

**ORDINANCE NO. F- 1153**

**AN ORDINANCE AMENDING THE WHEATON ZONING MAP  
BY GRANTING A SPECIAL USE PERMIT FOR PLANNED UNIT DEVELOPMENT-  
WHEATON PROPERTY PARTNERS/THE JEWEL PARKING LOT ON THE NORTH  
SIDE OF WILLOW, 110 EAST LIBERTY DRIVE & 120 EAST LIBERTY DRIVE,  
WHEATON, IL**

**WHEREAS**, written application has been made by Wheaton Property Partners, LLC ("Developer") to amend the Zoning Map, which is attached to and forms a part of the Zoning Ordinance of Wheaton, Illinois, by the issuance of a special use permit for a Planned Unit Development in order to allow the demolition of two buildings on East Liberty Drive and the construction of a five-story, approximately 125,000 square foot office building with retail uses on the ground floor and underground parking for approximately 70 spaces, and the construction of a four-level (one below ground and three at and above ground level) approximately 430 space parking structure on the subject property legally described herein within the city limits of Wheaton, Illinois, and commonly located at the Jewel parking lot on the north side of Willow, 110 E. Liberty and 120 E. Liberty Wheaton, IL 60187; and

**WHEREAS**, pursuant to notice as required by the Illinois Municipal Code and the Wheaton Zoning Ordinance, a public hearing was conducted by the Wheaton Planning and Zoning Board on February 28, 2006 , to consider the zoning amendment and issuance of the special use permit; and the Board has recommended the issuance of the special use permit; and

**WHEREAS**, the City has determined that the redevelopment of the property legally described in this ordinance will promote the general and economic welfare of the City and its residents.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

**Section 1:** The following described property has been and continues to be zoned and classified in the C-4 CBD Perimeter zoning district:

LOTS 1 AND 2 (EXCEPT SO MUCH OF EACH OF SAID LOTS AS WAS TAKEN OFF OF THE NORTH END THEREOF FOR THE WIDENING OF SOUTH RAILROAD STREET, NOW KNOWN AS LIBERTY DRIVE, AS CONDEMNED BY COUNTY COURT CASE NUMBER 4 ON JANUARY 11, 1887) AND LOT 3 (EXCEPT THE WEST 14.5 FEET MEASURED ON THE NORTH LINE), IN BLOCK 4 IN WARREN L. WHEATON'S ADDITION TO THE TOWN OF WHEATON, BEING A SUBDIVISION IN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 16, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 3, 1857 AS DOCUMENT NUMBER 11976, IN DUPAGE COUNTY, ILLINOIS.

*R 2007-03599*

LOT 10 IN BLOCK 4 IN WARREN L. WHEATON'S ADDITION TO THE TOWN OF WHEATON,  
BEING A PART OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 16,  
TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN,  
ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 3, 1857 AS DOCUMENT  
NUMBER 11976, IN DUPAGE COUNTY, ILLINOIS.

LOTS 6, 7, 8, AND 9 (TAKEN AS A TRACT) IN BLOCK 4 IN WARREN L. WHEATON'S  
ADDITION TO WHEATON IN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION  
16, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN  
EXCEPT THAT PART THEREOF DESCRIBED AS FOLLOWS: BEGINNING AT THE  
SOUTHWEST CORNER OF LOT 6 IN BLOCK 4 AND RUNNING THENCE EAST ALONG THE  
NORTH LINE OF WILLOW AVENUE 88 FEET; THENCE NORTH PARALLEL TO THE EAST  
LINE OF MAIN STREET, 139.03 FEET TO AN IRON PIPE IN THE NORTH LINE OF LOTS 6  
AND 7 IN SAID BLOCK 4; THENCE WESTERLY ALONG THE NORTH LINE OF SAID LOTS 6  
AND 7 AND THE SOUTH ALLEY LINE 88.3 FEET TO THE NORTHWEST CORNER OF SAID  
LOT 6; THENCE SOUTH ALONG THE EAST LINE OF MAIN STREET 132.65 FEET TO THE  
PLACE OF BEGINNING, ALL IN THE CITY OF WHEATON, DUPAGE COUNTY, ILLINOIS,  
ACCORDING TO THE PLAT THERE OF RECORDED IN 1857, IN BOOK 21 OF DEEDS PAGE  
332 AS DOCUMENT 11967.

P.I.N. 05-16-316-004, 05-16-316-009, 05-16-316-010, 05-16-316-003,  
05-16-316-011

This property is commonly located at the Jewel parking lot on the north side of Willow and 110 E. Liberty and 120 E. Liberty Wheaton, IL 60187 ("subject property").

**Section 2:** Pursuant to the Findings of Fact made and determined by the Wheaton Planning and Zoning Board, a special use permit for planned unit development is hereby issued to allow for the demolition of two buildings and the construction of a five-story, approximately 125,000 square foot office building with retail uses on the ground floor and underground parking for approximately 70 spaces, and the construction of a four-level (one below ground and three at and above ground level) approximately 430 space parking structure on the subject property in substantial compliance with those certain plans (i) prepared by Opus, dated February 28, 2006, entitled "Redevelopment of Block 316 Downtown Wheaton", (ii) prepared by Opus, dated March 3, 2006, entitled "Wheaton Property Partners" and (iii) the Preliminary Landscape Plan/Streetscape Design prepared by Gary R. Weber Associates dated February 28, 2006, with last revision date of March 3, 2006, copies of which are attached hereto as Exhibit "A" (each individually as an "Approved Plan" and collectively the "Approved Plans"), and in further compliance with the following conditions, restrictions, and requirements:

1. The stormwater detention shall comply with the ordinances of the City and County of DuPage and such variances thereto as may be hereafter approved by the City and the County of DuPage; the final engineering for stormwater detention shall be subject to the approval of the City Director of Engineering prior to the issuance of any site development permit.

2. The utilities located within the existing alley within the subject property and overhead utilities located on the perimeter of the subject property shall be relocated as a part of the scope of work in constructing the parking structure, at the expense of Developer (except as otherwise provided in the Development Agreement referred to in Paragraph 11 of this Section 2), in accordance with the utility owners' requirements. The relocation of the utilities shall also be subject to the reasonable approval of the Director of Engineering, prior to the issuance of any site development or building permits.
3. The parking garage design shall be finalized and subject to the reasonable approval of the Director of Engineering and the Director of Planning and Economic Development prior to the issuance of any site development permit.
4. Rooftop mechanical units shall be screened from view and all trash receptacles and dumpsters shall be screened from view; all as reasonably approved by the Directors of Engineering and Director of Planning and Economic Development.
5. Prior to the issuance of a stormwater management permit, a final set of engineering plans shall be submitted; the plans shall be subject to the reasonable approval of the Director of Engineering.
6. The City's decorative street lighting system shall be extended adjacent to the street frontage of the subject property, at the sole expense of Developer.
7. Developer shall enter into a Fire Lane Designation and Enforcement Agreement with the City in substantial compliance with Exhibit "A".
8. All landscaping and planting to be implemented on the subject property shall substantially conform to the landscape plan entitled "Preliminary Landscape Plan / Streetscape Design" included in the Approved Plans and attached hereto as a part of Exhibit "A".
9. This special use permit, and the conditions, restrictions, and requirements recited herein, shall be considered a declaration of restrictive covenants and shall be binding upon the subject property and its owners, its successors, assigns, and grantees; this ordinance shall be recorded in the office of the Recorder of Deeds, DuPage County, Illinois.

By application for, and receipt of, any site development or building permit and the commencement of construction of any improvements on the subject property, the owner of all or any portion of the subject property, for himself/itself, his/its successors, assigns, and grantees, thereby agrees to all terms and conditions of this ordinance and declares this ordinance to constitute a covenant running with, and binding, the subject property, in perpetuity, provided, however, that the City, as to any portion of the subject property from time to time owned by it, shall not be responsible for the obligations of Developer as set forth herein.

10. The architectural style and appearance of the building and parking structure and all improvements to be constructed on the subject property shall be in substantial compliance with the Approved Plans and illustrated on the final site plan, elevation plans, landscape plans and

other plans specified by the City; all of which final plans shall be subject to final review and approval by the City Council prior to the issuance of any site development, or other, permit.

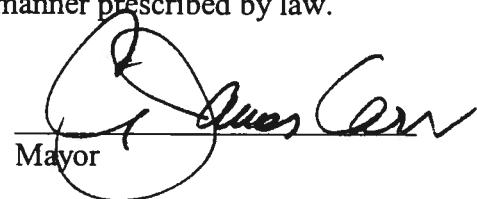
11. The execution of a mutually acceptable Development Agreement between the City and Developer.

**Section 3:** All ordinances or parts of ordinances in conflict with these provisions are repealed.

**Section 4:** This ordinance shall become effective only upon the acquisition by the City of title to the property commonly known as the Jewel parking lot on the north side of Willow, Wheaton, IL, the vacation of the existing public alley within the subject property, the execution of a mutually acceptable Development Agreement between the City and Developer and after the passage, approval, and publication in pamphlet form of this Ordinance in the manner prescribed by law.

ATTEST:

Erin M. Donahue  
City Clerk



Mayor

Roll Call Vote:

Ayes: Councilman Mouhelis  
Councilman Bolds  
Councilwoman Corry  
Mayor Carr  
Councilman Levine

Nays: Councilman Seuss

Absent: Councilman Johnson

Motion Carried

Passed: April 3, 2006  
Published: April 4, 2006

# EXHIBIT "A"

6-1155

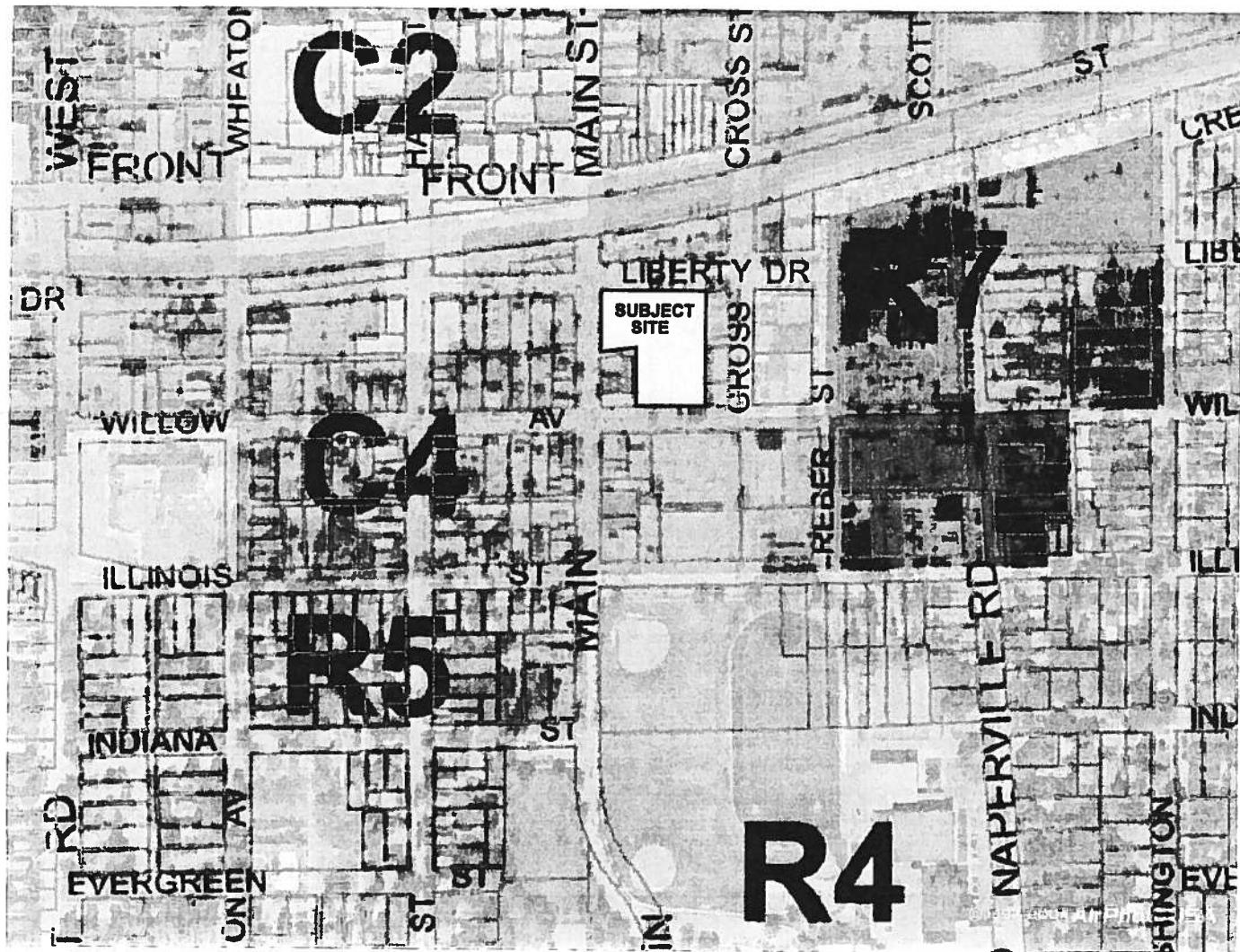
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REDEVELOPMENT OF BLOCK 316  
DOWNTOWN WHEATON

WHEATON PROPERTY PARTNERS





# WHEATON PROPERTY PARTNERS ZONING EXHIBIT

FEBRUARY 28, 2000

I-1  
INSTITUTIONAL DISTRICT

**C-2  
RETAIL CORE BUSINESS DISTRICT**

**C-4  
PERIMETER COMMERCIAL DISTRICT**

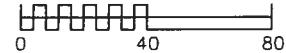
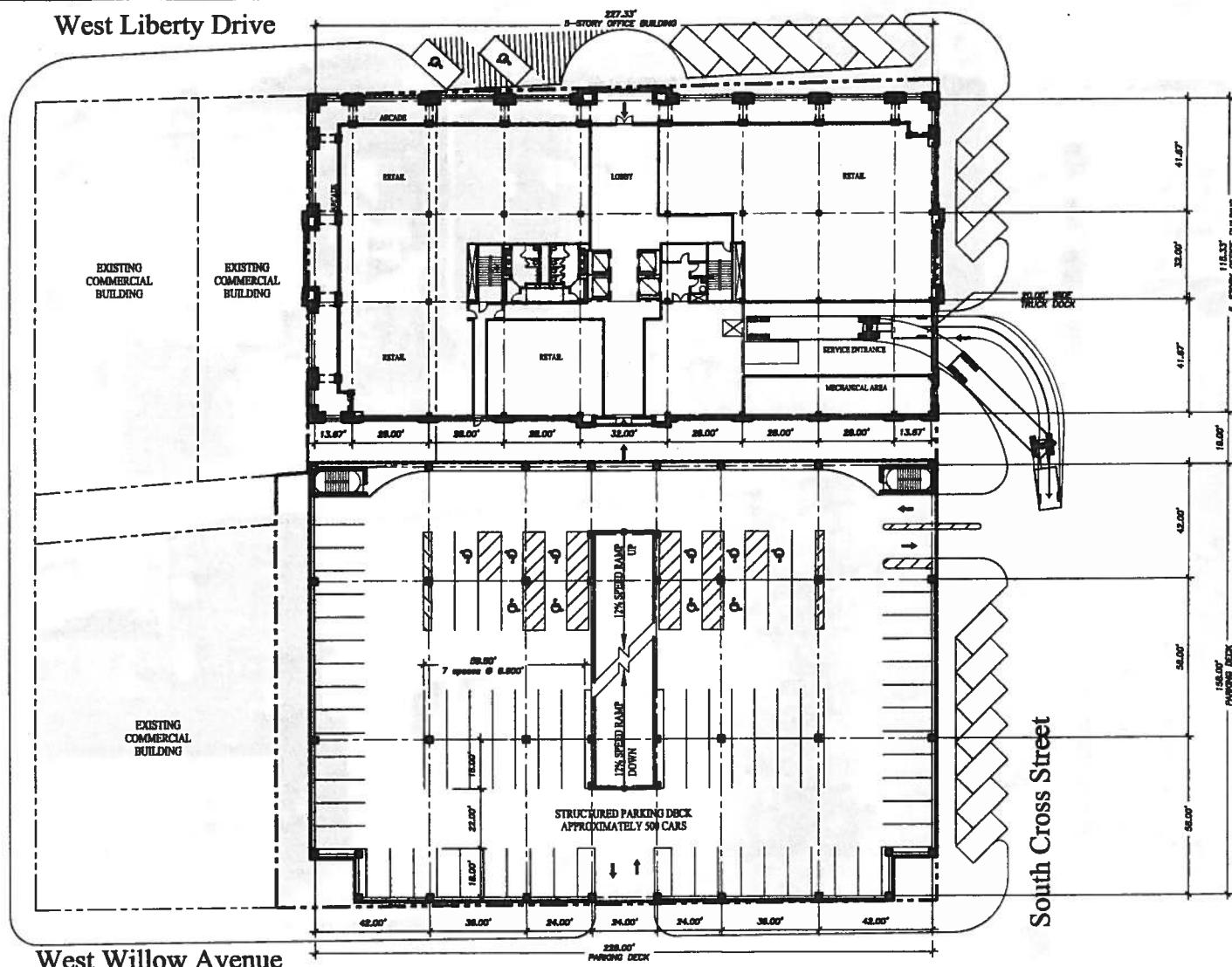
**O-R  
OFFICE AND RESEARCH DISTRICT**

**R-4  
RESIDENTIAL DISTRICT**

**R-3  
RESIDENTIAL DISTRICT**

**R-7  
RESIDENTIAL DISTRICT**

SCALE: 1"=100'  
NORTH



## PROJECT INFORMATION

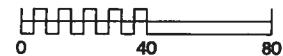
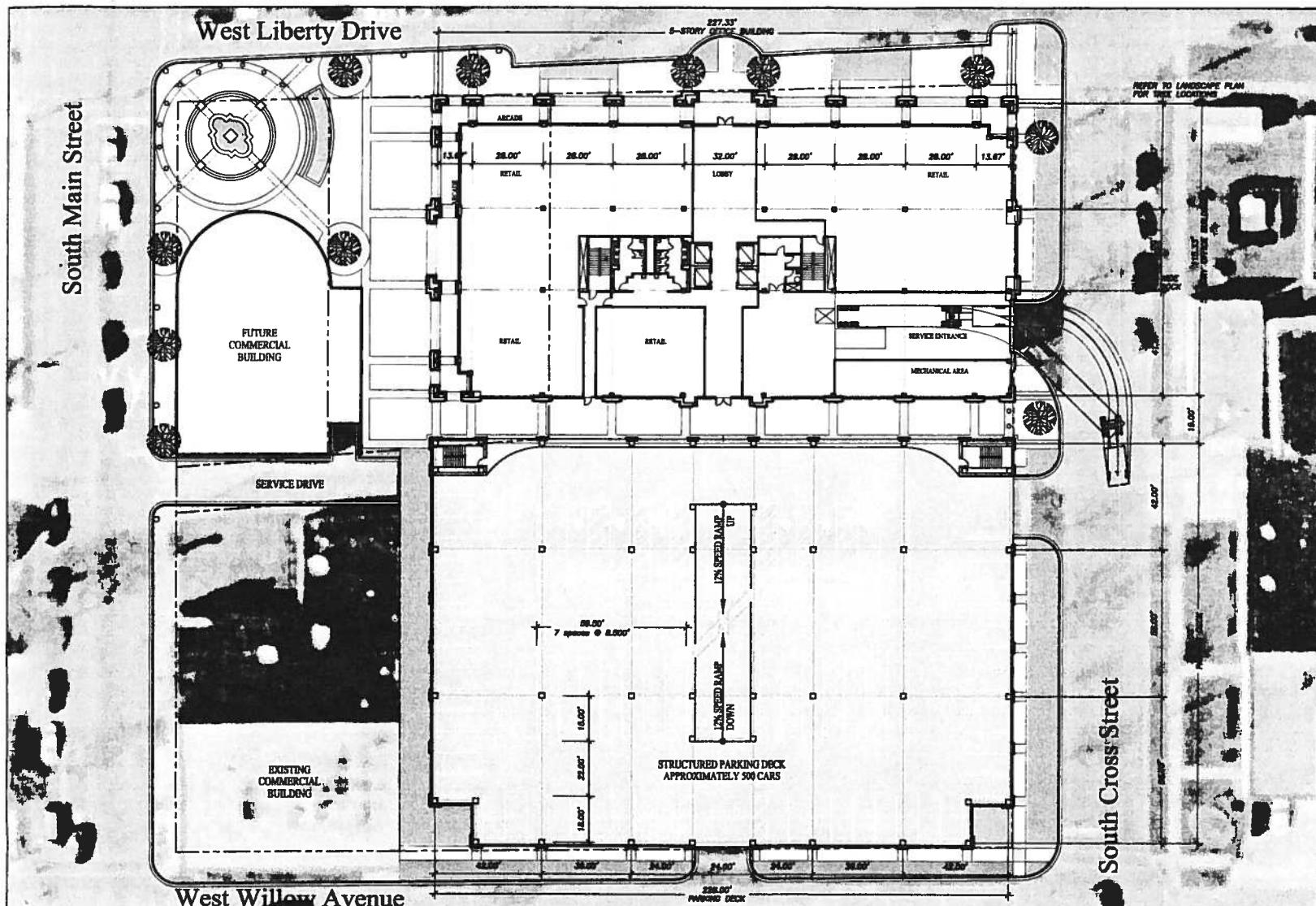
**SITE AREA:** 1.64 ACRES

APPROX. BLDG. AREA 127,500 RSF  
132,750 GSF

# Wheaton Property Partners

**Liberty Drive & Cross Street  
Wheaton, IL**





## PROJECT INFORMATION

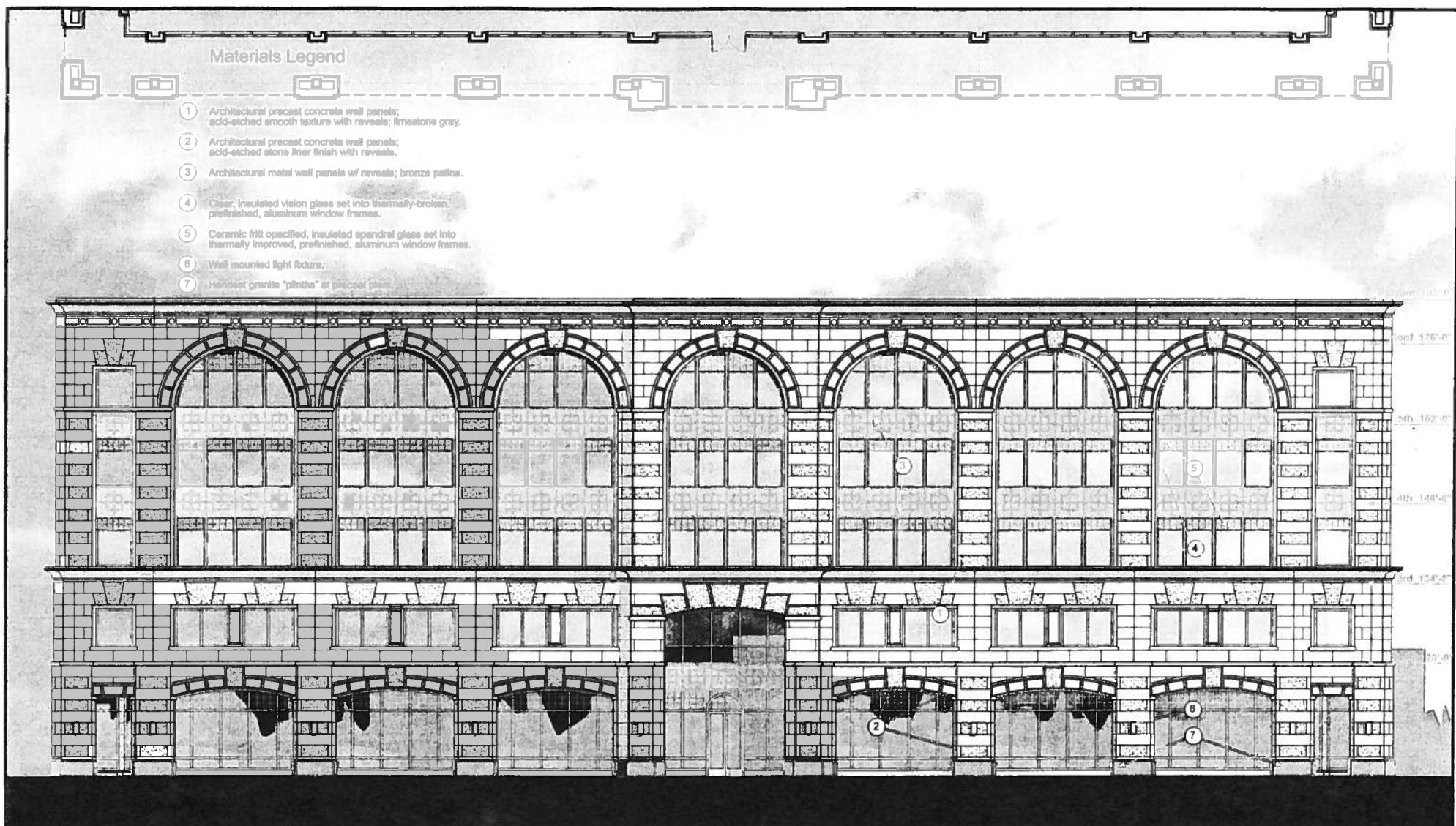
SITE AREA: 1.64 ACRES

APPROX. BLDG. AREA 127,500 RSF  
132,750 GSF

# Wheaton Property Partners

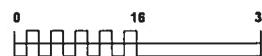
Liberty Drive & Cross Street  
Wheaton, IL





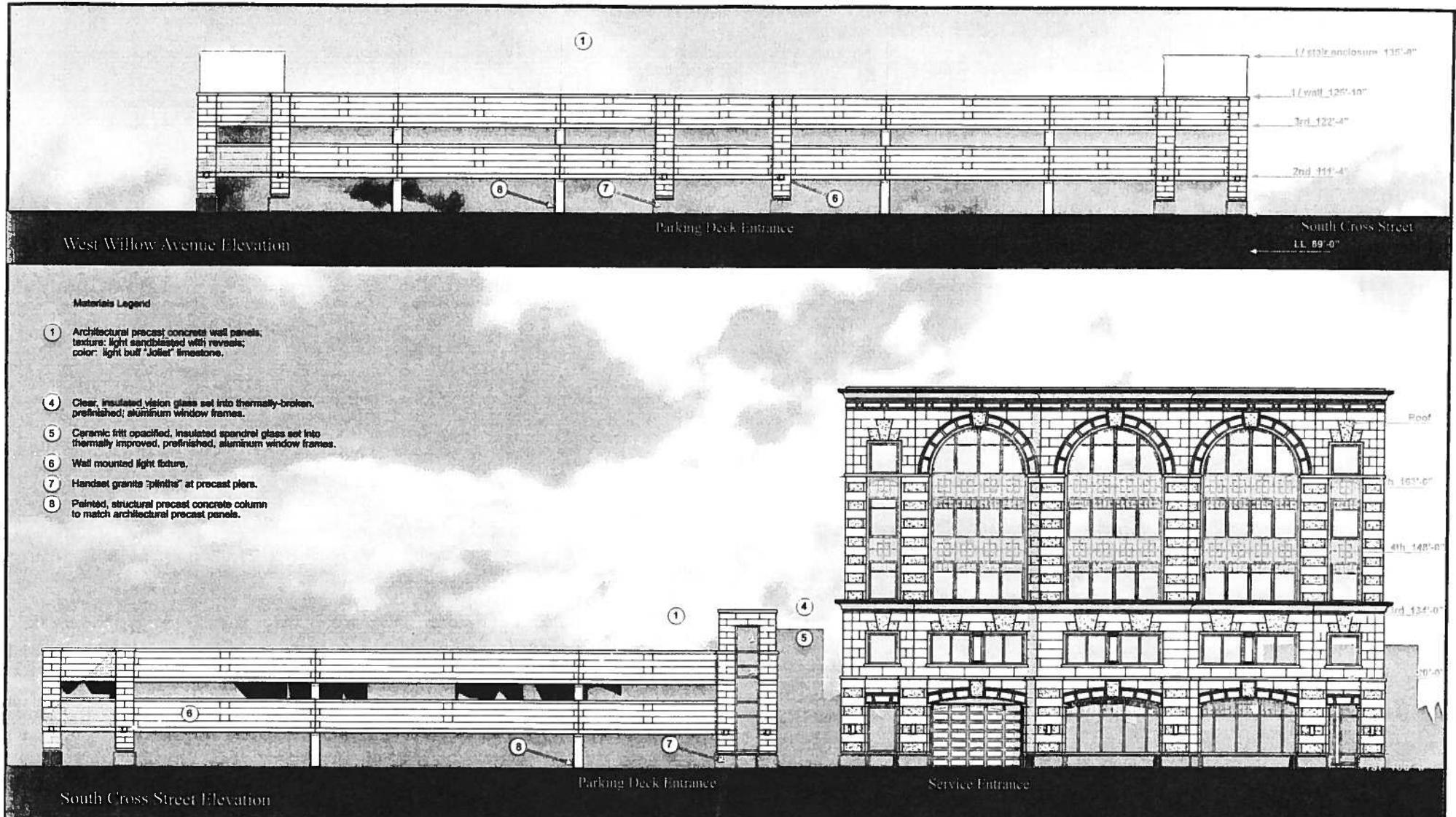
**Wheaton Property Partners**  
Liberty Drive & Cross Street  
Wheaton, IL

Februar 2006



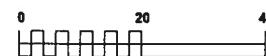
N. Elevation (West) Liberty Drive

**OPUS.**



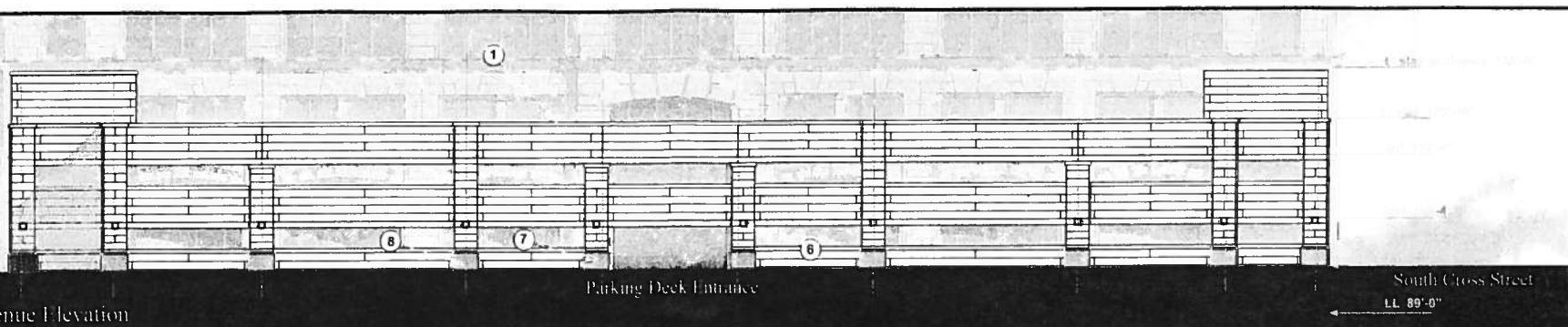
**Wheaton Property Partners**  
Liberty Drive & Cross Street  
Wheaton, IL

February 2006



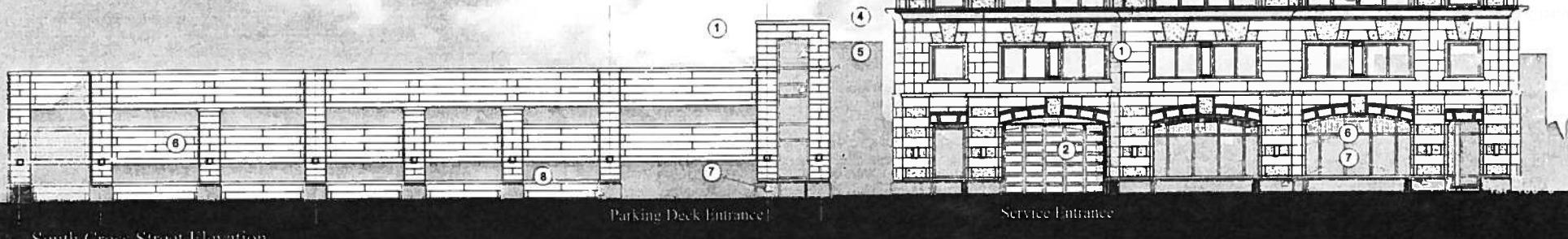
 **OPUS.**

Parking Deck actions



#### Materials Legend

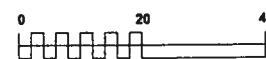
- 1 Architectural precast concrete wall panels; acid-etched smooth texture with reveals; limestone gray.
- 2 Architectural precast concrete wall panels; acid-etched stone liner finish with reveals.
- 3 Architectural metal wall panels w/ reveals; bronze patina.
- 4 Clear, insulated vision glass set into thermally-broken, prefinished, aluminum window frames.
- 5 Ceramic frit opacified, insulated spandrel glass set into thermally improved, prefinished, aluminum window frames.
- 6 Wall mounted light fixture.
- 7 Handset granite "plinths" at precast piers.



**Wheaton Property Partners**

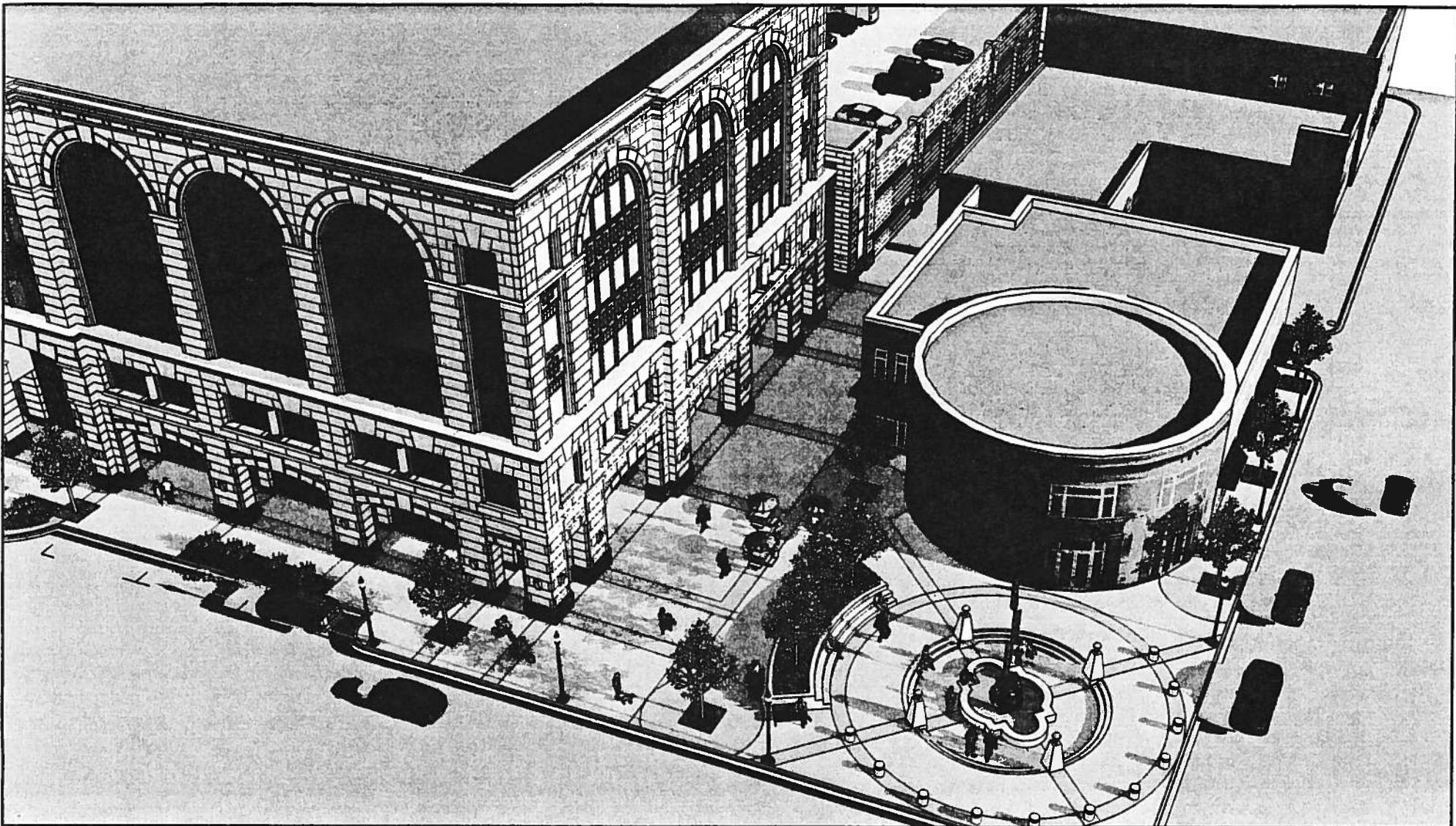
Liberty Drive & Cross Street  
Wheaton, IL

February 2006



 **OPUS.**

Parking Deck actions



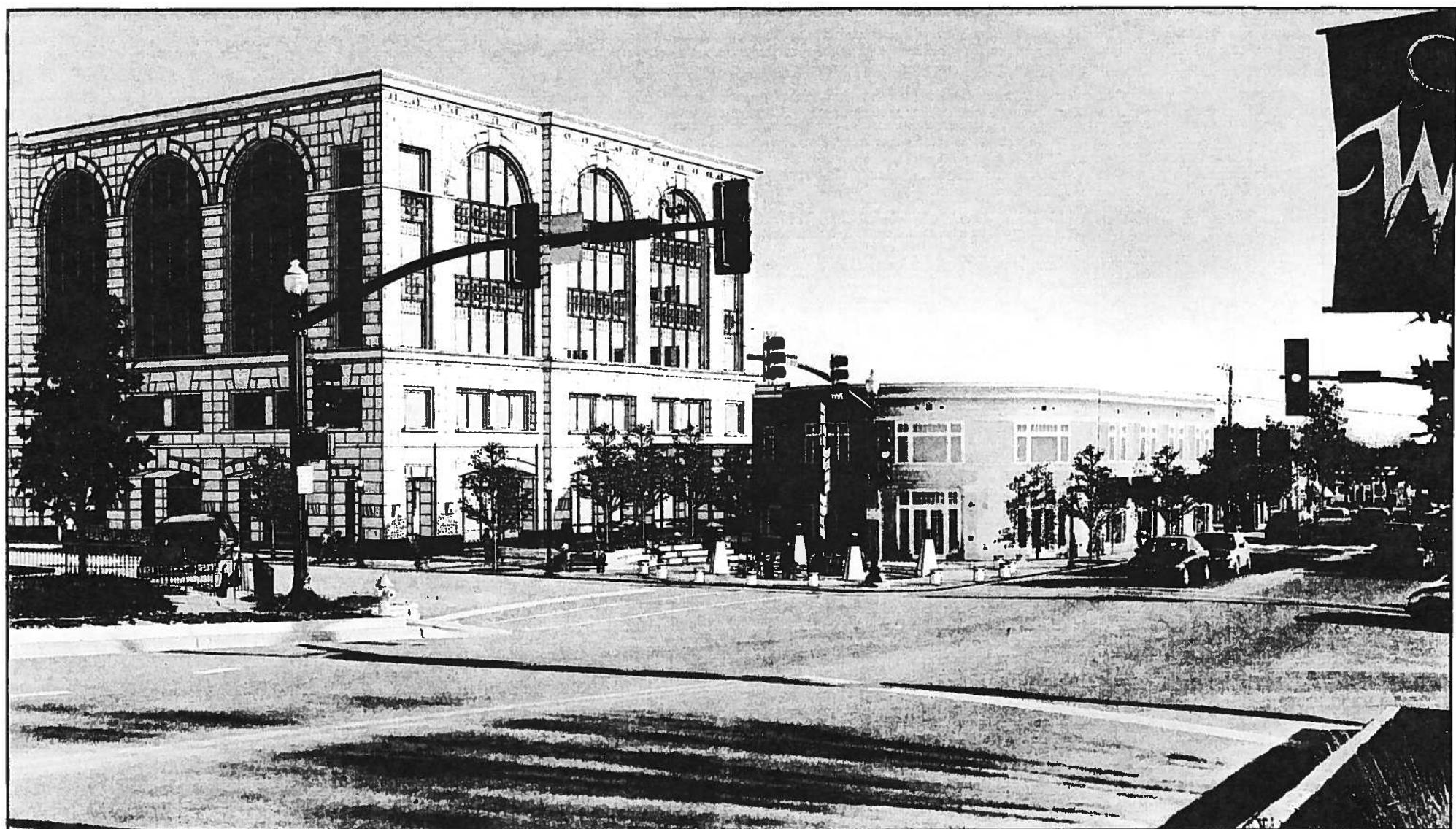
Wheaton Property Partners

Liberty Drive & Cross Street  
Wheaton, IL

February 006

 **OPUS**<sup>®</sup>

B. Eye Perspective Public Court



## Wheaton Property Partners

Liberty Drive & Cross Street  
Wheaton, IL

February 2006

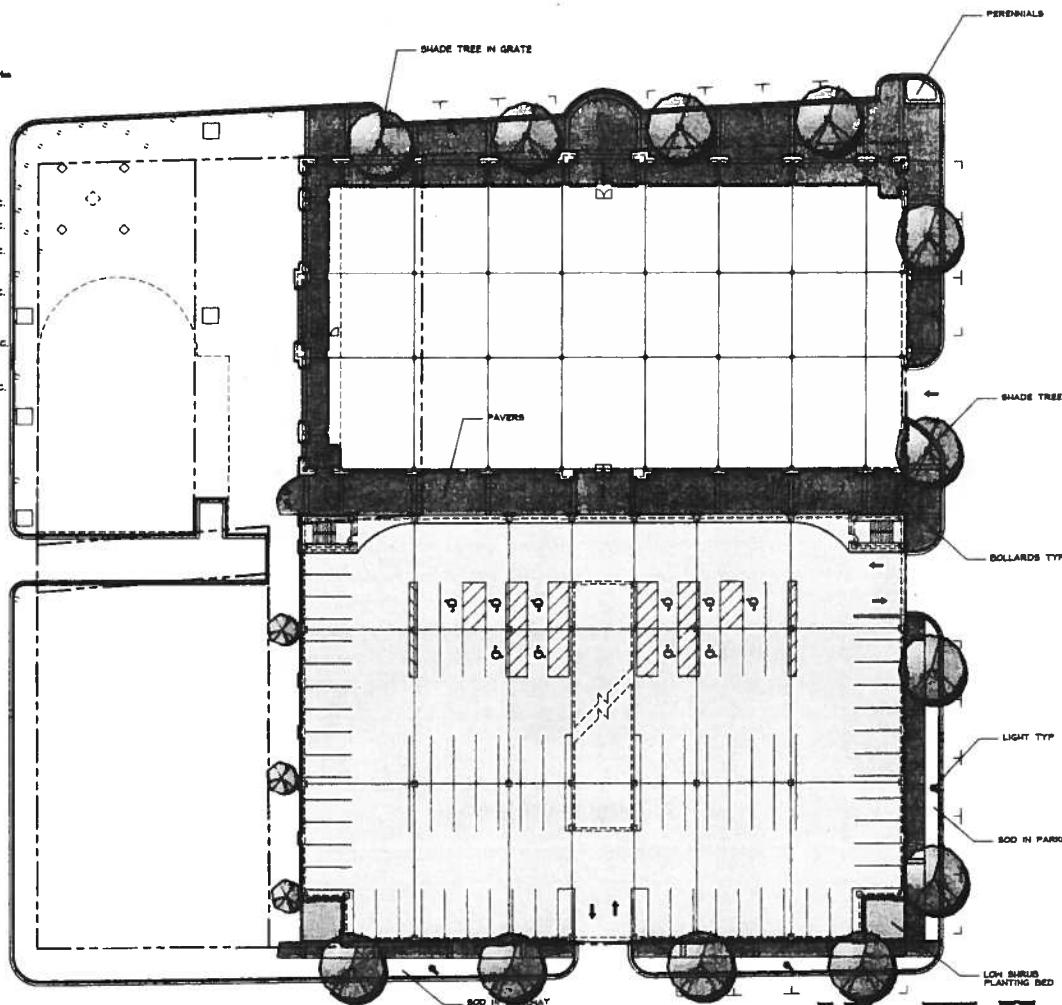
 **OPUS.**®

Perspective  Looking Sou.  Main Street



## PLANT LIST

| Selected/Carribean Name                     | Size    | Remarks  |
|---|---------|----------|
| <b>SHADE TREES</b>                          |         |          |
| <i>Paulownia tomentosa 'Dentata'</i>        | 8' Cal. |          |
| <i>PAULOWNIAS PEAK</i>                      |         |          |
| <i>Tilia cordata 'Kronprinz'</i>            | 3' Cal. |          |
| <i>GREENSPINE LINDEN</i>                    |         |          |
| <i>Gleditsia triacanthos var. 'Skyline'</i> | 8' Cal. |          |
| <i>THORNLESS HONEYLOCUST</i>                |         |          |
| <b>DECIDUOUS SHRUBS</b>                     |         |          |
| <i>Byring potted 'Miss Kim'</i>             | 24" HAB | 3' O.C.  |
| <i>MBS KOMI LILAC</i>                       |         |          |
| <i>Bush amelanchier 'Grouse'</i>            | 24" HAB | 3' O.C.  |
| <i>Amelanchier alnifolia</i>                |         |          |
| <i>Patricia Poggen's HONEYSUCKLE</i>        | 24" HAB | 3' O.C.  |
| <i>HEDGATES HONEYSUCKLE</i>                 |         |          |
| <b>EVERGREEN SHRUBS</b>                     |         |          |
| <i>Texan a mache 'Dentata'</i>              | 24" HAB | 4' O.C.  |
| <i>DENSE TSH</i>                            |         |          |
| <b>ORNAMENTAL GRASSES AND PERENNIALS</b>    |         |          |
| <i>Hemerocallis 'Little Busters'</i>        | 1 Gal.  | 18" O.C. |
| <i>LITTLE BUSTERS DAYLILY</i>               |         |          |
| <b>GROUNDCOVERS</b>                         |         |          |
| <i>Polygonum perfoliatum 'Charles傅歇波'</i>   | 1 Gal.  | 12" O.C. |
| <i>PERC MATERIALS</i>                       |         |          |
| <i>Patash</i>                               | C.T.    |          |



SCALE: 1"=20'  
NOR

# WHEATON PROPERTY PARTNERS PRELIMINARY LANDSCAPE PLAN/STREETScape DESIGN

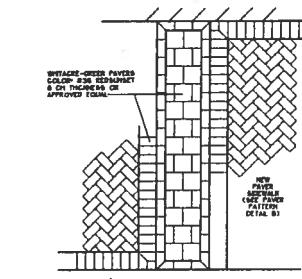
FEBRUARY 5TH, 2006  
REV. 2/2

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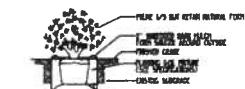
GARY R. WEBER

ASSOCIATES, INC.  
LAND PLANNERS

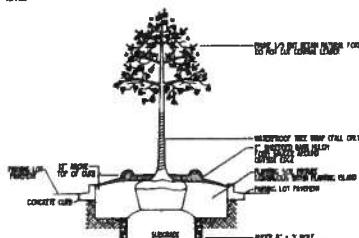
214 SOUTH MAIN STREET  
WHEATON, ILLINOIS  
TELEPHONE: 630-668-7197  
FACSIMILE: 630-668-4663



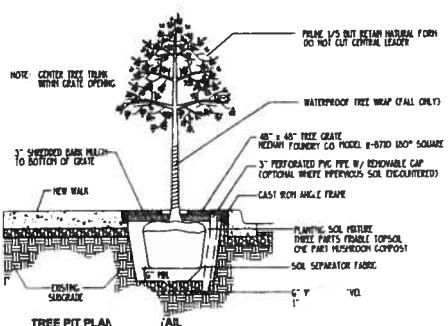
**PAVER PATTERN  
N.T.S**



#### DECIDUOUS AND EVERGREEN SHRUBS

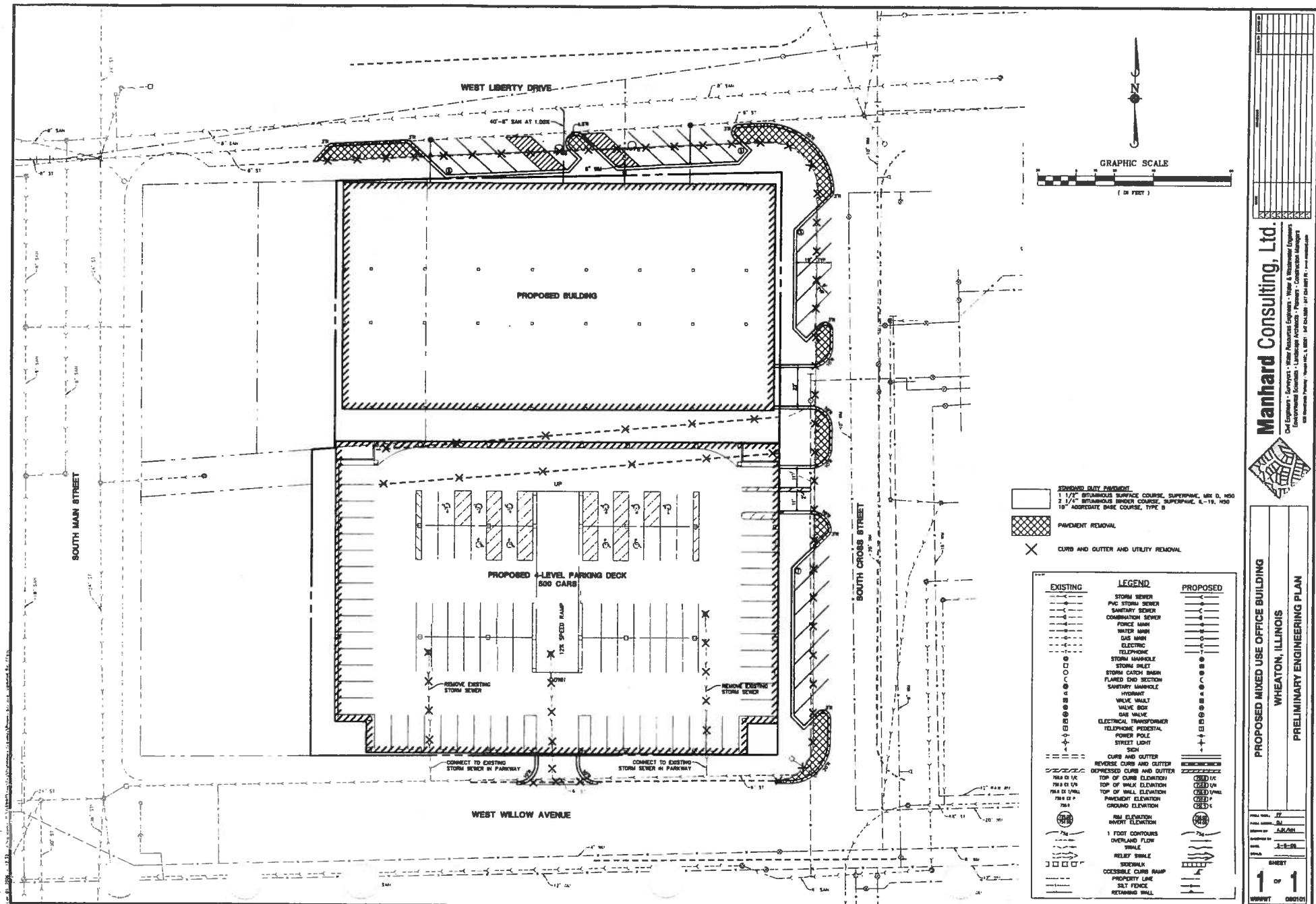


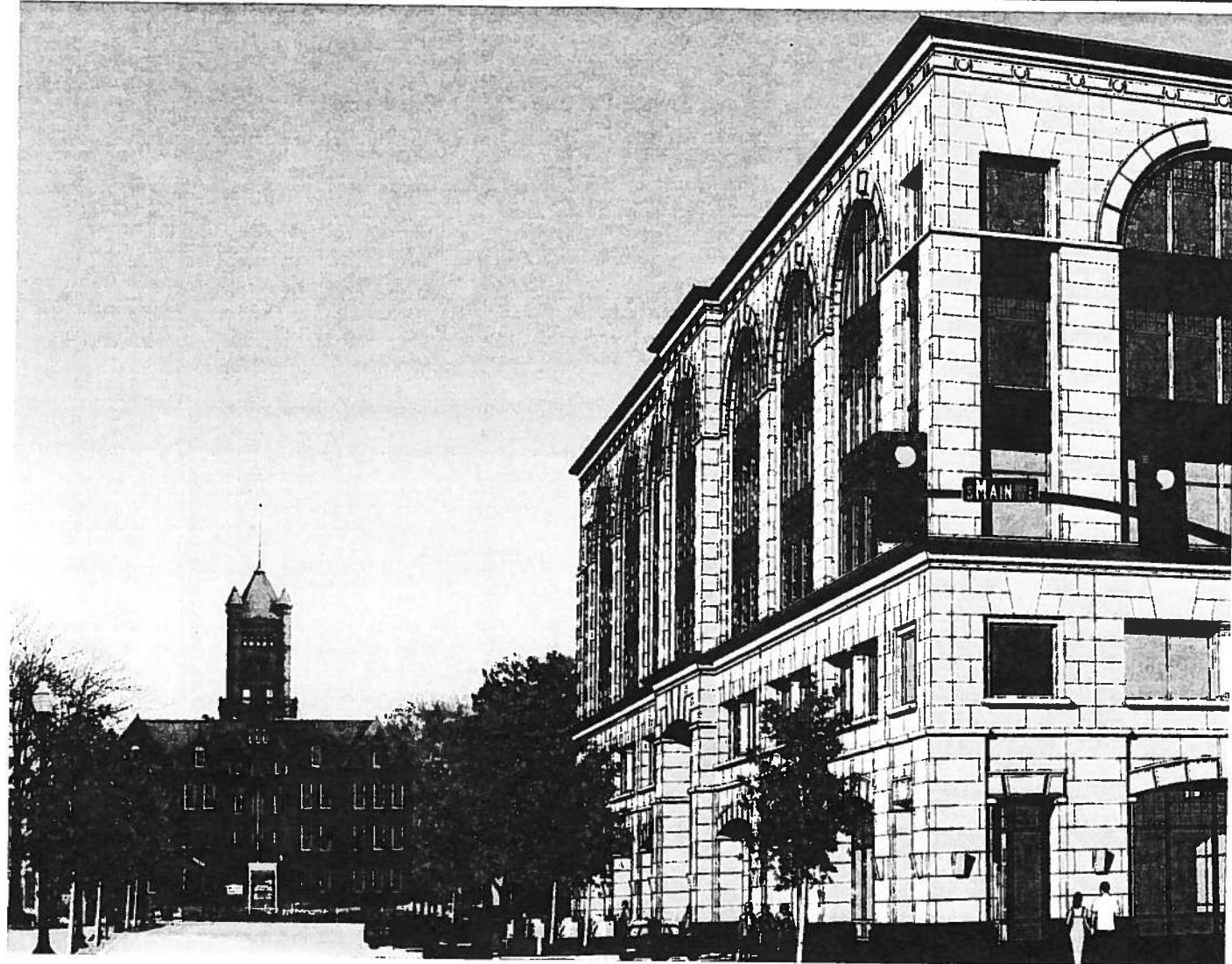
#### PLANTING ISLAND DETAILS



1163

653380-LOC





## Wheaton Property Partners

Liberty Drive & Cross Street  
Wheaton, IL

February 006

 **OPUS.**<sup>®</sup>

Perspective View Looking East Towards Courthouse Square



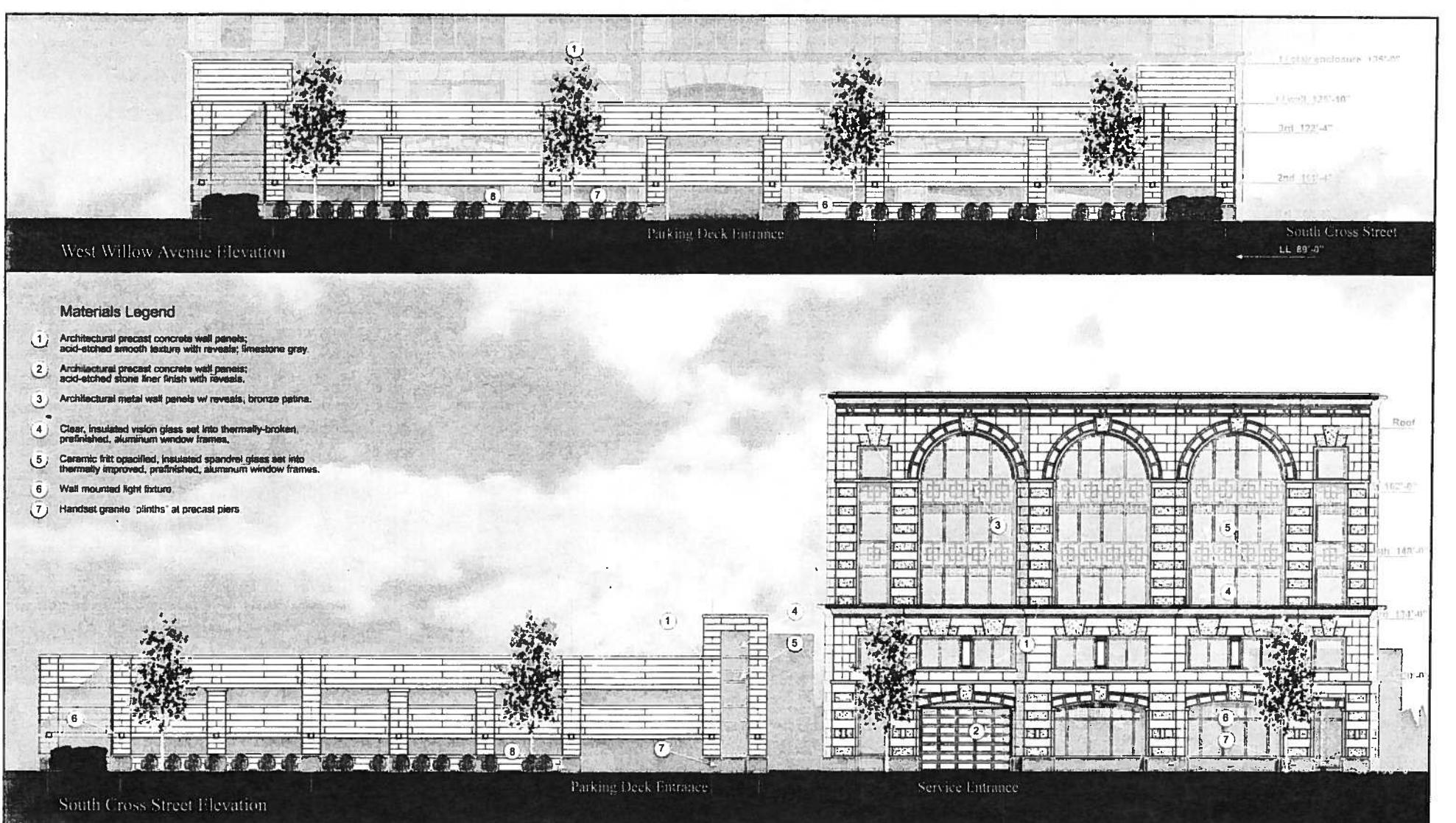
## Wheaton Property Partners

Liberty Drive & Cross Street  
Wheaton, IL

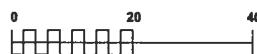
February 2006

 **OPUS.**<sup>®</sup>

Perspective



**Wheaton Property Partners**  
 Liberty Drive & Cross Street  
 Wheaton, IL



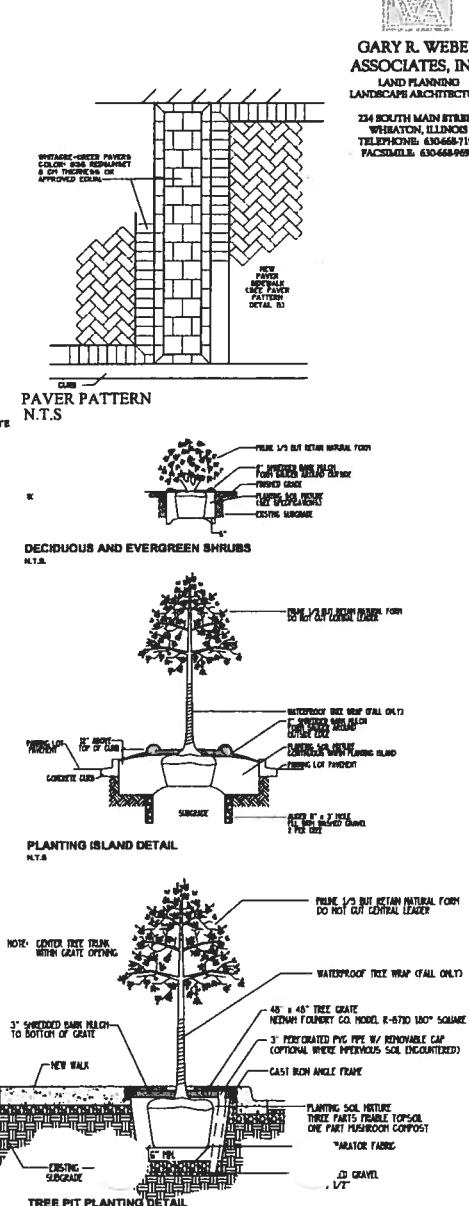
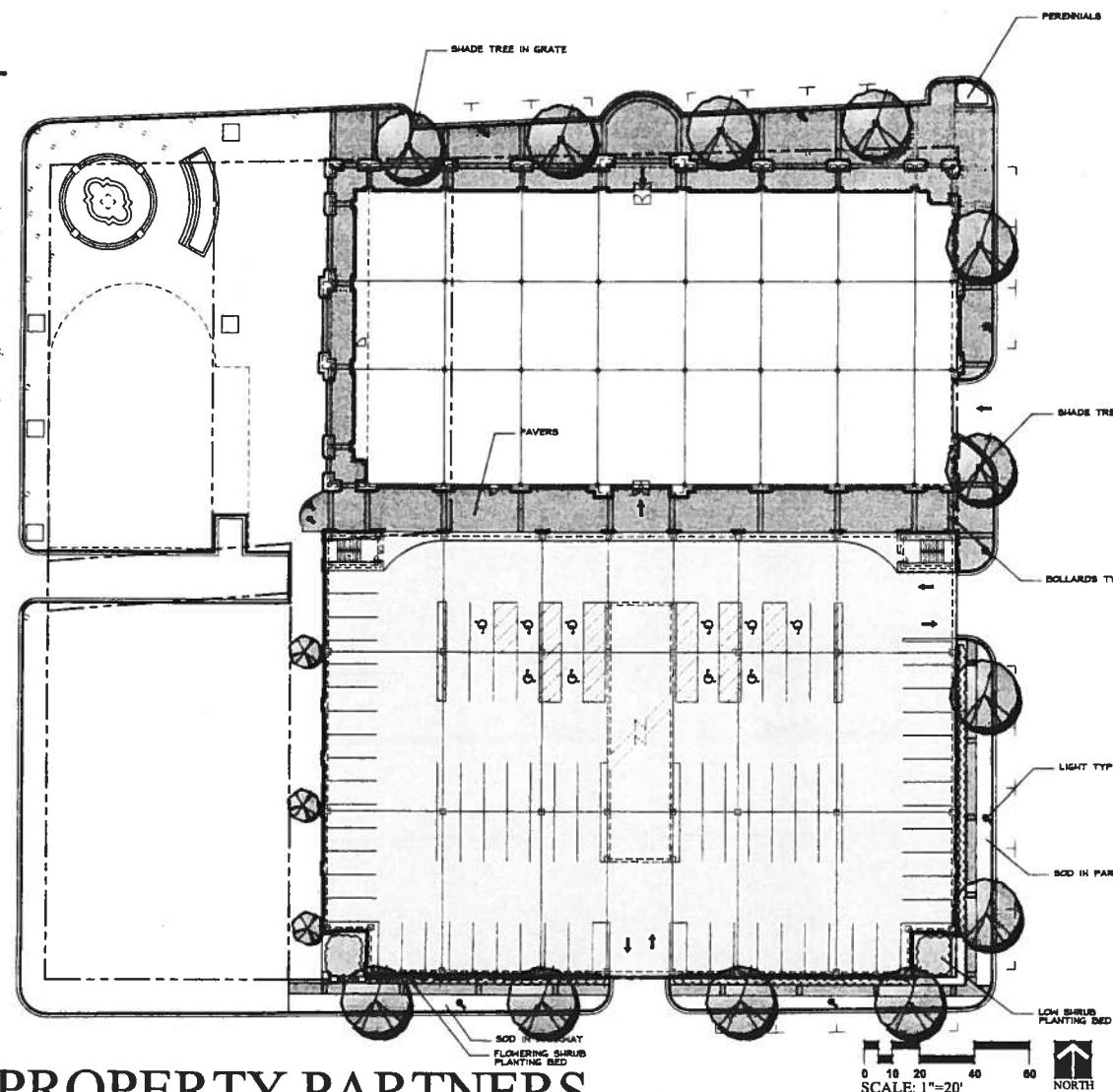
**OPUS**<sup>®</sup>

F-1165

GARY R. WEBER  
ASSOCIATES, INC.LAND PLANNING  
LANDSCAPE ARCHITECTURE214 SOUTH MAIN STREET  
WHEATON, ILLINOIS  
TELEPHONE: (312) 669-7197  
FACSIMILE: (312) 669-9493

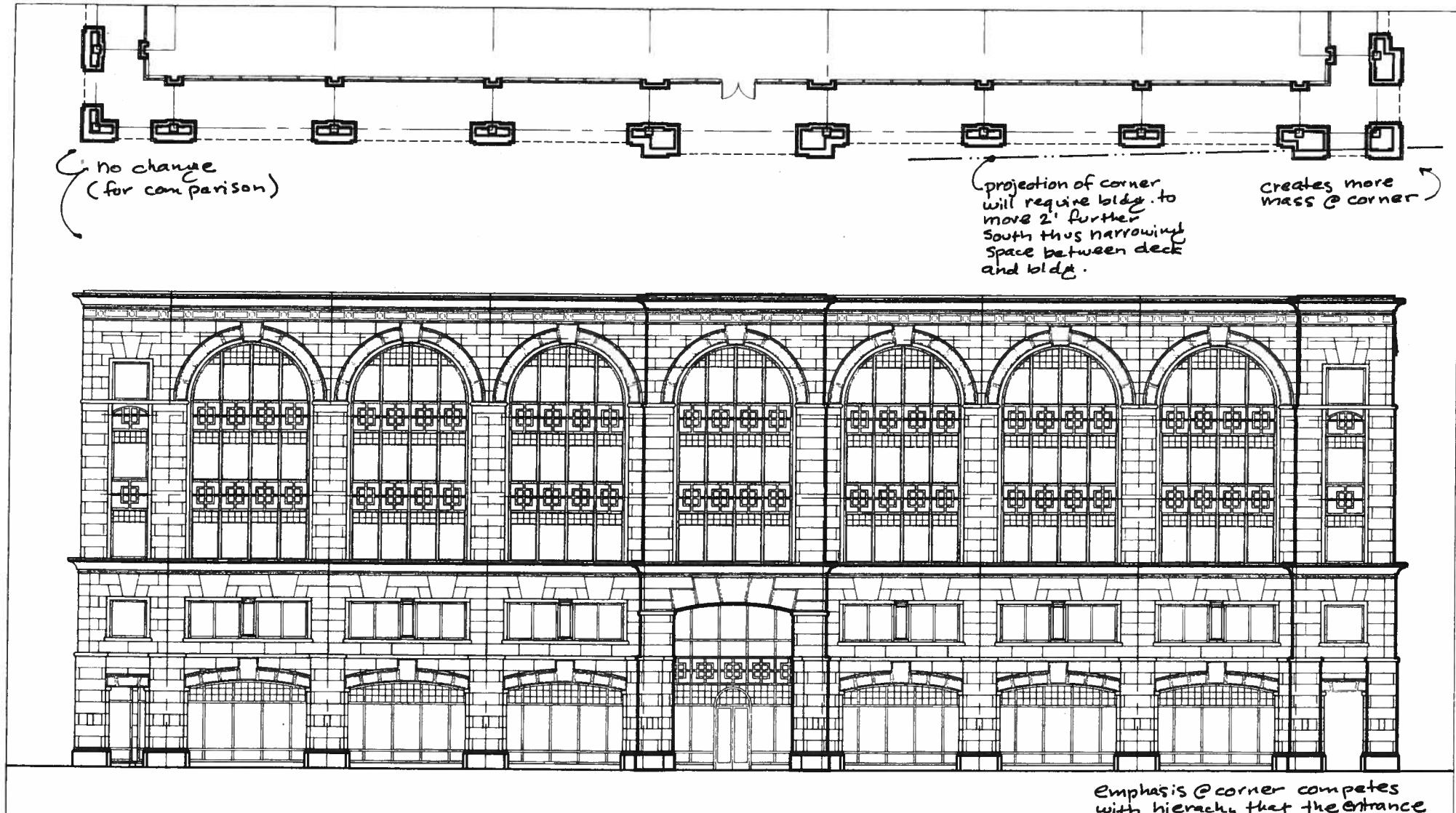
## PLANT LIST

| Botanical/Common Name                          | Size      | Remarks  |
|--|-----------|----------|
| SHADE TREES                                    |           |          |
| <i>Prunus cerasifera 'Chinkapin'</i>           | 3" Cal.   |          |
| CHANTICLEER PEACH                              |           |          |
| <i>Tilia cordata 'Greenspire'</i>              | 3" Cal.   |          |
| GREENSPIRE LINDEN                              |           |          |
| <i>Gleditsia triacanthos Inermis 'Skyline'</i> | 3" Cal.   |          |
| THORNLESS HONEYLOCUST                          |           |          |
| DECIDUOUS SHRUBS                               |           |          |
| <i>Syringa pulchra 'Tiesii Kinki'</i>          | 24" Htde. | 8" O.C.  |
| MISS KINI LILAC                                |           |          |
| <i>Rhus aromatica 'Gro-Low'</i>                | 24" Htde. | 3" O.C.  |
| GRO-LOW SUMAC                                  |           |          |
| <i>Polygonum 'Mickey's Mauve'</i>              | 24" Htde. | 8" O.C.  |
| THICK-LEAF WHITE PONTILLIA                     |           |          |
| EVERGREEN SHRUBS                               |           |          |
| <i>Tamnus x media 'Dentiformis'</i>            | 24" Htde. | 4" O.C.  |
| DENSE YEW                                      |           |          |
| ORNAMENTAL GRASSES AND PERENNIALS              |           |          |
| <i>Hemerostis 'Little Boxes'</i>               | 1 Gal.    | 18" O.C. |
| LITTLE BOXES DAYLILY                           |           |          |
| GROUNDCOVERS                                   |           |          |
| <i>Polygonum perfoliatum</i>                   | 1 GL.     | 12" O.C. |
| DAHLIA FLEECEFLOWER                            |           |          |
| MISC. MATERIALS                                |           |          |
| Patch  | C.T.      |          |



WHEATON PROPERTY PARTNERS  
PRELIMINARY LANDSCAPE PLAN/STREETSCAPE DESIGN  
FEBRUARY 6TH, 2006  
REV. 2/28/06  
REV. 3/3/06

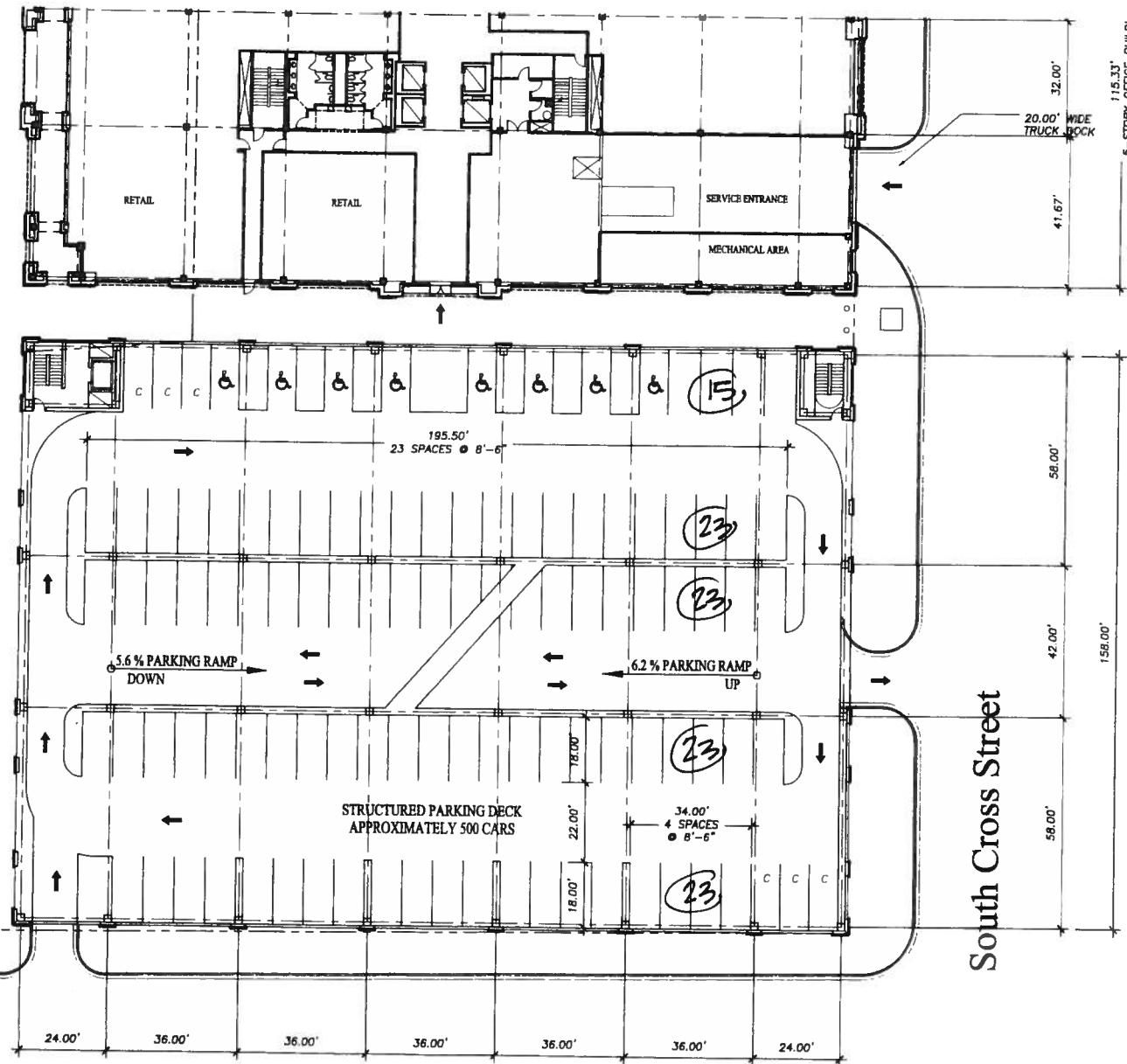
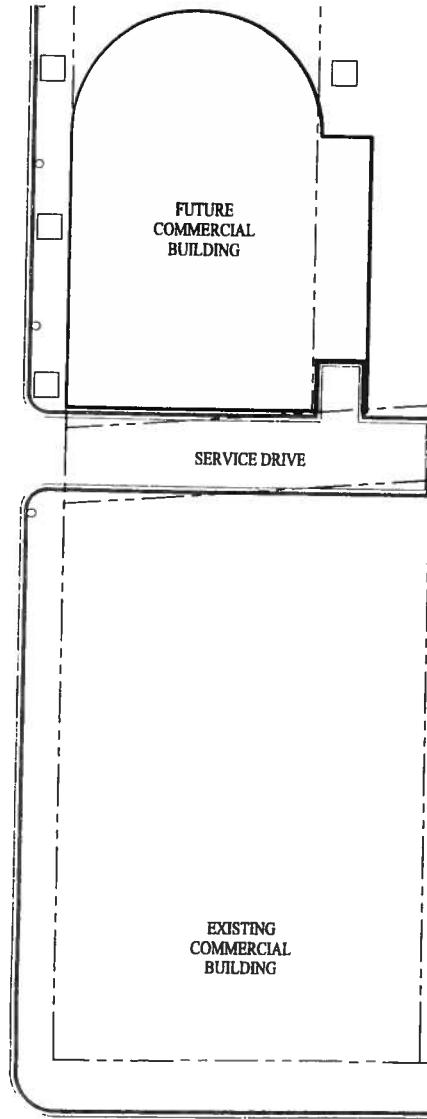
1/15/23



ELEVATION STUDY  
1/16" = 1'-0"

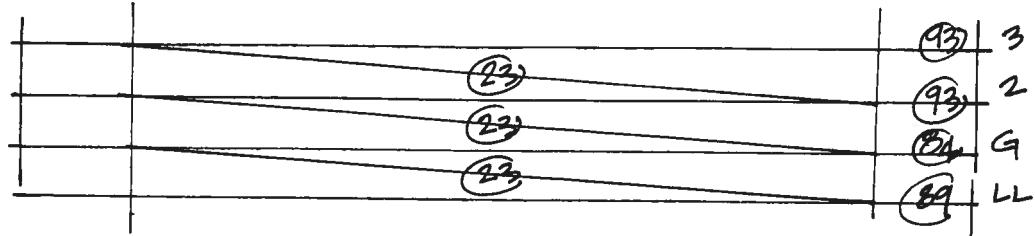
Emphasis @ corner competes  
with hierarchy that the entrance  
projection is trying to establish.

## South Main Street

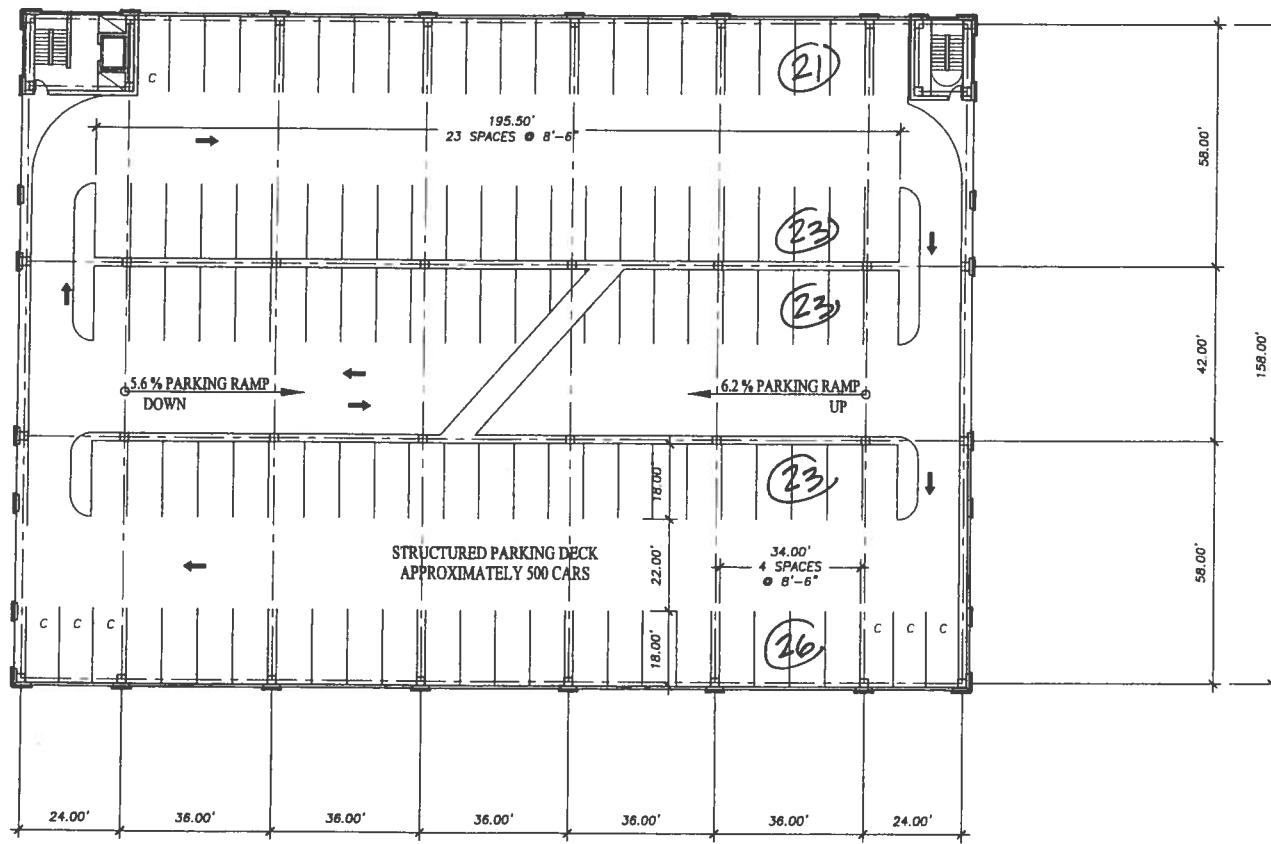


West Willow Avenue

Grade Level  
1:30



Blg. 72 spaces.  
Deck. 428  
500 spaces (±)



F-1153

**EXHIBIT "A"**

**FIRE LANE DESIGNATION AND ENFORCEMENT AGREEMENT**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2005, by and between the City of Wheaton, an Illinois Municipal Corporation, 303 W. Wesley Street, Wheaton, Illinois 60189 (hereinafter referred to as "CITY") and \_\_\_\_\_ (hereinafter referred to as "OWNER(S)'), OWNER(S) of the property located at \_\_\_\_\_, within the corporate limits of the City of Wheaton, Illinois (hereinafter referred to as "Subject Property"), and which is legally described below:

(INSERT LEGAL(S) AND P.I.N(S)

**RECITALS**

WHEREAS, the OWNER(S) desire to establish Fire Lanes upon the Subject Property to improve the health and safety of the citizens of Wheaton; and

WHEREAS, the CITY believes that it is in the best interests of the public health and safety that Fire Lanes be established, maintained and enforced upon the Subject Property.

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the OWNER(S) and CITY agree to the following in regards to the Subject Property:

1. The CITY Fire Chief, Chief of Police or their designated representative and OWNER(S), shall identify the specific Fire Lane locations within the Subject Property which shall, pursuant to the terms of this Agreement and Ordinance No. \_\_\_\_\_ be regulated. The specific locations of the Fire Lane(s) to be enforced shall be as set forth on the Site Plan ("Plan") attached hereto and fully incorporated into this Agreement as Exhibit " ". The CITY Fire Chief, Chief of Police or their designated representative and OWNER(S) or designated representative may from time to time mutually agree to amend the Fire Lane(s) location(s) as set forth in the

Site Plan. At such time, the Site Plan shall be amended and appended to this Agreement as an Amended Exhibit " ".

2. The OWNER(S) are responsible for providing any required pavement markings.

3. The OWNER(S), at their sole expense, shall be responsible for obtaining, erecting and maintaining the appropriate signage in accordance with applicable CITY and State of Illinois regulations and specifications.

4. The CITY shall inspect and approve the signage prior to entering into this Agreement. The CITY Fire Chief, Chief of Police or their designated representative may require additional signage and/or pavement markings, if it is later determined that the inspected and approved signage does not provide adequate notification of the established fire lanes.

5. Upon execution of this Agreement, the CITY will enforce the Fire Lane parking and standing prohibitions and the Fire Lane maintenance requirements contained in Sections 70-355 and 30-2 of the Wheaton City Code in regards to the Subject Property. No "special duty" to third persons shall be imposed by this Agreement. The CITY's enforcement obligation shall be legally the same as it is with all other ordinances.

6. This Agreement may be terminated by either party by providing not less than thirty (30) days notice to the other party of the intention to terminate this Agreement.

7. This Agreement shall be assignable by OWNER(S) to their successors in interest upon the sale or lease of the Subject Property.

8. The OWNER(S) hereby agrees to release and hold harmless, indemnify and defend (including the payment of all costs and attorneys' fees) the CITY, its Officers, Agents and Employees, in connection with any and all actions or claims for any loss, damage, personal injury or death occurring as a consequence of the performance of this Agreement.

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9. The sole remedy available to the OWNER(S), upon any breach of this Agreement by the CITY, shall be the termination of the Agreement. It is of the essence of this Agreement that the CITY shall not be liable in money damage for any breach of this Agreement.

10. Whenever notice to the CITY is required, it shall be addressed to:

City Clerk  
City of Wheaton  
303 West Wesley Street  
Wheaton, IL 60189-0727

Whenever notice to the Owner is required, it shall be addressed to:

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IN WITNESS WHEREOF, the parties hereto have executed this instrument by their duly authorized officers of the day and year first above written.

CITY OF WHEATON, ILLINOIS, a Municipal Corporation

BY: \_\_\_\_\_  
City Manager

ATTEST: \_\_\_\_\_  
City Clerk

BY: \_\_\_\_\_

ATTEST: \_\_\_\_\_