

Prepared by and, after recording, return to:

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(The Above Space For Recorder's Use Only)

**FIRST AMENDMENT TO
DECLARATION OF PROTECTIVE COVENANTS
FOR
CAPITOL COMMERCE CENTER,
WHEELING, ILLINOIS**

THIS FIRST AMENDMENT TO DECLARATION OF PROTECTIVE COVENANTS (this "Amendment") is made as of the 1st day of December, 1997 by and between LASALLE NATIONAL BANK, as Trustee under Trust Agreement dated February 18, 1987 and known as Trust No. 112044 ("LaSalle Trust") and NATIONAL-LOUIS UNIVERSITY ("NLU") (LaSalle Trust and NLU are sometimes individually referred to as a "Declarant" and collectively referred to as "Declarants").

RECITALS

A. Declarants have previously entered into a Declaration of Protective Covenants for Capitol Commerce Center, Wheeling, Illinois dated as of April 30, 1997 (the "Original Declaration"), which encumbers approximately 33,0045 acres of real estate commonly known as Capitol Commerce Center, located in the Village of Wheeling, County of Cook, State of Illinois, and legally described on **Exhibit A** attached hereto.

B. Declarants each desire to modify the Original Declaration on the terms set forth in this Amendment.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, Declarants hereby agree as follows:

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1. **Incorporation of Recitals and Exhibits.** The foregoing recitals and all exhibits attached hereto are hereby incorporated herein, and expressly made a material part of this Amendment.

2. **Definitions.**

(a) Unless otherwise defined herein, capitalized terms not otherwise defined herein shall have the meanings set forth in the Original Declaration.

(b) Section 2.01 of the Original Declaration is hereby amended by deleting the definitions of the terms "**Declaration**" and "**Parcel**" and replacing them with the following definitions:

"**Declaration**" means the Original Declaration, as amended by this Amendment and as further amended from time to time in accordance with the provisions of Section 6.02.

"**Parcel**" means any subdivided lot of the Property, the plat of which has been recorded in the office of the Cook County recorder of deeds; provided that the term "**Parcel**" shall not include any portion of the Property dedicated to the Village or any other governmental authority. Currently there are eight (8) Parcels, as shown on **Exhibit B** attached hereto.

(c) Section 2.01 of the Original Declaration is hereby amended by inserting the additional defined terms "**Maintaining Owner**" and "**Proportionate Share**," which shall have the following meanings:

"**Maintaining Owner**" means the Owner that maintains the Drainage Facilities, which shall be the Owner of Lot 3 of the Resubdivision as shown on **Exhibit B** attached hereto or such other Owners as shall from time to time succeed as Maintaining Owner in accordance with the provisions of Section 5.6 below.

"**Proportionate Share**" means each Owner's percentage ownership of the Property, which shall be determined in accordance with the following formula:

$$\frac{\text{Acreage Owned}}{\text{Total Acreage of Capitol Commerce}} \times 100 = \text{Owner's Percentage of the Property}$$

The total area of Capitol Commerce Center and the area of the Parcels as currently constituted are set forth on **Exhibit B** attached hereto. When this Declaration refers to costs allotted to the owners by Proportionate Share, each Owner shall pay the percentage of total costs corresponding to its Proportionate Share of the Property; when this Declaration refers to governance rights allocated among the owners by Proportionate Share, including rights relating to Cost of Maintenance budgets and rights to amend this Declaration, each Owner shall be entitled to the number of votes of its aggregate Proportionate Share.

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3. **Amendment of Article III.** Article III of the Original Declaration is hereby amended as follows:

(a) Each reference in Article III to the "Hub Owner" shall be deleted and replaced with the "Hub Owner and the majority of Proportionate Shares of the Owners."

(b) Section 3.01 shall be deleted in its entirety and replaced with the following new Section 3.01:

3.01 General. No Owner or Occupant of any portion of the Property shall use any Parcel or Building for any use other than the uses identified on Exhibit C attached hereto (the "Permitted Uses"), except with the consent of the other Owners as set forth in Section 3.07. In addition, if the use shall be other than a Permitted Use, no Building or other Improvement shall be constructed, erected, placed, maintained or permitted on a Parcel and no material addition, change or alteration in the exterior thereof shall be made, unless the prior written approval of the Hub Owner and of the majority of the Proportionate Shares of the Owners is first obtained in the manner set forth in Sections 3.02 through 3.06.

(c) Section 3.03 shall be amended to delete the third and fourth sentences in their entirety and replace them with the following new sentences: "If any Owner fails to approve or disapprove the Plans and Specifications within the aforesaid thirty (30) day period, then approval shall be conclusively presumed to have been given by such Owner. No construction of the Improvements or alterations described in the submitted Plans and Specifications shall be commenced until the approval required under Section 3.01 is given (or presumed to have been given)."

(d) Sections 3.04 and 3.05 shall be amended to reflect that the approvals referred to therein must be given by the Hub Owner and the majority of the Proportionate Shares of the Owners.

(e) Section 3.05 shall be amended to delete the reference to "Section 3.03" and insert in its place "Section 3.04."

(f) Section 3.07 shall be amended to delete the first two sentences in their entirety and replace them with the following new sentence: "The Permitted Uses may from time to time be changed or modified, in whole or in part, by (a) the giving of written consent from the Hub Owner and the majority of the Proportionate Shares of the Owners to the Owner, Occupant or prospective Owner/Occupant of the affected Parcel or (b) the amendment of Exhibit C in accordance with Section 6.02 hereof."

4. **Amendment of Article IV.** Article IV of the Original Declaration is hereby amended as follows:

(a) Section 4.01 shall be amended to delete the reference to "Article VII" and insert in its place "Article IV."

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(b) Section 4.02 shall be amended to delete the reference to "Section 5.10" and insert in its place "Section 6.06."

5. Amendment of Article V. Article V of the Original Declaration is hereby amended as follows:

(a) Each reference in Article V to the "Hub Owner" shall be deleted and replaced with the "Maintaining Owner."

(b) Section 5.2 shall be amended to add the following new second sentence: "In performing the maintenance required under Section 5.1, the Maintaining Owner shall not unreasonably interfere with any Owner's use of its Parcel."

(c) Section 5.3 shall be amended to delete the first and second sentences and insert in their place the following sentences: "Each Owner shall pay to the Maintaining Owner its Proportionate Share of the total Cost of Maintenance. Each Owner's Proportionate Share shall be assessed to it by the Maintaining Owner no more frequently than quarterly and shall be accompanied by an itemized statement of how such Owner's Proportionate Share was determined."

(d) Section 5.6 shall be deleted in its entirety and replaced with the following new Section 5.6:

5.6 Amount of Assessment.

(a) The Maintaining Owner shall prepare a budget for the Cost of Maintenance for each calendar year, based on the Cost of Maintenance for the prior calendar year and the cost of or reserves (in a reasonable amount) for any contemplated repair, replacement or renewal of any specified improvements to the Drainage Facilities (the "Maintenance Budget"). The Maintaining Owner shall deliver such proposed Maintenance Budget for review and approval to the other Owners at least sixty (60) days before the beginning of the calendar year to which it pertains. At the request of any Owner, the Maintaining Owner also shall deliver any invoices, estimates and other documentation underlying the budgeted amounts. If any Owner or Owners whose aggregate Proportionate Share equals or exceeds twenty-five percent (25%) objects to all or any part of the Maintenance Budget, such Owner shall deliver written notice and explanation of its objection to the other Owners at least thirty (30) days before the beginning of the calendar year; in which event, the matter shall be submitted to a vote of the Owners, with the final Maintenance Budget determined by a majority (or plurality in the case of more than two proposed budgets) of the Proportionate Shares voted. No Owner may object to the Maintenance Budget solely based on the amount of reserves, or on the labor, insurance or administrative costs incurred by or budgeted to and reimbursed to the Maintaining Owner, unless such objecting Owner agrees in writing to assume the Maintenance obligations of the Maintaining Owner under the Declaration. The Maintaining Owner's proposed Maintenance Budget shall be deemed approved in the

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absence of written objection by any Owner timely sent in accordance with the terms of this Section 5.6(a).

(b) Each Owner shall pay its Proportionate Share of the Cost of Maintenance set forth in the Maintenance Budget, as set forth in Section 5.3 above. If the actual Cost of Maintenance exceeds the amount budgeted, each Owner shall pay its Proportionate Share of such excess within thirty (30) days after written notice and documentation from the Maintaining Owner. If the actual Cost of Maintenance is less than the amount budgeted, the Maintaining Owner shall refund to each Owner its Proportionate Share of such savings within thirty (30) days after the end of the calendar year or, in its sole discretion, shall credit such savings to the Owner's Proportionate Share of the Cost of Maintenance for the next year.

(2) Section 5.9 shall be amended to insert the following new second sentence: "Such estoppel certificate also shall set forth the current calendar year's Cost of Maintenance for the Property as a whole, the Cost of Maintenance assessment for the specific Parcel, the Proportionate Share for such Parcel, and the time period through which such assessments have been paid."

6. Amendment of Article VI. Article VI of the Original Declaration is hereby amended as follows:

(a) Section 6.02 shall be deleted in its entirety and replaced with the following new Section 6.02:

6.02 Amendment. This Declaration may be amended by an instrument executed by the Owner(s) of two-thirds (2/3) or more of the Proportionate Shares; provided that to be effective such instrument must be executed by all affected Owners in the case of any amendment that imposes additional burdens on, or diminishes any rights of, such Owner or such Owner's Parcel (including without limitation any change in allocation of costs and governance rights, and any additional use restrictions); and provided further that to be effective such instrument must be executed by the Hub Owner in the case of any amendment to Article III or Exhibit C. All amendments satisfying the conditions set forth above shall become effective when recorded in the office of the Cook County recorder of deeds.

(b) The following new Section 6.18 shall be inserted:

6.18 Signage License.

(a) The Hub Owner is hereby granted a non-exclusive license to use, operate and maintain its currently existing signage in the locations identified on Exhibit D attached hereto (the "Existing Signage"); provided that the Hub Owner shall not expand, increase the size of or relocate such Existing Signage without the prior written consent of the affected Parcel Owner, which consent may be granted or withheld in such

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Owner's sole discretion. No Owner of any Parcel shall obstruct the view of such Existing Signage nor the use, operation or maintenance thereof by the Hub Owner. Any Owner of a Parcel upon which such Existing Signage is located may modify the Existing Signage, including without limitation to add other names or information, in which case the Existing Signage shall be deemed "Shared Signage," so long as the size and visibility of all signs identifying the Hub Owner are not diminished. Any Parcel Owner may relocate the Existing Signage (including Shared Signage) with the consent of the Hub Owner, which shall not be unreasonably withheld. This license shall be deemed coupled with an interest, shall run with the land and shall be irrevocable.

(b) The Owner of any Parcel on which Existing Signage (including Shared Signage) is located shall maintain such Existing Signage (including Shared Signage) in full compliance with applicable law and in good repair. In connection with the use, operation and maintenance of the Existing Signage, the Hub Owner covenants and agrees to promptly reimburse all expenses, assessments and costs related to the Existing Signage license incurred by the Owner of any Parcel upon which the Existing Signage is located (including in the case of electrical costs that are not separately metered, the Parcel Owner's reasonable estimate thereof). Such reimbursement shall not be required more frequently than quarterly.

(c) In connection with the use, operation and maintenance of any Shared Signage, the Hub Owner shall promptly reimburse such Parcel Owner for one-half (1/2) of all expenses, assessments and costs relating thereto (including, in the case of electrical costs that are not separately metered, the Parcel Owner's reasonable estimate thereof). Such reimbursement shall not be required more frequently than quarterly. Notwithstanding anything to the contrary contained in this subparagraph (c), the Hub Owner shall not be responsible for reimbursement of any expenses and costs related to modification of the Existing Signage to make it Shared Signage or for any relocation of the Existing Signage (including Shared Signage) at the request of the Parcel Owner.

(d) The Hub Owner further covenants and agrees that it shall hold harmless and indemnify all affected Owners from and against any and all loss, costs, expenses, claims and liability related to the acts of the Hub Owner, and its agents (other than the Maintaining Owner), employees and contractors, in connection with this license, except to the extent that any of the foregoing is covered by insurance. The Owners hereby waive subrogation against the Hub Owner for any loss, costs, expenses, claims and liability covered by insurance.

(e) The following new Section 6.19 shall be inserted:

6.19 License to Use Name. The Owners are hereby granted a license to use the name "Capitol Commerce Center" to identify the Property (and the Parcels as part of the Property), which license may be revoked by the Maintaining Owner upon one hundred eighty (180) days prior written

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notice, subject to the following sentence. The Property shall be identified by the name "Capitol Commerce Center" through May 31, 1998. After May 31, 1998, any Owner may cease using the name "Capitol Commerce Center" to identify the Property or Parcels, and further may designate its Parcel(s) by any name or names allowed under applicable law. Declarants make no representation or warranty as to the ownership of or ability to use the name "Capitol Commerce Center."

7. Amendment of Exhibits.

- (a) Exhibit 4 of the Original Declaration is hereby deleted in its entirety.
- (b) Exhibit 5 of the Original Declaration is hereby deleted in its entirety and replaced with Exhibit C attached hereto.
- (c) Exhibit 6 of the Original Declaration is hereby deleted in its entirety and replaced with Exhibit B attached hereto.

8. Miscellaneous.

- (a) Time shall be of the essence in this Amendment and each and every obligation contained herein.
- (b) The necessary grammatical changes required to make the provisions hereof apply either to corporations, partnerships, trusts or individuals, men or women, the singular or the plural, as the case may require, shall in all cases be assumed as though in each case fully expressed.
- (c) Section headings, captions and other titles used herein are for convenience only and shall not be used to limit or interpret any term hereof.
- (d) This Amendment and its provisions shall constitute covenants passing with the title to all or any portion of the Property and are binding upon each and every Owner and successor in interest to the Property or any estate or interest therein or portion thereof.

[Signatures on Next Page]

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IN WITNESS WHEREOF, Declarants hereto have caused this Amendment to be duly executed and delivered as of the date first above written.

LASALLE NATIONAL BANK,
not individually, but solely as Trustee
under Trust No. 112044

By: _____
Vice President

(SEAL)

ATTEST:

By: _____
Assistant Secretary

NATIONAL-LOUIS UNIVERSITY

By: *[Signature]*
Name: Edward [unclear]
Title: Acting President

CONSENTED TO:

LASALLE NATIONAL BANK

By: _____
Name: _____
Title: _____

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IN WITNESS WHEREOF, Declarants hereto have caused this Amendment to be duly executed and delivered as of the date first above written.

LASALLE NATIONAL BANK,
not individually, but solely as Trustee
under Trust No. 112044

By: [Signature]
Vice President

(SEAL)

ATTEST:

By: [Signature]
Assistant Secretary

NATIONAL-LOUIS UNIVERSITY

By: _____
Name: _____
Title: _____

CONSENTED TO:

LASALLE NATIONAL BANK

By: _____
Name: _____
Title: _____

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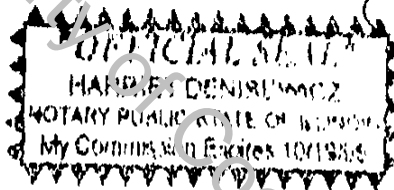
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State of Illinois)
County of Cook) SS.

Harriet Denisewicz a Notary Public in and for said county and state,
~~Joseph W. Laage, Sr. Vice President and Rosemary Collins, Asst. Secretary~~
do hereby certify that ~~Joseph W. Laage, Sr. Vice President and Rosemary Collins, Asst. Secretary~~ personally known to me to be
the same person whose name is subscribed to the foregoing instrument as vice president of
LaSalle National Bank, not individually, but solely as Trustee under Trust No. 112044, appeared
before me this day in person, and acknowledged that he/she signed and delivered the said
instrument as his/her free and voluntary act and as the free and voluntary act of said trust, for
the uses and purposes therein set forth.

Given under my hand and official seal, this 5th day of December,
1997.

My commission expires: _____



Harriet Denisewicz
Notary Public

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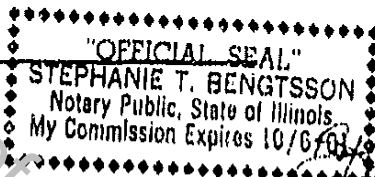
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State of Illinois)
County of Cook) SS.

I, Stephanie T. Bengtsson, a Notary Public in and for said county and state, do hereby certify that Edward Risner personally known to me to be the same person whose name is subscribed to the foregoing instrument as Acting President of National-Louis University, a Trust Corporation appeared before me this day in person, and acknowledged that he/she signed and delivered the said instrument as his/her free and voluntary act and as the free and voluntary act of said university, for the uses and purposes therein set forth.

Given under my hand and official seal, this 10th day of December, 1997.

My commission expires:



Stephanie T. Bengtsson
Notary Public

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EXHIBIT A

Legal Description of NLU Property

PARCEL 1:

LOT 2 IN THE RESUBDIVISION OF LOTS 1 AND 4 IN FREED AND GRAIS SUBDIVISION AND PART OF LOT 1 IN BOWE'S SUBDIVISION IN THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 2 IN FREED AND GRAIS SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOT 3 IN FREED AND GRAIS SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

LOT 3 IN THE RESUBDIVISION OF LOTS 1 AND 4 IN FREED AND GRAIS SUBDIVISION AND PART OF LOT 1 IN BOWE'S SUBDIVISION IN THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 5:

LOT 4 IN THE RESUBDIVISION OF LOTS 1 AND 4 IN FREED AND GRAIS SUBDIVISION AND PART OF LOT 1 IN BOWE'S SUBDIVISION IN THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 6:

LOT 6 IN FREED AND GRAIS SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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PINS:

03-14-403-009
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03-14-403-015
03-14-403-016
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03-14-403-045
03-14-403-046

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Legal Description of LaSalle Trust Property

PARCEL 1

LOT 1 IN THE RESUBDIVISION OF LOTS 1 AND 4 IN FREED AND GRAIS SUBDIVISION AND PART OF LOT 1 IN BOWE'S SUBDIVISION IN THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2

LOT 5 IN FREED AND GRAIS SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 14, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

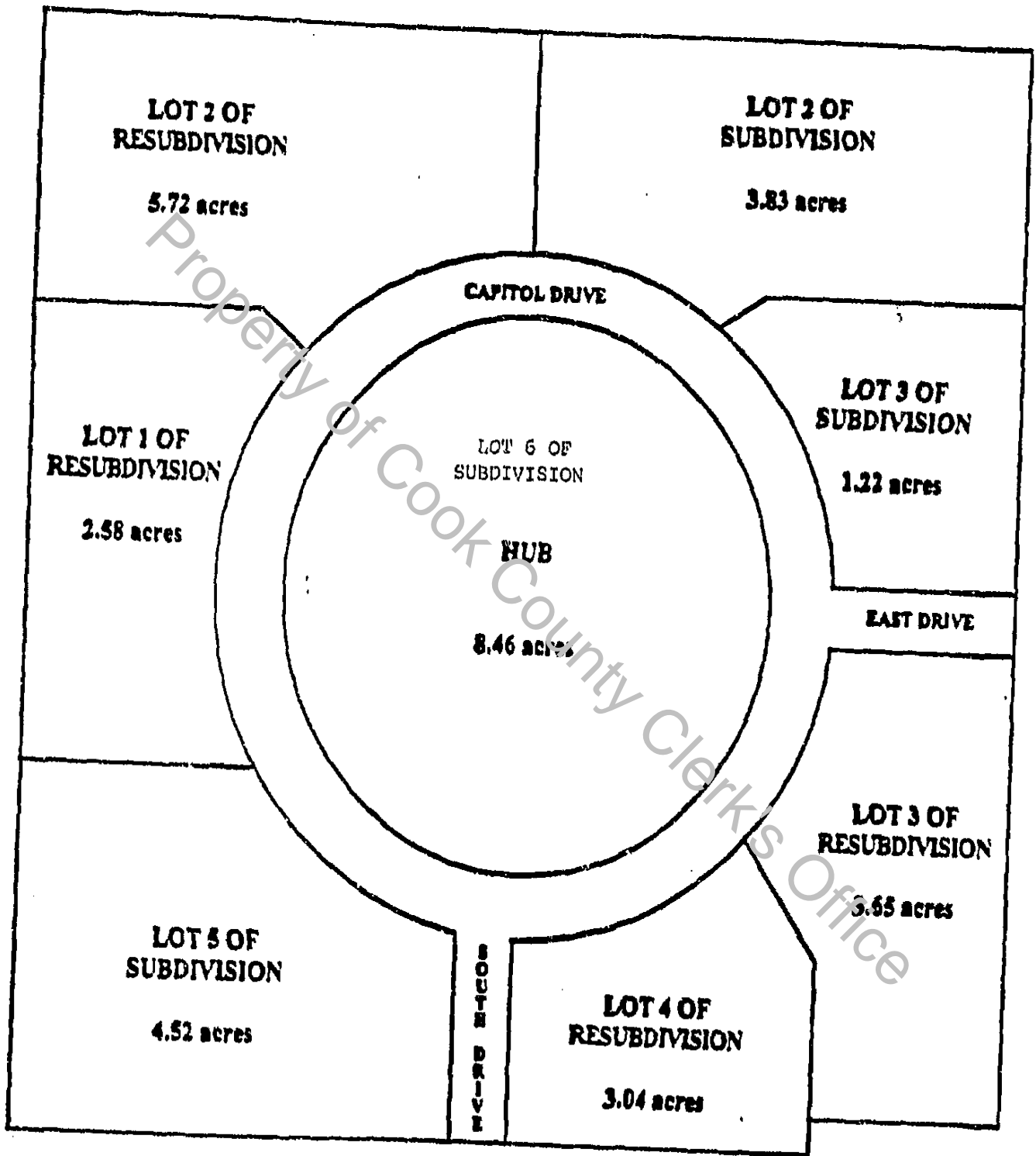
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CAPITOL COMMERCE CENTER



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EXHIBIT C

Permitted Uses

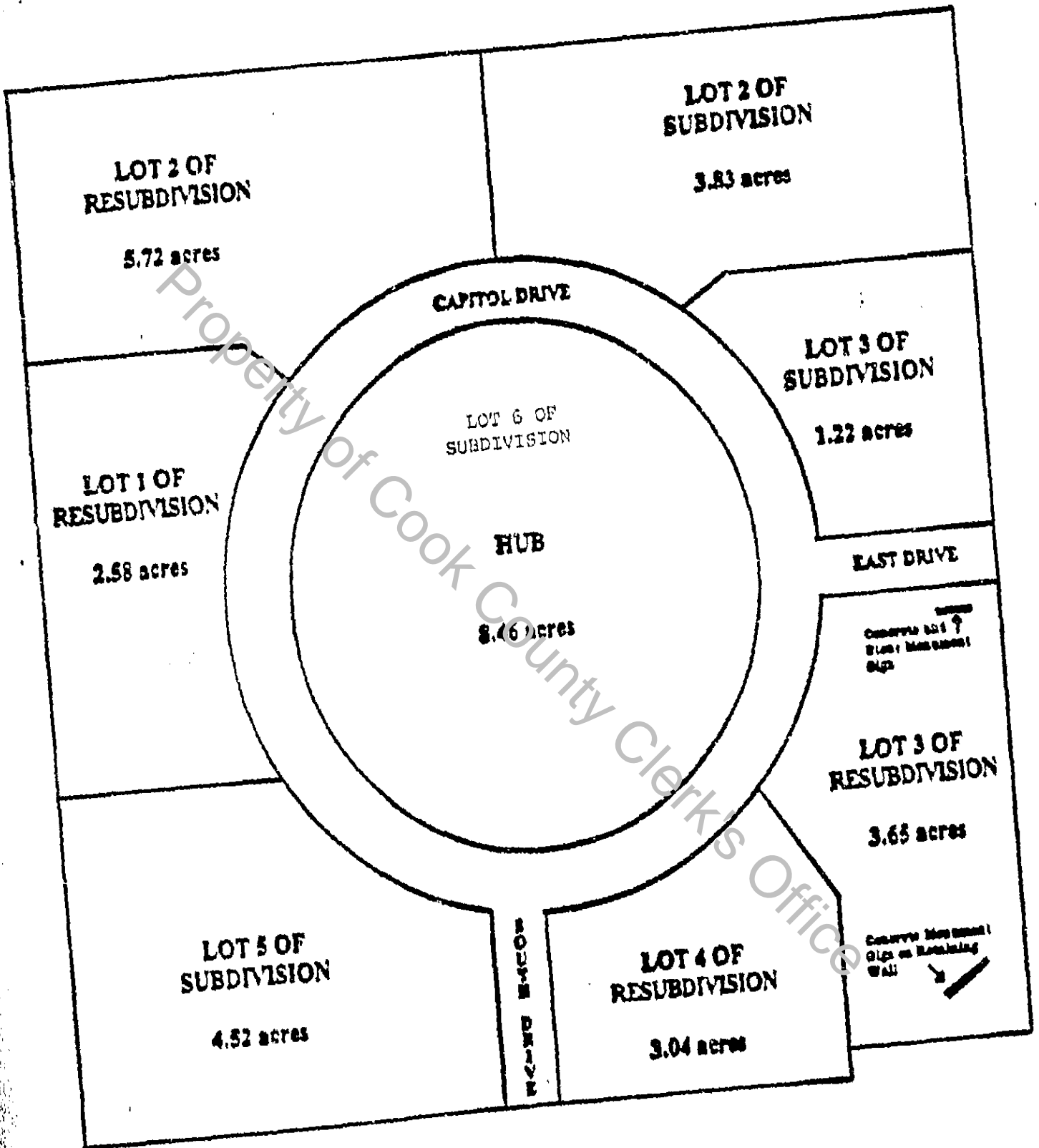
1. Hotels.
2. All uses permitted under Title 19 of the Village of Wheeling for properties zoned B-5.
3. Business and professional offices, excluding medical and dental offices, at a parking standard of one space per 250 square feet of floor area.
4. Contractor's offices and shops, where fabricating and all storage of materials is within an enclosed building.
5. General administrative offices, accessory to principle use.
6. Laboratory or research establishments.
7. Processing, fabricating and assembly of lightweight products, packaging, printing and binderies.
8. Sales offices.
9. Warehouses.
10. Use of the Complex Hub as a college or university, including the existing use by NLU.
11. Accessory buildings incidental to the foregoing subject to Title 19 of the Village of Wheeling.
12. Retail sales or services, accessory to the principal use.

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CAPITOL COMMERCE CENTER



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