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GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
FIRST AMERICAN TITLE
BY: EHR, DEPUTY - WI

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MEMORANDUM OF LEASE
AND
RIGHT OF FIRST REFUSAL

THIS MEMORANDUM OF LEASE AND RIGHT OF FIRST REFUSAL (the "**Memorandum**") is a memorandum of an unrecorded Ground and Building Lease (the "**Lease**") dated the 26th day of February, 2002, by and between **RADDON/BELL PROPERTIES, LLC**, a Utah limited liability company, hereinafter called "**Lessor**", whose mailing address is 12222 South 1000 East, Suite No. 3, Draper, Utah 84020, and **WENDY'S OLD FASHIONED HAMBURGERS OF NEW YORK, INC.**, an Ohio corporation, hereinafter referred to as "**Lessee**", whose mailing address is P. O. Box 256, 4288 West Dublin-Granville Road, Dublin, Ohio 43017, concerning that certain real property situated in the City of South Jordan, County of Salt Lake and State of Utah, containing approximately 42,551 square feet of land and improvements, together with all rights, easements and appurtenances thereunto belonging or appertaining (collectively referred to herein as the "**Leased Premises**"), said Real Property being those more fully described in **Exhibit A** attached hereto and made a part hereof by this reference.

For good and valuable consideration, Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the above-described premises for the term and under the conditions in the Lease, said Lease being incorporated herein by this reference.

In particular, the Lease contains the following provisions:

1. **TERM.**

A. **Original Term**

The "**Original Term**" of the Lease shall be defined as the period commencing on the Commencement Date as defined in Section 3 of the Lease and ending on December 31 of the tenth (10th) full Lease Year (as hereinafter defined) following such Commencement Date. "**Lease Year**" shall be defined as each successive period of twelve (12) consecutive calendar months commencing on the first day of January of each year during the term hereof and ending on December 31 of each year of the term hereof. If the Commencement Date is other than January 1 of any calendar year, the period between the Commencement Date and December 31 of that year shall be the "**First Partial Lease Year**". Lessee's obligation to pay rent shall commence on the Commencement Date.

B. **Renewal Terms**

Upon the expiration of the Original Term of the Lease, the Lease shall automatically renew for six (6) additional periods of five (5) years each (the "**Renewal Terms**"), except in the event Lessee gives Lessor a cancellation notice as hereinafter provided. In the event Lessee elects to cancel the renewal term of the Lease, such cancellation notice may be given by Lessee at any time but in any event must be given at least two hundred ten (210) days prior to the expiration of the then ending term. In the

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event Lessee exercises its option to cancel the renewal term of the Lease, the Lease shall terminate upon the expiration of the then ending term.

Except in the event that Lessee cancels the renewal term of the Lease, the Lease shall be renewed at the rental set forth in Section 4 of the Lease, and upon the same other terms and conditions as are applicable to the Original Term, except that such subsequent renewal terms shall begin on the date of expiration of the previous term and shall continue for a period of five (5) years thereafter. The Original Term and any and all Renewal Terms which are not canceled are hereinafter collectively referred to as the "Term" of the Lease.

2. EFFECTIVE DATE AND COMMENCEMENT DATE.

The "Effective Date" of the Lease is February 26, 2002. The "Commencement Date" of the Lease shall be the earlier of the following: (a) Lessee's completion of the improvements to be constructed by Lessee and the opening to the public of Lessee's business on the Real Property, or (b) one hundred (100) days after the date the conditions precedent under Section 8 of the Lease have been satisfied or waived in writing by Lessee, and Lessor has delivered exclusive possession of the Real Property to Lessee; provided, however, that said one (100) day period shall be extended by the amount of time attributable to any delays due to causes beyond Lessee's control, including but not limited to acts of God, strikes, lockouts or unavailability of materials.

3. REAL PROPERTY AS PART OF A LARGER TRACT OF LAND.

A. General Covenants

The Real Property is part of a larger tract of land depicted on Exhibit B and more fully described on Exhibit B-1 as "Lessor's Larger Tract", both attached hereto and made a part hereof. Lessor covenants and agrees that (i) no fences or other obstructions prohibiting access to and from the Real Property and Lessor's Larger Tract shall be constructed during the Term; (ii) there are sufficient parking spaces on Lessor's Larger Tract including the Real Property to meet the requirements of any laws, ordinances and regulations; (iii) Lessee, its employees, customers and invitees shall have the non-exclusive rights of ingress and egress in, on and over Lessor's Larger Tract to and from all streets, alleys and across ways adjacent to Lessor's Larger Tract; and (iv) no buildings, signs, or other improvements shall be constructed upon Lessor's Larger Tract which will reduce the visibility of Lessee's signs or of the Real Property from any access streets. Lessor hereby grants and conveys to Lessee, its employees, customers and invitees a non-exclusive right and easement for access, ingress/egress and parking purposes over the common driveway and parking areas that may exist from time to time within Lessor's Larger Tract. Lessor agrees to keep Lessor's Larger Tract (excluding the building to be occupied by Lessee except as provided in Section 10 of the Lease) in good maintenance and repair and in a safe, clean and sanitary condition. The cost of maintaining and repairing Lessor's Larger Tract (excluding the building to be occupied by Lessee except as provided in Section 10 of the Lease) and keeping it in a safe, clean and sanitary condition shall be borne solely by Lessor, except as provided otherwise by Section 4. All repairs, alterations and maintenance of Lessor's Larger Tract (excluding the building to be occupied by Lessee except as provided in Section 10 of the Lease) shall be solely the cost of Lessor and Lessee shall not be liable for any portion of the cost of repairs, alterations and maintenance of Lessor's Larger Tract (excluding the building to be occupied by Lessee except as provided in Section 10 of the Lease) without Lessee's prior written consent, except as provided otherwise by Section 4 of the Lease. Lessor shall provide Lessee with a legal description of Lessor's Larger Tract within fifteen (15) days following the Effective Date of the Lease.

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B. Access Easement

Lessor grants and conveys to Lessee, for the use and benefit of Lessee, its successors, assigns, licensees, employees, suppliers, customers and invitees, a non-exclusive easement appurtenant to the Real Property for the Term and any period of holding over for the purpose of vehicular and pedestrian ingress, egress and access to and from the Real Property, over, upon, across and through those portions of Lots 8 and 9 of Lessor's Larger Tract which is depicted on Exhibit B and more fully described on Exhibit B-2, attached hereto and made a part hereof, as the "Access Easement". Lessor shall be obligated to adequately maintain the Access Easement in a level, evenly paved condition and relatively free and clear of snow, ice and debris. In the event Lessor fails or refuses to adequately maintain the Access Easement area after receiving reasonable notice thereof from Lessee, Lessee shall have the right, but not the obligation, of performing the necessary maintenance of the Access Easement area and billing the reasonable cost thereof to Lessor. This easement shall also include the right to enter upon such other portions of Lessor's Larger Tract as may be reasonably necessary for the purpose of maintaining the Access Easement.

C. Use Restriction

As a material inducement for Lessee to enter into the Lease, Lessor warrants, covenants and agrees that Lessor will not sell, lease or develop, nor permit the sale, lease or development of any part of Lessor's Larger Tract for a restaurant use the primary business of which is the advertising, preparation and/or sale of hamburgers, hamburger products, roast beef or chicken sandwiches (or any combination thereof). For purposes of this restriction a restaurant has as its primary business the advertising, preparation and/or sale of hamburgers, hamburger products, roast beef or chicken sandwiches (or any combination thereof) if fifteen percent (15%) or more of its gross sales exclusive of tax, beverage and dairy product sales, consist of sales of hamburgers, hamburger products, roast beef or chicken sandwiches (or any combination thereof). For purposes of this Section, Lessor shall include, but shall not be limited to, any other person, corporation, partnership, or legal entity in which Lessor has, or subsequently acquires, an interest. Lessor covenants and agrees that all deeds, leases or other legal documents which shall be given or made by Lessor for Lessor's Larger Tract shall contain appropriate restrictions prohibiting the use of said lands or buildings located thereon for the purposes set forth above. This restriction shall attach to and run with Lessor's Larger Tract for a period commensurate with the Term of the Lease and shall be binding upon Lessor's heirs, personal representatives, tenants, successors and assigns. This restriction shall not apply to uses on Lessor's Larger Tract in existence on the Effective Date which have been disclosed to Lessee in writing prior to the Effective Date.

4. RIGHT OF FIRST REFUSAL TO PURCHASE.

From and after the Effective Date and during the Term of the Lease, Lessee shall have the right of first refusal and Lessor shall not sell, transfer or otherwise dispose of all or part of Lessor's interest in the Real Property until and unless Lessor shall have (A) obtained a bona fide offer therefor; (B) given written notice to Lessee, which notice shall contain (i) the name of the offeror, (ii) the address of the offeror, (iii) all of the terms and conditions of such bona fide offer, and (iv) a true and accurate copy of the actual bona fide offer; and (C) offered to sell, transfer or otherwise dispose of such interest to Lessee at the same price and, except as hereinafter provided, upon the same terms and conditions contained in said bona fide offer. If Lessee shall either give notice of rejection of said offer to it or fail to give notice of acceptance of the same within thirty (30) days after the date of receipt of Lessor's notice, Lessor's interest in the Real Property may, during the ninety (90) days thereafter, be sold, transferred or otherwise disposed of to the original offeror at the same price and upon the same terms and conditions contained in said bona fide offer as disclosed in writing to Lessee. In the event Lessee rejects said offer or fails to accept the same, the Lease and all of its terms and conditions (including this right of first refusal and including the right of first refusal to lease set forth in the Lease) shall nevertheless remain in full force and effect and Lessor and any purchaser or purchasers of the Real Property shall be bound thereby. Failure of Lessee to

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exercise this right of first refusal on one or more occasions shall not affect Lessee's right to exercise it on any subsequent occasion. Any sale or transfer of the Real Property, or any part thereof other than in strict compliance with the terms of this section shall be absolutely null and void and of no effect as to Lessee, and Lessee shall be entitled to purchase the Real Property from the purchaser upon the same terms and conditions and at the same price specified in said bona fide offer, provided Lessee notifies Lessor of its election within thirty (30) days after receipt of written notice which complies with the requirements hereof. Payment of rental to such purchaser or otherwise treating such purchaser as the Lessor shall not be deemed to be a waiver of any right of first refusal or any other right or privilege of Lessee and shall not create an estoppel with respect thereto. Any sale or transfer of Lessor's interest in the Real Property, or any part thereof, or of any larger parcel of which the Real Property may be a part, shall be expressly made subject to all of the terms, covenants and conditions of the Lease. Notwithstanding anything contained herein to the contrary, in the event said offer provides for the sale and purchase of Lessor's interest in the Real Property and other property, Lessee shall be required to purchase all of the property contained in said offer, in the event it desires to exercise its right of first refusal hereunder. Lessee's rights hereunder shall apply only to the sale, transfer or disposition of the Real Property alone and not to the sale, transfer or disposition of Lessor's Larger Tract or other assemblage of which the Real Property is only a portion of that to be sold, or otherwise transferred.

5. RIGHT OF FIRST REFUSAL TO LEASE.

If at any time during the Term of the Lease, Lessor receives a bona fide offer to lease the Real Property for a term beginning after the expiration of the Lease, which offer Lessor desires to accept, Lessor shall give Lessee written notice thereof, which notice shall specify in detail the name and address of a prospective tenant and the term, rent, and other covenants and conditions of the proposed lease, accompanied by Lessor's affidavit that such proposed lease is in good faith and that all terms and conditions affecting the proposed lease have been accurately disclosed to Lessee. Lessee shall thereupon have the prior option to lease the Real Property for the term of the proposed lease, at the rent, and upon the other covenants and conditions specified in said notice, which option Lessee may exercise by giving notice to Lessor within thirty (30) days after receipt of the written notice from Lessor. Promptly upon Lessee's submission to Lessor of a written lease containing such term, rent and other covenants and conditions of the proposed lease, Lessor shall execute, acknowledge and deliver to Lessee such written lease in duplicate, and shall be entitled to receive one of such duplicates executed by Lessee. Lessee's failure, at any time, to exercise its option under this Section shall not affect the Lease or any of Lessee's rights or options under this Section or any other Section of the Lease.

6. SERVICE OF NOTICE.

Notices hereunder shall be in writing signed by the party serving the same and shall be sent to the following addresses:

A. If intended for Lessor:

Raddon/Bell Properties, LLC
12222 South 1000 East, Suite No. 3
Draper, Utah 84020
Facsimile number: (801) 576-9452

B. If intended for Lessee:

Wendy's Old Fashioned Hamburgers of New York, Inc.
ATTENTION: Real Estate Department
4288 West Dublin-Granville Road
P. O. Box 256
Dublin, Ohio 43017
Facsimile number: (614) 764-6737

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with a copy addressed and sent to:

Wendy's Old Fashioned Hamburgers of New York, Inc.
ATTENTION: Legal Department
4288 West Dublin-Granville Road
P. O. Box 256
Dublin, Ohio 43017
Facsimile number: (614) 764-3243.

All notices, demands and requests by either party to the other shall be deemed effective upon the earlier of (A) personal delivery, or (B) three (3) days after deposit in United States registered or certified mail, postage prepaid, return receipt requested, or (C) one (1) day after deposit with an overnight courier service for next day delivery, with postage prepaid, or (D) actual delivery if transmitted by facsimile during normal business hours (8:00 a.m.-5:00 p.m.) for the recipient, provided, however, that the same notice is also deposited on the same day with an overnight courier service in compliance with (C) above, all addressed to the other party at its address set forth above, or at such other place as it may from time to time designate in a written notice to the other party.

8. ESTATE IN LAND.

It is the intention of Lessor to create, in favor of Lessee, a leasehold estate in land, which estate shall be vested in Lessee from the date of execution hereof and shall continue for the full original term and all renewal terms of the Lease. Said estate in land shall be subject to divestment only by reason of Lessee's election not to exercise its right of renewal or by reason of the earlier termination of the Lease by one of the parties hereto in accordance with the provisions of the Lease.


This Memorandum is not a complete summary of the Lease. In the event of conflict of interpretation between this Memorandum and the Lease, the Lease would prevail. Originally executed counterparts of the Lease are in the possession of the Lessor and Lessee at the addresses set forth above.

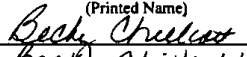
Signed by Lessor this 11th day
of June, 2002.

WITNESSES:

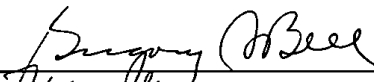
LESSOR:

RADDON/BELL PROPERTIES, LLC



Patti Weatherston
(Printed Name)


Becky Chiller
(Printed Name)

By: 
Title: Member

(Signatures continued on next page)

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Signed by Lessee this 6th day
of June, 2002.

WITNESSES {AS TO BOTH}:

LESSEE:

**WENDY'S OLD FASHIONED
HAMBURGERS OF NEW YORK, INC.**

Carolyn A. Loeffler
CAROLYN A. LOEFFLER

(Printed Name)

By: [Signature]
RONALD E. WALLACE
Vice President

Title: _____

Andrea M. McGeehan
ANDREA M. MCGEEHAN

(Printed Name)

By: [Signature]
PAUL MONTE W. BAKER
Vice President

Title: _____

Legal Dept. [Signature]

ACKNOWLEDGMENTS

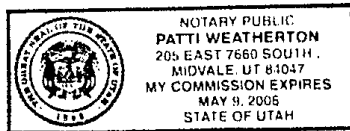
STATE OF Utah
COUNTY OF Salt Lake SS:

The undersigned, a Notary Public in and for the above state and county, hereby certifies that on the 11 day of June, 2002, before me personally appeared Greg Bell, the Managing Partner of **RADDON/BELL PROPERTIES, LLC**, a Utah limited liability company, who was known to me as the person and partner described in and who executed the foregoing instrument on behalf of said company, and who acknowledged that he held the position or title set forth in the instrument and certificate, he signed the instrument on behalf of the company by proper authority, and the instrument was the act of the company for the purpose therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last aforesaid.

(SEAL)

[Signature]
Notary Public



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STATE OF OHIO
COUNTY OF FRANKLIN, SS:

The undersigned, a Notary Public in and for the above state and county, hereby certifies that on the 6th day of June, 2002, before me personally appeared RONALD E. WALLACE and PATRICIA W. BAKER, the
Vice President and Vice President

respectively, of **WENDY'S OLD FASHIONED HAMBURGERS OF NEW YORK, INC.**, an Ohio corporation, who are known to me as the persons and officers described in and who executed the foregoing instrument on behalf of said corporation, and who acknowledge that they held the positions or titles set forth in the instrument and certificate, that they signed the instrument on behalf of the corporation by proper authority, and that the instrument was the act of the corporation for the purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year last aforesaid.



CAROLYN A. LOEFFLER
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES OCTOBER 16, 2006

Carolyn A. Loeffler

Notary Public

This instrument prepared by:
Mark A. Reynolds, Attorney at Law
Wendy's International, Inc.
4288 West Dublin-Granville Road
Dublin, Ohio 43017

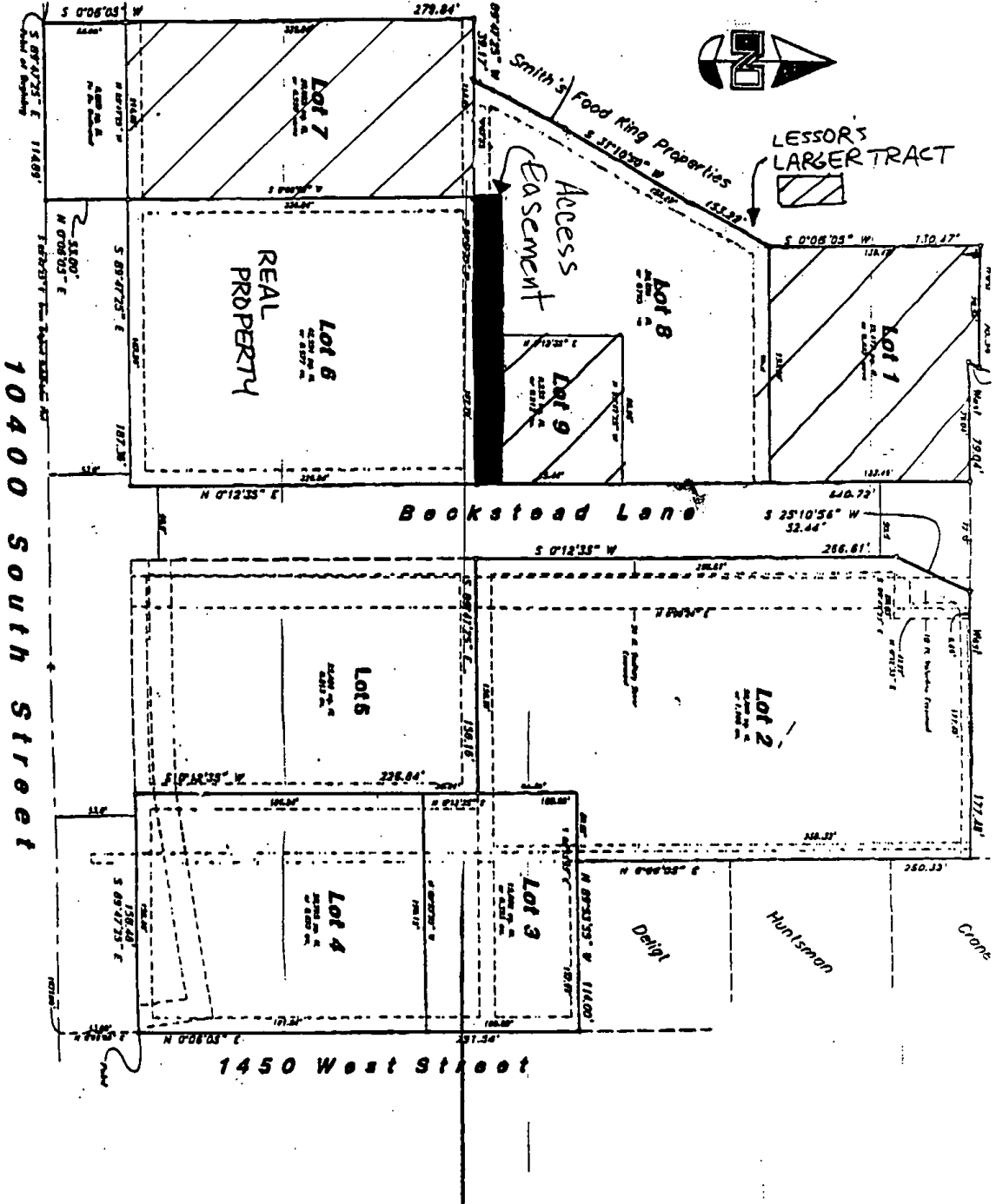
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EXHIBIT A

Lot 6 of Town Commons Amended Subdivision, according to the official plat thereof, on file and of record in the office of the Salt Lake County Recorder's office.
27-15-202-096

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EXHIBIT B



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EXHIBIT B-1

Lots 1, 7 and 9 of Town Commons Amended Subdivision, according to the official plat thereof, on file and of record in the office of the Salt Lake County Recorder's office.

27-15-202-042
27-15-202-045
27-15-202-049

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EXHIBIT B-2

ACCESS EASEMENT:

BEGINNING AT THE NORTHEAST CORNER OF LOT 6, FIRST AMENDED AND EXTENDED LOTS 1 THROUGH 4 AND LOT 6 TOWN COMMONS SUBDIVISION, A COMMERCIAL SUBDIVISION, SAID SUBDIVISION BEING PART OF THE NORTHEAST QUARTER OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE NORTH 0°12'35" EAST 11.24 FEET TO A POINT OF INTERSECTION WITH THE EXTENDED LINE OF AN EXISTING CONCRETE CURB AND GUTTER, THENCE SOUTH 89°43'54" WEST ALONG SAID BACK OF CURB LINE AND SAID BACK OF CURB LINE EXTENDED 187.81 FEET; THENCE SOUTH 0°06'05" WEST 27.89 FEET TO A POINT ON THE BACK OF AN EXISTING CONCRETE CURB AND GUTTER; THENCE ALONG SAID BACK OF CURB LINE AND BACK OF CURB LINE EXTENDED THE FOLLOWING FOUR (4) COURSES: NORTH 89°47'37" EAST 107.65 FEET; THENCE SOUTH 85°31'27" EAST 32.47 FEET; THENCE SOUTH 83°13'19" EAST 34.45 FEET; THENCE SOUTH 89°33'29" EAST 13.50 FEET TO THE EAST LINE OF SAID LOT 6, THENCE NORTH 0°12'35" EAST ALONG SAID EAST LINE 23.84 FEET TO THE POINT OF BEGINNING.

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