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DEVELOPMENT AGREEMENT

(RESTATED)

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Dated as of June 1, 1985

Among

City of Appleton, Wisconsin  
Redevelopment Authority of the City of Appleton  
Avenue Development, Inc.  
Center Development Venture

Return to - William A. Brehm, Jr.  
Executive Director  
Appleton Redevelopment Authority  
P.O. Box 1857  
200 N. Appleton, Street  
Appleton, WI 54913-1857

5526922

## DEVELOPMENT AGREEMENT

This Agreement is entered into as of June 1, 1985, by and among the City of Appleton, Wisconsin, a political subdivision of the State of Wisconsin (the "City"), the Redevelopment Authority of the City of Appleton, an authority created by the City pursuant to Section 66.431 of the Wisconsin Statutes (the "Redevelopment Authority"), Avenue Development, Inc., a Wisconsin nonstock corporation (the "Development Corporation") and Center Development Venture, a Minnesota general partnership ("Center Development").

### ARTICLE I

#### INTRODUCTION

Section 1.01 Purpose of Agreement. After months of discussion, the parties have revised their agreements on a plan for the development of a first class, retail shopping and commercial center to be located in downtown Appleton, Wisconsin and known as "The Avenue". The development is to be pursuant to and in furtherance of Appleton Redevelopment Project No. 11 (the "Redevelopment Plan") adopted by the City's Common Council on May 4, 1983. The purpose of this Agreement is to record the understandings and undertakings of the parties and to provide a framework within which the development may proceed. This Agreement replaces the Development Agreement, dated as of March 1, 1984, among the City, the Redevelopment Authority and the Development Corporation. Said March 1, 1984 agreement is hereby terminated.

Section 1.02 Description of Development. The Avenue will extend from the existing Prange department store to the existing Gimbels department store on the site described in Exhibit A hereto (the "Development Site"). The portions of The Avenue to be developed pursuant to this Agreement (hereinafter collectively referred to as the "Development") include (i) an enclosed, climate-controlled, three level shopping mall of approximately 150,000 gross square feet and approximately 117,000 leaseable square feet located between the two department stores on the Development Site, and (ii) the fourth, fifth and sixth floors of the Prange department store (the "Prange Tenant Space"). A site plan and schematic drawings for the Development (the "Preliminary Plans") are contained in Exhibit B hereto, and the budget for the Development together with the contemplated sources of funding are contained in Exhibit C hereto.

Section 1.03 Formation of The Avenue Company Limited Partnership. The Development Corporation and Center Development shall form a Wisconsin limited partnership named The Avenue Company Limited Partnership ("The Avenue Company") to construct, own and operate the Development in accordance with this Agreement. The Development Corporation and Center Development shall be the general partners of The Avenue Company and shall have responsibility for its management. The Development Corporation and Center Development shall arrange for equity interests in The Avenue Company from such sources and in such amounts and proportions as they deem appropriate in the circumstances to achieve a successful development of The Avenue.

Section 1.04 Tax Status of the Development Corporation.

The Development Corporation shall use its best efforts to qualify as a nonprofit corporation under Section 501(c) of the Internal Revenue Code.

ARTICLE II

PRE-FINANCING ACTIVITIES

Section 2.01 Certified Survey. On or before June 15, 1985, the Redevelopment Authority shall furnish a certified survey of the Development Site providing an accurate legal description thereof showing the locations of all easements and licenses of record and the exterior walls of the Prange, Gimbels, Valley Housing Associates and Burger King buildings.

Section 2.02 Approval of Preliminary Plans. The parties hereby approve the Preliminary Plans.

Section 2.03 Anchor Department Store Commitments. The Development Corporation has obtained letters of intent from the owners of the Prange and Gimbels department stores to the effect that such stores will be operated for at least 10 years. On or before September 1, 1985, the Development Corporation shall arrange for such operating and reciprocal easement or license agreements with the owners of the Prange and Gimbels department stores and any other affected property owners as shall be customary or necessary to facilitate the construction and operation of the Development and the connection of the Development to the affected buildings. Such arrangements shall include

written commitments from the Prange and Gimbels store owners to operate at least 65,000 and 120,000 square feet, respectively, of such stores as first class retail department stores for at least 10 years following the opening of The Avenue. On or before September 1, 1985, the Development Corporation shall obtain a written commitment from the owner of the Prange department store to lease the Prange Tenant Space to The Avenue Company for a term and at a rental acceptable to the Development Corporation.

Section 2.04 Provisions of Public Parking. The City agrees that there will be an adequate amount of hourly rate public parking immediately adjacent to the Development Site throughout the Initial and Renewal Terms of the Ground Lease referred to in Section 3.02. Unless The Avenue Company shall agree otherwise, at least 1000 spaces of public parking shall be available on the sites of the existing Gimbels and Prange parking structures adjacent to the Development Site. On or before July 15, 1985, the Development Corporation shall obtain an option (transferable to the City) to purchase the existing Prange parking structure at any time prior to July 1, 1986, at a price acceptable to the City. The Development Corporation shall transfer the option to the City, and, subject to the requirements of applicable law, the City shall exercise the option and close the purchase of the Prange parking structure on or prior to the date of the commitments from owners of the Prange and Gimbels stores as described in Section 2.03.

Section 2.05 Letter of Credit. The Development Corporation has provided the Redevelopment Authority with irrevocable, standby letters of credit in the aggregate amount of \$1,000,000 (the "Letter of Credit") issued by commercial banks acceptable to the Redevelopment Authority. The Letter of Credit provides for payment to the Redevelopment Authority in the event of a default by the Development Corporation as described in Section 6.05. The Development Corporation shall maintain the Letter of Credit in force until the financings described in Article III have been completed and the construction contract described in Section 5.02 has been entered into.

Section 2.06 Preleasing of Development. The Redevelopment Authority and the City confirm that the Development Corporation and Center Development have provided the Redevelopment Authority with evidence that at least 25% of the leasable square feet of the Development have been "preleased" to financially responsible tenants.

Section 2.07 Development Site Acquisition. The Redevelopment Authority represents that it has acquired all of the Development Site except the Burger King and Valley Housing Associates parcels.

Section 2.08 Relocation of Owners and Tenants of Development Site. The Redevelopment Authority represents that it has carried out a plan for the relocation of the owners and tenants of the Development Site in accordance with the Redevelopment Plan and applicable law.

Section 2.09 Demolition and Site Preparation. Prior to October 1, 1985, the Redevelopment Authority shall provide for and complete the demolition and removal from the Development Site of all buildings, structures, basement walls, floors, foundations, pavements, rubbish and debris (except for the Burger King and Valley Housing Associates buildings) in accordance with the Preliminary Plans and shall bring the Development Site to grade with engineered fill.

Section 2.10 Utilities. Prior to October 1, 1985, the Redevelopment Authority shall complete the relocation of sewer and water utilities in accordance with the Preliminary Plans.

Section 2.11 Vacation of Oneida Street and Alley. Prior to October 1, 1985, to the extent permitted by applicable law and procedure, the City shall close to traffic and vacate in accordance with the Preliminary Plans (i) that portion of Oneida Street extending from College Avenue approximately one-half block north and (ii) the alley extending from Oneida Street east to Gimbels department store, subject in both cases to existing utility easements.

Section 2.12 Dedication of New Alley. Prior to December 1, 1986, the City shall agree, contingent upon substantial completion of The Avenue, to accept a dedication of a new alley to be located east of Oneida Street to the Gimbels department store as shown in the Preliminary Plans. The capital cost

of constructing the alley shall be a cost of the Development borne by The Avenue Company.

Section 2.13 Traffic Regulation Changes. The City represents that, in accordance with the Preliminary Plans, it has made the changes necessary to reroute northbound traffic in the vicinity of the Development from Oneida Street one block east to Morrison Street.

Section 2.14 Zoning. The Redevelopment Authority represents that the Development Site is properly zoned for the operation of The Avenue and is not located within a floodplain or an earthquake zone.

Section 2.15 Access to Development Site. To the extent they are lawfully able to do, the City and the Redevelopment Authority shall provide the Development Corporation and Center Development and their agents such access to the Development Site as is reasonably necessary for the Development Corporation and Center Development to perform their respective obligations under this Agreement.

### ARTICLE III

#### FINANCING

Section 3.01 Funding for Performance of Redevelopment Authority Obligations. To the extent and in a manner permitted by law, the City intends to provide the Redevelopment Authority with sufficient funds to enable the Redevelopment Authority to perform its obligations under this Agreement. In June, 1984, the



City issued \$12,750,000 of general obligation bonds, \$4,175,000 of which, together with the earnings from the temporary investment thereof, were designated for contribution to the Redevelopment Authority for such purpose. In consideration thereof, the Redevelopment Authority shall pay to the City all net rents (and purchase price in the case of the exercise of the option to purchase) received by the Redevelopment Authority under the terms of the Basic Ground Lease described in Section 3.02.

Section 3.02 Basic Ground Lease. The Redevelopment Authority shall lease the Development Site to The Avenue Company under a recordable lease instrument (the "Basic Ground Lease") containing provisions not inconsistent with the following:

Initial Term:

Commencing at closing of the first mortgage financing described in Section 3.04 and continuing until the twentieth annual anniversary of the opening of The Avenue.

Renewal Terms:

The Basic Ground Lease may be renewed at the option of the lessee for any or all of four consecutive five-year renewal terms.

Rent:

During the Initial Term, the lessee shall pay a fixed periodic rent (commencing upon the opening of The Avenue for business) equal to the

greater of \$150,000 per year or the fair market rental value of the Development Site as determined by mutually acceptable independent appraisal prior to the commencement of the Initial Term. The fixed periodic rent during each Renewal Term shall be determined by mutually acceptable independent appraisal prior to the commencement of such Renewal Term.

Taxes:

The lessee shall pay all lawful property taxes and assessments with respect to the Development Site and the Development.

Default:

In the event the lessee shall default in the performance of the terms and conditions of the Basic Ground Lease and such default shall continue uncured for 90 days after receipt of notice of default, the Redevelopment Authority may proceed to exercise any remedy available at law, in equity or under the terms of the Basic Ground Lease.

Subordination:

The Redevelopment Authority shall subordinate its interest in the Development Site or join in the mortgage thereof to the extent necessary to permit The Avenue Company to obtain the first mortgage financing described in Section 3.04.

Option to Purchase:

The lessee may purchase the leased premises any time during the Initial Term or any Renewal Term of the Basic Ground Lease at a price equal to the fair market value of the Development Site as determined by an independent appraiser acceptable to the lessee and the Redevelopment Authority.

Section 3.03. Land Previously Contributed to Development Corporation. The Redevelopment Authority previously contributed a portion of the Development Site land to the Development Corporation in return for the Development Corporation's assistance in carrying out the Redevelopment Plan. At the time of the closing of the first mortgage financing described in Section 3.04, the Development Corporation shall reconvey such land to the Redevelopment Authority, free and clear of all liens and encumbrances other than those existing at the time of the original transfer from the Redevelopment Authority to the Development Corporation.

Section 3.04 First Mortgage Financing. The Development Corporation shall obtain for The Avenue Company a firm commitment for first mortgage financing in the amount of at least \$8,000,000. The first mortgage financing may be a combination of construction and permanent financing, but considered together shall provide for a term of not less than seven years from date of incurrence on an amortization schedule of at least 20 years. The City and the Redevelopment Authority agree that, to the extent permitted by law, they will make industrial development revenue bond financing available to The Avenue Company for all or any part of its construction financing requirements if The Avenue Company shall have evidenced to the satisfaction of the City or the Redevelopment Authority, as the case may be, that The Avenue Company has obtained a take-out commitment for permanent mortgage financing.

Section 3.05 Sale of Limited Partnership Interests and Subordinated Debentures. The Development Corporation shall arrange for the sale of sufficient limited partnership interests in The Avenue Company and a sufficient number of subordinated debt securities to provide at least \$1,800,000 (less financing costs) of cash proceeds to pay costs of the Development.

Section 3.06 Loan From Redevelopment Authority. At the time of the closing of the first mortgage financing described in Section 3.04, the Redevelopment Authority shall loan \$1,000,000 to the Development Corporation or The Avenue Company

for a term of 20 years at an interest rate not to exceed the lesser of 10% per annum or the interest rate on the City's borrowing which funds such loan. No principal shall be due until maturity, however all principal shall, at the option of the Redevelopment Authority, become due upon a sale or refinancing of the Development by The Avenue Company occurring after the tenth annual anniversary of the date of the loan.

#### ARTICLE IV

##### CONSTRUCTION AND OPERATION

Section 4.01 Final Plans and Specifications. Prior to September 1, 1985, the Development Corporation and Center Development shall furnish all engineering and architectural services necessary to take the Preliminary Plans to final plans and specifications for the Development (the "Final Plans"). The Final Plans shall be subject to review and approval by the Redevelopment Authority, but such approval shall not be unreasonably withheld if the Final Plans are in substantial conformity with the Preliminary Plans. The Development Corporation and Center Development shall cause the Final Plans to provide for a Development which complies with all applicable federal, state and municipal laws, regulations, ordinances and codes.

Section 4.02 Guaranteed Maximum Construction Price. Prior to October 1, 1985, the Development Corporation and Center Development shall arrange for The Avenue Company to obtain a

guaranteed maximum price construction contract from prime contractors reasonably acceptable to the Redevelopment Authority. The construction contracts shall be based on the Final Plans, and the Development Corporation and Center Development shall cause the guaranteed maximum price to be within the budget set forth in Exhibit C. The prime contractors shall be required to furnish performance and completion bonds from sureties reasonably acceptable to the Redevelopment Authority.

Section 4.03 Property Management. The Development Corporation shall cause The Avenue Company to contract with an entity having recognized experience in shopping center property management to provide such services for The Avenue Company upon completion of The Avenue. Initially, the property manager shall be an affiliate of Center Development.

Section 4.04 Property Tax Assessments. The Development shall be assessed for property tax purposes in accordance with applicable law. In consideration of The City's participation in the Development, the Development Corporation shall cause The Avenue Company to enter into an assessment agreement with the City. The assessment agreement shall provide that if the full market value assessment of Development Site and the Development (exclusive of the Prange Tenant Space) for the first full calendar year following the year of the opening of The Avenue or any year thereafter through and including 2000, is less than \$7,000,000, The Avenue Company shall pay the City the difference between the

actual property tax on the Development (exclusive of the Prange Tenant Space) for such year and the amount such property tax would have been if such assessment were \$7,000,000.

Section 4.05 Operational Duties. The Development Corporation shall cause The Avenue Company to agree (i) that the Development shall be operated in a manner consistent with the Site Plan and the standards of other first class downtown shopping centers in the State of Wisconsin; (ii) to keep and maintain all Development buildings and improvements in good and safe condition, repair and appearance, except for ordinary wear and tear; (iii) with reasonable promptness, to repair and maintain all structural and non-structural changes and repairs of every kind and nature, foreseen or unforeseen, which are required to be made upon or in connection with the Development in order to maintain the Development and all buildings related thereto in good, safe and sanitary condition and appearance; and (iv) to use its best efforts to have each and all Development tenants at all times comply with all government laws and codes applicable to the Development and the operation thereof.

Section 4.06 Sign Approval. During construction, the Development Corporation shall erect, display prominently and maintain on the Development Site, signs indicating the Development. The Redevelopment Authority shall have the right to approve the signs, their location and size and all information contained thereon during the period of construction, which

approval shall not be unreasonably withheld. Following construction, the erection of signs indicating The Avenue and businesses therein shall be subject to the approval of the Redevelopment Authority.

Section 4.07 Insurance. The Development Corporation shall procure and maintain, or cause to be procured and maintained, during the period of construction and after completion of all construction during the operation of the Development, a policy or policies of insurance, written by one or more responsible insurance carriers which will insure against liability for injury or death of persons or loss or damage of property including the improvements during the period of construction occurring in or about the Development Site and to name the Redevelopment Authority and the City as additional insureds on such policy or policies.

#### ARTICLE V

##### LIMITATIONS ON ASSIGNMENT AND SALE

Section 5.01 Assignment of Rights Under this Agreement. No party may assign its rights under this Agreement without the consent of all of the other parties.

Section 5.02 Sale of Development. This Agreement is to provide for development, not speculation in land holding. Except with the prior written approval of the Redevelopment Authority or pursuant to a mortgage or similar instrument in connection with a financing contemplated in Article III, the



Development Corporation and Center Development shall not make or permit The Avenue Company to make any sale, lease (other than to Development tenants in the ordinary course of business), assignment, conveyance or other transfer of its or The Avenue Company's interest in the Development Site or any building, improvement or fixture thereon, or any part thereof prior to the opening of The Avenue.

#### ARTICLE VI

#### TERMINATION, DEFAULTS, AND REMEDIES

Section 6.01 Termination Rights. If any of the terms or conditions set forth in Articles II and III of this Agreement shall not have been fulfilled or satisfied for any reason prior to the dates required therein or such other time as is specifically provided for herein, a party who acts in good faith and is not in default of its obligations to fulfill or perform such matters may:

(a) give to the other parties written notice of its intention to terminate this Agreement stating the term or condition which has not been fulfilled or satisfied, and this Agreement shall then terminate automatically 30 days after the giving of such notice unless within such period such term or condition shall be fulfilled or satisfied or shall be waived in writing by the party which gave the notice;

(b) postpone the time for the fulfillment or satisfaction of such term or condition for such period of time as the parties may agree, at the end of which period this Agreement shall terminate automatically if such term or condition has not been fulfilled or satisfied, unless the parties then waive in writing the fulfillment or satisfaction of such term or condition, or agree in writing to a further postponement; or

(c) waive in writing the fulfillment or satisfaction of such contingency or condition.

Section 6.02 Failure of Construction. If The Avenue Company fails to commence construction of the Development by January 1, 1986, or if, after commencing construction, The Avenue Company shall fail to prosecute such construction in a reasonable manner or complete same on or prior to July 1, 1987, the Redevelopment Authority, subject to the rights of the first mortgage lender, may terminate this Agreement or take control of such construction and continue it to completion or until given satisfactory assurance by The Avenue Company that The Avenue Company has the intention and means to commence or resume and complete it. The Redevelopment Authority shall be further entitled, subject to the rights of the first mortgage lender, to receive from The Avenue Company thus in default an assignment of its right, title and interest under any and all architectural and construction contracts (which construction contracts shall contain provisions permitting assignability under such circumstances), financing agreements, and other contracts in order to

enable the Redevelopment Authority to perform them with the benefit of all assignment agreements made in regard to such construction by The Avenue Company. In such case, The Avenue Company shall be liable for any expenditure incurred for such construction by the Redevelopment Authority hereunder, if any, and such expenditures shall constitute a debt immediately payable to the Redevelopment Authority, provided that the Redevelopment Authority shall have the right, but shall not be obligated, to use proceeds from any construction loan financing for such purpose to the extent available, in either case without waiver of any other remedy. There shall be no liability of, and no recovery of damages against, Center Development under this Agreement as a partner of The Avenue Company or as a separate entity or as a partner of any other venture, express or implied; and the sole remedy against Center Development for any default by it or The Avenue Company hereunder shall be termination pursuant to Section 6.01.

Section 6.03 Other Remedies Upon Default. If a party shall fail in the performance of any obligation under this Agreement, and if such nonperformance shall continue for a period of 30 days after written notice from any other party specifying such nonperformance, then a default shall be deemed to have occurred, and such other party may exercise any available legal or equitable remedies; provided, however, that any recovery of damages against the Redevelopment Authority shall be limited to its interest in the Development Site; provided, further, that there shall be no

liability of, and no recovery of damages against, Center Development under this Agreement as a partner of The Avenue Company or as a separate entity or as a partner of any other venture, express or implied; and the sole remedy against Center Development for any default by it hereunder shall be termination pursuant to Section 6.01.

Section 6.04 Limitation on Waivers. The failure to exercise any right, option or remedy under this Agreement, at law or in equity, or the waiver of any default in the performance of any term, provision or covenant contained in this Agreement shall not constitute a waiver of, or impair, the right to exercise said right, option or remedy or any other right or remedy in the event of any continuing or subsequent such default. The consent or approval by any party hereto of any act or request by any other party hereto requiring consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar acts or requests. Except as otherwise provided in this Agreement, the rights and remedies given to each party by this Agreement shall be deemed to be cumulative and no one of such rights and remedies shall be exclusive of any of the others, or of any other right or remedy at law or in equity which either party hereto might otherwise have by virtue of a default under this Agreement, and the exercise of one such right or remedy by either party hereto shall not impair such party's right to exercise any other right or remedy.

Section 6.05 Letter of Credit Proceeds. Without limitation of, and in addition to, any other remedy provided

to the Redevelopment Authority, upon any material default of the Development Corporation in the performance of any of its obligations under this Agreement, the Redevelopment Authority shall be entitled to draw and collect up to the entire amount provided by the Letter of Credit and apply such amount to the Redevelopment Authority's actual expenditures pursuant to Article II hereof, whether incurred prior to or after the execution of this Agreement. In the event of any such recourse to the Letter of Credit, the Redevelopment Authority shall use its best efforts to recoup losses through sale or disposition of the Development Site. Any net recovery in excess of its unreimbursed losses shall be repaid to the Development Corporation.

#### ARTICLE VII

##### MISCELLANEOUS

Section 7.01 Nondiscrimination. Execution of this Agreement evidences the agreement of each party that neither the Development nor any portion thereof, shall be sold to, leased or used by any party in a manner to permit discrimination or restriction on the basis of race, creed, ethnic origin or identity, color, gender, religion, marital status, age, handicap or national origin, and that the construction and operation of the Development shall be in compliance with all effective laws, ordinances and regulations relating to discrimination or any of the foregoing grounds.

Section 7.02 Approximations. It is understood and agreed by the parties hereto that all dimensions and quantities

of square feet set forth herein, on the exhibits hereto, and in the Development Site and all locations and structures and other improvements set forth on the exhibits hereto, are preliminary and tentative. Before the legal descriptions of the various parcels comprising the Development Site are finalized, as set forth hereinabove, each party reserves the right to make minor changes in the dimensions, quantities and locations to best accommodate and facilitate design, construction and operation, upon written notice to, but without the need for consent from, the other parties to this Agreement.

Section 7.03 No Personal Liability. Under no circumstance shall any alderman, officer, official, director, member, partner or employee of the City, the Redevelopment Authority or the Development Corporation or Center Development have any personal liability arising out of this Agreement, and no party shall seek or claim any such personal liability.

Section 7.04 Force Majeure. No party shall be responsible to any other party for any losses resulting if the fulfillment of any of the terms of this Agreement is delayed or prevented by revolutions or other civil disorders, wars, acts of enemies, strikes, fires, floods, acts of God, shortage of materials, or by any other cause not within the control of the party whose performance was interfered with, and which by the exercise of reasonable diligence, such party is unable to prevent, whether of the class of causes hereinabove enumerated or not, and the time for performance shall be extended by the period of delay occasioned by any such cause.

Section 7.05 Parties and Interests; Survival of Representations. Except as otherwise expressly provided herein, this Agreement is made solely for the benefit of the parties hereto, and no other person, partnership, association or corporation shall acquire or have any rights hereunder or by virtue hereof. All representations and agreements in this Agreement shall remain operative and in full force and effect regardless of any investigation made by or on behalf of any party.

Section 7.06 Notices. All notices, demands, certificates or other communications under this Agreement shall be sufficiently given and shall be deemed given when hand delivered or when mailed by first-class mail, postage prepaid, with proper address as indicated below:

To the City: City of Appleton, Wisconsin  
200 North Appleton Street  
P. O. Box 1857  
Appleton, Wisconsin 54913-1857  
Attention: Mayor

To the Redevelopment Authority: Redevelopment Authority of the  
City of Appleton  
200 North Appleton Street  
P. O. Box 1857  
Appleton, Wisconsin 54913-1857  
Attention: Executive Director

To the Development Corporation: Avenue Development, Inc.  
P. O. Box 2852  
Appleton, Wisconsin 54913-2852  
Attention: President

To Center Development: Center Development Venture  
330 Second Avenue South  
Suite 850  
Minneapolis, Minnesota 55401  
Attention: Mr. Jerry Amundson

Any party may, by written notice to the other parties, designate a change of address for the purposes aforesaid.

Section 7.07 Amendment. No modification, alteration or amendment to this Agreement shall be binding upon any party hereto until such modification, alteration or amendment is reduced to writing and executed by all parties hereto.

Section 7.08 Governing Law. The laws of the State of Wisconsin shall govern this Agreement.

Section 7.09 Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any of the provisions of this Agreement.

Section 7.10 Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

Section 7.11 Severability. If any provisions of this Agreement shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstance shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent



whatever. The invalidity of any one or more phrases, sentences, clauses or sections in this Agreement contained, shall not affect the remaining portions of this Agreement, or any part thereof.

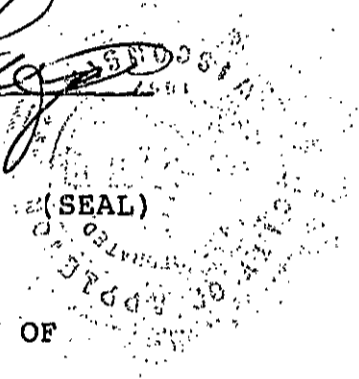
Section 7.12 City Authorization. The execution of this Agreement by the City was authorized by resolution of the City's Common Council adopted June 5, 1985.

IN WITNESS WHEREOF, the parties have executed this Agreement as of June 1, 1985.

CITY OF APPLETON, WISCONSIN

By *Anthony C. Johnson*  
Its Mayor

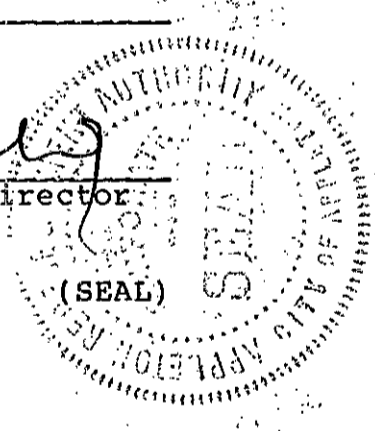
*Janet K. Lopez*  
Its Clerk



REDEVELOPMENT AUTHORITY OF  
THE CITY OF APPLETON

By *Paul Harris*  
Its Chairman

*William A. ...*  
Its Executive Director



AVENUE DEVELOPMENT, INC.

By F. John Saylor  
its President

Attest [Signature]  
its Secretary



CENTER DEVELOPMENT VENTURE

By [Signature]  
general partner

By [Signature]  
Its General Counsel

EXHIBIT A  
SITE DESCRIPTION

Commencing at the SE cor. Blk. 28, Appleton Plat, thence West 207.26 ft. to the point of beginning; thence North 178.17 ft. more or less to the North line of an alley, thence East 17.87 ft. to the West wall of Gimbels, thence North 57.0 ft. to a point 97.17 ft. South of the North line of Block 28, Appleton Plat, thence West parallel to said North line 176.26 ft. to the West line of Block 28, Appleton Plat, thence South 83.17 ft. along said west line to the south line of an alley, thence Westerly 60 ft. to the East line of Block 27, Appleton Plat, at a point 140 ft. North of the SE corner of said Block, thence West parallel to the South line of said Block 187.04 ft. to the East wall of Pranges, thence South 140 ft. to the South line of Block 27, Appleton Plat, being the North line of College Avenue, thence East along said North line 372.12 ft. to the point of beginning, City of Appleton, Outagamie County, Wisconsin, except and excluding the West 40 ft. of the South 80.45 ft. of Lot 6, Block 28, Appleton Plat, also known as Lot 1, CSM Vol. 2, page 299, City of Appleton.

001267  
Blocks 28

Pt Lots 1, 2, 3, 8

all 7

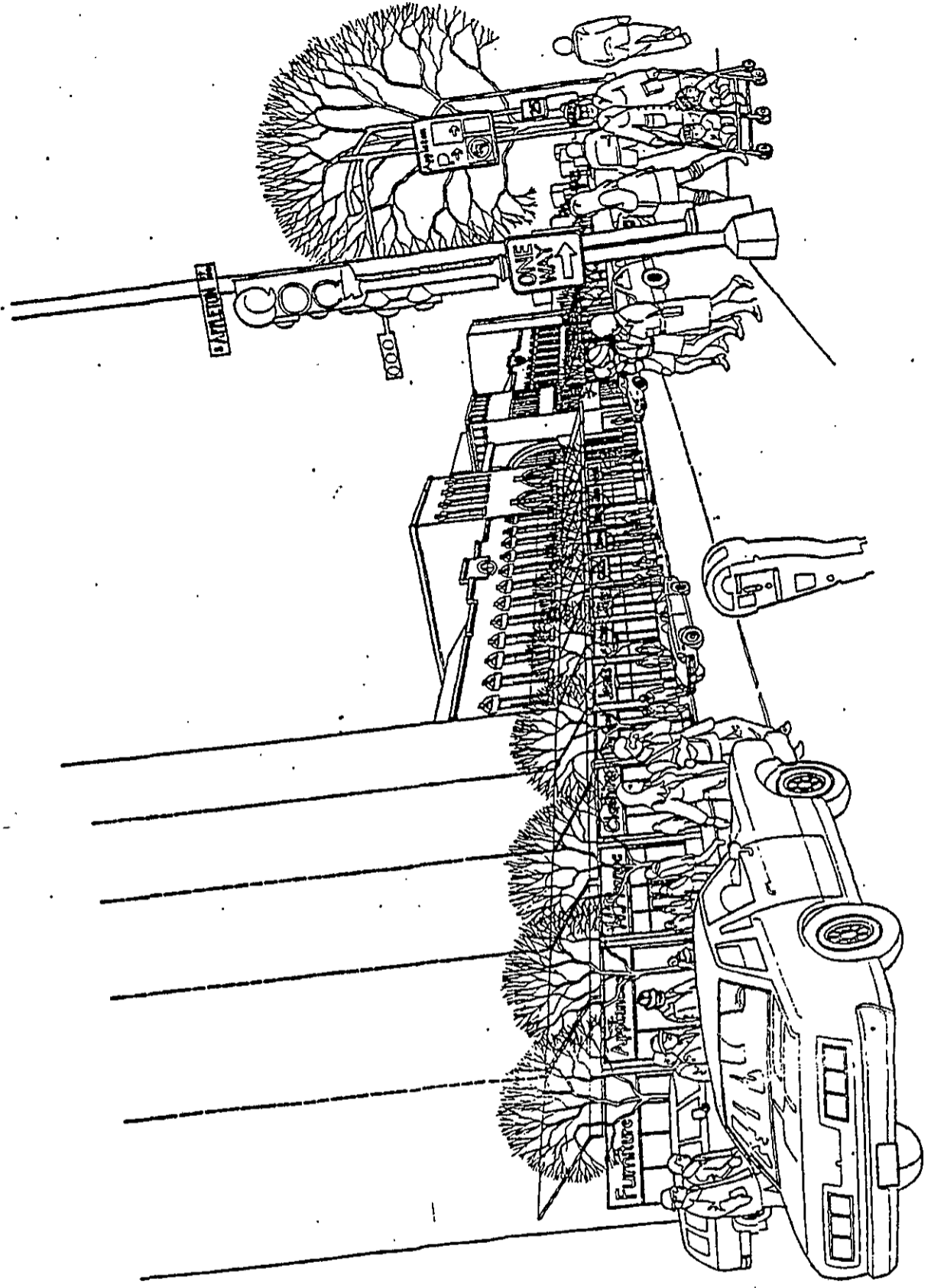
All 6 less CSM

Blocks 27

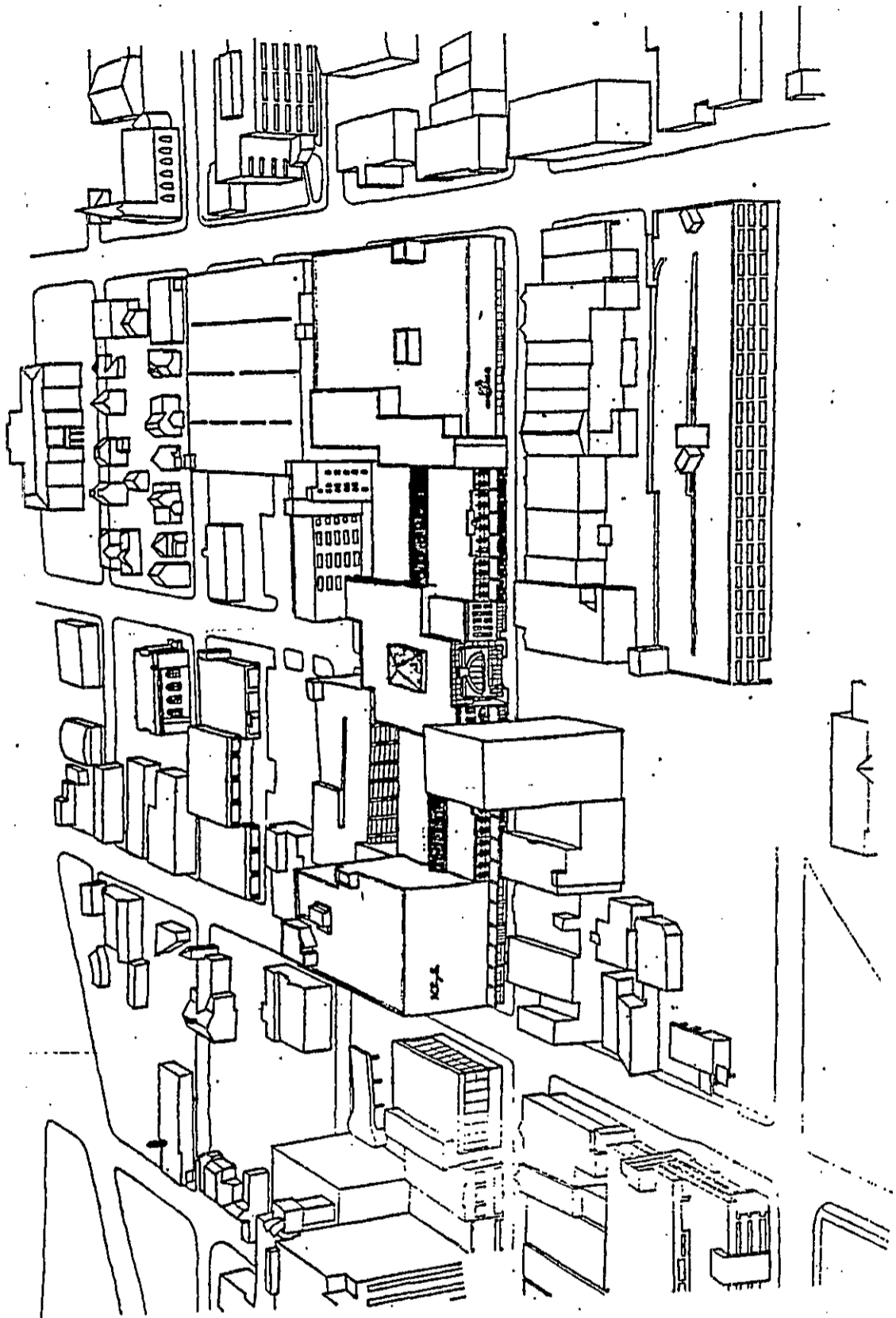
All lot 6

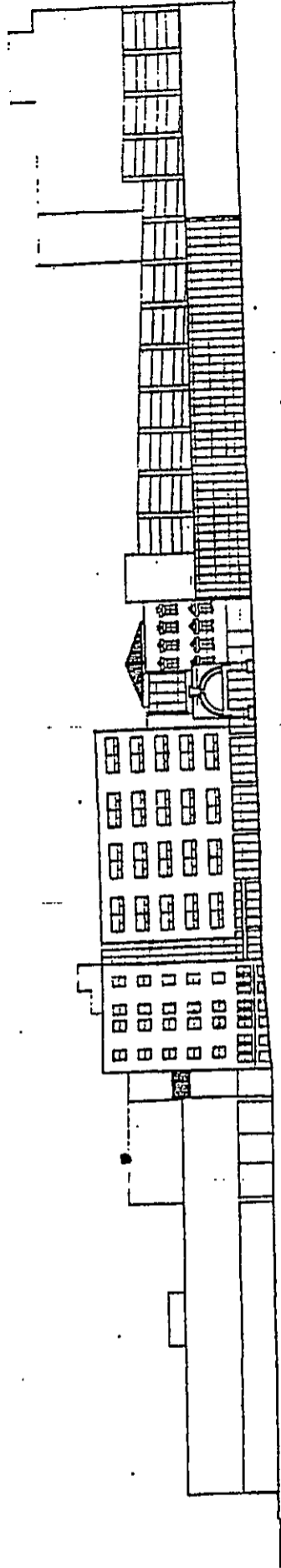
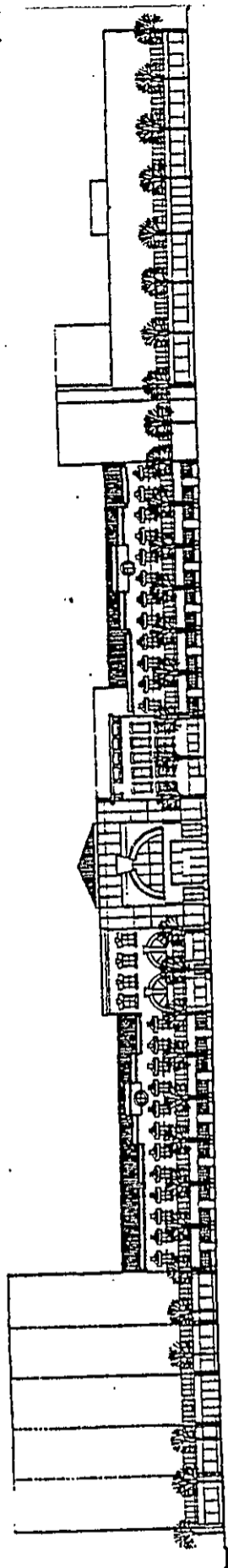
Pt. lot 5

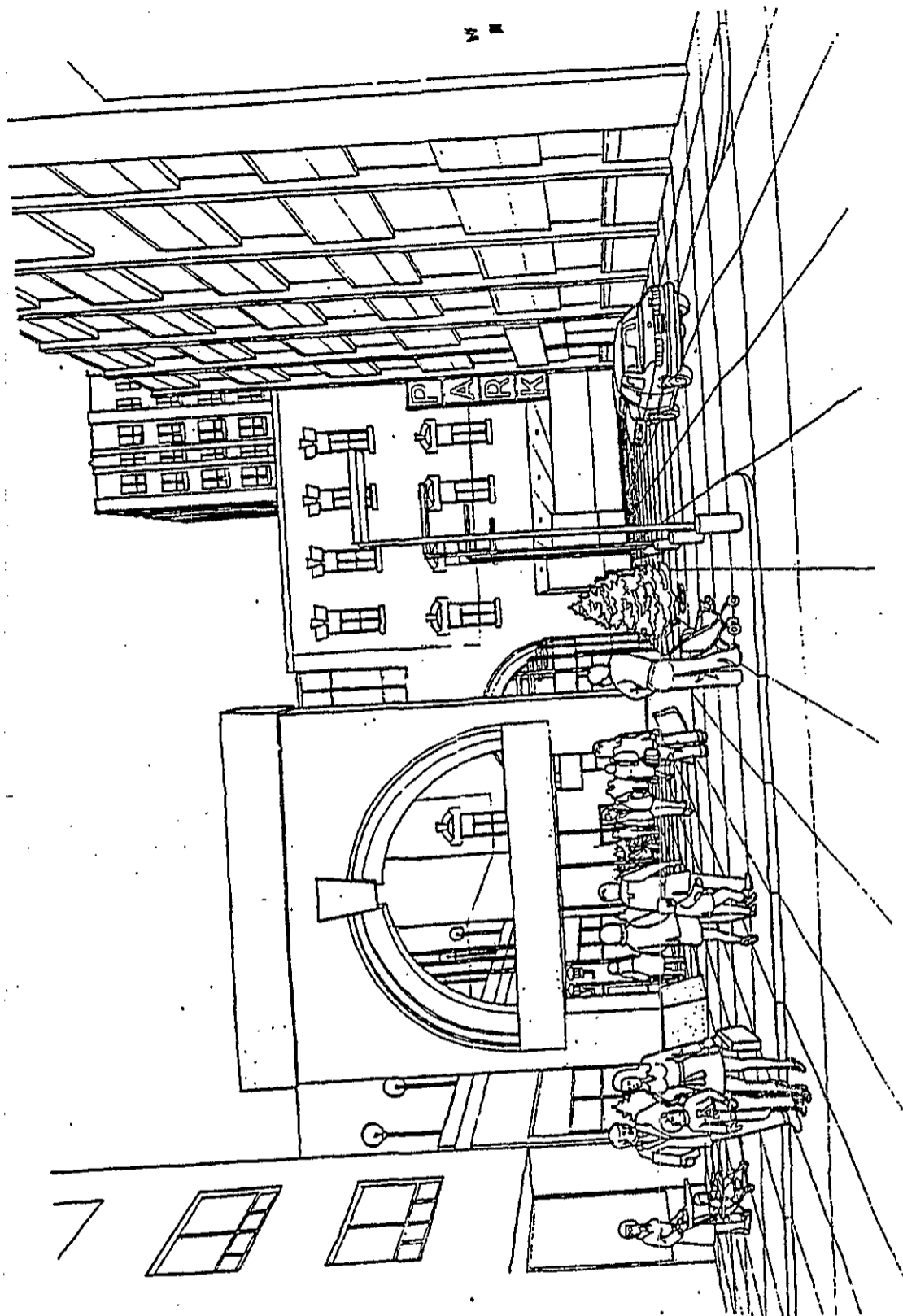
EXHIBIT B

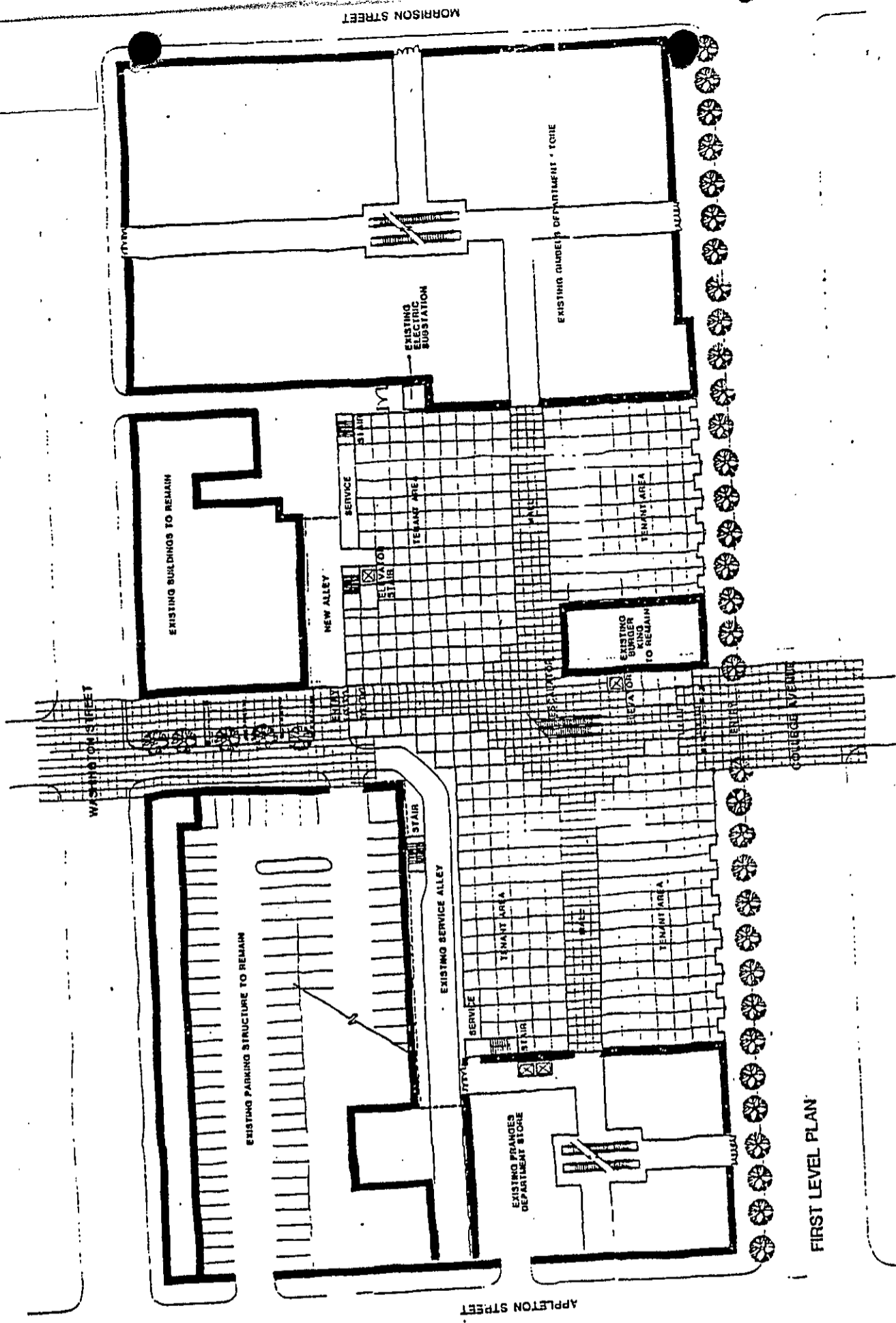


PERSPECTIVE ON COLLEGE AVENUE









FIRST LEVEL PLAN



## EXHIBIT "C"

SOURCE OF FUNDS

First Mortgage Loan	\$ 8,000,000
Loan From Appleton Redevelopment Authority	1,000,000
Limited Partner Equity	<u>2,600,000</u>
Total Sources	\$11,600,000

USE OF FUNDS

Construction Hard and Soft	\$ 8,122,000
Operating Reserve and Construction Period Interest	1,710,000
Professional Fees, Leasing, Attorneys, Architectural, Etc.	815,000
Predevelopment and Construction Supervision	375,000
Loan Fees	240,000
Other	<u>338,000</u>
Total Uses	\$11,600,000