

Return Address:

PERKINS COIE LLP
10885 NE Fourth Street, Suite 700
Bellevue, WA 98004-5579
Attention: Nate Veranth

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

AUG 08 2013

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

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Skagit County Auditor
8/9/2013 Page 1 of 1 \$159.00
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| Document Title(s) (or transactions contained therein): |
| Declarations Of Reciprocal Easements and Covenants |
| Reference Number(s) of Document assigned or released: |
| N/A |
| Grantor/Declarant(s) (Last name first, then first name and initial(s)): |
| 100-310 East College Way Holdings, LLC, a Maryland limited liability company |
| Grantee(s) (Last name first, then first name and initial(s)): |
| 100-310 East College Way Holdings, LLC, a Maryland limited liability company |
| Legal Description (abbreviated: i.e., lot, block, plat or section, township, range): |
| West Parcel: Lots 4, 5 & 6, City of Mount Vernon Binding Site Plan No. MV-1-93, Skagit Valley Square, recorded 9/30/1993, Book 10 Short Plats, pages 240-246, No. 9309300143; ptn of NE ¼ of SE ¼ S 18, T 34 N, R 4 E, W.M., Skagit County, WA, Skagit County, WA |
| East Parcel: Lots 1, 2, 7 and E 175' Lot 4 City of Mount Vernon Binding Site Plan No. MV-1-93 "Skagit Valley Square", recorded 9/30/1993, Book 10 Short Plats, Pages 240-246, No. 9309300143; ptn of NE ¼ of SE ¼ S 18, T 34 N, R 4 E, W.M., Skagit County, WA |
| <input checked="" type="checkbox"/> Full legals are on Exhibit A and Exhibit B of document |
| Assessor's Property Tax Parcel/Account Number(s): |
| P262284, P104614, P104935, P104612, P104625, P104610, P26287, |

**DECLARATIONS OF RECIPROCAL
EASEMENTS AND COVENANTS**

This Declaration of Reciprocal Easements and Covenants (this "**Declaration**") is made and entered into effective as of the 10 day of April, 2013 (the "**Effective Date**"), by **100-310 EAST COLLEGE WAY HOLDINGS, LLC**, a Maryland limited liability company ("**Declarant**").

RECITALS

- A. The Declarant owns the Parcels (as defined below).
- B. Declarant desires to make certain integrated uses of the Parcels.
- C. Accordingly, Declarant desires to provide (i) for the maintenance and operation of the driveways and parking areas, and (ii) for certain building restrictions within the Parcels, and in that regard to create certain rights, privileges, obligations, duties and easements.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant declares as follows:

1. Definitions. As used in this Declaration, each of the following terms shall have the indicated meaning:

1.1. "Common Areas" means those certain drives, curb cuts, roadways, and drive lanes, Driveways and Parking Areas on the Parcels which are available from time to time for the general, common, non-exclusive use, convenience and benefit of the Owners, Occupants and Permittees of the Parcels, as the same may exist from time-to-time.

1.2. "Driveways" means all driveways, thru-ways and access ways (other than drive-up window driveways, if any) located on the Parcels at the time concerned.

1.3. "West Parcel" means the real property located in the City of Mt. Vernon, Skagit County, Washington, more particularly described on Exhibit A attached hereto and incorporated herein and depicted for illustrative purposes on Exhibit C attached hereto.

1.4. "East Parcel" means the real property located in the City of Mt. Vernon, Skagit County, Washington, more particularly described on Exhibit B attached hereto and incorporated herein and depicted for illustrative purposes on Exhibit C attached hereto.

1.5. "Mortgage" means a mortgage or a deed of trust recorded in the Official Records.

1.6. "Mortgagee" means the mortgagee under a mortgage, or the beneficiary under a deed of trust, recorded in the Official Records.



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1.7. “No-Build Zone” means the area depicted in the attached Exhibit D.

1.8. “Occupant” means any person or entity from time to time entitled to the use and occupancy of any portion of the Shopping Center under an ownership right or any lease, sublease, license, concession, or other similar agreement.

1.9. “Official Records” means the official records of the Auditor of Skagit County, State of Washington.

1.10. “Owner” means the person(s) that at the time concerned are the legal owner(s) of record (in the Official Records) of a whole or undivided fee interest in any portion of any Parcel. Notwithstanding any applicable theory relating to a Mortgage, the term “Owner” shall not mean a Mortgagee unless and until such Mortgagee has acquired title to the Parcel concerned pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure.

1.11. “Parcels” means the West Parcel and the East Parcel, collectively, and “Parcel” means either the Declarant Parcel or the East Parcel, individually, where no distinction is required by the context in which such term is used.

1.12. “Parking Areas” means those areas of the Parcels constructed, designated, and maintained for parking use at the time concerned.

1.13. “Permittee” means all Occupants and the officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, subtenants, and concessionaires of Occupants insofar as their activities relate to the intended development, use and occupancy of the Shopping Center. Persons engaged in civic, public or political activities within the Shopping Center shall not be considered Permittees.

1.14. “Shopping Center” means the retail shopping center comprising the Parcels commonly known as ‘Skagit Valley Mall,’ or such other name as may be agreed to by the Owners of the Parcels.

2. Grant of Reciprocal Easements. Each Parcel (but no other real property) shall have appurtenant thereto and shall be subject to and shall be burdened by, a perpetual, non-exclusive (i) right-of-way and easement for pedestrian, bicycle, and vehicular ingress and egress (but not parking) on, over and across the Driveways, as such may exist from time to time; and (ii) easement for parking in the Parking Areas. Such right-of-way and easement shall be limited to use for such purposes and to such extent as may be customary to the use of the Shopping Center for general commercial purposes by the Owners and Occupants thereof, and their Permittees, which use shall include reasonable and customary deliveries.

3. No Interference; No-Build Zone.

3.1 Except to the extent necessary (on a temporary basis) for reasonable construction, for repair and maintenance, for traffic regulation and control or to prevent a public dedication or the accrual of any rights to the public, no fence, gate, wall, barricade or other



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obstruction, whether temporary or permanent in nature, which limits or impairs the free and unimpeded use of the Driveways or Parking Areas shall be constructed or erected, nor shall any Owner in any other manner materially obstruct or interfere with the use of the Driveways or Parking Areas by any Owner, Occupant, or Permittee. Further, no Owner shall change any Driveway or Parking Area in a manner that adversely impacts the use of one or more Parcels by any Owner, Occupant, or Permittee other than normal traffic controls.

3.2 Notwithstanding anything herein to the contrary, in no event shall there be constructed any structure within the No-Build Zone other than structures necessary or appropriate in connection with the regulation and control of parking and traffic consistent with the use of Parking Areas and Driveways for parking and ingress and egress, as applicable, and as typically practiced in quality retail shopping centers; provided that nothing herein shall prevent the installation of underground utilities in the No-Build Zone.

4. Maintenance. The Driveways and Parking Areas shall at all times be properly surfaced with asphalt, concrete or other similar material, and each Owner (at the respective Owner's sole cost and expense) shall at all times maintain or cause to be maintained that portion of the Driveways and Parking Areas located on such Owner's Parcel in a reasonably good, clean and safe condition and repair, in compliance with all applicable laws, ordinances, regulations, codes and orders of any governmental or other public authority including without limitation, any and all environmental laws (as used herein, "Applicable Laws"), and reasonably free from debris, rubbish, snow, ice and other materials.

5. Insurance.

5.1 Each Owner shall maintain, or cause to be maintained, (i) on such Owner's Parcel and improvements thereon, insurance against fire and other risks covered by all-risk (special form) commercial property insurance on a primary and non-contributory basis with limits sufficient to replace the same, the proceeds of which shall, so long as this Declaration is in effect, be used for the repair, restoration, or replacement of such Owner's Parcel and the improvements thereon; and (ii) commercial general liability insurance insuring against claims on account of lost life, bodily injury or property damage that may arise from the use or occupancy, or be occasioned by the condition, of the Common Areas situated upon its respective Parcel, or caused by such Owner, or caused by those persons for whose acts and omissions such Owner is legally liable. Each insurance policy required hereunder shall be obtained from an insurance company, or companies, qualified to do business in the State of Washington and rated A or better in A.M. Best's Insurance Guide; and each such policy of insurance shall have limits for loss of life or bodily injury in amounts of not less than \$2,000,000.00 for each person and \$2,000,000.00 for each incident or occurrence and \$2,000,000.00 for property damage for each incident or occurrence. Such insurance may be carried under a "blanket" policy or "blanket" policies covering other properties of each respective Owner. Each Owner shall, upon written request from the other party, furnish to the requesting Owner one or more certificates of insurance evidencing the existence of the insurance required above.

5.2 Notwithstanding anything herein to the contrary (unless expressly provided otherwise), each Owner hereby releases the other Owners, and the other Owners' partners, officers, directors, members, agents and employees, from any and all liability and



responsibility to the releasing party and to anyone claiming by or through it or under it, by way of subrogation or otherwise, for all claims, or demands whatsoever which arise out of damage to property, or destruction of property (including loss of business resulting therefrom) occasioned by perils which can be covered by the insurance required under. Each Owner grants this release on behalf of itself and its respective insurance companies and each Owner represents and warrants to the other Owners that it is authorized by its respective insurance company to grant the waiver of subrogation contained in this Section 5.2. This release and waiver shall be binding upon the parties whether or not insurance coverage is in force at the time of the loss or destruction of property referred to in this Section 5.2.

6. Taxes and Assessments. Each Owner shall pay all taxes, assessments, or charges of any type levied or made by any governmental body or agency with respect to its Parcel.

7. Liens. Any Owner ordering or contracting for any services, labor or materials or suffering or permitting any lien for services, labor or materials on its Parcel hereby agrees to indemnify, defend and save harmless the other Owners hereto from all loss, damage, liability, expense or claims whatsoever (including attorneys' fees and other costs of defending against the foregoing), by reason of any lien or claim for lien for such work, services or materials performed or supplied which shall be filed against any portion of the Parcels during the term of this Declaration or within any statutory periods allowed for filing a lien with respect to work, services or materials supplied or performed during the term of this Declaration. In the event any such lien is filed, the Owner so obligated shall pay and discharge the same of record or bond or indemnify against the same as promptly as possible but in no event later than twenty-five (25) days after the filing thereof.

8. Indemnification by Owners. Each Owner having rights with respect to an easement granted hereunder shall indemnify and hold the Owner whose Parcel is subject to the easement harmless from and against all claims, liabilities and expenses (including reasonable attorneys' fees) relating to accidents, injuries, loss, or damage of or to any person or property arising from the negligent, intentional or willful acts or omissions of such Owner, its contractors, employees, agents, or others acting on behalf of such Owner.

9. Remedies.

9.1 Self Help and Other Remedies. If any Owner defaults in the performance of its obligations hereunder and the default is not cured within thirty (30) days following delivery of written notice to such defaulting Owner then the non-defaulting Owner shall have the right to (i) to perform such obligation on behalf of the defaulting Owner, in which event such defaulting Owner shall reimburse such non-defaulting Owner for all amounts expended by the non-defaulting Owner on behalf of the defaulting Owner, together with interest thereon at the lesser of (a) the greater of the rate of four percent (4%) per annum above the Prime Rate or twelve percent (12%) per annum; or (b) the maximum annual rate allowed by law from the date the amounts are expended until the date repaid; and/or (ii) exercise any other rights or remedies available to the non-defaulting Owner either at law or in equity. The Parties hereby acknowledge and agree that in the event an Owner fails to perform any of its maintenance obligations hereunder (subject to any applicable notice and cure periods), the non-defaulting Owner is hereby granted a temporary maintenance easement upon the



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Common Areas of the defaulting Owner's Parcel to perform such maintenance work on behalf of the defaulting Owner. For purposes of this Section 9.1, the "Prime Rate" means the interest rate equal to the average prime rate of interest published in the Wall Street Journal (or if the Wall Street Journal ceases to publish such prime rate, then the then-prevailing prime or reference rate as publicly announced from time to time by the largest (as measured by deposits) national banking association then domiciled in the United States that announces a prime or reference rate and, if no such national banking association then announces a prime or reference rate, then a substitute interest rate reasonably acceptable to Landlord and Tenant that approximates what was the Prime Rate).

9.2 Injunctive Relief. In the event of a breach by any Owner hereto of any obligation of such Owner under this Declaration, the non-defaulting Owner shall be entitled to injunctive relief mandating compliance herewith, and shall be entitled to obtain a decree specifically enforcing the performance of the obligations created hereunder. In the event of breach hereunder, legal remedies would be inadequate and irreparable harm would be caused by the breach, and, therefore, the non-defaulting Owner shall be entitled to relief by any and all other available legal and equitable remedies from the consequences of such breach. Any costs and expenses of any such proceeding, including reasonable attorney's fees, shall be paid by the defaulting Owner.

9.1. No Waiver. No waiver of any breach of any obligation by any party hereto shall be implied from any omission by the other party to take any action with respect to such breach.

10. Duration. This Declaration and each right-of-way, easement, covenant and restriction set forth in this Declaration shall be perpetual.

11. Not a Public Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any portion of the Parcels for the general public or for any public purpose whatsoever, it being the intention of the Declarant that this Declaration be strictly limited to the purposes expressed in this Declaration.

12. Appurtenances to Parcels; Covenants Run with Land; Various Events.

12.1. Appurtenances to Parcels. Each right-of-way, easement, covenant and restriction created by this Declaration is an appurtenance to the Parcel benefited by such right-of-way, easement, covenant and restriction (but no other real property) and may not be transferred, assigned or encumbered except as an appurtenance to such Parcel. For the purposes of each such right-of-way, easement, covenant and restriction, the benefited Parcel shall constitute the dominant estate and the burdened Parcel shall constitute the servient estate.

12.2. Covenants Run with Land; Various Events.

12.2.2. Covenants Run with Land. Each right-of-way, easement, covenant and restriction contained in this Declaration (whether affirmative or negative in nature) shall (a) create an equitable servitude on the burdened Parcel in favor of the benefited Parcel (but no other real property), (b) constitute a covenant running with the land, (c) benefit and bind every



person having any fee, leasehold, Mortgage lien or other interest in any portion of the Parcel concerned, and (d) benefit and bind any Owner whose title is acquired by judicial foreclosure, trustee's sale, deed in lieu of foreclosure or other means.

12.2.3. Transfer of Parcel. If any Owner transfers all or any portion of the Parcel owned by such Owner, the transferee shall automatically be deemed to have assumed and agreed to be personally bound by the covenants of such Owner contained in this Declaration, and if the transferring Owner has by such transfer transferred all of such Owner's ownership interest in such Parcel, such transferring Owner shall be released and discharged from all obligations under this Declaration with respect to such Parcel that first arise or accrue on or after (but not before) the date of recordation in the Official Records of the instrument effecting such transfer.

12.2.3. Identical Ownership. The ownership of both Parcels by the same person(s) or entity(ies) shall not result in the termination of this Declaration.

12.2.4. Priority of Declaration. The interests in, and rights concerning any, portion of the Parcels held by or vested in Declarant or any other person on or after the date of this Declaration (including, without limitation, any Mortgage lien) shall be subject and subordinate to this Declaration, and this Declaration shall be prior and superior to such interests and rights, as may be necessary to effectuate all of the terms and provisions set forth in this Declaration. As of the date of this Declaration, Declarant is the Owner(s) of the Parcels.

12.2.5. Subdivision. If an Owner subdivides its Parcel, until such time as the resulting Owners of a subdivided Parcel have, by a written notice delivered to all of the other Owners, designated a single Owner to grant or deny any approval or consent on their behalf, whenever the consent of the Owner(s) of such Parcel is required pursuant to this Declaration, the Owner of the largest of such resulting lots or parcels, as the case may be, shall have the sole right to grant or deny the requested approval or consent on behalf of all Owners within such subdivided Parcel. If a subdivision results in equal size Parcels, then the Owner of the original Parcel so divided shall have the sole right to grant or deny the requested approval or consent on behalf of all Owners within such subdivided Parcel.

13. Mortgagee Protection. Unless and until it enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure, any Mortgagee interested under any Mortgage affecting any part of the Parcels shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, this Declaration.

14. Modification. This Declaration and any right-of-way, easement, covenant or restriction contained in this Declaration may not be terminated, extended, modified or amended without the consent of each Owner, and any such termination, extension, modification or amendment shall be effective on recordation in the Official Records of a written document effecting the same, executed and acknowledged by each Owner; provided, however, that no such termination, extension, modification or amendment shall affect the rights of any Mortgagee then holding a Mortgage constituting a lien on any Parcel unless such Mortgagee consents to the same in writing.



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15. Attorneys' Fees. If any Owner brings suit to enforce or interpret this Declaration or for damages on account of the breach of any provision of this Declaration, the substantially prevailing party shall be entitled to recover from the other party its reasonable attorneys' fees and costs incurred in any such action or in any appeal from such action, in addition to the other relief to which the prevailing party is entitled.

16. Notices. All notices, demands, statements, and requests (collectively the "notice") required or permitted to be given under this Declaration must be in writing and shall be deemed to have been properly given or served as of the date hereinafter specified: (i) on the date of personal service upon the person to whom the notice is addressed or if such person is not available the date such notice is left at the address of the Person to whom it is directed, (ii) on the date the notice is postmarked by the United States Post Office, provided it is sent prepaid, registered or certified mail, return receipt requested, and (iii) on the date the notice is delivered by a courier service (including Federal Express, Express Mail, Lone Star or similar operation) to the address of the person to whom it is directed, provided it is sent prepaid.

Each Owner shall have the right from time to time and at any time, upon at least ten (10) days' prior written notice thereof in accordance with the provisions hereof, to change its respective address and to specify any other address within the United States of America; provided, however, notwithstanding anything herein contained to the contrary, in order for the notice of address change to be effective it must actually be delivered. Refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice.

17. Governing Law; Interpretation. This Declaration shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the State of Washington. This Declaration shall inure to the benefit of, and shall be binding on, each Owner and the heirs, personal representatives, successors and assigns of each Owner. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be valid under applicable law; but, if any provision of this Declaration shall be invalid or prohibited under applicable law, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remainder of such provision or the remaining provisions of this Declaration.

18. No Third-Party Beneficiaries. This Declaration shall create no rights, responsibilities or obligations in, to or from any parties other than the Owner(s) of the Parcels.

19. Amendment. This Declaration may be canceled, changed, modified or amended, in whole or in part, only by the written and recorded agreement of the Owner(s) of the Parcels. Except as expressly provided in this section, in no event shall any amendment of this Declaration ever require the consent or joinder of any one or more of the Occupants or Permittees of the Parcels.

20. Estoppel Certificate. At any time, and from time to time (but not more often than once every calendar quarter), within twenty-one (21) calendar days after notice or request by an Owner, the other Owner(s), at no cost to the requesting Owner and, if applicable, such requesting



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Owner's lender and/or a prospective lender or purchaser (and such purchaser's lender) with respect to the requesting Owner's Parcel, shall execute and deliver to such requesting Owner a statement certifying: (a) that this Declaration is unmodified and is in full force and effect (or if there have been modifications, certifying that this Declaration is in full force and effect as modified in the manner specified in such statement); (b) that there exists no default under this Declaration except as otherwise specified in such statement; and (c) to such other matters relating to this Declaration as may reasonably be requested by the requesting Owner.

[Signature Page Follows]



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8/9/2013 Page

9 of

16 10:16AM

IN WITNESS WHEREOF, the Declarant has executed this Declaration as of the date first set forth above.

DECLARANT:

100-310 East College Way Holdings, LLC, a Maryland limited liability company

By: U.S. Bank National Association, as Trustee, successor-in-interest to Bank of America, N.A. as Trustee, successor to Wells Fargo Bank, N.A., as Trustee for the Registered Holders of Wachovia Bank Commercial Mortgage Trust, Commercial Mortgage Pass-through Certificates, Series 2006-C25 (the "Trust")

By: CWCapital Asset Management LLC, a Massachusetts limited liability company, solely in its capacity as Special Servicer to the Trust

By: *Michael C. Miller*
Name: Michael C. Miller
Its: Vice President - Senior Asset Manager

State of California)

County of ORANGE)

On April 10, 2013 before me, Alicia Wunderlich, a Notary Public, personally appeared Michael C. Miller, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Alicia Nicole Wunderlich* (Seal)

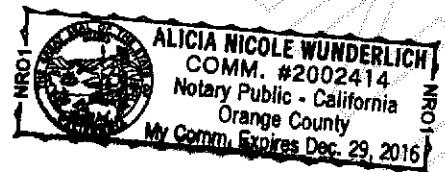


EXHIBIT A
LEGAL DESCRIPTION OF THE WEST PARCEL

Lots 4, 5, and 6, City of Mount Vernon Binding Site Plan No. MV-1-93, entitled Skagit Valley Square, approved September 29, 1993, recorded September 30, 1993 in Book 10 of Short Plats, pages 240-246, inclusive, under Auditor's File No. 9309300143 and being a portion of the Northeast 1/4 of the Southeast 1/4 of Section 18, Township 34 North, Range 4 East, W.M.;

EXCEPT that portion of the East 175 feet of said Lot 4 lying north of the South 50 feet, and south of the North 40 feet, thereof;

AND ALSO EXCEPT from all of the above those portions conveyed to the City of Mount Vernon, a municipal corporation, by deed recorded as Auditor's File No. 200804150168.

All being a portion of the Northeast 1/4 of the Southeast 1/4 of Section 18, Township 34 North, Range 4 East, W.M., Skagit County, Washington.



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Skagit County Auditor

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8/9/2013 Page

11 of

16 10:16AM

**EXHIBIT B
LEGAL DESCRIPTION OF THE EAST PARCEL**

Lots 1, 2, 7, and the East 175 feet of Lot 4 "City of Mount Vernon Binding Site Plan No. MV-1-93 entitled "Skagit Valley Square" approved September 29, 1993 and recorded September 30, 1993 in Book 10 of Short Plats, Pages 240-246, inclusive as Auditor's File No. 9309300143;

EXCEPT from said East 175 feet of Lot 4 the South 50 feet thereof and the North 40 feet thereof;

AND ALSO EXCEPT from all of the above those portions conveyed to the City of Mount Vernon, a municipal corporation, by deed recorded as Auditor's File No. 200804150168;

All being a portion of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 18, Township 34 North, Range 4 East, W.M., Skagit County, Washington.



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Skagit County Auditor

8/9/2013 Page

12 of

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**EXHIBIT C
DEPICTION OF THE WEST PARCEL AND EAST PARCEL**

[See attached]

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8/9/2013 Page

13 of

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**EXHIBIT D
DEPICTION OF THE NO-BUILD ZONE**

[See attached]

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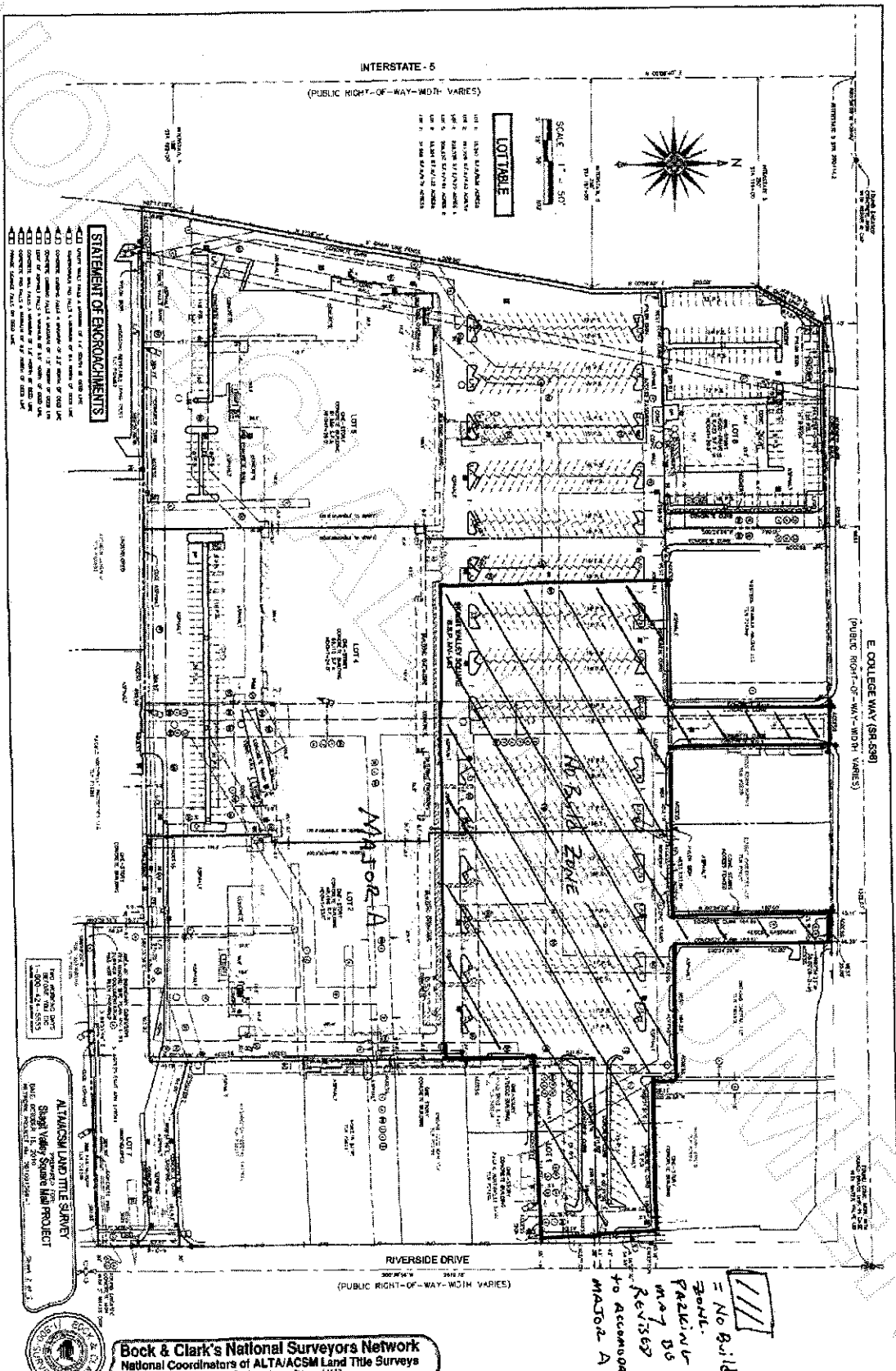
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8/9/2013 Page

16 of

16 10:18AM

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Bock & Clark's National Surveyors Network
 National Coordinators of ALTA/ACSM Land Title Surveys
 537 North Cleveland-Mastodon Road Avon, Ohio 44017
 Phone: (203) 329-2222 Fax: (203) 329-2222 www.bocland.com

NO BUILD
 ZONE
 PALMING
 M-7 B5
 REV 7/3/67
 TO ACCOMMODATE
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