

AFTER RECORDING MAIL TO:

U.S. Bank of Washington, N.A.
Commercial Loan Dept.
1414 4th Avenue
Seattle, WA 98101

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GROUND LEASE

9107240054

JERRY MCINTURFF
SKAGIT COUNTY AUDITOR

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RECORDED _____ FILED _____
REQUEST OF *US Bank of Wa.*

THIS LEASE is made as of this 11th day of February, 19 91, by and between WINMAR CASCADE, INC., a Washington corporation, ~~as its General Partner~~ (hereinafter referred to as "Landlord"), and ZANNER HUBERT, INC., a Washington corporation d/b/a RED ROBIN BURGER AND SPIRITS EMPORIUM (hereinafter referred to as "Tenant").

Landlord agrees to lease to Tenant, and Tenant agrees to lease from Landlord, the premises hereinafter described, under the following terms and conditions:

ARTICLE 1. DEFINITIONS

Section 1.1 Definitions. Certain terms used in this Lease are defined hereinafter in those Sections in which the same are first mentioned. For convenience certain other terms are defined in this Section 1.1 as follows:

1.1.1 "Floor Area" shall, for the purposes of this Lease, consist of approximately 7,000 square feet, crosshatched on Exhibit A in red, to be adjusted according to final approved drawings.

1.1.2 "Leasehold Improvements" shall mean the structures, buildings, fixtures, landscaping, utility lines, roads, driveways, parking areas and all other improvements on the Leased Premises, including any replacements, additions, changes or alterations hereafter made thereto, and shall remain the property of Landlord upon the expiration or earlier termination of this Lease, unless otherwise stated herein.

1.1.3 "Shopping Center" shall mean the entire area shown on Exhibit A (as the same may be expanded) comprised of various parcels owned or leased by Landlord herein.

1.1.4 "Leasable Area" shall mean the aggregate number of square feet of all Floor Areas of all buildings available for exclusive use and occupancy by Occupants of the Shopping Center as shown on Exhibit A, as said buildings may be altered by Occupants, whether or not actually occupied and open for business upon the date any particular computation involving "Leasable Area" is made by Landlord pursuant to this Lease.

1.1.5 "Lease" shall refer to this instrument.

1.1.6 "Lease Commencement Date" shall mean the earlier of (i) 12 months after execution of this Lease, or (ii) the date Tenant opens for business.

1.1.7 "Lease Year" shall mean a period of 12 consecutive calendar months beginning on the first day of February and ending at midnight on the following January 31. Any portion of the Lease Term occurring at the beginning or end of the Lease Term, which is less than a full Lease Year, shall be deemed and is herein called a "Partial Lease Year."

1.1.8 "Mortgage" and "Mortgagee" herein shall include a mortgage, deed of trust or security agreement; and the mortgagee, the beneficiary of a deed of trust or secured party, as appropriate, on any sale and leaseback used for financing purposes, and the making of any such relationship.

SKAGIT COUNTY WASHINGTON
Real Estate Excise Tax

JUL 23 1991

Amount Paid \$
By *W* Skagit Co. Treasurer Deputy

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1.1.9 "Occupant" shall mean any person entitled to occupy a portion of the Shopping Center under a lease or other arrangement with Landlord.

1.1.10 "Person" and "Persons" wherever used in this Lease shall include individuals, partnerships, firms, associations, corporations or any other form of business entity.

1.1.11 "Leased Premises" shall mean the portion of the Shopping Center (name to be determined), on Exhibit A, attached hereto, consisting of approximately 7,000 square feet, and a part of the property legally described on Exhibit B attached hereto.

1.1.12 "Tenant's Personal Property" shall mean all movable personal property now or hereafter owned or leased by Tenant from a person other than Landlord, and located on or about the Leased Premises.

Section 1.2 Exhibits. The Exhibits referenced throughout this Lease and attached hereto are incorporated herein by this reference and are to be construed as an integral part of this Lease.

EXHIBIT A Shopping Center and Floor Area Space Plan.
EXHIBIT B Legal Description
EXHIBIT C No Build Zone Site Plan

ARTICLE 2. USE OF PREMISES

Section 2.1 Use. The Leased Premises shall be used for the sole purpose of operating a casual dining, full-service, first-class restaurant, sitdown, class H, full service gourmet hamburger restaurant featuring gourmet hamburgers as its primary menu item and for no other purpose without prior written consent of Landlord. Tenant shall, during the entire term of this Lease, conduct its business at all times in such a manner as to produce the maximum volume of Gross Sales, and continuously and uninterruptedly, use, occupy and do business in the whole of the Leased Premises and open for business and remain open during all business hours that Red Robin Restaurants in the state of Washington remain open for business; provided, however, that Tenant may, at its option, maintain any other business hours in accordance with applicable laws and regulations of Skagit County, and provided that Tenant may, on a periodical basis, close for a reasonable period for refurbishing, alterations and force majeure.

Tenant shall also obtain and keep in good standing any or all licenses, permits and approvals for such operation required by applicable laws and regulations, and shall comply with all laws and governmental regulations applicable to the operation and maintenance of the Leased Premises. The Leased Premises shall not be used for any illegal purposes.

ARTICLE 3. TERM

Section 3.1 Term. The initial term of this Lease shall commence on the Lease Commencement Date (as defined in Section 1.1.6) and shall end 20 years later.

Section 3.2 Option. The option set forth in this Section 3.2 shall be exercisable by Tenant only if Tenant is not in default hereunder at the time of such exercise or at the commencement of the Extended Term. Tenant is hereby granted an option to extend the term of this Lease for three additional five-year periods ("Extended Term"), at the Fixed Minimum Rent determined by the formula set forth in Section 4.1 for each five-year option period. Such option shall be exercisable by written notice to Landlord no later than one

hundred twenty [120] days prior to the end of the initial Lease Term, and one hundred twenty [120] days prior to the expiration of each Extended Term.

The same terms and conditions of this Lease applicable to the initial term shall be applicable to the Extended Term, except for the Fixed Minimum Rent.

ARTICLE 4. RENT

Section 4.1 Fixed Minimum Rent. Tenant agrees to pay rent to Landlord, without notice or demand and without setoff or deduction, at the Address of Landlord (as set forth in Article 22 hereof), or such place as Landlord may by written notice to Tenant from time to time direct, at the following rates and times:

The Fixed Minimum Rent shall be payable in advance in equal monthly installments, on the first day of each calendar month included in the Lease Term. For any portion of a calendar month included at the beginning or end of the Lease Term, one-thirtieth of such monthly installment shall be paid for each day of such portion, payable on the first day of such portion. Fixed Minimum Rent shall be \$25,000 per annum for the first two (2) Lease Years; \$50,000 per annum for the next three (3) Lease Years; Lease Years 6 through 10, and for every five Lease Years thereafter and every 5 year Extended Term thereafter; Fixed Minimum Rent shall be adjusted based on the greater of the following formulas:

- 1) Increased by \$7,500 per annum, or
- 2) Increased to 2% of all Gross Sales transacted during the most recent Lease Year. Tenant's unaudited monthly statement of Gross Sales shall be used to determine the estimated Gross Sales for the previous Lease Year. Upon receipt of the Annual Statement Landlord shall adjust the Fixed Minimum Rent.

In no event shall the Fixed Minimum Rent be less than the following:

Years 1-2	\$25,000 per annum
3 - 5	\$50,000 per annum
6 - 10	\$57,500 per annum
11 - 15	\$65,000 per annum
16 - 20	\$72,500 per annum
21 - 25	\$80,000 per annum
26 - 30	\$87,500 per annum
31 - 35	\$95,000 per annum

For example, if Tenant's Gross Sales transacted in the fifth Lease Year are \$3,000,000, then the Fixed Minimum Rent would be increased to \$60,000 per annum for the next five Lease years. Conversely, if Tenant's Gross Sales transacted in the fifth Lease Year are \$1,500,000, the Fixed Minimum Rent would be increased by \$7,500 or to \$57,500 per annum for the next five Lease Years.

Section 4.2 Definition of Gross Sales. "Gross Sales" shall mean the total amount in dollars of the actual price received, or in the case of a credit card sale the amount charged the customer for all sales of food, beverages, services, gift certificates, and all other receipts of business conducted at, in, on, about or from the Leased Premises, including, but not limited to, all telephone orders received or filled at or from the Leased Premises. Gross Sales shall not, however, include any sums collected and remitted for any federal, state or municipal or other sales, value added, or retailer's excised taxes paid or accrued by Tenant, whether such taxes are collected from customers or absorbed by Tenant, proceeds of insurance policies received by Tenant, bulk and/or

inter-company transfers of food and/or inventory, proceeds from the sale of used restaurant equipment or receipts from cigarette vending machine or pay telephones, nor any amounts received or held as income resulting from tips or other gratuities to Tenant's agents, or servants, or coupon sales in which the menu item is rung up but no dollars are actually received. In addition, Gross Sales shall not include the following items (provided the total sum shall not exceed 5% of Tenant's Gross Sales):

1. Discounted portion of receipts from sales to employees;
2. Promotional discounts;
3. Quality control sales;
4. Bad debts (including walk outs and credit card returns).

Section 4.3 Maintenance of Records and Examination; Reporting of Gross Sales. Tenant shall utilize, and cause to be utilized, cash registers equipped with consecutive serialized tapes and/or such other devices for recording sales as are normally used in Tenant's type of business to record all sales at the time of sale and in the presence of the purchaser. Tenant shall keep at its corporate offices presently located in Tukwila, Washington for at least 18 months after expiration of each Lease Year or Partial Lease Year full, true and accurate books of account and records ("books") conforming to generally accepted accounting principles, showing all Gross Sales transacted at, in, from and upon the Leased Premises for such Lease Year or Partial Lease Year, including all tax reports, dated cash register tapes, sales slips, sales checks, sales books, bank deposit records and other supporting data. Within 15 days after the end of each calendar quarter or portion thereof included in the Lease Term, Tenant shall furnish to Landlord a statement of Gross Sales transacted during such month or portion thereof; and on or before each April 1st included in the Lease Term and within 60 days after the end of the Lease Term, Tenant shall furnish to Landlord a statement, hereinafter called the "annual statement" (certified by an officer of Tenant's corporation), of monthly and total Gross Sales transacted during the preceding Lease Year or Partial Lease Year included in the Lease Term. In the event of Tenant's failure to furnish any statement of Gross Sales required hereunder, in addition to all other remedies afforded it under this Lease, Landlord shall be entitled to have conducted (by an accountant of its selection) an audit, with at least 24 hours notice, of Tenant's books for such period or periods for which Tenant has failed to furnish such statements. Such audit shall be at Tenant's expense and Tenant shall promptly reimburse Landlord for the costs thereof. All such costs shall be deemed additional rent. Notwithstanding the foregoing, Landlord shall have the right from time to time by its accountants or representatives to audit, with at least 24 hours notice all statements of Gross Sales and in connection with such audits to examine all of Tenant's books, including all supporting data and any other records from which Gross Sales may be tested or determined. Tenant shall make all such books readily available for such examination. Failure of Tenant to make all books readily available for such examination shall be deemed a default under this Lease; and in addition to all other remedies afforded it under this Lease, Tenant shall promptly reimburse Landlord for the cost of such audit. All such costs shall be deemed additional rent. If any such audit discloses that the actual Gross Sales transacted by Tenant exceed those reported by more than two three percent, Tenant shall forthwith pay to Landlord the cost of such audit and examination together with any additional Rent payable to Landlord. Any information obtained by Landlord pursuant to the provisions of this Section shall be treated as confidential, except in any litigation or arbitration proceedings between the parties, and, except further, that Landlord may disclose such information to prospective buyers and lenders.

ARTICLE 5. TAXES APPLICABLE TO THE LEASED PREMISES.

Section 5.1 Tenant shall pay to Landlord as additional rent, the amount of all Taxes Applicable to the Leased Premises.

"Taxes" shall mean and include all ad valorem taxes, assessments and other governmental charges, general and special, ordinary and extraordinary, of any kind or nature whatsoever, including but not limited to assessments for public improvements or benefits, which shall during the Lease Term become due and payable, except (i) franchise, estate, inheritance, succession, capital levy, transfer, income and excess profits taxes imposed upon Landlord, (ii) if at any time during the Lease Term a tax, license fee or excise on rents or other tax, however described, is levied or assessed against Landlord on account of the rent expressly reserved hereunder, as a substitute in whole or in part for taxes assessed on land and buildings or land or buildings, such tax or excise on rents or other tax shall be included within the definition "Taxes," but only to the extent of the amount thereof which is lawfully assessed or imposed as a direct result of Landlord's ownership of this Lease or of the rentals accruing upon this Lease, and (iii) with respect to any assessment which under the laws then in force may be evidenced by improvement or other bonds, or may be paid in annual installments, there shall be included within the definition "Taxes" with respect to any tax year only the amount currently payable on such bond for such tax year, or the current annual installment for such tax year.

"Taxes Applicable to the Leased Premises" shall mean all Taxes becoming due and payable in any tax year during the Lease Term as respects the Leased Premises land and improvements, if the Leased Premises are separately assessed. If the Leased Premises are separately assessed, Tenant shall pay to the proper taxing authority all taxes applicable to the Leased Premises when due, and shall send Landlord a copy of the tax receipt evidencing such payment.

In the event the Leased Premises are not separately assessed but are a part of a larger parcel for assessment purposes (hereinafter referred to as the "Larger Parcel"), "Taxes Applicable to the Leased Premises" shall be the sum of the following:

(a) the product of the Taxes on the Larger Parcel attributable to land only (less any portion attributable to Common Areas which is treated as a Common Area cost under Article 6) multiplied times a fraction, the numerator of which is the Floor Area of the Leased Premises and the denominator of which is the Leasable Area of the Larger Parcel (less any Common Area land the Taxes on which are treated as a Common Area cost under Article 6), and

(b) the Taxes attributable to buildings and improvements only as set forth specifically each year in a letter from the County Assessor as to each building and the improvements ~~on the fringe land of the Shopping Center, which is where these Leased Premises are located.~~ Tenant shall be responsible for the payment of its portion, as determined by said letter from the County Assessor.

If the Leased Premises are not separately assessed, Landlord shall mail to Tenant, at intervals, a statement setting forth the amount of Taxes Applicable to the Leased Premises. Tenant shall pay to Landlord as additional rent, within 10 days after receipt of such statement, the amount of such Taxes Applicable to the Leased Premises. During any part of the Lease Term which shall be less than a full year, Taxes Applicable to the Leased Premises shall be prorated on a daily basis between the parties to the end that Tenant shall only pay Taxes attributable to the portion of the tax year occurring within the Lease Term.

In the event that taxing authorities in the locality in which the Leased Premises are located include or calculate, in Taxes, the value of Tenant's machinery, equipment, trade fixtures, tools, stock in trade, inventory or other assets of Tenant, then and in that event Tenant shall pay all Taxes on such items.

Tenant's payment of Taxes Applicable to the Leased Premises to Landlord for the period in which the Lease Term ends shall also be made upon demand, and if the amount of Taxes Applicable to the Leased Premises is not then ascertainable, payment shall be made on the basis of the amount of the last prior Taxes Applicable to the Leased Premises, and an adjustment shall be made as soon as the correct amount is ascertainable.

Whether the Leased Premises are or are not separately assessed, Tenant shall also pay to Landlord as additional rent Tenant's share (based on the proportion which the Floor Area of the Leased Premises bears to the Leasable Area) of the costs and expenses paid or incurred by Landlord for professional and other services (including but not limited to fees and expenses of consultants, attorneys, appraisers and experts) in connection with contesting taxes or assessments, or in connection with efforts to secure lowered real estate tax assessments or to resist increased assessments. Tenant shall be liable hereunder only for such costs and expenses incurred in connection with taxes assessed or to be assessed for tax periods occurring within the Lease Term. To the extent such costs and expenses are attributable to taxes assessed for tax periods which are only partially included within the Lease Term, Tenant's proportionate share shall be prorated. Tenant shall pay additional rent hereunder upon demand therefor by Landlord accompanied by suitable evidence of the amount demanded.

Landlord shall cooperate and not oppose Tenant if Tenant seeks to have the building or Leasehold Improvements separately assessed.

ARTICLE 6. COMMON AREAS, THEIR USE AND CHARGES.

Section 6.1 Common Areas. Landlord shall make available such "Common Areas," including but not limited to parking areas [including 70 non-exclusive parking spaces designated within Restaurant Tract Boundary on Exhibit A], driveways, truckways, access and egress roads, walkways, landscaped and planted areas) in, on, or about the Shopping Center as Landlord shall deem appropriate. Landlord shall (or shall cause the same to be done) operate, manage, equip, police, light, repair, replace and maintain the Common Areas for their intended purposes in such manner as Landlord shall, in its sole discretion, determine, and may from time to time change the size, location, nature and use of any Common Areas and make installations therein and move and remove the same. Landlord shall provide Tenant prior notice of any changes to the Common Area ingress or egress that would occur immediately or directly surrounding the Leased Premises provided such notice requirement shall not be construed as giving Tenant any rights of approval or disapproval concerning such changes nor shall it be construed in any way as prohibiting Landlord from making such changes. Any such alteration shall not interfere with or change the traffic pattern so as to adversely affect Tenant's business. In the event the Landlord elects to alter the points of ingress and egress to the Shopping Center and does not provide alternative ingress and egress, or in the event that the Landlord elects to alter the access to the Leased Premises within the Common Areas of the Shopping Center, then Tenant, at its sole option, may elect to terminate this Lease and all obligations hereunder upon the giving of sixty (60) days' written notice to Landlord. Said election to terminate shall be exercisable during the period of 90 days after Tenant's receipt of notice that Landlord will be altering any of the aforementioned ingress and egress points. If Tenant's 60 day notice is not received during said 90 day period, Tenant will be deemed to have waived its option to terminate.

Section 6.2 Use of Common Areas. Tenant and its concessionaires, officers, employees, agents, customers and invitees shall have the non-exclusive right (in common with Landlord and other Occupants of the Shopping Center and all others to whom Landlord or such Occupants have granted or may hereafter grant such rights) to use the Common Areas as designated from time to time by Landlord, subject to such reasonable rules and regulations as Landlord may from time to time impose, including the designation of specific areas in which cars owned by Tenant, its concessionaires, officers, employees and agents must be parked. Tenant agrees after notice thereof to abide by such rules and regulations and to use its best efforts to cause its concessionaires, officers, employees, agents, customers and invitees to conform thereto. Landlord may at any time close temporarily any Common Areas to make repairs or changes therein or to effect construction, repairs or changes within the Shopping Center to prevent the acquisition of public rights in such areas, or to discourage noncustomer parking; and may do such other acts in and to the Common Areas as in its judgment may be desirable to improve the convenience thereof. Tenant shall upon request promptly furnish to Landlord the license numbers of the cars operated by Tenant and its concessionaires, officers and employees. Tenant shall not at any time interfere with the rights of Landlord or other Occupants of the Shopping Center or with the concessionaires, officers, employees, agents, customers or invitees of Landlord or of such other Occupants to use any part of the parking areas or other Common Areas.

Tenant agrees to keep the Leased Premises and all Common Areas immediately surrounding the Leased Premises free of waste and litter, which has accumulated as a result of Tenant's business, on a regular, as needed, basis, at Tenant's sole cost and expense. In the event that Tenant chooses to be open for business after 11 p.m. on weekdays, and 6:00 p.m. on weekends, Tenant shall be solely responsible for all additional lighting costs necessary in parking areas shown on Exhibit A during those additional hours. It is also agreed that the portion of the Tenant's Leased Premises which is not designated as Floor Area shall be maintained by Landlord as to general repair and upkeep, the charge for which shall be included in the Shopping Center Common Area charges. Tenant shall be obligated to replace any of the shrubbery or landscaping originally installed by Tenant immediately surrounding the Leased Premises.

Notwithstanding the foregoing, during the period of time Tenant is open for business until at least one other tenant in the Shopping Center is open for business, Tenant shall be solely responsible for maintaining all of the common area surrounding the Leased Premises and of the parking area used by Tenant's customers. (Upon the opening of another Tenant for business in the Shopping Center, Landlord shall become responsible for maintaining the Common Areas and Tenant shall pay its pro rata share, all as set forth in Section 6.3 below.) Costs related to such maintenance shall be borne by the Tenant directly. Taxes for such area used by Tenant and its customers shall be included in common area costs prorated for the period of time Tenant is the only tenant open for business.

Section 6.3 Charge for Use of Common Areas. Tenant shall pay to Landlord in the manner provided in Section 6.4 as additional rent, Tenant's pro rata share, as defined in Section 6.4, of all costs and expenses of every kind and nature as may be paid or incurred by Landlord during the Lease Term and any extensions thereof (including appropriate reserves) in operating, managing, policing, equipping, lighting, repairing, replacing and maintaining the Common Areas, including but not limited to: maintenance and repair; cleaning costs and expenses of planting, replanting and replacing flowers and landscaping; water and sewerage charges, as applied to common areas; maintenance of signs (other than Occupants' signs); premiums for liability, property damage, fire and workers' compensation insurance; real estate taxes and assessments; wages; unemployment taxes; social security taxes; assessments attributable to Common Areas; personal property taxes; fees for required licenses and

permits; supplies; reasonable depreciation of equipment used in the operation; and administrative costs equal to 10 percent of the total costs paid or incurred by Landlord under this Section 6.3; but for the purpose of this calculation there shall be excluded costs of equipment properly chargeable to capital account and depreciation of the original cost of constructing, erecting and installing the Common Areas and common facilities. Surcharges levied upon or assessed against parking spaces or areas, payments to or for public transit or carpooling facilities or otherwise as required by any governmental agency having jurisdiction over the Shopping Center and all costs incurred by Landlord in connection with complying with applicable federal, state or local environmental requirements, shall be deemed Common Area operating costs. ~~It is understood and agreed between Landlord and Tenant that~~ The cost and expenses paid or incurred by Landlord in operating, managing, policing, equipping, lighting, repairing, replacing, and maintaining the Common Areas does not include any costs or expenses for heating, ventilating and/or air conditioning of the interior, enclosed area of the Shopping Center. Tenant or Tenant's representative shall have the right at its own cost and expense to audit and/or inspect Landlord's records [not more than once in any Lease Year], with respect to common area maintenance cost, as well as taxes and all other additional rents and charges payable by Tenant under this Lease for any Lease Year. Tenant shall give Landlord not less than seven days written notice of its intention to conduct any such audit or inspection. If such audit discloses that the amount paid by Tenant as Tenant's common area maintenance cost or taxes or the amounts paid with respect to any other additional rents and charges for the Lease Years under consideration have been overstated by more than 3%, then in addition to rebating Tenant the overcharge, Landlord shall also pay the reasonable cost incurred by Tenant for such audit.

Section 6.4 Tenant's Pro rata Share and Payment. Tenant's pro rata share of the Common Area costs and expenses referred to in Section 6.3 shall be determined by multiplying the total of said Common Area charges by a fraction, the numerator of which shall be the Floor Area of the Leased Premises and the denominator of which shall be the Leasable Area of the Shopping Center. The annual pro rata charge to Tenant shall be paid in monthly installments on the first day of each calendar month after commencement of the Lease Term (prorated for any fractional month) in advance, in an amount estimated by Landlord. Within 90 days after the end of each Lease Year or Partial Lease Year, Landlord shall furnish to Tenant a ~~certified~~ statement certified by officer of Landlord in reasonable detail of the actual costs and expenses paid or incurred to Landlord during such period in respect of the Common Areas, prepared by Landlord's accountant in accordance with generally accepted accounting principles consistently applied in accordance with Section 6.3. Any increases in Tenant's pro rata share and payment during the first twenty (20) years shall be limited to 2% per annum. Thereafter, Tenant pro rata share for each option period shall be adjusted to the then current, actual pro rata share with annual increases limited to 2%.

ARTICLE 7. INSURANCE.

Section 7.1 General Provisions. Tenant covenants, at its expense, at all times during the Lease Term and such further times as Tenant occupies the Leased Premises, or any part thereof, to save Landlord harmless and indemnified from all injury, loss, claims or damage to any person or property arising from, related to, or in connection with the Leased premises unless (Subject to 15.1) caused solely by Landlord's negligence or willful misconduct, to save Landlord harmless and indemnified from all injury, loss, claims or damage to any person or property anywhere occasioned by any act, omission, neglect or default of Tenant, its agents, employees and contractors; to maintain in responsible companies qualified to do business in Washington and approved by Landlord:

- (i) Comprehensive general liability insurance with broadform extensions or commercial general liability covering injury to

Persons (including death) or to property arising out of the ownership, construction, maintenance, use or occupancy of the Leased Premises, which insurance shall include contractual liability covering matters set forth in Section 7.17, 7.18 and 7.19 and product liability, and having a deductible of not more than \$5,000 and limits of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate combined single limit for Personal Injury (including bodily injury or death) and property damage including water damage and sprinkler leakage legal liability, which limits may be increased from time to time as Landlord may reasonably determine based on standards set by insurance underwriters for Washington;

- (ii) Automobile liability covering injury to Personal (including death) or to property damage arising out of the ownership, operation or use including loading or unloading of licensed owned, non-owned or hired vehicles on or about the Leased Premises in connection with Tenant's business, and having limits of not less than \$1,000,000 per accident combined single limit for bodily injury and property damage;
- (iii) Workers' compensation and employer's liability insurance covering all of Tenant's employees working in the Leased Premises;
- (iv) Liquor liability insurance covering injury to Persons (including death) or to property arising out of the selling, serving or furnishing of any alcoholic beverage, which insurance shall have a deductible of not more than \$5,000 and limits of not less than \$1,000,000 each common cause and \$2,000,000 aggregate, which limits may be increased from time to time as Landlord may reasonably determine based on standards set by insurance underwriters for Washington;
- (v) Plate glass insurance covering all exterior plate glass in the Leased Premises;
- (vi) Fire insurance with such extended coverage endorsements as Landlord may from time to time require covering the building and all other improvements on the Leased Premises and all of Tenant's stock and furnishings and all partitions, ceilings, fixtures, air conditioning, lighting, floor coverings and equipment in the Leased Premises and all subsequent alterations or additions thereto to the extent of 100 percent of their replacement cost (determined annually);
- (vii) Use and occupancy insurance sufficient to cover all rent and additional rent payable hereunder; and

to name Landlord and if requested Landlord's mortgagees as additional insureds as their interests may appear on each of such policies; and to deposit promptly with Landlord certificates for such insurance bearing endorsement that the policies will not be canceled or reduced in scope of coverage or amount of coverage until after 30 days' written notice to Landlord and if requested, Landlord's mortgagees. During construction of any improvements on the Leased Premises, Tenant shall carry builders' risk and liability insurance, in the amounts set forth above, with certificates of

such insurance to be deposited with Landlord before construction commences. If Tenant fails to maintain any of the insurance coverage specified, Landlord may obtain such coverage and charge the premium therefor to Tenant, as additional rent hereunder, due and payable with the next payment of Fixed Minimum Rent.

With respect to claims that either Landlord or Tenant may have against the other for fire or casualty damage to the Leased Premises, property on the Leased Premises, the Shopping Center, and/or other property in the Shopping Center (including business interruption caused thereby), which claims are covered by insurance payable to and protecting the claiming party, the claiming party hereby agrees to exhaust all claims under such insurance before asserting any claims against the other party. The foregoing shall apply to claims for damage whether such damage is caused, wholly or partially, by the negligence or other fault of the other party or its agents, employees, subtenants, licensees, invitees or assignees.

ARTICLE 8. UTILITIES

Section 8.1 Utilities in General. Tenant shall promptly pay for all public and other utilities and related services rendered or furnished to the Leased Premises during the Lease Term, including, but not limited to, water, steam, gas, electricity, telephone and sewer charges, including repair, replacement, hook-up, and installation charges. Tenant shall install its own meters.

Section 8.2 Exterior Lighting of Tenant's Leased Premises. Tenant shall be responsible solely for the costs and expenses incurred in ~~installing~~ operating and maintaining an exterior lighting system for its parking areas designated ~~therefor on the Landlord approved working drawings. It is understood and agreed between Landlord and Tenant that the exterior lighting referenced in this section pertains to supplemental lighting which the Tenant may desire to add on the Leased Premises as the "Restaurant Tract" on Exhibit A, which shall be separately metered and billed to Tenant, and does not include the existing exterior lighting presently located on or adjacent to the Leased Premises.~~

ARTICLE 9. CARE OF PREMISES AND LANDLORD'S PERSONAL PROPERTY; ALTERATIONS, ADDITIONS, LIENS AND SIGNS

Section 9.1 Tenant's Care of Leased Premises. Tenant shall, at its own cost, fully and completely keep and maintain Tenant's building on the Leased Premises and any of Tenant's property including signs and equipment, in good order and repair. Generally, Tenant shall do all things which from the character and use of Tenant's building on the Leased Premises would be reasonably necessary for proper maintenance thereof and in this respect, without limiting the generality of the foregoing, Tenant shall perform and furnish all painting, redecorating, refurbishing, maintenance, servicing, repairing and replacement as may be required therefor, except that Tenant shall not change the exterior color or architectural features of the Leased Premises or the building thereon without Landlord's prior written approval, which approval shall not be unreasonably withheld by Landlord. Tenant shall not commit, suffer or permit any illegal use of the Leased Premises and shall not permit the Leased Premises, the building or Tenant's Property to fall into a state of disrepair or neglect, and shall keep the Leased Premises free of vermin, termites, rodents, bugs, insects and other such animals and shall store all refuse and trash in appropriate containers on the Leased Premises and to attend to the disposal thereof on a regular basis, and shall conform to all reasonable rules and regulations governing the use of the Shopping Center and its Common Areas of which Landlord may give notice from time to time. Tenant shall cause the Leased Premises to conform to all lawful governmental regulations and all reasonable rules and regulations of Landlord existing from time to

time pertaining to the Permitted Uses or to Tenant's maintenance of the Leased Premises. Landlord shall not be required to make any alterations or repairs to Tenant's building or property, including signs and equipment located on the Leased Premises. ~~Notwithstanding anything contained herein to the contrary, Tenant shall remodel its premises every seven (7) years of the Lease Term.~~ Notwithstanding anything contained herein to the contrary, Tenant shall periodically refurbish the Leased Premises so that the look, style and quality is consistent with the then current decor and style of Red Robin restaurants in the State of Washington.

Section 9.2 Alterations. Tenant shall not demolish or make any alteration, addition or change in or to the Leased Premises without the prior written consent of Landlord in each and every instance, unless otherwise set forth herein. Tenant shall submit to Landlord working drawings and specifications for alterations and changes requiring Landlord's approval. All alterations and changes shall be at the sole cost and expense of Tenant, shall conform in all respects to the working drawings and specifications approved by Landlord, shall be made in a good and workmanlike manner by competent and financially responsible contractors and shall comply with all applicable governmental laws, regulations and requirements. Tenant may make any alteration, addition, or change in or to the interior of the Leased Premises, without the prior written consent of the Landlord if such change, addition, or alteration is accomplished at a cost to Tenant not exceeding \$50,000, except that no charges shall be made to the exterior of the Leased Premises without Landlord's prior written approval.

Section 9.3 Liens. Tenant shall at its sole cost: (i) pay promptly when due the entire cost of any work on the Leased Premises, including equipment, facilities, signs and fixtures therein, undertaken by Tenant, so that the Leased Premises shall at all times be free of liens for labor and materials; (ii) procure all necessary permits before undertaking such work; (iii) perform such work in a good and workmanlike manner acceptable to Landlord, employing materials of good quality; (iv) comply with all governmental requirements; and (v) save Landlord harmless and indemnified from all injury, loss, claims or damage to any person or property occasioned by or growing out of such work. With prior written notice and reasonable opportunity to cure, Tenant shall reimburse Landlord for all costs and attorney's fees incurred by Landlord in investigating, defending or clearing the same. In any event, Tenant shall cause any claim for lien to be cleared within 30 days of filing the same unless Tenant shall have provided security acceptable to Landlord against any loss to Landlord on account thereof.

Section 9.4. Signs. Tenant shall not erect, attach or otherwise place or affix any exterior sign, advertising media, awning, banner, flag, pennant, or the like, on or about the exterior of the building on the Leased Premises or elsewhere on the Leased Premises without Landlord's prior written consent. Temporary promotional signage may be used from time to time without Landlord's consent as long as such signage is professional, in good taste, and consistent with other temporary promotional signage used at other Red Robin restaurants in Washington. If Landlord does hereafter consent thereto, then any and all such signs, etc., shall be installed and maintained by Tenant at its own risk and expense and, upon expiration or termination of this Lease, Tenant shall remove all such signs, etc., and restore any damage to the Leased Premises resulting from such removal. No signs, etc., shall be erected except fully in accordance with all applicable governmental requirements. No rooftop sign or signs which are flashing, moving, or audible will be allowed. No pylon signs will be allowed.

ARTICLE 10. ACCESS

Section 10.1 Landlord and its agents shall have access at reasonable times for the purpose of showing the Leased Premises to prospective purchasers or lenders or for the purpose of inspection or of making parking area repairs, or alterations on the Leased Premises. Landlord and its agents may also have access to the Leased Premises with reasonable prior notice, during non-business hours whenever possible, and otherwise in a manner so as not to interfere with Tenant's business 90 days prior to expiration of the Lease Term for the purpose of showing the Leased Premises to prospective tenants, and shall have access to the Leased Premises at all reasonable times during the Lease Term for the purpose of showing the Leased Premises to prospective purchasers or lenders.

ARTICLE 11. SUBORDINATION

Section 11.1 Subordination. This Lease shall be subject and subordinate to any mortgages now a lien upon the Shopping Center and the Leased Premises, and to any or all advances to be made thereunder, and to the interest thereon, and all renewals, replacements, consolidations and extensions thereof. This Lease shall also be subject and subordinate to any mortgages that may hereafter be placed by Landlord upon the Shopping Center and the Leased Premises and to any or all advances to be made thereunder, and to the interest thereon, and all renewals, replacements, consolidations and extensions thereof. Landlord shall use its best efforts to obtain from all present and future mortgagees a non-disturbance agreement. Landlord covenants that Tenant's use, possession and enjoyment of the Leased Premises shall not be disturbed and this Lease shall continue in full force and effect so long as Tenant is not in default hereunder, and this Lease shall automatically become a direct Lease between any successor to Landlord's interest as Landlord and Tenant as if such successor were the Landlord originally named hereunder.

Section 11.2 Priority. Any mortgagee may elect to have this Lease prior in right to its mortgage, and in the event of such election, and upon notification by such mortgagee to Tenant to that effect, this Lease shall be deemed to have priority over the lien of such mortgage, whether this Lease is dated prior to or subsequent to the date of recording of such mortgage, and the Tenant shall execute and deliver whatever instruments may be required for such purposes. In the event Tenant fails so to ~~do~~ deliver such instruments within 10 days after demand in writing. Tenant does hereby make, constitute and irrevocably appoint Landlord as its attorney in fact and in its name, place and stead so to do. It shall be considered a material default making this Lease subject to termination by Landlord upon ten (10) day's written notice to Tenant.

Section 11.3 Waiver. Tenant further waives the provisions of any statute or rule of law now or hereafter in effect which may give or purport to give Tenant any right of election to terminate this Lease or to surrender possession of the Leased Premises in the event any proceeding for foreclosure or otherwise is brought by any mortgagee and agrees that this Lease shall not be adversely affected in any way whatsoever by any such proceeding. Tenant agrees in the event any proceedings are brought for the foreclosure of any mortgage to attorn to the purchaser upon any such foreclosure sale and to recognize such purchaser as the Landlord under this Lease.

Section 11.4 Attornment. Tenant covenants and agrees that in the event of a sale or assignment of Landlord's interest in the Leased Premises or if by reason of a default under any mortgage, security instrument or otherwise, the ownership interest of Landlord in the Leased Premises is terminated, Tenant will attorn to the transferee of Landlord's interest in the Leased Premises and will recognize such transferee as Tenant's Landlord under this Lease. In the event such transferee shall transfer its interest as Landlord under this Lease, Tenant covenants and agrees it will attorn to such transferee

and will recognize such transferee as Tenant's Landlord under this Lease. Tenant agrees to execute and deliver, at any time and from time to time, upon the request of Landlord or of any mortgagee, or holder, or the transferee of Landlord's interest to whom Tenant has previously attorned, any instrument which may be necessary or appropriate to evidence any such attornment and Tenant hereby irrevocably appoints Landlord or any transferee as aforesaid, the attorney-in-fact of Tenant to execute, acknowledge and deliver for and on behalf of Tenant any such instrument.

~~Section 11.5 Hypothecation. Tenant shall not hypothecate Tenant's interest in any of the trade fixtures or equipment or building or other leasehold improvements within the Leased Premises, whether as security for the purchase price thereof or otherwise, without obtaining Landlord's prior written consent to such hypothecation in form acceptable to Landlord. Landlord's consent to such hypothecation shall not be unreasonably withheld.~~ Tenant shall be permitted to assign for security purposes or otherwise encumber its interest in this Lease and in the equipment, trade fixtures and personal property which it places in or locates on the Leased Premises, for the limited purpose of financing or refinancing the construction of Tenant's improvements on the Leased Premises and the purchases and installation of such equipment, trade fixtures and other personal property.

ARTICLE 12. ESTOPPEL CERTIFICATES

Section 12.1 Either party shall at any time and from time to time, upon not less than 15 days' prior written request from the other party, execute, acknowledge and deliver to such party a statement in writing certifying that this Lease is unmodified and in full force and effect (or if there has been any modification thereof that the same is in full force and effect as modified and stating the nature of the modification or modifications); that there are no known defaults existing (or if there is any claimed default stating the nature and extent thereof); and stating the dates to which the rent and other charges have been paid in advance. It is expressly understood and agreed that any such statement delivered pursuant to this Section may be relied upon by the requesting party and any other third person.

ARTICLE 13. QUIET ENJOYMENT

Section 13.1 Subject to the terms and provisions of this Lease, on payment of the rent and other charges hereunder by Tenant and Tenant's observing, keeping and performing all of Tenant's covenants, Tenant shall lawfully, peaceably and quietly have, hold, occupy and enjoy the Leased Premises and any appurtenant rights granted to Tenant under this Lease, during the Lease Term without hindrance or ejection by Landlord or any persons lawfully claiming under Landlord, subject, however, to the terms and conditions of this Lease, to any mortgages, to utility easements and all other matters of record to which this Lease is and may become subject and subordinate, none of which shall interfere with Tenant's use of the Leased Premises for the Permitted Uses.

ARTICLE 14. ASSIGNMENT AND SUBLETTING

Section 14.1 Entity Ownership. The cumulative (i.e. in one or more sales or transfers by operation of law or otherwise) transfer of an aggregate of 51 percent or more of the voting stock issued and outstanding as of the date of execution of this Lease of Tenant, including creation of or issuance of new stock, of a corporation which is Tenant, or of any corporate assignee of Tenant, or of any corporation which is a general partner of a general or limited partnership which is Tenant or assignee of this Lease, or the cumulative (i.e. in one or more sales or transfers, by operation of law or otherwise) transfers of an aggregate of 51 percent or more of the partnership interests in a general or limited partnership which is Tenant or assignee of Tenant, by which

an aggregate of 51 percent or more of such stock or ownership interest in a partnership shall be vested in a party or parties who are not stockholders or general partners as of the date hereof (except as the result of transfers by gift or inheritance), shall be deemed an assignment of this Lease and shall be subject to Section 14.2 hereof. The term "voting stock" means the stock regularly entitled to vote for election of directors of the corporation. Any stock, however denominated, which is convertible into such voting stock, shall be treated for purposes of the foregoing as if it were in fact converted.

Section 14.2 Restriction on Assignment. Tenant shall not assign this Lease or any interest therein or sublet the Leased Premises or any portion thereof without the prior written consent of Landlord, which consent shall not be unreasonably withheld or delayed; provided, however, that Tenant shall have the right to assign this Lease or any interest therein or sublet the Leased Premises or any portion thereof without the consent of Landlord to:

- a. any subsidiary, parent, or qualified franchisor of Tenant;
- b. any corporation which Tenant may merge or consolidate;
- c. any corporation acquiring all or substantially all of the assets and/or stock of Tenant;
- d. a transfer of the outstanding voting stock to the immediate family members of Greg Hubert, Marc Zanner or Jim Richard Radloff;

provided, (i) The net assets of the assignee or sublessee corporation, except if such assignee is a subsidiary corporation of Tenant, shall not be less than the net assets of Tenant at the time of such assignment; (ii) such assignee or sublessee continues to operate the business conducted in the Leased Premises under the same Trade Name and in the same manner as Tenant, and pursuant to all of the provisions of this Lease; (iii) such assignee or sublessee corporation shall assume in writing all of Tenant's obligations hereunder and Tenant shall provide Landlord with a copy of such assignment; and (iv) with respect to an assignment or subletting of this Lease to any parent, subsidiary or affiliate corporation of Tenant, such assignee or sublessee corporation remains a parent, subsidiary or affiliate corporation of the Tenant executing this Lease.

No sublease or assignment shall release Tenant from any liability hereunder without the consent of Landlord, except that Tenant shall be released from liability in the event of any assignment or sublease made in accordance with the provisions of this Paragraph, if,

- a. the assignee or sublessee agrees in writing, a copy of which is delivered to Landlord, to assume and perform all of the obligations binding upon and to be performed by Tenant hereunder, and
- b. the net worth of the sublessee or assignee (determined as of the end of the most recent fiscal year of said assignee or sublessee which precedes the assignment or sublease) exceeds ~~five~~ four million dollars (~~\$5,000,000~~). (\$4,000,000).

Section 14.3 General Provisions. Nothing herein contained shall be deemed to obligate the Landlord to consent to any proposed assignment, sale or other transfer of this Lease if the assignor, vendor or transferor shall be in default under its obligations to Landlord under this Lease. If consent is once given by Landlord to assignment or subletting of this Lease or any interest therein, Landlord shall not be barred to refuse

to consent to any further assignment or subletting. No assignment by Tenant or by any assignee and no approval thereof by Landlord shall relieve, release, discharge or otherwise affect the liability of Tenant and its assignees for the performance of Tenant's obligations under this Lease and all payments due from Tenant hereunder. Tenant and each assignee shall remain fully and completely directly liable to Landlord for the prompt performance of Tenant's obligations under this Lease. In the event of default of Tenant's obligations hereunder, without releasing or affecting any rights which Landlord may have against Tenant or any assignee, Landlord may proceed against any person or persons, or any property liable for the Tenant's obligations hereunder as Landlord deems advisable.

Section 14.4 Miscellaneous. This Lease shall not be assignable by operation of law. Any sublease shall automatically terminate upon expiration or termination of this Lease.

Section 14.5 Documentary Requirements. No Transfer, whether requiring Landlord's consent or otherwise, shall be valid or become effective until there are delivered to Landlord executed copies, in such number as Landlord may require, of the written instrument of Transfer, which instrument shall be subject to the reasonable approval of Landlord and to the approval of any mortgagee having an interest in the Leased Premises as to form and content, together with such amount as is requested by Landlord to reimburse Landlord for any attorney's fee actually incurred in connection with Landlord's approval or acceptance of the instrument of Transfer.

ARTICLE 15. ACCIDENTS

Section 15.1 Waivers of Subrogation. Landlord and Tenant hereby waive any and all rights of recovery, claim, action or cause of action, against the other, its agents, partners, shareholders, officers, or employees, for the loss or damage that may occur to the Leased Premises or the Shopping Center, or any improvement thereto, or any personal property of such party therein, by reason of fire or any other peril, which could be insured against under the terms of any policy of standard fire and extended coverage insurance regardless of cause or origin, including negligence of the other party hereto, its agents, officers, partners, shareholders, or employees, and on behalf of each of their insurers, waive any right of subrogation each against the other.

Section 15.2 Indemnification. Tenant agrees to release solely all claims against Landlord for damages, to the extent not caused by Landlord's willful misconduct, to Person or property sustained by Tenant or any person claiming through Tenant resulting from any accident or occurrence in or upon the Leased Premises or the building of which they are a part or any other part of the Shopping Center, including but not limited to claims for damage resulting from: any equipment or appurtenances becoming out of repair; injury done or occasioned by wind; any defect in or failure of plumbing, air conditioning equipment, electric wiring or equipment or insulation thereof, gas, water pipes, stairs, railing or walks; broken glass; the backing up of any sewer or downspout; the bursting, leaking or overflowing of any tank, tub, washstand, water closet, waste pipe, drain or any other pipe or tank in, upon or about such building or the Leased Premises; the escape of hot water; water being upon or coming through the roof, skylight, trapdoor, stairs, doorways, show windows, walks or any other place upon or near such building or the Leased Premises or otherwise; the falling of any fixture, plaster, tile or stucco; or any act, omission or negligence of any other Persons or Occupants of said building or of adjoining or contiguous buildings or of owners or lessees of adjacent or contiguous property. Tenant expressly agrees that it will give written notice to Landlord immediately upon any event which may occur during the term hereof relating to any casualty causing any damage either to any Person(s) or property.

ARTICLE 16. DAMAGE AND DESTRUCTION

Section 16.1 Except as hereinafter provided, in the event the buildings and/or improvements now or hereafter existing on the Leased Premises are damaged or destroyed in whole or in part by fire or any other cause whatsoever during the Lease Term, this Lease shall continue in full force and effect without any abatement in rent or other charges and Tenant shall, at its own cost and expense, with all reasonable dispatch and diligence, rebuild, restore and/or repair the damaged building and/or improvements to a condition equal or greater in value to that just prior to the damage or destruction in accordance with plans and specifications to be approved in writing by Landlord prior to commencement of said rebuilding, restoration and/or repair, and Tenant shall complete said rebuilding, restoration and/or repair within a period not to exceed 12 months from the date of said damage or destruction.

Notwithstanding the foregoing, Tenant shall not be obligated to rebuild, restore and/or repair the building and/or improvements on the Leased Premises if (a) the damage occurs during the last three years of the original term or during any time in the renewal terms and (b) the building and/or improvements on the Leased Premises are damaged or destroyed to the extent of 25% or more of their fair market value immediately prior to the damage. Tenant must exercise this right not to repair within 90 days after the date of said damage or destruction by so notifying Landlord in writing. If Tenant elects not to repair as provided in this paragraph, rent and all other charges payable by Tenant shall abate as of the date of said damage or destruction. Within 60 days of receipt of Tenant's election not to repair, Landlord shall notify Tenant in writing of Landlord's election that Tenant shall either: (a) within 30 days remove from the Leased Premises all personal property belonging to Tenant or those claiming under Tenant, whereupon the Lease shall terminate, or (b) within 60 days, at Tenant's sole cost and expense, raze the damaged building and/or improvements on the Leased Premises and place the land area occupied by such building and/or improvements (and any adjacent area, to the extent required by the razing) in good, neat, level and orderly condition, whereupon the Lease shall terminate. If Tenant elects not to repair as provided in this paragraph, proceeds of insurance carried by Tenant shall be applied in order to: (1) repayment of any mortgage debt of Tenant secured by Tenant's interest in the Leased Premises, (2) costs of razing the building and/or improvements if Landlord elects option (b) above, and (3) the balance of insurance proceeds for property damage shall be paid to Tenant.

ARTICLE 17. EMINENT DOMAIN

Section 17.1 Termination of Lease. This Article 17 shall apply in the event that all or any part of the Leased Premises is taken or conveyed under right of eminent domain or threat thereof.

17.1.1 If the entire Leased Premises shall be taken by eminent domain or destroyed by the action of any public or quasi-public authority, or in the event of conveyance in lieu thereof, the Lease Term shall cease as of the day possession shall be taken by such authority, and Tenant shall pay rent up to that date with an appropriate refund by Landlord of such rent as shall have been paid in advance for a period subsequent to the date of the taking of possession. Compensation awarded for a total taking shall be divided between Landlord and Tenant as follows:

- (a) Landlord shall receive the portion of the award attributable to the value of the underlying land comprising the Leased Premises;

- (b) Tenant shall be entitled to 100% of the award attributable to the value of the improvements on the Leased Premises.

17.1.2 If a portion of the Leased Premises (but not the whole thereof) shall be so taken, Tenant shall have the option to terminate this Lease as of the date possession shall be taken by such authority by giving written notice to Landlord of such election to terminate within 30 days from the date possession is taken by such authority. If Tenant elects to terminate the Lease in this manner, compensation awarded for such a partial taking shall be divided between Landlord and Tenant in the same manner as set forth in 17.1.1 above for a total taking. If Tenant does not elect to terminate the Lease, the Lease shall continue as to the portion of the Leased Premises remaining after such taking and Tenant shall, at its own cost and expense, with all reasonable dispatch and diligence, restore the improvements on the Leased Premises as nearly as practicable to complete units of like quality and character as existed just prior to such taking. From and after the date possession is taken by such authority, the Fixed Minimum Rent and other charges shall be reduced in the proportion that the Floor Area of the part of Tenant's improvements on the Leased Premises so taken bears to the total Floor Area of Tenant's improvements on the Leased Premises just prior to such taking. Compensation awarded for such a partial taking when the Lease is not terminated shall be divided between Landlord and Tenant as follows:

- (a) Landlord shall receive the portion of the award attributable to the value of the underlying land so taken;
- (b) The balance of the proceeds shall be made available to Tenant for the restoration of the improvements on the Leased Premises as set forth above (provided, however, that Tenant's obligation to so restore is absolute whether or not the balance of the proceeds is sufficient to defray the entire cost thereof);
- (c) Any surplus funds remaining after (a) and (b) above shall be awarded to Tenant.

17.1.3 If (i) more than 25% of the Leasable Area of the Shopping Center or (ii) more than 10% of the parking area in the Shopping Center shall be so taken or conveyed and Landlord is not able to substitute substantially equivalent parking areas or parking ramps contiguous to the remainder of the Shopping Center, Tenant shall have the option to terminate this Lease as of the date possession shall be taken by such authority by giving written notice to Landlord of such election to terminate within 30 days from the date possession is taken by such authority. If Tenant elects to terminate this Lease in this manner, all compensation awarded for such a taking shall belong to Landlord. If Tenant does not elect to so terminate the Lease, the Lease shall continue in full force and effect, unmodified and as if such taking had not occurred.

ARTICLE 18. DEFAULTS BY TENANT AND REMEDIES

Section 18.1 Termination for Default or Insolvency. This Lease is upon the condition that if Tenant shall neglect or fail to perform or observe any of Tenant's covenants and if such neglect or failure shall continue after written notice, in the case of rent for more than ten days, or in any other case for more than 30 days or if the leasehold hereby created shall be taken on execution or by other process of law, or if any assignment shall be made of Tenant's or any guarantor's property for the benefit of creditors, or if a receiver, guardian, conservator, trustee in bankruptcy or similar officer shall be appointed by a court of competent jurisdiction to take charge

of all or any part of Tenant's or of guarantor's property, or if a petition for adjudication of the Tenant or any guarantor as insolvent or bankrupt or for reorganization or arrangement under any insolvency act or any law relating to bankruptcy is filed, and the same shall not be dismissed within 30 days from the date upon which it is filed; then, and in any of said cases, Landlord may, immediately or at any time thereafter, elect to terminate this Lease by notice, lawful entry or otherwise, whereupon Landlord shall be entitled to recover possession of the Leased Premises from Tenant and those claiming through or under Tenant. Such termination of this Lease and repossession of the Leased Premises shall be without prejudice to any remedies which Landlord might otherwise have for arrears of rent or for a prior breach of the provisions of this Lease. Landlord and Tenant agree that a notice by Landlord alleging default hereunder shall constitute a statutory notice to quit. In case of such termination, Tenant shall indemnify Landlord against all expense or loss of rent.

18.1.1 Items of expense for which Tenant shall indemnify Landlord shall include, but not be limited to, all costs incurred in collecting amounts due from Tenant under this Lease (including attorneys' fees, costs of litigation and the like); all reasonable costs incurred by Landlord in attempting to relet the Leased Premises (including advertisements, brokerage commissions remodeling and the like) and all Landlord's other reasonable expenditures proximately caused by the termination. All sums due in respect of the foregoing shall be due and payable immediately upon notice from Landlord that an expense has been incurred, without regard to whether the expense was incurred before or after the termination of this Lease. Landlord shall use its best efforts to relet the Leased Premises.

18.1.2 Landlord may elect by written notice to Tenant within 60 days following such termination to be indemnified for loss of rent by a lump sum payment representing the difference between the amount of rent which would have been paid in accordance with this Lease for the remainder of the Lease Term and the aggregate fair market rent of the Leased Premises for the remainder of the Lease Term, estimated as of the date of the termination and discounted to the then net present value at an equal to the then current prime rate. (For the purposes of this lump sum payment calculation only, the last Lease Year's additional rent for Taxes Applicable to the Leased Premises and Common Area charges shall be deemed to be constant for each Lease Year thereafter.)

18.1.3 Should Landlord fail to make the election provided for in the preceding subsection, Tenant shall indemnify Landlord for the loss of rent by a payment at the end of each month during the remaining Lease Term representing the difference between the rent which would have been paid in accordance with this Lease and the rent actually derived from the Leased Premises by Landlord for such month. Without any previous notice or demand, separate actions may be maintained by Landlord against Tenant from time to time to recover any damages which, at the commencement of any action, have then or theretofore become due and payable to Landlord under this Article, without waiting until the end of the original term of this Lease.

18.1.4 In the event that this Lease shall be terminated as hereinabove provided, or by summary proceedings, or otherwise, Landlord may, at any time and from time to time, relet the Leased Premises, in whole or in part, either in its own name or as agent of Tenant, for any period equal to or greater or less than the remainder of the then current term of this Lease, for any rental which it may deem reasonable, to any tenant it may deem suitable and satisfactory, and for any use and purpose which it may deem appropriate, consistent with the operation of the Shopping Center in a harmonious manner and as a first-class enclosed mall regional shopping center. Upon each reletting, all rentals received by Landlord from such reletting shall be applied, first, to the payment of any indebtedness other than rent due hereunder from Tenant to

Landlord; second, to the payment of any costs and expenses of such reletting and of such alterations and repairs; third, to the payment of rent due and unpaid hereunder; and the residue, if any, shall be held by Landlord and applied in payment of future rent as the same may become due and payable hereunder. Landlord shall not in any event be required to pay Tenant any surplus of any sums received by the Landlord upon a reletting of the Leased Premises in excess of the rent payable in accordance with this Lease.

18.1.5 Nothing herein contained shall limit or prejudice the right of Landlord to prove for and obtain in a proceeding for bankruptcy, insolvency, arrangement or reorganization, by reason of the termination, an amount equal to the maximum allowed by any statute or rule of law in effect at the same time when, and governing any proceedings in which, the damages are to be proved, whether or not the amount be greater, equal to, or less than the amount of the loss or damage which Landlord has suffered.

18.1.6 Anything herein contained notwithstanding, it is expressly understood that, with respect to any default (except the nonpayment of rent or taxes) of such a nature that it cannot, with due diligence be cured within a period of 30 days, Landlord shall not be entitled to terminate this Lease if Tenant shall have commenced the curing of such default within 30 days of receiving written notice thereof from Landlord and so long as Tenant shall thereafter proceed with all due diligence to complete the curing of such default. It being the intention hereof that in connection with any default not susceptible of being cured with due diligence within 30 days, the time of Tenant within which to cure the same shall be extended for such a period as may be necessary to do so with all due diligence.

Section 18.2 Holdover by Tenant. In the event Tenant remains in possession of the Leased Premises after the termination of this Lease, and without the execution or negotiation of a new lease and without Landlord's permission, Tenant, at the option of Landlord, shall be deemed to be occupying the Leased Premises as a tenant from month-to-month, at one and one-half times the Fixed Minimum Rent subject to all the conditions, provisions and obligations of this Lease insofar as the same are applicable to a month-to-month tenancy.

Section 18.3 Landlord's Right to Cure. Landlord may, but shall not be obligated to, cure at any time, without notice, any failure by Tenant to perform under this Lease and whenever Landlord so elects, all costs and expenses incurred by Landlord in curing such failure including, without limitation, reasonable attorney's fees, together with interest on the amount of costs and expenses so incurred at the lower of 18% per annum or the highest rate allowed by law, shall be paid by Tenant to Landlord on demand, and shall be recoverable, as additional rent, by Landlord.

ARTICLE 19. NO WAIVER

Section 19.1 Effect of Waivers of Default. No failure by Landlord to insist upon the strict performance of any covenant, agreement, term or condition of this Lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial rent during the continuance of any such breach, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No consent or waiver, express or implied, by Landlord to or of any breach of any covenant, condition or duty of Tenant shall be construed as a consent or waiver to or of any other breach of the same or any other covenant, condition or duty, unless in writing signed by Landlord.

Section 19.2 Receipt of Money. No receipt of money by Landlord from Tenant with knowledge of the breach of any covenants of this Lease, or after the

termination hereof, or after the service of any notice, or after the commencement of any suit, or after final judgment for possession of the Leased Premises, shall be deemed a waiver of such breach, nor shall it reinstate, continue or extend the term of this Lease or affect any such notice, demand or suit.

Section 19.3 Accord and Satisfaction. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly rent and additional charges herein stipulated shall be deemed to be other than on account of the earliest stipulated rent and additional charges, nor shall any endorsement or statement on any check or letter accompanying any check or payment for rent or additional charges be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent and additional charges or pursue any other remedy provided by law or in this Lease.

Section 19.4 Time. Time is of the essence as to this Lease and all notices required hereunder.

Section 19.5 No Oral Waiver. No act done or thing said by Landlord or Landlord's agents or employees shall constitute a cancellation, termination or modification of this Lease, or a waiver of any covenant, agreement or condition hereof, nor relieve Tenant from Tenant's obligation to pay the rents reserved or other charges to be paid hereunder. Any waiver or release by Landlord and any cancellation, termination or modification of this Lease must be in writing signed by Landlord.

ARTICLE 20. COSTS AND ATTORNEYS' FEES

Section 20.1 Unless otherwise provided for, if either party shall bring an action against the other party by reason of the breach of any of the terms, covenants or provisions of this Lease, or otherwise arising out of this Lease, the prevailing party in such suit shall be entitled to recover from the other party all costs, expenses and attorneys' fees expended or incurred in connection therewith. Any provisions of this Lease providing for attorneys' fees shall mean all attorneys' fees and costs, including those incurred in appeals.

ARTICLE 21. SURRENDER OF LEASED PREMISES.

Section 21.1 At the termination of this Lease, peaceably to give up and surrender the Leased premises, including all alterations and additions made by Tenant and all fixtures (excluding trade fixtures) permanently attached to the Leased premises during the Lease Term, except fixtures Landlord shall direct Tenant to remove, the Leased Premises and improvements to be in good order, repair and condition. If termination should occur by virtue of any provision of Article 18, Tenant shall additionally yield up and surrender all equipment and furnishings of every type, kind and character whatsoever located in, on or at the Leased Premises, and all such equipment and furnishings shall become the property of Landlord. Tenant shall, at the time of termination, remove its goods, effects and fixtures which Tenant is directed or permitted to remove in accordance with the provisions of this Subsection and shall make any repairs to the Leased Premises necessitated by such removal, leaving the Leased Premises clean and tenantable. Should Tenant fail to remove any of such goods, effects and fixtures, Landlord may at its option either have them removed, forcibly, if necessary, and store the same in any public warehouse at the risk of Tenant (the expense of such removal, storage and reasonable repairs necessitated by such removal shall be borne by Tenant or reimbursed by Tenant to Landlord) or deem the same to be abandoned in which case they shall without notice become the property of Landlord without payment or offset therefor. Notwithstanding anything contained in this Section, Landlord agrees that, provided Tenant is not in default,

Tenant has the right at the expiration of this Lease to remove all of its trade fixtures and equipment, including decorative light fixtures and signs, provided Tenant repairs any damage caused by such removal.

ARTICLE 22. NOTICES.

Section 22.1 Any notice from one party to the other shall be in writing and shall be deemed duly served 72 hours after deposited in the U.S. mail, certified or registered, return receipt requested, postage prepaid, addressed as follows:

If to Landlord:
Winmar Cascade, Inc.
700 Fifth Avenue, Suite 2600
P.O. Box 21545
Seattle, Washington 98111

If to Tenant:
Zanner Hubert, Inc.
d/b/a Red Robin Burger & Spirits Emporium
16000 Christensen Road, Suite 303
Building 2
Seattle, Washington 98188

or to such other address as either party may direct in writing from time to time.

ARTICLE 23. MEMORANDUM OF LEASE

Section 23.1 This Lease shall not be recorded, but upon written request of Landlord or Tenant, a Memorandum of Lease describing the Leased Premises, giving the term of this Lease, the name and address of Landlord and Tenant, and in form suitable under law as record notice of this Lease, shall be promptly executed, acknowledged and delivered by both parties. All fees and costs incurred in preparing and recording said Memorandum of Lease shall be paid for by the requesting party.

ARTICLE 24. MISCELLANEOUS

Section 24.1 Relationship of Parties. Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third person to create the relationship of principal and agent, or partnership, or joint venture, or of any association between Landlord and Tenant, and no provision contained in this Lease or any acts of the parties hereto shall be deemed to create any relationship between Landlord and Tenant other than the relationship of Landlord and Tenant.

Section 24.2 Captions. The Table of Contents for this Lease and the captions herein are for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

Section 24.3 Number and Gender. The terms "Landlord" and "Tenant" wherever used herein shall be applicable to one or more persons, as the case may be, and the singular shall include the plural and neuter shall include the masculine and feminine, and if there be more than one, the obligations hereof shall be joint and several.

Section 24.4 Rights and Remedies. The various rights, options, elections, powers and remedies contained in this Lease shall be construed as cumulative and no one of them shall be exclusive of any of the others, or of any other legal or equitable

remedy which either party might otherwise have in the event of breach or default under the terms hereof, and the exercise of one right or remedy by such party shall not impair its right to any other right or remedy until all obligations imposed upon the other party have been fully performed. If any remedy shall be judged not to be enforceable by a court of competent jurisdiction, no other remedy shall be affected thereby.

Section 24.5 Injunctive Relief. In addition to other remedies provided for in this Lease, Landlord and Tenant shall be entitled to restraint by injunction of the violation, or attempted or threatened violation, of any condition or provision of this Lease, or to a decree specifically compelling performance of any such condition or provision.

Section 24.6 No Representations by Landlord. Neither Landlord nor Landlord's agents have made any representations, warranties or promises with respect to the Leased Premises, except as herein expressly set forth.

Section 24.7 Mortgagee Amendments. Tenant shall, upon request of Landlord, deliver an executed and acknowledged instrument amending this Lease in such respects as may be required by any present or future mortgagee; provided that such amendment does not unreasonably affect any of the obligations Tenant is required to perform under the Lease or to otherwise unreasonably alter or impair Tenant's rights, duties or remedies under this Lease or require any increased rent.

Section 24.8 Effect of Unavoidable Delays. In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lock-outs, labor troubles, inability to procure materials of power, restrictive governmental laws or controls, riots, insurrection, war, military, or usurped power, sabotage, unusually severe weather, fire or other casualty or other reason (but excluding financial inability) of alike nature beyond the reasonable control of the party delayed in performing work or doing acts required under the terms of this Lease, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay.

Section 24.9 Brokerage Fee. Landlord and Tenant warrant that it has had no dealings with any broker or agent in connection with this Lease, and covenants to pay, hold harmless and indemnify each other from and against any and all cost, expense or liability for any compensation, commissions and charges claimed by any broker or agent they may have dealt with individually with respect to this Lease or negotiation thereof.

Section 24.10 Heirs and Successors. The covenants, agreements and obligations herein contained, except as herein otherwise specifically provided, shall extend to, bind and inure to the benefit of the parties hereto and their respective personal representatives, executors, administrators, heirs, successors and assigns.

Section 24.11 Certified Resolutions. If Tenant is a corporation, then contemporaneously with the execution of this Lease, Tenant shall furnish Landlord with a certified copy of resolutions adopted by the board of directors of Tenant authorizing the execution and delivery of this Lease by the undersigned officers of Tenant and all of the warranties, agreements and covenants made by the Tenant hereunder.

Section 24.12 Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State of Washington and, if any provisions of this Lease shall to any extent be invalid, the remainder of this Lease shall not be affected thereby. Tenant consents to the personal jurisdiction of the Superior Court for

the County of Skagit, State of Washington, in any legal action arising out of or related to this Lease. This consent to personal jurisdiction controls irrespective of the domicile of the Tenant or Tenant's Guarantors at the time this Lease is executed, at the time legal action is begun or at any other time.

Section 24.13 Interest. Wherever in this Lease any sum payable to Landlord is not paid when due, the same shall bear interest at the lower of 15 percent per annum, or the highest contract rate allowed by law, computed from the due date, unless otherwise specified.

Section 24.14 Title to Improvements and Surrender. All buildings and other improvements on the Leased Premises constructed and paid for by Tenant shall be and remain the sole property of Tenant during the Lease Term; provided, however, that Tenant covenants and agrees that upon Termination of this Lease, whether by forfeiture, lapse of time or otherwise, or upon the termination of Tenant's right to possession of the Leased Premises, Tenant will at once peaceably surrender and deliver up the Leased Premises pursuant to the terms of Article 21. [See Rider No. 1, attached]

ARTICLE 25. TRADE AREA

Section 25.1 The parties acknowledge that Fixed Minimum Rent was negotiated, and that self-competition by Tenant will deprive Landlord of a bargained-for consideration, and, accordingly, if Tenant shall, directly or indirectly, own, operate, manage or have an interest in any Red Robin restaurant within seven (7) miles of the Leased Premises, then Landlord may, at its option, (i) terminate this Lease by notice to Tenant, or (ii) include the Gross Sales from the other restaurant, restaurants, store or stores together with the Gross Sales herein for purposes of determining the Rent due Landlord.

ARTICLE 26. CONSTRUCTION

Section 26.1 Tenant's Construction. Tenant unconditionally warrants and represents to Landlord that it has made a full and complete physical examination of the Leased Premises and that it accepts the Leased Premises in its physical condition AS IS and WHERE IS, and without any warranty of any kind whatsoever from Landlord, except as is expressly set forth in this Lease and any Rider thereto.

26.1.1 Tenant shall, at its sole cost and expense, design and construct on the Leased Premises a one-level building not to exceed ~~twenty (20')~~ twenty-three feet (23') in height (including the top of the parapet or any screening or walls used to hide rooftop mechanical equipment), containing approximately 7,000 square feet of floor area, together with appropriate landscaping and curbing. Any modifications to existing driveways or Common Areas adjacent to the Leased Premises, as approved by Landlord, shall also be performed by Tenant at its sole cost and expense.

26.1.2 On or before six months after execution of this Lease, Tenant, at Tenant's sole cost and expense, shall cause to be prepared and delivered to Landlord for Landlord's approval two sets of preliminary plans ("preliminary plans") and one set of reproducible sepias, prepared in conformity with all federal, state and local laws, ordinances, building codes and fire regulations, and Tenant shall hold Landlord harmless from any penalty, damage or injury of any kind arising out of failure of Tenant's plans and subsequent work to so conform. Landlord shall review the preliminary plans within 30 days of submission and Landlord shall notify Tenant of the respects, if any, in which said preliminary plans fail to meet with Landlord's approval, and Tenant shall make any revisions necessary to correct such matters and

obtain Landlord's approval. Landlord's approval, which shall not be unreasonably withheld or delayed, shall be evidenced by Landlord's causing the preliminary plans to be initialed on its behalf and returned to Tenant.

26.1.3 Within 30 days after Tenant receives Landlord's approval of the preliminary plans, Tenant, at Tenant's sole cost and expense, shall cause to be prepared and delivered for Landlord's approval four sets of completed working drawings and specifications ("working drawings") and one set of reproducible sepias, prepared in conformity with the approved preliminary plans. Landlord shall notify Tenant of the respects, if any, in which said working drawings fail to conform to the approved preliminary plans and Tenant shall make any revisions necessary to correct such matters and obtain Landlord's approval. Landlord's approval, which shall not be unreasonably withheld or delayed, shall be evidenced by Landlord's causing such working drawings to be initialed on its behalf and returned to Tenant.

26.1.4 No change to the approved working drawings may be made by either party without the prior written consent of the other (which shall not be unreasonably withheld or delayed). All architectural services necessitated by a change in the approved working drawings shall be rendered by Tenant's Architect at the expense of the party requesting the change, and all construction work necessitated by any change shall be performed by Tenant at its expense.

26.1.5 Tenant shall cause Tenant's Work to commence not later than 30 days after the last to occur of: (a) the date of approval of Tenant's working drawings by Landlord, or (b) issuance of a building permit from the Building Department or (c) Landlord's written notice to Tenant that the Leased Premises will be delivered to Tenant in such condition as is reasonably required for the commencement of Tenant's Work. Tenant shall cause Tenant's Work to be completed in accordance with the approved working drawings within 150 days after the last to occur of the events set forth in (a), (b) and (c) above, and shall open the Leased Premises for business upon such completion, having theretofore, at its sole expense, completed the equipping, decoration and stocking of the Leased Premises to the extent necessary to enable it to so open for business.

Section 26.2 Termination. If Tenant fails to comply with any requirements of Article 26 and such failure is not cured within 30 days after written notice, then Landlord may, at its option, cancel and terminate this Lease on the date stated in the notice. Upon such cancellation neither party shall have any continuing liability to the other hereunder except each party shall remain responsible according to the terms and provisions of this Lease for its acts or neglects prior to such cancellation.

Section 26.3 Landscaping. By the time Tenant opens for business at the Leased Premises, Tenant shall, at its sole cost and expense, have completed the landscaping required by its approved working drawings. Throughout the term of this Lease, Landlord shall maintain such landscaping in good, neat and healthy condition, the expense of which shall be credited to the Common Area charges of the Shopping Center, excepting those items set forth in Section 6.2.

Section 26.4 Failure to Deliver. If Landlord shall be unable for any reason whatsoever to deliver the Leased Premises ready for Tenant's Work by ~~December 31, June 30, 1991~~ (as such date may be extended as a result of unavoidable delays of the type referred to in Section 24.8 or as a result of any delays caused by Tenant), either party may cancel this Lease by written notice to the other, and upon any such cancellation this Lease shall be of no further force or effect; and neither party shall have any right or claim against the other except that Landlord shall refund the Security Deposit, if any, to Tenant, without interest.

ARTICLE 27. MISCELLANEOUS

Section 27.1 Non-Competition Clause. Landlord warrants that it shall not, during the first ~~five (5)~~ twenty (20) years of the lease term, enter into any lease with another tenant at the Shopping Center, excluding any future expansion whereby the primary use would be a sit down, Class H, full service gourmet hamburger restaurant. This exclusive does not prohibit Landlord from leasing to any other sit down restaurants serving hamburgers as part of their menu or any fast food use such as McDonalds, Burger King, Wendys, Dairy Queen, Jack In The Box, Hardees, Carls Jr. or the like.

In the event Landlord violates this exclusive Tenants Fixed Minimum Rent shall be reduced to fifty percent (50%) of the then current Fixed minimum rent for any time remaining on the ~~five (5)~~ twenty (20) year exclusive. This shall be Tenants sole and exclusive remedy for Landlords violation hereof and the percentage rent breakpoint shall be calculated using actual rent paid. Provided, however, if this Lease is assigned or the Leased Premises is subleased to any entity or person other than a franchisee of Tenant then this Non-Competition Clause shall become null and void and unenforceable effective immediately upon the date of such assignment or subletting.

Section 27.2 Hazardous and Toxic Substances.

(a) Tenant represents, warrants and covenants that throughout the term of this Lease, no substances designated as, or containing components designated as, hazardous, toxic or harmful and/or subject to regulation under any federal, state or local law, regulation or ordinance ("Hazardous Substances") will be improperly generated, treated, released, stored or disposed of, or otherwise deposited in or on the Leased Premises, including without limitation the surface waters and subsurface waters thereof, no underground tanks will be located on the Leased Premises, and there will be no Hazardous Substances as herein defined or ~~hazardous conditions~~ in or on the Leased Premises which may support a claim or cause of action under any federal, state or local environmental statutes, regulations, ordinances or regulatory requirements.

(b) Tenant shall defend, indemnify, and hold Landlord harmless from all claims, liabilities, damages, costs, expenses, fees, fines and penalties (both civil and criminal) (including, but not limited to, attorneys' fees) resulting from any personal injury, property damage, water pollution, air pollution, hazardous waste combination, Hazardous Substances contamination, damage to fish or wildlife, damage to fish or wildlife habitat, damage to natural resources, or environmental harm arising out of, or in connection with Tenant's use of the Leased Premises, or occurring during the term of the Lease, except for injury, damage, pollution or contamination resulting from releases of Hazardous Substances which occur prior to the date on which Tenant first occupies takes possession of the Leased Premises or which occur subsequently due to releases of Hazardous materials Substances by Landlord or Landlord's officers, employees, agents or Landlord's independent contractors or any third party not related to or controlled by Tenant by way of employment, contract, invitation, consent or being customers. ~~Without limiting the generality of the foregoing,~~ Except as specifically modified herein, Tenant's obligations under this subsection shall extend to liability arising under common law or under any federal, state, local, or other governmental requirement.

(c) Landlord represents and warrants that, to the best of its knowledge, neither Landlord nor any other person has ever caused or permitted any Hazardous Waste to be placed, held, located or disposed of, on, under or at the Property. Hazardous Waste shall mean any material or substance which is (i) now designated as a "Hazardous Waste" pursuant to Section 6921 of RCRA (ii) now or hereafter defined as a "Hazardous Substance" pursuant to Section 101 of the Cercla, (iii) now included by the United States Department of Transportation in the table set forth in 49 CFR, (iv) now classified by the Environmental

Protection Agency as a "Hazardous Substance," or (v) now defined as a "Hazardous Substance" or a "Hazardous Waste" under RCW 70.10.010. As used in Section 27.2(c), the phrase "best of Landlord's knowledge" means the actual, present knowledge of Duane Kitna, Eddie L. Hendrikson and James Linton without investigation of any kind.

Section 27.3 Site Condition. Landlord is fully apprised as to the nature and character of the Leasehold Improvements to be placed and constructed on the Leased Premises. Landlord represents, warrants and covenants that, to the best of its knowledge and belief, the surface and subsurface conditions, including soil conditions, are suitable for the placement and construction of the Leasehold Improvements on the Leased Premises at the time of delivery at possession.

Section 27.4 No Build Zone. Landlord warrants that it shall not, without prior written approval of Tenant, during the initial term of the Lease (specifically excluding option periods) and any option periods, construct any permanent, free-standing building above ground within the "No Build Zone" established on the site abutting the Leased Premises to the north, said "No Build Zone" being shown crosshatched on the drawing attached hereto as Exhibit "C". Provided, however, Landlord shall not be prohibited from using the "No Building Zone" for roadways, parking, landscaping, road access, sidewalks, curbs, signage for the Shopping Center or signage for any future tenants, utilities or underground services to the Shopping Center or said site restaurant tract or any construction or improvement required by governmental authority. Landlord further agrees not to allow more than two buildings (without in any way limiting the size of such buildings), abutting Burlington Boulevard, one of which shall be Tenant's building.

Section 27.5 Conditions. Notwithstanding anything contained in this Lease to the contrary, it is expressly understood and agreed that Tenant shall be entitled to terminate this Lease, by written notice delivered to Landlord on or prior to the expiration of one hundred and eighty (180) days from the date of this Lease in the event any of the following conditions shall remain unsatisfied, at Tenant's sole discretion:

(a) Tenant shall have received evidence satisfactory to it that the land is or will be zoned for use as a Red Robin Burger and Spirits Emporium with related cocktail lounge;

(b) the results of a soil and engineering test, to be conducted by Tenant on the land, shall be acceptable to Tenant with regard to the nature of the improvements to be constructed thereon;

(c) Tenant shall have received evidence satisfactory to it that all utility service connections are available for hook-up at the boundaries of the land, with capacities sufficient for Tenant's intended use thereof;

(d) Tenant shall have obtained, or received evidence satisfactory to it that Tenant will be able to obtain from the appropriate governmental authorities all permits and licenses necessary for the construction and operation of the improvements;

(e) Tenant shall have obtained or received evidence satisfactory to it that Tenant will be able to obtain from the appropriate governmental authorities all permits and licenses necessary for the on premises sale and consumption of wine, beer, cocktails and other alcoholic beverages;

(f) Tenant shall have obtained a survey of the Leased Premises disclosing no easement, right of way, encroachment, conflict, protrusion or other stated facts affecting the Leased Premises which are acceptable to Tenant;

(g) Tenant shall have obtained evidence satisfactory to it of the condition of title to the land and such condition of title shall be satisfactory to Tenant; and

(h) Tenant shall have obtained approval from Red Robin International and shall have obtained appropriate financing.

It is expressly understood and agreed that Tenant shall diligently pursue the aforementioned approvals to obtain same in as short a time as possible and, if Tenant becomes aware of any disapprovals or has knowledge that one or more of the aforesaid conditions is unobtainable, Tenant shall so notify Landlord and exercise its right to terminate this Lease within twenty (20) days of such disapproval or knowledge.

IN WITNESS WHEREOF, the parties hereto have executed this Lease as of the day and year first above mentioned.

WINMAR CASCADE, INC.,
a Washington corporation

By: Eddie L. Henderson
Type Name: Eddie L. Henderson
Title: President

By: L.W. Wells
Type Name: L.W. Wells
Title: Vice-President
"Landlord"

ZANNER HUBERT, INC.,
a Washington corporation
d/b/a
RED ROBIN BURGER & SPIRITS
EMPORIUM

By: Gregory A. Hubert
Type Name: Gregory A. Hubert
Title: President

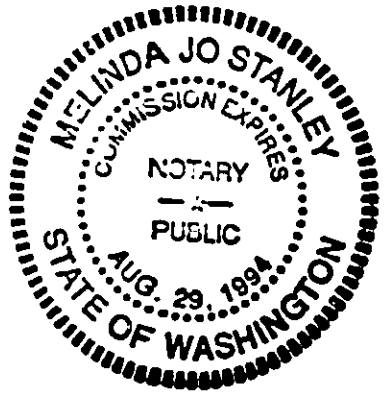
By: _____
Type Name: _____
Title: _____
"Tenant"

LANDLORD'S ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 14th day of February, 1991, before me personally appeared Eddie L. Hendikson and L.W. Wells, to me known to be the President and Vice-President, respectively, of WINMAR-CASCADE, INC., the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



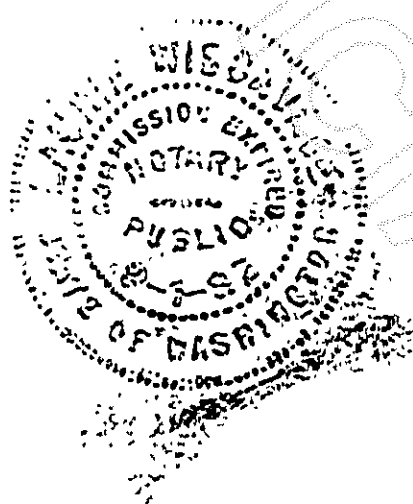
Melinda Jo Stanley
Notary Public in and for the State of Washington
residing at Kirkland
Commission expires 8/29/94

CORPORATE ACKNOWLEDGMENT

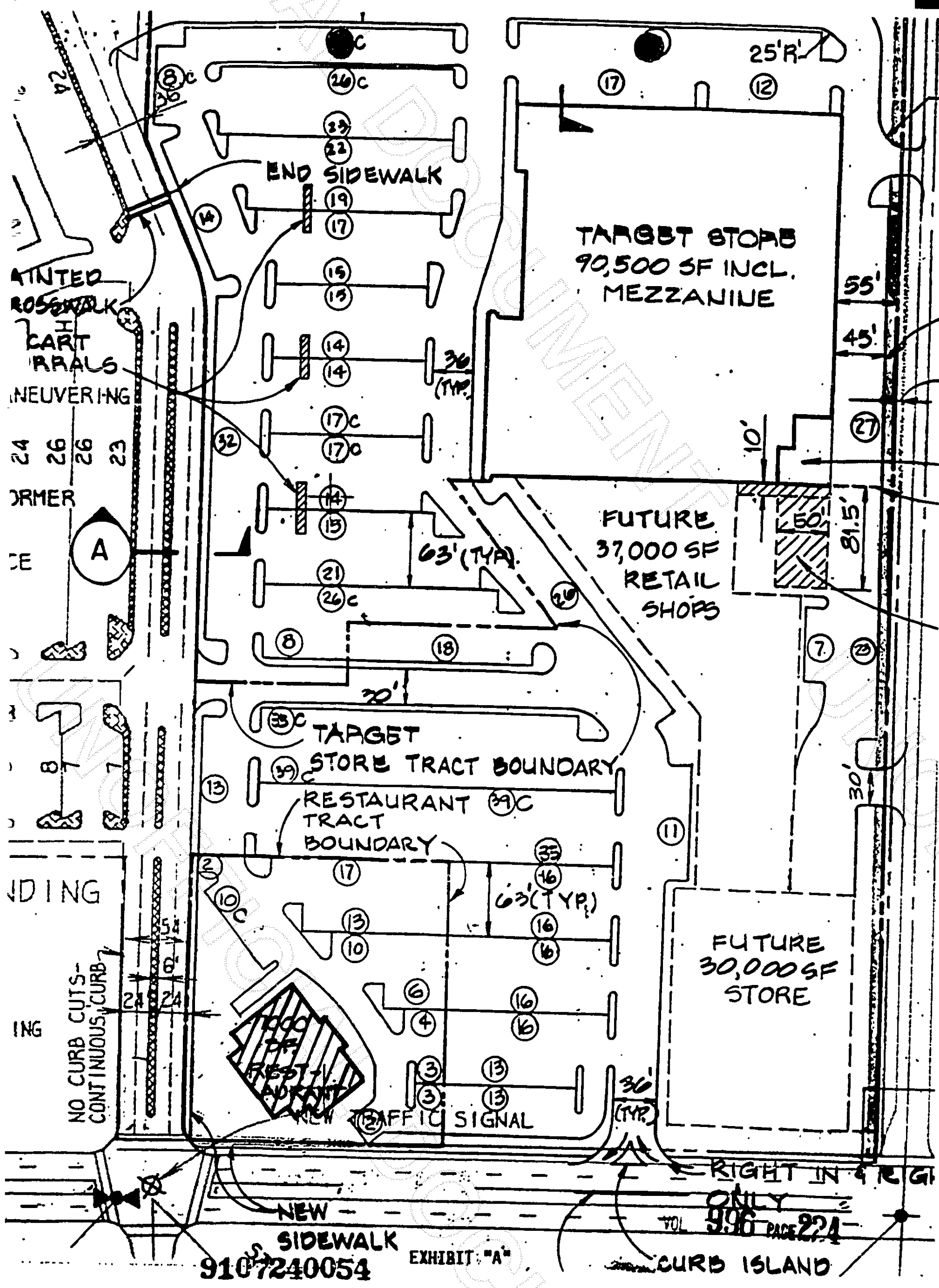
STATE OF WA)
) ss.
COUNTY OF King)

On this 6th day of February, 1991, before me personally appeared Gregory A. Oulert and _____, to me known to be the President and _____, respectively, of ZANNER HUBERT, INC., the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Laurie Wiscavage
Notary Public in and for the State of Washington
residing at Federal Way
Commission expires 9-1-92



9107240054

EXHIBIT: "A"

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CURB ISLAND

Legal Description for Winmar Cascade, Inc.
July 9, 1990

Cross Court Parcel

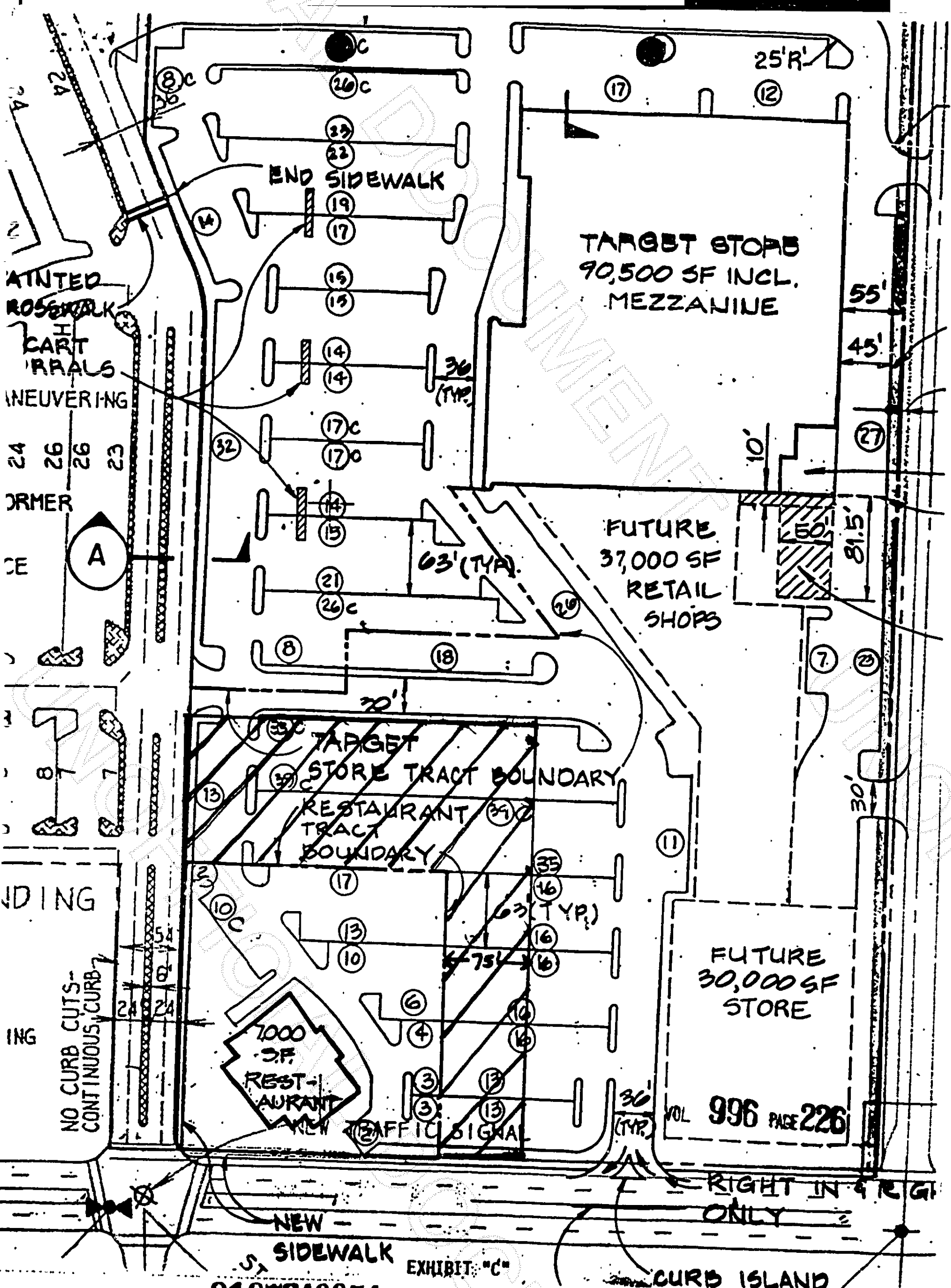
That portion of the South one-half of the Southeast one-quarter of the Northeast one-quarter of Section 6, Township 34 North, Range 4 East, W.M., being more particularly described as follows:

Commencing at the East Quarter Corner of said Section 6; thence North $0^{\circ}17'42''$ East, along the East line of said Section 6, a distance of 667.12 feet to the Northeast corner of the South one-half of the Southeast one-quarter of the Northeast one-quarter of said Section 6; thence North $88^{\circ}59'14''$ West, along the North line of said South one-half 50.01 feet to the intersection with the Westerly margin of Burlington Boulevard, said intersection being the Northeast corner of Tract 2 as shown on Boundary Line Adjustment recorded in Volume 831 of official records at pages 325 through 338, under Auditor's File No. 8907210034, records of Skagit County, Washington; thence South $0^{\circ}17'42''$ West, along the East line of said Tract 2, a distance of 604.09 feet to the beginning of a curve to the right having a radius of 29.50 feet; thence along the arc of said curve to the right, in a Southwesterly direction through a central angle of $37^{\circ}39'38''$ an arc distance of 19.39 feet; thence continue along the South line of said Tract 2, North $88^{\circ}50'37''$ West, 697.31 feet to the beginning of a curve to the left, having a radius of 125.50 feet; thence along the arc of said curve to the left, in a Southwesterly direction, through a central angle of $24^{\circ}11'39''$ an arc distance of 53.00 feet; thence continue along the South line of said Tract 2, South $66^{\circ}57'44''$ West, 111.61 feet; thence continue along the South line of said Tract 2, North $88^{\circ}50'40''$ West, 121.19 feet to the Southwest corner of said Tract 2; thence North $0^{\circ}08'10''$ East, along the West line of said Tract 2, a distance of 664.55 feet to the Northwest corner of said Tract 2; thence South $88^{\circ}59'14''$ East along the North line of said Tract 2, a distance of 992.52 feet to the POINT OF BEGINNING.

EXHIBIT B

9107240054

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9107240054 EXHIBIT "C"

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RIGHT IN & LEFT ONLY

CURB ISLAND

NEW S. SIDEWALK

7000 SF RESTAURANT

TARGET STORE 90,500 SF INCL. MEZZANINE

FUTURE 37,000 SF RETAIL SHOPS

FUTURE 30,000 SF STORE

END SIDEWALK

PAINTED ROSEWALK
CART ARRAYS
MANEUVERING

FORMER DRIVE

LOADING

NO CURB CUTS - CONTINUOUS CURB

NEW TRAFFIC SIGNAL

VOL 996 PAGE 226

RIGHT IN & LEFT ONLY

CURB ISLAND

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