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Cook County Recorder 41.00

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DOCUMENT PREPARED BY AND
AFTER RECORDING RETURN TO:

O'BRIEN, O'ROURKE & HOGAN
10 SOUTH LASALLE STREET
SUITE 2900
CHICAGO, ILLINOIS 60603
ATTN. HOWARD GOLDBLATT



(Space Above this Line for County Recorder's Use Only)

Declaration of Water Main Easement

This Declaration of Water Main Easement ("Declaration") is made this 23rd day of December, 1999, by Opus North Corporation, an Illinois corporation ("Opus").

RECITALS:

A. Opus is the fee owner of four (4) parcels of real property located in the Willow Creek Shopping Center at the intersection of Willow Road and Old Willow Road in Glenview, Illinois commonly known as Outlot 1 ("Outlot 1"), Outlot 2 ("Outlot 2"), Outlot 3 ("Outlot 3") and Outlot 4 ("Outlot 4"), which parcels are each legally described on Exhibit A, attached hereto and made a part hereof and which are sometimes individually referred to herein as "Outlot" and collectively referred to herein as the "Property." Opus and any successor owners of record of the Property from time to time are sometimes individually referred to herein as "Owner" and collectively as "Owners."

B. Opus desires to construct for the benefit of the Property and the Owners thereof from time to time an underground looped water main (for the supply of fire and domestic water) ("Water Main") in the location depicted and legally described on Exhibit B attached hereto and made a part hereof ("Easement Parcel"), which Water Main will be privately owned and maintained subject to and in accordance with the terms and conditions of this Declaration.

C. Subject to and in accordance with the terms and conditions of this Declaration, Opus desires to grant and reserve for the benefit of itself a temporary construction easement over and across the Property for the construction of the Water Main and to grant and reserve for the benefit of the Property a perpetual, non-exclusive easement over, under and across the Easement Parcel for the use, operation, maintenance, repair and replacement of the Water Main.

NOW THEREFORE, for and in consideration of the covenants and agreements hereafter provided for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Opus hereby declares as follows:

BOX 333-CTI

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1. Reservation of Temporary Construction Easement. Subject to the terms, covenants, conditions and restrictions contained in this Declaration, Opus hereby reserves for itself a temporary construction easement ("Temporary Construction Easement") over and across the Property for the purpose of constructing the Water Main. The Temporary Construction Easement will commence on the date hereof and will automatically terminate, with no further action by Opus or any other party upon, the issuance by the Village of Glenview, Illinois ("Village") of such written evidence of the completion of the Water Main in accordance with the Village's requirements as may be customarily issued by the Village.

2. Reservation of Water Main Easement. Subject to the terms, covenants, conditions and restrictions contained in the Declaration, Opus hereby grants and reserves for the benefit of the Property and the Owners thereof from time to time, an irrevocable, non-exclusive and perpetual easement in, over, under and across the Easement Parcel for the use, operation, maintenance, repair and replacement of the Water Main.

3. Maintenance and Repair of Water Main. Subject to the terms and conditions hereof, each Owner of Outlot 1, Outlot 3 and Outlot 4 (individually "Benefitted Outlot" and collectively, "Benefitted Outlots"), will maintain and repair in good order and condition that portion of the Water Main depicted on Exhibit B hereto as being the responsibility of that Owner's Benefitted Outlot. Each Owner will be responsible for paying its proportionate share of the cost of maintenance and repair of the Water Main and the Easement Parcel from time to time, which proportionate shares will be as follows: (a) Outlot 1 - 33.33%; (b) Outlot 2 - 0%; (c) Outlot 3 - 33.33%; and (d) Outlot 4 - 33.34%. Notwithstanding the foregoing, to the extent any Owner, or any of their respective agents, contractors, subcontractors, representatives, employees, successors or assigns causes any damage to the Easement Parcel or any of the improvements constructed thereon pursuant to this Declaration, then the party responsible for that damage will pay 100% of the cost of the repair thereof.

Notwithstanding anything in this Section 3 to the contrary, until such time as either (a) a majority of the Owners of the Benefitted Outlots request otherwise in writing or (b) the Operator ("Operator") under that certain Operation and Easement Agreement between Dayton Hudson Corporation and Opus North Corporation recorded April 20, 1998 as Document 98-312944, as amended ("OEA") notifies the Owners of the Benefitted Outlots otherwise, the obligations of the Owners of the Benefitted Outlots to maintain the Water Main and the Easement Parcel will be performed by the Operator at the cost and expense of the Owners of the Benefitted Outlots in accordance with the terms of this Declaration.

4. Rights of Village. The Village may enter the Property from time to time to inspect and test the Water Main and all hydrants on the Property.

5. Limitation of Improvements/Restoration. Each Owner will have the right to construct, maintain, operate and relocate driveways, curbing, landscaping and landscaping irrigation systems, signage and electrification or illumination of signage in, on or over that portion of the Easement Parcel located on that Owner's Outlot, provided however, that, no Owner will permit any permanent buildings or other permanent structures not set forth above to

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be constructed or placed on or over any part of the Easement Parcel located on that Owner's Outlot.

If the construction, operation, maintenance, repair, renewal, relocation or removal of the Water Main in or under the Easement Parcel by or on behalf of any Owner, causes a disturbance, destruction or removal of any gardens, shrubs, landscaping, landscaping irrigation systems, paving, curbing or other improvements permitted to be located on the Easement Parcel pursuant to this Section or otherwise on the Property, the Owners will promptly restore the Easement Parcel and/or Property to its prior condition in accordance with the terms and conditions of Section 3 hereof and with the requirements of this Section 5; provided, however, that the Owners may reasonably cut or trim any tree, shrub or other plant that interferes with such construction, operation, maintenance, repair, renewal, relocation or removal of the Water Main in the Easement Parcel.

6. Indemnification. Each Owner hereby agrees to indemnify, defend, save and hold harmless each other Owner and their respective successors, assigns, officers and agents, from and against any and all liability, claims, judgments, loss, cost, damage or expense, suffered or incurred by such other Owner(s), including without limitation reasonable attorneys' and experts' fees and court costs, due to any personal injury, death or property damage arising out of or caused by any activities of the indemnifying Owner or its employees, agents, contractors or invitees pursuant to the terms of this Declaration on or about any part of the Easement Parcel not located upon the indemnifying Owner's Outlot, except to the extent caused by or arising out of the negligent act or omission of the Owner being indemnified or its employees, agents, contractors or invitees.

7. Incorporation of Certain Provisions in OEA. The following terms, provisions and conditions of the OEA will be incorporated into this Declaration as if fully set forth herein and will be applicable to the Outlots and the Owners, subject to and in accordance with the terms and conditions of this Declaration: (a) if any Owner fails to perform any of its duties or obligations hereunder, that Owner will be treated as a "Defaulting Party" under Section 6.1 of the OEA and the other Owners (and the Operator if applicable) will have the rights and remedies of "Non-Defaulting Parties" thereunder, (b) amounts not paid when due hereunder will bear interest in accordance with the terms of Section 6.2 of the OEA, (c) any notices required to be delivered under this Declaration will be delivered to the addresses and pursuant to the requirements of Section 6.4 of the OEA, and (d) any mechanics' lien filed upon any Owner's Outlot as a result of services performed or materials furnished for the use of another Owner will be governed by the terms and conditions of Section 3.4 of the OEA.

8. Written Assurances. Upon a written request from an Owner, each other Owner will execute and deliver a "Written Assurance" (defined below) to a prospective owner or mortgage lender regarding the requesting Owner's Outlot and the Easement Parcel. A "Written Assurance" is a writing which states that, except as otherwise provided in that Written Assurance: (a) this Declaration has not been amended or modified in any manner not of record with the Cook County, Illinois Records; (b) there are no defaults presently existing under this Declaration by the party executing and delivering the Written Assurance; (c) there are no amounts presently due and owing to the party executing and delivering the Written assurance

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from the party requesting the Written Assurance; and (d) to the best knowledge of the party executing and delivering the Written Assurance there are no defaults presently existing by any other party to this Declaration.

9. Miscellaneous

- a. Limitation on Obligations. Anything in this Declaration to the contrary notwithstanding, none of the parties hereto, and none of their respective successors or assigns, will be liable under this Declaration with respect to any event, act or omission which occurs at any time after that party is no longer fee simple owner of that Owner's respective Outlot. Rather, the successor or assign of each such party, and each subsequent successor or assign, who owns fee simple title to a portion of the Property at the time of any such event, act or omission, will be liable with respect thereto. It is the intention that the covenants and obligations contained in this Declaration will be binding upon each party, and its successors and assigns, only during and in respect to their respective successive periods of ownership as aforesaid.
- b. Attorneys' Fees. In the event of any litigation or judicial action in connection with this Declaration or the enforcement hereof, the prevailing party or parties in any such litigation or judicial action will be entitled to recover all costs and expense of any such judicial litigation (including, without limitation, reasonable attorneys' fees) from the non-prevailing party or parties.
- c. Entire Declaration. This Declaration constitutes the entire Declaration of the parties hereto with respect to the subject matter hereof, and supersedes any and all prior memoranda, correspondence, conversations and negotiations in such regard.
- d. Incorporation of Recitals. All of the recitals set forth at the beginning of this Declaration are hereby incorporated into and made a part of this Declaration.
- e. Successors and Assigns: Covenant Running with the Land. This Declaration will bind and inure to the benefit of the parties hereto, and their respective successors (including, without limitation, their respective grantees) and assigns. This Declaration and the covenants, conditions, restrictions and easements established herein will be covenants running with the land.
- f. Amendment; Anti-Merger. This Declaration may be amended or modified only by a written Declaration executed and entered into by each of the Owners of the Benefitted Outlots at the time of such amendment; provided, however, that, to the extent any amendment or modification to this Declaration reduces or otherwise adversely effects the obligation of the Owners to restore the Easement Parcel or the Property pursuant to Section 5 hereof or otherwise increases the liability of the Owner of Outlot 2 hereunder, then no such amendment or modification will be effective against Outlot 2 or the Owner thereof unless approved in writing by the Owner of Outlot 2. The rights and duties of the parties hereunder will not merge in the event fee title to more than one Outlot are held by the same entity.

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g. Governing Law. The Declaration will be governed by the laws of the State of Illinois, without application of its choice of law rules.

h. Validity and Severability. If any provision of this Declaration is held invalid or unenforceable, such holding will not affect the validity or enforceability of any other provisions hereof, all of which other provisions will, in such case, remain in full force and effect.

In Witness Whereof, Opus North Corporation has caused this Declaration to have been executed and delivered on the day and year first above written.

Opus North Corporation, an Illinois corporation

By: John M. Cochran ^{HW}
Its: President

HIG/WINWORD/OPUS/WILLOWCREEK/WATERMAIN2/12-18-99

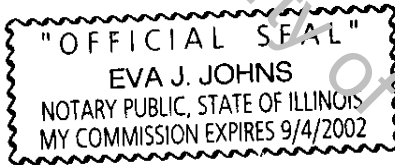
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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

Before me, a Notary Public in and for said County and State, personally appeared the above named John M. Crocker Jr the President of Opus North Corporation, an Illinois corporation, who acknowledged that he/she/they did sign the foregoing instrument as the free act and deed of said corporation.

In Testimony Whereof, I have hereunto set my hand and official seal this 22 day of December 1999.



Eva Johns

Notary Public

My commission expires: 9/4/2002

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Consent to Declaration of Water Main Easement

American National Bank and Trust Company of Chicago ("Lender") is the holder of a first mortgage lien on the Shopping Center. Lender hereby consents to and agrees to be bound by the terms and conditions of this Declaration of Water Main Easement as of this 29th day of December, 1999.

LENDER:

American National Bank and Trust Company of
Chicago

By: _____

Its: _____

**MICHAEL J. MELIND
VICE PRESIDENT**

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Exhibit A

Outlot 1

Outlot 1 in Willow Creek Center, being a resubdivision of Lots R-1, R-2 and R-3 in North Shore Corporate Park, being a resubdivision recorded December 23, 1999 as Document No. 09192216, all in the South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of Section 22, Township 42 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois.

Outlot 2

Outlot 2 in Willow Creek Center, being a resubdivision of Lots R-1, R-2 and R-3 in North Shore Corporate Park, being a resubdivision recorded December 23, 1999 as Document No. 09192216, all in the South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of Section 22, Township 42 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois.

Outlot 3

Outlot 3 in Willow Creek Center, being a resubdivision of Lots R-1, R-2 and R-3 in North Shore Corporate Park, being a resubdivision recorded December 23, 1999 as Document No. 09192216, all in the South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of Section 22, Township 42 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois.

Outlot 4

Outlot 4 in Willow Creek Center, being a resubdivision of Lots R-1, R-2 and R-3 in North Shore Corporate Park, being a resubdivision recorded December 23, 1999 as Document No. 09192216, all in the South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of Section 22, Township 42 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois.

Commonly Known As: Willow Creek Shopping Center located at the Southeast corner of Willow and Old Willow Roads, Glenview Illinois.

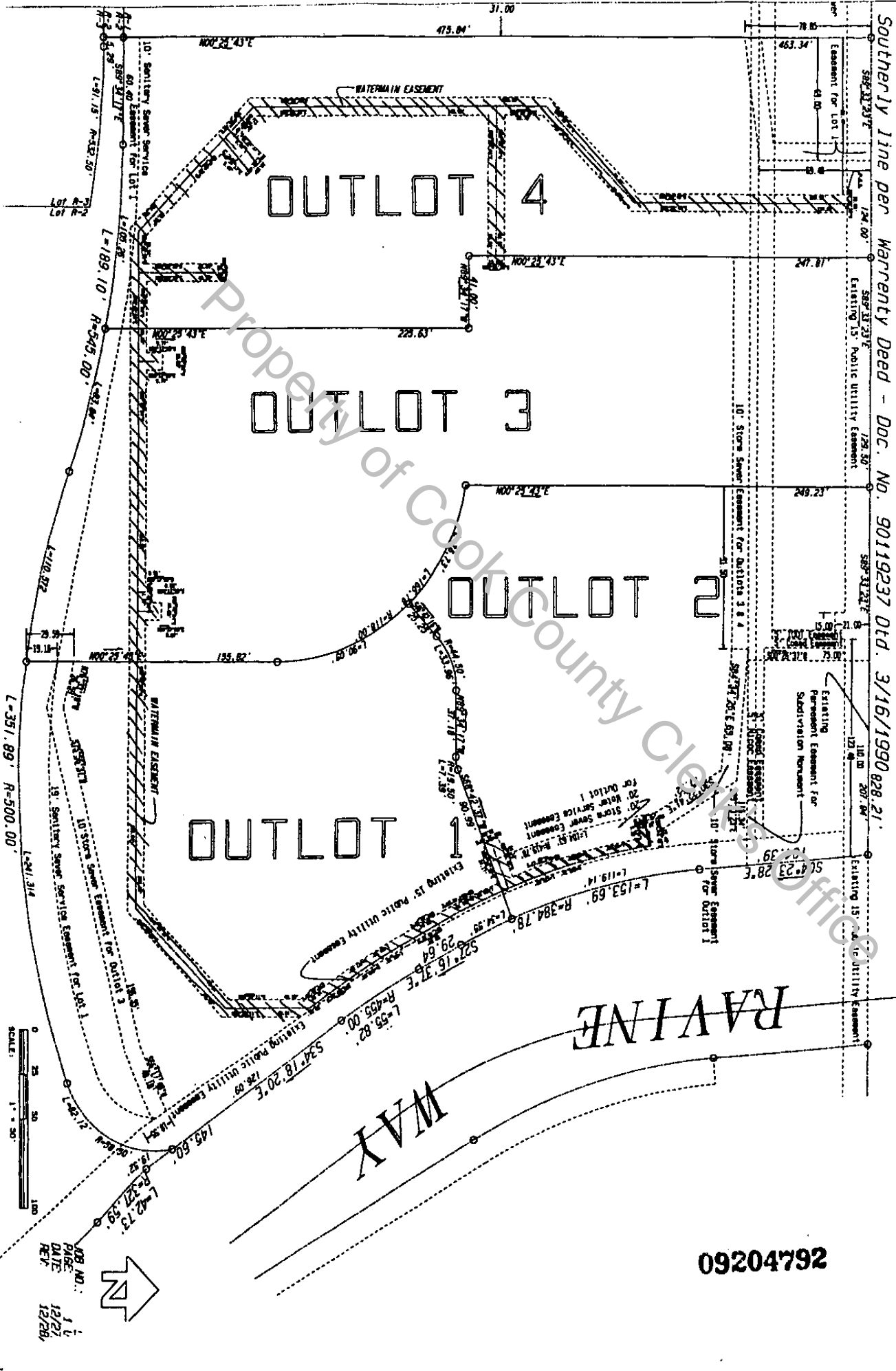
Tax Parcel ID No.: part of 04-22-202-005-0000

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WILLOW ROAD

EXHIBIT 'B'



Southerly line per Warrenty Deed - Doc. No. 90119237 Dtd. 3/16/1990 828.21.

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JOB NO. 1
PAGE 1
DATE 12/27
REV 12/28

Exhibit B
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LEGAL DESCRIPTION FOR WATERMAIN EASEMENT

BEGINNING AT A POINT IN OUTLOT 4, 15 FEET SOUTHERLY OF IT'S MOST NORTHERLY LINE, AS MEASURED PERPENDICULAR THERETO AND 88.47 FEET EASTERLY OF IT'S MOST WESTERLY LINE, AS MEASURED PERPENDICULAR THERETO;

THENCE SOUTH 00°25'43" WEST, A DISTANCE OF 128.95 FEET;
THENCE SOUTH 45°25'14" WEST, A DISTANCE OF 77.08 FEET;
THENCE SOUTH 00°24'35" WEST, A DISTANCE OF 185.95 FEET;
THENCE SOUTH 44°35'43" EAST, A DISTANCE OF 104.28 FEET;
THENCE SOUTH 89°43'54" EAST, A DISTANCE OF 386.04 FEET;
THENCE NORTH 25°30'25" EAST, A DISTANCE OF 83.89 FEET;
THENCE NORTH 00°33'11" EAST, A DISTANCE OF 48.01 FEET;
THENCE NORTH 31°55'54" WEST, A DISTANCE OF 39.01 FEET TO A POINT OF CURVATURE TO THE RIGHT HAVING A RADIUS OF 470.00 FEET;
THENCE ALONG THE ARC OF SAID CURVE, A DISTANCE OF 38.18 FEET TO A POINT OF TANGENCY;
THENCE NORTH 27°16'37" WEST, A DISTANCE OF 29.64 FEET TO A POINT OF CURVATURE TO THE RIGHT HAVING A RADIUS OF 399.78 FEET;
THENCE ALONG THE ARC OF SAID CURVE, A DISTANCE OF 136.03 FEET;
THENCE SOUTH 82°13'10" WEST, A DISTANCE OF 15.45 FEET;
THENCE SOUTH 07°46'50" EAST, A DISTANCE OF 10.00 FEET;
THENCE NORTH 82°13'10" EAST, A DISTANCE OF 8.57 FEET TO A POINT ON A CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 406.78 FEET AND A CHORD BEARING SOUTH 14°58'17" EAST;
THENCE ALONG THE ARC OF SAID CURVE, A DISTANCE OF 82.39 FEET;
THENCE SOUTH 68°38'20" WEST, A DISTANCE OF 24.12 FEET;
THENCE SOUTH 21°21'40" EAST, A DISTANCE OF 10.00 FEET;
THENCE NORTH 68°38'20" EAST, A DISTANCE OF 24.17 FEET TO A POINT ON A CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 406.78 FEET AND A CHORD BEARING SOUTH 24°44'23" EAST;
THENCE ALONG THE ARC OF SAID CURVE, A DISTANCE OF 36.02 FEET TO A POINT OF TANGENCY;
THENCE SOUTH 27°16'37" EAST, A DISTANCE OF 29.64 FEET TO A POINT OF CURVATURE TO THE LEFT HAVING A RADIUS OF 477.00 FEET;
THENCE ALONG THE ARC OF SAID CURVE, A DISTANCE OF 58.52 FEET TO A POINT OF TANGENCY;
THENCE SOUTH 34°18'20" EAST, A DISTANCE OF 10.32 FEET;
THENCE SOUTH 00°33'11" WEST, A DISTANCE OF 48.10 FEET;
THENCE SOUTH 43°30'29" WEST, A DISTANCE OF 75.64 FEET;
THENCE NORTH 89°42'54" WEST, A DISTANCE OF 160.19 FEET;
THENCE NORTH 00°17'06" EAST, A DISTANCE OF 9.87 FEET;
THENCE NORTH 89°42'54" WEST, A DISTANCE OF 10.00 FEET;
THENCE SOUTH 00°17'06" WEST, A DISTANCE OF 6.06 FEET;
THENCE NORTH 89°42'54" WEST, A DISTANCE OF 11.07 FEET;
THENCE SOUTH 00°17'06" WEST, A DISTANCE OF 3.81 FEET;
THENCE NORTH 89°42'54" WEST, A DISTANCE OF 119.93 FEET;
THENCE NORTH 00°17'06" EAST, A DISTANCE OF 9.77 FEET;
THENCE NORTH 89°42'54" WEST, A DISTANCE OF 10.00 FEET;
THENCE SOUTH 00°17'06" WEST, A DISTANCE OF 9.77 FEET;
THENCE NORTH 89°42'54" WEST, A DISTANCE OF 40.33 FEET;
THENCE NORTH 00°29'30" EAST, A DISTANCE OF 46.50 FEET;
THENCE NORTH 89°30'30" WEST, A DISTANCE OF 10.00 FEET;
THENCE SOUTH 00°29'30" WEST, A DISTANCE OF 46.54 FEET;
THENCE NORTH 89°42'54" WEST, A DISTANCE OF 16.24 FEET;
THENCE NORTH 44°35'43" WEST, A DISTANCE OF 68.58 FEET;
THENCE NORTH 45°24'17" EAST, A DISTANCE OF 9.44 FEET;
THENCE NORTH 44°35'43" WEST, A DISTANCE OF 10.00 FEET;
THENCE SOUTH 45°24'17" WEST, A DISTANCE OF 9.44 FEET;
THENCE NORTH 44°35'43" WEST, A DISTANCE OF 17.40 FEET;
THENCE NORTH 00°24'35" EAST, A DISTANCE OF 143.93 FEET;
THENCE SOUTH 89°39'44" EAST, A DISTANCE OF 85.02 FEET;
THENCE NORTH 00°24'16" EAST, A DISTANCE OF 10.00 FEET;

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THENCE NORTH 89°35'44" WEST, A DISTANCE OF 85.02 FEET;
THENCE NORTH 00°24'35" EAST, A DISTANCE OF 23.73 FEET;
THENCE NORTH 45°25'14" EAST, A DISTANCE OF 77.08 FEET;
THENCE NORTH 00°25'43" EAST, A DISTANCE OF 133.09 FEET;
THENCE NORTH 89°33'23" WEST, A DISTANCE OF 10.00 FEET TO THE POINT
OF BEGINNING, ALL IN OUTLOT 1, OUTLOT 2, OUTLOT 3 AND OUTLOT 4 OF
WILLOW CREEK CENTER, A RESUBDIVISION RECORDED DECEMBER 23, 1999, AS
DOCUMENT NO. 09192216, ALL IN THE NORTHEAST QUARTER OF SECTION 22,
TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN,
COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office

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