

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In The Matter of:	:	
Former Swan Dry Cleaners,	:	<u>Covenant Not to Sue</u>
Space 66	:	
Worthington Mall	:	
150 Wilson Bridge Road	:	<u>Director's Final Findings</u>
Worthington, OH 43085	:	<u>and Orders</u>
	:	

Pursuant to Chapter 3746 of the Ohio Revised Code (ORC), and Chapter 3745-300 of the Ohio Administrative Code (OAC) the Director of the Ohio Environmental Protection Agency (Director) hereby makes the following Findings and issues the following Orders (Findings and Orders or Covenant).

FINDINGS

1. An original No Further Action Letter (NFA Letter No. 97NFA003) was submitted to the Ohio EPA Division of Emergency and Remedial Response on behalf of the Aetna Life Insurance Company through its agent, Allegis Realty Investors, on March 3, 1997, by Russell K. Smith, Certified Professional (Certified Professional No. CP134) as defined in ORC Section 3746.01(E) and OAC rule 3745-300-01(A)(8)(the Certified Professional).
2. NFA Letter No. 97NFA003 describes investigational and/or remedial activities undertaken at the approximately 100 ft. by 30 ft. tract of land, designated Space 66, located in the Worthington Mall, at 150 Wilson Bridge Road, Worthington, Franklin County, Ohio, 43085 (the Property). An exact legal description of the Property is contained in the warranty deed recorded in the Franklin County Recorder's Office in Plat 57, Page 40, Deed Book 2748, Page 503 and 508, attached hereto as Exhibit A. The described legal description is for the entire Worthington Mall, and the location of the former Swan Cleaners is included within the Mall and is known as 66 Worthington Square and/or Unit 66.

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency.

By: Zora L. Clements Date 7-17-98

ENTERED DIRECTOR'S JOURNAL
JUL 17 1997

3. Amendments to NFA Letter No. 97NFA003, dated July 30, 1997, were submitted by the Certified Professional to Ohio EPA. NFA Letter No. 97NFA003, Ohio EPA's comments, and Amendments to NFA Letter No. 97NFA003 are collectively referred to hereafter in these Findings and Orders as the "NFA."
4. Based upon the information contained in the NFA, the following investigation and/or remedial activities were undertaken at the Property:
 - a) Completion of a Phase I Property Assessment, in accordance with OAC rule 3745-300-06; and
 - b) Completion of a Phase II Property Assessment, in accordance with OAC rule 3745-300-07, including but not limited to investigations of soil and ground water to assess environmental conditions related to releases of hazardous substances and petroleum.
5. The Certified Professional has verified by affidavit that the investigation and/or remedial activities undertaken at the Property comply with the standards established in ORC Chapter 3746 and OAC Chapter 3745-300, that the Property is eligible to receive a Covenant Not Sue under the Voluntary Action Program, and that the voluntary action was conducted in compliance with all applicable federal, state and local laws.
6. DLZ Laboratories (Certified Laboratory No. CL 00014) is a certified laboratory as defined in ORC Section 3746.01(D) and OAC 3745-300-01(A)(7).
7. According to information provided in the NFA, DLZ Laboratories performed analyses for which it is certified and qualified, pursuant to ORC Chapter 3746 and OAC Chapter 3745-300, that formed the basis for the issuance of the NFA as determined by the Certified Professional.
8. No land use restriction has been placed on the Property described in the NFA and, based on the information contained in the NFA, the Property meets the applicable standards contained in ORC Chapter 3746 and OAC Chapter 3745-300 for residential land use.
9. Based on the information contained in the NFA, the Director has determined that the issuance of a Covenant Not to Sue for the Property is protective of human health, safety and the environment.

ORDERS

1. Upon the effective date of these Orders, and subject to the conditions outlined below, the Ohio EPA hereby releases and covenants not to sue Aetna Life Insurance, or its agents,

ENTERED DIRECTOR'S JOURNAL

JUL 17 98

employees, shareholders, officers, directors, successors or assigns, from all civil liability to the State to perform additional investigational and/or remedial activities to address the releases of hazardous substances or petroleum addressed through the Phase I and Phase II property assessments completed in accordance with ORC Chapter 3746 and OAC Chapter 3745-300.

2. The NFA and the Covenant provided in these Findings and Orders may be transferred to any person by assignment or in conjunction with the acquisition of title to the Property.
3. A summary of the NFA and the Covenant provided in these Findings and Orders shall be filed in the Office of the County Recorder of Franklin County, Ohio, in the same manner as a deed to the Property.

Conditions of and Limitations on the Covenant

1. This Covenant shall only apply to the Property described in the NFA, upon which the investigational and/or remedial activities specified in the NFA were conducted.
2. Pursuant to ORC Section 3746.12(B), this Covenant shall remain in effect for as long as the Property to which this Covenant pertains continues to comply with the applicable standards upon which this Covenant is based, as outlined in Finding Nos. 1 through 9 above.
3. This Covenant shall not apply to releases of hazardous substances or petroleum:
 - (a) which occur after the submittal of the NFA to Ohio EPA, or
 - (b) on or emanating from the Property which are not described in the NFA, or
 - (c) for which investigational and/or remedial activities were conducted which were not in compliance with ORC Chapter 3746 or OAC Chapter 3745-300.
4. This Covenant shall not apply to:
 - (a) claims for natural resource damages the State may have pursuant to Sections 107 or 113 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. Sections 9607 and 9613, as amended; or
 - (b) claims the State may have pursuant to Section 107 of CERCLA, 42 U.S.C. Section 9607, as amended, for costs other than those for damages to natural resources, provided that the State incurs those other costs as a result of an action by the

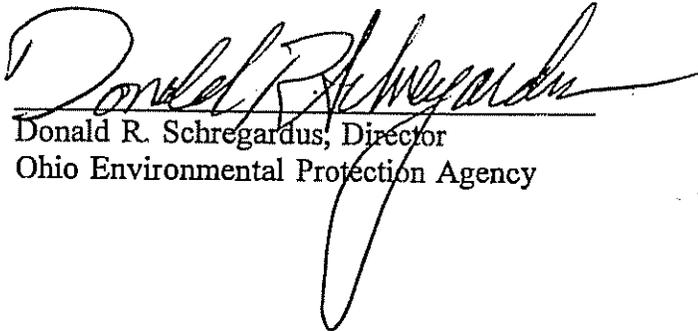
JUL 17 98

OHIO E.P.A.

United States Environmental Protection Agency; or

- (c) as otherwise specifically provided in ORC Chapter 3746.
5. Nothing in ORC Chapter 3746 limits the authority of the Director to act under ORC Sections 3734.13 and 3734.20 to 3734.23, or to request that a civil action be brought pursuant to the ORC or common law of the State to recover the costs incurred by Ohio EPA for investigating or remediating a release or threatened release of hazardous substances or petroleum at or from a property where a voluntary action is being or has been conducted under ORC Chapter 3746 and the rules adopted thereunder, when the Director determines that the release or threatened release poses an imminent and substantial threat to public health or safety or the environment.
 6. Nothing in this Covenant shall be construed to limit and/or waive the Director's authority to revoke this Covenant pursuant to any of the circumstances for revocation of a Covenant, as provided in ORC Chapter 3746.

IT IS SO ORDERED:


Donald R. Schregardus, Director
Ohio Environmental Protection Agency

JUL 17 1998

Date

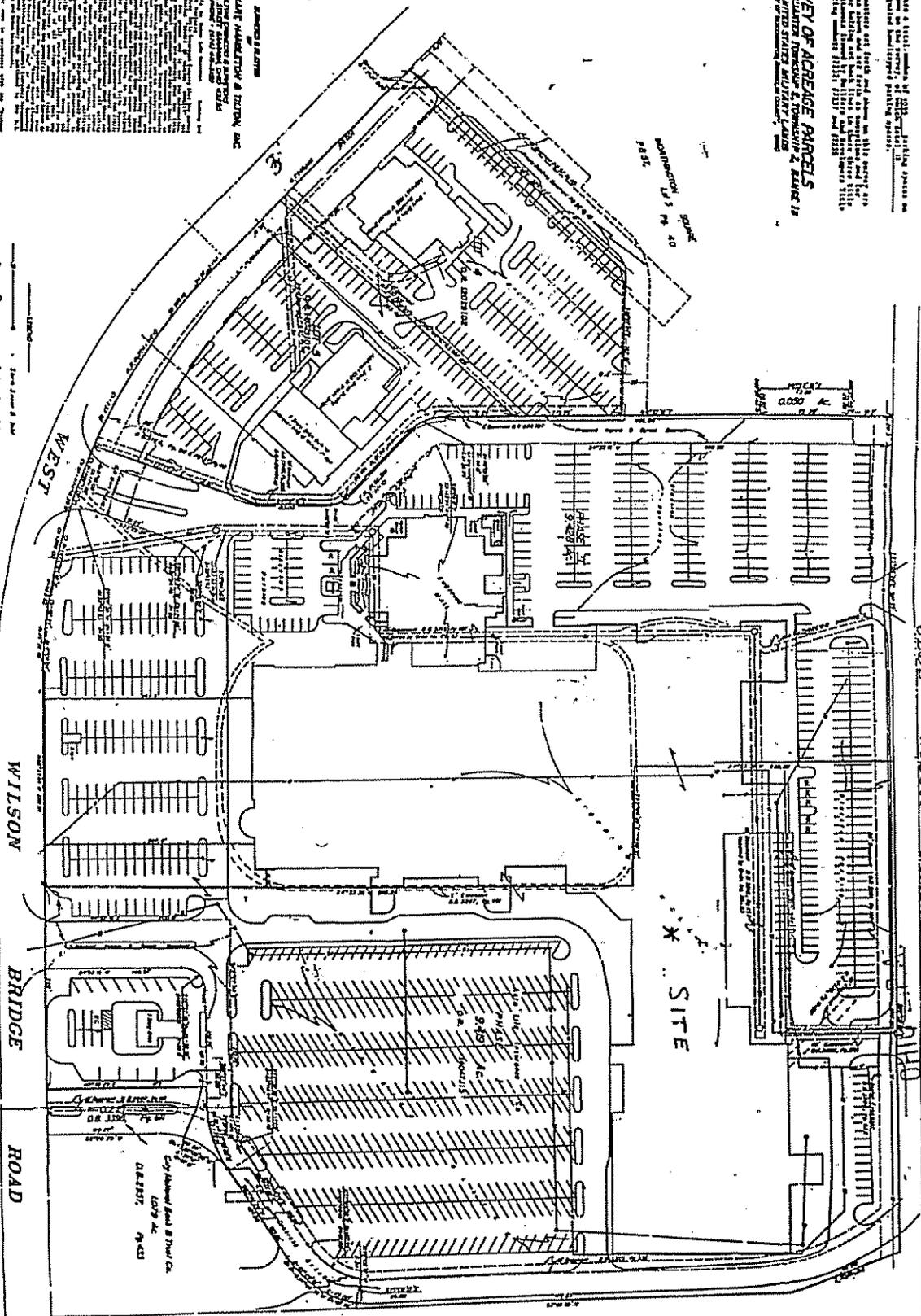
1. That these land descriptions, when attached to the plat, are correct descriptions of the various parcels of land shown on the survey;
2. That there are a total number of 818 parking spaces on the premises shown on the survey, of which 750 are to be provided for the use of the various parcels of land shown on the survey;
3. That these parking spaces are for the use of the various parcels of land shown on the survey, and are to be provided for the use of the various parcels of land shown on the survey.

SURVEY OF ACRESAGE PARCELS
 LOCATED IN QUARTER TOWNSHIP 6, TOWNSHIP 2, RANGE 13
 OF THE COUNTY OF MILWAUKEE, WISCONSIN

ENGINEERS ASSOCIATE, MILWAUKEE & TAYLOR, INC.
 CONSULTING ENGINEERS & ARCHITECTS
 1000 NORTH MICHIGAN STREET, MILWAUKEE, WISCONSIN

THIS SURVEY WAS MADE BY THE ENGINEERS ASSOCIATE, MILWAUKEE & TAYLOR, INC., ON THE 15TH DAY OF JULY, 1966, FOR THE PURPOSE OF SURVEYING THE ACRESAGE PARCELS LOCATED IN QUARTER TOWNSHIP 6, TOWNSHIP 2, RANGE 13 OF THE COUNTY OF MILWAUKEE, WISCONSIN, AND SHOWING THE LOCATION OF THE VARIOUS PARCELS OF LAND, THE TOTAL AREA OF THE SAME, AND THE LOCATION OF THE VARIOUS BUILDINGS, DRIVEWAYS, AND OTHER IMPROVEMENTS THEREON. THE SURVEY WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE WISCONSIN STATUTES AND THE PRACTICES OF THE SURVEYING PROFESSION.

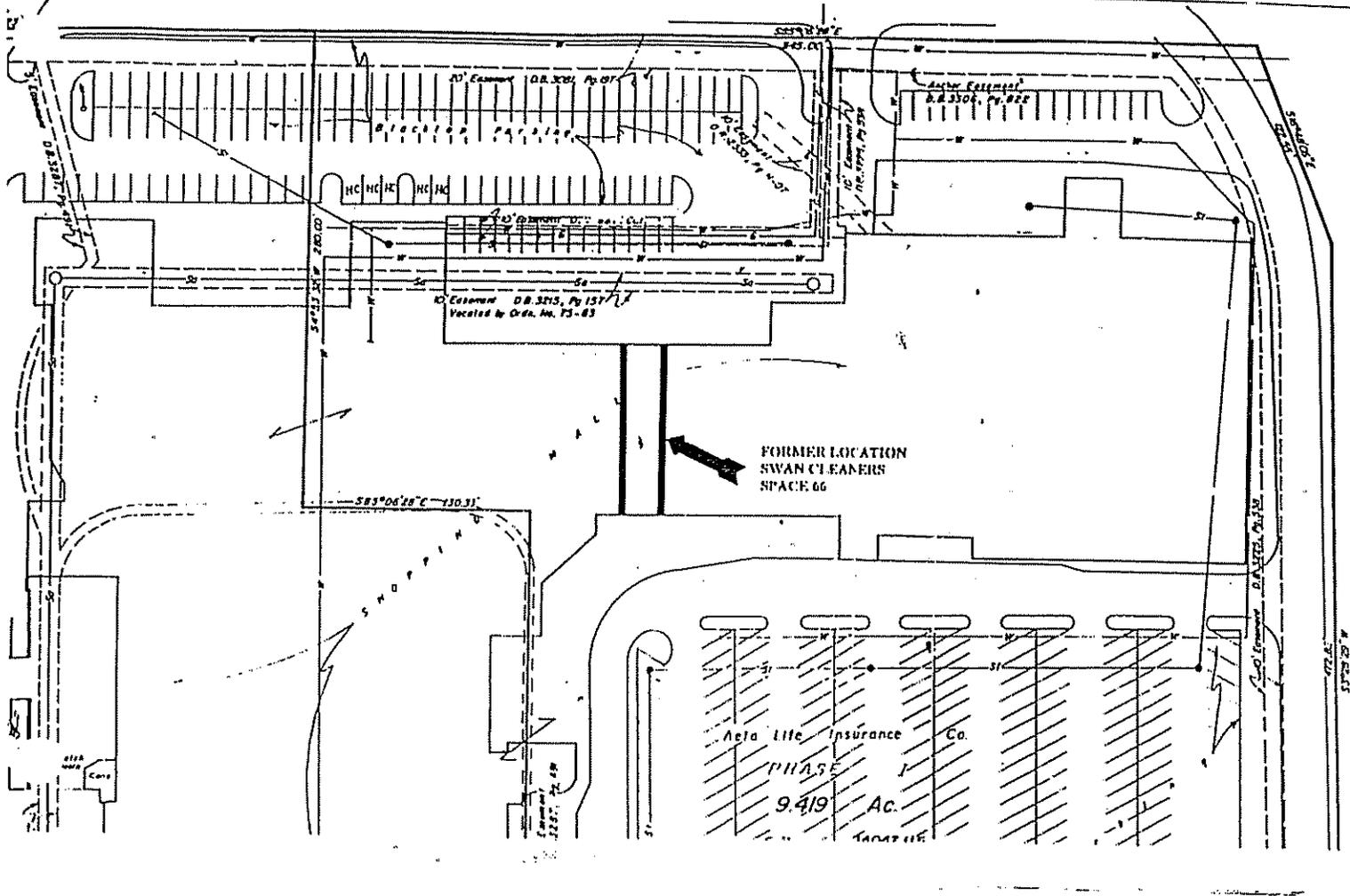
W. B. SULLIVAN
 REGISTERED PROFESSIONAL SURVEYOR
 1000 NORTH MICHIGAN STREET, MILWAUKEE, WISCONSIN



- 1. Stone Masonry & Wall
- 2. Existing Building & Structure
- 3. Proposed Building & Structure
- 4. Proposed Driveway
- 5. Proposed Road
- 6. Utility Lines

ENTERED DIRECTOR'S JOURNAL
 86 JUL 11 1966

OLDE WILSON BRIDGE ROAD



OHIO E.P.A.
JUL 17 98
ENTERED DIRECTOR'S JOURNAL

Legal Description of the Property

The target property, 66 Worthington Square, Worthington, Ohio, is located within the Worthington Square Shopping Center. The site is also known as Unit 66 of the Worthington Square Shopping Center. The Worthington Square Shopping Center is described as follows:

Parcel Number One:

Situated in the State of Ohio, County of Franklin, City of Worthington, being all of Lot 4 of "Worthington Square," as the plat of same is of record in Plat 57, Page 40, Recorder's Office, Franklin County, Ohio.

Situated in the State of Ohio, County of Franklin, City of Worthington, being all of Lot 5 of "Worthington Square," as the plat of same is of record in Plat 57, Page 40, Recorder's Office, Franklin County, Ohio.

Parcel Number Two:

Situated in the State of Ohio, County of Franklin, City of Worthington, being located in Quarter Township 2, Township 2, Range 18, United States Military Lands and being part of the 9.052 acre tract of land conveyed to Planned Communities, Inc., by deed of record in Deed Book 3509, Page 370, all reference being to records in the Recorder's Office, Franklin County, Ohio, and bounded and described as follows:

Beginning at a point in the Northerly right-of-way line of West Wilson Bridge Road (as dedicated by plat of record in Plat Book 43, Page 44), at the southeasterly corner of said Planned Communities, Inc. 9.052 acre tract;

thence North 4°53'32" East, along the easterly line of said 9.052 acre tract, a distance of 482.23 feet to a point;

thence North 85°06'28" West, a distance of 244.1 feet to the True Point of Beginning and the northeasterly corner of the tract herein intended to be described;

thence South 4°32'16" West, a distance of 80.00 feet to a point;

thence North 85°27'44" West, a distance of 30.00 feet to a point;

thence South 4°32'16" West, a distance of 26.50 feet to a point;

thence South 49°32'16" West, a distance of 58.5 feet to a point;

thence North 85°27'44" West, a distance of 77.89 feet to a point;

thence North 41°28'50" West, a distance of 37.17 feet to a point;

thence North 4°32'16" East, a distance of 146.06 feet to a point;

thence South 85°27'44" East, a distance of 122.00 feet to a point;

thence South 4°32'16" West, a distance of 24.00 feet to a point;

thence South 85°27'44" East, a distance of 54.00 feet to the True Point of Beginning, containing 0.590 acre, more or less.

Parcel Number Three:

Situated in the State of Ohio, County of Franklin, City of Worthington (formerly Sharon Township);

Being located in Quarter Township 2, Township 2, Range 18, United States Military Lands, and being 9.419 acres of the 188.112 acre tract conveyed to Planned Communities, Inc., by deed of record in Deed Book 2748, Page 503, all references being to records of the Recorder's Office, Franklin County, Ohio, being more particularly bounded and described as follows:

Beginning at a point in the northerly right-of-way line of Wilson Bridge Road, said point being located North 85°27'44" West, a distance of 52.00 feet from the southwesterly corner of the 1.079 acre tract conveyed to The City National Bank and Trust Company by deed of record in Deed Book 2957, Page 435;

thence along the northerly right-of-way line of the said Wilson Bridge Road, North 85°27'44" West, 228.00 feet to a point;

thence North 4°53'32" East, 645.24 feet to a point;

thence North 85°06'28" West, 130.33 feet to a point;

OHIO E.P.A.
JUL 17 98
ENTERED DIRECTOR'S JOURNAL

thence North 4°53'32" East, 280.00 feet to a point in the southerly right-of-way line of Olde Wilson Bridge Road;
 thence along the southerly right-of-way line of said Olde Wilson Bridge Road, (being 25 feet Southerly at right angles from and parallel to the centerline of said road), South 85°06'28" East, 545.00 feet to a point in the westerly right-of-way line of North High Street;
 thence along the westerly right-of-way line of North High Street South 16°48'06" East, 122.55 feet to an angle point;
 Thence continuing along said right-of-way line, South 3°28'29" West, 472.83 feet to the northeasterly corner of said City National Bank and Trust Company 1.079 acre tract;
 thence along the northerly line of said 1.079 acre tract, North 75°05'12" West, 5.34 feet to a point;
 thence continuing along a northwesterly line of said tract, being the arc of a curve to the right, (Radius = 113.00 feet, Delta = 45°49'41"), the chord of which bears South 37°49'39" West, a chord distance of 87.99 feet to the point of tangency of said curve;
 thence continuing along a northwesterly line of said tract, South 60°44'29" West, 120.85 feet to the point of curvature of a curve to the right;
 thence along the arc of said curve to the right, (Radius = 124.10 feet, Delta = 33°47'47"), the chord of which bears South 77°38'22" West, a chord distance of 72.14 feet to the point of tangency of said curve);
 thence North 85°27'44" West, 26.00 feet to a point;
 thence South 3°28'29" West, 175.00 feet to the place of beginning, containing 9.419 acres, more or less.

Parcel Number 4:

Situated in the State of Ohio, County of Franklin, City of Worthington, being part of Lot No. 36 of the Scioto Company's Subdivision of Quarter Township 2, Township 2, Range 18, United States Military Lands, of record in Deed Book A, Page 194, and being 9.052 acres out of that original 169.112 acre tract as conveyed to Planned Communities, Inc., by deed of record in Deed Book 2748, Page 508, all references being to records of the Recorder's Office, Franklin County, Ohio, said 9.052 acres being bounded and described as follows:

Beginning at a point in the northerly right-of-way line of Wilson Bridge Road, said point being located North 85°27'44" West, a distance of 280.00 feet from the southwesterly corner of that 1.079 acre tract as conveyed to City National Bank and trust Company by deed of record in Deed Book 2957, Page 435;
 thence North 85°27'44" West, continuing with the northerly line of said Wilson Bridge Road, a distance of 220.01 feet to a point of curvature;
 thence westwardly, continuing with a northerly line of said Wilson Bridge Road, the same being an arc or a curve to the right, (Radius = 685.65 feet, Sub-Delta = 22°22'10"), the chord of which bears 74°16'39" West, a chord distance of 266.00 feet to a point;
 thence North 23°29'34" East, a distance of 192.90 feet to a point;
 thence North 4°32'16" East, a distance of 80.00 feet to a point;
 thence northwardly, with an arc of a curve to the left, (Radius = 19.00 feet, Delta = 46°01'06"), the chord of which bears North 18°28'17" West, a chord distance of 14.85 feet to the point of tangency;
 thence North 41°28'50" West, a distance of 101.98 feet to a point of curvature;
 thence northwardly, with an arc of a curve to the right (Radius = 47.00 feet, Delta = 46°01'06"), the chord of which bears North 18°28'17" West, a chord distance of 36.74 feet to the point of tangency;
 thence North 4°32'16" East, a distance of 496.08 feet to a point in the southerly right-of-way line of Olde Wilson Bridge Road;
 thence South 85°06'28" East, with the southerly line of said Olde Wilson Bridge Road, a distance of 387.25 feet to a point;
 thence South 4°53'32" West, a distance of 280.00 feet to a point;
 thence South 85°06'28" East, a distance of 130.33 feet to a point;

OHIO C.E.P.A.
 JUL 17 98
 ENTERED DIRECTOR'S JOURNAL

thence South 4°53'32" West, a distance of 645.24 feet to the place of beginning, containing 9.428 acres of land, more or less.

The above-described legal description is for the entire "Worthington Mall," and the location of the former Swan Cleaners, the subject property, also known as 66 Worthington Square and/or Unit 66 is included within the "Mall."

OHIO E.P.A.

JUL 17 98

ENTERED DIRECTOR'S JOURNAL