BK1868 P3663

PRESENTED FOR REGISTRATION AND RECORDED

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John Holleman
Register of Deeds
Forsyth County

F 102

Prepared by and Return to: Maupin Taylor Ellis & Adams, P.A. (RRR)
Post Office Drawer 19764
Raleigh, North Carolina 27619

NORTH CAROLINA

FORSYTH COUNTY

NO TAXABLE CONSIDERATION

DEED OF EASEMENT

This Deed of Easement is entered into this 17th day of August, 1995, by and between Charles M. Lynch and wife, Alice F. Lynch, (hereinafter collectively referred to as "Lynch"), and T & M Kernersville Development Company, L.L.C., a North Carolina limited liability company (hereinafter referred to as "T & M").

WITNESSETH:

WHEREAS, Lynch is the owner of a certain tract or parcel of real property located in Forsyth County, North Carolina more particularly described on Exhibit A, which is attached hereto and incorporated herein by reference (said parcel being hereinafter referred to as "Parcel A"); and

WHEREAS, T & M is the owner of a certain tract or parcel of real property located in Forsyth County, North Carolina more particularly described on Exhibit B, which is attached hereto and incorporated herein by reference (said parcel being hereinafter referred to as "Parcel B"); and

WHEREAS, Parcel A and Parcel B are adjoining tracts of land; and

WHEREAS, T & M intends to develop Parcel B as a commercial development; and

WHEREAS, in connection with the commercial development of Parcel B, the Town of Kernersville has requested that T & M construct a paved road on Parcel A running in a general east-west direction from Parcel B to Mastin Road for use by the public; and

WHEREAS, the Town of Kernersville has further requested that Lynch grant the Town of Kernersville an easement in and to such road; and

WHEREAS, Lynch and T & M desire to enter into this Deed of Easement to create certain easements, set forth their scope, and provide for the construction and maintenance of improvements to the easements.

NOW, THEREFORE, in consideration of the mutual benefits to be realized by the easements and related agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the undersigned, Lynch and T & M hereby agree as follows:

1. Lynch does hereby establish, give, grant, and convey to T & M, its successors and assigns, and their tenants, customers, employees and invitees, a nonexclusive perpetual easement appurtenant to Parcel B, or any portion thereof, in and to that certain easement area located on Parcel A (hereinafter "the Easement Area"), more particularly described as follows:

See Exhibit C attached hereto and incorporated herein by reference.

The scope of this easement is as follows: for the purpose of walking upon all those sidewalks and driving vehicles upon all those roads, curb cuts, entrances, drives and lanes which may be constructed within the Easement Area; for the purpose of repairing, inspecting, maintaining and replacing the paved road and related improvements to be constructed within the Easement Area;

for the purpose of drainage of surface water over, across and under the Easement Area, including the right to construct, tap onto, use and maintain any drainage pipes or other drainage facilities; for the purpose of using any water retention basin hereafter located on the Easement Area; for the purpose of installing, using, operating, inspecting, maintaining, and repairing any utilities now or hereafter serving any portion of Parcel B located over, under, across or through the Easement Area (including, without limitation, lines or mains for the transmission, distribution, flow and/or delivery of electrical power, gas, telephone communications, cable television, water and waste water); and for the purpose of landscaping any portion of the Easement Area which does not have an impervious surface.

2. T & M shall be solely responsible for the construction of the paved road (and any related improvements) to be located within the Easement Area (hereinafter the "Road") in accordance with the laws, ordinances and regulations of the Town of Kernersville. Lynch understands and agrees that: (i) T&M has made no representation or promise regarding the design, plans, specifications or building materials for the Road; (ii) Lynch shall have no control or direction over such plans, specifications or building materials; (iii) Lynch shall have no control or direction over such construction; and (iv) T&M shall, in its sole discretion, determine the precise location and width of the Road within the Easement Area subject to the appropriate approval of same by the Town of Kernersville. In accordance with the development plans approved by the Town of Kernersville and subject to compliance with the laws, ordinances and regulations of the Town of Kernersville and their applicability to the construction of the related improvements (including storm water drainage facilities), T&M agrees to make reasonable efforts to construct the related

improvements (including storm water drainage facilities) in a manner which minimizes their impact on the use and enjoyment of Parcel A.

3. T & M shall be solely responsible for the Maintenance of the Road. "Maintenance of the Road," as that term is used in this Deed of Easement, shall not include improvements to the Road beyond its condition as approved by the Town of Kernersville and constructed, and shall not mean or refer to widening, landscaping, or any other upgrading. Notwithstanding the foregoing, it is understood and agreed that T&M may, in its sole discretion, widen, landscape, relocate, or otherwise upgrade the Road as it deems appropriate. T & M has or is subjecting all of Parcel B to a Declaration of Reciprocal Easements and Restrictions apportioning the cost of the continued maintenance and repair of the Road to all Parcel B owners; by acceptance of a deed conveying a portion of Parcel B burdened by this maintenance responsibility, each grantee agrees to save harmless and indemnify Lynch, as owners of Parcel A, from any claim, suit or liability arising out of the matters involving the maintenance of the Road excluding acts of gross negligence or willful misconduct by Lynch, their successors, heirs or assigns.

4. Lynch does hereby establish, give, grant and convey to T &M, its successors and assigns, agents and employees a nonexclusive perpetual easement to maintain any landscaping T&M may from time to time install within the Easement Area. "Landscape maintenance" as that term is used in this Deed of Easement, includes cutting grass, trimming hedges, removing weeds, and modifying or replacing plant materials previously installed.

5. Lynch does hereby establish, give, grant and convey to T & M, its successors and assigns, and their tenants, customers, employees and invitees a temporary easement in and to

the Easement Area and that portion of Parcel A within 30 feet of the Easement Area for the purposes of constructing the Road and such utilities within the Easement Area as T & M, in its sole discretion, decides to install. This temporary construction easement may be used by T & M, its agents, utility employees and independent contractors and/or utility companies in connection with the initial construction and from time to time continuing maintenance of the Road and all such utilities. This temporary construction easement shall terminate upon completion of the Road and installation of the utilities or December 31, 1997, whichever shall first occur.

6. Lynch agrees to execute a plat showing the Easement Area establishing, giving, granting and conveying to the Town of Kernersville, and its successors and assigns, a nonexclusive perpetual easement in and to the Easement Area for the purpose of ingress and egress over the Easement Area. This nonexclusive perpetual easement to the Town of Kernersville will be granted for the purpose of providing the public a right to use the Easement Area for vehicular and pedestrian ingress and egress. It is understood and agreed that the nonexclusive perpetual easement to the Town of Kernersville will not be an offer of dedication to the Town of Kernersville, and that any road located within the Easement Area shall be private. In addition, the plat shall contain an offer of dedication for the proposed public street ("Proposed Street") running in a general north-south direction from South Main Street across a portion of Parcel A.

7. Lynch does hereby establish, give, grant, and convey to T & M, its successors and assigns, and their tenants, customers, employees and invitees, a temporary easement appurtenant to Parcel B, or any portion thereof, for constructing the Proposed Street, the general location of which Proposed Street is shown on the map attached hereto as Exhibit D. The construction easement on

Parcel A extends 40 feet from the western edge of the Proposed Street as established by Lynch's offer of dedication of the Proposed Street. "Construction," as that term is used in this paragraph 7, includes grading and seeding within the easement, as well as ingress and egress over the easement for the initial construction of the Proposed Street and all related improvements (including utilities) and from time to time continuing maintenance of the Proposed Street and related improvements. This temporary construction easement shall terminate upon completion of the Proposed Street and installation of all related improvements (including utilities) or December 31, 1997, whichever shall first occur.

8. Lynch does hereby establish, give, grant, and convey to T & M, its successors and assigns, and their tenants, customers, employees and invitees, nonexclusive permanent slope easements appurtenant to Parcel B, or any portion thereof, of that portion of Parcel A within either: (i) 40 feet of the western edge of the Proposed Street as established by Lynch's offer of dedication of the Proposed Street; or (ii) 40 feet of the Easement Area. The anticipated locations and grades of the slopes are shown on Exhibit D. Lynch understands and agrees that the actual locations and grades of the slopes on Parcel A may vary from that shown on Exhibit D, but in any event shall be within 40 feet of the western edge of the Proposed Street or the Easement Area. This slope easement includes the right of ingress and egress over the slope easements for the purpose of their maintenance, including grass planting, mowing and grading.

9. Lynch does hereby establish, give, grant, and convey to T & M, its successors and assigns, and their tenants, customers, employees and invitees, a temporary easement appurtenant to Parcel B, or any portion thereof, for constructing and maintaining a Temporary Sediment Basin and

related improvements (including temporary silt fence and temporary diversion berm/ditches) on that portion of Parcel A as indicated on Exhibit E. This temporary easement includes the right of ingress and egress over that portion of Parcel A within 40 feet of the Temporary Sediment Basin and related improvements. This temporary easement shall terminate on December 31, 1997.

10. Lynch does hereby establish, give, grant, and convey to T & M, its successors and assigns, and their tenants, customers, employees and invitees, a permanent non-exclusive easement appurtenant to Parcel B, or any portion thereof, for the construction, maintenance, tapping onto, and use of a storm water drainage system on that portion of Parcel A as indicated on Exhibits D and E including, without limitation, the two riprap aprons and contiguous pipes in the vicinity of the Easement Area and the riprap apron extending onto the eastern line of Parcel A in the vicinity of Harmon Mill Creek. This easement includes the right of ingress and egress over that portion of Parcel A within 40 feet of any portion of the drainage system for the purpose of locating, constructing, installing, inspecting, maintaining, and otherwise keeping open and in good repair the drainage system T & M installs on Parcel A.

11. Lynch shall not erect or construct, or cause to be erected or constructed, any improvement, fence, wall, curb or other barrier on the Easement Area, or in any other manner interfere with or restrict the full and complete use and enjoyment of the Road or any other easement herein granted. Lynch shall in all other respects be entitled to the full and complete use and enjoyment of the Easement Area, including the nonexclusive right to use the Road for ingress and egress subject to the from time to time laws, regulations and ordinances of the Town of Kernersville. Lynch and their heirs, successors and assigns each agree to save harmless and indemnify any and

all owners of Parcel B, from any claim, suit or liability arising out of such Parcel A owner(s)' acts of gross negligence or willful misconduct relating to the Road.

12. The easements and agreements provided for herein shall be effective upon execution of this Deed of Easement by the undersigned (except the nonexclusive perpetual easement to the Town of Kernersville, which shall become effective upon execution of the documentation described in paragraph 6 above). The easements herein granted shall run with the land and inure to the benefit of and be binding upon the respective successors, assigns, heirs, and tenants of each party hereto, and the customers, contractors, employees, and invitees of such parties, and shall remain in full force and effect and shall be unaffected by any change in ownership of Parcel A or Parcel B, or by any change of use, demolition, reconstruction, expansion, or other circumstances. The agreements and undertakings by each of the undersigned shall be enforceable by an action in law or equity.

13. Lynch covenants that they are seized of Parcel A, including the Easement Area, in fee and have the right to convey the easements herein granted; that the same are free from encumbrances except 1995 ad valorem taxes which are not yet due or payable; and that they will warrant and defend said title to Parcel A, including the Easement Area against the claims of all persons whomsoever.

14. It is agreed that this Deed of Easement contains the entire agreement and understanding concerning the subject matter hereof, and that no representations or statements, verbal or written, have been made which modify, add to or change the terms of this Deed of Easement.

15. This Deed of Easement shall not be modified except in writing by the parties hereto.

16. This Deed of Easement and the terms set forth herein shall be construed and interpreted under the laws of North Carolina.

17. The undersigned intend this Deed of Easement to be a sealed instrument and adopt the work "seal" appearing next to their respective signatures.

TO HAVE AN TO HOLD the aforesaid easements to T & M, its successors and assigns, and all privileges and appurtenances thereto belonging to Lynch.

IN WITNESS WHEREOF, the undersigned have caused this Deed of Easement to be executed this 15th day of August, 1995

T&M KERNERSVILLE DEVELOPMENT COMPANY, L.L.C. (SEAL)
By: MIDLAND KERNERSVILLE DEVELOPMENT COMPANY, L.L.C., ADMINISTRATIVE MEMBER (SEAL)

By: _____(SEAL)
STEPHEN M. NOTESTINE Administrative Member

~~NORTH CAROLINA~~ State of Missouri

~~FORSYTH~~ COUNTY of St. Louis

I, the undersigned, a Notary Public in and for the said State and County, do hereby certify that Stephen M. Notestine, an Administrative Member of Midland Kernersville Development Company, L.L.C., an Administrative Member of the T&M Kernersville Development Company, L.L.C. personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of T&M Kernersville Development Company, L.L.C. and Midland Kernersville Development Company, L.L.C.

WITNESS my hand and notarial seal this the 15th day of August, 1995.

Jane E. Kelly
Notary Public

My Commission Expires: JANE E. KELLY NOTARY PUBLIC, STATE OF MISSOURI MY COMMISSION EXPIRES 10/4/96 ST. LOUIS COUNTY

(NOTARIAL SEAL OR STAMP)

BK1868 P3673

(SEAL)
Charles M. Lynch

(SEAL)
Alice F. Lynch

RAL/1293/1

NORTH CAROLINA

FORSYTH COUNTY

I, the undersigned, a Notary Public in and for the said State and County, do hereby certify that Charles M. Lynch personally appeared before me this day and acknowledged the due execution of the foregoing instrument under seal.

WITNESS my hand and notarial seal this the 17th day of August, 1995.

Sonya R Turner
Notary Public

My Commission Expires:

October 24, 1998

(NOTARIAL SEAL OR STAMP)

OFFICIAL SEAL
SONYA R. TURNER
NOTARY PUBLIC, NC
Forsyth County
My Commission Expires _____

RAL/1293/1

BK1868 P3675

NORTH CAROLINA

FORSYTH COUNTY

I, the undersigned, a Notary Public in and for the said State and County, do hereby certify that Alice F. Lynch personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal this the 17th day of August, 1995.

Sonya R Turner
Notary Public

My Commission Expires:

October 24, 1998

(NOTARIAL SEAL OR STAMP)

OFFICIAL SEAL
SONYA R. TURNER
NOTARY PUBLIC, NC
Forsyth County
My Commission Expires _____

STATE OF NORTH CAROLINA—Forsyth County

The foregoing (or annexed) certificate___ of Jane F. Kelly, NP St. Louis County, MO
(here give name and official title of the officer signing the certificate___ passed upon)
Sonya R. Turner NP Forsyth County, NC

is (are) certified to be correct. This the 22 day of Aug 1995.

John Holleman Register of Deeds

By Hilda Green Deputy-~~Assistant~~

Probate and Filing Fee $_____ paid.

EXHIBIT A
(Lynch Parcel)

BEING that certain property conveyhed to Charles M. Lynch and wife, Alice F. Lynch, by deeds recorded in Book 1224, at Page 1634, and Book 1422, at Page 1313, Forsyth County Registry.

SAVE AND EXCEPT that portion of the aforesaid property conveyed to Jack E. Shaw by deed recorded in Book 1666, at Page 4463, Forsyth County Registry, and that portion of the aforesaid property conveyed to T & M Kernersville Development Company, L.L.C. by Deed recorded in Book 1868, at Page 3651, Forsyth County Registry.

Now being known and designated as Tax Lots 42M, 42G and 42L, Tax Block 5351, Forsyth County Tax Maps, as presently constituted.

EXHIBIT B

BEING all of Lots 1, 2, 3, 4, 5, 6, and 7 as shown on that certain map consisting of three pages, entitled "Final Plat Kernersville Shopping Center Century Place Boulevard," dated August 7, 1995, and recorded in Plat Book 38, Pages 119, 120, and 121, Forsyth County Registry.

EXHIBIT C BK1868 P3678

(LYNCH EASEMENT)

BEGINNING at an existing iron pipe in the southwest corner of certain property now or formerly owned by Nelson Angell and wife, Phyllis B. Angell, said place of BEGINNING having NC Grid Coordinates NAD '83 N-859,776.90 and E-1,676,232.37; runs thence with the southern line of said Angell property North 78° 04' 10" East 158.54 feet to a point; runs thence South 04° 14' 26" West 11.82 feet to a point; runs thence on a curve to the left having a radius of 430.00 feet, a chord bearing of South 01° 08' 03" West and a chord distance of 46.60 feet to a point; runs thence on a curve to the left having a radius of 28.50 feet, a chord bearing of North 77° 25' 41" West and a chord distance of 23.64 feet to a point; runs thence South 78° 04' 10" West 129.37 feet to a point; runs thence on a curve to the right having a radius of 165.00 feet, a chord bearing of South 86° 28' 05" West, and a chord distance of 48.20 feet to a point; runs thence North 85° 08' 00" West 66.57 feet to a point in the eastern line of certain property now or formerly owned by Mencor General Partners (Country Side Lanes); runs thence with the eastern line of said Mencor General Partners' property North 01° 55' 38" East 38.92 feet to a point; runs thence across certain property now or formerly owned by Charles M. Lynch and wife, Alice F. Lynch and the southern line of certain property now or formerly owned by J.C. Faw North 76° 20' 23" East 112.02 feet to a point in the western line of the aforementioned Angel property; runs thence with the western line of the said Angell property South 01° 39' 48" East 20.84 feet to the point and place of BEGINNING, and being all of that property consisting of 0.312 acres, more or less, shown as Tract III on a survey by Borum, Wade & Associates, P.A. dated April 25, 1995, revised August 15, 1995. For further reference see that survey prepared by Borum, Wade & Associates, P.A. dated July 11, 1995 showing Tract-II entitled "Property of Kernersville Shopping Center."

EXHIBIT D
This map is for information purposes only and is not a plat, and there is no dedication of this property intended.

D.B. 1868 P. 3679

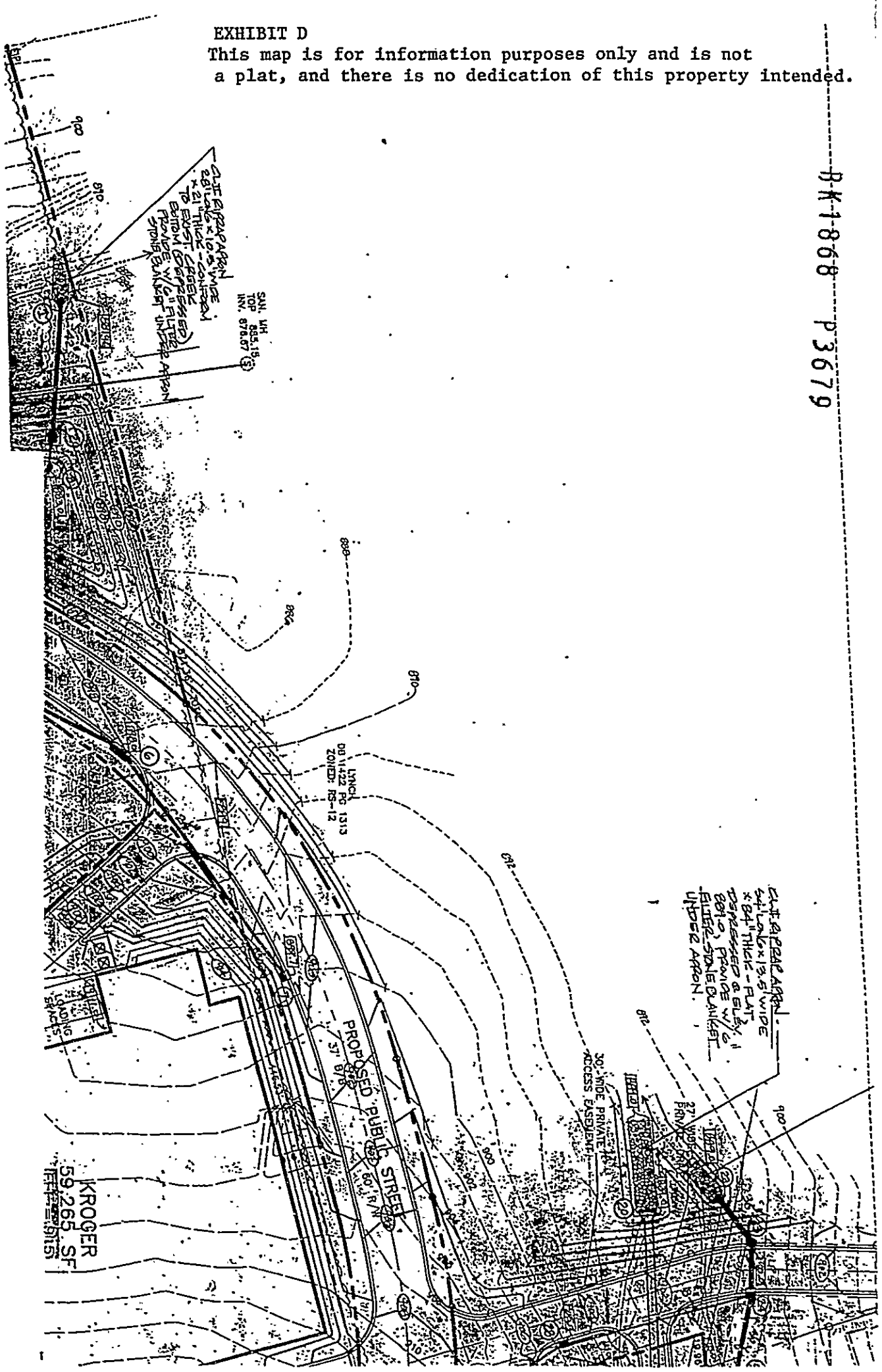
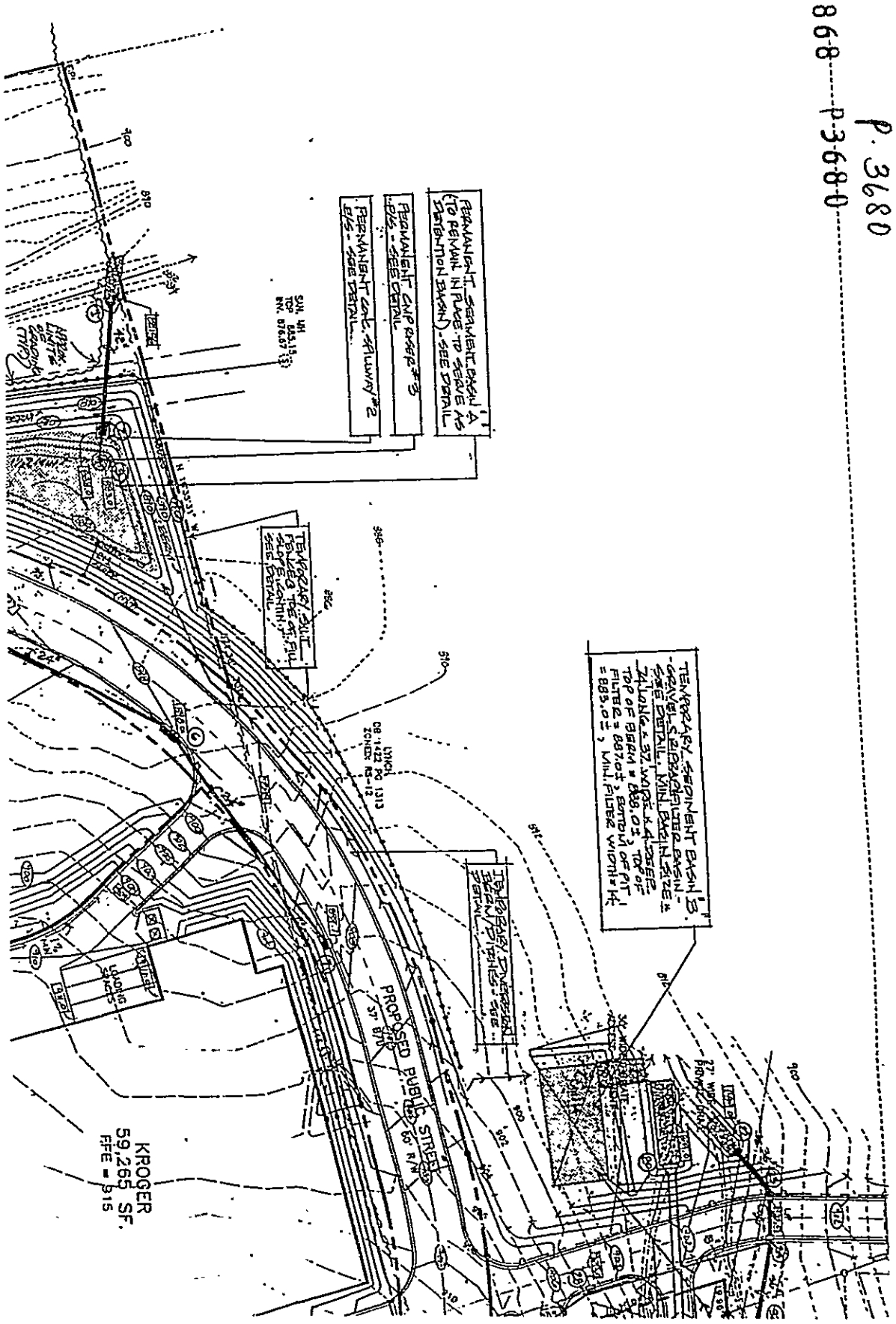


EXHIBIT E

This map is for information purposes only and is not a plat, and there is no dedication of this property intended.



BK1868 P.3680