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Shelby Cnty Judge of Probate, AL
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**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is declared, made and entered into on this 10th day of September, 2010, by the "Owner".

R E C I T A L S :

- A. Effective contemporaneously with the execution and recording of this Declaration, Owner has sold to BTS INVESTORS II, LLC, a Mississippi limited liability company ("Outparcel Buyer"), that certain tract of land located in Shelby County, Alabama, as described on **Exhibit "A"** attached hereto and incorporated herein by reference (the "Outparcel").
- B. Owner is the owner of that certain tract of land described on **Exhibit "B"** which is attached hereto and incorporated herein by reference and hereinafter known as the "SC Property".
- C. In connection with the sale of the Outparcel to the Outparcel Buyer, Owner and Outparcel Buyer have agreed to certain covenants and restrictions which apply to the Outparcel in connection with the operation, maintenance and construction of the same.

NOW, THEREFORE, for Ten and No/100 Dollars (\$10.00) and in consummation of that certain sale of the Outparcel to Outparcel Buyer and in order to protect the value and desirability of the SC Property and intending that the restrictions and covenants herein imposed shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 "Building(s)" means the building(s) which has (have) been, will be or may be constructed on the Outparcel.

Section 1.2 "Parcel" shall mean and refer to the Outparcel, with respect to the Outparcel Buyer, and the SC Property with respect to the Owner. The Outparcel Buyer hereby acknowledges that the Owner may adjust, re-subdivide, construct upon, or change the configuration of the SC Property as well as convey any interest in such properties without the consent of the Outparcel Buyer

Section 1.3 The term "Party" means Owner and Outparcel Buyer; and "Parties" means all of the foregoing or any successor person(s) acquiring any interest of a Party in or to any portion of such Parties Parcel.

Section 1.4 The term "Permissible Building Area" means that area shown on Exhibit "C" which is the site plan for the Outparcel and is subject to the terms, conditions and restrictions set forth herein. No building, structure or improvements, other than parking, signs, landscaping, dumpster/waste area and similar common facilities, shall be erected or maintained outside of a Permissible Building Area.

Section 1.5 "Properties" shall mean and refer to that certain real property described on the attached Exhibit "A" and the attached Exhibit "B".

ARTICLE II

OUTPARCEL RESTRICTIONS

Section 2.1 Land Use and Building Type. No structure shall be erected or allowed to remain on the Outparcel unless the plans and specifications for such structure have been approved by appropriate governmental authorities.

Section 2.2 Completion of Improvements. All improvements shall comply with the applicable zoning, subdivision and building requirements of the City of Alabaster and Shelby County, Alabama.

Section 2.3 Nuisances. The Outparcel shall not be used for anything other than purposes which may be permitted by applicable zoning regulations, nor shall anything be done on the Outparcel which is a nuisance to the SC Property or the community; provided, however, that typical operations of a retail tire retail service center does not constitute a nuisance.

Section 2.4 Prohibited Uses. No portion of the Outparcel may be used for any of the following purposes without the prior written consent of the Owner, which permission may be withheld in the sole discretion of the Owner:

(i) A tavern, bar, nightclub, discotheque or any other establishment selling alcoholic beverages for on-premises consumption; provided, however, the foregoing shall not prohibit the operation of a restaurant with the sale of alcoholic beverages therein comprised less than fifty percent (50%) of the restaurant's gross revenues;

(a) a theater (motion picture or live performance), arcade, video machine, amusements or games or bowling alley or similar operations;

(b) a flea market;

- (c) a school;
- (d) an adult-type book store or other establishment selling or exhibiting pornographic materials;
- (e) a massage parlor;
- (f) a skating rink;
- (g) a mortuary;
- (h) a mobile home or trailer court, labor camp, junkyard or stockyard;
- (i) a landfill, garbage dump or for the dumping, disposing, incineration or reduction of garbage; or
- (j) a dry cleaners which does on premises dry cleaning;
- (k) a supermarket (including bakery and delicatessen), grocery store, convenience store, meat, fish or vegetable market;
- (l) pharmacy or drug store or for the sale, display or advertising of drugs, medicines, hospital rubber goods or hospital supplies and for the preparation, compounding and sale of medicines from the prescriptions of medical doctors, osteopaths, and dentists, and for the sale, display and advertising of any product whatsoever which by law requires the attendance or direction of a licensed pharmacist for the compounding or dispensing thereof;
- (m) a purveyor of food or beverages for offsite consumption including, without limitation, any package store for the sale of alcoholic beverages;
- (n) a gasoline service station or car wash;
- (o) a facility engaged in the sale, showing, demonstrating or leasing of motor vehicles of any type or kind;
- (p) a medical facility that performs abortions;
- (q) no advertising or use of the name "Colonial" shall be used in connection with any signage, advertising or promotion of any business on the Outparcel;
- (r) hardware store (with more than 5,000 square feet of floor area), a garden store (with more than 3,000 square feet of floor area), a paint store (with more than 4,000 square feet of floor area), or a lighting or appliance store (with

more than 4,000 square feet of floor area);

- (s) laundromat; or
- (t) discount or "dollar store" concept retail store.

Section 2.4 Signage. Only such signage that may be permitted by local zoning ordinances shall be permitted on the Outparcel. All signage shall comply with the sign criteria set forth on Exhibit "D" which is attached hereto and incorporated herein by reference.

Section 2.5 Height Limitation. Any building constructed on the Outparcel shall not exceed twenty-six (26) feet in height, as measured from the finished elevation of the parking area of the Outparcel (exclusive of non-occupiable architectural features of the building); however, the non-occupiable architectural features shall in no case not exceed twenty-eight (28) feet in height (inclusive with the occupiable portion of the building), as measured from the finished elevation of the parking area.

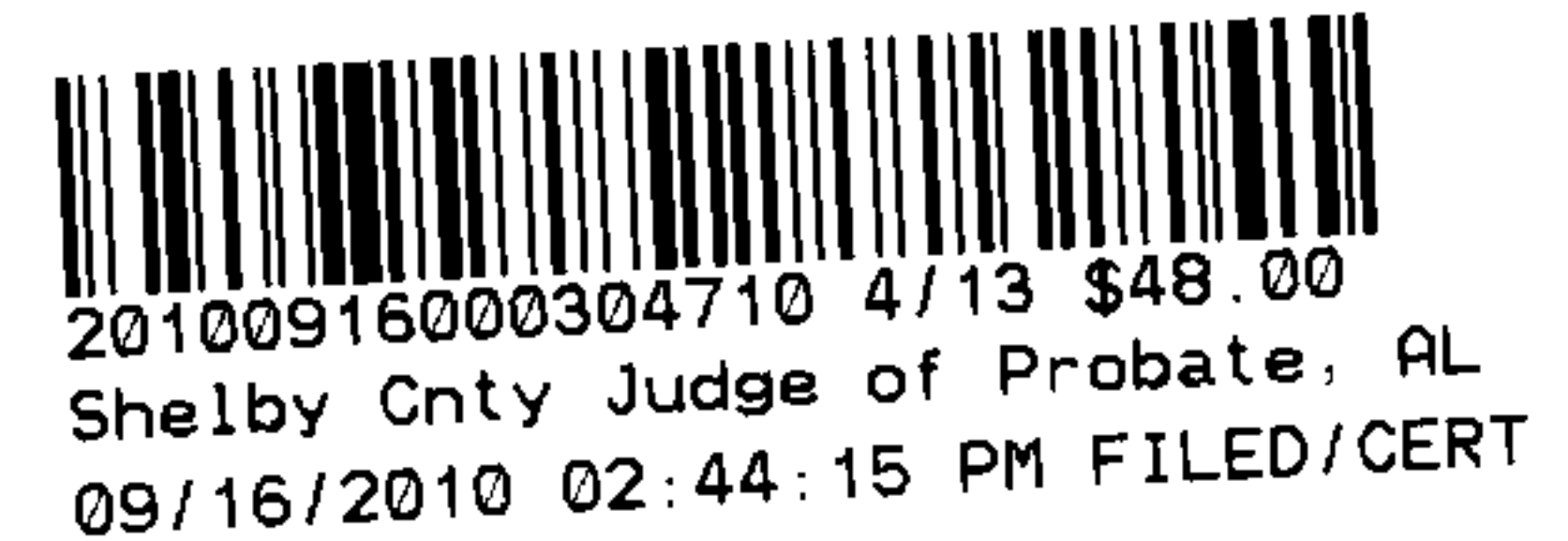
Section 2.6 Parking. Parking on the outparcel shall meet the applicable zoning codes of the City of Alabaster, Shelby County, Alabama as well as maintaining a minimum parking ratio required by that certain Easements with Covenants and Restrictions Affecting Land dated May 7, 2004, and recorded as Instrument 20040507000243260 in the Probate Office of Shelby County, Alabama, as amended (the "ECR"). In addition, the parking area of the Outparcel must be self-sufficient and specifically does not include any cross-parking rights in determining parking spaces for the Outparcel.

ARTICLE III

OUTPARCEL MAINTENANCE, REPAIR AND MISCELLANEOUS

Section 3.1 Damage and Destruction. In the event of the destruction or damage to any extent to the buildings and improvements on the Outparcel, the Outparcel Buyer shall either (i) diligently commence and pursue completion of the repair or restoration or (ii) within ninety (90) days after the destruction or damage clear away the ruins and leave the Parcel in a clean, orderly, sightly and safe condition.

Section 3.2 Maintenance. The Outparcel Buyer shall maintain the buildings and improvements on the Outparcel in good order and condition in the state of repair, in accordance with the standards of good outparcel 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, as needed, and maintenance and repair of lighting standards and signs. The Outparcel Buyer covenants that it, in addition to other requirements of this Section, will keep the inside and outside of all glass in all doors and windows of its building clean, will maintain its building at its own expense in a clean, orderly and sanitary condition and free of insects, rodents, varmint and other pests, will not permit



accumulation of garbage, trash, rubbish and other refuse, and will remove the same at its own expense and will keep such refuse in proper containers and compactors in places designated therefor until called for to be removed, and will keep the common areas on its Parcel clear of accumulations of ice and snow. The parties confirm their intention that the maintenance and repair of the Outparcel should be of such a character to comply and be maintained in a similar fashion to that of the SC Property.

Section 3.3 Estoppel Certificate. The Owner and Outparcel Buyer, their respective successors and assigns, shall, upon not less than ten (10) days from receipt of written notice from the other party, its successors and assigns, execute and deliver to the other party a certificate in recordable form stating that (i) either this Agreement is unmodified and in full force and effect or is modified (in stating the modification); and (ii) whether or not to the best of its knowledge, the Owner or the Outparcel Owner is in default in any respect under this Agreement and if in default, specifying such default.

ARTICLE IV

CONSTRUCTION

4.1 Plan Approval. It is specifically agreed and acknowledged that no building shall be constructed, erected, place or permitted to remain upon the Outparcel or any part thereof, nor shall any construction or erection commence, until Owner shall have approved in writing the following: (i) architectural building elevations for such building (the "Elevations"), (ii) site plan for the Outparcel (the "Site Plan"), and (iii) the landscaping plan for the Outparcel (the "Landscaping Plan") (the Elevations, Site Plan and Landscaping Plan, being herein collectively referred to as the "Plans"). No construction, alteration or addition shall change the external elevation, design or appearance of any improvement or landscaping after such improvement or landscaping has been constructed or installed according to Plans originally approved by Owner unless and until revised Plans for such construction, alteration or addition have been approved in writing by Owner. Approval by Owner of Plans submitted hereunder shall not be unreasonably withheld, conditioned or delayed. The reason for rejection of any proposed Plans shall be stated to Outparcel Buyer, upon request, in writing, provided, however, that Owner shall have a period of thirty (30) days after any Plans have been submitted in which to approve or disapprove such Plans. In the event Outparcel Buyer has submitted Plans for approval to Owner, and Owner does not respond within the thirty (30) day period after such submission, the submissions will be deemed approved. In no event shall any proposed improvement violate any of the other restrictions affecting the Outparcel, or any provision of any applicable building or zoning ordinance.

4.2 Construction Activities. Outparcel Buyer shall maintain its construction site in a neat and orderly manner at all times and shall remove all debris on a daily basis (including debris that has accumulated on adjacent lands, lots or streets) and store all equipment in a neat manner when not in use and all materials shall be stored under cover. Outparcel Buyer shall keep roads and pedestrian accessways located on or near the Outparcel free from storage of equipment, building materials and dirt which shall be kept segregated on a part of the Outparcel. Parking of

vehicles for workers shall be solely on the Outparcel and must be in a manner so as not to interfere with the safety and passage of others, and the surface of the streets must be clean of mud and dust brought on to the streets during construction. Outparcel Buyer shall take such precautions as may be reasonably necessary to minimize the impact on adjacent landowners of noise, dust, truck traffic, nuisances and other consequences of construction activities. Owner may install or cause to be installed, at Outparcel Buyer's expense, a barrier or fence around the construction site if Outparcel Buyer fails to cure any violation of this Article within fifteen (15) days after notice of such violation, and impose a lien against the Outparcel for such expenses, which lien may be foreclosed.

4.3 Landscaping. Outparcel Buyer shall be required to install landscaping on the Outparcel pursuant to the Landscaping Plan approved (or deemed to have been approved) by the Owner.

4.4 Non-Liability of Owner. Neither Owner nor any of its officers, directors, employees, agents or attorneys shall be liable to any person or entity constructing improvements on any portion of the Outparcel or any other person for any mistake in judgment, failure to point out or correct deficiencies in any plans, or any other malfeasance or non-feasance in connection with the approval or disapproval of any plans. Outparcel Buyer acknowledges that Outparcel Buyer is not relying upon Owner to review any plans for any purpose. Anyone submitting plans hereunder, by the submitting of same, and any owner of any part of the Outparcel, by acquiring title to same, agrees not to seek damages from Owner arising out of Owner's approval of any plans hereunder. Further, Outparcel Buyer agrees to indemnify and hold Owner harmless from and against any cost, claim, damage, expense or liability whatsoever, including attorneys' fees and court costs at all tribunal levels, arising out of any approval of plans given by Owner hereunder, including any such cost or liability arising from the negligence of Owner or its agents.

4.5 Outparcel Buyer's Insurance. Prior to commencement of any construction on the Outparcel, and until completion of such construction (as reasonably determined by Owner), Outparcel Buyer shall obtain, or cause to be obtained, insurance coverages described below with insurance carriers AM Best rated, A- or better and with limits not less than those shown below, all of which shall be provided at the sole cost of Outparcel Buyer.

	TYPE OF INSURANCE	MINIMUM LIMITS
I.	Workers Compensation Employer's Liability	Statutory or \$500,000
II.	Commercial General Liability (Including products/completed operations)	Per Occurrence \$2,000,000
III.	Automobile Liability (All owned, non-owned and hired used in connection with the Outparcel)	Combined Single Limit \$1,000,000

Outparcel Buyer shall require that all policies maintained by Outparcel Buyer be endorsed to provide that each underwriter waives its right of subrogation against Owner. In addition, all policies, except workers compensation, shall be endorsed specifically to name Owner as an additional insured and be endorsed to provide that they are primary coverages, not in excess of any other insurance available to Owner. Evidence of such specific endorsements shall be furnished to the Owner prior to commencement of construction.

Outparcel Buyer shall furnish Owner, prior to commencing construction, certificates evidencing that such insurance is in force. The certificates shall provide that in the event of cancellation or material change, thirty (30) days prior written notice shall be given to Owner. If requested to do so by Owner, Outparcel Buyer shall also furnish the originals or certified copies of the insurance policies for inspection. Such policies shall be subject to the reasonable approval of Owner as to adequacy. Should Outparcel Buyer fail procure or to maintain in force the insurance specified herein, Owner may secure such insurance and the cost thereof shall be borne by Outparcel Buyer. Outparcel Buyer agrees to reimburse Owner the cost of any such insurance within ten (10) days after billing by the Owner. Any sum remaining unpaid fifteen (15) days after billing by Owner shall bear interest at the rate of eighteen percent (18%) per annum until paid to Owner.

The insolvency, bankruptcy, or failure of any insurance company carrying insurance for Outparcel Buyer, or the failure of any insurance company to pay claims accruing shall not be held to waive any of the provisions of this Article.

Outparcel Buyer shall maintain workers compensation, commercial general liability and automobile liability insurance as set forth above until certificates of occupancy are issued for all of the Intended Improvements.

ARTICLE V

PERPETUITY OF AGREEMENT

Section 5.1 Perpetual. Except as specifically set forth in this Agreement, the covenants, conditions, restrictions contained herein shall be binding upon the parties hereto and shall be deemed perpetual and construed to run with the land.

Section 5.2 Notices. Any notice required or to be given under this Agreement shall be in writing and shall be deemed to have been given and deposited in the United States Mail, Certified, Return Receipt Requested, postage prepaid, and addressed to the party being notified at the address given below (or such address which any party may designate for itself from time to time hereinafter by written notice to the other parties:

If to Owner:

Colonial Properties Services, Inc.
2101 6th Avenue North
Suite 750

Birmingham, Alabama 35203
Attention: John L. Moss

If to Outparcel Buyer:

Attention: _____

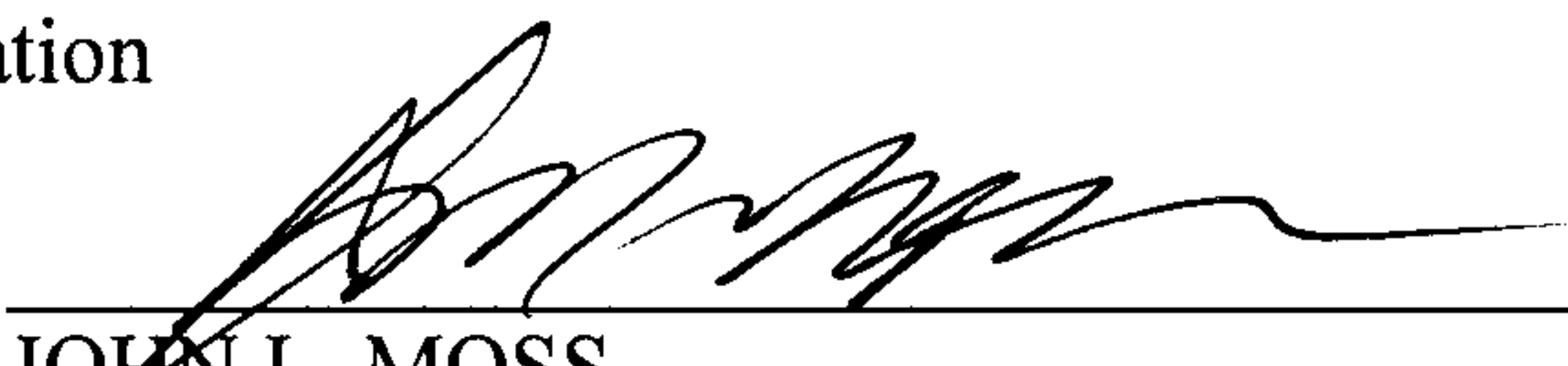
Section 5.3 Term and Endorsement. The restrictions and obligations created and imposed herein shall be effective upon the date hereof, shall run with the land and shall inure to the benefit of and be binding upon the parties, their heirs, executors, administrators, successors, successors-in-title, assigns and tenants, including any ground lessee under a ground lease and the customers, employees and invitees of such parties. Said restrictions and obligations shall be unaffected by any change of the ownership of any property covered by this Declaration or by any change of use, demolition, reconstruction, expansion or other circumstances, except as specified herein. Notwithstanding the recording of this Declaration, any other declarations or covenants and conditions effecting any Parcel hereunder shall remain in full force and effect in accordance with its terms. Each of the rights created hereunder may be enforceable and a court of equity by the owner or landlord of any property covered by this Agreement and by any mortgagee of said property; however, enforcement hereunder shall be solely against the then-owner of the property or of the Parcel (or the owner of an interest in such property or Parcel) or the tenant on such Parcel alleged to be in default hereunder. If either Party must institute an action to enforce any of the rights or obligations contained herein, such Party shall be entitled to all remedies at law or in equity, and the prevailing party shall be entitled to the recourse of all cost of enforcement, including, without limitation, its attorneys fees.

Section 5.4 Severability. In the event any provision or portion of this Agreement is held by any court of competent jurisdiction to be invalid or unenforceable, such holding will not effect the remainder hereof, and the remaining provision shall continue in full force and effect at the same extent as would have been the case had just invalid or unenforceable provision or portion never been a part hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first set above written.

OWNER:

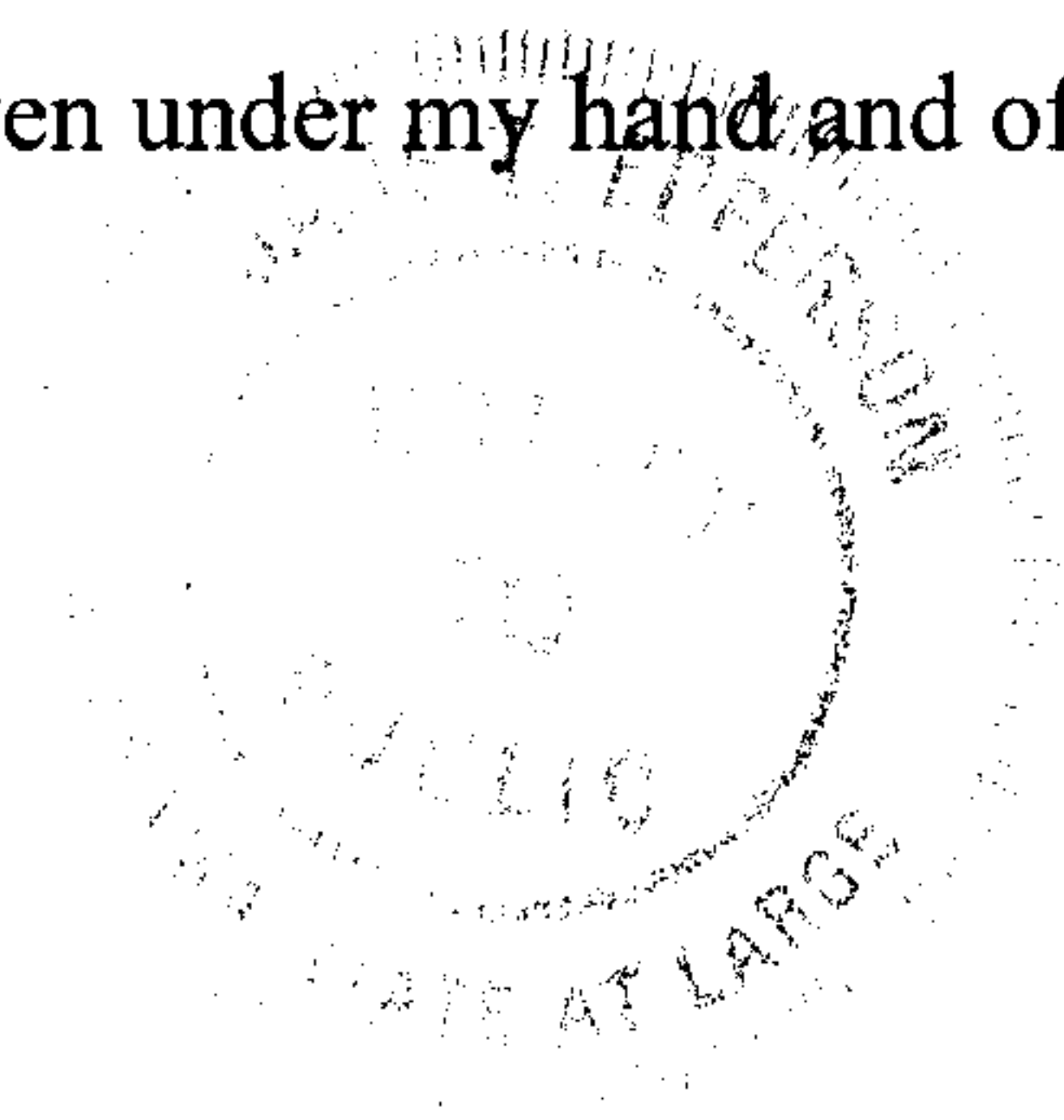
COLONIAL PROPERTIES SERVICES, INC. an Alabama corporation

By: 
Name: JOHN L. MOSS
Its: SENIOR VICE PRESIDENT

STATE OF ALABAMA)
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County, in said State hereby certify JOHN L. MOSS, whose name as SENIOR VICE PRESIDENT of COLONIAL PROPERTIES SERVICES, INC., an Alabama corporation, is signed to the foregoing document and who is known to me, acknowledged before me on this day, that, being informed of the contents thereof, he, as such officer and with full authority, executed the same voluntarily for and on behalf of said corporation.

Given under my hand and official seal this 30 day of August, 2010.



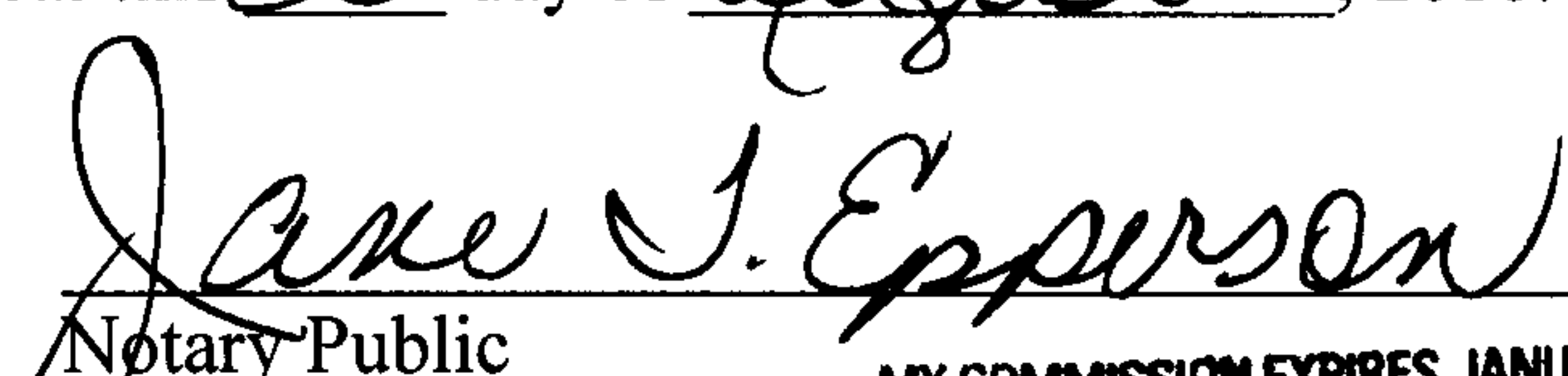

Notary Public
Commission Expires: MY COMMISSION EXPIRES JANUARY 15, 2012

EXHIBIT "A"

OUTPARCEL


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Lot 5, according to the Final Plat of Colonial Promenade, as recorded in Map Book 35, page 102, in the Probate Office of Shelby County, Alabama.



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EXHIBIT "B"

SC PROPERTY

All real property and related rights in the center retained and owned by Owner in the Colonial Promenade shopping center.

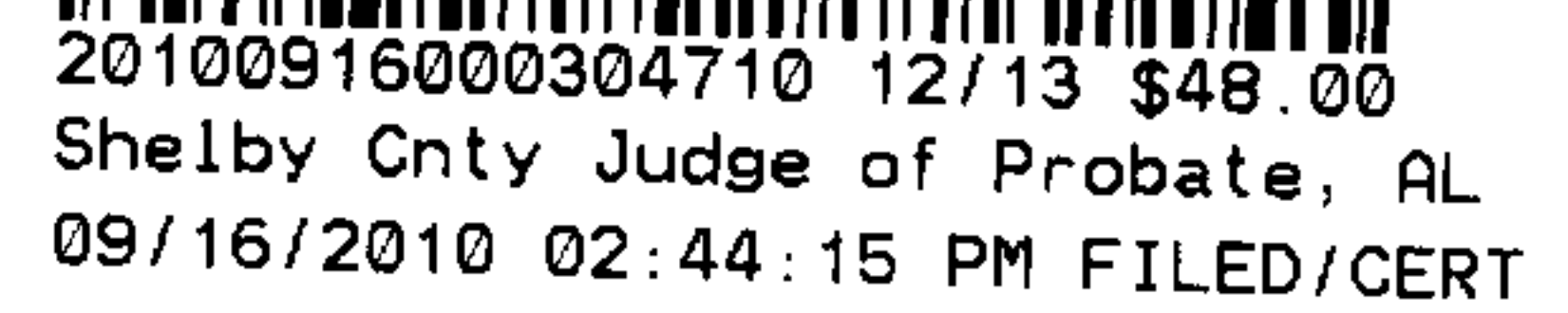


EXHIBIT "C"

PERMISSIBLE BUILDING AREA

The Permissible Building Area shall be the area within the following setbacks applicable to the Outparcel depicted below:

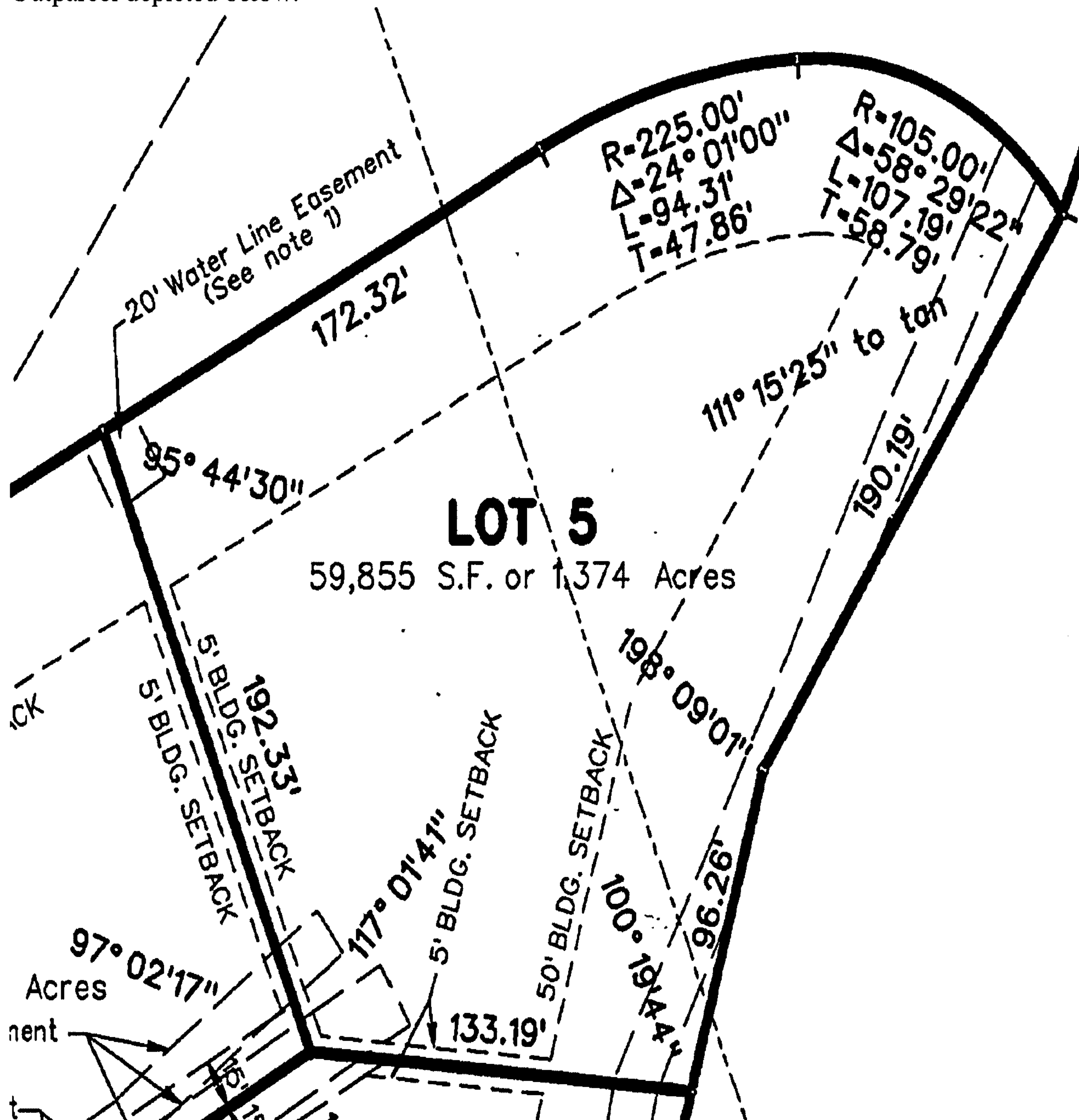


EXHIBIT "D"


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SIGN CRITERIA

1. There shall be no flashing, blinking, rotating, exposed light or moving signs or markers of any type.
2. There shall be no signs painted on the exterior surface of any building, except rear service door identification signs.
3. Intentionally left blank
4. All signs must comply with all applicable city, county and state or other governmental laws, codes and regulations. All signs must also comply with any applicable requirements of the ECR. Owner does not represent any signage otherwise permitted herein is permitted by such laws, codes, regulations or the ECR.