

DRAFT

**EASEMENTS, COVENANTS, AND RESTRICTIONS AGREEMENT**

**THIS EASEMENTS, COVENANTS, AND RESTRICTIONS AGREEMENT** (hereinafter referred to as the "Agreement"), is made this \_\_\_\_ day of December, 1996 by and between Wayne S. Grigsby (hereinafter referred to as "Grigsby") and AutoZone, Inc., a Nevada corporation (hereinafter referred to as "AutoZone").

**WITNESSETH:**

**WHEREAS**, Grigsby is the owner of certain real property located in the City of Huntington, County of Huntington, State of Indiana, as depicted in Exhibit "A" hereto as "Parcel 1" and as described in Exhibit "B"; and

**WHEREAS**, AutoZone is the owner of certain real property located in said City, County, and State, as depicted in Exhibit "A" hereto as "Parcel 2" and as described in Exhibit "B"; and

**WHEREAS**, Grigsby and AutoZone have agreed that Parcel 1 and Parcel 2 shall be held, sold, or conveyed subject to the easements, covenants, and restrictions contained in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. No part of Parcel 1 shall be used as an automobile parts store or for the sale of automobile parts, supplies, or accessories for off-premises installation. This restriction does not apply to any business whose principal business is a drugstore and/or pharmacy, grocery store, department store, variety store, hardware store, home improvement store, or any other seller of a broad mix of general merchandise which sells parts as an incidental part of its general merchandise business, provided no such general merchandiser sells automobile carburetors, starters, brakes, alternators, fuel pumps, water pumps, or other coolant pumps for off-premises installation.

2. Grigsby hereby grants to AutoZone a non-exclusive access easement providing uninterrupted access for two-way motor vehicle traffic over and across that portion of Parcel 1 depicted as Ingress & Egress Easement "B" on Exhibit "C" and as described in Exhibit "D" hereto.

3. AutoZone hereby grants to Grigsby a non-exclusive access easement providing uninterrupted access for two-way motor vehicle traffic over and across that portion of Parcel 2 depicted as Ingress & Egress Easement "A" on Exhibit "C" and as described in Exhibit "D" hereto. Ingress & Egress Easement "A" and Ingress & Egress Easement "B" collectively are hereinafter referred to as the "Access Easement Area". Grigsby and AutoZone agree to keep the Access Easement Area free from obstacles or obstructions which would prevent or hinder the free passage of vehicular traffic within or across the Access Easement Area except temporarily, for reasonable times and in a reasonable manner, for purposes of performing work

permitted by this Agreement. Notwithstanding the foregoing, nothing in this Agreement shall be construed as limiting either Grigsby's or AutoZone's ability to use the Access Easement Area for delivery by its trucks.

4. AutoZone shall construct certain improvements on the Access Easement Area for the purposes described hereinabove (hereinafter the "Improvements"). All development and construction costs of the Improvements shall be at AutoZone's cost and expense in accordance with plans and specifications to be prepared by AutoZone and then reviewed and approved by Grigsby. By execution of this Agreement Grigsby hereby approves the plans and specifications for the development and construction of the Improvements. All construction of the improvements shall be performed in a good and workmanlike manner and in accordance with all applicable governmental or quasi-governmental authorities, ordinances, and regulations. It is understood and agreed that Grigsby has begun proceedings to dedicate the Access Easement Area as a public street. In cooperation with such action, AutoZone has designed the Improvements to meet the City of Huntington's requirements for such dedication.

5. After the completion of the Improvements and until such time as one or more owners or tenants purchases or occupies Parcel 1, or the City of Huntington assumes the responsibility by virtue of accepting the Access Easement Area as a public street, all repairs and maintenance of the Improvements shall be AutoZone's responsibility. If the Access Easement Area is not accepted and dedicated as a public street, at such time when one or more owners or tenants purchases or occupies Parcel 1 then the Improvements shall be maintained in good order and repair by the respective property owner thereof except, that each party shall be responsible for the cost of repairing any damage beyond ordinary wear and tear caused by such party, its tenant, subtenants, employees, invitees, contractors, or licensees.

6. AutoZone shall pay, prior to delinquency, any and all taxes levied or assessed against Ingress & Egress Easement "A". If AutoZone fails to pay any installment of taxes or assessments affecting Ingress & Egress Easement "A" when any of the same become due, Grigsby may, after the continuance of any such failure for thirty (30) days after written notice thereof is given by Grigsby to AutoZone, pay said taxes and assessments on behalf of and at the expense of AutoZone. AutoZone agrees to pay to Grigsby any amount so paid by Grigsby within ten (10) days from receipt of a written request from Grigsby for payment thereof.

Grigsby shall pay, prior to delinquency, any and all taxes levied or assessed against Ingress & Egress Easement "B". If Grigsby fails to pay any installment of taxes or assessments affecting Ingress & Egress Easement "B" when any of the same become due, AutoZone may, after the continuance of any such failure for thirty (30) days after written notice thereof is given by AutoZone to Grigsby, pay said taxes and assessments on behalf of and at the expense of Grigsby. Grigsby agrees to pay to AutoZone any amount so paid by AutoZone within ten (10) days from receipt of a written request from AutoZone for payment thereof.

7. The Improvements as previously defined herein, include provisions for utility connections benefiting Parcel 1. Notwithstanding the foregoing, AutoZone hereby dedicates, grants and establishes to Grigsby, for the benefit of Parcel 1, the non-exclusive right and easement to install and maintain, or have installed and maintained, utility lines within Ingress & Egress Easement "A"; provided, however, that the same shall be accomplished free of any and

all liens, in compliance with all applicable statutes, laws, regulations and ordinances and with no unreasonable interference with the operation and business of the occupants of buildings located on Parcel 2 and without any damage to any improvements located on Parcel 2. Immediately following the completion of any work related to the rights granted in this provision, Grigsby shall restore the area affected thereby to no less than its appearance immediately prior to the commencement of any such work. For purposes of this provision, the term "utility" shall be deemed to include cable-TV, telephone, storm drainage, sanitary sewer, water, electricity and gas services.

8. AutoZone hereby dedicates, grants and establishes to Grigsby, for the benefit of Parcel 1, the exclusive right and easement to install and maintain, including any electrical lines required to illuminate, a pylon sign at the location depicted as "Sign Easement Area" on Exhibit "E" attached hereto and by this reference made a part hereof. AutoZone further grants Grigsby the right of necessary access over Parcel 2 at reasonable times for the purpose of exercising the rights herein granted. At such time when Grigsby exercises the rights herein granted, the Sign Easement Area shall be restored to no less than its appearance immediately prior to any such construction (excluding the actual sign itself).

9. The agreements and restrictions described in this Agreement shall run with the land and shall be binding upon and inure to the benefit of Grigsby, AutoZone, and their respective successors, lessees, and assigns and shall be perpetual, except that the use restriction in subsection (1) above shall be for a period of thirty (30) years commencing on the date of closing and shall automatically terminate upon expiration of said thirty (30) year period. The access easements may be used for access by Grigsby, AutoZone, their respective successors, designees, tenants, employees, agents, customers, and invitees free from charge.

10. AutoZone, until such time as the Access Easement Area is accepted and dedicated as a public street, shall maintain insurance against public liability for injury to person (including death) and to property arising out of the use of Ingress and Egress Easement "A" by AutoZone. Such insurance shall be with a single minimum limit of \$1,000,000 for personal injury, death, or property damage and each party shall name the other as an additional insured under the policy. Grigsby shall maintain insurance against public liability for injury to person (including death) and to property arising out of the use of the Ingress and Egress "B" by Grigsby. Such insurance shall be with a single minimum limit of \$1,000,000 for personal injury, death, or property damage and each party shall name the other as an additional insured under the policy.

11. As used in this Agreement, unless the context clearly otherwise requires, AutoZone and Grigsby shall mean, with respect to each parcel, the recorded owner (s) from time to time of all or any part of Parcel 1 or Parcel 2 whether such owner (s) or occupant (s) be one or more persons or entities.

12. No agreement shall be effective to add to, change, modify, waive or discharge this Agreement in whole or in part unless such agreement is in writing and executed by the parties against whom the change, modification, waiver or discharge is sought.

13. No waiver of any provision hereof shall be deemed to constitute or imply a further waiver thereof or of any other provision set for therein.

14. All provisions of this Agreement including the benefits and burdens shall run with the land and are binding upon and inure to the heirs, assigns, successors, tenants and personal representatives of the parties hereto.

15. If any provision of this Agreement is declared invalid by a legislative, administrative or judicial body of competent jurisdiction, the remaining provisions hereof shall remain in full force and effect and shall be unaffected by same.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date hereinabove.

Grigsby:

AutoZone:

AutoZone, Inc., a Nevada corporation

\_\_\_\_\_  
Wayne S. Grigsby

By: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Prepared by:

Larry Ledbetter, Attorney  
AutoZone, Inc.  
60 Madison Avenue 38103  
P.O. Box 2198  
Memphis, TN 38101

**EXHIBIT "B"**

**PARCEL 1**

A part of Tract No. 18 in the Reserve of 10 Sections Township 28 North, Range 9 East and being more particularly described as follows: Beginning at a point in the center of Guilford Street Extended 863.7 feet North 25° 37' West from the intersection of the center line of Guilford Street Extended with the center of Lake Street in the City of Huntington, Indiana, thence South 53° 59' West 646.35 feet to a steel corner post; thence North 33° 37' West 15.50 feet to a stake located on the southerly limited access right of way of U.S. State Highway #24 By-Pass; thence in an easterly direction along the southerly right of way line with the following courses: north 23° east 22.2 feet; thence north 24° 25' east 48.25 feet; north 26° 43' east 47.9 feet, north 28° 34' east 47.9 feet, north 30° 45' east 47.9 feet, north 32° 32' east 48.0 feet, north 34° 45' east 47.9 feet, north 36° 47' east 47.8 feet, north 38° 31' east 47.8 feet, north 40° 52' east 47.9 feet, north 42° 36' east 47.9 feet, north 44° 51' east 48.0 feet, north 46° 52' east 47.9 feet, north 49° 14' east 47.9 feet; north 50° 44' east 33 feet to a stake; thence south 53° 35' east 59 feet to a stake; thence north 54° 47' east 24.4 feet to a point in the center line of Guilford Street Extended; thence south 25° 37' east 267.8 feet to the point or place of beginning, containing 3.009 acres of land, more or less.

**THIS LEGAL DESCRIPTION IS LESS AND NOT TO INCLUDE THAT PORTION OF PARCEL 2 DESCRIBED HEREIN.**

# EXHIBIT "B" (CONTINUED)

## PARCEL 2

### LEGAL DESCRIPTION:

THAT PART OF TRACT # 18 IN THE RESERVE OF 10 SECTIONS, TOWNSHIP 28 NORTH, RANGE 9 EAST, CITY OF HUNTINGTON, HUNTINGTON COUNTY, INDIANA WHICH IS DESCRIBED AS: BEGINNING AT A POINT ON THE CENTERLINE GUILFORD STREET WHICH IS N. 25°-37'-00" W., 863.70 FT. FROM THE INTERSECTION OF THE CENTERLINE OF GUILFORD STREET WITH THE CENTERLINE OF LAKE STREET; THENCE S. 64°-06'-36" W. ( S. 63°-59' W., RECORD ) 226.10 FT. TO A SET 5/8" CAPPED REBAR; THENCE N. 21°-05'-37" W., 277.30 FT. TO A 5/8" CAPPED REBAR SET ON THE SOUTH LINE OF U.S. HIGHWAY # 24 BY-PASS; THENCE ALONG THE SOUTH LINE OF SAID BY-PASS, N. 44°-51'-00" E., 29.90 FT. TO A SET 5/8" CAPPED REBAR; THENCE N. 46°-52'-00" E., 47.90 FT. TO A SET 5/8" CAPPED REBAR; THENCE N. 49°-14'-00" E., 47.90 FT. TO A SET 5/8" CAPPED REBAR; THENCE N. 50°-44'-00" E., 33.00 FT. TO A SET 5/8" CAPPED REBAR; THENCE S. 53°-35'-00" E., 59.00 FT. TO A 5/8" CAPPED REBAR SET ON THE WEST LINE OF GUILFORD STREET; THENCE N. 64°-47'-00" E., 24.40 FT. TO A POINT ON THE CENTERLINE OF SAID GUILFORD STREET; THENCE ALONG THE CENTERLINE OF GUILFORD STREET, S. 25°-37'-00" E., 267.80 FT. TO THE POINT OF BEGINNING.

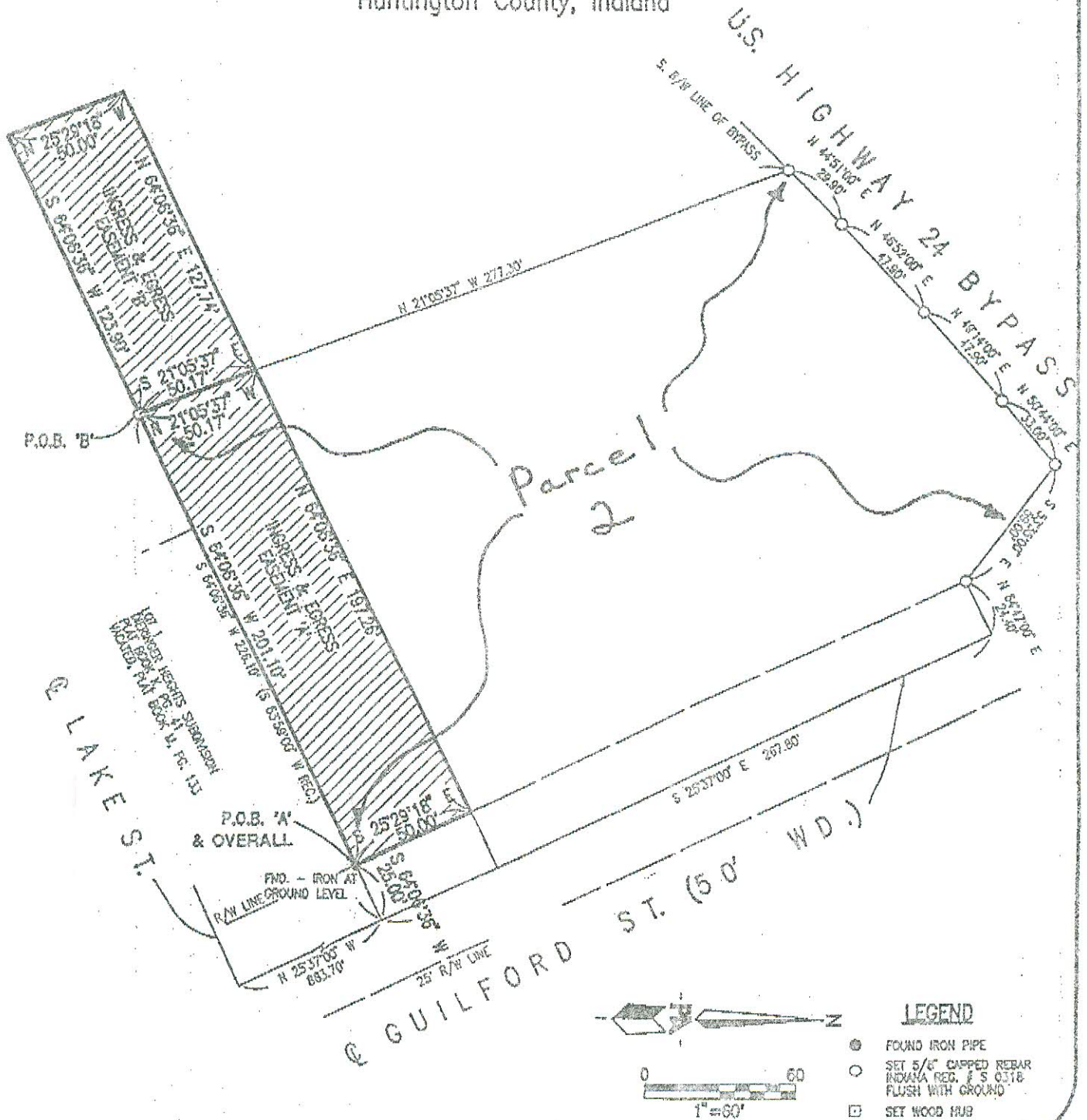
CONTAINING 1.45 ACRES.

EXHIBIT "B"  
PAGE 2 OF 2

# EXHIBIT "C"

## Easement Diagram

A Part of Tract No. 18 in the Reserve of 10 Sections  
 Township 28 North, Range 9 East, City of Huntington  
 Huntington County, Indiana



# EXHIBIT "D"

## LEGAL DESCRIPTION

### INGRESS AND EGRESS EASEMENT 'A'

THAT PART OF TRACT # 18 IN THE RESERVE OF 10 SECTIONS, TOWNSHIP 28 NORTH, RANGE 9 EAST, CITY OF HUNTINGTON, HUNTINGTON COUNTY, INDIANA WHICH IS DESCRIBED AS: BEGINNING AT A FOUND IRON PIPE ON THE WEST LINE OF GUILFORD STREET WHICH IS S. 64°-06'-36" W., 25.00 FT. FROM A POINT ON THE CENTERLINE OF SAID GUILFORD STREET WHICH IS N. 25°-37'-00" W., 863.70 FT. FROM THE INTERSECTION OF THE CENTERLINE OF GUILFORD STREET WITH THE CENTERLINE OF LAKE STREET; THENCE S. 64°-06'-36" W., 201.10 FT.; THENCE N. 21°-05'-37" W., 50.17 FT.; THENCE N. 64°-06'-36" E., 197.28 FT. TO THE WEST LINE OF GUILFORD STREET; THENCE S. 25°-29'-18" E., 50.00 FT. TO THE POINT OF BEGINNING.

CONTAINING 0.23 ACRES.

### INGRESS & EGRESS EASEMENT 'B'

THAT PART OF TRACT # 18 IN THE RESERVE OF 10 SECTIONS, TOWNSHIP 28 NORTH, RANGE 9 EAST, CITY OF HUNTINGTON, HUNTINGTON COUNTY, INDIANA WHICH IS DESCRIBED AS: BEGINNING AT A POINT WHICH IS S. 64°-06'-36" W., 226.10 FT. FROM A POINT ON THE CENTERLINE OF GUILFORD STREET WHICH IS N. 25°-37'-00" W., 863.70 FT. FROM THE INTERSECTION OF SAID CENTERLINE WITH THE CENTERLINE OF LAKE STREET; THENCE S. 64°-06'-36" W., 123.90 FT.; THENCE N. 25°-29'-18" W., 50.00 FT.; THENCE N. 64°-06'-36" E., 127.74 FT.; THENCE S. 21°-05'-37" E., 50.17 FT. TO THE POINT OF BEGINNING.

CONTAINING 0.14 ACRES.

### INGRESS AND EGRESS EASEMENT, OVERALL

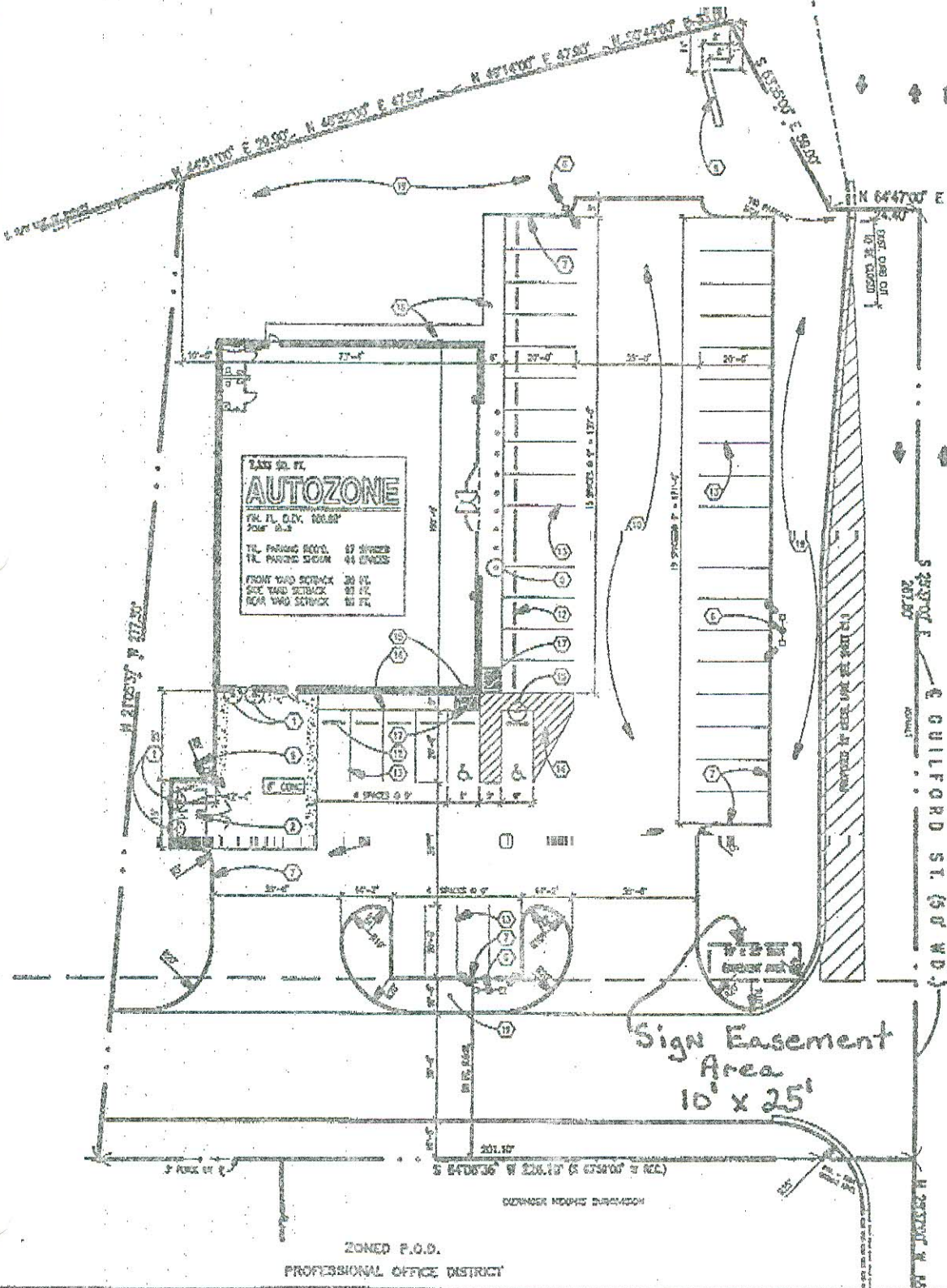
THAT PART OF TRACT # 18 IN THE RESERVE OF 10 SECTIONS, TOWNSHIP 28 NORTH, RANGE 9 EAST, CITY OF HUNTINGTON, HUNTINGTON COUNTY, INDIANA WHICH IS DESCRIBED AS: BEGINNING AT A FOUND IRON PIPE ON THE WEST LINE OF GUILFORD STREET WHICH IS S. 64°-06'-36" W., 25.00 FT. FROM A POINT ON THE CENTERLINE OF SAID GUILFORD STREET WHICH IS N. 25°-37'-00" W., 863.70 FT. FROM THE INTERSECTION OF THE CENTERLINE OF GUILFORD STREET WITH THE CENTERLINE OF LAKE STREET; THENCE S. 64°-06'-36" W., 325.00 FT.; THENCE N. 25°-29'-18" W., 50.00 FT.; THENCE N. 64°-06'-36" E., 325.00 FT. TO THE WEST LINE OF GUILFORD STREET; THENCE S. 25°-29'-18" E., 50.00 FT. TO THE POINT OF BEGINNING.

CONTAINING 0.37 ACRES.



EXHIBIT "E"

U.S. STATE HIGHWAY 24 BYPASS

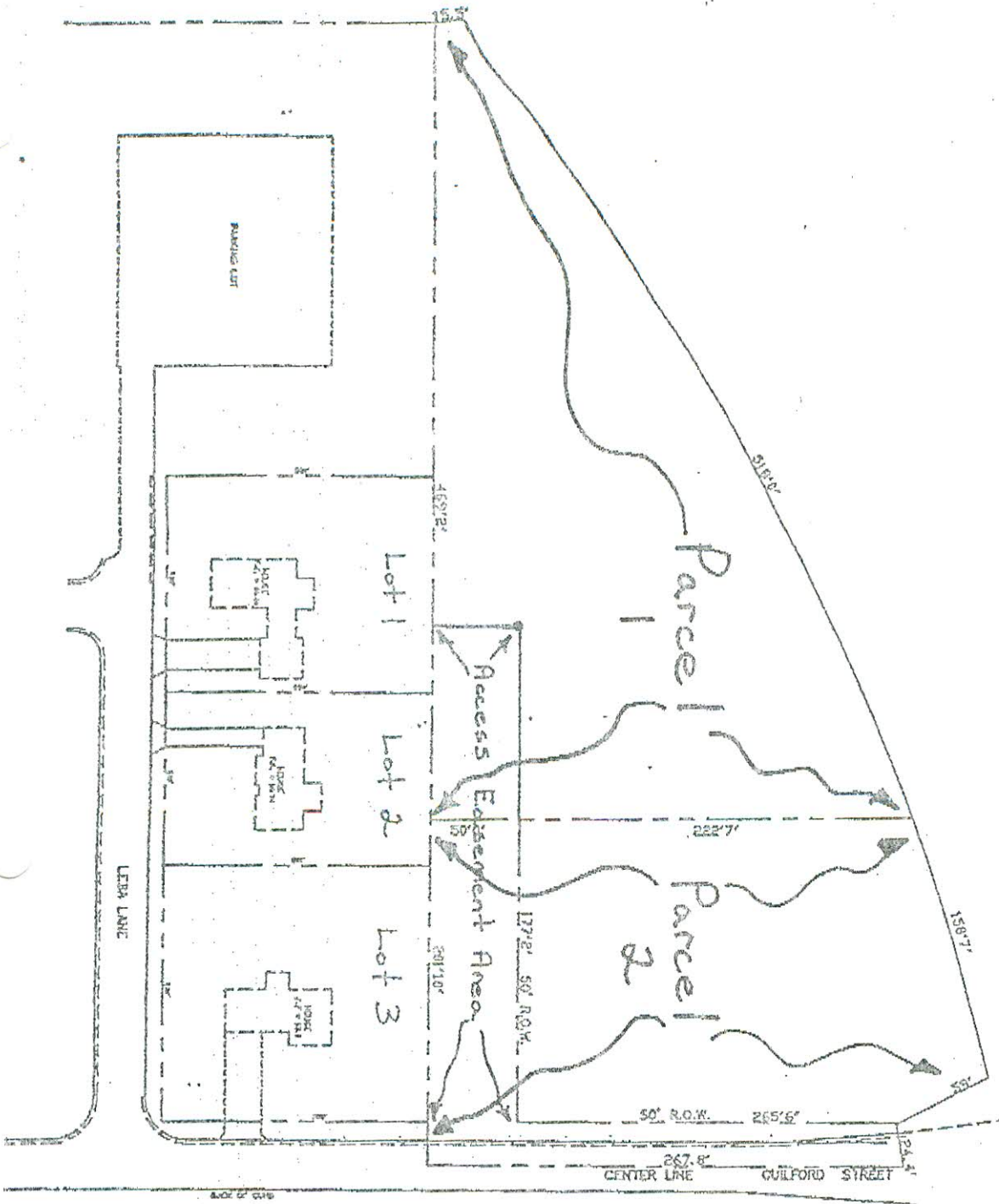


2,433 sq. ft.  
**AUTOZONE**  
 700 sq. ft. sign area  
 48 parking spaces  
 front yard setback 20' 0"  
 side yard setback 20' 0"  
 rear yard setback 20' 0"

Sign Easement Area  
 10' x 25'

ZONED P.O.D.  
 PROFESSIONAL OFFICE DISTRICT

# EXHIBIT "A"



DATE	BY
08/29/11	W. NORTH

LAYOUT PLAN

REV.	DATE



WAYNE

P. 08/11

FAX NO. 9014958900

PM AUTOZONE REAL-ESTATE