



Doc ID: 001302930026 Type: DEE  
Recorded: 09/23/2008 at 04:56:32 PM  
Fee Amt: \$32.00 Page 1 of 26  
Darlington County, SC  
Scott B. Suggs Clerk of Court

EASEMENTS  
COVENANTS, CONDITIONS AND RESTRICTIONS

BK 1045 PG 6190-6215

THESE EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter referred to as "ECCR"), are made and entered into as of the date of the last execution hereof, which date is the <sup>29<sup>th</sup></sup> day of September, 2006 by and between PHELIX C. BYRD, a South Carolina resident ("Byrd") and LOWE'S HOME CENTERS, INC., a North Carolina corporation ("Lowe's") (the foregoing parties hereinafter collectively referred to as the "Parties").

WITNESSETH:

WHEREAS, Lowe's is the owner of that certain tract of real property consisting of approximately Seventeen and 504/1000 (17.504) acres located in Darlington County, State of South Carolina as more particularly described on Exhibit A attached hereto and made a part hereof for all purposes (the "Lowe's Parcel"); and

WHEREAS, Byrd is the owner of a certain tract or tracts of real property located in Darlington County, State of South Carolina, either located contiguous with and adjacent to or in the general vicinity of the Lowe's Property, which is more particularly described in Exhibit B attached hereto and made a part hereof for all purposes (the "Byrd Parcel"); and

WHEREAS, the Lowe's Parcel is shown on the site plan, attached hereto and made a part hereof as Exhibit C (the "Site Plan") and the Byrd Parcel consists of the "Front Property", the "South Side of Proposed Washington Street Extension", the "Residual Property" and the "Rear Property" shown on the Site Plan.

NOW, THEREFORE, Byrd and Lowe's hereby declare, agree, covenant and consent that all of the real property described on Exhibit A and Exhibit B shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are imposed on such real property to run with the real property and be binding on and inure to the benefit of all parties having any right, title or interest in the described Parcels or any part thereof, their heirs, successors and assigns for the purpose of protecting the value of such respective Parcels. Further, in consideration of the premises, the agreements and the covenants of the Parties hereto, the mutual benefits and advantages accruing to them, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I

BASIC DEFINITIONS

Section 1.1 "Consenting Party" shall mean and refer to the Owner of the Lowe's Parcel and the Owner of the Byrd Parcel. There shall be only two (2) Consenting Parties with respect to this ECCR consisting of only one Consenting Party representing the Byrd Parcel and only one Consenting Party representing the Lowe's Parcel. In the event that the Lowe's Parcel or the Byrd Parcel are further subdivided (or in the case of the Byrd Parcel, in the event title to any currently existing subdivided parcel is

vested in another person), the current Consenting Party shall designate the particular parcel of the subdivided Parcel whose Owner shall succeed as the Consenting Party.

Section 1.2 "Default Rate" shall mean the rate of interest that is the lesser of (i) twelve (12%) per annum and (ii) the maximum rate allowed by applicable law.

Section 1.3 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Parcel which is subject to this ECCR, but excluding those having such interest merely as security for the performance of any obligation.

Section 1.4 "Parcel" shall mean and refer to any parcel of land shown on the Site Plan.

## ARTICLE II

### EASEMENTS

Section 2.1 Definitions and Documentation. For the purposes of this Article II, the following will apply:

(a) An Owner granting an easement is called the "Grantor", it being intended that the grant shall thereby bind and include not only such Owner but also its successors and assigns.

(b) An Owner to whom the easement is granted is called the "Grantee", it being intended that the grant shall benefit and include not only such Owner but its successors, assigns, occupants and permittees; although not for the direct benefit of permittees, the Grantee may permit from time to time its occupants and permittees to use such easements; provided, however, that no such permission nor the division of the dominant estate shall permit or result in a use of the easement in excess of the use contemplated at the date of the creation of such easement.

(c) The term "Building(s)" means any permanently enclosed structure(s) which has (have) been, will be or may be placed, constructed or located on a Parcel within an Owner's Permissible Building Area, (as that term is hereinafter defined in Section 2.1(h)), which for the purpose of this ECCR shall include any appurtenant canopies, supports, loading docks, truck ramps and other outward extensions.

(d) The term "Improvement(s)" means Building(s) and any other improvements on a Parcel.

(e) The word "in" with respect to an easement granted "in" a particular Parcel means, as the context may require, "in", "to", "on", "over", "through", "upon", "across", and "under", or any one or more of the foregoing.

(f) [Intentionally Left Blank].

(g) All easements granted herein are non-exclusive and are irrevocable and perpetual.

(h) All easements granted herein shall be easements appurtenant and not easements in gross.

(j) In the event an Owner transfers or conveys a portion of its Parcel in accordance with the terms of this ECCR, those easements granted under this Article II which benefit, bind, and burden

the remainder of the Parcel not transferred or conveyed shall benefit, bind, and burden the portion of the Parcel so transferred or conveyed, and those easements granted under this Article II which benefit, bind, and burden the portion so transferred or conveyed shall benefit, bind, and burden the remainder of the Parcel of which it was a part.

(k) All easements granted hereunder and herein shall exist by virtue of this ECCR, without the necessity of confirmation by any other document. Likewise, upon the termination of any easement (in whole or in part) or its release in respect of all or any part of any Parcel, in accordance with the terms hereof, the same shall be deemed to have been terminated or released without the necessity of confirmation by any other document. However, upon the request of an Owner, the other Owners will sign and acknowledge a document memorializing the existence (including the location and any conditions), or the termination (in whole or in part), or the release (in whole or in part), as the case may be, of any easement, if the form and substance of the document is approved by the other Owners. No grant of an easement pursuant to this Article II shall impose any greater obligation on any Owner to construct or maintain its Building(s) except as expressly provided in this ECCR.

Section 2.2 Washington Street Extension Easement. Lowe's hereby grants to the other Owners easements in that portion of the Lowe's Parcel labeled "Proposed Washington Street Extension" on the Site Plan for:

- (a) ingress to and egress from the Grantee's Parcel;
- (b) the passage of vehicles; and
- (c) the passage and accommodation of pedestrians; and
- (d) the installation, use, operation, maintenance, repair, replacement, relocation and removal of utilities.

Enjoyment and use of this easement shall commence on the date the improvements with respect to Proposed Washington Street Extension are substantially completed by Lowe's as shown on the Site Plan. The use of this easement by any person entitled to the use thereof shall be in common with all other such persons.

Grantors and Grantees of this easement agree not to obstruct or interfere in any way with the free flow of pedestrian and vehicular traffic over the roadways within this easement, except to the extent necessary for reasonable repair and maintenance, traffic regulation and control, and to prevent the accrual of any prescriptive rights to any person therein.

The location of all utilities within the easement shall be subject to the approval of the Owner of the Lowe's Parcel. Except as otherwise provided herein, the Grantee of this easement shall be responsible, as between such Grantee and the Grantor, for the installation, maintenance, repair and removal at Grantee's cost of all utility facilities installed by the Grantee pursuant to the easement grant. Any such installation, maintenance, repair, replacement, relocation and removal of utilities shall be performed by Grantee only after thirty (30) days advance notice to Grantor of Grantee's intention to do such work. However, in the case of an emergency (whereby either persons or property are in immediate danger of substantial damages and/or harm), any such work may be immediately performed after giving such

advance notice to Grantor as is practicable and reasonable under the circumstances. In addition, the Parties agree that all such installation, maintenance, repair and removal shall be performed in a manner that causes as little disturbance to Grantor as may be practicable under the circumstances and any and all portions of the surface area of Grantor's Parcel which may have been excavated, damaged or otherwise disturbed as a result of such work shall be restored, at the sole cost and expense of Grantee, to essentially the same condition as existed prior to the commencement of any such work. No such work or restoration, except emergency repair work, shall be carried on during the periods from November 15th through the following January 15<sup>th</sup> and from April 1<sup>st</sup> through the following July 10th, or on any weekends.

The Grantee shall defend, indemnify and hold Grantor harmless from and against any and all liens, losses, liabilities, costs or expenses (including reasonable attorney's fees), incurred in connection with Grantee's use of the this easement, except to the extent occasioned by Grantor's negligent or wrongful act or omission to act.

The Grantor of this easement may use the utility facilities installed pursuant to such easement; provided, however, that any increase in costs incurred in order to make such utility facilities adequate to serve Grantor's additional use shall be borne by such Grantor. The Grantor of this easement may relocate on its Parcel any utilities installed thereon under this easement.

Nothing herein shall be construed to grant any Owner the right to utilize, drain, or otherwise alter natural water flow into any detention or retention facilities located on or exclusively serving any other Owner's Parcel.

Lowe's shall be entitled to dedicate the property covered by this easement to the public, and upon acceptance by the relevant public authority, this easement shall be of no further force and effect.

Section 2.3 Self-Help Easements. Each Owner hereby grants to the Owners of the Lowe's Parcel and the Byrd Parcel an easement and license to enter upon its Parcel for the purpose of exercising the cure rights provided under Article V of this ECCR. Each Grantee of the easements granted under this Section 2.3 shall defend, indemnify and hold Grantor harmless from and against all liens, losses, liabilities, costs or expenses (including attorney's fees) incurred in connection with or arising out of Grantee's use of said easements, except to the extent occasioned by the Grantor's negligent or wrongful act or omission to act. The duration of the easements granted under this Section 2.3 shall be coterminous with the respective provisions of the ECCR which give the Grantee the right or the obligation to perform the work described in this Section 2.3.

### ARTICLE III

#### USE

Section 3.1 [Intentionally Left Blank].

Section 3.2 Nuisances. Subject to the provisions of Section 3.1, no Parcel shall be used for anything other than purposes which may be permitted by applicable zoning regulations, nor shall anything be done on any Parcel which shall constitute a public nuisance to the community.

Section 3.3 Use Restrictions.

(a) During the term of this ECCR no portion of the Parcels subject to this ECCR may be used for any of the following purposes without the written consent of the Consenting Parties:

(i) A tavern, bar, nightclub, cocktail lounge, discotheque, dance hall, or any other establishment selling alcoholic beverages for on-premises consumption; provided, however, the foregoing shall not prohibit the operation of a restaurant where the sale of alcoholic beverages therein comprises less than forty (40%) percent of the restaurant's gross revenues.

(ii) A bowling alley, billiard parlor, bingo parlor, arcade, game room or other amusement center; provided, however, that a billiard parlor, arcade, game room or other amusement center (but not a bowling alley or bingo parlor) will be permitted on that portion of the Byrd Parcel designated as "Rear Property" on the Site Plan.

(iii) A theater (motion picture or live performance); provided, however, that a theater (motion picture or live performance) will be permitted on that portion of the Byrd Parcel designated as "Rear Property" on the Site Plan.

(iv) A health club, gymnasium or spa; provided, however, that a health club, gymnasium or spa will be permitted on that portion of the Byrd Parcel designated as "Rear Property" on the Site Plan.

(v) A service station, automotive repair shop or truck stop; provided, however, that a service station or automotive repair shop (but not a truck stop) will be permitted on that portion of the Byrd Parcel designated as "Rear Property" on the Site Plan.

(vi) A flea market or pawn shop.

(vii) A training or educational facility (including without limitation, a school, college, reading room or other facility catering primarily to students and trainees rather than customers); provided, however, that a training or educational facility will be permitted on that portion of the Byrd Parcel designated as "Rear Property" on the Site Plan.

(viii) Any car wash unless all wastewater from such car wash operations drain through the public sewer system after appropriate on-site remediation that, at a minimum, complies with all applicable laws and regulations (and does not, in any event, drain into the storm drainage system serving the Lowe's Parcel).

(ix) A medical clinic or office; provided, however, that a medical clinic or office will be permitted on that portion of the Byrd Parcel designated as "Rear Property" on the Site Plan.

(x) A dry cleaning plant, central laundry or laundromat; provided, however, that a facility that provides pick up services only for a central laundry or laundromat will be permitted on that portion of the Byrd Parcel designated

as "Rear Property", "South Side of Proposed Washington Street Extension" and "Front Property" on the Site Plan.

- (xi) An establishment for sale of automobiles, trucks, mobile homes, recreational motor vehicles; provided, however, that an establishment for sale of automobiles and trucks (but not mobile homes or recreational motor vehicles) will be permitted on that portion of the Byrd Parcel designated as "Rear Property" on the Site Plan.
- (xii) A child day care facility; provided, however, that a child day care facility will be permitted on that portion of the Byrd Parcel designated as "Rear Property" on the Site Plan.
- (xiii) A hotel or motel; provided, however, that a hotel or motel will be permitted on that portion of the Byrd Parcel designated as "Rear Property" and "South Side of Proposed Washington Street Extension" on the Site Plan so long as no building with respect thereto is closer than five hundred (500) feet to any part of 4<sup>th</sup> Street.
- (xiv) A storage or mini-warehouse facility; provided, however, that a storage or mini-warehouse facility will be permitted on that portion of the Byrd Parcel designated as "Rear Property" on the Site Plan.
- (xv) governmental offices.
- (xvi) A restaurant/convenience store combination; provided, however, that a restaurant/convenience store combination will be permitted on that portion of the Byrd Parcel designated as "Rear Property", "South Side of Proposed Washington Street Extension" and "Front Property" on the Site Plan.

(b) During the term of this ECCR no portion of the Shopping Center may at any time be used for any of the following uses whatsoever:

- (i) An adult type bookstore or other establishment selling, renting, displaying or exhibiting pornographic or obscene materials (including without limitation: magazines, books, movies, videos, photographs or so called "sexual toys") or providing adult type entertainment or activities (including, without limitation, any displays or activities of a variety involving, exhibiting or depicting sexual themes, nudity or lewd acts).
  - (ii) A massage parlor.
  - (iii) A skating rink.
  - (iv) A mortuary, crematorium or funeral home.
  - (v) A mobile home or trailer court, labor camp, junkyard or stockyard.
  - (vi) A land fill, garbage dump or other such facility for the dumping, disposing, incineration or reduction of garbage.
  - (vii) A telephone call center.

- (viii) A gambling establishment or betting parlor, provided, however, that a gambling establishment or betting parlor will be permitted on that portion of the Byrd Parcel designated as "Rear Property" on the Site Plan so long as it fronts on Swift Creek Road, has no neon or flashing lights, and is constructed in accordance with plans and specifications that are approved by the Owner of the Lowe's Parcel.
- (ix) Veterinary hospital or animal raising or keeping facilities.
- (x) Assembling, manufacturing, industrial, distilling, refining or smelting facility.

Section 3.4 Use Restrictions on the Byrd Parcel.

Except by Lowe's, no portion of the Byrd Parcel may be used for the following purposes:

- (a) A hardware store or center containing more than 5,000 square feet of floor area.
- (b) An appliance, home electronics and/or lighting store or center containing more than 5,000 square feet of floor area.
- (c) A nursery and/or lawn and garden store or center containing more than 3,000 square feet of floor area (including any outdoor areas).
- (d) A paint, wall paper, tile, flooring, carpeting and/or home decor store or center containing more than 4,000 square feet of floor area.
- (e) A retail and/or warehouse home improvement center, lumber yard, building materials supply center, home improvement service center and/or other stores or centers similar to those operated by or as Lowe's, Home Depot, Home Depot Expo, Villagers Hardware, 84 Lumber, Wickes, Hughes Lumber, McCoy's, Menard's, Sears Hardware, Sears Appliance and Hardware, Great Indoors, Sutherlands, Scotty's and/or Orchard Supply.

These restrictions or exclusive rights shall also apply to prohibit a larger business having space in its store devoted to selling the merchandise described in subparagraphs (a) through (d) when such space exceeds the limitations of subparagraphs (a) through (d).

Notwithstanding anything in the foregoing to the contrary, in the event a retail and/or warehouse home improvement center, lumber yard, and/or building materials supply center is not operated on the Lowe's Parcel for a period in excess of three (3) consecutive years (excluding temporary closings due to alterations, casualty, condemnation, or other unavoidable delays beyond the reasonable control of the Owner of the Lowe's Parcel), the above stated exclusives shall be of no further force and/or effect until such time as Lowe's or its successors, assigns or tenants shall re-open a store on any portion of the Lowe's Parcel for any one of the foregoing uses, which reopening shall not prohibit uses in violation of such exclusives if such uses were begun during such time as the above exclusive use restrictions were of no force and/or effect.

Section 3.5 PROPRIETARY RIGHTS OF LOWE'S. Any owner, occupant or person owning, leasing or otherwise making use of any portion of the Byrd Parcel shall be deemed, by virtue of accepting

such ownership, leasehold interest or making such use, to have covenanted and agreed that (i) the trade names, trademarks, service marks (including, without limitation, all logos, emblems, designs or designating words or names) utilized by Lowe's Home Centers, Inc. or its affiliated companies ("Lowe's"), in connection with the Lowe's Parcel or the conduct of its business thereat are registered and/or the proprietary property of Lowe's or its affiliates, (ii) except as provided below, no usage of those marks or names will be made in naming or referring to any activity within or without the property covered by the ECCR and (iii) no usage of such marks or names shall be made without the prior written consent of Lowe's and Lowe's legal counsel. Lowe's reserves the right to require any person or entity to whom it may grant a written right to use a given name or mark to enter into a formal written license agreement with Lowe's and to charge a fee or royalty therefor.

#### ARTICLE IV

##### GENERAL CONSTRUCTION & DEVELOPMENT

Section 4.1 Parking Requirements; Curb Cuts. Each Parcel (other than the Lowe's Parcel) shall be self-supporting with respect to parking and shall each contain not less than 5.0 paved full size automobile parking spaces for each 1,000 square feet of building floor area constructed thereon, or the number of parking spaces required by applicable law, whichever is greater. Provided however, ten (10.0) spaces per each 1,000 square feet of building floor area constructed thereon will be required for restaurants. That portion of the Byrd Parcel labeled "Front Property" on the Site Plan shall have curb cuts only in the locations indicated on the Site Plan; provided, however, in the event the Front Property is subdivided into two parcels, the Owner of the Front Property shall be entitled to add one additional curb cut if the Owner of the Lowe's Parcel determines in writing, in its sole discretion, that such additional curb cut will not have an adverse effect on the Lowe's Parcel, including, without limitation, any adverse effect on accessibility to the Lowe's Parcel.

Section 4.2 Sign Limitations. In no event shall any freestanding identification sign on the Byrd Parcel block the visibility of any signage on any Building located on the Lowe's Parcel or the visibility of any Lowe's monument sign or pylon sign. Without limiting the generality of the foregoing, there shall be only one freestanding sign on that portion of the Byrd Parcel shown as "Front Property" on the Site Plan, which freestanding sign shall only be located in the location shown on the Site Plan, shall be no taller than eight (8) feet in height and the sum of the surface area of each of its sides shall not exceed forty (40) square feet; provided, however, in the event the Front Property is subdivided into two parcels, the Owner of the Front Property shall be entitled to add one additional free standing sign if the Owner of the Lowe's Parcel determines in writing, in its sole discretion, that such additional free standing sign will not have an adverse effect on the Lowe's Parcel, including, without limitation, any adverse effect on visibility of any signage on any Building located on the Lowe's Parcel or the visibility of any Lowe's monument sign or pylon sign.



Section 4.3 Performance of Construction Work Generally. All construction, alteration or repair work undertaken by an Owner after the Building on the Lowe's Parcel has opened for business shall be accomplished in an expeditious, diligent and speedy manner. The person or entity undertaking such work shall: (i) pay all costs and expenses associated with such work; (ii) take necessary measures to minimize disruption and inconvenience caused by such work; (iii) make adequate provisions for the safety and convenience of the Owners and their occupants; (iv) control dust, noise and other effects of such work using methods customarily utilized in order to control such deleterious effects associated with construction projects in a populated or developed area; (v) repair any and all damage which may be caused by or result from such work; (vi) restore all affected portions of any Parcel to a condition equal to or better than the condition existing prior to beginning such work; (vii) indemnify and hold harmless all other Owners of the property encumbered by the ECCR against any mechanics liens for such work. Such construction shall not unreasonably interfere with the business operations on any other Parcel and shall not block or impede the ingress or egress from public streets to the other Parcels. The party performing such work shall limit all construction work and staging areas to its own Parcel and not encroach on any other Parcel and shall not utilize parking areas of any other Parcel.

Section 4.4 Compliance in Construction. All construction, alteration or repair work which an Owner undertakes pursuant to this Declaration shall comply with the requirements of all applicable governmental authorities, public bodies and other entities (such as public utilities) having jurisdiction, and all applicable laws, ordinances, rules and regulations, including procurement of all license and permits required for such work.

## ARTICLE V

### MAINTENANCE, TAXES AND INSURANCE

Section 5.1 Maintenance. Each Owner hereto shall maintain the Building(s) and the other Improvements on its Parcel in good order and condition and state of repair in accordance with the standards of good shopping center operation including (but not limited to) sweeping and removal of trash, litter and refuse, painting and striping of parking areas, repair and replacement of paving as necessary, maintenance of landscaped areas (including replacement and replanting), removal of ice and snow from driveways and parking areas, and maintenance and repair of lighting standards and signs. Each Owner covenants that it, in addition to other requirements of this Section, will keep the inside and outside of all glass in the doors and windows of its buildings clean; will maintain its buildings at its own expense in a clean, orderly and sanitary condition and free of insects, rodents, vermin and other pests; will not permit accumulation of garbage, trash rubbish and other refuse, and will remove same at its own expense, and will keep such refuse in proper containers or compactors in places designated therefore until called for to be removed; and will keep the open areas on its Parcel clear of accumulations of ice and snow.

Section 5.2 Damage and Destruction. In the event of the destruction and damage to any extent to the Buildings and Improvements in the property encumbered by this ECCR, the affected Owner shall either (1) diligently commence and pursue completion of the repair or restoration and or (2) within

one hundred twenty (120) days after the destruction or damage clear away the ruins and leave the Parcel in a clean, orderly, sightly and safe condition. Further, in the event that the affected Owner elects not to rebuild its Building(s) and other Improvements, the use restrictions placed on the non-affected Owner's site by the affected Owner herein, except for those cited in Sections 3.3 and 3.4 (e) hereof, shall be null and void and of no further force and effect.

In the event any Building, structure or other Improvement on a Parcel (other than the Lowe's Parcel) shall be damaged or destroyed by any fire or other casualty, the Owner, lessee or user of the Parcel shall within sixty (60) days of such damage or destruction (a) commence to repair and/or reconstruct such improvements to the condition required by this Section; or (b) level such Building or Improvement, remove the debris from the Parcel and keep the Parcel neat, orderly, planted in grass and mowed/trimmed until subsequently improved, constructed upon and operated.

Section 5.3 Default in Maintenance Responsibilities. In the event that an Owner fails in its maintenance obligations as set forth in Section 5.1, which failure continues for a period of thirty (30) days (ten [10] business days in the event of a failure to pay money) after receipt of written notice thereof specifying the particulars of such failure, such failure shall constitute a default under the ECCR and the Owner of the Lowe's Parcel and/or the Owner of the Byrd Parcel (the "Curing Party") may thereafter perform such maintenance obligations, in addition to such Owner's other remedies.

Section 5.4 Taxes. The Owner of each Parcel shall pay or cause to be paid, prior to delinquency, directly to the appropriate taxing authorities all real property taxes and assessments which are levied against such Owner's Parcel. In the event an Owner fails to pay when due all taxes and assessments described herein, which failure continues for a period of ten (10) days after written notice thereof, such failure shall constitute a default under this ECCR and the Owner of the Lowe's Parcel and/or the Owner of the Byrd Parcel (the "Curing Party") may, in addition to such Owners' other remedies, thereafter pay such taxes if such taxes are delinquent and the owing Owner has not commenced and is not duly prosecuting any contest of such taxes. The Curing Party shall then bill the defaulting Owner for the expenses incurred. The defaulting Owner shall have ten (10) business days within which to pay the bill. If the defaulting Owner does not so pay, the Curing Party shall have a lien on the Parcel of the defaulting Owner for the amount of the bill, which amount shall bear interest at the Default Rate from the date of expiration of said ten (10) business day period until paid.

Section 5.5 Insurance; Indemnification; Waiver of Subrogation. Each Owner will at all times maintain or cause to be maintained with respect to its Parcel and all Buildings and other Improvements thereon: (i) commercial property insurance against loss or damage by fire, lightning and other risks customarily covered by an all-risks policy of property insurance for the full replacement cost of the Building(s) and Improvements located thereon and (ii) during any period during which there are Improvements on or under construction on such Owner's Parcel, commercial general liability insurance (including contractual liability coverage) against claims for bodily injury, death or property damage occurring on, in or about such Owner's Parcel combined single limit coverage of not less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence. Nothing herein shall be construed from prohibiting

an Owner which itself, or in combination with its parent corporation, has a net worth in excess of TWO HUNDRED MILLION DOLLARS (\$200,000,000.00), as determined by generally accepted accounting principles, from self-insuring for such insurance coverage.

In the event an Owner fails to maintain the insurance described above, which failure continues for a period of ten (10) days after written notice thereof, such failure shall constitute a default under this ECCR and the Owner of the Lowe's Parcel and/or the Owner of the Byrd Parcel (the "Curing Party") may, in addition to such Owners' other remedies, thereafter obtain and pay for such insurance. The Curing Party shall then bill the defaulting Owner for the expenses incurred. The defaulting Owner shall have fifteen (15) days within which to pay the bill. If the defaulting Owner does not so pay, the Curing Party shall have a lien on the Parcel of the defaulting Owner for the amount of the bill, which amount shall bear interest at the Default Rate from the date of expiration of said fifteen (15) days period until paid.

To the extent not covered by the insurance policies described above, each Owner (the "Indemnitor") will pay, and indemnify and save harmless the other Owner (the "Indemnitee") from and against, all liabilities, losses, damages, costs, expenses (including attorneys' fees and expenses), causes of action, suits, claims, demands or judgments of any nature arising from: (i) any injury to or death of a person or loss of or damage to property occurring on the Indemnitor's Parcel; (ii) any use or condition of the Indemnitor's Parcel; and (iii) any negligence or tortious acts of the Indemnitor or any of his tenants, licensees, agents or employees.

Each Owner (the "Releasor") hereby releases the other Owner (the "Releasee") from any and all liability or responsibility to the Releasor or anyone claiming through or under the Releasor by way of subrogation or otherwise for any incurred loss or damage to any person or property caused by fire or other peril or other such loss, damages, or other insured event or negligence of the Releasee, or anyone for whom such Releasee may be responsible; provided, however, that this release shall be applicable and in force and effect only with respect to loss or damage occurring during such time as the Releasor's policy or policies of insurance shall contain a waiver of subrogation endorsement, to the effect that any such release shall not adversely affect or impair said policy or policies or prejudice the right of the Releasor to recover thereunder.

#### ARTICLE VI DEFAULT; REMEDIES

Section 6.1 Default. The occurrence of any one or more of the following events shall constitute a material default and breach of this ECCR by the non-performing party (the "defaulting Owner"):

- (a) The failure to perform any obligation of Article V hereof within the time requirements cited therein;
- (b) The failure to make any payment required to be made hereunder within ten (10) business days of the due date, or

(c) The failure to observe or perform any other of the covenants, conditions or obligations of this ECCR or to abide by the restrictions and requirements herein provided, other than as described in (a) above, within thirty (30) days after the issuance of a notice by another Owner (the "non-defaulting Owner") specifying the nature of the default claimed.

Section 6.2 Right to Cure. With respect to any default under Section 6.1 above, any non-defaulting Owner shall have the right, but not the obligation, to cure such default by the payment of money or the performance of some other action for the account of and at the expense of the defaulting Owner; provided, however, that in the event the default shall constitute an emergency condition involving an immediate and imminent threat of substantial injury or harm to persons or property, the non-defaulting Owner, acting in good faith, shall have the right to cure such default upon such advance notice as is reasonably possible under the circumstances or, if necessary, due to such emergency, without advance notice, so long as notice is given as soon as possible thereafter. To effectuate any such cure, the non-defaulting Owner shall have the right to enter upon the Parcel of the defaulting Owner (but not into any Building) to perform any necessary work or furnish any necessary materials or services to cure the default of the defaulting Owner. Each Owner shall be responsible for the non-performance or default of its Occupants and lessees. In the event any non-defaulting Owner shall cure a default, the defaulting Owner shall reimburse the non-defaulting Owner for all costs and expenses incurred in connection with such curative action, plus interest at the Default Rate, within ten (10) business days of receipt of demand, together with reasonable documentation supporting the expenditures made.

Section 6.3 Liens. Costs and expenses accruing and/or assessed pursuant to Section 6.2 above and the amounts described in Section 6.1 shall constitute a lien against the defaulting Owner's Parcel. The lien shall attach and take effect only upon recordation of a claim of lien in the applicable real estate records office of the county in which the said Parcel is located, by the Owner making the claim. The claim of lien shall include the following:

- (i) The name and address of the lien claimant;
- (ii) A statement concerning the basis for the claim of lien and identifying the lien claimant as a non-defaulting and/or curing Owner;
- (iii) An identification by name and address (if known) of the Owner or reputed Owner of the Parcel or interest therein against which the lien is claimed;
- (iv) A description of the Parcel against which the lien is claimed;
- (v) A description of the work performed which has given rise to the claim of lien;
- (vi) A statement itemizing the total amount due, including interest;
- (vii) A statement that the lien is claimed pursuant to the provisions of this ECCR, reciting the date, book and page of recordation hereof.

The notice shall be duly acknowledged and contain a certificate that a copy thereof has been served upon the Owner against whom the lien is claimed, by personal service or by mailing pursuant to Section 7.3 below. The lien so claimed shall attach from the date of recordation solely in the amount claimed thereby and may be enforced in any judicial proceedings allowed by law, including without

limitation, suit in the nature of a suit to foreclose a mortgage or mechanic's lien under the applicable provisions of the law of the State in which the Shopping Center is located.

Section 6.4 Other Remedies. Each non-defaulting Owner shall have the right to prosecute any proceedings at law or in equity against any defaulting Owner hereto, or any other person, violating or attempting to violate or defaulting upon any of the provision contained in this ECCR, and to recover damages for any such violation or default. Such proceeding shall include the right to restrain by injunction any violation or threatened violation by another of any of the terms, covenants, or conditions of this ECCR, or to obtain a decree to compel performance of any such terms, covenants, or conditions, it being agreed that the remedy at law for a breach of any such term, covenant, or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate. All of the remedies permitted or available to a Owner under this ECCR or at law or in equity shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

Section 6.5 No Waiver. No delay or omission of any Owner in the exercise of any right accruing upon any default of any other Owner shall impair any such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. No waiver by any Owner of any default under this ECCR shall be effective or binding on such Owner unless made in writing by such Owner and no such waiver shall be implied from any omission by a Owner to take action in respect to such default. No express written waiver of any default shall affect any other default or cover any other period of time other than any default and/or period of time specified in such express waiver. One or more written waivers or any default under any provision of this ECCR shall not be deemed to be a waiver of any subsequent default in the performance or the same provision or any other term or provision contained in this ECCR.

Section 6.6 No Termination for Breach. No breach, whether or not material, of the provisions of this ECCR shall entitle any Owner to cancel, rescind or otherwise terminate this ECCR, but such limitation shall not affect, in any manner, any other rights or remedies which any Party may have hereunder by reason of any breach of the provisions of this ECCR.

Section 6.7 Limitation of Liability. Notwithstanding the foregoing, any person acquiring fee or leasehold title to a Parcel, or any portion thereof, shall be bound by this ECCR only as to the Parcel or portion of the Parcel acquired or possessed by such person. In addition, such person shall be bound by this ECCR only during the period such person is the fee leasehold Owner or occupant of such Parcel or portion of the Parcel; and, upon conveyance or transfer of the fee or leasehold interest shall be released from liability hereunder, except as to the obligations, liabilities or responsibilities that accrue prior to such conveyance or transfer. Although persons may be released under this Section 6.7, the easements, covenants and restrictions in this ECCR shall continue to be benefits to and servitudes upon said Parcels running with the land.

Section 6.8 Breach. In the event of breach or threatened breach of this ECCR, only Owners of more than 45,000 square feet of enclosed building area of the Byrd Parcel or the Owner of Lowe's

Parcel, shall be entitled to institute proceedings for full and adequate relief from the consequences of said breach or threatened breach. In the event of a breach hereof, the non-prevailing Owner shall pay the reasonable attorney's fees of the prevailing Owner.

#### ARTICLE VII

##### MISCELLANEOUS

Section 7.1 Estoppel Certificates. Each Owner shall upon not less than thirty (30) days from receipt of written notice from the other Owner execute and deliver to such other Owner a certificate in recordable form stating that (i) either this ECCR is unmodified and in full force and effect or is modified (and stating the modification); and (ii) whether or not to the best of its knowledge the other Party is in default in any respect under this ECCR and if in default, specifying such default.

Section 7.2 Term and Perpetuity. The agreements, conditions, covenants, and restrictions created and imposed herein shall be effective upon the date hereof and shall continue in full force and effect, to the benefit of and being binding upon all Owners, their heirs, executors, administrators, successors, successors-in-title, assigns and tenants, including any ground lessee under a ground lease and the customers, employees and invitees of such parties until the expiration of sixty (60) years from the date hereof, unless terminated by the consent of all the Owners pursuant to a writing recorded in the real property records of the county and state in which the Shopping Center is located. Said agreements and restrictions shall be unaffected by any change in the ownership of any real property covered by this ECCR or by any change of use, demolition, reconstruction, expansion or other circumstances, except as specified herein.

Notwithstanding the foregoing, the easements contained herein binding and benefiting the Parcels shall be perpetual and shall run with the land.

Upon termination of the agreements, conditions, covenants and restrictions of this ECCR, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of this ECCR, except as related to the easements cited and mentioned herein, shall terminate and have no further force or effect.

Section 7.3 Notices. Any notice required or permitted to be given under this ECCR shall be in writing and shall be deemed to have been given upon deposit in the United States Mail as Certified Mail, Return Receipt Requested, postage prepaid, and addressed to the Party being notified at the address given below (or such other address which any party may designate for itself from time to time hereafter by written notice to the other Party):

Byrd:                      Phelix C. Byrd  
                                    914 Sweet Bay Drive  
                                    Hartsville, South Carolina 29550

Lowe's:                      *Regular Mail:*

Lowe's Home Centers, Inc.  
PO Box 1111  
(Highway 268 East, North Wilkesboro, North Carolina 28659)  
North Wilkesboro, North Carolina 28656-0001  
Attention: Brett Jarrett (REO)

Overnight Mail:

Lowe's Home Centers, Inc.  
Attention: Brett Jarrett -Mail Code REN6-S  
1605 Curtis Bridge Road  
Wilkesboro, North Carolina 28697

Copy to: Lowe's Companies, Inc.  
Attention: Lee Bentley -Mail Code LGS6  
1605 Curtis Bridge Road  
Wilkesboro, North Carolina 28697

Section 7.4 Ground Lessee Assignment. The rights and obligations of any Owner hereunder may be assigned in whole or in part to one or more ground lessees which rights and obligations shall be expressly assumed by such ground lessee or lessees for the term of the ground lease or leases between such Owner and such ground lessee or lessees.

Section 7.5 Adjacent Byrd Parcels. Byrd may, in his sole discretion, subject the parcels of real property adjacent to the property encumbered by this ECCR which are owned by Byrd (the "Adjacent Owner Parcels") to the terms, covenants and conditions of this ECCR. At that time the Adjacent Byrd Parcels shall be subject to the obligations created herein and shall benefit from the rights granted to Byrd herein. If such Adjacent Byrd Parcels are made subject to this ECCR; and if there are any continuing liabilities of the Owners which are divided between the Owners based on prorations of land area or otherwise, then the prorations shall be adjusted accordingly.

Section 7.6 [Intentionally Left Blank].

Section 7.7 No Covenant to Continuously Operate. Lowe's is not obligated to continuously operate a business on the Lowe's Parcel and, specifically, is not obligated to continuously operate or operate for any specific period of time a Lowe's building supply or home improvement retail warehouse or store on the Lowe's Parcel. Nothing contained in this ECCR shall be construed, interpreted or otherwise read to require Lowe's to operate a business on the Lowe's Parcel or to prevent Lowe's from closing its business on the Lowe's Parcel.

Section 7.8 Severability. In the event any provision or portion of this ECCR is held by any court of competent jurisdiction to be invalid or unenforceable, such holding will not affect the remainder hereof, and the remaining provisions shall continue in full force and effect to the same extent as would have been the case had such invalid or unenforceable provision or portion never been a part hereof.

Section 7.9 No Public Dedication. Except as specifically set forth herein, nothing contained herein shall be deemed or implied to be a gift, grant or dedication to the general public, or for any public

use or purpose whatsoever. Except as may be specifically provided herein, no right, privileges or immunities of any Owner hereto shall insure to the benefit of any third-party, nor shall any third-party be deemed or considered to be a beneficiary of any of the provisions herein contained.

Section 7.10 Counterparts. This ECCR may be executed in one or more counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same instrument.

Section 7.11 Relationship of the Parties. Nothing contained herein shall be construed or interpreted as creating a partnership, joint enterprise or joint venture between or among the Parties hereto or the Owners. It is understood that the relationship between the Parties hereto and Owners is an arms length one that shall at all times be and remain that of separate owners of real property. No Party hereto nor any Owner shall have the right to act for or on behalf of another Party or Owner, as agent or otherwise, unless expressly authorized to do so by separate written instrument signed by the Party or Owner to be charged or bound, except as otherwise specifically provided herein.

IN WITNESS WHEREOF, the Parties hereto have executed and delivered this ECCR as of the day and year first written above.

WITNESSES:

Michael S. Holt  
Alicia J. Ansell

Phelix C. Byrd  
Phelix C. Byrd

STATE OF SOUTH CAROLINA  
COUNTY OF DARLINGTON

On 9/29 2006, before me, the undersigned, a Notary Public in and for the said state, personally appeared Phelix C. Byrd, personally known to me or proved to me on the basis of satisfactory evidence, who acknowledged the due execution of the within instrument.

Witness my hand and official seal.

Michael S. Holt  
Notary Public

(SEAL)

MICHAEL S. HOLT  
Print Name

Notary Public, State of SOUTH CAROLINA

6-06-2010



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF DARLINGTON )

JUDGMENT NUMBER S4633  
  
CONSENT AND SUBORDINATION TO  
EASEMENTS, COVENANTS, CONDITIONS  
AND RESTRICTIONS

Palmetto Health Alliance does hereby declare that the the lien represented by Judgment Number 54633 against Ree Byrd and Phelix Byrd, recorded in the Office of the Register of Deeds for Darlington County on February 15, 2006 (the "Lien") is subordinate to the terms and provisions of the foregoing Easements, Covenants, Conditions and Restrictions between Lowe's Home Centers, Inc. and Phelix C. Byrd (hereinafter called the "ECCR") and that any subsequent foreclosure or other enforcement of the Lien shall not extinguish the ECCR and that any purchaser at such foreclosure or other enforcement action shall take title subject to the ECCR.

WITNESSES:

PALMETTO HEALTH ALLIANCE

[Signature]  
[Signature]

By: [Signature]  
Name:  
Its: [Signature]

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

ACKNOWLEDGMENT

The foregoing instrument was acknowledged before me this 26 day of Sept, 2006, by Palmetto Health Alliance, by Scott Pumes, its Librarian Mgr.

SWORN to before me this 26 day of Sept, 2006.

[Signature]  
Notary Public for South Carolina  
My Commission Expires: 1/29/11

Exhibit ALegal Description of Lowe's Parcel

Commencing at NGS Monument "Creekside" having grid coordinates N 920414.69, E 2289672.25; thence along a tie line N 78-06-17 W for 7416.86 feet to an iron pin on the existing eastern right of way of Highway 151 By-Pass ( 4<sup>th</sup> Ave. 66' R/W ); thence along said right of way N 25-27-19 W for 114.43 feet to an iron pin being the Point of Beginning; thence continuing along said right of way N 31-11-24 W for 10.57 feet to an iron pin; thence N 30-44-14 W for 277.85 feet to an iron pin; thence N 29-30-50 W for 213.36 feet to an iron pin; thence N 28-07-30 W for 211.90 feet to an iron pin; thence N 26-41-41 W for 13.91 feet to an iron pin; thence N 26-41-42 W for 191.23 feet to an iron pin on the eastern right of way of South Carolina Central Railroad ( 50' R/W ); thence leaving said road right of way along South Carolina Central Railroad ( 50' R/W ) N 66-52-28 E for 610.73 feet to an iron pin; thence leaving said right of way along the common line of Phelix C. Byrd ( Deed Book 1022, Page 562 ) S 28-07-30 E for 599.26 feet to an iron pin; thence N 61-52-30 E for 149.39 feet to an iron pin; thence S 25-20-25 E for 118.73 feet to an iron pin; thence S 55-07-09 W for 1036.33 feet to an iron pin on the eastern right of way of Highway 151 By-Pass ( 4<sup>th</sup> Ave. 66' R/W ) being the Point of Beginning. Said tract contains 762,500 Sq. Ft. or 17.504 Acres more or less.

Exhibit B

Legal Description of Byrd Parcel

[Attached]

CHARLESTON\241665\8

EXHIBIT "B"

All that certain piece, parcel or lot of land just outside the City of Hartsville, County of Darlington, State of South Carolina, described as containing 10.527 acres on a Plat prepared by Prosser Surveying Co., Inc. dated January 2, 1992, a copy of which is recorded in the Office of the Clerk of Court for Darlington County in Plat Book 141 at Page 133. By reference to said Plat, the property herein conveyed is bounded on the North by other land of the grantee, Phelix C. Byrd, on which it measures 1022.82 feet; on the East by other land of the grantee, on which it measures 407.77 feet; on the South by other land of the grantor, Northrup King Co., on which it measures 956.07 feet; and on the West by other land of the grantor, on which it measures 519.22 feet.

LESS AND EXCEPT:

All that certain piece, parcel or lot of land, situate, lying and being in the City of Hartsville, County of Darlington, State of South Carolina, containing 0.35 acres, more or less, as shown on individual plat prepared for Eldon C. Henderson, by Nesbitt Surveying Co., Inc. dated August 24, 1999, a copy of which is recorded in the Office of the Clerk of Court for Darlington County, South Carolina in Plat Book 182 at Page 249; the said lot being bounded, now or formerly, as follows:

NORTH: By property of Express Plaza, for a distance of 300.49 feet, more or less, and by other lands of Phelix C. Byrd, for a distance of 304.75 feet, more or less, as shown on said plat;

EAST: By other lands of Phelix C. Byrd, for a distance of 25.15 feet, more or less, as shown on said plat;

SOUTH: By lands of Henderson Supply Company, Inc., for a distance of 602.00 feet, more or less, as shown on said plat; and

WEST: By S.C. Highway 151, for a distance of 25.01 feet, more or less, as shown on said plat.

LESS AND EXCEPT:

All that certain piece, parcel or lot of land containing 3.52 acres, more or less, together with the buildings and improvements thereon, situate, lying and being near the City of Hartsville, County of Darlington, State of South Carolina, and being more particularly shown on individual plat prepared for Henderson Supply Company, Inc. by Nesbitt Surveying Co., Inc. dated May 22, 1998, a copy of which is recorded in the Office of the Clerk of Court for Darlington County, South Carolina, in Plat Book 180 at Page 47; the said lot being bounded, now or formerly as follows:

NORTH: By other lands of Phelix C. Byrd, for a distance of 602.00 feet, more or less, as shown on said plat;

EAST: By other lands of Phelix C. Byrd, for a distance of 250.00 feet, more or less, as shown on said plat;

SOUTH: By a ditch separating this property from Northrup King Co., Inc. for a distance of 615.01 feet, more or less, as shown on said plat, the ditch being the line; and,

WEST: By the right-of-way of S.C. Highway 151, for a distance of 324.04 feet, more or less, as shown on said plat.

LESS AND EXCEPT:

All that certain piece, parcel or lot of land containing 0.27 acres, more or less, situate, lying and being in the City of Hartsville, County of Darlington, State of South Carolina, and being more particularly shown on plat prepared for Byrd Properties by Nesbitt Surveying Co., Inc. dated 10/08/03, a copy of which is recorded in the Office of the Clerk of Court for Darlington County, South Carolina, in Plat Book \_\_\_\_ at Page \_\_\_\_; the said lot being bounded, now or formerly as follows:

NORTH: By other lands of Byrd Development, for a distance of 68.00 feet, more or less, as shown on said plat;

EAST: By other lands of Byrd Development, for a distance of 174.00 feet, more or less, as shown on said plat;

SOUTH: By other lands of Eldon C. Henderson/Henderson Supply, for a distance of 68.49 feet, more or less, as shown on said plat; and,

WEST: By lands of Dollar General, for a distance of 173.99 feet, more or less, as shown on said plat.

ALSO:

All that certain piece, parcel, or lot of land, with the improvements thereon, partly in and partly outside the City of Hartsville, County of Darlington, State of South Carolina, described as containing Forty Six and 358/1000 acres (46.358) on a Plat prepared by Prosser Surveying Co., Inc. dated February 28, 1991, a copy of which is recorded in the Office of the Clerk of Court for Darlington County in Plat Book 134 at Page 69. By reference to said Plat, the property herein conveyed has an irregular configuration and is bounded on the North by the South Carolina Central Railroad right of way, upon which it measures 1,395.94 feet, and by property of Robert A. Coker, upon which it measures 701.63 feet; on the East by property of Robert A. Coker, upon which it measures 895.78 feet, and by Darlington County Road S-16-112, upon which it fronts and measures 1,216.37 feet; on the South and Southwest by property Northrup King Co., upon which it measures 2,633.61 feet; and on the West by United States Highway 151, upon which it fronts and measures 1,033.63.

LESS AND EXCEPT:

All that certain piece, parcel or lot of land, situate, lying and being in the City of Hartsville, County of Darlington, State of South Carolina, containing 1.02 acres, more or less, as shown on individual plat prepared for John Beattie by Nesbitt Surveying Co., Inc. dated October 25, 1999, a copy of which is recorded in the Office of the Clerk of Court for Darlington County, South Carolina in Plat Book 193 at Page 307, the said lot being bounded, now or formerly as follows:

NORTH: By other lands of Phelix C. Byrd, for a distance of 294.97 feet, more or less, as shown on said plat;

EAST: By other lands of Phelix C. Byrd, for a distance of 150.00 feet, more or less, as shown on said plat;

SOUTH: By a proposed street, for a distance of 295.31 feet, more or less, as shown on said plat; and,

WEST: By 4<sup>th</sup> Street, for a distance of 135.65 feet, more or less, as shown on said plat.

LESS AND EXCEPT:

All that certain piece, parcel or lot of land containing 1.20 acres, more or less, situate, lying and being in the City of Hartsville, County of Darlington, State of South Carolina, and being more particularly shown as Lot No. 30 on plat prepared for Byrd Properties by Nesbitt Surveying Co., Inc. dated 4/14/04, a copy of which is recorded in the Office of the Clerk of Court for Darlington County, South Carolina in Plat Book 198 at Page 724, the said lot being bounded, now or formerly as follows:

NORTH: By 50 foot right-of-way of South Carolina Central Railroad, for a distance of 291.50 feet, more or less, as shown on said plat;

EAST: By Lot No. 29, for a distance of 165.71 feet, more or less, as shown on said plat;

SOUTH: By Lot No. 31, for a distance of 294.97 feet, more or less, as shown on said plat; and

WEST: By 4<sup>th</sup> Avenue, a/k/a 4<sup>th</sup> Street, for a distance of 191.23 feet, more or less, as shown on said plat.

LESS AND EXCEPT:

Commencing at NGS Monument "Creekside" having grid coordinates N 920414.69, E 2289672.25; thence along a tie line N 78-06-17 W for 7416.86 feet to an iron pin on the existing eastern right of way of Highway 151 By-Pass ( 4<sup>th</sup> Ave. 66' R/W ); thence along said right of

way N 25-27-19 W for 114.43 feet to an iron pin being the Point of Beginning; thence continuing along said right of way N 31-11-24 W for 10.57 feet to an iron pin; thence N 30-44-14 W for 277.85 feet to an iron pin; thence N 29-30-50 W for 213.36 feet to an iron pin; thence N 28-07-30 W for 75.80 feet to a point; thence leaving said right of way along the common line of John Beattie ( Plat Book 193, Page 307 ) N 61-51-50 for 295.35 feet to a point; thence N 28-08-10 W for 150.00 to a point; thence along the common line of William A. Shirley ( Deed Book 1036, Page 3639 ) N 28-03-29 W for 165.71 feet to a point on the eastern right of way of South Carolina Central Railroad ( 50' R/W ); thence along said right of way N 66-52-28 E for 610.73 feet to an iron pin; thence leaving said right of way along the common line of Phelix C. Byrd ( Deed Book 1022, Page 562 ) S 28-07-30 E for 599.26 feet to an iron pin; thence N 61-52-30 E for 149.39 feet to an iron pin; thence S 25-20-25 E for 118.73 feet to an iron pin; thence S 55-07-09 W for 1036.33 feet to an iron pin on the eastern right of way of Highway 151 By-Pass ( 4<sup>th</sup> Ave. 66' R/W ) being the Point of Beginning. Said tract contains 665,946 Sq. Ft. or 15.288 Acres more or less.

ALSO:

All that certain parcel or tract of land near the City of Hartsville, County of Darlington, State of South Carolina, shown to contain 3.791 acres on the Plat of a survey by Prosser Surveying Co., Inc. dated October 1, 1998, a copy of which is recorded in the Office of the Clerk of Court for Darlington County in Plat Book 179 at Page 151, by reference to which said tract is bounded on the northeast by land of the grantee, on which it measures 519.22 feet; on the southeast by land now or formerly of the grantor, on which it measures 321.18 feet; on the southwest by South Carolina Highway 151, on which it fronts and measures 628.38 feet; and on the northwest by land of the grantee, on which it measures 302.78 feet, being a portion of that property conveyed to Northup King Co. by the deed of Coker's Pedigreed Seed Company recorded July 21, 1988, in the Office of the Clerk of Court for Darlington County in Deed Book 953 at Page 577. The name of Northup King Co. has been changed to Novartis Seeds, Inc., all as set forth in the Amended Certificate of Authority on file in the Office of the Clerk of Court for Darlington County in Book D161 at page 105.

LESS AND EXCEPT:

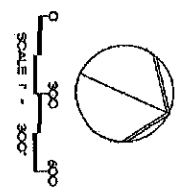
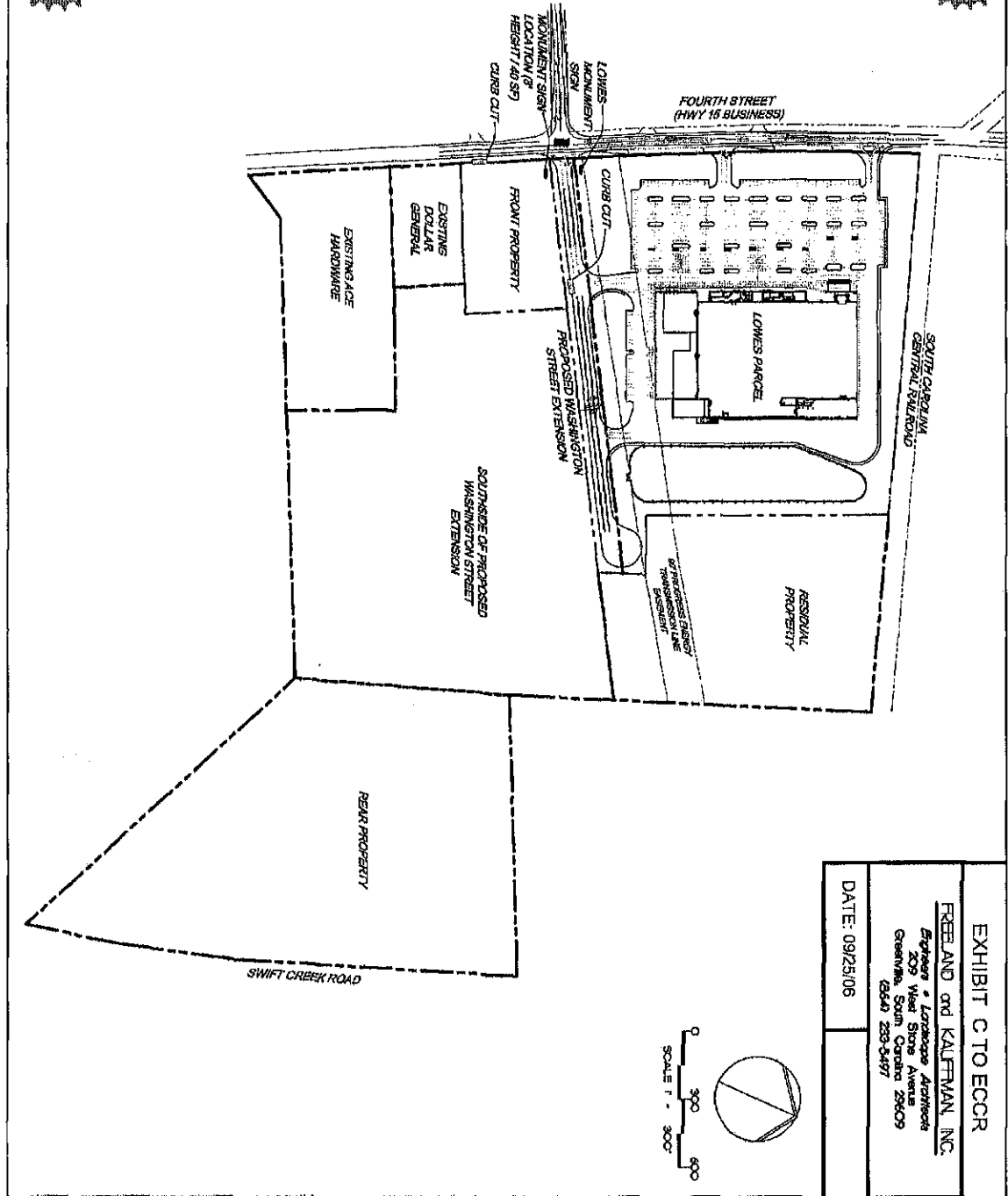
All that certain piece, parcel or lot of land lying and being situate in the County of Darlington, State of South Carolina, as shown on that certain plat entitled "Plat - D & G Concepts, Inc." made by Nesbitt Surveying Co., Inc. dated October 8, 1999 and recorded in Plat Book 182, Page 247, in the Office of the Clerk of Court for Darlington County, S.C. and bounded generally as follows: On the North and East by other lands owned now or formerly by Byrd Development; on the South by land of Eldon Henderson; and on the West by 4<sup>th</sup> Street, a/k/a Highway 151 Business.

Exhibit C

Site Plan

[Attached]





**EXHIBIT C TO ECCR**  
**REBLAND and KAUFMAN, INC.**  
 Engineers & Landscape Architects  
 209 West Stone Avenue  
 Greensboro, South Carolina 29609  
 (803) 239-3497

DATE: 09/25/06

Hayd Smyth  
B. O. J.

LOWE'S HOME CENTERS, INC.

By: David E. Shelton  
Name: David E. Shelton  
Title: Senior Vice President

H.M.C.  
JES PDS  
EH

STATE OF NORTH CAROLINA  
COUNTY OF WILKES

On 9-28-06, 2006, before me, the undersigned, a Notary Public in and for the said state, personally appeared David E. Shelton, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument, who acknowledged that he executed this instrument on behalf of Lowe's Home Centers, Inc. pursuant to its by-laws or a resolution of its board of directors, and that the seal that is affixed to the within instrument is the corporate seal of said corporation.

Witness my hand and official seal.

Ann Miller  
Notary Public

Ann Miller  
Print Name

Notary Public, State of N.C.  
My Commission Expires: 8-10-2010

(SEAL)

