

HS

FOR NOTICE SEE aks  
DE Book 14003 Page 3279  
for notice of interest see aks  
DE Book 14036 Page 6383

Deed Book 13239 Pg 4333  
Filed and Recorded Feb-02-2000 11:28am  
2000-0014385

E

Upon recording return to:  
S. Marcus Calloway, Esq.  
Calloway Title and Escrow, L.L.C.  
4800 Ashford Dunwoody Road  
Suite 240  
Atlanta, Georgia 30338

Jay C. Stephenson  
Jay C. Stephenson  
Clerk of Superior Court Cobb Cty. Ga.

01/05/00

Cross Reference: 2  
Deed Book 12108, page 167

FIRST AMENDMENT TO EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND

THIS FIRST AMENDMENT TO EASEMENTS, COVENANTS AND RESTRICTIONS AFFECTING LAND ("Amendment") is made as of the 31<sup>st</sup> day of January, 2000, between WAL-MART REAL ESTATE BUSINESS TRUST ("Wal-Mart"), a Delaware business trust, of 702 S.W. 8th Street, Bentonville, Arkansas 72712-6489, with a mailing address of 2001 S.E. 10th Street, Bentonville, Arkansas 72712, JACOBY LINDBERGH PROPERTIES II, L.L.C. ("WM Owner"), a Georgia limited liability company, of 1000 Abernathy Road, Suite 1800, Atlanta, Georgia 30328, AUSTELL SHOPS ASSOCIATES, L.L.C. ("Shops Owner"), a Georgia limited liability company, and GIPSON/EAST-WEST, L.L.C. ("Gipson Owner") a Georgia limited liability company, of 7 Piedmont Center, Suite 150, Atlanta, Georgia 30305.

WITNESSETH:

WHEREAS, Wal-Mart, WM Owner, Shops Owner and Gipson Owner entered into that certain Easement With Covenants and Restrictions Affecting Land dated January 14, 1999, recorded in Book 12108, Page 167, Superior Court Records of Cobb County, Georgia (the "ECR"); and

WHEREAS, due to a surveyor's error, the legal description for the Tract 1 and the legal description for Tract 3 must be amended.

NOW, THEREFORE, for and in consideration of Ten Dollars in hand paid by the parties, one to the other, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Wal-Mart, WM Owner, Shops Owner and Gipson Owner do hereby agree as follows:

Exhibit "B" and Exhibit "D" of the ECR are hereby deleted in their entirety and Exhibit "B-1" and Exhibit "D-1" are hereby substituted in lieu thereof.

Except as expressly set forth herein, the ECR remains unmodified and unchanged and Wal-Mart, WM Owner, Shops Owner and Gipson Owner do hereby ratify and confirm the ECR as herein amended.

IN WITNESS WHEREOF, Wal-Mart, WM Owner, Shops Owner and Gipson Owner have caused this Amendment to be executed the day and year first above written.

Signed, sealed and delivered  
in the presence of:

*[Signature]*  
Witness

*[Signature]*  
Notary Public

My commission expires:

[NOTARY SEAL]

OFFICIAL SEAL  
KAREN J. BENSON  
NOTARY PUBLIC, ARKANSAS  
BENTON COUNTY  
COMMISSION EXP. 05-01-09

WAL-MART:

WAL-MART REAL ESTATE BUSINESS TRUST, a Delaware business trust

By: *[Signature]*  
Assistant Vice President

Attest: *[Signature]*  
Assistant Secretary

Approved as to legal terms only

By: *[Signature]*  
WAL-MART LEGAL TEAM

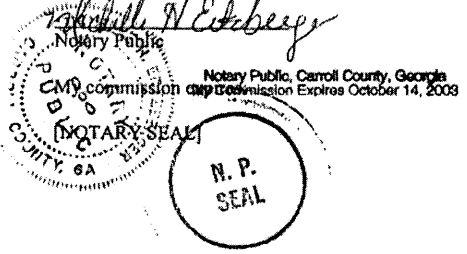
Date: 1-7-00

13

Signed, sealed and delivered  
in the presence of:

Jeanne A. Brammer  
Witness

Michael N. Etzberg  
Notary Public

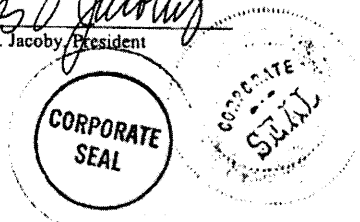


WM OWNER:

JACOBY LINDBERGH PROPERTIES II, L.L.C.,  
a Georgia limited liability company

By: Austell WM G.P., Inc., a Georgia  
corporation, manager

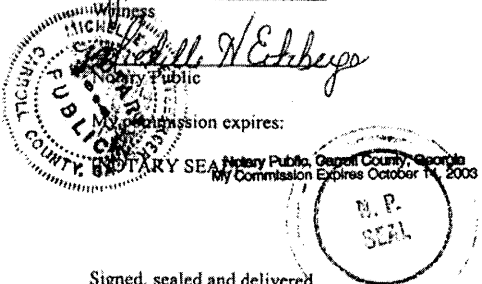
By: James F. Jacoby  
James F. Jacoby, President



Signed, sealed and delivered  
in the presence of:

Jeanne A. Brammer  
Witness

Michael N. Etzberg  
Notary Public

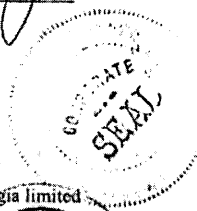


SHOPS OWNER:

AUSTELL SHOPS ASSOCIATES, L.L.C., a  
Georgia limited liability company

By: Austell Shops G.P., Inc., a Georgia  
corporation, manager

By: James F. Jacoby  
James F. Jacoby, President



Signed, sealed and delivered  
in the presence of:

Susan Severino  
Witness

Susan Severino  
Notary Public

My commission expires:

[NOTARY SEAL]



GIPSON OWNER:

GIPSON/EAST-WEST, L.L.C., a Georgia limited  
liability company

By: John H. Gipson  
John H. Gipson, manager



EXHIBIT "B-1"

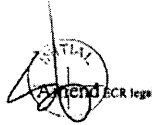
ALL THAT TRACT or parcel of land lying and being in Land Lots 923, 924 and 927 of the 19th District, 2nd Section of Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at the northern point of the southeast mitered intersection of Floyd Road (variable right-of-way) and East-West Connector Road (180 foot right-of-way) at a concrete monument found; thence run northeasterly along and coincident with the southerly right-of-way of East-West Connector Road North 60°43'28" East a distance of 346.88 feet to a concrete monument found on the southerly right-of-way line of East-West Connector Road; thence continue along and coincident with said right-of-way along the arc of a curve, an arc distance of 738.97 feet (said curve having a radius of 1055.92 feet, being subtended by a chord lying to the south of said arc, bearing North 80°16'54" East, a chord distance of 723.98 feet) to an iron pin set; thence continue to run along and coincident with said right-of-way along the arc of a curve, an arc distance of 55.01 feet (said curve having a radius of 1055.92 feet, being subtended by a chord lying to the south of said arc, bearing South 78°10'37" East, a chord distance of 55.01 feet) to a concrete monument found; thence run South 76°44'03" East a distance of 212.04 feet to an iron pin set; thence leave said right-of-way line and run South 13°16'12" West a distance of 48.80 feet to an iron pin set; thence run South 01°29'25" West a distance of 72.74 feet to an iron pin set; thence run South 06°03'37" West a distance of 75.24 feet to an iron pin set; thence run South 01°29'11" West a distance of 51.22 feet to an iron pin set; thence run South 88°30'49" East a distance of 200.00 feet to an iron pin set; thence run North 01°29'11" East a distance of 208.36 feet to an iron pin set on the southerly right-of-way of East-West Connector Road; thence run along and coincident with said right-of-way South 76°44'03" East a distance of 146.37 feet to an iron pin set; thence leave said right-of-way and run South 01°45'54" West a distance of 898.21 feet to an iron pin set; thence run North 88°50'55" West a distance of 585.67 feet to a 1/2" rebar bent; thence run North 00°42'06" East a distance of 208.06 feet to an iron pin set; thence run North 89°04'11" West a distance of 679.07 feet to an iron pin set on northeasterly of right-of-way line of Floyd Road; thence run along and coincident with said right-of-way North 21°51'11" West a distance of 47.93 feet to an iron pin set; thence run North 28°34'01" West a distance of 121.55 feet to an iron pin set; thence leave said right-of-way and run South 88°31'51" East a distance of 113.35 feet to an iron pin set; thence run North 01°28'14" East a distance of 39.74 feet to an iron pin set; thence run South 88°32'03" East a distance of 138.00 feet to an iron pin set; thence run North 01°28'17" East a distance of 116.19 feet to an iron pin set; thence run South 88°31'37" East a distance of 74.16 feet to an iron pin set; thence run North 01°28'00" East a distance of 26.25 feet to an iron pin set; thence run North 66°55'04" East a distance of 28.34 feet to an iron pin set; thence run North 00°03'50" East a distance of 185.02 feet to an iron pin set; thence run North 88°31'21" West a distance of 52.75 feet to an iron pin set; thence run South 70°36'52" West a distance of 26.69 feet to an iron pin set; thence run North 88°32'00" West a distance of 214.61 feet to an iron pin set; thence run South 01°28'14" West a distance of 133.31 feet to an iron pin set; thence run South 50°12'29" West a distance of 184.91 feet to an iron pin set on the northeasterly right-of-way line of Floyd Road; thence run along and coincident with said right-of-way along the arc of a curve, an arc distance of 57.98 feet (said curve having a radius of 5765.10 feet, being subtended by a chord lying to the southwest of said arc, bearing North 39°16'43" West, a chord distance of 57.98 feet) to an iron pin set; thence continue to run along and coincident with said right-of-way North 45°42'34" East a distance of 14.53 feet to an iron pin set; thence continue to run along and coincident with said right-of-way along the arc of a curve, an arc distance of 127.59 feet (said curve having a radius of 5779.58 feet, being subtended by a chord lying to the southwest of said arc, bearing North 40°13'14" West, a chord distance of 127.59 feet) to an iron pin set; thence continue to run along and coincident with said right-of-way North 43°02'22" West a distance of 76.28 feet to a concrete monument found; thence run along and coincident with the mitered intersection of Floyd Road and East-West Connector Road

  
Annex ECR legal

North 09°39'51" East a distance of 36.64 feet to a concrete monument found; said monument being the POINT OF BEGINNING.

Said tract containing 24.516 acres and being more particularly shown as "Wal-mart Tract" on that certain survey for Jacoby Lindbergh Properties II, L.L.C.; Austell Shops Associates, L.L.C.; Chicago Title Insurance Company; SouthTrust Bank, National Association and SouthTrust Capital Funding Corporation, prepared by Mayes, Sudderth & Etheredge Inc., bearing the seal and certification of George T. White, Georgia Registered Land Surveyor No. 1929, dated December 17, 1998 and last revised December 27, 1999.



*J.C. Stephenson*  
 Shops Tract B  
 J. C. Stephenson 1/5/00  
 Clerk of Superior Court Cobb Cty. Ga.

**EXHIBIT "D-1"**

ALL THAT TRACT or parcel of land lying and being in Land Lot 924 of the 19th District, 2nd Section of Cobb County, Georgia, and being more particularly described as follows:

BEGINNING at the northern point of the southeast mitered intersection of Floyd Road (variable right-of-way) and East-West Connector Road (180 foot right-of-way) at a concrete monument found; thence run northeasterly along and coincident with the southerly right-of-way of East-West Connector Road North 60°43'28" East a distance of 346.88 feet to a concrete monument found on the southerly right-of-way line of East-West Connector Road; thence continue along and coincident with said right-of-way along the arc of a curve, an arc distance of 738.97 feet (said curve having a radius of 1055.92 feet, being subtended by a chord lying to the south of said arc, bearing North 80°16'54" East, a chord distance of 723.98 feet) to an iron pin set; thence continue to run along and coincident with said right-of-way along the arc of a curve, an arc distance of 55.01 feet (said curve having a radius of 1055.92 feet, being subtended by a chord lying to the south of said arc, bearing South 78°10'37" East, a chord distance of 55.01 feet) to a concrete monument found; thence run South 76°44'03" East a distance of 212.04 feet to an iron pin set; said iron pin set being the TRUE POINT OF BEGINNING; from the TRUE POINT OF BEGINNING AS ESTABLISHED thence leave said right-of-way line and run South 13°16'12" West a distance of 48.80 feet to an iron pin set; thence run South 01°29'25" West a distance of 72.74 feet to an iron pin set; thence run South 06°03'37" West a distance of 75.24 feet to an iron pin set; thence run South 01°29'11" West a distance of 51.22 feet to an iron pin set; thence run South 88°30'49" East a distance of 200.00 feet to an iron pin set; thence run North 01°29'11" East a distance of 208.36 feet to an iron pin set on the southerly right-of-way of East-West Connector Road; thence continue along and coincident with said right-of-way North 76°44'03" West a distance of 188.00 feet to an iron pin set; said iron pin set being the TRUE POINT OF BEGINNING.

Said tract containing 1.025 acres and being more particularly shown as "Shops Tract B" on that certain survey for Jacoby Lindbergh Properties II, L.L.C.; Austell Shops Associates, L.L.C.; Chicago Title Insurance Company; SouthTrust Bank, National Association and SouthTrust Capital Funding Corporation, prepared by Mayes, Sudderth & Etheredge Inc., bearing the seal and certification George T. White, Georgia Registered Land Surveyor No. 1929, dated December 17, 1998 and last revised December 27, 1999.

