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FORSYTH CO. NC FEE \$26.00
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 C. NORMAN HOLLEMAN
 REGISTER OF DEEDS
 BY: S. GRIFFITH
 DPTY

BK: RE 3191

PG: 1581 - 1593

DECLARATION OF SIGN EASEMENT

THIS DECLARATION OF SIGN EASEMENT (this "**Easement**"), dated August 7, 2014, is made by **PAVILION WINSTON-SALEM, LLC**, a North Carolina limited liability company ("**Pavilion**"), **J. TRACY WILKERSON** and **PAUL B. GLENN** (collectively, the "**Trustees**"), co-trustees of the E. Vernon Ferrell, Jr. Revocable Trust, dated December 21, 2011, and **DOUGLAS DILLARD** ("**Dillard**," and together with the Trustees, collectively, "**Seller**"). Pavilion and Seller are collectively hereinafter referred to as the "**Declarants**".

RECITALS

A. Seller is the owner of Anchor Parcel C (as defined below), Outparcel 1 (as defined below), Outparcel 2 (as defined below), Outparcel 3 (as defined below), and Outparcel 5 (as defined below) (collectively, the "**Seller Property**") as reflected on that certain subdivision plat (the "**Plat**") entitled "Final Subdivision Plat For: Pavilion Winston-Salem," prepared by Stantec Consulting Services Inc., dated May 16, 2014, and recorded in Plat Book 62, Pages 104-106 in the Registry (as defined below).

B. Pavilion is the owner of "Parcel A," "Parcel B," and "Outparcel 4" as described on the Plat (collectively, the "**Pavilion Property**"). Pursuant to a contract by and between Pavilion and Seller evidenced by that certain Memorandum of Purchase and Sale Agreement recorded contemporaneously with this Declaration, Pavilion intends to acquire the Seller Property prior to December 31, 2014.

C. Pavilion intends to develop the Pavilion Property and the Seller Property (collectively, the "**Shopping Center**") for commercial development.

D. As shown on the Plat, the Shopping Center has been subdivided into eight (8) parcels, including "Parcel B" (3.424 acres) ("**Anchor Parcel B**") and "Parcel C" (4.972 acres) ("**Anchor Parcel C**") identified on a site plan of the Shopping Center attached hereto as Exhibit A (the "**Site Plan**").

E. The Declarants desire that the various parcels comprising the Shopping Center be developed in conjunction with one another as an integrated commercial development in accordance with that certain Declaration of Easements and Restrictions executed by the Declarants dated as of the date hereof and recorded in Book 3191, Page 1450 of the Registry immediately prior to this Easement (the "**Declaration**"). Anchor Parcel B and Anchor Parcel C are subject to the terms of the Declaration. Any

Drawn By and Return To:

Robinson, Bradshaw & Hinson, P.A.
 Attention: William K. Packard
 101 N. Tryon Street, Suite 1900
 Charlotte, NC 28246

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Submitted electronically by "Wyatt Early Harris Wheeler LLP"
 in compliance with North Carolina statutes governing recordable documents
 and the terms of the submitter agreement with the Forsyth County Register of Deeds.

capitalized term used but not defined in this Easement shall have the meaning given that term in the Declaration.

F. Pursuant to the Declaration, Anchor Parcel B and Anchor Parcel C are to share the Shared Sign (as defined below) in the area located on Anchor Parcel C as reflected in the Site Plan (the “Shared Sign Area”).

G. The Declarants are executing and recording this Easement to establish the rights and obligations of the Owners of Anchor Parcel B and Anchor Parcel C with respect to the construction, maintenance and costs of the Shared Sign.

STATEMENT OF AGREEMENT

NOW, THEREFORE, the Declarants, by this Easement, hereby declare that Anchor Parcel B and Anchor Parcel C are and shall be held, transferred, sold, conveyed and occupied subject to the terms and conditions in this Easement.

1. **Definitions.** In addition to capitalized terms defined elsewhere in this Easement, the following terms shall have the following meanings for purposes of this Easement:

(a) **“Applicable Law”** shall mean all governmental laws, codes, rules, regulations and ordinances applicable to the Parcels or the matters described herein, including, without limitation, the SUP.

(b) **“Occupant”** shall mean and refer to any Person in possession of a Parcel, including Owners, and tenants and subtenants of Owners.

(c) **“Owner”** shall mean any record owner of fee simple title to any Parcel, excluding any Mortgagee (in which event the grantor shall remain the Owner). Notwithstanding the foregoing, (a) if a Parcel is owned by more than one person or entity as tenants in common, those parties shall designate one person or entity to act as **“Owner”** of that Parcel for purposes of this Easement; absent such a designation, the owner of the largest undivided interest shall be deemed the **“Owner”** of that Parcel; and (b) in a deed of conveyance executed in connection with a sale/leaseback transaction, the grantor/lessee may specify that it remains an **“Owner”** for purposes of this Easement, and that designation shall be binding upon all other Owners so long as such grantor/lessee, or its successor or assignee, retains a leasehold interest in its Parcel.

(d) **“Parcel”** shall mean any portion of Anchor Parcel B or Anchor Parcel C which has been properly subdivided for any purpose, including conveyancing or ground leasing, or for real property tax purposes. As of the date of recording of this Easement, the Parcels are as shown on the Plat and the Site Plan, but the term **“Parcel”** shall, in the future, also refer to any smaller Parcels into which the Parcels shown on the Plat may be legally subdivided, or any Parcels into which one or more Parcels may be recombined.

(e) **“Person”** shall mean any natural person, corporation, partnership, trust or other legal or commercial entity, or any combination thereof.

(f) **“Registry”** shall mean the Office of the Register of Deeds for Forsyth County, North Carolina.

(g) **“Reimbursement Percentage”** shall mean either (a) twenty percent (20%), with respect to the Owner of Anchor Parcel B or (b) eighty percent (80%), with respect to the Owner of Anchor Parcel C. The Reimbursement Percentage is intended to reflect the proportionate share of each Owner’s share of the total sign panel area permitted on the Shared Sign.

(h) **“Reimbursement Trigger”** shall mean the earlier of the following dates with respect to the Non-Constructing Party’s Parcel: (i) the date that the Non-Constructing Party (or its contractor, affiliate or agent) is issued a permit to construct vertical improvements on the Parcel owned by the Non-Constructing Party or (ii) the date that any sign panel is installed on the Shared Sign advertising an Occupant on the Parcel owned by the Non-Constructing Party.

(i) **“Shared Sign”** shall mean that certain multi-tenant, pylon sign constructed to the maximum height and sign panel area permitted under Applicable Law and otherwise constructed and designed in accordance with this Easement, the Declaration and Applicable Law.

(j) **“SUP”** shall mean that certain Special Use District Permit issued by the City of Winston-Salem (Zoning Docket W-3204; Ordinance Z-2706), as the same may be amended, supplemented, replaced or restated from time to time, which encumbers the Shopping Center.

2. **Temporary Sign Construction Easement.** The Owner of either Anchor Parcel B or Anchor Parcel C shall have the right to construct the Shared Sign. The Owner that constructs the Shared Sign (the **“Constructing Party”**) shall send written notification (the **“Construction Notice”**) to the other Owner (the **“Non-Constructing Party”**) not less than thirty (30) days prior to the commencement of construction of the Shared Sign. If the Owner sending the Construction Notice fails to commence construction of the Shared Sign within sixty (60) days after delivery of the Construction Notice, such Construction Notice shall be void, and the Owner of either Parcel may become the Constructing Party by following the procedures of the preceding sentence.

Provided that the Owner of Anchor Parcel B is the Constructing Party and subject to the terms and conditions of this Easement, the Owner of Anchor Parcel C hereby grants to the Owner of Anchor Parcel B, for the benefit of Anchor Parcel B, the right to enter over, under, upon and across Anchor Parcel C for the limited purpose of constructing the Shared Sign (the **“Construction Easement”**). The Construction Easement shall terminate automatically upon the completion of construction of the Shared Sign in accordance with the terms and requirements of this Easement, the Declaration and Applicable Law.

If the Owner of Anchor Parcel B is the Constructing Party, the Owner of Anchor Parcel B shall (a) indemnify, defend and hold harmless the Owner of Anchor Parcel C from and against any and all claims (including for bodily injury and death), damages, losses and expenses of any kind (including without limitation court costs and reasonable attorney’s fees) which may arise out of its exercise of the Construction Easement rights under this Section 2, including any claims, fines, liens, damages or penalties arising from its failure to comply with the requirements of this Easement, the Declaration or Applicable Law, (b) repair any damage to Anchor Parcel C resulting from the exercise of the Construction Easement rights, and (c) maintain or cause all of its contractors and agents working on Anchor Parcel C to maintain adequate commercial general liability insurance in an amount not less than \$1,000,000.00 per occurrence with respect to activities related to the Construction Easement, specifically include contractual coverage with respect to the indemnity obligations set forth in this Easement.

Each Owner agrees to reasonably coordinate the construction of the Shared Sign. Further, each Owner agrees that, if a Constructing Party has previously commenced construction of the Shared Sign, then it shall provide the Constructing Party with a reasonable opportunity to complete construction of the

Shared Sign before seeking to commence, conduct and/or complete (as applicable) the construction of the Shared Sign.

3. **Grant of Sign Panel Easement.** The Owner of Anchor Parcel C hereby grants and conveys to the Owner of Anchor Parcel B, for the benefit of Anchor Parcel B and the Occupants thereof, a perpetual easement to affix, maintain, repair and replace a sign panel on the face of the Shared Sign on the terms and conditions set forth in this Declaration and the right to enter those portions of Anchor Parcel C reasonably necessary to reach the Shared Sign (the “**Panel Easement**”). The sign panel area for the Occupant of Anchor Parcel C shall be the top eighty percent (80%) of the Shared Sign (the “**Anchor Parcel C Panel**”), which Panel may be divided into multiple panels in compliance with the Declaration and Applicable Law. The sign panel area for the Occupant of Anchor Parcel B (the “**Anchor Parcel B Panel**”) shall be the lowest twenty percent (20%) of the Shared Sign and shall be for the benefit of a single Occupant of Anchor Parcel B. The signs installed on the Anchor Parcel C Panel and the Anchor Parcel B Panel shall each comply with the terms and conditions of this Easement, the Declaration and Applicable Law.

Notwithstanding the size of the Anchor Parcel C Panel and the Anchor Parcel B Panel described in the preceding paragraph, the Constructing Party shall have the right to utilize all of the panel area permitted on the Shared Sign (the “**Temporary Panel Rights**”) if the Parcel owned by the Non-Constructing Party has not been developed at the time the Shared Sign is constructed. The Temporary Panel Rights shall expire thirty (30) days after the Non-Constructing Party (or its successor Owner) delivers written notice to the then Owner of the Constructing Party’s Parcel that it has obtained permits to construct vertical improvements on the Non-Constructing Party’s Parcel (the “**Temporary Panel Rights Expiration Date**”). If the Constructing Party exercises the Temporary Panel Rights, the Constructing Party shall (a) remove any sign panels from any portions of the Shared Sign granted for the use of the Owner of the Non-Constructing Party’s Parcel prior to the Temporary Panel Rights Expiration Date, (b) be responsible for all of the costs associated with the construction, installation and removal of any sign panels in connection with the exercise of the Temporary Panel Rights, (c) indemnify, defend and hold harmless the Owner of the Non-Constructing Party’s Parcel from and against any and all claims (including for bodily injury and death), damages, losses and expenses of any kind (including without limitation court costs and reasonable attorney’s fees) which may arise out of its exercise of the Temporary Panel Rights under this Section 3, including any claims, fines, liens, damages or penalties arising from its failure to comply with the requirements of this Easement, the Declaration or Applicable Law, and (d) repair any damage to Shared Sign resulting from the exercise of the Temporary Panel Rights.

4. **Construction Cost Reimbursement.** The Constructing Party shall initially be responsible for payment of all costs associated with the design, permitting, engineering and constructing of the Shared Sign, which shall include, but are not limited to, all architectural and engineering fees and expenses, contractor and construction manager costs and fees, and all permits and taxes (collectively, the “**Construction Costs**”).

Notwithstanding anything herein to the contrary and provided that Constructing Party has completed construction of the Shared Sign in substantial compliance with the requirements of this Easement, the Declaration and Applicable Law, the Non-Constructing Party shall reimburse the Constructing Party for the Reimbursement Percentage portion of the Construction Costs (the “**Reimbursement**”) within thirty (30) days after the Reimbursement Trigger. The Owner of the Non-Constructing Party shall provide the Constructing Party with at least fifteen (15) days prior written notice of any anticipated fulfillment of the Reimbursement Trigger. If a Reimbursement Trigger occurs prior to the date that the Constructing Party completes construction of the Shared Sign, then the Reimbursement shall be due within thirty (30) days after the Constructing Party’s delivery of the Completion Materials described below. Notwithstanding any terms herein to the contrary, the right to receive the

Reimbursement shall be personal to the Constructing Party and not run with title to the Parcel owned by the Constructing Party.

The Constructing Party shall provide to the Non-Constructing Party, within thirty (30) days after it completes construction of the Shared Sign: (i) a written statement of the Construction Costs, together with a calculation of the amount of the Reimbursement; (ii) invoices and proof of payment for the Construction Costs; (iii) a certificate of substantial completion or similar certificate from the Constructing Party's general contractor or affidavit with respect to the Shared Sign; and (iv) if the Owner of Anchor Parcel B is the Constructing Party, all appropriate lien waivers from all contractors and design professionals involved in the installation of the Shared Sign (collectively, the "**Completion Materials**").

5. **General Standards for Construction of Shared Sign.** The Constructing Party shall comply with this Easement, the Declaration and Applicable Law in connection with the construction of the Shared Sign, and shall be responsible for obtaining the requisite approvals and permits for the construction work from the City of Winston-Salem and any other appropriate governmental authorities. The Non-Constructing Party shall not have any approval rights over the design of the Shared Sign, provided that the Shared Sign is constructed to the maximum height and sign panel area permitted under Applicable Law and the Constructing Owner provides a sign panel for the benefit of the Non-Constructing Party's Parcel in accordance with Section 3 above.

6. **Alterations to Sign and Anchor Parcel C.** Any material modifications to the structure of the Shared Sign, including but not limited to any increase in the height or overall size of the Sign, shall be subject to the prior written consent of the Owner of each Parcel, not to be unreasonably withheld or delayed; provided, however, that such consent shall not be required for the installation, modification or replacement of any identification panels on the Sign. The Owner of Anchor Parcel C agrees not to construct any vertical improvements or install any landscaping on Anchor Parcel C that materially reduces visibility of the Shared Sign from Hanes Mall Boulevard.

7. **Maintenance of Shared Sign.** Subject to the provisions of the next sentence, the Owner of Anchor Parcel C shall be responsible for maintaining the Shared Sign in first class condition and repair (other than the Anchor Parcel B Panel, which shall be the responsibility of the Owner of Anchor Parcel B), and for paying all real estate taxes, insurance premiums, utility bills and other reasonable expenses relating to the operation and maintenance of the Shared Sign (the "**Sign Costs**"). Notwithstanding the foregoing, if the Owner of Anchor Parcel B constructs the Shared Sign, the Owner of Anchor Parcel B shall be responsible for maintaining the Shared Sign in first class condition and repair, and for paying all the Sign Costs until such times as the Owner of Anchor Parcel C installs a sign panel on the Shared Sign.

8. **Sharing of Sign Costs.** The Owner of Anchor Parcel B shall pay to the Owner of Anchor Parcel C (or any Occupant of Anchor Parcel C obligated to incur the Sign Costs pursuant to a lease or other occupancy agreement) its Reimbursement Percentage of the documented Sign Costs. The Owner of Anchor Parcel C (or any Occupant of Anchor Parcel C obligated to incur the Sign Costs pursuant to a lease or other occupancy agreement) may bill the Owner of Anchor Parcel B on a quarterly or annual basis for Sign Costs, which bill shall include reasonable evidencing such Sign Costs, and the Owner of Anchor Parcel B shall be required to pay such invoice within thirty (30) days of receipt of such invoice and evidence.

9. **Casualty and Condemnation.**

(a) If the Shared Sign is damaged or destroyed by fire, windstorm, or other casualty, the Owner of Anchor Parcel C shall rebuild and restore the Shared Sign to (i) substantially the same condition as existed prior to such casualty or (ii) if Applicable Law will not permit

reconstruction to substantially the same condition, as architecturally close as possible to the Shared Sign in existence prior to such casualty and maximizing the amount of signage permitted under Applicable Law. The Owner of Anchor Parcel C agrees to complete such reconstruction as soon as commercially reasonable, but in no event later than ninety (90) days after the casualty.

(b) If rebuilding of the Shared Sign following any casualty damage is not allowed in the same location under then Applicable Law or if the Shared Sign is required to be removed as a result of a condemnation or by the act of any governmental authority, then the Owner of Anchor Parcel C shall notify the Owner of Anchor Parcel B of its inability to rebuild and restore the Shared Sign. In such event, the Owner of Anchor Parcel C and the Owner of Anchor Parcel B shall use commercially good faith efforts to agree upon the relocation of the Shared Sign; provided, however, if the Shared Sign cannot legally be rebuilt on Anchor Parcel C, that the Panel Easement shall be terminated and thereafter be null and void. Upon agreement of the location for the new Shared Sign, the Owner of Anchor Parcel C agrees to complete such reconstruction as soon as commercially reasonable, but in no event later than ninety (90) days after the parties have agreed upon the relocation.

10. **Remedies for Breach.** The terms and conditions of this Easement shall be enforceable only by the Owners or any ground lessees of the Parcels, by actions for specific performance or injunction, in addition to any other remedies available at law. No breach of the provisions of this Easement shall entitle any Owner to cancel, rescind or otherwise terminate this Easement, but the foregoing limitations shall not affect any other rights or remedies which such Owner may have under this Easement for such breach.

11. **Liens.** If any lien is filed against the Parcel of the Non-Constructing Party for work or materials claimed to have been furnished to the Constructing Party in connection with construction of the Shared Sign, the Constructing Party shall cause it to be discharged of record within thirty (30) days of the date such lien is filed. Furthermore, the Constructing Party shall indemnify, defend, and save the Owner of the Non-Constructing Parcel harmless from and against any damage or loss, including reasonable attorneys' fees, incurred by the Owner of the Non-Constructing Party as a result of any liens or other claims arising out of the construction of the Shared Sign by the Constructing Party, except and unless such liens or claims arise as a result of the acts or omissions of the Non-Constructing Party.

12. **Notices.** All notices or elections required or permitted to be given or served on either party shall be deemed given or served in accordance with the provisions of this Easement if the notice is deposited in the United States mail, registered or certified mail, return receipt requested, postage prepaid, or is deposited with an overnight delivery service (e.g., Federal Express, etc.), delivery receipt requested, delivery charges prepaid, properly addressed to the address of the applicable Owner set forth in the records of the Forsyth County Tax Assessor.

13. **Enforcement.** Any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, easements, liens and charges now or hereafter imposed by the provisions of this Easement. Failure by any such party to enforce any covenant or restriction contained in this Easement shall not be deemed a waiver of the right to do so thereafter.

14. **Amendment.** This Easement may be amended only by a written agreement executed by all Owners of fee simple title to all or any portion of the Parcels, and properly recorded in the Registry.

15. **Binding Effect.** It is understood that this Easement is a covenant running with title to the Parcels and each Parcel thereof, and that this Easement, and the rights granted and created hereby, shall be binding upon and inure to the benefit of all assignees, transferees, and assigns of the Owners, and any

other party that may hereafter acquire any right in and to all or any part of the Parcels. In particular, the easement rights created hereby shall inure to the benefit of each party, and their respective successors, assigns, tenants and invitees. Any person or entity foreclosing any such deed of trust, lien or encumbrance and any persons or entities acquiring title to, or an interest in, any part of the Property as a result thereof shall acquire and hold title expressly subject to the provisions of this Easement.

16. **Private Agreement.** This Easement shall not be construed to grant any rights to the public in general.

17. **No Partnership.** The provisions of this Easement are not intended to create, and shall not be interpreted to create, a joint venture, a partnership or any similar relationship between the Owners.

18. **Counterparts.** This Easement may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

19. **Miscellaneous.** This Easement has been entered into, and shall be construed in accordance with, the laws of the State of North Carolina. This Easement sets forth the entire agreement of the parties with respect to the matters set forth herein, and supersedes any prior written or oral understandings between the parties with respect to those matters. Any party to this Easement may record this Easement in the Registry.

[signatures on following page]

IN WITNESS WHEREOF, the Declarants have executed this Easement as of the day and year first above written.

PAVILION WINSTON-SALEM, LLC, a North Carolina limited liability company

By: Pavilion Management Company, a North Carolina corporation, its sole manager

By: 

Name: **Thomas Gauch**

Title: **Vice President**

STATE OF NORTH CAROLINA

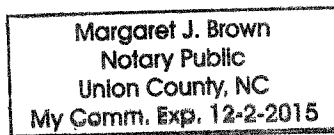
COUNTY OF MECKLENBURG

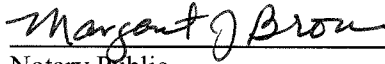
I certify that the following person(s) personally appeared before me this day, each acknowledging to me that the he or she voluntarily signed the foregoing document:

THOMAS GAUCH

(insert name(s) of those signing)

Witness my hand and official stamp or seal this 5 day of AUGUST, 2014.





Notary Public

MARGARET J BROWN

Notary's printed or typed name

[Note: Notary Public must sign exactly as on notary seal]

My Commission Expires: 12-2-2015

[NOTARY SEAL] (MUST BE FULLY LEGIBLE)

STATE OF NORTH CAROLINACOUNTY OF FORSYTH

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document:

J. Tracy Wilkerson*(insert name(s) of those signing)*

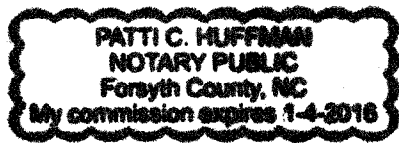
WITNESS my hand and official seal or stamp this 30th day of July, 2014.

Patti C. Huffman

Notary Public

Patti C. Huffman

Notary's printed or typed name

[Note: Notary Public must sign exactly as on notary seal]My Commission Expires: 1-4-2016

[NOTARY SEAL] (MUST BE FULLY LEGIBLE)

IN WITNESS WHEREOF, the Declarants have executed this Easement as of the day and year first above written.

Paul B. Glenn

PAUL B. GLENN, as Co-Trustee of the E. Vernon Ferrell, Jr. Revocable Trust dated December 21, 2011

STATE OF NORTH CAROLINA

COUNTY OF FORSYTH

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that the he or she voluntarily signed the foregoing document:

Paul B. Glenn

(insert name(s) of those signing)

Witness my hand and official stamp or seal this 30th day of July, 2014.

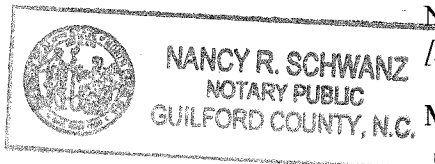
Nancy R. Schwanz
Notary Public

Nancy R. Schwanz

Notary's printed or typed name

[Note: Notary Public must sign exactly as on notary seal]

My Commission Expires: 4/1/2017



[NOTARY SEAL] (MUST BE FULLY LEGIBLE)

IN WITNESS WHEREOF, the Declarants have executed this Easement as of the day and year first above written.


DOUGLAS DILLARD

STATE OF NORTH CAROLINA

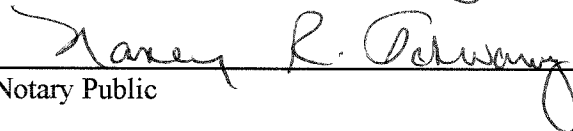
COUNTY OF FORSYTH

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that the he or she voluntarily signed the foregoing document:

Douglas Dillard

(insert name(s) of those signing)

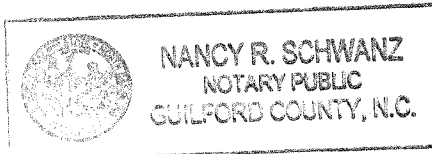
Witness my hand and official stamp or seal this 30th day of July, 2014.


Notary Public

Nancy R. Schwanz
Notary's printed or typed name

[Note: Notary Public must sign exactly as on notary seal]

My Commission Expires: 4/1/2017



[NOTARY SEAL] (MUST BE FULLY LEGIBLE)

EXHIBIT A

SITE PLAN

[TO BE ATTACHED]

THIS MAP IS NOT A CERTIFIED SURVEY
AND HAS NOT BEEN REVIEWED BY A LOCAL
GOVERNMENT AGENCY FOR COMPLIANCE
WITH ANY APPLICABLE LAND DEVELOPMENT
REGULATIONS.

EXHIBIT A

