



2006230575

**FIRST AMENDMENT  
TO  
DECLARATION OF RESTRICTIONS AND EASEMENTS REGARDING OUTLOTS**

This FIRST AMENDMENT TO DECLARATION OF RESTRICTIONS AND EASEMENTS REGARDING OUTLOTS is made and executed this 31st day of October, 2006 (this "First Amendment"), by STREETS OF TORINGDON, LLC, an Ohio limited liability company ("Developer").

WITNESSETH:

WHEREAS, Developer executed that certain "Declaration of Restrictions and Easements Regarding Outlots" dated June 21, 2005 (the "Declaration"); and

WHEREAS, the Declaration was filed for record in the Mecklenburg County, North Carolina Recorder of Deeds Office on June 22, 2005 at Book 18920, Pages 294 – 325; and

WHEREAS, pursuant to Section 14.12 of the Declaration, Developer, as the "Approving Party", has the right to amend the Declaration without the joinder or consent of any User; and

WHEREAS, Developer has further subdivided the Developer Parcel by creating new Lots "J" and "K", as such Lots are depicted on the subdivision plat filed at Map Book 46, Pages 835, 837 and 839, Recorder's Office, Mecklenburg County, North Carolina, and Developer now desires to amend the Declaration for the purpose of, inter alia, adding said Lots "J" and "K" as "Outlots" under the Declaration;

NOW, THEREFORE, Developer hereby amends the Declaration as follows (capitalized terms not defined herein shall have the meaning attributed to them in the Declaration):

1. The "Developer Parcel", as such term is used in the Declaration, shall now refer to that property depicted as such on Exhibit A-1 to this First Amendment and legally described on Exhibit B-1 to this First Amendment. Exhibit A and Exhibit B to the Declaration are hereby deleted in their entirety, and Exhibit A-1 and Exhibit B-1 to this First Amendment are hereby inserted in lieu thereof.

2. The term "Outlots" as used in the Declaration shall now refer to all of Outlots B, E, F, G, H, J and K, as shown on Exhibit A-1 to this First Amendment and legally described on Exhibit C-1 to this First Amendment.

3. Exhibit B to the Declaration is hereby deleted in its entirety, and Exhibit B-1 to this First Amendment is hereby inserted in lieu thereof.

4. Exhibit C to the Declaration is hereby deleted in its entirety, and Exhibit C-1 to this First Amendment is hereby inserted in lieu thereof.

5. Except for: (i) Section 2.3(g) of the Declaration; and (ii) the provisions of Section 7 of this First Amendment, all terms, covenants, conditions and provisions of the Declaration which apply to Outlot E and Outlot H shall also apply to Outlot J and Outlot K.

*Drawn by e-mail after recording to:  
David Steidlauer  
150 East Broad St, Suite 800  
Columbus, OH 43215*

6. The reference to "Outlots E, F, G and H" in the first sentence of Section 2.4 of the Declaration is hereby modified to read "Outlots E, F, G, H, J and K".

7. The first paragraph of Section 5.2(d) of the Declaration is hereby modified in its entirety to read as follows:

"The Common Area Maintenance Costs and the Administration Fee shall be allocated as follows:

(i)	Outlot B	17.5%
(ii)	Outlot E	10.0%
(iii)	Outlot F	10.0%
(iv)	Outlot G	10.0%
(v)	Outlot H	10.0%
(vi)	Outlot J	10.0%
(vii)	Outlot K	10.0%

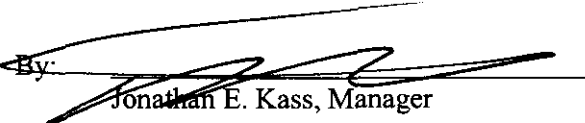
8. The Declaration shall be amended in no other manner except as expressly set forth herein. As so amended, the Declaration is hereby confirmed and ratified by Developer.

IN WITNESS WHEREOF, Developer has caused this First Amendment to be executed as of the date first written above.

DEVELOPER:

STREETS OF TORINGDON, LLC,  
an Ohio limited liability company


By: Continental/Streets of Toringdon, LLC,  
an Ohio limited liability company, its Manager

By:   
Jonathan E. Kass, Manager

STATE OF OHIO

COUNTY OF FRANKLIN, SS:

The foregoing instrument was acknowledged before me this 31st day of October, 2006 by Jonathan E. Kass, Manager of Continental/Streets of Toringdon, LLC, an Ohio limited liability company and Manager of Streets of Toringdon, LLC, an Ohio limited liability company, for and on behalf of the company.

  
\_\_\_\_\_  
Notary Public

My commission expires: N/A



**DAVID SHEIDLLOWER**  
Attorney at Law  
Notary Public, State of Ohio  
My Commission Has No Expiration  
Section 147.03 R.C.

Prepared by, and after recording return to:

David Sheidlower, Attorney-at-Law  
150 E. Broad Street, Suite 800  
Columbus, Ohio 43215

**EXHIBIT A-1**

**Site Plan**

**(see attached drawing)**

EXHIBIT A-1

SITE PLAN, STREETS OF TORINGDON

"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"

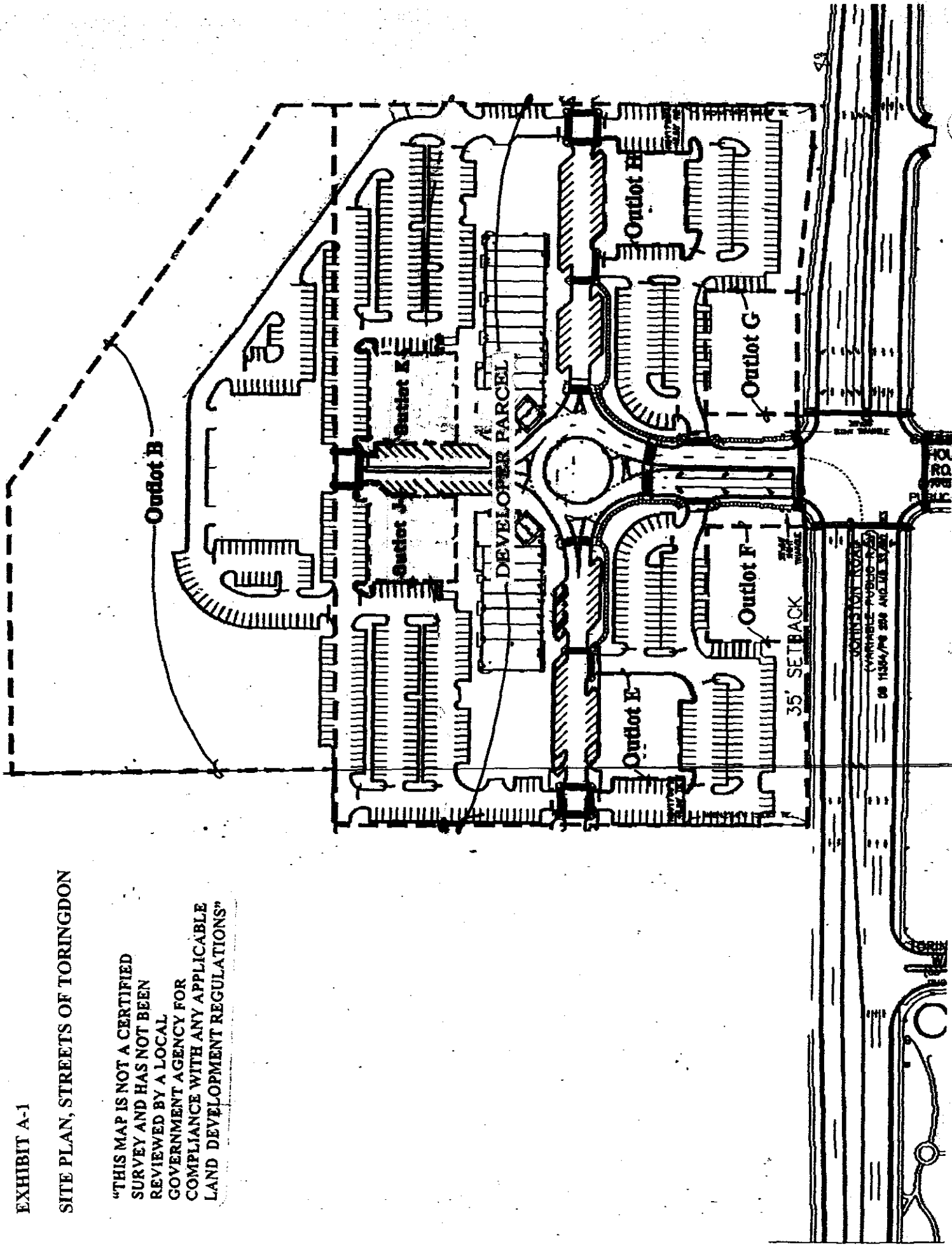


EXHIBIT B-1

Legal Description of Developer Parcel

Being all of Lot C, as such lot is delineated on that certain plat of record in Map Book 44, Page 197, Office of Registrar of Deeds for Mecklenburg County, North Carolina.

LESS AND EXCEPTING THEREFROM THE FOLLOWING:

Being all of Lots J and K of a Plat titled "Subdivision of the Streets of Toringdon, Phase 1, Map 3 Lot J and K, City of Charlotte, County of Mecklenburg, North Carolina" recorded in the Office of the Register of Deeds in Map Book 46, Pages 835, 837 and 839.

EXHIBIT C-1

Legal Description of Outlots

1. Being all of Lots B, E, F, G and H, as such lots are delineated on that certain plat of record in Map Book 43, Page 607, Office of Registrar of Deeds for Mecklenburg County, North Carolina.
2. Being all of Lots J and K, as such lots are delineated on that certain plat of record in Map Book 46, Pages 835, 837 and 839, Office of Registrar of Deeds for Mecklenburg County, North Carolina.

SUBORDINATION OF DEED OF TRUST

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, NATIONAL CITY BANK, a national banking association ("Beneficiary"), does hereby subordinate the lien and operation of that certain Deed of Trust, Assignment of Leases and Rents and Security Agreement from STREETS OF TORINGDON, LLC, an Ohio limited liability company ("Grantor") to Beneficiary recorded on June 21, 2005 in Book 18920, page 326, Mecklenburg County Registry, North Carolina, as modified (the "Subordinated Deed of Trust") to the operation of the foregoing First Amendment to Declaration of Restrictions and Easements Regarding Outlots ("Amendment") to which this Subordination of Deed of Trust is attached, in the same manner and to the same extent as if the Amendment had been executed, delivered and filed for record prior to the execution, delivery and filing for record of the Subordinated Deed of Trust.

Given under my hand this 30 day of October, 2006.

BENEFICIARY:

NATIONAL CITY BANK,  
a national banking association

By: Michael C. Dodge  
Michael C. Dodge,  
Assistant Vice President

STATE OF OHIO            )  
  ) ss:  
COUNTY OF FRANKLIN    )

Subscribed, sworn to and acknowledged before me by Michael C. Dodge, the Assistant Vice President of NATIONAL CITY BANK, a national banking association, on behalf of the association this 30<sup>th</sup> day of October, 2006.



Susan M. Fisk  
Notary Public, State of Ohio  
My Commission Expires 01-09-2010

Susan M. Fisk [SEAL]  
Notary Public  
My commission expires: 1-9-2010

This instrument prepared by: David K. Conrad, Esq., Bricker & Eckler LLP, 100 S. Third Street, Columbus, Ohio 43215





JUDITH A. GIBSON  
REGISTER OF DEEDS, MECKLENBURG  
COUNTY & COURTS OFFICE BUILDING  
720 EAST FOURTH STREET  
CHARLOTTE, NC 28202

## PLEASE RETAIN YELLOW TRAILER PAGE

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and/or cancellation.

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Filed For Registration: 11/03/2006 03:09 PM  
Book: RE 21316 Page: 554-562  
Document No.: 2006230575  
RESTR 9 PGS \$35.00  
NS: \$25.00  
Recorder: TERESITA BYRUM

A NS (non standard) fee is in accordance with NC G.S. 161-10 (a) (18b)



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