

For
Amendment to Cross
Parking and Use Agreement
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Mr. J. J. Schnur
Jewel Companies, Inc.
1955 W. North Ave.
CROSS PARKING AND USE AGREEMENT Melrose Park, Ill. 60160

THIS AGREEMENT made this 3rd day of March, 1970, by and between EISNER REALTY CORPORATION, an Indiana corporation, hereinafter called "Eisner", and MERRILLVILLE PROPERTIES, INC., an Indiana corporation, hereinafter called "Merrillville":

WITNESSETH:

WHEREAS, Eisner is the legal title holder in fee simple to certain premises situated in County of Lake and State of Indiana described as follows; to wit:

The North 235.0' of the West 681.0' and the South 98.0' of the North 333.0' of the West 297.0' (all as measured along the North and West lines) of Lot 2, Old Airport Addition to Lake County, Indiana as shown in Plat Book 38, Page 99 in Lake County, Indiana;

said premises being hereinafter referred to as the "Eisner Premises";

WHEREAS, Merrillville is the legal title holder in fee simple to certain premises contiguous to the Eisner Premises described as follows; to wit:

Lot 2, Old Airport Addition to Lake County, Indiana as shown in Plat Book 38, Page 99, Lake County, Indiana, except the North 235.0' of the West 681.0' and the South 98.0' of the North 333.0' of the West 297.0' thereof (all as measured along the North and West lines);

said premises being hereinafter referred to as the "Merrillville Premises"; and

WHEREAS, the parties hereto have agreed to create certain rights and obligations with respect to the development and use of their respective premises;

NOW THEREFORE, in consideration of the sum of One Dollar (\$1.00) each to the other in hand paid and other good and valuable considerations, the parties hereto covenant and agree as follows:

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I. Building Limitations

- A. No building, fence or other structure nor any part thereof, except light standards and signs (subject to the limitations hereinafter contained) shall be located on the Eisner Premises other than wholly within the South 150.0' of the North 199.0' of the West 400.0' and the South 115.0' of the North 164.0' of the East 281' of the Eisner Premises as measured along the West line thereof, nor shall the total gross floor area of all floors in all buildings located on the Eisner Premises exceed 55,000 square feet.
- B. The total gross floor area of all floors (excluding balconies) in all buildings located on the Merrillville Premises shall not exceed 150,000 square feet provided that any area devoted to so-called "outdoor sales" whether or not fenced, enclosed by a tent or other temporary means shall not be counted as floor area for the purposes of this limitation.

II. Architectural Design and Signs

- A. Any improvements constructed on the Eisner Premises shall not exceed a

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height of one story and shall only be constructed in accordance with a general architectural design approved in writing by Merrillville which approval shall not be unreasonably withheld.

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- B. No signs shall be erected on the Eisner Premises without the prior written approval of Merrillville except that this shall not apply with respect to (i) signs on the building facades and canopies which identify the business being conducted therein, and (ii) parking area directional signs.

III. Common Facilities

- A. Each party shall provide, maintain and keep open Common Facilities on no less than 65% of the area of their respective premises. The phrase "Common Facilities" shall mean improved automobile parking areas, drive-ways, service areas, planters and sidewalks all adequately graded, drained, lighted and unobstructed so as to facilitate the exercising of the cross parking rights hereinafter granted. If for any reason either party fails to so provide or maintain said Common Facilities then the other party may after reasonable notice to the party at fault enter upon the premises of the party at fault and perform the construction or maintenance required to so furnish the Common Facilities.
- B. Merrillville, its tenants and invitees shall have the non-exclusive right to use without charge the Common Facilities which may exist from time to time on the Eisner Premises subject to reasonable rules and regulations which may be promulgated from time to time by Eisner.
- C. Eisner, its tenants and invitees shall have the non-exclusive right to use without charge the Common Facilities which may exist from time to time on the Merrillville Premises subject to reasonable rules and regulations which may be promulgated from time to time by Merrillville.
- D. The parties hereto shall cooperate and shall cause all other persons having any right to possession of all or any part of their respective premises with one another to also cooperate and enter into suitable arrangements with respect to traffic flow, snow removal, cleaning, maintaining and lighting the Common Facilities of their premises and controlling employee parking all to the end that both premises may be used as a combined development.

IV. Use

- A. The Eisner Premises nor any part thereof shall not be used or occupied for any purpose other than for retail or service stores, offices, or banks and in no event shall said premises or any part thereof be used or occupied for the retail selling of food of any kind for consumption off the premises nor as a department store, discount department store, self-service department store, junior department store or variety store nor as a theater nor as a drug store having more than 15,000 square feet of floor area except that the foregoing shall not prohibit the incidental sale of food for consumption off the premises in a drug store provided that no more than 1500 square feet of floor area is used for such sales and except that the foregoing shall not prohibit no more than one restaurant selling prepared food for consumption off the premises provided that such food sales are merely incidental.

V. Utilities

- A. Each party hereby grants to the other such easements across, through and on their respective premises, other than the areas occupied or to be occupied by buildings, as are reasonably necessary to provide rights-of-way for utility services to the other party's premises and access to and use of

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water, storm and sanitary sewer systems and each party agrees to repair any damage to the premises of the other caused by the exercise of such easements.

VI. General

- A. The foregoing are covenants running with the land and shall be binding upon and inure to the benefit of the respective legal title holders of the Eisner and Merrillville Premises or successor title holders.
B. This Agreement may be amended from time to time or terminated by an instrument duly executed, delivered and recorded by the then legal title holders of the Eisner and Merrillville Premises.
C. If it shall at any time be held that any of the provisions of this instrument or any part thereof are invalid or for any reason become unenforceable no other provision or part thereof shall be thereby affected or impaired.

IN WITNESS WHEREOF, the parties hereto have executed and affixed their respective seals to this instrument as of the day and year first above written.

MERRILLVILLE PROPERTIES, INC.

EISNER REALTY CORPORATION

By [Signature] Vice President

By [Signature] Vice President

Attest [Signature] Secretary

Attest [Signature] Secretary

STATE OF ILLINOIS]
] SS.
COUNTY OF COOK]

I, JOANN P. WEIDNER, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that J. K. BALCH, personally known to me to be the Vice President of MERRILLVILLE PROPERTIES, INC. and J. J. Schnur, personally known to me to be the Secretary of said corporation, whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered the said instrument of writing as Vice President and Secretary of said corporation and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation, as their free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 5th day of March, 1970.

My Commission expires: January 19, 1972

[Signature] Notary Public
[Notary Seal]

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STATE OF ILLINOIS |
COUNTY OF COOK

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I, JOANN P. WEIDNER, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY THAT B. C. GENTRY, personally known to me to be the Vice President of ELSNER REALTY CORPORATION, and J. J. Schur, personally known to me to be the Secretary of said corporation, whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they signed and delivered the said instrument of writing as Vice President and Secretary of said corporation and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation, as their free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 5th day of March, 1970.

My Commission expires:

January 19, 1971



Joann P. Weidner
Notary Public

