

FRED BUCHOLZ

DUPAGE COUNTY RECORDER

JUN.03,2008

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05-21-201-063

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R2008-089941

CITY OF WHEATON, ILLINOIS

F- 1338

ZA 08-08

**AN ORDINANCE AMENDING THE WHEATON ZONING MAP BY GRANTING
A SPECIAL USE PERMIT FOR PLANNED UNIT DEVELOPMENT / 926 E.
ROOSEVELT ROAD / MALLON II, LLC**

I HEREBY CERTIFY that I am the City Clerk of the City of Wheaton, DuPage County, Illinois, and that, as such City Clerk, I have the custody of the papers, entries, records and ordinances of said City.

I FURTHER CERTIFY that the attached is a true and correct copy of City of Wheaton Ordinance F- 1338 which was adopted by the Wheaton City Council on Monday April 7, 2008.

I have hereunto set my hand and affixed the seal of said City this 8th, day of April, 2008.

Emily M. Consolazio
City Clerk

REPAVED BY/RETURN TO)

**Emily Consolazio, City Clerk
City of Wheaton
303 W. Wesley Street**

ORDINANCE NO. F- 1338

**AN ORDINANCE AMENDING THE WHEATON ZONING MAP
BY GRANTING A SPECIAL USE PERMIT FOR PLANNED UNIT DEVELOPMENT-
926 E. ROOSEVELT ROAD/MALLON II, LLC**

WHEREAS, written application has been made 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 construction of a 5,600 square foot retail building with a single drive-thru lane and twenty-five parking spaces on a property zoned C-3 General Business District, all on the property legally described herein within the city limits of Wheaton, Illinois, and commonly known as 926 E. Roosevelt Road; ("Subject Property") 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 26, 2008, to consider the issuance of the special use permit; and the Board has recommended the issuance of the special use permit for planned unit development.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, Du Page 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-3 General Commercial District zoning classification:

THE NORTH 177 FEET OF LOT 1 (EXCEPT THE NORTH 6 FEET AND EXCEPT THE EAST 5 FEET THEREOF CONVEYED TO THE CITY OF WHEATON BY DOCUMENT R66-45890 AND EXCEPT THAT PART THEREOF BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE NORTH ½ OF THE NORTH ½ OF SECTION 21 AS MONUMENTED AND OCCUPIED: THENCE ON AN ASSUMED BEARING OF SOUTH 88 DEGREES 42 MINUTES 11 SECONDS WEST 37.71 FEET ALONG THE NORTH LINE OF SAID SECTION 21; THENCE SOUTH 00 DEGREES 04 MINUTES 47 SECONDS EAST 39.28 FEET TO A POINT ON THE INTERSECTION OF THE EXISTING SOUTHERLY RIGHT OF WAY LINE OF ROOSEVELT ROAD (ILLINOIS ROUTE 38) AS WIDENED, AND THE EXISTING WESTERLY RIGHT OF WAY LINE OF PRESIDENT STREET AS WIDENED, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUING ALONG THE SAME BEARING OF 00 DEGREES 04 MINUTES 47 SECONDS EAST 15.00 FEET ALONG SAID EXISTING WESTERLY RIGHT OF WAY LINE OF PRESIDENT STREET AS WIDENED TO A POINT, SAID POINT BEING 21.00 FEET TO A POINT ON SAID EXISTING SOUTHERLY RIGHT OF WAY LINE OF ROOSEVELT ROAD AS WIDENED, SAID POINT BEING MONUMENTED BY AN ILLINOIS DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS SURVEY MARKER; THENCE NORTH 88 DEGREES 46 MINUTES 16 SECONDS EAST 15.00 FEET ALONG SAID EXISTING SOUTHERLY RIGHT OF WAY LINE OF ROOSEVELT ROAD AS WIDENED TO THE POINT OF BEGINNING IN ROOSEVELT HEIGHTS, BEING A SUBDIVISION OF PART OF THE NORTH ½ OF NORTH ½ OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 12, 1919 AS DOCUMENT 138250, IN DUPAGE COUNTY, ILLINOIS.

2008-089941

PIN: 05-21-201-047; 05-21-201-063

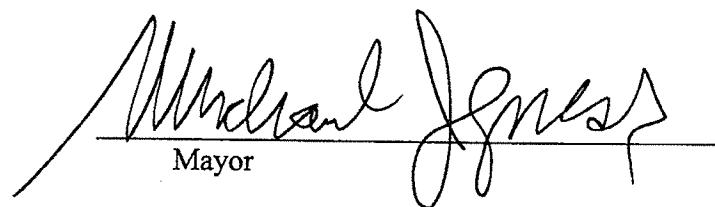
The subject property is commonly known as 926 East Roosevelt Road, Wheaton, IL 60187.

Section 2: Pursuant to the Findings of Fact made and determined by the Planning and Zoning Board, a special use permit is hereby issued on the subject property to allow the construction of a 5,600 square foot retail building with a single drive-thru lane and twenty-five parking spaces on a property zoned C-3 General Business District, in full compliance with the plans entitled "Wheaton Center Project, Preliminary Engineering Plans, Sheets 1-7" prepared by Atwell-Hicks, Naperville, IL dated January 31, 2008, and the plans entitled "Wheaton Center Project, Drive Thru Lane Autoturn" prepared by Atwell-Hicks, Naperville, IL dated February 25, 2008, and the plans entitled "Wheaton Center Project, Building, Sign and Dumpster Elevations, prepared by Christopher Kidd & Associates, LLC, dated January 31, 2008; and in further compliance with the following conditions, restrictions, and requirements:

1. One monument-style sign, in compliance with the requirements of Article 23.7.1(b) of the Wheaton Zoning Ordinance, constructed with a brick base to match the building, shall be permitted on the Subject Property; and
2. The applicant shall obtain a permit from the Illinois Department of Transportation for the Roosevelt Road restricted access drive; and
3. A final set of engineering plans shall be submitted for the reasonable approval of the Director of Engineering prior to the issuance of a building permit; and
4. The two proposed Douglas Firs, to be located near the southeast corner of the property, shall be replaced with a grouping of smaller shrubs to improve visibility. Said shrubs shall be subject to the reasonable approval of the Director of Planning and Economic Development; and
5. Developer shall enter into a Fire Lane Designation and Enforcement Agreement with the City in substantial compliance with Exhibit "A".
6. The demolition of the existing structures on the Subject Property shall be authorized by this Ordinance. Demolition of said structures, however, shall be carried out in conformance with Wheaton City Code Chapter 22, Article XIV, with the exception that the Developer shall not be required to wait 30 days prior to commencing demolition from the date of submitting a demolition permit application to the Building and Code Enforcement Department, and shall not be required to hold a "neighbor meeting" at least 30 days prior to submitting an application for building demolition.

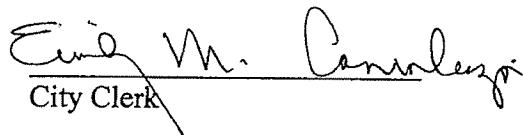
Section 3: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 4: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.



Michael J. Gresk
Mayor

ATTEST:



Cindy M. Cannalese
City Clerk

ROLL CALL VOTE:

Ayes:	Councilman Johnson Councilman Levine Mayor Gresk Councilman Mouhelis Councilman Prendiville Councilman Suess Councilwoman Corry
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Nays:	None
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Absent:	None
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Motion Carried Unanimously

Passed: April 7, 2008
Published: April 8, 2008

EXHIBIT "A"

FIRE LANE DESIGNATION AND ENFORCEMENT AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____ 2008, 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.

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:

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

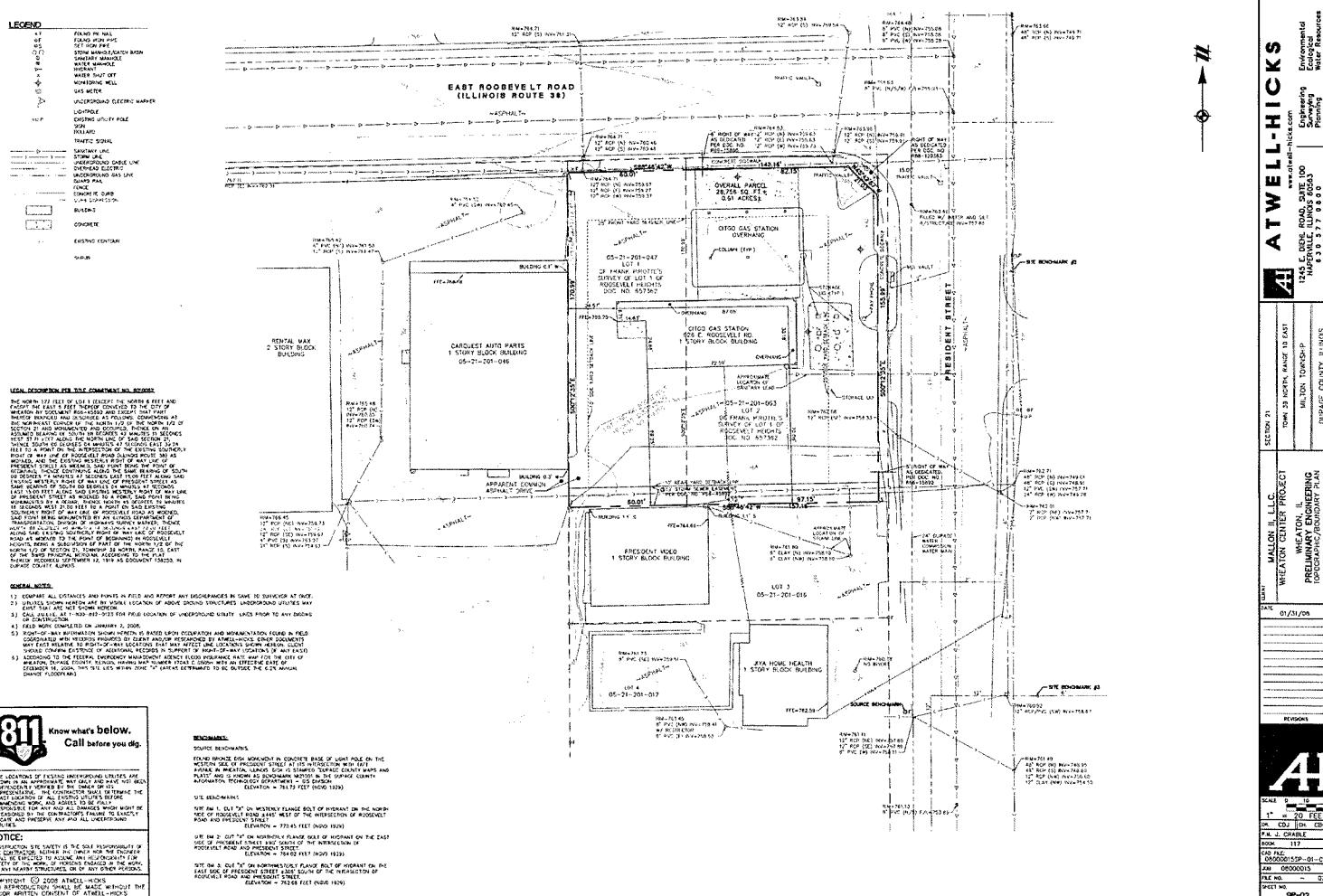
ATTEST: _____
City Clerk

BY: _____

ATTEST: _____

BY: _____

ATTEST: _____



WHEATON CENTER PROJECT

926 EAST ROOSEVELT
WHEATON, ILLINOIS 60187

DUPAGE COUNTY PRELIMINARY ENGINEERING PLANS

ENGINEER/SURVEYOR

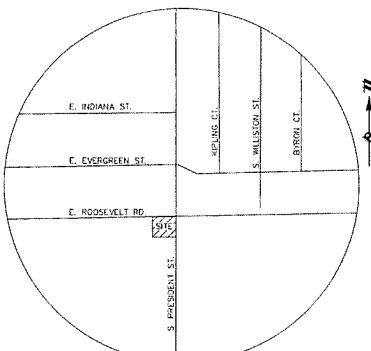
ATWELL-HICKS
1245 EAST DIEHL ROAD, SUITE 100
NAPERVILLE, ILLINOIS 60563
TELEPHONE (630) 577-0800
FAX: (630) 577-0900

OWNER & DEVELOPER

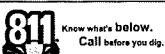
MALLON II, L.L.C.
1755 SOUTH NAPERVILLE ROAD
WHEATON, ILLINOIS 60187
TELEPHONE (630) 510-3225
FAX: (630) 310-3227

ARCHITECT

CHRISTOPHER KIDD & ASSOCIATES, L.L.C.
N48W16550 LISBON ROAD
MENOMONEE FALLS, WISCONSIN 53051
TELEPHONE (262) 901-0505
FAX: (262) 901-0510



SITE LOCATION MAP
NOT TO SCALE



NOTICE:
CONSTRUCTION SITE SAFETY IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR. THE CONTRACTOR IS RESPONSIBLE FOR DETERMINING THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE THE COMMENCEMENT OF ANY WORK AND FOR NOTIFYING THE APPROPRIATE UTILITY PROVIDER FOR THE LOCATION AND FOR THE REMOVAL OF ANY HEAVY STRUCTURES OR OF ANY OTHER HUMANS OR ANIMALS FROM THE WORK AREA. THE CONTRACTOR IS RESPONSIBLE FOR THE REMOVAL OF EXISTING UTILITIES. NO REPRODUCTION SHALL BE MADE WITHOUT THE PRIOR WRITTEN CONSENT OF ATWELL-HICKS.

RECOMMENDATIONS:
SOURCE OF INFORMATION:
THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND MAY NOT REFLECT THE EXACT LOCATION OF ALL EXISTING UTILITIES. BEFORE THE COMMENCEMENT OF ANY WORK, THE CONTRACTOR IS RESPONSIBLE FOR NOTIFYING THE APPROPRIATE UTILITY PROVIDER FOR THE LOCATION AND FOR NOTIFYING THE APPROPRIATE UTILITY PROVIDER FOR THE REMOVAL OF ANY HEAVY STRUCTURES OR OF ANY OTHER HUMANS OR ANIMALS FROM THE WORK AREA.

5' RECOMMENDATIONS:
5' FT. 0" ON NORTHEAST FLANGE LINE OF LIGHT POLE ON THE WESTERN SIDE OF ROOSEVELT STREET AT ITS INTERSECTION WITH EAST 926 EAST ROOSEVELT RD. THE POLE IS LOCATED ON THE PROPERTY AND IS KNOWN AS BINGHAM METHOD IN THE DUPAGE COUNTY TAX MAP. ELEVATION = 781.70 FEET (NGVD 1929)

3' FT. 0" ON NORTHEAST FLANGE LINE OF LIGHT POLE ON THE WESTERN SIDE OF ROOSEVELT STREET AT ITS INTERSECTION WITH EAST 926 EAST ROOSEVELT RD. THE POLE IS LOCATED ON THE PROPERTY AND IS KNOWN AS BINGHAM METHOD IN THE DUPAGE COUNTY TAX MAP. ELEVATION = 781.45 FEET (NGVD 1929)

3' FT. 0" ON NORTHEAST FLANGE LINE OF LIGHT POLE ON THE WESTERN SIDE OF ROOSEVELT STREET AT ITS INTERSECTION WITH EAST 926 EAST ROOSEVELT RD. THE POLE IS LOCATED ON THE PROPERTY AND IS KNOWN AS BINGHAM METHOD IN THE DUPAGE COUNTY TAX MAP. ELEVATION = 781.40 FEET (NGVD 1929)

3' FT. 0" ON NORTHEAST FLANGE LINE OF LIGHT POLE ON THE WESTERN SIDE OF ROOSEVELT STREET AT ITS INTERSECTION WITH EAST 926 EAST ROOSEVELT RD. THE POLE IS LOCATED ON THE PROPERTY AND IS KNOWN AS BINGHAM METHOD IN THE DUPAGE COUNTY TAX MAP. ELEVATION = 781.35 FEET (NGVD 1929)

SHEET INDEX

SP-01 COVER SHEET
SP-02 TOPOGRAPHIC BOUNDARY PLAN
SP-03 SITE LAYOUT DIMENSION PLAN
SP-04 GRADING PLAN
SP-05 UTILITY PLAN
SP-06 LANDSCAPE PLAN
SP-07 SITE LIGHTING PLAN

GOVERNING AGENCIES/UTILITY CONTACTS:

MALLON II, L.L.C.	SECTION 21	SP-01	COVER SHEET
WHEATON CENTER PROJECT	TOWN 29, NORTH, RANGE 10, EAST TO EAST	SP-02	TOPOGRAPHIC BOUNDARY PLAN
	MALLON II, L.L.C.	SP-03	SITE LAYOUT DIMENSION PLAN
		SP-04	GRADING PLAN
		SP-05	UTILITY PLAN
		SP-06	LANDSCAPE PLAN
		SP-07	SITE LIGHTING PLAN

ILLINOIS DEPARTMENT OF
TRANSPORTATION
MIKE WISNEY
201 WEST CENTER COURT
SCHAUMBURG, IL 60196
PHONE: (847) 702-4131

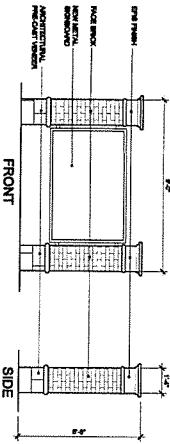
DATE: 01/31/03

REVISIONS:

SCALE: 30' = 1'-0"

EXTERIOR ELEVATIONS

3 PROPOSED MONUMENT SIGN

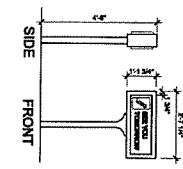


4 DIRECTIONAL SIGNS

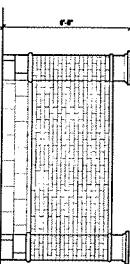
SCALE: 1/2" = 1'-0"

1 DUMPSTER ENCLOSURE

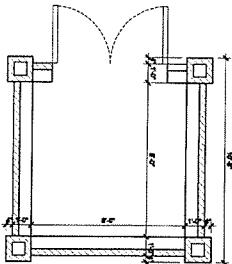
SCALE: 30' = 1'-0"



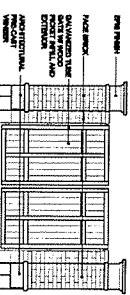
NORTH AND SOUTH ELEVATION
EAST ELEVATION



PLAN

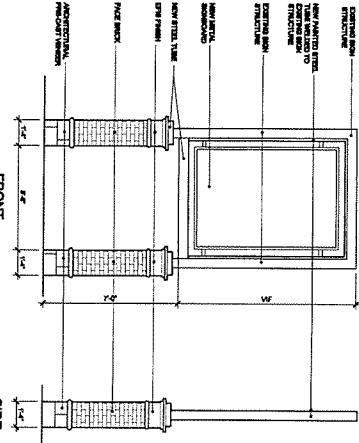


WEST ELEVATION



2 EXISTING POLE SIGN REMODEL

SCALE: 30' = 1'-0"



EAST ELEVATION

NORTH AND SOUTH ELEVATION

EAST ELEVATION

MALLON AND ASSOCIATES, INC.
REAL ESTATE AND DEVELOPMENT COMPANY

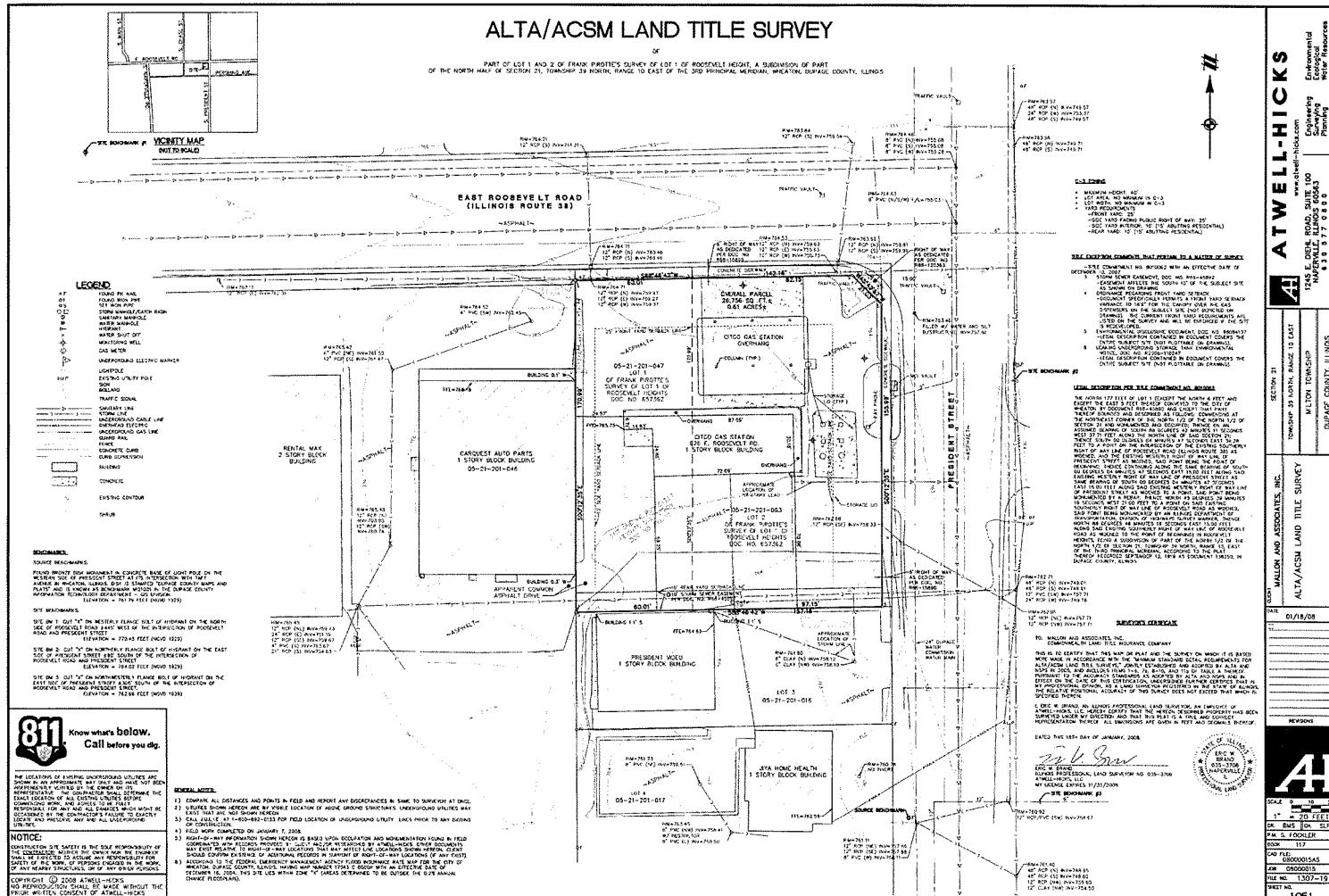
A305

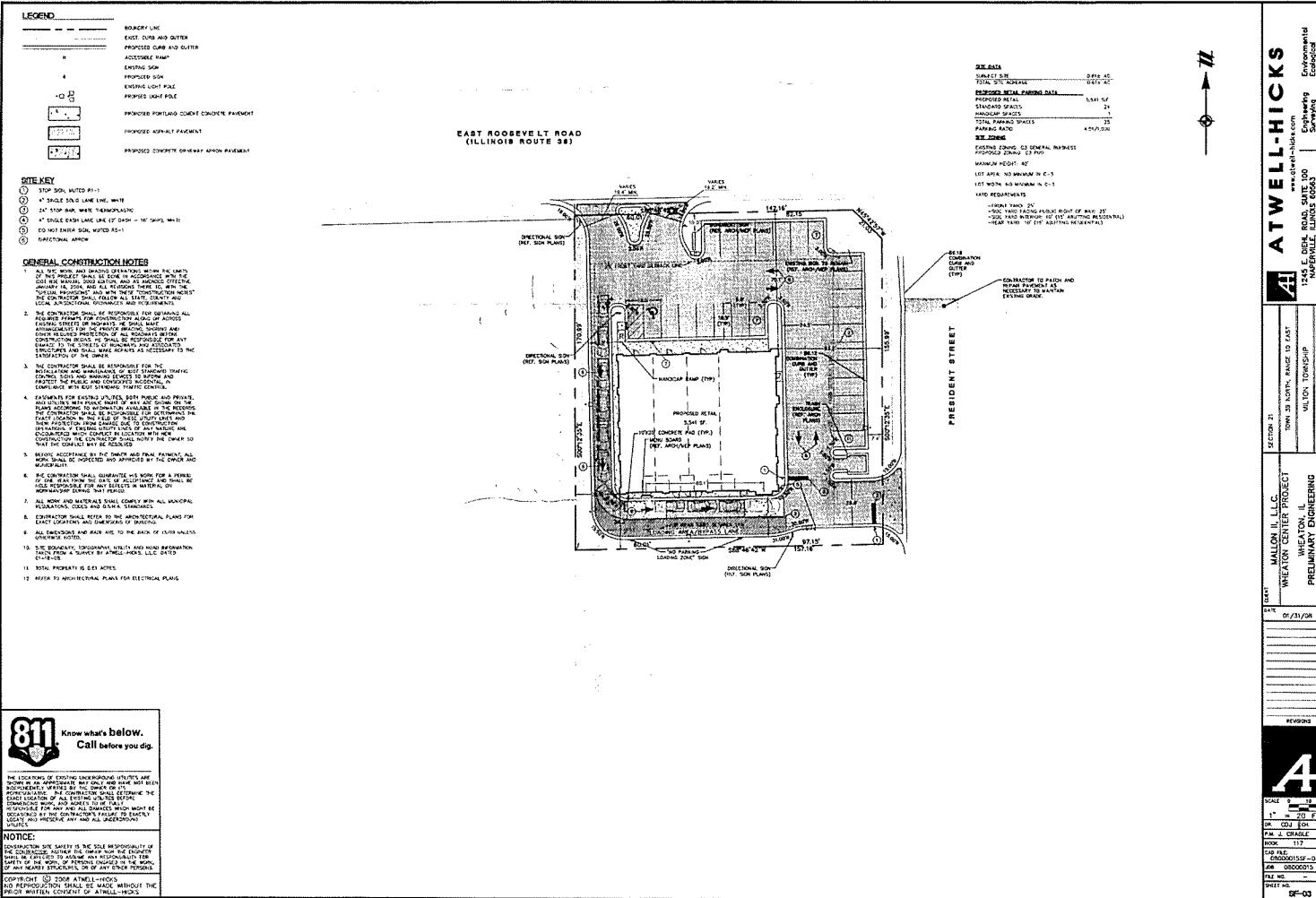
Proposed Retail Building for:
Wheaton Center Project
926 East Roosevelt Rd
Wheaton, IL 60187

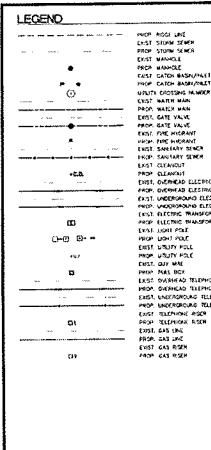
Christopher Kidd & Associates
Architects and Engineers

N45W16550 Lisbon Road
Menomonee Falls, Wisconsin 53051
Phone 262.901.0505 / Facsimile 262.901.0510
Email: arch@ckiddarchitects.com Website: www.ckiddarchitects.com

DATE	REVISION DESCRIPTION

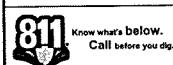






GENERAL NOTES

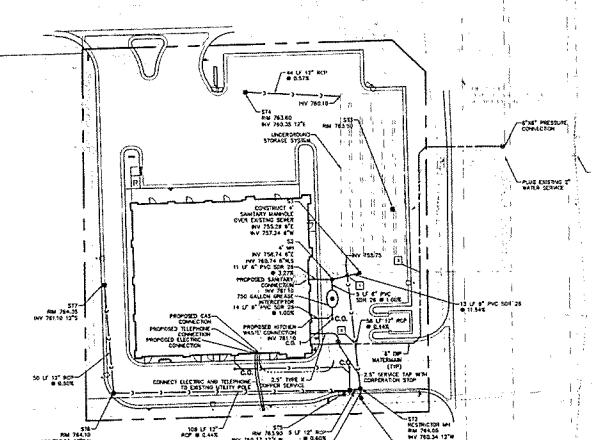
1. CONTRACTOR WILL BE RESPONSIBLE FOR VERIFYING THE LOCATION AND LENGTH OF ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION.
2. COORDINATE ALL UTILITY LEADS WITH THE ARCHITECTURAL/MECHANICAL, ELECTRICAL, AND PLUMBING CONTRACTORS.
3. CONTRACTOR TO COORDINATE WITH UTILITY PROVIDER FOR CONNECTION POINT AND LOCATION OF ALL TRANSFORMER PODS AND PRIVATE UTILITY POLE/TOWER.
4. CONTRACTOR IS RESPONSIBLE TO RESTORE ALL UTILITY AREAS TO AN AS-FOUND OR BETTER CONDITION THAN PRIOR TO CONSTRUCTION.
5. ALL UTILITY PODS/TRANSFORMERS MUST BE LOCATED 2' FROM BACK OF DUMP OR CENTER OF BASE (unless otherwise indicated).
6. ALL UTILITIES AND UTILITY STRUCTURES SHALL BE RESTRUCTURED IN ACCORDANCE WITH THE STANDARD OPERATIONS FOR WATER AND SEWER UTILITIES. THE CONTRACTOR IS RESPONSIBLE FOR ALL PLANS AND THE STANDARD DETAILS, LATEST EDITION, AND NOTES ON THESE PLANS.



THE LOCATIONS OF EXISTING UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND HAVE NOT BEEN DETERMINED BY THE CONTRACTOR OR ITS REPRESENTATIVE. THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATIONS OF EXISTING UTILITIES AND NOTIFY THE CONTRACTOR AND AGENT AS SOON AS POSSIBLE. THE CONTRACTOR IS RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MAY BE CAUSED TO EXISTING UTILITIES. THE CONTRACTOR IS REQUIRED TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.

UTILITY CROSSING CHART						
CROSSING NUMBER	TOP UTILITY	B.P. ELEVATION	BOTTOM UTILITY	1' ELEVATION	CLEARANCE	COMMENT
1	6" SANITARY	707.91	12" STORM	706.42	1.50	
2	12" STORM	708.59	6" SANITARY	705.16	1.53	DEP. WATERMAIN
3	6" WATERMAIN	703.73	6" SANITARY	704.80	1.90	

UTILITY NOT



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An architectural drawing of a foundation plan for a building. The drawing shows a rectangular footprint with various interior walls and rooms. Labels include 'ATWELL-HICKS' at the top, 'SECTION 31' and 'SECTION 32' on the left, and '125 E. DEI ROAD, UNIT 100, MURFREESBORO, TN 37130' on the right. A north arrow is at the bottom left, and a scale bar '1/20 FEET' is at the bottom right. The drawing is on a grid background.

