

INDEX

Final Order and Decision of the Administrative Law Court, July 10, 2013.....	3
Decision of the Board of Assessment Appeals.....	13
Transcript of Hearing, January 9, 2013.....	14
Witness Testimony	
1. Mark Cheslak	
a. Direct Examination	24
b. Cross-Examination	45
c. Redirect Examination	64
d. Rebuttal Direct Examination	137
e. Rebuttal Cross-Examination	146
f. Examination by the Court	148
2. Terrence L. Fancey	
a. Direct Examination	68
b. Cross-Examination	82
c. Rebuttal Direct Examination	150
d. Rebuttal Cross-Examination	160
e. Rebuttal Redirect Examination	166
f. Examination by the Court	167
g. Rebuttal Re-Cross Examination	170
3. Wayne Grovenstein	
a. Direct Examination	94
b. Cross-Examination	114
4. James Hull	
a. Direct Examination	118
Appellant's Hearing Exhibit 1	182
Appellant's Hearing Exhibit 2.....	207
Appellant's Hearing Exhibit 3.....	232
Appellant's Hearing Exhibit 4.....	234
Appellant's Hearing Exhibit 5.....	235

Appellant's Hearing Exhibit 6.....	236
Respondent's Hearing Exhibit 1.....	237
Respondent's Hearing Exhibit 2.....	267
Respondent's Hearing Exhibit 3.....	284
Respondent's Hearing Exhibit 4.....	297
Respondent's Hearing Exhibit 5.....	316
Certificate of Appellant.....	360

JUL 10 2013

· SC ADMIN. LAW COURT ·

Docket No.: 12-ALJ-17-0343-CC

FINAL ORDER AND DECISION

FINAL ORDER AND DECISION

FINAL ORDER AND DECISION

FINAL ORDER AND DECISION

For the Respondent: Matthew W. Matson, Esquire
R.E. Hanna, III, Esquire

Following timely notice to the parties, a contested case hearing was held on January 9, 2013 at the offices of the Court in Columbia, South Carolina. Both parties appeared at the hearing, introduced evidence, and provided testimony. After careful consideration of the evidence, the Court finds and concludes that the Board's decision is not supported by the evidence and the law.

Having observed the witnesses and evidence presented at the hearing, and taking into consideration the burden of persuasion on the parties and the credibility of the witnesses, I make the following findings of fact by a preponderance of the evidence:

1. The subject properties are two parcels of vacant land located in Richland County on Clemson Road, South Carolina and are identified as Tax Map Numbers 17400-05-034 and 17400-05-44. Tax Map Number 17400-05-34 ("Parcel 34") consists of 23.81 acres and is fronted by outparcels developed by a fast food restaurant, a bank, a drug store and a vision store. Tax Map Number 17400-05-044 ("Parcel 44") consists of 1.72 acres and is located at 2820 Clemson Road, Columbia, South Carolina. It is an outparcel, fronting Parcel 34 and flanked by the above-referenced retail establishments.

2. The Taxpayer purchased both parcels (a total of 25.53 acres) on September 3, 2009, as part of an auction associated with a voluntary Chapter 11 bankruptcy, for \$1,975,000. Pursuant to the South Carolina Real Property Valuation Reform Act, the sale of these parcels was treated as an assessable transfer of interest, and both parcels were reassessed at fair market value for the 2010 tax year. S.C. Code Ann. §§ 12-37-3110 et seq. The Assessor determined that the fair market value of Parcel 34 was \$3,571,500, and the fair market value of Parcel 44 was \$674,300.

3. The Taxpayer timely appealed these values to the Assessor and stated that its purchase price of the property was the fair market value and should be used for real property taxation purposes. The Assessor declined to lower the value of the parcels. Thereafter, the Taxpayer appealed to the Richland County Board of Assessment Appeals (the "Board").

4. On July 18, 2012, the Board issued a decision in which it determined that the value of both parcels was the purchase price paid by the Taxpayer (at auction) of \$1,975,000. The Assessor appealed the Board's decision to the ALC on July 25, 2012.

5. The Assessor's position in this matter is that the price paid by the Taxpayer at a bankruptcy auction is not reflective of fair market value. The Assessor maintains that the assessed value of \$3,571,500 (\$150,000 per acre) for Parcel 34 and \$674,300 (\$9 per square foot) for Parcel 44 (a total value of \$4,245,800 for both parcels) is reflective of fair market per its appraisals.

6. While the Assessor introduced an appraisal of each parcel, the Taxpayer did not present an appraisal of the parcels but instead provided testimony regarding its knowledge of the bankruptcy auction and the Assessor's appraisal.

7. Mark Cheslak, Commercial Appraisal Supervisor for the Assessor's Office, testified on behalf of the Assessor. Mr. Cheslak testified that he appraised both parcels for

purposes of this matter and prepared the appraisal reports admitted into evidence. Because he was appraising vacant land, Mr. Cheslak testified that he relied solely upon the Direct Sales Comparison approach to value both parcels.

8. With regard to Parcel 34, Mr. Cheslak testified that this parcel has been cleared, leveled, and improved with curbing and a detention pond. These improvements were present when the Taxpayer purchased the property. This parcel does not directly front on Clemson Road, but rather, has retail outparcels in front of it which do front on Clemson Road. The parcel does have access to Clemson Road via an access road between the outparcels and has direct access to Longreen Parkway and Longtown Road. This parcel is visible from Clemson Road, Longreen Parkway and Longtown Road.

9. When completing the appraisal, Mr. Cheslak states that he used three comparable sales of large acreage tracts within a half-mile radius of the subject. Comparable Sales 1 and 2 front on Clemson Road. Comparable Sale 3 is directly across the street from the subject property with the same outparcel arrangement, access and visibility. This property is now occupied by Lowes. All three comparable sales were in 2008, which Cheslak admits was a stronger real estate market. These sales ranged from \$234,858 per acre to \$245,014 per acre.

10. In addition, Mr. Cheslak testified that Comparable Sale 3 (the Lowes property) is the most comparable to the subject property in that it is directly across the street from Parcel 34 and has the same outparcel arrangement, access, and visibility. It is also the closest in size to the subject property. Comparable Sale 3 sold in August 2008 for \$234,858 per acre. Mr. Cheslak's appraisal estimates Parcel 34's value to be \$200,000 per acre, taking into account a reduction for the decline in the real estate market. The Assessor valued Parcel 34 at \$150,000 per acre. However, the Taxpayer is requesting a value of \$77,359 per acre.

11. With regard to Parcel 44, Mr. Cheslak compared this parcel to the sales of four parcels beside it, all of which are outparcels to the 23.81 acre tract. These parcels are all comparable in size and all front on Clemson Road. Sales of three of the comparable properties occurred in 2008, and the sale of one occurred in December 2010. The sales prices ranged from \$10.79 per square foot to \$14.91 per square foot.¹ Mr. Cheslak's appraisal estimates a value of \$9.00 per square foot for Parcel 44, which takes into account the market decline. The Assessor

¹ Mr. Cheslak testified that the value of small acreage amounts is commonly expressed per square foot while the value of large acreage amounts is commonly expressed per acre.

has valued this property at \$9.00 per square foot. The Taxpayer is requesting a value of \$1.77 per square foot. Mr. Cheslak testified that there were no outparcel sales as low as the Taxpayer's requested value.

12. Mr. Cheslak testified that he considered the bankruptcy auction price of the subject parcels when appraising these properties. However, he did not feel that the sales price of \$1,975,000 was a true reflection of fair market value when considering the sales of comparable properties in the immediate area that sold for more than double the sales price of the subject properties.

13. Terry Fancey, Deputy Assessor for the Assessor's Office, testified regarding whether the Taxpayer's parcels were equitably assessed with similar parcels. With regard to Parcel 44, an aerial photo showing the assessed value of all outparcels next to and across the street from the subject was prepared by Mr. Fancey and introduced into evidence. This exhibit showed that these parcels were all assessed between \$9 per square foot and \$12 per square foot. With regard to Parcel 34, Mr. Fancey prepared a spreadsheet showing land only equity comparables. Parcels containing 11.98 acres to 20.39 acres were assessed at \$187,214 per acre to \$244,838 per acre. The 23.81 acre subject parcel is assessed at \$150,000 per acre. Notably, the \$187,214 per acre comparable is the land now occupied by Lowes, which is located across the street from the subject property.

15. On behalf of the Taxpayer, Wayne Grovenstein, General Counsel for the Taxpayer, testified with regard to the circumstances of the sale between S.C. Bypass LLC, purchaser, and Crescent Properties, seller. Mr. Grovenstein testified that the Taxpayer and Crescent Properties had initially negotiated a sale of the property, which included parcel 34 and parcel 44, at \$1,500,000. Crescent Properties subsequently rescinded the contract, and the Taxpayer initiated legal action seeking enforcement of the contract. It was during this time period that Crescent Properties filed bankruptcy in Texas. The Bankruptcy Trustee elected to auction the property, and the Taxpayer was ultimately the highest bidder at \$1,975,000 for both of the subject parcels.

16. James Hull, member and manager of S.C. Bypass, LLC, testified that he was familiar with this area and he felt that S.C. Bypass, LLC, had overpaid for the subject parcels. He further testified that the Assessor's Sales Comparison 3 (the property now occupied by Lowes, directly across from the subject) would need to be adjusted for storm drainage infra

structure, substantially better location because of access to Killian Road, and more extensive deed restrictions. Mr. Hull stated that he relied strongly on the Assessor's value of the Walmart site, \$73,113 per acre, in determining a bid price for the subject parcels.

17. However, the Assessor does not agree that the Walmart property is a viable equity comparable for the subject parcels. According to the Assessor's witness, Mr. Cheslak, the Walmart property sold in 2006, reflecting very different market conditions. Thus, this sale is too old to consider for purposes of this valuation. Also, the Walmart property is farther away from the subject parcels and across I-77. This area has been slower to develop than the area surrounding the subject parcels, and also has had lower land values than properties in the area of the subject properties.

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, I conclude the following as a matter of law:

1. The Administrative Law Court has jurisdiction over this matter pursuant to S.C. Code Ann. § 12-60-2540, S.C. Code Ann. § 1-23-600, and S.C. Code Ann. §§ 1-23-310 et seq.

2. While this matter reaches this Court somewhat in the posture of an appeal, the proceeding before the Court is a de novo contested case hearing to determine the appropriate valuation of the property in question based upon the evidence presented at the hearing. See Smith v. Newberry County Assessor, 350 S.C. 572, 577, 567 S.E.2d 501, 504 (Ct. App. 2002) ("When a tax assessment case reaches the ALJ in this posture [i.e., upon appeal from a county board of assessment appeals], the proceeding in front of the ALJ is a de novo hearing."); see also Reliance Ins. Co. v. Smith, 327 S.C. 528, 535, 489 S.E.2d 674, 677 (Ct. App. 1997) ("[A]though a case involving a property tax assessment reaches the ALJ in the posture of an appeal, the ALJ is not sitting in an appellate capacity and is not restricted to a review of the decision below. Instead, the proceeding before the ALJ is in the nature of a de novo hearing.").

3. The applicable standard of proof in this contested case hearing is by a preponderance of the evidence. Anonymous v. State Bd. of Med. Exam'rs, 329 S.C. 371, 496 S.E.2d 17 (1998).

4. In a contested case hearing before the ALC, the party contesting the decision of the county board of assessment appeals has the burden of proof. Here, the Assessor requested the contested hearing, and therefore the burden of proving the correctness of the valuation it asserts is on the Assessor. Id. at 534, 489 S.E.2d at 677.

5. Article X of the South Carolina Constitution provides the general framework for the assessment of property, and various statutes provide the specifics. Section 12-37-930 provides in part:

All property must be valued for taxation at its true value in money which in all cases is the price which the property would bring following reasonable exposure to the market, where both the seller and buyer are willing, are not acting under compulsion, and are reasonably well informed of the uses and purposes for which it is adapted and for which it is capable of being used.

S.C. Code Ann. § 12-37-930. Fair market value is the proper measure of value of real property for ad valorem taxation purposes. Lindsey v. S.C. Tax Comm'n, 302 S.C. 504, 507, 397 S.E.2d 95, 97 (1990).

6. Ordinarily, the taxable status of real property for a given year is to be determined as of December 31 of the preceding tax year. S.C. Code Ann. § 12-37-900. In this case, the tax year under consideration is 2010, which points to December 31, 2009, as the valuation date.

7. The reassessment of the properties in question is the result of an Assessable Transfer of Interest. S.C. Code Ann. § 12-37-3130(4) defines an assessable transfer of interest as "a transfer of an existing interest in real property that subjects the real property to appraisal." Further, S.C. Code Ann. § 12-37-3150(A)(1) provides that "a conveyance by deed" is an assessable transfer of interest requiring a parcel of real property to be appraised.

8. S.C. Code Ann. § 12-37-3140(A)(1)(b) provides that the fair market value of real property must be determined "December thirty-first of the year in which an assessable transfer of interest has occurred." The purchase of the subject properties by the Taxpayer in September 2009 was an "assessable transfer of interest" as defined in §§ 12-37-3130(4) and 3150(A)(1). Reappraisal of the property was therefore mandated as of December 31, 2009 for the 2010 tax year pursuant to § 12-37-3140(A)(1)(b).

9. There is no valid distinction between market value for sales purposes and market value for taxation purposes under Section 12-37-930. S.C. Tax Comm'n v. S.C. Tax Bd. of Review, 287 S.C. 415, 339 S.E.2d 131 (Ct. App. 1985). To determine the fair market value for the taxpayer's property, comparisons of the sales price of other properties of the same character may be utilized. The Appraisal of Real Estate, 297 (13th ed. 2008); Cloyd v. Mabry, 295 S.C. 86, 367 S.E.2d 171 (Ct. App. 1988). When data is available, the sales comparable approach to value is the most straightforward and simplest way to explain and support an opinion of market value.

The Appraisal of Real Estate at 300.

9. South Carolina courts, as well as other jurisdictions have relied on the Appraisal Institute's standards for valuation as published and updated in several editions of The Appraisal of Real Estate. See e.g., S.C. Tax Comm'n, 287 S.C. 415, 339 S.E.2d 131; Badische Corp. (BASF) v. Town of Kearny, 288 N.J. Super. 171, 672 A.2d 186 (1996).

10. An Assessor's valuation is presumed correct and the property owner bears the burden of proving that the Assessor's determination is not correct. 84 C.J.S. Taxation § 520 (2010); S.C. Tax Comm'n, 287 S.C. 415, 339 S.E.2d 131; Newberry Mills, Inc. v. Dawkins, 259 S.C. 7, 190 S.E.2d 503 (1972). Ordinarily, this is done by proving the actual value of the property. The taxpayer may, however, show by other evidence that the assessing authority's valuation is incorrect. If he does so, the presumption of correctness is removed and the taxpayer is entitled to appropriate relief. Cloyd, 295 S.C. 86, 367 S.E.2d 171.

11. An appraiser's opinion of value is entitled to weight where the opposing party offers only cursory valuation evidence and focuses almost exclusively on disputing the appraiser's value. Lewis v. Lewis, 392 S.C. 381, 709 S.E.2d 650 (2011).

12. A recent sale of real property is persuasive evidence of market value of the property for assessment purposes, although the purchase price of a property, standing alone, is not conclusive of the actual value of the property. 84 C.J.S. Taxation § 584.

13. Sales involving a bankruptcy do not meet the willing seller test because there is an element of compulsion in the sales transaction, even if it is an auction sale. In re Cable & Wireless USA, Inc., 331 B.R. 568 (2005).

14. Generally, bankruptcy sales are not typically used in determinations of value. Lake County Assessor v. U.S. Steel Corporation, 901 N.E.2d 85 (2009) (quoting Port of Umatilla v. Dep't of Rev., 2004 WL 367952 (2004)). There is an exception to that general rule:

The exception occurs when sales out of bankruptcy come to be a majority of the market. Although an isolated bankruptcy may reflect a failed business plan, a remarkable string of bankruptcies is more likely to be the result of an obsolescence that reaches all properties within an industry. Under those circumstances the choice is not to dismiss the sales out of bankruptcy as reflecting atypical considerations, but to instead examine the transactions to see if they are reliable indicators of market value.

Id. at 92.

15. South Carolina law requires that all property within the same class must be

assessed uniformly and equally. S.C. Const. art. X, § 1; S.C. Code Ann. § 12-43-210(A). However, neither the South Carolina Constitution nor the United States Constitution requires absolute accuracy in property tax matters. Allied Stores of Ohio v. Bowers, 358 U.S. 522 (1959); Reliance Ins. Co., 327 S.C. 528, 489 S.E.2d 674. "While our Constitution requires equality and uniformity in tax assessments, 'absolute accuracy with respect to valuation and complete equality and uniformity are not practically attainable.'" Reliance Ins. Co., 327 S.C. at 537, 489 S.E.2d at 679 (quoting Wasson v. Mayes, 252 S.C. 497, 502, 167 S.E.2d 304, 306-07 (1969)). Rather, what is proscribed is the intentional and systematic undervaluation of certain properties while other properties in the same class are valued at fair market value. Sunday Lake Iron Co. v. Wakerfield Tp., 247 U.S. 350 (1918). To meet that standard, more than a mere showing that other properties are undervalued must be shown. Owen Steel Co., Inc. v. S.C. Tax Comm'n, 287 S.C. 274, 337 S.E.2d 880 (1985). "[A]s in any median figure, there are some properties taxed at a higher figure than the median and some at a lower." Id. at 278, 337 S.E.2d at 882. The fact that another property might be undervalued for tax purposes did not render the accurate valuation of the taxpayer's property defective under the constitutional provision requiring equality and uniformity in tax assessments, in absence of any allegation that other properties in county were intentionally and systematically undervalued. Reliance Ins. Co., 327 S.C. at 537-8, 489 S.E.2d at 679.

16. The taxpayer bears the burden of proving that the inequality is not the result of a mere error in judgment but rather that the inequality is the result of an intentional and systematic undervaluation. Sunday Lake Iron Co., 247 U.S. at 352-53. This burden is not met by a mere showing that some properties are undervalued. Owen Steel Co., Inc., 287 S.C. 274, 337 S.E.2d 880. Whether some properties in the general vicinity are undervalued or overvalued does not prove that the valuation placed on the complaining party's property lacks merit and is not a reasonable valuation. The complaining party instead must demonstrate that the Assessor deliberately established a countywide procedure whereby all property values were intentionally and systematically undervalued based upon their most recent purchase price. Allegheny Pittsburgh Coal Co. v. County Comm'n, 488 U.S. 336 (1989). What is required in equitably valuing property "is the reasonable attainment of a rough equality in tax treatment of similarly situated property owners." Allegheny, 488 U.S. at 343.

17. In the instant case, the Taxpayer argues that its purchase price of the subject

parcels at a bankruptcy auction represents fair market value and should be the tax value for these parcels. Conversely, the Assessor has appraised both parcels utilizing the Sales Comparison Approach to value. The Assessor's comparable sales indicate a value of more than double the purchase price. Assessor's comparable sales of Parcel 44 are outparcels that are adjacent to it. No testimony or evidence was introduced challenging the comparability of these sales. The Assessor's comparable sales of Parcel 34 were within a half mile of the subject and are of similar size and utility. Notably, Sale 3 is directly across Clemson Road and is a mirror image of the subject. Although the Taxpayer testified that adjustments to this sale were warranted to make it comparable to the subject, such evidence was disputed by Mr. Cheslak who testified that the only proper adjustment was for market conditions, which had been accounted for in his appraisal.

18. I find that the sales price resulting from the September 2009 bankruptcy sale of the subject parcels is not indicative of fair market value. Given the strong evidence of comparable sales in the immediate vicinity for amounts far exceeding that of the subject parcels, I find that the price paid at the bankruptcy auction reflects atypical circumstances which are inappropriate for consideration in ad valorem taxation.

19. The testimony and evidence presented by the Taxpayer focused on efforts to show that the circumstances of this sale had many of the attributes of a typical willing buyer/willing seller transaction. However, the Taxpayer presented no independent evidence, such as an appraisal, to prove that the sales price paid was the fair market value of the two parcels. Through the testimony of Mr. Hull, the Taxpayer attempted to adjust the comparable sales provided by the Assessor. However, I do not find these adjustments to be convincing in that no support for the adjustments was introduced. Further, I find Mr. Hull's reliance on the tax value of the Walmart property also unconvincing. The Walmart land sale occurred in 2006, and the Assessor's value of that property has been restricted since 2007 to that allowed by the South Carolina Real Property Valuation Reform Act. S.C. Code Ann. §§ 12-37-3110, et seq. Therefore, the Assessor's tax value of that site may not reflect true fair market value. Further, the Walmart property is not comparable to the subject parcels in that it is located in a less-developed area of Clemson Road.

19. Alternatively, the Assessor introduced appraisals of both parcels relying on the Direct Sales Comparison Method. The comparables used are similar to the subjects in size, location and utility. Further, the per-acre and per-square foot sales prices of the comparables are

reasonably consistent with each other, and the Assessor's value on each parcel is lower than the comparable sales. Accordingly, I find the method used by the Assessor accurately valued these properties, and that the comparables used by the Assessor are reliable indicators of value and the Assessor's value of the subject parcels is reasonable.

20. With regard to the issue of whether the Taxpayer's property has been equally and uniformly assessed with other properties in the same class, the Taxpayer must prove that the Assessor intentionally and systematically undervalued or overvalued properties. Sunday Lake Iron Co., 247 U.S. 350; Owen Steel Co., 287 S.C. 274, 337 S.E.2d 880. In fact, the evidence presented by the Assessor showed just the opposite. First, the Assessor's 2010 value of the subjects is supported by comparable sales, as reflected in the Assessor's appraisal of the subjects. Second, Mr. Fancey's analysis shows that other tracts of vacant land in this area are valued consistently. This analysis further shows that the Taxpayer's parcels are valued at or below the median value and the average value of similar properties in the vicinity of the subjects. Accordingly, I find that there is no evidence that the Taxpayer's properties have not been equally or uniformly assessed.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED that the Taxpayer's properties located on Clemson Road in Columbia, South Carolina, and more specifically described as Tax Map Numbers 17400-05-34 and 17400-05-44 be valued at \$3,571,500 and \$674,300, respectively, for the 2010 tax year.

AND IT IS SO ORDERED.


SHIRLEY C. ROBINSON
Administrative Law Judge

July 10th, 2013
Columbia, South Carolina

NOTIFICATE OF SERVICE
This is to certify that the undersigned has this date
served this order in the above entitled action upon all
parties to this case by depositing a copy of it
in the United States mail postage paid at the agency
which serves as addressed to the party(ies) or their attorney(s)

This 10 day of July, 2013
By: Shirley C. Robinson
Administrative Law Judge



RICHLAND COUNTY
SOUTH CAROLINA
Board of Assessment Appeals

P.O. BOX 192
2020 HAMPTON ST.
COLUMBIA, S.C. 29202
TELEPHONE (803) 576-2640

July 18, 2012

James M. Hull
Hull Storey Gibson Companies, LLC
1190 Interstate Parkway
Augusta, Georgia 30909

Re: Board of Assessment Appeals Hearing 2010-48
Tax Map Number R17400-05-34, N/S Clemson Road
Board of Assessment Appeals Hearing 2010-49
Tax Map Number R17400-05-44, 2820 Clemson Road

Mr. Hull;

The Board of Assessment Appeals has reviewed your recent appeals for tax year 2010 on the above referenced properties.

After careful consideration of all documentation submitted, the Board reduced the value of the two properties to \$1,975,000. The Board based its decision on the amount of purchase price of \$1,975,000 paid by the appellant. Therefore the value is reduced for tax year 2010.

If you should desire to appeal this decision, you may make written application to the Administrative Law Court, Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina 29211-1667, within thirty (30) days of the date of this letter. A copy of the appeal must also be filed with the Richland County Board of Assessment Appeals.

Sincerely,

Stephen Porter

Stephen Porter, Chairman
Board of Assessment Appeals

cc: John A. Cloyd
Richland County Assessor

(6224)

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT
Docket No. 12-ALJ-17-0343-CC

Richland County Assessor,

Petitioner,

v.

James M. Hull, d/b/a Hull Storey
Gibson Company, LLC,

Respondent.

ADMINISTRATIVE HEARING

Wednesday, January 9, 2013

10:06 a.m. - 2:10 p.m.

The hearing before the Honorable Shirley Robinson was taken at the Edgar A. Brown Building, 1205 Pendleton Street, Suite 224, Columbia, South Carolina, on the 9th day of January, 2013, before Andrea R. Taylor, Court Reporter and Notary Public in and for the State of South Carolina.

APPEARANCES:

Malane S. Pike, Esquire
 ATTORNEY AT LAW
 Post Office Box 729
 White Rock, South Carolina 29177
 Attorney for the Petitioner

Matthew W. Matson, Esquire
 HULL STOREY GIBSON COMPANIES, LLC
 1190 Interstate Parkway
 Augusta, Georgia 30909
 Attorney for the Respondent

R.E. Hanna, III, Esquire
 HULL BARRETT, PC
 111 Park Avenue, SW
 Aiken, South Carolina 29801
 Attorney for the Respondent

INDEX

PAGE

OPENING STATEMENTS:

MS. PIKE	5
MR. MATSON	8

MARK R. CHESLAK:

MS. PIKE . . . DIRECT EXAMINATION	11
MR. MATSON . . . CROSS-EXAMINATION	32
MS. PIKE . . . REDIRECT EXAMINATION	51

TERRENCE L. FANCEY:

MS. PIKE . . . DIRECT EXAMINATION	55
MR. MATSON . . . CROSS-EXAMINATION	69

WAYNE GROVENSTEIN:

MR. MATSON . . . DIRECT EXAMINATION	81
MS. PIKE . . . CROSS-EXAMINATION	101

JAMES HULL:

MR. MATSON . . . DIRECT EXAMINATION	105

MARK R. CHESLAK:

MS. PIKE . . . REBUTTAL DIRECT EXAMINATION	124
MR. MATSON . . . REBUTTAL CROSS-EXAMINATION	133
THE COURT EXAMINATION	135

CREEL COURT REPORTING, INC.

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

TERRENCE L. FANCEY:

MS. PIKE	REBUTTAL DIRECT EXAMINATION	137
MR. MATSON	REBUTTAL CROSS-EXAMINATION	147
MS. PIKE	REBUTTAL REDIRECT EXAMINATION	153
THE COURT	EXAMINATION	154
MR. MATSON	REBUTTAL CROSS-EXAMINATION	157

CLOSING STATEMENTS:

MS. PIKE	160
MR. MATSON	162

Certificate	169

EXHIBITS

Petitioner's Exhibit Number 1	55
(Appraisal for tax map number 17400-05-44)	
Petitioner's Exhibit Number 2	55
(Appraisal for tax map number 17400-05-34)	
Petitioner's Exhibit Number 3	80
(Subject sales data)	
Petitioner's Exhibit Number 4	80
(Subject equity data)	
Petitioner's Exhibit Number 5	80
(Aerial photo - sales)	
Petitioner's Exhibit Number 6	80
(Aerial photo - equity)	
Respondent's Exhibit Number 1	113
(Appraisal of Respondent)	
Respondent's Exhibit Number 2	123
(Equity Comparison of Surrounding Properties)	
Respondent's Exhibit Number 3	101
(Acquisition documents)	
Respondent's Exhibit Number 4	123
Respondent's Exhibit Number 5	123

(The original exhibits were retained by the Court.)

STIPULATIONS

It is stipulated and agreed that this hearing is being taken pursuant to the rules of the Administrative Law Court and the South Carolina Rules of Civil Procedure.

1 THE COURT: Okay. This is the case of the Richland
 2 County Assessor as the petitioner vs. James H.
 3 Hull, doing business as Hull Storey Gibson
 4 Companies, LLC, as the respondent. It's docket
 5 number 12-ALJ-17-0343. The primary issue in
 6 the case is the assessor does not agree with
 7 the value that was determined by the Board of
 8 Assessment Appeal to property owned by the
 9 respondent; is that correct?

10 MS. PIKE: Yes, Your Honor.

11 THE COURT: And the assessor has requested a review
 12 of that -- of that value by this Court. And we
 13 have representing the County is Malane Pike.

14 MS. PIKE: Yes, Your Honor.

15 THE COURT: Okay. And representing the respondent
 16 is Matthew Matson?

17 MR. MATSON: Yes, Your Honor.

18 THE COURT: Okay. Mr. Hanna is here as well.

19 MR. HANNA: Yes, Your Honor.

20 THE COURT: Okay. Very good. We'll begin with
 21 brief opening statements if there's nothing
 22 that I need to address before we get started.

23 MS. PIKE: Your Honor, I have nothing.

24 MR. MATSON: Not on behalf of the respondent, Your
 25 Honor.

1 THE COURT: Okay. Good. We'll begin with brief
2 opening statements beginning with you, Ms.
3 Pike.

4 OPENING STATEMENT - BY MS. PIKE:

5 MS. PIKE: Your Honor, as you've correctly stated,
6 we're here today to ask you to determine the
7 fair market value of two tracts of lands that
8 were purchased by the respondent in September
9 of 2009. As a result of that purchase, those
10 tracts became what we know in the tax world as
11 an accessible transfer of interest. We fondly
12 call those ATIs. And that then allowed the
13 Richland County Assessor's Office to revalue
14 these two tracts for the 2010 tax year. As a
15 result of that, the Richland County Assessor's
16 Office looked at the value; they looked at the
17 purchase price, which was actually a sale that
18 was pursuant to a bankruptcy action. They
19 determined by looking at surrounding sales that
20 this was not fair market value for these two
21 tracts. So they then appraised the property at
22 a higher value. As it stands today, the
23 purchaser paid 1,975,000 for the property.
24 That's \$77,360 per acre. We contend these are
25 two tracts, the first tract being 23.81 acres.

1 We contend that that's 150,000 per acre as
 2 opposed to 77,000 per acre. And the smaller
 3 tract is 1.72 acres, and we contend that's nine
 4 dollars per square foot, and the respondent
 5 contends that that's \$1.77 per square foot.
 6 What may be a bit confusing to you as you hear
 7 this case is that the respondent is treating,
 8 since they purchased both of these together,
 9 they're treating it as one big tract. Since
 10 this property was actually purchased as two
 11 different tracts, they were already parceled
 12 out as two different tracts at the time of
 13 purchase. The assessor's office has to value
 14 each tract separately, so you will hear two
 15 different appraisals with respect to these two
 16 tracts of land. What the evidence will also
 17 show is that this property is located at the
 18 intersection of Clemson Road and Longtown Road
 19 in Richland County, which is a very vibrant
 20 commercial area at the time. This is a -- the
 21 large tract is a tract that sits behind some
 22 outparcels; and a smaller tract is actually one
 23 of those outparcels. This parcel sits right
 24 across the street from Lowe's, if you happen to
 25 know where the Lowe's is on Clemson Road at

1 Longtown. And just like the Lowe's, which has
 2 some outparcels in front of it as well as where
 3 you would have things like CVS and Bojangles
 4 and things of that nature, the smaller
 5 businesses, this parcel is a large parcel of
 6 land that has had some site improvements but no
 7 buildings on it, and then the outparcels that
 8 are in front of it. You access this particular
 9 piece of property by -- it is not directly on
 10 Clemson Road, but it does have an access road
 11 which leads you right past the outparcels and
 12 back to it, and it also has entrances on other
 13 roads. So what we have is basically two
 14 arguments that the taxpayer has made, and that
 15 is that, first of all, the sales price is the
 16 fair market value; and secondly, that this
 17 property is not valued by the assessor
 18 equitably with other parcels that are in that
 19 area. We will show in our evidence that there
 20 are comparable sales that indicate our fair
 21 market value is the fair market value; and
 22 secondly, that there has been no systematic and
 23 intentional overvaluation or underevaluation
 24 which you must be able to prove in order to say
 25 that the property has not been equitably

1 assessed. Thank you.

2 THE COURT: Mr. Matson?

3 MR. MATSON: That you, Judge.

4 OPENING STATEMENT - BY MR. MATSON:

5 MR. MATSON: I think, you know, there's not going to
6 be a lot of facts in dispute as far as this
7 property is concerned, but what we intend to
8 show today is that the \$1.975 million purchase
9 price for this approximately 25 and a half
10 acres was the fair market value at the time of
11 the purchase, which was September 2009. It was
12 valued as of December 31st, 2009. SC Bypass,
13 LLC, as I'll refer to them, that is the LLC
14 that owns these properties and was the owner at
15 the time of valuation. You're going to hear
16 today from our witnesses. Wayne Grovenstein,
17 who works for Hull Storey Gibson Companies,
18 which is the management company that manages SC
19 ByPass, Mr. Grovenstein will testify as to the
20 steps that it took to acquire this property.
21 This property was purchased back in 2005 by the
22 grantor and was divided out, as Ms. Pike said,
23 it was divided out into different parcels, but
24 this purchase, although it was two parcels was
25 one transaction, one acquisition. Mr.

Grovenstein going to explain the offer going back and forth with the seller and with the broker, as well as the process starting back in March of 2009. There was was an offer. They came back with a counteroffer of \$1.5 million. At that point we believed we had a contract, and subsequently Crescent Resources, the grantor, entered into a voluntary Chapter 11 bankruptcy, and it was sold through a bidding procedure, a competitive bidding procedure, which we were one -- excuse me SC Bypass was one of the participants in that bid and successfully purchased the property for 1.975 million after previously negotiating to 1.5 million. The reason I believe that it is important is to show that this was not a courthouse step sale. This happened over a number of months. This was a large company that sold a piece of property. They knew what they were doing; we knew what we were doing; and the minds came together for this purchase price. So he's going to go through that. We also have Mr. Hull today who I expect will testify as to his knowledge of the area as a commercial real estate developer. He's savvy

1 as to the process, as well as this area, and is
 2 very well accustomed to the prices in the area
 3 and the development of commercial real estate
 4 and what goes into making an offer and how one
 5 would come at the purchase price and how they
 6 acquired it. He's also going to go through an
 7 appraisal to show not only the properties that
 8 the tax assessor's office has chosen, but as
 9 well some other property as some other
 10 properties in area and show his adjustments as
 11 to why the purchase price of 1.975 was the fair
 12 market value at the time. And we believe that
 13 through his appraisal and through Mr.
 14 Grovenstein's testimony as to this as a fairly
 15 negotiated deal, arms length transaction, that
 16 the assessor's office should have considered
 17 that and should have accepted it as a
 18 reasonable value. And that's what the Board of
 19 Assessment Appeals put on this value -- on this
 20 property, two parcels together at the
 21 \$1,975,000. And that's why we've been treating
 22 it as one transaction. And that is the price
 23 of the two parcels, and it hasn't been
 24 separated out as to each parcel. Thank you.

25 THE COURT: Thank you. Ms. Pike, are you ready to

1 call your first witness?

2 MS. PIKE: Yes, Your Honor. I'd like to call Mr.
3 Mark Cheslak to the stand.

4 THE COURT: Okay. If you'll face the court reporter
5 and raise your right hand, she will swear you.

6 MARK R. CHESLAK, being duly sworn, testifies as
7 follows:

8 MR. CHESLAK - DIRECT EXAMINATION BY MS. PIKE:

9 Q: Mr. Cheslak, would you state your name for the
10 record please, and please spell your last name
11 for the court reporter.

12 A: Mark Richard Cheslak, C-H-E-S-L-A-K.

13 Q: Mr. Cheslak, who are you employed by?

14 A: Richland County Assessor's Office.

15 Q: And how long have you been with the Richland
16 County Assessor's Office?

17 A: Twenty-three years.

18 Q: And what is your current title?

19 A: Commercial appraiser supervisor.

20 Q: Okay. And have you held other positions with
21 the Richland County Assessor's Office?

22 A: Yes, ma'am, prior to that I was -- I was just
23 a residential appraiser, and then a commercial
24 appraiser, and then a commercial appraisal
25 supervisor.

1 Q: Have you been an appraiser for your entire
2 tenure with the Richland County Assessor's
3 Office?

4 A: Yes.

5 Q: And do you currently hold a South Carolina
6 license to appraise properties?

7 A: Yes, ma'am.

8 Q: All right. And how long have you held that
9 license?

10 A: I've been appraising in South Carolina since
11 1987 with a license.

12 Q: Tell us what your duties are as a -- as the
13 commercial appraisal supervisor.

14 A: To value properties for tax purposes.

15 Q: And do you supervise others?

16 A: I have one other fellow that works for me.

17 Q: Okay. Now, tell us what areas around Richland
18 County that you appraise.

19 A: I'm really responsible for the entire county
20 because there's certain types of properties
21 that I do which are spread all over the county,
22 and that includes a wide variety and types of
23 property from a little mom and pop store to the
24 -- something as large as the AT&T building, the
25 old AT&T building downtown.

1 Q: Okay. And how many parcels would you say that
2 you've appraised?

3 A: Me and my fellow are responsible for around
4 17,000 commercial properties.

5 Q: Okay. Now, in your duties with the Richland
6 County Assessor's Office, have you had an
7 opportunity to appraise the property that's in
8 contest today, both parcels?

9 A: I have.

10 Q: Okay. Do you have an opinion of value with
11 respect to both of those parcels?

12 A: I do.

13 Q: All right. Now, I want to first talk a little
14 bit about these two parcels. Can you tell us
15 just a little bit of general information about
16 the area that they are in?

17 A: The area that they're located is a -- is a
18 growing area. It's a very busy and a very --
19 very popular area, a lot of traffic running
20 through there. It's some -- a lot of
21 residential subdivisions around in there. It's
22 a growing commercial area of Richland County.

23 Q: Okay. And can you tell us a little bit about
24 the physical layout of this particular
25 property?

1 A: This property is two parcels. You have an
2 outparcel right on Clemson Road and the larger
3 traffic behind that. And there -- they're on
4 Clemson Road bracketed by Longtown Road on one
5 end and Long and Parkway on the other side.
6 It's near the intersection of -- well, it's at
7 the intersection of Longtown Road and Clemson
8 Road.

9 Q: Okay. When you say outparcels, tell us what
10 you mean by that?

11 A: An outparcel is a -- is a smaller parcel that
12 came from, it was cut out of the parent tract,
13 which is what's left over now, which is behind
14 these outparcels. And they are generally
15 improved with obviously smaller -- smaller type
16 retail stores. For instance, this one has a --
17 has a Bojangles, a drugstore, I think it's a
18 Rite-Aid, a discount store, a Sansbury Vision,
19 a bank. Just small things like that.

20 Q: Okay. So how large is the large parcel, the
21 subject parcel?

22 A: The large one is 23.81 acres.

23 Q: And how large is the outparcel that's in
24 contest?

25 A: The smaller parcel is 1.72 acres.

1 Q: Okay. Does the larger parcel have visibility
2 from Clemson Road?

3 A: It does.

4 Q: And how do you get back to the large parcel?
5 If I wanted to go see that parcel, how would I
6 get to it since it's behind the outparcels?

7 A: It does have more than one entrance. It has an
8 entrance off of Longtown Road and then it's off
9 of Longreen Parkway, and there's also a couple
10 of roads cutting into it from Clemson. So
11 there's ... there's multiple access to the
12 large parcel.

13 Q: Okay. What appraisal methods did you use in
14 determining your value of these two parcels?

15 A: I relied on the sales approach. Being vacant
16 land it's unapproved, so there's -- no cost
17 approach can be done. And the income approach,
18 it's not being leased. So I did not do the
19 income approach either; I just relied on the
20 sales approach.

21 Q: Okay. And is that for both parcels?

22 A: Yes.

23 Q: All right. And would you explain to the Court
24 why -- how you came about revaluing these two
25 parcels; why you revalued them?

1 A: I had a deed come across where the property
2 changed hands from one entity to another. And
3 it became, after researching it, it was an
4 assessable transfer of interest. And whenever
5 we have an assessable transfer of interest, by
6 law, we have to revalue that property at
7 market. So that's what triggered the
8 revaluation of the property.

9 Q: Okay.

10 A: On both parcels.

11 Q: Was there anything about this sale -- why did
12 you not use the purchase price as your value?

13 A: Mainly because if you look at the sales in the
14 area, the immediate area, it just didn't fit
15 with what was selling out there. The market
16 was saying it was worth much more than what it
17 actually -- was actually paid for the property.
18 Especially if you had to look at it
19 individually as an individual -- individual
20 parcels. You know, two there, so you have to
21 look at the smaller one and compare to the
22 other smaller sales, and of course the larger
23 one compare to larger acreage tract sales. And
24 after doing that it was -- to me it was obvious
25 it was -- it was a very good deal on the part

1 of the buyer.

2 Q: All right. I want to direct you first please
3 to what is Petitioner's Exhibit 1. And I'm
4 going to show you a copy of that.

5 A: Okay.

6 Q: Will you identify that document for me, please?

7 A: This is the appraisal that I put together for
8 this hearing.

9 Q: All right. And it is an appraisal of which
10 parcel? Would you give us the tax map number,
11 please?

12 A: Tax map number 17400-05-44.

13 Q: And is this the large parcel or the small
14 parcel?

15 A: This is the smaller outparcel.

16 Q: Okay. All right. Now, Mr. Cheslak, was this
17 property improved in any way?

18 A: Only that it was cleared and leveled. It had
19 curbing and utilities running to it, but there
20 was no -- no building on it.

21 Q: Okay. Now, you've previously testified that
22 you used the sales comparison approach to
23 value. So would you take us through your sales
24 comparison approach?

25 A: Yes. I'm looking at page 6 at the chart that

1 I put together for the valuation. And I have
2 four sales here. The first sale is 2800
3 Clemson Road. And I also, at the same time I'm
4 going to refer to page 14 where I say where it
5 sits in relation to the -- to the subject. So
6 if you look on page 14, you'll see the subject
7 there is 17400-5-44.

8 Q: Mr. Cheslak, hold on here for just a second so
9 that we can all get on the same page with you.

10 MS. PIKE: This is, Your Honor, Exhibit -- this is
11 Exhibit Number 5 in your packet.

12 Q: Mr. Cheslak, can you identify that exhibit?

13 A: Could you slide it down just a little bit where
14 the ---

15 Q: Yeah.

16 A: --- whole thing is on it. Okay. That's the
17 big white, whatever you call that thing. It's
18 pointing at the subject.

19 Q: Okay. Can you identify this document?

20 A: This is a map of the area of the subjects, both
21 parcels. This is -- and the sales that have
22 taken place around there. And you can see
23 Longtown Road to the right. Clemson is the one
24 that runs left to right.

25 MS. PIKE: Your Honor, can we ask the witness to

1 please go up to the screen and identify ...
2 point to it and identify it.

3 THE COURT: You should be able to touch it and it
4 should ---

5 MS. PIKE: Oh, okay. Wonderful. Perfect.

6 A: All right.

7 Q: All right. So show us here, just so that we
8 orient everyone on this, would you show us
9 where the two parcels that we're here today on
10 are?

11 A: This is the smaller outparcel.

12 Q: Okay.

13 A: This is the larger parcel behind it.

14 Q: Okay. And would you show us where the access
15 roads are?

16 A: Access to it is from Longtown Road there.

17 Q: Okay.

18 A: Clemson Road here. And you can see you have
19 the little entrance road right there and there.
20 And then you have Longreen Parkway, which is up
21 here, and you can come in from the left side
22 that way also. None of these outparcels have
23 curb cuts onto Clemson Road. Access is always
24 behind it, on the road behind there. There's
25 a little road right there that runs from

1 Longtown to Longgreen. For these parcels that
2 are right on the little in roads, they can --
3 they have access from there also. But there's
4 nothing right on Clemson Road.

5 Q: All right. And just so that we can orient
6 people further, tell us what's across Clemson
7 Road?

8 A: Across Clemson Road is the Lowe's site down
9 there and other outparcels. And it's a very --
10 it's a mirror image of what the subject is, the
11 large tract with the outparcels in front, same
12 kind of road going left to right, and a couple
13 of ingress roads off of Clemson.

14 Q: Okay. All right. Now, let's go back to your
15 sales, please.

16 A: Okay.

17 Q: Would you point to your first sale on this map?

18 A: First sale is right there, that is 17400-05-42,
19 2800 Clemson Road. Sold in October 2008 for
20 \$750,000. And it's 1.17 acres which is \$14.72
21 a square foot. Level, same zoning, good
22 access.

23 Q: Now, Mr. Cheslak, let me stop you right there
24 and let me ask a question. You know, we're
25 referring to amounts per acre and amounts per

1 square foot. When do you use per square foot
2 values, and when do you use per acre values?

3 A: Generally you use per square foot values on
4 smaller parcels. It's just an easier unit of
5 comparison to understand. Large acreage tracts
6 are valued by the acre. And I consider this to
7 be a large acre tract. So you would look at
8 this on a per acre basis, the large tract, and
9 the small parcel on a per square foot basis
10 because they usually -- the smaller parcels
11 sell for so much more than larger tracts, it's
12 just easier to use a per square foot basis in
13 comparing it.

14 Q: Okay. So we're talking about the small
15 outparcel here. So as a result, you were
16 valuing that on what basis?

17 A: The per square foot basis.

18 Q: Okay. All right.

19 A: So that's sale number one. It's two lots down
20 from the subject. Sale number two, 17400-05-49
21 is at 121 Lucy Lane. And this one is one, two,
22 three, four -- it's four down from the subject
23 right there.

24 Q: Okay.

25 A: To the right. And that one is -- sold for

1 \$500,000, .77 acres, which figures out to be
 2 \$14.91 a square foot. Sale number three,
 3 17400-05-50 is at the corner of Lucy and
 4 Clemson. And this is one, two, three, four --
 5 I guess four down to the right from the
 6 subject. It's right -- excuse me. Go back a
 7 little bit, that's sale one; that's sale two.
 8 Q: I'm sorry. I missed ---
 9 A: I'm trying to put -- it's easier -- sale one is
 10 right there.
 11 Q: Uh-huh (affirmative response).
 12 A: That's sale two.
 13 Q: Okay.
 14 A: And sale three is right there. I'm sorry.
 15 Sale three is right there.
 16 Q: Okay.
 17 A: One, two, three, four and five. It's five.
 18 It's five lots down to the right. But that one
 19 is -- that one -- sold in December 2008 for
 20 \$700,000, it's 1.49 acres, figured out to be
 21 \$10.79 a square foot. Same topo as the
 22 subject, same zoning and good access as well.
 23 Now, the fourth sale sold actually after
 24 valuation date. Valuation date is December
 25 31st, 2009. We just put this in here to show

1 that the values are holding their own in that
2 area. That's right there at the corner of
3 Longtown and Clemson. Right there. It's 17400-
4 05-36, 800,000. It's 1.61 acres. Sold for
5 \$11.41 a square foot. There were no sales in
6 '09. So here's the sales that I used. There
7 were a number of sales on the other side of the
8 road too, but I just wanted to stay -- I had
9 enough on the subject side to rely on those for
10 values.

11 Q: Okay. So what is your value on this particular
12 parcel?

13 A: After looking at these top three, I ended up
14 with nine dollars a square foot. Because what
15 I did was I figured well, if you look at the
16 range of values, 10.79 to 14.91, I estimated
17 the value of being \$11 a square foot. But then
18 to adjust for time between the time of these
19 '08 sales to in 2009, I made a 15 percent
20 market adjustment. So apply 15 percent to \$11
21 per square foot, subtract that from there
22 because, in our opinion, the market was still
23 in a down -- going down from '08 to '09, so you
24 had to adjust down. And after making that 15
25 percent adjustment, I rounded off to nine

1 dollars a square foot. So you have nine --
2 take nine dollars a square foot times the
3 square footage which is seven dollars and the
4 74,923 square feet and you end up with \$674,300
5 rounded.

6 Q: Now, I see in your appraisal that you've got
7 that the taxpayer's requested value is \$5.27
8 per square foot; is that accurate?

9 A: Well, based on the latest documents that we
10 have from the respondent, he's estimating the
11 value to be \$77 -- \$77,360 an acre, which
12 actually works out to be \$1.77 per square foot.
13 These numbers ARE what we went with to the
14 Board of Appeals, but it's actually, according
15 to the documents, \$1.77 a square foot because,
16 you know, the taxpayer is looking at it as one
17 whole parcel.

18 Q: Okay. Now, did you -- you stated that there
19 were no sales in '09 of these outparcels. Did
20 you also look in -- and I see you have one sale
21 in 2010. Did you look at all the sales of all
22 the outparcels in 2009 and 2010?

23 A: I did.

24 Q: Okay. And I'm going to show you this document
25 and ask you if you can identify this document?

1 A: This is a chart of the subject sales and -- of
2 the subject sales, and also vacant land sales
3 in the area.

4 Q: Okay. And are these the sales that you looked
5 at with respect to this outparcel?

6 A: I looked at these and a few more actually. If
7 you look at the chart up there, there's about,
8 probably about 15 -- 15 sales up in there. And
9 here it's nine. So it's probably even more
10 than that that I looked at.

11 Q: And what did you find with respect just to this
12 outparcel?

13 A: Respect to the outparcel, that the value we
14 have is actually very conservative, in my
15 opinion, based on the sales that are out there.

16 Q: Okay. Did you verify all of your sales that
17 you used as comparable sales?

18 A: I did.

19 Q: And how did you verify those?

20 A: Usually by speaking to the buyer or the seller.
21 In this case, it would've been the seller,
22 Crescent, in this -- except for the fourth sale
23 right there, number four was between the bank
24 and the buyer. But then generally it was with
25 the buyers in these cases. And after -- after

1 a while, I mean, after seeing so many sales at
2 -- in this range, you know that it's the market
3 value; there's no need to contact everybody
4 about what they're selling for because you know
5 it just falls a lot with the seller. So
6 initially I contacted the buyers.

7 Q: Okay. Have you personally gone out and viewed
8 all of these sales?

9 A: I have.

10 Q: Okay. And are you completely comfortable with
11 your value of nine dollars per square foot?

12 A: Yes.

13 Q: All right. Mr. Cheslak, I want to move on to
14 your appraisal of the larger tract now, which
15 is -- I'll ask you. I want to show you
16 Petitioner's Exhibit 2 and ask you if you can
17 identify that?

18 A: This is the appraisal that I did for the larger
19 parcel.

20 Q: And would you give us that tax map number,
21 please?

22 A: 17400-05-34.

23 Q: All right. Tell us a little bit about this
24 particular tract. Were there any improvements
25 on this tract?

1 A: No, no improvements such as buildings. No.

2 Q: What about site improvements?

3 A: It had some site improvements. It's been
4 leveled, cleared, detention pond and a road
5 with curbing and utilities.

6 Q: Okay. And you testified before that you had
7 used the sales comparison approach to value in
8 both of your appraisals. So do you have some
9 comparable sales for this particular tract?

10 A: I do. I'm looking at page 6. And I'm also
11 going to look at the -- the map in here that I
12 have is on page 13. So sale number one is
13 17400-02-12 and 14. This was one purchase, but
14 it consists of two parcels now. Total square
15 footage of that sale was 17.53 acres, sold for
16 \$4,294,000, which ends up being 244,915 per
17 acre.

18 Q: Mr. Cheslak, tell us what's on this tract right
19 now so that perhaps we can relate to it.

20 A: On the one end of this one on -- if you look at
21 the map on page 13, right there at the corner,
22 sort of a triangular shape going that -- that
23 is where the McDaniel Mazda Acura Volkswagen
24 car dealerships are located. The other one
25 right there at the intersection of Farrow and

1 Killian is -- it's still vacant.

2 Q: Is this the map that you were referring to?

3 A: Yes. And you see sale number one, the arrows,
4 there's two arrows there. The one to the left
5 is where the development is. The car
6 dealerships are there to the right, sale number
7 one.

8 Q: Can you point to that on the screen so that we
9 can ---

10 A: The car dealerships are there. And that one is
11 still vacant.

12 Q: Okay. So this particular sale, I'm sorry,
13 encompassed both of those?

14 A: Yes.

15 Q: Tracts?

16 A: It did, yes.

17 Q: Okay. All right.

18 A: And if you see the one there at the
19 intersection, that circle in the middle is not
20 part of that parcel. That is an area of
21 wetlands in there. He owns what's around
22 there. Okay.

23 Q: Why don't -- Mr. Cheslak, why don't you hit
24 clear so that it will clear off your previous
25 marks and we can just -- good. So point to

1 sale number -- comparable sale number one now.
2 Okay. All right. Good.

3 A: Okay. I would like to make one thing clear.
4 Clemson actually -- Clemson and Killian run
5 into each other right there. It's actually
6 probably -- it's actually Killian Road that
7 runs up right there at that intersection it
8 turns into Clemson. So I just wanted to make
9 sure that's clear.

10 Q: And approximately how far away is this
11 particular sale from our subject?

12 A: If you go to this corner -- well, I guess if
13 you look at both corners, it's less than a
14 mile. Between a half of a mile and a mile. So
15 it's less than a mile from the subjects to that
16 sale. And it'll be the same thing for sale
17 number two, that's right in between the two
18 distance-wise.

19 Q: Okay.

20 A: Sale number two is 17400-02-13. Sold in March
21 of 2008 for \$4,238,000 for 17.3 acres, \$245,000
22 an acre. Level, good access, as I -- as the
23 subject has also. Zoning is a little
24 different. ~~It's PDD zoning for the first one,~~
25 which is planned -- stands for Planned

1 Development District. It allows for a variety
2 of uses, as well as GC, which is general
3 commercial. And that sale is right there.

4 Q: Okay.

5 A: Sale number three is the Lowe's site across
6 from the subject, 17400-05-28 and 17414-05-02.
7 28 number is actually represents the road that
8 services the subject and the outparcels. And
9 the 5-02 is the main site that the Lowe's sits
10 on. The total between the two is 20.39 acres.
11 That was purchased in August '08 for
12 \$4,788,000. That figures to be \$234,858 an
13 acre, level, M1 zoning. Subject has good
14 access. Then after looking at these sales and
15 adjusting for time, I actually end up by the --
16 appraising it for these purposes at \$200,000 an
17 acre. And the way I did that, I relied most
18 heavily on sale number three. It sold for
19 \$234,000 an acre, applied 15 percent market
20 adjustment from the time of the sale to the end
21 of the valuation period, which was 12/31/2009.
22 And that figures out to be after adjusting
23 about 200,000 an acre. So applied the \$200,000
24 times 23.81 and you end up with \$4.7 million
25 doing the appraisal. Now, we have it appraised

1 for \$150,000 an acre. I came up with that
2 value before I went to this -- to this length
3 of doing the appraisal. I just wanted to make
4 -- I just wanted to prove that our -- that our
5 value was fair.

6 Q: So the value that we are bringing before the
7 judge today is 150,000; is that accurate?

8 A: Yes.

9 Q: Okay. All right. Now, did you verify all of
10 these sales?

11 A: I did.

12 Q: Okay. And have you gone out and viewed all of
13 these sales?

14 A: Yeah, I have.

15 Q: All right. Now, did you also look at sales in
16 2009 and 2010?

17 A: I did.

18 Q: And ---

19 A: Did not -- did not find anything really
20 comparable to it in that time frame, in that
21 area.

22 Q: Okay. All right. Mr. Cheslak, have you viewed
23 the materials that were submitted by the
24 respondent?

25 A: I have.

1 Q: And is there anything in those materials that
2 would have changed your mind about any of your
3 valuations?

4 A: No, ma'am.

5 Q: Okay. Are there deed restrictions on this
6 property?

7 A: On the subject? Yes, there are.

8 Q: And did you adjust for any deed restrictions?

9 A: I did not. Primarily because, you know, sale
10 number three and the subject both have deed
11 restrictions. My opinion, the -- if you look
12 at the documents they're very long; it's a very
13 long list of deed restrictions. And in my
14 opinion, they are very similar and no need to
15 adjust for deed restrictions.

16 Q: Okay.

17 MS. PIKE: Your Honor, I have no further questions
18 for Mr. Cheslak at this time, but I would like
19 to reserve the right to call him as a rebuttal
20 witness after the respondent puts on its
21 witnesses.

22 THE COURT: Sure. Thank you. Mr. Matson?

23 MR. MATSON: Thank you, Your Honor.

24 MR. CHESLAK - CROSS-EXAMINATION BY MR. MATSON:

25 Q: Good morning, Mr. Cheslak.

- 1 A: Morning.
- 2 Q: Do you recall when you first began working on
- 3 the appraisal of this property?
- 4 A: Yes.
- 5 Q: When would that be?
- 6 A: When it was first appealed with us. Well,
- 7 actually when the deed came through is when I
- 8 first put a value on the property.
- 9 Q: And why did you do an appraisal of this
- 10 property?
- 11 A: It was deemed an assessable transfer of
- 12 interest, which required me to revalue the
- 13 property at market value for tax purposes.
- 14 Q: So basically when there's a sale you reappraise
- 15 it, or do an assessment of it?
- 16 A: Yes.
- 17 Q: For any transferrable interest?
- 18 A: If it -- if it meets the -- the proper
- 19 guidelines to be considered as an assessable
- 20 transfer of interest.
- 21 Q: Okay. And you've had an opportunity to do ATI
- 22 reassessments before, correct?
- 23 A: Yes.
- 24 Q: Okay. Would you say in your experience that
- 25 generally the assessment would go up versus the

1 prior assessed value on an ATI?

2 A: Generally, they do. But some are -- some are
3 lower.

4 Q: Do you happen to know what the assessed values
5 of these two properties were prior to this
6 transfer?

7 A: I do. I believe the larger tract was appraised
8 at 165,000 an acre and the smaller tract was
9 valued at nine dollars a square foot.

10 MS. PIKE: I'm sorry, I didn't hear, how much per
11 square foot?

12 MR. CHESLAK: Nine for the smaller parcel, for the
13 outparcel.

14 Q: And that was prior to this sale? Or you're
15 saying --

16 A: Yes. Yes, that was ...

17 Q: So when Crescent Resources, the grantor, had
18 this property you believe that it was assessed
19 at ...

20 A: I believe it was 100 -- I think it was 165,000
21 an acre.

22 Q: Okay.

23 A: Because they -- Crescent Resources was dealing
24 with us also, and that's what we had it valued
25 for, and they -- they accepted that.

1 Q: So if I told you that, according to our
2 records, it was \$899,400 for the large tract,
3 you would disagree with that statement; is that
4 ...

5 A: I don't remember that, no.

6 MR. MATSON: Your Honor, may I approach the witness?
7 I'm not sure if I'm going to be able to focus
8 this correctly.

9 THE COURT: Yes, you may.

10 Q: I'm going to show you what's been marked as
11 Respondent's Exhibit 6 and 7. If you would
12 take a moment to review those and see if you
13 can tell what those documents are.

14 A: Does it identify it with a parcel number? I
15 don't see -- I don't see a tax number on there.
16 I don't see any tax map numbers on there.

17 Q: Okay.

18 A: It doesn't -- it doesn't identify it. It
19 doesn't look familiar to me.

20 Q: Does the form of that letter comport with
21 anything that your office sends out? Can you
22 tell what those letters are?

23 A: To tell you the truth, I can't. I don't -- I
24 don't deal with tax -- in the figure of the
25 taxes very often. I don't -- I don't do the

1 tax amounts.

2 Q: Okay. Could you tell us whose name is on that
3 letter, or what the letterhead is? Is it from
4 your office?

5 A: It's from Richland County, yes.

6 Q: And that would be the office that you're in; is
7 that correct?

8 A: Yes, but it doesn't identify the property.

9 Q: And you've never seen any letters like that
10 before?

11 A: No.

12 Q: Okay.

13 MR. MATSON: May I approach the witness, Your Honor?

14 THE COURT: Yes.

15 Q: So you would disagree that these are the values
16 that were assessed on these properties?

17 A: I disagree.

18 Q: And do you have any documentation today to
19 support that, or you just think from your
20 memory you ...

21 A: Well, I just know that Cresent dealing with me
22 in 2000 -- I believe, must have been 2009.

23 Y'all did 2010. And the value was at 165,000
24 an acre for the large parcel. And I think the
25 large -- the smaller one is at nine, just like

1 all the other parcels.

2 Q: Okay. So you don't believe that the value
3 changed after the ATI reappraisal; is that your
4 testimony today?

5 A: Well, it did. You know, I could have -- yes,
6 I left that alone at 165,000. Then Mr. Hull
7 appealed it and I think I must have put down at
8 150.

9 Q: You say you think. Are you -- are you certain
10 today? Are you testifying today that that is
11 the case, that it was at 165 prior to the ATI
12 and it was 165 subsequent to the ATI?

13 A: Well, the ATI is 165 and then ... and then he
14 appealed it, the ATI I set at the same value,
15 because if you see the prior value on the
16 appraisal, it went down slightly. And that
17 would indicate that through the appraiser I
18 lowered it from 165 to 150.

19 Q: Well, actually that indicates that the initial
20 appraisal came in at that value; is that
21 correct? Am I look -- you're talking about the
22 front page of your appraisal, correct?

23 A: Yeah, that -- the appealed value was
24 \$3,928,700; if I had a calculator -- divide
25 that by 23.81 and that will tell you what the

1 value per acre was.

2 Q: Is this the document that you're ---

3 A: Yes.

4 Q: --- looking at?

5 A: Yes.

6 Q: And you're talking about prior value?

7 A: Yes, that was the appealed value. When he

8 appealed, that was the value that I had on

9 there.

10 Q: And that appeal would be of the new assessment

11 of the ATI, correct?

12 A: That would be after reviewing it as an ATI.

13 Q: But that doesn't mean it was the prior value in

14 years before the ATI; is that correct?

15 A: Well, it was -- it was the same value that

16 Crescent had appealed last, a year before.

17 Q: Okay. And you're positive of that today?

18 A: Yeah. Yes, sir.

19 Q: So after you did the appraisal it came back to

20 the exact numbers that it was before; is that

21 your testimony today?

22 A: I left -- I left it alone after the -- through

23 the ATI. At the time of the ATI, I left it

24 alone. I left our value as it was. I didn't

25 -- I didn't adjust it. I adjusted it through

1 the appeal. As you can see, it went down a
2 little bit.

3 Q: So do you know the first year that this
4 property was assessed at the values that you're
5 saying, 165 per acre and nine dollars per
6 square foot? You know how long ago and back
7 it's been assessed at that?

8 A: Well, I know the nine dollars a square foot
9 would have been put at that amount when the
10 outparcels were platted, and that's the value
11 I put on there. But I don't -- I'm not sure
12 about the larger parcel. I'm not sure what
13 that value was before at the time before the
14 last reassessment.

15 Q: But it's your testimony that the appraisal came
16 back exactly the same as it was prior to the
17 assessable transfer of interest; is that
18 correct?

19 A: The appraisal, you know, this appraisal? Which
20 appraisal are we talking about?

21 Q: The appraisal that you did in accordance with
22 the ATI.

23 A: The ATI did not change the value. No, the
24 value that we already had on the books, I kept
25 it at that same number.

1 Q: Okay. And if we have documents that say
2 otherwise, you would disagree and say that
3 those documents are false; is that correct?

4 A: I disagree with those.

5 Q: And this is from the Richland County Assessor's
6 Office, correct? The letters ---

7 A: It's on the letterhead, yeah.

8 Q: Do you have any reason to believe that these
9 are false and not from your office?

10 A: I'm sure it's honest and true whatever it's
11 about. But I'm not sure what that's about. So
12 I don't know where it came from.

13 Q: So if it says estimated value of \$899,000, you
14 have no idea where that came from?

15 A: No.

16 Q: And if it has for the smaller parcel \$59,000,
17 you would have no idea where that came from?

18 A: No.

19 Q: Okay. All right. Now, you stated that you've
20 been with the assessor's office for 23 years;
21 is that correct?

22 A: Yeah.

23 Q: Is that -- what did you do prior to joining the
24 assessor's office?

25 A: I was a fee appraiser at the University of

1 South Carolina, did residential appraisals.

2 Q: Okay. And what did you do before that?

3 A: I was a production shift supervisor for
4 Milliken Research Corporation for seven and a
5 half years before that. Before that, I was in
6 college.

7 Q: Is it fair to say that the entire time of your
8 appraisal career you've worked for a tax
9 assessor's office?

10 A: Most of my working life has been with the
11 assessor's office.

12 Q: But all of the time that you've had experience
13 as being an appraiser has been with the tax
14 assessor's office; is that ...

15 A: No, I was a field appraiser before that ---

16 Q: Okay.

17 A: --- for about two years and ten months in
18 Beaufort.

19 Q: Okay. All right. Now, you testified earlier
20 that this was obviously a very good deal?

21 A: In my opinion.

22 Q: Now, does good deal signify to you that it's
23 not an arms length transaction?

24 A: No, it does not. It can still be an arms
25 length transaction.

1 Q: And under South Carolina law, aren't you
2 required to consider arms length transaction
3 when you're appraising a property?

4 A: I did. I considered them, the purchase price.

5 Q: You considered it?

6 A: Yes.

7 Q: But you also testified that there were no sales
8 in 2009; is that correct?

9 A: None that are comparable to the subject.

10 Q: I think -- well, you said there were no sales
11 in 2009, but this property was sold in 2009,
12 was it not?

13 A: Yes. Well, if you include that, that sale took
14 place in 2009, yes.

15 Q: But it was lower than the value you thought it
16 should have been, correct?

17 A: It didn't stand up to the market of other sales
18 in the area.

19 Q: But you don't have any other sales from 2009,
20 right?

21 A: No, I don't. Not comparable to the subject,
22 no.

23 Q: Okay. Have you used this sale of the subject
24 properties in any of your other appraisals for
25 properties in the area?

1 A: The 1.975 million?

2 Q: Yes, sir.

3 A: No.

4 Q: And that's because in your opinion that was a
5 low value, too low value?

6 A: Yes. Yes.

7 Q: Okay. So ---

8 A: But I don't think I actually appraised anything
9 else since then like this property, or
10 immediately anything like it.

11 Q: Okay. So you could have used this sale if you
12 had wanted to; is that correct?

13 A: If I wanted to, yes.

14 Q: Because it was the only one in 2009, correct?

15 A: I wouldn't have used it though. I mean I could
16 have, yes. I could have used it.

17 Q: Is it possible that \$1,975,000 is the fair
18 market value of that property?

19 A: No.

20 Q: It's impossible that that is the fair market
21 value?

22 A: I don't think it is because the sales around it
23 don't support it, in my opinion.

24 Q: And even though there were no sales in 2009,
25 and the ones you have were a year to a year and

1 half prior, you're certain that the market
2 value as of -- as of the appraisal date could
3 absolutely not be 1,975,000?

4 A: Well, I can't say absolutely. But I can just
5 say based on the sales that I had and adjusting
6 for the market, downtown in the market, it just
7 -- it just doesn't come up to -- or come down
8 to 66,000 an acre or 77,000 an acre.

9 Q: When you normally do an ATI would you use --
10 would you consider the sales price? Would that
11 be a strong indicator of value in an ATI
12 reappraisal?

13 A: Well, for every ATI I get, I have to hold it up
14 to the market that's taking place around there.
15 I mean, I do consider it, but it's got to --
16 it's got to fit with the other sales that are
17 taking place.

18 Q: How many cases would you say that you don't use
19 it at all; it's not a factor? It's not one of
20 these subject properties that you use as a
21 sale?

22 A: How many times do I not use an ATI? What was
23 the question again?

24 Q: Well, maybe I'll ask it a little differently.
25 How many times when you're doing a reappraisal

1 for an ATI would you not consider that sales
2 price as a comparable sale?

3 A: I would always consider it. I always consider
4 the sales price on the deed. But I've got to
5 see if it's -- if it's fair, you know.

6 Q: Okay. Now, on your assessment, I believe you
7 said that you made a 15 percent adjustment for
8 the economy in 2009 versus 2008; is that
9 correct?

10 A: For time, yes.

11 Q: Okay. And how did you get to that 15 percent
12 as -- do you use like a book of values? Do you
13 use a set of facts? Is there a protocol on how
14 you make adjustments like that?

15 A: Well, I came up with that 15 percent. The
16 height of the market was in 2007, and the
17 general feeling among all the appraisers I've
18 spoken to is it was about a 20 percent decline
19 in the market from the height of 2007 to 2009.
20 So you have about ten percent market change per
21 year. And I sent -- I looked at this about a
22 year and half change, so I gave it a 15 percent
23 adjustment for time.

24 Q: Okay. So you're aware in 2009 that commercial
25 properties were not selling as they were in

1 2008; you recognize that?

2 A: Generally speaking. Generally speaking but
3 this little area of Richland County seems to
4 not have been suffering as much as the rest of
5 the county.

6 Q: Okay. And you selected three properties as
7 comparable sales? I'm talking about for the
8 larger tract, you used three properties,
9 correct?

10 A: Yes.

11 Q: Have you used these three properties in any
12 other appraisals for surrounding appraisals?

13 A: No, I haven't.

14 Q: You haven't. And I believe you stated that you
15 haven't used this sale in any of your
16 appraisals; is that correct?

17 A: Correct.

18 Q: Because the value is unreflective of the market
19 in general?

20 A: Well, and I haven't used it at all to tell you
21 the truth. But if I had to, I would -- I
22 wouldn't consider -- I wouldn't consider -- I
23 would have to make a huge adjustment to -- to
24 compare it to whatever I'm comparing it to.

25 Q: So you could make an adjustment?

1 A: You I could.

2 Q: But you chose not to in this case; is that
3 correct?

4 A: Well, that's the subject. You don't adjust the
5 subject. You adjust what's called the
6 comparables to the subject.

7 Q: Right. But in this case you ignored the
8 subject sale,; correct?

9 A: Well, I didn't ignore it. I did consider it.

10 Q: All right. And if I could bring your attention
11 to comparable number one on that large tract.

12 A: Yes.

13 Q: The sales price you have indicated is
14 approximately \$245,000; is that correct?

15 A: Correct.

16 Q: And do you know what it is assessed at per acre
17 currently?

18 A: Currently that property, it's less than that.
19 It's been appealed, so there have been
20 adjustments to the total value since then,
21 since the sale. But at the time of the sale,
22 that's what it sold for.

23 Q: Right. That's what it sold for, but now it's
24 assessed at approximately \$168,000 an acre; is
25 that right?

- 1 A: Well, total per acre, yes, but you have
- 2 different parts of this lot which are appraised
- 3 at what he paid, depending on what part of this
- 4 lot you're looking at. It's got multiple land
- 5 valuations in there.
- 6 Q: Okay. Have you had a chance to review the
- 7 appraisal that Mr. Hull did on these
- 8 properties?
- 9 A: Yes. Are you talking about ---
- 10 Q: Yes.
- 11 A: Yes.
- 12 Q: And he used the same properties that you did;
- 13 is that correct?
- 14 A: And a couple more.
- 15 Q: Right. But he used the same ---
- 16 A: He did include those in there, yes.
- 17 Q: And he also looked at a couple of other sales;
- 18 is that right?
- 19 A: Correct.
- 20 Q: After reviewing his appraisal, did that change
- 21 your opinion as to the value of this property?
- 22 A: No, it did not.
- 23 Q: Wouldn't you agree that valuing property is an
- 24 art and a science that's not an exact science?
- 25 A: I agree with that.

1 Q: Wouldn't you agree that if you had three people
2 appraise one property they could come at
3 different values?

4 A: Yes.

5 Q: Okay. And if you had purchasers on a market --
6 on the open market, they could put different
7 values on a property; isn't that correct?

8 A: Yes.

9 Q: And as an appraiser, aren't you trying to
10 estimate what that purchaser would purchase the
11 price for?

12 A: Correct.

13 Q: And here we have that value, right?

14 A: You mean Mr. Hull's property, yes.

15 Q: Right. And the subject prop- -- we have the
16 actual sales price, right?

17 A: Correct.

18 Q: And the purpose of an appraisal is to estimate
19 that sales price, correct?

20 A: Estimate a value. It's an estimate of value is
21 what the appraisal does.

22 Q: Do you believe that this property had a
23 reasonable exposure to the market since it was

24 purchased back in 2005?

25 A: Yes.

1 Q: And outparcels had been selling going back to
2 2006?

3 A: Yes.

4 Q: Okay. Do you have any reason to believe that
5 the seller and buyer were not reasonably well
6 informed of the uses of the property?

7 A: I believe they were well informed of the uses
8 of the property.

9 Q: And do you believe that the seller and buyer
10 were willing in this case? Do you have reason
11 to believe that they weren't?

12 A: No.

13 Q: Okay. Before you did your appraisal, were you
14 aware of the prior negotiations between the
15 grantor and the grantee in the case?

16 A: Just from the documents where they made an
17 offer and a counteroffer and rescinded it. I
18 know that took place, yes.

19 Q: You were aware of that prior to your appraisal,
20 before you did the ATI appraisal?

21 A: No. No.

22 Q: And you had the opportunity to review that, the
23 acquisition documentation after you did the
24 appraisal, correct?

25 A: Through the appeal.

1 Q: Right.

2 A: Right.

3 Q: And did that change your opinion as to the
4 original appraisal?

5 A: It did not.

6 Q: All right. Isn't it true that the reason this
7 property was reassessed was because it was
8 purchased, there was an ATI?

9 A: Assessable transfer of interest, yes.

10 Q: But you did not use the purchase price at all.
11 in your consideration?

12 A: Right. I considered it, but I didn't agree
13 with it.

14 MR. MATSON: Your Honor, that's all I have of this
15 witness.

16 THE COURT: Any redirect, Ms. Pike?

17 MS. PIKE: Yes, I do, Your Honor.

18 THE COURT: Okay.

19 MR. CHESLAK - REDIRECT EXAMINATION BY MS. PIKE:

20 Q: Mr. Cheslak, I want to go back to your
21 discussion of ATIs, assessable transfers of
22 interest. When you get an assessable transfer
23 interest that comes across your desk, tell me
24 what you do.

25 A: I get the deed; look at the sales price that's

1 on the deed. Look at the property; look at the
2 sales similar to that property. If it's
3 supported by the sales, then we go with it.
4 Then if it's not, then we dig a little farther
5 into it to try to find out why, and then put
6 the appropriate value on the transaction, which
7 could be upper -- an increase or increase from
8 what our value is.

9 Q: So is the sales price then always the value
10 that you use on an ATI?

11 A: It is not, especially when you get five dollars
12 love and affection, things like that.

13 Q: Okay. You've testified that you considered the
14 sales price in this particular circumstance.

15 A: I did.

16 Q: Would you tell us why you didn't use the sales
17 price as your value?

18 A: Mainly because of the sales in the immediate
19 area that are suggesting a much higher value
20 for land in that area.

21 Q: Okay. You were asked a question a few minutes
22 ago by respondent's counsel as to whether or
23 not you have used these comparable sales in
24 other appraisals. Have you had any large
25 tracts appealed that you would have used these

1 comparables for?

2 A: I have not, not that I -- not that I can
3 remember.

4 Q: Is there any reason why you wouldn't use these
5 comparable sales in the future if you had a
6 similar large tract of land?

7 A: I would -- I would certainly reuse them again,
8 refer to them.

9 Q: You were asked to refer to Mr. Hull's
10 "appraisal." Would you consider that document
11 to be an appraisal of the property under the
12 Uniform Standards of Appraisal Practice?

13 A: It doesn't seem to follow the standards that
14 I'm aware of. But anything that an appellant
15 brings to us as to what they think is good
16 supporting documentation for their value, I
17 still consider it.

18 Q: Okay. Mr. Cheslak, I'd like you to look at
19 Exhibits 6 -- and these are Respondent's
20 Exhibits 6 and 7 again please. And you
21 appropriately pointed out that these do not
22 have a tax map number on them so you can't
23 identify them. On the top line there, would
24 you tell us what top line that you have? It
25 says taxable value and it has \$899,400.

1 A: Correct.

2 Q: Is there a difference between your appraised
3 value and taxable value?

4 A: Correct. In our appraisal methodology, we have
5 two values, and now that you mention it, I
6 think I know what that is.

7 MR. MATSON: Judge, I'm going to object to this
8 testimony. He's stated that he has no idea
9 what these documents are, and it's not -- and
10 that's why we didn't offer them into evidence
11 at this time because we haven't laid the proper
12 foundation. So I think it would be
13 inappropriate for him to testify as to the
14 contents of the documents.

15 MS. PIKE: If they are not going to introduce those
16 documents, then I'll withdraw the question.

17 MR. MATSON: At this point we have no foundation to
18 put them into evidence, Your Honor.

19 THE COURT: Okay.

20 MS. PIKE: I have no further questions of Mr.
21 Cheslak. But again, I'd like to reserve the
22 right to bring him back as a rebuttal witness,
23 Your Honor.

24 THE COURT: Very good. Thank you.

25 MS. PIKE: Thank you.

1 THE COURT: Mr. Cheslak, thank you. You may step
2 down.

3 MS. PIKE: Your Honor, I'd like to call Mr. Terry
4 Fancey to the stand, please.

5 THE COURT: Okay. And Ms. Pike, let me ask, were
6 you planning on introducing the appraisal and
7 other exhibits ---

8 MS. PIKE: Yes, Your Honor. I'd like to go ahead
9 and move those to be admitted as evidence,
10 please.

11 THE COURT: Okay.

12 MR. MATSON: No objection, Your Honor.

13 THE COURT: Okay. They're admitted without
14 objection.

15 (Petitioner's Exhibit Numbers 1 and 2 were admitted
16 into evidence.)

17 THE COURT: Thank you. Before you take your seat,
18 if you'll face the court reporter and raise
19 your right hand, she will swear you.

20 TERRENCE L. FANCEY, being duly sworn, testifies as
21 follows:

22 MR. FANCEY - DIRECT EXAMINATION BY MS. PIKE:

23 Q: Mr. Fancey, would you state your name for
24 record, please?

25 A: Terrence Leland Fancey.

1 Q: And would you spell your last name for the
2 court reporter?

3 A: F, as in Frank, A-N-C-E-Y.

4 Q: Mr. Fancey, where are you employed?

5 A: Richland County Assessor's Office.

6 Q: And how long have you been there?

7 A: Approximately 22 years.

8 Q: And what is your current title?

9 A: Deputy assessor for appraisal.

10 Q: And how long have you been in that position?

11 A: For eight, nine years now.

12 Q: Okay. And what other positions have you held
13 with Richland County Assessor's Office?

14 A: Initially I was a staff appraiser for
15 residential properties, became a residential
16 supervisor, and then deputy assessor for
17 appraisal.

18 Q: And are you licensed by the State of South
19 Carolina to appraise properties?

20 A: Yes, I am.

21 Q: And how long have you been licensed?

22 A: Approximately 19 years.

23 Q: Okay. Tell us what your duties are as deputy
24 assessor.

25 A: To oversee the valuation of all property in

1 Richland County. There are approximately
2 167,000 parcels of land, and we have
3 supervisors and an appraisal staff to
4 accomplish that. That includes reassessments,
5 establishing values at reassessment, then
6 maintaining those values through changes as
7 they occur throughout time.

8 Q: Okay. And in your duties as the deputy
9 assessor, have you had the opportunity to
10 review Mr. Cheslak's appraisal of the two
11 subject parcels?

12 A: Yes, I have.

13 Q: And do you agree with his value?

14 A: Yes, I do.

15 Q: All right. Have you viewed the sales
16 comparables?

17 A: Yes, I have.

18 Q: Okay. Have you had an opportunity to analyze
19 the sales?

20 A: Yes, I have.

21 Q: Okay. Mr. Fancey, let's see here. Mr. Fancey,
22 I'm going to show you Petitioner's Exhibit 3,
23 4, 5 and 6. And I'm going to ask you if you
24 can identify those documents for me.

25 A: Yes. Petitioner's Exhibit 3 is a spreadsheet

1 analysis I put together of sales that we had
2 record of, and the second page is just a
3 analysis of that. Number 4 is looking at our
4 values for equity purposes, the assessor's
5 values of vacant land parcels in the area.
6 Number 5 is a map of surrounding sales. And
7 number 6 is the same map, same parcels with
8 their assessed values.

9 Q: Okay. You just testified that you had an
10 opportunity to analyze the sales data and that
11 you've looked at data from 2009 and 2010. Can
12 you talk to us a little bit about your -- I
13 believe that's Exhibit 3?

14 A: Exhibit 3, yes.

15 Q: Petitioner's Exhibit 3?

16 A: Right.

17 Q: Would you tell us a little bit about that,
18 please?

19 A: This is an Excel spreadsheet I put together
20 showing both the subject property and then
21 sales of various acreage sizes that have
22 occurred in 2009 and 2010.

23 Q: Mr. Fancey?

24 A: Yes.

25 Q: Hold on just one second.

1 MS. PIKE: Your Honor, this is entitled Subject
2 Sales Data, and it has that title at the top.

3 Q: I'm sorry, Mr. Fancey. Go ahead.

4 A: And at the top we'll see the subject property.
5 The sales price is recorded on the deed. And
6 then you'll see the assessor's value for the
7 various parcels. The 23.81 parcel and 1.72
8 acre parcel. The sales I had consisted of 1.05
9 up to 10.38 acres, and they are listed in order
10 of size from the smallest to the largest. The
11 next page, which is comparison, there are two
12 charts. One is comparison by acre; one is
13 comparison by date of sale. The comparison by
14 acre is I think the most appropriate to look at
15 in there in this instance, and I show a bullet,
16 two sets of figures actually, a median and an
17 average of all sales, and then a median and
18 average of less than three acres, and a median
19 and average of three acres or larger. Of
20 course the median is if you list the sales
21 smallest to largest of acreage, what is the
22 middle sale price. And then the average again
23 is just the total of all of the sales price
24 divided by the total of sales. So if you look
25 at the median for the three -- less than three

1 acres in size, in size, you'll see that for
2 sale prices the median is 750,000 or the middle
3 sale, and the average is \$960,000. Given their
4 sizes, and since we're talking less than three
5 acres, we're going to focus on the square foot
6 value. That median square foot value is \$12.24
7 per square foot. The average of those is
8 \$15.02 per square foot. So I think for the
9 smaller parcel that is under appeal today,
10 these sales will support the nine dollar per
11 square foot value we have from a statistical
12 analysis. The other one is a median of greater
13 than three acres, three acres or more. And the
14 median sale in that case is 1,325,000. The
15 average is 1,727,00. Those are for four sales.
16 If you look at the assessor's value, you see it
17 looks a little bit different and the reason
18 being is two of those sales were 2010 sales.
19 So for valuation purposes, we only use two
20 values because these were new parcels, new
21 sales that occurred in 2010, brand new parcels
22 for 2011. Those 2010 sales actually did not
23 exist as individual parcels. So I'm looking at
24 2010 assessed value, we only had two values and
25 not the four. Looking at a per acre basis of

1 those four sales, then you see the median sale
2 price per acre is \$315,000. The average of
3 those is \$299,400 per acre, again, while
4 supporting the \$150,000 per acre that we have
5 on the larger subject tract.

6 Q: Okay. So how did you -- talk about the sales
7 that are on the first page of this particular
8 document, Mr. Fancey.

9 A: Well, we looked at the 2009, 2010 sales that
10 occurred within the -- fairly close to the
11 subject property. We included 2010 for
12 fairness purposes just to make sure that if
13 there was a downward trend that it was -- was
14 it continuing in 2010 or values in this
15 particular area sort of hit a stable value.
16 And as we can see the 2009, 2010 sales, you
17 look at the sales price per acre, for example,
18 if you look at the 1.05 acre parcel, which is
19 the smallest and go up to the 1.58 acre parcel,
20 the lowest sale price per square foot is
21 approximately \$11.40 per square foot and the
22 highest is \$26 per square foot. If you throw
23 out, which is typically done is statistical
24 analysis is you throw out your highest and your
25 lowest because they skew the result, you have

1 a range of value of 11.62 to 13.79 per square
 2 foot, well above the nine dollar per square
 3 foot for the subject. Looking at the remainder
 4 of sales of three acres and larger, from 3.04,
 5 four acres, five acres, 10.38, you see a range
 6 there of sale prices of -- let's see, about
 7 \$106,000 per acre up to \$411,000 per acre.
 8 Again, if you throw out the low and the high,
 9 you basically have \$280,000 an acre or -- and
 10 \$350,000 per acre sale price for the 10.38-acre
 11 parcel, and they will all support the \$150,000
 12 value that we have on the subject larger tract.
 13 Unfortunately, it was not able to use in '09 or
 14 '10 sales. There were none larger than 10.3
 15 acres that were close by and comparable to the
 16 subject.

17 Q: Okay. Would you then move to Petitioner's
 18 Exhibit Number 4 and explain what you have done
 19 there.

20 A: Okay. This is a comparison on basically equity
 21 comparison, which is somewhat difficult in the
 22 day of ATIs, assessable transfers of interest.
 23 Prior to ATIs, if we reassessed in 2009, all
 24 the values would stay that way other than
 25 physical changes or appeals or whatever through

1 the next reassessment cycle. But with the
 2 point of sale or ATI, you know, a property
 3 valued in 2009 but it sells in 2011, and so
 4 basically it has a fair market value as of its
 5 sale date where the next door property has a
 6 value as of December 31st, 2008. So you get an
 7 inequity built in. But looking at sales of
 8 properties, a lot of these did sell in '08, '06
 9 and '07. But if you look at the assessor's
 10 value that we have on these parcels, again,
 11 they range from a low of .77 acres up to a 4.42
 12 acres, then we have a 17.53-acre parcel. That
 13 17.53 acres that did sell as one unit and
 14 afterwards was split into two separate parcels,
 15 one at 8.4, 1. -- one at 9.3 acres. Then you
 16 see we have an 11.98 -- 11.98 acres parcel to
 17 look at, a 17.3-acre parcel, a 20.39, a 32.47.
 18 And you can see that the ranges there, and
 19 again, I did that same statistical analysis for
 20 these assessed values per acre and per square
 21 foot. Looking at -- seemed the natural
 22 breakpoint in this case was around five acres.
 23 So if you look at the bottom of that chart,
 24 that page you'll see again the median and the
 25 average. The median assessed value of five

1 acres, of less than five acres is \$665,000 per
 2 assessed value and then the average is
 3 \$631,064. On a per square foot basis, the
 4 median is nine dollars a square foot and the
 5 assessed, the average of those is 9.92, and
 6 that goes to show that in our -- from this
 7 analysis, looking at surrounding properties,
 8 the smaller subject property is fairly assessed
 9 in comparison to other properties like it.
 10 Then looking at a median and average of greater
 11 than five acres, I have an average -- a median
 12 sale price of \$2,879,550, average of
 13 \$2,736,250. On a per acre basis the median
 14 would be then \$202,505 per square -- or per
 15 acre. And then the average would be \$196,012
 16 per acre, again, while supporting from an
 17 equity standpoint the \$150,000 per acre that we
 18 have on the larger tract of the subject
 19 property.

20 Q: Okay. Now, I want to turn to the two maps, the
 21 two aerial maps. And would you to tell us what
 22 you did with those.

23 A: Okay. As you can see in the white or yellow
 24 box, I list both the subject properties at
 25 \$108,000 per acre and then the smaller subject

1 at nine dollars per square foot. So if I begin
 2 immediately to the left, upper left-hand corner
 3 right there, I'll try not to cover it up in the
 4 future, this is a December 2007 sale,
 5 \$1,300,000 or in this case, \$17.66 per square
 6 foot. Obviously showing the height of the
 7 market back in 2007. Of course next is the
 8 subject. Then just continuing around to the
 9 right, the next sale is October 2007, you see
 10 the sale price, and that was \$11.57 per square
 11 foot. The next one is just continuing to the
 12 right is an October 2008 sale at \$14.72 per
 13 square foot. The next one is an August, 2006
 14 sale at \$15.70 per square foot. This one right
 15 here is a deed that had, as Mr. Cheslak
 16 referred to, five dollars or something on
 17 there. But per his interview with the owner of
 18 the property, he said he paid \$500,000 for that
 19 property, which is at \$14.91 per square foot.
 20 Continuing around, we have that property sold
 21 for in December of 2008 for \$10.79 per square
 22 foot. Then continuing is December 2010 sale
 23 just thrown in to see what has happened to the
 24 market since 2009 at \$11.62 per square foot.
 25 Continuing around we have what is now the

1 Walgreen's site, and my understanding is
2 typically that pharmacies pay a lot to purchase
3 their land. And if that was to be a outlier --
4 that would most definitely be an outlier at
5 \$26.04 per square foot. And continuing with
6 this parcel, that's a February 2008 sale at
7 \$17.28 per square foot. And nine, a September
8 of 2008 sale at \$14.90 per square foot. An
9 April 2010 sale at \$12.24 per square foot.
10 October of 2008 at \$17.18 per square foot. A
11 November, 2010 sale at \$13.79 per square foot.
12 Then you can see this one right up here is a
13 September of 2008 sale at \$15.86 per square
14 foot. And then the one farther here is a bit
15 larger parcel, and it sold in December of 2009
16 for \$9.45 a square foot. I think we're fudging
17 that it is in fact larger than most of the
18 other smaller parcels that have sold. I think
19 that if you look at this close, I think you'll
20 see that from 2007 to 2008 a somewhat decrease
21 and even through 2010. But the 2009, all the
22 values, whether they're an '08, '07, '08, '09,
23 '10 sale will all support the nine dollars per
24 square foot on the subject property.

25 Q: Now, there's one sale on the very bottom that

1 you haven't mentioned that --

2 A: Yeah, that is the Lowe's site, and that is
3 valued at \$234,860 per acre. And that does
4 include the road that extends about two point
5 -- I'll have to look and see exactly -- 2.2
6 some odd acres has been split out, 2.8 acres,
7 I believe, split up for the roads. And the
8 roads, generally in our office we put \$500 an
9 acre or something, very minimal value for a
10 road. So the original parcel as it sold is
11 valued at \$234,860 per acre.

12 Q: Okay. Now, Mr. Fancey, I want to move you to
13 the next aerial photo and the top of it says
14 Assessed Surrounding Equity. Please hit the
15 clear button on your -- okay, good. Can you
16 identify this document and tell us what the
17 exhibit number is, please?

18 A: On this one the exhibit number is 6.

19 Q: Okay.

20 A: And this is pretty much the same -- same thing
21 using 2010 valuations. So these are all
22 assessed values as of 2010, same as the
23 subject. Again, you can see where the subject,
24 the larger and the smaller tract lie. So if I
25 begin again in this corner right here, that's

1 assessed at ten dollars per square foot. This
2 is assessed at \$11.57 per square foot; \$14.72
3 per square foot. Just continuing on around,
4 it's nine dollars per square foot; nine dollars
5 per square foot; \$10.79 per square foot; \$12.00
6 a square foot. Of course this one here is at
7 \$26.00 per square foot. This is assessed --
8 continuing around now across Clemson Road is
9 \$12.00 per square foot. Let's see, nine
10 dollars per square foot; nine dollars per
11 square foot; nine dollars per square foot; nine
12 dollars per square foot; \$9.45 per square foot.
13 And this is assessed, including the road, at
14 \$187,200 per acre. And from an assessment
15 standpoint that tells me that both the larger
16 and the smaller tract compared to surrounding
17 properties are assessed fairly.

18 Q: Okay. Have you had an opportunity to review
19 the information that was given to us from the
20 respondent?

21 A: Yes, I have.

22 Q: Does that change your opinion of value at all?

23 A: No, it does not.

24 Q: Okay.

25 MS. PIKE: Your Honor, I don't have any further

1 questions, but I would like to reserve the
2 right to call Mr. Fancey as a rebuttal witness
3 as well.

4 THE COURT: Sure. Thank you.

5 MR. FANCEY - CROSS-EXAMINATION BY MR. MATSON:

6 Q: Mr. Fancey, did you do an independent appraisal
7 of this property?

8 A: No, I did not.

9 Q: So what would you describe your role as?

10 A: I reviewed the appraisal as it was prepared for
11 the Board of Appeals.

12 Q: Okay. And all of these assessed and
13 surrounding equity, these maps and these --
14 this one that we just over.

15 A: Right.

16 Q: As well as this one, that wasn't prepared as
17 part of the appraisal; is that correct?

18 A: Not for the Board.

19 Q: Well, when I say appraisal, I mean to determine
20 an assessment for the value.

21 A: It was not part of my appraisal. These are
22 summaries that I prepared of the sales date,
23 assessment date.

24 Q: But you've had an opportunity to review the
25 appraisal that Mr. Cheslak put together, is

1 that correct?

2 A: Yes, I did.

3 Q: Are you pretty familiar with the contents of
4 them?

5 A: In a general form, yes.

6 Q: And this is Petitioner's Exhibit 4 here. You
7 prepared this document; is that correct?

8 A: Yes, sir.

9 Q: And over in that next to last on the right, you
10 have the assessor's values per square foot?

11 A: Uh-huh (affirmative response). Yes, sir.

12 Q: Okay. And what is the range of values you have
13 there?

14 A: Of the entire list?

15 Q: Yes.

16 A: From one to 14.72 a foot.

17 Q: And you have it organized as greater than five
18 acres and less than five acres; is that
19 correct?

20 A: Yes, sir.

21 Q: And is that indicated there where the black bar
22 is here?

23 A: That may be -- that may -- I can't -- I don't
24 think so necessarily.

25 Q: Okay. It's just --

1 A: That was just to delineate the 17400-2 at 12
2 and 14 as being split to sort of just
3 highlighting it by itself.

4 Q: I gotcha. Okay. So what would be -- you said
5 the range is from one dollar per square foot to
6 what?

7 A: To 14.72, the one dollar being a 32-acre site,
8 14.72 being a 1.17-acre site.

9 Q: Okay. So one dollar per square foot was on a
10 32-acre square foot?

11 A: Right, which we would generally not use for
12 that larger site.

13 Q: Okay. And you mentioned that you have outliers
14 or highs and lows that you would not use as a
15 statistical measure?

16 A: Within the context of the sales that appeared
17 in this report. In other words, I've not taken
18 sales that are not here and thrown them out for
19 that reason. I used the sales that were here
20 and made that comment within the context of
21 this study, or this analysis.

22 Q: Okay. So which -- can you tell by looking at
23 this which ones you threw out for that purpose?

24 A: I just said -- when you're doing an analysis,
25 you may have, for example, on that one sale at

1 \$26 a square foot, that was a Walmart, that
2 would be considered a high outlier and I would
3 probably throw that out in any analysis. In
4 this particular one, looking at the -- let's
5 see here. Looking at the say five acres and
6 under on a per square foot basis, I probably
7 would throw out the five dollar and the \$14.72
8 if I were doing an analysis of that size acre
9 analysis.

10 Q: Okay. And in reviewing this, doesn't it appear
11 that the assessor's value is typically lower
12 than the sales price in this? Just comparing
13 those two columns there.

14 A: What columns are you referring to?

15 Q: The sales price per square foot versus the
16 assessor's value per square foot?

17 A: That could be, yes.

18 Q: Okay. And how did you use the purchase price
19 of the subject properties? Would you consider
20 that an outlier? Or did you consider it ---

21 A: I did not consider that as -- I didn't consider
22 the sale itself as being a fair market
23 transaction but did not use it in the analysis

24 at all.

25 Q: Okay. And was that based on your ---

1 A: This analysis you're pointing to specifically
2 is assessed values, not sale prices.

3 Q: Okay. You bring up a good point. Did you do
4 an independent investigation as to whether this
5 was a fair market transaction?

6 A: No, I did not.

7 Q: So that opinion is based on Mr. Cheslak's?

8 A: That's his job, yes.

9 Q: But you used that information based on his
10 representation?

11 A: I reviewed his appraisal and I agree with his
12 appraisal.

13 Q: Okay. And I believe you said that, was it the
14 Walgreen parcel?

15 A: I believe that is the Walgreen's.

16 Q: Is that ...

17 A: I believe it's that parcel, yes. I cannot say
18 definitely.

19 Q: Okay. And it looks like the assessed value is
20 much higher on that parcel, isn't it?

21 A: Yes. Well, no, the assessed value is the same
22 value because it was an ATI for 2010.

23 Q: So in that case there was a very high value,
24 the ATI value was the same as the assessed, is
25 that what you're saying?

1 A: Apparently, yes.

2 Q: But when you have very low value as the ATI,
3 you don't necessarily consider the sales price?

4 A: We look at what happens with other sales in an
5 area, and typically, that Walgreen sale
6 reflects the sales of other types of
7 pharmacies, and therefore, that value is used.
8 But in the case of the subject property, as Mr.
9 Cheslak has testified, he looked at surrounding
10 sales and based on what he saw as existed in
11 the market, it did not appear to be a fair
12 market transaction in light of those sales.

13 Q: This is a fair market transaction in your
14 opinion ---

15 A: It would seem to be so, yes.

16 Q: Even though it's much higher than any of the
17 other ...

18 A: Assessed values.

19 Q: Sure.

20 A: Yes.

21 Q: Doesn't it seem like it's possible to have one
22 that's lower than that's ---

23 A: It's possible. And as has already been
24 testified, there are many cases in ATIs where
25 if the sale price is below our fair market

1 value but is in line with sales of similar type
2 properties in the area and is entirely
3 reasonable, we will use that value if it means
4 lowering the value on our records.

5 Q: Okay. And all of these assessed and
6 surrounding equity, that only has to do with
7 the outparcel, correct?

8 A: Well, that particular sheet, that's showing the
9 equity comparison. It also has the low site --
10 equity comparison for the larger subject tract.

11 Q: You were just talking about you would compare
12 with the user of the property, like a Walgreen
13 in this case. So -- is that correct?

14 A: Yes.

15 Q: You would look at a user? And would you
16 consider the user of this large tract to be the
17 same as the user of all of these outparcels?

18 A: I'm not sure I follow the question.

19 Q: Okay.

20 A: Obviously you're going to use a larger tract
21 differently than you would use a small tract.

22 Q: Exactly. I believe you said that there were no
23 large sales from '09 and '10; is that correct?

24 A: I'm relying in that case on the appraiser who
25 did the appraisal, yes. I did not check

1 personally myself.

2 Q: But there were no -- based on your information
3 from Mr. Cheslak, there were no large sales in
4 '09?

5 A: Not that I was aware of, right.

6 Q: But you're aware that this property sold in
7 '09, correct?

8 A: Yes.

9 Q: And that would be a large tract under your
10 definition of over five acres or over ten
11 acres?

12 A: Right.

13 Q: So based on that knowledge, wouldn't you say
14 that the market was lesser for large tracts in
15 '09 or '10?

16 A: Not necessarily. Depends on the location of
17 the property, location of the sales, and the
18 type of property in question and the
19 circumstances of the sale.

20 Q: Right, but there were no other sales, correct?

21 A: Well, we have the sale of the Lowe's which
22 occurred before '09, and there was a 10 acre
23 sale apparently, if I recall, in '09, but that

24 that was the largest one I could find at

25 10.3 acres -- 10.38 acres that was found at

1 17400-13 at one.

2 Q: Would you consider the number of sales as an
3 indicator of the market, as one indicator of
4 the market ---

5 A: As one indicator, yes.

6 Q: And if you only have one sale in two years,
7 would that indicate that the market was down
8 for a particular size, particular type of
9 property?

10 A: Possibly yes; possibly no. It just, again,
11 depends on the circumstances.

12 Q: Right. And you were depending on your
13 information from someone else, correct?

14 A: That's correct.

15 Q: I believe you said that ATI can be inequitable
16 because -- can you explain why ---

17 A: The ATI is not inequitable; it creates an
18 inequitable situation. Prior to ATI, if we
19 reassessed a block of property, those values
20 would be consistent and uniform and you could
21 look at them and there should be a good equity
22 that property A is assessed on the same basis
23 as approximately the same value of property F
24 if they're very similar type properties. With
25 the introduction of the ATI into the law,

1 property A could be based on a prior
2 reassessment, say 2009 value, December 31st,
3 2008, as the assessment date, but property F
4 could have sold in 2010, that creates -- you
5 cannot compare on an equity basis, this
6 property -- this property because you had the
7 sales now affecting value as they appear in the
8 assessor's records.

9 Q: Well, this sale doesn't necessarily affect
10 value, correct? It just allows the office to
11 reassess the property?

12 A: That's correct.

13 Q: The sales price may not have any bearing on the
14 actual assessment?

15 A: The mandate is to establish fair market value
16 for each assessable transfer of interest.

17 Q: Okay.

18 MR. MATSON: That's all I have of this witness, Your
19 Honor.

20 THE COURT: Thank you. Ms. Pike, do you have
21 anything on redirect?

22 MS. PIKE: No further questions, Your Honor.

23 THE COURT: Okay. Thank you, Mr. Fancey, you may
24 step down. And at this time, I'm going to call
25 a ten-minute break.

1 (Break from 11:50 a.m. until 12:09 p.m.)

2 THE COURT: Okay. Ms. Pike, you're ready?

3 MS. PIKE: Your Honor, I don't have any further
4 witnesses at this time.

5 THE COURT: Okay.

6 MS. PIKE: However, I would like to advise the Court
7 that I have one witness who is a diabetic and
8 he thinks he can make it through, Mr. Matson
9 and I have had a little discussion about how
10 much longer we think this is going to take and
11 Mr. Fancey has indicated that if he gets in bad
12 shape he's going to punch me and I'm going to
13 have to ask you if we could take a break and
14 run and get some food.

15 THE COURT: Oh, okay.

16 MS. PIKE: Thank you. We're going to try to make it
17 through this though.

18 THE COURT: Okay. Well, Mr. Fancey, don't hesitate
19 to let us know.

20 MR. FANCEY: Thank you. I appreciate it.

21 MS. PIKE: Thank you, Your Honor.

22 THE COURT: Mr. Matson.

23 MR. MATSON: Yes, Your Honor. At this time, I'd
24 like to call Wayne Grovenstein.

25 THE COURT: Come forward. Was it Exhibit 1 through

1 6?

2 MS. PIKE: I'd like to move that those be admitted
3 into evidence, Yes, Your.

4 THE COURT: Okay. Mr. Matson?

5 MR. MATSON: No, objection, Your Honor.

6 THE COURT: Okay. They're admitted. Thank you.

7 (Petitioner's Exhibit Numbers 3 through 6 were
8 admitted into evidence.)

9 MR. MATSON: Your Honor, with your permission, I
10 provided the Court and opposing counsel with
11 this binder of exhibits and if we could refer
12 to that instead of me putting them all up here,
13 I'll give this copy to the witness; would that
14 be fine?

15 THE COURT: That is fine. That is fine. And I'm
16 sorry to keep you standing. What is your name,
17 sir?

18 MR. GROVENSTEIN: Wayne Grovenstein.

19 THE COURT: Okay. If you'll face the court reporter
20 and raise your right hand, she will swear you.

21 WAYNE GROVENSTEIN, being duly sworn, testifies as
22 follows:

23 MR. MATSON: Your Honor, if I may approach the
24 witness.

25 THE COURT: Yes, you may.

1 MR. MATSON: So that he may refer to this.

2 MR. GROVENSTEIN - DIRECT EXAMINATION BY MR. MATSON:

3 Q: Mr. Grovenstein, please tell the Court your
4 name and spell your last name for the record.

5 A: It's Wayne Grovenstein, G-R-O-V-E-N-S-T-E-I-N.

6 Q: And how are you currently employed?

7 A: I'm general counsel for Hull Storey Gibson
8 Companies.

9 Q: And how long have you been in that position?

10 A: Seventeen and a half years.

11 Q: All right. And you're aware that the property
12 owner of record in this case is SC Bypass,
13 right?

14 A: That's correct.

15 Q: And what is Hull Storey Gibson's relationship
16 with SC Bypass?

17 A: Hull Storey Gibson Companies is a management
18 company. We manage a portfolio of assets for
19 a small group of individuals who form
20 individual limited liability companies or
21 limited partnerships to own each of the
22 particular assets. So we have a portfolio of
23 20 middle market malls. We've built 35 Lowe's
24 stores. We've built a dozen grocery stores.
25 We've got 12 million square feet under

1 ownership and management in a series of limited
2 liability companies that are each owned for the
3 particular property. And SC Bypass was formed
4 for the purchase of this -- of the subject
5 parcel.

6 Q: And when you're referring to the subject
7 parcels, those would be the two parcels that
8 are under appeal today, correct?

9 A: That's correct. I refer to them as one
10 property because that's how we bought it was as
11 one property. We paid one purchase price for
12 the property.

13 Q: And when you say we, you were involved in the
14 acquisition of that property?

15 A: That's correct.

16 Q: Okay. How did you first become involved in
17 that acquisition of the property?

18 A: We had -- in the neighborhood, we attempted to
19 have a contract on a larger parcel next to I-
20 77. We never could get to contract on that
21 property. We did have a contract on a 165-acre
22 parcel across from the Walmart on the other
23 side of I-77. We did not subsequently close on
24 that property. We bought the property across
25 the street from the subject property and

1 developed a Lowe's store. And in all of those
2 cases I drafted the contract, worked with the
3 other -- with the seller's attorney, with the
4 broker, etcetera. On this property, one of the
5 principals, Barry Storey, made contact with the
6 broker. They talked about the property, the
7 subject property, the 23 acres plus 1.7 -- 25
8 acre property, and he came to me with here's
9 the -- here's the basic terms, I want to make
10 him an offer. I wrote up a -- an offer letter
11 and we submitted it to them at a million two.
12 They marked through the purchase price, changed
13 it to a million five and sent it back to us.
14 We accepted it. We had a contract at a million
15 five.

16 Q: All right. I'm going to show you what we've
17 marked as Respondent's Exhibit 3, if you could
18 turn in the exhibit book for me, please.

19 A: You said tab three, right?

20 Q: Yes, it's Exhibit 3, tab three, page one. Are
21 you familiar with this document?

22 A: I am. It's an offer letter, offer contract
23 that I wrote up for Barry. We sent it to the
24 broker for Crescent Resources, which is
25 Colliers Keenan and Craig Waites here in

1 Columbia, and we sent that to them. Sent to
2 them and the contract to buy the 22.38 plus the
3 1.72 acre. It indicates 1.88 but that's a
4 drafting error that they didn't own the 1.88
5 acre parcel. But the 22.38 plus the 1.72 at a
6 purchase price of a million two, \$75,000
7 deposit, etcetera. They marked through the
8 million two, indicated a million five, sent it
9 back to us. They signed it on the second sheet
10 and we initialed it, Barry initialed it there
11 and that was our purchase price for the
12 property. They'd been marketing that property
13 since 2006, and Colliers Keenan is a broker
14 here and does a lot of property marketing.

15 Q: All right. Going back to the letter, you see
16 there's lot of handwriting on this.

17 A: Yes.

18 Q: You drafted this letter; is that correct?

19 A: That's correct.

20 Q: And when you drafted it, did it have this
21 handwriting on it?

22 A: No.

23 Q: Okay. So can you -- so we see purchase price
24 scratched through.

25 A: Yes. The way it's written without any

1 handwriting on it is the way we drafted it and
2 we sent it -- sent it to the seller. The
3 seller made the marks of the purchase price,
4 the note here under earnest money, and the
5 seller added their signature line at the bottom
6 dated May 6, it was Elizabeth McMillan, May 6,
7 2009, and returned it to us. Outside beside
8 her handwritten marks, okay, EAM, Elizabeth
9 McMillan, and then Barry Storey initialed right
10 next to it in both places.

11 Q: Okay. So there was, would it be fair to say
12 that there was some back and forth in
13 negotiating ---

14 A: Absolutely.

15 Q: --- based on this document?

16 A: Absolutely.

17 Q: Okay. And we see it's signed here as you,
18 Wayne Grovenstein, correct?

19 A: Yes.

20 Q: And it says Hull Storey Acquisitions, LLC. Can
21 you explain why it would say that at the
22 signature line?

23 A: Hull Storey Acquisitions, LLC is an entity that
24 we formed to go out when we go out and put
25 together a property for a Lowe's project or for

1 a -- to buy a mall, etcetera, we will use Hull
2 Storey Acquisitions, LLC. It has very limited
3 assets. Once it enters into a contract, we
4 typically close that contract in a single
5 purpose entity. And on this contract it even
6 says on the first page, buyer, one or more
7 designees of Hull Storey Acquisitions currently
8 existing or to be formed to purchase the
9 property. So that is -- LLC is not the company
10 that -- it's not Hull Storey Gibson Companies
11 which is the -- which manages the portfolio.
12 It is another entity we formed to purchase
13 properties like this.

14 Q: And in your position at Hull Storey Gibson, you
15 would use that LLC to purchase the property; is
16 that correct?

17 A: We would not use Hull Storey Acquisitions to
18 purchase the property; we would form an asset,
19 an entity to purchase that asset.

20 Q: And that would be SC Bypass in this instance?

21 A: Correct.

22 Q: Okay. And so ---

23 A: And part of the reason we do that is lenders
24 require it. They don't want their asset com-
25 mingled with other assets. They don't want

1 Matt Matson, LLC to go buy this property and
2 this property and this property and get a loan
3 on this property, well, bad things that happen
4 to these other two are going to affect their
5 asset. They want Matt Matson, LLC to own this
6 property, then they want Wayne Grovenstein, LLC
7 to own this property, and Asset Three, LLC to
8 own this property. They want them separate,
9 and that's something lenders require.

10 Q: So this is something that you would do in
11 everyday business?

12 A: Every day.

13 Q: And you alluded to the signatures here,
14 Elizabeth McMillan, do you know who that is?

15 A: She's an executive, Crescent Resources who
16 signed on behalf of Crescent Resources.

17 Q: And below that is?

18 A: Barry Storey, he's a principal of Hull Storey
19 Gibson and Hull Storey Acquisitions.

20 Q: And would those be the initials that appear on
21 the first page under purchase price next to it?

22 A: Correct. EAM is Elizabeth McMillan and BLS is
23 Barry Storey.

24 Q: Okay. And so the parties from each side had
25 signed it as of that date, is that correct?

1 A: Yes, May 9th -- May 8, 2009.

2 Q: Okay. And did Hull Storey and Crescent
3 Resources close on that property after this
4 exchange of letters?

5 A: They did not. One of the things Crescent
6 subsequently wanted was a two year right of --
7 a two year right of first refusal. If we sold
8 the property or part of it within those two
9 years, they wanted to be able to come back in
10 and buy it. If we developed it and leased it,
11 fine. If we sold it, they wanted to be able to
12 come back in and buy it. Our contract doesn't
13 provide for that and my recommendation was to
14 not agree to it. After we signed the contract,
15 about a week later, they sent -- they sent a
16 letter purporting to withdraw the contract ---

17 Q: And, sorry to interrupt you, when you say
18 letter, are you referring to page three of
19 Exhibit 3?

20 A: Correct.

21 Q: And go ahead and please describe your
22 understanding of that letter.

23 A: They indicated hey, we don't have a contract;
24 we're withdrawing our letter of intent,
25 etcetera. The thing is the letter of intent

1 was not a non-binding letter of intent. If
 2 it's a non-binding letter of intent, it'll say
 3 so. This is a contract. It doesn't -- it
 4 provides that they will sell, we will buy,
 5 here's the purchase price and here's the
 6 closing date. They took it to be a non-
 7 binding letter of intent. We got crossways
 8 with them and we prepared and filed a lawsuit
 9 in connection with this case. I think it was
 10 filed in Charlotte, which is where they are
 11 located.

12 Q: So on May 8th, both parties had signed?

13 A: Yes, meeting of the minds.

14 Q: And then May 14th, you received this letter?

15 A: Yes.

16 Q: Okay. And then obviously, you didn't close at
 17 that point; is that correct?

18 A: That's correct.

19 Q: And then if I could turn your attention to
 20 pages five and six.

21 A: Yes.

22 Q: Could you describe those documents, or that
 23 document to us.

24 A: The letter dated May 15th on page five and six
 25 is a -- it's a trap. They sent a letter saying

1 hey, we're looking for best and final, which
2 indicates to me that somebody else come out of
3 the woodwork and offered them more than the
4 million five in that one week period. Hey,
5 we're looking for best and final offer, make us
6 an offer, which if you make them an offer would
7 rescind your -- would rescind your contract.
8 We had a contract.

9 Q: So on the 14th they sent you a letter saying
10 back the contract, and on the 15th you get this
11 letter that says?

12 A: It says hey, make us a -- make us a new offer.

13 Q: Okay. And how did you respond to that, or how
14 did -- what did you do after you received the
15 May 15th letter asking for a final and best
16 offer?

17 A: Like I said, we hired litigation counsel,
18 drafted a lawsuit to them for specific
19 performance of the May contract.

20 Q: And why would you do that?

21 A: Because we wanted to purchase the property; we
22 had a contract to purchase the property; the
23 price was fair and reasonable and we were ready
24 to move forward.

25 Q: Did you have any other communications other

1 than these letters, emails, phone calls with
2 Craig Waites or Elizabeth McMillan or any of
3 the parties who signed these documents?

4 A: Yeah, I spoke with both and Elizabeth a couple
5 of times in that week period.

6 Q: And were the two parties able to come to an
7 agreement as to the purchase of the property at
8 that time?

9 A: No.

10 Q: Okay. What was the next step you took? I know
11 you said you hired litigation counsel. What
12 was the next thing that happened in the
13 sequence that led to the property purchase?

14 A: We filed the -- we filed a lawsuit in June of
15 maybe the first part of July and proceeded to
16 have it served on the -- on Crescent Resources.
17 And they filed -- they filed a petition in
18 bankruptcy in Texas. Crescent Resources is a
19 spinoff of Duke Power. Duke Power had a lot of
20 excess land and they had -- they had been using
21 these folks to develop and sell that land over
22 a long period of time. And at some point, they
23 spun that group off with that -- with that land
24 and they were a standalone company. They came
25 out of Duke Power.

1 Q: Have you ever had any dealings with Crescent
2 Resources as far as long acquisitions or
3 anything prior to this?

4 A: Not with them directly. We bought the Lowe's
5 property across the street from Hendon who had
6 bought it from Crescent.

7 Q: Okay. And how did you become aware of Crescent
8 Resources' bankruptcy?

9 A: We received a notice. They claimed we were a
10 -- they sent us a notice as a party to an
11 executory contract.

12 Q: Okay.

13 A: Just the automatic stay.

14 Q: And did you receive the letter that's on page
15 seven of Exhibit 3; are you aware of what that
16 is?

17 A: Yes, I did.

18 Q: And that just advises that we're going through
19 bankruptcy?

20 A: That's correct.

21 Q: Okay. And you obviously still pursued the
22 property after you received this notice?

23 A: Yes, we made an objection in the bankruptcy
24 court with the trustee, hey, we've got a
25 contract to buy this property, we'd like to buy

1 this property. They had a -- they had another
 2 contract to buy the property at \$1,775,000. I
 3 don't have a copy of it, but they informed us
 4 that they did have another contract. But the
 5 trustee, their job, they charge under the
 6 bankruptcy is to maximize the estate for the
 7 unsecured creditors. It's an executory
 8 contract, the other contract is an executory
 9 contract, he could have done nothing and
 10 rejected both contracts. He could have
 11 collected and sell to either one, but they
 12 elected, the trustee elected to maximize the
 13 sale proceeds and hold a bidding procedure.
 14 And the next page is the instructions for the
 15 bidding procedure, which was held in the office
 16 of a law firm in Charlotte.

17 Q: And did you or did Hull Storey Gibson
 18 participate in that bidding procedure?

19 A: I did not but Barry Storey went and bid on the
 20 property. We put up our earnest money of
 21 \$100,000 and a good-faith deposit and went and
 22 bid on the property, and we were ultimately the
 23 successful bidder at 1,975,000. So they
 24 increased the amount they received for the
 25 property from a million five to a 1,975,000 in

1 a matter of two and a half months using this
2 bankruptcy procedure.

3 Q: So pages eight and nine, those are the bidding
4 procedures that you're referring to?

5 A: That's correct.

6 Q: And how would you have come into possession of
7 this, or how would you have known about this
8 bid?

9 A: When we objected they established the bidding
10 procedure and sent the bidding procedure to us.

11 Q: And what was the opening bid for that sale?

12 A: Required opening bid was 1,775,000 and
13 increases, subsequently, those were required in
14 \$50,000 increments.

15 Q: And Hull Storey Gibson was the eventual winner
16 of that bid?

17 A: That's correct.

18 Q: And so did the parties close after that?

19 A: Yes.

20 Q: Okay. And I'm going to show you what's marked
21 as pages 10 through 13 of Exhibit 3.

22 A: Yes.

23 Q: Do you recognize those pages?

24 A: That's the closing statement of the purchase of
25 the property.

1 Q: And would this be a document that you would
2 deal with a lot when you're acquiring a
3 property?

4 A: Yes, I prepared it.

5 Q: You prepared this?

6 A: Yes.

7 Q: Okay. And does it reflect what the
8 consideration paid for the property is?

9 A: Sure. The buyer statement side, the purchase
10 price listed at the top right corner at
11 1,975,000.

12 Q: And can you just walk through and explain the
13 ---

14 A: Yes. The purchase price is listed at -- there
15 are two sides to a closing statement, there's
16 the buyer statement and the seller statement.
17 The buyer side we're at purchase price of
18 1,975,000. We made the earnest money deposit
19 of \$100,000, so we received credit for that.
20 There were some rollback taxes from I believe
21 2004 and 2005 on the property that the seller
22 had to pay those rollback taxes, and then there
23 was the ad valorem taxes for the current year
24 for 2009 prorated and the 15,545.49 reflects
25 the proration of those ad valorem taxes. So

1 that's credits of \$144,337, and actually, it's
 2 -- somebody else paid credits 26 plus the 15
 3 plus the 1940, the \$100,000 we had simply
 4 previously paid to the seller. And the net
 5 price, or the net amount paid at closing was
 6 1,830,000. But the purchase price was
 7 1,975,000. The second sheet shows the -- it
 8 has notes. First is the rollback tax -- taxes,
 9 is an explanation of rollback taxes. Note
 10 number two authorizes the law firm that
 11 conducted the auction, the bankruptcy sale, it
 12 authorizes them to pass the \$100,000 amount on
 13 to the seller. Number three talks about
 14 recording charges paid outside of the closing.
 15 Actually, number four talks about the proration
 16 of the tax -- taxes for 2009. And what was on
 17 the tax assessor's web page showed the taxes at
 18 --899 and 50, showed them at like \$940,000, which
 19 is where these numbers came from as the taxes
 20 due and the fair market value for the property.
 21 Q: Do you know what the total estimated 2009 taxes
 22 were for the year of the transfer?

23 A: 21,637 plus 1427 leaves a total of \$23,065.47.

24 Q: Do you know what that was how that was
 25 discovered? How --

1 A: How they were estimated?

2 Q: Yes.

3 A: They were estimated from the -- from the tax
4 assessor's online records and showed the value
5 of the property. We used the tax assessor's
6 sheet to estimate the 2009 value based on the
7 value shown in their -- in their records, the
8 taxable amount shown in their records, and the
9 tax rate for 2008. We prorated the taxes for
10 2009 based on the 2008 tax rate because the
11 2009 tax rate had not been established by the
12 county government.

13 Q: Okay. So the total tax estimate for 2009 was
14 23,065 is that correct?

15 A: That's correct.

16 Q: Would you happen to know what the -- if that
17 was the actual taxes for 2009?

18 A: I don't know, but I -- it was not far off of
19 that.

20 Q: Okay. All right. And this purchase came
21 through a bankruptcy sale?

22 A: Yes.

23 Q: You were obviously aware of that the time that
24 the purchase was made, correct?

25 A: Absolutely.

1 Q: And what, if any, risk did you see in
2 purchasing it at a bankruptcy sale?

3 A: None. It's a better state of title for a
4 purchaser to buy at a bankruptcy sale than it
5 would be -- if I were going to buy a piece of
6 property from Mr. Hanna, for example, I would
7 have to worry about the creditors of Mr. Hanna
8 coming out of the woodwork after the closing.
9 If Mr. Hanna hadn't paid the guy that fixed his
10 roof, or if he had a federal tax lien, if he
11 had any other kind of lien, I would have to
12 worry about those people coming along. Whether
13 or not they could actually take the property,
14 I'd have title insurance, but whether they
15 could take the property is -- I would have to
16 deal with them in their chosen forum. File a
17 lien, I've got to go sue them in the courthouse
18 etcetera. With a bankruptcy sale, anybody
19 who's making a claim against that property is
20 making the claim through the debtor. There's
21 an automatic stay. There's a procedure that
22 they have to bring their claims through the
23 bankruptcy court. If somebody comes out out of
24 the woodwork later, six months later and says
25 oh, wait, I wasn't paid on this; I'm owed --

1 you know, I'm entitled to a lien against the
2 property, the bankruptcy court retains
3 jurisdiction and we take them back to the
4 bankruptcy judge, and it's not a matter of
5 whether they can take the property, it's how
6 much the sanction is going to be against them
7 for trying.

8 Q: Mr. Grovenstein, you obviously had a lot of
9 dealings in the purchase of this property?

10 A: Yes..

11 Q: Do you know how long it was marketed or how
12 long it was exposed to the market?

13 A: Colliers, the -- our grantor purchased the
14 property in 2005 and marketed it continuously
15 from that point forward.

16 Q: And you've been a part of ---

17 A: So from 2006 through the middle of 2009.

18 Q: You've been in negotiations and part of
19 acquisitions of a lot of commercial property;
20 is that true?

21 A: Correct.

22 Q: Would you consider that a reasonable exposure
23 to the market from 2005 to 2009?

24 A: Absolutely.

25 Q: And you represented the buyer here and you

1 worked with the seller, do you have any reason
2 to believe that the seller or buyer was not a
3 willing participant in this sale?

4 A: No, everybody was a willing participant. The
5 buyer, we wanted to buy the property. The
6 seller, they wanted to sell the property. And,
7 you know, they had a -- they had a way if they
8 didn't want to sell the property, they had a
9 way out. Once they filed that bankruptcy
10 petition they could have canceled their -- the
11 executory contracts and retained the property.
12 They decided to proceed with the auction.
13 After the auction was complete, they could have
14 canceled the executory contract if they were
15 not satisfied with the purchase price and
16 retained the property. They elected to
17 proceed.

18 Q: Based on your knowledge of this purchase and
19 the deal, do you see any reason to believe it
20 was not an arms length transaction, bonafide
21 sell of the property?

22 A: No.

23 MR. MATSON: Your Honor, that's all I have at this
24 time of this witness. And I would also move to
25 have Exhibit 3 entered into the record.

1 THE COURT: Okay. Ms. Pike, any objection?

2 MS. PIKE: No objection.

3 THE COURT: Okay. It's entered. Thank you.

4 MR. MATSON: Thank you.

5 (Respondent's Exhibit Number 3 was admitted into
6 evidence.)

7 THE COURT: Ms. Pike.

8 MR. GROVENSTEIN - CROSS-EXAMINATION BY MS. PIKE:

9 Q: Mr. Grovenstein, would you say that all sales
10 that are reasonably exposed to the market and
11 you've got a willing buyer and a willing
12 seller, would you say that all of those are
13 fair market value sales?

14 A: If they reflect the -- they reflect the market
15 that was in place with that buyer and that
16 seller at that moment.

17 Q: But may not reflect what other similar
18 properties are selling for?

19 A: They reflect what that property sold for.

20 Q: Okay. Are you aware that there is a difference
21 between the assessor's taxable value and the
22 assessor's fair market value of the property?

23 A: Yes, ma'am.

24 Q: Okay. So when you made the statement a few
25 minutes ago and you were referring to what

1 value the assessor had on that property, do you
2 know whether that was the taxable value or the
3 fair market value that the assessor had on it?

4 A: It was the value that was the basis for the
5 taxes that were being paid.

6 Q: So would that not be the taxable value?

7 A: I'm not sure -- I'm not sure how the assessor
8 does it; whether they charge taxes based on
9 their fair market value or taxable value or
10 assessed value, but in this case, the proration
11 was based on the value that the assessor was
12 collecting taxes on.

13 Q: So then could you tell me what the difference
14 is then between the tax assessor's fair market
15 value and the tax assessor's taxable value?

16 A: Well, as far as what we're here appealing, or
17 what the tax assessor is trying to do in this
18 case with respect to the ATI, I don't think
19 there is a difference. I think that the tax
20 assessor is trying to increase the taxable
21 value up to a number that they're calling the
22 fair market value, and I think they're both the
23 same with respect to this property and the ---

24 Q: But, Mr. Grovenstein, are you aware that the
25 tax assessor for every single piece of property

1 has two numbers on its books, the fair market
2 value and the taxable value?

3 A: Okay.

4 Q: Are you aware of that?

5 A: Yes, ma'am.

6 Q: Do you understand what the difference between
7 those two numbers would be?

8 A: The tax assessor, I'm not sure why they have
9 two different values, no.

10 Q: All right. So when you were you were referring
11 to fair market value a few minutes ago when you
12 were talking about the computation, you don't
13 really know whether that was the tax assessor's
14 fair market value or whether it was the tax
15 assessor's taxable value; is that not accurate?

16 A: What I was referring to was the value that the
17 taxes were being charged on in 2009.

18 Q: Okay. All right. Mr. Grovenstein, have you
19 purchased -- in your role with Hull Storey,
20 have you purchased other properties that have
21 been auctioned through the bankruptcy court?

22 A: I don't recall. I don't think so, but I don't
23 -- I don't recall doing that.

24 Q: Have you ever purchased any properties in your
25 role with Hull Storey that have been otherwise

1 sold pursuant to a bankruptcy?

2 A: I don't believe so.

3 Q: Do you have any knowledge as to whether
4 bankruptcy sales are actual fair market value
5 sales, or do they typically sell for less
6 money?

7 A: I'm not an appraiser, but I have actual
8 knowledge of this case. And in this case, we
9 had a -- we had an arms length contract with
10 the seller. We had entered into a contract at
11 \$1,500,000, and subsequent to that, through the
12 use of the bankruptcy sale, they increased the
13 value that they received by \$475,000 over that
14 arms length market transaction.

15 Q: But you agree that arms length may not
16 necessarily mean fair market value ---

17 A: I'm not sure what you're ---

18 Q: --- arms length could be less?

19 A: --- finding as fair market value. I think that
20 the amount that a willing purchaser and a
21 willing seller agree to for a property is the
22 fair market value for that property.

23 Q: All right.

24 MS. PIKE: No further questions, Your Honor.

25 MR. MATSON: That's all I have for this witness.

1 Your Honor.

2 THE COURT: Okay. Thank you, Mr. Grovenstein.

3 MR. GROVENSTEIN: Thank you.

4 MR. MATSON: Your Honor, at this time, Respondent
5 would call James Hull.

6 THE COURT: Before you take your seat, if you'll
7 face the court reporter and raise your right
8 hand, she will swear you.

9 JAMES HULL, being duly sworn, testifies as follows:

10 MR. HULL - DIRECT EXAMINATION BY MR. MATSON:

11 Q: Mr. Hull, could you tell the Court your name
12 and please spell your last name for the record.

13 A: Jim Hull, H-U-L-L.

14 Q: And your last name?

15 A: Hull, H-U-L-L.

16 Q: All right. And, Mr. Hull, how are you
17 affiliated with SC Bypass?

18 A: I'm a member/manager.

19 Q: Okay. And what do you do for a living?

20 A: I'm in the real estate business. We buy and
21 develop and manage. I like to say I fix roofs
22 and toilets.

23 Q: Okay.

24 A: And collect rent.

25 Q: Okay. How long have you been in the real

1 estate business?

2 A: Forty years plus.

3 Q: What did you do when you started out in the
4 real estate business?

5 A: I was a fee appraiser and I did fee appraisal
6 work for several years.

7 Q: How many properties would you estimate that
8 you've appraised over the course of your real
9 estate career?

10 A: Well, the first several years when I was a fee
11 appraiser, I did third-party appraisal work,
12 but really in the business of I was a real
13 estate broker and then I was, you know,
14 developed shopping centers and bought and sold
15 properties. And appraisal valuation is a
16 foundation piece for any real estate activity.
17 And it's the basis that all these young folks
18 ought to do first. And so in that context,
19 every day I'm doing appraisal work, valuation
20 work.

21 Q: So whenever you purchase a property, you try to
22 come to a value of the property, correct?

23 A: I do.

24 Q: Whether you do a formal appraisal or not?

25 A: That's correct.

1 Q: All right. And for the subject properties here
2 today, did you prepare a formal appraisal prior
3 to purchasing the property?

4 A: I prepared an appraisal. When you're not doing
5 third-party work, you know, I'm not meeting the
6 professional standards as set for the third-
7 party work, but we're going through the same
8 basis become -- the appraisal is done for
9 myself. And so I did prepare an appraisal; I
10 did the requisite work with the same
11 methodology that Mark used.

12 Q: Okay. Prior to purchasing the property, were
13 you familiar with the commercial property in
14 Richland County and in this area in particular?

15 A: I was. Our history here in Richland County has
16 been we first got involved up on Clemson Road.
17 There's a very nice tract that's a 370-acre at
18 the corner of I-77 and Clemson Road, and it had
19 had a lot of problems with wetlands, we had to
20 fill in the pond and all that kind of stuff.
21 And we worked very hard for three or four
22 months, very near having a contract to purchase
23 that property. That was the property that we
24 were sent over here to try to get, that's the
25 property Lowe's wanted. And we just couldn't

1 come to terms. We subsequently went under
 2 contract with the property which is directly
 3 across the street from Walmart on Clemson Road,
 4 and that tract was about a 160-acre tract. We
 5 had a contract for about \$25,000 an acre. Had
 6 a lot of frontage on I-77 and had frontage on
 7 Clemson Road. And but we couldn't consummate
 8 that because it was just too much property, and
 9 so -- in fact, I got to research that this
 10 morning, Mr. Matson. The 90-acre tract we had
 11 a contract for \$4,370,000, which was \$36,666
 12 per acre, and that was entered into on January
 13 11, 2007, and amended February 2nd, 2007. The
 14 seller was Phoenix Partners. Then we entered
 15 into an additional contract of an additional 75
 16 acres contiguous with that property, contract
 17 dated June 28th, 2007. And that price was
 18 \$22,000 per acre. So our average -- average
 19 price was \$26,451 per acre.

20 Q: And where are those properties in relation to
 21 the subject properties today?

22 A: They're located at the intersection of Clemson
 23 Road and I-77. And the subject property is on
 24 the -- what side of Clemson Road? -- The north
 25 side. The subject property is on the north

1 side of Clemson Road. So this would be the
2 south -- southwest quadrant of Clemson Road and
3 I-77.

4 Q: Okay. So you've had a lot of dealings in the
5 area as far as commercial real estate in that
6 specific section of Clemson Road in Richland
7 County?

8 A: I did a whole lot of work in that area of
9 Clemson Road to include purchasing the property
10 that we built the Lowe's, and all which we
11 researched what we had to do to close. There
12 weren't a lot of comparable sales and, you
13 know, the market availability of property on
14 such and such, which we did. So I did know a
15 good bit about the property.

16 Q: Okay. And you've had an opportunity to review
17 the assessor's appraisal of these properties;
18 is that right?

19 A: I have.

20 Q: And have you put together anything in response
21 to that?

22 A: I did. And it's Exhibit 1 here.

23 Q: If I can turn your attention to Exhibit 1. On
24 the first page, what is this document?

25 A: That is the market data approach of selecting

1 five comparables in the area of the subject
2 property and adjusting them for various factors
3 to arrive or derive a indicated value as
4 compared to the subject property.

5 Q: And you prepared this document; is that
6 correct?

7 A: I did.

8 Q: Okay. And how did you determine which
9 properties you would use as comparables?

10 A: Let's see, I used the assessor's four
11 comparables. I think I had two others that
12 were included.

13 Q: So comparable one you got from the assessor ---

14 A: Yes, that was their ---

15 Q: --- as one they used for their report?

16 A: --- assessor's comparable, it was.

17 Q: Okay. And what adjustments did you make to use
18 that as a comparable for the subject property?

19 A: The comparable sales that the assessor used
20 there had frontage on Clemson Road in the rear
21 -- I guess it's the rear street as well, and
22 also the rear of Killian Street -- Clemson and
23 Killian out there run together a little bit.

24 And then the location at I-77 is a plus for the
25 comparable. So to compare it to the subject,

1 we deducted 15 percent. And then we've heard,
 2 you know, a good bit today about, you know the
 3 market falling off after in the middle of 2008.
 4 One thing I think we need to keep in mind that
 5 I didn't hear today on adjustments is most of
 6 these commercial contracts close anywhere from
 7 six months to two years after they were
 8 executed. So when we pick up these sales,
 9 particularly these 2008 sales, they were really
 10 negotiated in 2007. And I know we've heard a
 11 lot testimony there were no good sales in 2009
 12 other than the subject property, which is very
 13 reflective of the market at that time. But in
 14 this case I used a 15 percent adjustment
 15 similar -- exactly what the assessor used I
 16 think I heard him testify, 15 percent for that
 17 particular time period. I used five months; I
 18 used a longer period. That gave us total
 19 adjustments of \$146,000 and if you do the math,
 20 as Mr. Fancey does, you come out to an
 21 indicated per acre value for the subject
 22 comparing the comparables to the subject after
 23 all adjustments of \$97,983 per acre.
 24 Q: Okay. And I believe you stated that you
 25 performed this not as a -- not as for a third

1 party; is that correct?

2 A: That is correct.

3 Q: So -- which is something you don't do any
4 longer; is that correct?

5 A: No, I was a licensed real estate appraiser in
6 Georgia for several years. And I'm a licensed
7 real estate broker in Georgia for 40 years,
8 it's a long period of time. But the licensing
9 standards, continuing education standards, I
10 gave up my appraisal license voluntarily, I
11 never had an action. I've been admitted courts
12 in North Carolina, Georgia. I testified in
13 front of administrative law judges expert
14 witness here in South Carolina, Tennessee, all
15 admitted as an expert witness on valuation of
16 commercial properties. But I don't do any
17 third party work or any fee work, nor do I do
18 any brokerage work. They don't have a
19 mechanism in the appraisal business to have an
20 inactive license. And in the real estate
21 business you can go inactive, but in appraisal,
22 I just gave it up.

23 Q: All right. And the other pages of this
24 exhibit, 2 through 30, those were all done and
25 examined under this comparable sales approach;

1 is that correct?

2 A: That is correct.

3 Q: Okay. And do you know where these computer
4 printouts came from as far as like page 3, page
5 4?

6 A: They came from the tax assessor's Richland
7 County websites.

8 Q: And would those be fair and accurate
9 representations of those websites, to the best
10 of your knowledge?

11 A: Yes.

12 Q: Okay.

13 MR. MATSON: Your Honor, I'd seek to admit pages 1
14 through 30 of Exhibit 1 at this time based on
15 his testimony.

16 MS. PIKE: No objection.

17 THE COURT: All right. Thank you.

18 (Respondent's Exhibit Number 1 pages 1 through 30
19 were admitted into evidence.)

20 Q: You don't do appraisals for third parties, but
21 you do informal appraisals as part of your
22 everyday work; is that a fair ---

23 A: Yes, I do appraisals every day, valuation, and
24 follow the same procedures because that's just
25 the--- that's what you go by, that's all we had

1 to do. The book of knowledge on appraising is
2 not that thick. It's, you know, not that many
3 fundamental things you have to learn, and it
4 applies whether you're doing it for yourself or
5 a third party.

6 Q: All right. And I believe you said that
7 comparables one, two, and three were all
8 properties that the tax assessor's office had
9 used in their appraisal; is that correct?

10 A: Yeah, I think the comparable number one is
11 mislabeled here. It's actually two tracts, but
12 yeah, essentially it's exactly -- the first
13 four is exactly what they used.

14 Q: Okay. And those three comparables were all
15 sold in 2008; is that correct, to your
16 understanding?

17 A: Oh, let's see here. The first one was sold on
18 March 24th, 2008. The second one the same
19 date, March 24th, 2008. The middle piece was
20 March 25th, 2008. And the assessor's
21 comparable number three was sold on August
22 29th, 2008.

23 Q: All right. And comparable three, you're
24 familiar with that transaction; is that right?

25 A: Yes, I bought it.

1 Q: How are familiar with that comparable three?

2 A: A LLC that I'm a member/manager of purchased
3 it.

4 Q: Okay. So you were involved in that sale ---

5 A: I was.

6 Q: --- you were the purchaser in that sale? Okay.
7 And I see that you have some adjustments from
8 the gross sales price to the indicated value
9 for the subject property. Would you explain
10 what your opinion as to the value, why it's
11 different from the Lowe's parcel versus the
12 subject parcel?

13 A: Well, the comparable, which is the Lowe's, had
14 the seller, we had a hold back for the seller
15 for the tax, income tax the reason we do it
16 this way. It's on the closing statement of
17 \$250,000. And then to compare the difference
18 in the infrastructure that was existing on the
19 comparable number three to the infrastructure,
20 particularly the storm drainage on the
21 comparable number three to the subject
22 property, we made another adjustment. And then
23 we had -- and I think this is a very big point
24 in the valuation, that the comparable here for
25 the Lowe's is substantially better location in

1 that it has the double access to the Killian
2 Road. And that's a very strong point. And I
3 use only a, you know, a ten percent I think
4 adjustment on that, and it in fact, could be a
5 lot more. You know, having that second road is
6 worth a lot. And then also we made, you know,
7 other adjustments.

8 Q: Did you consider the easements and restrictive
9 covenants that were part of the ---

10 A: We did and, you know, Mark testified about that
11 earlier as well. The subject property has a
12 deed restriction, you know, as to the
13 drugstore. And I think the Lowe's restrictions
14 were much more extensive. And then, you know,
15 also the, you know, subject property is not as
16 burdened with the restrictions if you read
17 them.

18 Q: All right. And I believe the easements are all
19 in Exhibit 5; is that correct? The
20 restrictions that you were just mentioning?

21 A: Yes.

22 Q: And if I could turn your attention to Exhibit
23 2 at this time. On Exhibit 2, page one, could
24 you tell me if you recognize this, and if so,
25 what it is?

1 A: That's what?

2 Q: Exhibit 2 would be tab 2 in that book, first
3 page.

4 A: Exhibit 2, the equity comparison, is that what
5 you're referring to?

6 Q: Yes, sir, do you recognize that?

7 A: Yes, I did. I prepared this.

8 Q: You prepared that for this hearing today, is
9 that ---

10 A: I did.

11 Q: And you briefly explain why it would be
12 important to look at the equity comparison in
13 an area when you're purchasing or developing a
14 property?

15 A: Well, I mean the tax assessor in the South
16 Carolina statutes is charged with being
17 equitable, and we have to factor in that these
18 transfers because they have a cap of 15 percent
19 on increasing the taxes on a piece of property.
20 But what we've got here is we've got the
21 testimony of Mr. Mark Cheslak that values have
22 come down, and so we're mixing everything up.
23 We're saying well, we can't use them in
24 equitable argument because they weren't being
25 able to raise. And then we've got the

1 testimony but that, you know, property values
2 have come down. And so if they've come down,
3 you don't -- you know, since they purchased it,
4 their argument is, for example, that the tract
5 here, the -- let me get the one -- this 17300-
6 02-46, let's look at that one.

7 Q: Okay. Are you referring to page 12 on Exhibit
8 2?

9 A: Let me make sure I've got the right one here.
10 I'm trying to find the Walmart. Isn't the
11 Walmart on here?

12 Q: Referring to comparable four? The Walmart
13 property was referred to in Exhibit 1, page 19.

14 A: Okay. Yeah, I've got it.

15 Q: Okay.

16 A: What I'm trying to articulate is that -- and
17 the Walmart was which one?

18 Q: Comparable four is the -- I believe what you're
19 referring to as the Walmart parcel?

20 A: And that one is valued by the assessor at
21 \$73,000 an acre; is that correct?

22 Q: If we're looking at your chart here, the
23 comparable four; is that what we're looking at,

24 \$73,113 --

25 A: Okay. So the argument that I heard earlier was

1 well, we are -- because the Walmart is a better
 2 site. They're at the corner of 77 and Clemson
 3 Road. Walmart came there first. They got the
 4 best site. And the argument that I heard made
 5 was well, you know, we have a lot of problem
 6 being equitable because of this transfer of
 7 interest. But the Walmart, we also heard
 8 though that since Walmart purchased, the
 9 property values have decreased. They testified
 10 to that. So they're at \$73,113 for a better
 11 site and they're arguing well, you can't count
 12 that because of the ATI, the transfer of
 13 interest. But they're also testifying that the
 14 values have come down.

15 Q: Mr. Hull, speaking about the market prior to
 16 2009 versus 2009, are you aware of any large
 17 sales that took place in 2009 or 2010?

18 A: No, other than the sale that we had which, you
 19 know, I think is a -- is an exemplary sale.

20 Q: And if you had a sale in the same year and you
 21 were trying to get comparables, would you look
 22 at a sale that took place in the same area the
 23 same year as a subject property?

24 A: It's my understanding the assessor has noted
 25 our subject sale as something unusual or like

1 a short sale. Crescent Resources had -- was
2 very solid. Go look at their bankruptcy. They
3 had a lot of money, very much professionals.
4 They had a cash flow problem. And they are
5 very sophisticated, and they knew to move
6 property at the time that we bought it that
7 this was the market value, and it was arms
8 length. And if you had of had any other
9 property there to sell, based upon my extensive
10 investigation and knowledge of the property
11 owners and available purchasers, it would have
12 been at a similiar price that we paid. Now,
13 you know, we heard this testimony today, you
14 know -- you know, what the -- well, that's not
15 market; that's something that's just an
16 anomaly. But we also know that the assessor
17 took the Walgreen's and he had no compulsion
18 about using a higher price, he thought that was
19 market that, you know, because it was market
20 for drugstores, he testified. Well, you know,
21 any property can be a drugstore property, and
22 any property can be a Lowe's or a Walmart. And
23 I've never heard in any appraisal book or any
24 appraisal theory that a value of a property is
25 determined by what it's classified as, you

1 know, a grocery store property or a drugstore,
2 I've never heard that. I don't believe it's in
3 any appraisal theory.

4 Q: Drawing your attention back to Exhibit 2, page
5 1, there are a lot of other properties on
6 there, and we don't have to go through all of
7 them, but you looked at other properties other
8 than just the comps one, two, three, four, and
9 five, correct?

10 A: Yes, and we have them listed down there that,
11 you know, are similar tracts. And I would add,
12 and I think Mr. Matson, that you know, the idea
13 that you, you know, are going to apply a three
14 acre or five acre to a 20 something acre tract
15 I don't think is that good of an analysis. You
16 do it if you had to. But if you've got a
17 19.64-acre tract that's very similar or, you
18 know, a 15 acre or, you know, other similar
19 size tracts, and I think you could hang your
20 hat on the wall of them.

21 Q: And the purchase price you have here at the
22 bottom, that's for the subject property?

23 A: It is, it's for the 25.53 acres. That is the
24 purchase price divided by the number of acres,
25 including the -- all the property.

1 Q: And would that dollar per acre be in line with
2 the other properties that you examined based on
3 the larger population of properties versus just
4 what the tax assessor used?

5 A: Yes, it would. And particularly if you made
6 some consideration of which properties were
7 purchased and we immediate use for a car
8 dealership or, you know, a Walmart or Lowe's or
9 things like that, particularly in 2009, you
10 know, the idea that vacant land, you know, the
11 market value, highest price estimated in terms
12 of money people bring and exposed for the
13 market allowing a reasonable time to find a
14 purchaser who buys with knowledge of all the
15 uses for which is adapted and capable for being
16 used, that's the classical definition of market
17 value. If you apply that to vacant land on
18 Clemson Road, you know, you have to factor in
19 supply and demand.

20 Q: And after taking all that into consideration,
21 were you able to determine a fair market value
22 of the subject property?

23 A: Yes, for what it sold for, it's an arms length
24 good sale, and that was what it was worth. I
25 mean, in fact, looking back on it, I think, you

1 know, I told Mark this, I think we overpaid.

2 MR. MATSON: That's all I have at this time of this
3 witness, Your Honor.

4 THE COURT: Ms. Pike.

5 MS. PIKE: Your Honor, I don't have any questions
6 for this witness.

7 THE COURT: Okay. Thank you, Mr. Hull.

8 MR. HULL: Thank you, Your Honor. I appreciate it.

9 MR. MATSON: Your Honor, if there are any exhibits
10 that I have not entered into evidence, I would
11 seek to admit those at this time.

12 THE COURT: Okay. You're entering all of the
13 exhibits that's included in this book?

14 MR. MATSON: Yes, Your Honor.

15 THE COURT: Ms. Pike, you've reviewed ...

16 MS. PIKE: Yes, I have. I have no objection.

17 THE COURT: Okay. Very good.

18 (Respondent's Exhibit Numbers 2, 4 and 5 were
19 admitted into evidence.)

20 THE COURT: Mr. Matson, is that your last witness?

21 MR. MATSON: Yes, Your Honor.

22 THE COURT: Okay. Thank you. Ms. Pike, do you have
23 anything in rebuttal?

24 MS. PIKE: I do, Your Honor. I'd like to call Mr.

25 Cheslak and Mr. Fancey back up to the stand.

1 THE COURT: Okay.

2 MS. PIKE: Just a few questions.

3 THE COURT: Sure. Mr. Cheslak. Let me just remind
4 you that you're still under oath.

5 MR. CHESLAK: Yes, ma'am.

6 MR. CHESLAK - REBUTTAL DIRECT EXAMINATION BY MS.

7 PIKE:

8 Q: Mr. Cheslak, I want to refer you to the
9 taxpayer's comparable summary, which is Exhibit
10 1. Do you have a copy of that?

11 A: I do.

12 Q: All right. Now, you see that the taxpayer has
13 taken the comparables that you used, as well as
14 some additional ones, and has made certain
15 adjustments. Have you reviewed those
16 adjustments?

17 A: I have.

18 Q: Do you agree with those adjustments?

19 A: Some yes; some no.

20 Q: All right. Let's go to comparable number one,
21 which is page -- it's Exhibit 1, Respondent's
22 Exhibit 1, page 2. Tell us what you agree with
23 and what you don't agree with with respect to

24 this.

25 A: Well, this was the sale March 2008 that sold

1 for \$4,291,000. It's split up between two
 2 parcels, and he has four adjustments there.
 3 The first one is an adjustment for, it says
 4 frontage road access to Clemson Road where the
 5 subject does not, but I don't agree with it for
 6 that reason, but I do agree with an amount for
 7 an exposure. This road, this site is right on
 8 -- it's actually Killian Road. It's on Killian
 9 Road, but it doesn't have -- it has more
 10 exposure than the subject does; therefore, you
 11 would make a negative adjustment for this sell
 12 for that reason. It's not because of the
 13 access; it's because of exposure, more
 14 visibility. Number two, I would not make that
 15 adjustment, rear access on Killian Road.
 16 Killian Road used to be a through road. This
 17 is the old Killian Road before they re-routed
 18 the roads out there. Killian Road has been
 19 blocked off down on Farrow Road and it's -- so
 20 this gives the -- that Killian Road access
 21 gives this site two accesses, front and back.
 22 The subject has three sides of access, Longtown
 23 Road, Longgreen Parkway, and Clemson Road
 24 through those two little driveways. So there's
 25 no reason to adjust for an extra access there.

1 Number three, there's an adjustment for
 2 location to I-77. This sale is not on I-77.
 3 It is closer to I-77 than the subject, but the
 4 same tract that goes past this sale just
 5 continues less than a half mile long down to
 6 the subject, plus the subject has traffic
 7 coming from Hardscrabble in the opposite
 8 direction, which the -- which this sale is not
 9 privy to right-of-way. So there's no reason to
 10 adjust for that either. Neither one's on I-77.
 11 And the fourth adjustment is for times, 15
 12 percent adjustment for time. I agree with
 13 that. So my total adjustments would be one
 14 plus four, 35 percent adjustment to the sales
 15 price, which figures out to \$85,735. He would
 16 subtract that from that per acre value of
 17 \$244,000 and you end up with \$159,000 rounded.
 18 So that's how I see the first sale adjustments.
 19 Q: Okay. Now, I'd like to take you to page 9 of
 20 that same exhibit, which is your comparable
 21 number two with adjustments made by the
 22 taxpayer. What would you have done there?
 23 A: Well, this one is right, is adjacent to the
 24 first sale. It's right between the split
 25 parcel sale from the first one we just talked

1 about. Had the same adjustments, and
2 therefore, I would make the same comments also,
3 as to the first one, I would not -- I mean, I
4 would accept that adjustment, but I'm calling
5 it a visibility exposure, visibility
6 adjustment. I would not use adjustments two
7 and three, but I would use the 15 percent
8 adjustment for the market and not for number
9 four, comes up to about the same \$85,000
10 reduction from the sale price per acre of 245,
11 and again, you end up with about a \$159,000
12 value per acre.

13 Q: Okay. Now I'd like to take you to page 13 of
14 that same exhibit, which is the adjustments to
15 your comparable number three.

16 A: All right. This is a little -- little more
17 complicated, but the first one I would -- it
18 has five adjustments. I would not make the
19 first four. I would only rely on the market
20 adjustment on this one. But anyways, this sale
21 when it sold had site work done to it when it
22 sold. The subject had site work done to it
23 when it sold. This property was a mirror image
24 of the one, this sale was a mirror image of the
25 sale of the subject. If you look at the map,

1 if you look at the map you can there is -- they
2 look like each other exactly, little difference
3 in size but the same layout. The site
4 contribution of \$250,000 was an incentive by
5 the seller to the buyer to buy the property.
6 There's no need to deduct for that. The
7 infrastructure adjustment was already there.
8 There's no need to subject that. So again
9 we're starting at this \$4,780,000 sales price
10 divided by the 20 acres, which I don't have
11 that in front of me, whatever that figures out
12 to be. But it's \$234,858 an acre. That's what
13 that sales price ends up being. So again, you
14 have three -- at the rear road access, which
15 would be an adjustment there for the subject,
16 this sale having with the subject does not, but
17 this has access on three sides, the sale does,
18 back, side, and front. The subject has access
19 from two sides and the front. There's no need
20 to adjust for that. And that Farrow Road
21 access is into the dead end Killian Road. It
22 does have access to Farrow Road going the other
23 way, actually has access to Longtown but if
24 you're going the other way to Farrow, you're
25 blocked off. I don't see a need to adjust for

1 that. You can still get in the parcel from
2 three other sides. In the last adjustment, I'm
3 sticking with 15 percent. I'm not sure I
4 understand why it's 25 percent, which is
5 different from the other 15 percent on the
6 other two when they both occurred in August
7 2008, and I'm just giving about a year and a
8 half adjustment to the end of 2009, subtract
9 that from the 234,858, you end up with \$199,600
10 per acre. And my appraisal had it appraised at
11 \$200,000, so that works out.

12 Q: Now, let's talk about the restrictions a
13 moment. He has deducted ten percent for the
14 restrictions. Let's talk about that.

15 A: Oh, I'm sorry, yes. The restrictions, and
16 again, both properties have restrictions on
17 them, a laundry list of restrictions. And it's
18 really just to keep the -- you know, these two
19 developments, you know, keep unseemly type
20 establishments out of coming in there. You
21 know, the Lowe's site does have a restriction
22 where no other hardware store can build in
23 there as competition, but the subject site, the
24 way I'm reading it has a restriction on
25 supermarkets, you have supermarkets in there,

1 there can't be another supermarket competing
2 with it. But other than that, you know, I
3 think minor, there's a lot of restrictions on
4 both properties and I think that's a non-
5 adjustment.

6 Q: Now, you said that this was a mirror image.
7 Tell us again where the Lowe's is located
8 versus where the subject is located.

9 A: The mirror image is, it refers to straight
10 directly across from the subject is the Lowe's
11 site with the same set of outparcels in front
12 of each. So there just they just looked -- and
13 it's the closest sale to the subject and I rely
14 most heavily on this sale price to come up with
15 a value to the subject. It's the latest sale;
16 it's the closest sale; and it's the most
17 similar in almost every respect.

18 Q: Now, Mr. Cheslak, you heard the discussion that
19 Mr. Hull entered into with regard to the
20 Walmart site, and he shows, he has the Walmart
21 site, I believe, as one of his comparables
22 here. I believe it is ---

23 A: Number four.

24 Q: Number four. Can you talk to us about that?

25 A: I'm not considering this sale. I'm not using

1 this sale simply, mainly because of the age of
2 the sale. It took place in December 2006,
3 which is far past the valuation date we have of
4 December 31st, 2009. We already have three
5 later sales closer to the subject, and it's
6 just not necessary to go to this one, which is
7 across the interstate, a sale that took place
8 without any infrastructure whatsoever, had no
9 utilities, no sewer, no grading, no anything.
10 But the main thing for this one, the problem I
11 have with this is it's just too old to use when
12 I already have some immediate areas to give me
13 an indication of value.

14 Q: Okay. Now, let's go to comparable number five,
15 which I believe number five is at -- comparable
16 number five is at page 27 of Exhibit Number 1.

17 A: Comparable number five is the -- well, right
18 off the bat I see two disqualifying factors.
19 One is the age of the sale, 2003, that's even
20 far -- farther removed from the market we're
21 talking about; and also the size of it, it's
22 the 371 acres, the subject is. I'm comparing
23 these things to the large acreage tract, the
24 23.81 site, subject site, because that's based
25 on the acres and these are done by the acre.

1 But it's just too big. It's 371 acres. The
2 subject is 23.81. It's about 15 times the
3 size, and it's just too old of a sale. So I
4 wouldn't consider that one at all. It also has
5 a lot of wetland issues on there.

6 Q: Does the ---

7 A: The subject does not have that.

8 Q: I'm sorry, would you repeat that.

9 A: The subject does not have the wetland issues
10 this sale has also.

11 Q: All right. Just in general, Mr. Cheslak, does
12 the property that is down by I-77 off of
13 Clemson Road, is it selling for roughly the
14 same value as properties that are closer in to
15 where the subject is?

16 A: Generally speaking?

17 Q: Generally speaking.

18 A: Generally speaking the ones right on the
19 interstate at that intersection are selling
20 more than the ones off the interstate.

21 Q: Okay. What about across I-77?

22 A: Generally speaking, those -- let's see, those
23 values are a little less than -- are less than
24 the ones on the other side of 77. When you go
25 across 77, you're heading into more undeveloped.

1 country areas. It's a two-lane road that goes
2 over to 21... When we get way over there,
3 there's some subdivisions, some developed, but
4 not nearly as much on the other side as where
5 the subject is.

6 Q: Okay.

7 MS. PIKE: Your Honor, I don't have any further
8 questions of Mr. Cheslak.

9 MR. MATSON: Just a couple questions, Your Honor.

10 THE COURT: Yes.

11 MR. CHESLAK - REBUTTAL CROSS-EXAMINATION BY MR.
12 MATSON:

13 Q: Mr. Cheslak, I believe you testified earlier
14 that this Exhibit 1 was not done to the
15 standards that you would comport with -- or
16 something to -- do you remember saying
17 something to that extent?

18 A: Yes, but I -- I still considered what he
19 presented.

20 Q: Okay. It's not up to the standards, but would
21 it be up to the standards to take individual
22 portions of it from his assessment and scratch
23 through it and come up with your own?

24 A: I'm not sure I understand.

25 Q: Well, we just walked through all of these and

1 you scratched through some and you used some
2 portions in some others, didn't we?

3 A: Well, as I'm reviewing the appraisal, is what
4 I'm doing. You know, I'm just saying I take
5 this adjustment versus this one, or I would
6 accept this adjustment. I'm just reviewing the
7 appraisal.

8 Q: Right.

9 A: I'm not adjusting it.

10 Q: Okay. But you're saying we wouldn't use, on
11 comparable one you wouldn't use the extra
12 access, but you would use, you know, what you
13 call ---

14 A: Right, I agree with some of the adjustments and
15 some I don't.

16 Q: So you don't believe that this appraisal was
17 done correctly but you want to take it and you
18 want to take it and morph it to your value; is
19 that correct?

20 A: Well, I'm just explaining why I don't agree
21 with it.

22 Q: Okay.

23 A: If I agreed with all the adjustments then I
24 would have come up with his value.

25 Q: Well, isn't it true that two people could do an

1 appraisal of the same property and come up with
2 different values?

3 A: That's correct.

4 Q: And if you had examined more than just
5 comparable one, two, and three that you did in
6 your appraisal, you may have come to a
7 different value too; isn't that correct?

8 A: If I had put them in my appraisal, I probably
9 would, yes.

10 Q: Right? And you said that there were no large
11 sales in 2009 or 2010, correct?

12 A: Not that are comparable to what we're doing
13 here. I mean, I'm sure if you went throughout
14 the county you could probably find some other
15 sales in '09 or '10.

16 MR. MATSON: That's all I have.

17 THE COURT: Mr. Cheslak, I've got one question for
18 you.

19 MR. CHESLAK - EXAMINATION BY THE COURT:

20 Q: Referring back to Mr. Hull's testimony, when he
21 talked about the length of time between when a
22 contract to purchase property is signed as
23 opposed to when the property actually closes.

24 A: Right.

25 Q: How do you factor in the market -- the change

1 in the market since I think you're looking at,
2 from what I see from your appraisal, you're
3 looking at the sale date, which is the closing
4 date.

5 A: Right.

6 Q: How do you factor in that time period between
7 and the change in the market condition?

8 A: When we -- we go with the closing date. Don't
9 go into when it initially went into contract.
10 It's just a difficult thing to determine. You
11 know, some closings have a right to refusal at
12 any time during the contract. So we just don't
13 know what's going behind the scene, so
14 appraisers go with the closing date of
15 properties. That's standard practice among
16 appraisers. When doing an appraisal, you have
17 to go with the closing date, best I can explain
18 it.

19 Q: Okay. So there's no mechanism for ---

20 A: No, there's no mechanism for adjusting for when
21 they started negotiating versus the closing.
22 We just go with the closing date.

23 Q: Okay.

24 MS. PIKE: Your Honor, I don't have any further
25 questions for Mrs. Cheslake.

1 THE COURT: Okay. Thank you, Mr. Cheslak.

2 MS. PIKE: Your Honor, I'd like to recall Mr.
3 Fancey.

4 THE COURT: Okay. Mr. Fancey, let me just remind
5 you that you're still under oath.

6 MR. FANCEY: Yes, ma'am.

7 THE COURT: Thank you.

8 MR. FANCEY - REBUTTAL DIRECT EXAMINATION BY MS.

9 PIKE:

10 Q: Mr. Fancey, I'd like to refer you to the
11 taxpayer's equity comparison of surrounding
12 properties.

13 A: Okay.

14 Q: But before I do that, I'd like to follow up on
15 a question that the judge just asked Mr.
16 Cheslak. She was asking if there was any
17 mechanism by which you could look at the time
18 differential between the closing date and the
19 negotiation period. Would you comment on that,
20 please.

21 A: Well, to my knowledge, even commercial
22 appraisals when they're doing appraiser -- or
23 commercial appraisers, the commercial appraiser
24 will look at when negotiations began and when
25 they finished. They're also looking at the

1 close date of when a property sells. And also
2 it's our assumption basically that when a
3 property is sold -- sells that the amount
4 that's on the deed would reflect the agreed
5 upon value between the two parties whether
6 there was a one month or a ten month period.
7 It's just what they sold is what they sold what
8 they sold it for.

9 Q: So is it standard appraisal practice among the
10 industry to just look to the closing date?

11 A: It's my assumption yes, that's correct. And
12 also given the fact that we are an assessor's
13 office, we do what's called mass appraisal, and
14 we're dealing with thousands of sales on an
15 annual basis. We don't have the luxury to
16 investigate the specifics of every individual
17 sale that occurs.

18 Q: I'd like to refer you to Exhibit 2,
19 Respondent's Exhibit Number 2 entitled Equity
20 Comparison of Surrounding Properties.

21 A: Okay.

22 Q: Have you had an opportunity to examine this?

23 A: Yes, I have.

24 Q: Are these numbers accurate?

25 A: Yes and no.

1 Q: Okay. Take us through what is accurate and
2 what is not accurate.

3 A: Okay. If you look at the first one, 17400-02-
4 12 and 14 listed as comparable one, it has a
5 total land assessment shown of 2,955,100. That
6 is actually a 2011 value, not that it was there
7 for 2010. In the 2010 value year the subject
8 property of the assessment, the value on the
9 assessor's book was 4,294,150, or 244,960 per
10 acre. The 2,955,100 is the following year and
11 not reflective of 2010.

12 Q: Okay.

13 A: The next one, I had no difficulty with, 17400-
14 02 at 13. Comparable two that information is
15 correct, the acreage is correct, the value per
16 acre is correct. Then comparable, the next one,
17 which is comp three, it's sort of confusing in
18 that they've mixed up the tax map numbers and
19 the value. The 3,815,900 is actually
20 reflective of 17414-05-02, which is the main
21 Lowe's site. The 17400-5 at 28 is the 2.8-acre
22 parcel that was split off for roads and has the
23 \$1,400 value. So I just think it was a slight
24 mix up of just putting the thing together. As
25 far as the -- once you correct for that, the

1 information shown is correct.

2 Q: Okay.

3 A: The next one is the Walmart site, the 17400-11-
 4 4, 5 and 6 shown as comparable four. And
 5 again, that one, as Mr. Cheslak has said, is
 6 based on two thousand -- not even a 2006 sale,
 7 it's just our value that we have for 2010. And
 8 that reflects actually the Walmart site plus
 9 two outparcels. And for what it's worth, the
 10 outparcels are considerably -- valued at a
 11 considerably higher value per acre and square
 12 foot than the main Walmart site, but overall I
 13 would not disagree with that. The next one,
 14 17400-2 at 4, comparable five, again, being a
 15 2003 sale was not considered, but also, being
 16 a 371.92 acres is just not at all comparable
 17 to a 20-acre site. If I saw 371 acres at
 18 \$150,000 an acre, I would say that's a very,
 19 very, very valuable piece of land. And in this
 20 case, it is not. In fact, this is something
 21 that's being developed for future -- future, I
 22 guess a future Sandhills type development, has
 23 much wetlands in it. And we are able in the
 24 assessor's office to take the prime land and
 25 value that at one value per acre, take wetlands.

1 and value that at a separate value per acre of
 2 probably very minimal value. So the average is
 3 26,772, I did not look at the individual land
 4 lines, so I cannot tell you what we have the
 5 prime portion valued at on an acreage basis.
 6 And this represents a value basically of that
 7 site, good and bad land. The next one, we've
 8 got it -- I would not even consider as that's
 9 the Longcreek Association. Actually, if you
 10 read the whole thing, it's the Longcreek
 11 Associate Reformed Presbyterian Church. It's
 12 a church property; it's exempt on our books.
 13 And with a hundred and -- almost 170,000
 14 parcels to value, we quite frankly, don't put
 15 a lot of effort into exempt property. And so
 16 I would not vouch for that land value at all.
 17 If that parcel ever became taxable, we would
 18 have to go out there and pay a visit and
 19 probably reassess the property to get it to its
 20 appropriate market value. The next one is
 21 17300-2 at 45 BD&O investment. The 964,012
 22 acres at \$80,000 an acre. It would be real
 23 nice if the assessor's office was perfect. We
 24 ain't. And when the legislature enacted 388
 25 and put in point of sale, we basically have to

1 keep two sets of books, those that are ATIs;
 2 those that are properties that have not sold
 3 and have a computer-generated mass appraisal
 4 value. And every now and then when a change
 5 occurs to a property in a particular year, we
 6 step on our own toes. And so what happened is
 7 that had been a -- 2009 was an ATI value, a
 8 2008 sale with an ATI value reflected in the
 9 assessor's valuation of three million twelve --
 10 3,012,500 or \$250,000 an acre. In 2010, a
 11 building was added of approximately \$5,000,000,
 12 and in the process of adding the building, it
 13 should have been added to the three million
 14 dollar land value based on the sale. And it
 15 was not part of our computer generated value of
 16 964, so it's quite frankly an error on our
 17 part. And we find them all the time. We try
 18 and correct them when we can, but when we're so
 19 far beyond the date it's punitive to try and
 20 correct, we just live with it and swallow it.
 21 Stuff like that happens. The next one is the
 22 17300-2 at 46 CRM Killian. I have no
 23 disagreement with that whatsoever. That site
 24 has -- it borders I-77 and has a frontage road
 25 that is on a dead end to get to it. Then you

1 have the 17400-9 ---

2 Q: Wait just a moment, Mr. Fancey.

3 A: Excuse me.

4 Q: Let's go back to CRM Killian. Was that a sale
5 at all, or was that just an assessor's value?

6 A: That is a CAMA generated value. It did sell in
7 2011. We did not use that, of course, for that
8 purpose, but it did sell in 2011 for over \$12
9 million.

10 Q: Okay.

11 A: Then the next one is 17400-09-13 and 14 is AS
12 Columbia, LLC. That one, again, I would not
13 use it in any circumstance because that is a
14 manufacturer, used as a manufacturer,
15 therefore, it's assessed by the Department of
16 Revenue. We have nothing to do with the
17 values. And just like an exempt property, we
18 don't put a lot of time and effort into these.
19 If at such time in the future the Department of
20 Revenue says we are not -- it's no longer
21 manufacturing, it's therefore assessed by the
22 Richland County Assessor's Office, we would
23 then come -- have to go out and revisit the
24 property, re-measure and verify the information
25 that's there and reassess the property at

1 current fair market value. And the last one is
 2 seven acre cut, 14600-3 at '64, a 15-acre site,
 3 I have no disagreement with the values that are
 4 shown there. All I would say is that this is
 5 one of those properties that is across I-77 on
 6 the two-lane portion of Killian Road. It is
 7 across the road. It's the south side of
 8 Killian where the Walmart is to the north side.
 9 And this is right across the street from the
 10 access to the Walmart area, and that whole side
 11 is just raw acreage with growing trees. And a
 12 lot of the parcels, including this one, have an
 13 agricultural use value associated with them.
 14 So this reflects its market value, but it's
 15 taxed as if it were farmland.

16 Q: Okay. Mr. Fancey, we've heard a little bit of
 17 discussion today when we had Mr. Grovenstein on
 18 the stand about taxable value versus fair
 19 market value. Would you explain that, please.

20 A: Yes, that is very confusing, and all I can say
 21 is taxable value basically is a mathematical
 22 calculation. And all I can do is just give an
 23 example to best understand it. We had a
 24 reassessment for 2009. If I take a residential
 25 property that was valued at \$100,000 in 2008,

1 we could reassess it at market value for 2009.
 2 But they can only be taxed on no more than 15
 3 percent more than the 2008 value. So you'd
 4 have that residential house could be assessed
 5 at \$150,000, market value determination of
 6 \$150,000. Their taxable value is 115,000.
 7 That's a mathematical calculation. We have no
 8 control over that; we cannot adjust it. If we
 9 have made an error in 2008, either raise it or
 10 lower it, a value because of an error in our
 11 part, we have to also go ahead and correct that
 12 taxable value. For the next reassessment,
 13 which unfortunately is coming up for 2014, that
 14 115,000 has to have 15 percent added to it. We
 15 have no control over that. That's state
 16 requirement, state law. And that will go up to
 17 whatever it's going to go to. Fair market
 18 value may come down to \$130,000, because the
 19 market has declined to some extent, depending
 20 on the areas, greater than others. We might
 21 lower the value to 130,000 but that person's
 22 taxable value is going to go up 15 percent over
 23 the 115,000. So even though we've lowered his
 24 market value, we're going to raise his taxable
 25 value. We have no control over that. So in

1 the situation that was brought up here with the
2 taxes being for the 2009, that 800, \$900,000
3 value was the taxable value of the property for
4 2009, which was 15 percent higher than what it
5 was valued at in 2008. Simple mathematical
6 calculation.

7 Q: So does taxable value relate at all to fair
8 market value?

9 A: No. It's just that we cannot assess taxes
10 higher than the taxable value. If the fair
11 market value of property is higher -- lower
12 than the taxable value, they're assessed at the
13 fair market value, which becomes its taxable
14 value. We cannot go higher than that 15
15 percent. And by the way, the legislature in
16 its infinite wisdom said that properties at
17 sale ATIs are exempt from the cap. So if that
18 property's -- if a property sells for \$300,00
19 and it's capped at 115, for the year that we
20 apply the ATI, the market value is 300,000 and
21 the taxable value is 300,000.

22 THE COURT: So they do meet at some point if it's
23 sold?

24 MR. FANCEY: If it's sold, it's exempt. Also, any
25 improvements made to a property, a house added

1 are exempt from the 15 percent cap. So there's
2 various provisions in the law, and it creates
3 a lot of consternation, both in and out of the
4 assessor's office.

5 MS. PIKE: I have no further questions, Your Honor.

6 MR. MATSON: Just a couple quick questions.

7 MR. FANCEY - REBUTTAL CROSS-EXAMINATION BY MR.
8 MATSON:

9 Q: So the value, property tax value is different
10 than the fair market value; is that ...

11 A: Basically, yes. Property tax value being what
12 we call its taxable value upon which a person's
13 property taxes are based.

14 Q: And property is to be valued at its true value
15 in money under the statute?

16 A: It's fair market value; yes.

17 Q: Right, the true value money what it would
18 exchange for in the market?

19 A: Uh-huh (affirmative response).

20 Q: Which in this case was just under two million
21 dollars, correct?

22 A: Only on part of that definition, because it
23 also refers to -- let's see, the probable price
24 seller -- or acting prudently, knowledgeably
25 and assuming the price is not affected by undue

1 stimulus. My opinion, a voluntary or
2 involuntary bankruptcy is, to me is an undue
3 stimulus.

4 Q: But you've done no research into that ---

5 A: No, I'm just going to what the definition,
6 standard definition of market value is, fair
7 market value.

8 Q: Right, and all property is to be taxed at its
9 true value in money, its fair market value,
10 right?

11 A: It's to be assessed at its fair market value.

12 Q: And that's what gives the state the ability to
13 tax, correct?

14 A: Right.

15 Q: That statute? Okay. You mentioned that
16 there's no real mechanism for adjusting for a
17 closing date save, you know, we have the
18 closing date here, September '09, and it was
19 negotiated started back in March '09, right?

20 A: No, there's not, because our assumption is is
21 that if there's a change in the market that in
22 the process of negotiating up to that closing
23 date, there would be an adjustment made in the
24 sales price.

25 Q: Would you agree that there was a change in the

1 market from '08 to '09?

2 A: Yes.

3 Q: And you --

4 A: I'm not going to say that blanket. For the
5 county, yes. I'm not -- that does not
6 recognize the fact that certain areas may not
7 be subject to the same amount of decrease or
8 any decrease, depending on the nature of the
9 property and location of the properties.

10 Q: But you had a number of sales in 2008?

11 A: Yes.

12 Q: And you testified there were no sales in 2009?

13 A: No, there was that one sale in 2009. Not --
14 yeah, you're right, there's no sales that we
15 used for this analysis, yes.

16 Q: Ignoring the subject?

17 A: Right.

18 Q: Right, putting that aside? And no sales in
19 2010?

20 A: Not that I'm aware of that we used for this
21 valuation.

22 Q: Okay. And when you did the -- this map here
23 doing the equity.

24 A: Uh-huh (affirmative response).

25 Q: That was just for the outparcels, wasn't it?

1 A: Well, mainly the outparcels. All 2010
2 valuations, but as you can see there, that is
3 the lowest site, which is the larger acreage
4 tract.

5 Q: So some -- so smaller tracts were selling, but
6 the larger tracts just did not sell?

7 A: Well, is this the sale or the equity?

8 Q: This is the equity. I'm sorry.

9 A: But you're not going to be bearing on -- for
10 equity purposes, I'm just trying to establish
11 the property's fairly assessed as compared to
12 other properties in the area.

13 Q: But these are the same properties you showed
14 the sales on, correct?

15 A: Right.

16 Q: You didn't do any with large tracts, correct?

17 A: Other than the Lowe's property, yes, that's on
18 that sales ---

19 Q: Right.

20 A: --- as well.

21 Q: Okay. And you -- it sounds like you pretty
22 much agree with Exhibit 2, page 1 as far as the
23 dollars per acre there?

24 A: Other than the ones that I disagreed with as
25 being exempt, in error or being assessed by the

1 Department of Revenue that we have no control
2 over.

3 Q: The one that's exempt is still --- you still
4 would look for a fair market value for ---

5 A: No, we would not.

6 Q: Why is that?

7 A: You're talking about the Department of Revenue
8 property?

9 Q: The one that you said was exempt I believe was
10 the church property, correct?

11 A: Property, right.

12 Q: But you're still tasked with finding the fair
13 market value?

14 A: A value was put on there, but then it became
15 exempt because they must have applied with the
16 Department of Revenue to become exempt. Once
17 they're exempt we have no -- I don't know to
18 what extent that value was investigated to see
19 if that's an appropriate value to that parcel
20 or not, because once it became exempt, we just
21 really don't do much with it.

22 Q: And the others farther down, you have no
23 problem with those, 80,000?

24 A: No, I don't. Like I had no problems with the
25 ones that are valued at more than 150,000 per

1 acre.

2 Q: But you would agree that \$77,000 per acre would
3 be in line with some of these? It may not be
4 directly in the middle of all these, but it's
5 in line with the other values here?

6 A: Just relative to what we have them valued at,
7 yes, even though there are reservations I had
8 made about those properties.

9 Q: So it would be possible to value that property
10 at 77,360, correct?

11 A: Anything's possible. I don't agree with it.

12 Q: But it's in line with the values that your
13 office put forth ---

14 A: It's also in line with the -- it's in line with
15 the larger acreage, the 17.5 through the 17.3
16 -- the 17.52 right at the top, and those to me
17 would be the more similar.

18 Q: But your office put all of these values on
19 these properties, correct?

20 A: Yes.

21 Q: And this number would be in line with the
22 values that your office put on all these
23 properties, correct?

24 A: From that basis, yes.

25 Q: Okay?

1 MR. MATSON: That's all I have.

2 MS. PIKE: Your Honor, could I just ask one follow-
3 up question to clarify?

4 THE COURT: Yes.

5 MR. FANCEY - REBUTTAL REDIRECT EXAMINATION BY MS.

6 PIKE:

7 Q: Mr. Fancey, when you are looking at these F
8 looking numbers, for example, let's look at
9 comp four, which we said was the Walmart site,
10 would it be fair to say that that would be an
11 equity with a \$77,000 current sale?

12 A: Yes.

13 Q: When was this sale?

14 A: This sale was a 2006 sale. It was the first
15 major development to go in in that area, and
16 basically, as someone said, Walmart is the
17 first in, and so they get to take advantage of
18 whatever values that existed at that point in
19 time before all this other development comes
20 in.

21 Q: So the point though that I'm making here is
22 these values, if I'm accurate, are not all ATI
23 values?

24 A: No.

25 Q: These may be values where you have simply

1 applied the 15 percent to them?

2 A: Yes.

3 Q: Is that accurate?

4 A: Well, it would be the -- not the 15 percent
5 because that's the taxable value. It would be
6 the market value, which understand, if these
7 are 2010 values, they were based on 2009
8 reassessment ---

9 Q: Right.

10 A: --- looking at 2007, some 2006, 2008 sales, and
11 quite frankly, that was before a lot of this
12 site development.

13 Q: Thank you.

14 MR. FANCEY - EXAMINATION BY THE COURT:

15 Q: Mr. Fancy, let me ask you question. In
16 response to Mr. Matson, you indicated that any
17 time property is sold pursuant to a voluntary
18 or involuntary bankruptcy, that's an undue
19 stimulus that affects the value?

20 A: And my interpretation is the interpretation of
21 market value or transfer in a sale is that
22 nobody is under undue stress or stimulus. And
23 I think to me just by the fact of a bankruptcy
24 proceeding where it's not put on the open
25 market and exposed through multiple listing and

1 exposed through hundreds of people, thousands
2 of people able to look at it, but just limited
3 to whoever shows up at that auction, to me,
4 places an undue stimulus.

5 Q: Okay. So from your understanding of auctions,
6 they aren't publicized?

7 A: They're publicized, but if only, say, two or
8 three -- and I'm not sure how many showed up
9 for this auction, it sounds like there's only
10 maybe one other -- well, I have no idea how
11 many were there. But if, in this case, to me,
12 an auction where there's an obligation to sell
13 is not the same as putting it on the open
14 market.

15 Q: Okay. But if you've got an auction where you
16 have got a floor, I think in this case it was
17 one million 75, something like that, that was
18 the opening bid.

19 A: Uh-huh (affirmative response).

20 Q: Now, would that not indicate that there is not
21 an obligation to sell if someone comes in with
22 a bid below that?

23 A: I would assume that that, if that's the minimum
24 and somebody does not meet that minimum then
25 they would not be able to get it sold properly.

1 I'm not familiar with auctions enough to give
 2 you a definite answer because I'm not sure it's
 3 an absolute auction or whatever price is
 4 offered is what it has to be sold for. We've
 5 auctions in Richland County that were absolute
 6 auctions, especially some of the condos over by
 7 Williams Brice Stadium where they, you know,
 8 were asking 300,000 and I know some have sold
 9 for 80 or 90,000 at absolute auction. The
 10 question is does absolute auction, is that an
 11 undue situation. So, I'm not sure of the full
 12 terms of what was involved in the auction. In
 13 my mind, being forced to sell a piece of
 14 property is they're going to be willing to sell
 15 the piece of property. And auction and
 16 bankruptcy, you're being forced to do
 17 something.

18 Q: In this instance, the property sold at the
 19 bankruptcy auction for more than it would have
 20 sold for had they sold it to ---

21 A: Not knowing the full circumstances of what was
 22 -- who was at the auction, how many were
 23 involved and all that, I just really don't know
 24 what to say about that.

25 Q: Okay. And I'm just asking because it appeared

1 that there was minimal consideration given to
2 the purchase price in determining the fair
3 market value for assessment purposes.

4 A: Our office would look at anything involving a
5 bankruptcy or involving an auction. The
6 reasonable question is to is it in fact a fair
7 market transaction.

8 Q: Okay. Thank you.

9 MR. MATSON: Your Honor, may I ask a few questions
10 in light of that line of questioning?

11 THE COURT: Sure.

12 MR. FANCEY - REBUTTAL CROSS-EXAMINATION BY MR.

13 MATSON:

14 Q: And it might be more appropriate to have Mr.
15 Grovenstein testify but I can have this into
16 evidence, on Exhibit 3, pages 8 and 9.

17 MR. MATSON: May I approach?

18 THE COURT: Yes.

19 A: I've got the book.

20 THE COURT: If you would like him to use the one --
21 this is not written on.

22 MR. MATSON: I don't mind looking at his notes.

23 Q: And it's Exhibit 3, tab 3. Could you turn to
24 pages 8 -- 8 and 9 there it's labeled at the
25 bottom of the page.

1 A: Okay.

2 Q: Have you ever seen those documents there?

3 A: I have not seen this document.

4 Q: Okay. And if Mr. Grovenstein testified that
5 these were the bidding procedures in place for
6 this sale, you would have no knowledge of that;
7 is that correct?

8 A: That's correct.

9 Q: Okay. But you testified that because there was
10 a Chapter 11 voluntary bankruptcy, your office
11 has a policy of not counting that sale. ---

12 A: Well, we would consider it and look at it, but
13 then at the end of -- and Mr. -- I did not make
14 a conclusion on this. Mr. Cheslak, being the
15 appraiser, would have more knowledge of that.

16 Q: Are you aware that in this case that the
17 debtors had the right to reject even if there
18 was a sale?

19 A: No, I had no knowledge of that.

20 Q: So they wouldn't be forced to sell the property
21 as you were stating just a moment ago, correct?

22 A: Again, not being familiar with how auctions
23 operate -- auctions operate, I can't give a
24 definitive answer on that. I've not been party
25 to their thinking what they're looking for and

1 what they're trying to do.

2 Q: Right. And you have no idea how many parties
3 were part of this auction?

4 A: Right. Correct.

5 Q: You were not aware of the prior negotiations on
6 this property?

7 A: No, I was not.

8 Q: And the fact that the prior negotiations were
9 less than it sold at the bankruptcy has no
10 bearing on your ---

11 A: The first I became aware of that was during
12 prepping for this case.

13 Q: Okay. And are you aware that a bankruptcy
14 judge could void a sale if it did not comply
15 with the ---

16 A: I am not aware of what the powers of a
17 bankruptcy judge are.

18 MR. MATSON: Thank you, Judge.

19 THE COURT: Ms. Pike, any other thing?

20 MS. PIKE: No further questions, Your Honor.

21 THE COURT: All right. Thank you, Mr. Fancey.

22 MR. FANCEY: Thank you.

23 MS. PIKE: Your Honor, we have nothing further.

24 THE COURT: All right. Okay. At this point, do the
25 parties wish to do closing statements?

1 MS. PIKE: Yes, Your Honor, I would like to do a
2 closing statement.

3 MR. MATSON: Yes, Your Honor.

4 THE COURT: Very good. Okay. We'll begin with you,
5 if you're ready, Ms. Matson.

6 MS. PIKE: I'm ready, Your Honor.

7 THE COURT: I'm sorry, I keep calling you Ms.
8 Matson. I'm sorry.

9 MS. PIKE: That's all right. I answer to just about
10 anything.

11 CLOSING STATEMENT - BY MS. PIKE:

12 MS. PIKE: Your Honor, what we have here is we have
13 a sale of the property. It was, in fact, out
14 of a bankruptcy situation; however, the
15 important part of that is that sale doesn't
16 reflect the comparable sales in that area. And
17 I guess to have a full understanding of this,
18 we need to talk a little bit about what the law
19 is in this area. First of all, what the law
20 says is that when you have a sale of real
21 property, that sale allows the assessor to
22 revalue the property in the following year for
23 tax purposes. And so this property sold in
24 '09, and so the assessor revalued the property
25 to fair market value. That's what our statute

1 says, to fair market value for purposes of
 2 2010. Now, our valuation date for 2010 is
 3 12/31/2009 pursuant to Section 12-37-900. Now,
 4 as a result of that, the assessor's office went
 5 through, they looked at all the comparable
 6 sales of this particular property, and when
 7 they did that, they found three major sales,
 8 one directly across the street that was the
 9 mirror image of the subject. And they used
 10 that sale for the large tract. What you
 11 haven't heard from the respondents today is any
 12 valuation information on the small tract. You
 13 heard lots of testimony about the large tract,
 14 but nothing about the individual sale of the
 15 small tract, and they were sold as two separate
 16 tracts in one transaction. They were divided
 17 prior to this sale. So what we have provided
 18 you is we provided you comparable sales for
 19 that small tract, the 1.72 acre tract, and the
 20 large tract. And when you look at those
 21 comparable sales, you'll see that we are really
 22 at the bottom of the market for both of those
 23 at \$150,000 an acre and nine dollars per square
 24 foot. So we would respectfully request that
 25 you, instead of looking so much at the purchase

1 price, look at the overall fair market value of
 2 the comparable sales to determine if the
 3 subject sale was indicative of fair market
 4 value. It really matters not whether it was a
 5 bankruptcy sale or whatever. The main thing
 6 that the law requires us to consider is was
 7 that sale a fair market value sale. Is this --
 8 is the sales price the fair market value of
 9 that particular piece of property. And the
 10 comparable sales less than a half mile down the
 11 street and directly across the street indicate
 12 that that is not the fair market value of that
 13 property, even when you take into account
 14 adjustments that the respondents wanted, you
 15 still come up with a value that's approximately
 16 what the assessor has on this particular
 17 parcel. We would respectfully request that you
 18 take all of that into consideration. Thank
 19 you, Your Honor.

20 THE COURT: Mr. Matson.

21 MR. MATSON: Yes, Your Honor.

22 CLOSING STATEMENT - BY MR. MATSON:

23 MR. MATSON: Your Honor, I said it before and I know
 24 I keep saying it but, you know, we're
 25 estimating something that we know the answer

1 to. You can estimate it; you can have a lot of
 2 people look at things different ways, but we
 3 know what this property closed for, it was
 4 \$1,975,000. Now, we can talk about the
 5 comparables that sold in March '08, August '08,
 6 and say well, these are comparable, we can
 7 make our adjustments. But the height of the
 8 market was when these contracts were going
 9 through, when the Lowe's was being built, when
 10 a car dealership was being built, and then they
 11 close in that time and stuff is not being built
 12 in that area at that time. Sales are not going
 13 through. You heard them testify no large tract
 14 sales in '09; no large tract sales in 2010.
 15 Well, if your neighbor sells their house for
 16 \$200,000 in '08 and then there are no houses
 17 sold in the next two years, that doesn't mean
 18 that that's a comparable sale. You need to
 19 look at the commercial recession of property as
 20 well as just the economy in general. Credit
 21 was good in 2007, we get a lot of credit card
 22 offers, and then in 2009 you're not getting any
 23 credit card offers. It's just indicative of
 24 how distant these sales could be, even though
 25 they're in the same area. I think that

1 difference cannot be overstated: This property
 2 was on the market for quite a while; it was
 3 reasonably exposed to the market, and there's
 4 nothing to indicate that it wasn't an arms
 5 length transaction. Mr. Grovenstein testified
 6 about the extensive negotiations that went back
 7 and forth, there were other parties involved.
 8 There was a bid that started of \$1,775,000 that
 9 went to \$1,975,000. Well, we didn't jump up to
 10 that price; it was a competitive bid, and this
 11 had been marketed before. It wasn't only a
 12 couple people given notice. The bankruptcy
 13 court's job is to ensure that it's
 14 competitively done so that it gets market
 15 value, which it did here. South Carolina law,
 16 as you're well aware, looks for the property to
 17 be valued for taxation at its true value in
 18 money. And I have some case law printed out
 19 that says the price that a property sold for,
 20 that an actual and voluntary bonafide sale is
 21 presumptive evidence of the property's value,
 22 and I'll provide copies to the Court as well as
 23 opposing counsel, that's presumptive evidence
 24 of the property's value. However, in this case
 25 there is two lines in their assessment that say

1 this was a bankruptcy; we didn't consider it.
 2 But their assessor said that he could have
 3 taken that and made adjustments for timing, as
 4 well as other things, but they didn't. So they
 5 had presumptive evidence and then an actual
 6 sale and they throw it out the window with two
 7 lines saying that this was a forced sale or
 8 this was a Chapter 11 bankruptcy. I think
 9 you've got to, if you're not going to include
 10 that price, you've got to go through more than
 11 just the two sentences that they have on the
 12 reconciliation of value on each of the
 13 assessments. You heard and Mr. Cheslak say
 14 that \$1,975,000 could be the fair market value.
 15 Both of them said it could be, but they didn't
 16 go into more investigation to determine whether
 17 it was or not. As I said, this was the only
 18 sale in 2009, 2010, so it's the most indicative
 19 of the value at that time. And when you look
 20 at Exhibit 2 where we looked at the equity, Mr.
 21 Fancey said that \$77,360 per acre, which is
 22 what the property sold for, was in line with
 23 the equity of the properties that we looked at
 24 here. That sales price was equitable with what
 25 other properties were valued at. I think

1 that's very important to know because that's
 2 something that the purchaser of a property
 3 would investigate before they were to buy this
 4 property. Also on the aerial photo they have
 5 of the assessed and surrounding equity, you'll
 6 see that many of these are valued at nine
 7 dollars per square feet. We have the Walgreens
 8 that we talked about that is valued at \$26 per
 9 square foot. That's what it sold for, and it's
 10 three times what most of these are assessed at,
 11 yet when you have one that sells for lower than
 12 the other assessments, you don't include it,
 13 but you accept it as a fair market deal when
 14 it's three times higher, but not when it's
 15 lower. That's not equitable and that's
 16 ignoring the elephant in the room that says
 17 we've got this number here, but let's figure a
 18 way around it. With that said, it could be
 19 fair market value but then didn't go any
 20 further to determine why it was not. We've got
 21 the presumptive value with the purchase price,
 22 and I don't believe that they have overcome
 23 their presumption to show that that was an
 24 unreasonable fair market value with a bonafide
 25 sale in an arms length transaction. Thank you.

1 THE COURT: I'm not going to make a ruling on this
2 in this case today. I need to actually review
3 the exhibits further, as well as consider the
4 evidence that's been presented today. There
5 are some things that I am concerned about, and
6 that's why I do need to ponder this for a few
7 days before I make a ruling. But what I will
8 do is will communicate with you all, and I may
9 request, if not both, to prepare proposed
10 orders... But let me just think about it a few
11 days before I make any definite ruling. That
12 concludes the hearing. You have a question,
13 Mr. Matson?

14 MR. MATSON: Your Honor, I was just wondering if you
15 would like a copy of some of the cases as far
16 as purchase price. I can provide a brief in
17 the next couple days if Your Honor would ---

18 THE COURT: Don't do that. Let me get in touch with
19 you all.

20 MR. MATSON: Okay.

21 THE COURT: And usually when I request a proposed
22 order it is usually a brief in the form of a
23 proposed order, so I'd like an opportunity to
24 do that.

25 MR. MATSON: Okay.

1 THE COURT: But thank you all so much for coming and
2 that concludes the hearing.

3 (There being nothing further, the hearing was
4 concluded at 2:10 p.m.)

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

RESTRICTED USE APPRAISAL REPORT
RICHLAND COUNTY ASSESSOR'S OFFICE
2020 HAMPTON STREET
COLUMBIA, SC 29204

Property Name and Location:	BAA Case #: 2010-49
SC BYPASS LLC	Prior Value: \$674,300
1190 INTERSTATE PARKWAY	Current Value: \$674,300
AUGUSTA, GA 30909	TMS: 17400-05-44
INSPECTION DATE 03/03/2011	VALUATION DATE 12/31/2009

VALUATION ISSUES

The owner disagrees with the assessed value of the property.

S. C. CODE OF LAWS 12-37-930

All property must be valued for taxation at its true value in money which in all cases is the price which the property would bring following reasonable exposure to the market, where both the seller and the buyer are willing, are not acting under compulsion, and are reasonably well informed of the uses and purposes for which it is adapted and for which it is capable of being used.

S. C. CODE OF LAWS 12-37-3140

(A) (1) For property tax years beginning after 2006, the fair market value of real property is its fair market value applicable for the later of:

(a) the base year, as defined in subsection (C) of this section;

(b) December thirty-first of the year in which an assessable transfer of interest has occurred;

(c) as determined on appeal; or

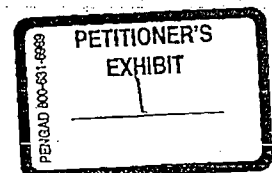
(d) as it may be adjusted as determined in a countywide reassessment program conducted pursuant to Section 12-43-217, but limited to increases in such value as provided in subsection (B) of this section.

(2) To the fair market value of real property as determined at the time provided in item (1) of this subsection, there must be added the fair market value.

(B) Any increase in the fair market value of real property attributable to the periodic countywide appraisal and equalization program implemented pursuant to Section 12-43-217 is limited to fifteen percent within a five-year period to the otherwise applicable fair market value. However, this limit does not apply to the fair market value of additions or improvements to real property in the year those additions or improvements are first subject to property tax, nor do they apply to the fair market value of real property when an assessable transfer of interest occurred in the year that the transfer value is first subject to tax.

(C) For purposes of determining a "base year" fair market value pursuant to this section, the fair market value of real property is its appraised value applicable for property tax year 2007.

Document A
Assessor's Documentation



(D) Real property valued by the unit valuation concept is excluded from the limits provided pursuant to subsection (B) of this section.

(E) Value attributable to additions and improvements, and changes in value resulting from assessable transfers of interest occurring in a property tax year are first subject to property tax in the following tax year except as provided pursuant to Section 12-37-670(B).

S. C. CODE OF LAWS 12-37-3150

(A) For purposes of determining when a parcel of real property must be appraised, an assessable transfer of interest in real property includes, but is not limited to, the following:

(1) a conveyance by deed;

(2) a conveyance by land contract;

(3) a conveyance to a trust, except if the settlor or the settlor's spouse, or both, conveys the property to the trust and the sole present beneficiary or beneficiaries are the settlor or the settlor's spouse, or both;

(4) a conveyance by distribution from a trust, except if the distributee is the sole present beneficiary or the spouse of the sole present beneficiary, or both;

(5) a change in the sole present beneficiary or beneficiaries of a trust, except a change that adds or substitutes the spouse of the sole present beneficiary;

(6) a conveyance by distribution under a will or by intestate succession, except if the distributee is the decedent's spouse;

(7) a conveyance by lease if the total duration of the lease, including the initial term and all options for renewal, is more than twenty years or the lease grants the lessee a bargain purchase option. As used in this item, "bargain purchase option" means the right to purchase the property at the termination of the lease for not more than eighty percent of the property's true cash value at the termination of the lease. This item does not apply to personal property or that portion of the property not subject to the leasehold interest conveyed;

(8) a transfer of an ownership interest in a single transaction or as a part of a series of related transactions within a twenty-five year period in a corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity if the ownership interest conveyed is more than fifty percent of the corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity. The corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity shall notify the applicable property tax assessor on a form provided by the Department of Revenue not more than forty-five days after a conveyance of an ownership interest that constitutes an assessable transfer of interest or transfer of ownership under this item;

(9) a change of use of agricultural real property which subjects it to the rollback tax;

(10) a change of use of real property when classification of property changes as a result of a local zoning ordinance change; or

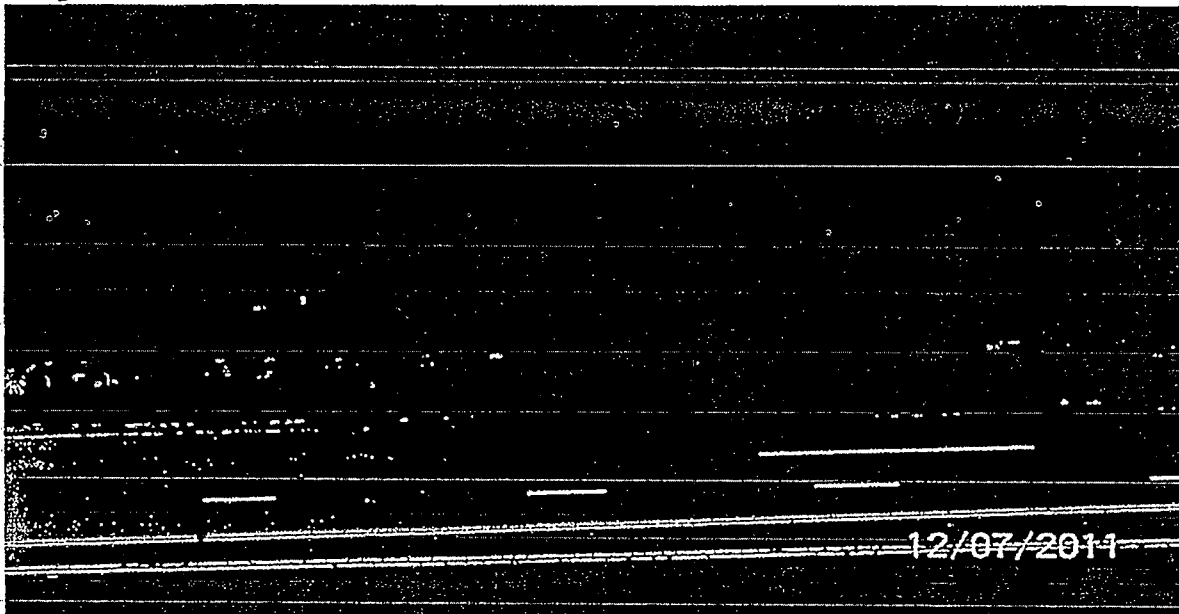
(11) the passage of twenty years since the later of the base year or the last assessable transfer of interest for real property owned by a publicly-held

4. Payment is made in terms of cash in United States dollars or in financial terms comparable thereto; and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."

LAND ANALYSIS

TYPE:	VACANT LAND 300S
SIZE	1.72 ACRES
LOCATION	2820 CLEMSON RD.
TOPOGRAPHY	LEVEL
ZONING	M-1

Subject



SUBJECT PROPERTY

The subject property is a level 1.72 acre outparcel located on Clemson Road near the intersection of Clemson and Longtown Rd. It is in Zone X from FIRM #45079C0140K. Zone X is an area of moderate or minimal hazard from flooding.

RICHLAND COUNTY ZONING

The subject is currently zoned M-1 (Light Industrial) and is intended to accommodate wholesaling, distribution, storage, processing, light manufacturing, and general commercial or agricultural uses. Certain related structures and uses required to serve the needs of such uses are permitted outright or are permissible as special exceptions subject to restrictions and requirements intended to best fulfill the intent of this ordinance.

HIGHEST AND BEST USE

The analysis of the property begins with the determination of its highest and best use. This is from two views of the subject. The first considers the land as if vacant and a purchaser could develop it to its most profitable use. The second view is from the position of how the site is currently used and it's relation to maximum value.

The American Institute of Real Estate Appraisers defines the highest and best use as the use that is reasonably probable, legally permissible, physically possible, appropriately supported, financially feasible and results in the highest present land value.

When considering the land as if vacant, you first must look to legal uses such as current zoning and what is the probability of changing the zoning. This land is currently zoned M-1, which is intended to accommodate general commercial and nonresidential uses characterized primarily by retail, office, and service establishments.

Physically possible is the second criterion in determining Highest and Best use of this site. The site is shown as a somewhat rectangular shaped lot containing 1.72 acres (See Tax Map). It does have access to all utilities. The site's shape, size, access to utilities, topography, and ingress and egress, appear to be suitable for a variety of commercial improvements.

The third consideration is financial feasibility. Together with the physically possible and legally permissible uses, the economic viability would be enhanced by a use that is compatible with the surrounding uses.

In this highest and best use analysis of the subject as vacant, it appears that highest and best use is as a retail or other similar use which is compatible with the M-1 zoning, the uses of surrounding properties, and giving due consideration of the availability of necessary utilities, and the size of the subject.

THE VALUATION PROCEDURE

The appraisal process is a systematic analysis of information relating to a defined valuation problem. The process is carried out in an orderly fashion. Data is collected, classified and analyzed. Conclusions are drawn from the data into an opinion of value. There are three approaches to value that the appraiser typically relies on. They are the cost approach, the sales comparison approach and the income capitalization approach.

The three approaches to value require the collection of information from the Real Estate "market". In so doing, an appraiser relies on the principle of substitution, which simply interpreted states that a prudent purchaser would pay no more for real property than the cost of acquiring an equally desirable substitute on the open market. Substitution may assume the form of a purchase of an existing property with the same utility or investment potential.

The cost approach is based on the assumption that an informed purchaser would pay no more than the cost of producing a substitute property with the same utility as the subject.

The income capitalization approach is defined as, an analysis which converts anticipated benefits, (dollar income or amenities), to be derived from the ownership of property, into a value estimate. Properties that offer similar substitute income with an equally desirable net income with the same utility, indicates the value of the subject.

The sales comparison approach is based on locating similar properties to the subject that have sold and comparing these to the subject. Defined as an appraisal procedure in which the market value estimate is predicated upon prices paid in actual market transactions and current listings. The reliability of this technique is dependent upon:

- (a) The availability of comparable sales data.
- (b) The verification of the sales data.

(c) The degree of comparability or extent of adjustment necessary for differences.

(d) The absence of non-typical conditions affecting the sales price. The indicated value from the three approaches is correlated and reconciled into a final estimate of value. Each approach is analyzed for their weakness and strength as it relates to the subject property. Then a final value estimate is derived for the subject property.

THE COST APPROACH

As the subject is a vacant tract of land, the cost approach to value is not appropriate in this instance.

The Income Approach

The income approach to value is not used in valuing vacant property.

DIRECT SALES COMPARISON

Sale/TMS/Address	Date	Sale Price	Size	SP/SF	TOPO	ZONING	Access
17400-05-42 2800 CLEMSON RD	10/08	\$750,000	1.17 AC	\$14.72/sf	Level	M-1	Good
17400-05-49 121 LUCY LANE	12/08	\$500,000	.77 AC	\$14.91/sf	Level	M-1	Good
17400-05-50 LUCY AND CLEMSON	12/08	\$700,000	1.49 AC	\$10.79/sf	Level	M-1	Good
17400-05-36 LONGTOWN & CLEMSON	12/10	\$800,000	1.61 AC	\$11.41/sf	Level	M-1	Good
Subject Current Value	12/09	\$674,300	1.72 AC	\$9.00/sf	Level	M-1	Good
Requested Value	12/09	\$395,000		\$5.27/sf			

COMMENTS: All of the above sales are very similar to the subject as they are all outparcels on the same side of the road, in the same block, and are within walking distance of each other and the subject. The sales range in price from \$10.79/SF to \$14.91/SF. After due consideration of the comparable sales and the sales price per square foot, \$11.00/SF was selected as the value for this parcel. These sales easily support the \$9.00/SF value assigned by the assessor's office through the ATI process. The only adjustment to be made here is for the market which was stronger in 2008 than at the end of 2009. Our estimation is that the market has declined 15% from mid-2008 to the end of 2009. Accordingly, a 15% reduction was applied to the subject's per square foot value which resulted in a reduction from \$11.00/SF to the present \$9.00/SF (rounded) for the subject. This value estimate is also equitable with other non-corner outparcels between Longgreen Parkway and Longtown Road. There are no outparcel sales in this block as low as the taxpayer's suggested value of \$5.27/SF.

$$\begin{aligned} \$9.00/\text{sf} \times 74,923 \text{ sf} &= \$674,307 \\ \text{Rounded} &= \$674,300 \end{aligned}$$

RECONCILIATION OF VALUE

Cost Approach: N/A
Direct Sales Comparison: \$674,300
Income Approach: N/A

Comments: The Direct Sales Comparison Approach is the best approach to value this parcel since it is not an improved property and is not an income producing property. The value estimate of \$9.00/SF was set as the assessable transfer of interest (ATI) value and has since been confirmed through the appeal process.

In preparation for this case, an in-depth review was conducted and a narrative appraisal prepared. Our appraisal relies on the market approach to value and indicates a much higher value for the subject than the assessor's opinion of value or the purchase price paid at auction. Accordingly, the assessor's opinion of value of \$674,300 is reasonable, equitable and well supported as of December 31, 2009.

It should be noted that the subject along with 17400-05-34 (the 23.81 acre parcel) was purchased in June 2009 for \$1,975,000 as the result of a sale following the grantor's voluntary bankruptcy under Chapter 11 of Title 11 in the US Bankruptcy Court. Based upon the sales of the comparable properties and based upon the circumstances of the sale of the subject property in bankruptcy, the \$1,975,000 is not a true indicator of fair market value.

GENERAL ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal report has been made and is subject to the following general assumptions:

1. That title to the property is assumed to be good and marketable unless otherwise stated. No responsibility is assumed for the legal descriptions or for any legal matter.
2. That the definition of value together with other definitions and assumptions on which our analysis are based are set forth in appropriate sections of this report and are a part of these General Assumptions as if included here in their entirety.
3. That the distribution of value between land and improvements serves as a basis for total valuation and applies only under the present program of highest and best use and should not be quoted separately.
4. That title to the property is assumed to be marketable. The property is considered to be under responsible ownership and management and free of all liens and encumbrances except as specifically discussed herein.
5. That the facts, estimates and opinions furnished the appraisers by others and contained in this report are considered to be from reliable sources and where feasible have been verified. However no responsibility is assumed for the accuracy of the information. We reserve the right to modify the value estimates should more reliable or accurate information become available subsequent to delivery of this report.
6. That all engineering and/or surveys are assumed to be correct. The sketches, plot plans and drawings included in the report are included only to assist the reader in visualizing the property.
7. It is further assumed that there are no hidden or other in apparent conditions in the soil, subsoil, structures or property that would render them more or less valuable. The appraisers specifically accept no responsibility for damage by termites, woodborers or any other wood-infesting insects. No responsibility is assumed for such conditions or for engineering or inspection, which would be required to discover them.
8. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on or in the property, was not observed by the appraiser. The appraiser, however, is not qualified to detect such substances. The presence of potentially dangerous or hazardous materials, gases or toxic substances may affect the value of the property and in this appraisal the value estimate is predicated on the assumption that there is no such element on or in the property that would cause such loss in value. No loss is assumed for any such condition, or for any expertise or engineering knowledge required to discover them.
9. Good structural and mechanical conditions are assumed to exist and no opinion as to these matters is to be inferred or construed from the attached report.
10. It is assumed that there is full compliance with all applicable federal, state and local environmental regulations and laws unless noncompliance is stated, defined and considered in the appraisal report.
11. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless non-conformity has been stated, defined and considered in the appraisal report.

12. It is assumed that all required licenses, certificates of occupancy, legislated or administrative consents from any local, state or national governmental or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

13. It is assumed that the utilization of the land and or improvements is within the boundaries or property lines of the property described herein and that there is no encroachment or trespass unless noted within the report.

14. This "Restricted Use" appraisal report has been prepared for the exclusive use of the Richland County Board of Assessment Appeals and the South Carolina Department of Revenue. It is as stated; a summary of information on file in the Richland County Assessor's Office and is intended to represent an appraisal for Ad Valorem tax purposes under the Standards Of Professional Practices requirements. It may not be used or relied upon by any other party. Any party who uses or relies upon any information in this report, without the Richland County Assessors written consent, does so at his own risk. Possession of this report, or copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the Richland County Board of Assessment Appeals or the Administrative Law Judge Division of the State of South Carolina without the written consent of the Richland County Assessor.

APPRAISER'S CERTIFICATION

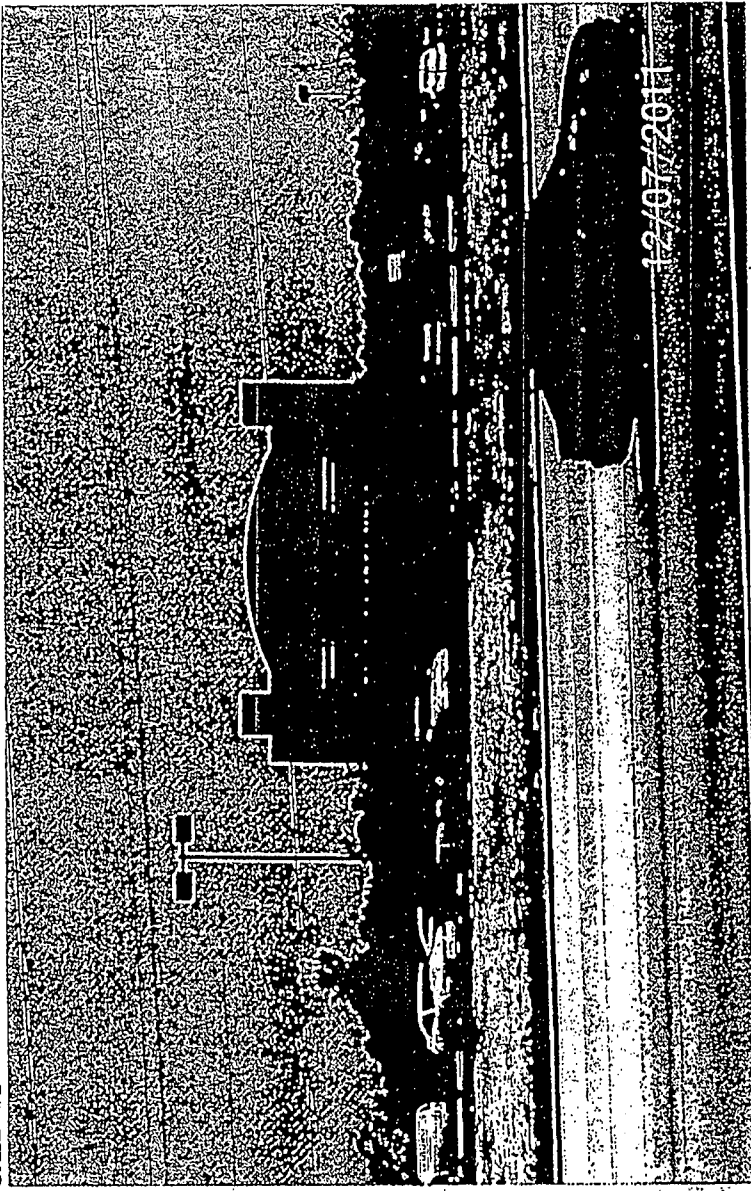
I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest with respect to the parties involved.
- I have no bias with respect to any property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- I have made a personal inspection of the properties that are the subject of this report.
- The appraisal staff of the Richland County Assessor's Office provided significant assistance to the person signing this certification.

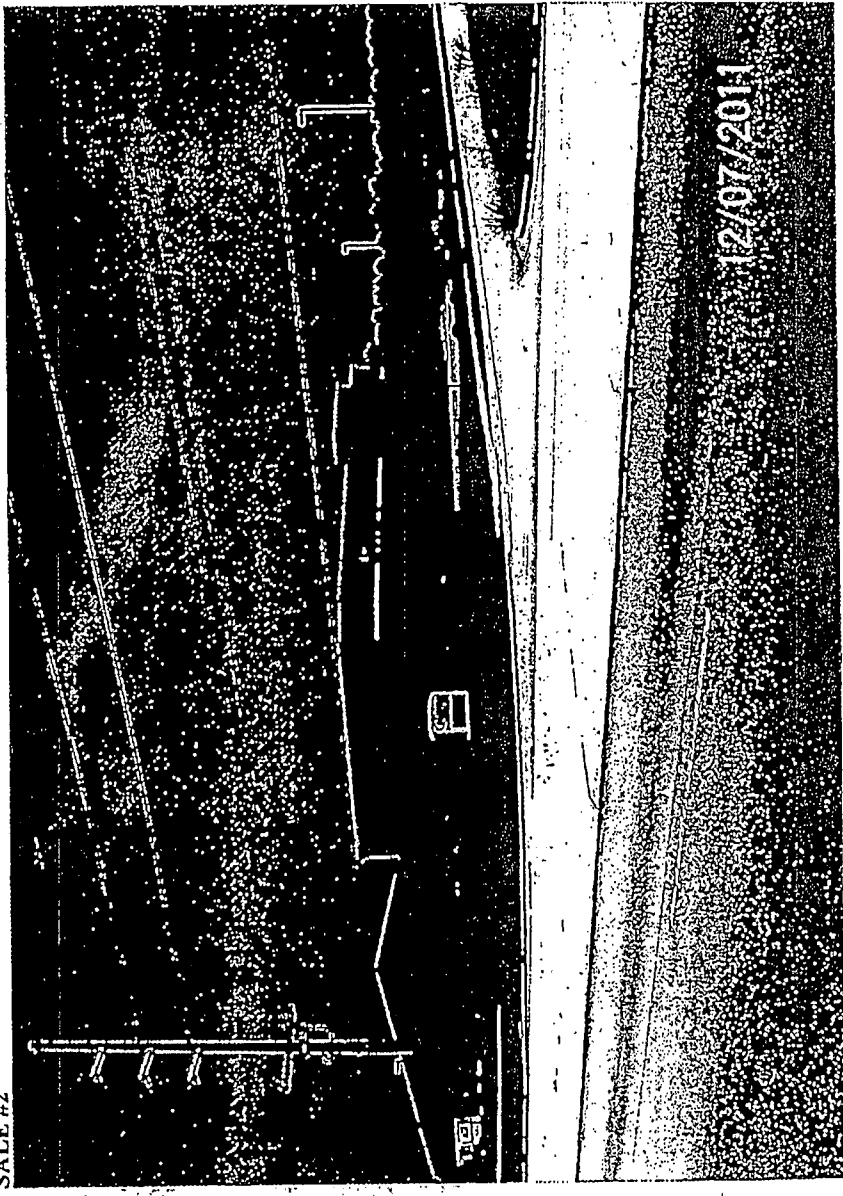
Appraiser's Signature

Mark R. Cheslak

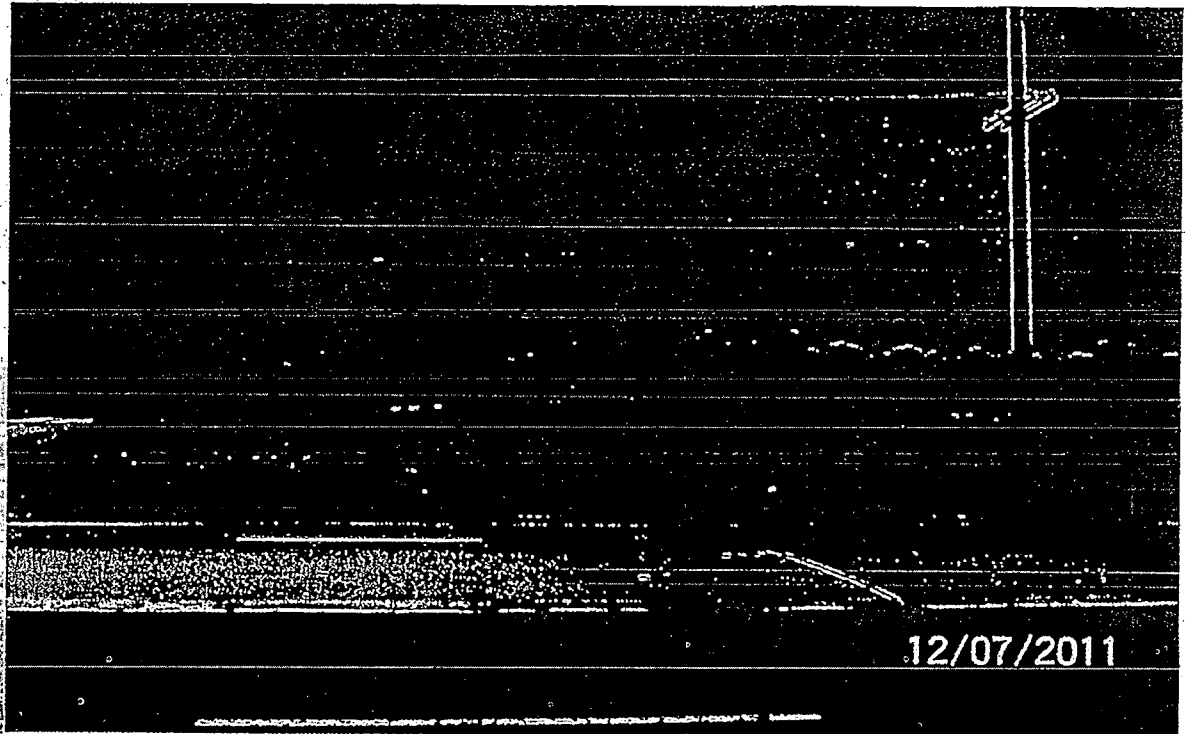
SALE #1



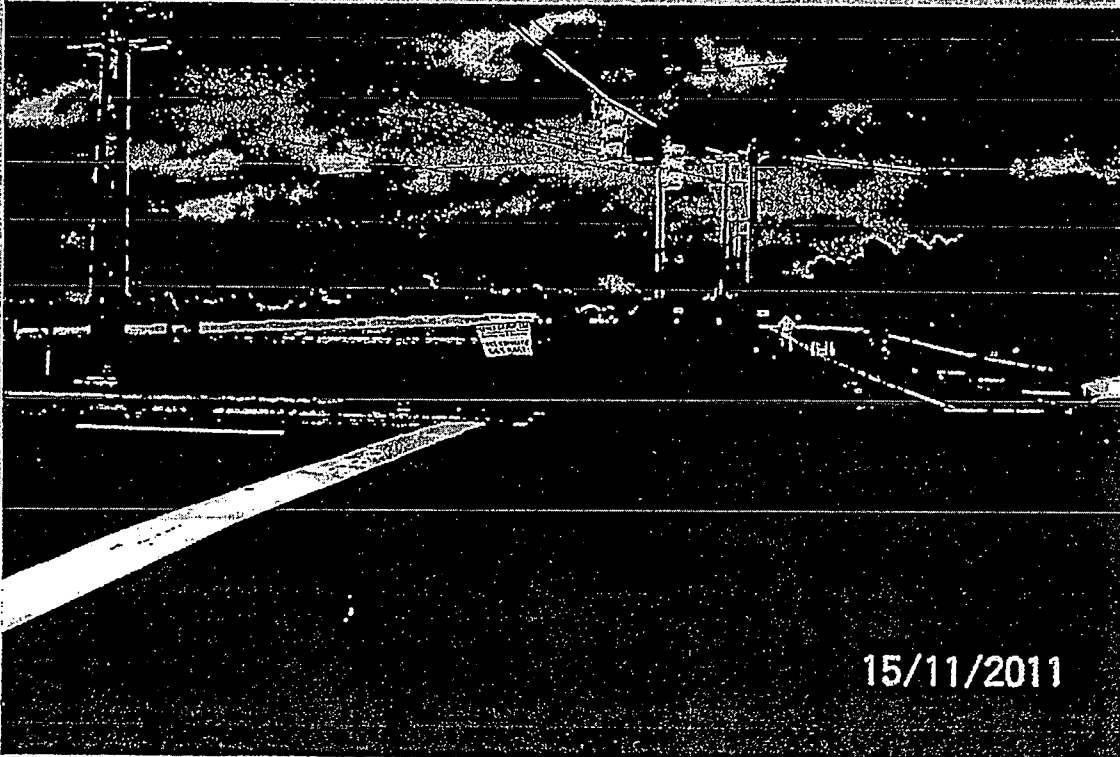
SALE #2



SALE #3



SALE #4



SITE MAP



Book 1553-2782

2009067350 09/03/2009 12:35:19.230

Warranty Deed

Fee: \$13.00 County Tax: \$2172.50 State Tax: \$5134.00

Return To:
R.E. Hanna III, Esq.
Hull, Towill, Norman, Barrett & Salley
111 Park Avenue, S.W.
Aiken, SC 29801



2009067350 Richard W. Redden Richland County R.O.D.

PREPARED BY:
Robinson, Bradshaw & Minson, P.A.
101 N. Tryon Street, Suite 1900
Charlotte, NC 28246
Attn: Jeffrey P. Kapp

STATE OF SOUTH CAROLINA

SPECIAL WARRANTY DEED

COUNTY OF RICHLAND

KNOW ALL MEN BY THESE PRESENTS, that CRESCENT RESOURCES, LLC, a Georgia limited liability company (the "Grantor"), in consideration of the sum of One Dollar (\$1.00) and other valuable consideration to it in hand paid at and before the sealing of these presents by SC BYPASS, LLC, a Georgia limited liability company (the "Grantee"), of 1190 Interstate Parkway, Augusta, Georgia 30909, in the form of cash, the receipt whereof is hereby acknowledged, has granted, bargained, sold and released and by these presents does grant, bargain, sell and release unto the Grantee, and its successors and assigns, the following described property, to wit:

The real property described on Exhibit A attached hereto.

THE ABOVE-REFERENCED PARCEL IS CONVEYED TOGETHER WITH AND SUBJECT TO all easements and restrictions created by that Declaration of Easements and Restrictions dated August 1, 2006 and recorded in Book 1214 at Page 1699 in the Registry, as subsequently amended.

DERIVATION: Being a part of the premises conveyed to Grantor by Deed from Manning/Johnson Family, LLC, a South Carolina limited liability company, to Grantor, dated December 14, 2005, and recorded in Book 1130, Page 3915 in the Registry.

TMS: R17400-05-34 and 17400-05-44

The within described property is conveyed subject to all existing easements and to restrictions of record.

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

C-1146679v1 04491.01289

TO HAVE AND TO HOLD, all and singular the said premises before mentioned unto the Grantee, its successors and assigns forever.

And the Grantor does hereby bind itself and its successors, that it has not done or suffered anything to be done whereby the premises has been encumbered, and that it will warrant and forever defend all and singular the said premises unto the Grantee, its successors and assigns against itself and its successors and against every other person whomsoever lawfully claiming, or to claim the same, or any part thereof, through or under Grantor, but not otherwise, subject only to the matters set forth on Exhibit B attached hereto and made a part hereof by this reference.

Grantor filed a voluntary petition under Chapter 11 of Title 11 of the United States Code on June 10, 2009, in the United States Bankruptcy Court in the Western District of Texas, Austin Division (the "Bankruptcy Court"). Grantor's bankruptcy case is being jointly administered by order of the Bankruptcy Court under the bankruptcy case styled, *In re Crescent Resources, LLC*, Case No. 09-11507 (CAG). Grantor is conveying the real property described in this Deed to Grantee free and clear of all liens pursuant to the authority granted in that certain "ORDER AUTHORIZING THE DEBTORS TO (I) ASSUME CERTAIN PREPETITION CONTRACTS AND TO CONTINUE TO ENTER INTO CONTRACTS TO SELL HOME LOTS, CONDOMINIUMS, OUTPARCELS, AND CERTAIN PARCELS OF LAND FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS IN THE ORDINARY COURSE OF BUSINESS, (II) PAY INDEPENDENT SALES AGENTS AND CERTAIN DEVELOPERS THEIR COMMISSIONS AND FEES, AND (III) ESTABLISHING PROCEDURES FOR THE RESOLUTION AND PAYMENT OF LIEN CLAIMS" entered by the Bankruptcy Court on June 26, 2009, a copy of which is recorded in Book 1552, Page 2852 of the Richland County Clerk's Office.

[signatures begin on the following page]

In Witness Whereof, the Grantor has caused these presents to be executed in its name by its duly authorized Senior Vice President, this 2nd day of September, 2009.

Signed, sealed and delivered
In the presence of:

CRESCENT RESOURCES, LLC, a Georgia
limited liability company

Yvonne L. Gidd
Hope Canale

By: Henry C. Lomax, Jr. (SEAL)
Name: Henry C. Lomax, Jr.
Its: Senior Vice President

State of North Carolina

Probate

County of Mecklenburg

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within CRESCENT RESOURCES, LLC, a Georgia limited liability company, by Henry C. Lomax, Jr., its Senior Vice President, sign, seal, and as its act and deed, deliver the within written instrument; and that s/he, with the other witness subscribed above, witnessed the execution thereof.

Miki R. Gide

Witness

SWORN to before me this 2nd
day of Sept., 2009

Glenda J. AldridgeNotary Public of Mecklenburg Cty., NCMy Commission Expires: 03-11-2013

[NOTARIAL SEAL]

EXHIBIT A
LEGAL DESCRIPTION

TRACT 1:

All those certain pieces, parcels or tracts of land, lying, being and situate in Richland County, South Carolina, being on the northern side of Longtown Road (S-1051) and being shown and delineated as "Tract 3", containing 1.58 acres, and "Tract 4", containing 33.16 acres, on a plat prepared for Manning/Johnson, LLC by United Design Services, Inc., dated July 26, 2005, and recorded October 18, 2005 in Record Book 1111 at Page 357 in the Office of the Clerk of Court for Richland County, South Carolina, and having the metes and bounds as shown on said plat:

Less and Except:

Those parcels being shown and delineated as "Outparcel 2", "Outparcel 3", "Outparcel 4" and "Outparcel 5" on a plat entitled "Final Subdivision Plat of Longtown Commons Outparcels 2, 3, 4 & 5," prepared by United Design Services, Inc., dated June 28, 2007, last revised October 1, 2007, and recorded October 31, 2007, in Record Book 1371, Page 3664, in the Office of the Clerk of Court for Richland County, South Carolina.

Further Less and Except:

Those parcels being shown and delineated as "Parcel 7" and "Parcel 8" on a plat entitled "Longtown Commons, Outparcels 7 & 8" prepared by United Design Services, Inc., dated September 23, 2008, and recorded November 7, 2008 in Record Book 1475, at Page 519 in the Office of the Clerk of Court for Richland County, South Carolina.

Further Less and Except:

Those parcels being shown and delineated as "Tract 3", "Parcel 3A" and "Parcel 1" on a plat entitled "Subdivision Survey (Lot Split) of Longtown Commons," prepared by J. Jetter Pittman Professional Land Surveying Inc., dated July 6, 2006, and recorded July 28, 2006, in Record Book 1211, Page 2745, in the Clerk of Court for Richland County, South Carolina.
TMS#: 17400-05-34.

TRACT 2:

That certain tract of land, lying, being and situate in Richland County, South Carolina, being on the northern side of Longtown Road (S-1051) and being shown and delineated as "Outparcel 3" on a plat entitled "Final Subdivision Plat of Longtown Commons Outparcels 2, 3, 4 & 5," prepared by United Design Services, Inc., dated June 28, 2007, last revised October 1, 2007, and recorded October 31, 2007, in Record Book 1371, Page 3664, in the Office of the Clerk of Court for Richland County, South Carolina.

TMS#: 17400-05-44.

C:1146679v1 04491.01289

EXHIBIT B**PERMITTED EXCEPTIONS**

1. Taxes and assessments for the year 2009, and subsequent years, which are a lien but are not yet due and payable.
2. All municipal, zoning and subdivision laws and ordinances applicable to the real property.
3. All rights-of-way of public streets.
4. Such matters and conditions as would be revealed by an accurate survey of the real property.
5. Right of way of Killian Crossing Drive, and rights of the public to the use thereof, and easements set forth on that Plat prepared for Manning/Johnson Family, LLC, Killian Crossing Project, by William G. Brasington, P.L.S. No. 9312, of United Design Services, Inc. dated July 26, 2005, and recorded in the Richland County Register of Deeds on October 15, 2005, in Plat Book 1111, page 357.
6. Declaration of Easements and Restrictions by Crescent Resources, LLC dated August 1, 2006, and recorded August 4, 2006, in the Richland County Register of Deeds Office at Book 1214, page 1699; as amended by that First Amendment to Declaration of Easements and Restrictions dated August 16, 2006, and recorded August 21, 2006, in said records at Book 1220, page 1220; as amended by that Second Amendment to Declaration of Easements and Restrictions dated October 30, 2007, and recorded October 31, 2007, in said records at Book 1371, page 3665; as amended by that Third Amendment to Declaration of Easements and Restrictions dated December 19, 2007, and recorded December 21, 2007, in said records at Book 1386, page 1996; as amended by that Fourth Amendment to Declaration of Easements and Restrictions dated October 21, 2008, and recorded October 22, 2008, in said records at Book 1471, page 1822; as amended by that Fifth Amendment to Declaration of Easements and Restrictions dated December 17, 2008, and recorded December 17, 2008, in said records at Book 1482, page 134.
7. Easement from Jane Davis to South Carolina Electric & Gas Company dated May 31, 1979, and recorded in the Richland County Register of Deeds Office at Book D 507, page 776.
8. Easement from Energy Subsidiary, Inc. to South Carolina Electric & Gas Company dated September 10, 1979, and recorded September 11, 1979, in the Richland County Register of Deeds Office at Book D 514, page 842.
9. Easement for a water main from Manning/Johnson Family LLC to the City of Columbia dated July 8, 2002, and recorded July 12, 2002, in the Richland County Register of Deeds Office at Book 683, page 3070.

C-1146679v1 04491.01289

10. Declaration of Covenant from Manning/Johnson Family, LLC to the City of Columbia dated May 20, 2003, and recorded May 27, 2003, in the Richland County Register of Deeds Office at Book 799, page 332.

11. Utility easement from Manning/Johnson Family, LLC to the City of Columbia dated October 30, 2003, and recorded December 5, 2003, in the Richland County Register of Deeds Office at Book 882, page 2777.

12. Easement from Manning/Johnson Family, LLC to South Carolina Electric & Gas Company dated September 30, 2004, and recorded October 8, 2004, in the Richland County Register of Deeds Office at Book 985, page 3786.

13. Easement from Crescent Resources, LLC to South Carolina Electric & Gas Company dated July 13, 2006, and recorded July 20, 2006, in the Richland County Register of Deeds Office at Book 1208, page 910.

14. Declaration of Covenant from Crescent Resources, LLC to the City of Columbia dated July 20, 2006, and recorded August 10, 2006, in the Richland County Register of Deeds Office at Book 1216, page 3092.

15. Deed to Water Lines from Crescent Resources, LLC to the City of Columbia dated August 21, 2007, and recorded September 14, 2007, in the Richland County Register of Deeds Office at Book 1357, page 2838.

16. Deed to Sanitary Sewer Lines from Crescent Resources, LLC to the City of Columbia dated August 21, 2007, and recorded September 14, 2007, in the Richland County Register of Deeds Office at Book 1357, page 2841.

17. Easement from Crescent Resources, LLC to South Carolina Electric & Gas Company dated October 10, 2007, and recorded October 16, 2007, in the Richland County Register of Deeds Office at Book 1367, page 541.

C-1146679v1 04491.01289

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The property being transferred is set forth on Exhibit A attached hereto. The property is being transferred by Crescent Resources, LLC, a Georgia limited liability company (the "Transferor"), to SC Bypass, LLC, a Georgia limited liability company (the "Buyer").

3. Check one of the following: The deed is

- (a) ☒ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
- (b) ☐ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
- (c) ☐ exempt from the deed recording fee because (See information section of affidavit):
(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)

4. Check one of the following if either item 3(a) or 3(b) above has been checked (See information section of this affidavit.):

- (a) ☒ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$1,975,000.00.
- (b) ☐ The fee is computed on the fair market value of the realty which is _____.
- (c) ☐ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.

5. Check Yes ☐ or No ☒ to the following: A lien or encumbrances existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes", the amount of the outstanding balance of this lien or encumbrance is: _____.

C-1141442v1 04491.01289

6. The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here: \$1,975,000.00

(b) Place the amount listed in item 5 above here: _____
(If no amount is listed, place zero here)

(c) Subtract Line 6(b) from Line 6(a) and place result here: \$1,975,000.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and deed recording fee due is: \$7,307.50.

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: a President of Transferor.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

Sworn to before me this 2nd
day of Sept., 2009

[Signature]
Notary Public
My Commission Expires: 03-11-2012

[Signature]
Responsible Person Connected with the Transaction

Henry C. Lomax Jr.
Print or Type Name Here

EXHIBIT A**LEGAL DESCRIPTION**

All those certain pieces, parcels or tracts of land, lying, being and situate in Richland County, South Carolina, being on the northern side of Longtown Road (S-1051) and being shown and delineated as "Tract 3", containing 1.58 acres, and "Tract 4", containing 33.16 acres, on a plat prepared for Manning/Johnson, LLC by United Design Services, Inc., dated July 26, 2005, and recorded October 18, 2005 in Record Book 1111 at Page 357 in the Office of the Clerk of Court for Richland County, South Carolina, and having the metes and bounds as shown on said plat:

Less and Except:

Those parcels being shown and delineated as "Outparcel 2", "Outparcel 4" and "Outparcel 5" on a plat entitled "Final Subdivision Plat of Longtown Commons Outparcels 2, 3, 4 & 5," prepared by United Design Services, Inc., dated June 28, 2007, last revised October 1, 2007, and recorded October 31, 2007, in Record Book 1371, Page 3664, in the Office of the Clerk of Court for Richland County, South Carolina.

Further Less and Except:

Those parcels being shown and delineated as "Parcel 7" and "Parcel 8" on a plat entitled "Longtown Commons, Outparcels 7 & 8" prepared by United Design Services, Inc., dated September 23, 2008, and recorded November 7, 2008 in Record Book 1475, at Page 519 in the Office of the Clerk of Court for Richland County, South Carolina.

Further Less and Except:

Those parcels being shown and delineated as "Tract 3", "Parcel 3A" and "Parcel 1" on a plat entitled "Subdivision Survey (Lot Split) of Longtown Commons," prepared by J. Jetter Pittman Professional Land Surveying Inc., dated July 6, 2006, and recorded July 28, 2006, in Record Book 1211, Page 2745, in the Clerk of Court for Richland County, South Carolina.

DERIVATION: Being a part of the premises conveyed to Seller by Deed from Manning/Johnson Family, LLC, a South Carolina limited liability company, dated December 14, 2005, and recorded in Book 1130, Page 3915 in the Registry.

TMS#'s: 17400-05-34 and 17400-05-44.

INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

- (1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30 is equal to or less than one hundred dollars;
- (2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
- (3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
- (4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (5) transferring realty in order to partition realty so long as no consideration is paid for the transfer other than interests in the realty that are being exchanged in order to partition the realty.
- (6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
- (7) that constitute a contract for the sale of timber to be cut;
- (8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value of such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner or trust beneficiary

of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;

(9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust, in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);

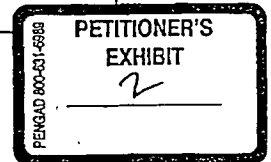
(10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;

(11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership; and

(12) that constitute a corrective deed or quitclaim deed used to confirm the title already vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed.

RESTRICTED USE APPRAISAL REPORT
RICHLAND COUNTY ASSESSOR'S OFFICE
2020 HAMPTON STREET
COLUMBIA, SC 29204

Property Name and Location:	BAA Case #: 2010-48
SC BYPASS LLC	Prior Value: \$3,928,700
1190 INTERSTATE PARKWAY	Current Value: \$3,571,500
AUGUSTA, GA 30909	TMS: 17400-05-34
INSPECTION DATE 03/03/2011	VALUATION DATE 12/31/2009



VALUATION ISSUES

The owner disagrees with the assessed value of the property.

S. C. CODE OF LAWS 12-37-930

All property must be valued for taxation at its true value in money which in all cases is the price which the property would bring following reasonable exposure to the market, where both the seller and the buyer are willing, are not acting under compulsion, and are reasonably well informed of the uses and purposes for which it is adapted and for which it is capable of being used.

S. C. CODE OF LAWS 12-37-3140

(A) (1) For property tax years beginning after 2006, the fair market value of real property is its fair market value applicable for the later of:

- (a) the base year, as defined in subsection (C) of this section;
 - (b) December thirty-first of the year in which an assessable transfer of interest has occurred;
 - (c) as determined on appeal; or
 - (d) as it may be adjusted as determined in a countywide reassessment program conducted pursuant to Section 12-43-217, but limited to increases in such value as provided in subsection (B) of this section.
- (2) To the fair market value of real property as determined at the time provided in item (1) of this subsection, there must be added the fair market value.

(B) Any increase in the fair market value of real property attributable to the periodic countywide appraisal and equalization program implemented pursuant to Section 12-43-217 is limited to fifteen percent within a five-year period to the otherwise applicable fair market value. However, this limit does not apply to the fair market value of additions or improvements to real property in the year those additions or improvements are first subject to property tax, nor do they apply to the fair market value of real property when an assessable transfer of interest occurred in the year that the transfer value is first subject to tax.

(C) For purposes of determining a "base year" fair market value pursuant to this section, the fair market value of real property is its appraised value applicable for property tax year 2007.

(D) Real property valued by the unit valuation concept is excluded from the limits provided pursuant to subsection (B) of this section.

Document A
Assessor's Documentation

(E) Value attributable to additions and improvements, and changes in value resulting from assessable transfers of interest occurring in a property tax year are first subject to property tax in the following tax year except as provided pursuant to Section 12-37-670(B).

S. C. CODE OF LAWS 12-37-3150

(A) For purposes of determining when a parcel of real property must be appraised, an assessable transfer of interest in real property includes, but is not limited to, the following:

(1) a conveyance by deed;

(2) a conveyance by land contract;

(3) a conveyance to a trust, except if the settlor or the settlor's spouse, or both, conveys the property to the trust and the sole present beneficiary or beneficiaries are the settlor or the settlor's spouse, or both;

(4) a conveyance by distribution from a trust, except if the distributee is the sole present beneficiary or the spouse of the sole present beneficiary, or both;

(5) a change in the sole present beneficiary or beneficiaries of a trust, except a change that adds or substitutes the spouse of the sole present beneficiary;

(6) a conveyance by distribution under a will or by intestate succession, except if the distributee is the decedent's spouse;

(7) a conveyance by lease if the total duration of the lease, including the initial term and all options for renewal, is more than twenty years or the lease grants the lessee a bargain purchase option. As used in this item, "bargain purchase option" means the right to purchase the property at the termination of the lease for not more than eighty percent of the property's true cash value at the termination of the lease. This item does not apply to personal property or that portion of the property not subject to the leasehold interest conveyed;

(8) a transfer of an ownership interest in a single transaction or as a part of a series of related transactions within a twenty-five year period in a corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity if the ownership interest conveyed is more than fifty percent of the corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity. The corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity shall notify the applicable property tax assessor on a form provided by the Department of Revenue not more than forty-five days after a conveyance of an ownership interest that constitutes an assessable transfer of interest or transfer of ownership under this item;

(9) a change of use of agricultural real property which subjects it to the rollback tax;

(10) a change of use of real property when classification of property changes as a result of a local zoning ordinance change; or

(11) the passage of twenty years since the later of the base year or the last assessable transfer of interest for real property owned by a publicly-held entity whose stock, shares, or other ownership interests are traded on a regulated exchange, a pension fund, or other similar entity.

PURPOSE OF THIS REPORT

The purpose of the report is to define or estimate the type of value for which the appraisal is intended. This value could be Market Value, what the property would sell for on an open market; Going Concern Value, the value for a specific use or user; Insurable Value, the cost to replace the property should something happen to it; Partial Interest Value, the value of a portion of the bundle of rights that is inherent in the ownership of a property, such as a percentage interest in the whole property; or Investment value, the value to an individual investor considering his investment criteria and potential tax ramifications. The Assessor seeks Market Value for ad valorem tax purposes.

PROPERTY RIGHTS APPRAISED

Since land is fixed as to location, property rights are what is owned, purchased, or sold. In the private ownership of property the owner has the right to use, sell, rent, lease, enter or leave, give away, and the right to refuse to do any of these. This total collection of rights is known as "fee simple absolute" or as normally referred to as "fee simple". Other rights in property are reserved to the government. These would be police power, taxation, eminent domain and escheat. All of these ownership rights may be separated and sold, or leased in part creating portions of the total value of a property.

This appraisal is predicated on the assumption that the present ownership includes all of the rights, which may be legally owned, and is an appraisal of the fee simple interest in the real property. Fee simple implies that ownership is complete and not encumbered. It must be noted that properties are typically encumbered by financing. The definition of market value implies that financing is on terms generally available to the community at that time and is typical for the property type in its community.

FUNCTION

The function is the purpose for which this report will be used. The function of this report is to demonstrate ranges of value within the definition of the mass appraisal process as to its possible fair market value.

DEFINITION OF MASS APPRAISAL

The Property Assessment Valuation of the International Association of Assessing Officers defines Mass appraisal as the process of valuing a universe of properties as of a given date, in a uniform order, utilizing standard methodology, employing a common reference for data, and allowing for statistical testing.

DEFINITION OF MARKET VALUE

The definition of market value as published in the 2010-2011 of the "Uniform Standards of Professional Appraisal Practice" published by the Appraisal Foundation is that definition used for Federally Related Transactions:

"..... the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

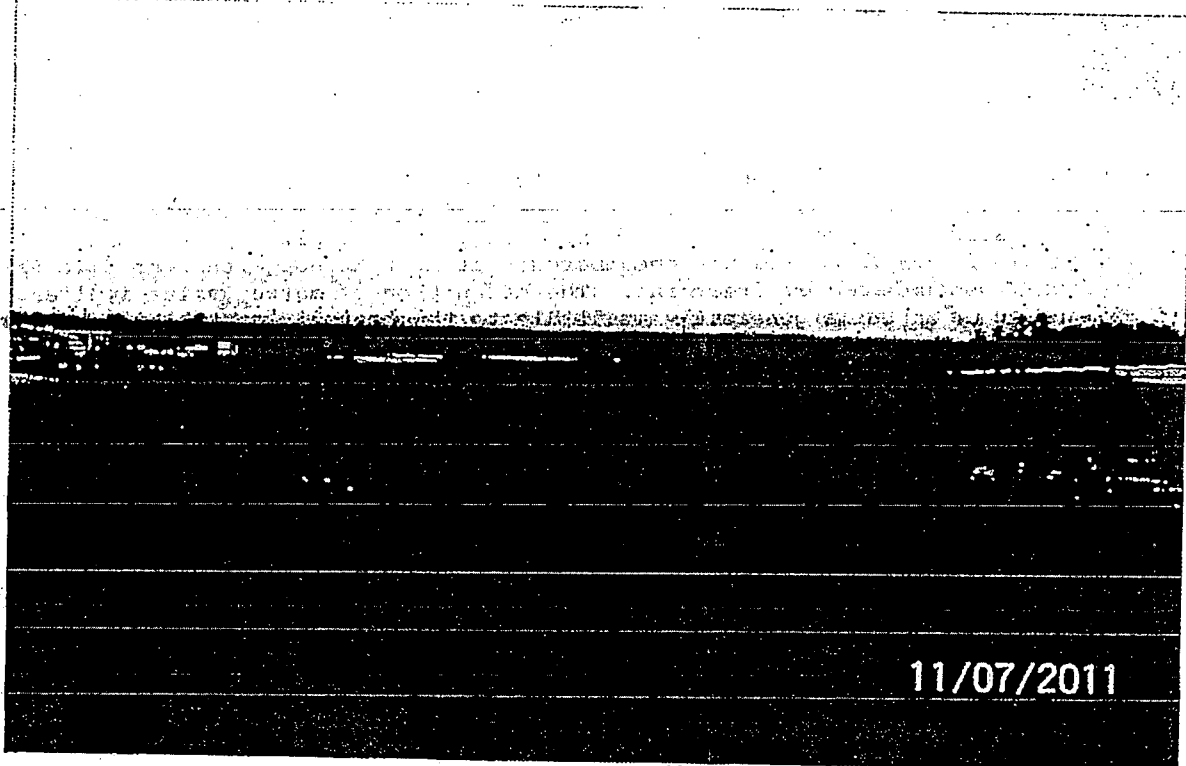
1. Buyer and seller are typically motivated;
2. Both parties are well informed or well advised, and acting in what they consider their best interest;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in United States dollars or in financial terms comparable thereto; and

5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."

LAND ANALYSIS

TYPE:	VACANT LAND 300A
SIZE	23.81 ACRES
LOCATION	N/S CLEMSON RD.
TOPOGRAPHY	LEVEL
ZONING	M-1

Subject



SUBJECT PROPERTY

The subject property is a level 23.81 acre tract of vacant land located on Clemson Rd fronted by outparcels developed by a fast food restaurant, a bank, a drug store, and vision store. Directly across Clemson Rd are more developed out parcels on front of a Lowes store. Approximately 2 acres of the subject site are set aside for a detention pond. It is in Zone X from FIRM #45079C0140K and #45079C0145K. Zone X is an area of moderate or minimal hazard from flooding.

RICHLAND COUNTY ZONING

The subject is currently zoned M-1 (Light Industrial) and is intended to accommodate wholesaling, distribution, storage, processing, light manufacturing, and general commercial or agricultural uses. Certain related structures and uses required to serve the needs of such uses are permitted outright or are permissible as special exceptions subject to restrictions and requirements intended to best fulfill the intent of this ordinance.

HIGHEST AND BEST USE

The analysis of the property begins with the determination of its highest and best use. This is from two views of the subject. The first considers the land as if vacant and a purchaser could develop it to its most profitable use. The second view is from the position of how the site is currently used and its relation to maximum value.

The American Institute of Real Estate Appraisers defines the highest and best use as the use that is reasonably probable, legally permissible, physically possible, appropriately supported, financially feasible and results in the highest present land value.

When considering the land as if vacant, you first must look to legal uses such as current zoning and what is the probability of changing the zoning. This land is currently zoned M-1, which is intended to accommodate general commercial and nonresidential uses characterized primarily by retail, office, and service establishments.

Physically possible is the second criterion in determining Highest and Best use of this site. The site is shown as a roughly rectangular shaped lot containing 23.81 acres (See Tax Map). It does have access to all utilities. The site's shape, size, access to utilities, topography, and ingress and egress, appear to be suitable for a variety of commercial improvements.

The third consideration is financial feasibility. Together with the physically possible and legally permissible uses, the economic viability would be enhanced by a use that is compatible with the surrounding uses.

In this highest and best use analysis of the subject as vacant, it appears that highest and best use is as a retail or other similar use which is compatible with the M-1 zoning, the uses of surrounding properties, and giving due consideration of the availability of necessary utilities, and the size of the subject.

THE VALUATION PROCEDURE

The appraisal process is a systematic analysis of information relating to a defined valuation problem. The process is carried out in an orderly fashion. Data is collected, classified and analyzed. Conclusions are drawn from the data into an opinion of value. There are three approaches to value that the appraiser typically relies on. They are the cost approach, the sales comparison approach and the income capitalization approach.

The three approaches to value require the collection of information from the Real Estate "market". In so doing, an appraiser relies on the principle of substitution, which simply interpreted states that a prudent purchaser would pay no more for real property than the cost of acquiring an equally desirable substitute on the open market. Substitution may assume the form of a purchase of an existing property with the same utility or investment potential.

The cost approach is based on the assumption that an informed purchaser would pay no more than the cost of producing a substitute property with the same utility as the subject.

The income capitalization approach is defined as, an analysis which converts anticipated benefits, (dollar income or amenities), to be derived from the ownership of property, into a value estimate. Properties that offer similar substitute income with an equally desirable net income with the same utility, indicates the value of the subject.

The sales comparison approach is based on locating similar properties to the subject that have sold and comparing these to the subject. Defined as an appraisal procedure in which the market value estimate is predicated upon prices paid in actual market transactions and current listings. The reliability of this technique is dependent upon;

- (a) The availability of comparable sales data.
- (b) The verification of the sales data.
- (c) The degree of comparability or extent of adjustment necessary for differences.
- (d) The absence of non-typical conditions affecting the sales price.

The indicated value from the three approaches is correlated and reconciled into a final estimate of value. Each approach is analyzed for their weakness and strength as it relates to the subject property. Then a final value estimate is derived for the subject property.

THE COST APPROACH

As the subject is a vacant tract of land, the cost approach to value is not appropriate in this instance.

The Income Approach

The income approach to value is not used in valuing vacant property.

DIRECT SALES COMPARISON

Sale/TMS/Address	Date	Sale Price	Size	SP/AC	TOPO	ZONING	Access
17400-02-12, 14 S/S. CLEMSON RD	03/08	\$4,294,115	17.53 AC	\$244,958/AC	Level	BDD	Good
17400-02-13 S/S CLEMSON RD	03/08	\$4,238,745	17.30 AC	\$245,014/AC	Level	GC	Good
17400-05-28 & 17414-05-02 1051 SAMS CROSSING DR	08/08	\$4,788,762	20.39 AC	\$234,858/AC	Level	M-1	Good
Subject Current Value	12/09	\$3,571,500	23.81 AC	\$150,000/AC	Level	M-1	Good
Requested Value	12/09	\$1,580,000		\$66,359			

COMMENTS: All three sales in the above chart are within .50 miles of the subject. Sales 1 and 2 are on Clemson Road while sale 3, though not directly on Clemson Road, has outparcels lining its frontage. The subject has had site work done in the way of clearing and leveling the site, a detention pond and a paved road with curbing added. These site improvements are estimated at \$80,000/AC. Sale 3 is considered to be the most comparable as it is directly across Clemson Road from the subject with outparcels like the subject. Lowes occupies the site at present. The two main differences between the subject and sale 3 are the site work and the restrictive covenants in place for sale 3 which are more limiting than those on the subject. The restrictive covenants on sale 3 limit the type of business that can enter the shopping center while the restrictive covenants on the subject limit only the appearance of the structures that are

built. The site work difference calls for a positive adjustment for each of the sales since none had site work at the time of sale. The restrictive covenant issue is a negative adjustment to sale 3 because it has more severe limitations to protect the integrity of the shopping center. The other adjustment to consider is the difference in the market from the time of sale as compared to the valuation date of December 31, 2009. Our estimation is that the market has declined 15% from mid-2008 to the end of 2009. By applying this adjustment to each sale and giving most weight to sale 3, \$200,000/AC is the estimated value.

$\$200,000/\text{ac} \times 23.81 \text{ acres} = \$4,762,000$

RECONCILIATION OF VALUE

Cost Approach:	N/A
Direct Sales Comparison:	\$4,762,000
Income Approach:	N/A

Comments: The Direct Sales Comparison Approach is the best approach to value for this parcel since it is not improved beyond its site work, and is not an income producing property. The value estimate of \$165,000/AC was initially set as the assessable transfer of interest (ATI) value. Through the appeal process, \$150,000/AC was settled upon to eliminate all doubt that this property was above market value.

In preparation for this case, an in-depth review was conducted and a narrative appraisal prepared. Our appraisal relies on the market approach to value and indicates a much higher value for the subject than the assessor's opinion of value or the purchase price paid at auction. Accordingly, the assessor's opinion of value of \$3,571,500 is reasonable and well supported as of December 31, 2009.

It should be noted that the subject along with 17400-05-44 (1.74 acre outparcel) was purchased in June 2009 for \$1,975,000 as the result of a sale following the grantor's voluntary bankruptcy under Chapter 11 of Title 11 in the US Bankruptcy Court. Based upon the sales of comparable properties and based upon the circumstances of the sale of the subject property in bankruptcy, the \$1,975,000 is not a true indicator of fair market value.

GENERAL ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal report has been made and is subject to the following general assumptions:

1. That title to the property is assumed to be good and marketable unless otherwise stated: No responsibility is assumed for the legal descriptions or for any legal matter.
2. That the definition of value together with other definitions and assumptions on which our analysis are based are set forth in appropriate sections of this report and are a part of these General Assumptions as if included here in their entirety.
3. That the distribution of value between land and improvements serves as a basis for total valuation and applies only under the present program of highest and best use and should not be quoted separately.
4. That title to the property is assumed to be marketable. The property is considered to be under responsible ownership and management and free of all liens and encumbrances except as specifically discussed herein.
5. That the facts, estimates and opinions furnished the appraisers by others and contained in this report are considered to be from reliable sources and where feasible have been verified. However no responsibility is assumed for the accuracy of the information. We reserve the right to modify the value estimates should more reliable or accurate information become available subsequent to delivery of this report.
6. That all engineering and/or surveys are assumed to be correct. The sketches, plot plans and drawings included in the report are included only to assist the reader in visualizing the property.
7. It is further assumed that there are no hidden or other in apparent conditions in the soil, subsoil, structures or property that would render them more or less valuable. The appraisers specifically accept no responsibility for damage by termites, woodborers or any other wood-infesting insects. No responsibility is assumed for such conditions or for engineering or inspection, which would be required to discover them.
8. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on or in the property, was not observed by the appraiser. The appraiser, however, is not qualified to detect such substances. The presence of potentially dangerous or hazardous materials, gases or toxic substances may affect the value of the property and in this appraisal the value estimate is predicated on the assumption that there is no such element on or in the property that would cause such loss in value. No loss is assumed for any such condition, or for any expertise or engineering knowledge required to discover them.
9. Good structural and mechanical conditions are assumed to exist and no opinion as to these matters is to be inferred or construed from the attached report.
10. It is assumed that there is full compliance with all applicable federal, state and local environmental regulations and laws unless noncompliance is stated, defined and considered in the appraisal report.
11. It is assumed that all applicable zoning and use regulations and restrictions have been complied with, unless non-conformity has been stated, defined and considered in the appraisal report.

12. It is assumed that all required licenses, certificates of occupancy, legislated or administrative consents from any local, state or national governmental or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

13. It is assumed that the utilization of the land and or improvements is within the boundaries or property lines of the property described herein and that there is no encroachment or trespass unless noted within the report.

14. This "Restricted Use" appraisal report has been prepared for the exclusive use of the Richland County Board of Assessment Appeals and the South Carolina Department of Revenue. It is as stated; a summary of information on file in the Richland County Assessor's Office and is intended to represent an appraisal for Ad Valorem tax purposes under the Standards Of Professional Practices requirements. It may not be used or relied upon by any other party. Any party who uses or relies upon any information in this report, without the Richland County Assessors written consent, does so at his own risk. Possession of this report, or copy thereof, does not carry with it the right of publication. It may not be used for any purpose by any person other than the Richland County Board of Assessment Appeals or the Administrative Law Judge Division of the State of South Carolina without the written consent of the Richland County Assessor.

APPRAISER'S CERTIFICATION

I certify that, to the best of my knowledge and belief:

- the statements of fact contained in this report are true and correct.
- the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report, and I have no personal interest with respect to the parties involved.
- I have no bias with respect to any property that is the subject of this report or to the parties involved with this assignment.
- my engagement in this assignment was not contingent upon developing or reporting predetermined results.
- my compensation for completing this assignment is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- my analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the *Uniform Standards of Professional Appraisal Practice*.
- I have made a personal inspection of the properties that are the subject of this report.
- The appraisal staff of the Richland County Assessor's Office provided significant assistance to the person signing this certification.

Appraiser's Signature

Mark R. Cheslak

SALE #1



SALE #2



SALE #3



Book 1553-2782

2009067350 04/03/2008 12:35:19.230

Warranty Deed

Fee: \$13.00 County Tax: \$2172.50 State Tax: \$5136.00



2009067350 Richard W. Redden

Richland County R.O.D.

Return To:
R.E. Hanna III, Esq.
Hull, Towill, Norman, Barrett & Salley
111 Park Avenue, S.W.
Aiken, SC 29801

PREPARED BY:
Robinson, Bradshaw & Hinson, P.A.
101 N. Tryon Street, Suite 1900
Charlotte, NC 28246
Attn: Jeffrey P. Kapp

STATE OF SOUTH CAROLINA

SPECIAL WARRANTY DEED

COUNTY OF RICHLAND

KNOW ALL MEN BY THESE PRESENTS, that CRESCENT RESOURCES, LLC, a Georgia limited liability company (the "Grantor"), in consideration of the sum of One Dollar (\$1.00) and other valuable consideration to it in hand paid at and before the sealing of these presents by SC BYPASS, LLC, a Georgia limited liability company (the "Grantee"), of 1190 Interstate Parkway, Augusta, Georgia 30909, in the form of cash, the receipt whereof is hereby acknowledged, has granted, bargained, sold and released and by these presents does grant, bargain, sell and release unto the Grantee, and its successors and assigns, the following described property, to-wit:

The real property described on Exhibit A attached hereto.

THE ABOVE-REFERENCED PARCEL IS CONVEYED TOGETHER WITH AND SUBJECT TO all easements and restrictions created by that Declaration of Easements and Restrictions dated August 1, 2006 and recorded in Book 1214 at Page 1699 in the Registry, as subsequently amended.

DERIVATION: Being a part of the premises conveyed to Grantor by Deed from Manning/Johnson Family, LLC, a South Carolina limited liability company, to Grantor, dated December 14, 2005, and recorded in Book 1130, Page 3915 in the Registry.

TMS: R17400-05-34 and 17400-05-44

The within described property is conveyed subject to all existing easements and to restrictions of record.

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

C-114679v1 04491.01289

TO HAVE AND TO HOLD, all and singular the said premises before mentioned unto the Grantee, its successors and assigns forever.

And the Grantor does hereby bind itself and its successors, that it has not done or suffered anything to be done whereby the premises has been encumbered, and that it will warrant and forever defend all and singular the said premises unto the Grantee, its successors and assigns against itself and its successors and against every other person whomsoever lawfully claiming, or to claim the same, or any part thereof, through or under Grantor, but not otherwise, subject only to the matters set forth on Exhibit B attached hereto and made a part hereof by this reference.

Grantor filed a voluntary petition under Chapter 11 of Title 11 of the United States Code on June 10, 2009, in the United States Bankruptcy Court in the Western District of Texas, Austin Division (the "Bankruptcy Court"). Grantor's bankruptcy case is being jointly administered by order of the Bankruptcy Court under the bankruptcy case styled, *In re Crescent Resources, LLC*, Case No. 09-11507 (CAG). Grantor is conveying the real property described in this Deed to Grantee free and clear of all liens pursuant to the authority granted in that certain "ORDER AUTHORIZING THE DEBTORS TO (I) ASSUME CERTAIN PREPETITION CONTRACTS AND TO CONTINUE TO ENTER INTO CONTRACTS TO SELL HOME LOTS, CONDOMINIUMS, OUTPARCELS, AND CERTAIN PARCELS OF LAND FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS IN THE ORDINARY COURSE OF BUSINESS, (II) PAY INDEPENDENT SALES AGENTS AND CERTAIN DEVELOPERS THEIR COMMISSIONS AND FEES, AND (III) ESTABLISHING PROCEDURES FOR THE RESOLUTION AND PAYMENT OF LIEN CLAIMS" entered by the Bankruptcy Court on June 26, 2009, a copy of which is recorded in Book 1552, Page 2852 of the Richland County Clerk's Office.

[signatures begin on the following page]

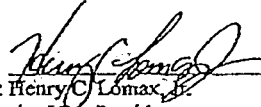
In Witness Whereof, the Grantor has caused these presents to be executed in its name by its duly authorized Senior Vice President, this 2nd day of September, 2009.

Signed, sealed and delivered
In the presence of:

CRESCENT RESOURCES, LLC, a Georgia
limited liability company

Yvonne L. Gido

Hope Canale

By:  (SEAL)
Name: Henry C. Lomax, Jr.
Its: Senior Vice President

State of North Carolina

Probate

County of Mecklenburg

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within CRESCENT RESOURCES, LLC, a Georgia limited liability company, by Henry C. Lomax, Jr., its Senior Vice President, sign, seal, and as its act and deed, deliver the within written instrument; and that s/he, with the other witness subscribed above, witnessed the execution thereof.

Mike R. Gide

Witness

SWORN to before me this 2nd
day of Sept., 2009

Glenn J. Aldridge
Notary Public of Mecklenburg Cty., NC

My Commission Expires: 03-11-2013

[NOTARIAL SEAL]

EXHIBIT A**LEGAL DESCRIPTION****TRACT 1:**

All those certain pieces, parcels or tracts of land, lying, being and situate in Richland County, South Carolina, being on the northern side of Longtown Road (S-1051) and being shown and delineated as "Tract 3", containing 1.58 acres, and "Tract 4", containing 33.16 acres, on a plat prepared for Manning/Johnson, LLC by United Design Services, Inc., dated July 26, 2005, and recorded October 18, 2005 in Record Book 1111 at Page 357 in the Office of the Clerk of Court for Richland County, South Carolina, and having the metes and bounds as shown on said plat:

Less and Except:

Those parcels being shown and delineated as "Outparcel 2", "Outparcel 3", "Outparcel 4" and "Outparcel 5" on a plat entitled "Final Subdivision Plat of Longtown Commons Outparcels 2, 3, 4 & 5," prepared by United Design Services, Inc., dated June 28, 2007, last revised October 1, 2007, and recorded October 31, 2007, in Record Book 1371, Page 3664, in the Office of the Clerk of Court for Richland County, South Carolina.

Further Less and Except:

Those parcels being shown and delineated as "Parcel 7" and "Parcel 8" on a plat entitled "Longtown Commons, Outparcels 7 & 8" prepared by United Design Services, Inc., dated September 23, 2008, and recorded November 7, 2008 in Record Book 1475, at Page 519 in the Office of the Clerk of Court for Richland County, South Carolina.

Further Less and Except:

Those parcels being shown and delineated as "Tract 3", "Parcel 3A" and "Parcel 1" on a plat entitled "Subdivision Survey (Lot Split) of Longtown Commons," prepared by J. Jetter Pittman Professional Land Surveying Inc., dated July 6, 2006, and recorded July 28, 2006, in Record Book 1211, Page 2745, in the Clerk of Court for Richland County, South Carolina.
TMS#: 17400-05-34.

TRACT 2:

That certain tract of land, lying, being and situate in Richland County, South Carolina, being on the northern side of Longtown Road (S-1051) and being shown and delineated as "Outparcel 3" on a plat entitled "Final Subdivision Plat of Longtown Commons Outparcels 2, 3, 4 & 5," prepared by United Design Services, Inc., dated June 28, 2007, last revised October 1, 2007, and recorded October 31, 2007, in Record Book 1371, Page 3664, in the Office of the Clerk of Court for Richland County, South Carolina.

TMS#: 17400-05-44.

C-1146679v1 04491.01289

EXHIBIT B**PERMITTED EXCEPTIONS**

1. Taxes and assessments for the year 2009, and subsequent years, which are a lien but are not yet due and payable.
2. All municipal, zoning and subdivision laws and ordinances applicable to the real property.
3. All rights-of-way of public streets.
4. Such matters and conditions as would be revealed by an accurate survey of the real property.
5. Right of way of Killian Crossing Drive, and rights of the public to the use thereof, and easements set forth on that Plat prepared for Manning/Johnson Family, LLC, Killian Crossing Project, by William G. Brasington, P.L.S. No. 9312, of United Design Services, Inc., dated July 26, 2005, and recorded in the Richland County Register of Deeds on October 15, 2005, in Plat Book 1111, page 357.
6. Declaration of Easements and Restrictions by Crescent Resources, LLC dated August 1, 2006, and recorded August 4, 2006, in the Richland County Register of Deeds Office at Book 1214, page 1699; as amended by that First Amendment to Declaration of Easements and Restrictions dated August 16, 2006, and recorded August 21, 2006, in said records at Book 1220, page 1220; as amended by that Second Amendment to Declaration of Easements and Restrictions dated October 30, 2007, and recorded October 31, 2007, in said records at Book 1371, page 3665; as amended by that Third Amendment to Declaration of Easements and Restrictions dated December 19, 2007, and recorded December 21, 2007, in said records at Book 1386, page 1996; as amended by that Fourth Amendment to Declaration of Easements and Restrictions dated October 21, 2008, and recorded October 22, 2008, in said records at Book 1471, page 1822; as amended by that Fifth Amendment to Declaration of Easements and Restrictions dated December 17, 2008, and recorded December 17, 2008, in said records at Book 1482, page 134.
7. Easement from Jane Davis to South Carolina Electric & Gas Company dated May 31, 1979, and recorded in the Richland County Register of Deeds Office at Book D 507, page 776.
8. Easement from Energy Subsidiary, Inc. to South Carolina Electric & Gas Company dated September 10, 1979, and recorded September 11, 1979, in the Richland County Register of Deeds Office at Book D 514, page 842.
9. Easement for a water main from Manning/Johnson Family LLC to the City of Columbia dated July 8, 2002, and recorded July 12, 2002, in the Richland County Register of Deeds Office at Book 683, page 3070.

C-1146679-v1 04-491.01289

10. Declaration of Covenant from Manning/Johnson Family, LLC to the City of Columbia dated May 20, 2003, and recorded May 27, 2003, in the Richland County Register of Deeds Office at Book 799, page 332.

11. Utility easement from Manning/Johnson Family, LLC to the City of Columbia dated October 30, 2003, and recorded December 5, 2003, in the Richland County Register of Deeds Office at Book 882, page 2777.

12. Easement from Manning/Johnson Family, LLC to South Carolina Electric & Gas Company dated September 30, 2004, and recorded October 8, 2004, in the Richland County Register of Deeds Office at Book 985, page 3786.

13. Easement from Crescent Resources, LLC to South Carolina Electric & Gas Company dated July 13, 2006, and recorded July 20, 2006, in the Richland County Register of Deeds Office at Book 1208, page 910.

14. Declaration of Covenant from Crescent Resources, LLC to the City of Columbia dated July 20, 2006, and recorded August 10, 2006, in the Richland County Register of Deeds Office at Book 1216, page 3092.

15. Deed to Water Lines from Crescent Resources, LLC to the City of Columbia dated August 21, 2007, and recorded September 14, 2007, in the Richland County Register of Deeds Office at Book 1357, page 2838.

16. Deed to Sanitary Sewer Lines from Crescent Resources, LLC to the City of Columbia dated August 21, 2007, and recorded September 14, 2007, in the Richland County Register of Deeds Office at Book 1357, page 2841.

17. Easement from Crescent Resources, LLC to South Carolina Electric & Gas Company dated October 10, 2007, and recorded October 16, 2007, in the Richland County Register of Deeds Office at Book 1367, page 541.

C-1146675v1 04491.01289

STATE OF SOUTH CAROLINA

AFFIDAVIT

COUNTY OF RICHLAND

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The property being transferred is set forth on Exhibit A attached hereto. The property is being transferred by Crescent Resources, LLC, a Georgia limited liability company (the "Transferor"), to SC Bypass, LLC, a Georgia limited liability company (the "Buyer").
3. Check one of the following: The deed is
 - (a) x subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
 - (b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
 - (c) _____ exempt from the deed recording fee because (See Information section of affidavit): _____
(If exempt, please skip items 4 - 7, and go to item 8 of this affidavit.)
4. Check one of the following if either item 3(a) or 3(b) above has been checked (See Information section of this affidavit):
 - (a) x The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$1,975,000.00.
 - (b) _____ The fee is computed on the fair market value of the realty which is _____.
 - (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is _____.
5. Check Yes _____ or No x to the following: A lien or encumbrances existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "Yes", the amount of the outstanding balance of this lien or encumbrance is:

C-1141442v1 04491.01289

6. The deed recording fee is computed as follows:

(a) Place the amount listed in item 4 above here: \$1,975,000.00

(b) Place the amount listed in item 5 above here: _____
(If no amount is listed, place zero here)

(c) Subtract Line 6(b) from Line 6(a) and place result here: \$1,975,000.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and deed recording fee due is: \$7,307.50.

8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: a President of Transferor.

9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

Henry C. Lomax Jr.
Responsible Person Connected with the Transaction

Print or Type Name Here

Sworn to before me this 2nd
day of Sept., 2009

William S. Adridge
Notary Public

My Commission Expires: 03-11-2012

EXHIBIT A**LEGAL DESCRIPTION**

All those certain pieces, parcels or tracts of land, lying, being and situate in Richland County, South Carolina, being on the northern side of Longtown Road (S-1051) and being shown and delineated as "Tract 3", containing 1.58 acres, and "Tract 4", containing 33.16 acres, on a plat prepared for Manning/Johnson, LLC by United Design Services, Inc., dated July 26, 2005, and recorded October 18, 2005 in Record Book 1111 at Page 357 in the Office of the Clerk of Court for Richland County, South Carolina, and having the metes and bounds as shown on said plat:

Less and Except:

Those parcels being shown and delineated as "Outparcel 2", "Outparcel 4" and "Outparcel 5" on a plat entitled "Final Subdivision Plat of Longtown Commons Outparcels 2, 3, 4 & 5," prepared by United Design Services, Inc., dated June 28, 2007, last revised October 1, 2007, and recorded October 31, 2007, in Record Book 1371, Page 3664, in the Office of the Clerk of Court for Richland County, South Carolina.

Further Less and Except:

Those parcels being shown and delineated as "Parcel 7" and "Parcel 8" on a plat entitled "Longtown Commons, Outparcels 7 & 8" prepared by United Design Services, Inc., dated September 23, 2008, and recorded November 7, 2008 in Record Book 1475, at Page 519 in the Office of the Clerk of Court for Richland County, South Carolina.

Further Less and Except:

Those parcels being shown and delineated as "Tract 3", "Parcel 3A" and "Parcel 1" on a plat entitled "Subdivision Survey (Lot Split) of Longtown Commons," prepared by J. Jetter Pittman Professional Land Surveying Inc., dated July 6, 2006, and recorded July 28, 2006, in Record Book 1211, Page 2745, in the Clerk of Court for Richland County, South Carolina.

DERIVATION: Being a part of the premises conveyed to Seller by Deed from Manning/Johnson Family, LLC, a South Carolina limited liability company, dated December 14, 2005, and recorded in Book 1130, Page 3915 in the Registry.

TMS#'s: 17400-05-34 and 17400-05-44.

C-1141442v1 04491.01289

INFORMATION

Except as provided in this paragraph, the term "value" means "the consideration paid or to be paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds, partnership interest and other intangible property, the forgiveness or cancellation of a debt, the assumption of a debt, and the surrendering of any right. The fair market value of the consideration must be used in calculating the consideration paid in money's worth. Taxpayers may elect to use the fair market value of the realty being transferred in determining fair market value of the consideration. In the case of realty transferred between a corporation, a partnership, or other entity and a stockholder, partner or owner of the entity, and in the case of realty transferred to a trust or as a distribution to a trust beneficiary, "value" means the realty's fair market value. A deduction from value is allowed for the amount of any lien or encumbrance existing on the land, tenement, or realty before the transfer and remaining on the land, tenement, or realty after the transfer. Taxpayers may elect to use the fair market value for property tax purposes in determining fair market value under the provisions of the law.

Exempted from the fee are deeds:

- (1) transferring realty in which the value of the realty, as defined in Code Section 12-24-30 is equal to or less than one hundred dollars;
- (2) transferring realty to the federal government or to a state, its agencies and departments, and its political subdivisions, including school districts;
- (3) that are otherwise exempted under the laws and Constitution of this State or of the United States;
- (4) transferring realty in which no gain or loss is recognized by reason of Section 1041 of the Internal Revenue Code as defined in Section 12-6-40(A);
- (5) transferring realty in order to partition realty so long as no consideration is paid for the transfer other than interests in the realty that are being exchanged in order to partition the realty.
- (6) transferring an individual grave space at a cemetery owned by a cemetery company licensed under Chapter 55 of Title 39;
- (7) that constitute a contract for the sale of timber to be cut;
- (8) transferring realty to a corporation, a partnership, or a trust in order to become, or as, a stockholder, partner, or trust beneficiary of the entity provided no consideration is paid for the transfer other than stock in the corporation, interest in the partnership, beneficiary interest in the trust, or the increase in value of such stock or interest held by the grantor. However, the transfer of realty from a corporation, a partnership, or a trust to a stockholder, partner or trust beneficiary

of the entity is subject to the fee even if the realty is transferred to another corporation, a partnership, or trust;

(9) transferring realty from a family partnership to a partner or from a family trust to a beneficiary, provided no consideration is paid for the transfer other than a reduction in the grantee's interest in the partnership or trust. A "family partnership" is a partnership whose partners are all members of the same family. A "family trust" is a trust, in which the beneficiaries are all members of the same family. The beneficiaries of a family trust may also include charitable entities. "Family means the grantor and the grantor's spouse, parents, grandparents, sisters, brothers, children, stepchildren, grandchildren, and the spouses and lineal descendants of any of the above. A "charitable entity" means an entity which may receive deductible contributions under Section 170 of the Internal Revenue Code as defined in Section 12-6-40(A);

(10) transferring realty in a statutory merger or consolidation from a constituent corporation to the continuing or new corporation;

(11) transferring realty in a merger or consolidation from a constituent partnership to the continuing or new partnership; and

(12) that constitute a corrective deed or quitclaim deed used to confirm the title already vested in the grantee, provided that no consideration of any kind is paid or is to be paid under the corrective or quitclaim deed.

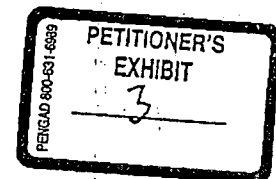
R17400-05-34 and 44 2010 APPEAL

SUBJECT SALES DATA

TAX MAP NUMBER	SALE DATE	DEED BOOK/PAGE	SALES PRICE	ASSESSOR'S VALUE (2010)	ACRES	SQUARE FEET	SALES PRICE/ACRE	SALES PRICE/SQUARE FOOT	ASSESSOR'S VALUE/ACRE	ASSESSOR'S VALUE/SQUARE FOOT	PROPERTY LOCATION
17400-05-34/44	2009/09/03	1553/2782	\$ 1,975,000		25.53	1,112,087	\$ 77,360	\$ 1.78			
17400-05-34	2009/09/03	1553/2782		\$ 3,571,500	23.81	1,037,164			\$ 150,000	\$ 3.44	N/S CLEMSON RD.
17400-05-44	2009/09/03	1553/2782		\$ 674,300	1.72	74,923			\$ 392,035	\$ 9.00	2820 CLEMSON RD.

2009/2010 VACANT LAND SALES

TAX MAP NUMBER	SALE DATE	DEED BOOK/PAGE	SALES PRICE	ASSESSOR'S VALUE (2010)	ACRES	SQUARE FEET	SALES PRICE/ACRE	SALES PRICE/SQUARE FOOT	ASSESSOR'S VALUE/ACRE	ASSESSOR'S VALUE/SQUARE FOOT	PROPERTY LOCATION
17400-05-40	2010/04/16	1599/3010	\$ 558,000	\$ 410,300	1.05	45,591	\$ 531,429	\$ 12.24	\$ 390,762	\$ 9.00	1050 SAMS CROSSING RD.
17415-01-02	2010/11/24	1648/3394	\$ 745,000	\$ 486,100	1.24	54,014	\$ 600,806	\$ 13.79	\$ 392,016	\$ 9.00	1070 SAMS CROSSING RD.
17400-06-16	2009/10/28	1565/2109	\$ 1,650,000	\$ 1,650,000	1.45	63,368	\$ 1,137,931	\$ 26.04	\$ 1,137,931	\$ 26.04	2725 CLEMSON RD.
14713-01-02	2009/04/17	1512/3430	\$ 750,000	\$ 750,000	1.51	65,776	\$ 496,689	\$ 11.40	\$ 496,689	\$ 11.40	S/S KILLIAN RD.
17400-05-36	2010/12/10	1652/2437	\$ 800,000	\$ 825,900	1.58	68,825	\$ 506,329	\$ 11.62	\$ 522,722	\$ 12.00	2744 CLEMSON RD.
17411-01-03	2009/12/14	1575/2314	\$ 1,250,000	\$ 1,250,000	3.04	132,288	\$ 411,184	\$ 9.45	\$ 411,184	\$ 9.45	SAMS CROSSING DR.
14600-03-66	2010/11/17	1646/3581	\$ 625,000	New Lot-2011	4.00	174,240	\$ 156,250	\$ 3.59			256 KILLIAN RD.
17300-02-51	2010/08/30	1628/903	\$ 1,400,000	New Lot-2011	5.00	217,800	\$ 280,000	\$ 6.43			230 KILLIAN RD.
17400-13-01	2009/04/16	1512/3423	\$ 3,633,000	\$ 3,633,000	10.38	452,153	\$ 350,000	\$ 8.03	\$ 350,000	\$ 8.03	138 KILLIAN RD.



COMPARISON BY ACREAGE

	SALES PRICE	ASSESSOR'S VALUE	SALES PRICE/ACRE	SALES PRICE/ SQUARE FOOT	ASSESSOR'S VALUE/ACRE	ASSESSOR'S VALUE/ SQUARE FOOT
MEDIAN ALL SALES	\$ 800,000	\$ 825,900	\$ 496,689	\$ 11.40	\$ 411,184	\$ 9.45
AVERAGE ALL SALES	\$ 1,267,889	\$ 1,286,471	\$ 496,735	\$ 11.40	\$ 528,758	\$ 12.13
MEDIAN <3 ACRES	\$ 750,000	\$ 750,000	\$ 531,429	\$ 12.24	\$ 496,689	\$ 11.40
AVERAGE <3 ACRES	\$ 900,600	\$ 824,460	\$ 654,637	\$ 15.02	\$ 588,024	\$ 13.49
MEDIAN ≥3 ACRES	\$ 1,325,000	\$ 2,441,500	\$ 315,000	\$ 7.23	\$ 380,592	\$ 8.74
AVERAGE ≥3 ACRES	\$ 1,727,000	\$ 2,441,500	\$ 299,359	\$ 6.87	\$ 380,592	\$ 8.74

COMPARISON BY DATE OF SALE

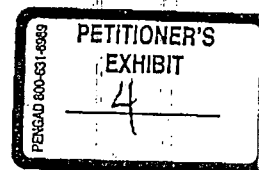
	SALES PRICE	ASSESSOR'S VALUE	SALES PRICE/ACRE	SALES PRICE/ SQUARE FOOT	ASSESSOR'S VALUE/ACRE	ASSESSOR'S VALUE/ SQUARE FOOT
MEDIAN ALL SALES	\$ 800,000	\$ 825,900	\$ 496,689	\$ 11.40	\$ 411,184	\$ 9.45
AVERAGE ALL SALES	\$ 1,267,889	\$ 1,286,471	\$ 496,735	\$ 11.40	\$ 528,758	\$ 12.13
MEDIAN 2009 SALES	\$ 1,450,000	\$ 1,450,000	\$ 453,936	\$ 10.43	\$ 453,936	\$ 10.43
AVERAGE 2009 SALES	\$ 1,820,750	\$ 1,820,750	\$ 598,951	\$ 13.73	\$ 598,951	\$ 13.73
MEDIAN 2010 SALES	\$ 745,000	\$ 486,100	\$ 506,329	\$ 11.62	\$ 392,016	\$ 9.00
AVERAGE 2010 SALES	\$ 825,600	\$ 574,100	\$ 414,963	\$ 9.53	\$ 435,167	\$ 10.00

R17400-05-34 and 44 2010 APPEAL

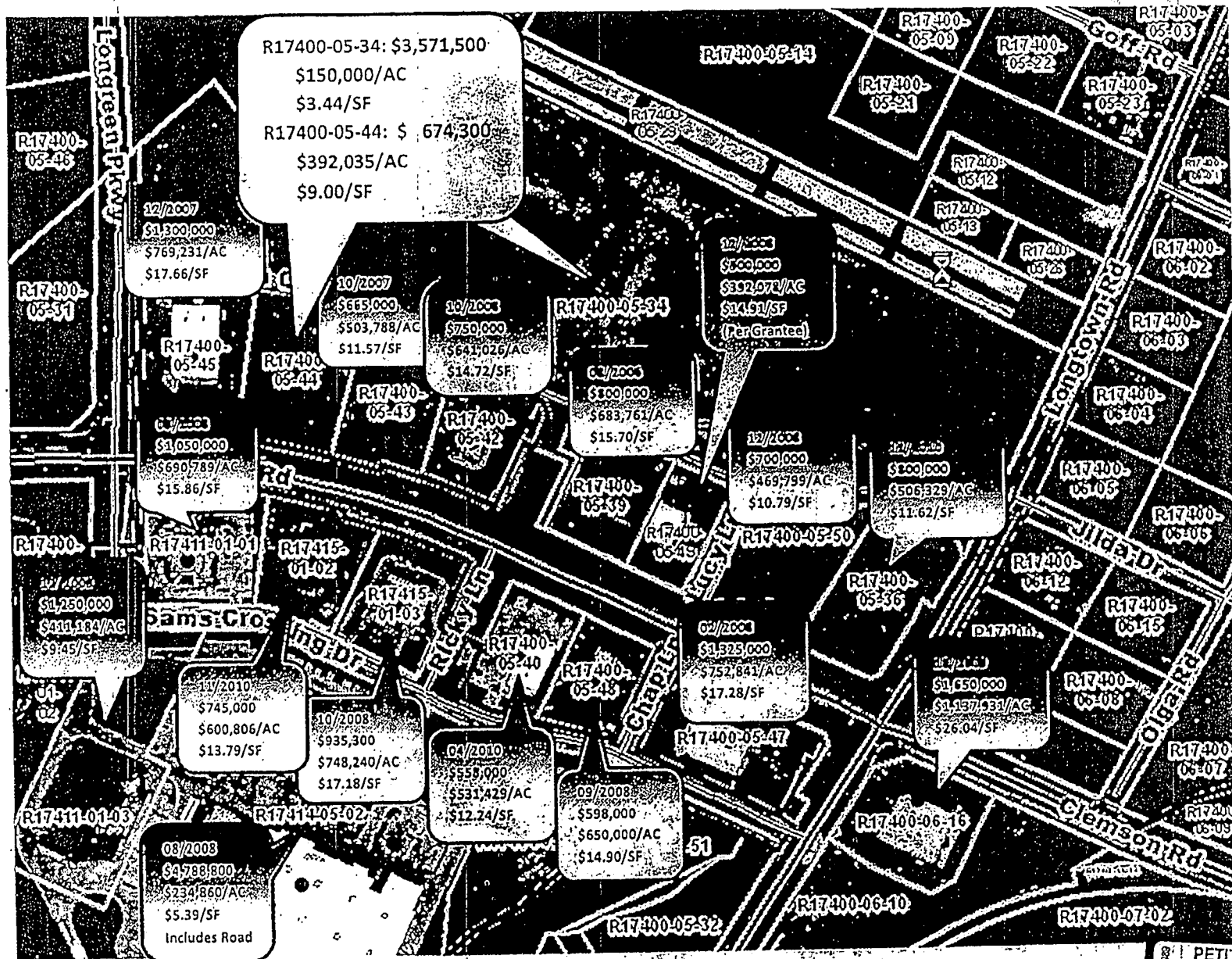
2009 EQUITY COMPARABLES (LAND ONLY)

TAX MAP NUMBER	SALE DATE	DEED BOOK/PAGE	SALES PRICE	ASSESSOR'S VALUE (2010)	ACRES	SQUARE FEET	SALES PRICE/ACRE	SALES PRICE/SQUARE FEET	ASSESSOR'S VALUE/ACRE	ASSESSOR'S VALUE/SQUARE FEET	PROPERTY LOCATION
17400-05-49	2008/12/30	1484/1615	\$ 500,000	\$ 301,900	0.77	33,541	\$ 649,351	\$ 14.91	\$ 392,078	\$ 9.00	N/S CLEMSON RD.
17400-05-48	2008/09/15	1462/3631	\$ 598,000	\$ 361,200	0.92	40,138	\$ 650,000	\$ 14.90	\$ 392,609	\$ 9.00	1040 SAMS CROSSING DR.
17400-05-39	2006/08/23	1220/3659	\$ 800,000	\$ 458,700	1.17	50,965	\$ 683,761	\$ 15.70	\$ 392,051	\$ 9.00	2760 CLEMSON RD.
17400-05-42	2008/10/22	1471/1825	\$ 750,000	\$ 750,000	1.17	50,965	\$ 641,026	\$ 14.72	\$ 641,026	\$ 14.72	2800 CLEMSON RD.
17415-01-03	2008/10/22	1471/1768	\$ 935,300	\$ 490,100	1.25	54,450	\$ 748,240	\$ 17.18	\$ 392,080	\$ 9.00	210 RICKY LN.
17400-05-43	2007/10/31	1371/3669	\$ 665,000	\$ 665,000	1.32	57,499	\$ 503,788	\$ 11.57	\$ 503,788	\$ 11.57	2810 CLEMSON RD.
17400-05-50	2008/12/17	1482/140	\$ 700,000	\$ 700,000	1.49	64,904	\$ 469,799	\$ 10.79	\$ 469,799	\$ 10.79	2748 LONGTOWN COMMONS DR.
17411-01-01	2008/09/25	1465/1380	\$ 1,050,000	\$ 595,900	1.52	66,211	\$ 690,789	\$ 15.86	\$ 392,039	\$ 9.00	1231 LONGREEN PKWY.
17400-05-45	2007/12/21	1386/1987	\$ 1,300,000	\$ 736,200	1.69	73,616	\$ 769,231	\$ 17.66	\$ 435,621	\$ 10.00	1215 LONGREEN PKWY.
17400-05-47	2008/02/20	1402/3848	\$ 1,325,000	\$ 920,000	1.76	76,666	\$ 752,841	\$ 17.28	\$ 522,727	\$ 12.00	1002 SAMS CROSSING DR.
20200-01-32	N/A	N/A	N/A	\$ 962,700	4.42	192,535	N/A	N/A	\$ 217,805	\$ 5.00	2108 CLEMSON RD.
17400-02-12/14	2008/03/24	1413/2157	\$ 4,294,100		17.53	763,607	\$ 244,957	\$ 5.62			
17400-02-12				\$ 1,144,200	8.40	365,904			\$ 136,214	\$ 3.13	S/S CLEMSON RD.
17400-02-14				\$ 3,149,900	19.13	397,703			\$ 345,005	\$ 7.92	591 KILLIAN RD.
20200-02-07	N/A	N/A	N/A	\$ 2,609,200	11.98	521,849	N/A	N/A	\$ 217,796	\$ 5.00	2000 CLEMSON RD.
17400-02-13	2008/03/25	1414/37	\$ 4,238,700	\$ 4,235,700	17.30	753,588	\$ 245,012	\$ 5.62	\$ 244,838	\$ 5.62	564 W KILLIAN RD.
17414-05-02/ 17400-05-28 (Sams Crossing Rd)	2008/08/29	1459/1368	\$ 4,788,800	\$ 3,817,300	20.39	888,188	\$ 234,860	\$ 5.39	\$ 187,214	\$ 4.30	1051 SAMS CROSSING DR.
17400-11-04				\$ 1,461,200	32.47	1,414,393			\$ 45,002	\$ 1.03	321 KILLIAN RD.

MEDIAN ALL		\$ 750,000		\$ 392,051	\$ 9.00
AVERAGE ALL		\$ 1,374,073		\$ 348,688	\$ 8.00
MEDIAN <5 ACRES		\$ 665,000		\$ 392,609	\$ 9.00
AVERAGE <5 ACRES		\$ 631,064		\$ 431,966	\$ 9.92
MEDIAN >5 ACRES		\$ 2,879,550		\$ 202,505	\$ 4.65
AVERAGE >5 ACRES		\$ 2,736,250		\$ 196,012	\$ 4.50

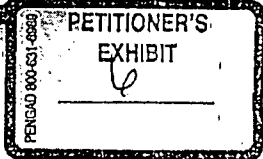


2011 Aerial Photo of R17400-05-34/44 and Surrounding Sales



PETITIONER'S
EXHIBIT
9

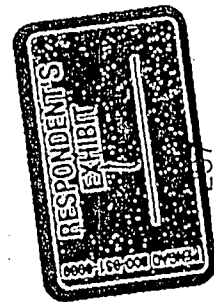
236



Comparable Summary

Comparable	Sales \$/acre	Adjustments								Indicated Comparison to Subject
		Road Frontage	Rear Access	Location	Size	Deed Restrictions	Timing	Topo/Wetlands	Total Adjustments	
1	\$244,958	-20%	-10%	-15%	N/A	N/A	-15%	N/A	-60%	\$97,983
2	\$245,014	-20%	-10%	-15%	N/A	N/A	-15%	N/A	-60%	\$98,006
3	\$207,149	N/A	-10%	N/A	N/A	-10%	-25%	N/A	-45%	\$113,932
4	\$49,468	-20%	N/A	-15%	N/A	N/A	-5%	+20%	-20%	\$39,574
5	\$24,199	-20%	-10%	-20%	100%	N/A	+35%	+50%	+135%	\$56,868
Subject	\$77,360	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	\$77,360

The taxpayer/appraiser considered relevant factors such as size, location, timing, topography, road frontage, rear access, etc. and adjusted the comparables to the subject. After consideration, the most emphasis was placed on the arms length purchase price of the subject property for \$77,360 per acre. Taxpayer concluded that the market value of the subject property as of December 31, 2009 is \$77,360 per acre.



Assessor's Comparable #1

R17400-02-12,14

17.53 acres sold for \$4,294,115 March 2008

Sales Price

Sales Price Per Acre

Adjustments for Comparable

\$4,294,115

\$244,958

1. Comp has frontage access to Clemson Road

Whereas Subject has no road frontage on Clemson Rd

it has accessways with outparcels in front of it. (20% deduct)

(\$48,991.60)

2. Comp has rear access on Killian Road. Subj does not. (10% deduct)

(\$24,495.80)

3. Comp has superior location closer to I-77. (15% deduct)

(\$36,743.70)

4. Comp sold in March 2008 which was 5 months prior to the peak of the market, whereas subject sold in September 2009. (15% deduct)

(\$36,743.70)

Total Adjustments

(\$146,974.80) (\$146,974.80)

Indicated Per Acre Value for Subject after Adjustments

\$97,983

Richland County Map



COPYRIGHT 2009, RICHLAND COUNTY GIS

DISCLAIMER : THIS IS A PRODUCT OF THE RICHLAND COUNTY GIS DEPARTMENT. THE DATA DEPICTED HERE HAVE BEEN DEVELOPED WITH EXTENSIVE COOPERATION FROM OTHER COUNTY DEPARTMENTS, AS WELL AS OTHER FEDERAL, STATE AND LOCAL GOVERNMENTS AGENCIES. RICHLAND COUNTY EXPRESSLY DISCLAIMS RESPONSIBILITY FOR DAMAGES OR LIABILITY THAT MAY ARISE FROM THE USE OF THIS MAP.



The information provided on this page reflects data as of **December 31, 2010** and should be used for reference only. For official assessment information, please contact the Richland County Assessor's Office.

Information presented on the Assessor's Database is collected, organized and provided for the convenience of the user and is intended solely for informational purposes. **ANY USER THEREOF OR RELIANCE THEREON IS AT THE SOLE DISCRETION, RISK AND RESPONSIBILITY OF THE USER.** While every attempt is made to provide information that is accurate at the date of publication, portions of such information may be incorrect or not current. **RICHLAND COUNTY HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, AS TO ITS ACCURACY, COMPLETENESS OR FITNESS FOR ANY PARTICULAR PURPOSE.** All official records of the County and the countywide elected officials are on file in their respective offices and may be viewed by the public at those offices.

Owner Information

Tax Map Number: **R17400-02-12**

Owner: **C TOWN ONE LLC**

Address 1: **6409 TWO NOTCH RD**

Address 2:

Address 3:

City/State/Zip: **COLUMBIA SC 29223**

Property Location/Code: **S/S CLEMSON RD**

Tax Information

Year: **2011**

Property Tax Relief: **\$0.00**

Local Option/Sales Tax Credit: **(\$1,476.02)**

Tax Amount: **\$34,117.63**

Paid: **Yes**

instead: **No**

Assessed: **\$68,650.00**

Assessment Information

Year Of Assessment: **2011**

Tax District: **2DP**

Acreage Of Parcel: **8.40**

Non-Agriculture Value: **\$1,144,200.00**

Building Value: **\$0.00**

Taxable Value: **\$1,144,200.00**

Zoning: **PDD PLANNED DEVELOPMENT**

Legal Residence: **No**

Sewer Connection: **CITY**

Water Connection: **CITY**

Agriculture Value: **\$0.00**

Improvements: **\$0.00**

Property Information

Legal Description: **LOT 3**

#SU

#PR RB1413-2156

Land Type: **COMMERCIAL LAND**

Sales History

Current Owner Name	Sale Date	V/I	Book/Page	Sale Price	Qual Code
C TOWN ONE LLC	03/24/2008	V	R1413/ 2157	\$2,057,650.00	A
CROSSINGS DEVELOPMENT LLC	08/27/2003		R0843/ 1812	\$0.00	

Qualification Code Definitions

Structure Information

Building Number	Year Structure Was Assessed	Building Description	Actual Year Built	Number Of Bathrooms	Number Of Bedrooms	Total Number Of Stories	Heated Square Footage	Total Square Footage

Structure Details

Structure Type	Structure Description	Building Number

Exemptions

Exemption Year	Exemption Description

Richland County Map



COPYRIGHT 2009, RICHLAND COUNTY GIS

DISCLAIMER : THIS IS A PRODUCT OF THE RICHLAND COUNTY GIS DEPARTMENT. THE DATA DEPICTED HERE HAVE BEEN DEVELOPED WITH EXTENSIVE COOPERATION FROM OTHER COUNTY DEPARTMENTS, AS WELL AS OTHER FEDERAL, STATE AND LOCAL GOVERNMENTS AGENCIES. RICHLAND COUNTY EXPRESSLY DISCLAIMS RESPONSIBILITY FOR DAMAGES OR LIABILITY THAT MAY ARISE FROM THE USE OF THIS MAP.



The information provided on this page reflects data as of December 31, 2010 and should be used for reference only. For official assessment information, please contact the Richland County Assessor's Office.

Information presented on the Assessor's Database is collected, organized and provided for the convenience of the user and is intended solely for informational purposes. ANY USER THEREOF OR RELIANCE THEREON IS AT THE SOLE DISCRETION, RISK AND RESPONSIBILITY OF THE USER. While every attempt is made to provide information that is accurate at the date of publication, portions of such information may be incorrect or not current. RICHLAND COUNTY HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, AS TO ITS ACCURACY, COMPLETENESS OR FITNESS FOR ANY PARTICULAR PURPOSE. All official records of the County and the countywide elected officials are on file in their respective offices and may be viewed by the public at those offices.

Owner Information

Tax Map Number: R17400-02-14
 Owner: C TOWN ONE LLC
 Address 1: 6409 TWO NOTCH RD
 Address 2:
 Address 3:
 City/State/Zip: COLUMBIA SC 29223
 Property Location/Code: S/S CLEMSON RD

Tax Information

Year: 2011
 Property Tax Relief: \$0.00
 Local Option Sales Tax Credit: (\$2,336.06)
 Tax Amount: \$49,087.99
 Paid: Yes
 Instead: No
 Assessed: \$108,650.00

Assessment Information

Year Of Assessment: 2011 Legal Residence: No
 Tax District: 2DP Sewer Connection: CITY
 Acreage Of Parcel: 9.13 Water Connection: CITY
 Non-Agriculture Value: \$1,810,900.00 Agriculture Value: \$0.00
 Building Value: \$0.00 Improvements: \$0.00
 Taxable Value: \$1,810,900.00
 Zoning: PDD PLANNED DEVELOPMENT

Property Information

Legal Description: LOT 1 #SU
 #PR RB1413-2156
 Land Type: COMMERCIAL LAND

Sales History

Current Owner Name	Sale Date	V/I	Book/Page	Sale Price	Qual Code
C TOWN ONE LLC	03/24/2008	V	R1413/ 2157	\$2,236,500.00	A
CROSSINGS DEVELOPMENT LLC	08/27/2003		R0843/ 1812	\$0.00	

Qualification Code Definitions

Structure Information

Building Number	Year Structure Was Assessed	Building Description	Actual Year Built	Number Of Bathrooms	Number Of Bedrooms	Total Number Of Stories	Heated Square Footage	Total Square Footage

Structure Details

Structure Type	Structure Description	Building Number

Exemptions

Exemption Year	Exemption Description

Assessor's Comparable #2

R17400-02-13

17.30 acres Sold for \$4,238,745 March 2008

Sales Price

\$4,238,745

Sales Price Per Acre

\$245,014

Adjustments for Comparable

1. Comp has frontage access to Clemson Road

Whereas Subject has no road frontage on Clemson Rd

it has accessways with outparcels in front of it. (20% deduct)

(\$49,002.80)

2. Comp has rear access on Killian Road. Subj does not. (10% deduct)

(\$24,501.40)

3. Comp has superior location closer to I-77. (15% deduct)

(\$36,752.10)

4. Comp sold in March 2008 which was 5 months prior to the peak of the market, whereas subject sold in September 2009. (15% deduct)

(\$36,752.10)

Total Adjustments

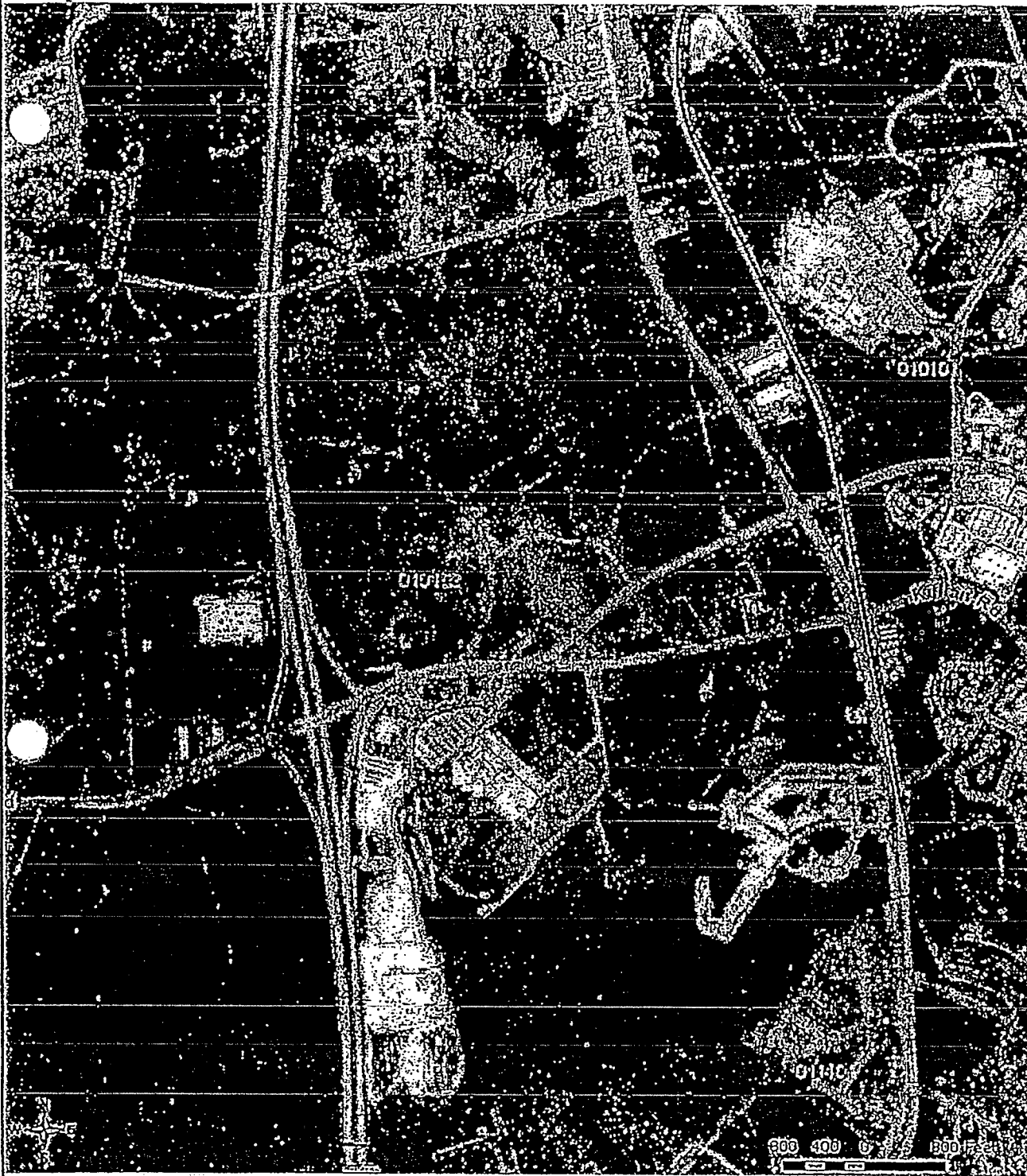
(\$147,008.40)

(\$147,008.40)

Indicated Per Acre Value for Subject after Adjustments

\$98,006

Richland County Map



COPYRIGHT 2009, RICHLAND COUNTY GIS



DISCLAIMER : THIS IS A PRODUCT OF THE RICHLAND COUNTY GIS DEPARTMENT. THE DATA DEPICTED HERE HAVE BEEN DEVELOPED WITH EXTENSIVE COOPERATION FROM OTHER COUNTY DEPARTMENTS, AS WELL AS OTHER FEDERAL, STATE AND LOCAL GOVERNMENTS AGENCIES. RICHLAND COUNTY EXPRESSLY DISCLAIMS RESPONSIBILITY FOR DAMAGES OR LIABILITY THAT MAY ARISE FROM THE USE OF THIS MAP.

RC
GIS

The information provided on this page reflects data as of December 31, 2010 and should be used for reference only. For official assessment information, please contact the Richland County Assessor's Office.

Information presented on the Assessor's Database is collected, organized and provided for the convenience of the user and is intended solely for informational purposes. ANY USER THEREOF OR RELIANCE THEREON IS AT THE SOLE DISCRETION, RISK AND RESPONSIBILITY OF THE USER. While every attempt is made to provide information that is accurate at the date of publication, portions of such information may be incorrect or not current. RICHLAND COUNTY HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, AS TO ITS ACCURACY, COMPLETENESS OR FITNESS FOR ANY PARTICULAR PURPOSE. All official records of the County and the countywide elected officials are on file in their respective offices and may be viewed by the public at those offices.

Owner Information

Tax Map Number: R17400-02-13
 Owner: I-77 LLC
 Address 1: PO BOX 25813
 Address 2:
 Address 3:
 City/State/Zip: COLUMBIA SC 29224
 Property Location/Code: 450 KILLIAN RD

Tax Information

Year: 2011
 Property Tax Relief: \$0.00
 Local Option Sales Tax Credit: (\$320.95)
 Tax Amount: \$6,717.02
 Paid: Yes
 Instead: No
 Assessed: \$14,870.00

Assessment Information

Year Of Assessment: 2011 Legal Residence: No
 Tax District: 2DP Sewer Connection: CITY
 Acreage Of Parcel: 17.30 Water Connection: CITY
 Non-Agriculture Value: \$4,235,700.00 Agriculture Value: \$1,000.00
 Building Value: \$1,000.00 Improvements: \$2,000.00
 Taxable Value: \$248,800.00
 Zoning: GC GENERAL COMMERCIAL

Property Information

Legal Description: LOT 2 #SU
 #PR RB1413-2156
 Land Type: COMMERCIAL LAND

Sales History

Current Owner Name	Sale Date	V/I	Book/Page	Sale Price	Qual Code
I-77 LLC	03/25/2008	V	R1414/ 37	\$4,238,745.00	Q
CROSSINGS DEVELOPMENT LLC	08/27/2003		R0843/ 1812	\$0.00	

Qualification Code Definitions**Structure Information**

Building Number	Year Structure Was Assessed	Building Description	Actual Year Built	Number Of Bathrooms	Number Of Bedrooms	Total Number Of Stories	Heated Square Footage	Total Square Footage
1	2011	RES ON COMMERCIAL LAND W/G 3	1963	2.0	3	1.0	1596	1928
1	2010	RES ON COMMERCIAL LAND W/G 3	1963	2.0	3	1.0	1596	1928

Structure Details

Structure Type	Structure Description	Building Number
Building Element	AC TYPE...CENTRAL	1
Building Element	ARCHITECTURAL STYLE...RANCH/1 LEVEL	1
Building Element	BUILDING SHAPE...RECTANGLE	1
Building Element	DISHWASHER...DISHWASHER	1
Building Element	DISPOSAL...DISPOSAL	1
Building Element	ELECTRICAL...AVERAGE	1
Building Element	EXTERIOR WALL 1...FACE BRICK VENEER	1
Building Element	EXTERIOR WALL 2	1
Building Element	FOUNDATION...PIERS	1
Building Element	HEAT TYPE/FUEL...FORCED AIR DUC/OIL	1
Building Element	INSULATION...AVERAGE	1
Building Element	INTERIOR FLOOR 1...CARPET	1
Building Element	INTERIOR FLOOR 2	1
Building Element	INTERIOR WALL 1...3-PLASTER/DRYWALL	1
Building Element	INTERIOR WALL 2	1
Building Element	OVEN/RANGE...OVEN/RANGE	1
Building Element	ROOF COVER...ASPHALT SHINGLE	1
Building Element	ROOF STRUCTURE...GABLE OR HIP	1
Building Element	STRUCTURAL FRAME	1

Exemptions

Exemption Year	Exemption Description

Assessor's Comparable #3
R17400-05-28 & 17414-05-02
20.39 acres Sold for \$4,788,762 August 2008

Gross Sales Price		\$4,788,762
Less Closing Statement Adjustments		
1. Seller Contribution to Site Work (as shown on Closing Statement)	(\$250,000.00)	
2. Value of Infrastructure \$450,000 (70% attributable to Lowe's Parcel)	(\$315,000.00)	
Total Site Improvement Adjustments	(\$565,000.00)	(\$565,000.00)
Value After Closing Statement Adjustment		\$4,223,762.00
Adjusted Value Per Acre After Adjustments		\$207,148.70
3. Comparable has access and frontage on Killian Road (10% deduct)	(\$20,714.87)	
4. Comparable has extensive restrictions which benefit the owner, where subject property does not. (10% deduct)	(\$20,714.87)	
5. Comp sold in August 2008, which was the height of the market, where subject property sold at a time when properties values were greater decreased. (25% deduct)	(\$51,787.18)	
Total % Adjustments	(\$93,216.92)	(\$93,216.92)
Per Acre Value After Adjustments		\$113,932

Richland County Map



COPYRIGHT 2009, RICHLAND COUNTY GIS



DISCLAIMER: THIS IS A PRODUCT OF THE RICHLAND COUNTY GIS DEPARTMENT. THE DATA DEPICTED HERE HAVE BEEN DEVELOPED WITH EXTENSIVE COOPERATION FROM OTHER COUNTY DEPARTMENTS, AS WELL AS OTHER FEDERAL, STATE AND LOCAL GOVERNMENTS AGENCIES. RICHLAND COUNTY EXPRESSLY DISCLAIMS RESPONSIBILITY FOR DAMAGES OR LIABILITY THAT MAY ARISE FROM THE USE OF THIS MAP.



The information provided on this page reflects data as of December 31, 2010 and should be used for reference only. For official assessment information, please contact the Richland County Assessor's Office.

Information presented on the Assessor's Database is collected, organized and provided for the convenience of the user and is intended solely for informational purposes. **ANY USER THEREOF OR RELIANCE THEREON IS AT THE SOLE DISCRETION, RISK AND RESPONSIBILITY OF THE USER.** While every attempt is made to provide information that is accurate at the date of publication, portions of such information may be incorrect or not current. **RICHLAND COUNTY HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, AS TO ITS ACCURACY, COMPLETENESS OR FITNESS FOR ANY PARTICULAR PURPOSE.** All official records of the County and the countywide elected officials are on file in their respective offices and may be viewed by the public at those offices.

Owner Information

Tax Map Number: R17414-05-02
 Owner: LOWES HOME CENTER INC
 Address 1: 1000 LOWES BLVD
 Address 2:
 Address 3:
 City/State/Zip: MOORESVILLE NC 28117
 Property Location/Code: 1051 SAMS CROSSING

Tax Information

Year: 2011
 Property Tax Relief: \$0.00
 Local Option Sales Tax Credit: (\$9,941.13)
 Tax Amount: \$208,903.32
 Paid: Yes
 In lieu of: No
 Assessed: \$462,380.00

Assessment Information

Year Of Assessment: 2011 Legal Residence: No
 Tax District: 2DP Sewer Connection: CITY
 Acreage Of Parcel: 17.52 Water Connection: CITY
 Non-Agriculture Value: \$3,815,900.00 Agriculture Value: \$0.00
 Building Value: \$3,890,400.00 Improvements: \$0.00
 Taxable Value: \$7,706,300.00
 Zoning: M-1 LIGHT INDUSTRIAL

Property Information

Legal Description: LOWES PARCEL A X84X215X136.1X86.9X84.1XETC
 476.3X35.1X250X76.4X91.1X181.3 #SU SAMS CROSSING
 Land Type: COMMERCIAL LAND

Sales History

Current Owner Name	Sale Date	V/I	Book/Page	Sale Price	Qual Code
LOWES HOME CENTER INC	07/01/2009	V	R1535/ 2302	\$4,788,762.00	A
H/S NORTH RICHLO LLC	08/29/2008	V	R1459/ 1368	\$4,788,762.00	Q
ENDON COLUMBIA 2006 LLC	12/31/2006		R1268/ 3198	\$0.00	

Qualification Code Definitions**Structure Information**

Building Number	Year Structure Was Assessed	Building Description	Actual Year Built	Number Of Bathrooms	Number Of Bedrooms	Total Number Of Stories	Heated Square Footage	Total Square Footage
1	2010	STORE/1 STORY - WALL GROUP 3	2009	0.2	0	1.0	127075	148809

Structure Details

Structure Type	Structure Description	Building Number
Building Element	AC TYPE...ROOF TOP PACKAGED	1
Building Element	ARCHITECTURAL STYLE...MISCELLANEOUS	1
Building Element	BUILDING SHAPE...10 CORNERS	1
Building Element	ELECTRICAL...AVERAGE	1
Building Element	EXTERIOR WALL 1...CONCRETE OR CINDER	1
Building Element	FOUNDATION...CONTINUOUS FOOTING	1
Building Element	HEAT TYPE/FUEL...FORCED AIR DUC/ELEC	1
Building Element	INSULATION...AVERAGE	1
Building Element	INTERIOR FLOOR 1...CONCRETE FINISHED	1
Building Element	INTERIOR WALL 1...1-M/M UNFINISHED	1
Building Element	ROOF COVER...TAR AND GRAVEL	1
Building Element	ROOF STRUCTURE...FLAT	1
Building Element	STRUCTURAL FRAME...MASONRY	1

Exemptions

Exemption Year	Exemption Description

Comparable #4

R17400-11-04,05,056

34.579 acres Sold for \$1,710,549 December 2006

Sales Price

\$1,710,549

Sales Price Per Acre

\$49,468

Adjustments for Comparable

1. Comp has frontage on Killian Road

Whereas Subject has no road frontage. (20% deduct)

(\$9,893.57)

2. Comp is located adjacent to I-77. (15% deduct)

(\$7,420.18)

3. Comp sold in December 2006, prior to the 2008 bubble.

Market conditions at that time were slightly better than
subject sale (5% deduct)

(\$2,473.39)

4. Subject has topographic advantage. (20% increase)

\$9,893.57

Total Adjustments

(\$9,893.57)

(\$9,893.57)

Indicated Per Acre Value for Subject after Adjustments

\$39,574

Richland County Map



COPYRIGHT 2009, RICHLAND COUNTY GIS



DISCLAIMER : THIS IS A PRODUCT OF THE RICHLAND COUNTY GIS DEPARTMENT. THE DATA DEPICTED HERE HAVE BEEN DEVELOPED WITH EXTENSIVE COOPERATION FROM OTHER COUNTY DEPARTMENTS, AS WELL AS OTHER FEDERAL, STATE AND LOCAL GOVERNMENTS AGENCIES. RICHLAND COUNTY EXPRESSLY DISCLAIMS RESPONSIBILITY FOR DAMAGES OR LIABILITY THAT MAY ARISE FROM THE USE OF THIS MAP.



The information provided on this page reflects data as of December 31, 2010 and should be used for reference only. For official assessment information, please contact the Richland County Assessor's Office.

Information presented on the Assessor's Database is collected, organized and provided for the convenience of the user and is intended solely for informational purposes. ANY USER THEREOF OR RELIANCE THEREON IS AT THE SOLE DISCRETION, RISK AND RESPONSIBILITY OF THE USER. While every attempt is made to provide information that is accurate at the date of publication, portions of such information may be incorrect or not current. RICHLAND COUNTY HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, AS TO ITS ACCURACY, COMPLETENESS OR FITNESS FOR ANY PARTICULAR PURPOSE. All official records of the County and the countywide elected officials are on file in their respective offices and may be viewed by the public at those offices.

Owner Information

Tax Map Number: R17400-11-04
 Owner: WAL-MART REAL ESTATE BUSIN
 Address 1: TRUST
 Address 2: 805 MOBRLY LANE
 Address 3:
 City/State/Zip: BENTONVILLE AR 72712
 Property Location/Code: N/S KILLIAN RD

Tax Information

Year: 2011
 Property Tax Relief: \$0.00
 Local Option Sales Tax Credit: (\$10,478.03)
 Tax Amount: \$220,184.73
 Paid: Yes
 Instead: No
 Assessed: \$487,350.00

Assessment Information

Year Of Assessment: 2011 Legal Residence: No
 Tax District: 2DP Sewer Connection: CITY
 Acreage Of Parcel: 32.47 Water Connection: CITY
 Non-Agriculture Value: \$1,461,200.00 Agriculture Value: \$0.00
 Building Value: \$7,001,200.00 Improvements: \$0.00
 Taxable Value: \$8,122,500.00
 Zoning: GC GENERAL COMMERCIAL

Property Information

Legal Description: LOT 1 #SU
 #PR RB1261-928
 Land Type: COMMERCIAL LAND

Sales History

Current Owner Name	Sale Date	V/I	Book/Page	Sale Price	Qual Code
WAL-MART REAL ESTATE BUSINESS	03/17/2008	I	R1411/ 2192	\$18,587,304.00	9
WAL-MART STORES EAST L P	12/11/2006	I	R1261/ 928	\$1,710,549.00	9
RIGHT-MYERS KILLIAN ASSOC LP	08/23/2006	I	R1220/ 1823	\$1.00	9
BRIGHT MEYERS. KILLIAN ASSOC	08/22/2006	I	R1220/ 1805	\$10.00	9

Qualification Code Definitions

Structure Information

Building Number	Year Structure Was Assessed	Building Description	Actual Year Built	Number Of Bathrooms	Number Of Bedrooms	Total Number Of Stories	Heated Square Footage	Total Square Footage
1	2009	STORE/1 STORY - WALL GROUP 3	2008	1.0	0	1.0	216980	217580

Structure Details

Structure Type	Structure Description	Building Number
Building Element	AC TYPE...ROOF TOP PACKAGED	1
Building Element	ARCHITECTURAL STYLE...MISCELLANEOUS	1
Building Element	BUILDING SHAPE...RECTANGLE	1
Building Element	ELECTRICAL...AVERAGE	1
Building Element	EXTERIOR WALL 1...CONCRETE OR CINDER	1
Building Element	FOUNDATION...CONTINUOUS FOOTING	1
Building Element	HEAT TYPE/FUEL...FORCED AIR DUC/GAS	1
Building Element	INSULATION...AVERAGE	1
Building Element	INTERIOR FLOOR 1...CORK OR VINYL TILE	1
Building Element	INTERIOR WALL 1...1-M/M UNFINISHED	1
Building Element	ROOF COVER...TAR AND GRAVEL	1
Building Element	ROOF STRUCTURE...FLAT	1
Building Element	STRUCTURAL FRAME...MASONRY	1

Exemptions

Exemption Year	Exemption Description

Richland County Map



The information provided on this page reflects data as of December 31, 2010 and should be used for reference only. For official assessment information, please contact the Richland County Assessor's Office.

Information presented on the Assessor's Database is collected, organized and provided for the convenience of the user and is intended solely for informational purposes. ANY USER THEREOF OR RELIANCE THEREON IS AT THE SOLE DISCRETION, RISK AND RESPONSIBILITY OF THE USER. While every attempt is made to provide information that is accurate at the date of publication, portions of such information may be incorrect or not current. RICHLAND COUNTY HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, AS TO ITS ACCURACY, COMPLETENESS OR FITNESS FOR ANY PARTICULAR PURPOSE. All official records of the County and the countywide elected officials are on file in their respective offices and may be viewed by the public at those offices.

Owner Information

Tax Map Number: R17400-11-05
 Owner: WAL-MART STORES EAST L P
 Address 1: PROPERTY TAX DEPT STORE450
 Address 2: 1301 SE 10TH ST DEPT 8013
 Address 3:
 City/State/Zip: BENTONVILLE AR 72716
 Property Location/Code: N/S KILLIAN RD

Tax Information

Year: 2011
 Property Tax Relief: \$0.00
 Local Option Sales Tax Credit: (\$659.06)
 Tax Amount: \$13,847.59
 Paid: Yes
 Instead: No
 Assessed: \$30,650.00

Assessment Information

Year Of Assessment: 2011 Legal Residence: No
 Tax District: 2DP Sewer Connection: CITY
 Acreage Of Parcel: 1.02 Water Connection: CITY
 Non-Agriculture Value: \$533,200.00 Agriculture Value: \$0.00
 Building Value: \$0.00 Improvements: \$0.00
 Taxable Value: \$510,900.00
 Zoning: GC GENERAL COMMERCIAL

Property Information

Legal Description: LOT 3 #SU
 #PR RB1220-1818
 Land Type: COMMERCIAL LAND

Sales History

Current Owner Name	Sale Date	V/I	Book/Page	Sale Price	Qual Code
WAL-MART STORES EAST L P	12/11/2006	I	R1261/ 928	\$1,710,549.00	9
BRIGHT-MYERS KILLIAN ASSOC LP	08/23/2006	I	R1220/ 1823	\$1.00	9
BRIGHT MEYERS KILLIAN ASSOC	08/21/2006	I	R1220/ 1805	\$10.00	9
BRIGHT MEYERS KILLIAN ASSOC	08/20/2006		R1220/ 1818	\$10.00	

Qualification Code Definitions**Structure Information**

Building Number	Year Structure Was Assessed	Building Description	Actual Year Built	Number Of Bathrooms	Number Of Bedrooms	Total Number Of Stories	Heated Square Footage	Total Square Footage

Structure Details

Structure Type	Structure Description	Building Number

Exemptions

Exemption Year	Exemption Description

Richland County Map



COPYRIGHT 2009, RICHLAND COUNTY GIS



DISCLAIMER : THIS IS A PRODUCT OF THE RICHLAND COUNTY GIS DEPARTMENT. THE DATA DEPICTED HERE HAVE BEEN DEVELOPED WITH EXTENSIVE COOPERATION FROM OTHER COUNTY DEPARTMENTS, AS WELL AS OTHER FEDERAL, STATE AND LOCAL GOVERNMENTS AGENCIES. RICHLAND COUNTY EXPRESSLY DISCLAIMS RESPONSIBILITY FOR DAMAGES OR LIABILITY THAT MAY ARISE FROM THE USE OF THIS MAP.



Assessor Data View

The information provided on this page reflects data as of December 31, 2010 and should be used for reference only. For official assessment information, please contact the Richland County Assessor's Office.

Information presented on the Assessor's Database is collected, organized and provided for the convenience of the user and is intended solely for informational purposes. ANY USER THEREOF OR RELIANCE THEREON IS AT THE SOLE DISCRETION, RISK AND RESPONSIBILITY OF THE USER. While every attempt is made to provide information that is accurate at the date of publication, portions of such information may be incorrect or not current. RICHLAND COUNTY HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, AS TO ITS ACCURACY, COMPLETENESS OR FITNESS FOR ANY PARTICULAR PURPOSE. All official records of the County and the countywide elected officials are on file in their respective offices and may be viewed by the public at those offices.

Owner Information

Tax Map Number: R17400-11-06
 Owner: WAL-MART STORES EAST L P
 Address 1: PROPERTY TAX DEPT STORE450
 Address 2: 1301 SE 10TH ST DEPT 8013
 Address 3:
 City/State/Zip: BENTONVILLE AR 72716
 Property Location/Code: N/S KILLIAN RD

Tax Information

Year: 2011
 Property Tax Relief: \$0.00
 Local Option Sales Tax Credit: (\$652.74)
 Tax Amount: \$13,716.65
 Paid: Yes
 Instead: No
 Assessed: \$30,360.00

Assessment Information

Year Of Assessment: 2011 Legal Residence: No
 Tax District: 2DP Sewer Connection: CITY
 Acreage Of Parcel: 1.01 Water Connection: CITY
 Non-Agriculture Value: \$528,000.00 Agriculture Value: \$0.00
 Building Value: \$0.00 Improvements: \$0.00
 Taxable Value: \$506,000.00
 Zoning: GC GENERAL COMMERCIAL

Property Information

Legal Description: LOT 4 #SU
 #PR RB1220-1818
 Land Type: COMMERCIAL LAND

Sales History

Current Owner Name	Sale Date	V/I	Book/Page	Sale Price	Qual Code
WAL-MART STORES EAST L P	12/11/2006	I	R1261/ 928	\$1,710,549.00	9
BRIGHT MEYERS KILLIAN ASSOC	08/23/2006		R1200/ 1823	\$10.00	
RIGHT MEYERS KILLIAN ASSOC	08/22/2006	I	R1220/ 1805	\$10.00	9
BRIGHT-MYERS KILLIAN ASSOC LP	08/21/2006	I	R1220/ 1818	\$1.00	9

Qualification Code Definitions

Structure Information

Building Number	Year Structure Was Assessed	Building Description	Actual Year Built	Number Of Bathrooms	Number Of Bedrooms	Total Number Of Stories	Heated Square Footage	Total Square Footage

Structure Details

Structure Type	Structure Description	Building Number

Exemptions

Exemption Year	Exemption Description

Comparable #5

R17400-02-04

371.92 acres Sold for \$9,000,000 January 2003

Sales Price

\$9,000,000

Sales Price Per Acre

\$24,199

Adjustments for Comparable

1. Comp has frontage on Clemson Road, whereas Subject has no road frontage only accessways. (20% deduct)	(\$4,839.75)	
2. Comp has a rear access on North Pines Road. (10% deduct)	(\$2,419.88)	
3. Comp is adjacent to I-77. (20% deduct)	(\$4,839.75)	
4. Comp is much larger and tracts of its size sell for less per acre. (100% increase)	\$24,198.75	
5. Comp sold in 2003 when real estate prices were much lower than the subject sale. (35% increase)	\$8,469.56	
6. Comp has topographical and/or wetland conditions that would make it less ready to develop (50% Increase)	\$12,099.38	
Total Adjustments	\$32,668.32	\$32,668.32
Indicated Per Acre Value for Subject after Adjustments		\$56,867

Richland County Map



COPYRIGHT 2009, RICHLAND COUNTY GIS

DISCLAIMER : THIS IS A PRODUCT OF THE RICHLAND COUNTY GIS DEPARTMENT. THE DATA DEPICTED HERE HAVE BEEN DEVELOPED WITH EXTENSIVE COOPERATION FROM OTHER COUNTY DEPARTMENTS, AS WELL AS OTHER FEDERAL, STATE AND LOCAL GOVERNMENTS AGENCIES. RICHLAND COUNTY EXPRESSLY DISCLAIMS RESPONSIBILITY FOR DAMAGES OR LIABILITY THAT MAY ARISE FROM THE USE OF THIS MAP.



Assessor Data View

The information provided on this page reflects data as of December 31, 2010 and should be used for reference only. For official assessment information, please contact the Richland County Assessor's Office.

Information presented on the Assessor's Database is collected, organized and provided for the convenience of the user and is intended solely for informational purposes. **ANY USER THEREOF OR RELIANCE THEREON IS AT THE SOLE DISCRETION, RISK AND RESPONSIBILITY OF THE USER.** While every attempt is made to provide information that is accurate at the date of publication, portions of such information may be incorrect or not current. **RICHLAND COUNTY HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, AS TO ITS ACCURACY, COMPLETENESS OR FITNESS FOR ANY PARTICULAR PURPOSE.** All official records of the County and the countywide elected officials are on file in their respective offices and may be viewed by the public at those offices.

Owner Information

Tax Map Number: R17400-02-04
 Owner: CROSSINGS DEVELOPMENT LLC
 Address 1: 240 CLIFTON CORPORATE PARK
 Address 2:
 Address 3:
 City/State/Zip: CLIFTON PARK NY 12065
 Property Location/Code: 475 KILLIAN RD

Tax Information

Year: 2011
 Property Tax Relief: \$0.00
 Local Option Sales Tax Credit: (\$69.27)
 Tax Amount: \$948.33
 Paid: Yes
 Instead: No
 Assessed: \$2,150.00

Assessment Information

Year Of Assessment: 2011 Legal Residence: No
 Tax District: 2DP Sewer Connection: SEPTIC
 Acreage Of Parcel: 371.92 Water Connection: WELL
 Non-Agriculture Value: \$9,957,200.00 Agriculture Value: \$53,700.00
 Building Value: \$0.00 Improvements: \$0.00
 Taxable Value: \$53,700.00
 Zoning: PDD PLANNED DEVELOPMENT

Property Information

Legal Description: PARCELS A B C & D #SU
 #PR RB818-2748 843-1812
 Land Type: CROP LAND-C2

Sales History

Current Owner Name	Sale Date	V/I	Book/Page	Sale Price	Qual Code
CROSSINGS DEVELOPMENT LLC	08/27/2003		R0843/ 1812	\$0.00	
GREENE DONALD C &	01/10/2003	V	R0745/ 3048	\$9,000,000.00	Q
ITL BUSINESS MACHINES CORP	10/11/1990		D1000/ 701	\$0.00	
INTERNATIONAL BUSINESS	12/00/1985	I	D770 / 495	\$3,537,234.00	U

Qualification Code Definitions

Structure Information

Building Number	Year Structure Was Assessed	Building Description	Actual Year Built	Number Of Bathrooms	Number Of Bedrooms	Total Number Of Stories	Heated Square Footage	Total Square Footage

Structure Details

Structure Type	Structure Description	Building Number

Exemptions

Exemption Year	Exemption Description

Equity Comparison of Surrounding Properties

Parcel	Description	Total Land Assessment	Acreage	Total Land Value \$/Acre
R17400-02-12,14	Comp 1	\$2,955,100	17.53	\$168,574
R17400-02-13	Comp 2	\$4,235,700	17.3	\$244,838
R17400-05-28	Comp 3	\$3,815,900	17.52	\$217,803
R17400-11-04,05,06	Comp 4	\$2,522,400	34.5	\$73,113
R17400-02-04	Comp 5	\$9,957,200	371.92	\$26,772
R17400-05-33	Long Creek Assoc.	\$560,000	7	\$80,000
R17300-02-45	BD&O Investment	\$964,000	12.05	\$80,000
R17300-02-46	CRM Killian	\$1,571,200	19.64	\$80,000
R17400-09-13,14	AS Columbia LLC	\$3,168,000	79.2	\$40,000
R14600-03-64	Seven Acre Cut	\$1,370,700	15.23	\$90,000
Taxpayer's Assessed Value of Subject		\$1,975,000	25.53	\$77,360



Richland County Map



COPYRIGHT 2009, RICHLAND COUNTY GIS



DISCLAIMER : THIS IS A PRODUCT OF THE RICHLAND COUNTY GIS DEPARTMENT. THE DATA DEPICTED HERE HAVE BEEN DEVELOPED WITH EXTENSIVE COOPERATION FROM OTHER COUNTY DEPARTMENTS, AS WELL AS OTHER FEDERAL, STATE AND LOCAL GOVERNMENTS AGENCIES. RICHLAND COUNTY EXPRESSLY DISCLAIMS RESPONSIBILITY FOR DAMAGES OR LIABILITY THAT MAY ARISE FROM THE USE OF THIS MAP.



The information provided on this page reflects data as of December 31, 2010 and should be used for reference only. For official assessment information, please contact the Richland County Assessor's Office.

Information presented on the Assessor's Database is collected, organized and provided for the convenience of the user and is intended solely for informational purposes. ANY USER THEREOF OR RELIANCE THEREON IS AT THE SOLE DISCRETION, RISK AND RESPONSIBILITY OF THE USER. While every attempt is made to provide information that is accurate at the date of publication, portions of such information may be incorrect or not current. RICHLAND COUNTY HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, AS TO ITS ACCURACY, COMPLETENESS OR FITNESS FOR ANY PARTICULAR PURPOSE. All official records of the County and the countywide elected officials are on file in their respective offices and may be viewed by the public at those offices.

Owner Information

Tax Map Number: R14600-03-64
 Owner: SEVEN ACRE CUT LLC
 Address 1: PO BOX 23489
 Address 2:
 Address 3:
 City/State/Zip: COLUMBIA SC 29224
 Property Location/Code: KILLIAN RD

Tax Information

Year: 2011
 Property Tax Relief: \$0.00
 Local Option Sales Tax Credit: (\$2.45)
 Tax Amount: \$30.64
 Paid: Yes
 Instead: No
 Assessed: \$80.00

Assessment Information

Year Of Assessment: 2011 Legal Residence: No
 Tax District: 1UR Sewer Connection: CITY
 Acreage Of Parcel: 15.23 Water Connection: CITY
 Non-Agriculture Value: \$1,370,700.00 Agriculture Value: \$1,900.00
 Building Value: \$0.00 Improvements: \$0.00
 Taxable Value: \$1,900.00
 Zoning: GC GENERAL COMMERCIAL

Property Information

Legal Description:
 Land Type: TIMBER LAND-T3
 #PR RB1314-2183

Sales History

Current Owner Name	Sale Date	V/I	Book/Page	Sale Price	Qual Code
SEVEN ACRE CUT LLC	05/17/2007	V	R1314/ 3576	\$1,811,000.00	Q
PHOENIX PARTNERS	04/20/2001		R0507/ 991	\$0.00	

Qualification Code Definitions

Structure Information

Building Number	Year Structure Was Assessed	Building Description	Actual Year Built	Number Of Bathrooms	Number Of Bedrooms	Total Number Of Stories	Heated Square Footage	Total Square Footage

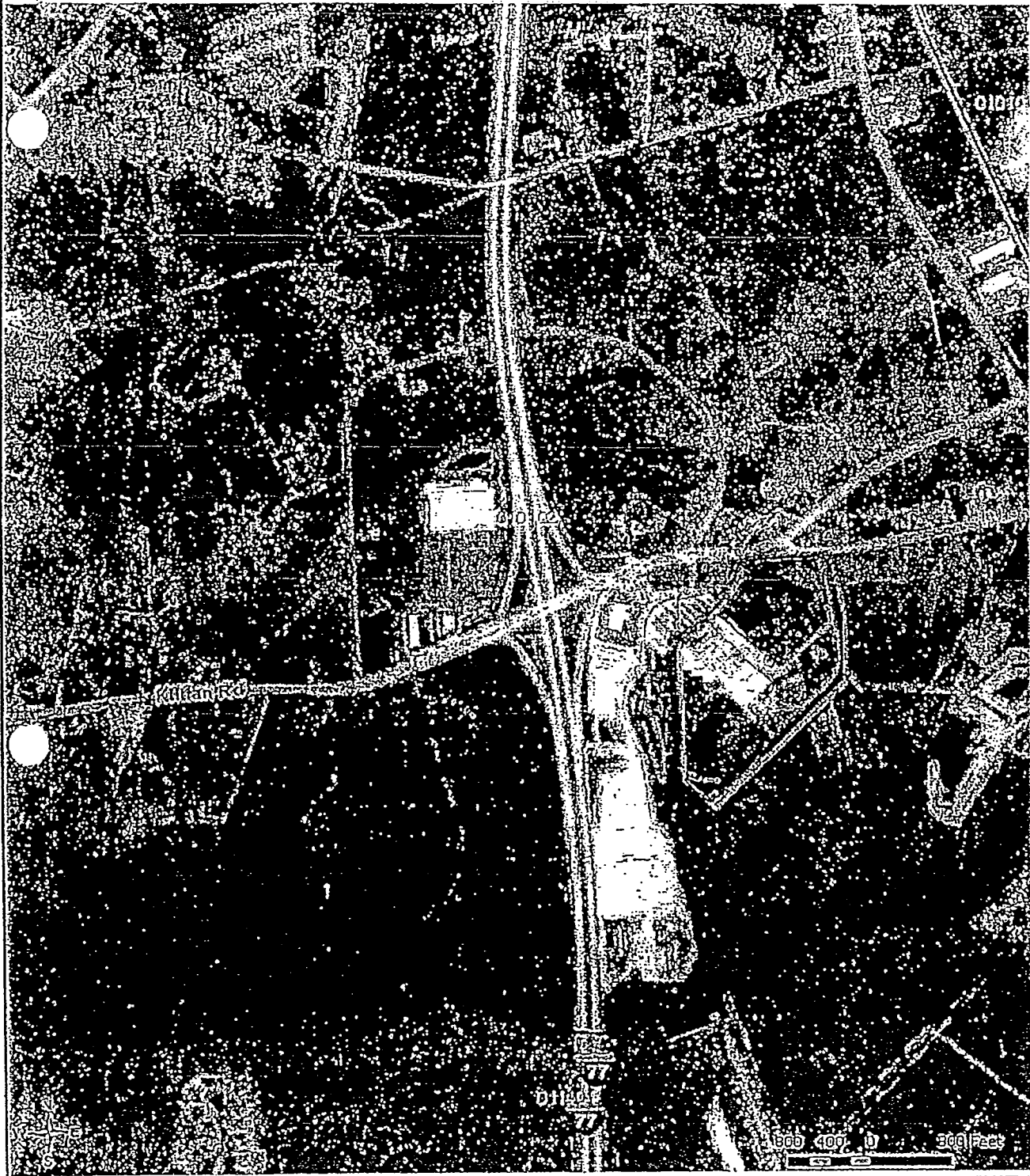
Structure Details

Structure Type	Structure Description	Building Number

Exemptions

Exemption Year	Exemption Description

Richland County Map



COPYRIGHT 2009, RICHLAND COUNTY GIS



DISCLAIMER: THIS IS A PRODUCT OF THE RICHLAND COUNTY GIS DEPARTMENT. THE DATA DEPICTED HERE HAVE BEEN DEVELOPED WITH EXTENSIVE COOPERATION FROM OTHER COUNTY DEPARTMENTS, AS WELL AS OTHER FEDERAL, STATE AND LOCAL GOVERNMENTS AGENCIES. RICHLAND COUNTY EXPRESSLY DISCLAIMS RESPONSIBILITY FOR DAMAGES OR LIABILITY THAT MAY ARISE FROM THE USE OF THIS MAP.



Assessor Data View

The information provided on this page reflects data as of December 31, 2010 and should be used for reference only. For official assessment information, please contact the Richland County Assessor's Office.

Information presented on the Assessor's Database is collected, organized and provided for the convenience of the user and is intended solely for informational purposes. ANY USER THEREOF OR RELIANCE THEREON IS AT THE SOLE DISCRETION, RISK AND RESPONSIBILITY OF THE USER. While every attempt is made to provide information that is accurate at the date of publication, portions of such information may be incorrect or not current. RICHLAND COUNTY HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, AS TO ITS ACCURACY, COMPLETENESS OR FITNESS FOR ANY PARTICULAR PURPOSE. All official records of the County and the countywide elected officials are on file in their respective offices and may be viewed by the public at those offices.

Owner Information

Tax Map Number: R17400-09-14
 Owner: AS COLUMBIA LLC
 Address 1: %AMERICAN STANDARD INC
 Address 2: ONE CENTENNIAL AVE
 Address 3:
 City/State/Zip: PISCATAWAY NJ 8855
 Property Location/Code: 400 KILLIAN RD

Tax Information

Year: 2011
 Property Tax Relief: \$0.00
 Local Option Sales Tax Credit: \$0.00
 Tax Amount: \$0.00
 Paid: Yes
 In lieu of taxes: No
 Assessed: \$0.00

Assessment Information

Year Of Assessment: 2011
 Tax District: 2DP
 Acreage Of Parcel: 69.46
 Non-Agriculture Value: \$2,778,400.00
 Building Value: \$8,059,300.00
 Taxable Value: \$0.00
 Zoning: HI HEAVY INDUSTRIAL
 Legal Residence: No
 Sewer Connection: NONE
 Water Connection: NONE
 Agriculture Value: \$0.00
 Improvements: \$0.00

Property Information

Legal Description:
 #PR W/S RB816-002
 Land Type: INSTITUTIONAL LAND

Sales History

Current Owner Name	Sale Date	V/I	Book/Page	Sale Price	Qual Code
AS COLUMBIA LLC	08/18/2003	V	R0838/ 2503	\$1.00	9
AS COLUMBIA LLC	12/27/2002	V	R0740/ 215	\$4,900,000.00	9
UNITED TECHNOLOGIES REALTY INC	07/02/2001		R0537/ 2805	\$0.00	
UNITED TECHNOLOGIES REALTY INC	04/30/1999	V	R0302/ 587	\$2,243,640.00	1

Qualification Code Definitions

Structure Information

Building Number	Year Structure Was Assessed	Building Description	Actual Year Built	Number Of Bathrooms	Number Of Bedrooms	Total Number Of Stories	Heated Square Footage	Total Square Footage
1	2009	WAREHOUSES/PUBLIC	1982	0.0	0	1.0	325344	325344

Structure Details

Structure Type	Structure Description	Building Number
Building Element	AC TYPE...CENTRAL	1
Building Element	BUILDING SHAPE...RECTANGLE	1
Building Element	ELECTRICAL...AVERAGE	1
Building Element	EXTERIOR WALL 1...CONCRETE OR CINDER	1
Building Element	EXTERIOR WALL 2...PRECAST PANEL	1
Building Element	FOUNDATION...CONTINUOUS FOOTING	1
Building Element	HEAT TYPE/FUEL...FORCED AIR/GAS	1
Building Element	INSULATION...AVERAGE	1
Building Element	INTERIOR FLOOR 1...CONCRETE FINISHED	1
Building Element	INTERIOR WALL 1...1-M/M UNFINISHED	1
Building Element	ROOF COVER...TAR AND GRAVEL	1
Building Element	ROOF STRUCTURE...FLAT	1
Building Element	STRUCTURAL FRAME...MASONRY	1

Exemptions

Exemption Year	Exemption Description
2008	TAX EXEMPT-MUNICIPAL GOVT

Richland County Map



COPYRIGHT 2009, RICHLAND COUNTY GIS



DISCLAIMER: THIS IS A PRODUCT OF THE RICHLAND COUNTY GIS DEPARTMENT. THE DATA DEPICTED HERE HAVE BEEN DEVELOPED WITH EXTENSIVE COOPERATION FROM OTHER COUNTY DEPARTMENTS, AS WELL AS OTHER FEDERAL, STATE AND LOCAL GOVERNMENTS AGENCIES. RICHLAND COUNTY EXPRESSLY DISCLAIMS RESPONSIBILITY FOR DAMAGES OR LIABILITY THAT MAY ARISE FROM THE USE OF THIS MAP.



The information provided on this page reflects data as of December 31, 2010 and should be used for reference only. For official assessment information, please contact the Richland County Assessor's Office.

Information presented on the Assessor's Database is collected, organized and provided for the convenience of the user and is intended solely for informational purposes. ANY USER THEREOF OR RELIANCE THEREON IS AT THE SOLE DISCRETION, RISK AND RESPONSIBILITY OF THE USER. While every attempt is made to provide information that is accurate at the date of publication, portions of such information may be incorrect or not current. RICHLAND COUNTY HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, AS TO ITS ACCURACY, COMPLETENESS OR FITNESS FOR ANY PARTICULAR PURPOSE. All official records of the County and the countywide elected officials are on file in their respective offices and may be viewed by the public at those offices.

Owner Information

Tax Map Number: R17400-09-13
 Owner: AS COLUMBIA LLC
 Address 1: %AMERICAN STANDARD INC
 Address 2: ONE CENTENNIAL AVE
 Address 3:
 City/State/Zip: PISCATAWAY NJ 8855
 Property Location/Code: S/S KILLIAN RD

Tax Information

Year: 2011
 Property Tax Relief: \$0.00
 Local Option Sales Tax Credit: \$0.00
 Tax Amount: \$0.00
 Paid: Yes
 Instead: No
 Assessed: \$0.00

Assessment Information

Year Of Assessment: 2011 Legal Residence: No
 Tax District: 1UR Sewer Connection: NONE
 Acreage Of Parcel: 9.74 Water Connection: NONE
 Non-Agriculture Value: \$389,600.00 Agriculture Value: \$0.00
 Building Value: \$0.00 Improvements: \$0.00
 Taxable Value: \$0.00
 Zoning: HI HEAVY INDUSTRIAL

Property Information

Legal Description:
 #PR RB816-002
 Land Type: INSTITUTIONAL LAND

Sales History

Current Owner Name	Sale Date	V/I	Book/Page	Sale Price	Qual Code
AS COLUMBIA LLC	08/18/2003	V	R0838/ 2503	\$1.00	9
AS COLUMBIA LLC	12/27/2002	V	R0740/ 215	\$4,900,000.00	9
UNITED TECHNOLOGIES REALTY INC	07/02/2001		R0537/ 2805	\$0.00	
UNITED TECHNOLOGIES REALTY INC	04/30/1999	V	R0302/ 587	\$2,243,640.00	1

Qualification Code Definitions

Structure Information

Building Number	Year Structure Was Assessed	Building Description	Actual Year Built	Number Of Bathrooms	Number Of Bedrooms	Total Number Of Stories	Heated Square Footage	Total Square Footage

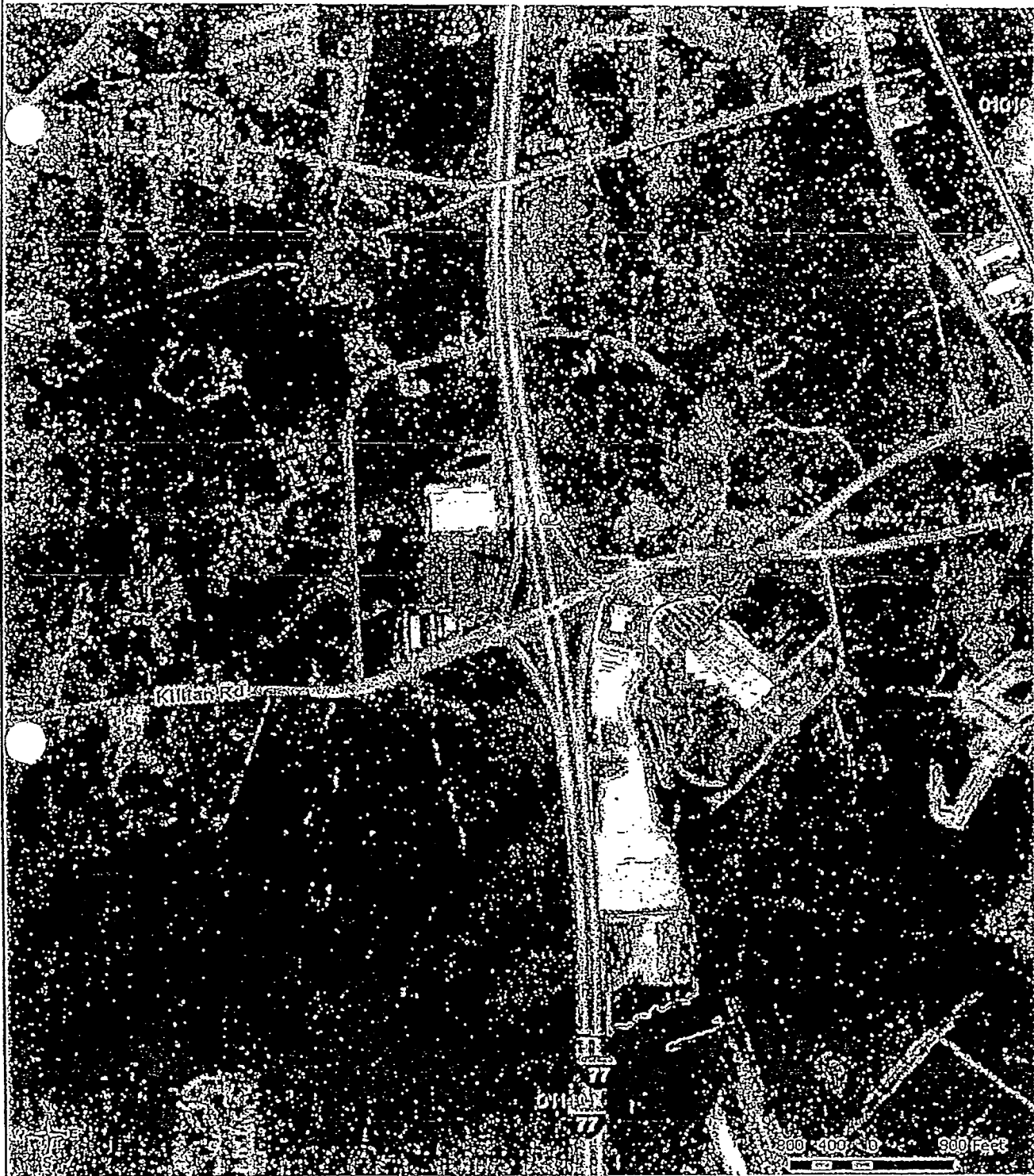
Structure Details

Structure Type	Structure Description	Building Number

Exemptions

Exemption Year	Exemption Description
2008	TAX EXEMPT-MUNICIPAL GOVT

Richland County Map



COPYRIGHT 2009, RICHLAND COUNTY GIS



DISCLAIMER : THIS IS A PRODUCT OF THE RICHLAND COUNTY GIS DEPARTMENT. THE DATA DEPICTED HERE HAVE BEEN DEVELOPED WITH EXTENSIVE COOPERATION FROM OTHER COUNTY DEPARTMENTS, AS WELL AS OTHER FEDERAL, STATE AND LOCAL GOVERNMENTS AGENCIES. RICHLAND COUNTY EXPRESSLY DISCLAIMS RESPONSIBILITY FOR DAMAGES OR LIABILITY THAT MAY ARISE FROM THE USE OF THIS MAP.



The information provided on this page reflects data as of December 31, 2010 and should be used for reference only. For official assessment information, please contact the Richland County Assessor's Office.

Information presented on the Assessor's Database is collected, organized and provided for the convenience of the user and is intended solely for informational purposes. ANY USER THEREOF OR RELIANCE THEREON IS AT THE SOLE DISCRETION, RISK AND RESPONSIBILITY OF THE USER. While every attempt is made to provide information that is accurate at the date of publication, portions of such information may be incorrect or not current. RICHLAND COUNTY HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, AS TO ITS ACCURACY, COMPLETENESS OR FITNESS FOR ANY PARTICULAR PURPOSE. All official records of the County and the countywide elected officials are on file in their respective offices and may be viewed by the public at those offices.

Owner Information

Tax Map Number: R17300-02-46
 Owner: CRM KILLIAN LLC
 Address 1: 303 PEACHTREE ST 36TH FLOOR
 Address 2:
 Address 3:
 City/State/Zip: ATLANTA GA 30308
 Property Location/Code: S/S KILLIAN COMMON

Tax Information

Year: 2011
 Property Tax Relief: \$0.00
 Local Option Sales Tax Credit: (\$2,026.85)
 Tax Amount: \$36,963.22
 Paid: Yes
 In lieu of taxes: No
 Assessed: \$94,270.00

Assessment Information

Year Of Assessment: 2011
 Tax District: 1UR
 Acreage Of Parcel: 19.64
 Non-Agriculture Value: \$1,571,200.00
 Building Value: \$0.00
 Taxable Value: \$1,571,200.00
 Zoning: M-1 LIGHT INDUSTRIAL
 Legal Residence: No
 Sewer Connection: NONE
 Water Connection: NONE
 Agriculture Value: \$0.00
 Improvements: \$0.00

Property Information

Legal Description: PT LOT 3
 #SU
 #PR RB1395-3568
 Land Type: COMMERCIAL LAND

Sales History

Current Owner Name	Sale Date	V/I	Book/Page	Sale Price	Qual Code
CRM KILLIAN LLC	01/20/2011	V	R1660/ 2974	\$4,419,000.00	A
KILLIAN PROPERTIES LLC	06/14/2007		R1324/ 2984	\$0.00	

Qualification Code Definitions**Structure Information**

Building Number	Year Structure Was Assessed	Building Description	Actual Year Built	Number Of Bathrooms	Number Of Bedrooms	Total Number Of Stories	Heated Square Footage	Total Square Footage

Structure Details

Structure Type	Structure Description	Building Number

Exemptions

Exemption Year	Exemption Description

Richland County Map



COPYRIGHT 2009, RICHLAND COUNTY GIS



DISCLAIMER: THIS IS A PRODUCT OF THE RICHLAND COUNTY GIS DEPARTMENT. THE DATA DEPICTED HERE HAVE BEEN DEVELOPED WITH EXTENSIVE COOPERATION FROM OTHER COUNTY DEPARTMENTS, AS WELL AS OTHER FEDERAL, STATE AND LOCAL GOVERNMENTS AGENCIES. RICHLAND COUNTY EXPRESSLY DISCLAIMS RESPONSIBILITY FOR DAMAGES OR LIABILITY THAT MAY ARISE FROM THE USE OF THIS MAP.



The information provided on this page reflects data as of December 31, 2010 and should be used for reference only. For official assessment information, please contact the Richland County Assessor's Office.

Information presented on the Assessor's Database is collected, organized and provided for the convenience of the user and is intended solely for informational purposes. ANY USER THEREOF OR RELIANCE THEREON IS AT THE SOLE DISCRETION, RISK AND RESPONSIBILITY OF THE USER. While every attempt is made to provide information that is accurate at the date of publication, portions of such information may be incorrect or not current. RICHLAND COUNTY HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, AS TO ITS ACCURACY, COMPLETENESS OR FITNESS FOR ANY PARTICULAR PURPOSE. All official records of the County and the countywide elected officials are on file in their respective offices and may be viewed by the public at those offices.

Owner Information

Tax Map Number: R17300-02-45
 Owner: BD & O INVESTMENTS LLC
 Address 1: 3215 TWO NOTCH RD
 Address 2:
 Address 3:
 City/State/Zip: COLUMBIA SC 29204
 Property Location/Code: 240 KILLIAN COMMON

Tax Information

Year: 2011
 Property Tax Relief: \$0.00
 Local Option Sales Tax Credit: (\$8,831.08)
 Tax Amount: \$161,055.12
 Paid: Yes
 Instead: No
 Assessed: \$410,750.00

Assessment Information

Year Of Assessment: 2011 Legal Residence: No
 Tax District: 1UR Sewer Connection: CITY
 Acreage Of Parcel: 12.05 Water Connection: CITY
 Non-Agriculture Value: \$964,000.00 Agriculture Value: \$0.00
 Building Value: \$5,881,800.00 Improvements: \$0.00
 Taxable Value: \$6,845,800.00
 Zoning: M-1 LIGHT INDUSTRIAL

Property Information

Legal Description: LOT 2
 #PR RB1396-3038
 Land Type: COMMERCIAL LAND

Sales History

Current Owner Name	Sale Date	V/I	Book/Page	Sale Price	Qual Code
BD & O INVESTMENTS LLC	02/01/2008	V	R1397/ 1786	\$3,012,500.00	Q
KILLIAN PROPERTIES LLC	06/14/2007		R1324/ 2984	\$0.00	

Building Number	Year Structure Was Assessed	Building Description	Actual Year Built	Number Of Bathrooms	Number Of Bedrooms	Total Number Of Stories	Heated Square Footage	Total Square Footage
1	2010	COMPLETE AUTO DEALERSHIP	2009	0.4	0	1.0	60937	71394

Structure Details

Structure Type	Structure Description	Building Number
Building Element	AC TYPE...ROOF TOP PACKAGED	1
Building Element	ARCHITECTURAL STYLE...MISCELLANEOUS	1
Building Element	BUILDING SHAPE...10 CORNERS	1
Building Element	ELECTRICAL...AVERAGE	1
Building Element	EXTERIOR WALL 1...PREFINISHED METAL	1
Building Element	FOUNDATION...CONTINUOUS FOOTING	1
Building Element	HEAT TYPE/FUEL...FORCED AIR DUC/ELEC	1
Building Element	INSULATION...AVERAGE	1
Building Element	INTERIOR FLOOR 1...QUARY OR HARD TILE	1
Building Element	INTERIOR WALL 1...3-P/D SUSPENDED	1
Building Element	ROOF COVER...MODULAR METAL	1
Building Element	ROOF STRUCTURE...SHED	1
Building Element	STRUCTURAL FRAME...MASONRY	1

Exemptions

Exemption Year	Exemption Description

Assessor Data View

The information provided on this page reflects data as of December 31, 2010 and should be used for reference only. For official assessment information, please contact the Richland County Assessor's Office.

Information presented on the Assessor's Database is collected, organized and provided for the convenience of the user and is intended solely for informational purposes. ANY USER THEREOF OR RELIANCE THEREON IS AT THE SOLE DISCRETION, RISK AND RESPONSIBILITY OF THE USER. While every attempt is made to provide information that is accurate at the date of publication, portions of such information may be incorrect or not current. RICHLAND COUNTY HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, AS TO ITS ACCURACY, COMPLETENESS OR FITNESS FOR ANY PARTICULAR PURPOSE. All official records of the County and the countywide elected officials are on file in their respective offices and may be viewed by the public at those offices.

Owner Information								
Tax Map Number:	R17400-05-33							
Owner:	LONG CREEK ASSOCIATE REFORM							
Address 1:	/PRESBYTERIAN CHURCH							
Address 2:	2740 CLEMSON RD							
Address 3:								
City/State/Zip:	COLUMBIA SC 29229							
Property Location/Code:	2831 CLEMSON RD							
Tax Information								
Year:	2012							
Property Tax Relief:	\$0.00							
Local Option Sales Tax Credit:	\$0.00							
Tax Amount:	\$0.00							
Paid:	Yes							
Homestead:	No							
Assessed:	\$0.00							
Assessment Information								
Year Of Assessment:	2012							
Tax District:	2DP							
Acreage Of Parcel:	7.00							
Non-Agriculture Value:	\$560,000.00							
Building Value:	\$0.00							
Taxable Value:	\$0.00							
Zoning:	HI HEAVY INDUSTRIAL							
Property Information								
Legal Description:	#SU							
	#PR RB1036-459							
Land Type:	COMMERCIAL LAND							
Sales History								
Current Owner Name	Sale Date	V/I	Book/Page	Sale Price	Qual Code			
LONG CREEK ASSOCIATE REFORMED	03/25/2005	V	R1036/460	\$490,000.00	9			
MANNING/JOHNSON FAMILY LLC	11/20/1999		R0362/444	\$0.00				
Qualification Code Definitions								
Structure Information								
Building Number	Year Structure Was Assessed	Building Description	Actual Year Built	Number Of Bathrooms	Number Of Bedrooms	Total Number Of Stories	Heated Square Footage	Total Square Footage
Structure Details								
Structure Type	Structure Description	Building Number						
Exemptions								
Exemption Year	Exemption Description							
2008	TAX EXEMPT							



March 31, 2009

Mr. Craig Waites
Colliers Keenan
1301 Gervais Street, Suite 600
Columbia, South Carolina 29201

Re: Letter of Intent for Longtown Commons - 24 acre Development Tract and 1.72 Acre Outparcel 3

Dear Craig:

It was a pleasure to speak with you yesterday afternoon, and I look forward to working with you on the purchase of the captioned property.

This writing shall constitute a letter of intent from Hull Storey Acquisitions, LLC to purchase the captioned property from Crescent Resources, LLC on the following terms and conditions.

Seller: Crescent Resources, LLC and/or its affiliates owning land in the Longtown Commons development.

Buyer: One or more designees of Hull/Storey Acquisitions, LLC currently existing or formed to purchase the Property.

Land to be Purchased: 22.38 acre Shopping Center Parcel plus 1.8 acre Outparcel 1 and 1.72 acre Outparcel 3 as described in the Declaration of Easements and Restrictions dated August 1, 2006 recorded in the ROD for Richland County in Book 1214 at Page 1699 plus any other miscellaneous land in the Longtown Commons development owned by Seller (the "Property").

Purchase Price: \$1,500,000.00 - *1,500,000.00 OK SAM BLS*
\$1,200,000.00 - brokerage commission to Colliers Keenan to be paid by Seller.

Earnest Money: \$75,000.00 (applicable to purchase price) - to be deposited with title agent Rand Hanna of Hull, Towill, Norman, Barrett and Salley, P.C. in its Aiken office and paid to Seller at Closing. *Earnest Money shall be non-refundable except in the event of Seller default or the title contingencies as provided for herein OK SAM BLS*

Contingencies: Marketability of title to the satisfaction of Buyer.

Closing Date: Within ten days after the execution of a purchase agreement setting forth the agreed terms of sale.

As we discussed, Hull/Storey Acquisitions, LLC does not currently have a user for the property, so there is no permitting contingency. Likewise, the proposed sale is an all cash transaction, so there is no financing contingency. Please review this matter with the Sellers and call me at (706)855-4045 or Barry Storey at (706)855-4060 to discuss.

ACQUISITION • DEVELOPMENT • REDEVELOPMENT

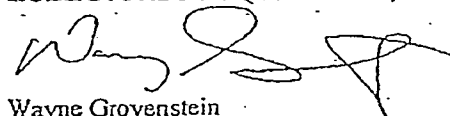
1190 Interstate Parkway • Augusta, Georgia 30909 • (706) 863-2222 • Fax: (706) 868-7457



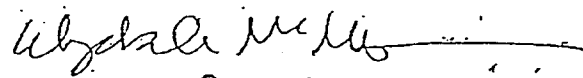
Thank you for your help, and I look forward to speaking with you soon.

Very truly yours,

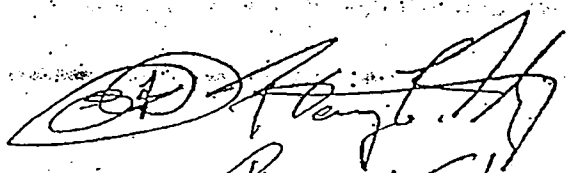
HULL/STOREY ACQUISITIONS, LLC



Wayne Grovenstein


Elizabeth McMillan
CRESCENT RESOURCES, LLC

May 6, 2009


Barry L. Storey
5/8/09

CRESCENT RESOURCES
LLC

3500 Lenox Road, Suite 840
Atlanta, Georgia 30326

(404) 239-7240

FAX (404) 239-7241

May 14, 2009

VIA FACSIMILE [OR ELECTRONIC MAIL]
AND OVERNIGHT DELIVERY SERVICE

Wayne Grovenstein
Hull Storey Acquisitions, LLC
1190 Interstate Parkway
Augusta Georgia 30909

Re: Withdrawal of Letter of Intent Proposal Concerning Longtown Commons

Dear Wayne,

This letter withdraws Crescent Resources, LLC's ("Crescent") counter-offer for a Letter of Intent dated May 6, 2009 and its draft Purchase and Sale Contract transmitted on May 8, 2009, which invited Hull Storey Acquisitions, LLC ("Hull Storey") to negotiate the purchase of the Longtown Commons property.

As you know, Crescent declined to enter negotiations of a definitive contract for Hull Storey's purchase of the Longtown Commons property along the terms proposed in your March 31, 2009 letter on behalf of Hull Storey. Crescent counter proposed non-binding terms from which the parties could begin negotiations of a contract in an emailed PDF file dated May 6, 2009. Hull Storey did not accept Crescent's counter proposal and that invitation is hereby withdrawn.

You have suggested that the March 31, 2009 letter should be construed as an offer to contract for the purchase of Longtown Commons, the acceptance of which by Crescent would have formed a contract of purchase and sale. Crescent disagrees with that notion, having viewed your letter as a non-binding letter of intent that invited Crescent to negotiate a definitive and binding purchase and sale contract. Even had your letter been an offer for contract, Crescent rejected that offer when it proposed different terms for the parties to negotiate a purchase and sale contract.

To the extent Hull Storey may construe Crescent's counterproposal for a Letter of Intent and its transmittal of a draft purchase and sale contract as an offer by Crescent to contract for sale (which it was not), Hull Storey never accepted this proposal, and by this letter Crescent withdraws it.

Sincerely,

CRESCENT RESOURCES, LLC

By:

Name:

Title:

Patrick T. Henry

President, Commercial Division

cc: Robert C. Sink, Esq.
Jeffrey P. Kapp, Esq.

CRESCENT RESOURCES

LLC

3500 Lenox Road, Suite 840

Atlanta, Georgia 30326

(404) 239-7240

FAX (404) 239-7241

May 15, 2009

VIA FACSIMILE FOR ELECTRONIC MAIL
AND OVERNIGHT DELIVERY SERVICE

Mr. Wayne Grovenstein
Hull Storey Acquisitions, LLC
1190 Interstate Parkway
Augusta, Georgia 30909

Re: Longtown Commons

Dear Wayne,

Pursuant to our earlier conversation, we appreciate the interest you have shown in the Longtown Commons project located near the intersection of Clemson Road Relocation and Longtown Road, in Columbia, SC (the "Property"). Due to significant interest in the site, we respectfully request that Buyer submit a best and final offer for the Property on this form. Please submit your offer by either accepting, inserting or modifying the terms below (as applicable) and please return this letter to Seller by noon (12:00PM EST) on Monday, May 18, 2009. This form will serve as the basis of the Purchase and Sale Agreement to be entered into by the parties hereto. This letter is a non-binding Letter of Intent that is merely an expression of understanding between the parties hereto, and it shall not have the effect of a binding contract.

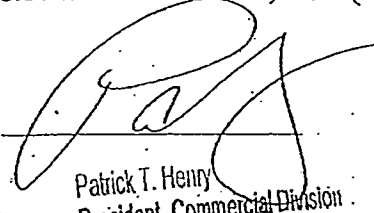
Condition of Property	As is, where is...
Earnest Money	\$100,000, non-refundable immediately upon execution of the Purchase and Sale Agreement and to be placed into escrow within one (1) business day after the date of complete execution of this Letter of Intent.
Purchase Price	\$ _____
Seller's Ongoing Interest	Buyer shall furnish Seller with a Right of First Refusal on the Property for a period of two (2) years after Closing, to be recorded at Closing and further defined in the Purchase and Sale Agreement.
Closing	On or before May 29, 2009

This agreement shall supersede any discussions or agreements that these parties may have previously entered into. Buyer acknowledges and agrees that at this point in time there is no binding agreement for the purchase and sale of the Property between Buyer and Seller. Notwithstanding anything herein to the contrary, this paragraph shall be binding upon and enforceable against the Buyer.

Sincerely,

CRESCENT RESOURCES, LLC ("Seller")

By:
Name:
Title:


Patrick T. Henry
President, Commercial Division

Submitted by:
HULL STOREY ACQUISITIONS, LLC ("Buyer")

By: _____
Name:
Title:
Date: May _____, 2009

Crescent

**CRESCENT RESOURCES
LLC**

Dear Residents and Owners,

As many of you know, the real estate industry has faced unprecedented economic challenges. Unfortunately, Crescent Resources is no exception. As a result of challenging market conditions, our capital structure is no longer sustainable. We have been working diligently with our lenders over the last several months to find a way to strengthen the company's financial position.

As a part of our ongoing strategy to reduce the company's debt level and improve our capital structure, Crescent Resources, LLC and certain of our subsidiaries have filed voluntary Chapter 11 petitions in the U.S. Bankruptcy Court in the Western District of Texas, Austin Division. This step will allow us to bring our capital structure in line with the current economic environment and will provide significantly improved resources and financial flexibility going forward.

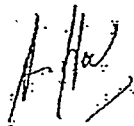
Importantly, we have secured \$110 million in new financing to fund our business activities through this process.

At Crescent we know that the value of our communities is directly impacted by the quality of the Clubs and recreational infrastructure that we have created. It will be our goal to continue to work to enhance value by maintaining the high level of service that we have established. Your continuing support will be a major contributor to our success during this period and beyond.

We have many very attractive assets, a highly experienced team and strong relationships with industry-leading partners. During this restructuring process, our focus will remain on doing what we do best—to create, manage and sell first-class developments, communities and real estate.

We believe this decision will ultimately put Crescent in a much better position to serve our ongoing residents during the current economic downturn and over the longer term.

Sincerely,



Andrew Hede
Chief Executive Officer

BIDDING PROCEDURES

Set forth below are the bidding procedures (the "Bidding Procedures") to be employed in connection with an auction (the "Auction") for the sale of certain of the Longtown Commons parcels.

Assets to be Sold

The Debtors are soliciting bids for the follow land (the "Assets"):

- Approximately 23.8 acre Shopping Center Parcel and an approximately 1.72 acre outparcel known as "Outparcel 3", such real property being generally described and referenced in the "Declaration of Easements and Restrictions" dated August 1, 2006 recorded in the ROD for Richland County in Book 1214 at Page 1699 plus any other miscellaneous land in the Longtown Commons development owned by the Debtors.

The Debtors will consider bids for the entirety of the Assets only. The Debtors, in their business judgment, and after review of all bids submitted, will determine the proposed transaction that will generate the maximum value for their estates and the bidder that has made the highest or otherwise best bid(s) (the "Successful Bidder(s)").

Good Faith Deposits

Any person or entity wanting to participate in the Auction must submit a good faith deposit (a "Good Faith Deposit") in the amount of \$100,000 on or before August 25, 2009 at 5:00 p.m. (prevailing Eastern Time) (the "Deposit Deadline") to be deemed a "Qualified Bidder". Good Faith Deposits shall be held in a trust account for the Debtors' benefit until consummation of a transaction involving any other bidder for the same Assets. If a Successful Bidder fails to consummate a transaction because of a breach or failure to perform on the part of such Successful Bidder, the Debtors will not have any obligation to return the Good Faith Deposit deposited by such Successful Bidder, and such Good Faith Deposit shall irrevocably become property of the Debtors without affecting or reducing any of the Debtors' other rights or claims against such party. Good Faith Deposits are refundable to the extent that a bidder is not the Successful Bidder.

The Auction

The Auction will be conducted at the offices of Robinson, Bradshaw & Hinson, 101 North Tryon Street, Suite 1900, Charlotte, North Carolina 28246 on August 31, 2009, commencing at 10:00 a.m. (prevailing Eastern Time) to determine the highest or otherwise best bid with respect to the Assets. Any bidder submitting a Good Faith Deposit may appear and submit its highest or best bid at the Auction. The Auction may be adjourned without further notice by announcement at the Auction.

Auction Procedures

The opening bid (the "Opening Bid") at the Auction will be \$1.775 million with a three year Right of First Offer pursuant to a form of purchase and sale agreement, attached here

to as Exhibit 1, prepared by the Debtors. If the Opening Bid is not met, the Debtors may choose to not sell the Assets at the Auction. Bidding will continue at the auction at bidding increments of \$50,000 until the Debtors determine that they have received the highest or otherwise best bid. After the Debtors so determine, they will close the Auction and announce the highest and best bid.

Reservation Of Rights - Determination of Highest and Best Bid

The Debtors reserve the right to (i) determine in their reasonable discretion which bid is the highest or best bid and (ii) reject, without liability, any offer that the Debtors in their reasonable discretion deem to be (x) inadequate or insufficient, (y) not in conformity with the requirements of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, or procedures set forth therein or herein, or (z) contrary to the best interests of the Debtors and their estates. The selection of a Successful Bidder shall be within the reasonable business judgment of the Debtors.

Dated: August 24, 2009

CLOSING STATEMENT

Buyer: SC Bypass, LLC, a Georgia limited liability company
Seller: Crescent Resources, LLC, a Georgia limited liability company
Title Agent: Hull, Towill, Norman, Barrett & Salley, P.C.
Closing Date: September 3, 2009
Property: Parcel 1 (Shopping Center Tract – 23.80 acres) and Outparcel 3 (1.72 acres), Longtown Commons Shopping Center, Clemson Road, Richland County, South Carolina

BUYER'S STATEMENT

Purchase Price:		\$1,975,000.00
Credits:		
Earnest Money Deposit ²	\$100,000.00	
Rollback Taxes (1.72 acre outparcel) ¹	\$1,940.08	
Rollback Taxes (23.80 acre Shopping Center Tract) ¹	\$26,852.19	
Seller's Pro-Rata Share of Real Estate Taxes ⁴	\$15,545.49	
	<u>\$144,337.76</u>	<u>(\$144,337.76)</u>
Total Due from Buyer:		<u>\$1,830,662.24</u>

SELLER'S STATEMENT

Sales Price:		\$1,975,000.00
Debits:		
Earnest Money Deposit ²	\$100,000.00	
Seller's Pro-Rata Share of Real Estate Taxes ⁴	\$15,545.49	
Rollback Taxes (1.72 acre outparcel) ¹	\$1,940.08	
Rollback Taxes (23.80 acre Shopping Center Tract) ¹	\$26,852.19	
Brokerage Commission to Colliers Keenan, Inc.	\$96,600.00	
Transfer Tax to Richland County	\$7,307.50	
	<u>\$248,245.26</u>	<u>(\$248,245.26)</u>
Total Due to Seller:		<u>\$1,726,754.74</u>

[Execution on Following Page]

Notes:

Credits for rollback taxes are based on an estimate by the Richland County Tax Assessor and shall be final. Within ten (10) business days from the date of closing, Buyer shall request rollback tax bills from the Richland County Tax Assessor and shall pay the same within ten (10) business days from issuance. Buyer shall promptly provide Seller proof of payment of the same.

² Buyer and Seller authorize Robinson, Bradshaw & Hinson, P.A. to disburse the Earnest Money to Seller as a credit towards the purchase price.

³ Recording charges are to be paid by Buyer outside of closing.

⁴ Taxes are prorated based on 2009 assessments and 2008 tax rates. Pursuant to the calculations set forth on Exhibit "A" attached hereto, estimated 2009 taxes for TMP No. 17400-05-34 are \$21,637.87 and TMP No. 17400-05-44 are \$1,427.60. In the event actual taxes differ from the estimated taxes by more than \$100, each party agrees to re-prorate upon request of the other party. Proration = Total Estimated 2009 Taxes (\$23,065.47) x 246 days / 365 days = \$15,545.49.

DISBURSEMENTS

<u>Item and Payee</u>	<u>Amount</u>
Richland County Recorder of Deeds (Transfer Taxes)	\$7,307.50
Colliers Keenan, Inc. (Seller's brokerage commission)	\$96,600.00
Proceeds to Seller	\$1,726,754.74
Total Disbursements	<u>\$1,830,662.24</u>

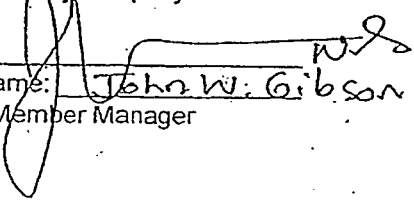
RECEIPTS

Amount due from Buyer	<u>\$1,830,662.24</u>

SIGNATURE PAGE FOR CLOSING STATEMENT

Buyer:

SC BYPASS, LLC, a Georgia
limited liability company

By: 

Print Name: John W. Gibson
As its: Member Manager

Seller:

CRESCENT RESOURCES, LLC, a
Georgia limited liability company

By: _____

Print Name: _____

As its: _____

CLOSING STATEMENT

Buyer: SC Bypass, LLC, a Georgia limited liability company
Seller: Crescent Resources, LLC, a Georgia limited liability company
Title Agent: Hull, Towill, Norman, Barrett & Salley, P.C.
Closing Date: September 3, 2009
Property: Parcel 1 (Shopping Center Tract - 23.80 acres) and Outparcel 3 (1.72 acres), Longtown Commons Shopping Center, Clemson Road, Richland County, South Carolina

BUYER'S STATEMENT

Purchase Price:		\$1,975,000.00
Credits:		
Earnest Money Deposit ²	\$100,000.00	
Rollback Taxes (1.72 acre outparcel) ¹	\$1,940.08	
Rollback Taxes (23.80 acre Shopping Center Tract) ¹	\$26,852.19	
Seller's Pro-Rata Share of Real Estate Taxes ⁴	\$15,545.49	
	<u>\$144,337.76</u>	(\$144,337.76)
Total Due from Buyer:		<u>\$1,830,662.24</u>

SELLER'S STATEMENT

Sales Price:		\$1,975,000.00
Debits:		
Earnest Money Deposit ²	\$100,000.00	
Seller's Pro-Rata Share of Real Estate Taxes ⁴	\$15,545.49	
Rollback Taxes (1.72 acre outparcel) ¹	\$1,940.08	
Rollback Taxes (23.80 acre Shopping Center Tract) ¹	\$26,852.19	
Brokerage Commission to Colliers Keenan, Inc.	\$96,600.00	
Transfer Tax to Richland County	\$7,307.50	
	<u>\$248,245.26</u>	(\$248,245.26)
Total Due to Seller:		<u>\$1,726,754.74</u>

[Execution on Following Page]

Document Number: 1021712

Notes:

¹ Credits for rollback taxes are based on an estimate by the Richland County Tax Assessor and shall be final. Within ten (10) business days from the date of closing, Buyer shall request rollback tax bills from the Richland County Tax Assessor and shall pay the same within ten (10) business days from issuance. Buyer shall promptly provide Seller proof of payment of the same.

² Buyer and Seller authorize Robinson, Bradshaw & Hinson, P.A. to disburse the Earnest Money to Seller as a credit towards the purchase price.

³ Recording charges are to be paid by Buyer outside of closing.

⁴ Taxes are prorated based on 2009 assessments and 2008 tax rates. Pursuant to the calculations set forth on Exhibit "A" attached hereto, estimated 2009 taxes for TMP No. 17400-05-34 are \$21,637.87 and TMP No. 17400-05-44 are \$1,427.60. In the event actual taxes differ from the estimated taxes by more than \$100, each party agrees to re-prorate upon request of the other party. Proration = Total Estimated 2009 Taxes (\$23,065.47) x 246 days / 365 days = \$15,545.49.

DISBURSEMENTS

<u>Item and Payee</u>	<u>Amount</u>
Richland County Recorder of Deeds (Transfer Taxes)	\$7,307.50
Colliers Keenan, Inc. (Seller's brokerage commission)	\$96,600.00
Proceeds to Seller	\$1,726,754.74
Total Disbursements	<u>\$1,830,662.24</u>

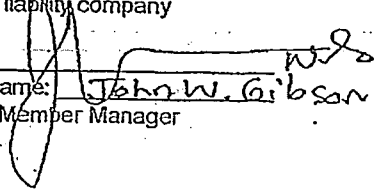
RECEIPTS

Amount due from Buyer	<u>\$1,830,662.24</u>

SIGNATURE PAGE FOR CLOSING STATEMENT

Buyer:

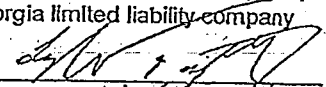
SC BYPASS, LLC, a Georgia
limited liability company

By: 

Print Name: John W. Gibson
As its: Member Manager

Seller:

CRESCENT RESOURCES, LLC, a
Georgia limited liability company

By: 

Print Name: Lyle Fogarty
As its: V.P. Development

Document Number: 1021712

Instrument: 2006069705

Book/Page: R1214: 1689

Date/Time: 8/4/2006 12:18:24 PM

Drawn By and Return To:

Robinson, Bradbury & Hinson, P.A.
 Attention: Eda G. Palmer
 101 N. Tryon Street, Suite 1900
 Charlotte, NC 28204

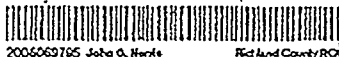
Book 1214-1689

2006069705 08/04/2006 12:18:24 PM

Declaration of Covenants

Fee: \$25.00 County Tax: \$0.00

State Tax: \$0.00



2006069705 John G. Harts

Richland County/ROD

DECLARATION OF EASEMENTS AND RESTRICTIONS

THIS DECLARATION OF EASEMENTS AND RESTRICTIONS (this "Declaration"), dated August 1, 2006, is executed by CRESCENT RESOURCES, LLC, a Georgia limited liability company ("Declarant").

RECITALS

A. Declarant is the owner of several parcels of real property (collectively, the "Property") located at the intersection of Longtown Road and Clemson Road Relocation in Richland County, South Carolina, containing an aggregate of approximately 34.72 acres. The Property is more particularly shown as Parcel 1, Parcel 2 and Tract 3, and Parcel 3A on that plat entitled "Subdivision Survey (Lot Split) of Longtown Commons," prepared by J. Jetter Pittman Professional Land Surveying, Inc. and recorded in Record Book 1811 at Page 2745 in the Office of the Register of Deeds for Richland County (the "Plat").

B. A portion of the Property, containing approximately 22.38 acres and shown on the conceptual site plan attached hereto as Exhibit A (the "Site Plan") as "Shopping Center Tract," referred to in this Declaration as the "Shopping Center Parcel," is being developed by Declarant as a retail shopping center.

C. The remaining parcels within the Property, shown on the Site Plan as "Outparcel 1" through "Outparcel 9" respectively, and any other parcels into which they may subsequently be combined or subdivided, are referred to in this Declaration individually as an "Outparcel" and collectively as the "Outparcels." The Outparcels are intended to be developed by Declarant or conveyed or ground leased by Declarant to third parties for retail development consistent with the operation of a shopping center on the Shopping Center Parcel.

D. Each legally subdivided portion of the Property, including but not limited to the Shopping Center Parcel and each Outparcel, is referred to in this Declaration as a "Parcel." Each owner of fee simple title to any Parcel is referred to in this Declaration as an "Owner."

E. Declarant intends to develop the Shopping Center Parcel in substantial accordance with the Site Plan. Except as shown on the Site Plan, the Outparcels will not have direct access to Clemson Road Relocation, Longreen Parkway or Longtown Road. Declarant desires to establish a permanent non-exclusive access easement over the portions of the Shopping Center Parcel shown cross-hatched on the Site Plan (the "Access Easement Areas"). Declarant also desires to create certain other cross-easements between the Parcels, and to establish uniform building restrictions, use restrictions, and maintenance requirements applicable to each Parcel, in order to ensure that all Parcels are developed in a uniform manner.

NOW, THEREFORE, in consideration of the covenants set forth in this Declaration and for the purposes set forth above, Declarant, for itself, and its successors and assigns, imposes and places the following restrictions and easements upon the Property, reserving unto itself and to

C-953970-9 04/01/01249

This document is not to scale



future owners of Parcels within the Property certain rights and privileges, all as more particularly set forth in this Declaration:

1. Use Restrictions.

a. No portion of the Property shall be used in violation of the following restrictions:

(i) No portion of the Property shall be used for industrial or manufacturing purposes.

(ii) No portion of the Property shall be used as an auction house operation, a flea market, a tattoo parlor, an adult entertainment facility, an adult book store, a so-called "head shop," or for the sale or display of pornographic materials or illicit drug paraphernalia.

(iii) No portion of the Property shall be used as a junkyard or a trailer park, or for the sale of mobile homes, or for the outside overnight storage of motor vehicles, boats, or mobile homes.

(iv) No portion of the Property shall be used for the operation of a carnival, billiard parlor, bingo parlor, off-track betting facility, discotheque or dance hall, or massage parlor.

(v) No portion of the Property shall be used for the operation of an amusement park or any other commercial amusement use including, but not limited to, skating rinks, bowling alleys, putt-putt golf, outdoor batting cages, go-cart tracks, archery or rifle ranges, playgrounds, or water slides; provided, however, that the foregoing restriction shall not be deemed to apply to amusement areas that are ancillary to a retail or restaurant use of a Parcel, or to a day-care center use on Outparcel I only.

(vi) No portion of the Property shall be used for the operation of a veterinary hospital, a mortuary or a crematorium.

(vii) No portion of the Property shall be used for any of the following uses: (1) a cocktail lounge, tavern or bar; provided, however, a bar in conjunction with a restaurant is allowed so long as fifty percent (50%) or more of its revenues come from the sale of food, (2) any dumping, disposing, incineration, or reduction of garbage (exclusive of dumpsters located in the rear or side designated locations of any building), (3) any automobile, truck, trailer, or R.V. sales, leasing, display, or repair; provided, however, (i) an auto parts sales location is allowed, and (ii) a tire store or a business that engages in tire sales and related services such as Goodyear, Tire Kingdom, Discount Tire, and Firestone, is allowed, (4) any animal raising facilities, or (5) any church.

(viii) No portion of the Property shall be used for the operation of a Hooters Restaurant.

(ix) No portion of the Property outside of any store building leased by, conveyed to, or developed by a supermarket, grocery store or food store shall be used for the operation of a supermarket, grocery store or food store, or for the sale for off-premises consumption of groceries, produce, meats, fish or dairy products; provided, however, that the foregoing restriction shall not be deemed to prohibit: (1) the operation of a restaurant on the balance of the Property selling prepared food and beverage items for on-premises or off-premises consumption, or (2) the operation of a convenience store or drug store selling food and beverage items as part of its business, so long as the square footage within such convenience store or drug store devoted to the sale of food and beverage items (including one-half of the aisle space adjacent to any shelves or display areas) does not exceed 2,000 square feet.

b. In addition to the above restrictions, no portion of the Outparcels shall be used for residential purposes, including without limitation, any nursing home, assisted living facility, hotel or motel, living quarters, sleeping apartments or lodging rooms.

2. Relocatable Access Easements. Declarant has constructed or will construct the roadways, entrances, exits, gutters, curbs and curb cuts within the Access Easement Areas, all as shown on the Site Plan (collectively, the "Roadway Improvements"). Subject to the terms of this Declaration, each Owner of a Parcel shall have a perpetual non-exclusive easement over, upon, across and through the Access Easement Areas, including the right to use, and the right (but not the obligation) to maintain, repair and replace all of Roadway Improvements within the Access Easement Areas, for the purposes of providing pedestrian and vehicular access between its Parcel and the public streets surrounding the Property (Clemson Road Relocation, Longreen Parkway and/or Longtown Road). The Owner of Outparcel 6 shall have the right to install two (2) curb cuts connecting the paved areas on its Outparcel to the Roadway Improvements. Each of the remaining Outparcel Owners shall have the right to install one (1) curb cut connecting the paved areas on its Outparcel to the Roadway Improvements. Notwithstanding the foregoing, however, the location of all such curb cuts shall be subject to the prior written approval of Declarant and subject to the receipt of all applicable governmental approvals, as provided in Paragraph 12.

The Owner of the Shopping Center Parcel shall have the right to relocate any portion of the Access Easement Areas located on its Parcel, provided that: (a) the Owner constructs at its expense a paved roadway and associated improvements (including curbs, gutters, and necessary drainage structures) in such new location of at least equal quality to the improvements existing at the time of such relocation, and such construction is performed in a manner that minimizes the disruption of any businesses located on any other Parcel; (b) the Owner grants to each other Owner an easement over the new location containing the same terms and conditions as those contained in this Declaration, at which time the other Owners will release the access easement in its existing location, it being agreed that such grant and release may be accomplished by an amendment to this Declaration substituting a new Site Plan; and (c) the relocated easement area

shall provide reasonably direct two-way paved access between each other Parcel and each of the public streets surrounding the Property.

All paved areas within the Access Easement Areas shall be constructed and maintained at a uniform grade, in accordance with the Site Plan, and no barriers, fences or other obstructions shall be erected within the Property so as to interfere with the free flow of pedestrian and vehicular traffic between those portions of the Property from time to time devoted to roadways, parking areas, or sidewalks; provided, however, that the foregoing provisions shall not prohibit the reasonable designation and relocation of traffic and pedestrian lanes, or the reasonable construction of landscape buffers that do not interfere with reasonably direct paved access from each Parcel to the public streets surrounding the Property. In addition, each Owner of any portion of the Access Easement Areas may block traffic on its Parcel for the time necessary to prevent the creation of prescriptive easement rights, or as may be reasonably required for the purpose of repairing or replacing the Roadway Improvements. If possible, however, such action shall be taken on a day or at a time when the buildings on the Property would not otherwise be open for business, and in any event only after prior written notice to all other Owners.

3. Easement over Common Access Facilities. Subject to the terms of this Declaration, each Owner shall have a perpetual non-exclusive easement to use all of the vehicular roadways, paved areas, entrances and exits, and sidewalks ("Common Access Facilities") located from time to time on the Property outside of the Access Easement Areas, including but not limited to any other access drives that may be located from time to time on the Shopping Center Parcel, for the purpose for which such Common Access Facilities are designed, without payment of any fee or other charge being made therefor. Each Owner shall have the right to relocate or remove any Common Access Facilities located on its Parcel from time to time.

Nothing in Paragraph 2 or this Paragraph 3 shall be deemed to grant to the Owner of any Parcel any rights to use the parking areas located on the Property outside of its Parcel for the parking of motor vehicles, or to grant to the owner of any property outside of the Property any rights to use the parking areas located on the Property for the parking of motor vehicles, nor shall it be deemed to grant to any party the right to park motor vehicles on any portion of the Property not striped with parking spaces, such as roadways, entrances and exits, fire lanes and parking aisles.

4. Utility Easements. Declarant has constructed and installed sanitary sewer and water lines, and the applicable utility providers have installed electrical lines (collectively, together with any telephone and communications lines and other similar facilities to be installed, the "Utility Infrastructure") necessary for the development and use of the Parcels as a first-class shopping center. Subject to the terms of this Declaration, each Owner of a Parcel shall have a perpetual, non-exclusive easement, over, under and across the remainder of the Property for the purposes of installing, operating, using, maintaining, repairing, replacing, relocating and removing lines, equipment and facilities for the delivery of utility services to its Parcel (each, a "Utility Line," and collectively, the "Utility Lines"), and connecting and tying into the Utility Infrastructure and other common Utility Lines which are installed from time to time within the Property for such purpose, and using such common Utility Lines in connection with the delivery

of such utility services to each Parcel. Such easement rights shall be subject to the following provisions as well as the other applicable provisions contained in this Declaration:

a. If any Utility Line is to be installed pursuant to this Paragraph 4, the location of such Utility Line shall be subject to the prior written approval of the Owner whose Parcel is to be burdened thereby, such approval not to be unreasonably withheld, conditioned or delayed; provided, however, an Owner's approval may be withheld for any reason with respect to a Utility Line proposed to be located within any area on such Owner's Parcel where a building either is located or is expected to be located in the future. The easement area related thereto shall be no larger than whatever is necessary to reasonably satisfy the utility company, as to an easement to a public utility, or five (5) feet on each side of the centerline of the Utility Line, as actually installed, as to a private easement.

b. Any Owner of a Parcel installing and/or connecting to a Utility Line on the Parcel of another party pursuant to this Paragraph 4: (i) shall pay all costs and expenses with respect to such work; (ii) shall cause all work in connection therewith (including general clean-up and surface and/or subsurface restoration) to be completed using first-class materials and in a good and workmanlike manner as quickly as possible and in a manner so as to minimize interference with the use of the burdened Parcel and the conduct or operation of the business of the Owner whose Parcel is affected; (iii) shall not increase the cost of the utility services to the other parties served by such Utility Line and shall not interrupt, diminish, or otherwise interfere with the utility services to the other parties served by such Utility Line (except as expressly approved in writing in advance by such other parties); (iv) shall comply in all respects with all applicable governmental laws, regulations, and requirements; and (v) shall promptly, at its sole cost and expense, clean the area (as needed) and restore the affected portion of the burdened Parcel and facilities therein (including, without limitation, any disturbed landscaping improvements and irrigation facilities) to a condition equal to or better than the condition which existed prior to the commencement of such work.

c. Each Owner of a Parcel shall have the right at any time, and at its sole cost and expense, to relocate elsewhere within its Parcel any Utility Line on its Parcel, serving another Parcel, provided such relocation shall be performed only after at least thirty (30) days written notice of such intention to so relocate has been given to each party which is served by such Utility Line and provided such relocation:

(i) shall not increase the cost of the utility services to the parties served by such Utility Line and shall not interrupt, diminish, or otherwise interfere with the utility services to the parties served by such Utility Line (except as expressly approved in writing in advance by such parties); and if an electrical line/computer line is being relocated, then the Owner relocating the Utility Line and the parties served by such Utility Line shall coordinate such interruption to eliminate any detrimental effects;

(ii) shall not reduce or impair the usefulness or function of such Utility Line;

Instrument: 2006069795

Book/Page: R1214 : 1704

DateTime: 6/4/2008 12:16:24 PM

(iii) shall be performed without cost or expense to the parties served by such Utility Line;

(iv) shall be completed in a good and workmanlike manner using materials (if and to the extent available) and design standards which equal or exceed those originally used;

(v) shall not unreasonably interfere with the use of the burdened Parcel or the conduct or operation of the business of any other Owner or the conduct or operation of business on any Parcel; and

(vi) shall have been approved by the provider of such utility service and the appropriate governmental authorities.

Documentation of the relocated Utility Line easement area, including the furnishing of an "as-built" survey to each party which is served by such Utility Line, shall be the expense of the Owner undertaking such relocation and shall be accomplished as soon as possible after such relocation.

d. Each Owner installing a Utility Line pursuant to this Paragraph 4 (an "Installing Owner") shall be responsible for the cost and expense of such installation, including, without limitation, tap fees payable for its Parcel to the appropriate municipality or municipal agency. In addition, each Installing Owner shall indemnify, defend and hold harmless the Owner of the Parcel on which its off-site Utility Lines are located, from and against any and all claims, damages, losses and expenses of any kind (including without limitation court costs and reasonable attorney's fees) which may arise directly out of the exercise of easement rights under this Paragraph 4 by the Installing Owner. The Installing Owner shall promptly discharge (within thirty (30) days after receipt of notice of filing) any and all liens filed against any other Parcel as a result of or relating to any construction or maintenance undertaken by or on behalf of the Installing Owner under this Paragraph 4.

e. Each Owner expressly reserves the right to pave and landscape the surface of the utility easement areas on its Parcel, and to use those areas for purposes that do not interfere with the use and enjoyment of the easement rights created hereby. The Owners shall not erect any buildings or other structures in the utility easement areas.

f. Each Owner reserves the right to convey or dedicate all or any portion of the utility easements located on its Parcel, or to require any other Owner to convey or dedicate to appropriate governmental entities and public utility companies any Utility Lines installed pursuant to this Paragraph 4, provided any such dedication or conveyance shall not adversely affect the use and enjoyment of such Utility Lines by the Owners, and to grant any other easements or licenses to such appropriate governmental entities and public utility companies as are reasonably necessary or desirable for obtaining adequate utility service for the benefit of the Parcels, provided such easements and licenses shall not interfere with the use and enjoyment of the encumbered Parcel(s) and are located outside of the areas on the Parcel(s) where a Building either is located or is expected to

C-965930-9 04491.01289

6

This document is not a scale

be located in the future. The Owners of the Parcels shall cooperate with and assist Declarant and/or any such other Owner and shall join in and consent to such dedications and conveyances if requested by Declarant or any such other Owner, at no cost, however, to such cooperating Owners.

5. Drainage Easement. Each Owner of an Outparcel shall have a permanent non-exclusive easement over the portion of the Shopping Center Parcel identified on the Site Plan as "Stormwater" (the "Drainage Easement Area"), for the purpose of draining surface water from its Parcel through underground storm drainage lines into the detention pond(s) located within the Drainage Easement Area. Each such Owner also shall have a perpetual non-exclusive right of access over the Drainage Easement Area and adjacent portions of the Shopping Center Parcel as may be reasonably necessary to exercise the easement rights set forth above.

6. Maintenance of Access Easement Areas. The Owner of the Shopping Center Parcel shall maintain at its expense the Roadway Improvements, subject to its right to receive reimbursement from the Owners of the Outparcels for certain expenses, as provided in Paragraph 8. The maintenance obligation of the Owner of the Shopping Center Parcel under this Paragraph 6 shall include, but is not limited to, the following: (a) maintaining the pavement in a level, smooth and evenly covered condition with the type of surfacing material originally installed or an equal substitute; (b) removing all papers, ice and snow, mud and sand, debris, filth and refuse, and thoroughly sweeping the Roadway Improvements to the extent necessary to keep the Roadway Improvements in a clean and orderly condition; and (c) placing, keeping in repair and replacing as necessary all traffic control signs, pavement markings and lines.

If the Owner of the Shopping Center Parcel fails to maintain the Roadway Improvements in good condition and repair as required above, and if such failure continues after such Owner has been given notice of the failure (provided, however, that no notice shall be required in the event of an emergency), then any other Owner shall have the right to go on the Access Easement Areas to perform any necessary repairs or maintenance at the expense of the Owner of the Shopping Center Parcel in accordance with the procedures set forth in Paragraph 9.

Notwithstanding the foregoing provisions of this Paragraph 6, each Owner shall be solely responsible, at its expense, for any maintenance or repairs to the Roadway Improvements primarily necessitated by the negligence or wrongful intentional acts of such Owner, its tenants, or their respective agents, contractors or employees, and the Owner of the Shopping Center Parcel shall have the self-help rights specified in Paragraph 9 if any Owner fails to make the repairs required of it under this sentence.

7. Maintenance of Drainage Improvements. The Owner of the Shopping Center Parcel shall maintain at its expense the catch basins, drainage lines, detention pond(s) and related improvements located within the Drainage Easement Area (collectively, the "Drainage Improvements"), subject to its right to receive reimbursement from the Owners of the Outparcels for certain expenses, as provided in Paragraph 8. The maintenance obligation of the Owner of the Shopping Center Parcel under this Paragraph 7 shall include, but is not limited to: (a) maintaining the Drainage Improvements in good and operable condition, (b) using herbicides or pesticides, in accordance with applicable laws, as may be required to control plants, algae, and mosquitoes; (c) maintaining plants and landscaped areas within the Drainage Easement Area,

and (d) draining the storm water detention pond(s) periodically to perform necessary repairs and re-excavation work.

If the Owner of the Shopping Center Parcel fails to maintain the Drainage Improvements in good condition and repair as required above, and if such failure continues after such Owner has been given notice of the failure (provided, however, that no notice shall be required in the event of an emergency), then any other Owner shall have the right to go on the Drainage Easement Area to perform any necessary repairs or maintenance at the expense of the Owner of the Shopping Center Parcel in accordance with the procedures set forth in Paragraph 9.

Notwithstanding the foregoing provisions of this Paragraph 7, each Owner shall be solely responsible, at its expense, for any maintenance or repairs to the Drainage Improvements primarily necessitated by the negligence or wrongful intentional acts of such Owner, its tenants, or their respective agents, contractors or employees, and the Owner of the Shopping Center Parcel shall have the self-help rights specified in Paragraph 9 if any Owner fails to make the repairs required of it under this sentence.

8. Sharing of Maintenance Costs. The Owner of each Outparcel shall pay to the Owner of the Shopping Center Parcel its proportionate share of the cost of maintaining the Roadway Improvements and the Drainage Improvements (the "Maintenance Fee") based on the respective acreages of each Outparcel, with each Outparcel's proportionate share equal to a fraction, the numerator of which is the acreage of that Outparcel, and the denominator of which is the aggregate acreage of all Parcels within the Property. The Maintenance Fee shall be due and payable beginning on the earlier of (i) the date that such Owner commences construction of building improvements on its Outparcel, or (ii) January 1, 2007. The Maintenance Fee shall be based on a calendar year and shall be equitably adjusted for any fractional year. Notwithstanding anything herein to the contrary, the Maintenance Fee for each Outparcel for the 2006 calendar year shall not exceed One Thousand Nine Hundred and No/100 Dollars (\$1,900.00) (the "Maintenance Ceiling"). For each subsequent calendar year, the Maintenance Ceiling set forth above shall be increased by the percentage increase in the cost of living, as determined by reference to the Consumer Price Index For All Urban Consumers, U.S. City Average (All Items) (1982-1984=100), as published by the Bureau of Labor Statistics of the United States Department of Labor, and as most recently available on the date the cost of living determination is being made. If any Owner (a "Defaulting Owner") fails to pay its pro rata share of the cost of maintaining the Roadway Improvements and Drainage Improvements within thirty (30) days after written demand by the Owner of the Shopping Center Parcel (the "Maintaining Owner"), the Maintaining Owner shall be entitled to file a mechanic's lien against the Parcel of the Defaulting Owner in the amount of such invoice, together with interest thereon at the lesser of twelve percent (12%) per annum or the highest rate of interest permitted by law, from the date such invoice is paid by the Maintaining Owner until the Maintaining Owner is repaid by the Defaulting Owner, and recover that amount plus interest in an action at law, all in accordance with the applicable laws of the State of South Carolina. In addition, the Maintaining Owner shall have any other remedy available to it at law or in equity for such default.

9. Maintenance Standards. Until such time as buildings or other improvements are constructed on its Parcel, each Owner, at its own expense, shall install appropriate erosion control measures on its Parcel, including the seeding of any unpaved areas, shall keep the grass

mowed to a height of six (6) inches or less, shall promptly remove all trash and debris, and generally shall maintain its Parcel in a safe, neat and clean condition at all times. This maintenance obligation shall specifically include the obligation to keep any paved areas in good condition and repair, and to reseed its Parcel when necessary. Each Owner shall install any sidewalks and landscaping on its Parcel, and in the rights-of-way immediately adjacent to its Parcel, that may be required by the approved zoning plan for the Property and other applicable municipal ordinances. On the Outparcels, such sidewalks and landscaping shall be installed prior to the opening for business of the improvements on such Outparcel.

After the development of each Parcel, the Owner shall maintain or cause to be maintained its Parcel in a safe, clean and attractive condition, and shall maintain and repair at its expense all improvements on its Parcel which need repair in order to keep the same in good condition and repair, in compliance with then-current zoning laws, building codes and other governmental regulations, and in a condition substantially similar to that existing upon the initial completion of those improvements. This maintenance obligation shall include, without limitation, the following:

- a. To keep and maintain the exterior of all buildings, and all sidewalks, roadways, walkways and paved parking surfaces (excluding the roadways and entrances within the Access Easement Areas, the maintenance of which is governed by Paragraph 6), in a good, safe, clean and sightly condition at all times, and to remove promptly, to the extent reasonably practicable, snow, ice, surface water and debris.
- b. To keep all directional signs, pavement signs and parking lot striping distinct and legible.
- c. To repair, replace and renew exterior lighting fixtures and bulbs, tubes and ballasts therefor as may be necessary.
- d. To care for and replant all landscaped and planted areas so as not to allow dead or unsightly plants to remain within its Parcel, and to mow and edge, fertilize, reseed and irrigate all grassed areas, so as to keep such areas in a neat, healthy and attractive condition.
- e. To repair any damage or breakage to utilities located beneath the pavement on its Parcel.

If the maintenance described above is to be undertaken by a ground lessee of any Parcel, the Owner of that Parcel shall notify the Owners of the other Parcels of the name and address of the ground lessee. If any Owner or ground lessee of an Outparcel fails to maintain or cause to be maintained its Outparcel in good order and condition in accordance with the standards set forth above, and such failure continues for a period of thirty (30) days after that Owner or ground lessee (the "Responsible Owner") has been given written notice specifying the nature of the default (provided, however, that no notice shall be required in an emergency), then the Owner of the Shopping Center Parcel (the "Maintaining Owner") shall have the right to go on the Outparcel of the Responsible Owner and perform the necessary repairs or maintenance at the expense of the Responsible Owner. In that event, the Maintaining Owner shall be deemed to

have contracted with the Responsible Owner to perform that work, and shall be entitled to file a mechanic's lien against the interest of the Responsible Owner in its Outparcel for the reasonable cost of that work, together with interest thereon at the lesser of twelve percent (12%) per annum or the highest rate of interest permitted by law, and to recover that cost in an action at law against the Responsible Owner, all in accordance with the applicable laws of the State of South Carolina.

10. General Standards. Each Owner shall have the following obligations:

a. To keep its Parcel clean, orderly, sanitary and free from objectionable odors and from termites, insects, vermin and other pests.

b. To store all trash and garbage (including cardboard box recycling and grease recycling) in adequate containers within its Parcel, maintained in a clean and neat condition, properly screened as required in Paragraph 13, and to arrange for regular removal thereof at Owner's expense.

c. Not to burn any papers, trash or garbage of any kind in or about the Property.

d. To use reasonable efforts to minimize any cooking odors emanating from any restaurant on the Property (including the obligation to clean the food processing exhaust system hoods and exhaust ducts on a regular basis), and to refrain from disposing of any grease into the sanitary sewer lines that cross any other Parcel.

e. Not to install in or about its Parcel any exterior amplification, exterior loudspeakers or similar devices (including a customer call system) that are audible outside the boundaries of its Parcel; provided, however, that this restriction shall not preclude the operation of a drive-through window at a bank, restaurant or other retail establishment.

11. Construction Standards. Each Owner, throughout the entire period of construction on its Parcel, and during any subsequent periods of renovation or reconstruction, shall:

a. Not permit mud, dirt, gravel, rocks, construction materials, trash or debris to be stored, accumulate or remain outside of the building site on its Parcel, or within the Access Easement Areas, or on any other portion of the Property outside of its Parcel.

b. Install and maintain effective erosion control measures that meet or exceed code requirements; in order to prevent the runoff of sediment, dirt and debris from its Parcel. To the extent that any such runoff occurs, the Owner shall promptly clean and wash any affected improvements, such as paving, located outside of its Parcel.

c. Cause trucks, construction equipment or machinery to park only within the boundaries of its Parcel, and cause construction vehicles and traffic to follow the routes that may be designated by the Owner of the Shopping Center Parcel for construction traffic.

d. Repair any damage to (including without limitation damage to paving and landscaping), and promptly remove any trash or construction debris from, the public rights-of-way adjoining the Property, the Access Easement Areas, or other portions of the Property outside of its Parcel, caused by the activities of such Owner's contractors, subcontractors or agents.

12. Building Restrictions. No building located on the Property shall have a metal exterior. No structure of a temporary nature shall be allowed on the Property at any time, except that each Owner may place a construction trailer on its Parcel during the period of building construction. No telecommunications towers shall be allowed on the Property at any time. All buildings constructed upon the Property shall conform to the minimum standards specified by the applicable governmental building codes in effect at the time of such construction, to any architectural restrictions imposed under the zoning ordinances applicable to the Property, and to all other rules, regulations, requirements, ordinances and laws of any local, state or federal governmental unit(s) or authorities having jurisdiction thereof.

No more than one (1) building shall be constructed on any Outparcel, and such building shall accommodate only one (1) business operation therein. Except as otherwise set forth on the Site Plan, no building shall be constructed on any Outparcel that contains more than one (1) story or exceeds twenty-six feet (26') in height, including false facades, if any, as measured from the finished floor area of the building shown on the Site Plan as "Proposed Grocery," without the prior written consent of the Owner of the Shopping Center Parcel. The total Gross Building Area of all building improvements on each Outparcel shall not exceed the maximum number of square feet for that Outparcel specified on the Site Plan, without the prior written consent of the Owner of the Shopping Center Parcel. The Owner of the Shopping Center Parcel shall have the right to amend the maximum number of square feet of Gross Building Area of building improvements on any Outparcel of which it is the owner, without the approval of any other Owner, by amendment to the Declaration. The term "Gross Building Area," as used in this Declaration, shall mean the total floor area of a building measured to the exterior of outside walls, and shall be deemed to include outdoor balconies, patios, or outdoor areas utilized for retail sales or food and beverage service (exclusive of drive through or walk-up food and beverage service).

Also, it is the intent of the Declarant that the improvements located on each Outparcel blend harmoniously and attractively with the improvements on the Shopping Center Parcel. In particular, it is the intent of the Declarant that the buildings on each Outparcel use the same primary exterior building materials (i.e., masonry brick). Accordingly, no improvements shall be constructed on any Outparcel until the following items have been approved in writing by the Owner of the Shopping Center Parcel, which approval shall not be unreasonably withheld or delayed:

- a. A site plan showing the location and dimensions of the building(s), landscaped areas, paved areas (roadway, sidewalks and parking), monument signs and other improvements to be constructed or installed on such Parcel.
- b. A landscape plan identifying all species of trees and plants to be planted on such Parcel, with sizes specified.

c. An exterior lighting plan (including site photometrics), confirming that exterior lighting will be focused on the Outparcel, and will not create direct glare onto adjoining Parcels.

d. A sign drawing for any free-standing sign to be constructed or installed on such Parcel.

e. Plans showing the exterior elevations of all sides of the building(s) and building-mounted sign(s) to be constructed or installed on such Parcel, and specifications describing the principal building and roofing materials, and the materials, colors, and material specifications for the exterior of the proposed building(s).

f. Plans showing the height, color, and materials to be used in any retaining wall to be constructed or installed on such Parcel.

The approval requirements of this Paragraph 12 also shall apply to any renovations, additions, alterations or replacements of the improvements located on any Outparcel that affect the landscaping, lighting, paved areas, sidewalks or free-standing signs (other than replacement of identification panels) on that Outparcel, or the exterior appearance of the building improvements (specifically including any building-mounted signs) on that Outparcel.

13. Screening and Related Requirements. All storage tanks, trash containers and maintenance facilities located on any Parcel shall either be housed in closed buildings or otherwise screened from public view in a manner architecturally compatible with the buildings located on that Parcel. All loading docks and associated areas shall have adequate space on each Parcel so that loading and unloading of trucks and service vehicles will not be carried out within the Access Easement Areas. Any trash container or recycling bin on an Outparcel shall be located within a brick enclosure at least seven feet (7') in height, with a screened fence gate that shall be kept closed except when its contents are being placed in, or removed from, the container or bin. The design of the trash enclosure on any Outparcel shall be subject to the approval of the Owner of the Shopping Center Parcel, as provided in Paragraph 12, but must, at a minimum, utilize the same brick used in the buildings on the Shopping Center Parcel, and incorporate black plastic strips in the screened fence gate.

14. Site Improvement Restrictions. Site improvements (as distinguished from building improvements) constructed on any Parcel shall comply with the following requirements and restrictions:

a. All curbs and gutters shall be poured in place or standard-sized concrete type curbs; no bumper blocks, pre-cast, extruded or asphaltic curbs shall be utilized.

b. There shall be constructed on each Outparcel, prior to opening for business or commencing any other use thereon, and maintained thereon at all times, the greater of: (1) five (5) full size parking spaces for each 1,000 square feet of the Gross Building Area of the buildings on that Outparcel; or (2) the number of parking spaces required for the actual use of that Outparcel under applicable zoning ordinances.

c. All utility lines and equipment shall be entirely underground, except as indicated on the Site Plan.

d. No on-site septic system or sanitary sewer treatment facility will be permitted on any Parcel.

e. Pavement markings, directional signs, and other traffic indicators upon each Parcel shall be in accordance with the *Manual on Uniform Traffic Control Devices*, and shall provide for a reasonable traffic flow scheme consistent with that shown on the Site Plan.

f. All buffer strips and other undeveloped land areas shall be landscaped with trees, shrubs, or suitable ground cover (which includes grass) in a uniform manner.

15. Sign Restrictions. No signs shall be erected or installed on the Property which violate the following prohibitions:

a. No sign shall be painted on the exterior surface of any building.

b. No rooftop signs of any type shall be permitted. In addition, no building-mounted sign or any portion thereof may project above the parapet wall or top of the exterior wall or building facade upon which it is mounted.

c. All sign cabinets, conductors, transformers, ballasts, attachment devices, wiring and other equipment shall be concealed.

d. No sign shall be permitted which violates the sign control ordinances or other statutes of Richland County.

e. No free-standing sign may be erected on any Outparcel, except that, as permitted by the sign control ordinances or other statutes of Richland County, and subject to the plan approval requirements of Paragraph 12, the Owner of each Outparcel may install and maintain one (1) permanently affixed free-standing sign structure on its Outparcel not in excess of seven feet (7'0") in height, so long as such sign does not obstruct the visibility of the pylon or monument sign on the Shopping Center Parcel identifying the shopping center or tenants thereof.

16. Subdivision. The Outparcels may be combined and/or resubdivided by Declarant, without approval from any Owner, in accordance with applicable subdivision regulations of the City of Columbia and/or Richland County.

17. Casualty Loss. If any building or other improvement located on any Parcel is damaged or destroyed by fire or other casualty, then the Owner of that Parcel shall have the option to rebuild or not to rebuild. If that Owner elects not to repair or restore the damage, it shall, within ninety (90) days after the date of the damage or destruction, demolish the destroyed or damaged building or improvement, clean up any and all rubbish and debris, level the area, landscape and grade or pave the area, and thereafter maintain its Parcel in a good, clean, safe and presentable condition.

18. Liability Insurance. Each Owner at all times shall maintain a policy of commercial general liability insurance (current ISO Form or its equivalent) with a combined single limit of at least \$3,000,000.00 per occurrence and a general aggregate limit of at least \$3,000,000.00, covering its Parcel. The Owner of the Shopping Center Parcel shall have the right, by delivery of written notice to the other Owners, to increase these minimum liability insurance limits from time to time to levels maintained by prudent owners of similar commercial properties in the area of the Property. All liability insurance policies required under this Paragraph 20 shall name each other Owner of any Parcel as an additional insured, and shall be carried with a reputable insurance company licensed to do business in the State of South Carolina on an admitted basis. Any Owner may satisfy its liability insurance coverage with a so-called blanket policy of insurance covering other locations, as long as the coverage limits set forth in this Paragraph 20 are satisfied as to its Parcel. Each Owner shall deliver to each other Owner, within thirty (30) days after written request therefor, a certificate of insurance evidencing that the policies of insurance required to be maintained by it under this Paragraph 20 are in full force and effect.

Any Owner may elect to self-insure all or any portion of the risks required to be insured under this Paragraph 20 so long as: (a) such Owner has a tangible net worth determined in accordance with generally accepted accounting principles, consistently applied, in excess of Two Hundred Fifty Million and No/100 Dollars (\$250,000,000.00), as determinable from such Owner's public disclosures and/or regularly maintained corporate balance sheets which are generally available to shareholders (no right of audit or conduct independent investigations being implied by this provision), or if such Owner is not a public company, as determinable from a current audited financial statement evidencing its compliance with the net worth requirement; and (b) such Owner delivers to each other Owner, within thirty (30) days after written request therefor, a written notice of self-insurance, specifying the risks it has elected to self-insure, accompanied, if such Owner is not a public company, by a current audited financial statement evidencing its compliance with the net worth requirement set forth above.

19. Indemnify. Each Owner shall indemnify, defend and hold harmless each other Owner against all loss, liability, expense and damage, including reasonable attorneys' fees and other litigation costs, arising from death, bodily injury or property damage that occurs on the Parcel of the indemnifying Owner; provided, however, that this indemnification shall not extend to any claims caused in whole or in part by any act or omission of the Owner being indemnified or its employees, agents, representatives, tenants, occupants, contractors, customers and invitees.

20. Successor to Declarant. If approval of Declarant is required under the terms of this Declaration and Declarant no longer owns any interest in the Shopping Center Parcel, the right of approval shall be exercised by the owner of fee simple title to the largest portion of the Shopping Center Parcel. Notwithstanding the foregoing, Declarant expressly retains the right to assign any retained rights under the terms of this Declaration by recording in a written instrument in the Office of the Register of Deeds for Richland County, South Carolina.

21. Amendment to Declaration. Except as otherwise expressly provided herein, this Declaration may be amended only by a written agreement executed by Declarant, so long as it owns fee simple title to any portion of the Property, and all Owners of fee simple title to the Shopping Center Parcel. Any such amendment shall be effective when properly recorded in the

Office of the Register of Deeds of Richland County. Notwithstanding the foregoing, no such amendment shall impose any materially greater obligation or restriction on, or materially impair any right or easement appurtenant to, any Outparcel without the prior written consent of the Owner of the affected Outparcel.

22. Binding Effect. The conditions, restrictions and easements contained in this Declaration are covenants running with the land; they are made by Declarant for the benefit of itself, its successors and assigns in title to all or part of the Property, each tenant now or hereafter leasing any part of the Property, and each lender making a loan secured by a mortgage on all or any part of the Property. This Declaration and the rights granted and created hereby, including, but not limited to, the easements created hereunder, shall be superior to all leases, conveyances, transfers, assignments, contracts, mortgages, deeds of trust and other encumbrances and documents affecting all or any part of the Property that are recorded in the Office of the Register of Deeds of Richland County after the recording of this Declaration. Any person or entity foreclosing any such mortgage, deed of trust, lien or encumbrance and any persons or entities acquiring title to, or an interest in, any part of the Property as a result thereof shall acquire and hold title expressly subject to the provisions of this Declaration.

23. Remedies for Breach. The terms and conditions of this Declaration shall be enforceable by any Owner, by actions for specific performance or injunction, or for the enforcement of any liens provided for in this Declaration; in addition to any other remedies available at law. No breach of the provisions of this Declaration shall entitle any Owner to cancel, rescind or otherwise terminate this Declaration, but the foregoing limitations shall not effect any other rights or remedies which such Owner may have under this Declaration for such breach.

24. Waivers. No delay or omission by any Owner in exercising any right or power accruing upon any default, non-compliance or failure of performance of any of the provisions of this Declaration by any other Owner shall be construed to be a waiver thereof. A waiver by any Owner of any obligation of any other Owner shall not be construed to be a waiver of any subsequent breach of such obligation, or a waiver of any breach of any other terms, covenants or conditions of this Declaration.

25. Attorneys' Fees. If any action, suit, arbitration or other proceeding is instituted to remedy, prevent or obtain relief from any default in the performance by any Owner (or ground lessee) of its obligations under this Declaration, the prevailing party shall be reimbursed by the other party for all of its costs and expenses, including without limitation reasonable attorneys' fees, incurred in each such action, suit, arbitration or other proceeding.

26. Private Agreement. This Declaration shall not be construed to grant any rights to the public in general.

27. No Partnership. The provisions of this Declaration are not intended to create, and shall not be interpreted to create, a joint venture, a partnership or any similar relationship between the Owners.

28. **Exculpation.** Notwithstanding any provision to the contrary contained in this Declaration, it is specifically understood and agreed that there shall be absolutely no personal liability on the part of any Owner, its shareholders, officers, directors, members, managers, or partners, with respect to the performance or non-performance of any of its obligations under this Declaration. Each Owner shall look solely to the Parcel owned by any defaulting Owner, the Improvements located thereon and any insurance or condemnation proceeds related thereto, for the satisfaction of any remedy of the non-defaulting Owner resulting from the breach of any of the obligations or covenants of this Declaration by the defaulting Owner; provided, however, that this provision shall be not deemed to affect the right of any Owner to seek injunctive relief or to bring suit for specific performance. If any Owner conveys its fee simple interest in its Parcel, that Owner shall be relieved from all obligations under this Declaration accruing after the date of the conveyance.

29. **Severability.** Invalidity of any covenant or restriction contained in this Declaration by judgment or court order shall not affect any other provisions of this Declaration all of which shall remain in full force and effect.

30. **Governing Law.** This Declaration has been entered into under, and shall be construed in accordance with, the laws of the State of South Carolina.

[remainder of page intentionally left blank]

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

Signed, sealed and delivered
in the presence of:

Deanda Haidge
Dana E. Bazy

CRESCENT RESOURCES, LLC, a
Georgia limited liability company (SEAL)

By: Christian C. Hack
Christian C. Hack, Vice President

Richard County, MO

Richard W. Radden

C:965930v9 04491.01289

17

This document is not to scale

Instrument: 2006069785

Book/Page: R1214: 1716

Date/Time: 8/1/2006 12:18:24 PM

State of North Carolina

County of Mecklenburg

Probate

PERSONALLY appeared before me the undersigned witness and made oath that s/he saw the within CRESCENT RESOURCES, LLC, a Georgia limited liability company, by Christian C. Hack, its Vice President, sign, seal, and as its act and deed, deliver the within written instrument; and that s/he, with the other witness subscribed above, witnessed the execution thereof.

SWORN to before me this 1st
day of August, 2006.

Dale Reville
Notary Public for North Carolina

My Commission Expires: 11-28-09

Glenda Aldridge

Richard County ROD

Richard W. Rodden

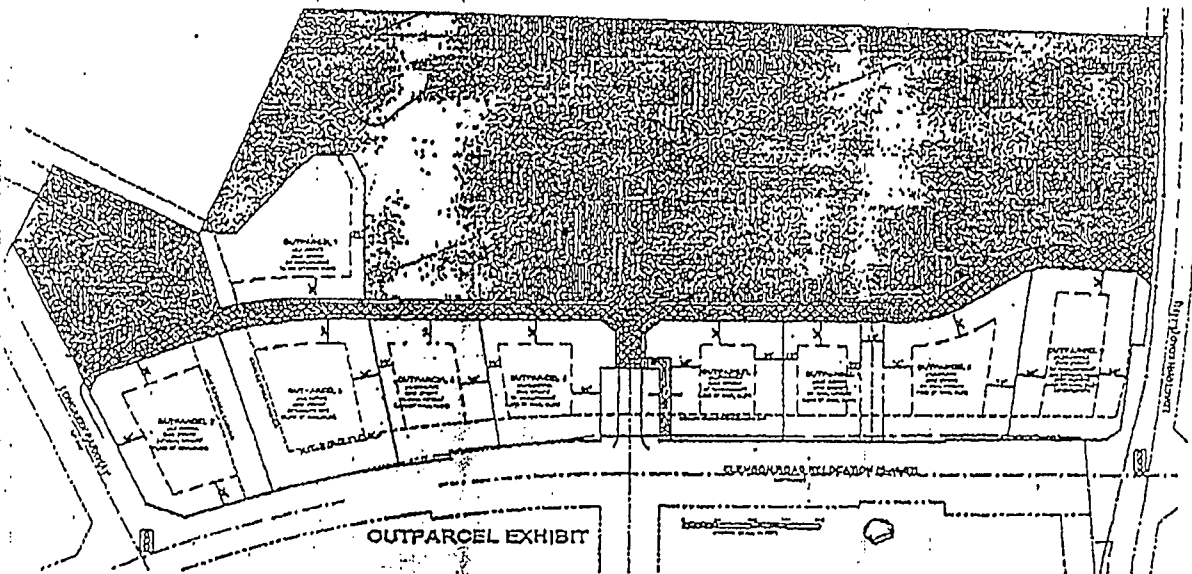
C-965930-9 04491.01289

18

This document is not to scale

Richland County ROD

EXHIBIT A
SITE PLAN



OUTPARCEL EXHIBIT

C-965930v9 04491,01289

Richard W. Redden

This document is not to scale

Exhibit "A1"

CLOSING STATEMENT

Buyer: H/S North Richlo, LLC, a Georgia limited liability company
Seller: Hendon Columbia 2006, LLC, a Georgia limited liability company
Title Agent: Hull, Towill, Norman, Barrett & Salley, P.C.
Closing Date: August 21, 2008
Property: Lowe's Parcels, Parts A and B (20.39 Ac.), Clemson Road, Richland County, South Carolina

BUYER'S STATEMENT

Purchase Price: \$4,788,762.00

Credits:

Earnest Money Deposit	\$200,000.00	
Seller Contribution to Site Work ¹	\$100,000.00	
Rollback Taxes	\$46,285.44	
City / County Real Estate Taxes	\$8,957.52	
	\$355,242.96	(\$355,242.96)

Total Due from Buyer: \$4,433,519.04

SELLER'S STATEMENT

Sales Price: \$4,788,762.00

Debits:

City / County Real Estate Taxes	\$8,957.52
Rollback Taxes	\$46,285.44

Seller Contribution to Site Work ¹	\$100,000.00

Brokerage Commission to Hendon Properties, LLC	\$191,550.00

Brokerage Commission to Ford Commercial Properties	\$100,000.00

Attorney's Fees to Ellis, Lawhorne & Sims, P.A.	\$18,000.00

Attorney's Fees to Hartman, Simons, Spielman & Wood, LLP	\$7,500.00

Partial Release Fee to Regions Bank	\$2,995,200.00

Partial Release Processing Fee to Title Agent (est.)	\$70.00

Transfer Tax to Richland County	\$17,719.30

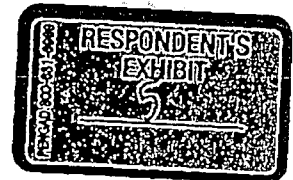
	\$3,485,282.26	(\$3,485,282.26)

Total Due to Seller: \$1,303,479.74

¹ Buyer and Seller have agreed upon a \$250,000 contribution by Seller to Buyer for Site Work. Pursuant to a separate agreement of even date, Seller shall pay Buyer the balance of said amount within 20 days of completion of said work.

² Title Agent shall cover any shortfall, and shall be entitled to retain any excess, estimated recording charges.

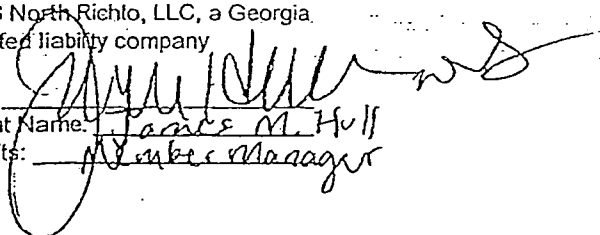
Document Number: 1021712



SIGNATURE PAGE FOR CLOSING STATEMENT

Buyer:

H/S North Richlo, LLC, a Georgia
limited liability company

By: 

Print Name: James M. Hull

As its: Member Manager

Seller:

Hendon Columbia 2006, LLC, a Georgia
limited liability company

By: _____

Print Name: J

As its: _____

CLOSING STATEMENT

Buyer: H/S North Richlo, LLC, a Georgia limited liability company
Seller: Hendon Columbia 2005, LLC, a Georgia limited liability company
Title Agent: Hull, Towill, Norman, Barrett & Safay, P.C.
Closing Date: August 21, 2008
Property: Lowe's Parcels, Parts A and B (20.39 Ac.), Clamsón Road, Richland County, South Carolina

BUYER'S STATEMENT

Purchase Price: \$4,788,762.00
Credits:
Earnest Money Deposit \$200,000.00
Seller Contribution to Site Work¹ \$100,000.00
Rollback Taxes \$46,285.44
City / County Real Estate Taxes \$8,957.52
\$355,242.96 (\$355,242.96)
Total Due from Buyer: \$4,433,519.04

SELLER'S STATEMENT

Sales Price: \$4,788,762.00
Debits:
City / County Real Estate Taxes \$8,957.52
Rollback Taxes \$46,285.44
Seller Contribution to Site Work¹ \$100,000.00
Brokerage Commission to Hendon Properties, LLC \$191,550.00
Brokerage Commission to Ford Commercial Properties \$100,000.00
Attorney's Fees to Ellis, Lawhorne & Sims, P.A. \$18,000.00
Attorney's Fees to Hartman, Simons, Spielman & Wood, LLP \$7,500.00
Partial Release Fee to Regions Bank \$2,995,200.00
Partial Release Processing Fee to Title Agent (est.) \$70.00
Transfer Tax to Richland County \$17,719.30
\$3,485,282.26 (\$3,485,282.26)
Total Due to Seller: \$1,303,479.74

¹ Buyer and Seller have agreed upon a \$250,000 contribution by Seller to Buyer for Site Work. Pursuant to a separate agreement of even date, Seller shall pay Buyer the balance of said amount within 20 days of completion of said work.

² Title Agent shall cover any shortfall, and shall be entitled to retain any excess, estimated recording charges.

SIGNATURE PAGE FOR CLOSING STATEMENT

Buyer:

H/S North Richlo, LLC, a Georgia
limited liability company

By: _____
Print Name: _____
As Its: _____

Seller:

Hendon Columbia 2005, LLC, a Georgia
limited liability company

By: _____
Print Name: Charles Hendon, Jr.
As Its: Managing Member

Document Number: 1021712

Easements, Covenants, Conditions and Restrictions

Note to Register of Deeds: Please cross reference to the Declaration of Easements, Covenants and Restrictions for the Outparcels at Sam's Crossing recorded in Book 1441, page 2913

Book 1459-1382

2008069728 08/29/2008 12:36:57:630

Easement

Fee:\$45.00 County Tax:\$0.00

State Tax:\$0.00



2008069728 - Richard W. Rodden

Richland County ROD

EASEMENTS

COVENANTS, CONDITIONS AND RESTRICTIONS

THESE EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS (hereinafter referred to as "ECCR"), are made and entered into as of the date of the last execution hereof, which date is the 21st day of August, 2008, by and between Hendon Columbia 2006, LLC, a Georgia limited liability company ("Hendon"), H/S North Richlo, LLC, a Georgia limited liability company and H/S Richout, LLC a Georgia limited liability company (collectively or, for so long as either owns an interest in the Shopping Center, individually, "Richlo"), and CVS 1200 SC, L.L.C., a Delaware limited liability company ("CVS") (the foregoing parties hereinafter collectively referred to as the "Parties");

WITNESSETH:

WHEREAS, by deed dated February 14, 2008 and recorded in the Register of Deeds for Richland County, South Carolina (the "Records") in Book 1402 at Page 3848, CVS is the owner of a certain tract of real property consisting of approximately one and 76/100ths (1.76) acres located in Richland County, State of South Carolina as more particularly described on Exhibit A-1 attached hereto and made a part hereof for all purposes (the "CVS Parcel"); and

WHEREAS, by deed of even date herewith recorded in the Records in Book 1459 at Page 1368 Hendon has conveyed to Richlo two tracts of real property consisting of a total of approximately 20.39 acres located in Richland County, State of South Carolina as more particularly described on Exhibit A-2 attached hereto and made a part hereof for all purposes (the "Entire Lowe's Parcel"); and

WHEREAS, while not subdivided out for separate sale, the Entire Lowe's Parcel is shown on the "Minor Subdivision Sketch Plan of Parcels 1 and 4, Sam's Crossing Subdivision" recorded in the Records in Book 1454 at Page 3990 (the "Subdivision Plat") as two tracts - Lowe's Parcel, Part A and Lowe's Parcel, Part B, and herein, Lowe's Parcel, Part A is described on Exhibit A-3 and is known as the "Lowe's Parcel", and Lowe's Parcel, Part B is described on Exhibit A-4 and is known as the "Road Parcel"; and

WHEREAS, by deed of even date herewith recorded in the Records in Book 1459 at Page 1377 Hendon has conveyed to Richlo a certain tract of real property consisting of approximately 1.52 acres located in Richland County, State of South Carolina as more particularly described on Exhibit A-5 attached hereto and made a part hereof for all purposes (the "Richlo Parcel"); and

WHEREAS, Hendon is the owner of four tracts of real property located in Richland County, State of South Carolina, located contiguous with and adjacent to the Lowe's Property or the Road Parcel (described below), which are more particularly described on Exhibit A-6, Exhibit A-7, Exhibit A-8 and Exhibit A-9 attached hereto and made a part hereof for all purposes and are known as "Parcel 1A", "Parcel 2", the "Developer Parcel", and the "East Developer Parcel", respectively; and

WCSR 3900361v3

1

RETURN TO:

R. E. Hanna, III, Esquire

Hull, Towill, Norman, Barrett & Salley, P.C.

111 Park Avenue, S.W.

Aiken, SC 29801

WHEREAS, the Lowe's Parcel and the Developer Parcel are collectively the "Parcels", and all of the Parcels and the Outparcels (as herein defined) are further designated on the site plan of the overall shopping center development, attached hereto and made a part hereof as Exhibit B (the "Site Plan"); and

WHEREAS, it is contemplated by the parties hereto that the Lowe's Parcel shall be used for the construction and operation of a Lowe's Home Improvement Warehouse ("Lowe's Store").

NOW, THEREFORE, Hendon, Richlo and CVS hereby declare, agree, covenant and consent that all of the real property comprising the Parcels and described on Exhibit A (A-1 through A-9) shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are imposed on such real property to run with the real property and be binding on and inure to the benefit of all parties having any right, title or interest in the described Parcels or any part thereof, their heirs, successors and assigns for the purpose of development and operation of the respective Parcels in an integrated shopping center and to protect the value of such respective Parcels. Further, in consideration of the premises, the agreements and the covenants of the Parties hereto, the mutual benefits and advantages accruing to them, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

The recital paragraphs above are incorporated into this ECCR as if rewritten below in their entirety.

ARTICLE I

BASIC DEFINITIONS

Section 1.1 "Common Area" shall mean all real property owned by the Parties for the common use and enjoyment of the Owners, including the entirety of the Road Parcel and all non-dedicated streets.

Section 1.2 "Consenting Party" shall mean and refer to the Owner of the Lowe's Parcel and Hendon as long as Hendon is owner of any one of the following (or a portion thereof): Developer Parcel, East Developer Parcel, Parcel 1A and Parcel 2. There shall be only two (2) Consenting Parties for the Shopping Center consisting of only one Consenting Party representing Hendon and only one Consenting Party representing the Lowe's Parcel. In the event that the Lowe's Parcel is further subdivided, the current Consenting Party shall designate the particular tract of the subdivided Parcel whose Owner shall succeed as the Consenting Party. If and when Hendon is no longer an Owner of any property within the Shopping Center, then Hendon, at its election, shall assign all of its rights as a Consenting Party to either (a) the Consenting Party representing the Lowe's Parcel, resulting in the Consenting Party representing the Lowe's Parcel being the only Consenting Party or (b) to one of the other Owners (Hendon may assign all of its status as a Consenting Party to another Owner while Hendon is still an Owner).

Section 1.3 "Default Rate" shall mean the rate of interest that is the lesser of (i) twelve (12%) per annum and (ii) the maximum rate allowed by applicable law.

Section 1.4 Intentionally deleted.

Section 1.5 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Parcel which is a part of the Shopping Center, as hereinafter defined, but excluding those having such interest merely as security for the performance of any obligation.

Section 1.6 "Outparcel" shall mean and refer to the CVS Parcel, the Richlo Parcel, Parcel 1A, Parcel 2, the East Developer Parcel and any subdivision thereof. Every Outparcel shall be a Parcel from the date of recording of a subdivision map showing the Outparcel, so that all references herein to Parcels shall apply with equal force to Outparcels; however, references to Outparcels shall be specific to Outparcels as herein defined.

Section 1.7 "Shopping Center" shall collectively mean and refer to the CVS Parcel, the Richlo Parcel, the Lowe's Parcel, the Road Parcel, Parcel 1A, Parcel 2, the Developer Parcel and the East Developer Parcel as shown on the Site Plan, located in the County of Richland, State of South Carolina.

ARTICLE II

EASEMENTS

Section 2.1 Definitions and Documentation. For the purposes of this Article II, the following will apply:

(a) An Owner granting an easement is called the "Grantor", it being intended that the grant shall thereby bind and include not only such Owner but also its successors and assigns.

(b) An Owner to whom the easement is granted is called the "Grantee", it being intended that the grant shall benefit and include not only such Owner but its successors, assigns, occupants and permittees; although not for the direct benefit of permittees, the Grantee may permit from time to time its occupants and permittees to use such easements; provided, however, that no such permission nor the division of the dominant estate shall permit or result in a use of the easement in excess of the use contemplated at the date of the creation of such easement.

(c) The term "Building(s)" means any permanently enclosed structure(s) which has (have) been, will be or may be placed, constructed or located on a Parcel within an Owner's Permissible Building Area (as that term is hereinafter defined in Section 2.1(h)), which, for the purpose of this ECCR shall include any appurtenant canopies, supports, loading docks, truck ramps and other outward extensions, but such term does not include Common Area Improvements (as that term is hereinafter defined in Section 2.1(d)).

(d) The term "Common Area Improvements" means all improvements which will be or may be constructed on a Parcel under the terms of this ECCR within the Common Areas of the Shopping Center for the common enjoyment and use of all owners, their successors, assigns, occupants and permittees such as parking areas, access and egress drives, service drives, lighting standards, sidewalks, and all other improvements which would be part of the "Common Area" under the above definition, and all improvements constructed from time to time in replacement of the same or in such redesign or reconfiguration of the same as may be agreed to by both of the Consenting Parties.

(e) The term "Common Utility Facilities" means utility systems and facilities from time to time situated on or serving the Shopping Center, up to the building wall of any Building, for use or

service in common by both respective Owners, or for the service of the Common Area, such as the following: storm drainage, retention and disposal facilities and sanitary sewer systems, manholes, underground domestic and fire protection water systems, underground natural gas systems, underground electric power cables and systems, underground telephone and television cables and systems, and all other utility systems and facilities for such common use or service, including, without limitation, those installed under the provisions of this ECCR and as replacements thereto.

(f) The term "Improvement(s)" means Building(s) and the Common Area Improvements on a Parcel.

(g) The word "in" with respect to an easement granted "in" a particular Parcel means, as the context may require, "in", "to", "on", "over", "through", "upon", "across", and "under", or any one or more of the foregoing.

(h) The term "Permissible Building Area", means an area on any Parcel or Outparcel designated as such on the Site Plan within which only a Building or structure of a certain size (not more than thirty percent (30%) of the entire area of the Parcel or Outparcel) and height may be constructed as hereinafter more fully provided. Except for the construction of a Zaxby's, First National Bank, Murphy Oil, or Discount Tire on Parcel 1(A), the Permissible Building Area of Parcel 1(A) shall not include the area located within ten (10) feet of the side property lines (along the northwestern and southeastern edges).

The Permissible Building Area of the Richlo Parcel shall not include the area located within twenty (20) feet of the side property lines and the Permissible Building Area of the CVS Parcel shall not include the area located within thirty (30) feet of the side property lines (along the northwestern and southeastern edges). Except for (i) CVS initial construction on the CVS Parcel, (ii) construction of a Zaxby's, First National Bank, Murphy Oil, or Discount Tire on Parcel 1(A) or Parcel 2 (which (i) and (ii) shall not be limited by the thirty-percent (30%) restriction) no building or structure (other than Common Area Improvements) shall be erected or maintained outside of a Permissible Building Area. The Outparcels shown on Exhibit A may not be combined without the approval of the owner of the Lowe's Parcel which approval may be withheld in said owner's sole discretion.

(i) The term "Separate Utility Facilities" means any of the following not installed under the terms of this ECCR for use in common by other Owners nor for service of the Common Area: storm drainage facilities and sanitary sewer systems (including, without limitation, underground storm and sanitary sewer systems), underground domestic and fire protection water systems, underground natural gas systems, underground electric power, cables and systems, underground telephone and television cables and systems, and all other utility systems and facilities reasonably necessary for the use or service of any Improvement (as that term is hereinafter defined in Section 2.1(f)) situated on any Parcel.

(j) All easements granted herein are non-exclusive and are irrevocable and perpetual.

(k) All easements granted herein shall be easements appurtenant and not easements in gross.

(l) In the event an Owner transfers or conveys a portion of its Parcel in accordance with the terms of this ECCR, those easements granted under this Article II which benefit, bind, and burden the remainder of the Parcel not transferred or conveyed shall benefit, bind, and burden the portion of the Parcel so transferred or conveyed, and those easements granted under this Article II which benefit, bind, and burden the portion so transferred or conveyed shall benefit, bind, and burden the remainder of the Parcel of which it was a part.

(m) All easements granted hereunder and herein shall exist by virtue of this ECCR, without the necessity of confirmation by any other document. Likewise, upon the termination of any easement (in whole or in part) or its release in respect of all or any part of any Parcel, in accordance with the terms hereof, the same shall be deemed to have been terminated or released without the necessity of confirmation by any other document. However, upon the request of an Owner, the other Owners will sign and acknowledge a document memorializing the existence (including the location and any conditions), or the termination (in whole or in part), or the release (in whole or in part), as the case may be, of any easement, if the form and substance of the document is approved by the other Owners. No grant of an easement pursuant to this Article II shall impose any greater obligation on any Owner to construct or maintain its Building(s) except as expressly provided in this ECCR.

Section 2.2 Easements for Use of Common Area. Each Owner hereby grants to the other Owners easements in the Common Area on its (Grantor's) Parcel for:

- (a) ingress to and egress from the Grantee's Parcel;
- (b) the passage of vehicles (provided, however, the Owner of the Lowe's Parcel and the Owner of the Developer Parcel may conduct parking lot sales, and/or other business, and/or display merchandise in that portion of the Common Areas around or directly in front of any Building thereon so long as it does not interfere with ingress and egress; and is not in violation of any applicable law or ordinance. Furthermore, notwithstanding anything herein to the contrary, the Owner of each Parcel and Outparcel shall have the right, but not the obligation, to install and maintain a bank teller machine or similar kiosk type structure(s) in its parking areas);
- (c) the passage and accommodation of pedestrians (provided, however, the Owner of each Parcel and Outparcel may display merchandise, conduct sidewalk sales and other business on the sidewalks on its Parcel or Outparcel so long as pedestrian passage is not obstructed and may otherwise enclose and/or redesign its sidewalk areas without the need of obtaining any other Owner's consent); and
- (d) the doing of such other things as are authorized or required to be done on the Common Area under this ECCR;

Provided, however, that such easements are limited to such portions of the Common Area of the Grantor's Parcel as are now or hereafter from time to time set aside or intended to be set aside, maintained and authorized for such use under this ECCR, specifically including those portions of the Common Area shown on the Site Plan.

Provided further that the Owners hereby specifically disclaim any intention to create any reciprocal parking easements between any of the Parcels and Outparcels in any combination.

Enjoyment and use of the Common Area easements granted by this Section 2.2 shall commence on the date the Common Area Improvements with respect to the Common Area in question are substantially completed.

Each Owner hereby reserves the right to eject from the Common Area on its Parcel any person not authorized to use the same. In addition, each Owner reserves the right to close off the Common Area of its Parcel or Outparcel, or portions thereof, for such reasonable periods of time as may be legally necessary in the reasonable opinion of its attorneys to prevent the acquisition of prescriptive rights by anyone. Before closing off any part of the Common Areas as provided above, such Owner must give notice to the Consenting Parties of its intention to do so and must coordinate such temporary closing with the activities of the other Owners so that no unreasonable interference with the operation of the Shopping Center occurs.

The easements provided for in this Section 2.2 are subject to the rights to use and the restrictions on use of the Common Area provided for in this ECCR. No changes shall be made in the Common Area or in the location, configuration or design of Common Area Improvements without the consent of both Consenting Parties and except as otherwise herein provided. Approval of changes to the Common Area on the land belonging to a Party shall not be unreasonably withheld, and except for changes to the Access Roads located on the Road Parcel (which requires approval of all of the Parties); if the Consenting Parties do not reject or propose modifications to the proposed changes to the Common Areas within thirty (30) days of receipt of the plans and request (provided the request for approval shall state that "inaction on the part of the Consenting Party receiving these plans within thirty days of receipt of this request shall be deemed approval under the ECCR"), the plans shall be deemed approved by the Consenting Parties.

Section 2.3 Access Roads.

(a) Easements. Each Owner hereby grants to the other Owner(s) easements for pedestrian and vehicular traffic in those strips of land (not less than the widths therefor shown on the Site Plan) on its (Grantor's) Parcel which are shown on Site Plan as shaded or cross hatched roadways (hereinafter collectively referred to as the "Access Roads") for the purpose of providing ingress to and egress from the Grantee's Parcel and each of Clemson Road, Killian Road, Ricky Lane, Chad Lane, Longreen Parkway and Longtown Road, together with the following rights and subject to the following restrictions and reservations:

(i) The use of the Access Road easements by any person entitled to the use thereof shall be in common with all other such persons. The Access Road easements and the land upon which they are located shall be considered in all respects part of the Common Area, and the improvements thereon shall be considered in all respects part of the Common Area Improvements;

(ii) As further provided in Section 2.9 herein, Grantors of the Access Road easements agree not to obstruct or interfere in any way with the free flow of pedestrian and vehicular

traffic over the roadways which comprise the Access Road, except to the extent necessary for reasonable repair and maintenance, traffic regulation and control, and to prevent a dedication thereof or the accrual of any prescriptive rights to any person therein; and

(iii) Neither the access and egress points from public streets nor the drive lanes as shown on the Site Plan shall be changed without the written permission of the Consenting Parties, which consent shall not be unreasonably withheld, delayed, or conditioned. Once built in the configuration shown on the Site Plan and except for the installation or removal of driveways from an Access Road into a Parcel or Outparcel (which shall be determined by the party owning the Parcel or Outparcel to be accessed), the location and configuration of the Access Roads located on the Road Parcel shall not be changed without the unanimous written approval of all of the Owners of the Parcels and Outparcels.

(b) Maintenance, Repair and Replacement of Access Roads on Road Parcel.

The acreage of the Parcels in the Shopping Center excluding the land contained in the Road Parcel and the East Developer Parcel are as follows: The Lowe's Parcel (17.52 acres), the Developer Parcel (5.06 acres), the Richlo Parcel (1.52 acres), Parcel 1A (2.49 acres), Parcel 2 (1.97 acres), and the CVS Parcel (1.76 acres) (for a total of approximately 30.32 acres). After the Lowe's Store has been constructed and any modifications of the Access Roads on the Road Parcel made in connection with the construction or development of the Lowe's Store, if any, have been made, the Owner of the Lowe's Parcel shall maintain the Access Roads located on the Road Parcel, and the Owner of the Lowe's Parcel shall be reimbursed pro rata share for its costs and expenses of maintaining the Road Parcel by the other Owners in the following percentages: Developer Parcel (16.69%), the Richlo Parcel (5.01%), Parcel 1A (8.21%), Parcel 2 (6.50%), and the CVS Parcel (5.80%). The costs of maintenance shall include but shall not be limited to sweeping, snow and ice removal, seal coating, line striping, traffic sign replacement, repairing curbs and gutters, repairing potholes, resurfacing, and the ad valorem taxes attributable to the Road Parcel (2.87 acres). The Owner of the Lowe's Parcel may invoice its out of pocket costs for said maintenance and repairs (which invoice shall include supporting invoices from suppliers and contractors and tax bills), and the billed Owner shall reimburse its percentage of said costs within thirty (30) days of receipt of same. In the event an Owner fails (a) to object to those items of the invoice which it claims are inaccurate or unsupportable as costs to maintain, repair or replace the Access Road improvements on the Road Parcel for which the billed Owner is liable and to pay the uncontested amount or (b) to pay a reimbursement request or the uncontested portion of the reimbursement request as described above, which failure continues for a period of ten (10) days after written notice thereof, such failure shall constitute a default under this ECCR, and the Owner of the Lowe's Parcel shall, in addition to such Owners' other remedies, have a lien on the Parcel of the defaulting Owner for the amount of the bill, which amount shall bear interest at the Default Rate from the date of expiration of said thirty (30) days period until paid. The lien may be foreclosed as any other mechanics or materialman's lien, or the Owner of the Lowe's Parcel may bring an action at law to collect the amount owed.

Section 2.4 Easements for Utility Facilities. Each Owner hereby grants to the other Owners perpetual easements to its (Grantor's) Parcel, except within such Owner's Permissible Building Area, as shown on the Site Plan, for the installation, use, operation, maintenance, repair, replacement, relocation and removal of Common Utility Facilities and Separate Utility Facilities serving the Parcel of the Grantee.

All Separate Utility Facilities installed in the Common Area, whether installed under this Section 2.4 or otherwise, and all Common Utility Facilities, shall be underground, and the location of the Separate Utility Facilities shall be subject to the approval of the Owner across whose Parcel the same are to be located.

Except as otherwise provided herein, the Grantee of any easement for Separate Utility Facilities under this Section 2.4 shall be responsible, as between such Grantee and the Grantor, for the installation, maintenance, repair and removal at Grantee's cost of all Separate Utility Facilities installed by the Grantee pursuant to the easement grant, as well as for all Separate Utility Facilities installed by the Grantee on its own Parcel. Any such installation, maintenance, repair, replacement, relocation and removal of Separate Utility Facilities shall be performed by Grantee only after thirty (30) days advance notice to Grantor of Grantee's intention to do such work. However, in the case of an emergency (whereby either persons or property are in immediate danger of substantial damages and/or harm), any such work may be immediately performed after giving such advance notice to Grantor as is practicable and reasonable under the circumstances. In addition, the Parties agree that all such installation, maintenance, repair and removal shall be performed in a manner that causes as little disturbance to Grantor as may be practicable under the circumstances (but in no event shall such work interfere with traffic flow on Grantor's parcel) and any and all portions of the surface area of Grantor's Parcel which may have been excavated, damaged or otherwise disturbed as a result of such work shall be restored, at the sole cost and expense of Grantee, to essentially the same condition as existed prior to the commencement of any such work.

Except for the initial construction on the Lowe's Parcel and any other Parcel or Outparcel, no subsequent work or restoration on the Developer Parcel, except emergency repair work or restoration resulting from a casualty, shall be carried on during the period from November 15th through the following January 15th and from June 1st through the following July 10th and no such work shall interfere with or diminish the access to or utilities serving the Lowe's Parcel.

The Grantee shall defend, indemnify and hold Grantor harmless from and against any and all liens, losses, liabilities, costs or expenses (including reasonable attorney's fees), incurred in connection with Grantee's use of the Separate Utility Facilities easements under this Section 2.4, except to the extent occasioned by Grantor's negligent or wrongful act or omission to act.

The Grantor of any easement for Separate Utility Facilities under this Section 2.4 may use the utility facilities installed pursuant to such easement; provided, however, that any increase in costs incurred in order to make such utility facilities adequate to serve Grantor's additional use shall be borne by such Grantor; and provided, further, that Grantor gives written notice within the time period called for under subparagraph (a) and otherwise complies with the requirements of subparagraphs (b), (c) and (d) of the following paragraph of this Section 2.4.

Except during the periods from November 15th through the following January 15th and from June 1st through the following July 10th (such dates are limited to the Developer Parcel only), the Grantor of any easement under this Section 2.4 may relocate on its Parcel any Separate Utility Facilities or Common Utility Facilities installed thereon under any easement granted by it; provided, however, that such relocation:

(a) may be performed only after Grantor has given Grantee thirty (30) days' written notice of its intention to relocate such facilities;

(b) shall not interfere with or diminish the utility services to the Grantee (however, temporary interferences with and diminutions in utility services shall be permitted if they occur during the non-business hours of the Grantee, and Grantee has been so notified under Subsection 2.4(a)). Grantor shall promptly reimburse Grantee for all costs, expenses and losses incurred by Grantee as a result of such interferences or diminutions, or both;

(c) shall not reduce or unreasonably impair the usefulness or function of the facilities in question;

(d) shall be located underground; and

(e) shall be performed without cost or expense to Grantee, and, if Common Utility Facilities or Separate Utility Facilities which provide service to the Grantee are involved, in accordance with plans approved by the Grantee.

All Common Utility Facilities lying within any Common Area shall for all purposes be deemed to be included within the definition of Common Area Improvements.

The Parties understand that the development of the Lowe's Parcel as a Lowe's Store shall involve the reconfiguration of all of the detention ponds existing within the Shopping Center. The Owner of the Lowe's Parcel shall maintain Detention Pond 1, Detention Pond 2 and Detention Pond 3 shown on the Site Plan, and is hereby given an easement across all Parcels and Outparcels for such detention pond maintenance purposes for the common drainage/retention of all Parcels and Outparcels; provided however, the exercise of the aforesaid easement shall be conducted in such a manner that the improvements on the burdened land are not damaged (or if damaged are immediately restored). The Owner of the Lowe's Parcel shall be reimbursed for its expenses in maintaining the detention ponds (based on the area draining into those ponds but excluding land used solely for the ponds) as follows:

Detention Pond 1: Parcel 2 (1.97 acres), the CVS Parcel (1.76 acres) and approximately 7.6 acres of the Lowe's Parcel drains into Detention Pond 1 (for a total area of approximately 11.33 acres), and the Owner of the Lowe's Parcel shall be reimbursed its costs of maintaining Detention Pond 1 by the other Owners in the following percentages: Parcel 2 (17.39%), CVS Parcel (15.53%);

Detention Pond 2: the Richlo Parcel (1.52 acres), Parcel 1A (2.49 acres), approximately 2.4 acres of the Developer Parcel, and approximately 6.8 acres of the Lowe's Parcel drain into Detention Pond 2 (for a total area of approximately 13.21 acres), and the Owner of the Lowe's Parcel shall be reimbursed its costs of maintaining Detention Pond 2 by the other Owners in the following percentages: Richlo Parcel (11.51%), Parcel 1A (18.85%), Developer Parcel (18.17%);

Detention Pond 3: approximately .6 acres of the Developer Parcel and approximately 1.6 acres of the Lowe's Parcel drain into Detention Pond 3, and the owner of the Developer Parcel shall reimburse the owner of the Lowe's Parcel 27.27% of its costs to maintain Detention Pond 3.

The costs of maintenance shall not include the initial grading and installation but shall include and not be limited to the following: mowing, weed and brush removal, the cost to repair, maintain or replace any structures located within the pond (the dams, the inlet structure, the outfall structure, any concrete or metal boxes, the fences and gates, gravel on any maintenance roads or paths, etc.), the cost to remove silt from time to time and the ad valorem taxes attributable to the land on which the pond sits (for Detention Pond 1 - 1.2 acres; for Detention Pond 2 - 1.1 acres; for Detention Pond 3 - .50 acres). The Owner of the Lowe's Parcel may invoice its out of pocket costs for said maintenance and repairs (which invoice shall include supporting invoices from suppliers and contractors and tax bills), and the billed Owner shall reimburse its percentage of said costs within thirty (30) days of receipt of same. In the event an Owner fails (a) to object to those items of the invoice which it claims are inaccurate or unsupportable as costs to maintain, repair or replace the detention pond for which the billed Owner is liable and to pay the uncontested amount or (b) to pay a reimbursement request or the uncontested portion of the reimbursement request as described above, which failure continues for a period of ten (10) days after written notice thereof, such failure shall constitute a default under this ECCR, and the Owner of the Lowe's Parcel shall, in addition to such Owners' other remedies, have a lien on the Parcel of the defaulting Owner for the amount of the bill, which amount shall bear interest at the Default Rate from the date of expiration of said thirty (30) days period until paid. The lien may be foreclosed as any other mechanics or materialman's lien, or the Owner of the Lowe's Parcel may bring an action at law to collect the amount owed. Note, the owner of the Developer Parcel shall pay the ad valorem taxes on the land underlying Detention Pond 2 and bill to the owners of the Richlo Parcel (11.36%), Parcel 1A (18.9%) and the Lowe's Parcel (51.51%) their shares of said taxes in the manner described above substituting the Owner of the Developer Parcel for the Owner of the Lowe's Parcel. Likewise, the owner of the Detention Pond 1 Parcel shall pay the ad valorem taxes on the land underlying Detention Pond 1 and shall bill to the owners of the Lowe's Parcel (67.08%), Parcel 2 (17.39%) and the CVS Parcel (15.53%) their shares of said taxes in the manner described above substituting the Owner of the East Developer Parcel for the Owner of the Lowe's Parcel.

Upon Hendon's election under Article I, Section 1.2 to assign its rights of a Consenting Party to the Owner of the Lowe's Parcel, Hendon may elect to convey to the Owner of the Lowe's Parcel (or the party designated as the Consenting Party if the Lowe's Parcel has been subdivided) the East Developer Parcel, and the Owner of the Lowe's Parcel shall accept such conveyance so long as Detention Pond 1 is structurally sound, properly maintained, free of title defects, liens, or any other encumbrances of record; free of environmental contamination and in full compliance with all federal, state, and local statutes, rules and regulations.

Section 2.5 Temporary Construction Easements. Hendon hereby grants to Richlo (the Owner of the Lowe's Parcel and the Richlo Parcel) a temporary easement to enter on the Developer Parcel,

Parcel 1A, Parcel 2 and the East Developer Parcel to grade and install utilities and install, among other things, the improvements shown generally on the Site Plan.

With respect to any Parcels listed above on which fresh dirt is dumped, the area shall be sloped to meet any contiguous property within the Shopping Center or any public roads, and shall be smoothed in a level manner consistent with the contours of the adjoining property or in accordance with a grading plan approved by the Hendon, which approval shall not be unreasonably withheld, conditioned or delayed.

The location and use of all temporary construction easements under this Section 2.5 shall be subject to the reasonable approval of Hendon.

The initial construction of the improvements by Richlo in accordance with the civil drawings heretofore delivered from Richlo to Hendon is approved, and notwithstanding anything contained hereinbelow, construction in accordance with those plans shall not give rise to any repayment by the owner of the Lowe's Parcel as provided hereunder. Otherwise, the owner of the Lowe's Parcel agrees to pay to Hendon any additional cost of construction, maintenance, repair and replacement of any improvement or structure constructed by Hendon which may arise on account of or due to Richlo's exercise of its temporary construction easement rights under this Section 2.5 within thirty (30) days of receipt of written notice from Hendon (such notice shall include supporting documentation of the cost incurred by Hendon). Richlo further agrees to use due care in the exercise of the rights granted under this Section 2.5 and, in the event the exercise of the rights granted under this Section 2.5 requires Richlo to enter upon the any of the Parcels listed in this Section 2.5, to first obtain the consent of Hendon as to the specific activities, methods and timing in the exercise of such rights so as to avoid cost or damage to Hendon.

~~Richlo covenants and agrees, respectively, that its exercise of such temporary~~
construction easements shall not result in damage or injury to the Building(s) or other Improvements of Hendon, and shall not interfere with or interrupt the business operations conducted by the Hendon in the Shopping Center.

The parties agree that once the final topcoat of asphalt or concrete paving has been placed on the Lowe's Parcel or the Road Parcel, egress and service drives to the Lowe's Parcel, all construction traffic shall access public rights of way only: (a) to or from the Developer's Parcel shall be limited to the use of Longreen Parkway from Clemson Road, (b) to or from the Richlo Parcel shall be limited to the use of Longreen Parkway from Clemson Road, (c) to or from Parcel 1A shall be limited to the use of Ricky Lane from Clemson Road, and (d) to or from Parcel 2 shall be limited to the use of Ricky Lane from Clemson Road. In addition, Richlo, at its sole cost and expense, shall promptly repair, replace or restore any and all improvements of Hendon which have been damaged or destroyed in the exercise by Richlo of the temporary construction easements granted under this Section 2.5 and shall defend, indemnify and hold Hendon harmless from and against all liens, losses, liabilities, costs or expenses (including reasonable attorneys' fees) incurred in connection with or arising out of Richlo's exercise of said

temporary construction easements, except to the extent occasioned by Hendon's grossly negligent or wrongful acts or omissions.

Any Richlo improvements made within such temporary construction easements shall, for purposes of cost allocation due to maintenance, operation, insurance, taxes, repairs, reconstruction and restoration under this ECCR, be deemed to be part of the Lowe's Parcel and Building and shall be deemed not to be part of the Developer Parcel or Building for such purposes.

Except as reasonably necessary during the construction of any Building, no structure of a temporary character shall be erected or allowed to remain on any Parcel.

This temporary easement shall automatically terminate upon the issuance of a permanent certificate of occupancy for the Lowe's Store.

Section 2.6 Self-Help Easements. Each Owner hereby grants to the Owners of the Lowe's Parcel and the Developer's Parcel an easement and license to enter upon its Parcel for the purpose of exercising the cure rights provided under Article V of this ECCR. Further, each Owner hereby grants to the Consenting Parties easements in the Common Area of its (Grantor's) Parcel for the installation, construction, repair, maintenance, relocation and removal of any and all Separate Utility Facilities and Common Area Improvements, if such installation, construction, repair, maintenance, relocation or removal is required or permitted under the other provisions of this ECCR. Each Grantee of the easements granted under this Section 2.6 shall defend, indemnify and hold Grantor harmless from and against all liens, losses, liabilities, costs or expenses (including attorney's fees) incurred in connection with or arising out of Grantee's use of said easements, except to the extent occasioned by the Grantor's negligent or wrongful act or omission to act. The duration of the easements granted under this Section 2.6 shall be coterminous with the respective provisions of the ECCR which give the Grantee the right or the obligation to perform the work described in this Section 2.6.

Section 2.7 Easements to Public Utilities. Any grant or other conveyance of an easement to a public utility by a Grantor on its Parcel shall, without necessity of further recital in the conveyancing instrument, be deemed to include the following conditions, covenants and restrictions to which such public utility and its successors shall be bound unless (i) specifically stated otherwise in such instrument, or (ii) if one or more of the conditions, covenants and restrictions are not typically and customarily included in such instrument, or (iii) if one or more of the conditions, covenants and restrictions are objected to by the public utility.

- (a) The easement is non-exclusive;
- (b) All facilities installed pursuant to the easement shall be underground, except for manhole and manhole covers which shall be flush with adjacent grade, and except as otherwise shown on plans approved by Grantor;
- (c) Grantor retains the right to use the surface areas as Grantor sees fit;
- (d) Grantor reserves the right to require Grantee to relocate its facilities (and vacate the easement) to another location on Grantor's Parcel, subject to the conveyance of a similar easement, all at Grantor's cost and expense;

(e) Grantee shall not, in its use or installation, interfere with other installations and easements in the area;

(f) Grantee shall protect its facilities against uses of the surface made by Grantor and others;

(g) Grantee shall make adequate provisions for the safety and convenience of all persons using the area;

(h) Grantee, following installation or other work, shall replace and restore the areas and improvements to the condition in which they were immediately prior to performance of such installation and work;

(i) Grantee shall defend, indemnify and hold harmless Grantor against all loss, liability, and costs (including reasonable attorney's fees) which may result to Grantor from the negligent act or omission of, its agents, employees and contractors; and

(j) Grantee shall not permit any claim, lien or encumbrance to attach against Grantor's Parcel or any interest therein.

Section 2.8 No Barrier Agreement. No barriers, fences, walls, grade changes or other obstructions shall be erected so as to impede or interfere in any way with the free flow of vehicular and pedestrian traffic between those portions of the Parcels from time to time devoted to pedestrian access, vehicular roadways or parking area, or shall in any manner unreasonably restrict or interfere with the use and enjoyment by the Consenting Parties of the rights and easements created by this Article II. In addition, each Owner may temporarily close or block traffic on its Parcel for the time necessary for the purpose of protecting ownership rights and preventing creation of easements to the public and unrelated third parties (provided, however, that prior to closing off any portion of the Common Area, as herein provided, such Owner shall give fifteen (15) days written notice to each other Owner of its intention to do so and shall attempt to coordinate such closing with each other Owner, so that no unreasonable interference in the passage of pedestrians or vehicles shall occur), and may temporarily fence off portions of its Parcel as reasonably required for the purpose of repair, construction and reconstruction.

ARTICLE III

USE

Section 3.1 General Use Requirement. Except as otherwise excluded in this ECCR, every Parcel shall be used only for financial institutions, service shops, offices of the type customarily found in retail shopping centers, and retail stores selling retail merchandise normally carried in other shopping centers and restaurants with over sixty (60%) percent of gross revenues from food sales.

Section 3.2 Nuisances. Subject to the provisions of Section 3.1, no Parcel shall be used for anything other than purposes which may be permitted by applicable zoning regulations, nor shall anything be done on any Parcel which shall constitute a public nuisance to the community.

Section 3.3 Use Restrictions on the Shopping Center.

(a) During the term of this ECCR no portion of the Shopping Center may be used for any of the following purposes without the written consent of the Consenting Parties:

- (i) A tavern, bar, nightclub, cocktail lounge, discotheque, dance hall, or any other establishment selling alcoholic beverages for on-premises consumption; provided, however, the foregoing shall not prohibit the operation of a restaurant where the sale of alcoholic beverages therein comprises less than forty (40%) percent of the restaurant's gross revenues.
- (ii) A bowling alley, billard parlor, bingo parlor, arcade, game room or other amusement center.
- (iii) A theater (motion picture or live performance).
- (iv) A health club, gymnasium or spa.
- (v) A service station, automotive repair shop or truck stop (shall not prohibit a convenience store selling food and beverages and gasoline primarily for passenger vehicles as part of its business, and a national or regional operator that operates as an oil change facility similar to Jiffy Lube or a tire store similar to Firestone or Discount Tire shall be permitted so long as (A) the minor repair or service [i.e., oil and fluid change and tire rotations] of automobiles is conducted within fully enclosed buildings and bays, (B) the operation does not cater to commercial trucks, (C) no major repair or service work [i.e., engine or transmission repair or replacement] is conducted by such stores outside of the enclosed bays, (D) vehicles are not left outside overnight for service or repair, and (E) any such store must comply with all local, state and federal underground storage tank regulations, rules, laws and ordinances and have adequate ongoing facilities and programs for monitoring any release of petroleum products into the environment).
- (vi) A flea market or pawn shop.
- (vii) A training or educational facility in excess of 2,500 square feet (which facility smaller than 2,500 square feet shall not be located closer than 250 feet from the Lowe's building, including the garden center fencing)(including without limitation, a school, college, reading room or other facility catering primarily to students and trainees rather than customers).
- (viii) A car wash, except on an Outparcel and where the same shall either (A) have constructed and shall use sanitary sewer, water and storm water drainage lines entirely separate from those utilized by the Lowe's Parcel or (B) where the car wash is a self-contained unit where the cleaning water is recycled for reuse (a carwash with a straight drain of wash water containing unremoved additives draining into the detention ponds of the shopping center shall be prohibited).
- (ix) a Planned Parenthood facility.
- (x) a doctor's office that performs obstetrics or gynecology (including wellness care, medical treatment or surgical treatments) or a facility where other family planning procedures are performed or which is a treatment center for patients arriving by ambulance (provided these restrictions shall not prohibit the operation on the Parcels and Outparcels of an optometrist, dentist, orthodontist, ophthalmologist, pediatrician, general or family practice physician or surgeon, pediatrician, dermatologist or other non-gynecological/obstetric specialist or the operation of a Minute Clinic and/or health center offering diagnostic treatment, health screenings, and health care services provided the same does not provide for services by obstetricians and gynecologists).

- (xi) A dry cleaning plant, central laundry or laundromat.
- (xii) An establishment for sale of automobiles, trucks, mobile homes, recreational motor vehicles.
- (xiii) A child day care facility.
- (xiv) A hotel or motel.
- (xv) A storage or mini-warehouse facility.
- (xvi) Governmental offices in excess of 5,000 sq. ft. for any one government office and not more than 7,500 square feet in the aggregate, provided, however, the foregoing shall not prohibit governmental offices customarily found in retail shopping centers such as a U.S. post office or state license plate agency (but notwithstanding the limited size of such government offices, any federal, state, or local governmental office that processes claims for benefits or payments is expressly prohibited).

(b) During the term of this ECCR no portion of the Shopping Center may at any time be used for any of the following uses whatsoever:

(i) An adult type bookstore or other establishment selling, renting, displaying or exhibiting pornographic or obscene materials (including without limitation: magazines, books, movies, videos, photographs or so called "sexual toys") or providing adult type entertainment or activities (including, without limitation, any displays or activities of a variety involving, exhibiting or depicting sexual themes, nudity or lewd acts).

- (ii) A massage parlor.
- (iii) A skating rink.
- (iv) A mortuary, crematorium or funeral home.
- (v) A mobile home or trailer court, labor camp, junkyard or stockyard.
- (vi) Any automobile, truck, trailer, recreational vehicle, mobile home or manufactured home sales, leasing, display or body shop operation.

(vii) A land fill, garbage dump or other such facility for the dumping, disposing, incineration or reduction of garbage.

- (viii) A telephone call center.
- (ix) A gambling establishment or betting parlor.
- (x) Veterinary hospital or animal raising or keeping facilities.
- (xi) Assembling, manufacturing, industrial, distilling, refining or smelting facility.

Section 3.4 Use Restrictions on the Shopping Center (not applicable to the Lowe's Parcel).

Except on the Lowe's Parcel, no portion of the Shopping Center shown on the Site Plan may be used for the following purposes:

- (a) A hardware store or center containing more than 5,000 square feet of floor area.
- (b) An appliance, home electronics and/or lighting store or center containing more than 5,000 square feet of floor area.

(c) A nursery and/or lawn and garden store or center containing more than 3,000 square feet of floor area (including any outdoor areas).

(d) A paint, wall paper, tile, flooring, carpeting and/or home decor store or center containing more than 4,000 square feet of floor area.

(e) A retail and/or warehouse home improvement center, lumber yard, building materials supply center, home improvement service center and/or other stores or centers similar to those operated by or as Lowe's, Home Depot, Home Depot Expo, Villagers Hardware, 84 Lumber, Wickes, Hughes Lumber, McCoys, Menard's, Sears Hardware, Sears Appliance and Hardware, Great Indoors, Sutherlands, Scotty's and/or Orchard Supply.

These restrictions or exclusive rights shall also apply to prohibit a larger business having space in its store devoted to selling the merchandise described in subparagraphs (a) through (d) when such space exceeds the limitations of subparagraphs (a) through (d).

Notwithstanding anything in the foregoing to the contrary, in the event a retail and/or warehouse home improvement center, lumber yard, and/or building materials supply center is not operated on the Lowe's Parcel for a period in excess of three (3) consecutive years (excluding temporary closings due to alterations, casualty, condemnation, or other unavoidable delays beyond the reasonable control of the Owner of the Lowe's Parcel), the above stated exclusives shall be of no further force and/or effect until such time as Lowe's or its successors, assigns or tenants shall re-open a store on any portion of the Lowe's Parcel for any one of the foregoing uses, which reopening shall not prohibit uses in violation of such exclusives if such uses were begun during such time as the above exclusive use restrictions were of no force and/or effect.

Section 3.5 Proprietary Rights of Lowe's. Any owner, occupant or person owning, leasing or otherwise making use of any portion of the Shopping Center shall be deemed, by virtue of accepting such ownership, leasehold interest or making such use, to have covenanted and agreed that (i) the trade names, trademarks, service marks (including, without limitation, all logos, emblems, designs or designating words or names) utilized by Lowe's Home Centers, Inc. or its affiliated companies ("Lowe's"), in connection with the Shopping Center or the conduct of its business thereat are registered and/or the proprietary property of Lowe's or its affiliates, (ii) except as provided below, no usage of those marks or names will be made in naming or referring to any activity within or without the Shopping Center and (iii) no usage of such marks or names shall be made without the prior written consent of Lowe's and Lowe's legal counsel. Lowe's reserves the right to require any person or entity to whom it may grant a written right to use a given name or mark to enter into a formal written license agreement with Lowe's and to charge a fee or loyalty therefor.

ARTICLE IV

GENERAL CONSTRUCTION & DEVELOPMENT

Section 4.1 Development Timing. When any Building is constructed on a Parcel, the Common Area on that Parcel shall be developed in accordance with the Site Plan at the expense of the Owner of said Parcel. If, after the date hereof, one Owner ("Developing Owner") constructs improvements

on Developing Owner's Parcel prior to the development of another Parcel, Developing Owner shall have the right to grade, pave and use any portion of the Common Area of the non-developing Owner's Parcel. The proposed work shall be approved in advance by the non-developing Owner in writing, provided that such approval shall not be unreasonably withheld. If the non-developing Owner does not reject or propose modifications to the proposed work within thirty (30) days of receipt of the request (provided the request shall state that "inaction on the part of the receiving Parcel or Outparcel owner within thirty days of receipt of this request shall be deemed approval under the ECCR"), the request shall be deemed approved by the non-developing Owner. Notwithstanding the foregoing to the contrary, the Owner of the Developer Parcel and East Developer Parcel shall not be required to reimburse the Owner of the Lowe's Parcel in connection with improvements made on the Developer Parcel and East Developer Parcel in conjunction with the development of a Lowe's Home Improvement Center on the Lowe's Parcel.

Except as provided in Section 7.6 hereof as to the Lowe's Parcel, no buildings or structures shall be erected or allowed to remain on any Parcel unless the plans and specifications for such structure have been approved by the Consenting Parties, which approval shall not be unreasonably withheld. The Building and structures located on the CVS Parcel as of the date of this ECCR are hereby deemed approved. A complete set of proposed construction plans including a site, foundation, floor plan and elevation drawings of all sides shall be presented to and approved in writing by the Consenting Parties prior to commencing clearing, grading, or construction of a building of any kind on any Parcel. If the Consenting Parties do not reject or propose modifications to the proposed plans within thirty (30) days of receipt of the plans (provided the request for approval shall state that "inaction on the part of the Consenting Party receiving these plans within thirty days of receipt of this request shall be deemed approval under the ECCR"), the plans shall be deemed approved by the Consenting Parties. Upon completion of the Building foundation and upon request by either of the Consenting Parties, an actual field survey of the foundation shall be presented to the Consenting Parties to ensure that it has been constructed in accordance with the Site Plan. All improvements shall comply with the plans as presented by the Owner unless changes are approved in writing by the Consenting Parties. The right to make inspections necessary to assure compliance is reserved to the Consenting Parties. Weather permitting, all paving and landscaping will be finished upon completion of the Building, but in no event shall it be installed later than ninety (90) days after the Building is occupied. Total construction time from pouring footings to the completion of the Building ready for occupancy shall not exceed one (1) year.

Section 4.2 Developer Improvement Plans. Prior to construction of any Building(s) or other improvements within the Shopping Center (except for the Lowe's Parcel), the owner of the Parcel being developed must submit architectural renderings describing the exterior elevations of the building and materials to be used for such construction to the Consenting Parties for its approval, which approval shall not be unreasonably withheld. The Building and structures located on the CVS Parcel as of the date of this ECCR are hereby deemed approved. A Consenting Parties' approval of any such work, or the plans and specifications therefor, under any provisions of this ECCR shall not constitute such Consenting Parties'

assumption of responsibility for the accuracy, sufficiency or propriety of such work, or of such plans and specifications, nor shall constitute a representation or warranty that such work or plans and specifications call for construction of economic improvements or improvements which comply with law.

Section 4.3 Parking Requirements. Each Parcel and Outparcel shall be self-supporting with respect to parking and shall each contain not less than the lesser of (a) 4.5 (for the Lowe's Parcel and the Developer Parcel and 4.0 for the Outparcels) paved automobile parking spaces for each 1,000 square feet of non-restaurant building floor area constructed thereon (and 10 spaces for each 1,000 square feet of restaurant building floor area), or (b) the maximum number of parking spaces allowed by applicable law. Notwithstanding the foregoing, the Lowe's Parcel shall be deemed in compliance provided 445 parking spaces are installed and maintained on the Lowe's Parcel. Notwithstanding the foregoing, the parking facilities located on the CVS Parcel as of the date of this ECCR shall be deemed adequate and in compliance for the operation of a retail facility in the Building located on the CVS Parcel as of the date of this ECCR.

Section 4.4 Pylon or Monument Signage. With respect to the Shopping Center pylon or monument multiple occupant sign which shall be erected on the east side of Longgreen Parkway for use by the Lowe's Parcel and the Developer Parcel (as allowed by governmental authorities), Lowe's shall be entitled to have and maintain a sign panel thereon in the top and most prominent position on such pylon or monument sign (which panel shall contain a minimum of 150 square feet). No other sign panel on such sign shall be of a size or have dimensions which are greater than seventy-five percent (75%) of the size and dimensions of a Lowe's sign panel on the same pylon or monumental sign. Lowe's sign panels shall be of colors, design and content as required by Lowe's own visual sign standards. Maintenance of the pylon or monument sign shall be performed by the Owner of the Lowe's Parcel, and the owner of the Developer Parcel shall reimburse its prorata share of the cost of the construction, maintenance, repair and replacement of said sign based on the proportionate area of the owners' sign faces, and the reimbursement obligation shall be treated as provided in the last paragraph of section 2.4 of this ECCR. No other pylon or monument sign may be erected on or about the Shopping Center or upon any Parcel without the written approval of the Consenting Parties which approval shall not unreasonably be withheld.

Section 4.5 Outparcel Development. Any Outparcel sold or developed within Shopping Center will only be developed under the following guidelines:

(a) Any Building constructed on any of the Outparcels shall not exceed thirty percent (30%) of the land area of the Outparcel (except for (i) CVS initial construction on the CVS Parcel, (ii) construction of a Zaxby's, First National Bank, Murphy Oil, or Discount Tire on Outparcel 1(A) or Outparcel 2 [which (i) and (ii) shall not be limited by the thirty percent (30%) restriction]), and the Outparcels shown on Exhibit A may not be combined without the approval of the owner of the Lowe's Parcel which approval may be withheld in said owner's sole discretion.

(b) Any Building constructed on any of the Outparcels shall not exceed 28 feet in height (exclusive of architectural features which shall not exceed thirty (35) feet in height and which shall not extend beyond thirty (30%) percent of the front façade of such building), as measured from the

finished elevation of the Outparcel. The Building located on the CVS Parcel as of the date of this ECCR shall be deemed in compliance with this subsection.

(c) Any rooftop equipment installed on any Outparcel shall be screened in a manner reasonably satisfactory to the Consenting Parties which approval shall not unreasonably be withheld;

(d) No rooftop signs shall be erected on any building constructed on any Outparcel.

(e) A freestanding identification sign may be erected on any Outparcel with the prior written consent of the Owner of the Lowe's Parcel, but in no event shall such freestanding identification sign exceed thirty (30') feet in height or block the visibility of any signage on any Building located on the Lowe's Parcel or the visibility of the Lowe's pylon sign. The signs located on the CVS Parcel as of the date of this ECCR shall be deemed approved and in compliance with this subsection. Approvals under this Section 4.5(e) shall not be unreasonably withheld. If an Owner of an Outparcel desires to erect such a freestanding sign, it shall make its request in writing to Lowe's with a copy of the sign plans. The Owner of the Lowe's Parcel shall then have thirty (30) days from receipt of the notice to object to the proposed sign. If the Owner of the Lowe's Parcel does not object within the thirty (30) day period, then the proposed sign shall be conclusively deemed approved, and the Owner of the Lowe's Parcel shall not have the right to any further objection. Notwithstanding the foregoing, there may be erected entrance-exit signs to facilitate the free flow of traffic, which entrance-exit signs shall be of a monument type, not to exceed 3' 3" in height.

(f) Any Outparcel shall be kept neat, orderly, planted in grass and trimmed until improved and constructed.

(g) Any Owner or other party purchasing or leasing from Developer and having an ownership or leasehold interest in an Outparcel shall repair any damage caused to any of the utility facilities, as described in Section 2.4 of this ECCR, serving the Parcels and the Outparcel which is caused by such Owner or party, to the extent the Outparcel benefits from any of the utility facilities serving the Shopping Center and the Outparcel.

(h) Any of the restrictions or requirements set forth in this Section 4.5 may be waived, amended, modified, released, or terminated in writing at any time and from time to time by the Consenting Parties; provided that neither the Owner of the Lowe's Parcel nor the Owner of the Developer Parcel shall waive, amend, modify, release, or terminate this ECCR without the prior written consent of the other. However, the Consenting Parties shall not amend or modify any of the foregoing restrictions on its Outparcel without the prior written consent of the fee Owner of the Outparcel. The fee Owner of such Outparcel, however, may impose additional restrictions on an Outparcel as such fee Owner shall deem to be appropriate, subject to any exceptions thereto imposed on said fee Owner at the time of conveyance of said Outparcel by the Consenting Parties to said fee Owner.

(i) The foregoing restrictions and agreements are imposed on each of the Outparcels for the benefit of the entire Shopping Center. The agreements, restrictions and covenants herein made shall be deemed restrictive covenants running with the land and shall be binding upon each of the Outparcels and any person who may from time to time own, lease, or otherwise have an interest in any of the Outparcels.

Section 4.6 Fire Protection (in line stores). Any structure constructed in the Shopping Center shall be constructed and operated in such a manner which will preserve the sprinklered rate on the other structures in the Shopping Center.

Section 4.7 Performance of Construction Work Generally. All construction, alteration or repair work undertaken by an Owner shall be accomplished in an expeditious, diligent and speedy manner. The person or entity undertaking such work shall: (i) pay all costs and expenses associated with such work; (ii) take necessary measures to minimize disruption and inconvenience caused by such work; (iii) make adequate provisions for the safety and convenience of the Owners and their occupants; (iv) control dust, noise and other effects of such work using methods customarily utilized in order to control such deleterious effects associated with construction projects in a populated or developed area; (v) repair any and all damage which may be caused by or result from such work; (vi) restore all affected portions of any Parcel to a condition equal to or better than the condition existing prior to beginning such work; (vii) indemnify and hold harmless all other Owners in the Shopping Center against any mechanics liens for such work, particularly as to Common Areas. Such construction shall not unreasonably interfere with the business operations on any other Parcel and shall not block or impede the Shopping Center ingress or egress from public streets. The party performing such work shall limit all construction work and staging areas to its own Parcel and not encroach on any Common Areas on any other Parcel and shall not utilize parking areas of any other Parcel. In connection with construction work performed within Permissible Building Areas, incidental encroachment upon the Common Area of the party performing such work may occur in the use of ladders, scaffolding, store-front barricades and similar facilities resulting in temporary obstruction of portions of such Common Area. If such encroachment is kept within reasonable requirements of such work expeditiously pursued. For construction purposes, the Common Areas may be utilized: (a) for ingress and egress of vehicles transporting construction materials and equipment and persons employed in connection with such work (but each Owner performing work shall, to the extent reasonably possible, limit such access to its own Parcel) and (b) temporary storage and parking on the constructing Owner's Parcel of materials and vehicles in connection with such work. All such work for which a license is granted above (i) which will be performed by an Owner on another Owner's Parcel, or (ii) which would adversely affect the ingress and egress to the Shopping Center, the availability of parking and/or circulation of traffic in the Shopping Center, or the operation and supply of common utility facilities to or in the Shopping Center shall be undertaken only after giving the other Owners thirty (30) days prior written notice of the work to be undertaken, and the scope, nature, duration, location and extent of the work. Such notice shall include any plans and specifications for the work.

Section 4.8 Compliance in Construction. All construction, alteration or repair work which an Owner undertakes pursuant to this ECCR shall comply with plans and specifications therefor, the requirements of all applicable governmental authorities, public bodies and other entities (such as public utilities) having jurisdiction, and all applicable laws, ordinances, rules and regulations, including procurement of all license and permits required for such work. A Consenting Parties' approval of any such work, or the plans and specifications therefor, under any provisions of this ECCR shall not constitute

such Consenting Parties' assumption of responsibility for the accuracy, sufficiency or propriety of such work, or of such plans and specifications, nor shall constitute a representation or warranty that such work or plans and specifications call for construction of economic improvements or improvements which comply with law.

Section 4.9 Construction Insurance. Prior to commencing any construction activities within the Shopping Center, each Owner/Occupant shall obtain or require its contractor to obtain and thereafter maintain so long as such construction activity is occurring, at least the minimum insurance coverage set forth below:

(a) Worker's Compensation and Employer's Liability Insurance. The general contractor and each of its subcontractors shall carry workers' compensation and employer's liability coverage as outlined below:

(i) Worker's compensation insurance as required by any applicable law or regulation with statutory limits.

(ii) Employer's liability insurance in the amount of \$1,000,000 each accident for bodily injury, \$1,000,000 policy limit for bodily injury by disease and \$1,000,000 each employee for bodily injury by disease.

(b) Commercial General Liability Insurance. Commercial General Liability insurance covering all operations by or on behalf of the general contractor and any subcontractors, which shall include the following minimum limits of liability: \$2,000,000 each occurrence for bodily injury, death and property damage; \$5,000,000 per project aggregate for products and completed operations (which shall be maintained for a three (3) year period following final completion of work); and \$5,000,000 per project general aggregate. The commercial general liability policy shall include coverage for contractual liability and shall be endorsed to include coverage for Explosion, Collapse and Underground (XCU) hazard, if applicable. In the alternative, if the commercial general liability policy does not provide for per project aggregate limits as required herein, then the insuring party shall carry coverage sufficient to bring the aggregate limits for the general aggregate and the products/completed operations aggregate to not less than \$10,000,000 each (may include excess liability coverage).

(c) Automobile Liability Insurance. Automobile liability insurance covering any auto with minimum combined single limit of \$1,000,000 for bodily injury, death and property damage. The general contractor shall require each of its subcontractors to maintain automobile liability insurance covering any auto with minimum combined single limit of \$1,000,000 for bodily injury, death and property damage.

(d) If the construction activity involves the use of another Parcel, then the Owner and mortgagee of such Parcel shall each be additional insured(s) under the commercial general liability required herein and such insurance shall provide that the insurance shall not be canceled without endeavoring to provide thirty (30) days prior written notice to the additional insureds. If such insurance is canceled or expires, then the constructing party shall immediately stop all work on or use of the other Owner's Parcel until either the required insurance is reinstated or replacement insurance obtained. Each

Owner or occupant, as the case may be, shall supply or cause its general contractor to supply each Owner with certificates with respect to all insurance required by this Section. All insurance required herein shall be procured from companies authorized to do business in the United States and shall be rated by A.M. Best at not less than A-VII. The commercial general liability insurance may be provided under (i) an individual policy covering this location with per project minimum limits of \$2,000,000 per occurrence and aggregate limits of \$5,000,000 each general aggregate and products/completed operations aggregate, or in the alternative, (ii) a blanket policy or policies which includes other liabilities, properties and locations of such party (provided, however, that if such blanket commercial general liability insurance policy or policies contain a general policy aggregate of less than \$10,000,000, then such insuring party shall also maintain excess liability coverage necessary to establish a total aggregate limit of \$10,000,000 each for the general aggregate and the products/completed operations aggregate, (iii) a plan of self-insurance, provided that any party so self-insuring notifies the other parties of its intent to self-insure and agrees that upon request it shall deliver to such other parties each calendar year a copy of its annual report that is audited by an independent certified public accountant which discloses that such party (as to Lowe's such party shall consist of Lowe's and its parent corporation) has a net worth in excess of \$200,000,000 as determined by generally accepted accounting principles consistently applied or (iv) a combination of any of the foregoing insurance programs. To the extent of any deductible carried by a party, such party shall be deemed to be covering the amount thereof under an informal plan of self-insurance; provided, however, that in no event shall any deductible exceed \$250,000 unless (a) such party complies with the requirements regarding self-insurance pursuant to (iii) above or (b) such party has a net worth in excess of \$200,000,000 as determined by generally accepted accounting principles. Each party agrees to furnish to any party requesting in writing the same, a certificate(s) of insurance evidencing that the insurance required to be carried by such party is in full force and effect.

The insurance required above shall provide that except with respect to the limits of insurance, the coverage applies separately to each insured against whom claim is made or suit is brought and contains no crossclaim exclusions. All insurance required pursuant to Section 4.9 shall be written on an occurrence form utilizing the most current ISO policy form (or equivalent).

ARTICLE V

MAINTENANCE, TAXES AND INSURANCE

Section 5.1 Maintenance. As modified by §§ 2.3(b) and 2.4, each Owner hereto shall maintain the Building(s) and the Common Areas on its Parcel in good order and condition and state of repair in accordance with the standards of good shopping center operation including (but not limited to) sweeping and removal of trash, litter and refuse, painting and striping of parking areas, repair and replacement of paving as necessary, maintenance of landscaped areas (including replacement and replanting), removal of ice and snow from driveways and parking areas, and maintenance and repair or lighting standards and signs. Each Owner covenants that it, in addition to other requirements of this Section, will keep the inside and outside of all glass in the doors and windows of its buildings clean; will maintain its buildings at its own expense in a clean, orderly and sanitary condition and free of insects,

rodents, vermin and other pests; will not permit accumulation of garbage, trash rubbish and other refuse, and will remove same at its own expense, and will keep such refuse in proper containers or compactors in places designated therefore until called for to be removed; and will keep the Common Areas on its Parcel clear of accumulations of ice and snow. The maintenance and repair of the Buildings and Improvements on each Parcel should be of such a character that their appearance will be that of a unified shopping center and, accordingly, the Parties agree to cooperate with each other in good faith with respect to said maintenance and repair and, to the extent reasonably possible, coordinate such repair and maintenance.

Subject to the mutual agreement of the Consenting Parties, a third party may be appointed as an agent of all the Owners to maintain and repair the Common Areas in the manner as above outlined. Said third party may receive for such agency a fee that is acceptable to the Consenting Parties to cover supervision, management, accounting and similar fees. The cost of all maintenance and repair activities undertaken by the third party agent, together with the agency fee, shall be prorated between the Owners based upon acreage owned. An Owner shall pay its proportional share of all such costs and fees within thirty (30) days following its receipt of a detailed invoice thereafter.

Section 5.2 Damage and Destruction. In the event of the destruction and damage to any extent to the Buildings and Improvements in the Shopping Center, the affected Owner shall either (1) diligently commence and pursue completion of the repair or restoration and or (2) within one hundred fifty (150) days after the destruction or damage clear away the ruins and leave the Parcel in a clean, orderly, sightly and safe condition. Further, in the event that the affected Owner elects not to rebuild its Building(s) and Improvements, the use restrictions placed on the non-affected Owner's site by the affected Owner herein, except for those cited in Sections 3.3 and 3.4 (e) hereof, shall be null and void and of no further force and effect.

In the event any Building, structure or other Improvement on an Outparcel shall be damaged or destroyed by any fire or other casualty, the Owner, lessee or user of the Outparcel shall within one hundred fifty (150) days of such damage or destruction (a) commence to repair and/or reconstruct such improvements to the condition required by this Section; or (b) level such Building or improvement, remove the debris from the Outparcel and keep the Outparcel neat, orderly, planted in grass and mowed/trimmed until subsequently improved, constructed upon and operated.

Section 5.3 Default in Maintenance Responsibilities. In the event that an Owner fails in its maintenance obligations as set forth in Section 5.1, which failure continues for a period of thirty (30) days (ten [10] business days in the event of a failure to pay money) after receipt of written notice thereof specifying the particulars of such failure, such failure shall constitute a default under the ECCR and the Owner of the Lowe's Parcel and/or the Owner of the Developer Parcel (the "Curing Party") may thereafter perform such maintenance obligations, in addition to such Owner's other remedies.

Section 5.4 Taxes. The Owner of each Parcel shall pay or cause to be paid, prior to delinquency, directly to the appropriate taxing authorities all real property taxes and assessments which are levied against such Owner's Parcel. In the event an Owner fails to pay when due all taxes and assessments described herein, which failure continues for a period of ten (10) days after written notice

thereof, such failure shall constitute a default under this ECCR and the Owner of the Lowe's Parcel and/or the Owner of the Developer's Parcel (the "Curing Party") may, in addition to such Owners' other remedies, thereafter pay such taxes if such taxes are delinquent and the owing Owner has not commenced and is not duly prosecuting any contest of such taxes. The Curing Party shall then bill the defaulting Owner for the expenses incurred. The defaulting Owner shall have ten (10) business days within which to pay the bill. If the defaulting Owner does not so pay, the Curing Party shall have a lien on the Parcel of the defaulting Owner for the amount of the bill, which amount shall bear interest at the Default Rate from the date of expiration of said ten (10) business day period until paid.

Section 5.5 Insurance; Indemnification; Waiver of Subrogation. Each Owner will at all times maintain or cause to be maintained with respect to its Parcel and all Buildings and Improvements thereon: (i) commercial property insurance insuring against risk of direct physical loss or damage, including the perils of flood and earthquake, for the full replacement cost of the Building(s) and Improvements located thereon and (ii) commercial general liability insurance (including contractual liability coverage) against claims for bodily injury, death or property damage occurring on, in or about such Owner's Parcel with minimum limits of not less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence and FIVE MILLION DOLLARS (\$5,000,000) general aggregate. Nothing herein shall be construed from prohibiting an Owner which itself, or in combination with its parent corporation, has a net worth in excess of TWO HUNDRED MILLION DOLLARS (\$200,000,000), as determined by generally accepted accounting principles consistently applied, from self-insuring for such insurance coverage.

In the event an Owner fails to maintain the insurance described above, which failure continues for a period of ten (10) days after written notice thereof, such failure shall constitute a default under this ECCR, and the Owner of the Lowe's Parcel and/or the Owner of the Developer's Parcel (the "Curing Party") may, in addition to such Owners' other remedies, thereafter obtain and pay for such insurance. The Curing Party shall then bill the defaulting Owner for the expenses incurred. The defaulting Owner shall have fifteen (15) days within which to pay the bill. If the defaulting Owner does not so pay, the Curing Party shall have a lien on the Parcel of the defaulting Owner for the amount of the bill, which amount shall bear interest at the Default Rate from the date of expiration of said fifteen (15) days period until paid.

Each Owner (the "Releasor") hereby releases the other Owners (the "Releasees"), to the extent of their agreed insurance coverage or any amounts covered under a program of self insurance pursuant to Section 5.5, from any and all liability for any loss or damage caused by fire or any of the losses covered by the releasing party's property insurance or loss covered by the releasing party's commercial general liability insurance, even if such property or casualty loss shall be brought about by the fault or negligence of the other party. The Owners agree to include in their insurance a clause permitting such release. Failure by any particular party to include this release in their insurance policies shall relieve all other parties to this agreement from the requirement to provide this release as to the particular party failing to provide same. Except as provided herein, nothing contained in this agreement shall be deemed

to release any party from liability for damages resulting from the fault or negligence of that party or its agents, contractors or employees.

To the extent not covered by the insurance policies described above, each Owner (the "Indemnitor") will pay, and indemnify and save harmless the other Owner (the "Indemnitee") from and against, all liabilities, losses, damages, costs, expenses (including attorneys' fees and expenses), causes of action, suits, claims, demands or judgments of any nature arising from: (i) any injury to or death of a person or loss of or damage to property occurring on the Indemnitor's Parcel; (ii) any use or condition of the Indemnitor's Parcel; and (iii) any negligence or tortious acts of the Indemnitor or any of his tenants, licensees, agents or employees.

ARTICLE VI

DEFAULT; REMEDIES

Section 6.1 Default. The occurrence of any one or more of the following events shall constitute a material default and breach of this ECCR by the non-performing party (the "defaulting Owner"):

- (a) The failure to perform any obligation of Article V hereof within the time requirements cited therein;
- (b) The failure to make any payment required to be made hereunder within ten (10) business days of the due date, or
- (c) The failure to observe or perform any other of the covenants, conditions or obligations of this ECCR or to abide by the restrictions and requirements herein provided, other than as described in (a) above, within thirty (30) days after the issuance of a notice by another Owner (the "non-defaulting Owner") specifying the nature of the default claimed.

Section 6.2 Right to Cure. With respect to any default under Section 6.1 above, any Non-defaulting Owner shall have the right, but not the obligation, to cure such default by the payment of money or the performance of some other action for the account of and at the expense of the defaulting Owner; provided, however, that in the event the default shall constitute an emergency condition involving an immediate and imminent threat of substantial injury or harm to persons or property, the non-defaulting Owner, acting in good faith, shall have the right to cure such default upon such advance notice as is reasonably possible under the circumstances or, if necessary, due to such emergency, without advance notice, so long as notice is given as soon as possible thereafter. To effectuate any such cure, the non-defaulting Owner shall have the right to enter upon the Parcel of the defaulting Owner (but not into any Building) to perform any necessary work or furnish any necessary materials or services to cure the default of the defaulting Owner. Each Owner shall be responsible for the non-performance or default of its Occupants and lessees. In the event any non-defaulting Owner shall cure a default, the defaulting Owner shall reimburse the non-defaulting Owner for all costs and expenses incurred in connection with such curative action, plus interest at the Default Rate, within ten (10) business days of receipt of demand, together with reasonable documentation supporting the expenditures made.

Section 6.3 Liens. Costs and expenses accruing and/or assessed pursuant to Section 6.2 above and the amounts described in Section 6.1 and other amounts owing between the Owners for which lien rights are specifically created in other provisions of this ECCR shall constitute a lien against the defaulting Owner's Parcel. The lien shall attach and take effect only upon recordation of a claim of lien in the applicable real estate records office of the county in which the said Parcel is located, by the Owner making the claim. The claim of lien shall include the following:

- (i) The name and address of the lien claimant;
- (ii) A statement concerning the basis for the claim of lien and identifying the lien claimant as a non-defaulting and/or curing Owner;
- (iii) An identification by name and address (if known) of the Owner or reputed Owner of the Parcel or interest therein against which the lien is claimed;
- (iv) A description of the Parcel against which the lien is claimed;
- (v) A description of the work performed which has given rise to the claim of lien;
- (vi) A statement itemizing the total amount due, including interest;
- (vii) A statement that the lien is claimed pursuant to the provisions of this ECCR, reciting the date, book and page of recordation hereof.

The notice shall be duly acknowledged and contain a certificate that a copy thereof has been served upon the Owner against whom the lien is claimed, by personal service or by mailing pursuant to Section 7.6 below. The lien so claimed shall attach from the date of recordation solely in the amount claimed thereby and may be enforced in any judicial proceedings allowed by law, including without limitation, suit in the nature of a suit to foreclose a mortgage or mechanic's lien under the applicable provisions of the law of the State in which the Shopping Center is located.

Section 6.4 Other Remedies. Each non-defaulting Owner shall have the right to prosecute any proceedings at law or in equity against any defaulting Owner hereto, or any other person, violating or attempting to violate or defaulting upon any of the provision contained in this ECCR, and to recover damages for any such violation or default. Such proceeding shall include the right to restrain by injunction any violation or threatened violation by another of any of the terms, covenants, or conditions of this ECCR, or to obtain a decree to compel performance of any such terms, covenants, or conditions, it being agreed that the remedy at law for a breach of any such term, covenant, or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate. All of the remedies permitted or available to a Owner under this ECCR or at law or in equity shall be cumulative and not alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

Section 6.5 No Waiver. No delay or omission of any Owner in the exercise of any right accruing upon any default of any other Owner shall impair any such right or be construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. No waiver by any Owner of any default under this ECCR shall be effective or binding on such Owner unless made in writing by such Owner and no such waiver shall be implied from any omission by an Owner to take action in respect to such default. No express written waiver of any default shall affect any other default or cover any other period of time other than any default and/or period of time specified in such express waiver. One or more written waivers or any default under any provision of this ECCR shall not be deemed to be a waiver of any subsequent default in the performance of the same provision or any other term or provision contained in this ECCR.

Section 6.6 No Termination for Breach. No breach, whether or not material, of the provisions of this ECCR shall entitle any Owner to cancel, rescind or otherwise terminate this ECCR, but such limitation shall not affect, in any manner, any other rights or remedies which any Party may have hereunder by reason of any breach of the provisions of this ECCR.

Section 6.7 Limitation of Liability. Notwithstanding the foregoing, any person acquiring fee or leasehold title to a Parcel, or any portion thereof, shall be bound by this ECCR only as to the Parcel or portion of the Parcel acquired or possessed by such person. In addition, such person shall be bound by this ECCR only during the period such person is the fee leasehold Owner or occupant of such Parcel or portion of the Parcel; and, upon conveyance or transfer of the fee or leasehold interest shall be released from liability hereunder, except as to the obligations, liabilities or responsibilities that accrue prior to such conveyance or transfer. Although persons may be released under this Section 6.7, the easements, covenants and restrictions in this ECCR shall continue to be benefits to and servitudes upon said Parcels running with the land.

Section 6.8 Breach. Except with respect to Articles II and VI and Sections 3.2, 3.3, 4.5, 4.7, 5.5 and 7.1 (which may be enforced by any Owner) and Section 2.3(a)(iii) (which may be enforced by the Consenting Parties and the Owner of the CVS Parcel), in the event of breach or threatened breach of this ECCR, only the Owner of the Developer Parcel or the Owner of Lowe's Parcel shall be entitled to institute

proceedings for full and adequate relief from the consequences of said breach or threatened breach. In the event of a breach hereof, the non-prevailing Owner shall pay the reasonable attorney's fees of the prevailing Owner.

ARTICLE VII

MISCELLANEOUS

Section 7.1 Estoppel Certificates. Each Owner shall upon not less than thirty (30) days from receipt of written notice from the other Owner execute and deliver to such other Owner a certificate in recordable form stating that (i) either this ECCR is unmodified and in full force and effect or is modified (and stating the modification); and (ii) whether or not to the best of its knowledge the other Party is in default in any respect under this ECCR and if in default, specifying such default.

Section 7.2 Term and Perpetuity. The agreements, conditions, covenants, and restrictions created and imposed herein shall be effective upon the date hereof and shall continue in full force and effect, to the benefit of and being binding upon all Owners, their heirs, executors, administrators, successors, successors-in-title, assigns and tenants, including any ground lessee under a ground lease and the customers, employees and invitees of such parties until the expiration of sixty (60) years from the date hereof, unless terminated by the consent of all the Owners pursuant to a writing recorded in the real property records of the county and state in which the Shopping Center is located. Said agreements and restrictions shall be unaffected by any change in the ownership of any real property covered by this ECCR or by any change of use, demolition, reconstruction, expansion or other circumstances, except as specified herein.

Notwithstanding the foregoing, the easements contained herein binding and benefiting the Parcels shall be perpetual and shall run with the land.

Upon termination of the agreements, conditions, covenants and restrictions of this ECCR, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of this ECCR, except as related to the easements cited and mentioned herein, shall terminate and have no further force or effect.

Section 7.3 Notices. Any notice required or permitted to be given under this ECCR shall be in writing and shall be deemed to have been sent upon (i) deposit in the United States Mail as Certified Mail, Return Receipt Requested, postage prepaid, and addressed to the Party being notified at the address given below (or such other address which any party may designate for itself from time to time hereafter by written notice to the other Party) or (ii) deposit with a receipted courier delivery service (e.g. Federal Express), delivery charges prepaid, and addressed to the Party being notified at the address below and said notice shall be deemed received on the date shown on said receipt as received or when delivery was attempted and refused:

Hendon: Hendon Columbia 2006, LLC
c/o Hendon Properties
3445 Peachtree Road, N.E.
Atlanta, Georgia 30326

Attention: Cameron Zurbrugg

With a copy to: Ellis Lawhorne & Sims, PA
1501 Main Street, 5th Floor
Columbia, South Carolina 29201
Attention: Louis T. Runge, Jr.

CVS: CVS 1200 SC, L.L.C.
c/o CVS Caremark Corporation
One CVS Drive
Woonsocket, Rhode Island 02895
Attention: Property Administration Store 1200

Richlo: With regard to the Lowe's Parcel:
H/S North Richlo, LLC
c/o Hull Storey Retail Group, LLC
1190 Interstate Parkway
Augusta, Georgia 30909
Attention: Barry Storey

With regard to Richlo Parcel:
H/S Richout, LLC
c/o Hull Storey Retail Group, LLC
1190 Interstate Parkway
Augusta, Georgia 30909
Attention: Barry Storey

With a copy to: Hull, Towill, Norman, Barrett & Salley, P.C.
111 Park Avenue
Aiken, South Carolina 29802
Attention: Rand Hanna

(Unless and until the Lowe's Parcel is conveyed to Lowe's Home Centers, Inc. or one of its affiliates, notices to Lowe's shall be a required carbon copy of notices to Richlo)

Lowe's: Lowe's Home Centers, Inc.
P.O. Box 1111
(1605 Curtis Bridge Road, Wilkesboro, North Carolina 28697)
North Wilkesboro, North Carolina 28656-0001
Attention: Property Management Dept. (FMN6)

Copy to: Lowe's Home Centers, Inc.
P.O. Box 1111
(1605 Curtis Bridge Road, Wilkesboro, North Carolina 28697)
North Wilkesboro, North Carolina 28656-0001
Attention: Real Estate Law Department (LGS6)

Section 7.4 Ground Lessee Assignment. The rights and obligations of any Owner hereunder may be assigned in whole or in part to one or more ground lessees which rights and obligations shall be expressly assumed by such ground lessee or lessees for the term of the ground lease or leases between such Owner and such ground lessee or lessees.

Section 7.5 Adjacent Developer Parcels. Hendon may, in his sole discretion, subject the parcels of real property adjacent to the Shopping Center which are owned by Hendon (the "Adjacent Developer Parcels") to the terms, covenants and conditions of this ECCR. At that time the Adjacent Developer Parcels shall be subject to the obligations created herein and shall benefit from the rights granted to Developer herein. If such Adjacent Developer Parcels are incorporated in the Shopping Center and made subject to this ECCR; and if there are any continuing liabilities of the Owners which are divided between the Owners based on prorations of land area or otherwise, then the prorations shall be adjusted accordingly.

Section 7.6 Harmony. The Owners of the Parcels agree to cooperate in creating a reasonably harmonious exterior appearance for the Buildings and Improvements to be constructed by them within the Shopping Center, acknowledging however that the owner of the Lowe's Parcel may construct improvements similar to its then current prototypical store building and improvements. After initial construction of Buildings and other Improvements, no Owner shall make alterations that will substantially change the exterior of its Buildings without the consent of the Owner of the Lowe's Parcel and the Owner of the Developer Parcel, such consents not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the Owner of the Lowe's Parcel may make, without the consent of the Owner of the Developer Parcel, changes to its Buildings and Improvements that it may deem appropriate for consistency with changes in the design and appearance of its then current prototypical stores.

Section 7.7 No Covenant to Continuously Operate. Lowe's is not obligated to continuously operate a business on the Lowe's Parcel and, specifically, is not obligated to continuously operate or operate for any specific period of time a Lowe's building supply or home improvement retail warehouse or store on the Lowe's Parcel. Nothing contained in this ECCR shall be construed, interpreted or otherwise read to require Lowe's to operate a business on the Lowe's Parcel or to prevent Lowe's from closing its business on the Lowe's Parcel.

Section 7.8 Severability. In the event any provision or portion of this ECCR is held by any court of competent jurisdiction to be invalid or unenforceable, such holding will not affect the remainder hereof, and the remaining provisions shall continue in full force and effect to the same extent as would have been the case had such invalid or unenforceable provision or portion never been a part hereof.

Section 7.9 No Public Dedication. Nothing contained herein shall be deemed or implied to be a gift, grant or dedication of the Shopping Center or any portions thereof, to the general public, or for any public use or purpose whatsoever. Except as may be specifically provided herein, no right, privileges or immunities of any Owner hereto shall inure to the benefit of any third-party, nor shall any third-party be deemed or considered to be a beneficiary of any of the provisions herein contained.

Section 7.10 Counterparts. This ECCR may be executed in one or more counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same instrument.

Section 7.11 Relationship of the Parties. Nothing contained herein shall be construed or interpreted as creating a partnership, joint enterprise or joint venture between or among the Parties hereto or the Owners. It is understood that the relationship between the Parties hereto and Owners is an arm's length one that shall at all times be and remain that of separate owners of real property. No Party hereto nor any Owner shall have the right to act for or on behalf of another Party or Owner, as agent or otherwise, unless expressly authorized to do so by separate written instrument signed by the Party or Owner to be charged or bound, except as otherwise specifically provided herein.

Section 7.12 Previous Declaration. A Declaration of Easements, Covenants and Restrictions for the Outparcels at Sams Crossing executed by Hendon and dated February 14, 2008, has been recorded in the Office of the Lexington County R.O.D. on February 15, 2008, in Book 12679, page 308, and re-recorded in the Records (Richland County) on June 26, 2008, in Book 1441, page 2913 (the "Original Declaration"). By execution of this ECCR, the Original Declaration shall be deemed terminated effective on the date of this ECCR.

Signed and delivered in the
presence of:

Witness: CAROL S. ZAPALANSKY
Print Name: CAROL S. ZAPALANSKY

Witness: Ann Suarez
Print Name: Ann Suarez

HENDON

HENDON COLUMBIA 2006, LLC

By: J. CHARLES HENDON, JR.
Name: J. CHARLES HENDON, JR.
Title: MANAGER

STATE OF GEORGIA
COUNTY OF COBB

I, Ann Suarez, a Notary Public of the aforesaid County and State, do hereby certify that J. Charles Hendon personally appeared before me this day and acknowledged that he is Manager of Hendon Columbia 2006, LLC, a Georgia limited liability company, and that he, as Manager, being authorized to do so, executed the foregoing on behalf of the limited liability company.

Witness my hand and notarial seal this 13th day of Aug, 2008.

Ann Suarez
Notary Public

My Commission Expires: _____



IN WITNESS WHEREOF, the Parties hereto have executed and delivered this ECCR as of the day and year first written above.

Signed and delivered in the presence of:

CVS

CVS 1200 SC, L.L.C.

Witness: Lesley A. Pryndco
Print Name: Lesley A. Pryndco

By: Ned L. Craun
Name: Ned L. Craun
Title: Assistant Secretary

Witness: Amanda Clarke
Print Name: Amanda H. Clarke

STATE OF Rhode Island
COUNTY OF Providence

I, Dawn M. Allard, a Notary Public of the aforesaid County and State, do hereby certify that Ned L. Craun personally appeared before me this day and acknowledged that he is Assistant Secretary of CVS 1200 SC, L.L.C., a Delaware limited liability company, and that he, as Assistant Secretary, being authorized to do so, executed the foregoing on behalf of the limited liability company.

Witness my hand and notarial seal this 20th day of August, 2008.

Dawn M. Allard
Notary Public

My Commission Expires: 6-22-2011

[NOTARY SEAL]

Dawn M Allard
Notary Public
State of Rhode Island
My Commission Expires 06/22/2011

Signed and delivered in the presence of:

Witness:

Print Name: Wayne Greenstein

Witness:

Print Name: Haley Hobbs

RICHLO

H/S NORTH RICHLO LLC

By:

Name: Barry L. Storey

Title: Member Manager

STATE OF GEORGIA

COUNTY OF Richmond Columbia

I, Suzanne Vest, a Notary Public of the aforesaid County and State, do hereby certify that Barry L. Storey personally appeared before me this day and acknowledged that he is member manager of H/S North Richlo, LLC, a Georgia limited liability company, and that he, as member manager, being authorized to do so, executed the foregoing on behalf of the limited liability company.

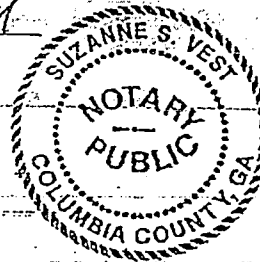
Witness my hand and notarial seal this 21 day of August, 2008.

Suzanne S. Vest
Notary Public

Notary Public, Columbia County, Georgia

My Commission Expires: My Commission Expires July 11, 2009

[NOTARY SEAL]



Easements, Covenants, Conditions and Restrictions

Signed and delivered in the
presence of:

Witness:

Print Name: Wayne Grossstein

Witness:

Print Name: J. Haley Hobbs

H/S RICHOUT, LLC

By:

Name: Barry L. Storey
Title: Member Manager

STATE OF GEORGIA

COUNTY OF ~~Richmond~~ Columbia

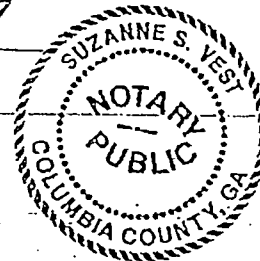
I, Suzanne Vest, a Notary Public of the aforesaid County and State, do hereby certify that Barry L. Storey personally appeared before me this day and acknowledged that he is member manager of H/S Richout, LLC, a Georgia limited liability company, and that he, as member manager, being authorized to do so, executed the foregoing on behalf of the limited liability company.

Witness my hand and notarial seal this 21 day of August, 2008.

Suzanne Vest
Notary Public, Columbia County, Georgia
My Commission Expires July 11, 2009

My Commission Expires: _____

[NOTARY SEAL]



CONSENT AND SUBORDINATION

Regions Bank, the holder of the following instruments (the "Mortgage"):

- (a) - Mortgage and Security Agreement from Hendon Columbia 2006, LLC, to Regions Bank dated December 28, 2006, and recorded on December 29, 2006, in the Office of the Register of Deeds for Richland County in Book 1268, page 3207,
- (b) Assignment of Rents and Leases from Hendon Columbia 2006, LLC, to Regions Bank dated December 28, 2006, and recorded on December 29, 2006, in the Office of the Register of Deeds for Richland County in Book 1268, page 3231, and
- (c) UCC Financing Statement from Hendon Columbia 2006, LLC, to Regions Bank recorded on December 29, 2006, in the Office of the Register of Deeds for Richland County in Book 1268, page 3236,

hereby consents to the execution and recordation of the within Easements, Covenants, Conditions, and Restrictions (the "ECCR") and subordinates the lien and provisions of the Mortgage to the ECCR. All other respects, the Mortgage shall retain its validity and priority and shall remain unchanged and in full force and effect.

Witness

Witness

Regions Bank (Seal)

By:

Print Name: David P. McCullen

As its:

V.P.

State of Alabama

County of Jefferson

Acknowledgment

Joan Black, a notary public for the State and County aforesaid, do hereby certify that David P. McCullen personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 14 day of Aug, 2008.

Notary Public

My Commission Expires: 11-18-08

(Notarial Seal)

Exhibit A-1

CVS Parcel

LEGAL DESCRIPTION

ALL that piece, parcel or lot of land situate, lying and being in Richland County, South Carolina, and being shown and designated on the plat prepared for CVS Caremark Corporation, by AC&S Engineering and Surveying, Inc. dated June 21, 2007, last revised February 13, 2008, being more particularly described as follows:

BEGINNING at an ½" rebar found on the southwestern intersection on the right-of-ways of Clemson Road and Longtown Road, having South Carolina State Plane Coordinates of Northing 839,517.87 and Easting 2,018,808.74 (NAD 83) being the POINT OF BEGINNING (P.O.B.); thence along the westerly right-of-way of Longtown Road (S-1051) S 15°36'05" E 26.24 feet to a ½" rebar found; thence along the westerly right-of-way of Longtown Road (S-1051) S 33°31'55" W 125.58 feet to a ½" rebar found; thence along the westerly right-of-way of Longtown Road (S-1051) S 56°25'19" E 29.98 feet to a ½" rebar found; thence along the westerly right-of-way of Longtown Road (S-1051) S 33°33'04" W 61.68 feet to a ½" rebar found; thence along the northerly right-of-way of Sams Crossing Drive N 56°22'41" W 39.81 feet to a ½" rebar found; thence along the northerly right-of-way of Sams Crossing Drive along a curve to the left with a radius of 175.14 feet, an arc length of 23.60 feet, an chord bearing and distance of N 60°10'47" W 23.58 feet and a delta angle of 07°%D43'08" to a ½" rebar found; thence along the northerly right-of-way of Sams Crossing Drive N 64°04'40" W 312.65 feet to a ½" rebar found; thence along the easterly right-of-way of Chap Lane N 25°22'50" E 224.27 feet to a ½" rebar found; thence along the southerly right-of-way of Clemson Road (S-40-52) S 64°33'24" E 104.91 feet to a ½" rebar found; thence along the southerly right-of-way of Clemson Road (S-40-52) S 25°26'49" W 24.91 feet to a ½" rebar found; thence along the southerly right-of-way of Clemson Road (S-40-52) S 64°33'18" E 250.34 feet to a ½" rebar found, being the Point of Beginning (P.O.B.) Containing 1.76 acres, more or less.

Further being described as all that piece, parcel or lot of land situate, lying and being in Richland County, South Carolina, and being shown and designated as Parcel 3 consisting of 1.76 acres on that plat prepared for Sam's Crossing by United Design Services, Inc. dated August 7, 2007, last revised February 4, 2008, recorded in Record Book 1401, page 134 of the Richland County Register of Deeds.

DERIVATION: Being the same property conveyed to CVS 1200 SC, L.L.C. by Limited Warranty Title to Real Estate of Hendon Columbia 2006, LLC dated February 14, 2008, and recorded in the Richland County Register of Deed's Office in Book 1402, pages 3848.

Exhibit A-2

Entire Lowe's Parcel

The Entire Lowe's Parcel is comprised of those parcels of land located in Richland County, South Carolina in the southwest quadrant of the intersection of Clemson Road and Longtown Road labeled "Lowe's Parcel, Part A" (17.52 acres) and "Lowe's Parcel, Part B" (a/k/a the Road Parcel)(2.87 acres) on a "Minor Subdivision Sketch Plan of Parcels 1 and 4, Sam's Crossing Subdivision" prepared by Brian Norton of Triad Engineering and Construction, Inc. and recorded in the Real Estate Records for Richland County in Book 1454 at Page 3990.

Exhibit A-3

Lowe's Parcel

The Lowe's Parcel is that parcel of land located in Richland County, South Carolina in the southwest quadrant of the intersection of Clemson Road and Longtown Road labeled "Lowe's Parcel, Part A" (17.52 acres) on a "Minor Subdivision Sketch Plan of Parcels 1 and 4, Sam's Crossing Subdivision" prepared by Brian Norton of Triad Engineering and Construction, Inc. and recorded in the Real Estate Records for Richland County in Book 1454 at Page 3990.

Exhibit A-4

Road Parcel

The Road Parcel is that parcel of land located in Richland County, South Carolina in the southwest quadrant of the intersection of Clemson Road and Longtown Road labeled "Lowe's Parcel, Part B" (a/k/a the Road Parcel)(2.87 acres) on a "Minor Subdivision Sketch Plan of Parcels 1 and 4, Sam's Crossing Subdivision" prepared by Brian Norton of Triad Engineering and Construction, Inc. and recorded in the Real Estate Records for Richland County in Book 1454 at Page 3990.

Exhibit A-5

Richlo Parcel

The Richlo Parcel is that parcel of land located in Richland County, South Carolina in the southwest quadrant of the intersection of Clemson Road and Longtown Road labeled "Richlo Parcel" (1.52 acres) on a "Minor Subdivision Sketch Plan of Parcels 1 and 4, Sam's Crossing Subdivision" prepared by Brian Norton of Triad Engineering and Construction, Inc. and recorded in the Real Estate Records for Richland County in Book 1454 at Page 3990.

Exhibit A-6

Parcel 1a

Parcel 1a is that parcel of land located in Richland County, South Carolina in the southwest quadrant of the intersection of Clemson Road and Longtown Road labeled "Parcel 1A (Subdivision of Parcel 1)" (2.49 acres) on a "Minor Subdivision Sketch Plan of Parcels 1 and 4, Sam's Crossing Subdivision" prepared by Brian Norton of Triad Engineering and Construction, Inc. and recorded in the Real Estate Records for Richland County in Book 1454 at Page 3990.

Exhibit A-7

Parcel 2

Parcel 2 is that parcel of land located in Richland County, South Carolina in the southwest quadrant of the intersection of Clemson Road and Longtown Road labeled "Parcel 2" (1.97 acres) on a "Final Subdivision Plat of Sams Crossing" prepared by United Design Services, Inc. and recorded in the Real Estate Records for Richland County in Book 1397 at Page 2468.

Exhibit A-8

Developer Parcel

The Developer Parcel is that parcel of land located in Richland County, South Carolina in the southwest quadrant of the intersection of Clemson Road and Longtown Road labeled "Developer Parcel" (5.06 acres) on a "Minor Subdivision Sketch Plan of Parcels 1 and 4, Sam's Crossing Subdivision" prepared by Brian Norton of Triad Engineering and Construction, Inc. and recorded in the Real Estate Records for Richland County in Book 1454 at Page 3990.

Exhibit A-9

East Developer Parcel

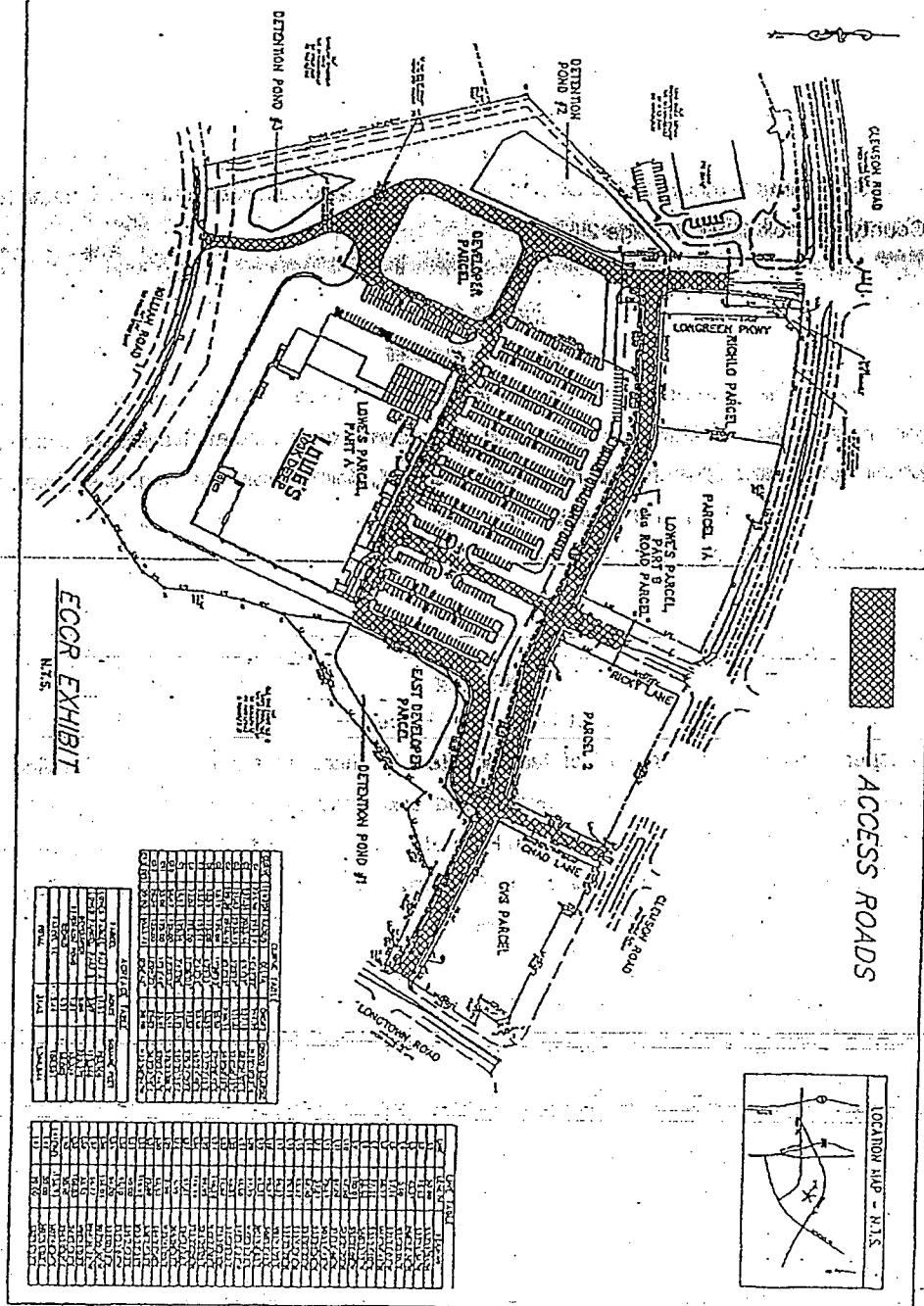
The East Developer Parcel is that parcel of land located in Richland County, South Carolina in the southwest quadrant of the intersection of Clemson Road and Longtown Road labeled "East Developer Parcel" (1.96 acres) on a "Minor Subdivision Sketch Plan of Parcels 1 and 4, Sam's Crossing Subdivision" prepared by Brian Norton of Triad Engineering and Construction, Inc. and recorded in the Real Estate Records for Richland County in Book 1454 at Page 3990.

Exhibit B

Site Plan

This Site Plan is used for illustration of those Easements, Covenants, Conditions and Restrictions created in August, 2008 between Hendon Columbia 2006, LLC, H/S North Richlo, LLC, H/S Richout, LLC, and CVS 1200 SC, LLC, and neither the recording of this drawing nor anything shown thereon shall create any easement, dedication, or any right of any kind in favor of any party.

All of the Lowe's Parcel, the Developer Parcel, the East Developer Parcel, the Richlo Parcel, Parcel 1a, Parcel 2, and the CVS Parcel with the exception of (a) the Access Roads, (b) Detention Pond 1, (c) Detention Pond 2, (d) Detention Pond 3, (e) a thirty (30) foot setback on each side of the CVS Parcel, (f) a twenty (20) foot setback on each side of the Richlo Parcel, and (g) a ten (10) foot side setback on Parcel 1a (the 10' side setback on Parcel 1a applies for construction for any user of Parcel 1a other than Zaxby's, First National Bank, Murphy Oil, or Discount Tire) are Permissible Building Areas.





THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

Docket No. 2012-ALJ-170343-CC

Case No. 2013-001683

Richland County Assessor,

Respondent,

v.

James M. Hull, d/b/a Hull Storey Gibson
Companies, LLC,

Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

This 15 day of January, 2014.



Matthew W. Matson
Pro hac vice, GA Bar No. 812044
1190 Interstate Parkway
Augusta, Georgia 30909
(706) 434-1743
mmatson@hullstoreygibson.com

Timothy E. Madden, SC Bar No. 11786
Tim.madden@nelsonmullins.com
Nelson, Mullins, Riley & Scarborough LLP
P.O. Box 10084
104 South Main Street / Ninth Floor
Greenville, SC 29601
(864) 250-2300
Attorneys for Appellant

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM THE ADMINISTRATIVE LAW COURT

Shirley C. Robinson, Administrative Law Judge

Case No. 2013-001683

Richland County Assessor,

Respondent,

v.

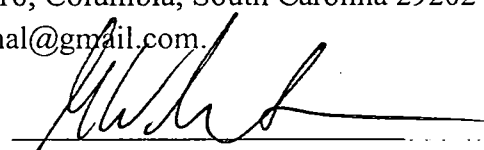
James M. Hull, d/b/a Hull Storey Gibson
Companies, LLC,

Appellant.

PROOF OF SERVICE

I certify that I have served the RECORD ON APPEAL on Richland County Assessor by depositing a copy of it in the United States Mail, postage prepaid, on this day, addressed to its attorney of record, John M.S. Hoefer, P. O. Box 8416, Columbia, South Carolina 29202 and by email to jhoefer@willoughbyhoefer.com and pikemal@gmail.com.

January 15, 2014



Matthew W. Matson

Pro hac vice, GA Bar No. 812044

1190 Interstate Parkway

Augusta, Georgia 30909

(706) 434-1743

Timothy E. Madden, SC Bar No. 11786

Tim.madden@nelsonmullins.com

Nelson, Mullins, Riley & Scarborough LLP

P.O. Box 10084

104 South Main Street / Ninth Floor

Greenville, SC 29601

(864) 250-2300

Attorneys for Appellant