

IN THE SUPERIOR COURT OF HALL COUNTY

FILED  
HALL CO., GA

STATE OF GEORGIA

2009 JAN 22 PM 4:34

CHARLES BAKER, CLERK  
SUPERIOR-STATE COURT

REGIONS FINANCIAL CORPORATION, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 GAINESVILLE CITY CENTER, LLC, )  
 )  
 Defendant. )

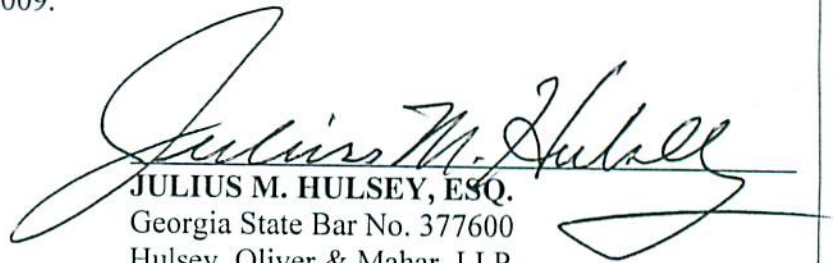
BY \_\_\_\_\_ 

CIVIL ACTION FILE NO.  
\_\_\_\_\_

ACKNOWLEDGEMENT OF SERVICE

The undersigned attorney, Julius M. Hulsey, Esq., in the above-styled action, hereby acknowledges service of the foregoing *Verified Complaint for Injunction, Declaratory Judgment and Other Relief*, along with the accompanying Summons, on behalf of Gainesville City Center, LLC. All other and further process and service are hereby waived.

This 22<sup>nd</sup> day of January, 2009.



**JULIUS M. HULSEY, ESQ.**  
Georgia State Bar No. 377600  
Hulsey, Oliver & Mahar, LLP  
P.O. Box 1457  
Gainesville, GA 30503  
Attorneys for Gainesville City Center, LLC

IN THE SUPERIOR/STATE COURT OF HALL COUNTY  
STATE OF GEORGIA

REGIONS FINANCIAL CORPORATION

CIVIL ACTION  
NUMBER \_\_\_\_\_

PLAINTIFF

VS.

GAINESVILLE CITY CENTER, LLC

DEFENDANT

SUMMONS

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned and required to file with the Clerk of said court and serve upon the Plaintiff's attorney, whose name and address is:

**STEVEN P. GILLIAM  
SMITH, GILLIAM, WILLIAMS & MILES, P.A.  
P.O. BOX 1098  
GAINESVILLE, GA 30503**

an answer to the complaint which is herewith served upon you, within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Clerk of Superior/State Court

BY \_\_\_\_\_  
Deputy Clerk

IN THE SUPERIOR COURT OF HALL COUNTY

FILED  
HALL CO., GA

STATE OF GEORGIA 2009 JAN 22 PM 4:35

\_\_\_\_\_)  
**REGIONS FINANCIAL CORPORATION** )  
 )  
 Plaintiff, )  
 vs. )  
 )  
**GAINESVILLE CITY CENTER, LLC,** )  
 )  
 Defendant. )  
 \_\_\_\_\_)

CHARLES BAKER, CLERK  
SUPERIOR-STATE COURT

BY \_\_\_\_\_ *D*

Civil Action  
File No. 2009cv287J

**VERIFIED COMPLAINT FOR INJUNCTION, DECLARATORY JUDGMENT  
AND OTHER RELIEF**

COMES NOW Regions Financial Corporation ("Regions" or "Plaintiff") and files this Complaint against Gainesville City Center, LLC ("GCC" or "Defendant") and shows this Honorable Court the following:

**THE PARTIES, JURISDICTION AND VENUE**

1.

Plaintiff Regions Financial Corporation, a banking corporation organized under the State of Delaware and duly authorized to do business in the State of Georgia, is subject to the jurisdiction of this Court.

2.

Defendant Gainesville City Center, LLC ("GCC") is an entity entitled to sue and to be sued and is subject to the jurisdiction of this Honorable Court. The County may be served with process through its registered agent Julius M. Hulsey, Esq., at 200 E.E. Butler Parkway, Gainesville, Georgia 30501.

**SMITH GILLIAM  
WILLIAMS & MILES, P.A.**  
 Attorneys at Law  
 200 OLD COCA-COLA BLDG.  
 301 GREEN STREET, NW  
 GAINESVILLE, GEORGIA 30501  
 MAILING ADDRESS:  
 P.O. BOX 1098  
 GAINESVILLE, GEORGIA 30502  
 T: (770) 536-3381  
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3.

Jurisdiction and venue are proper in this Court as to all parties.

**FACTS**

4.

On October 18, 1984, Town View Plaza, Inc. ("Town View"), executed a Warranty Deed to The First National Bank of Gainesville ("First National), predecessor in interest to Regions, and conveyed approximately 1.239 acres of property to First National in fee simple. A true and correct copy of the Deed is attached hereto as Exhibit A.

5.

Town View also conveyed "a non-exclusive, appurtenant and perpetual easement for ingress and egress over, under and across the paved parking areas and driveways" existing on the property retained by Town View to First National, its successors and assigns. Id.

6.

The property retained by Town View was described in Exhibit B to the Deed ("Retained Property"). Id.

7.

The easements granted and reserved in the Deed with respect to the paved parking areas expired ten (10) years after the execution of the Deed. Id.

8.

The easements granted and reserved in the Deed with respect to the driveways existing on the Retained Property are perpetual and do not expire.

**SMITH GILLIAM  
WILLIAMS & MILES, P.A.**

Attorneys at Law

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9.

First National and Regions have used the driveways on the Retained Property under color of title and claim of right.

10.

First National and Regions have used the driveways on the Retained Property continuously, without interruption since October 18, 1984.

11.

First National and Regions have used the driveways on the Retained Property openly, publicly, notoriously and peaceably.

12.

Town View had knowledge of First National's and Regions' use of the driveways existing on the Retained Property and acquiesced to the use of the driveways.

13.

On January 14, 2008, Gainesville Redevelopment Authority ("GRA") conveyed .67 acres of property to City View Plaza, LLC, which is designated in the legal description as PARCEL 3 ("PARCEL 3"). A true and correct copy of the Limited Warranty Deed is attached hereto as Exhibit B. The .67 acres is designated in the legal description as PARCEL 3 and is shown on the Boundary Survey for City View Plaza, LLC attached as Exhibit C.

14.

On August 22, 2007, Town View Plaza, LTD ("Town View") executed a Warranty Deed to City View Plaza, LLC ("City View"), and conveyed 3.03 acres to City View. A true and correct copy of the Deed is attached hereto as Exhibit D.

**SMITH GILLIAM  
WILLIAMS & MILES, P.A.**

Attorneys at Law

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15.

On January 14, 2008, City View executed a Warranty Deed to GCC and conveyed 5.46 acres of property to GCC which deed included the property that was subject to the driveway easements existing on the Retained Property and also included PARCEL 3.

16.

City View through its counsel, alleges that the PARCEL 3 tract includes a fifty foot (50') wide strip of land which runs the entire length of the Retained Property which eliminated Region's ingress and egress rights. A true and correct copy of the Limited Warranty Deed and survey is attached here to as Exhibit E and Exhibit F, respectively.

17.

GCC is in the process of constructing a mixed use development on the Retained Property which will eliminate Region's ingress and egress over, under and across the driveways existing on the Retained Property.

18.

GCC is in the process of demolishing buildings and asphalt pavement, which, if it continues, would prevent Regions from using its driveway easements on the Retained Property.

19.

GCC refuses to allow Regions to travel under and across the driveways existing on the Retained Property and has erected a fence on the Retained Property which infringes upon Region's easement rights and prevents Regions from using its driveway easements on the Retained Property.

**SMITH GILLIAM  
WILLIAMS & MILES, P.A.**

Attorneys at Law

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20.

GCC contends that Region's easement rights expired ten (10) years after the execution of the Deed and Region's rights to travel under and across the driveways existing on the Retained Property are extinguished.

**COUNT I: DECLARATORY JUDGMENT**

21.

Plaintiff realleges and incorporates paragraphs 1 through 20 above as though fully set out verbatim herein.

22.

Plaintiff has ingress and egress rights over, under and across the driveways on the Retained Property and Defendant has arbitrarily denied Plaintiff access to these driveways.

23.

Based upon the foregoing, there exists an actual controversy between Plaintiff and Defendant.

24.

Plaintiff is in a position of uncertainty or insecurity based upon the foregoing.

25.

Plaintiff is in need of judicial guidance to enable them to travel over, under and across the driveways on the Retained Property.

**SMITH GILLIAM  
WILLIAMS & MILES, P.C.**

Attorneys at Law

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26.

Plaintiff, therefore, is entitled to a declaration from this Court that Plaintiff is entitled to travel over, under and across the driveways existing on the Retained Property for ingress and egress by right.

27.

In the alternative, Plaintiff is entitled to a declaration from this Court that Plaintiff has acquired a prescriptive easement to travel over, under and across the driveways existing on the Retained Property for ingress and egress.

**COUNT II – INJUNCTIVE RELIEF**

28.

Plaintiff incorporates and realleges Paragraphs 1 through 27 as if fully set forth herein.

29.

Plaintiff's property rights will be immediately and irreparably harmed unless equitable relief is awarded.

30.

Plaintiff does not have an adequate remedy at law.

31.

Accordingly, Plaintiff is entitled to a temporary and permanent injunction prohibiting Defendant from infringing upon Plaintiff's ingress and egress rights to travel over, under and across the driveways on the Retained Property.

**SMITH GILLIAM  
WILLIAMS & MILES, P.A.**

Attorneys at Law

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**COUNT III - ATTORNEYS' FEES AND EXPENSES**

32.

Plaintiff realleges and incorporates paragraphs 1 through 31 above as though fully set out verbatim herein.

33.

The actions of Defendant described herein are in bad faith, constitute stubborn litigiousness, or have put Plaintiff to unnecessary trouble and expense, thereby entitling Plaintiff to recover its expenses of litigation, including reasonable attorneys' fees, pursuant to O.C.G.A. § 13-6-11.

34.

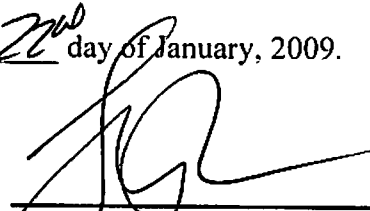
Accordingly, Plaintiff petitions the Court to award it reasonable attorneys' fees, interest, and any other relief the Court deems just and equitable, as well as costs and expenses.

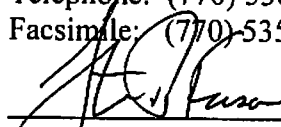
WHEREFORE, Plaintiff prays for the following relief:

- (a) That summons and process issue and that the Defendants be served as required by law;
- (b) That the Court issue a declaration that Plaintiff is entitled to travel over, under and across the driveways existing on the Retained Property for ingress and egress or, in the alternative, that Plaintiff has acquired a prescriptive easement to travel over, under and across the driveways existing on the Retained Property for ingress and egress;

- (c) That the Court issue a temporary and permanent injunction prohibiting Defendant from infringing upon Plaintiff's ingress and egress rights to travel over, under and across the driveways on the Retained Property;
- (d) That the Court issue a temporary and permanent injunction prohibiting the demolition or destruction of the asphalt driveways on the Retained Property for ingress and egress;
- (e) That the Court award the Plaintiff its reasonable attorneys' fees and expenses pursuant to O.C.G.A. § 13-6-11; and
- (f) That the Court order such other relief as is appropriate and just.

Respectfully submitted this 22<sup>nd</sup> day of January, 2009.

  
\_\_\_\_\_  
Steven P. Gilliam  
Georgia Bar No.: 294950  
**SMITH, GILLIAM, WILLIAMS & MILES, P.A.**  
P.O. Box 1098  
Gainesville, Georgia 30503  
Telephone: (770) 536-3381  
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\_\_\_\_\_  
Stephen F. Fusco  
Georgia Bar No. 281030  
**BALCH & BINGHAM LLP**  
30 Ivan Allen Plaza, Suite 700  
30 Ivan Allen Jr. Boulevard  
Atlanta, GA 30308  
Telephone: (404) 261-6020  
Facsimile: (404) 261-3656

*By SFG  
with express  
permission*

Attorneys for Plaintiff, Regions Financial Corporation

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WILLIAMS & MILES, P.A.**  
Attorneys at Law  
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IN THE SUPERIOR COURT OF HALL COUNTY  
STATE OF GEORGIA

REGIONS FINANCIAL CORPORATION )

Plaintiff, )

vs. )

GAINESVILLE CITY CENTER, LLC, )

Defendant. )

Civil Action

File No. \_\_\_\_\_

VERIFICATION

Personally appeared before the undersigned attesting officer, duly authorized to administer oaths, Keith B. Pressley, an authorized agent of Regions Financial Corporation who, after first being duly sworn, deposes and on oath says that the facts contained in the within and foregoing Complaint are true and correct and based upon personal knowledge.

This 16 day of January, 2009.

Sworn to and subscribed  
before me this 16<sup>th</sup> day  
of January, 2009.

Melissa Vinson Ray  
My Commission Expires: 5/23/12

Keith B. Pressley  
By: Keith B. Pressley  
Title: Senior Vice President

STATE OF GEORGIA  
COUNTY OF HALL

WARRANTY DEED

THIS INDENTURE is made and entered into this 18th day of October, 1984 by TOWN VIEW PLAZA, INC., a Georgia corporation (hereinafter referred to as "Grantor"), for the benefit of THE FIRST NATIONAL BANK OF GAINESVILLE, a national banking association (hereinafter referred to as "Grantee") (the words "Grantor" and "Grantee" to include their respective heirs, successors, legal representatives and assigns where the context requires or permits).

W I T N E S S E T H:

That Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid at and before the sealing and delivery of these presents, the receipt and sufficiency whereof are hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto Grantee, the property described on Exhibit "A" attached hereto and by this reference made a part hereof (hereinafter sometimes referred to as the "Conveyed Parcel"); along with a non-exclusive, appurtenant and perpetual easement for ingress and egress over, under and across the paved parking areas and driveways now existing on the Grantor's retained adjoining parcel, described in Exhibit "B" attached hereto and by this reference made a part hereof (hereinafter the "Retained Parcel"). Said easement shall include the right to park on said paved parking areas and driveways now existing on the Retained Parcel so long as such parking does not unreasonably interfere with Grantor's use of the Retained Parcel. The easement rights granted hereby shall be for the benefit of Grantee, its successors and assigns, tenants, employees, agents, independent contractors, invitees and licensees, without limitation. Use of the easement is not confined to the present uses of the Conveyed Parcel, the present buildings thereon, or present means of transportation, but shall extend to any reasonable changes or modifications thereof. If the Conveyed Parcel is hereafter divided into two or more parts by separation of ownership or by lease, all such parts shall enjoy the benefit of the easement hereby created. Any such division shall not be deemed to be an unreasonable increase of burden or use of the easement. Grantor shall maintain and keep in good repair said parking areas and driveways on the Retained Parcel.

TO HAVE AND TO HOLD said property, together with all and singular the rights, members, fixtures, improvements and appurtenances thereof, to the same being, belonging or in anywise appertaining, to the only proper use, benefit and behoof of Grantee forever IN FEE SIMPLE, subject only to those certain matters set forth on Exhibit "C" attached hereto and by this reference made a part hereof.

And the said Grantor does warrant and will forever defend the right and title to the aforescribed property unto Grantee against the claims of all persons whomsoever, except as expressly set forth hereinabove.

And the said Grantor also does hereby reserve for the benefit of Grantor and the Retained Parcel a non-exclusive, appurtenant and perpetual easement for ingress and egress over, under and across the paved parking areas and driveways now existing on the Conveyed Parcel. Said easement shall include the right to park on said paved parking areas and driveways now existing on the Conveyed Parcel so long as such parking does not unreasonably interfere with Grantee's use of the Conveyed Parcel. The easement rights granted hereby shall be for the benefit of Grantor, its successors-in title and assigns, tenants, employees, agents, independent contractors, invitees and licensees, without limitation. Use of the easement is not confined to the present uses of the Retained Parcel, the present buildings thereon, or present means of transportation, but shall extend to any reasonable changes or modifications thereof. If the Retained Parcel is hereafter divided into two or more parts by



separation of ownership or by lease, all such parts shall enjoy the benefit of the easement hereby created. Any such division shall not be deemed to be an unreasonable increase of burden or use of the easement. By acceptance hereof, Grantee agrees that it shall maintain and keep in good repair said parking areas and driveways now existing on the Conveyed Parcel.

And the said Grantor also does hereby reserve for the benefit of Grantor and the Retained Parcel and grant for the benefit of Grantee and the Conveyed Parcel the following mutual, exclusive, appurtenant and perpetual easement:

The common wall which constitutes the southwest wall of a building located on the Conveyed Parcel and the northeast wall of a building located on the Retained Parcel, through which a portion of the boundary between the Conveyed Parcel and the Retained Parcel runs, shall be a party wall, and Grantor and Grantee shall have the right to use it jointly. If it becomes necessary or desirable to repair or rebuild the whole or any part of the party wall, the repairing or rebuilding expense shall be borne equally by Grantor and Grantee, or their successors-in-title and assigns. Any repairing or building of the wall shall be performed by such person mutually agreed by Grantor and Grantee and shall be on the same location, and of the same size, as the original party wall or portion thereof and of the same or similar material of the same quality as that used in the original wall or portion thereof. The mutual easement rights granted and reserved hereby shall be for the mutual benefit of Grantor, Grantee, their successors-in-title and assigns, tenants, employees, agents, independent contractors, invitees and licensees, without limitation. If either the Retained Parcel or the Conveyed Parcel is hereafter divided into two or more parts by separation of ownership or by lease, only those portions that include any part of the said party wall shall enjoy the benefit of the easement hereby created. Any such division shall not be deemed to be an unreasonable increase of burden or use of the easement.

And the said Grantor also does hereby impose, upon and against the Conveyed Parcel, for the benefit of Grantor and the Retained Parcel, and upon and against the Retained Parcel, for the benefit of Grantee and the Conveyed Parcel, the restrictive covenants set forth in Exhibit "D" attached hereto and by this reference made a part hereof.

Said restrictive covenants shall apply for a period of ten (10) years from the date hereof and shall be enforceable by Grantor and its successors-in-title to the Retained Parcel against Grantee and its successors-in-title to the Conveyed Parcel by any and all remedies at law and in equity, and shall be enforceable by Grantee and its successors-in-title to the Conveyed Parcel against Grantor and its successors-in-title to the Conveyed Parcel by any and all remedies at law and in equity; it being the express intent of the parties hereto that said restrictive covenants be covenants running with the land.

Notwithstanding any other provision of this Warranty Deed to the contrary, all easements granted or reserved in this Warranty Deed with respect to the paved parking areas shall expire ten (10) years from the date hereof.

By acceptance of this Warranty Deed, Grantee hereby agrees to be bound by all the terms and conditions hereof.

IN WITNESS WHEREOF, Grantor and Grantee have caused these presents to be executed under seal on the date first above written.

As to Grantor:

Signed, sealed and delivered in the presence of:

GRANTOR:

TOWN VIEW PLAZA, INC.

*[Signature]*  
Sam N. Hodges, Jr., President.

Attested by:

*[Signature]*  
Rhodes Haverly, Jr., Secretary  
[CORPORATE SEAL]

*[Signature]*  
Unofficial Witness  
*[Signature]*  
Notary Public  
Notary Public, Georgia, State at Large  
Commission Expires July 31, 1987  
[NOTARIAL SEAL]

HALL COUNTY, Georgia  
Real Estate Transfer Tax  
and \$ 800.00  
DATE Oct. 18, 1984  
H. GRADY WATSON  
Clerk of Superior Court  
*[Signature]*

GEORGIA, HALL COUNTY, CLERK SUPERIOR COURT  
FILED IN OFFICE, THIS 18 DAY OF Oct  
1984 AT 2:35 P.M. RECORDED IN BOOK NO.  
858 PAGE 50-56 THIS 19 DAY OF  
Oct. 1984  
*[Signature]*  
H. GRADY WATSON, CLERK

pd: sm + H

EXHIBIT "A"

All that tract or parcel of land lying and being in Land Lot 148, 9th District, City of Gainesville, Hall County, Georgia, consisting 1.239 acres according to a plat of survey of the property of First National Bank, dated August 27, 1984, prepared by Farley-Collins Associates, registered surveyors, and recorded in Plat Book 99, page 25. Hall County, Georgia Plat Records. Reference to said plat is hereby made for a more complete description of the property.

---

EXHIBIT "B"

All that tract or parcel of land lying and being in Land Lot 148, 9th District, City of Gainesville, Hall County, Georgia, consisting 3.031 acres according to a plat of survey for First National Bank, dated October 8, 1984, prepared by Calvin A. Kytile, registered surveyor, and recorded in Plat Book 99, pages 26-27, Hall County, Georgia Plat Records. Reference to said plat and the record thereof is hereby made for a more complete description of the property.



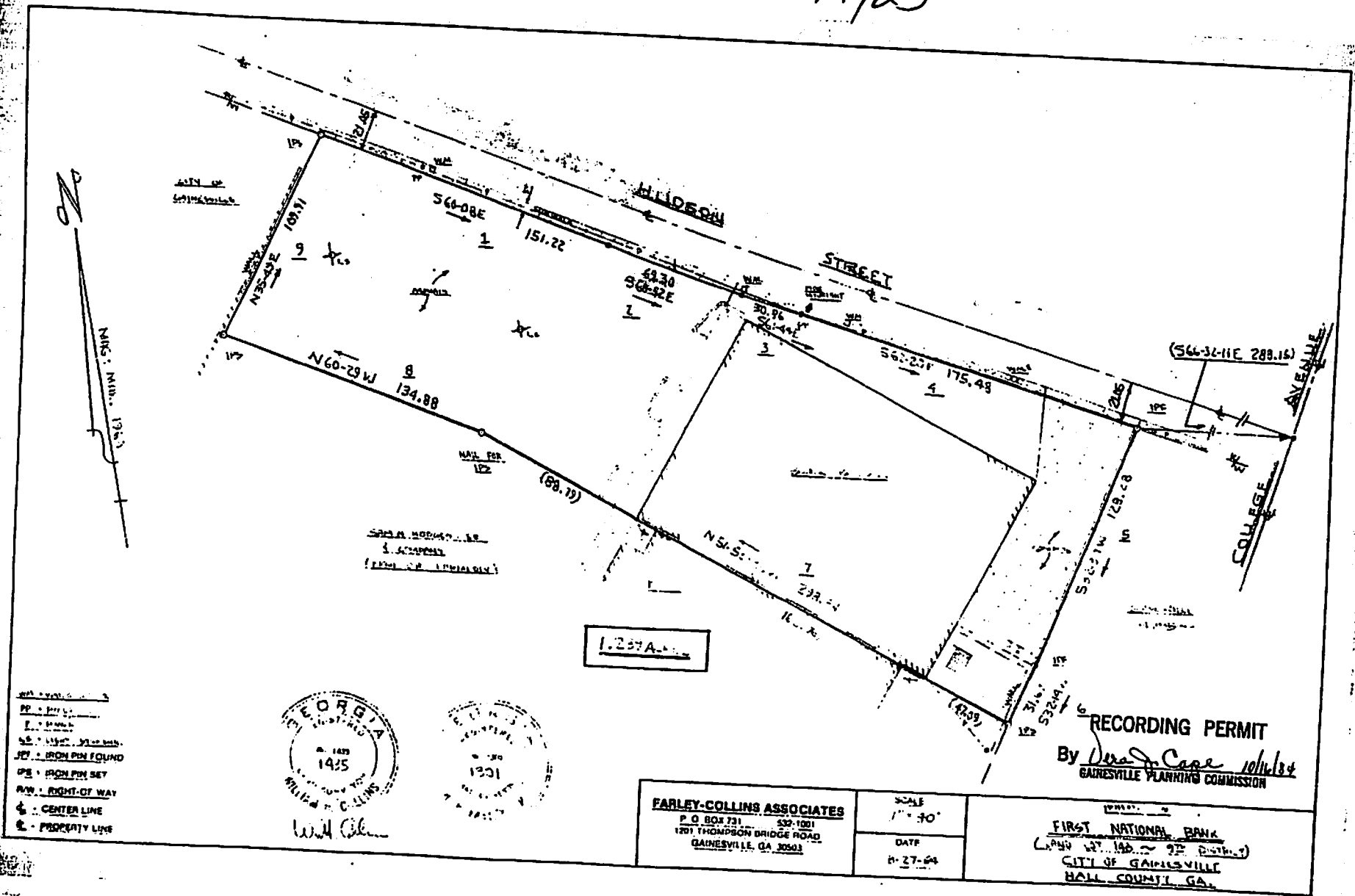
# EXHIBIT C

1. State and County ad valorem taxes for the year 1984, which constitute a lien not yet due and payable, and subsequent years, and any additional ad valorem taxes for the years 1982 and 1983 which may be due as a result of any adjustment in the Tax Digest due to the non-acceptance thereof by the State of Georgia.
2. Any Utility easements serving the Property.
3. A Security Deed to the The First National Bank of Gainesville dated June 7, 1982.

EXHIBIT "D"RESTRICTIVE COVENANTS

The Grantor as to the Retained Parcel and the Grantee as to the Conveyed Parcel shall not construct any buildings, parking lots or other improvements thereon without the prior written consent of the other party; provided, however, that this covenant shall in no way restrict or limit the right of the parties to repair, refurbish or rehabilitate existing buildings, parking lots or other improvements located on the Retained Parcel or the Conveyed Parcel on the date hereof.

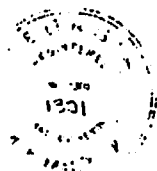
99/25



SPECIAL MONUMENT  
 1. ACCURACY  
 (FORM OF SURVEY)

1.257A

- PP - PROPERTY
- SP - SURVEY
- SB - SUBDIVISION
- SE - SECTION
- SE - IRON PIN FOUND
- SP - IRON PIN SET
- AW - RIGHT-OF-WAY
- CL - CENTER LINE
- PL - PROPERTY LINE



W. H. Allen

RECORDING PERMIT  
 By Dora S. Case 10/16/84  
 GAINESVILLE PLANNING COMMISSION

**FARLEY-COLLINS ASSOCIATES**  
 P. O. BOX 731 532-1001  
 1201 THOMPSON BRIDGE ROAD  
 GAINESVILLE, GA. 30603

SCALE  
 1" = 30'  
 DATE  
 10-27-84

FIRST NATIONAL BANK  
 (LAWYER 120 - 92 DISTRICT)  
 CITY OF GAINESVILLE  
 HALL COUNTY, GA.

Recorded October 16 1984 11 4 21 + 001

HALL COUNTY, Georgia  
Real Estate Transfer Tax

Paid \$ - 0 -

Date 1-15-08

DWIGHT S. WOOD  
Clerk Superior Court

By Jc  
069 2008 000268

GEORGIA, HALL COUNTY, CLERK  
SUPERIOR COURT FILED IN OFFICE  
AND RECORDED IN BOOK 6250  
492-496 THIS 15  
DAY OF Jan. 2008 AT 4:07 Pm  
DWIGHT S. WOOD, CLERK BY Jc

AFTER RECORDING PLEASE RETURN TO:  
Hulsey, Oliver & Mahar ←  
P O. Box 1457  
Gainesville, GA 30503  
ATTENTION: Jane A. Range

**LIMITED WARRANTY DEED**

**GEORGIA, HALL COUNTY:**

This deed made by and between Gainesville Redevelopment Authority, Grantor, and City View Plaza, LLC, Grantee,

WITNESSETH, that the said Grantor, for and in consideration of Ten (\$10 00) Dollars and other valuable consideration in hand paid at and before the sealing and delivery of these presents, the receipt and sufficiency whereof is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the Grantee,

See Exhibit "A" attached hereto and made a part hereof.

TO HAVE AND TO HOLD the said premises, together with all rights and appurtenances unto the said Grantee, forever in **FEE SIMPLE**, and the Grantor **WARRANTS** the title to the same against the lawful claims of all persons claiming by and through the Grantor. The warranty is limited by the permitted exceptions as set forth on Exhibit "B" attached hereto and made a part hereof.

Whenever there is a reference herein to the Grantor or the Grantee, the singular includes the plural and the masculine includes the feminine and the neuter, and said terms include and bind the heirs, executors, administrators, successors and assigns of the parties hereto.



000493

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and affixed his seal  
this 14<sup>th</sup> day of January, 2008.

GAINESVILLE REDEVELOPMENT  
AUTHORITY

By: [Signature]  
Daniel Summer, Chairman

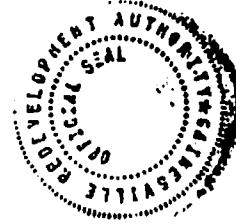
Attest: [Signature]  
Treadwell Syfan, Secretary

Signed, sealed and delivered this  
14<sup>th</sup> day of January, 2008.

[Signature]  
Witness

[Signature]  
Notary Public  
My Commission Expires

JAR:cmv/11486/6674/W/103033



## EXHIBIT "A"

## LEGAL DESCRIPTION

PARCEL 3

All that tract or parcel of land lying and being in Land Lot 148 of the 9<sup>th</sup> Land District in the City of Gainesville, (Fork District, GMD 411), Hall County, Georgia, and being 0.67 acres delineated as Parcel 3 on a plat of survey dated November 28, 2007, prepared for City View Plaza, LLC by B. F. Dyer & Henning, Inc., Land Surveyors (Frank P. Devereux, Georgia Professional Registered Land Surveyor, No. 2693), which plat is incorporated herein by reference for a more complete and accurate description of said property. Being more particularly described according to said survey as follows:

To find the point of beginning, start at the intersection of the easterly right of way of Bradford Street, S.E., with the northerly right of way of College Avenue, S.E., thence N 33° 44' 52" W a distance of 80.15 feet; thence N 33° 32' 03" W a distance of 72.58 feet to the TRUE POINT OF BEGINNING; thence N 32° 34' 12" W a distance of 162.95 feet to a point; thence N 30° 46' 53" W a distance of 171.51 feet to a point; thence N 30° 36' 49" W a distance of 266.52 feet to a point on the southeastern right of way of Jesse Jewell Parkway; thence N 57° 45' 27" E a distance of 49.27 feet to a point on said right of way; thence leaving Jesse Jewell Parkway, S 30° 24' 08" E a distance of 262.02 feet to an iron pin found; thence S 30° 46' 53" E a distance of 171.51 feet to an x mark in s.w. found; thence S 32° 34' 12" E a distance of 162.95 feet to an iron pin found; thence S 52° 25' 09" W a distance of 48.64 feet to the TRUE POINT OF BEGINNING

PARCEL 4

All that tract or parcel of land lying and being in Land Lot 148 of the 9<sup>th</sup> Land District in the City of Gainesville, (Fork District, GMD 411), Hall County, Georgia, and being 1.28 acres delineated as Parcel 4 on a plat of survey dated November 28, 2007, prepared for City View Plaza, LLC by B. F. Dyer & Henning, Inc., Land Surveyors (Frank P. Devereux, Georgia Professional Registered Land Surveyor, No. 2693), which plat is incorporated herein by reference for a more complete and accurate description of said property. Being more particularly described according to said survey as follows:

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04° E a distance of 8.87 feet; thence leaving said right of way, S 37° 47' 15" W a distance of 106.07 feet to a nail set; thence S 38° 13' 39" W a distance of 108.01 feet to a nail set; thence S 54° 06' 26" W a distance of 81.11 feet to an iron pin found; thence N 30° 24' 08" W a distance of 262.02 feet to the TRUE POINT OF BEGINNING.

PARCEL 5

All that tract or parcel of land lying and being in Land Lot 148 of the 9<sup>th</sup> Land District in the City of Gainesville, (Fork District, GMD 411), Hall County, Georgia, and being 0.10 acres delineated as Parcel 5 on a plat of survey dated November 28, 2007, prepared for City View Plaza, LLC by B. F. Dyer & Henning, Inc., Land Surveyors (Frank P. Devereux, Georgia Professional Registered Land Surveyor, No. 2693), which plat is incorporated herein by reference for a more complete and accurate description of said property Being more particularly described according to said survey as follows:

To find the point of beginning, start at the intersection of the easterly right of way of Bradford Street, S.E., with the northerly right of way of College Avenue, S.E., thence N 33° 44' 52" W 80.15 feet; thence N 33° 32' 03" W a distance of 72.58 feet to a point; thence N 32° 34' 12" W a distance of 162.95 feet to a point; thence N 30° 46' 53" W a distance of 171.51 feet to a point; thence N 30° 36' 49" W a distance of 266.52 feet to a point on the southeastern right of way of Jesse Jewell Parkway; thence N 57° 45' 27" E a distance of 49.27 feet to a point on said right of way; thence N 57° 45' 27" E a distance of 118.42 feet to a point; thence N 60° 16' 27" E a distance of 49.90 feet to the TRUE POINT OF BEGINNING; thence along the southerly right of way of Jesse Jewell Parkway, N 61° 21' 08" E a distance of 66.43 feet to a point; thence along a mitered corner, at the intersection of the southerly right of way of Jesse Jewell Parkway and the westerly right of way of Green Street S 78° 23' 05" E a distance of 35.47 feet to a point on the westerly right of way of Green Street; thence along the westerly right of way of Green Street, S 29° 13' 57" E a distance of 76.27 feet to a point; thence westerly a distance of 71.46 feet along the arc of a curve (said curve having a radius of 141.54 and a chord distance of 70.70 feet on a bearing of S 43° 40' 04" E) to a point on said right of way; run South 58° 06' 04" East a distance of 8.87 feet; thence leaving said right of way, N 58° 06' 04" W a distance of 183.49 feet to a point; thence S 80° 21' 27" W a distance of 23.66 feet back to the TRUE POINT OF BEGINNING.

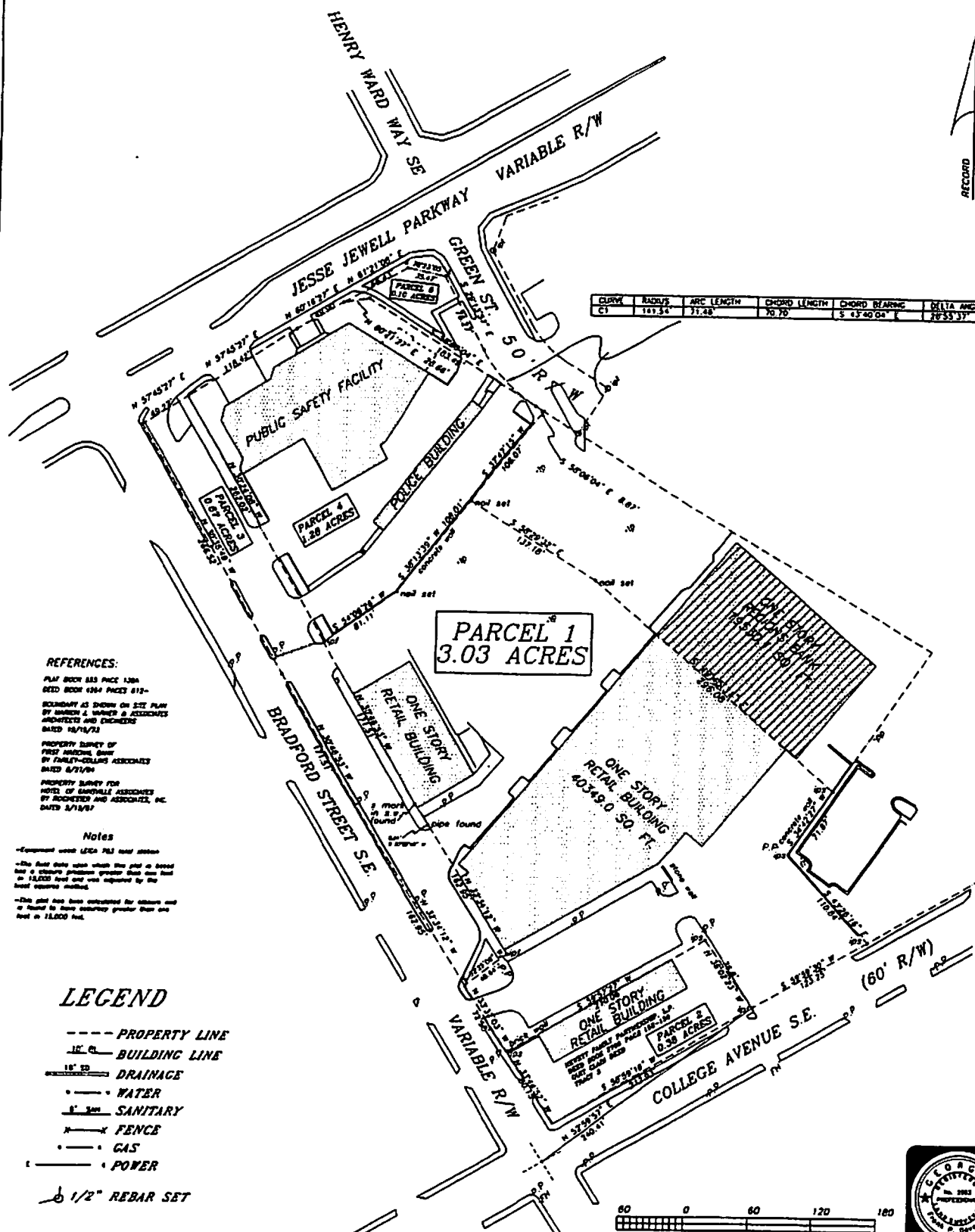
**EXHIBIT "B"**  
**PERMITTED EXCEPTIONS**

1. The property is exempt from ad valorem taxes for the year 2008.
  2. Easement to Georgia Power Company from the City of Gainesville dated January 2, 1968, recorded Deed Book 364, Page 39.
  3. All matters as shown on the boundary survey for City View Plaza, LLC dated November 28, 2007, and prepared by B F. Dyer and Henning, Inc by Frank P. Deveraux, Georgia Land Surveyor, including the following:
    - a. A power pole on the southwesterly corner of the parcel and power line running along the rear of the property.
  4. Rights of the public to the portion of the former Hudson Street encompassed within Parcel 5 of the subject property
  5. Unrecorded Lease Agreement dated January 14, 2008 by and between Gainesville Redevelopment Authority, as Landlord, and City of Gainesville, as Tenant.
  6. Unrecorded Lease Agreement dated January 14, 2008 by and between City View Plaza, LLC, as Landlord, and Gainesville Redevelopment Authority, as Tenant.
-





CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	141.34	71.48	50.70	S 45°40'00" E	28°53'37"

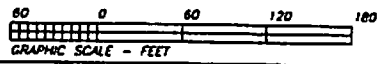


**REFERENCES:**  
 PLAN BOOK 643 PAGE 1284  
 DEED BOOK 4364 PAGE 813-  
 SECONDARY AS SHOWN ON SITE PLAN  
 BY MARSH & WARDEN & ASSOCIATES  
 ARCHITECTS AND ENGINEERS  
 DATED 12/11/71  
 PROPERTY SURVEY OF  
 FIRST WINGING, TRACT  
 OF FAULKNER-COLLINS ASSOCIATES  
 DATED 6/7/74  
 PROPERTY SURVEY FOR  
 HOTEL OF GAINESVILLE ASSOCIATES  
 BY ROBERTS AND ASSOCIATES, INC.  
 DATED 3/19/71

**Notes**  
 -Elevation used LEICA PLS total station  
 -This field data upon which this plan is based  
 had a closure precision greater than one foot  
 in 12,000 feet and was prepared by the  
 local volume method.  
 -This plan has been established for others and  
 is found to have accuracy greater than one  
 foot in 12,000 feet.

**LEGEND**

- PROPERTY LINE
- BUILDING LINE
- 1/2" x 1/2" DRAINAGE
- WATER
- SANITARY
- FENCE
- GAS
- POWER
- ⊕ 1/2" REBAR SET



Division	No.	Date	Description

BOUNDARY SURVEY FOR  
 CITY VIEW PLAZA, LLC  
 LOCATED IN THE CITY OF GAINESVILLE  
 LAND LOT 148, 9TH DISTRICT  
 FORK C.M.D. # 411, HALL COUNTY, GEORGIA

Drawn P.P.D.  
 Job No. D-0252  
 Date: 11/28/07

**B.F. DYER & HENNING INC.**  
 LAND SURVEYORS (770) 943-9742  
 3370 Meadowview Lane  
 Marietta, Georgia 30068

Sheet 1 Of 1

PLAINTIFF'S  
 EXHIBIT  
**C**

6144 / 000406

GEORGIA, HALL COUNTY, CLERK  
SUPERIOR COURT FILED IN OFFICE  
AND RECORDED IN BOOK 6144  
PAGE(S) 406-408 THIS 22  
DAY OF August 2007 AT 1:16 pm  
DWIGHT S. WOOD, CLERK BY mcr

HALL COUNTY, Georgia  
Real Estate Transfer Tax

Paid \$ 2,500.00  
Date 8.22.07  
DWIGHT S. WOOD  
Clerk Superior Court  
By mcr  
069-2007-007089

028494

AFTER RECORDING PLEASE RETURN TO:  
Hulsey, Oliver & Mahar  
P. O. Box 1457  
Gainesville, GA 30503  
ATTENTION: T. Wesley Robinson

**WARRANTY DEED**

**GEORGIA, HALL COUNTY:**

This deed made by and between Town View Plaza, Ltd., Grantor, and City View Plaza, LLC, Grantee,

WITNESSETH, that the said Grantor, for and in consideration of Ten (\$10.00) Dollars and other valuable consideration in hand paid at and before the sealing and delivery of these presents, the receipt and sufficiency whereof is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the Grantee,

See Exhibit "A" attached hereto and made a part hereof

**TO HAVE AND TO HOLD** the said premises, together with all rights and appurtenances unto the said Grantee, forever in **FEE SIMPLE**, and the Grantor **WARRANTS** the title to the same against the lawful claims of all persons whomever.

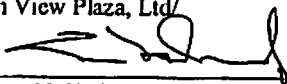
Whenever there is a reference herein to the Grantor or the Grantee, the singular includes the plural and the masculine includes the feminine and the neuter, and said terms include and bind the heirs, executors, administrators, successors and assigns of the parties hereto.



000407

IN WITNESS WHEREOF, the Grantor has hereunto set its hand and affixed its seal  
this 20<sup>th</sup> day of August, 2007.

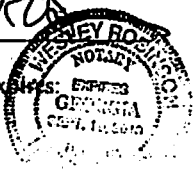
Town View Plaza, Ltd/

By:  (SEAL)  
Sam N. Hodges, Jr., Managing Partner

Signed, sealed and delivered this  
20<sup>th</sup> day of August, 2007.

  
Witness

  
Notary Public  
My Commission Expires



TWR/vim/T5588/W090368

000408

Exhibit "A"

All that tract or parcel of land lying and being in the City of Gainesville, Fork GMD 411, Hall County, Georgia containing 3.03 acres, according to a survey for Townview Plaza for Wendell Starke by B.F. Dyer and Henning, Inc. dated July 18, 2007 and more particularly described according to said survey as follows:

BEGINNING at an iron pin located on the North right of way of College Avenue, said pin lying North 52° 59' 57" East 240.14' North of centerline intersection of College Avenue and Bradford Street SE; thence North 36° 02' 23" West 76.8' to an iron pin; thence South 59° 57' 27" West 210.06' to an iron pin on the East right of way of Bradford Street; thence along said right of way North 33° 32' 3" West 72.58' to an iron pin; thence leaving said right of way and proceeding North 52° 25' 9" East 48.64' to an iron pin; thence North 32° 34' 12" West 162.95' to a point; thence North 30° 46' 53" West 171.51' to an iron pin; thence North 54° 6' 26" East 81.11' to a nail; thence North 38° 13' 39" East 108.01' to a nail; thence South 58° 29' 32" East 137.18' to a nail; thence South 49° 45' 31" East 296.08' to an iron pin; thence South 34° 42' 27" West 71.87' to an iron pin; thence South 43° 26' 16" East 110.84' to an iron pin on the North right of way of College Avenue; thence along said right of way South 59° 59' 30" West 123.25' to the POINT OF BEGINNING.

Reference to said survey is hereby made for a more full and complete description of said property.

3-2

001258

000492

HALL COUNTY, Georgia  
Real Estate Transfer Tax

Paid \$ -0-


Date 1-15-08

DWIGHT S. WOOD  
Clerk Superior Court

By JC  
069 2008 000268

GEORGIA, HALL COUNTY, CLERK  
SUPERIOR COURT FILED IN OFFICE  
AND RECORDED IN BOOK 6250  
PAGE (S) 492-496 THIS 15  
DAY OF Jan 2008 AT 4:07 PM  
DWIGHT S. WOOD, CLERK BY JC

AFTER RECORDING PLEASE RETURN TO:

Hulsey, Oliver & Mahar   
P O. Box 1457  
Gainesville, GA 30503  
ATTENTION: Jane A. Range

**LIMITED WARRANTY DEED**

**GEORGIA, HALL COUNTY:**

This deed made by and between Gainesville Redevelopment Authority, Grantor, and City View Plaza, LLC, Grantee,

WITNESSETH, that the said Grantor, for and in consideration of Ten (\$10 00) Dollars and other valuable consideration in hand paid at and before the sealing and delivery of these presents, the receipt and sufficiency whereof is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the Grantee,

See Exhibit "A" attached hereto and made a part hereof.

TO HAVE AND TO HOLD the said premises, together with all rights and appurtenances unto the said Grantee, forever in FEE SIMPLE, and the Grantor WARRANTS the title to the same against the lawful claims of all persons claiming by and through the Grantor. The warranty is limited by the permitted exceptions as set forth on Exhibit "B" attached hereto and made a part hereof.

Whenever there is a reference herein to the Grantor or the Grantee, the singular includes the plural and the masculine includes the feminine and the neuter, and said terms include and bind the heirs, executors, administrators, successors and assigns of the parties hereto.



000493

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and affixed his seal  
this 14th day of January, 2008.

GAINESVILLE REDEVELOPMENT  
AUTHORITY

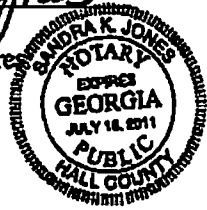
Signed, sealed and delivered this  
14th day of January, 2008.

By: [Signature]  
Daniel Sumner, Chairman

[Signature]  
Witness

Attest: [Signature]  
Treadwell Syfan, Secretary

[Signature]  
Notary Public  
My Commission Expires



JAR-mv7114863674/W1(0033)



000494

## EXHIBIT "A"

## LEGAL DESCRIPTION

PARCEL 3

All that tract or parcel of land lying and being in Land Lot 148 of the 9<sup>th</sup> Land District in the City of Gainesville, (Fork District, GMD 411), Hall County, Georgia, and being 0.67 acres delineated as Parcel 3 on a plat of survey dated November 28, 2007, prepared for City View Plaza, LLC by B. F. Dyer & Henning, Inc., Land Surveyors (Frank P. Devereux, Georgia Professional Registered Land Surveyor, No. 2693), which plat is incorporated herein by reference for a more complete and accurate description of said property. Being more particularly described according to said survey as follows:

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000495

04" E a distance of 8.87 feet; thence leaving said right of way, S 37° 47' 15" W a distance of 106.07 feet to a nail set; thence S 38° 13' 39" W a distance of 108.01 feet to a nail set; thence S 54° 06' 26" W a distance of 81.11 feet to an iron pin found; thence N 30° 24' 08" W a distance of 262.02 feet to the TRUE POINT OF BEGINNING.

PARCEL 5

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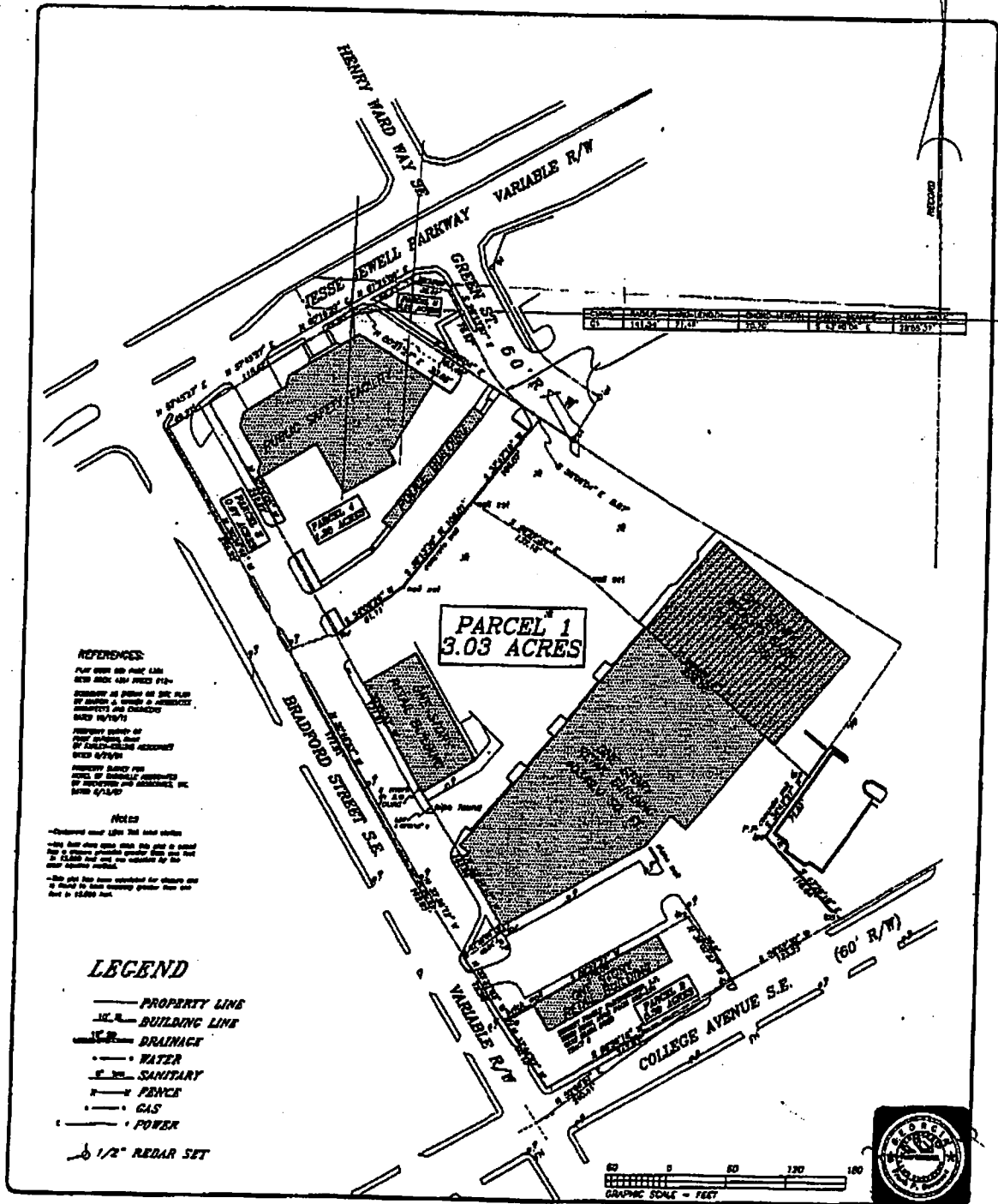
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000496

**EXHIBIT "B"****PERMITTED EXCEPTIONS**

1. The property is exempt from ad valorem taxes for the year 2008.
2. Easement to Georgia Power Company from the City of Gainesville dated January 2, 1968, recorded Deed Book 364, Page 39.
3. All matters as shown on the boundary survey for City View Plaza, LLC dated November 28, 2007, and prepared by B F. Dyer and Henning, Inc. by Frank P. Deveraux, Georgia Land Surveyor, including the following:
  - a. A power pole on the southwesterly corner of the parcel and power line running along the rear of the property.
4. Rights of the public to the portion of the former Hudson Street encompassed within Parcel 5 of the subject property
5. Unrecorded Lease Agreement dated January 14, 2008 by and between Gainesville Redevelopment Authority, as Landlord, and City of Gainesville, as Tenant.
6. Unrecorded Lease Agreement dated January 14, 2008 by and between City View Plaza, LLC, as Landlord, and Gainesville Redevelopment Authority, as Tenant.




BOUNDARY SURVEY FOR  
 CITY VIEW PLAZA, LLC  
 LOCATED IN THE CITY OF GAINESVILLE  
 LAND LOT 162, 8TH DISTRICT  
 FOXE C.M.D. # 411, HALL COUNTY, GEORGIA

Survey F.P.S.  
 Job No. 180782  
 Date: 11/28/07

**B.F. DYER & HENNING INC.**  
 LAND SURVEYORS  
 8370 Massachusetts Lane  
 Fayetteville, Georgia 30215  
 (770) 843-9742

Sheet 1 of 1

PLAINTIFF'S  
 EXHIBIT  
**F**

IN THE SUPERIOR COURT OF HALL COUNTY  
STATE OF GEORGIA

FILED  
HALL CO., GA

2009 JAN 22 PM 4:34

REGIONS FINANCIAL CORPORATION, )

Plaintiff, )

v. )

GAINESVILLE CITY CENTER, LLC, )

Defendant. )

CHARLES BAKER, CLERK  
SUPERIOR-STATE COURT

BY \_\_\_\_\_  
Civil Action No. \_\_\_\_\_

PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER  
AND/OR, PRELIMINARY INJUNCTION

COMES NOW, PLAINTIFF, REGIONS FINANCIAL CORPORATION ("Regions" or "Plaintiff") and pursuant to O.C.G.A. § 9-11-65 and O.C.G.A. § 9-5-1, respectfully requests that the Court grant a temporary restraining order and preliminary injunction to enjoin Defendant from obstructing or interfering with Plaintiff's ingress and egress easement rights over and across the driveway located on GAINESVILLE CITY CENTER, LLC's property ("GCC" or "Defendant").

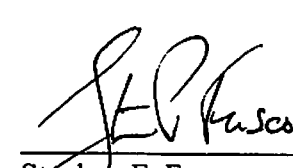
In support of its Motion, Plaintiff submits its Verified Complaint for Declaratory Judgment and Injunctive Relief, Exhibits, and any other evidence this Court deems relevant.

Respectfully submitted this 22<sup>nd</sup> day of January, 2009.

\_\_\_\_\_  
Steven P. Gilliam  
Georgia Bar No.: 294950

SMITH, GILLIAM, WILLIAMS & MILES, P.A.  
P.O. Box 1098  
Gainesville, Georgia 30503  
Telephone: (770) 536-3381  
Facsimile: (770) 535-9902

SMITH GILLIAM  
WILLIAMS & MILES, P.A.  
Attorneys at Law  
200 OLD COCA-COLA BLDG.  
301 GREEN STREET, NW  
GAINESVILLE, GEORGIA 30501  
MAILING ADDRESS:  
P.O. BOX 1098  
GAINESVILLE, GEORGIA 30503  
T: (770) 536-3381  
F: (770) 531-1481  
www.sgwfirm.com

  
Stephen F. Fusco (By SF) with express permission  
Georgia Bar No. 281030

**BALCH & BINGHAM LLP**  
30 Ivan Allen Plaza, Suite 700  
30 Ivan Allen Jr. Boulevard  
Atlanta, GA 30308  
Telephone: (404) 261-6020  
Facsimile: (404) 261-3656

Attorneys for Plaintiff, Regions Financial Corporation

**SMITH GILLIAM  
WILLIAMS & MILES, P.A.**  
Attorneys at Law  
200 OLD COCA-COLA BLDG.  
301 GREEN STREET, NW  
GAINESVILLE, GEORGIA 30501  
  
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T: (770) 536-3381  
F: (770) 531-1481  
  
[www.sgwfirm.com](http://www.sgwfirm.com)

IN THE SUPERIOR COURT OF HALL COUNTY  
STATE OF GEORGIA

FILED  
HALL CO., GA

2009 JAN 22 PM 4: 35

REGIONS FINANCIAL CORPORATION, )  
)  
Plaintiff, )  
)  
v. )  
)  
GAINESVILLE CITY CENTER, LLC, )  
)  
Defendant. )  
\_\_\_\_\_ )

CHARLES BAKER, CLERK  
SUPERIOR-STATE COURT

BY \_\_\_\_\_  
Civil Action No. \_\_\_\_\_

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION* has been served upon the following by emailing a copy of same to him on this the 27<sup>th</sup> day of January, 2009.

Julius M. Hulsey, Esq.  
Hulsey, Oliver & Mahar, LLP  
P.O. Box 1457  
Gainesville, Georgia 30503

SMITH, GILLIAM, WILLIAMS & MILES, P.A.  
Attorneys for Plaintiff Regions Financial Corporation

By: \_\_\_\_\_  
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