



W1880895

WHEN RECORDED, PLEASE MAIL TO:

Robert A. McConnell
PARR WADDOUPS BROWN GEE & LOVELESS
185 South State Street, Suite 1300
Salt Lake City, Utah 84111-1537

E# 1880895 BK2272 PG1089
DUG CROFTS, WEBER COUNTY RECORDER
09-OCT-02 1151 AM FEE \$28.00 DEP CV
REC FOR: RIVERDALE.CENTER.II

(Space above for Recorder's use)

**FIRST AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Amendment") is entered into this 13th day of July, 2002 by and between RIVERDALE CENTER II, L.C., a Utah limited liability company, of 1278 South 500 East, Suite 100, Salt Lake City, Utah 84102 ("Seller") and LOWE'S HIW, INC., a Washington corporation as successor by merger to LOWE'S HIW, INC., the Virginia corporation, with its principal place of business located at Highway 268 East, North Wilkesboro, NC 28659 ("Lowe's").

RECITALS

A. Whereas Lowe's and Seller executed and caused to be recorded that certain Declaration of Covenants, Conditions and Restrictions, dated December 27, 1999 (the "Declaration"), and caused the same to be recorded in the office of the Weber County Recorder on December 28, 1999 as Entry No. 1681482 in Book 2050 at Page 2341; and

B. Whereas the Declaration subjects that certain real property referred to in the Declaration as the Lowe's Property and the Seller Property (collectively the "Shopping Center"), each as more particularly described on Exhibit A hereto, to the terms and provisions of the Declaration; and

C. Whereas Section 4.18 of the Declaration provides that the Declaration may be amended by a writing executed by Lowe's and the owners of not less than fifty percent (50%) of the land area comprising the Sellers Property; and

D. Whereas Lowe's and Seller are collectively all of the owners of the Shopping Center; and

E. Whereas Lowe's and Seller desire to amend the Declaration as stated herein

NOW, THEREFORE, in consideration of the mutual obligations set forth herein and other good and valuable consideration, the parties hereto agree as follows:

AMENDMENT

1. The following sentence shall be added to the end of Section 3.6:

“Notwithstanding the foregoing, Lowe’s agrees that the foregoing use restrictions or exclusives will not apply to any items sold by Best Buy, provided such items are carried in a majority of Best Buy’s stores located in the state of Utah.”
2. “Exhibit B” to the Declaration is hereby deleted in its entirety and replaced with the Exhibit B-1st Revision attached hereto. All references to the “Site Plan” and “Exhibit B” contained in the Declaration shall from and after the date of this Amendment refer to the Exhibit B-1st Revision attached hereto.
3. Notwithstanding anything to the contrary contained in the Declaration, including, without limitation, the provisions of Sections 3.1 and 3.7, the building elevations attached hereto as Exhibit E are hereby approved as acceptable building elevations for the purposes of development and construction of a Best Buy store on Envelope A by Best Buy.
4. All references to “Riverdale Center II, L.L.C.” in the Declaration shall be deemed to be references to “Riverdale Center II, L.C.”, which Riverdale Center II, L.C. is the true and correct name of the Seller and the fee title owner of the Seller Property.
5. To the extent the terms of this Amendment modify or conflict with any provisions of the Declaration, the terms of this Amendment shall control. All other terms of the Declaration not modified by this Amendment shall remain the same and are hereby ratified and affirmed. Capitalized terms not specifically defined herein shall have the same meaning as set forth in the Declaration unless a contrary intent is clearly implicated.

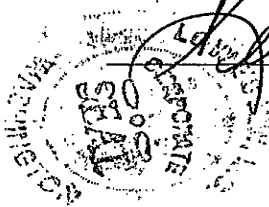
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ENTERED INTO AND AGREED TO on the date first set forth above.

"Lowe's"

LOWE'S HIW, INC., a Washington corporation

ATTEST:


Kevin D. Bennett
Kevin D. Bennett
Assistant Secretary

By: William C. Waaden ¹⁵ ₁₀₀
Name: William C. Waaden _R
Its: Executive Vice President

"Seller"

RIVERDALE CENTER II, L.C., a Utah limited liability company, by its Manager

The Boyer Company, L.C., a Utah limited liability company

ATTEST:

Lori B. Hayes

By: [Signature]
Its: manager

STATE OF North Carolina)
) SS:
COUNTY OF Wilkes)

On this 3rd day of June, 2002, before me personally appeared William C. Warden, who acknowledged her/himself to be the Executive Vice Pres. of Lowe's HIW, Inc., a Washington corporation, and being authorized to do so, s/he executed the foregoing First Amendment to Declaration of Covenants, Conditions and Restrictions for the purposes therein contained, by signing the name of the company, by her/himself as such officer.

[NOTARY SEAL]

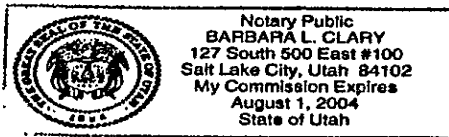


Melissa Richardson
Notary Public

STATE OF UTAH)
) SS:
COUNTY OF SALT LAKE)

On this 13th day of June, 2002, before me personally appeared Steven B. Ostler, who acknowledged himself to be the _____ of The Boyer Company, L.C., the Manager of Riverdale Center II, L.C., a Utah limited liability company, and being authorized to do so, he executed the foregoing First Amendment to the Declaration of Covenants, Conditions and Restrictions for the purposes therein contained, by signing the name of the company, by himself as such officer.

[NOTARY SEAL]



Barbara L. Clary
Notary Public

Exhibit A
to
First Amendment to
Declaration of Covenants, Conditions and Restrictions
(Legal Description of the Lowe's Property)

That certain tract of land located in Weber County, Utah, more particularly described as follows:

A part of the Northeast Quarter of Section 7 and the Northwest Quarter of Section 8, Township 5 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey:

Beginning at a point which is 13.83 feet South 01°00'35" West along the Section line and 198.26 feet South 13°53'52" West from the Northwest corner of said Section 8; and running thence South 76°06'08" East 46.20 feet; thence North 77°34'58" East 78.37 feet; thence South 87°39'26" East 18.68 feet; thence South 76°24'50" East 297.00 feet; thence South 13°35'10" West 64.61 feet; thence South 38°29'32" West 143.76 feet; thence South 76°24'50" East 152.65 feet; thence South 51°30'28" East 96.13 feet; thence South 13°35'10" West 39.35 feet; thence South 76°24'50" East 164.16 feet; thence South 38°29'32" West 207.76 feet; thence South 25°21'26" West 74.59 feet; thence South 66°49'12" East 43.79 feet; thence South 51°31'42" East 326.07 feet to the Westerly right-of-way line of Riverdale Road; thence South 38°24'20" West 24.00 feet along said Westerly right-of-way line; thence North 51°31'42" West 322.88 feet; thence North 66°49'12" West 41.48 feet; thence South 25°21'26" West 38.51 feet; thence South 13°35'10" West 36.33 feet; thence North 76°24'50" West 158.53 feet; thence South 13°35'10" West 268.96 feet; thence North 78°05'28" West 506.41 feet; thence North 13°53'52" East 879.88 feet to the point of beginning.

Contains 525,835 Square Feet

Or 12.072 Acres

06-274-0001

Exhibit A
to
First Amendment to
Declaration of Covenants, Conditions and Restrictions

06-274-0002
06-028-0009

(Legal Description of the Seller's Property)

That certain tract of land located in Weber County, Utah, more particularly described as follows:

A part of the Northeast Quarter of Section 7 and the Northwest Quarter of Section 8, Township 5 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey:

Beginning at a point which is 1111.12 feet South 01°00'35" West along the Section line and 261.52 feet South 78°05'28" East from the Northwest corner of said Section 8; and running thence North 13°35'10" East 268.96 feet; thence South 76°24'50" East 158.53 feet; thence North 13°35'10" East 36.33 feet; thence North 25°21'26" East 38.51 feet; thence South 66°49'12" East 41.48 feet; thence South 51°31'42" East 322.88 feet to the Westerly right of way line of Riverdale Road; thence South 38°24'40" West 313.57 feet along said Westerly right of way line; thence North 78°05'28" West 87.20 feet (87.00 feet deed); thence North 51°29'55" West 42.85 feet; thence North 68°22'35" West 16.93 feet; thence North 89°41'28" West 14.21 feet; thence North 78°05'28" West 67.15 feet; thence North 11°03'04" East 75.97 feet; thence North 78°05'28" West 141.52 feet to the point of beginning.

Contains 147,132 Square Feet
Or 3.378 Acres

And

Pt 06-031-0004

Pt

06-274-0003

06-274-0004, 0005

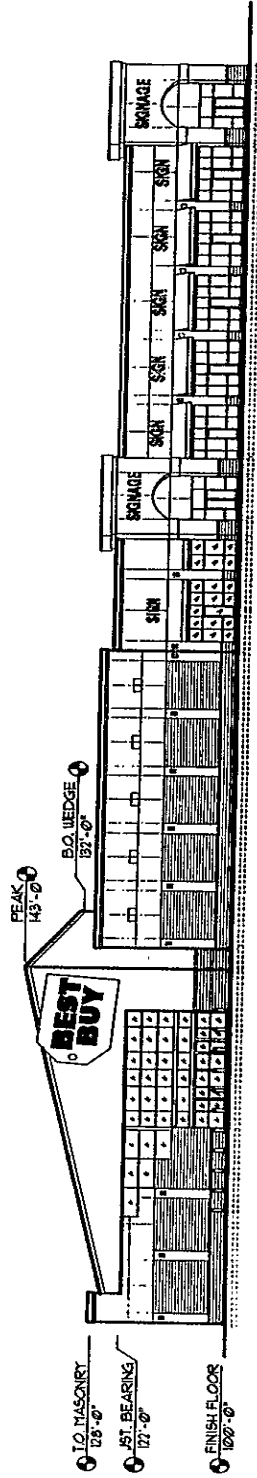
A part of the Southwest Quarter of Section 5, Southeast Quarter of Section 6, Northeast Quarter of Section 7 and the Northwest Quarter of Section 8, Township 5 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey:

Beginning at a point which is 138.08 feet North $0^{\circ}46'25''$ East along a Section line and 20.18 feet North $82^{\circ}15'33''$ West from the Northwest corner of the North Quarter of said Section 8; and running thence South $82^{\circ}15'33''$ East 358.13 feet along a fence to the West right of way line of Pacific Avenue; thence two (2) courses along said West right of way line and the Southerly right of way line of 300 West Street as follows: Southeasterly along the arc of a 396.56 foot radius curve to the left a distance of 327.76 feet (Central Angle equals $47^{\circ}21'18''$ and Long Chord bears South $27^{\circ}35'23''$ East 318.51 feet) to a point of tangency and South $51^{\circ}16'02''$ East 589.61 feet; thence South $31^{\circ}13'02''$ West 335.53 feet to the Northerly right-of-way line of Pacific Avenue; thence South $73^{\circ}17'48''$ East 161.30 feet along said Northerly line to the Westerly right of way line of Riverdale Road; thence South $38^{\circ}24'20''$ West 225.90 feet along said Westerly right-of-way line; thence North $51^{\circ}31'42''$ West 326.07 feet; thence North $66^{\circ}49'12''$ West 43.79 feet; thence North $25^{\circ}21'26''$ East 74.59 feet; thence North $38^{\circ}29'32''$ East 207.76 feet; thence North $76^{\circ}24'50''$ West 164.16 feet; thence North $13^{\circ}35'10''$ East 39.35 feet; thence North $51^{\circ}30'28''$ West 96.13 feet; thence North $76^{\circ}24'50''$ West 152.65 feet; thence North $38^{\circ}29'32''$ East 143.76 feet; thence North $13^{\circ}35'10''$ East 64.61 feet; thence North $76^{\circ}24'50''$ West 297.00 feet; thence North $87^{\circ}39'26''$ West 18.68 feet; thence South $77^{\circ}34'58''$ West 78.37 feet; thence North $76^{\circ}06'08''$ West 46.20 feet; thence South $13^{\circ}53'52''$ West 879.88 feet; thence South $78^{\circ}05'28''$ East 317.80 feet to a point on a fence; thence four (4) courses along said fence as follows: South $14^{\circ}15'57''$ West 198.21 feet; North $70^{\circ}56'39''$ West 107.34 feet; North $71^{\circ}40'41''$ West 146.44 feet and North $71^{\circ}32'13''$ West 118.31 feet to a point on the Easterly Union Pacific Railroad right-of-way fence; thence North $13^{\circ}53'52''$ East 1380.74 feet along said Easterly right-of-way fence to the point of beginning.

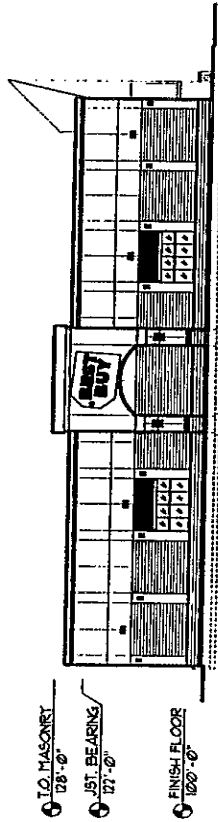
Contains 523,088 Square Feet
Or 12.008 Acres

Exhibit E
to
First Amendment to
Covenants, Conditions and Restrictions

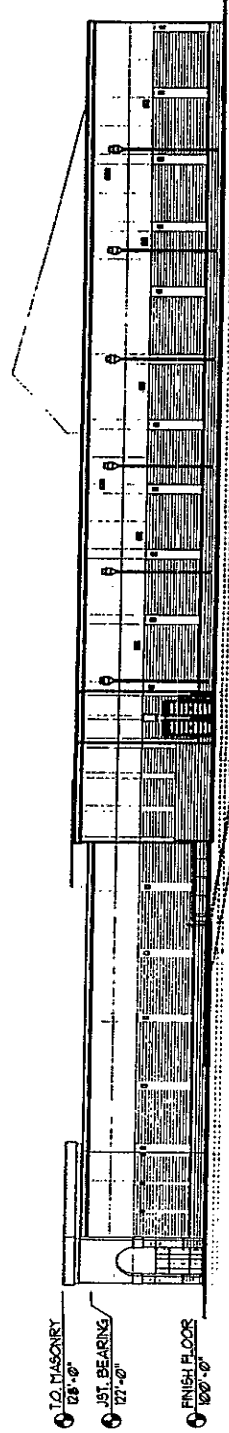
(Best Buy Approved Elevations for Envelope A)



NORTH ELEVATION



EAST ELEVATION



SOUTH ELEVATION

