

This Instrument Prepared by  
and after recording return to:  
Ellen Parker  
GMRI, Inc.  
6990 Lake Ellenor Drive  
Orlando, Florida 32809



200601300263

Skagit County Auditor

1/30/2006 Page

1 of

8 3:59PM

116897-T

LAND TITLE OF SKAGIT COUNTY

MEMORANDUM OF LEASE

S/2 NE 7-34-4  
P121443

This Memorandum of Lease, dated the 27<sup>th</sup> day of January, 2006, is by and between **Newman Development Group of Burlington LLC**, a Washington limited liability company, ("LANDLORD") and **GMRI, Inc.**, a Florida corporation ("TENANT").

**RECITALS:**

A. Effective on November 14, 2005, LANDLORD and TENANT entered into a written lease agreement ("LEASE") for certain premises situated in the City of Burlington, County of Skagit, and State of Washington, as more particularly set forth in the LEASE and described on the attached Exhibit "A" ("PREMISES"); and

B. The parties desire to place their interests in the LEASE as a matter of record.

NOW, THEREFORE, the parties represent as follows:

1. The term of the LEASE will be ten (10) Lease Years, as defined in the LEASE, commencing on the COMMENCEMENT DATE as determined in accordance with its terms.

2. In conjunction with such leasing, LANDLORD has granted to TENANT certain easement rights over the properties described on the attached Exhibit "B" ("Center"), which rights include, ingress, egress, parking and utilities.

3. TENANT has the option to renew the LEASE for four (4) additional period(s) of five (5) Lease Years each.

4. The following covenants shall be binding upon the Center, will run with land.

A. Italian Restaurant Restriction. During the Term of this LEASE, as long as TENANT is operating at the PREMISES as an Italian restaurant, no portion of the Center will be used as a restaurant that features Italian food. "Features" means that those food items comprise more than 20% of the menu offerings; provided, however, that a

restaurant of less than 2,500 square feet which has as its primary use a pizza restaurant, shall not be in violation of the restriction herein. By way of example, and not as a limitation, examples of existing Italian restaurants include Macaroni Grill, Carrabba's Italian Grill and Johnny Carino's; examples of restaurants that are not Italian restaurants are Chili's, Applebee's, Ruby Tuesday, Red Robin and TGI Friday's. For the purpose of this provision, a restaurant will still be considered to be "operating" even if temporarily closed due to casualty, condemnation, remodeling, reconstruction or force majeure. This restriction will not be applicable to the sale of unprepared foods intended for off-premises consumption.

B. No-Build Area. The area of the Center shown cross-hatched on Exhibit "C" ("No-Build Area") is material to the value and operation of the PREMISES. Accordingly, LANDLORD and TENANT agree as follows:

(i) The No-Build Area is restricted such that it shall at all times remain and be used as a parking area, with access and landscaping incidental thereto, for the non-exclusive benefit of the PREMISES; provided, however, LANDLORD shall be permitted to close portions of the No-Build Area for reasonable periods of time as needed to perform repairs or maintenance or as required by governmental authorities, so long as a reasonable amount of the No-Build Area in proximity to the PREMISES remains available for TENANT's use during the period of such work. No temporary or permanent structures are permitted within the No-Build Area other than light poles, curbing, landscaping, and traffic signs. The No-Build Area shall not be used for any promotional, public, quasi-public, philanthropic, carnival, festival or any similar activities.

(ii) The No-Build Area shall not in any manner be modified or reduced without TENANT's prior written consent, not to be unreasonably withheld, delayed or conditioned.

(iii) No portion of the No-Build Area shall be designated or reserved for the exclusive use of any occupant of the Center or any other person, nor shall the No-Build Area be designated as an employee parking area.

C. Protected Access. The access drives and curb-cut of the Center shown cross-hatched on Exhibit "C" (individually and collectively, "Protected Access"), are each material to the value and operation of the PREMISES. Accordingly, LANDLORD and TENANT agree as follows:

(i) The Protected Access shall not in any manner be modified or closed by LANDLORD without TENANT's prior written consent, except for emergency and/or temporary closures as permitted below, for such reasonable periods of time as is necessary under the circumstances.

(ii) The Protected Access shall at all times be available for the non-exclusive use and benefit of the PREMISES.

(iii) To the extent any portion of the Protected Access needs to be temporarily closed either (a) for repairs and/or maintenance, or (b) for a reasonable period of time necessary to avoid a public dedication, then during such closure, LANDLORD, will provide a reasonable alternative means of access to the PREMISES so that there shall at all times be reasonable access between the PREMISES, the balance of the Center and public roads, all subject to any governmental restrictions or requirements.

D. Parcel Restriction. No portion of the parcel located west of the PREMISES, as identified on Exhibit "C" ("Restricted Parcel"), shall be used as (i) a sit-down restaurant where food is delivered to the table by servers, nor (ii) for a bar, lounge or nightclub.

E. Lighting. With respect to Section 7 of that certain Restriction Agreement and Grant of Easements dated as of February 13, 2004, executed by and between Landlord and Home Depot U.S.A., Inc. a Delaware corporation (Home Depot), which was recorded on April 8, 2004, as auditor's document number 200404080093 of the official real property records of Skagit County, Washington (the "REA"), LANDLORD, as a "Consenting Owner", agrees that it will not consent to allowing lighting on Protected Access and No-Build Area to be turned off earlier than 11:00 p.m., without TENANT's prior written consent.

LANDLORD and TENANT have signed this Memorandum of Lease as of the day and year first above written.

[SIGNATURES ON FOLLOWING PAGES]

SKAGIT COUNTY WASHINGTON  
REAL ESTATE EXCISE TAX

JAN 30 2006

Amount Paid \$  
By Skagit Co. Treasurer  
Deputy



200601300263  
Skagit County Auditor

1/30/2006 Page 3 of 8 3:59PM

Witnesses:

(LANDLORD)

Newman Development Group of Burlington,  
LLC, a Washington limited liability company

TERRI LYNN  
Printed Name: TERRI LYNN

By: [Signature]  
Name: Marc Newman  
Title: Member

Printed Name: \_\_\_\_\_

STATE OF New York  
COUNTY OF Broome

The foregoing document was acknowledged before me this 22nd day of December, 2005, by Marc Newman, the member of Newman Development Group of Burlington, LLC, a Washington limited liability company, on behalf of the company, who is [☒] personally known to me or [☐] has produced \_\_\_\_\_ as identification.

Patricia Olson  
Notary Public, State of  
My Commission Expires: 8-2-8

PATRICIA OLSON  
Notary Public, State of New York  
No. 01066113776  
Residing in Broome County  
My Commission Expires 8-2-8



200601300263  
Skagit County Auditor

1/30/2006 Page 4 of 8 3:59PM

(TENANT)

GMRI, Inc., a Florida corporation

Barbara K. Thompson  
Printed Name: Barbara K. Thompson

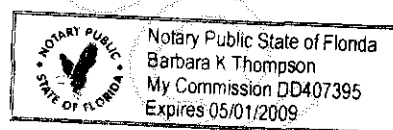
Fran Erich  
Printed Name: FRAN ERICH

By: Ellen F. Parker  
Name: Ellen F. Parker  
Title: Associate General Counsel

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing document was acknowledged before me this 27<sup>th</sup> day of January, 2006, by Ellen F. Parker, the Associate General Counsel of GMRI, Inc., a Florida corporation, on behalf of the corporation, who is personally known to me.

Barbara K. Thompson  
Notary Public, State of  
My Commission Expires:



200601300263  
Skagit County Auditor

1/30/2006 Page 5 of 8 3:59PM

**EXHIBIT "A"**  
**(Premises Legal Description)**

A PORTION OF LOT 8, CITY OF BURLINGTON BINDING SITE PLAN NO. 01-04, ENTITLED NEWMAN DEVELOPMENT OF BURLINGTON, LLC, RETAIL/COMMERCIAL CENTER, APPROVED MARCH 8, 2004 AND RECORDED MARCH 15, 2004 UNDER SKAGIT COUNTY AUDITOR'S FILE NO. 200403150156, BEING IN A PORTION OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 AND A PORTION OF GOVERNMENT LOT 8, SECTION 7, TOWNSHIP 34 NORTH, RANGE 4 EAST, W.M., SKAGIT COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 8, THENCE SOUTH 63°51'13" EAST 66.20 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89°09'34" EAST 87.75 FEET; THENCE SOUTH 00°49'33" EAST 30.79 FEET; THENCE NORTH 89°10'27" EAST 17.00 FEET TO THE BEGINNING OF A CURVE, THE RADIUS POINT OF WHICH BEARS SOUTH 00°49'33" EAST 3.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC DISTANCE OF 4.71 FEET TO THE POINT OF TANGENCY; THENCE SOUTH 00°49'33" EAST 85.49 FEET TO THE BEGINNING OF A CURVE, THE RADIUS POINT OF WHICH BEARS SOUTH 89°10'27" WEST 36.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 71°24'27" AN ARC DISTANCE OF 44.87 FEET TO THE BEGINNING OF A COMPOUND CURVE, THE RADIUS POINT OF WHICH BEARS NORTH 19°25'06" WEST 3.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 108°35'33" AN ARC DISTANCE OF 5.69 FEET TO THE POINT OF TANGENCY; THENCE NORTH 00°49'33" WEST 13.28 FEET; THENCE SOUTH 89°10'27" WEST 89.27 FEET; THENCE NORTH 00°49'33" WEST 127.25 FEET TO THE BEGINNING OF A CURVE, THE RADIUS POINT OF WHICH BEARS NORTH 89°10'27" EAST 10.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°59'07" AND ARC DISTANCE OF 15.71 FEET TO THE POINT OF BEGINNING.



200601300263

Skagit County Auditor

1/30/2006 Page 6 of 8 3:59PM

**EXHIBIT "B"**  
**("CENTER")**

Lots 2-15, City of Burlington Binding Site Plan No. 01-04, entitled Newman Development of Burlington, LLC, Retail/Commercial Center, approved March 8, 2004 and recorded March 15, 2004 under Skagit County Auditor's File No. 200403150156, being in a portion of the South 1/2 of the Northeast 1/4 and a portion of Government Lot 8, Section 7, Township 34 North, Range 4 East, W.M., Skagit County, Washington.





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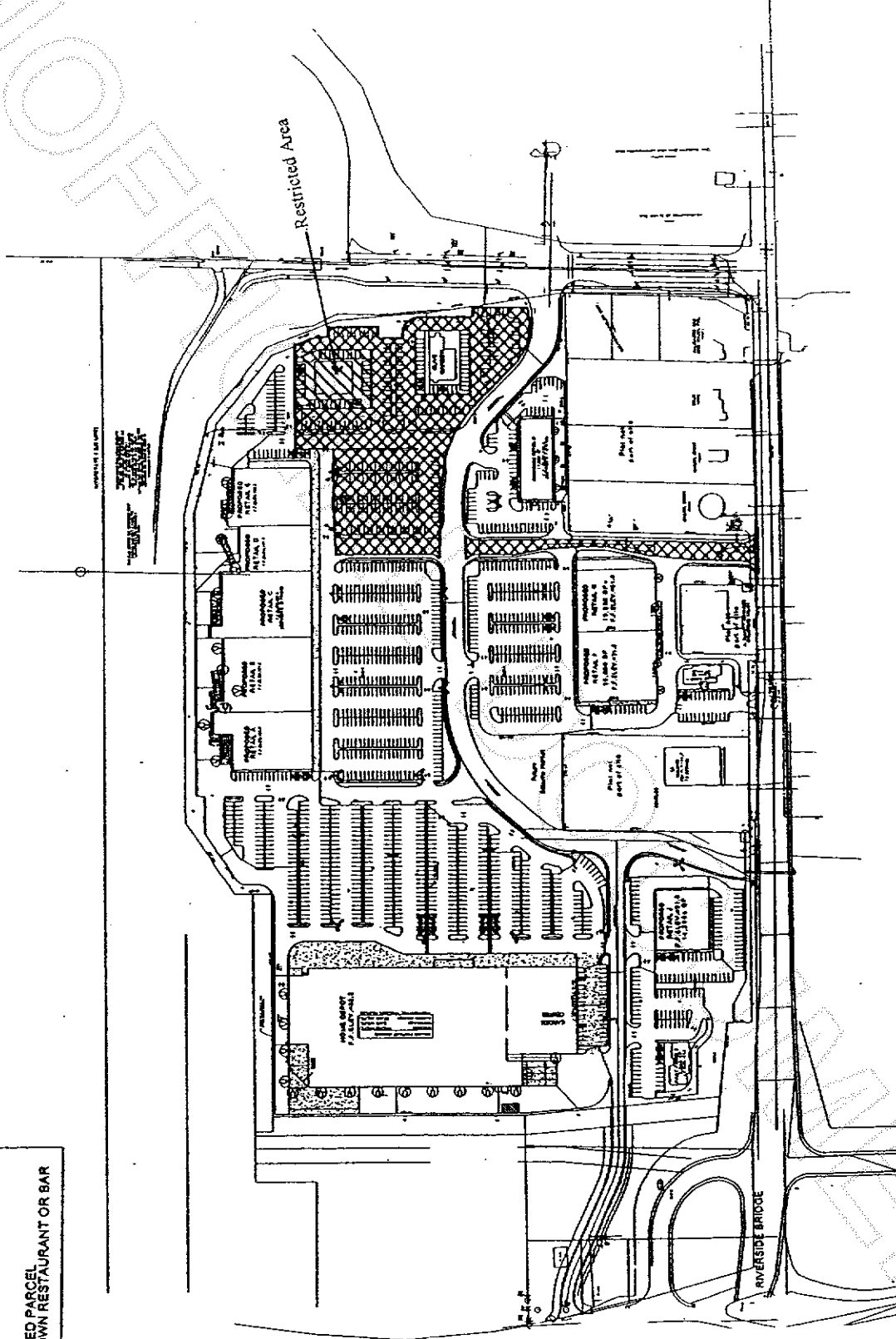
Skagit County Auditor

1/30/2006 Page 7 of 8 3:59PM

**EXHIBIT "C"**  
**SITE PLAN OF THE CENTER**  
 (Showing No-Build Area, Protected Access  
 and Restricted Parcel)

**KEY**

-  - NO BUILD/PROTECTED ACCESS
-  - RESTRICTED PARCEL  
NO SIT-DOWN RESTAURANT OR BAR



200601300263  
 Skagit County Auditor

**EXHIBIT A-5 NO BUILD/PROTECTED ACCESS**  
**BURLINGTON CROSSINGS**  
 Burlington, WA - August 23, 2005

Nemac Development Group, LLC  
 1319 Via West Avenue, Suite 101  
 San Francisco, CA 94116  
 Tel: (415) 771-5840  
 Fax: (415) 771-5840  
 www.nemacdevelopment.com



1"=100'  
 0 50 100 150  
 FEET  
 0 50 100 150  
 METERS