

AGENDA MEMO
PLANNING AND ZONING COMMISSION
December 18, 2019

Case

PZC 2019-03 7710 South Cass Avenue (Modell Funeral Home - Crematory)

Issue Statement

7710 Cass Avenue, Modell Funeral Home: Requests an amendment to the existing special use for the construction of a building addition to operate a crematory as a secondary use in the R-3 Multi-Family Residential zoning district.

General Information

Petitioners / Owners: Modell Funeral Home / Frank Modelski, Jr.
Property Location / PIN#: 7710 S. Cass Avenue / 09-28-410-014/5, 09-28-410-044

Zoning Provisions

Section 5A-2-2-6(G): Special Use Standards
Section 5A-7-3-3(D): R-3 Multi-Family Residence District; Special Uses
Ordinances O-3-77 and O-30-04

Update

This hearing was opened on December 4, 2019, and included Petitioner testimony, public commentary, and general discussion. The PZC continued the hearing to December 18, 2019 to allow the Petitioner additional time to gather expert testimony and provide responses to technical questions regarding operation and emissions of the crematory.

The Petitioner has chosen to withdraw the application. Attached is correspondence received by staff on December 8, 2019.

It is recommended that the PZC close the public hearing and acknowledge the petition withdrawal.

From: Andrew Brunsen
To: Bryon Vana; Joseph Hennerfeind; Joe Marchese; Dan Gombac
Subject: Statement
Date: Sunday, December 8, 2019 8:56:30 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

Please see the statement below from us at the funeral home specifically for the Planning and Zoning Commission.

Thank you for your time on Wednesday evening to hear our petition for a special use permit to add a crematory to our existing funeral home. As I shared in my opening statement, all of us at Modell deeply value listening, understanding and supporting the families and community we serve. After further considering feedback from the community meeting, we have decided to withdraw our crematory petition at this time so that we may identify the right path forward that will best address the future needs of our families and community. All of us at Modell Funeral Home continue to be committed to helping families during their time of heartbreak and loss in a dignified way that both respects and celebrates someone's life.



Andrew A. Brunsen

Owner/Funeral Director
Modell Funeral Home
7710 South Cass Avenue, Darien, Illinois 60561
Phone: 630-852-3595
andrew@modelldarien.com
WWW.MODELLDARIEN.COM



EMAIL



BIO



FLOWERS

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REVISED PLANS
DATE 12/12/19

CROSS ACCESS EASEMENT AND MAINTENANCE AGREEMENT

THIS CROSS ACCESS EASEMENT AND MAINTENANCE AGREEMENT (the "Agreement") is made and entered into this _____ day of _____ 20__ (the "Effective Date), by and between grantor 7532 Cass Avenue, an Illinois limited liability company with a mailing address of _____ (hereinafter "CASS AVENUE") and grantee Brookhaven Plaza, LLC, with a mailing address of 242 Bunting Lane, Bloomingdale, IL 60108 (hereinafter "BROOKHAVEN PLAZA"). Both at times may herein be referred to as a "Party" or "the Parties."

WITNESSETH:

WHEREAS, CASS AVENUE is the owner of that certain parcel of land more commonly known and numbered 7532 Cass Ave. Darien, IL 60561 Pin # 09-28-402-025 and as further set forth on Exhibit "A", attached herein and made a part hereof (the "CASS AVENUE Parcel"); and

WHEREAS, BROOKHAVEN PLAZA is the owner of that certain parcel more commonly known and numbered as 7516 Cass Ave. Darien IL 60561 Pin # 09-28-402-021, 09-28-402-024, 09-28-402-026 and as further set forth on Exhibit "B" attached herein and made a part hereof (the "BROOKHAVEN PLAZA Parcel"); and

WHEREAS, the parties intend to grant to a mutual cross-access easement across their respective parcels, subject to the terms and conditions set forth herein below,

NOW, THEREFORE, for and in consideration of the easement herein granted, the receipt and adequacy of which is hereby acknowledged, it is hereby agreed as follows:

1. INGRESS AND EGRESS EASEMENT. CASS AVENUE hereby grants to BROOKHAVEN PLAZA, and its respective successors and assigns, a nonexclusive easement of vehicular and pedestrian ingress and egress over, upon, through and across the CASS AVENUE Parcel as more particularly described and shown on Exhibit "C-1" and "C-2", attached herein and made a part hereof (the "Brookhaven Easement").

Reciprocally, BROOKHAVEN PLAZA hereby grants to CASS AVENUE, and its respective successors and assigns, a nonexclusive easement of vehicular and pedestrian ingress and egress over, upon, through and across the BROOKHAVEN PLAZA Parcel as more particularly described and shown on Exhibit "D-1" and "D-2", attached herein and made a part hereof (the "CASS AVENUE Easement").

2. LIMITED PARKING EASEMENT. BROOKHAVEN PLAZA hereby grants to CASS AVENUE, and its respective successors and assigns, a non-exclusive limited easement appurtenant only for the parking of passenger vehicles for employees and over-flow business invitees of CASS AVENUE upon the BROOKHAVEN PLAZA Parcel as depicted by the cross-hatched area in the Site Plan shown on Exhibit "E" attached herein and made a part hereof (Limited Parking Easement) subject to the following:

(a) Parking for commercial trucks or vehicles are prohibited;

(b) No vehicles shall be stored, abandoned, or otherwise allowed to remain overnight or during non-business periods within the boundaries of the Limited Parking Easement;

(c) BROOKHAVEN PLAZA reserves the right to establish reasonable rules and regulations with respect to the Limited Parking Easement and reserves the right to eject or cause to be ejected from the Limited Parking Easement area and its common area any persons or vehicles not authorized, empowered, or privileged to use same;

(d) BROOKHAVEN PLAZA reserves the right to close off the Limited Parking Easement area for such reasonable periods of time as may be reasonably necessary for legal, construction, or commercial purposes;

(e) Public sewer lines, water lines, electric, gas, or other public or private utilities may be constructed on the Limited Parking Easement, and the construction of the aforementioned items by BROOKHAVEN PLAZA shall not be precluded by the grant of this easement; and

(f) The grant of the Limited Parking Easement by BROOKHAVEN PLAZA shall not be deemed to constitute a dedication of any portion of its parcel or be construed to create any right in or for the benefit of any occupant of any part of the parcel, it being understood that this Limited Parking Easement shall be strictly limited to and for the purposes herein expressed and shall not limit BROOKHAVEN PLAZA from extending the benefit of the use of the Limited Parking Easement to its tenants, invitees, permittees, or agents.

3. MAINTENANCE. The parties agree to maintain each respective Easement Area in good order and repair including, but not limited to, surface quality, striping and timely removal of snow and ice. Such maintenance obligation shall be subject to the following:

(a) Performance. Each party shall be responsible for the actual performance of the maintenance and repair of the Easement Area located on their respective parcel, and that they will at all times maintain said Easement Areas in a good and useable condition.

(b) Cost. Each party shall be responsible for One Hundred Percent (100%) of the maintenance costs associated with the Easement Area located on their respective parcel.

4. RESERVATION OF RIGHTS. The Parties expressly reserve the right to use the Easement Areas over their respective Parcels for all purposes which are not inconsistent with this Agreement.

5. RESTRICTIONS ON USE. The rights granted herein shall be subject to the following:

(a) The Easements shall be used only for vehicular and pedestrian traffic for the purpose of ingress and egress.

(b) No vehicles shall be parked, stored, abandoned or otherwise allowed to remain within the boundaries of the Easement Areas.

(c) All parties shall use the rights granted by this Agreement with due regard to the rights of others and their use of the Easement Areas, and no person shall use the Easement Areas in any way that will impair the rights of others to use the Easement Areas or to obstruct passage thereon.

6. RELOCATION. CASS AVENUE reserves the right, at its sole expense, to relocate the BROOKHAVEN PLAZA Easement provided the relocated BROOKHAVEN PLAZA Easement Area can reasonably be used for its intended purpose by BROOKHAVEN PLAZA. CASS AVENUE may exercise this right by giving BROOKHAVEN PLAZA no less than sixty (60) days prior written notice of the same. Reciprocally, BROOKHAVEN PLAZA reserves the right, at its sole expense, to relocate the CASS AVENUE Easement Area provided the relocated CASS AVENUE Easement Area can reasonably be used for its intended purpose by CASS AVENUE. BROOKHAVEN PLAZA may exercise this right by giving CASS AVENUE no less than sixty (60) days prior written notice of the same. **COSTS???**

7. CONDITIONS PRECEDENT. The Easements herein granted are subject to all easements, covenants, conditions, encumbrances and restrictions of record applicable to the respective Easement Areas.

8. INDEMNITY. BROOKHAVEN PLAZA, for itself and its successors and assigns, covenants with CASS AVENUE, its successors and assigns, that it will defend, assume all liability for, and pay and indemnify and save harmless CASS AVENUE, its successors and assigns from and against any and all damages, injuries, losses, claims, demands, suits and liabilities of every nature which CASS AVENUE, its successors and assigns, may sustain by reason of the use of the CASS AVENUE Easement by BROOKHAVEN PLAZA, its tenants, successors, assigns, licensees, guests, invitees, customers, suppliers, agents or employees; and CASS AVENUE, for itself and its successors and assigns, covenants with BROOKHAVEN PLAZA, its successors and assigns, that it will defend, assume all liability for, and pay and indemnify and save harmless BROOKHAVEN PLAZA, its successors and assigns from and against any and all damages, injuries, losses, claims, demands, suits and liabilities of every nature which BROOKHAVEN PLAZA, its successors and assigns, may sustain by reason of the use of the BROOKHAVEN PLAZA Easement by CASS AVENUE, its tenants, successors, assigns, licensees, guests, invitees, customers, suppliers, agents or employees

9. **WARRANTY OF TITLE.** Each Party warrants that it has the full right and power to grant the Easement referred to in this Agreement and that it has the fee simple title to the respective Easement Area.

10. **EASEMENT APPURTENANT.** Subject to the provisions of paragraph 6 herein above, the Easements hereby granted shall run with the land, and enjoyment thereof shall continue in perpetuity. The obligations hereby imposed and all other terms of this Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns.

11. **GOVERNING LAW.** This Agreement shall be construed and interpreted in accordance with the laws of the State of Illinois.

12. **ENFORCEMENT.** This Agreement may be enforced by the Parties and their respective successors and assigns against any person or entity having obligations hereunder by injunction and/or all such other legal and equitable remedies for the consequences of such breach. If any Party, or person benefited hereby, institutes any litigation to enforce any of the terms, covenants, conditions, easements and restrictions set out in the Agreement, the prevailing Party in such litigation shall be entitled to collect court costs and reasonable attorneys' fees from the non-prevailing Party. Any monetary judgment, which shall include reasonable attorney's fees, shall constitute a lien against the respective real property of the defaulting Party. Upon proper recordation in the Clerk's Office, unpaid assessments, including special assessments, shall constitute a lien and charge against a parcel until paid in full or otherwise discharged and released, and in addition to any other right or remedy, at law or in equity, and shall be collectable and enforceable against said real property.

13. **SEVERABILITY.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

14. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall together constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the year and date last set forth below, to be inserted as the Effective Date herein above.

7532 CASS AVENUE, LLC,
an Illinois limited liability company

BROOKHAVEN PLAZA, LLC
an Illinois limited liability company

By: _____
Its Authorized Manager

By: _____
Its Authorized Manager

Date: _____

Date: _____

STATE OF _____)
) SS:
COUNTY OF _____)

I, _____, a Notary Public, in and for such County and State hereby certify that _____ as _____ of 7532 CASS AVENUE LLC, an Illinois limited liability company appeared before me this day in person, and acknowledged that he signed and delivered this instrument in his stated capacity for the uses and purposes set forth herein.

Given under my hand and notarial seal this _____ day of _____, 20__.

Notary Public
My Commission Expires: _____

STATE OF _____)
) SS:
COUNTY OF _____)

I, _____, a Notary Public, in and for such County and State hereby certify that Brookhaven Plaza, LLC appeared before me this day in person, and acknowledged that he signed and delivered this instrument in his capacity for the uses and purposes set forth herein.

Given under my hand and notarial seal this _____ day of _____, 2015.

Notary Public
My Commission Expires: _____

This Instrument Prepared By:
Gregory G. Castaldi
Law Office of Gregory G. Castaldi,
A Professional Corporation
5521 North Cumberland Avenue, Suite 1109
Chicago, Illinois 60656

CONSENT

The undersigned holder of that certain Mortgage dated August 27, 2018, executed by Brookhaven Plaza LLC, an Illinois limited liability company, in favor of the undersigned, recorded in the Office of the Recorder of Deeds of Du Page County, Illinois on September 6, 2018, as Document Number R2018-084008, encumbering the Brookhaven Plaza parcel hereby consents to the foregoing Cross Access Easement and Maintenance Agreement.

Dated: _____, 20__

JP Morgan Chase Bank, NA

By _____
Its _____

State of _____)
) SS.
County of _____)

I, the undersigned, a Notary Public in and for the County in the State aforesaid, DO HEREBY CERTIFY that _____, the _____ of JP Morgan Chase Bank, NA, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such _____, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of said JP Morgan Chase Bank, NA for the uses and purposes therein set forth; and said _____ then and there acknowledged that he, as custodian of the corporate seal of said JP Morgan Chase Bank, NA, did affix the corporate seal of said Bank to said instrument as his own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

Given under my hand and notarial seal this ___ day of _____, 20__.

Notary Public

ATTACHED EXHIBITS –

- Exhibit A - CASS AVENUE Parcel (legal description)
- Exhibit B - BROOKHAVEN PLAZA Parcel (legal description or address)
- Exhibit C-1 - Legal description of CASS AVENUE Easement Area
- Exhibit C-2 - Drawing depicting CASS AVENUE Easement Area
- Exhibit D-1 - Legal description of BROOKHAVEN PLAZA Easement Area
- Exhibit D-2 - Drawing depicting BROOKHAVEN PLAZA Easement Area
- Exhibit E - Limited Parking Easement

Exhibit A - CASS AVENUE Parcel (legal description)

THAT PART OF LOT 302 DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF PLAINFIELD ROAD, AND THE WESTERLY LINE OF CASS AVENUE; THENCE WESTERLY ALONG THE NORTHERLY LINE OF PLAINFIELD ROAD, 155 FEET; THENCE NORTHERLY AND PARALLEL WITH CASS AVENUE, 210 FEET; THENCE EASTERLY ON A LINE PERPENDICULAR TO CASS AVENUE, 145 FEET TO A POINT ON THE WESTERLY LINE OF CASS AVENUE; THENCE SOUTHERLY ALONG THE WESTERLY LINE OF CASS AVENUE, 145 FEET TO THE PLACE OF BEGINNING, IN BROOKHAVEN MANOR, A SUBDIVISION IN SECTIONS 27 AND 28, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 18, 1956 AS DOCUMENT 827287, IN DU PAGE COUNTY, ILLINOIS.

PIN #09-28-402-025

Common Address: 7532 Cass Avenue, Darien, Illinois 60561

Exhibit B - BROOKHAVEN PLAZA Parcel (legal description or address)

PARCEL 1: THAT PART OF LOT 302 (EXCEPT THE NORTH 200.0 FEET OF THE EAST 200.0 FEET THEREOF AND EXCEPT THE NORTH 164.5 FEET OF THE BALANCE OF LOT 302 AND EXCEPT THE WEST 20 FEET OF THE SOUTH 13.5 FEET OF THE NORTH 213.5 FEET OF THE EAST 206 FEET OF LOT 302) LYING NORTH OF A LINE DESCRIBED BY BEGINNING AT A POINT ON THE EAST LINE OF SAID LOT 302, 382.48 FEET SOUTH OF THE NORTHEAST CORNER OF SAID LOT AND RUNNING THENCE WEST AT RIGHT ANGLES TO SAID EAST LINE 150.0 FEET; THENCE SOUTHWESTERLY TO A POINT 386.16 FEET NORTHWESTERLY FROM, AS MEASURED AT RIGHT ANGLES TO THE SOUTH LINE OF SAID LOT 302, FROM A POINT ON THE SOUTH LINE OF SAID LOT 100.0 FEET NORTHEASTERLY FROM THE SOUTHWEST CORNER OF SAID LOT 302; THENCE NORTHWESTERLY 66.46 FEET TO A POINT ON THE WEST LINE OF LOT 302, 511.92 FEET SOUTH OF THE NORTHWEST CORNER OF LOT 302 IN BROOKHAVEN MANOR, BEING A SUBDIVISION IN SECTIONS 27 AND 28, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 19, 1956 AS DOCUMENT 827287, IN DU PAGE COUNTY, ILLINOIS.

PARCEL 2: THAT PART OF LOT 302 IN BROOKHAVEN MANOR, BEING A SUBDIVISION IN SECTIONS 27 AND 28, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 18, 1956 AS DOCUMENT 827287, IN DU PAGE COUNTY, ILLINOIS, DESCRIBED BY COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 302 AND RUNNING THENCE SOUTHWESTERLY ALONG THE SOUTH LINE OF SAID LOT 155.0 FEET FOR A POINT OF BEGINNING; THENCE NORTH PARALLEL WITH THE EAST LINE OF SAID LOT 210.0 FEET; THENCE EASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE 145 FEET, MORE OR LESS, TO THE EAST LINE OF SAID LOT; THENCE NORTH ON THE EAST LINE OF SAID LOT 182.48 FEET, MORE OR LESS, TO A POINT 382.48 FEET SOUTH OF THE NORTHEAST CORNER OF SAID LOT; THENCE WEST AT RIGHT ANGLES TO SAID EAST LINE 150.0 FEET; THENCE SOUTHWESTERLY TO A POINT 366.16 FEET NORTHWESTERLY FROM (AS MEASURED AT RIGHT ANGLES TO THE SOUTH LINE OF SAID LOT) A POINT IN THE SOUTH LINE OF SAID LOT, SAID SECOND POINT BEING 100.0 FEET NORTHEASTERLY FROM THE SOUTHWEST CORNER OF SAID LOT; THENCE SOUTHEASTERLY ON SAID RIGHT ANGLES LINE 366.16 FEET TO SAID POINT IN THE SOUTH LINE 100.0 FEET NORTHEASTERLY FROM THE SOUTHWEST CORNER OF SAID LOT; THENCE NORTHEASTERLY ON SAID SOUTH LINE 315.0 FEET TO THE POINT OF BEGINNING, IN DU PAGE COUNTY, ILLINOIS.

PARCEL 3: THE NORTH 164.5 FEET (EXCEPT THE EAST 200 FEET THEREOF) OF LOT 302 IN BROOKHAVEN MANOR, BEING A SUBDIVISION IN SECTIONS 27 AND 28, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 18, 1956 AS DOCUMENT 827287, IN DU PAGE COUNTY, ILLINOIS.

PIN #09-28-402-021, 09-28-402-024, 09-28-402-026

Address of Property: 7516 Cass Avenue, Darien, Illinois 60561

Exhibit C-1

Legal description of CASS AVENUE Easement Area

Exhibit C-2

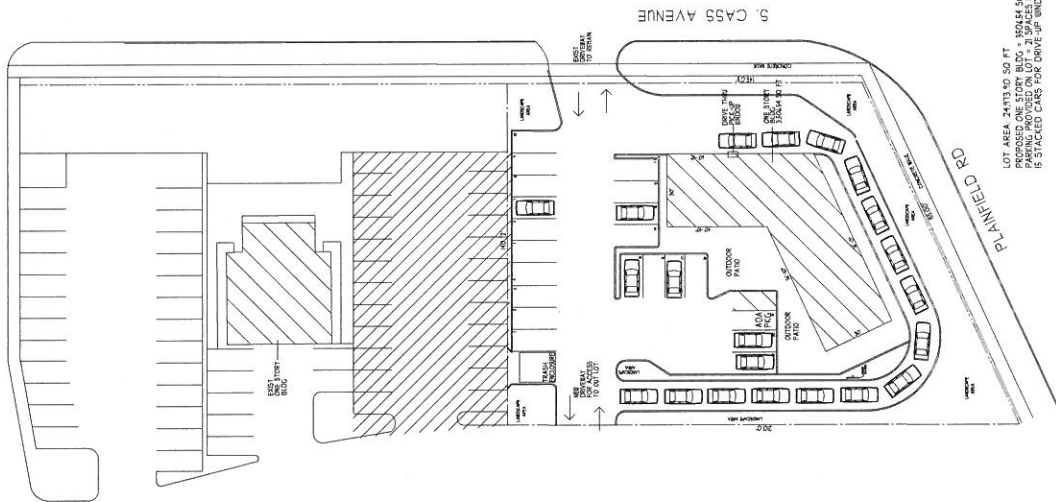
Drawing depicting CASS AVENUE Easement Area

Exhibit D-1

Legal description of BROOKHAVEN PLAZA Easement Area

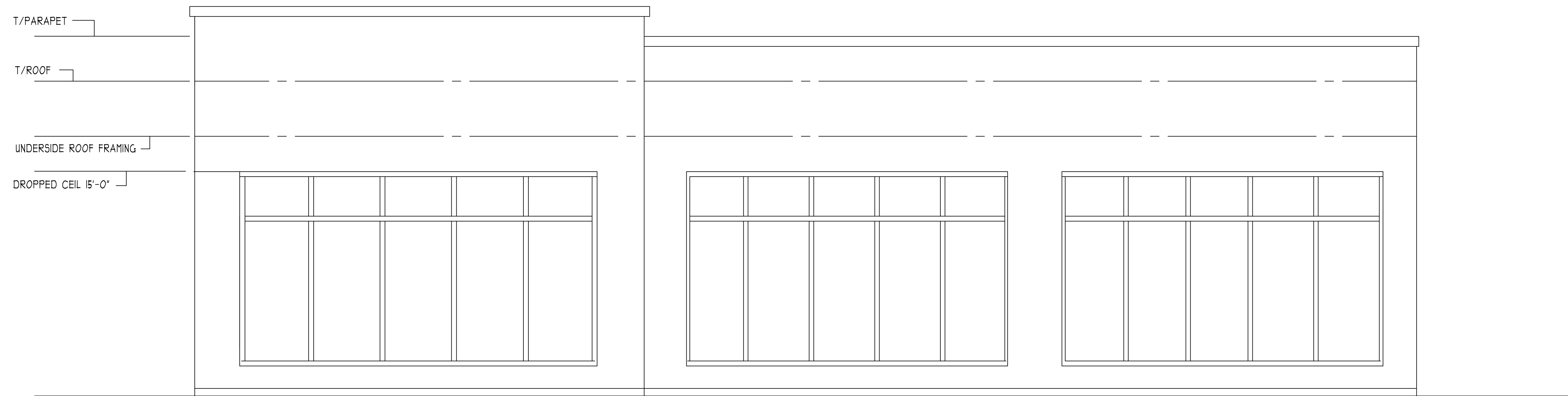
Exhibit D-2

Drawing depicting BROOKHAVEN PLAZA Easement Area



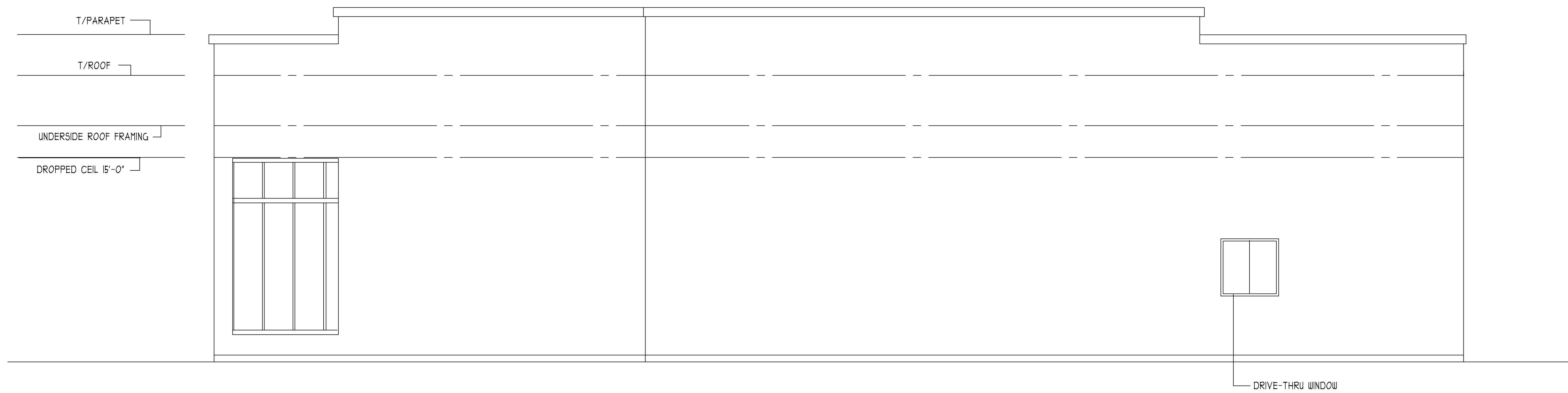
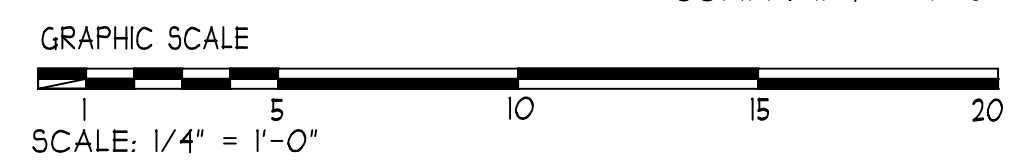
LOT AREA: 24,213 SQ. FT.
 PROPOSED ONE STORY BLDG.: 10,644 SQ. FT.
 PARKING PROVIDED ON LOT: 21 SPACES, NCL, 1 ADA SPACE
 15 STACED CARS FOR DRIVE-UP UNITS

SITE PLAN
 GRAPHIC SCALE
 SCALE: 1" = 30'-0"
 SCALE: 1" = 30'-0"



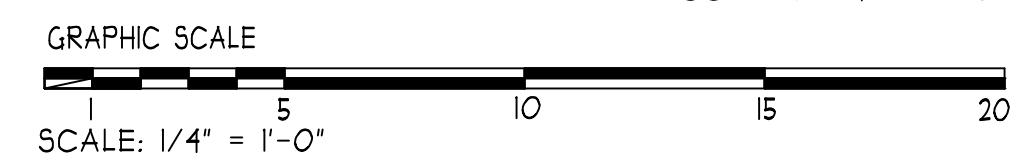
NORTH ELEVATION

SCALE: 1/4" = 1'-0"

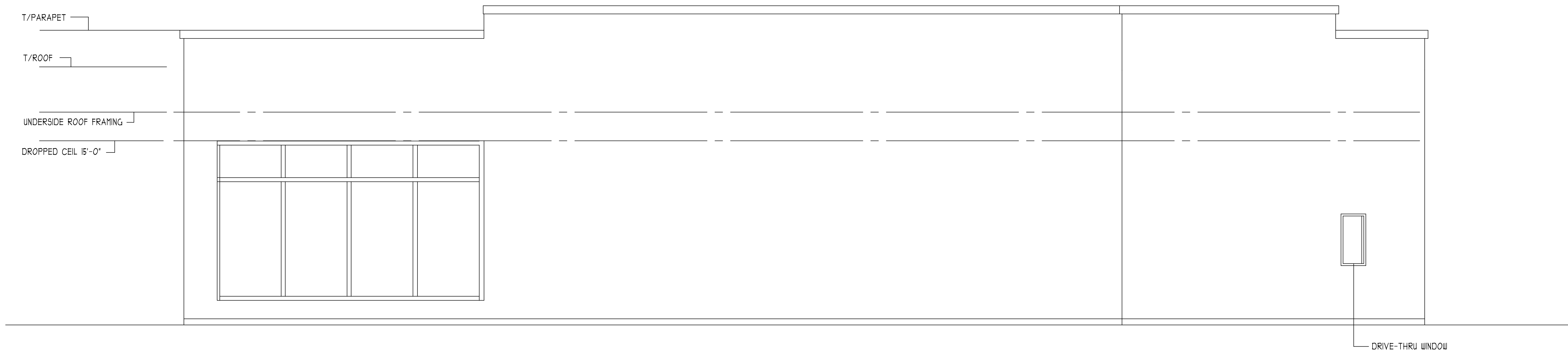


EAST ELEVATION

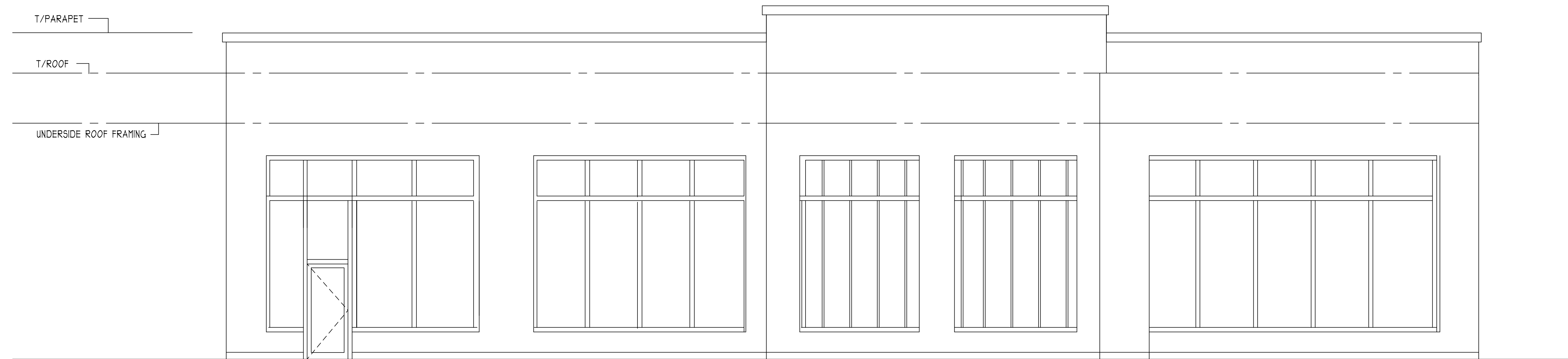
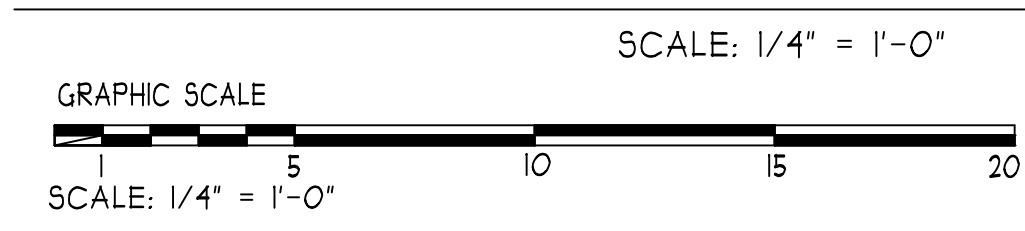
SCALE: 1/4" = 1'-0"



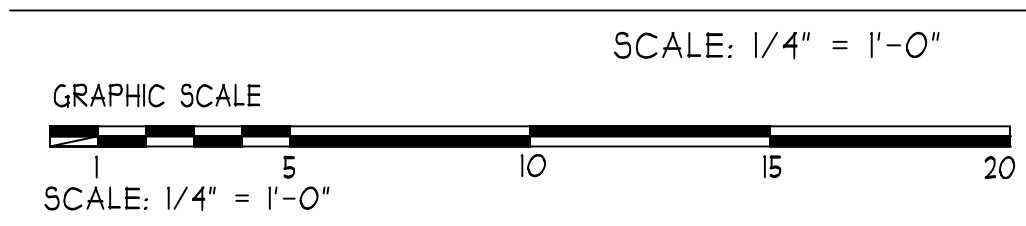
BROOKHAVEN SHOPPING CENTER
 NEW BUILDING FOR OUT-LOT
 1532 CASS AVENUE DARIEN, IL 60541
 ARCHITECT: CHRIS GEORGE, P.C.
 124 HILL ST. MT. PROSPECT, IL 60056-2132
 (847) 499-8150 FAX (847) 499-8151
 JOB #1100 1/8/19 1/11/19 1/31/19 8/14/19 9/26/19
 10/14/19 10/17/19 11/01/19 11/30/19



SOUTH ELEVATION



WEST ELEVATION



BROOKHAVEN SHOPPING CENTER
 NEW BUILDING FOR OUT-LOT
 7532 CASS AVENUE DARIEN, IL 60541
 ARCHITECT: CHRIS GEORGE, P.C.
 124 HILL ST. MT. PROSPECT, IL 60056-2132
 (847) 499-8150 FAX (847) 499-8151
 JOB #1100 1/8/19 1/11/19 1/31/19 8/14/19 9/26/19
 10/14/19 10/17/19 11/01/19 11/30/19









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& TAP



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