

RESOLUTION NO. 49- 2004

RESOLUTION AUTHORIZING THE WEST CHESTER TOWNSHIP BOARD OF TRUSTEES (“WEST CHESTER”) TO ENTER INTO AN AGREEMENT WITH THE BUTLER COUNTY BOARD OF COMMISSIONERS THROUGH AND ON BEHALF OF THE BUTLER COUNTY ENGINEER (“ENGINEER”) FOR THE REPLACEMENT OF A CULVERT ON DUFF DRIVE

WHEREAS, pursuant to Ohio Revised Code Chapters 5535 and 5571, Trustees are responsible for the maintenance of Duff Drive, a township road within the boundaries of WestChester Township, Butler County, Ohio; and,

WHEREAS, Ohio Revised Code 5589.06 prohibits the wrongful diversion of water from adjacent lands to a township road; and,

WHEREAS, Owners are the fee simple owners of the subject parcel(s) of real property, referenced in Exhibit A and Exhibit B; and,

WHEREAS, the Butler County Engineer, acting on behalf of the Trustees, has determined that the drainage pipes located on the Owners' parcels, as described respectively in either Exhibit A or Exhibit B, is inadequate for handling storm water runoff and that as a result the runoff water from Owners' property flows back up the roadside ditch and out onto Duff Drive causing a wrongful diversion of water upon the roadway as prohibited by Ohio Revised Code 5589.06 the Butler County Engineer, acting on behalf of the Township, has provided written notice to Owners to remove and replace said undersized pipe with adequately sized pipes and to install trench drains in order to stop said drainage overflow onto the roadway; and,

WHEREAS, the Butler County Engineer, acting on behalf of the Township, has provided written notice to Owners to remove and replace said undersized pipe with adequately sized pipes and to install trench drains in order to stop said drainage overflow onto the roadway; and,

WHEREAS, the Owners have failed to remove and replace the undersized pipe and install trench drains as instructed by the Township through the Butler County Engineer; and,

WHEREAS, the Butler County Engineer, acting on behalf of the Township, has agreed to perform the necessary work and Owners have agreed that it is necessary to perform said work and that the cost estimates provided by the Butler County Engineer for the work are reasonable; and,

WHEREAS, the Parties have agreed that all costs associated with said work performed by the Butler County Engineer for the project will ultimately be borne by Owners.

NOW THEREFORE, BE IT RESOLVED, that the West Chester Township Board of Trustees does hereby agree to:

SECTION 1. Enter into an Agreement with the Butler County Commissioners as through and on behalf of the Butler County Engineer to remove and replace the undersized pipes

with 24" pipe and install catch basins and trench drains across the existing driveway approaches to Duff Drive. Such work is described in the preliminary plans and cost estimate prepared by the Butler County Engineer's Office and attached in a letter, dated April 6, 2004, to Owners from the Butler County Engineer's Office.

SECTION 2. Authorize the Township Administrator to execute the attached Agreements, Exhibit A and Exhibit B with the respective property owners, stating the conditions, terms, and responsibilities of each party.

Adopted this 10th day of August, 2004.

<u>Catherine Stoker</u> Catherine Stoker, President	<u>YES</u> Yes / No
<u>Jose Alvarez</u> Jose Alvarez, Vice President	<u>YES</u> Yes / No
<u>George Lang</u> George Lang, Trustee	<u>YES</u> Yes / No

ATTEST:

Patricia Williams
Patricia Williams, Township Clerk

APPROVED AS TO FORM:

Donald L. Crain
Donald L. Crain, Law Director

CERTIFICATE OF PUBLICATION

July 27, 2004

Date

First Reading

Date

August 10, 2004

Date

Emergency Reading

Second Reading

August 16, 2004 Journal News

Date and Newspaper

August 19, 2004 Pulse Journal

First Publication
(After Approval)

August 23, 2004 Journal News

Date and Newspaper

August 26, 2004 Pulse Journal

Second Publication
(After Approval)

Patricia Williams

12/28/04

Clerk Signature & Date

Certificate of Publication

EXHIBIT A - RESOLUTION 49-2004

**PIPE REPLACEMENT AGREEMENT FOR
AUDITOR'S PERMANENT PARCEL NUMBER
M5820-044-000.008**

This Agreement made this 10th day of August, 2004, by and between The Board of Township Trustees of West Chester Township, Butler County, Ohio ("Trustees") and Rieman and Arszman Dry Wall Company, by and through Richard Arszman and Rose Marie Rieman ("Owners"), regarding property owned in fee simple by Owners at 5177 Duff Drive, in West Chester Township, Butler County, Ohio, 45056.

1. Township, by and through the Butler County Engineer, shall remove and replace the undersized pipes with 24" pipe and install catch basins and trench drains across the existing driveway approach to Duff Drive. Such work is described in the preliminary plans and cost estimate prepared by the Butler County Engineer's Office and attached in a letter, dated April 6, 2004, to Owners from the Butler County Engineer's Office; see Attached Exhibit.
2. The expenses incurred with said project will, in the first instance, be paid out of funds allocated to the Butler County Engineer's Office, and the Owners shall provide reimbursement for the project expenses through an assessment against, and placed upon the tax duplicate for, Owners' said property, to wit: Auditor's Permanent Parcel Number M5820-044-000.008, and shall be payable, without interest, in 14 equal semi-annual installments, in the same manner as real estate taxes.
3. Owners agree to provide to the Board of Commissioners of Butler County, Ohio, any and all permanent and/or temporary easements across said property, as are necessary to complete the project described herein.
4. Trustees agree to restore those areas of Owners' driveway and adjacent property affected by the project to as close to their current condition as is reasonable practicable.
5. Owners shall be responsible for all future maintenance of the piped frontage and shall hold Township, the Butler County Engineer's Office and the Board of Commissioners of Butler County, Ohio harmless against any and all claims for personal injury or property damages resulting therefrom.

IN WITNESS WHEREOF, the Board of Township Trustees of West Chester Township, Butler County, Ohio, by Patricia Williams, its duly authorized representative in accordance with its Resolution 49-2004 and Owners have set their respective binding hands hereto on the dates indicated below.

In Presence Of:

Dale Steward 8/16/04
Date

Richard J. Arszman 8/16/04
Richard J. Arszman Date

Dale Steward 8/16/04
Date

Rose Marie Rieman 8/16/04
Rose Marie Rieman Date

Patricia Williams 8.10.04
Date

West Chester Township 8.10.04
West Chester Township Date

State of Ohio, County of Butler, SS:

Before me, a Notary Public, in and for said County and State, personally appeared Richard J. Arszman and Rose Maire Reiman, Owners in the foregoing Agreement, who acknowledged that he/she did sign the foregoing instrument and that the same is his/her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and Official Seal at WEST CHESTER TOWNSHIP

this 10th day of August, 2004.

Notary Public

My Commission Expires:

PATRICIA WILLIAMS, Notary Public
In and for the State of Ohio
My Commission Expires Sept. 10, 2006

EXHIBIT B – RESOLUTION 49-2004

**PIPE REPLACEMENT AGREEMENT FOR
AUDITOR'S PERMANENT PARCEL NUMBERS
M5820-044-000.014, M5820-044-000.015, M5820-044-000.004, AND M5820-044-000.010**

This Agreement made this 10th day of August, 2004, by and between The Board of Township Trustees of West Chester Township, Butler County, Ohio ("Trustees") and Joseph James LLC, by and through Ed Brill, ("Owner"), the business address of which is 9900 Carver Road, Suite 102 Cincinnati, Ohio 45242, regarding property owned in fee simple by Owner at 5183, 5187 and 5189 and 5225 Duff Drive, in West Chester Township, Butler County.

1. Township, by and through the Butler County Engineer, shall remove and replace the undersized pipes with 24" pipe and install catch basins and trench drains across the existing driveway approach to Duff Drive. Such work is described in the preliminary plans and cost estimate prepared by the Butler County Engineer's Office and attached in a letter, dated April 6, 2004, to Owners from the Butler County Engineer's Office; see Attached Exhibit.
2. The expenses incurred with said project will, in the first instance, be paid out of funds allocated to the Butler County Engineer's Office, and the Owners shall provide reimbursement for the project expenses through an assessment against, and placed upon the tax duplicate for, Owners' said property, to wit: Auditor's Permanent Parcel Numbers M5820-044-000.014, M5820-044-000.015, M5820-044-000.004, and M5820-044-000.010, and shall be payable, without interest, in 14 equal semi-annual installments, in the same manner as real estate taxes.
3. Owners agree to provide to the Board of Commissioners of Butler County, Ohio, any and all permanent and/or temporary easements across said property, as are necessary to complete the project described herein.
4. Trustees agree to restore those areas of Owners' driveway and adjacent property affected by the project to as close to their current condition as is reasonable practicable.
5. Owners shall be responsible for all future maintenance of the piped frontage and shall hold Township, the Butler County Engineer's Office and the Board of Commissioners of Butler County, Ohio harmless against any and all claims for personal injury or property damages resulting therefrom.

IN WITNESS WHEREOF, the Board of Township Trustees of West Chester Township, Butler County, Ohio, by PATRICIA WILLIAMS, its duly authorized representative in accordance with its Resolution 49-2004 and Owners have set their respective binding hands hereto on the dates indicated below.

In Presence Of:

Dale Steward 8/16/04
Date

Ed Brill
Ed Brill

8/16/04
Date

Justin Clark 8.10.04
Date

[Signature]
West Chester Township

8.10.04
Date

State of Ohio, County of Butler, SS:

Before me, a Notary Public, in and for said County and State, personally appeared Ed Brill, Owner in the foregoing Agreement, who acknowledged that he/she did sign the foregoing instrument and that the same is his/her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and Official Seal at WEST CHESTER TOWNSHIP

this 10th day of August, 2004.

Notary Public

My Commission Expires:

PATRICIA WILLIAMS, Notary Public
In and for the State of Ohio
My Commission Expires Sept. 10, 2006

BUTLER COUNTY ENGINEER'S OFFICE



GREGORY J. WILKENS, PE, PS. BUTLER COUNTY ENGINEER

April 6, 2004

Ms. Rose Rieman
5764 Valley Forge Drive
Fairfield, OH 45014

RE: 5177 DUFF DRIVE
PARCEL # M5820044000008

Dear Ms. Rieman:

Please find and review the enclosed plans and cost estimate for the repair and replacement of the existing piped frontage at 5177 Duff Drive. As per our previous discussions, the Butler County Engineer's Office will supply all of the materials and labor needed to replace the existing piped frontage and will recover the costs by tax duplication.

Please note that if you agree for BCEO to perform the work, we will require a written and signed letter containing the following:

1. A Request for BCEO to perform the work
2. A Request for Butler County to recover the cost by tax duplication
3. Acceptance of all future maintenance of the piped frontage
4. That Butler County and the Engineer's Office shall be held harmless and be defended against any and all claims for personal injury or property damages that might be brought as a result of the work described

We have contacted the Prosecutor's Office and requested an opinion for how many years the cost can spread over on the property taxes. When we receive the opinion, we can discuss that issue.

If you have any further questions, please contact me at this office.

Sincerely,

A handwritten signature in cursive script that reads 'Dale Steward'.

Dale Steward
Permit / Construction Coordinator

FILE COPY
DO NOT REMOVE

BUTLER COUNTY ENGINEER'S OFFICE



GREGORY J. WILKENS, P.E., I.S. BUTLER COUNTY ENGINEER

April 6, 2004

Rieman & Arszman, Inc.
Attn: Dick Arszman
9652 Inter Ocean Drive
Cincinnati, OH 45246

RE: 5177 DUFF DRIVE
PARCEL # M5820044000008

Dear Mr. Arszman:

Please find and review the enclosed plans and cost estimate for the repair and replacement of the existing piped frontage at 5177 Duff Drive. As per our previous discussions, the Butler County Engineer's Office will supply all of the materials and labor needed to replace the existing piped frontage and will recover the costs by tax duplication.

Please note that if you agree for BCEO to perform the work, we will require a written and signed letter containing the following:

1. A Request for BCEO to perform the work
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If you have any further questions, please contact me at this office.

FILE COPY
DO NOT REMOVE

Sincerely,

Dale Steward

Permit / Construction Coordinator

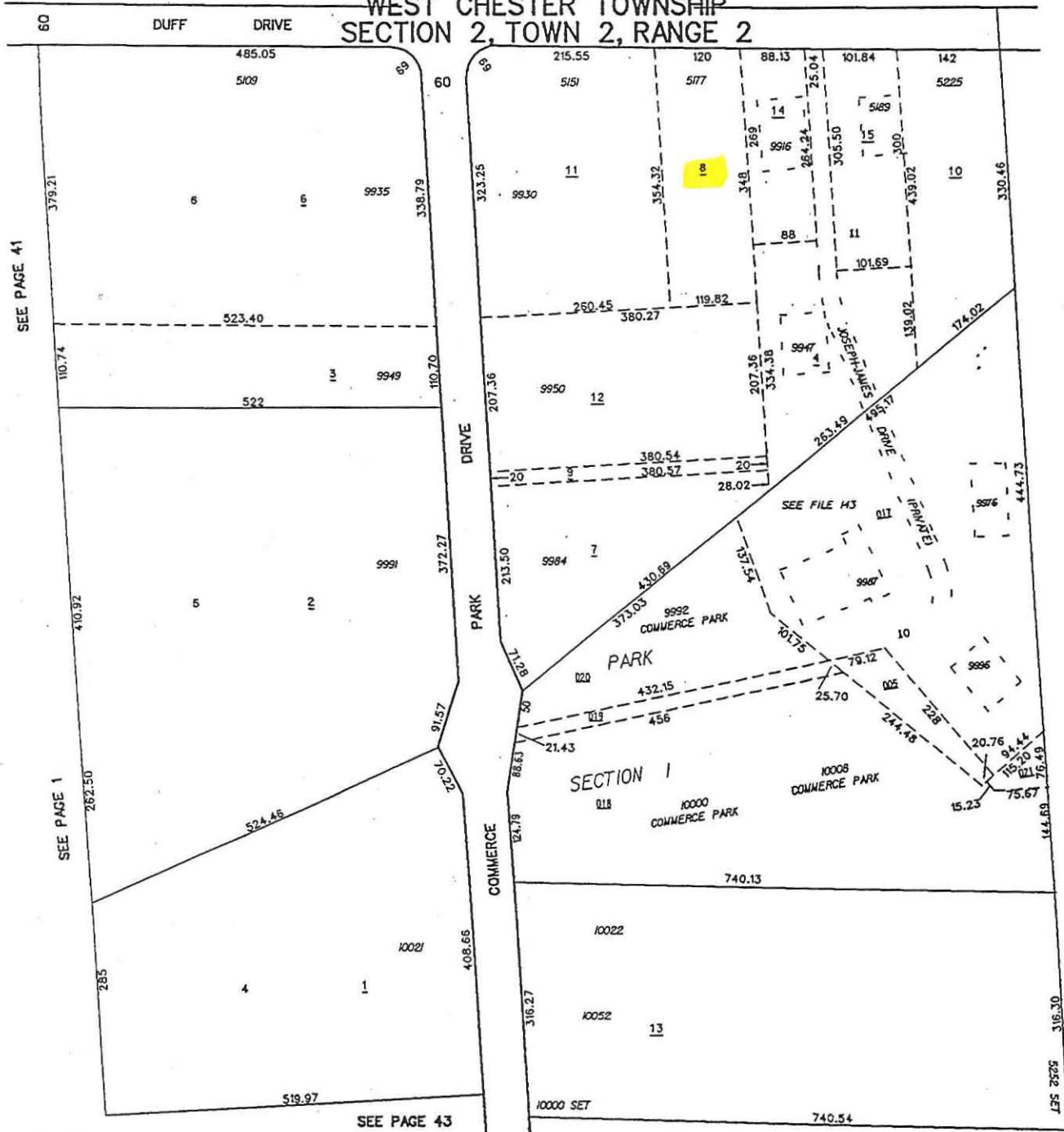
SEE PAGE 45

COMMERCE PARK TRI-COUNTY

WEST CHESTER TOWNSHIP SECTION 2, TOWN 2, RANGE 2

044.000

HOUSE NUMBERS



SEE PAGE 41

SEE PAGE 1

SEE PAGE 43

SEE PAGE 1



SCALE: 1"=100'
TAXING DISTRICT: M5820
REVISED 07/12/00

BUTLER COUNTY ENGINEER'S OFFICE



GREGORY J. WILKENS, PE, P.S. BUTLER COUNTY ENGINEER

April 6, 2004

Green Realty Corp.
Attn: Mr. Ed Brill
9900 Carver Road, Suite 102
Cincinnati, OH 45242

RE: DUFF DRIVE

PARCEL # M5820044000014
PARCEL # M5820044000015
PARCEL # M5820044000004
PARCEL # M5820044000010
PARCEL # M5820044000017

Dear Mr. Brill:

Please find and review the enclosed plans and cost estimate for the repair and replacement of the existing piped frontage at 5183 Duff Drive, 5189 Duff Drive, 5187 James Joseph Drive, 5225 James Joseph Drive and 9996 James Joseph Drive. As per our previous discussions, the Butler County Engineer's Office will supply all of the materials and labor needed to replace the existing piped frontage and will recover the costs by tax duplication. I have tentatively named the two parcels abutting Duff Drive and the three parcels on James Joseph Drive as the parcels to be billed.

Please note that if you agree for BCEO to perform the work, we will require a written and signed letter containing the following;

1. A Request for BCEO to perform the work
2. A Request for Butler County to recover the cost by tax duplication
3. Acceptance of all future maintenance of the piped frontage
4. That Butler County and the Engineer's Office shall be held harmless and be defended against any and all claims for personal injury or property damages that might be brought as a result of the work described

We have contacted the Prosecutor's Office and requested an opinion for how many years the cost can spread over on the property taxes. When we receive the opinion, we can discuss that issue.

If you have any further questions, please contact me at this office.

Sincerely,



Dale Steward
Permit / Construction Coordinator

Ds
Cc: file
Encl.

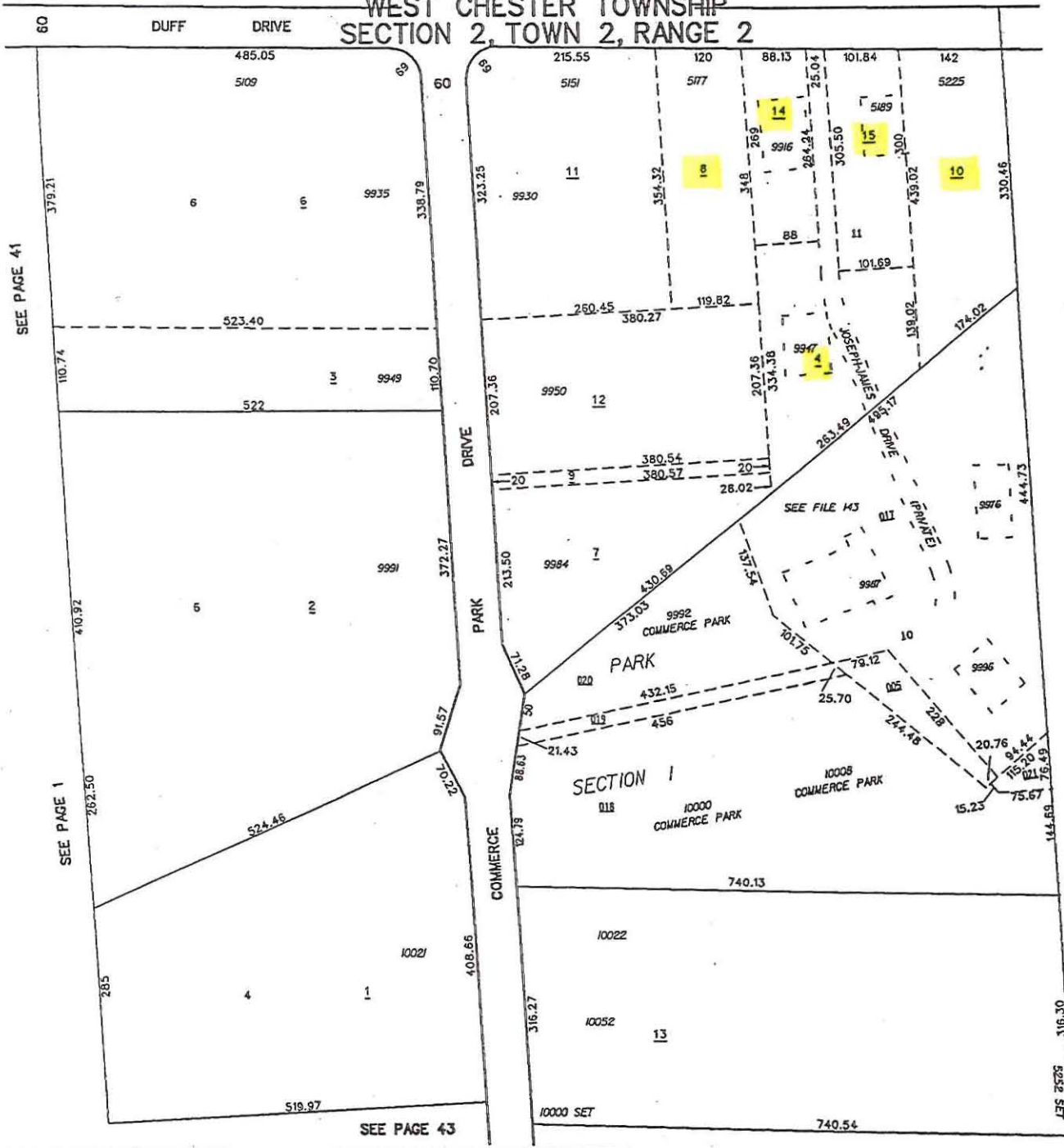
SEE PAGE 45

COMMERCE PARK TRI-COUNTY

WEST CHESTER TOWNSHIP SECTION 2, TOWN 2, RANGE 2

044.000

HOUSE NUMBERS



SCALE: 1"=100'
TAXING DISTRICT: M5820
REVISED 07/12/00