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SUMMARY "BERM HIGHWAY" COURT ORDER

The attached exhibit is a January 29, 1987 Court Order resulting from the construction of the new Mississippi River bridge in Alton and its associated improvements. This order is commonly referred to as the "Berm Highway Order". The Riverfront Area contains the Easton Commons and Russell Commons. The order declared these are dedicated lands, are in public trust, and the Court's responsibility to ensure that the dedicated lands are used in conformity with their dedicator's intentions, and the Court's approval must be obtained.

The City of Alton shall limit and devote the Russell Commons and Easton Commons to park and park-like purposes. The City of Alton shall have the continuing obligation to promote the use of the lands dedicated for park and park-like purposes. The City of Alton will pass the necessary ordinances or resolutions as required to effectuate the purposes of the dedicators of the Commons area.

Both railroads, the Union Pacific and Norfolk Southern, are on the Commons area by permission of the City of Alton.

Alton Commons: Russell Commons & Easton Commons

FILED
CIRCUIT COURT

JAN 29 1987

IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

DEPARTMENT OF TRANSPORTATION OF)
THE STATE OF ILLINOIS (IDOT),)

Plaintiff and Counter-)
Defendant,)

vs.)

CITY OF ALTON, ILLINOIS, a)
Municipal Corporation, and)
Trustee of land dedicated to)
the People of the State of)
Illinois,)

Defendant and Counter-)
Plaintiff,)

vs.)

NEIL F. HARTIGAN, Attorney)
General of the State of)
Illinois for and on behalf of)
the People of the State of)
Illinois; UNKNOWN HEIRS OR)
DEVISEES OF RUFUS EASTON,)
Deceased, A Dedicator of Lands)
to the People of the State of)
Illinois; UNKNOWN HEIRS OR)
DEVISEES OF WILLIAM RUSSELL,)
Deceased, a Dedicator of Lands)
to the People of the State of)
Illinois; and UNKNOWN OWNERS,)

Defendants & Counter-)
Defendants,)

and)

ROBERT CARROLL, SAM THAMES,)
CHINO BOB DESHERLIA and CARL)
MADDOCK, Intervenor and owners)
of land adjacent to lands dedi-)
cated to the People of the)
State of Illinois,)

Intervening Defendants)
and Counter-Defendants)

No. 80-CH-223

and)
)
)
 ALTON BROOKS EASTON, As heir of)
 RUFUS EASTON, Deceased,)
 Dedicator of land to the People)
 of the State of Illinois,)
)
 Defendant and Counter-)
 Defendant.)

O R D E R

This matter comes on for hearing on all pending matters pursuant to notice. Present in open court are The Department of Transportation of the State of Illinois represented by Joe Hill, Special Assistant Attorney General, and Roy Frazier, Assistant Attorney General, Neil F. Hartigan, Attorney General of the State of Illinois, represented by George P. Wittman, Special Assistant Attorney General (Charitable Trust Division), Robert Carroll, Sam Thames, Chino Bob DeSherlia, Carl Maddock and Alton Brooks Easton represented by David Lincoln Ader and the City of Alton, Illinois, represented by Steven N. Mottaz.

Mr. Ader reported to the Court that Carl Maddock is deceased and that Chino Bob DeSherlia moves to be dismissed as a party. Motion is allowed. Carl Maddock and Chino Bob DeSherlia are hereby dismissed as Intervening Defendants and Counter-Defendants.

The Court, after hearing the evidence and reviewing the various stipulations of the parties finds that all pending motions are rendered moot. The Court further finds as follows:

1. The Department of Transportation of the State of Illinois, for and on behalf of the People of the State of Illinois, needs a place at the City of Alton, Illinois, to build a bridge over the Mississippi River between Missouri and Illinois and access roads to the bridge, in order to replace the deteriorated and obsolete Clark Bridge.

2. The construction of this replacement bridge will make possible an alternative alignment for Illinois Route 3 (FAP 2) (commonly referred to as the "Berm Highway" along Front Street), and the abandonment of that previously-planned alignment that would cut directly through those parcels of land hereinafter referred to as the Easton Commons and the Russell Commons, which gave rise to this lawsuit.

3. The land designated as "common or promenade to be used in common," "reserved," and "ground for use of landing" on that plat for the original town of Alton, Illinois, filed by Rufus Easton, and platted of record in Plat Book C, page 395, and thereafter recopied in Plat Book 7, page 64, in the Recorder's Office of Madison County, Illinois, (attached hereto and made a part hereof as Exhibit "A") (hereinafter referred to collectively as the "Easton Commons"), has been construed to be the object of a common law dedication, in vesting the City of Alton, Illinois, with the property so designated solely as trustee to be used according to the dedicators' original intention which was for park and park-like purposes.

4. The land designated as "public city commons" on that plat for William Russell's addition to Alton, Illinois, platted of record in Record Book J, page 209, of the Recorder's Office of Madison County, Illinois, (attached hereto and made a part hereof as Exhibit "B") (hereinafter referred to as the "Russell Commons"), has been construed to be the object of a common law dedication, investing the City of Alton, Illinois, with the property so designated solely as trustee to be used according to the original dedication which was for park and park-like purposes.

5. The Easton Commons and the Russell Commons, as dedicated lands, are in the public trust, and the uses made of the said lands are therefore subject to the orders and directions of the Court in the exercise of its equitable jurisdiction, and in the fulfillment of the Court's responsibility to ensure that the dedicated lands are used in conformity with their dedicators' intentions, and the Court's approval must therefore be obtained.

6. Over the years, portions of the Easton Commons and the Russell Commons may have been diverted to uses foreign to and not in keeping with the dedicators' intentions as construed and declared by the Courts (see, e.g., City of Alton v. Unknown Heirs, etc., et al, 73 MR 26, aff'd, 95 Ill. App. 3d 107, 424 N.E. 2d 1155, 1160, 1161 (5th Dist. 1981).

7. The stepped plan contained in this Order will, over time, bring about the total return of the dedicated lands to their aforesaid purposes, and, therefore, the plan contained in

this Order is consistent with the obligations of the Court to preserve and protect the corpus of the public trust established by the dedications.

8. An issue in the present litigation is the constitutionality of certain legislation attempting to control the disposition of the lands and constrain the jurisdiction of the Circuit Court in regard to said lands. The parties have expressed through their stipulations a desire to resolve this issue and the other issues pending in this suit, and the Illinois Department of Transportation and the City of Alton wish to construct the Oak Street Bridge (replacement for the Clark Bridge) and Illinois Route 3 (FAP 2), and the Charitable Trust Division of the Illinois Attorney General's Office, Defendant Alton Brooks Easton, and the intervening defendants wish to have the Russell Commons and the Easton Commons returned to the original dedicated purpose of park and park-like uses (including wetlands) as construed in City of Alton vs. Unknown Heirs, etc., et al.

9. The engineering location drawing(s) for the relocation of the said Clark Bridge (the Oak Street Bridge) spanning the Mississippi River, and the designation specified as "Replacement Alternate 6" are attached hereto as Exhibit "C" and made a part hereof.

10. The engineering location drawing(s) for the completion of Illinois Route 3 (FAP 2), Front Street Alignment are attached hereto as Exhibit "D" and made a part hereof. While

the exact location has not been finally determined, Illinois Route 3 will not extend on the Easton Commons any closer to the Mississippi River than the present railroad tracks, which will not have to be relocated any closer to the Mississippi River. Illinois Department of Transportation and the City of Alton, Illinois, will and are ordered to exercise their best efforts to further minimize to the fullest extent possible the amount of land from the Russell Commons and the Easton Commons.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED as follows:

1. The following described property, to the extent that it is required for the construction of the Clark Bridge and Illinois Route 3 (FAP 2), shall be held by the Department of Transportation of the State of Illinois for and in behalf of the People of the State of Illinois, so long as it is used for said bridge and highway. Upon the cessation of the said uses, the said described property will revert to the City of Alton, as per the original dedication, for the uses and purpose for which it was originally dedicated.

Description attached as Exhibit E.

2. The present Clark Bridge will be removed immediately upon completion of the above-referenced bridge and Illinois Route 3, (FAP 2), or in the event Route 3 is not constructed within five (5) years of the completion of the Oak Street Bridge, the present Clark Bridge will be promptly removed, and the property upon which it was located will continue to be

subject to the original dedication by Rufus Easton, and shall be returned to the jurisdiction of the City of Alton as Trustee for the public under said dedication and devoted to park and park-like uses in accordance with the dedication.

3. Any portion of Illinois Route 3 (FAP 2) (formerly known as the Berm Highway) construction, lying on the Russell and Easton Commons, and along the river, which was laid prior to the date of this Order and which will not be incorporated into and used as part of Illinois Route 3 (FAP 2). A reasonable and limited portion of said unused Illinois Route 3 (FAP 2) (formerly known as the Berm Highway) construction may be used for the limited purpose of access to the Russell Commons and/or Easton Commons and parking for those using those Commons for park use. The rest shall be prepared for and returned to park and park-like uses not later than three (3) years from the completion of the Oak Street Bridge and Illinois Route 3 (FAP 2). These properties will continue to be subject to the original dedications and will be returned to the jurisdiction of the City of Alton as trustee for the public under said dedications and devoted to park and park-like uses in accordance with the dedications. If there is a material modification in the location of the bridge and/or Route 3, then this Order shall be modified by the parties in accord with the general principles for settlement evidenced by previous correspondence and court report of proceedings. Notwithstanding the foregoing, in no event shall common land be applied to a discontinued or unused project nor shall the bridge or highway be

changed significantly in such a manner as to occupy a greater amount of common land or in a manner which causes greater severance or disruption to the common land unless mutually agreed to by all of the parties hereto or their successors in interest.

The duties of the City of Alton with regard to this property shall be identical to that specified in paragraph 5 hereof with regard to the other property.

4. The City of Alton will use its best efforts to obtain the present surrender by the railroads of any unnecessary trackage located on the Russell Commons and Easton Commons, and will continue to exercise its best efforts to have the existing railroad uses of the Russell Commons and Easton Commons terminated at the earliest practicable time.

5. The City of Alton shall limit and devote the Russell Commons and Easton Commons to park and park-like purposes (including wet lands). The City of Alton shall recover and use for said purposes all property in the Russell Commons not occupied by the Oak Street Bridge, Route 3, or other structure or use permitted to temporarily remain under this Order.

6. All uses presently existing on the Russell Commons and Easton Commons which are not consistent with the original dedication shall be removed from the Russell Commons and Easton Commons, and those areas from which they are removed shall be returned to said uses commencing on the date that the construction of the Oak Street Bridge and Illinois Route 3 (FAP 2) Front Street alignment segment is completed, except as

otherwise provided in this Order, unless there is a delay in construction exceeding five (5) years, a material change in the present plans, or an abandonment of the planned construction in which case, this Order shall become subject to modification on the same terms and conditions as expressed in Paragraph 3 hereof. The only uses not in conformity with the park and park-like uses that will be allowed temporarily to remain on the Russell Commons and Easton Commons shall be the City's sewage maintenance garage, necessary railroad tracks, and any utility lines. The railroad tracks shall be phased out in accordance with Paragraph 4 hereof. The sewage maintenance garage shall be allowed to continue in existence so long as it is needed by the City of Alton and the structure remains safe to be used, but the City shall not undertake any major renovation of or build any addition to the said building or otherwise prolong its useful life, so that the use of the building will be subject to attrition and termination through deterioration or obsolescence at the earliest time.

The duties of the City of Alton with regard to this property shall be identical to that specified in paragraph 5 hereof with regard to the other property.

7. The City of Alton shall have the continuing obligation to promote the use of the lands dedicated for park and park-like purposes (including wetlands), and the City of Alton, Illinois, will pass such necessary ordinances or resolutions as may be required to effectuate the purposes of the dedicators of the said properties as declared in City of Alton v. Unknown

Heirs, etc., et al, 73 MR 26, aff'd 95 Ill. App. 3d 107, 424 N.E. 2d 1155, 1160, 1161 (5th Dist. 1981). The copies of said duly enacted ordinances or resolutions will be filed with the Court immediately upon their passage and enactment into law.

8. The City of Alton and the individual intervening defendants who are presently parties to this lawsuit at the time of this Order will exercise their best efforts to see that both P.A. 83-477 and P.A. 83-478 are repealed as soon as possible and will cooperate fully in all endeavors to effect said repeal.

9. The City of Alton, Illinois, shall repeal Alton City Ordinances Nos. 4821, 4822, 4823, 4824, 4825, 4830, and all other of its ordinances which were enacted and adopted in reliance upon, or to effectuate, P.A. 83-477 and P.A. 83-478, or which are inconsistent with this Order.

10. All sums of money paid by the Illinois Department of Transportation or any other governmental agency for the land for the construction of the Oak Street Bridge (i.e., Clark Bridge replacement) access roads in the completion of Illinois Route 3 (FAP 2) shall be deposited with the Treasurer of Madison County, Illinois, and withdrawn by appropriate Order by the City of Alton. Any funds so received by the Treasurer of the City of Alton shall be segregated from other City funds and invested until needed, and the principal and all interest shall constitute part of the Russell and Easton Commons trust corpus. Any funds so received shall be held, both principal and interest, to be expended upon the Russell and Easton Commons in a manner

consistent with their dedication and this Order. Before the City of Alton can expend any of these funds, principal or interest, the City of Alton shall seek and obtain appropriate court orders approving the expenditures.

11. The Court shall retain jurisdiction to determine, after hearing, the amount of money to be paid to the Treasurer of Madison County and withdrawn by the City of Alton by the Illinois Department of Transportation, State of Illinois, or any other governmental agency for the said land used, occupied and/or disturbed by the construction of the Oak Street Bridge (i.e., the Clark Bridge replacement), access roads, and the completion of Illinois Route 3 (FAP 2).

12. The City of Alton will not permit any uses on the Russell Commons or Easton Commons not consistent with the original dedication and will not enact any ordinances, approve any leases, or in any other way deal with the premises as either corporate City property or at variance with the said declared dedicators' purposes of park and park-like purposes.

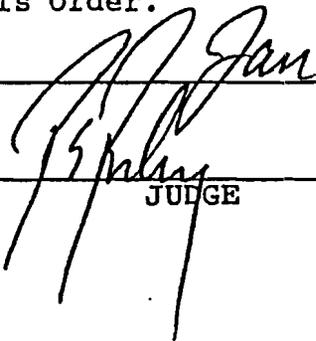
13. This Order shall be enforceable by any heir or devisee of the dedicators, any owner of property adjoining or adjacent to the dedicated lands, as well as the Attorney General and any other party to this litigation.

14. Modifications of this Order shall be only upon application to the Court, and only by agreement of the parties hereto or on clear, cogent and convincing proof of absolute necessity.

15. The Court shall retain full jurisdiction to enforce the provisions of this Order. All parties to this Order shall be notified of all court filings required under this Order, and all actions and proceedings in Court concerning or affecting the subject matter of this Order.

16. The Court finds that there is no just reason for delaying enforcement or appeal of this Order.

ENTERED this 29 day of Jan, 1987.



JUDGE

Copied from Record Book C Page 364 on Jan 16th 1908 and compared

J. H. Branda
 Deputy Recorder

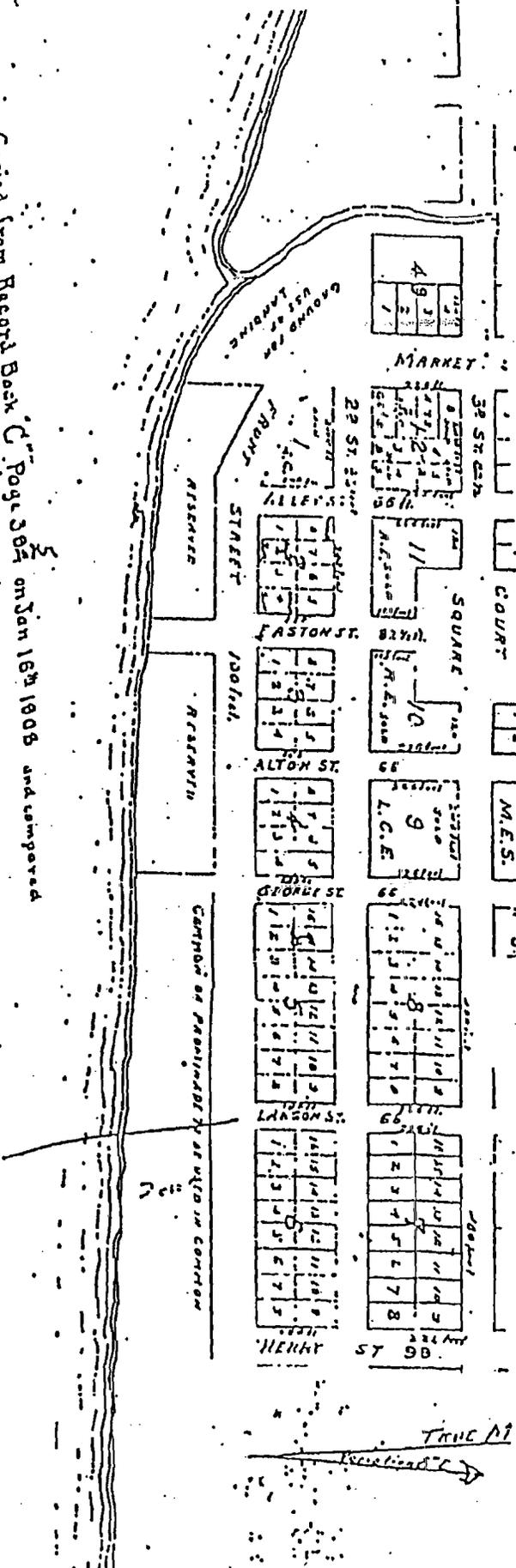
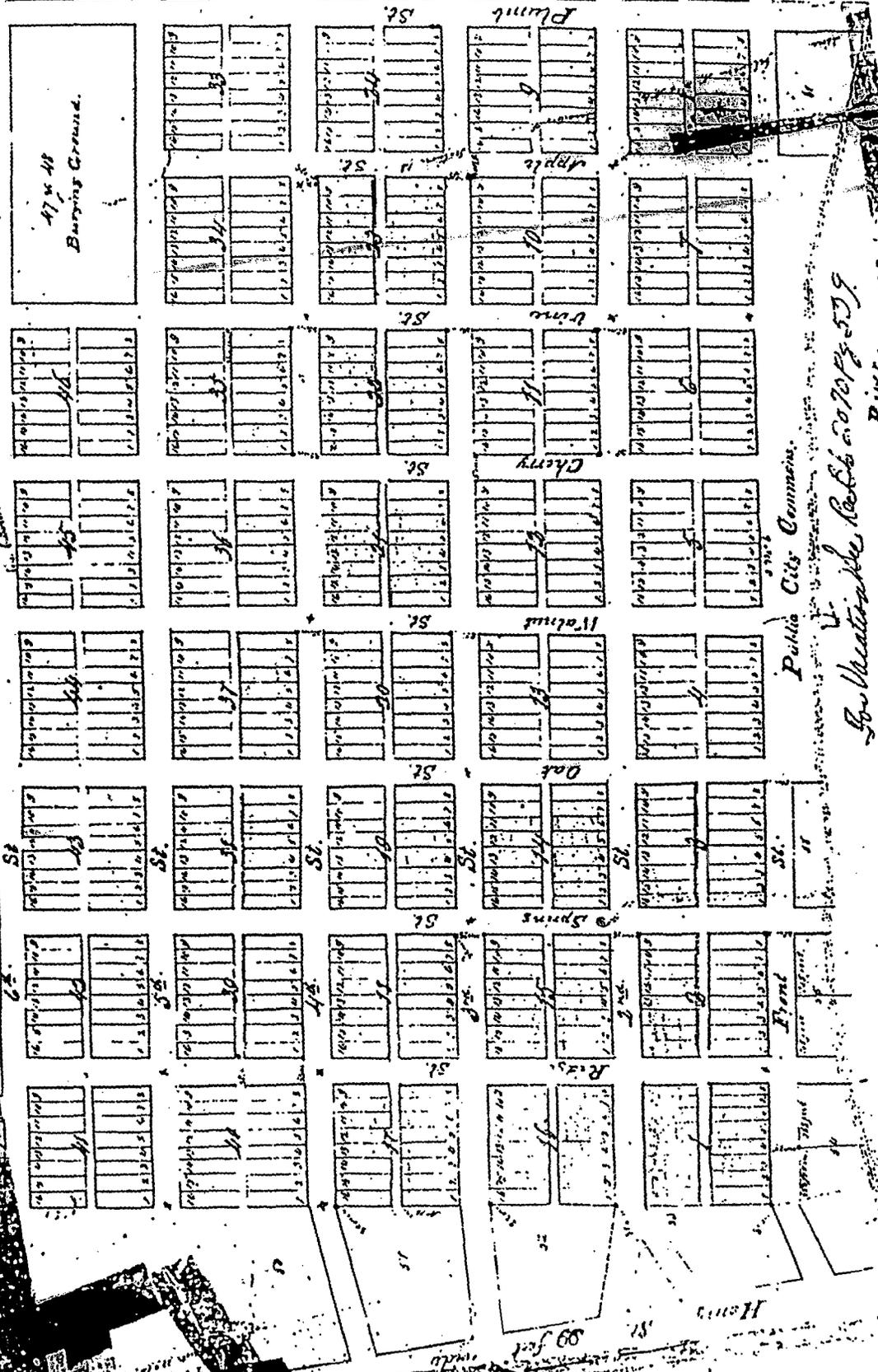


EXHIBIT A

EXHIBIT NO. 3-14

William of Wells Addition to Atlanta included in the
 FOR VACATION SEE BK. 3182 PG. 960
 12/17/80
 5/11/63 (158-4908)
 29650289
 Plot See Record 29650289
 309688/1508

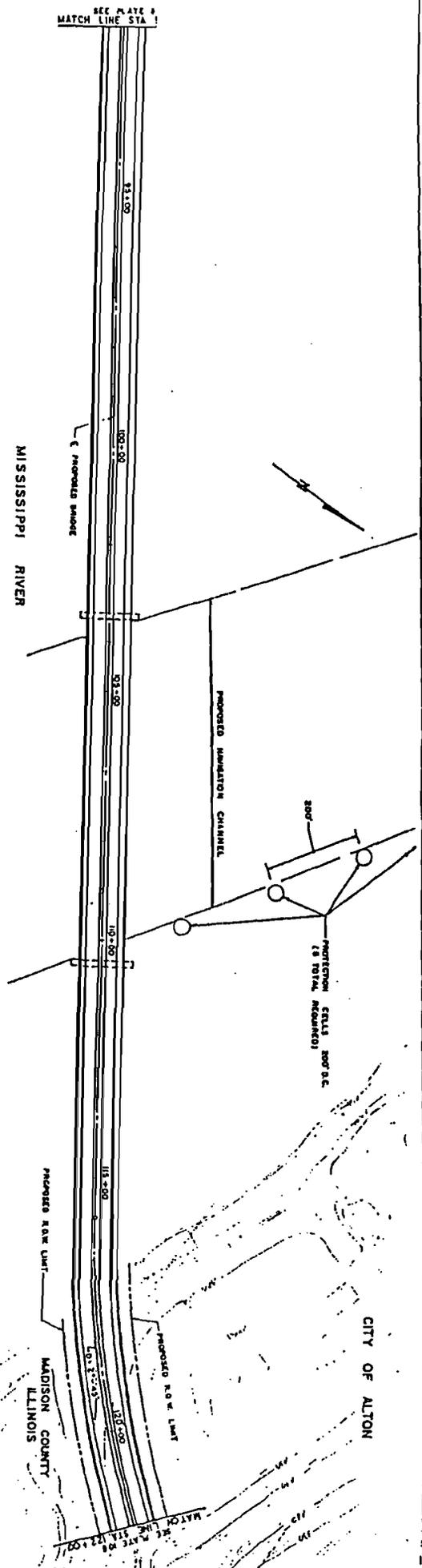


Public City Comm.
 For Vacation See Record 29650289
 157-5349
 Mississippi River

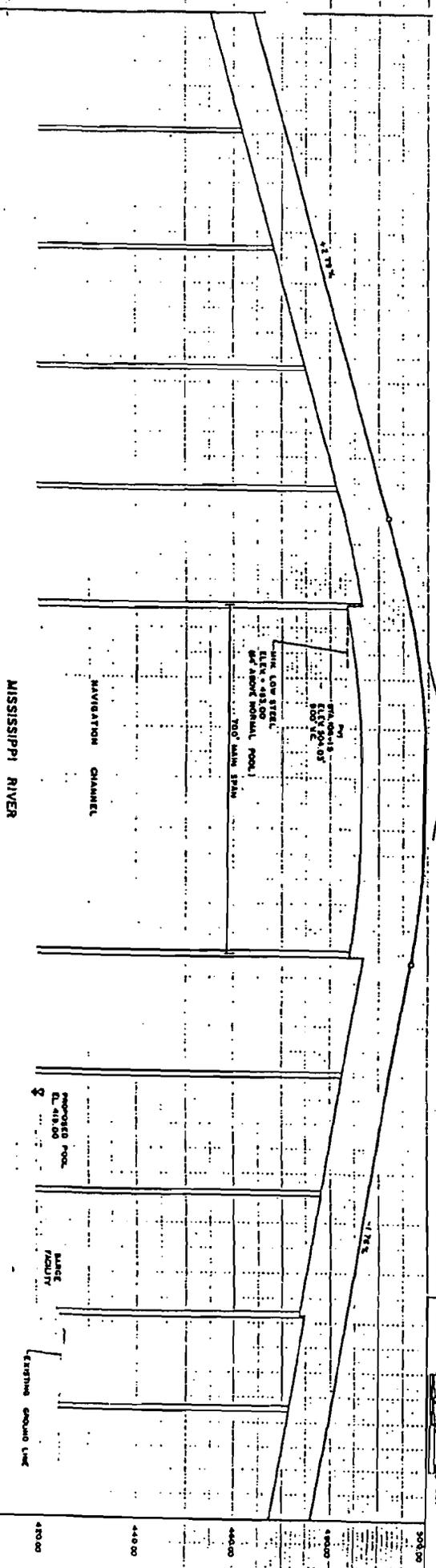
Explanations
 1. The lots shown on this plan are subject to the provisions of the...
 2. The lots shown on this plan are subject to the provisions of the...
 3. The lots shown on this plan are subject to the provisions of the...

EXHIBIT B

J-8+



CLARK BRIDGE REPLACEMENT STUDY
 MADISON COUNTY, ILL. - ST CHARLES COUNTY, MO
ALTERNATE 6
 91+50 TO 122+00
 30' PER FT



De Leuw, Cather & Company
 Engineers and Planners - Chicago

STA. 91+50 TO STA. 122+00

De Lujw, Cather & Company
 Engineers and Planners - Chicago

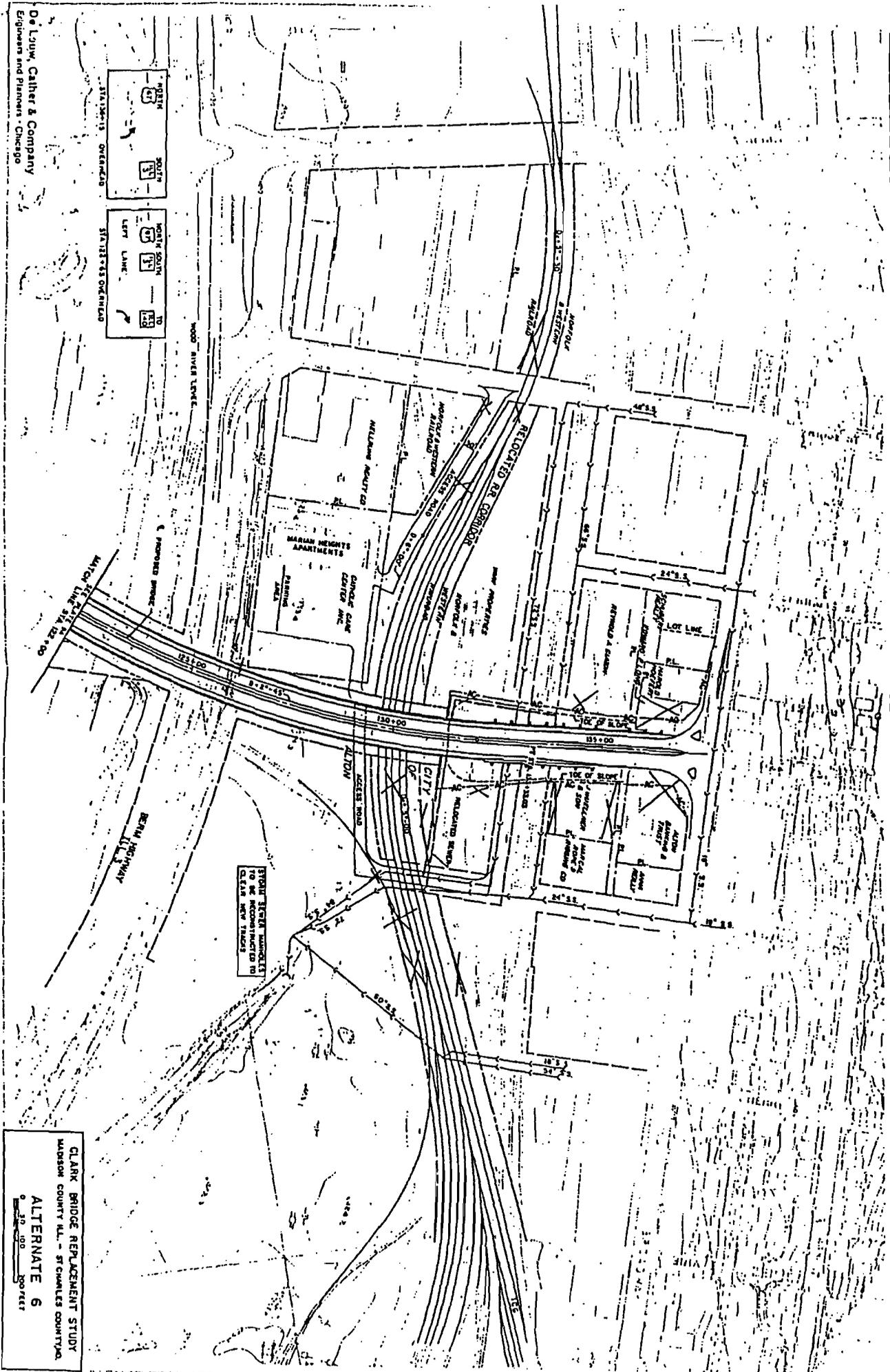
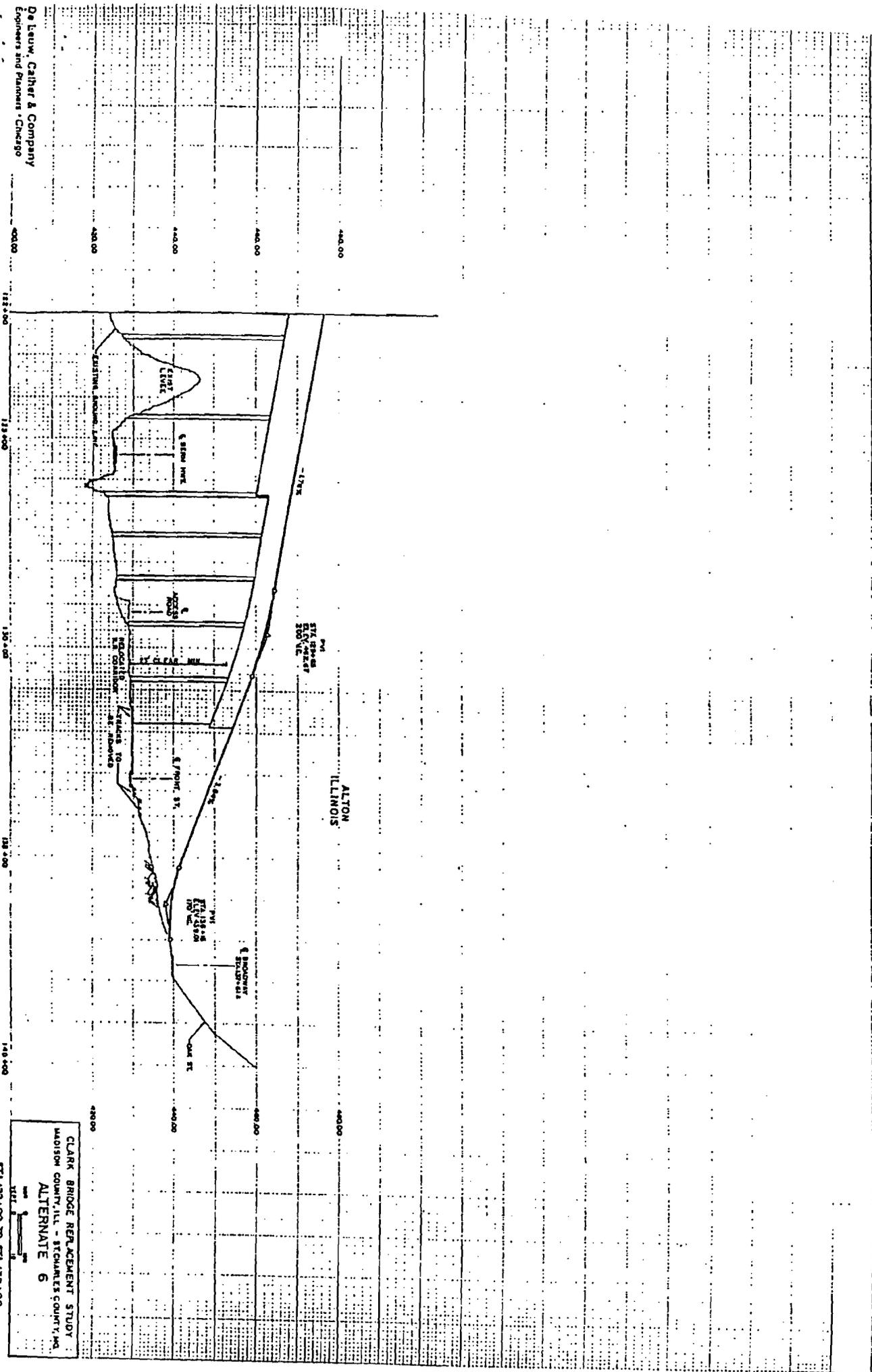


PLATE 10B

CLARK BRIDGE REPLACEMENT STUDY
 MADISON COUNTY ILL. - ST. CHARLES COUNTY, MO.
 ALTERNATE 6
 0 30 000 FEET
 STA. 122+00 TO STA. 138+00



De Leuw, Cather & Company
Engineers and Planners - Chicago

Route 3 Completion

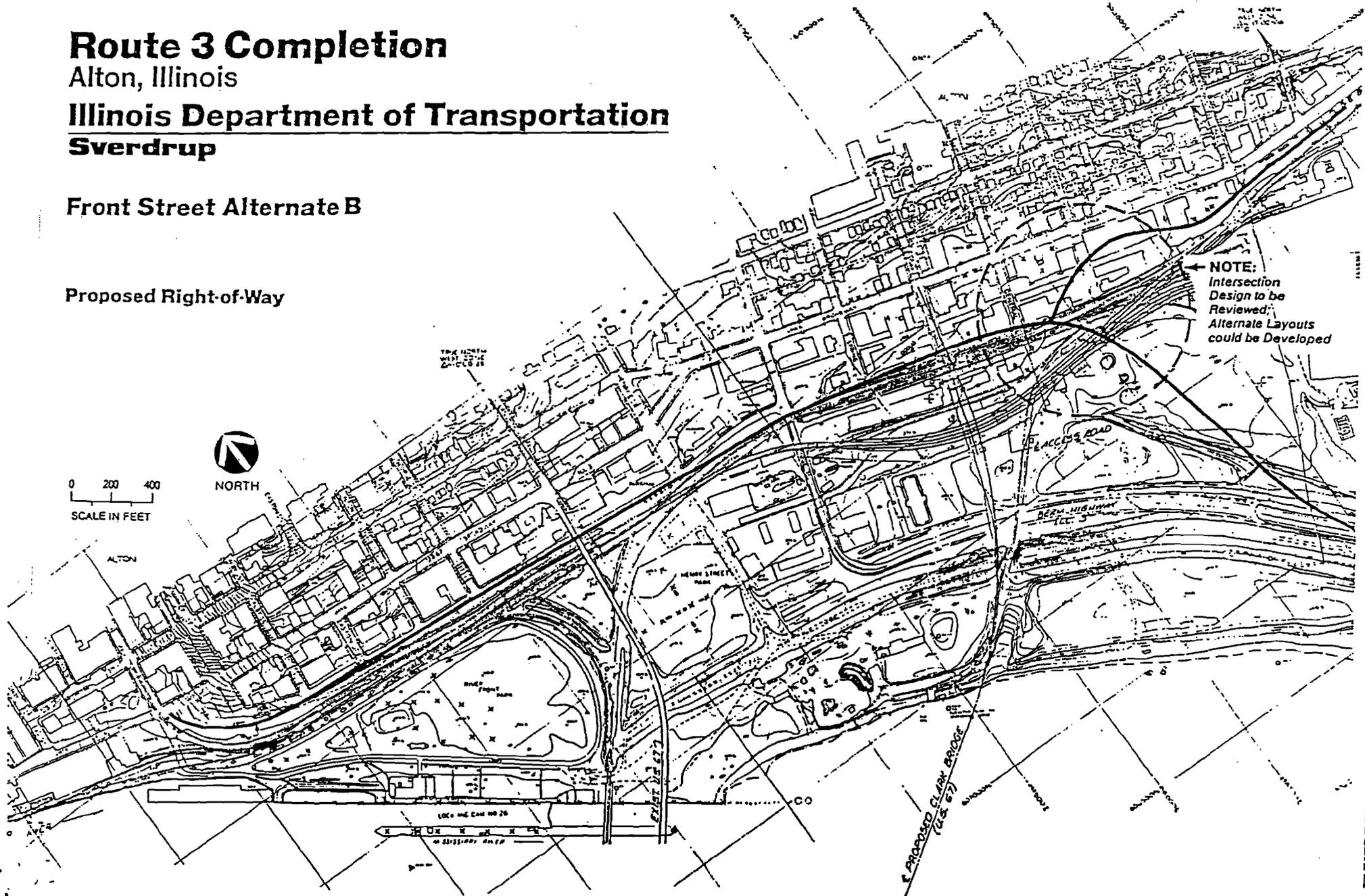
Alton, Illinois

Illinois Department of Transportation

Sverdrup

Front Street Alternate B

Proposed Right-of-Way



Parcel 8526013
Route FAP 10
Section 100
Madison County
Sta. 243+93.93 to Sta. 254+55, Non-Freeway
Sta. 254+55 to Sta. 256+71.55, Freeway
Sta. 19+66.30 to Sta. 34+99.53, R.R., Non-Freeway
City of Alton Public Commons

A part of the Northwest Quarter of Section 13, Township 5 North, Range 10 West of the Third Principal Meridian in Madison County, Illinois, described as follows:

Beginning at the southeast corner of Block 3 of Hunter's or Russell's Addition to the City of Alton, as the same appears from plat thereof recorded in Alton Record J, page 209 and Plat Book 4, page 42, thence South 73 degrees 30 minutes 15 seconds East, 66.00 feet; thence South 73 degrees 26 minutes 45 seconds East, 88.71 feet; thence South 04 degrees 22 minutes 14 seconds West, 96.52 feet; thence South 11 degrees 34 minutes 00 seconds West, 204.61 feet to a point on a 1,066.28 foot radius curve, the center of circle of said curve bears North 06 degrees 13 minutes 54 seconds East from said point; thence easterly along said curve 233.08 feet, central angle 12 degrees 31 minutes 27 seconds; thence North 83 degrees 42 minutes 26 seconds East, 596.92 feet; thence South 73 degrees 26 minutes 54 seconds East, 118.76 feet; thence South 16 degrees 33 minutes 06 seconds West, 23.70 feet to a point on a 3,837.18 foot radius curve, the center of circle of said curve bears South 21 degrees 48 minutes 29 seconds West from said point; thence southeasterly along said curve 318.51 feet, central angle 04 degrees 45 minutes 21 seconds; thence South 73 degrees 26 minutes 54 seconds East, 216.85 feet; thence South 16 degrees 33 minutes 18 seconds West, 120.46 feet; thence North 67 degrees 13 minutes 54 seconds West, 271.63 feet to a point on a 1,075.28 foot radius curve, the center of circle of said curve bears South 22 degrees 46 minutes 06 seconds West from said point; thence northwesterly along said curve 527.64 feet, central angle 28 degrees 06 minutes 54 seconds; thence South 84 degrees 39 minutes 12 seconds West, 402.81 feet to a point on a 1217.28 foot radius curve, the center of circle of said curve bears North 5 degrees 20 minutes 48 seconds West from said point; thence southwesterly along said curve 300.09 feet, central angle 14 degrees 07 minutes 20 seconds; to a point on a 1,984.86 foot radius curve, the center of circle of said curve bears North 74 degrees 23 minutes 58 seconds West from said point; thence southwesterly along said curve 846.84 feet, central angle 24 degrees 20 minutes 43 seconds; thence North 16 degrees 27 minutes 09 seconds East, 1,279.42 feet to the point of beginning.

Said parcel contains 353,869 square feet (8.812 acres) more or less.

The bearings are based on the Illinois State Plane Coordinates West Zone established by the Illinois Division of Highways survey.

Parcel 8526013 P.E.
Route FAP 10
Section 100
Madison County
Sta. 249+03.10 to Sta. 252+69.05
City of Alton Public Commons
Non-Freeway

A part of the Northwest Quarter of Section 13, Township 5 North, Range 10 West of the Third Principal Meridian in Madison County, Illinois, described as follows:

Commencing at the southeast corner of Block 3 of Hunter's or Russell's Addition to the City of Alton as the same appears from plat thereof recorded in Alton Reocrd J, page 209 and Plat Book 4, page 42, thence South 16 degrees 27 minutes 09 seconds West, 642.51 feet; thence South 73 degrees 32 minutes 51 seconds East, 159.66 feet to the point of beginning; thence South 49 degrees 40 minutes 21 seconds East, 23.55 feet; thence North 40 degrees 19 minutes 39 seconds East, 103.40 feet to a point on a 508.34 foot radius curve, the center of circle of said curve bears South 49 degrees 40 minutes 21 seconds East from said point; thence northeasterly along said curve 153.95 feet, central angle 17 degrees 21 minutes 06 seconds to a point on a 1217.28 foot radius curve, the center of circle of said curve bears North 2 degrees 04 minutes 02 seconds East from said point; thence easterly along said curve 157.51 feet, central angle 7 degrees 24 minutes 50 seconds; thence North 84 degrees 39 minutes 12 seconds East, 3.63 feet to a point on a 448.34 foot radius curve, the center of circle of said curve bears South 14 degrees 18 minutes 45 seconds East from said point; thence southwesterly along said curve 276.69 feet, central angle of 35 degrees 21 minutes 36 seconds; thence South 40 degrees 19 minutes 39 seconds West, 103.40 feet; thence South 49 degrees 40 minutes 21 seconds East, 30.00 feet; thence South 25 degrees 52 minutes 18 seconds West, 99.95 feet to a point on a 2964.79 foot radius curve, the center of circle of said curve bears South 25 degrees 52 minutes 18 seconds West from said point; thence northeasterly along said curve 103.18 feet, central angle 1 degree 59 minutes 39 seconds to a point on a 1984.96 foot radius curve, the center of circle of said curve bears North 65 degrees 14 minutes 04 seconds West from said point; thence northeasterly along said curve 130.30 feet, central angle 3 degrees 45 minutes 40 seconds to the point of beginning.

Said parcel contains 30,339 square feet (0.696 acres) more or less.

The bearings are based on the Illinois State Plane Coordinates West Zone established by the Illinois Division of Highways survey.

Parcel 8526013 T.E.-1
Route FAP 10
Section 100
Madison County
Sta. 250+21.24 to Sta. 252+31.40
City of Alton Public Commons

A part of the Northwest Quarter of Section 13, Township 5 North, Range 10 West of the Third Principal Meridian in Madison County, Illinois, described as follows:

Commencing at the southeast corner of Block 3 of Hunter's or Russell's Addition to the City of Alton as the same appears from plat thereof recorded in Alton Record J, page 209 and Plat Book 4, page 42, thence South 16 degrees 27 minutes 09 seconds West, 642.51 feet; thence South 73 degrees 32 minutes 51 seconds East, 159.66 feet to the point of beginning, and a point on a 1,984.86 foot radius curve, the center of circle of said curve bears North 68 degrees 59 minutes 44 seconds West from said point; thence northeasterly along said curve 157.20 feet, central angle 05 degrees 24 minutes 14 seconds to a point on a 1217.28 foot radius curve, the center of circle of said curve bears North 08 degrees 46 minutes 40 seconds East from said point; thence southeasterly along said curve 142.57 feet, central angle 06 degrees 42 minutes 38 seconds to a point on a 508.34 foot radius curve, the center of circle of said curve bears South 32 degrees 19 minutes 15 seconds East from said point; thence southwesterly along said curve 153.95 feet, central angle 17 degrees 21 minutes 06 seconds; thence South 40 degrees 19 minutes 39 seconds West, 103.40 feet; thence North 49 degrees 40 minutes 21 seconds West, 23.55 feet to the point of beginning.

Said parcel contains 13,734 square feet (0.315 acres) more or less.

The bearings are based on the Illinois State Plane Coordinates West Zone established by the Illinois Division of Highways survey.