

DEC 18 11 16 AM '96 *cy*DRAINAGE AND SLOPE EASEMENT AGREEMENTBK 310 PG 272  
W.E. DAVID CH. CLK.

THIS AGREEMENT made on the 12<sup>th</sup> day of December, 1996, by and between Goodman Road Associates, Ltd., L.P., a Tennessee limited partnership (hereinafter the "Seller") and Goodman Road/I-55 Development Company, LLC, an Arkansas limited liability company (hereinafter the "Purchaser").

## W I T N E S S E T H

WHEREAS, Seller and Purchaser's predecessor in interest executed an Option Agreement effective March 7, 1996 and Seller and Purchaser executed an Amendment to Options and Agreement dated August 30, 1996, (collectively the "AOA");

WHEREAS, any capitalized terms used herein shall have the same meaning as ascribed to them in the AOA;

WHEREAS, In connection with Purchaser's closing of certain purchases under the AOA of the Wal-Mart Option property and the Outparcels, Seller has agreed to grant the easements set forth herein;

WHEREAS, Seller is the owner of the property immediately to the south and east of Purchaser's Property as described on Exhibit "A" attached hereto ("Seller's Property"). Purchaser is the owner of the property described on Exhibit "A-1" (the "Purchaser's Property").

NOW, THEREFORE, in consideration of the mutual promises herein and such other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Grant of Easements. Seller hereby grants a perpetual slope easement within those portions of Seller's Property which lies immediately south of and adjacent to the southern line of the Purchaser's Property and immediately to the east of Southcrest Parkway as described on Exhibit "B" attached hereto as "Slope Easement Area". Further, Seller grants a perpetual easement for the benefit of Purchaser's Property for storm water drainage, limited to drainage from Southcrest Parkway, over and on Seller's Property. The "Areas of Discharge" of storm water, limited to drainage from Southcrest Parkway, onto Seller's Property shall be as depicted on Exhibit "C" attached hereto. Said drainage easement includes the obligation on Purchaser and its successors to design the drainage to, under currently existing conditions, maintain flowage of storm water from Seller's and Purchaser's Property so that storm water may flow freely from Purchaser's Property over Seller's Property and after construction Seller shall not impair said drainage plan. The specific location of the Areas of Discharge for the foregoing drainage easement may be changed by the Seller in connection with future development of the Seller's Property, provided however, any expense associated therewith shall be borne by the Seller and

Prepared By:  
BRIDGFORTH & BUNTIN  
P. O. Box 241  
Southaven, MS 38671  
393-4450

any such change shall in no way restrict flowage from the Southcrest Parkway Property. These covenants shall run with the land.

2. Slope Easement Design Criteria. A registered professional civil engineer has prepared Grading Plans for the work to be performed within the Slope Easement Area, (hereinafter collectively referred to as "Plans"), a copy of which is attached hereto as Exhibit "B".

3. Perpetual Easement. Purchaser and its successors shall have free and uninterrupted, non-exclusive use, liberty, privilege and easement to the slope, including landscaping, floodways and/or necessary drainage ditching for construction and maintenance of the Slope Easement Area; provided, however, that Purchaser's right to use the Easement Area shall be limited to the construction and maintenance thereof. Purchaser shall have the responsibility for maintaining the land area contained in the Easement Area and the landscaping thereon; provided however, if Seller builds upon or causes the Easement Area to be disturbed then the obligation for maintenance of the portion thereof so disturbed shall revert to Seller. Notwithstanding the easements granted hereunder and in paragraph 5, the Seller, its agents and contractors shall have the right to enter the Slope Easement Area and construct or establish improvements, provided the Seller shall not construct or establish any improvements which adversely affect the structural integrity provided by the construction of the Slope Easement.

4. Costs to Design and Construct Slope Easement. Purchaser shall pay for all design, construction and maintenance costs associated with Easement Area, as well as any costs associated with the drafting and recording of this Agreement.

5. Temporary Construction Easement. In addition to the perpetual easements granted in paragraphs 1 and 3 above, Purchaser shall have a temporary construction easement to enter in, upon and over the land contained within the Slope Easement Area and so much of the Seller's property adjacent to the Slope Easement Area and the Areas of Discharge as shall be reasonably necessary to complete the work as set forth in the above mentioned Plans and the drainage work. Said temporary construction easement shall terminate sixty (60) days following Purchaser's engineers providing written notice to Seller of the substantial completion of all work. In the exercise of such temporary construction easement rights, Purchaser will coordinate its activities with Seller's construction activities, if any, on Seller's Property.

6. Indemnity. Purchaser or its successor, if Purchaser is no longer the Owner of the Wal-Mart Property, agrees to indemnify, hold harmless and defend Seller from and against any and all costs, losses, claims or damages (including, without limitation, reasonable attorney's fees and expenses) arising from the acts or omissions of itself or its employees, agents or contractors in connection with the exercise of its rights or the performance of its duties and obligations under or pursuant to this Agreement. Purchaser agrees to require all of its agents and contractors to carry liability and worker's compensation insurance for the work performed on the Slope Easement Area, and Purchaser agrees to cause such policies of insurance to name Seller as an additional insured.

7. Binding Effect and Benefit. This agreement shall inure to the benefit of, and shall be binding upon, the parties hereto, their heirs, executors, administrators, personal representatives and successors. The rights and obligations hereunder shall run with the land and any maintenance obligations hereunder shall become the

obligations of the owner of the Purchaser's Property which forms the boundary of the Purchaser's and Seller's Property.

IN WITNESS WHEREOF the Seller and Purchaser have executed this Agreement on the 12th day of December, 1996.

**SELLER:**

GOODMAN ROAD ASSOCIATES, LTD.

By: 222 Goodman, Ltd.

General Partner

By: 222 Partners, Inc.

General Partner

By: Steven D. Ezell

STEVEN D. EZELL

Its President

**PURCHASER:**

GOODMAN ROAD/I-55 DEVELOPMENT COMPANY, LLC

By: South Lake Centre, LLC,  
as Administrator

By: Clary Development Corporation,  
Its Authorized Member

By: \_\_\_\_\_  
Roger S. Clary, President

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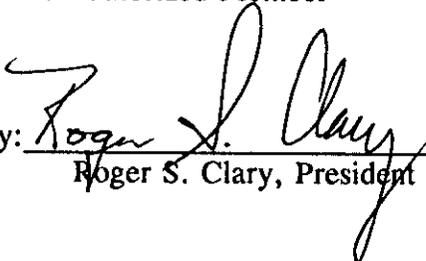
Its \_\_\_\_\_

**PURCHASER:**

GOODMAN ROAD/I-55 DEVELOPMENT COMPANY, LLC

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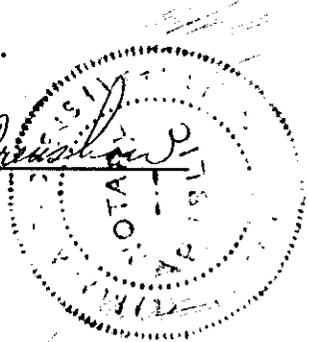
ACKNOWLEDGMENT

STATE OF Mississippi )  
 )ss.  
COUNTY OF DeSoto )

Personally appeared before me, Barbara T. Crenshaw Notary Public, Steven D. Ezell, with whom I am personally acquainted and who acknowledged that he executed the within instrument for the purposes therein contained and further acknowledged himself to be President of 222 Partners, Inc., a corporation, said corporation being a general partner of 222 Goodman, Ltd., a limited partnership, said limited partnership being authorized by Goodman Road Associates, Ltd., a limited partnership, to execute this instrument on behalf of Goodman Road Associates, Ltd.

WITNESS my hand, at office, this 12<sup>th</sup> day of December, 1996.

Barbara T. Crenshaw  
Notary Public



My Commission Expires:

MISSISSIPPI STATEWIDE NOTARY PUBLIC  
MY COMMISSION EXPIRES NOV 28, 2000  
BONDED THRU STEGALL NOTARY SERVICE

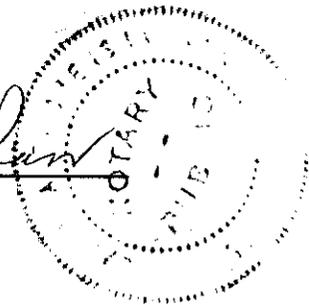
ACKNOWLEDGMENT

STATE OF Mississippi )  
 )ss.  
COUNTY OF DeSoto )

On this the 12<sup>th</sup> day of December, 1996, before me, the undersigned officer, personally appeared Roger S. Clary who acknowledged himself to be the President of Clary Development Corporation, the Authorized Member of South Lake Centre, LLC, which is the Administrator of Goodman Road/I-55 Development Company, LLC, and that he, as such officer, being authorized so to do, executed the foregoing instrument in the name of and on behalf of said limited liability company for the purposes therein contained.

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

Barbara T. Crenshaw  
Notary Public



My Commission Expires:

MISSISSIPPI STATEWIDE NOTARY PUBLIC  
MY COMMISSION EXPIRES NOV 28, 2000  
BONDED THRU STEGALL NOTARY SERVICE

## BENEFICIARY'S JOINDER, ACKNOWLEDGMENT AND CONSENT

FOR VALUE RECEIVED, this 10<sup>th</sup> day of December, 1996, the undersigned ("Mortgagee"), as the holder of the Deeds of Trust recorded in Real Estate Trust Deed Book 718, page 787 by and between Goodman Road Associates, Ltd., L.P. in favor of Ron Mills, Trustee of Nashville, Tennessee for the use and benefit of Jack K. Byrd, Trustee of the Raymond Zimmerman Charitable Lead Trust, as amended by amendments of record in Real Estate Trust Book 782, page 710 and Book 815, Page 668; and Deed of Trust recorded in Real Estate Trust Deed Book 460, Page 663, all in the office of the Chancery Clerk of DeSoto County, Mississippi that included the premises described as the Grantor's Property on Exhibit A of this Drainage and Slope Easement, does hereby acknowledge and consent to the within and foregoing Drainage and Slope Easement and does hereby agree that any foreclosure, deed in lieu of foreclosure, or any sale under power of sale of the deed of trust shall be made subject to the terms of the Drainage and Slope Easement.

IN WITNESS WHEREOF, the undersigned has executed this Joinder, Acknowledgment and Consent to the Drainage and Slope Easement under seal, as of the date first above written.

BENEFICIARY:



JACK K. BYRD, TRUSTEE FOR THE  
RAYMOND ZIMMERMAN CHARITABLE  
LEAD TRUST

ACKNOWLEDGMENT

STATE OF TN )  
 ) ss.  
COUNTY OF DAVIDSON )

On this 10<sup>th</sup> day of December, 1996, before me, a Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named Jack K. Byrd, to me personally well known, who stated that he was the Trustee for the Raymond Zimmerman Charitable Lead Trust and was duly authorized in his capacity to execute the foregoing instrument for and in the name and behalf of said Trust, and further stated and acknowledged that he/she has so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

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

*James R. Mills*  
Notary Public

My commission expires:

*July 22, 2000*

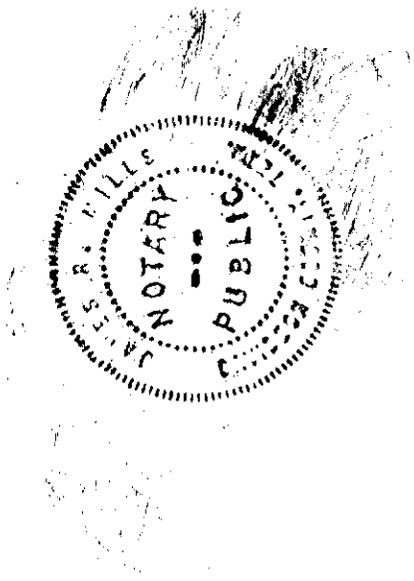


EXHIBIT A-1PURCHASER'S PROPERTY

27.32 Acre Description  
 [Including the Wal-Mart Property described as 19.49 acres]

LEGAL DESCRIPTION

A LEGAL DESCRIPTION OF A 27.32, MORE OR LESS, ACRE TRACT OF LAND BEING LOCATED IN THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 1 SOUTH, RANGE 8 WEST, SOUTHAVEN, DESOTO COUNTY, COUNTY, MISSISSIPPI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

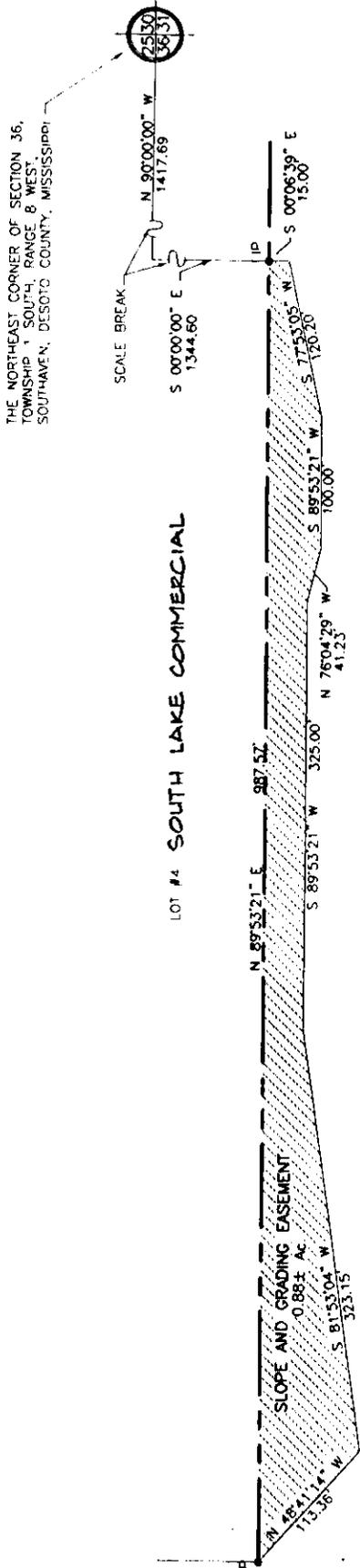
COMMENCING AT THE APPROXIMATE CENTERLINE INTERSECTION OF AIRWAYS BOULEVARD AND MISSISSIPPI HIGHWAY 302 (GOODMAN ROAD) SAID INTERSECTION BEING THE ACCEPTED NORTHEAST CORNER OF SECTION 36, TOWNSHIP 1 SOUTH, RANGE 8 WEST, SOUTHAVEN, DESOTO COUNTY, MISSISSIPPI THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 1282.18 FEET TO A POINT; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 113.99 FEET TO A IRON PIN (SET) IN THE SOUTH RIGHT OF WAY LINE OF MISSISSIPPI HIGHWAY 302 (GOODMAN ROAD) SAID IRON PIN BEING THE POINT OF BEGINNING FOR THE HERE IN DESCRIBED TRACT OF LAND; THENCE SOUTHWESTWARDLY A DISTANCE OF 51.87 FEET ALONG A CURVE TO THE LEFT HAVING (DELTA = 84 DEGREES 54 MINUTES 23 SECONDS, RADIUS - 35.00 FEET, TANGENT = 32.02, CH. BRG. = SOUTH 42 DEGREES 20 MINUTES 33 SECONDS WEST, CH. LEN. = 47.25 FEET) TO AN IRON PIN (SET); THENCE SOUTH 00 DEGREES 06 MINUTES 39 SECONDS EAST A DISTANCE OF 130.00 TO AN IRON PIN (SET); THENCE SOUTH 08 DEGREES 58 MINUTES 46 SECONDS WEST A DISTANCE OF 101.27 FEET TO AN IRON PIN (SET); THENCE SOUTH 00 DEGREES 06 MINUTES 39 SECONDS EAST A DISTANCE OF 965.49 FEET TO AN IRON PIN (SET); THENCE SOUTH 89 DEGREES 53 MINUTES 21 SECONDS WEST A DISTANCE OF 1077.57 FEET TO AN IRON PIN (SET) IN THE EAST RIGHT OF WAY LINE OF INTERSTATE 55; THENCE NORTH 02 DEGREES 05 MINUTES 43 SECONDS WEST ALONG THE EAST RIGHT OF WAY LINE OF SAID INTERSTATE 55 A DISTANCE OF 187.92 FEET TO A CONCRETE RIGHT OF WAY MARKER (FOUND); THENCE NORTH 12 DEGREES 20 MINUTES 23 SECONDS EAST ALONG SAID EAST RIGHT OF WAY LINE OF INTERSTATE 55 A DISTANCE OF 798.65 FEET TO A CONCRETE RIGHT OF WAY MARKER (FOUND); THENCE NORTH 21 DEGREES 29 MINUTES 24 SECONDS EAST ALONG THE EAST

RIGHT OF WAY LINE OF SAID INTERSTATE 55 A DISTANCE OF 133.03 FEET TO A CONCRETE RIGHT OF WAY MARKER; THENCE NORTH 45 DEGREES 27 MINUTES 40 SECONDS EAST ALONG THE EAST RIGHT OF WAY LINE OF SAID INTERSTATE 55 A DISTANCE OF 106.83 FEET TO A CONCRETE RIGHT OF WAY MARKER IN THE SOUTH LINE OF MISSISSIPPI HIGHWAY 302 (GOODMAN ROAD); THENCE NORTH 70 DEGREES 32 MINUTES 13 SECONDS EAST ALONG THE SOUTH LINE OF SAID MISSISSIPPI HIGHWAY 302 A DISTANCE OF 106.67 FEET TO A CONCRETE RIGHT OF WAY MARKER; THENCE NORTH 88 DEGREES 02 MINUTES 01 SECONDS EAST ALONG THE SOUTH LINE OF SAID MISSISSIPPI HIGHWAY 302 (GOODMAN ROAD) A DISTANCE OF 578.43 FEET TO A CONCRETE RIGHT OF WAY MARKER; THENCE NORTH 86 DEGREES 13 MINUTES 32 SECONDS EAST ALONG SOUTH RIGHT OF WAY LINE OF SAID MISSISSIPPI HIGHWAY 302 (GOODMAN ROAD) A DISTANCE OF 149.72 FEET TO A CONCRETE RIGHT OF WAY MARKER; THENCE NORTH 84 DEGREES 47 MINUTES 45 SECONDS EAST ALONG THE SOUTH LINE OF SAID MISSISSIPPI HIGHWAY 302 (GOODWIN ROAD) A DISTANCE OF 6.36 FEET TO THE POINT OF BEGINNING AND CONTAINING 27.32, MORE OR LESS, ACRE TRACT OF LAND. BEING SUBJECT TO ALL CODES, EASEMENTS, RESTRICTIONS, SUBDIVISION REGULATIONS AND RIGHTS OF WAY OF RECORD.

EXHIBIT "B"

SLOPE EASEMENT AREA

# EXHIBIT B



## SLOPE AND GRADING EASEMENT

A LEGAL DESCRIPTION OF A 0.88, MORE OR LESS, ACRE TRACT OF LAND BEING LOCATED IN THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 1 SOUTH, RANGE 8 WEST, SOUTHAVEN, DESOTO COUNTY, MISSISSIPPI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

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DATED NOVEMBER 21, 1996



GRAPHIC SCALE



( IN FEET )  
1 inch = 100 ft.

310 PAGE 283

**S S S** SMITH ENGINEERING & SURVEYING INCORPORATED

928 GOODMAN ROAD, SUITE 6  
SOUTHAVEN, MISSISSIPPI 38671

(601) 349 - 3348  
FAX (601) 349 - 0711

NORTH REFERENCED TO



SLOPE & GRADING EASEMENT

DESOTO COUNTY  
SECTION 36, T-1-S, R-8-W  
BOOK, PAGE  
CENSUS TRACT #  
CLASS "A" SURVEY  
AREA: 0.88± Ac.

DATE: NOVEMBER 21, 1996  
FILE:  
W.O. NUMBER:  
SCALE: 1" = 100'

I HEREBY CERTIFY THAT I, OR SOMEONE UNDER MY DIRECT SUPERVISION, SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THIS PLAT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY WAS MADE BY USING PHYSICAL FEATURES FOUND ON THE GROUND AND FROM AVAILABLE RECORDED INFORMATION AND THIS SURVEY ALSO MEETS THE MINIMUM STANDARDS SET FORTH BY THE STATE OF MISSISSIPPI

THIS IS TO CERTIFY THAT THIS PROPERTY IS NOT LOCATED IN A HUD IDENTIFIED SPECIAL 100 YEAR FLOOD HAZARD AREA ACCORDING TO FIA MAP NO. DATED

THIS SURVEY IS SUBJECT TO ALL CODES, REGULATIONS AND RESTRICTIONS, SUBDIVISION COVENANTS, EASEMENTS AND RIGHTS OF WAY OF RECORD.

*Ben W. Smith*

BEN W. SMITH  
MISSISSIPPI R.L.S. NO. 1909

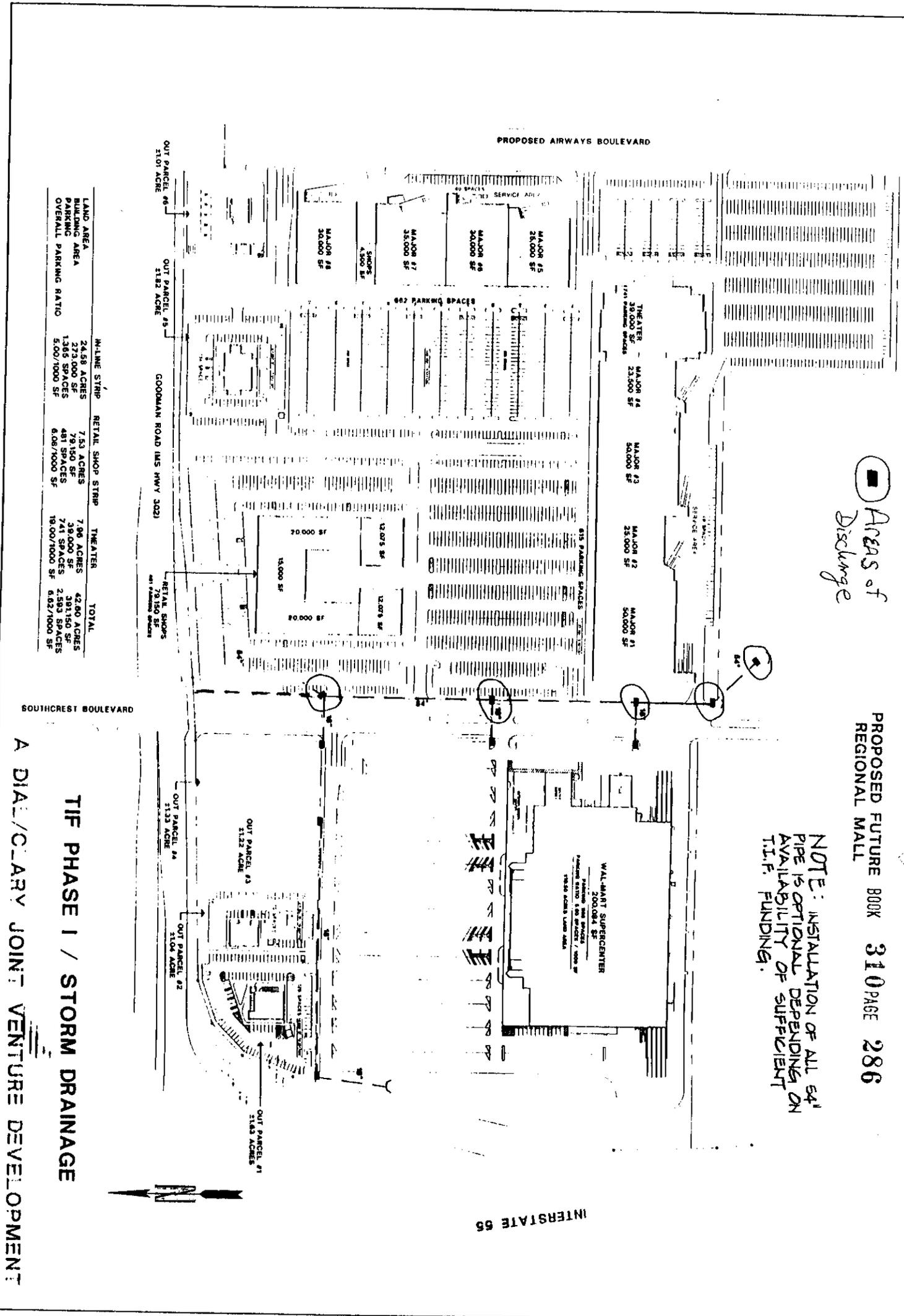


EXHIBIT "C"

AREAS OF DISCHARGE

Areas of Discharge

NOTE: INSTALLATION OF ALL 64" PIPE IS OPTIONAL DEPENDING ON AVAILABILITY OF SUFFICIENT T.I.F. FUNDING.



	M-LINE STRIP	RETAIL SHOP STRIP	THEATER	TOTAL
LAND AREA	24.58 ACRES	7.53 ACRES	7.96 ACRES	40.07 ACRES
BUILDING AREA	273,000 SF	79,150 SF	39,000 SF	431,150 SF
PARKING	1,365 SPACES	481 SPACES	741 SPACES	2,587 SPACES
OVERALL PARKING RATIO	5.00/1000 SF	6.08/1000 SF	19.00/1000 SF	6.92/1000 SF

A DIAL/CLARY JOINT VENTURE DEVELOPMENT

TIF PHASE I / STORM DRAINAGE

EXHIBIT C

PROJECT TITLE  
**SOUTH LAKE CENTRE**  
SOUTHAVEN, MISSISSIPPI

SHEET TITLE  
**PRELIMINARY SITE PLAN**  
TF PHASE I / STORM DRAINAGE

95-051

TF-1

DATE	12-4-95
DESIGNED BY	
CHECKED BY	
SCALE	1" = 100'
DATE	
BY	
DATE	

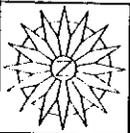


EXHIBIT "D"  
GRADING PLANS



EXHIBIT A-1PURCHASER'S PROPERTY

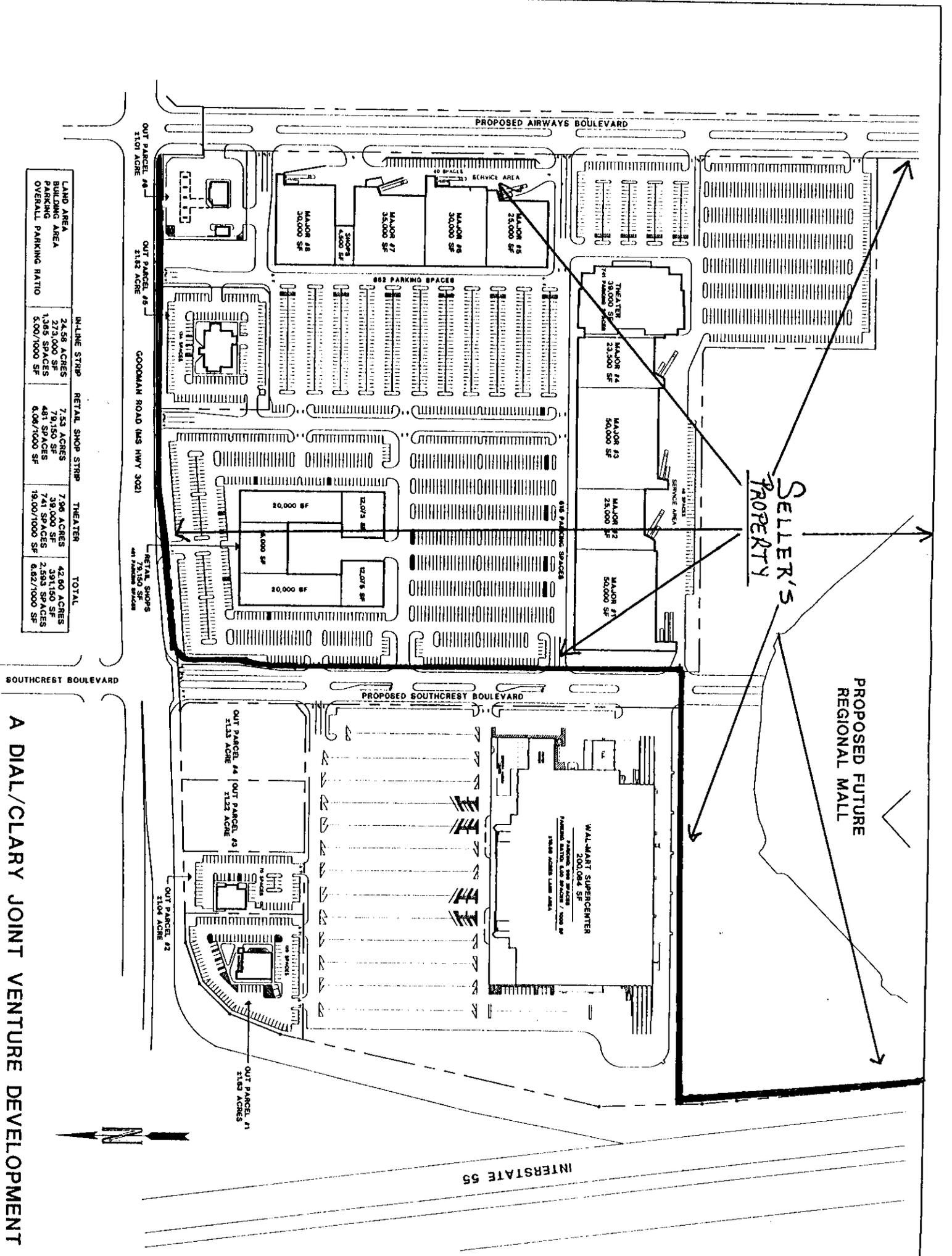
27.32 Acre Description  
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	IN-LINE STRIP	RETAIL SHOP STRIP	THEATER	TOTAL
LAND AREA	24.58 ACRES	7.53 ACRES	7.96 ACRES	42.90 ACRES
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PARKING	1,365 SPACES	481 SPACES	41 SPACES	2,887 SPACES
OVERALL PARKING RATIO	5.00/1,000 SF	6.00/1,000 SF	19.00/1,000 SF	6.82/1,000 SF

A DIAL/CLARY JOINT VENTURE DEVELOPMENT

<b>SP-4</b> PROJECT NO. 95-051	DEVELOPMENT <b>SOUTH LAKE CENTRE</b> SOUTHAVEN, MISSISSIPPI	CONSULTANTS RMB	INCORPORATED DATE: 10-11-96	SCALE: 1" = 100' DRAWN BY: RMB CHECKED BY: RMB	CONSULTANTS, INC. 1000 N. GULF BLVD. SUITE 200 DALLAS, TX 75201 TEL: 214-750-1234 FAX: 214-750-1234	
	PROJECT TITLE: <b>PRELIMINARY SITE PLAN</b>	REVISIONS:	DATE:	DRAWN BY:	CHECKED BY:	PROJECT NO.: