

ENTERED AS INSTRUMENT NO

0201106471

STATE OF NEBRASKA)
COUNTY OF HALL) SS

2011 AUG 30 PM 1 54

Mitchell Egan
HALL CO. REGISTER OF DEEDS

C
~~CASH~~ 82.50
CHECK

FUNDS:
CASH
CHECK

G.I. ABSTRACT



201106471

82.50
C

After recording, return to:

Grand Island Abstract, Escrow & Title Co.
704 W. 3rd Street
Grand Island, NE 68801
Attn: Marnie Schager Sundermeier

**FOURTH AMENDMENT TO
DECLARATION OF RESTRICTIONS
AND GRANT OF EASEMENTS**

THIS PAGE ATTACHED FOR RECORDING PURPOSES

**FOURTH AMENDMENT TO
DECLARATION OF RESTRICTIONS
AND GRANT OF EASEMENTS**

This Fourth Amendment to Declaration of Restrictions and Grant of Easements (“**Fourth Amendment**”) is made and entered into on this 29 day of August, 2011 (“**Effective Date**”), by and among the property owners who are signatories herein (“**Property Owners**”).

RECITALS

A. Robert M. Allen Family Limited Partnership, a Nebraska limited partnership (“**Allen**”) and Albertson’s, Inc. (“**Albertson’s**”) entered into a certain Declaration of Restrictions and Grant of Easements dated March 11, 1999 (the “**1999 Declaration**”). The 1999 Declaration was recorded on June 24, 1999 as Instrument No. 99 106376 in the Official Records of Hall County, Nebraska. The 1999 Declaration was amended by a certain First Amendment to Declaration of Restrictions and Grant of Easements dated August 21, 2000 (the “**First Amendment**”). The First Amendment was recorded on September 25, 2000 as Instrument No. 0200007944. The 1999 Declaration and the First Amendment were amended by a certain Second Amendment to Declaration of Restrictions and Grant of Easements dated July 24, 2002 (the “**Second Amendment**”). The Second Amendment was recorded on July 25, 2002 as Instrument No. 0200207725. The 1999 Declaration, the First Amendment and the Second Amendment were amended by a certain Third Amendment to Declaration of Restrictions and Grant of Easements dated August 15, 2008 (the “**Third Amendment**”). The Third Amendment was recorded on August 18, 2008 as Instrument No. 0200807155. The 1999 Declaration, the First Amendment, the Second Amendment, the Third Amendment and this Fourth Amendment are hereinafter collectively referred to as the “**Declaration**”).

B. Allen 281 LLC, a Nebraska limited liability company (“**Allen 281**”) is replatting Lots 15 and 16, Meadowlark West Third Subdivision and Lot 1, Meadowlark West Seventh Subdivision, respective subdivisions as surveyed, platted and recorded in Hall County, Nebraska, into Lots 1, 2 and 3, Meadowlark West Ninth Subdivision, a subdivision as surveyed, platted and

recorded in Hall County, Nebraska, and as depicted on the Site Plan attached hereto as Exhibit "A" ("**Site Plan**"). Subsequent to such replatting, Parcels 15, 16 and 17 will be known as Lots 1, 2 and 3, Meadowlark West Ninth Subdivision, a subdivision as surveyed, platted and recorded in Hall County, Nebraska.

C. Batis Development Company, a Kansas corporation, has purchased (or is about to purchase) Parcels 16 and 17, and legally known as Lots 1 and 2, Meadowlark West Ninth Subdivision, as depicted on the Site Plan attached hereto as Exhibit "A".

D. The Property Owners are the Owners of the Parcels containing in the aggregate at least ninety percent (90%) of the total square footage of Building Area in the Shopping Center as required by Section 8.5 of the 1999 Declaration for the purpose of modifying the Declaration.

E. The parties desire to make certain modifications to the Declaration as set forth below.

Agreement

Now, therefore, in consideration of the foregoing Recitals which are incorporated herein by this reference, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Recitals.** Except as set forth herein, the recitals are incorporated herein as if set forth in full.

2. **Capitalized Terms.** All capitalized terms that are not defined in this Fourth Amendment shall have the meanings respectively given to them in the 1999 Declaration, First Amendment, Second Amendment and Third Amendment.

3. **Conflict or Inconsistency.** In the event of any conflict or inconsistency between the provisions of this Fourth Amendment and the 1999 Declaration, the First Amendment, the Second Amendment or the Third Amendment, the provisions of this Fourth Amendment shall control.

4. **Approval of Replat.** The replat of Lots 15 and 16, Meadowlark West Third Subdivision, and Lot 1, Meadowlark West Seventh Subdivision, respectively, subdivisions as surveyed, platted and recorded in Hall County, Nebraska, into Lots 1, 2 and 3, Meadowlark West Ninth Subdivision, a subdivision as surveyed, platted and recorded in Hall County, Nebraska, is hereby approved and the corresponding Parcel designations, Building Areas and Building Envelopes as set forth on the Site Plan are hereby approved.

5. **Consolidation of Parcels and Building Areas.** Without limiting or modifying any other requirements under Article 2 of the 1999 Declaration, the Owners of Parcels 14 through 17, 22 and 23 and 27 and 28, as depicted on Exhibit "B" attached hereto and incorporated herein by this reference, may (i) consolidate Parcels 14 and 15; (ii) consolidate Parcels 16 and 17; (iii) consolidate Parcels 22 and 23; and (iv) consolidate Parcels 27 and 28.

201106471

From and after the Effective Date, Exhibit "B" attached hereto is substituted for Exhibit "A" attached to the 1999 Declaration, the First Amendment, Second Amendment and Third Amendment and shall be controlling for the purposes of this Declaration.

6. **Counterparts**. This Fourth Amendment may be executed in two (2) or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same agreement.

7. **Ratification**. Except as amended herein, the Declaration remains in full force and effect and the parties hereby ratify and confirm the Declaration as amended hereby.

Executed as of the date and year first written above.

**[THE BALANCE OF THIS PAGE LEFT INTENTIONALLY BLANK
- SIGNATURES APPEAR ON THE FOLLOWING PAGES]**

IN WITNESS WHEREOF, this Amendment has been executed as of the day and year first above written.

ROBERT M. ALLEN FAMILY PARTNERSHIP,
a Nebraska limited partnership

By: *Kristin M. Allen*
Kristin M. Allen, General Partner

Owner of:

Lots 4, 6 and 7, Meadowlark West Fourth
Subdivision, City of Grand Island,
Hall County, Nebraska, also known as
Parcels 1, 3 and 4, respectively.

STATE OF NEBRASKA)
) :ss.
COUNTY OF ADAMS)

On this 14 day of July, 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Kristin M. Allen, to me known to be the General Partner of **ROBERT M. ALLEN FAMILY LIMITED PARTNERSHIP**, a Nebraska limited partnership, that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said limited partnership, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

My commission expires:

7-30-2013

Dee Muesel
Notary Public in and for the
State of Nebraska
Residing at 4757 N 148 St Omaha Ne
68116

[NOTARY SEAL]



(Signatures continue on the following pages)

201106471

IN WITNESS WHEREOF, this Amendment has been executed as of the day and year first above written.

ALLEN 281 LLC, a Nebraska limited liability company

By: *Kristin M. Allen*
Kristin M. Allen, Manager

Owner of:

Lots 14, 15 and 16, Meadowlark West Third Subdivision and Lot 1, Meadowlark West Seventh Subdivision, City of Grand Island, Hall County, Nebraska, also known as Parcels 14, 15, 16 and 17, respectively.

STATE OF NEBRASKA)
) :ss.
COUNTY OF ADAMS)

On this 14 day of July, 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Kristin M. Allen, to me known to be the Manager of ALLEN 281 LLC, a Nebraska limited liability company, that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

My commission expires:

7-30-2013

Dee Muesel

Notary Public in and for the
State of Nebraska
Residing at 4757 N 148th Omaha NE
68116

[NOTARY SEAL]



(Signatures continue on the following pages)

IN WITNESS WHEREOF, this Amendment has been executed as of the day and year first above written.

ALLEN 13TH STREET LLC, a Nebraska limited liability company

By: *Kristin M. Allen*
Kristin M. Allen, Manager

Owner of:

Lots 22 and 23, Meadowlark West Third Subdivision, City of Grand Island, Hall County, Nebraska, also known as Parcels 22 and 23, respectively.

STATE OF NEBRASKA)
) :ss.
COUNTY OF ADAMS)

On this 14 day of July, 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Kristin M. Allen, to me known to be the Manager of ALLEN 13TH STREET LLC, a Nebraska limited liability company, that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute the said instrument.

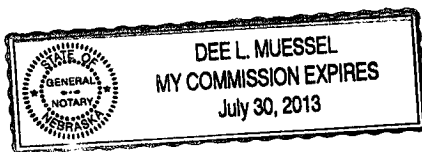
WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

My commission expires:

7-30-2013

Dee Muesel
Notary Public in and for the
State of Nebraska
Residing at 4757 N 148 St Omaha ne
68116

[NOTARY SEAL]



(Signatures continue on the following pages)

IN WITNESS WHEREOF, this Amendment has been executed as of the day and year first above written.

ALLEN WEBB ROAD LLC, a Nebraska limited liability company

By: [Signature]
Kristin M. Allen, Manager

Owner of:

Lots 11 and 12, Meadowlark West Fourth Subdivision, and Lot 1, Meadowlark West Sixth Subdivision, City of Grand Island, Hall County, Nebraska, also known as Parcels 28, 27 and 26, respectively.

STATE OF NEBRASKA)
) :ss.
COUNTY OF ADAMS)

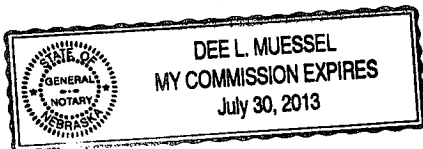
On this 14 day of July, 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Kristin M. Allen, to me known to be the Manager of ALLEN WEBB ROAD LLC, a Nebraska limited liability company, that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

My commission expires:
7-30-2013

[Signature]
Notary Public in and for the
State of Nebraska
Residing at 4757 N 148th Omaha
NE 68116

[NOTARY SEAL]



(Signatures continue on the following pages)

IN WITNESS WHEREOF, this Amendment has been executed as of the day and year first above written.

GRAND ISLAND VENUE, L.L.C., a Nebraska limited liability company

By: [Signature]
Raymond J. O'Connor, Managing Member

Owner of:

Lots 3 and 5, Meadowlark West Fourth Subdivision, City of Grand Island, Hall County, Nebraska, also known as Parcels 24 and 2, respectively.

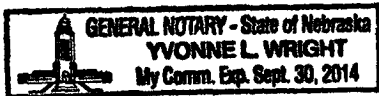
STATE OF NEBRASKA)
COUNTY OF Hall) :ss.

On this 20 day of July, 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Raymond J. O'Connor, to me known to be the Managing Member of GRAND ISLAND VENUE, L.L.C., a Nebraska limited liability company, that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

My commission expires:

9-30-14



[NOTARY SEAL]

[Signature]
Notary Public in and for the State of Nebraska
Residing at Grand Island
Hall Co

(Signatures continue on the following pages)

IN WITNESS WHEREOF, this Amendment has been executed as of the day and year first above written.

HOME DEPOT U.S.A., INC., a Delaware corporation

By: Jennifer M. Evans
Name: Jennifer M. Evans
Title: Attorney

Owner of:

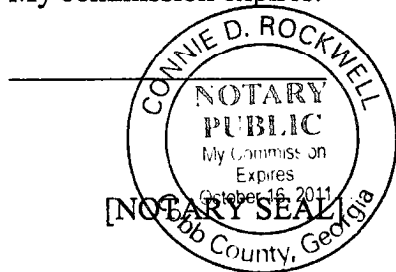
Lot 8, Meadowlark West Fourth Subdivision,
City of Grand Island, Hall County, Nebraska,
also known as Parcel 5.

STATE OF Georgia)
COUNTY OF Cobb) :ss.

On this 14 day of July, 2011, before me, the undersigned, a Notary Public in and for said State, personally appeared Jennifer M. Evans, to me known to be the attorney of HOME DEPOT U.S.A., INC., a Delaware corporation, that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

My commission expires:

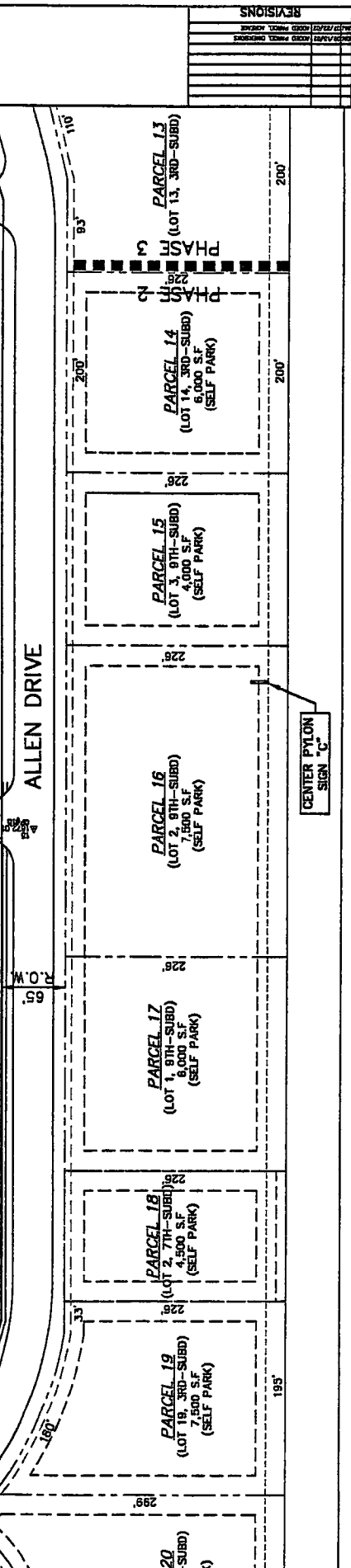
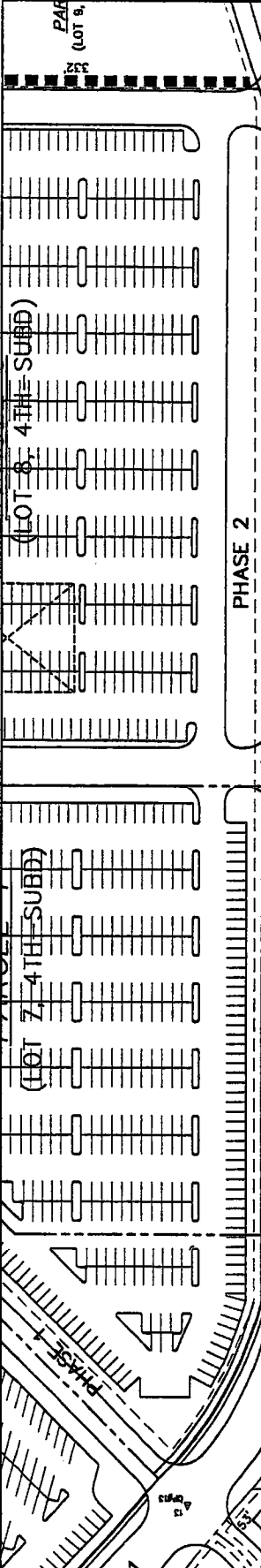


Connie D. Rockwell
Notary Public in and for the
State of Georgia
Residing at 2455 Faces Ferry Rd.
Atlanta, GA. 30339

(Signatures continue on the following pages)

201106471

EXHIBIT "A"



201106471

EAGLE RUN SHOPPING CENTER

PROPOSED REPLAT AND SITE PLAN

EXHIBIT "A" 4TH AMENDMENT

GRAND ISLAND, NE

2011

SHEET 1 OF 1

DRAWN BY: JAY/ML
 CHECKED BY: JAY/ML
 PROJECT NO.: 2008-01-0
 DATE: MAY, 2011

GENERAL NOTES

- BUILDING STORAGE REQUIREMENTS: 30' BUFFER SETBACK ALONG WOOD RD. & US HWY 281
- LANDSCAPE REQUIREMENTS: BY CITY OF GRAND ISLAND NEVEX
- ZONING REQUIREMENTS: PROPERTY IS ZONED R8

LEGEND

- PROPERTY LOT LINE
- SUBDIVISION LINE
- SECTION LINE
- BUILDING ENVELOPE
- FRONT YARD SETBACK LINE
- EXPANSION LIGHT LINE

SCALE IN FEET

0 25 50 75 100

N

PARK ISLAND SUBDIVISION
 SQUARE FIFTH SUBDIVISION
 SQUARE FIFTH SUBDIVISION
 CRANE VALLEY THIRD SUBDIVISION
 CRANE VALLEY SECOND SUBDIVISION

U.S. HIGHWAY #281

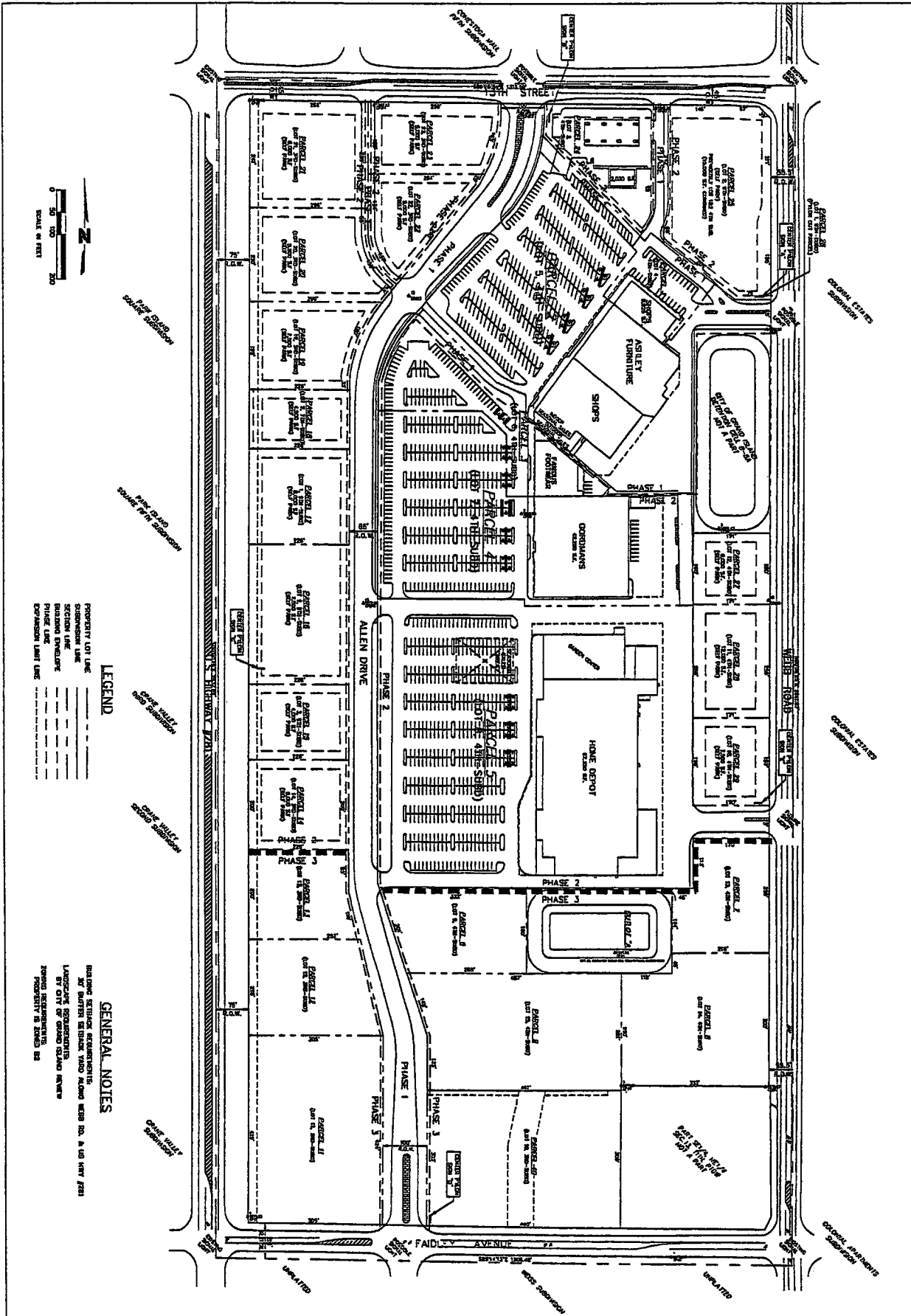
SUBDIVISION 263780

CENTER PYLON SIGN "C"

201106471

EXHIBIT "B"

F:\PROJECTS\20031527_LDDVP\Masterplans\BTDPLN-LENER002.dwg



<p>1 OF 1 SHEET</p>	<p>EAGLE RUN SHOPPING CENTER</p>	<p>OLSSON ASSOCIATES ENGINEERS - PLANNERS - ARCHITECTS - SURVEYORS</p>
	<p>EXHIBIT "B" 4TH AMENDMENT DECLARATION</p>	
	<p>GRAND ISLAND, NE 2011 REVISIONS</p>	