

VILLAGE OF ORLAND PARK

14700 Ravinia Avenue
Orland Park, IL 60462
www.orland-park.il.us

Ordinance No: 4667

File Number: 2010-0616

ORDINANCE AUTHORIZING DEVELOPMENT AGREEMENT (MCDUFFY MIXED USE
DEVELOPMENT - 14332 BEACON AVENUE)

VILLAGE OF ORLAND PARK

STATE OF ILLINOIS, COUNTIES OF COOK AND WILL

Published in pamphlet form this 16th day of August, 2011 by authority of the President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois.

VILLAGE OF ORLAND PARK

Ordinance No: 4667

ORDINANCE AUTHORIZING DEVELOPMENT AGREEMENT (MCDUFFY MIXED USE DEVELOPMENT - 14332 BEACON AVENUE)

WHEREAS, the Corporate Authorities of the Village of Orland Park, Cook and Will Counties, Illinois, did consider a Development Agreement for the development of certain property within the corporate limits of the Village of Orland Park, said Agreement being entitled DEVELOPMENT AGREEMENT (MCDUFFY MIXED USE DEVELOPMENT - 14332 BEACON AVENUE)" a true and correct copy of which is attached hereto and made a part hereof as EXHIBIT 1; AND

WHEREAS, the Corporate Authorities of the Village of Orland Park, Cook and Will Counties, Illinois, have determined that it is in the best interests of said Village of Orland Park that said Agreement be entered into by the Village of Orland Park;

NOW, THEREFORE, Be It Ordained by the President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois, as follows:

SECTION 1

This President and Board of Trustees of the Village of Orland Park hereby find that it is in the best interests of the Village of Orland Park and its residents that the aforesaid "DEVELOPMENT AGREEMENT (MCDUFFY MIXED USE DEVELOPMENT - 14332 BEACON AVENUE)" be entered into and executed by said Village of Orland Park with said Agreement to be substantially in the form attached hereto and made a part hereof as EXHIBIT 1.

SECTION 2

The President and Clerk of the Village of Orland Park, Cook and Will Counties, Illinois, are hereby authorized to execute for and on behalf of said Village of Orland Park the aforesaid Agreement; provided, however, that all of the other parties to said Agreement have properly signed and executed the same.

SECTION 3

This Ordinance shall take effect from and after its passage, approval and publication in the manner provided by law. That the Village Clerk is hereby directed and ordered to publish this Ordinance in

VILLAGE OF ORLAND PARK

Ordinance No: 4667

pamphlet form.

PASSED this 15th day of August, 2011

/s/ David P. Maher

David P. Maher, Village Clerk

Aye: 7 Trustee Fenton, Trustee O'Halloran, Trustee Dodge, Trustee Schussler, Trustee Gira,
Trustee Griffin Ruzich, and President McLaughlin

Nay: 0

DEPOSITED in my office this 15th day of August, 2011

/s/ David P. Maher

David P. Maher, Village Clerk

APPROVED this 15th day of August, 2011

/s/ Daniel J. McLaughlin

Daniel J. McLaughlin, Village President

PUBLISHED this 16th day of August, 2011

/s/ David P. Maher

David P. Maher, Village Clerk

Prepared by:
Kathleen T. Henn
On behalf of the Village of Orland Park
Klein, Thorpe & Jenkins, Ltd.
20 North Wacker Drive
Chicago, IL 60606

For Recorder's Use Only

DEVELOPMENT AGREEMENT
(DAVE & BUSTER'S - 49 ORLAND SQUARE DRIVE)

INTRODUCTION

1. This Agreement entered into this _____ day of _____, 2011, by and between the VILLAGE OF ORLAND PARK, an Illinois Municipal Corporation (hereinafter referred to as the "Village"), and each of ORLAND, L.P. an Illinois limited partnership, Owner and Developer (hereinafter referred to as "Owner" or "Developer") of the Subject Property legally described below, and DAVE & BUSTER'S, INC., a Missouri corporation (hereinafter referred to as "Tenant").

2. The Property subject to this Agreement, legal title to which is vested in Owner (excepting such portion as is dedicated to the public), is legally described as follows:

A TRACT OF LAND IN THE WEST ½ OF THE SOUTHWEST ¼ OF SECTION 10, TOWNSHIP 36 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 10; THENCE DUE EAST 466.13 FEET ALONG THE SOUTH LINE OF SAID SECTION 10; THENCE DUE NORTH 50 FEET TO A POINT OF BEGINNING; THENCE CONTINUING DUE NORTH 405.21 FEET; THENCE DUE WEST 115.03 FEET; THENCE DUE NORTH 175 FEET TO A POINT OF CURVE; THENCE NORTHEASTERLY ON A CURVE CONVEX TO THE SOUTHEAST, HAVING A RADIUS OF 771.77 FEET, AN ARC DISTANCE OF 260.49 FEET AND A CHORD BEARING OF NORTH 76 DEGREES 41 MINUTES 50 SECONDS EAST TO A POINT OF TANGENT; THENCE NORTH 67 DEGREES 01 MINUTES 40 SECONDS EAST 107.96 FEET TO A POINT OF CURVE; THENCE EASTERLY ON A

CURVE CONVEX TO THE NORTH, HAVING A RADIUS OF 35 FEET, AN ARC DISTANCE OF 43.38 FEET AND A CHORD BEARING OF SOUTH 77 DEGREES 27 MINUTES 41 SECONDS EAST TO A POINT OF REVERSE CURVE; THENCE SOUTHEASTERLY ON A CURVE CONVEX TO THE SOUTHWEST, HAVING A RADIUS OF 1427.09 FEET, AN ARC DISTANCE OF 94 FEET AND A CHORD BEARING OF SOUTH 43 DEGREES 50 MINUTES 14 SECONDS EAST; THENCE SOUTH 44 DEGREES 16 MINUTES 33 SECONDS WEST 42.96 FEET; THENCE DUE SOUTH 267.62 FEET; THENCE DUE EAST 5.25 FEET; THENCE DUE SOUTH 119.40 FEET; THENCE DUE EAST 341.34 FEET TO THE WEST LINE OF ORLAND SQUARE PLANNED DEVELOPMENT UNIT NO. E-TWO; THENCE DUE SOUTH 187.60 FEET ALONG LAST SAID WEST LINE TO THE NORTH LINE OF 151ST STREET, AS DEDICATED; THENCE DUE WEST 658.06 FEET ALONG LAST SAID NORTH LINE TO THE PLACE OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

PIN: 27-10-300-028-0000

The said property is hereinafter referred to as the "Subject Property."

3. The Subject Property is generally located at 49 Orland Square Drive, in the Village of Orland Park and consists of approximately 4.65 acres

4. Pursuant to Lease dated February 8, 2011 (the "Ground Lease"), (a) Owner/Developer ground leased a portion of the Subject Property to Tenant (such lease portion being hereinafter referred to as the "Leased Property") on which Tenant will construct and operate a new one-story building restaurant and entertainment venue having a total of approximately 24,071 square feet (the "Building") in the COR Mixed Use District pursuant to the Village's Land Development Code (the "Code"); and (b) Owner/Developer will develop the remainder of the Subject Property (the "Site Property") to accommodate the foregoing development and use of the Leased Property by Tenant; accordingly, under the Ground Lease, Developer will develop the Site Property and Tenant will develop and construct the Building and operate Tenant's business on the Leased Property. The Leased Property is described as follows:

The land area outlined on the Site Plan attached hereto as Exhibit A on which Landlord will construct a "Building Pad" (as defined and described below) located in the Center in the approximate location shown on the Site Plan. All gross leasable area within a one story building having approximately 23,645 square feet of Store Floor Area to be constructed by Tenant on the Building Pad pursuant to this Lease is referred to here as the "Building" and the other improvements to be constructed by Tenant immediately adjacent to the Building, including without limitation, the sidewalk immediately adjacent to the Building (curb cut in) and adjacent landscaping (the "Other Improvements") in the location shown on the Site Plan.

5. The Village of Orland Park is a Home Rule Unit pursuant to the provisions of the Illinois Constitution, Article VII, Section 6, and the terms, conditions and acts of the Village

under this Agreement are entered into and performed pursuant to the Home Rule powers of the Village and the statutes in such cases made and provided.

RECITALS:

1. Tenant desires that the Leased Property be developed in the Village for a one-story restaurant building, and Developer desires that the Site Property be developed in the Village as described herein, subject to the terms and conditions as hereinafter set forth and that the Subject Property is developed in the manner as set forth in this Agreement.

2. The Developer or Tenant, as applicable, petitioned the Village for development approval and amendments to the special use ordinance for Subject Property. Also requested by Developer are modifications to exceed the required number of parking spaces by more than 20%, to locate parking and drive aisles between the building and the street, to exceed the 75% limit for lot coverage but not to exceed 80% lot coverage and to reduce the required landscape buffer.

3. The parties hereto have fully complied with all relevant statutes of the State of Illinois and ordinances of the Village including the filing of a petition by Developer requesting approval of amendment to the existing special use ordinance to enable development as herein provided. The Village has caused the issuance of proper notice and the conduct of all hearings by all necessary governmental entities to effectuate the plan of development as herein set forth.

4. All reports by all relevant governmental entities have been submitted enabling appropriate action by the Village Board of Trustees to achieve the following:

(a) Adoption and execution of this Agreement by ordinance;

(b) Adoption of such ordinances as are necessary to effectuate the terms and provisions of this Agreement including adoption of amendments to Special Use Ordinance 468 for a one-story restaurant in the COR Mixed Use District and the granting of modifications to parking requirements, location of parking and drive aisles, lot coverage and landscape buffers; and

(c) The adoption of such other ordinances, resolutions and actions as may be necessary to fulfill and implement this Agreement pursuant to the terms and conditions herein contained.

5. The parties hereto have determined that it is in the best interests of the Village, Developer and the Tenant and in furtherance of the public health, safety, comfort, morals and welfare of the community to execute and implement this Agreement and that such implementation of this Agreement and development of the Subject Property pursuant to its terms and conditions will constitute an improvement of the tax base of the Village, be in implementation of the comprehensive plan of the Village and will constitute a preservation of environmental values.

6. Developer and Tenant each covenants and agrees that it will execute all necessary directions and issue all necessary instructions and take all other action necessary to perform its

respective obligations hereunder with respect to the Site Property or the Leased Property and the Building, as applicable.

SECTION ONE: Special Use Permit Amendment, Zoning, Plan Approval and Design Standards.

A. The Village, upon the necessary hearings before the relevant governmental bodies having taken place pursuant to statute and ordinances in such cases made and provided and pursuant to requisite notice having been given, will by proper ordinance grant the above-described Subject Property amendments to Special Use Ordinance 468 with modifications for a one-story restaurant as referred to in the above RECITALS.

B. The Subject Property shall be developed substantially in accordance with the Site Plan appended hereto and incorporated as Exhibit A titled "Dave and Buster's Orland Park Proposed Site Plan Board of Trustees Review" by Aria Group Architects dated 07/11/11, subject to the following conditions:

1. A Final Landscape Plan, which meets all Village Codes, shall be submitted by the Developer for separate review and approval within 60 days of final engineering approval; and
2. All final engineering items and Building Code related items must be met.

C. Tenant, and not Developer, shall develop the Leased Property, and construct the Building, substantially in accordance with the Elevations appended hereto and incorporated as Exhibit B, entitled "Dave & Buster's Orland Park Exterior Elevations Board of Trustees Review" by Aria Group Architects, Inc. (north, east, south and west elevations) dated 07/11/11, and "Dave & Buster's Orland Park Exterior Perspectives Board of Trustees Review" by Aria Group Architects, Inc. (southwest, northwest, southeast, northeast) dated 07/11/11, subject to the following conditions:

1. Construct all white colored accent panels of brick or cast stone (Currently shown on the plans as CMU block);
2. Submit final specific building material type and color for administrative approval;
3. Seal/reseal approved materials in accordance with manufacturer's guidelines and stain/restain to provide for proper maintenance;
4. Meet all Building Code related items including masonry construction;
5. Meet all final engineering items;
6. Screen all mechanical equipment either at grade level with landscaping or hidden behind the roofline;
7. Construct trash enclosure gate of solid wood or solid vinyl panels; and
8. Obtain signage approval through a separate Sign Permit process.

SECTION TWO: Storm Water Retention/Detention and Storm Sewers.

Storm water runoff emanating from the Subject Property shall be retained or detained in accordance with a storm water management system for the Subject Property which ties into an existing system for the shopping center of which the Subject Property is a part. The storm water management program for the Subject Property shall be constructed and installed by the Developer, in accordance with final drainage plans approved by the Village. Such system shall include all storm water management facilities, including both on-site and off-site storm sewers, if needed, in accordance with final engineering plans approved by the Village. The design criteria, construction and maintenance of the storm sewers shall be in accordance with all standards of the Village in force on the date of issuance of the building permit for each phase, and also all standards of the Metropolitan Water Reclamation District of Greater Chicago in effect at the time of issuance of the building permit, and shall be completed by the Developer at its expense.

SECTION THREE: Water Supply.

Developer shall be required to construct and install at its expense all necessary on-site water mains to service the Subject Property. All such water mains shall be constructed and installed in accordance with the Code and final engineering plans approved by the Village. The Developer shall pay to the Village the required water connection charge(s) based upon the size of the connection(s) in accordance with Village ordinances.

SECTION FOUR: Sanitary Sewers.

Developer shall be required to construct and install at its expense all necessary sanitary sewers to service the Subject Property in accordance with the Land Development Code of the Village and final engineering plans approved by the Village. Developer agrees that no surface water is to be discharged into the sanitary sewerage collection system and Developer will make adequate provision that this will not occur.

SECTION FIVE: Sidewalks.

The Developer shall construct and install all sidewalks, walking paths, and ramps as shown in EXHIBITS A and B (and as modified in accordance herewith) and in accordance with the Village Land Development Code and approved engineering.

SECTION SIX: Easements.

Developer agrees at the time of approval of this Development Agreement to grant to the Village, and/or obtain grants to the Village of, all reasonably necessary easements for the extension of sewer, water, street, or other utilities, including cable television, or for other improvements that may serve not only the Subject Property, but other territories in the general area.

All such easements to be granted shall name the Village and/or other appropriate entities designated by the Village as grantee hereunder. It shall be the responsibility of Developer to obtain all easements, both on-site and off-site, necessary to serve the Subject Property.

SECTION SEVEN: Developmental Codes and Ordinances and General Matters.

The development of the Subject Property shall be in accordance with the existing building, zoning, subdivision, storm water retention and other developmental codes and ordinances of the Village as they exist on the date hereof, or as are in existence during development of the Subject Property. Planning and engineering designs and standards shall be in accordance with the then existing ordinances of the Village, or in accordance with the statutes and regulations of other governmental agencies having jurisdiction thereof if such standards are more stringent than those of the Village of Orland Park at such time.

No occupancy permit shall be issued for any building prior to the completion and acceptance by the Village of the required public improvements. Any required public improvements shall be completed within one (1) year from the date hereof and the Developer shall deliver to the Village a surety bond (the form of security agreed upon by the parties hereto) from a surety reasonably acceptable to the Village, licensed to transact business in the State of Illinois and having a minimum A.M. Best rating of A- and in an amount as provided for in the Code, which amount has been agreed. Said bond is to include all costs related to required landscaping, sidewalk, sewer and water lines and storm water management facilities. The Director of the Village Development Services Department may, in his/her discretion, permit the amount of said bond to be reduced, from time to time, as major public improvements are completed and accepted by the Village.

SECTION EIGHT: Utilities.

All electricity, telephone, cable television and gas lines shall be installed underground, the location of which underground utilities shall be at the Developer's option but with locations in public rights of way also subject to Village Engineering Department approval.

SECTION NINE: Impact Requirements.

Developer agrees that any and all contributions, dedications, donations and easements provided for in this Agreement substantially advance legitimate governmental interests of the Village, including, but not limited to, providing its residents, with access to and use of public utilities, streets, fire protection, and emergency services. Developer further agrees that the contributions, dedications, donations and easements required by this Agreement are uniquely attributable to, reasonably related to and made necessary by the development of the Subject Property.

SECTION TEN: Binding Effect and Term and Covenants Running with the Land.

This Agreement shall be binding upon and inure to the benefit of the parties hereto, successor owners of record of the Subject Property, assignees, lessees and upon any successor

municipal authorities of said Village and successor municipalities, for a period of ten (10) years from the date of execution hereof and any extended time that may be agreed to by amendment.

The terms and conditions of this Agreement relative to the payment of monies to the various contributions to the Village, construction and/or dedication of public improvements, granting of easements to the Village, and the developmental standards established herein shall constitute covenants which shall run with the land.

SECTION ELEVEN: Notices.

Unless otherwise notified in writing, all notices, requests and demands shall be in writing and shall be delivered either (i) personally, (ii) by United States Certified mail, postage prepaid, return receipt requested, or (iii) via nationally recognized overnight carrier service as follows:

For the Village:

1. Daniel J. McLaughlin
Village President
14700 South Ravinia Avenue
Orland Park, Illinois 60462

2. David P. Maher
Village Clerk
14700 South Ravinia Avenue
Orland Park, Illinois 60462

3. E. Kenneth Friker
Village Attorney
Klein, Thorpe & Jenkins, Ltd.
15010 S. Ravinia Avenue
Orland Park, Illinois 60462

For the Developer and Owner:

1. Stephen Shea
Regional VP of Development
Orland, LP
c/o Simon Property Group
225 West Washington Street
Indianapolis, IN 46204

2. Orland, L.P.
c/o Simon Property Group
225 West Washington Street
Indianapolis, IN 46204

Attention: General Counsel

For the Tenant:

1. Dave & Buster's, Inc.
2481 Manana Drive
Dallas, Texas 75220
Attn: Legal Department

or such other addresses that any party hereto may designate in writing to the other parties pursuant to the provisions of this Section.

SECTION TWELVE: Signs.

The location of any sign upon the Subject Property shall be in accordance with an approved Signage Plan and the Code and each of Developer and Tenant, as applicable, shall comply therewith with respect to any signage installed by or at the request of such party.

SECTION THIRTEEN: Reimbursement of Village for Legal and Other Fees and Expenses.

A. To Effective Date of Agreement.

The Developer, or Tenant, as applicable with respect to the Site Work and the Site Property or the Leased Property and the Building, respectively, concurrently with the issuance of a building permit, shall reimburse the Village for the following expenses incurred in the preparation and review of this Agreement, and any ordinances, letters of credit, plats, easements or other documents relating to the Subject Property:

- (1) costs incurred by the Village for engineering services in accordance with the provisions of the Code; and
- (2) all reasonable attorneys' fees incurred by the Village; and
- (3) miscellaneous Village expenses, such as legal publication costs, recording fees and copying expense.

B. From and After Effective Date of Agreement.

Except as hereinafter provided, upon demand by Village made by and through its President, Developer, or Tenant, as applicable, from time to time shall promptly reimburse Village for all enumerated reasonable expenses and costs incurred by Village in the administration of the Agreement, including and limited to engineering fees, attorneys' fees and out of pocket expenses involving various and sundry matters such as, but not limited to,

preparation and publication, if any, of all notices, resolutions, ordinances and other documents required hereunder.

Such costs and expenses incurred by Village in the administration of the Agreement shall be evidenced to the Developer or Tenant, as applicable, upon its request, by a sworn statement of the Village; and such costs and expenses may be further confirmed by the Developer at its option from additional documents relevant to determining such costs and expenses as designated from time to time by the Developer.

Notwithstanding the immediately preceding paragraph, neither Developer nor Tenant shall be required to reimburse Village or pay for any expenses or costs of Village as aforesaid more than once, whether such are reimbursed or paid through special assessment proceedings, through fees established by Village ordinances or otherwise.

In the event that any third party or parties institute any legal proceedings against any party hereto, which relate to the terms of this Agreement, then, in that event, the Developer, or Tenant, as applicable, on notice from Village shall assume, fully and vigorously, the entire defense of such lawsuit and all expenses of whatever nature relating thereto; provided, however:

- (1) Neither Developer nor Tenant shall make any settlement or compromise of the lawsuit, or fail to pursue any available avenue of appeal of any adverse judgment affecting the Village, without the approval of the Village.
- (2) If the Village, in its sole discretion, determines there is, or may probably be, a conflict of interest between Village and Developer, or between the Village and Tenant, as applicable, on an issue of importance to the Village having a potentially substantial adverse effect on the Village, then the Village shall have the option of being represented by its own legal counsel. In the event the Village exercises such option, then Developer, or Tenant, as applicable, shall reimburse the Village from time to time on written demand from the President of Village and notice of the amount due for any expenses, including but not limited to court costs, reasonable attorneys' fees and witnesses' fees, and other reasonable expenses of litigation, incurred by the Village in connection therewith.

In the event the Village institutes legal proceedings against Developer, or against Tenant, as applicable, for violation of this Agreement and secures a judgment in its favor, the court having jurisdiction thereof shall determine and include in its judgment against Developer, or Tenant, as applicable, all expenses of such legal proceedings incurred by Village, including but not limited to the court costs and reasonable attorneys' fees, witnesses' fees, etc., incurred by the Village in connection therewith. Developer, or Tenant, as applicable, may, in its sole discretion, appeal any such judgment rendered in favor of the Village against Developer or Tenant, as applicable.

SECTION FOURTEEN: Warranties and Representations.

The Owner and Developer, or Tenant, as applicable, represent and warrant to the Village as follows:

1. The Developer is the legal title holder and the owner of record of the Subject Property as indicated on the first page of this Agreement and Tenant is the legal lessee of the Leased Property.
2. The Owner proposes to develop the Site Property, and the Tenant proposes to develop the Leased Property, in the manner contemplated under this Agreement.
3. Other than Developer, Developer's lender, if any, Tenant and persons and entities with utility easements, access easements, other easements and similar rights and matters filed of record, no other entity or person has any interest in the Subject Property or its development as herein proposed.
4. Developer has provided the legal description of the Subject Property set forth in this Agreement and the attached Exhibits and that said legal descriptions are accurate and correct.

SECTION FIFTEEN: Continuity of Obligations.

Notwithstanding any provision of this Agreement to the contrary, including but not limited to the sale or conveyance of all or any part of the Subject Property by Owner, Owner and Developer, or Tenant, as applicable, shall at all times during the term of this Agreement remain liable to Village for their faithful performance of all obligations imposed upon Owner and Developer, or Tenant, as applicable, by this Agreement until such obligations have been fully performed or until Village, at its sole option, has otherwise released Owner and Developer, or Tenant, as applicable, from any or all of such obligations

SECTION SIXTEEN: No Waiver or Relinquishment of Right to Enforce Agreement.

Failure of any party to this Agreement to insist upon the strict and prompt performance of the terms, covenants, agreements, and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect.

SECTION SEVENTEEN: Village Approval or Direction.

Where Village approval or direction is required by this Agreement, such approval or direction means the approval or direction of the Corporate Authorities of the Village unless otherwise expressly provided or required by law, and any such approval may be required to be given only after and if all requirements for granting such approval have been met unless such requirements are inconsistent with this Agreement.

SECTION EIGHTEEN: Singular and Plural.

Wherever appropriate in this Agreement, the singular shall include the plural, and the plural shall include the singular.

SECTION NINETEEN: Section Headings and Subheadings.

All section headings or other headings in this Agreement are for general aid of the reader and shall not limit the plain meaning or application of any of the provisions hereunder whether covered or relevant to such heading or not.

SECTION TWENTY: Recording.

A copy of this Agreement and any amendment thereto shall be recorded by the Village at the expense of the Developer.

SECTION TWENTY-ONE: Authorization to Execute.

Any officers of Owner and/or Developer and/or Tenant, as applicable, executing this Agreement warrant that they have been lawfully authorized to execute this Agreement on its behalf. The President and Clerk of the Village hereby warrant that they have been lawfully authorized by the Village Board of the Village to execute this Agreement. Owner, Developer, Tenant and Village shall, upon request, deliver to each other, at the respective time such entities cause their authorized agents to affix their signatures hereto, copies of all bylaws, resolutions, ordinances, partnership agreements, letters of direction or other documents required to legally evidence the authority to so execute this Agreement on behalf of the respective entities.

SECTION TWENTY-TWO: Amendment.

This Agreement sets forth all the promises, inducements, agreements, conditions and understandings between the parties hereto relative to the subject matter thereof, and there are no promises, agreements, conditions or understandings, either oral or written, express or implied, between them, other than are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties hereto unless authorized in accordance with law and reduced in writing and signed by them.

SECTION TWENTY-THREE: Counterparts.

This Agreement may be executed in two or more counterparts, each of which taken together, shall constitute one and the same instrument.

SECTION TWENTY-FOUR: Curing Default.

The parties to this Agreement reserve a right to cure any default hereunder within thirty (30) days from written notice of such default, or such additional time as is reasonably required to

cure the default so long as the cure of default is commenced within said thirty (30) days, and efforts to effect such cure of default are diligently prosecuted to completion.

SECTION TWENTY-FIVE: Conflict Between the Text and Exhibits.

In the event of a conflict in the provisions of the text of this Agreement and the Exhibits attached hereto, the text of the Agreement shall control and govern.

SECTION TWENTY-SIX: Severability.

If any provision of this Agreement is held invalid by a court of competent jurisdiction or in the event such a court shall determine that the Village does not have the power to perform any such provision, such provision shall be deemed to be excised herefrom and the invalidity thereof shall not affect any of the other provisions contained herein, and such judgment or decree shall relieve Village from performance under such invalid provision of this Agreement.

SECTION TWENTY-SEVEN: Definition of Village.

When the term Village is used herein it shall be construed as referring to the Corporate Authorities of the Village unless the context clearly indicates otherwise.

SECTION TWENTY-EIGHT: Execution of Agreement.

This Agreement shall be signed last by the Village and the President of the Village shall affix the date on which he signs this Agreement on page 1 hereof which date shall be the effective date of this Agreement.

SECTION TWENTY-NINE: Obligations Several and Not Joint.

It is understood and agreed that, notwithstanding anything in this Agreement to the contrary:

(a) Tenant, and not Owner/Developer, shall be responsible for and shall perform the obligations described in SECTION ONE, SUBSECTION C. of this Agreement (but not those under the following clause (b)) in accordance with this Agreement and shall pay all costs under this Agreement attributable thereto.

(b) Developer, and not Tenant, shall be responsible for and shall perform all obligations of Developer described in this Agreement regarding the Site Property (but not the costs under the foregoing clause (a)) in accordance with this Agreement and shall pay all costs under this Agreement attributable thereto.

(c) Except as expressly described in SECTION ONE, SUBSECTION C above, the terms and conditions of this Agreement do not include, or apply to, any permits, licenses, or approval or any other matter separately applied (such as, by way of example, Tenant's liquor license or regarding the gaming ordinance) for by Tenant with the Village or any other

governmental entity in connection with the Subject Property or the use or operation of the Leased Property or otherwise.

(d) The obligations of each of Developer/Owner and Tenant under this Agreement shall be several and not joint and neither Developer/Owner nor Tenant shall be obligated to perform, or in any way be liable for, the obligations of the other party. Developer/Owner's obligations under this Agreement shall apply solely to the site work development of the Site Property as described herein and Tenant's obligations and agreement under this Agreement shall apply solely to the development, construction and other improvements on the Leased Property, as described herein.

VILLAGE OF ORLAND PARK, an
Illinois Municipal Corporation

By: _____
Village President

ATTEST:

By: _____
Village Clerk

OWNER:

ORLAND, LP, an Illinois limited partnership

By: ORLAND/HAWTHORN PARTNERSHIP,
an Illinois general partnership, its Managing
General Partner

By: SHOPPING CENTER ASSOCIATES, a
New York general partnership, a general
partner

By: CHARLES MALL COMPANY LIMITED
PARTNERSHIP, a Maryland limited
partnership, its managing general partner

By: SIMON PROPERTY GROUP
(DELAWARE), INC., a Delaware
corporation, its general partner

Name: _____
Title: _____

Attest: _____
By: _____

TENANT:
DAVE & BUSTER'S, INC.,
a Missouri corporation

By: _____
Name: _____
Title: _____

Attest: _____
By: _____

ACKNOWLEDGMENTS

STATE OF ILLINOIS)
) SS.
COUNTY OF C O O K)

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that DANIEL J. MCLAUGHLIN, personally known to me to be the President of the Village of Orland Park, and DAVID P. MAHER, personally known to me to be the Village Clerk of said municipal corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such President and Village Clerk, they signed and delivered the said instrument and caused the corporate seal of said municipal corporation to be affixed thereto, pursuant to authority given by the Board of Trustees of said municipal corporation, as their free and voluntary act, and as the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this ____ day of _____, 2011.

Notary Public

Commission expires _____

STATE OF INDIANA)
) SS.
COUNTY OF MARIAN)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that _____ and _____, personally known to me to be the _____ and _____ of Simon Property Group (Delaware), Inc., a Delaware corporation and the general partner of Charles Mall Company Limited Partnership, a Maryland limited partnership and the managing general partner of Shopping Center Associates, a New York general partnership and the general partner of Orland/Hawthorn Partnership, an Illinois general partnership and the managing general partner of ORLAND, L.P., an Illinois limited partnership, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such _____ and _____, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this _____ day of _____, 2011.

Notary Public

Commission expires _____

LL RL 08/30/11

STATE OF TEXAS)
) SS.
COUNTY OF DALLAS)

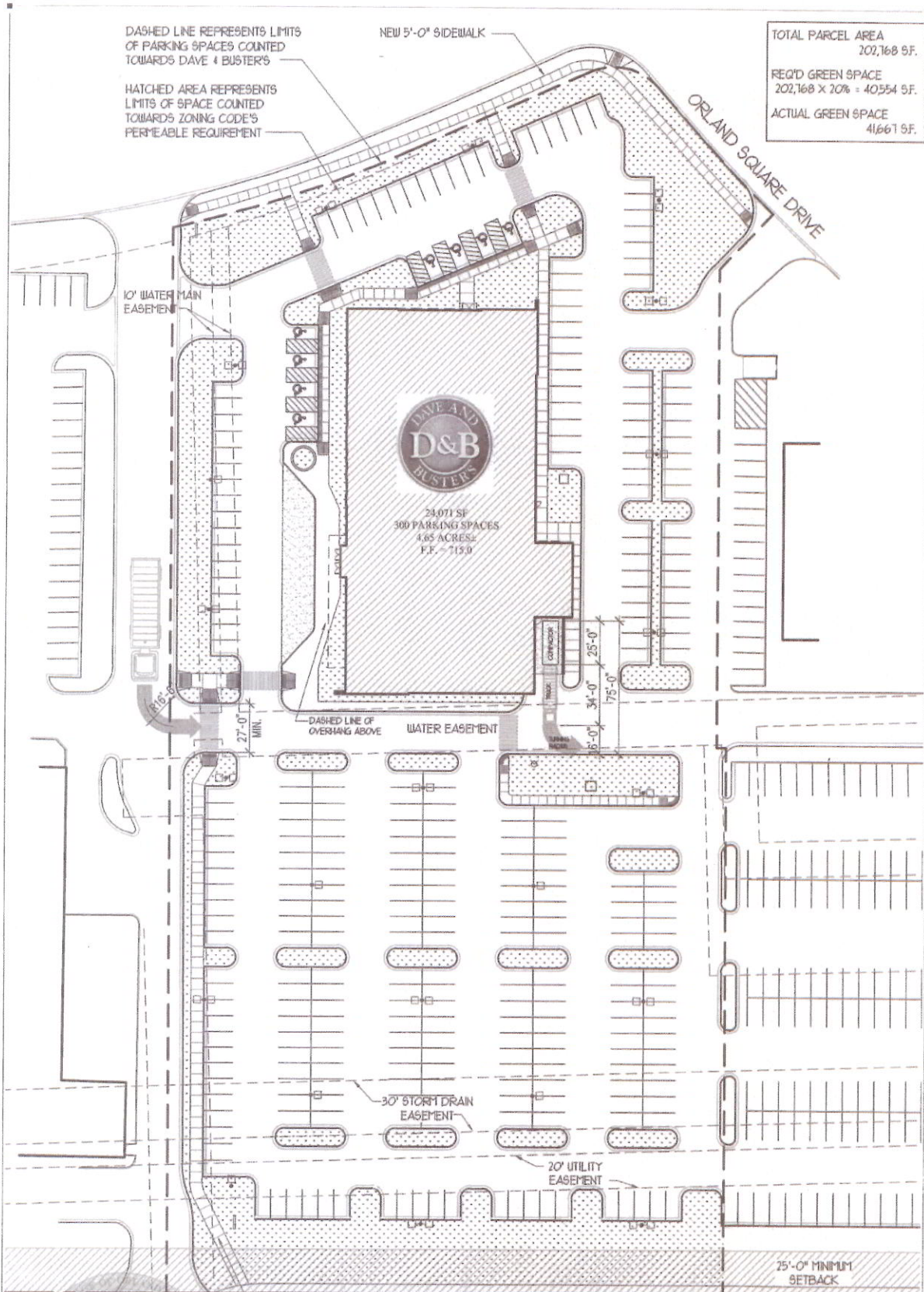
I, the undersigned, a Notary Public in and for the County and State aforesaid, DO
HEREBY CERTIFY that _____ and _____,
personally known to me to be the _____ and _____ of DAVE &
BUSTER'S, INC., a Missouri corporation, personally known to me to be the same persons
whose names are subscribed to the foregoing instrument as such _____ and
_____, respectively, appeared before me this day in person and
acknowledged that they signed and delivered the said instrument as their own free and voluntary
act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN under my hand and official seal, this _____ day of _____, 2011.

Notary Public

Commission expires _____

EXHIBIT A



TOTAL PARCEL AREA	202,768 SF.
REQ'D GREEN SPACE	202,768 X 20% = 40,554 SF.
ACTUAL GREEN SPACE	41,661 SF.

BOARD APPROVED

Case No: 2010-0189
 Date: 07/18/11
 W/Conditions: yes
 W/Out Conditions:

NEW 5'-0" SIDEWALK TO TIE INTO EXISTING ROAD ROW WEST 15th STREET EXISTING 5'-0" SIDEWALK

DAVE & BUSTER'S

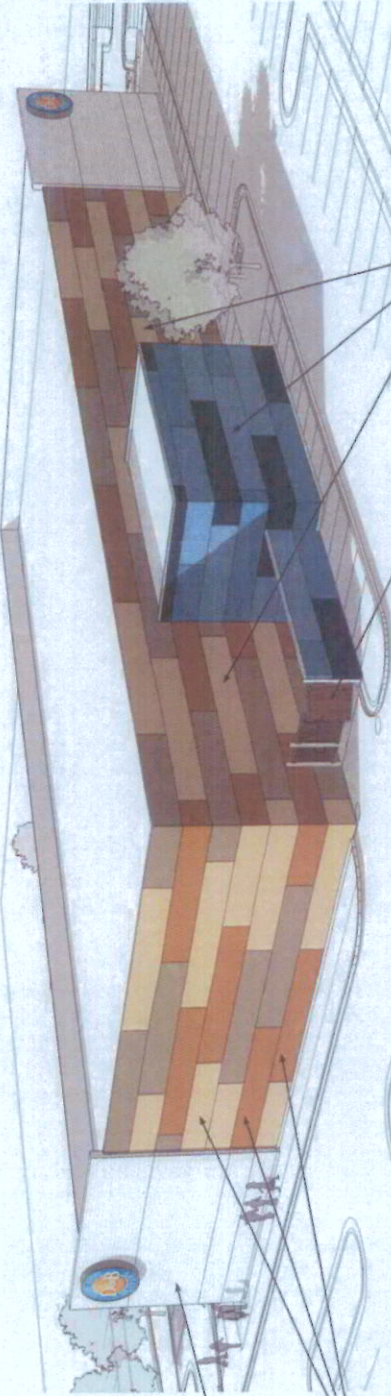
Village Group Architects, Inc.
 ARCHITECTURE • PLANNING • INTERIOR DESIGN



PROPOSED SITE PLAN
 BOARD OF TRUSTEES REVIEW
 JULY 11, 2011
 1" = 50'-0"



EXHIBIT B



SOUTHEAST VIEW

INTEGRAL COLORED OR STAINED
SPLIT-FACED CMU BLOCK

INTEGRAL COLORED OR STAINED
SPLIT-FACED CMU BLOCK w/ COLOR
PATTERN INSTALLED AS SHOWN

INTEGRAL COLORED OR STAINED
SPLIT-FACED CMU BLOCK w/ COLOR
PATTERN INSTALLED AS SHOWN

SERVICE YARD GATE w/
STAINED WOOD VERTICAL
SLAT SCREEN

DECORATIVE BAND w/
PAINTED PLASTER FASCIA

INTEGRAL COLORED OR STAINED
SPLIT-FACED CMU BLOCK w/ COLOR
PATTERN INSTALLED AS SHOWN

INTEGRAL COLORED OR STAINED
SPLIT-FACED CMU BLOCK



NORTHEAST VIEW

BOARD APPROVED

Case No: 2010-0189

Date: 07-18-11

W/Conditions: yes

W/Out Conditions:

Aria Group Architects, Inc.
ARCHITECTURE • PLANNING • INTERIOR DESIGN

DAVE & BUSTER'S



ORLAND PARK

VILLAGE OF ORLAND PARK

EXTERIOR PERSPECTIVES
BOARD OF TRUSTEES REVIEW
JULY 11, 2011
SCALE: NTS

EXHIBIT B

INTEGRAL COLORED OR STAINED
SPLIT-FACED CMU BLOCK w/ COLOR
PATTERN INSTALLED AS SHOWN

DESIGNER PERFORATED
METAL SCREEN w/ BURNISHED
ARTWORK IMAGE

EXTERIOR "TICKET BUCKET" SCULPTURE

SOUTHWEST VIEW

INTEGRAL COLORED OR STAINED
SPLIT-FACED CMU BLOCK

DECORATIVE BAND w/
PAINTED PLASTER FASCIA

NORTHWEST VIEW

INTEGRAL COLORED OR STAINED
SPLIT-FACED CMU BLOCK w/ COLOR
PATTERN INSTALLED AS SHOWN

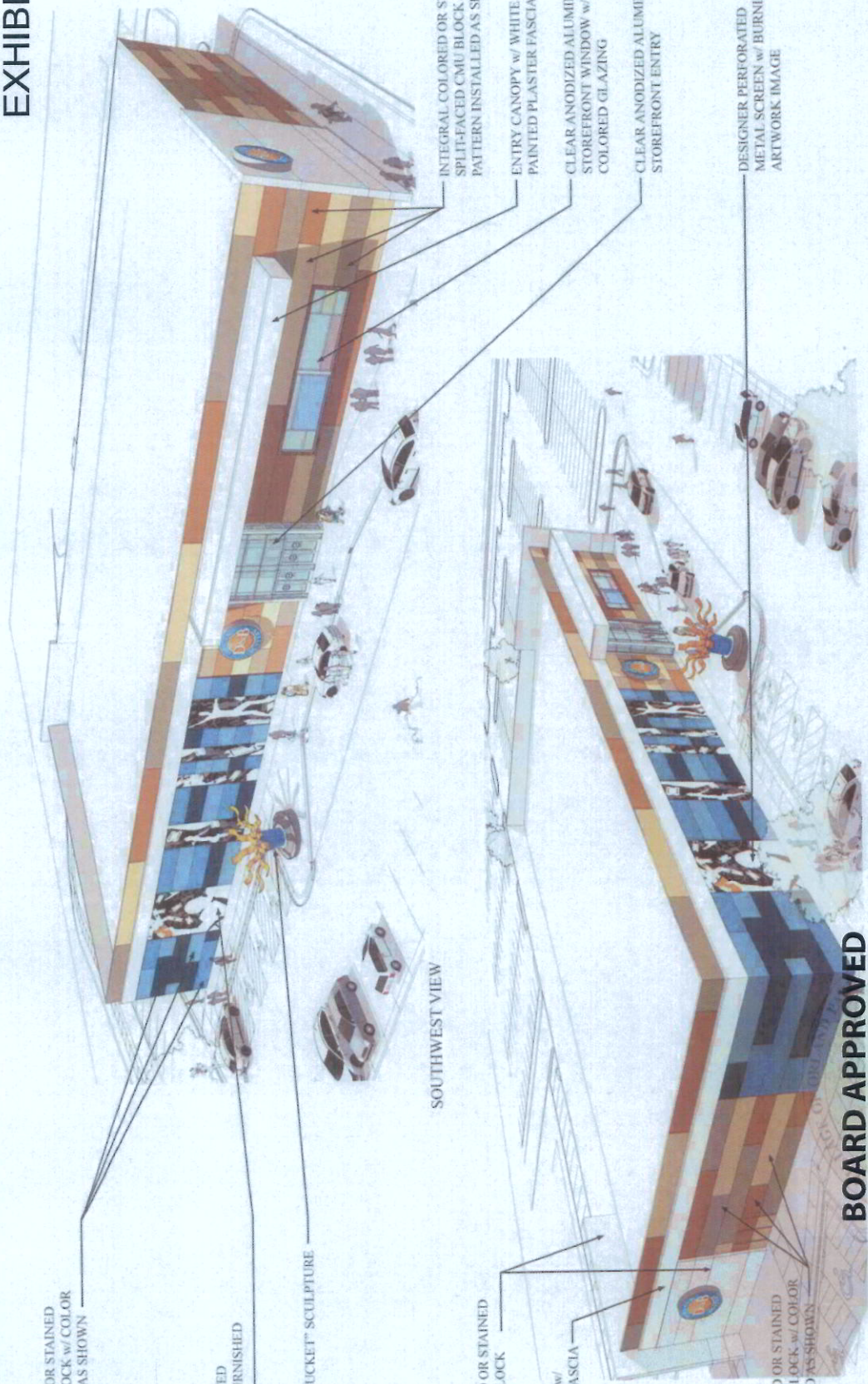
INTEGRAL COLORED OR STAINED
SPLIT-FACED CMU BLOCK w/ COLOR
PATTERN INSTALLED AS SHOWN

ENTRY CANOPY w/ WHITE
PAINTED PLASTER FASCIA

CLEAR ANODIZED ALUMINUM
STOREFRONT WINDOW w/
COLORED GLAZING

CLEAR ANODIZED ALUMINUM
STOREFRONT ENTRY

DESIGNER PERFORATED
METAL SCREEN w/ BURNISHED
ARTWORK IMAGE



BOARD APPROVED

Case No: 2010-0189

Date: 07/18/11

W/Conditions: yes

W/Out Conditions: no

DAVE & BUSTER'S



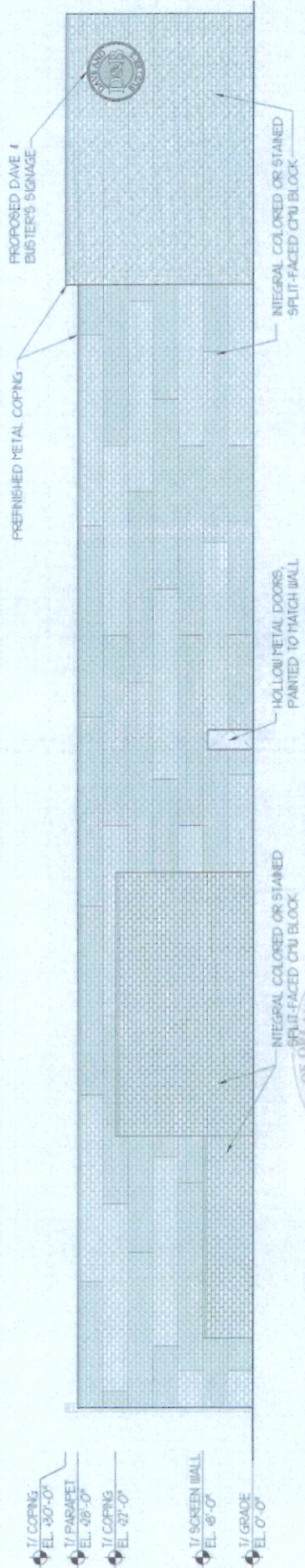
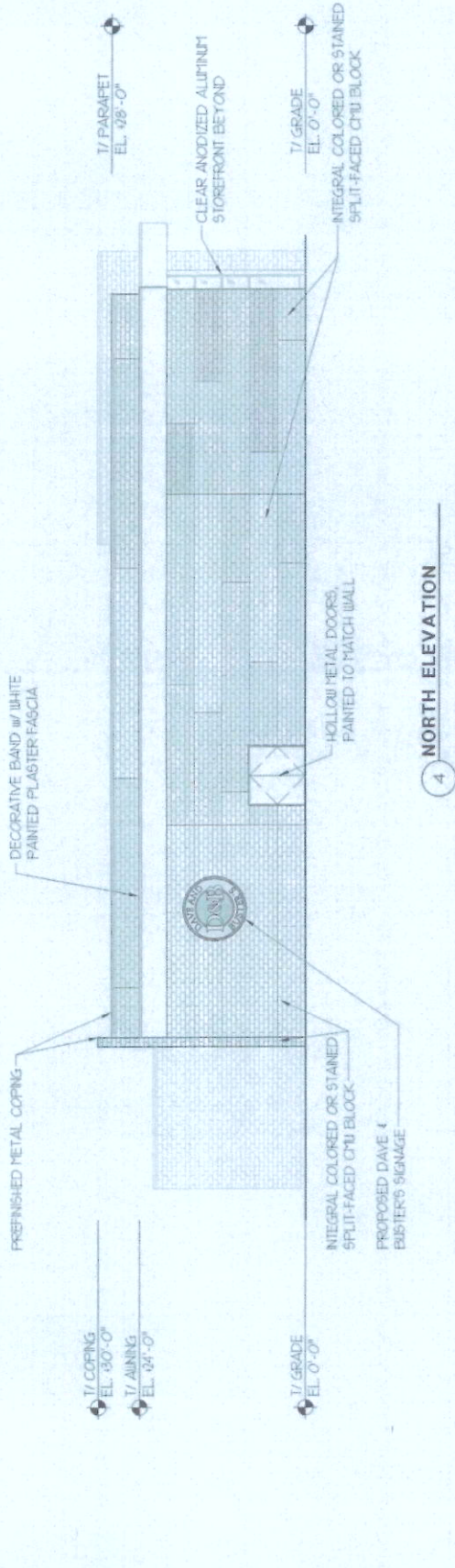
ORLAND PARK

Ania Group Architects, Inc.
ARCHITECTURE • PLANNING • INTERIOR DESIGN

VILLAGE OF ORLAND PARK

EXTERIOR PERSPECTIVES
BOARD OF TRUSTEES REVIEW
JULY 11, 2011
SCALE: NTS

EXHIBIT B



BOARD APPROVED

Case No: 2010-0189

Date: 07/18/11

W/Conditions: yes

W/Out Conditions:

3 EAST ELEVATION

DAVE & BUSTER'S

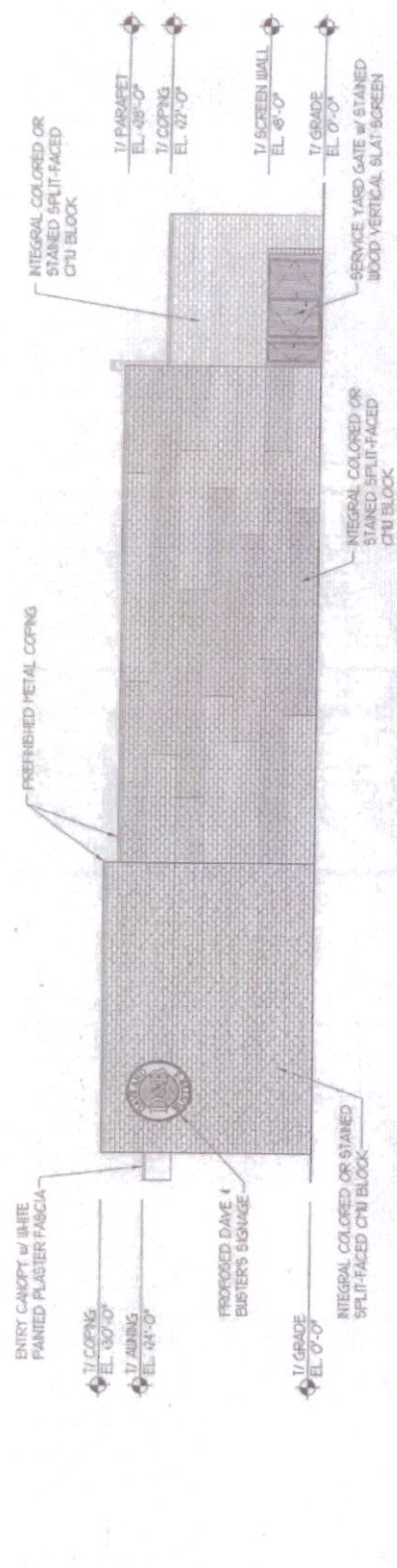


VILLAGE OF ORLAND PARK

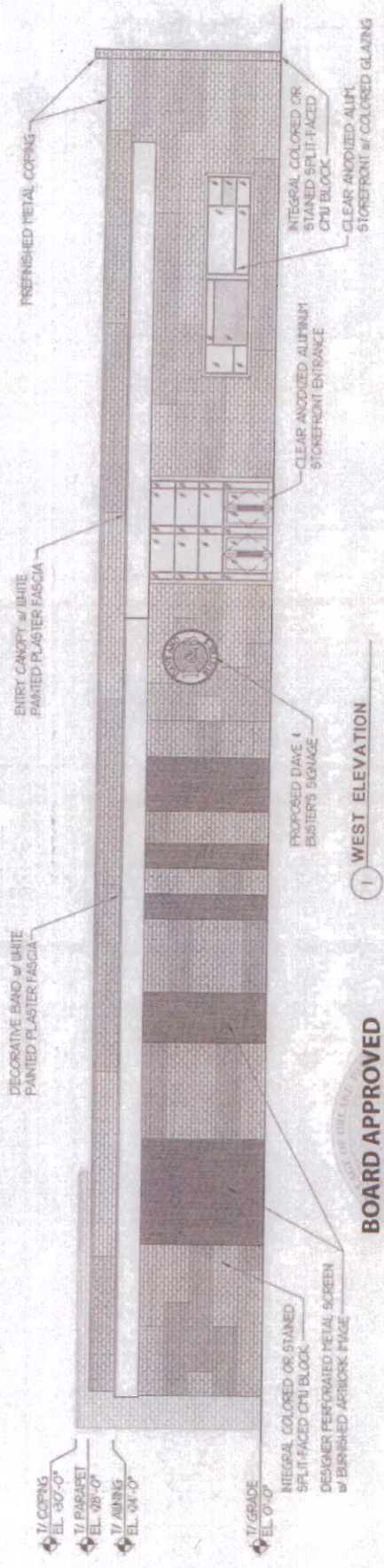
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EXTERIOR ELEVATIONS
BOARD OF TRUSTEES REVIEW
JULY 11, 2011
1/4" = 1'-0"

EXHIBIT B



2 SOUTH ELEVATION



1 WEST ELEVATION

BOARD APPROVED

Case No: 2010-0189
 Date: 07/18/11
 W/Out Conditions: YES

VILLAGE OF ORLAND PARK



DAVE & BUSTER'S

EXTERIOR ELEVATIONS
 BOARD OF TRUSTEES REVIEW
 JULY 11, 2011
 1/2" = 1'-0"

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