

8

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

2011 045497

2011 AUG 23 AM 9:58

MICHELLE D. FAJMAN  
RECORDER

**DECLARATION OF CROSS ACCESS AND PARKING EASEMENT**

**THIS DECLARATION OF CROSS ACCESS AND PARKING EASEMENT** ("Declaration") is made this 20<sup>th</sup> day of November, 2009, by Menard, Inc., a Wisconsin corporation with offices located at 5101 Menard Drive, Eau Claire, Wisconsin 54703 ("Menard").

**RECITALS**

**WHEREAS**, Menard is the owner of real property located in the City of Hammond, County of Lake, State of Indiana, containing a parcel with a Menards Home Improvement Store ("Menards Store Parcel"), and outlot parcels (the Menards Store Parcel and the outlot parcels shall collectively be referred to as the "Shopping Center Parcels" as more particularly depicted on the attached Exhibit A and described on the attached Exhibit B); and

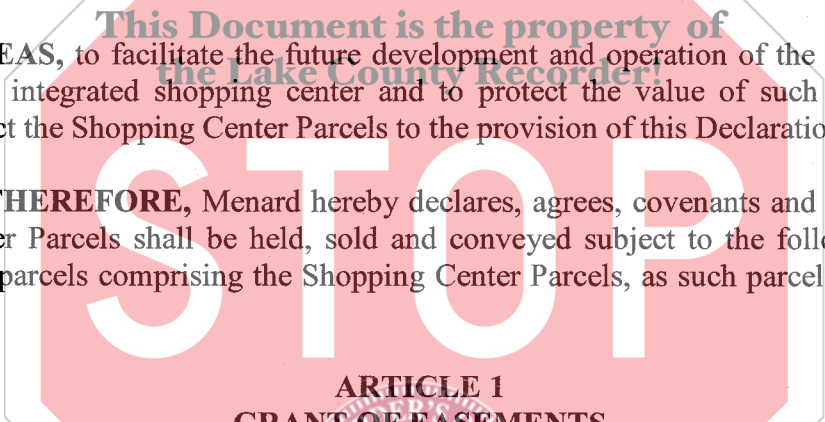
**WHEREAS**, to facilitate the future development and operation of the Shopping Center Parcels into an integrated shopping center and to protect the value of such parcels, Menard desires to subject the Shopping Center Parcels to the provision of this Declaration.

**NOW THEREFORE**, Menard hereby declares, agrees, covenants and consents that the Shopping Center Parcels shall be held, sold and conveyed subject to the following easements imposed on all parcels comprising the Shopping Center Parcels, as such parcels may exist from time to time.

**ARTICLE 1  
GRANT OF EASEMENTS**

1.01 Access Easement. Menard hereby establishes and grants for the benefit of all current and future persons possessing fee title to any portion of any of the Shopping Center Parcels, as such parcels may exist from time to time (the "Owners"), their successors and assigns, employees, customers, licensees, guests, invitees, agents, and tenants, a perpetual, non-exclusive, reciprocal easement, which runs with the land, appurtenant to the Shopping Center Parcels, over, across and upon those drive aisles of the parcels comprising the Shopping Center Parcels as depicted on Exhibit A, as the same may from time to time be constructed, altered and maintained ("Access Easement"), for the purpose of vehicular and pedestrian ingress and egress to and from Columbia Avenue and 165<sup>th</sup> Street and the Shopping Center Parcels.

**FILED**  
AUG 18 2011  
PEGGY HOUNG KATONA  
LAKE COUNTY AUDITOR



920111687  
**FIDELITY HO**

028398

25<sup>th</sup>  
FN  
AM

25.00  
58/5684  
OK #  
EX

1.02 Parking Easement. Menard hereby establishes and grants for the benefit of the Owners a perpetual, non-exclusive, reciprocal parking easement, which runs with the land, appurtenant to the Shopping Center Parcels, over, across and upon the parking areas located on the Shopping Center Parcels, as the same may from time to time be constructed, altered and maintained ("Parking Easement"). The Parking Easement shall be for the parking of vehicles by Owners, their successors and assigns, employees, customers, licensees, guests, invitees, agents, and tenants. This easement shall not be construed to allow or authorize the long-term parking or storage of vehicles or equipment by any Owner on the Shopping Center Parcels.

1.03 Relocation of Easement Areas. No changes shall be made to the location, configuration or design of the areas of the Access Easement or Parking Easement without the prior written consent of Menard, or the then owner of the Menards Store Parcel.

1.04 Temporary Interruption. No portions of the areas of the Access Easement or Parking Easement may be temporarily closed off for such period of time as may be required in connection with: (i) any necessary repairs to the pavement of the parking lot or drive aisles; and (ii) installation or maintenance of utility lines across and under the parking lot or drive aisles without the prior written consent of Menard, or the then owner of the Menards Store Parcel.

1.05 No Other Reservations. The easements granted herein are solely for the purpose of ingress and egress for persons and vehicles and for vehicle parking, and should not be construed to grant any other cross-easements among the Shopping Center Parcels or any other adjoining parcels.

**STOP**  
This Document is the property of  
the Lake County Recorder!  
**ARTICLE II**  
**MISCELLANEOUS**

2.01 Indemnification. Owners shall indemnify, defend and hold harmless one another from any and against all claims, causes of action, damages, losses, costs (including attorney fees) and liabilities of any nature, which may at any time be assessed or suffered by Owners arising out of this Declaration, breach of this Declaration, or use of the easement granted herein unless caused by the gross negligence of the other party.

2.02 Partial Invalidity. If any provision or portion of this Declaration, or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Declaration or the application of such provision, or portion thereof, to any other persons or circumstances shall be valid and enforceable to the fullest extent permitted by law.

2.03 Applicable Law. This Declaration shall be construed in accordance with the laws of the State of Indiana.

2.04 Notice. Any notice, demand, request or other communication which may or shall be given or served to or on Menard, shall be deemed to have been given or served on the date the same is deposited in the United States Mail, registered or certified, return receipt requested,

postage prepaid, sent by facsimile transmission or given to a nationally recognized overnight courier service for next business day delivery and addressed as follows:

Menard, Inc.  
Attn: Properties Division  
5101 Menard Drive  
Eau Claire, Wisconsin 54703  
(T) 715-876-2928  
(F) 715-876-2743

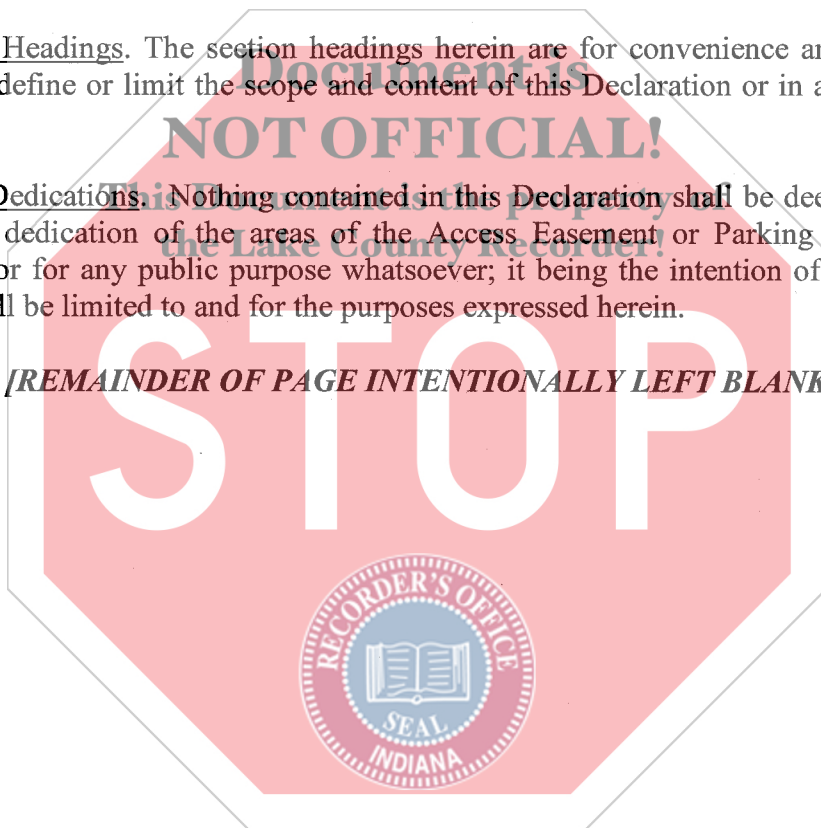
2.05 Successors and Assigns. This Declaration shall run with the Shopping Center Parcels, as they may exist from time to time, and any conveyances thereof, and shall be binding upon and shall inure to the benefit of all parties having any right, title or interest in the Shopping Center Parcels, their representatives, heirs, successors and assigns, subject to the terms and limitations herein.

2.06 Amendments. No agreement or declaration shall be effective to add to, change, modify, waive or discharge this Declaration, in whole or in part, unless such agreement or declaration is in writing and signed by Menard.

2.07 Section Headings. The section headings herein are for convenience and reference only and in no way define or limit the scope and content of this Declaration or in any way affect its provisions.

2.08 Public Dedications. Nothing contained in this Declaration shall be deemed to be a gift, reservation, or dedication of the areas of the Access Easement or Parking Easement to the general public or for any public purpose whatsoever; it being the intention of Menard that this Declaration shall be limited to and for the purposes expressed herein.

***[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]***



IN WITNESS WHEREOF, the undersigned hereto has executed this instrument.

This 20<sup>th</sup> day of November, 2009

Menard, Inc.

By: [Signature]

Name: Theron J. Berg

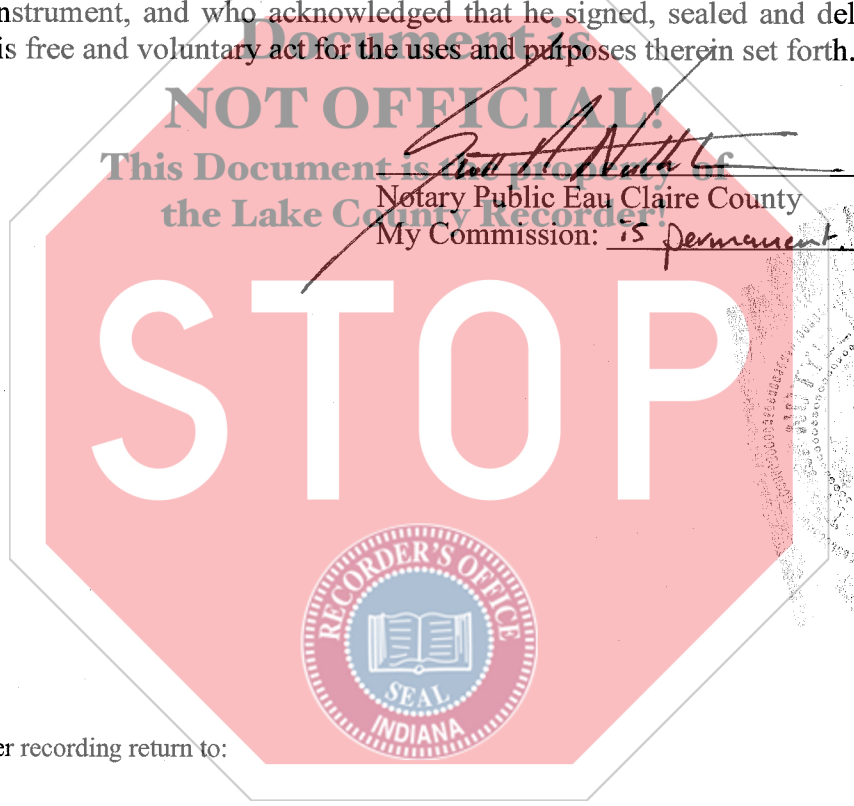
Its: Real Estate Manager

STATE OF WISCONSIN )  
 ) ss.  
COUNTY OF EAU CLAIRE)

On this 20<sup>th</sup> day of November, 2009, before me a Notary Public in and for the County and State aforesaid, personally appeared Theron J. Berg, Real Estate Manager of Menard, Inc., who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, and who acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act for the uses and purposes therein set forth.

**NOT OFFICIAL!**  
 This Document is the property of  
 the Lake County Recorder!

[Signature]  
 Notary Public Eau Claire County  
 My Commission: is permanent.

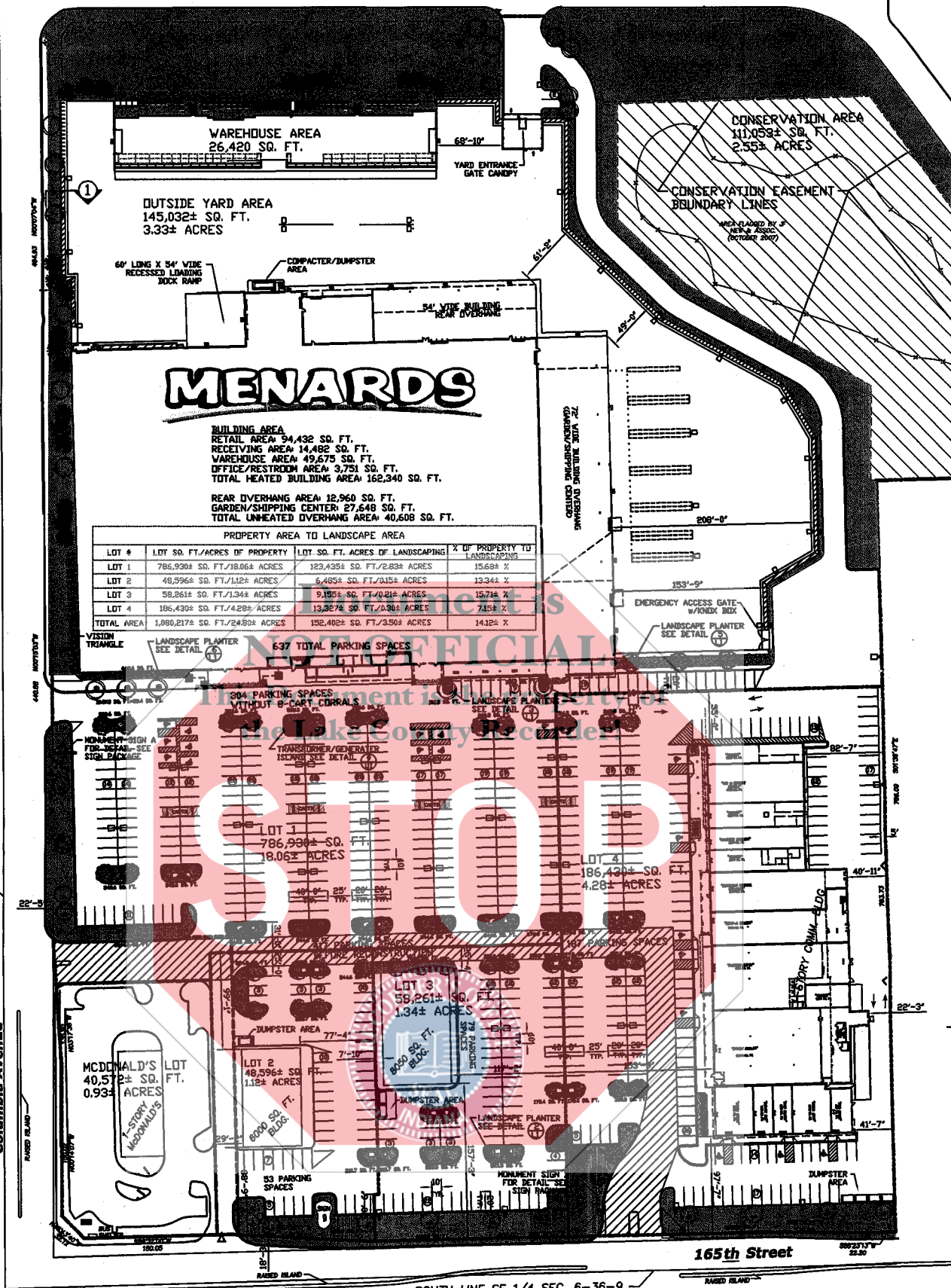



Drafted by and after recording return to:  
Menard, Inc.  
Scott R. Nuttelman  
Corporate Counsel  
5101 Menard Drive  
Eau Claire, WI 54703  
Phone: (715) 876-2383  
Fax: (715) 876-2743



# EXHIBIT A

Kenwood Street



Key  
 Access Easement

**Exhibit B**  
**Legal Description of Shopping Center Parcels**

That part of the Southeast Quarter of Section 6, Township 36 North, Range 9 West of the Second Principal Meridian, in the City of Hammond, North Township, Lake County, Indiana, described as follows: Beginning at the Southwest corner of the Southeast Quarter of said Section 6 and running thence East along the South line of said Southeast Quarter a distance of 920.02 feet; thence North at right angles to said South line a distance of 798.09 feet; thence West along a line parallel to the South line of said Southeast Quarter a distance of 899.43 feet to the West line of said Southeast Quarter; thence Southerly on the West line of said Southeast Quarter a distance of 798.36 feet to the point of beginning, except that part deeded to the City of Hammond for street purposes by Quit Claim Deed recorded October 23, 1975 as Document No. 322317, made by Minwick Centers of Indiana, Inc. (formerly known as Shop Lease Co., of Indiana, Inc.) described as follows: Beginning at a point 30.0 feet North and 50.0 feet East of the Southwest corner of the Southeast Quarter of Section 6, Township 36 North, Range 9 West of the Second Principal Meridian; thence East on a line parallel to and 30.0 feet North of the South line of the Southeast Quarter of said Section 6, a distance of 870.02 feet; thence North at right angles to the South line of the Southeast Quarter of said Section 6, a distance of 2.0 feet; thence West on a line parallel to and 32.0 feet North of the South line of the Southeast Quarter of said Section 6, a distance of 22.2 feet, more or less, to a point which is 898.0 feet East of the West line of the Southeast Quarter of said Section 6; thence Northwesterly a distance of 120.13 feet, more or less, to a point, said point lying 37.5 feet North and 778.0 feet East of the Southwest corner of the Southeast Quarter of said Section 6; thence West on a line parallel to and 37.5 feet North of the South line of the Southeast Quarter of said Section 6, a distance of 400.0 feet to a point which is 377.0 feet East of the West line of the Southwest corner of Southeast Quarter of said Section 6; thence Northwesterly a distance of 146.90 feet to a point, said point lying 48.5 feet North and 231.5 feet East of the Southwest corner of the Southeast Quarter of said Section 6; thence West on a line parallel to and 48.5 feet North of the South line of the Southeast Quarter of said Section 6, a distance of 150.0 feet to a point which is 81.5 feet East of the West line of the Southwest corner of the Southeast Quarter of said Section 6; thence Northwesterly a distance of 32.53 feet to a point, said point lying 71.5 feet North and 58.5 feet East of the Southwest corner of the Southeast Quarter of said Section 6; thence North on a line parallel to and 58.5 feet East of the West line of the Southeast Quarter of said Section 6, a distance of 150.00 feet; thence Northwesterly a distance of 136.26 feet, more or less, to a point, said point lying 357.5 feet North and 50.0 feet East of the Southwest corner of the Southeast Quarter of said Section 6; thence South on a line parallel to and 50.0 feet East of the West line of the Southeast Quarter of said Section 6, a distance of 327.5 feet to the place of beginning, being dedicated to the public as street right of way, consisting of 11,189.65 square feet, more or less, all in the City of Hammond, Lake County, Indiana; Resolution No. 2377; EXCEPTING THEREFROM THE FOLLOWING DESCRIBED REAL ESTATE: Lot 1, McDonald's Columbia Avenue Addition, to the City of Hammond, as per plat thereof, recorded in Plat Book 99, page 33, in the Office of the Recorder of Lake County, Indiana.

A part of the Southeast Quarter of Section 6, Township 36 North, Range 9 West of the Second Principal Meridian, in the City of Hammond, North Township, Lake County, Indiana, described as beginning at a point on the East line of the 50 foot wide dedicated East Half of Columbia Avenue and the North line of dedicated 30 foot wide Cleveland Street as described in Deed Record 1311, page 350, in the Recorder's Office, Lake County, Indiana, said point is found by going North 0 degrees 0 minutes 40 seconds East on the North-South centerline of said Section 6, a distance of 828.36 feet from the Southwest corner of said Southeast Quarter and thence North 88 degrees 32 minutes East 50.00 feet on the North line of dedicated Cleveland Street; thence continuing North 88 degrees 32 minutes East on the North line of dedicated Cleveland Street, 265.10 feet; thence North 0 degrees 0 minutes 40 seconds East on a line parallel to and 120 feet East of the East line of a 20 foot wide alley dedicated with Hawkins Second Addition to

Hammond, as appears of record in Plat Book 20, page 51, in the Recorder's Office, Lake County, Indiana, a distance of 457.12 feet to the South line of dedicated Kenwood Street; thence on the South line of dedicated Kenwood Street, 120 feet to the East line of aforesaid 20 foot wide alley; thence South 0 degrees 0 minutes 40 seconds West 326.51 feet; thence North 89 degrees 38 minutes 40 seconds West on the South line of dedicated Moss Street, 145.00 feet to the East line of dedicated Columbia Avenue; thence South 0 degrees 0 minutes 40 seconds West 138.29 feet to the place of beginning.

A 30-foot wide dedicated street known as Cleveland Street as recorded in Deed Record 1311, page 351, Commencing at the East 50-foot right of way line of Columbia Avenue, in the City of Hammond, North Township, Lake County, Indiana, said point of beginning and description from the deed of dedication being more particularly described as follows: A parcel of land in the Southeast Quarter of Section 6, Township 36 North, Range 9 West of the Second Principal Meridian, in the City of Hammond, North Township, Lake County, Indiana, described as beginning at a point in the East line of Columbia Avenue in the North line of property owned by Libby, McNeill and Libby and described in Deed Record 836, pages 221 to 229, in the Recorder's Office, Lake County, Indiana; thence North 88 degrees 32 minutes East on said North line 838 feet, more or less, to the West line of here dedicated 50-foot wide Willard Avenue; thence North 0 degrees 09 minutes West on said West line of Willard Avenue, 30 feet; thence Westerly parallel to and 30 feet Northerly of aforesaid 838-foot line, 838 feet, more or less, to the East line of Columbia Avenue; thence Southerly on the East 50-foot right-of-way line of Columbia Avenue, 30 feet to the point of beginning. This is a 30-foot wide prior dedication of Cleveland Street from the 50-foot East right-of-way line of Columbia Avenue to the West line of 50-foot wide Willard Avenue, as dedicated aforesaid Deed Record 1311, pages 350 and 351, Lake County, Indiana Recorder's Office.

Part of the Southeast Quarter of Section 6, Township 36 North, Range 9 West of the Second Principal Meridian, in the City of Hammond, Lake County, Indiana, described as follows: Commencing at the Southwest corner of the Southeast Quarter of said Section 6, running thence North along the North-South centerline of said Section 6, a distance of 828.36 feet to a line parallel to and 30 feet North of the North line of property once owned by Libby, Mc Neil and Libby as described in Deed Record 836, pages 221 through 229, in the Recorder's Office, Lake County, Indiana; thence North 88 degrees 32 minutes 00 seconds East on said 30-foot parallel line for a distance of 315.0 feet to the true point of beginning; thence continuing North 88 degrees 32 minutes 00 seconds East for a distance of 580.2 feet, to the West line of vacated Willard Avenue (Street); thence North on said West line of vacated Willard Avenue (Street) a distance of 140.0 feet to a line that is parallel to and 170.0 feet North of said North line of the Libby, McNeill and Libby property; thence West on said 170-foot parallel line 580.2 feet to a line parallel to and 120 feet East of the East line of a 20-foot wide alley dedicated with Hawkins Second Addition to Hammond, as shown in Plat Book 20, page 51, in Lake County, Indiana; thence South 00 degrees 00 minutes 40 seconds West on said 120-foot parallel line 140 feet to the point of beginning.

Lot 4, in Columbia Avenue Business Park (a Planned Unit Development), Phase 2, an Addition to the City of Hammond, as per plat thereof, recorded in Plat Book 94, page 27, in the Office of the Recorder of Lake County, Indiana.

Part of the Southeast Quarter of Section 6, Township 36 North, Range 9 West of the Second Principal Meridian, being more particularly described as follows: Commencing at the Southwest corner of the Southeast Quarter of said Section 6; thence North 00 degrees 00 minutes 40 seconds East, along the West line of the Southeast Quarter of said Section 6, a distance of 798.36 feet; thence North 88 degrees 32 minutes 00 seconds East, a distance of 895.30 feet, to the point of beginning; thence Northerly, along the West line of former Willard Avenue (vacated by the City of Hammond, Resolution No. 7034) a distance of 424.02 feet; thence Southeasterly, along a curve concave to the Southwest, having a radius of 115.60 feet, an arc distance of 0.20 feet; thence Southeasterly, parallel to the Westerly line of the property owned by Illiana Transit Warehouse, a distance of 486.59 feet; thence Southwesterly, along the Southwesterly



extension of the Westernmost line of property owned by Illiana Transit Warehouse, a distance of 45.19 feet; thence South 88 degrees 32 minutes 00 seconds West, a distance of 254.41 feet to the point of beginning, in the City of Hammond, Lake County, Indiana.

Part of the Southeast Quarter of Section 6, Township 36 North, Range 9 West of the Second Principal Meridian, being more particularly described as follows: Commencing at the Southwest corner of the Southeast Quarter of said Section 6; thence North 00 degrees 00 minutes 40 seconds East, along the West line of the Southeast Quarter of said Section 6, a distance of 828.36 feet; thence North 88 degrees 32 minutes 30 seconds East, a distance of 315.10 feet; thence North 00 degrees 00 minutes 40 seconds East, a distance of 140.00 feet to the point of beginning; thence continuing North 00 degrees 00 minutes 40 seconds East, a distance of 316.89 feet to a point on the South right-of-way line of Kenwood Avenue; thence South 89 degrees 48 minutes 02 seconds East, along said South line, a distance of 486.97 feet, to a point of curve; thence Southeasterly along said curve, concave to the Southwest, having a radius of 115.60 feet, an arc distance of 106.91 feet; thence Southerly, along the West line of former Willard Avenue (vacated by the City of Hammond, Resolution No. 7034), a distance of 254.02 feet; thence South 88 degrees 32 minutes 00 seconds West, a distance of 580.20 feet, to the point of beginning, all in the City of Hammond, Lake County, Indiana.

All to be known as Lots 1, 2, 3 and 4 of the Menards Commons Addition to the City of Hammond.

