



**THE TOWN OF HILTON HEAD ISLAND  
SPECIAL TOWN COUNCIL MEETING  
AUGUST 21, 2018, 9:00 A.M.  
BENJAMIN M. RACUSIN COUNCIL CHAMBERS  
AGENDA**

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As a courtesy to others please turn off/silence ALL mobile devices during the meeting. Thank you.

- 1. Call to Order**
- 2. FOIA Compliance:** Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.
- 3. Executive Session**
  - a. Legal Advice:** Receipt of legal advice related to pending, threatened, or potential claim related to the property located at 407 William Hilton Parkway.
- 4. Unfinished Business**
  - a. Consideration of a Request for a curb cut at 407 William Hilton Parkway.**
- 5. Adjournment**



# **TOWN OF HILTON HEAD ISLAND**

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## *Community Development Department*

**TO:** Stephen G. Riley, ICMA~CM, *Town Manager*  
**VIA:** Shawn Colin, AICP, *Deputy Director of Community Development*  
**FROM:** Teri B. Lewis, AICP, *LMO Official*  
**CC:** Charles Cousins, AICP, *Director of Community Development*  
**DATE:** August 2, 2018  
**SUBJECT:** Curb Cut at 407 William Hilton Parkway

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### **Request:**

Walter Nester, on behalf of the property owner, requests written permission from the Town for a curb cut through the buffer onto William Hilton Parkway as required in Article III, Paragraph 6, Subparagraph a of the Covenants, Easements, Conditions and Restrictions for Block A, Phase I, Northridge Park.

### **Summary:**

The applicant, on behalf of the owner of 407 William Hilton Parkway, submitted a Development Plan Review (DPR) application on December 19, 2016 with the intent of constructing a Dollar General store. The application contains a question that asks if there are any recorded covenants and/or restrictions that are contrary to, conflict with, or prohibit the proposed request. The applicant selected 'No' in answer to this question (see Attachment A). During the DPR process, the applicant requested and was granted a waiver to permit a curb cut onto William Hilton Parkway. The Town's Traffic and Transportation Engineer and the SCDOT both supported the curb cut onto William Hilton Parkway with the condition that a right turn deceleration lane be provided. The waiver was required because the subject property did not meet the 500' separation requirement from the nearest existing streets (see Attachment B). Land Management Ordinance (LMO) Section 16-5-105.I.8 provides the LMO Official with the authority to grant a waiver from the separation requirements; however, staff cannot knowingly violate recorded covenants. Staff was not aware at the time that there were covenants and restrictions on the property that require a 50' natural and landscaped buffer along the William Hilton Parkway frontage and that curb cuts are not permitted in this buffer without the written consent of the declarant, in this case Town Council. The DPR was approved on August 18, 2017 and the building permit was issued on April 27, 2018. The project is expected to be complete within thirty days.

### **Background:**

The Town acquired the Northridge Tract in 1992. As part of this acquisition, the Town became holder of covenants, easements, conditions and restrictions for Block A, Phase I, Northridge Park (see Attachment C). These covenants apply to several parcels in Northridge Park as indicated by the associated recorded plat (see Attachment D).

**Subject: Curb Cut at 407 William Hilton Parkway**

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*Date: August 2, 2018*

*Page 2*

**Attachments:**

- A. DPR Application
- B. Separation Distance Illustration
- C. Declaration of Covenants, Easements, Conditions and Restrictions for Block A, Phase I, Northridge Park
- D. Plat of Block A, Phase I, Northridge Park
- E. Request from Owner of 407 William Hilton Parkway



Town of Hilton Head Island  
Community Development Department  
One Town Center Court  
Hilton Head Island, SC 29928  
Phone: 843-341-4757 Fax: 843-842-8908  
[www.hiltonheadislandsc.gov](http://www.hiltonheadislandsc.gov)

## FOR OFFICIAL USE ONLY

Date Received: \_\_\_\_\_  
Accepted by: \_\_\_\_\_  
Project Mgr: \_\_\_\_\_  
App. #: DPR \_\_\_\_\_  
Fees: \_\_\_\_\_

APPLICATION PACKET FOR  
MAJOR SITE DEVELOPMENT PLAN REVIEW (DPR)

Project Name: Dollar General Store - Hilton Head Project Address: 407 William Hilton Pkwy.  
Parcel Number [PIN]: R 5 1 0 0 0 8 0 0 0 0 2 6 2 0 0 0 0 Project Acreage: 1.5  
Zoning District: LC - Light Commercial Overlay District(s): \_\_\_\_\_

Applicant/Agent Name: Eric Hoover, PE Company: Ward Edwards, Inc.  
Mailing Address: PO Box 381 City: Bluffton State: SC Zip: 29910  
Telephone: 843-837-5250 Fax: \_\_\_\_\_ E-mail: ehoover@wardedwards.com  
Business License # \_\_\_\_\_  
Land Owner Name: JR LEX2 LLC Telephone #: 803-359-9545  
Address: 955 Old Cherokee Rd, Lexington, SC 29072 Email: Alex Ulmer,

alexulmer24@gmail.com

Are there recorded private covenants and/or restrictions that are contrary to, conflict with, or prohibit the proposed request? If so, a copy of the private covenants and/or restrictions must be submitted with this application.  YES  NO

**Fees and Forms:** Please see [www.hiltonheadislandsc.gov](http://www.hiltonheadislandsc.gov) for all application fees and forms. The Town accepts cash or check made Payable to Town of Hilton Head Island. Credit cards are accepted as payment for some items.

**Instructions:** A Staff Project Manager will be assigned to you to assist in processing this application and to be your only Point of Contact throughout the entire project. This Project Manager will also inform you of any boards that require review of the application, and will assist in determining which of the requirements of this application apply to the project. Additional items must be submitted at the end of construction to obtain a Final Inspection for the Certificate of Occupancy or final sign off.

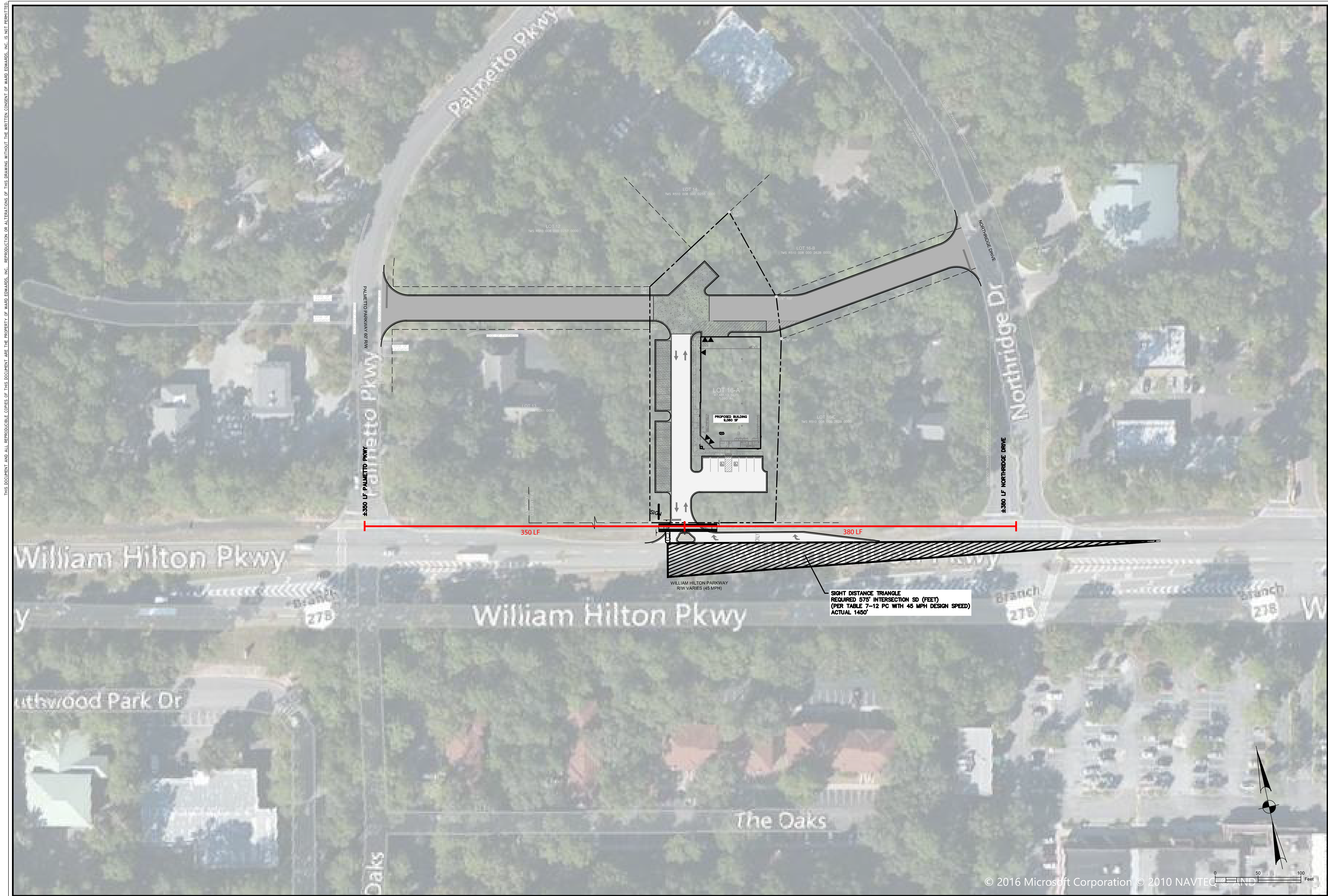
Prior to submittal for a permit, an optional **Pre-Application Meeting** is highly recommended. At this meeting, you may provide very general, conceptual ideas to Town Staff to better assist you in submitting items for site development or building permitting. Your Project Manager can assist you with this process.

Application is hereby made to perform work on the site and accompanying features, and I am authorized to submit this application. To the best of my knowledge, the information on this application and all additional documentation is true, factual, and complete. I hereby agree to abide by all conditions of any approvals granted by the Town of Hilton Head Island. I understand that such conditions shall apply to the subject property only and are a right or obligation transferable by sale. I understand that failure to abide by this approval, any conditions, and all codes adopted by the Town of Hilton Head Island deems me subject to enforcement action and/or fines.

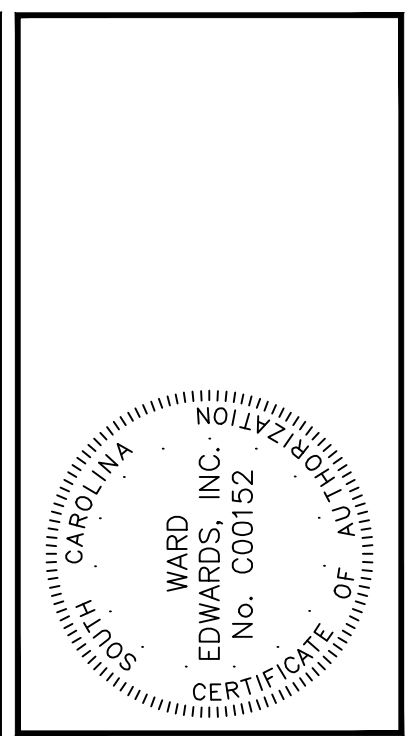
I further understand that in the event of a State of Emergency due to a Disaster, the review and approval times set forth in the Land Management Ordinance may be suspended.

Print Name Eric L. Hoover, PE Agent Signature: 





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NO.	DESCRIPTION	DATE
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**Ward Edwards**  
ENGINEERING  
P.O. BOX 381, BLUFFTON, SOUTH CAROLINA 29910  
PH (803) 837-5350 / FAX (843) 837-2536  
WWW.WARDEDWARDS.COM

**DOLLAR GENERAL**  
BEAUFORT COUNTY, SOUTH CAROLINA  
**GARY STANFIELD & JR LEX 2, LLC**  
TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA  
**SCDOT SIGHT DISTANCE EXHIBIT**

NOT FOR CONSTRUCTION  
 RELEASED FOR CONSTRUCTION

PROJECT #: 160222  
DATE: 09/20/16  
DESIGNED BY: ELH  
CHECKED BY: GAB  
SCALE: 1"=30'

**SHEET EX.01**

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

} DECLARATION OF COVENANTS,  
EASEMENTS, CONDITIONS AND  
RESTRICTIONS FOR  
BLOCK A, PHASE I, NORTHRIDGE PARK

930

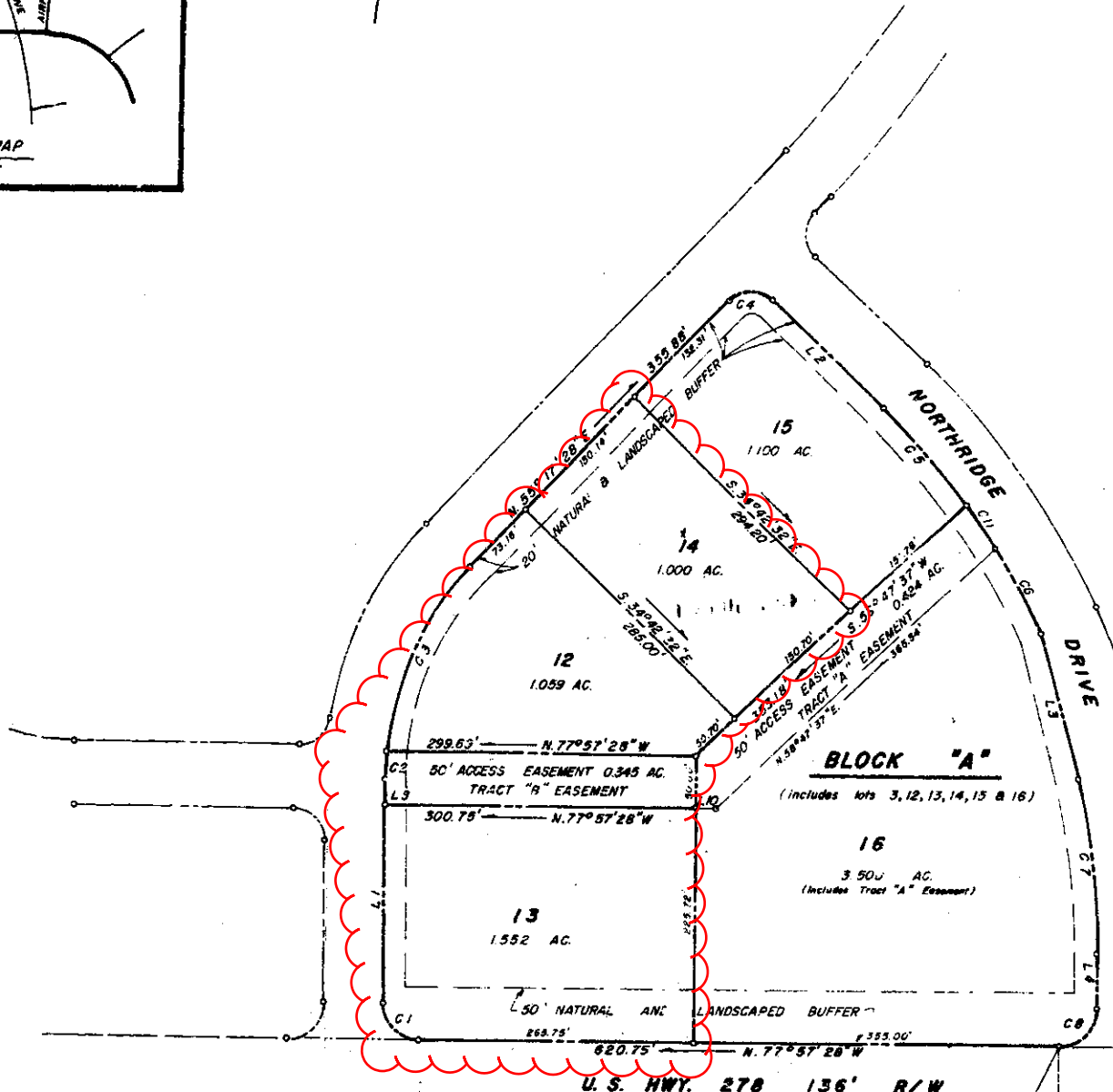
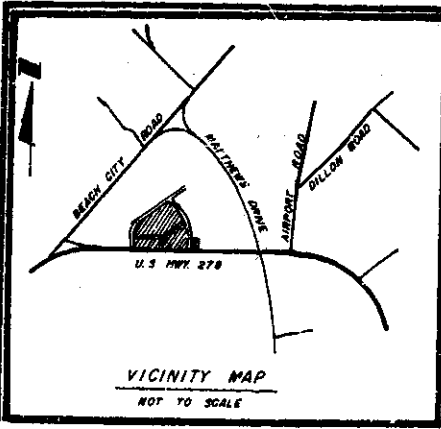
WHEREAS, THE HILTON HEAD COMPANY, INC., a Delaware corporation (hereinafter referred to as "Company"), is the owner of those certain tracts of land located on Hilton Head Island, Beaufort County, South Carolina, being Parcels 3, 12, 13, 14, 15 and 16, Block A, Phase I of Northridge Park, all as more particularly described on that certain plat of survey entitled "Block A, Northridge Park" dated July 22, 1982, and last revised November 5, 1982, and prepared by Jerry L. Richardson, South Carolina Registered Land Surveyor No. 4784, and recorded in the Office of the Clerk of Court of Beaufort County, South Carolina in Plat Book 31 at Page 16, which plat is incorporated herein by this reference (hereinafter "Block A"); and

WHEREAS, for the purpose of enhancing and protecting the value, attractiveness and desirability of Block A and any property as may by subsequent amendment be added to and subjected to this Declaration, the Company hereby declares that said property and each part thereof shall be held, sold, devised and conveyed subject to the following easements, covenants, conditions and restrictions which shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in said property or any part thereof, the heirs, executors, administrators, successors and assigns and shall inure to the benefit of each owner thereof.

JONES &  
MCKEITHEN, P. A.  
145 OFFICE PARK ROAD  
P. O. DRAWER 6067  
HILTON HEAD ISLAND,  
SC 29928



31/16



**NOTES:**

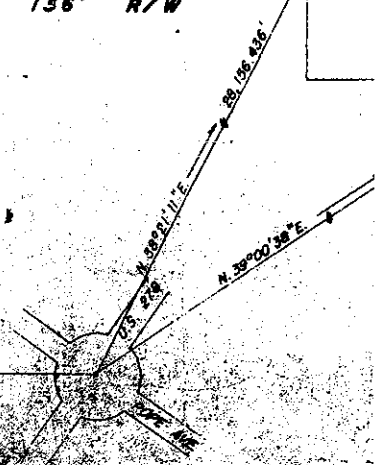
1. I CERTIFY THAT THIS PLAT IS A CORRECT REPRESENTATION OF THE LAND PLATTED AND HAS BEEN PREPARED IN CONFORMITY WITH THE MINIMUM STANDARDS AND REQUIREMENTS OF LAW.
2. I CERTIFY THAT ANGLES, BEARINGS AND MEASUREMENTS OF COURSE AND DISTANCES AND MONUMENT LOCATIONS ARE CORRECT AS SHOWN AND HAS BEEN PROVED BY LAND SURVEY.
3. I HEREBY CERTIFY THAT THE RATIO OF PRECISION IS 1/10,000 AS SHOWN HEREON AND THE AREA WAS DETERMINED BY THE D.M.D. METHOD OF AREA CALCULATION.
4. ALL COORDINATES BASED ON SOUTH CAROLINA COORDINATE SYSTEM, SOUTH ZONE.
5. THIS PROPERTY LIES IN A FEDERAL FLOOD ZONE.

RYAN L. RICHARDSON

S.C. REG. L.S. NO. 4724

POINT OF COMMENCING

CONTROL MONUMENT  
SEA PINES CHURCH  
N 71° 23' 54" E  
2.2' 00" 138.74'



The Town of Hilton Head Island  
Beaufort County, South Carolina

**Reference Number:** DPR-2177-2016

**Name of Development:** Dollar General Store

**Property/Location:** 407 William Hilton Parkway, Hilton Head Island, SC 29926

**Applicant/Agent:** Alex Ulmer, JR LEX2, LLC  
955 Old Cherokee Road  
Lexington, SC 29072  
Email: [alexulmer24@gmail.com](mailto:alexulmer24@gmail.com)

**Date:** August 2, 2018

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**Applicant Statement:**

This statement and request is submitted by and on behalf of JR LEX2, LLC to the Town of Hilton Head Island (the “**Town**”) Town Council in response to correspondence dated July 20, 2018 from Ms. Teri Lewis, the Town LMO Official, enclosed herewith as Exhibit 1 (the “**Stop Work Notice**”).

As a preliminary matter, to the extent that: (a) the Declaration of Covenants, Easements, Conditions and Restrictions for Block A, Phase I, Northridge Park recorded in the ROD in Book 359 at Page 930 (the “**Declaration**”) (see Exhibit 2) applies to the property which is the subject of the above-referenced DPR (the “**Property**”); and (b) the Town was assigned the rights of the Hilton Head Company reserved (the “**Declarant Rights**”) set forth in the Declaration, we assert that the Town has already approved a waiver of the buffer requirement described in Section 6 of the Declaration.

Further, assuming the Town is Declarant under the Declaration its right to require the buffer fronting US 278 has been waived by failing to require strict conformance in the past.

**Request:**

Notwithstanding the statements above and without prejudice to the Applicant’s position in reliance on its permits, the Applicant hereby submits this statement requesting a waiver to the buffer requirements set forth in Section 6 of the Declaration.

**Buffer:**

The Declaration provides in Section 6 thereof for a fifty foot buffer along the northwest property line of each parcel adjacent to US 278 which states, “except..., or with the written consent of the [Declarant], no improvements shall be permitted thereon... . Except with the written consent of the [Declarant], no structures of any kind shall be erected or placed within the aforesaid buffer, and no roads, pathways or curb cuts shall be permitted therein.”(emphasis added). A waiver is therefore appropriate. This Section 6 clearly contemplates the approval of structures, roads,



pathways and curb cuts since the buffer restriction was *twice* qualified with the right of the Declarant to approve the same.

**Waiver:**

We are unaware of any process or procedure whereby the Town is asked to act in its capacity as the Declarant. There are numerous restrictions in the Declaration including water use restriction in Section 3, the parcel coverage condition in Section 4, and building height restriction in Section 5. What is the process to obtain Town action with respect to its rights as Declarant? We suggest there are none and the Town has not so acted and that is justifiably so because the Town has its own permitting process which is likely more structured and stringent and up-to-date than those rights as Declarant. Given that those rights and controls are exercised together or as one in the same – we believe that the Town has already issued its written approval for the exceptions to the buffer by issuing the permits associated with the DPR. Further, we believe that the Applicant has the right to assume that the staff had the approval to approve and issue the permits – and if waiver from the buffer requirements was needed that staff, in approving and issuing the permits had the authority to waive the requirements of the Declaration.

Further, inspection of other lots subject to the Declaration fronting US 278 reveals existing monument signs and lighting. Further, the Town has constructed a bike path through the buffer. We are uncertain if any of these structures or the path were approved by the Town (other than through the applicable permitting process under applicable Town ordinances). That is, were these structures approved by the Town acting specifically in its capacity as the Declarant? We do not believe that there was such specific separate approval but instead the Town followed its own development standards. Accordingly, the legal argument exists that the Town has waived its Declarant rights relative to the buffer.

**Check The Box Requirement:**

With respect to the required disclosure in the application, as noted in the staff's pre-application plans correction report, Section 6-29-1145 of the South Carolina Code of Laws and Section 16-1-106.B of the Town's Land Management Ordinance ("LMO"), both attached as Exhibit 3 and Exhibit 4, required an applicant to state *whether the tract or parcel of land is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the permitted activity.* Unfortunately, "permitted activity" is not defined in State law or the LMO. We contend that the statement "permitted activity" would refer to the use of the property generally and not some other more specific matter – i.e. the size and existence of buffers or faucet water flow.

We contend that Section 6-29-1145 is simply not clear. Typically where restrictive covenants exist they are governed or managed by an HOA and or ARB – which has a separate review process. Those do not exist here. Is it reasonable to expect that the applicant (here through an engineer) was aware that restrictive covenants existed which are *contrary to, conflicts with, or prohibits the permitted activity* when the permitted activity reasonably can be stated as the development of the Property for a retail store? We contend that indeed development of a retail store was the permitted activity.

**Harm:**

The impact and harm caused by the Stop Work Notice cannot be understated. The concrete curbing was scheduled to be poured last week. The Applicant is not the end user, the Dollar General Store is. The Applicant has a binding contract to perform and deliver the developed site within a specific time period. That specific time period expires in approximately 30 days and thereafter significant financial penalties are imposed for each day the store is not delivered *as permitted*. The curb cut was a requirement of that agreement and not only the Town but also the SCDOT approved the curb cut prior to the Applicant's agreement with Dollar General.

# TOWN OF HILTON HEAD ISLAND

One Town Center Court, Hilton Head Island, S.C. 29928

(843) 341-4600 Fax (843) 842-7728

www.hiltonheadislandsc.gov

David Bennett  
Mayor

Kim W. Likins  
Mayor ProTem

Council Members

David Ames  
Marc A. Grant  
William D. Harkins  
Thomas W. Lennox  
John J. McCann

Stephen G. Riley  
Town Manager

Via certified mail and e-mail to [tcates@svrealty.com](mailto:tcates@svrealty.com)

July 20, 2018

Mr. Tony Cates  
Sales and Development Associate  
Southern Visions Real Estate  
955 Old Cherokee Road  
Lexington, SC 29072

Re: 407 William Hilton Parkway – Dollar General Store [DPR-2177-2016]

Dear Mr. Cates:

As we discussed this afternoon, I became aware this week that there are covenants on the subject property that prohibit a curb cut onto William Hilton Parkway and require a 50' natural and landscaped buffer from William Hilton Parkway (see attached covenants and reference plat). The Town is the holder of the referenced covenants on the Dollar General property.

The site plans for the subject site indicate both a curb cut onto William Hilton Parkway and a 35' buffer along William Hilton Parkway. I acknowledge that Town staff approved the site plan for this site and issued a waiver to allow a curb cut on William Hilton Parkway; however, at the time of those actions staff was unaware of the covenants on the property. As part of the Development Plan Review (DPR) process, an application is required to be submitted. The DPR application requires the applicant to indicate whether or not there are covenants on the property that are contrary to, conflict with, or prohibit the proposed request. As you can see on the attached application, the applicant checked 'No'.

At this time I am advising you that the curb cut onto William Hilton Parkway and the reduced landscaped buffer along William Hilton Parkway are in violation of the covenants and as such, the Town cannot allow permit any site work in these two areas to continue until such time that the issue with the covenants is resolved.

Please contact me at (843) 341-4698 or [teril@hiltonheadislandsc.gov](mailto:teril@hiltonheadislandsc.gov) to discuss this issue in greater detail

Sincerely,



Teri B. Lewis  
LMO Official

cc: DPR-2177-2016  
Gregg Alford, Town Attorney

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

} DECLARATION OF COVENANTS,  
} EASEMENTS, CONDITIONS AND  
} RESTRICTIONS FOR  
BLOCK A, PHASE I, NORTHRIDGE PARK

359 930

WHEREAS, THE HILTON HEAD COMPANY, INC., a Delaware corporation (hereinafter referred to as "Company"), is the owner of those certain tracts of land located on Hilton Head Island, Beaufort County, South Carolina, being Parcels 3, 12, 13, 14, 15 and 16, Block A, Phase I of Northridge Park, all as more particularly described on that certain plat of survey entitled "Block A, Northridge Park" dated July 22, 1982, and last revised November 5, 1982, and prepared by Jerry L. Richardson, South Carolina Registered Land Surveyor No. 4784, and recorded in the Office of the Clerk of Court of Beaufort County, South Carolina in Plat Book 31 at Page 16, which plat is incorporated herein by this reference (hereinafter "Block A"); and

WHEREAS, for the purpose of enhancing and protecting the value, attractiveness and desirability of Block A and any property as may by subsequent amendment be added to and subjected to this Declaration, the Company hereby declares that said property and each part thereof shall be held, sold, devised and conveyed subject to the following easements, covenants, conditions and restrictions which shall constitute covenants running with the land and shall be binding on all parties having any right, title, or interest in said property or any part thereof, the heirs, executors, administrators, successors and assigns and shall inure to the benefit of each owner thereof.

HUGHES &  
MCKEITHEN, P. A.  
ONE OFFICE PARK ROAD  
P. O. DRAWER 6087  
HILTON HEAD ISLAND,  
SC 29928



ARTICLE I

931

DEFINITIONS

The following words and terms when used in this Declaration shall have the following meaning:

1. "Property" or "Properties" shall mean and refer to Block A and each lot or subdivision therein and shall refer to such additional property as may hereafter be annexed to this Declaration as provided in Article II hereof.

2. "Parcel" shall mean and refer to each of the separately designated tracts for development within the Property; the same being Parcels 3, 12, 13, 14, 15 and 16 of Block A as shown on Exhibit "A", together with each and every separate tract which may hereafter be designated by the Company for development within the Property.

3. "Owner" shall mean and refer to the title holder as shown on the records in the Office of the Clerk of Court for Beaufort County, South Carolina, whether it be one or more persons, firms, associations, corporations or other legal entities, of fee simple title to any Parcel or portion of a Parcel whether improved or unimproved. Owner shall not include those holding title merely as security for performance of an obligation. In the event that there is recorded in the Office of the Clerk of Court for Beaufort County, South Carolina a long-term contract of sale covering any Parcel or portion thereof, the Owner of such shall be the purchaser under said contract for so long as the contract remains in force and effect and not the fee simple title holder. A long-term contract of sale shall be one where the purchaser is required to make payments for the property for a period extending beyond nine (9) months from the date of the contract and where the purchaser does not receive

title to the property until such payments are made although the purchaser is given use of said property.

4. "Company" shall mean and refer to The Hilton Head Company, Inc., a Delaware corporation, its successors and assigns.

#### ARTICLE II

##### ANNEXATION OF ADDITIONAL PROPERTY

The Company shall have the unilateral right, privilege, and option from time to time, at any time to subject to the provisions of this Declaration all or any portion of the real property described in EXHIBIT "B" attached hereto and by reference made a part hereof by filing in the Beaufort County, South Carolina Records, an amendment annexing such property. Such amendment to this Declaration shall not require the vote of Members. Any such annexation shall be effective upon the filing for record of such amendment, unless otherwise provided therein. The Company shall have the unilateral right to transfer to any other person the said right, privilege, and option to annex additional property which is herein reserved to the Company.

#### ARTICLE III

##### USE RESTRICTIONS

1. No residential dwelling or any structure intended for residential or semi-residential use shall be erected, altered or placed on any Parcel. For the purposes of this provision, "residential" or "semi-residential" shall mean and refer to use of any portion of any structure as a dwelling place, home, or place of abode or for temporary or permanent living accommodations.

2. There shall be no use or activity on Parcel 3 and Parcel 13 of Block A, which use or activity shall constitute the providing of

financial services to the general public. For purposes of this covenant, the term "financial services" shall mean and refer to the following activities or services: (i) financial trust services; (ii) insurance brokerage; (iii) banking safe deposit; (iv) banking; (v) checking; (vi) savings; (vii) mortgage banking; (viii) securities brokerage; (ix) real estate brokerage; (x) travel agency; (xi) mortgage lending; and (xii) consumer lending. This covenant shall be a burden on Parcel 3 and Parcel 13 and shall be for the benefit of Parcel 16 only. This covenant shall run with the land and except as set forth herein shall run for a period of ten (10) years from and including the day and year first above written. This covenant shall terminate and become void upon: (a) the expiration of said 10-year period; or (b) upon the recording of the written assent of the then owner of Parcel 16, which assent may also be utilized to effect a partial termination of any portion of this covenant; or (c) at such time as the primary use of Parcel 16 is other than that of a financial services business, whichever event shall first occur.

3. In order to promote good water conservation practices and to lessen the burden of treating and disposing of sewage effluent, so as to benefit the Property and the surrounding areas, all water faucets, showerheads and nozzles located within any structure shall provide for a maximum flowage rate not to exceed two and one-half (2½) gallons of water per minute, and all toilets and commodes located within the Property shall have maximum flowage rates not to exceed three and one-half (3½) gallons of water per flush.

If within any structure or structures approved for construction by the Architectural Standard Committee ("Architectural Standard Committee"

shall mean and refer to said term as defined in the Declaration of Covenants, Conditions and Restrictions for Northridge Park recorded in Deed Book 359 at Page 897 in the Office of the Clerk of Court for Beaufort County, South Carolina, hereinafter the "Northridge Park Declaration") it can be demonstrated that because of the use planned for that structure it will be practically impossible to limit all water faucets and nozzles located within such structure or structures to the maximum flowage rates hereinabove, then, in that event, maximum flowage rates for certain nozzles and faucets may exceed those provided for herein, but only with the written consent of the Company and only where required due to the practical impossibility of limiting such faucets and nozzles to the maximum flowage set forth herein.

4. Parcel Coverage. No buildings or other structures shall be approved for construction on any Parcel (excluding parking and driveways) which, taken together with all other structures approved for construction or constructed upon said Parcel, would exceed forty (40%) percent of that Parcel's gross acreage.

5. Building Height Restrictions. No building or other structure which has a height exceeding three (3) habitable stories plus one story of parking under the habitable stories, and in no event more than sixty (60') feet above the elevation of the finished grade of such structure, shall be constructed on any Parcel.

6. Fifty Foot Natural and Landscaped Buffers.

(a) That area lying within fifty (50') feet of the north-westerly property line of each Parcel which is located adjacent to U.S. Highway 278 is hereby reserved for use as a buffer and, except as otherwise set forth herein or with the written consent of the Company,



no improvements of any nature shall be permitted thereon except decorative landscaping and cultivation of trees and natural foliage, nor shall any live foliage be cleared from said buffer. Except with the written consent of the Company, no structures of any kind shall be erected or placed within the aforesaid buffer, and no roads, pathways or curb cuts shall be permitted therein. The aforesaid buffer is more particularly shown and designated on the attached EXHIBIT "A" as "50' Natural and Landscaped Buffer".

(b) All those areas within any Parcel lying within twenty (20') feet of the property lines located adjacent to any road rights-of-way or street within or outside the Property are hereby reserved for use as a buffer and, except as otherwise set forth herein or with the written consent of the Company, no improvements of any nature shall be permitted thereon, except decorative landscaping and cultivation of trees and natural foliage, nor shall any live foliage be cleared from said buffer. Except with the written consent of the Company, no structures of any kind shall be erected or placed within the aforesaid buffer, and no roads, pathways or curb cuts shall be permitted therein.

(c) Those portions of each Parcel which are designated as buffer zones in Article III, Paragraphs 6(a) and 6(b) herein shall be "buffer zones" for the purposes said term is used in the Northridge Park Declaration.

7. Industrial Use Restrictions. Industrial Use of any portion of the Property is prohibited. "Industrial Use" shall mean and refer to the manufacturing, extraction and warehousing of goods or the shipping or distribution of goods for sale or resale at locations not within the

Properties. Nothing contained herein shall in any way be construed, however, to subject the land shown on EXHIBIT "B" to this Declaration until annexed by the Company as provided in Article II herein.

ARTICLE IV

GENERAL PROVISIONS

1. Enforcement. The Company, the Association, or any Owner shall have the right to enforce, by any proceedings at law or in equity, all of the restrictions, conditions, covenants, easements, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure of the Company, the Association, or any Owner to enforce any provision herein contained shall in no event be deemed as a waiver of right to do so thereafter. In pursuit of the right reserved herein and all other rights and reservations held by the Company and the Association, the Company hereby reserves unto itself, its employees and agents, the right to enter upon any Parcel for the purpose of inspecting the same or any improvements thereon.

2. Severability. Invalidation of any covenants or restrictions or any term, phrase or clause of this Declaration by the adjudication of any court or tribunal shall in no way effect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

3. Duration. The Covenants and Restrictions of this Declaration shall run with and bind the Property, and each portion thereof, and each Owner, occupant and other person or entity having any interest therein. This Declaration shall inure to the benefit of and be enforceable by the Company, the Association, and any Owner for a period of twenty (20) years (except for the ten [10] year period set forth in Paragraph 2 of

Article III) from the date hereof and, thereafter, shall continue automatically in effect for additional periods of twenty (20) years, forever, unless otherwise agreed to in writing by both: (a) the then Owners of at least seventy-five (75%) percent of the total number of Parcels in Block A; and (b) at least seventy-five (75%) percent of the total votes eligible to be cast by all Members of the Association as provided in Article IX, Paragraph 3 of the Northridge Park Declaration.

4. Assignment. The Company shall have the right to assign to any one or more persons, firms, corporations, partnerships or associations any and all rights, powers, titles, easements and estates reserved or given to the Company in this Declaration or in the Northridge Park Declaration.

#### ARTICLE V

#### AMENDMENT

This Declaration (except for Article IV, Paragraph 3 herein) may be amended by the written consent and the affirmative vote, respectively, of both: (1) the then Owners of at least two-thirds (2/3) of the total number of Parcels in Block A; and (2) at least two-thirds (2/3) of the votes eligible to be cast by all Members of the Association as more particularly described in Article IX, Paragraph 5 of the Northridge Park Declaration; provided, however, that: (a) while the Company is the Owner of any portion of the Property, no amendment shall be effective unless and until such amendment is approved in writing by the Company; (b) until the Company conveys all of the Property, the Company retains the right to amend this Declaration to the extent that it affects any portion of the Property which is still owned by the Company in any way that the Company may, in its sole discretion, deem desirable; and (c)

the provisions of Article III, Paragraph 2 of this Declaration may not be amended without the written consent of the then Owner of Parcel 16 and the then Owner of Parcel 3 (if such amendment relates to the use of Parcel 3) and the then Owner of Parcel 13 (if such amendment relates to the use of Parcel 13). For the purposes of this Declaration the terms "Members" and "Association" shall mean and refer to the definitions of Members and Association set forth in Article I of the Northridge Park Declaration, and more particularly, the terms "Members" and "Association" shall be deemed to include all Members of the Association and the Association for the Property as "Property" or "Properties" is defined in Article I, Paragraph 2 of the Northridge Park Declaration and not just those Members who are Owners of properties located in Block A, Phase I of Northridge Park.

WITNESS its hand and seal this the 15<sup>th</sup> day of December 1982.

WITNESSES:

THE HILTON HEAD COMPANY, INC.  
A Delaware Corporation

Barbara Bush

By: [Signature]

John P. [Signature]

Attest: [Signature]





STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

} PROBATE

939

PERSONALLY appeared before me Barbara Bush who states on oath that She saw the within named THE HILTON HEAD COMPANY, INC., by David W. Aron its Vice President, as its act and deed, sign, seal and deliver the within Declaration of Covenants, Easements, Conditions and Restrictions for Block A, Phase I, Northridge Park, and C. Daniel Baker its Asst. Secretary attest the same, and that She with John P. Qualey, JR witnessed the execution thereof.

Barbara Bush

SWORN TO before me this 15<sup>th</sup>  
day of December, 19 82

John P. Qualey, Jr. (L.S.)  
Notary Public for South Carolina  
My Commission Expires 8/8/87

## EXHIBIT "A"

ALL those certain pieces, parcels or tracts of land lying and being on Hilton Head Island, Beaufort County, South Carolina, and being designated as "Lot 3, Lot 12, Lot 13, Lot 14, Lot 15 and Lot 16" of Block A, Phase I, Northridge Park as more particularly described on that certain plat of survey entitled "Phase I, Northridge Park" prepared by Coastal Surveying Co., Inc., Jerry L. Richardson, South Carolina Registered Land Surveyor No. 4784, dated July 22, 1982, and last revised November 5, 1982, and being recorded in Plat Book 31 at Page 16 in the Office of the Clerk of Court for Beaufort County, South Carolina.

FILED AT	BEAUFORT COUNTY S. C.	RECORDED IN BOOK PAGE
4:05 O'CLOCK	DEC 17 1982	359 930
P. M.		
Nancy H. Lowry, Dep. CLERK OF COURT OF COMMON PLEAS EXHIBIT "B"		

*Dugan*

941

ALL that certain piece, parcel or tract of land containing 132.725 acres, more or less, located on Hilton Head Island, Beaufort County, South Carolina, and designated as "A 132.725 Acre Tract Located on Hilton Head Island" as shown on that certain plat of survey dated March 25, 1981 and prepared by Coastal Surveying Co., Inc., Jerry L. Richardson, South Carolina Registered Land Surveyor No. 4784 and being more particularly described as follows:

BEGINNING at a concrete monument located at South Carolina Coordinate System, South Zone Coordinate N139,096.251 E2,091,833.521 and located on the northerly right-of-way of U.S. Highway 278 and located N 40°14' 03 seconds E at a distance of 28,636.657 feet from the POINT OF COMMENCEMENT (the POINT OF COMMENCEMENT being a concrete monument located in the center of Sea Pines Circle and being South Carolina Coordinate System, South Zone Coordinate N117,234.664 E2,073,336.788) being the POINT OF BEGINNING and running thence N 77°57'28" W a distance of 3,439.15 feet to a point; thence along an arc having a delta of 05°23'08", a radius of 1,537.89 feet for a length of 144.55 feet, said arc having a chord distance of 144.50 feet and chord bearing of N 80°39'02" W; thence N 77°57'28" W a distance of 485.96 feet to a point; thence N 12°21'35" W a distance of 41.31 feet to a point; thence N 53°14'17" E a distance of 2,680.29 feet to a point; thence along an arc having a delta of 98° 28'43", a radius of 708.57 feet, for a length of 1,217.88 feet, said arc having a chord distance of 1,073.41 feet and a chord bearing of S 77°31'23" E; thence S 28°17'00" E a distance of 991.69 feet; thence along an arc having a delta of 25°35'32", a radius of 3,144.04 feet, for a length of 1,404.35 feet, said arc having a chord distance of 1,392.70 feet and a chord bearing of S 15°29'14" E; thence S 49°54'12" W a distance of 61.38 feet to the POINT OF BEGINNING.

LESS AND EXCEPT:

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public services and facilities; and for the distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, appearance, prosperity, or the general welfare. In particular, the regulations shall prescribe that no land development plan, including subdivision plats, will be approved unless all land intended for use as building sites can be used safely for building purposes, without danger from flood or other inundation or from other menaces to health, safety, or public welfare.

(B) These regulations may include requirements as to the extent to which and the manner in which streets must be graded, surfaced, and improved, and water, sewers, septic tanks, and other utility mains, piping, connections, or other facilities must be installed as a condition precedent to the approval of the plan. The governing authority of the municipality and the governing authority of the county are given the power to adopt and to amend the land development regulations after a public hearing on it, giving at least thirty days' notice of the time and place by publication in a newspaper of general circulation in the municipality or county.

HISTORY: 1994 Act No. 355, Section 1; 2007 Act No. 31, Section 5, eff May 23, 2007.

Effect of Amendment

The 2007 amendment, in subsection (A) in the first sentence added “, the housing element, and the priority investment element” and substituted “have” for “has”.

**SECTION 6-29-1140.** Development plan to comply with regulations; submission of unapproved plan for recording is a misdemeanor.

After the local governing authority has adopted land development regulations, no subdivision plat or other land development plan within the jurisdiction of the regulations may be filed or recorded in the office of the county where deeds are required to be recorded, and no building permit may be issued until the plat or plan bears the stamp of approval and is properly signed by the designated authority. The submission for filing or the recording of a subdivision plat or other land development plan without proper approval as required by this chapter is declared a misdemeanor and, upon conviction, is punishable as provided by law.

HISTORY: 1994 Act No. 355, Section 1.

**SECTION 6-29-1145.** Determining existence of restrictive covenant; effect.

(A) In an application for a permit, the local planning agency must inquire in the application or by written instructions to an applicant whether the tract or parcel of land is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the permitted activity.

(B) If a local planning agency has actual notice of a restrictive covenant on a tract or parcel of land that is contrary to, conflicts with, or prohibits the permitted activity:

(1) in the application for the permit;

(2) from materials or information submitted by the person or persons requesting the permit; or

(3) from any other source including, but not limited to, other property holders, the local planning agency must not issue the permit unless the local planning agency receives confirmation from the applicant that the restrictive covenant has been released for the tract or parcel of land by action of the appropriate authority or property holders or by court order.

(C) As used in this section:

(1) “actual notice” is not constructive notice of documents filed in local offices concerning the property, and does not require the local planning agency to conduct searches in any records offices for filed restrictive covenants;

(2) “permit” does not mean an authorization to build or place a structure on a tract or parcel of land; and

(3) “restrictive covenant” does not mean a restriction concerning a type of structure that may be built or placed on a tract or parcel of land.

HISTORY: 2007 Act No. 45, Section 3, eff June 4, 2007, applicable to applications for permits filed on and after July 1, 2007; 2007 Act No. 113, Section 2, eff June 27, 2007.

Effect of Amendment

The 2007 amendment, in subsection (A), substituted “in the application or by written instructions to an applicant whether” for “if”, rewrote subsection (B); and in subsection (C), added paragraph (1) defining “actual notice” and redesignated paragraphs (1) and (2) as paragraphs (2) and (3).

**SECTION 6-29-1150.** Submission of plan or plat to planning commission; record; appeal.

(A) The land development regulations adopted by the governing authority must include a specific procedure for the submission and approval or disapproval by the planning commission or designated staff. These procedures may include requirements for submission of sketch plans, preliminary plans, and final plans for review and approval or disapproval. Time limits, not to exceed sixty days, must be set forth for action on plans or plats, or both, submitted for approval or disapproval. Failure of the designated authority to act within sixty days of the receipt of development plans or subdivision plats with all documentation required by the land development regulations is considered to constitute approval, and the developer must be issued a letter of approval and authorization to proceed based on the plans or plats and supporting documentation presented. The sixty-day time limit may be extended by mutual agreement.

(B) A record of all actions on all land development plans and subdivision plats with the grounds for approval or disapproval and any conditions attached to the action must be maintained as a public record. In addition, the developer must be notified in writing of the actions taken.

(C) Staff action, if authorized, to approve or disapprove a land development plan may be appealed to the planning commission by any party in interest. The planning commission must act on the appeal within sixty days, and the action of the planning commission is final.

(D)(1) An appeal from the decision of the planning commission must be taken to the circuit court within thirty days after actual notice of the decision.

(2) A property owner whose land is the subject of a decision of the planning commission may appeal by filing a notice of appeal with the circuit court accompanied by a request for pre-litigation mediation in accordance with Section 6-29-1155.

A notice of appeal and request for pre-litigation mediation must be filed within thirty days after the decision of the board is mailed.

(3) Any filing of an appeal from a particular planning commission decision pursuant to the provisions of this chapter must be given a single docket number, and the appellant must be assessed only one filing fee pursuant to Section 8-21-310(11)(a).

(4) When an appeal includes no issues triable of right by jury or when the parties consent, the appeal must be placed on the nonjury docket. A judge, upon request by any party, may in his discretion give the appeal precedence over other civil cases. Nothing in this subsection prohibits a property owner from subsequently electing to assert a pre-existing right to trial by jury of any issue beyond the subject matter jurisdiction of the planning commission, such as, but not limited to, a determination of the amount of damages due for an unconstitutional taking.

HISTORY: 1994 Act No. 355, Section 1; 2003 Act No. 39, Section 12, eff June 2, 2003.

Effect of Amendment

The 2003 amendment substituted “considered” for “deemed” in subsection (A), made nonsubstantive changes in subsection (C), added subsections (D)(2), (D)(3), and (D)(4), redesignated subsection (D) as (D)(1), and in newly designated (D)(1) substituted “must” for “may” and inserted “the” preceding “circuit court”.

**SECTION 6-29-1155.** Pre-litigation mediation; notice; settlement approval; effect on real property; unsuccessful mediation.

(A) If a property owner files a notice of appeal with a request for pre-litigation mediation, the request for mediation must be granted, and the mediation must be conducted in accordance with South Carolina Circuit

## Exhibit 4

## Sec.16-1-106. - Relationship with Other Laws, Covenants, or Deed Restrictions

## A. Conflicts with Other LMO Standards

1. When any LMO provision is inconsistent with another LMO provision, or a provision found in other adopted codes or *ordinances* of the *Town*, the more restrictive provision shall govern unless the terms of the more restrictive provision specify otherwise. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.
2. When there is a conflict between an overlay zoning district and an underlying *base zoning district*, the provisions of the overlay district shall control. When there is a conflict between two overlay districts and one of the districts is the Redevelopment Overlay District, the provisions of the Redevelopment Overlay District shall control.
3. When it is possible to implement, administer, or construe a particular provision in more than one way, it shall be implemented, administered, or construed in a way that eliminates or minimizes conflicts with other provisions of the LMO.

## B. Relationship to Restrictive Covenants or Deed Restrictions

In accordance with S.C. Code Ann. § 6-29-1145, *Town applications* for *land development* permits or approvals other than those authorizing the *building* or placement of a *structure* on a *tract* or *parcel* of *land* shall ask whether the subject *tract* or *parcel* of *land* is restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the proposed activity. If the *Town* has actual notice of such a restrictive covenant, whether from the *application* or other source, the *Town* shall not issue the permit unless the *Town* receives written confirmation and proof from the *applicant* that the restrictive covenant has been released for the *tract* or *parcel* of *land* by action of the appropriate authority or property holders, or by court order. The issuance of a permit does not affect the *applicant's* obligations under any recorded covenants.



ARTICLE I

931

DEFINITIONS

The following words and terms when used in this Declaration shall have the following meaning:

1. "Property" or "Properties" shall mean and refer to Block A and each lot or subdivision therein and shall refer to such additional property as may hereafter be annexed to this Declaration as provided in Article II hereof.

2. "Parcel" shall mean and refer to each of the separately designated tracts for development within the Property; the same being Parcels 3, 12, 13, 14, 15 and 16 of Block A as shown on Exhibit "A", together with each and every separate tract which may hereafter be designated by the Company for development within the Property.

3. "Owner" shall mean and refer to the title holder as shown on the records in the Office of the Clerk of Court for Beaufort County, South Carolina, whether it be one or more persons, firms, associations, corporations or other legal entities, of fee simple title to any Parcel or portion of a Parcel whether improved or unimproved. Owner shall not include those holding title merely as security for performance of an obligation. In the event that there is recorded in the Office of the Clerk of Court for Beaufort County, South Carolina a long-term contract of sale covering any Parcel or portion thereof, the Owner of such shall be the purchaser under said contract for so long as the contract remains in force and effect and not the fee simple title holder. A long-term contract of sale shall be one where the purchaser is required to make payments for the property for a period extending beyond nine (9) months from the date of the contract and where the purchaser does not receive

title to the property until such payments are made although the purchaser is given use of said property.

4. "Company" shall mean and refer to The Hilton Head Company, Inc., a Delaware corporation, its successors and assigns.

#### ARTICLE II

##### ANNEXATION OF ADDITIONAL PROPERTY

The Company shall have the unilateral right, privilege, and option from time to time, at any time to subject to the provisions of this Declaration all or any portion of the real property described in EXHIBIT "B" attached hereto and by reference made a part hereof by filing in the Beaufort County, South Carolina Records, an amendment annexing such property. Such amendment to this Declaration shall not require the vote of Members. Any such annexation shall be effective upon the filing for record of such amendment, unless otherwise provided therein. The Company shall have the unilateral right to transfer to any other person the said right, privilege, and option to annex additional property which is herein reserved to the Company.

#### ARTICLE III

##### USE RESTRICTIONS

1. No residential dwelling or any structure intended for residential or semi-residential use shall be erected, altered or placed on any Parcel. For the purposes of this provision, "residential" or "semi-residential" shall mean and refer to use of any portion of any structure as a dwelling place, home, or place of abode or for temporary or permanent living accommodations.

2. There shall be no use or activity on Parcel 3 and Parcel 13 of Block A, which use or activity shall constitute the providing of

financial services to the general public. For purposes of this covenant, the term "financial services" shall mean and refer to the following activities or services: (i) financial trust services; (ii) insurance brokerage; (iii) banking safe deposit; (iv) banking; (v) checking; (vi) savings; (vii) mortgage banking; (viii) securities brokerage; (ix) real estate brokerage; (x) travel agency; (xi) mortgage lending; and (xii) consumer lending. This covenant shall be a burden on Parcel 3 and Parcel 13 and shall be for the benefit of Parcel 16 only. This covenant shall run with the land and except as set forth herein shall run for a period of ten (10) years from and including the day and year first above written. This covenant shall terminate and become void upon: (a) the expiration of said 10-year period; or (b) upon the recording of the written assent of the then owner of Parcel 16, which assent may also be utilized to effect a partial termination of any portion of this covenant; or (c) at such time as the primary use of Parcel 16 is other than that of a financial services business, whichever event shall first occur.

3. In order to promote good water conservation practices and to lessen the burden of treating and disposing of sewage effluent, so as to benefit the Property and the surrounding areas, all water faucets, showerheads and nozzles located within any structure shall provide for a maximum flowage rate not to exceed two and one-half (2½) gallons of water per minute, and all toilets and commodes located within the Property shall have maximum flowage rates not to exceed three and one-half (3½) gallons of water per flush.

If within any structure or structures approved for construction by the Architectural Standard Committee ("Architectural Standard Committee"

shall mean and refer to said term as defined in the Declaration of Covenants, Conditions and Restrictions for Northridge Park recorded in Deed Book 357 at Page 897 in the Office of the Clerk of Court for Beaufort County, South Carolina, hereinafter the "Northridge Park Declaration") it can be demonstrated that because of the use planned for that structure it will be practically impossible to limit all water faucets and nozzles located within such structure or structures to the maximum flowage rates hereinabove, then, in that event, maximum flowage rates for certain nozzles and faucets may exceed those provided for herein, but only with the written consent of the Company and only where required due to the practical impossibility of limiting such faucets and nozzles to the maximum flowage set forth herein.

4. Parcel Coverage. No buildings or other structures shall be approved for construction on any Parcel (excluding parking and driveways) which, taken together with all other structures approved for construction or constructed upon said Parcel, would exceed forty (40%) percent of that Parcel's gross acreage.

5. Building Height Restrictions. No building or other structure which has a height exceeding three (3) habitable stories plus one story of parking under the habitable stories, and in no event more than sixty (60') feet above the elevation of the finished grade of such structure, shall be constructed on any Parcel.

6. Fifty Foot Natural and Landscaped Buffers.

(a) That area lying within fifty (50') feet of the north-westerly property line of each Parcel which is located adjacent to U.S. Highway 278 is hereby reserved for use as a buffer and, except as otherwise set forth herein or with the written consent of the Company,

no improvements of any nature shall be permitted thereon except decorative landscaping and cultivation of trees and natural foliage, nor shall any live foliage be cleared from said buffer. Except with the written consent of the Company, no structures of any kind shall be erected or placed within the aforesaid buffer, and no roads, pathways or curb cuts shall be permitted therein. The aforesaid buffer is more particularly shown and designated on the attached EXHIBIT "A" as "50' Natural and Landscaped Buffer".

(b) All those areas within any Parcel lying within twenty (20') feet of the property lines located adjacent to any road rights-of-way or street within or outside the Property are hereby reserved for use as a buffer and, except as otherwise set forth herein or with the written consent of the Company, no improvements of any nature shall be permitted thereon, except decorative landscaping and cultivation of trees and natural foliage, nor shall any live foliage be cleared from said buffer. Except with the written consent of the Company, no structures of any kind shall be erected or placed within the aforesaid buffer, and no roads, pathways or curb cuts shall be permitted therein.

(c) Those portions of each Parcel which are designated as buffer zones in Article III, Paragraphs 6(a) and 6(b) herein shall be "buffer zones" for the purposes said term is used in the Northridge Park Declaration.

7. Industrial Use Restrictions. Industrial Use of any portion of the Property is prohibited. "Industrial Use" shall mean and refer to the manufacturing, extraction and warehousing of goods or the shipping or distribution of goods for sale or resale at locations not within the

Properties. Nothing contained herein shall in any way be construed, however, to subject the land shown on EXHIBIT "B" to this Declaration until annexed by the Company as provided in Article II herein.

#### ARTICLE IV

##### GENERAL PROVISIONS

1. Enforcement. The Company, the Association, or any Owner shall have the right to enforce, by any proceedings at law or in equity, all of the restrictions, conditions, covenants, easements, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure of the Company, the Association, or any Owner to enforce any provision herein contained shall in no event be deemed as a waiver of right to do so thereafter. In pursuit of the right reserved herein and all other rights and reservations held by the Company and the Association, the Company hereby reserves unto itself, its employees and agents, the right to enter upon any Parcel for the purpose of inspecting the same or any improvements thereon.

2. Severability. Invalidation of any covenants or restrictions or any term, phrase or clause of this Declaration by the adjudication of any court or tribunal shall in no way effect the other provisions which are hereby declared to be severable and which shall remain in full force and effect.

3. Duration. The Covenants and Restrictions of this Declaration shall run with and bind the Property, and each portion thereof, and each Owner, occupant and other person or entity having any interest therein. This Declaration shall inure to the benefit of and be enforceable by the Company, the Association, and any Owner for a period of twenty (20) years (except for the ten [10] year period set forth in Paragraph 2 of



Article III) from the date hereof and, thereafter, shall continue automatically in effect for additional periods of twenty (20) years, forever, unless otherwise agreed to in writing by both: (a) the then Owners of at least seventy-five (75%) percent of the total number of Parcels in Block A; and (b) at least seventy-five (75%) percent of the total votes eligible to be cast by all Members of the Association as provided in Article IX, Paragraph 3 of the Northridge Park Declaration.

4. Assignment. The Company shall have the right to assign to any one or more persons, firms, corporations, partnerships or associations any and all rights, powers, titles, easements and estates reserved or given to the Company in this Declaration or in the Northridge Park Declaration.

#### ARTICLE V

#### AMENDMENT

This Declaration (except for Article IV, Paragraph 3 herein) may be amended by the written consent and the affirmative vote, respectively, of both: (1) the then Owners of at least two-thirds (2/3) of the total number of Parcels in Block A; and (2) at least two-thirds (2/3) of the votes eligible to be cast by all Members of the Association as more particularly described in Article IX, Paragraph 5 of the Northridge Park Declaration; provided, however, that: (a) while the Company is the Owner of any portion of the Property, no amendment shall be effective unless and until such amendment is approved in writing by the Company; (b) until the Company conveys all of the Property, the Company retains the right to amend this Declaration to the extent that it affects any portion of the Property which is still owned by the Company in any way that the Company may, in its sole discretion, deem desirable; and (c)

the provisions of Article III, Paragraph 2 of this Declaration may not be amended without the written consent of the then Owner of Parcel 16 and the then Owner of Parcel 3 (if such amendment relates to the use of Parcel 3) and the then Owner of Parcel 13 (if such amendment relates to the use of Parcel 13). For the purposes of this Declaration the terms "Members" and "Association" shall mean and refer to the definitions of Members and Association set forth in Article I of the Northridge Park Declaration, and more particularly, the terms "Members" and "Association" shall be deemed to include all Members of the Association and the Association for the Property as "Property" or "Properties" is defined in Article I, Paragraph 2 of the Northridge Park Declaration and not just those Members who are Owners of properties located in Block A, Phase I of Northridge Park.

WITNESS its hand and seal this the 15<sup>th</sup> day of December 1982.

WITNESSES:

THE HILTON HEAD COMPANY, INC.  
A Delaware Corporation

Barbara Bush

By: [Signature]

John P. Quachy Jr.

Attest: [Signature]



STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

PROBATE

939

PERSONALLY appeared before me Barbara Bush who states on oath that She saw the within named THE HILTON HEAD COMPANY, INC., by David W. Ayers its Vice President, as its act and deed, sign, seal and deliver the within Declaration of Covenants, Easements, Conditions and Restrictions for Block A, Phase I, Northridge Park, and C. Daniel Baker its ASST. Secretary attest the same, and that She with John P. Qualley, JR. witnessed the execution thereof.

Barbara Bush

SWORN TO before me this 15<sup>th</sup>  
day of December, 19 82

John P. Qualley, Jr. (L.S.)  
Notary Public for South Carolina  
My Commission Expires 8/8/87

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<i>4:05</i> O'CLOCK	DEC 17 1982	<i>359</i> PAGE
<i>P. M.</i>		<i>930</i>
<i>Nancy H. Lowry, Dep.</i> CLERK OF COURT OF COMMON PLEAS EXHIBIT "B"		

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