



Public Hearing Thursday, May 9, 2024
City Council Tuesday, May 14, 2024

Request by Michael Davis to review a major subdivision in accordance with the preliminary plat by LandSource Inc., dated March 18, 2024 concerning Tract I-A of Town and Country Plaza.

Site Information

Location (Address) 2300-2448 W Thomas St (US Hwy 190)
Council District City Council District 4
Existing Zoning C-H
Future Land Use Mixed Use
Existing Land Use Commercial
Site Description 12.288 Acres **Town and Country Plaza**

Adjacent Land Use and Zoning

<u>Direction</u>	<u>Land Use/Zoning</u>
North	C-H, Vacant Land
South	C-H, Wendy's, Joe's Shoe Store, 7Brew Coffee
West	C-H, Blackwell's Outdoor (Market St)
East	C-H, Office Depot, Advanced Auto Parts, Retail Shopping Center

Additional Information

This is a fully developed area. No new infrastructure is proposed. The total acreage is what classified this as a major instead of a minor subdivision. Council approval is by resolution (similar to a major site plan) rather than ordinance since there is no dedication of infrastructure or change in zoning classification.



Recommendation

The City Planner recommends conditional approval of SUB-2024-04-00234 based on the applicable review criteria set forth in the City of Hammond Unified Development Code Paragraph 2.3.4E (7), the draft outparcel declaration draft, and with respect to the adequacy of available infrastructure.

Conditions for Approval

1. Receipt of the executed outparcel declaration submitted with this application and its approval by the city attorney, or
2. One or more servitude(s) of passage from existing driveways fronting US Hwy 190 to each lot indicated on the final plat.

Discussion

1. The City Attorney has reviewed the draft outparcel declaration and found it sufficient for the purpose of meeting local access requirements. If provisions of the draft are changed after preliminary plat approval is given and prior to execution, a servitude of passage should be reflected directly on the plat.

Commission Recommendation

Motion by: Motion to approve with condition by Monica Perez; seconded by Trey St. Romain. All for, none against; motion passed.

Condition included:

1. Executed outparcel declaration to be filed and recorded with the approved survey.

SUBDIVISION APPROVAL & LAND DEVELOPMENT APPLICATION
CITY OF HAMMOND

219 E. ROBERT ST., HAMMOND, LA 70401 / PHONE: (985) 277-5649 - FAX (985) 277-5638

FILING DATE: 4.1.24 PERMIT# SUB-2024-04-00234

The next Planning Commission Meeting will be held on _____, at 5:00pm in the City Council Chambers, 312 E. Charles Street. Application to be submitted to Planning Department according to the deadline schedule.

This Application for: Minor Subdivision Major Subdivision over 2 acres

PARCEL # 2646681001 (Please verify address w/City of Hammond GIS Dept.)

SITE LOCATION OR LEGAL DESCRIPTION: TRACT 1-A, Town & Country Plaza
2300-2448 W. Thoms St

Where did you get this address? Post Office City Building Dept. 911 Office Other: Hammond GIS

List all current property owners:

PROPERTY OWNER: ER-CPC Hammond, LLC PHONE: (678) 617-3603

ADDRESS: 3340 Peachtree Rd, Suite 1660, Atlanta, GA 30326

(List additional PARCEL ADDRESS & PROPERTY OWNER information on reverse side of application.)

APPLICANT/DEVELOPER: Michael D. Davis
First Name MI Last Name

COMPANY NAME: LAND SOURCE, Inc. Owner Contractor Other

Applicant Mailing Address: 6730 Exchequer DE Baton Rouge, LA 70809
Street or PO Box City State Zip

Applicant Telephone: (225) 752-0995 Applicant Fax: (225) 752-0997

PERMIT INFO-Additional Check if you will be applying for: ANNEXATION REZONING VARIANCE

of Acres: 12.288 # of Proposed Lots: 3

NAME OF DEVELOPMENT: Town & Country Plaza

EXISTING ZONING: MX-N MX-C MX-CBD C-N C-H C-R I-H I-L
RS-3 RS-5 RM-2 RS-8 RS-11 RM-3 RP RS-11.A S-1 S-2 SC

CURRENT USE OF LAND: COMMERCIAL

INTENDED USE OF LAND:
 Single Family Residential Condominium/Townhouse Multi-Family Commercial
 Industrial Other (explain) _____

DESIGN ENGINEER/ARCHITECT _____ PHONE () _____

Will PROCEDURE "A" (with bond) OR PROCEDURE "B" (without bond) BE USED?

ATTENTION: APPLICANT
NOTE: Six (6) copies of the complete plans and specifications and seven (7) additional copies of any property plat containing information pertaining to the attached check list shall be made part and submitted with the application for preliminary review.

ALL INFORMATION ON THIS APPLICATION MUST BE COMPLETE AND ALL FEES PAID BEFORE THIS APPLICATION WILL BE ACCEPTED ON THE AGENDA FOR THE CITY OF HAMMOND PLANNING & ZONING COMMISSION

x Elizabeth Weiner 3-21-24
APPLICANT SIGNATURE Digitally signed by Elizabeth Weiner DATE
Date: 2024.03.25 09:36:07 -04'00' 3.25.2024

x _____
OWNER SIGNATURE DATE

x _____
CITY PLANNER DATE

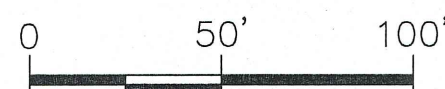
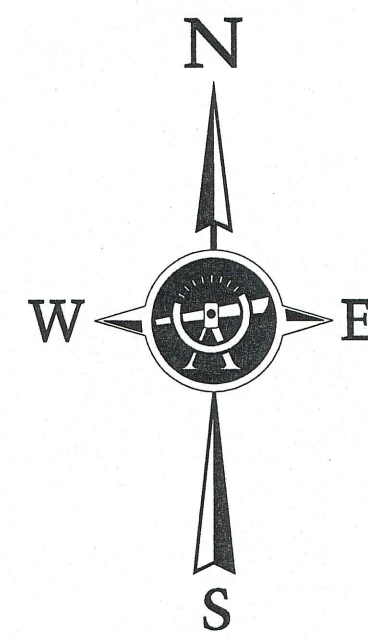
***** OFFICIAL USE *****

Fees for Preliminary and Final Review: \$ 300.00 + \$5.00 for Each Lot or Building = TOTAL DUE \$ 315.00
 (Fees for Minor Subd. Review:) \$50.00 + \$2.00 for each lot or building = TOTAL DUE \$ _____

ADVERTISING FEE: \$30.00

_____ CHECK# _____ PAID CASH DATE PAID / / _____

AMOUNT PAID: \$ _____ CHECK# _____ PAID CASH DATE PAID / / _____



GENERAL NOTES:

1.) Flood Note: In accordance with FEMA Flood Insurance Rate Map Panel No. 22105C0340F for Tangipahoa Parish Louisiana, last revised July 22, 2010, the property shown hereon is located in Flood Zone "X". Nearest adjacent Base Flood Elevation = 42 feet (NAVD 1988). The current base flood and inundation elevations are subject to change and should be verified with the Department of Development prior to issuance of building permits. Flood Insurance Rate Maps are revised frequently and can be found online at: msc.fema.gov

FLOOD AREAS DEFINED:

Zone "X": Areas determined to be outside the 0.2% annual chance flood plain.

2.) Zoning: C-H (Commercial Highway Corridor) Zoning information should be verified with City/Parish Planning Commission.

Yard Requirements:

Minimum Front Yard: 0 feet (15' Max.)
 Minimum Rear Yard: None
 Minimum Side Yard: None

CURVE TABLE				
CURVE #	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	1357.40'	260.79'	N 85°08'51" W	260.39'
C2	1357.40'	191.33'	N 83°40'54" W	191.17'
C3	1357.40'	69.46'	N 89°11'08" W	69.45'

3.) Reference Maps:
 A. Map Showing ALTA / ACSM Land Title Survey of Town and Country Plaza located in Section 27, T 6 S-R 7 E Greensburg Land District City of Hammond Tangipahoa Parish, Louisiana for WRI/Texta, L.L.C. and Stewart Title Guaranty Company by Lester A. McLin, Jr. dated 11/20/13.

4.) (*) represents the Basis of Bearings. Bearings are based on reference map "A" (above). Distances are U.S. Survey Feet.

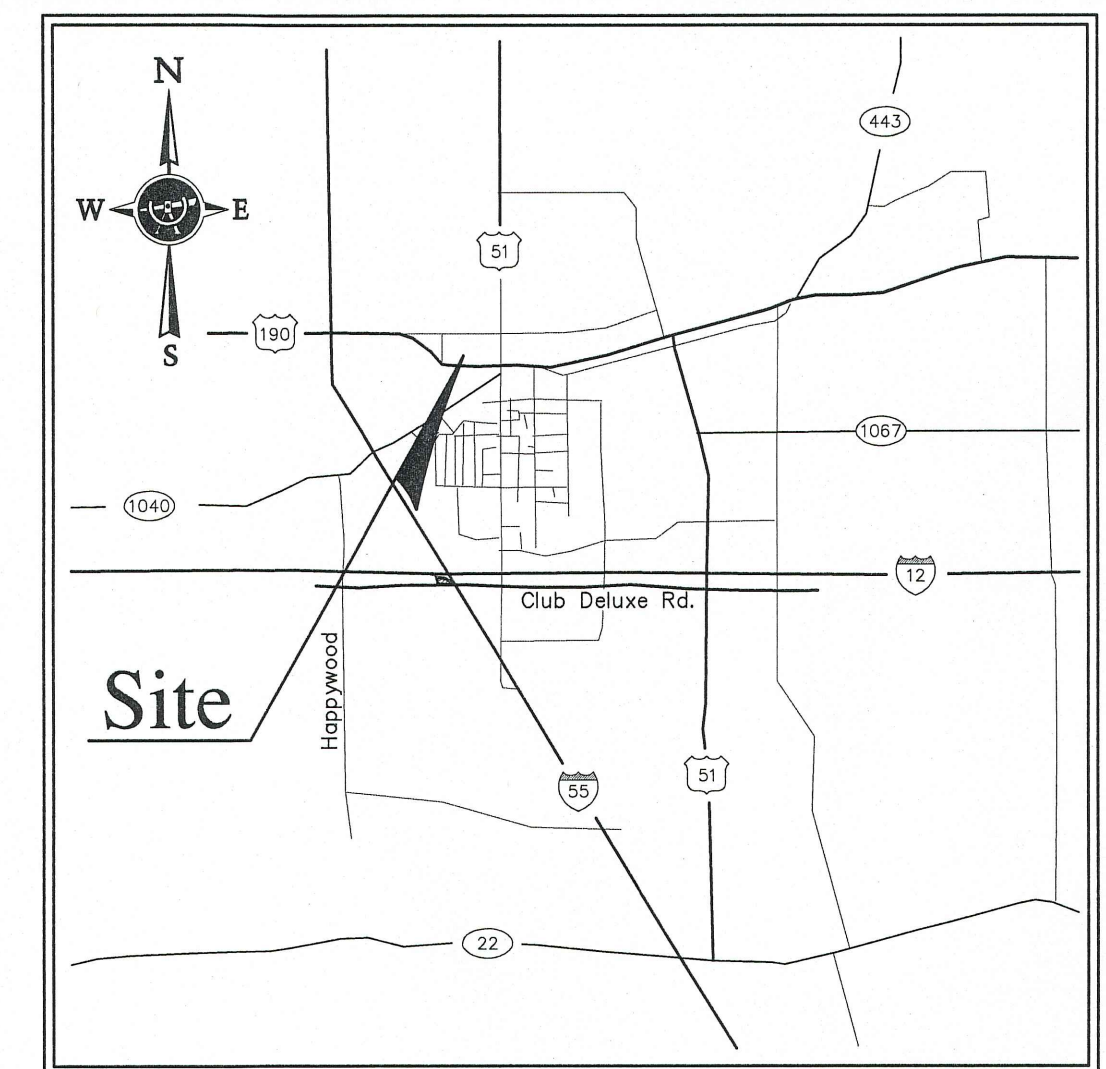
5.) No attempt has been made by LandSource, Inc., to verify title, actual legal ownerships, deed restrictions, servitudes, easements, or other burdens on the property other than that furnished by the client or his representative.

6.) Utilities: The location of underground utilities was not in the scope of this survey.

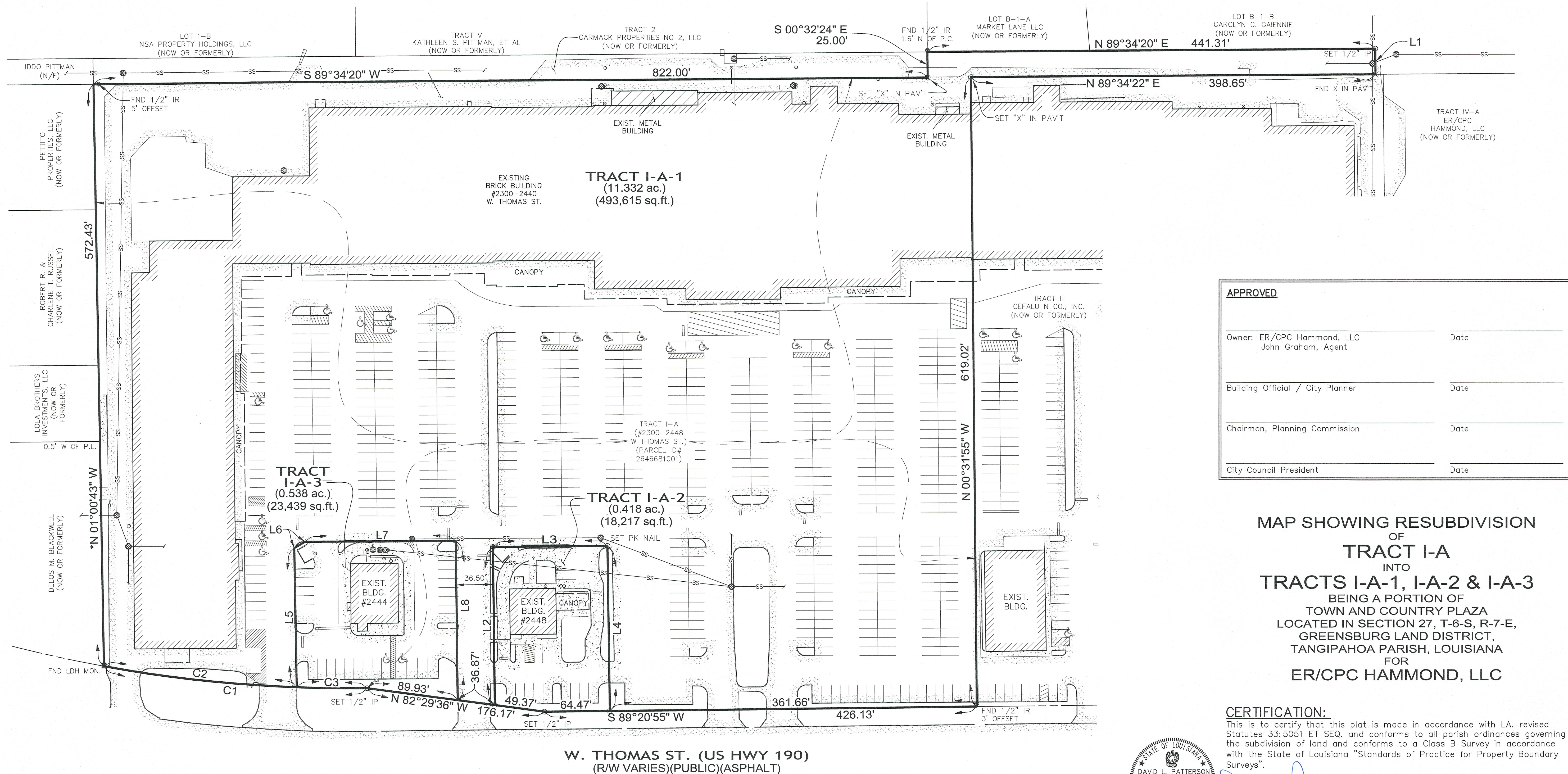
LINE TABLE					
LINE #	BEARING	DISTANCE	LINE #	BEARING	DISTANCE
L1	S 00°25'40" E	25.00'	L5	N 01°01'49" W	137.07'
L2	N 00°41'23" W	155.56'	L6	N 59°58'41" E	12.26'
L3	N 89°24'34" E	112.98'	L7	N 89°41'56" E	148.57'
L4	S 00°48'47" E	162.45'	L8	S 00°41'23" E	156.71'

LEGEND

- Property Line
- Right of Way Line
- SS - Underground Sewer Line
- - Found Iron Pipe/Rod
- x - Found "X" Scribed in Concrete
- ⊠ - Found Highway Monument
- - Set 1/2" Iron Pipe
- ⊙ - Sewer Manhole
- FND - Found
- IP - Iron Pipe
- IR - Iron Rod
- P.C. - Property Corner
- R/W - Right of Way
- P.O.C. - Point of Commencement
- P.O.B. - Point of Beginning
- Asphalt Pavement
- Concrete Pavement



VICINITY MAP
NOT TO SCALE



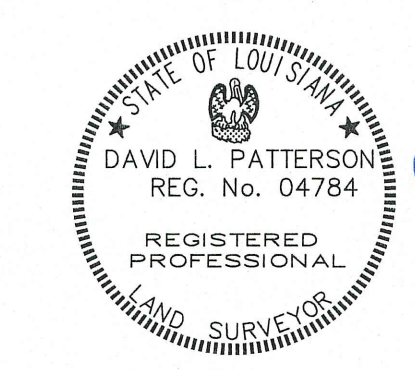
APPROVED	
Owner: ER/CPC Hammond, LLC John Graham, Agent	Date _____
Building Official / City Planner	Date _____
Chairman, Planning Commission	Date _____
City Council President	Date _____

MAP SHOWING RESUBDIVISION OF TRACT I-A INTO TRACTS I-A-1, I-A-2 & I-A-3 BEING A PORTION OF TOWN AND COUNTRY PLAZA LOCATED IN SECTION 27, T-6-S, R-7-E, GREENSBURG LAND DISTRICT, TANGIPAHOA PARISH, LOUISIANA FOR ER/CPC HAMMOND, LLC

CERTIFICATION:
 This is to certify that this plat is made in accordance with LA. revised Statutes 33:5051 ET SEQ. and conforms to all parish ordinances governing the subdivision of land and conforms to a Class B Survey in accordance with the State of Louisiana "Standards of Practice for Property Boundary Surveys".

David L. Patterson, P.L.S.
 La. Registration No. 04784

Date: 3/18/2024



Printed on: Apr. 01, 2024 - 10:29am by mdavis

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LANDSOURCE
 INCORPORATED
 A Professional Surveying and Land Information Company
 6730 Eschschuer Drive
 Baton Rouge, LA 70809
 website: www.landsource.com
 Ph: (225) 752-0995
 Fax: (225) 752-0997
 email: lsi@landsourc.com

DATE: 03-18-2024
 JOB #: 24-447-01
 DWN. BY: MDD
 CKD. BY: DLP
 SHEET NO: 01
 OF: 01

Site Location: Town and Country Plaza



Site Location: Town and Country Plaza



North of Site:



South of Site:



East of Site:



West of Site:

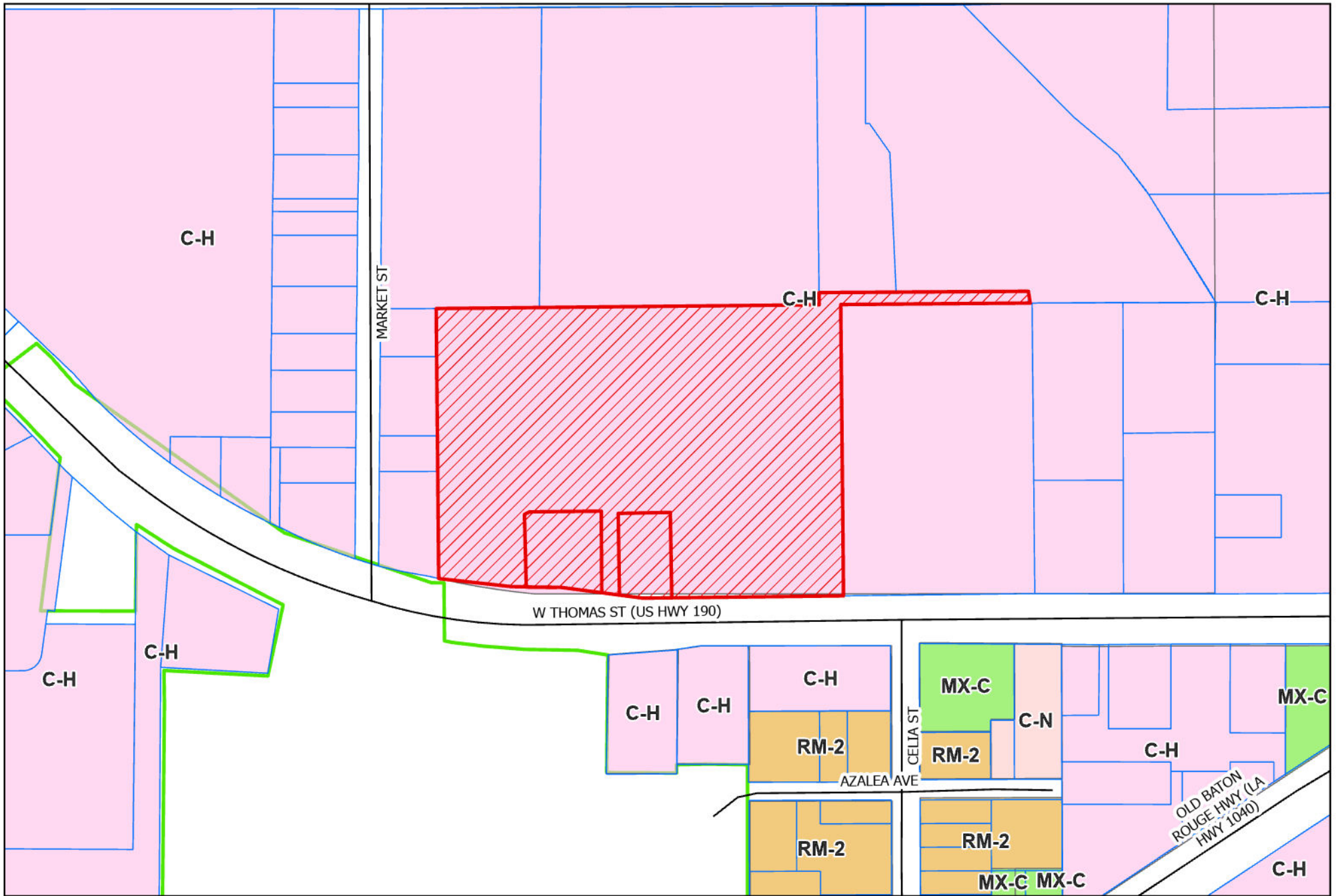




2302 W Thomas St
SUB-2024-04-00234

Legend

- Road Centerlines
- ▨ Case Parcel
- ▭ City Limits



2302 W Thomas St
SUB-2024-04-00234

Legend

- Road Centerlines
- Case Parcel
- City Limits

Prepared by and return to:
Christopher B. Manos, Jr.
1920 Woodsdale Road NE
Atlanta, Georgia 30324

OUTPARCEL DECLARATION

THIS OUTPARCEL DECLARATION (this "Declaration") is made and entered into as of the ____day of _____, 2024, by **ER-CPC HAMMOND, LLC**, a Delaware limited liability company, ("**Declarant**").

WITNESSETH:

WHEREAS, Declarant is the Owner or ground lessee, as the case may be, of certain outparcels herein referred to as Outparcel A and Outparcel B (each as further defined in Article I below);

WHEREAS, Declarant is the Owner or ground lessee, as the case may be, of the Shopping Center (as further defined in Article 1 below);

WHEREAS, Declarant desire to establish certain restrictions, easements and conditions for the maintenance and use of the Outparcels;

WHEREAS, the Outparcels shall, after the date hereof, be held, occupied, conveyed, leased, mortgaged and otherwise dealt with subject to the restrictions, easements and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the benefits accruing to each of the Outparcels from the restrictions, easements and conditions created hereby, Declarant, as Owner with respect to each of the Outparcels, hereby submit and subject the Outparcels to the restrictions, casements and conditions hereinafter set forth and does further agree as follows:

ARTICLE 1 DEFINITIONS AND MEANINGS

- 1.1 "Party" or "Parties" shall mean one or all Owners and/or Occupants, as applicable.
- 1.2 "Common Area" shall mean the portion of the Project reserved for general customer use, including, without limitation, driveways, parking areas, sidewalks, landscaping, entrances, curb cuts, entrances and lighting facilities.
- 1.3 "Ground Lessor" shall mean the following ground lessor parties that own fee simple interest in and to portions of the Shopping Center: _____, which Ground Lessor parties have ground leased said portions to the predecessor-in interest to Declarant.
- 1.4 "Parcel" shall mean any Outparcel or the Shopping Center (or portion thereof).
- 1.5 "Occupant" shall mean any ground lessee, tenant, or other occupant of the Project, or any assignee or successor thereof, who is entitled to use or occupy all or any portion of the Project, as the case may be, under an ownership right or any lease, sublease, assignment, or other similar agreement.
- 1.6 "Outparcel A" shall mean all that tract or parcel of land depicted and designated as "Outparcel A" on the Site Plan, and legally described on **Exhibit "B-1"** attached hereto and by reference thereto incorporated herein.
- 1.7 "Outparcel B" shall mean all that tract or parcel of land depicted and designated as "Outparcel B" on the Site Plan, and legally described on **Exhibit "B-2"** attached hereto and by reference thereto incorporated herein.

1.8 "Outparcel" or "Outparcels" shall mean, individually or collectively, as the case may be, Outparcel A and Outparcel B.

1.9 "Owner" shall mean, individually or collectively any person or entity owning fee simple title to all or any portion of the Project.

1.10 "Proportionate Share" shall mean a fraction, the numerator of which is the building square footage of the Owner's Parcel, which is then constructed, and the denominator of which is the total building square footage, which is then constructed, of the Project.

1.11 "Project" shall collectively mean Outparcel A, Outparcel B and the Shopping Center.

1.12 "Recorded Restrictions" shall collectively mean all recorded documents that affect the Parcels as of the date hereof.

1.13 "Shopping Center" shall mean the shopping center adjacent to the Outparcels designated as "Shopping Center" on the Site Plan and legally described on **Exhibit "C"** attached hereto and by reference thereto incorporated herein.

1.14 "Site Plan" shall mean that certain site plan attached hereto as **Exhibit "A"** and by reference thereto incorporated herein.

ARTICLE 2

SCOPE: TERM: RIGHTS OF GENERAL PUBLIC AND OCCUPANTS

NOW, THEREFORE, for and in consideration of the benefits accruing to each of the Outparcels from the restrictions, covenants, conditions, and easements created hereby, Declarant hereby submits and subjects the Outparcels to the restrictions, covenants, conditions, and easements hereinafter set forth.

2.1 **Scope.** Every Party shall be bound by this Declaration only during the period it is the Owner or Occupant of the Project or portion thereof, except as to obligations, liabilities or responsibilities that arise or accrue during said period of ownership or occupancy. If more than one Owner or Occupant has a legal interest in a Parcel, all such Owners or Occupants of said Parcel shall be jointly and severally liable for the obligations hereunder as such obligations may be specifically set forth hereunder.

2.2 **Term.** Unless otherwise canceled or terminated, all of the easements granted in this Declaration shall continue in perpetuity and all other rights and obligations hereof, except for restrictions on use, shall automatically terminate and be of no further force and effect after ninety-nine (99) years from the date hereof. All restrictions on use set forth herein shall continue in full force and effect for a period of twenty (20) years from the date hereof and thereafter shall automatically renew for eight (8) successive ten (10) year periods unless all Owners shall file of record a written termination of such restrictions prior to such renewal. Notwithstanding the foregoing, in the event any law prohibits any such restrictions, easements and/or conditions from being enforceable for a period in excess of the period stated above, Declarant hereby retains the right to unilaterally re-record this Declaration at any time and from time to time for the purposes of extending the enforceability thereof.

2.3 **No Rights in Public Generally.** Except as otherwise specifically provided herein, the restrictions, easements and conditions created, reserved, granted and established in this Declaration do not, are not intended to, and shall not be construed to create any easements, rights or privileges in and for the benefit of the general public. Notwithstanding anything to the contrary contained herein, each Party shall have the right to prohibit or limit any solicitation, petition signing, distribution of literature, collection of money, giving of speeches, leafleting, picketing, carrying of signs, canvassing, demonstrations, or similar activities within that portion of the Common Area

located on said Party's Parcel.

ARTICLE 3
MAINTENANCE OF COMMON AREA: SHARED COSTS

3.1 Maintenance of Common Area. Except as otherwise set forth herein, Declarant shall be responsible for the repair and maintenance of the portion of the Common Area located on the Project. Without limiting the generality of the foregoing, Declarant's repair and maintenance obligations as aforesaid shall include: (1) maintaining the surfaces in a level, smooth and evenly covered condition, (2) removing all papers, debris, snow, ice, filth and refuse and sweeping the areas to keep the Common Areas in a neat, clean and orderly condition, (3) placing, keeping in repair and replacing any multi-tenant Project signage, (4) maintaining all landscaped areas, subject to applicable ordinances, codes, laws and the Recorded Restrictions, (5) maintaining the Common Area free of any impediments to easy and safe movement and in accordance with the Recorded Restrictions; and (6) operating, keeping in repair and replacing lighting facilities, and keeping the Common Area well-lighted during the Shopping Center's business hours each day. All repairs and maintenance of the Project or otherwise shall be performed in accordance with the standards of a first class shopping center and in accordance with the terms and provisions of the Recorded Restrictions and applicable law. Each Owner and Occupant shall maintain the parking counts and configuration and points in ingress and egress within its Parcel in compliance with all laws and the Recorded Restrictions.

3.2 Shared Costs. To the extent attributed to the Project, all reasonable and actual third party costs and expenses incurred by the Declarant in maintaining and repairing the Common Area in accordance with the terms hereof shall be divided among all the Owners of the Project based on their respective Proportionate Share. Each Owner (or Occupant) of the Project shall make such payments to the Declarant on the first of each month and such payments shall be based upon the Owner's Proportionate Share of Declarant's estimated annual cost of operation and maintenance of the Common Area. **Notwithstanding the foregoing, in the event that the Owner (or Occupant) of an Outparcel elects to self-maintain its Outparcel and the Declarant approves same by written notice, Declarant shall not be responsible for the maintenance and repair of the portion of the Common Area located within said Outparcel and said Owner shall only be required to reimburse the Declarant for its Proportionate Share of the cost of the lighting and sweeping the parking areas located in the Common Area.** Any failure by an Owner (or Occupant) of the Project to reimburse the Declarant for such Owner's Proportionate Share as set forth above shall be deemed a default hereunder (following prior written notice in accordance with Section 6.8 hereinbelow) and the Declarant shall be entitled to all remedies available at law and in equity including the right to file a lien against the defaulting Owner or the Owner's Parcel in accordance with Section 6.8 hereinbelow, which lien shall be superior to all other liens and charges against the Parcel, except the liens for ad valorem taxes and for all sums unpaid on a first priority purchase money mortgage or deed of trust to the extent it secures funds used for the purchase of such Parcel or the construction of any structure or other improvement thereon. Upon the written request of any holder of said mortgage or deed of trust on any Parcel, the Declarant shall report to said holder any unpaid amounts remaining unpaid on that Parcel for longer than thirty (30) days after the same is due; provided, however, no such holder on any Parcel shall be required to pay any liens or unpaid amounts unless such liens or amounts were created after the holder has acquired ownership of such Parcel. Within sixty (60) days following the end of each calendar year, the Owners shall reconcile any overpayments or underpayments made in accordance with this Article III.

In the event that the Declarant fails to maintain and repair the Common Area, and/or should any Owner or Occupant fail to maintain and repair its portion of the Common Area in accordance herewith, any other Owner or Occupant may give such defaulting Party thirty (30) days' written notice thereof, setting forth with particularity the claimed deficiencies in the maintenance and repair of the Common Area, and if such objections and/or deficiencies are not corrected within thirty (30) days after such notice (unless such correction requires more than thirty (30) days to complete in which event said defaulting Party shall not be in breach of this provision so long as it commences to cure within such thirty (30) day period and thereafter

diligently pursues to completion), then in addition to the rights and remedies in Section 6.8 hereinbelow, the notifying Party shall have the right thereafter to complete the needed maintenance or repair and upon demand thereof the defaulting Party shall reimburse the repairing Party the amount equal to all actual reasonable costs paid or incurred in connection with the completion of such maintenance or repairs together with interest on all such costs incurred calculated at the rate of twelve percent (12%) per annum ("Interest"). Said written demand shall be accompanied by invoices and other reasonable documentation evidencing the costs incurred. The required reimbursement shall be delivered to the repairing Party within ten (10) business days after written demand thereof.

ARTICLE 4 **EASEMENTS**

4.1 Access Easements. Subject to the Recorded Restrictions, the Owners do hereby declare, establish, create and grant to the individual Owners and/or Occupants of the Parcels, for their benefit, the non-exclusive right, privilege and easement over and across the granting Party's Parcel for (a) perpetual vehicular ingress and egress over and across the portion of the Common Area located on such granting Party's Parcel, such rights of ingress and egress to include such rights for the employees agents, contractors, customers, vendors, suppliers, visitors and invitees of the Owners and/or Occupants of the Outparcels, (b) perpetual repair and maintenance to the extent for Declarant to perform its obligations set forth in Article III above and (c) perpetual repair and maintenance to the extent that any Party hereunder has the right to and, in fact, does exercise its self-help rights set forth in this Declaration. In no event shall the Common Area be used in conflict with the Recorded Restrictions.

4.2 Utility Easements. Subject to the Recorded Restrictions, Declarant and all Owners do hereby declare, establish, create and grant to Declarant and the individual Owners and/or Occupants of the Parcels, for their benefit, the non-exclusive right, privilege and easement over, under and across the granting Party's Parcel for the installation, construction, use, maintenance, repair and replacement of certain utility facilities, including, but not limited to telephone, gas, electric, cable, water, storm sewer and sanitary sewer lines (the "Utility Facilities"). In addition to the foregoing, Declarant and all Owners do hereby declare, establish, create and grant to all Owners and/or Occupants of the Parcels, for their benefit, the non-exclusive right, privilege and easement to drain all storm water and sanitary sewer water through the storm drainage and/or sanitary sewer facilities and lines to the extent such lines cross under, over or across the Common Area of the Project. Declarant shall have the right (but not the obligation) to relocate, repair or replace the Utility Facilities upon ten (10) days' prior written notice to the Owner and/or Occupant of the particular Parcel affected by such repair, replacement and/or relocation; provided that, notwithstanding the foregoing, (i) any such repair, replacement or relocation of the Utility Facilities shall not cause any Parcel to lose its connection thereto (except on a temporary basis), and (ii) with respect to any relocation of the Utility Facilities, the prior written consent of the Owner and/or Occupant of the Parcel affected by such relocation shall first be obtained, not to be unreasonably withheld, conditioned or delayed. Upon completion of such repairs, relocation and/or replacement, Declarant shall restore the Parcel to substantially the condition existing prior to such relocation, repair or replacement of the Utility Facilities.

4.3 Parking Easement. Subject to the Recorded Restrictions, the Owners do hereby declare, establish, create, and grant to the individual Owners, and/or Occupants of the Parcel for their benefit the non-exclusive right, privilege, and easement over and across the granting Party's parcel for (a) perpetual and reciprocal parking rights, over and across a portion of the Common Area located on such granting Party's Parcel; provided, however, the foregoing shall not prohibit the Owner(s) of the Outparcel from constructing and/or modifying a building and related improvements on its Outparcel in compliance with Section 5.2 below.

4.4 Avoidance of Prescription. The Owner (but not any Occupant) of each Parcel shall be entitled to interrupt or disturb the passage of vehicular and pedestrian access, ingress and egress over and across all roadways, driveways, entranceways and sidewalks from time to time located on such Owner's Parcel for the purpose of preventing the creation of prescriptive easement rights in favor of the public or otherwise, but such closure or interruption (a) shall be permitted only to the extent necessary under applicable law to prevent prescriptive rights from vesting, and (b) shall be conducted so as to minimize the disruption of business operations and access of any other Owner or Occupant as the case

may be.

4.5 Indemnity. Each Owner or Occupant, as the case may be, shall indemnify and hold the other Parties harmless from and against any and all loss, damage, cost or expense (including actual and reasonable attorneys' fees and court costs) incurred as a result, directly or indirectly, of the exercise of the indemnifying Party's rights granted under this Declaration, or as a result, directly or indirectly, of any act or omission under this Declaration of any such indemnifying Party, its agents, employees, contractors, subcontractors or any other party acting on behalf of said indemnifying Party.

ARTICLE 5 **PROHIBITED AND EXCLUSIVE USES AND BUILDING RESTRICTIONS**

5.1 Prohibited and Exclusive Uses. Without the prior written consent of the Declarant, which consent may be granted or withheld in the Declarant's sole discretion, no portion of the Outparcels shall be used that is (a) in violation of the Recorded Restrictions, (b) in violation of any existing leases in effect in either the Shopping Center or the Project as of the date of this Declaration or (c) inconsistent with a first-class shopping center in the Hammond, Louisiana metropolitan area.

5.2 Building Restrictions. Without the prior written consent of the Declarant, which consent may be granted or withheld in the Declarant's sole discretion, (a) the building square footage on each Outparcel (to wit: Outparcel A – 2,804 square feet and Outparcel B – 1,976 square feet) shall not be expanded, (b) the building improvements situated on the Outparcels shall not be more than one (1) story in height, (c) the highest point of any exterior elevation of the building improvements (including architectural features and rooftop equipment) shall not exceed the greater of (i) the height of such building as of the date hereof or (ii) the exterior elevation of the building operated by Ross Dress for Less, (d) the ingress and egress points shall not be modified, and (e) the number and configuration of parking facilities shall not be modified.

5.3 Other Prohibitions. No Owner shall alter, impair, close, re-route or fence off any parking areas or other Common Areas within the Project, except for temporary maintenance which the Declarant must pre-approve in writing.

ARTICLE 6 **GENERAL**

6.1 Amendment. Any amendment to this Declaration shall require the written consent of all Owners. Such amendment shall be in writing, duly executed by all consenting Parties, and recorded in the Public Records of Tangipahoa Parrish, Louisiana.

6.2 Partial Invalidity. In the event any provision of this Declaration is determined to be illegal or legally unenforceable, such determination shall have no effect upon the remaining terms and provisions hereof, and the remaining terms and provisions hereof shall continue in full force and effect.

6.3 Notices. Every notice, demand, consent, approval, or other document or instrument required or permitted to be served upon or given hereunder shall be in writing and shall be delivered or sent by (a) nationally recognized overnight courier, (b) hand delivery, (c) registered or by certified mail, postage prepaid, return receipt requested, or (d) electronic mail, with a "hard" copy also sent by either of the means provided in (a) or (b) above, and shall be delivered to the following address:

Declarant:

ER-CPC HAMMOND, LLC
3340 Peachtree Road, Suite 1660
Atlanta, GA 30326
Attn: John Graham
Email: jgraham@corepropertycapital.com

With a Copy to:

Christopher B. Manos, Jr

1920 Woodsdale Road NE
Atlanta, GA 30324
Email: c.manos@mindspring.com

Any current or subsequent Owner or Occupant of any Parcel may specify or change the place for service of notice by sending a notice to the other Owners or Occupant(s), which notice shall become effective ten (10) days after delivery thereof. All such notice addresses shall be within the United States.

6.4 No Waiver. No delay or failure on the part of any Owner or Occupant in the enforcement of its rights under this Declaration shall impair enforcement or be construed as a waiver of any such right, or constitute acquiescence by any Owner or Occupant to the breach or violation thereof. Except as otherwise specifically provided herein, no waiver by any Owner or Occupant shall be valid unless made in writing and signed by said Owner or Occupant, and then only to the extent expressly set forth therein.

6.5 Obligations Run With the Land. The easements, rights and obligations provided for herein shall benefit and burden the Parcels and the Owner's thereof, and their respective successors and assigns, shall be perpetual, shall run with the land, and shall bind and inure to the benefit of the Owners and Occupants and set forth herein and their respective successors and assigns.

6.6 Estoppels. The Owners may request in writing that each other Owner or any of them provide to the requesting Owner, its proposed purchaser, mortgagee or trustee under a deed to secure debt, or in connection with a prospective transfer or financing of a Parcel, within twenty-one (21) days from receipt of such written request, an estoppel certificate stating that such Owner is in compliance with the terms and conditions of this Declaration, that to the best of such Owner's knowledge there are no amounts due and owing hereunder (or to the extent there are such Party shall so state), and such other information as the requesting Owner shall reasonably request, and any exceptions thereto.

6.7 Successor Declarant. The Party designated as Declarant shall have the right to assign such status to any other Party owning a tract within the Project; provided, however, if such assignment is not made in writing, then the status of Declarant shall automatically be deemed assigned to the Party acquiring the last portion of the Project owned by the Party then holding the status of Declarant.

6.8 Default. This Declaration may be enforced by Declarant or any Owner (and by any Occupant (including tenants) of an Outparcel to which the Owner has delegated to such Occupant the right to enforce this Declaration pursuant to this Declaration, through a lease or other written instrument), by any action available at law or in equity, including, but not limited to injunctive relief and specific performance. In every instance of this Section 6.8 that a reference is made to a non-defaulting Owner, then the same shall apply to the non-defaulting Occupant of the Outparcel owned by such Owner, to the extent such Owner has delegated to such Occupant the right to enforce this Declaration as set forth above. In the event Declarant or the Owner defaults in the performance of any of its obligations pursuant to this Declaration and such default shall continue for a period of thirty (30) days after receipt of written notice of said default from Declarant or the Owner, the Declarant or the Owner shall be entitled to cure such default, provided, (i) the defaulting Owner is not then in the process of diligently attempting to cure the default, and (ii) no notice or opportunity to cure shall be required in the event the default creates an emergency or materially interferes with the use of such other Owner's parcel. Any and all reasonable out-of-pocket expenses incurred by the Declarant or non-defaulting Owner in curing such default, together with twelve percent (12%) per annum interest thereon shall be payable by Declarant, in the case of a default by Declarant, or the defaulting Owner, in the case of a default by such defaulting Owner, within thirty (30) days of written demand therefor by the Declarant or non-defaulting Owner to Declarant or the defaulting Owner. In the event of enforcement of this Declaration by Declarant or any Owner, said Declarant or Owner shall be entitled to recover, in addition to any other relief available to same hereunder or at law or in equity, reasonable attorneys' fees, court costs, and interest on any amounts actually incurred and advanced by said Owner to cure such violation, such interest to be calculated at the lesser of (i) twelve percent (12%) per annum, or (ii) the highest rate permitted by Louisiana law. The costs and expenses incurred by the non-defaulting Owner, the accrued interest and

the late charge, if any, shall constitute both the personal obligation and debt of the defaulting Owner and a lien in favor of the non-defaulting Owner against the interest of the defaulting Owner in its Parcel (a "Repair Lien"). The rights of the non-defaulting Owner provided herein shall not limit, but shall be in addition to, any right of the non-defaulting Owner to seek and collect greater damages from the defaulting Owner if the damage or destruction is attributed to a willful or negligent act or omission of the defaulting Owner. Should any legal action be commenced in connection with this Declaration, the prevailing party in such action shall be entitled to recover, in addition to court costs, such amount as the court may adjudge as reasonable attorneys' fees and expert fees actually incurred. As used herein, the term "prevailing party" shall mean the party which obtains the principal relief it has sought, whether by compromise settlement or judgment.

6.9 Insurance. At such time as Declarant has sold or conveyed any Parcel of the Project to an unrelated third party, then each new Owner of such Parcel, and its successors and assigns, after such sale or conveyance, shall thereafter maintain or cause to be maintained in full force and effect comprehensive general liability insurance covering the Common Area located within such Owner's Tract, with a combined single limit of liability of not less than One Million and No/Dollars (\$1,000,000.00) for bodily or personal injury or death and for property damage arising out of any one occurrence. Such insurance shall be procured from responsible insurance companies authorized to engage in the business of general liability insurance in the State of Louisiana and shall provide for payment of claims on an occurrence basis. Each Owner agrees to furnish to any other Owner requesting the same a certificate of insurance evidencing that the insurance required to be carried by such Owner is in full force and effect. The insurance obligations under this Section 6.9 may be delegated by an Owner to its Occupant of the respective Parcel.

6.10 Governing Law. This Declaration shall be governed in accordance with the laws of the State of Louisiana.

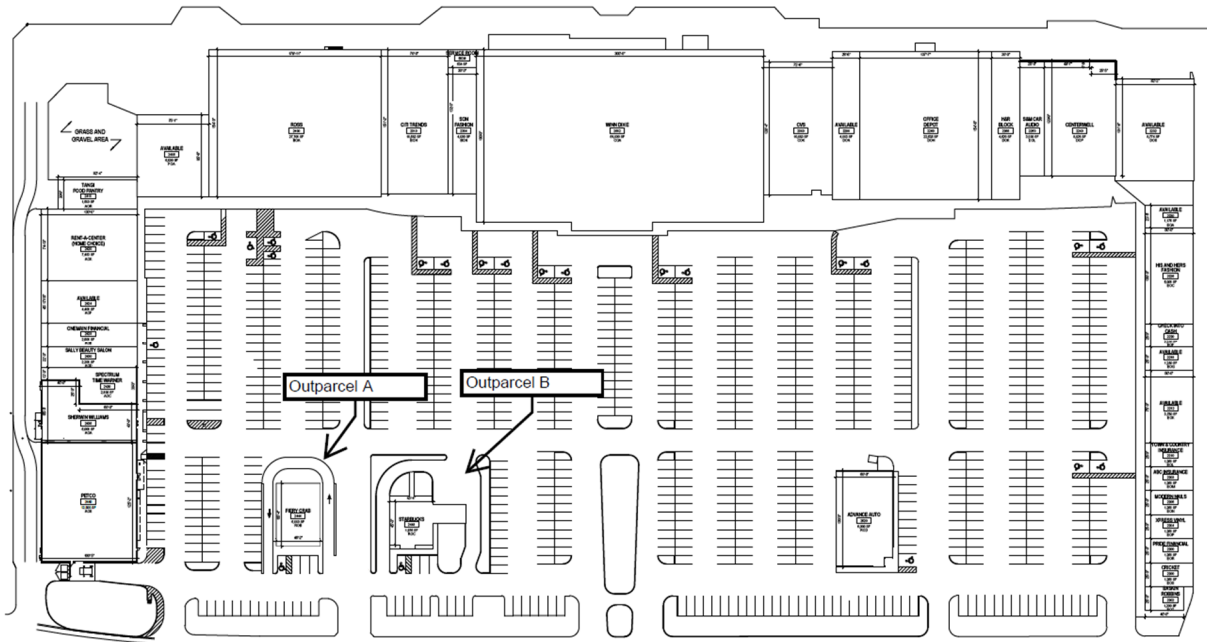
LIST OF ATTACHMENTS AND EXHIBITS:

<u>Exhibit "A"</u>	Site Plan
<u>Exhibit "B-1"</u>	Outparcel A Legal Description
<u>Exhibit "B-2"</u>	Outparcel B Legal Description
<u>Exhibit "C"</u>	Project Legal Description
<u>Exhibit "D"</u>	Prohibited and Exclusive Uses

(Signatures Appear on Following Page)

DRAFT

**EXHIBIT "A"
SITE PLAN**



WEST THOMAS STREET (U.S. HIGHWAY 190)

DRAFT

EXHIBIT "B-1
Outparcel A Legal Description

DRAFT

EXHIBIT "B-2"
Outparcel B Legal Description

DRAFT

EXHIBIT "C"
Project Legal Description

PARCEL I

A certain tract or parcel of land, located in Section 27, T6S, R7E, City of Hammond, Parish of Tangipahoa, Louisiana, described according to the survey of Wallace L. Adams, dated July 3, 1975, revised up to December 10, 1985, and updated to January 28, 1991, by Wallace L. Adams, Registered Land Surveyor and Civil Engineer, as beginning at a point 661.98 feet South, and 663.3 feet East of the Quarter Corner on North Line of Section 27, T6S, R7E, for a point of beginning; thence run East 860.34 feet; run South 619.3 feet to North R/W line of U.S. Highway 190; run South 89 degrees 24 minutes West along said R/W 422 feet; run North 72 degrees 37 minutes West along said R/W 80.95 feet; run South 89 degrees 24 minutes West along said R/W 97.4 feet thence North 83 degrees 58 minutes 14 seconds West 265.18 feet along said R/W line to the Southwest Corner of said property; thence run North 572.7 feet to the point of beginning.

PARCEL II

A certain tract or parcel of land located in Section 27, T6S, R7E, City of Hammond, Parish of Tangipahoa, Louisiana, described according to the survey of Wallace L. Adams, Reg. Land Surveyor & C.E., dated July 3, 1975, revised up to December 10, 1985, and updated to January 28, 1991, as beginning at a point 1249.4 feet South and 2053.3 feet East of Quarter Corner on North line of Section 27, T6S, R7E, Parish of Tangipahoa, State of Louisiana, said Point of Beginning being on the North line of U.S. Highway 190; thence North 240 feet; thence West 125 feet to the East line of Tract III; thence run South 240 feet along the East line of said Tract III to the North line of U.S. Highway 190; thence East 125 feet along the North line of U.S. Highway 190 to the Point of Beginning.

PARCEL III

Entire leasehold interest of Durham Realty, Inc., in and to that certain lease by and between Five Star, Ltd., as Lessee and N. Cefalu Company, Inc. as Lessor, dated July 28, 1970, covering the following described property, to-wit:

A certain tract or parcel of land located in the NE/4 of NE/4 of Section 27 T6S, R7E, City of Hammond, Parish of Tangipahoa, State of Louisiana, described according to the survey of Wallace L. Adams, Registered Land Surveyor, & C.E., dated July 3, 1975, revised up to December 10, 1985, and updated to January 28, 1991, as commencing at a point 661.98 feet South and 1523.69 (1523.64 actual) feet East of the Quarter Corner on North line of said Section 27 for a point of beginning; thence measure East 403.3 feet; thence South 617.8 feet to North R/W line of U.S. Highway 190; thence along said R/W line South 89 degrees 47 minutes 13 seconds West 403.3 feet; thence North 619.3 feet to the Point of Beginning. Together with said Lessee's interest in and to the buildings now existing or hereafter erected by Lessee on the premise.

PARCEL IV

A certain tract or parcel of land located in Section 27, T6S, R7E, City of Hammond, Parish of Tangipahoa, State of Louisiana, described according to the survey of Wallace L. Adams, Registered Land Surveyor & C.E., dated July 3, 1975, revised up to December 10, 1985, and updated to January 28, 1991, as beginning at a point 1249.4 feet South and 2053.3 feet East of Quarter Corner on North line of Section 27, T6S, R7E, Parish of Tangipahoa, State of Louisiana, said Point of Beginning being on the North line of U.S. Highway 190; thence North 240 feet; thence West 125 feet; thence North 377.80 feet; thence East 202.70 feet; thence South 00 degrees 44 minutes 31 seconds West 617.85 feet; thence West 69.70 feet to the point of beginning.

Less and Except the Following Tract:

Two certain portions of ground situated in Section 27, T6S-R7E, City of Hammond, Parish of Tangipahoa, State of Louisiana and being more fully described as follows:

Begin at a point that is located 1279.70 feet south and 2123.00 feet east of the quarter corner on the north line of Section 27, T6S-R7E, and said point being on the north right of way line of U.S. Highway No. 190 (West Thomas Street) and measure west, along the north right of way line of U.S. Highway No. 190 (West Thomas Street) a distance of 194.70 feet to a point; thence measure N 00°15' W, a distance of 240.00 feet to a point; thence measure East, a distance of 194.70 feet to a point; thence measure S 00° 15' E, a distance of 240.00 feet to the point of beginning and containing 46,727.56 square feet or 1.07 acres.

Said parcel of land being the same parcel as shown on that certain Boundary & Topographical Survey of Two Undesignated Portions of Ground Situated in Section 27, T6S-R7E, City of Hammond, Parish of Tangipahoa Parish, LA for Burger King, prepared by Dading, Marques & Assoc., Inc. and last revised on September 1, 1994.

DRAFT

EXHIBIT "D"
PROHIBITED AND EXCLUSIVE USES

EXHIBIT "H"

Existing Exclusive and Prohibited Uses

1
2
3
4 **Advance Auto Parts** – So long as Tenant is not in default under the terms of this Lease beyond any applicable cure
5 period, Landlord shall not, for as long as this Lease remains in force and effect, either directly or indirectly, lease to
6 any third person any land or building, whether presently owned or hereafter required, within the Shopping Center (or
7 any property subsequently developed by Landlord which is immediately adjacent to the Shopping Center) for the
8 purposes of conducting thereon a business which primarily sells automobile parts and accessories, including tires,
9 batteries and wheels; nor shall Landlord itself, nor any of its individual stockholders, partners or beneficiaries, as the
10 case may be, either directly or indirectly owned or operate any such business within the Shopping Center (or any
11 property subsequently developed by Landlord which is immediately adjacent to the Shopping Center). The preceding
12 covenant of Landlord shall not preclude the operation of a store which is not an automobile parts and accessories store,
13 but whose business includes the incidental sale of automobile parts and supplies or tires, batteries and/or wheels and
14 shall not apply with respect to leases in effect presently, including any extensions, modification or renewals thereof.
15

16 **CVS** – Landlord agrees that Tenant shall have the exclusive right during the term of this Lease or any extension or
17 renewal hereof, to operate a drug prescription department in said Shopping Center, including any future extension of
18 said Shopping Center.
19

20 **Mr. Style** – So long as Tenant is open and operating its business in the Leased Premises for the Permitted Use defined
21 in Article 1.8 hereof, and there has not occurred an "Event of Default" (as defined in Article XV hereof), then Landlord
22 shall be prohibited from, after the date hereof, directly leasing space in the Shopping Center to any other tenant whose
23 primary business will be a men's suit store (hereinafter a "Competing Business"). The provisions of this Section 6.05
24 granting Tenant the right to terminate shall not apply to (i) present tenants (or their assignees or sublessees) whose
25 leases may not prohibit the operation of a Competing Business, (ii) any tenant, present or future, who may sell men's
26 suits on an incidental basis and not as its primary business, or (iii) any tenant occupying more than 5,000 square feet.
27 If, at any time during the term of the Lease, Tenant should cease operating its business at the Leased Premises (except
28 for cessation of operations caused and continuing solely by reasons of Force Majeure, as hereinafter defined) then the
29 provisions of this Section 6.05 granting Tenant the right to terminate as a result of Landlord's leasing space in the
30 Shopping Center to a Competing Business shall be immediately rendered null and void. Nothing contained in this
31 Section 6.05 shall be construed as limiting Landlord's right to lease space in the Shopping Center for a Competing
32 Business.
33

34 **Office Depot** – Landlord shall not permit any Occupant of the Shopping Center, other than Tenant and existing
35 Shopping Center tenants (except to the extent Landlord's approval is required to a change in use) to (i) use more than
36 1,000 square feet of floor area in the aggregate for the sale, leasing, distribution or display of office supplies, furniture,
37 machines and other office-related equipment; computer hardware, software and related equipment; cellular telephones
38 and telecommunications equipment and devices; art, architectural and engineering supplies; photocopy, facsimile,
39 printing and related services; or (ii) be primarily engaged in the sale, leasing, distribution or display of any of the items
40 set forth in (i) above. No space in or portion of any real property adjacent to or within 500 feet of the Shopping Center
41 which is now or may subsequently be acquired or leased by Landlord (or related entity or affiliate of Landlord), shall
42 be leased or occupied by or conveyed to any other party for a competing use in violation of the tenant's exclusive use
43 set forth in this paragraph. Notwithstanding the foregoing, current and existing tenants of the Shopping Center that
44 would normally be precluded may continue their operation including assignment or sale and other rights under their
45 leases as of September 20, 1999. In no event shall Landlord reposition current and existing tenants in the Shopping
46 Center or allow use or modification to circumvent the above listed exclusives, provided that in the case of any successor-
47 in-interest of the original landlord hereunder and/or as to any retail space outside of the Shopping Center purpose by
48 Landlord after the date hereof, such restriction shall not apply to leases then existing with respect to such property
49 located outside of the Shopping Center as of the date of such successor landlord acquired the Shopping Center or as the
50 date Landlord acquired such retail space as the case may be, but shall apply to any leases subsequently entered into.
51

52 No portion of the Shopping Center shall be used or occupied for any of the following purposes: theater; movie theater,
53 auditorium, meeting hall, library or reading room or other place of assembly; automobile sales or repairs; bowling alley,
54 pool hall or skating rink; bar serving alcoholic beverages (except as an incident to a full kitchen restaurant operation);
55 funeral parlor; massage parlor; tanning salon, hotel or lodging facilities; gun range; off track betting establishment
56 (except incidental sales of state lottery tickets); a so-called "flea market" or other operation selling used goods (except
57 that stores selling used goods typically found in a first class shopping center such as antique stores, vintage clothing
58 stores, and stores selling recycled, but like-new merchandise in a first class manner shall be permitted); any business
59 or use which emits offensive odors, fumes, dust or vapor, or constitutes a public or private nuisance, or emits loud noise
60 or sounds which are objectionable, or which create a fire, explosive or other hazard; manufacturing facility; warehouse
61 (except incidental to a retail operation); adult book store or similar store selling or exhibiting pornographic materials as
62 a substantial part of its business; night club, discotheque or dance hall.
63

64 The following shall be prohibited at any location in the Shopping Center within four hundred feet (400') of the closest
65 demising wall of the Premises: any sports or entertainment facility (including, without limitation, a karate or other
66 martial arts facility, gymnasium, health club, racquet club, physical fitness facility); or car wash.
67

68 The following shall be prohibited at any location in the Shopping Center within two hundred feet (200') of the closest
69 demising wall of the Premises: restaurant; amusement, arcade, virtual reality, laser tag or game room; or school
70 (including, without limitation, trade school or class sessions, but excepting incidental customer training in the use of



1 computer hardware or software sold by Tenant or by any other Occupant of the Shopping Center permitted to engage
2 in such sales).

3
4 Landlord shall not sell, lease, rent or permit any other premises in the Shopping Center to be used or occupied for other
5 than retail uses customarily found in similar shopping centers in the state and parish where the Shopping Center is
6 located.

7
8 Landlord covenants and agrees that no portion of the Shopping Center shall be used for offices excepting (i) offices
9 incidental to retail uses, and (ii) offices providing services to the general public and customarily found in similar
10 shopping centers (e.g., banking for finance services, real estate or securities brokerage services, financial or tax planning
11 services, accounting, insurance or legal services, optical, medical or dental services or travel agencies).

12
13 The Prohibited Uses set forth above shall be subject to the rights of Occupants under leases in effect as of the Effective
14 Date of this Lease for as long as such lease(s) remains in effect, provided such leases do not require the corresponding
15 tenants to be bound by the Prohibited Uses set forth in this Exhibit E. If any such existing lease permits the tenant
16 thereunder to use its premises for a use which is a Prohibited Use provided that Landlord consents thereto, Landlord
17 hereby covenants that Landlord shall not grant such consent.

18
19 **Ross Dress For Less** – Provided that (i) Tenant is operating its business in the Store for the use described in Section
20 9.1 (except for an Exempted Discontinuance of Tenant's Retail Operations as defined in Section 9.3(b) above), and (ii)
21 Tenant's right to occupy the Store has not been terminated by Landlord pursuant to an event of default under this Lease,
22 no tenant or occupant (other than Tenant) of the Shopping Center (or any portion of the Shopping Center which,
23 subsequent to the date of this Lease, Landlord owns or controls), may use, and Landlord shall not permit any other
24 tenant or occupant to use, any single space in excess of twelve thousand (12,000) square feet of its premises for the
25 display and/or sale of apparel on an off-price basis ("Off-Price Use") as hereinafter defined. "Off-Price Use," for the
26 purpose hereof, shall mean the retail sale of first quality, name brand apparel for men, women, and children on an
27 everyday basis at prices reduced from those charged by typical retail apparel retailers; provided, however, that this
28 definition shall not prohibit apparel sales events by a typical apparel retailer at prices discounted from that retailer's
29 every day prices. Current examples of retailers engaged in an Off-Price Use are TJ Maxx, Filene's Basement, Factory
30 2-U, Nordstrom Rack, Goody's, Burlington Coat Factory, SteinMart, or similar retailers (or any affiliates and/or
31 subsidiaries of the foregoing that engage in an Off-Price Use). The parties agree that the operation of a full-line discount
32 store in excess of one hundred thousand (100,000) square feet of Leasable Floor Area such as the type currently operated
33 by Costco, Wal-Mart, and Target shall not be deemed an "Off-Price Use" for purposes of this Section 9.5(a).

34
35 The provisions of Section 9.5(a) above shall not apply to (i) existing tenants in the Shopping Center operating under
36 leases existing as of the date of this Lease for the duration of such existing leases (including any renewals and extensions
37 thereof), and under which leases Landlord cannot prevent the conduct of an Off-Price Use, or (ii) sublessees and
38 assignees of existing tenants in the Shopping Center operating under leases existing as of the Effective Date of this
39 Lease and under which leases Landlord cannot deny such use (provided that such sublessees and assignees do not
40 change to a use not permitted under such existing leases), or (iii) any tenant or occupant of the Shopping Center that
41 occupies twelve thousand (12,000) square feet or less of Leasable Floor Area, or (iv) any portion of the Shopping Center
42 which Landlord does not own or ground lease as of the Effective Date. At such time (if any) that Landlord acquires
43 ownership or control of adjacent portions of property, and subject to the provisions of Section 9.5(d) hereafter, then
44 from and after the date of such acquisition the restrictions contained in Section 9.5(a) shall apply to the property so
45 acquired except in the event, or to the extent that Landlord is prevented from enforcing such restrictions pursuant to the
46 terms of any pre-existing lease, occupancy agreement. Landlord represents that a full and complete listing of existing
47 tenants is set forth in Schedule 4 attached hereto.

48
49 Tenant has entered into this Lease in reliance upon representations by Landlord that the Shopping Center is and will
50 remain retail in character, and, further, no part of the Shopping Center (except as provided in Section 3.1(b) below and
51 except for uses under leases existing as of the Effective Date of this Lease, (as well as extensions or renewals of such
52 leases by existing tenants) and under which Landlord cannot (or does not acquire the authority to) prohibit a tenant
53 from conducting such uses) shall be used for offices or residential purposes or as a theater, auditorium, meeting hall,
54 school (except for retail tenants who offer classes as part of their business and whose class size does not exceed ten
55 (10) students in attendance at one time), church or other place of public assembly, "flea market," gymnasium, health
56 club, dance hall, billiard or pool hall, massage parlor, video game arcade, bowling alley, skating rink, veterinary or
57 overnight pet boarding facility, car wash (except a car wash that is ancillary to a gasoline service station or convenience
58 store/service station operation), facility for the sale, leasing or repair of motor vehicles, night club or adult book or adult
59 audio/video tape store (which are defined as stores at least ten percent (10%) of the inventory of which is not available
60 for sale or rental to children under 15 years old because such inventory explicitly deals with or depicts human sexuality).
61 No ATM or similar machine shall be permitted on the exterior walls of the Store or the In-Line Building located in the
62 Shopping Center within one hundred (100) feet of the front and side perimeter walls of the Store. No new restaurant or
63 other "high intensity parking user" shall be permitted in the Shopping Center within the Prohibited Restaurant Area
64 shown on Exhibit B. A "high intensity parking user" is defined as a restaurant or other user which customarily requires
65 more than five (5) parking spaces for every one thousand (1,000) square feet of Leasable Floor Area of its tenant space
66 for its customers, employees and business invitees pursuant to local governmental regulations or rules. No "buffet style"
67 restaurant (i.e., including without limitation, such restaurants d/b/a Ryan's Family Steakhouse, Golden Corral, etc.)



1 shall be permitted in the Prohibited Restaurant Area or within four hundred (400) feet of the Store. A restaurant shall
2 not be deemed a "buffet style" restaurant if it offers a salad and/or dessert bar, buffet line or buffet steam table as an
3 incidental part of its business. At such time (if any) that Landlord acquires ownership or control of property adjacent to
4 the Shopping Center, then from and after the date of such acquisition the restrictions contained in this Section 3.1(a)
5 shall apply to the property so acquired except in the event, or, to the extent that, Landlord is prevented from enforcing
6 such restrictions pursuant to the terms of any pre-existing lease or occupancy agreement.
7

8 Notwithstanding the restrictions specified in Section 3.1(a) above, the following are permitted exceptions:

- 9 (i) Existing Users: The Ross Prohibited Uses set forth in Section 3.2.1(a) shall not apply to those tenants or
10 occupants of Landlord's Parcel who, in accordance with the terms of existing leases or occupancy agreements
11 in effect on the Effective Date ("Existing Tenants"), cannot be prohibited from so operating, but only for the
12 balance of the term(s) of such existing lease(s) or occupancy agreement(s). Landlord covenants and agrees that
13 if Landlord has the right to consent to a change in use of the premises occupied by any such Existing Tenant,
14 Landlord shall not consent to a change in use of the premises which violates the Ross Prohibited Uses set forth
15 in Section 3.2.1(a).
- 16 (ii) Retail Offices: "Retail Offices" may be permitted in the Shopping Center up to a maximum of fifteen percent
17 (15%) of the total Leasable Floor Area of the Shopping Center, but not within Inline Building on the west end
18 of the Shopping Center or within one hundred fifty (150) feet of the east side perimeter wall of the Store.
19 Notwithstanding the foregoing, Landlord shall be permitted to replace, in the Inline Building on the west end
20 of the Shopping Center, the existing CitiFinancial space and the existing Food Pantry space (leased by the City
21 of Hammond), located as shown on Exhibit B, with Retail Office tenants. Retail Office shall mean offices
22 servicing the general public, such as real estate brokerage offices, optometrists, insurance services, catalogue
23 sales, stock brokers and the U.S. military recruiting office.
- 24 (iii) Day Care Facility: Landlord shall be permitted to locate a day care facility in the Shopping Center on Pad 2
25 as shown on Exhibit B, provided said facility on Pad 2 does not exceed two thousand (2,000) square feet of
26 Leasable Floor Area and/or on Pad 3 as shown on Exhibit B, provided said facility on Pad 3 does not exceed
27 three thousand five hundred (3,500) square feet of Leasable Floor Area.
- 28 (iv) Tire Store/Lube Shop: Landlord shall be permitted to locate a tire store and/or lube shop in the Shopping
29 Center on Pad 2 as shown on Exhibit B, provided said facility on Pad 2 does not exceed two thousand (2,000)
30 square feet of Leasable Floor Area and/or on Pad 3 as shown on Exhibit B, provided said facility on Pad 3
31 does not exceed three thousand five hundred (3,500) square feet of Leasable Floor Area.
- 32 (v) Restaurants: Landlord shall be permitted to locate a quick-serve restaurant in not more than three thousand
33 (3,000) square feet of Leasable Floor Area in the existing five thousand (5,000) square foot Sherwin Williams
34 space as shown on Exhibit B. Further, Landlord shall be permitted to replace the existing Pizza Hut restaurant
35 with a take-out only restaurant facility in the same tenant space as the existing Pizza Hut restaurant, as shown
36 on Exhibit B. If a restaurant tenant is located on Pad 2 (other than the existing tenant, Taste Belle Chasse,
37 Inc., and its assignees and sublessees) and/or Pad 3, as shown on Exhibit B, Landlord shall provide additional
38 parking spaces, such that the parking ratio shall be ten (10) parking spaces for every one thousand (1,000)
39 square feet of Leasable Floor Area of said restaurant tenant(s) space.
40

41 Starbucks - So long as Tenant is open and operating its business in the Leased Premises (subject to an excused
42 discontinuance) and the primary purpose of such business is the retail sale of coffee beverages and there does not exist
43 an Event of Default beyond any applicable grace or cure period, Landlord will not, after the date hereof, permit any
44 tenant in the Shopping Center (except Tenant) to sell as its primary business (defined as a user that derives more than
45 20% of its Gross Sales of revenue in the aggregate) from the following: (a) whole or ground coffee beans, or (b)
46 espresso or espresso-based coffee beverages, or (c) gourmet, brand identified brewed coffee (i.e. Peet's, Tully's,
47 Caribou, etc., but excluding "mass marketed" and "house" brands of coffee commonly found in grocery stores such as
48 Folgers, Maxwell House, Maryland Club, Kroger's "Private Select" regardless of whether same purport to be of
49 gourmet quality). Notwithstanding the foregoing, any tenant shall have up to the greater of 5% or 300 square feet of
50 its floor area for display and sale of the items mentioned in (a)-(c) above and may sell such items for on-premises and/or
51 off-premises consumption so long as the aggregate sales of all of the above do not exceed 20% of any one tenant/user's
52 Gross Sales in the Shopping Center. Any Tenant who sells items described in (a), (b) or (c) above in more than
53 quantities allowed shall be deemed as a "competing business". The foregoing provisions shall not apply to (i) present
54 tenants (or their assignees or sublessees) whose leases are fully executed prior to the effective date of this Lease (but to
55 the extent Landlord has the right to control any tenant's changes in use, Landlord will not approve any change that will
56 permit such tenant to operate a competing business); (ii) any tenant who occupies not less than 15,000 square feet; (iii)
57 any full-service sit down restaurant of any size; (iv) sale of "machine blended" beverages by Dairy Queen, Marble Slab
58 and Coldstone Creamery, or similar tenant whose primary business is the sale of scooped ice cream or scooped yogurt;
59 (v) any subtenant, concessionaire or independent operator contained within the space occupied by Tenant that occupies
60 not less than 15,000 square feet of floor area so long as the subtenant, concessionaire or independent operator does not
61 have a separate exterior entrance to the Common Area of the Shopping Center; or (vi) to any space in the Shopping
62 Center other than the "Exclusive Area".
63

64 Winn-Dixie - Landlord covenants and agrees that the tenant shall have the exclusive right to operate a super market in
65 the Shopping Center and any enlargement thereof. Landlord further covenants and agrees that it will not directly or
66 indirectly lease or rent any property located within the Shopping Center, or within 1,000 feet of any exterior boundary
67 thereof, for occupancy as a super market, grocery store, meat, fish or vegetable market, nor will the Landlord consent



1 to any tenant or occupant of any such property to sublet in any manner, directly or indirectly, any part thereof to any
2 person, firm or corporation engaged in any such business without written permission of the tenant, and Landlord further
3 covenants and agrees not to permit or suffer any property located within the Shopping Center to be used for or occupied
4 by any business dealing in or which shall keep in stock or sell for off-premises consumption any staple or fancy
5 groceries, meats, fish, vegetables, fruit, bakery goods, dairy products or frozen foods without written permission of the
6 tenant. With the exception of bars and package stores, only Tenant herein may sell beer and wine in the Shopping
7 Center for off-premises consumption.
8

9 Permitted Uses:

10 No spa, lounge, bar, "teen lounge", bowling alley, skating rink, bingo or electronic or other game parlor, theater (either
11 motion picture or legitimate), business or professional offices, sale of automobiles or health, recreational or
12 entertainment-type activities, non-retail or non-service activities, shall be permitted; provided, however, the operation
13 of no more than 3,000 square feet of business and/or professional office spaces in the Shopping Center shall not be
14 deemed a violation hereof, but the same shall be located at least 200 feet from the nearest exterior wall of Tenant's
15 store building. Notwithstanding anything to the contrary contained in the foregoing, Landlord and Tenant hereby agree
16 that the restrictions and prohibitions in this Section 7 shall not be applicable to any leases with Landlord which are
17 dated prior to the date of this Lease.
18

19 **Footlocker Exclusive and Prohibited Use** – So long as Tenant is operating under the Trade Name set forth in Section
20 1.01.M of this Lease pursuant to the terms of this Lease, Landlord hereby agrees that it will not lease any space to
21 another retailer whose primary business is the sale of athletic footwear, such as: Athlete's Foot, Academy, Dick's
22 Sporting Goods, Downtown Locker Room, Finish Line, Hibbets, Jimmy Jazz, Massey's, Nike, Phidipides, Sheikh,
23 Shoe Department, Shoe Show, Shoe Palace, and Villa Shoes, but excluding stores such as Rack Room, Dress Barn and
24 Boot Barn (the "Tenant's Exclusive"). For purposes of this provision the following terms shall have the following
25 meanings: (i) The term "primary business" shall mean the display for sale of athletic shoes in fifteen percent (15%) or
26 more of the gross leasable area of such retailer's space; and (ii) The term "athletic footwear" shall mean footwear
27 primarily designed for sports or other forms of physical exercise such as running shoes, tennis shoes, cross-trainers,
28 and basketball shoes, but shall not include casual footwear, nor footwear primarily designed for mountain climbing,
29 trekking, hiking and trail running.
30
31
32
33

Declarant shall have the right, by recorded instrument, to unilaterally remove any of the foregoing
restrictions from this Declaration if and to the extent that such restrictions are no longer applicable or valid.

CONSENT, APPROVAL AND SUBORDINATION

The undersigned, _____ (“Lender”), is the grantee and beneficiary under the following instruments encumbering all or portions of the within-defined Shopping Center and the within-defined Project:

Those certain loan documents and security instruments executed by _____ (“Borrower”) and any other parties in favor of Lender as set forth in **Exhibit A-1** attached hereto and incorporated herein by this reference (collectively, the “Loan Documents.”)

For good and valuable consideration, the sufficiency of which is hereby acknowledged, Lender, as the grantee and holder under the Loan Documents, hereby agrees, consents and approves of the terms, conditions and obligations set forth in the Declaration (“Declaration”) to which this Consent, Approval and Subordination is attached as the same encumbers the Shopping Center and/or the Project. Lender agrees that all of its right, title and interest in and to the Shopping Center and/or the Project under and by virtue of the Loan Documents shall be subject and subordinate to the terms and provisions of the Declaration; provided, however, nothing contained herein shall modify, alter or amend the Loan Documents as between Lender and Borrower or be deemed in any way to impair any right or claim which Lender may have with respect to the Loan Documents and/or Borrower. Lender hereby declares, for itself and its successors and its assigns with respect to any interest in the Shopping Center and/or the Project, that in the event Lender, or any nominee or designee of Lender, takes title to the Shopping Center and/or the Project or any portion thereof through foreclosure, deed in lieu thereof, or otherwise, the Declaration and the easements, rights and privileges burdening the Shopping Center and/or the Project, and the obligations of the Declarant, all as set forth therein, will not be disturbed, altered or modified, and Lender will recognize and agree to be bound by the Declaration and the easements, rights, privileges and obligations as set forth therein.

IN WITNESS WHEREOF, Lender has executed this Consent, Approval and Subordination as of the date written below.

LENDER:

By: _____

Name: _____

Title: _____

STATE OF _____)

COUNTY OF _____)

On _____, 2024 before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon which the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Notary Public

**EXHIBIT "A-1" TO
CONSENT, APPROVAL AND SUBORDINATION
LOAN DOCUMENTS**

The "Loan Documents", as may be amended from time to time, are collectively as follows:

1. .

DRAFT

GROUND LEASE CONSENT, APPROVAL AND SUBORDINATION

The undersigned, _____ (“Ground Lessor”), is the ground lessor under the following instruments in and to all or portions of the within-defined Shopping Center and the within-defined Project:

That certain ground lease as set forth in **Exhibit A-1** attached hereto and incorporated herein by this reference (collectively, the “Ground Lease.”), under which ER-CPC HAMMOND, LLC, a Delaware limited liability company (“Ground Lessee”) presently holds a ground leasehold interest.

For good and valuable consideration, the sufficiency of which is hereby acknowledged, Ground Lessor, as the ground lessor under the Ground Lease, hereby agrees, consents and approves of the terms, conditions and obligations set forth in the Declaration (“Declaration”) to which this Ground Lease Consent, Approval and Subordination is attached as the same encumbers the Shopping Center and/or the Project. Ground Lessor agrees that all of its right, title and interest in and to the Shopping Center and/or the Project under and by virtue of the Ground Lease, or otherwise held, shall be subject and subordinate to the terms and provisions of the Declaration; provided, however, nothing contained herein shall modify, alter or amend the Ground Lease as between Ground Lessor and Ground Lessee or be deemed in any way to impair any right or claim which Ground Lessor may have with respect to the Ground Lease and/or Ground Lessee. Ground Lessor hereby declares, for itself and its successors and its assigns with respect to any interest in the Shopping Center and/or the Project, that in the event the Ground Lease is terminated for any reason, that Ground Lessor, or any nominee or designee of Ground Lessor, shall honor and be bound by the Declaration and the easements, rights and privileges burdening the Shopping Center and/or the Project, and the obligations of the Declarant, all as set forth therein, will not be disturbed, altered or modified, and Ground Lessor will recognize and agree to be bound by the Declaration and the easements, rights, privileges and obligations as set forth therein.

IN WITNESS WHEREOF, Ground Lessor has executed this Ground Lease Consent, Approval and Subordination as of the date written below.

GROUND LESSOR:

By: _____

Name: _____

Title: _____

STATE OF _____)

COUNTY OF _____)

On _____, 2024 before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon which the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

Notary Public

EXHIBIT "A-1" TO

GROUND LEASE CONSENT, APPROVAL AND SUBORDINATION

GROUND LEASE

The "Ground Lease", as may be amended from time to time, are collectively as follows:

1.

[This document to be reported for every ground lease.]

DRAFT