

Prepared by and mail to:      Town of Davidson  
Post Office Box 579  
Davidson, North Carolina 28036

3. The purpose of the Replacement Sidewalk Easement was to replace the Sidewalk Easement in order to allow the construction and use of a hotel building on the property encumbered by the Sidewalk Easement. The parties intended to terminate the Sidewalk Easement upon the recording of the Replacement Sidewalk Easement, but there is no record that the Sidewalk Easement has been terminated.
4. In connection with the Replacement Sidewalk Easement, New Chambers and the Town entered into a Right-of-Way Encroachment Agreement (the "Encroachment Agreement") recorded in Book 7235 at Page 222 Mecklenburg County Public Registry which permitted New Chambers to construct and maintain columns (the "Encroaching Structures") within the Replacement Sidewalk Easement area, which columns were needed to support a portion of the hotel building which was constructed above the Replacement Sidewalk Easement.
5. The Encroachment Agreement referenced an attached Exhibit A which was intended to show the size and location of the Encroaching Structures, but no Exhibit A was attached to the recorded Encroachment Agreement.
6. Paragraph 2 of the Encroachment Agreement granted to the Town the right to require the owner of the property to make changes to the Encroaching Structures under certain conditions. The Town has never exercised this right and the Encroaching Structures have not interfered with or endangered travel upon the Sidewalk Easement area.
7. The parties enter into this Termination and Amendment for the purpose of (a) terminating the Sidewalk Easement and (b) amending the Encroachment Agreement to (i) attaching a diagram of the Encroaching Structures and (ii) delete paragraph 2.

NOW THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties agree as follows:

1. The Sidewalk Easement is hereby terminated.
2. The Encroachment Agreement is amended as follows:
  - a. The Encroaching Structures, as defined in the Encroachment Agreement, consist of four (4) columns located on the southern half of the eastern wall of the hotel building. The portion of the hotel building constructed over the Davidson Pedestrian Mall does not interfere with the rights granted to the Town pursuant to the Replacement Sidewalk Easement.
  - b. A depiction of the Encroaching Structures is attached hereto as Exhibit A.

- c. Paragraph 2 is deleted in its entirety.
- d. As amended the Encroachment Agreement shall remain in full force and effect.

IN WITNESS WHEREOF the parties have signed this Termination and Amendment as of the day and year first above appearing.

BEN & FLOYDS, LLC,  
a North Carolina limited liability company

By \_\_\_\_\_  
Name:  
Title:

TOWN OF DAVIDSON

By \_\_\_\_\_  
Name:  
Title:

NORTH CAROLINA

\_\_\_\_\_ COUNTY

I, \_\_\_\_\_, a Notary Public of said County and State, certify that \_\_\_\_\_ personally came before me this day and acknowledged that he/she is the Manager of Ben & Floyds, LLC a limited liability company, and that he/she, as Manager, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

Print name: \_\_\_\_\_

(NOTARIAL SEAL)

NORTH CAROLINA

\_\_\_\_\_ COUNTY

I, \_\_\_\_\_, a Notary Public of said County and State, certify that \_\_\_\_\_ personally came before me this day and acknowledged that he/she is the \_\_\_\_\_ Manager of the Town of Davidson, and that he/she, as \_\_\_\_\_ Manager, being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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

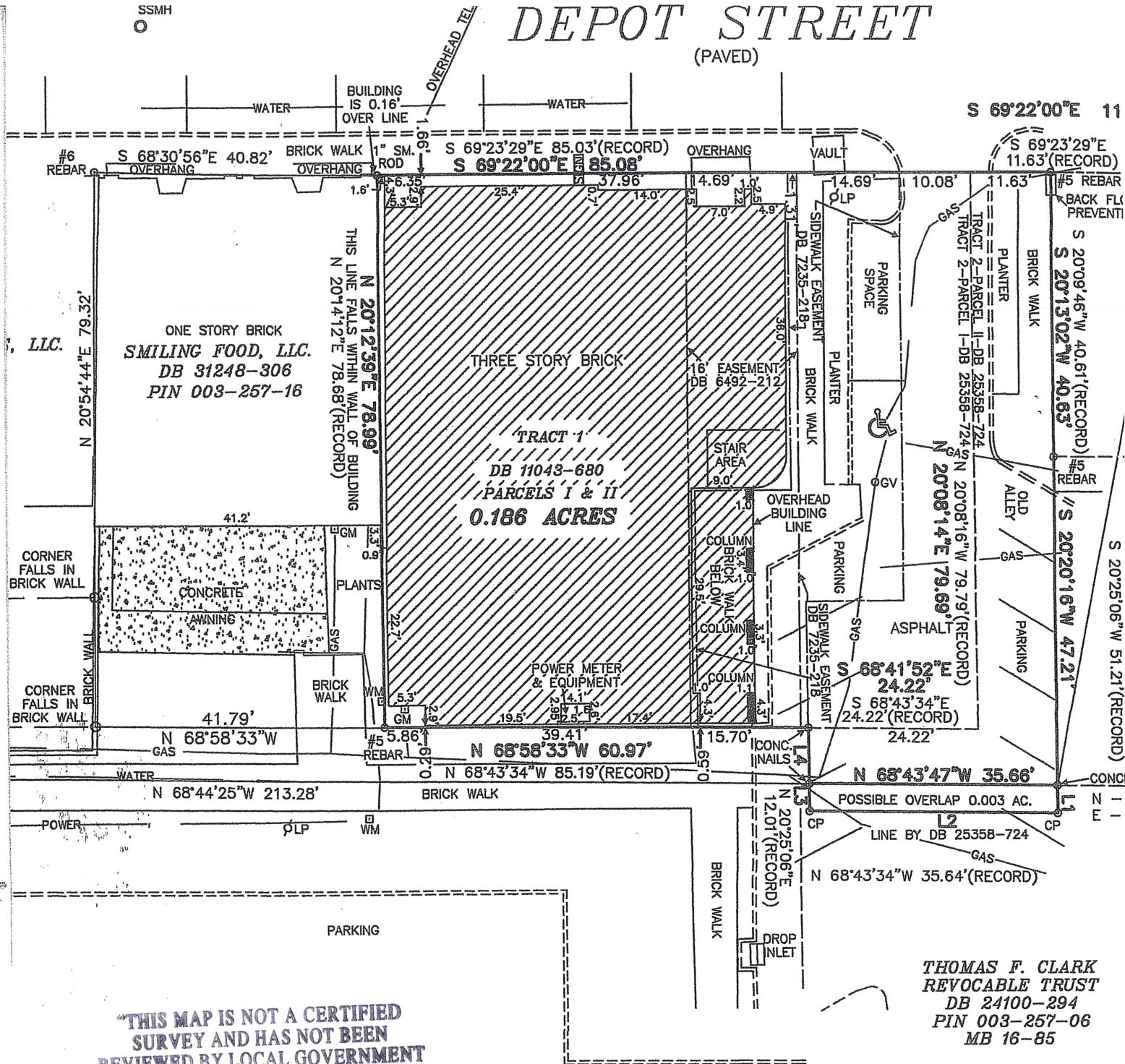
Print name: \_\_\_\_\_

(NOTARIAL SEAL)

## DEPOT STREET

(PAVED)

S 69°22'00"E 11

**LEGEND:**

=====	PROPERTY LINE
=====	TIE LINE
-----	UNSURVEYED LINE
-----	BACK OF CURB
-----	SETBACK LINE
CP	COMPUTED POINT
PP	POWER POLE
WM	WATER METER
GM	GAS METER
GV	GAS VALVE

**NOTES:**

1. THIS PROPERTY IS NOT LOCATED IN A DESIGNATED FLOOD Z FEMA MAP# 3710464400K, DATED 3/02/2009.
2. AREA DETERMINED BY COORDINATE COMPUTATION.
3. CP DENOTES COMPUTED POINT, NO MONUMENT FOUND OR S
4. UNDERGROUND UTILITIES NOT LOCATED AS OF THIS DATE.
5. THIS PROPERTY LIES IN THE LAKE NORMAN WATERSHED CA HAS LIMIT ON AMOUNT OF BUILT-UPON AREA.
6. ALL MONUMENTS ARE EXISTING UNLESS OTHERWISE NOTED.
7. THIS PROPERTY IS CURRENTLY ZONED VILLAGE CENTER.
8. SETBACKS FOR VILLAGE CENTER ZONING ARE: FRONT - 0',

Exhibit A