

EASEMENT, RESTRICTIVE AND OPERATING AGREEMENT

THIS AGREEMENT made this 18th day of November, 1969, by and between G. P. SCHOENFELDER, of Minneapolis, Minnesota, ("Schoenfelder"), CROSSROADS CENTER, INC., a Minnesota corporation authorized to do business in Iowa ("Crossroads"), THE CROSSROADS COMPANY, a partnership (the "Partnership") and THE NATIONAL BANK OF WATERLOO, a national banking association ("Bank") (Schoenfelder, Crossroads and the Partnership are herein collectively called the "Crossroads Group").

RECITALS

Schoenfelder, Crossroads and the Partnership are each owner of certain lands in the city of Waterloo, Blackhawk County, Iowa, described and identified in Exhibit A hereto ("the Lands") and Bank is or is about to become the owner of certain land which is adjacent thereto (and surrounded thereby) and which is described in Exhibit B hereto ("the Bank Land").

The Crossroads Group has developed and is continuing to develop a shopping center which will include therein some or all of the Lands and in which the Bank Land will be associated.

The parties to this instrument believe it to be in their mutual interest that an agreement having the terms and conditions herein set forth be entered into among them.

Accordingly for valuable consideration, receipt whereof by each of the parties hereto is hereby acknowledged,

IT IS AGREED

1. Except for the building the design of which has been heretofore approved, no building shall be erected or placed upon the Bank Land until the exterior design thereof and the location thereof on the Bank Land shall have been approved in writing by Schoenfelder nor shall any signs be placed thereon if Schrenfelder shall reasonably object, nor shall the exterior thereof be remodelled without written approval from Schoenfelder. If at any time Schoenfelder (either individually as a partner of the Partnership or as a principal stockholder of Crossroads) shall have no interest in any of the Crossroads Lands, then the approvals required by this paragraph shall no longer be required. If at any time while any such approval shall be required Schoenfelder and the Bank shall disagree, the matter shall be referred to arbitration before a board of three architects, one chosen by the Bank, one by Schoenfelder and the other by the first two so chosen, all of whom must bear the AIA designation.

2. The Bank Land shall be used only for a bank or banking office building, and for other purposes (not including retail merchandising) compatible with the operation of a bank (e.g., general office uses) and for customer parking, unless Crossroads (which term "Crossroads" as used in this paragraph and in paragraphs 5, 6 and 8 hereof shall be deemed to include Crossroads and its successor in title to a majority of the land now owned by it and described in Exhibit A) shall in writing consent to other uses, provided that no consent shall be required

for the installation of an employees cafeteria or a "cigar stand" type lobby service shop catering primarily to the occupants of the building on the Bank Land. It is understood that the areas devoted to automobile parking on the Bank Land will at all times be at least 300% of the aggregate floor area (all floors) of the building located thereon. It is further understood that without the consent of Crossroads and Schoenfelder (or his successor in title) no savings and loan association operations (or substantially similar operations) shall be conducted on the Bank Land, provided that the operation of a banking office or of a full service bank shall not be prohibited.

3. Except for the Bank Land, no land lying east of Highway 412, west of Highway 218 and north of Murphy Road owned or controlled by any of the Crossroads Group will be used as a commercial bank prior to ~~March 26, 1974~~ ^{July 1, 1975}. *OK R.L.K.*

4. The Bank Land shall be benefited by an easement for the benefit of the owner thereof and its tenants and their respective customers and invitees, over and burdening the portion of the land described in Exhibit C hereto from time to time devoted to parking and roadway area, entitling such persons to use such land for parking and for ingress and egress, and the Lands shall be benefited by an easement for the benefit of the owner thereof and its tenants and their respective customers and invitees over and burdening that portion of the Bank Land from time to time devoted to parking and roadway purposes

entitling such persons to use such land for parking and for ingress and egress. It is understood however that if at any time the Bank desires to construct any addition to the Bank building or any other building on the Bank Land (which construction would otherwise be permitted by this Agreement) the easement created by this paragraph shall terminate as to the land upon which such construction will be placed without any action on the part of any of the Crossroads Group.

5. Crossroads shall have the right to determine and designate the areas in which the employees and tenants of Bank may park, and, whenever Crossroads determines in its discretion that the total parking area on the Bank Land, over a reasonable period, has not been adequate to service Bank's customers, tenants, invitees and employees, Crossroads may require Bank to direct its employees to park outside the perimeter road surrounding the Crossroads Center development and/or may charge Bank a reasonable fee for additional parking area to be used by its customers, tenants, invitees and employees.

6. Bank will abide by all rules and regulations promulgated by Crossroads which pertain to the public areas of the Lands and will keep its premises, including show windows, and loading areas in a clean, safe, and sanitary condition and will maintain the words "Crossroads Center" in any and all advertising done by Bank for the office to be built on the Bank Land.

7. Bank further agrees that it will grade, fill and pave those areas of the Bank Land not devoted to building use, that the original surfacing of the parking area on the Bank Land and the grade thereof shall be consistent with that of the land described in Exhibit C hereto, that the lighting equipment shall be of the same type and quality and that such area shall be maintained in a manner consistent with the maintenance of the Crossroads Center parking area. The grading, filling, and surfacing of the parking area on the Bank Land and the erection of the building thereon will be completed on or before November 1, 1970.

8. The Crossroads Group shall make available from time to time within the Crossroads Center such common areas (including but not limited to parking areas, driveways, truckways, delivery passages, truckloading areas, access and egress roads, walkways, sidewalks, open and enclosed courts and malls, landscaped and planted areas, bus stops, and public rest rooms) as they shall deem appropriate. The Crossroads Group shall operate, manage, equip, light, repair and maintain in an orderly fashion the common areas for their intended purposes in such manner as they in their sole discretion shall determine and may from time to time change the size, location, nature and use of any common area and may make installations therein and move and remove the same. The Crossroads Group shall not however make any changes or installations on such common areas on the land immediately surrounding the Bank Land if such change or installation would materially adversely affect the access to and from the drive-up facility associated with the building on the Bank Land.

Bank and its licensees, concessionaires, officers, employees, agents, customers and invitees shall have the non-exclusive right, in common with the Crossroads Group and all others to whom any of them has or may hereafter grant rights, to use the common areas as designated from time to time by Crossroads subject to such reasonable rules and regulations as Crossroads may from time to time impose, including the designation of specific areas in which cars owned by Bank, its licensees, concessionaires, officers, employees and agents must be parked. Bank agrees after notice thereof to abide by such rules and regulations and to use its best efforts to cause its licensees, concessionaires, officers, employees, agents, customers and invitees to conform thereto. The Crossroads Group may at any time close temporarily any common area to make repairs or changes, to prevent the acquisition of public rights in such area or to discourage non-customer parking; and may do such other acts in and to the common areas as they may deem desirable to improve the convenience thereof. Bank shall upon request furnish to Crossroads the license numbers of the cars operated by Bank and its licensees, concessionaires, officers and employees and any such cars parked outside the designated areas may be removed therefrom by Crossroads or its agents and stored elsewhere at Bank's expense. Bank shall not at any time interfere with the rights of the Crossroads Group and other tenants, its and their licensees, concessionaires, officers, employees, agents, customers, and invitees, to use any part of the parking areas and other common areas. Crossroads

reserves the right to impose parking charges (determined by meters or otherwise). Any such charges shall be credited to the costs and expenses referred to in the following paragraph in determining the Bank's pro rata share of such costs and expenses.

Bank shall pay to Crossroads in the manner provided in the following paragraph, Bank's pro rata share, as defined in such paragraphs, of all costs and expenses of every kind and nature paid or incurred by Crossroads from the date the building on the Bank Land is ready for fixturing (including appropriate reserves) in operating, managing, equipping, policing and protecting, lighting, repairing, replacing, and maintaining the common areas. Such costs and expenses shall include, but not be limited to, maintaining the mall area and other common areas, cleaning, fire protection, snow and ice removal, striping and restriping of the parking areas, costs and expenses of planting, replanting and replacing flowers and landscaping, all signs including traffic control and identification signs, water and sewage charges, costs of heating and air conditioning, premiums for liability, property damage, fire and workmen's compensation insurance, wages, unemployment taxes, social security taxes, personal property taxes, fees for required licenses and permits, supplies, operation of loud speakers, public address systems, and any other equipment supplying music or sound to the common areas, reasonable depreciation of equipment used in

the operation of the common areas and administrative costs equal to 15% of the total costs of operating and maintaining the common areas, but there shall be excluded costs of equipment properly chargeable to capital account and depreciation of the original cost of constructing the common areas.

Bank's pro rata share of the costs and expenses referred to in the preceding paragraph shall be that portion of the whole which the aggregate floor space (all floors) of the building on the Bank Land bears to the total floor space from time to time occupied by other tenants carrying on business in the Crossroads Center, except that for this purpose basement areas, mezzanines, and/or upper floor areas having no direct customer access to the mall or parking areas other than by stairways, elevators, escalators or enclosed non-public passageways shall be disregarded. Notwithstanding the provisions of the preceding sentence, however, the store units now occupied by Sears, Roebuck and Co. and J. C. Penney Company, Inc. shall, because of their special nature, be considered to have a total floor space of 80,000 square feet and 100,000 square feet respectively, provided, however, that in the event Sears, Roebuck and Co. maintains, at its expense, the parking area on the land leased to it adjacent to and directly serving its store unit in the Crossroads Center, the floor space of Sears, Roebuck and Co. shall not be included in calculating Bank's pro rata share of the costs referred to in the preceding paragraph to the extent such costs are incurred in respect of

exterior common areas. The annual charge to Bank shall be paid in monthly installments on the first day of each calendar month in advance in an amount estimated by Crossroads. From time to time, but no less often than once each twelve months, Crossroads shall furnish Bank a statement in reasonable detail of the actual common area costs and expenses paid or incurred by Crossroads during such period prepared in accordance with sound accounting practices by Crossroads' accountant and thereupon shall be an adjustment between Crossroads and Bank with payment to or repayment by Crossroads, as the case may require, to the end that Crossroads shall receive the entire amount of Bank's pro rata share of such costs and expenses for such period and no more.

Bank shall, at its own expense, maintain and keep in a clean and orderly fashion (including providing adequate trash receptacles on the Bank Land) and free from snow and ice the sidewalks adjacent to the building on the Bank Land, any entryways or setbacks used in connection therewith, and any canopies and roof drains adjacent to or serving the Bank Land. Grass and shrub areas outside the sidewalk line (if there is a sidewalk surrounding the building on the Bank Land) or more than 15 feet from such building shall be considered common area and maintained as such provided that Bank shall install and maintain in a fully operational condition a sprinkler system for irrigation of such areas.

The layout of the parking lot on the Bank Land shall at all times be subject to approval by Crossroads.

If Crossroads shall fail to perform the undertakings concerning common areas herein set forth, Bank's sole remedy

shall be to withhold the payments provided for in this paragraph and Bank shall nevertheless be responsible for maintaining the Bank Land in accordance with the same standards as the other common areas in the Crossroads Center are maintained.

9. Bank agrees to maintain a membership in the Merchants Association of the Crossroads Center, when established, and will pay an annual membership fee established by the owner of the mall buildings in the Crossroads Center (but shall not be obligated by this Agreement to pay any such fee in excess of \$75 per year) and for the purpose of creating and maintaining a fund for the general promotion and welfare of the Crossroads Center as a whole, agrees to pay to said Association an assessment of 6-1/4¢ per square foot of building floor area (all floors) on the Bank Land during the "opening period" (as that term is hereinafter defined), and an assessment of 25¢ per square foot of such area in quarterly installments in advance during each "association year" (as that term is hereinafter defined). Bank also agrees to contribute an additional amount equal to 20% of the fund collected as assessments in accordance with the preceding sentence, said 20% to be treated as an owner's contribution to the Merchants Association. 36.11.11

It is understood and agreed that the assessment for each "association year" shall be adjusted at five year intervals commencing with the start of the first "association year" in that proportion which the Consumer Price Index (U.S. City Average) of the United States Bureau of Labor Statistics for the first month of each successive five year period bears to the said Consumer Price Index (U.S. City Average) for the first month

of the first "association year", all such adjustments to be apportioned for fractional years.

"Opening period" means the period of time commencing with pre-opening promotion and advertising of the Crossroads Center and terminating upon the expiration of thirty (30) days after the opening of the Crossroads Center. "Association year" means each successive period of twelve (12) months following the "opening period", or, at the end of the term, the portion of such twelve (12) months period included in the term.

The assessment for the "opening period" shall not be prorated if Bank opens its facility for business after the opening of the Crossroads Center, but prior to the termination of the "opening period". The assessment for any "association year" shall not be prorated if Bank opens its facility for business after the commencement of any such "association year" unless such opening occurs after the expiration of the first six (6) months of such "association year".

Unless Crossroads otherwise determines, the By-Laws or other governing instruments of the Merchants Association shall provide that members will vote per capita and that no member shall be entitled to vote if any fees or assessments owed by it to the Association shall not have been paid within thirty (30) days of billing.

If the Merchants Association is, in the opinion of the owner of the mall buildings in the Crossroads Center, ineffective, said owner may collect the amounts that would

otherwise be payable to the Merchants Association under this Article and, itself, carry on the promotional activities of the Crossroads Center.

Notwithstanding the provisions of the first paragraph of this Article, Crossroads may, if it so elects, collect the assessment to be paid by Bank in respect of the opening period and expend the same, but solely for promotional activities in connection with the Crossroads Center.

10. The Crossroads Group hereby warrant that Bank shall have convenient access by established roadways (including the perimeter road around the Crossroads Center) between the Bank Land and the public highways adjacent to the Crossroads Center.

11. It is understood that any taxes payable in the year 1969 and subsequent years shall be paid by the Bank.

12. The invalidation of any provision of this Agreement by a court of competent jurisdiction, shall not affect the validity of the remaining provisions hereof.

13. Whenever in this Agreement it is provided that any consent or approval by any of the Crossroads Group shall be required, such consent or approval shall not be unreasonably withheld, provided always that it shall be understood that in considering any request for consent or approval, each of the Crossroads Group shall be entitled to protect exclusives and other special operating rights granted to their tenants and others, and their legitimate interest in percentage rents.

14. This Agreement shall be binding upon, shall inure to the benefit of and be enforceable by the parties hereto and their respective heirs, successors, or assigns and the provisions hereof shall be covenants running with the lands subject thereto.

15. This Agreement and all of the provisions set forth herein shall terminate and be of no further force or effect on December 31, 1995.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written.

G. P. Schoenfelder
G. P. Schoenfelder

CROSSROADS CENTER, INC.

By G. P. Schoenfelder
G. P. Schoenfelder

And D. W. Rawn
D. W. Rawn

THE CROSSROADS COMPANY

By G. P. Schoenfelder
A General Partner

And D. W. Rawn
A General Partner

THE NATIONAL BANK OF WATERLOO

By R. L. Kelso

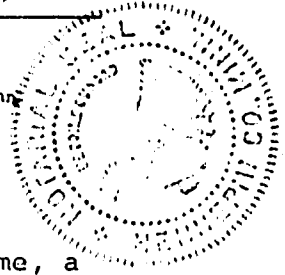
And Mon. [Signature]

STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

On this 18th day of November, 1969, before me, a Notary Public within and for said County, personally appeared G. P. Schoenfelder, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his own free act and deed.

Ethel Norring

ETHEL NORRING
Notary Public, Hennepin County, Minn.
My Commission Expires Mar. 8, 1971.

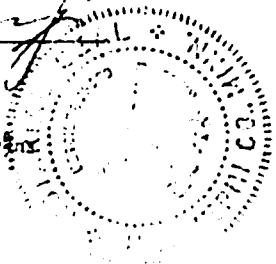


STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

On this 18th day of November, 1969, before me, a Notary Public within and for said County, personally appeared G. P. Schoenfelder and D. W. Rawn, to me personally known, who being each by me duly sworn, did say that they are respectively the President and Secretary of Crossroads Center, Inc., a Minnesota corporation, the corporation named in the foregoing instrument, and that the seal affixed to said instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors and said G. P. Schoenfelder and D. W. Rawn acknowledged that said instrument was the free act and deed of said corporation.

Ethel Norring

ETHEL NORRING
Notary Public, Hennepin County, Minn.

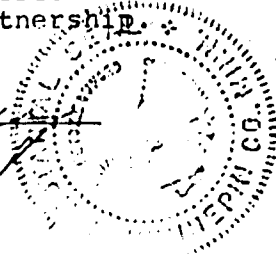


STATE OF MINNESOTA)
) SS.
COUNTY OF HENNEPIN)

On this 18th day of November, 1969, before me, a Notary Public within and for said County, personally appeared G. P. Schoenfelder and D. W. Rawn, to me known to be the persons described in and who executed the foregoing instrument, and each acknowledged that he executed the same as his free act and deed on behalf of The Crossroads Company, a partnership.

Ethel Norring

ETHEL NORRING
Notary Public, Hennepin County, Minn.
My Commission Expires Mar. 8, 1971.



STATE OF IOWA

COUNTY OF Franklin

SS.

On this 18 day of November, 1969, before me, a Notary Public within and for said County, personally appeared J. H. Hagan and David J. Wustke, to me personally known, who, being each by me duly sworn, did say that they are respectively the President and the Vice President of The National Bank of Waterloo, the association named in the foregoing instrument, and that the seal affixed to said instrument is the seal of said association, and that said instrument was signed and sealed in behalf of said association by authority of its Board of Directors and J. H. Hagan and David J. Wustke acknowledged said instrument to be the free act and deed of said corporation.

Henry A. [unclear]
Notary Public [unclear]
for Franklin County, Iowa.

EXHIBIT B

PARCEL C

A parcel of land located in the NE Fractional $\frac{1}{4}$ and the SE $\frac{1}{4}$ of Section 2-88-13, Waterloo, Black Hawk County, Iowa, described as follows:

Commencing at the intersection of the Southwesterly right-of-way line of U.S. Highway 218 with the East line of said Section 2-88-13, said right-of-way line 60.00 feet normally distant Southwesterly from the center line of U.S. Highway 218; thence N. 35° 20' W. along said Southwesterly right-of-way line a distance of 494.43 feet; thence S. 54° 40' W. a distance of 425.00 feet; thence S. 35° 20' E. a distance of 442.31 feet; thence Southeasterly along a curve concave Southwesterly having a radius of 470.96 feet a distance of 290.43 feet; thence South a distance of 370.45 feet; thence Southwesterly along a curve concave Northwesterly having a radius of 561.06 feet a distance of 535.32 feet; thence S. 54° 40' W. a distance of 246.41 feet; thence Southwesterly along a curve concave Northwesterly having a radius of 470.96 feet a distance of 290.43 feet; thence West a distance of 285.03 feet to the point of beginning; thence North a distance of 173.25 feet; thence Northwesterly along a curve concave Southwesterly having a radius of 313.97 feet a distance of 193.62 feet; thence N. 35° 20' W. a distance of 28.98 feet; thence S. 54° 40' W. a distance of 513.13 feet; thence Southeasterly along a curve concave Northeasterly having a radius of 700.00 feet a distance of 341.60 feet; thence East a distance of 165.00 feet to the point of beginning.

The Southwesterly right-of-way line of U.S. Highway 218 is assumed to bear N. 35° 20' W. and said Southwesterly right-of-way line intersects the East line of said Section 2-88-13 at a point 799.77 feet North of the Southeast corner of the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 2-88-13.

EXHIBIT C

A parcel of land located in the NE Fractional 1/4 of the SE 1/4 of Section 2-88-13, Waterloo, Black Hawk County, Iowa, described as follows:

Commencing at the intersection of the Southwesterly right-of-way line of U.S. Highway 218 with the East line of said Section 2-88-13, said right-of-way line being 60.00 feet normally distant Southwesterly from the center line of U.S. Highway 218; thence N. 35°20'W. along said Southwesterly right-of-way line a distance of 494.43 feet; thence S. 54°40'W. a distance of 425.00 feet to the point of beginning; thence N. 35°20'W. a distance of 558.57 feet; thence Westerly along a curve concave Southerly having a radius of 179.87 feet a distance of 301.59 feet; thence S. 48°36'W. a distance of 1088.11 feet; thence Southerly along a curve concave Easterly having a radius of 332.21 feet a distance of 281.79 feet; thence South a distance of 508.43 feet; thence Southerly and Easterly along a curve concave Northeasterly having a radius of 700.00 feet a distance of 1099.56 feet; thence East a distance of 450.03 feet; thence Northeasterly along a curve concave Northwesterly having a radius of 470.96 feet a distance of 290.43 feet; thence N. 54°40'E. a distance of 246.41 feet; thence Northeasterly along a curve concave Northwesterly having a radius of 561.06 feet a distance of 535.32 feet; thence North a distance of 370.45 feet; thence Northwesterly along a curve concave Southwesterly having a radius of 470.96 feet a distance of 290.43 feet; thence N. 35°20'W. a distance of 442.31 feet to the point of beginning.

The Southwesterly right-of-way line of U.S. Highway 218 is assumed to bear N. 35°20'W. and said Southwesterly right-of-way line intersects the East line of said Section 2-88-13 at a point 799.77 feet North of the Southeast corner of the N 1/2 of the SE 1/4 of said Section 2-88-13.

DESCRIPTION

Exhibit A

A parcel of land located in the NE Fractional $\frac{1}{4}$ and the SE $\frac{1}{4}$ of Section 2-88-13, Waterloo, Black Hawk County, Iowa, described as follows:

Commencing at the intersection of the Southwesterly right-of-way line of U.S. Highway 218 with the East line of said Section 2-88-13, said right-of-way line being 60.00 feet normally distant Southwesterly from the center line of U. S. Highway 218; thence N. $35^{\circ} 20'$ W. along said Southwesterly right-of-way line a distance of 494.43 feet; thence S. $54^{\circ} 40'$ W. a distance of 425.00 feet to the point of beginning; thence N. $35^{\circ} 20'$ W. a distance of 558.57 feet; thence westerly along a curve concave Southerly having a radius of 179.87 feet a distance of 301.59 feet; thence S. $48^{\circ} 36'$ W. a distance of 1088.11 feet; thence Southerly along a curve concave Easterly having a radius of 332.21 feet a distance of 281.79 feet; thence South a distance of 508.43 feet; thence South-erly and Easterly along a curve concave Northeasterly having a radius of 700.00 feet a distance of 1099.56 feet; thence East a distance of 450.03 feet; thence Northeasterly along a curve concave Northwesterly having a radius of 470.96 feet a distance of 290.43 feet; thence N. $54^{\circ} 40'$ E. a distance of 246.41 feet; thence Northeasterly along a curve concave Northwesterly having a radius of 561.06 feet a distance of 535.32 feet; thence North a distance of 370.45 feet; thence Northwesterly along a curve concave Southwesterly having a radius of 470.96 feet a distance of 290.43 feet; thence N. $35^{\circ} 20'$ W. a distance of 442.31 feet to the point of beginning.

The Southwesterly right-of-way line of U.S. Highway 218 is assumed to bear N. $35^{\circ} 20'$ W. and said Southwesterly right-of-way line intersects the East line of said Section 2-88-13 at a point 799.77 feet North of the Southeast corner of the N $\frac{1}{4}$ of the SE $\frac{1}{4}$ of said Section 2-88-13.

I hereby certify that I am a duly registered professional engineer and land surveyor under the laws of the State of Iowa and that this plat was prepared under my direct personal supervision.

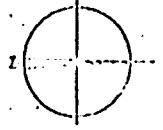
Date August 7, 1967

Iowa Reg. No. 3641

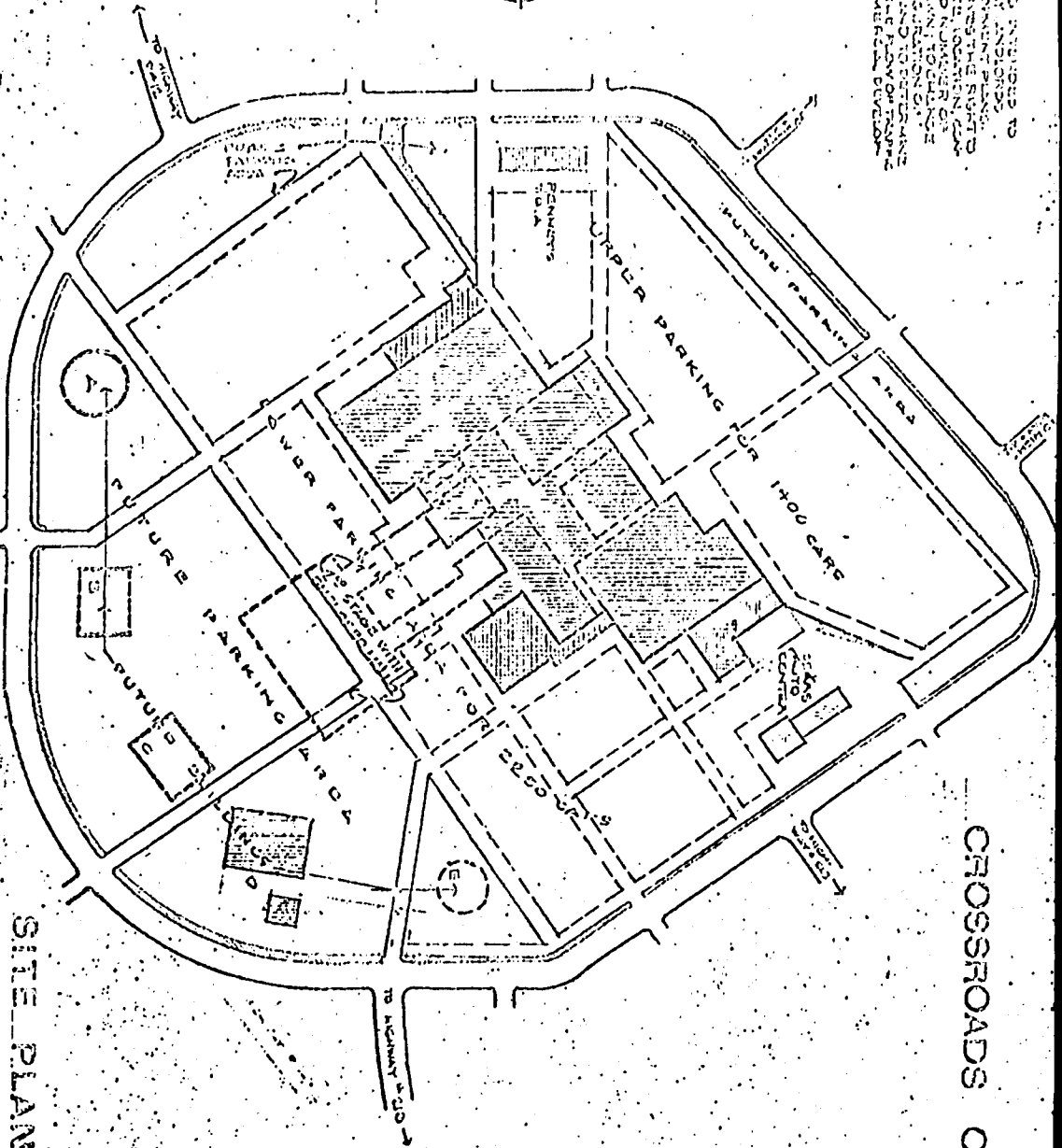
Robert E. Schenk
Robert E. Schenk

NOTE: TOTAL AREA

SCALE:
1" = 300'



PLANNED BY
WATERLOO
PLANNING
COMMISSION
1964
REVISED
1965
BY
WATERLOO
PLANNING
COMMISSION
1965



CROSSROADS CENTER IN WATERLOO, IOWA

- BANK
- MAY VEEB - SUPERMARKET
- EARL MAY GARDEN CENTER
- SAVINGS & LOAN

SITE PLAN
DATE ISSUED: _____
ISSUED BY: _____

Misc ✓
Case ✓
INDEXED *gm*
COMPARED
PAGED *kg*
Dec

14658

BLACK HAWK COUNTY, IOWA:55

Filed for record May 13/9 81

at 4:15 P.M., and recorded in

Ease Book 7

Page 206

Garmon Williams

Recorder

Deputy

Fee 5700

Brecher, Deocher, Holmes, & Rathert

BOOK

7 PAGE 225