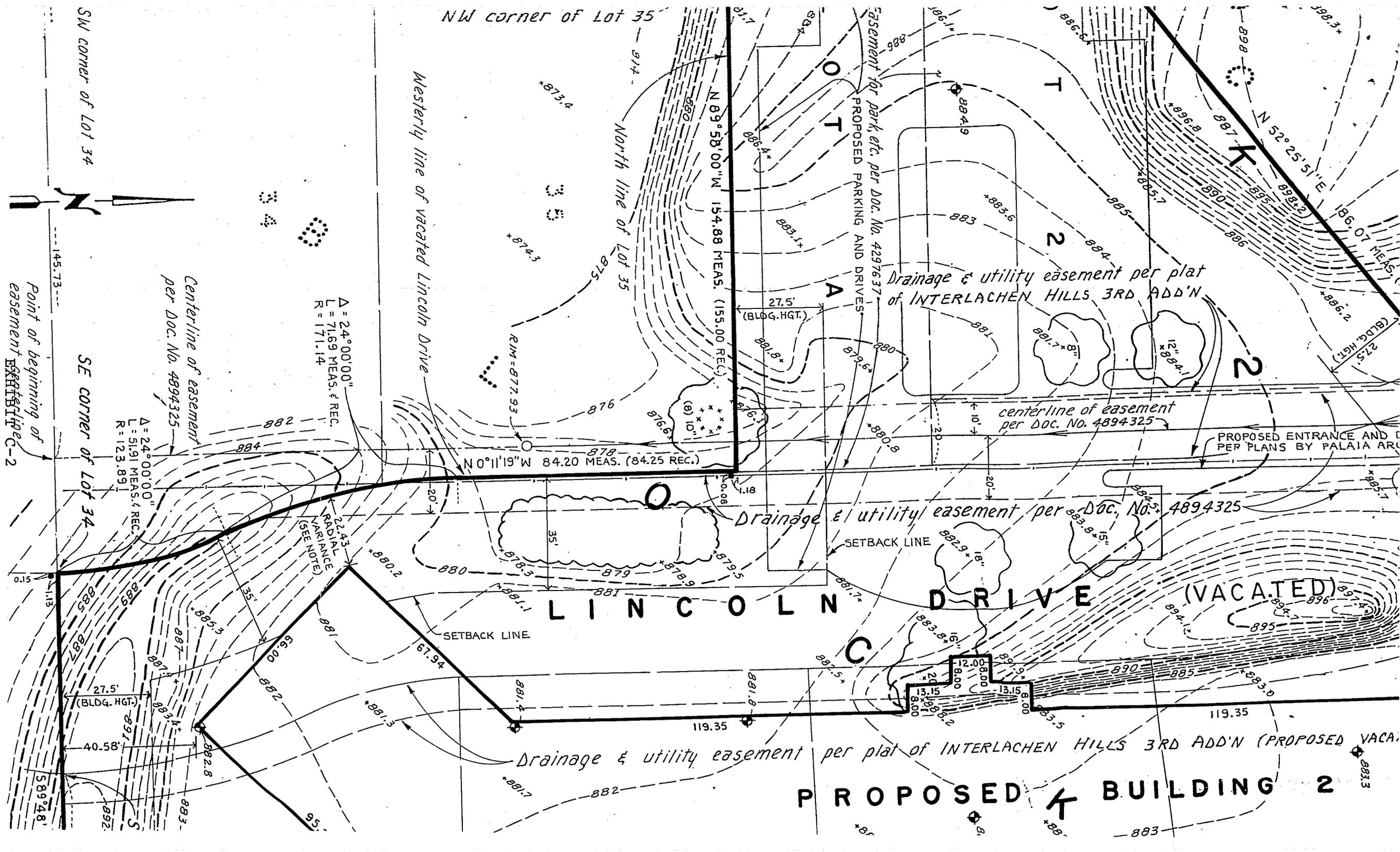
STATE OF)
) ss.
COUNTY OF)

The foregoing Consent and Subordination was acknowledged before me this _____ day of _____, 19____, by _____, the _____, and _____, the _____ of _____, a _____ corporation, on behalf of the corporation.

STATE OF)
) ss.
COUNTY OF)

The foregoing Consent and Subordination was acknowledged before me this _____ day of _____, 19____, by _____.

Exhibit
D



NW corner of Lot 35

SW corner of Lot 34

SE corner of Lot 34

Westerly line of vacated Lincoln Drive

North line of Lot 35

N 89° 58' 00" W 154.88 MEAS. (155.00 REC.)

N 0° 11' 19" W 84.20 MEAS. (84.25 REC.)

Drainage & utility easement per Doc. No. 4894325

Drainage & utility easement per plat of INTERLACHEN HILLS 3RD ADD'N

Drainage & utility easement per plat of INTERLACHEN HILLS 3RD ADD'N (PROPOSED VACA...)

PROPOSED BUILDING 2

LINCOLN DRIVE (VACATED)

Centerline of easement per Doc. No. 4894325

Δ = 24° 00' 00"
L = 71.69 MEAS. & REC.
R = 171.14

Δ = 24° 00' 00"
L = 51.91 MEAS. & REC.
R = 123.89

22.45' RADIAL VARIANCE (SEE NOTE)

27.5' (BLDG. HGT.)

27.5' (BLDG. HGT.)

RIM = 877.93

centerline of easement per Doc. No. 4894325

PROPOSED ENTRANCE AND PER PLANS BY PALAIA ARCH

SETBACK LINE

SETBACK LINE

12.00

8.00

8.00

13.15

8.00

13.15

8.00

8.00

119.35

119.35

119.35

119.35

119.35

40.58'

589.48'

892.8

893.4

893.7

893.9

894.1

894.3

894.5

894.7

894.9

895.1

895.3

895.5

895.7

895.9

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898.7

898.9

899.1

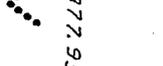
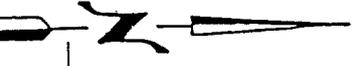
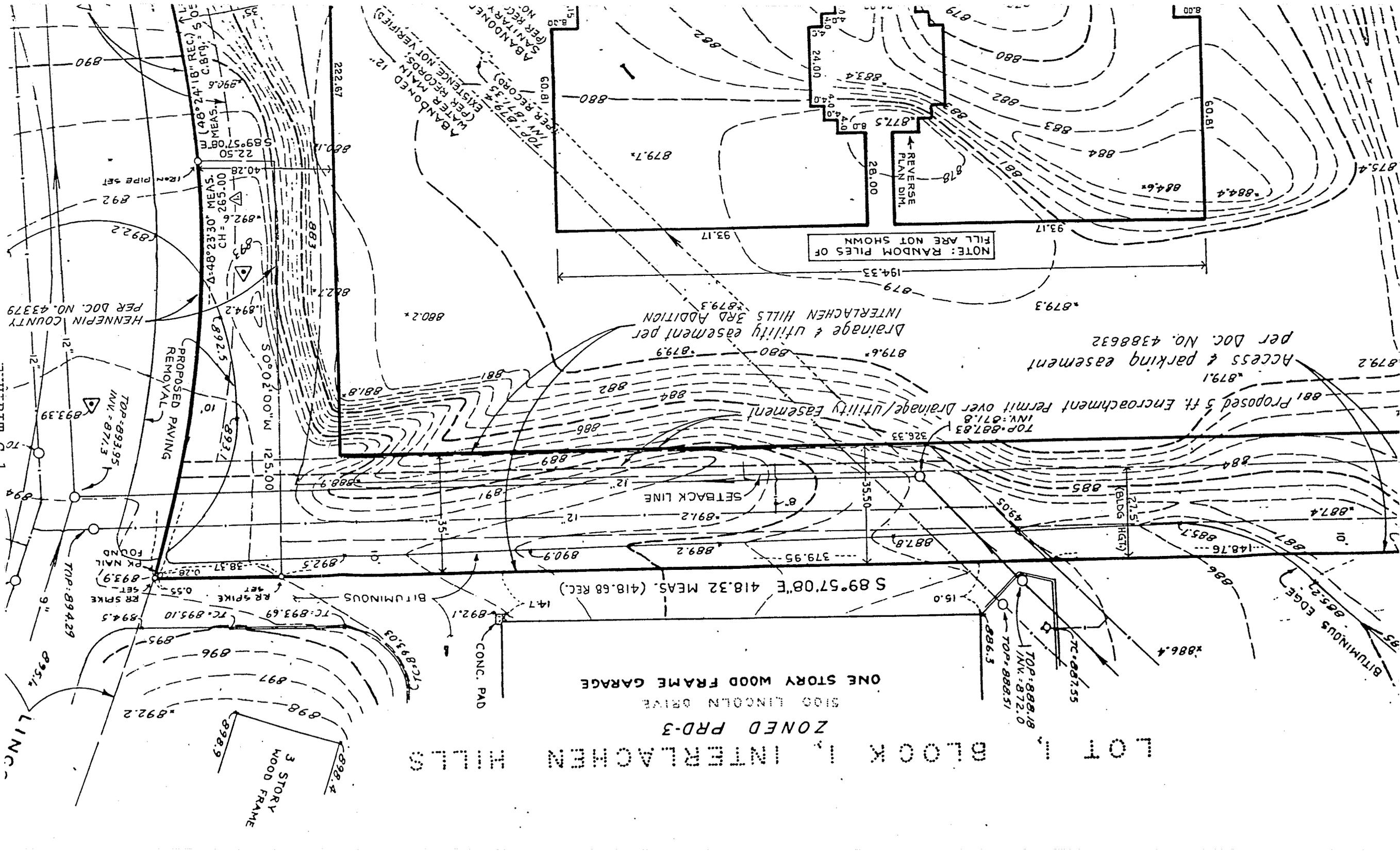


Exhibit A

LOT 1, BLOCK 1, INTERLACHEN HILLS
ZONED PRD-3
5100 LINCOLN DRIVE
ONE STORY WOOD FRAME GARAGE



Access & parking easement
per Doc. No. 4388632

NOTE: RANDOM PILES OF
FILL ARE NOT SHOWN

Drainage & utility easement per
INTERLACHEN HILLS 3RD ADDITION
*879.3

HENNEPIN COUNTY
PER DOC. NO. 43379

LINCOLN



NAMRON COMPANY

401 Groveland Avenue • Minneapolis, Minnesota 55403 • (612) 874-1102

MEMORANDUM

TO: FRAN HOFFMAN
FROM: NORM BJORNES

DATE: 2/12/92

SUBJ: THE LINCOLN APARTMENTS

SKETCH PREPARED BY CLARK ENGINEERING

Exhibit C



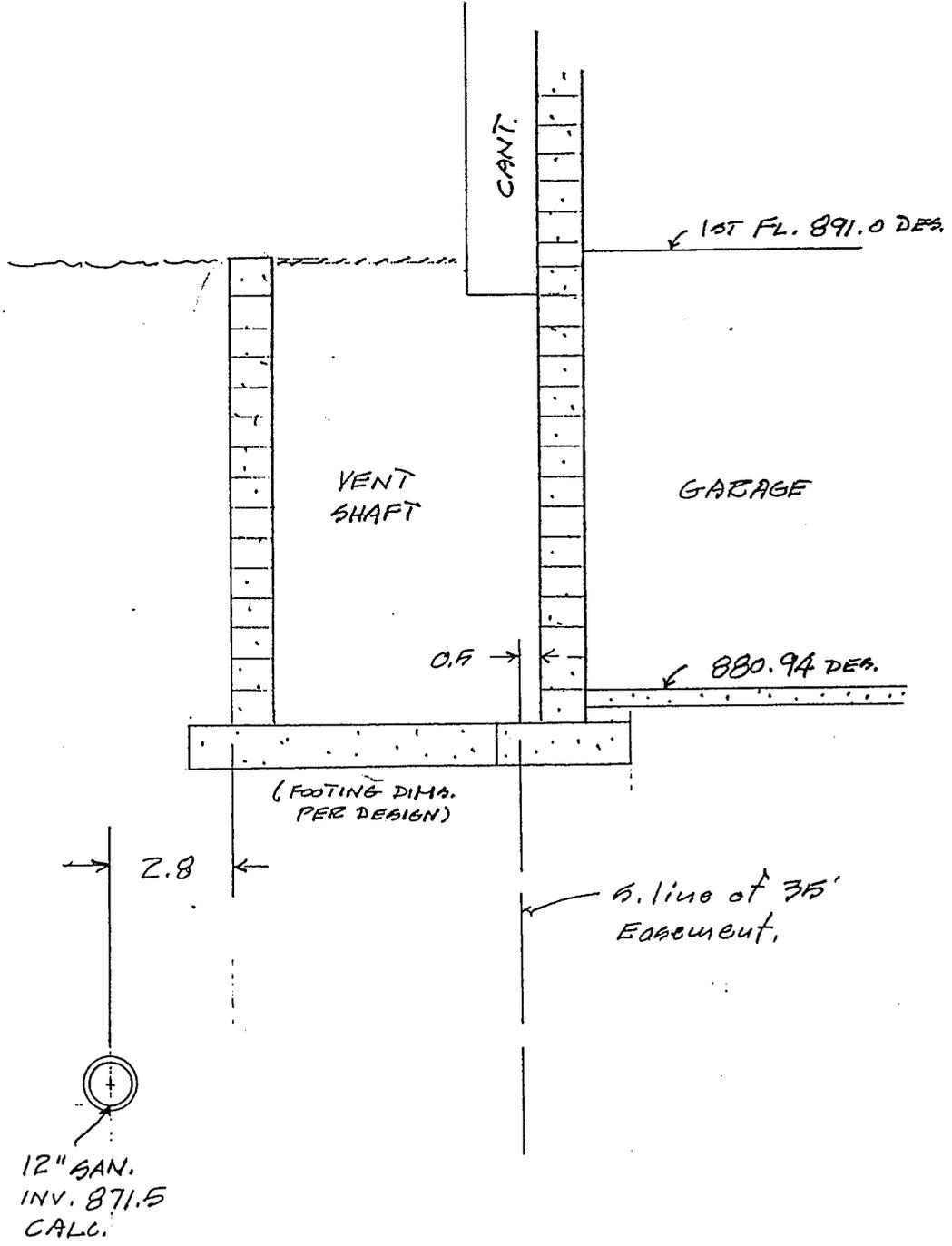
ENGINEERING CORPORATION

2815 Wayzata Blvd.
Minneapolis, MN 55405
(612) 374-4740
Fax: (612) 374-4749

890 —

880 —

870 —



1/4" = 1'0"
HOR. + VERT.

LINCOLN APTS.
Section of vent shaft
+ san. sewer
N. wall Bldg. 1
2-12-92 JVC

DORSEY & WHITNEY

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
2200 FIRST BANK PLACE EAST
MINNEAPOLIS, MINNESOTA 55402

FACSIMILE COVER SHEET
(612) 340-2644

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS LEGALLY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED SOLELY FOR THE USE OF THE PERSONS OR ENTITIES NAMED BELOW. IF YOU ARE NOT SUCH PERSONS OR ENTITIES, YOU ARE HEREBY NOTIFIED THAT ANY DISTRIBUTION, DISSEMINATION OR REPRODUCTION OF THIS FACSIMILE MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE IMMEDIATELY CALL US COLLECT AT (612) 340-2872.

Date: February 13, 1992

Time:

Total Number of Pages (including this cover sheet): 5

TO: Mr. Norman Bjornnes, Jr.

FAX # 612/871-7869

FIRM NAME: Mulligan & Bjornnes

OFFICE #

TO: Mr. Fran Hoffman

FAX # 612/927-6745

FIRM NAME: City of Edina

OFFICE # 612/927-8861

TO:

FAX #

FIRM NAME:

OFFICE #

FROM: Jerome P. Gilligan

TELEPHONE NUMBER: 340-2962

COMMENTS:

PLEASE CONTACT FACSIMILE OPERATOR Susan AT
(612) 340-2910 IF TRANSMISSION IS INCOMPLETE OR CANNOT BE READ.

Reference # (1812) 94802-1000

DORSEY & WHITNEY

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATION

350 PARK AVENUE
NEW YORK, NEW YORK 10022
(212) 415-9800

1350 CONNECTICUT AVENUE, N. W.
WASHINGTON, D. C. 20038
(202) 657-0700

3 ORANGEHURST STREET
LONDON EC3V 0AT, ENGLAND
44-71-929-3334

36, RUE TRONCHET
75009 PARIS, FRANCE
33-1-42-88-59-49

46, RUE DE TRÈVES
B-1040 BRUSSELS, BELGIUM
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2200 FIRST BANK PLACE EAST
MINNEAPOLIS, MINNESOTA 55402-1498
(612) 340-2600
TELEX 29-0605
FAX (612) 340-2868

JEROME P. GILLIGAN
(612) 340-2962

201 FIRST AVENUE, S. W., SUITE 340
ROCHESTER, MINNESOTA 55902
(507) 880-3156

1200 FIRST INTERSTATE CENTER
BILLINGS, MONTANA 59103
(406) 852-3800

201 DAVIDSON BUILDING
GREAT FALLS, MONTANA 59401
(406) 787-3632

127 EAST FRONT STREET
MISSOULA, MONTANA 59802
(406) 721-8025

February 13, 1992

Mr. Norman Bjornnes, Jr.
Mulligan & Bjornnes
401 Groveland Avenue
Minneapolis, Minnesota 55403-3292

Re: The Lincoln Apartments

Dear Norm:

Enclosed are the proposed descriptions of the portion of the easements to be vacated to be attached to your application to the City. The application will need to be filed with the City Clerk by tomorrow morning and the City fee paid in order to have the matter placed on the agenda for the City Council meeting on Tuesday, February 18th. At that time a public hearing on the vacation would be scheduled for the March 16th City Council meeting. If the application is not filed by that time the earliest time the public hearing could be held is April 6th.

I discussed with Fran Hoffman the encroachment of the ventilator shaft into the City's easement. The City is not willing to vacate the portion of the easement in which the shaft is located, but City staff may be willing to recommend to the Council that the City enter into an agreement permitting such shaft to remain if the owner of the apartments indemnifies and holds the City harmless against any liability and additional expense related to the shaft if any work is ever required to be done by the City with respect to the utilities located on the easement. In addition, the City expects the owner of the apartments to pay all legal fees and other expenses of the City in connection with the vacation of the easements and the preparation of the agreements relating to the ventilator shaft.

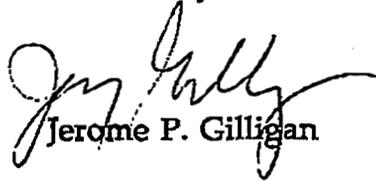
As soon as available you should forward to Fran Hoffman and me copies of the as-built survey.

DORSEY & WHITNEY

Page -2-
Mr. Norman Bjornnes, Jr.
February 13, 1992

If you have any questions, please give me a call.

Yours truly,



Jerome P. Gilligan

JPG:cmn
cc Fran Hoffman

The dedicated easements for public park lands, public open space and storm water pond and holding area in and to the easterly twenty (20) feet of Outlot A, INTERLACHEN HILLS 3RD ADDITION according to the recorded plat thereof, which lies east of the northerly extension of the west lines of Lots 29 through 35, Block 1 in said INTERLACHEN HILLS 3RD ADDITION, but reserving the easement for utility and drainage purposes in and to such premises granted by the Easement for Public Utilities Purposes, by and between Wallace B. Kenneth and Jean M. Kenneth and the City of Edina, Minnesota, dated May 14, 1984, and recorded as Document No. 4894325 in the office of the County Recorder in and for Hennepin County, Minnesota.

The dedicated drainage and utility easement in and to that part of the west three hundred sixty-five (365) feet of the south two (2) feet of the north 35 feet of Lot 1, Block 2 INTERLACHEN HILLS 3RD ADDITION, according to the plat thereof of record in Hennepin County, Minnesota, which lies above the surface of a plane at an elevation of 889.7 feet, National Geodetic Vertical Datum of 1929.

U S WEST
COMMUNICATIONS 

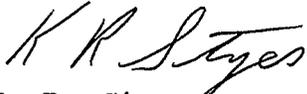
5910 Shingle Creek Parkway
Brooklyn Center, Minnesota 55430
March 3, 1992

City of Edina
4801 W. 50th Street
Edina, Minnesota 55424

Re: Vacation of Utility Easement, Interlachen Hills 3rd Addition

U S WEST Communications has no facilities in the proposed vacation area, therefore, this company has no objection to the vacation petition.

If you have any questions, please call me on 569-30112012.



K. R. Styer
Engineer - N & T S

Attachment

KRS/caa



City of Edina

NOTICE OF PUBLIC HEARING
ON VACATION OF DRAINAGE AND UTILITY EASEMENT, AND EASEMENTS
FOR PUBLIC PARK LANDS, PUBLIC OPEN SPACE AND
STORM WATER POND AND HOLDING AREA
IN THE CITY OF EDINA
HENNEPIN COUNTY, MINNESOTA

NOTICE IS HEREBY GIVEN that the City Council of the City of Edina, Hennepin County, Minnesota, will meet at the Edina City Hall, 4801 West 50th Street on March 16, 1992 at 7:00 P.M., for the purpose of holding a public hearing on the proposed vacation of the following easement for drainage and utility purposes:

The dedicated drainage and utility easement in and to that part of the west three hundred sixty-five (365) feet of the south two (2) feet of the north 35 feet of Lot 1, Block 2, INTERLACHEN HILLS 3RD ADDITION, according to the plat thereof of record in Hennepin County, Minnesota, which lies above the surface of a plane at an elevation of 889.7 feet, National Geodetic Vertical Datum of 1929.

Also on the proposed vacation of the following easements for public park lands, public open space and storm water pond and holding area purposes:

The dedicated easements for public park lands, public open space and storm water pond and holding area in and to the easterly twenty (20) feet of Outlot A, INTERLACHEN HILLS 3RD ADDITION according to the recorded plat thereof, which lies east of the northerly extension of the west lines of Lots 29 through 35, Block 1 in said INTERLACHEN HILLS 3RD ADDITION, but reserving the easement for utility and drainage purposes in and to such premises granted by the Easement for Public Utilities Purposes, by and between Wallace B. Kenneth and Jean M. Kenneth and the City of Edina, Minnesota, dated May 14, 1984, and recorded as Document No. 4894325 in the office of the County Recorder in and for Hennepin County, Minnesota.

All persons who desire to be heard with respect to the question of whether or not the above proposed easement vacations are in the public interest and should be made shall be heard at said time and place. The Council shall consider the extent to which such proposed easement vacations affect existing easements within the area of the proposed vacations and the extent to which the vacations affect the authority of any person, corporation, or municipality owning or controlling electric, telephone, or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under

LOT 1, BLOCK 1, INTERLACHEN HILLS
ZONED PRD-3

ONE STORY WOOD FRAME GARAGE

S 89°57'08"E 418.32 MEAS. (418.68 REC.)

SETBACK LINE

Proposed 5 ft. Encroachment Permit over Drainage/Utility Easement
Access & parking easement
per Doc. No. 4388632

Drainage & utility easement per
INTERLACHEN HILLS 3rd ADDITION

NOTE: RANDOM FILES OF
FILL ARE NOT SHOWN

PROPOSED BUILDING 1
FOUNDATION DIMENSIONS ARE SHOWN; OTHER DETAIL OMITTED

N 89°57'08"W 444.75 MEAS.

N 89°58'00"W 445.02 (DESC)

AS WETLAND-UP TO 1 ACRE ENCROACHMENT
U.S. ARMY CORPS OF ENGINEERS, 12-23-88

Proposed Storm Drain Easement

Proposed Storm Drain Easement

N 89°58'00"W 355.00 MEAS. (DESC)

CONVEYED TO CITY PER DOC. NO. 4394326

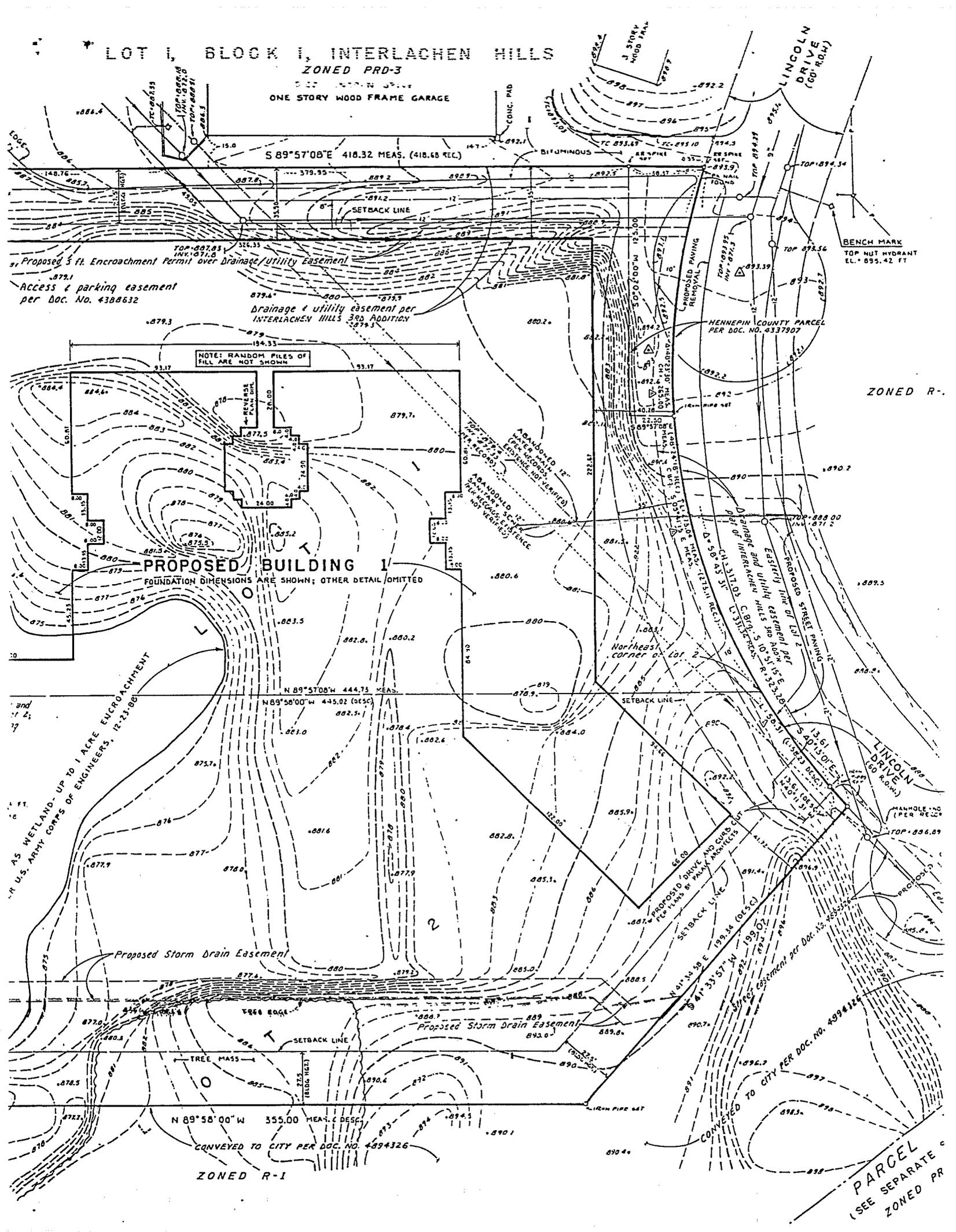
ZONED R-1

BENCH MARK
TOP MUT HYDRANT
EL. 855.42 FT

ZONED R-

LINCOLN DRIVE
(60' R.O.W.)

PARCEL
(SEE SEPARATE
ZONED PR



3/20/92 - Per From Hoffman cable facilities on attached map No. L56-62 are north of Lincoln Apartments project.
M. Daehn

RECEIVED FEB 24 1992

CITY OF EDINA
4801 W. 50TH STREET
EDINA, MINNESOTA 55424

STREET AND/OR EASEMENT VACATION REVIEW

CITY ENGINEER by _____	<input type="checkbox"/>	Acceptable	<input type="checkbox"/>	Opposed	<input type="checkbox"/>	Conditional
MINNEGASCO by _____	<input type="checkbox"/>	Acceptable	<input type="checkbox"/>	Opposed	<input type="checkbox"/>	Conditional
NSP by _____	<input type="checkbox"/>	Acceptable	<input type="checkbox"/>	Opposed	<input type="checkbox"/>	Conditional
PARAGON CABLE by <u>R.A. Goodin</u>	<input type="checkbox"/>	Acceptable	<input type="checkbox"/>	Opposed	<input checked="" type="checkbox"/>	Conditional
U.S. WEST by _____	<input type="checkbox"/>	Acceptable	<input type="checkbox"/>	Opposed	<input type="checkbox"/>	Conditional

CONDITIONS: I am enclosing a copy of our map No. L56-62 showing our cable facilities in the Lincoln Drive area. Your map does not give an address reference, but this is the only area close to this area that we have our plant. If this is the wrong area, please call me at 520-6364 & I'll get an answer immediately.

LOCATION: _____

Outlot A, INTERLACHEN HILLS 3RD ADDITION, Lots 29 thru 35, Block 1 in said Interlachen Hills 3rd Addition.

PLEASE SIGN AND RETURN TO INDICATE RECEIPT OF NOTICE

Return to: City Clerk
City of Edina
4801 W. 50th Street
Edina, MN 55424

signed: Ronald A. Goodin **MAR 05 1992**

Ronald A. Goodin - Design Clerk, Paragon Cable
10210 Crosstown Circle, Eden Prairie, MN 55344-3377
520-6364 Direct To Design Clerk

RECEIVED FEB 24 1992



RECEIVED FEB 24 1992

City of Edina

NOTICE OF PUBLIC HEARING
ON VACATION OF DRAINAGE AND UTILITY EASEMENT, AND EASEMENTS
FOR PUBLIC PARK LANDS, PUBLIC OPEN SPACE AND
STORM WATER POND AND HOLDING AREA
IN THE CITY OF EDINA
HENNEPIN COUNTY, MINNESOTA

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156-62

Notice of Public Hearing
Page 2

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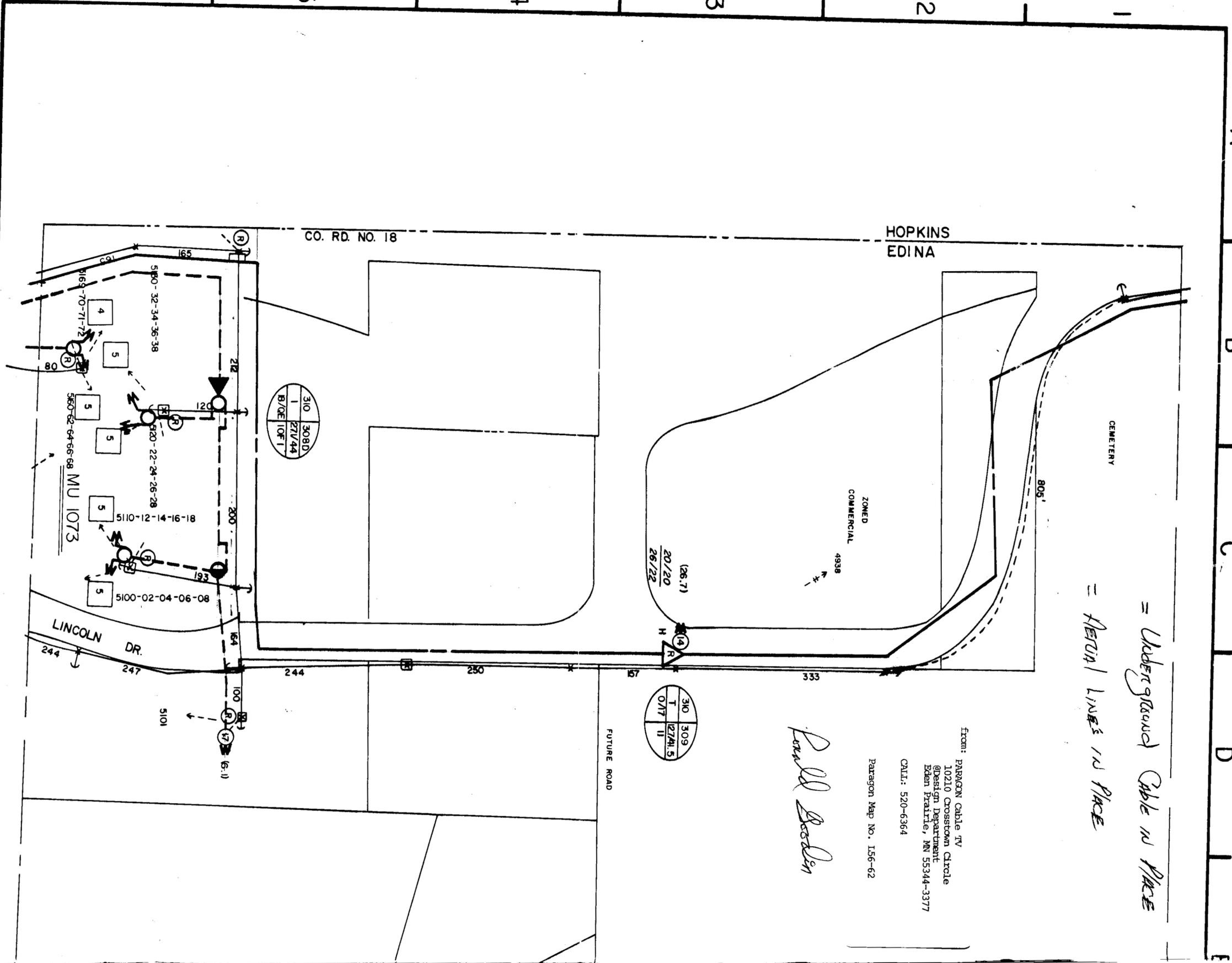
BY ORDER OF THE EDINA CITY COUNCIL
Marcella M. Daehn
City Clerk

02/21/92

BINDING SPACE

6 5 4 3 2 1

A B C D E



= Underground Cable in Place
 = Aerial Lines in Place

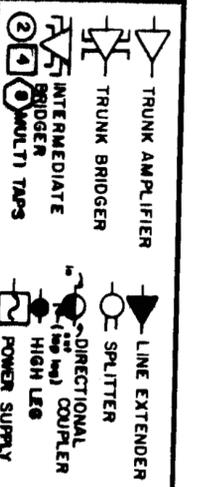
Paul D. Becklin

From: PARAGON Cable TV
 10210 Cross-town Circle
 Design Department
 Eden Prairie, MN 55344-3377
 CALL: 520-6364
 Paragon Map No. L56-62



MINNESOTA
 CABLESYSTEMS
 SOUTHWEST

DESIGNED BY GCS	DATE 08/08/71	APPROVED BY EB	GUARANTEED PERFORMANCE THIS PLAN IS:
			YES NO YES NO



CITY OF EDINA
4801 W. 50th Street
Edina, Minnesota 55424

STREET AND/OR EASEMENT VACATION REVIEW

CITY ENGINEER by _____	<input type="checkbox"/>	Acceptable	<input type="checkbox"/>	Opposed	<input type="checkbox"/>	Conditional
MINNEGASCO by _____	<input type="checkbox"/>	Acceptable	<input type="checkbox"/>	Opposed	<input type="checkbox"/>	Conditional
U.S. WEST COMMUNICATIONS by _____	<input type="checkbox"/>	Acceptable	<input type="checkbox"/>	Opposed	<input type="checkbox"/>	Conditional
NSP by <u>S. E. Franer</u>	<input checked="" type="checkbox"/>	Acceptable	<input type="checkbox"/>	Opposed	<input type="checkbox"/>	Conditional
PARAGON CABLE by _____	<input type="checkbox"/>	Acceptable	<input type="checkbox"/>	Opposed	<input type="checkbox"/>	Conditional

CONDITIONS: _____

LOCATION: Interlachen Hills 3rd Addition

PLEASE SIGN AND RETURN TO INDICATE RECEIPT OF NOTICE

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City of Edina
4801 W. 50th Street
Edina, MN 55424



City of Edina

NOTICE OF PUBLIC HEARING
ON VACATION OF DRAINAGE AND UTILITY EASEMENT, AND EASEMENTS
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Notice of Public Hearing
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BY ORDER OF THE EDINA CITY COUNCIL
Marcella M. Daehn
City Clerk

02/21/92

CITY OF EDINA
4801 W. 50th Street
Edina, Minnesota 55424

STREET AND/OR EASEMENT VACATION REVIEW

CITY ENGINEER by _____	<input type="checkbox"/>	Acceptable	<input type="checkbox"/>	Opposed	<input type="checkbox"/>	Conditional
<i>2-24-92</i> MINNEGASCO by <i>Stina VerBogen</i>	<input checked="" type="checkbox"/>	Acceptable	<input type="checkbox"/>	Opposed	<input type="checkbox"/>	Conditional
U.S. WEST COMMUNICATIONS by _____	<input type="checkbox"/>	Acceptable	<input type="checkbox"/>	Opposed	<input type="checkbox"/>	Conditional
NSP by _____	<input type="checkbox"/>	Acceptable	<input type="checkbox"/>	Opposed	<input type="checkbox"/>	Conditional
PARAGON CABLE by _____	<input type="checkbox"/>	Acceptable	<input type="checkbox"/>	Opposed	<input type="checkbox"/>	Conditional

CONDITIONS: _____

LOCATION: Interlachen Hills 3rd Addition

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Edina, MN 55424



City of Edina

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Notice of Public Hearing

Page 2

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BY ORDER OF THE EDINA CITY COUNCIL
Marcella M. Daehn
City Clerk

02/21/92

CITY OF EDINA
4801 W. 50th Street
Edina, Minnesota 55424

STREET AND/OR EASEMENT VACATION REVIEW

CITY ENGINEER by *[Signature]* Acceptable Opposed Conditional

MINNEGASCO by _____ Acceptable Opposed Conditional

U.S. WEST COMMUNICATIONS by _____ Acceptable Opposed Conditional

NSP by _____ Acceptable Opposed Conditional

PARAGON CABLE by _____ Acceptable Opposed Conditional

CONDITIONS: *Per agreement between City Attorney & proponent - see staff report*

LOCATION: Interlachen Hills 3rd Addition

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City of Edina
4801 W. 50th Street
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City of Edina

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Notice of Public Hearing
Page 2

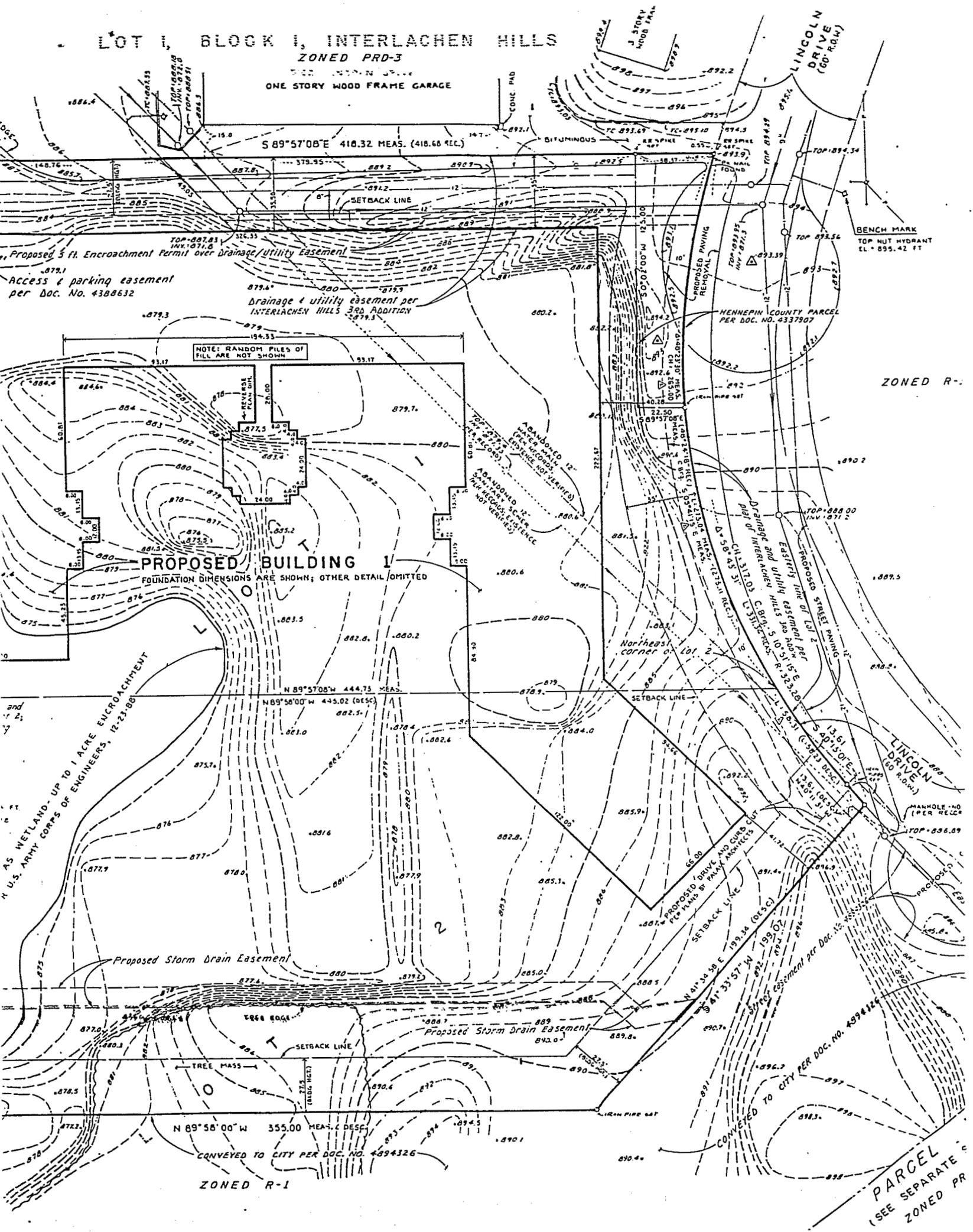
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BY ORDER OF THE EDINA CITY COUNCIL
Marcella M. Daehn
City Clerk

02/21/92

LOT 1, BLOCK 1, INTERLACHEN HILLS
ZONED PRD-3

ONE STORY WOOD FRAME GARAGE



Proposed 5 ft. Encroachment Permit over Drainage/Utility Easement
Access & parking easement per Doc. No. 4388632

Drainage & utility easement per INTERLACHEN HILLS 3RD ADDITION

NOTE: RANDOM PILES OF FILL ARE NOT SHOWN

PROPOSED BUILDING 1
FOUNDATION DIMENSIONS ARE SHOWN; OTHER DETAIL OMITTED

AS WETLAND - UP TO 1 ACRE ENCROACHMENT
U.S. ARMY CORPS OF ENGINEERS, 12-23-88

Proposed Storm Drain Easement

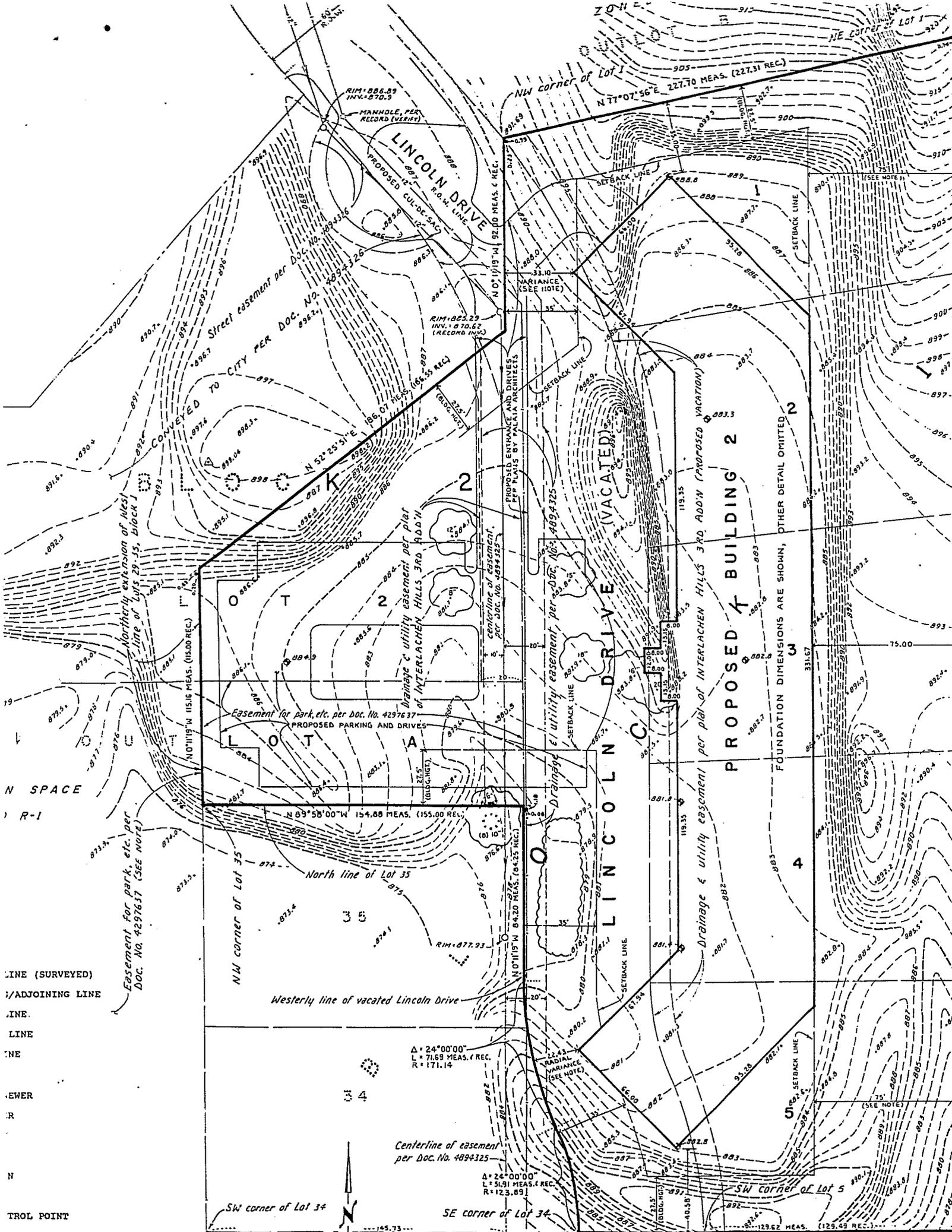
Proposed Storm Drain Easement

ZONED R-1

ZONED R-1

PARCEL (SEE SEPARATE) ZONED PR

CONVEYED TO CITY PER DOC. NO. 4094326



LINE (SURVEYED)
 /ADJOINING LINE
 LINE
 LINE
 LINE
 CENTER
 R
 N
 CONTROL POINT

Easement for park, etc. per Doc. No. 4297637 (See Note)

Northerly extension of Ales line of Lots 29-35, Block 1

CONVEYED TO CITY PER DOC. NO. 8962-1-8962-3726

Street easement per Doc. No. 8962-1-8962-3726

Easement for park, etc. per Doc. No. 4297637 PROPOSED PARKING AND DRIVES

North line of Lot 35

Westerly line of vacated Lincoln Drive

MANHOLE, PER RECORD (SEE NOTE)

RIM 886.89 INV. 870.3

RIM 882.23 INV. 870.63 (RECORD INCL)

RIM 877.93

Centerline of easement per Doc. No. 4894325

SW corner of Lot 34

PROPOSED CUL-DE-SAC

N 52° 25' 51" E 196.07 MEAS. (166.55 REC.)

centerline of easement per Doc. No. 4894325

N 89° 58' 00" W 154.88 MEAS. (155.00 REC.)

SE corner of Lot 34

N 77° 07' 56" E 227.70 MEAS. (227.31 REC.)

N 0° 19' 19" W 92.00 MEAS. & REC.

PROPOSED ENTRANCE AND DRIVES PER PLANS BY PALAIA ARCHITECTS

N 0° 15' 15" W 94.20 MEAS. (94.25 REC.)

Δ = 24° 00' 00" L = 51.91 MEAS. (REC.) R = 123.89

SE corner of Lot 34

SETBACK LINE

33.10 VARIANCE (SEE NOTE)

SETBACK LINE

SETBACK LINE

SETBACK LINE

SW corner of Lot 5

SETBACK LINE

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Notice of Public Hearing
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BY ORDER OF THE EDINA CITY COUNCIL
Marcella M. Daehn
City Clerk

02/21/92

1/1/74

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) SS
CITY OF EDINA)

CERTIFICATE OF MAILING NOTICE

I, the undersigned, being the duly qualified acting City Clerk of the City of Edina, Minnesota, hereby certify that on the following date February 21, 1992, acting on behalf of said City I deposited in the United States mail copies of the attached NOTICE OF EASEMENT VACATIONS - INTERLACHEN HILLS 3RD ADDITION (Exhibit A), enclosed in sealed envelopes, with postage thereon duly prepaid, addressed to the persons at the addresses as shown on the mailing list (Exhibit B) attached to the original hereof, which list is on file in my office, said persons being those appearing on the records of the County Auditor as owners of the property listed opposite their respective names, as of a date 21 days prior to the date of the hearing; and that I also sent said notice to the following corporations at the indicated addresses whose property is exempt from taxation and is therefore not carried on the records of said County Auditor.

<u>Name</u>	<u>Address</u>
_____	_____
_____	_____
_____	_____
_____	_____

WITNESS my hand and seal of said City this 21st day of February, 19 92.

Maula M Dack
Edina City Clerk

Mailing List for vacation of easements - Interlachen Hills 3rd Addition:

30-117-21-32-0004

Interlachen Hills, Inc.
5172 Lincoln Drive
Suite 107
Edina MN 55436

Petitioner

Norman P. Bjornnes, Jr.
Lincoln Drive Partners
401 Groveland Avenue
Minneapolis MN 55403

Stuart E. Fraser
NSP Normandale Division
5309 W. 70th Street
Edina MN 55439

Pat Hopman
U.S. West Communications
6244 Cedar Avenue So.
Richfield MN 55423

Ronald Goodin
Paragon Cable
10210 Crosstown Circle
Eden Prairie MN 55344-3377

Steven Von Bargaen
Minnegasco, Inc.
700 Linden Avenue W
P.O. Box 1165
Minneapolis MN 55440-1165



City of Edina

NOTICE OF PUBLIC HEARING
ON VACATION OF DRAINAGE AND UTILITY EASEMENT, AND EASEMENTS
FOR PUBLIC PARK LANDS, PUBLIC OPEN SPACE AND
STORM WATER POND AND HOLDING AREA
IN THE CITY OF EDINA
HENNEPIN COUNTY, MINNESOTA

NOTICE IS HEREBY GIVEN that the City Council of the City of Edina, Hennepin County, Minnesota, will meet at the Edina City Hall, 4801 West 50th Street on March 16, 1992 at 7:00 P.M., for the purpose of holding a public hearing on the proposed vacation of the following easement for drainage and utility purposes:

The dedicated drainage and utility easement in and to that part of the west three hundred sixty-five (365) feet of the south two (2) feet of the north 35 feet of Lot 1, Block 2, INTERLACHEN HILLS 3RD ADDITION, according to the plat thereof of record in Hennepin County, Minnesota, which lies above the surface of a plane at an elevation of 889.7 feet, National Geodetic Vertical Datum of 1929.

Also on the proposed vacation of the following easements for public park lands, public open space and storm water pond and holding area purposes:

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All persons who desire to be heard with respect to the question of whether or not the above proposed easement vacations are in the public interest and should be made shall be heard at said time and place. The Council shall consider the extent to which such proposed easement vacations affect existing easements within the area of the proposed vacations and the extent to which the vacations affect the authority of any person, corporation, or municipality owning or controlling electric, telephone, or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under

Notice of Public Hearing
Page 2

the area of the proposed vacations to continue maintaining the same or to enter upon such easement areas or portion thereof vacated to maintain, repair, replace, remove or otherwise attend thereto, for the purpose of specifying, in any such vacation resolutions, the extent to which any or all of any such easements, and such authority to maintain, and to enter upon the area of the proposed vacations, shall continue.

BY ORDER OF THE EDINA CITY COUNCIL
Marcella M. Daehn
City Clerk

02/21/92

LOT 1, BLOCK 1, INTERLACHEN HILLS
ZONED PRD-3

ONE STORY WOOD FRAME GARAGE

S 89°57'08"E 418.32 MEAS. (418.68 REC.)

Proposed 5 ft. Encroachment Permit over Drainage/Utility Easement
Access & parking easement
r. Doc. No. 4388632

Drainage & utility easement per
INTERLACHEN HILLS 3RD ADDITION

NOTE: RANDOM PILES OF
FILL ARE NOT SHOWN

PROPOSED BUILDING 1
FOUNDATION DIMENSIONS ARE SHOWN; OTHER DETAIL OMITTED

LAND UP TO 1 ACRE ENCROACHMENT
BY CORP. OF ENGINEERS, 12-23-88

N 89°57'08"W 444.75 MEAS.
N 89°58'00"W 445.02 (DESC)

Proposed Storm Drain Easement

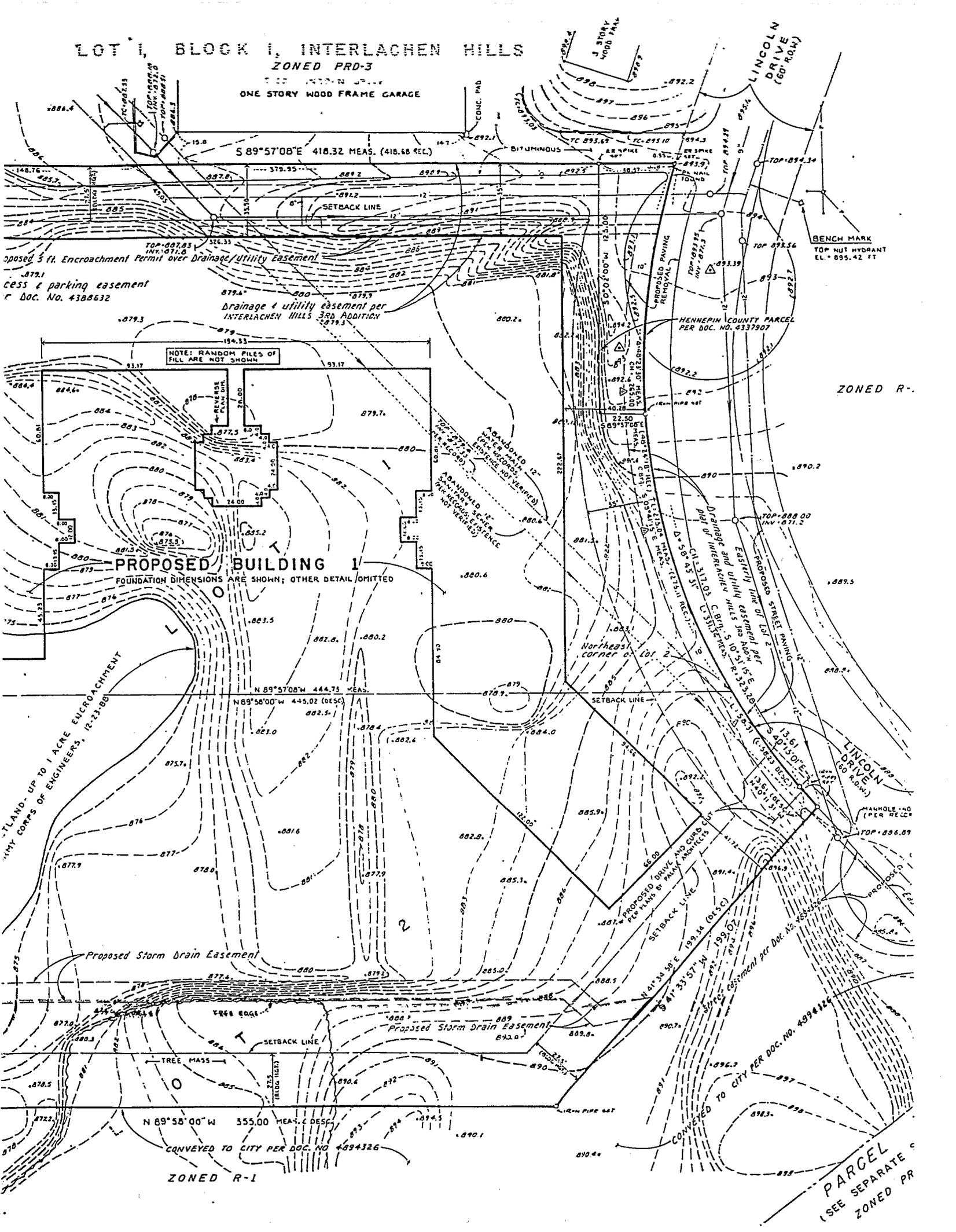
N 89°58'00"W 355.00 MEAS. & DESC

ZONED R-1

CONVEYED TO CITY PER DOC. NO. 4894326

ZONED R-1

PARCEL
(SEE SEPARATE
ZONED PR



STATE OF MINNESOTA)
COUNTY OF HENNEPIN) SS
CITY OF EDINA)

AFFIDAVIT OF POSTING NOTICE OF HEARING ON
VACATION OF EASEMENTS - INTERLACHEN HILLS
3RD ADDITION

The undersigned, being first duly sworn, upon oath deposes and says that he/she is a duly appointed and acting Police Officer for the City of Edina, Hennepin County, Minnesota, and that on _____ he/she posted the Notice of Hearing on the vacation described above to be held on March 16, 1992, a true and correct copy of which is attached hereto, at each of the official City bulletin boards located at conspicuous places within the City as follows:

- 1) City Hall, 4801 West 50th Street
- 2) Municipal Liquor Store, 50th and France Business Area
- 3) Centennial Lakes Park Centrum, 7499 France Avenue South

Dated 02-21-92

Signed Jeffrey J. Elady

Signed and sworn to before me, a Notary Public
in and for Hennepin County, Minnesota, this
21st day of February, 1992.

Marilyn M. Dachs



4801 WEST 50TH STREET, EDINA, MINNESOTA 55424
612-927-8861

NOTICE OF PUBLIC HEARING
ON VACATION OF DRAINAGE AND UTILITY EASEMENT, AND EASEMENTS
FOR PUBLIC PARK LANDS, PUBLIC OPEN SPACE AND
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BY ORDER OF THE EDINA CITY COUNCIL
Marcella M. Daehn
City Clerk

CITY OF EDINA

PUBLIC RIGHT-OF-WAY VACATION APPLICATION

Date Initiated 2/7/92

1) I hereby petition the City Council of the City of Edina to vacate all of the following described public right-of-way:

<input type="checkbox"/> Street	<input type="checkbox"/> Alley	1. <input checked="" type="checkbox"/> Utility Easement	TOTAL	100.00
<input type="checkbox"/> Drainage Easement	2. <input checked="" type="checkbox"/> Other Public Park lands, public open space and storm water (describe) pond and holding area			02/14/92

Legal description of area proposed to be vacated:

1. See Exhibit A attached

2. See Exhibit B attached

Attached copy of scaled drawing showing in full detail the proposed vacation.
 Survey attached as Exhibit C.

Signature *Norman P. Bjornnes* LINCOLN DRIVE PARTNERS, a MN Ltd. Part
 Norman P. Bjornnes, Jr., General Part
 Address 401 Groveland Avenue Partner
 Minneapolis, MN 55403
 Telephone (612) 874-1102

2) Review

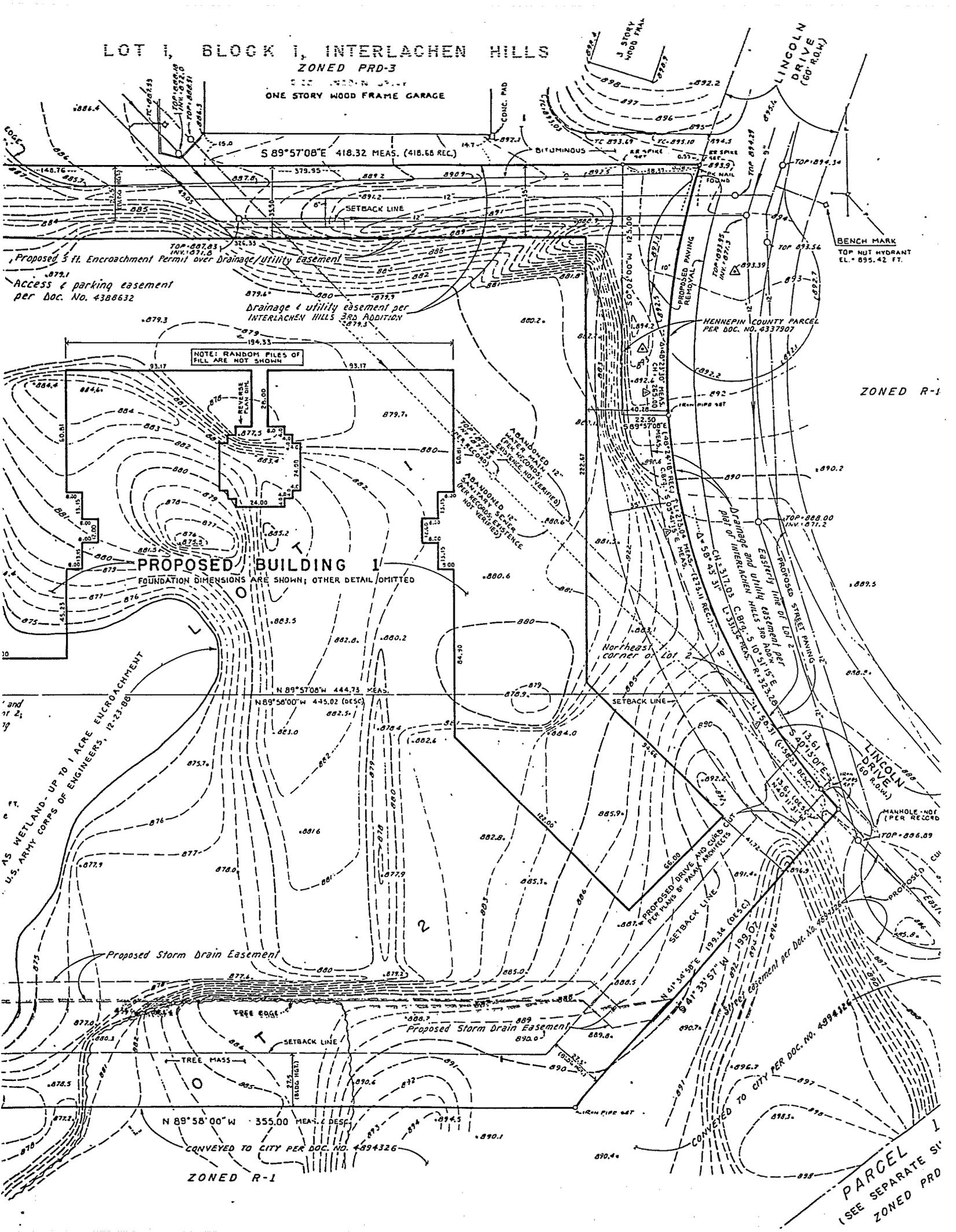
CITY ENGINEER by _____	<input type="checkbox"/> Acceptable	<input type="checkbox"/> Opposed	<input type="checkbox"/> Conditional
Conditions _____			
MINNEGASCO by _____	<input type="checkbox"/> Acceptable	<input type="checkbox"/> Opposed	<input type="checkbox"/> Conditional
Conditions _____			
N.W. BELL by _____	<input type="checkbox"/> Acceptable	<input type="checkbox"/> Opposed	<input type="checkbox"/> Conditional
Conditions _____			
N.S.P. by _____	<input type="checkbox"/> Acceptable	<input type="checkbox"/> Opposed	<input type="checkbox"/> Conditional
Conditions _____			

EXHIBIT A

The dedicated drainage and utility easement in and to that part of the west three hundred sixty-five (365) feet of the south two (2) feet of the north 35 feet of Lot 1, Block 2 INTERLACHEN HILLS 3RD ADDITION, according to the plat thereof of record in Hennepin County, Minnesota, which lies above the surface of a plane at an elevation of 889.7 feet, National Geodetic Vertical Datum of 1929.

LOT 1, BLOCK 1, INTERLACHEN HILLS
ZONED PRD-3

ONE STORY WOOD FRAME GARAGE



PROPOSED BUILDING 1
FOUNDATION DIMENSIONS ARE SHOWN; OTHER DETAIL OMITTED

AS WETLAND - UP TO 1 ACRE ENCROACHMENT
U.S. ARMY CORPS OF ENGINEERS, 12-23-88

ZONED R-1

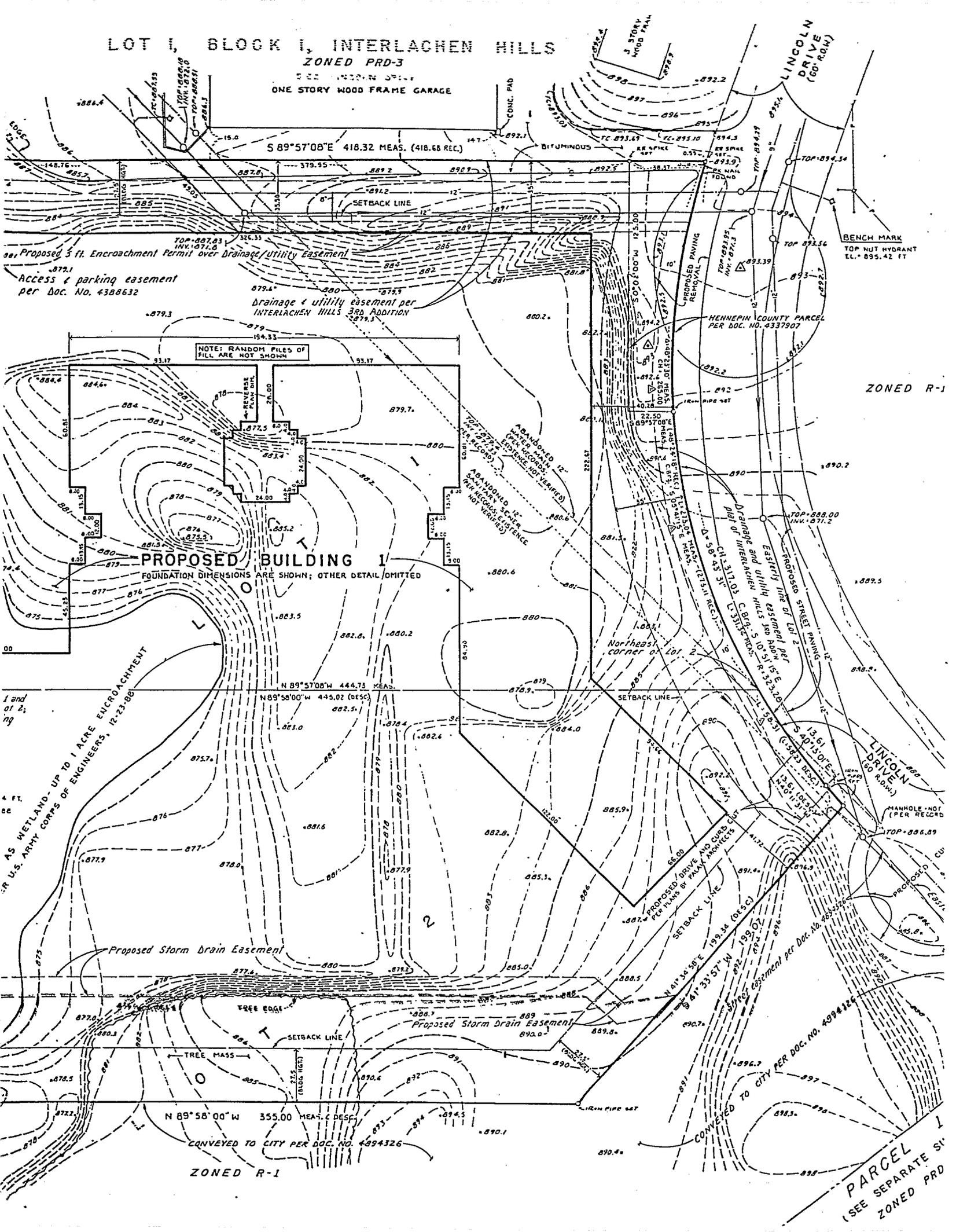
PARCEL 1
(SEE SEPARATE SITE PLAN)
ZONED PRD-3

EXHIBIT B

The dedicated easements for public park lands, public open space and storm water pond and holding area in and to the easterly twenty (20) feet of Outlot A, INTERLACHEN HILLS 3RD ADDITION according to the recorded plat thereof, which lies east of the northerly extension of the west lines of Lots 29 through 35, Block 1 in said INTERLACHEN HILLS 3RD ADDITION, but reserving the easement for utility and drainage purposes in and to such premises granted by the Easement for Public Utilities Purposes, by and between Wallace B. Kenneth and Jean M. Kenneth and the City of Edina, Minnesota, dated May 14, 1984, and recorded as Document No. 4894325 in the office of the County Recorder in and for Hennepin County, Minnesota.

LOT 1, BLOCK 1, INTERLACHEN HILLS
ZONED PRD-3

ONE STORY WOOD FRAME GARAGE



Proposed 5 ft. Encroachment Permit over Drainage/Utility Easement
Access & parking easement
per Doc. No. 4388632

Drainage & utility easement per
INTERLACHEN HILLS
3RD ADDITION

NOTE: RANDOM PILES OF
FILL ARE NOT SHOWN

PROPOSED BUILDING 1
FOUNDATION DIMENSIONS ARE SHOWN; OTHER DETAIL OMITTED

AS WETLAND. UP TO 1 ACRE ENCROACHMENT
R. U.S. ARMY CORPS OF ENGINEERS, 12-23-86

Proposed Storm Drain Easement

Proposed Storm Drain Easement

N 89°58'00"W 355.00 MEAS. & DESC.

CONVEYED TO CITY PER DOC. NO. 4994326

ZONED R-1

PARCEL 1
(SEE SEPARATE S.I.)
ZONED PRD-3

ZONED R-1

BENCH MARK
TOP NUT HYDRANT
EL. 895.42 FT

HENNEPIN COUNTY PARCEL
PER DOC. NO. 4337907

ABANDONED 12" SANITARY MAIN
(PER RECORDS, NOT VERIFIED)

ABANDONED 12" WATER MAIN
(PER RECORDS, NOT VERIFIED)

Northeast corner of Lot 2

MANHOLE - NOT (PER RECORD)

Proposed Drive and Curb
PER PLANS BY PAUL J. HANSEN

Street Easement per Doc. No. 4994326

CONVEYED TO CITY PER DOC. NO. 4994326

(Official Publication)
CITY OF EDINA
4801 W. 50TH STREET
EDINA, MINNESOTA 55424

NOTICE OF PUBLIC HEARING
ON VACATION OF DRAINAGE AND UTILITY EASEMENT, AND EASEMENTS
FOR PUBLIC PARK LANDS, PUBLIC OPEN SPACE AND
STORM WATER POND AND HOLDING AREA
IN THE CITY OF EDINA
HENNEPIN COUNTY, MINNESOTA

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Notice of Public Hearing
Page 2

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BY ORDER OF THE EDINA CITY COUNCIL
Marcella M. Daehn
City Clerk

Publish in the Edina Sun-Current on February 26 and March 4, 1992.
Send two Affidavits of Publication.



REPORT/RECOMMENDATION

To: GORDON HUGHES, ASSISTANT MANAGER	Agenda Item # VI.C
From: MARCELLA DAEHN, CLERK	Consent <input checked="" type="checkbox"/>
Date: FEBRUARY 14, 1992	Information Only <input type="checkbox"/>
Subject: PETITION FOR VACATION OF UTILITY EASEMENT AND PUBLIC PARK LANDS, OPEN SPACE AND STORM WATER POND AND HOLDING AREA	Mgr. Recommends <input type="checkbox"/> To HRA
	<input checked="" type="checkbox"/> To Council
	Action <input type="checkbox"/> Motion
	<input checked="" type="checkbox"/> Resolution
	<input type="checkbox"/> Ordinance
	<input type="checkbox"/> Discussion

Recommendation:

Adoption of a resolution by the Council setting March 16, 1992 as hearing date on the petition for vacation of utility easement and public park lands, open space and storm water pond and holding area.

Info/Background:

A petition has been filed with the City requesting the above referenced vacation for property in INTERLACHEN HILLS 3RD ADDITION - The Lincoln Apartments.

Staff would recommend that March 16, 1992 be set as hearing date to consider the vacation petition. Copy of petition is attached.



REPORT/RECOMMENDATION

To: GORDON HUGHES, ASSISTANT MANAGER	Agenda Item # VI.C
From: MARCELLA DAEHN, CLERK	Consent <input checked="" type="checkbox"/>
Date: FEBRUARY 14, 1992	Information Only <input type="checkbox"/>
Subject: PETITION FOR VACATION OF UTILITY EASEMENT AND PUBLIC PARK LANDS, OPEN SPACE AND STORM WATER POND AND HOLDING AREA	Mgr. Recommends <input type="checkbox"/> To HRA
	<input checked="" type="checkbox"/> To Council
	Action <input type="checkbox"/> Motion
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CITY OF EDINA

PUBLIC RIGHT-OF-WAY VACATION APPLICATION

Date Initiated 2/7/92

1) I hereby petition the City Council of the City of Edina to vacate all of the following described public right-of-way:

- Street
- Alley
- 1. Utility Easement LITAL 100.00
- Drainage Easement
- 2. Other Public Park lands, public open space and storm water pond and holding area 02. 72

Legal description of area proposed to be vacated:

- 1. See Exhibit A attached

- 2. See Exhibit B attached

Attached copy of scaled drawing showing in full detail the proposed vacation.

Survey attached as Exhibit C.

Signature *Norman P. Bjornnes, Jr.* LINCOLN DRIVE PARTNERS, a MN Ltd. Par
 Norman P. Bjornnes, Jr., General Partner
 Address 401 Groveland Avenue
 Minneapolis, MN 55403
 Telephone (612) 874-1102

2) Review

- CITY ENGINEER by _____ Acceptable Opposed Conditional
 Conditions _____
- MINNEGASCO by _____ Acceptable Opposed Conditional
 Conditions _____
- N.W. BELL by _____ Acceptable Opposed Conditional
 Conditions _____
- N.S.P. by _____ Acceptable Opposed Conditional
 Conditions _____

EXHIBIT A

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Minnesota Sun Publications

AFFIDAVIT OF PUBLICATION

City of Edina

(Official Publication)
 CITY OF EDINA
 4801 W. 50TH STREET
 EDINA, MINNESOTA 55424
 NOTICE OF PUBLIC HEARING
 ON VACATION OF DRAINAGE AND
 UTILITY EASEMENT, AND EASEMENTS
 FOR PUBLIC PARK LANDS,
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 AND STORM WATER POND
 AND HOLDING AREA
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 HENNEPIN COUNTY, MINNESOTA
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 for the purpose of holding a public hearing on the
 proposed vacation of the following easement for
 drainage and utility purposes:

STATE OF MINNESOTA)
 SS.
 COUNTY OF HENNEPIN)

Gregory Ptacin, being duly sworn on an oath says that he/she is
 the publisher or authorized agent and employee of the publisher of the newspaper known as
Edina Sun-Current, and has full knowledge of the facts which are
 stated below.

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper,
 as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed Notice of Public Hearing

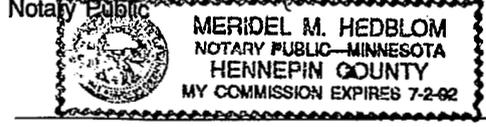
which is attached was cut from the columns of said newspaper, and was printed and published once each week,
 for two successive weeks; it was first published on Wednesday, the 26 day
 of February, 19 92, and was thereafter printed and published on every Wednesday to
 and including Wednesday, the 4 day of March, 19 92; and printed below is
 a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size
 and kind of type used in the composition and publication of the notice:

abcdefghijklmnopqrstuvwxyz

BY: *Gregory Ptacin*
 TITLE: General Manager

The dedicated drainage and utility ease-
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 pose of specifying, in any such vacation resolu-
 tions, the extent to which any or all of any such
 easements, and such authority to maintain, and
 to enter upon the area of the proposed vacations,
 shall continue.
 BY ORDER OF THE EDINA CITY COUNCIL
 MARCELLA M. DAEHN
 City Clerk
 (Feb. 26 & March 4, 1992)-ED

Acknowledged before me on this
4 day of March, 19 92.
Meridel M. Hedblom



RATE INFORMATION

(1) Lowest classified rate paid by commercial users for comparable space	\$ <u>1.30 per line</u> (Line, word, or inch rate)
(2) Maximum rate allowed by law for the above matter	\$ <u>95.9¢ per line</u> (Line, word, or inch rate)
(3) Rate actually charged for the above matter	\$ <u>67¢ per line</u> (Line, word, or inch rate)

Minnesota Sun Publications

AFFIDAVIT OF PUBLICATION

City of Edina

(Official Publication)
 CITY OF EDINA
 4801 W. 50TH STREET
 EDINA, MINNESOTA 55424
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 ss.
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The dedicated easements for public park lands, public open space and storm water pond and holding area in and to the easterly twenty (20) feet of Outlot A, INTERLACHEN HILLS 3RD ADDITION according to the recorded plat thereof, which lies east of the northerly extension of the west lines of Lots 29 through 35, Block 1 in said INTERLACHEN HILLS 3RD ADDITION, but reserving the easement for utility and drainage purposes in and to such premises granted by the Easement for Public Utilities Purposes, by and between Wallace B. Kenneth and Jean M. Kenneth and the City of Edina, Minnesota, dated May 14, 1984, and recorded as Document No. 4894325 in the office of the County Recorder in and for Hennepin County, Minnesota.

which is attached was cut from the columns of said newspaper, and was printed and published once each week, for two successive weeks; it was first published on Wednesday, the 26 day of February, 19 92, and was thereafter printed and published on every Wednesday to and including Wednesday, the 4 day of March, 19 92; and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size and kind of type used in the composition and publication of the notice:

All persons who desire to be heard with respect to the question of whether or not the above proposed easement vacations are in the public interest and should be made shall be heard at said time and place. The Council shall consider the extent to which such proposed easement vacations affect existing easements within the area of the proposed vacations and the extent to which the vacations affect the authority of any person, corporation, or municipality owning or controlling electric, telephone, or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under the area of the proposed vacations to continue maintaining the same or to enter upon such easement areas or portion thereof vacated to maintain, repair, replace, remove or otherwise attend thereto, for the purpose of specifying, in any such vacation resolutions, the extent to which any or all of any such easements, and such authority to maintain, and to enter upon the area of the proposed vacations, shall continue.

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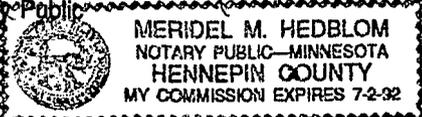
BY: [Signature]
 TITLE: General Manager

BY ORDER OF THE EDINA CITY COUNCIL
 MARCELLA M. DAEHN
 City Clerk

(Feb. 26 & March 4, 1992)-ED

Acknowledged before me on this

4 day of March 19 92
[Signature]

Notary Public

 MERIDEL M. HEDBLOM
 NOTARY PUBLIC—MINNESOTA
 HENNEPIN COUNTY
 MY COMMISSION EXPIRES 7-2-92

RATE INFORMATION

(1) Lowest classified rate paid by commercial users for comparable space	\$ <u>1.30 per line</u> (Line, word, or inch rate)
(2) Maximum rate allowed by law for the above matter	\$ <u>95.9¢ per line</u> (Line, word, or inch rate)
(3) Rate actually charged for the above matter	\$ <u>67¢ per line</u> (Line, word, or inch rate)