

006427

BK 1145 PG 0133

Tax Parcel Nos.:	06-004.00-022	06-004.00-015
	06-011.00-005	06-004.00-022
	06-011.00-008	06-005.00-006
	06-011.00-014	06-005.00-011
	06-011.00-015	06-011.00-022
	06-011.00-016	06-011.00-026
	06-011.00-019	06-011.00-027
	06-011.00-020	06-011.00-028
	06-011.00-022	06-012.00-002
	06-011.00-030	06-012.00-003

Prepared By: William E. Manning, Esq.  
 Richard A. Forsten, Esq.  
 Duane, Morris & Heckscher  
 P.O. Box 195  
 Wilmington, DE 19899

DECLARATION OF RESTRICTIONS

THIS DECLARATION, made this 12th day of February, 1991, by BRANDYWINE RACEWAY ASSOCIATES, INC., a Delaware corporation, and BRANDYWINE REALTY & DEVELOPMENT, INC., a Delaware corporation (collectively, "Declarant"), who state as follows:

WHEREAS, Declarant is seized in fee simple of those certain lots, pieces or parcels of land situate in Brandywine Hundred, New Castle County, State of Delaware, on the northerly side of Naamans Road and on the easterly side of Concord Pike (Route 202), comprising approximately 96.4 acres, more or less, designated as portions of Tax Parcel Nos. 06-004.00-022, 06-011.00-005, 06-011.00-008, 06-011.00-014, 06-011.00-015, 06-011.00-016, 06-011.00-019, 06-011.00-020, 06-011.00-022, 06-011.00-030, and more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Property") which is subject to a pending rezoning, proposed ordinance 90-276, as shown on Exhibit AA attached hereto and incorporated herein by reference; and

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WHEREAS, Declarant desires to construct a retail shopping center (the "Brandywine Town Center"), library, parkland, community center and a Commuter Services Plaza including a minimum of 520 commuter parking spaces (and including a 20,000 square foot outdoor play area, 10,000 square foot daycare facility, and 5,000 square feet of retail space) (collectively, the "Project") on the Property; and

WHEREAS, Declarant is also seized of certain lands and properties not currently the subject of any rezoning application and which are adjacent to the Property, comprising 112.8 acres, more or less, designated as portions of Tax Parcel Nos. 06-004.00-015, 06-004.00-022, 06-005.00-006, 06-005.00-011, 06-011.00-022, 06-011.00-026, 06-011.00-027, 06-011.00-028, 06-012.00-002, 06-012.00-003, and more particularly described on Exhibit B attached hereto and incorporated herein by reference (the "Adjacent Property"); and

WHEREAS, in connection with an application to rezone the Property from zoning classifications R-1-C and R-2 to zoning classification C-3, the Declarant desires to impose on the Property and the Adjacent Property certain restrictions and to bind itself, its successors and assigns who may hereafter be owners or lessees of the Property and/or the Adjacent Property;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that Declarant hereby covenants and declares that (1) Declarant shall and does stand seized of the Property and the Adjacent Property, and (2) the Property and the Adjacent Property shall henceforth be subject to the following agreements, easements, covenants,

conditions, reservations and restrictions which shall be covenants running with the land in perpetuity, and which shall be binding upon the Declarant, its successors and assigns, for the benefit of New Castle County, a political subdivision of the State of Delaware, or its successor.

1. Improvements to the Property. Declarant shall construct a regional shopping mall (the "Brandywine Town Center") which mall shall not exceed approximately 850,000 gross leasable feet in floor area with a total floor area not to exceed approximately 1,162,000 square feet, together with sufficient parking. Declarant shall also construct the following additional improvements (collectively, referred to as the "Amenities"): (a) the Commuter Services Plaza of at least 520 commuter parking spaces, 20,000 square feet of outdoor play area, 10,000 square foot daycare center, and 5,000 square feet of retail space (as shown and more fully described in the drawing attached as Exhibit C), which is intended to mitigate traffic; (b) a community center, approximately 8,000 square feet in size (as shown on the drawing attached as Exhibit D); (c) if requested by New Castle County, a community library, at least 8,000 square feet in size, to be operated by New Castle County; (d) 14 acres of parkland (as shown on Exhibit D); (e) a lake approximately 4 acres in size (as shown on Exhibit D); and (f) biking trails, jogging and walking paths (as shown on Exhibit D). Subject to required regulatory approvals, the improvements to be erected on the Property shall substantially conform in style, quality, appearance and size to the model (as shown in the picture attached as Exhibit E) and plans submitted to

the New Castle County Department of Planning (the "Department") except that Declarant shall not be prohibited from making minor deviations from such plans where reasonably necessary.

2. Conditions Precedent to Construction and Opening of the Brandywine Town Center.

(a) Construction. Declarant shall begin construction of the Commuter Services Plaza prior to commencing any other construction on the Property; and, Declarant shall complete the Commuter Services Plaza and open the Commuter Services Plaza to the public with all reasonable dispatch, but in no event shall certificates of occupancy be requested or issued for the Brandywine Town Center unless the Commuter Service Plaza is open to the public and fully operational; except that if the Commuter Services Plaza has been damaged or destroyed by fire, flood, accident, vandalism, or other act of God, which prevents the Commuter Services Plaza from being fully operational, Declarant shall not be prohibited from requesting and receiving certificates of occupancy.

(b) Opening of Brandywine Town Center. Declarant shall not open the Brandywine Town Center for business to the general public until the following:

(i) February 15, 1995.

(ii) The approval by the Department of Transportation for the State of Delaware ("DelDOT") and the Department, such approval not to be unreasonably withheld, of Declarant's current Traffic Impact Study as revised by Declarant to account for all projects or phases thereof that have received unconditional zoning approval on or before the date of Declarant's

zoning approval (enactment of ordinance 90-276). Such revised Traffic Impact Study shall demonstrate that the intersections included in Declarant's current Traffic Impact Study, except for the Route 141/Route 202 intersection, will operate at service level "D" or better.

(iii) Simultaneous with the opening of the Brandywine Town Center for business to the general public, the Amenities shall be available to the public except that a decision by New Castle County not to accept the library, which decision results in the library not being completed when all other conditions of this Section 2 have been fulfilled, shall not act as a bar to the opening of the Brandywine Town Center;

(iv) Further Conditions for Opening. The opening of the Brandywine Town Center for business to the general public shall be further conditioned upon completion of the following:

A. DelDOT has advised the Declarant of certain road or signal improvements which require financial support from the Declarant and upon which DelDot may condition the issuance of an entrance permit in respect of the Project. DelDot and the Declarant have acknowledged that a final DelDot determination of such road or signal improvements shall be made in concert with the New Castle County Planning Department at the time of Declarant's application for subdivision approval from New Castle County and the issuance of an entrance permit by DelDot. In the event that DelDot requires financial assistance from the Declarant in respect of any

of the following improvement projects, Declarant shall provide such funding as determined by the formula set forth below:

(1) Project (to be funded in part by Declarant or its assigns) to add left turn lanes and a traffic signal to the intersection of State Route 92/State Route 100 if such project shall be determined to be advisable and in the public interest by administrative determination of DelDOT reached with the concurrence of its Secretary;

(2) Project (to be funded by agreement between DelDOT and Declarant or its assigns) providing for the addition of a third lane and/or a shoulder on northbound Route 202 from the intersection at Naamans Road far enough toward the Pennsylvania line to handle, in DelDOT's opinion, forecast traffic;

(3) Project (to be funded in part by Declarant or its assigns) for the improvement of the intersection of Silverside and Shipley roads;

(4) Execution and/or update of signal agreements for the following intersections (signals to be installed by DelDOT when warranted): (1) site entrance/Naamans Road/Shipley Road; (2) site entrance/Concord Pike; and (3) State Route 92/State Route 100.

B. For purposes of subsection 2(b)(iv), the phrase "to be funded in part by Declarant or its assigns" shall mean to be funded by Declarant or its assigns (i) in an amount not in excess of the product resulting from the multiplication of the total cost of the project by a fraction the numerator

of which is the number of trips per day at the site of such road improvement that result from the development of the Project (the "Generated Trips") and the denominator of which is the number of trips per day at the site of such road improvements including the Generated Trips; or (ii) by a formula mutually agreed upon by Declarant and DelDot.

3. Adjacent Property. Declarant shall not submit any rezoning, subdivision, or land development plan or proposal for the Adjacent Property to the Department, or its successor, prior to March 1, 1995. In addition, as part of any such plan, Declarant covenants that at least 40 acres of the Adjacent Property shall remain or become either active or passive recreational open space. Finally, as part of the development of the Adjacent Property, a Traffic Impact Study shall be submitted and approved by DelDot and the Department which shall demonstrate that no intersection within the geographic scope determined for such Traffic Impact Study shall be projected to operate at less than service level "D" (as such service level is now defined).

4. Violation of Covenants. The Government of New Castle County, or its successor, shall have the right to proceed at law or in equity to compel compliance with or to prevent violation or breach of the terms of this Declaration of Restrictions.

5. Scope and Interpretation. This Declaration shall be governed by Delaware law. It shall have no application to or effect upon any property other than the Property and Adjacent Property as described herein.

6. Severability. The provisions of this Declaration are declared to be severable to the end that the invalidity or unenforceability of any one provision hereof shall have no effect upon the validity or enforceability of any other provision hereof.

7. Binding Effect; Captions. This Declaration and the covenants herein contained shall bind Declarant and its successors and assigns with respect to the Property and the Adjacent Property. The captions of this Declaration of Restrictions are inserted for ease of reference only and shall not be considered in connection with its construction or interpretation.

8. Amendment. The foregoing covenants shall not be modified, amended or altered in whole or in part except with the express approval of New Castle County Council, or its successor, which shall be the only consent required. Declarant shall follow the requirements of state law and the New Castle County Code with respect to any modification, amendment or alteration of the foregoing covenants so that the County may give notice of same in accordance with state law and the New Castle County Code.

IN WITNESS WHEREOF, Declarant has caused this Declaration of Restrictions to be executed and sealed the day and year first above written.



[Corporate Seal]

BRANDYWINE RACEWAY ASSOCIATION, INC.

By: William F. Poyes  
Title: Vice President



BK1145PG0163

BRANDYWINE REALTY & DEVELOPMENT,  
INC.

Attest: [Corporate Seal]

William J. Byrd

By: William J. Byrd  
Title: 1st President

STATE OF DELAWARE )  
 ) SS.  
COUNTY OF NEW CASTLE )

BE IT REMEMBERED, that on this 12th day of February, 1991, personally came before me, the undersigned, a Notary Public for the State of Delaware, William G. Popeo, vice-president of BRANDYWINE RACEWAY ASSOCIATION, INC., a corporation existing under the laws of Delaware, party to this instrument, known to me personally to be such, and acknowledged the same to be his act and deed and the act and deed of said corporation, that the signature of the vice-president thereto is in his own proper handwriting, that the seal affixed is the common and corporate seal of said corporation, and that his act of executing, sealing and delivering this Instrument was duly authorized by resolution of the Board of Directors of said corporation.

GIVEN under my Hand and Seal of office, the day and year aforesaid.

  
Notary Public

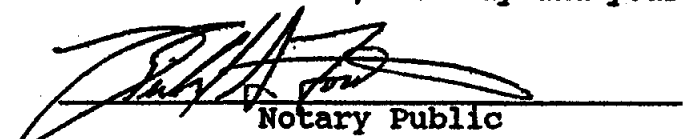
Printed Name: Richard A. Forsten  
My Commission Expires: attorney-at-law

STATE OF DELAWARE )  
 ) SS.  
COUNTY OF NEW CASTLE )

RICHARD A. FORSTEN  
Attorney At Law  
Notary Public, State of Delaware  
My Commission Has No Expiration Date  
29 Del.C. §4323(a)(3)

BE IT REMEMBERED, that on this 12th day of February, 1991, personally came before me, the undersigned, a Notary Public for the State of Delaware, William G. Popeo, vice-president of BRANDYWINE REALTY AND DEVELOPMENT, INC., a corporation existing under the laws of Delaware, party to this instrument, known to me personally to be such, and acknowledged the same to be his act and deed and the act and deed of said corporation, that the signature of the vice-president thereto is in his own proper handwriting, that the seal affixed is the common and corporate seal of said corporation, and that his act of executing, sealing and delivering this Instrument was duly authorized by resolution of the Board of Directors of said corporation.

GIVEN under my Hand and Seal of office, the day and year aforesaid.

  
Notary Public

Printed Name: Richard A. Forsten  
My Commission Expires: attorney-at-law

RICHARD A. FORSTEN  
Attorney At Law  
Notary Public, State of Delaware  
My Commission Has No Expiration Date  
29 Del.C. §4323(a)(3)

## EXHIBIT A

ALL THAT CERTAIN tract piece or parcel of land situated at Concord Pike (U.S. Route 202) and Naamans Road (Delaware Route 92) Brandywine Hundred, New Castle County Delaware and shown on a plot prepared by VanDemark & Lynch, Inc., Engineers, Planners & Surveyors, Wilmington, Delaware entitled Exhibit A, dated June 29, 1990, Revised February, 7 1991, Drawing No. 28838-1e, and more particularly described as follows, to wit:

·BEGINNING at a point on southeasterly side of the Concord Pike ( U.S. Route 202) said point being a corner for C-3 Zoning and being distant the seven following described courses and distances measured along the said sides of the Concord Pike from the northwesterly end of a corner cut off joining the said southeasterly side of the Concord Pike with the northwesterly side of said Naamans Road.

- 1) North 10°-46'-48" East, 148.68 feet to a point,
- 2) North 79°-13'-12" West, 8.00 feet to a point;
- 3) North 10°-46'-48" East, 663.71 feet to a point;
- 4) North 10°-53'-28" East, 320.34 feet to a point;
- 5) South 79°-06'-32" East, 5.00 feet to a point;
- 6) North 10°-53'-28" East, 77.85 feet to a point; and
- 7) North 13°-18'-05" East, 71.79 feet to the said point of Beginning.

THENCE from the said point Beginning continuing along the said southeasterly side of the Concord Pike North 13°-18'-05" East, 109.06 feet to a point on a line dividing lands zoned as R-2 and C-2;

THENCE leaving the said southeasterly side of the Concord Pike and by said division line the 4 following described courses and distances:

- 1) North 86°-24'-12" East, 702.68 feet to a point;
- 2) North 09°-25'-57" East, 130.10 feet to a point;
- 3) South 80°-34'-03" East, 300.00 feet to a point;
- 4) North 06°-41'-52" East, 194.86 feet to a point, a corner for lands now or formerly of Alfred Mousley and wife;

THENCE THEREBY, the five following described courses and distances:

- 1) North 07°-57'-52" East, 177.97 feet to a point;
- 2) South 81°-10'-08" East, 167.30 feet to a point;
- 3) North 53°-51'-22" East, 295.28 feet to a point;

- 4) North 08°-52'-42" East, 471.15 feet to a point;
- 5) North 08°-47'-36" East, 329.47 feet to a point;

THENCE leaving the said lands now or formerly of Alfred Mousley and wife and along lands of E. Rolph and crossing the right of way for Husbands Drive and along lands now or formerly of Dorothy M. Smith, South 81°-14'-28" East, 460.00 feet to a point;

THENCE leaving said lands now or formerly of Dorothy M. Smith and by lines through lands of Brandywine Raceway Association, the ten following described courses and distances:

- 1) South 08°-50'-36" West, 250.00 feet to a point;
- 2) South 81°-09'-24" East, 115.00 feet to a point;
- 3) South 08°-50'-36" West, 200.00 feet to a point;
- 4) North 81°-09'-24" West, 115.00 feet to a point;
- 5) South 08°-50'-36" West, 277.02 feet to a point;
- 6) Southeasterly by a curve to the right having a radius of 2,350 feet an arc distance of 192.28 feet to a point of compound curvature, said point being distant by a chord of South 82°-17'-42" East, 192.23 feet from the last described point;
- 7) Southeasterly by a curve to the right having a radius of 1,000 feet and arc distance 339.00 feet to a point of compound curvature, said point being distant by a chord of South 70°-14'-21" East, 337.38 feet from the last described point;
- 8) Southeasterly by a curve to the right having a radius of 400.00 feet and arc distance of 230.30 feet to a point of compound curvature, said point being distant by a chord of South 44°-02'-01" East, 227.13 feet from the last described point;
- 9) Southeasterly by a curve to the right having a radius of 900.00 feet and arc distance of 560.00 feet to a point of compound curvature, said point being distant by a chord of South 09°-42'-53" East, 551.01 feet from the last described point; and
- 10) Southwesterly by a curve to the right having a radius of 2350. feet an arc distance of 687.54 feet to a point on the northeasterly line of lands now or formerly of Samuel T. Brown, III, etux, said point being distant by a chord of South 16°-29'-31" West, 685.09 feet from the last described point;

THENCE by said lands now or formerly of Samuel T. Brown, III, etux the two following described courses and distances:

- 1) North 74°-47'-30" West, 27.81 feet to a point; and
- 2) South 16°-13'-20" West, 149.39 feet to a point on the northeasterly side of Naamans Road (Delaware Route 92 at various widths).

THENCE along the various courses of the northeasterly and northwesterly sides of said Naamans Road the 9 following described following courses and distances:

- 1) North 81°-14'-33" West, 100.21 feet to a point;
- 2) South 53°-43'-55" West, 77.75 feet to a point;
- 3) North 81°-14'-33" West, 194.57 feet to a point;
- 4) North 86°-14'-33" West, 69.77 feet to a point of curvature;
- 5) Southwesterly by a curve to the left having a radius of 1215.92 feet an arc distance of 401.41 feet to a point of tangency for said curve, said point being distant by a chord of South 84°-18'-00" West, 399.59 feet from the last described point;
- 6) South 74°-50'-32" West, 69.77 feet to a point
- 7) South 69°-50'-30" West, 356.86 feet to a point of curvature;
- 8) Southwesterly by a curve to the right having a radius of 2013.48 feet an arc distance of 454.08 feet, said point being distant by cord of South 76°-18'-11" West 453.12 feet from the last described point;
- 9) South 82°-45'-49" West, 568.65 feet to point a corner for lands now or formerly of Best Products Co., Inc.;

THENCE leaving the said northwesterly side of Naamans Road and by lines of said lands now or formerly of Best Products Co., Inc., the three following described courses and distances:

- 1) North 08°-19'-30" East, 281.65 feet to a point;
- 2) North 81°-40'-30" West, 96.32 feet to a point;
- 3) South 08°-19'-30" West, 308.47 feet to a point on the said northwesterly side of Naamans Road

THENCE THEREBY, South 82°-45'-49" West 99.99 feet to a point a corner for lands now or formerly of Music Services and Investments, Co.;

THENCE leaving the said northwesterly side of Naamans Road and along the southeasterly line of said lands now or formerly of Music Service and Investment Co., North 08°-19'-30" East, 335.29 feet to a point in the southwesterly line of lands now or formerly of A T & T Communications;

THENCE THEREBY, South 81°-40'-30" East, 8.21 feet to a point;

THENCE along the southeasterly line of said lands now or formerly of A T & T Communications and said lands now or formerly of Music Service and Investment Co., North 10°-44'-30" East, 265.39 feet to a point;

THENCE along the northeasterly line of said lands now or formerly of Music Service and Investment Co., North 79°-15'-30" West, 29.81 feet to a point;

THENCE by lines zoned C-2 and through lands of Brandywine Realty and Development Company, North 10°-43'-53" East, 362.73 feet to a point;

THENCE by lines zoned C-3, and continuing through said lands of Brandywine Realty and Development Company, the two following described courses and distances:

- (1) North 10°-41'-43" East, 338.06 feet to a point; and
- (2) South 86°-24'-12" West, 237.81 feet to a point on the said southeasterly side of the Concord Pike and the point and place of Beginning;

CONTAINING within said metes and bounds, 96.411 acres of land being the same, more or less....

PROPERTY MAP

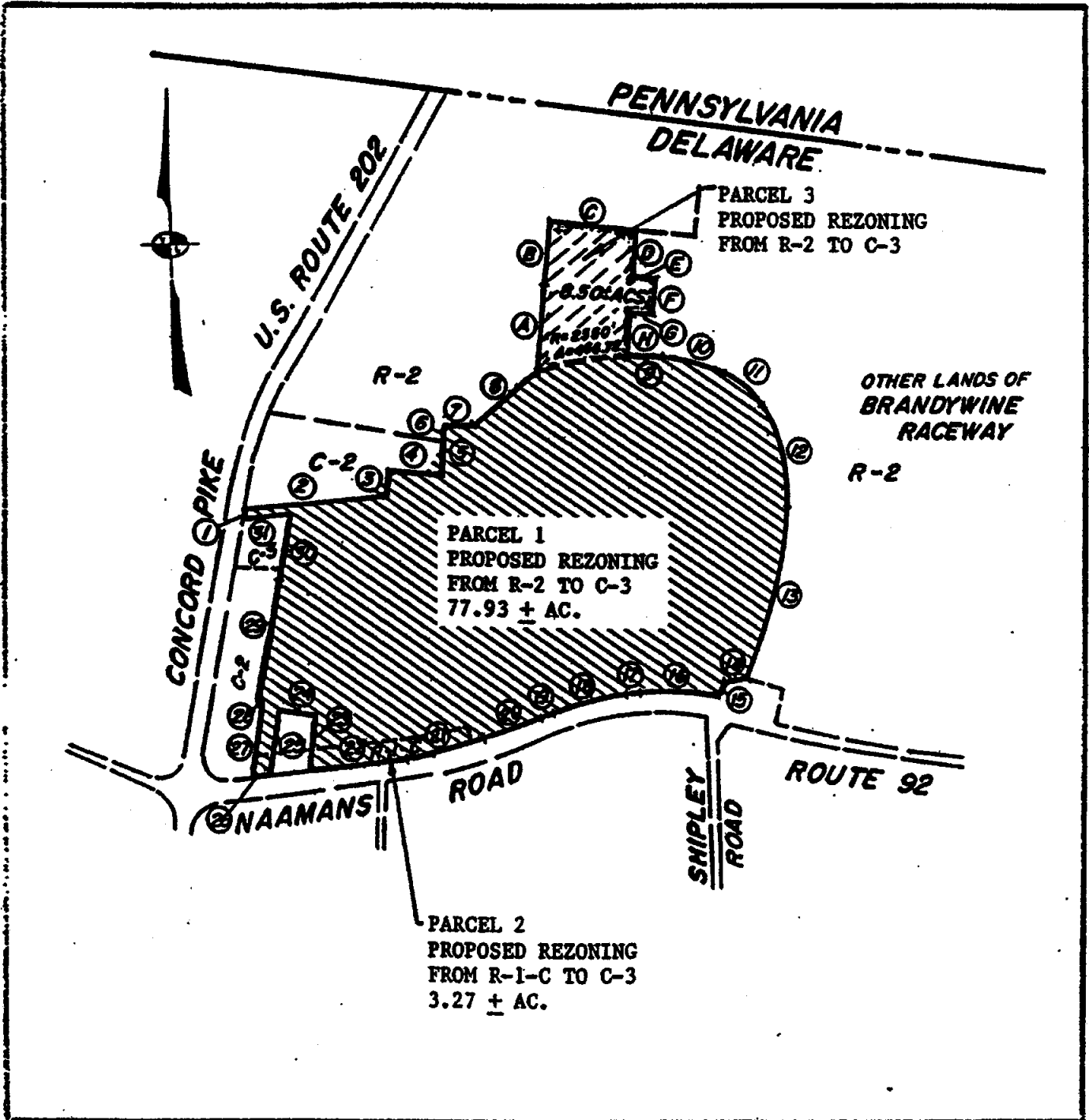
EXHIBIT AA  
ZONING ORDINANCE AS INTRODUCED

APPLICANT Brandywine Raceway

APPLICATION NO. 90-0131-2

PROPOSED REZONING From R-2 & R-1-C To C-3

TAX PARCEL NO. See Sheet 2



HUNDRED Brandywine  
NEW CASTLE COUNTY DELAWARE

PERMANENT ORDINANCE NO. \_\_\_\_\_  
Date Adopted By County Council \_\_\_\_\_  
Date Approved By County Executive \_\_\_\_\_

Scale: 1" = 300'  
Drawn by: Van dermark & Lynch

PROPERTY MAP

EXHIBIT AA  
ZONING ORDINANCE AS INTRODUCED

APPLICANT Brandywine  
Raceway

APPLICATION NO. 90-0131-Z

PROPOSED REZONING From R-2 & R-1-C  
To C-3

TAX PARCEL NO. \_\_\_\_\_

- |     |                    |         |  |  |
|-----|--------------------|---------|--|--|
| 1.  | N 13°-18'-05" E,   | 109.06' |  |  |
| 2.  | N 86°-24'-12" E,   | 702.68' |  |  |
| 3.  | N 09°-25'-57" E,   | 130.10' |  |  |
| 4.  | S 80°-34'-03" E,   | 300.10' |  |  |
| 5.  | N 06°-41'-52" E,   | 194.86' |  |  |
| 6.  | N 07°-57'-52" E,   | 177.97' |  |  |
| 7.  | S 81°-10'-08" E,   | 167.30' |  |  |
| 8.  | N 53°-51'-22" E,   | 295.28' |  |  |
| A.  | N 08°-52'-42" E,   | 471.15' |  |  |
| B.  | N 08°-47'-36" E,   | 329.47' |  |  |
| C.  | S 81°-14'-28" E,   | 460.00' |  |  |
| D.  | S 08°-50'-36" W,   | 250.00' |  |  |
| E.  | S 81°-09'-24" E,   | 115.00' |  |  |
| F.  | S 08°-50'-36" W,   | 200.00' |  |  |
| G.  | N 81°-09'-24" W,   | 115.00' |  |  |
| H.  | S 08°-50'-36" W,   | 277.02' |  |  |
| 9.  | R = 2350' ARC =    | 192.28' |  |  |
| 10. | R = 1000' ARC =    | 339.00' |  |  |
| 11. | R = 400' ARC =     | 230.30' |  |  |
| 12. | R = 900' ARC =     | 560.00' |  |  |
| 13. | R = 2350' ARC =    | 840.00' |  |  |
| 14. | N 81°-14'-33" W,   | 100.21' |  |  |
| 15. | S 53°-43'-55" W,   | 77.75'  |  |  |
| 16. | N 81°-14'-33" W,   | 194.57' |  |  |
| 17. | N 86°-14'-33" W,   | 69.77'  |  |  |
| 18. | R = 1215.92' ARC = | 401.41' |  |  |
| 19. | S 74°-50'-32" W,   | 69.77'  |  |  |
| 20. | S 69°-50'-30" W,   | 356.86' |  |  |
| 21. | R = 2013.48' ARC = | 454.08' |  |  |
| 22. | S 82°-45'-49" W,   | 568.65' |  |  |
| 23. | N 08°-19'-30" E,   | 281.65' |  |  |
| 24. | N 81°-40'-30" W,   | 96.32'  |  |  |
| 25. | S 08°-19'-30" W,   | 308.47' |  |  |
| 26. | S 82°-45'-49" W,   | 99.99'  |  |  |
| 27. | N 08°-19'-30" E,   | 335.29' |  |  |
| 28. | N 81°-40'-30" W,   | 21.58'  |  |  |
| 29. | N 10°-43'-53" E,   | 629.38' |  |  |
| 30. | N 10°-41'-43" E,   | 338.06' |  |  |
| 31. | S 86°-24'-12" W,   | 237.81' |  |  |

TOTAL AREA = 96.635± ACRES

TAX PARCEL NUMBERS

- 06-011.00-008
- 06-011.00-010
- 06-011.00-011
- 06-011.00-073
- 06-011.00-030
- 06-011.00-013
- 06-011.00-014
- 06-011.00-015
- 06-011.00-016
- 06-011.00-020
- 06-011.00-019
- 06-011.00-022
- 06-011.00-024

HUNDRED Brandywine  
NEW CASTLE COUNTY, DELAWARE

PERMANENT ORDINANCE NO. \_\_\_\_\_  
Date Adopted By County Council \_\_\_\_\_  
Date Approved By County Executive \_\_\_\_\_

Drawn by: Vandemark & Lynch  
Date: 2-1-91



## EXHIBIT B

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ALL THAT CERTAIN tract, piece or parcel of land situate on Naamans Road (Delaware Route No. 92) southeasterly of Concord Pike (U.S. Route 202), Brandywine Hundred, New Castle County, Delaware and shown on a plat prepared by VanDemark & Lynch, Inc., Engineers, Planners and Surveyors, Wilmington, Delaware, dated February 9, 1990 and revised through February 7, 1991; Drawing No. 26695-B, Revision No. 1 and described to wit:

BEGINNING at a point on the northeasterly side of Naamans Road (Delaware Route No. 92-width varies) as shown on Delaware Department of Transportation Contract 85-102-01, said point being a corner for lands now or formerly of Frank H. Burns, and Eileen W. Burns;

THENCE from the said point of Beginning and along the said northeasterly side of Naamans Road, the seven following described courses and distances:

- (1) Northwesterly by a curve to the right having a radius of 7,583.44 feet, an arc distance of 97.74 feet to a point, said point being distant by a chord of North 80°-45'-08" West, 97.74 feet from the last described point;
- (2) North 78°-51'-14" West, 99.27 feet to a point;
- (3) Northwesterly by a curve to the right having a radius of 7,581.44 feet, an arc distance of 14.53 feet to a point, said point being distant by a chord of North 79°-34'-41" West, 14.53 feet from the last described point;
- (4) North 79°-31'-24" West, 170.76 feet to a point of curvature;
- (5) Northwesterly by a curve to the left having a radius of 7,697.44 feet, an arc distance of 230.96 feet to a point of tangency for said curve, said point being distant by a chord of North 80°-22'-59" West, 230.95 feet from the last described point;
- (6) North 81°-14'-33" West, 670.26 feet to a point; and
- (7) North 80°-05'-48" West, 401.38 feet to a point;

THENCE along lines of lands now or formerly of Samuel T. Brown, III, et ux, the two following described courses and distances:

- (1) North 17°-27'-40" East, 175.46 feet to a point; and
- (2) North 74°-47'-30" West, 271.77 feet to a point;

THENCE by lines through said lands of Brandywine Raceway Association, Inc., the ten following described courses and distances:

- (1) Northeasterly by a curve to the left having a radius of 2,350.00 feet, an arc distance of 687.54 feet to a point of compound curvature, said point being distant by a chord of North 16°-29'-31" East, 685.09 feet from the last described point;
- (2) Northwesterly by a curve to the left having a radius of 900.00 feet, an arc distance of 560.00 feet to a point of compound curvature, said point being distant by a chord of North 09°-42'-53" West, 551.01 feet from the last described point;
- (3) Northwesterly by a curve to the left having a radius of 400.00 feet, an arc distance of 230.30 feet to a point of compound curvature, said point being distant by a chord of North 44°-02'-01" West, 227.13 feet from the last described point;
- (4) Northwesterly by a curve to the left having a radius of 1,000.00 feet, an arc distance of 339.00 feet to a point of compound curvature, said point being distant by a chord of North 70°-14'-21" West, 337.38 feet from the last described point;
- (5) Northwesterly by a curve to the left having a radius of 2,350.00 feet, an arc distance of 192.28 feet to a point, said point being distant by a chord of North 82°-17'-42" West, 192.23 feet from the last described point;
- (6) North 08°-50'-36" East, 277.02 feet to a point;
- (7) South 81°-09'-24" East, 115.00 feet to a point;
- (8) North 08°-50'-36" East, 200.00 feet to a point;
- (9) North 81°-09'-24" West, 115.00 feet to a point; and
- (10) North 08°-50'-36" East, 250.00 feet to a point in the southwesterly line of lands now or formerly of Dorothy M. Smith;

THENCE partially along the southwesterly line of said lands now or formerly of Dorothy M. Smith and partly along lines now or formerly of Jeannie H. Hanley, South 81°-14'-28" East, 305.69 feet to a point;

THENCE continuing along said lands now or formerly of Jeannie H. Hanley, the three following described courses and distances:

- (1) North 07°-46'-42" East, 114.03 feet to a point;
- (2) South 84°-45'-48" East, 316.29 feet to a point; and
- (3) North 05°-14'-12" East, 574.94 feet to a point on the southwesterly side of State Line Road;

THENCE along the said southwesterly side of State Line Road, South 80°-43'-33" East, 70.17 feet to a point, a corner for lands now or formerly of F.S. Owensby Company;

THENCE leaving the said southwesterly side of State Line Road and by lines of said lands now or formerly of F.S. Owensby Company, the two following described courses and distances:

- (1) South 05°-14'-12" West, 581.72 feet to a point; and
- (2) South 84°-43'-56" East, 418.84 feet to a point on the terminus of Fulton Road;

THENCE by lines along the southeasterly side of said Fulton Road, the three following described courses and distances:

- (1) Northeasterly a curve to the left having a radius of 50.00 feet, an arc distance of 103.41 feet to a point of reverse curvature said point being distant by a chord of North 36°-00'-49" East, 85.94 feet from the last described point;
- (2) Northeasterly by a curve to the right having a radius of 20.00 feet, an arc distance of 17.45 feet to a point of tangency for said curve, said point being distant by a chord of North 01°-45'-35" East, 16.90 feet to a point; and
- (3) North 26°-45'-18" East, 232.16 feet to a point of curvature, said point being the southwesterly end of a 30 foot radius junction curve joining the said southeasterly side of Fulton Road with the southwesterly side of Owensby Drive;

THENCE northeasterly by said junction curve to the right having a radius of 30.00 feet, an arc distance of 47.11 feet to a point of tangency for said curve and a point on the said southwesterly side of Owensby Drive, said point being distant by a chord of North 71°-45'-18" East, 42.42 feet from the last described point;

THENCE by the said side of Owensby Drive, the two following described courses and distances:

- (1) South 63°-14'-42" East, 212.94 feet to a point; and
- (2) North 17°-50'-38" East, 16.81 feet to a point, a corner for lands now or formerly of Charles A. Scheid;

THENCE partly along the southwesterly line of said lands now or formerly of Charles A. Scheid, the southwesterly lines now or formerly of James Owensby, the southwesterly lines of lands now or formerly of Evelyn D. Owensby and partly along the southwesterly lines of lands now or formerly of Winterset Farms, Inc., South 63°-28'-34" East, 1,088.85 feet to a point, a corner for lands now or formerly of Brandywine School District;

THENCE by lines of said Brandywine School District, the four following described courses and distances:

- (1) South 18°-30'-07" West, 1,392.52 feet to a point;
- (2) South 17°-53'-02" West, 145.58 feet to a point;
- (3) South 78°-31'-03" East, 341.79 feet to a point; and
- (4) South 08°-48'-52" West, 574.41 feet to a point, a corner for lands now or formerly of Delmarva Power & Light Company;

THENCE by lines of said lands now or formerly of Delmarva Power & Light Company, the following described courses and distances:

- (1) North 81°-15'-38" West, 200.00 feet to a point;
- (2) South 08°-48'-52" West, 200.00 feet to a point;
- (3) South 81°-15'-38" East, 200.00 feet to a point; and
- (4) North 08°-48'-52" East, 76.15 feet to a point, a corner for said lands now or formerly of Brandywine School District;

THENCE partially along the southwesterly line of said lands now or formerly of Brandywine School District, South 81°-15'-38" East, 134.67 feet to a point, a corner for said lands now or formerly of Franklin H. Burns and Eileen W. Burns;

THENCE along the northwesterly line of said lands now or formerly of Frank H. Burns and Eileen W. Burns, South 08°-44'-24" West, 225.38 feet to a point on the said northeasterly side of Naamans Road and the point and place of Beginning;

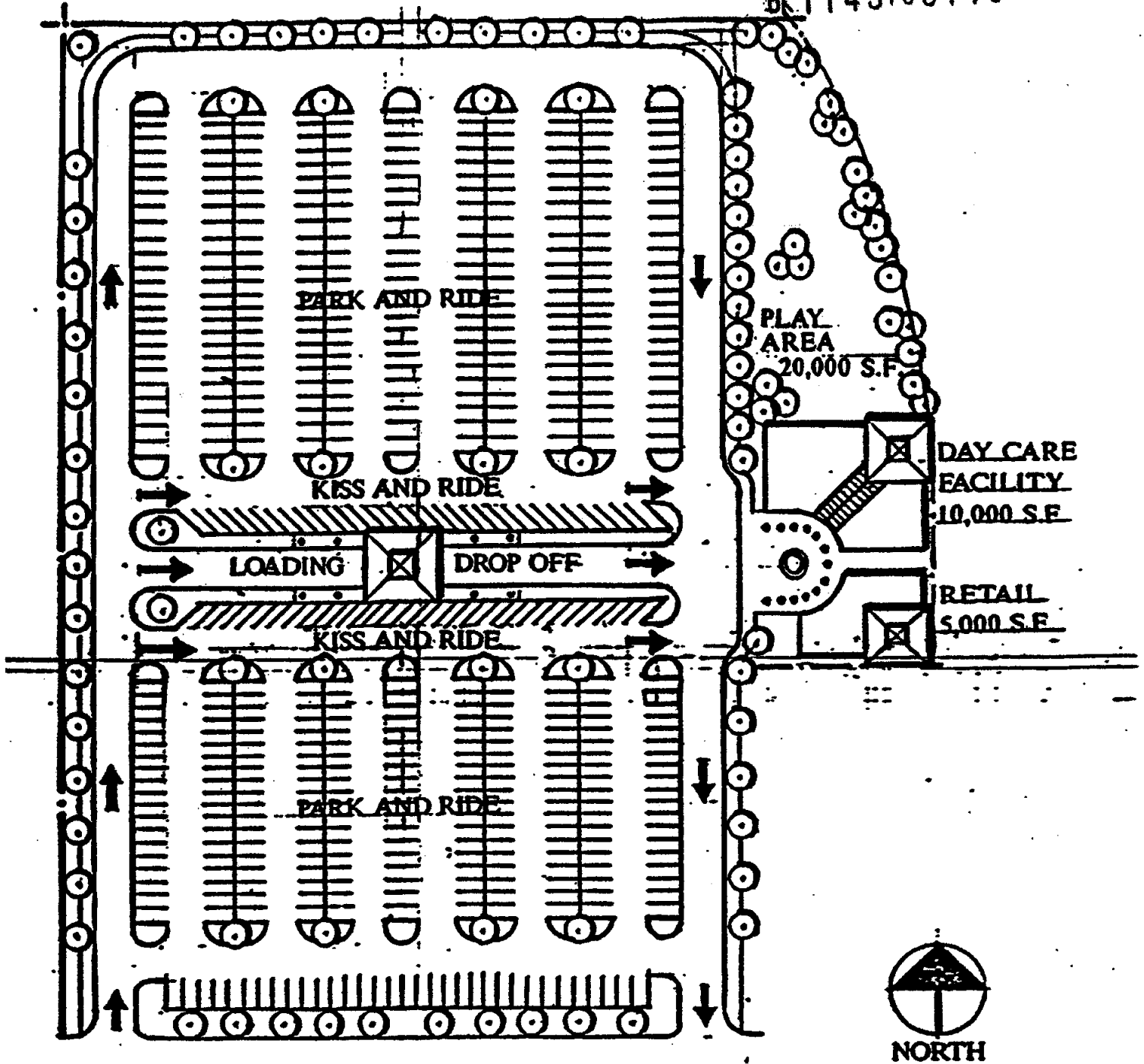
CONTAINING within said metes and bounds, 112.873 acres of land being the same, more or less....

SUBJECT TO an easement thorough the above described parcel for the purpose of ingress, egress and regress between Naamans Road and said lands of Delmarva Power & Light Company; ALSO

SUBJECT TO a permanent easement granted to the State of Delaware, Department of Transportation through the above described parcel adjacent to said Naamans Road and possibly SUBJECT TO and TOGETHER WITH the use of other recorded and unrecorded rights of ways, easements and agreement.

**EXHIBIT C - COMMUTER SERVICES PLAZA**

BK1145PG0175



**SITE PLAN TOTAL ACREAGE 8.5 ACRE**

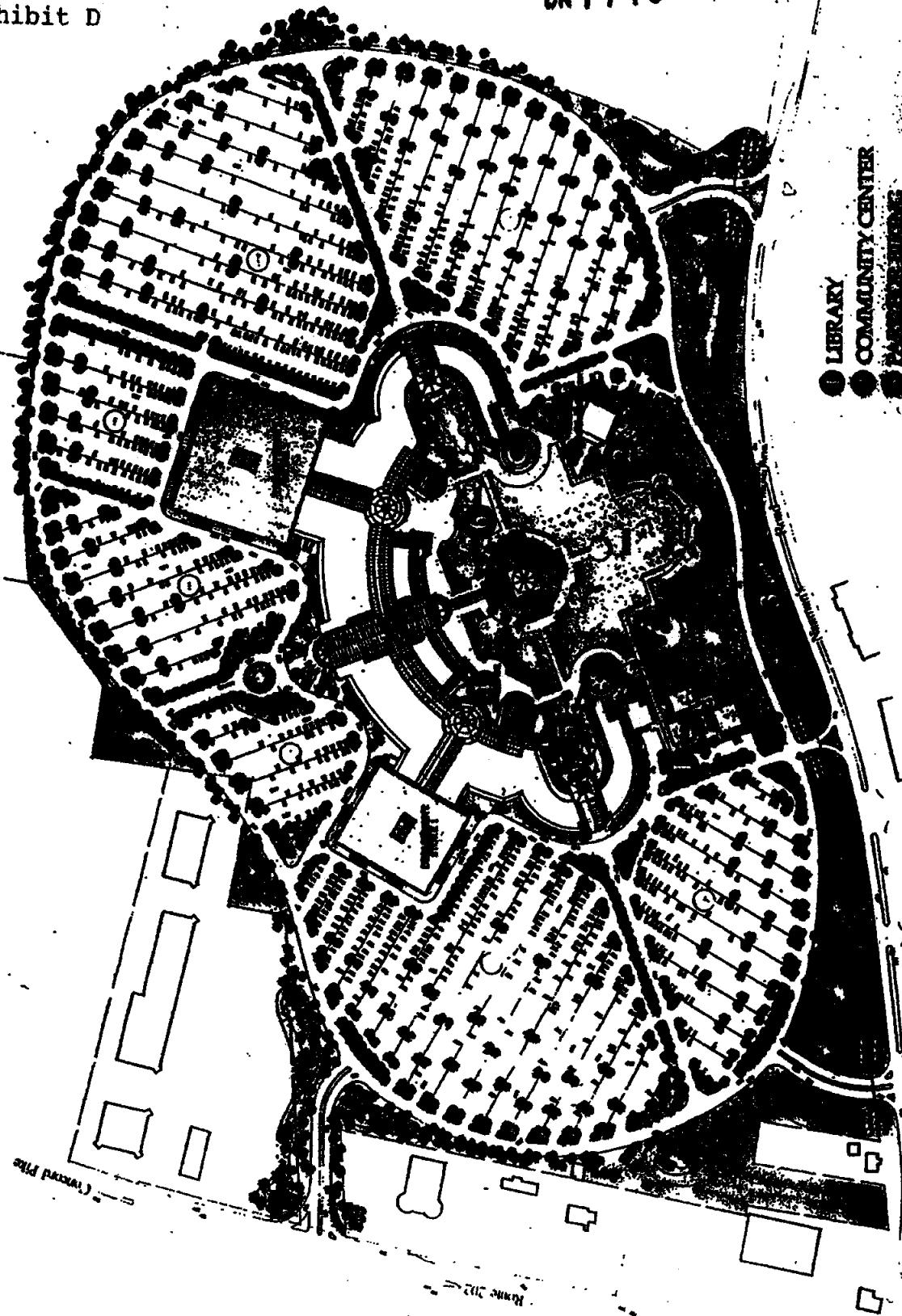


**PARKING CALCULATIONS REGULAR HANDICAPPED**

**PARK & RIDE SPACES 472 12**

**KISS & RIDE SPACES 32 4**

BRANDYWINE TOWN CENTER



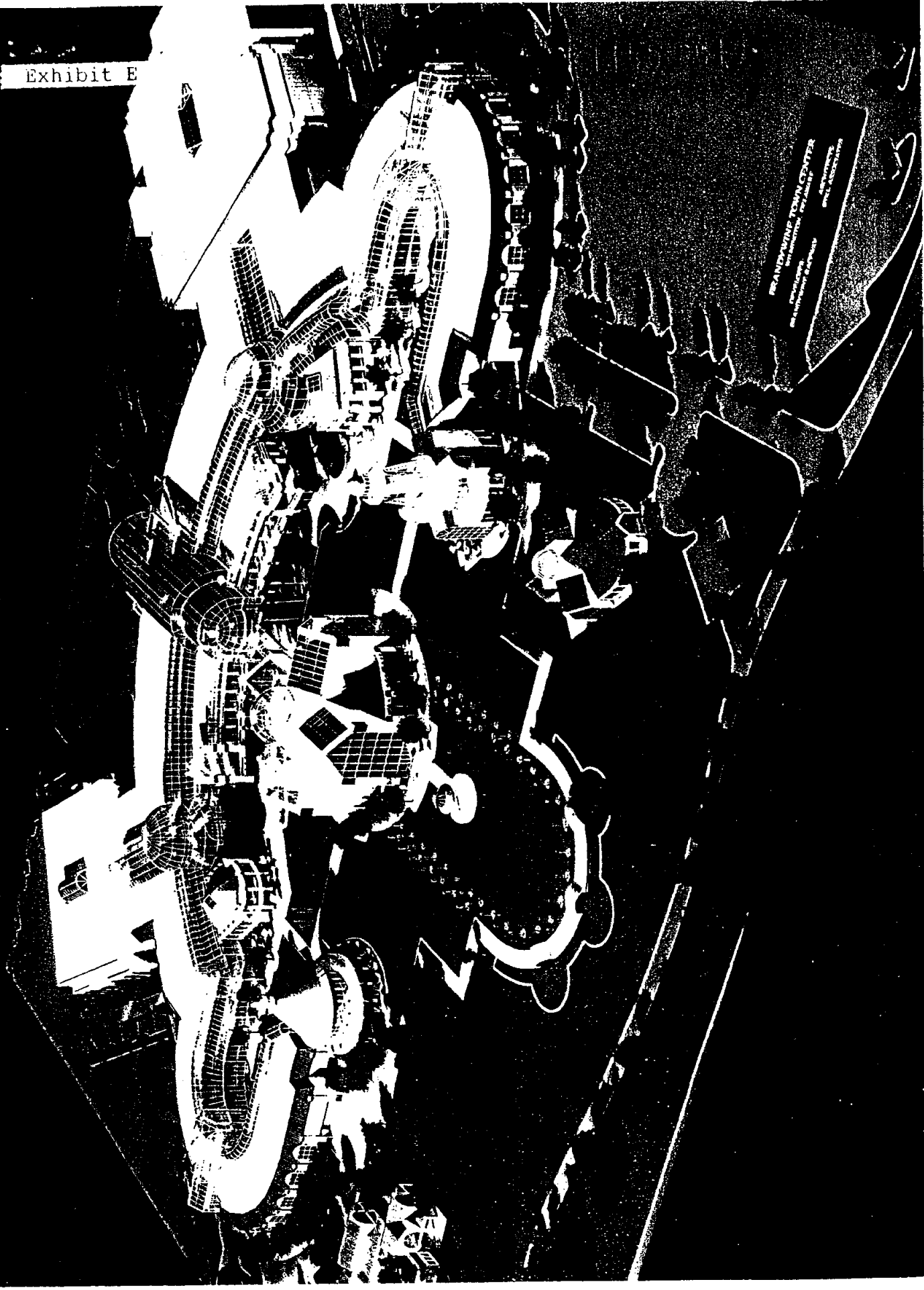
- LIBRARY
- COMMUNITY CENTER
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(INVERT FILE)

PLAN 2112

Exhibit E



FRANZISKA TOMPA CENTER  
Development for Administration  
by the Department of Planning  
1971-1972  
1000 10th Avenue  
New York, N.Y. 10018

059688

BK 267 / PG 0250

99 JUL 20 AM 9: 54

MICHAEL B. BATTAGLIA  
RECORDER OF DEEDS  
NEW CASTLE CO. DE

Tax Parcel Nos. 06-004.00-023  
06-004.00-025  
06-011.00-022  
06-011.00-079

Prepared By: William E. Manning, Esq.  
Richard A. Forsten, Esq.  
*JK* Duane, Morris &  
Heckscher, LLP  
P.O. Box 195  
Wilmington, DE 19899

**AMENDMENT TO DECLARATION  
OF RESTRICTIONS**  
(Recorded in Book 1145, Page 155)

THIS AMENDMENT TO DECLARATION OF RESTRICTIONS is made this 13 day of July, 1999 by BRANDYWINE RACEWAY ASSOCIATION, INC., a Delaware corporation ("BRA"), BRANDYWINE REALTY & DEVELOPMENT, INC., a Delaware corporation ("BRD"), B.T. CENTER ASSOCIATES, L.L.C., a Delaware limited liability company ("BTC"), and NEW CASTLE COUNTY, a political subdivision of the State of Delaware.

WHEREAS, pursuant to a Declaration of Restrictions (the "Declaration") dated February 12, 1991 and recorded in the New Castle County Record's Office in Book 1145, beginning on Page 155, BRD and BRA imposed certain restrictions on property they owned, which property was defined in said Declaration as the "Property" and the "Adjacent Property;" and,

WHEREAS, since that time, BRA and BRD have conveyed the Property to BTC; and

WHEREAS, the Declaration requires that improvements constructed on the Property "substantially conform" to Exhibits D and E to the Declaration except for "minor deviations from such plans where reasonably necessary;" and,

WHEREAS, since 1991, BRA, BRD and BTC have made, and New Castle County has approved, minor adjustments to the plans which substantially conform to said Exhibits; and,

7/21/90



WHEREAS, BTC now desires to make further changes to the planned improvements;  
and,

WHEREAS, having been advised by the New Castle County Department of Land Use that such changes do not substantially conform to said Exhibits, BTC desires to amend its Declaration to include Exhibits "New D" and "New E" in lieu of the original Exhibits "D" and "E".

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that the parties hereto, being the only parties necessary, do hereby covenant and agree that the Declaration is hereby modified and amended as follows:

1. Change In Plan. The drawing attached hereto as exhibit "New D" hereby replaces and supersedes the drawing attached as exhibit D to the Declaration. The drawing attached hereto as exhibit "New E" hereby replaces and supersedes the drawing attached as exhibit E to the Declaration.
2. No Further Modifications: Full Force And Effect. Except as amended and modified hereby, the Declaration remains unchanged and in full force and effect.



STATE OF Delaware )  
 ) ss  
COUNTY OF New Castle )

On this 14 day of July, 1999, personally came before me, the undersigned, a Notary Public for the State of Delaware, W.E. Hansen, who, being by me duly sworn, did depose and say that he is the President of BRANDYWINE RACEWAY ASSOCIATION, INC., a Delaware corporation, party to this instrument, and acknowledged the same to be his act and deed and the act and deed of said corporation, that the seal affixed is the corporate seal of said corporation, and that his act of executing, sealing and delivering this instrument was duly authorized by resolution of the board of directors of said corporation.

GIVEN under my Hand and Seal of office, the day and year aforesaid.

Kathleen A. Quinn  
NOTARY PUBLIC

Type Name: Kathleen A. Quinn  
My Commission Expires 12-21-01

STATE OF Delaware )  
 ) ss  
COUNTY OF New Castle )

On this 14 day of July, 1999, personally came before me, the undersigned, a Notary Public for the State of Delaware, W.E. Hansen, who, being by me duly sworn, did depose and say that he is the President of BRANDYWINE REALTY & DEVELOPMENT, INC., a Delaware corporation, party to this instrument, and acknowledged the same to be his act and deed and the act and deed of said corporation, that the seal affixed is the corporate seal of said corporation, and that his act of executing, sealing and delivering this instrument was duly authorized by resolution of the board of directors of said corporation.

GIVEN under my Hand and Seal of office, the day and year aforesaid.

Kathleen A. Quinn  
NOTARY PUBLIC

Type Name: Kathleen A. Quinn  
My Commission Expires 12-21-01

STATE OF Delaware )  
 ) SS  
COUNTY OF New Castle )

On this 14 day of July, 1999, personally came before me, the undersigned, a Notary Public for the State of Delaware, Andy Lubin, who, being by me duly sworn, did depose and say that he is the Vice President of B.T. CENTER MANAGING MEMBER, INC., a Delaware corporation, the managing member of B.T. CENTER ASSOCIATES, L.L.C., a Delaware limited liability company, party to this instrument, and acknowledged the same to be his act and deed and the act and deed of said corporation and said limited liability company, that the seal affixed is the corporate seal of said corporation, and that his act of executing, sealing and delivering this instrument was duly authorized by resolution of the board of directors of said corporation and in accordance with the management agreement of said limited liability company.

GIVEN under my Hand and Seal of office, the day and year aforesaid.

Kathleen A. Quinn  
NOTARY PUBLIC

Type Name: Kathleen A. Quinn  
My Commission Expires 12-21-01

STATE OF Delaware )  
 ) SS  
COUNTY OF New Castle )

*licensed attorney in the state of Delaware*

On this 14th day of July, 1999, personally came before me, the undersigned, a Notary Public for the State of Delaware, Stephanie L. Nester, who, being by me duly sworn, did depose and say that he is the President of NEW CASTLE COUNTY, a political subdivision of the State of Delaware, party to this instrument, and acknowledged the same to be his act and deed and the act and deed of said political subdivision, that the seal affixed is the corporate seal of said political subdivision, and that his act of executing, sealing and delivering this instrument was duly authorized by New Castle County in accordance with all applicable laws.

*Council*

GIVEN under my Hand and Seal of office, the day and year aforesaid.

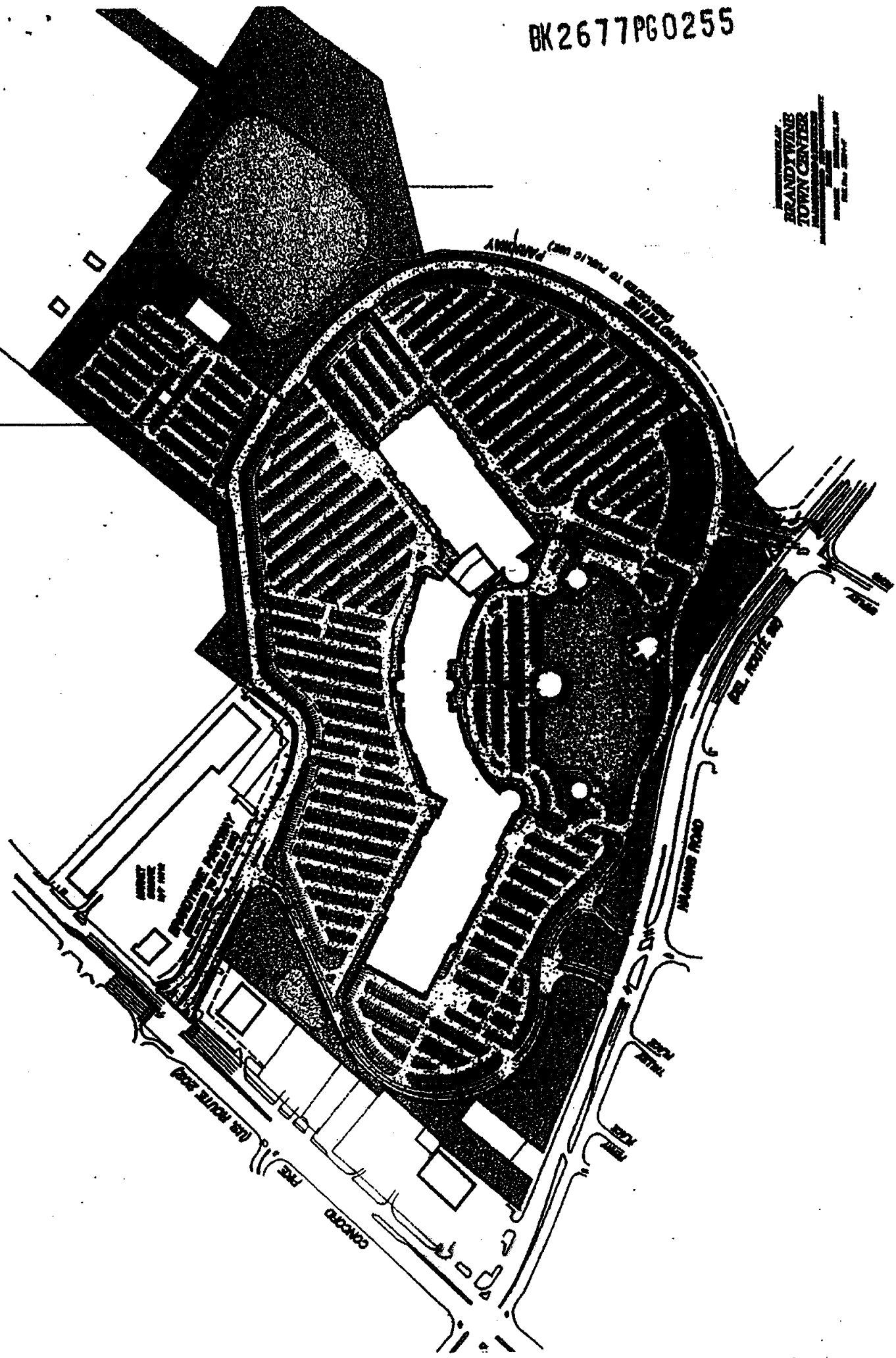
Carol J. Dolin Esq  
NOTARY PUBLIC

Type Name: CAROL J. DOLIN  
My Commission Expires \_\_\_\_\_

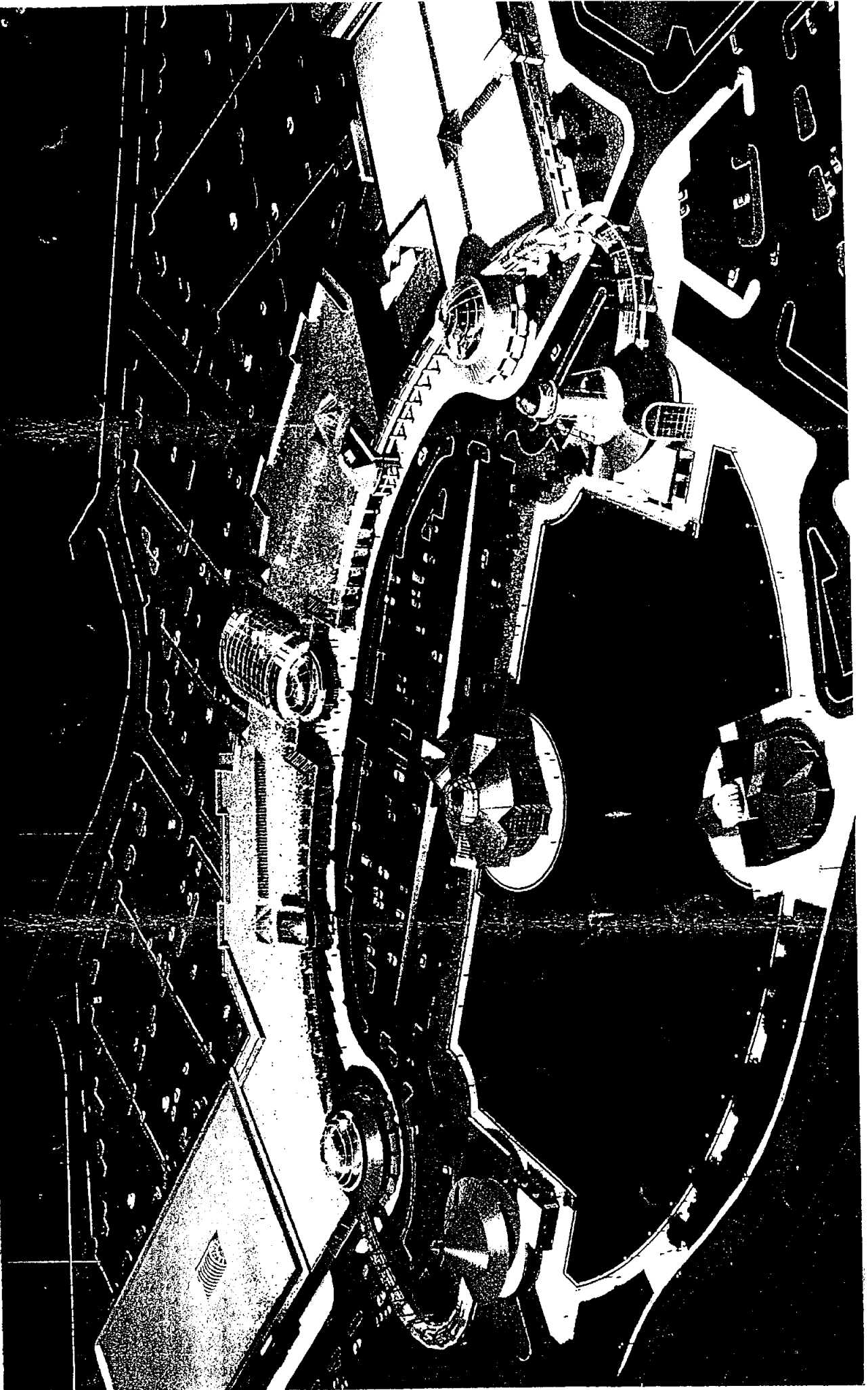
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BRANDYWINE  
TOWN CENTER  
PLANNING  
AND  
DESIGN  
INC.  
1000 N. STATE ST.  
WILMINGTON, DE 19801  
TEL: 302.439.1234

EXHIBIT "NEW D"



BK 2677P80256



88 ASN, 119112