

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

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MICHAEL M. STIGLICH
RECORDER

FILED

KEY 12-19-7
JAN 13 2005

STEPHEN R. STIGLICH
LAKE COUNTY AUDITOR

**GRANT OF EASEMENT
FOR ACCESS AND UTILITY PURPOSES**

CM 620310930

THIS GRANT OF EASEMENT FOR ACCESS AND UTILITY PURPOSES ("Easement") is made on this 23rd day of December, 2004, by St. John Marketplace, LLC, an Indiana limited liability company ("Grantor"), to the TOWN OF ST. JOHN, LAKE COUNTY, INDIANA, a municipal corporation ("Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner of real property situated in the County of Lake, State of Indiana, legally described on **Exhibit A** attached hereto (the "Grantor's Property"); and

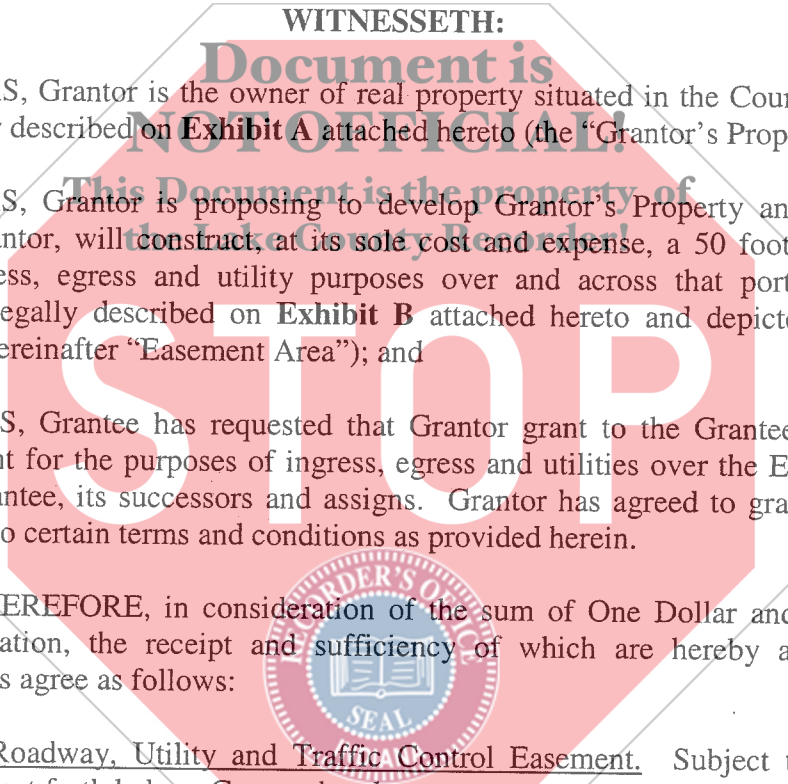
WHEREAS, Grantor is proposing to develop Grantor's Property and pursuant to its development, Grantor, will construct, at its sole cost and expense, a 50 foot roadway for the purposes of ingress, egress and utility purposes over and across that portion of Grantor's Property that is legally described on **Exhibit B** attached hereto and depicted on **Exhibit C** attached hereto (hereinafter "Easement Area"); and

WHEREAS, Grantee has requested that Grantor grant to the Grantee, a nonexclusive perpetual easement for the purposes of ingress, egress and utilities over the Easement Area for the benefit of Grantee, its successors and assigns. Grantor has agreed to grant to Grantee the easement subject to certain terms and conditions as provided herein.

NOW, THEREFORE, in consideration of the sum of One Dollar and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Grantor, the parties agree as follows:

1. Grant of Roadway, Utility and Traffic Control Easement. Subject to the terms and conditions set forth below, Grantor hereby grants, conveys and quit claims to Grantee, its successors and assigns, a non-exclusive perpetual easement for ingress, egress and roadway purposes for the passage of pedestrians and vehicles, and for utility and traffic control purposes, over, under, across and upon the Easement Area as long as the South Parcel, as defined in Section 3, is used for commercial, but no industrial, purposes. The Easement Grant as provided herein shall be used solely for vehicle ingress and egress,

Chicago Title Insurance Company



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pedestrian access, and utility purposes and at no time for parking or storage of any type, nor for any construction or industrial traffic.

2. By acceptance of the Easement Grant created hereby, Grantee covenants and agrees as follows:

A. Grantor's Reservation of Rights. Grantor hereby reserves and retains all of the property rights in and to the Easement Area, including without limitation, the right to use the surface and subsurface of the Easement Area for any purpose whatsoever so long as such use does not unreasonably interfere with Grantee's rights hereunder, it being expressly understood that the use of the Easement Area for landscaping, vehicular and pedestrian access, parking and/or signage (including directional, stop or handicapped parking signs or meters, but excluding pylon and monument signage) shall be deemed not to substantially interfere with Grantee's rights hereunder and that Grantor can locate gas, electric, water lines and other utilities in the Easement Area, so long as such improvements do not unreasonably interfere with the Grantee's permitted use of the Easement Area. Grantee shall not claim or declare any fee interest in and to the Easement Area.

B. Construction of Easement Area. Grantor agrees to construct the Easement Area at its sole cost and expense within twelve (12) months after the date of this agreement. Grantor or its assigns shall maintain the Easement Area in a good and safe condition and install, maintain, operate and replace, if necessary, the Easement Area in compliance with all applicable governmental rules, regulations and requirements. Notwithstanding the foregoing, any damage to the Easement Area caused by Grantee, its successors, agents, contractors, permittees or licensees must be promptly repaired and restored by Grantee at its sole cost and expense.

C. Construction of Connections to Easement Area Roadway and Utilities. Upon satisfaction of the conditions set forth in Section 3 hereof, Grantee, or developers of the South Parcel, at its sole cost and expense, shall be responsible to construct required improvements on the South Parcel (as defined in Section 3 herein) to tie into the improvements located on the Easement Area, including landscaping, roadway, curbs and all utility connections and extensions. Grantee shall deliver a copy of its plans and design specifications for such work to Grantor at least sixty (60) days prior to commencement of said work.

D. Grantee's Right to Maintain and Restore. In the event the Grantor shall fail to comply with the general maintenance and restoration of the Easement Area for a period of thirty (30) days after receipt of notice from Grantee (which 30-day period shall be subject to extension as reasonably necessary under the circumstances, provided Grantor is proceeding as diligently as possible to cure such failure), Grantee may, but shall not be obligated to, perform Grantor's maintenance and restoration obligations in order to bring the Easement Area into compliance hereunder, and Grantor shall promptly reimburse Grantee for the costs expended by Grantee in connection therewith.

E. Grantor's Right to Repair Damaged Easement Area Improvements. In the event the Grantee shall fail to comply with its obligation to repair any damages caused to the Easement Area or the improvements thereon within a period of fifteen (15) days after such damages occurs, Grantor may, but shall not be obligated to, perform Grantee's repair and restoration obligations in order to bring the Easement Area into compliance hereunder, and Grantee shall promptly reimburse Grantor for the costs expended by Grantor in connection therewith.

3. Restriction of Use of Easement Area. Grantor and Grantee agree that that portion of the Easement Area depicted on **Exhibit D** attached hereto that connects the Easement Area to real property which is located immediately South of the Property and North of 101st Place, as the same is now constructed and operated by Grantee and as depicted on **Exhibit D** (hereinafter "South Parcel") shall not be opened up to provide ingress and egress over the Easement Area to and for the South Parcel until such time as Grantee has complied with all of the following items:

A. The Easement Area is extended from the south property line of Grantor's Property in the area depicted on **Exhibit D**; and

B. The frontage road to be constructed over the South Parcel (i) will be constructed at approximately the same distance from Highway 41 as the Easement Area; and (ii) the frontage road to be constructed over the South Parcel shall be constructed in the same width, dimensions and general design as the frontage road constructed within the Easement Area; and

C. A parcel of real property located in the South Parcel which accesses the frontage road to be constructed over the South Parcel will be fully developed for its permitted use, as evidenced by a certificate of occupancy issued for said parcel.

4. Construction and Truck Access. Regardless of any provision to the contrary contained in this Agreement, Grantee acknowledges that the easement rights contained hereunder do not include construction access or use of the Easement Area to support Industrial uses on the South Parcel, and Grantee agrees that if and when the connection between the Easement Area and South Parcel has been opened up to provide access to the South Parcel, Grantee shall use all reasonable efforts to restrict construction and industrial access from the South Parcel through the Easement Area during the term of this easement, including, posting appropriate signage to restrict the same, providing police services to monitor the same, and issuing stop work orders for property in the South Parcel for continued violations of this section.

5. Insurance. Grantee agrees to maintain its general insurance policy at all times.

6. No Warranty. Grantee takes the Easement without warranty of title and subject to all valid and existing licenses, leases, grants, exceptions, encumbrances, title defects, matters of record, reservations and conditions affecting Grantor's Property and/or affecting access or ingress and egress thereto.

7. Condemnation. Grantee shall not claim or declare any fee interest in and to the Easement Area, and in the event of eminent domain proceedings or settlement pursuant thereto, Grantee shall make no claim against the award or compensation accruing out of or resulting from such event, save and except any payment made to Grantee for damage to its utility installations or with respect to removing or relocating the same.
8. Successors and Assigns. All of the provisions of this instrument, including the benefits and burdens, shall run with the land. All of the provisions of this instrument, including the benefits and burdens, shall be binding on and inure to the benefit of the heirs, assigns, successors, tenants and personal representatives of the Grantor and Grantee, herein.
9. Headings. Paragraph headings used in this Easement are for convenience only, and shall not affect the construction of this Easement.
10. Counterparts. This Easement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original, and all of which counterparts of this Easement, taken together, shall constitute but one and the same instrument.
11. Entire Agreement. This Easement, and the Exhibits attached hereto, constitute the entire understanding of the parties hereto with respect to the transaction contemplated thereby, and supersede all prior agreements and understandings between the parties with respect to the subject matter. No representations, warranties, undertakings or promises, whether oral, implied, written or otherwise, have been made by either party hereto to the other unless expressly stated in the above-referenced documents, or unless mutually agreed to in writing between the parties hereto after the date hereof, and neither party has relied on any verbal representations, agreements, or understandings not expressly set forth herein.
12. Amendments. This Grant of Easement may be amended by, and only by, a writing signed by Grantor and Grantee.
13. Applicable Law. This Easement shall be governed and construed in accordance with the laws of the State of Indiana. The parties hereto hereby agree and consent and submit themselves to any court of competent jurisdiction situated in the State of Indiana.
14. Severability. Invalidation of any of the provisions contained in this Grant of Easement, or of the application thereof to any person by judgment or court order shall in no way affect any of the other provisions hereof or the application thereof to any other person and the same shall remain in full force and effect.
15. Non Waiver. The failure of any party to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that party may have hereunder or at law or equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions.

**SIGNATURE PAGE
GRANT OF EASEMENT FOR ACCESS AND UTILITY PURPOSES
ST. JOHN, INDIANA**

IN WITNESSETH WHEREOF, the parties hereto have set their hands the day and year first above written.

St. John Marketplace, LLC,
an Indiana limited liability company

By: *Brad M Teibel*
Brad. M. Teibel
Its: Chief Manager

STATE OF INDIANA)

) ss.

COUNTY OF LAKE)

The execution of:

The foregoing instrument was acknowledged before this 23rd day of December, 2004, by *Brad M Teibel*, the Chief Manager of St. John Marketplace, LLC, an Indiana limited liability company, who executed the same on behalf of the limited liability company.

OFFICIAL NOTARY SEAL
☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆
BEVERLY J. GAWRYS
☆☆ Notary Public, Lake County, Indiana ☆☆☆
☆☆ My commission expires Feb. 9, 2008 ☆☆☆
☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆

Beverly J. Gawrys
Notary Public

TOWN OF ST. JOHN, LAKE COUNTY,
INDIANA, a municipal corporation.

By: *Stephen Z. Kil*
Stephen Z. Kil
Its: Town Manager

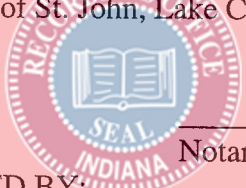
STATE OF INDIANA)

) ss.

COUNTY OF LAKE)

The execution of:

The foregoing instrument was acknowledge before me this 23rd day of December, 2004, by Stephen Z. Kil, the Town Manager of the Town of St. John, a municipal corporation, as such Officer for and on behalf of the Town of St. John, Lake County, Indiana.



Beverly J. Gawrys
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:
Barna, Guzy & Steffen, Ltd. (MFH)
400 Northtown Financial Plaza
200 Coon Rapids Boulevard
Minneapolis, MN 55433
Telephone: (763) 780-8500265878_1

OFFICIAL NOTARY SEAL
☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆
BEVERLY J. GAWRYS
☆☆ Notary Public, Lake County, Indiana ☆☆☆
☆☆ My commission expires Feb. 9, 2008 ☆☆☆
☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆☆

EXHIBIT A

GRANTOR'S PROPERTY

Lots 7 and 8 in Pon & Company Highway Farms, in the Town of St. John, as per plat thereof, recorded in Plat Book 26, page 82, in the Office of the Recorder of Lake County, Indiana.



EXHIBIT B

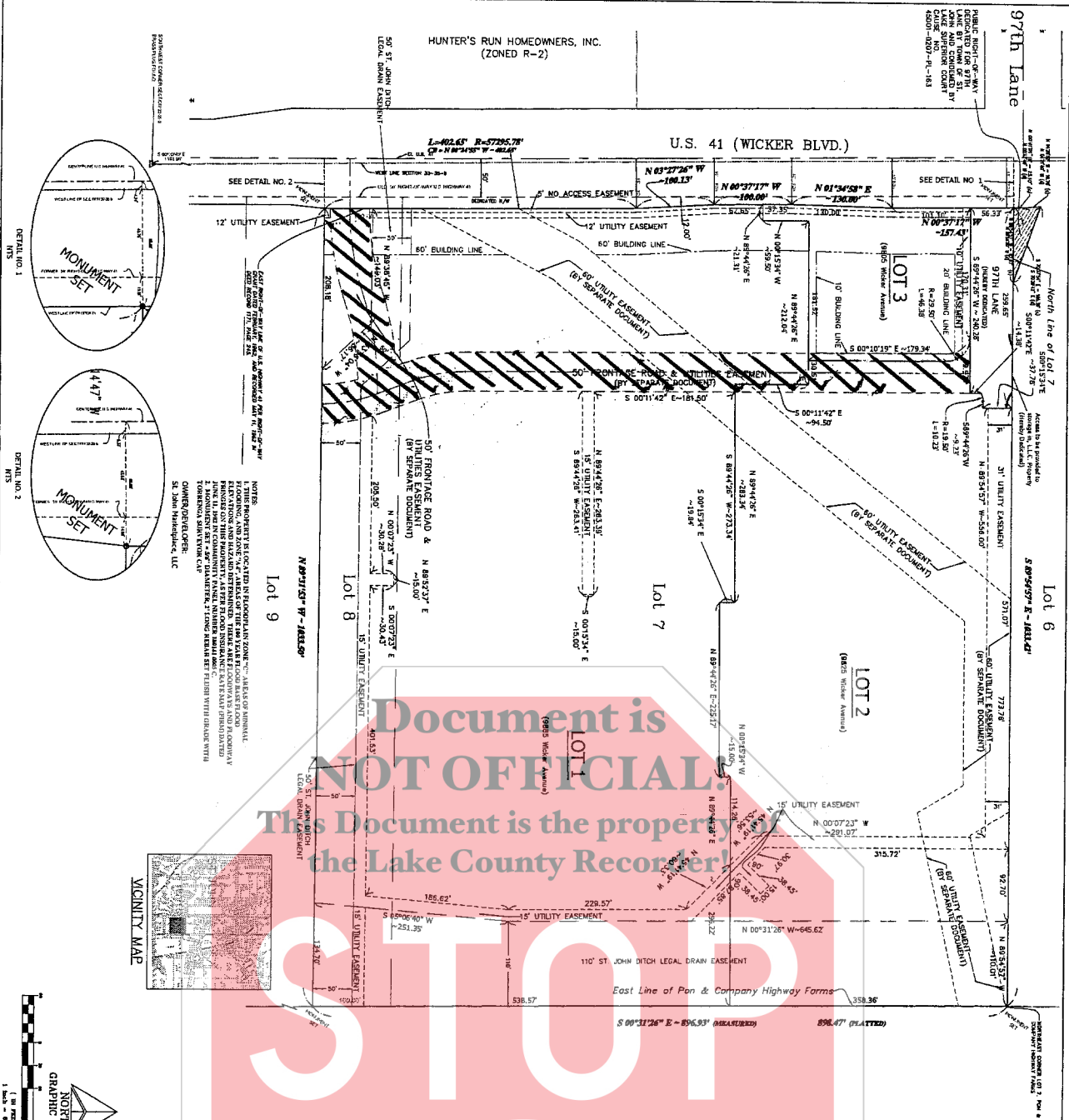
LEGAL DESCRIPTION OF EASEMENT AREA

DESCRIPTION OF A 50 FOOT WIDE FRONTAGE ROAD &
UTILITIES EASEMENT IN ST. JOHN
MARKETPLACE

DESCRIPTION: Being a Frontage Road and Utilities easement 50 feet in width and lying in Lots 7 and 8 in Pon & Company Highway Farms, as shown in Plat Book 26, page 82 in the Office of the Recorder of Lake County, Indiana, excepting therefrom that part taken for U.S. Highway 41 per Right-of-Way Grant Recorded May 11, 1962 in Deed Record 1171, page 245 in the Office of the Recorder of Lake County, Indiana, said easement more particularly described as follows: Commencing at the Southeast corner of said Lot 8; thence North $89^{\circ} 31' 53''$ West along the South line of said Lot 8, a distance of 755.99 feet to the Point of Beginning; thence continuing North $89^{\circ} 31' 53''$ West along the South line of said Lot 8, a distance of 50.01 feet; thence North $00^{\circ} 55' 02''$ West, a distance of 1.25 feet to a point of curve; thence Northwest along a curve concave to the West having a radius of 175.00 feet, an arc distance of 45.28 feet (the chord of which bears North $08^{\circ} 19' 49''$ West, a chord distance of 45.16 feet); thence Southwesterly along a curve concave to the South and having a radius of 350.00 feet, an arc distance of 101.31 feet (the chord of which bears South $80^{\circ} 15' 52''$ West, a chord distance of 100.96 feet) to a point of reverse curve; thence Westerly along a reverse curve concave to the North and having a radius of 400.00 feet, an arc distance of 123.51 feet (the chord of which bears South $80^{\circ} 49' 04''$ West, a chord distance of 123.02 feet) to a point on the West Right-of-Way line of said U.S. Highway 41; thence Northerly, on said West Right-of-Way line along a curve concave to the West and having a radius of 57295.78 feet, an arc distance of 50.00 feet (the chord of which bears North $00^{\circ} 14' 47''$ West, a chord distance of 50.00 feet); thence Northeasterly along a curve concave to the North and having a radius of 350.00 feet, an arc distance of 108.00 feet (the chord of which bears North $80^{\circ} 48' 41''$ East, a chord distance of 107.57 feet) to a point of reverse curve; thence Easterly along a reverse curve concave to the South and having a radius of 400.00 feet, an arc distance of 99.47 feet (the chord of which bears North $79^{\circ} 05' 45''$ East, a chord distance of 99.22 feet); thence North $20^{\circ} 12' 14''$ West a distance of 13.43 feet to a point of curve; thence Northerly along a curve concave to the East and having a radius of 224.00 feet, an arc distance of 78.23 feet (the chord of which bears North $10^{\circ} 11' 58''$ West, a chord distance of 77.83 feet); thence North $00^{\circ} 11' 42''$ West, a distance of 622.44 feet to a point of curve; thence Northwesterly along a curve concave to the Southwest and having a radius of 30.00 feet, an arc distance of 41.67 feet (the chord of which bears North $39^{\circ} 59' 23''$ West a chord distance of 38.40 feet); thence North $89^{\circ} 44' 26''$ East, a distance of 74.58 feet; thence South $00^{\circ} 11' 42''$ East, a distance of 652.03 feet to a point of curve; thence Southeasterly along a curve concave to the East and having a radius of 174.00 feet, an arc distance of 60.76 feet (the chord of which bears South $10^{\circ} 11' 58''$ East, a chord distance of 60.46 feet); thence South $20^{\circ} 12' 14''$ East, a distance of 52.09 feet to a point of curve; thence Southerly along a curve concave to the West and having a radius of 225.00 feet, an arc distance of 75.74 feet (the chord of which bears South $10^{\circ} 33' 38''$ East, a chord distance of 75.38 feet); thence South $00^{\circ} 55' 02''$ East, a distance of 2.46 feet to the point of beginning, all in the Town of St. John, Lake County, Indiana.

EXHIBIT C MAP OF EASEMENT AREA

FILE NO: ZNS11 John Retail/Map/5166-03.dwg 11/30/2004 12:25:04 PM CST



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1. The undersigned, Torrenge Engineering, Inc. (hereinafter "Torrenge"), a duly licensed professional engineering firm, has prepared the plat shown hereon for the purpose of recording the same in the public records of Lake County, Indiana.

2. The undersigned, Torrenge Engineering, Inc., hereby certifies that the plat shown hereon is a true and correct copy of the original plat as shown to the undersigned by the owner thereof, and that the same has been prepared in accordance with the laws of the State of Indiana, and that the same has been prepared in accordance with the laws of the State of Indiana, and that the same has been prepared in accordance with the laws of the State of Indiana.

3. The undersigned, Torrenge Engineering, Inc., hereby certifies that the plat shown hereon is a true and correct copy of the original plat as shown to the undersigned by the owner thereof, and that the same has been prepared in accordance with the laws of the State of Indiana, and that the same has been prepared in accordance with the laws of the State of Indiana, and that the same has been prepared in accordance with the laws of the State of Indiana.

St. John Marketplace
AN ADDITION TO THE TOWN OF ST. JOHN,
LAKE COUNTY, INDIANA
BEING A RESUBDIVISION OF LOTS 7 AND 8 IN
PON & COMPANY HIGHWAY FARMS

TORRENGA ENGINEERING, INC.
111 N. W. 11th St., Suite 100
Lafayette, Indiana 47902
Tel: (317) 485-2000
Fax: (317) 485-2001
www.torrenge.com

ST. JOHN MARKETPLACE
an Addition to the Town of
St. John, Lake County, Indiana
Final Plat

TORRENGA ENGINEERING, INC.
CONSULTING ENGINEERS & LAND SURVEYORS
907 RIDGE ROAD, MUNSTER, INDIANA 46321
Tel No: (219) 836-8918
website: www.torrenge.com



CLIENT:
Brodie Fabal
P.O. Box 1319
Lafayette, Indiana 47902

JOB NO: 5166-03

SCALE: 1" = 60'

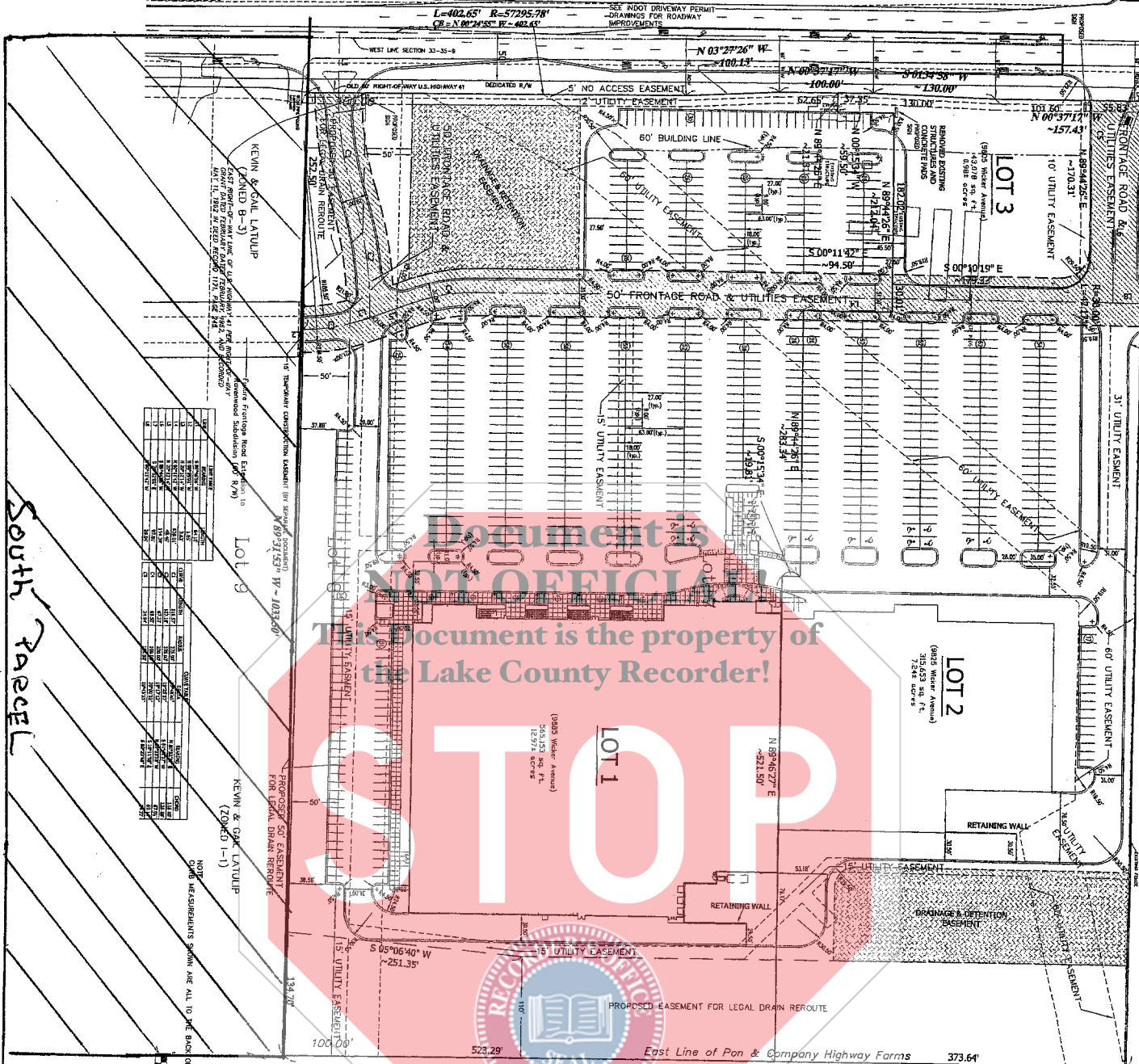
REVISIONS:

DATE: 11-30-2004

SHEET
1 OF 1

EXHIBIT D
DEPICTION SKETCH OF SOUTH PARCEL

UPON CALLING
(ZONED B-3)
FRONTAGE ROAD &
UTILITIES EASEMENT
(UNTER SEPARATE DOC.)
97th Lane



SOUTH PARCEL

NO.	DESCRIPTION	DATE	BY
1	PRELIMINARY	02-04-2004	J.E.
2	REVISED	01-10-2004	J.E.
3	REVISED	01-10-2004	J.E.
4	REVISED	01-10-2004	J.E.
5	REVISED	01-10-2004	J.E.
6	REVISED	01-10-2004	J.E.
7	REVISED	01-10-2004	J.E.
8	REVISED	01-10-2004	J.E.
9	REVISED	01-10-2004	J.E.
10	REVISED	01-10-2004	J.E.
11	REVISED	01-10-2004	J.E.
12	REVISED	01-10-2004	J.E.
13	REVISED	01-10-2004	J.E.
14	REVISED	01-10-2004	J.E.
15	REVISED	01-10-2004	J.E.
16	REVISED	01-10-2004	J.E.
17	REVISED	01-10-2004	J.E.
18	REVISED	01-10-2004	J.E.
19	REVISED	01-10-2004	J.E.
20	REVISED	01-10-2004	J.E.

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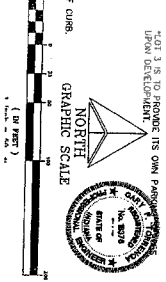
RECORDING INFORMATION:
The west 600' of this property is zone B-3, while the east 600' is zone B-1.

PARKING INFORMATION:
TOTAL AVAILABLE PARKING SPACES = 865
INCLUDING 18 HANDICAP SPACES
INCLUDING 8 HANDICAP SPACES

LOT 1
LOT 1 INC SPACES = 872
INCLUDING 8 HANDICAP SPACES

LOT 2
PARKING SPACES = 233
INCLUDING 18 HANDICAP SPACES

GENERAL PARKING DIMENSIONS:
PARKING SPACES:
TYPICAL SPACES - 9' X 18'
HANDICAP SPACES - 12' X 18' (CIRCULAR)
ALL AISLES - 27' WIDE
AISLES BETWEEN PARKING SPACES:
(EAST-WEST)
MAIN DRIVE'S THRU PARKING LOT
(NORTH-SOUTH OF WAREHOUSES)
SOUTH DRIVE (NORTH-SOUTH OF WAREHOUSES)
DRIVE - 28' WIDE
NORTH DRIVE TO INTERSECTION:
DRIVES - 24' WIDE EACH
WITH 3' MEDIAN



CLIENT: St. John Market P.O. Box 1313 Lafayette, Indiana 47902	DATE: 10-09-2003
JOB NO: 5165-03	REVISIONS:
SCALE: 1" = 50'	

ST. JOHN MARKETPLACE
St. John, Lake County, Indiana
Lot Layout

TORRENGA ENGINEERING, INC.
CONSULTING ENGINEERS & LAND SURVEYORS
907 RIDGE ROAD, MUNSTER, INDIANA 46321
Tel. No.: (219) 836-8918
website: www.torrenge.com



DESCRIPTION: Lot 7 and 8 Pon & Company Highway Farms Addition to HDL
Block 36, Plat 18 in the Office of the Recorder of Lake County, Indiana.