

**EXHIBIT "B"**

**A PLAN DESCRIPTION FOR ORCHARD'S CROSSING**  
**LOCATED AT THE NORTHEAST CORNER OF N. ORCHARD AND SULLIVAN ROADS**  
**CONSISTING OF ±29.8 ACRES**

A Plan Description for the property at the northeast corner of N. Orchard Road and Sullivan Road with R-4A (C) Two-Family Dwelling District, B-2 (C) Business District, General Retail, and OS-1 (C) Conservation, Open Space and Draining District Zoning, with a Conditional Use Planned Development for the Orchard's Crossing Development pursuant to the Code of Ordinances, City of Aurora, Illinois ("City Code").

## I. QUALIFYING STATEMENTS

### A. PURPOSE

This Conditional Use Planned Development has evolved to assist the Planning and Zoning Commission (“Commission”) and the City Council (“City Council”) of the City of Aurora, Illinois (“City”) in governing their recommendations and actions on this development as it relates to the existing zoning and land uses in the area.

Developer shall mean the person(s) or entity who brings the Subject Property described herein to a more complete, complex, or desirable state.

Owner shall mean the person(s) or entity who is described as the legal owner of record of the Subject Property described herein.

For the purposes of this document, Developer and Owner shall be one and the same and held equally accountable for all requirements within this Plan Description.

### B. INTENT

This Plan Description has been prepared pursuant to the requirements of Sec. 34-602 of Chapter 34 of the City Code. It is the intent of this document to promote and protect the public health, safety, morals, comfort, and general welfare of the area; and to guide the development toward the realization of the appropriate Physical Development Policies of the Comprehensive Plan of the City (“Comprehensive Plan”). These policies include:

- 11.1(3) To encourage new development contiguous to existing development.
- 11.1(5) To guide and promote development to areas where public utilities, public roads, and municipal services are either available or planned.
- 12.1(3) To encourage residential development in close proximity to places of work, shopping and recreation.
- 20.0 To ensure the provision of decent housing and a quality living environment for every resident of Aurora.
- 21.1(2) To promote a wide variety of housing types.
- 30.0 To develop and maintain an adequate supply of properly zoned areas for commercial facilities to serve existing and future population needs.
- 31.1 (1) To promote the concept of a hierarchy of commercial development consisting of regional, community and neighborhood commercial centers supported by requisite population levels, which influence to location, scale and type of commercial development and redevelopment.
- 31.1 (4) To encourage the development of multiple use commercial, employment and service centers.

## II. GENERAL CHARACTER

### A. EXISTING CONDITIONS

#### 1. Subject Property

The Subject Property consists of approximately 29.8 acres lying at the northeast corner of N. Orchard Road and Sullivan Road. The property is currently used for farming. The property lies within the West Aurora School District #129 boundaries. The property is currently zoned ORI, Office, Research, and Light Industry, District. The Comprehensive Plan designates the Subject Property as Office/Research/Light Industrial and Conservation, Open Space, Recreation, and Drainage.

#### 2. Surrounding Property

North: The surrounding property to the north is the Interstate 88 Tollway and Village of North Aurora. North Aurora has similar commercial uses.

South: The surrounding property to the south is zoned PDD, (C) Planned Development District with a Conditional Use. The Comprehensive Plan designates the property as Office/Research/Light Industrial, and the property is currently used as a warehouse

East: The surrounding property to the east is zoned ORI, Office, Research, and Light Industry District. The Comprehensive Plan designates the property as Office/Research/Light Industrial District, and the property is used as a warehouse.

West: The surrounding property to the west is zoned B-B (C), Business Boulevard District with a Conditional Use and the Comprehensive Plan designates the property as commercial. The property is currently used for a mixture of commercial, including restaurants, strip retail center, and a hotel.

## III. DEVELOPMENT STANDARDS FOR EACH PARCEL

### A. ZONING

The Subject Property shall be divided into three zoning parcel(s) as legally described on Attachment "A", and generally depicted on Attachment "B".

Development of the zoning parcel(s) shall be regulated as follows:

#### 1. Parcel A: R-4A(C) Two Family Dwelling District

##### 1.1. Parcel Size and Use Designation

The zoning parcel ("Parcel A") referenced within this document contains approximately 10 acres. Upon approval of this document, said property shall be designated as R-4A(C) Two Family Dwelling District Zoning, with a Conditional Use Planned Development on the Zoning Map of the City ("Zoning Map"), and be regulated by the Chapter 49 of the City Code ("Zoning Ordinance"), including but not limited to the provisions for the underlying base zoning district set forth in Section 49-107.9 titled R-4ATwo Family Dwelling District, except as modified herein.

## 1.2. Statement of Intent

The R-4A(C) Two Family Dwelling District has been chosen as the underlying base zoning for this Parcel to provide for the long-term viability of the property and to ensure consistency and compatibility with the adjacent zoning and uses. The Parcel is intended to be developed as attached townhomes.

Access to the property will be from Sequoia Drive.

## 1.3 Use Regulations

1. This property shall be limited to those uses permitted in the R4A Two Family Dwelling District, Section 49-107.9-4 of the Zoning Ordinance, including ROW Dwelling (Party Wall) use.

## 1.4 Bulk Restrictions

1. This property shall be subject to the Bulk Restrictions in the R-4A Two Family Dwelling District, Section 49-107.9 and Section 9-105 with the following modifications:
  - a. Maximum Lot Area Coverage by Buildings and Structures – sixty percent (60%) of the area of Parcel A (not including public right-of-way).
  - b. Minimum setbacks as measured perpendicular from building face:
    - (1) Neighborhood setbacks, being the setback from the building to the external property line of the overall development being Parcel A, if not located along a public right of way: Twenty (20) feet
    - (2) Orchard Road Setback: Fifty (50) feet
    - (3) Tollway (north) Setback: Seventy-five (75) feet
    - (4) Sequoia Drive Setback: Thirty (30') feet
    - (5) Front Yard to other public right of way: Twenty-five (25) feet
    - (6) Exterior Side Yard to other public right of way: Twenty (20) feet

- (7) Rear Yard to other public right of way: Forty (40) feet
- (8) Interior Side Yard: Zero (0) feet
- (9) Interior Rear Yard: Zero (0) feet

d. Minimum separations between buildings (measured from building façade):

- (1) Front to Rear – Eighty (80) feet
- (2) Front to Side – Fifty (50) feet
- (3) Side to Side – Twenty (20) feet

Additional Minimum separations between “**Rear-loaded Garage**” buildings (meaning the garage is located on the opposite side as the front door):

Rear to Side – Sixty (60) feet

Rear to Rear – Sixty (60) feet (driveway access area)

Front to Front – there shall be a minimum separation of fifty (50) feet. However, if the structures are arranged in any way other than a parallel arrangement, a separation of 40 feet shall be allowed at the closest point between the structures as long as the average separation between the structures is 50 feet.

Additional Minimum separations between “**Front-loaded Garage**” buildings (meaning the garage is located on the same side as the front door):

Front to Front – Sixty (60) feet

Rear to Side – Thirty (30) feet

Rear to Rear – there shall be a minimum separation of fifty (50) feet. However, if the structures are arranged in any way other than a parallel arrangement, a separation of 40 feet shall be allowed at the closest point between the structures as long as the average separation between the structures is 50 feet.

e. Maximum density shall not exceed: 6 dwelling units per acre.

f. Permitted Obstructions in Required Separation Areas

Obstructions in required setback areas shall be pursuant to Section 105.9 “Obstructions” of Chapter 49 with the following exceptions:

- 1. Front to Front Separation – Covered or uncovered porches and patios may encroach into the front-to-front separation requirements.
- 2. Rear to Rear Separation – Second floor balconies may encroach into the rear-to-rear separation requirements.
- 3. Rear to Side Separation – Second floor balconies may encroach into the rear to side separation requirements.

- g. Maximum Height – The maximum height of structures shall be Thirty-five (35) feet.
- h. Maximum Floor Area Ratio with respect to the Subject Property: 1.0
- i. Maximum units per building: 6
- j. Minimum floor area per dwelling unit:
  - 1,000 sq.ft. – one story
  - 1,200 sq.ft. – two story
- k. All parking and loading shall be pursuant to Section 105.13., “Off-Street Parking and Loading” of Chapter 49 of the Zoning Ordinance. Minimum parking – 2.0 enclosed garage spaces and 2.0 driveway spaces per dwelling unit and if development roadways are less than 31’ back-to-back then an additional 0.75 individually accessible guest spaces per dwelling unit are required in bays and/or on the street and must be evenly distributed through the neighborhood.

1.5 Specific Rules and Definitions

The City may approve Final Plans that contain variations up to 10% of the requirement from Sections A-1.4. pertaining to Bulk Restrictions. Variations above 10% shall be requested through the Final Plan process with a public hearing as outlined in Section 4-603 of Chapter 34 of the City Code.

2. Parcel B – B-2 (C) Business District, General Retail

2.1 Parcel Size and Use Designation

The zoning parcel referenced within this document as Parcel B contains approximately 11.4 acres. Upon approval of this document, said property shall be designated as B-2 Business District Zoning, with a Conditional Use Planned Development on the Zoning Map of the City (“Zoning Map”), and be regulated by the Chapter 49 of the City Code (“Zoning Ordinance”), including but not limited to the provisions for the underlying base zoning district set forth in Section 49-108.3 titled B-2 Business District, General retail except as modified herein.

2.2 Statement of Intent

The B-2 Business District has been chosen as the underlying base zoning for this Parcel to provide for the long-term viability of the property and to ensure consistency and compatibility with the adjacent zoning and uses. The Parcel is intended to be developed as a commercial center. Access to the property will be

from Sequoia Drive and Orchard Road.

### 2.3 Use Regulations

1. This property shall be limited to those uses permitted in the B-2 Business District, Section 49-108.3(d)(1) of the Zoning Ordinance, with the following modifications:
  - a. The following uses shall be prohibited:
    - (1) Pawnshop (2160)
    - (2) Laundromat (2610)
    - (3) Tattoo Salon (2630)
    - (4) Alternative Financial Institutions (2220)
  - b. The following uses shall be permitted:
    - (1) One gasoline station (2831), no truck diesel lanes. Said gasoline station shall record and submit the attached Attachment "C" Declaration of Demolition Covenant prior to issuance of the building permit.
  - c. The following uses shall be limited in number:
    - (1) Up to Three drive throughs, either Restaurants with a drive-through facility (2530) or Retail sales or service, with a Drive Through (2110)
    - (2) One lot shall be shown and developed as white tablecloth sit-down restaurant, defined, for purposes of this Section only, as a casual to fine casual full service restaurant with minimum indoor table seating for at least fifty (50) people with its primary purpose as a dine in facility, with or without a full-service bar, and does not sell fast food or operate a drive in window as its principal business. The Developer shall (i) make reasonable efforts and take all reasonable steps to market the parcel, at market value, as pad site consistent with the parameters and terms of the project described herein; (ii) negotiate in good faith the terms and conditions of the sale or lease of the lot site pad and improvements at market value, if the marketing is successful; and (iii) make reasonable efforts and take all reasonable steps to obtain City approvals for the development of said lot site pad consistent with the terms contained in this Section. The Developer shall cooperate with the City and provide the City with all reasonably requested information within the Developer's control when said information is required to verify the Developer's marketing efforts. The information shall be provided within

a reasonable time following the City's request. The City agrees to keep all information confidential unless it is required by law to disclose said information. This provision shall expire on the earlier of January 1, 2028 or when a sit-down restaurant is constructed on one lot.

2.4 Bulk Restrictions

- 1. This property shall be subject to the Bulk Restrictions in the B-2 Business District, Section 49-108.3(e), and Section 49-105 of the Zoning Ordinance with the following modifications:
  - a. Minimum setbacks shall be as follows:
    - (1) Orchard Road Setback: Fifty (50) feet
    - (2) Sequoia Drive: Thirty (30) feet
    - (3) From Internal Drives – Ten (10) feet from edge of pavement
  - b. All parking and loading shall be pursuant to Section 105.13., "Off-Street Parking and Loading" of Chapter 49 of the Zoning Ordinance with the following addition(s):
    - (1) That no parking or trash enclosures be off internal drive aisles.

3. Parcel C – OS-1 (C) Conservation, Open Space and Drainage District

3.1 Parcel Size and Use Designation

The zoning parcel referenced within this document as Parcel C contains two stormwater retention basins approximately 8.3 acres in total. Upon approval of this document, said property shall be designated as OS-1(C) Conservation, Open Space and Drainage District Zoning, with a Conditional Use Planned Development on the Zoning Map of the City ("Zoning Map"), and be regulated by the Chapter 49 of the City Code ("Zoning Ordinance"), including but not limited to the provisions for the underlying base zoning district set forth in Section 49-106 titled OS-1(C) Conservation, Open Space and Drainage District, except as modified herein.

3.2. Statement of Intent

The OS-1 District has been chosen as the underlying base zoning for this Parcel to provide for the long-term viability of the property and to ensure consistency and compatibility with the adjacent zoning and uses. The Parcel will be developed as detention basins.

3.3 Use Regulations

- 1. This property shall be limited to those uses permitted in the OS-1 District,

Section 49-106.4 of the Zoning Ordinance.

B. BUILDING, STRUCTURES AND SIGNAGE

1. Retaining walls utilized within the development shall not exceed three (3) feet in height. The stepping of retaining walls is allowed up to six (6) feet in overall height with a minimum run of three (3) feet between steps.
2. Building Elevations shall be subject to approval with the Final Plan and will be evaluated based on the quality and variety of building materials, orientation and presentation from the public street and the use of architectural elements.
3. Signage Elevations and locations shall be subject to approval with the Final Plan and will be evaluated based on the quality and variety of materials, orientation and presentation to the public street and the use of architectural elements matching the building. The signage on the property shall be subject to Chapter 41 of the City Code ("Sign Ordinance").
4. Residential Model Unit(s) shall be permitted. At the Developer's sole risk the Developer may construct, maintain and occupy up to one (1) model building subject to the following:
  - a. Permits for model units will not be issued until a final plat is approved containing the model unit area.
  - b. Tested and approved water with sufficient fire hydrant coverage for the model homes (subject to the review of the Fire Marshal), gravel street, street signs, and stormwater detention with a functioning overland flood route from the model home area to the detention facility, and a secondary access, gravel surface roadway for construction, emergency and inspection vehicles shall be provided prior to model permit issuance. Sanitary and water services do not need to be provided until approval of residential occupancy.
5. Sales and Construction Trailer(s) shall be permitted. At the Developer's sole risk the Developer may install, maintain and occupy up to one (1) trailer subject to the following:
  - a. Upon Preliminary plan approval for the Subject Property and in advance of final engineering, final plat approval and the construction of sanitary, storm sewer, storm water detention facilities, water main, streets, curbs and gutters, the Developer shall be permitted to set temporary construction office, storage and sales trailers on the site. Approval for placement of trailers shall be subject only to staff review, which includes meeting the requirements of Article 18-V of Chapter 18 of the City. Planning Commission or City Council approval shall not be required.
  - b. Installation of sanitary sewer and public water shall not be a

condition to the issuance of permits for construction, storage and sales trailers;

- c. Sales Trailers shall be removed at such time as the Developer receives occupancy permits for the Sales/Model homes;
- d. The Developer shall be permitted to construct and maintain other appurtenant facilities for said trailers including temporary driveways.
- e. The Developer, upon approval of the City Engineer may construct temporary parking facilities, haul roads, and other pertinent facilities in advance of receipt of approved formal permits applicable to any parcel. The City Engineer's approval shall not be unreasonably withheld.
- f. Construction and storage trailers shall be removed within sixty (60) days following the completion of construction activity on the affected parcel.
- g. All references to trailers in this Section shall be as that term is defined in Chapter 49 of the Zoning Ordinance. All such trailers shall be maintained in a neat and orderly manner. The Developer shall maintain and repair any and all temporary facilities.

#### C. PUBLIC IMPROVEMENTS

1. Orchard Road: Orchard Road: Owner/Developer shall install the all necessary improvements to Orchard Road as required by Kane County Division of Transportation (KDOT) to provide for a right-in, right-out (RI/RO), a dedicated left-in access lane drive together with a left turn lane in on Orchard Road to accommodate left turn movements for southbound traffic on Orchard Road to enter the Subject Property, and a dedicated right-in access lane to accommodate right turn movements for northbound traffic on Orchard Road to enter the Subject Property. Said improvements will include roadway widening and resurfacing, curb and gutter, streetlights, storm sewer, pavement striping, landscaping, sidewalk/path, and roadway signages. A five-foot (5') sidewalk or ten-foot (10') bike path improvement shall be installed by the Developer and shall be permitted one-foot (1') within the right-of-way along the Orchard Road. DEVELOPER RESPONSIBILITY: Developer will dedicate right-of-way if required by KDOT and install the required improvements to Orchard Road provide to provide a right-in, right-out (RI/RO), a left-in access lane, and a right-in access lane as described above.
2. Prior to Preliminary Plan and Plat approval for any portion of the Subject Property, the Developer agrees to enter into a Roadway Agreement with the City of Aurora. The Roadway Agreement shall contain provisions regarding improvements to the intersections of Orchard Road and Sullivan Road and Sullivan Road and Sequoia Drive.
3. The installation of street trees and landscaping shall be a condition of the issuance of a Certificate of Occupancy and shall not be included in the security required under Subdivision Control Ordinance, Section 43-55(a)3 of

the City Code.

#### IV. GENERAL PROVISIONS

##### A. PLAN DESCRIPTION DOCUMENT

1. All current codes and ordinances of the City in effect at the time of the commencement of construction shall govern except where expressly stated within this Plan Description document to the contrary.
2. Amendments to this Plan Description document shall be subject to City Code. Public notice shall be provided in accordance with said code and, to all current owners of property subject to this Plan Description.
3. This Plan Description document shall be mutually binding upon the heirs, executors, administrators, successors and assigns of present or future owners who use the property for the same permitted use.
4. If any section, subsection or paragraph of this Plan Description document shall be held invalid, the invalidity of such section, subsection or paragraph shall not affect any of the other provisions of this Plan Description document.
5. Any provisions contained within this Plan Description document that are in conflict shall be enforced in accordance with the more restrictive provision.

#### V. LIST OF ATTACHMENTS

ATTACHMENT "A" - LEGAL DESCRIPTION OF DEVELOPMENT PARCELS  
ATTACHMENT "B" – MAP OF DEVELOPMENT PARCELS PRELIMINARY  
SUBDIVISION PLAT

ATTACHMENT "A"  
LEGAL DESCRIPTION OF DEVELOPMENT PARCELS

PARCEL A

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Parcel Number(s): 15-07-101-002

Commonly known as: NEC OF Orchard and Sullivan Roads located in Kane County.

THAT PART OF LOT 4 IN FIRST RESUBDIVISION OF TOYOTA SUBDIVISION, BEING A RESUBDIVISION OF PART OF LOT 2 IN TOYOTA SUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST 1/2 OF SECTION 7, TOWNSHIP 38 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEROF RECORDED FEBRUARY 17, 2006, AS DOCUMENT NUMBER 2006K018183 IN THE CITY OF AURORA, KANE COUNTY, ILLINOIS. DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 4; THENCE SOUTH 88 DEGREES 33 MINUTES 38" EAST ALONG THE NORTH LINE OF SAID LOT 4, A DISTANCE OF 574.00 FEET TO A BEND POINT IN SAID NORTH LINE; THENCE NORTH 63 DEGREES 10 MINUTES 48 SECONDS EAST, ALONG SAID NORTH LINE, 286.69 FEET TO A BEND POINT IN SAID NORTH LINE; THENCE NORTH 31 DEGREES 39 MINUTES 06 SECONDS EAST, ALONG SAID NORTH LINE, 8.35 FEET TO THE EAST LINE OF SAID LOT 4; THENCE SOUTH 00 DEGREES 03 MINUTES 29 SECONDS WEST, ALONG SAID EAST LINE, 324.00 FEET TO A POINT ON A NON-TANGENT CURVE, SAID CURVE ALSO BEING THE WEST LINE OF SEQUOIA DRIVE HERETOFORE DEDICATED PER DOCUMENT NUMBER 91K05268; THENCE SOUTHWESTERLY 568.12 FEET ALONG THE ARC OF A CURVE, CONCAVE TO THE SOUTHEAST, SAID CURVE ALSO BEING THE WEST LINE OF SAID SEQUOIA DRIVE, HAVING A RADIUS OF 440.00 FEET AND CHORD BEARING OF SOUTH 38 DEGREES 47 MINUTES 28 SECONDS EAST AND CHORD DISTANCE OF 529.47 FEET; THENCE NON-TANGENT TO THE LAST DESCRIBED COURSE, SOUTH 89 DEGREES 50 MINUTES 50 SECONDS WEST, 549.92 FEET TO THE WEST LINE OF SAID LOT 4 (ALSO BEING THE EAST LINE OF ORCHARD ROAD HERETOFORE DEDICATED PER DOCUMENT NUMBER 1298989; THENCE NORTH 04 DEGREES 26 MINUTES 44 SECONDS EAST, ALONG SAID WEST LINE OF LOT 4, A DISTANCE OF 617.98 FEET TO SAID POINT OF BEGINNING.

PARCEL B

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Parcel Number(s): 15-07-101-002

Commonly known as: NEC OF Orchard and Sullivan Roads located in Kane County.

THAT PART OF LOT 4 IN FIRST RESUBDIVISION OF TOYOTA SUBDIVISION, BEING A RESUBDIVISION OF PART OF LOT 2 IN TOYOTA SUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST 1/2 OF SECTION 7, TOWNSHIP 38 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEROF RECORDED FEBRUARY 17, 2006, AS DOCUMENT NUMBER

2006K018183 IN THE CITY OF AURORA, KANE COUNTY, ILLINOIS. DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 4; THENCE SOUTH 04 DEGREES 26 MINUTES 44 SECONDS WEST, ALONG THE WEST LINE OF SAID LOT 4 (ALSO BEING THE EAST LINE OF ORCHARD ROAD HERETOFORE DEDICATED PER DOCUMENT NUMBER 1298989), 617.98 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89 DEGREES 50 MINUTES 50 SECONDS EAST, 281.54 FEET; THENCE SOUTH 00 DEGREES 09 MINUTES 10 SECONDS EAST, 387.69 FEET; THENCE NORTH 89 DEGREES 51 MINUTES 34 SECONDS EAST, 311.05 FEET TO A POINT ON A NON-TANGENT CURVE, SAID CURVE ALSO BEING THE WEST LINE OF SEQUOIA DRIVE HERETOFORE DEDICATED PER DOCUMENT NUMBER 91K05268; THENCE SOUTHERLY 36.65 FEET ALONG THE ARC OF A CURVE, CONCAVE TO THE WEST, SAID CURVE ALSO BEING THE WEST LINE OF SAID SEQUOIA DRIVE, HAVING A RADIUS OF 460.00 FEET AND CHORD BEARING OF SOUTH 08 DEGREES 12 MINUTES 00 SECONDS WEST AND CHORD DISTANCE OF 36.64 FEET TO A POINT OF TANGENCY; THENCE SOUTH 10 DEGREES 28 MINUTES 58 SECONDS WEST, ALONG THE WEST LINE OF SEQUOIA DRIVE TO A POINT OF CURVATURE; THENCE CONTINUING ALONG SAID WEST LINE SOUTHERLY 353.92 FEET, ALONG THE ARC OF A CURVE, CONCAVE EAST, HAVING A RADIUS OF 540.00 FEET, CHORD BEARING OF SOUTH 08 DEGREES 17 MINUTES 35 SECONDS EAST, AND CHORD DISTANCE OF 347.62 FEET TO A POINT OF TANGENCY; THENCE SOUTH 21 DEGREES 53 MINUTES 28 SECONDS EAST, ALONG THE WEST LINE OF SEQUOIA DRIVE, 20.70 FEET; THENCE SOUTH 68 DEGREES 06 MINUTES 32 SECONDS WEST, 68.59 FEET; THENCE SOUTH 89 DEGREES 45 MINUTES 43 SECONDS WEST, 27.15 FEET; THENCE SOUTH 00 DEGREES 10 MINUTES 51 SECONDS EAST, 15.04 FEET; THENCE SOUTH 68 DEGREES 56 MINUTES 52 SECONDS WEST, 29.50 FEET; THENCE SOUTH 89 DEGREES 46 MINUTES 18 SECONDS WEST, 148.02 FEET; THENCE SOUTH 71 DEGREES 42 MINUTES 02 SECONDS WEST, 95.65 FEET; THENCE SOUTH 89 DEGREES 49 MINUTES 09 SECONDS WEST, 266.55 FEET TO THE WEST LINE OF SAID LOT 4, (ALSO BEING THE EAST LINE OF ORCHARD ROAD HERETOFORE DEDICATED PER DOCUMENT NUMBER 1298989), THENCE NORTH 00 DEGREES 10 MINUTES 51 SECONDS WEST, ALONG SAID WEST LINE, 852.12 FEET TO A BEND POINT IN SAID WEST LINE; THENCE NORTH 04 DEGREES 26 MINUTES 44 SECONDS EAST, ALONG SAID WEST LINE, 214.47 FEET TO SAID POINT OF BEGINNING.

PARCEL C

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Parcel Number(s): 15-07-101-002

Commonly known as: NEC OF Orchard and Sullivan Roads located in Kane County.

THAT PART OF LOT 4 IN FIRST RESUBDIVISION OF TOYOTA SUBDIVISION, BEING A RESUBDIVISION OF PART OF LOT 2 IN TOYOTA SUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST 1/2 OF SECTION 7, TOWNSHIP 38 NORTH,

RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEROF RECORDED FEBRUARY 17, 2006, AS DOCUMENT NUMBER 2006K018183 IN THE CITY OF AURORA, KANE COUNTY, ILLINOIS. DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 4; THENCE SOUTH 04 DEGREES 26 MINUTES 44 SECONDS WEST, ALONG THE WEST LINE OF SAID LOT 4 (ALSO BEING THE EAST LINE OF ORCHARD ROAD HERETOFORE DEDICATED PER DOCUMENT NUMBER 1298989), 617.98 FEET; THENCE NORTH 89 DEGREES 50 MINUTES 50 SECONDS EAST, 281.54 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89 DEGREES 50 MINUTES 50 SECONDS EAST, 268.38 FEET TO A POINT ON A NON-TANGENT CURVE, SAID CURVE ALSO BEING THE WEST LINE OF SEQUOIA DRIVE HERETOFORE DEDICATED PER DOCUMENT NUMBER 91K05268; THENCE SOUTHERLY 97.69 FEET ALONG THE ARC OF A CURVE, CONCAVE TO THE EAST, SAID CURVE ALSO BEING THE WEST LINE OF SAID SEQUOIA DRIVE, HAVING A RADIUS OF 440.00 FEET AND CHORD BEARING OF SOUTH 04 DEGREES 33 MINUTES 35 SECONDS EAST AND CHORD DISTANCE OF 97.49 FEET TO A POINT OF TANGENCY; THENCE SOUTH 10 DEGREES 55 MINUTES 16 SECONDS EAST, ALONG THE WEST LINE FO SAID SEQUOIA DRIVE, 158.76 FEET TO A POINT OF CURVATURE; THENCE SOUTHERLY 135.18 FEET ALONG THE ARC OF A CURVE CONCAVE WEST, SAID CURVE ALSO BEING THE WEST LINE OF SAID SEQUOIA DRIVE, HAVING A RADIUS OF 460.00 FEET, CHORD BEARING OF SOUTH 02 DEGREES 30 MINUTES 06 SECONDS EAST, AND CHORD DISTANCE OF 134.70 FEET; THENCE SOUTH 89 DEGREES 51 MINUTES 34 SECONDS WEST, NON-TANGENT TO THE LAST DESCRIBED COURSE; 311.05 FEET; THENCE NORTH 00 DEGREES 09 MINUTES 10 SECONDS WEST, 387.69 FEET TO SAID POINT OF BEGINNING.

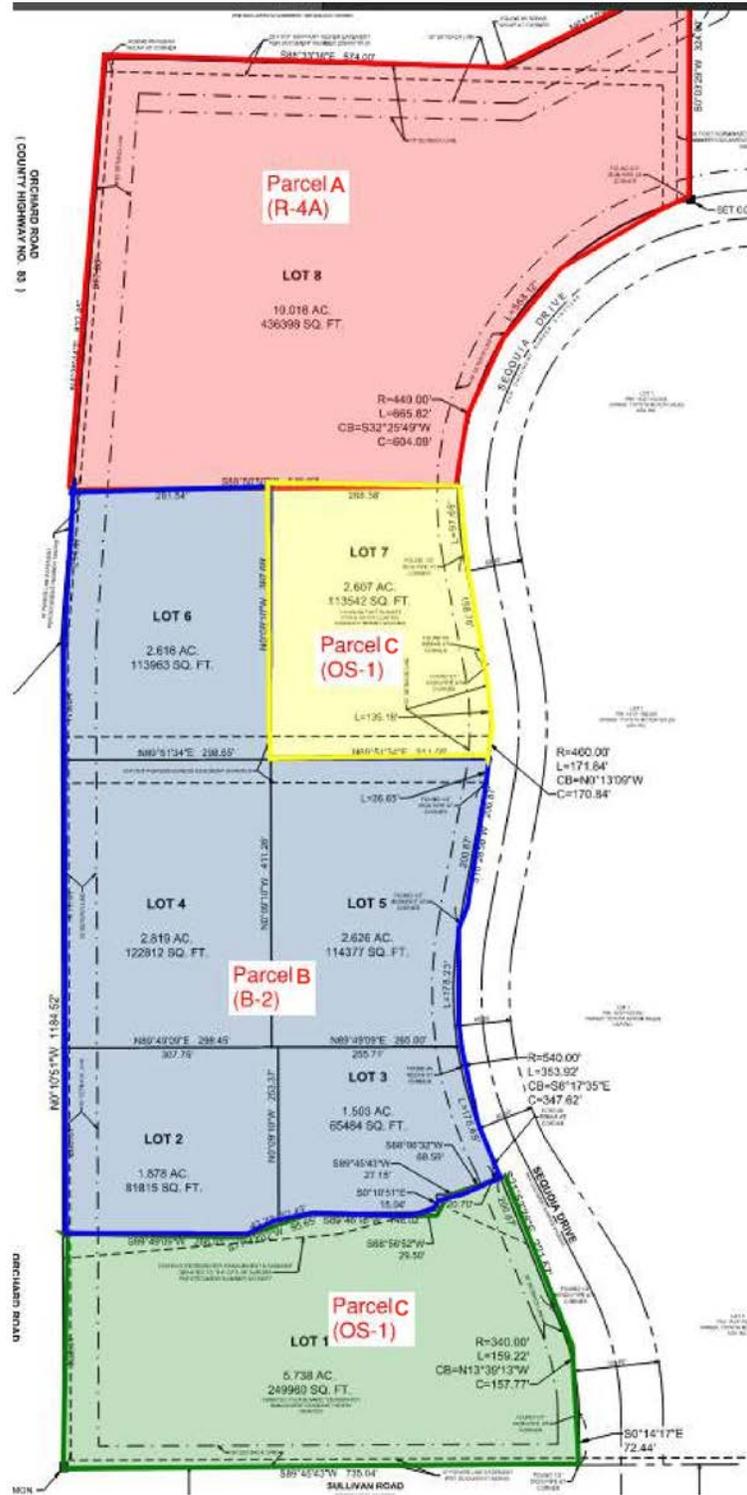
AND

THAT PART OF LOT 4 IN FIRST RESUBDIVISION OF TOYOTA SUBDIVISION, BEING A RESUBDIVISION OF PART OF LOT 2 IN TOYOTA SUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST 1/2 OF SECTION 7, TOWNSHIP 38 NORTH, RANGE 8, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEROF RECORDED FEBRUARY 17, 2006, AS DOCUMENT NUMBER 2006K018183 IN THE CITY OF AURORA, KANE COUNTY, ILLINOIS. DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 4; THENCE NORTH 00 DEGREES 10 MINUTES 51 SECONDS WEST, ALONG THE WEST LINE OF SAID LOT 4 (ALSO BEING THE EAST LINE OF ORCHARD ROAD HERETOFORE DEDICATED PER DOCUMENT NUMBER 1298989), 332.41 FEET; THENCE NORTH 89 DEGREES 49 MINUTES 09 SECONDS EAST, 266.55 FEET; THENCE NORTH 71 DEGREES 42 MINUTES 02 SECONDS EAST, 95.65 FEET; THENCE NORTH 89 DEGREES 46 MINUTES 18 SECONDS EAST, 148.02 FEET; THENCE NORTH 68

DEGREES 56 MINUTES 52 SECONDS EAST, 29.50 FEET; THENCE NORTH 00 DEGREES 10 MINUTES 51 SECONDS WEST, 15.04 FEET; THENCE NORTH 89 DEGREES 45 MINUTES 43 SECONDS EAST, 27.15 FEET; THENCE NORTH 68 DEGREES 06 MINUTES 32 SECONDS EAST, 68.59 FEET TO THE WEST LINE OF SEQUOIA DRIVE HERETOFORE DEDICATED PER DOCUMENT NUMBER 91K05268; THENCE SOUTH 21 DEGREES 53 MINUTES 28 SECONDS EAST, ALONG SAID WEST LINE, 221.57 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY, 159.22 FEET ALONG THE ARC OF A CURVE, CONCAVE SOUTHWEST, SAID CURVE ALSO BEING THE WEST LINE OF SAID SEQUOIA DRIVE, HAVING A RADIUS OF 340.00 FEET, CHORD BEARING OF SOUTH 13 DEGREES 39 MINUTES 13 SECOND EAST, AND CHORD DISTANCE OF 157.77 FEET TO A POINT OF TANGENCY; THENCE SOUTH 00 DEGREES 14 MINUTES 17 SECONDS EAST, ALONG SAID WEST LINE, 72.44 FEET TO THE NORTH LINE OF SULLIVAN ROAD HERETOFORE DEDICATED PER DOCUMENT NUMBER 1920528 AND 1920981, SAID NORTH LINE ALSO BEING THE SOUTH LINE OF SAID LOT 4; THENCE SOUTH 89 DEGREES 45 MINUTES 43 SECONDS WEST, ALONG SAID NORTH LINE, 735.04 FEET TO SAID POINT OF BEGINNING.

# ATTACHMENT "B" MAP OF DEVELOPMENT PARCELS PRELIMINARY SUBDIVISION PLAT



ATTACHMENT "C"  
Declaration of Demolition Covenant

STATE OF ILLINOIS

COUNTY OF KANE

**DECLARATION OF DEMOLITION COVENANT**

THIS DECLARATION OF DEMOLITION COVENANT (this "Declaration") is executed and effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, an \_\_\_\_\_ ("Declarant").

**RECITALS:**

**WHEREAS**, Declarant is the fee owner of the real property described in Exhibit A attached hereto and incorporated herein, said property being hereinafter referred to as the "Declarant Property"; and

**WHEREAS**, the City of Aurora (the "City") has requested that Declarant give certain assurances regarding demolition of the improvements on the Declarant Property upon the occurrence of certain events, as more particularly set forth herein, and Declarant has agreed to provide the same; and

**NOW, THEREFORE**, in consideration of the foregoing premises, and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the sum and sufficiency of which is hereby acknowledged, Declarant does hereby subject the Declarant Property to the following covenant:

In the event that the sale of retail motor fuels, including diesel fuel, ceases at the Declarant Property for a continuous period of twelve (12) months, Declarant shall, within one hundred eighty (180) days thereafter, remove all fuel canopies, underground storage tanks, fuel pumps, and associated dispensing infrastructure, and shall restore the site to a condition compliant with applicable environmental laws and regulations. In addition to the foregoing, Declarant agrees that it shall demolish the convenience store building on the Declarant Property in the event that the convenience store building has ceased operations and been consecutively vacant for seven hundred fifty (750) days without being marketed for sale; provided, however, Declarant shall not be required to demolish the convenience store building in the event that the Declarant Property is being marketed for sale.

Notwithstanding the foregoing, if such cessation is caused by (a) a force majeure event—

defined as acts of God, fire, flood, explosion, earthquake, pandemic, epidemic, war, civil unrest, or labor strikes that materially prevent performance of the required removal, (b) redevelopment, reconstruction, maintenance, and/or repair of the improvements on the Declarant Property (collectively, "Redevelopment"), (c) a generally applicable City-wide ordinance that is the subject to litigation or other legal challenge by Declarant, or (d) an ordinance or other formal action of the City, other than a generally applicable City-wide ordinance, that expressly prohibits the sale of motor vehicle fuel at retail on the Declarant Property, then the time for compliance with the removal obligation shall be suspended for the duration of such force majeure event, Redevelopment, litigation, or prohibition, but in no event for more than the later of: (a) eighteen (18) months in total, or (b) until the final conclusion of the applicable litigation, including any appeals.

If retail motor fuel sales do not lawfully resume within such eighteen (18) month period, or if the governmental prohibition becomes permanent, Declarant shall complete the required removal and site restoration within one hundred eighty (180) days thereafter.

Economic infeasibility, loss of market demand, changes in consumer preference, or the existence of governmental restrictions not specific to the subject property shall not constitute force majeure for purposes of this provision.

DECLARANT:

\_\_\_\_\_(Signature)

\_\_\_\_\_(Name)

\_\_\_\_\_(Title)

STATE OF \_\_\_\_\_ )

) ss.

COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, to me personally known, who, being by me duly sworn, did say that he/she/they is/are the \_\_\_\_\_ of \_\_\_\_\_, and \_\_\_\_\_ acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it voluntarily executed.

\_\_\_\_\_  
Notary Public

Exhibit A  
"Declarant Property"