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THIS DOCUMENT WAS  
PREPARED BY AND  
AFTER RECORDING  
RETURN TO:

Gregg M. Dorman, Esq.  
Seyfarth Shaw LLP  
233 S. Wacker Drive, Suite 8000  
Chicago, Illinois 60606-6448

**Address of Property:**

Civic Center Plaza Shopping Center  
SEC Oakton Street and Waukegan  
Road, Niles, Illinois

**PINS:** 10-30-107-027-0000, 10-30-  
107-028-0000, 10-30-115-019-0000,  
10-30-115-020-0000, 10-30-107-  
026-0000



Doc# 2024808032 Fee \$88.00

RHSP FEE: \$9.00 RPRF FEE: \$1.00

EDWARD H. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 09/04/2020 08:56 AM PG: 1 OF 12

*Above space reserved for Recorder's use*

## **FIRST AMENDMENT TO MEMORANDUM OF LEASE**

**THIS FIRST AMENDMENT TO MEMORANDUM OF LEASE** (this "First MOL Amendment") is made and entered into as of the 1st day of April, 2020 by and between **FW IL-CIVIC CENTER PLAZA, LLC**, a Delaware limited liability company ("**Landlord**") and **HOME DEPOT U.S.A., INC.**, a Delaware corporation ("**Tenant**").

### **Preliminary Statements:**

A. Landlord (as successor-in-interest to Civic Center KC Inc., as successor-in-interest to the original named landlord, American National Bank and Trust Company of Chicago Trust No. 105595-08) and Tenant (as successor-in-interest to the original named tenant, Wabau, Inc.) are parties to that certain Lease dated March 19, 1990 (the "**Original Lease**"), as evidenced, assigned and amended pursuant to that certain (i) Memorandum of Lease dated as March 19, 1990 and recorded in the Office of the Cook County, IL Recorder of Deeds (the "**Recorder**") as Document No. 90377432 (the "**Original MOL**"); (ii) Amendment A to Lease dated February 14, 1992 (the "**First Amendment**"); (iii) Memorandum of Assignment of Lease dated February 15, 1994 and recorded with the Recorder as Document No. 94-163275 (the "**MOAL**" which, together with the Original MOL is collectively, the "**Existing MOL**"); (iv) Assignment of Lease and Agreement by Landlord dated February 18, 1994 (the "**Assignment**"); (v) Second Amendment to Lease dated October 14, 1994 (the "**Second Amendment**"); (vi) Third Amendment to Lease dated [ ], 1994 [undated in document] (the "**Third Amendment**"); and (vii) Letter Agreement regarding Outside Sales Area dated May 30, 2007 (the "**2007 Letter Agreement**" which, together with the Original Lease, Original MOL, First Amendment, MOAL, Assignment, Second Amendment and Third Amendment is collectively referred to herein as the "**Existing Lease**") with respect to certain premises located at 901 Civic Center Dr., Niles, IL as more particularly described and depicted in the Existing Lease (the "**Premises**") located in the in the Civic Center Plaza Shopping Center (the "**Shopping Center**") legally described on **Exhibit A** attached hereto.

B. Concurrently herewith, Landlord and Tenant have agreed to further amend the Existing Lease by entering into that certain Fourth Amendment to Lease dated of even date herewith (the "**Fourth**

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**Amendment**") which, among other things, provides for the execution and recording of this First MOL Amendment. The Existing Lease, as amended by the Fourth Amendment is collectively referred to herein as the "**Lease**". Capitalized terms used herein that are defined in the Lease shall have the same meanings herein as are ascribed to such terms in the Lease unless otherwise defined herein or the context dictates otherwise.

C. Landlord and Tenant now desire to enter into this First MOL Amendment to update and supplement the Existing MOL as hereinafter provided without affecting the priority of the Existing MOL.

**NOW, THEREFORE**, in consideration of the foregoing recitals, the terms of which are hereby incorporated herein by this reference, the mutual covenants contained in the Lease, Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby agree to amend the Existing MOL as follows:

1. **Term.** Pursuant to the terms of the Fourth Amendment, the initial term of the Existing Lease was extended through March 31, 2030.
2. **Extension Options.** Tenant has three (3) remaining options to further extend the term of the Lease for consecutive five (5) year Extension Terms in accordance with the terms set forth in the Lease.
3. **Site Plan.** The site plan to the Lease (the "**Site Plan**") is set forth on **Exhibit B** attached hereto (the "**Site Plan**").
4. **Uses.** Reference is made to Section 5(a) of the Fourth Amendment which (a) clarifies that the Premises may be used for any lawful retail purpose, subject to the terms of the Existing Lease, and (b) provides that, subject to the Outdoor Use Conditions (as hereinafter defined), Tenant is permitted to use the following described portions of the Common Areas for the following outdoor uses (collectively, the "**HD Outdoor Uses**"): (i) the seasonal sales areas shown on the Site Plan in front of Tenant's garden center (consisting of the portion of the Common Area shown hatched on the exhibits to the 2007 Letter Agreement, which are reflected on the Site Plan) for the period April 1 through July 10 of each year for outdoor and seasonal sales, storage, rental and display of products, materials and equipment including, without limitation, garden center products, landscaping equipment, supply and materials, and tool rentals; (ii) the sidewalk areas adjacent to the front, rear and side of the Demised Premises, the area behind the lumber center bump out, and the area behind the garden center as shown on the Site Plan for sales, display or storage uses, including (A) special operational programs, (B) the sale of food, accompanied by tables and seating for eating purposes, or (C) the sale of Christmas trees, typical to other Home Depot home improvement centers in the Chicago metropolitan area; (iii) six (6) parking spaces in the location identified on the Site Plan for parking of rental trucks; (iv) eight (8) parking stalls in the location identified on the Site Plan for display of vehicles, trailers, small tractors and other equipment for sale and/or rental to Tenant's customers; (v) ten (10) parking spaces in the northwest portion of Tenant's front parking field as shown on the Site Plan for the display of storage sheds. As used herein, the term "**Outdoor Use Conditions**" shall mean that any HD Outdoor Use permitted hereunder must (1) comply with all applicable laws, codes and ordinances, and (2) not unreasonably interfere with vehicular or pedestrian access over the Main Center Drives shown on the Site Plan.
5. **Tenant's Exclusive.** Reference is made to Section 5(b) of the Fourth Amendment which provides that, without limiting or modifying the existing exclusive use restriction in effect in the Existing Lease, from and after the Effective Date, no portion of the Shopping Center (other than the Premises, including the HD Outdoor Uses) shall be used for a home improvement center or hardware store or for any business which sells, displays, leases, rents or distributes paint or hard and soft flooring (including, without limitation, tile, wood flooring, rugs and carpeting) and related tools. The foregoing restriction established

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in this paragraph is hereinafter referred to as “**Tenant’s Exclusive**”. For clarity and example purposes only, businesses operating (A) home improvement centers of the nature operated under the current trade name Lowes or Menards, (B) hardware stores of the nature operated under the current trade name Ace Hardware or Tru-Value; (C) paint stores of the nature operated under the current trade name Sherwin Williams, or (D) flooring stores of the nature operated under the current trade name Floor N’ Décor, in each case are the types of stores or businesses that would violate Tenant’s Exclusive. Tenant acknowledges and agrees that the sales of protected products or services (i.e., that would otherwise violate Tenant’s Exclusive) on an incidental basis (as hereinafter defined) will not be deemed to violate Tenant’s Exclusive for so long as such sales remain on an incidental basis. As used herein, the term “**incidental basis**” shall mean the sale of protected products or services (that would otherwise violate Tenant’s Exclusive) by a tenant or occupant that operates a different primary business that is permitted in the Shopping Center in no more than in any one store, the lesser of (aa) ten percent (10%) of the total floor area of such business (calculated by measuring the floor area of the premises in question that is occupied by the shelving, display or service area devoted to such protected products or services, plus one-half of adjacent aisle space), or (bb) two thousand five hundred (2,500) square feet of total floor area. Notwithstanding anything to the contrary set forth above, nothing in this Section 5(b) shall be construed to prohibit the operation of the following uses operating in at least 40,000 contiguous square feet in the Shopping Center, as the same are currently operated as of the Effective Date: (I) a general merchandise, discount department store (such as, but not limited to, Wal-Mart or Target); (II) a grocery store (such as, but not limited to, Jewel, H-Mart or Mariano’s), or (III) a membership warehouse or wholesale club (such as, but not limited to, Sam’s Club or Costco). While the parties acknowledge that the uses described in clauses (I), (II) and (III) in the preceding sentence (1) are intended to provide Landlord with some flexibility to backfill the current space occupied by H-Mart if and/or when it becomes available for leasing, (2) may sell some products that overlap with Tenant’s Exclusive, and (3) are not subject to the incidental basis sales exception set forth above, nothing herein is intended to allow or permit any such uses to materially change its principal use and business operation as described herein to a business that principally competes with the products or uses protected by Tenant’s Exclusive. Section 5(b) of the Fourth Amendment contains certain exceptions to the Tenant’s Exclusive described above regarding Existing Shopping Center Lease(s).

6. **Permitted Shopping Center Uses.** Reference is made to Section 5(c) of the Fourth Amendment wherein the following uses will be allowed in the Shopping Center outside of the Premises, subject to the terms hereof:

(A) health club, gymnasium or Permitted Entertainment Use (as hereinafter defined), except that if any such uses are located in the space immediately adjacent to Tenant’s garden center to the south currently occupied as of the Effective Date by King Spa as shown on the Site Plan, then the entrance for any such adjacent use must remain in the rear of the Shopping Center as is currently the case for the King Spa space (i.e., such adjacent use may not have an entrance facing the primarily front parking field of the Shopping Center);

(B) up to four (4) restaurants in the aggregate (including one on the Waukegan Outlot [as hereinafter defined] currently occupied by a car wash), subject to the Restaurant Conditions (as hereinafter defined); and

(C) up to 20,000 square feet of Permitted Medical Office Use (as hereinafter defined) will be allowed in the aggregate.

As used herein, the term (A) “**Permitted Entertainment Use**” shall mean and refer to amusement or recreation uses consistent with the type of uses typically permitted to operate in first-class shopping centers in the market area of the Shopping Center, including the following: bowling alley, billiard parlor, game room, video or amusement arcade or other place of amusement or recreation, or sports or other

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entertainment viewing facility (but excluding night clubs, gambling establishments of any kind, any use involving pornographic content or illicit drugs, or any facility providing live entertainment, except for any ancillary use to an otherwise permitted use, such as a restaurant), and (B) “**Permitted Medical Office Use**” shall mean and refer to the operation of a primary care medical or dental office consistent with the type of medical offices typically permitted to operate in first-class shopping centers in the market area of the Shopping Center or any drug store or pharmacy operated by a national or regional chain that may offer medical services (e.g., flu shots) as an incidental part of its business. Notwithstanding the foregoing, the following uses shall in no event be Permitted Medical Office Uses: (1) any facility used primarily for trauma care comparable to services provided at an emergency room at a local hospital; (2) a surgery center of any kind including, without limitation, any ambulatory (out-patient) surgical center or any other medical facility where patients are admitted for overnight stays; (3) any medical facility that performs controversial procedures not customarily found in first-class shopping centers (such as an abortion clinic); or (4) any medical use prohibited under applicable law. For clarity, nothing herein is intended to limit or modify any use restrictions under the Existing Lease in effect with respect to the King Spa space and use.

As used herein, the term “**Restaurant Conditions**” shall mean:

(A) with respect to restaurant uses in the Shopping Center outside of the Premises, such uses may not, in the aggregate, exceed 15,000 square feet;

(B) if a restaurant is proposed for the Waukegan Road outlet shown on the Site Plan currently occupied by a car wash (the “**Waukegan Outlet**”), then:

(1) such restaurant must have self-contained parking (i.e., it must satisfy the parking requirement hereunder solely using parking spaces on the Waukegan Outlet and no other portion of the Shopping Center);

(2) except as otherwise provided below, any such restaurant on the Waukegan Outlet shall have at least ten (10) parking spaces for each one thousand (1,000) square feet of gross floor area in the building plus any area devoted to outdoor seating for such restaurant;

(3) if any such restaurant serves liquor or alcohol of any kind, then such restaurant shall require on the Waukegan Outlet at least fifteen (15) parking spaces for each one thousand (1,000) square feet of gross floor area in the building plus any area devoted to outdoor seating for such restaurant; and

(4) if governmental regulations require more parking spaces for such restaurant use on the Waukegan Outlet than the amount required in items (2) or (3) above, then the governmental requirement (without variance) shall be the minimum number of parking spaces required; and

Without limiting or modifying the terms with respect to the Waukegan Outlet, any restaurant use in the Shopping Center must be able to satisfy the minimum number of parking spaces required by governmental regulations without variance and without creating any parking deficiency in the Shopping Center (i.e., fewer parking spaces in the Shopping Center than are required by code without variance) taking into account all then-existing uses in the Shopping Center. Section 5(c) of the Fourth Amendment contains certain other agreements and limitations on a restaurant use on the Waukegan Outlet during the extension term described in Section 1 above.

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7. **Notice.** Reference is made to Section 14 of the Fourth Amendment which provides the following current addresses for notice to Landlord and Tenant under the Lease:

If to Landlord: c/o Regency Centers Corporation  
One Independent Drive, Suite 114  
Jacksonville, Florida 32202-5019  
Attention: Lease Administration

With copies to: c/o Regency Centers Corporation  
One Independent Drive, Suite 114  
Jacksonville, Florida 32202-5019  
Attention: Legal Department

and

c/o Regency Centers Corporation  
1211 West 22nd Street, Suite 300  
Oak Brook, Illinois 60523  
Attention: Property Management

If to Tenant: Home Depot U.S.A., Inc.  
2455 Paces Ferry Road  
Atlanta, Georgia 30339-4024  
Attention: Property Management (#1907)  
Email: hd\_propmgmt@homedepot.com

8. **Counterparts.** This First MOL Amendment may be executed in one or more counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same agreement. The original execution pages of counterpart copies of this First MOL Amendment may be attached to any one such copy to form a single, complete document.

9. **Amendment.** Except as amended by this First MOL Amendment, all of the terms and provisions of the Existing MOL are hereby reaffirmed, ratified, confirmed and approved in their entirety and shall remain in full force and effect. In the event of any conflict or inconsistency between the terms of this First MOL Amendment and the terms of the Existing MOL, the terms of this First MOL Amendment shall govern and control.

10. **Purpose.** The Existing MOL, as amended by this First MOL Amendment, has been prepared for the purposes of recording a notification of the Fourth Amendment, but in no way modifies the express and particular provisions of the Lease. In the event of a conflict between the terms of the Lease and the terms of the Existing MOL, as amended in this First MOL Amendment, the terms of the Lease shall govern and control.

*[the remainder of this page is intentionally left blank; signature pages to follow]*

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IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute and deliver this First MOL Amendment as of the day and year first above written.

**LANDLORD:** FW IL-CIVIC CENTER PLAZA, LLC,  
a Delaware limited liability company

By: FW-Reg II Holding Company Two, LLC,  
a Delaware limited liability company,  
its sole member

By: GRI-Regency, LLC,  
a Delaware limited liability company,  
its sole member

By: Regency Centers, L.P.,  
a Delaware limited partnership,  
its managing member

By: Regency Centers Corporation,  
a Florida corporation,  
its general partner

By: Peggy McDermott  
Print Name: Peggy McDermott  
Title: VP-Property Operations

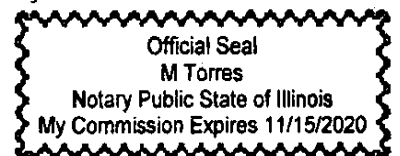
STATE OF ILLINOIS )  
COUNTY OF DUPAGE )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of May, 2020, by Peggy McDermott as the VP-Property Operations of Regency Centers Corporation, a Florida corporation, as the general partner of Regency Centers, L.P., a Delaware limited partnership, as the managing member of GRI-Regency, LLC, a Delaware limited liability company, as the sole member of FW-Reg II Holding Company Two, LLC, a Delaware limited liability company, as the sole member of FW IL-CIVIC CENTER PLAZA, LLC, a Delaware limited liability company on behalf of the limited liability company. He is personally known to me or has produced a driver's license as identification.

M. Torres  
NOTARY PUBLIC, STATE OF ILLINOIS  
M. TORRES  
Print or Stamp Name of Notary

My Commission Expires: 11/15/2020


[Notarial Seal]



[LANDLORD SIGNATURE PAGE]

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**TENANT:** **HOME DEPOT U.S.A., INC.,**  
a Delaware corporation

By:   
Name: Jessica Borgert  
Title: Assistant General Counsel

STATE OF GEORGIA )  
 ) SS.  
COUNTY OF COBB )

On March 31, 2020, before me, a notary public in and for said state, personally appeared Jessica Borgert, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person acted, executed the instrument.

WITNESS my hand and official seal.

  
Notary Public

My commission expires: 9/10/2022

Barbara Turner  
NOTARY PUBLIC  
Fulton County, GEORGIA  
My Commission Expires 09/10/2022

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## EXHIBIT A

### Legal Description of Shopping Center

A TRACT OF LAND IN THE NORTHWEST 1/4 OF SECTION 30, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID SECTION 30, AT ITS INTERSECTION WITH THE EASTERLY LINE OF CHICAGO AND LITTLE FORT ROAD (ALSO KNOWN AS WAUKEGAN) ROAD) THENCE EAST ALONG SAID NORTH LINE OF 445.21 FEET TO A POINT 1212.17 FEET WEST OF THE LINE OF THE NORTHWEST 1/4 OF SAID SECTION 30; THENCE SOUTH ALONG A LINE PARALLEL WITH SAID EAST LINE OF SAID NORTHWEST 1/4, 651.69 FEET; THENCE EAST ALONG A LINE PARALLEL WITH THE NORTH LINE OF THE NORTHWEST 1/4, 323.88 FEET; THENCE SOUTH PARALLEL WITH THE EAST LINE OF THE NORTHWEST 1/4, 1104.74 FEET TO A POINT WHICH IS 13.87 CHAINS (915.42 FEET) NORTH OF THE SOUTH LINE OF SAID NORTHWEST 1/4 AS MEASURED AT RIGHT ANGLES THERETO; THENCE WEST PARALLEL TO SAID SOUTH LINE 1005.48 FEET TO A POINT ON THE EAST LINE OF SAID CHICAGO AND LITTLE FORT ROAD (ALSO KNOWN AS WAUKEGAN ROAD); THENCE NORTHERLY 141.97 FEET TO A BEND IN SAID ROADL THENCE AND CONTINUING IN A NORTHEASTERLY DIRECTION ALONG SAID EASTERLY LINE OF CHICAGO AND LITTLE FORT ROAD (ALSO KNOWN AS WAUKEGAN ROAD) 1638.43 FEET MORE OR LESS TO THE PLACE OF BEGINNING (EXCEPTING THE FOLLOWING DESCRIBED TRACTS):

#### **TRACT A:**

BEGINNING AT A POINT ON THE NORTH LINE OF SAID SECTION 30 AT ITS INTERSECTION WITH EASTERLY LINE OF CHICAGO AND LITTLE FORT ROAD (ALSO KNOWN AS WAUKEGAN ROAD); THENCE EAST ALONG SAID NORTH LINE 445.21 FEET TO A POINT 1212.14 FEET WEST OF THE EAST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 30; THENCE SOUTH ALONG A LINE PARALLEL WITH SAID EAST LINE OF SAID NORTHWEST 1/4 724.74 FEET; THENCE WEST AT RIGHT ANGLES TO LAST DESCRIBED LINE 523.33 FEET, MORE OR LESS, TO THE EAST LINE OF SAID CHICAGO AND LITTLE FORT ROAD (ALSO KNOWN AS WAUKEGAN ROAD); THENCE IN A NORTHEASTERLY DIRECTION ALONG SAID EASTERLY LINE OF CHICAGO AND LITTLE FORT ROAD (ALSO KNOWN AS WAUKEGAN ROAD), 716.21 FEET TO THE PLACE OF BEGINNING;

#### **TRACT B:**

THAT PART OF THE NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIDAN, BOUNDED BY A LINE DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF SAID NORTHWEST QUARETER OF SECTION 30, WITH THE EASTERLY LINE OF WAUKEGAN ROAD (CHICAGO AN DLITTLE FORT ROAD); THENCE EAST ALONG THE NORTH LINE OF SAID NORTHWEST QUARTER, 445.21 FEE TO TA POINT 1212.17 FEET WEST OF THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 31; THENCE SOUTH ALONG A LINE PARALLEL WITH THE EAST LINE OF SAID NORTHWEST QUARTERM 724.72 FEET; THENCE WEST AT RIGHT ANGLES TO SAID PARALLEL LINE, A DISTANCE OF 259.34 FEET TO THE POINT OF BEGINNING OF THE TRACT OF LAND TO BE DESCRIBED;

THENCE CONTINUING WEST ALONG SAID LINE DRAWN AT RIGHT ANGLES, AFORESAID, NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS WEST, A DISTANCE OF 246.87 FEET TO A



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POINT ON THE EASTERLY LINE OF WAUKEGAN ROAD, AS WIDENED; THENCE SOUTH 06 DEGREES, 14 MINUTES, 22 SECONDS WEST ALONG THE EASTERLY LINE OF WAUKEGAN ROAD, AS WIDENED, A DISTANCE OF 150.89 FEET TO AN INTERSECTION WITH A LINE OF 150.0 FEET SOUTH, AS MEASURED AT RIGHT ANGLES, AND PARALLEL WITH SAID LINE DESCRIBED AS BEING DRAWN AT RIGHT ANGLES TO SAID LINE PARALLEL WITH THE EAST LINE OF SAID QUARTER SECTION; THENCE NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 263.27 FEET; THENCE NORTH 00 DEGREES, 00 MINUTES, 00 SECONDS EAST, A DISTANCE OF 150 FEET TO THE POINT OF BEGINNING,

ALL IN COOK COUNTY, ILLINOIS.

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## EXHIBIT B

### Site Plan

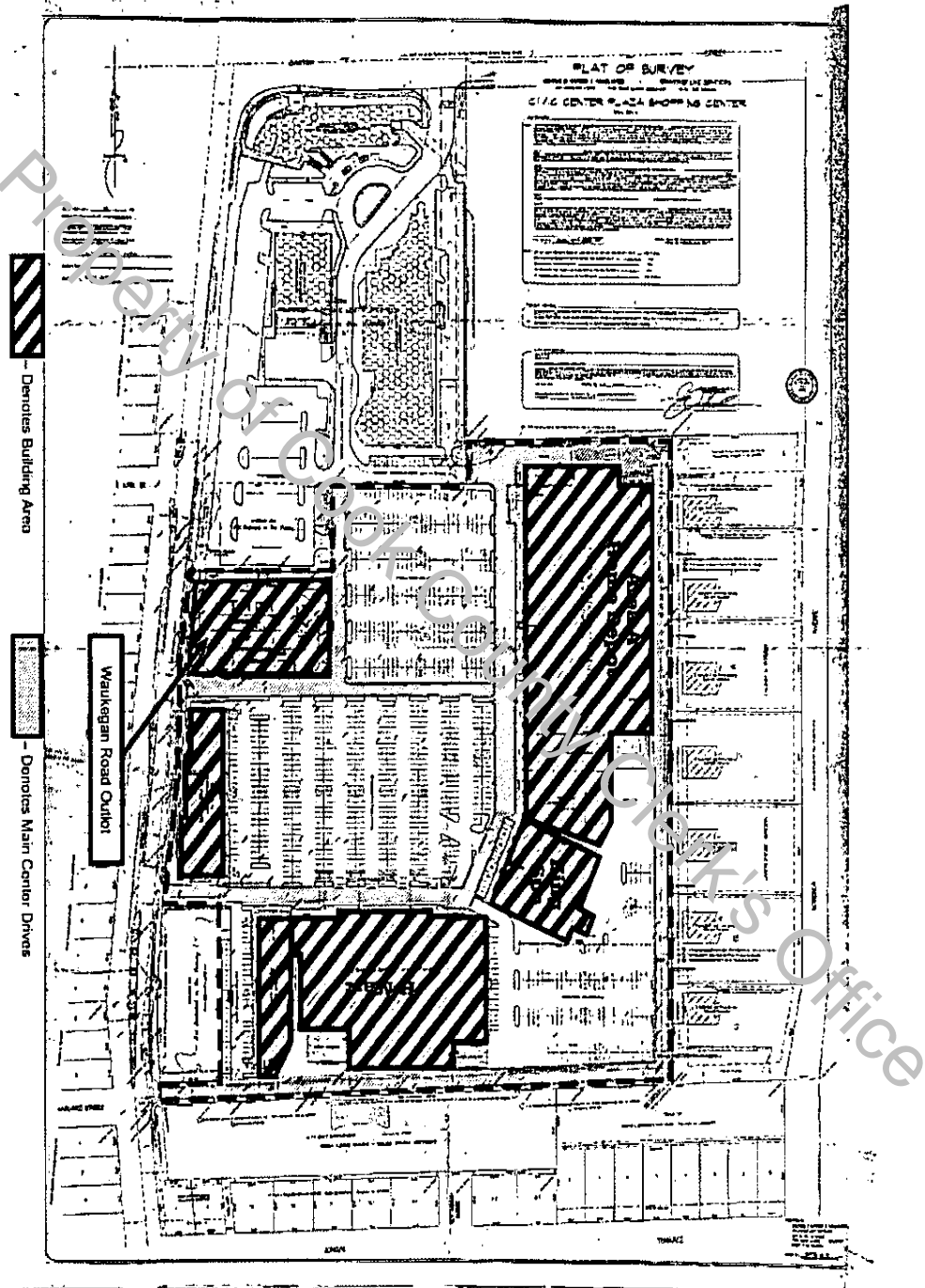
[See copy attached on the following two (2) pages]

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**COOK COUNTY  
RECORDER OF DEEDS**

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Exhibit B  
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Exhibit B

