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95102534

February 7, 1995

PREPARED BY AND AFTER RECORDING RETURN TO:

Michael J. Regan, Esq.
Hinshaw & Culbertson
222 North LaSalle Street
Chicago, Illinois 60601

FILED IN RECORDING 157,000
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C O O K C O U N T Y I L L I N O I S
OFFICE OF COUNTY RECORDER

GNA Loan No. 1344

FIRST MODIFICATION AGREEMENT

THIS FIRST MODIFICATION AGREEMENT made as of the 12 day of February, 1995 ("Date Hereof"), but effective as of September 1, 1994 ("Effective Date") between GREAT NORTHERN INSURED ANNUITY CORPORATION, a Washington corporation ("Lender") and BAYBERRY PLAZA LIMITED PARTNERSHIP, an Illinois limited partnership ("Borrower").

RECITALS:

A. Lender is the legal owner and holder of a promissory note dated February 13, 1991 ("Note") in the original principal amount of One Million Twenty Thousand Dollars (\$1,020,000.00) ("Principal Amount") executed and delivered by Borrower in favor of Lender.

B. Note is secured by:

1. A Mortgage dated February 13, 1991 ("Mortgage") filed February 15, 1991 as Document No. 91072525 in the Office of the Recorder of Deeds of Cook County, Illinois ("Recorder's Office") which encumbers the land and improvements legally described on Exhibit "A" attached hereto ("Premises"); and

2. An Assignment of Leases and Rents dated February 13, 1991 filed February 15, 1991 as Document No. 91072526 in the Recorder's Office ("Assignment of Rents");

3. A Security Agreement dated February 13, 1991 ("Security Agreement") and;

BOX 333-CTI

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95-79-120 D2

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4. A UCC-1 Financing Statement filed with the Illinois Secretary of State on February 19, 1991 as Document No. 2818426 ("UCC-1") and a UCC-2 Financing Statement ("UCC-2") filed in the Recorder's Office on February 15, 1991 as Document No. 91 U 02834.

C. Mortgage, Assignment of Rents, Security Agreement, UCC-1 and UCC-2 are hereinafter collectively referred to as "Security Documents".

D. Contemporaneous with the execution of the Note and Security Documents, Philip Reinstein and Baruch Schur (collectively "Guarantor") executed and delivered a Guaranty and Personal Liability Agreement dated February 13, 1991 ("Guaranty") whereby the Guarantor agreed to guaranty the performance of certain of the Borrower's obligations under the Note and Security Documents.

E. Borrower has requested that the Note be modified, subject to the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the payments made and to be made by Borrower, as hereinafter provided, and the performance of the terms, covenants, conditions and agreements of the Note and Security Documents as hereafter amended and modified, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, IT IS HEREBY AGREED AS FOLLOWS:

1. RECITALS: Recitals A. through E. immediately above are incorporated herein as Section 1. and except for terms defined herein reference is made to the Note and Security Documents for other defined terms.

2. PRINCIPAL AMOUNT OF NOTE: The unpaid principal amount of the Note, as of the Date Hereof (after application of the "Principal Reduction Payment" and the "September 1994 Payment", as such terms are hereinafter defined) is EIGHT HUNDRED NINETY-SIX THOUSAND EIGHT HUNDRED TWENTY AND 38/100 DOLLARS (\$896,320.38).

3. WARRANTIES AND REPRESENTATIONS: Borrower warrants and represents as follows (collectively "Warranties and Representations"):

a). Borrower is a limited partnership duly organized and validly existing pursuant to the laws of the State of Illinois and the execution and delivery of the Note, Security Documents and this First Modification Agreement have been duly authorized;

b). Note, Security Documents and this First Modification Agreement and each of the covenants, conditions and agreements contained therein and herein, are in full force and effect and are the valid and legally binding obligations of

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Borrower, free from all legal and equitable defenses, offsets and counterclaims; except as such covenants, conditions and agreements may have been modified or amended herein;

c). no person, firm or corporation has or claims any interest in the Premises which does not appear in loan policy number 72-79-120 issued by Chicago Title Insurance Company on February 15, 1991 ("Title Policy"), other than tenants ("Occupancy Tenants") of the Premises pursuant to leases or other rental agreements listed on Exhibit "B" attached hereto and made a part hereof ("Leases"), which Leases, are currently subject and subordinate to the lien of Mortgage; nor is there any unrecorded deed, deed of trust, mortgage or other conveyance or any undelivered bill of sale, assignment or instrument of transfer relating to Premises;

d). no part of Premises is in receivership nor is any application for receivership pending and no petition in bankruptcy has been filed by or against Borrower or any general partner of Borrower;

e). the only parties entitled to possession of Premises, or any part thereof, are Borrower and Occupancy Tenants pursuant to Leases;

f). Leases are in full force and effect and each Occupancy Tenant is in possession of his or her leased premises and paying rent except to the extent that the payment thereof is deferred or waived by the provisions of their respective Leases;

g). Except for the delinquencies listed on Exhibit "C" attached hereto, all rents due from Occupancy Tenants have been collected by Borrower and have been paid on account of operating expenses, real estate taxes, insurance premiums, other costs and expenses attributable to the ownership and operation of Premises and on account of amounts due to Lender pursuant to the Note and Security Documents; and

h). there are no agreements, state of facts or circumstances presently existing and known to Borrower which, with or without the service of notice, passage of time, or both, would grant to Borrower the right to refuse to make or delay the payments or otherwise perform the terms, covenants, conditions and agreements required pursuant to the Note and Security Documents.

4. **MODIFICATIONS:** Note and Security Documents are modified as follows:

(a) **Interest Rate:**

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- (i) For the period commencing on the Effective Date and ending on August 31, 1995 the interest rate on the Note shall be reduced to SEVEN AND ONE-HALF PERCENT (7.50%);
- (ii) For the period commencing on September 1, 1995 and ending on August 31, 1996 the interest rate of the Note shall be EIGHT AND ONE-HALF PERCENT (8.50%); and
- (iii) For the period commencing on September 1, 1996 and ending on the Maturity Date the interest rate on the Note shall be at the rates which are from time to time applicable pursuant to the terms of the Note.

(b) Monthly Payments of Principal and Interest:

- (i) Commencing on October 1, 1994 and on the 1st day of each month to and including September 1, 1995, the Borrower shall make monthly payments of interest only, at the rate described in Paragraph 4(G)(i) above in the amount of FIVE THOUSAND SIX HUNDRED FIVE AND 13/100 (\$5,605.13);
- (ii) Commencing on October 1, 1995 and on the 1st day of each month to and including September 1, 1996, the Borrower shall make monthly payments of principal and interest [at the rate described in Paragraph 4(b)(ii) above] in the amount of SEVEN THOUSAND ONE HUNDRED EIGHTY-SEVEN AND 35/100 (\$7,187.35); and
- (iii) Commencing on October 1, 1996 and on the 1st day of each month thereafter the Borrower shall make payments of principal and interest in amounts determined pursuant to the terms of the Note.

(c) Real Estate Tax Escrow Payments: Commencing on February 1, 1995 and on the 1st day of each month thereafter during the term of the Note the Borrower shall make monthly deposits for real estate taxes in the amount of THREE THOUSAND SIX HUNDRED NINETEEN AND 65/100 (\$3,619.65) pursuant to the provisions of Paragraph 4 of the Mortgage. Notwithstanding the foregoing, the amount of the monthly real estate tax deposit payments is subject to adjustment pursuant to the provisions of Paragraph 4 of the Mortgage.

5. ADDITIONAL PROVISIONS: Borrower shall, concurrently herewith, deliver to Lender:

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- a). satisfactory evidence that all real estate taxes and other assessments applicable to Premises, due and payable as of the Date Hereof, have been paid in full;
- b). an endorsement to the Title Policy extending the date thereof to the date of filing of this First Modification Agreement in the Recorder's Office;
- c). such partnership resolutions, certificates of incumbency and certificates of good standing as Lender may reasonably request;
- d). the execution by Guarantor of a consent to this First Modification Agreement;
- e). the following payments:
 - (i) ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) which will be applied by Lender to reduce the principal amount of Note ("Principal Reduction Payment");
 - (ii) EIGHT THOUSAND EIGHT HUNDRED FIFTY-EIGHT AND 50/100 (\$8,858.50) which amount represents the principal and interest payment due on September 1, 1994 ("September 1994 Payment");
 - (iii) SIX THOUSAND FOUR HUNDRED SEVENTY-SIX AND 12/100 DOLLARS (\$6,476.12) being an amount equal to the difference between TWENTY-TWO THOUSAND FOUR HUNDRED TWENTY AND 52/100 DOLLARS (\$22,420.52) being the aggregate amount of the monthly payments of interest on the Note which were due and payable (but heretofore unpaid), on the 1st day of October, November and December, 1994 and the 1st day of January, 1995 and FIFTEEN THOUSAND NINE HUNDRED FORTY-FOUR AND 40/100 DOLLARS (\$15,944.40) being an amount previously deposited by Borrower which has been held by Lender in trust for Borrower;
 - (iv) NINETEEN THOUSAND SEVEN HUNDRED FORTY-THREE AND 57/100 DOLLARS (\$19,743.57) to be held by Lender, in trust, in order to establish, a real estate tax escrow pursuant to Paragraph 4 of the Mortgage; and
 - (v) an amount necessary to pay in full of all title and recording charges and other costs and expenses (including attorneys' fees) incurred by

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Lender by reason of the matters specified herein and the preparation of this First Modification Agreement and all other documents necessary and required to effectuate the provisions hereof.

6. **EFFECT OF AGREEMENT:** Borrower and, by its consent, Guarantor acknowledge that:

- a). they have thoroughly read and reviewed the terms and provisions of this First Modification Agreement and are familiar with the same;
- b). the terms and provisions contained herein are clearly understood by Borrower and Guarantor and are fully and unconditionally consented to by them;
- c). they have had full benefit and advice of counsel or the opportunity to obtain the benefit and advice of counsel of their own selection with regard to understanding the terms, meaning and effect of this First Modification Agreement;
- d). they have executed this First Modification Agreement and the consent (as the case may be), freely, voluntarily, with full knowledge and without duress and, in such execution, Borrower and Guarantor have not relied on any other representations, either written or oral, express or implied, made to any of them by any other party hereto; and
- e). the consideration received by Borrower and Guarantor hereunder is actual and adequate.

7. **RELEASE AND INDEMNIFICATION:** As additional consideration for the modification of the Note and Security Documents as herein provided, Borrower and Guarantor (by its consent hereto) hereby release and forever discharge Lender, its agents, servants, employees, directors, officers, attorneys, branches, affiliates, subsidiaries, successors, assigns and all persons, firms and corporations, in its behalf, of and from all damage, loss, claims, demands, liabilities, obligations, actions and causes of action whatsoever which Borrower now have or claim to have against Lender as of the Date Hereof and whether presently known or unknown and of every nature and extent whatsoever on account of or in any way concerning, arising out of or founded upon the Note and Security Documents, including, but not limited to, all such loss or damage of any kind heretofore sustained or which may arise as a consequence of the transactions between Borrower and Lender to and including the Date Hereof.

8. **BUSINESS ASSOCIATION:** Borrower and Guarantor (by its consent hereto) acknowledge that they are not now nor shall they claim to be an agent of Lender for any purpose and Lender is not now nor shall it be construed to be a general partner, limited partner or venture partner or in any other manner associated in business with Borrower or Guarantor.

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9. **WHEN EFFECTIVE:** This First Modification Agreement is effective as of Effective Date, concurrently with the execution and delivery hereof by Lender, Borrower and Guarantor and upon performance by Borrower and Guarantor of all of the terms, covenants, conditions and agreements then required of them pursuant hereto.

10. **CONSTRUCTION:** This First Modification Agreement shall not be construed more strictly against Lender than against Borrower or Guarantor merely by virtue of the fact that the same has been prepared by counsel for Lender, it being recognized that Borrower and Lender have contributed substantially and materially to its preparation, and Borrower and Guarantor (by its consent hereto) each acknowledge and waive any claim contesting the existence and the adequacy of the consideration given by the others in entering into this First Modification Agreement and the consent by Guarantor.

11. **GOVERNING LAW:** This Agreement has been negotiated, executed and delivered at Chicago, Illinois and shall be construed and enforced in accordance with the laws of the State of Illinois, without reference to the conflicts of law principles of said state. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid pursuant to applicable law; however, if the same shall be prohibited by or invalid thereunder, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder thereof or the remaining provisions of this Agreement.

12. **GENDER:** All words herein which are expressed in the neuter gender shall be deemed to include the masculine, feminine and neuter genders and any word herein which is expressed in the singular or plural shall be deemed, whenever appropriate in the context, to include the plural and the singular.

13. **FAILURE OR DELAY:** No failure by Lender to exercise, or delay by Lender in exercising, any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights and remedies provided in this First Modification Agreement and in the Note and Security Documents are cumulative and not exclusive of each other or of any right or remedy provided by law or in equity. No notice to or demand upon Borrower, in any instance, shall, in itself, entitle Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the right of Lender to any other or further action in any circumstance without notice or demand.

14. **ENTIRE AGREEMENT:** Borrower and Guarantor (by its consent hereto) and Lender each acknowledge that (except as herein provided) there are no other agreements or representations, either oral or written, express or implied, not embodied in Note and Security Documents, which, together with this First Modification Agreement, represent a complete integration of all prior and contemporaneous agreements and understandings of the Borrower, Guarantor and Lender.

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15. **RATIFICATION:** Except to the extent modified herein, the provisions of the Note, Security Documents and Guaranty are hereby ratified and confirmed.

16. **COUNTERPARTS:** This Agreement may be executed in one or more counterparts which, when taken together, shall constitute a single agreement.

17. **BENEFIT:** This Agreement shall be binding upon and shall inure to the benefit of the Borrower and Lender (and by its consent hereto, Guarantor), their respective successors, assigns, grantees and legal representatives.

IN WITNESS WHEREOF, Lender and Borrower have caused this Agreement to be executed by their respective duly authorized officers and partners as of the day and year first above written.

LENDER: GREAT NORTHERN INSURED ANNUITY CORPORATION, a Washington corporation

By: David M. Larson
Title: Assistant Vice President

ATTEST:

By: Ann M. Richards
Title: REAL ESTATE COORDINATOR

BORROWER:

BAYBERRY PLAZA LIMITED PARTNERSHIP, an Illinois limited partnership

By: GREYSTONE INVESTMENTS, INC.,
an Illinois corporation, general partner

By: _____
Name: _____
Title: _____

By: PTR INVESTMENTS, INC., an Illinois corporation, general partner

By: _____
Name: _____
Title: _____

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IN WITNESS WHEREOF, Lender and Borrower have caused this Agreement to be executed by their respective duly authorized officers and partners as of the day and year first above written.

LENDER: GREAT NORTHERN INSURED ANNUITY CORPORATION, a Washington corporation

By: _____
Title: _____

ATTEST:

By: _____
Title: _____

BORROWER: BAYBERRY PLAZA LIMITED PARTNERSHIP, an Illinois limited partnership

By: GREYSTONE INVESTMENTS, INC., an Illinois corporation, general partner

By: [Signature]
Name: BARUCH SCHUR
Title: IS PRESIDENT

By: PTR INVESTMENTS, INC., an Illinois corporation, general partner

By: [Signature]
Name: PHILIP T. KENNEDY
Title: PRESIDENT

Being all the general partners of Bayberry Plaza Limited Partnership

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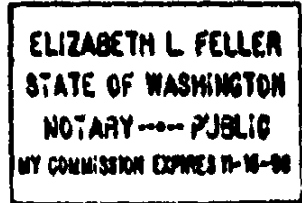
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STATE OF Washington)
) SS.
COUNTY OF King)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Janet M. Aaron, Asst Vice President of GREAT NORTHERN INSURED ANNUITY CORPORATION, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Asst Vice President, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as her own free and voluntary act, and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and seal this 7th day of February, 1995.

Elizabeth A. Feller
Notary Public



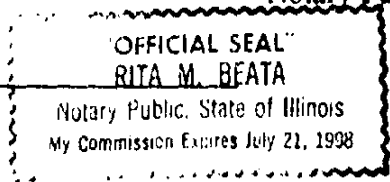
STATE OF ILLINOIS)
) SS.
COUNTY OF Cook)

I, the undersigned, a Notary Public in and for and residing in said County, in the State aforesaid, DO HEREBY CERTIFY that Bruce S. ..., personally known to me to be the _____ president and _____ ~~personally known to me to be the~~ secretary of GREYSTONE INVESTMENTS, INC., an Illinois corporation ("Corporation"), which is a general partner of BAYBERRY PLAZA LIMITED PARTNERSHIP, an Illinois limited partnership ("Partnership"), and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such president and secretary aforesaid, they signed and delivered the said instrument as their own free and voluntary acts and as the free and voluntary act of the Corporation and Partnership, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 7th day of February, 1995.

Rita M. Beata
Notary Public

My commission expires: _____



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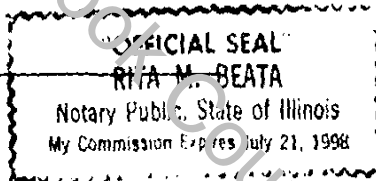
STATE OF ILLINOIS)
) SS.
COUNTY OF Cook)

I, the undersigned, a Notary Public in and for and residing in said County, in the State aforesaid, DO HEREBY CERTIFY that William T. Penick, personally known to me to be the _____ president and _____ personally known to me to be the _____ secretary of PTR INVESTMENTS, INC., an Illinois corporation ("Corporation"), which is a general partner of BAYBERRY PLAZA LIMITED PARTNERSHIP, an Illinois limited partnership ("Partnership"), and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such president and secretary aforesaid, they signed and delivered the said instrument as their own free and voluntary acts and as the free and voluntary act of the Corporation and Partnership, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 7th day of February, 1995.

Rita M. Beata
Notary Public

My commission expires: _____



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CONSENT OF GUARANTOR

In consideration of the execution and delivery of the foregoing First Modification Agreement by Borrower and Lender (which consideration the undersigned acknowledges is adequate) and intending to be obligated under any applicable provision thereof, the undersigned does hereby:

a). consent to the terms and conditions of the First Modification Agreement and to the execution thereof by Borrower and Lender;

b). agree that the terms and conditions of the Guaranty shall continue and remain in full force and effect, enforceable in accordance with its terms notwithstanding the execution, delivery, filing and recording of this First Modification Agreement.

IN WITNESS WHEREOF, Guarantor has executed this Consent this 22 day of February, 1995.


PHILIP REINSTEIN


BARUCH SCHUR

SUBSCRIBED AND SWORN TO
before me this 27th day of
February, 1995


Notary Public

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EXHIBIT "B"

BAYBERRY PLAZA

RENT ROLL AS OF FEBRUARY, 1995

W. 171st Street	Square Feet	Price S.F.	Tenant	Monthly Rental	Lease Expires	Comments
8004	2,950	14.67	Larry Musial d/b/a Bayberry Pantry	\$ 3,608	8-31-99	3-5 year options
8008	3,250	14.00	Vacant	3,900		
8012	950	15.06	Bene's Pizza, Inc.	1,193	10-31-95	1-3 year option
8014	1,200	14.33	Kyland Realtors, Inc.	1,250	8-31-97	5% annual inc.
8016	1,200	16.59	Norman's Cleaners	1,659	8-31-99	Scheduled increase
8018	1,200	15.80	Shear Express	1,580	3-31-95	2-1 year options
8020	1,200	17.36	Del's Hot Dogs	1,736	9-30-99	Scheduled increase
	<u>11,950</u>			<u>\$14,826</u>		

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EXHIBIT "C"

DELINQUENT RENTS

Hyland Realtors, Inc. - delinquent for January, 1995.

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PARCEL 1:

OUTLOT "A" IN CHERRY CREEK SOUTH PHASE NO. 3, BEING A SUBDIVISION OF PART OF THE NORTH EAST 1/4 OF SECTION 26, TOWNSHIP 36 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS EXCEPTING THEREFROM THAT PORTION THEREOF DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTH WEST CORNER OF SAID OUTLOT "A"; THENCE NORTH 0 DEGREES 09 MINUTES 49 SECONDS WEST ALONG THE WESTERLY LINE OF SAID OUTLOT "A", 20 FEET TO A POINT OF CURVATURE; THENCE NORTHERLY ALONG SAID WESTERLY LINE, BEING A CURVE TO THE LEFT WITH A RADIUS OF 302.41 FEET, A DISTANCE OF 139.51 FEET; THENCE NORTH 63 DEGREES 43 MINUTES 52 SECONDS EAST ALONG SAID WESTERLY LINE, 25.49 FEET TO A POINT IN SAID WESTERLY LINE; THENCE NORTH 29 DEGREES 55 MINUTES 10 SECONDS EAST ALONG SAID WESTERLY LINE 210 FEET, TO THE MOST NORTHERLY CORNER OF SAID OUTLOT "A"; THENCE SOUTH 60 DEGREES 04 MINUTES 50 SECONDS EAST ALONG THE NORTHERLY LINE OF SAID OUTLOT "A", 220 FEET TO AN ANGLE POINT IN SAID NORTHERLY LINE; THENCE SOUTH 53 DEGREES 54 MINUTES 08 SECONDS WEST, 242.61 FEET TO A POINT 90 FEET EAST AND 105 FEET NORTH (AS MEASURED ALONG THE SOUTH LINE) OF THE SOUTH WEST CORNER OF SAID OUTLOT "A"; THENCE SOUTH 0 DEGREES 09 MINUTES 49 SECONDS EAST, 105 FEET TO THE SOUTH LINE OF SAID OUTLOT "A"; THENCE NORTH 89 DEGREES 50 MINUTES 11 SECONDS WEST ALONG SAID SOUTH LINE 90 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1, AS CREATED BY RECIPROCAL EASEMENT RECORDED 2-15-91 AS DOCUMENT 91072521 BETWEEN BAYBERRY PLAZA LIMITED PARTNERSHIP AND AVENUE BANK OF OAK PARK AS TRUSTEE UNDER TRUST AGREEMENT DATED JULY 1, 1987 AND KNOWN AS TRUST NUMBER 4870, OVER THAT PART OF OUTLOT "A" AS SHOWN IN EXHIBIT "A" ATTACHED THERETO, IN CHERRY CREEK SOUTH SUBDIVISION PHASE NO. 3, BEING A SUBDIVISION OF PART OF THE NORTH EAST 1/4 OF SECTION 26, TOWNSHIP 36 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

NON-EXCLUSIVE EASEMENT FOR DRIVEWAY AND PARKING FOR THE BENEFIT OF PARCEL 1, AS CREATED BY GRANT OF EASEMENT RECORDED 2-15-91 AS DOCUMENT 91072522 BY AND BETWEEN THE VILLAGE OF TINLEY PARK AND HARRIS BANK/NAPERVILLE AS TRUSTEE UNDER TRUST AGREEMENT DATED AUGUST 19, 1988 AND KNOWN AS TRUST NUMBER 5100, OVER THAT PART OF OUTLOT "A" AS SHOWN IN EXHIBIT A ATTACHED THERETO, IN CHERRY CREEK SOUTH SUBDIVISION PHASE NO. 3, BEING A SUBDIVISION OF PART OF THE NORTH EAST 1/4 OF SECTION 26, TOWNSHIP 30 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly Known As: 8004-8020 West 171st Street, Tinley Park, Illinois

PERMANENT INDEX NUMBER: 27-26-207-014

Exhibit "A"

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