

STATE MS.-DESOTO CO.
FILED

APR 5 1 31 PM '96

This instrument prepared by:

INDEXING INSTRUCTIONS:

Charles L. Wood, Esq.
 Altman, Kritzer & Levick, P.C.
 6400 Powers Ferry Road, N.W.
 Powers Ferry Landing, Suite 224
 Atlanta, Georgia 30339
 526-2000

BK 71 PG 240 Section 25, Township 1
 W.E. DAVIS CH. CLK. South, Range 8 West
 DeSoto County, Mississippi

FIRST AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT

THIS FIRST AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT ("Amendment") is made and entered into as of the 12th day of February, 1996, by and between The Kroger Co., an Ohio corporation ("Kroger"), North Goodman Investment Company, a Tennessee general partnership ("Developer"), and Home Depot U.S.A., Inc., a Delaware corporation ("HD").

WHEREAS, Kroger and Developer entered into that certain Reciprocal Easement Agreement, dated September 15, 1994, and recorded in Book 67, Page 642 in the office of the Chancery Clerk of DeSoto County, Mississippi ("Recorder") (the aforesaid is hereinafter referred to as the "Agreement"); and

WHEREAS, subsequent to the execution of the Agreement by Deed recorded in Book 294, Page 462 in the office of the Recorder, HD acquired a certain portion of Lot 11 (Lot 11 being defined in the Agreement) which portion is more particularly described on Exhibit "A" attached hereto and made a part hereof by this reference (said portion of Lot 11 acquired by HD is hereinafter referred to as the "HD Tract"); and

WHEREAS, Kroger continues to own Parcel II and Developer continues to own Parcel I and the remainder of Lot II not transferred to HD (Parcel III as defined in the Agreement); and

WHEREAS, Kroger, Developer and HD desire to amend the Agreement as hereinafter set forth.

NOW THEREFORE, for and in consideration of the covenants set forth herein and other good and valuable considerations, it is hereby agreed by Kroger and Developer as follows:

1. Notwithstanding anything to the contrary contained in the Agreement, the Building Area on the HD Tract for purposes of computing the required parking ratio pursuant to

Section 6.5 of the Agreement shall exclude the 27,972 square feet of Building Area on the HD Tract crosshatched and designated as "Excluded" on Exhibit "B" attached hereto and made a part hereof by this reference. Notwithstanding anything to the contrary contained in the Agreement, Developer and Kroger hereby agree that the Plot Plan attached to the Agreement as Exhibit "C" is hereby amended only with regard to the HD Tract to reflect the proposed development of the HD Tract as shown on Exhibit "B" attached hereto.

2. Kroger hereby acknowledges and agrees that it has approved the following plans for the construction of improvements on the HD Tract pursuant to the provisions of Section 6.7 of the Agreement:

Architectural Drawings Prepared By Greenberg Farrow Architects:

Page A1, Floor Plan, dated 11-16-95
Page A3, Elevations, dated 11-16-95
Page C4, Master Utility Plan, dated 11-28-95
Page C5, Paving and Staking Plan, dated 11-28-95

3. Developer and HD agree, subject to local ordinances, that Kroger will be permitted to install a double-sided sign panel or sign panels identifying Kroger on whatever pylon sign HD receives permission to install adjacent to I-55 where shown on Pages C4 and C5 of the Architectural Drawings identified in Paragraph 2 above.

4. Developer, Kroger and HD covenant (i) that each has full authority to execute this Amendment, (ii) that any capitalized terms used herein and not otherwise defined herein shall have the same meaning defined in the Agreement, (iii) that, except as stated herein, the provisions of the Agreement shall continue unchanged and in full force and effect, (iv) that the terms of the Agreement are hereby ratified and approved as amended herein, and (v) that the terms of this Amendment shall bind and inure to the benefit of the parties hereto and their successors and assigns.

IN WITNESS WHEREOF, the parties have executed this Amendment under seal and their duly authorized officers or partners have affixed their seals hereto to be effective on the date first hereinabove stated.

KROGER:

THE KROGER CO.,
an Ohio corporation

BY: *Paul W. Heldman*

Its: Paul W. Heldman
Vice President

[CORPORATE SEAL]



DEVELOPER:

NORTH GOODMAN INVESTMENT
COMPANY, a Tennessee general
partnership

BY: *Robert M. Rogers*
Robert M. Rogers, General Partner

HD:

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

By: *K. E. Lee*
Its: KATHRYN E. LEE
Senior Corporate Counsel Real Estate

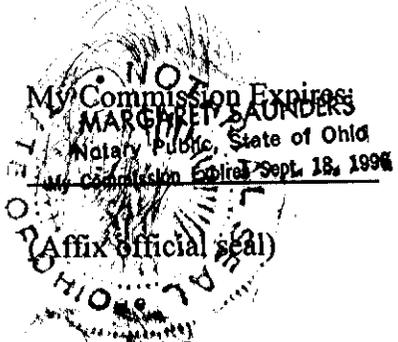
[CORPORATE SEAL]



STATE OF OHIO)
COUNTY OF HAMILTON)

PERSONALLY appeared before me, the undersigned authority in and for the said county and state, on this 21st day of FEBRUARY, 1996, within my jurisdiction, the within named PAUL HELDMAN, VICE PRESIDENT of The Kroger Co., an Ohio corporation and that for and on behalf of said entity, and as its act and deed individually and as agent for others, he executed the above and foregoing instrument, after first having been duly authorized by said entity so to do in the capacities above stated.

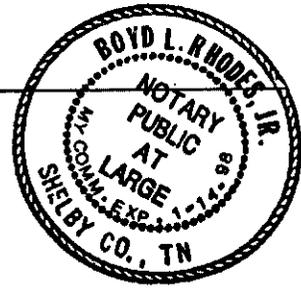
Margaret Saunders
NOTARY PUBLIC



STATE OF TENNESSEE)
COUNTY OF Shelby)

PERSONALLY appeared before me, the undersigned authority of law in and for the said Sate and County aforesaid, on this 22nd day of March, 1996, within my jurisdiction, the within named ROBERT M. ROGERS, who acknowledged that he is a General Partner of North Goodman Investment Company, a General Partnership, and that for and on behalf of said partnership, and as its act and deed, he executed and delivered the above and foregoing instrument on the day and year therein mentioned and for the purposes therein expressed, after first having been duly authorized by said partnership so to do.

Boyd L. Rhodes, Jr.
Notary Public



My Commission Expires:
1-14-98

STATE OF GEORGIA)
COUNTY OF COBB)

PERSONALLY appeared before me, the undersigned authority in and for the said county and state, on the 12th day of February, 1996, within my jurisdiction, the within named K.E. Lee, Senior Corporate Counsel - R.E. of HOME DEPOT U.S.A., INC., a Delaware corporation and that for and on behalf of said entity, and as its act and deed individually and as agent for others, he executed the above and foregoing instrument, after first having been duly authorized by said entity so to do in the capacities above stated.

Vida Upton - Cherry
NOTARY PUBLIC

My Commission Expires:

Notary Public, Cobb County, Georgia
My Commission Expires February 21, 1997

Notary Seal



CONSENT AND SUBORDINATION

The undersigned, as lienholder pursuant to Deed Of Trust, dated March 15, 1994, and recorded in the office of the Chancery Clerk of DeSoto County, at _____, Mississippi, in Book 705 at Page 232 (the "Deed of Trust"), hereby consents to this Amendment to Reciprocal Easement Agreement and agrees that the lien of the Deed of Trust shall be subject and subordinate to this Amendment to Reciprocal Easement Agreement.

NATIONSBANK OF TENNESSEE, N.A.

BY: *Lee R. Zoller*
Title: RE BANKING OFFICER

STATE OF TENNESSEE
COUNTY OF SHELBY

Personally appeared before me, the undersigned authority in and for the said county and state, on this 1st day of April, 1996, within my jurisdiction, the within named Lee R. Zoller R/E Banking Officer of NationsBank of Tennessee, N.A., a national banking institution and that for and on behalf of said entity, and as its act and deed individually and as agent for others, he executed the above and foregoing instrument, after first having been duly authorized by said entity so to do in the capacities above stated.

Mary Powers
NOTARY PUBLIC

My Commission Expires:

MARY POWERS
NOTARY PUBLIC AT LARGE
SHELBY COUNTY, TENNESSEE
My Commission Expires Nov. 24, 1997

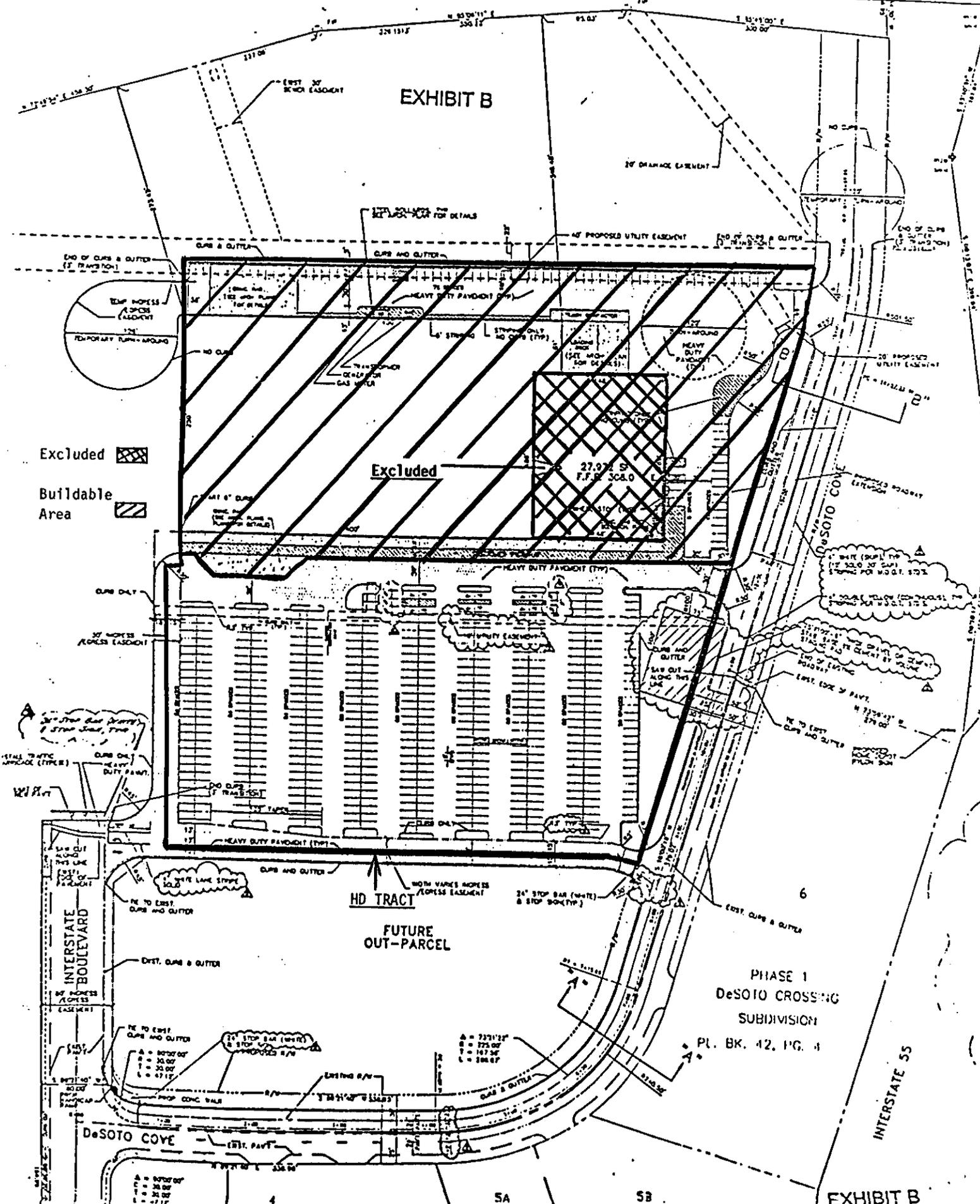
(Affix official seal)

EXHIBIT 'A'
THE HD TRACT

Lot 8, Phase 3, DeSoto Crossing Subdivision, Section 25, Township 1 South, Range 8 West, in the City of Horn Lake, DeSoto County, Mississippi, as per plat recorded in Plat Book 51, Pages 43-44 in the office of the Chancery Clerk of DeSoto County, Mississippi.

Together with the mutual non-exclusive easements for ingress/egress as shown on plat of record in Plat Book 51, Pages 43 and 44 in the office of the Chancery Clerk of DeSoto County, Mississippi.

EXHIBIT B



Excluded 

Buildable Area 

Excluded

HD TRACT

FUTURE OUT-PARCEL

PHASE 1
DeSOTO CROSSING
SUBDIVISION
PL. BK. 42, PG. 4

EXHIBIT B