

BK 1375 PG 205-209



MISC 2001 04319

REGISTER OF DEEDS  
DOUGLAS COUNTY, NE

01 MAR 29 PM 12:40

RECEIVED

After recording return to:  
Seldin Company  
Attn: Marilyn Wynne Watson  
13057 West Center Road  
Omaha, NE 68144

Recorder's Space

*misc 5/8*  
*A*  
FEE 29.00 FB 43-03446  
BKP \_\_\_\_\_ C/O \_\_\_\_\_ COMP 21  
DEL \_\_\_\_\_ SCAN ds FV \_\_\_\_\_

**AMENDMENT NUMBER TWO TO  
RECIPROCAL EASEMENT AND OPERATION AGREEMENT  
COVERING**

**LOTS 1, 2, 5, 6, 7 AND 8**

**BENSON PARK PLAZA REPLAT 1, AND LOTS 1 AND 2 BENSON PARK PLAZA  
REPLAT 2, (FORMERLY KNOWN AS LOTS 3 AND 4 BENSON PARK PLAZA REPLAT  
1), ALL AS SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY,  
NEBRASKA**

THIS AMENDMENT NUMBER TWO TO RECIPROCAL EASEMENT AND  
OPERATION AGREEMENT is made as of MARCH 27 2001, between  
HOME DEPOT U.S.A., INC., a Delaware corporation ("HD") and BENSON PARK  
PLAZA, L.L.C., a Nebraska limited liability company ("Developer").

Preliminary Statements

A. HD and Developer entered into a Reciprocal Easement and Operation Agreement (the "REA") dated June 14, 2000, which was recorded June 15, 2000 in Miscellaneous Book 1341 at Page 366 of the Register of Deeds of Douglas County, Nebraska. Capitalized terms not defined herein shall have the meaning given to them in the REA.

B. The REA, describes certain lots and imposes certain site development restrictions, as set forth on Exhibit C-1.

C. Lots 3 and 4 of Benson Park Plaza Replat 1 were replatted into Lots 1 and 2, Benson Park Plaza Replat 2.

D. Developer and HD desire to amend Exhibit C-1 by replacing it with the Exhibit C-1 attached hereto.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

#16

1. Amendment of Site Plan. Exhibit C-1 of the REA (Site Plan) with reference to Lots 1 and 2, Benson Park Plaza Replat 2 (formerly Lots 3 and 4 of Benson Park Plaza Replat 1) as shown on the Exhibit C-1 dated February 19, 2001 attached hereto, shall replace the Exhibit C-1 dated June 13, 2000 and September 11, 2000.
2. Binding Effect. This Amendment shall be binding upon and inure to the benefit of the parties hereto and any subsequent owner of Lots 1 and 2, Benson Park Plaza Replat 2 and Lots 1, 2, 5, 6, 7, and 8 within Benson Park Plaza Replat 1.
3. Superseding. From and after the date hereof, all references to the REA shall mean the REA, as amended. The terms of this Amendment shall supersede over any conflicting terms in the REA and the First Amendment thereto.
4. Confirmation. Except as otherwise expressly set forth in this Amendment, the REA and First Amendment thereto, are hereby ratified and confirmed and remain in full force and effect.
5. Counterparts. This Amendment may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Amendment by signing any such counterparts.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date and year first above written.

DEVELOPER:  
 Benson Park Plaza, L.L.C.  
 A Nebraska limited liability company

By: Northwood Properties, Inc., Manager

By: Theodore M. Seldin  
 Theodore M. Seldin, President

HD:  
 Home Depot U.S.A., Inc.  
 A Delaware corporation

By: [Signature] TBC

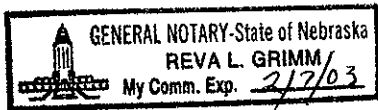
Print Name: RANDALL H. STEPHENS  
SENIOR CORPORATE COUNSEL-REALESTATE

MAR 27 2001

Title: \_\_\_\_\_

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of March, 2001, by Theodore M. Seldin, President of Northwood Properties, Inc., a Nebraska corporation, such corporation being the Manager of Benson Park Plaza, L.L.C., a Nebraska limited liability company, on behalf of the limited liability company.



Reva L. Grimm  
Notary Public

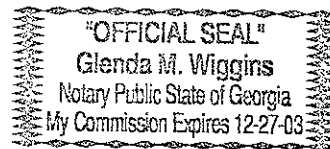
My Commission Expires: Feb 7, 2003

STATE OF Georgia )  
 ) ss.  
COUNTY OF Cobb )

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of MARCH, 2001 by RANDALPH STEPHENS SENIOR CORPORATE COUNSEL-REALESTATE of Home Depot U.S.A., Inc., a Delaware corporation, on behalf of the corporation.

Glenda M. Wiggins  
Notary Public

My Commission Expires: 12/27/03



**LENDERS CONSENT**

Union Bank & Trust Company, a Nebraska State Banking Corporation, which holds a security interest in Lots 2, 5, 6, 7, and 8 Benson Park Plaza Replat 1 and Lots 1 and 2 Benson Park Plaza Replat 2, by virtue of a Deed of Trust and Construction Agreement recorded at Book 6079 and Page 1 of the records of Douglas County, Nebraska, consents to this Amendment Two to Reciprocal Easement and Operation Agreement, as set forth above.

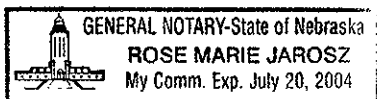
LENDER:  
Union Bank & Trust Company  
A Nebraska State banking corporation

By: *Karen J. Svehla*  
Karen J. Svehla  
Senior Vice President

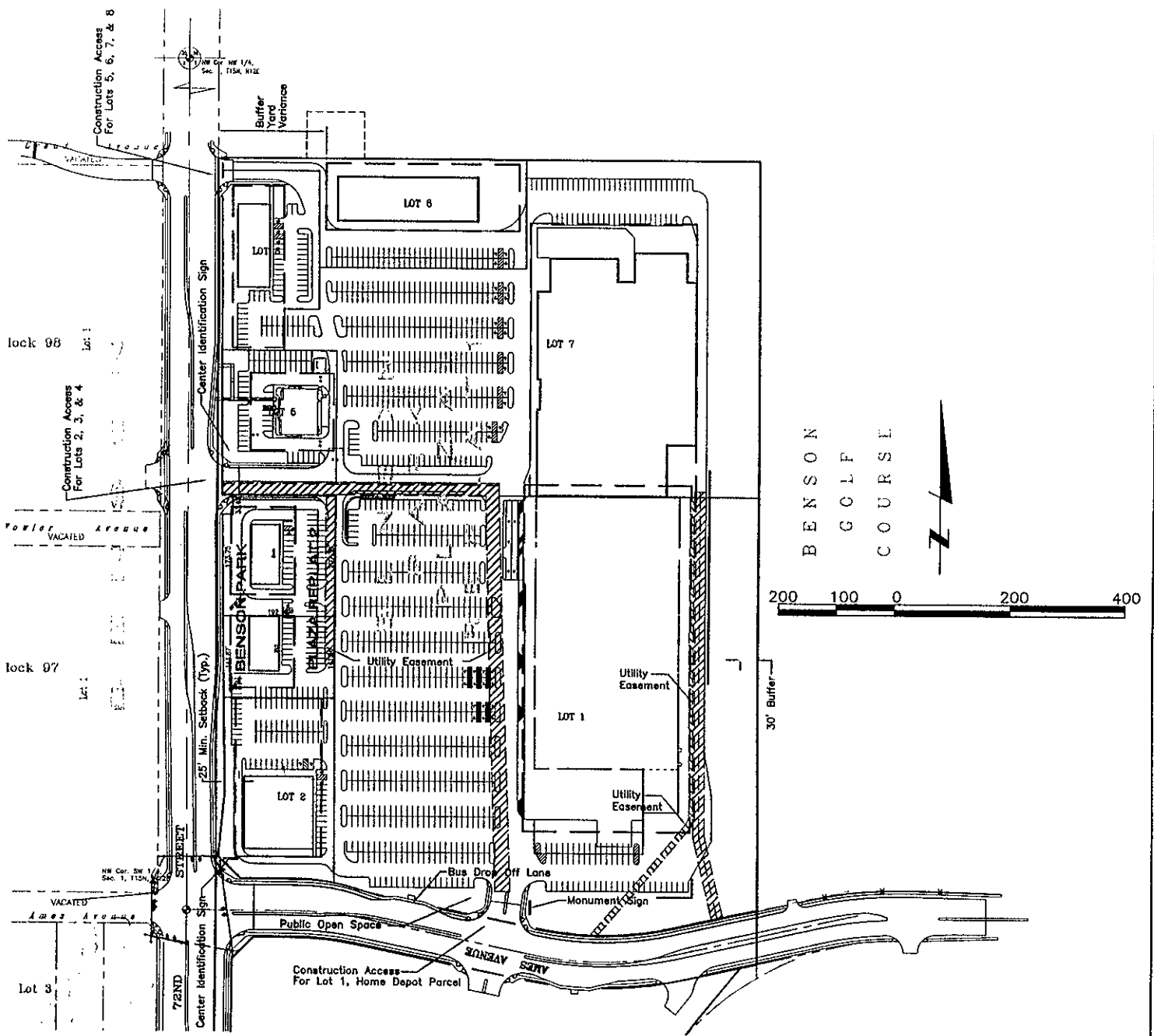
STATE OF NEBRASKA    )  
  ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 22 day of March, 2001 by Karen J. Svehla of Union Bank & Trust Company, A Nebraska State Banking Corporation.

*Rose Marie Jarosz*  
Notary Public



My Commission expires July 20, 2004



**LEGEND**

- — — Building Limit Line
- ▨ Utility Easement


Note:  
The Building Floor Area On Lots 1, 7, & 8 May Be Increased  
By Up To 10% Subject To Compliance With Parking Ratio  
And City Zoning Requirements.

**SITE STATISTICS — BENSON PARK PLAZA**

LOT #	PROPOSED TENANT	LOT SQ FT	ACREAGE	MAXIMUM BUILDING SQ. FT.	FLOOR/AREA RATIO	PARKING SPACES	PARKING RATIO
LOT 1 — HOME DEPOT PARCEL	HOME DEPOT	547,210	12.56	134,744	24.6%	612	4.54
LOT 2 — DEVELOPER'S PARCEL	RETAIL	59,601	1.37	15,000	25.2%	74	4.93
LOT 3 — DEVELOPER'S PARCEL	RESTAURANT	32,927	0.76	5,000	15.2%	51	10.20
LOT 4 — DEVELOPER'S PARCEL	RESTAURANT	34,404	0.79	5,000	14.5%	36	7.20
LOT 5 — DEVELOPER'S PARCEL	RESTAURANT/FAST FOOD	44,759	1.03	4,999	11.2%	50	10
LOT 6 — DEVELOPER'S PARCEL	RETAIL	47,574	1.09	8,176	17.2%	48	5.87
LOT 7 — DEVELOPER'S PARCEL	ANCHOR	367,075	8.43	107,920	29.4%	388	3.59
LOT 8 — DEVELOPER'S PARCEL	SHOPS	70,913	1.63	18,855	26.6%	66	3.50
TOTALS		1,204,463	27.65	299,694	24.9%	1,325	4.42

REA-EXHIBIT-C-1

Revised 02/19/2001 TXD

 <p><b>lamp, rynearson &amp; associates, inc.</b> engineers                  surveyors                  planners</p> <p>14710 west dodge road, suite 100 omaha, nebraska 68154-2029</p> <p>ph 402-498-2498 fax 402-498-2730</p>	<p>job number-task# 98013.00-010 date 09/11/2000 drawn by PWB designer NLP</p>	<p>REA EXHIBIT C-1</p>
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