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**DECLARATION OF
EASEMENTS, COVENANTS AND RESTRICTIONS**

THIS DECLARATION is made as of the 13th day of April, 2011, by 447/448 CROSSVILLEROAD, LLC, a Georgia limited liability company ("**Declarant**").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in the City of Roswell, Fulton County, Georgia, more particularly described in Exhibit "A" attached hereto (the "**Master Parcel**"); and

WHEREAS, Declarant is in the process of preparing the Master Parcel to be developed as an integrated retail development (the "**Project**") substantially in accordance with the preliminary site plan attached hereto as Exhibit "B" ("**Site Plan**"); provided, however, that the Site Plan is only preliminary, is subject to change and does not constitute a representation or agreement on the part of Declarant that the Project will be developed in accordance with the Site Plan or that any buildings within the Project will be constructed or remain in the exact size or locations as shown on the Site Plan, except as otherwise provided for herein. Declarant shall have the right, in its sole discretion, to change the size and location of the buildings located on Parcels (as defined below) within the Project that are owned by Declarant.

WHEREAS, Declarant intends to subdivide the Master Parcel into the seven (7) parcels that are designated on the Site Plan as, and hereinafter referred to as, Parcel 1, Parcel 2, Parcel 3, Parcel 4, Parcel 5, Parcel 6 and Parcel 7 (hereinafter collectively referred to as the "**Parcels**" and individually as a "**Parcel**"); and

WHEREAS, Declarant desires to establish and create certain easements, covenants, obligations, and restrictions to facilitate the mutually beneficial development, operation, maintenance and repair of the Project; and

NOW THEREFORE, for and in consideration of the premises and the benefits to be derived by Declarant and each and every successor in title to all or any portion of each Parcel, Declarant hereby declares that the Parcels shall be held, occupied, used, rented, enjoyed, transferred, conveyed, mortgaged, and otherwise encumbered subject to the following covenants, easements, rights and restrictions:

ARTICLE 1 DEFINITIONS

In addition to any terms whose definitions are fixed and defined elsewhere in this Declaration, each of the following terms, when used herein with an initial capital letter, shall have the following meanings:

“**Access Driveways**” means the driveway improvements now or in the future located on the Parcels, which driveways shall provide (i) ingress and egress for the Parcels from the public rights-of-ways adjacent to the Project and (ii) access between the Parcels.

“**Building(s)**” shall mean any permanently enclosed structure placed, constructed or located on a Parcel, which for the purpose of this Declaration shall not include any building appurtenances such as stairs leading to or from a door, transformers, trash containers, corrals or compactors, canopies (including fuel station canopies), supports, loading docks, drive-thru lanes and related facilities, truck ramps, and other outward extensions of such structure.

“**Emergency Work**” shall mean (i) any repair required to prevent an imminent threat of harm to life or property, or (ii) any repair required to prevent a substantial disruption of the operation of an Occupant’s business or required in order for the Occupant to resume such operations.

“**Occupant**” shall mean any individual, partnership, firm, association, corporation, trust, or any other form of entity, including any Owner, from time to time entitled to the use and occupancy of any portion of a building on any Parcel by virtue of ownership thereof or under any lease, sublease, license, concession agreement, or other similar agreement.

“**Owner**” shall mean, as of any time, each fee simple owner of any Parcel.

“**Permittee**” shall mean all Occupants and the officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, guests, invitees, licensees, tenants, subtenants, and concessionaires of Occupants and other persons who have business with Occupants of the Parcels insofar as their activities relate to the permitted use of such Parcels.

ARTICLE 2
EASEMENTS

2.1 Access Easements. Declarant hereby establishes and creates for the benefit of, and as appurtenances to, each Parcel and for the benefit of the Owners thereof from time to time and their respective Permittees, with respect to, and as a burden upon, the other Parcels, a perpetual, non-exclusive right, privilege, and easement for vehicular and pedestrian ingress and egress over, across and through the Access Driveways and any sidewalks located within the Parcels. Notwithstanding anything to the contrary contained herein, drive-thru lanes and any paving located over any underground storage tank(s) or under a fuel station canopy shall be excluded from the grant of easement contemplated in this Section 2.1, provided that no drive thru lanes contained on any parcel shall interfere with the Access Driveways. The foregoing easement rights shall be subject to such traffic control measures and rules and regulations as may be adopted by Declarant upon any parcel owned by Declarant including, without limitation, speed limits and stop signs. Each Owner or Occupant of a Parcel shall have the right to use the Access Driveways for construction traffic directly to and from its respective Parcel, provided that if any such construction traffic damages any Access Driveways, the Owner of the Parcel using the Access Driveways for construction traffic shall promptly repair all such damage. Each Owner shall use commercially reasonable efforts to prevent its construction traffic from interfering with the use and enjoyment of and access to a Parcel by its Permittees.

Each Owner shall have the right to dedicate and convey the Access Driveways, or any portion thereof, located on its Parcel(s) to the appropriate governmental entity for public use following completion of construction of the Access Driveways or applicable portion thereof. Each other Owner shall cooperate and assist in such dedication and shall join in such dedication, if requested, at no cost, however, to such other Owners. Upon such dedication of the Access Driveways, the easement rights set forth herein shall terminate, without the necessity of any further documentation; provided that in the event that only a portion of the Access Driveways are accepted for dedication, the easement rights set forth herein shall remain in full force and effect for any such remaining portion of the Access Driveways not dedicated.

Declarant shall construct the Access Driveways depicted on the Site Plan as "**Critical Access Drives**" in substantially the locations depicted on the Site Plan and thereafter, the Owner of any Parcel containing any Critical Access Drive(s) shall not relocate such Critical Access Drive(s) without the consent of Declarant and the Owners of Parcels 2 and 3, such consent not to be unreasonably withheld or delayed, except an adjacent Owner may withhold its consent in its sole discretion if such adjacent Owner has commenced the construction of improvements on its Parcel. Declarant hereby establishes and creates for the benefit of, and as appurtenances to Parcel 3, and for the benefit of Declarant and the Owner of Parcel 3 from time to time and their Permittees, with respect to, and as a burden upon, Parcel 2, a temporary non-exclusive right, privilege and easement over, on and under those portions of Parcel 2 located within twenty (20) feet of a Critical Access Drive(s) to the extent reasonably required for the construction of the portions of the Critical Access Drives to be constructed on Parcel 2. Declarant hereby establishes and creates for the benefit of, and as appurtenances to Parcel 2, and for the benefit of Declarant and the Owner of Parcel 2, a temporary non-exclusive right, privilege and easement over, on and under those portions of Parcel 3, located within twenty (20) feet of a Critical Access Drive(s) to the extent reasonably required for the construction of the portions of the Critical Access Drives

to be constructed on Parcel 3. Such easements shall automatically terminate upon the completion of the Critical Access Drive(s).

2.2 Utility Easements. Declarant hereby establishes and creates for the benefit of, and as appurtenances to, each Parcel, and for the benefit of the Owners thereof from time to time and their respective Occupants (to the extent such rights are granted by the Owner of a Parcel to the Occupants of its Parcel), with respect to, and as a burden upon, the other Parcels, perpetual non-exclusive rights, privileges and easements in, to, over, under, along and across the other Parcels for the purpose of (i) using, maintaining and repairing the lines and facilities designed for common use and installed by Declarant as a part of the Project infrastructure improvements or otherwise from time to time located within the Project, including but not limited to sanitary sewer, water (fire and domestic), gas, electric, telephone and communication lines and other similar facilities (hereinafter collectively referred to as "**Common Utility Lines**"), and (ii) installing, maintaining, repairing and replacing lines (hereinafter referred to as "**Connecting Lines**") which connect to and extend from such Common Utility Lines or public/third party utility lines and facilities to the improvements from time to time located on such Parcel. Common Utility Lines and Connecting Lines include, but are not limited to, the Common Utility Lines and Connecting Lines depicted on Exhibit "C" attached hereto. Such easement rights shall be subject to the following provisions as well as the other provisions contained in this Declaration:

2.2.1 All Connecting Lines installed within the Project shall be underground unless otherwise agreed by the Owner of the Parcel on which such Connecting Lines are installed. All such Connecting Lines shall be located in a location reasonably approved by the Owner whose Parcel is to be burdened thereby, and, in any case, shall be located outside of any building area and outside of any area underneath a fuel station canopy, and shall not interfere with any Owner's access to and use of any underground storage tank(s). The easement area related to any Connecting Lines pursuant hereto shall be no larger than whatever is necessary to reasonably satisfy the utility company, as to a public utility, and five (5) feet on each side of the centerline as to a private line, or as otherwise agreed to by the affected parties.

2.2.2 Any Owner connecting to Common Utility Lines located on the Parcel of another party pursuant to this Section 2.2.2 (i) shall provide at least thirty (30) days prior written notice to the Owner of the Parcel on which such Connecting Lines are to be located of its intention to do such work, (ii) shall pay all costs and expenses with respect to such work, (iii) shall cause all work in connection therewith (including general clean up and surface and/or subsurface restoration) to be completed using first class materials and in a good and workmanlike manner as quickly as possible and in a manner so as to minimize interference with the conduct or operation of the business of the Owner whose Parcel is affected or any Occupant of such Owner's Parcel, (iv) shall not interrupt, diminish, or otherwise interfere with, or increase the cost of, the utility services to the other parties served by such Common Utility Lines, (v) shall obtain all necessary permits, licenses and approvals required for connection to existing Common Utility Lines on the other Parcel, including, without limitation the approval of any applicable utility company or governmental agency or authority regarding the capacity of any existing Common Utility Lines to accommodate additional usage, and shall comply in all respects with all applicable governmental laws, regulations, and requirements, (vi) shall promptly, at its sole cost and expense, clean the area and restore the affected portion of the other

Parcel to a condition equal to or better than the condition which existed prior to the commencement of such work, including the replacement of any affected paved or landscaped areas, (vii) except in the case of the installation of Connecting Lines on the Parcel of another party prior to completion of the initial construction of improvements on the Parcel of such other party, shall cause such work to be done after normal business hours whenever possible and otherwise as quickly as possible and in such manner as to cause as little disturbance in the use of the Parcel affected as is practicable under the circumstances, (viii) shall not impair storm water drainage from the other Parcel, and (ix) shall indemnify and hold the Owner of the Parcel on which such Connecting Lines are installed and any Occupants thereof harmless from and against any claims, liens, actions, demands, damages, losses, injuries or expenses, including, without limitation, reasonable attorneys fees, which may result from any such work, except to the extent any of the foregoing is caused by the negligence of the indemnified Owner or Occupant.

2.2.3 Each Owner shall have the right at any time, and at its sole cost and expense, to relocate elsewhere within its Parcel any such Common Utility Line serving another Parcel and any Connecting Line, provided that such relocation shall be performed only after thirty (30) days written notice of such intention to so relocate shall be given to each party which is served by such Common Utility Line or Connecting Line, and provided such relocation:

2.2.3.1 shall not interrupt the normal business activities or peaceful enjoyment of the parties served by such Common Utility Line, diminish, or otherwise interfere with, or increase the cost of, the utility services to the parties served by such Common Utility Line;

2.2.3.2 shall not reduce or impair the usefulness or function of such Common Utility Line or Connecting Line;

2.2.3.3 shall be performed without cost or expense to the parties served by such Common Utility Line;

2.2.3.4 shall be completed in a good and workmanlike manner using materials and design standards which equal or exceed those originally used;

2.2.3.5 shall not interrupt other utility services to other Parcels or unreasonably interfere with the use of other Parcels or with the conduct or operation of the business or peaceful enjoyment of any other Owner or Occupant;

2.2.3.6 shall be performed in compliance with all applicable governmental laws, regulations and requirements;

2.2.3.7 shall not impair storm water drainage from any other Parcel;

2.2.3.8 shall not substantially impair access to or use of the Access Driveways; and

2.2.3.9 shall not disrupt the conduct or operation of the business of any other Owner or Occupant during normal business hours.

Documentation of the relocated easement area shall be at the expense of the Owner undertaking such relocation and shall be accomplished as soon as possible. The Owner of the Parcel served by such relocated utility shall have a right to require an as built survey of such relocated utility be delivered to it at the relocating party's expense.

2.2.4 The Owner of each Parcel shall be responsible for all connection charges, user fees, tap on fees, and similar fees and charges imposed by utility companies or governmental agencies or authorities as a result of the connection of any such Connecting Line to any Building located upon such Owner's Parcel.

2.2.5 All easements for maintenance and repair contained herein shall be used by an Owner only in connection with the exercise of the self-help rights contained in Article 6 and/or the maintenance rights and obligations contained in Article 3 of this Declaration.

2.2.6 The Owner of any Parcel on which such Common Utility Lines are located shall have the right to dedicate and convey to appropriate governmental entities and public utility companies for public use any Common Utility Lines installed pursuant to this Section 2.2.6, provided any such dedication or conveyance shall not adversely affect the use and enjoyment of such Common Utility Lines by the Owner and Occupants of the other Parcels, and to grant any other easements or licenses to such appropriate governmental entities and public utility companies with respect to such Owner's Parcel as are reasonably necessary or desirable for obtaining adequate utility service for the benefit of such Owner's Parcel, provided such easements and licenses shall not interfere with the use and enjoyment of the other Parcels. The Owners of the other Parcels shall cooperate and assist such other Owner and shall join in and consent to such dedications and conveyances if requested by other such other Owner at no cost, however, to any such parties, provided the consenting Owner has no reasonable objection to such dedication or conveyances.

2.3 Storm Water Draining Easements.

2.3.1 Declarant, for the benefit of each Owner and as appurtenances to each Parcel, hereby declares, establishes, creates and grants a non-exclusive perpetual easement on, over, under, across, in and through the drainage facilities that exist from time to time on, over, across, in and through all parts of the Project, including, without limitation, pipes, lines, natural courses and detention facilities, detention ponds, retention facilities, and retention ponds (including the Pond as defined in Section 7.2) ("**Drainage Facilities**"), for the drainage through or into such drainage lines and facilities of storm and surface water runoff from the Project and for the maintenance and repair of the Drainage Facilities.

2.3.2 Subject to an Owner's compliance with the other provisions of this Declaration, an Owner may relocate any common Drainage Facilities on its Parcel; provided, however, that

(i) any such relocation shall be performed only after thirty (30) days written notice of such intention to so relocate shall be given to each party which is served by such Drainage Facilities;

(ii) any such relocation shall be completed in a good and workmanlike manner and shall be performed in compliance with all applicable governmental laws, regulations and requirements;

(iii) any such relocation shall not materially disrupt the conduct or operation of the business of any other Owner or Occupant during normal business hours;

(iv) any such relocation of common Drainage Facilities will be at the sole cost and expense of such Owner;

(v) the use of common Drainage Facilities by any Owner will not be limited or interrupted by any such relocation;

(vi) the cost of the use of common Drainage Facilities by any Owner will not be increased as a result of any relocation;

(vii) the party performing such relocation shall provide copies of the plans and specifications detailing such relocation, upon the request of any affected Owner;

(viii) the present or future use of any such relocated Drainage Facilities by any Owner shall not be limited in volume or concentration to amounts or levels that are less than that of the common Drainage Facilities existing prior to the relocation, and no Owner or its Parcel shall be rendered noncompliant with any applicable laws, codes, ordinances, regulations or permits as a result of such relocation; and

(ix) the party performing such relocation shall indemnify and hold any Owner utilizing the Drainage Facilities to be relocated harmless from and against any claims, actions, demands, damages, losses, injuries or expenses, including, without limitation, reasonable attorneys fees', which may result from any such work, except to the extent any of the foregoing arise from the negligence of the indemnified Owner.

2.4 Parking Easements. This Declaration is not intended to, and does not, create for the benefit of any Parcel or any Permittee thereof any right, license or easement for parking purposes upon another Parcel.

ARTICLE 3 MAINTENANCE AND REPAIR

3.1 Utilities and Drainage Facilities.

(a) Each Owner shall maintain and repair at its sole cost and expense any Common Utility Lines and storm drainage line or facility which exclusively serve such Owner's Parcel (whether located on such Owner's Parcel or another Parcel) that is not dedicated and accepted for maintenance by the appropriate public utility and/or governmental body. In the event that any Common Utility Lines or storm drainage line or facility serve more than one Parcel, the Owner of any Parcel being served by such Common Utility Lines or storm drainage line or facility may conduct the maintenance and repair of such Common Utility Lines and storm drainage line or facility, and the actual and reasonable costs for such maintenance and repair

shall be shared pro rata based on the acreage of the Parcels being served by such Common Utility Lines or storm drainage line or facility.

(b) To the extent that any undedicated utility line or facility, including, without limitation, Connecting Lines, or any undedicated storm drainage line or facility exclusively serves an individual Parcel and is located on another Parcel, the Owner of the Parcel served by such utility or drainage line or facility shall maintain and repair such line or facility at its sole cost and expense.

(c) Any maintenance and repair of undedicated utility or storm drainage lines located within another Owner's Parcel shall be performed only after thirty (30) days notice to the Owner of the applicable Parcel (except Emergency Work may be initiated with reasonable notice) and shall be done after normal business hours whenever possible and otherwise in such manner as to cause as little disturbance in the use of such other Owner's Parcel and the business or businesses operated thereon as is practicable under the circumstances. Any party performing or causing to be performed maintenance or repair work hereunder agrees to promptly pay all costs and expenses associated therewith, to diligently complete such work as quickly as possible, to comply in all respects with all applicable governmental laws, regulations and requirements, to promptly clean the area and restore the affected portion of the other Owner's Parcel to a condition equal to or better than the condition which existed prior to the commencement of such work, and to indemnify and hold the Owner of any Parcel on which such utility lines are located and any Occupants thereof harmless from and against any claims, actions, demands, damages, losses, inquiries or expenses (including, without limitation, reasonable attorneys' fees) which may result from any such activities, except to the extent any of the foregoing result from the negligence of the indemnified Owner or Occupant.

3.2 Maintenance and Repair of Improvements. After completion of construction of any Building on a Parcel, unless otherwise provided in Section 7.2, the Owner of such Parcel shall be responsible for the maintenance, repair, and replacement of the Access Driveways, sidewalks, walkways, parking areas, curbing, landscaped areas, and lighting facilities located on its Parcel and shall maintain all such improvements in a safe, clean, sightly, good and functional commercially reasonable condition and state of repair. The minimum standard of maintenance for such improvements shall be comparable to the commercially reasonable standards of maintenance followed in comparable commercial developments in the Atlanta metropolitan area. Without limiting the generality of the foregoing and subject to Section 7.2, each Owner shall perform or cause to be performed the following specific items of maintenance and upkeep with respect to the outside areas located within its respective Parcel after completion of construction of any Building on its Parcel:

(a) keeping and maintaining all paved surfaces, including all sidewalks, walkways, Access Driveways, parking surfaces, and curbing related thereto, in good order and repair and in a safe condition, patching, restriping, repairing and resurfacing such areas when appropriate;

(b) removing papers, debris, filth, refuse, ice and snow, and sweeping all sidewalks, walkways, Access Driveways, parking surfaces, and curbing related thereto, to the

extent necessary to keep such areas in a commercially reasonable, clean, neat and orderly condition;

(c) mowing and otherwise maintaining and tending all landscaped and planted areas, and promptly removing and replacing diseased or dead shrubs and other landscaping as necessary;

(d) operating, maintaining and repairing any light poles and concrete standards, including replacement of light bulbs; and

(e) keeping the drainage improvements and all storm water drainage lines and facilities in good operating condition and state of repair and free of debris and other obstructions, and keeping all retention ponds reasonably free of algae and otherwise in a sightly and odorless condition.

Until such time as a Parcel is developed and improved, the Owner thereof shall keep the same in a clean and sightly condition.

3.3 Construction Obligations.

(a) In connection with the construction of improvements upon its Parcel, each Owner shall regularly clean, as reasonably needed, the Access Driveways used by its construction vehicles of mud, dirt and construction debris resulting from its construction, and upon completion of such construction activity shall promptly restore any affected Access Driveways to a condition which is equal to or better than the condition which existed prior to the commencement of such work.

(b) If in the course of any construction activity, including, but not limited to, activity to establish a utility hook-up to improvements constructed upon a Parcel, any existing utility lines, drainage lines or facilities, streets, curbs or other improvements are damaged or, in the case of utility or drainage lines, blocked in any way, the Owner conducting such construction shall, at its sole cost and expense, restore or repair such lines, facilities, streets, curbs or other improvements to a condition at least as good as existed prior to the damage or blockage, and shall pay any reasonable cost or expenses incurred by any person other than such Owner arising from or as a result of such damage or blockage.

3.4 Condemnation. In the event any Common Utility Lines or drainage lines or facilities are taken by condemnation or conveyance in lieu thereof, the Owner of the Parcel on which such common lines or facilities are located shall with all due diligence, at its sole cost and expense (except as provided below), restore the remaining lines and facilities located within its Parcel to a functional condition, compatible and integrated with and complementary to the remaining Common Utility Lines or drainage lines and facilities; provided, however, no Owner shall be required to spend an amount in excess of any condemnation proceeds it received for such lines or facilities. Notwithstanding the foregoing, in the event any Owner obtains a condemnation award for its interest in any Common Utility Lines or drainage lines or facilities taken by condemnation or conveyance in lieu thereof and located on another Owner's Parcel, then such condemnation award shall be contributed on a pro rata basis toward the restoration of such lines or facilities as provided above.

3.5 Damage or Destruction of Common Utility and Drainage Lines. In the event any Common Utility Line or any common storm drainage line or facility is damaged or destroyed by event of casualty, the Owner of the Parcel on which such Common Utility Lines or common storm drainage lines or facilities are located shall repair or restore, or cause to be repaired or restored, such lines and facilities to their prior condition with all due diligence; provided, however, no Owner shall be required to spend an amount in excess of its insurance proceeds.

3.6 Damage or Destruction of Other Improvements. Except as otherwise provided in Section 3.5 above, in the event any Building or other improvements upon any Parcel are damaged by fire or other casualty (whether insured or not), the Owner upon whose Parcel such improvements are located promptly shall remove the debris resulting from such event and provide a sightly barrier, and within a reasonable time thereafter shall either (i) repair or restore the improvements so damaged, (ii) erect other improvements in such location, (iii) restore any remaining improvements to an architectural whole, demolish any unrestored improvements, remove all debris, and pave or grass and otherwise restore the area to a neat, orderly, sanitary and attractive condition, or (iv) demolish all improvements, remove all debris, and pave or grass and otherwise restore the area to a neat, orderly, sanitary and attractive condition.

ARTICLE 4 INSURANCE AND INDEMNIFICATION

4.1 Casualty Insurance. Each Owner shall obtain and keep in full force and effect at all times, to the extent obtainable, "special form," "all-risk," FLEXA or equivalent property insurance on the improvements located on its Parcel(s) in an amount equal to one hundred percent (100%) of the insurable replacement cost of such improvements, with the proceeds of such insurance to be used for repair and replacement pursuant to Article 3 hereof. Such insurance shall include a waiver of subrogation rights against the other Owners. Each Owner may satisfy the foregoing requirement through self insurance so long as the Owner maintains a net worth of not less than \$100,000,000.00, such net worth to be evidenced by current financial statements certified by a duly authorized officer of such Owner.

4.2 Indemnification. Subject to the terms of Section 4.4 below, each Owner shall indemnify and hold every other Owner and Occupant harmless (except for loss or damage resulting from the tortious acts of such other parties) from and against any claims, actions, demands, liabilities, injuries, losses and expenses (including reasonable attorneys' fees) in connection with the loss of life, personal injury and/or damage to property arising from or out of any occurrence in or upon such indemnifying Owner's Parcel, or occasioned wholly or in part by any act or omission of said indemnifying Owner, its tenants, agents, contractors, employees or licensees.

4.3 Liability Insurance. (a) Each Owner shall maintain or cause to be maintained public liability insurance insuring against claims on account of loss of life, bodily injury or property damage that may arise from, or be occasioned by the condition of such Owner's Parcel or the improvements located thereon, or by the acts of such Owner or the tenants, agents, contractors, employees, licensees, customers and invitees of such Owner or the Occupants of its Parcel, except as otherwise herein provided. Such insurance shall name the other owner(s) as additional insured(s) and shall be on an occurrence basis with a single per occurrence liability

limit of not less than \$2,000,000.00, which limit may be met through a combination of primary, umbrella, or excess coverage. Any insurance required to be carried hereunder may be carried (i) under a "blanket" policy or policies covering other properties of the Owner and its subsidiaries, controlling or affiliated entities, or (ii) through self insurance so long as the Owner (or the entity that owns a controlling interest in the Owner) maintains a net worth of not less than \$100,000,000.00. Each Owner shall, upon written request from another Owner, furnish to the Owner making such request certificates of insurance or, in the case of self insurance, an affidavit from one of its officers which states that at the time of the written request the self-insuring Owner has a net worth of not less than \$100,000,000.00.

4.4 Mutual Waivers of Recovery; Waiver of Subrogation. Each Owner and all parties claiming under them, each mutually releases and discharges each other Owner from responsibility for that portion of any loss or damage paid or reimbursed by an insurer of an Owner under any fire, extended coverage, all risk, causes of loss-special form or other property insurance policy maintained by such Owner with respect to its Parcel (or which would have been paid had any commercial general liability insurance required to be maintained hereunder been in full force and effect), no matter how caused, including negligence, and each Owner waives any right of recovery from the other Owners, including claims for contribution or indemnity, which might otherwise exist on account thereof. Any fire, extended, all risk, causes of loss-special form coverage or property insurance policy maintained by an Owner with respect to its Parcel shall contain a waiver of subrogation provision or endorsement in favor of the other Owners, or if such insurers cannot or shall not include or attach such waiver of subrogation provision or endorsement, such Owner shall obtain the approval and consent of its insurers, in writing, to the terms of this Declaration. The mutual releases, discharges and waivers contained in this provision shall apply even if the loss or damage to which this provision applies is caused solely or in part by the negligence of an Owner.

ARTICLE 5 DEVELOPMENT AND USE RESTRICTIONS

5.1 Use Restrictions. Without the prior written consent of Declarant, no Parcel shall be used for any of the following purposes and none of the following conditions shall be permitted on any Parcel:

(a) Except for Parcel 3, a retail food store; the term "retail food store" shall include, without limitation a supermarket, meat market, grocery store, fruit and vegetable store or stand, frozen or otherwise processed food store and any store where more than fifty (50) food items are sold for off-premises consumption; "retail food store" shall not include a delicatessen, drug store or any restaurant or lunch room wherein prepared food is sold for on-premises consumption or for "take-out" consumption; further, no Parcel shall be owned, controlled, leased, used or occupied for the conduct of a food market or food department in any department store or variety store; any such department store or variety store using or occupying any Parcel shall refrain from conducting thereon a food department or food market, but may operate a restaurant, lunch room or counter and may deal in candies. The term "owned" shall also include any indirect ownership as through partnership, land trust, corporations and the like. The terms

“retail food store”, “food market”, and “food department” shall not include a motor fuel station that also operates an ancillary convenience store (e.g. a RaceTrac) on Parcel 2.

(b) Except for Parcel 2, a retail outlet for motor fuels and/or a convenience store, and, except with respect to the business on Parcel 2, advertising of a retail outlet for motor fuels and/or a convenience store.

(c) Any dry cleaning establishment; provided, however, this restriction shall not apply to (i) an establishment for dry cleaning drop-off and pick-up only, with no cleaning services being performed on the subject Parcel or (ii) a dry cleaning establishment which complies with all environmental laws, regulations and standards that may exist from time to time;

(d) Any use which is illegal or dangerous, which constitutes a public or private nuisance, or which creates vibrations or offensive odors, fumes, dust or vapors, other than normal cooking odors or odors in connection with the lawful operation of a motor fuel station, which are noticeable outside of any Building in the Project, or any noise or sound which can be heard outside of any Building in the Project and which is offensive due to intermittency, beat, frequency, shrillness or loudness;

(e) Any exterior flashing lights, strobe lights, search lights, or video screens (provided that interior video screens shall not be restricted provided they are not mounted so as to be primarily visible from the exterior);

(f) Any operation primarily used as a warehouse operation (which shall not include storage incidental to a retail operation constructed on the same premises), any drilling or mining for and/or removal of subsurface conditions, any manufacturing or industrial operation, any processing or rendering plant, or any lumber yard;

(g) The storage of explosives or other unusually hazardous materials (other than materials sold or used in the normal course of business, provided that the same are handled in accordance with all governmental rules, regulations, and requirements applicable thereto);

(h) Any mobile home park, trailer court, labor camp, junkyard, stockyard or animal raising operation (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction, or maintenance);

(i) Any dumping, disposing, incineration, or reduction of garbage (exclusive of garbage dumpsters or compactors which are screened from public view);

(j) Any distillation, refining, smelting, industrial or agricultural operation;

(k) Any mobile, truck, boat, trailer, RV or other motorized vehicle sales, rental, or leasing;

(l) Any funeral parlor or mortuary;

(m) Any adult book store or establishment selling or exhibiting pornographic materials;

(n) Any massage parlor (provided that nothing herein shall restrict massage services in connection with the operation of a physical therapy clinic or health care facility or upscale spa services) or any establishment selling or exhibiting paraphernalia for use with illicit drugs, or any so-called "head shop";

(o) Any off-track betting parlor or other gambling establishment; provided lottery sales departments incidental to the operation of a permitted use shall be permitted to the extent operated, or authorized by the appropriate governmental authority;

(p) Any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation (but this provision shall not restrict the absolute freedom of any Owner or Occupant to determine its own selling prices, nor shall it preclude the conduct of periodic seasonal, promotional or clearance sales or legitimate going out of business sales not to exceed thirty (30) days);

(q) Any hotel or motel, or any living quarters, sleeping apartments, or lodging rooms;

(r) Any kiosk or other like-kind structure (except an ATM or banking kiosk or other like-kind structure);

(s) Any pawn shop, flea market, "second hand," "surplus," used clothing, or "thrift" store, liquidation outlet, auction hall or tent sale;

(t) Any cinema or theater;

(u) Any pool or billiard hall (unless operated as part of a large scale family recreation or entertainment facility), bingo parlor, video game parlor or amusement arcade; or

(v) Any nightclub, discotheque or dance hall.

5.2 Parcel Development Restrictions. Any Building or other structure erected on a Parcel shall (i) not exceed thirty-five (35) feet in height (measured from finished floor elevation to the midpoint of the roof line); and (ii) otherwise comply with all governmental rules, regulations, ordinances and laws. In addition, the Parcels shall have on-site, on-grade parking ratios not less than the minimum number of vehicle parking spaces required under the applicable governmental laws, rules, or regulations, without regard for any variance or special exception therefrom. In the event of a condemnation or appropriation by exercise of the power of eminent domain of a portion of a Parcel, or sale or transfer thereof in lieu of such condemnation or appropriation, that reduces the number of parking spaces below that which is required herein, the Owner of the affected Parcel shall use its best efforts (without unreasonable expense and without impact upon the business conducted on the affected Parcel) to restore and/or substitute parking spaces in order to comply with the parking requirements set forth herein. If such compliance is not possible (or imposes unreasonable expense or impact on the conduct of business), such

Owner shall not be deemed in default hereunder, but shall not be permitted to expand the amount of heated floor area located on the subject Parcel.

5.3 Use of Parcel 2. Notwithstanding anything in this Declaration to the contrary, but subject to the terms of Section 5.1 above, Declarant hereby acknowledges that Declarant expressly intends to permit all current and future uses of Parcel 2 for the conduct of a retail convenience store and motor fueling station, including, without limitation, any use which could reasonably be expected to be conducted by such businesses in the future. Without limiting the generality of the foregoing, and notwithstanding anything herein to the contrary (subject to Section 5.1 above), the following shall be expressly permitted on the Parcel 2: (i) a twenty-four (24) hour motor fuel station and convenience store using Parcel 2 Owner's most favored design (provided initial construction is consistent with the design approved by Declarant pursuant to that certain Real Estate Purchase Contract between Declarant and Del Lago Ventures, Inc., dated as of June 30, 2010) allowing the sale of beer and wine, the operation of a fast food outlet, and the sale, storage and use of motor fuels and petroleum products, (ii) as long as a convenience store is operated on Parcel 2, the sale of adult-oriented or pornographic material (notwithstanding the restriction contained in Section 5.1(m) above), provided such sale is lawful in the jurisdiction in which the Project is located, is in connection with the operation of a convenience store and does not exceed 100 square footage of display area, (iii) lottery sales and (iv) the outdoor storage and sale of merchandise in connection with the operation of a motor fuel station and convenience store.

5.4 Structure and Signage Restrictions for Parcels 1 and 3. Notwithstanding anything to the contrary herein, the following restrictions shall apply to Parcels 1 and 3:

(i) no Building or vertical man-made structure (specifically excluding lighting, directional/traffic signage, and horizontal structures such as curbs, gutters, paving, sidewalks, utilities, etc.) shall be erected on Parcel 1 or Parcel 3, in an area bounded as follows: (a) one hundred (100) feet from any boundary of Parcel 2 and (b) fifty (50) feet from Mansell Road and/or Crossville Road (as applicable);

(ii) no sign shall be erected on Parcel 1 or Parcel 3 in an area bounded as follows: (a) seventy-five (75) feet of any boundary of Parcel 2 and (b) fifty (50) feet from Mansell Road; and

(iii) no sign shall be erected on Parcel 1 or Parcel 3, in an area bounded as follows: (a) thirty-five (35) feet of any boundary of Parcel 2 and (b) fifty (50) feet from Crossville Road.

ARTICLE 6 ADMINISTRATION AND ENFORCEMENT

6.1 Default.

(a) If the Owner of any Parcel, including Declarant, fails to comply or fails to cause any Occupant of its Parcel to comply with any provision herein (a "**Defaulting Owner**"), then any other Owner adversely affected thereby (an "**Affected Owner**") at its option and with thirty (30) days prior written notice, in addition to any other remedies it may have in law or equity (subject to the limitations of Section 6.2), may proceed to perform such defaulted

obligation on behalf of such Defaulting Owner (and shall have a license to do so) by the payment of money or other action for the account of the Defaulting Owner. The foregoing right to cure shall not be exercised if within the thirty (30) day notice period (i) the Defaulting Owner cures the default, or (ii) if curable, the default cannot be reasonably cured within that time period but the Defaulting Owner begins to cure such default within such time period and diligently pursues such action to completion. The thirty (30) day notice period shall not be required if an emergency exists or if such default causes interference with the construction, operation or use of the Affected Owner's Parcel which requires immediate attention, and in such event, the Affected Owner shall give whatever notice to the Defaulting Owner is reasonable under the circumstances.

(b) Within ten (10) days of written demand therefor (including providing copies of invoices reflecting costs) the Defaulting Owner shall reimburse the Affected Owner for any sum reasonably expended by the Affected Owner due to the default or in correcting the same, together with interest thereon at the lesser of (i) 2% per annum in excess of the prime rate from time to time publicly announced by SunTrust Bank, or (ii) the highest rate permitted by law to be paid on such type of obligation (the lesser of the foregoing rates being herein referred to as the "**Delinquency Rate**"), and, if such reimbursement is not paid within said ten (10) days and collection is required, the Affected Owner's reasonable and actual costs of collection.

(c) Any claim of the Owner of any Parcel for reimbursement, together with interest accrued thereon and collection costs as aforesaid, shall be secured by an equitable charge and lien on the Parcel of the Defaulting Owner and all improvements located thereon. Such lien shall attach and be effective from the date of recording of the Lien Notice (as defined below). Upon such recording, such lien shall be superior and prior to all other liens encumbering the Parcel involved, except that such lien shall not be prior and superior to any mortgages or security deeds of record prior to the recording of such Lien Notice or any renewal, extension or modification (including increases) of such prior recorded mortgages or security deeds, or to the interest of any party which has, prior to the recording of such Lien Notice, purchased the subject property and leased it back to the preceding owner, or its subsidiary or affiliate, on a net lease basis with the lessee assuming all obligations thereunder in what is commonly referred to as a "sale-leaseback" transaction; and any purchaser at any foreclosure sale (as well as any grantee by deed in lieu of foreclosure) under any such mortgage or deed to secure debt shall take title subject only to liens accruing pursuant to this Section 6.1(c) after the date of such foreclosure sale or conveyance in lieu of foreclosure. Furthermore, the right of possession and leasehold interest or tenancy of any tenant or subtenant of any Parcel encumbered by any lien accruing pursuant to this Section 6.1 shall not be terminated, affected or disturbed by such lien or any foreclosure thereof nor shall any such lien attach to any existing leasehold interest in any Parcel or any leasehold improvements existing on any Parcel prior to the recording of any such Lien Notice. To evidence such lien the owner curing the default of a Defaulting Owner, the Owner performing such maintenance, or Declarant, as the case may be, shall prepare a written notice ("**Lien Notice**") setting forth (i) the amount owing and a brief statement of the nature thereof; (ii) the Parcel to which the payments relate; (iii) the name of the Owner or reputed Owner of the Parcel involved; and (iv) reference to this Declaration as the source and authority for such lien. The Lien Notice shall be signed and acknowledged by the Owner desiring to file the same and shall be recorded in the appropriate records of Fulton County, Georgia. A copy of such Lien Notice shall be mailed to the Owner or reputed Owner in default contemporaneously with such

recording. Any such lien may be enforced by judicial foreclosure upon the property to which the lien attached in like manner as a mortgage on real property is judicially foreclosed under the laws of Georgia. In any foreclosure, the Owner whose property is being foreclosed shall be required to pay the reasonable, actual costs, expenses and attorneys' fees in connection with the preparation and filing of the Lien Notice as provided herein, and all reasonable costs and reasonable, actual attorneys' fees in connection with the foreclosure. The Owner filing such Lien Notice shall notify any mortgagee of the property being foreclosed if such Owner has been notified of such mortgagee's interest in the manner herein provided and of its name and address.

(d) In the event any Owner shall institute any action or proceeding against Declarant or any other Owner relating to the provisions of this Declaration, or to collect any amounts owing hereunder, or an arbitration proceeding is commenced by agreement of the parties to any dispute, then and in such event the unsuccessful litigant in such action or proceeding shall reimburse the successful litigant therein for all reasonable costs and expenses incurred in connection with any such action or proceeding and any appeals therefrom, including reasonable attorneys' fees and court costs, to the extent permitted by the terms of any final order, decree, or judgment.

(e) Except as provided in Section 6.2 below, any remedies provided for in this Section 6.1 are cumulative and shall be deemed additional to any and all other remedies to which any party may be entitled in law or in equity and shall include the right to restrain by injunction any violation or threatened violation by any party of any of the terms, covenants, or conditions of this Declaration and by decree to compel performance of any such terms, covenants, or conditions, it being agreed that the remedy at law for any breach of any such term, covenant, or condition is not adequate.

6.2 Limitation of Liability. Notwithstanding anything contained in this Declaration to the contrary, in any action brought to enforce the obligations of the Owner of any Parcel, any money judgment or decree entered in any such action shall, to the extent provided by law, be a lien upon and shall be enforced against and satisfied only out of (i) the proceeds of sale produced upon execution of such judgment and levy thereon against such Owner's interest in its Parcel and the improvements thereon, (ii) the rents, issues or other income receivable from such Owner's Parcel, and (iii) insurance and condemnation proceeds with respect to such Owner's Parcel, and no Owner shall have personal or corporate financial liability for any deficiency; provided all Owners shall be entitled to obtain equitable relief, and to obtain personal judgment necessary to implement the relief (as used here, "equitable relief" does not include a claim for damages even if based on equitable grounds).

6.3 Certificates of Compliance. Within twenty (20) days following written request by any Owner or Occupant of a Parcel, each other Owner shall issue to the requesting Owner or Occupant or to a prospective or existing lender of such requesting Owner or to a prospective successor in title to such requesting Owner, a certificate in recordable form stating whether the Owner to whom the request has been directed has given any notice to the requesting Owner of any default or violation of the terms and conditions of this Declaration, and if there are such defaults or violations of which such notice has been given and which remain uncured, specifying the nature thereof. If an Owner does not deliver a certificate of the type described in this Section 6.3 within fifteen (15) days after any such written request, then the requesting party shall

be entitled to execute and deliver such a certificate on behalf of such Owner confirming that no default or violation exists.

6.4 Assignment of Declarant's Rights. Any and all of the rights, powers and reservations of Declarant herein contained may be assigned by Declarant to any person, corporation, limited liability company, trust, association or other entity which succeeds to ownership of any Parcel and which agrees to assume any or all of the duties of Declarant hereunder. To be effective, such assignment must be in writing and in recordable form and specifically refer to the rights, powers and reservations of Declarant hereunder which are being assigned. Upon acceptance of such assignment by any such person or entity, said assignee shall, to the extent of such assignment, assume Declarant's duties hereunder and shall have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein. Upon such assignment, and to the extent thereof, Declarant shall be relieved from all liabilities, obligations, and duties hereunder arising from and after the date of such assignment. The term "**Declarant**," as used herein, includes all such assignees and their heirs, successors and assigns.

Anything contained elsewhere in this Declaration to the contrary notwithstanding, the mere conveyance or transfer of ownership of any Parcel by Declarant to any person or party, whether by deed or other instrument of conveyance, shall in no way convey any right, power or reservation of Declarant hereunder.

ARTICLE 7 MISCELLANEOUS

7.1 Notices. Every notice, demand, consent, approval, or other communication required or permitted to be given to any Owner shall be in writing and shall be given, delivered, or served, either by hand delivery, by recognized overnight courier service with receipt, or by certified U.S. mail, return receipt requested, addressed to the intended recipient at the address most recently furnished by such Owner for the giving of notices hereunder. In the event of a sale of any Parcel, either the Owner selling such Parcel or the new Owner of such Parcel shall give written notice to the Owners of each other Parcel of the name and address of such new Owner. Until such time as any Owner shall receive such a notice of the address of a new Owner, the previous Owner or, if no such previous Owner is known, Declarant shall be deemed to be the agent for such new Owner for purposes of notices hereunder. For purposes hereof, until changes are provided as hereinabove described, all notices shall be given to the following addressees:

If to Declarant:	447/448 Crossvilleroad, LLC 40 Seminole Street Asheville NC 28803 Phone: (828) 274-5835 Fax: (828) 274-9555 Attn: Joe Brumit
------------------	---

With a copy to: Easlan Crossville Development, LLC
 3340 Peachtree Road, NE
 Suite 830
 Atlanta, GA 30326
 Phone: 404-832-8928
 Fax: 404-892-8898
 Attn: Jesse Shannon

7.2 Pond Maintenance Costs. Each Owner shall pay to the Owner of Parcel 1 (“**Maintaining Owner**”) such Owner’s share of Maintaining Owner’s cost to maintain and repair the detention/retention pond located on Parcel 1 (the “**Pond**”) (“**Pond Maintenance Costs**”). Each Owner’s share of such Pond Maintenance Costs shall be determined by the ratio of the acreage of each Owner’s Parcel to the total acreage of the Master Parcel. Each Owner shall pay its Pond Maintenance Costs within fifteen (15) days after receipt of a bill from Maintaining Owner for its respective proportionate share. All billing statements shall be supported by appropriate back-up documentation, and all year-end adjustments, if any, must be made within ninety (90) days of the end of each calendar year.

7.3 Monument Signs. Subject to obtaining the necessary governmental consents and permits, Declarant shall construct a monument sign on (i) Parcel 1 in the location depicted on the Site Plan and (i) Parcel 4 in the location depicted on the Site Plan (collectively, the “**Monument Signs**”). Subject to obtaining the necessary governmental consents, the Owner of Parcel 3 shall have the right, at its sole cost and expense, to attach its standard signage to the top space on the Monument Signs. In addition, subject to obtaining the necessary governmental consents, the Owners of Parcels 1, 4 and 5 shall have the right, at their sole cost and expense, to attach signage to be approved by Declarant to the Monument Signs in locations determined by Declarant. Maintaining Owner shall be responsible for maintenance of the Monument Signs and each Owner who has a sign on the Monument Signs shall pay to Maintaining Owner such Owner’s share of Maintaining Owner’s cost to maintain and repair the Monument Signs (the “**Monument Sign Costs**”). Each Owner’s share of Monument Sign Costs shall be determined by the ratio of the area of the sign face used by such Owner to the total area of the Monument Signs. Each Owner who has a sign on the Monument Signs shall pay its share of the Monument Sign Costs to Maintaining Owner within fifteen (15) days after receipt of a bill from Maintaining Owner. All billing statements shall be supported by appropriate back-up documentation, and all year-end adjustments, if any, must be made within ninety (90) days of the end of each calendar year. Declarant, for the benefit of Maintaining Owner and as an appurtenance to Parcel 1, hereby declares, establishes, creates and grants a non-exclusive perpetual easement on, over, under, across Parcel 4 for the purpose of going upon Parcel 4 for maintaining and repairing the Monument Sign located on Parcel 4.

7.4 Covenants Run with the Land. The covenants and agreements made and the easements granted or reserved hereunder shall constitute covenants running with, and shall be appurtenant to the Parcels and be binding upon and inure to the benefit of the parties which have an interest in the benefited or burdened land and their respective successors and assigns in title.

7.5 Term. This Declaration shall be effective as of the date first above written and shall continue in full force and effect for the lesser of (i) forty nine (49) years and (ii) the

maximum period as may be permitted under the laws of the State of Georgia; provided, however, that with respect to the easements referred to in Article 2 which are specified as being perpetual, such easements shall survive the termination of this Declaration as provided therein. In no event shall a breach or default under the provisions of this Declaration result in the termination hereof.

7.6 Third Party Rights. Nothing contained herein shall be deemed to be a gift or dedication of any of the easement areas described herein to the general public or for any public use or purpose whatsoever. Except for the provisions of Sections 2.1, 2.2, and 2.3 hereof which extend to and benefit the Owners and their Permittees, no rights or privileges established hereunder shall inure to the benefit of any party other than the Owners of the Parcels. No parties other than the Owners and, with respect to such specified Sections only, the Permittees of the Owners, shall have any standing to enforce the terms and provisions of this Declaration.

7.7 Merger of Title. The covenants, agreements, rights, privileges and easements established herein shall survive any merger of title to the Parcels.

7.8 Amendments. This Declaration may be amended by, and only by, a written agreement which shall be deemed effective only when recorded in the Fulton County, Georgia public real estate records. No such amendment (i) shall be binding upon any Parcel unless such amendment is executed by the Owner of such Parcel, and (ii) shall be binding upon any party holding any mortgage or deed to secure debt with respect to a Parcel until such holder has consented to such amendment. Further, no cancellation or attempted cancellation of this Declaration shall be effective unless the instrument of cancellation is also executed by the Owner of each Parcel and by each party holding a first priority mortgage or deed to secure debt with respect to each Parcel.

7.9 Non-Waiver. The failure of any party to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that party may have hereunder or at law or equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions.

7.10 Severability. All rights provided herein may be exercised only to the extent that the exercise thereof does not violate then applicable law and shall be limited to the extent necessary to render the remaining covenants herein valid and enforceable. If any term, provision, covenant or agreement contained herein or the application thereof to any person or circumstance shall be held illegal or unenforceable, the validity of the remaining terms, provisions, covenants or agreements or the application of such term, provision, covenant or agreement to persons or circumstances other than those to which it is held invalid or unenforceable shall not be affected thereby.

7.11 Governing Law. This instrument shall be construed in accordance with the laws of the State of Georgia.

7.12 No Liens. Any work performed by or on behalf of an Owner or Occupant under the terms of this Declaration upon the Parcel of another Owner shall be completed free and clear of all liens of contractors, subcontractors, laborers, suppliers and materialmen and all other liens. In the event any such lien is filed against the Parcel of one Owner as a result of services

performed or materials furnished by a third party to or on behalf of another Owner, the Owner permitting or causing such lien to be so filed shall cause such lien to be released and discharged of record within thirty (30) days after notification from the Owner whose Parcel is subject to such lien or claim of lien, either by paying the indebtedness which gave rise to such lien or by posting a bond or other security as required by law to obtain such release and discharge, and the Owner permitting or causing such lien to be so filed shall indemnify, defend, and hold harmless the other Owner and its Parcel against liability, loss, damage, costs and expenses (including reasonable attorneys' fees and costs of suit) on account of such lien or claim of lien.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned officers have executed this Declaration under seal as of the day and year first above written.

Signed, sealed and delivered in the presence of:

447/448 CROSSVILLE ROAD, LLC, a Georgia limited liability company

Mary L McGowan
Witness

By: [Signature]
Name: Joe Summit
Its: MEMBER / MANAGER

Linda Williams
Notary Public

My Commission Expires: 4-10-12

[NOTARIAL SEAL]

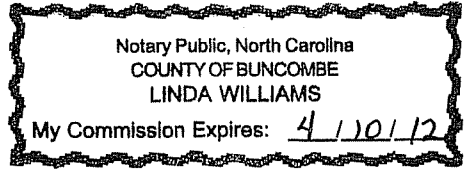


EXHIBIT A**LEGAL DESCRIPTION - MASTER PARCEL**

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 447, 448, 467 & 468 of the 1st District, 2nd Section, City of Roswell, Fulton County, Georgia and being more particularly described as follows:

BEGINNING at a iron pin found at the northeasterly end of the mitered intersection of the westerly right-of-way line of Mansell Road (Variable R/W) with the northeasterly right-of-way line of East Crossville Road, also known as State Route 92 (Variable R/W); thence along said miter South 75 degrees 05 minutes 11 seconds West a distance of 77.13 feet to a point; thence along said right-of-way line of East Crossville Road the following courses and distances: 225.24 feet along an arc of a curve to the right, said curve having a radius of 4,513.66 feet and a chord bearing and distance of North 64 degrees 06 minutes 36 seconds West 225.22 feet to on iron pin found (1" Rebar) on the Land Lot Line common to Land Lots 448 & 467; thence leaving said Land Lot Line and continuing along said right-of-way line of East Crossville Road the following courses and distances: North 60 degrees 41 minutes 16 seconds West a distance of 134.12 feet to a point; thence North 60 degrees 42 minutes 03 seconds West a distance of 171.47 feet to a concrete monument found; thence North 28 degrees 27 minutes 34 seconds East a distance of 24.16 feet to a concrete monument found; thence North 43 degrees 16 minutes 46 seconds West a distance of 51.65 feet to a concrete monument found; thence North 60 degrees 11 minutes 45 seconds West a distance of 20.22 feet to a concrete monument found; thence North 24 degrees 13 minutes 42 seconds West a distance of 67.72 feet to a point; thence 138.03 feet along an arc of a curve to the left, said curve having a radius of 430.00 feet and a chord bearing and distance of North 02 degrees 29 minutes 05 seconds East 137.44 feet to a point; thence leaving said right-of-way line of East Crossville Road North 16 degrees 56 minutes 30 seconds East a distance of 45.31 feet to a point; thence North 27 degrees 06 minutes 31 seconds East a distance of 87.66 feet to a point; thence North 01 degrees 01 minutes 27 seconds West a distance of 26.50 feet to on iron pin found (1/2" Open Top Pipe); thence North 86 degrees 01 minutes 21 seconds East a distance of 284.93 feet to an iron pin set on the Land Lot Line common to Land Lots 447 & 468; thence along said Land Lot Line North 00 degrees 42 minutes 35 seconds East a distance of 322.00 feet to an iron pin found (1" Open Top Pipe); thence leaving said Land Lot Line South 88 degrees 30 minutes 04 seconds East a distance of 394.49 feet to a point on said westerly right-of-way line of Mansell Road; thence along said right-of-way line the following courses and distances: South 01 degrees 26 minutes 17 seconds West a distance of 237.01 feet to a point; thence South 12 degrees 17 minutes 26 seconds West a distance of 95.83 feet to an iron pin found; thence South 01 degrees 23 minutes 21 seconds West a distance of 82.82 feet to an iron pin found; thence South 11 degrees 32 minutes 32 seconds West a distance of 80.20 feet to a point; thence South 02 degrees 37 minutes 12 seconds West a distance of 51.48 feet to a point; thence South 05 degrees 20 minutes 05 seconds East a distance of 76.69 feet to a point; thence 367.48 feet along an arc of a curve to the right, said curve having a radius of 1,440.00 feet and a chord bearing and distance of South 14 degrees 00 minutes 40 seconds West 366.49 feet to an iron pin found and the POINT OF BEGINNING.

Said tract containing 11.493 acres.

EXHIBIT B

SITE PLAN

EXHIBIT C

UTILITY LINE DEPICTIONS

Deed Book 50293 Pg 175
Filed and Recorded Aug-12-2011 03:18pm
2011-0201262
Real Estate Transfer Tax \$0.00
Cathelene Robinson
Clerk of Superior Court
Fulton County, Georgia

After recording return to:

Matt Sours
Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road, NE
Atlanta, Georgia 30326-1044

58119.08

Return to
Trinity Title Ins. Agt.
437 E. Ponce De Leon Ave.
Decatur, GA 30030-1938



Cross Reference:

Declaration of Easements, Covenants
and Restrictions recorded in Book
49990, page 387, Fulton County,
Georgia records;

Deed to Secure Debt recorded in Deed
Book 48419, page 181, aforesaid
records, as modified by Modification
Agreement recorded in Deed Book
48506, page 433, aforesaid records

Division Plat recorded at Plat Book
356, page 39, aforesaid records

**ADDENDUM TO DECLARATION OF
EASEMENTS, COVENANTS AND RESTRICTIONS
AND CONSENT TO PLAT**

THIS ADDENDUM TO DECLARATION OF EASEMENTS, COVENANTS
AND RESTRICTIONS AND CONSENT TO PLAT (this "Addendum") is made as of
the 12th day of August, 2011, by TD BANK, NATIONAL ASSOCIATION
(successor by merger to Carolina First Bank) ("Lender").

WITNESSETH:

WHEREAS, 447/448 Crossville Road, LLC ("Owner") is the owner of certain
real property located in the City of Roswell, Fulton County, Georgia, more particularly
described in Exhibit "A" attached hereto (the "Property");

WHEREAS, pursuant to that certain Deed to Secure Debt given by Owner, as
successor by name change to Northwest Property Group-Mansell, LLC, in favor of
Lender, dated September 30, 2009, recorded in Deed Book 48419, page 181 Fulton
County, Georgia records, as modified by that certain Modification Agreement dated
October 20, 2009, recorded in Deed Book 48506, page 433, aforesaid records, Lender
holds security title to and a security interest in the Property (collectively, the "Security
Deed");

WHEREAS, Owner filed that certain Division Plat of record in Plat Book 356, page 39, aforesaid records (the "**Plat**");

WHEREAS, Owner is in the process of preparing the Master Parcel to be developed as an integrated retail development (the "**Project**") and in connection with such development, Owner recorded that certain Declaration of Easements, Covenants and Restrictions dated April 13, 2011, in Deed Book 49990, page 387, aforesaid records (the "**Declaration**"); and

WHEREAS, Owner requests that Lender consent to the Declaration and subordinate its security interest in the Property to the Declaration and approve the subdivision of the Property.

NOW THEREFORE, for and in consideration of the premises and the benefits to be derived by Lender in connection with the development of the Property, Lender agrees to the following terms:

1. Consent and Subordination. Lender hereby consents to the Declaration and agrees to subordinate its lien and security title in the Property under the Security Deed to the terms contained in the Declaration; provided, however, in the event that Lender (or any successor to Lender or any third party purchaser at a foreclosure sale under the Security Deed) acquires title to any part of the Property by foreclosure or otherwise, Lender (and any such successors or third party purchasers) shall not be liable (or deemed liable by this instrument or otherwise) for any duties, obligations, liability, assessments or damages, arising under the Declaration or otherwise, which occurred, arose or accrued prior to the date Lender (or such successor or third party purchaser) acquired title to the Property or any part thereof, except for duties, obligations, liability, assessments or damages that are continuing in nature.
2. Plat Consent. Lender hereby consents to the subdivision of the Property pursuant to the Plat; provided, however, nothing herein shall impose any liability, obligation or claims arising prior to the date Lender acquires title to any of the Property, with respect to any Property shown on the Plat.
3. Governing Law. This instrument shall be construed in accordance with the laws of the State of Georgia.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned officers have executed this Addendum under seal as of the day and year first above written.

Signed, sealed and delivered this 11 day of August, 2011, in the presence of:

**TD BANK, NATIONAL ASSOCIATION
(successor by merger to Carolina First Bank)**

[Handwritten Signature]

Witness

By: [Handwritten Signature]

Name: Kevin Watsa

Title: Commercial Team Leader VP

[Handwritten Signature]
Notary Public

My Commission Expires: 2/27/2016

[NOTARIAL SEAL]

TAMMY J BALDWIN
NOTARY PUBLIC
MADISON COUNTY, NC
My Commission Expires 2-27-2016

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 447, 448, 467 & 468 of the 1st District, 2nd Section, City of Roswell, Fulton County, Georgia and being more particularly described as follows:

BEGINNING at a iron pin found at the northeasterly end of the mitered intersection of the westerly right-of-way line of Mansell Road (Variable R/W) with the northeasterly right-of-way line of East Crossville Road, also known as State Route 92 (Variable R/W); thence along said miter South 75 degrees 05 minutes 11 seconds West a distance of 77.13 feet to a point; thence along said right-of-way line of East Crossville Road the following courses and distances: 225.24 feet along an arc of a curve to the right, said curve having a radius of 4,513.66 feet and a chord bearing and distance of North 64 degrees 06 minutes 36 seconds West 225.22 feet to on iron pin found (1" Rebar) on the Land Lot Line common to Land Lots 448 & 467; thence leaving said Land Lot Line and continuing along said right-of-way line of East Crossville Road the following courses and distances: North 60 degrees 41 minutes 16 seconds West a distance of 134.12 feet to a point; thence North 60 degrees 42 minutes 03 seconds West a distance of 171.47 feet to a concrete monument found; thence North 28 degrees 27 minutes 34 seconds East a distance of 24.16 feet to a concrete monument found; thence North 43 degrees 16 minutes 46 seconds West a distance of 51.65 feet to a concrete monument found; thence North 60 degrees 11 minutes 45 seconds West a distance of 20.22 feet to a concrete monument found; thence North 24 degrees 13 minutes 42 seconds West a distance of 67.72 feet to a point; thence 138.03 feet along an arc of a curve to the left, said curve having a radius of 430.00 feet and a chord bearing and distance of North 02 degrees 29 minutes 05 seconds East 137.44 feet to a point; thence leaving said right-of-way line of East Crossville Road North 16 degrees 56 minutes 30 seconds East a distance of 45.31 feet to a point; thence North 27 degrees 06 minutes 31 seconds East a distance of 87.66 feet to a point; thence North 01 degrees 01 minutes 27 seconds West a distance of 26.50 feet to on iron pin found (1/2" Open Top Pipe); thence North 86 degrees 01 minutes 21 seconds East a distance of 284.93 feet to an iron pin set on the Land Lot Line common to Land Lots 447 & 468; thence along said Land Lot Line North 00 degrees 42 minutes 35 seconds East a distance of 322.00 feet to an iron pin found (1" Open Top Pipe); thence leaving said Land Lot Line South 88 degrees 30 minutes 04 seconds East a distance of 394.49 feet to a point on said westerly right-of-way line of Mansell Road; thence along said right-of-way line the following courses and distances: South 01 degrees 26 minutes 17 seconds West a distance of 237.01 feet to a point; thence South 12 degrees 17 minutes 26 seconds West a distance of 95.83 feet to an iron pin found; thence South 01 degrees 23 minutes 21 seconds West a distance of 82.82 feet to an iron pin found; thence South 11 degrees 32 minutes 32 seconds West a distance of 80.20 feet to a point; thence South 02 degrees 37 minutes 12 seconds West a distance of 51.48 feet to a point; thence South 05 degrees 20 minutes 05 seconds East a distance of 76.69 feet to a point; thence 367.48 feet along an arc of a curve to the right, said curve having a radius of 1,440.00 feet and a chord bearing and distance of South 14 degrees 00 minutes 40 seconds West 366.49 feet to an iron pin found and the POINT OF BEGINNING.

Said tract containing 11.493 acres.

Deed Book 50293 Pg 179
Filed and Recorded Aug-12-2011 03:18pm
2011-0201263
Real Estate Transfer Tax \$0.00
Cathelene Robinson
Clerk of Superior Court
Fulton County, Georgia

After recording return to:


Matt Sours
Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road, NE
Atlanta, Georgia 30326-1044

Cross Reference:

Declaration of Easements, Covenants
and Restrictions recorded in Book
49990, page 387, Fulton County,
Georgia records

Deed to Secure Debt recorded in Deed Book
48419, page 181, aforesaid records, as modified
by Modification Agreement recorded in Deed Book
48506, page 433, aforesaid records

Return to

Trinity Title Ins. Agc. 
437 E. Ponce De Leon Ave.
Decatur, GA 30030-1938

FIRST AMENDMENT TO DECLARATION OF EASEMENTS,
COVENANTS AND RESTRICTIONS

THIS FIRST AMENDMENT TO DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS (this "**Amendment**") is made the 12th day of August, 2011, by 447/448 CROSSVILLEROAD, LLC, a Georgia limited liability company ("**Declarant**").

W I T N E S S E T H :

WHEREAS, Declarant filed that certain Declaration of Easements, Covenants and Restrictions dated April 13, 2011, in Deed Book 49990, page 387, Fulton County, Georgia Records, as supplemented by that certain Addendum to Declaration of Easements, Covenants and Restrictions of even date herewith (as supplemented, the "**Declaration**");

WHEREAS, pursuant to that certain Deed to Secure Debt given by Declarant to TD Bank, National Association ("**Lender**") dated September 30, 2009, recorded in Deed Book 48419, page 181, Fulton County records, as modified by that certain Modification Agreement dated October 20, 2009, recorded in Deed Book 48506, page 433, aforesaid records (as modified, the "**Security Deed**") Declarant conveyed security title to and a security interest in the Parcels;

WHEREAS, pursuant to those certain Quitclaim Deeds of Partial Release given by Lender in favor of Declarant of even date herewith, Lender has released its interest in Parcel 2 and Parcel 3; and

WHEREAS, Declarant desires to amend the Declaration in certain ways;

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby covenant and agree as follows:

1. All terms used in this Amendment with an initial capital letter that are not otherwise defined shall have the meanings given to them in the Declaration.

2. The following is inserted as Section 2.5 to the Declaration:

"2.5 Temporary Construction Easements.

Declarant, Aldi Inc. (Georgia) (as the Owner of Parcel 3) and Andalusia Properties, Inc. (as the Owner of Parcel 2) are parties to that certain Escrow Agreement dated of even date herewith relating to performance of certain site work on the Parcels (the "**Site Work Escrow Agreement**") and that certain Escrow Agreement of even date herewith relating to performance of certain traffic improvements in the right-of-way of Mansell Road, adjacent to the Parcels (the "**Traffic Improvements Escrow Agreement**"; together, the Site Work Escrow Agreement and the Traffic Improvements Escrow Agreement are referred to collectively as the "**Escrow Agreements**"). In addition to the other easements created herein, Declarant hereby establishes and creates for the benefit of, and as an appurtenance to Parcel 2 and for the benefit of the Owner of Parcel 2 from time to time, with respect to, and as a burden upon, Parcels 1, 3, 6 and 7, a temporary non-exclusive right, privilege and easement over, on and across those portions of Parcels 1, 3, 6 and 7 reasonably required if Andalusia Properties, Inc. exercises its rights under the Escrow Agreements to perform the site work or traffic improvements that are the subject of the Escrow Agreements. In addition to the other easements created herein, Declarant hereby establishes and creates for the benefit of, and as an appurtenance to Parcel 3 and for the benefit of the Owner of Parcel 3 from time to time, with respect to, and as a burden upon, Parcels 1, 2, 6 and 7, a temporary non-exclusive right, privilege and easement over, on and across those portions of Parcels 1, 2, 6 and 7 reasonably required if Aldi Inc. (Georgia) exercises its rights under the Escrow Agreements to perform the site work or traffic improvements that are the subject of the Escrow Agreements. Such easements shall automatically terminate upon completion of the site work and traffic improvements contemplated in the Escrow Agreements."

3. The following is inserted after the last paragraph of Section 6.4 in the Declaration:

"Declarant collaterally assigns and grants a security interest in all of the rights, powers and reservations of Declarant herein to Lender; provided, however, that such assignment shall constitute an absolute assignment under this Section 6.4 unless and until Lender (or any successor to Lender) releases its interest in Parcels 1, 4, 5, 6 and 7 in writing. In the event that Lender (or any successor to Lender or third party purchaser at any future foreclosure sale or deed in lieu thereof) takes title to any of Parcels 1, 4, 5, 6 or 7 through foreclosure or deed in lieu thereof, Lender shall be deemed Declarant under this Declaration without the need for any further assignment. In no event shall Lender be liable for any prior acts or omissions of the current Declarant unless and until Lender (or any successor to Lender or third party purchaser at any foreclosure sale or deed in lieu thereof) takes title to any of Parcels 1, 4, 5, 6, or 7, and then only for matters continuing, occurring or arising on or after the date such successor Declarant takes title to any of such Parcels. The foregoing collateral assignment shall constitute a modification to the Security Deed."

4. Notwithstanding anything to the contrary contained in the Declaration, any proposed use that would violate the restriction set forth in Section 5.1(a), which benefits Parcel 3, shall require the consent of the Owner of Parcel 3 and Declarant; and any proposed use that would violate the use restriction set forth in Section 5.1(b), which benefits Parcel 2, shall require the consent of the Owner of Parcel 2 and Declarant. Further, the use restrictions set forth in Section 5.1(c)-(v), which benefit the Project, shall not be amended without the consent of the Owners of all Parcels.

5. The Site Plan attached to the Declaration as **Exhibit "B"** is hereby deleted and **Exhibit "B"** attached hereto is inserted in lieu thereof and shall constitute the Site Plan for all purposes under the Declaration.

6. Except as expressly modified hereby, the Declaration shall remain unamended and in full force and effect and is hereby ratified and confirmed.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Declarant has caused this Amendment to be executed under seal by their duly authorized representatives as of the day and year above first written.

Signed, sealed and delivered in the presence of:

Lugh Williams
Witness

Jenasa Thomas
Notary Public

My Commission Expires: February 14, 2013

[NOTARIAL SEAL]

DECLARANT:

447/448 CROSSVILLEROAD, LLC, a Georgia limited liability company

By: Charles O. Owen III

Name: Charles O. Owen III

Its: Member Manager

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

[SIGNATURES CONTINUED FROM PREVIOUS PAGE]

Acknowledged and consented to by:

Signed, sealed and delivered in the presence of:

**TD BANK, NATIONAL ASSOCIATION
(successor by merger to Carolina First Bank)**

[Signature]
Witness

By: *[Signature]*
Name: Kevin Watson
Title: Commercial Team Leader, VT

[Signature]
Notary Public

My Commission Expires: 2/27/2016

TAMMY J BALDWIN
NOTARY PUBLIC
MADISON COUNTY, NC
My Commission Expires 2-27-2016

[NOTARIAL SEAL]
TAMMY J BALDWIN
NOTARY PUBLIC
MADISON COUNTY, NC
My Commission Expires 2-27-2016

EXHIBIT "B"

SITE PLAN

[See Attached]

