

Board of Zoning Appeals Variance Application

(To be completed by City Clerk or Zoning Staff)

City of La Crosse, Wisconsin

Application No.: 2630 Filing Fee: 250.00
 Date Filed: 9/11/2019 Date Paid: 9/11/2019
 Application Complete: Yes ☒ No ☐ Reviewed By DR (Initial)

(To be completed by the applicant)

Application Deadline: By 5:00 PM the first Wednesday of every month.

Building Permit Application Deadline: 10 Calendar Days prior to first Wednesday of every month for the Division of Fire and Building Safety to provide review. Any building permit submitted after deadline must wait until the following Board of Zoning Appeals meeting.

RECEIVED
SEP 04 2019
 BUILDING INSPECTIONS
 DEPT

	Owner / Agent	Agent
Name	PR Valley View Limited Partnership	Davy Engineering Company (Daniel Cook)
Address	3800 State Road 16	115 6th Street South
Phone	(215) 875-0436	608-782-3130 <u>dcook@davyinc.com</u>

Legal Description: SE1/4, SE1/4 of Section 10, Town. 16, R 7, City of La Crosse, Wis.

Tax Parcel Number: 17-10316-10

Lot Dimensions and Area: N.A. x N.A. feet. = ~165,660 sq. ft. N.A. = Not applicable

Zoning District: C2 -COMMERCIAL

A variance is a relaxation of a standard in a land use ordinance. The Board of Zoning Appeals decides variances. The Board is a quasi-judicial body because it functions like a court. The Board's job is not to compromise ordinance provisions for a property owner's convenience but to apply legal criteria provided in state laws and the local ordinance to a specific fact situation. Variances are meant to be an infrequent remedy where an ordinance imposes a unique and substantial burden. The burden of proof falls on the variance applicant.

Process:

At the time of application, you will be asked to:

- **Complete an application** form and timely submit it with a non-refundable fee as required in La Crosse Municipal Code § 115-60; Failure to complete any section of the application form will result in rejection of the application. If additional space is needed, please attach additional pages.
- **Provide detailed plans** describing your lot and project (location, dimensions, and materials);
- **Provide a written statement** of verifiable facts showing that your project meets the legal criteria for a variance (Three-Step Test below); and
- **Stake out lot corners or lines**, the proposed building footprint and all other features of your property related to your request so that the Zoning Board and/or City staff may inspect the site.

Following these steps, the Division of Fire Prevention and Building Safety must approve the application as to form and completeness and then the application and fee must be submitted to the City Clerk. The zoning agency will then provide notice of your request for a variance to the City of La Crosse's official newspaper noting the location and time of the required public hearing before the Zoning Board. Your neighbors and any affected state agency will also be notified. The burden will be on you as a property owner to provide information upon which the Board may base its decision. At the hearing, any party may appear in person or may be represented by an agent or attorney. If any of these requirements are not met or if you or your agent does not appear at the public hearing, the Board **must** deny your request for a variance and your fee will be forfeited.

Part A: General Information and Alternatives Analysis.

(To be completed by the applicant).

1. General Information.

Complete the questions in the general information section of the application to provide the necessary background information needed for the property at issue.

(a) Current use and improvements.

Commercial. There are two retail businesses and a restaurant that are part of the CSM. This CSM splits one parcel into two parcels. The whole Mall area has shared parking at 5.3 parking spaces per 1000 square feet of gross floor area (GFA).

(b) Proposed Use.

The use remains the same. There is no change in use.

(c) Description and date of any prior petition for variance, appeal, or special exception.

None in the last five years.

(d) Description and location of all nonconforming structures and uses on the property.

None. There are no nonconforming structures and uses.

(e) Ordinance standard from which variance is being sought (include code citation).

Sec. 115-393 - Off-street parking.

"(k) The number to parking spaces as requires on the following list:" Then there is a list of the required number of parking spaces required for different zoning districts. "Each parcel shall provide adequate parking on the parcel that the business operates."

(f) Describe the variance requested.

We are requesting that the parking be allowed in adjacent parcels as agreed in the attached document that has been filed at the County Recorder. A CSM is being created to sell Dick's Sporting Goods tract of land. The CSM is Exhibit A. Although the property operates as if a variance was approved previously, a variance was not required previously. This action allows the CSM part of the parcel to vary from the City Ordinance. The document number is 1720659 and was recorded December 28, 2018 (Exhibit B).

(g) Specify the reason for the request.

The development provides off-street parking per the ordinance. The off-street parking agreement has been the method of operation since the inception of the Mall a few decades ago. The parcel and line and shared parking for Dicks have been operational since the construction of Dicks in 2015. That parcel line cannot be changed per the lease and purchase agreement.

(h) Describe the effects on the **property** if the variance is not granted.

The property on which the proposed parcel is located (known as Valley Square, having as tenants DICK's Sporting Goods, Play It Again Sports and Chuck E. Cheese) has been a separate tax lot for some time and has always been treated as an outparcel separate from the main shopping center. In 2018, the parcel was removed as collateral under the property mortgage; as part of this transaction, a formal declaration of easement was entered into and recorded on 12/28/2018 in order to ensure adequate off-site parking and utility access for the proposed parcel. Applicant is seeking variance relief as further assurance that the subdivided parcel will be conforming under the applicable ordinances and regulations.

Concerning the method of calculating the number of parking spaces required, using 5.3 spaces per 1,000 s.f. of gross floor area of each unit is easier than using the City's definition of floor area. The total number to parking spaces on the parcel will stay the same without the variance.

2. Alternatives.

Describe alternatives to your proposal such as other locations, designs, and construction techniques. Attach a site map showing alternatives you considered in each category below.

- **Alternatives you considered that comply with existing standards.** If you find such an alternative, you can move forward with this option with a regular permit. If you reject compliant alternatives, provide the reasons why you rejected them.

There is an agreement that allows parking on other adjacent parcels owned by PREIT. The agreement has been filed at the County Recorder and its document number is 1720659 that was recorded December 28, 2018 (Exhibit B).

The code requires one parking space per 150 s.f. of floor area. There is a long definition for floor area in Division I of the zoning code. We are providing 4 spaces per 1000 s.f. of gross floor area (GFA) for Dicks with 5.3 spaces per 1000 s.f. GFA for the overall Mall.

- **Alternatives you considered that require a lesser variance.** If you reject such alternatives, provide the reasons why you rejected them.

The agreement to allow shared parking outside of each parcel was required with the parcels larger with the adequate parking spaces on each lot. Off-street parking has been provided for decades and will continue with this variance. Exhibit C shows some alternative lot configurations that do not make the parking layout any better.

Part B: Three-Step Test.

To qualify for a variance, applicants must demonstrate that their property meets the following three requirements:

1. Unique Property Limitation. *(To be completed by the applicant).*

Unique physical characteristics of the property such as steep slopes or wetlands that are not generally shared by other properties must prevent compliance with ordinance requirements. The circumstances or desires of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances. Nearby ordinance violations, prior variances, or lack of objections from neighbors do not provide a basis for granting a variance. Property limitations that prevent ordinance compliance and are common to a number of properties should be addressed by amending the ordinance.

You will be asked whether there exist any unique physical characteristics to your property that prevent compliance with the ordinance. You will be asked to show where these unique physical characteristics are located on your property by showing the boundaries of these features on a site map. If there is not a unique property limitation, a variance cannot be granted.

Do unique physical characteristics of your property prevent compliance with the ordinance?

- ☒ **Yes.** Where are they located on your property? In addition, please show the boundaries of these features on the site map that you used to describe alternatives you considered.

See attached parking Exhibit C to provide the parking on each parcel. The site provides the required off-street parking. In order to be in compliance with the ordinance a shared parking agreement is necessary. Therefore, the property is meeting the intent of the ordinance with the parking agreement.

- ☐ **No.** A variance cannot be granted.

2. No Harm to Public Interest.

A variance may not be granted which results in harm to public interests or undermines the purpose(s) of the ordinance. In applying this test, the Zoning Board must consider the impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the entire community, and the general public. These interests may be listed as objectives in the purpose statement of an ordinance and may include:

- *Public health, safety, and welfare*
- *Water quality*
- *Fish and wildlife habitat*
- *Natural scenic beauty*
- *Minimization of property damages*
- *Provision of efficient public facilities and utilities*
- *Achievement of eventual compliance for nonconforming uses, structures, and lots*
- *Any other public interest issue*

(a) Ordinance Purpose. *(To be completed by zoning staff).*

The Zoning Board must consider the purpose and intent of zoning codes when considering a variance request. As promulgated by the City of La Crosse Common Council, the purpose and intent of the La Crosse Zoning Code include, but is not limited to, the following:

§ 8-86	§ 101-58	§ 109-6
§ 115-3	§ 115-140	§ 115-141
§ 115-148	§ 115-156	§ 115-158
§ 115-211	§ 115-319	§ 115-437
§ 115-510	§ 115-548	§ 115-594

The failure of any particular city official to identify additional purpose and intent information on the application does not preclude the city official from raising the issue at the public hearing on the requested variance.

(b) Purpose(s) of Standard from which Variance is Requested. *(To be completed by zoning staff).*

The City of La Crosse Building Inspector, Code Enforcement Officer and any other officials may be aware of other reasons a particular ordinance standard is required. The city official(s) may list those reasons on this application. The failure of any particular city official to identify additional purpose information on this application does not preclude the city official from raising the issue at the public hearing on the requested variance.

(c) Analysis of Impacts. *(To be completed by applicant).*

Discuss impacts (e.g. increased runoff, eroding shoreline, etc.) that would result if the variance were granted. For each impact, describe potential mitigation measures and the extent to which they reduce the impacts (i.e. completely, somewhat, or marginally). Mitigation measures must address each impact with reasonable assurance that it will be reduced to an insignificant level in the short term, long term, and cumulatively.

Short-term impacts are those that occur through the completion of construction. Long-term impacts are those that occur after construction is completed. Cumulative impacts are those that would occur if a similar variance requested were granted for many properties. After completing the impact analysis, you will be asked to give your opinion whether granting the variance will harm the public interest.

(1) Short-term Impacts (through the completion of construction):

- Impact: Parking is not on the parcel of the building.
Mitigation measure(s): An agreement has been executed and recorded.
Extent to which mitigation reduces project impact:
Adequate off-street parking is provided similar to many Planned Unit Developments. There is an agreement that allows parking on other adjacent parcels owned by PREIT. The agreement has been filed at the County Recorder and its document number is 1720659 that was recorded December 28, 2018 (Exhibit B).
- Impact:
Mitigation measure(s):
Extent to which mitigation reduces project impact:

(2) **Long-term Impacts** (after construction is completed):

- **Impact:** Parking is not on the parcel of the building.
Mitigation measure(s): An agreement has been executed and recorded.
Extent to which mitigation reduces project impact:
Adequate off-street parking is provided similar to many Planned Unit Developments. There is an agreement that allows parking on other adjacent parcels owned by PREIT. The agreement has been filed at the County Recorder and is document number is 1720659 that was recorded December 28, 2018 (Exhibit B).
- **Impact:**
Mitigation measure(s):
Extent to which mitigation reduces project impact:

(3) **Cumulative Impacts** (what would happen if a similar variance request was granted for many properties?):

- **Impact:** None.
Mitigation measure(s): An agreement acceptable to the City and Owner.
Extent to which mitigation reduces project impact:
Adequate off-street parking is provided similar to many Commercial Developments. Using 5.3 parking spaces per 1000 square feet of gross floor area meets the intent of the Zoning Code Section 115-393 (k).
- **Impact:**
Mitigation measure(s):
Extent to which mitigation reduces project impact:

Will granting the variance harm the public interest?

- ☐ **Yes.** A variance cannot be granted.
- ☒ **No.** Mitigation measures described above ~~will be~~ ^{have been} implemented to protect the public interest.

3. Unnecessary Hardship. *(To be completed by the applicant).*

The unique property limitation must create the unnecessary hardship. An applicant may not claim unnecessary hardship because of conditions that are self-imposed or created by a prior owner (for example, excavating a pond on a vacant lot and then arguing that there is no suitable location for a home). Courts have determined that economic or financial hardship does not justify a variance. When determining whether unnecessary hardship exists, the property as a whole is considered rather than a portion of the parcel.

You will be asked whether you are requesting an area variance or a use variance and to detail whether there exists an unnecessary hardship.

An **area variance** is a relaxation of lot area, density, height, frontage, setback, or other dimensional criterion. Unnecessary hardship exists when compliance with the strict letter of the area restrictions would unreasonably prevent the owner from using the property for a permitted purpose (i.e. leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions unnecessarily burdensome. The Zoning Board must consider the purpose of the zoning restriction, the zoning restriction's effect on the property, and the short-term, long-term, and cumulative effects of the variance on the neighborhood, the community, and on the public interests. This standard reflects the Wisconsin Supreme Court decisions in *State v. Waushara County Bd. of Adjustment*, 2004 WI 56; and *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23.

A **use variance** is a relaxation of the zoning regulation on how the property is fundamentally used. A use variance allows property to be utilized in a manner not permitted by zoning regulations (i.e. an appropriate adaptive re-use of a school or church in a residential district). Unnecessary hardship exists only if the property owners show that they would have no reasonable or viable use of the property without the variance. Though not specifically restricted by statute or case law, a use variance is very rare because of the drastic effects it has on the neighborhood, the community, and the public interests. The Zoning Board must consider whether the owner has no reasonable return if the property is only used for the purpose allowed in zoning regulation, whether the plight of the owner is due to unique circumstances and not merely general conditions in the neighborhood, and whether the use sought to be authorized will alter the nature of the locality. See generally *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23.

Are you applying for an area variance or a use variance?☒ **Area variance**☐ **Use variance****Is unnecessary hardship present?**☒ **Yes. Describe.**

Without the variance the lot line layout becomes onerous and land use is wasted trying to get the necessary parking of each parcel. An agreement is needed for parking and utilities to be shared between the lots which is typical for the a shopping center with multiple owners.

☐ **No. A variance cannot be granted.****Part C: Additional Materials / Exhibits.**

In order for the zoning staff to conduct evaluations, the applicant's site map, with a scale of not less than 1"=50', and other exhibits must show the following:

- | | | |
|-------------------------------------|--|--|
| <input checked="" type="checkbox"/> | Location of requested variance | This project is over 20-feet above the ordinary high-water mark per Exhibit D and is outside the floodplain per Exhibit E. |
| <input checked="" type="checkbox"/> | Property lines | |
| N.A. <input type="checkbox"/> | Ordinary high-water mark | |
| N.A. <input type="checkbox"/> | Flood plain and wetland boundaries | |
| <input checked="" type="checkbox"/> | Dimensions, locations, and setbacks of existing and proposed structures | |
| <input checked="" type="checkbox"/> | Utilities, roadways, driveways, off-street parking areas, and easements | |
| <input checked="" type="checkbox"/> | Existing highway access restrictions and existing proposed street, side and rear yards | |
| N.A. <input type="checkbox"/> | Location and type of erosion control measures | |
| N.A. <input type="checkbox"/> | Vegetation removal proposed | |
| N.A. <input type="checkbox"/> | Contour lines (2 ft. interval) | |
| N.A. <input type="checkbox"/> | Well and sanitary system | |
| None <input type="checkbox"/> | Location and extent of filling/grading | |
| No. <input type="checkbox"/> | Any other construction related to your request | |
| N.A. <input type="checkbox"/> | Anticipated project start date | |
| <input checked="" type="checkbox"/> | Sign locations, dimensions, and other specifications | |
| <input checked="" type="checkbox"/> | Alternatives considered | |
| <input checked="" type="checkbox"/> | Location of unique property limitation | |
| <input checked="" type="checkbox"/> | Lot corners, lines, and footprints have been staked out | |
| <input checked="" type="checkbox"/> | Abutting street names and alleys | |
| <input checked="" type="checkbox"/> | Abutting property and land within 20 feet | |
| <input checked="" type="checkbox"/> | Indication of the direction "North" | |

Part D: Authorization to Examine

You **must complete and sign** the authorization for the City of La Crosse Board of Zoning Appeals and the Planning and Development Department to examine the property of the variance request.

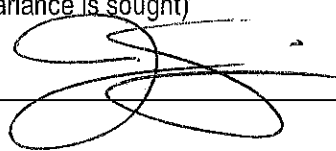
I hereby authorize the City of La Crosse Board of Zoning and Appeals and the Planning and Development Department to inspect premises

At: 4400, 4424 and 4444 of State Road 16

(Address where variance is sought)

Date: August 28, 2019

Signature of Owner: _____

**Part E: Certification.**

You **must sign your application**, certifying that it and any additional materials are accurate and do not contain any misrepresentations or omissions. An unsigned variance application will not be considered. You also must get the application notarized by a certified notary.

Submit completed application to:

Board of Zoning Appeals
400 La Crosse St.
Clerk's Office- 2nd Floor
La Crosse, Wisconsin 54601

Submit complete copy to:

Chief Inspector
400 La Crosse St.
Division of Fire Prevention and Building Safety
La Crosse, Wisconsin 54601

By signing below, I certify that I have received and reviewed all of the application materials. I further certify that all of my answers herein are true and accurate; I have not made any intentional misrepresentation or omission. I understand that if I intentionally misrepresented or omitted anything in this application that my application will be denied and any variance granted thereunder may be revoked.

Signed: (Applicant or Agent) _____

Date: August 28, 2019

Signed: (Owner, if different from applicant) _____

Date: _____

THE APPLICANT OR AGENT

THE OWNER

By: _____

Commonwealth of Pennsylvania
~~STATE OF WISCONSIN~~)
City/County of Philadelphia
~~COUNTY OF LA CROSSE~~)

Personally came before me this 28 day of August, 2019, the above named John Schrier to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

Erin Gautsche
 Notary Public, La Crosse County, WI
 My commission expires: 10/2/2021

COMMONWEALTH OF PENNSYLVANIA
 NOTARIAL SEAL
 Erin Gautsche, Notary Public
 City of Philadelphia, Philadelphia County
 My Commission Expires Oct. 2, 2021
 MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

STATE OF WISCONSIN)
 COUNTY OF LA CROSSE)

Personally came before me this _____ day of _____, 2016, the above named _____ to me known to be the person(s) who executed the foregoing instrument and acknowledged the same.

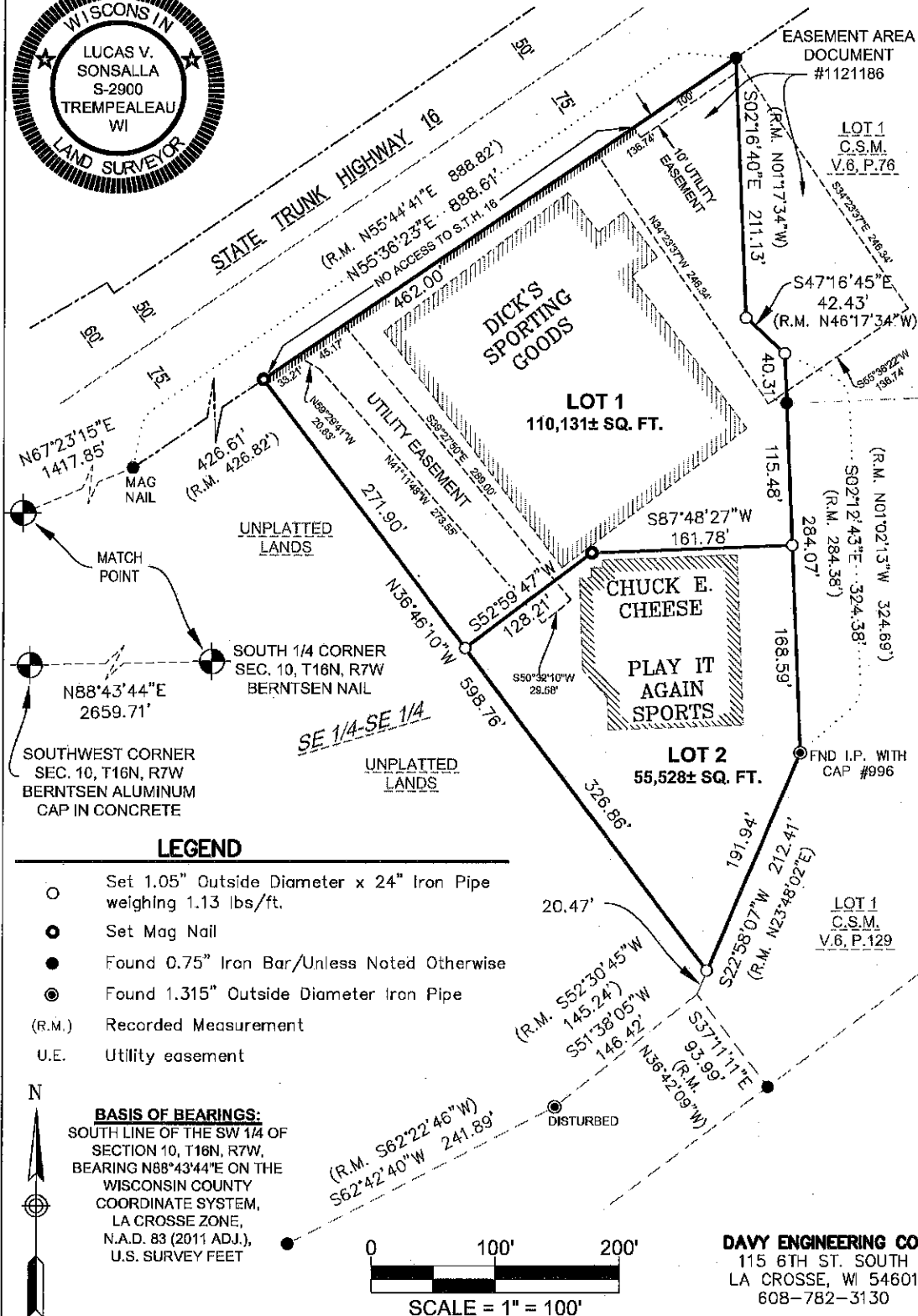
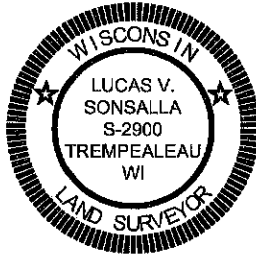
Notary Public, La Crosse County, WI
 My commission expires: _____

EXHIBIT A

VARIANCE HEARING

CERTIFIED SURVEY MAP

LOCATED IN PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER
OF SECTION 10, TOWNSHIP 16 NORTH, RANGE 7 WEST, CITY OF LA CROSSE,
LA CROSSE COUNTY, WISCONSIN.



CERTIFIED SURVEY MAP

WISCONSIN
LUCAS V.
SONSALLA
S-2900
TREMPEALEAU
WI
LAND SURVEYOR

DRAFT NOT FINAL

EXHIBIT A

VARIANCE HEARING

CERTIFIED SURVEY MAP

LOCATED IN PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER
OF SECTION 10, TOWNSHIP 16 NORTH, RANGE 7 WEST, CITY OF LA CROSSE,
LA CROSSE COUNTY, WISCONSIN.

SURVEYOR'S CERTIFICATE:

I, Lucas V. Sonsalla, Wisconsin Professional Land Surveyor, hereby certify that, by the order of PR Valley View L.P., owner, and in full compliance with the provisions of Chapter 236.34 of the Wisconsin Statutes and the subdivision regulations of the City of La Crosse and the County of La Crosse, I have surveyed, divided and mapped the following lands, and that this map correctly represents all the exterior boundaries of the land surveyed to the best of my knowledge and belief, to wit:

Located in part of the Southeast Quarter of the Southeast Quarter of Section 10, Township 16 North, Range 7 West, City of La Crosse, La Crosse County, Wisconsin, more fully described as follows:

COMMENCING at the Southwest Corner of the Southwest Quarter of said Section 10;

THENCE N88°43'44"E along the South Line of said Southwest Quarter a distance of 2659.71 feet to the Southeast corner thereof;

THENCE N67°23'15"E 1417.85 feet to a point on the Southeasterly right-of-way of State Trunk Highway 16;

THENCE N55°36'23"E along said right-of-way a distance of 426.61 feet to the POINT OF BEGINNING of this description;

THENCE continuing N55°36'23"E along said right-of-way a distance of 462.00 feet to the Northwesterly corner of Certified Survey Map Volume 6, Page 76;

THENCE S02°18'40"E along the Westerly Line of said Certified Survey Map a distance of 211.13 feet to a Westerly corner thereof;

THENCE continuing along said Westerly Line S47°16'45"E 42.43 feet to a Westerly corner thereof;

THENCE continuing along said Westerly Line and the Westerly Line of Certified Survey Map Volume 6, Page 129,

S02°12'43"E a distance of 324.38 feet to a Westerly corner of said Certified Survey Map Volume 6, Page 129;

THENCE continuing along said Westerly Line S22°58'07"W 191.94 feet;

THENCE N36°46'10"W 598.76 feet to the POINT OF BEGINNING.

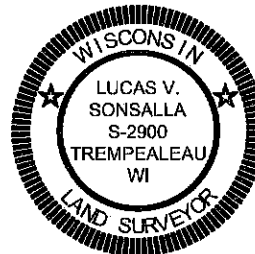
Parcel contains approximately 165,659 Square Feet.

Together with and also subject to Easements, Covenants, Conditions and Restrictions as described in Document Number 1720659, recorded on 12/28/2018, at the La Crosse County Register of Deeds Office.

Subject to any other Easements, Covenants and Restrictions of record.

Lucas V. Sonsalla
Wisconsin Professional Land Surveyor
Licence Number 2900

Date



OWNER'S CERTIFICATE OF DEDICATION:

PR Valley View OP-DSG/CEC, LLC, a Limited Partnership duly organized and existing under and by virtue of the laws of the State of Wisconsin, as Owner, does hereby certify that said Limited Partnership caused the land described on this Certified Survey Map to be surveyed, divided, mapped, and dedicated as represented on this Certified Survey Map.

IN WITNESS WHEREOF, the said PR Valley View OP-DSG/CEC, LLC has caused these presents to be signed by
, member, at _____, Wisconsin,

this _____ day of _____, 2019.

In the presence of:

_____, Member PR Valley View OP-DSG/CEC, LLC

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF PHILADELPHIA) ss

Personally came before me this _____ day of _____, 2019, the above named member of PR Valley View L.P. to me known to be the person who executed the foregoing instrument and to me known to be such member of said Limited Partnership, and acknowledged that they have executed the foregoing instrument as such member of said Limited Partnership, by its authority.

Notary Public, Philadelphia County, Pennsylvania.

My Commission Expires: _____.

DAVY ENGINEERING CO.
115 6TH ST. SOUTH
LA CROSSE, WI 54601
608-782-3130

PROJECT NO. 9806-006.110 N.B. 519EE

SHEET 3 OF 3

DRAFT NOT FINAL

Exhibit B



* 1 7 2 0 6 5 9 5 2 *

1720659

LACROSSE COUNTY
REGISTER OF DEEDS
CHERYL A. MCORRIDE

RECORDED ON
12/28/2018 11:10AM
REC FEE: 30.00
EXEMPT #:
PAGES: 32

Recording Area

Return to:

Madison Title Agency, LLC
1125 Ocean Avenue
Lakewood NJ 08701

ENV

DRAFTED BY:
Rob MacIver
PREIT Services, LLC
200 S. Broad Street 3rd Fl.
Philadelphia PA 19102

Drafted by/
Rob MacLver
PREIT Services, LLC
200 S Broad Street 3rd Fl.
Philadelphia, PA 19102

Record and Return to:
Madison Title Agency, LLC
1126 Ocean Avenue
Lakewood, NJ 08701
MTA DSG 45A

BILATERAL DECLARATION OF EASEMENTS
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS BILATERAL DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter referred to as "Declaration"), is dated the 20 day of December, 2018 (the "Effective Date"), and made by and between PR Valley View Limited Partnership, a Pennsylvania limited partnership ("Declarant") and PR Valley View OP-DSG/CEC, LLC a Delaware Limited Liability Company ("DSG-CEC Parcel Owner");

WITNESSETH:

WHEREAS, Declarant was formerly the owner of a parcel of land (the "Property") located in the Cities of La Crosse and Onalaska, County of La Crosse, State of Wisconsin, as more particularly described on Exhibit A attached hereto and shown on Exhibit A-1 attached hereto; DSG-CEC Parcel Owner owns the portion of the Property labeled on Exhibit A-2 attached hereto (the "Site Plan") as "DSG-CEC Parcel," which is more particularly described in Exhibit B attached hereto ("DSG-CEC Parcel"); and Declarant owns the portion of the Property shown on the Site Plan as "Developer's Parcel," which is more particularly described in Exhibit C attached hereto ("Developer's Parcel"); and

WHEREAS, the DSG-CEC Parcel and Developer's Parcel are each referred to herein from time to time as a "Parcel" and Declarant and DSG-CEC Parcel Owner are sometimes collectively referred to herein as the "Parties" and each individually as a "Party;" and

WHEREAS, the Parties desire to create certain easements, covenants, conditions and restrictions encumbering the Property and binding on and inuring to the benefit of the Parties and their respective successors and assigns;

NOW, THEREFORE, the Parties hereby declare, agree, covenant and consent that the Property and all parts thereof shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of protecting the value and desirability of, and which shall run with the Property and all parts thereof, and be binding on all parties having any right, title or interest in the Property or any part thereof, their respective heirs, successors and assigns, and which shall inure to the benefit of each party having any right, title and interest therein. Further, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I
BASIC DEFINITIONS

Section 1.1 "Building(s)" shall mean any permanently enclosed structure(s) which has (have) been, will be or may be placed, constructed or located on a Parcel, and which for the purpose of this Declaration shall include any appurtenant canopies, supports, loading docks, covered garden areas, truck ramps and other outward extensions, but such term does not include Common Area Improvements.

Section 1.2 "Common Access Drive" shall mean the access point to State Trunk Highway 16 located within the No Build Area (defined below), as identified on the Site Plan.

Section 1.3 "Common Area" shall mean the service drives, parking areas, access roads, driveways, drive aisles, retention ponds, entrances and exits of the Property, and all other areas that may be provided for the general use in common of the tenants and occupants of the Property and their officers, agents, tenants, employees, customers, permittees and invitees, but such term does not include Building(s).

Section 1.4 "Common Area Improvements" shall mean all improvements which are currently located on a Parcel, or which will be or may be constructed on a Parcel in accordance with the terms of this Declaration within the Common Area, and which are intended for the common enjoyment and use of both Parties, their respective successors, assigns, tenants, occupants and permittees, such as parking areas, access and egress drives, service drives, lighting standards, sidewalks, Common Utility Facilities (defined below) and all other similar improvements constructed from time to time in replacement of the same, but such term does not include Building(s).

Section 1.5 "Common Utility Facilities" shall mean utility systems and facilities from time to time situated on or serving the Property, up to the building wall of any Building, and intended for use or service in common by both Parcels or for the service of the Common Area on either Parcel, including without limitation the following: stormwater drainage, retention and disposal facilities, sanitary sewer systems, manholes, underground domestic and fire protection water systems, underground natural gas systems, underground electric power cables and systems, underground telephone, television and other communication cables and systems, and all other utility systems and facilities for such common use or service, including, without limitation, those installed under the provisions of this Declaration and as replacements thereto.

Section 1.6 "Default Rate" shall mean the annual rate of interest that is the lesser of (i) the prime rate then published in The Wall Street Journal plus two (2) percentage points and (ii)

the maximum rate allowed by applicable law.

Section 1.7 "Existing Leases" shall mean those certain lease agreements listed below, pertaining to the DSG-CEC Parcel and in effect as of the Effective Date, as the same may heretofore have been amended or may hereafter be extended or renewed in accordance with their respective terms:

- (a) Lease dated as of October 8, 1981 between Declarant's predecessor, as landlord, and CEC Entertainment, Inc. (formerly known as ShowBiz Pizza Place, Inc.), a Kansas corporation, as tenant;
- (b) Lease dated as of April 21, 2014 between Declarant, as landlord, and Dick's Sporting Goods, Inc., a Delaware corporation, as tenant (the "DSG Lease"); and
- (c) Lease Agreement dated as of July 24, 2013 between Declarant, as landlord, and PIAS Partners, LLC, a Wisconsin limited liability company (doing business as "Play It Again Sports"), as tenant.

The tenants named above, together with their respective successors and permitted assigns, may sometimes be collectively referred to hereinafter as the "Existing Tenants" and individually as an "Existing Tenant."

Section 1.8 "Grantor" shall mean a Party granting an easement pursuant to this Declaration, it being intended that the grant shall thereby bind and include not only such Grantor but also its successors and assigns.

Section 1.9 "Grantee" shall mean a Party to whom an easement is granted pursuant to this Declaration, it being intended that the grant shall benefit and include not only such Party but also its successors, assigns, tenants, occupants and permittees.

Section 1.10 "Improvement(s)" shall mean the Building(s) and the Common Area Improvements located on a Parcel.

Section 1.11 "No Build Area" shall mean and refer to the portions of the Property that are identified on the Site Plan as the No Build Area.

Section 1.12 "Separate Utility Facilities" means any of the following intended neither for use in common by more than one Parcel nor for service of the Common Area, including without limitation the following: storm drainage facilities and sanitary sewer systems (including, without limitation, underground storm and sanitary sewer systems), underground domestic and fire protection water systems, underground natural gas systems, underground electric power,

cables and systems, underground telephone, television and other communication cables and systems, and all other utility systems and facilities reasonably necessary for the use or service of any Improvement situated on a Parcel.

Section 1.17 The word "in" with respect to an easement granted "in" a particular Parcel means, as the context may require, "in", "to", "on", "over", "through", "upon", "across", and "under", or any one or more of the foregoing.

ARTICLE II APPLICATION OF EXISTING AGREEMENTS

The Parties acknowledge and agree that this Declaration is subject and subordinate to the provisions of all documents and instruments pertaining to the Property that are legally binding and enforceable as of the Effective Date, including, but not limited to, all documents and instruments of record and the leases of tenants which are in good standing and in compliance with the terms of their leases as of the Effective Date, for so long as the said documents and instruments are legally binding and enforceable and have not expired by their own terms or by operation of law. In the event there is a conflict between any provision of this Declaration and any such document, instrument or lease, the terms and provisions of such document, instrument or lease shall prevail. The Parties specifically acknowledge that the Property is subject, among others, to the following agreements:

(a) Agreement between Dayton Development Company; Dayton Hudson Corporation; Sears, Roebuck and Co.; Ryan Construction Company of Minnesota, Inc.; and G.R. Herberger's Inc., and The City of La Crosse, its successors and assigns, dated July 29, 1980 and recorded in the Register's Office on August 8, 1980 in Volume 648 of Records, page 220 as Document No. 909431, which Agreement was assigned by Dayton Development Company to The Equitable Life Assurance Society of the United States, its successors and assigns, by an instrument dated January 30, 1981 and recorded in the Register's Office on February 2, 1981 in Volume 657 of Records, page 270 as Document No. 914934; and

(b) Construction, Operating and Reciprocal Easement Agreement between Dayton Development Company; Dayton-Hudson Corporation; Sears, Roebuck and Co.; Ryan Construction Company of Minnesota, Inc. and G.R. Herberger's, Inc., recorded in the Register's Office on October 23, 1979 in Volume 636 of Records, page 261 as Document No. 901840, as amended by (i) an instrument recorded in the Register's Office on January 22, 1980 in Volume 640 of Records, page 181, as Document No. 904266 and (ii) an instrument recorded in the Register's Office on October 22, 1980 in Volume 652 of Records, page 534 as Document No. 912094; which agreement was assigned by Dayton Development Company to The Equitable Life

Assurance Society of the United States, by an instrument dated January 30, 1981 and recorded in the Register's Office on February 2, 1981 in Volume 657 of Records, page 265 as Document No. 914931, and which was assigned by Dayton Development Company to The Equitable Life Assurance Society of the United States, its successors and assigns, by an instrument dated January 30, 1981 and recorded in the Register's Office on February 2, 1981 in Volume 657 of Records, page 270 as Document No. 914934; and which agreement was further amended by Second Amendment to Construction, Operating and Reciprocal Easement Agreement dated February 4, 2010 and recorded in the Register's Office on February 23, 2010 as Document No. 1544962 (collectively, the "COREA").

ARTICLE III EASEMENTS

Section 3.1 General Provisions Regarding Easements. For purposes of this Article III, the following general provisions regarding the easements granted herein will apply:

(a) All easements granted herein are non-exclusive, irrevocable and perpetual in duration. Although such easements are not for the direct benefit of permittees, a Grantee may permit from time to time its tenants, occupants and their employees and permittees to use such easements; provided, however, that no such permission nor the division of the dominant estate shall permit or result in a use of the easement in excess of the use contemplated at the date of the creation of such easement. All easements granted herein shall be easements appurtenant and not easements in gross.

(b) In the event a Party assigns, transfers or conveys a portion of its Parcel in accordance with the terms of this Declaration, those easements granted under this Article III which benefit, bind, and burden the remainder of the Parcel not transferred or conveyed shall benefit, bind, and burden the portion of the Parcel so transferred or conveyed, and those easements granted under this Article III which benefit, bind, and burden the portion so transferred or conveyed shall benefit, bind, and burden the remainder of the Parcel of which it was a part.

(c) All easements granted hereunder and herein shall exist by virtue of this Declaration, without the necessity of confirmation by any other document. Likewise, upon the termination of any easement (in whole or in part) or its release in respect of all or any part of any Parcel, in accordance with the terms hereof, the same shall be deemed to have been terminated or released without the necessity of confirmation by any other document. However, upon the request of a Party, the other Party will sign and acknowledge a document memorializing the existence (including the location and any conditions), or the termination (in whole or in part), or

the release (in whole or in part), as the case maybe, of any easement, if the form and substance of the document is approved by the other Party. No grant of an easement pursuant to this Article III shall impose any greater obligation on a Party to construct or maintain its Building(s) except as expressly provided in this Declaration.

(d) No easement granted hereunder shall merge with the fee interest in the Parcel subject to such easement by reason of the fact that the Grantor and Grantee of such easement may be the same party, or because the dominant and servient estates with respect to such easement may be owned in fee by the same party.

Section 3.2 Grant of Easements. The Parties hereby grant and create the following easements over, in, upon and across their respective Parcels, for the benefit of each Parcel as more specifically set forth below:

(a) **Access Easements.** The Parties hereby establish non-specific easements for pedestrian and vehicular traffic across the Common Area Improvements for the purpose of providing ingress and egress to and from the Property and the public rights-of-way, and to otherwise use the Common Area for their respective intended purposes, together with the following rights and subject to the following restrictions and reservations:

(i) The use of the foregoing easements by any person entitled to the use thereof shall be non-exclusive and in common with all other such persons;

(ii) Each Party agrees not to obstruct or interfere in any way with the free flow of pedestrian and vehicular traffic over the Common Area; provided however, subject to the provisions of Section 7.2, a Party shall have the right to temporarily close Common Area located on its Parcel as may be necessary for reasonable repair and maintenance, traffic regulation and control, and to prevent a dedication thereof or the accrual of any prescriptive rights to any person therein; and

(iii) The access drives and egress points located on Developer's Parcel as shown on the Site Plan may be relocated by Declarant at any time so long as the relocated access drives and egress points afford reasonable and comparable access to the public rights-of-way.

(b) **Utility Easements.**

(i) The Parties hereby establish, in common with each other and all others to whom Declarant has granted or may hereafter grant such rights, a permanent,

non-exclusive easement over, upon, and across the Common Area for the installation, operation, flow, passage, use, maintenance, connection, repair, relocation, and removal of both Separate Utility Facilities and Common Utility Facilities, including but not limited to, sanitary sewers, storm drains, water (fire and domestic), gas, electrical, telephone and communication lines. Subject to clause (ii), below, the locations of the utility easements granted hereunder shall be the same as the locations of currently existing (x) Separate Utility Facilities (if any) and (y) Common Utility Facilities serving, whether or not any of the same appears on the Site Plan.

(ii) Each Party reserves the right, in its reasonable discretion, to change from time to time the configuration, location, number and size of

- (A) any Separate Utility Facilities located on and serving only its Parcel; or
- (B) any (x) Separate Utility Facilities located on and serving only another Parcel and (y) Common Utility Facilities located on its Parcel, so long as the other Party's access to and/or use of the same is not unreasonably interrupted or impaired.

(iii) All such work shall be completed at the sole expense of the Party undertaking the change, and any addition, construction, installation, service, maintenance, modification, reconfiguration, repair or replacement of any utility lines or facilities shall be performed in a manner so as to minimize interference with the use and enjoyment of any utility lines or facilities and of utility service by the other Party and the tenant(s), occupant(s) and invitees of the other Parcel. The Party undertaking the change shall use commercially reasonable efforts to work together with the other Party to coordinate the scheduling of such work in furtherance of same. A Party exercising the rights and easements hereby granted shall, at its sole expense, properly and promptly repair and restore any and all resulting damage to the other Parcel, as soon as possible following completion of the work.

(iv) Each Party shall be responsible, at its sole cost and expense, to maintain, repair and replace any Separate Utility Facilities benefitting such Party's Parcel and located or installed by such Party on the other Parcel pursuant to the easements granted in this Section 3.2(b). All such maintenance, repair and removal shall be performed in a manner that causes as little disturbance to the other Parcel as may be practicable under the circumstances, and any and all portions of the surface area of any such Parcel which may have been excavated, damaged or otherwise disturbed as a result

of such work shall be restored, at the sole cost and expense of the Party performing such work, to essentially the same condition as existed prior to the commencement of any such work.

(v) All Separate Utility Facilities and all Common Utility Facilities installed anywhere on the Property, whether installed under this Section 3.2(b) or otherwise, shall be underground, if reasonably possible.

(vi) Any grant or other conveyance by a Party of an easement on its Parcel to the benefit of a public utility shall, without necessity of further recital in the conveyancing instrument, be deemed to include the following conditions, covenants and restrictions to which such public utility and its successors shall be bound unless specifically stated otherwise in such instrument.

(A) The easement is non-exclusive;

(B) All facilities installed pursuant to the easement shall be underground, except for manhole and manhole covers which shall be flush with adjacent grade, and except as otherwise shown on plans approved by the Declarant;

(C) The Party shall retain the right to use the surface areas pursuant to the other terms and provisions of this Declaration;

(D) The grantee shall not, in its use or installation, interfere with other installations and easements in the area;

(E) The grantee shall protect its facilities against uses of the surface made by the other Owners;

(F) The grantee shall make adequate provisions for the safety and convenience of all persons using the area;

(G) The grantee, following installation or other work, shall replace and restore the areas and improvements to the condition in which they were immediately prior to performance of such installation and work;

(H) The grantee shall defend, indemnify and hold harmless the Parties against all loss, liability, and costs (including reasonable attorney's fees)

which may result to the Parties from the negligent act or omission of, its agents, employees and contractors; and

(l) The grantee shall not permit any claim, lien or encumbrance to attach to or be filed against the Property or any interest therein.

(c) **Surface Water Management Easements.** The Parties hereby establish, for the benefit of and appurtenant to each Parcel, non-exclusive, perpetual easements over, upon, under and across the Common Areas for the purpose of drainage of stormwater runoff from a Parcel over, upon, under or across the other Parcel to existing or future public or private storm drain systems on, in or under the Common Area; provided that no Owner shall be obligated to increase any capacity for the drainage of stormwater runoff on its Parcel from that existing thereon as of the Effective Date; and provided further that a Party may replace, rebuild, relocate or reconfigure any system or facility for the drainage of stormwater runoff (or any component thereof) located on its Parcel at its sole expense, but without the consent of the other Party, so long as reasonable accommodation is made for stormwater drainage during construction and, at the conclusion of construction, the capacity to accept stormwater through the system from the benefitted Parcel is not diminished other than to a *de minimis* extent. Neither Party may conduct any grading or other activities or construct any improvements or landscaping on any portion of its Parcel that would, after the completion of the same, materially impede, hinder or interfere with the accumulation or free flow and drainage of stormwater over, across, on and under its respective Parcel or the other Party's Parcel. Each Owner shall be responsible for maintaining the surface water management system facilities area(s) located on its respective Parcel, including all mitigation areas and related structures, in good and functional condition, shall timely perform maintenance thereon and shall timely make any necessary repairs and replacements thereto.

(d) **Self-Help Easements.** Each Party hereby grants to the other Party an easement and license to enter upon the Grantor's Parcel for the limited purpose of exercising such other Party's cure rights provided under Article VI of this Declaration.

ARTICLE IV

USE

Section 4.1 General Use Requirement. The DSG-CEC Parcel shall be used only for financial institutions, service shops, offices of the type customarily found in first-class regional shopping centers, for retail stores selling retail merchandise normally carried in other such shopping centers and for restaurants with over sixty (60%) percent of gross revenues from food sales.

Section 4.2 Nuisances. Subject to the provisions of Section 4.1, neither Parcel shall be used for anything other than purposes which may be permitted by applicable zoning regulations, nor shall anything be done on either Parcel which shall constitute a public nuisance to the community including, but not limited to: any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness or loudness; any obnoxious odor; any noxious, toxic, caustic or corrosive fuel or gas; any dust, dirt, or fly ash in excessive quantities; or any unusual fire, explosion or other damaging or dangerous hazard, including, the storage, display or sale of explosives or fireworks.

Section 4.3 Use Restrictions on the DSG-CEC Parcel. During the term of this Declaration no portion of the DSG-CEC Parcel may be used for any of the following purposes without the written consent of Declarant, which may be withheld in Declarant's sole discretion:

- (a) A health club, gymnasium or spa larger than 10,000 square feet.
- (b) A training or educational facility (including without limitation, a school, college, reading room or other facility catering primarily to students and trainees rather than customers).
- (c) A medical clinic or office.
- (d) An establishment for sale, leasing, display or repair of automobiles, trucks, mobile homes or recreational motor vehicles provided that a new car dealership that keeps the vehicles for sale inside of the building (such as a Tesla dealership or the like) is allowed.
- (e) A child daycare facility.
- (f) Governmental offices.
- (g) An adult type bookstore or other establishment selling, renting, displaying or exhibiting pornographic or obscene materials (including without limitation: magazines, books, movies, videos, photographs or so called "sexual toys") or providing adult type entertainment or activities (including, without limitation, any displays or activities of a variety involving, exhibiting or depicting sexual themes, nudity or lewd acts).
- (h) A hotel or motel, any living quarters, sleeping apartments or lodging rooms;
- (i) A theater (motion picture or live performance).
- (j) A massage parlor unless it is a nationally or regionally branded, reputable massage parlor (such as Massage Envy or the like).
- (k) A skating rink.
- (l) A mortuary, crematorium or funeral home.
- (m) A mobile home or trailer court, labor camp, junkyard or stockyard.
- (n) A landfill, garbage dump or other such facility for the dumping, disposing, incineration or reduction of garbage.

- (o) A telephone call center.
- (p) A gambling establishment, bingo parlor or betting parlor.
- (q) Veterinary hospital or animal raising or keeping facilities;
provided, however, the foregoing shall not prohibit the operation of a retail store providing goods and services to pets, such as Petco or PetSmart.
- (r) Assembling, manufacturing, industrial, distilling, refining or smelting facility.
- (s) Any agricultural operation.
- (t) A tavern, bar, nightclub, cocktail lounge, discotheque, dance hall, or any other establishment selling alcoholic beverages for on-premises consumption; provided, however, the foregoing shall not prohibit the operation of a restaurant where the sale of alcoholic beverages therein comprises less than forty (40%) percent of the restaurant's gross revenues.
- (u) A bowling alley, billiard parlor, bingo parlor, arcade, game room or other amusement center.
- (v) A gas station, service station, automotive repair shop or truck stop; except an automobile service center of the same type which Firestone and Goodyear operate as of the Effective Date.
- (w) A flea market or pawn shop.
- (x) A car wash.
- (y) A dry cleaning plant, central laundry or laundromat.
- (z) Any drilling for, in or removal of subsurface substances.
- (aa) Outdoor circuses, outdoor public meetings.
- (bb) Any "second hand" store, Army, Navy or government surplus store except for national or regionally branded, reputable consignment stores (such as Play It Again Sports or the like).
- (cc) Any warehouse (any area for the storage of goods intended to be sold at any retail establishment on the Property shall not be deemed a warehouse).
- (dd) Any fire sale, bankruptcy sale (except pursuant to court order) or auction.

In addition to the above, for so long as (i) the tenants listed in Exhibit D hereto are in good standing pursuant to their respective leases, (ii) the applicable underlying lease has not terminated or expired, and (iii) the date on which the applicable exclusive or prohibited use expires or terminates by its own terms has not yet occurred, the DSG-CEC Parcel shall not be used for any of the exclusive or prohibited uses listed in Exhibit D; *provided, however*, that the restrictions against such exclusive or prohibited uses listed in Exhibit D shall not apply to the DSG-CEC Parcel under the Existing Leases until the expiration or earlier termination of each respective Existing Lease, as such Existing Lease may be extended or renewed, unless any such use restrictions are expressly imposed upon an Existing Tenant by the terms of its Existing

Lease.

Section 4.4 Use Restrictions under the DSG Lease. The exclusive and prohibited uses and other restrictions set forth in Exhibit E with respect to the DSG Lease shall apply to all or part (as the case may be) of Developer's Parcel, as set forth in Exhibit E, for so long as the DSG Lease (as the same may be extended or renewed) has not terminated or expired and the tenant under the DSG Lease thereunder is open for business to the public; *provided, however*, that the restriction against such restrictions and exclusive and prohibited uses in respect of the DSG Lease shall not apply to any portions of Developer's Parcel which are subject to one or more leases which were in effect as of the date of the DSG Lease.

ARTICLE V

PERMITTING, GENERAL CONSTRUCTION & DEVELOPMENT

Section 5.1 Preliminary Approvals. No Buildings, Improvements or other structures shall be erected or allowed to remain on the DSG-CEC Parcel unless the plans and specifications therefor have been approved by Declarant in accordance with the provisions of this Section 5.1. DSG-CEC Parcel Owner shall furnish to Declarant a complete, reproducible set of proposed construction plans including a site plan, foundation plan, floor plan and elevation drawings of all sides of the proposed Building(s), Improvements or other structure(s) for approval in writing by Declarant prior to the commencement of construction of any kind on the DSG-CEC Parcel, which approval shall not be unreasonably withheld, conditioned or delayed. Declarant shall grant or withhold its approval within thirty (30) days after delivery of written request therefor accompanied by the plans and drawings referred to in the immediately preceding sentence. If Declarant fails to respond within such thirty (30) day period, DSG-CEC Parcel Owner shall have the right to send a second request for approval, indicating in bold, capital type at the top of the request, that approval will be deemed granted if not withheld in writing within ten (10) days after delivery, and if Declarant fails to respond to such second notice within ten (10) days after delivery thereof, Declarant's approval shall be deemed to have been granted. Upon completion of the foundation of any approved Building(s), Improvements or other structure(s), an actual field survey of the foundation shall be delivered to Declarant, to ensure that the foundation has been constructed in accordance with the foundation plan approved by Declarant. All approved Buildings, Improvements or other structures constructed on the DSG-CEC Parcel shall comply with the plans approved by Declarant unless changes to such plans are approved in writing by Declarant. Declarant reserves the right to make any reasonable inspections necessary to assure compliance with the provisions of this Section 5.1. Weather permitting, all paving and landscaping will be finished immediately following substantial completion of construction, but in no event shall be installed later than ninety (90) days after a Building, Improvement or other structure is occupied or placed in service, as the case may be. Total construction time from

pouring footings to the substantial completion of construction shall not exceed one (1) year.

Section 5.2 Parking Requirements. Each Parcel shall be entitled to rely upon the non-exclusive cross-easements for parking and access established by the COREA. The Parties acknowledge that the DSG-CEC Parcel is not self-supporting with respect to minimum parking requirements, and that the rights afforded to the DSG-CEC Parcel pursuant to the COREA provide the DSG-CEC Parcel with the use of additional parking spaces on the Developer's Parcel in order to provide the number of parking spaces required by applicable law with respect to the uses conducted on the DSG-CEC Parcel as of the Effective Date. Notwithstanding the foregoing, no future reconstruction or redevelopment of the DSG-CEC Parcel shall, unless otherwise approved in writing by Declarant in advance, result in an increase in the number of parking spaces required to be provided on the Developer's Parcel for the use and benefit of the DSG-CEC Parcel.

The parking lanes or bays (which shall include two rows of parking spaces and incidental driveway) on the DSG-CEC Parcel, if any, shall, unless otherwise required by law, have either (a) a minimum width of 63 feet and each parking space shall be at an angle of 90 degrees and shall have a minimum width of 9 feet on center measured at a right angle to the side line of the parking space or (b) a minimum width of 55 feet and each parking space shall be at an angle of 60 degrees and shall have a minimum width of 9 feet on center measured at right angles to the side line of the parking space.

Section 5.3 Signage. Subject to (a) Declarant's reasonable approval, (b) Declarant's receipt of any required approval under the COREA and (c) receipt of all required governmental approvals, signage may be constructed on the DSG-CEC Parcel to advertise the business conducted on the DSG-CEC Parcel. DSG-CEC Parcel Owner or its tenant shall obtain any governmental consents, approvals and permits required to allow such signs to be erected, subject to the following restrictions.

1. General Specifications.

- (a) Painted lettering, symbols or identification of any nature will not be permitted, except as specifically, permitted hereunder.
- (b) Flashing, blinking, moving, animated or audible signs will not be permitted.
- (c) All electrical sign components shall bear the UL label and their installation must comply with all local building and electrical codes.
- (d) No exposed wiring, conduits, tubing, lamps, ballast boxes or raceways will be permitted; except that channelized neon may be used.
- (e) All cabinets, conductors, transformers, ballasts, attachment devices, and other equipment shall be concealed.

2. Design Requirements.

(a) The advertising or informative content of all signs shall be limited to letters designating the name and/or type of business conducted on the DSG-CEC Parcel, and such designation of the business conducted on the DSG-CEC Parcel will be described in general terms and shall not include any specification of the merchandise offered for sale or the services rendered except as shown on the approved sign.

(b) The character, design, color and layout of all signs shall be subject to Declarant's approval, which approval shall not be unreasonably withheld to the extent the sign in question complies with the criteria set forth in this Section 5.3.

(c) No sign or any portion thereof may project above the parapet wall or top of the exterior wall upon which it is mounted.

(d) No rooftop signs will be permitted.

(e) No free standing sign, or sign not attached to a building may be installed (except traffic directional signage); except that in association with a building or structure, a maximum of one free-standing pylon sign identifying the business of the occupant of the building shall be permitted on the DSG-CEC Parcel in accordance with the following:

(i) Said pylon sign shall be constructed on a masonry base; exposed structural members or poles to support sign will not be permitted.

(ii) Maximum height from the bottom of the masonry base to the top of the sign shall not exceed forty feet (40'); and the height or width of a sign panel herein shall not exceed eight feet (8'). In no event shall the surface area of the sign panel exceed sixty-four (64) square feet.

(iii) Maximum width of the sign panel shall not exceed ten feet (10').

(iv) Maximum thickness of masonry base and/or sign shall not exceed thirty (30") inches or the thickness required by local governing authorities, whichever is greater.

(f) Anything herein stated to the contrary notwithstanding the size, character, appearance, location, installation and maintenance of all signs to be constructed on the DSG-CEC Parcel must comply with all rules, ordinances, regulations and laws of all appropriate governmental authorities.

Section 5.4 Redevelopment of the DSG-CEC Parcel. The DSG-CEC Parcel will only be redeveloped under the following guidelines:

(a) All visible areas of any Building constructed on the DSG-CEC Parcel shall be aesthetically pleasing and utilize one design concept with continuity of materials on all four sides of the Building. All Buildings shall be in architectural harmony with the total development of the Property. The DSG-CEC Parcel shall have decorative screening and/or

landscaping in order to obscure from public view all trash rooms, trash holding receptacles, loading or service areas, mechanical or electrical equipment, storage facilities or bins, or other building appurtenances which Declarant may deem aesthetically undesirable.

(b) Any Building constructed on the DSG-CEC Parcel shall not exceed 28 feet in height, including any parapet, as measured from the finished elevation of the parking area immediately adjacent to such Building's foundation; provided, however, that the Building may have a single architectural entrance feature not exceeding 35 feet in height.

(c) Any rooftop equipment installed on the DSG-CEC Parcel shall be screened in a manner reasonably satisfactory to Declarant to insure that all roof-mounted equipment and appurtenances, roof vents, etc., shall not be readily visible to the public.

(d) No rooftop signs shall be erected on any Building.

(e) A freestanding identification sign may be erected on the DSG-CEC Parcel only with the prior written consent of Declarant, but in no event shall such freestanding identification sign block the visibility of any signage on any Building located on Developer's Parcel or the visibility of any monument sign or pylon sign. Approvals under this section shall not be unreasonably withheld. If DSG-CEC Parcel Owner or its tenant desires to erect such a freestanding sign, it shall make its request in writing to Declarant with a copy of the sign plans. The Declarant shall then have thirty (30) days from receipt of the notice to object to the proposed sign. If Declarant does not object within the thirty (30) day period, then the proposed sign shall be conclusively deemed to have been approved by Declarant. Notwithstanding the foregoing, entrance-exit signs to facilitate the free flow of traffic may be erected without Declarant's prior approval, provided such entrance-exit signs are of a monument type, not to exceed three feet, three inches (3' 3") in height.

(f) Any of the restrictions or requirements set forth in this Section 5.4 may be waived, amended, modified, released, or terminated in writing at any time and from time to time by the Declarant.

(g) Subject to all rules, ordinances, regulations and laws of all appropriate governmental authorities.

The foregoing restrictions and agreements are imposed on the DSG-CEC Parcel for the benefit of the entire Property. The agreements, restrictions and covenants herein made shall be deemed restrictive covenants running with the land and shall be binding upon the DSG-CEC Parcel and any person who may from time to time own, lease, or otherwise have an interest in the DSG-

CEC Parcel.

Section 5.5 Performance of Construction Work Generally. All construction, alteration or repair work undertaken on the DSG-CEC Parcel shall be accomplished in an expeditious, diligent and speedy manner. DSG-CEC Parcel Owner shall: (i) pay all costs and expenses associated with such work; (ii) take necessary measures to minimize disruption and inconvenience caused by such work; (iii) make adequate provisions for the safety and convenience of Declarant and the tenants and occupants of Developer's Parcel and their employees and invitees; (iv) control dust, noise and other effects of such work using methods customarily utilized in order to control such deleterious effects associated with construction projects in a populated or developed area; (v) repair any and all damage which may be caused by or result from such work; (vi) restore all affected portions of either Parcel to a condition equal to or better than the condition existing prior to beginning such work; (vii) indemnify and hold harmless Declarant and the tenants and occupants of Declarant's Parcel against any mechanics' liens for such work. Such construction shall not (a) unreasonably interfere with the business operations on Declarant's Parcel, (b) block or impede ingress or egress to and from public rights of way from the Property, (c) adversely affect the availability of parking and/or circulation of traffic on the Property, or (d) interrupt the utility service(s) on the Property. DSG-CEC Parcel Owner shall limit all construction work and staging areas to the DSG-CEC Parcel and not encroach on any Common Area on Declarant's Parcel and shall not utilize parking areas on Declarant's Parcel, except as may otherwise be permitted under the COREA.

Section 5.6 Compliance in Construction. All construction, redevelopment, alteration or repair work undertaken pursuant to this Declaration shall comply with plans and specifications therefor (approved by Declarant, if required pursuant to Section 5.1), the requirements of all applicable governmental authorities, public bodies and other entities (such as public utilities) having jurisdiction, and all applicable laws, ordinances, rules and regulations, including procurement of all license and permits required for such work. Declarant's approval of any such work, or the plans and specifications therefor, under any provision of this Declaration shall not constitute Declarant's assumption of responsibility for the accuracy, sufficiency or propriety of such work, or of such plans and specifications, nor shall constitute a representation or warranty that such work or plans and specifications comply with applicable law.

Section 5.7 Construction Insurance. Prior to commencing any construction activities within the DSG-CEC Parcel, DSG-CEC Parcel Owner or its tenant shall obtain or require its contractor to obtain and thereafter maintain so long as such construction activity is occurring, at least the minimum insurance coverage set forth below:

(a) Worker's Compensation and Employer's Liability Insurance.

- (i) Worker's compensation insurance as required by any applicable law or regulation.
- (ii) Employer's liability insurance in the amount of \$2,000,000 each accident for bodily injury, and \$2,000,000 each employee for bodily injury by disease.

(b) General Liability Insurance. Commercial General Liability insurance covering all operations by or on behalf of the general contractor, which shall include the following minimum limits of liability and coverages:

Required Coverages:

- (A) Premises and Operations;
- (B) Products and Completed Operations;
- (C) Contractual Liability, insuring the indemnity obligations assumed by Contractor under the Contract Documents;
- (D) Broad Form Property Damage (including Completed Operations);
- (E) Explosion, Collapse, and Underground Hazards;
- (F) Personal Injury Liability:
 - (1) \$3,000,000 each occurrence for Personal Injury Liability;
 - (2) \$5,000,000 aggregate for Products and Completed Operations (which shall be maintained for a three year period following final completion of the work);
 - (3) \$5,000,000 general aggregate.

(c) Automobile Liability Insurance. Any automobile liability insurance (bodily injury and property damage liability) including coverage for owned, hired, and non-owned automobiles, shall have limits of liability of not less than \$1,000,000 combined single limit each accident for bodily injury and property damage combined. The general contractor shall require each of its subcontractors to include in their liability insurance policies coverage for Automobile Contractual Liability.

(d) Umbrella/Excess Liability Insurance. The general contractor shall also carry umbrella/excess liability insurance in the amount of \$5,000,000.

All such insurance (except workers' compensation) shall name Declarant and its affiliates as additional insureds and a certificate of insurance evidencing the same shall be delivered to Declarant prior to commencement of the work.

ARTICLE VI
DEFAULT; REMEDIES

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

(a) The failure to make any payment required to be made hereunder within ten (10) business days of the due date, or

(b) The failure to observe or perform any other of the covenants, conditions or obligations of this Declaration or to abide by the restrictions and requirements herein provided, other than as described in (a) above.

Section 6.2 Time to Cure. With respect to any default under Section 6.1(b) above, neither Party shall be deemed to be in default of the performance of any of its obligations unless the Party alleged to be in default shall have received written notice thereof, setting forth with reasonable specificity the nature of the default. Unless otherwise specified in a particular Section of this Declaration which requires a Party to cure or commence to cure an alleged default within the time specified in such Section, a Party shall have thirty (30) days after the giving of notice within which to cure a default. If such default cannot with the continuous exercise of due diligence be cured within such thirty (30) days, such thirty (30) day period shall be extended for such additional time as may be required to cure the default in the continuous exercise of due diligence, provided that the curing Party commences to cure the default within such thirty (30) day period and thereafter proceeds diligently and continuously to cure such default. No non-defaulting Party shall exercise any remedy provided in this Declaration, or otherwise available to such non-defaulting Party, including any remedy of self-help (except in the case of an emergency), unless and until the applicable time to cure has elapsed.

Section 6.3 Right to Cure. With respect to any default under Section 6.1 above, any non-defaulting Party shall have the right, but not the obligation, to cure such default by the payment of money or the performance of some other action for the account of and at the expense of the Defaulting Party; provided, however, that in the event the default shall constitute an emergency condition involving an immediate and imminent threat of substantial injury or harm to persons or property, the non-defaulting Party, acting in good faith, shall have the right to cure such default upon such advance notice as is reasonably possible under the circumstances or, if necessary, due to such emergency, without advance notice, so long as notice is given as soon as possible thereafter. To effectuate any such cure, the non-defaulting Party shall have the

right to enter upon the Parcel of the Defaulting Party (but not into any Building) to perform any necessary work or furnish any necessary materials or services to cure the default of the Defaulting Party. Each Party shall be responsible for the non-performance or default of the occupants and lessees of its Parcel. In the event any non-defaulting Party shall cure a default, the Defaulting Party shall reimburse the non-defaulting Party for all costs and expenses incurred in connection with such curative action, plus interest at the Default Rate, within ten (10) business days of receipt of demand, together with reasonable documentation supporting the expenditures made.

Section 6.4 No Termination for Breach. No breach, whether or not material, of the provisions of this Declaration shall entitle a Party to cancel, rescind or otherwise terminate this Declaration, but such limitation shall not affect, in any manner, any other rights or remedies which a Party may have hereunder by reason of any breach of the provisions of this Declaration.

Section 6.5 Limitation of Liability. Notwithstanding the foregoing, a Party shall be bound by this Declaration only as to the Parcel or portion of a Parcel owned or possessed by such Party. In addition, such Party shall be bound by this Declaration only during the period such Party owns or possesses such Parcel or portion of a Parcel; and, upon conveyance or transfer of the fee or leasehold interest shall be released from liability hereunder, except as to the obligations, liabilities or responsibilities that accrue prior to such conveyance or transfer. Notwithstanding the foregoing, the easements, covenants, conditions and restrictions established by this Declaration shall continue to benefit and burden each Parcel (or portion thereof) and shall run with the land.

Section 6.6 Breach. In the event of breach or threatened breach of this Declaration, only the Parties shall be entitled to institute legal proceedings for relief from the consequences of said breach or threatened breach. In the event of a breach hereof, the non-prevailing party shall pay the reasonable attorneys' fees and costs of the prevailing party, which shall include the fees and costs of a single appeal of any judgment entered at trial. For purposes of this provision, "prevailing party" shall include a party that obtains dismissal of any complaint against it and a party that obtains by settlement substantially the relief sought by it in any such proceeding.

ARTICLE VII COMMON AREA AND OPERATING COSTS

Section 7.1 Declarant's Control. Except as may be limited as expressly provided herein, all Common Area on, in or about Developer's Parcel shall be subject to Declarant's exclusive control and management. Declarant shall operate, manage, equip, illuminate, surface, maintain, repair and replace such Common Area in good and reasonable condition and manner

(or shall cause all of the same to occur) and Declarant shall have the sole right and exclusive authority to employ and discharge all personnel with respect thereto and/or hire independent contractors to perform the same. In addition, Declarant may provide (or cause to be provided) security in such Common Area in such manner and to such degree as may reasonably be determined by Declarant.

Section 7.2 Right to Close or Relocate Common Area. Declarant may:

(a) at any time and from time to time temporarily close all or any portion of the Common Area located on, in or about Developer's Parcel to make repairs or to such extent as may, in Declarant's reasonable opinion, be necessary to prevent a dedication thereof or the accrual of any rights therein to any person or to the public, and Declarant shall undertake commercially reasonable efforts to minimize any disruption to operations on the Property by reason of any such closure;

(b) close or relocate any or all portions of such Common Area and perform such other acts in and to such Common Area as, in the exercise of reasonable business judgment, Declarant shall determine to be advisable with a view to the improvement of the convenience and use thereof by occupants and tenants of the Property, their employees and invitees, provided that no such closure or relocation shall materially and adversely impair or diminish access to the DSG-CEC Parcel from the public rights-of-way; and

(c) exclude and restrain any person from use or occupancy of any of the Common Area located in, on or about Developer's Parcel excepting, however, tenants and their bona fide invitees who make use of such Common Area for their intended purposes and in accordance with this Declaration and the rules and regulations established by Declarant.

Section 7.3 Declarant's Use. Declarant shall at all times have the right to utilize the Common Area located in, on or about Developer's Parcel for promotions, exhibits, carnival-type shows, rides, indoor or outdoor shows, displays, automobile and other shows or events, the leasing or licensing of kiosks, push carts and food facilities, seasonal displays and decorative items, and any other use which, in Declarant's reasonable judgment, tends to attract customers to or benefit the customers of the tenants and occupants of the Property.

Section 7.4 Changes by Declarant. Declarant shall at all times and from time to time have the right and privilege of determining the nature and extent of the Common Area located in, on or about Developer's Parcel and of making such changes, rearrangements, additions or reductions in and to such Common Area which, in its reasonable opinion, are deemed to be desirable or which are made as a result of the requirements of any governmental authority. Such

rights shall include, but not be limited to, the following:

(i) changing or modifying and adding to or subtracting from the sizes, locations, shapes and arrangements of parking areas, entrances, exits, driveways, and parking aisle alignments located on such Common Area (provided that in all events Developer's Parcel shall comply with the parking requirements imposed by any governmental authority);

(ii) altering the direction and flow of traffic;

(iii) restricting parking by employees to designated areas;

(iv) constructing surface, sub-surface or elevated parking areas and facilities;

(v) establishing and changing the level or grade of parking surfaces;

(vi) enforcing parking charges (by meters or otherwise);

(vii) installing landscaped areas;

(viii) constructing additional buildings or improvements on such Common Area or elsewhere and adding to or subtracting from the Buildings located on Developer's Parcel, including building additional stories on any such Buildings;

(ix) constructing roofs, walls, and any other improvements over, or in connection with any part of, or all of, such Common Area in order to enclose same;

(x) making alterations, renovations, reductions, or additions anywhere within such Common Area or other parts of Developer's Parcel or upon any lands or improvements added thereto; and

(xi) doing and performing such other acts in and to such Common Area as Declarant in its reasonable discretion deems advisable for the use thereof by tenants and their customers.

Section 7.5 Rules and Regulations. Declarant shall have the right, from time to time, to establish, modify and enforce reasonable rules and regulations with respect to the use, operation and maintenance of all Common Area located on, in or about Developer's Parcel; provided that (a) all such rules and regulations shall apply equally and without discrimination to the occupants of the Property, and (b) no such rules and regulations shall interfere with any tenant's or occupant's permitted use. Subject to the foregoing, the rules and regulations may include, but shall not be limited to, the hours during which the Common Area shall be open for use.

Section 7.6 Operating Costs. Pursuant to Section 7.1, above, Declarant will operate, repair and maintain, or cause to be operated, repaired and maintained, the Common Area located in, on or about Developer's Parcel in accordance with good shopping center industry practices. For the purposes of this Declaration, "Operating Costs" shall be those expenses, capital and non-capital costs, and any other cost or expense of whatever kind or nature related to operating, repairing, managing, maintaining, and replacing the Common Area located in, on or about Developer's Parcel.

Section 7.7 DSG-CEC Parcel Owner's Share of Operating Costs. DSG-CEC Parcel Owner shall be responsible for and shall pay to Declarant a share of the Operating Costs allocable to the DSG-CEC Parcel, which share shall be computed by multiplying the Operating Costs by the DSG-CEC Parcel Owner's Portion. The "DSG-CEC Parcel Owner's Portion" is a fraction whose numerator is the leasable area in square feet of the Building(s) located on the DSG-CEC Parcel and whose denominator is the total leasable area in square feet of all Buildings on the Property, as the same shall be re-determined any time a Building is added to, modified or removed from the Property. On the first day of each calendar month, DSG-CEC Parcel Owner shall pay to Declarant, in advance, without demand and without any setoff or deduction, as payment on account of DSG-CEC Parcel Owner's Portion of the Operating Costs, an amount equal to one-twelfth ($1/12^{th}$) of DSG-CEC Parcel Owner's Portion of the Operating Costs, as reasonably estimated by Declarant. Within forty-five (45) days after the end of each calendar year, Declarant will adjust DSG-CEC Parcel Owner's Portion of Operating Costs in accordance with the total Operating Costs actually incurred by Declarant during such calendar year, and shall refund any excess amount paid by DSG-CEC Parcel Owner, or invoice DSG-CEC Parcel Owner for any deficiency in the amount of such payments, which shall be payable in full to Declarant within thirty (30) days of the date of such invoice. Such actual Operating Costs shall form the basis of the following calendar year's estimated payments of DSG-CEC Parcel Owner's Portion of Operating Costs.

Section 7.8 Parcel Maintenance and Repair Costs. During the term of any of the Existing Leases, Declarant may, but shall not be obligated to, enter into a written agreement with DSG-CEC Parcel Owner whereby (a) Declarant agrees to undertake the maintenance and/or repair work ("Parcel Maintenance and Repair") required under such Existing Lease to be performed by DSG-CEC Parcel Owner with respect to the DSG-CEC Parcel and/or the Common Area, Building(s) and Improvements thereon pursuant to the terms of such Existing Lease, and (b) DSG-CEC Parcel Owner shall be responsible for the cost of Parcel Maintenance and Repair performed by Declarant during the term of the Existing Lease. Any such agreement with respect to Parcel Maintenance and Repair shall provide that, for so long as the Existing Lease requiring the same is in full force and effect, DSG-CEC Parcel Owner shall pay to Declarant, in full

satisfaction of the costs of Parcel Maintenance and Repair performed by Declarant pursuant to such Existing Lease, an amount equal to the common area maintenance payments (or the equivalent thereof) required to be paid by the Existing Tenant under such Existing Lease.

Section 7.9 No Build Area. Notwithstanding any provision of this Declaration to the contrary, Declarant shall not make any changes, alterations, modifications, restrictions, or relocations of or to the No Build Area, or construct any new Improvements within the No Build Area, without the prior written approval of DSG-CEC Parcel Owner, which approval shall not be unreasonably withheld, conditioned or delayed.

ARTICLE VIII MAINTENANCE, TAXES AND INSURANCE

Section 8.1 Maintenance. Each Party shall maintain its Parcel and the Building(s) on its Parcel in good order and condition. In accordance with the provisions of Article VII, above, Declarant shall maintain all access roads and parking areas located in, on or about Developer's Parcel in good order and condition and state of repair in accordance with the standards of good shopping center operation, including (but not limited to) sweeping and removal of trash, litter and refuse, repair and replacement of paving as necessary and removal of ice and snow. Each Party covenants that it or its tenant(s), in addition to other requirements of this Section 8.1, will keep the inside and outside of all glass in the doors and windows of its Building(s) clean; will maintain its Building(s) at its own expense (or cause the same to be maintained) in a clean, orderly and sanitary condition and free of insects, rodents, vermin and other pests; will not permit accumulation of garbage, trash, rubbish and other refuse, and will remove same at its own expense, and will keep such refuse in proper containers or compactors in places designated therefore until called for to be removed. The maintenance and repair of the Building(s) and Improvements on each Parcel shall be of such a character that their appearance will be that of a unified, first-class regional shopping center.

Section 8.2 Default in Maintenance Responsibilities. In the event that DSG-CEC Parcel Owner fails in its maintenance obligations related to the DSG-CEC Parcel (the performance of which has not been assumed by Declarant under Section 7.8, above), which failure continues for a period of thirty (30) days (ten [10] business days in the event of a failure to pay money) after receipt of written notice thereof specifying the particulars of such failure, such failure shall constitute a default under this Declaration and Declarant may thereafter perform such maintenance obligations, for the account of and at the sole cost and expense of DSG-CEC Parcel Owner, plus interest at the Default Rate, in addition to pursuing any other remedies of Declarant hereunder, at law or in equity.

Section 8.3 Taxes. Each Party shall pay or cause to be paid, prior to delinquency, directly to the appropriate taxing authorities all real property taxes and assessments which are levied against its Parcel.

Section 8.4 Insurance; Indemnification; Waiver of Subrogation. Each Party will at all times maintain or cause to be maintained with respect to its Parcel and all Buildings and Improvements thereon: (i) commercial property insurance against loss or damage by fire, lighting and other risks customarily covered by an all-risks policy of property insurance for the full replacement cost of the Building(s) and Improvements located thereon and (ii) commercial general liability insurance (including contractual liability coverage) against claims for bodily injury, death or property damage occurring on, in or about such Party's Parcel combined single limit coverage of not less than Three Million Dollars (\$3,000,000.00) per occurrence. To the extent not covered by the insurance policies described in this Section 8.4, each Party (the "Indemnitor") will indemnify, defend and save harmless the other Party, its officers, directors, employees, agents and contractors from and against all liabilities, losses, damages, costs, expenses (including attorneys' fees and expenses), causes of action, suits, claims, demands or judgments of any nature arising from: (i) any injury to or death of a person or loss of or damage to property occurring on the Indemnitor's Parcel; (ii) any use or condition of the Indemnitor's Parcel; and (iii) any negligence or tortious acts of the Indemnitor or any of its tenants, licensees, invitees, customers, agents or employees.

ARTICLE IX MISCELLANEOUS

Section 9.1 Estoppel Certificates. Each Party shall, upon not less than thirty (30) days from receipt of written notice from the other Party, execute and deliver to the requesting Party a certificate stating that (i) either this Declaration is unmodified and in full force and effect or is modified (and stating the modification); and (ii) whether or not to the best of its knowledge the other Party is in default in any respect under this Declaration and if in default, specifying such default.

Section 9.2 Term and Perpetuity. The agreements, conditions, covenants, and restrictions created and imposed herein shall be effective upon the Effective Date and shall continue in full force and effect, to the benefit of and being binding upon the Parties, their heirs, executors, administrators, successors, successors-in-title, assigns and tenants, including any ground lessee under a ground lease, and their respective customers, employees and invitees unless and until this Declaration is terminated by the consent of the Parties pursuant to a writing recorded in the Register's Office. Said agreements and restrictions shall run with the land and shall be unaffected by any change in the ownership of any real property covered or affected by

this Declaration, or by any change of use, demolition, reconstruction, expansion or other circumstances, except as specified herein.

Upon termination of this Declaration, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of this Declaration shall terminate and shall have no further force or effect, except for those rights, privileges, duties and obligations specifically set forth under Article III and Article VII.

Section 9.3 Notices. Any notice required or permitted to be given under this Declaration shall be in writing and shall be deemed to have been given or upon deposit in the United States Mail as Certified Mail, Return Receipt Requested, postage prepaid, or by recognized national overnight courier such as FedEx or UPS, and addressed to the Party being notified at the address given below, or to such other address which a Party may designate for itself from time to time hereafter by written notice to the other Party:

If to Declarant:

PR Valley View Limited Partnership
c/o PREIT Services, LLC
Attention: Mario Ventresca,
Executive Vice President, Acquisitions and Asset Management
The Bellevue
200 South Broad Street, Third Floor
Philadelphia, PA 19102

with a copy to:

PREIT Services, LLC
200 South Broad Street, Third Floor
Philadelphia, PA 19102
Attn: General Counsel

If to DSG-CEC Parcel Owner:

PR Valley View OP-DSG/CEC, LLC
c/o PREIT Services, LLC
200 South Broad Street, Third Floor
Philadelphia, PA 19102

Section 9.4 Lessee Assignment. The rights and obligations of a Party may be assigned

in whole or in part to one or more ground lessees or sublessees of such Party's Parcel, which rights and obligations shall be expressly assumed by such ground lessees or sublessees for the term of the ground leases or subleases between such Party and such ground lessees or sublessees.

Section 9.5 Severability. In the event that any provision or portion of this Declaration is held by any court of competent jurisdiction to be invalid or unenforceable, such holding will not affect the remainder hereof, and the remaining provisions shall continue in full force and effect to the same extent as would have been the case had such invalid or unenforceable provision or portion never been a part hereof.

Section 9.6 No Public Dedication. Nothing contained herein shall be deemed or implied to be a gift, grant or dedication of the Property, or any portions thereof, to the general public, or for any public use or purpose whatsoever. Except as may be specifically provided herein, no right, privileges or immunities of the Parties shall inure to the benefit of any third party, nor shall any third party be deemed or considered to be a beneficiary of any of the provisions herein contained.

Section 9.7 Counterparts. This Declaration may be executed in one or more counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same instrument.

Section 9.8 Relationship of the Parties. Nothing contained herein shall be construed or interpreted as creating a partnership, joint enterprise or joint venture between or among the Parties. It is understood that the relationship between the Parties is an arm's length one that shall at all times be and remain that of separate owners of real property. Neither Party shall have the right to act for or on behalf of the other Party, as agent or otherwise, unless expressly authorized to do so by separate written instrument signed by the Party to be charged or bound, except as otherwise specifically provided herein.

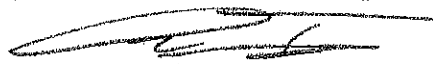
SIGNATURES APPEAR ON FOLLOWING PAGES

IN WITNESS WHEREOF, the Parties have executed and delivered this Declaration as of the Effective Date.

DECLARANT:

PR VALLEY VIEW LIMITED PARTNERSHIP

By: PR Valley View LLC, its sole general partner

By: 
Name: ANDREW IOANNOU
Its: TREASURER

COMMONWEALTH OF PENNSYLVANIA

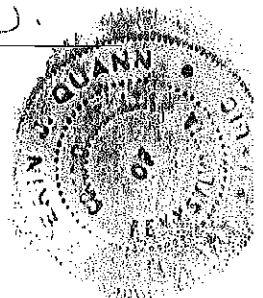
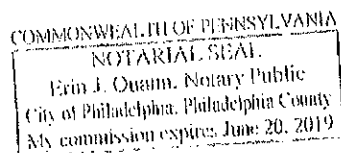
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COUNTY OF PHILADELPHIA

On this 18th day of December, 2018, before me, a notary public, the undersigned officer, personally appeared Andrew Ioannou, who acknowledged himself/herself to be the Treasurer of PR Valley View LLC, a Delaware limited liability company, the sole general partner of PR Valley View Limited Partnership, a Pennsylvania limited partnership, and that he/she as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Company by himself/herself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Erin J. Quann
Notary Public



DSG-CEC PARCEL OWNER:

PR Valley View OP-DSG/CEC, LLC

By: PREIT Associates, L.P., its sole member

By: Pennsylvania Real Estate Investment Trust, its sole general partner

By: *Lisa M. Most*
Name: Lisa M. Most
Its: Senior Vice President and General Counsel

COMMONWEALTH OF PENNSYLVANIA

:

:SS.

COUNTY OF PHILADELPHIA

:

On this 18th day of December, 2018, before me, a notary public, the undersigned officer, personally appeared Lisa M. Most, who acknowledged herself to be Senior Vice President and General Counsel of Pennsylvania Real Estate Investment Trust, a Pennsylvania Business Trust (the "Company"), the general partner of PREIT Associates, L.P., a Delaware limited partnership, the sole member of PR Valley View OP-DSG/CEC, LLC, a Delaware limited liability company, and that she as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Company by herself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Colleen M. Joyce
Notary Public

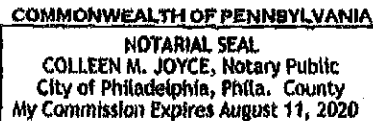


EXHIBIT A

LEGAL DESCRIPTION

(Legal Description)

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of La Crosse/Onalaska, County of La Crosse, State of Wisconsin :

Parcel I

A parcel of land being part of the South ½ of the SE ¼ of Section 10 and part of the NE ¼ of the NW ¼ of Section 15 and parts of Government Lots 1 and 2 of Section 15, all being in Township 16 North, Range 7 West, City of La Crosse, La Crosse County, Wisconsin, also being part of the SE ¼ of the SE ¼ in Section 10 and a part of Government Lots 1 and 3 of Section 15, all in Township 16 North, Range 7 West, City of Onalaska, La Crosse County, Wisconsin. Said parcels are described as follows:

Commencing at the North Quarter Corner of said Section 15; then S 27 degrees 35' 46" W 1518.56 feet to the intersection of the Southeasterly right-of-way of State Trunk Highway 16 and the South line of said NE ¼ of the NW ¼, also being the point of beginning of this description; Thence N 21 degrees 50' 25" E along said right-of-way 195.06 feet; thence S 36 degrees 39' 39" E 49.87 feet; thence S 87 degrees 16' 18" E 180.28 feet; thence N 53 degrees 20' 21" E 45.10 feet; thence N 12 degrees 34' 54" W 311.29 feet to a point on the Southeasterly right-of-way of said State Trunk Highway 16 and a point on a curve concave to the Southeast having a central angle of 5 degrees 30' 00" and a radius of 2745.00 feet; thence Northeasterly along the arc of said curve and said right-of-way 263.50 feet. The chord of said curve bears N 39 degrees 58' 10" E 263.40 feet; thence N 35 degrees 55' 26" E along said right-of-way 194.98 feet to a point on a curve concave to the Southeast having a central angle of 6 degrees 41' 10" and a radius of 2775.00 feet; thence Northeasterly along the arc of said curve and said right-of-way 323.82 feet. The chord of said curve bears N 50 degrees 03' 42" E 323.64 feet; thence S 36 degrees 39' 39" E 108.60 feet to a point on a curve concave to the Northwest having a central angle of 26 degrees 00' and a radius of 268.00 feet; thence Southwesterly along the arc of said curve 121.61 feet. The chord of said curve bears S 66 degrees 20' 21" W 120.57 feet; thence S 79 degrees 20' 21" W 21.19 feet to a point of curve concave to the Southeast having a central angle of 8 degrees 24' 13" and a radius of 268.00 feet; thence along the arc of said curve 39.31 feet. The chord of said curve bears S 75 degrees 08' 14.5" W 39.27 feet; thence S 36 degrees 39' 39" E 321.00 feet; thence N 53 degrees 20' 21" E 257.00 feet; thence S 36 degrees 39' 39" E 49.00 feet; thence N 53 degrees 20' 21" E 85.82 feet; thence S 81 degrees 39' 39" E 14.98 feet; thence S 36 degrees 39' 39" E 1.77 feet; thence S 81 degrees 39' 39" E 3.30 feet; thence S 36 degrees 39' 39" E 27.66 feet; thence S 81 degrees 39' 39" E 74.87 feet; thence S 36 degrees 39' 39" E 32.70 feet; thence N 53 degrees 20' 21" E 236.25 feet; thence N 36 degrees 39' 39" W 28.68 feet; thence N 53 degrees 20' 21" E 17.72 feet; thence N 8 degrees 20' 21" E 39.60 feet; thence N 53 degrees 20' 21" E 39.47 feet; thence N 8 degrees 20' 21" E 42.42 feet; thence N 44 degrees 22' 52" E 38.33 feet to a point of a curve concave to the Northwest having a central angle of 21 degrees 02' 31" and a radius of 38.00 feet; thence Northeasterly along the arc of said curve 13.96 feet. The chord of said curve bears N 33 degrees 51' 36.5" E 13.88 feet; thence N 23 degrees 20' 21" E 89.57 feet; thence N 8 degrees 20' 21" E 18.35 feet; thence S 81 degrees 39' 39" E 508.17 feet to a point of curve concave to the East having a central angle of 29 degrees 26' 04" and a radius of 265.00 feet; thence along the arc of said curve 136.14 feet.

The chord of said curve bears N 19 degrees 34' 46" E 132.79 feet; thence N 34 degrees 05' 20" E 183.62 feet to a point of a

curve concave to the West having a central angle of 25 degrees 26' and a radius of 265.00 feet; thence along the arc of said curve 117.63 feet. The chord of said curve bears N 21 degrees 22' 20" E 116.67 feet; thence N 53 degrees 20' 21" E 184.19 feet; thence N 36 degrees 39' 39" W 220.00 feet; thence S 53 degrees 20' 21" W 107.43 feet to a point on a curve concave to the West having a central angle of 43 degrees 49' 15" and a radius of 265.00 feet and a chord that bears N 65 degrees 24' 52" W 197.77 feet; thence along the arc of said curve 202.68 feet to the point of a compound curve concave to the South having a central angle of 5 degrees 09' 30" and a radius of 515.00 feet; thence along the arc of said curve 46.37 feet; the chord of said curve bears N 88 degrees 36' 52.5" W 46.35 feet; thence N 2 degrees 29' W 51.32 feet to a point of a curve concave to the West having a central angle of 31 degrees 46' and a radius of 122.5 feet; thence along the arc of said curve 67.92 feet to a point on the Southeasterly right-of-way of State Trunk Highway 16. The chord of said curve bears N 18 degrees 22' W 67.05 feet; thence N 55 degrees 49' 58" E along said right-of-way 41.50 feet; thence S 1 degrees 17' 27" E along said right-of-way 11.92 feet; thence N 55 degrees 44' 41" E along said right-of-way 888.82 feet; thence S 2 degrees 07' 54" E 211.06 feet; thence S 47 degrees 05' 49" E 42.50 feet; thence S 2 degrees 04' 40" E 324.05 feet; thence S 23 degrees 12' 18" W 213.45 feet; thence S 52 degrees 30' 45" W 145.24 feet; thence S 62 degrees 22' 46" W 241.89 feet; thence S 46 degrees 10' 40" W 177.17 feet; thence S 34 degrees 04' 08" W 147.51 feet; thence S 23 degrees 01' 40" W 108.36 feet; thence S 0 degrees 56' 47" E 120.88 feet; thence S 14 degrees 38' 17" E 114.76 feet; thence S 28 degrees 25' 23" E 140.69 feet; thence S 44 degrees 36' 54" E 209.92 feet; thence S 79 degrees 13' 20" W 339.10 feet; thence N 1 degrees 16' 27" W 31.45 feet to a point on a curve concave to the Northwest having a central angle of 55 degrees 36' 28" and a radius of 165.00 feet; thence Northeasterly along the arc of said curve 160.14 feet. The chord of said curve bears N 26 degrees 47' 47" E 153.93 feet; thence N 1 degrees 01' 35" W 140.58 feet; thence N 81 degrees 42' 18" W 146.47 feet; thence S 53 degrees 20' 21" W 181.51 feet; thence N 36 degrees 39' 39" W 74.58 feet; thence S 53 degrees 20' 21" W 166.67 feet; thence S 36 degrees 39' 39" E 55.83 feet; thence S 53 degrees 20' 21" W 56.72 feet; thence S 36 degrees 39' 39" E 57.28 feet; thence S 53 degrees 20' 21" W 240.61 feet; thence S 8 degrees 19' 11" W 89.98 feet; thence S 73 degrees 16' 33" W 30.29 feet; thence S 8 degrees 30' 03" W 97.35 feet; thence N 82 degrees 21' 12" E 64.73 feet; thence N 67 degrees 45' 32" E 204.41 feet; thence N 55 degrees 48' 52" E 199.90 feet; thence N 68 degrees 53' 47" E 226.46 feet; thence S 1 degrees 17' 27" E 83.42 feet; thence on a meander line along the La Crosse River, S 46 degrees 00' 00" W 242.22 feet; thence along said meander line S 03 degrees 00' 03" E 113.96 feet; thence along said meander line S 5 degrees 38' 29" W 366.11 feet; thence along said meander line S 34 degrees 16' 59" E 225.06 feet; thence along said meander line S 50 degrees 36' 30" W 95.24 feet; thence along said meander line S 85 degrees 13' 38" W 241.10 feet; thence along said meander line N 49 degrees 20' 48" W 302.91 feet; thence along said meander line S 88 degree 33' 37" W 170.75 feet; thence along said meander line S 48 degrees 35' 43" W 209.77 feet; thence along said meander line N 82 degrees 37' 46" W 136.71 feet; thence along said meander line S 87 degrees 32' 13" W 92.68 feet; thence N 56 degrees 00' 55" E 78.93 feet; thence N 49 degrees 32' 23" E 142.97 feet; thence N 51 degrees 34' 13" E 99.88 feet; thence N 29 degrees 50' 55" E 100.00 feet; thence N 23 degrees 06' 23" E 79.79 feet; thence N 20 degrees 14' 55" E 70.06 feet; thence S 89 degrees 26' 44" W 1227.71 feet to the point of beginning. Including herein the land lying between the hereinbefore described meander line and the centerline of the La Crosse River.

Parcel II

All of those easements, constituting rights in real property (including without limitations, rights of ingress, egress, parking, utility and other purposes) created, defined and limited by that certain Construction, Operating and Reciprocal Easement Agreement dated October 19, 1979 in Volume 636 of Records, Page 261 between Dayton Development Company, Dayton-Hudson Corporation, Sears roebuck

and Co., Ryan Construction Company of Minnesota, Inc. and C.R. Herberger's Inc., and as amended by a Road Maintenance Covenant and Agreement recorded January 22, 1980 in Volume 640 of

Records, page 181, as Document No. 904266, and as amended by First Amendment, dated October 15, 1980 and recorded October 22, 1980 in Volume 652 of Records, Page 534.

Parcel III

A non-exclusive, perpetual easement for pedestrian and vehicular access, ingress, and egress as set forth in an Easement Agreement recorded in Volume 1058 of Records, page 956, as Document No. 1121186.

Parcel IV

Part of Government Lot 1, Section 15, Township 16 North of Range 7 West, City of Onalaska, La Crosse County, Wisconsin, described as follows: Commencing at the Southwest corner of the NE ¼ of the NW ¼ of said Section 15; thence N 89 degrees 32' 55" E along the South line thereof 1,873.34 feet to the Northeast corner of Holiday Heights Addition; thence continuing along said addition line S 20 degrees 14' 55" W 70.4 feet; thence S 23 degrees 02' 55" W 80.00 feet; thence S 29 degrees 50' 55" W 100.00 feet; thence S 52 degrees 33' 55" W 100.00 feet; thence S 48 degrees 35' 55" W 143.60 feet; thence S 56 degrees 00' 55" W 191.5 feet to a point 40 feet more or less Northwesterly of the centerline of the La Crosse River as located in 1993; thence on a meander line, as established in 1993, along said La Crosse River N 68 degrees 04' 42" E 195.34 feet; thence along said meander line, S 80 degrees 56' 33" E 142.70 feet; thence along said meander line, N 70 degrees 15' 57" E 314.85 feet; thence along said meander line, S 58 degrees 31' 06" E 306.64 feet; thence along said meander line, N 85 degrees 14' 44" E 240.82 feet; thence along said meander line, N 52 degrees 09' 08" E 131.21 feet; thence along said meander line N 36 degrees 43' 04" W 173.20 feet; thence along said meander line, N 7 degrees 56' 14" W 129.41 feet; thence along said meander line N 6 degrees 05' 43" E 264.33 feet; thence along said meander line, N 21 degrees 30' 58" E 161.85 feet; thence along said meander line, N 38 degrees 31' 17" E 131.35 feet to the East line of Government Lot 2 of said Section 15 at a point 35 feet more or less Northwesterly of the centerline of said La Crosse River and the point of beginning of this description; Thence N 1 degrees 17' 27" W along said East line 112.39 feet; thence N 79 degrees 13' 20" E 339.10 feet (recorded as N 79 degrees 07' 04" E 339.31 feet); thence South 80.00 feet more or less to the centerline of the La Crosse River; thence Southwesterly along said centerline to a point S 51 degrees 28' 43" E 35 feet, more or less from the point of beginning; thence N 51 degrees 28' 43" W 35 feet more or less to the point of beginning.

Parcel V

Terms and conditions of a Declaration of Easement, Covenants and Restrictions dated August 10, 1994 and recorded on August 10, 1994 in Volume 1059 of Records, page 147 as Document No. 1121269.

Parcel VI

All that parcel of land being part of Government Lot Two (2) of Section 15, Township 16 North, Range 7 West, La Crosse County, Wisconsin, described as follows:

Commencing at the north quarter corner of said Section 15; thence South 27°35'46" West 1,518.56 feet to the intersection of the south line of the Northeast Quarter of the Northwest Quarter (NE ¼ - NW ¼) of said Section 15 and the southeasterly right-of-way line of State Road 16 (formerly US Highway 16). Said intersection recorded as North 89°32'55" East 647.50 feet from the southwest corner of said Northeast

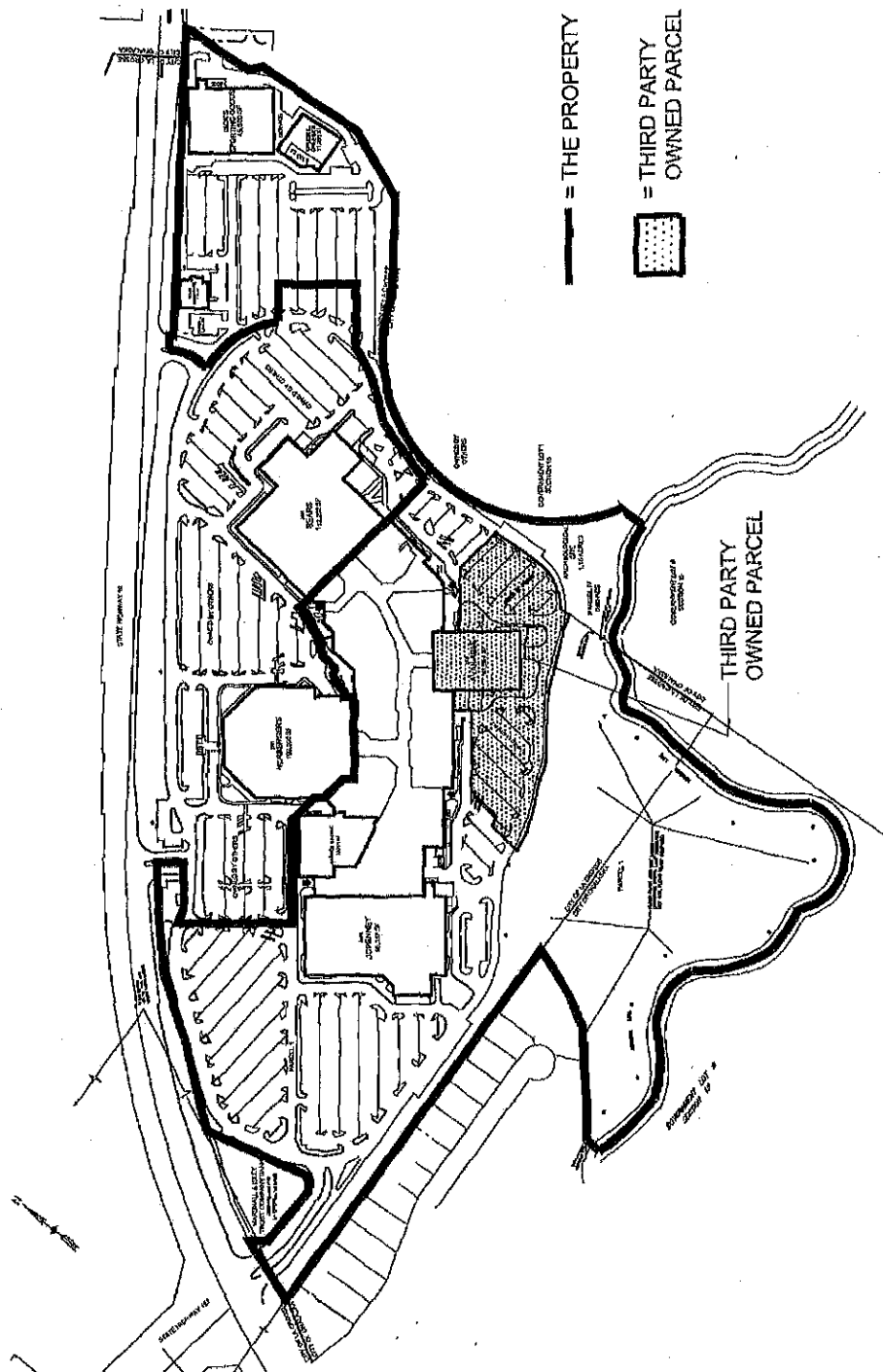
Quarter of the Northwest Quarter (NE 1/4 - NW 1/4); thence along said right-of-way line, North 21°50'25" East (recorded as North 21°48'58" East) 215.16 feet; thence continuing along said right-of-way line, North 28°43'49" East 95.84 feet; thence continuing along said right-of-way line, along the arc of a curve having a chord bearing of North 37°43' 10" East 478.44 feet; thence continuing along said right-of-way line, North 35°55'26" East 194.98 feet (recorded as North 35°52'20" East 194.95 feet); thence continuing along said right-of-way line, along the arc of a curve having a chord bearing of North 50°03'42" East (recorded as North 50°13'42" East) 323.64 feet; thence South 36°39'39" East 108.60 feet to a point on a curve concave to the Northwest, having a central angle of 26°00'00" and a radius of 268.00 feet; thence Southwesterly along the arc of said curve 121.61 feet. The chord of said curve bears South 66°20'21" West 120.57 feet; thence South 79°20'21" West 21.20 feet to a point on a curve concave to the Southeast, having a central angle of 08°24'13" and a radius of 268.00 feet; thence Southwesterly along the arc of said curve 39.31 feet. The chord of said curve bears South 75°08'14.5" West 39.27 feet; thence South 36°39'39" East 321.00 feet; thence North 53°20'21" East 257.00 feet to the Point of Beginning of this description; thence South 36°39'39" East 49.00 feet; thence North 53°20'21" East 83.51 feet; thence North 78°48'33" West 66.09 feet; thence South 53°20'21" West 39.16 feet to the Point of Beginning.

NOTE: Being Parcel No. 17-10315-090; 17-10315-160; 18-3528-001; 18-3528-003; 18-3530-000; 17-10316-10 of the City of La Crosse/Onalaska, County of La Crosse.

[illegible]

EXHIBIT A-1

VALLEY VIEW MALL
AND
VALLEY VIEW CENTER
LA CROSSE, WISCONSIN
DATE: DECEMBER 14, 2018



This drawing is a schematic. Sites and dimensions are approximate and subject to revision. The building name and/or address may not currently exist as shown. Further, Landmark does not represent that any tenant/occupant whose name appears on this drawing is now occupying or will continue to occupy the space shown. The drawing is for informational purposes only and is not intended to be used for any other purpose. All of the land and improvements shown on this Exhibit "A" are hereby conveyed to the City of La Crosse, Wisconsin, to place in this park, courts, corridors and other Common Areas of the Shopping Center, landscaping, decorative items, and structures, and to construct, lease, operate and maintain the same. The City of La Crosse, Wisconsin, shall retain all rights reserved to the City of La Crosse, Wisconsin, and all rights reserved to the City of La Crosse, Wisconsin, shall be reserved to the City of La Crosse, Wisconsin.

VALLEY VIEW MALL
AND
VALLEY VIEW CENTER
LA CROSSE, WISCONSIN
DATE: DECEMBER 13, 2013

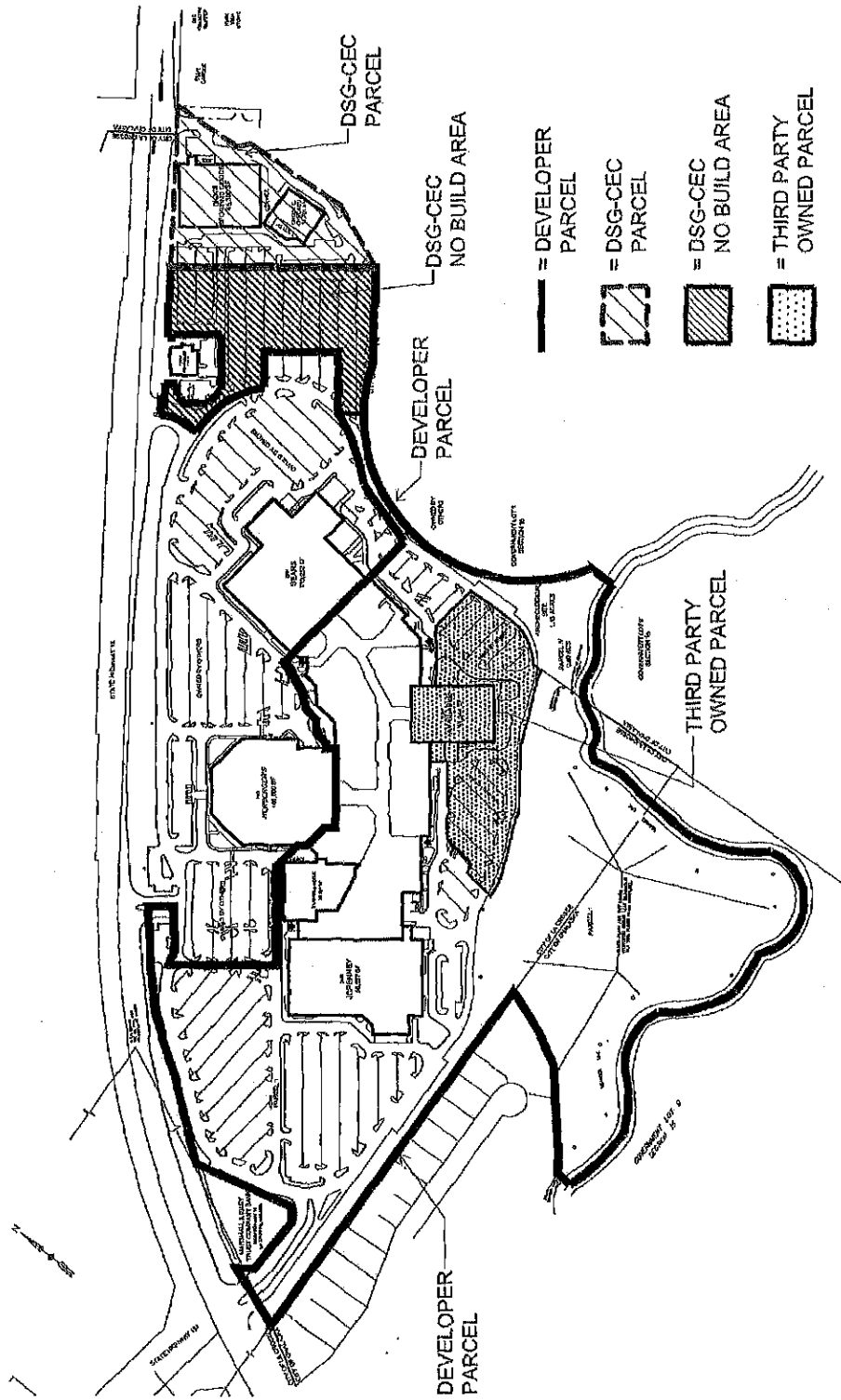


EXHIBIT B
Legal Description of DSG-CEC Parcel

Tax Parcel Number 17-10316-10

(Dick's Sporting Goods, Chuck E. Cheese and Play It Again Sports)

Located in part of the Southeast Quarter of the Southeast Quarter of Section 10, Township 16 North, Range 7 West, City of La Crosse, La Crosse County, Wisconsin, described as follows:

Commencing at the South Quarter Corner of said Section 10;
thence N 67 degrees 23' 32" E 1382.37 feet to the Southeasterly right-of-way of State Trunk Highway 16;
thence N 55 degrees 49' 58" E along said right-of-way 41.50 feet;
thence S 01 degrees 17' 27" E along said right-of-way 11.92 feet;
thence N 55 degrees 44' 41" E along said right-of-way 426.81 feet to the Point of Beginning of this description;
thence continuing N 55 degrees 44' 41" E along said right-of-way 462.00 feet;
thence S 2 degrees 07' 54" E 211.06 feet;
thence S 47 degrees 05' 49" E 42.50 feet;
thence S 2 degrees 04' 40" E 324.05 feet;
thence S 23 degrees 12' 18" W 191.63 feet;
thence N 36 degrees 39' 39" W 598.05 feet to the Point of Beginning.

Parcel contains approximately 165,545 Square Feet or 3.80 Acres, more or less.

Subject to any easements, covenants and restrictions of record.

EXHIBIT C
Legal Description of Developer's Parcel

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being partly in the City of La Crosse and partly in the City of Onalaska, all in the County of La Crosse, State of Wisconsin.

Parcel I

A parcel of land being part of the South ½ of the SE ¼ of Section 10 and part of the NE ¼ of the NW ¼ of Section 15 and parts of Government Lots 1 and 2 of Section 15, all being in Township 16 North, Range 7 West, City of La Crosse, La Crosse County, Wisconsin, also being part of the SE ¼ of the SE ¼ in Section 10 and a part of Government Lots 1 and 3 of Section 15, all in Township 16 North, Range 7 West, City of Onalaska, La Crosse County, Wisconsin.

Said parcels are described as follows:

Commencing at the North Quarter Corner of said Section 15; thence S 27 degrees 35' 46" W 1518.56 feet to the intersection of the Southeasterly right-of-way of State Trunk Highway 16 and the South line of said NE ¼ of the NW ¼, also being the point of beginning of this description; Thence N 21 degrees 50' 25" E along said right-of-way 195.06 feet; thence S 36 degrees 39' 39" E 49.87 feet; thence S 87 degrees 16' 18" E 180.28 feet; thence N 53 degrees 20' 21" E 45.10 feet; thence N 12 degrees 34' 54" W 311.29 feet to a point on the Southeasterly right-of-way of said State Trunk Highway 16 and a point on a curve concave to the Southeast having a central angle of 5 degrees 30' 00" and a radius of 2745.00 feet; thence Northeasterly along the arc of said curve and said right-of-way 263.50 feet. The chord of said curve bears N 39 degrees 58' 10" E 263.40 feet; thence N 35 degrees 55' 26" E along said right-of-way 194.98 feet to a point on a curve concave to the Southeast having a central angle of 6 degrees 41' 10" and a radius of 2775.00 feet; thence Northeasterly along the arc of said curve and said right-of-way 323.82 feet. The chord of said curve bears N 50 degrees 03' 42" E 323.64 feet; thence S 36 degrees 39' 39" E 108.60 feet to a point on a curve concave to the Northwest having a central angle of 26 degrees 00' and a radius of 268.00 feet; thence Southwesterly along the arc of said curve 121.61 feet. The chord of said curve bears S 66 degrees 20' 21" W 120.57 feet; thence S 79 degrees 20' 21" W 21.19 feet to a point of curve concave to the Southeast having a central angle of 8 degrees 24' 13" and a radius of 268.00 feet; thence along the arc of said curve 39.31 feet. The chord of said curve bears S 75 degrees 08' 14.5" W 39.27 feet; thence S 36 degrees 39' 39" E 321.00 feet; thence N 53 degrees 20' 21" E 257.00 feet; thence S 36 degrees 39' 39" E 49.00 feet; thence N 53 degrees 20' 21" E 85.82 feet; thence S 81 degrees 39' 39" E 14.98 feet; thence S 36 degrees 39' 39" E 1.77 feet; thence S 81 degrees 39' 39" E 3.30 feet; thence S 36 degrees 39' 39" E 27.66 feet; thence S 81 degrees 39' 39" E 74.87 feet; thence S 36 degrees 39' 39" E 32.70 feet; thence N 53 degrees 20' 21" E 236.25 feet; thence N 36 degrees 39' 39" W 28.68 feet; thence N 53 degrees 20' 21" E 17.72 feet; thence N 8 degrees 20' 21" E 39.60 feet; thence N 53 degrees 20' 21" E 39.47 feet; thence N 8 degrees 20' 21" E 42.42 feet; thence N 44 degrees 22' 52" E 38.33 feet to a point of a curve concave to the Northwest having a central angle of 21 degrees 02' 31" and a radius of 38.00 feet; thence Northeasterly along the arc of said curve 13.96 feet. The chord of said curve bears N 33 degrees 51' 36.5" E 13.88 feet; thence N 23 degrees 20' 21" E 89.57

feet; thence N 8 degrees 20' 21" E 18.35 feet; thence S 81 degrees 39' 39" E 508.17 feet to a point of curve concave to the East having a central angle of 29 degrees 26' 04" and a radius of 265.00 feet; thence along the arc of said curve 136.14 feet. The chord of said curve bears N 19 degrees 34' 46" E 132.79 feet; thence N 34 degrees 05' 20 " E 183.62 feet to a point of a curve concave to the West having a central angle of 25 degrees 26' and a radius of 265.00 feet; thence along the arc of said curve 117.63 feet. The chord of said curve bears N 21 degrees 22' 20 " E 116.67 feet; thence N 53 degrees 20' 21" E 184.19 feet; thence N 36 degrees 39' 39" W 220.00 feet; thence S 53 degrees 20' 21" W 107.43 feet to a point on a curve concave to the West having a central angle of 43 degrees 49' 15" and a radius of 265.00 feet and a chord that bears N 65 degrees 24' 52" W 197.77 feet; thence along the arc of said curve 202.68 feet to the point of a compound curve concave to the South having a central angle of 5 degrees 09' 30" and a radius of 515.00 feet; thence along the arc of said curve 46.37 feet; the chord of said curve bears N 88 degrees 36' 52.5" W 46.35 feet; thence N 02 degrees 29' W 51.32 feet to a point of a curve concave to the West having a central angle of 31 degrees 46' and a radius of 122.5 feet; thence along the arc of said curve 67.92 feet to a point on the Southeasterly right-of-way of State Trunk Highway 16. The chord of said curve bears N 18 degrees 22' W 67.05 feet; thence N 55 degrees 49' 58" E along said right-of-way 41.50 feet; thence S 1 degrees 17' 27" E along said right-of-way 11.92 feet; thence N 55 degrees 44' 41" E along said right-of-way 54.52 feet to the Southwesterly line of Certified Survey Map recorded on November 08, 2011, as Document Number 1584222, in Volume 15 of Certified Survey Maps on page 63, at the La Crosse County Register of Deeds Office; thence along the exterior of said Certified Survey Map the next 10 calls: S 35 degrees 10' 54" E 28.64 feet, S 53 degrees 20' 21" W 36.29 feet, S 36 degrees 39' 39" E 18.32 feet, S 53 degrees 20' 21" W 18.83 feet, S 36 degrees 48' 10" E 79.22 feet, S 77 degrees 23' 37" E 51.75 feet, N 53 degrees 19' 54" E 238.81 feet, N 36 degrees 39' 39" W 136.36 feet, S 53 degrees 25' 46" W 91.99 feet and N 34 degrees 47' 59" W 23.58 feet to said Southeasterly right-of-way of State Trunk Highway 16; thence N 55 degrees 44' 41" E along said right-of-way 246.49 feet; thence S 36 degrees 39' 39" E 598.05 feet; thence S 23 degrees 12' 18" W 21.82 feet; thence S 52 degrees 30' 45" W 145.24 feet; thence S 62 degrees 22' 46" W 241.89 feet; thence S 46 degrees 10' 40" W 177.17 feet; thence S 34 degrees 04' 08" W 147.51 feet; thence S 23 degrees 01' 40" W 108.36 feet; thence S 0 degrees 56' 47" E 120.88 feet; thence S 14 degrees 38' 17" E 114.76 feet; thence S 28 degrees 25' 23" E 140.69 feet; thence S 44 degrees 36' 54" E 209.92 feet; thence S 79 degrees 13' 20" W 339.10 feet; thence N 1 degrees 16' 27" W 31.45 feet to a point on a curve concave to the Northwest having a central angle of 55 degrees 36' 28" and a radius of 165.00 feet; thence Northeasterly along the arc of said curve 160.14 feet. The chord of said curve bears N 26 degrees 47' 47" E 153.93 feet; thence N 1 degrees 01' 35" W 140.58 feet; thence N 81 degrees 42' 18" W 146.47 feet; thence S 53 degrees 20' 21" W 181.51 feet; thence N 36 degrees 39' 39" W 74.58 feet; thence S 53 degrees 20' 21" W 166.67 feet; thence S 36 degrees 39' 39" E 55.83 feet; thence S 53 degrees 20' 21" W 56.72 feet; thence S 36 degrees 39' 39" E 57.28 feet; thence S 53 degrees 20' 21" W 240.61 feet; thence S 8 degrees 19' 11" W 89.98 feet; thence S 73 degrees 16' 33" W 30.29 feet; thence S 8 degrees 30' 03" W 97.35 feet; thence N 82 degrees 21' 12" E 64.73 feet; thence N 67 degrees 45' 32" E 204.41 feet; thence N 55 degrees 48' 52" E 199.90 feet; thence N 68 degrees 53' 47" E 226.46 feet; thence S 1 degrees 17' 27" E 83.42 feet; thence on a meander line along the La Crosse River, S 46 degrees 00' 00" W 242.22 feet; thence along said meander line S 03 degrees 00' 03" E 113.96 feet; thence along said meander line S 5 degrees 38' 29" W 366.11 feet; thence along said meander line S 34 degrees 16' 59" E

225.06 feet; thence along said meander line S 50 degrees 36' 30" W 95.24 feet; thence along said meander line S 85 degrees 13' 38" W 241.10 feet; thence along said meander line N 49 degrees 20' 48" W 302.91 feet; thence along said meander line S 88 degree 33' 37" W 170.75 feet; thence along said meander line S 48 degrees 35' 43" W 209.77 feet; thence along said meander line N 82 degrees 37' 46" W 136.71 feet; thence along said meander line S 87 degrees 32' 13" W 92.68 feet; thence N 56 degrees 00' 55" E 78.93 feet; thence N 49 degrees 32' 23" E 142.97 feet; thence N 51 degrees 34' 13" E 99.88 feet; thence N 29 degrees 50' 55" E 100.00 feet; thence N 23 degrees 06' 23" E 79.79 feet; thence N 20 degrees 14' 55" E 70.06 feet; thence S 89 degrees 26' 44" W 1227.71 feet to the point of beginning. Including herein the land lying between the hereinbefore described meander line and the centerline of the La Crosse River.

Parcel II

All of those easements, constituting rights in real property (including without limitations, rights of ingress, egress, parking, utility and other purposes) created, defined and limited by that certain Construction, Operating and Reciprocal Easement Agreement dated October 19, 1979 in Volume 636 of Records, Page 261 between Dayton Development Company, Dayton-Hudson Corporation, Sears Roebuck and Co., Ryan Construction Company of Minnesota, Inc. and C.R. Herberger's Inc., and as amended by a Road Maintenance Covenant and Agreement recorded January 22, 1980 in Volume 640 of Records, page 181, as Document No. 904266, and as amended by First Amendment, dated October 15, 1980 and recorded October 22, 1980 in Volume 652 of Records, Page 534, and as amended by Second Amendment dated February 4, 2010 and recorded on February 23, 2010 as Document No. 1544962.

Parcel III

A non-exclusive, perpetual easement for pedestrian and vehicular access, ingress, and egress as set forth in an Easement Agreement recorded in Volume 1058 of Records, page 956, as Document No. 1121186.

Parcel IV

Part of Government Lot 1, Section 15, Township 16 North of Range 7 West, City of Onalaska, La Crosse County, Wisconsin, described as follows: Commencing at the Southwest corner of the NE ¼ of the NW ¼ of said Section 15; thence N 89 degrees 32' 55" E along the South line thereof 1,873.34 feet to the Northeast corner of Holiday Heights Addition; thence continuing along said addition line S 20 degrees 14' 55" W 70.4 feet; thence S 23 degrees 02' 55" W 80.00 feet; thence S 29 degrees 50' 55" W 100.00 feet; thence S 52 degrees 33' 55" W 100.00 feet; thence S 48 degrees 35' 55" W 143.60 feet; thence S 56 degrees 00' 55" W 191.5 feet to a point 40 feet more or less Northwesterly of the centerline of the La Crosse River as located in 1993; thence on a meander line, as established in 1993, along said La Crosse River N 68 degrees 04' 42" E 195.34 feet; thence along said meander line, S 80 degrees 56' 33" E 142.70 feet; thence along said meander line, N 70 degrees 15' 57" E 314.85 feet; thence along said meander line, S 58 degrees 31' 06" E 306.64 feet; thence along said meander line, N 85 degrees 14' 44" E 240.82 feet; thence along said meander line, N 52 degrees 09' 08" E 131.21 feet; thence along said meander line N 36 degrees 43' 04" W 173.20 feet; thence along said meander line, N 7 degrees 56' 14" W 129.41 feet; thence along said meander line N 6 degrees 05' 43" E 264.33 feet; thence along said meander line, N 21 degrees 30' 58" E 161.85 feet; thence along said meander line, N

38 degrees 31' 17" E 131.35 feet to the East line of Government Lot 2 of said Section 15 at a point 35 feet more or less Northwesterly of the centerline of said La Crosse River and the point of beginning of this description: Thence N 1 degrees 17' 27" W along said East line 112.39 feet; thence N 79 degrees 13' 20" E 339.10 feet (recorded as N 79 degrees 07' 04" E 339.31 feet); thence South 80.00 feet more or less to the centerline of the La Crosse River; thence Southwesterly along said centerline to a point S 51 degrees 28' 43" E 35 feet, more or less from the point of beginning; thence N 51 degrees 28' 43" W 35 feet more or less to the point of beginning.

Parcel V

Terms and conditions of a Declaration of Easement, Covenants and Restrictions dated August 10, 1994 and recorded on August 10, 1994 in Volume 1059 of Records, page 147 as Document No. 1121269.

Parcel VI

All that parcel of land being part of Government Lot Two (2) of Section 15, Township 16 North, Range 7 West, La Crosse County, Wisconsin, described as follows:

Commencing at the north quarter corner of said Section 15; thence South 27°35'46" West 1,518.56 feet to the intersection of the south line of the Northeast Quarter of the Northwest Quarter (NE 1/4 - NW 1/4) of said Section 15 and the southeasterly right-of-way line of State Road 16 (formerly US Highway 16). Said intersection recorded as North 89°32'55" East 647.50 feet from the southwest corner of said Northeast Quarter of the Northwest Quarter (NE 1/4 - NW 1/4); thence along said right-of-way line, North 21°50'25" East (recorded as North 21°48'58" East) 215.16 feet; thence continuing along said right-of-way line, North 28°43'49" East 95.84 feet; thence continuing along said right-of-way line, along the arc of a curve having a chord bearing of North 37°43' 10" East 478.44 feet; thence continuing along said right-of-way line, North 35°55'26" East 194.98 feet (recorded as North 35°52'20" East 194.95 feet); thence continuing along said right-of-way line, along the arc of a curve having a chord bearing of North 50°03'42" East (recorded as North 50°13'42" East) 323.64 feet; thence South 36°39'39" East 108.60 feet to a point on a curve concave to the Northwest, having a central angle of 26°00'00" and a radius of 268.00 feet; thence Southwesterly along the arc of said curve 121.61 feet. The chord of said curve bears South 66°20'21" West 120.57 feet; thence South 79°20'21" West 21.20 feet to a point on a curve concave to the Southeast, having a central angle of 08°24'13" and a radius of 268.00 feet; thence Southwesterly along the arc of said curve 39.31 feet. The chord of said curve bears South 75°08'14.5" West 39.27 feet; thence South 36°39'39" East 321.00 feet; thence North 53°20'21" East 257.00 feet to the Point of Beginning of this description; thence South 36°39'39" East 49.00 feet; thence North 53°20'21" East 83.51 feet; thence North 78°48'33" West 66.09 feet; thence South 53°20'21" West 39.16 feet to the Point of Beginning.

NOTE: Being Parcels No. 17-10315-090; 17-10315-160; 18-3528-001; 18-3528-003; 18-3530-000 of the City of La Crosse/Onalaska, County of La Crosse.

Subject to any easements, covenants and restrictions of record.

NOTE: Parcel Nos. shown for informational purposes only.

EXHIBIT D
Other Tenants' Exclusive and Prohibited Uses

NOTE: "Prohibited Uses" also includes by reference the typical "nuisance uses" prohibited by Declarant's form of tenant lease, which are not specifically enumerated in this Exhibit D.

Barnes & Noble

7. USE OF PREMISES

7.1 Tenant may use the Premises for the purpose of the display and retail sale and/or rental of (i) books, magazines, periodicals and newspapers in print, (ii) books, magazines, periodicals and newspapers on tape, disk, CD-ROM, DVD and/or any other media, computer software and computer games, as well as any items which are technological evolution of any of the foregoing items, together with various media and merchandise incidental thereto, (iii) audio compact discs and other forms of recorded music, (iv) video tapes and disks, video games, (v) other merchandise typically sold in Tenant's other stores and (vi) any other lawful retail use. Tenant may, at its sole option, also operate, or grant a concession or sublease for the operation of, a "coffee or espresso bar" or "coffee shop" or similar operation within the Premises providing its customers with beverages, food and other related items including, without limitation, coffee, tea and other beverages, pastries, sandwiches, snacks and other pre-prepared or packaged food or beverage items, as well as related merchandise, either for sale or complimentary and for either on-site or take-out consumption (for convenience, a "Coffee Shop"). Any Coffee Shop operation operated by or under Tenant at or from the Premises (a) may have its own separate entrance incorporated into Tenant's exterior and/or interior storefronts, may have an interior mall service window and may, subject to applicable governmental requirements, have unenclosed outdoor seating in the Common Areas on the sidewalk immediately adjacent to the Premises with the tables and chairs being located so as not to unreasonably interfere with the pedestrian use of such sidewalk (with Landlord and Tenant agreeing to work together reasonably and in good faith to manage any queuing problems within the interior Common Areas of the Shopping Center associated with such service window), (b) may have its own separate exterior and interior mall signage as may be shown on Exhibit E hereto or hereafter approved by Landlord (such approval not to be unreasonably withheld or delayed), subject to applicable governmental requirements and (c) may have a coffee condiments stand in the Common Areas adjacent to the Premises next to the interior mall service window, provided that such stand shall not unreasonably interfere with pedestrian traffic utilizing the interior mall corridors of the Shopping Center. Tenant's right to use the Premises for the purposes set forth in clauses (v) and (vi) of this Paragraph 7.1 shall be subject to the provisions of those exclusive use rights (the "Existing Exclusives") set forth on Exhibit L attached hereto [See below] in favor of certain other tenants or occupants in the Shopping Center who have executed leases or other occupancy agreements (including any extensions or renewals of same which may be unilaterally exercised by such tenants or occupants) (collectively and for convenience, the "Existing Leases") as of the Effective Date, provided that (1) Tenant shall be subject to the Existing Exclusives, only for so long as each remains in force and effect in respect of the Shopping Center and (2) Tenant shall not be precluded from displaying and/or selling items which may be covered by the Existing Exclusives so long as Tenant's display and/or sale of such items fall(s) within the applicable incidental levels of display and/or sale as provided for in the Existing Exclusives as set forth on Exhibit L hereto. With respect to the Existing Exclusives and the Existing Leases, Landlord represents and warrants to Tenant that (i) the Existing Exclusives are the only exclusive use rights heretofore granted to other tenants or operators in the Shopping Center as of the Effective Date, (ii) although the descriptions of the Existing Exclusives appearing on Exhibit L hereto may not have been copied verbatim from their respective Existing Leases, Exhibit L nonetheless provides a true, accurate and complete representation of the Existing Exclusives (including any applicable corresponding incidental

sale rights), (HI) neither the Existing Exclusives nor the Existing Leases preclude or limit in any manner the operation by Tenant of its business at the Premises for the specific uses described in clauses (i)-(iv) of this Paragraph 7.1 and (IV) neither the Existing Exclusives nor the Existing Leases preclude or limit in any manner the operation by Tenant of a Coffee Shop at the Premises.

7.2 [REDACTED]

7.3 [REDACTED]

7.4 Landlord shall not lease or permit the use of space in the Shopping Center (including, without limitation, any space in the Shopping Center subject to the Current Leases, as defined in Paragraph 7.5.1 below, and the space currently occupied by Walden Books) for the following: (i) any bowling alley; (ii) any arcade within the "Restricted Area" (herein so called) as shown and labeled on the Site Plan **[NOTE: The TXRH Parcel lies outside the "Restricted Area."]**; (iii) any tavern or bar, except to the extent incidental to a restaurant operated primarily for on-premises consumption; (iv) any health club, spa or gymnasium; (v) any night club or discotheque; (vi) any second hand or surplus store; (vii) any mobile home park or trailer court (except that this provision shall not prohibit the temporary use of construction trailers); (viii) any dumping, disposing, incineration or reduction of garbage (exclusive of appropriately screened dumpsters located in the rear of any building); (ix) any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation, (x) any central laundry or dry cleaning plant or laundromat (except that this prohibition shall not be applicable to on-site service provided solely for pickup and delivery by the ultimate consumer, including nominal supporting facilities); (xi) any automobile, truck, trailer or R.V. sales, leasing, display or repair; (xii) any skating rink; (xiii) any living quarters, sleeping apartments or lodging rooms; (xiv) any veterinary hospital, animal raising facilities or pet shop (except that this prohibition only prohibits a pet shop if it is adjacent to the Premises); (xv) any mortuary; (xvi) any establishment selling or exhibiting pornographic materials; (xvii) any training or educational facility, including, but not limited to, beauty schools, barber colleges, reading rooms, places of instruction or other operations catering primarily to students or trainees rather than to customers (except).

0.1 So long as Tenant's right of possession of the Premises has not been lawfully terminated, Landlord, and its successors and assigns, shall not (a) operate or permit under any circumstances to be operated within the Shopping Center any other store or "Kiosk" (as hereinafter defined) selling or displaying for sale or rental any of those items described in clauses (i), (ii) and/or (iii) of the first (1st) sentence of Paragraph 7.1 above (collectively, the "Exclusive Items"), (b) operate or permit under any circumstances to be operated within the Shopping Center (including with a Kiosk) any separately demised newsstand or magazine rack, regardless of size, except that one (1) such operation having not more than fifty (50) titles may operate in the Shopping Center so long as same is not within the Restricted Area, or (c) operate or permit under any circumstances to be operated within the Shopping Center any other Coffee Shop other than the existing operation within the Shopping Center of Gloria Jeans Coffee or its replacement in its existing location on the date hereof; provided that, so long as Tenant is selling branded coffee (e.g., Starbucks) in the Premises, Landlord shall not lease such space or allow to be operated in such space a Coffee Shop selling the same brand of coffee then being sold by Tenant at the Premises. The Incidental Sale (as hereinafter defined) of one, all or any combination of the Exclusive Items in connection with the overall business of another operator or tenant, or the sale of coffee, tea or other beverages by a non-Coffee Shop restaurant operator or tenant as an incidental part of its general restaurant operation, shall not be deemed a violation of this Paragraph 7.5. As used herein, "Incidental Sale" shall mean the lesser of (x) ten percent (10%) in the aggregate of such operator's or tenant's display area and (y) five hundred (500) square feet in the aggregate of such operator's or tenant's display area (inclusive of allocable aisle space).

EXHIBIT L EXISTING EXCLUSIVES

1. Select Comfort - Lease dated August 6, 2004: No other tenant whose primary purpose is the sale of adjustable firmness air sleeper system in the Shopping Center.
2. Master Cuts Family Haircutters — Lease dated January 30, 2003: No more than three (3) tenants whose primary purpose is the operation of a total hair salon shall be open for business simultaneously in the Shopping Center.
3. Gloria Jean's Coffee — Leases dated June 24, 2003: For as long as tenant or its permitted assigns shall operate in Space Nos. 134 and 167 in the Shopping Center, Landlord shall not lease space in the Shopping Center to a third tenant whose primary purpose shall be the operation of a specialty coffee store.
4. Famous Footwear — Lease dated April 30, 2004: Landlord shall not permit any other portion in the Shopping Center other than tenant for the sale of self-serve branded footwear.

HuHot Mongolian Grill

Section 18.26 Tenant's Exclusive.

Landlord agrees not to sell, lease, let, use, or permit to be used any other property owned or controlled by it within the Shopping Center, except existing or future tenants within the food court area, less than 1,000 square feet, now or at any time during the period of this Lease or any extension to any to any entity whose primary business is (i) an Asian restaurant serving rice or noodle-based dishes or (ii) noodle or buffet-style restaurants.

Ulta

Fundamental Lease Provisions (Section I – Additional Defined Terms):

30. "Tenant's Protected Uses" shall mean (i) the retail sale of cosmetics, fragrances, health and beauty products, hair care products and accessories; personal care appliances; skin care products, and body care products; and (ii) the operation of a full service beauty salon. The term "full service beauty salon" for purposes of this Section shall be defined as the offering of any of or a combination of the following services: hair care (including, without limitation, cutting, styling, hair treatments, highlighting, tinting, coloring, texturizing, smoothing and hair extensions); facials; esthetician services; skin care services (skin treatments for face and body); beauty treatments/services; hair removal (including, without limitation, waxing, threading and tweezing for face and body); eye lash extension services; nail services; and therapeutic massage.

5.3 **Prohibited Uses/Restricted Uses.** The Prohibited Uses set forth on **Exhibit E [See below]** shall be prohibited throughout the Shopping Center including, but not limited to the Restricted Area. Additionally, the "Restricted Uses" set forth on **Exhibit E** shall not be permitted within the area identified on the Site Plan as the Restricted Area ("Restricted Area") **[NOTE: Restricted Area is located within enclosed mall only]**. It is the intent of this Paragraph that the Shopping Center shall be devoted to high quality retail uses. Notwithstanding the foregoing, such Prohibited Uses and Restricted Uses shall not apply to existing tenants in the Shopping Center (or their respective assignees, subtenants or licensees) who are not subject to such Restricted Uses and Prohibited Uses pursuant to their respective leases, or any renewals or extensions thereof, provided, however, if Landlord has the right to approve or consent to a change of use thereunder in connection with an assignment, subletting or otherwise, Landlord shall enforce the foregoing restrictions in exercising such right.

5.4 **Tenant's Exclusive Rights.** Tenant shall have the exclusive right ("Tenant's Exclusive") to conduct any portion of Tenant's Protected Uses in the Shopping Center, and all other

tenants or other occupants of any portion of the Shopping Center shall be prohibited from engaging in any portion of Tenant's Protected Uses for so long as Tenant is operating any portion of Tenant's Protected Uses in the Premises (excepting Permitted Closures). Notwithstanding the foregoing, Tenant's Exclusive shall not apply to uses associated with (a) existing tenants in the Shopping Center who are as of the Effective Date entitled to sell such products and/or provide the services that are covered by Tenant's exclusive rights pursuant to their respective leases (and any extensions or renewals of such leases with the specific existing tenant) and, except to the extent Landlord has any control thereover, their respective assignees, subtenants and licensees, (b) any national retail tenant in excess of twenty-five thousand (25,000) square feet that sells the goods and/or provides the services that are covered by Tenant's exclusive rights as a part of its normal business operations, but not as its primary use, (c) incidental sales (less than 200 square feet total of such tenant's premises is used to sell any of the products that comprise Tenant's Protected Uses) or (d) one family value oriented hair care store.

EXHIBIT E [to Uita Lease]
USE RESTRICTIONS

1. (a) **Prohibited Uses.** The following uses (collectively referred to as "Prohibited Uses" and individually as a "Prohibited Use") are prohibited during the Term in any portion of the Shopping Center: nuisance; use causing loud noises or offensive odors (including any business using exterior loud speakers); any use that produces noise and/or vibrations that can be heard and/or felt in the Common Areas and/or the Premises; manufacturing facility; dry cleaner (except facilities for drop off and pick up of clothing cleaned at another location); automobile repair shop or service station or any facility storing or selling gasoline or diesel fuel in or from tanks; used clothing or thrift store or liquidation outlet; massage parlor; adult book shop or adult movie house; mortuary or funeral parlor; coin operated laundry; cocktail lounge, bar or tavern or sale of alcoholic beverages, whether or not packaged, except in conjunction with a restaurant permitted hereunder; night club.

(b) **Restricted Uses.** [Omitted – these apply only within the enclosed mall.]

EXHIBIT E
Exclusives and Prohibited Uses and Restrictions under the DSG Lease

Dick's Sporting Goods

1.2 Definitive Areas and Terms.

(a) Landlord covenants that except as exists on the date hereof or as may be required as the result of Legal Requirements, no buildings, structures or obstructions (whether temporary or permanent) other than landscaping, canopies, building appurtenances and signs attached to store buildings, lighting equipment, and directional and other signs permitted by the Department Stores (as defined in Section 1.5(e) herein), the provisions of this Lease, if any, may be located in any area of the Shopping Center identified on the Lease Plan as the "No-Build Areas."

(b) Landlord covenants that, except as permitted by the Department Stores, any Legal Requirements or acts of condemnation, and except for the initial performance of the Shopping Center Work (as defined below), no portion of the Parking Areas (defined in Section 1.3 below) identified on the Lease Plan as the "Protected Parking Areas" may be modified (including any change in the configuration of the parking stalls, driveways, aisles or curbing) without Tenant's consent.

(c) If Landlord violates its covenant with respect to Subsection (a) or (b) above, and such violation continues for a period of seven (7) business days following notice from Tenant to Landlord, Tenant shall have any and all rights provided for in this Lease and/or available at law or in equity; provided, if Tenant exercises such rights and obtains a judgment or injunctive relief, Landlord shall reimburse to Tenant all reasonable court costs and expenses and legal fees and expenses actually incurred in addition to any judgment award or benefits of injunctive relief.

(d) The term "LFA" as used in this Lease means the number of gross square feet of leasable floor area (whether occupied or unoccupied) of the Shopping Center Buildings intended for the exclusive use by any tenant, subtenant, assignee, licensee, concessionaire or other occupant of the Shopping Center ("Occupant") including selling mezzanines or other levels if used for retail sales. The LFA of such premises shall be measured from the exterior face of exterior walls and the exterior face of service corridor walls, the line along the front of such premises where it abuts the sidewalk or other Common Areas, and the center line of any wall that such premises shares with adjoining premises. In no event shall LFA within the Demised Premises include any non-selling or storage space areas within any mezzanine or any exterior areas.

(e) Except with respect to determining the height of Tenant's parapet wall or storefront entrance feature, the height of the Building shall extend from the finished floor-slab to the underside of the roof deck.

(f) On and after the Rental Commencement Date, Landlord covenants that the points of ingress and egress to and from the Shopping Center and adjacent right-of-ways identified on the Lease Plan as "Critical Access Ways," including required traffic signals as shown on the Lease Plan, shall remain in an open and functioning manner, and signalized where required throughout the term of this Lease, subject only to temporary and incidental closures for the matters set forth in §17.3, repair, improvement or maintenance or as required by Legal Requirements; provided, Landlord shall use its commercially reasonable efforts to minimize any interference with the Critical Access Ways during such temporary and incidental closures and, if such work is by Landlord, then Landlord shall further commence and complete such repairs in a diligent and prudent manner.

1.3 Restrictions on Common Areas.

The areas of the Shopping Center within the Protected Parking Areas shown on the Lease Plan as Parking Areas shall at all times be maintained as Parking Areas. The expression "Parking Areas" shall mean

all parking spaces, sidewalks, driveways and footways, and includes the areas shown on the Lease Plan as Parking Areas plus such other areas as Landlord shall from time to time designate as Parking Areas. The areas in the Shopping Center currently used or proposed to be used for service drives and identified on the Lease Plan as the "Service Drive" shall be maintained so that during the term hereof there shall be adequate service roads or access ways to and from Tenant's Service Area. Notwithstanding the foregoing, Landlord shall have the right to change or modify such Service Drive provided continuous and equivalent access to and from Tenant's Service Area is maintained and any such change shall permit a sixty-eight (68) foot tractor trailer to access Tenant's Service Area. "Common Areas" means those areas designed for the common use, convenience and benefit of Landlord, Tenant and all other Occupants, whether or not identified on the Lease Plan, located in the Shopping Center exclusive of Tenant's Building and any other Shopping Center Buildings designed to be occupied by an Occupant. The Common Areas shall include: the Parking Areas, the Service Drive, the entrances and exits of the Shopping Center, sidewalks, any landscaped areas and exterior planted areas, the interior mall corridors (the "Mall"), retaining walls and other site improvements within the Shopping Center. Landlord agrees that, except for necessary and/or emergency repairs, subject to any Legal Requirements, the OEA [COREA] and the Department Store leases, there will be free and uninterrupted access as shown on the Lease Plan and further that Landlord shall take no action nor consent to a third party's taking any action to materially and adversely affect access as shown on the Lease Plan: (a) for motor vehicles between any and all access streets to the Shopping Center and the Protected Parking Areas; and (b) for pedestrians between the Protected Parking Areas and the main customer entrance of the Demised Premises; and (c) for pedestrians from the Parking Areas to the entrance into the Demised Premises. Except as permitted pursuant to §12(b), the entrances and exits between all adjacent streets and Parking Areas, shall be maintained as shown on the Lease Plan. Landlord agrees that the Parking Areas within the Shopping Center will always contain at least four (4) parking spaces for so-called standard size American automobiles, and driveways and footways incidental thereto, for each one thousand (1,000) square feet of LFA existing in the Shopping Center from time to time, unless the reduction in the parking is related to an action governed by Article X hereof [Eminent Domain], in which event the terms of Article X shall govern and control.

1.4 Restrictions on Use of Shopping Center.

Landlord agrees that during the term of this Lease and as long as any retail sales activity shall be conducted in the Demised Premises excluding interruptions (a) not exceeding one hundred twenty (120) consecutive days, or (b) due to alterations, restoration, casualty, taking and a Force Majeure Event, the Shopping Center shall not be used for any purpose that is inconsistent with a first-class shopping center, matters set forth in Exhibit I, the Title Matters, and specifically the areas identified on Exhibit A [the "Lease Plan" -- see below] as "Shopping Center" shall not be used:

- (i) for any non-retail purposes (repairs, alterations, storage and offices incidental to retailing, and banks and small, loan offices, shall be deemed retail);
- (ii) for any entertainment purposes such as a skating rink, bar, night club, discotheque, amusement gallery, poolroom, health club, massage parlor, sporting event, sports or game facility or off-track betting club;
- (iii) for any establishment which sells or displays pornographic materials;
- (iv) for any establishment which sells or displays used merchandise or second hand goods; or
- (v) for a restaurant or establishment selling food prepared on premises for consumption on or off premises located within three hundred fifty (350) lineal feet of the Demised Premises ("Prohibited Restaurant Area"), provided, however Landlord shall be permitted one (1) quick-serve, non-table service restaurant not exceed two thousand five hundred (2,500) square feet of LFA within the Prohibited Restaurant Area.

Landlord agrees that the areas identified on Exhibit A as Valley View Strip Center shall not be used for any purpose that is not permitted under the Title Matters, and that Landlord will enforce the provisions of the Title Matters. Notwithstanding the foregoing, to the extent any Occupant has a possessory interest in the Shopping Center which exists prior to any specific Title Matter, then such Occupant shall not be bound by applicable Title Matter unless the occupancy agreement provides for such Occupant to be so bound and Landlord shall have no obligation to enforce the particular Title Matter as against such prior existing Occupant.

1.5 Competition Rent Reduction.

(a) [REDACTED] [W]ith respect to "Valley View Mall" as outlined on the Lease Plan ("Related Land"), Landlord warrants and agrees that during the term of this Lease that it will not, nor will any entity under common Control with Landlord, enter into any lease, license agreement or other similar agreement nor permit any premises in the Related Land to be operated as (i) a full-line sporting goods store in more than ten thousand five hundred (10,000) square feet of LFA, (ii) a golf store selling golf equipment and accessories in more than five thousand (5,000) square feet of LFA and/or (iii) a hunting, camping and fishing equipment and accessory store in more than five thousand (5,000) square feet of LFA (collectively, "Additional Precluded Use Activity(ies)"). For purposes of this Lease, the term "Control" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and the policies of a person or entity, whether through the ownership of voting securities or rights, by control or otherwise.

(b) [REDACTED]

(c) [REDACTED]

(d) Landlord shall not be in violation of this Section 1.5 unless an Occupant of the [REDACTED] Related Land operates a use in violation of this provision (other than those uses excepted in paragraphs (b) above) and either (i) such Occupant's lease or occupancy agreement was executed or amended after the date of this Lease, and such execution or amendment of the Occupant's agreement permits such Occupant to operate a use in violation of this provision; or (ii) such Occupant operates a use in violation of the terms of its lease or occupancy agreement and Landlord does not use commercially reasonable good faith efforts to cure such violation promptly and diligently (including the filing of appropriate legal action including seeking injunctive relief).

(e) Notwithstanding anything contained herein, Macy's, Sears, JC Penney and any retailer of over fifty thousand (50,000) square feet of LFA that may be a part of the Related Land and operating a traditional full-line retail department store typically found in first class shopping centers or store such as Kohl's (each of which are a "Department Store" and all of which, collectively, are referred to herein as the "Department Stores") shall not be subject to the provisions of Subsection (a) above. However, in the event Landlord regains control of a Department Store premises or has approval rights of any use change of a Department Store premises, then the restrictions in Subsection (a) above shall again apply to such Department Store premises; provided, however, in the event Landlord leases or sells such Department Store premises to a Department Store for use as a traditional full-line retail department store typically found in first class shopping center or a store such as Kohl's, such Department Store premises shall not be subject to the restrictions in Subsection (a), above. Notwithstanding anything contained in this Section 1.5(e), a sporting goods superstore such as Sports Authority, Bass Pro, Cabela's, Gander Mountain, PGA Tour Superstore or the like shall not be considered a Department Store as for the above and shall not be excluded from the restrictions set forth in Subsection (a), above.

(f) (i) Additionally, the restrictions in Subsection (a) above shall not apply to the Occupants under the existing leases set forth in Exhibit M as of the date hereof, and any renewals or extensions thereof, nor any successors, assigns or subtenants thereof. However, in the event Landlord regains control of a premises under such an existing lease or has approval rights of any

use change of such premises, then the restrictions in Subsection (a) above shall again apply to such premises.

(ii) In addition, Landlord shall not exercise any right of discretion or consent it has under an existing lease to a request of an Occupant to change its use, assign, sub-let or otherwise, where to do so would cause a use to be in violation of this Section 1.5.

(g) Tenant shall also have the right to enforce the restrictions of this Section 1.5 directly against the Occupant in breach.

(h) In the event the Demised Premises is not operated as a sporting goods store for a period of one (1) year for reasons other than fire or casualty, a Force Majeure Event, repairs, remodeling or renovation, then the Landlord's obligation with respect to Subsection (a), above shall be of no further force and effect. In the event Tenant or its assignee subsequently re-commences operations as a sporting goods store in the Demised Premises, and provides Landlord written notice thereof, then from and after the date of Tenant's notice and recommencement, Subsection (a) shall again be effective and the Landlord's obligations thereunder shall resume; however, Occupants who engaged in Precluded Use Activity(ies) and/or Additional Precluded Use Activity(ies) in the interim period of time when Subsection (a) was not effective shall be deemed not subject to the terms and provisions thereof for such Precluded Use Activity(ies) and/or Additional Precluded Use Activity(ies), provided that such Precluded Use Activity(ies) and/or Additional Precluded Use Activity(ies) are not in violation of said Occupant's occupancy agreement.

1.8 Operating Agreement (OEA).

As used in this Lease, the term "OEA" shall mean: (a) that certain Construction, Operating and Reciprocal Easement Agreement between Dayton Development Company, Dayton- Hudson Corporation, Sears, Roebuck and Co., Ryan Construction Company of Minnesota, Inc., and G.R. Herberger's, Inc., recorded in the Register's Office of La Crosse County on October 23, 1979 in Volume 636 of Records, Page 261 as Document No. 901840, as amended pursuant to (i) that certain First Amendment to Construction, Operating and Reciprocal Easement Agreement between Dayton Development Corporation, Dayton- Hudson Corporation, Sears, Roebuck and Co., Ryan Construction Company of Minnesota, Inc. and G.R. Herberger's, Inc. recorded in the Register's Office of La Crosse County on October 22, 1980 in Volume 652, Page 534 as Document No. 912094 and (ii) that certain Second Amendment to Construction, Operating and Reciprocal Easement Agreement by and between PR Valley View Limited Partnership, Macy's Retail Holdings, Inc. (F/K/A Federated Retail Holdings, Inc., F/K/A The May Department Stores Company), Sears, Roebuck and Co., The Bon-Ton Department Stores, Inc. (d/b/a "Herberger's," successor in interest to G. R. Herberger's, Inc.) and Wells Fargo Bank, N.A., F/K/A Northwest Bank South Dakota, N.A. as trustee of Common Stock Trust of Ellis Levitt, successor in interest to Ryan Construction Company of Minnesota, Inc., recorded in the Register's Office of La Crosse County on February 23, 2010 as Document No. 1544962 and (b) any operating or reciprocal easement agreement controlling the Shopping Center or adjoining property.

(i) Landlord covenants, represents and warrants to Tenant that: (i) the OEA has not been further modified, amended or terminated; (ii) the OEA is currently in full force and effect; (iii) as of the date hereof, no written notice of default under the OEA has been sent or received by Landlord, which default remains uncured; and (iv) the OEA is, and shall remain, superior in lien to all mortgages and related liens affecting the Shopping Center and all other land which is encumbered by the OEA. Landlord and Tenant each acknowledge that this Lease is made and shall continue to be subject and subordinate to the OEA, subject to the provisions of this Section 1.8, provided, however, as between Landlord and Tenant, in the event of any conflict between the OEA and this Lease, this Lease shall in all respects control.

(ii) Landlord shall, at its sole cost and expense, during the term of this Lease: (i) perform and observe all of the terms, covenants, provisions and conditions of the OEA on Landlord's part to be performed and observed; (ii) defend, indemnify and hold harmless Tenant from and against any and all claims, demands, causes of action, suits, damages, liabilities and expenses of any nature arising out of or in connection with: (A) the enforcement by Landlord of any covenant, term, condition or provision of the OEA; or (B) a claimed breach by Landlord of any covenant, term, condition or provision of the OEA, including any alleged breach by Tenant arising out of its performance under this Lease (to the extent such performance is not in default of this Lease or the construction of the Building and/or improvements as provided for herein); and (iii) diligently enforce, at its sole expense, the covenants, agreements, and obligations of the OEA or any covenants, agreements or obligations which are owed by any other obligee to Tenant under the OEA. Tenant shall not perform any act or omit to perform any act required by the OEA with respect to the Demised Premises which will cause Landlord to be in default under the OEA.

(iii) Unless otherwise expressly stated in this Lease, if Landlord seeks to grant any consent pursuant to the OEA or amend, modify or terminate the OEA and such amendment, modification or termination would have no material adverse effect or impact on (i) any of Tenant's rights, easements or obligations under this Lease or (ii) Tenant's use, occupancy of or access to the Demised Premises, then Tenant's consent shall not be required. However, if any amendment, modification or termination will materially adversely affect any of Tenant's rights, easements or obligations under this Lease or Tenant's use, occupancy of or access to the Demised Premises, or any business operations conducted at the Premises, then such amendment, modification or termination shall not be entered into without the prior consent of Tenant (which consent may not be unreasonably withheld). In furtherance of the foregoing, Tenant's failure to respond to Landlord's request pursuant to this Section within ten (10) business days after Tenant's receipt of Landlord's request Tenant shall be deemed to have consented to such request.

(iv) Landlord shall, in a timely manner, forward to Tenant a copy of any and all notices and/or demands received by Landlord under or pursuant to the OEA, which relate to, or would materially and adversely affect, Tenant's use or occupancy of the Demised Premises, the conduct of Tenant's business therein, or Tenant's rights pursuant to this Lease.

(v) In the event Landlord defaults in the performance of any of its obligations under the OEA or fails to enforce the obligations of any other obligee under the OEA, and such default or failure to enforce does materially and adversely affect Tenant's rights thereunder or under this Lease, Tenant's Work, Tenant's use or occupancy of the Demised Premises or the conduct of Tenant's business therein, Tenant may, but shall not be obligated to, after thirty (30) days' written notice (except in the event of emergency, in which case no notice shall be required) cure any default by Landlord under the OEA and/or enforce, in its own name, at Landlord's expense, the obligations of any other obligee under the OEA, subject to the cure rights contained therein. Landlord shall, upon demand, reimburse Tenant for the costs incurred by Tenant in performing any of Landlord's obligations under the OEA or enforcing the obligations of any obligee under the OEA, together with interest thereon at the Default Rate, and failing such payment by Landlord, Tenant may, upon ten (10) days' prior notice to Landlord, offset such costs from the next succeeding payment or payments of any Rent or Substitute Rent due hereunder, together with interest thereon at the Default Rate until such amount is paid in full to Tenant.

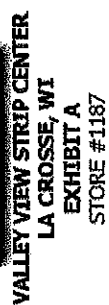
8.4 Signage and Storefront.

(b) Ground Signage: If any pylon or monument sign is constructed on the Shopping Center which identifies more than one (1) Occupant of the Shopping Center, then Tenant shall have the right to install Tenant's identification panel upon any such future pylon or monument sign(s), with the size and location of Tenant's identification panel to be determined on a pro rata basis, e.g. the Occupant with the most square footage in the Shopping Center shall have the largest panel and choice of location on the sign or in any location approved by Landlord and Tenant.

8.7 Shopping Center Renovation.

Prior to performing any renovation, repaving or other remodeling work to the area labeled "Valley View Strip Center" on the Lease Plan and the immediately adjacent Common Areas, Landlord agrees to use reasonable efforts to provide Tenant with at least forty-five (45) days' prior written notice (but shall not give Tenant less than thirty (30) days' notice thereof) as to the nature of the work involved, the dates on which such work is scheduled to be performed and the anticipated time schedule to complete such work. Landlord agrees to use its best efforts to minimize interruption of Tenant's business operations during any such renovation or remodeling work.

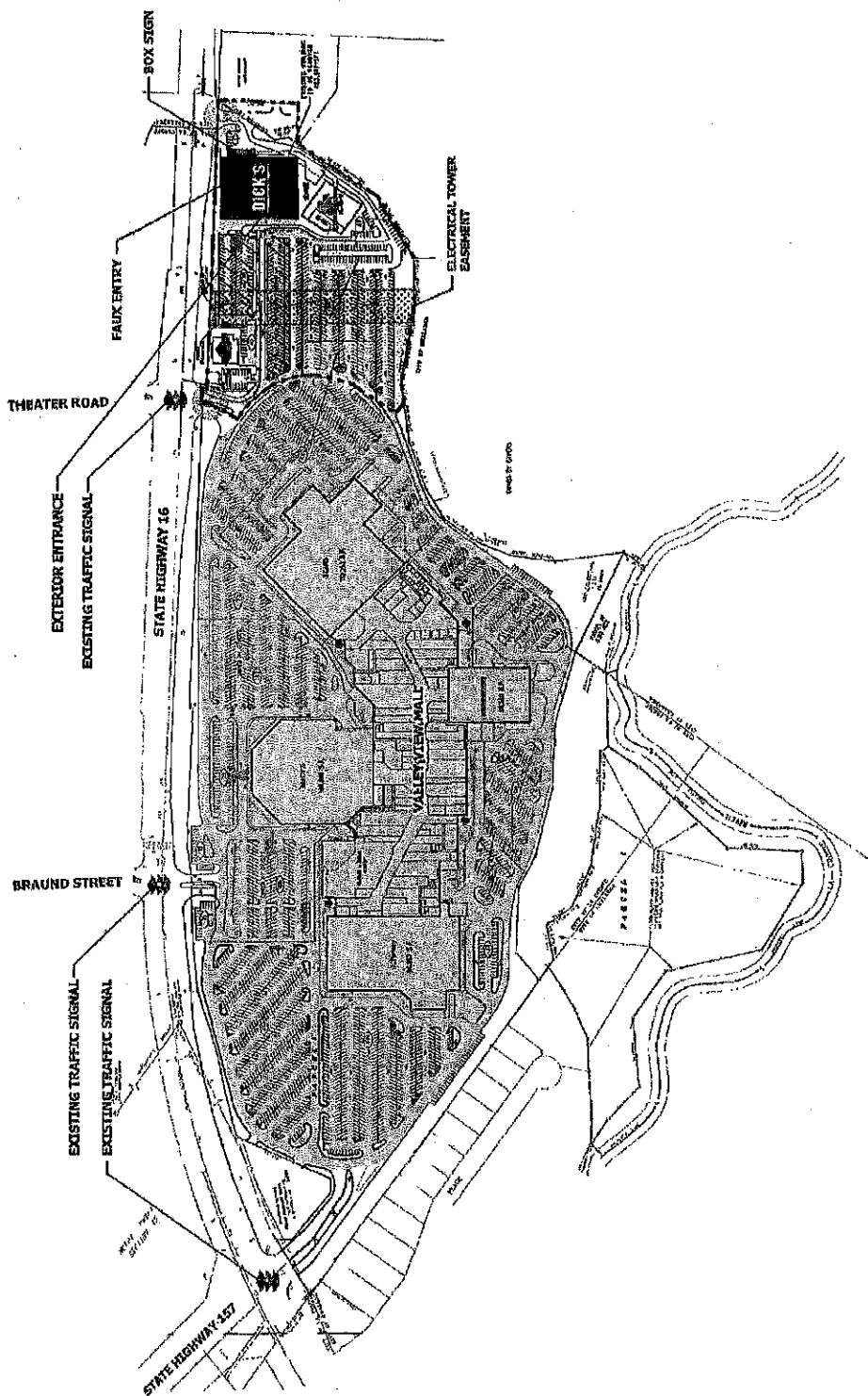
LEASE PLAN [see following page]:

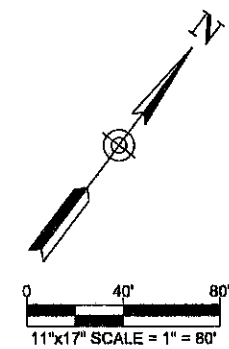


LEGEND

- SHOPPING CENTER BOUNDARY
DSS PREMISES 46,060 SF
(240'x187')
TENANT'S PREFERRED AREA
NO BUILD AREA
TENANT'S SERVICE AREA AND
SERVICE DRIVE
CRITICAL ACCESS WAYS
PROTECTED PARKING
170 PARKING SPACES
3,771,000 SF
EXPECTANT MOTHER PARKING SPACES
TOTAL AREA 171,440 SF

RECEIVED _____
DATE _____
BY _____
DATE _____
SAS _____
DATE _____
SAS APPROVAL _____ DATE _____
SAS APPROVAL _____ DATE _____





PARKING LOT RATIO CALCULATION	
BUILDING SITE	FLOOR AREA, SQ FT
DICK'S SPORTING GOODS.	39,300
CHUCK E CHEESE'S	11,500
PLAY IT AGAIN SPORTS	3,500
TOTAL	54,300
5.3 PARKING SPACES/1,000 SQUARE FEET (RECIP AGMT)	TOTAL PARKING SPACES REQUIRED = 288 TOTAL PARKING STALLS DELINEATED = 300