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RETURN RECORDED DOCUMENT TO:

Walgreen Co.  
Real Estate Law Department  
104 Wilmot Road, 2<sup>nd</sup> Floor  
MS #1420  
Deerfield, Illinois 60015  
Attn: Jennifer Pautler



Doc#: 0826933003 Fee: \$170.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 09/25/2008 08:26 AM Pg: 1 of 30

8454159028

DECLARATION OF EASEMENT

THIS DECLARATION OF EASEMENT (the "Declaration") is made and entered into this 8<sup>th</sup> day of June, 2007, by Chicago Title Land Trust Company, as Successor Trustee to LaSalle Bank National Association, formerly known as LaSalle National Bank, as successor trustee to LaSalle National Trust, N.A., not personally but as Trustee under Trust Agreement dated February 1, 1974 known as Trust No. 45786 ("Declarant")

RECITALS

- A. Declarant is the owner of that certain real property situated in the City of Norridge, County of Cook, State of Illinois, more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference, which real property is made up of two parcels, legally described on Exhibit "A" and referred to herein individually as "Parcel A" and "Parcel B," and collectively as the "Parcels".
- B. Declarant intends to develop Parcel B for use by Walgreen (hereinafter defined) and has previously developed Parcel A as a retail/commercial site.
- C. Declarant desires to impose certain easements upon the Parcels, and to establish certain covenants, conditions and restrictions with respect to said Parcels, for the mutual and reciprocal benefit and complement of Parcel A and Parcel B and the present and future owners and occupants thereof, on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the above premises and of the covenants herein contained, the Declarant does hereby declare that the Parcels and all present and future owners and occupants of the Parcels shall be and hereby are subject to the terms, easements, hereinafter set forth in this Declaration, so that said Parcels shall be maintained, kept, sold and used in full compliance with and subject to this Declaration and, in connection therewith, Declarant covenants and agrees as follows:

Box 400-CTCC

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## AGREEMENTS

1. Definitions. For purposes hereof:

- (a) The term "Owner" or "Owners" shall mean the Declarant and any and all successors or assigns of such persons as the owner or owners of fee simple title to all or any portion of the real property covered hereby, whether by sale, assignment, inheritance, operation of law, trustee's sale, foreclosure, or otherwise, but not including the holder of any lien or encumbrance on such real property.
- (b) The term "Parcel" or "Parcels" shall mean each separately identified parcel of real property now constituting a part of the real property subjected to this Declaration as legally described on Exhibit "A" and identified on the Site Plan (defined hereinbelow), that is, Parcel A and Parcel B, and any future subdivisions thereof.
- (c) The term "Permittees" shall mean the tenant(s) or occupant(s) of a Parcel, and the respective employees, agents, contractors, customers, invitees and licensees of (i) the Owner of such Parcel, and/or (ii) such tenant(s) or occupant(s).
- (d) The term "Driveway" shall mean the driveway and related driveway improvements, paving, curbing, entrances and exits located on Parcel A in the location shown on the Site Plan.
- (e) The term "Walgreen" or "Walgreens" shall mean Walgreen Co., an Illinois corporation (or any of its affiliates, subsidiaries, successors or assigns). Walgreen shall be deemed a third party beneficiary to this Declaration.
- (f) The term "Walgreen Lease" or "Walgreens Lease" shall mean that lease of Parcel B from Declarant, as landlord, to Walgreen as tenant, and any amendments, extensions or replacements thereof.
- (g) The term "Site Plan" shall mean that site plan of Parcel B and a portion of Parcel A attached hereto as Exhibit "B" and by reference made a part hereof. Except as may be otherwise provided in this Declaration, the Site Plan is for identification purposes only.
- (h) The term "Common Area" shall mean those portions of Parcel A and Parcel B that are outside of exterior walls of buildings or other

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structures from time to time located on the Parcels, and which are either unimproved, or are improved as (without limitation) parking areas, landscaped areas, driveways, roadways, walkways, light standards, curbing, paving, entrances, exits and other similar exterior site improvements.

## 2. Easements.

2.1 Driveway Easement. Subject to any express conditions, limitations or reservations contained herein, Declarant hereby declares that the Parcel B, and all Owners and Permittees of Parcel B, as applicable, shall be benefited and Parcel A, and all Owners and Permittees of Parcel B, as applicable, shall be burdened by a nonexclusive, perpetual easement for reasonable access, ingress and egress over the Driveway as presently or hereafter constructed so as to provide for the passage of motor vehicles to and from all abutting streets or rights of way furnishing access to Parcel B.

## 2.2 Pylon Sign Easements.

(a) Subject to any express conditions, limitations or reservations contained herein, Declarant hereby declares that Parcel B, and all Owners and Permittees of Parcel B, as applicable, shall be burdened by a perpetual exclusive easement for the benefit of the Parcel A Owner upon that part of Parcel B shown on the Site Plan for the construction, reconstruction, replacement, operation, maintenance and repair of a shared pylon sign (the "Shared Pylon Sign"), and over other portions of Parcel B as reasonably required for installation and maintenance of electrical conduit to light the Shared Pylon Sign (subject to Section 2.4 below). Such Easement shall also include an easement upon such Shared Pylon Sign benefiting Parcel B whereby the Owner and/or their respective Permittees of Parcel B may erect and maintain upon such Shared Pylon Sign a readerboard and sign panel as hereafter approved by Parcel A Owner, in its discretion (the "Parcel B Signs"). Such Shared Pylon Sign, and the Parcel B Signs hereby approved are reflected on the pylon sign rendering attached hereto as Exhibit "C" and incorporated herein. The easement granted herein shall further include the right of reasonable access over, upon and across that part of Parcel B necessary or required to install, replace, maintain, and repair the Shared Pylon Sign. During the continuance of the Walgreen Lease, the Parcel B Signs indicated on Exhibit "C" hereto shall be for Walgreens' sole and exclusive use.

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(b) Subject to any express conditions, limitations or reservations contained herein, Declarant hereby reserves a perpetual exclusive easement upon Parcel B, in exactly that location shown on the Site Plan, for the placement, operation and maintenance of a pylon sign structure of the dimensions, design and appearance as shown on Exhibit "D" attached hereto and incorporated herein (the "Parcel A Sign") The easement hereby granted in this Paragraph shall further include the right of Parcel A Owner to reasonable access over, under, upon and across Parcel B to install, replace, maintain, repair and operate the Parcel A Sign and, subject to the applicable provisions of Paragraphs 2.4 and 2.5 below, such necessary underground utility line serving such sign to be connected to electrical power serving Parcel A (provided the location of such underground line shall be reasonably acceptable to Parcel B Owner (and Walgreens, during the continuance of the Walgreen Lease). Such Parcel A Sign shall have been erected as of the date hereof, and during the term hereof, the maintenance, repair, replacement and lighting thereof shall be solely the obligation of Parcel A Owner, at its/their sole cost and expense. Such Parcel A Sign shall be used only for the purpose of identifying the name of businesses then operating in the Shopping Center; provided, however, that there shall be no advertisement placed upon such Parcel A Sign which advertises, mentions, refers to or otherwise intimates any of those uses prohibited under Section 5 below.

Neither the height of either the Parcel A Sign itself or the signage upon the Parcel A Sign (measured from the top edge of the uppermost sign panel) nor the overall square footage of all sign facings thereon may be increased by more than 10% (including such an increase by means of the addition of a readerboard) without any consent from Parcel B Owner hereunder, but such consent shall be required for any proposed reduction in the height of signage upon the Parcel A Sign (measured from the bottom edge of the lowermost sign panel (including such a reduction in height by means of the addition of a readerboard) if and to the extent the same impairs the visibility of either the Building(s) then existing upon Parcel B or the Parcel B Signs (as defined in Paragraph 2.2(a) above) then erected upon the Shared Pylon Sign (as defined in Paragraph 2.2(a) above).

## 2.3 Ingress/Egress & Parking.

(a) Subject to any express conditions, limitations or reservations contained herein, Declarant hereby declares that the Parcels, and all Owners and Permittees of the Parcels, as applicable, shall be benefited and burdened by a perpetual, nonexclusive, reciprocal easement for

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reasonable access, ingress and egress over all paved driveways, roadways and walkways as presently or hereafter constructed and constituting a part of the Common Area of Parcel B and the Common Area of Parcel A, so as to provide for the passage of motor vehicles and pedestrians between all portions of the Common Area of such Parcels intended for such purposes, and to and from all abutting streets or rights of way furnishing access to such Parcels;

(l) Subject to any express conditions, limitations or reservations contained herein, Declarant hereby declares that the Parcels, and all Owners and Permittees of the Parcels, as applicable, shall be benefited and burdened by a perpetual, nonexclusive, reciprocal easement for the parking of vehicles in those particular parking areas designated as part of the Common Areas of the Parcels, as the same may be modified or removed from time to time by the Owner of the Parcel upon which the parking areas are located (the "Parking Easement").

2.4 Utility Easement. Subject to any express conditions, limitations or reservations contained herein, Declarant hereby declares that each Parcel, and all Owners and Permittees thereof, as applicable, shall be burdened by a reciprocal, nonexclusive, perpetual easement for the benefit of the other Parcel(s) under and across those parts of the Common Area within a Parcel for the installation, maintenance, repair and replacement of water mains, storm drains, sewers, water sprinkler system lines, telephone or electrical conduits or systems, cable, gas mains and other utility facilities necessary for the orderly development and operation of the Common Areas of another Parcel, or buildings from time to time located upon another Parcel; provided that (i) the rights granted pursuant to such easement shall at all times be exercised in such a manner as to minimize material interference with the normal operation of the burdened Parcel and the businesses conducted therein, (ii) the form of document establishing such utility easement(s) and the exact location of any utilities shall be subject to the approval of the Owner of burdened Parcel (and as to Parcel B, during the continuance of the Walgreen Lease, Walgreen), which approval(s) shall not be unreasonably withheld, conditioned, or delayed and (iii) except in an emergency, the right of the an Owner to enter upon another Parcel hereunder for the exercise of any right pursuant to such easements shall be conditioned upon providing reasonable prior advance written notice to the Owner of burdened Parcel (and as to Parcel B, during the continuance of the Walgreen Lease, to Walgreen) as to the time and manner of entry. All such systems, structures, mains, sewers, conduits, lines and other public utilities shall be installed and maintained below the ground level or surface of a Parcel, except for such parts thereof that cannot and are not intended to be placed below the surface, such as transformers and control panels, the locations of which shall be subject to the prior approval of the

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Owner of the burdened Parcel (and as to Parcel B, during the continuance of the Walgreen Lease, by Walgreen), which approval(s) shall not be unreasonably withheld, conditioned or delayed.

## 2.5 Use of Easements.

(a) The easements herein above granted shall be used and enjoyed by each Owner and its Permittees in such a manner so as not to unreasonably interfere with, obstruct or delay the conduct and operations of the business of any other Owner or its Permittees at any time conducted on its Parcel, including, without limitation, public access to and from said business, and the receipt or delivery of merchandise in connection therewith. Any party doing any construction or other work pursuant to a right granted herein shall, if applicable, properly backfill all excavations restore each applicable Parcel it to its/their original condition as nearly as practicable.

(b) Once utility lines, systems and equipment are installed pursuant to the easements granted in Sections 2.2 and/or 2.4 hereof, no permanent building, structures, trees or other improvements inconsistent with the use and enjoyment of such easements (excluding improvements typically found in common areas of shopping centers) shall be placed over or permitted to encroach upon such utility installations. The Owner of the Parcel served by such installations shall not unreasonably withhold its consent to the reasonable relocation of such installations requested by the Owner of a Parcel where such installations are located, at such requesting Owner's sole cost and expense, so long as utility services to the other Owner's Parcel are not unreasonably interrupted and the remaining provisions of this Section 2.5 are complied with. No such relocation affecting Parcel B or the utility service(s) thereto shall be performed without the consent of Walgreen (during the continuance of the Walgreen Lease), which consent shall not be unreasonably withheld or delayed.

(c) Once commenced, any construction undertaken in reliance upon an easement granted herein shall be diligently prosecuted to completion, so as to minimize any interference with the business of any other Owner and its Permittees. Except in cases of emergency, the right of any Owner to enter upon a Parcel of another Owner for the exercise of any right pursuant to the easements set forth, or to prosecute work on such Owner's own Parcel if the same interferes with utility or easements of ingress, egress or access to or in favor of another Owner's Parcel, shall be undertaken only in such a manner so as to minimize any interference with the business of the other Owner and its Permittees. In such case, no

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affirmative monetary obligation shall be imposed upon the other Owner (and/or, during the continuance of the Walgreen Lease, Walgreen), and the Owner undertaking such work shall with due diligence repair at its sole cost and expense any and all damage caused by such work and restore the affected portion of the Parcel upon which such work is performed to a condition which is equal to or better than the condition which existed prior to the commencement of such work. In addition, the Owner undertaking such work shall pay all costs and expenses associated therewith and shall indemnify and hold harmless the other Owner(s) and its Permittees from all direct, out of pocket losses, liens or claims (but specifically excluding consequential damages) attributable to the performance of such work.

2.6 Indemnification. Each Owner (and Walgreens, as the context requires) having rights with respect to the easement granted hereunder shall indemnify and hold the Owner whose Parcel is subject to the easement (including Walgreen, in the case of the Owner of Parcel B) harmless from and against all claims, liabilities and expenses (including reasonable attorneys' fees) relating to accidents, injuries, loss, or damage of or to any person or property arising from the negligent, intentional or willful acts or omissions of such Owner (or Walgreens, as the context requires), its contractors, employees, agents, or others acting on behalf of such Owner.

2.7 Access Opening. The openings and access points between the Parcels as contemplated pursuant to Sections 2.1 and 2.3(a) above (including without limitation the openings and access points for use of the Driveway) are hereinafter called the "Access Openings." The Access Openings shall in no event be blocked, closed, altered, changed or removed and shall at all times remain in place. There shall be maintained between the Access Openings a smooth and level grade transition to allow the use of the Driveway for pedestrian and vehicular ingress and egress as set forth in Section 2.1 above.

### 3. Maintenance.

3.1 Driveway. Parcel B Owner shall operate and maintain or cause to be operated and maintained at its expense the Driveway in good order, condition and repair, at its sole cost and expense. Parcel B Owner, by the terms of the Walgreens' Lease, shall cause Walgreens, during the continuance of the Walgreen Lease, to operate and maintain or cause to be operated and maintained at its expense the Driveway in good order, condition and repair, at its sole cost and expense.

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Notwithstanding anything in this Section 3.1 to the contrary, at any time after the expiration or earlier termination of the Walgreen Lease, the Owner of Parcel A may, at its election and upon thirty (30) days advance written notice to the Owner of Parcel B, elect to maintain the Driveway. In such event, the Driveway shall be deemed part of the Common Area of Parcel B and the last paragraph of Section 3.2 below shall be operative.

## 3.2 Common Area.

(a) Subject to Section 3.1 above as to the maintenance of the Driveway, each Owner of a Parcel covenants at all times during the term hereof to operate and maintain or cause to be operated and maintained at its expense all Common Area located on its Parcel in good order, condition and repair. Following the construction of improvements thereon, maintenance of Common Area shall include, without limitation, maintaining and repairing all sidewalks and the surface of the parking and roadway areas, removing all papers, debris and other refuse from and periodically sweeping all parking and road areas to the extent necessary to maintain the same in a clean, safe and orderly condition, maintaining lighting fixtures for the lighting of parking areas and roadways, maintaining marking, directional signs, lines and striping as needed, maintaining landscaping, maintaining signage in good condition and repair, and performing any and all such other duties as are necessary to maintain such Common Area in a clean, safe and orderly condition. Except as otherwise expressly provided in this Declaration, once constructed, in the event of any damage to or destruction of all or a portion of the Common Area on any Parcel, the Owner of such Parcel shall, at its sole cost and expense, with due diligence repair, restore and rebuild such Common Area to its condition prior to such damage or destruction (or with such changes as shall not conflict with this Declaration).

Parcel B Owner, by the terms of the Walgreens' Lease, shall cause Walgreens, during the continuance of the Walgreen Lease, to operate and maintain, at its expense, all Common Area located on Parcel B in good order, condition and repair.

(b) Each Owner reserves the right to alter, modify, reconfigure, relocate and/or remove the Common Areas or building areas on its Parcel, subject to the following conditions: (i) as to Parcel B, during the continuance of the Walgreen Lease, the express written consent of Walgreen shall be required; and (ii) the Driveway shall not be altered,



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modified, relocated, blocked and/or removed without the express written consent of all Owners and Walgreen (during the continuance of the Walgreen Lease).

(c) Notwithstanding anything in this Section 3.2 to the contrary, at any time after the expiration or earlier termination of the Walgreen Lease, the Owner of Parcel A may, at its election and upon thirty (30) days advance written notice to the Owner of Parcel B, elect to maintain the Common Areas located on Parcel B. In such event, the Owner of Parcel B shall reimburse the Owner of Parcel A for Parcel B's equitable share of Common Area maintenance costs for both Parcel A and Parcel B.

### 3.3 Utilities and Shared Pylon Sign.

(a) Each Owner shall at all times during the term hereof construct, operate and maintain or cause to be constructed, operated and maintained, in good order, condition and repair, at its sole expense, any utility installations and the pylon serving its Parcel and existing upon another Parcel. In particular, the Parcel A Owner shall at all times during the term hereof construct, operate and maintain or cause to be constructed, operated and maintained, in good order, condition and repair, at its sole expense, any utility installations serving Parcel A and existing on Parcel B pursuant to the easements described in Sections 2.2 and 2.4 herein.

(b) Parcel A Owner shall maintain the Shared Pylon Sign and cause it to be lit, at its sole cost and expense except that the Parcel B Owner (and particularly Walgreens, during the continuance of the Walgreen Lease) shall maintain the Parcel B Signs, at its/their sole expense. Upon being billed by Parcel A Owner (but not more frequently than monthly) Parcel B Owner shall within thirty (30) days of its receipt of a bill from Parcel A Owner, reimburse to Parcel A Owner its pro rata share of Parcel A Owner's cost to maintain the Shared Pylon Sign, including the electricity used therefore, attributable to the Parcel B Signs. In conjunction with such bills from Parcel A Owner, Parcel A Owner shall provide reasonable evidence of such cost and the computation pro rata share thereof, which shall accompany the bill required above.

Parcel B Owner's pro rata share provided above shall be based on a percentage expressed as a fraction, the numerator of which shall be the total square footage of the Parcel B Signs, and the denominator of which

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is the total square footage of all readerboards and/or sign panels then erected upon the Shared Pylon sign, including the Parcel B Signs but excluding the name of the shopping center located on Parcel A.

### 3.4 Buildings and Appurtenances Thereto; Construction of Improvements

Each Owner covenants to keep and maintain, at its sole cost and expense, the building(s) located from time to time on its respective Parcel in good order, condition and repair. Except as may be shown on the Site Plan, there shall be no changes in the grade elevations between (i) Parcel B and the Driveway and (ii) Parcel B and that part of Parcel A located within 100 feet of Parcel B if such change in grade elevation might result in a material increase in storm water drainage across the other Parcel.

4. Insurance. Throughout the term of this Declaration, each Owner shall procure and maintain (or cause to be procured and maintained) general and/or comprehensive public liability and property damage insurance against claims for personal injury (including contractual liability arising under the indemnity contained in Section 2.2 above), death, or property damage occurring upon the Driveway, with single limit coverage of not less than an aggregate of Two Million Dollars (\$2,000,000.00) including umbrella coverage, if any. Such insurance coverage shall be procured through companies which are authorized to do business in the State of Illinois and are governed by the regulatory authority which establishes maximum rates in the vicinity. Each Owner shall name each other Owner and Walgreen during the continuance of the Walgreen Lease (provided the Owner obtaining such insurance has been supplied with the name of such other Owner in the event of a change thereof) as additional insureds on the above-required general and/or comprehensive public liability and property damage insurance coverages; provided, however, that notwithstanding such naming of additional insureds, the provisions of Section 2.6 above shall still apply, and further provided that notwithstanding the foregoing requirement as to the naming of additional insureds, if during the term of this Declaration, the Owner of Parcel B should rely upon the insurance coverage carried by Walgreen under the Walgreens' Lease, then during such period, (a) the Owner of Parcel B shall do whatever is required under the Walgreens Lease in order for Walgreens to cover or provide protection any party with respect to the alleged acts or omissions of any contractor or subcontractor engaged or permitted by or through the Owner of Parcel B, and (b) there shall be no obligation hereunder on the part of such Owner of Parcel B or Walgreen to cover or provide protection any party with respect to the alleged acts or omissions of any contractor or subcontractor engaged or permitted by or through the Owner of Parcel A, or its Permittees if such contractor or subcontractor does not itself carry adequate insurance coverage for bodily injury, death, and/or property damage in at least the same amount(s) as required to be carried hereinabove, with companies which are authorized to do business in the State of Illinois. Walgreen (whether as tenant under the Walgreen

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Lease or in the event Walgreen becomes an Owner of a Parcel) may elect to self insure and/or carry insurance required hereunder under master or blanket policies of insurance.

## 5. Exclusive Use Restriction.

5.1 So long as the Walgreen Lease is in effect, no portion of Parcel A will be used for the operation of drug store or a so-called prescription pharmacy or prescription ordering, processing or delivery facility, whether or not a pharmacist is present at such facility, or for any other purpose requiring a qualified pharmacist or other person authorized by law to dispense medicinal drugs, directly or indirectly, for a fee or remuneration of any kind.

5.2 If that particular exclusive use restriction set forth in Section 5.1 above should be discontinued for a period in excess of twelve (12) continuous months (so long as such discontinuance is not due to remodeling, fire, casualty, repairs, strike, temporary loss of licenses, or other causes beyond the reasonable control of Walgreens and/or such other successor Permittee under the Walgreen Lease), then the above exclusive use restriction shall thereafter be deemed to have been waived.

5.3 Notwithstanding the foregoing, the exclusive use restriction provided in Section 5.1 above shall not apply to: (A) the operation of a business on Parcel A operating under a lease in existence prior to the execution date of the Walgreen Lease, and any successor or assign of said business permitted under said lease, provided, however, that (i) Parcel A Owner shall not amend any such existing lease so as to allow the operation of a business in violation of the foregoing exclusive use restriction, such as by way of example and without limitation, amending any existing use and/or assignment or subletting provisions contained in such leases and, provided further, (ii) that if Parcel A Owner has the right to withhold consent to any assignment or sublet under any such existing lease, Parcel A Owner will not consent to any assignment or sublet under any such lease to a use in violation of the foregoing exclusive use restriction; (B) the sale of over-the-counter medication (excluding vitamins) if and to the extent the same is incidental to another primary use not prohibited hereunder; (C) any business hereafter operated in that particular space within Parcel A identified on the Site Plan as the "Excluded Space" wherein a Kmart is currently being operated, but only if and so long as such replacement business occupies at least 50,000 square feet of floor area within the Excluded Space; and (D) the administering of medications is part of a treatment or diagnostic process or the giving of samples of medication, at no cost, incidental to the operation of a medical, dental, physician, veterinary, surgical, chiropractic or similar office (provided, however, that such foregoing exception in this Subsection (D) shall in no way permit the

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operation of a pharmacy or the retail sale of medications within such offices). Parcel A Owner shall enforce any use provisions contained in any such existing lease which prohibit or restrict such tenant from operating a business in violation of the foregoing exclusive use restriction; in the event Parcel A Owner shall fail or refuse to so enforce any such use provision, Parcel B Owner (and Walgreen, during the continuance of the Walgreen Lease) shall be deemed to have been assigned Parcel A Owner's right to enforce such use provision and all costs incurred by Parcel B Owner or Walgreen in the event of such enforcement (including without limitation attorneys' fees and costs) shall be reimbursed to Parcel B Owner or Walgreens from Parcel A Owner.

5.4 In the event that Parcel B Owner or Walgreen files suit, in good faith, against any party to enforce the foregoing use restrictions, the Parcel A Owner agrees to cooperate fully in the prosecution of any such suit, and reimburse Parcel B Owner or Walgreen for all of the attorneys' fees and court costs incurred in connection with such suit, notwithstanding its resolution.

6. Taxes and Assessments. Each Owner shall pay or cause to be paid all taxes, assessments, or charges of any type levied or made by any governmental body or agency with respect to its Parcel.

7. No Rights in Public; No Implied Easements. Nothing contained herein shall be construed as creating any rights in the general public or as dedicating for public use any portion of Parcel A or Parcel B. No easements, except those expressly set forth in Section 2 above shall be implied by this Declaration.

8. Remedies and Enforcement.

8.1 All Legal and Equitable Remedies Available. In the event of a breach or threatened breach by Walgreen, any Owner or its Permittees or any of the terms, covenants, restrictions or conditions hereof, the other Owner(s) and Walgreen shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including payment of any amounts due and/or specific performance. Walgreen shall have the right, but not the obligation, to enforce this Declaration on behalf of the Owner of Parcel B, and/or to cure a breach or default hereunder by the Owner of Parcel B, which enforcement or cure shall be accepted by the other Owner(s) as if effected by the Owner of Parcel B.

8.2 Self-Help. In addition to all other remedies available at law or in equity, upon the failure of:

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(i) Parcel B Owner (or, during the continuance of the Walgreen Lease, Walgreen) to perform its obligations under Section 3.1; or

(ii) Parcel A Owner to perform its obligations under Section 3.3,

and said Owner (or Walgreen) failure to cure said breach within thirty (30) days following written notice thereof by an Owner or Walgreen (unless, with respect to any such breach the nature of which cannot reasonably be cured within such 30-day period, the defaulting Owner [or Walgreen] commences such cure within such 30 day period and thereafter diligently prosecutes such cure to completion), Walgreen or the other Owner shall have the right to perform such obligation on behalf of such defaulting Owner (or Walgreen) and be reimbursed by such defaulting Owner (or Walgreen) upon demand for the reasonable costs thereof together with interest at the prime rate charged from time to time by Bank of America, N.A. (its successors or assigns) (the "Prime Rate", plus two percent (2%) (not to exceed the maximum rate of interest allowed by law).

Notwithstanding the foregoing, in the event of (i) an emergency, and/or (ii) blockage or material impairment of the easement rights, an Owner or Walgreen may immediately cure the same and be reimbursed by the other Owner upon demand for the reasonable cost thereof together with interest at the Prime Rate, plus two percent (2%), as above described.

8.3 Remedies Cumulative. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

8.4 No Termination For Breach. Notwithstanding the foregoing to the contrary, no breach hereunder shall entitle any Owner to cancel, rescind, or otherwise terminate this Declaration. No breach hereunder shall defeat or render invalid the lien of any mortgage or deed of trust upon any Parcel made in good faith for value, but the easements, covenants, conditions and restrictions hereof shall be binding upon and effective against any Owner of such Parcel covered hereby whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.

8.5 Irreparable Harm. In the event of a violation or threat thereof of any of the provisions of Section 2 of this Declaration, each Owner agrees that such violation or threat thereof shall cause the non-defaulting Owner and/or its Permittees to suffer irreparable harm and such non-defaulting Owner and its Permittees shall have no adequate remedy at law. As a result, in the event of a violation or threat thereof of any of the provisions of Section 2 of this Declaration, the non-defaulting Owner and Walgreen, in addition to all remedies available at law or otherwise under this Declaration, shall be entitled to injunctive or other equitable relief to enjoin a violation or threat thereof of paragraph 2 of this Declaration.

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In the event of a violation or threat thereof of any of the provisions of Section 5 of this Declaration, each Owner agrees that such violation or threat thereof shall cause Parcel B and/or Walgreens to suffer irreparable harm, and such Parcel B Owner and Walgreens shall have no adequate remedy at law. As a result, in the event of a violation or threat thereof of any of the provisions of Section 5 of this Declaration, Parcel B Owner and Walgreen, in addition to all remedies available at law or otherwise under this Declaration, shall be entitled to injunctive or other equitable relief to enjoin a violation or threat thereof of Section 5 of this Declaration.

8.6 Successors to Parcel A Owner: If and to the extent hereafter that parcel herein defined as Parcel A should be owned by more than one party, regardless of whether any such party is Declarant, such that per the definition therefore set forth above, the "Owner" of Parcel A is not one individual or entity, then in such event and thereafter, any and all rights and obligations herein granted to or imposed upon Parcel A Owner shall inure to and/or be the obligation of such party whom hereafter owns the Driveway (or the majority thereof, as applicable).

9. Term. The easements, covenants, conditions and restrictions contained in this Declaration shall be effective commencing on the date of recordation of this Declaration in the office of the Cook County, IL Recorder and shall remain in full force and effect thereafter in perpetuity, unless this Declaration is modified, amended, canceled or terminated by the written consent of all then record Owners of Parcel A and Parcel B and, during the continuance of the Walgreen Lease, Walgreen.

10. Miscellaneous.

10.1 Attorneys' Fees. In the event a party (including Walgreen) institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, including appeals, the prevailing party after a final adjudication (including appeals) shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

10.2 Amendment.

(a) Declarant agrees that the provisions of this Declaration may be modified or amended, in whole or in part, or terminated, only by the written consent of all record Owners of Parcel A and Parcel B, evidenced by a document that has been fully executed and acknowledged by all such record Owners and recorded in the official records of the County Recorder of Cook County, Illinois.

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(b) Notwithstanding subparagraph 9.2(a) above to the contrary, no termination of this Declaration, and no modification or amendment of this Declaration shall be made nor shall the same be effective unless the same has been expressly consented to in writing by Walgreen (during the continuance of the Walgreen Lease).

10.3 No Waiver. No waiver of any default of any obligation by any Owner or other party bound hereunder shall be implied from any omission by the other Owner(s) or other party with rights hereunder to take any action with respect to such default.

10.4 No Agency. Nothing in this Declaration shall be deemed or construed to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association between the Owners.

10.5 Covenants to Run with Land. It is intended that each of the easements, covenants, conditions, restrictions, rights and obligations set forth herein shall run with the land and create equitable servitudes in favor of the real property benefited thereby, shall bind every Owner and/or every other person or entity now or hereafter having any fee, leasehold or other interest therein and shall inure to the benefit of the respective parties and their successors, assigns, heirs, and personal representatives.

10.6 Grantee's Acceptance. The grantee of any Parcel or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from an original Owner or from a subsequent owner of such Parcel, shall accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained herein. By such acceptance, any such grantee shall for himself and his successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with the other Owner(s), to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to the property so acquired by such grantee.

10.7 Severability. Each provision of this Declaration and the application thereof to Parcel A and Parcel B is hereby declared to be independent of and severable from the remainder of this Declaration. If any provision contained herein shall be held to be invalid or to be unenforceable or not to run with the land, such holding shall not affect the validity or enforceability of the remainder of this Declaration. In the event the validity or enforceability of any provision of this Declaration is held to be dependent upon the existence of a specific legal description, the parties agree to promptly cause such legal description to be prepared.

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Ownership of both Parcels by the same person or entity shall not terminate this Declaration nor in any manner affect or impair the validity or enforceability of this Declaration.

10.8 Time of Essence. Time is of the essence of this Declaration.

10.9 Entire Agreement. This Declaration contains the complete understanding and agreement of the parties hereto with respect to all matters referred to herein, and all prior representations, negotiations, and understandings are superseded hereby.

10.10 Notice. (a) Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. Each Owner and Walgreen may change from time to time their respective address for notice hereunder by like notice to the other Owner(s) and Walgreen. Notice given by any Owner hereunder to be effective shall also simultaneously be delivered to Walgreen (during the continuance of the Walgreen Lease). The notice addresses of Declarant and Walgreen are as follows:

Walgreen: Walgreen Co.  
Attn: Real Estate Law Department  
Mail Stop No. 1420  
104 Wilmot Rd., 2<sup>nd</sup> Floor  
Deerfield, IL, 60015,  
Re: Store #11332

Declarant: Irving-Harlem Venture, Ltd.  
c/o Joseph Freed and Associates LLC  
220 North Smith Street  
3<sup>rd</sup> Floor  
Palatine, Illinois 60067  
Att: General Counsel

(b) As a pre-condition of any reimbursement otherwise owed by Parcel B Owner or Walgreens hereunder, if any billing party hereunder should hereafter be or become someone other than the Declarant, then such billing party, and its subsequent successor hereunder shall immediately provide to Parcel B Owner (and Walgreens, during the continuance of the Walgreens Lease [Attn.: Lease Administration, 1417 Lake Cook Road, MS #L254, Deerfield, Illinois 60015, Re: Store #7955]) with such party's 1099 recipient address, such party's FEIN#, and with a completed IRS Form W-9.



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10.11 Governing Law. The laws of the State in which the Parcels are located shall govern the interpretation, validity, performance, and enforcement of this Declaration.

10.12 Estoppel Certificates. Each Owner, within thirty (30) business days of its receipt of a written request from the other Owner(s) or Walgreen, shall from time to time provide the requesting Owner or Walgreen, a certificate binding upon such Owner stating: (a) to the best of such Owner's knowledge, whether any Owner is in default or violation of this Declaration and if so identifying such default or violation; and (b) that this Declaration is in full force and effect and identifying any amendments to the Declaration as of the date of such certificate.

10.13 Bankruptcy. In the event of any bankruptcy affecting any Owner or occupant of any Parcel, the parties agree that this Declaration shall, to the maximum extent permitted by law, be considered an agreement that runs with the land and that is not rejectable, in whole or in part, by the bankrupt person or entity.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first written above. (See attached rider for the Exculpatory Provision of Chicago Title Land Trust Company)

Chicago Title Land Trust Company, as Successor Trustee to LaSalle Bank National Association, formerly known as LaSalle National Bank, as successor trustee to LaSalle National Trust, N.A., not personally but as Trustee under Trust Agreement dated February 1, 1974 known as Trust No. 45786

Consented To By:

WALGREEN CO.

By:

Print Name: Robert M. Silverman  
Title: Divisional V.P.

By:

Trust Officer

Its:

Date: June 19th, 2007

Date: June 8, 2007

# UNOFFICIAL COPY

**EXCULPATORY CLAUSE FOR CHICAGO TITLE LAND TRUST COMPANY, AS SUCCESSOR TRUSTEE UNDER TRUST AGREEMENT DATED FEBRUARY 1, 1974 AND KNOWN AS TRUST NO 45786 ATTACHED TO DECLARATION OF EASEMENT DATED JUNE 8, 2007**

It is expressly understood and agreed by and between the parties hereto, anything to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the warranties, indemnities, representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal warranties, indemnities, representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said Trustee not in its own right, but solely in the exercise of the powers conferred upon it as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against CHICAGO TITLE LAND TRUST COMPANY, on account of this instrument or on account of any warranty, indemnity, representation, covenant or agreement of the said Trustee in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released.

# UNOFFICIAL COPY

- Exhibit "A" - Legal Descriptions of Parcels A and B.
- Exhibit "B" - Site Plan that identifies the Driveway, Access Openings, location of Shared Pylon Sign and location of Excluded Space
- Exhibit "C" - Shared Pylon Sign and Parcel B Signs
- Exhibit "D" - Parcel A Sign

Property of Cook County Clerk's Office



# UNOFFICIAL COPY

## CONSENT OF MORTGAGEE OF THE CENTER (NORRIDGE COMMONS)

\_\_\_\_\_, as holder of a mortgage dated \_\_\_\_\_ and recorded in the office of the Recorder of Deeds of Cook County, Illinois, on \_\_\_\_\_, as Document No. \_\_\_\_\_, with respect to the Parcel, hereby consents to the recording of this Declaration to which this Consent is attached and agrees that its mortgage shall be subject to the terms of this Declaration.

Dated: \_\_\_\_\_, 2007

By: [Signature]  
Its: [Signature]

ATTEST:

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

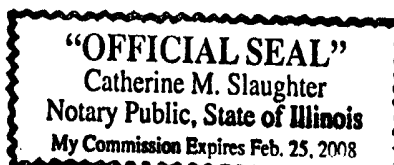
STATE OF ILLINOIS )  
COUNTY OF Cook ) SS.

The undersigned, a Notary Public in and for said County and State, do hereby certify that Maria Alexakis, of LaSalle Bank National Association, as the appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, and as the free and voluntary act of FVP, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 21<sup>st</sup> day of June, 2007.

[Signature]  
Notary Public

My Commission Expires:  
2/25/08



# UNOFFICIAL COPY

## Exhibit "A"

### Legal Descriptions

#### Parcel A

LOTS 1 THROUGH 12 INCLUSIVE IN NORRIDGE COMMONS SUBDIVISION, BEING A SUBDIVISION OF LOTS 9, 12, 13, 14, 15 AND PARTS OF LOTS 16 AND 17 IN FULLER'S SUBDIVISION, AND PART OF THE SOUTH WEST FRACTIONAL 1/4 NORTH OF THE INDIAN BOUNDARY LINE IN SECTION 18, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT OF SAID SUBDIVISION RECORDED DECEMBER 30, 1977 AS DOCUMENT NO. 24266265 AND AS CORRECTED BY CERTIFICATE OF CORRECTION RECORDED DECEMBER 5, 1980 AS DOCUMENT NO. 2563809, IN COOK COUNTY, ILLINOIS.

EXCLUDING THAT PART OF LOTS 1 AND 2 IN NORRIDGE COMMONS SUBDIVISION, BEING A SUBDIVISION OF LOTS 9, 12, 13, 14, 15 AND PARTS OF LOTS 16 AND 17 IN FULLER'S SUBDIVISION, AND PART OF THE SOUTHWEST FRACTIONAL QUARTER NORTH OF THE INDIAN BOUNDARY LINE IN SECTION 18, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 30, 1977 AS DOCUMENT NO. 24266265 AND AS AMENDED BY CERTIFICATE OF CORRECTION RECORDED DECEMBER 5, 1980 AS DOCUMENT NO. 25693809, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT 1; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 242.00 FEET TO THE NORTHWEST CORNER THEREOF; THENCE ALONG THE NORTHERLY LINES OF SAID LOTS 1 AND 2 THE FOLLOWING 3 COURSES: 1) SOUTH 82 DEGREES 30 MINUTES 23 SECONDS EAST, 52.16 FEET, 2) NORTH 83 DEGREES 53 MINUTES 56 SECONDS EAST, 85.75 FEET AND 3) NORTH 68 DEGREES 16 MINUTES 40 SECONDS EAST, 58.17 FEET; THENCE SOUTH 33 DEGREES 04 MINUTES 30 SECONDS EAST AT RIGHT ANGLES TO THE SOUTHEASTERLY LINE OF SAID LOT 2, A DISTANCE OF 118.52 FEET TO SAID SOUTHEASTERLY LINE OF SAID LOT 2; THENCE SOUTH 56 DEGREES 55 MINUTES 30 SECONDS WEST ALONG THE SOUTHEASTERLY LINES OF SAID LOTS 2 AND 1, A DISTANCE OF 305.14 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS. CONTAINING 1.0321 ACRES.

# UNOFFICIAL COPY

## Parcel B

THAT PART OF LOTS 1 AND 2 IN NORRIDGE COMMONS SUBDIVISION, BEING A SUBDIVISION OF LOTS 9, 12, 13, 14, 15 AND PARTS OF LOTS 16 AND 17 IN FULLER'S SUBDIVISION, AND PART OF THE SOUTHWEST FRACTIONAL QUARTER NORTH OF THE INDIAN BOUNDARY LINE IN SECTION 18, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 30, 1977 AS DOCUMENT NO. 24266265 AND AS AMENDED BY CERTIFICATE OF CORRECTION RECORDED DECEMBER 5, 1980 AS DOCUMENT NO. 25693809, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF SAID LOT 1; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 242.00 FEET TO THE NORTHWEST CORNER THEREOF; THENCE ALONG THE NORTHERLY LINES OF SAID LOTS 1 AND 2 THE FOLLOWING 3 COURSES: 1) SOUTH 82 DEGREES 30 MINUTES 23 SECONDS EAST, 52.16 FEET, 2) NORTH 83 DEGREES 53 MINUTES 56 SECONDS EAST, 85.75 FEET AND 3) NORTH 68 DEGREES 16 MINUTES 40 SECONDS EAST, 58.17 FEET; THENCE SOUTH 33 DEGREES 04 MINUTES 30 SECONDS EAST AT RIGHT ANGLES TO THE SOUTHEASTERLY LINE OF SAID LOT 2, A DISTANCE OF 118.52 FEET TO SAID SOUTHEASTERLY LINE OF SAID LOT 2; THENCE SOUTH 56 DEGREES 55 MINUTES 30 SECONDS WEST ALONG THE SOUTHEASTERLY LINES OF SAID LOTS 2 AND 1, A DISTANCE OF 305.14 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS. CONTAINING 1.0321 ACRES.

13 18 318 013, 014 016-020  
027-034

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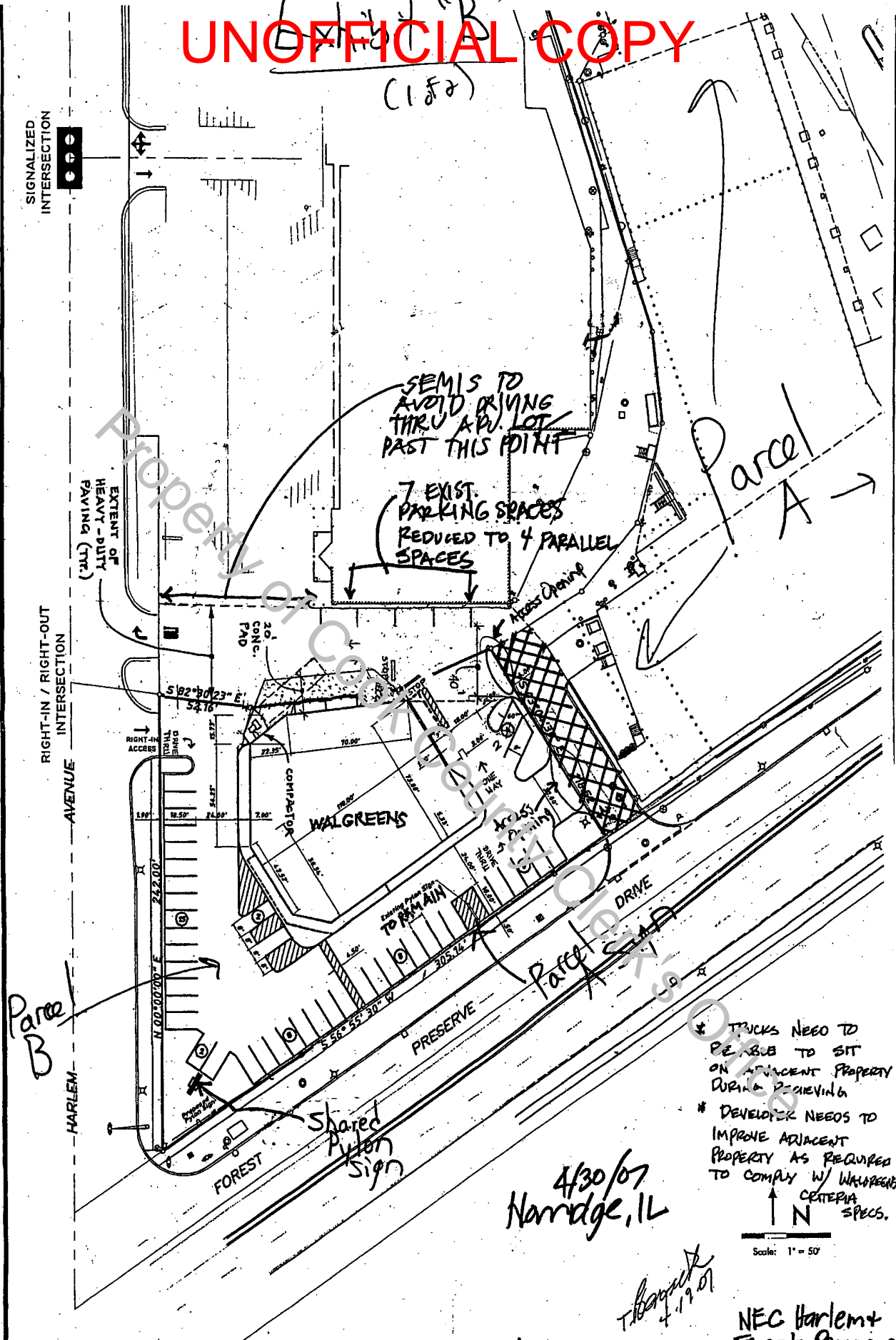
EXHIBIT "B"

SITE PLAN





UNOFFICIAL COPY



- \* TRUCKS NEED TO BE ABLE TO SIT ON ADJACENT PROPERTY DURING DELIVERING
- \* DEVELOPER NEEDS TO IMPROVE ADJACENT PROPERTY AS REQUIRED TO COMPLY W/ WALGREENS CRITERIA SPECS.

4/30/07  
NorrIDGE, IL

T. Barrett  
4-19-07

Scale: 1" = 50'

NEC Harlem + Forest Preserve

#11332

WALGREENS  
PROPERTY EXHIBIT

NORRIDGE  
COMMONS  
NORRIDGE, ILLINOIS

**HAEGER ENGINEERING**  
land surveys

consulting engineers  
1500 Plum Grove Road, Schaumburg, IL 60173 • Tel: 847.294.4600 Fax: 847.294.4601  
www.haegerengineering.com

Project Manager: T.A.S. Engineer: E.A.S. Sheet 1  
Date: 03-19-07 Project No.: 03043G1

NOTE:  
Land survey information, shown in black, is from the ALTA/ACSM Land Title Survey issued by Haeger Engineering on 11-16-2004.

5/17/07 SP2

WBP

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Exhibit B (2 of 2)

2005 NATIONAL TENANT CHARACTERISTICS

TYPE	1.3%
AGE	1.4%
TOTAL	5.3%

WHITE = VACANT  
GREEN = LEASE OUT  
YELLOW = SPACE AVAILABLE

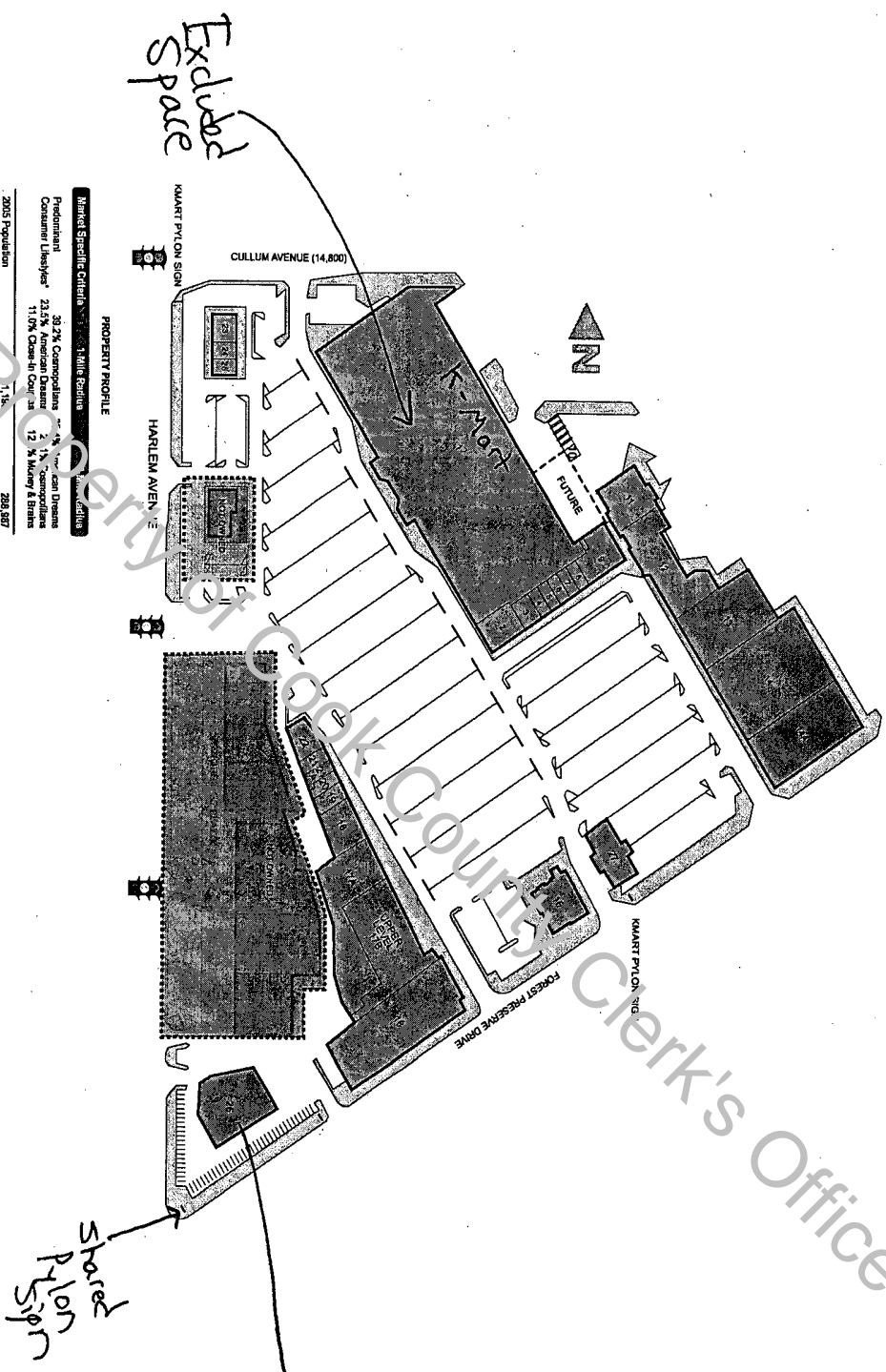
MARKET SPECIFIC CRITERIA

Median Household Income	38.2%	Competition	1.4%
Consumer Lifestyle	23.5%	American Dream	2.1%
	11.0%	Close-In Outer	12%
		Military & Brains	

PROPERTY PROFILE

2005 Population	1,118	2005 Retail	288,987
2005 Households	12,005	2005 Population	106,169
Business Population	18,940	Average HI Size	98,052
Median Age	2.6	Median Age	40.2 years
18.5% 4+ yrs college		18.5% 4+ yrs college	64,540
Average HI Income	\$63,125	Homeownership	68.8%
Homeownership	73.7%		

\*See Listings by State of Texas. Data Source: Census, Inc.; Market Data Group, Inc.



JOSEPH FREED AND ASSOCIATES LLC  
A COMPANY OF THE REED GROUP



**NORRIDGE COMMONS**  
Norridge, Illinois

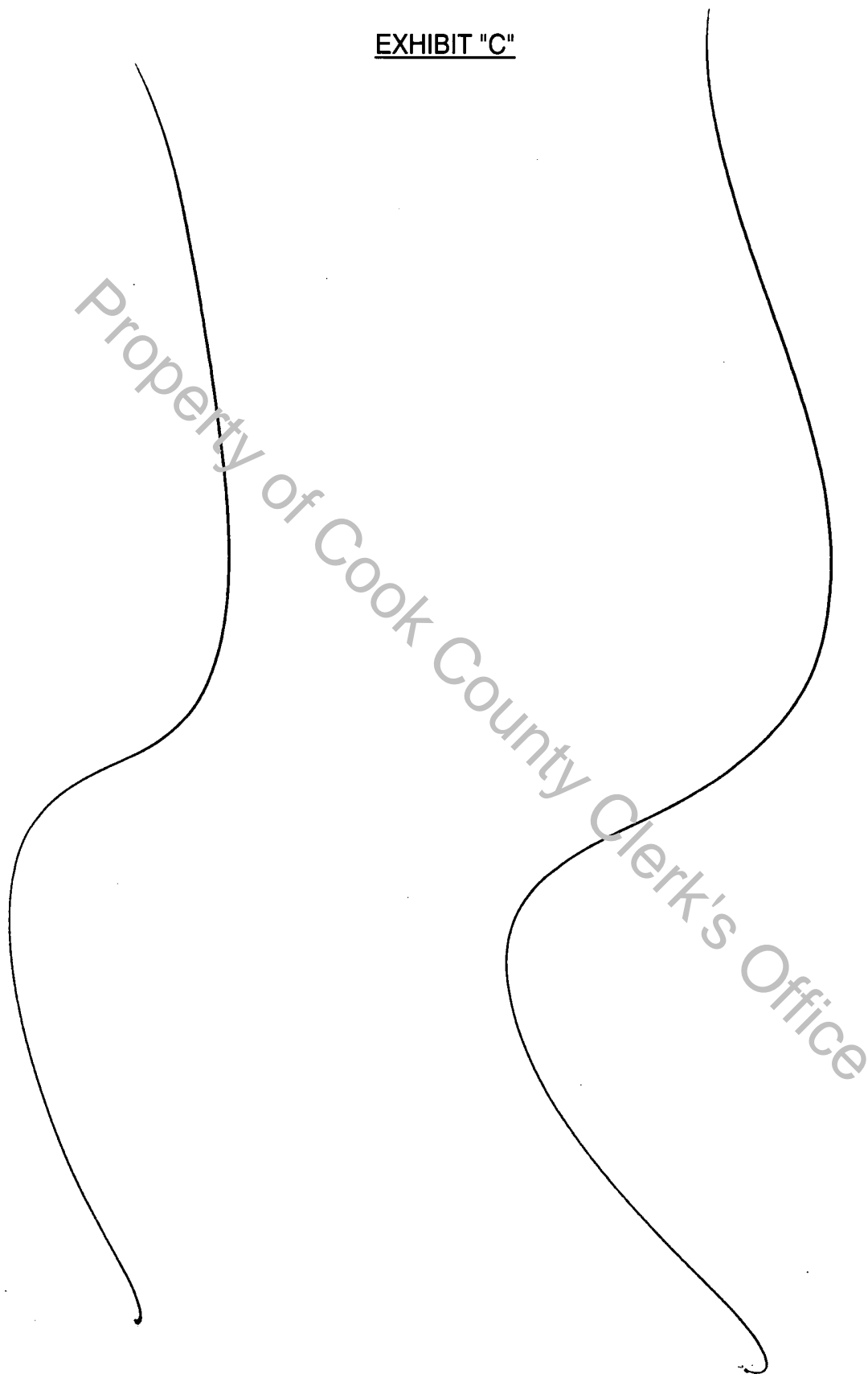
NO.	TENANT	DIMENSIONS	SQ. FT.
1	K-MART	622 X 218	116,180
2	BLOCKBUSTER	55 X 65	3,570
3	SAVOR (TVP/AM/EX, REST)	35 X 48	1,714
4	RJR JEWELERS	20 X 48	987
5	QUINZOS	20 X 48	987
6	CIGARETTES CHEAPER	20 X 48	987
7	BEST COM	20 X 48	987
8	KUMON	20 X 48	987
9	LAKE BANK	70 X 80	5,607
10	LAKE BANK DRIVE-UP	RR	1,620
11	LAKE BANK DRIVE-UP	RR	1,620
12	SHRE CARAVAN	184 X 60	10,222
13	PERIOD (TVP)	100 X 100	10,000
14	SHRE CARAVAN	100 X 100	10,000
15	LONGSONG STORE	100 X 200	20,000
16	ROBBERS STORE	50 X 100	5,000
17	BED BATH & BOND	100 X 200	20,000
17A	PULLING EDGE	400 X 100 RR	26,880
17B	PULLING EDGE	400 X 100 RR	26,880
18	CHINA BUFFET	48 X 72	12,580
19	CHINA BUFFET EXPANSION	32 X 50	3,740
20	CHINA BUFFET EXPANSION	16 X 50	1,600
21	RAINBOW NAILS	22 X 71	1,562
21A	MODELS (MEN (LO))	21 X 65 RR	1,365
22	PAVNESS SHOESOURCE	60 X 60	3,600
23	VITAMIN SHOPPE	57 X 62	3,534
24	VERIZON WIRELESS	35 X 68	2,400
25	PEARLE E. VISION EXPRESS	30 X 61	2,394
26	FUTURE WALK GREEN (LO)	72 X 118 RR	10,000
27	FUTURE PIZZA HUT (LO)	47 X 100 RR	10,000
<b>TOTAL SQUARE FEET</b>			<b>324,341</b>
<b>TOTAL PARKING SPACES</b>			<b>1460</b>
<b>APPROXIMATE SITE AVERAGE</b>			<b>24.6</b>

Note: All square footage and dimensions are approximate and should not be construed as a lease. For determining the actual square area of each space.

DBP

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EXHIBIT "C"

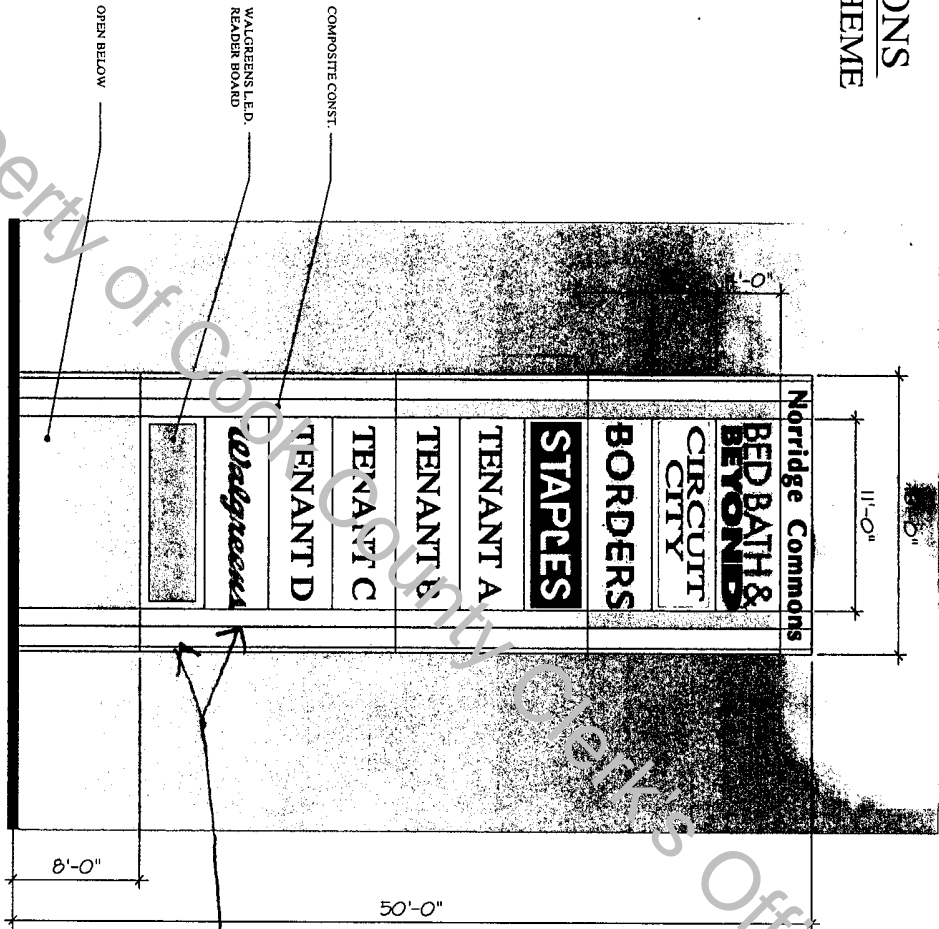


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## Exhibit "C" Shared Pylon Sign

**NORRIDGE COMMONS  
REDEVELOPMENT SCHEME  
NORRIDGE, ILLINOIS**

Property of **COOK COUNTY PLANNING Office**



PLAN VIEW

**PROPOSED PYLON SIGN ELEVATION**  
CORNER OF FOREST PRESERVE DRIVE & HARLEM AVE

Parcel B Signs

Copyright 2011, James L. Jensen Architects & Engineers, LLC

<b>P-01</b>	<b>PROPOSED PYLON SIGN</b>	<b>J&amp;J</b> JENSEN & JENSEN ARCHITECTS, ENGINEERS & PLANNERS, P.C.	<b>Jensen &amp; Jensen</b> architects engineers planners, p.c.
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DBP

# UNOFFICIAL COPY

EXHIBIT "D"

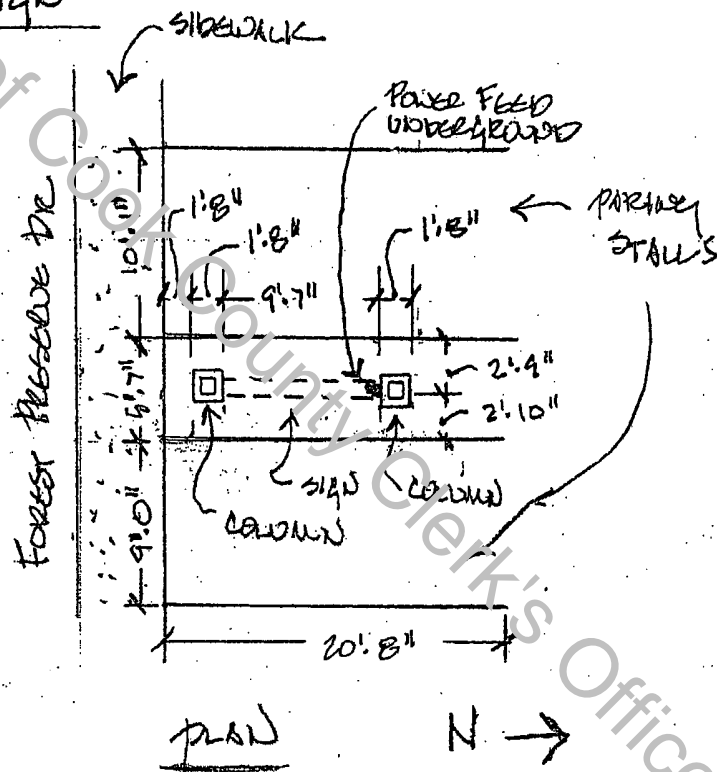
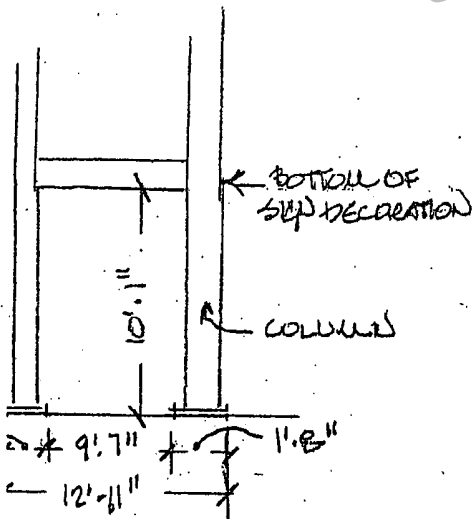
Property of Cook County Clerk's Office

# UNOFFICIAL COPY

## Exhibit "D"

### Parcel A Sign

Forest Preserve DE SIGN



DBP